

LAWS
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**Lynn N. Hemingway replaced Justin Miller on 11/13/15*

**Derrin R. Owens replaced Jon Cox on 8/10/15*

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LAWS
of the
STATE OF UTAH, 2016

Passed at the
GENERAL SESSION
of the
SIXTY-FIRST LEGISLATURE

Convened at the State Capitol in the City of Salt Lake
January 25, 2016
and Adjourned Sine Die on
March 10, 2016

STATE OF UTAH



OFFICE OF THE LIEUTENANT GOVERNOR

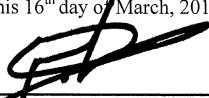
CERTIFICATE

THIS IS TO CERTIFY that the acts and resolutions published in this volume are, according to our best information and belief, full and correct copies of the originals passed at the 2016 General Session of the Sixty-First Legislature of the State of Utah, as they appear of record in the Office of the Lieutenant Governor; and

That the 2016 General Session of the Sixty-First Legislature of the State of Utah convened at the Capitol in Salt Lake City on the 25th of January, 2016, and adjourned on the 10th day of March 2016.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City, this 16th day of March, 2016.



Spencer J. Cox
Lieutenant Governor

CHAPTER 1
H. B. 60

Passed February 8, 2016
Approved February 12, 2016
Effective February 12, 2016
(Retrospective operation to January 1, 2016)

CLASS B AND CLASS C
ROAD FUND AMENDMENTS

Chief Sponsor: Johnny Anderson
Senate Sponsor: Alvin B. Jackson

LONG TITLE**General Description:**

This bill modifies the Transportation Code by amending provisions relating to funding for class B and class C roads.

Highlighted Provisions:

This bill:

- ▶ amends the apportionment formula for funds available for use on class B and class C roads; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides for retrospective operation.

Utah Code Sections Affected:**AMENDS:**

72-2-108, as last amended by Laws of Utah 2015, Chapter 275

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

Section 1. Section 72-2-108 is amended to read:**72-2-108. Apportionment of funds available for use on class B and class C roads -- Bonds.**

- (1) For purposes of this section:
- (a) "Graveled road" means a road:
- (i) that is:
- (A) graded; and
- (B) drained by transverse drainage systems to prevent serious impairment of the road by surface water;
- (ii) that has an improved surface; and
- (iii) that has a wearing surface made of:
- (A) gravel;
- (B) broken stone;
- (C) slag;
- (D) iron ore;
- (E) shale; or
- (F) other material that is:

(I) similar to a material described in Subsection (1)(a)(iii)(A) through (E); and

(II) coarser than sand.

(b) "Paved road" includes a graveled road with a chip seal surface.

(c) "Road mile" means a one-mile length of road, regardless of:

(i) the width of the road; or

(ii) the number of lanes into which the road is divided.

(d) "Weighted mileage" means the sum of the following:

(i) paved road miles multiplied by five; and

(ii) all other road type road miles multiplied by two.

(2) Subject to the provisions of Subsections (3) through (5), funds in the class B and class C roads account shall be apportioned among counties and municipalities in the following manner:

(a) 50% in the ratio that the class B roads weighted mileage within each county and class C roads weighted mileage within each municipality bear to the total class B and class C roads weighted mileage within the state; and

(b) 50% in the ratio that the population of a county or municipality bears to the total population of the state as of the last official federal census or the United States Bureau of Census estimate, whichever is most recent, except that if population estimates are not available from the United States Bureau of Census, population figures shall be derived from the estimate from the Utah Population Estimates Committee.

(3) For purposes of Subsection (2)(b), "the population of a county" means:

(a) the population of a county outside the corporate limits of municipalities in that county, if the population of the county outside the corporate limits of municipalities in that county is not less than 14% of the total population of that county, including municipalities; and

(b) if the population of a county outside the corporate limits of municipalities in the county is less than 14% of the total population:

(i) the aggregate percentage of the population apportioned to municipalities in that county shall be reduced by an amount equal to the difference between:

(A) 14%; and

(B) the actual percentage of population outside the corporate limits of municipalities in that county; and

(ii) the population apportioned to the county shall be 14% of the total population of that county, including incorporated municipalities.

(4) (a) If an apportionment under Subsection (2) [~~for~~] made in fiscal year [~~2014~~] 2013-14 to a county

or municipality with a population of less than 14,000 is less than 120% of the amount apportioned to the county or municipality from the class B and class C roads account [~~for~~] in fiscal year 1996-97, the department shall:

(i) reapportion the funds under Subsection (2) to ensure that the county or municipality receives an amount equal to:

(A) the amount apportioned to the county or municipality from the class B and class C roads account [~~for~~] in fiscal year 1996-97; plus

(B) the amount apportioned to the county or municipality from the class B and class C roads account in fiscal year 1996-97 multiplied by the percentage increase in the class B and class C roads account from fiscal year 1996-97 to the most recently completed fiscal year; and

(ii) decrease proportionately as provided in Subsection (4)(b) the apportionments to counties and municipalities for which the reapportionment under Subsection (4)(a)(i) does not apply.

(b) The aggregate amount of the funds that the department shall decrease proportionately from the apportionments under Subsection (4)(a)(ii) is an amount equal to the aggregate amount reapportioned to counties and municipalities under Subsection (4)(a)(i).

(5) (a) In addition to the apportionment adjustments made under Subsection (4), a county or municipality that qualifies for reapportioned money under Subsection (4)(a)(i) shall receive the percentage change in the class B and class C roads account compounded annually beginning in fiscal year 2006-07.

(b) The adjustment under Subsection (5)(a) shall be made in the same way as provided in Subsection (4)(a)(ii) and (b).

(6) The governing body of any municipality or county may issue bonds redeemable up to a period of 10 years under Title 11, Chapter 14, Local Government Bonding Act, to pay the costs of constructing, repairing, and maintaining class B or class C roads and may pledge class B or class C road funds received pursuant to this section to pay principal, interest, premiums, and reserves for the bonds.

Section 2. Effective date.

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

Section 3. Retrospective operation.

This bill has retrospective operation beginning on January 1, 2016.

CHAPTER 2**H. B. 1**

Passed February 9, 2016
 Approved February 16, 2016
 Effective February 16, 2016
 (Exception clause in Section 8)

**PUBLIC EDUCATION BASE
 BUDGET AMENDMENTS**

Chief Sponsor: Steve Eliason
 Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill modifies the guarantee for the voted local levy and board local levy programs, supplements or reduces appropriations previously appropriated for the support and operation of public education for the fiscal year beginning July 1, 2015, and ending June 30, 2016, and appropriates funds for the support and operation of public education for the fiscal year beginning July 1, 2016, and ending June 30, 2017.

Highlighted Provisions:

This bill:

- ▶ provides appropriations for the support and operation of school districts, charter schools, and state education agencies;
- ▶ sets the value of the weighted pupil unit (WPU) initially at the same WPU value set for the 2016 fiscal year:
 - \$2,837 for the special education and career and technology add-on programs; and
 - \$3,092 for all other programs;
- ▶ sets the estimated minimum basic tax rate at .001695 for fiscal year 2017;
- ▶ modifies the guarantee for the voted local levy and board local levy programs;
- ▶ provides appropriations for other purposes as described; and
- ▶ provides intent language.

Monies Appropriated in this Bill:

This bill appropriates \$500,000 in operating and capital budgets for fiscal year 2016, all of which is from the Education Fund.

This bill appropriates \$4,265,954,700 in operating and capital budgets for fiscal year 2017, including:

- ▶ \$4,303,800 from the General Fund;
- ▶ \$27,000,000 from the Uniform School Fund;
- ▶ \$2,824,987,800 from the Education Fund; and
- ▶ \$1,409,663,100 from various sources as detailed in this bill.

This bill appropriates \$3,609,600 in expendable funds and accounts for fiscal year 2017. This bill appropriates \$78,000,000 in restricted fund and account transfers for fiscal year 2017, all of which is from the General Fund and the Education Fund. This bill appropriates \$25,300 in fiduciary funds for fiscal year 2017.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

53A-17a-133, as last amended by Laws of Utah 2015, Chapter 287

53A-17a-135, as last amended by Laws of Utah 2015, Chapters 7 and 287 and last amended by Coordination Clause, Laws of Utah 2015, Chapter 287

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. Section 53A-17a-133 is amended to read:

53A-17a-133. State-supported voted local levy authorized -- Election requirements -- State guarantee -- Reconsideration of the program.

(1) As used in this section, "voted and board local levy funding balance" means the difference between:

(a) the amount appropriated for the voted and board local levy program in a fiscal year; and

(b) the amount necessary to provide the state guarantee per weighted pupil unit as determined under this section and Section 53A-17a-164 in the same fiscal year.

(2) An election to consider adoption or modification of a voted local levy is required if initiative petitions signed by 10% of the number of electors who voted at the last preceding general election are presented to the local school board or by action of the board.

(3) (a) (i) To impose a voted local levy, a majority of the electors of a district voting at an election in the manner set forth in Subsections (9) and (10) must vote in favor of a special tax.

(ii) The tax rate may not exceed .002 per dollar of taxable value.

(b) Except as provided in Subsection (3)(c), in order to receive state support the first year, a district must receive voter approval no later than December 1 of the year prior to implementation.

(c) Beginning on or after January 1, 2012, a school district may receive state support in accordance with Subsection (4) without complying with the requirements of Subsection (3)(b) if the local school board imposed a tax in accordance with this section during the taxable year beginning on January 1, 2011, and ending on December 31, 2011.

(4) (a) In addition to the revenue a school district collects from the imposition of a levy pursuant to this section, the state shall contribute an amount sufficient to guarantee ~~[\$33.27]~~ \$35.55 per weighted pupil unit for each .0001 of the first .0016 per dollar of taxable value.

(b) The same dollar amount guarantee per weighted pupil unit for the .0016 per dollar of taxable value under Subsection (4)(a) shall apply to the portion of the board local levy authorized in

Section 53A-17a-164, so that the guarantee shall apply up to a total of .002 per dollar of taxable value if a school district levies a tax rate under both programs.

(c) (i) Beginning July 1, 2015, the ~~[\$33.27]~~ \$35.55 guarantee under Subsections (4)(a) and (b) shall be indexed each year to the value of the weighted pupil unit for the grades 1 through 12 program by making the value of the guarantee equal to ~~[.01194]~~ .011962 times the value of the prior year's weighted pupil unit for the grades 1 through 12 program.

(ii) The guarantee shall increase by .0005 times the value of the prior year's weighted pupil unit for the grades 1 through 12 program for each succeeding year subject to the Legislature appropriating funds for an increase in the guarantee.

(d) (i) The amount of state guarantee money to which a school district would otherwise be entitled to receive under this Subsection (4) may not be reduced for the sole reason that the district's levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 pursuant to changes in property valuation.

(ii) Subsection (4)(d)(i) applies for a period of five years following any such change in the certified tax rate.

(e) The guarantee provided under this section does not apply to the portion of a voted local levy rate that exceeds the voted local levy rate that was in effect for the previous fiscal year, unless an increase in the voted local levy rate was authorized in an election conducted on or after July 1 of the previous fiscal year and before December 2 of the previous fiscal year.

(f) (i) If a voted and board local levy funding balance exists for the prior fiscal year, the State Board of Education shall:

(A) use the voted and board local levy funding balance to increase the value of the state guarantee per weighted pupil unit described in Subsection (4)(c) in the current fiscal year; and

(B) distribute the state contribution to the voted and board local levy programs to school districts based on the increased value of the state guarantee per weighted pupil unit described in Subsection (4)(f)(i)(A).

(ii) The State Board of Education shall report action taken under this Subsection (4)(f) to the Office of ~~the~~ Legislative Fiscal Analyst and the Governor's Office of ~~Planning~~ Management and Budget.

(5) (a) An election to modify an existing voted local levy is not a reconsideration of the existing authority unless the proposition submitted to the electors expressly so states.

(b) A majority vote opposing a modification does not deprive the district of authority to continue the levy.

(c) If adoption of a voted local levy is contingent upon an offset reducing other local school board levies, the board must allow the electors, in an election, to consider modifying or discontinuing the imposition of the levy prior to a subsequent increase in other levies that would increase the total local school board levy.

(d) Nothing contained in this section terminates, without an election, the authority of a school district to continue imposing an existing voted local levy previously authorized by the voters as a voted leeway program.

(6) Notwithstanding Section 59-2-919, a school district may budget an increased amount of ad valorem property tax revenue derived from a voted local levy imposed under this section in addition to revenue from new growth as defined in Subsection 59-2-924(4), without having to comply with the notice requirements of Section 59-2-919, if:

(a) the voted local levy is approved:

(i) in accordance with Subsections (9) and (10) on or after January 1, 2003; and

(ii) within the four-year period immediately preceding the year in which the school district seeks to budget an increased amount of ad valorem property tax revenue derived from the voted local levy; and

(b) for a voted local levy approved or modified in accordance with this section on or after January 1, 2009, the school district complies with the requirements of Subsection (8).

(7) Notwithstanding Section 59-2-919, a school district may levy a tax rate under this section that exceeds the certified tax rate without having to comply with the notice requirements of Section 59-2-919 if:

(a) the levy exceeds the certified tax rate as the result of a school district budgeting an increased amount of ad valorem property tax revenue derived from a voted local levy imposed under this section;

(b) the voted local levy was approved:

(i) in accordance with Subsections (9) and (10) on or after January 1, 2003; and

(ii) within the four-year period immediately preceding the year in which the school district seeks to budget an increased amount of ad valorem property tax revenue derived from the voted local levy; and

(c) for a voted local levy approved or modified in accordance with this section on or after January 1, 2009, the school district complies with requirements of Subsection (8).

(8) For purposes of Subsection (6)(b) or (7)(c), the proposition submitted to the electors regarding the adoption or modification of a voted local levy shall contain the following statement:

"A vote in favor of this tax means that (name of the school district) may increase revenue from this property tax without advertising the increase for the next five years."

(9) (a) Before imposing a property tax levy pursuant to this section, a school district shall submit an opinion question to the school district's registered voters voting on the imposition of the tax rate so that each registered voter has the opportunity to express the registered voter's opinion on whether the tax rate should be imposed.

(b) The election required by this Subsection (9) shall be held:

(i) at a regular general election conducted in accordance with the procedures and requirements of Title 20A, Election Code, governing regular elections;

(ii) at a municipal general election conducted in accordance with the procedures and requirements of Section 20A-1-202; or

(iii) at a local special election conducted in accordance with the procedures and requirements of Section 20A-1-203.

(c) Notwithstanding the requirements of Subsections (9)(a) and (b), beginning on or after January 1, 2012, a school district may levy a tax rate in accordance with this section without complying with the requirements of Subsections (9)(a) and (b) if the school district imposed a tax in accordance with this section at any time during the taxable year beginning on January 1, 2011, and ending on December 31, 2011.

(10) If a school district determines that a majority of the school district's registered voters voting on the imposition of the tax rate have voted in favor of the imposition of the tax rate in accordance with Subsection (9), the school district may impose the tax rate.

Section 2. Section 53A-17a-135 is amended to read:

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

(1) As used in this section, "basic levy increment rate" means a tax rate that will generate an amount of revenue equal to \$75,000,000.

(2) (a) In order to qualify for receipt of the state contribution toward the basic program and as its contribution toward its costs of the basic program, each school district shall impose a minimum basic tax rate per dollar of taxable value that generates [~~\$380,172,300~~] \$392,266,800 in revenues statewide.

(b) The preliminary estimate for the [~~2015-16~~] 2016-17 minimum basic tax rate is [~~.001764~~] .001695.

(c) The State Tax Commission shall certify on or before June 22 the rate that generates [~~\$380,172,300~~] \$392,266,800 in revenues statewide.

(d) [~~For the calendar year beginning on January 1, 2016, if~~] If the minimum basic tax rate exceeds the certified revenue levy as defined in Section 53A-17a-103, the state is subject to the notice requirements of Section 59-2-926.

(3) (a) The state shall contribute to each district toward the cost of the basic program in the district that portion which exceeds the proceeds of the difference between:

(i) the minimum basic tax rate to be imposed under Subsection (2); and

(ii) the basic levy increment rate.

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

(4) (a) If the difference described in Subsection (3)(a) equals or exceeds the cost of the basic program in a school district, no state contribution shall be made to the basic program.

(b) The proceeds of the difference described in Subsection (3)(a) that exceed the cost of the basic program shall be paid into the Uniform School Fund as provided by law.

(5) The State Board of Education shall:

(a) deduct from state funds that a school district is authorized to receive under this chapter an amount equal to the proceeds generated within the school district by the basic levy increment rate; and

(b) deposit the money described in Subsection (5)(a) into the Minimum Basic Growth Account created in Section 53A-17a-135.1.

Section 3. Operating and capital budgets -- FY 2016 appropriations for state education agencies, school districts, and charter schools.

Under the terms and conditions of Title 63 J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or amounts indicated. These sums of money are in addition to amounts previously appropriated for fiscal year 2016.

State Board of Education - Minimum School Program

Item 1 To State Board of Education - Minimum School Program - Related to Basic School Programs

From Education Fund,
One-Time (500,000)

From Closing Nonlapsing Balances 500,000

State Board of Education

Item 2 To State Board of Education - State Office of Education

From Education Fund, One-Time 500,000

Schedule of Programs:

Business Services 500,000

**Section 4. Operating and capital budgets --
FY 2017 appropriations for state education
agencies, school districts, and charter
schools -- Value of the weighted pupil
unit.**

(1) Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of funds or amounts indicated. These sums of money are in addition to amounts previously appropriated for fiscal year 2017.

(2) The value of the weighted pupil unit for fiscal year 2017 is initially set at:

(a) \$2,837 for:

(i) Special Education -- Add-on; and

(ii) Career and Technical Education District Add-on; and

(b) \$3,092 for all other programs.

State Board of Education - Minimum School Program

Item 3 To State Board of Education - Minimum School Program - Basic School Program

From Uniform School Fund	27,000,000
From Education Fund	2,125,931,500
From Local Revenue	380,172,300
From Beginning Nonlapsing Balances	21,822,500
From Closing Nonlapsing Balances	(21,822,500)
Schedule of Programs:	
Kindergarten (28,319 WPU's)	87,562,300
Grades 1 - 12 (562,824 WPU's)	1,740,251,800
Necessarily Existent Small Schools (9,357 WPU's)	28,931,800
Professional Staff (53,751 WPU's)	166,198,100
Administrative Costs (1,505 WPU's)	4,653,500
Special Education - Add-on (75,134 WPU's)	213,155,100
Special Education - Preschool (9,878 WPU's)	30,542,800
Special Education - Self-contained (13,925 WPU's)	43,056,100
Special Education - Extended School Year (429 WPU's)	1,326,500
Special Education - State Programs (3,258 WPU's)	10,073,700
Career and Technical Education - Add-on (30,085 WPU's)	85,351,100
Class Size Reduction (39,457 WPU's)	122,001,000

Item 4 To State Board of Education - Minimum School Program - Related to Basic School Programs

From Education Fund	487,909,100
From Interest and Dividends Account	39,730,000

From Beginning Nonlapsing Balances	15,254,200
From Closing Nonlapsing Balances	(15,254,200)
Schedule of Programs:	
To and From School - Pupil Transportation	75,830,200
Guarantee Transportation Program	500,000
Flexible Allocation - WPU Distribution	25,906,600
Enhancement for At-Risk Students	25,681,000
Youth in Custody	20,974,500
Adult Education	10,303,400
Enhancement for Accelerated Students	4,557,500
Concurrent Enrollment	9,766,700
Title I Schools Paraeducators Program	300,000
School LAND Trust Program	39,730,000
Charter School Local Replacement	99,946,200
Charter School Administration	6,741,000
K-3 Reading Improvement	15,000,000
Educator Salary Adjustments	163,381,000
USFR Teacher Salary Supplement Restricted Account	6,553,600
School Library Books and Electronic Resources	850,000
Matching Fund for School Nurses	1,002,000
Critical Languages and Dual Immersion	2,915,400
USTAR Centers (Year-Round Math and Science)	6,200,000
Beverly Taylor Sorenson Elementary Arts	4,000,000
Early Intervention	7,500,000
Item 5 To State Board of Education - Minimum School Program - Voted and Board Local Levy Programs	
From Education Fund	99,519,400
From Education Fund Restricted - Minimum Basic Growth Account	56,250,000
From Local Revenue	367,812,100
Schedule of Programs:	
Voted Local Levy Program	392,419,300
Board Local Levy Program	116,162,200
Board Local Levy Program - Reading Improvement	15,000,000
School Building Programs	
Item 6 To School Building Programs	
From Education Fund	14,499,700
From Education Fund Restricted - Minimum Basic Growth Account	18,750,000
Schedule of Programs:	
Capital Outlay Foundation Program	27,610,900
Capital Outlay Enrollment Growth Program	5,638,800
State Board of Education	
Item 7 To State Board of Education - State Office of Education	
From General Fund	304,600
From Education Fund	32,563,000
From Federal Funds	340,726,800
From Dedicated Credits Revenue	5,901,200

From General Fund Restricted - Mineral Lease	3,502,800
From General Fund Restricted - Land Exchange Distribution Account	236,600
From General Fund Restricted - Substance Abuse Prevention	504,400
From Interest and Dividends Account	624,500
From Land Grant Management Fund	2,000
From Revenue Transfers	2,966,100
From Beginning Nonlapsing Balances	18,091,500
From Closing Nonlapsing Balances	(16,450,800)
Schedule of Programs:	
Assessment and Accountability	18,789,100
Educational Equity	342,300
Board and Administration	13,578,000
Business Services	1,806,900
Career and Technical Education	20,599,000
District Computer Services	6,688,500
Federal Elementary and Secondary Education Act	113,081,000
Law and Legislation	259,600
Math Teacher Training	500,000
Public Relations	146,600
School Trust	667,500
Special Education	181,237,800
Teaching and Learning	31,276,400
Item 8 To State Board of Education - Utah State Office of Education - Initiative Programs	
From General Fund	3,999,200
From Education Fund	24,310,200
From General Fund Restricted - Autism Awareness Account	10,000
From Revenue Transfers	(31,100)
From Beginning Nonlapsing Balances	7,807,300
From Closing Nonlapsing Balances	(7,807,300)
Schedule of Programs:	
Electronic High School	986,800
Upstart Early Childhood Education	4,763,900
ProStart Culinary Arts Program	403,100
CTE Online Assessments	341,000
General Financial Literacy	171,000
Carson Smith Scholarships	3,988,000
Paraeducator to Teacher Scholarships	24,500
Electronic Elementary Reading Tool	1,600,000
ELL Software Licenses	3,000,000
Autism Awareness	10,000
Early Intervention	4,600,000
Peer Assistance	400,000
Intergenerational Poverty Interventions	1,000,000
School Turnaround and Leadership Development Act	7,000,000

The Legislature intends that the State Board of Education use up to 4% of the appropriation for the School Turnaround and Leadership Development

Program for administration, and that the amount for administration be approved in an open meeting of the State Board of Education.	
Item 9 To State Board of Education - State Charter School Board	
From Education Fund	3,830,900
From Revenue Transfers	(49,100)
From Beginning Nonlapsing Balances	1,314,400
From Closing Nonlapsing Balances	(1,314,400)
Schedule of Programs:	
State Charter School Board	3,781,800
Item 10 To State Board of Education - Utah Charter School Finance Authority	
From Education Fund Restricted - Charter School Reserve Account	50,000
Schedule of Programs:	
Utah Charter School Finance Authority	50,000
Item 11 To State Board of Education - Educator Licensing Professional Practices	
From Dedicated Credits Revenue	34,500
From Professional Practices Restricted Subfund	2,129,900
From Revenue Transfers	(106,800)
Schedule of Programs:	
Educator Licensing	2,057,600
Item 12 To State Board of Education - State Office of Education - Child Nutrition	
From Education Fund	143,100
From Federal Funds	122,348,900
From Dedicated Credit - Liquor Tax	39,262,300
From Revenue Transfers	(167,700)
Schedule of Programs:	
Child Nutrition	161,586,600
Item 13 To State Board of Education - Child Nutrition - Federal Commodities	
From Federal Funds	19,159,300
Schedule of Programs:	
Child Nutrition - Federal Commodities	19,159,300
Item 14 To State Board of Education - Fine Arts Outreach	
From Education Fund	3,425,000
From Beginning Nonlapsing Balances	15,400
From Closing Nonlapsing Balances	(15,400)
Schedule of Programs:	
Professional Outreach Programs	3,371,000
Subsidy Program	54,000
Item 15 To State Board of Education - Science Outreach	
From Education Fund	4,390,000
Schedule of Programs:	
Informal Science Education Enhancement	3,697,900
Provisional Program	225,000
Teacher Resources Program	417,100
Integrated Student and New Facility Learning	50,000
Item 16 To State Board of Education - State Office of Education - Educational Contracts	

From Education Fund	3,137,800
From Beginning Nonlapsing Balances	362,000
From Closing Nonlapsing Balances	(362,000)
Schedule of Programs:	
Youth Center	1,153,200
Corrections Institutions	1,984,600
Item 17 To State Board of Education - Utah Schools for the Deaf and the Blind	
From Education Fund	25,328,100
From Federal Funds	97,200
From Dedicated Credits Revenue	1,569,500
From Revenue Transfers	5,671,700
From Beginning Nonlapsing Balances	514,800
From Closing Nonlapsing Balances	(514,800)
Schedule of Programs:	
Educational Services	15,077,200
Support Services	17,589,300
Item 18 To School and Institutional Trust Fund Office	
From School and Institutional Trust Fund Management Account	865,000
Schedule of Programs:	
School and Institutional Trust Fund Office	865,000

Section 5. Expendable funds and accounts.

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

Item 19 To State Board of Education - Charter School Revolving Account	
From Interest Income	72,000
From Repayments	1,925,000
From Beginning Nonlapsing Balances	6,692,500
From Closing Nonlapsing Balances	(6,762,100)
Schedule of Programs:	
Charter School Revolving Account	1,927,400
Item 20 To State Board of Education - School Building Revolving Account	
From Interest Income	55,800
From Repayments	1,465,600
From Beginning Nonlapsing Balances	9,767,600
From Closing Nonlapsing Balances	(9,861,800)
Schedule of Programs:	
School Building Revolving Account	1,427,200
Item 21 To State Board of Education - Child Nutrition Program Commodities Fund	
From Dedicated Credits Revenue	200
From Beginning Nonlapsing Balances	200
From Closing Nonlapsing Balances	(400)

Item 22 To State Board of Education - Schools for the Deaf and the Blind Donation Fund

From Dedicated Credits Revenue	270,000
From Interest Income	2,500
From Beginning Nonlapsing Balances	655,300
From Closing Nonlapsing Balances	(672,800)
Schedule of Programs:	
Schools for the Deaf and the Blind Donation Fund	255,000

Section 6. Restricted fund and account transfers.

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

Item 23 To Fund and Account Transfers - General Fund Restricted - School Readiness Account	
From General Fund	3,000,000
Schedule of Programs:	
General Fund Restricted - School Readiness Account	3,000,000
Item 24 To Fund and Account Transfers - Education Fund Restricted - Minimum Basic Growth Account	
From Education Fund	75,000,000
Schedule of Programs:	
Education Fund Restricted - Minimum Basic Growth Account	75,000,000

Section 7. Fiduciary funds.

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

Item 25 To State Board of Education - Education Tax Check-off Lease Refunding	
From Trust and Agency Funds	27,500
From Beginning Nonlapsing Balances	31,300
From Closing Nonlapsing Balances	(33,500)
Schedule of Programs:	
Education Tax Check-off Lease Refunding	25,300

Section 8. Effective date.

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, Section 53A-17a-133 and Uncodified Section 3, Operating and capital budgets -- FY 2016 appropriations for state education agencies, school districts, and charter schools, take effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) The following sections take effect on July 1, 2016:

(a) Section 53A-17a-135;

(b) Uncodified Section 4, Operating and capital budgets -- FY 2017 appropriations for state education agencies, school districts, and charter schools -- Value of the weighted pupil unit;

(c) Uncodified Section 5, Expendable funds and accounts;

(d) Uncodified Section 6, Restricted fund and account transfers; and

(e) Uncodified Section 7, Fiduciary funds.

CHAPTER 3

H. B. 5

Passed February 9, 2016
 Approved February 16, 2016
 Effective July 1, 2016

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

Chief Sponsor: Mike K. McKell
 Senate Sponsor: David P. Hinkins

LONG TITLE

Committee Note:

The Executive Appropriations Committee recommended this bill.

General Description:

This bill appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2016 and ending June 30, 2017.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates \$320,321,400 in operating and capital budgets for fiscal year 2017, including:

- ▶ \$66,049,400 from the General Fund;
- ▶ \$254,272,000 from various sources as detailed in this bill.

This bill appropriates \$7,522,800 in expendable funds and accounts for fiscal year 2017.

This bill appropriates \$56,152,600 in business-like activities for fiscal year 2017.

This bill appropriates \$5,379,800 in restricted fund and account transfers for fiscal year 2017, including:

- ▶ \$4,171,100 from the General Fund;
- ▶ \$1,208,700 from various sources as detailed in this bill.

This bill appropriates \$3,000,000 in fiduciary funds for fiscal year 2017.

Other Special Clauses:

This bill takes effect on July 1, 2016.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2017 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2016 and ending June 30, 2017.

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

and support of the government of the State of Utah.

DEPARTMENT OF NATURAL RESOURCES

Item 1

To Department of Natural Resources - Administration
 From General Fund 2,514,800
 From General Fund Restricted -
 Sovereign Land Management 78,000
 From Beginning Nonlapsing Balances . . . 150,000
 From Closing Nonlapsing Balances (50,000)
 Schedule of Programs:
 Executive Director 1,160,000
 Administrative Services 1,034,400
 Public Information Office 205,300
 Lake Commissions 78,700
 Law Enforcement 214,400

Item 2

To Department of Natural Resources - Species Protection
 From Dedicated Credits Revenue 2,450,000
 From General Fund Restricted -
 Species Protection 631,300
 From Beginning Nonlapsing Balances . . . 200,000
 From Closing Nonlapsing Balances (200,000)
 Schedule of Programs:
 Species Protection 3,081,300

Item 3

To Department of Natural Resources - Building Operations
 From General Fund 1,788,800
 Schedule of Programs:
 Building Operations 1,788,800

Item 4

To Department of Natural Resources - DNR Pass Through
 From General Fund 1,158,400
 Schedule of Programs:
 DNR Pass Through 1,158,400

Item 5

To Department of Natural Resources - Watershed
 From General Fund 1,454,900
 From Dedicated Credits Revenue 500,000
 From General Fund Restricted -
 Sovereign Land Management 2,000,000
 From Beginning Nonlapsing Balances . . . 450,000
 From Closing Nonlapsing Balances (450,000)
 Schedule of Programs:
 Watershed 3,954,900

Item 6

To Department of Natural Resources - Forestry, Fire and State Lands
 From General Fund 2,513,100
 From Federal Funds 6,500,000
 From Dedicated Credits Revenue 6,500,000
 From General Fund Restricted -
 Sovereign Land Management 6,153,100
 From Beginning Nonlapsing Balances 4,705,000
 From Closing Nonlapsing Balances . . . (1,100,000)
 Schedule of Programs:
 Division Administration 1,056,500
 Fire Management 1,962,000
 Fire Suppression Emergencies 2,200,000

Lands Management	886,600
Forest Management	4,194,300
Program Delivery	7,134,000
Lone Peak Center	3,156,200
Project Management	4,681,600

Item 7

To Department of Natural Resources -	
Oil, Gas and Mining	
From General Fund	1,584,100
From Federal Funds	7,546,000
From Dedicated Credits Revenue	242,500
From General Fund Restricted -	
Oil & Gas Conservation Account	
From Beginning Nonlapsing	
Balances	1,965,600
From Closing Nonlapsing Balances ...	(1,615,600)
Schedule of Programs:	
Administration	2,184,600
Board	50,000
Oil and Gas Program	3,555,500
Minerals Reclamation	963,400
Coal Program	1,871,700
OGM Misc. Nonlapsing	350,000
Abandoned Mine	5,075,600

Item 8

To Department of Natural Resources -	
Wildlife Resources	
From General Fund	6,156,600
From Federal Funds	24,894,600
From Dedicated Credits Revenue	106,300
From General Fund Restricted -	
Mule Deer Protection Account	
From General Fund Restricted -	
Wildlife Conservation Easement	
Account	15,000
From General Fund Restricted -	
Wildlife Habitat	
From General Fund Restricted -	
Wildlife Resources	35,650,000
From General Fund Restricted -	
Predator Control Account	
From Revenue Transfers	800,000
From Revenue Transfers	106,900
Schedule of Programs:	
Director's Office	2,419,700
Administrative Services	8,566,300
Conservation Outreach	4,188,900
Law Enforcement	8,491,500
Habitat Council	2,900,000
Habitat Section	5,969,900
Wildlife Section	21,959,200
Aquatic Section	16,647,800

Item 9

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

Item 10

To Department of Natural Resources -	
Contributed Research	
From Dedicated Credits Revenue	1,501,500
Schedule of Programs:	
Contributed Research	1,501,500

Item 11

To Department of Natural Resources -	
Cooperative Agreements	
From Federal Funds	12,800,000
From Dedicated Credits Revenue	1,091,400
From Revenue Transfers	5,581,100
Schedule of Programs:	
Cooperative Agreements	19,472,500

Item 12

To Department of Natural Resources -	
Wildlife Resources Capital Budget	
From General Fund	649,400
From Federal Funds	1,350,000
From General Fund Restricted -	
State Fish Hatchery Maintenance ...	
	1,205,000
Schedule of Programs:	
Fisheries	3,204,400

Item 13

To Department of Natural Resources -	
Parks and Recreation	
From General Fund	4,468,000
From Federal Funds	1,479,900
From Dedicated Credits Revenue	1,033,400
From General Fund Restricted -	
Boating	
From General Fund Restricted -	
Off-highway Vehicle	5,492,700
From General Fund Restricted -	
Off-highway Access and Education	
	17,500
From General Fund Restricted - Zion	
National Park Support Programs	
	4,000
From General Fund Restricted -	
State Park Fees	
	13,031,100
From Revenue Transfers	35,300
Schedule of Programs:	
Executive Management	802,900
Park Operation Management	24,090,000
Planning and Design	849,200
Support Services	1,835,900
Recreation Services	1,529,000
Park Management Contracts	1,004,000

Item 14

To Department of Natural Resources -	
Parks and Recreation Capital Budget	
From General Fund	39,700
From Federal Funds	3,119,700
From Dedicated Credits Revenue	25,000
From General Fund Restricted -	
Boating	
	575,000
From General Fund Restricted -	
Off-highway Vehicle	
	400,000
From General Fund Restricted -	
State Park Fees	
	433,000
Schedule of Programs:	
Renovation and Development	334,200
Major Renovation	458,500
Trails Program	2,702,100
Donated Capital Projects	25,000
Region Renovation	100,000
Land and Water Conservation	447,600
Boat Access Grants	350,000
Off-highway Vehicle Grants	175,000

Item 15

To Department of Natural Resources -	
Utah Geological Survey	
From General Fund	3,046,500

From Federal Funds	751,900
From Dedicated Credits Revenue	846,400
From General Fund Restricted - Mineral Lease	1,440,000
Schedule of Programs:	
Administration	508,000
Technical Services	763,600
Geologic Hazards	867,800
Board	5,400
Geologic Mapping	879,000
Energy and Minerals	1,053,700
Ground Water and Paleontology	1,242,000
Information and Outreach	765,300

Item 16To Department of Natural Resources -
Water Resources

From General Fund	2,926,800
From Federal Funds	300,000
From Dedicated Credits Revenue	150,000
From Water Resources Conservation and Development Fund	3,099,300
From Beginning Nonlapsing Balances	50,000
From Closing Nonlapsing Balances	(50,000)
From Lapsing Balance	(50,000)
Schedule of Programs:	
Administration	719,900
Board	30,000
Interstate Streams	377,200
Planning	2,613,000
Cloudseeding	300,000
Construction	2,377,400
West Desert Operations	8,600

Item 17To Department of Natural Resources -
Water Rights

From General Fund	8,408,600
From Federal Funds	121,200
From Dedicated Credits Revenue	1,927,000
From Beginning Nonlapsing Balances	99,900
From Closing Nonlapsing Balances	(100,000)
Schedule of Programs:	
Administration	1,165,800
Applications and Records	4,641,100
Dam Safety	948,000
Field Services	970,700
Adjudication	1,029,300
Technical Services	1,562,800
Canal Safety	139,000

**DEPARTMENT OF
ENVIRONMENTAL QUALITY**

Item 18To Department of Environmental
Quality - Executive Director's Office

From General Fund	1,434,200
From Federal Funds	306,300
From General Fund Restricted - Environmental Quality	782,500
From Revenue Transfers	2,585,000
Schedule of Programs:	
Executive Director's Office	5,108,000

Item 19To Department of Environmental Quality -
Air Quality

From General Fund	5,407,600
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From Federal Funds	5,076,200
From Dedicated Credits Revenue	5,369,500
From Clean Fuel Conversion Fund	114,000
From Revenue Transfers	(1,067,300)
Schedule of Programs:	
Air Quality	14,900,000

Item 20To Department of Environmental Quality -
Environmental Response and Remediation

From General Fund	776,900
From Federal Funds	4,261,600
From Dedicated Credits Revenue	608,600
From General Fund Restricted - Petroleum Storage Tank	50,000
From General Fund Restricted - Voluntary Cleanup	659,600
From Petroleum Storage Tank Trust Fund	1,764,400
From Revenue Transfers	(560,200)
Schedule of Programs:	
Environmental Response and Remediation	7,560,900

Item 21To Department of Environmental Quality -
Water Quality

From General Fund	3,101,300
From Federal Funds	4,698,500
From Dedicated Credits Revenue	1,773,800
From General Fund Restricted - Underground Wastewater System	76,000
From Water Development Security Fund - Utah Wastewater Loan Program	1,385,000
From Water Development Security Fund - Water Quality Origination Fee	98,000
From Revenue Transfers	7,800
Schedule of Programs:	
Water Quality	11,140,400

Item 22To Department of Environmental
Quality - Drinking Water

From General Fund	1,096,500
From Federal Funds	4,174,500
From Dedicated Credits Revenue	180,200
From Water Development Security Fund - Drinking Water Loan Program	150,100
From Water Development Security Fund - Drinking Water Origination Fee	209,900
From Revenue Transfers	(338,700)
Schedule of Programs:	
Drinking Water	5,472,500

Item 23To Department of Environmental Quality - Waste
Management and Radiation Control

From General Fund	769,900
From Federal Funds	1,364,600
From Dedicated Credits Revenue	1,563,900
From General Fund Restricted - Environmental Quality	5,869,300
From General Fund Restricted - Used Oil Collection Administration	778,800
From Waste Tire Recycling Fund	142,100
From Revenue Transfers	(199,400)
Schedule of Programs:	

Waste Management and Radiation	
Control	10,289,200
Item 24	
To Department of Environmental Quality -	
Facilities for Alternative Fuel Vehicles	
From General Fund	2,000,000
Schedule of Programs:	
Facilities for Alternative Fuel	
Vehicles	2,000,000

**PUBLIC LANDS POLICY
COORDINATING OFFICE**

Item 25	
To Public Lands Policy Coordinating Office	
From General Fund	1,363,900
From General Fund Restricted -	
Constitutional Defense	796,200
From Beginning Nonlapsing	
Balances	2,923,800
From Closing Nonlapsing Balances ...	(1,241,400)
Schedule of Programs:	
Public Lands Office	3,842,500

Item 26	
To Public Lands Policy Coordinating Office -	
Commission for Stewardship of Public Lands	
From Beginning Nonlapsing	
Balances	3,950,000
From Closing Nonlapsing Balances ...	(2,900,000)
Schedule of Programs:	
Commission for Stewardship of	
Public Lands	1,050,000

Item 27	
To Public Lands Policy Coordinating Office -	
Public Lands Litigation	
From General Fund Restricted -	
Constitutional Defense	15,300
From Beginning Nonlapsing	
Balances	1,091,300
Schedule of Programs:	
Public Lands Litigation	1,106,600

GOVERNOR'S OFFICE

Item 28	
To Governor's Office - Office	
of Energy Development	
From General Fund	1,305,100
From Federal Funds	459,700
From Dedicated Credits Revenue	90,000
From Utah State Energy Program	
Revolving Loan Fund (ARRA)	110,000
From General Fund Restricted -	
Stripper Well-Petroleum	
Violation Escrow	7,500
From Beginning Nonlapsing Balances ...	516,700
From Lapsing Balance	(93,100)
Schedule of Programs:	
Office of Energy Development	2,395,900

**DEPARTMENT OF
AGRICULTURE AND FOOD**

Item 29	
To Department of Agriculture and	
Food - Administration	
From General Fund	2,694,600

From Federal Funds	893,900
From Dedicated Credits Revenue	379,700
From General Fund Restricted -	
Cat and Dog Community Spay and	
Neuter Program Restricted Account	30,000
From General Fund Restricted -	
Horse Racing	20,000
From General Fund Restricted - Agriculture	
and Wildlife Damage Prevention	30,000
From Beginning Nonlapsing Balances ...	369,500
From Closing Nonlapsing Balances	(119,000)
Schedule of Programs:	
General Administration	3,135,000
Chemistry Laboratory	1,111,300
Sheep Promotion	30,000
Utah Horse Commission	22,400

Item 30	
To Department of Agriculture and Food -	
Animal Health	
From General Fund	2,892,900
From Federal Funds	1,686,100
From Dedicated Credits Revenue	393,600
From General Fund Restricted -	
Livestock Brand	1,053,900
From Revenue Transfers	3,900
From Beginning Nonlapsing Balances ...	556,200
From Closing Nonlapsing Balances	(732,500)
Schedule of Programs:	
Animal Health	2,198,700
Auction Market Veterinarians	72,000
Brand Inspection	1,626,500
Meat Inspection	1,956,900

Item 31	
To Department of Agriculture and Food -	
Plant Industry	
From General Fund	1,220,400
From Federal Funds	2,873,900
From Dedicated Credits Revenue	2,021,600
From Agriculture Resource	
Development Fund	191,100
From Revenue Transfers	551,300
From Pass-through	3,100
From Beginning Nonlapsing	
Balances	1,002,700
From Closing Nonlapsing Balances	(801,100)
Schedule of Programs:	
Environmental Quality	2,352,200
Grain Inspection	387,800
Insect Infestation	985,900
Plant Industry	2,381,900
Grazing Improvement Program	955,200

Item 32	
To Department of Agriculture and	
Food - Regulatory Services	
From General Fund	2,083,200
From Federal Funds	561,000
From Dedicated Credits Revenue	1,920,700
From Pass-through	55,400
From Beginning Nonlapsing Balances ...	484,300
From Closing Nonlapsing Balances	(304,800)
Schedule of Programs:	
Regulatory Services	4,799,800

Item 33	
To Department of Agriculture and	
Food - Marketing and Development	
From General Fund	701,700

From Beginning Nonlapsing Balances 67,500
 From Closing Nonlapsing Balances (124,700)
 Schedule of Programs:
 Marketing and Development 644,500

Item 34

To Department of Agriculture and Food -
 Building Operations
 From General Fund 356,600
 Schedule of Programs:
 Building Operations 356,600

Item 35

To Department of Agriculture and Food -
 Predatory Animal Control
 From General Fund 813,900
 From General Fund Restricted - Agriculture
 and Wildlife Damage Prevention 643,400
 From Revenue Transfers 60,700
 From Beginning Nonlapsing Balances . . . 186,000
 From Closing Nonlapsing Balances (226,300)
 Schedule of Programs:
 Predatory Animal Control 1,477,700

Item 36

To Department of Agriculture and Food -
 Resource Conservation
 From General Fund 1,261,400
 From Agriculture Resource
 Development Fund 386,100
 From Utah Rural Rehabilitation Loan
 State Fund 129,100
 From Beginning Nonlapsing Balances 96,700
 From Closing Nonlapsing Balances (156,700)
 From Lapsing Balance (84,800)
 Schedule of Programs:
 Resource Conservation
 Administration 323,800
 Conservation Commission 11,900
 Resource Conservation 1,296,100

Item 37

To Department of Agriculture and Food -
 Invasive Species Mitigation
 From General Fund Restricted - Invasive
 Species Mitigation Account 2,003,400
 From Beginning Nonlapsing Balances . . . 899,900
 From Closing Nonlapsing Balances (936,500)
 From Lapsing Balance (4,100)
 Schedule of Programs:
 Invasive Species Mitigation 1,962,700

Item 38

To Department of Agriculture and
 Food - Rangeland Improvement
 From General Fund Restricted -
 Rangeland Improvement Account . . . 1,494,600
 From Beginning Nonlapsing Balances . . . 899,900
 From Closing Nonlapsing Balances (904,100)
 Schedule of Programs:
 Rangeland Improvement 1,490,400

Item 39

To Department of Agriculture and Food -
 Utah State Fair Corporation
 From Dedicated Credits Revenue 3,592,400
 Schedule of Programs:
 State Fair Corporation 3,592,400

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Item 40

To School and Institutional Trust
 Lands Administration
 From Land Grant Management
 Fund 10,119,700
 Schedule of Programs:
 Board 93,100
 Director 518,800
 External Relations 267,000
 Administration 952,800
 Accounting 433,100
 Auditing 465,600
 Oil and Gas 916,900
 Mining 713,200
 Surface 1,830,100
 Development - Operating 1,551,200
 Legal/Contracts 737,100
 Information Technology Group 1,193,600
 Grazing and Forestry 447,200

Item 41

To School and Institutional Trust Lands
 Administration - Land Stewardship and
 Restoration
 From Land Grant Management Fund . . 2,113,500
 Schedule of Programs:
 Land Stewardship and Restoration . . 2,113,500

Item 42

To School and Institutional Trust Lands
 Administration - School and Institutional Trust
 Lands Administration Capital
 From Land Grant Management Fund . . 5,000,000
 Schedule of Programs:
 Capital 5,000,000

Subsection 1(b). Expendable Funds and

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

DEPARTMENT OF NATURAL RESOURCES

Item 43

To Department of Natural Resources -
 UGS Sample Library Fund
 From Interest Income 400
 From Beginning Nonlapsing Balances 76,800
 From Closing Nonlapsing Balances (77,200)

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 44

To Department of Environmental Quality -
 Hazardous Substance Mitigation Fund
 From Dedicated Credits Revenue 82,000
 From Beginning Nonlapsing
 Balances 8,573,400
 From Closing Nonlapsing Balances . . . (4,932,600)
 Schedule of Programs:
 Hazardous Substance Mitigation
 Fund 3,722,800

Item 45

To Department of Environmental Quality -
 Waste Tire Recycling Fund
 From Dedicated Credits Revenue 3,359,500
 From Beginning Nonlapsing
 Balances 3,005,400
 From Closing Nonlapsing Balances ... (3,131,100)
 From Lapsing Balance 66,200
 Schedule of Programs:
 Waste Tire Recycling Fund 3,300,000

**DEPARTMENT OF
 AGRICULTURE AND FOOD**

Item 46

To Department of Agriculture and Food -
 Salinity Offset Fund
 From Revenue Transfers 144,900
 From Beginning Nonlapsing
 Balances 1,594,100
 From Closing Nonlapsing Balances ... (1,239,000)
 Schedule of Programs:
 Salinity Offset Fund 500,000

Subsection 1(c). Business-like Activities.

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

DEPARTMENT OF NATURAL RESOURCES

Item 47

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

Item 48

To Department of Natural Resources -
 Internal Service Fund
 From Dedicated Credits Revenue 768,200
 Schedule of Programs:
 ISF - DNR Warehouse 768,200
 Budgeted FTE 2.0

**DEPARTMENT OF
 ENVIRONMENTAL QUALITY**

Item 49

To Department of Environmental Quality - Water
 Security Development Account - Water Pollution
 From Federal Funds 7,759,000
 From Designated Sales Tax 3,587,500
 From Repayments 17,125,200
 Schedule of Programs:
 Water Pollution 28,471,700

Item 50

To Department of Environmental Quality - Water
 Security Development Account - Drinking Water
 From Federal Funds 6,500,000
 From Designated Sales Tax 3,587,500
 From Repayments 12,600,000
 Schedule of Programs:
 Drinking Water 22,687,500

**DEPARTMENT OF
 AGRICULTURE AND FOOD**

Item 51

To Department of Agriculture and
 Food - Agriculture Loan Programs
 From Agriculture Resource Development
 Fund 276,400
 From Utah Rural Rehabilitation
 Loan State Fund 148,800
 Schedule of Programs:
 Agriculture Loan Program 425,200

Subsection 1(d). Restricted Fund and

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

FUND AND ACCOUNT TRANSFERS

Item 52

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

Item 53

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

Item 54

To Fund and Account Transfers - General Fund
 Restricted - Constitutional Defense Restricted
 Account
 From General Fund Restricted -
 Land Exchange Distribution Account 1,208,700
 Schedule of Programs:
 Constitutional Defense Restricted
 Account 1,208,700

Item 55

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

Item 56

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

General Fund Restricted - Mule Deer
 Protection 500,000

Item 57

To Fund and Account Transfers - General Fund
 Restricted - Agriculture and Wildlife Damage
 Prevention Account

From General Fund 250,000

Schedule of Programs:

General Fund Restricted -
 Agriculture and Wildlife
 Damage Prevention Account 250,000

Subsection 1(e). Fiduciary Funds. The

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

DEPARTMENT OF NATURAL RESOURCES

Item 58

To Department of Natural Resources -

Wildland Fire Suppression Fund

From Trust and Agency Funds 1,225,000

From Revenue Transfers 1,275,000

From Beginning Nonlapsing

Balances 6,416,000

From Closing Nonlapsing Balances ... (5,916,000)

Schedule of Programs:

Wildland Fire Suppression Fund 3,000,000

Section 2. Effective Date.

This bill takes effect on July 1, 2016.

**CHAPTER 4
H. B. 6**

Passed February 9, 2016
Approved February 16, 2016
Effective February 16, 2016

**EXECUTIVE OFFICES AND CRIMINAL
JUSTICE BASE BUDGET**

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

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the use and operation of state government for the fiscal year beginning July 1, 2015 and ending June 30, 2016; and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2016 and ending June 30, 2017.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates (\$618,200) in operating and capital budgets for fiscal year 2016, all of which is from the General Fund.

This bill appropriates \$118,200 in expendable funds and accounts for fiscal year 2016, all of which is from the General Fund.

This bill appropriates \$895,804,500 in operating and capital budgets for fiscal year 2017, including:

- ▶ \$645,123,400 from the General Fund;
- ▶ \$49,000 from the Education Fund;
- ▶ \$250,632,100 from various sources as detailed in this bill.

This bill appropriates \$16,550,800 in expendable funds and accounts for fiscal year 2017.

This bill appropriates \$28,784,500 in business-like activities for fiscal year 2017.

This bill appropriates \$381,000 in restricted fund and account transfers for fiscal year 2017, including:

- ▶ \$231,000 from the General Fund;
- ▶ \$150,000 from various sources as detailed in this bill.

This bill appropriates \$800,000 in fiduciary funds for fiscal year 2017.

Other Special Clauses:

Section 1 of this bill takes effect immediately.
Section 2 of this bill takes effect on July 1, 2016.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2016 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2015 and ending June

30, 2016. These are additions to amounts previously appropriated for fiscal year 2016.

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

GOVERNOR'S OFFICE

Item 1

To Governor's Office - CCJJ Factual
Innocence Payments
From General Fund, One-Time (118,200)
Schedule of Programs:
Factual Innocence Payments (118,200)

UTAH DEPARTMENT OF CORRECTIONS

Item 2

To Utah Department of Corrections -
Programs and Operations
From General Fund, One-Time (865,000)
Schedule of Programs:
Department Executive Director (865,000)

Item 3

To Utah Department of Corrections -
Department Medical Services
From General Fund, One-Time 3,865,000
Schedule of Programs:
Medical Services 3,865,000

Item 4

To Utah Department of Corrections -
Jail Contracting
From General Fund, One-Time (3,000,000)
Schedule of Programs:
Jail Contracting (3,000,000)

**JUDICIAL COUNCIL/STATE
COURT ADMINISTRATOR**

Item 5

To Judicial Council/State Court
Administrator - Administration
From General Fund, One-Time (500,000)
Schedule of Programs:
Administrative Office (500,000)

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

GOVERNOR'S OFFICE

Item 6

To Governor's Office - Crime Victim
Reparations Fund
From General Fund, One-Time 118,200
Schedule of Programs:

Crime Victim Reparations Fund 118,200

Section 2. FY 2017 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2016 and ending June 30, 2017.

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

GOVERNOR'S OFFICE

Item 7

To Governor's Office
 From General Fund 5,361,600
 From Federal Funds 123,700
 From Dedicated Credits Revenue 1,073,600
 From General Fund Restricted -
 Constitutional Defense 250,000
 From Beginning Nonlapsing Balances . . . 354,200
 From Closing Nonlapsing Balances . . . (244,200)
 From Lapsing Balance (210,000)
 Schedule of Programs:
 Administration 3,846,600
 Governor's Residence 324,500
 Washington Funding 164,700
 Lt. Governor's Office 2,347,500
 Literacy Projects 25,600

Item 8

To Governor's Office - Character Education
 From General Fund 203,000
 From Beginning Nonlapsing Balances . . . 148,500
 From Closing Nonlapsing Balances (48,500)
 Schedule of Programs:
 Character Education 303,000

Item 9

To Governor's Office - Emergency Fund
 From Beginning Nonlapsing Balances . . . 100,100
 From Closing Nonlapsing Balances (100,100)

Item 10

To Governor's Office - School Readiness Initiative
 From General Fund Restricted - School
 Readiness Account 2,800,000
 From Beginning Nonlapsing
 Balances 3,000,000
 From Closing Nonlapsing Balances . . . (4,900,000)
 Schedule of Programs:
 School Readiness Initiative 900,000

Item 11

To Governor's Office - Governor's
 Office of Management and Budget
 From General Fund 3,777,900
 From Dedicated Credits Revenue 26,000
 From General Fund Restricted - School
 Readiness Account 200,000
 From Beginning Nonlapsing Balances . . . 821,000
 From Closing Nonlapsing Balances (821,000)
 Schedule of Programs:
 Administration 1,137,400
 Planning and Budget Analysis 1,598,400

Operational Excellence 1,065,800
 State and Local Planning 202,300

Item 12

To Governor's Office - Quality Growth
 Commission - LeRay McAllister Program
 From Beginning Nonlapsing Balances . . . 172,100
 Schedule of Programs:
 LeRay McAllister Critical Land
 Conservation Program 172,100

Item 13

To Governor's Office - Commission on
 Criminal and Juvenile Justice
 From General Fund 4,848,100
 From Federal Funds 30,195,100
 From Dedicated Credits Revenue 102,500
 From General Fund Restricted -
 Law Enforcement Services 617,900
 From General Fund Restricted -
 Criminal Forfeiture Restricted
 Account 2,089,500
 From General Fund Restricted -
 Law Enforcement Operations 1,825,900
 From Crime Victim Reparations
 Fund 1,795,900
 From Beginning Nonlapsing
 Balances 1,366,900
 From Closing Nonlapsing Balances . . . (1,369,900)
 Schedule of Programs:
 CCJJ Commission 11,456,000
 Utah Office for Victims of Crime . . . 22,113,900
 Extraditions 376,300
 Substance Abuse Advisory Council 152,900
 Sentencing Commission 146,800
 State Task Force Grants 1,825,900
 State Asset Forfeiture Grant
 Program 2,089,500
 Law Enforcement Services Grants 617,900
 Judicial Performance Evaluation
 Commission 474,000
 County Incentive Grant Program 2,218,700

Item 14

To Governor's Office - CCJJ Factual
 Innocence Payments
 From Beginning Nonlapsing Balances . . . 365,200
 From Closing Nonlapsing Balances (319,500)
 Schedule of Programs:
 Factual Innocence Payments 45,700

Item 15

To Governor's Office - CCJJ Jail Reimbursement
 From General Fund 12,967,100
 Schedule of Programs:
 Jail Reimbursement 12,967,100

OFFICE OF THE STATE AUDITOR

Item 16

To Office of the State Auditor - State Auditor
 From General Fund 3,216,300
 From General Fund, One-Time (10,400)
 From Dedicated Credits Revenue 1,880,000
 From Dedicated Credits Revenue,
 One-Time (9,300)
 From Beginning Nonlapsing Balances . . . 401,200
 Schedule of Programs:
 State Auditor 5,477,800

STATE TREASURER

Item 17

To State Treasurer

From General Fund	974,700
From General Fund, One-Time	(12,800)
From Dedicated Credits Revenue	550,000
From Dedicated Credits Revenue, One-Time	(6,900)
From Unclaimed Property Trust	1,567,800

Schedule of Programs:

Treasury and Investment	1,419,900
Unclaimed Property	1,560,700
Money Management Council	92,200

ATTORNEY GENERAL

Item 18

To Attorney General

From General Fund	32,251,500
From General Fund, One-Time	25,000
From Federal Funds	1,885,700
From Dedicated Credits Revenue	19,656,600
From General Fund Restricted - Constitutional Defense	382,300
From General Fund Restricted - Tobacco Settlement Account	73,500
From Revenue Transfers	819,600

Schedule of Programs:

Administration	5,774,000
Child Protection	8,541,300
Children's Justice	1,246,700
Criminal Prosecution	17,489,500
Civil	22,042,700

Item 19

To Attorney General - Contract Attorneys

From Dedicated Credits Revenue	300,000
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Schedule of Programs:

Contract Attorneys	300,000
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Item 20

To Attorney General - Children's Justice Centers

From General Fund	3,529,300
From General Fund, One-Time	(25,000)
From Federal Funds	236,400
From Dedicated Credits Revenue	292,900

Schedule of Programs:

Children's Justice Centers	4,033,600
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Item 21

To Attorney General - Prosecution Council

From Federal Funds	32,500
From Dedicated Credits Revenue	115,100
From General Fund Restricted - Public Safety Support	625,100
From Revenue Transfers	574,200
From Lapsing Balance	(59,100)

Schedule of Programs:

Prosecution Council	1,287,800
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Item 22

To Attorney General - Domestic Violence

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

Domestic Violence	78,300
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UTAH DEPARTMENT OF CORRECTIONS

Item 23

To Utah Department of Corrections -
Programs and Operations

From General Fund	221,584,900
From General Fund, One-Time	(33,600)
From Education Fund	49,000
From Federal Funds	344,700
From Dedicated Credits Revenue	4,153,600
From G.F.R. - Interstate Compact for Adult Offender Supervision	29,000
From General Fund Restricted - Prison Telephone Surcharge Account	1,500,000

Schedule of Programs:

Department Executive Director	5,562,200
Department Administrative Services	23,667,000
Department Training	1,707,700
Adult Probation and Parole Administration	1,597,400
Adult Probation and Parole Programs	65,067,500
Institutional Operations Administration	3,350,300
Institutional Operations Draper Facility	66,966,000
Institutional Operations Central Utah/Gunnison	38,247,900
Institutional Operations Inmate Placement	2,950,700
Institutional Operations Support Services	641,200
Programming Administration	445,700
Programming Treatment	5,497,200
Programming Skill Enhancement ...	9,983,100
Programming Education	1,943,700

Item 24

To Utah Department of Corrections -
Department Medical Services

From General Fund	31,036,900
From Dedicated Credits Revenue	609,200

Schedule of Programs:

Medical Services	31,646,100
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Item 25

To Utah Department of Corrections -
Jail Contracting

From General Fund	32,644,200
From Federal Funds	50,000

Schedule of Programs:

Jail Contracting	32,694,200
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BOARD OF PARDONS AND PAROLE

Item 26

To Board of Pardons and Parole

From General Fund	4,420,000
From Dedicated Credits Revenue	2,200

Schedule of Programs:

Board of Pardons and Parole	4,422,200
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**DEPARTMENT OF HUMAN SERVICES -
DIVISION OF JUVENILE
JUSTICE SERVICES**

Item 27

To Department of Human Services - Division of
Juvenile Justice Services - Programs and
Operations

From General Fund 90,427,400
 From Federal Funds 4,170,000
 From Dedicated Credits Revenue 1,771,600
 From Revenue Transfers 599,900
 Schedule of Programs:
 Administration 4,389,200
 Early Intervention Services 25,402,900
 Community Programs 24,489,500
 Correctional Facilities 17,660,800
 Rural Programs 24,673,000
 Youth Parole Authority 353,500

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR

Item 28

To Judicial Council/State Court
 Administrator - Administration
 From General Fund 99,764,300
 From General Fund, One-Time 1,049,100
 From Federal Funds 755,100
 From Dedicated Credits Revenue 2,964,100
 From General Fund Restricted -
 Dispute Resolution Account 538,300
 From General Fund Restricted -
 Children's Legal Defense 449,700
 From General Fund Restricted -
 Court Security Account 11,168,000
 From General Fund Restricted -
 Court Trust Interest 250,000
 From General Fund Restricted -
 DNA Specimen Account 260,500
 From General Fund Restricted - Justice
 Court Tech., Security & Training 1,183,600
 From General Fund Restricted -
 Nonjudicial Adjustment Account 1,010,200
 From General Fund Restricted - Online
 Court Assistance Account 230,100
 From General Fund Restricted -
 State Court Complex Account 313,400
 From General Fund Restricted - Substance
 Abuse Prevention 551,800
 From General Fund Restricted -
 Tobacco Settlement Account 365,300
 From Revenue Transfers 1,077,300
 Schedule of Programs:
 Supreme Court 3,047,400
 Law Library 1,111,300
 Court of Appeals 4,194,400
 District Courts 46,195,200
 Juvenile Courts 40,193,900
 Justice Courts 1,353,200
 Courts Security 11,168,000
 Administrative Office 4,544,100
 Judicial Education 708,500
 Data Processing 7,952,200
 Grants Program 1,462,600

Item 29

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

Item 30

To Judicial Council/State Court
 Administrator - Contracts and Leases
 From General Fund 15,923,700

From General Fund, One-Time (549,100)
 From Dedicated Credits Revenue 250,000
 From General Fund Restricted -
 State Court Complex Account 4,593,500
 Schedule of Programs:
 Contracts and Leases 20,218,100

Item 31

To Judicial Council/State Court Administrator -
 Jury and Witness Fees
 From General Fund 1,571,000
 From Dedicated Credits Revenue 10,000
 From Beginning Nonlapsing
 Balances (1,767,500)
 From Closing Nonlapsing Balances 2,667,500
 Schedule of Programs:
 Jury, Witness, and Interpreter 2,481,000

Item 32

To Judicial Council/State Court Administrator -
 Guardian ad Litem
 From General Fund 6,216,100
 From Dedicated Credits Revenue 77,000
 From General Fund Restricted -
 Children's Legal Defense 484,600
 From General Fund Restricted -
 Guardian Ad Litem Services 384,000
 Schedule of Programs:
 Guardian ad Litem 7,161,700

DEPARTMENT OF PUBLIC SAFETY

Item 33

To Department of Public Safety -
 Programs & Operations
 From General Fund 71,790,000
 From General Fund, One-Time (135,800)
 From Transportation Fund 5,495,500
 From Federal Funds 3,465,000
 From Dedicated Credits Revenue 16,337,400
 From General Fund Restricted -
 Canine Body Armor 25,000
 From General Fund Restricted -
 DNA Specimen Account 1,801,800
 From General Fund Restricted -
 Fire Academy Support 6,862,700
 From General Fund Restricted -
 Firefighter Support Account 132,000
 From General Fund Restricted - Public
 Safety Honoring Heroes Account 50,000
 From General Fund Restricted -
 Public Safety Support 3,300
 From General Fund Restricted -
 Reduced Cigarette Ignition Propensity
 & Firefighter Protection Account 76,500
 From General Fund Restricted -
 Statewide Warrant Operations 577,900
 From General Fund Restricted -
 Utah Highway Patrol Aero Bureau 209,200
 From Department of Public Safety
 Restricted Account 3,508,300
 From Revenue Transfers 1,687,500
 From General Fund Restricted -
 Firearm Safety Account 85,000
 From General Fund Restricted -
 Concealed Weapons Account 3,151,500
 From Pass-through 4,515,000
 From Beginning Nonlapsing
 Balances 2,234,600

From Lapsing Balance (1,350,000)
 Schedule of Programs:
 Department Commissioner's
 Office 6,251,700
 Aero Bureau 993,600
 Department Intelligence Center 1,051,200
 Department Grants 2,485,000
 Department Fleet Management 502,600
 CITS Administration 517,200
 CITS Bureau of Criminal
 Identification 15,353,800
 CITS Communications 8,692,100
 CITS State Crime Labs 5,576,700
 CITS State Bureau of
 Investigation 3,245,600
 Highway Patrol - Administration ... 1,248,100
 Highway Patrol -
 Field Operations 43,222,800
 Highway Patrol -
 Commercial Vehicle 3,901,200
 Highway Patrol -
 Safety Inspections 1,392,300
 Highway Patrol -
 Federal/State Projects 6,428,200
 Highway Patrol -
 Protective Services 5,265,000
 Highway Patrol - Special Services ... 3,711,600
 Highway Patrol -
 Special Enforcement 592,700
 Highway Patrol -
 Technology Services 1,389,800
 Information Management -
 Operations 1,316,100
 Fire Marshall - Fire Operations 3,322,800
 Fire Marshall - Fire Fighter
 Training 4,062,300

Item 34

To Department of Public Safety -
 Emergency Management
 From General Fund 2,159,600
 From Federal Funds 30,630,000
 From Dedicated Credits Revenue 508,000
 Schedule of Programs:
 Emergency Management 33,297,600

Item 35

To Department of Public Safety - Emergency
 Management - National Guard Response
 From Beginning Nonlapsing Balances ... 150,000
 From Closing Nonlapsing Balances (150,000)

Item 36

To Department of Public Safety - Division of
 Homeland Security - Emergency and Disaster
 Management
 From Beginning Nonlapsing
 Balances 2,502,900
 From Closing Nonlapsing Balances ... (2,502,900)

Item 37

To Department of Public Safety -
 Peace Officers' Standards and Training
 From General Fund 91,200
 From Dedicated Credits Revenue 70,000
 From General Fund Restricted -
 Public Safety Support 3,956,800
 From Lapsing Balance (520,000)
 Schedule of Programs:

Basic Training 1,464,400
 Regional/Inservice Training 666,500
 POST Administration 1,467,100

Item 38

To Department of Public Safety - Driver License
 From Federal Funds 300,000
 From Dedicated Credits Revenue 9,100
 From Public Safety Motorcycle
 Education Fund 330,100
 From Department of Public
 Safety Restricted Account 28,121,000
 From Uninsured Motorist Identification
 Restricted Account 2,373,100
 From Pass-through 53,700
 From Beginning Nonlapsing
 Balances 4,787,500
 From Closing Nonlapsing Balances ... (4,168,300)
 Schedule of Programs:
 Driver License Administration 2,416,200
 Driver Services 17,701,100
 Driver Records 8,680,900
 Motorcycle Safety 334,900
 Uninsured Motorist 2,373,100
 DL Federal Grants 300,000

Item 39

To Department of Public Safety - Highway Safety
 From General Fund 56,400
 From Federal Funds 5,042,000
 From Dedicated Credits Revenue 10,600
 From Department of Public Safety
 Restricted Account 900,600
 From Pass-through 2,200
 Schedule of Programs:
 Highway Safety 6,011,800

UTAH COMMUNICATIONS AUTHORITY

Item 40

To Utah Communications
 Authority - Administrative Services Division
 From Beginning Nonlapsing
 Balances 19,500,000
 Schedule of Programs:
 Administrative Services Division ... 19,500,000

Subsection 2(b). Expendable Funds and

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

GOVERNOR'S OFFICE

Item 41

To Governor's Office - Crime Victim
 Reparations Fund
 From Federal Funds 2,780,000
 From Dedicated Credits Revenue 7,407,400
 From Other Financing Sources 5,800
 From Beginning Nonlapsing
 Balances 5,090,100
 From Closing Nonlapsing Balances ... (7,406,900)
 Schedule of Programs:

Crime Victim Reparations Fund 7,876,400

Item 42

To Governor's Office - Juvenile

Accountability Incentive Block Grant Fund

From Federal Funds 1,000,000

From Dedicated Credits Revenue 6,000

From Beginning Nonlapsing Balances . . . 439,900

From Closing Nonlapsing Balances (439,900)

Schedule of Programs:

Juvenile Accountability Incentive

Block Grant Fund 1,006,000

Item 43

To Governor's Office - State Elections

Grant Fund

From Federal Funds 214,400

From Interest Income 5,500

Schedule of Programs:

State Elections Grant Fund 219,900

Item 44

To Governor's Office - Justice Assistance

Grant Fund

From Federal Funds 3,000,000

From Dedicated Credits Revenue 10,000

From Beginning Nonlapsing Balances . . . 504,300

From Closing Nonlapsing Balances (504,300)

Schedule of Programs:

Justice Assistance Grant Fund 3,010,000

ATTORNEY GENERAL**Item 45**

To Attorney General - Crime and

Violence Prevention Fund

From Beginning Nonlapsing Balances 17,500

From Closing Nonlapsing Balances (16,000)

Schedule of Programs:

Crime and Violence Prevention Fund 1,500

Item 46

To Attorney General - Litigation Fund

From Dedicated Credits Revenue 500,000

From Beginning Nonlapsing Balances . . . 739,000

From Closing Nonlapsing Balances (614,000)

Schedule of Programs:

Litigation Fund 625,000

DEPARTMENT OF PUBLIC SAFETY**Item 47**

To Department of Public Safety - Alcoholic

Beverage Control Act Enforcement Fund

From Dedicated Credits Revenue 3,812,000

From Beginning Nonlapsing

Balances 2,895,300

From Closing Nonlapsing Balances . . . (2,895,300)

Schedule of Programs:

Alcoholic Beverage Control Act

Enforcement Fund 3,812,000

Subsection 2(c). Business-like Activities.

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as

indicated, and appropriates to the funds as indicated estimated revenue from rates, fees, and other charges. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated.

UTAH DEPARTMENT OF CORRECTIONS**Item 48**

To Utah Department of Corrections -

Utah Correctional Industries

From Dedicated Credits Revenue 28,784,500

From Beginning Nonlapsing

Balances 6,702,100

From Closing Nonlapsing Balances . . . (6,702,100)

Schedule of Programs:

Utah Correctional Industries 28,784,500

Subsection 2(d). Restricted Fund and Account Transfers.

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

FUND AND ACCOUNT TRANSFERS**Item 49**

To Fund and Account Transfers - General

Fund Restricted - DNA Specimen Account

From General Fund 216,000

Schedule of Programs:

General Fund Restricted - DNA

Specimen Account 216,000

Item 50

To Fund and Account Transfers - General

Fund Restricted - Firearm Safety Account

From General Fund 15,000

Schedule of Programs:

General Fund Restricted -

Firearm Safety Account 15,000

Item 51

To Fund and Account Transfers - General Fund

Restricted - UHP Aero Bureau Restricted Account

From Other Financing Sources 150,000

Schedule of Programs:

General Fund Restricted - UHP

Aero Bureau Restricted Account 150,000

Subsection 2(e). Fiduciary Funds.

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

ATTORNEY GENERAL**Item 52**

To Attorney General - Financial Crimes

Trust Fund

From Trust and Agency Funds 800,000

From Beginning Nonlapsing Balances . . . 452,200

From Closing Nonlapsing Balances (452,200)

Schedule of Programs:

Financial Crimes Trust Fund 800,000

Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2016.

CHAPTER 5

H. B. 7

Passed February 9, 2016
 Approved February 16, 2016
 Effective February 16, 2016

SOCIAL SERVICES BASE BUDGET

Chief Sponsor: Paul Ray
 Senate Sponsor: Allen M. Christensen

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the use and operation of state government for the fiscal year beginning July 1, 2015 and ending June 30, 2016; and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2016 and ending June 30, 2017.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates \$53,173,800 in operating and capital budgets for fiscal year 2016, including:

- ▶ (\$6,666,700) from the General Fund;
- ▶ \$59,840,500 from various sources as detailed in this bill.

This bill appropriates \$4,132,800 in transfers to unrestricted funds for fiscal year 2016.

This bill appropriates \$4,311,016,000 in operating and capital budgets for fiscal year 2017, including:

- ▶ \$841,893,400 from the General Fund;
- ▶ \$21,111,400 from the Education Fund;
- ▶ \$3,448,011,200 from various sources as detailed in this bill.

This bill appropriates \$156,336,900 in expendable funds and accounts for fiscal year 2017, including:

- ▶ \$2,442,900 from the General Fund;
- ▶ \$153,894,000 from various sources as detailed in this bill.

This bill appropriates \$304,552,300 in business-like activities for fiscal year 2017.

This bill appropriates \$2,506,100 in restricted fund and account transfers for fiscal year 2017, including:

- ▶ \$1,017,400 from the General Fund;
- ▶ \$1,488,700 from various sources as detailed in this bill.

This bill appropriates \$150,000 in transfers to unrestricted funds for fiscal year 2017.

This bill appropriates \$215,288,700 in fiduciary funds for fiscal year 2017.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 of this bill takes effect on July 1, 2016.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2016 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2015 and ending June 30, 2016. These are additions to amounts previously appropriated for fiscal year 2016.

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

DEPARTMENT OF HEALTH

Item 1

To Department of Health - Executive

- Director's Operations
- From Federal Funds, One-Time (740,500)
- Schedule of Programs:
- Program Operations (740,500)

The Legislature intends the Departments of Health, Human Services, and Workforce Services and the Utah State Office of Rehabilitation report to the Office of the Legislative Fiscal Analyst by June 1, 2016 on maintenance of effort (MOE) requirements for all major federal grants over \$500,000 annually. The report shall include at a minimum a five year history (2011 to 2015) of: (1) maintenance of effort payments for each grant, including showing how much was paid above the minimum required levels, (2) the appropriate federal references with key language regarding each grant's MOE requirements, (3) how much state funding has been replaced, if any, with third party expenditures for maintenance of effort and how that state funding was used, (4) what is the minimum federally-required MOE for each grant, (5) options for how to reduce MOE annual amounts while continuing to comply with federal MOE requirements, and (6) how MOE requirements have changed and the impacts of those changes.

The Legislature intends that the Departments of Health, Human Services, Workforce Services, and the Utah State Office of Rehabilitation provide a report to the Office of the Legislative Fiscal Analyst by June 1, 2016 on the following for all major federal grants over \$500,000 annually a five year history (2011 to 2015): (1) a list and dollar value of all expenditures by a third party used to count as its state match to access federal funds (2) under what scenarios could third party match become unavailable (3) any federal proposals to disallow counting third party match (4) what the agency would change in the future for its spending if third party match is no longer available

Item 2

- To Department of Health - Family Health and Preparedness
- From Federal Funds, One-Time 2,958,100

Schedule of Programs:
 Maternal and Child Health 2,958,100

Item 3

To Department of Health - Disease Control and Prevention
 From Federal Funds, One-Time ... (24,135,900)
 Schedule of Programs:
 Health Promotion 541,200
 Vaccine Commodities (26,000,000)
 Epidemiology 1,322,900

The Legislature intends that the Department of Health shall report to the Office of the Legislative Fiscal Analyst by April 30, 2016 on the total amount of opioid pain medications dispensed per capita, as morphine equivalent dosages, and may include other measures of risky opioid prescribing that the Department determines to be useful for understanding the influence of opioid prescribing on overdose deaths in Utah. Data shall be shared as far as is readily available back through 2000.

Item 4

To Department of Health - Vaccine Commodities
 From Federal Funds, One-Time 26,000,000
 Schedule of Programs:
 Vaccine Commodities 26,000,000

Item 5

To Department of Health - Workforce Financial Assistance
 From General Fund, One-Time (300,000)
 From Dedicated Credits Revenue, One-Time (300,000)
 Schedule of Programs:
 Workforce Financial Assistance (600,000)

Item 6

To Department of Health - Rural Physicians Loan Repayment Assistance
 From General Fund, One-Time 300,000
 From Dedicated Credits Revenue, One-Time 300,000
 Schedule of Programs:
 Rural Physicians Loan Repayment Program 600,000

Item 7

To Department of Health - Medicaid and Health Financing
 From General Fund, One-Time (161,100)
 From Federal Funds, One-Time (84,200)
 From Federal Funds - American Recovery and Reinvestment Act, One-Time 367,000
 From General Fund Restricted - Nursing Care Facilities Account, One-Time 77,000
 Schedule of Programs:
 Managed Health Care (166,600)
 Medicaid Operations 365,300

The Legislature intends that the Department of Health report to the Office of the Legislative Fiscal Analyst by April 1, 2016 on the following regarding its plan to allow a three month supply of some Medicaid medications: (1) the Departments proposed plan, (2) proposed timeline of important action items, (3) how the agency will measure

the financial impact to the State from making this change, and (4) the date on which the Department intends to report back on having finished the implementation.

Item 8

To Department of Health - Children's Health Insurance Program
 From Federal Funds, One-Time 15,700,000
 From Beginning Nonlapsing Balances (4,132,800)
 Schedule of Programs:
 Children's Health Insurance Program 11,567,200

Item 9

To Department of Health - Medicaid Mandatory Services
 From General Fund, One-Time (3,975,900)
 From Federal Funds, One-Time (180,000)
 From General Fund Restricted - Medicaid Restricted Account, One-Time 3,975,900
 From General Fund Restricted - Nursing Care Facilities Account, One-Time ... (77,000)
 Schedule of Programs:
 Nursing Home (257,000)

Item 10

To Department of Health - Medicaid Optional Services
 From Federal Funds, One-Time 22,389,500
 Schedule of Programs:
 Other Optional Services 22,389,500

DEPARTMENT OF WORKFORCE SERVICES

Item 11

To Department of Workforce Services - Administration
 From General Fund, One-Time (6,300)
 From General Fund Restricted - Mineral Lease, One-Time (2,200)
 From Permanent Community Impact Loan Fund, One-Time 2,200
 From Unemployment Compensation Fund, One-Time 58,400
 Schedule of Programs:
 Executive Director's Office (6,300)
 Administrative Support 58,400

The Legislature intends the Departments of Health, Human Services, and Workforce Services and the Utah State Office of Rehabilitation report to the Office of the Legislative Fiscal Analyst by June 1, 2016 on maintenance of effort (MOE) requirements for all major federal grants over \$500,000 annually. The report shall include at a minimum a five year history (2011 to 2015) of: (1) maintenance of effort payments for each grant, including showing how much was paid above the minimum required levels, (2) the appropriate federal references with key language regarding each grant's MOE requirements, (3) how much state funding has been replaced, if any, with third party expenditures for maintenance of effort and how that state funding was used, (4) what is

the minimum federally-required MOE for each grant, (5) options for how to reduce MOE annual amounts while continuing to comply with federal MOE requirements, and (6) how MOE requirements have changed and the impacts of those changes.

The Legislature intends that the American Recovery and Reinvestment Act appropriation provided for the Administration line item is limited to one-time projects associated with Unemployment Insurance modernization.

The Legislature intends that the Department of Workforce Services report to the Office of the Legislative Fiscal Analyst by June 1, 2016 on the following regarding all of its restricted funds not subject to annual Legislative appropriations for expenditures: (1) size of the fund, (2) uses of the fund, (3) how the uses of the fund comply with the funds' governing statute, (4) how the funds' uses are coordinated with other state programs working on similar issues, and (5) any recommendations to increase the coordination of resources.

The Legislature intends that the Departments of Health, Human Services, Workforce Services, and the Utah State Office of Rehabilitation provide a report to the Office of the Legislative Fiscal Analyst by June 1, 2016 on the following for all major federal grants over \$500,000 annually a five year history (2011 to 2015): (1) a list and dollar value of all expenditures by a third party used to count as its state match to access federal funds (2) under what scenarios could third party match become unavailable (3) any federal proposals to disallow counting third party match (4) what the agency would change in the future for its spending if third party match is no longer available

All General Funds appropriated to the Department of Workforce Services - Administration line item are contingent upon expenditures from Federal Funds - American Recovery and Reinvestment Act (H.R. 1, 111th United States Congress) not exceeding amounts appropriated from Federal Funds - American Recovery and Reinvestment Act in all appropriation bills passed for Fiscal Year 2016. If expenditures in the Administration line item from Federal Funds - American Recovery and Reinvestment Act exceed amounts appropriated to the Administration line item from Federal Funds - American Recovery and Reinvestment Act in Fiscal Year 2016, the Division of Finance shall reduce the General Fund allocations to the Administration line item by one dollar for every one dollar in Federal Funds - American Recovery and Reinvestment Act expenditures that exceed Federal Funds - American Recovery and Reinvestment Act appropriations.

Item 12

To Department of Workforce Services - Operations and Policy
 From General Fund, One-Time (1,876,400)
 From Federal Funds, One-Time . . (408,782,000)
 From Dedicated Credits Revenue,
 One-Time (500,000)
 From General Fund Restricted - Special Admin. Expense Account, One-Time . . . 500,000
 From Unemployment Compensation Fund, One-Time 1,237,300
 Schedule of Programs:
 Workforce Research and Analysis 5,600
 Eligibility Services (664,000)
 Nutrition Assistance (410,000,000)
 Information Technology 1,237,300

The Legislature intends that the American Recovery and Reinvestment Act appropriation provided for the Operations and Policy line item is limited to one-time projects associated with Unemployment Insurance modernization.

All General Funds appropriated to the Department of Workforce Services - Operations and Policy line item are contingent upon expenditures from Federal Funds - American Recovery and Reinvestment Act (H.R. 1, 111th United States Congress) not exceeding amounts appropriated from Federal Funds - American Recovery and Reinvestment Act in all appropriation bills passed for Fiscal Year 2016. If expenditures in the Operations and Policy line item from Federal Funds - American Recovery and Reinvestment Act exceed amounts appropriated to the Operations and Policy line item from Federal Funds - American Recovery and Reinvestment Act in Fiscal Year 2016, the Division of Finance shall reduce the General Fund allocations to the Operations and Policy line item by one dollar for every one dollar in Federal Funds - American Recovery and Reinvestment Act expenditures that exceed Federal Funds - American Recovery and Reinvestment Act appropriations.

Item 13

To Department of Workforce Services - Nutrition Assistance
 From Federal Funds, One-Time . . . 410,000,000
 Schedule of Programs:
 Nutrition Assistance 410,000,000

Item 14

To Department of Workforce Services - Unemployment Insurance
 From General Fund, One-Time 700
 From Dedicated Credits Revenue,
 One-Time 500,000
 From Unemployment Compensation Fund, One-Time 304,300
 Schedule of Programs:
 Unemployment Insurance Administration 805,000

The Legislature intends that the American Recovery and Reinvestment Act appropriation provided for the

Unemployment Insurance line item is limited to one-time projects associated with Unemployment Insurance modernization.

All General Funds appropriated to the Department of Workforce Services - Unemployment Insurance line item are contingent upon expenditures from Federal Funds - American Recovery and Reinvestment Act (H.R. 1, 111th United States Congress) not exceeding amounts appropriated from Federal Funds - American Recovery and Reinvestment Act in all appropriation bills passed for Fiscal Year 2016. If expenditures in the Unemployment Insurance line item from Federal Funds - American Recovery and Reinvestment Act exceed amounts appropriated to the Unemployment Insurance line item from Federal Funds - American Recovery and Reinvestment Act in Fiscal Year 2016, the Division of Finance shall reduce the General Fund allocations to the Unemployment Insurance line item by one dollar for every one dollar in Federal Funds - American Recovery and Reinvestment Act expenditures that exceed Federal Funds - American Recovery and Reinvestment Act appropriations.

Item 15

To Department of Workforce Services -
 Housing and Community Development
 From General Fund Restricted -
 Mineral Lease, One-Time (2,400)
 From General Fund Restricted -
 Methamphetamine Housing
 Reconstruction and Rehabilitation
 Account, One-Time (8,600)
 From Permanent Community Impact
 Loan Fund, One-Time 2,400
 Schedule of Programs:
 Community Services (8,600)

The Legislature intends that if any money is allocated from the National Housing Trust Fund to the State of Utah, the Department of Workforce Services is authorized to receive this money and this money shall be allocated to the Division of Housing and Community Development for use by the division in increasing and preserving the supply of rental housing, and increasing homeownership and housing opportunities, for low income households in accordance with federal requirements.

DEPARTMENT OF HUMAN SERVICES

Item 16

To Department of Human Services -
 Executive Director Operations
 From General Fund, One-Time 161,300
 From Federal Funds, One-Time 1,947,900
 From Dedicated Credits Revenue,
 One-Time 35,000
 Schedule of Programs:
 Executive Director's Office 161,300
 Fiscal Operations 1,947,900
 Office of Licensing 35,000

The Legislature intends the Departments of Health, Human Services, and Workforce Services and the Utah State Office of Rehabilitation report to the Office of the Legislative Fiscal Analyst by June 1, 2016 on maintenance of effort (MOE) requirements for all major federal grants over \$500,000 annually. The report shall include at a minimum a five year history (2011 to 2015) of: (1) maintenance of effort payments for each grant, including showing how much was paid above the minimum required levels, (2) the appropriate federal references with key language regarding each grant's MOE requirements, (3) how much state funding has been replaced, if any, with third party expenditures for maintenance of effort and how that state funding was used, (4) what is the minimum federally-required MOE for each grant, (5) options for how to reduce MOE annual amounts while continuing to comply with federal MOE requirements, and (6) how MOE requirements have changed and the impacts of those changes.

The Legislature intends that the Departments of Health, Human Services, Workforce Services, and the Utah State Office of Rehabilitation provide a report to the Office of the Legislative Fiscal Analyst by June 1, 2016 on the following for all major federal grants over \$500,000 annually a five year history (2011 to 2015): (1) a list and dollar value of all expenditures by a third party used to count as its state match to access federal funds (2) under what scenarios could third party match become unavailable (3) any federal proposals to disallow counting third party match (4) what the agency would change in the future for its spending if third party match is no longer available

Item 17

To Department of Human Services - Division
 of Substance Abuse and Mental Health
 From General Fund, One-Time (161,300)
 From Federal Funds, One-Time 4,127,600
 Schedule of Programs:
 Administration - DSAMH (161,300)
 Community Mental Health
 Services 4,127,600

The Legislature intends to increase the number of vehicles for the Department of Human Services, Utah State Hospital by two cars to enable staff to perform competency restoration services in county jails.

Item 18

To Department of Human Services - Division
 of Services for People with Disabilities
 From General Fund, One-Time (647,700)
 Schedule of Programs:
 Community Supports Waiver (647,700)

Item 19

To Department of Human Services -
 Office of Recovery Services
 From Federal Funds, One-Time 2,794,400
 Schedule of Programs:
 Child Support Services 2,794,400

Item 20

To Department of Human Services - Division of Child and Family Services
 From Federal Funds, One-Time 1,755,200
 Schedule of Programs:
 Minor Grants 1,755,200

Item 21

To Department of Human Services - Division of Aging and Adult Services
 From Federal Funds, One-Time 593,800
 Schedule of Programs:
 Local Government Grants -
 Formula Funds 593,800

STATE BOARD OF EDUCATION

Item 22

To State Board of Education - State Office of Rehabilitation
 From Federal Funds, One-Time 3,160,100
 Schedule of Programs:
 Rehabilitation Services 3,160,100

The Legislature intends the Departments of Health, Human Services, and Workforce Services and the Utah State Office of Rehabilitation report to the Office of the Legislative Fiscal Analyst by June 1, 2016 on maintenance of effort (MOE) requirements for all major federal grants over \$500,000 annually. The report shall include at a minimum a five year history (2011 to 2015) of: (1) maintenance of effort payments for each grant, including showing how much was paid above the minimum required levels, (2) the appropriate federal references with key language regarding each grant's MOE requirements, (3) how much state funding has been replaced, if any, with third party expenditures for maintenance of effort and how that state funding was used, (4) what is the minimum federally-required MOE for each grant, (5) options for how to reduce MOE annual amounts while continuing to comply with federal MOE requirements, and (6) how MOE requirements have changed and the impacts of those changes.

The Legislature intends that the Departments of Health, Human Services, Workforce Services, and the Utah State Office of Rehabilitation provide a report to the Office of the Legislative Fiscal Analyst by June 1, 2016 on the following for all major federal grants over \$500,000 annually a five year history (2011 to 2015): (1) a list and dollar value of all expenditures by a third party used to count as its state match to access federal funds (2) under what scenarios could third party match become unavailable (3) any federal proposals to disallow counting third party match (4) what the agency would change in the future for its spending if third party match is no longer available

Subsection 1(b). Transfers to Unrestricted Funds. The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General,

Education, or Uniform School Fund as indicated from the restricted funds or accounts indicated. Expenditures and outlays from the General, Education, or Uniform School Fund must be authorized elsewhere in an appropriations act.

TRANSFERS TO UNRESTRICTED FUNDS

Item 23

To General Fund
 From Nonlapsing Balances 4,132,800
 Schedule of Programs:
 General Fund, One-time 4,132,800

The nonlapsing balances in this item come from the following action taken by the Social Services Appropriations Subcommittee: "CHIP Nonlapsing Balance - The Children's Health Insurance Program (CHIP) ended FY 2015 with nonlapsing balances of \$7.4 million. The program will not need any state funding until October 1, 2019. The federal government is paying 100% of the costs from FFY 2015 through FFY 2019. This takes all but \$983,200 in tobacco restricted money to cover potential shortfalls matching FY 2015 actual collections and \$2,300,000 agency estimate of needed funds to complete the state costs for July 1 2015 through September 30, 2015."

Section 2. FY 2017 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2016 and ending June 30, 2017.

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

DEPARTMENT OF HEALTH

Item 24

To Department of Health - Executive Director's Operations
 From General Fund 6,319,500
 From Federal Funds 6,735,200
 From Dedicated Credits Revenue 2,504,100
 From General Fund Restricted -
 Tobacco Settlement Account 200
 From Revenue Transfers 899,500
 Schedule of Programs:
 Executive Director 2,972,200
 Center for Health Data and
 Informatics 7,074,200
 Program Operations 5,599,500
 Office of Internal Audit 746,600
 Adoption Records Access 66,000

The Legislature intends that the Department of Health report on the following performance measures for the Executive Director's Operations line item: (1) conduct risk assessments for each information system in operation (Target = 111 information systems), (2) Births occurring in a hospital are entered accurately by hospital staff into

the electronic birth registration system within 10 calendar days (Target = 99%), and (3) percentage of all deaths registered using the electronic death registration system (Target = 75% or more) by October 15, 2016 to the Social Services Appropriations Subcommittee.

Item 25

To Department of Health - Family Health and Preparedness

From General Fund	18,469,000
From Federal Funds	76,216,500
From Dedicated Credits Revenue	15,650,200
From General Fund Restricted - Autism Treatment Account	101,100
From General Fund Restricted - Children's Hearing Aid Pilot Program Account	102,000
From General Fund Restricted - Kurt Oscarson Children's Organ Transplant	101,300
From Revenue Transfers	3,780,000
From Pass-through	78,000
From Beginning Nonlapsing Balances	1,659,300

Schedule of Programs:

Director's Office	2,283,900
Maternal and Child Health	61,007,200
Child Development	21,798,400
Children with Special Health Care Needs	8,694,700
Public Health and Health Care Preparedness	8,476,100
Health Facility Licensing and Certification	5,851,100
Emergency Medical Services and Preparedness	4,639,200
Primary Care	3,406,800

The Legislature intends that the Department of Health report to the Office of the Legislative Fiscal Analyst by December 1, 2016 the financial impacts to ambulance providers due to the implementation of S.B. 172, Emergency Medical Services Amendments, from the 2015 General Session. The report shall address (1) current and projected future impact to the reimbursement rates for ambulance providers set by the State and (2) the impact to the financial viability of ambulance providers in the State.

The Legislature intends that the Department of Health report on the following performance measures for the Family Health and Preparedness line item: (1) the percent of children who demonstrated improvement in social-emotional skills, including social relationships (Goal = 70% or more), (2) the percent of children who demonstrated improvement in their rate of growth in acquisition and use of knowledge and skills, including early language/communication and early literacy (Goal = 72.5% or more), and (3) the percent of children who demonstrated improvement in their rate of growth in the use of appropriate behaviors to meet their

needs (Goal = 73.5% or more) by October 15, 2016 to the Social Services Appropriations Subcommittee.

Item 26

To Department of Health - Disease Control and Prevention

From General Fund	13,350,900
From General Fund, One-Time	(71,300)
From Federal Funds	33,362,700
From Dedicated Credits Revenue	10,444,800
From Dedicated Credits Revenue, One-Time	100,700
From General Fund Restricted - Cancer Research Account	20,000
From General Fund Restricted - Cigarette Tax Restricted Account	3,159,700
From General Fund Restricted - Prostate Cancer Support Account	26,600
From General Fund Restricted - State Lab Drug Testing Account	696,100
From General Fund Restricted - Tobacco Settlement Account	3,949,300
From Department of Public Safety Restricted Account	100,000
From Revenue Transfers	2,523,900

Schedule of Programs:

General Administration	2,165,700
Health Promotion	27,476,800
Epidemiology	22,289,600
Laboratory Operations and Testing	11,029,400
Office of the Medical Examiner	4,307,600
Clinical and Environmental Laboratory Certification Programs ...	394,300

The Legislature intends that the Department of Health report on the following performance measures for the Disease Control and Prevention line item: (1) gonorrhea cases per 100,000 population (Target = 42.7 people or less), (2) percentage of adults who are current smokers (Target = 9%), and (3) percentage of toxicology cases completed within 14 day goal (Target = 100%) by October 15, 2016 to the Social Services Appropriations Subcommittee.

Item 27

To Department of Health - Vaccine Commodities

From Federal Funds	27,154,000
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Schedule of Programs:

Vaccine Commodities	27,154,000
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Item 28

To Department of Health - Local Health Departments

From General Fund	2,137,500
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Schedule of Programs:

Local Health Department Funding ..	2,137,500
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The Legislature intends that the Department of Health report on the following performance measures for the Local Health Departments line item: (1) number of local health departments that maintain a board of health that annually adopts a budget, appoints a local health officer, conducts an annual performance review for the local health officer, and reports to county commissioners on health issues (Target = 13

or 100%), (2) number of local health departments that provide communicable disease epidemiology and control services including disease reporting, response to outbreaks, and measures to control tuberculosis (Target = 13 or 100%), (3) number of local health departments that maintain a program of environmental sanitation which provides oversight of restaurants food safety, swimming pools, and the indoor clean air act (Target = 13 or 100%), (4) achieve and maintain an effective coverage rate for universally recommended vaccinations among young children up to 35 months of age (Target = 90%), (5) reduce the number of cases of pertussis among children under 1 year of age, and among adolescents aged 11 to 18 years (Target = 73 or less for infants and 322 cases or less for youth), and (6) local health departments will increase the number of health and safety related school buildings and premises inspections by 10% (from 80% to 90%) by October 15, 2016 to the Social Services Appropriations Subcommittee.

Item 29

To Department of Health - Workforce Financial Assistance
 From Beginning Nonlapsing Balances ... 427,200
 Schedule of Programs:
 Workforce Financial Assistance 427,200

The Legislature intends that the Department of Health report on the following performance measures for the Workforce Financial Assistance line item: (1) the number of applications received for this program (Target = 4), (2) the number of awards given (Target = 4), and (3) the average time to process applications through time of award (Target = 15 work days) by October 15, 2016 to the Social Services Appropriations Subcommittee.

Item 30

To Department of Health - Rural Physicians Loan Repayment Assistance
 From General Fund 300,000
 From Dedicated Credits Revenue 300,000
 Schedule of Programs:
 Rural Physicians Loan Repayment Program 600,000

The Legislature intends that the Department of Health report on the following performance measures for the Rural Physicians Loan Repayment Assistance line item: (1) health care professionals serving rural areas (Target = 15) and (2) rural physicians serving rural areas (Target = 15) by October 15, 2016 to the Social Services Appropriations Subcommittee.

Item 31

To Department of Health - Medicaid and Health Financing
 From General Fund 4,821,200
 From Federal Funds 66,478,100
 From Federal Funds, One-Time (1,200,000)

From Federal Funds - American Recovery and Reinvestment Act, One-Time ... 1,200,000
 From Dedicated Credits Revenue 9,154,400
 From General Fund Restricted - Nursing Care Facilities Account 783,600
 From Revenue Transfers 24,511,600
 Schedule of Programs:
 Director's Office 2,071,800
 Financial Services 13,479,300
 Managed Health Care 2,703,800
 Medicaid Operations 4,176,000
 Coverage and Reimbursement 2,853,800
 Authorization and Community Based Services 3,559,700
 Eligibility Policy 2,748,700
 Contracts 1,187,400
 Department of Workforce Services'
 Seeded Services 37,561,400
 Other Seeded Services 35,407,000

The Legislature intends that the Department of Health report on the following performance measures for the Medicaid and Health Financing line item: (1) average decision time on pharmacy prior authorizations (Target = 24 hours or less), (2) percent of clean claims adjudicated within 30 days of submission (Target = 98%), and (3) total count of Medicaid and CHIP clients educated on proper benefit use and plan selection (Target = 115,000 or more) by October 15, 2016 to the Social Services Appropriations Subcommittee.

All General Funds appropriated to the Department of Health - Medicaid and Health Financing line item are contingent upon expenditures from Federal Funds - American Recovery and Reinvestment Act (H.R. 1, 111th United States Congress) not exceeding amounts appropriated from Federal Funds - American Recovery and Reinvestment Act in all appropriation bills passed for fiscal year 2017. If expenditures in the Medicaid and Health Financing line item from Federal Funds - American Recovery and Reinvestment Act exceed amounts appropriated to the Medicaid and Health Financing line item from Federal Funds - American Recovery and Reinvestment Act in fiscal year 2017, the Division of Finance shall reduce the General Fund allocations to the Medicaid and Health Financing line item by one dollar for every one dollar in Federal Funds - American Recovery and Reinvestment Act expenditures that exceed Federal Funds - American Recovery and Reinvestment Act appropriations.

Item 32

To Department of Health - Medicaid Sanctions
 From Beginning Nonlapsing Balances ... 982,900
 From Closing Nonlapsing Balances (982,900)

The Legislature intends that the Department of Health report on how expenditures from the Medicaid Sanctions line item met federal requirements which constrain its use by October 15, 2016 to the Social Services Appropriations Subcommittee.

Item 33

To Department of Health - Children's Health Insurance Program

From General Fund	5,678,700
From General Fund, One-Time	(5,678,700)
From Federal Funds	82,846,600
From Federal Funds, One-Time	16,090,200
From Dedicated Credits Revenue	1,708,500
From General Fund Restricted - Tobacco Settlement Account	11,494,700
From General Fund Restricted - Tobacco Settlement Account, One-Time	(10,411,500)
From Revenue Transfers	63,000

Schedule of Programs:

Children's Health Insurance Program	101,791,500
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The Legislature intends that the Department of Health report on the following performance measures for the Children's Health Insurance Program line item: (1) percent of children less than 15 months old that received at least six or more well-child visits (Target = 70% or more), (2) percent of members (12 - 21 years of age) who had at least one comprehensive well-care visit (Target = 39% or more), and (3) percent of children 5-11 years of age with persistent asthma who were appropriately prescribed medication (Target = 94% or more) by October 15, 2016 to the Social Services Appropriations Subcommittee.

Item 34

To Department of Health - Medicaid Mandatory Services

From General Fund	305,633,200
From General Fund, One-Time	(10,418,500)
From Federal Funds	882,528,900
From Federal Funds, One-Time	13,630,000
From Dedicated Credits Revenue	28,104,300
From General Fund Restricted - Autism Treatment Account, One-Time	7,000
From General Fund Restricted - Nursing Care Facilities Account	24,987,300
From General Fund Restricted - Tobacco Settlement Account, One-Time	(10,411,500)
From Revenue Transfers	4,872,900
From Pass-through	13,707,800
From Beginning Nonlapsing Balances	5,693,700

Schedule of Programs:

Managed Health Care	685,976,500
Nursing Home	195,142,900
Inpatient Hospital	162,311,500
Physician Services	71,032,200
Outpatient Hospital	59,896,900
Medicaid Management Information System Replacement	19,421,100
Crossover Services	14,282,900
Medical Supplies	10,257,400
Other Mandatory Services	60,836,700

The Legislature intends that the Department of Health report on the following performance measures for the Medicaid Mandatory Services line item: (1) percent of

adults age 45-64 with ambulatory or preventive care visits (Target = 88% or more), (2) percent of deliveries that had a post partum visit between 21 and 56 days after delivery (Target = 60% or more), and (3) percent of customers satisfied with their managed care plan (Target = 85% or more) by October 15, 2016 to the Social Services Appropriations Subcommittee.

Item 35

To Department of Health - Medicaid Optional Services

From General Fund	118,854,100
From General Fund, One-Time	503,000
From Federal Funds	592,780,500
From Federal Funds, One-Time	(1,402,100)
From Federal Funds - American Recovery and Reinvestment Act, One-Time	10,775,000
From Dedicated Credits Revenue	159,831,900
From General Fund Restricted - Nursing Care Facilities Account	3,480,100
From Revenue Transfers	97,827,100
From Pass-through	5,902,400
From Beginning Nonlapsing Balances	2,456,000

Schedule of Programs:

Home and Community Based Waiver Services	245,535,300
Pharmacy	107,323,700
Capitated Mental Health Services	147,182,200
Intermediate Care Facilities for Intellectually Disabled	87,613,800
Non-service Expenses	77,806,000
Dental Services	52,985,600
Buy-in/Buy-out	44,257,200
Disproportionate Hospital Payments	31,412,700
Clawback Payments	31,008,500
Hospice Care Services	16,781,500
Vision Care	1,552,900
Other Optional Services	147,548,600

The Legislature intends that the Department of Health report on the following performance measures for the Medicaid Optional Services line item: (1) annual state general funds saved through preferred drug list (Target = \$14.0 million general fund or more), (2) count of new choices waiver clients coming out of nursing homes into community based care (Target = 390 or more), and (3) emergency dental program savings (Target = \$850,000 General Fund savings or more) by October 15, 2016 to the Social Services Appropriations Subcommittee.

DEPARTMENT OF WORKFORCE SERVICES

Item 36

To Department of Workforce Services - Administration

From General Fund	3,111,200
From Federal Funds	6,521,300
From Dedicated Credits Revenue	168,700
From Permanent Community Impact Loan Fund	136,000

From Unemployment Compensation	
Fund, One-Time	76,000
From Revenue Transfers	1,717,800
Schedule of Programs:	
Executive Director's Office	853,000
Communications	1,350,000
Human Resources	1,259,100
Administrative Support	7,687,000
Internal Audit	581,900

The Legislature intends that the American Recovery and Reinvestment Act appropriation provided for the Administration line item is limited to one-time projects associated with Unemployment Insurance modernization.

The Legislature intends that the Department of Workforce Services report on the following performance measure for the Administration line item: provide accurate and timely department-wide fiscal administration. Target: manage, account and reconcile all funds within state finance close out time lines and with zero audit findings by October 15, 2016 to the Social Services Appropriations Subcommittee.

All General Fund appropriated to the Department of Workforce Services - Administration line item are contingent upon expenditures from Federal Funds - American Recovery and Reinvestment Act (H.R. 1, 111th United States Congress) not exceeding amounts appropriated from Federal Funds - American Recovery and Reinvestment Act in all appropriation bills passed for Fiscal Year 2017. If expenditures in the Administration line item from Federal Funds - American Recovery and Reinvestment Act exceed amounts appropriated to the Administration line item from Federal Funds - American Recovery and Reinvestment Act in Fiscal Year 2017, the Division of Finance shall reduce the General Fund allocations to the Administration line item by one dollar for every one dollar in Federal Funds - American Recovery and Reinvestment Act expenditures that exceed Federal Funds - American Recovery and Reinvestment Act appropriations.

Item 37

To Department of Workforce Services - Operations and Policy

From General Fund	46,187,900
From General Fund, One-Time	(2,000,000)
From Federal Funds	210,907,800
From Dedicated Credits Revenue	1,539,200
From Unemployment Compensation	
Fund, One-Time	3,406,700
From Revenue Transfers	39,006,500
Schedule of Programs:	
Facilities and Pass-Through	8,770,600
Workforce Development	67,611,400
Temporary Assistance for Needy	
Families	60,000,000
Refugee Assistance	7,259,000
Workforce Research and Analysis	2,246,700
Trade Adjustment Act Assistance	750,000

Eligibility Services	57,678,200
Child Care Assistance	43,620,500
Nutrition Assistance	79,000
Workforce Investment Act	
Assistance	6,543,500
Other Assistance	182,100
Information Technology	44,307,100

The Legislature intends that the American Recovery and Reinvestment Act appropriation provided for the Operations and Policy line item is limited to one-time projects associated with Unemployment Insurance modernization.

All General Funds appropriated to the Department of Workforce Services - Operations and Policy line item are contingent upon expenditures from Federal Funds - American Recovery and Reinvestment Act (H.R. 1, 111th United States Congress) not exceeding amounts appropriated from Federal Funds - American Recovery and Reinvestment Act in all appropriation bills passed for Fiscal Year 2017. If expenditures in the Operations and Policy line item from Federal Funds - American Recovery and Reinvestment Act exceed amounts appropriated to the Operations and Policy line item from Federal Funds - American Recovery and Reinvestment Act in Fiscal Year 2017, the Division of Finance shall reduce the General Fund allocations to the Operations and Policy line item by one dollar for every one dollar in Federal Funds - American Recovery and Reinvestment Act expenditures that exceed Federal Funds - American Recovery and Reinvestment Act appropriations.

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Operations and Policy line item: (1) labor exchange - total job placements (Target = 45,000 placements per calendar quarter), (2) TANF recipients - positive closure rate (Target = 70% per calendar month), and (3) Eligibility Services - internal review compliance accuracy (Target = 95%) by October 15, 2016 to the Social Services Appropriations Subcommittee.

The Legislature intends that the Department of Workforce Services report to the Office of the Legislative Fiscal Analyst by August 15, 2016 what it has done in response to each of the recommendations in "A Performance Audit of Data Analytics Techniques to Detect SNAP Abuse." The report shall further include what the impacts current and projected, financial and otherwise of the changes have been and will be.

The Legislature intends the Department of Workforce Services (DWS) provide to the Office of the Legislative Fiscal Analyst no later than September 1, 2016 a detailed report on its Temporary Assistance for Needy Families (TANF) reserve amount including the current balance and any uses of the

reserve since the 2016 General Session or planned and projected uses of the reserve in the future.

Item 38

To Department of Workforce Services -
 Nutrition Assistance
 From Federal Funds 311,096,000
 Schedule of Programs:
 Nutrition Assistance 311,096,000

Item 39

To Department of Workforce Services -
 General Assistance
 From General Fund 4,875,500
 From Dedicated Credits Revenue 250,000
 Schedule of Programs:
 General Assistance 5,125,500

The Legislature intends that the Department of Workforce Services report on the following performance measures for the General Assistance line item: (1) positive closure rate (SSI achievement or closed with earnings) (Target = 45%), (2) General Assistance average monthly customers served (Target = 950), and (3) internal review compliance accuracy (Target = 80%) by October 15, 2016 to the Social Services Appropriations Subcommittee.

Item 40

To Department of Workforce
 Services - Unemployment Insurance
 From General Fund 568,500
 From Federal Funds 19,356,000
 From Dedicated Credits Revenue 1,010,800
 From Unemployment Compensation
 Fund, One-Time 517,300
 From Revenue Transfers 752,100
 Schedule of Programs:
 Unemployment Insurance
 Administration 18,954,800
 Adjudication 3,249,900

The Legislature intends that the American Recovery and Reinvestment Act appropriation provided for the Unemployment Insurance line item is limited to one-time projects associated with Unemployment Insurance modernization.

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Unemployment Insurance line item: (1) percentage of new employer status determinations made within 90 days of the last day in the quarter in which the business became liable (Target => 95.5%), (2) percentage of Unemployment Insurance separation determinations with quality scores equal to or greater than 95 points, based on the evaluation results of quarterly samples selected from all determinations (Target => 90%), and (3) percentage of Unemployment Insurance benefits payments made within 14 days after the week ending date of the first compensable week in the benefit year (Target => 95%) by October 15,

2016 to the Social Services Appropriations Subcommittee.

All General Funds appropriated to the Department of Workforce Services - Unemployment Insurance line item are contingent upon expenditures from Federal Funds - American Recovery and Reinvestment Act (H.R. 1, 111th United States Congress) not exceeding amounts appropriated from Federal Funds - American Recovery and Reinvestment Act in all appropriation bills passed for Fiscal Year 2017. If expenditures in the Unemployment Insurance line item from Federal Funds - American Recovery and Reinvestment Act exceed amounts appropriated to the Unemployment Insurance line item from Federal Funds - American Recovery and Reinvestment Act in Fiscal Year 2017, the Division of Finance shall reduce the General Fund allocations to the Unemployment Insurance line item by one dollar for every one dollar in Federal Funds - American Recovery and Reinvestment Act expenditures that exceed Federal Funds - American Recovery and Reinvestment Act appropriations.

Item 41

To Department of Workforce Services - Community
 Development Capital Budget
 From Permanent Community Impact
 Loan Fund 119,610,000
 Schedule of Programs:
 Community Impact Board 119,610,000

Item 42

To Department of Workforce Services -
 Housing and Community Development
 From General Fund 2,651,400
 From Federal Funds 62,530,800
 From Dedicated Credits Revenue 3,121,500
 From General Fund Restricted -
 Pamela Atkinson Homeless Account . 1,087,400
 From Permanent Community
 Impact Loan Fund 1,245,500
 Schedule of Programs:
 Community Development
 Administration 588,200
 HEAT 23,713,400
 Housing Development 21,130,900
 Weatherization Assistance 9,646,200
 Community Development 7,162,000
 Homeless Committee 4,466,600
 Community Services 3,488,300
 Emergency Food Network 296,000
 Special Housing 145,000

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Housing and Community Development line item: (1) ending chronic homelessness - offer housing to all chronically homeless individuals who want to be housed (Target = 9% reduction per year), (2) utilities assistance for low-income households - number of eligible households assisted with home energy costs (Target = 35,000 households), and (3) Weatherization Assistance - number

of low income households assisted by installing permanent energy conservation measures in their homes (Target = 800 homes) by October 15, 2016 to the Social Services Appropriations Subcommittee.

The Legislature intends that if any money is allocated from the National Housing Trust Fund to the State of Utah, the Department of Workforce Services is authorized to receive this money and this money shall be allocated to the Division of Housing and Community Development for use by the division in increasing and preserving the supply of rental housing, and increasing homeownership and housing opportunities, for low income households in accordance with federal requirements.

Item 43

To Department of Workforce Services -
 Special Service Districts
 From General Fund Restricted -
 Mineral Lease 5,316,900
 Schedule of Programs:
 Special Service Districts 5,316,900

The Legislature intends that the Department of Workforce Services report on the following performance measure for the Special Service Districts line item: the total pass through of funds to qualifying special service districts in counties of the 5th, 6th and 7th class (this is completed quarterly) by October 15, 2016 to the Social Services Appropriations Subcommittee.

DEPARTMENT OF HUMAN SERVICES

Item 44

To Department of Human Services -
 Executive Director Operations
 From General Fund 7,499,300
 From Federal Funds 7,176,300
 From Dedicated Credits Revenue 36,000
 From Revenue Transfers 2,316,600
 Schedule of Programs:
 Executive Director's Office 5,198,700
 Legal Affairs 729,700
 Information Technology 1,510,800
 Fiscal Operations 3,235,800
 Human Resources 35,600
 Local Discretionary Pass-Through .. 1,140,700
 Office of Services Review 1,485,600
 Office of Licensing 2,858,400
 Utah Developmental Disabilities
 Council 832,900

The Legislature intends that the Department of Human Services report on the following performance measures for the Executive Director Operations line item: (1) Corrected department-wide reported fiscal issues -- per reporting process and June 30 quarterly report involving Bureaus of Finance and Internal Review and Audit (Target = 70%), (2) Percentage of initial foster care homes licensed within 3 months of training completion (Target 60%), and (3) double-read (reviewed) Case Process

Reviews will be accurate in The Office of Service Review (Target = 90%) by October 15, 2016 to the Social Services Appropriations Subcommittee.

Item 45

To Department of Human Services - Division
 of Substance Abuse and Mental Health
 From General Fund 96,000,600
 From Federal Funds 26,812,700
 From Dedicated Credits Revenue 3,002,500
 From General Fund Restricted -
 Intoxicated Driver Rehabilitation
 Account 1,500,000
 From General Fund Restricted -
 Tobacco Settlement Account 2,325,400
 From Revenue Transfers 16,152,400
 Schedule of Programs:
 Administration - DSAMH 3,176,500
 Community Mental Health
 Services 12,182,500
 Mental Health Centers 28,721,000
 Residential Mental Health Services ... 221,900
 State Hospital 58,779,800
 State Substance Abuse Services 8,928,800
 Local Substance Abuse Services ... 22,548,000
 Driving Under the Influence
 (DUI) Fines 1,500,000
 Drug Offender Reform Act
 (DORA) 2,747,100
 Drug Courts 6,988,000

The Legislature intends to increase the number of vehicles for the Department of Human Services, Utah State Hospital by two cars to enable staff to perform competency restoration services in county jails.

The Legislature intends that the Department of Human Services report on the following performance measures for the Substance Abuse and Mental Health line item: (1) Local Substance Abuse Services - Successful completion rate (Target = 40%), (2) Mental Health Services - Adult Outcomes Questionnaire - Percent of clients stable, improved, or in recovery while in current treatment (Target = 80%), and (3) Mental Health Centers - Youth Outcomes Questionnaire - Percent of clients stable, improved, or in recovery while in current treatment (Target = 80%) by October 15, 2016 to the Social Services Appropriations Subcommittee.

Item 46

To Department of Human Services - Division
 of Services for People with Disabilities
 From General Fund 81,081,500
 From Federal Funds 1,327,100
 From Dedicated Credits Revenue 2,310,000
 From Revenue Transfers 188,438,100
 Schedule of Programs:
 Administration - DSPD 4,814,200
 Service Delivery 5,575,800
 Utah State Developmental
 Center 37,696,900
 Community Supports Waiver 216,871,800
 Acquired Brain Injury Waiver 4,313,300
 Physical Disabilities Waiver 2,206,200
 Non-waiver Services 1,678,500

The Legislature intends that the Division of Services for People with Disabilities (DSPD) use Fiscal Year 2017 beginning non-lapsing funds to provide services for individuals needing emergency services, individuals needing additional waiver services, individuals who turn 18 years old and leave state custody from the Divisions of Child and Family Services and Juvenile Justice Services, individuals court ordered into DSPD services and to provide increases to providers for direct care staff salaries. The Legislature further intends DSPD report to the Office of Legislative Fiscal Analyst by October 15, 2017 on the use of these non-lapsing funds.

The Legislature intends that the Department of Human Services report on the following performance measures for the Services for People w/ Disabilities line item: (1) Community Supports, Brain Injury, Physical Disability Waivers, Non-waiver Services - % providers meeting fiscal requirements of contract (Target = 100%), (2) Community Supports, Brain Injury, Physical Disability Waivers, Non-waiver Services - % providers meeting non-fiscal requirements of contracts (Target = 100%), and (3) People receive supports in employment settings rather than day programs (National ranking) (Target = #1 nationally) by October 15, 2016 to the Social Services Appropriations Subcommittee.

Item 47

To Department of Human Services - Office of Recovery Services

From General Fund	13,360,700
From Federal Funds	19,929,100
From Dedicated Credits Revenue	8,684,100
From Revenue Transfers	2,631,200
Schedule of Programs:	
Administration - ORS	987,100
Financial Services	2,207,000
Electronic Technology	8,534,300
Child Support Services	24,442,200
Children in Care Collections	730,500
Attorney General Contract	4,600,700
Medical Collections	3,103,300

The Legislature intends that the Department of Human Services report on the following performance measures for the Office of Recovery Services line item: (1) ORS Total Collections (Target = \$265 million), (2) Child Support Services Collections (Target = \$225 million), and (3) Ratio: ORS Collections to Cost (Target = > 6.25 to 1) by October 15, 2016 to the Social Services Appropriations Subcommittee.

Item 48

To Department of Human Services - Division of Child and Family Services

From General Fund	114,458,100
From Federal Funds	58,108,000
From Dedicated Credits Revenue	2,636,400
From General Fund Restricted - Choose Life Adoption Support Account ...	1,000

From General Fund Restricted - Children's Account	450,000
From General Fund Restricted - Victims of Domestic Violence Services Account	983,600
From General Fund Restricted - National Professional Men's Basketball Team Support of Women and Children Issues	12,500
From Revenue Transfers	(7,012,300)
From Beginning Nonlapsing Balances ...	200,000
Schedule of Programs:	
Administration - DCFS	4,496,800
Service Delivery	78,465,300
In-Home Services	3,029,400
Out-of-Home Care	40,363,600
Facility-based Services	3,934,200
Minor Grants	6,425,000
Selected Programs	3,624,800
Special Needs	1,876,000
Domestic Violence	5,843,700
Children's Account	450,000
Adoption Assistance	15,741,300
Child Welfare Management Information System	5,587,200

The Legislature intends to increase by 25 the number of vehicles assigned to the Division of Child and Family Services. Approval of this increase in vehicles will reduce the divisions dependency on caseworkers use of personal vehicles to accomplish division responsibilities in child welfare. The division is requesting 16 sedan models a size bigger than the Standard State Fleet Vehicle, 5 passenger vans and 4 SUV's for the rural and remote areas of the State. The additional room is needed to add car seats and carry clothing and supplies when a child is removed from the home.

The Legislature intends that the Department of Human Services report on the following performance measures for the Child and Family Services line item: (1) Administrative Performance: Percent satisfactory outcomes on qualitative case reviews/system performance (Target = 85%/85%), (2) Child Protective Services: Absence of maltreatment recurrence within 6 months (Target = 94.6%), and (3) Out of home services: Percent of children reunified within in 12 months (Target = 74.2%) by October 15, 2016 to the Social Services Appropriations Subcommittee.

Item 49

To Department of Human Services - Division of Aging and Adult Services

From General Fund	13,507,100
From Federal Funds	10,802,500
From Dedicated Credits Revenue	100
From Revenue Transfers	(841,500)
Schedule of Programs:	
Administration - DAAS	1,531,300
Local Government Grants - Formula Funds	12,565,300
Non-Formula Funds	1,204,400
Adult Protective Services	3,181,900
Aging Waiver Services	1,011,200

Aging Alternatives 3,974,100

The Legislature intends that the Department of Human Services report on the following performance measures for the Aging and Adult Services line item: (1) Medicaid Aging Waiver: Average Cost of Client at 15% or less of Nursing Home Cost (Target = 15%), (2) Adult Protective Services: Protective needs resolved positively (Target = 95%), and (3) Meals on Wheels: Total meals served (Target = 10,115) by October 15, 2016 to the Social Services Appropriations Subcommittee.

Item 50

To Department of Human Services - Office of Public Guardian
 From General Fund 419,300
 From Federal Funds 40,000
 From Revenue Transfers 303,700
 Schedule of Programs:
 Office of Public Guardian 763,000

STATE BOARD OF EDUCATION

Item 51

To State Board of Education - State Office of Rehabilitation
 From General Fund 273,700
 From Education Fund 21,111,400
 From Federal Funds 62,656,000
 From Dedicated Credits Revenue 985,600
 From Revenue Transfers (1,736,100)
 Schedule of Programs:
 Executive Director 2,965,300
 Blind and Visually Impaired 6,109,700
 Rehabilitation Services 44,725,700
 Disability Determination 15,655,600
 Deaf and Hard of Hearing 2,988,600
 Aspire Grant 10,845,700

The Legislature intends that the Utah State Office of Rehabilitation report on the following performance measures for its line item: (1) Vocational Rehabilitation - Increase the percentage of clients served who are youth (age 14 to 24 years) by 3% over the 2015 rate of 25.3% (Target 28.3%), (2) Vocational Rehabilitation - maintain or increase a successful rehabilitation closure rate (Target =55%), and (3) Deaf and Hard of Hearing - Increase in the number of individuals served by DSDHH programs (Target = 7,144) by October 15, 2016 to the Social Services Appropriations Subcommittee.

Subsection 2(b). Expendable Funds and

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

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

DEPARTMENT OF HEALTH

Item 52

To Department of Health - Ambulance Service Provider Assessment Fund
 From Dedicated Credits Revenue 3,217,400
 Schedule of Programs:
 Ambulance Service Provider
 Assessment Fund 3,217,400

The Legislature intends that the Department of Health report on the following performance measures for the Ambulance Service Provider Assessment Fund: (1) percentage of providers invoiced (Target = 100%), (2) percentage of providers who have paid by the due date (Target = 85%), and (3) percentage of providers who have paid within 15 days after the due date (Target = 99%) by October 15, 2016 to the Social Services Appropriations Subcommittee.

Item 53

To Department of Health - Traumatic Brain Injury Fund
 From General Fund 200,000
 From Beginning Nonlapsing Balances ... 146,900
 From Closing Nonlapsing Balances (119,000)
 Schedule of Programs:
 Traumatic Brain Injury Fund 227,900

The Legislature intends that the Department of Health report on the following performance measures for the Traumatic Brain Injury Fund: (1) number of individuals with TBI that received resource facilitation services through the TBI Fund contractors (Target = 300), (2) number of TBI Fund clients in need of a neuro-psych exam that receive an exam (Target = 40), and (3) number of community and professional education presentations and trainings (Target = 50) by October 15, 2016 to the Social Services Appropriations Subcommittee.

Item 54

To Department of Health - Traumatic Head and Spinal Cord Injury Rehabilitation Fund
 From Dedicated Credits Revenue 170,400
 From Beginning Nonlapsing Balances ... 383,500
 From Closing Nonlapsing Balances (354,700)
 Schedule of Programs:
 Traumatic Head and Spinal
 Cord Injury Rehabilitation Fund 199,200

The Legislature intends that the Department of Health report on the following performance measures for the Traumatic Head and Spinal Cord Injury Rehabilitation Fund: (1) number of clients that received an intake assessment (Target = 101), (2) number of physical, speech or occupational therapy services provided (Target = 1,200), and (3) percent of clients that returned to work and/or school (Target = 50%) by October 15, 2016 to the Social Services Appropriations Subcommittee.

Item 55

To Department of Health - Organ
 Donation Contribution Fund
 From Dedicated Credits Revenue 90,400
 From Interest Income 500
 From Beginning Nonlapsing Balances ... 263,300
 From Closing Nonlapsing Balances (354,200)

The Legislature intends that the Department of Health report on the following performance measures for the Organ Donation Contribution Fund: (1) increase Division of Motor Vehicles/Drivers License Division donations from a base of \$90,000 (Target = 3%), (2) increase donor registrants from a base of 1.5 million (Target = 2%), and (3) increase donor awareness education by obtaining one new audience (Target = 1) by October 15, 2016 to the Social Services Appropriations Subcommittee.

**DEPARTMENT OF
 WORKFORCE SERVICES**

Item 56

To Department of Workforce Services - Permanent
 Community Impact Fund
 From Dedicated Credits Revenue 126,000
 From Interest Income 813,000
 From General Fund Restricted -
 Mineral Lease 41,295,400
 From General Fund Restricted -
 Land Exchange Distribution Account ... 61,600
 From Repayments 45,906,800
 From Beginning Nonlapsing
 Balances 303,625,600
 From Closing Nonlapsing
 Balances (275,836,900)

Schedule of Programs:

Permanent Community Impact
 Fund 115,991,500

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Permanent Community Impact Fund: (1) new receipts invested in communities annually (Target = 100%), (2) support the Rural Planning Group (Target = completing 10 community plans), and (3) staff and board will meet with representatives of each partnering sector (Target = at least three times per year) by October 15, 2016 to the Social Services Appropriations Subcommittee.

Item 57

To Department of Workforce Services - Permanent
 Community Impact Bonus Fund
 From Dedicated Credits Revenue 2,000
 From Interest Income 7,000,100
 From General Fund Restricted -
 Land Exchange Distribution Account 700
 From General Fund Restricted -
 Mineral Bonus 3,758,800
 From Repayments 5,000,000
 From Beginning Nonlapsing
 Balances 352,895,000
 From Closing Nonlapsing
 Balances (363,617,700)

Schedule of Programs:

Permanent Community Impact
 Bonus Fund 5,038,900

Item 58

To Department of Workforce Services -
 Intermountain Weatherization Training Fund
 From Dedicated Credits Revenue 10,000
 From Beginning Nonlapsing Balances 1,800
 From Closing Nonlapsing Balances (1,800)

Schedule of Programs:

Intermountain Weatherization
 Training Fund 10,000

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Intermountain Weatherization Training Fund: (1) number of private individuals trained each year (Target => 20), (2) number of private individuals receiving training certifications (Target => 20) and (3) number of subgrantees trained each year (Target => 40) by October 15, 2016 to the Social Services Appropriations Subcommittee.

Item 59

To Department of Workforce Services -
 Navajo Revitalization Fund
 From Interest Income 67,800
 From Restricted Revenue 2,703,400
 From Beginning Nonlapsing
 Balances 12,066,400
 From Closing Nonlapsing
 Balances (12,229,300)

Schedule of Programs:

Navajo Revitalization Fund 2,608,300

The Legislature intends that the Department of Workforce Services report on the following performance measure for the Navajo Revitalization Fund: provide support to Navajo Revitalization Board with resources and data to enable allocation of new and re-allocated funds to improve quality of life for those living on the Utah portion of the Navajo Reservation (Target = allocate annual allocation from tax revenues within one year) by October 15, 2016 to the Social Services Appropriations Subcommittee.

Item 60

To Department of Workforce Services -
 Olene Walker Housing Loan Fund
 From General Fund 2,242,900
 From Federal Funds 5,202,400
 From Dedicated Credits Revenue 2,411,500
 From Interest Income 1,914,000
 From Revenue Transfers 12,545,900
 From Beginning Nonlapsing
 Balances 143,625,700
 From Closing Nonlapsing
 Balances (146,653,500)

Schedule of Programs:

Olene Walker Housing
 Loan Fund 21,288,900

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Olene Walker Housing Loan Fund: (1)

housing units preserved or created (Target = 800), (2) construction jobs preserved or created (Target = 1,200), and (3) leveraging of other funds in each project to Olene Walker Housing Loan Fund monies (Target = 9:1) by October 15, 2016 to the Social Services Appropriations Subcommittee.

Item 61

To Department of Workforce Services -
 Qualified Emergency Food Agencies Fund
 From Designated Sales Tax 915,000
 From Beginning Nonlapsing Balances ... 246,700
 From Closing Nonlapsing Balances (333,000)
 Schedule of Programs:
 Emergency Food Agencies Fund 828,700

The Legislature intends that the Department of Workforce Services report on the following performance measure for the Qualified Emergency Food Agencies Fund: Distribute, on a first come, first served basis, the sales tax rebates to qualifying food pantries (Target = 100%) by October 15, 2016 to the Social Services Appropriations Subcommittee.

Item 62

To Department of Workforce Services -
 Uintah Basin Revitalization Fund
 From Interest Income 143,900
 From Restricted Revenue 6,517,200
 From Beginning Nonlapsing
 Balances 26,012,000
 From Closing Nonlapsing
 Balances (26,255,500)
 Schedule of Programs:
 Uintah Basin Revitalization Fund ... 6,417,600

The Legislature intends that the Department of Workforce Services report on the following performance measure for the Uintah Basin Revitalization Fund: provide Revitalization Board with support, resources and data to allocate new and re-allocated funds to improve the quality of life for those living in the Uintah Basin (Target = allocate annual allocation from tax revenues within one year) by October 15, 2016 to the Social Services Appropriations Subcommittee.

Item 63

To Department of Workforce Services -
 Child Care Fund
 From Dedicated Credits Revenue 100
 From Beginning Nonlapsing Balances 24,000
 From Closing Nonlapsing Balances (24,100)

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Child Care Fund: report on activities or projects paid for by the fund in the prior fiscal year by October 15, 2016 to the Social Services Appropriations Subcommittee.

DEPARTMENT OF HUMAN SERVICES

Item 64

To Department of Human Services - Out and About
 Homebound Transportation Assistance Fund

From Dedicated Credits Revenue 32,800
 From Beginning Nonlapsing Balances ... 181,000
 From Closing Nonlapsing Balances (213,800)

Item 65

To Department of Human Services - State
 Development Center Miscellaneous Donation
 Fund
 From Dedicated Credits Revenue 280,000
 From Beginning Nonlapsing Balances ... 561,800
 From Closing Nonlapsing Balances (561,800)
 Schedule of Programs:
 State Development Center
 Miscellaneous Donation Fund 280,000

Item 66

To Department of Human Services - State
 Development Center Workshop Fund
 From Dedicated Credits Revenue 138,100
 From Beginning Nonlapsing Balances 9,900
 From Closing Nonlapsing Balances (9,900)
 Schedule of Programs:
 State Development Center
 Workshop Fund 138,100

Item 67

To Department of Human Services -
 State Hospital Unit Fund
 From Dedicated Credits Revenue 34,900
 From Beginning Nonlapsing Balances ... 211,400
 From Closing Nonlapsing Balances (211,400)
 Schedule of Programs:
 State Hospital Unit Fund 34,900

Item 68

To Department of Human Services - Utah State
 Developmental Center Land Fund
 From Revenue Transfers 38,700
 From Other Financing Sources 2,000
 From Beginning Nonlapsing Balances ... 611,200
 From Closing Nonlapsing Balances (611,200)
 Schedule of Programs:
 Utah State Developmental Center
 Land Fund 40,700

STATE BOARD OF EDUCATION

Item 69

To State Board of Education - Individuals with
 Visual Impairment Fund
 From Trust and Agency Funds 13,000
 From Beginning Nonlapsing Balances ... 520,600
 From Closing Nonlapsing Balances (526,600)
 Schedule of Programs:
 Individuals with Visual Impairment
 Fund 7,000

The Legislature intends that the Utah State Office of Rehabilitation report on the following performance measures for the Visual Impairment Fund: (1) the total of funds expended compiled by category of use, (2) the year end Fund balance, and (3) the yearly results/profit from the investment of the fund by October 15, 2016 to the Social Services Appropriations Subcommittee.

Item 70

To State Board of Education - Utah Community
 Center for the Deaf Fund
 From Trust and Agency Funds 6,800

From Beginning Nonlapsing Balances 17,400
 From Closing Nonlapsing Balances (16,400)
 Schedule of Programs:
 Utah Community Center for the
 Deaf Fund 7,800

Subsection 2(c). Business-like Activities.

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

**DEPARTMENT OF
 WORKFORCE SERVICES**

Item 71

To Department of Workforce Services -
 Unemployment Compensation Fund
 From Federal Funds 139,000
 From Dedicated Credits Revenue 23,694,000
 From Other Financing Sources 279,369,000
 From Beginning Nonlapsing
 Balances 959,317,100
 From Closing Nonlapsing
 Balances (959,317,100)
 Schedule of Programs:
 Unemployment Compensation
 Fund 303,202,000

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Unemployment Compensation Fund: (1) Unemployment Insurance Trust Fund balance is greater than the minimum adequate reserve amount and less than the maximum adequate reserve amount (Target = \$639 million to \$853 million), (2) the average high cost multiple is the Unemployment Insurance Trust Fund balance as a percentage of total Unemployment Insurance wages divided by the average high cost rate (Target => 1), and (3) contributory employers Unemployment Insurance contributions due paid timely (Target => 95%) by October 15, 2016 to the Social Services Appropriations Subcommittee.

Item 72

To Department of Workforce Services - State Small
 Business Credit Initiative Program Fund
 From Federal Funds 4,350,200
 From Dedicated Credits Revenue 65,200
 From Restricted Revenue 28,900
 From Beginning Nonlapsing
 Balances 9,320,400
 From Closing Nonlapsing
 Balances (12,414,400)
 Schedule of Programs:

State Small Business Credit
 Initiative Program Fund 1,350,300

**Subsection 2(d). Restricted Fund and
 Account Transfers.**

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

FUND AND ACCOUNT TRANSFERS

Item 73

To Fund and Account Transfers -
 Children's Hearing Aid Program Account
 From General Fund 100,000
 Schedule of Programs:
 GFR - Children's Hearing Aid
 Program Account 100,000

Item 74

To Fund and Account Transfers - GFR -
 Homeless Account
 From General Fund 917,400
 Schedule of Programs:
 General Fund Restricted - Pamela
 Atkinson Homeless Account 917,400

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Fund and Account Transfers to the Pamela Atkinson Homeless Account: (1) homeless providers funded by the State (except domestic violence shelter providers) will utilize the Centralized Client Intake and Coordinated Assessment System (Target => 80%) and (2) complete on-time the statewide report of homeless demographics and conditions by county (Target = November 1) by October 15, 2016 to the Social Services Appropriations Subcommittee.

Item 75

To Fund and Account Transfers -
 State Endowment Fund
 From General Fund Restricted -
 Tobacco Settlement Account 1,488,700
 Schedule of Programs:
 State Endowment Fund 1,488,700

**Subsection 2(e). Transfers to Unrestricted
 Funds.**

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

TRANSFERS TO UNRESTRICTED FUNDS

Item 76

To General Fund
 From Dedicated Credits Revenue 300,000
 From Dedicated Credits Revenue,
 One-Time (150,000)
 Schedule of Programs:

General Fund, One-time 150,000

The dedicated credits in this item come from the following action taken by the Social Services Appropriations Subcommittee: "Recommendations from Audit on Food Stamp/SNAP Fraud - The Utah State Auditor provided via its "A Performance Audit of Data Analytics Techniques to Detect Supplemental Nutrition Assistance Program (SNAP) Abuse" 18 recommendations to potentially improve fraud prevention and collections. This reduction assumes that the Department of Workforce Services can double its current fraud collection efforts starting in FY 2018 with a 50% increase in collections in FY 2017. Current efforts from 2010 to 2014 have ranged from collections of a low of \$1.2 million total funds (\$0.2 million General Fund) in 2010 to a high of \$2.0 million total funds (\$0.3 million General Fund). Benefits received in 2014 were \$317 million for 90,570 households for a fraud collection rate of 0.6 (less than one) percent. Any collections higher/lower than anticipated would impact the General Fund where the collections are deposited.

See <http://financialreports.utah.gov/saoreports/2015/PA15-04DataAnalyticsforSNAPAbuseWorkforceServices,Departmentof.pdf> for more information."

Subsection 2(f). Fiduciary Funds. The Legislature has reviewed proposed revenues, expenditures, fund balances and changes in fund balances for the following fiduciary funds.

DEPARTMENT OF HUMAN SERVICES

Item 77

To Department of Human Services -
Human Services Client Trust Fund
From Trust and Agency Funds 4,682,300
From Beginning Nonlapsing
Balances 1,287,100
From Closing Nonlapsing Balances ... (1,287,100)
Schedule of Programs:
Human Services Client Trust Fund .. 4,682,300

Item 78

To Department of Human Services -
Maurice N. Warshaw Trust Fund
From Trust and Agency Funds 700
From Beginning Nonlapsing Balances ... 149,600
From Closing Nonlapsing Balances (149,600)
Schedule of Programs:
Maurice N. Warshaw Trust Fund 700

Item 79

To Department of Human Services -
State Developmental Center Patient Account
From Trust and Agency Funds 1,765,300
From Other Financing Sources 700
From Beginning Nonlapsing Balances ... 717,700
From Closing Nonlapsing Balances (717,700)
Schedule of Programs:
State Developmental Center
Patient Account 1,766,000

Item 80

To Department of Human Services - State
Hospital Patient Trust Fund
From Trust and Agency Funds 1,105,700
From Beginning Nonlapsing Balances 84,500
From Closing Nonlapsing Balances (84,500)
Schedule of Programs:
State Hospital Patient Trust Fund ... 1,105,700

Item 81

To Department of Human Services -
Human Services ORS Support Collections
From Trust and Agency Funds 207,583,500
Schedule of Programs:
Human Services ORS Support
Collections 207,583,500

STATE BOARD OF EDUCATION

Item 82

To State Board of Education - Individuals with
Visual Impairment Vendor Fund
From Trust and Agency Funds 129,000
From Beginning Nonlapsing Balances 65,700
From Closing Nonlapsing Balances (44,200)
Schedule of Programs:

Individuals with Visual Disabilities
Vendor Fund 150,500

The Legislature intends that the Utah State Office of Rehabilitation report on the following performance measures for the Individuals with Visual Impairment Vendor Fund: (1) Fund will be used to assist different business locations with purchasing upgraded equipment (Target = 8), (2) Fund will be used to assist different business locations with repairing and maintaining of equipment (Target = 25), and (3) Maintain or increase total yearly contributions to the Business Enterprise Program Owner Set Aside Fund (part of the Visual Impairment Vendor fund) (Target = \$53,900 yearly contribution amount) by October 15, 2016 to the Social Services Appropriations Subcommittee.

Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2016.

CHAPTER 6

S. B. 1

Passed February 9, 2016
 Approved February 16, 2016
 Effective July 1, 2016

HIGHER EDUCATION BASE BUDGET

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

LONG TITLE

General Description:

This bill appropriates funds for the support and operation of Higher Education for the fiscal year beginning July 1, 2016 and ending June 30, 2017.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates \$1,660,528,000 in operating and capital budgets for fiscal year 2017, including:

- ▶ \$392,850,900 from the General Fund;
- ▶ \$524,538,300 from the Education Fund;
- ▶ \$743,138,800 from various sources as detailed in this bill.

Other Special Clauses:

This bill takes effect on July 1, 2016.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2017 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2016 and ending June 30, 2017.

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

UNIVERSITY OF UTAH

Item 1

To University of Utah - Education and General
 From General Fund 84,745,800
 From Education Fund 141,472,700
 From Dedicated Credits Revenue . . . 250,138,300
 From Beginning Nonlapsing
 Balances 18,977,000
 From Closing Nonlapsing
 Balances (18,977,000)
 Schedule of Programs:
 Education and General 470,256,100
 Operations and Maintenance 6,100,700

Item 2

To University of Utah -
 Educationally Disadvantaged
 From General Fund 612,100
 From Education Fund 81,400
 From Revenue Transfers 34,500
 From Beginning Nonlapsing Balances . . . 305,300
 From Closing Nonlapsing Balances (305,300)
 Schedule of Programs:
 Educationally Disadvantaged 728,000

Item 3

To University of Utah - School of Medicine
 From General Fund 906,100
 From Education Fund 30,856,200
 From Dedicated Credits Revenue 16,552,600
 From Beginning Nonlapsing
 Balances 5,910,000
 From Closing Nonlapsing Balances . . . (5,910,000)
 Schedule of Programs:
 School of Medicine 48,314,900

Item 4

To University of Utah - Health Sciences
 From General Fund 1,762,100
 From General Fund Restricted - Cigarette
 Tax Restricted Account 4,800,000
 From General Fund Restricted -
 Tobacco Settlement Account 4,000,000
 From Beginning Nonlapsing Balances 94,000
 From Closing Nonlapsing Balances (94,000)
 Schedule of Programs:
 Health Sciences 10,562,100

Item 5

To University of Utah - University Hospital
 From General Fund 3,866,400
 From Education Fund 968,200
 From Dedicated Credits Revenue 455,800
 From Beginning Nonlapsing Balances . . . 241,600
 From Closing Nonlapsing Balances (241,600)
 Schedule of Programs:
 University Hospital 4,727,400
 Miners' Hospital 563,000

Item 6

To University of Utah - Regional Dental
 Education Program
 From General Fund 481,000
 From Education Fund 88,400
 From Dedicated Credits Revenue 3,417,100
 From Beginning Nonlapsing
 Balances (40,300)
 From Closing Nonlapsing Balances 40,300
 Schedule of Programs:
 Regional Dental Education
 Program 3,986,500

Item 7

To University of Utah - Public Service
 From General Fund 155,800
 From Education Fund 1,256,500
 From Revenue Transfers 493,700
 From Beginning Nonlapsing
 Balances (298,300)
 From Closing Nonlapsing Balances 298,300
 Schedule of Programs:
 Seismograph Stations 715,000
 Natural History Museum of Utah 1,072,900
 State Arboretum 118,100

Item 8

To University of Utah - Statewide TV Administration	
From General Fund	2,095,300
From Education Fund	403,400
From Beginning Nonlapsing Balances	35,900
From Closing Nonlapsing Balances	(35,900)
Schedule of Programs:	
Public Broadcasting	2,498,700

Item 9

To University of Utah - Poison Control Center	
From General Fund	2,150,600
From Beginning Nonlapsing Balances	1,097,100
From Closing Nonlapsing Balances	(1,097,100)
Schedule of Programs:	
Poison Control Center	2,150,600

Item 10

To University of Utah - Center on Aging	
From General Fund	104,700
From Beginning Nonlapsing Balances	(4,600)
From Closing Nonlapsing Balances	4,600
Schedule of Programs:	
Center on Aging	104,700

Item 11

To University of Utah - Rocky Mountain Center for Occupational and Environmental Health	
From General Fund Restricted - Workplace Safety Account	158,100
From Beginning Nonlapsing Balances	(1,700)
From Closing Nonlapsing Balances	1,700
Schedule of Programs:	
Center for Occupational and Environmental Health	158,100

UTAH STATE UNIVERSITY**Item 12**

To Utah State University - Education and General	
From General Fund	99,181,900
From Education Fund	30,087,900
From Dedicated Credits Revenue	92,924,600
From Revenue Transfers	1,344,100
From Beginning Nonlapsing Balances	10,608,200
From Closing Nonlapsing Balances	(10,608,200)
Schedule of Programs:	
Education and General	214,887,900
USU - School of Veterinary Medicine	5,269,900
Operations and Maintenance	3,380,700

Item 13

To Utah State University - USU - Eastern Education and General	
From General Fund	41,000
From Education Fund	12,320,500
From Dedicated Credits Revenue	2,750,000
From Beginning Nonlapsing Balances	1,104,600
From Closing Nonlapsing Balances	(1,104,600)
Schedule of Programs:	
USU - Eastern Education and General	15,111,500

Item 14

To Utah State University - Educationally Disadvantaged	
From General Fund	100,000
Schedule of Programs:	
Educationally Disadvantaged	100,000

Item 15

To Utah State University - USU - Eastern Educationally Disadvantaged	
From General Fund	103,100
From Education Fund	1,900
From Beginning Nonlapsing Balances	82,500
From Closing Nonlapsing Balances	(82,500)
Schedule of Programs:	
USU - Eastern Educationally Disadvantaged	105,000

Item 16

To Utah State University - USU - Eastern Career and Technical Education	
From General Fund	170,100
From Education Fund	1,187,700
From Dedicated Credits Revenue	30,000
From Beginning Nonlapsing Balances	451,100
From Closing Nonlapsing Balances	(451,100)
Schedule of Programs:	
USU - Eastern Career and Technical Education	1,387,800

Item 17

To Utah State University - Uintah Basin Regional Campus	
From General Fund	2,264,900
From Education Fund	1,719,400
From Dedicated Credits Revenue	1,909,000
From Beginning Nonlapsing Balances	233,600
From Closing Nonlapsing Balances	(233,600)
Schedule of Programs:	
Uintah Basin Regional Campus	5,893,300

Item 18

To Utah State University - Southeastern Continuing Education Center	
From General Fund	577,700
From Education Fund	176,700
From Dedicated Credits Revenue	1,506,000
From Beginning Nonlapsing Balances	97,600
From Closing Nonlapsing Balances	(97,600)
Schedule of Programs:	
Southeastern Continuing Education Center	2,260,400

Item 19

To Utah State University - Brigham City Regional Campus	
From General Fund	987,600
From Education Fund	5,200,500
From Dedicated Credits Revenue	25,454,000
From Beginning Nonlapsing Balances	735,700
From Closing Nonlapsing Balances	(735,700)
Schedule of Programs:	
Brigham City Regional Campus	31,642,100

Item 20

To Utah State University - Tooele Regional Campus	
From General Fund	649,800
From Education Fund	3,517,800
From Dedicated Credits Revenue	8,499,000
From Beginning Nonlapsing Balances	350,600

From Closing Nonlapsing Balances (350,600)
 Schedule of Programs:
 Tooele Regional Campus 12,666,600

Item 21

To Utah State University -
 Water Research Laboratory
 From General Fund 1,323,900
 From Education Fund 588,500
 From General Fund Restricted -
 Mineral Lease 1,745,800
 From General Fund Restricted - Land
 Exchange Distribution Account 66,400
 From Beginning Nonlapsing
 Balances 5,040,400
 From Closing Nonlapsing Balances . . . (5,040,400)
 Schedule of Programs:
 Water Research Laboratory 3,724,600

Item 22

To Utah State University - Agriculture
 Experiment Station
 From General Fund 958,200
 From Education Fund 11,338,900
 From Federal Funds 1,813,800
 From Revenue Transfers 105,600
 From Beginning Nonlapsing
 Balances 3,999,900
 From Closing Nonlapsing Balances . . . (3,999,900)
 Schedule of Programs:
 Agriculture Experiment Station . . . 14,216,500

Item 23

To Utah State University - Cooperative Extension
 From General Fund 1,010,000
 From Education Fund 12,083,800
 From Federal Funds 2,088,500
 From Revenue Transfers 65,600
 From Beginning Nonlapsing
 Balances 3,332,300
 From Closing Nonlapsing Balances . . . (3,332,300)
 Schedule of Programs:
 Cooperative Extension 15,247,900

Item 24

To Utah State University - Prehistoric Museum
 From General Fund 145,100
 From Education Fund 122,000
 From Revenue Transfers 167,800
 From Beginning Nonlapsing Balances . . . 124,500
 From Closing Nonlapsing Balances . . . (124,500)
 Schedule of Programs:
 Prehistoric Museum 434,900

Item 25

To Utah State University - Blanding Campus
 From General Fund 1,635,700
 From Education Fund 598,500
 From Dedicated Credits Revenue 1,280,000
 From Revenue Transfers 558,000
 From Beginning Nonlapsing Balances . . . 113,900
 From Closing Nonlapsing Balances . . . (113,900)
 Schedule of Programs:
 Blanding Campus 4,072,200

WEBER STATE UNIVERSITY

Item 26

To Weber State University - Education
 and General

From General Fund 62,518,700
 From Education Fund 13,132,400
 From Dedicated Credits Revenue 69,783,100
 From Beginning Nonlapsing
 Balances 3,876,500
 From Closing Nonlapsing Balances . . . (3,876,500)
 Schedule of Programs:
 Education and General 143,998,200
 Operations and Maintenance 1,436,000

Item 27

To Weber State University -
 Educationally Disadvantaged
 From General Fund 296,700
 From Education Fund 65,000
 From Beginning Nonlapsing Balances . . . 92,600
 From Closing Nonlapsing Balances (92,600)
 Schedule of Programs:
 Educationally Disadvantaged 361,700

SOUTHERN UTAH UNIVERSITY

Item 28

To Southern Utah University -
 Education and General
 From General Fund 11,353,000
 From Education Fund 22,203,400
 From Dedicated Credits Revenue 35,993,000
 From Beginning Nonlapsing
 Balances 5,811,200
 From Closing Nonlapsing Balances . . . (5,811,200)
 Schedule of Programs:
 Education and General 69,225,000
 Operations and Maintenance 324,400

Item 29

To Southern Utah University -
 Educationally Disadvantaged
 From General Fund 81,400
 From Education Fund 10,700
 From Beginning Nonlapsing Balances . . . 10,200
 From Closing Nonlapsing Balances (10,200)
 Schedule of Programs:
 Educationally Disadvantaged 92,100

Item 30

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

Item 31

To Southern Utah University - Rural Development
 From General Fund 82,700
 From Education Fund 17,600
 From Beginning Nonlapsing Balances . . . 17,200
 From Closing Nonlapsing Balances (17,200)
 Schedule of Programs:
 Rural Development 100,300

UTAH VALLEY UNIVERSITY

Item 32

To Utah Valley University - Education and General
 From General Fund 57,893,800
 From Education Fund 38,507,900
 From Dedicated Credits Revenue 107,700,800
 From Beginning Nonlapsing
 Balances 12,572,600

From Closing Nonlapsing
Balances (12,572,600)
Schedule of Programs:
Education and General 200,874,000
Operations and Maintenance 3,228,500

Item 33

To Utah Valley University -
Educationally Disadvantaged
From General Fund 138,900
From Education Fund 27,600
From Beginning Nonlapsing Balances 3,400
From Closing Nonlapsing Balances (3,400)
Schedule of Programs:
Educationally Disadvantaged 166,500

SNOW COLLEGE**Item 34**

To Snow College - Education and General
From General Fund 1,611,400
From Education Fund 19,220,200
From Dedicated Credits Revenue 11,527,100
From Beginning Nonlapsing
Balances 1,246,600
From Closing Nonlapsing Balances ... (1,246,600)
Schedule of Programs:
Education and General 31,584,500
Operations and Maintenance 774,200

Item 35

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

Item 36

To Snow College - Career and Technical Education
From General Fund 1,256,200
From Education Fund 69,600
Schedule of Programs:
Career and Technical Education 1,325,800

DIXIE STATE UNIVERSITY**Item 37**

To Dixie State University - Education and General
From General Fund 2,323,100
From Education Fund 29,429,600
From Dedicated Credits Revenue 26,225,000
From Revenue Transfers 175,000
From Beginning Nonlapsing
Balances 1,677,000
From Closing Nonlapsing Balances ... (1,677,000)
Schedule of Programs:
Education and General 57,440,700
Operations and Maintenance 712,000

Item 38

To Dixie State University -
Educationally Disadvantaged
From General Fund 25,500
Schedule of Programs:
Educationally Disadvantaged 25,500

Item 39

To Dixie State University -
Zion Park Amphitheater
From General Fund 47,000
From Education Fund 6,900

From Dedicated Credits Revenue 33,500
From Beginning Nonlapsing Balances (300)
From Closing Nonlapsing Balances 300
Schedule of Programs:
Zion Park Amphitheater 87,400

SALT LAKE COMMUNITY COLLEGE**Item 40**

To Salt Lake Community College -
Education and General
From General Fund 10,049,400
From Education Fund 72,779,000
From Dedicated Credits Revenue 60,375,500
From Beginning Nonlapsing
Balances 5,099,200
From Closing Nonlapsing Balances ... (5,099,200)
Schedule of Programs:
Education and General 142,613,500
Operations and Maintenance 590,400

Item 41

To Salt Lake Community College -
Educationally Disadvantaged
From General Fund 178,400
From Beginning Nonlapsing Balances ... 172,700
From Closing Nonlapsing Balances (172,700)
Schedule of Programs:
Educationally Disadvantaged 178,400

Item 42

To Salt Lake Community College -
School of Applied Technology
From General Fund 4,140,200
From Education Fund 2,192,600
From Dedicated Credits Revenue 1,135,400
From Beginning Nonlapsing Balances ... 390,800
From Closing Nonlapsing Balances (390,800)
Schedule of Programs:
School of Applied Technology 7,468,200

STATE BOARD OF REGENTS**Item 43**

To State Board of Regents - Administration
From General Fund 2,868,000
From Education Fund 810,300
From Federal Funds 303,100
From Revenue Transfers 70,400
From Beginning Nonlapsing
Balances 1,295,600
From Closing Nonlapsing Balances ... (1,295,600)
Schedule of Programs:
Administration 3,748,700
Federal Programs 303,100

Item 44

To State Board of Regents - Student Assistance
From General Fund 7,574,500
From Education Fund 6,223,900
From Beginning Nonlapsing Balances 22,300
From Closing Nonlapsing Balances (22,300)
Schedule of Programs:
Regents' Scholarship 4,692,300
Student Financial Aid 3,252,800
Minority Scholarships 36,200
New Century Scholarships 1,983,900
Success Stipend 1,391,200
Western Interstate Commission
for Higher Education 839,300

T.H. Bell Teaching Incentive Loans
 Program 1,477,700
 Veterans Tuition Gap Program 125,000

Item 45

To State Board of Regents - Student Support
 From General Fund 766,900
 From Education Fund 832,100
 From Revenue Transfers 3,900
 From Beginning Nonlapsing Balances 61,500
 From Closing Nonlapsing Balances (61,500)
 Schedule of Programs:
 Services for Hearing Impaired
 Students 796,300
 Concurrent Enrollment 445,400
 Articulation Support 278,800
 Campus Compact 82,400

Item 46

To State Board of Regents - Technology
 From General Fund 3,997,200
 From Education Fund 3,186,300
 From Beginning Nonlapsing Balances 700
 From Closing Nonlapsing Balances (700)
 Schedule of Programs:
 Higher Education Technology
 Initiative 4,573,500
 Utah Academic Library Consortium 2,610,000

Item 47

To State Board of Regents - Economic Development
 From General Fund 352,300
 From Education Fund 3,508,300
 From Beginning Nonlapsing Balances ... 186,600
 From Closing Nonlapsing Balances (186,600)
 Schedule of Programs:
 Engineering Initiative 3,500,000
 Engineering Loan Repayment 38,400
 Economic Development Initiatives 322,200

Item 48

To State Board of Regents - Education Excellence
 From Education Fund 3,008,200
 From Revenue Transfers 38,900
 From Beginning Nonlapsing Balances 3,244,300
 From Closing Nonlapsing Balances ... (3,244,300)
 Schedule of Programs:
 Education Excellence 3,047,100

Item 49

To State Board of Regents -
 Math Competency Initiative
 From Education Fund 1,925,000
 Schedule of Programs:
 Math Competency Initiative 1,925,000

Item 50

To State Board of Regents -
 Medical Education Council
 From General Fund 573,700
 From Dedicated Credits Revenue 500,000
 From Revenue Transfers 145,100
 From Beginning Nonlapsing Balances ... 553,200
 From Closing Nonlapsing Balances (553,200)
 Schedule of Programs:
 Medical Education Council 1,218,800

**UTAH COLLEGE OF
 APPLIED TECHNOLOGY**

Item 51

To Utah College of Applied
 Technology - Administration
 From General Fund 2,962,100
 From Education Fund 2,627,100
 Schedule of Programs:
 Administration 1,868,900
 Equipment 561,100
 Custom Fit 3,159,200

Item 52

To Utah College of Applied Technology -
 Bridgerland Applied Technology College
 From General Fund 4,100,600
 From Education Fund 7,271,200
 From Dedicated Credits Revenue 1,252,800
 From Beginning Nonlapsing Balances 22,600
 From Closing Nonlapsing Balances (22,600)
 Schedule of Programs:
 Bridgerland Applied Technology
 College 12,624,600

Item 53

To Utah College of Applied Technology -
 Davis Applied Technology College
 From General Fund 4,168,400
 From Education Fund 8,889,500
 From Dedicated Credits Revenue 1,767,200
 Schedule of Programs:
 Davis Applied Technology
 College 14,825,100

Item 54

To Utah College of Applied Technology -
 Dixie Applied Technology College
 From General Fund 82,800
 From Education Fund 5,246,400
 From Dedicated Credits Revenue 153,000
 Schedule of Programs:
 Dixie Applied Technology College ... 5,482,200

Item 55

To Utah College of Applied Technology -
 Mountainland Applied Technology College
 From Education Fund 9,795,400
 From Dedicated Credits Revenue 996,000
 From Beginning Nonlapsing Balances ... 296,300
 From Closing Nonlapsing Balances (296,300)
 Schedule of Programs:
 Mountainland Applied Technology
 College 10,791,400

Item 56

To Utah College of Applied Technology -
 Ogden/Weber Applied Technology College
 From General Fund 5,057,400
 From Education Fund 7,758,900
 From Dedicated Credits Revenue 1,695,500
 Schedule of Programs:
 Ogden/Weber Applied Technology
 College 14,511,800

Item 57

To Utah College of Applied Technology -
 Southwest Applied Technology College
 From General Fund 161,400
 From Education Fund 4,064,300
 From Dedicated Credits Revenue 214,200

Schedule of Programs:
Southwest Applied Technology
College 4,439,900

Item 58

To Utah College of Applied Technology -
Tooele Applied Technology College
From General Fund 844,000
From Education Fund 2,221,100
From Dedicated Credits Revenue 196,000
Schedule of Programs:
Tooele Applied Technology College .. 3,261,100

Item 59

To Utah College of Applied Technology -
Uintah Basin Applied Technology College
From General Fund 1,275,200
From Education Fund 5,424,400
From Dedicated Credits Revenue 496,000
Schedule of Programs:
Uintah Basin Applied Technology
College 7,195,600

Section 2. Effective Date.

This bill takes effect on July 1, 2016.

**CHAPTER 7
S. B. 4**

Passed February 9, 2016
Approved February 16, 2016
Effective February 16, 2016

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

Chief Sponsor: Brian E. Shiozawa
House Sponsor: Dixon M. Pitcher

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the use and operation of state government for the fiscal year beginning July 1, 2015 and ending June 30, 2016; and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2016 and ending June 30, 2017.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates \$0 in operating and capital budgets for fiscal year 2016, including:

- ▶ (\$4,500,000) from the General Fund;
- ▶ \$4,500,000 from various sources as detailed in this bill.

This bill appropriates \$265,000 in transfers to unrestricted funds for fiscal year 2016.

This bill appropriates \$299,903,000 in operating and capital budgets for fiscal year 2017, including:

- ▶ \$95,413,000 from the General Fund;
- ▶ \$21,037,000 from the Education Fund;
- ▶ \$183,453,000 from various sources as detailed in this bill.

This bill appropriates \$21,663,300 in expendable funds and accounts for fiscal year 2017.

This bill appropriates \$265,000 in business-like activities for fiscal year 2017.

This bill appropriates \$15,555,000 in restricted fund and account transfers for fiscal year 2017, all of which is from the General Fund.

This bill appropriates \$265,000 in transfers to unrestricted funds for fiscal year 2017.

This bill appropriates \$11,721,400 in fiduciary funds for fiscal year 2017.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 of this bill take effect on July 1, 2016.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2016 Appropriations. The following sums of money are appropriated for

the fiscal year beginning July 1, 2015 and ending June 30, 2016.

Subsection 1(a). Operating and Capital Budgets.

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

DEPARTMENT OF HERITAGE AND ARTS

Item 1

To Department of Heritage and Arts - Administration
From General Fund, One-Time 39,100
Schedule of Programs:
Administrative Services 16,200
Utah Multicultural Affairs Office 6,200
Commission on Service and Volunteerism 16,700

Item 2

To Department of Heritage and Arts - State History
From General Fund, One-Time (40,800)
Schedule of Programs:
Administration (40,800)

Item 3

To Department of Heritage and Arts - Division of Arts and Museums
From General Fund, One-Time 4,700
Schedule of Programs:
Community Arts Outreach 4,700

Item 4

To Department of Heritage and Arts - Indian Affairs
From General Fund, One-Time (3,000)
Schedule of Programs:
Indian Affairs (3,000)

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 5

To Governor's Office of Economic Development - Administration
From General Fund, One-Time (400,000)
Schedule of Programs:
Administration (400,000)

Item 6

To Governor's Office of Economic Development - Office of Tourism
From General Fund, One-Time 400,000
Schedule of Programs:
Operations and Fulfillment 400,000

UTAH STATE TAX COMMISSION

Item 7

To Utah State Tax Commission - Tax Administration
From General Fund, One-Time (4,500,000)
From Closing Nonlapsing Balances 4,500,000

Subsection 1(b). Transfers to Unrestricted Funds.

The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General,

Education, or Uniform School Fund as indicated from the restricted funds or accounts indicated. Expenditures and outlays from the General, Education, or Uniform School Fund must be authorized elsewhere in an appropriations act.

TRANSFERS TO UNRESTRICTED FUNDS

Item 8

To General Fund
From General Fund Restricted - Insurance Department Account, One-Time 265,000
Schedule of Programs:
General Fund, One-time 265,000

Section 2. FY 2017 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2016 and ending June 30, 2017.

Subsection 2(a). Operating and Capital

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

DEPARTMENT OF HERITAGE AND ARTS

Item 9

To Department of Heritage and Arts - Administration
From General Fund 3,743,400
From Federal Funds 4,560,200
From Dedicated Credits Revenue 186,500
From Beginning Nonlapsing Balances . . . 728,200
From Closing Nonlapsing Balances (509,800)
Schedule of Programs:
Executive Director's Office 545,000
Information Technology 1,321,400
Administrative Services 1,622,700
Utah Multicultural Affairs Office 330,900
Commission on Service and Volunteerism 4,888,500

Item 10

To Department of Heritage and Arts - Historical Society
From Dedicated Credits Revenue 47,800
From Beginning Nonlapsing Balances 64,700
From Closing Nonlapsing Balances (71,700)
Schedule of Programs:
State Historical Society 40,800

Item 11

To Department of Heritage and Arts - State History
From General Fund 2,108,200
From Federal Funds 965,000
From Dedicated Credits Revenue 97,500
Schedule of Programs:
Administration 239,800
Library and Collections 594,500
Public History, Communication and Information 573,000
Historic Preservation and Antiquities 1,738,400
History Projects and Grants 25,000

Item 12

To Department of Heritage and Arts - Division of Arts and Museums
From General Fund 2,468,400
From Federal Funds 788,900
From Dedicated Credits Revenue 48,900
From Beginning Nonlapsing Balances 1,592,400
From Closing Nonlapsing Balances . . . (1,262,600)
Schedule of Programs:
Administration 569,000
Grants to Non-profits 1,036,400
Community Arts Outreach 2,030,600

Item 13

To Department of Heritage and Arts - Division of Arts and Museums - Office of Museum Services
From General Fund 263,300
Schedule of Programs:
Office of Museum Services 263,300

Item 14

To Department of Heritage and Arts - State Library
From General Fund 4,415,000
From Federal Funds 1,850,000
From Dedicated Credits Revenue 2,169,500
Schedule of Programs:
Administration 1,555,600
Blind and Disabled 1,865,700
Library Development 2,384,900
Library Resources 2,628,300

Item 15

To Department of Heritage and Arts - Indian Affairs
From General Fund 245,100
From Dedicated Credits Revenue 47,000
From Beginning Nonlapsing Balances 58,600
From Closing Nonlapsing Balances (30,200)
Schedule of Programs:
Indian Affairs 320,500

Item 16

To Department of Heritage and Arts - Pass-Through
From General Fund 257,000
Schedule of Programs:
Pass-Through 257,000

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 17

To Governor's Office of Economic Development - Administration
From General Fund 3,224,600
From Dedicated Credits Revenue 796,800
Schedule of Programs:
Administration 4,021,400

Item 18

To Governor's Office of Economic Development - STEM Action Center
From General Fund 6,508,200
From Dedicated Credits Revenue 1,500,000
Schedule of Programs:
STEM Action Center 3,008,200
STEM College Ready Math 5,000,000

Item 19

To Governor's Office of Economic Development - Office of Tourism

From General Fund 4,132,200
 From Transportation Fund 118,000
 From Dedicated Credits Revenue 327,700
 From General Fund Restricted -
 Tourism Marketing Performance . . . 15,000,000
 Schedule of Programs:
 Administration 1,159,100
 Operations and Fulfillment 2,631,600
 Marketing and Advertising 15,000,000
 Film Commission 787,200

Item 20

To Governor’s Office of Economic
 Development – Business Development
 From General Fund 7,231,900
 From Federal Funds 864,300
 From Dedicated Credits Revenue 374,000
 From General Fund Restricted -
 Industrial Assistance Account 250,000
 Schedule of Programs:
 Outreach and International Trade . . . 4,245,300
 Corporate Recruitment and
 Business Services 4,474,900

Item 21

To Governor’s Office of Economic Development -
 Pete Suazo Utah Athletics Commission
 From General Fund 160,800
 From Dedicated Credits Revenue 65,200
 Schedule of Programs:
 Pete Suazo Utah Athletics
 Commission 226,000

Item 22

To Governor’s Office of Economic Development -
 Utah Broadband Outreach Center
 From General Fund 350,000
 Schedule of Programs:
 Utah Broadband Outreach Center 350,000

Item 23

To Governor’s Office of Economic
 Development - Pass-Through
 From General Fund 5,133,800
 Schedule of Programs:
 Pass-Through 5,133,800

UTAH STATE TAX COMMISSION

Item 24

To Utah State Tax Commission -
 Tax Administration
 From General Fund 26,917,200
 From Education Fund 21,037,000
 From Transportation Fund 5,857,400
 From Federal Funds 558,600
 From Dedicated Credits Revenue 6,484,800
 From General Fund Restricted -
 Electronic Payment Fee
 Restricted Account 6,359,700
 From General Fund Restricted -
 Motor Vehicle Enforcement Division
 Temporary Permit Account 3,940,300
 From General Fund Restricted - Sales
 and Use Tax Administration Fees . . . 9,950,600
 From General Fund Restricted -
 Tobacco Settlement Account 18,500
 From Uninsured Motorist Identification
 Restricted Account 133,800

From Revenue Transfers 163,800
 From Beginning Nonlapsing
 Balances 1,440,300
 From Closing Nonlapsing Balances (640,300)
 Schedule of Programs:
 Administration Division 9,822,200
 Auditing Division 11,716,300
 Multi-State Tax Compact 252,200
 Technology Management 10,617,900
 Tax Processing Division 6,854,800
 Seasonal Employees 155,600
 Tax Payer Services 11,069,800
 Property Tax Division 5,065,900
 Motor Vehicles 22,540,800
 Motor Vehicle Enforcement
 Division 4,126,200

Item 25

To Utah State Tax Commission -
 License Plates Production
 From Dedicated Credits Revenue 2,307,500
 From Beginning Nonlapsing Balances . . . 264,500
 Schedule of Programs:
 License Plates Production 2,572,000

Item 26

To Utah State Tax Commission -
 Rural Health Care Facilities Distribution
 From General Fund Restricted - Rural
 Healthcare Facilities Account 555,000
 From Lapsing Balance (336,200)
 Schedule of Programs:
 Rural Health Care Facilities
 Distribution 218,800

Item 27

To Utah State Tax Commission -
 Liquor Profit Distribution
 From General Fund Restricted-
 Alcoholic Beverage Enforcement &
 Treatment 5,391,900
 Schedule of Programs:
 Liquor Profit Distribution 5,391,900

**UTAH SCIENCE TECHNOLOGY AND
 RESEARCH GOVERNING AUTHORITY**

Item 28

To Utah Science Technology and Research
 Governing Authority - University Research
 Teams
 From General Fund 18,518,900
 Schedule of Programs:
 U of U Alternative Energy Center . . . 1,005,100
 U of U Biomedical Device 426,400
 U of U Circuits of the Brain 367,000
 U of U Diagnostic Imaging 64,600
 U of U Digital Media 489,100
 U of U Fossil Energy 678,900
 U of U Health Sciences 2,627,400
 U of U Imaging Technology 933,100
 U of U Micro Nano/Nanoscale 360,700
 U of U Nanotechnology Biosensors . . . 263,800
 U of U Wireless Nanosystems 1,101,100
 U of U Nanoscale and Biomedical
 Photonic Imaging 772,200
 U of U Commercialization
 Initiatives 321,900
 U of U Equipment and Other 1,700,000
 USU Applied Nutrition Research 135,000

USU Synthetic Bio-Manufacturing Institute	2,371,700
USU Veterinary Diagnostics and Infectious Disease	2,063,600
USU Utah Advanced Transportation Institute	1,148,800
USU Energy Initiative	598,500
USU Equipment and Other	510,000
USU Commercialization Initiatives	580,000

Item 29

To Utah Science Technology and Research Governing Authority - Technology Outreach and Innovation	
From General Fund	2,576,600
From Dedicated Credits Revenue	11,000
From Beginning Nonlapsing Balances	153,800
Schedule of Programs:	
South	395,100
Central	377,500
North	610,000
East	563,800
Salt Lake SBIR-STTR Resource Center	321,200
Salt Lake BioInnovations Gateway (BiG)	159,000
Projects	314,800

Item 30

To Utah Science Technology and Research Governing Authority - USTAR Administration	
From General Fund	989,600
Schedule of Programs:	
Administration	989,600

**DEPARTMENT OF ALCOHOLIC
BEVERAGE CONTROL**

Item 31

To Department of Alcoholic Beverage Control - DABC Operations	
From Liquor Control Fund	41,883,600
Schedule of Programs:	
Executive Director	1,747,600
Administration	881,600
Operations	2,786,100
Warehouse and Distribution	4,722,500
Stores and Agencies	31,745,800

Item 32

To Department of Alcoholic Beverage Control - Parents Empowered	
From GFR - Underage Drinking Prevention Media and Education Campaign Restricted Account	2,378,600
Schedule of Programs:	
Parents Empowered	2,378,600

LABOR COMMISSION

Item 33

To Labor Commission	
From General Fund	6,118,400
From Federal Funds	2,851,600
From Dedicated Credits Revenue	98,800
From General Fund Restricted - Industrial Accident Restricted Account	2,909,200

From General Fund Restricted - Workplace Safety Account	1,618,500
From Employers' Reinsurance Fund	75,700
Schedule of Programs:	
Administration	1,970,000
Industrial Accidents	1,772,700
Appeals Board	15,500
Adjudication	1,245,800
Boiler, Elevator and Coal Mine Safety Division	1,529,900
Workplace Safety	1,216,500
Anti-Discrimination and Labor	2,063,400
Utah Occupational Safety and Health	3,698,400
Building Operations and Maintenance	160,000

DEPARTMENT OF COMMERCE

Item 34

To Department of Commerce - Commerce General Regulation	
From General Fund	46,000
From Federal Funds	308,200
From Dedicated Credits Revenue	1,835,700
From General Fund Restricted - Commerce Service Account	21,319,500
From General Fund Restricted - Commerce Service Account - Public Utilities Regulatory Fee	4,908,400
From General Fund Restricted - Factory Built Housing Fees	100,000
From General Fund Restricted - Geologist Education and Enforcement Account	10,000
From General Fund Restricted - Nurse Education & Enforcement Account	14,700
From General Fund Restricted - Pawnbroker Operations	131,500
From General Fund Restricted - Utah Housing Opportunity Restricted Account	20,000
From Pass-through	50,000
Schedule of Programs:	
Administration	3,562,400
Occupational and Professional Licensing	10,502,300
Securities	2,224,900
Consumer Protection	2,009,700
Corporations and Commercial Code	2,514,600
Real Estate	2,310,900
Public Utilities	4,270,800
Office of Consumer Services	1,075,800
Building Operations and Maintenance	272,600

Item 35

To Department of Commerce - Building Inspector Training	
From Dedicated Credits Revenue	265,500
From Beginning Nonlapsing Balances	881,500
From Closing Nonlapsing Balances	(265,500)
Schedule of Programs:	
Building Inspector Training	881,500

Item 36

To Department of Commerce - Public Utilities Professional and Technical Services	
--	--

From General Fund Restricted -
 Commerce Service Account -
 Public Utilities Regulatory Fee 150,000
 From Beginning Nonlapsing
 Balances 3,272,800
 From Closing Nonlapsing Balances ... (2,072,800)
 Schedule of Programs:
 Professional and Technical
 Services 1,350,000

Item 37

To Department of Commerce - Office of Consumer
 Services Professional and Technical Services
 From General Fund Restricted -
 Commerce Service Account -
 Public Utilities Regulatory Fee 500,100
 From Beginning Nonlapsing
 Balances 3,050,500
 From Closing Nonlapsing Balances ... (1,750,400)
 Schedule of Programs:
 Professional and Technical
 Services 1,800,200

FINANCIAL INSTITUTIONS

Item 38

To Financial Institutions - Financial
 Institutions Administration
 From General Fund Restricted -
 Financial Institutions 7,216,400
 Schedule of Programs:
 Administration 6,970,400
 Building Operations and
 Maintenance 246,000

INSURANCE DEPARTMENT

Item 39

To Insurance Department - Insurance Department
 Administration
 From Federal Funds 1,234,000
 From Dedicated Credits Revenue 8,600
 From General Fund Restricted -
 Guaranteed Asset Protection Waiver .. 129,100
 From General Fund Restricted -
 Insurance Department Account 7,903,300
 From General Fund Restricted - Insurance
 Fraud Investigation Account 2,319,100
 From General Fund Restricted -
 Relative Value Study Account 119,000
 From General Fund Restricted -
 Technology Development 629,700
 From General Fund Restricted -
 Criminal Background Check 165,000
 From General Fund Restricted -
 Captive Insurance 1,245,500
 From Beginning Nonlapsing Balances ... 890,500
 From Closing Nonlapsing Balances (398,100)
 Schedule of Programs:
 Administration 9,047,300
 Relative Value Study 105,000
 Insurance Fraud Program 2,590,200
 Captive Insurers 1,345,500
 Electronic Commerce Fee 904,700
 GAP Waiver Program 88,000
 Criminal Background Checks 165,000

Item 40

To Insurance Department - Health
 Insurance Actuary
 From General Fund Restricted - Health
 Insurance Actuarial Review Account ... 147,000
 From Beginning Nonlapsing Balances ... 137,800
 From Closing Nonlapsing Balances (147,000)
 Schedule of Programs:
 Health Insurance Actuary 137,800

Item 41

To Insurance Department - Bail Bond Program
 From General Fund Restricted - Bail
 Bond Surety Administration 24,100
 Schedule of Programs:
 Bail Bond Program 24,100

Item 42

To Insurance Department -
 Title Insurance Program
 From General Fund 4,400
 From General Fund Restricted -
 Title Licensee Enforcement Account ... 118,000
 From Beginning Nonlapsing Balances 7,000
 Schedule of Programs:
 Title Insurance Program 129,400

PUBLIC SERVICE COMMISSION

Item 43

To Public Service Commission
 From General Fund Restricted -
 Commerce Service Account -
 Public Utilities Regulatory Fee 2,413,400
 From Beginning Nonlapsing Balances ... 601,200
 From Closing Nonlapsing Balances (571,300)
 Schedule of Programs:
 Administration 2,414,600
 Building Operations and
 Maintenance 28,700

Item 44

To Public Service Commission -
 Speech and Hearing Impaired
 From Dedicated Credits Revenue 725,000
 From Beginning Nonlapsing
 Balances 2,483,600
 From Closing Nonlapsing Balances ... (1,735,500)
 Schedule of Programs:
 Speech and Hearing Impaired 1,473,100

Subsection 2(b). Expendable Funds and

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

DEPARTMENT OF HERITAGE AND ARTS

Item 45

To Department of Heritage and Arts -
 State Library Donation Fund
 From Dedicated Credits Revenue 150,800
 From Interest Income 6,000
 Schedule of Programs:
 State Library Donation Fund 156,800

Item 46

To Department of Heritage and Arts -
 History Donation Fund
 From Dedicated Credits Revenue 1,000
 From Interest Income 500
 Schedule of Programs:
 History Donation Fund 1,500

Item 47

To Department of Heritage and Arts -
 State Arts Endowment Fund
 From Dedicated Credits Revenue 10,500
 From Interest Income 1,500
 Schedule of Programs:
 State Arts Endowment Fund 12,000

**GOVERNOR'S OFFICE OF
 ECONOMIC DEVELOPMENT**

Item 48

To Governor's Office of Economic Development -
 GFR - Industrial Assistance Account
 From Interest Income 150,000
 From Revenue Transfers (250,000)
 From Beginning Nonlapsing
 Balances 23,841,300
 From Closing Nonlapsing
 Balances (20,753,100)
 Schedule of Programs:
 General Fund Restricted -
 Industrial Assistance Account 2,988,200

Item 49

To Governor's Office of Economic Development -
 Private Proposal Restricted Revenue Fund
 From Beginning Nonlapsing Balances 7,000
 From Closing Nonlapsing Balances (7,000)

Item 50

To Governor's Office of Economic
 Development - Transient Room Tax Fund
 From Revenue Transfers 2,800,000
 Schedule of Programs:
 Transient Room Tax Fund 2,800,000

DEPARTMENT OF COMMERCE

Item 51

To Department of Commerce - Architecture
 Education and Enforcement Fund
 From Licenses/Fees 20,600
 From Beginning Nonlapsing Balances 14,400
 Schedule of Programs:
 Architecture Education and
 Enforcement Fund 35,000

Item 52

To Department of Commerce - Consumer
 Protection Education and Training Fund
 From Licenses/Fees 498,000
 From Interest Income 2,000
 From Beginning Nonlapsing Balances ... 500,000
 From Closing Nonlapsing Balances (500,000)
 From Lapsing Balance (100,000)
 Schedule of Programs:
 Consumer Protection Education
 and Training Fund 400,000

Item 53

To Department of
 Commerce - Cosmetologist/Barber,
 Esthetician, Electrologist Fund
 From Licenses/Fees 19,500
 From Interest Income 500
 From Beginning Nonlapsing Balances ... 112,600
 From Closing Nonlapsing Balances (102,600)
 Schedule of Programs:
 Cosmetologist/Barber, Esthetician,
 Electrologist Fund 30,000

Item 54

To Department of Commerce -
 Land Surveyor/Engineer
 Education and Enforcement Fund
 From Licenses/Fees 500
 From Beginning Nonlapsing Balances ... 48,300
 From Closing Nonlapsing Balances (3,800)
 Schedule of Programs:
 Land Surveyor/Engineer Education
 and Enforcement Fund 45,000

Item 55

To Department of Commerce - Landscapes
 Architects Education and Enforcement Fund
 From Licenses/Fees 7,500
 From Beginning Nonlapsing Balances ... 2,500
 Schedule of Programs:
 Landscapes Architects Education
 and Enforcement Fund 10,000

Item 56

To Department of Commerce -
 Physicians Education Fund
 From Licenses/Fees 9,900
 From Interest Income 100
 From Beginning Nonlapsing Balances ... 70,500
 From Closing Nonlapsing Balances (50,500)
 Schedule of Programs:
 Physicians Education Fund 30,000

Item 57

To Department of Commerce - Real Estate
 Education, Research, and Recovery Fund
 From Licenses/Fees 147,000
 From Interest Income 3,000
 From Beginning Nonlapsing Balances ... 852,200
 From Closing Nonlapsing Balances (732,200)
 Schedule of Programs:
 Real Estate Education, Research,
 and Recovery Fund 270,000

Item 58

To Department of Commerce -
 Residence Lien Recovery Fund
 From Licenses/Fees 190,000
 From Interest Income 10,000
 From Beginning Nonlapsing Balances ... 954,900
 From Closing Nonlapsing Balances (154,900)
 Schedule of Programs:
 Residence Lien Recovery Fund 1,000,000

Item 59

To Department of Commerce -
 Residential Mortgage Loan Education,
 Research, and Recovery Fund
 From Licenses/Fees 217,000
 From Interest Income 3,000
 From Beginning Nonlapsing Balances ... 442,700
 From Closing Nonlapsing Balances (442,700)

Schedule of Programs:
 RMLERR Fund 220,000

Item 60

To Department of Commerce - Securities Investor
 Education/Training/Enforcement Fund
 From Licenses/Fees 295,000
 From Interest Income 5,000
 From Beginning Nonlapsing Balances ... 167,300
 From Closing Nonlapsing Balances (167,300)

Schedule of Programs:
 Securities Investor
 Education/ Training/Enforcement
 Fund 300,000

INSURANCE DEPARTMENT

Item 61

To Insurance Department - Insurance
 Fraud Victim Restitution Fund
 From Licenses/Fees 322,300
 Schedule of Programs:
 Insurance Fraud Victim Restitution
 Fund 322,300

Item 62

To Insurance Department - Title Insurance
 Recovery Education and Research Fund
 From Dedicated Credits Revenue 42,500
 From Beginning Nonlapsing Balances ... 467,100
 From Closing Nonlapsing Balances (467,100)
 Schedule of Programs:
 Title Insurance Recovery Education
 and Research Fund 42,500

PUBLIC SERVICE COMMISSION

Item 63

To Public Service Commission - Universal
 Telecommunications Support Fund
 From Licenses/Fees 13,000,000
 From Beginning Nonlapsing Balances ... 715,600
 From Closing Nonlapsing Balances (715,600)
 Schedule of Programs:
 Universal Telecom Service Fund ... 13,000,000

Subsection 2(c). Business-like Activities.

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

INSURANCE DEPARTMENT

Item 64

To Insurance Department - Individual & Small
 Employer Risk Adjustment Enterprise Fund
 From Licenses/Fees 265,000
 Schedule of Programs:
 Individual & Small Employer Risk
 Adjustment Enterprise Fund 265,000

Subsection 2(d). Restricted Fund and Account Transfers.

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

FUND AND ACCOUNT TRANSFERS

Item 65

To Fund and Account Transfers - General Fund
 Restricted - Rural Health Care Facilities Fund
 From General Fund 555,000
 Schedule of Programs:
 GFR - Rural Health Care Facilities
 Fund 555,000

Item 66

To Fund and Account Transfers - GFR -
 Tourism Marketing Performance Fund
 From General Fund 15,000,000
 Schedule of Programs:
 GFR - Tourism Marketing
 Performance Fund 15,000,000

Subsection 2(e). Transfers to Unrestricted Funds.

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

TRANSFERS TO UNRESTRICTED FUNDS

Item 67

To General Fund
 From General Fund Restricted -
 Insurance Department Account 265,000
 Schedule of Programs:
 General Fund 265,000

Subsection 2(f). Fiduciary Funds.

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

LABOR COMMISSION

Item 68

To Labor Commission - Employers
 Reinsurance Fund
 From Interest Income 4,466,000
 From Premium Tax Collections 17,247,000
 From Beginning Nonlapsing
 Balances (23,992,000)
 From Closing Nonlapsing Balances 7,247,000
 Schedule of Programs:
 Employers Reinsurance Fund 4,968,000

Item 69

To Labor Commission - Uninsured
 Employers Fund
 From Dedicated Credits Revenue 2,726,000
 From Interest Income 720,000
 From Premium Tax Collections 2,013,400
 From Beginning Nonlapsing
 Balances 8,786,000

From Closing Nonlapsing Balances . . . (8,192,000)

Schedule of Programs:

Uninsured Employers Fund 6,053,400

Item 70

To Labor Commission - Wage Claim Agency Fund

From Trust and Agency Funds 1,000,000

From Lapsing Balance (300,000)

Schedule of Programs:

Wage Claim Agency Fund 700,000

Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2016.

CHAPTER 8

S. B. 5

Passed February 9, 2016
 Approved February 16, 2016
 Effective July 1, 2016

RETIREMENT AND INDEPENDENT ENTITIES BASE BUDGET

Chief Sponsor: Todd Weiler
 House Sponsor: Kraig Powell

LONG TITLE

General Description:

This bill appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2016 and ending June 30, 2017.

Highlighted Provisions:

This bill:

- ▶ provides appropriations for the use and support of certain state agencies;
- ▶ provides appropriations for other purposes as described;
- ▶ approves employment levels for internal service funds; and
- ▶ approves capital acquisition amounts for internal service funds.

Money Appropriated in this Bill:

This bill appropriates \$42,331,300 in operating and capital budgets for fiscal year 2017, including:

- ▶ \$1,119,000 from the General Fund;
- ▶ \$19,037,400 from the Education Fund;
- ▶ \$22,174,900 from various sources as detailed in this bill.

This bill appropriates \$14,052,100 in business-like activities for fiscal year 2017.

Other Special Clauses:

This bill takes effect on July 1, 2016.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2017 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2016 and ending June 30, 2017.

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

CAREER SERVICE REVIEW OFFICE

Item 1

To Career Service Review Office
 From General Fund 266,600
 From Beginning Nonlapsing Balances 30,000
 From Closing Nonlapsing Balances (30,000)
 Schedule of Programs:

Career Service Review Office 266,600

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Item 2

To Department of Human Resource Management - Human Resource Management
 From General Fund 75,200
 From Dedicated Credits Revenue 200,000
 Schedule of Programs:
 ALJ Compliance 75,200
 Statewide Management Liability
 Training 200,000

UTAH EDUCATION AND TELEHEALTH NETWORK

Item 3

To Utah Education and Telehealth Network
 From General Fund 777,200
 From Education Fund 19,037,400
 From Federal Funds 3,746,700
 From Dedicated Credits Revenue 17,567,700
 From Other Financing Sources 374,400
 From Beginning Nonlapsing Balances . . . 286,100
 Schedule of Programs:
 Administration 2,176,900
 Operations and Maintenance 402,300
 Public Information 219,200
 KUEN Broadcast 648,100
 Technical Services 31,739,800
 Course Management Systems 502,000
 Instructional Support 3,620,300
 Statewide Data Alliance 645,000
 Utah Telehealth Network 1,549,800
 Utah Futures 286,100

Subsection 1(b). Business-like Activities.

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

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Item 4

To Department of Human Resource Management - Human Resources Internal Service Fund
 From Dedicated Credits Revenue 14,052,100
 Schedule of Programs:
 ISF - Field Services 12,866,800
 ISF - Payroll Field Services 647,700
 ISF - Core HR Services 237,600
 ISF - Legal Services 300,000
 Budgeted FTE 145.0
 Authorized Capital Outlay 575,000

Section 2. Effective Date.

This bill takes effect on July 1, 2016.

**CHAPTER 9
S. B. 6**

Passed February 9, 2016
Approved February 16, 2016
Effective February 16, 2016

**INFRASTRUCTURE AND GENERAL
GOVERNMENT BASE BUDGET**

Chief Sponsor: Wayne A. Harper
House Sponsor: Gage Froerer

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the use and operation of state government for the fiscal year beginning July 1, 2015 and ending June 30, 2016; and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2016 and ending June 30, 2017.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates (\$300,000) in operating and capital budgets for fiscal year 2016, all of which is from the General Fund.

This bill appropriates \$1,692,876,300 in operating and capital budgets for fiscal year 2017, including:

- ▶ \$140,449,500 from the General Fund;
- ▶ \$80,074,000 from the Education Fund;
- ▶ \$1,472,352,800 from various sources as detailed in this bill.

This bill appropriates \$1,979,100 in expendable funds and accounts for fiscal year 2017.

This bill appropriates \$339,163,600 in business-like activities for fiscal year 2017.

This bill appropriates \$14,214,000 in transfers to unrestricted funds for fiscal year 2017.

This bill appropriates \$1,949,600 in fiduciary funds for fiscal year 2017.

This bill appropriates \$1,046,561,800 in capital project funds for fiscal year 2017.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 of this bill takes effect on July 1, 2016.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2016 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2015 and ending June 30, 2016. These are additions to amounts previously appropriated for fiscal year 2016.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of

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

**DEPARTMENT OF
ADMINISTRATIVE SERVICES**

Item 1

To Department of Administrative Services - Finance - Mandated
From General Fund, One-Time (300,000)
Schedule of Programs:
Employee Health Benefits (300,000)

Section 2. FY 2017 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2016 and ending June 30, 2017.

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

TRANSPORTATION

Item 2

To Transportation - Support Services
From Transportation Fund 30,632,000
From Federal Funds 2,029,300
Schedule of Programs:
Administrative Services 2,500,100
Risk Management 2,976,200
Building and Grounds 987,500
Human Resources Management 1,502,500
Procurement 1,239,100
Comptroller 2,662,400
Data Processing 11,472,300
Internal Auditor 868,300
Community Relations 681,200
Ports of Entry 7,771,700

Item 3

To Transportation - Engineering Services
From Transportation Fund 17,375,100
From Federal Funds 15,287,000
From Dedicated Credits Revenue 1,150,000
Schedule of Programs:
Program Development 11,418,700
Preconstruction Admin 1,993,800
Environmental 781,500
Structures 3,142,000
Materials Lab 4,703,900
Engineering Services 2,418,100
Right-of-Way 2,298,100
Research 2,780,300
Construction Management 1,654,500
Civil Rights 216,200
Engineer Development Pool 2,061,200
Highway Project Management Team . . . 343,800

Item 4

To Transportation - Operations/
Maintenance Management
From Transportation Fund 142,668,800
From Transportation Investment
Fund of 2005 6,901,400

From Federal Funds	8,887,500
From Dedicated Credits Revenue	1,292,100
Schedule of Programs:	
Maintenance Administration	9,338,100
Region 1	22,042,100
Region 2	31,569,000
Region 3	21,158,600
Region 4	43,788,200
Seasonal Pools	1,041,800
Lands and Buildings	2,992,000
Field Crews	12,675,100
Traffic Safety/Tramway	3,181,200
Traffic Operations Center	9,844,100
Maintenance Planning	2,119,600

Item 5

To Transportation - Construction Management	
From Transportation Fund	18,986,200
From Federal Funds	152,831,400
From Dedicated Credits Revenue	1,550,000
From Designated Sales Tax	46,682,500
Schedule of Programs:	
Federal Construction - New	146,324,800
Rehabilitation/Preservation	73,725,300

Item 6

To Transportation - Region Management	
From Transportation Fund	24,195,600
From Federal Funds	3,691,200
From Dedicated Credits Revenue	1,147,200
Schedule of Programs:	
Region 1	6,014,300
Region 2	10,190,600
Region 3	5,185,200
Region 4	6,934,900
Richfield	73,800
Price	299,000
Cedar City	336,200

Item 7

To Transportation - Equipment Management	
From Transportation Fund	1,639,700
From Dedicated Credits Revenue	27,413,000
Schedule of Programs:	
Equipment Purchases	6,620,900
Shops	22,431,800

Item 8

To Transportation - Aeronautics	
From Dedicated Credits Revenue	383,600
From Aeronautics Restricted Account ..	7,011,900
Schedule of Programs:	
Administration	534,700
Airport Construction	3,536,100
Civil Air Patrol	80,000
Aid to Local Airports	2,240,000
Airplane Operations	1,004,700

Item 9

To Transportation - B and C Roads	
From Transportation Fund	132,513,000
Schedule of Programs:	
B and C Roads	132,513,000

Item 10

To Transportation - Safe Sidewalk Construction	
From Transportation Fund	500,000
Schedule of Programs:	
Sidewalk Construction	500,000

Item 11

To Transportation - Mineral Lease	
From General Fund Restricted -	
Mineral Lease	56,448,100
Schedule of Programs:	
Mineral Lease Payments	53,979,100
Payment in Lieu	2,469,000

Item 12

To Transportation - Share the Road	
From General Fund Restricted - Share	
the Road Bicycle Support	35,000
Schedule of Programs:	
Share the Road	35,000

Item 13

To Transportation - Transportation Investment	
Fund Capacity Program	
From Transportation Investment Fund	
of 2005	366,265,400
Schedule of Programs:	
Transportation Investment Fund	
Capacity Program	366,265,400

**DEPARTMENT OF
ADMINISTRATIVE SERVICES**

Item 14

To Department of Administrative	
Services - Executive Director	
From General Fund	1,091,100
From Beginning Nonlapsing Balances ...	100,000
From Closing Nonlapsing Balances	(100,000)
Schedule of Programs:	
Executive Director	1,091,100

Item 15

To Department of Administrative Services -	
Inspector General of Medicaid Services	
From General Fund	1,122,500
From Revenue Transfers	1,185,200
From Pass-through	1,400
From Beginning Nonlapsing Balances ...	386,700
From Closing Nonlapsing Balances	(349,900)
Schedule of Programs:	
Inspector General of Medicaid	
Services	2,345,900

Item 16

To Department of Administrative	
Services - Administrative Rules	
From General Fund	420,900
From Beginning Nonlapsing Balances	66,700
From Closing Nonlapsing Balances	(46,300)
Schedule of Programs:	
DAR Administration	441,300

Item 17

To Department of Administrative	
Services - DFCM Administration	
From General Fund	2,445,800
From Dedicated Credits Revenue	1,581,000
From Capital Projects Fund	1,854,300
From Capital Project Fund -	
Project Reserve	200,000
From Capital Project Fund -	
Contingency Reserve	82,300
From Beginning Nonlapsing Balances ...	821,000
From Closing Nonlapsing Balances	(673,600)
Schedule of Programs:	
DFCM Administration	5,364,000

Governor's Residence 152,100
 Energy Program 794,700

Item 18

To Department of Administrative
 Services - Building Board Program
 From Capital Projects Fund 1,267,900
 From Beginning Nonlapsing Balances 35,900
 From Closing Nonlapsing Balances (16,800)
 Schedule of Programs:
 Building Board Program 1,287,000

Item 19

To Department of Administrative
 Services - State Archives
 From General Fund 2,937,800
 From Federal Funds 40,000
 From Dedicated Credits Revenue 51,000
 From Beginning Nonlapsing Balances 191,100
 From Closing Nonlapsing Balances (175,200)
 Schedule of Programs:
 Archives Administration 931,900
 Records Analysis 251,500
 Preservation Services 281,800
 Patron Services 501,200
 Records Services 348,300
 Open Records 730,000

Item 20

To Department of Administrative
 Services - Finance Administration
 From General Fund 6,684,800
 From Transportation Fund 450,000
 From Dedicated Credits Revenue 1,907,500
 From General Fund Restricted -
 Internal Service Fund Overhead 1,299,600
 From Beginning Nonlapsing
 Balances 2,236,900
 From Closing Nonlapsing Balances (1,240,700)
 Schedule of Programs:
 Finance Director's Office 546,300
 Payroll 1,892,900
 Payables/Disbursing 1,768,000
 Technical Services 1,130,300
 Financial Reporting 1,885,200
 Financial Information Systems 4,115,400

Item 21

To Department of Administrative
 Services - Finance - Mandated
 From General Fund 4,531,800
 From General Fund Restricted -
 Statewide Unified E-911
 Emergency Account 2,990,600
 From General Fund Restricted -
 Economic Incentive Restricted
 Account 3,255,000
 From General Fund Restricted - Land
 Exchange Distribution Account 1,517,600
 From General Fund Restricted -
 Computer Aided Dispatch Account 2,573,500
 Schedule of Programs:
 Land Exchange Distribution 1,517,600
 Employee Health Benefits 31,800
 State Employee Benefits 4,500,000
 Development Zone Partial Rebates 3,255,000
 Computer Aided Dispatch 2,573,500
 E-911 Emergency Services 2,990,600

Item 22

To Department of Administrative
 Services - Finance - Mandated -
 Parental Defense
 From General Fund 85,400
 From Dedicated Credits Revenue 20,000
 From Beginning Nonlapsing Balances 15,200
 From Closing Nonlapsing Balances (600)
 Schedule of Programs:
 Parental Defense 120,000

Item 23

To Department of Administrative
 Services - Finance - Elected Official
 Post-Retirement Benefits Contribution
 From General Fund 1,387,600
 Schedule of Programs:
 Elected Official Post-Retirement
 Trust Fund 1,387,600

Item 24

To Department of Administrative Services -
 Finance - Mandated - Ethics Commission
 From General Fund 3,000
 From Beginning Nonlapsing Balances 47,300
 From Closing Nonlapsing Balances (44,900)
 Schedule of Programs:
 Executive Branch Ethics Commission 5,400

Item 25

To Department of Administrative Services -
 Post Conviction Indigent Defense
 From General Fund 33,900
 From Beginning Nonlapsing Balances 77,700
 From Closing Nonlapsing Balances (21,600)
 Schedule of Programs:
 Post Conviction Indigent Defense Fund 90,000

Item 26

To Department of Administrative
 Services - Judicial Conduct Commission
 From General Fund 251,100
 From Beginning Nonlapsing Balances 14,600
 Schedule of Programs:
 Judicial Conduct Commission 265,700

Item 27

To Department of Administrative
 Services - Purchasing
 From General Fund 648,200
 Schedule of Programs:
 Purchasing and General Services 648,200

**DEPARTMENT OF
 TECHNOLOGY SERVICES**

Item 28

To Department of Technology Services -
 Chief Information Officer
 From General Fund 539,000
 Schedule of Programs:
 Chief Information Officer 539,000

Item 29

To Department of Technology Services -
 Integrated Technology Division
 From General Fund 821,900
 From Federal Funds 300,000
 From Dedicated Credits Revenue 935,300
 From General Fund Restricted -
 Statewide Unified E-911
 Emergency Account 329,800

Schedule of Programs:
 Automated Geographic Reference
 Center 2,387,000

CAPITAL BUDGET

Item 30

To Capital Budget - Capital Improvements
 From General Fund 48,694,900
 From Education Fund 62,852,200
 Schedule of Programs:
 Capital Improvements 111,547,100

**STATE BOARD OF BONDING
 COMMISSIONERS - DEBT SERVICE**

Item 31

To State Board of Bonding Commissioners -
 Debt Service - Debt Service
 From General Fund 54,535,800
 From General Fund, One-Time 14,214,000
 From Education Fund 17,221,800
 From Transportation Investment
 Fund of 2005 348,420,200
 From Federal Funds 15,758,900
 From Dedicated Credits Revenue 25,089,100
 From County of First Class
 State Hwy Fund 6,383,600
 From Revenue Transfers,
 One-Time (14,214,000)
 From Beginning Nonlapsing
 Balances 8,567,700
 From Closing Nonlapsing Balances ... (8,335,200)
 Schedule of Programs:
 General Obligation Bonds Debt
 Service 440,552,400
 Revenue Bonds Debt Service 27,089,500

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated. Outlays and expenditures from the recipient funds or accounts may be made without further legislative action according to a fund or account's applicable authorizing statute.

**DEPARTMENT OF
 ADMINISTRATIVE SERVICES**

Item 32

To Department of Administrative Services -
 Child Welfare Parental Defense Fund
 From Beginning Nonlapsing Balances 63,400
 From Closing Nonlapsing Balances (63,400)

Item 33

To Department of Administrative Services -
 State Archives Fund
 From Beginning Nonlapsing Balances 2,400
 From Closing Nonlapsing Balances (2,400)

Item 34

To Department of Administrative Services -
 State Debt Collection Fund
 From Dedicated Credits Revenue 1,405,700
 From Other Financing Sources 1,238,500

From Beginning Nonlapsing
 Balances 1,978,200
 From Closing Nonlapsing Balances ... (2,643,300)
 Schedule of Programs:
 State Debt Collection Fund 1,979,100

Subsection 2(c). Business-like Activities.

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

**DEPARTMENT OF ADMINISTRATIVE
 SERVICES INTERNAL SERVICE FUNDS**

Item 35

To Department of Administrative Services Internal
 Service Funds - Division of Finance
 From Dedicated Credits Revenue 1,806,900
 Schedule of Programs:
 ISF - Purchasing Card 217,400
 ISF - Consolidated Budget and
 Accounting 1,589,500
 Budgeted FTE 20.0

Item 36

To Department of Administrative Services Internal
 Service Funds - Division of Purchasing and
 General Services
 From Dedicated Credits Revenue 19,367,500
 From Other Financing Sources 10,000
 Schedule of Programs:
 ISF - Central Mailing 12,186,500
 ISF - Cooperative Contracting 3,720,200
 ISF - Print Services 2,767,300
 ISF - State Surplus Property 668,500
 ISF - Federal Surplus Property 35,000
 Budgeted FTE 93.0
 Authorized Capital Outlay 2,780,000

Item 37

To Department of Administrative Services Internal
 Service Funds - Division of Fleet Operations
 From Dedicated Credits Revenue 62,437,700
 From Other Financing Sources 627,500
 Schedule of Programs:
 ISF - Motor Pool 29,046,700
 ISF - Fuel Network 33,500,000
 ISF - Travel Office 518,500
 Budgeted FTE 26.0
 Authorized Capital Outlay 29,208,700

Item 38

To Department of Administrative Services Internal
 Service Funds - Risk Management
 From Premiums 35,796,300
 From Interest Income 184,100
 From Risk Management - Workers
 Compensation Fund 7,670,000
 Schedule of Programs:
 ISF - Workers' Compensation 7,670,000
 Risk Management OCIP 6,400

Risk Management - Property 17,093,900
 Risk Management - Auto 2,017,600
 Risk Management - Liability 16,862,500
 Budgeted FTE 30.0
 Authorized Capital Outlay 200,000

Item 39

To Department of Administrative Services Internal Service Funds - Division of Facilities Construction and Management - Facilities Management

From Dedicated Credits Revenue 30,323,300
 Schedule of Programs:
 ISF - Facilities Management 30,323,300
 Budgeted FTE 134.0
 Authorized Capital Outlay 56,800

**DEPARTMENT OF TECHNOLOGY
 SERVICES INTERNAL SERVICE FUNDS**

Item 40

To Department of Technology Services Internal Service Funds - Agency Services

From Dedicated Credits Revenue 54,409,600
 Schedule of Programs:
 ISF - Agency Services Division 54,409,600

Item 41

To Department of Technology Services Internal Service Funds - Enterprise Technology Division

From Dedicated Credits Revenue . . . 126,530,700
 Schedule of Programs:
 ISF - Enterprise Technology
 Division 126,530,700
 Budgeted FTE 733.0
 Authorized Capital Outlay 7,015,200

Subsection 2(d). Transfers to Unrestricted Funds. The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General, Education, or Uniform School Fund as indicated from the restricted funds or accounts indicated. Expenditures and outlays from the General, Education, or Uniform School Fund must be authorized elsewhere in an appropriations act.

TRANSFERS TO UNRESTRICTED FUNDS

Item 42

To General Fund
 From Nonlapsing Balances - Debt
 Service 14,214,000
 Schedule of Programs:
 General Fund, One-time 14,214,000

Subsection 2(e). Fiduciary Funds. The Legislature has reviewed proposed revenues, expenditures, fund balances and changes in fund balances for the following fiduciary funds.

**DEPARTMENT OF
 ADMINISTRATIVE SERVICES**

Item 43

To Department of Administrative Services - Utah Navajo Royalties Holding Fund
 From Other Financing Sources 5,862,200
 From Beginning Nonlapsing
 Balances 72,314,400

From Closing Nonlapsing
 Balances (76,227,000)
 Schedule of Programs:
 Utah Navajo Royalties
 Holding Fund 1,949,600

Subsection 2(f). Capital Project Funds. The Legislature has reviewed the following capital project funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated.

TRANSPORTATION

Item 44

To Transportation - Transportation Investment Fund of 2005
 From Transportation Fund 76,633,600
 From Licenses/Fees 75,276,700
 From Designated Sales Tax 476,995,100
 From Revenue Transfers 6,000,000
 From Beginning Nonlapsing
 Balances 301,640,000
 From Closing Nonlapsing
 Balances (220,087,700)
 Schedule of Programs:
 Transportation Investment Fund . . 716,457,700

CAPITAL BUDGET

Item 45

To Capital Budget - DFCM Capital Projects Fund
 From Revenue Transfers 154,547,100
 From Beginning Nonlapsing
 Balances 278,036,600
 From Closing Nonlapsing
 Balances (152,479,600)
 Schedule of Programs:
 DFCM Capital Projects Fund 280,104,100

Item 46

To Capital Budget - SBOA Capital Projects Fund
 From Beginning Nonlapsing
 Balances 183,979,800
 From Closing Nonlapsing
 Balances (133,979,800)
 Schedule of Programs:
 SBOA Capital Projects Fund 50,000,000

Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2016.

**CHAPTER 10
S. B. 7**

Passed February 9, 2016
Approved February 16, 2016
Effective July 1, 2016

**NATIONAL GUARD, VETERANS' AFFAIRS,
AND LEGISLATURE BASE BUDGET**

Chief Sponsor: Lyle W. Hillyard
House Sponsor: Dean Sanpei

LONG TITLE

General Description:

This bill appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2016 and ending June 30, 2017.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates \$96,978,800 in operating and capital budgets for fiscal year 2017, including:

- ▶ \$38,293,100 from the General Fund;
- ▶ \$58,685,700 from various sources as detailed in this bill.

This bill appropriates \$22,640,100 in expendable funds and accounts for fiscal year 2017.

Other Special Clauses:

This bill takes effect on July 1, 2016.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2017 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2016 and ending June 30, 2017.

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

CAPITOL PRESERVATION BOARD

Item 1

To Capitol Preservation Board
From General Fund 4,269,100
Schedule of Programs:
Capitol Preservation Board 4,269,100

UTAH NATIONAL GUARD

Item 2

To Utah National Guard
From General Fund 6,453,200
From Federal Funds 57,598,000
From Dedicated Credits Revenue 20,000

Schedule of Programs:
Administration 953,100
Operations and Maintenance 62,118,100
Tuition Assistance 1,000,000

**DEPARTMENT OF VETERANS'
AND MILITARY AFFAIRS**

Item 3

To Department of Veterans' and Military Affairs - Veterans' and Military Affairs
From General Fund 2,242,100
From Federal Funds 596,200
From Dedicated Credits Revenue 220,300
From Beginning Nonlapsing Balances ... 197,000
From Closing Nonlapsing Balances (197,000)
Schedule of Programs:
Administration 802,500
Cemetery 552,000
State Approving Agency 140,200
Outreach Services 765,000
Military Affairs 798,900

LEGISLATURE

Item 4

To Legislature - Senate
From General Fund 2,792,700
From Beginning Nonlapsing Balances 1,397,800
From Closing Nonlapsing Balances ... (1,397,800)
Schedule of Programs:
Administration 2,792,700

Item 5

To Legislature - House of Representatives
From General Fund 4,632,700
From Beginning Nonlapsing Balances 2,478,000
From Closing Nonlapsing Balances ... (2,478,000)
Schedule of Programs:
Administration 4,632,700

Item 6

To Legislature - Legislative Printing
From General Fund 582,800
From Dedicated Credits Revenue 251,200
From Beginning Nonlapsing Balances ... 342,100
From Closing Nonlapsing Balances (342,100)
Schedule of Programs:
Administration 834,000

Item 7

To Legislature - Office of Legislative Research and General Counsel
From General Fund 9,032,700
From Beginning Nonlapsing Balances 1,425,000
From Closing Nonlapsing Balances ... (1,425,000)
Schedule of Programs:
Administration 9,032,700

Item 8

To Legislature - Legislative Services
From General Fund 1,153,700
From Beginning Nonlapsing Balances ... 307,700
From Closing Nonlapsing Balances (307,700)
Schedule of Programs:
Administration 1,153,700

Item 9

To Legislature - Office of the Legislative Fiscal Analyst

From General Fund 3,315,900
 From Beginning Nonlapsing Balances . . . 946,900
 From Closing Nonlapsing Balances (946,900)
 Schedule of Programs:
 Administration and Research 3,315,900

Item 10

To Legislature - Office of the Legislative
 Auditor General
 From General Fund 3,818,200
 From Beginning Nonlapsing Balances . . . 856,100
 From Closing Nonlapsing Balances (856,100)
 Schedule of Programs:
 Administration 3,818,200

Subsection 1(b). Expendable Funds and

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

CAPITOL PRESERVATION BOARD**Item 11**

To Capitol Preservation Board - State Capitol
 Restricted Special Revenue Fund
 From Dedicated Credits Revenue 408,100
 From Beginning Nonlapsing Balances . . . 954,100
 From Closing Nonlapsing Balances (755,800)
 Schedule of Programs:
 State Capitol Fund 606,400

UTAH NATIONAL GUARD**Item 12**

To Utah National Guard - National
 Guard MWR Fund
 From Dedicated Credits Revenue 1,500,000
 Schedule of Programs:
 National Guard MWR Fund 1,500,000

**DEPARTMENT OF VETERANS'
 AND MILITARY AFFAIRS****Item 13**

To Department of Veterans' and Military Affairs -
 Utah Veterans' Nursing Home Fund
 From Federal Funds 21,144,500
 From Dedicated Credits Revenue 34,000
 From Beginning Nonlapsing
 Balances 5,750,500
 From Closing Nonlapsing Balances . . . (6,395,300)
 Schedule of Programs:
 Veterans' Nursing Home Fund 20,533,700

Section 2. Effective Date.

This bill takes effect on July 1, 2016.

CHAPTER 11**H. B. 31**

Passed February 18, 2016

Approved March 1, 2016

Effective March 1, 2016

(Retrospective operation to January 1, 2016)

ENTERPRISE ZONE AMENDMENTS

Chief Sponsor: Scott D. Sandall
Senate Sponsor: Ralph Okerlund

LONG TITLE**General Description:**

This bill amends provisions related to the Enterprise Zone Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the population requirements for a county or a municipality to qualify for designation as an enterprise zone;
- ▶ modifies the requirements to receive an enterprise zone tax credit, including requirements related to obtaining a tax credit certificate from the Governor's Office of Economic Development (GOED);
- ▶ grants certain rulemaking authority to GOED related to enterprise zone tax credit certificates;
- ▶ modifies GOED's reporting requirements related to enterprise zone tax credits; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:**AMENDS:**

63N-2-202, as renumbered and amended by Laws of Utah 2015, Chapter 283

63N-2-203, as renumbered and amended by Laws of Utah 2015, Chapter 283

63N-2-204, as renumbered and amended by Laws of Utah 2015, Chapter 283

63N-2-210, as renumbered and amended by Laws of Utah 2015, Chapter 283

63N-2-211, as renumbered and amended by Laws of Utah 2015, Chapter 283

63N-2-213, as renumbered and amended by Laws of Utah 2015, Chapter 283

ENACTS:

59-7-614.10, Utah Code Annotated 1953

59-10-1036, Utah Code Annotated 1953

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

Section 1. Section 59-7-614.10 is enacted to read:

59-7-614.10. Nonrefundable enterprise zone tax credit.

(1) As used in this section:

(a) "Business entity" means a corporation that meets the definition of "business entity" as that term is defined in Section 63N-2-202.

(b) "Office" means the Governor's Office of Economic Development created in Section 63N-1-201.

(2) Subject to the provisions of this section, a business entity may claim a nonrefundable enterprise zone tax credit as described in Section 63N-2-213.

(3) The enterprise zone tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity for the taxable year.

(4) A business entity may carry forward a tax credit under this section for a period that does not exceed the next three taxable years, if the amount of the tax credit exceeds the business entity's tax liability under this chapter for that taxable year.

(5) A business entity may not claim or carry forward a tax credit available under this part for a taxable year during which the business entity has claimed the targeted business income tax credit available under Section 63N-2-305.

(6) (a) On or before October 1, 2018, and every five years after October 1, 2018, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (6), the office shall provide by electronic means the following information for each calendar year to the Revenue and Taxation Interim Committee:

(i) the amount of tax credits provided in each development zone;

(ii) the number of new full-time employee positions reported to obtain tax credits in each development zone;

(iii) the amount of tax credits awarded for rehabilitating a building in each development zone;

(iv) the amount of tax credits awarded for investing in a plant, equipment, or other depreciable property in each development zone;

(v) the information related to the tax credit contained in the office's latest report to the Legislature under Section 63N-1-301; and

(vi) other information as requested by the Revenue and Taxation Interim Committee.

(c) The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (6)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 2. Section 59-10-1036 is enacted to read:

59-10-1036. Nonrefundable enterprise zone tax credit.

(1) As used in this section:

(a) "Business entity" means a claimant, estate, or trust that meets the definition of "business entity" as that term is defined in Section 63N-2-202.

(b) "Office" means the Governor's Office of Economic Development created in Section 63N-1-201.

(2) Subject to the provisions of this section, a business entity may claim a nonrefundable enterprise zone tax credit as described in Section 63N-2-213.

(3) The enterprise zone tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity for the taxable year.

(4) A business entity may carry forward a tax credit under this section for a period that does not exceed the next three taxable years, if the amount of the tax credit exceeds the business entity's tax liability under this chapter for that taxable year.

(5) A business entity may not claim or carry forward a tax credit available under this part for a taxable year during which the business entity has claimed the targeted business income tax credit available under Section 63N-2-305.

(6) (a) On or before October 1, 2018, and every five years after October 1, 2018, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (6), the office shall provide by electronic means the following information for each calendar year to the Revenue and Taxation Interim Committee:

(i) the amount of tax credits provided in each development zone;

(ii) the number of new full-time employee positions reported to obtain tax credits in each development zone;

(iii) the amount of tax credits awarded for rehabilitating a building in each development zone;

(iv) the amount of tax credits awarded for investing in a plant, equipment, or other depreciable property in each development zone;

(v) the information related to the tax credit contained in the office's latest report to the Legislature under Section 63N-1-301; and

(vi) other information as requested by the Revenue and Taxation Interim Committee.

(c) The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (6)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 3. Section 63N-2-202 is amended to read:

63N-2-202. Definitions.

As used in this part:

(1) "Business entity" means an entity, sole proprietorship, or individual:

(a) including a claimant, estate, or trust; and

(b) under which or by whom business is conducted or transacted.

(2) "Claimant" means a resident or nonresident person that has:

(a) Utah taxable income as defined in Section 59-7-101; or

(b) state taxable income under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information.

(3) "County applicant" means the governing authority of a county that meets the requirements for designation as an enterprise zone under Section 63N-2-204.

(4) "Estate" means a nonresident estate or a resident estate that has state taxable income under Title 59, Chapter 10, Part 2, Trusts and Estates.

(5) "Municipal applicant" means the governing authority of a city or town that meets the requirements for designation as an enterprise zone under Section 63N-2-204.

(6) "New full-time employee position" means a position that has been newly created in addition to the highest baseline count of employment positions that existed within the business entity during the previous three taxable years and ~~then~~ is filled by an employee working at least 30 hours per week:

(a) for a period of ~~not less than~~ at least six consecutive months; and

(b) where the period ends in the tax year for which the credit is claimed.

(7) "Nonrefundable tax credit" or "tax credit" means a tax credit that a business entity may:

(a) claim:

(i) as provided by statute; and

(ii) in an amount that does not exceed the business entity's tax liability for a taxable year under:

(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

(B) Title 59, Chapter 10, Individual Income Tax Act; and

(b) carry forward or carry back:

(i) if allowed by statute; and

(ii) to the extent that the amount of the tax credit exceeds the business entity's tax liability for a taxable year under:

(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

(B) Title 59, Chapter 10, Individual Income Tax Act.

(8) "Tax incentives" or "tax benefits" means the nonrefundable tax credits described in Section 63N-2-213.

(9) "Trust" means a nonresident trust or a resident trust that has state taxable income under Title 59, Chapter 10, Part 2, Trusts and Estates.

Section 4. Section 63N-2-203 is amended to read:

63N-2-203. Powers of the office.

The office shall:

(1) monitor the implementation and operation of this part and conduct a continuing evaluation of the progress made in the enterprise zones;

(2) evaluate an application for designation as an enterprise zone from a county applicant or a municipal applicant and determine if the applicant qualifies for that designation;

(3) provide technical assistance to county applicants and municipal applicants in developing applications for designation as enterprise zones;

(4) assist county applicants and municipal applicants designated as enterprise zones in obtaining assistance from the federal government and agencies of the state;

(5) assist a qualified business entity in obtaining the benefits of an incentive or inducement program authorized by this part; and

(6) as part of the annual written report described in Section ~~[63N-2-301]~~ 63N-1-301, prepare an annual evaluation ~~[based, in part, on data provided by the State Tax Commission that evaluates the]~~ that provides:

(a) based on data from the State Tax Commission, the total amount of tax credits claimed under this part;

(b) the total amount awarded in tax credits for each development zone;

(c) the number of new full-time employee positions reported to obtain tax credits in each development zone;

(d) the amount of tax credits awarded for rehabilitating a building in each development zone;

(e) the amount of tax credits awarded for investing in a plant, equipment, or other depreciable property in each development zone; and

(f) recommendations regarding the effectiveness of the program and any suggestions for legislation.

Section 5. Section 63N-2-204 is amended to read:

63N-2-204. Criteria for designation of enterprise zones -- Application.

(1) A county applicant seeking designation as an enterprise zone shall file an application with the office that, in addition to complying with the other requirements of this part:

(a) verifies that the county has a population of not more than ~~[50,000]~~ 70,000; and

(b) provides clear evidence of the need for development in the county.

(2) A municipal applicant seeking designation as an enterprise zone shall file an application with the office that, in addition to complying with other requirements of this part:

(a) verifies that the municipality has a population that does not exceed ~~[15,000]~~ 20,000;

(b) verifies that the municipality is within a county that has a population of not more than ~~[50,000]~~ 70,000; and

(c) provides clear evidence of the need for development in the municipality.

(3) An application filed under Subsection (1) or (2) shall be in a form and in accordance with procedures approved by the office, and shall include the following information:

(a) a plan developed by the county applicant or municipal applicant that identifies local contributions meeting the requirements of Section 63N-2-205;

(b) the county applicant or municipal applicant has a development plan that outlines:

(i) the types of investment and development within the zone that the county applicant or municipal applicant expects to take place if the incentives specified in this part are provided;

(ii) the specific investment or development reasonably expected to take place;

(iii) any commitments obtained from businesses;

(iv) the projected number of jobs that will be created and the anticipated wage level of those jobs;

(v) any proposed emphasis on the type of jobs created, including any affirmative action plans; and

(vi) a copy of the county applicant's or municipal applicant's economic development plan to demonstrate coordination between the zone and overall county or municipal goals;

(c) the county applicant's or municipal applicant's proposed means of assessing the effectiveness of the development plan or other programs within the

zone once they have been implemented within the zone;

(d) any additional information required by the office; and

(e) any additional information the county applicant or municipal applicant considers relevant to its designation as an enterprise zone.

Section 6. Section 63N-2-210 is amended to read:

63N-2-210. Revocation of designations.

(1) The office may revoke the designation of an enterprise zone~~;~~ if no businesses utilize the tax incentives during ~~any~~ a calendar year.

(2) Prior to that action, the office shall conduct a public hearing to determine reasons for inactivity and explore possible alternative actions.

Section 7. Section 63N-2-211 is amended to read:

63N-2-211. Disqualifying transfers.

Except in ~~counties~~ a county of the first or second class, tax incentives provided by this part are not available to ~~companies~~ a business entity that ~~close~~ closes or permanently ~~curtail~~ curtails operations in another part of the state in connection with a transfer of any part of its business operations to an enterprise zone, if the closure or permanent curtailment is reasonably expected to diminish employment in that part of the state.

Section 8. Section 63N-2-213 is amended to read:

63N-2-213. State tax credits.

(1) The office shall certify a business entity's eligibility for a tax credit described in this section.

(2) A business entity seeking to receive a tax credit as provided in this section shall provide the office with:

(a) an application for a tax credit certificate in a form approved by the office, including a certification, by an officer of the business entity, of a signature on the application; and

(b) documentation that demonstrates the business entity has met the requirements to receive the tax credit.

(3) If, after review of an application and documentation provided by a business entity as described in Subsection (2), the office determines that the application and documentation are inadequate to provide a reasonable justification for authorizing the tax credit, the office shall:

(a) deny the tax credit; or

(b) inform the business entity that the application or documentation was inadequate and ask the business entity to submit additional documentation.

(4) If, after review of an application and documentation provided by a business entity as

described in Subsection (2), the office determines that the application and documentation provide reasonable justification for authorizing a tax credit, the office shall:

(a) determine the amount of the tax credit to be granted to the business entity;

(b) issue a tax credit certificate to the business entity; and

(c) provide a duplicate copy of the tax credit certificate to the State Tax Commission.

(5) A business entity may not claim a tax credit under this section unless the business entity has a tax credit certificate issued by the office.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules describing:

(a) the form and content of an application for a tax credit under this section;

(b) the documentation requirements for a business entity to receive a tax credit certificate under this section; and

(c) administration of the program, including relevant timelines and deadlines.

~~[(1)]~~ (7) Subject to the limitations of Subsections ~~[(2)]~~ (8) through ~~[(4)]~~ (10), and if the requirements of this part are met, the following nonrefundable tax credits against a tax under Title 59, Chapter 7, Corporate Franchise and Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act, are applicable in an enterprise zone:

(a) a tax credit of \$750 may be claimed by a business entity for each new full-time employee position created within the enterprise zone;

(b) an additional \$500 tax credit may be claimed if the new full-time employee position created within the enterprise zone pays at least 125% of:

(i) the county average monthly nonagricultural payroll wage for the respective industry as determined by the Department of Workforce Services; or

(ii) if the county average monthly nonagricultural payroll wage is not available for the respective industry, the total average monthly nonagricultural payroll wage in the respective county where the enterprise zone is located;

(c) an additional tax credit of \$750 may be claimed if the new full-time employee position created within the enterprise zone is in a business entity that adds value to agricultural commodities through manufacturing or processing;

(d) an additional tax credit of \$200 may be claimed for two consecutive years for each new full-time employee position created within the enterprise zone that is filled by an employee who is insured under an employer-sponsored health insurance program if the employer pays at least 50% of the premium cost for the year for which the credit is claimed;

~~[(e) a tax credit of 50% of the value of a cash contribution to a private nonprofit corporation, except that the credit claimed may not exceed \$100,000;]~~

~~[(i) that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;]~~

~~[(ii) whose primary purpose is community and economic development; and]~~

~~[(iii) that has been accredited by the Governor's Rural Partnership Board;]~~

~~[(4)] (e) a tax credit of 25% of the first \$200,000 spent on rehabilitating a building in the enterprise zone that has been vacant for two years or more; and~~

~~[(5)] (f) an annual investment tax credit of 10% of the first \$250,000 in investment, and 5% of the next \$1,000,000 qualifying investment in plant, equipment, or other depreciable property.~~

~~[(2)] (8) (a) Subject to the limitations of Subsection ~~[(2)] (8)(b)~~, a business entity claiming ~~[tax credits]~~ a tax credit under Subsections ~~[(1)] (7)(a) through (d)~~ may claim the tax ~~[credits for up to]~~ credit for no more than 30 full-time employee positions ~~[per]~~ in a taxable year.~~

(b) A business entity that received a tax credit for one or more new full-time employee positions under Subsections ~~[(1)] (7)(a) through (d)~~ in a prior taxable year may claim a tax credit for a new full-time employee position in a subsequent taxable year under Subsections ~~[(1)] (7)(a) through (d)~~ if:

(i) the business entity has created a new full-time position within the enterprise zone; and

(ii) the total number of full-time employee positions at the business entity at any point during the tax year for which the tax credit is being claimed is greater than the highest number of full-time employee positions that existed at the business entity ~~[at any point during the taxable year immediately preceding the taxable year for which the credit is being claimed]~~ in the previous three taxable years.

(c) Construction jobs are not eligible for the tax credits under Subsections ~~[(1)] (7)(a) through (d)~~.

~~[(3)] (9) If the amount of a tax credit under this section exceeds a business entity's tax liability under this chapter for a taxable year, the business entity may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next three taxable years.~~

~~[(4)] (10) Tax credits under Subsections ~~[(1)] (7)(a) through ~~[(5)] (f)~~~~ may not be claimed by a business entity primarily engaged in retail trade or by a public utilities business.~~

~~[(5)] (11) A business entity that has no employees:~~

(a) may not claim tax credits under Subsections ~~[(1)] (7)(a) through (d)~~; and

(b) may claim tax credits under Subsections ~~[(1)] (7)(e) through ~~[(5)] (f)~~~~.

~~[(6)] (12) A business entity may not claim or carry forward a tax credit available under this part for a taxable year during which the business entity has claimed the targeted business income tax credit available under Section 63N-2-305.~~

Section 9. Effective date.

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

Section 10. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2016.

CHAPTER 12**H. B. 168**

Passed February 22, 2016

Approved March 4, 2016

Effective May 10, 2016

**TRANSPORTATION
FUNDING MODIFICATIONS**

Chief Sponsor: Johnny Anderson

Senate Sponsor: Alvin B. Jackson

LONG TITLE**General Description:**

This bill modifies the Transportation Code by amending provisions relating to the County of the First Class Highway Projects Fund.

Highlighted Provisions:

This bill:

- ▶ amends the authorized uses for revenue in the County of the First Class Highway Projects Fund; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

72-2-121, as last amended by Laws of Utah 2015, Chapter 421

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

Section 1. Section 72-2-121 is amended to read:**72-2-121. County of the First Class
Highway Projects Fund.**

(1) There is created a special revenue fund within the Transportation Fund known as the "County of the First Class Highway Projects Fund."

(2) The fund consists of money generated from the following revenue sources:

(a) any voluntary contributions received for new construction, major renovations, and improvements to highways within a county of the first class;

(b) the portion of the sales and use tax described in Subsection 59-12-2214(3)(b) deposited in or transferred to the fund;

(c) the portion of the sales and use tax described in Subsection 59-12-2217(2)(b) and required by Subsection 59-12-2217(8)(b) to be deposited in or transferred to the fund; and

(d) a portion of the local option highway construction and transportation corridor preservation fee imposed in a county of the first class under Section 41-1a-1222 deposited in or transferred to the fund.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) The executive director shall use the fund money only:

(a) to pay debt service and bond issuance costs for bonds issued under Sections 63B-16-102 and 63B-18-402;

(b) for right-of-way acquisition, new construction, major renovations, and improvements to highways within a county of the first class and to pay any debt service and bond issuance costs related to those projects, including improvements to a highway located within a municipality in a county of the first class where the municipality is located within the boundaries of more than a single county;

(c) for the construction, acquisition, use, maintenance, or operation of:

(i) an active transportation facility [~~that is~~] for nonmotorized vehicles [~~and~~];

(ii) multimodal transportation [~~and~~] that connects an origin with a destination; or

(iii) a facility that may include a:

(A) pedestrian or nonmotorized vehicle trail;

(B) nonmotorized vehicle storage facility;

(C) pedestrian or vehicle bridge; or

(D) vehicle parking lot or parking structure;

(d) for fiscal year 2012-13 only, to pay for or to provide funds to a municipality or county to pay for a portion of right-of-way acquisition, construction, reconstruction, renovations, and improvements to highways described in Subsections 72-2-121.4(7), (8), and (9);

(e) to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount required in Subsection 72-2-121.3(4)(c) minus the amounts transferred in accordance with Subsection 72-2-124(4)(a)(iv);

(f) for a fiscal year beginning on or after July 1, 2013, to pay debt service and bond issuance costs for \$30,000,000 of the bonds issued under Section 63B-18-401 for the projects described in Subsection 63B-18-401(4)(a);

(g) for a fiscal year beginning on or after July 1, 2013, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund, to transfer an amount equal to 50% of the revenue generated by the local option highway construction and transportation corridor preservation fee imposed under Section 41-1a-1222 in a county of the first class:

(i) to the legislative body of a county of the first class; and

(ii) to be used by a county of the first class for:

(A) highway construction, reconstruction, or maintenance projects; or

(B) the enforcement of state motor vehicle and traffic laws;

(h) for fiscal year 2015 only, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(f) has been made, to transfer an amount equal to the remainder of the revenue available in the fund for the 2015 fiscal year:

(i) to the legislative body of a county of the first class; and

(ii) to be used by a county of the first class for:

(A) highway construction, reconstruction, or maintenance projects; or

(B) the enforcement of state motor vehicle and traffic laws;

(i) for fiscal year 2015-16 only, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(f) has been made, to transfer an amount equal to \$25,000,000:

(i) to the legislative body of a county of the first class; and

(ii) to be used by the county for the purposes described in this section;

(j) for a fiscal year beginning on or after July 1, 2015, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(f) has been made, to annually transfer an amount equal to up to 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59-12-2214(3)(b) to the Transportation Investment Fund of 2005 created in Section 72-2-124 until \$28,079,000 has been deposited into the Transportation Investment Fund of 2005;

(k) for a fiscal year beginning after the amount described in Subsection (4)(j) has been repaid to the Transportation Investment Fund of 2005 until fiscal year 2030, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(f) has been made, to annually transfer an amount equal to up to 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59-12-2214(3)(b):

(i) to the legislative body of a county of the first class; and

(ii) to be used by the county for the purposes described in this section.

(5) The revenues described in Subsections (2)(b), (c), and (d) that are deposited in the fund and bond proceeds from bonds issued under Sections 63B-16-102 and 63B-18-402 are considered a local matching contribution for the purposes described under Section 72-2-123.

(6) The additional administrative costs of the department to administer this fund shall be paid from money in the fund.

(7) Notwithstanding any statutory or other restrictions on the use or expenditure of the revenue sources deposited into this fund, the Department of Transportation may use the money in this fund for any of the purposes detailed in Subsection (4).

CHAPTER 13**H. B. 140**

Passed February 23, 2016

Approved March 10, 2016

Effective March 10, 2016

**PUBLIC UTILITIES AND TECHNOLOGY
COMMITTEE NAME CHANGE**

Chief Sponsor: Stephen G. Handy

Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill updates references to the name of an interim committee.

Highlighted Provisions:

This bill:

- ▶ updates references to the name of the Public Utilities, Energy, and Technology Interim Committee.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

19-6-1203, as enacted by Laws of Utah 2011, Chapter 213
 53-2a-902, as renumbered and amended by Laws of Utah 2013, Chapter 295
 54-1-13, as enacted by Laws of Utah 2013, Chapter 311
 54-17-701, as last amended by Laws of Utah 2009, Chapter 344
 63B-3-301, as last amended by Laws of Utah 2013, Chapter 310
 63F-1-104, as last amended by Laws of Utah 2013, Chapters 53 and 310
 63F-1-201, as last amended by Laws of Utah 2011, Chapter 270
 63F-1-203, as last amended by Laws of Utah 2013, Chapter 53
 63F-1-404, as last amended by Laws of Utah 2011, Chapter 270
 63F-1-504, as last amended by Laws of Utah 2011, Chapter 270
 63F-1-604, as last amended by Laws of Utah 2013, Chapter 53
 63F-2-103, as enacted by Laws of Utah 2015, Chapter 371
 63M-4-302, as renumbered and amended by Laws of Utah 2008, Chapter 382
 63M-4-505, as enacted by Laws of Utah 2012, Chapter 410
 63M-4-605, as enacted by Laws of Utah 2015, Chapter 356
 69-4-1, as last amended by Laws of Utah 1998, Chapter 13

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

Section 1. Section 19-6-1203 is amended to read:**19-6-1203. Reporting requirements.**

(1) On or after July 1, 2011, a manufacturer may not offer a consumer electronic device for sale in the state unless the manufacturer, either individually, through a group manufacturer organization, or through the manufacturer's industry trade group, prepares and submits, subject to Subsection (2), a report on or before August 1 of each year to the department.

(2) The report required under Subsection (1):

(a) shall include a list of eligible programs, subject to Subsection (3); and

(b) may include:

(i) an existing collection, transportation, or recycling system for a consumer electronic device; and

(ii) an eligible program offered by:

(A) a consumer electronic device recycler;

(B) a consumer electronic device repair shop;

(C) a recycler of other commodities;

(D) a reuse organization;

(E) a not-for-profit corporation;

(F) a retailer; or

(G) another similar operation, including a local government collection event.

(3) The list required in Subsection (2)(a) may be in the form of a geographic map identifying the type and location of an eligible program.

(4) The department shall:

(a) compile the report required under Subsection (1); and

(b) beginning on October 31, 2012, submit annually on or before October 31 the compiled report to the Natural Resources, Agriculture, and Environment Interim Committee and the Public Utilities, Energy, and Technology Interim Committee.

Section 2. Section 53-2a-902 is amended to read:**53-2a-902. Energy emergency plan.**

(1) The division shall develop an energy emergency plan consistent with Title 53, Chapter 2a, Part 10, Energy Emergency Powers of the Governor Act.

(2) In developing the energy emergency plan, the division shall coordinate with:

(a) the Division of Public Utilities;

(b) the Division of Oil, Gas, and Mining;

(c) the Division of Air Quality; and

(d) the Department of Agriculture and Food with regard to weights and measures.

(3) The energy emergency plan shall:

(a) designate the division as the entity that will coordinate the implementation of the energy emergency plan;

(b) provide for annual review of the energy emergency plan;

(c) provide for cooperation with public utilities and other relevant private sector persons;

(d) provide a procedure for maintaining a current list of contact persons required under the energy emergency plan; and

(e) provide that the energy emergency plan may only be implemented if the governor declares:

(i) a state of emergency as provided in Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act; or

(ii) a state of emergency related to energy as provided in Title 53, Chapter 2a, Part 10, Energy Emergency Powers of the Governor Act.

(4) If an event requires the implementation of the energy emergency plan, the division shall report on that event and the implementation of the energy emergency plan to:

(a) the governor; and

(b) the Public Utilities, Energy, and Technology Interim Committee.

(5) If the energy emergency plan includes a procedure for obtaining information, the energy emergency plan shall incorporate reporting procedures that conform to existing requirements of federal, state, and local regulatory authorities wherever possible.

Section 3. Section 54-1-13 is amended to read:

54-1-13. Commission exploration and development of cleaner air options.

(1) The commission shall immediately initiate and conduct proceedings to explore and develop options and opportunities for advancing and promoting measures designed to result in cleaner air in the state through the enhanced use of alternative fuel vehicles, including:

(a) consideration of the role that gas corporations should play in the enhancement and expansion of the infrastructure and maintenance and other facilities for alternative fuel vehicles;

(b) the potential funding options available to pay for the enhancement and expansion of infrastructure and facilities for alternative fuel vehicles;

(c) the role local government, including any local government entity established for the purpose of facilitating conversion to alternative fuel vehicles and of promoting the enhancement and expansion

of the infrastructure and facilities for those vehicles, can or should play; and

(d) the most effective ways to overcome any obstacles to converting to alternative fuel vehicles and to enhancing and expanding the infrastructure and facilities for alternative fuel vehicles.

(2) As soon as an interlocal entity described in Subsection 11-13-224(2) is created, the commission shall seek, encourage, and accept the interlocal entity's participation in the commission's proceedings under this section.

(3) By September 30, 2013, the commission and the interlocal entity described in Subsection 11-13-224(2) shall report to the governor, the Legislative Management Committee, and the Public Utilities, Energy, and Technology Interim Committee:

(a) the results of the commission proceedings under Subsection (1); and

(b) recommendations for specific actions to implement mechanisms to provide funding for the enhancement and expansion of the infrastructure and facilities for alternative fuel vehicles.

Section 4. Section 54-17-701 is amended to read:

54-17-701. Rules for carbon capture and geological storage.

(1) By January 1, 2011, the Division of Water Quality and the Division of Air Quality, on behalf of the Board of Water Quality and the Board of Air Quality, respectively, in collaboration with the commission and the Division of Oil, Gas, and Mining and the Utah Geological Survey, shall present recommended rules to the Legislature's Administrative Rules Review Committee for the following in connection with carbon capture and accompanying geological sequestration of captured carbon:

(a) site characterization approval;

(b) geomechanical, geochemical, and hydrogeological simulation;

(c) risk assessment;

(d) mitigation and remediation protocols;

(e) issuance of permits for test, injection, and monitoring wells;

(f) specifications for the drilling, construction, and maintenance of wells;

(g) issues concerning ownership of subsurface rights and pore space;

(h) allowed composition of injected matter;

(i) testing, monitoring, measurement, and verification for the entirety of the carbon capture and geologic sequestration chain of operations, from the point of capture of the carbon dioxide to the sequestration site;

(j) closure and decommissioning procedure;

(k) short- and long-term liability and indemnification for sequestration sites;

(l) conversion of enhanced oil recovery operations to carbon dioxide geological sequestration sites; and

(m) other issues as identified.

(2) The entities listed in Subsection (1) shall report to the Legislature's Administrative Rules Review Committee any proposals for additional statutory changes needed to implement rules contemplated under Subsection (1).

(3) On or before July 1, 2009, the entities listed in Subsection (1) shall submit to the Legislature's Public Utilities, Energy, and Technology and Natural Resources, Agriculture, and Environment Interim Committees a progress report on the development of the recommended rules required by this part.

(4) The recommended rules developed under this section apply to the injection of carbon dioxide and other associated injectants in allowable types of geological formations for the purpose of reducing emissions to the atmosphere through long-term geological sequestration as required by law or undertaken voluntarily or for subsequent beneficial reuse.

(5) The recommended rules developed under this section do not apply to the injection of fluids through the use of Class II injection wells as defined in 40 C.F.R. 144.6(b) for the purpose of enhanced hydrocarbon recovery.

(6) Rules recommended under this section shall:

(a) ensure that adequate health and safety standards are met;

(b) minimize the risk of unacceptable leakage from the injection well and injection zone for carbon capture and geologic sequestration; and

(c) provide adequate regulatory oversight and public information concerning carbon capture and geologic sequestration.

Section 5. Section 63B-3-301 is amended to read:

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

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

(a) the lease purchase obligation; or

(b) lease rental payments under the lease purchase obligation.

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

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

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

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

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

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

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

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

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

executive director of the Governor's Office of Management and Budget.

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

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

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

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

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

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

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

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

containing a minimum of 300 beds, together with additional amounts necessary to:

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

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

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

(a) the Legislative Management Committee, the Interim Appropriation Subcommittees for General Government and Capital Facilities and Executive Offices, Courts, and Corrections, the Office of the Legislative Fiscal Analyst, the Governor's Office of Management and Budget, and the State Building Board participate in a review of the proposed facility design for the Courts Complex no later than December 1994; and

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

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

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

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

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

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

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

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

(B) in conjunction with the Division of Facilities Construction and Management, determine the best

methodology for design and construction of the fully funded facility;

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

(f) the Division of Facilities Construction and Management issue a Request for Proposal for one of the facilities, with that facility designed and constructed entirely by the winning firm;

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

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

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

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

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

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

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

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

(b) the master plan:

(i) establish priorities for development;

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

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

(c) the results of the effort be reported to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee and Infrastructure and General Government Appropriations Subcommittee.

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

(a) bond reserves to plan, design, and construct the Kingsbury Hall renovation under the

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

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

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

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

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

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

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

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

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

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

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

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

(a) federal funds to plan, design, and construct a Community Services Building under the supervision of the director of the Division of Facilities Construction and Management unless

supervisory authority is delegated by the director; and

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

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

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

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

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

(21) It is the intent of the Legislature that the Bridgerland Applied Technology Center and the Ogden-Weber Applied Technology Center projects as designed in fiscal year 1995 be considered as the highest priority projects for construction funding in fiscal year 1996.

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

(a) the Division of Facilities Construction and Management complete physical space utilization standards by June 30, 1995, for the use of technology education activities;

(b) these standards are to be developed with and approved by the State Office of Education, the Board of Regents, and the Utah State Building Board;

(c) these physical standards be used as the basis for:

(i) determining utilization of any technology space based on number of stations capable and occupied for any given hour of operation; and

(ii) requests for any new space or remodeling;

(d) the fiscal year 1995 projects at the Bridgerland Applied Technology Center and the

Ogden-Weber Applied Technology Center are exempt from this process; and

(e) the design of the Davis Applied Technology Center take into account the utilization formulas established by the Division of Facilities Construction and Management.

(23) It is the intent of the Legislature that Utah Valley State College may use the money from the bond allocated to the remodel of the Signetics building to relocate its technical education programs at other designated sites or facilities under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(24) It is the intent of the Legislature that the money provided for the fiscal year 1995 project for the Bridgerland Applied Technology Center be used to design and construct the space associated with Utah State University and design the technology center portion of the project.

(25) It is the intent of the Legislature that the governor provide periodic reports on the expenditure of the funds provided for electronic technology, equipment, and hardware to the Public Utilities, Energy, and Technology Interim Committee, the Infrastructure and General Government Appropriations Subcommittee, and the Legislative Management Committee.

Section 6. Section 63F-1-104 is amended to read:

63F-1-104. Purposes.

The department shall:

(1) lead state executive branch agency efforts to reengineer the state's information technology architecture with the goal of coordinating central and individual agency information technology in a manner that:

(a) ensures compliance with the executive branch agency strategic plan; and

(b) ensures that cost-effective, efficient information and communication systems and resources are being used by agencies to:

(i) reduce data, hardware, and software redundancy;

(ii) improve system interoperability and data accessibility between agencies; and

(iii) meet the agency's and user's business and service needs;

(2) coordinate an executive branch strategic plan for all agencies;

(3) each year, in coordination with the governor's office, convene a group of public and private sector information technology and data security experts to identify best practices from agencies and other public and private sector entities, including best practices for data and information technology system security standards;

(4) develop and implement processes to replicate information technology best practices and

standards identified in Subsection (3), throughout the executive branch;

(5) by July 1, 2015, and at least once every two years thereafter:

(a) evaluate the adequacy of the department's and the executive branch agencies' data and information technology system security standards through an independent third party assessment; and

(b) communicate the results of the independent third party assessment to the appropriate executive branch agencies and to the president of the Senate and the speaker of the House of Representatives;

(6) oversee the expanded use and implementation of project and contract management principles as they relate to information technology projects within the executive branch;

(7) serve as general contractor between the state's information technology users and private sector providers of information technology products and services;

(8) work toward building stronger partnering relationships with providers;

(9) develop service level agreements with executive branch departments and agencies to ensure quality products and services are delivered on schedule and within budget;

(10) develop standards for application development including a standard methodology and cost-benefit analysis that all agencies shall utilize for application development activities;

(11) determine and implement statewide efforts to standardize data elements and determine data ownership assignments among executive branch agencies;

(12) develop systems and methodologies to review, evaluate, and prioritize existing information technology projects within the executive branch and report to the governor and the Public Utilities, Energy, and Technology Interim Committee on a semiannual basis regarding the status of information technology projects; and

(13) assist the Governor's Office of Management and Budget with the development of information technology budgets for agencies.

Section 7. Section 63F-1-201 is amended to read:

63F-1-201. Chief information officer -- Appointment -- Powers -- Reporting.

(1) The director of the department shall serve as the state's chief information officer.

(2) The chief information officer shall:

(a) advise the governor on information technology policy; and

(b) perform those duties given the chief information officer by statute.

(3) (a) The chief information officer shall report annually to:

(i) the governor; and

(ii) the Public Utilities, Energy, and Technology Interim Committee.

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

(i) summarize the state's current and projected use of information technology;

(ii) summarize the executive branch strategic plan including a description of major changes in the executive branch strategic plan; and

(iii) provide a brief description of each state agency's information technology plan.

(4) (a) In accordance with this section, the chief information officer shall prepare an interbranch information technology coordination plan that provides for the coordination where possible of the development, acquisition, and maintenance of information technology and information systems of:

(i) the executive branch;

(ii) the judicial branch;

(iii) the legislative branch;

(iv) the Board of Regents; and

(v) the State Board of Education.

(b) In the development of the interbranch coordination plan, the chief information officer shall consult with the entities described in Subsection (4)(a).

(c) The interbranch coordination plan:

(i) is an advisory document; and

(ii) does not bind any entity described in Subsection (4)(a).

(d) (i) The chief information officer shall submit the interbranch coordination plan to the Public Utilities, Energy, and Technology Interim Committee for comment.

(ii) The chief information officer may modify the interbranch coordination plan:

(A) at the request of the Public Utilities, Energy, and Technology Interim Committee; or

(B) to improve the coordination between the entities described in Subsection (4)(a).

(iii) Any amendment to the interbranch coordination plan is subject to this Subsection (4) in the same manner as the interbranch coordination plan is subject to this Subsection (4).

(5) In a manner consistent with the interbranch coordination plan created in accordance with Subsection (4), the chief information officer shall maintain liaisons with:

(a) the judicial branch;

(b) the legislative branch;

- (c) the Board of Regents;
- (d) the State Board of Education;
- (e) local government;
- (f) the federal government;
- (g) business and industry; and
- (h) those members of the public who use information technology or systems of the state.

Section 8. Section 63F-1-203 is amended to read:

63F-1-203. Executive branch information technology strategic plan.

(1) In accordance with this section, the chief information officer shall prepare an executive branch information technology strategic plan:

- (a) that complies with this chapter; and
- (b) which shall include:
 - (i) a strategic plan for the:
 - (A) interchange of information related to information technology between executive branch agencies;
 - (B) coordination between executive branch agencies in the development and maintenance of information technology and information systems, including the coordination of agency information technology plans described in Section 63F-1-204; and
 - (C) protection of the privacy of individuals who use state information technology or information systems, including the implementation of industry best practices for data and system security that are identified in Subsection 63F-1-104(3);
 - (ii) priorities for the development and implementation of information technology or information systems including priorities determined on the basis of:
 - (A) the importance of the information technology or information system; and
 - (B) the time sequencing of the information technology or information system; and
 - (iii) maximizing the use of existing state information technology resources.

(2) In the development of the executive branch strategic plan, the chief information officer shall consult with:

- (a) all cabinet level officials;
- (b) the advisory board created in Section 63F-1-202; and
- (c) the group convened in accordance with Subsection 63F-1-104(3).

(3) (a) Unless withdrawn by the chief information officer or the governor in accordance with Subsection (3)(b), the executive branch strategic plan takes effect 30 days after the day on which the executive branch strategic plan is submitted to:

- (i) the governor; and
 - (ii) the Public Utilities, Energy, and Technology Interim Committee.
- (b) The chief information officer or the governor may withdraw the executive branch strategic plan submitted under Subsection (3)(a) if the governor or chief information officer determines that the executive branch strategic plan:
- (i) should be modified; or
 - (ii) for any other reason should not take effect.

(c) The Public Utilities, Energy, and Technology Interim Committee may make recommendations to the governor and to the chief information officer if the commission determines that the executive branch strategic plan should be modified or for any other reason should not take effect.

(d) Modifications adopted by the chief information officer shall be resubmitted to the governor and the Public Utilities, Energy, and Technology Interim Committee for their review or approval as provided in Subsections (3)(a) and (b).

(4) (a) The chief information officer shall, on or before January 1, 2014, and each year thereafter, modify the executive branch information technology strategic plan to incorporate security standards that:

- (i) are identified as industry best practices in accordance with Subsections 63F-1-104(3) and (4); and
- (ii) can be implemented within the budget of the department or the executive branch agencies.

(b) The chief information officer shall inform the speaker of the House of Representatives and the president of the Senate on or before January 1 of each year if best practices identified in Subsection (4)(a)(i) are not adopted due to budget issues considered under Subsection (4)(a)(ii).

(5) The executive branch strategic plan is to be implemented by executive branch agencies through each executive branch agency adopting an agency information technology plan in accordance with Section 63F-1-204.

Section 9. Section 63F-1-404 is amended to read:

63F-1-404. Duties of the division.

The division shall:

- (1) develop and implement an effective enterprise architecture governance model for the executive branch;
- (2) provide oversight of information technology projects that impact statewide information technology services, assets, or functions of state government to:
 - (a) control costs;
 - (b) ensure business value to a project;
 - (c) maximize resources;
 - (d) ensure the uniform application of best practices; and

- (e) avoid duplication of resources;
- (3) develop a method of accountability to agencies for services provided by the division through service agreements with the agencies;
- (4) beginning September 1, 2006, and each September 1 thereafter, provide the chief information officer and the Public Utilities, Energy, and Technology Interim Committee with performance measures used by the division to measure the quality of service delivered by the division and the results of the performance measures;
- (5) serve as a project manager for enterprise architecture which includes the management of applications, standards, and procurement of enterprise architecture;
- (6) coordinate the development and implementation of advanced state telecommunication systems;
- (7) provide services including technical assistance:
- (a) to executive branch agencies and subscribers to the services; and
- (b) related to information technology or telecommunications;
- (8) establish telecommunication system specifications and standards for use by:
- (a) one or more executive branch agencies; or
- (b) one or more entities that subscribe to the telecommunication systems in accordance with Section 63F-1-303;
- (9) coordinate state telecommunication planning in cooperation with:
- (a) state telecommunication users;
- (b) executive branch agencies; and
- (c) other subscribers to the state's telecommunication systems;
- (10) cooperate with the federal government, other state entities, counties, and municipalities in the development, implementation, and maintenance of:
- (a) (i) governmental information technology; or
- (ii) governmental telecommunication systems; and
- (b) (i) as part of a cooperative organization; or
- (ii) through means other than a cooperative organization;
- (11) establish, operate, manage, and maintain:
- (a) one or more state data centers; and
- (b) one or more regional computer centers;
- (12) design, implement, and manage all state-owned, leased, or rented land, mobile, or radio telecommunication systems that are used in

the delivery of services for state government or its political subdivisions;

(13) in accordance with the executive branch strategic plan, implement minimum standards to be used by the division for purposes of compatibility of procedures, programming languages, codes, and media that facilitate the exchange of information within and among telecommunication systems; and

(14) provide the chief information officer with an analysis of an executive branch agency information technology plan that includes:

(a) an assessment of how the implementation of the agency information technology plan will affect the costs, operations, and services of:

- (i) the department; and
- (ii) other executive branch agencies; and
- (b) any recommended changes to the plan.

Section 10. Section 63F-1-504 is amended to read:

63F-1-504. Duties of the division.

The division shall:

(1) establish standards for the information technology needs of a collection of executive branch agencies or programs that share common characteristics relative to the types of stakeholders they serve, including:

- (a) project management;
- (b) application development; and
- (c) procurement;

(2) provide oversight of information technology standards that impact multiple executive branch agency information technology services, assets, or functions to:

- (a) control costs;
- (b) ensure business value to a project;
- (c) maximize resources;

(d) ensure the uniform application of best practices; and

- (e) avoid duplication of resources;

(3) in accordance with Section 63F-1-204, provide the chief information officer a written analysis of any agency information technology plan provided to the division, which shall include:

(a) a review of whether the agency's technology projects impact multiple agencies and if so, whether the information technology projects are appropriately designed and developed;

(b) an assessment of whether the agency plan complies with the state information architecture; and

(c) an assessment of whether the information technology projects included in the agency plan comply with policies, procedures, and rules adopted by the department to ensure that:

- (i) information technology projects are phased in;
- (ii) funding is released in phases;
- (iii) an agency's authority to proceed to the next phase of an information technology project is contingent upon the successful completion of the prior phase; and

(iv) one or more specific deliverables is identified for each phase of a technology project;

(4) establish a system of accountability to user agencies through the use of service agreements;

(5) each year, provide the chief information officer and the Public Utilities, Energy, and Technology Interim Committee with performance measures used by the division to measure the quality of services delivered by the division and results of those measures; and

(6) establish administrative rules in accordance with Section 63F-1-206 and as required by Section 63F-1-506.

Section 11. Section 63F-1-604 is amended to read:

63F-1-604. Duties of the division.

The division shall:

(1) be responsible for providing support to executive branch agencies for an agency's information technology assets and functions that are unique to the executive branch agency and are mission critical functions of the agency;

(2) conduct audits of an executive branch agency when requested under the provisions of Section 63F-1-208;

(3) conduct cost-benefit analysis of delegating a department function to an agency in accordance with Section 63F-1-208;

(4) provide in-house information technology staff support to executive branch agencies;

(5) establish accountability and performance measures for the division to assure that the division is:

(a) meeting the business and service needs of the state and individual executive branch agencies; and

(b) implementing security standards in accordance with Subsection 63F-1-203(4);

(6) establish a committee composed of agency user groups for the purpose of coordinating department services with agency needs;

(7) assist executive branch agencies in complying with the requirements of any rule adopted by the chief information officer; and

(8) by July 1, 2013, and each July 1 thereafter, report to the Public Utilities, Energy, and Technology Interim Committee on the performance measures used by the division under Subsection (5) and the results.

Section 12. Section 63F-2-103 is amended to read:

63F-2-103. Data Security Management Council -- Report to Legislature -- Recommendations.

(1) The council chair or the council chair's designee shall report annually no later than October 1 of each year to the Public Utilities, Energy, and Technology Interim Committee.

(2) The council's annual report shall contain:

(a) a summary of topics the council studied during the year;

(b) best practice recommendations for state government; and

(c) recommendations for implementing the council's best practice recommendations.

Section 13. Section 63M-4-302 is amended to read:

63M-4-302. Legislative committee review.

The Natural Resources, Agriculture, and Environment Interim Committee and the Public Utilities, Energy, and Technology Interim Committee shall review the state energy policy annually and propose any changes to the Legislature.

Section 14. Section 63M-4-505 is amended to read:

63M-4-505. Report to the Legislature.

The office shall report annually to the Public Utilities, Energy, and Technology Interim Committee and the Revenue and Taxation Interim Committee describing:

(1) its success in attracting alternative energy projects to the state and the resulting increase in new state revenues under this part;

(2) the amount of tax credits the office has granted or will grant and the time period during which the tax credits have been or will be granted; and

(3) the economic impact on the state by comparing new state revenues to tax credits that have been or will be granted under this part.

Section 15. Section 63M-4-605 is amended to read:

63M-4-605. Report to the Legislature.

The office shall report annually to the Public Utilities, Energy, and Technology Interim Committee and the Revenue and Taxation Interim Committee describing:

(1) the office's success in attracting high cost infrastructure projects to the state and the resulting increase in infrastructure-related revenue under this part;

(2) the amount of tax credits the office has granted or will grant and the time period during which the tax credits have been or will be granted; and

(3) the economic impact on the state by comparing infrastructure-related revenue to tax credits that have been or will be granted under this part.

Section 16. Section 69-4-1 is amended to read:

69-4-1. Telecommunication network review.

(1) Before the creation, expansion, or upgrade of a state-owned or state-funded telecommunication network, whether voice, data, or video transmission, the agency or entity proposing any change shall submit a plan to the governor detailing the proposed changes.

(2) If, after consultation with the agency or entity it is the opinion of the governor that implementation of the plan would result in significant impact on telephone ratepayers, the governor shall direct the Public Service Commission to prepare an advisory report detailing how implementing the plan will affect telephone ratepayers where the plan would be in effect.

(3) (a) The Public Service Commission shall complete and provide the advisory report to the governor, the agency or entity involved, and the Public Utilities, Energy, and Technology Interim Committee within 60 days after receiving the governor's request.

(b) The Public Service Commission may not conduct any public hearings or proceedings in the preparation of the report.

Section 17. Contingent effective date.

If approved by two-thirds of all the members elected to each house, and if H.J.R. 3, Joint Resolution Changing an Interim Committee Name, 2016 General Session, passes, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 14

H. B. 320

Passed March 3, 2016
 Approved March 10, 2016
 Effective March 10, 2016

METRO TOWNSHIP REVISIONS

Chief Sponsor: LaVar Christensen
 Senate Sponsor: Wayne A. Harper
 Cosponsors: Steve Eliason
 Eric K. Hutchings

LONG TITLE**General Description:**

This bill modifies provisions related to the election of metro township council members.

Highlighted Provisions:

This bill:

- ▶ provides for council members of a metro township with a population of 10,000 or more to be elected by district;
- ▶ provides for council members of a metro township with a population of less than 10,000 to be elected at-large;
- ▶ addresses the status of a candidate's declaration of candidacy for a metro township council in a metro township with a population of less than 10,000; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:**AMENDS:**

- 10-2a-410, as enacted by Laws of Utah 2015, Chapter 352
 10-2a-411, as enacted by Laws of Utah 2015, Chapter 352
 10-3-205.5, as last amended by Laws of Utah 2015, Chapter 352
 63I-2-210, as last amended by Laws of Utah 2015, Chapters 157, 352, and 465 Utah Code Sections Affected by Revisor Instructions:
 10-2a-410, as enacted by Laws of Utah 2015, Chapter 352

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

Section 1. Section 10-2a-410 is amended to read:

10-2a-410. Determination of metro township districts -- Determination of metro township or city initial officer terms -- Adoption of proposed districts.

(1) (a) If a metro township with a population of 10,000 or more is incorporated in accordance with an election held under Section 10-2a-404:

~~[(a)]~~ (i) each of the five metro township council members shall be elected by district; and

~~[(b)]~~ (ii) the boundaries of the five council districts for election and the terms of office shall be designated and determined in accordance with this section.

~~[(2)-(a)]~~ (b) If a metro township with a population of less than 10,000 or a town is incorporated at an election held in accordance with Section 10-2a-404, the five council members shall be elected ~~[at large]~~ at-large for terms as designated and determined in accordance with this section.

~~[(b)]~~ (c) If a city is incorporated at an election held in accordance with Section 10-2a-404:

(i) (A) the four members of the council district who are not the mayor shall be elected by district; and

(B) the boundaries of the four council districts for election and the term of office shall be designated and determined in accordance with this section; and

(ii) the mayor shall be elected ~~[at large]~~ at-large for a term designated and determined in accordance with this section.

~~[(3)]~~ (2) (a) No later than 90 days after the election day on which the metro township, city, or town is successfully incorporated under this part, the legislative body of the county in which the metro township, city, or town is located shall adopt by resolution:

(i) subject to Subsection ~~[(3)]~~ (2)(b), for each incorporated metro township, city, or town, the council terms for a length of time in accordance with this section; and

(ii) (A) for a metro township with a population of 10,000 or more, the boundaries of the five council districts; and

(B) for a city, the boundaries of the four council districts.

(b) (i) For each metro township, city, or town, the county legislative body shall set the initial terms of the members of the metro township council, city council, or town council so that:

(A) approximately half the members of the council, including the mayor in the case of a city, are elected to serve an initial term, of no less than one year, that allows their successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(1); and

(B) the remaining members of the council are elected to serve an initial term, of no less than one year, that allows their successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(2).

(ii) For a metro township with a population of 10,000 or more, the county legislative body shall divide the metro township into five council districts that comply with Section 10-3-205.5.

(iii) For a city, the county legislative body shall divide the city into four council districts that comply with Section 10-3-205.5.

~~[(4)]~~ (3) (a) Within 20 days of the county legislative body's adoption of a resolution under

Subsection ~~[(3)]~~ (2), the county clerk shall publish, in accordance with Subsection ~~[(4)]~~ (3)(b), notice containing:

(i) if applicable, a description of the boundaries, as designated in the resolution, of:

(A) for a metro township with a population of 10,000 or more, the metro township council districts; or

(B) the city council districts [as designated in the resolution];

(ii) information about the deadline for filing a declaration of candidacy for those seeking to become candidates for metro township council, city council, town council, or city mayor, respectively; and

(iii) information about the length of the initial term of city mayor or each of the metro township, city, or town council offices, as described in the resolution.

(b) The notice under Subsection ~~[(4)]~~ (3)(a) shall be published:

(i) in a newspaper of general circulation within the metro township, city, or town at least once a week for two successive weeks; and

(ii) in accordance with Section 45-1-101 for two weeks.

(c) (i) In accordance with Subsection ~~[(4)]~~ (3)(b)(i), if there is no newspaper of general circulation within the future metro township, city, or town, the county clerk shall post at least one notice per 1,000 population in conspicuous places within the future metro township, city, or town that are most likely to give notice to the residents of the future metro township, city, or town.

(ii) The notice under Subsection ~~[(4)]~~ (3)(c)(i) shall contain the information required under Subsection ~~(4)(a)~~.

(iii) The county clerk shall post the notices under Subsection ~~[(4)]~~ (3)(c)(i) at least seven days before the deadline for filing a declaration of candidacy under Subsection ~~[(4)]~~ (3)(d)(i).

(d) (i) A person seeking to become a candidate for metro township, city, or town council or city mayor shall, in accordance with Section 20A-9-202, file a declaration of candidacy with the clerk of the county in which the metro township, city, or town is located for an election described in Section 10-2a-411.

(ii) (A) On the effective date of this bill, a candidate for metro township council in a metro township with a population of less than 10,000 who filed a declaration of candidacy for the metro township council before the effective date of this bill is an at-large candidate, not a district candidate, for the metro township council.

(B) The county clerk shall send a letter to each affected candidate by certified mail that explains the change described in Subsection (3)(d)(ii)(A).

Section 2. Section 10-2a-411 is amended to read:

10-2a-411. Election of officers of new city, town, or metro township.

(1) For the election of the initial office holders of a metro township, city, or town, respectively, incorporated under Section 10-2a-404, the county legislative body shall:

(a) unless a primary election is prohibited by Subsection 20A-9-404(2), hold a primary election at the next regular primary election, as described in Section 20A-1-201.5, following the November 3, 2015, election to incorporate; and

(b) hold a final election at the next regular general election date following the election to incorporate.

(2) ~~[An election]~~ The number of officers elected under Subsection (1) ~~[for the officers of]:~~

(a) for a metro township [shall be consistent with the number of council members as described in Subsection 10-2a-404(1)(b)(i); and], regardless of the metro township's population, shall be consistent with the number of council members described in Subsection 10-2a-404(1)(b)(i); or

(b) for a city or town, shall be consistent with the number of council members, including the city mayor as a member of a city council, described in Subsection 10-2a-404(1)(b)(ii).

~~[(3) (a) (i) The county clerk shall publish notice of an election under this section:]~~

~~[(A) at least once a week for two successive weeks in a newspaper of general circulation within the future metro township, city, or town; and]~~

~~[(B) in accordance with Section 45-1-101 for two weeks.]~~

~~[(ii) The later notice under Subsection (3)(a)(i) shall be at least one day but no more than seven days before the election.]~~

~~[(b) (i) In accordance with Subsection (3)(a)(i)(A), if there is no newspaper of general circulation within the future metro township, city, or town, the county clerk shall post at least one notice of the election per 1,000 population in conspicuous places within the future metro township, city, or town that are most likely to give notice of the election to the voters.]~~

~~[(ii) The county clerk shall post the notices under Subsection (3)(b)(i) at least seven days before each election under Subsection (1).]~~

~~[(4)] (3) (a) Until the metro township, city, or town is incorporated, the county clerk is the election officer for all purposes in an election of officers of the metro township, city, or town.~~

(b) The county clerk is responsible to ensure that:

(i) if applicable, the primary election described in Subsection (1)(a) is held on the date described in Subsection (1)(a);

(ii) the final election described in Subsection (1)(b) is held on the date described in Subsection (1)(b); and

(iii) the ballot for each election includes each office that is required to be included for officials in the metro township, city, or town, and the length of term of each office.

~~[(5)]~~ (4) The officers elected at an election described in Subsection (1)(b) shall take office at noon on the first Monday in January next following the election.

Section 3. Section 10-3-205.5 is amended to read:

10-3-205.5. At-large election of officers -- Election of commissioners or council members.

(1) Except as provided in Subsection (2), (3), or (4), the officers of each city shall be elected in an at-large election held at the time and in the manner provided for electing municipal officers.

(2) (a) The governing body of a city may by ordinance provide for the election of some or all commissioners or council members, as the case may be, by district equal in number to the number of commissioners or council members elected by district.

(b) (i) Each district shall be of substantially equal population as the other districts.

(ii) Within six months after the Legislature completes its redistricting process, the governing body of each city that has adopted an ordinance under Subsection (2)(a) shall make any adjustments in the boundaries of the districts as may be required to maintain districts of substantially equal population.

(3) (a) The municipal council members of a metro township, as defined in Section 10-2a-403, are elected:

(i) for a metro township with a population of 10,000 or more, by district in accordance with Subsection 10-2a-410(1)(a)~~(i)~~; or

(ii) ~~[at-large]~~ for a metro township with a population of less than 10,000, at-large in accordance with Subsection 10-2a-410(1)(b).

(b) The council districts in a metro township with a population of 10,000 or more shall comply with the requirements of Subsections (2)(b)(i) and (ii).

(4) (a) For a city incorporated in accordance with Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015:

(i) the council members are elected by district in accordance with Section 10-2a-410; and

(ii) the mayor is elected ~~[at-large]~~ at-large in accordance with Section 10-2a-410.

(b) The council districts in a city described in Subsection (4)(a) shall comply with the requirements of Subsections (2)(b)(i) and (ii).

Section 4. Section 63I-2-210 is amended to read:

63I-2-210. Repeal dates -- Title 10.

(1) Subsection 10-2a-106(2), the language that states “, including a township incorporation procedure as defined in Section 10-2a-105,” is repealed July 1, 2016.

(2) Subsection 10-2a-410(3)(d)(ii) is repealed January 1, 2017.

~~[(2)]~~ (3) Section 10-2a-105 is repealed July 1, 2016.

~~[(3)]~~ (4) Subsection 10-9a-304(2) is repealed June 1, 2016.

Section 5. Effective date.

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

Section 6. Revisor instructions.

It is the intent of the Legislature that, in preparing the Utah Code database for publication, the Office of Legislative Research and General Counsel replace the phrase “the effective date of this bill” in Subsection 10-2a-410(3)(d)(ii) with the bill's actual effective date.

CHAPTER 15**H. B. 216**

Passed March 4, 2016
 Approved March 14, 2016
 Effective March 14, 2016

**UTAH EDUCATIONAL
 SAVINGS PLAN AMENDMENTS**

Chief Sponsor: Stewart Barlow
 Senate Sponsor: Stephen H. Urquhart

LONG TITLE**General Description:**

This bill amends provisions relating to the Utah Uniform Probate Code.

Highlighted Provisions:

This bill:

- ▶ amends the Utah Uniform Probate Code so that custodial property is created and a transfer is made when contributions are made into a custodial account at the Utah Educational Savings Plan; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

75-5a-110, as enacted by Laws of Utah 1990, Chapter 272

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

Section 1. Section 75-5a-110 is amended to read:

75-5a-110. Manner of creating custodial property and effecting transfer -- Designation of initial custodian -- Control.

(1) Custodial property is created and a transfer is made when:

(a) an uncertificated security or a certificated security in registered form is either:

(i) registered in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for (name of minor) under the Uniform Transfers to Minors Act"; or

(ii) delivered if in certificated form, or any document necessary for the transfer of an uncertificated security is delivered, together with any necessary endorsement, to an adult other than the transferor or to a trust company as custodian, accompanied by an instrument in substantially the form in Subsection (2);

(b) money is paid or delivered, or a security held in the name of a broker, financial institution, or its nominee is transferred to a broker, or financial institution for credit to an account in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the

words: "as custodian for (name of minor) under the Uniform Transfers to Minors Act";

(c) the ownership of a life or endowment insurance policy or annuity contract is either:

(i) registered with the issuer in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for (name of minor) under the Uniform Transfers to Minors Act"; or

(ii) assigned in a writing delivered to an adult other than the transferor or to a trust company whose name in the assignment is followed in substance by the words: "as custodian for (name of minor) under the Uniform Transfers to Minors Act";

(d) an irrevocable exercise of a power of appointment or an irrevocable present right to future payment under a contract is the subject of a written notification delivered to the payor, issuer, or other obligor that the right is transferred to the transferor, an adult other than the transferor, or a trust company, whose name in the notification is followed in substance by the words: "as custodian for (name of minor) under the Uniform Transfers to Minors Act";

(e) an interest in real property is recorded in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for (name of minor) under the Uniform Transfers to Minors Act";

(f) a certificate of title issued by a department or agency of a state or of the United States which evidences title to tangible personal property is either:

(i) issued in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for (name of minor) under the Uniform Transfers to Minors Act"; or

(ii) delivered to an adult other than the transferor or to a trust company, endorsed to that person followed in substance by the words: "as custodian for (name of minor) under the Uniform Transfers to Minors Act"; [øø]

(g) an interest in any property not described in Subsections (1)(a) through (f) is transferred to an adult other than the transferor or to a trust company by a written instrument in substantially the form set forth in Subsection (2)[-]; or

(h) contributions are made into a custodial account at the Utah Educational Savings Plan in accordance with Title 53B, Chapter 8a, Utah Educational Savings Plan.

(2) An instrument in the following form satisfies the requirements of Subsections (1)(a)(ii) and (1)(g): "Transfer Under the Uniform Transfers to Minors Act

I, (name of transferor or name and representative capacity if a fiduciary) hereby transfer to (name of custodian), as

custodian for (name of minor) under the Uniform Transfers to Minors Act, the following: (insert a description of the custodial property sufficient to identify it).

Dated:.....
.....
(Signature)

..... (name of custodian) acknowledges receipt of the property described above as custodian for the minor named above under the Uniform Transfers to Minors Act.

Dated:.....
.....
(Signature of Custodian)"

(3) A transferor shall place the custodian in control of the custodial property as soon as practicable.

Section 2. Effective date.

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

CHAPTER 16**H. B. 48**

Passed March 4, 2016

Approved March 17, 2016

Effective March 17, 2016

ELECTION LAW AMENDMENTS

Chief Sponsor: Daniel McCay
Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions relating to election law.

Highlighted Provisions:

This bill:

- ▶ removes the requirement that a qualified political party permit unaffiliated voters to participate in a primary for the qualified political party;
- ▶ removes a political party's ability to replace a candidate who is disqualified for failure to file a financial disclosure;
- ▶ requires an election official to provide a grace period when a candidate fails to file certain financial reports, before disqualifying the candidate;
- ▶ modifies provisions relating to when an unaffiliated candidate is required to file a financial report;
- ▶ modifies the deadline for filing a financial report;
- ▶ establishes a deadline by which an individual who wishes to become a candidate for the State Board of Education or a local school board shall submit a declaration of candidacy; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 17-16-6.5, as last amended by Laws of Utah 2015, Chapter 21
- 20A-1-501, as last amended by Laws of Utah 2014, Chapter 17
- 20A-9-101, as last amended by Laws of Utah 2015, Chapter 296
- 20A-9-406, as last amended by Laws of Utah 2015, Chapter 296
- 20A-11-103, as last amended by Laws of Utah 2014, Chapters 76 and 335
- 20A-11-204, as last amended by Laws of Utah 2015, Chapter 204
- 20A-11-206, as last amended by Laws of Utah 2015, Chapter 204
- 20A-11-303, as last amended by Laws of Utah 2015, Chapter 204
- 20A-11-305, as last amended by Laws of Utah 2015, Chapter 204
- 20A-14-104, as last amended by Laws of Utah 2004, Chapter 19
- 20A-14-203, as enacted by Laws of Utah 1995, Chapter 1

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

Section 1. Section 17-16-6.5 is amended to read:**17-16-6.5. Campaign financial disclosure in county elections.**

(1) (a) A county shall adopt an ordinance establishing campaign finance disclosure requirements for:

- (i) candidates for county office; and
- (ii) candidates for local school board office who reside in that county.

(b) The ordinance required by Subsection (1)(a) shall include:

(i) a requirement that each candidate for county office or local school board office report the candidate's itemized and total campaign contributions and expenditures at least once within the two weeks before the election and at least once within two months after the election;

(ii) a definition of "contribution" and "expenditure" that requires reporting of nonmonetary contributions such as in-kind contributions and contributions of tangible things;

(iii) a requirement that the financial reports identify:

(A) for each contribution of more than \$50, the name of the donor of the contribution, if known, and the amount of the contribution; and

(B) for each expenditure, the name of the recipient and the amount of the expenditure;

(iv) a requirement that a candidate for county office or local school board office deposit a contribution in a separate campaign account in a financial institution;

(v) a prohibition against a candidate for county office or local school board office depositing or mingling any contributions received into a personal or business account; and

(vi) a requirement that a candidate for county office who receives a contribution that is cash or a negotiable instrument, exceeds \$50, and is from a donor whose name is unknown, shall, within 30 days after receiving the contribution, disburse the amount of the contribution to:

(A) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or

(B) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

(c) (i) As used in this Subsection (1)(c), "account" means an account in a financial institution:

(A) that is not described in Subsection (1)(b)(iv); and

(B) into which or from which a person who, as a candidate for an office, other than a county office for which the person files a declaration of candidacy or

federal office, or as a holder of an office, other than a county office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(ii) The ordinance required by Subsection (1)(a) shall include a requirement that a candidate for county office or local school board office include on a financial report filed in accordance with the ordinance a contribution deposited in or an expenditure made from an account:

(A) since the last financial report was filed; or

(B) that has not been reported under a statute or ordinance that governs the account.

(2) If any county fails to adopt a campaign finance disclosure ordinance described in Subsection (1), candidates for county office, other than community council office, and candidates for local school board office shall comply with the financial reporting requirements contained in Subsections (3) through (8).

(3) A candidate for elective office in a county or local school board office:

(a) shall deposit a contribution in a separate campaign account in a financial institution; and

(b) may not deposit or mingle any contributions received into a personal or business account.

(4) Each candidate for elective office in any county who is not required to submit a campaign financial statement to the lieutenant governor, and each candidate for local school board office, shall file a signed campaign financial statement with the county clerk:

(a) seven days before the date of the regular general election, reporting each contribution of more than \$50 and each expenditure as of 10 days before the date of the regular general election; and

(b) no later than 30 days after the date of the regular general election.

(5) (a) The statement filed seven days before the regular general election shall include:

(i) a list of each contribution of more than \$50 received by the candidate, and the name of the donor, if known;

(ii) an aggregate total of all contributions of \$50 or less received by the candidate; and

(iii) a list of each expenditure for political purposes made during the campaign period, and the recipient of each expenditure.

(b) The statement filed 30 days after the regular general election shall include:

(i) a list of each contribution of more than \$50 received after the cutoff date for the statement filed seven days before the election, and the name of the donor;

(ii) an aggregate total of all contributions of \$50 or less received by the candidate after the cutoff date

for the statement filed seven days before the election; and

(iii) a list of all expenditures for political purposes made by the candidate after the cutoff date for the statement filed seven days before the election, and the recipient of each expenditure.

(6) (a) As used in this Subsection (6), "account" means an account in a financial institution:

(i) that is not described in Subsection (3)(a); and

(ii) into which or from which a person who, as a candidate for an office, other than a county office for which the person filed a declaration of candidacy or federal office, or as a holder of an office, other than a county office for which the person filed a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A county office candidate and a local school board office candidate shall include on any campaign financial statement filed in accordance with Subsection (4) or (5):

(i) a contribution deposited in an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account; or

(ii) an expenditure made from an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account.

(7) Within 30 days after receiving a contribution that is cash or a negotiable instrument, exceeds \$50, and is from a donor whose name is unknown, a county office candidate shall disburse the amount of the contribution to:

(a) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or

(b) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

(8) Candidates for elective office in any county, and candidates for local school board office, who are eliminated at a primary election shall file a signed campaign financial statement containing the information required by this section not later than 30 days after the primary election.

(9) Any person who fails to comply with this section is guilty of an infraction.

(10) (a) Counties may, by ordinance, enact requirements that:

(i) require greater disclosure of campaign contributions and expenditures; and

(ii) impose additional penalties.

(b) The requirements described in Subsection (10)(a) apply to a local school board office candidate who resides in that county.

(11) ~~[(a)]~~ If a candidate fails to file an interim report due before the election, the county clerk ~~[shall, after making a reasonable attempt to discover if the report was timely mailed,];~~

(a) may send an electronic notice to the candidate and the political party of which the candidate is a member, if any, that states:

(i) that the candidate failed to timely file the report; and

(ii) that, if the candidate fails to file the report within 24 hours after the deadline for filing the report, the candidate will be disqualified and the political party will not be permitted to replace the candidate; and

(b) impose a fine of \$100 on the candidate.

(12) (a) The county clerk shall disqualify a candidate and inform the appropriate election officials [who: (i) (A)] that the candidate is disqualified if the candidate fails to file an interim report described in Subsection (11) within 24 hours after the deadline for filing the report.

(b) The political party of a candidate who is disqualified under Subsection (12)(a) may not replace the candidate.

(13) If a candidate is disqualified under Subsection (12)(a) the election official:

(a) (i) shall, if practicable, remove the name of the candidate by blacking out the candidate's name before the ballots are delivered to voters; or

~~[(B)]~~ (ii) shall, if removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not be counted; and

~~[(iii)]~~ (b) may not count any votes for that candidate.

~~[(b) Notwithstanding Subsection (11)(a), a]~~

(14) An election official may fulfill the requirement described in Subsection (13)(a) in relation to an absentee voter, including a military or overseas absentee voter, by including with the absentee ballot a written notice directing the voter to a public website that will inform the voter whether a candidate on the ballot is disqualified.

(15) A candidate is not disqualified if:

[(4)] (a) the candidate files the [reports required by this section] interim reports described in Subsection (11) no later than 24 hours after the applicable deadlines for filing the reports;

~~[(ii) — those]~~ (b) the reports are completed, detailing accurately and completely the information required by this section except for inadvertent omissions or insignificant errors or inaccuracies; and

~~[(iii) — those]~~ (c) the omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

~~[(e)]~~ (16) (a) A report is considered timely filed if:

(i) [it] the report is received in the county clerk's office no later than [5 p.m. on the date that it] midnight, Mountain Time, at the end of the day on which the report is due;

(ii) [it] the report is received in the county clerk's office with a United States Postal Service postmark three days or more before the date that the report was due; or

(iii) the candidate has proof that the report was mailed, with appropriate postage and addressing, three days before the report was due.

(b) For a county clerk's office that is not open until midnight at the end of the day on which a report is due, the county clerk shall permit a candidate to file the report via email or another electronic means designated by the county clerk.

~~[(12)]~~ (17) (a) Any private party in interest may bring a civil action in district court to enforce the provisions of this section or any ordinance adopted under this section.

(b) In a civil action filed under Subsection [del(12)] (17)(a), the court shall award costs and attorney fees to the prevailing party.

~~[(13)]~~ (18) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the county clerk shall:

(a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and

(b) make the campaign finance statement filed by a candidate available for public inspection by:

(i) (A) posting an electronic copy or the contents of the statement on the county's website no later than seven business days after the statement is filed; and

(B) verifying that the address of the county's website has been provided to the lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or

(ii) submitting a copy of the statement to the lieutenant governor for posting on the website established by the lieutenant governor under Section 20A-11-103 no later than two business days after the statement is filed.

Section 2. Section 20A-1-501 is amended to read:

20A-1-501. Candidate vacancies -- Procedure for filling.

(1) The state central committee of a political party, for candidates for United States senator, United States representative, governor, lieutenant governor, attorney general, state treasurer, and state auditor, and for legislative candidates whose legislative districts encompass more than one county, and the county central committee of a political party, for all other party candidates seeking an office elected at a regular general election, may certify the name of another candidate to the appropriate election officer if:

(a) for a registered political party that will have a candidate on a ballot in a primary election, after the close of the period for filing a declaration of candidacy and continuing through the day before the day on which the lieutenant governor provides the list described in Subsection 20A-9-403(4)(a):

(i) only one or two candidates from that party have filed a declaration of candidacy for that office; and

(ii) one or both:

(A) dies;

(B) resigns because of acquiring a physical or mental disability, certified by a physician, that prevents the candidate from continuing the candidacy; or

(C) is disqualified by an election officer for improper filing or nominating procedures;

(b) for a registered political party that does not have a candidate on the ballot in a primary, but that will have a candidate on the ballot for a general election, after the close of the period for filing a declaration of candidacy and continuing through the day before the day on which the lieutenant governor makes the certification described in Section 20A-5-409, the party's candidate:

(i) dies;

(ii) resigns because of acquiring a physical or mental disability as certified by a physician;

(iii) is disqualified by an election officer for improper filing or nominating procedures; or

(iv) resigns to become a candidate for president or vice president of the United States; or

(c) for a registered political party with a candidate certified as winning a primary election, after the deadline described in Subsection (1)(a) and continuing through the day before that day on which the lieutenant governor makes the certification described in Section 20A-5-409, the party's candidate:

(i) dies;

(ii) resigns because of acquiring a physical or mental disability as certified by a physician;

(iii) is disqualified by an election officer for improper filing or nominating procedures; or

(iv) resigns to become a candidate for president or vice president of the United States.

(2) If no more than two candidates from a political party have filed a declaration of candidacy for an office elected at a regular general election and one resigns to become the party candidate for another position, the state central committee of that political party, for candidates for governor, lieutenant governor, attorney general, state treasurer, and state auditor, and for legislative candidates whose legislative districts encompass more than one county, and the county central committee of that political party, for all other party

candidates, may certify the name of another candidate to the appropriate election officer.

(3) Each replacement candidate shall file a declaration of candidacy as required by Title 20A, Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy.

(4) (a) The name of a candidate who is certified under Subsection (1)(a) after the deadline described in Subsection (1)(a) may not appear on the primary election ballot.

(b) The name of a candidate who is certified under Subsection (1)(b) after the deadline described in Subsection (1)(b) may not appear on the general election ballot.

(c) The name of a candidate who is certified under Subsection (1)(c) after the deadline described in Subsection (1)(c) may not appear on the general election ballot.

(5) A political party may not replace a candidate who is disqualified for failure to timely file a campaign disclosure financial report under Title 20A, Chapter 11, Campaign and Financial Reporting Requirements, or Section 17-16-6.5.

Section 3. Section 20A-9-101 is amended to read:

20A-9-101. Definitions.

As used in this chapter:

(1) (a) "Candidates for elective office" means persons who file a declaration of candidacy under Section 20A-9-202 to run in a regular general election for a federal office, constitutional office, multicounty office, or county office.

(b) "Candidates for elective office" does not mean candidates for:

(i) justice or judge of court of record or not of record;

(ii) presidential elector;

(iii) any political party offices; and

(iv) municipal or local district offices.

(2) "Constitutional office" means the state offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

(3) "Continuing political party" means the same as that term is defined in Section 20A-8-101.

(4) (a) "County office" means an elective office where the officeholder is selected by voters entirely within one county.

(b) "County office" does not mean:

(i) the office of justice or judge of any court of record or not of record;

(ii) the office of presidential elector;

(iii) any political party offices;

(iv) any municipal or local district offices; and

(v) the office of United States Senator and United States Representative.

(5) "Federal office" means an elective office for United States Senator and United States Representative.

(6) "Filing officer" means:

(a) the lieutenant governor, for:

(i) the office of United States Senator and United States Representative; and

(ii) all constitutional offices;

(b) the county clerk, for county offices and local school district offices, and the county clerk in the filer's county of residence, for multicounty offices;

(c) the city or town clerk, for municipal offices; and

(d) the local district clerk, for local district offices.

(7) "Local district office" means an elected office in a local district.

(8) "Local government office" includes county offices, municipal offices, and local district offices and other elective offices selected by the voters from a political division entirely within one county.

(9) (a) "Multicounty office" means an elective office where the officeholder is selected by the voters from more than one county.

(b) "Multicounty office" does not mean:

(i) a county office;

(ii) a federal office;

(iii) the office of justice or judge of any court of record or not of record;

(iv) the office of presidential elector;

(v) any political party offices; and

(vi) any municipal or local district offices.

(10) "Municipal office" means an elective office in a municipality.

(11) (a) "Political division" means a geographic unit from which an officeholder is elected and that an officeholder represents.

(b) "Political division" includes a county, a city, a town, a local district, a school district, a legislative district, and a county prosecution district.

(12) "Qualified political party" means a registered political party that:

~~[(a) permits voters who are unaffiliated with any political party to vote for the registered political party's candidates in a primary election;]~~

~~[(b)]~~ (a) (i) permits a delegate for the registered political party to vote on a candidate nomination in the registered political party's convention remotely; or

(ii) provides a procedure for designating an alternate delegate if a delegate is not present at the registered political party's convention;

~~[(e)]~~ (b) does not hold the registered political party's convention before the fourth Saturday in March of an even-numbered year;

~~[(d)]~~ (c) permits a member of the registered political party to seek the registered political party's nomination for any elective office by the member choosing to seek the nomination by either or both of the following methods:

(i) seeking the nomination through the registered political party's convention process, in accordance with the provisions of Section 20A-9-407; or

(ii) seeking the nomination by collecting signatures, in accordance with the provisions of Section 20A-9-408; and

~~[(e)]~~ (d) (i) if the registered political party is a continuing political party, no later than 5 p.m. on September 30 of an odd-numbered year, certifies to the lieutenant governor that, for the election in the following year, the registered political party intends to nominate the registered political party's candidates in accordance with the provisions of Section 20A-9-406; or

(ii) if the registered political party is not a continuing political party, certifies at the time that the registered political party files the petition described in Section 20A-8-103 that, for the next election, the registered political party intends to nominate the registered political party's candidates in accordance with the provisions of Section 20A-9-406.

Section 4. Section 20A-9-406 is amended to read:

20A-9-406. Qualified political party -- Requirements and exemptions.

The following provisions apply to a qualified political party:

(1) the qualified political party shall, no later than 5 p.m. on March 1 of each even-numbered year, certify to the lieutenant governor the identity of one or more registered political parties whose members may vote for the qualified political party's candidates and whether unaffiliated voters may vote for the qualified political party's candidates;

(2) the provisions of Subsections 20A-9-403(1) through (4)(a), Subsection 20A-9-403(5)(c), and Section 20A-9-405 do not apply to a nomination for the qualified political party;

(3) an individual may only seek the nomination of the qualified political party by using a method described in Section 20A-9-407, Section 20A-9-408, or both;

(4) the qualified political party shall comply with the provisions of Sections 20A-9-407, 20A-9-408, and 20A-9-409;

(5) notwithstanding Subsection 20A-6-301(1)(a), (1)(g), or (2)(a), each election officer shall ensure that a ballot described in Section 20A-6-301 includes each person nominated by a qualified political party:

(a) under the qualified political party's name and emblem, if any; or

(b) under the title of the qualified registered political party as designated by the qualified political party in the certification described in Subsection (1), or, if none is designated, then under some suitable title;

(6) notwithstanding Subsection 20A-6-302(1)(a), each election officer shall ensure, for paper ballots in regular general elections, that each candidate who is nominated by the qualified political party is listed by party;

(7) notwithstanding Subsection 20A-6-303(1)(g), each election officer shall ensure that the party designation of each candidate who is nominated by the qualified political party is printed immediately adjacent to the candidate's name on ballot sheets or ballot labels;

(8) notwithstanding Subsection 20A-6-304(1)(g), each election officer shall ensure that the party designation of each candidate who is nominated by the qualified political party is displayed adjacent to the candidate's name on an electronic ballot;

(9) "candidates for elective office," defined in Subsection 20A-9-101(1)(a), also includes an individual who files a declaration of candidacy under Section 20A-9-407 or 20A-9-408 to run in a regular general election for a federal office, constitutional office, multicounty office, or county office;

(10) an individual who is nominated by, or seeking the nomination of, the qualified political party is not required to comply with Subsection 20A-9-201(1)(c);

(11) notwithstanding Subsection 20A-9-403(3), the qualified political party is entitled to have each of the qualified political party's candidates for elective office appear on the primary ballot of the qualified political party with an indication that each candidate is a candidate for the qualified political party;

(12) notwithstanding Subsection 20A-9-403(4)(a), the lieutenant governor shall include on the list provided by the lieutenant governor to the county clerks:

(a) the names of all candidates of the qualified political party for federal, constitutional, multicounty, and county offices; and

(b) the names of unopposed candidates for elective office who have been nominated by the qualified political party and instruct the county clerks to exclude such candidates from the primary-election ballot;

(13) notwithstanding Subsection 20A-9-403(5)(c), a candidate who is unopposed for an elective office in the regular primary election of the qualified political party is nominated by the party for that office without appearing on the primary ballot; and

(14) notwithstanding the provisions of Subsections 20A-9-403(1) and (2) and Section 20A-9-405, the qualified political party is entitled to have the names of its candidates for elective office

featured with party affiliation on the ballot at a regular general election.

Section 5. Section 20A-11-103 is amended to read:

20A-11-103. Notice of pending interim and summary reports -- Form of submission -- Public availability -- Notice of reporting and filing requirements.

(1) (a) Except as provided under Subsection (1)(b), 10 days before an interim report or summary report is due under this chapter or Chapter 12, Part 2, Judicial Retention Elections, the chief election officer shall inform the filing entity by electronic mail unless postal mail is requested:

(i) that the financial statement is due;

(ii) of the date that the financial statement is due; and

(iii) of the penalty for failing to file the financial statement.

(b) The chief election officer is not required to provide notice:

(i) to a candidate or political party of the financial statement that is due before the candidate's or political party's political convention;

(ii) of a financial statement due in connection with a public hearing for an initiative under the requirements of Section 20A-7-204.1; or

(iii) to a corporation or labor organization, as defined in Section 20A-11-1501.

(2) A filing entity shall electronically file a financial statement via electronic mail or the Internet according to specifications established by the chief election officer.

(3) (a) A financial statement is considered timely filed if ~~it~~ the financial statement is received by the chief election officer's office before ~~the close of regular office hours on the date that it~~ midnight, Mountain Time, at the end of the day on which the financial statement is due.

(b) For a county clerk's office that is not open until midnight at the end of the day on which a financial statement is due, the county clerk shall permit a candidate to file the financial statement via email or another electronic means designated by the county clerk.

~~(b)~~ (c) A chief election officer may extend the time in which a filing entity is required to file a financial statement if a filing entity notifies the chief election officer of the existence of an extenuating circumstance that is outside the control of the filing entity.

(4) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the lieutenant governor shall:

(a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and

(b) post an electronic copy or the contents of each financial statement in a searchable format on a website established by the lieutenant governor:

(i) for campaign finance statements submitted to the lieutenant governor under the requirements of Section 10-3-208 or Section 17-16-6.5, no later than seven business days after the date of receipt of the campaign finance statement; or

(ii) for a summary report or interim report filed under the requirements of this chapter or Chapter 12, Part 2, Judicial Retention Elections, no later than three business days after the date the summary report or interim report is electronically filed.

(5) If a municipality, under Section 10-3-208, or a county, under Section 17-16-6.5, elects to provide campaign finance disclosure on its own website, rather than through the lieutenant governor, the website established by the lieutenant governor shall contain a link or other access point to the municipality or county website.

(6) Between January 1 and January 15 of each year, the chief election officer shall provide notice, by postal mail or email, to each filing entity for which the chief election officer has a physical or email address, of the reporting and filing requirements described in this chapter.

Section 6. Section 20A-11-204 is amended to read:

20A-11-204. State office candidate and state officeholder -- Financial reporting requirements -- Interim reports.

(1) (a) As used in this Subsection (1), "campaign account" means a separate campaign account required under Subsection 20A-11-201(1)(a).

(b) Except as provided in Subsection (1)(c), each state office candidate shall file an interim report at the following times in any year in which the candidate has filed a declaration of candidacy for a public office:

(i) (A) seven days before the candidate's political convention; or

(B) for an unaffiliated candidate, the fourth Saturday in March;

(ii) seven days before the regular primary election date;

(iii) September 30; and

(iv) seven days before the regular general election date.

(c) If a state office candidate is a state office candidate seeking appointment for a midterm vacancy, the state office candidate:

(i) shall file an interim report:

(A) no later than seven days before the day on which the political party of the party for which the state office candidate seeks nomination meets to declare a nominee for the governor to appoint in accordance with Section 20A-1-504; or

(B) if a state office candidate decides to seek the appointment with less than seven days before the party meets, or the political party schedules the

meeting to declare a nominee less than seven days before the day of the meeting, no later than 5 p.m. on the last day of business before the day on which the party meets; and

(ii) is not required to file an interim report at the times described in Subsection (1)(b).

(d) Each state officeholder who has a campaign account that has not been dissolved under Section 20A-11-205 shall, in an even year, file an interim report at the following times, regardless of whether an election for the state officeholder's office is held that year:

(i) (A) seven days before the political convention for the political party of the state officeholder; or

(B) for an unaffiliated state officeholder, the fourth Saturday in March;

(ii) seven days before the regular primary election date;

(iii) September 30; and

(iv) seven days before the regular general election date.

(2) Each interim report shall include the following information:

(a) the net balance of the last summary report, if any;

(b) a single figure equal to the total amount of receipts reported on all prior interim reports, if any, during the calendar year in which the interim report is due;

(c) a single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;

(d) a detailed listing of each contribution and public service assistance received since the last summary report that has not been reported in detail on a prior interim report;

(e) for each nonmonetary contribution:

(i) the fair market value of the contribution with that information provided by the contributor; and

(ii) a specific description of the contribution;

(f) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;

(g) for each nonmonetary expenditure, the fair market value of the expenditure;

(h) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report;

(i) a summary page in the form required by the lieutenant governor that identifies:

(i) beginning balance;

(ii) total contributions during the period since the last statement;

- (iii) total contributions to date;
- (iv) total expenditures during the period since the last statement; and
- (v) total expenditures to date; and
- (j) the name of a political action committee for which the state office candidate or state officeholder is designated as an officer who has primary decision-making authority under Section 20A-11-601.

(3) (a) For all individual contributions or public service assistance of \$50 or less, a single aggregate figure may be reported without separate detailed listings.

(b) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.

(4) (a) In preparing each interim report, all receipts and expenditures shall be reported as of five days before the required filing date of the report.

(b) Any negotiable instrument or check received by a state office candidate or state officeholder more than five days before the required filing date of a report required by this section shall be included in the interim report.

Section 7. Section 20A-11-206 is amended to read:

20A-11-206. State office candidate -- Failure to file reports -- Penalties.

(1) ~~(a)~~ A state office candidate who fails to file a financial statement ~~by~~ before the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

~~(b)~~ (2) If a state office candidate fails to file an interim report described in Subsections 20A-11-204(1)(b)(ii) through (iv), the lieutenant governor ~~shall, after making a reasonable attempt to discover if the report was timely filed,~~ may send an electronic notice to the state office candidate and the political party of which the state office candidate is a member, if any, that states:

(a) that the state office candidate failed to timely file the report; and

(b) that, if the state office candidate fails to file the report within 24 hours after the deadline for filing the report, the state office candidate will be disqualified and the political party will not be permitted to replace the candidate.

(3) (a) The lieutenant governor shall disqualify a state office candidate and inform the county clerk and other appropriate election officials that the state office candidate is disqualified~~;~~ if the state office candidate fails to file an interim report described in Subsections 20A-11-204(1)(b)(ii) through (iv) within 24 hours after the deadline for filing the report.

(b) The political party of a state office candidate who is disqualified under Subsection (3)(a) may not replace the state office candidate.

~~(c) (i) The vacancy on the ballot resulting from the disqualification may be filled as provided in Section 20A-1-501.~~

~~(ii)~~ (4) (a) If a state office candidate is disqualified under Subsection ~~(1)(a)~~ (3)(a), the election official shall:

~~(A)~~ (i) remove the state office candidate's name from the ballot; or

~~(B)~~ (ii) if removing the state office candidate's name from the ballot is not practicable, inform the voters by any practicable method that the state office candidate has been disqualified and that votes cast for the state office candidate will not be counted.

~~(iii)~~ (b) An election official may fulfill the requirement described in Subsection ~~(1)(e)(ii)(B)~~ (4)(a) in relation to an absentee voter, including a military or overseas absentee voter, by including with the absentee ballot a written notice directing the voter to a public website that will inform the voter whether a candidate on the ballot is disqualified.

~~(d) Notwithstanding Subsections (1)(b) and (1)(e), a~~

(5) A state office candidate is not disqualified if:

~~(i)~~ (a) the state office candidate timely files the reports ~~required by this section~~ described in Subsections 20A-11-204(1)(b)(ii) through (iv) no later than ~~the due date in accordance with Section 20A-11-103~~ 24 hours after the applicable deadlines for filing the reports;

~~(ii)~~ (b) the reports are completed, detailing accurately and completely the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and

~~(iii)~~ (c) the omissions, errors, or inaccuracies described in Subsection ~~(1)(d)(ii)~~ (5)(b) are corrected in~~;~~ ~~(A)~~ an amended report~~;~~ or ~~(B)~~ the next scheduled report.

~~(2)~~ (6) (a) Within 30 days after a deadline for the filing of a summary report, the lieutenant governor shall review each filed summary report to ensure that:

(i) each state office candidate that is required to file a summary report has filed one; and

(ii) each summary report contains the information required by this part.

(b) If it appears that any state office candidate has failed to file the summary report required by law, if it appears that a filed summary report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any summary report, the lieutenant governor shall, within five days of discovery of a violation or receipt of a written complaint, notify the state office candidate of the

violation or written complaint and direct the state office candidate to file a summary report correcting the problem.

(c) (i) It is unlawful for ~~[any]~~ a state office candidate to fail to file or amend a summary report within seven days after receiving notice from the lieutenant governor ~~[under this section]~~ described in this Subsection (6).

(ii) Each state office candidate who violates Subsection ~~[(2)]~~ (6)(c)(i) is guilty of a class B misdemeanor.

(iii) The lieutenant governor shall report all violations of Subsection ~~[(2)]~~ (6)(c)(i) to the attorney general.

(iv) In addition to the criminal penalty described in Subsection ~~[(2)]~~ (6)(c)(ii), the lieutenant governor shall impose a civil fine of \$100 against a state office candidate who violates Subsection ~~[(2)]~~ (6)(c)(i).

Section 8. Section 20A-11-303 is amended to read:

20A-11-303. Legislative office candidate and legislative officeholder -- Financial reporting requirements -- Interim reports.

(1) (a) As used in this Subsection (1), "campaign account" means a separate campaign account required under Subsection 20A-11-301(1)(a)(i).

(b) Except as provided in Subsection (1)(d), each legislative office candidate shall file an interim report at the following times in any year in which the candidate has filed a declaration of candidacy for a public office:

(i) (A) seven days before the candidate's political convention; or

(B) for an unaffiliated candidate, the fourth Saturday in March;

(ii) seven days before the regular primary election date;

(iii) September 30; and

(iv) seven days before the regular general election date.

(c) Each legislative officeholder who has a campaign account that has not been dissolved under Section 20A-11-304 shall, in an even year, file an interim report at the following times, regardless of whether an election for the legislative officeholder's office is held that year:

(i) (A) seven days before the political convention for the political party of the legislative officeholder; or

(B) for an unaffiliated legislative officeholder, the fourth Saturday in March;

(ii) seven days before the regular primary election date for that year;

(iii) September 30; and

(iv) seven days before the regular general election date.

(d) If a legislative office candidate is a legislative office candidate seeking appointment for a midterm vacancy, the legislative office candidate:

(i) shall file an interim report:

(A) no later than seven days before the day on which the political party of the party for which the legislative office candidate seeks nomination meets to declare a nominee for the governor to appoint in accordance with Section 20A-1-503; or

(B) if a legislative office candidate decides to seek the appointment with less than seven days before the party meets, or the political party schedules the meeting to declare a nominee less than seven days before the day of the meeting, no later than 5 p.m. on the last day of business before the day on which the party meets; and

(ii) is not required to file an interim report at the times described in Subsection (1)(b).

(2) Each interim report shall include the following information:

(a) the net balance of the last summary report, if any;

(b) a single figure equal to the total amount of receipts reported on all prior interim reports, if any, during the calendar year in which the interim report is due;

(c) a single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;

(d) a detailed listing of each contribution and public service assistance received since the last summary report that has not been reported in detail on a prior interim report;

(e) for each nonmonetary contribution:

(i) the fair market value of the contribution with that information provided by the contributor; and

(ii) a specific description of the contribution;

(f) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;

(g) for each nonmonetary expenditure, the fair market value of the expenditure;

(h) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report;

(i) a summary page in the form required by the lieutenant governor that identifies:

(i) beginning balance;

(ii) total contributions during the period since the last statement;

(iii) total contributions to date;

(iv) total expenditures during the period since the last statement; and

(v) total expenditures to date; and

(j) the name of a political action committee for which the legislative office candidate or legislative officeholder is designated as an officer who has primary decision-making authority under Section 20A-11-601.

(3) (a) For all individual contributions or public service assistance of \$50 or less, a single aggregate figure may be reported without separate detailed listings.

(b) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.

(4) (a) In preparing each interim report, all receipts and expenditures shall be reported as of five days before the required filing date of the report.

(b) Any negotiable instrument or check received by a legislative office candidate or legislative officeholder more than five days before the required filing date of a report required by this section shall be included in the interim report.

Section 9. Section 20A-11-305 is amended to read:

20A-11-305. Legislative office candidate -- Failure to file report -- Penalties.

(1) ~~[(a)]~~ A legislative office candidate who fails to file a financial statement ~~[by]~~ before the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

~~[(b)]~~ (2) If a legislative office candidate fails to file an interim report described in Subsections 20A-11-303(1)(b)(ii) through (iv), the lieutenant governor ~~[shall, after making a reasonable attempt to discover if the report was timely filed,]~~ may send an electronic notice to the legislative office candidate and the political party of which the legislative office candidate is a member, if any, that states:

(a) that the legislative office candidate failed to timely file the report; and

(b) that, if the legislative office candidate fails to file the report within 24 hours after the deadline for filing the report, the legislative office candidate will be disqualified and the political party will not be permitted to replace the candidate.

(3) (a) The lieutenant governor shall disqualify a legislative office candidate and inform the county clerk and other appropriate election officials that the legislative office candidate is disqualified~~[-]~~ if the legislative office candidate fails to file an interim report described in Subsections 20A-11-303(1)(b)(ii) through (iv) within 24 hours after the deadline for filing the report.

(b) The political party of a legislative office candidate who is disqualified under Subsection (3)(a) may not replace the legislative office candidate.

~~[(c) (i) The vacancy on the ballot resulting from the disqualification may be filled as provided in Section 20A-1-501.]~~

~~[(ii)]~~ (4) (a) If a legislative office candidate is disqualified under Subsection ~~[(1)(a)]~~ (3)(a), the election officer shall:

~~[(A)]~~ (i) remove the legislative office candidate's name from the ballot; or

~~[(B)]~~ (ii) if removing the legislative office candidate's name from the ballot is not practicable, inform the voters by any practicable method that the legislative office candidate has been disqualified and that votes cast for the legislative office candidate will not be counted.

~~[(d) Notwithstanding Subsections (1)(b) and (1)(e), a]~~

(b) An election official may fulfill the requirement described in Subsection (4)(a) in relation to an absentee voter, including a military or overseas absentee voter, by including with the absentee ballot a written notice directing the voter to a public website that will inform the voter whether a candidate on the ballot is disqualified.

(5) A legislative office candidate is not disqualified if:

~~[(i)]~~ (a) the legislative office candidate ~~[timely]~~ files the reports ~~[required by this section]~~ described in Subsections 20A-11-303(1)(b)(ii) through (iv) no later than ~~[the due date in accordance with Section 20A-11-103]~~ 24 hours after the applicable deadlines for filing the reports;

~~[(ii)]~~ (b) the reports are completed, detailing accurately and completely the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and

~~[(iii)]~~ (c) the omissions, errors, or inaccuracies described in Subsection ~~[(1)(d)(ii)]~~ (5)(b) are corrected in ~~[-(A)]~~ an amended report~~[-]~~ or ~~[(B)]~~ the next scheduled report.

~~[(2)]~~ (6) (a) Within 30 days after a deadline for the filing of a summary report, the lieutenant governor shall review each filed summary report to ensure that:

(i) each legislative office candidate that is required to file a summary report has filed one; and

(ii) each summary report contains the information required by this part.

(b) If it appears that any legislative office candidate has failed to file the summary report required by law, if it appears that a filed summary report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any summary report, the lieutenant governor shall, within five days of discovery of a violation or receipt of a written complaint, notify the legislative office candidate of the violation or written complaint and direct the legislative office candidate to file a summary report correcting the problem.

(c) (i) It is unlawful for ~~[any]~~ a legislative office candidate to fail to file or amend a summary report within seven days after receiving notice from the lieutenant governor ~~[under this section]~~ described in this Subsection (6).

(ii) Each legislative office candidate who violates Subsection ~~[(2)]~~ (6)(c)(i) is guilty of a class B misdemeanor.

(iii) The lieutenant governor shall report all violations of Subsection ~~[(2)]~~ (6)(c)(i) to the attorney general.

(iv) In addition to the criminal penalty described in Subsection ~~[(2)]~~ (6)(c)(ii), the lieutenant governor shall impose a civil fine of \$100 against a legislative office candidate who violates Subsection ~~[(2)]~~ (6)(c)(i).

Section 10. Section 20A-14-104 is amended to read:

20A-14-104. Becoming a candidate for membership on the State Board of Education -- Nominating and recruiting committee -- Membership -- Procedure -- Duties.

(1) (a) ~~[Persons]~~ An individual interested in becoming a candidate for the State Board of Education shall:

(i) (A) for the 2016 general election, file a declaration of candidacy ~~[according to], in accordance with the procedures and requirements of Sections 20A-9-201 and 20A-9-202[-], before 5 p.m. on March 17, 2016; or~~

(B) for a general election held after 2016, file a declaration of candidacy, in accordance with the procedures and requirements of Sections 20A-9-201 and 20A-9-202, on or after the second Friday in March, and before 5 p.m. on the third Thursday in March, before the next regular general election; and

(ii) pay the filing fee described in Section 20A-9-202.

(b) By May 1 of the year in which a State Board of Education member's term expires, the lieutenant governor shall submit the name of each person who has filed a declaration of candidacy for the State Board of Education to the nominating and recruiting committee for the State Board of Education.

(2) By November 1 of the year preceding each regular general election year, a nominating and recruiting committee consisting of 12 members, each to serve a two-year term, shall be appointed by the governor as follows:

(a) one member shall be appointed to represent each of the following business and industry sectors:

- (i) manufacturing and mining;
- (ii) transportation and public utilities;
- (iii) service, trade, and information technology;
- (iv) finance, insurance, and real estate;

(v) construction; and

(vi) agriculture; and

(b) one member shall be appointed to represent each of the following education sectors:

- (i) teachers;
- (ii) school administrators;
- (iii) parents;
- (iv) local school board members;
- (v) charter schools; and
- (vi) higher education.

(3) (a) The members appointed under Subsections (2)(a)(i) through (vi) and (2)(b)(i) through (vi) shall be appointed from lists containing at least two names submitted by organizations representing each of the respective sectors.

(b) At least one member of the nominating and recruiting committee shall reside within each state board district in which a member's term expires during the committee's two-year term of office.

(4) (a) The members shall elect one member to serve as chair for the committee.

(b) The chair, or another member of the committee designated by the chair, shall schedule and convene all committee meetings.

(c) Any formal action by the committee requires the approval of a majority of committee members.

(d) Members of the nominating and recruiting committee shall serve without compensation, but they may be reimbursed for expenses incurred in the performance of their official duties as established by the Division of Finance.

(5) The nominating and recruiting committee shall:

(a) recruit potential candidates for membership on the State Board of Education prior to the deadline to file a declaration of candidacy;

(b) prepare a list of candidates for membership on the State Board of Education for each state board district subject to election in that year using the qualifications under Subsection (6);

(c) submit a list of at least three candidates for each state board position to the governor by July 1; and

(d) ensure that the list includes appropriate background information on each candidate.

(6) The nominating committee shall select a broad variety of candidates who possess outstanding professional qualifications relating to the powers and duties of the State Board of Education, including experience in the following areas:

- (a) business and industry administration;
- (b) business and industry human resource management;
- (c) business and industry finance;

- (d) business and industry, including expertise in:
- (i) metrics and evaluation;
 - (ii) manufacturing;
 - (iii) retailing;
 - (iv) natural resources;
 - (v) information technology;
 - (vi) construction;
 - (vii) banking;
 - (viii) science and engineering; and
 - (ix) medical and healthcare;
- (e) higher education administration;
- (f) applied technology education;
- (g) public education administration;
- (h) public education instruction;
- (i) economic development;
- (j) labor; and
- (k) other life experiences that would benefit the State Board of Education.

signature, or in the case of a veto, the date of veto override.

Section 11. Section 20A-14-203 is amended to read:

20A-14-203. Becoming a member of a local board of education -- Declaration of candidacy -- Election.

(1) An individual may become a candidate for a local school board:

(a) (i) in the 2016 general election, by filing a declaration of candidacy with the county clerk [and], in accordance with Section 20A-9-202, before 5 p.m. on March 17, 2016; or

(ii) in a general election held after 2016, by filing a declaration of candidacy with the county clerk on or after the second Friday in March, and before 5 p.m. on the third Thursday in March, before the next regular general election; and

(b) by paying the fee [as required by] described in Section 20A-9-202.

(2) (a) The term of office for an individual elected to a local board of education is four years, beginning on the first Monday in January after the election.

(b) A member of a local board of education shall serve until a successor is elected or appointed and qualified.

(c) A member of a local board of education is "qualified" when the member takes or signs the constitutional oath of office.

Section 12. Effective date.

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

CHAPTER 17**H. B. 207**

Passed March 8, 2016

Approved March 17, 2016

Effective May 10, 2016

**FOURTH DISTRICT
JUVENILE COURT JUDGE**Chief Sponsor: Dean Sanpei
Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill adds a new judge to the fourth district juvenile court.

Highlighted Provisions:

This bill:

- ▶ creates a new judge in the fourth district juvenile court.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78A-1-104, as last amended by Laws of Utah 2013, Chapter 68

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

Section 1. Section 78A-1-104 is amended to read:**78A-1-104. Number of juvenile judges and jurisdictions.**

The number of juvenile court judges shall be:

- (1) two juvenile judges in the First Juvenile District;
- (2) six juvenile judges in the Second Juvenile District;
- (3) 10 juvenile judges in the Third Juvenile District;
- (4) [~~four~~ five] juvenile judges in the Fourth Juvenile District;
- (5) three juvenile judges in the Fifth Juvenile District;
- (6) one juvenile judge in the Sixth Juvenile District;
- (7) two juvenile judges in the Seventh Juvenile District; and
- (8) two juvenile judges in the Eighth Juvenile District.

CHAPTER 18**H. B. 211**

Passed February 25, 2016

Approved March 17, 2016

Effective May 10, 2016

**AGRICULTURAL
EXEMPTION AMENDMENTS**

Chief Sponsor: Lee B. Perry

Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill amends and enacts provisions related to agriculture and livestock.

Highlighted Provisions:

This bill:

- ▶ amends the duties of the state veterinarian;
- ▶ modifies definitions;
- ▶ enacts provisions related to certain animal enclosures and fences; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

4-2-402, as enacted by Laws of Utah 2014, Chapter 41

4-7-3, as last amended by Laws of Utah 2011, Chapter 383

4-32-3, as last amended by Laws of Utah 2011, Chapter 383

4-32-7, as last amended by Laws of Utah 2010, Chapters 242, 324, and 378

ENACTS:

4-26-104, Utah Code Annotated 1953

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

Section 1. Section 4-2-402 is amended to read:**4-2-402. State veterinarian responsibilities.**

(1) The state veterinarian shall:

(a) ~~[direct]~~ coordinate the department's responsibilities for:

(i) the promotion of animal health;

(ii) the diagnosis, surveillance, and prevention of animal disease; and

~~[(iii) the inspection of meat and poultry; and]~~

~~[(iv)]~~ (iii) livestock brand registration and inspection; ~~[and]~~

(b) aid the meat inspection manager, whose duties are specified by the commissioner, in the direction of the inspection of meat and poultry; and

~~[(b)]~~ (c) perform other official duties assigned by the commissioner.

(2) The state veterinarian may not receive compensation for services provided while engaging in the private practice of veterinary medicine.

(3) The state veterinarian shall be a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act.

Section 2. Section 4-7-3 is amended to read:**4-7-3. Definitions.**

As used in this chapter:

(1) "Agent" or "broker" means a person who, on behalf of a dealer, purchaser, or livestock market, as defined in Section 4-30-1, solicits or negotiates the consignment or purchase of livestock.

(2) "Consignor" means a person who ships or delivers livestock to a dealer for handling or sale.

(3) (a) "Dealer" means a person who:

(i) receives livestock from a person for sale on commission; ~~[and]~~

(ii) is entrusted with the possession, management, control, or disposal of livestock for the account of that person~~[-]; and~~

(iii) negotiates price, determines a delivery date, and receives money on behalf of a livestock producer.

(b) "Dealer" includes a livestock dealer.

(c) "Dealer" includes a person who owns or leases a feedlot.

(4) (a) "Immediate resale" means the resale of livestock within 60 days of purchase.

(b) "Immediate resale" does not include the resale of livestock cull within 60 days that were purchased for feeding or replacement.

(5) "Livestock" means cattle, swine, equines, sheep, camelidae, ratites, bison, and domesticated elk as defined in Section 4-39-102.

(6) "Livestock dealer" means a person engaged in the business of purchasing livestock for immediate resale or interstate shipment for immediate resale.

(7) "Producer" means a person who is primarily engaged in the business of raising livestock for profit.

Section 3. Section 4-26-104 is enacted to read:**4-26-104. Fencing for bison.**

Perimeter fencing intended to hold bison shall meet the following minimum standards:

(1) fence sections and gates shall:

(a) reach a height of at least six feet above ground level; and

(b) be constructed in a mesh pattern consisting of:

(i) hi-tensile steel wire of at least 14-1/2 gauge;

(ii) a maximum mesh size of six inches by six inches; or

(iii) a material with the strength equivalent of the material described in Subsections (1)(b)(i) and (ii);

(2) fence posts shall:

(a) (i) be constructed of treated wood at least four inches in diameter; and

(ii) be constructed of a material with the strength equivalent of the material described in Subsection 2(a)(i);

(b) reach a height of at least six feet, two inches above ground level;

(c) have at least two feet of length below ground level;

(d) be installed at intervals of no more than 20 feet; and

(e) if located on a corner or connected to a gate, braced with wood or the strength equivalent of wood; and

(3) fence stays shall:

(a) be constructed of treated wood or steel;

(b) be installed at intervals of no more than 10 feet from any fence post; and

(c) reach a height of at least six feet, two inches above ground level.

Section 4. Section 4-32-3 is amended to read:

4-32-3. Definitions.

As used in this chapter:

(1) "Adulterated" means any meat or poultry product that:

(a) bears or contains any poisonous or deleterious substance that may render it injurious to health, but, if the substance is not an added substance, the meat or poultry product is not considered adulterated under this subsection if the quantity of the substance in or on the meat or poultry product does not ordinarily render it injurious to health;

(b) bears or contains, by reason of the administration of any substance to the animal or otherwise, any added poisonous or added deleterious substance that in the judgment of the commissioner makes the meat or poultry product unfit for human food;

(c) contains, in whole or in part, a raw agricultural commodity and that commodity bears or contains a pesticide chemical that is unsafe within the meaning of 21 U.S.C. Sec. 346a;

(d) bears or contains any food additive that is unsafe within the meaning of 21 U.S.C. Sec. 348;

(e) bears or contains any color additive that is unsafe within the meaning of 21 U.S.C. Sec. 379e; provided, that a meat or poultry product that is not otherwise considered adulterated under Subsection (1)(c) or (d) of this section is considered adulterated if use of the pesticide chemical, food additive, or color additive is prohibited in official

establishments by federal law, regulation, or standard;

(f) consists, in whole or in part, of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food;

(g) has been prepared, packaged, or held under unsanitary conditions if the meat or poultry product may have become contaminated with filth, or if it may have been rendered injurious to health;

(h) is in whole or in part the product of an animal that died other than by slaughter;

(i) is contained in a container that is composed, in whole or in part, of any poisonous or deleterious substance that may render the meat or poultry product injurious to health;

(j) has been intentionally subjected to radiation, unless the use of the radiation conforms with a regulation or exemption in effect pursuant to 21 U.S.C. Sec. 348;

(k) has a valuable constituent in whole or in part omitted, abstracted, or substituted; or if damage or inferiority is concealed in any manner; or if any substance has been added, mixed, or packed with the meat or poultry product to increase its bulk or weight, or reduce its quality or strength, or to make it appear better or of greater value; or

(l) is margarine containing animal fat and any of the raw material used in the margarine consists in whole or in part of any filthy, putrid, or decomposed substance.

(2) "Animal" means a domesticated or captive mammalian or avian species.

(3) "Animal food manufacturer" means any person engaged in the business of preparing animal food derived from animal carcasses or parts or products of the carcasses.

(4) "Ante mortem inspection" means an inspection of a live animal immediately before slaughter.

(5) "Broker" means any person engaged in the business of buying and selling meat or poultry products other than for the person's own account.

(6) "Capable of use as human food" means any animal carcass, or part or product of a carcass, unless it is denatured or otherwise identified as required by rules of the department to deter its use as human food.

(7) "Commissioner" includes a person authorized by the commissioner to carry out this chapter's provisions.

(8) "Container" or "package" means any box, can, tin, cloth, plastic, or other receptacle, wrapper, or cover.

(9) "Custom exempt processing" means processing meat or wild game as a service for the person who owns the meat or wild game and uses the meat and meat food products for the person's

own consumption, including consumption by immediate family members and non-paying guests.

(10) "Custom exempt slaughter":

(a) means slaughtering an animal as a service for the person who owns the animal and uses the meat and meat products for the person's own consumption, including consumption by immediate family members and non-paying guests; and

(b) includes farm custom slaughter.

~~[(11)] (11) "Director of meat inspection" means a licensed graduate veterinarian whose duties and responsibilities are specified by the commissioner.~~

[(12)] (11) "Diseased animal":

(a) means an animal that:

(i) is diagnosed with a disease not known to be cured; or

(ii) has exhibited signs or symptoms of a disease that is not known to be cured; and

(b) does not include an otherwise healthy animal that suffers only from injuries such as fractures, cuts, or bruises.

[(14)] (12) "Farm custom mobile unit" means a portable slaughter vehicle or trailer that is used by a farm custom slaughter licensee to slaughter animals.

(13) "Farm custom slaughter" means custom exempt slaughtering of an animal for an owner without inspection.

[(15)] (14) "Farm custom slaughter license" means a license issued by the department to allow farm custom slaughter.

[(16)] (15) "Farm custom slaughter tag" means a tag that specifies the animal's identification and certifies its ownership, which is issued by the department through a brand inspector to the owner of the animal before it is slaughtered.

[(17)] (16) "Federal acts" means:

(a) the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq.;

(b) the Federal Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq.; and

(c) the Humane Slaughter Act, 7 U.S.C. 1901 et seq.

[(18)] (17) "Federal Food, Drug and Cosmetic Act" means the act so entitled, approved June 25, 1938 (52 Stat. 1040) (21 U.S.C. 301 et seq.), and any amendments to it.

[(19)] (18) "Immediate container" means any consumer package, or any other container in which meat or poultry products not consumer packaged, are packed.

[(20)] (19) "Inspector" means a licensed veterinarian or competent lay person working under the supervision of a licensed graduate veterinarian.

~~[(21)] (20)~~ "Label" means a display of printed or graphic matter upon any meat or poultry product or the immediate container, not including package liners, of any such product.

~~[(22)] (21)~~ "Labeling" means all labels and other printed or graphic matter:

(a) upon any meat or poultry product or any of its containers or wrappers; or

(b) accompanying a meat or poultry product.

~~[(23)] (22)~~ "Licensee" means a person who holds a valid farm custom slaughter license.

[(24)] (23) "Meat" means the edible muscle and other edible parts of an animal, including edible:

(a) skeletal muscle;

(b) organs;

(c) muscle found in the tongue, diaphragm, heart, or esophagus; and

(d) fat, bone, skin, sinew, nerve, or blood vessel that normally accompanies meat and is not ordinarily removed in processing.

[(25)] (24) "Meat establishment" means a plant or fixed premises used to:

(a) slaughter animals for human consumption; or

(b) process meat or poultry products for human consumption.

[(26)] (25) "Meat product" means any product capable of use as human food that is made wholly or in part from any meat or other part of the carcass of any non-avian animal.

[(27)] (26) "Misbranded" means any meat or poultry product that:

(a) bears a label that is false or misleading in any particular;

(b) is offered for sale under the name of another food;

(c) is an imitation of another food, unless the label bears, in type of uniform size and prominence, the word "imitation" followed by the name of the food imitated;

(d) if its container is so made, formed, or filled as to be misleading;

(e) does not bear a label showing:

(i) the name and place of business of the manufacturer, packer, or distributor; and

(ii) an accurate statement of the quantity of the product in terms of weight, measure, or numerical count; provided, that under this Subsection [(27)] (26)(e), exemptions as to meat and poultry products not in containers may be established by rules of the department and that under this Subsection [(27)] (26)(e)(ii), reasonable variations may be permitted, and exemptions for small packages may be established for meat or poultry products by rule of the department;

(f) does not bear any word, statement, or other information required by or under authority of this

chapter to appear on the label or other labeling is not prominently placed with such conspicuousness, as compared with other words, statements, designs, or devices, in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(g) is a food for which a definition and standard of identity or composition has been prescribed by rules of the department under Section 4-32-7 if the food does not conform to the definition and standard and the label does not bear the name of the food and any other information that is required by the rule;

(h) is a food for which a standard of fill has been prescribed by rule of the department for the container and the actual fill of the container falls below that prescribed unless its label bears, in a manner and form as the rule specifies, a statement that it falls below the standard;

(i) is a food for which no standard or definition of identity has been prescribed under Subsection [(27)] (26)(g) unless its label bears:

(i) the common or usual name of the food, if there be any; and

(ii) if it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings may, when authorized by the department, be designated as spices, flavorings, and colorings without naming each; provided, that to the extent that compliance with the requirements of this Subsection [(27)] (26)(i)(ii) is impracticable, or results in deception or unfair competition, exemptions shall be established by rule;

(j) is a food that purports to be or is represented to be for special dietary uses, unless its label bears information concerning its vitamin, mineral, and other dietary properties as the department, after consultation with the Secretary of Agriculture of the United States, prescribes by rules as necessary to inform purchasers as to its value for special dietary uses;

(k) bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided, that to the extent that compliance with the requirements of this subsection are impracticable, exemptions shall be prescribed by rules of the department; or

(l) does not bear directly thereon and on its containers, as the department may prescribe by rule, the official inspection legend and establishment number of the official establishment where the product was prepared, and, unrestricted by any of the foregoing, other information as the department may require by rule to assure that the meat or poultry product will not have false or misleading labeling and that the public will be informed of the manner of handling required to maintain it in a wholesome condition.

[(28)] (27) "Official certificate" means any certificate prescribed by rules of the department for

issuance by an inspector or other person performing official functions under this chapter.

[(29)] (28) "Official device" means any device prescribed or authorized by the commissioner for use in applying any official mark.

[(30)] (29) "Official establishment" means any establishment at which inspection of the slaughter of animals or the preparation of meat or poultry products is maintained under the authority of this chapter.

[(31)] (30) "Official inspection legend" means any symbol prescribed by rules of the department showing that a meat or poultry product was inspected and passed in accordance with this chapter.

[(32)] (31) "Official mark" means the official legend or any other symbol prescribed by rules of the department to identify the status of any animal carcass or meat or poultry product under this chapter.

[(33)] (32) "Pesticide chemical," "food additive," "color additive," and "raw agricultural commodity," have the same meanings for purposes of this chapter as ascribed to them in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

[(34)] (33) "Post mortem inspection" means an inspection of a slaughtered food animal's carcass after slaughter.

[(35)] (34) "Poultry" means any domesticated bird, whether living or dead.

[(36)] (35) "Poultry product" means any product capable of use as human food that is made wholly or in part from any poultry carcass, excepting products that contain poultry ingredients in relatively small proportion or that historically have not been considered by consumers as products of the poultry food industry, and that are exempted from definition as a poultry product by the commissioner.

[(37)] (36) "Prepared" means slaughtered, canned, salted, stuffed, rendered, boned, cut up, or otherwise manufactured or processed.

[(38)] (37) "Process" means to cut, grind, manufacture, compound, smoke, intermix, or prepare meat or poultry products.

[(39)] (38) "Renderer" means any person engaged in the business of rendering animal carcasses, or parts or products of animal carcasses, except rendering conducted under inspection or exemption under this chapter.

[(40)] (39) "Slaughter" means:

(a) the killing of an animal in a humane manner including skinning or dressing; or

(b) the process of performing any of the specified acts in preparing an animal for human consumption.

[(41)] (40) "Wild game" means an animal, the products of which are food that is not classified as a domesticated food animal, captive game animal, or captive game bird, including the following when not domesticated:

- (a) deer;
- (b) elk;
- (c) antelope;
- (d) moose;
- (e) bison;
- (f) bear;
- (g) rabbit;
- (h) squirrel;
- (i) raccoon; and
- (j) birds.

Section 5. Section 4-32-7 is amended to read:

4-32-7. Mandatory functions, powers, and duties of department prescribed.

The department shall make rules pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, concerning the following functions, powers, and duties, in addition to those specified in Chapter 1, Short Title and General Provisions, for the administration and enforcement of this chapter:

(1) The department shall require antemortem and postmortem inspections, quarantine, segregation, and reinspections by inspectors appointed for those purposes with respect to the slaughter of animals and the preparation of meat and poultry products at official establishments, except as provided in Subsection 4-32-8(13).

(2) The department shall require that:

- (a) animals be identified for inspection purposes;
- (b) meat or poultry products, or their containers be marked or labeled as:

(i) "Utah Inspected and Passed" if, upon inspection, the products are found to be unadulterated; and

(ii) "Utah Inspected and Condemned" if, upon inspection, the products are found to be adulterated; and

(c) condemned animal carcasses or products, which otherwise would be used for human consumption, be destroyed under the supervision of an inspector.

(3) The department shall prohibit or limit meat products, poultry products, or other materials not prepared under inspection procedures provided in this chapter, from being brought into official establishments.

(4) The department shall require that labels and containers for meat and poultry products:

(a) bear all information required by Section [4-32-3] 4-32-13 if the product leaves the official establishment; and

(b) be approved before sale or transportation.

(5) For official establishments required to be inspected under Subsection (1), the department shall:

- (a) prescribe sanitary standards;
- (b) require sanitary inspections; and

(c) refuse to provide inspection service if the sanitary conditions allow adulteration of any meat or poultry product.

(6) (a) The department shall require that any person engaged in a business referred to in Subsection (6)(b):

(i) keep accurate records disclosing all pertinent business transactions;

(ii) allow inspection of the business premises at reasonable times and examination of inventory, records, and facilities; and

(iii) allow samples to be taken.

(b) Subsection (6)(a) applies to any person who:

(i) slaughters animals;

(ii) prepares, freezes, packages, labels, buys, sells, transports, or stores any meat or poultry products for human or animal consumption;

(iii) renders animals; or

(iv) buys, sells, or transports any dead, dying, disabled, or diseased animals, or parts of their carcasses that died by a method other than slaughter.

(7) (a) The department shall:

(i) adopt by reference rules and regulations under federal acts with changes that the commissioner considers appropriate to make the rules and regulations applicable to operations and transactions subject to this chapter; and

(ii) promulgate any other rules considered necessary for the efficient execution of the provisions of this chapter, including rules of practice providing an opportunity for hearing in connection with the issuance of orders under Subsection (5) or under Subsection 4-32-8(1), (2), or (3) and prescribing procedures for proceedings in these cases.

(b) These procedures do not preclude requiring that a label or container be withheld from use, or inspection be refused under Subsections (1) and (5), or Subsection 4-32-8(3), pending issuance of a final order in the proceeding.

(8) (a) To prevent the inhumane slaughtering of animals, inspectors shall be appointed to examine and inspect methods of handling and slaughtering animals.

(b) Inspection of slaughtering establishments may be refused or temporarily suspended if animals have been slaughtered or handled by any method not in accordance with the Humane Methods of Slaughter Act of 1978, [Public Law] Pub. L. No. 95-445.

(c) Before slaughtering an animal in accordance with requirements of Kosher, Halal, or a religious faith's requirements that discourage stunning of the animal, the person slaughtering the animal shall file a written request with the commissioner.

(9) (a) The department shall require an animal showing symptoms of disease during antemortem inspection, performed by an inspector appointed for that purpose, to be set apart and slaughtered separately from other livestock and poultry.

(b) When slaughtered, the carcasses of livestock and poultry are subject to careful examination and inspection in accordance with rules prescribed by the commissioner.

CHAPTER 19**H. B. 213**

Passed March 3, 2016

Approved March 17, 2016

Effective May 10, 2016

AGRICULTURAL MODIFICATIONS

Chief Sponsor: Scott D. Sandall
Senate Sponsor: Margaret Dayton

LONG TITLE**General Description:**

This bill amends the composition of certain agricultural boards and commissions.

Highlighted Provisions:

This bill:

- ▶ amends the composition of the Agricultural Advisory Board;
- ▶ amends the composition of the Utah Horse Racing Commission;
- ▶ repeals the Pesticide Committee;
- ▶ amends the functions and duties of the Conservation Commission;
- ▶ amends the composition of the Domesticated Elk Act Advisory Council; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 4-2-7, as last amended by Laws of Utah 2015, Chapter 128
- 4-18-105, as last amended by Laws of Utah 2015, Chapter 235
- 4-18-106, as last amended by Laws of Utah 2014, Chapter 383
- 4-38-3, as last amended by Laws of Utah 2013, Chapter 461
- 4-39-104, as last amended by Laws of Utah 2010, Chapter 286

REPEALS:

- 4-14-10, as last amended by Laws of Utah 2010, Chapter 286

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

Section 1. Section 4-2-7 is amended to read:**4-2-7. Agricultural Advisory Board created -- Composition -- Responsibility -- Terms of office -- Compensation.**

(1) There is created the Agricultural Advisory Board composed of [16] 21 members, with each member representing one of the following:

- (a) Utah Farm Bureau Federation;
- (b) Utah Farmers Union;
- (c) Utah Cattlemen's Association;
- (d) Utah Wool Growers' Association;

- (e) Utah Dairymen's Association;
- (f) Utah Pork Producer's Association;
- (g) egg and poultry producers;
- (h) Utah Veterinary Medical Association;
- (i) Livestock Auction Marketing Association;
- (j) Utah Association of Conservation Districts;
- (k) the Utah horse industry;
- (l) the food processing industry;
- (m) the fruit and vegetable industry;
- (n) the turkey industry;
- (o) manufacturers of food supplements; ~~and~~
- (p) a consumer affairs group[-];

(q) dean of the College of Agriculture and Applied Science and vice president of extension from Utah State University;

(r) urban and small farmers;

(s) Utah Elk Breeders Association;

(t) Utah Beekeepers Association; and

(u) Utah Fur Breeders Association.

(2) (a) The Agricultural Advisory Board shall advise the commissioner regarding:

- (i) the planning, implementation, and administration of the department's programs; and
- (ii) the establishment of standards governing the care of livestock and poultry, including consideration of:

(A) food safety;

(B) local availability and affordability of food; and

(C) acceptable practices for livestock and farm management.

(b) The Agricultural Advisory Board shall fulfill the duties described in Title 4, Chapter 2, Part 5, Horse Tripping Awareness.

(3) (a) Except as required by Subsection (3)(c), members are appointed by the commissioner to four-year terms of office.

(b) The commissioner shall appoint representatives of the organizations cited in Subsections (1)(a) through (h) to the Agricultural Advisory Board from a list of nominees submitted by each organization.

(c) Notwithstanding the requirements of Subsection (3)(a), the commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(d) Members may be removed at the discretion of the commissioner upon the request of the group they represent.

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

(4) The board shall elect one member to serve as chair of the Agricultural Advisory Board for a term of one year.

(5) (a) The board shall meet four times annually, but may meet more often at the discretion of the chair.

(b) Attendance of ~~nine~~ 11 members at a duly called meeting constitutes a quorum for the transaction of official business.

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

(a) Section 63A-3-106;

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

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

Section 2. Section 4-18-105 is amended to read:

4-18-105. Conservation Commission -- Functions and duties.

(1) The commission shall:

(a) facilitate the development and implementation of the strategies and programs necessary to:

(i) protect, conserve, utilize, and develop the soil, air, and water resources of the state; and

(ii) promote the protection, integrity, and restoration of land for agricultural and other beneficial purposes;

(b) disseminate information regarding districts' activities and programs;

(c) supervise the formation, reorganization, or dissolution of districts according to the requirements of Title 17D, Chapter 3, Conservation District Act;

(d) prescribe uniform accounting and recordkeeping procedures for districts and require each district to submit annually an audit of its funds to the commission;

(e) approve and make loans for agricultural purposes, through the advisory board described in Section 4-18-106, from the Agriculture Resource Development Fund, for:

(i) rangeland improvement and management projects;

(ii) watershed protection and flood prevention projects;

(iii) agricultural cropland soil and water conservation projects;

(iv) programs designed to promote energy efficient farming practices; and

~~[(v) development and implementation of coordinated resource management plans, as~~

~~defined in Section 4-18-103, with conservation districts, as defined in Section 17D-3-102; and]~~

~~[(vi)]~~ (v) programs or improvements for agriculture product storage or protections of a crop or animal resource;

(f) administer federal or state funds, including loan funds under this chapter, in accordance with applicable federal or state guidelines and make loans or grants from those funds to land occupiers for:

(i) ~~the~~ conservation of soil or water resources;

(ii) maintenance of rangeland improvement projects; ~~and]~~

(iii) development and implementation of coordinated resource management plans, as defined in Section 4-18-103, with conservation districts, as defined in Section 17D-3-102; and

~~[(iii) the]~~ (iv) control or eradication of noxious weeds and invasive plant species:

(A) in cooperation and coordination with local weed boards; and

(B) in accordance with Section 4-2-8.7;

(g) seek to coordinate soil and water protection, conservation, and development activities and programs of state agencies, local governmental units, other states, special interest groups, and federal agencies;

(h) plan watershed and flood control projects in cooperation with appropriate local, state, and federal authorities, and coordinate flood control projects in the state;

(i) assist other state agencies with conservation standards for agriculture when requested; and

(j) when assigned by the governor, when required by contract with the Department of Environmental Quality, or when required by contract with the United States Environmental Protection Agency:

(i) develop programs for the prevention, control, or abatement of new or existing pollution to the soil, water, or air of the state;

(ii) advise, consult, and cooperate with affected parties to further the purpose of this chapter;

(iii) conduct studies, investigations, research, and demonstrations relating to agricultural pollution issues;

(iv) give reasonable consideration in the exercise of its powers and duties to the economic impact on sustainable agriculture;

(v) meet the requirements of federal law related to water and air pollution in the exercise of its powers and duties; and

(vi) establish administrative penalties relating to agricultural discharges as defined in Section 4-18-103 that are proportional to the seriousness of the resulting environmental harm.

(2) The commission may:

(a) employ, with the approval of the department, an administrator and necessary technical experts and employees;

(b) execute contracts or other instruments necessary to exercise its powers;

(c) take necessary action to promote and enforce the purpose and findings of Section 4-18-102;

(d) sue and be sued; and

(e) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to carry out the powers and duties described in Subsection (1) and Subsections (2)(b) and (c).

(3) If, under Subsection (2)(a), the commission employs an individual who was formerly an employee of a conservation district or the Utah Association of Conservation Districts, the Department of Human Resource Management shall:

(a) recognize the employee's employment service credit from the conservation district or association in determining leave accrual in the employee's new position within the state; and

(b) set the initial wage rate for the employee at the level that the employee was receiving as an employee of the conservation district or association.

(4) An employee described in Subsection (3) is exempt from the career service provisions of Title 67, Chapter 19, Utah State Personnel Management Act, and shall be designated under schedule codes and parameters established by the Department of Human Resource Management under Subsection 67-19-15(1)(p) until the commission, under parameters established by the Department of Human Resource Management, designates the employee under a different schedule recognized under Section 67-19-15.

(5) (a) For purposes of the report required by Subsection (5)(b), the commissioner shall study the organizational structure of the employees described in Subsection (3).

(b) The commissioner shall report to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee by no later than that subcommittee's November 2015 interim meeting regarding the study required by Subsection (5)(a).

Section 3. Section 4-18-106 is amended to read:

4-18-106. Agriculture Resource Development Fund -- Contents -- Use of fund money -- Authority board.

(1) There is created a revolving loan fund known as the Agriculture Resource Development Fund.

(2) The Agriculture Resource Development Fund shall consist of:

(a) money appropriated to it by the Legislature;

(b) sales and use tax receipts transferred to the fund in accordance with Section 59-12-103;

(c) money received for the repayment of loans made from the fund;

(d) money made available to the state for agriculture resource development from any source; and

(e) interest earned on the fund.

(3) The commission shall make loans from the Agriculture Resource Development Fund as provided by Subsections 4-18-105(1)(e)(i) through ~~(iv)~~ (iv).

(4) The commission may appoint an advisory board that shall:

(a) oversee the award process for loans, as described in this section;

(b) make recommendations to the commission regarding loans; and

(c) recommend the policies and procedures for the Agriculture Resource Development Fund, consistent with statute.

Section 4. Section 4-38-3 is amended to read:

4-38-3. Utah Horse Racing Commission.

(1) (a) There is created within the Department the Utah Horse Racing Commission.

(b) (i) The commission shall consist of ~~[five]~~ seven members who shall be ~~[U.S.]~~ United States citizens, Utah residents, and qualified voters of Utah.

(ii) Each member shall have an interest in horse racing.

(iii) Two members shall be chosen from horse racing organizations.

(c) (i) The governor shall appoint the members of the commission.

(ii) The governor shall appoint commission members from a list of nominees submitted by the commissioner of agriculture and food.

(d) (i) The members of the commission shall be appointed to four-year terms.

(ii) A commission member may not serve more than two consecutive terms.

(e) Each member shall hold office until his or her successor is appointed and qualified.

(f) Vacancies on the commission shall be filled by appointment by the governor for the unexpired term.

(g) (i) A member may be removed from office by the governor for cause after a public hearing.

(ii) Notice of the hearing shall fix the time and place of the hearing and shall specify the charges.

(iii) Copies of the notice of the hearing shall be served on the member by mailing it to the member at his last known address at least 10 days before the date fixed for the hearing.

(iv) The governor may designate a hearing officer to preside over the hearing and report his findings to the governor.

(2) (a) The members of the commission shall annually elect a commission chair.

(b) ~~Three~~ Five members of the commission shall constitute a quorum for the transaction of any business of the commission.

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

(a) Section 63A-3-106;

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

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

(4) All claims and expenditures made under this chapter shall be first audited and passed upon by the commission and when approved shall be paid in the manner provided by law for payment of claims against the state.

(5) Any member of the commission who has a personal or private interest in any matter proposed or pending before the commission shall publicly disclose this fact to the commission and may not vote on the matter.

(6) Any member of the commission who owns or who has any interest or whose spouse or member of his immediate family has any interest in a horse participating in a race shall disclose that interest and may not participate in any commission decision involving that race.

Section 5. Section 4-39-104 is amended to read:

4-39-104. Domesticated Elk Act advisory council.

(1) The department shall establish ~~an~~ a Domesticated Elk Act advisory council to give advice and make recommendations on policies and rules adopted pursuant to this chapter.

(2) The advisory council shall consist of ~~eight~~ 10 members appointed by the commissioner of agriculture to four-year terms as follows:

(a) ~~two members~~ one member, recommended by the executive director of the Department of Natural Resources, shall represent the Department of Natural Resources;

(b) two members shall represent the Department of Agriculture, one of whom shall be the state veterinarian;

(c) ~~two members~~ one member shall represent the livestock industry, ~~one of whom shall represent the domesticated elk industry; and~~;

(d) ~~two members~~ one member, recommended by the executive director of the Department of Natural Resources from a list of candidates submitted by the Division of Wildlife Resources, shall represent wildlife interests[-];

(e) five members, recommended by the Department of Agriculture, shall represent the domesticated elk industry.

(3) Notwithstanding the requirements of Subsection (2), the commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

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

(5) (a) A majority of the advisory council constitutes a quorum.

(b) A quorum is necessary for the council to act.

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

(a) Section 63A-3-106;

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

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

Section 6. Repealer.

This bill repeals:

Section 4-14-10, Pesticide Committee created -- Composition -- Terms -- Compensation -- Duties.

CHAPTER 20**H. B. 282**

Passed March 3, 2016
Approved March 17, 2016
Effective March 17, 2016

**STATE CONTRACTOR EMPLOYEE
HEALTH COVERAGE AMENDMENTS**

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill addresses employee health insurance requirements for state contractors.

Highlighted Provisions:

This bill:

- ▶ amends the types of contracts that trigger a state contractor's employee health insurance requirements;
- ▶ amends provisions for a state contractor to demonstrate compliance;
- ▶ amends employee health insurance requirements;
- ▶ requires the Department of Health to post a benchmark plan for qualified health insurance coverage; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

17B-2a-818.5, as last amended by Laws of Utah 2014, Chapter 425
19-1-206, as last amended by Laws of Utah 2014, Chapter 425
26-40-115, as last amended by Laws of Utah 2015, Chapter 107
63A-5-205, as last amended by Laws of Utah 2014, Chapter 425
63C-9-403, as last amended by Laws of Utah 2014, Chapter 425
72-6-107.5, as last amended by Laws of Utah 2014, Chapter 425
79-2-404, as last amended by Laws of Utah 2014, Chapter 425

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

Section 1. Section 17B-2a-818.5 is amended to read:

17B-2a-818.5. Contracting powers of public transit districts -- Health insurance coverage.

(1) For purposes of this section:

(a) "Employee" means an "employee," "worker," or "operative" as defined in Section 34A-2-104 who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance which may not exceed the first day of the calendar month following 60 days from the date of hire.

(b) "Health benefit plan" [~~has the same meaning as provided~~] means the same as that term is defined in Section 31A-1-301.

(c) "Qualified health insurance coverage" [~~is as~~] means the same as that term is defined in Section 26-40-115.

(d) "Subcontractor" [~~has the same meaning provided for~~] means the same as that term is defined in Section 63A-5-208.

(2) (a) Except as provided in Subsection (3), this section applies to a design or construction contract entered into by the public transit district on or after July 1, 2009, and to a prime contractor or to a subcontractor in accordance with Subsection (2)(b).

(b) (i) A prime contractor is subject to this section if the prime contract is in the amount of [~~\$1,500,000~~] \$2,000,000 or greater at the original execution of the contract.

(ii) A subcontractor is subject to this section if a subcontract is in the amount of [~~\$750,000~~] \$1,000,000 or greater at the original execution of the contract.

(3) This section does not apply if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) (a) This section does not apply to a change order as defined in Section 63G-6a-103, or a modification to a contract, when the contract does not meet the initial threshold required by Subsection (2).

(b) A person who intentionally uses change orders or contract modifications to circumvent the requirements of Subsection (2) is guilty of an infraction.

(5) (a) A contractor subject to Subsection (2) shall demonstrate to the public transit district that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and the employee's dependents during the duration of the contract.

~~[(b) If a subcontractor of the contractor is subject to Subsection (2)(b), the contractor shall demonstrate to the public transit district that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employee's dependents during the duration of the contract.]~~

(b) If a subcontractor of the contractor is subject to Subsection (2)(b), the contractor shall:

(i) place a requirement in the subcontract that the subcontractor shall obtain and maintain an offer of qualified health insurance coverage for the

subcontractor's employees and the employees' dependants during the duration of the subcontract; and

(ii) certify to the public transit district that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the prime contract.

(c) (i) (A) A contractor who fails to meet the requirements of Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with an ordinance adopted by the public transit district under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to meet the requirements of Subsection (5)(b).

(ii) (A) A subcontractor who fails to meet the requirements of Subsection (5)(b) during the duration of the contract is subject to penalties in accordance with an ordinance adopted by the public transit district under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to meet the requirements of Subsection (5)(a).

(6) The public transit district shall adopt ordinances:

(a) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the State Building Board in accordance with Section 63A-5-205;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403; and

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(b) [which] that establish:

(i) the requirements and procedures a contractor shall follow to demonstrate to the public transit district compliance with this section [which] that shall include:

(A) that a contractor [will not have to] shall demonstrate compliance with Subsection (5)(a) or (b) [more than twice in any 12-month period; and] at the time of the execution of each initial contract described in Subsection (2)(b);

(B) that the contractor's compliance is subject to an audit by the public transit district or the Office of the Legislative Auditor General; and

~~[(B)]~~ (C) that the actuarially equivalent determination required for the qualified health insurance coverage in Subsection (1) is met by the contractor if the contractor provides the department or division with a written statement of actuarial equivalency, which is no more than one

year old, regarding the contractor's offer of qualified health coverage from ~~[either: (I) the Utah Insurance Department; (II)]~~ an actuary selected by the contractor or the contractor's insurer~~[s]~~, or ~~[(III)]~~ an underwriter who is responsible for developing the employer group's premium rates;

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the public transit district upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the public transit district upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for employees and dependents of employees of the contractor or subcontractor who were not offered qualified health insurance coverage during the duration of the contract; and

(iii) a website on which the district shall post the commercially equivalent benchmark, for the qualified health insurance coverage identified in Subsection (1)(c), that is provided by the Department of Health, in accordance with Subsection 26-40-115(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(b)(ii), a contractor or subcontractor who intentionally violates the provisions of this section shall be liable to the employee for health care costs that would have been covered by qualified health insurance coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement of actuarial equivalency provided by an:

(I) actuary; or

(II) underwriter who is responsible for developing the employer group's premium rates; or

(B) a department or division determines that compliance with this section is not required under the provisions of Subsection (3) or (4).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Section 63G-6a-1603 or any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

Section 2. Section 19-1-206 is amended to read:

19-1-206. Contracting powers of department -- Health insurance coverage.

(1) For purposes of this section:

(a) "Employee" means an "employee," "worker," or "operative" as defined in Section 34A-2-104 who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance which may not exceed the first day of the calendar month following 60 days from the date of hire.

(b) "Health benefit plan" ~~[has the same meaning as provided]~~ means the same as that term is defined in Section 31A-1-301.

(c) "Qualified health insurance coverage" ~~[is as]~~ means the same as that term is defined in Section 26-40-115.

(d) "Subcontractor" ~~[has the same meaning provided for]~~ means the same as that term is defined in Section 63A-5-208.

(2) (a) Except as provided in Subsection (3), this section applies to a design or construction contract entered into by or delegated to the department or a division or board of the department on or after July 1, 2009, and to a prime contractor or subcontractor in accordance with Subsection (2)(b).

(b) (i) A prime contractor is subject to this section if the prime contract is in the amount of ~~[\$1,500,000]~~ \$2,000,000 or greater at the original execution of the contract.

(ii) A subcontractor is subject to this section if a subcontract is in the amount of ~~[\$750,000]~~ \$1,000,000 or greater at the original execution of the contract.

(3) This section does not apply to contracts entered into by the department or a division or board of the department if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract or agreement is between:

(i) the department or a division or board of the department; and

(ii) (A) another agency of the state;

(B) the federal government;

(C) another state;

(D) an interstate agency;

(E) a political subdivision of this state; or

(F) a political subdivision of another state;

(c) the executive director determines that applying the requirements of this section to a particular contract interferes with the effective response to an immediate health and safety threat from the environment; or

(d) the contract is:

(i) a sole source contract; or

(ii) an emergency procurement.

(4) (a) This section does not apply to a change order as defined in Section 63G-6a-103, or a modification to a contract, when the contract does not meet the initial threshold required by Subsection (2).

(b) A person who intentionally uses change orders or contract modifications to circumvent the requirements of Subsection (2) is guilty of an infraction.

(5) (a) A contractor subject to Subsection (2) shall demonstrate to the executive director that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and the employees' dependents during the duration of the contract.

~~[(b) If a subcontractor of the contractor is subject to Subsection (2), the contractor shall demonstrate to the executive director that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the contract.]~~

(b) If a subcontractor of the contractor is subject to Subsection (2), the contractor shall:

(i) place a requirement in the subcontract that the subcontractor shall obtain and maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependants during the duration of the subcontract; and

(ii) certify to the executive director that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the prime contract.

(c) (i) (A) A contractor who fails to comply with Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to meet the requirements of Subsection (5)(b).

(ii) (A) A subcontractor who fails to meet the requirements of Subsection (5)(b) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to meet the requirements of Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) a public transit district in accordance with Section 17B-2a-818.5;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the State Building Board in accordance with Section 63A-5-205;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review Committee; and

(c) ~~which~~ that establish:

(i) the requirements and procedures a contractor shall follow to demonstrate to the public transit district compliance with this section that shall include:

(A) that a contractor ~~will not have to~~ shall demonstrate compliance with Subsection (5)(a) or (b) ~~more than twice in any 12-month period; and~~ at the time of the execution of each initial contract described in Subsection (2)(b);

(B) that the contractor's compliance is subject to an audit by the department or the Office of the Legislative Auditor General; and

~~(B)~~ (C) that the actuarially equivalent determination required for the qualified health insurance coverage in Subsection (1) is met by the contractor if the contractor provides the department or division with a written statement of actuarial equivalency, which is no more than one year old, regarding the contractor's offer of qualified health coverage from ~~either: (I) the Utah Insurance Department; (II) an actuary selected by the contractor or the contractor's insurer[;], or (III) an underwriter who is responsible for developing the employer group's premium rates;~~

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section

63G-6a-904 upon the third or subsequent violation; and

(D) notwithstanding Section 19-1-303, monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for an employee and the dependents of an employee of the contractor or subcontractor who was not offered qualified health insurance coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health insurance coverage identified in Subsection (1)(c), that is provided by the Department of Health, in accordance with Subsection 26-40-115(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c), a contractor or subcontractor who intentionally violates the provisions of this section shall be liable to the employee for health care costs that would have been covered by qualified health insurance coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement of actuarial equivalency provided by:

(I) an actuary; or

(II) an underwriter who is responsible for developing the employer group's premium rates; or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3) or (4).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Section 63G-6a-1603 or any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

Section 3. Section 26-40-115 is amended to read:

26-40-115. State contractor -- Employee and dependent health benefit plan coverage.

(1) For purposes of Sections 17B-2a-818.5, 19-1-206, 63A-5-205, 63C-9-403, 72-6-107.5, and 79-2-404, "qualified health insurance

coverage” means, at the time the contract is entered into or renewed:

~~[(1)]~~ (a) a health benefit plan and employer contribution level with a combined actuarial value at least actuarially equivalent to the combined actuarial value of the benchmark plan determined by the program under Subsection 26-40-106(1), and a contribution level ~~[of]~~ at which the employer pays at least 50% of the premium for the employee and the dependents of the employee who reside or work in the state~~[, in which]; or~~

~~[(a)]~~ the employer pays at least 50% of the premium for the employee and the dependents of the employee who reside or work in the state; and

~~[(b)]~~ for purposes of calculating actuarial equivalency under this Subsection (1)(b);

~~[(i)]~~ rather than the benchmark plan’s deductible, and the benchmark plan’s out-of-pocket maximum based on income levels;

~~[(A)]~~ the deductible is \$1,000 per individual and \$3,000 per family; and

~~[(B)]~~ the out-of-pocket maximum is \$3,000 per individual and \$9,000 per family;

~~[(ii)]~~ dental coverage is not required; and

~~[(iii)]~~ other than Subsection 26-40-106(1), the provisions of Section 26-40-106 do not apply; or

~~[(2)]~~ (b) a federally qualified high deductible health plan that, at a minimum:

~~[(a)]~~ (i) has a deductible that is ~~[either]~~:

~~[(i)]~~ (A) the lowest deductible permitted for a federally qualified high deductible health plan; or

~~[(ii)]~~ (B) a deductible that is higher than the lowest deductible permitted for a federally qualified high deductible health plan, but includes an employer contribution to a health savings account in a dollar amount at least equal to the dollar amount difference between the lowest deductible permitted for a federally qualified high deductible plan and the deductible for the employer offered federally qualified high deductible plan;

~~[(b)]~~ (ii) has an out-of-pocket maximum that does not exceed three times the amount of the annual deductible; and

~~[(e)]~~ (iii) provides that the employer pays 60% of the premium for the employee and the dependents of the employee who work or reside in the state.

(2) The department shall:

(a) on or before July 1, 2016:

(i) determine the commercial equivalent of the benchmark plan described in Subsection (1)(a); and

(ii) post the commercially equivalent benchmark plan described in Subsection (2)(a)(i) on the department’s website, noting the date posted; and

(b) update the posted commercially equivalent benchmark plan annually and at the time of any change in the benchmark.

Section 4. Section 63A-5-205 is amended to read:

63A-5-205. Contracting powers of director -- Retainage -- Health insurance coverage.

(1) As used in this section:

(a) “Capital developments” ~~[has the same meaning as provided]~~ means the same as that term is defined in Section 63A-5-104.

(b) “Capital improvements” ~~[has the same meaning as provided]~~ means the same as that term is defined in Section 63A-5-104.

(c) “Employee” means an “employee,” “worker,” or “operative” as defined in Section 34A-2-104 who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance which may not exceed the first day of the calendar month following 60 days from the date of hire.

(d) “Health benefit plan” ~~[has the same meaning as provided]~~ means the same as that term is defined in Section 31A-1-301.

(e) “Qualified health insurance coverage” ~~[is as]~~ means the same as that term is defined in Section 26-40-115.

~~[(f)]~~ “Subcontractor” ~~[has the same meaning provided for]~~ means the same as that term is defined in Section 63A-5-208.

(2) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the director may:

(a) subject to ~~[Subsection]~~ Subsections (3) and (4), enter into contracts for any work or professional services which the division or the State Building Board may do or have done; and

(b) as a condition of any contract for architectural or engineering services, prohibit the architect or engineer from retaining a sales or agent engineer for the necessary design work.

(3) ~~[(a)]~~ Except as provided in Subsection ~~[(3)(b)]~~ (4), this Subsection (3) applies to all design or construction contracts entered into by the division or the State Building Board on or after July 1, 2009, and:

~~[(i)]~~ (a) applies to a prime contractor if the prime contract is in the amount of ~~[\$1,500,000]~~ \$2,000,000 or greater at the original execution of the contract; and

~~[(ii)]~~ (b) applies to a subcontractor if the subcontract is in the amount of ~~[\$750,000]~~ \$1,000,000 or greater at the original execution of the contract.

~~[(b) This]~~ (4) Subsection (3) does not apply:

~~[(i)]~~ (a) if the application of ~~[this]~~ Subsection (3) jeopardizes the receipt of federal funds;

~~[(iii)]~~ (b) if the contract is a sole source contract;

~~[(iii)]~~ (c) if the contract is an emergency procurement; or

~~[(iv)]~~ (d) to a change order as defined in Section 63G-6a-103, or a modification to a contract, when the contract does not meet the threshold required by Subsection (3)~~[(a)]~~.

~~[(e)]~~ (5) A person who intentionally uses change orders or contract modifications to circumvent the requirements of Subsection (3)~~[(a)]~~ is guilty of an infraction.

~~[(d)-(i)]~~ (6) (a) A contractor subject to Subsection (3)~~[(a)]~~ shall demonstrate to the director that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and the employees' dependents.

~~[(ii) If a subcontractor of the contractor is subject to Subsection (3)(a), the contractor shall demonstrate to the director that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents.]~~

(b) If a subcontractor of the contractor is subject to Subsection (3), the contractor shall:

(i) place a requirement in the subcontract that the subcontractor shall obtain and maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependants during the duration of the subcontract; and

(ii) certify to the director that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the prime contract.

~~[(e)]~~ (c) ~~(i)~~ ~~[(A)]~~ A contractor who fails to meet the requirements of Subsection ~~[(3)(d)(i)]~~ (6)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the division under Subsection ~~[(3)(f)]~~ (7).

~~[(B)]~~ (ii) A contractor is not subject to penalties for the failure of a subcontractor to meet the requirements of Subsection ~~[(3)(d)(ii)]~~ (6)(b).

~~[(ii)-(A)]~~ (iii) A subcontractor who fails to meet the requirements of Subsection ~~[(3)(d)(ii)]~~ (6)(b) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the division under Subsection ~~[(3)(f)]~~ (7).

~~[(B)]~~ (iv) A subcontractor is not subject to penalties for the failure of a contractor to meet the requirements of Subsection ~~[(3)(d)(i)]~~ (6)(a).

(f) (7) The division shall adopt administrative rules:

(i) (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

~~[(ii)]~~ (b) in coordination with:

~~[(A)]~~ (i) the Department of Environmental Quality in accordance with Section 19-1-206;

~~[(B)]~~ (ii) the Department of Natural Resources in accordance with Section 79-2-404;

~~[(C)]~~ (iii) a public transit district in accordance with Section 17B-2a-818.5;

~~[(D)]~~ (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

~~[(E)]~~ (v) the Department of Transportation in accordance with Section 72-6-107.5; and

~~[(F)]~~ (vi) the Legislature's Administrative Rules Review Committee; and

~~[(iii) which]~~ (c) that establish:

~~[(A)]~~ (i) the requirements and procedures a contractor must follow to demonstrate to the director compliance with ~~[this Subsection (3) which]~~ Subsections (3) through (10) that shall include:

~~[(I)]~~ (A) that a contractor ~~[will not have to]~~ shall demonstrate compliance with Subsection ~~[(3)(d)(i)]~~ or (ii) more than twice in any 12-month period; and (6)(a) or (b) at the time of the execution of each initial contract described in Subsection (3);

(B) that the contractor's compliance is subject to an audit by the division or the Office of the Legislative Auditor General; and

~~[(II)]~~ (C) that the actuarially equivalent determination required for the qualified health insurance coverage in Subsection (1) is met by the contractor if the contractor provides the department or division with a written statement of actuarial equivalency, which is not more than one year old, regarding the contractor's offer of qualified health coverage from ~~[either: (Aa) the Utah Insurance Department; (Bb)]~~ an actuary selected by the contractor or the contractor's insurer~~[-or- (Ce)]~~, or an underwriter who is responsible for developing the employer group's premium rates;

~~[(B)]~~ (ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of ~~[this Subsection (3)]~~ Subsections (3) through (10), which may include:

~~[(I)]~~ (A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

~~[(II)]~~ (B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

~~[(III)]~~ (C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

~~[(IV)]~~ (D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for an employee and the dependents of an employee of the contractor or subcontractor who was not offered

qualified health insurance coverage during the duration of the contract; and

~~[(C)]~~ (iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health insurance coverage identified in Subsection (1)(e), that is provided by the Department of Health, in accordance with Subsection 26-40-115(2).

~~[(E)]~~ (i) (8) (a) In addition to the penalties imposed under Subsection ~~[(3)(f)(iii)]~~ (7)(c), a contractor or subcontractor who intentionally violates the provisions of this section shall be liable to the employee for health care costs that would have been covered by qualified health insurance coverage.

~~[(ii)]~~ (b) An employer has an affirmative defense to a cause of action under Subsection ~~[(3)(g)(i)]~~ (8)(a) if:

~~[(A)]~~ (i) the employer relied in good faith on a written statement of actuarial equivalency provided by:

~~[(4)]~~ (A) an actuary; or

~~[(B)]~~ (B) an underwriter who is responsible for developing the employer group's premium rates; or

~~[(B)]~~ (ii) the department determines that compliance with this section is not required under the provisions of Subsection ~~[(3)(b)]~~ (4).

~~[(iii)]~~ (c) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection ~~[(3)(g)]~~ (8).

~~[(4)]~~ (9) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created by Section 26-18-402.

~~[(4)]~~ (10) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:

~~[(4)]~~ (a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Section 63G-6a-1603 or any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

~~[(ii)]~~ (b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

~~[(4)]~~ (11) The judgment of the director as to the responsibility and qualifications of a bidder is conclusive, except in case of fraud or bad faith.

~~[(5)]~~ (12) The division shall make all payments to the contractor for completed work in accordance with the contract and pay the interest specified in the contract on any payments that are late.

~~[(6)]~~ (13) If any payment on a contract with a private contractor to do work for the division or the State Building Board is retained or withheld, it shall be retained or withheld and released as provided in Section 13-8-5.

Section 5. Section 63C-9-403 is amended to read:

63C-9-403. Contracting power of executive director -- Health insurance coverage.

(1) For purposes of this section:

(a) "Employee" means an "employee," "worker," or "operative" as defined in Section 34A-2-104 who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance which may not exceed the first of the calendar month following 60 days from the date of hire.

(b) "Health benefit plan" ~~[has the same meaning as provided]~~ means the same as that term is defined in Section 31A-1-301.

(c) "Qualified health insurance coverage" ~~[is as]~~ means the same as that term is defined in Section 26-40-115.

(d) "Subcontractor" ~~[has the same meaning provided for]~~ means the same as that term is defined in Section 63A-5-208.

(2) (a) Except as provided in Subsection (3), this section applies to a design or construction contract entered into by the board or on behalf of the board on or after July 1, 2009, and to a prime contractor or a subcontractor in accordance with Subsection (2)(b).

(b) (i) A prime contractor is subject to this section if the prime contract is in the amount of ~~[\$1,500,000]~~ \$2,000,000 or greater at the original execution of the contract.

(ii) A subcontractor is subject to this section if a subcontract is in the amount of ~~[\$750,000]~~ \$1,000,000 or greater at the original execution of the contract.

(3) This section does not apply if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) (a) This section does not apply to a change order as defined in Section 63G-6a-103, or a modification to a contract, when the contract does not meet the initial threshold required by Subsection (2).

(b) A person who intentionally uses change orders or contract modifications to circumvent the requirements of Subsection (2) is guilty of an infraction.

(5) (a) A contractor subject to Subsection (2) shall demonstrate to the executive director that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and the employees' dependents during the duration of the contract.

~~[(b) If a subcontractor of the contractor is subject to Subsection (2)(b), the contractor shall~~

~~demonstrate to the executive director that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the contract.]~~

(b) If a subcontractor of the contractor is subject to Subsection (2)(b), the contractor shall:

(i) place a requirement in the subcontract that the subcontractor shall obtain and maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependants during the duration of the subcontract; and

(ii) certify to the executive director that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the prime contract.

(c) (i) (A) A contractor who fails to meet the requirements of Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the division under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to meet the requirements of Subsection (5)(b).

(ii) (A) A subcontractor who fails to meet the requirements of Subsection (5)(b) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to meet the requirements of Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the State Building Board in accordance with Section 63A-5-205;

(iv) a public transit district in accordance with Section 17B-2a-818.5;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review Committee; and

(c) ~~[which]~~ that establish:

(i) the requirements and procedures a contractor must follow to demonstrate to the executive director compliance with this section ~~[which]~~ that shall include:

(A) that a contractor ~~[will not have to]~~ shall demonstrate compliance with Subsection (5)(a) or (b) ~~[more than twice in any 12-month period; and]~~ at the time of the execution of each initial contract described in Subsection (2)(b);

(B) that the contractor's compliance is subject to an audit by the department or the Office of the Legislative Auditor General; and

~~[(B)]~~ (C) that the actuarially equivalent determination required for the qualified health insurance coverage in Subsection (1) is met by the contractor if the contractor provides the department or division with a written statement of actuarial equivalency, which is no more than one year old, regarding the contractor's offer of qualified health coverage from ~~[either: (I) the Utah Insurance Department; (II) an actuary selected by the contractor or the contractor's insurer[;], or (III) an underwriter who is responsible for developing the employer group's premium rates;~~

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for employees and dependents of employees of the contractor or subcontractor who were not offered qualified health insurance coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health insurance coverage identified in Subsection (1)(c), that is provided by the Department of Health, in accordance with Subsection 26-40-115(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c), a contractor or subcontractor who intentionally violates the provisions of this section shall be liable to the employee for health care costs that would have been covered by qualified health insurance coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement of actuarial equivalency provided by:

(I) an actuary; or

(II) an underwriter who is responsible for developing the employer group's premium rates; or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3) or (4).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Section 63G-6a-1603 or any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

Section 6. Section 72-6-107.5 is amended to read:

72-6-107.5. Construction of improvements of highway -- Contracts -- Health insurance coverage.

(1) For purposes of this section:

(a) "Employee" means an "employee," "worker," or "operative" as defined in Section 34A-2-104 who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance which may not exceed the first day of the calendar month following 60 days from the date of hire.

(b) "Health benefit plan" [~~has the same meaning as provided~~] means the same as that term is defined in Section 31A-1-301.

(c) "Qualified health insurance coverage" [~~is as~~] means the same as that term is defined in Section 26-40-115.

(d) "Subcontractor" [~~has the same meaning provided for~~] means the same as that term is defined in Section 63A-5-208.

(2) (a) Except as provided in Subsection (3), this section applies to contracts entered into by the department on or after July 1, 2009, for construction or design of highways and to a prime contractor or to a subcontractor in accordance with Subsection (2)(b).

(b) (i) A prime contractor is subject to this section if the prime contract is in the amount of [~~\$1,500,000~~] \$2,000,000 or greater at the original execution of the contract.

(ii) A subcontractor is subject to this section if a subcontract is in the amount of [~~\$750,000~~] \$1,000,000 or greater at the original execution of the contract.

(3) This section does not apply if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) (a) This section does not apply to a change order as defined in Section 63G-6a-103, or a modification to a contract, when the contract does not meet the initial threshold required by Subsection (2).

(b) A person who intentionally uses change orders or contract modifications to circumvent the requirements of Subsection (2) is guilty of an infraction.

(5) (a) A contractor subject to Subsection (2) shall demonstrate to the department that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and the employees' dependents during the duration of the contract.

~~[(b) If a subcontractor of the contractor is subject to Subsection (2), the contractor shall demonstrate to the department that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the contract.]~~

(b) If a subcontractor of the contractor is subject to Subsection (2), the contractor shall:

(i) place a requirement in the subcontract that the subcontractor shall obtain and maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependants during the duration of the subcontract; and

(ii) certify to the department that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the prime contract.

(c) (i) (A) A contractor who fails to meet the requirements of Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to meet the requirements of Subsection (5)(b).

(ii) (A) A subcontractor who fails to meet the requirements of Subsection (5)(b) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to meet the requirements of Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the State Building Board in accordance with Section 63A-5-205;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) a public transit district in accordance with Section 17B-2a-818.5; and

(vi) the Legislature's Administrative Rules Review Committee; and

(c) ~~which~~ that establish:

(i) the requirements and procedures a contractor must follow to demonstrate to the department compliance with this section ~~which~~ that shall include:

(A) that a contractor ~~will not have to~~ shall demonstrate compliance with Subsection (5)(a) or (b) ~~more than twice in any 12-month period; and~~ at the time of the execution of each initial contract described in Subsection (2)(b);

(B) that the contractor's compliance is subject to an audit by the department or the Office of the Legislative Auditor General; and

~~(B)~~ (C) that the actuarially equivalent determination required for qualified health insurance coverage in Subsection (1) is met by the contractor if the contractor provides the department or division with a written statement of actuarial equivalency, which is no more than one year old, regarding the contractor's offer of qualified health coverage from ~~either: (I) the Utah Insurance Department; (II) an actuary selected by the contractor or the contractor's insurer[;], or (III) an underwriter who is responsible for developing the employer group's premium rates;~~

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for an employee and a dependent of the employee of the contractor or subcontractor who was not offered qualified health insurance coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health insurance coverage identified in Subsection (1)(c), that is provided by the Department of Health, in accordance with Subsection 26-40-115(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6), a contractor or subcontractor who intentionally violates the provisions of this section shall be liable to the employee for health care costs that would have been covered by qualified health insurance coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement of actuarial equivalency provided by:

(I) an actuary; or

(II) an underwriter who is responsible for developing the employer group's premium rates; or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3) or (4).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Section 63G-6a-1603 or any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

Section 7. Section 79-2-404 is amended to read:

79-2-404. Contracting powers of department -- Health insurance coverage.

(1) For purposes of this section:

(a) "Employee" means an "employee," "worker," or "operative" as defined in Section 34A-2-104 who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance which may not exceed the first day of the calendar month following 60 days from the date of hire.

(b) "Health benefit plan" ~~has the same meaning as provided~~ means the same as that term is defined in Section 31A-1-301.

(c) "Qualified health insurance coverage" ~~is as~~ means the same as that term is defined in Section 26-40-115.

(d) ~~“Subcontractor” [has the same meaning provided for] means the same as that term is defined in Section 63A-5-208.~~

(2) (a) Except as provided in Subsection (3), this section applies a design or construction contract entered into by, or delegated to, the department or a division, board, or council of the department on or after July 1, 2009, and to a prime contractor or to a subcontractor in accordance with Subsection (2)(b).

(b) (i) A prime contractor is subject to this section if the prime contract is in the amount of ~~[\$1,500,000]~~ \$2,000,000 or greater at the original execution of the contract.

(ii) A subcontractor is subject to this section if a subcontract is in the amount of ~~[\$750,000]~~ \$1,000,000 or greater at the original execution of the contract.

(3) This section does not apply to contracts entered into by the department or a division, board, or council of the department if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract or agreement is between:

(i) the department or a division, board, or council of the department; and

(ii) (A) another agency of the state;

(B) the federal government;

(C) another state;

(D) an interstate agency;

(E) a political subdivision of this state; or

(F) a political subdivision of another state; or

(c) the contract or agreement is:

(i) for the purpose of disbursing grants or loans authorized by statute;

(ii) a sole source contract; or

(iii) an emergency procurement.

(4) (a) This section does not apply to a change order as defined in Section 63G-6a-103, or a modification to a contract, when the contract does not meet the initial threshold required by Subsection (2).

(b) A person who intentionally uses change orders or contract modifications to circumvent the requirements of Subsection (2) is guilty of an infraction.

(5) (a) A contractor subject to Subsection (2)(b)(i) shall demonstrate to the department that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and the employees' dependents during the duration of the contract.

~~[(b) If a subcontractor of the contractor is subject to Subsection (2)(b)(ii), the contractor shall demonstrate to the department that the~~

~~subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the contract.]~~

(b) If a subcontractor of the contractor is subject to Subsection (2)(b), the contractor shall:

(i) place a requirement in the subcontract that the subcontractor shall obtain and maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) certify to the department that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the prime contract.

(c) (i) (A) A contractor who fails to meet the requirements of Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to meet the requirements of Subsection (5)(b).

(ii) (A) A subcontractor who fails to meet the requirements of Subsection (5)(b) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to meet the requirements of Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) a public transit district in accordance with Section 17B-2a-818.5;

(iii) the State Building Board in accordance with Section 63A-5-205;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review Committee; and

(c) ~~[which]~~ that establish:

(i) the requirements and procedures a contractor must follow to demonstrate compliance with this section to the department ~~[which]~~ that shall include:

(A) that a contractor ~~[will not have to]~~ shall demonstrate compliance with Subsection (5)(a) or (b) ~~[more than twice in any 12-month period; and]~~ at the time of the execution of each initial contract described in Subsection (2)(b);

(B) that the contractor's compliance is subject to an audit by the department or the Office of the Legislative Auditor General; and

~~[(B)]~~ (C) that the actuarially equivalent determination required for qualified health insurance coverage in Subsection (1) is met by the contractor if the contractor provides the department or division with a written statement of actuarial equivalency, which is no more than one year old, regarding the contractor's offer of qualified health coverage from ~~[either: (I) the Utah Insurance Department; (II)]~~ an actuary selected by the contractor or the contractor's insurer~~;~~, or ~~[(III)]~~ an underwriter who is responsible for developing the employer group's premium rates;

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for an employee and a dependent of an employee of the contractor or subcontractor who was not offered qualified health insurance coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health insurance coverage identified in Subsection (1)(c), provided by the Department of Health, in accordance with Subsection 26-40-115(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6), a contractor or subcontractor who intentionally violates the provisions of this section shall be liable to the employee for health care costs that would have been covered by qualified health insurance coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement of actuarial equivalency provided by:

(I) an actuary; or

(II) an underwriter who is responsible for developing the employer group's premium rates; or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3) or (4).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Section 63G-6a-1603 or any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

Section 8. Effective date.

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

CHAPTER 21**H. B. 314**

Passed March 4, 2016

Approved March 17, 2016

Effective May 10, 2016

**BEDDING, UPHOLSTERED FURNITURE,
AND QUILTED CLOTHING INSPECTION
ACT AMENDMENTS**

Chief Sponsor: Stephen G. Handy

Senate Sponsor: Alvin B. Jackson

LONG TITLE**General Description:**

This bill modifies the Bedding, Upholstered Furniture, and Quilted Clothing Inspection Act.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ amends licensing provisions;
- ▶ amends provisions relating to unlawful acts;
- ▶ amends tagging requirements; and
- ▶ requires the sterilization of certain materials.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

4-10-2, as last amended by Laws of Utah 2014, Chapter 411

4-10-5, as last amended by Laws of Utah 2010, Chapter 73

4-10-6, as last amended by Laws of Utah 2014, Chapter 411

4-10-7, as last amended by Laws of Utah 2014, Chapter 411

ENACTS:

4-10-14, Utah Code Annotated 1953

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

Section 1. Section 4-10-2 is amended to read:**4-10-2. Definitions.**

As used in this chapter:

(1) "Article" means ~~[any]~~ a bedding, upholstered furniture, quilted clothing, or filling material.

(2) "Bedding" means ~~[any]~~ a:

(a) quilted, packing, mattress, or hammock pad; or

(b) mattress, ~~[boxsprings]~~ boxspring, comforter, quilt, sleeping bag, studio couch, pillow, or cushion made with ~~[any]~~ a filling material that can be used for sleeping or reclining.

(3) "Consumer" means a person who purchases, rents, or leases an article for the article's intended, everyday use.

(4) "Filling material" means ~~[any]~~ cotton, wool, kapok, feathers, down, shoddy, hair, or other material, or ~~[any]~~ a combination of ~~[material]~~ materials, whether loose or in bags, bales, batting, pads, or other prefabricated form that is, or can be, used in bedding, upholstered furniture, or quilted clothing.

(5) "Label" means the display of written, printed, or graphic matter upon a tag or upon the immediate container of ~~[any]~~ a bedding, upholstered furniture, quilted clothing, or filling material.

(6) (a) "Manufacture" means to make, process, or prepare from new or secondhand material, in whole or in part, ~~[any]~~ a bedding, upholstered furniture, quilted clothing, or filling material for sale.

(b) "Manufacture" does not include making, processing, or preparing an article described in Subsection (6)(a) if:

(i) a person sells three or fewer ~~[annual sales of such]~~ of the articles per year; and

(ii) the articles are sold by persons who are not primarily engaged in the making, processing, or preparation of ~~[such]~~ the articles.

(7) (a) "New material" means material that has not previously been used in the manufacture of another article used for any purpose.

(b) "New material" includes by-products from a textile mill using only new raw material synthesized from a product that has been melted, liquified, and re-extruded.

(8) "Owner's own material" means an article owned or in the possession of a person for the person's own or a tenant's use that is sent to another person for manufacture or repair.

(9) "Quilted clothing" means a ~~[quilted]~~ filled garment or apparel, exclusive of trim used for aesthetic effect, or a stiffener, shoulder ~~[pads]~~ pad, interfacing, or other material that is made in whole or in part from filling material and sold or offered for sale.

(10) "Repair" means to restore, recover, alter, or renew bedding~~;~~ or upholstered furniture~~;~~~~—or quilted clothing~~ for a consideration.

(11) "Retailer" means a person who sells bedding, upholstered furniture, quilted clothing, or filling material to a consumer for use primarily for personal, family, household, or business purposes.

(12) (a) "Sale" or "sell" means to offer or expose for sale, barter, trade, deliver, consign, lease, or give away any bedding, upholstered furniture, quilted clothing, or filling material.

(b) "Sale" or "sell" does not include ~~[any]~~ a judicial, executor's, administrator's, or guardian's sale of ~~[such items]~~ an item described in Subsection (12)(a).

(13) "Secondhand" means ~~[any]~~ an article or filling material, or portion ~~[thereof]~~ of an article or filling material, that has previously been used~~;~~ other than previous use as a floor model.

(14) “Sterilize” means to disinfect, decontaminate, sanitize, cleanse, or purify as required by Section 4-10-14.

[~~(14)~~] (15) “Tag” means a card, flap, or strip attached to an article for the purpose of displaying information required by this chapter or under rule made pursuant to it.

[~~(15)~~] (16) (a) “Used” means an article that has been sold to a consumer and has left the store.

(b) “Used” does not include an article returned to the store:

(i) [~~within three days from the day on which the article is purchased~~] with its original tags; and

(ii) in its original packaging.

[~~(16)~~] (17) “Upholstered furniture” means [~~any~~] portable or fixed furniture, except fixed seats in motor vehicles, boats, or aircraft, that is made in whole or in part with filling material, exclusive of trim used for aesthetic effect.

[~~(17)~~] (18) “Wholesaler” means a person who offers an article for resale to a retailer or institution rather than a final consumer.

Section 2. Section 4-10-5 is amended to read:

4-10-5. License -- Application -- Fees -- Expiration -- Renewal.

(1) (a) [~~Application~~] A person may apply to the department, on forms prescribed and furnished by the department, for a license to manufacture, repair, sterilize, or [~~to~~] engage in the wholesale sale of bedding, upholstered furniture, quilted clothing, or filling material [~~shall be made to the department on forms prescribed and furnished by the department~~].

(b) Upon receipt of a proper application and payment of the appropriate license fee, the commissioner, if satisfied that the convenience and necessity of the industry and the public will be served, shall issue to the applicant a license to engage in the particular activity through December 31 of the year in which the license is issued, subject to suspension or revocation for cause.

(c) A person doing business under more than one name shall be licensed for each name under which business is conducted.

(2) The annual license fee for each license issued under this chapter shall be determined by the department pursuant to Subsection 4-2-2(2).

(3) Each license issued under this chapter is renewable for a period of one year upon the payment of the applicable amount for the particular license sought to be renewed on or before December 31 of each year.

(4) A person who holds a valid manufacturer’s license may, upon application, be licensed as a wholesale dealer[~~, supplier, or repairer~~] without the payment of an additional license fee.

(5) A person who fails to renew a license and engages in conduct requiring a license under this chapter shall pay the applicable license fee for each year in which the person engages in conduct requiring a license for which a license is not renewed.

(6) The department may retroactively collect a fee owed under Subsection (5).

Section 3. Section 4-10-6 is amended to read:

4-10-6. Unlawful acts specified.

It is unlawful for any person to:

(1) sell bedding, upholstered furniture, quilted clothing, or filling material as new unless it is made from new material and properly tagged;

(2) sell bedding, upholstered furniture, quilted clothing or filling material made from secondhand material which is not properly tagged;

(3) label or sell a used or secondhand article as if it were a new article;

(4) use burlap or other material which has been used for packing or baling, or to use any unsanitary, filthy, or vermin or insect infected filling material in the manufacture or repair of any article;

(5) sell bedding, upholstered furniture, quilted clothing or filling material which is not properly tagged regardless of point of origin;

(6) use any false or misleading statement, term, or designation on any tag;

(7) use any false or misleading label; [~~or~~]

(8) sell new bedding, upholstered furniture, or quilted clothing with filling material made of down, feather, wool, or hair that has not been properly sterilized; or

[~~(8)~~] (9) engage in the manufacture, repair, sterilization, or wholesale sale of bedding, upholstered furniture, quilted clothing, or filling material without a license as required by this chapter.

Section 4. Section 4-10-7 is amended to read:

4-10-7. Tagging requirements for bedding, upholstered furniture, and filling material.

(1) (a) All bedding, upholstered furniture, and filling material shall be securely tagged by the manufacturer, retailer, or repairer.

(b) Tags shall be at least six square inches and plainly and indelibly labeled with:

(i) information as the department requires by rule;

(ii) according to the filling material type, the words “All New Material,” “Secondhand Material,” or “Owner’s Material,” stamped or printed on the label; and

(iii) the word “USED” stamped or printed on the label of a used mattress.

(c) Each label shall be placed on the article in such a position as to facilitate ease of examination.

(2) (a) If more than one type of filling material is used, its component parts shall be listed in descending order by weight or by percentages in an item, the percentage, by weight, of each component part shall be listed in order of predominance.

(b) If descriptive statements are made about the frame, cover, or style of the article, such statements shall, in fact, be true.

(c) All quilted clothing shall be tagged and labeled in conformity with the Federal Textile Fiber Products Identification Act, 15 U.S.C. [See.] Secs. 70 through 70k.

(3) No person, except the purchaser, may remove, deface, or alter a tag attached according to this chapter.

(4) A used mattress shall be tagged with the word "USED," in accordance with rules established by the department.

(5) The retailer of a used mattress shall display the mattress so that the "USED" tag is clearly visible to a customer.

Section 5. Section 4-10-14 is enacted to read:

4-10-14. Sterilization of filling material.

(1) A person shall sterilize all wool, feathers, down, shoddy, hair, or other material before the material is used as filling material in new bedding, upholstered furniture, or quilted clothing.

(2) The department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules governing the appropriate method by which a person may sterilize wool, feathers, down, shoddy, hair, or other material for use in filling material, as required by Subsection (1).

CHAPTER 22**S. B. 23**

Passed March 1, 2016

Approved March 17, 2016

Effective May 10, 2016

**WATER LAW - PROTECTED
PURCHASER AMENDMENTS**

Chief Sponsor: Margaret Dayton

House Sponsor: Keith Grover

uncertificated security, share of stock in a land company, or share of stock in a water company free of any adverse claim.

LONG TITLE**General Description:**

This bill modifies the definition of a protected purchaser.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of a protected purchaser; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

70A-8-303, as last amended by Laws of Utah 2012, Chapter 386

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

Section 1. Section 70A-8-303 is amended to read:**70A-8-303. Protected purchaser.**

(1) "Protected purchaser" means a purchaser of a certificated or uncertificated security, or of an interest in the security, who:

- (a) ~~(i)~~ gives value;
- ~~(ii)~~ (b) does not have notice of an adverse claim to the security; ~~and~~
- ~~(iii)~~ (c) obtains control of the security; ~~or~~ and
- ~~(b)~~ (d) for a ~~security~~ share of stock issued by a land company or a water company~~;~~
- (i) pays, or whose predecessors in interest paid, an assessment levied against the share of stock for at least four of the immediate past seven years by the land company or the water company ~~in accordance with Title 16, Chapter 4, Share Assessment Act, against the security at least once within the five-year period immediately preceding the date it is determined whether the purchaser is a protected purchaser.]; or~~
- (ii) has used, or whose predecessors in interest have used, either directly or indirectly, the water available under the share of stock issued by a water company for at least four of the immediate past seven years.

(2) In addition to acquiring the rights of a purchaser, a protected purchaser acquires the purchaser's interest in the certificated or

CHAPTER 23**S. B. 26**

Passed February 24, 2016

Approved March 17, 2016

Effective May 10, 2016

ELECTION NOTICE AMENDMENTS

Chief Sponsor: Margaret Dayton

House Sponsor: Jack R. Draxler

LONG TITLE**General Description:**

This bill amends provisions related to election notice requirements.

Highlighted Provisions:

This bill:

- ▶ clarifies the manner in which notice of certain election information is required to be given; and
- ▶ provides an option for providing the election notice by publication in a newspaper or by mail to each registered voter who resides in the area to which the election pertains.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-5-101, as last amended by Laws of Utah 2015, Chapter 296

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

Section 1. Section 20A-5-101 is amended to read:**20A-5-101. Notice of election.**

(1) On or before November 15 in the year before each regular general election year, the lieutenant governor shall prepare and transmit a written notice to each county clerk that:

(a) designates the offices to be filled at the next year's regular general election;

(b) identifies the dates for filing a declaration of candidacy, and for submitting and certifying nomination petition signatures, as applicable, under Sections 20A-9-403, 20A-9-407, and 20A-9-408 for those offices;

(c) includes the master ballot position list for the next year and the year following as established under Section 20A-6-305; and

(d) contains a description of any ballot propositions to be decided by the voters that have qualified for the ballot as of that date.

(2) (a) No later than seven business days after the day on which the lieutenant governor transmits the written notice described in Subsection (1), each county clerk shall:

(i) publish a notice:

(A) once in a newspaper published in that county; and

(B) as required in Section 45-1-101; or

(ii) (A) cause a copy of the notice to be posted in a conspicuous place most likely to give notice of the election to the voters in each voting precinct within the county; and

(B) prepare an affidavit of that posting, showing a copy of the notice and the places where the notice was posted.

(b) The notice required by Subsection (2)(a) shall:

(i) designate the offices to be voted on in that election; and

(ii) identify the dates for filing a declaration of candidacy for those offices.

(3) Before each election, the election officer shall give ~~written or~~ printed notice of the following information, or printed notice of a website where the following information can be obtained:

(a) the date and place of election;

(b) the hours during which the polls will be open;

(c) the polling places for each voting precinct;

(d) an election day voting center designated under Section 20A-3-703; and

(e) the qualifications for persons to vote in the election.

(4) To provide the printed notice ~~required by~~ described in Subsection (3), the election officer shall:

(a) publish the notice at least two days before ~~the~~ election day:

~~(a)~~ (i) in a newspaper of general circulation common to the area ~~or in~~ to which the election ~~is being held~~ pertains; and

~~(b)~~ (ii) as required in Section 45-1-101[-]; or

(b) mail the notice to each registered voter who resides in the area to which the election pertains at least five days before election day.

CHAPTER 24

S. B. 27

Passed February 5, 2016

Approved March 17, 2016

Effective May 10, 2016

ABSENTEE BALLOT AMENDMENTS

Chief Sponsor: Margaret Dayton

House Sponsor: Jack R. Draxler

LONG TITLE

General Description:

This bill amends provisions relating to absentee ballots.

Highlighted Provisions:

This bill:

- ▶ changes the date by which an election officer is required to mail absentee ballots.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-3-305, as last amended by Laws of Utah 2012, Chapter 309

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

Section 1. Section 20A-3-305 is amended to read:

**20A-3-305. Mailing of ballot to voter --
Enclose self-addressed envelope --
Affidavit.**

(1) (a) Upon timely receipt of an absentee voter application properly filled out and signed less than 30 days before the election, the election officer shall either:

(i) give the applicant an official absentee ballot and envelope to vote in the office; or

(ii) mail an official absentee ballot, postage paid, to the absentee voter and enclose an envelope printed as required in Subsection (2).

(b) [~~Twenty-eight~~] No later than 21 days before election day, the election officer shall mail an official absentee ballot, postage paid, to all absentee voters, other than to a uniformed-service voter or an overseas voter, who have submitted a properly filled out and signed absentee voter application before the day on which the ballots are mailed and enclose an envelope printed as required by Subsection (2).

(2) The election officer shall ensure that:

(a) the name, official title, and post office address of the election officer is printed on the front of the envelope; and

(b) a printed affidavit in substantially the following form is printed on the back of the envelope:

“County of _____ State of _____

I, _____, solemnly swear that: I am a qualified resident voter of the _____ voting precinct in _____ County, Utah and that I am entitled to vote in that voting precinct at the next election. I am not a convicted felon currently incarcerated for commission of a felony.

Signature of Absentee Voter”

(3) If the election officer determines that the absentee voter is required to show valid voter identification, the election officer shall:

(a) issue the voter a provisional ballot in accordance with Section 20A-3-105.5;

(b) instruct the voter to include a copy of the voter's valid voter identification with the return ballot;

(c) provide the voter clear instructions on how to vote a provisional ballot; and

(d) comply with the requirements of Subsection (2).

CHAPTER 25**S. B. 30**

Passed February 12, 2016

Approved March 17, 2016

Effective May 10, 2016

**DEPARTMENT OF COMMERCE BOARDS,
COMMITTEES, AND COMMISSIONS
CONCURRENCE AMENDMENTS**

Chief Sponsor: Curtis S. Bramble

House Sponsor: Val L. Peterson

LONG TITLE**General Description:**

This bill modifies provisions related to when concurrence with a board, committee, or commission is required.

Highlighted Provisions:

This bill:

- ▶ defines "concurrence";
- ▶ if concurrence is required, provides that the director or division has final authority if the Construction Services Commission and the director or division cannot reach concurrence;
- ▶ clarifies when concurrence between the director or division and the Securities Commission is required;
- ▶ provides that the director or division has final authority if the Security Commission and the director or division cannot reach concurrence;
- ▶ repeals outdated language;
- ▶ provides that the director or division has final authority if provisions related to the Division of Real Estate require concurrence and concurrence cannot be reached;
- ▶ requires concurrence of the division if the Real Estate Appraiser Licensing and Certification Board makes rules related to appraised management services or companies;
- ▶ provides that the Real Estate Commission may not make certain rules without concurrence by the Division of Real Estate; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 58-55-103, as last amended by Laws of Utah 2010, Chapter 286
- 61-1-12, as last amended by Laws of Utah 2009, Chapter 351
- 61-1-14, as last amended by Laws of Utah 2010, Chapter 218
- 61-1-15.5, as last amended by Laws of Utah 2009, Chapter 351
- 61-2e-304, as enacted by Laws of Utah 2009, Chapter 269
- 61-2e-305, as enacted by Laws of Utah 2009, Chapter 269
- 61-2f-103, as last amended by Laws of Utah 2014, Chapter 350
- 61-2f-203, as last amended by Laws of Utah 2013, Chapter 426

61-2f-204, as last amended by Laws of Utah 2014, Chapter 350

61-2f-206, as last amended by Laws of Utah 2013, Chapter 292

61-2f-306, as renumbered and amended by Laws of Utah 2010, Chapter 379

61-2f-307, as renumbered and amended by Laws of Utah 2010, Chapter 379

ENACTS:

61-1-18.8, Utah Code Annotated 1953

61-2-205, Utah Code Annotated 1953

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

Section 1. Section 58-55-103 is amended to read:

**58-55-103. Construction Services
Commission created -- Functions --
Appointment -- Qualifications and terms
of members -- Vacancies -- Expenses --
Meetings -- Concurrence.**

(1) (a) There is created within the division the Construction Services Commission.

(b) The commission shall:

(i) with the concurrence of the director, make reasonable rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer and enforce this chapter which are consistent with this chapter including:

(A) licensing of various licensees;

(B) examination requirements and administration of the examinations, to include approving and establishing a passing score for applicant examinations;

(C) standards of supervision for students or persons in training to become qualified to obtain a license in the trade they represent; and

(D) standards of conduct for various licensees;

(ii) approve or disapprove fees adopted by the division under Section 63J-1-504;

(iii) except where the boards conduct them, conduct all administrative hearings not delegated to an administrative law judge relating to the licensing of any applicant;

(iv) except as otherwise provided in Sections 38-11-207 and 58-55-503, with the concurrence of the director, impose sanctions against licensees and certificate holders with the same authority as the division under Section 58-1-401;

(v) advise the director on the administration and enforcement of any matters affecting the division and the construction industry;

(vi) advise the director on matters affecting the division budget;

(vii) advise and assist trade associations in conducting construction trade seminars and industry education and promotion; and

(viii) perform other duties as provided by this chapter.

(2) (a) Initially the commission shall be comprised of the five members of the Contractors Licensing Board and two of the three chair persons from the Plumbers Licensing Board, the Alarm System Security and Licensing Board, and the Electricians Licensing Board.

(b) The terms of office of the commission members who are serving on the Contractors Licensing Board shall continue as they serve on the commission.

(c) Beginning July 1, 2004, the commission shall be comprised of nine members appointed by the executive director with the approval of the governor from the following groups:

(i) one member shall be a licensed general engineering contractor;

(ii) one member shall be a licensed general building contractor;

(iii) two members shall be licensed residential and small commercial contractors;

(iv) three members shall be the three chair persons from the Plumbers Licensing Board, the Alarm System Security and Licensing Board, and the Electricians Licensing Board; and

(v) two members shall be from the general public, provided, however that the certified public accountant on the Contractors Licensing Board will continue to serve until the current term expires, after which both members under this Subsection (2)(c)(v) shall be appointed from the general public.

(3) (a) Except as required by Subsection (3)(b), as terms of current commission members expire, the executive director with the approval of the governor shall appoint each new member or reappointed member to a four-year term ending June 30.

(b) Notwithstanding the requirements of Subsection (3)(a), the executive director with the approval of the governor shall, at the time of appointment or reappointment, adjust the length of terms to stagger the terms of commission members so that approximately 1/2 of the commission members are appointed every two years.

(c) A commission member may not serve more than two consecutive terms.

(4) The commission shall elect annually one of its members as chair, for a term of one year.

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

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

(a) Section 63A-3-106;

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

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

(7) (a) The commission shall meet at least monthly unless the director determines otherwise.

(b) The director may call additional meetings at the director's discretion, upon the request of the chair, or upon the written request of four or more commission members.

(8) (a) Five members constitute a quorum for the transaction of business.

(b) If a quorum is present when a vote is taken, the affirmative vote of commission members present is the act of the commission.

(9) The commission shall comply with the procedures and requirements of Title 13, Chapter 1, Department of Commerce, and Title 63G, Chapter 4, Administrative Procedures Act, in all of its adjudicative proceedings.

(10) (a) For purposes of this Subsection (10), "concurrence" means the entities given a concurring role must jointly agree for the action to be taken.

(b) If a provision of this chapter requires concurrence between the director or division and the commission and no concurrence can be reached, the director or division has final authority.

(c) When this chapter requires concurrence between the director or division and the commission:

(i) the director or division shall report to and update the commission on a regular basis related to matters requiring concurrence; and

(ii) the commission shall review the report submitted by the director or division under this Subsection (10)(c) and concur with the report, or:

(A) provide a reason for not concurring with the report; and

(B) provide recommendations to the director or division.

Section 2. Section 61-1-12 is amended to read:

61-1-12. Denial, suspension, and revocation of registration.

(1) [~~Upon approval by a majority~~] ~~With the concurrence of the commission, the director, by means of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, may issue a stop order that denies effectiveness to, or suspends or revokes the effectiveness of, any securities registration statement and may impose a fine if the director finds that the order is in the public interest and that:~~

(a) the registration statement, as of its effective date or as of any earlier date in the case of an order denying effectiveness, or an amendment under Subsection 61-1-11(10) as of its effective date, or a report under Subsection 61-1-11(9), is incomplete in a material respect, or contains a statement that was, in the light of the circumstances under which it was made, false or misleading with respect to a material fact;

(b) this chapter, or a rule, order, or condition lawfully imposed under this chapter, is willfully violated, in connection with the offering, by:

(i) the person filing the registration statement;

(ii) the issuer, a partner, officer, or director of the issuer, a person occupying a similar status or performing similar functions, or a person directly or indirectly controlling or controlled by the issuer, but only if the person filing the registration statement is directly or indirectly controlled by or acting for the issuer; or

(iii) an underwriter;

(c) subject to Subsection (5), the security registered or sought to be registered is the subject of an administrative stop order or similar order, or a permanent or temporary injunction of a court of competent jurisdiction entered under another federal or state act applicable to the offering;

(d) the issuer's enterprise or method of business includes or would include activities that are illegal where performed;

(e) the offering has worked or tended to work a fraud upon purchasers or would so operate;

(f) the offering is or would be made with unreasonable amounts of underwriters' and sellers' discounts, commissions, or other compensation, or promoters' profits or participation, or unreasonable amounts or kinds of options;

(g) when a security is sought to be registered by coordination, there is a failure to comply with the undertaking required by Subsection 61-1-9(2)(d); or

(h) the applicant or registrant has failed to pay the proper filing fee.

(2) The director may enter an order under this section but may vacate the order if the director finds that the conditions that prompted its entry have changed or that it is otherwise in the public interest to do so.

(3) The director may not issue a stop order against an effective registration statement on the basis of a fact or transaction known to the division when the registration statement became effective unless the proceeding is instituted within the 120 days after the day on which the registration statement becomes effective.

(4) A person may not be considered to have violated Section 61-1-7 or 61-1-15 by reason of an order or sale effected after the entry of an order under this section if that person proves by a preponderance of the evidence that the person did not know, and in the exercise of reasonable care could not have known, of the order.

(5) (a) The director may not commence agency action against an effective registration statement under Subsection (1)(c) more than one year from the day on which the order or injunction on which the director relies is issued.

(b) The director may not enter an order under Subsection (1)(c) on the basis of an order or injunction entered under the securities act of another state unless that order or injunction is issued on the basis of facts that would constitute a ground for a stop order under this section at the time the director commences the agency action.

Section 3. Section 61-1-14 is amended to read:

61-1-14. Exemptions.

(1) The following securities are exempt from Sections 61-1-7 and 61-1-15:

(a) a security, including a revenue obligation, issued or guaranteed by the United States, a state, a political subdivision of a state, or an agency or corporate or other instrumentality of one or more of the foregoing, or a certificate of deposit for any of the foregoing;

(b) a security issued or guaranteed by Canada, a Canadian province, a political subdivision of a Canadian province, an agency or corporate or other instrumentality of one or more of the foregoing, or another foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor;

(c) a security issued by and representing an interest in or a debt of, or guaranteed by, a depository institution organized under the laws of the United States, or a depository institution or trust company supervised under the laws of a state;

(d) a security issued or guaranteed by a public utility or a security regulated in respect of its rates or in its issuance by a governmental authority of the United States, a state, Canada, or a Canadian province;

(e) (i) a federal covered security specified in the Securities Act of 1933, Section 18(b)(1), 15 U.S.C. [Section] Sec. 77r(b)(1), or by rule adopted under that provision;

(ii) a security listed or approved for listing on another securities market specified by rule under this chapter;

(iii) any of the following with respect to a security described in Subsection (1)(e)(i) or (ii):

(A) a put or a call option contract;

(B) a warrant; or

(C) a subscription right on or with respect to the security;

(iv) an option or similar derivative security on a security or an index of securities or foreign currencies issued by a clearing agency that is:

(A) registered under the Securities Exchange Act of 1934; and

(B) listed or designated for trading on a national securities exchange, or a facility of a national securities association registered under the Securities Exchange Act of 1934;

(v) an offer or sale, of the underlying security in connection with the offer, sale, or exercise of an option or other security that was exempt when the option or other security was written or issued; or

(vi) an option or a derivative security designated by the Securities and Exchange Commission under Securities Exchange Act of 1934, Section 9(b), 15 U.S.C. [Section] Sec. 78i(b);

(f) (i) a security issued by a person organized and operated not for private profit but exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic, or reformatory purposes, or as a chamber of commerce or trade or professional association; and

(ii) a security issued by a corporation organized under Title 3, Chapter 1, General Provisions Relating to Agricultural Cooperative Associations, and a security issued by a corporation to which that chapter is made applicable by compliance with Section 3-1-21;

(g) an investment contract issued in connection with an employees' stock purchase, option, savings, pension, profit-sharing, or similar benefit plan;

(h) a security issued by an investment company that is registered, or that has filed a registration statement, under the Investment Company Act of 1940; and

(i) a security as to which the director, by rule or order, finds that registration is not necessary or appropriate for the protection of investors.

(2) The following transactions are exempt from Sections 61-1-7 and 61-1-15:

(a) an isolated nonissuer transaction, whether effected through a broker-dealer or not;

(b) a nonissuer transaction in an outstanding security, if as provided by rule of the division:

(i) information about the issuer of the security as required by the division is currently listed in a securities manual recognized by the division, and the listing is based upon such information as required by rule of the division; or

(ii) the security has a fixed maturity or a fixed interest or dividend provision and there is no default during the current fiscal year or within the three preceding fiscal years, or during the existence of the issuer and any predecessors if less than three years, in the payment of principal, interest, or dividends on the security;

(c) a nonissuer transaction effected by or through a registered broker-dealer pursuant to an unsolicited order or offer to buy;

(d) a transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters;

(e) a transaction in a bond or other evidence of indebtedness secured by a real or chattel mortgage or deed of trust, or by an agreement for the sale of real estate or chattels, if the entire mortgage, deed of trust, or agreement, together with all the bonds

or other evidences of indebtedness secured thereby, is offered and sold as a unit;

(f) a transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator;

(g) a transaction executed by a bona fide pledgee without a purpose of evading this chapter;

(h) an offer or sale to one of the following whether the purchaser is acting for itself or in a fiduciary capacity:

(i) a depository institution;

(ii) a trust company;

(iii) an insurance company;

(iv) an investment company as defined in the Investment Company Act of 1940;

(v) a pension or profit-sharing trust;

(vi) other financial institution or institutional investor; or

(vii) a broker-dealer;

(i) an offer or sale of a preorganization certificate or subscription if:

(i) no commission or other remuneration is paid or given directly or indirectly for soliciting a prospective subscriber;

(ii) the number of subscribers acquiring a legal or beneficial interest therein does not exceed 10;

(iii) there is no general advertising or solicitation in connection with the offer or sale; and

(iv) no payment is made by a subscriber;

(j) subject to Subsection (6), a transaction pursuant to an offer by an issuer of its securities to its existing securities holders, if:

(i) no commission or other remuneration, other than a standby commission is paid or given directly or indirectly for soliciting a security holder in this state; and

(ii) the transaction constitutes:

(A) the conversion of convertible securities;

(B) the exercise of nontransferable rights or warrants;

(C) the exercise of transferable rights or warrants if the rights or warrants are exercisable not more than 90 days after their issuance;

(D) the purchase of securities under a preemptive right; or

(E) a transaction other than one specified in Subsections (2)(j)(ii)(A) through (D) if:

(I) the division is furnished with:

(Aa) a general description of the transaction;

(Bb) the disclosure materials to be furnished to the issuer's securities holders in the transaction; and

- (Cc) a non-refundable fee; and
- (II) the division does not, by order, deny or revoke the exemption within 20 working days after the day on which the filing required by Subsection (2)(j)(ii)(E)(I) is complete;
- (k) an offer, but not a sale, of a security for which a registration statement is filed under both this chapter and the Securities Act of 1933 if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending;
- (l) a distribution of securities as a dividend if the person distributing the dividend is the issuer of the securities distributed;
- (m) a nonissuer transaction effected by or through a registered broker-dealer where the broker-dealer or issuer files with the division, and the broker-dealer maintains in the broker-dealer's records, and makes reasonably available upon request to a person expressing an interest in a proposed transaction in the security with the broker-dealer information prescribed by the division under its rules;
- (n) a transaction not involving a public offering;
- (o) an offer or sale of "condominium units" or "time period units" as those terms are defined in Title 57, Chapter 8, Condominium Ownership Act, whether or not to be sold by installment contract, if the following are complied with:
- (i) Title 57, Chapter 8, Condominium Ownership Act, or if the units are located in another state, the condominium act of that state;
- (ii) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;
- (iii) Title 57, Chapter 19, Timeshare and Camp Resort Act; and
- (iv) Title 70C, Utah Consumer Credit Code;
- (p) a transaction or series of transactions involving a merger, consolidation, reorganization, recapitalization, reclassification, or sale of assets, if the consideration for which, in whole or in part, is the issuance of securities of a person or persons, and if:
- (i) the transaction or series of transactions is incident to a vote of the securities holders of each person involved or by written consent or resolution of some or all of the securities holders of each person involved;
- (ii) the vote, consent, or resolution is given under a provision in:
- (A) the applicable corporate statute or other controlling statute;
- (B) the controlling articles of incorporation, trust indenture, deed of trust, or partnership agreement; or
- (C) the controlling agreement among securities holders;
- (iii) (A) one person involved in the transaction is required to file proxy or informational materials under Section 14(a) or (c) of the Securities Exchange Act of 1934 or Section 20 of the Investment Company Act of 1940 and has so filed;
- (B) one person involved in the transaction is an insurance company that is exempt from filing under Section 12(g)(2)(G) of the Securities Exchange Act of 1934, and has filed proxy or informational materials with the appropriate regulatory agency or official of its domiciliary state; or
- (C) all persons involved in the transaction are exempt from filing under Section 12(g)(1) of the Securities Exchange Act of 1934, and file with the division such proxy or informational material as the division requires by rule;
- (iv) the proxy or informational material is filed with the division and distributed to all securities holders entitled to vote in the transaction or series of transactions at least 10 working days ~~prior to~~ before any necessary vote by the securities holders or action on any necessary consent or resolution; and
- (v) the division does not, by order, deny or revoke the exemption within 10 working days after filing of the proxy or informational materials;
- (q) subject to Subsection (7), a transaction pursuant to an offer to sell securities of an issuer if:
- (i) the transaction is part of an issue in which there are not more than 15 purchasers in this state, other than those designated in Subsection (2)(h), during any 12 consecutive months;
- (ii) no general solicitation or general advertising is used in connection with the offer to sell or sale of the securities;
- (iii) no commission or other similar compensation is given, directly or indirectly, to a person other than a broker-dealer or agent licensed under this chapter, for soliciting a prospective purchaser in this state;
- (iv) the seller reasonably believes that all the purchasers in this state are purchasing for investment; and
- (v) the transaction is part of an aggregate offering that does not exceed \$1,000,000, or a greater amount as prescribed by a division rule, during any 12 consecutive months;
- (r) a transaction involving a commodity contract or commodity option;
- (s) a transaction in a security, whether or not the security or transaction is otherwise exempt if:
- (i) the transaction is:
- (A) in exchange for one or more outstanding securities, claims, or property interests; or
- (B) partly for cash and partly in exchange for one or more outstanding securities, claims, or property interests; and
- (ii) the terms and conditions are approved by the director after a hearing under Section 61-1-11.1;

(t) a transaction incident to a judicially approved reorganization in which a security is issued:

(i) in exchange for one or more outstanding securities, claims, or property interests; or

(ii) partly for cash and partly in exchange for one or more outstanding securities, claims, or property interests;

(u) a nonissuer transaction by a federal covered investment adviser with investments under management in excess of \$100,000,000 acting in the exercise of discretionary authority in a signed record for the account of others; and

(v) a transaction as to which the division finds that registration is not necessary or appropriate for the protection of investors.

(3) A person filing an exemption notice or application shall pay a filing fee as determined under Section 61-1-18.4.

(4) ~~[Upon approval by a majority]~~ With the concurrence of the commission, the director, by means of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, may deny or revoke an exemption specified in Subsection (1)(f) or (g) or in Subsection (2) with respect to:

(a) a specific security, transaction, or series of transactions; or

(b) a person or issuer, an affiliate or successor to a person or issuer, or an entity subsequently organized by or on behalf of a person or issuer generally and may impose a fine if the director finds that the order is in the public interest and that:

(i) the application for or notice of exemption filed with the division is incomplete in a material respect or contains a statement which was, in the light of the circumstances under which it was made, false or misleading with respect to a material fact;

(ii) this chapter, or a rule, order, or condition lawfully imposed under this chapter has been willfully violated in connection with the offering or exemption by:

(A) the person filing an application for or notice of exemption;

(B) the issuer, a partner, officer, or director of the issuer, a person occupying a similar status or performing similar functions, or a person directly or indirectly controlling or controlled by the issuer, but only if the person filing the application for or notice of exemption is directly or indirectly controlled by or acting for the issuer; or

(C) an underwriter;

(iii) subject to Subsection (8), the security for which the exemption is sought is the subject of an administrative stop order or similar order, or a permanent or temporary injunction or a court of competent jurisdiction entered under another federal or state act applicable to the offering or exemption;

(iv) the issuer's enterprise or method of business includes or would include activities that are illegal where performed;

(v) the offering has worked, has tended to work, or would operate to work a fraud upon purchasers;

(vi) the offering is or was made with unreasonable amounts of underwriters' and sellers' discounts, commissions, or other compensation, or promoters' profits or participation, or unreasonable amounts or kinds of options;

(vii) an exemption is sought for a security or transaction that is not eligible for the exemption; or

(viii) the proper filing fee, if required, has not been paid.

(5) (a) An order under Subsection (4) may not operate retroactively.

(b) A person may not be considered to have violated Section 61-1-7 or 61-1-15 by reason of an offer or sale effected after the entry of an order under this Subsection (5) if the person sustains the burden of proof that the person did not know, and in the exercise of reasonable care could not have known, of the order.

(6) The exemption created by Subsection (2)(j) is not available for an offer or sale of a security to an existing securities holder who has acquired the holder's security from the issuer in a transaction in violation of Section 61-1-7.

(7) As to a security, a transaction, or a type of security or transaction, the division may:

(a) withdraw or further condition the exemption described in Subsection (2)(q); or

(b) waive one or more of the conditions described in Subsection (2)(q).

(8) (a) The director may not institute a proceeding against an effective exemption under Subsection (4)(b) more than one year from the day on which the order or injunction on which the director relies is issued.

(b) The director may not enter an order under Subsection (4)(b) on the basis of an order or injunction entered under another state act unless that order or injunction is issued on the basis of facts that would constitute a ground for a stop order under this section at the time the director enters the order.

Section 4. Section 61-1-15.5 is amended to read:

61-1-15.5. Federal covered securities.

(1) The division by rule or order may require the filing of any of the following documents with respect to a covered security under Section 18(b)(2) of the Securities Act of 1933:

(a) ~~[prior to]~~ before the initial offer of federal covered security in this state, a notice form as prescribed by the division or all documents that are part of a federal registration statement filed with the Securities and Exchange Commission under the Securities Act of 1933, together with a consent to

service of process signed by the issuer and a filing fee as determined under Section 61-1-18.4;

(b) after the initial offer of such federal covered security in this state, all documents that are part of an amendment to a federal registration statement filed with the U.S. Securities and Exchange Commission under the Securities Act of 1933, which shall be filed concurrently with the division;

(c) a report of the value of federal covered securities offered or sold in this state, together with a filing fee as determined under Section 61-1-18.4; and

(d) a notice filing under this section shall be effective for one year and shall be renewed annually in order to continue to offer or sell the federal covered securities for which the notice was filed.

(2) With respect to a security that is a covered security under Section 18(b)(4)(D) of the Securities Act of 1933, the division by rule or order may require the issuer to file a notice on SEC Form D and a consent to service of process signed by the issuer no later than 15 days after the first sale of such covered security in this state, together with a filing fee as determined under Section 61-1-18.4.

(3) The division by rule or order may require the filing of a document filed with the Securities and Exchange Commission under the Securities Act of 1933, with respect to a covered security under Securities Act of 1933, Section 18(b)(3) or (4), together with a filing fee as determined under Section 61-1-18.4.

(4) ~~[Upon approval by a majority of the commission,]~~ With the concurrence of the commission, the director, by means of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, may issue a stop order suspending the offer and sale of a federal covered security, except a covered security under Section 18(b)(1) of the Securities Act of 1933, if the director finds that the order is in the public interest and there is a failure to comply with any condition established under this section.

(5) The division by rule or order may waive any or all of the provisions of this section.

Section 5. Section 61-1-18.8 is enacted to read:

61-1-18.8. Concurrence under this chapter.

(1) For purposes of this section, "concurrence" means the entities given a concurring role must jointly agree for the action to be taken.

(2) Except for Section 61-1-18.7, if a provision of this chapter requires concurrence between the director or division and the commission and no concurrence can be reached, the director or division has final authority.

(3) When this chapter requires concurrence between the director or division and the commission:

(a) the director or division shall report to and update the commission on a regular basis related to matters requiring concurrence; and

(b) the commission shall review the report submitted by the director or division under this Subsection (3) and concur with the report, or:

(i) provide a reason for not concurring with the report; and

(ii) provide recommendations to the division or director.

Section 6. Section 61-2-205 is enacted to read:

61-2-205. Concurrence.

(1) If a provision under this title requires concurrence between the director or division and a commission or board created under this title and no concurrence can be reached, the director or division has final authority.

(2) When this title requires concurrence between the director or division and a commission or board:

(a) the director or division shall report to and update the commission or board on a regular basis related to matters requiring concurrence; and

(b) the commission or board shall review the report submitted by the director or division under this Subsection (2) and concur with the report, or:

(i) provide a reason for not concurring with the report; and

(ii) provide recommendations to the director or division.

Section 7. Section 61-2e-304 is amended to read:

61-2e-304. Required disclosure.

(1) Before an appraisal management company may receive money from a client for a real estate appraisal activity requested by the client, the appraisal management company shall disclose to the client the total compensation that the appraisal management company pays to the appraiser who performs the real estate appraisal activity.

(2) The board, with the concurrence of the division, may define by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) what constitutes the total compensation that an appraisal management company pays to an appraiser who performs a real estate appraisal activity, except that the rules shall provide for disclosing this amount:

(i) as a dollar amount; or

(ii) as a percentage of the total amount charged to a client by an appraisal management company;

(b) the method an appraisal management company is required to use in calculating the figures described in Subsection (2)(a); and

(c) the form and content of the disclosure required by Subsection (1).

Section 8. Section 61-2e-305 is amended to read:

61-2e-305. Employee requirements.

(1) Subsection (2) applies to an individual who:

(a) (i) is an employee of an appraisal management company; or

(ii) works on behalf of an appraisal management company; and

(b) (i) selects an appraiser for the performance of a real estate appraisal activity for the appraisal management company; or

(ii) reviews a completed appraisal.

(2) (a) An individual described in Subsection (1) is required to be appropriately trained and qualified in the performance of an appraisal, as determined by rule made by the board ~~[by rule made]~~, with the concurrence of the division, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) For purposes of an individual described in Subsection (1) who reviews the work of an appraiser, to comply with this Subsection (2), the individual shall demonstrate knowledge of the applicable appraisal standards, as determined by rule made by the board ~~[by rule made]~~, with the concurrence of the division, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 9. Section 61-2f-103 is amended to read:

61-2f-103. Real Estate Commission.

(1) There is created within the division a Real Estate Commission. The commission shall:

(a) ~~subject to concurrence by the division and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act~~, make rules for the administration of this chapter that are not inconsistent with this chapter, including:

(i) licensing of:

(A) a principal broker;

(B) an associate broker; and

(C) a sales agent;

(ii) registration of:

(A) an entity; and

(B) a branch office;

(iii) preclicensing and postlicensing education curricula;

(iv) examination procedures;

(v) the certification and conduct of:

(A) a real estate school;

(B) a course provider; or

(C) an instructor;

(vi) proper handling of money received by a licensee under this chapter;

(vii) brokerage office procedures and recordkeeping requirements;

(viii) property management;

(ix) standards of conduct for a licensee under this chapter;

(x) a rule made under Section 61-2f-307 regarding an undivided fractionalized long-term estate; and

(xi) if the commission, with the concurrence of the division, determines necessary, a rule as provided in Subsection 61-2f-306(3) regarding a legal form;

(b) establish, with the concurrence of the division, a fee provided for in this chapter, except a fee imposed under Part 5, Real Estate Education, Research, and Recovery Fund Act;

(c) conduct an administrative hearing not delegated by the commission to an administrative law judge or the division relating to the:

(i) licensing of an applicant;

(ii) conduct of a licensee;

(iii) the certification or conduct of a real estate school, course provider, or instructor regulated under this chapter; or

(iv) violation of this chapter by any person;

(d) with the concurrence of the director, impose a sanction as provided in Section 61-2f-404;

(e) advise the director on the administration and enforcement of a matter affecting the division and the real estate sales and property management industries;

(f) advise the director on matters affecting the division budget;

(g) advise and assist the director in conducting real estate seminars; and

(h) perform other duties as provided by this chapter.

(2) (a) Except as provided in Subsection (2)(b), a state entity may not, without the concurrence of the commission, make a rule that changes the rights, duties, or obligations of buyers, sellers, or persons licensed under this chapter in relation to a real estate transaction between private parties.

(b) Subsection (2)(a) does not apply to a rule made:

(i) under Title 31A, Insurance Code, or Title 7, Financial Institutions Act; or

(ii) by the Department of Commerce or any division or other rulemaking body within the Department of Commerce.

(3) (a) The commission shall be comprised of five members appointed by the governor and approved by the Senate.

(b) Four of the commission members shall:

(i) have at least five years' experience in the real estate business; and

(ii) hold an active principal broker, associate broker, or sales agent license.

(c) One commission member shall be a member of the general public.

(d) The governor may not appoint a commission member described in Subsection (3)(b) who, at the time of appointment, resides in the same county in the state as another commission member.

(e) At least one commission member described in Subsection (3)(b) shall at the time of an appointment reside in a county that is not a county of the first or second class.

(4) (a) Except as required by Subsection (4)(b), as terms of current commission members expire, the governor shall appoint each new member or reappointed member to a four-year term ending June 30.

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

(c) Upon the expiration of the term of a member of the commission, the member of the commission shall continue to hold office until a successor is appointed and qualified.

(d) A commission member may not serve more than two consecutive terms.

(e) Members of the commission shall annually select one member to serve as chair.

(5) When a vacancy occurs in the membership for any reason, the governor, with the consent of the Senate, shall appoint a replacement for the unexpired term.

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

(a) Section 63A-3-106;

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

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

(7) (a) The commission shall meet at least monthly.

(b) The director may call additional meetings:

(i) at the director's discretion;

(ii) upon the request of the chair; or

(iii) upon the written request of three or more commission members.

(8) Three members of the commission constitute a quorum for the transaction of business.

Section 10. Section 61-2f-203 is amended to read:

61-2f-203. Licensing requirements.

(1) (a) (i) The division shall determine whether an applicant with a criminal history qualifies for licensure.

(ii) If the division, acting under Subsection (1)(a)(i), denies or restricts a license or places a license on probation, the applicant may petition the commission for de novo review of the application.

(b) Except as provided in Subsection (5), the commission shall determine all other qualifications and requirements of an applicant for:

(i) a principal broker license;

(ii) an associate broker license; or

(iii) a sales agent license.

(c) The division, with the concurrence of the commission, shall require and pass upon proof necessary to determine the honesty, integrity, truthfulness, reputation, and competency of each applicant for an initial license or for renewal of an existing license.

(d) (i) The division, with the concurrence of the commission, shall require an applicant for:

(A) a sales agent license to complete an approved educational program consisting of the number of hours designated by rule made by the commission with the concurrence of the division, except that the rule may not require less than 120 hours; and

(B) an associate broker or a principal broker license to complete an approved educational program consisting of the number of hours designated by rule made by the commission with the concurrence of the division, except that the rule may not require less than 120 hours.

(ii) An hour required by this section means 50 minutes of instruction in each 60 minutes.

(iii) The maximum number of program hours available to an individual is eight hours per day.

(e) The division, with the concurrence of the commission, shall require the applicant to pass an examination approved by the commission covering:

(i) the fundamentals of:

(A) the English language;

(B) arithmetic;

(C) bookkeeping; and

(D) real estate principles and practices;

(ii) this chapter;

(iii) the rules established by the commission with the concurrence of the division; and

(iv) any other aspect of Utah real estate license law considered appropriate.

(f) (i) Three years' full-time experience as a sales agent or its equivalent is required before an applicant may apply for, and secure a principal broker or associate broker license in this state.

(ii) The commission shall establish by rule^[7] made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, subject to concurrence by the division, the criteria by which the commission will accept experience or special education in similar fields of business in lieu of the three years' experience.

(2) (a) The division, with the concurrence of the commission, may require an applicant to furnish a sworn statement setting forth evidence satisfactory to the division of the applicant's reputation and competency as set forth by rule.

(b) The division shall require an applicant to provide the applicant's [~~Social Security~~] social security number, which is a private record under Subsection 63G-2-302(1)(i).

(3) (a) An individual who is not a resident of this state may be licensed in this state if the person complies with this chapter.

(b) An individual who is not a resident of this state may be licensed as an associate broker or sales agent in this state by:

(i) complying with this chapter; and

(ii) being employed or engaged as an independent contractor by or on behalf of a principal broker who is licensed in this state, regardless of whether the principal broker is a resident of this state.

(4) (a) The division and commission shall treat an application to be relicensed of an applicant whose real estate license is revoked as an original application.

(b) In the case of an applicant for a new license as a principal broker or associate broker, the applicant is not entitled to credit for experience gained before the revocation of a real estate license.

(5) (a) Notwithstanding Subsection (1)(b), the commission may delegate to the division the authority to:

(i) review a class or category of applications for initial or renewed licenses;

(ii) determine whether an applicant meets the licensing criteria in Subsection (1); and

(iii) approve or deny a license application without concurrence by the commission.

(b) (i) If the commission delegates to the division the authority to approve or deny an application without concurrence by the commission and the division denies an application for licensure, the applicant who is denied licensure may petition the commission for de novo review of the application.

(ii) An applicant who is denied licensure pursuant to this Subsection (5) may seek agency review by the executive director only after the commission has reviewed the division's denial of the applicant's application.

Section 11. Section 61-2f-204 is amended to read:

61-2f-204. Licensing fees and procedures -- Renewal fees and procedures.

(1) (a) Upon filing an application for an examination for a license under this chapter, the applicant shall pay a nonrefundable fee established in accordance with Section 63J-1-504 for admission to the examination.

(b) An applicant for a principal broker, associate broker, or sales agent license shall pay a nonrefundable fee as determined by the commission with the concurrence of the division under Section 63J-1-504 for issuance of an initial license or license renewal.

(c) A license issued under this Subsection (1) shall be issued for a period of not less than two years as determined by the division with the concurrence of the commission.

(d) (i) Any of the following applicants shall comply with this Subsection (1)(d):

(A) a new sales agent applicant;

(B) a principal broker applicant; or

(C) an associate broker applicant.

(ii) An applicant described in this Subsection (1)(d) shall:

(A) submit fingerprint cards in a form acceptable to the division at the time the license application is filed; and

(B) consent to a criminal background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.

(iii) The division shall request the Department of Public Safety to complete a Federal Bureau of Investigation criminal background check for each applicant described in this Subsection (1)(d) through the national criminal history system or any successor system.

(iv) The applicant shall pay the cost of the criminal background check and the fingerprinting.

(v) Money paid to the division by an applicant for the cost of the criminal background check is nonlapsing.

(e) (i) A license issued under Subsection (1)(d) is conditional, pending completion of the criminal background check.

(ii) A license is immediately and automatically revoked if the criminal background check discloses the applicant fails to accurately disclose a criminal history involving:

(A) the real estate industry; or

(B) a felony conviction on the basis of an allegation of fraud, misrepresentation, or deceit.

(iii) If a criminal background check discloses that an applicant fails to accurately disclose a criminal history other than one described in Subsection (1)(e)(ii), the division:

- (A) shall review the application; and
- (B) in accordance with rules made by the division pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may:
- (I) place a condition on a license;
- (II) place a restriction on a license;
- (III) revoke a license; or
- (IV) refer the application to the commission for a decision.
- (iv) A person whose conditional license is automatically revoked under Subsection (1)(e)(ii) or whose license is conditioned, restricted, or revoked under Subsection (1)(e)(iii) may have a hearing after the action is taken to challenge the action. The hearing shall be conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
- (v) The director shall designate one of the following to act as the presiding officer in a hearing described in Subsection (1)(e)(iv):
- (A) the division; or
- (B) the division with the concurrence of the commission.
- (vi) The decision on whether relief from an action under this Subsection (1)(e) will be granted shall be made by the presiding officer.
- (vii) Relief from an automatic revocation under Subsection (1)(e)(ii) may be granted only if:
- (A) the criminal history upon which the division based the revocation:
- (I) did not occur; or
- (II) is the criminal history of another person;
- (B) (I) the revocation is based on a failure to accurately disclose a criminal history; and
- (II) the applicant has a reasonable good faith belief at the time of application that there was no criminal history to be disclosed; or
- (C) the division fails to follow the prescribed procedure for the revocation.
- (viii) If a license is revoked or a revocation under this Subsection (1)(e) is upheld after a hearing, the individual may not apply for a new license until at least 12 months after the day on which the license is revoked.
- (2) (a) (i) A license expires if it is not renewed on or before its expiration date.
- (ii) As a condition of renewal, an active licensee shall demonstrate competence by completing 18 hours of continuing education within a two-year renewal period subject to rules made by the commission, with the concurrence of the division.
- (iii) In making a rule described in Subsection (2)(c)(ii), the division and commission shall consider:

- (A) evaluating continuing education on the basis of competency, rather than course time;
- (B) allowing completion of courses in a significant variety of topic areas that the division and commission determine are valuable in assisting an individual licensed under this chapter to increase the individual's competency; and
- (C) allowing completion of courses that will increase a licensee's professional competency in the area of practice of the licensee.
- (iv) The division may award credit to a licensee for a continuing education requirement of this Subsection (2)(a) for a reasonable period of time upon a finding of reasonable cause, including:
- (A) military service; or
- (B) if an individual is elected or appointed to government service, the individual's government service during which the individual spends a substantial time addressing real estate issues subject to conditions established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (b) For a period of 30 days after the day on which a license expires, the license may be reinstated:
- (i) if the applicant's license was inactive on the day on which the applicant's license expired, upon payment of a renewal fee and a late fee determined by the commission with the concurrence of the division under Section 63J-1-504; or
- (ii) if the applicant's license was active on the day on which the applicant's license expired, upon payment of a renewal fee and a late fee determined by the commission with the concurrence of the division under Section 63J-1-504, and providing proof acceptable to the division and the commission of the licensee having:
- (A) completed the hours of education required by Subsection (2)(a); or
- (B) demonstrated competence as required under Subsection (2)(a).
- (c) After the 30-day period described in Subsection (2)(b), and until six months after the day on which an active or inactive license expires, the license may be reinstated by:
- (i) paying a renewal fee and a late fee determined by the commission with the concurrence of the division under Section 63J-1-504;
- (ii) providing to the division proof of satisfactory completion of six hours of continuing education:
- (A) in addition to the requirements for a timely renewal; and
- (B) on a subject determined by the commission by rule with the concurrence of the division and made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
- (iii) providing proof acceptable to the division and the commission of the licensee having:
- (A) completed the hours of education required under Subsection (2)(a); or

(B) demonstrated competence as required under Subsection (2)(a).

(d) After the six-month period described in Subsection (2)(c), and until one year after the day on which an active or inactive license expires, the license may be reinstated by:

(i) paying a renewal fee and a late fee determined by the commission with the concurrence of the division under Section 63J-1-504;

(ii) providing to the division proof of satisfactory completion of 24 hours of continuing education:

(A) in addition to the requirements for a timely renewal; and

(B) on a subject determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, subject to concurrence by the division; and

(iii) providing proof acceptable to the division and the commission of the licensee having:

(A) completed the hours of education required by Subsection (2)(a); or

(B) demonstrated competence as required under Subsection (2)(a).

(e) The division shall relicense a person who does not renew that person's license within one year as prescribed for an original application.

(f) Notwithstanding Subsection (2)(a), the division may extend the term of a license that would expire under Subsection (2)(a) except for the extension if:

(i) (A) the person complies with the requirements of this section to renew the license; and

(B) the renewal application remains pending at the time of the extension; or

(ii) at the time of the extension, there is pending a disciplinary action under this chapter.

(3) (a) As a condition for the activation of an inactive license that was in an inactive status at the time of the licensee's most recent renewal, the licensee shall supply the division with proof of:

(i) successful completion of the respective sales agent or principal broker licensing examination within six months before applying to activate the license; or

(ii) the successful completion of the hours of continuing education that the licensee would have been required to complete under Subsection (2)(a) if the license had been on active status at the time of the licensee's most recent renewal.

(b) The commission may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, subject to concurrence by the division, establish by rule:

(i) the nature or type of continuing education required for reactivation of a license; and

(ii) how long before reactivation the continuing education must be completed.

Section 12. Section 61-2f-206 is amended to read:

61-2f-206. Registration of entity or branch office -- Certification of education providers and courses -- Specialized licenses.

(1) (a) An entity may not engage in an activity described in Section 61-2f-201, unless it is registered with the division.

(b) To register with the division under this Subsection (1), an entity shall submit to the division:

(i) an application in a form required by the division;

(ii) evidence of an affiliation with a principal broker;

(iii) evidence that the entity is registered and in good standing with the Division of Corporations and Commercial Code; and

(iv) a registration fee established by the commission with the concurrence of the division under Section 63J-1-504.

(c) The division may terminate an entity's registration if:

(i) the entity's registration with the Division of Corporations and Commercial Code has been expired for at least three years; and

(ii) the entity's license with the division has been inactive for at least three years.

(2) (a) A principal broker shall register with the division each of the principal broker's branch offices.

(b) To register a branch office with the division under this Subsection (2), a principal broker shall submit to the division:

(i) an application in a form required by the division; and

(ii) a registration fee established by the commission with the concurrence of the division under Section 63J-1-504.

(3) (a) In accordance with rules made by the commission with the concurrence of the division, the division shall certify:

(i) a real estate school;

(ii) a course provider; or

(iii) an instructor.

(b) In accordance with rules made by the commission, [~~and with the concurrence of the commission~~] subject to concurrence by the division, the division shall certify a continuing education course that is required under this chapter.

(4) (a) Except as provided by rule, a principal broker may not be responsible for more than one registered entity at the same time.

(b) (i) In addition to issuing a principal broker license, associate broker license, or sales agent license authorizing the performance of an act set forth in Section 61-2f-201, the division may issue a specialized sales license or specialized property management license with the scope of practice limited to the specialty.

(ii) An individual may hold a specialized license in addition to a license as a principal broker, associate broker, or a sales agent.

(iii) The commission may adopt rules pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, subject to concurrence by the division, for the administration of this Subsection (4), including:

(A) prelicensing and postlicensing education requirements;

(B) examination requirements;

(C) affiliation with real estate brokerages or property management companies; and

(D) other licensing procedures.

Section 13. Section 61-2f-306 is amended to read:

61-2f-306. Rights and privileges of real estate licensees to fill out forms or documents.

(1) Except as provided in Subsection (2), a real estate licensee may fill out only those legal forms approved by the commission and the attorney general, and those forms provided by statute.

(2) (a) (i) A principal broker may fill out any documents associated with the closing of a real estate transaction.

(ii) A branch broker or associate broker may fill out any documents associated with the closing of a real estate transaction if designated to fill out the documents by the principal broker with whom the branch broker or associate broker is affiliated.

(b) A real estate licensee may fill out real estate forms prepared by legal counsel of the buyer, seller, lessor, or lessee.

(c) If the commission and the attorney general have not approved a specific form for the transaction, a principal broker, associate broker, or sales agent may fill out real estate forms prepared by any legal counsel, including legal counsel retained by the brokerage to develop these forms.

(3) The commission may, by rule[,] made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, subject to concurrence by the division, provide a process for the approval of a legal form under this section by the commission and the attorney general.

Section 14. Section 61-2f-307 is amended to read:

61-2f-307. Rulemaking required for offer or sale of an undivided fractionalized

long-term estate -- Disclosures -- Management agreement.

(1) (a) A licensee or certificate holder under this chapter who sells or offers to sell an undivided fractionalized long-term estate shall comply with the disclosure requirements imposed by [rules] rule made by the commission with the concurrence of the division under this section.

(b) [~~In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the~~] The commission shall [make rules as to], subject to concurrence by the division, establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the timing, form, and substance of disclosures required to be made by a licensee or certificate holder under this section.

(2) [~~In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules imposing requirements]~~ The commission shall, subject to concurrence by the division, establish requirements, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for a management agreement related to an undivided fractionalized long-term estate that makes the offer or sale of the undivided fractionalized long-term estate treated as a real estate transaction and not treated as an offer or sale of a security under Chapter 1, Utah Uniform Securities Act.

[~~(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing:~~]

(3) The commission shall, subject to concurrence by the division, establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) the disclosures required in the sale or offer of an undivided fractionalized long-term estate that is subject to a master lease;

(b) requirements for the management of a master lease on an undivided fractionalized long-term estate; and

(c) the requirements on the structure of a master lease on an undivided fractionalized long-term estate.

CHAPTER 26**S. B. 56**

Passed March 4, 2016

Approved March 17, 2016

Effective May 10, 2016

NURSE PRACTICE ACT AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: Sophia M. DiCaro

LONG TITLE**General Description:**

This bill amends the Nurse Practice Act.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ requires a nursing education program to be accredited in order to qualify students to practice nursing in the state; and
- ▶ provides students of certain non-accredited nursing education programs time to graduate from the non-accredited program and qualify to practice nursing in the state.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-31b-102, as last amended by Laws of Utah 2011, Chapter 366

58-31b-601, as last amended by Laws of Utah 2015, Chapter 29

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

Section 1. Section 58-31b-102 is amended to read:**58-31b-102. Definitions.**

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Administrative penalty" means a monetary fine or citation imposed by the division for acts or omissions determined to constitute unprofessional or unlawful conduct in accordance with a fine schedule established by rule and as a result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(2) "Applicant" means a person who applies for licensure or certification under this chapter by submitting a completed application for licensure or certification and the required fees to the department.

(3) "Approved education program" means a nursing education program that ~~meets the minimum standards for educational programs established under this chapter and by division rule in collaboration with the board~~ is accredited by an accrediting body for nursing education that is approved by the United States Department of Education.

(4) "Board" means the Board of Nursing created in Section 58-31b-201.

(5) "Consultation and referral plan" means a written plan jointly developed by an advanced practice registered nurse and a consulting physician that permits the advanced practice registered nurse to prescribe schedule II-III controlled substances in consultation with the consulting physician.

(6) "Consulting physician" means a physician and surgeon or osteopathic physician and surgeon licensed in accordance with this title who has agreed to consult with an advanced practice registered nurse with a controlled substance license, a DEA registration number, and who will be prescribing schedule II-III controlled substances.

(7) "Diagnosis" means the identification of and discrimination between physical and psychosocial signs and symptoms essential to the effective execution and management of health care.

(8) "Examinee" means a person who applies to take or does take any examination required under this chapter for licensure.

(9) "Licensee" means a person who is licensed or certified under this chapter.

(10) "Long-term care facility" means any of the following facilities licensed by the Department of Health pursuant to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act:

- (a) a nursing care facility;
- (b) a small health care facility;
- (c) an intermediate care facility for people with an intellectual disability;
- (d) an assisted living facility Type I or II; or
- (e) a designated swing bed unit in a general hospital.

(11) "Medication aide certified" means a certified nurse aide who:

- (a) has a minimum of 2,000 hours experience working as a certified nurse aide;
- (b) has received a minimum of 60 hours of classroom and 40 hours of practical training that is approved by the division in collaboration with the board, in administering routine medications to patients or residents of long-term care facilities; and
- (c) is certified by the division as a medication aide certified.

(12) (a) "Practice as a medication aide certified" means the limited practice of nursing under the supervision, as defined by the division by administrative rule, of a licensed nurse, involving routine patient care that requires minimal or limited specialized or general knowledge, judgment, and skill, to an individual who:

- (i) is ill, injured, infirm, has a physical, mental, developmental, or intellectual disability; and
- (ii) is in a regulated long-term care facility.

- (b) “Practice as a medication aide certified”:
- (i) includes:
- (A) providing direct personal assistance or care; and
- (B) administering routine medications to patients in accordance with a formulary and protocols to be defined by the division by rule; and
- (ii) does not include assisting a resident of an assisted living facility, a long term care facility, or an intermediate care facility for people with an intellectual disability to self administer a medication, as regulated by the Department of Health by administrative rule.
- (13) “Practice of advanced practice registered nursing” means the practice of nursing within the generally recognized scope and standards of advanced practice registered nursing as defined by rule and consistent with professionally recognized preparation and education standards of an advanced practice registered nurse by a person licensed under this chapter as an advanced practice registered nurse. Advanced practice registered nursing includes:
- (a) maintenance and promotion of health and prevention of disease;
- (b) diagnosis, treatment, correction, consultation, and referral for common health problems;
- (c) prescription or administration of prescription drugs or devices including:
- (i) local anesthesia;
- (ii) schedule IV–V controlled substances; and
- (iii) schedule II–III controlled substances in accordance with a consultation and referral plan; or
- (d) the provision of preoperative, intraoperative, and postoperative anesthesia care and related services upon the request of a licensed health care professional by an advanced practice registered nurse specializing as a certified registered nurse anesthetist, including:
- (i) preanesthesia preparation and evaluation including:
- (A) performing a preanesthetic assessment of the patient;
- (B) ordering and evaluating appropriate lab and other studies to determine the health of the patient; and
- (C) selecting, ordering, or administering appropriate medications;
- (ii) anesthesia induction, maintenance, and emergence, including:
- (A) selecting and initiating the planned anesthetic technique;
- (B) selecting and administering anesthetics and adjunct drugs and fluids; and

- (C) administering general, regional, and local anesthesia;
- (iii) postanesthesia follow-up care, including:
- (A) evaluating the patient’s response to anesthesia and implementing corrective actions; and
- (B) selecting, ordering, or administering the medications and studies listed in Subsection (13)(d); and
- (iv) other related services within the scope of practice of a certified registered nurse anesthetist, including:
- (A) emergency airway management;
- (B) advanced cardiac life support; and
- (C) the establishment of peripheral, central, and arterial invasive lines; and
- (v) for purposes of Subsection (13)(d), “upon the request of a licensed health care professional”:
- (A) means a health care professional practicing within the scope of the health care professional’s license, requests anesthesia services for a specific patient; and
- (B) does not require an advanced practice registered nurse specializing as a certified registered nurse anesthetist to enter into a consultation and referral plan or obtain additional authority to select, administer, or provide preoperative, intraoperative, or postoperative anesthesia care and services.
- (14) “Practice of nursing” means assisting individuals or groups to maintain or attain optimal health, implementing a strategy of care to accomplish defined goals and evaluating responses to care and treatment. The practice of nursing requires substantial specialized or general knowledge, judgment, and skill based upon principles of the biological, physical, behavioral, and social sciences, and includes:
- (a) initiating and maintaining comfort measures;
- (b) promoting and supporting human functions and responses;
- (c) establishing an environment conducive to well-being;
- (d) providing health counseling and teaching;
- (e) collaborating with health care professionals on aspects of the health care regimen;
- (f) performing delegated procedures only within the education, knowledge, judgment, and skill of the licensee; and
- (g) delegating nurse interventions that may be performed by others and are not in conflict with this chapter.
- (15) “Practice of practical nursing” means the performance of nursing acts in the generally recognized scope of practice of licensed practical nurses as defined by rule and as provided in this Subsection (15) by a person licensed under this

chapter as a licensed practical nurse and under the direction of a registered nurse, licensed physician, or other specified health care professional as defined by rule. Practical nursing acts include:

(a) contributing to the assessment of the health status of individuals and groups;

(b) participating in the development and modification of the strategy of care;

(c) implementing appropriate aspects of the strategy of care;

(d) maintaining safe and effective nursing care rendered to a patient directly or indirectly; and

(e) participating in the evaluation of responses to interventions.

(16) "Practice of registered nursing" means performing acts of nursing as provided in this Subsection (16) by a person licensed under this chapter as a registered nurse within the generally recognized scope of practice of registered nurses as defined by rule. Registered nursing acts include:

(a) assessing the health status of individuals and groups;

(b) identifying health care needs;

(c) establishing goals to meet identified health care needs;

(d) planning a strategy of care;

(e) prescribing nursing interventions to implement the strategy of care;

(f) implementing the strategy of care;

(g) maintaining safe and effective nursing care that is rendered to a patient directly or indirectly;

(h) evaluating responses to interventions;

(i) teaching the theory and practice of nursing; and

(j) managing and supervising the practice of nursing.

(17) "Routine medications":

(a) means established medications administered to a medically stable individual as determined by a licensed health care practitioner or in consultation with a licensed medical practitioner; and

(b) is limited to medications that are administered by the following routes:

(i) oral;

(ii) sublingual;

(iii) buccal;

(iv) eye;

(v) ear;

(vi) nasal;

(vii) rectal;

(viii) vaginal;

(ix) skin ointments, topical including patches and transdermal;

(x) premeasured medication delivered by aerosol/nebulizer; and

(xi) medications delivered by metered hand-held inhalers.

(18) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-31b-501.

(19) "Unlicensed assistive personnel" means any unlicensed person, regardless of title, to whom tasks are delegated by a licensed nurse as permitted by rule and in accordance with the standards of the profession.

(20) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-31b-502 and as may be further defined by rule.

Section 2. Section 58-31b-601 is amended to read:

58-31b-601. Minimum standards for nursing programs -- Medication aide training.

(1) Except as provided in Subsection (2), to qualify as an approved education program for the purpose of qualifying graduates for licensure under this chapter, a nursing education program shall be accredited by an accrediting body for nursing education that is approved by the United States Department of Education.

(2) (a) In accordance with Subsection (2)(b) and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division, in consultation with the board, may make rules establishing requirements for a nursing education program to qualify for a limited time as an approved education program for the purpose of qualifying graduates for licensure under this chapter, if the program:

~~[(a)]~~ (i) (A) is in the process of obtaining the accreditation described in Subsection (1);

~~[(b)]~~ (B) has recently been denied accreditation after seeking to obtain the accreditation described in Subsection (1); or

~~[(e)]~~ (C) has recently lost the accreditation described in Subsection (1); and

(ii) is approved under Subsection (2)(a) on or before May 15, 2016.

(b) A program approved under Subsection (2)(a) may qualify graduates for licensure under Subsection (2)(a) until December 31, 2020. On or after January 1, 2021, a nursing education program that is not an approved education program under Subsection (1) may not qualify graduates for licensure under this chapter.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the provisions of this chapter, the division shall make rules defining the minimum standards for a medication aide certified training program to qualify a person

for certification under this chapter as a medication aide certified.

CHAPTER 27**S. B. 62**

Passed March 2, 2016

Approved March 17, 2016

Effective May 10, 2016

JROTC INSTRUCTOR AMENDMENTS

Chief Sponsor: Margaret Dayton

House Sponsor: Keith Grover

LONG TITLE**General Description:**

This bill enacts language related to an instructor for the Junior Reserve Officer's Training Corps.

Highlighted Provisions:

This bill:

- ▶ exempts a Junior Reserve Officer's Training Corps instructor from holding an educator license; and
- ▶ requires a Junior Reserve Officer's Training Corps instructor to submit to a background check.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53A-6-114, Utah Code Annotated 1953

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

Section 1. Section 53A-6-114 is enacted to read:**53A-6-114. JROTC instructors.**

(1) As used in this section:

(a) "Junior Reserve Officer's Training Corps instructor" or "JROTC instructor" means an individual who:

(i) provides instruction authorized by 10 U.S.C. Sec. 2031; and

(ii) is qualified to provide instruction in accordance with 10 U.S.C. Sec. 2033.

(b) "Junior Reserve Officer's Training Corps program" or "JROTC program" means a program established in a school district or charter school as described in 10 U.S.C. Sec. 2031.

(2) A school district, a charter school, or the board may not require that a JROTC instructor hold a license as described in this part to teach a course that is part of a JROTC program.

(3) A JROTC instructor shall submit to a background check under Section 53A-15-1503 as a condition for employment in a school district or charter school.

CHAPTER 28**S. B. 78**

Passed March 10, 2016
 Approved March 17, 2016
 Effective March 17, 2016
 (Exception clause in Section 15)

**STATE BOARD OF EDUCATION
 CANDIDATE SELECTION**

Chief Sponsor: Ann Millner
 House Sponsor: Bradley G. Last

LONG TITLE**General Description:**

This bill amends provisions of the Election Code relating to the election of State Board of Education members.

Highlighted Provisions:

This bill:

- ▶ repeals provisions relating to the Nominating and Recruiting Committee for the office of State Board of Education member;
- ▶ for the 2016 election year only, provides that candidates for the office of State Board of Education member participate in a nonpartisan primary election to narrow the number of candidates who participate in the general election;
- ▶ beginning with the 2018 election year:
 - provides that members of the State Board of Education are elected through partisan election; and
 - modifies the reporting requirements of candidates for, and officeholders on, the State Board of Education; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

20A-1-102, as last amended by Laws of Utah 2015, Chapters 296, 352, and 392
 20A-1-504, as last amended by Laws of Utah 2010, Chapter 197
 20A-9-201, as last amended by Laws of Utah 2015, Chapter 296
 20A-9-403, as last amended by Laws of Utah 2015, Chapter 296
 20A-9-408, as last amended by Laws of Utah 2015, Chapter 296
 20A-11-403, as last amended by Laws of Utah 2013, Chapter 420
 20A-11-1301, as last amended by Laws of Utah 2015, Chapters 21 and 127
 20A-11-1303, as last amended by Laws of Utah 2015, Chapter 204
 20A-11-1305, as last amended by Laws of Utah 2015, Chapter 204
 20A-14-103, as last amended by Laws of Utah 2011, Third Special Session, Chapter 3
 20A-14-104, as last amended by Laws of Utah 2004, Chapter 19

63I-2-220, as last amended by Laws of Utah 2014, Chapter 3

ENACTS:

20A-14-104.1, Utah Code Annotated 1953

REPEALS:

20A-14-105, as last amended by Laws of Utah 2011, Chapters 292, 327, 335 and last amended by Coordination Clause, Laws of Utah 2011, Chapter 327

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

Section 1. Section 20A-1-102 is amended to read:**20A-1-102. Definitions.**

As used in this title:

(1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.

(2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on paper ballots or ballot sheets and tabulates the results.

(3) (a) "Ballot" means the storage medium, whether paper, mechanical, or electronic, upon which a voter records the voter's votes.

(b) "Ballot" includes ballot sheets, paper ballots, electronic ballots, and secrecy envelopes.

(4) "Ballot label" means the cards, papers, booklet, pages, or other materials that:

(a) contain the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) are used in conjunction with ballot sheets that do not display that information.

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

(a) an opinion question specifically authorized by the Legislature;

(b) a constitutional amendment;

(c) an initiative;

(d) a referendum;

(e) a bond proposition;

(f) a judicial retention question;

(g) an incorporation of a city or town; or

(h) any other ballot question specifically authorized by the Legislature.

(6) "Ballot sheet":

(a) means a ballot that:

(i) consists of paper or a card where the voter's votes are marked or recorded; and

(ii) can be counted using automatic tabulating equipment; and

(b) includes punch card ballots and other ballots that are machine-countable.

(7) “Bind,” “binding,” or “bound” means securing more than one piece of paper together with a staple or stitch in at least three places across the top of the paper in the blank space reserved for securing the paper.

(8) “Board of canvassers” means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.

(9) “Bond election” means an election held for the purpose of approving or rejecting the proposed issuance of bonds by a government entity.

(10) “Book voter registration form” means voter registration forms contained in a bound book that are used by election officers and registration agents to register persons to vote.

(11) “Business reply mail envelope” means an envelope that may be mailed free of charge by the sender.

(12) “By-mail voter registration form” means a voter registration form designed to be completed by the voter and mailed to the election officer.

(13) “Canvass” means the review of election returns and the official declaration of election results by the board of canvassers.

(14) “Canvassing judge” means a poll worker designated to assist in counting ballots at the canvass.

(15) “Contracting election officer” means an election officer who enters into a contract or interlocal agreement with a provider election officer.

(16) “Convention” means the political party convention at which party officers and delegates are selected.

(17) “Counting center” means one or more locations selected by the election officer in charge of the election for the automatic counting of ballots.

(18) “Counting judge” means a poll worker designated to count the ballots during election day.

(19) “Counting poll watcher” means a person selected as provided in Section 20A-3-201 to witness the counting of ballots.

(20) “Counting room” means a suitable and convenient private place or room, immediately adjoining the place where the election is being held, for use by the poll workers and counting judges to count ballots during election day.

(21) “County officers” means those county officers that are required by law to be elected.

(22) “Date of the election” or “election day” or “day of the election”:

(a) means the day that is specified in the calendar year as the day that the election occurs; and

(b) does not include:

(i) deadlines established for absentee voting; or

(ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early Voting.

(23) “Elected official” means:

(a) a person elected to an office under Section 20A-1-303;

(b) a person who is considered to be elected to a municipal office in accordance with Subsection 20A-1-206(1)(c)(ii); or

(c) a person who is considered to be elected to a local district office in accordance with Subsection 20A-1-206(3)(c)(ii).

(24) “Election” means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a local district election.

(25) “Election Assistance Commission” means the commission established by [~~Public Law 107-252,~~] the Help America Vote Act of 2002, Pub. L. No. 107-252.

(26) “Election cycle” means the period beginning on the first day persons are eligible to file declarations of candidacy and ending when the canvass is completed.

(27) “Election judge” means a poll worker that is assigned to:

(a) preside over other poll workers at a polling place;

(b) act as the presiding election judge; or

(c) serve as a canvassing judge, counting judge, or receiving judge.

(28) “Election officer” means:

(a) the lieutenant governor, for all statewide ballots and elections;

(b) the county clerk for:

(i) a county ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(c) the municipal clerk for:

(i) a municipal ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(d) the local district clerk or chief executive officer for:

(i) a local district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5; or

(e) the business administrator or superintendent of a school district for:

(i) a school district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5.

(29) "Election official" means any election officer, election judge, or poll worker.

(30) "Election results" means:

(a) for an election other than a bond election, the count of votes cast in the election and the election returns requested by the board of canvassers; or

(b) for bond elections, the count of those votes cast for and against the bond proposition plus any or all of the election returns that the board of canvassers may request.

(31) "Election returns" includes the pollbook, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.

(32) "Electronic ballot" means a ballot that is recorded using a direct electronic voting device or other voting device that records and stores ballot information by electronic means.

(33) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(34) (a) "Electronic voting device" means a voting device that uses electronic ballots.

(b) "Electronic voting device" includes a direct recording electronic voting device.

(35) "Inactive voter" means a registered voter who has:

(a) been sent the notice required by Section 20A-2-306; and

(b) failed to respond to that notice.

(36) "Inspecting poll watcher" means a person selected as provided in this title to witness the receipt and safe deposit of voted and counted ballots.

(37) "Judicial office" means the office filled by any judicial officer.

(38) "Judicial officer" means any justice or judge of a court of record or any county court judge.

(39) "Local district" means a local government entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.

(40) "Local district officers" means those local district board members that are required by law to be elected.

(41) "Local election" means a regular county election, a regular municipal election, a municipal primary election, a local special election, a local district election, and a bond election.

(42) "Local political subdivision" means a county, a municipality, a local district, or a local school district.

(43) "Local special election" means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

(44) "Municipal executive" means:

(a) the mayor in the council-mayor form of government defined in Section 10-3b-102;

(b) the mayor in the council-manager form of government defined in Subsection 10-3b-103(7); or

(c) the chair of a metro township form of government defined in Section 10-3b-102.

(45) "Municipal general election" means the election held in municipalities and, as applicable, local districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

(46) "Municipal legislative body" means:

(a) the council of the city or town in any form of municipal government; or

(b) the council of a metro township.

(47) "Municipal office" means an elective office in a municipality.

(48) "Municipal officers" means those municipal officers that are required by law to be elected.

(49) "Municipal primary election" means an election held to nominate candidates for municipal office.

(50) "Official ballot" means the ballots distributed by the election officer to the poll workers to be given to voters to record their votes.

(51) "Official endorsement" means:

(a) the information on the ballot that identifies:

(i) the ballot as an official ballot;

(ii) the date of the election; and

(iii) (A) for a ballot prepared by an election officer other than a county clerk, the facsimile signature required by Subsection 20A-6-401(1)(b)(iii); or

(B) for a ballot prepared by a county clerk, the words required by Subsection 20A-6-301(1)(c)(iii); and

(b) the information on the ballot stub that identifies:

(i) the poll worker's initials; and

(ii) the ballot number.

(52) "Official register" means the official record furnished to election officials by the election officer that contains the information required by Section 20A-5-401.

(53) "Paper ballot" means a paper that contains:

(a) the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) spaces for the voter to record the voter's vote for each office and for or against each ballot proposition.

(54) "Pilot project" means the election day voter registration pilot project created in Section 20A-4-108.

(55) "Political party" means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Chapter 8, Political Party Formation and Procedures.

(56) "Pollbook" means a record of the names of voters in the order that they appear to cast votes.

(57) "Polling place" means the building where voting is conducted.

(58) (a) "Poll worker" means a person assigned by an election official to assist with an election, voting, or counting votes.

(b) "Poll worker" includes election judges.

(c) "Poll worker" does not include a watcher.

(59) "Position" means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks the voter's choice.

(60) "Primary convention" means the political party conventions held during the year of the regular general election.

(61) "Protective counter" means a separate counter, which cannot be reset, that:

(a) is built into a voting machine; and

(b) records the total number of movements of the operating lever.

(62) "Provider election officer" means an election officer who enters into a contract or interlocal agreement with a contracting election officer to conduct an election for the contracting election officer's local political subdivision in accordance with Section 20A-5-400.1.

(63) "Provisional ballot" means a ballot voted provisionally by a person:

(a) whose name is not listed on the official register at the polling place;

(b) whose legal right to vote is challenged as provided in this title; or

(c) whose identity was not sufficiently established by a poll worker.

(64) "Provisional ballot envelope" means an envelope printed in the form required by Section 20A-6-105 that is used to identify provisional ballots and to provide information to verify a person's legal right to vote.

(65) "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the person was elected.

(66) "Receiving judge" means the poll worker that checks the voter's name in the official register,

provides the voter with a ballot, and removes the ballot stub from the ballot after the voter has voted.

(67) "Registration form" means a book voter registration form and a by-mail voter registration form.

(68) "Regular ballot" means a ballot that is not a provisional ballot.

(69) "Regular general election" means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.

(70) "Regular primary election" means the election on the fourth Tuesday of June of each even-numbered year, to nominate candidates of political parties and candidates for nonpartisan State Board of Education and local school board positions to advance to the regular general election.

(71) "Resident" means a person who resides within a specific voting precinct in Utah.

(72) "Sample ballot" means a mock ballot similar in form to the official ballot printed and distributed as provided in Section 20A-5-405.

(73) "Scratch vote" means to mark or punch the straight party ticket and then mark or punch the ballot for one or more candidates who are members of different political parties or who are unaffiliated.

(74) "Secrecy envelope" means the envelope given to a voter along with the ballot into which the voter places the ballot after the voter has voted it in order to preserve the secrecy of the voter's vote.

(75) "Special election" means an election held as authorized by Section 20A-1-203.

(76) "Spoiled ballot" means each ballot that:

(a) is spoiled by the voter;

(b) is unable to be voted because it was spoiled by the printer or a poll worker; or

(c) lacks the official endorsement.

(77) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

(78) "Stub" means the detachable part of each ballot.

(79) "Substitute ballots" means replacement ballots provided by an election officer to the poll workers when the official ballots are lost or stolen.

(80) "Ticket" means each list of candidates for each political party or for each group of petitioners.

(81) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

(82) "Vacancy" means the absence of a person to serve in any position created by statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause.

(83) "Valid voter identification" means:

(a) a form of identification that bears the name and photograph of the voter which may include:

- (i) a currently valid Utah driver license;
- (ii) a currently valid identification card that is issued by:
 - (A) the state; or
 - (B) a branch, department, or agency of the United States;
- (iii) a currently valid Utah permit to carry a concealed weapon;
- (iv) a currently valid United States passport; or
- (v) a currently valid United States military identification card;
- (b) one of the following identification cards, whether or not the card includes a photograph of the voter:
 - (i) a valid tribal identification card;
 - (ii) a Bureau of Indian Affairs card; or
 - (iii) a tribal treaty card; or
 - (c) two forms of identification not listed under Subsection (83)(a) or (b) but that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:
 - (i) a current utility bill or a legible copy thereof, dated within the 90 days before the election;
 - (ii) a bank or other financial account statement, or a legible copy thereof;
 - (iii) a certified birth certificate;
 - (iv) a valid Social Security card;
 - (v) a check issued by the state or the federal government or a legible copy thereof;
 - (vi) a paycheck from the voter's employer, or a legible copy thereof;
 - (vii) a currently valid Utah hunting or fishing license;
 - (viii) certified naturalization documentation;
 - (ix) a currently valid license issued by an authorized agency of the United States;
 - (x) a certified copy of court records showing the voter's adoption or name change;
 - (xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;
 - (xii) a currently valid identification card issued by:
 - (A) a local government within the state;
 - (B) an employer for an employee; or
 - (C) a college, university, technical school, or professional school located within the state; or
 - (xiii) a current Utah vehicle registration.

(84) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.

(85) "Voter" means a person who:

- (a) meets the requirements for voting in an election;
- (b) meets the requirements of election registration;
- (c) is registered to vote; and
- (d) is listed in the official register book.

(86) "Voter registration deadline" means the registration deadline provided in Section 20A-2-102.5.

(87) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.

(88) "Voting booth" means:

(a) the space or compartment within a polling place that is provided for the preparation of ballots, including the voting machine enclosure or curtain; or

(b) a voting device that is free standing.

(89) "Voting device" means:

(a) an apparatus in which ballot sheets are used in connection with a punch device for piercing the ballots by the voter;

(b) a device for marking the ballots with ink or another substance;

(c) an electronic voting device or other device used to make selections and cast a ballot electronically, or any component thereof;

(d) an automated voting system under Section 20A-5-302; or

(e) any other method for recording votes on ballots so that the ballot may be tabulated by means of automatic tabulating equipment.

(90) "Voting machine" means a machine designed for the sole purpose of recording and tabulating votes cast by voters at an election.

(91) "Voting poll watcher" means a person appointed as provided in this title to witness the distribution of ballots and the voting process.

(92) "Voting precinct" means the smallest voting unit established as provided by law within which qualified voters vote at one polling place.

(93) "Watcher" means a voting poll watcher, a counting poll watcher, an inspecting poll watcher, and a testing watcher.

(94) "Western States Presidential Primary" means the election established in Chapter 9, Part 8, Western States Presidential Primary.

(95) "Write-in ballot" means a ballot containing any write-in votes.

(96) "Write-in vote" means a vote cast for a person whose name is not printed on the ballot according to the procedures established in this title.

Section 2. Section 20A-1-504 is amended to read:

20A-1-504. Midterm vacancies in the offices of attorney general, state treasurer, state auditor, state Board of Education member, and lieutenant governor.

(1) (a) When a vacancy occurs for any reason in the office of attorney general, state treasurer, ~~or~~ state auditor, ~~it~~ or State Board of Education member, the vacancy shall be filled for the unexpired term at the next regular general election.

(b) The governor shall fill the vacancy until the next regular general election by appointing a person who meets the qualifications for the office from three persons nominated by the state central committee of the same political party as the prior officeholder.

(2) If a vacancy occurs in the office of lieutenant governor, the governor shall, with the consent of the Senate, appoint a person to hold the office until the next regular general election at which the governor stands for election.

(3) For a State Board of Education member vacancy, if the individual who is being replaced is not a member of a political party, or if the member was elected at or before the 2016 regular general election, the governor shall fill the vacancy, with the consent of the Senate, by selecting an individual who meets the qualifications and residency requirements for filling the vacancy described in Section 20A-14-103.

Section 3. Section 20A-9-201 is amended to read:

20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of more than one political party prohibited with exceptions -- General filing and form requirements -- Affidavit of impecuniosity.

(1) Before filing a declaration of candidacy for election to any office, a person shall:

- (a) be a United States citizen;
- (b) meet the legal requirements of that office; and
- (c) if seeking a registered political party's nomination as a candidate for elective office, state:
 - (i) the registered political party of which the person is a member; or
 - (ii) that the person is not a member of a registered political party.

(2) (a) Except as provided in Subsection (2)(b), an individual may not:

(i) file a declaration of candidacy for, or be a candidate for, more than one office in Utah during any election year;

(ii) appear on the ballot as the candidate of more than one political party; or

(iii) file a declaration of candidacy for a registered political party of which the individual is not a member, except to the extent that the registered political party permits otherwise in the registered political party's bylaws.

(b) (i) A person may file a declaration of candidacy for, or be a candidate for, president or vice president of the United States and another office, if the person resigns the person's candidacy for the other office after the person is officially nominated for president or vice president of the United States.

(ii) A person may file a declaration of candidacy for, or be a candidate for, more than one justice court judge office.

(iii) A person may file a declaration of candidacy for lieutenant governor even if the person filed a declaration of candidacy for another office in the same election year if the person withdraws as a candidate for the other office in accordance with Subsection 20A-9-202(6) before filing the declaration of candidacy for lieutenant governor.

(3) (a) (i) Except for presidential candidates, before the filing officer may accept any declaration of candidacy, the filing officer shall:

(A) read to the prospective candidate the constitutional and statutory qualification requirements for the office that the candidate is seeking; and

(B) require the candidate to state whether ~~or not~~ the candidate meets those requirements.

(ii) Before accepting a declaration of candidacy for the office of county attorney, the county clerk shall ensure that the person filing that declaration of candidacy is:

(A) a United States citizen;

(B) an attorney licensed to practice law in Utah who is an active member in good standing of the Utah State Bar;

(C) a registered voter in the county in which the person is seeking office; and

(D) a current resident of the county in which the person is seeking office and either has been a resident of that county for at least one year or was appointed and is currently serving as county attorney and became a resident of the county within 30 days after appointment to the office.

(iii) Before accepting a declaration of candidacy for the office of district attorney, the county clerk shall ensure that, as of the date of the election, the person filing that declaration of candidacy is:

(A) a United States citizen;

(B) an attorney licensed to practice law in Utah who is an active member in good standing of the Utah State Bar;

(C) a registered voter in the prosecution district in which the person is seeking office; and

(D) a current resident of the prosecution district in which the person is seeking office and either will have been a resident of that prosecution district for at least one year as of the date of the election or was appointed and is currently serving as district attorney and became a resident of the prosecution district within 30 days after receiving appointment to the office.

(iv) Before accepting a declaration of candidacy for the office of county sheriff, the county clerk shall ensure that the person filing the declaration of candidacy:

(A) as of the date of filing:

(I) is a United States citizen;

(II) is a registered voter in the county in which the person seeks office;

(III) (Aa) has successfully met the standards and training requirements established for law enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act; or

(Bb) has met the waiver requirements in Section 53-6-206; and

(IV) is qualified to be certified as a law enforcement officer, as defined in Section 53-13-103; and

(B) as of the date of the election, shall have been a resident of the county in which the person seeks office for at least one year.

(v) Before accepting a declaration of candidacy for the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state legislator, or State Board of Education member, the filing officer shall ensure:

(A) that the person filing the declaration of candidacy also files the financial disclosure required by Section 20A-11-1603; and

(B) if the filing officer is not the lieutenant governor, that the financial disclosure is provided to the lieutenant governor according to the procedures and requirements of Section 20A-11-1603.

(b) If the prospective candidate states that the qualification requirements for the office are not met, the filing officer may not accept the prospective candidate's declaration of candidacy.

(c) If the candidate meets the requirements of Subsection (3)(a) and states that the requirements of candidacy are met, the filing officer shall:

(i) inform the candidate that:

(A) the candidate's name will appear on the ballot as ~~[it]~~ the candidate's name is written on the declaration of candidacy;

(B) the candidate may be required to comply with state or local campaign finance disclosure laws; and

(C) the candidate is required to file a financial statement before the candidate's political convention under:

(I) Section 20A-11-204 for a candidate for constitutional office;

(II) Section 20A-11-303 for a candidate for the Legislature; or

(III) local campaign finance disclosure laws, if applicable;

(ii) except for a presidential candidate, provide the candidate with a copy of the current campaign financial disclosure laws for the office the candidate is seeking and inform the candidate that failure to comply will result in disqualification as a candidate and removal of the candidate's name from the ballot;

(iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the candidate of the submission deadline under Subsection 20A-7-801(4)(a);

(iv) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:

(A) signing the pledge is voluntary; and

(B) signed pledges shall be filed with the filing officer;

(v) accept the candidate's declaration of candidacy; and

(vi) if the candidate has filed for a partisan office, provide a certified copy of the declaration of candidacy to the chair of the county or state political party of which the candidate is a member.

(d) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:

(i) accept the candidate's pledge; and

(ii) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.

(4) (a) Except for presidential candidates and State Board of Education candidates, the form of the declaration of candidacy shall:

(i) be substantially as follows:

"State of Utah, County of ____

I, _____, declare my candidacy for the office of _____, seeking the nomination of the _____ party. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of _____, Utah, Zip Code _____ Phone No. _____; I will not knowingly violate any law governing campaigns and elections; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is _____.

Subscribed and sworn before me this _____ (month \ day \ year).

Notary Public (or other officer qualified to administer oath).”; and

(i) require the candidate to state, in the sworn statement described in Subsection (4)(a)(i):

(A) the registered political party of which the candidate is a member; or

(B) that the candidate is not a member of a registered political party.

(b) An agent designated to file a declaration of candidacy under Section 20A-9-202 may not sign the form described in Subsection (4)(a).

(5) (a) Except for presidential candidates, the fee for filing a declaration of candidacy is:

(i) \$50 for candidates for the local school district board; and

(ii) \$50 plus 1/8 of 1% of the total salary for the full term of office legally paid to the person holding the office for all other federal, state, and county offices.

(b) Except for presidential candidates, the filing officer shall refund the filing fee to any candidate:

(i) who is disqualified; or

(ii) who the filing officer determines has filed improperly.

(c) (i) The county clerk shall immediately pay to the county treasurer all fees received from candidates.

(ii) The lieutenant governor shall:

(A) apportion to and pay to the county treasurers of the various counties all fees received for filing of nomination certificates or acceptances; and

(B) ensure that each county receives that proportion of the total amount paid to the lieutenant governor from the congressional district that the total vote of that county for all candidates for representative in Congress bears to the total vote of all counties within the congressional district for all candidates for representative in Congress.

(d) (i) A person who is unable to pay the filing fee may file a declaration of candidacy without payment of the filing fee upon a prima facie showing of impecuniosity as evidenced by an affidavit of impecuniosity filed with the filing officer and, if requested by the filing officer, a financial statement filed at the time the affidavit is submitted.

(ii) A person who is able to pay the filing fee may not claim impecuniosity.

(iii) (A) False statements made on an affidavit of impecuniosity or a financial statement filed under this section shall be subject to the criminal penalties provided under Sections 76-8-503 and 76-8-504 and any other applicable criminal provision.

(B) Conviction of a criminal offense under Subsection (5)(d)(iii)(A) shall be considered an offense under this title for the purposes of assessing the penalties provided in Subsection 20A-1-609(2).

(iv) The filing officer shall ensure that the affidavit of impecuniosity is printed in substantially the following form:

“Affidavit of Impecuniosity

Individual Name _____

Address _____

Phone Number _____

I, _____ (name),

do solemnly [swear] [affirm], under penalty of law for false statements, that, owing to my poverty, I am unable to pay the filing fee required by law.

Date _____ Signature _____

Affiant

Subscribed and sworn to before me on _____ (month \ day \ year)

_____ (signature)

Name and Title of Officer Authorized to Administer Oath _____”

(v) The filing officer shall provide to a person who requests an affidavit of impecuniosity a statement printed in substantially the following form, which may be included on the affidavit of impecuniosity:

”Filing a false statement is a criminal offense. In accordance with Section 20A-1-609, a candidate who is found guilty of filing a false statement, in addition to being subject to criminal penalties, will be removed from the ballot.”

(vi) The filing officer may request that a person who makes a claim of impecuniosity under this Subsection (5)(d) file a financial statement on a form prepared by the election official.

(6) (a) If there is no legislative appropriation for the Western States Presidential Primary election, as provided in Part 8, Western States Presidential Primary, a candidate for president of the United States who is affiliated with a registered political party and chooses to participate in the regular primary election shall:

(i) file a declaration of candidacy, in person or via a designated agent, with the lieutenant governor:

(A) on a form developed and provided by the lieutenant governor; and

(B) on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular primary election;

(ii) identify the registered political party whose nomination the candidate is seeking;

(iii) provide a letter from the registered political party certifying that the candidate may participate as a candidate for that party in that party’s presidential primary election; and

(iv) pay the filing fee of \$500.

(b) An agent designated to file a declaration of candidacy may not sign the form described in Subsection (6)(a)(i)(A).

(7) Any person who fails to file a declaration of candidacy or certificate of nomination within the time provided in this chapter is ineligible for nomination to office.

(8) A declaration of candidacy filed under this section may not be amended or modified after the final date established for filing a declaration of candidacy.

(9) (a) The form of the declaration of candidacy for the office of State Board of Education member shall be substantially as follows:

“State of Utah, County of _____

I, _____, declare my candidacy for the office of State Board of Education member. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of _____, Utah, Zip Code _____ Phone No. _____; I will not knowingly violate any law governing campaigns and elections; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is _____.

Subscribed and sworn before me this _____ (month \day \year). Notary Public (or other officer qualified to administer oath).”

(b) An agent designated to file a declaration of candidacy under Section 20A-9-202 may not sign the form described in Subsection (9)(a).

Section 4. Section 20A-9-403 is amended to read:

20A-9-403. Regular primary elections.

(1) (a) Candidates for elective office that are to be filled at the next regular general election shall be nominated in a regular primary election by direct vote of the people in the manner prescribed in this section. The fourth Tuesday of June of each even-numbered year is designated as regular primary election day. Nothing in this section shall affect a candidate’s ability to qualify for a regular general election’s ballot as an unaffiliated candidate under Section 20A-9-501 or to participate in a regular general election as a write-in candidate under Section 20A-9-601.

(b) Each registered political party that chooses to have the names of its candidates for elective office featured with party affiliation on the ballot at a regular general election shall comply with the requirements of this section and shall nominate its candidates for elective office in the manner prescribed in this section.

(c) A filing officer may not permit an official ballot at a regular general election to be produced or used

if the ballot denotes affiliation between a registered political party or any other political group and a candidate for elective office who was not nominated in the manner prescribed in this section or in Subsection 20A-9-202(4).

(d) Unless noted otherwise, the dates in this section refer to those that occur in each even-numbered year in which a regular general election will be held.

(2) (a) Each registered political party, in a statement filed with the lieutenant governor, shall:

(i) either declare their intent to participate in the next regular primary election or declare that the registered political party chooses not to have the names of its candidates for elective office featured on the ballot at the next regular general election; and

(ii) if the registered political party participates in the upcoming regular primary election, identify one or more registered political parties whose members may vote for the registered political party’s candidates and whether or not persons identified as unaffiliated with a political party may vote for the registered political party’s candidates.

(b) (i) A registered political party that is a continuing political party must file the statement described in Subsection (2)(a) with the lieutenant governor no later than 5 p.m. on November 15 of each odd-numbered year.

(ii) An organization that is seeking to become a registered political party under Section 20A-8-103 must file the statement described in Subsection (2)(a) at the time that the registered political party files the petition described in Section 20A-8-103.

(3) (a) Except as provided in Subsection (3)(e), a person who has submitted a declaration of candidacy under Section 20A-9-202 shall appear as a candidate for elective office on the regular primary ballot of the registered political party listed on the declaration of candidacy only if the person is certified by the appropriate filing officer as having submitted a set of nomination petitions that was:

(i) circulated and completed in accordance with Section 20A-9-405; and

(ii) signed by at least two percent of the registered political party’s members who reside in the political division of the office that the person seeks.

(b) A candidate for elective office shall submit nomination petitions to the appropriate filing officer for verification and certification no later than 5 p.m. on the final day in March. Candidates may supplement their submissions at any time on or before the filing deadline.

(c) The lieutenant governor shall determine for each elective office the total number of signatures that must be submitted under Subsection (3)(a)(ii) by counting the aggregate number of persons residing in each elective office’s political division who have designated a particular registered political party on their voter registration forms as of November 1 of each odd-numbered year. The lieutenant governor shall publish this

determination for each elective office no later than November 15 of each odd-numbered year.

(d) The filing officer shall:

(i) verify signatures on nomination petitions in a transparent and orderly manner;

(ii) for all qualifying candidates for elective office who submitted nomination petitions to the filing officer, issue certifications referenced in Subsection (3)(a) no later than 5 p.m. on the first Monday after the third Saturday in April;

(iii) consider active and inactive voters eligible to sign nomination petitions;

(iv) consider a person who signs a nomination petition a member of a registered political party for purposes of Subsection (3)(a)(ii) if the person has designated that registered political party as the person's party membership on the person's voter registration form; and

(v) utilize procedures described in Section 20A-7-206.3 to verify submitted nomination petition signatures, or use statistical sampling procedures to verify submitted nomination petition signatures pursuant to rules made under Subsection (3)(f).

(e) Notwithstanding any other provision in this Subsection (3), a candidate for lieutenant governor may appear on the regular primary ballot of a registered political party without submitting nomination petitions if the candidate files a declaration of candidacy and complies with Subsection 20A-9-202(3).

(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director of elections, within the Office of the Lieutenant Governor, shall make rules that:

(i) provide for the use of statistical sampling procedures that:

(A) filing officers are required to use to verify signatures under Subsection (3)(d); and

(B) reflect a bona fide effort to determine the validity of a candidate's entire submission, using widely recognized statistical sampling techniques; and

(ii) provide for the transparent, orderly, and timely submission, verification, and certification of nomination petition signatures.

(g) The county clerk shall:

(i) review the declarations of candidacy filed by candidates for local boards of education to determine if more than two candidates have filed for the same seat;

(ii) place the names of all candidates who have filed a declaration of candidacy for a local board of education seat on the nonpartisan section of the ballot if more than two candidates have filed for the same seat; and

(iii) determine the order of the local board of education candidates' names on the ballot in accordance with Section 20A-6-305.

(4) (a) By 5 p.m. on the first Wednesday after the third Saturday in April, the lieutenant governor shall provide to the county clerks:

(i) a list of the names of all candidates for federal, constitutional, multi-county, and county offices who have received certifications under Subsection (3), along with instructions on how those names shall appear on the primary-election ballot in accordance with Section 20A-6-305; and

(ii) a list of unopposed candidates for elective office who have been nominated by a registered political party under Subsection (5)(c) and instruct the county clerks to exclude such candidates from the primary-election ballot.

(b) A candidate for lieutenant governor and a candidate for governor campaigning as joint-ticket running mates shall appear jointly on the primary-election ballot.

(c) After the county clerk receives the certified list from the lieutenant governor under Subsection (4)(a), the county clerk shall post or publish a primary election notice in substantially the following form:

"Notice is given that a primary election will be held Tuesday, June ____, ____ (year), to nominate party candidates for the parties and candidates for nonpartisan State Board of Education and local school board positions listed on the primary ballot. The polling place for voting precinct ____ is _____. The polls will open at 7 a.m. and continue open until 8 p.m. of the same day. Attest: county clerk."

(5) (a) Candidates, other than presidential candidates, receiving the highest number of votes cast for each office at the regular primary election are nominated by their registered political party for that office or are nominated as a candidate for a nonpartisan State Board of Education or local school board position.

(b) If two or more candidates, other than presidential candidates, are to be elected to the office at the regular general election, those party candidates equal in number to positions to be filled who receive the highest number of votes at the regular primary election are the nominees of their party for those positions.

(c) A candidate who is unopposed for an elective office in the regular primary election of a registered political party is nominated by the party for that office without appearing on the primary ballot. A candidate is "unopposed" if no person other than the candidate has received a certification under Subsection (3) for the regular primary election ballot of the candidate's registered political party for a particular elective office.

(6) (a) When a tie vote occurs in any primary election for any national, state, or other office that represents more than one county, the governor, lieutenant governor, and attorney general shall, at

a public meeting called by the governor and in the presence of the candidates involved, select the nominee by lot cast in whatever manner the governor determines.

(b) When a tie vote occurs in any primary election for any county office, the district court judges of the district in which the county is located shall, at a public meeting called by the judges and in the presence of the candidates involved, select the nominee by lot cast in whatever manner the judges determine.

(7) The expense of providing all ballots, blanks, or other supplies to be used at any primary election provided for by this section, and all expenses necessarily incurred in the preparation for or the conduct of that primary election shall be paid out of the treasury of the county or state, in the same manner as for the regular general elections.

(8) An individual may not file a declaration of candidacy for a registered political party of which the individual is not a member, except to the extent that the registered political party permits otherwise under the registered political party's bylaws.

Section 5. Section 20A-9-408 is amended to read:

20A-9-408. Signature-gathering process to seek the nomination of a qualified political party.

(1) This section describes the requirements for a member of a qualified political party who is seeking the nomination of the qualified political party for an elective office through the signature-gathering process described in this section.

(2) Notwithstanding Subsection 20A-9-201(4)(a), the form of the declaration of candidacy for a member of a qualified political party who is nominated by, or who is seeking the nomination of, the qualified political party under this section shall be substantially as described in Section 20A-9-408.5.

(3) Notwithstanding Subsection 20A-9-202(1)(a), and except as provided in Subsection 20A-9-202(4), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for an elective office that is to be filled at the next general election shall:

(a) within the period beginning on January 1 before the next regular general election and ending on the third Thursday in March of the same year, and before gathering signatures under this section, file with the filing officer on a form approved by the lieutenant governor a notice of intent to gather signatures for candidacy that includes:

(i) the name of the member who will attempt to become a candidate for a registered political party under this section;

(ii) the name of the registered political party for which the member is seeking nomination;

(iii) the office for which the member is seeking to become a candidate;

(iv) the address and telephone number of the member; and

(v) other information required by the lieutenant governor;

(b) file a declaration of candidacy, in person, with the filing officer on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(c) pay the filing fee.

(4) Notwithstanding Subsection 20A-9-202(2)(a), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for the office of district attorney within a multicounty prosecution district that is to be filled at the next general election shall:

(a) on or after January 1 before the next regular general election, and before gathering signatures under this section, file with the filing officer on a form approved by the lieutenant governor a notice of intent to gather signatures for candidacy that includes:

(i) the name of the member who will attempt to become a candidate for a registered political party under this section;

(ii) the name of the registered political party for which the member is seeking nomination;

(iii) the office for which the member is seeking to become a candidate;

(iv) the address and telephone number of the member; and

(v) other information required by the lieutenant governor;

(b) file a declaration of candidacy, in person, with the filing officer on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(c) pay the filing fee.

(5) Notwithstanding Subsection 20A-9-202(3)(a)(iii), a lieutenant governor candidate who files as the joint-ticket running mate of an individual who is nominated by a qualified political party, under this section, for the office of governor shall submit a letter from the candidate for governor that names the lieutenant governor candidate as a joint-ticket running mate.

(6) The lieutenant governor shall ensure that the certification described in Subsection 20A-9-701(1) also includes the name of each candidate nominated by a qualified political party under this section.

(7) Notwithstanding Subsection 20A-9-701(2), the ballot shall, for each candidate who is nominated by a qualified political party under this section, designate the qualified political party that nominated the candidate.

(8) A member of a qualified political party may seek the nomination of the qualified political party for an elective office by:

(a) complying with the requirements described in this section; and

(b) collecting signatures, on a form approved by the lieutenant governor, during the period beginning on January 1 of an even-numbered year and ending 14 days before the day on which the qualified political party's convention for the office is held, in the following amounts:

(i) for a statewide race, 28,000 signatures of registered voters in the state who are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(ii) for a congressional district race, 7,000 signatures of registered voters who are residents of the congressional district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(iii) for a state Senate district race, 2,000 signatures of registered voters who are residents of the state Senate district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(iv) for a state House district race, 1,000 signatures of registered voters who are residents of the state House district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election; ~~and~~

(v) for a State Board of Education race, the lesser of:

(A) 2,000 signatures of registered voters who are residents of the State Board of Education district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election; or

(B) 3% of the registered voters of the qualified political party who are residents of the applicable State Board of Education district; and

~~(vi)~~ (vi) for a county office race, signatures of 3% of the registered voters who are residents of the area permitted to vote for the county office and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election.

(9) (a) In order for a member of the qualified political party to qualify as a candidate for the qualified political party's nomination for an elective office under this section, the member shall:

(i) collect the signatures on a form approved by the lieutenant governor, using the same circulation and verification requirements described in Sections 20A-7-204 and 20A-7-205; and

(ii) submit the signatures to the election officer no later than 14 days before the day on which the qualified political party holds its convention to select candidates, for the elective office, for the qualified political party's nomination.

(b) An individual may not gather signatures under this section until after the individual files a

notice of intent to gather signatures for candidacy described in this section.

(c) An individual who files a notice of intent to gather signatures for candidacy, described in Subsection (3)(a) or (4)(a), is, beginning on the day on which the individual files the notice of intent to gather signatures for candidacy:

(i) required to comply with the reporting requirements that a candidate for office is required to comply with; and

(ii) subject to the same enforcement provisions, and civil and criminal penalties, that apply to a candidate for office in relation to the reporting requirements described in Subsection (9)(c)(i).

(d) Upon timely receipt of the signatures described in Subsections (8) and (9)(a), the election officer shall, no later than one day before the day on which the qualified political party holds the convention to select a nominee for the elective office to which the signature packets relate:

(i) check the name of each individual who completes the verification for a signature packet to determine whether each individual is a resident of Utah and is at least 18 years old;

(ii) submit the name of each individual described in Subsection (9)(d)(i) who is not a Utah resident or who is not at least 18 years old to the attorney general and the county attorney;

(iii) determine whether each signer is a registered voter who is qualified to sign the petition, using the same method, described in Section 20A-7-206.3, used to verify a signature on a petition;

(iv) certify whether each name is that of a registered voter who is qualified to sign the signature packet; and

(v) notify the qualified political party and the lieutenant governor of the name of each member of the qualified political party who qualifies as a nominee of the qualified political party, under this section, for the elective office to which the convention relates.

(e) Upon receipt of a notice of intent to gather signatures for candidacy described in this section, the lieutenant governor shall post the notice of intent to gather signatures for candidacy on the lieutenant governor's website in the same location that the lieutenant governor posts a declaration of candidacy.

Section 6. Section 20A-11-403 is amended to read:

20A-11-403. Failure to file -- Penalties.

(1) Within 30 days after a deadline for the filing of a summary report, the lieutenant governor shall review each filed summary report to ensure that:

(a) each officeholder that is required to file a summary report has filed one; and

(b) each summary report contains the information required by this part.

(2) If it appears that any officeholder has failed to file the summary report required by law, if it appears that a filed summary report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any summary report, the lieutenant governor shall, if the lieutenant governor determines that a violation has occurred:

(a) impose a fine against the filing entity in accordance with Section 20A-11-1005; and

(b) within five days of discovery of a violation or receipt of a written complaint, notify the officeholder of the violation or written complaint and direct the officeholder to file a summary report correcting the problem.

(3) (a) It is unlawful for any officeholder to fail to file or amend a summary report within seven days after receiving notice from the lieutenant governor under this section.

(b) Each officeholder who violates Subsection (3)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (3)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (3)(b), the lieutenant governor shall impose a civil fine of \$100 against an officeholder who violates Subsection (3)(a).

(4) Within 30 days after a deadline for the filing of an interim report by an officeholder under Subsection 20A-11-204(1)(c), 20A-11-303(1)(c), or 20A-11-1303(1)(e)(d), the lieutenant governor shall review each filed interim report to ensure that each interim report contains the information required for the report.

(5) If it appears that any officeholder has failed to file an interim report required by law, if it appears that a filed interim report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any interim report, the lieutenant governor shall, if the lieutenant governor determines that a violation has occurred:

(a) impose a fine against the filing entity in accordance with Section 20A-11-1005; and

(b) within five days after the day on which the violation is discovered or a written complaint is received, notify the officeholder of the violation or written complaint and direct the officeholder to file an interim report correcting the problem.

(6) (a) It is unlawful for any officeholder to fail to file or amend an interim report within seven days after the day on which the officeholder receives notice from the lieutenant governor under this section.

(b) Each officeholder who violates Subsection (6)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (6)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (6)(b), the lieutenant governor shall impose a civil fine of \$100 against an officeholder who violates Subsection (6)(a).

Section 7. Section 20A-11-1301 is amended to read:

20A-11-1301. School board office candidate -- Campaign finance requirements -- Candidate as a political action committee officer -- No personal use -- Contribution reporting deadline -- Report other accounts -- Anonymous contributions.

(1) (a) (i) Each school board office candidate shall deposit each contribution and public service assistance received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(ii) A school board office candidate may:

(A) receive a contribution or public service assistance from a political action committee registered under Section 20A-11-601; and

(B) be designated by a political action committee as an officer who has primary decision-making authority as described in Section 20A-11-601.

(b) A school board office candidate may not use money deposited in an account described in Subsection (1)(a)(i) for:

(i) a personal use expenditure; or

(ii) an expenditure prohibited by law.

(2) A school board office candidate may not deposit or mingle any contributions or public service assistance received into a personal or business account.

(3) A school board office candidate may not make any political expenditures prohibited by law.

(4) If a person who is no longer a school board office candidate chooses not to expend the money remaining in a campaign account, the person shall continue to file the year-end summary report required by Section 20A-11-1302 until the statement of dissolution and final summary report required by Section 20A-11-1304 are filed with the lieutenant governor.

(5) (a) Except as provided in Subsection (5)(b) and Section 20A-11-402, a person who is no longer a school board office candidate may not expend or transfer the money in a campaign account in a manner that would cause the former school board office candidate to recognize the money as taxable income under federal tax law.

(b) A person who is no longer a school board office candidate may transfer the money in a campaign account in a manner that would cause the former school board office candidate to recognize the money as taxable income under federal tax law if the transfer is made to a campaign account for federal office.

(6) (a) As used in this Subsection (6) ~~[and Section 20A-11-1303]~~, “received” means~~[:]~~ the same as that term is defined in Subsection 20A-11-1303(1)(a).

~~[(i) for a cash contribution, that the cash is given to a school board office candidate or a member of the candidate’s personal campaign committee;]~~

~~[(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and]~~

~~[(iii) for any other type of contribution, that any portion of the contribution’s benefit inures to the school board office candidate.]~~

(b) Each school board office candidate shall report to the chief election officer each contribution and public service assistance received by the school board office candidate:

(i) except as provided in Subsection (6)(b)(ii), within 30 days after the day on which the contribution or public service assistance is received; or

(ii) within three business days after the day on which the contribution or public service assistance is received, if:

(A) the school board office candidate is contested in a primary election and the contribution or public service assistance is received within 30 days before the day on which the primary election is held; or

(B) the school board office candidate is contested in a general election and the contribution or public service assistance is received within 30 days before the day on which the general election is held.

(c) For each contribution or provision of public service assistance that a school board office candidate fails to report within the time period described in Subsection (6)(b), the chief election officer shall impose a fine against the school board office candidate in an amount equal to:

(i) (A) 10% of the amount of the contribution, if the school board office candidate reports the contribution within 60 days after the day on which the time period described in Subsection (6)(b) ends; or

(B) 20% of the amount of the contribution, if the school board office candidate fails to report the contribution within 60 days after the day on which the time period described in Subsection (6)(b) ends; or

(ii) (A) 10% of the value of the public service assistance, if the school board office candidate reports the public service assistance within 60 days after the day on which the time period described in Subsection (6)(b) ends; or

(B) 20% of the amount of the public service assistance, if the school board office candidate fails to report the public service assistance within 60 days after the day on which the time period described in Subsection (6)(b) ends.

(d) The chief election officer shall:

(i) deposit money received under Subsection (6)(c) into the General Fund; and

(ii) report on the chief election officer’s website, in the location where reports relating to each school board office candidate are available for public access:

(A) each fine imposed by the chief election officer against the school board office candidate;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

(7) Within 30 days after receiving a contribution that is cash or a negotiable instrument, exceeds \$50, and is from an unknown source, a school board office candidate shall disburse the contribution to:

(a) the treasurer of the state or a political subdivision for deposit into the state’s or political subdivision’s general fund; or

(b) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

(8) (a) As used in this Subsection (8), “account” means an account in a financial institution:

(i) that is not described in Subsection (1)(a)(i); and

(ii) into which or from which a person who, as a candidate for an office, other than a school board office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a school board office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A school board office candidate shall include on any financial statement filed in accordance with this part:

(i) a contribution deposited in an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account; or

(ii) an expenditure made from an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account.

Section 8. Section 20A-11-1303 is amended to read:

20A-11-1303. School board office candidate and school board officeholder -- Financial reporting requirements -- Interim reports.

(1) (a) As used in this section, “received” means:

(i) for a cash contribution, that the cash is given to a school board office candidate or a member of the school board office candidate’s personal campaign committee;

(ii) for a contribution that is a check or other negotiable instrument, that the check or other negotiable instrument is negotiated; or

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the school board office candidate.

[~~(4)-(a)~~] (b) As used in this Subsection (1), "campaign account" means a separate campaign account required under Subsection 20A-11-1301(1)(a)(i).

[~~(b)~~] (c) Each school board office candidate shall file an interim report at the following times in any year in which the candidate has filed a declaration of candidacy for a public office:

[~~(i)~~] ~~May 15;~~

(i) (A) seven days before the political convention for the political party of the school board office candidate; or

(B) May 15, if the school board office candidate does not affiliate with a political party;

(ii) seven days before the regular primary election date;

(iii) September 30; and

(iv) seven days before the regular general election date.

[~~(e)~~] (d) Each school board ~~[office holder]~~ officeholder who has a campaign account that has not been dissolved under Section 20A-11-1304 shall, in an even year, file an interim report at the following times, regardless of whether an election for the school board ~~[office holder's]~~ officeholder's office is held that year:

[~~(i)~~] ~~May 15;~~

(i) (A) seven days before the political convention for the political party of the school board officeholder; or

(B) May 15, if the school board officeholder does not affiliate with a political party;

(ii) seven days before the regular primary election date for that year;

(iii) September 30; and

(iv) seven days before the regular general election date.

(2) Each interim report shall include the following information:

(a) the net balance of the last summary report, if any;

(b) a single figure equal to the total amount of receipts reported on all prior interim reports, if any, during the calendar year in which the interim report is due;

(c) a single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;

(d) a detailed listing of each contribution and public service assistance received since the last summary report that has not been reported in detail on a prior interim report;

(e) for each nonmonetary contribution:

(i) the fair market value of the contribution with that information provided by the contributor; and

(ii) a specific description of the contribution;

(f) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;

(g) for each nonmonetary expenditure, the fair market value of the expenditure;

(h) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report;

(i) a summary page in the form required by the lieutenant governor that identifies:

(i) beginning balance;

(ii) total contributions during the period since the last statement;

(iii) total contributions to date;

(iv) total expenditures during the period since the last statement; and

(v) total expenditures to date; and

(j) the name of a political action committee for which the school board office candidate or school board ~~[office holder]~~ officeholder is designated as an officer who has primary decision-making authority under Section 20A-11-601.

(3) (a) For all individual contributions or public service assistance of \$50 or less, a single aggregate figure may be reported without separate detailed listings.

(b) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.

(4) (a) In preparing each interim report, all receipts and expenditures shall be reported as of five days before the required filing date of the report.

(b) Any negotiable instrument or check received by a school board office candidate or school board ~~[office holder]~~ officeholder more than five days before the required filing date of a report required by this section shall be included in the interim report.

Section 9. Section 20A-11-1305 is amended to read:

20A-11-1305. School board office candidate -- Failure to file statement -- Penalties.

(1) (a) A school board office candidate who fails to file a financial statement by the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

(b) If a school board office candidate fails to file an interim report described in Subsections 20A-11-1303(1)(~~b~~)(c)(ii) through (iv), the chief election officer shall, after making a reasonable attempt to discover if the report was timely filed, inform the county clerk and other appropriate election officials who:

(i) (A) shall, if practicable, remove the name of the candidate from the ballots before the ballots are delivered to voters; or

(B) shall, if removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not be counted; and

(ii) may not count any votes for that candidate.

(c) Any school board office candidate who fails to file timely a financial statement required by Subsection 20A-11-1303(1)(~~b~~)(c)(ii), (iii), or (iv) is disqualified.

(d) Notwithstanding Subsections (1)(b) and (1)(c), a school board office candidate is not disqualified and the chief election officer may not impose a fine if:

(i) the candidate timely files the reports required by this section in accordance with Section 20A-11-103;

(ii) those reports are completed, detailing accurately and completely the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and

(iii) those omissions, errors, or inaccuracies described in Subsection (1)(d)(ii) are corrected in:

(A) an amended report; or

(B) the next scheduled report.

(2) (a) Within 30 days after a deadline for the filing of a summary report by a school board office candidate, the lieutenant governor shall review each filed summary report to ensure that:

(i) each school board office candidate ~~that~~ who is required to file a summary report has filed one; and

(ii) each summary report contains the information required by this part.

(b) If it appears that a school board office candidate has failed to file the summary report required by law, if it appears that a filed summary report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any summary report, the lieutenant governor shall, within five days of discovery of a violation or receipt of a written complaint, notify the school board office candidate of the violation or written complaint and direct the school board office candidate to file a summary report correcting the problem.

(c) (i) It is unlawful for a school board office candidate to fail to file or amend a summary report

within seven days after receiving notice from the lieutenant governor under this section.

(ii) Each school board office candidate who violates Subsection (2)(c)(i) is guilty of a class B misdemeanor.

(iii) The lieutenant governor shall report all violations of Subsection (2)(c)(i) to the attorney general.

(iv) In addition to the criminal penalty described in Subsection (2)(c)(ii), the lieutenant governor shall impose a civil fine of \$100 against a school board office candidate who violates Subsection (2)(c)(i).

Section 10. Section 20A-14-103 is amended to read:

20A-14-103. State Board of Education -- Term -- Requirements.

(1) ~~[(a)]~~ Unless otherwise provided by law, each State Board of Education member elected from a State Board of Education district at ~~[the 2010]~~ or before the 2016 general election shall ~~[-(i)]~~ serve out the term of office for which that member was elected ~~[-and]~~.

~~[(ii) represent the realigned district if the member resides in that district.]~~

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

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

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

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

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

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

(3) A State Board of Education member shall:

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

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

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

- (a) the State Board of Education;
- (b) the Utah State Office of Education; or
- (c) the Utah State Office of Rehabilitation.

Section 11. Section 20A-14-104 is amended to read:

20A-14-104. Becoming a candidate for membership on the State Board of Education.

(1) ~~[(a) Persons]~~ An individual interested in becoming a candidate for the State Board of Education shall:

(a) (i) for the 2016 general election, file a declaration of candidacy [according to], in accordance with the procedures and requirements of Sections 20A-9-201 and 20A-9-202[-], before 5 p.m. on March 17, 2016; or

(ii) for a general election held after 2016, file a declaration of candidacy, in accordance with the procedures and requirements of Sections 20A-9-201 and 20A-9-202, on or after the second Friday in March, and before 5 p.m. on the third Thursday in March, before the next regular general election; and

(b) pay the filing fee described in Section 20A-9-202.

~~[(b) By May 1 of the year in which a State Board of Education member's term expires, the lieutenant governor shall submit the name of each person who has filed a declaration of candidacy for the State Board of Education to the nominating and recruiting committee for the State Board of Education.]~~

(2) The lieutenant governor shall:

(a) review the declarations of candidacy filed by candidates for the office of State Board of Education member to determine if more than two candidates have filed for the same seat;

(b) place the names of all candidates who have filed a declaration of candidacy for a State Board of Education seat on the nonpartisan section of the ballot if more than two candidates have filed for the same seat; and

(c) determine the order of the State Board of Education candidates' names on the ballot in accordance with Section 20A-6-305.

~~[(2) By November 1 of the year preceding each regular general election year, a nominating and recruiting committee consisting of 12 members, each to serve a two-year term, shall be appointed by the governor as follows:]~~

~~[(a) one member shall be appointed to represent each of the following business and industry sectors:]~~

- ~~[(i) manufacturing and mining;]~~
- ~~[(ii) transportation and public utilities;]~~

~~[(iii) service, trade, and information technology;]~~

~~[(iv) finance, insurance, and real estate;]~~

~~[(v) construction; and]~~

~~[(vi) agriculture; and]~~

~~[(b) one member shall be appointed to represent each of the following education sectors:]~~

~~[(i) teachers;]~~

~~[(ii) school administrators;]~~

~~[(iii) parents;]~~

~~[(iv) local school board members;]~~

~~[(v) charter schools; and]~~

~~[(vi) higher education.]~~

~~[(3) (a) The members appointed under Subsections (2)(a)(i) through (vi) and (2)(b)(i) through (vi) shall be appointed from lists containing at least two names submitted by organizations representing each of the respective sectors.]~~

~~[(b) At least one member of the nominating and recruiting committee shall reside within each state board district in which a member's term expires during the committee's two-year term of office.]~~

~~[(4) (a) The members shall elect one member to serve as chair for the committee.]~~

~~[(b) The chair, or another member of the committee designated by the chair, shall schedule and convene all committee meetings.]~~

~~[(c) Any formal action by the committee requires the approval of a majority of committee members.]~~

~~[(d) Members of the nominating and recruiting committee shall serve without compensation, but they may be reimbursed for expenses incurred in the performance of their official duties as established by the Division of Finance.]~~

~~[(5) The nominating and recruiting committee shall:]~~

~~[(a) recruit potential candidates for membership on the State Board of Education prior to the deadline to file a declaration of candidacy;]~~

~~[(b) prepare a list of candidates for membership on the State Board of Education for each state board district subject to election in that year using the qualifications under Subsection (6);]~~

~~[(c) submit a list of at least three candidates for each state board position to the governor by July 1; and]~~

~~[(d) ensure that the list includes appropriate background information on each candidate.]~~

~~[(6) The nominating committee shall select a broad variety of candidates who possess outstanding professional qualifications relating to the powers and duties of the State Board of Education, including experience in the following areas:]~~

~~[(a) business and industry administration;]~~

~~[(b) business and industry human resource management;]~~

~~[(c) business and industry finance;]~~

~~[(d) business and industry, including expertise in:]~~

~~[(i) metrics and evaluation;]~~

~~[(ii) manufacturing;]~~

~~[(iii) retailing;]~~

~~[(iv) natural resources;]~~

~~[(v) information technology;]~~

~~[(vi) construction;]~~

~~[(vii) banking;]~~

~~[(viii) science and engineering; and]~~

~~[(ix) medical and healthcare;]~~

~~[(e) higher education administration;]~~

~~[(f) applied technology education;]~~

~~[(g) public education administration;]~~

~~[(h) public education instruction;]~~

~~[(i) economic development;]~~

~~[(j) labor; and]~~

~~[(k) other life experiences that would benefit the State Board of Education.]~~

Section 12. Section 20A-14-104.1 is enacted to read:

20A-14-104.1. State Board of Education -- Declaration of candidacy.

(1) A person interested in becoming a candidate for the State Board of Education shall file a declaration of candidacy according to the procedures and requirements of Sections 20A-9-201 and 20A-9-202.

(2) The office of State Board of Education member is a partisan office.

Section 13. Section 63I-2-220 is amended to read:

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

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

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

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

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

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

On January 1, 2017:

(1) in Subsection 20A-1-102(70), the language that states "State Board of Education and" is repealed;

(2) in Subsection 20A-9-201(4)(a), the language that states "and State Board of Education candidates" is repealed;

(3) Subsection 20A-9-201(9) is repealed;

(4) in Subsection 20A-9-403(4)(c), the language that states "State Board of Education and" is repealed;

(5) in Subsection 20A-9-403(5)(a), the language that states "State Board of Education or" is repealed; and

(6) Section 20A-14-104 is repealed.

Section 14. Repealer.

This bill repeals:

Section 20A-14-105, Becoming a candidate for membership on the State Board of Education -- Selection of candidates by the governor -- Ballot placement.

Section 15. Effective date.

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) The following sections take effect on January 1, 2017:

(a) Section 20A-1-504;

(b) Section 20A-9-408;

(c) Section 20A-11-403;

(d) Section 20A-11-1301;

(e) Section 20A-11-1303;

(f) Section 20A-11-1305; and

(g) Section 20A-14-104.1.

CHAPTER 29**S. B. 129**

Passed March 3, 2016
Approved March 17, 2016
Effective May 10, 2016

**DRIVING PRIVILEGE
CARD AMENDMENTS**

Chief Sponsor: Curtis S. Bramble
House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill amends provisions related to driving privilege cards.

Highlighted Provisions:

This bill:

- ▶ amends certain requirements for obtaining a driving privilege card;
- ▶ amends notification requirements regarding criminal history and warrants between law enforcement jurisdictions; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-3-205.5, as last amended by Laws of Utah 2015, Chapter 348

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

Section 1. Section 53-3-205.5 is amended to read:**53-3-205.5. Fingerprint and photograph submission required for driving privilege card applicants and cardholders.**

(1) (a) Every applicant for an original driving privilege card shall submit ~~[the following with the]:~~

(i) an application to the division[; and

(ii) fingerprints and a photograph in a sealed envelope provided by the Bureau of Criminal Identification or a law enforcement agency[; and].

~~[(ii) a signed waiver from the person whose fingerprints are being registered in the Federal Bureau of Investigation's Next Generation Identification system's Rap Back Service.]~~

~~[(b) If a person has not submitted fingerprints and a photograph to the division on or after July 1, 2015, the person that renews a driving privilege card shall submit:]~~

[(i) (b) If an applicant for a renewal of a driving privilege card has not previously submitted fingerprints and a photograph to the division, the applicant shall submit fingerprints and a photograph in a sealed envelope provided by the Bureau of Criminal Identification or a law enforcement agency[; and].

~~[(ii) a signed waiver from the person whose fingerprints are being registered in the Federal Bureau of Investigation's Next Generation Identification system's Rap Back Service.]~~

~~[(e) The fingerprinting and photograph submission required under this Subsection (1) shall be conducted by:]~~

~~[(i) the Bureau of Criminal Identification; or]~~

~~[(ii) a] (c) The Bureau of Criminal Identification or a law enforcement agency that has the capability of handling fingerprint and photograph submissions shall take the applicant's fingerprints and photo for submission under Subsection (1).~~

(2) The division shall submit fingerprints for each person described in Subsection (1) to the Bureau of Criminal Identification established in Section 53-10-201.

(3) ~~[(a)]~~ The Bureau of Criminal Identification shall:

(a) check the fingerprints submitted under Subsection (1) against the applicable state and regional criminal records databases [and submit the fingerprints to national criminal records databases, including the Federal Bureau of Investigation's Next Generation Identification system.];

~~[(b) The Bureau of Criminal Identification shall:]~~

[(i) (b) maintain a separate file of fingerprints submitted under Subsection (1) for search by future submissions to the local, state, and regional criminal records databases, including latent prints; and

~~[(ii) request that the fingerprints be retained in the Federal Bureau of Investigation's Next Generation Identification system's Rap Back Service for search by future submissions to national criminal records databases, including the Federal Bureau of Investigation's Next Generation Identification system and latent prints; and]~~

~~[(iii) establish a privacy risk mitigation strategy to ensure that the entity only receives notifications for individuals with whom the entity maintains an authorizing relationship.]~~

(c) [Notification] provide notice to the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security of any new or existing criminal history record or new or existing [or new warrant information and any new criminal history record information entered in local, state, or federal databases shall be made to the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security if the person has a criminal history or warrant record or a new criminal history or warrant record is entered in local, state, or federal databases] warrant information contained in or entered in local, state, or regional databases.

~~[(d) Upon request of the agency described in Subsection (3)(e), the Bureau of Criminal Identification shall inform the agency whether a~~

person whose arrest was reported under Subsection (3)(c) was subsequently convicted of the charge for which the person was arrested.]

(4) In addition to any other fees [imposed under] authorized by this chapter, the division shall:

(a) impose on individuals submitting fingerprints in accordance with this section the fees that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of Criminal Identification or other authorized agency provides under this section; and

(b) remit the fees collected under Subsection (4)(a) to the Bureau of Criminal Identification.

CHAPTER 30**S. B. 144**

Passed February 25, 2016

Approved March 17, 2016

Effective May 10, 2016

**DEAD DOMESTIC ANIMAL
DISPOSAL AMENDMENTS**

Chief Sponsor: Ralph Okerlund

House Sponsor: Derrin Owens

LONG TITLE**General Description:**

This bill amends provisions related to the disposal of dead domestic animals.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to the disposal of dead domestic animals.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

4-31-102, as last amended by Laws of Utah 2014, Chapter 29

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

Section 1. Section 4-31-102 is amended to read:**4-31-102. Dead domestic animals -- Duty of owner to bury or otherwise dispose of them -- Liability for costs.**

(1) An owner or other person responsible for a domestic animal that dies shall bury or dispose of the animal within a reasonable period of time after the owner or other person responsible for the animal becomes aware that the animal is dead.

(2) The owner of a dead bovine, horse, mule, goat, sheep, bird, or swine may bury the dead animal on the owner's property.

(3) If the owner or other person responsible for the dead animal cannot be found, the county, city, or town within which the dead animal is found, shall, at the political subdivision's expense, bury the dead animal.

(4) A county, city, or town that incurs expense under this section is entitled to reimbursement from the owner of the dead animal.

CHAPTER 31**S. B. 146**

Passed March 8, 2016

Approved March 17, 2016

Effective May 10, 2016

**WORKERS'
COMPENSATION AMENDMENTS**

Chief Sponsor: Stephen H. Urquhart

House Sponsor: Val L. Peterson

LONG TITLE**General Description:**

This bill modifies workers' compensation amendments to address permanent total disabilities.

Highlighted Provisions:

This bill:

- ▶ modifies the language regarding an employee's burden in establishing that an employee has a permanent, total disability; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

34A-2-413, as last amended by Laws of Utah 2014, Chapter 286

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

Section 1. Section 34A-2-413 is amended to read:**34A-2-413. Permanent total disability -- Amount of payments -- Rehabilitation.**

(1) (a) In the case of a permanent total disability resulting from an industrial accident or occupational disease, the employee shall receive compensation as outlined in this section.

(b) To establish entitlement to permanent total disability compensation, the employee shall prove by a preponderance of evidence that:

(i) the employee sustained a significant impairment or combination of impairments as a result of the industrial accident or occupational disease that gives rise to the permanent total disability entitlement;

(ii) the employee has a permanent, total disability; and

(iii) the industrial accident or occupational disease is the direct cause of the employee's permanent total disability.

(c) To establish that an employee has a permanent, total disability the employee shall prove by a preponderance of the evidence that:

- (i) the employee is not gainfully employed;

(ii) the employee has an impairment or combination of impairments that reasonably limit the employee's ability to do basic work activities;

(iii) the industrial or occupationally caused impairment or combination of impairments prevent the employee from performing the essential functions of the work activities for which the employee has been qualified until the time of the industrial accident or occupational disease that is the basis for the employee's permanent total disability claim; and

(iv) the employee cannot perform other work reasonably available, taking into consideration the employee's:

- (A) age;
- (B) education;
- (C) past work experience;
- (D) medical capacity; and
- (E) residual functional capacity.

(d) Evidence of an employee's entitlement to disability benefits other than those provided under this chapter and Chapter 3, Utah Occupational Disease Act, if relevant:

- (i) may be presented to the commission;
- (ii) is not binding; and

(iii) creates no presumption of an entitlement under this chapter and Chapter 3, Utah Occupational Disease Act.

(e) In determining under Subsections (1)(b) and (c) whether an employee cannot perform other work reasonably available, the following may not be considered:

(i) whether the employee is incarcerated in a facility operated by or contracting with a federal, state, county, or municipal government to house a criminal offender in either a secure or nonsecure setting; or

(ii) whether the employee is not legally eligible to be employed because of a reason unrelated to the impairment or combination of impairments.

(2) For permanent total disability compensation during the initial 312-week entitlement, compensation is 66-2/3% of the employee's average weekly wage at the time of the injury, limited as follows:

(a) compensation per week may not be more than 85% of the state average weekly wage at the time of the injury;

(b) (i) subject to Subsection (2)(b)(ii), compensation per week may not be less than the sum of \$45 per week and:

- (A) \$5 for a dependent spouse; and

(B) \$5 for each dependent child under the age of 18 years, up to a maximum of four dependent minor children; and

(ii) the amount calculated under Subsection (2)(b)(i) may not exceed:

(A) the maximum established in Subsection (2)(a); or

(B) the average weekly wage of the employee at the time of the injury; and

(c) after the initial 312 weeks, the minimum weekly compensation rate under Subsection (2)(b) is 36% of the current state average weekly wage, rounded to the nearest dollar.

(3) This Subsection (3) applies to claims resulting from an accident or disease arising out of and in the course of the employee's employment on or before June 30, 1994.

(a) The employer or [its] the employer's insurance carrier is liable for the initial 312 weeks of permanent total disability compensation except as outlined in Section 34A-2-703 as in effect on the date of injury.

(b) The employer or [its] the employer's insurance carrier may not be required to pay compensation for any combination of disabilities of any kind, as provided in this section and Sections 34A-2-410 through 34A-2-412 and Part 5, Industrial Noise, in excess of the amount of compensation payable over the initial 312 weeks at the applicable permanent total disability compensation rate under Subsection (2).

(c) The Employers' Reinsurance Fund shall for an overpayment of compensation described in Subsection (3)(b), reimburse the overpayment:

(i) to the employer or [its] the employer's insurance carrier; and

(ii) out of the Employers' Reinsurance Fund's liability to the employee.

(d) After an employee receives compensation from the employee's employer, [its] the employer's insurance carrier, or the Employers' Reinsurance Fund for any combination of disabilities amounting to 312 weeks of compensation at the applicable permanent total disability compensation rate, the Employers' Reinsurance Fund shall pay all remaining permanent total disability compensation.

(e) Employers' Reinsurance Fund payments shall commence immediately after the employer or [its] the employer's insurance carrier satisfies its liability under this Subsection (3) or Section 34A-2-703.

(4) This Subsection (4) applies to claims resulting from an accident or disease arising out of and in the course of the employee's employment on or after July 1, 1994.

(a) The employer or [its] the employer's insurance carrier is liable for permanent total disability compensation.

(b) The employer or [its] the employer's insurance carrier may not be required to pay compensation for any combination of disabilities of any kind, as provided in this section and Sections 34A-2-410 through 34A-2-412 and Part 5, Industrial Noise, in excess of the amount of compensation payable over

the initial 312 weeks at the applicable permanent total disability compensation rate under Subsection (2).

(c) The employer or [its] the employer's insurance carrier may recoup the overpayment of compensation described in Subsection (4) by reasonably offsetting the overpayment against future liability paid before or after the initial 312 weeks.

(5) (a) A finding by the commission of permanent total disability is not final, unless otherwise agreed to by the parties, until:

(i) an administrative law judge reviews a summary of reemployment activities undertaken pursuant to Section 34A-2-413.5;

(ii) the employer or [its] the employer's insurance carrier submits to the administrative law judge:

(A) a reemployment plan as prepared by a qualified rehabilitation provider reasonably designed to return the employee to gainful employment; or

(B) notice that the employer or [its] the employer's insurance carrier will not submit a plan; and

(iii) the administrative law judge, after notice to the parties, holds a hearing, unless otherwise stipulated, to:

(A) consider evidence regarding rehabilitation; and

(B) review any reemployment plan submitted by the employer or [its] the employer's insurance carrier under Subsection (5)(a)(ii).

(b) Before commencing the procedure required by Subsection (5)(a), the administrative law judge shall order:

(i) the initiation of permanent total disability compensation payments to provide for the employee's subsistence; and

(ii) the payment of any undisputed disability or medical benefits due the employee.

(c) Notwithstanding Subsection (5)(a), an order for payment of benefits described in Subsection (5)(b) is considered a final order for purposes of Section 34A-2-212.

(d) The employer or [its] the employer's insurance carrier shall be given credit for any disability payments made under Subsection (5)(b) against its ultimate disability compensation liability under this chapter or Chapter 3, Utah Occupational Disease Act.

(e) An employer or [its] the employer's insurance carrier may not be ordered to submit a reemployment plan. If the employer or [its] the employer's insurance carrier voluntarily submits a plan, the plan is subject to Subsections (5)(e)(i) through (iii).

(i) The plan may include, but not require an employee to pay for:

- (A) retraining;
- (B) education;
- (C) medical and disability compensation benefits;
- (D) job placement services; or
- (E) incentives calculated to facilitate reemployment.

(ii) The plan shall include payment of reasonable disability compensation to provide for the employee's subsistence during the rehabilitation process.

(iii) The employer or [its] the employer's insurance carrier shall diligently pursue the reemployment plan. The employer's or insurance carrier's failure to diligently pursue the reemployment plan is cause for the administrative law judge on the administrative law judge's own motion to make a final decision of permanent total disability.

(f) If a preponderance of the evidence shows that successful rehabilitation is not possible, the administrative law judge shall order that the employee be paid weekly permanent total disability compensation benefits.

(g) If a preponderance of the evidence shows that pursuant to a reemployment plan, as prepared by a qualified rehabilitation provider and presented under Subsection (5)(e), an employee could immediately or without unreasonable delay return to work but for the following, an administrative law judge shall order that the employee be denied the payment of weekly permanent total disability compensation benefits:

- (i) incarceration in a facility operated by or contracting with a federal, state, county, or municipal government to house a criminal offender in either a secure or nonsecure setting; or
- (ii) not being legally eligible to be employed because of a reason unrelated to the impairment or combination of impairments.

(6) (a) The period of benefits commences on the date the employee acquired the permanent, total disability, as determined by a final order of the commission based on the facts and evidence, and ends:

- (i) with the death of the employee; or
 - (ii) when the employee is capable of returning to regular, steady work.
- (b) An employer or [its] the employer's insurance carrier may provide or locate for a permanently totally disabled employee reasonable, medically appropriate, part-time work in a job earning at least minimum wage, except that the employee may not be required to accept the work to the extent that it would disqualify the employee from social security disability benefits.

(c) An employee shall:

- (i) fully cooperate in the placement and employment process; and

(ii) accept the reasonable, medically appropriate, part-time work.

(d) In a consecutive four-week period when an employee's gross income from the work provided under Subsection (6)(b) exceeds \$500, the employer or insurance carrier may reduce the employee's permanent total disability compensation by 50% of the employee's income in excess of \$500.

(e) If a work opportunity is not provided by the employer or [its] the employer's insurance carrier, an employee with a permanent, total disability may obtain medically appropriate, part-time work subject to the offset provisions of Subsection (6)(d).

(f) (i) The commission shall establish rules regarding the part-time work and offset.

(ii) The adjudication of disputes arising under this Subsection (6) is governed by Part 8, Adjudication.

(g) The employer or [its] the employer's insurance carrier has the burden of proof to show that medically appropriate part-time work is available.

(h) The administrative law judge may:

(i) excuse an employee from participation in any work:

(A) that would require the employee to undertake work exceeding the employee's:

- (I) medical capacity; or
- (II) residual functional capacity; or
- (B) for good cause; or

(ii) allow the employer or [its] the employer's insurance carrier to reduce permanent total disability benefits as provided in Subsection (6)(d) when reasonable, medically appropriate, part-time work is offered, but the employee fails to fully cooperate.

(7) When an employee is rehabilitated or the employee's rehabilitation is possible but the employee has some loss of bodily function, the award shall be for permanent partial disability.

(8) As determined by an administrative law judge, an employee is not entitled to disability compensation, unless the employee fully cooperates with any evaluation or reemployment plan under this chapter or Chapter 3, Utah Occupational Disease Act. The administrative law judge shall dismiss without prejudice the claim for benefits of an employee if the administrative law judge finds that the employee fails to fully cooperate, unless the administrative law judge states specific findings on the record justifying dismissal with prejudice.

(9) (a) The loss or permanent and complete loss of the use of the following constitutes total and permanent disability that is compensated according to this section:

- (i) both hands;
- (ii) both arms;
- (iii) both feet;

- (iv) both legs;
- (v) both eyes; or
- (vi) any combination of two body members described in this Subsection (9)(a).

(b) A finding of permanent total disability pursuant to Subsection (9)(a) is final.

(10) (a) An insurer or self-insured employer may periodically reexamine a permanent total disability claim, except those based on Subsection (9), for which the insurer or self-insured employer had or has payment responsibility to determine whether the employee continues to have a permanent, total disability.

(b) Reexamination may be conducted no more than once every three years after an award is final, unless good cause is shown by the employer or [its] the employer's insurance carrier to allow more frequent reexaminations.

(c) The reexamination may include:

- (i) the review of medical records;
- (ii) employee submission to one or more reasonable medical evaluations;
- (iii) employee submission to one or more reasonable rehabilitation evaluations and retraining efforts;

(iv) employee disclosure of Federal Income Tax Returns;

(v) employee certification of compliance with Section 34A-2-110; and

(vi) employee completion of one or more sworn affidavits or questionnaires approved by the division.

(d) The insurer or self-insured employer shall pay for the cost of a reexamination with appropriate employee reimbursement pursuant to rule for reasonable travel allowance and per diem as well as reasonable expert witness fees incurred by the employee in supporting the employee's claim for permanent total disability benefits at the time of reexamination.

(e) If an employee fails to fully cooperate in the reasonable reexamination of a permanent total disability finding, an administrative law judge may order the suspension of the employee's permanent total disability benefits until the employee cooperates with the reexamination.

(f) (i) If the reexamination of a permanent total disability finding reveals evidence that reasonably raises the issue of an employee's continued entitlement to permanent total disability compensation benefits, an insurer or self-insured employer may petition the Division of Adjudication for a rehearing on that issue. The insurer or self-insured employer shall include with the petition, documentation supporting the insurer's or self-insured employer's belief that the employee no longer has a permanent, total disability.

(ii) If the petition under Subsection (10)(f)(i) demonstrates good cause, as determined by the Division of Adjudication, an administrative law judge shall adjudicate the issue at a hearing.

(iii) Evidence of an employee's participation in medically appropriate, part-time work may not be the sole basis for termination of an employee's permanent total disability entitlement, but the evidence of the employee's participation in medically appropriate, part-time work under Subsection (6) may be considered in the reexamination or hearing with other evidence relating to the employee's status and condition.

(g) In accordance with Section 34A-1-309, the administrative law judge may award reasonable attorney fees to an attorney retained by an employee to represent the employee's interests with respect to reexamination of the permanent total disability finding, except if the employee does not prevail, the attorney fees shall be set at \$1,000. The attorney fees awarded shall be paid by the employer or [its] the employer's insurance carrier in addition to the permanent total disability compensation benefits due.

(h) During the period of reexamination or adjudication, if the employee fully cooperates, each insurer, self-insured employer, or the Employers' Reinsurance Fund shall continue to pay the permanent total disability compensation benefits due the employee.

(11) If any provision of this section, or the application of any provision to any person or circumstance, is held invalid, the remainder of this section is given effect without the invalid provision or application.

CHAPTER 32

S. B. 162

Passed March 7, 2016

Approved March 17, 2016

Effective May 10, 2016

CRIME VICTIMS COUNCIL AMENDMENTS

Chief Sponsor: Kevin T. Van Tassell

House Sponsor: Jack R. Draxler

LONG TITLE

General Description:

This bill adds a Native American representative to the Utah Council on Victims of Crime.

Highlighted Provisions:

This bill:

- ▶ adds a member of the Native American community to the Utah Council on Victims of Crime.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63M-7-601, as last amended by Laws of Utah 2011, Chapter 131

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

Section 1. Section 63M-7-601 is amended to read:

63M-7-601. Creation -- Members -- Chair.

(1) There is created within the governor's office the Utah Council on Victims of Crime.

(2) The Utah Council on Victims of Crime shall be composed of [24] 25 voting members as follows:

(a) a representative of the Commission on Criminal and Juvenile Justice appointed by the executive director;

(b) a representative of the Department of Corrections appointed by the executive director;

(c) a representative of the Board of Pardons and Parole appointed by the chair;

(d) a representative of the Department of Public Safety appointed by the commissioner;

(e) a representative of the Division of Juvenile Justice Services appointed by the director;

(f) a representative of the Utah Office for Victims of Crime appointed by the director;

(g) a representative of the Office of the Attorney General appointed by the attorney general;

(h) a representative of the United States Attorney for the district of Utah appointed by the United States Attorney;

(i) a representative of Utah's Native American community appointed by the director of the Division

of Indian Affairs after input from federally recognized tribes in Utah;

[4] (j) a professional or volunteer working in the area of violence against women and families appointed by the governor;

[4] (k) the chair of each judicial district's victims' rights committee;

[4] (l) the following members appointed to serve four-year terms:

(i) a representative of the Statewide Association of Public Attorneys appointed by that association;

(ii) a representative of the Utah Chiefs of Police Association appointed by the president of that association;

(iii) a representative of the Utah Sheriffs' Association appointed by the president of that association;

(iv) a representative of a Children's Justice Center appointed by the Advisory Board on Children's Justice; and

(v) a citizen representative appointed by the governor; and

[4] (m) the following members appointed by the members in Subsections (2)(a) through (2)(k) to serve four-year terms:

(i) an individual who works professionally with victims of crime; and

(ii) a victim of crime.

(3) The council shall annually elect one member to serve as chair.

CHAPTER 33**S. B. 181**

Passed March 7, 2016
 Approved March 17, 2016
 Effective May 10, 2016

JUDICIARY AMENDMENTS

Chief Sponsor: Lyle W. Hillyard
 House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill makes amendments related to the judiciary.

Highlighted Provisions:

This bill:

- ▶ provides that, in a legal action filed against a county, a district court judge of the defendant county may transfer venue to any county contiguous to the defendant county;
- ▶ provides that a motion to transfer venue may be filed ex parte;
- ▶ clarifies provisions regarding appointment of counsel in juvenile court delinquency cases;
- ▶ clarifies justice court jurisdiction;
- ▶ removes a defendant's entitlement to a hearing de novo in the district court on a finding of a plea in abeyance violation;
- ▶ provides that a defendant is entitled to a hearing de novo in the district court on a sentence following a finding of a plea in abeyance violation;
- ▶ requires that a notice of appeal from a criminal case in justice court be filed within 28 days;
- ▶ provides that a defendant is entitled to a hearing de novo in the district court on:
 - an order denying a motion to withdraw a plea if the plea is held in abeyance and the motion to withdraw the plea is filed within 28 days of entry of the plea;
 - a post-sentence order fixing total or court ordered restitution; or
 - an order denying expungement;
- ▶ provides that a prosecutor is entitled to a hearing de novo in the district court if:
 - an appeal is filed within 28 days of the court entering a certain judgment or order; or
 - an appeal is filed within 28 days of the court entering an order for total restitution at less than the crime victim requested, or an order granting an expungement that was opposed by the prosecutor or victim;
- ▶ removes the endorsement requirement for the number of days within which a defendant is required to appear and defend a forcible detainer action included in a summons; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 63G-7-502, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 77-7-25, as renumbered and amended by Laws of Utah 2005, Chapter 2
- 78A-6-1111, as last amended by Laws of Utah 2015, Chapter 338
- 78A-7-106, as last amended by Laws of Utah 2012, Chapter 205
- 78A-7-118, as last amended by Laws of Utah 2015, Chapters 99 and 258
- 78B-2-213, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78B-6-807, as last amended by Laws of Utah 2008, Chapter 121 and renumbered and amended by Laws of Utah 2008, Chapter 3

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

Section 1. Section 63G-7-502 is amended to read:**63G-7-502. Venue of actions.**

(1) Actions against the state may be brought in the county in which the claim arose or in Salt Lake County.

(2) (a) Actions against a county may be brought in the county in which the claim arose, or in the defendant county~~[, or, upon leave granted by a]~~.

(b) (i) A district court judge of the defendant county~~[, in]~~ may transfer venue to any county contiguous to the defendant county.

~~[(b) Leave]~~ (ii) A motion to transfer may be ~~[granted]~~ filed ex parte.

(3) Actions against all other political subdivisions, including cities and towns, shall be brought in the county in which the political subdivision is located or in the county in which the claim arose.

Section 2. Section 77-7-25 is amended to read:**77-7-25. Keeping of records -- Making and forwarding of abstract upon conviction or forfeiture of bail -- Form and contents -- Official misconduct.**

(1) A magistrate or judge of a court shall keep a full record of each case in which a person is charged with:

(a) a violation of this chapter; or

(b) any other law regulating the operation of a motor vehicle on the highway.

(2) (a) Within ~~[40]~~ five days after the conviction or forfeiture of bail of a person on a charge of violating a provision of this chapter or other law regulating the operation of a motor vehicle on the highway, the magistrate of the court or clerk of the court in which the conviction was made or bail was forfeited shall prepare and immediately forward to the department an abstract of the record of the court

covering the case in which the person was convicted or forfeited bail.

(b) The abstract shall be certified by the person required to prepare the abstract to be true and correct.

(c) A report under this Subsection (2) is not required for a conviction involving the illegal parking or standing of a vehicle.

(3) The abstract must be made in a manner specified by the Driver License Division and shall include the:

- (a) name and address of the party charged;
- (b) number, if any, of the person's driver license;
- (c) license plate number of the vehicle involved;
- (d) nature of the offense;
- (e) date of hearing;
- (f) plea;
- (g) judgment, or whether bail was forfeited; and
- (h) amount of the fine or forfeiture.

(4) A court shall provide a copy of the report to the Driver License Division on the conviction of a person of manslaughter or other felony in which a vehicle was used.

(5) The failure, refusal, or neglect of a judicial officer to comply with the requirements of this section constitutes misconduct in office and is grounds for removal.

(6) The Driver License Division shall classify and disclose all abstracts received in accordance with Section 53-3-109.

Section 3. Section 78A-6-1111 is amended to read:

78A-6-1111. Right to counsel --

Appointment of counsel for indigent -- Costs.

(1) (a) In any action in juvenile court initiated by the state, a political subdivision of the state, or a private party, the parents, legal guardian, and the minor, where applicable, shall be informed that they may be represented by counsel at every stage of the proceedings.

(b) In any action initiated by a private party, the parents or legal guardian shall have the right to employ counsel of their own choice at their own expense.

(c) If, in any action initiated by the state or a political subdivision of the state under Part 3, Abuse, Neglect, and Dependency Proceedings; Part 5, Termination of Parental Rights Act; or Part 10, Adult Offenses, of this chapter or under Section 78A-6-1101, a parent or legal guardian requests an attorney and is found by the court to be indigent, counsel shall be appointed by the court to represent the parent or legal guardian in all proceedings directly related to the petition or motion filed by the

state, or a political subdivision of the state, subject to the provisions of this section.

(d) In any action initiated by the state, a political subdivision of the state, or a private party under Part 3, Abuse, Neglect, and Dependency Proceedings, or Part 5, Termination of Parental Rights Act, of this chapter, the child shall be represented by a guardian ad litem in accordance with Sections 78A-6-317 and 78A-6-902. The child shall also be represented by an attorney guardian ad litem in other actions initiated under this chapter when appointed by the court under Section 78A-6-902 or as otherwise provided by law.

(e) In any action initiated by the state or a political subdivision of the state under Part 6, Delinquency and Criminal Actions, or Part 7, Transfer of Jurisdiction, of this chapter, or against a minor under Section 78A-6-1101, the parents or legal guardian and the minor shall be informed that the minor has the right to be represented by counsel at every stage of the proceedings.

(i) In cases where ~~[a minor is facing a felony-level offense]~~ a petition or information alleging a felony-level offense is filed, the court shall appoint counsel, who shall appear until counsel is retained on the minor's behalf. The minor may not waive counsel unless the minor has had a meaningful opportunity to consult with a defense attorney. The court shall make findings on the record, taking into consideration the minor's unique circumstances and attributes, that the waiver is knowing and voluntary and the minor understands the consequences of waiving the right to counsel.

(ii) In all other ~~[situations]~~ cases in which a petition is filed the right to counsel may not be waived by a minor unless there has been a finding on the record, taking into consideration the minor's unique circumstances and attributes, that the waiver is knowing and voluntary, and the minor understands the consequences of waiving the right to counsel.

(iii) If the minor is found to be indigent, counsel shall be appointed by the court to represent the minor in all proceedings directly related to the petition or motion filed by the state or a political subdivision of the state, subject to the provisions of this section.

(f) Indigency of a parent, legal guardian, or minor shall be determined in accordance with the process and procedure defined in Section 77-32-202. The court shall take into account the income and financial ability of the parent or legal guardian to retain counsel in determining the indigency of the minor.

(g) The cost of appointed counsel for a party found to be indigent, including the cost of counsel and expense of the first appeal, shall be paid by the county in which the trial court proceedings are held. Counties may levy and collect taxes for these purposes.

(2) Counsel appointed by the court may not provide representation as court-appointed counsel for a parent or legal guardian in any action initiated

by, or in any proceeding to modify court orders in a proceeding initiated by, a private party.

(3) If the county responsible to provide legal counsel for an indigent under Subsection (1)(g) has arranged by contract to provide services, the court shall appoint the contracting attorney as legal counsel to represent that indigent.

(4) The court may order a parent or legal guardian for whom counsel is appointed, and the parents or legal guardian of any minor for whom counsel is appointed, to reimburse the county for the cost of appointed counsel.

(5) The state, or an agency of the state, may not be ordered to reimburse the county for expenses incurred under Subsection (1)(g).

Section 4. Section 78A-7-106 is amended to read:

78A-7-106. Jurisdiction.

(1) Justice courts have jurisdiction over class B and C misdemeanors, violation of ordinances, and infractions committed within their territorial jurisdiction by a person 18 years of age or older.

(2) Except those offenses over which the juvenile court has exclusive jurisdiction, justice courts have jurisdiction over the following ~~[class B and C misdemeanors, violation of ordinances, and infractions]~~ offenses committed within their territorial jurisdiction by a person who is 16 or 17 years of age [or older]:

(a) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver Licensing Act; and

(b) class B and C misdemeanor and infraction violations of:

~~(a)~~ (i) Title 23, Wildlife Resources Code of Utah;

~~(b)~~ (ii) Title 41, Chapter 1a, Motor Vehicle Act;

~~(c)~~ (iii) Title 41, Chapter 6a, Traffic Code;

~~(d)~~ (iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

~~(e)~~ (v) Title 41, Chapter 22, Off-Highway Vehicles;

~~(f)~~ (vi) Title 73, Chapter 18, State Boating Act;

~~(g)~~ (vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

~~(h)~~ (viii) Title 73, Chapter 18b, Water Safety; and

~~(i)~~ (ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.

~~(3) Justice Courts have jurisdiction over class C misdemeanor violations of Title 53, Chapter 3, Part 2, Driver Licensing Act.]~~

~~(4)~~ (3) As used in this section, "the court's jurisdiction" means the territorial jurisdiction of a justice court.

~~(5)~~ (4) An offense is committed within the territorial jurisdiction of a justice court if:

(a) conduct constituting an element of the offense or a result constituting an element of the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is itself unlawful;

(b) either a person committing an offense or a victim of an offense is located within the court's jurisdiction at the time the offense is committed;

(c) either a cause of injury occurs within the court's jurisdiction or the injury occurs within the court's jurisdiction;

(d) a person commits any act constituting an element of an inchoate offense within the court's jurisdiction, including an agreement in a conspiracy;

(e) a person solicits, aids, or abets, or attempts to solicit, aid, or abet another person in the planning or commission of an offense within the court's jurisdiction;

(f) the investigation of the offense does not readily indicate in which court's jurisdiction the offense occurred, and:

(i) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft passing within the court's jurisdiction;

(ii) (A) the offense is committed on or in any body of water bordering on or within this state if the territorial limits of the justice court are adjacent to the body of water; and

(B) as used in Subsection (5)(f)(ii)(A), "body of water" includes any stream, river, lake, or reservoir, whether natural or man-made;

(iii) a person who commits theft exercises control over the affected property within the court's jurisdiction; or

(iv) the offense is committed on or near the boundary of the court's jurisdiction;

(g) the offense consists of an unlawful communication that was initiated or received within the court's jurisdiction; or

(h) jurisdiction is otherwise specifically provided by law.

~~(6)~~ (5) A justice court judge may transfer a criminal matter in which the defendant is a child to the juvenile court for further proceedings if the justice court judge determines and the juvenile court concurs that the best interests of the minor would be served by the continuing jurisdiction of the juvenile court.

~~(7)~~ (6) Justice courts have jurisdiction of small claims cases under Title 78A, Chapter 8, Small Claims Courts, if a defendant resides in or the debt arose within the territorial jurisdiction of the justice court.

Section 5. Section 78A-7-118 is amended to read:

78A-7-118. Appeals from justice court -- Trial or hearing de novo in district court.

(1) In a criminal case, a defendant is entitled to a trial de novo in the district court only if the defendant files a notice of appeal within ~~[30]~~ 28 days of:

(a) sentencing, except as provided in Subsection (4)(b); or

(b) a plea of guilty or no contest in the justice court that is held in abeyance.

(2) Upon filing a proper notice of appeal, any term of a sentence imposed by the justice court shall be stayed as provided for in Section 77-20-10 and the Rules of Criminal Procedure.

(3) If an appeal under Subsection (1) is of a plea entered pursuant to negotiation with the prosecutor, and the defendant did not reserve the right to appeal as part of the plea negotiation, the negotiation is voided by the appeal.

(4) A defendant convicted and sentenced in justice court is entitled to a hearing de novo in the district court on the following matters, if the defendant files a notice of appeal within ~~[30]~~ 28 days of:

(a) an order revoking probation;

(b) ~~[an order entering a judgment of guilt pursuant to the person's failure]~~ imposition of a sentence, following a determination that a defendant failed to fulfill the terms of a plea in abeyance agreement;

~~[(c) a sentence entered pursuant to Subsection (4)(b); or]~~

~~[(d)]~~ (c) an order denying a motion to withdraw a plea[, if the plea is being held in abeyance and the motion to withdraw the plea is filed within 28 days of the entry of the plea;

(d) a postsentence order fixing total or court ordered restitution; or

(e) an order denying expungement.

(5) The prosecutor is entitled to a hearing de novo in the district court ~~[on]~~ if an appeal is filed within 28 days of the court entering:

(a) a final judgment of dismissal;

(b) an order arresting judgment;

(c) an order terminating the prosecution because of a finding of double jeopardy or denial of a speedy trial;

(d) a judgment holding invalid any part of a statute or ordinance;

(e) a pretrial order excluding evidence, when the prosecutor certifies that exclusion of that evidence prevents continued prosecution of an infraction or class C misdemeanor;

(f) a pretrial order excluding evidence, when the prosecutor certifies that exclusion of that evidence impairs continued prosecution of a class B misdemeanor; ~~[or]~~

(g) an order granting a motion to withdraw a plea of guilty or no contest~~[-];~~

~~[(6) A notice of appeal for a hearing de novo in the district court on a pretrial order excluding evidence under Subsection (5)(e) or (f) shall be filed within 30 days of the order excluding the evidence.]~~

(h) an order fixing total restitution at an amount less than requested by a crime victim; or

(i) an order granting an expungement, if the expungement was opposed by the prosecution or a victim before the order was entered.

~~[(7)]~~ (6) Upon entering a decision in a hearing de novo, the district court shall remand the case to the justice court unless:

(a) the decision results in immediate dismissal of the case;

(b) with agreement of the parties, the district court consents to retain jurisdiction; or

(c) the defendant enters a plea of guilty or no contest in the district court.

~~[(8)]~~ (7) The district court shall retain jurisdiction over the case on trial de novo.

~~[(9)]~~ (8) The decision of the district court is final and may not be appealed unless the district court rules on the constitutionality of a statute or ordinance.

Section 6. Section 78B-2-213 is amended to read:

78B-2-213. What constitutes adverse possession not under written instrument.

Land is considered to be possessed and occupied adversely by a person claiming title not founded upon a written instrument, judgment, or decree in the following cases only, where:

(1) it has been protected by a substantial enclosure;

(2) it has been usually cultivated or improved; ~~[and]~~ or

(3) labor or money amounting to the sum of \$5 per acre has been expended upon dams, canals, embankments, aqueducts, or otherwise for the purpose of irrigating the land.

Section 7. Section 78B-6-807 is amended to read:

78B-6-807. Allegations permitted in complaint -- Time for appearance -- Service of summons.

(1) The plaintiff, in his complaint:

(a) shall set forth the facts on which he seeks to recover;

(b) may set forth any circumstances of fraud, force, or violence which may have accompanied the

alleged forcible entry, or forcible or unlawful detainer; and

(c) claim damages or compensation for the occupation of the premises, or both.

(2) If the unlawful detainer charged is after default in the payment of rent, the complaint shall state the amount of rent due.

(3) ~~[A judge, court clerk, or plaintiff's counsel shall endorse on the summons]~~ The summons shall include the number of days within which the defendant is required to appear and defend the action, which shall be three business days from the date of service, unless the defendant objects to the number of days, and the court determines that the facts of the case should allow more time.

(4) The court may authorize service by publication or mail for cause shown.

(5) Service by publication is complete one week after publication.

(6) Service by mail is complete three days after mailing.

(7) The summons shall be changed in form to conform to the time of service as ordered, and shall be served as in other cases.

CHAPTER 34**S. B. 186**

Passed March 7, 2016

Approved March 17, 2016

Effective May 10, 2016

AIR QUALITY INCENTIVES

Chief Sponsor: Curtis S. Bramble

House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill authorizes the use of funds from the Industrial Assistance Account to help a company purchase and install air quality control technology.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ describes the requirements for an entity located in the nonattainment area to qualify for financial assistance for expenses related to the purchase and installation of best available control technology for air quality; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63N-3-102, as last amended by Laws of Utah 2015, Chapter 115 and renumbered and amended by Laws of Utah 2015, Chapter 283

63N-3-105, as renumbered and amended by Laws of Utah 2015, Chapter 283

63N-3-106, as renumbered and amended by Laws of Utah 2015, Chapter 283

ENACTS:

63N-3-109.5, Utah Code Annotated 1953

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

Section 1. Section 63N-3-102 is amended to read:**63N-3-102. Definitions.**

As used in this part:

(1) "Administrator" means the executive director or the executive director's designee.

(2) "Best available control technology" means a pollution control method that is approved by the United States Environmental Protection Agency or the Department of Environmental Quality to control a certain pollutant type to a specified degree.

(3) "Company creating an economic impediment" means a company that discourages economic development within a reasonable radius of its location because of:

- (a) odors;
- (b) noise;

(c) pollution;

(d) health hazards; or

(e) other activities similar to those described in Subsections (2) (3)(a) through (d).

(4) "Economic opportunities" means unique business situations or community circumstances, including the development of recreation infrastructure, which lend themselves to the furtherance of the economic interests of the state by providing a catalyst or stimulus to the growth or retention, or both, of commerce and industry in the state, including retention of companies whose relocation outside the state would have a significant detrimental economic impact on the state as a whole, regions of the state, or specific components of the state as determined by the board.

(5) "Economically disadvantaged rural area" means a geographic area designated by the board under Section 63N-3-111.

(6) "Nonattainment area" means a part of the state where air quality is determined to exceed the National Ambient Air Quality Standards, as defined in the Clean Air Act Amendments of 1970, Pub. L. No. 91-604, Sec. 109, for fine particulate matter (PM 2.5).

(7) "Replacement company" means a company locating its business or part of its business in a location vacated by a company creating an economic impediment.

(8) "Restricted Account" means the restricted account known as the Industrial Assistance Account created in Section 63N-3-103.

(9) "Targeted industry" means an industry or group of industries targeted by the board under Section 63N-3-111, for economic development in the state.

Section 2. Section 63N-3-105 is amended to read:**63N-3-105. Qualification for assistance.**

(1) Except as provided in Section 63N-3-108, 63N-3-109, 63N-3-109.5, or 63N-3-110, the administrator shall determine which industries, companies, and individuals qualify to receive money from the Industrial Assistance Account. Except as provided by Subsection (2), to qualify for financial assistance from the restricted account, an applicant shall:

(a) demonstrate to the satisfaction of the administrator that the applicant will expend funds in Utah with employees, vendors, subcontractors, or other businesses in an amount proportional with money provided from the restricted account at a minimum ratio of 2 to 1 per year or other more stringent requirements as established from time to time by the board for a minimum period of five years beginning with the date the loan or grant was approved;

(b) demonstrate to the satisfaction of the administrator the applicant's ability to sustain economic activity in the state sufficient to repay, by means of cash or appropriate credits, the loan provided by the restricted account; and

(c) satisfy other criteria the administrator considers appropriate.

(2) (a) The administrator may exempt an applicant from the requirements of Subsection (1)(a) or (b) if:

(i) the financial assistance is provided to an applicant for the purpose of locating all or any portion of its operations to an economically disadvantaged rural area;

(ii) the applicant is part of a targeted industry;

(iii) the applicant is a quasi-public corporation organized under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, or Title 63E, Chapter 2, Independent Corporations Act, and its operations, as demonstrated to the satisfaction of the administrator, will provide significant economic stimulus to the growth of commerce and industry in the state; or

(iv) the applicant is an entity offering an economic opportunity under Section 63N-3-109.

(b) The administrator may not exempt the applicant from the requirement under Subsection 63N-3-106(2)(b) that the loan be structured so that the repayment or return to the state equals at least the amount of the assistance together with an annual interest charge.

(3) The administrator shall:

(a) for applicants not described in Subsection (2)(a):

(i) make findings as to whether or not each applicant has satisfied each of the conditions set forth in Subsection (1); and

(ii) monitor the continued compliance by each applicant with each of the conditions set forth in Subsection (1) for five years;

(b) for applicants described in Subsection (2)(a), make findings as to whether the economic activities of each applicant has resulted in the creation of new jobs on a per capita basis in the economically disadvantaged rural area or targeted industry in which the applicant is located;

(c) monitor the compliance by each applicant with the provisions of any contract or agreement entered into between the applicant and the state as provided in Section 63N-3-107; and

(d) make funding decisions based upon appropriate findings and compliance.

Section 3. Section 63N-3-106 is amended to read:

63N-3-106. Loans, grants, and assistance -- Repayment -- Earned credits.

(1) (a) A company that qualifies under Section 63N-3-105 may receive loans, grants, or other financial assistance from the Industrial Assistance Account for expenses related to establishment, relocation, or development of industry in Utah.

(b) A company creating an economic impediment that qualifies under Section 63N-3-108 may in accordance with this part receive loans, grants, or other financial assistance from the restricted account for the expenses of the company creating an economic impediment related to:

(i) relocation to a rural area in Utah of the company creating an economic impediment; and

(ii) the siting of a replacement company.

(c) An entity offering an economic opportunity that qualifies under Section 63N-3-109 may:

(i) receive loans, grants, or other financial assistance from the restricted account for expenses related to the establishment, relocation, retention, or development of industry in the state; and

(ii) include infrastructure or other economic development precursor activities that act as a catalyst and stimulus for economic activity likely to lead to the maintenance or enlargement of the state's tax base.

(d) An entity located in a nonattainment area that qualifies for assistance under Section 63N-3-109.5 may receive loans, grants, or other financial assistance from the restricted account for expenses related to the purchase and installation of best available control technology for air quality, including related financing and interest costs at the discretion of the administrator.

(2) (a) Subject to Subsection (2)(b), the administrator has authority to determine the structure, amount, and nature of any loan, grant, or other financial assistance from the restricted account.

(b) Loans made under Subsection (2)(a) shall be structured so the intended repayment or return to the state, including cash or credit, equals at least the amount of the assistance together with an annual interest charge as negotiated by the administrator.

(c) Payments resulting from grants awarded from the restricted account shall be made only after the administrator has determined that the company has satisfied the conditions upon which the payment or earned credit was based.

(3) (a) (i) Except as provided in Subsection (3)(b), the administrator may provide for a system of earned credits that may be used to support grant payments or in lieu of cash repayment of a restricted account loan obligation.

(ii) The value of the credits described in Subsection (3)(a)(i) shall be based on factors determined by the administrator, including:

(A) the number of Utah jobs created;

(B) the increased economic activity in Utah; or

(C) other events and activities that occur as a result of the restricted account assistance.

(b) (i) The administrator shall provide for a system of credits to be used to support grant

payments or in lieu of cash repayment of a restricted account loan when loans are made to a company creating an economic impediment.

(ii) The value of the credits described in Subsection (3)(b)(i) shall be based on factors determined by the administrator, including:

- (A) the number of Utah jobs created;
- (B) the increased economic activity in Utah; or
- (C) other events and activities that occur as a result of the restricted account assistance.

(4) (a) A cash loan repayment or other cash recovery from a company receiving assistance under this section, including interest, shall be deposited into the restricted account.

(b) The administrator and the Division of Finance shall determine the manner of recognizing and accounting for the earned credits used in lieu of loan repayments or to support grant payments as provided in Subsection (3).

(5) (a) (i) At the end of each fiscal year, the Division of Finance shall set aside the balance of the General Fund revenue surplus as defined in Section 63J-1-312 after the transfers of General Fund revenue surplus described in Subsection (5)(b) to the Industrial Assistance Account in an amount equal to any credit that has accrued under this part.

(ii) The set aside under Subsection (5)(a)(i) shall be capped at \$50,000,000, at which time no subsequent contributions may be made and any interest accrued above the \$50,000,000 cap shall be deposited into the General Fund.

(b) The set aside required by Subsection (5)(a) shall be made after the transfer of surplus General Fund revenue surplus is made:

(i) to the Medicaid Growth Reduction and Budget Stabilization Restricted Account, as provided in Section 63J-1-315;

(ii) to the General Fund Budget Reserve Account, as provided in Section 63J-1-312; and

(iii) to the State Disaster Recovery Restricted Account, as provided in Section 63J-1-314.

(c) These credit amounts may not be used for purposes of the restricted account as provided in this part until appropriated by the Legislature.

Section 4. Section 63N-3-109.5 is enacted to read:

63N-3-109.5. Financial assistance to entities offering economic opportunities in the nonattainment area.

(1) Subject to the duties and powers of the board under Section 63N-1-402, the administrator may provide money from the Industrial Assistance Account to an entity located in a nonattainment area to purchase and install best available control technology for air quality if that entity:

- (a) applies to the administrator; and
- (b) meets the conditions of Subsection (2).

(2) An entity applicant shall:

(a) demonstrate to the satisfaction of the administrator that the purchase and installation of the best available control technology for air quality will result in new jobs with wages that exceed 110% of the county median wage of the county in which the entity is located;

(b) demonstrate that the applicant does not currently qualify for another grant program:

(i) for a small business; or

(ii) that would cover the cost of the equipment to be purchased and installed with funds provided under this section;

(c) provide satisfactory documentation showing that the equipment to be purchased and installed with funds provided under this section meets design requirements corresponding to the best available control technology for the relevant emissions profile of the applicant; and

(d) satisfy other criteria the administrator considers appropriate.

(3) Subject to the duties and powers of the board under Section 63N-1-402, the administrator shall:

(a) make findings as to whether an applicant has satisfied each of the conditions set forth in Subsection (2);

(b) establish benchmarks and time frames in which progress toward the completion of the agreed upon activity is to occur;

(c) monitor compliance by an applicant with any contract or agreement entered into by the applicant and the state as provided by Section 63N-3-107;

(d) make funding decisions based upon appropriate findings and compliance; and

(e) consult with the Department of Environmental Quality, created in Section 19-1-104, to determine whether the applicant has satisfied the conditions set forth in Subsection (2).

CHAPTER 35**H. B. 13**

Passed February 11, 2016

Approved March 18, 2016

Effective May 10, 2016

**ALCOHOLIC BEVERAGE
EVENT PERMIT AMENDMENTS**

Chief Sponsor: Curtis Oda

Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill modifies the Alcoholic Beverage Control Act to address event permits.

Highlighted Provisions:

This bill:

- ▶ addresses the issuance or denial of an event permit; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

32B-9-202, as last amended by Laws of Utah 2012, Chapter 365

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

Section 1. Section 32B-9-202 is amended to read:**32B-9-202. Duties before issuing event permit.**

(1) (a) Before the director may issue an event permit, the department shall conduct an investigation and may hold public hearings to gather information and make recommendations to the director as to whether the director should issue an event permit.

(b) The department shall forward the information and recommendations described in Subsection (1)(a) to the director and the Compliance, Licensing, and Enforcement Subcommittee to aid in the determination.

(2) Before issuing an event permit, the director shall:

(a) determine that the person filed a complete application and is in compliance with:

(i) Section 32B-9-201; and

(ii) the relevant part under this chapter for the type of event permit for which the person is applying;

(b) determine that the person is not disqualified under Section 32B-1-304;

(c) consider the purpose of the organization or its local lodge, chapter, or other local unit;

(d) consider the times, dates, location, estimated attendance, nature, and purpose of the event;

(e) to minimize the risk of minors being sold or furnished alcohol or adults being overserved alcohol at the event, ~~[assess the adequacy of control measures for:]~~ determine that adequate and appropriate control measures and adequate and appropriate enforcement measures are in place at the event to assure that minors will not be sold or furnished alcohol and that adults will not be overserved, except that adequate and appropriate control and enforcement measures may be different for small, large, indoor, or outdoor events;

~~[(i) a large-scale public event when the estimated attendance is in excess of 1,000 people; or]~~

~~[(ii) an outdoor public event;]~~

(f) determine that the event permit is not being sought by the person as a means to circumvent other applicable requirements of this title, notwithstanding that the applicant may hold one or more licenses issued under this title;

(g) consider, for the period of three years before the date of the event, the violation history of:

(i) the applicant; and

(ii) the venue where the event will be held;

~~[(4)]~~ (h) obtain the approval of the Compliance, Licensing, and Enforcement Subcommittee before issuing an event permit;

~~[(5)]~~ (i) notify each commissioner at least three business days before the director issues the event permit in accordance with Subsection (3); and

~~[(4)]~~ (j) consider any other factor the director considers necessary.

(3) (a) The director shall inform each commissioner of the director's preliminary decision to issue or deny the issuance of an event permit three business days before the decision is to be final.

(b) The preliminary decision becomes a final decision of the director:

(i) unless within three business days of receipt of the notice at least three of the commissioners request a meeting to discuss whether the event permit should be issued; or

(ii) the director modifies or revokes the preliminary decision to issue or deny issuance of the event permit.

(c) If three or more of the commissioners request a meeting, the applicant for the event permit shall be notified and the commission:

(i) shall hold a meeting on the application for an event permit no later than the next regularly scheduled meeting of the commission; and

(ii) ~~[may]~~ shall issue ~~[or deny issuance of]~~ the event permit if the applicant meets the requirements of this chapter or shall deny issuance of the event permit if the applicant fails to meet the requirements of this chapter.

(d) Notwithstanding the other provisions of this Subsection (3), the director may at any time refer an application for an event permit directly to the commission for a determination as to whether an event permit should be issued or denied.

(e) For purposes of this title, an event permit issued by the commission is to be treated the same as an event permit issued by the director.

(f) If the commission finds that an event permit was improperly issued or that the permittee has violated this chapter, the commission may take any action permitted under this title.

(4) Once the director issues an event permit, the department shall send a copy of the approved application and the event permit by written or electronic means to the state and local law enforcement authorities at least three days before the event.

(5) The director shall provide the commission a monthly report of the actions taken by the director under this part.

(6) If authorized by the director, the deputy director may act on behalf of the director for purposes of issuing an event permit under this chapter.

CHAPTER 36**H. B. 20**

Passed February 5, 2016
 Approved March 18, 2016
 Effective May 10, 2016

**LEAD ACID BATTERY DISPOSAL
 SUNSET REAUTHORIZATION**

Chief Sponsor: Lee B. Perry
 Senate Sponsor: Scott K. Jenkins

LONG TITLE**General Description:**

This bill modifies a repeal date relating to lead acid battery disposal.

Highlighted Provisions:

This bill:

- ▶ modifies a repeal date relating to lead acid battery disposal; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-219, as last amended by Laws of Utah 2014, Chapter 43

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

Section 1. Section 63I-1-219 is amended to read:**63I-1-219. Repeal dates, Title 19.**

(1) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, 2019.

(2) Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, 2019.

(3) Title 19, Chapter 5, Water Quality Act, is repealed July 1, 2019.

(4) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1, 2019.

(5) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed July 1, 2020.

(6) Title 19, Chapter 6, Part 4, Underground Storage Tank Act, is repealed July 1, 2018.

(7) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1, ~~2016~~ 2026.

(8) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1, 2019.

(9) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1, 2020.

(10) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, is repealed July 1, 2017.

CHAPTER 37**H. B. 21**

Passed February 8, 2016
Approved March 18, 2016
Effective May 10, 2016

ELECTION REVISIONS

Chief Sponsor: Steve Eliason
Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill amends provisions of the Election Code relating to reporting the results of counted absentee and provisional ballots.

Highlighted Provisions:

This bill:

- ▶ provides for the daily disclosure of the results of absentee ballots and provisional ballots counted during the period beginning on the day after the election date and ending on the day before the canvass date; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-3-309, as last amended by Laws of Utah 2007, Chapter 97

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

Section 1. Section 20A-3-309 is amended to read:

20A-3-309. Absentee ballots and provisional ballots in the custody of the election officer -- Disposition -- Counting -- Release of number of absentee ballots cast.

(1) The election officer shall deliver all envelopes containing valid absentee ballots and valid provisional ballots that are in the election officer's custody to the place of the official canvass of the election by noon on the day of the official canvass following the election.

(2) (a) ~~[Absentee]~~ Valid absentee ballots and valid provisional ballots may be processed and counted:

(i) by the election officer before the date of the canvass; and

(ii) at the canvass, by the election officer or poll workers, acting under the supervision of the official canvassers of the election.

(b) When processing ballots, the election officer and poll workers shall comply with the procedures and requirements of Section 20A-3-308 in opening envelopes, verifying signatures, confirming eligibility of the ballots, and depositing them in a ballot box.

(3) (a) After all valid absentee ballots and valid provisional ballots have been deposited, the ~~[absentee]~~ ballots shall be counted in the usual manner.

(b) After the polls close on the date of the election, the election officer shall publicly release the results of those absentee ballots and provisional ballots that have been counted on or before the date of the election.

~~[(c) The election officer may not release any results from those absentee ballots that are counted after the date of the election through the date of the canvass.]~~

(c) Except as provided in Subsection (3)(d), on each day, beginning on the day after the date of the election and ending on the day before the date of the canvass, the election officer shall publicly release the results of all absentee ballots and provisional ballots counted on that day.

(d) (i) If complying with Subsection (3)(c) on a particular day will likely result in disclosing a vote cast by an individual voter, the election officer shall request permission from the lieutenant governor to delay compliance for the minimum number of days necessary to protect against disclosure of the voter's vote.

(ii) The lieutenant governor shall grant a request made under Subsection (3)(d)(i) if the lieutenant governor finds that the delay is necessary to protect against disclosure of a voter's vote.

~~[(d)]~~ (e) On the date of the canvass, the election officer shall provide a tally of all absentee ballots and provisional ballots counted, and the resulting tally shall be added to the official canvass of the election.

(4) (a) On the day after the date of the election, the election officer shall determine the number of absentee ballots received by the election officer at that time and shall make that number available to the public.

(b) The election officer may elect to publicly release updated totals for the number of absentee ballots received by the election officer up through the date of the canvass.

CHAPTER 38**H. B. 24**

Passed February 19, 2016

Approved March 18, 2016

Effective May 10, 2016

**AERONAUTICS RESTRICTED
ACCOUNT AMENDMENTS**

Chief Sponsor: Jon E. Stenard

Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill addresses the expenditure of revenues deposited into the Aeronautics Restricted Account.

Highlighted Provisions:

This bill:

- ▶ addresses the expenditure of revenues deposited into the Aeronautics Restricted Account; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

72-2-126, as enacted by Laws of Utah 2009, Chapter 358

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

Section 1. Section 72-2-126 is amended to read:**72-2-126. Aeronautics Restricted Account.**

(1) There is created a restricted account entitled the Aeronautics Restricted Account within the Transportation Fund.

(2) The account consists of money generated from the following revenue sources:

(a) aviation fuel tax allocated for aeronautical operations deposited into the account in accordance with Section 59-13-402;

(b) aircraft registration fees deposited into the account in accordance with Section 72-10-110;

(c) appropriations made to the account by the Legislature;

(d) contributions from other public and private sources for deposit into the account; and

(e) interest earned on account money.

(3) The department shall allocate funds in the account to the separate accounts of individual airports as required under Section 59-13-402.

(4) ~~The~~ (a) Except as provided in Subsection (4)(b), the department shall use funds in the account for:

~~(a)~~ (i) the construction, improvement, operation, and maintenance of publicly used airports in this state;

~~(b)~~ (ii) the payment of principal and interest on indebtedness incurred for the purposes described in Subsection (4)(a);

~~(e)~~ (iii) operation of the division of aeronautics;

~~(d)~~ (iv) the promotion of aeronautics in this state; and

~~(e)~~ (v) the payment of the costs and expenses of the Department of Transportation in administering Title 59, Chapter 13, Part 4, Aviation Fuel ~~Tax~~, or ~~either~~ another law conferring upon it the duty of regulating and supervising aeronautics in this state~~;~~ and

~~(f) the support of aerial search and rescue operations.~~

(b) The department may use funds in the account for the support of aerial search and rescue operations, provided that no money deposited into the account under Subsection (2)(a) is used for that purpose.

(5) (a) Money in the account may not be used by the department for the purchase of aircraft for purposes other than those described in ~~Subsections (4)(a) through (f).~~ Subsection (4).

(b) Money in the account may not be used to provide or subsidize direct operating costs of travel for purposes other than those described in ~~Subsections (4)(a) through (f).~~ Subsection (4).

CHAPTER 39**H. B. 37**

Passed February 8, 2016
 Approved March 18, 2016
 Effective May 10, 2016

**WORKER CLASSIFICATION
 COORDINATED ENFORCEMENT ACT
 SUNSET AMENDMENTS**

Chief Sponsor: Val L. Peterson
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies the Legislative Oversight and Sunset Act.

Highlighted Provisions:

This bill:

- ▶ removes the Worker Classification Coordinated Enforcement Act from the Legislative Oversight and Sunset Act; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-234, as last amended by Laws of Utah 2014, Chapter 286

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

Section 1. Section 63I-1-234 is amended to read:**63I-1-234. Repeal dates, Titles 34 and 34A.**

~~[(1) Title 34, Chapter 47, Worker Classification Coordinated Enforcement Act, is repealed July 1, 2016.]~~

~~[(2) (1) Section 34A-2-202.5 is repealed December 31, 2020.]~~

~~[(3) (2) Section 34A-2-705 and Subsection 59-9-101(2)(c)(iv) are repealed July 1, 2018.]~~

~~[(4) (3) Section 34A-2-213, Coordination of benefits with health benefit plan -- Timely payment of claims, is repealed July 1, 2018.]~~

CHAPTER 40**H. B. 38**

Passed February 10, 2016

Approved March 18, 2016

Effective May 10, 2016

**UNCONVENTIONAL
VEHICLE AMENDMENTS**

Chief Sponsor: Stewart Barlow

Senate Sponsor: Karen Mayne

LONG TITLE**General Description:**

This bill enacts requirements related to an autocycle.

Highlighted Provisions:

This bill:

- ▶ defines an autocycle;
- ▶ makes an autocycle subject to the same requirements as a motorcycle under the Motor Vehicle Act;
- ▶ requires a driver of an autocycle to wear a helmet if the driver is under 18 years of age and the autocycle is not fully enclosed and is not equipped with roll bars;
- ▶ defines safety equipment required for an autocycle; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 41-1a-102, as last amended by Laws of Utah 2014, Chapters 61, 237, and 237
- 41-6a-102, as last amended by Laws of Utah 2014, Chapters 104 and 229
- 41-6a-1505, as last amended by Laws of Utah 2015, Chapter 412
- 41-6a-1506, as last amended by Laws of Utah 2015, Chapter 412
- 41-21-1, as last amended by Laws of Utah 2015, Chapter 169
- 53-3-102, as last amended by Laws of Utah 2015, Chapters 52, 461 and last amended by Coordination Clause, Laws of Utah 2015, Chapter 52
- 53-3-202, as last amended by Laws of Utah 2015, Chapters 331 and 412

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

Section 1. Section 41-1a-102 is amended to read:**41-1a-102. Definitions.**

As used in this chapter:

- (1) "Actual miles" means the actual distance a vehicle has traveled while in operation.
- (2) "Actual weight" means the actual unladen weight of a vehicle or combination of vehicles as operated and certified to by a weighmaster.

(3) "All-terrain type I vehicle" has the same meaning provided in Section 41-22-2.

(4) "All-terrain type II vehicle" has the same meaning provided in Section 41-22-2.

(5) "Amateur radio operator" means any person licensed by the Federal Communications Commission to engage in private and experimental two-way radio operation on the amateur band radio frequencies.

(6) "Autocycle" means the same as that term is defined in Section 53-3-102.

~~(6)~~ (7) "Branded title" means a title certificate that is labeled:

- (a) rebuilt and restored to operation;
- (b) flooded and restored to operation; or
- (c) not restored to operation.

~~(7)~~ (8) "Camper" means any structure designed, used, and maintained primarily to be mounted on or affixed to a motor vehicle that contains a floor and is designed to provide a mobile dwelling, sleeping place, commercial space, or facilities for human habitation or for camping.

~~(8)~~ (9) "Certificate of title" means a document issued by a jurisdiction to establish a record of ownership between an identified owner and the described vehicle, vessel, or outboard motor.

~~(9)~~ (10) "Certified scale weigh ticket" means a weigh ticket that has been issued by a weighmaster.

~~(10)~~ (11) "Commercial vehicle" means a motor vehicle, trailer, or semitrailer used or maintained for the transportation of persons or property that operates:

- (a) as a carrier for hire, compensation, or profit; or
- (b) as a carrier to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

~~(11)~~ (12) "Commission" means the State Tax Commission.

~~(12)~~ (13) "Dealer" means a person engaged or licensed to engage in the business of buying, selling, or exchanging new or used vehicles, vessels, or outboard motors either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise or who has an established place of business for the sale, lease, trade, or display of vehicles, vessels, or outboard motors.

~~(13)~~ (14) "Division" means the Motor Vehicle Division of the commission, created in Section 41-1a-106.

~~(14)~~ (15) "Essential parts" means all integral and body parts of a vehicle of a type required to be registered in this state, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or mode of operation.

~~(15)~~ (16) "Farm tractor" means every motor vehicle designed and used primarily as a farm

implement for drawing plows, mowing machines, and other implements of husbandry.

(16) (17) (a) "Farm truck" means a truck used by the owner or operator of a farm solely for his own use in the transportation of:

(i) farm products, including livestock and its products, poultry and its products, floricultural and horticultural products;

(ii) farm supplies, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production; and

(iii) livestock, poultry, and other animals and things used for breeding, feeding, or other purposes connected with the operation of a farm.

(b) "Farm truck" does not include the operation of trucks by commercial processors of agricultural products.

(17) (18) "Fleet" means one or more commercial vehicles.

(18) (19) "Foreign vehicle" means a vehicle of a type required to be registered, brought into this state from another state, territory, or country other than in the ordinary course of business by or through a manufacturer or dealer, and not registered in this state.

(19) (20) "Gross laden weight" means the actual weight of a vehicle or combination of vehicles, equipped for operation, to which shall be added the maximum load to be carried.

(20) (21) "Highway" or "street" means the entire width between property lines of every way or place of whatever nature when any part of it is open to the public, as a matter of right, for purposes of vehicular traffic.

(21) (22) (a) "Identification number" means the identifying number assigned by the manufacturer or by the division for the purpose of identifying the vehicle, vessel, or outboard motor.

(b) "Identification number" includes a vehicle identification number, state assigned identification number, hull identification number, and motor serial number.

(22) (23) "Implement of husbandry" means every vehicle designed or adapted and used exclusively for an agricultural operation and only incidentally operated or moved upon the highways.

(23) (24) (a) "In-state miles" means the total number of miles operated in this state during the preceding year by fleet power units.

(b) If fleets are composed entirely of trailers or semitrailers, "in-state miles" means the total number of miles that those vehicles were towed on Utah highways during the preceding year.

(24) (25) "Interstate vehicle" means any commercial vehicle operated in more than one state, province, territory, or possession of the United States or foreign country.

(25) (26) "Jurisdiction" means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

(26) (27) "Lienholder" means a person with a security interest in particular property.

(27) (28) "Manufactured home" means a transportable factory built housing unit constructed on or after June 15, 1976, according to the Federal Home Construction and Safety Standards Act of 1974 (HUD Code), in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 400 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

(28) (29) "Manufacturer" means a person engaged in the business of constructing, manufacturing, assembling, producing, or importing new or unused vehicles, vessels, or outboard motors for the purpose of sale or trade.

(29) (30) "Mobile home" means a transportable factory built housing unit built prior to June 15, 1976, in accordance with a state mobile home code which existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code).

(30) (31) "Motorboat" has the same meaning as provided in Section 73-18-2.

(31) (32) "Motorcycle" means:

(a) a motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground[-]; or

(b) an autocycle.

(32) (33) (a) "Motor vehicle" means a self-propelled vehicle intended primarily for use and operation on the highways.

(b) "Motor vehicle" does not include an off-highway vehicle.

(33) (34) (a) "Nonresident" means a person who is not a resident of this state as defined by Section 41-1a-202, and who does not engage in intrastate business within this state and does not operate in that business any motor vehicle, trailer, or semitrailer within this state.

(b) A person who engages in intrastate business within this state and operates in that business any motor vehicle, trailer, or semitrailer in this state or who, even though engaging in interstate commerce, maintains any vehicle in this state as the home station of that vehicle is considered a resident of this state, insofar as that vehicle is concerned in administering this chapter.

(34) (35) "Odometer" means a device for measuring and recording the actual distance a vehicle travels while in operation, but does not include any auxiliary odometer designed to be periodically reset.

[~~(35)~~] (~~36~~) “Off-highway implement of husbandry” has the same meaning as provided in Section 41-22-2.

[~~(36)~~] (~~37~~) “Off-highway vehicle” has the same meaning as provided in Section 41-22-2.

[~~(37)~~] (~~38~~) “Operate” means to drive or be in actual physical control of a vehicle or to navigate a vessel.

[~~(38)~~] (~~39~~) “Outboard motor” means a detachable self-contained propulsion unit, excluding fuel supply, used to propel a vessel.

[~~(39)~~] (~~40~~) (a) “Owner” means a person, other than a lienholder, holding title to a vehicle, vessel, or outboard motor whether or not the vehicle, vessel, or outboard motor is subject to a security interest.

(b) If a vehicle is the subject of an agreement for the conditional sale or installment sale or mortgage of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or mortgagor, or if the vehicle is the subject of a security agreement, then the conditional vendee, mortgagor, or debtor is considered the owner for the purposes of this chapter.

(c) If a vehicle is the subject of an agreement to lease, the lessor is considered the owner until the lessee exercises his option to purchase the vehicle.

[~~(40)~~] (~~41~~) “Park model recreational vehicle” means a unit that:

(a) is designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use;

(b) is not permanently affixed to real property for use as a permanent dwelling;

(c) requires a special highway movement permit for transit; and

(d) is built on a single chassis mounted on wheels with a gross trailer area not exceeding 400 square feet in the setup mode.

[~~(41)~~] (~~42~~) “Personalized license plate” means a license plate that has displayed on it a combination of letters, numbers, or both as requested by the owner of the vehicle and assigned to the vehicle by the division.

[~~(42)~~] (~~43~~) (a) “Pickup truck” means a two-axle motor vehicle with motive power manufactured, remanufactured, or materially altered to provide an open cargo area.

(b) “Pickup truck” includes motor vehicles with the open cargo area covered with a camper, camper shell, tarp, removable top, or similar structure.

[~~(43)~~] (~~44~~) “Pneumatic tire” means every tire in which compressed air is designed to support the load.

[~~(44)~~] (~~45~~) “Preceding year” means a period of 12 consecutive months fixed by the division that is within 16 months immediately preceding the

commencement of the registration or license year in which proportional registration is sought. The division in fixing the period shall conform it to the terms, conditions, and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

[~~(45)~~] (~~46~~) “Public garage” means every building or other place where vehicles or vessels are kept and stored and where a charge is made for the storage and keeping of vehicles and vessels.

[~~(46)~~] (~~47~~) “Receipt of surrender of ownership documents” means the receipt of surrender of ownership documents described in Section 41-1a-503.

[~~(47)~~] (~~48~~) “Reconstructed vehicle” means every vehicle of a type required to be registered in this state that is materially altered from its original construction by the removal, addition, or substitution of essential parts, new or used.

[~~(48)~~] (~~49~~) “Recreational vehicle” has the same meaning as provided in Section 13-14-102.

[~~(49)~~] (~~50~~) “Registration” means a document issued by a jurisdiction that allows operation of a vehicle or vessel on the highways or waters of this state for the time period for which the registration is valid and that is evidence of compliance with the registration requirements of the jurisdiction.

[~~(50)~~] (~~51~~) (a) “Registration year” means a 12 consecutive month period commencing with the completion of all applicable registration criteria.

(b) For administration of a multistate agreement for proportional registration the division may prescribe a different 12-month period.

[~~(51)~~] (~~52~~) “Repair or replacement” means the restoration of vehicles, vessels, or outboard motors to a sound working condition by substituting any inoperative part of the vehicle, vessel, or outboard motor, or by correcting the inoperative part.

[~~(52)~~] (~~53~~) “Replica vehicle” means:

(a) a street rod that meets the requirements under Subsection 41-21-1(1)(a)(i)(B); or

(b) a custom vehicle that meets the requirements under Subsection 41-6a-1507(1)(a)(i)(B).

[~~(53)~~] (~~54~~) “Road tractor” means every motor vehicle designed and used for drawing other vehicles and constructed so it does not carry any load either independently or any part of the weight of a vehicle or load that is drawn.

[~~(54)~~] (~~55~~) “Sailboat” ~~[has the same meaning as provided]~~ means the same as that term is defined in Section 73-18-2.

[~~(55)~~] (~~56~~) “Security interest” means an interest that is reserved or created by a security agreement to secure the payment or performance of an obligation and that is valid against third parties.

[~~(56)~~] (~~57~~) “Semitrailer” means every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that some part of its

weight and its load rests or is carried by another vehicle.

[(57)] (58) "Special group license plate" means a type of license plate designed for a particular group of people or a license plate authorized and issued by the division in accordance with Section 41-1a-418.

[(58)] (59) (a) "Special interest vehicle" means a vehicle used for general transportation purposes and that is:

(i) 20 years or older from the current year; or

(ii) a make or model of motor vehicle recognized by the division director as having unique interest or historic value.

(b) In making [his] a determination under Subsection [(58)] (59)(a), the division director shall give special consideration to:

(i) a make of motor vehicle that is no longer manufactured;

(ii) a make or model of motor vehicle produced in limited or token quantities;

(iii) a make or model of motor vehicle produced as an experimental vehicle or one designed exclusively for educational purposes or museum display; or

(iv) a motor vehicle of any age or make that has not been substantially altered or modified from original specifications of the manufacturer and because of its significance is being collected, preserved, restored, maintained, or operated by a collector or hobbyist as a leisure pursuit.

[(59)] (60) (a) "Special mobile equipment" means every vehicle:

(i) not designed or used primarily for the transportation of persons or property;

(ii) not designed to operate in traffic; and

(iii) only incidentally operated or moved over the highways.

(b) "Special mobile equipment" includes:

(i) farm tractors;

(ii) off-road motorized construction or maintenance equipment including backhoes, bulldozers, compactors, graders, loaders, road rollers, tractors, and trenchers; and

(iii) ditch-digging apparatus.

(c) "Special mobile equipment" does not include a commercial vehicle as defined under Section 72-9-102.

[(60)] (61) "Specially constructed vehicle" means every vehicle of a type required to be registered in this state, not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles, and not materially altered from its original construction.

[(61)] (62) "Title" means the right to or ownership of a vehicle, vessel, or outboard motor.

[(62)] (63) (a) "Total fleet miles" means the total number of miles operated in all jurisdictions during the preceding year by power units.

(b) If fleets are composed entirely of trailers or semitrailers, "total fleet miles" means the number of miles that those vehicles were towed on the highways of all jurisdictions during the preceding year.

[(63)] (64) "Trailer" means a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

[(64)] (65) "Transferee" means a person to whom the ownership of property is conveyed by sale, gift, or any other means except by the creation of a security interest.

[(65)] (66) "Transferor" means a person who transfers his ownership in property by sale, gift, or any other means except by creation of a security interest.

[(66)] (67) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

[(67)] (68) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load that is drawn.

[(68)] (69) "Vehicle" includes a motor vehicle, trailer, semitrailer, off-highway vehicle, camper, park model recreational vehicle, manufactured home, and mobile home.

[(69)] (70) "Vessel" [~~has the same meaning as provided~~] means the same as that term is defined in Section 73-18-2.

[(70)] (71) "Vintage vehicle" [~~has the same meaning as provided~~] means the same as that term is defined in Section 41-21-1.

[(71)] (72) "Waters of this state" [~~has the same meaning as provided~~] means the same as that term is defined in Section 73-18-2.

[(72)] (73) "Weighmaster" means a person, association of persons, or corporation permitted to weigh vehicles under this chapter.

Section 2. Section 41-6a-102 is amended to read:

41-6a-102. Definitions.

As used in this chapter:

(1) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for through vehicular traffic.

(2) "All-terrain type I vehicle" [~~has the same meaning as~~] means the same as that term is defined in Section 41-22-2.

(3) "Authorized emergency vehicle" includes:

- (a) fire department vehicles;
- (b) police vehicles;
- (c) ambulances; and
- (d) other publicly or privately owned vehicles as designated by the commissioner of the Department of Public Safety.

(4) "Autocycle" means the same as that term is defined in Section 53-3-102.

(4) (5) (a) "Bicycle" means a wheeled vehicle:

- (i) propelled by human power by feet or hands acting upon pedals or cranks;
 - (ii) with a seat or saddle designed for the use of the operator;
 - (iii) designed to be operated on the ground; and
 - (iv) whose wheels are not less than 14 inches in diameter.
- (b) "Bicycle" includes an electric assisted bicycle.
- (c) "Bicycle" does not include scooters and similar devices.

~~(5)~~ (6) (a) "Bus" means a motor vehicle:

- (i) designed for carrying more than 15 passengers and used for the transportation of persons; or
 - (ii) designed and used for the transportation of persons for compensation.
- (b) "Bus" does not include a taxicab.

~~(6)~~ (7) (a) "Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection where traffic passes to the right of the island.

(b) "Circular intersection" includes:

- (i) roundabouts;
- (ii) rotaries; and
- (iii) traffic circles.

~~(7)~~ (8) "Commissioner" means the commissioner of the Department of Public Safety.

~~(8)~~ (9) "Controlled-access highway" means a highway, street, or roadway:

- (a) designed primarily for through traffic; and
- (b) to or from which owners or occupants of abutting lands and other persons have no legal right of access, except at points as determined by the highway authority having jurisdiction over the highway, street, or roadway.

~~(9)~~ (10) "Crosswalk" means:

- (a) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from:
 - (i) (A) the curbs; or

(B) in the absence of curbs, from the edges of the traversable roadway; and

(ii) in the absence of a sidewalk on one side of the roadway, that part of a roadway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline; or

(b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

~~(10)~~ (11) "Department" means the Department of Public Safety.

~~(11)~~ (12) "Direct supervision" means oversight at a distance within which:

- (a) visual contact is maintained; and
- (b) advice and assistance can be given and received.

~~(12)~~ (13) "Divided highway" means a highway divided into two or more roadways by:

- (a) an unpaved intervening space;
- (b) a physical barrier; or
- (c) a clearly indicated dividing section constructed to impede vehicular traffic.

~~(13)~~ (14) "Electric assisted bicycle" means a moped:

- (a) with an electric motor with a power output of not more than 1,000 watts; and
- (b) which is not capable of:
 - (i) propelling the device at a speed of more than 20 miles per hour on level ground when:
 - (A) powered solely by the electric motor; and
 - (B) operated by a person who weighs 170 pounds; and
 - (ii) increasing the speed of the device when human power is used to propel the device at more than 20 miles per hour;
- (c) has fully operable pedals on permanently affixed cranks; and
- (d) weighs less than 75 pounds.

~~(14)~~ (15) (a) "Electric personal assistive mobility device" means a self-balancing device with:

- (i) two nontandem wheels in contact with the ground;
 - (ii) a system capable of steering and stopping the unit under typical operating conditions;
 - (iii) an electric propulsion system with average power of one horsepower or 750 watts;
 - (iv) a maximum speed capacity on a paved, level surface of 12.5 miles per hour; and
 - (v) a deck design for a person to stand while operating the device.
- (b) "Electric personal assistive mobility device" does not include a wheelchair.

~~[(15)]~~ (16) “Explosives” means any chemical compound or mechanical mixture commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustible units or other ingredients in proportions, quantities, or packing so that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases, and the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of causing death or serious bodily injury.

~~[(16)]~~ (17) “Farm tractor” means a motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry.

~~[(17)]~~ (18) “Flammable liquid” means a liquid that has a flashpoint of 100 degrees F. or less, as determined by a tagliabue or equivalent closed-cup test device.

~~[(18)]~~ (19) “Freeway” means a controlled-access highway that is part of the interstate system as defined in Section 72-1-102.

~~[(19)]~~ (20) (a) “Full-sized all-terrain vehicle” means any recreational vehicle designed for and capable of travel over unimproved terrain:

- (i) traveling on four or more tires;
 - (ii) having a width that, when measured at the widest point of the vehicle:
 - (A) is not less than 55 inches; or
 - (B) does not exceed 92 inches;
 - (iii) having an unladen dry weight of 6,500 pounds or less;
 - (iv) having a maximum seat height of 50 inches when measured at the forward edge of the seat bottom; and
 - (v) having a steering wheel for control.
- (b) “Full-sized all-terrain vehicle” does not include:
- (i) all-terrain type I vehicle;
 - (ii) a utility type vehicle;
 - (iii) a motorcycle; or
 - (iv) a snowmobile as defined in Section 41-22-2.

~~[(20)]~~ (21) “Gore area” means the area delineated by two solid white lines that is between a continuing lane of a through roadway and a lane used to enter or exit the continuing lane including similar areas between merging or splitting highways.

~~[(21)]~~ (22) “Gross weight” means the weight of a vehicle without a load plus the weight of any load on the vehicle.

~~[(22)]~~ (23) “Highway” means the entire width between property lines of every way or place of any

nature when any part of it is open to the use of the public as a matter of right for vehicular travel.

~~[(23)]~~ (24) “Highway authority” ~~[has the same meaning as]~~ means the same as that term is defined in Section 72-1-102.

~~[(24)]~~ (25) (a) “Intersection” means the area embraced within the prolongation or connection of the lateral curblines, or, if none, then the lateral boundary lines of the roadways of two or more highways which join one another.

(b) Where a highway includes two roadways 30 feet or more apart:

(i) every crossing of each roadway of the divided highway by an intersecting highway is a separate intersection; and

(ii) if the intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of the highways is a separate intersection.

(c) “Intersection” does not include the junction of an alley with a street or highway.

~~[(25)]~~ (26) “Island” means an area between traffic lanes or at an intersection for control of vehicle movements or for pedestrian refuge designated by:

- (a) pavement markings, which may include an area designated by two solid yellow lines surrounding the perimeter of the area;
- (b) channelizing devices;
- (c) curbs;
- (d) pavement edges; or
- (e) other devices.

~~[(26)]~~ (27) “Law enforcement agency” ~~[has the same meaning as]~~ means the same as that term is defined in Section 53-1-102.

~~[(27)]~~ (28) “Limited access highway” means a highway:

- (a) that is designated specifically for through traffic; and
- (b) over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

~~[(28)]~~ (29) “Local highway authority” means the legislative, executive, or governing body of a county, municipal, or other local board or body having authority to enact laws relating to traffic under the constitution and laws of the state.

~~[(29)]~~ (30) (a) “Low-speed vehicle” means a four wheeled electric motor vehicle that:

- (i) is designed to be operated at speeds of not more than 25 miles per hour; and
 - (ii) has a capacity of not more than four passengers, including the driver.
- (b) “Low-speed vehicle” does not include a golfcart or an off-highway vehicle.

~~[(30)]~~ (31) “Metal tire” means a tire, the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

~~[(31)]~~ (32) (a) “Mini-motorcycle” means a motorcycle or motor-driven cycle that has a seat or saddle that is less than 24 inches from the ground as measured on a level surface with properly inflated tires.

(b) “Mini-motorcycle” does not include a moped or a motor assisted scooter.

(c) “Mini-motorcycle” does not include a motorcycle that is:

- (i) designed for off-highway use; and
- (ii) registered as an off-highway vehicle under Section 41-22-3.

~~[(32)]~~ (33) “Mobile home” means:

- (a) a trailer or semitrailer that is:
 - (i) designed, constructed, and equipped as a dwelling place, living abode, or sleeping place either permanently or temporarily; and
 - (ii) equipped for use as a conveyance on streets and highways; or
- (b) a trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a mobile home, as defined in Subsection ~~[(32)]~~ (33)(a), but that is instead used permanently or temporarily for:

- (i) the advertising, sale, display, or promotion of merchandise or services; or

- (ii) any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

~~[(33)]~~ (34) (a) “Moped” means a motor-driven cycle having:

- (i) pedals to permit propulsion by human power; and

- (ii) a motor that:

- (A) produces not more than two brake horsepower; and

- (B) is not capable of propelling the cycle at a speed in excess of 30 miles per hour on level ground.

(b) If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

(c) “Moped” includes an electric assisted bicycle and a motor assisted scooter.

~~[(34)]~~ (35) “Motor assisted scooter” means a self-propelled device with:

- (a) at least two wheels in contact with the ground;

- (b) a braking system capable of stopping the unit under typical operating conditions;

- (c) a gas or electric motor not exceeding 40 cubic centimeters;

- (d) either:

- (i) a deck design for a person to stand while operating the device; or

- (ii) a deck and seat designed for a person to sit, straddle, or stand while operating the device; and

- (e) a design for the ability to be propelled by human power alone.

~~[(35)]~~ (36) “Motorcycle” means:

- (a) a motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground[-]; or

- (b) an autocycle.

~~[(36)]~~ (37) (a) “Motor-driven cycle” means every motorcycle, motor scooter, moped, electric assisted bicycle, motor assisted scooter, and every motorized bicycle having:

- (i) an engine with less than 150 cubic centimeters displacement; or

- (ii) a motor that produces not more than five horsepower.

(b) “Motor-driven cycle” does not include an electric personal assistive mobility device.

~~[(37)]~~ (38) (a) “Motor vehicle” means a vehicle that is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(b) “Motor vehicle” does not include vehicles moved solely by human power, motorized wheelchairs, or an electric personal assistive mobility device.

~~[(38)]~~ (39) “Off-highway implement of husbandry” ~~[has the same meaning as]~~ means the same as that term is defined under Section 41-22-2.

~~[(39)]~~ (40) “Off-highway vehicle” ~~[has the same meaning as]~~ means the same as that term is defined under Section 41-22-2.

~~[(40)]~~ (41) “Operator” means a person who is in actual physical control of a vehicle.

~~[(41)]~~ (42) (a) “Park” or “parking” means the standing of a vehicle, whether the vehicle is occupied or not.

(b) “Park” or “parking” does not include the standing of a vehicle temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

~~[(42)]~~ (43) “Peace officer” means a peace officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to direct or regulate traffic or to make arrests for violations of traffic laws.

~~[(43)]~~ (44) “Pedestrian” means a person traveling:

(a) on foot; or

(b) in a wheelchair.

[(44)] (45) “Pedestrian traffic-control signal” means a traffic-control signal used to regulate pedestrians.

[(45)] (46) “Person” means every natural person, firm, copartnership, association, or corporation.

[(46)] (47) “Pole trailer” means every vehicle without motive power:

(a) designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle; and

(b) that is ordinarily used for transporting long or irregular shaped loads including poles, pipes, or structural members generally capable of sustaining themselves as beams between the supporting connections.

[(47)] (48) “Private road or driveway” means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

[(48)] (49) “Railroad” means a carrier of persons or property upon cars operated on stationary rails.

[(49)] (50) “Railroad sign or signal” means a sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

[(50)] (51) “Railroad train” means a locomotive propelled by any form of energy, coupled with or operated without cars, and operated upon rails.

[(51)] (52) “Right-of-way” means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed, and proximity that give rise to danger of collision unless one grants precedence to the other.

[(52)] (53) (a) “Roadway” means that portion of highway improved, designed, or ordinarily used for vehicular travel.

(b) “Roadway” does not include the sidewalk, berm, or shoulder, even though any of them are used by persons riding bicycles or other human-powered vehicles.

(c) “Roadway” refers to any roadway separately but not to all roadways collectively, if a highway includes two or more separate roadways.

[(53)] (54) “Safety zone” means the area or space officially set apart within a roadway for the exclusive use of pedestrians and that is protected, marked, or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

[(54)] (55) (a) “School bus” means a motor vehicle that:

(i) complies with the color and identification requirements of the most recent edition of “Minimum Standards for School Buses”; and

(ii) is used to transport school children to or from school or school activities.

(b) “School bus” does not include a vehicle operated by a common carrier in transportation of school children to or from school or school activities.

[(55)] (56) (a) “Semitrailer” means a vehicle with or without motive power:

(i) designed for carrying persons or property and for being drawn by a motor vehicle; and

(ii) constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(b) “Semitrailer” does not include a pole trailer.

[(56)] (57) “Shoulder area” means:

(a) that area of the hard-surfaced highway separated from the roadway by a pavement edge line as established in the current approved “Manual on Uniform Traffic Control Devices”; or

(b) that portion of the road contiguous to the roadway for accommodation of stopped vehicles, for emergency use, and for lateral support.

[(57)] (58) “Sidewalk” means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

[(58)] (59) “Solid rubber tire” means a tire of rubber or other resilient material that does not depend on compressed air for the support of the load.

[(59)] (60) “Stand” or “standing” means the temporary halting of a vehicle, whether occupied or not, for the purpose of and while actually engaged in receiving or discharging passengers.

[(60)] (61) “Stop” when required means complete cessation from movement.

[(61)] (62) “Stop” or “stopping” when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when:

(a) necessary to avoid conflict with other traffic; or

(b) in compliance with the directions of a peace officer or traffic-control device.

[(62)] (63) “Street-legal all-terrain vehicle” or “street-legal ATV” means an all-terrain type I vehicle, utility type vehicle, or full-sized all-terrain vehicle that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with Section 41-6a-1509.

[(63)] (64) “Traffic” means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for the purpose of travel.

[(64)] (65) “Traffic-control device” means a sign, signal, marking, or device not inconsistent with this

chapter placed or erected by a highway authority for the purpose of regulating, warning, or guiding traffic.

[~~(65)~~] (66) "Traffic-control signal" means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

[~~(66)~~] (67) "Traffic signal preemption device" means an instrument or mechanism designed, intended, or used to interfere with the operation or cycle of a traffic-control signal.

[~~(67)~~] (68) (a) "Trailer" means a vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(b) "Trailer" does not include a pole trailer.

[~~(68)~~] (69) "Truck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

[~~(69)~~] (70) "Truck tractor" means a motor vehicle:

(a) designed and used primarily for drawing other vehicles; and

(b) constructed to carry a part of the weight of the vehicle and load drawn by the truck tractor.

[~~(70)~~] (71) "Two-way left turn lane" means a lane:

(a) provided for vehicle operators making left turns in either direction;

(b) that is not used for passing, overtaking, or through travel; and

(c) that has been indicated by a lane traffic-control device that may include lane markings.

[~~(71)~~] (72) "Urban district" means the territory contiguous to and including any street, in which structures devoted to business, industry, or dwelling houses are situated at intervals of less than 100 feet, for a distance of a quarter of a mile or more.

[~~(72)~~] (73) (a) "Utility type vehicle" means any recreational vehicle designed for and capable of travel over unimproved terrain:

(i) traveling on four or more tires;

(ii) having a width that, when measured at the widest point of the vehicle:

(A) is not less than 30 inches; or

(B) does not exceed 70 inches;

(iii) having an unladen dry weight of 2,200 pounds or less;

(iv) having a seat height of 20 to 40 inches when measured at the forward edge of the seat bottom; and

(v) having side-by-side seating with a steering wheel for control.

(b) "Utility type vehicle" does not include:

(i) an all-terrain type I vehicle;

(ii) a motorcycle; or

(iii) a snowmobile as defined in Section 41-22-2.

[~~(73)~~] (74) "Vehicle" means a device in, on, or by which a person or property is or may be transported or drawn on a highway, except devices used exclusively on stationary rails or tracks.

Section 3. Section 41-6a-1505 is amended to read:

41-6a-1505. Motorcycle or motor-driven cycle -- Protective headgear -- Closed cab excepted -- Electric assisted bicycles, motor assisted scooters, electric personal assistive mobility devices.

(1) A person under the age of 18 may not operate or ride any of the following on a [~~motorcycle or motor-driven cycle on a~~] highway unless the person is wearing protective headgear [~~which~~] that complies with specifications adopted under Subsection (3)[.]:

(a) a motorcycle;

(b) a motor-driven cycle; or

(c) an autocycle that is not fully enclosed and is not equipped with roll bars.

(2) This section does not apply to persons riding within an enclosed cab.

(3) The following standards and specifications for protective headgear are adopted:

(a) 49 C.F.R. 571.218 related to protective headgear for motorcycles; and

(b) 16 C.F.R. Part 1203 related to protective headgear for bicycles, motor assisted scooters, and electric personal assistive mobility devices.

(4) A court shall waive \$8 of a fine charged to a person operating a motorcycle or motor-driven cycle for a moving traffic violation if the person was:

(a) 18 years of age or older at the time of operation; and

(b) wearing protective headgear that complies with the specifications adopted under Subsection (3) at the time of operation.

(5) The failure to wear protective headgear:

(a) does not constitute contributory or comparative negligence on the part of a person seeking recovery for injuries; and

(b) may not be introduced as evidence in any civil litigation on the issue of negligence, injuries, or the mitigation of damages.

(6) Notwithstanding Subsection (4), a court may not waive \$8 of a fine charged to a person operating a motorcycle or motor-driven cycle for a driving under the influence violation of Section 41-6a-502.

(7) A violation of this section is an infraction.

Section 4. Section 41-6a-1506 is amended to read:

41-6a-1506. Motorcycles -- Required equipment -- Brakes.

(1) A motorcycle and a motor-driven cycle shall be equipped with the following items:

(a) one head lamp ~~[which]~~ that, when factory equipped with an automatic lighting ignition system, may not be disconnected;

(b) one tail lamp;

(c) either a tail lamp or a separate lamp which illuminates the rear license plate with a white light;

(d) one red reflector on the rear, either separate or as part of the tail lamp;

(e) one stop lamp;

(f) a braking system, other than parking brake, in accordance with Section 41-6a-1623;

(g) a horn or warning device in accordance with Section 41-6a-1625;

(h) a muffler and emission control system in accordance with Section 41-6a-1626;

(i) a mirror in accordance with Section 41-6a-1627; and

(j) tires in accordance with Section 41-6a-1636.

(2) An autocycle shall be equipped with the following items:

(a) a seatbelt for each seat installed in the autocycle in accordance with Section 41-6a-1628;

(b) at least one head lamp that, when factory equipped with an automatic lighting ignition system, may not be disconnected;

(c) at least one tail lamp;

(d) either a tail lamp or a separate lamp that illuminates the rear license plate with a white light;

(e) at least one red reflector, either separate or as part of the tail lamp or tail lamps;

(f) at least one stop lamp;

(g) a braking system, other than a parking brake, in accordance with Section 41-6a-1623;

(h) a horn or warning device in accordance with Section 41-6a-1625;

(i) a muffler and emission control system in accordance with Section 41-6a-1626 that, when factory equipped, may not be removed;

(j) a mirror in accordance with Section 41-6a-1627; and

(k) tires in accordance with Section 41-6a-1636.

~~[(2)]~~ (3) The department may require an inspection of the braking system on a motor-driven cycle and disapprove a braking system that is not designed or constructed as to insure reasonable and reliable performance in actual use in accordance with Section 41-6a-1623.

~~[(3)]~~ (4) A person may not operate a motor-driven cycle on a highway if the department has disapproved the braking system on the motor-driven cycle.

~~[(4)]~~ (5) (a) Upon notice to the party to whom the motor-driven cycle is registered, the department may suspend the registration of a motor-driven cycle if the department has disapproved the braking system under this section.

(b) The Motor Vehicle Division shall, under Subsection 41-1a-109(1)(e) or (2), refuse to register a motor-driven cycle if it has reason to believe the motor-driven cycle has a braking system disapproved under this section.

~~[(5)]~~ (6) A violation of this section is an infraction.

Section 5. Section 41-21-1 is amended to read:

41-21-1. Definitions.

(1) "Autocycle" means the same as that term is defined in Section 53-3-102.

(2) "Motorcycle" means:

(a) a motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground; or

(b) an autocycle.

~~[(4)]~~ (3) (a) "Street rod" means a motor vehicle or motorcycle that:

(i) (A) was manufactured in 1948 or before; or

(B) (I) was manufactured after 1948 to resemble a vehicle that was manufactured in 1948 or before; and

(II) (Aa) has been altered from the manufacturer's original design; or

(Bb) has a body constructed from non-original materials; and

(ii) is primarily a collector's item that is used for:

(A) club activities;

(B) exhibitions;

(C) tours;

(D) parades;

(E) occasional transportation; and

(F) other similar uses.

(b) "Street rod" does not include a motor vehicle or motorcycle that is used for general, daily transportation.

~~[(2)]~~ (4) (a) "Vintage travel trailer" means a travel trailer, camping trailer, or fifth wheel trailer that is:

(i) 30 years old or older, from the current year; and

(ii) primarily a collector's item that is used for:

(A) participation in club activities;

(B) exhibitions;

(C) tours;

(D) parades;

(E) occasional recreational or vacation use; and

(F) other similar uses.

(b) "Vintage travel trailer" does not include a travel trailer, camping trailer, or fifth wheel trailer that is used for the general, daily transportation of persons or property.

[43] (5) (a) "Vintage vehicle" means a motor vehicle or motorcycle that:

(i) is 30 years old or older from the current year;

(ii) displays a unique vehicle type special group license plate issued in accordance with Section 41-1a-418; and

(iii) is primarily a collector's item that is used for:

(A) participation in club activities;

(B) exhibitions;

(C) tours;

(D) parades;

(E) occasional transportation; and

(F) other similar uses.

(b) "Vintage vehicle" does not include a motor vehicle or motorcycle that is used for general, daily transportation.

(c) "Vintage vehicle" includes a:

(i) street rod; and

(ii) vintage travel trailer.

Section 6. Section 53-3-102 is amended to read:

53-3-102. Definitions.

As used in this chapter:

(1) "Autocycle" means a motor vehicle that:

(a) is designed to travel with three or fewer wheels in contact with the ground;

(b) is equipped with a steering wheel; and

(c) is equipped with seating that does not require the operator to straddle or sit astride the vehicle.

[44] (2) "Cancellation" means the termination by the division of a license issued through error or fraud or for which consent under Section 53-3-211 has been withdrawn.

[42] (3) "Class D license" means the class of license issued to drive motor vehicles not defined as commercial motor vehicles or motorcycles under this chapter.

[43] (4) "Commercial driver instruction permit" or "CDIP" means a commercial learner permit:

(a) issued under Section 53-3-408; or

(b) issued by a state or other jurisdiction of domicile in compliance with the standards contained in 49 C.F.R. Part 383.

[44] (5) "Commercial driver license" or "CDL" means a license:

(a) issued substantially in accordance with the requirements of Title XII, Pub. L. 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle; and

(b) that was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-410(1)(i).

[45] (6) (a) "Commercial driver license motor vehicle record" or "CDL MVR" means a driving record that:

(i) applies to a person who holds or is required to hold a commercial driver instruction permit or a CDL license; and

(ii) contains the following:

(A) information contained in the driver history, including convictions, pleas held in abeyance, disqualifications, and other licensing actions for violations of any state or local law relating to motor vehicle traffic control, committed in any type of vehicle;

(B) driver self-certification status information under Section 53-3-410.1; and

(C) information from medical certification record keeping in accordance with 49 C.F.R. Sec. 383.73(o).

(b) "Commercial driver license motor vehicle record" or "CDL MVR" does not mean a motor vehicle record described in Subsection 53-3-102(28).

[46] (7) (a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles designed or used to transport passengers or property if the motor vehicle:

(i) has a gross vehicle weight rating of 26,001 or more pounds or a lesser rating as determined by federal regulation;

(ii) is designed to transport 16 or more passengers, including the driver; or

(iii) is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. Part 172, Subpart F.

(b) The following vehicles are not considered a commercial motor vehicle for purposes of Part 4, Uniform Commercial Driver License Act:

(i) equipment owned and operated by the United States Department of Defense when driven by any active duty military personnel and members of the reserves and national guard on active duty including personnel on full-time national guard duty, personnel on part-time training, and national guard military technicians and civilians who are required to wear military uniforms and are subject to the code of military justice;

(ii) vehicles controlled and driven by a farmer to transport agricultural products, farm machinery, or farm supplies to or from a farm within 150 miles

of his farm but not in operation as a motor carrier for hire;

(iii) firefighting and emergency vehicles;

(iv) recreational vehicles that are not used in commerce and are driven solely as family or personal conveyances for recreational purposes; and

(v) vehicles used to provide transportation network services, as defined in Section 13-51-102.

[(7)] (8) “Conviction” means any of the following:

(a) an unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an administrative proceeding;

(b) an unvacated forfeiture of bail or collateral deposited to secure a person’s appearance in court;

(c) a plea of guilty or nolo contendere accepted by the court;

(d) the payment of a fine or court costs; or

(e) violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended, or probated.

[(8)] (9) “Denial” or “denied” means the withdrawal of a driving privilege by the division to which the provisions of Title 41, Chapter 12a, Part 4, Proof of Owner’s or Operator’s Security, do not apply.

[(9)] (10) “Director” means the division director appointed under Section 53-3-103.

[(40)] (11) “Disqualification” means either:

(a) the suspension, revocation, cancellation, denial, or any other withdrawal by a state of a person’s privileges to drive a commercial motor vehicle;

(b) a determination by the Federal Highway Administration, under 49 C.F.R. Part 386, that a person is no longer qualified to drive a commercial motor vehicle under 49 C.F.R. Part 391; or

(c) the loss of qualification that automatically follows conviction of an offense listed in 49 C.F.R. Part 383.51.

[(11)] (12) “Division” means the Driver License Division of the department created in Section 53-3-103.

[(12)] (13) “Downgrade” means to obtain a lower license class than what was originally issued during an existing license cycle.

[(13)] (14) “Drive” means:

(a) to operate or be in physical control of a motor vehicle upon a highway; and

(b) in Subsections 53-3-414(1) through (3), Subsection 53-3-414(5), and Sections 53-3-417 and 53-3-418, the operation or physical control of a motor vehicle at any place within the state.

[(14)] (15) (a) “Driver” means any person who drives, or is in actual physical control of a motor vehicle in any location open to the general public for purposes of vehicular traffic.

(b) In Part 4, Uniform Commercial Driver License Act, “driver” includes any person who is required to hold a CDL under Part 4, Uniform Commercial Driver License Act, or federal law.

[(15)] (16) “Driving privilege card” means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle to a person whose privilege was obtained without providing evidence of lawful presence in the United States.

[(16)] (17) “Extension” means a renewal completed in a manner specified by the division.

[(17)] (18) “Farm tractor” means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

[(18)] (19) “Highway” means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public, as a matter of right, for traffic.

[(19)] (20) “Identification card” means a card issued under Part 8, Identification Card Act, to a person for identification purposes.

[(20)] (21) “Indigent” means that a person’s income falls below the federal poverty guideline issued annually by the U.S. Department of Health and Human Services in the Federal Register.

[(21)] (22) “License” means the privilege to drive a motor vehicle.

[(22)] (23) (a) “License certificate” means the evidence of the privilege issued under this chapter to drive a motor vehicle.

(b) “License certificate” evidence includes a:

(i) regular license certificate;

(ii) limited-term license certificate;

(iii) driving privilege card;

(iv) CDL license certificate;

(v) limited-term CDL license certificate;

(vi) temporary regular license certificate; and

(vii) temporary limited-term license certificate.

[(23)] (24) “Limited-term commercial driver license” or “limited-term CDL” means a license:

(a) issued substantially in accordance with the requirements of Title XII, Pub. L. 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle; and

(b) that was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-410(1)(i)(ii).

~~[(24)]~~ (25) "Limited-term identification card" means an identification card issued under this chapter to a person whose card was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-804(2)(i)(ii).

~~[(25)]~~ (26) "Limited-term license certificate" means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle to a person whose privilege was obtained providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(B).

~~[(26)]~~ (27) "Motorboat" ~~[has the same meaning as provided under]~~ means the same as that term is defined in Section 73-18-2.

~~[(27)]~~ (28) "Motorcycle" means every motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground.

(29) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

~~[(28)]~~ (30) "Motor vehicle record" or "MVR" means a driving record under Subsection 53-3-109(6)(a).

~~[(29)]~~ (31) "Office of Recovery Services" means the Office of Recovery Services, created in Section 62A-11-102.

~~[(30)]~~ (32) (a) "Owner" means a person other than a lien holder having an interest in the property or title to a vehicle.

(b) "Owner" includes a person entitled to the use and possession of a vehicle subject to a security interest in another person but excludes a lessee under a lease not intended as security.

~~[(31)]~~ (33) "Regular identification card" means an identification card issued under this chapter to a person whose card was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-804(2)(i)(i).

~~[(32)]~~ (34) "Regular license certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle whose privilege was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(A).

~~[(33)]~~ (35) "Renewal" means to validate a license certificate so that it expires at a later date.

~~[(34)]~~ (36) "Reportable violation" means an offense required to be reported to the division as determined by the division and includes those offenses against which points are assessed under Section 53-3-221.

~~[(35)]~~ (37) (a) "Resident" means an individual who:

(i) has established a domicile in this state, as defined in Section 41-1a-202, or regardless of

domicile, remains in this state for an aggregate period of six months or more during any calendar year;

(ii) engages in a trade, profession, or occupation in this state, or who accepts employment in other than seasonal work in this state, and who does not commute into the state;

(iii) declares himself to be a resident of this state by obtaining a valid Utah driver license certificate or motor vehicle registration; or

(iv) declares himself a resident of this state to obtain privileges not ordinarily extended to nonresidents, including going to school, or placing children in school without paying nonresident tuition or fees.

(b) "Resident" does not include any of the following:

(i) a member of the military, temporarily stationed in this state;

(ii) an out-of-state student, as classified by an institution of higher education, regardless of whether the student engages in any type of employment in this state;

(iii) a person domiciled in another state or country, who is temporarily assigned in this state, assigned by or representing an employer, religious or private organization, or a governmental entity; or

(iv) an immediate family member who resides with or a household member of a person listed in Subsections ~~[(35)]~~ (37)(b)(i) through (iii).

~~[(36)]~~ (38) "Revocation" means the termination by action of the division of a licensee's privilege to drive a motor vehicle.

~~[(37)]~~ (39) (a) "School bus" means a commercial motor vehicle used to transport pre-primary, primary, or secondary school students to and from home and school, or to and from school sponsored events.

(b) "School bus" does not include a bus used as a common carrier as defined in Section 59-12-102.

~~[(38)]~~ (40) "Suspension" means the temporary withdrawal by action of the division of a licensee's privilege to drive a motor vehicle.

~~[(39)]~~ (41) "Taxicab" means any class D motor vehicle transporting any number of passengers for hire and that is subject to state or federal regulation as a taxi.

Section 7. Section 53-3-202 is amended to read:

53-3-202. Drivers must be licensed -- Taxicab endorsement -- Violation.

(1) A person may not drive a motor vehicle or an autocycle on a highway in this state unless the person is:

(a) granted the privilege to operate a motor vehicle by being licensed as a driver by the division under this chapter;

(b) driving an official United States Government class D motor vehicle with a valid United States Government driver permit or license for that type of vehicle;

(c) (i) driving a road roller, road machinery, or any farm tractor or implement of husbandry temporarily drawn, moved, or propelled on the highways; and

(ii) driving the vehicle described in Subsection (1)(c)(i) in conjunction with a construction or agricultural activity;

(d) a nonresident who is at least 16 years of age and younger than 18 years of age who has in the nonresident's immediate possession a valid license certificate issued to the nonresident in the nonresident's home state or country and is driving in the class or classes identified on the home state license certificate, except those persons referred to in Part 6, Drivers' License Compact, of this chapter;

(e) a nonresident who is at least 18 years of age and who has in the nonresident's immediate possession a valid license certificate issued to the nonresident in the nonresident's home state or country if driving in the class or classes identified on the home state license certificate, except those persons referred to in Part 6, Drivers' License Compact, of this chapter;

(f) driving under a learner permit in accordance with Section 53-3-210.5;

(g) driving with a temporary license certificate issued in accordance with Section 53-3-207; or

(h) exempt under Title 41, Chapter 22, Off-Highway Vehicles.

(2) A person may not drive or, while within the passenger compartment of a motor vehicle, exercise any degree or form of physical control of a motor vehicle being towed by a motor vehicle upon a highway unless the person:

(a) holds a valid license issued under this chapter for the type or class of motor vehicle being towed; or

(b) is exempted under either Subsection (1)(b) or (1)(c).

(3) A person may not drive a motor vehicle as a taxicab on a highway of this state unless the person has a taxicab endorsement issued by the division on his license certificate.

(4) (a) Except as provided in Subsections (4)(b) [and], (c), and (d) a person may not operate:

(i) a motorcycle unless the person has a valid class D driver license and a motorcycle endorsement issued under this chapter;

(ii) a street legal all-terrain vehicle unless the person has a valid class D driver license; or

(iii) a motor-driven cycle unless the person has a valid class D driver license and a motorcycle endorsement issued under this chapter.

(b) A person operating a moped, as defined in Section 41-6a-102, or an electric assisted bicycle,

as defined in Section 41-6a-102, is not required to have a motorcycle endorsement issued under this chapter.

(c) A person is not required to have a valid class D driver license if the person is:

(i) operating a motor assisted scooter, as defined in Section 41-6a-102, in accordance with Section 41-6a-1115; or

(ii) operating an electric personal assistive mobility device, as defined in Section 41-6a-102, in accordance with Section 41-6a-1116.

(d) A person operating an autocycle is not required to have a motorcycle endorsement issued under this chapter.

(5) A person who violates this section is guilty of an infraction.

CHAPTER 41**H. B. 43**

Passed February 4, 2016
 Approved March 18, 2016
 Effective May 10, 2016

**STATE INSTRUCTIONAL
 MATERIALS COMMISSION AMENDMENTS**

Chief Sponsor: Bruce R. Cutler
 Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill removes the repeal date of the State Instructional Materials Commission.

Highlighted Provisions:

This bill:

- ▶ removes the repeal date of the State Instructional Materials Commission.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-253, as last amended by Laws of Utah 2015, Chapters 62, 431, and 442

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

Section 1. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53, 53A, 53B, and 53C.

The following provisions are repealed on the following dates:

(1) Section 53-3-232, Conditional license, is repealed July 1, 2015.

(2) Subsection 53-10-202(18) is repealed July 1, 2018.

(3) Section 53-10-202.1 is repealed July 1, 2018.

(4) Title 53A, Chapter 1a, Part 6, Public Education Job Enhancement Program, is repealed July 1, 2020.

~~[(5) The State Instructional Materials Commission, created in Section 53A-14-101, is repealed July 1, 2016.]~~

~~[(6) (5) Section 53A-15-106 is repealed July 1, 2019.~~

~~[(7) (6) Subsections 53A-16-113(3) and (4) are repealed December 31, 2016.~~

~~[(8) (7) Section 53A-16-114 is repealed December 31, 2016.~~

~~[(9) (8) Section 53A-17a-163, Performance-based Compensation Pilot Program, is repealed July 1, 2016.~~

~~[(10) (9) Section 53B-24-402, Rural residency training program, is repealed July 1, 2020.~~

~~[(11) (10) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells, other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.~~

CHAPTER 42**H. B. 55**

Passed February 10, 2016

Approved March 18, 2016

Effective May 10, 2016

STATE HIGHWAY SYSTEM AMENDMENTS

Chief Sponsor: Johnny Anderson

Senate Sponsor: Alvin B. Jackson

LONG TITLE**General Description:**

This bill modifies the Designation of State Highways Act by amending state highway descriptions.

Highlighted Provisions:

This bill:

- ▶ amends the description of SR-48 in the West Jordan City area;
- ▶ amends the description of SR-73 in the Saratoga Springs area;
- ▶ amends the description of SR-107 in the Clearfield and West Point areas;
- ▶ amends the description of SR-209 running from 9000 South to near the mouth of Little Cottonwood Canyon; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

72-4-110, as last amended by Laws of Utah 2013, Chapter 146

72-4-113, as last amended by Laws of Utah 2012, Chapter 336

72-4-116, as last amended by Laws of Utah 2009, Chapter 118

72-4-126, as last amended by Laws of Utah 2010, Chapter 199

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

Section 1. Section 72-4-110 is amended to read:**72-4-110. State highways -- SR-42 to SR-46, SR-48, SR-50.**

State highways include:

(1) SR-42. From the Utah-Idaho state line near Strevell, Idaho, easterly to Route 30 at Curlew Junction.

(2) SR-43. From the Utah-Wyoming state line about 6-1/2 miles west of Manila easterly through Manila to the Utah-Wyoming state line about three miles east of Manila.

(3) SR-44. From Route 191 at Greendale Junction northwesterly to Route 43 in Manila.

(4) SR-45. From the Evacuation Wash Area south of Bonanza northwesterly through Bonanza to Route 40 southeast of Vernal, near Naples.

(5) SR-46. From Route 191 at LaSal Junction easterly to the Utah-Colorado state line.

(6) SR-48. From ~~[the Kennecott gate in Copperton northeasterly on New Bingham Highway and 9000 South to 5600 West; then northerly on 5600 West to 8600 South; then easterly on 8600 South, New Bingham Highway, and] Route 154 easterly on 7800 South to Route 68 in West Jordan; then beginning again at Route 68 easterly on 7000 South and 7200 South to Route 89.~~

(7) SR-50. From Route 6 in Delta southeasterly to Holden, then northerly to Route 15 and beginning again at Route 15 Scipio Interchange; then easterly through Scipio and southeasterly to junction with Route 89 in Salina.

Section 2. Section 72-4-113 is amended to read:**72-4-113. State highways -- SR-71 to SR-80.**

State highways include:

(1) SR-71. From Route 154 in Riverton easterly to Seventh East Street in Draper; then northerly on Seventh East and Ninth East Streets to Route 186 in Salt Lake City.

(2) SR-72. From Route 24 in Loa northerly to a junction with Route 70 and Route 10 near Fremont Junction.

(3) SR-73. From Route 36 northeast of St. John Station southeasterly on Five Mile Pass to Route [68] 145; then easterly again beginning at 850 East in Lehi to Route 89.

(4) SR-74. From Route 89 in American Fork northerly to 200 feet south of the intersection with Canyon Crest Road in Alpine.

(5) SR-75. From Route 15 northwest of Springville easterly to Route 89 near Ironton.

(6) SR-76. From Route 70 easterly to old Fremont Junction on Route 72.

(7) SR-77. From Route 147 north of Benjamin north through Barney Corner; then easterly to Route 89 in Springville.

(8) SR-78. From Route 15 at the Mills Junction Interchange northerly to west of Levan; then east to Route 28 in Levan.

(9) SR-79. From Route 108 easterly on Thirty-first Street in Ogden to the lane separation, then on eastbound lane only to Route 89; then easterly on Thirtieth Street to Route 203; beginning again at Thirtieth Street and Route 89 then westerly on the westbound lane only to merge with eastbound lanes.

(10) SR-80. From the Utah-Nevada state line in Wendover to the Utah-Wyoming state line west of Evanston, Wyoming, on Interstate 80.

Section 3. Section 72-4-116 is amended to read:**72-4-116. State highways -- SR-101 to SR-110.**

State highways include:

(1) SR-101. From Wellsville on Route 23 easterly through Hyrum to the Hardware Ranch with a stub connection to the visitors' center and parking area.

(2) SR-102. From Route 83 east of Lampo Junction northeasterly through Penrose to Thatcher; then easterly through Tremonton and Deweyville to Route 38.

(3) SR-103. From Route 126 in Clearfield easterly on 650 North Street in Clearfield to Hill Air Force Base main gate.

(4) SR-104. From Route 126 easterly on Wilson Lane, Twentieth Street, and Twenty-first Street in Ogden to Route 204.

(5) SR-105. From Route 67 east on Parrish Lane in Centerville to Route 106.

(6) SR-106. From .21 miles west of Route 15 east on 400 North Street in Bountiful; then northerly to Sheppard Lane in Farmington; then west on Sheppard Lane to Route 89.

(7) SR-107. From Route 110 west of West Point easterly on 300 North through West Point to ~~Route 126 in Clearfield~~ 3000 West.

(8) SR-108. From the I-15 north bound on- and off-ramps at the Hill Field South Gate Interchange in Layton west to Syracuse; then north into Weber County; then northeasterly to Route 126.

(9) SR-109. From Route 126 easterly through Layton to Route 89.

(10) SR-110. From Route 127 west of Syracuse north to Route 37 west of Clinton.

Section 4. Section 72-4-126 is amended to read:

72-4-126. State highways -- SR-201 to SR-204, SR-208 to SR-211.

State highways include:

(1) SR-201. From Route 80 at Lake Point Junction easterly to 900 West; then northerly to 2100 South Street; then easterly to Route 89.

(2) SR-202. From Route 201 near Garfield northwesterly through the Garfield Cutoff to Route 80.

(3) SR-203. From Route 89 near Uintah northerly on Harrison Boulevard in Ogden to Route 39.

(4) SR-204. From Route 26 north on Wall Avenue in Ogden to Route 89.

(5) SR-208. From Route 40 east of Fruitland northerly to Route 35 near Tabiona.

(6) SR-209. ~~[From Route 68 easterly on Ninetieth South Street;]~~ From Kennecott gate in Copperton northeasterly to 9000 South; then easterly on 9000 South; then easterly to ~~[Ninety-fourth South Street]~~ 9400 South; then easterly to Route 210 near the mouth of Little Cottonwood Canyon.

(7) SR-210. From Route 190 at the mouth of Big Cottonwood Canyon southeasterly on Wasatch

Boulevard and through Little Cottonwood Canyon, to Alta, including the Alta Bypass.

(8) SR-211. From Dugout Ranch southeasterly; then northeasterly to Route 191 near Church Rock.

CHAPTER 43**H. B. 56**

Passed February 11, 2016

Approved March 18, 2016

Effective May 10, 2016

**WOMEN IN THE ECONOMY
COMMISSION AMENDMENTS**

Chief Sponsor: Rebecca P. Edwards

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies the Women in the Economy Commission Act and the Legislative Oversight and Sunset Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the reporting requirements of the Women in the Economy Commission;
- ▶ repeals the sunset date of the Women in the Economy Commission Act, which has the effect of allowing the commission to continue beyond July 1, 2016; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

35A-11-102, as enacted by Laws of Utah 2014, Chapter 127

35A-11-203, as enacted by Laws of Utah 2014, Chapter 127

63I-1-235, as last amended by Laws of Utah 2015, Chapters 51, 143, 226, 258, and 273

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

Section 1. Section 35A-11-102 is amended to read:**35A-11-102. Definitions.**

As used in this chapter:

(1) "Commission" means the Women in the Economy Commission created in Section 35A-11-201.

(2) "State institution of higher education" ~~[is as]~~ means the same as that term is defined in Section 53B-3-102.

Section 2. Section 35A-11-203 is amended to read:**35A-11-203. Annual report.**

(1) The commission shall annually prepare ~~[and publish a report directed to the:]~~ a report for inclusion in the department's annual written report described in Section 35A-1-109.

~~[(a) governor;]~~

~~[(b) Education Interim Committee;]~~

~~[(c) Economic Development and Workforce Services Interim Committee;]~~

~~[(d) Executive Appropriations Committee;]~~

~~[(e) Legislative Management Committee;]~~

~~[(f) Business, Economic Development, and Labor Appropriations Subcommittee; and]~~

~~[(g) State Council on Workforce Services.]~~

(2) The report described in Subsection (1) shall:

(a) describe how the commission fulfilled its statutory purposes and duties during the year; and

(b) contain recommendations on how the state should act to address issues relating to women in the economy.

Section 3. Section 63I-1-235 is amended to read:**63I-1-235. Repeal dates, Title 35A.**

(1) Subsection 35A-4-312(5)(p) is repealed July 1, 2017.

(2) Title 35A, Chapter 5, Part 4, Career and Technical Education Board, is repealed July 1, 2018.

~~[(3) Title 35A, Chapter 11, Women in the Economy Commission Act, is repealed July 1, 2016.]~~

CHAPTER 44**H. B. 90**

Passed February 12, 2016

Approved March 18, 2016

Effective May 10, 2016

**EDUCATION BACKGROUND
CHECK AMENDMENTS**

Chief Sponsor: Stephen G. Handy

Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill modifies provisions regarding criminal background checks for individuals associated with education entities.

Highlighted Provisions:

This bill:

- ▶ amends definitions; and
- ▶ amends certain provisions to comply with federal law.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-1a-705, as last amended by Laws of Utah 2015, Chapter 389

53A-15-1502, as enacted by Laws of Utah 2015, Chapter 389

53A-15-1503, as enacted by Laws of Utah 2015, Chapter 389

53A-15-1504, as enacted by Laws of Utah 2015, Chapter 389

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

Section 1. Section 53A-1a-705 is amended to read:**53A-1a-705. Eligible private schools.**

(1) To be eligible to enroll a scholarship student, a private school shall:

(a) have a physical location in Utah where the scholarship students attend classes and have direct contact with the school's teachers;

(b) (i) (A) obtain an audit and report from a licensed independent certified public accountant that conforms with the following requirements:

(I) the audit shall be performed in accordance with generally accepted auditing standards;

(II) the financial statements shall be presented in accordance with generally accepted accounting principles; and

(III) the audited financial statements shall be as of a period within the last 12 months; or

(B) contract with a licensed independent certified public accountant to perform an agreed upon procedure as follows:

(I) the agreed upon procedure shall be to determine that the private school has adequate working capital to maintain operations for the first full year; and

(II) working capital shall be calculated by subtracting current liabilities from current assets; and

(ii) submit the audit report or report of the agreed upon procedure to the board when the private school applies to accept scholarship students;

(c) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d;

(d) meet state and local health and safety laws and codes;

(e) disclose to the parent of each prospective student, before the student is enrolled, the special education services that will be provided to the student, including the cost of those services;

(f) (i) administer an annual assessment of each scholarship student's academic progress;

(ii) report the results of the assessment to the student's parent; and

(iii) make the results available to the assessment team evaluating the student pursuant to Subsection 53A-1a-704(6);

(g) employ or contract with teachers who:

(i) hold baccalaureate or higher degrees;

(ii) have at least three years of teaching experience in public or private schools; or

(iii) have the necessary special skills, knowledge, or expertise that qualifies them to provide instruction:

(A) in the subjects taught; and

(B) to the special needs students taught;

(h) require the following individuals to submit to a nationwide, fingerprint-based criminal background check and ongoing monitoring, in accordance with Section 53A-15-1503, as a condition for employment or appointment, as authorized by the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248:

(i) an employee who does not hold a current Utah educator license issued by the board under Title 53A, Chapter 6, Educator Licensing and Professional Practices Act;

(ii) a contract employee; and

(iii) a volunteer who is given significant unsupervised access to a student in connection with the volunteer's assignment; and

(i) provide to parents the relevant credentials of the teachers who will be teaching their students.

(2) A private school is not eligible to enroll scholarship students if:

(a) the audit report submitted under Subsection (1)(b) contains a going concern explanatory paragraph; or

(b) the report of the agreed upon procedure submitted under Subsection (1)(b) shows that the private school does not have adequate working capital to maintain operations for the first full year, as determined under Subsection (1)(b).

(3) A home school is not eligible to enroll scholarship students.

(4) Residential treatment facilities licensed by the state are not eligible to enroll scholarship students.

(5) A private school intending to enroll scholarship students shall submit an application to the board by May 1 of the school year preceding the school year in which it intends to enroll scholarship students.

(6) The board shall:

(a) approve a private school's application to enroll scholarship students, if the private school meets the eligibility requirements of this section; and

(b) make available to the public a list of the eligible private schools.

(7) An approved eligible private school that changes ownership shall submit a new application to the board and demonstrate that it continues to meet the eligibility requirements of this section.

Section 2. Section 53A-15-1502 is amended to read:

53A-15-1502. Definitions.

As used in this part:

(1) "Authorized entity" means an LEA, qualifying private school, or the State Board of Education that is authorized to request a background check and ongoing monitoring under this part.

(2) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety created in Section 53-10-201.

(3) "Contract employee" means an employee of a staffing service or other entity who works at a public or private school under a contract ~~between the staffing service and the public or private school~~.

(4) "FBI" means the Federal Bureau of Investigation.

~~[(4)]~~ (5) "Local education agency" or "LEA" means a school district, charter school, or the Utah Schools for the Deaf and the Blind.

~~[(5)]~~ (6) (a) "License applicant" means an applicant for a license issued by the State Board of Education under Title 53A, Chapter 6, Educator Licensing and Professional Practices Act.

(b) "License applicant" includes an applicant for reinstatement of an expired, lapsed, suspended, or revoked license.

~~[(6)]~~ (7) "Non-licensed employee" means an employee of an LEA or qualifying private school that does not hold a current Utah educator license issued by the State Board of Education under Title

53A, Chapter 6, Educator Licensing and Professional Practices Act.

~~[(7)]~~ (8) "Personal identifying information" means:

(a) current name, former names, nicknames, and aliases;

(b) date of birth;

(c) address;

(d) telephone number;

(e) driver license number or other government-issued identification number;

(f) social security number; and

(g) fingerprints.

~~[(8)]~~ (9) "Qualifying private school" means a private school that:

(a) enrolls students under Title 53A, Chapter 1a, Part 7, Carson Smith Scholarships for Students with Special Needs Act[-]; and

(b) is authorized to conduct fingerprint-based background checks of national crime information databases under the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248.

~~[(9)]~~ (10) "Rap back system" means a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals whose fingerprints are registered in the system.

~~[(10)]~~ (11) "WIN Database" means the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.

Section 3. Section 53A-15-1503 is amended to read:

53A-15-1503. Background checks for non-licensed employees, contract employees, volunteers, and charter school governing board members.

(1) An LEA or qualifying private school shall:

(a) require the following individuals to submit to a nationwide criminal background check and ongoing monitoring as a condition for employment or appointment:

(i) a non-licensed employee;

(ii) a contract employee;

(iii) a volunteer who will be given significant unsupervised access to a student in connection with the volunteer's assignment; and

(iv) a charter school governing board member;

(b) collect the following from an individual required to submit to a background check under Subsection (1)(a):

(i) personal identifying information;

(ii) subject to Subsection (2), a fee described in Subsection 53-10-108(15); and

(iii) consent, on a form specified by the LEA or qualifying private school, for:

(A) an initial fingerprint-based background check by the FBI and the bureau upon submission of the application; and

(B) retention of personal identifying information for ongoing monitoring through registration with the systems described in Section 53A-15-1505;

(c) submit the individual's personal identifying information[, ~~including fingerprints,~~] to the bureau for:

(i) an initial fingerprint-based background check by the FBI and the bureau; and

(ii) ongoing monitoring through registration with the systems described in Section 53A-15-1505 if the results of the initial background check do not contain disqualifying criminal history information as determined by the LEA or qualifying private school in accordance with Section 53A-15-1506; and

(d) identify the appropriate privacy risk mitigation strategy that will be used to ensure that the LEA or qualifying private school only receives notifications for individuals with whom the LEA or qualifying private school maintains an authorizing relationship.

(2) An LEA or qualifying private school may not require an individual to pay the fee described in Subsection (1)(b)(ii) unless the individual:

(a) has passed an initial review; and

(b) is one of a pool of no more than five candidates for the position.

(3) By September 1, 2018, an LEA or qualifying private school shall:

(a) collect the information described in Subsection (1)(b) from individuals:

(i) who were employed or appointed prior to July 1, 2015; and

(ii) with whom the LEA or qualifying private school currently maintains an authorizing relationship; and

(b) submit the information to the bureau for ongoing monitoring through registration with the systems described in Section 53A-15-1505.

(4) An LEA or qualifying private school that receives criminal history information about a licensed educator under Subsection 53A-15-1504(5) shall assess the employment status of the licensed educator as provided in Section 53A-15-1506.

(5) An LEA or qualifying private school may establish a policy to exempt an individual described in Subsections (1)(a)(i) through (iv) from ongoing monitoring under Subsection (1) if the individual is being temporarily employed or appointed.

Section 4. Section 53A-15-1504 is amended to read:

53A-15-1504. Background checks for licensed educators.

The State Board of Education shall:

(1) require a license applicant to submit to a nationwide criminal background check and ongoing monitoring as a condition for licensing;

(2) collect the following from an applicant:

(a) personal identifying information;

(b) a fee described in Subsection 53-10-108(15); and

(c) consent, on a form specified by the State Board of Education, for:

(i) an initial fingerprint-based background check by the FBI and bureau upon submission of the application;

(ii) retention of personal identifying information for ongoing monitoring through registration with the systems described in Section 53A-15-1505; and

(iii) disclosure of any criminal history information to the individual's employing LEA or qualifying private school;

(3) submit an applicant's personal identifying information[, ~~including fingerprints,~~] to the bureau for:

(a) an initial fingerprint-based background check by the FBI and bureau; and

(b) ongoing monitoring through registration with the systems described in Section 53A-15-1505 if the results of the initial background check do not contain disqualifying criminal history information as determined by the State Board of Education in accordance with Section 53A-15-1506;

(4) identify the appropriate privacy risk mitigation strategy that will be used to ensure that the board only receives notifications for individuals with whom the State Board of Education maintains an authorizing relationship;

(5) notify the employing LEA or qualifying private school upon receipt of any criminal history information reported on a licensed educator employed by the LEA or qualifying private school; and

(6) (a) collect the information described in Subsection (2) from individuals who were licensed prior to July 1, 2015, by the individual's next license renewal date; and

(b) submit the information to the bureau for ongoing monitoring through registration with the systems described in Section 53A-15-1505.

CHAPTER 45**H. B. 93**

Passed February 25, 2016

Approved March 18, 2016

Effective May 10, 2016

ORGAN DONOR AMENDMENTS

Chief Sponsor: Gage Froerer

Senate Sponsor: Brian E. Shiozawa

LONG TITLE**General Description:**

This bill requires an institution of higher education to provide certain information on organ donation.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ requires an institution of higher education to distribute by electronic message certain information regarding organ donation.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53B-1-111, Utah Code Annotated 1953

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

Section 1. Section 53B-1-111 is enacted to read:**53B-1-111. Organ donation notification.**

(1) As used in this section:

(a) "Donor" means the same as that term is defined in Section 26-28-102.

(b) "Donor registry" means the same as that term is defined in Section 26-28-102.

(c) "Institution of higher education" means an institution as described in Section 53B-3-102.

(2) (a) An institution of higher education shall distribute, twice each academic year to each enrolled student:

(i) an electronic message notifying each student of the option to register as a donor by selecting the Internet link described in Subsection (2)(a)(ii); and

(ii) through the electronic message described in Subsection (2)(a)(i) an Internet link to a website for a donor registry established under Section 26-28-120.

(b) An institution of higher education may also provide to students information on donor registry by other electronic, printed, or in-person means.

CHAPTER 46**H. B. 97**

Passed March 9, 2016
 Approved March 18, 2016
 Effective October 1, 2016

**CHILDREN WITH CANCER
 SPECIAL LICENSE PLATE**

Chief Sponsor: Rebecca P. Edwards
 Senate Sponsor: Lincoln Fillmore

LONG TITLE**General Description:**

This bill authorizes a children with cancer support special group license plate.

Highlighted Provisions:

This bill:

- ▶ creates a children with cancer support special group license plate for certain organizations that create or support programs that provide assistance to children with cancer;
- ▶ requires applicants for a new plate to make a \$25 annual donation to the Children with Cancer Support Restricted Account;
- ▶ creates the Children with Cancer Support Restricted Account;
- ▶ requires the Department of Health to distribute funds in the Children with Cancer Support Restricted Account to certain organizations that create or support programs that provide assistance or support to children with cancer; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

41-1a-418, as last amended by Laws of Utah 2014, Chapter 37
 41-1a-422, as last amended by Laws of Utah 2014, Chapter 37
 63J-1-602.1, as last amended by Laws of Utah 2015, Chapters 136 and 180

ENACTS:

26-21a-304, Utah Code Annotated 1953

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

Section 1. Section 26-21a-304 is enacted to read:

26-21a-304. Children with Cancer Support Restricted Account.

(1) As used in this section, "account" means the Children with Cancer Support Restricted Account created in this section.

(2) There is created in the General Fund a restricted account known as the "Children with Cancer Support Restricted Account."

(3) The account shall be funded by:

(a) contributions deposited into the account in accordance with Section 41-1a-422;

(b) private contributions;

(c) donations or grants from public or private entities; and

(d) interest and earnings on account money.

(4) Upon appropriation by the Legislature, the department shall distribute funds in the account to one or more charitable organizations that:

(a) qualify as tax exempt under Section 501(c)(3), Internal Revenue Code;

(b) are hospitals for children's tertiary care with board certified pediatric hematologist oncologists treating children, both on an inpatient and outpatient basis, with blood disorders and cancers from throughout the state;

(c) are members of a national organization devoted exclusively to childhood and adolescent cancer research;

(d) have pediatric nurses trained in hematology oncology;

(e) participate in one or more pediatric cancer clinical trials; and

(f) have programs that provide assistance to children with cancer.

(5) (a) An organization described in Subsection (4) may apply to the department to receive a distribution in accordance with Subsection (4).

(b) An organization that receives a distribution from the department in accordance with Subsection (4) may expend the distribution only to create or support programs that provide assistance to children with cancer.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules providing procedures for an organization to apply to the department to receive a distribution under Subsection (4).

Section 2. Section 41-1a-418 is amended to read:

41-1a-418. Authorized special group license plates.

(1) The division shall only issue special group license plates in accordance with this section through Section 41-1a-422 to a person who is specified under this section within the categories listed as follows:

(a) disability special group license plates issued in accordance with Section 41-1a-420;

(b) honor special group license plates, as in a war hero, which plates are issued for a:

(i) survivor of the Japanese attack on Pearl Harbor;

(ii) former prisoner of war;

(iii) recipient of a Purple Heart;

(iv) disabled veteran; or

(v) recipient of a gold star award issued by the United States Secretary of Defense;

(c) unique vehicle type special group license plates, as for historical, collectors value, or other unique vehicle type, which plates are issued for:

(i) a special interest vehicle;

(ii) a vintage vehicle;

(iii) a farm truck; or

(iv) (A) until Subsection (1)(c)(iv)(B) or (4) applies, a vehicle powered by clean fuel as defined in Section 59-13-102; or

(B) beginning on the effective date of rules made by the Department of Transportation authorized under Subsection 41-6a-702(5)(b) and until Subsection (4) applies, a vehicle powered by clean fuel that meets the standards established by the Department of Transportation in rules authorized under Subsection 41-6a-702(5)(b);

(d) recognition special group license plates, which plates are issued for:

(i) a current member of the Legislature;

(ii) a current member of the United States Congress;

(iii) a current member of the National Guard;

(iv) a licensed amateur radio operator;

(v) a currently employed, volunteer, or retired firefighter until June 30, 2009;

(vi) an emergency medical technician;

(vii) a current member of a search and rescue team;

(viii) a current honorary consulate designated by the United States Department of State; or

(ix) an individual that wants to recognize and honor American freedoms and values through an In God We Trust license plate;

(e) support special group license plates, as for a contributor to an institution or cause, which plates are issued for a contributor to:

(i) an institution's scholastic scholarship fund;

(ii) the Division of Wildlife Resources;

(iii) the Department of Veterans' and Military Affairs;

(iv) the Division of Parks and Recreation;

(v) the Department of Agriculture and Food;

(vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;

(vii) the Boy Scouts of America;

(viii) spay and neuter programs through No More Homeless Pets in Utah;

(ix) the Boys and Girls Clubs of America;

(x) Utah public education;

(xi) programs that provide support to organizations that create affordable housing for those in severe need through the Division of Real Estate;

(xii) the Department of Public Safety;

(xiii) programs that support Zion National Park;

(xiv) beginning on July 1, 2009, programs that provide support to firefighter organizations;

(xv) programs that promote bicycle operation and safety awareness;

(xvi) programs that conduct or support cancer research;

(xvii) programs that create or support autism awareness;

(xviii) programs that create or support humanitarian service and educational and cultural exchanges;

(xix) programs that conduct or support prostate cancer awareness, screening, detection, or prevention;

(xx) programs that support and promote adoptions;

(xxi) programs that create or support civil rights education and awareness; [ø]

(xxii) programs that support issues affecting women and children through an organization affiliated with a national professional men's basketball organization; or

(xxiii) programs that provide assistance to children with cancer.

(2) (a) The division may not issue a new type of special group license plate unless the division receives:

(i) (A) a private donation for the start-up fee established under Section 63J-1-504 for the production and administrative costs of providing the new special group license plates; or

(B) a legislative appropriation for the start-up fee provided under Subsection (2)(a)(i)(A); and

(ii) beginning on January 1, 2012, and for the issuance of a support special group license plate authorized in Section 41-1a-422, at least 500 completed applications for the new type of support special group license plate to be issued with all fees required under this part for the support special group license plate issuance paid by each applicant.

(b) (i) Beginning on January 1, 2012, each participating organization shall collect and hold applications for support special group license plates authorized in Section 41-1a-422 on or after January 1, 2012, until it has received at least 500 applications.

(ii) Once a participating organization has received at least 500 applications, it shall submit the applications, along with the necessary fees, to the division for the division to begin working on the design and issuance of the new type of support special group license plate to be issued.

(iii) Beginning on January 1, 2012, the division may not work on the issuance or design of a new support special group license plate authorized in Section 41-1a-422 until the applications and fees required under this Subsection (2) have been received by the division.

(iv) The division shall begin issuance of a new support special group license plate authorized in Section 41-1a-422 on or after January 1, 2012, no later than six months after receiving the applications and fees required under this Subsection (2).

(c) (i) Beginning on July 1, 2009, the division may not renew a motor vehicle registration of a motor vehicle that has been issued a firefighter recognition special group license plate unless the applicant is a contributor as defined in Subsection 41-1a-422(1)(a)(ii)(D) to the Firefighter Support Restricted Account.

(ii) A registered owner of a vehicle that has been issued a firefighter recognition special group license plate prior to July 1, 2009, upon renewal of the owner's motor vehicle registration shall:

(A) be a contributor to the Firefighter Support Restricted Account as required under Subsection (2)(c)(i); or

(B) replace the firefighter recognition special group license plate with a new license plate.

(3) (a) Beginning on July 1, 2011, if a support special group license plate type authorized in Section 41-1a-422 and issued on or after January 1, 2012, has fewer than 500 license plates issued each year for a three consecutive year time period that begins on July 1, the division may not issue that type of support special group license plate to a new applicant beginning on January 1 of the following calendar year after the three consecutive year time period for which that type of support special group license plate has fewer than 500 license plates issued each year.

(b) If the division is required to stop the issuance of a type of support special group license plate authorized in Section 41-1a-422 under this Subsection (3), the division shall report to the Transportation Interim Committee that the division will stop the issuance on or before the November interim meeting of the year in which the commission determines to stop the issuance of that type of support special group license plate.

(4) Beginning on July 1, 2011, the division may not issue to an applicant a unique vehicle type license plate for a vehicle powered by clean fuel under Subsection (1)(c)(iv).

Section 3. Section 41-1a-422 is amended to read:

41-1a-422. Support special group license plates -- Contributor -- Voluntary contribution collection procedures.

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), "contributor" means a person who has donated or in whose name at least \$25 has been donated to:

(A) a scholastic scholarship fund of a single named institution;

(B) the Department of Veterans' and Military Affairs for veterans' programs;

(C) the Division of Wildlife Resources for the Wildlife Resources Account created in Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;

(E) the Division of Parks and Recreation for the benefit of snowmobile programs;

(F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;

(J) the Utah Association of Public School Foundations to support public education;

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to assist people who have severe housing needs;

(L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118 to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees;

(M) the Division of Parks and Recreation for distribution to organizations that provide support for Zion National Park;

(N) the Firefighter Support Restricted Account created in Section 53-7-109 to support firefighter organizations;

(O) the Share the Road Bicycle Support Restricted Account created in Section 72-2-127 to support bicycle operation and safety awareness programs;

(P) the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(Q) Autism Awareness Restricted Account created in Section 53A-1-304 to support autism awareness programs;

(R) Humanitarian Service and Educational and Cultural Exchange Restricted Account created in Section 9-17-102 to support humanitarian service and educational and cultural programs;

(S) Prostate Cancer Support Restricted Account created in Section 26-21a-303 for programs that conduct or support prostate cancer awareness, screening, detection, or prevention;

(T) the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608 to support programs that promote adoption;

(U) the Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102; [øø]

(V) the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202; or

(W) the Children with Cancer Support Restricted Account created in Section 26-21a-304 for programs that provide assistance to children with cancer.

(i) (A) For a veterans' special group license plate, "contributor" means a person who has donated or in whose name at least a \$25 donation at the time of application and \$10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least \$30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(C) For an Honoring Heroes special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(D) For a firefighter support special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least \$15 has been donated at the time of application and annually after the time of application; and

(II) is a currently employed, volunteer, or retired firefighter.

(E) For a cancer research special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually after the time of application.

(F) For a Martin Luther King, Jr. Civil Rights Support special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(b) "Institution" means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or

national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

(i) the name of the contributor;

(ii) the institution to which a donation was made;

(iii) the date of the donation; and

(iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the money collected by the institutions from contributors is used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63J-1-504 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) An applicant for original or renewal support special group license plates under this section must be a contributor to the sponsoring organization associated with the license plate.

(b) This contribution shall be:

(i) unless collected by the named institution under Subsection (2), collected by the division;

(ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee;

(iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates; and

(iv) for a firefighter special group license plate, deposited into the appropriate account less:

(A) the costs of reordering firefighter special group license plate decals; and

(B) the costs of replacing recognition special group license plates with new license plates under Subsection 41-1a-1211(13).

(c) The donation described in Subsection (1)(a) must be made in the 12 months prior to registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

- (i) snowmobile license plates; or
- (ii) conservation license plates.

(4) Veterans' license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

Section 4. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing accounts and funds -- General authority and Title 1 through Title 30.

(1) Appropriations made to the Legislature and its committees.

(2) The Percent-for-Art Program created in Section 9-6-404.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(5) An appropriation made to the Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(6) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(7) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(8) Funds collected from the emergency medical services grant program, as provided in Section 26-8a-207.

(9) The Prostate Cancer Support Restricted Account created in Section 26-21a-303.

(10) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

~~[(10)]~~ (11) State funds appropriated for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

~~[(11)]~~ (12) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

~~[(12)]~~ (13) The primary care grant program created in Section 26-10b-102.

~~[(13)]~~ (14) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

Section 5. Effective date.

This bill takes effect on October 1, 2016.

CHAPTER 47**H. B. 139**

Passed February 9, 2016
Approved March 18, 2016
Effective May 10, 2016

**TRANSPARENCY ADVISORY
BOARD MODIFICATIONS**

Chief Sponsor: Derrin Owens
Senate Sponsor: Daniel W. Thatcher

LONG TITLE**General Description:**

This bill modifies provisions relating to the Utah Transparency Advisory Board.

Highlighted Provisions:

This bill:

- ▶ provides that the Utah Transparency Advisory Board shall include an individual representing the State Board of Education; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63A-3-403, as last amended by Laws of Utah 2014, Chapters 75, 185, and 387

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

Section 1. Section 63A-3-403 is amended to read:

63A-3-403. Utah Transparency Advisory Board -- Creation -- Membership -- Duties.

(1) There is created within the department the Utah Transparency Advisory Board comprised of members knowledgeable about public finance or providing public access to public information.

(2) The board consists of:

(a) an individual appointed by the director of the Division of Finance;

(b) an individual appointed by the executive director of the Governor's Office of Management and Budget;

(c) an individual appointed by the governor on advice from the Legislative Fiscal Analyst;

(d) one member of the Senate, appointed by the governor on advice from the president of the Senate;

(e) one member of the House of Representatives, appointed by the governor on advice from the speaker of the House of Representatives;

(f) an individual appointed by the director of the Department of Technology Services;

(g) the director of the Division of Archives created in Section 63A-12-101 or the director's designee;

(h) an individual who is a member of the State Records Committee created in Section 63G-2-501, appointed by the governor;

(i) an individual representing counties, appointed by the governor;

(j) an individual representing municipalities, appointed by the governor;

(k) an individual representing special districts, appointed by the governor; ~~and~~

(l) an individual representing the State Board of Education, appointed by the State Board of Education; and

~~[(4)] (m) two individuals who are members of the public and who have knowledge, expertise, or experience in matters relating to the board's duties under Subsection (10), appointed by the board members identified in Subsections (2)(a) through [(k)] (1).~~

(3) The board shall:

(a) advise the division on matters related to the implementation and administration of this part;

(b) develop plans, make recommendations, and assist in implementing the provisions of this part;

(c) determine what public financial information shall be provided by a participating state entity, independent entity, and participating local entity, if the public financial information:

(i) only includes records that:

(A) are classified as public under Title 63G, Chapter 2, Government Records Access and Management Act, or, subject to any specific limitations and requirements regarding the provision of financial information from the entity described in Section 63A-3-402, if an entity is exempt from Title 63G, Chapter 2, Government Records Access and Management Act, records that would normally be classified as public if the entity were not exempt from Title 63G, Chapter 2, Government Records Access and Management Act;

(B) are an accounting of money, funds, accounts, bonds, loans, expenditures, or revenues, regardless of the source; and

(C) are owned, held, or administered by the participating state entity, independent entity, or participating local entity that is required to provide the record; and

(ii) is of the type or nature that should be accessible to the public via a website based on considerations of:

(A) the cost effectiveness of providing the information;

(B) the value of providing the information to the public; and

(C) privacy and security considerations;

(d) evaluate the cost effectiveness of implementing specific information resources and features on the website;

(e) establish size or budget thresholds to identify those local entities that qualify as participating local entities as defined in this part, giving special consideration to the budget and resource limitations of an entity with a current annual budget of less than \$10,000,000;

(f) require participating local entities to provide public financial information in accordance with the requirements of this part, with a specified content, reporting frequency, and form;

(g) require an independent entity's website or a participating local entity's website to be accessible by link or other direct route from the Utah Public Finance Website if the independent entity or participating local entity does not use the Utah Public Finance Website;

(h) determine the search methods and the search criteria that shall be made available to the public as part of a website used by an independent entity or a participating local entity under the requirements of this part, which criteria may include:

- (i) fiscal year;
- (ii) expenditure type;
- (iii) name of the agency;
- (iv) payee;
- (v) date; and
- (vi) amount; and

(i) analyze ways to improve the information on the Utah Public Finance Website so the information is more relevant to citizens, including through the use of:

(i) infographics that provide more context to the data; and

- (ii) geolocation services, if possible.

(4) The board shall annually elect a chair and a vice chair from its members.

- (5) (a) Each member shall serve a two-year term.

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

(6) To accomplish its duties, the board shall meet as it determines necessary.

(7) Reasonable notice shall be given to each member of the board before any meeting.

(8) A majority of the board constitutes a quorum for the transaction of business.

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

- (i) Section 63A-3-106;
- (ii) Section 63A-3-107; and

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

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

- (10) (a) As used in Subsections (10) and (11):

(i) "Information website" means a single Internet website containing public information or links to public information.

(ii) "Public information" means records of state government, local government, or an independent entity that are classified as public under Title 63G, Chapter 2, Government Records Access and Management Act, or, subject to any specific limitations and requirements regarding the provision of financial information from the entity described in Section 63A-3-402, if an entity is exempt from Title 63G, Chapter 2, Government Records Access and Management Act, records that would normally be classified as public if the entity were not exempt from Title 63G, Chapter 2, Government Records Access and Management Act.

- (b) The board shall:

(i) study the establishment of an information website and develop recommendations for its establishment;

(ii) develop recommendations about how to make public information more readily available to the public through the information website;

(iii) develop standards to make uniform the format and accessibility of public information posted to the information website; and

(iv) identify and prioritize public information in the possession of a state agency or political subdivision that may be appropriate for publication on the information website.

(c) In fulfilling its duties under Subsection (10)(b), the board shall be guided by principles that encourage:

(i) (A) the establishment of a standardized format of public information that makes the information more easily accessible by the public;

(B) the removal of restrictions on the reuse of public information;

(C) minimizing limitations on the disclosure of public information while appropriately safeguarding sensitive information; and

(D) balancing factors in favor of excluding public information from an information website against the public interest in having the information accessible on an information website;

(ii) (A) permanent, lasting, open access to public information; and

- (B) the publication of bulk public information;

(iii) the implementation of well-designed public information systems that ensure data quality, create a public, comprehensive list or index of public information, and define a process for continuous publication of and updates to public information;

(iv) the identification of public information not currently made available online and the implementation of a process, including a timeline and benchmarks, for making that public information available online; and

(v) accountability on the part of those who create, maintain, manage, or store public information or post it to an information website.

(d) The department shall implement the board's recommendations, including the establishment of an information website, to the extent that implementation:

(i) is approved by the Legislative Management Committee;

(ii) does not require further legislative appropriation; and

(iii) is within the department's existing statutory authority.

(11) The department shall, in consultation with the board and as funding allows, modify the information website described in Subsection (10) to:

(a) by January 1, 2015, serve as a point of access for Government Records Access and Management requests for executive agencies;

(b) by January 1, 2016, serve as a point of access for Government Records Access and Management requests for:

(i) school districts;

(ii) charter schools;

(iii) public transit districts created under Title 17B, Chapter 2a, Part 8, Public Transit District Act;

(iv) counties; and

(v) municipalities;

(c) by January 1, 2017, serve as a point of access for Government Records Access and Management requests for:

(i) local districts under Title 17B, Limited Purpose Local Government Entities - Local Districts; and

(ii) special service districts under Title 17D, Chapter 1, Special Service District Act;

(d) except as provided in Subsection (12)(a), provide link capabilities to other existing repositories of public information, including maps, photograph collections, legislatively required reports, election data, statute, rules, regulations, and local ordinances that exist on other agency and political subdivision websites;

(e) provide multiple download options in different formats, including nonproprietary, open formats where possible;

(f) provide any other public information that the board, under Subsection (10), identifies as appropriate for publication on the information website; and

(g) incorporate technical elements the board identifies as useful to a citizen using the information website.

(12) (a) The department, in consultation with the board, shall establish by rule any restrictions on the inclusion of maps and photographs, as described in Subsection (11)(d), on the website described in Subsection (10) if the inclusion would pose a potential security concern.

(b) The website described in Subsection (10) may not publish any record that is classified as private, protected, or controlled under Title 63G, Chapter 2, Government Records Access and Management Act.

CHAPTER 48**H. B. 146**

Passed February 26, 2016

Approved March 18, 2016

Effective May 10, 2016

DISCLOSURE OF LOCAL CANDIDATES

Chief Sponsor: Paul Ray

Senate Sponsor: Daniel W. Thatcher

LONG TITLE**General Description:**

This bill amends the Election Code in relation to public disclosure of candidate information.

Highlighted Provisions:

This bill:

- ▶ requires the clerk of a county or a municipality to post the name and other information of a candidate who files a declaration of candidacy.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

20A-9-203.5, Utah Code Annotated 1953

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

Section 1. Section 20A-9-203.5 is enacted to read:**20A-9-203.5. Requirement to post candidate information on website.**

The clerk of a county or a municipality shall, within three business days after the day on which the clerk accepts a declaration of candidacy, post the following information on the website of the county or municipality:

- (1) the name and campaign contact information of the candidate; and
- (2) the office that the candidate is seeking.

CHAPTER 49**H. B. 156**

Passed February 22, 2016

Approved March 18, 2016

Effective May 10, 2016

**PERSONALIZED LICENSE
PLATES AMENDMENT**Chief Sponsor: V. Lowry Snow
Senate Sponsor: Stephen H. Urquhart**LONG TITLE****General Description:**

This bill amends the options for personalizing license plates.

Highlighted Provisions:

This bill:

- ▶ amends the options for personalizing license plates related to military service.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-1a-411, as renumbered and amended by Laws of Utah 1992, Chapter 1

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

Section 1. Section 41-1a-411 is amended to read:**41-1a-411. Application for personalized plates -- Refusal authorized.**

(1) An applicant for personalized license plates or renewal of the plates shall file an application for the plates in the form and by the date the division requires, indicating the combination of letters, numbers, or both requested as a registration number.

(2) [The] (a) Except as provided in Subsection (3), the division may refuse to issue any combination of letters, numbers, or both that may carry connotations offensive to good taste and decency or that would be misleading.

(b) The division may refuse to issue a combination of letters, numbers, or both as a registration number if that same combination is already in use as a registration number on an existing license plate.

(3) (a) Except as provided in Subsection (2)(b) or (3)(b), the division may not refuse a combination of letters, numbers, or both as a registration number if:

(i) the license plate is an honor special group license plate as described in Section 41-1a-421; and

(ii) the combination of letters, numbers, or both refers to:

(A) a year related to military service;

(B) a military branch; or

(C) an official achievement, badge, or honor received for military service.

(b) If an applicant requests a combination containing only numbers, the division may refuse the combination if the combination includes less than four numerical digits.

CHAPTER 50**H. B. 158**

Passed February 26, 2016

Approved March 18, 2016

Effective May 10, 2016

**CAMPAIGN FUNDS RESTRICTIONS
FOR COUNTY AND LOCAL SCHOOL
BOARD OFFICES**

Chief Sponsor: Patrice M. Arent

Senate Sponsor: Margaret Dayton

LONG TITLE**General Description:**

This bill prohibits a personal use expenditure on a county and local school board level.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ prohibits a county office candidate, county officer, local school board candidate, or local school board member from making a personal use expenditure.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

17-16-201, Utah Code Annotated 1953

17-16-202, Utah Code Annotated 1953

17-16-203, Utah Code Annotated 1953

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

Section 1. Section 17-16-201 is enacted to read:**Part 2. Personal Use Expenditure****17-16-201. Title.**

This part is known as "Personal Use Expenditure."

Section 2. Section 17-16-202 is enacted to read:**17-16-202. Definitions.**

As used in this part:

(1) (a) Except as provided in Subsection (1)(b), "contribution" means any of the following when done for a political purpose:

(i) a gift, subscription, donation, loan, advance, deposit of money, or anything of value given to the filing entity;

(ii) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, deposit of money, or anything of value to the filing entity;

(iii) any transfer of funds from another reporting entity to the filing entity;

(iv) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;

(v) a loan made by a county office candidate or local school board candidate deposited into the county office candidate's or local school board candidate's own campaign account; or

(vi) an in-kind contribution.

(b) "Contribution" does not include:

(i) services provided by an individual volunteering a portion or all of the individual's time on behalf of the filing entity if the services are provided without compensation by the filing entity or any other person;

(ii) money lent to the filing entity by a financial institution in the ordinary course of business; or

(iii) goods or services provided for the benefit of a county office candidate or local school board candidate at less than fair market value that are not authorized by or coordinated with the county office candidate or the local school board candidate.

(2) "County office" means an office described in Section 17-53-101 that is required to be filled by an election.

(3) "County office candidate" means an individual who:

(a) files a declaration of candidacy for a county office; or

(b) receives a contribution, makes an expenditure, or gives consent for any other person to receive a contribution or make an expenditure to bring about the individual's nomination or election to a county office.

(4) "County officer" means an individual who holds a county office.

(5) (a) Except as provided in Subsection (5)(b), "expenditure" means any of the following made by a reporting entity or an agent of a reporting entity on behalf of the reporting entity:

(i) any disbursement from contributions, receipts, or the separate bank account required under Section 17-16-6.5;

(ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for a political purpose;

(iii) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for a political purpose;

(iv) compensation paid by a filing entity for personal services rendered by a person without charge to a reporting entity;

(v) a transfer of funds between the filing entity and a county office candidate's, or a local school board candidate's, personal campaign committee; or

(vi) goods or services provided by the filing entity to or for the benefit of another reporting entity for a political purpose at less than fair market value.

(b) "Expenditure" does not include:

(i) services provided without compensation by an individual volunteering a portion or all of the individual's time on behalf of a reporting entity;

(ii) money lent to a reporting entity by a financial institution in the ordinary course of business; or

(iii) anything described in Subsection (5)(a) that is given by a reporting entity to a candidate or officer in another state.

(6) "Filing entity" means:

(a) a county office candidate;

(b) a county officer;

(c) a local school board candidate;

(d) a local school board member; or

(e) a reporting entity that is required to meet a campaign finance disclosure requirement adopted by a county in accordance with Section 17-16-6.5.

(7) "In-kind contribution" means anything of value, other than money, that is accepted by or coordinated with a filing entity.

(8) "Local school board candidate" means an individual who:

(a) files a declaration of candidacy for local school board; or

(b) receives a contribution, makes an expenditure, or gives consent for any other person to receive a contribution or make an expenditure to bring about the individual's nomination or election to a local school board.

(9) (a) "Personal use expenditure" means an expenditure that:

(i) (A) is not excluded from the definition of personal use expenditure by Subsection (9)(c); and

(B) primarily furthers a personal interest of a county office candidate, county officer, local school board candidate, or a local school board member, or a member of a county office candidate's, county officer's, local school board candidate's, or local school board member's family; or

(ii) would cause the county office candidate, county officer, local school board candidate, or local school board member to recognize the expenditure as taxable income under federal law.

(b) "Personal use expenditure" includes:

(i) a mortgage, rent, utility, or vehicle payment;

(ii) a household food item or supply;

(iii) clothing, except for clothing:

(A) bearing the county office candidate's or local school board candidate's name or campaign slogan or logo; and

(B) used in the county office candidate's or local school board member's campaign;

(iv) admission to a sporting, artistic, or recreational event or other form of entertainment;

(v) dues, fees, or gratuities at a country club, health club, or recreational facility;

(vi) a salary payment made to:

(A) a county office candidate, county officer, local school board candidate, or local school board member; or

(B) a person who has not provided a bona fide service to a county candidate, county officer, local school board candidate, or local school board member;

(vii) a vacation;

(viii) a vehicle expense;

(ix) a meal expense;

(x) a travel expense;

(xi) payment of an administrative, civil, or criminal penalty;

(xii) satisfaction of a personal debt;

(xiii) a personal service, including the service of an attorney, accountant, physician, or other professional person;

(xiv) a membership fee for a professional or service organization; and

(xv) a payment in excess of the fair market value of the item or service purchased.

(c) "Personal use expenditure" does not include an expenditure made:

(i) for a political purpose;

(ii) for candidacy for county office or local school board;

(iii) to fulfill a duty or activity of a county officer or local school board member;

(iv) for a donation to a registered political party;

(v) for a contribution to another candidate's campaign account, including sponsorship of or attendance at an event, the primary purpose of which is to solicit a contribution for another candidate's campaign account;

(vi) to return all or a portion of a contribution to a contributor;

(vii) for the following items, if made in connection with the candidacy for county office or local school board, or an activity or duty of a county officer or local school board member:

(A) a mileage allowance at the rate established by the political subdivision that provides the mileage allowance;

(B) for motor fuel or special fuel, as defined in Section 59-13-102;

(C) a meal expense;

(D) a travel expense, including an expense incurred for airfare or a rental vehicle;

(E) a payment for a service provided by an attorney or accountant;

(F) a tuition payment or registration fee for participation in a meeting or conference;

(G) a gift;

(H) a payment for rent, utilities, a supply, or furnishings, in connection with an office space;

(I) a booth at a meeting or event; or

(J) educational material;

(viii) to purchase or mail informational material, a survey, or a greeting card;

(ix) for a donation to a charitable organization, as defined in Section 13-22-2, including admission to or sponsorship of an event, the primary purpose of which is charitable solicitation, as defined in Section 13-22-2;

(x) to repay a loan a county office candidate or local school board candidate makes from the candidate's personal account to the candidate's campaign account;

(xi) to pay membership dues to a national organization whose primary purpose is to address general public policy;

(xii) for admission to or sponsorship of an event, the primary purpose of which is to promote the social, educational, or economic well-being of the state or the county candidate's, county officer's, local school board candidate's, or local school board member's community;

(xiii) for one or more guests of a county office candidate, county officer, local school board candidate, or local school board member to attend an event, meeting, or conference described in this Subsection (9)(c); or

(xiv) that is connected with the performance of an activity as a county office candidate or local school board member, or an activity or duty of a county officer or local school board member.

(10) "Political purpose" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate or a person seeking an office at any caucus, political convention, or election.

(11) "Reporting entity":

(a) means the same as that term is defined in Subsection 20A-11-101(52); and

(b) includes a county office candidate, a county office candidate's personal campaign committee, a county officer, a local school board candidate, a local school board candidate's personal campaign committee, and a local school board member.

Section 3. Section 17-16-203 is enacted to read:

17-16-203. Personal use expenditure -- Authorized and prohibited uses of

campaign funds -- Enforcement -- Penalties.

(1) A county office candidate, county officer, local school board candidate, or local school board member may not use money deposited into the separate bank account required under Section 17-16-6.5 for:

(a) a personal use expenditure; or

(b) an expenditure prohibited by law.

(2) (a) A county clerk shall enforce this section prohibiting a personal use expenditure by:

(i) evaluating a financial statement to identify a personal use expenditure; and

(ii) commencing an adjudicative proceeding in accordance with applicable county ordinance or policy if the county clerk has probable cause to believe a county office candidate, county officer, local school board candidate, or local school board member has made a personal use expenditure.

(b) Following the proceeding, the county clerk may issue a signed order requiring a county office candidate, county officer, local school board candidate, or local school board member who has made a personal use expenditure to:

(i) remit an administrative penalty of an amount equal to 50% of the personal use expenditure to the county clerk; and

(ii) deposit the amount of the personal use expenditure in the campaign account from which the personal use expenditure was disbursed.

(c) The county clerk shall deposit money received under Subsection (2)(b)(i) into the county's general fund.

CHAPTER 51**H. B. 162**

Passed February 26, 2016

Approved March 18, 2016

Effective May 10, 2016

**MOTION PICTURE
INCENTIVES AMENDMENTS**Chief Sponsor: Jeremy A. Peterson
Senate Sponsor: Deidre M. Henderson**LONG TITLE****General Description:**

This bill addresses motion picture incentives.

Highlighted Provisions:

This bill:

- ▶ amends reporting requirements associated with incentives for state-approved productions by a motion picture company.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63N-8-103, as renumbered and amended by Laws of Utah 2015, Chapter 283

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 63N-8-103 is amended to read:****63N-8-103. Motion Picture Incentive Account created -- Cash rebate incentives -- Refundable tax credit incentives.**

(1) (a) There is created within the General Fund a restricted account known as the Motion Picture Incentive Account, which the office shall use to provide cash rebate incentives for state-approved productions by a motion picture company.

(b) All interest generated from investment of money in the restricted account shall be deposited in the restricted account.

(c) The restricted account shall consist of an annual appropriation by the Legislature.

(d) The office shall:

(i) with the advice of the board, administer the restricted account; and

(ii) make payments from the restricted account as required under this section.

(e) The cost of administering the restricted account shall be paid from money in the restricted account.

(2) (a) A motion picture company or digital media company seeking disbursement of an incentive allowed under an agreement with the office shall follow the procedures and requirements of this Subsection (2).

(b) The motion picture company or digital media company shall provide the office with a report identifying and documenting the dollars left in the state [ø] and new state revenues generated by the motion picture company or digital media company for its state-approved production, including any related tax returns by the motion picture company, payroll company, digital media company, or loan-out corporation under Subsection (2)(d).

(c) For a motion picture company, an independent certified public accountant shall:

(i) review the report submitted by the motion picture company; and

(ii) attest to the accuracy and validity of the report, including the amount of dollars left in the state.

(d) The motion picture company, digital media company, payroll company, or loan-out corporation shall provide the office with a document that expressly directs and authorizes the State Tax Commission to disclose the entity's tax returns and other information concerning the entity that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code, to the office.

(e) The office shall submit the document described in Subsection (2)(d) to the State Tax Commission.

(f) Upon receipt of the document described in Subsection (2)(d), the State Tax Commission shall provide the office with the information requested by the office that the motion picture company, digital media company, payroll company, or loan-out corporation directed or authorized the State Tax Commission to provide to the office in the document described in Subsection (2)(d).

(g) Subject to Subsection (3), for a motion picture company the office shall:

(i) review the report from the motion picture company described in Subsection (2)(b) and verify that it was reviewed by an independent certified public accountant as described in Subsection (2)(c); and

(ii) based upon the certified public accountant's attestation under Subsection (2)(c), determine the amount of the incentive that the motion picture company is entitled to under its agreement with the office.

(h) Subject to Subsection (3), for a digital media company, the office shall:

(i) ensure the digital media project results in new state revenue; and

(ii) based upon review of new state revenue, determine the amount of the incentive that a digital media company is entitled to under its agreement with the office.

(i) Subject to Subsection (3), if the incentive is in the form of a cash rebate, the office shall pay the incentive from the restricted account to the motion picture company, notwithstanding Subsections 51-5-3(23)(b) and 63J-1-104(4)(c).

(j) If the incentive is in the form of a refundable tax credit under Section 59-7-614.5 or 59-10-1108, the office shall:

(i) issue a tax credit certificate to the motion picture company or digital media company; and

(ii) provide a duplicate copy of the tax credit certificate to the State Tax Commission.

(k) A motion picture company or digital media company may not claim a motion picture tax credit under Section 59-7-614.5 or 59-10-1108 unless the motion picture company or digital media company has received a tax credit certificate for the claim issued by the office under Subsection (2)(j)(i).

(l) A motion picture company or digital media company may claim a motion picture tax credit on its tax return for the amount listed on the tax credit certificate issued by the office.

(m) A motion picture company or digital media company that claims a tax credit under Subsection (2)(l) shall retain the tax credit certificate and all supporting documentation in accordance with Subsection 63N-8-104(6).

(3) (a) Subject to Subsection (3)(b), the office may issue \$6,793,700 in tax credit certificates under this part in a fiscal year.

(b) If the office does not issue tax credit certificates in a fiscal year totaling the amount authorized under Subsection (3)(a), it may carry over that amount for issuance in subsequent fiscal years.

CHAPTER 52**H. B. 167**

Passed February 26, 2016

Approved March 18, 2016

Effective October 1, 2016

**UTAH LAW ENFORCEMENT MEMORIAL
SPECIAL GROUP LICENSE PLATE**Chief Sponsor: Lee B. Perry
Senate Sponsor: Karen Mayne**LONG TITLE****General Description:**

This bill authorizes a Utah Law Enforcement Memorial Support special group license plate.

Highlighted Provisions:

This bill:

- ▶ creates a Utah Law Enforcement Memorial Support special group license plate for certain organizations that support the operation and maintenance of the Utah Law Enforcement Memorial;
- ▶ requires applicants for a new plate to make an annual donation to the Utah Law Enforcement Memorial Support Restricted Account;
- ▶ creates the Utah Law Enforcement Memorial Support Restricted Account;
- ▶ requires the Commissioner of Public Safety to distribute funds in the Utah Law Enforcement Memorial Support Restricted Account to certain organizations that support the operation and maintenance of the Utah Law Enforcement Memorial; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

41-1a-418, as last amended by Laws of Utah 2014, Chapter 37

41-1a-422, as last amended by Laws of Utah 2014, Chapter 37

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

ENACTS:

53-1-120, Utah Code Annotated 1953

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

Section 1. Section 41-1a-418 is amended to read:**41-1a-418. Authorized special group license plates.**

(1) The division shall only issue special group license plates in accordance with this section through Section 41-1a-422 to a person who is specified under this section within the categories listed as follows:

(a) disability special group license plates issued in accordance with Section 41-1a-420;

(b) honor special group license plates, as in a war hero, which plates are issued for a:

(i) survivor of the Japanese attack on Pearl Harbor;

(ii) former prisoner of war;

(iii) recipient of a Purple Heart;

(iv) disabled veteran; or

(v) recipient of a gold star award issued by the United States Secretary of Defense;

(c) unique vehicle type special group license plates, as for historical, collectors value, or other unique vehicle type, which plates are issued for:

(i) a special interest vehicle;

(ii) a vintage vehicle;

(iii) a farm truck; or

(iv) (A) until Subsection (1)(c)(iv)(B) or (4) applies, a vehicle powered by clean fuel as defined in Section 59-13-102; or

(B) beginning on the effective date of rules made by the Department of Transportation authorized under Subsection 41-6a-702(5)(b) and until Subsection (4) applies, a vehicle powered by clean fuel that meets the standards established by the Department of Transportation in rules authorized under Subsection 41-6a-702(5)(b);

(d) recognition special group license plates, which plates are issued for:

(i) a current member of the Legislature;

(ii) a current member of the United States Congress;

(iii) a current member of the National Guard;

(iv) a licensed amateur radio operator;

(v) a currently employed, volunteer, or retired firefighter until June 30, 2009;

(vi) an emergency medical technician;

(vii) a current member of a search and rescue team;

(viii) a current honorary consulate designated by the United States Department of State; or

(ix) an individual that wants to recognize and honor American freedoms and values through an In God We Trust license plate;

(e) support special group license plates, as for a contributor to an institution or cause, which plates are issued for a contributor to:

(i) an institution's scholastic scholarship fund;

(ii) the Division of Wildlife Resources;

(iii) the Department of Veterans' and Military Affairs;

(iv) the Division of Parks and Recreation;

(v) the Department of Agriculture and Food;

(vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;

(vii) the Boy Scouts of America;

(viii) spay and neuter programs through No More Homeless Pets in Utah;

(ix) the Boys and Girls Clubs of America;

(x) Utah public education;

(xi) programs that provide support to organizations that create affordable housing for those in severe need through the Division of Real Estate;

(xii) the Department of Public Safety;

(xiii) programs that support Zion National Park;

(xiv) beginning on July 1, 2009, programs that provide support to firefighter organizations;

(xv) programs that promote bicycle operation and safety awareness;

(xvi) programs that conduct or support cancer research;

(xvii) programs that create or support autism awareness;

(xviii) programs that create or support humanitarian service and educational and cultural exchanges;

(xix) programs that conduct or support prostate cancer awareness, screening, detection, or prevention;

(xx) programs that support and promote adoptions;

(xxi) programs that create or support civil rights education and awareness; [øø]

(xxii) programs that support issues affecting women and children through an organization affiliated with a national professional men's basketball organization[-]; or

(xxiii) programs that support the operation and maintenance of the Utah Law Enforcement Memorial.

(2) (a) The division may not issue a new type of special group license plate unless the division receives:

(i) (A) a private donation for the start-up fee established under Section 63J-1-504 for the production and administrative costs of providing the new special group license plates; or

(B) a legislative appropriation for the start-up fee provided under Subsection (2)(a)(i)(A); and

(ii) beginning on January 1, 2012, and for the issuance of a support special group license plate authorized in Section 41-1a-422, at least 500 completed applications for the new type of support special group license plate to be issued with all fees required under this part for the support special group license plate issuance paid by each applicant.

(b) (i) Beginning on January 1, 2012, each participating organization shall collect and hold applications for support special group license plates authorized in Section 41-1a-422 on or after January 1, 2012, until it has received at least 500 applications.

(ii) Once a participating organization has received at least 500 applications, it shall submit the applications, along with the necessary fees, to the division for the division to begin working on the design and issuance of the new type of support special group license plate to be issued.

(iii) Beginning on January 1, 2012, the division may not work on the issuance or design of a new support special group license plate authorized in Section 41-1a-422 until the applications and fees required under this Subsection (2) have been received by the division.

(iv) The division shall begin issuance of a new support special group license plate authorized in Section 41-1a-422 on or after January 1, 2012, no later than six months after receiving the applications and fees required under this Subsection (2).

(c) (i) Beginning on July 1, 2009, the division may not renew a motor vehicle registration of a motor vehicle that has been issued a firefighter recognition special group license plate unless the applicant is a contributor as defined in Subsection 41-1a-422(1)(a)(ii)(D) to the Firefighter Support Restricted Account.

(ii) A registered owner of a vehicle that has been issued a firefighter recognition special group license plate prior to July 1, 2009, upon renewal of the owner's motor vehicle registration shall:

(A) be a contributor to the Firefighter Support Restricted Account as required under Subsection (2)(c)(i); or

(B) replace the firefighter recognition special group license plate with a new license plate.

(3) (a) Beginning on July 1, 2011, if a support special group license plate type authorized in Section 41-1a-422 and issued on or after January 1, 2012, has fewer than 500 license plates issued each year for a three consecutive year time period that begins on July 1, the division may not issue that type of support special group license plate to a new applicant beginning on January 1 of the following calendar year after the three consecutive year time period for which that type of support special group license plate has fewer than 500 license plates issued each year.

(b) If the division is required to stop the issuance of a type of support special group license plate authorized in Section 41-1a-422 under this Subsection (3), the division shall report to the Transportation Interim Committee that the division will stop the issuance on or before the November interim meeting of the year in which the commission determines to stop the issuance of that type of support special group license plate.

(4) Beginning on July 1, 2011, the division may not issue to an applicant a unique vehicle type

license plate for a vehicle powered by clean fuel under Subsection (1)(c)(iv).

Section 2. Section 41-1a-422 is amended to read:

41-1a-422. Support special group license plates -- Contributor -- Voluntary contribution collection procedures.

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), “contributor” means a person who has donated or in whose name at least \$25 has been donated to:

(A) a scholastic scholarship fund of a single named institution;

(B) the Department of Veterans’ and Military Affairs for veterans’ programs;

(C) the Division of Wildlife Resources for the Wildlife Resources Account created in Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;

(E) the Division of Parks and Recreation for the benefit of snowmobile programs;

(F) the Guardian Ad Litem Services Account and the Children’s Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;

(J) the Utah Association of Public School Foundations to support public education;

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to assist people who have severe housing needs;

(L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118 to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees;

(M) the Division of Parks and Recreation for distribution to organizations that provide support for Zion National Park;

(N) the Firefighter Support Restricted Account created in Section 53-7-109 to support firefighter organizations;

(O) the Share the Road Bicycle Support Restricted Account created in Section 72-2-127 to support bicycle operation and safety awareness programs;

(P) the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(Q) Autism Awareness Restricted Account created in Section 53A-1-304 to support autism awareness programs;

(R) Humanitarian Service and Educational and Cultural Exchange Restricted Account created in Section 9-17-102 to support humanitarian service and educational and cultural programs;

(S) Prostate Cancer Support Restricted Account created in Section 26-21a-303 for programs that conduct or support prostate cancer awareness, screening, detection, or prevention;

(T) the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608 to support programs that promote adoption;

(U) the Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102; ~~or~~

(V) the National Professional Men’s Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202~~[-]~~; or

(W) the Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

(ii) (A) For a veterans’ special group license plate, “contributor” means a person who has donated or in whose name at least a \$25 donation at the time of application and \$10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, “contributor” means a person who:

(I) has donated or in whose name at least \$30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(C) For an Honoring Heroes special group license plate, “contributor” means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(D) For a firefighter support special group license plate, “contributor” means a person who:

(I) has donated or in whose name at least \$15 has been donated at the time of application and annually after the time of application; and

(II) is a currently employed, volunteer, or retired firefighter.

(E) For a cancer research special group license plate, “contributor” means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually after the time of application.

(F) For a Martin Luther King, Jr. Civil Rights Support special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(G) For a Utah Law Enforcement Memorial Support special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(b) "Institution" means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

- (i) the name of the contributor;
- (ii) the institution to which a donation was made;
- (iii) the date of the donation; and
- (iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the money collected by the institutions from contributors is used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63J-1-504 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) An applicant for original or renewal support special group license plates under this section must be a contributor to the sponsoring organization associated with the license plate.

(b) This contribution shall be:

- (i) unless collected by the named institution under Subsection (2), collected by the division;
- (ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee;

(iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates; and

(iv) for a firefighter special group license plate, deposited into the appropriate account less:

(A) the costs of reordering firefighter special group license plate decals; and

(B) the costs of replacing recognition special group license plates with new license plates under Subsection 41-1a-1211(13).

(c) The donation described in Subsection (1)(a) must be made in the 12 months prior to registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

- (i) snowmobile license plates; or
- (ii) conservation license plates.

(4) Veterans' license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

Section 3. Section 53-1-120 is enacted to read:

53-1-120. Utah Law Enforcement Memorial Support Restricted Account -- Creation -- Funding -- Distribution of funds by the commissioner.

(1) There is created in the General Fund a restricted account known as the Utah Law Enforcement Memorial Support Restricted Account.

(2) The account shall be funded by:

(a) contributions deposited into the Utah Law Enforcement Memorial Support Restricted Account in accordance with Section 41-1a-422;

(b) private contributions; and

(c) donations or grants from public or private entities.

(3) Subject to appropriations by the Legislature, money in the account may only be used by the commissioner for purposes described in this section.

(4) Upon appropriation, the commissioner shall distribute the funds to one or more charitable organizations that:

(a) qualify as being tax exempt under Section 501(c)(3) of the Internal Revenue Code; and

(b) have as a primary part of their mission to support the operation and maintenance of the Utah Law Enforcement Memorial.

(5) The commissioner may only consider proposals that are:

(a) proposed by a charitable organization described in Subsection (4); and

(b) designed to support the operation and maintenance of the Utah Law Enforcement Memorial.

(6) (a) An organization described in Subsection (4) may apply to the commissioner to receive a distribution in accordance with Subsection (4).

(b) An organization that receives a distribution from the commissioner in accordance with Subsection (4) shall expend the distribution only to support the operation and maintenance of the Utah Law Enforcement Memorial.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall make rules providing procedures for an organization to apply to receive funds under this section.

Section 4. Section 63J-1-602.3 is amended to read:

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

(1) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

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

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

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

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

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

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

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

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

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

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

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

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

[(13)] (14) A certain portion of money collected for administrative costs under the School Institutional

Trust Lands Management Act, as provided under Section 53C-3-202.

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

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

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

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

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

Section 5. Effective date.

This bill takes effect on October 1, 2016.

CHAPTER 53**H. B. 198**

Passed February 26, 2016

Approved March 18, 2016

Effective May 10, 2016

BALLOT PROPOSITION AMENDMENTS

Chief Sponsor: Justin L. Fawson
 Senate Sponsor: Margaret Dayton

LONG TITLE**General Description:**

This bill amends provisions related to ballot propositions.

Highlighted Provisions:

This bill:

- ▶ addresses requirements relating to preparing and publishing arguments for or against a ballot proposition;
- ▶ describes the duties of an election officer in relation to a ballot proposition and arguments for or against a ballot proposition;
- ▶ modifies deadlines relating to ballot propositions, arguments, and public meeting requirements; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-7-101, as last amended by Laws of Utah 2014, Chapters 364 and 396

20A-7-402, as last amended by Laws of Utah 2012, Chapters 334 and 369

59-1-1604, as enacted by Laws of Utah 2014, Chapter 356

59-1-1605, as enacted by Laws of Utah 2014, Chapter 356

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

Section 1. Section 20A-7-101 is amended to read:**20A-7-101. Definitions.**

As used in this chapter:

(1) "Budget officer" means:

(a) for a county, the person designated as budget officer in Section 17-19a-203;

(b) for a city, the person designated as budget officer in Subsection 10-6-106(5); or

(c) for a town, the town council.

(2) "Certified" means that the county clerk has acknowledged a signature as being the signature of a registered voter.

(3) "Circulation" means the process of submitting an initiative or referendum petition to legal voters for their signature.

(4) "Eligible voter" means a legal voter who resides in the jurisdiction of the county, city, or town that is holding an election on a ballot proposition.

(4)(5) "Final fiscal impact statement" means a financial statement prepared after voters approve an initiative that contains the information required by Subsection 20A-7-202.5(2) or 20A-7-502.5(2).

(5)(6) "Initial fiscal impact estimate" means:

(a) a financial statement prepared under Section 20A-7-202.5 after the filing of an application for an initiative petition; or

(b) a financial and legal statement prepared under Section 20A-7-502.5 or 20A-7-602.5 for an initiative or referendum petition.

(6)(7) "Initiative" means a new law proposed for adoption by the public as provided in this chapter.

(7)(8) "Initiative packet" means a copy of the initiative petition, a copy of the proposed law, and the signature sheets, all of which have been bound together as a unit.

(8)(9) "Legal signatures" means the number of signatures of legal voters that:

(a) meet the numerical requirements of this chapter; and

(b) have been certified and verified as provided in this chapter.

(9)(10) "Legal voter" means a person who:

(a) is registered to vote; or

(b) becomes registered to vote before the county clerk certifies the signatures on an initiative or referendum petition.

(10)(11) "Local attorney" means the county attorney, city attorney, or town attorney in whose jurisdiction a local initiative or referendum petition is circulated.

(11)(12) "Local clerk" means the county clerk, city recorder, or town clerk in whose jurisdiction a local initiative or referendum petition is circulated.

(12)(13) (a) "Local law" includes an ordinance, resolution, master plan, and any comprehensive zoning regulation adopted by ordinance or resolution.

(b) "Local law" does not include an individual property zoning decision.

(13)(14) "Local legislative body" means the legislative body of a county, city, or town.

(14)(15) "Local obligation law" means a local law passed by the local legislative body regarding a bond that was approved by a majority of qualified voters in an election.

(15)(16) "Local tax law" means a local law, passed by a political subdivision with an annual or biannual calendar fiscal year, that increases a tax or imposes a new tax.

(16)(17) "Measure" means a proposed constitutional amendment, an initiative, or referendum.

[47] (18) "Referendum" means a process by which a law passed by the Legislature or by a local legislative body is submitted or referred to the voters for their approval or rejection.

[48] (19) "Referendum packet" means a copy of the referendum petition, a copy of the law being submitted or referred to the voters for their approval or rejection, and the signature sheets, all of which have been bound together as a unit.

[49] (20) (a) "Signature" means a holographic signature.

(b) "Signature" does not mean an electronic signature.

[20] (21) "Signature sheets" means sheets in the form required by this chapter that are used to collect signatures in support of an initiative or referendum.

[21] (22) "Sponsors" means the legal voters who support the initiative or referendum and who sign the application for petition copies.

[22] (23) "Sufficient" means that the signatures submitted in support of an initiative or referendum petition have been certified and verified as required by this chapter.

[23] (24) "Verified" means acknowledged by the person circulating the petition as required in Sections 20A-7-205 and 20A-7-305.

Section 2. Section 20A-7-402 is amended to read:

20A-7-402. Local voter information pamphlet -- Contents -- Limitations -- Preparation -- Statement on front cover.

(1) The county or municipality that is subject to a ballot proposition shall prepare a local voter information pamphlet that meets the requirements of this part.

(2) (a) The arguments for and or against a ballot proposition shall conform to the requirements of this section.

[4] (b) To prepare arguments an argument for or against a ballot proposition, a person an eligible voter shall file a request with the local legislative body election officer at least 65 days before the election at which the ballot proposition is to be voted upon on.

[ii] (c) If more than one person eligible voter requests the opportunity to prepare arguments an argument for or against a ballot proposition, the governing body election officer shall make the final designation according to the following criteria:

[A] (i) sponsors have priority in preparing an argument regarding a ballot proposition; and

[B] (ii) members of the local legislative body have priority over others.

[iii] [A] (d) (i) Except as provided by in Subsection (2)[(a)(iv)](e), a sponsor of a ballot proposition may prepare an argument in favor of the ballot proposition.

[B] (ii) Except as provided by in Subsection (2)[(a)(iv)](e), a person and subject to Subsection (2)(c), an eligible voter opposed to the ballot proposition who submits a request under Subsection (2)[(a)(i)](b) may prepare an argument against the ballot proposition.

[iv] [A] (e) (i) For a referendum, a person subject to Subsection (2)(c), an eligible voter who is in favor of a law that is referred to the voters and who submits a request under Subsection (2)[(a)(i)](b) may prepare an argument for adoption of the law.

[B] (ii) The sponsors of a referendum may prepare an argument against the adoption of a law that is referred to the voters.

~~(v) The arguments may not:~~

(f) An eligible voter who submits an argument under this section shall:

[A] (i) ensure that the argument does not exceed 500 words in length; ~~or~~

[B] (ii) ensure that the argument does not list more than five names as sponsors~~;~~;

(iii) submit the argument to the election officer no later than 60 days before the election day on which the ballot proposition will be submitted to the voters; and

(iv) include with the argument the eligible voter's name, residential address, postal address, email address if available, and phone number.

[vi] The arguments supporting and opposing any county or municipal ballot proposition shall be filed with the local clerk not less than 50 days before the election at which they are to be voted upon.]

(g) An election officer shall refuse to accept and publish an argument that is submitted after the deadline described in Subsection (2)(f)(iii).

(3) (a) An election officer who timely receives the arguments in favor of and against a ballot proposition shall, within one business day after the day on which the election office receives both arguments, send, via mail or email:

(i) a copy of the argument in favor of the ballot proposition to the eligible voter who submitted the argument against the ballot proposition; and

(ii) a copy of the argument against the ballot proposition to the eligible voter who submitted the argument in favor of the ballot proposition.

(b) The eligible voter who submitted a timely argument in favor of the ballot proposition:

(i) may submit to the election officer a rebuttal argument of the argument against the ballot proposition;

(ii) shall ensure that the rebuttal argument does not exceed 250 words in length; and

(iii) shall submit the rebuttal argument no later than 45 days before the election day on which the ballot proposition will be submitted to the voters.

(c) The eligible voter who submitted a timely argument against the ballot proposition:

(i) may submit to the election officer a rebuttal argument of the argument in favor of the ballot proposition;

(ii) shall ensure that the rebuttal argument does not exceed 250 words in length; and

(iii) shall submit the rebuttal argument no later than 45 days before the election day on which the ballot proposition will be submitted to the voters.

(d) An election officer shall refuse to accept and publish a rebuttal argument that is submitted after the deadline described in Subsection (3)(b)(iii) or (3)(c)(iii).

(4) (a) Except as provided in Subsection (4)(b):

(i) an eligible voter may not modify an argument or rebuttal argument after the eligible voter submits the argument or rebuttal argument to the election officer; and

(ii) a person other than the eligible voter described in Subsection (4)(a)(i) may not modify an argument or rebuttal argument.

(b) The election officer, and the eligible voter who submits an argument or rebuttal argument, may jointly agree to modify an argument or rebuttal argument in order to:

(i) correct factual, grammatical, or spelling errors; and

(ii) reduce the number of words to come into compliance with the requirements of this section.

(c) An election officer shall refuse to accept and publish an argument or rebuttal argument if the eligible voter who submits the argument or rebuttal argument fails to negotiate, in good faith, to modify the argument or rebuttal argument in accordance with Subsection (4)(b).

(5) An election officer may designate another eligible voter to take the place of an eligible voter described in this section if the original eligible voter is, due to injury, illness, death, or another circumstance, unable to continue to fulfill the duties of an eligible voter described in this section.

[4b] (6) The local voter information pamphlet shall include a copy of the initial fiscal impact estimate prepared for each initiative under Section 20A-7-502.5.

[43] (7) (a) In preparing the local voter information pamphlet, the [local legislative body] election officer shall:

(i) ensure that the arguments are printed on the same sheet of paper upon which the ballot proposition is also printed;

(ii) ensure that the following statement is printed on the front cover or the heading of the first page of the printed arguments:

“The arguments for or against a ballot proposition are the opinions of the authors.”;

(iii) pay for the printing and binding of the local voter information pamphlet; and

(iv) [ensure that the local clerk distributes] distribute either the pamphlets or the notice described in Subsection [43] (7)(c) either by mail or carrier not less than 15 days before, but not more than 45 days before, the election at which the ballot propositions are to be voted upon.

(b) (i) If the proposed measure exceeds 500 words in length, the [local legislative body may direct the local clerk to] election officer may summarize the measure in 500 words or less.

(ii) The summary shall state where a complete copy of the ballot proposition is available for public review.

(c) (i) The [local legislative body] election officer may distribute a notice printed on a postage prepaid, preaddressed return form that a person may use to request delivery of a voter information pamphlet by mail.

(ii) The notice described in Subsection [43] (7)(c)(i) shall include:

(A) the address of the Statewide Electronic Voter Information Website authorized by Section 20A-7-801; and

(B) the phone number a voter may call to request delivery of a voter information pamphlet by mail or carrier.

Section 3. Section 59-1-1604 is amended to read:

59-1-1604. Arguments for and against a ballot proposition -- Rebuttal arguments -- Posting arguments.

(1) The arguments for or against a ballot proposition shall conform to the requirements of this section.

[43] (2) (a) (i) The governing body of a taxing entity shall submit to the election officer an argument in favor of a ballot proposition.

(ii) To prepare an argument for or against a ballot proposition, an eligible voter shall file a request with the election officer at least 65 days before the election at which the ballot proposition is to be voted on.

(b) [(i) Any eligible voter may submit to the election officer an argument against the ballot proposition. (ii) If two or more eligible voters wish to submit an argument [under Subsection (1)(b)(i)] for, or an argument against, a ballot proposition, the election officer shall designate one of the eligible voters to submit the argument [described in Subsection (1)(b)(i)].

(c) (i) [Subject to Subsection (1)(c)(ii), the election officer shall ensure that each argument submitted under this Subsection (1):] An eligible voter who submits an argument under this section shall:

(A) ensure that the argument does not exceed 500 words in length; [and]

~~(B) [is submitted not] submit the argument to the election officer no less than 60 days before the election officer's determination date[-]; and~~

~~(C) include with the argument the eligible voter's name, residential address, postal address, email address if available, and phone number.~~

~~[(ii) The election officer shall ensure that each argument submitted under Subsection (1)(b)(ii) is submitted not less than 50 days before the election officer's determination date.]~~

~~(i) An election officer shall refuse to accept and publish an argument that is submitted after the deadline described in Subsection (2)(c)(i)(B).~~

~~[(2) (3) (a) [When the election officer has received] An election officer who timely receives the arguments in favor of and against a ballot proposition[-, the election officer shall immediately] shall, within one business day after the day on which the election officer receives both arguments, send, via email or mail:~~

~~(i) a copy of the argument in favor of the ballot proposition to the [author of] eligible voter who submitted the argument against the ballot proposition; and~~

~~(ii) a copy of the argument against the ballot proposition to the [author of] eligible voter who submitted the argument in favor of the ballot proposition.~~

~~[(b) (i) The author of the argument in favor of the ballot proposition may submit to the election officer a rebuttal argument directed to the argument against the ballot proposition.]~~

~~[(ii) The author of the argument against the ballot proposition may submit to the election officer a rebuttal argument directed to the argument in favor of the ballot proposition.]~~

~~[(c) The election officer shall ensure that each rebuttal argument submitted under Subsection (2)(b):]~~

~~[(i) does not exceed 250 words in length; and]~~

~~[(ii) is submitted not less than 40 days before the election officer's determination date.]~~

~~[(d) (i) An author of an argument described in Subsection (1) may designate a person to submit a rebuttal argument described in this Subsection (2).]~~

~~[(ii) A person designated in Subsection (2)(d)(i) shall be an eligible voter.]~~

~~[(3) A person submitting an argument under this section shall provide the election officer with:]~~

~~[(a) the person's name and address; and]~~

~~[(b) an email address by which the person may be contacted.]~~

~~(b) The eligible voter who submitted a timely argument in favor of the ballot proposition:~~

~~(i) may submit to the election officer a rebuttal argument of the argument against the ballot proposition;~~

~~(ii) shall ensure that the rebuttal argument does not exceed 250 words in length; and~~

~~(iii) shall submit the rebuttal argument no later than 45 days before the election day on which the ballot proposition will be submitted to the voters.~~

~~(c) The eligible voter who submitted a timely argument against the ballot proposition:~~

~~(i) may submit to the election officer a rebuttal argument of the argument in favor of the ballot proposition;~~

~~(ii) shall ensure that the rebuttal argument does not exceed 250 words in length; and~~

~~(iii) shall submit the rebuttal argument no later than 45 days before the election day on which the ballot proposition will be submitted to the voters.~~

~~(d) An election officer shall refuse to accept and publish a rebuttal argument that is submitted after the deadline described in Subsection (3)(b)(iii) or (3)(c)(iii).~~

~~(4) (a) Except as provided in Subsection [(4)(e), an author may not amend or change] (4)(b):~~

~~(i) an eligible voter may not modify an argument or rebuttal argument after the eligible voter submits the argument or rebuttal argument [is submitted] to the election officer[-]; and~~

~~[(b) Except as provided in Subsection (4)(e), the election officer may not alter an argument or rebuttal argument in any way.]~~

~~(ii) a person other than the eligible voter described in Subsection (4)(a)(i) may not modify an argument or rebuttal argument.~~

~~[(e) (b) The election officer, and [an author of an argument] the eligible voter who submits an argument or rebuttal argument, may jointly agree to modify an argument or a rebuttal argument [after the argument or rebuttal argument is submitted if the election officer and the author jointly agree that changes to the argument or rebuttal argument must be made to correct spelling, factual, or grammatical errors.] in order to:~~

~~(i) correct factual, grammatical, and spelling errors; and~~

~~(ii) reduce the number of words to come into compliance with the requirements of this section.~~

~~(c) An election officer shall refuse to accept and publish an argument or rebuttal argument if the eligible voter who submits the argument or rebuttal argument fails to negotiate, in good faith, to modify the argument or rebuttal argument in accordance with Subsection (4)(b).~~

~~(5) An election officer may designate another eligible voter to take the place of an eligible voter described in this section if the original eligible voter is, due to injury, illness, death, or another circumstance, unable to continue to fulfill the duties of an eligible voter described in this section.~~

~~[(5) The governing body]~~

(6) The election officer of a taxing entity shall:

(a) post the arguments and rebuttal arguments on the Statewide Electronic Voter Information Website as described in Section 20A-7-801 for 30 consecutive days before the determination date;

(b) if a taxing entity has a public website, post all arguments and rebuttal arguments in a prominent place on the taxing entity's public website for 30 consecutive days before the determination date; and

(c) if the taxing entity publishes a newsletter or other periodical, post all arguments and rebuttal arguments in the next scheduled newsletter or other periodical published before the determination date.

~~[(6) For purposes of]~~ (7) When posting an argument and rebuttal argument under Subsection ~~[(5), the governing body]~~ (6), the election officer of a taxing entity shall ensure that:

(a) a rebuttal argument is posted in the same manner as a direct argument;

(b) each rebuttal argument follows immediately after the direct argument that it seeks to rebut; and

(c) information regarding the public meeting required by Section 59-1-1605 follows immediately after the posted arguments, including the date, time, and place of the public meeting.

Section 4. Section 59-1-1605 is amended to read:

59-1-1605. Public meeting requirements.

(1) The governing body of a taxing entity shall conduct a public meeting in accordance with this section no more than ~~[14]~~ 45, but at least four, days before the determination date.

(2) The governing body of the taxing entity shall allow equal time, within a reasonable limit, for a presentation of the arguments:

(a) in favor of the ballot proposition; and

(b) against the ballot proposition.

(3) (a) A governing body of a taxing entity conducting a public meeting described in Subsection (1) shall provide an interested party desiring to be heard an opportunity to present oral testimony within reasonable time limits.

(b) A taxing entity shall hold a public meeting described in this section beginning at or after 6 p.m.

(4) (a) A taxing entity shall provide a digital audio recording of a public meeting described in Subsection (1) no later than three days after the date of the public meeting.

(b) For purposes of providing the digital audio recording described in Subsection (4)(a), a governing body of a taxing entity shall:

(i) if a taxing entity has a public website, provide access to the digital audio recording described in Subsection (4)(a) on the taxing entity's public website; or

(ii) provide a digital copy of the recording described in Subsection (4)(a) to members of the public at the taxing entity's primary government office building.

CHAPTER 54**H. B. 222**

Passed February 23, 2016

Approved March 18, 2016

Effective May 10, 2016

NONUSE APPLICATION AMENDMENTS

Chief Sponsor: Timothy D. Hawkes

Senate Sponsor: Margaret Dayton

LONG TITLE**General Description:**

This bill deals with nonuse applications.

Highlighted Provisions:

This bill:

- ▶ states that approval of one or more nonuse applications, or successive overlapping nonuse applications, does not protect a water right that is already subject to forfeiture, nor does the approval of one or more nonuse applications constitute beneficial use of water; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

73-1-4, as last amended by Laws of Utah 2015, Chapters 249 and 282

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 73-1-4 is amended to read:****73-1-4. Reversion to the public by abandonment or forfeiture for nonuse within seven years -- Nonuse application.**

- (1) As used in this section:
- (a) "Public entity" means:
- (i) the United States;
 - (ii) an agency of the United States;
 - (iii) the state;
 - (iv) a state agency;
 - (v) a political subdivision of the state; or
 - (vi) an agency of a political subdivision of the state.
- (b) "Public water supplier" means an entity that:
- (i) supplies water, directly or indirectly, to the public for municipal, domestic, or industrial use; and
 - (ii) is:
 - (A) a public entity;
 - (B) a water corporation, as defined in Section 54-2-1, that is regulated by the Public Service Commission;

(C) a community water system:

(I) that:

(Aa) supplies water to at least 100 service connections used by year-round residents; or

(Bb) regularly serves at least 200 year-round residents; and

(II) whose voting members:

(Aa) own a share in the community water system;

(Bb) receive water from the community water system in proportion to the member's share in the community water system; and

(Cc) pay the rate set by the community water system based on the water the member receives; or

(D) a water users association:

(I) in which one or more public entities own at least 70% of the outstanding shares; and

(II) that is a local sponsor of a water project constructed by the United States Bureau of Reclamation.

(c) "Shareholder" means the same as that term is defined in Section 73-3-3.5.

(d) "Water company" means the same as that term is defined in Section 73-3-3.5.

(e) "Water supply entity" means an entity that supplies water as a utility service or for irrigation purposes and is also:

(i) a municipality, water conservancy district, metropolitan water district, irrigation district, or other public agency;

(ii) a water company regulated by the Public Service Commission; or

(iii) any other owner of a community water system.

(2) (a) Except as provided in Subsection (2)(b) or (e), when an appropriator or the appropriator's successor in interest abandons or ceases to use all or a portion of a water right for a period of seven years, the water right or the unused portion of that water right is subject to forfeiture in accordance with Subsection (2)(c).

(b) (i) An appropriator or the appropriator's successor in interest may file an application for nonuse with the state engineer.

(ii) If a person described in Subsection (2)(b)(i) files and receives approval on a nonuse application, nonuse of the water right subject to the application is not counted toward a seven-year period described in Subsection (2)(a) during the period of time beginning on the day on which the person files the application and ending on the day on which the application expires without being renewed.

(iii) If a person described in Subsection (2)(b)(i) files and receives approval on successive, overlapping nonuse applications, nonuse of the water right subject to the applications is not counted toward a seven-year period described in

Subsection (2)(a) during the period of time beginning on the day on which the person files the first application and ending on the day on which the last application expires without being renewed.

(iv) Approval of [a] one or more nonuse [application] applications, or successive overlapping nonuse applications, does not protect a water right that is already subject to forfeiture under Subsection (2)(a) for full or partial nonuse of the water right, nor does the approval of one or more nonuse applications constitute beneficial use of the water for purposes of calculating the 15-year period in Subsection (2)(c)(i).

(v) A nonuse application may be filed on all or a portion of the water right, including water rights held by a water company.

(vi) After giving written notice to the water company, a shareholder may file a nonuse application with the state engineer on the water represented by the stock.

(c) (i) Except as provided in Subsection (2)(c)(ii), a water right or a portion of the water right may not be forfeited unless a judicial action to declare the right forfeited is commenced within 15 years from the end of the latest period of nonuse of at least seven years.

(ii) (A) The state engineer, in a proposed determination of rights prepared in accordance with Section 73-4-11, may not assert that a water right was forfeited unless a period of nonuse of seven years ends or occurs during the 15 years immediately preceding the day on which the state engineer files the proposed determination of rights with the court.

(B) After the day on which a proposed determination of rights is filed with the court a person may not assert that a water right subject to that determination was forfeited during the 15-year period described in Subsection (2)(c)(ii)(A), unless the state engineer asserts forfeiture in the proposed determination, or a person makes, in accordance with Section 73-4-11, an objection to the proposed determination that asserts forfeiture.

(iii) A water right, found to be valid in a decree entered in an action for general determination of rights under Chapter 4, Determination of Water Rights, is subject to a claim of forfeiture based on a seven-year period of nonuse that begins after the day on which the state engineer filed the related proposed determination of rights with the court, unless the decree provides otherwise.

(iv) If in a judicial action a court declares a water right forfeited, on the date on which the water right is forfeited:

(A) the right to use the water reverts to the public; and

(B) the water made available by the forfeiture:

(I) first, satisfies other water rights in the hydrologic system in order of priority date; and

(II) second, may be appropriated as provided in this title.

(d) Except as provided in Subsection (2)(e), this section applies whether the unused or abandoned water or a portion of the water is:

(i) permitted to run to waste; or

(ii) used by others without right with the knowledge of the water right holder.

(e) This section does not apply to:

(i) the use of water according to a lease or other agreement with the appropriator or the appropriator's successor in interest;

(ii) a water right if its place of use is contracted under an approved state agreement or federal conservation following program;

(iii) those periods of time when a surface water or groundwater source fails to yield sufficient water to satisfy the water right;

(iv) a water right when water is unavailable because of the water right's priority date;

(v) a water right to store water in a surface reservoir or an aquifer, in accordance with Title 73, Chapter 3b, Groundwater Recharge and Recovery Act, if:

(A) the water is stored for present or future use; or

(B) storage is limited by a safety, regulatory, or engineering restraint that the appropriator or the appropriator's successor in interest cannot reasonably correct;

(vi) a water right if a water user has beneficially used substantially all of the water right within a seven-year period, provided that this exemption does not apply to the adjudication of a water right in a general determination of water rights under Chapter 4, Determination of Water Rights;

(vii) except as provided by Subsection (2)(g), a water right:

(A) (I) owned by a public water supplier;

(II) represented by a public water supplier's ownership interest in a water company; or

(III) to which a public water supplier owns the right of use; and

(B) conserved or held for the reasonable future water requirement of the public, which is determined according to Subsection (2)(f);

(viii) a supplemental water right during a period of time when another water right available to the appropriator or the appropriator's successor in interest provides sufficient water so as to not require use of the supplemental water right; or

(ix) a period of nonuse of a water right during the time the water right is subject to an approved change application where the applicant is diligently pursuing certification.

(f) (i) The reasonable future water requirement of the public is the amount of water needed in the next 40 years by:

(A) the persons within the public water supplier's reasonably anticipated service area based on reasonably anticipated population growth; or

(B) other water use demand.

(ii) For purposes of Subsection (2)(f)(i), a community water system's reasonably anticipated service area:

(A) is the area served by the community water system's distribution facilities; and

(B) expands as the community water system expands the distribution facilities in accordance with Title 19, Chapter 4, Safe Drinking Water Act.

(g) For a water right acquired by a public water supplier on or after May 5, 2008, Subsection (2)(e)(vii) applies if:

(i) the public water supplier submits a change application under Section 73-3-3; and

(ii) the state engineer approves the change application.

(3) (a) The state engineer shall furnish a nonuse application form requiring the following information:

(i) the name and address of the applicant;

(ii) a description of the water right or a portion of the water right, including the point of diversion, place of use, and priority;

(iii) the quantity of water;

(iv) the period of use;

(v) the extension of time applied for;

(vi) a statement of the reason for the nonuse of the water; and

(vii) any other information that the state engineer requires.

(b) (i) Upon receipt of the application, the state engineer shall publish a notice of the application once a week for two successive weeks:

(A) in a newspaper of general circulation in the county in which the source of the water supply is located and where the water is to be used; and

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

(ii) The notice shall:

(A) state that an application has been made; and

(B) specify where the interested party may obtain additional information relating to the application.

(c) Any interested person may file a written protest with the state engineer against the granting of the application:

(i) within 20 days after the notice is published, if the adjudicative proceeding is informal; and

(ii) within 30 days after the notice is published, if the adjudicative proceeding is formal.

(d) In any proceedings to determine whether the nonuse application should be approved or rejected,

the state engineer shall follow the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

(e) After further investigation, the state engineer may approve or reject the application.

(4) (a) The state engineer shall grant a nonuse application on all or a portion of a water right for a period of time not exceeding seven years if the applicant shows a reasonable cause for nonuse.

(b) A reasonable cause for nonuse includes:

(i) a demonstrable financial hardship or economic depression;

(ii) physical causes or changes that render use beyond the reasonable control of the water right owner so long as the water right owner acts with reasonable diligence to resume or restore the use;

(iii) the initiation of water conservation or efficiency practices, or the operation of a groundwater recharge recovery program approved by the state engineer;

(iv) operation of legal proceedings;

(v) the holding of a water right or stock in a mutual water company without use by any water supply entity to meet the reasonable future requirements of the public;

(vi) situations where, in the opinion of the state engineer, the nonuse would assist in implementing an existing, approved water management plan; or

(vii) the loss of capacity caused by deterioration of the water supply or delivery equipment if the applicant submits, with the application, a specific plan to resume full use of the water right by replacing, restoring, or improving the equipment.

(5) (a) Sixty days before the expiration of a nonuse application, the state engineer shall notify the applicant by mail or by any form of electronic communication through which receipt is verifiable, of the date when the nonuse application will expire.

(b) An applicant may file a subsequent nonuse application in accordance with this section.

CHAPTER 55**H. B. 233**

Passed March 9, 2016
 Approved March 18, 2016
 Effective May 10, 2016

**TAX CREDIT FOR MILITARY
 SURVIVOR BENEFITS**

Chief Sponsor: Paul Ray
 Senate Sponsor: Peter C. Knudson

LONG TITLE**General Description:**

This bill creates an individual income tax credit for certain military survivor benefits.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ creates a nonrefundable individual income tax credit for certain military survivor benefits.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

59-10-1036, Utah Code Annotated 1953

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

Section 1. Section 59-10-1036 is enacted to read:

59-10-1036. Nonrefundable tax credit for military survivor benefits.

(1) As used in this section:

(a) "Dependent child" means the same as that term is defined in 10 U.S.C. Sec. 1447.

(b) "Reserve components" means the same as that term is described in 10 U.S.C. Sec. 10101.

(c) "Surviving spouse" means the same as that term is defined in 10 U.S.C. Sec. 1447.

(d) "Survivor benefits" means the amount paid by the federal government in accordance with 10 U.S.C. Secs. 1447 through 1455.

(2) A surviving spouse or dependent child may claim a nonrefundable tax credit for survivor benefits if the benefits are paid due to:

(a) the death of a member of the armed forces or reserve components while on active duty; or

(b) the death of a member of the reserve components that results from a service-connected cause while performing inactive duty training.

(3) The tax credit described in Subsection (2) is equal to the product of:

(a) the amount of survivor benefits that the surviving spouse or dependent child received during the taxable year; and

(b) 5%.

(4) The tax credit described in Subsection (2):

(a) may not be carried forward or carried back; and

(b) applies to a taxable year beginning on or after January 1, 2017.

CHAPTER 56**H. B. 243**

Passed March 3, 2016
 Approved March 18, 2016
 Effective May 10, 2016

**PUBLIC TRANSIT DISTRICT
 OFFICERS AMENDMENTS**

Chief Sponsor: Edward H. Redd
 Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill modifies the Public Transit District Act by amending provisions relating to public transit district officers.

Highlighted Provisions:

This bill:

- ▶ provides that the requirement that a public transit district have an internal auditor as an officer of the district only applies to certain public transit districts.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17B-2a-810, as last amended by Laws of Utah 2010, Chapter 281

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

Section 1. Section 17B-2a-810 is amended to read:

17B-2a-810. Officers of a public transit district.

(1) (a) The officers of a public transit district shall consist of:

- (i) the members of the board of trustees;
- (ii) a chair and vice chair, appointed by the board of trustees, subject to Subsection (1)(c);
- (iii) a secretary, appointed by the board of trustees;
- (iv) a general manager, appointed by the board of trustees as provided in Section 17B-2a-811, whose duties may be allocated by the board of trustees, at the board of trustees' discretion, to a chief executive officer, or both;
- (v) a chief executive officer appointed by the board of trustees, as provided in Section 17B-2a-811;
- (vi) a general counsel, appointed by the board of trustees, subject to Subsection (1)(d);
- (vii) a treasurer, appointed as provided in Section 17B-1-633;
- (viii) a comptroller, appointed by the board of trustees, subject to Subsection (1)(e);

(ix) for a public transit district with more than 200,000 people residing within the boundaries of the public transit district, an internal auditor, appointed by the board of trustees, subject to Subsection (1)(f); and

(x) other officers, assistants, and deputies that the board of trustees considers necessary.

(b) The board of trustees may, at its discretion, appoint a president, who shall also be considered an officer of a public transit district.

(c) The district chair and vice chair shall be members of the board of trustees.

(d) The person appointed as general counsel shall:

- (i) be admitted to practice law in the state; and
- (ii) have been actively engaged in the practice of law for at least seven years next preceding the appointment.

(e) The person appointed as comptroller shall have been actively engaged in the practice of accounting for at least seven years next preceding the appointment.

(f) The person appointed as internal auditor shall be a licensed certified internal auditor or certified public accountant with at least five years experience in the auditing or public accounting profession, or the equivalent, prior to appointment.

(2) (a) The district's general manager or chief executive officer, as the board prescribes, shall appoint all officers and employees not specified in Subsection (1).

(b) Each officer and employee appointed by the district's general manager or chief executive officer serves at the pleasure of the appointing general manager or chief executive officer.

(3) The board of trustees shall by ordinance or resolution fix the compensation of all district officers and employees, except as otherwise provided in this part.

(4) (a) Each officer appointed by the board of trustees or by the district's general manager or chief executive officer shall take the oath of office specified in Utah Constitution, Article IV, Section 10.

(b) Each oath under Subsection (4)(a) shall be subscribed and filed with the district secretary no later than 15 days after the commencement of the officer's term of office.

CHAPTER 57**H. B. 254**

Passed March 3, 2016

Approved March 18, 2016

Effective July 1, 2016

**RESIDENT STUDENT
TUITION AMENDMENTS**Chief Sponsor: Marie H. Poulson
Senate Sponsor: Peter C. Knudson**LONG TITLE****General Description:**

This bill amends provisions regarding resident student tuition for military servicemembers and their immediate family members.

Highlighted Provisions:

This bill:

- ▶ amends definitions; and
- ▶ requires an institution of higher education to grant resident student status for tuition purposes to military servicemembers, and their immediate family members, who maintain domicile in Utah.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

53B-8-102 (Effective 07/01/16), as last amended by Laws of Utah 2015, Chapters 125 and 141

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

Section 1. Section 53B-8-102 (Effective 07/01/16) is amended to read:**53B-8-102 (Effective 07/01/16). Definitions -- Resident student status -- Exceptions.**

(1) As used in this section:

(a) "Eligible person" means an individual who is entitled to benefits under 38 U.S.C. Chapter 30, Montgomery G.I. Bill - Active Duty Educational Assistance Program, or Chapter 33, Post 9/11 Educational Assistance Program.

(b) "Immediate family member" means an individual's spouse or dependent child.

(c) "Military servicemember" means an individual who:

~~[(i) an individual who is]~~

(i) is serving on active duty in the United States Armed Forces within the state of Utah;

~~[(ii) an individual who is]~~

(ii) is a member of a reserve component of the United States Armed Forces assigned in Utah; ~~or~~

~~[(iii) an individual who is]~~

(iii) is a member of the Utah National Guard[-]; or

(iv) maintains domicile in Utah, as described in Subsection (9)(a), but is assigned outside of Utah pursuant to federal permanent change of station orders.

(d) "Military veteran" has the same meaning as veteran in Section 68-3-12.5.

(e) "Parent" means a student's biological or adoptive parent.

(2) The meaning of "resident student" is determined by reference to the general law on the subject of domicile, except as provided in this section.

(3) (a) Institutions within the state system of higher education may grant resident student status to any student who has come to Utah and established residency for the purpose of attending an institution of higher education, and who, prior to registration as a resident student:

(i) has maintained continuous Utah residency status for one full year;

(ii) has signed a written declaration that the student has relinquished residency in any other state; and

(iii) has submitted objective evidence that the student has taken overt steps to establish permanent residency in Utah and that the student does not maintain a residence elsewhere.

(b) Evidence to satisfy the requirements under Subsection (3)(a)(iii) includes:

(i) a Utah high school transcript issued in the past year confirming attendance at a Utah high school in the past 12 months;

(ii) a Utah voter registration dated a reasonable period prior to application;

(iii) a Utah driver license or identification card with an original date of issue or a renewal date several months prior to application;

(iv) a Utah vehicle registration dated a reasonable period prior to application;

(v) evidence of employment in Utah for a reasonable period prior to application;

(vi) proof of payment of Utah resident income taxes for the previous year;

(vii) a rental agreement showing the student's name and Utah address for at least 12 months prior to application; and

(viii) utility bills showing the student's name and Utah address for at least 12 months prior to application.

(c) A student who is claimed as a dependent on the tax returns of a person who is not a resident of Utah is not eligible to apply for resident student status.

(4) Except as provided in Subsection (8), an institution within the state system of higher education may establish stricter criteria for determining resident student status.

(5) If an institution does not have a minimum credit-hour requirement, that institution shall honor the decision of another institution within the state system of higher education to grant a student resident student status, unless:

(a) the student obtained resident student status under false pretenses; or

(b) the facts existing at the time of the granting of resident student status have changed.

(6) Within the limits established in Title 53B, Chapter 8, Tuition Waiver and Scholarships, each institution within the state system of higher education may, regardless of its policy on obtaining resident student status, waive nonresident tuition either in whole or in part, but not other fees.

(7) In addition to the waivers of nonresident tuition under Subsection (6), each institution may, as athletic scholarships, grant full waiver of fees and nonresident tuition, up to the maximum number allowed by the appropriate athletic conference as recommended by the president of each institution.

(8) Notwithstanding Subsection (3), an institution within the state system of higher education shall grant resident student status for tuition purposes to:

(a) a military servicemember, if the military servicemember provides:

(i) the military servicemember's current United States military identification card; and

(ii) (A) a statement from the military servicemember's current commander, or equivalent, stating that the military servicemember is assigned in Utah; or

(B) evidence that the military servicemember is domiciled in Utah, as described in Subsection (9)(a);

(b) a military servicemember's immediate family member, if the military servicemember's immediate family member provides:

(i) ~~one of the following:~~ (A) the military servicemember's current United States military identification card; or

(B) the immediate family member's current United States military identification card; and

(ii) (A) a statement from the military servicemember's current commander, or equivalent, stating that the military servicemember is assigned in Utah; or

(B) evidence that the military servicemember is domiciled in Utah, as described in Subsection (9)(a);

(c) a military veteran, regardless of whether the military veteran served in Utah, if the military veteran provides:

(i) evidence of an honorable or general discharge;

(ii) a signed written declaration that the military veteran has relinquished residency in any other state and does not maintain a residence elsewhere;

(iii) objective evidence that the military veteran has demonstrated an intent to establish residency in Utah, which may include any one of the following:

(A) a Utah voter registration card;

(B) a Utah driver license or identification card;

(C) a Utah vehicle registration;

(D) evidence of employment in Utah;

(E) a rental agreement showing the military veteran's name and Utah address; or

(F) utility bills showing the military veteran's name and Utah address;

(d) a military veteran's immediate family member, regardless of whether the military veteran served in Utah, if the military veteran's immediate family member provides:

(i) evidence of the military veteran's honorable or general discharge within the last five years;

(ii) a signed written declaration that the military veteran's immediate family member has relinquished residency in any other state and does not maintain a residence elsewhere; and

(iii) objective evidence that the military veteran's immediate family member has demonstrated an intent to establish residency in Utah, which may include any one of the items described in Subsection (8)(c)(iii); ~~and~~ or

(e) an eligible person who provides:

(i) evidence of eligibility under 38 U.S.C. Chapter 30, Montgomery G.I. Bill - Active Duty Educational Assistance Program, or Chapter 33, Post 9/11 Educational Assistance Program;

(ii) a signed written declaration that the eligible person will use the G.I. Bill benefits; and

(iii) objective evidence that the eligible person has demonstrated an intent to establish residency in Utah, which may include any one of the items described in Subsection (8)(c)(iii).

(9) (a) The evidence described in Subsection (8)(a)(ii)(B) or (8)(b)(ii)(B) includes:

(i) a current Utah voter registration card;

(ii) a valid Utah driver license or identification card;

(iii) a current Utah vehicle registration;

(iv) a copy of a Utah income tax return, in the military servicemember's or military servicemember's spouse's name, filed as a resident in accordance with Section 59-10-502; or

(v) proof that the military servicemember or military servicemember's spouse owns a home in Utah, including a property tax notice for property owned in Utah.

~~(9) (a)~~ (b) Aliens who are present in the United States on visitor, student, or other visas which authorize only temporary presence in this country, do not have the capacity to intend to reside in Utah for an indefinite period and therefore are classified as nonresidents.

~~(b)~~ (c) Aliens who have been granted immigrant or permanent resident status in the United States are classified for purposes of resident student status according to the same criteria applicable to citizens.

(10) Any American Indian who is enrolled on the tribal rolls of a tribe whose reservation or trust lands lie partly or wholly within Utah or whose border is at any point contiguous with the border of Utah, and any American Indian who is a member of a federally recognized or known Utah tribe and who has graduated from a high school in Utah, is entitled to resident student status.

(11) A Job Corps student is entitled to resident student status if the student:

(a) is admitted as a full-time, part-time, or summer school student in a program of study leading to a degree or certificate; and

(b) submits verification that the student is a current Job Corps student.

(12) A person is entitled to resident student status and may immediately apply for resident student status if the person:

(a) marries a Utah resident eligible to be a resident student under this section; and

(b) establishes his or her domicile in Utah as demonstrated by objective evidence as provided in Subsection (3).

(13) Notwithstanding Subsection (3)(c), a dependent student who has at least one parent who has been domiciled in Utah for at least 12 months prior to the student's application is entitled to resident student status.

(14) (a) A person who has established domicile in Utah for full-time permanent employment may rebut the presumption of a nonresident classification by providing substantial evidence that the reason for the individual's move to Utah was, in good faith, based on an employer requested transfer to Utah, recruitment by a Utah employer, or a comparable work-related move for full-time permanent employment in Utah.

(b) All relevant evidence concerning the motivation for the move shall be considered, including:

(i) the person's employment and educational history;

(ii) the dates when Utah employment was first considered, offered, and accepted;

(iii) when the person moved to Utah;

(iv) the dates when the person applied for admission, was admitted, and was enrolled as a postsecondary student;

(v) whether the person applied for admission to an institution of higher education sooner than four months from the date of moving to Utah;

(vi) evidence that the person is an independent person who is:

(A) at least 24 years of age; or

(B) not claimed as a dependent on someone else's tax returns; and

(vii) any other factors related to abandonment of a former domicile and establishment of a new domicile in Utah for purposes other than to attend an institution of higher education.

(15) (a) A person who is in residence in Utah to participate in a United States Olympic athlete training program, at a facility in Utah, approved by the governing body for the athlete's Olympic sport, shall be entitled to resident status for tuition purposes.

(b) Upon the termination of the athlete's participation in the training program, the athlete shall be subject to the same residency standards applicable to other persons under this section.

(c) Time spent domiciled in Utah during the Olympic athlete training program in Utah counts for Utah residency for tuition purposes upon termination of the athlete's participation in a Utah Olympic athlete training program.

(16) (a) A person who has established domicile in Utah for reasons related to divorce, the death of a spouse, or long-term health care responsibilities for an immediate family member, including the person's spouse, parent, sibling, or child, may rebut the presumption of a nonresident classification by providing substantial evidence that the reason for the individual's move to Utah was, in good faith, based on the long-term health care responsibilities.

(b) All relevant evidence concerning the motivation for the move shall be considered, including:

(i) the person's employment and educational history;

(ii) the dates when the long-term health care responsibilities in Utah were first considered, offered, and accepted;

(iii) when the person moved to Utah;

(iv) the dates when the person applied for admission, was admitted, and was enrolled as a postsecondary student;

(v) whether the person applied for admission to an institution of higher education sooner than four months from the date of moving to Utah;

(vi) evidence that the person is an independent person who is:

(A) at least 24 years of age; or

(B) not claimed as a dependent on someone else's tax returns; and

(vii) any other factors related to abandonment of a former domicile and establishment of a new domicile in Utah for purposes other than to attend an institution of higher education.

(17) The board, after consultation with the institutions, shall make rules not inconsistent with this section:

(a) concerning the definition of resident and nonresident students;

(b) establishing procedures for classifying and reclassifying students;

(c) establishing criteria for determining and judging claims of residency or domicile;

(d) establishing appeals procedures; and

(e) other matters related to this section.

(18) A student shall be exempt from paying the nonresident portion of total tuition if the student:

(a) is a foreign national legally admitted to the United States;

(b) attended high school in this state for three or more years; and

(c) graduated from a high school in this state or received the equivalent of a high school diploma in this state.

Section 2. Effective date.

This bill takes effect on July 1, 2016.

CHAPTER 58**H. B. 305**

Passed March 9, 2016
 Approved March 18, 2016
 Effective May 10, 2016

**WATER RIGHTS AND
 RESOURCES AMENDMENTS**

Chief Sponsor: Joel K. Briscoe
 Senate Sponsor: Margaret Dayton

LONG TITLE**General Description:**

This bill deals with the accuracy of water use data.

Highlighted Provisions:

This bill:

- ▶ instructs the Drinking Water Board to require a certified water operator of a public water supplier, or professional engineer performing the duties of an operator, to verify the accuracy of water use and supply data submitted to the Division of Drinking Water;
- ▶ authorizes the Division of Water Rights to collect and validate water use data; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 19-4-104, as last amended by Laws of Utah 2012, Chapter 360
 73-5-8, as last amended by Laws of Utah 2005, Chapter 215
 73-10-18, as last amended by Laws of Utah 1969, Chapter 198
 73-10-19, as last amended by Laws of Utah 1983, Chapter 318
 73-10-20, as last amended by Laws of Utah 1977, Chapter 281

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

Section 1. Section 19-4-104 is amended to read:**19-4-104. Powers of board.**

(1) (a) The board may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) establishing standards that prescribe the maximum contaminant levels in any public water system and provide for monitoring, record-keeping, and reporting of water quality related matters;

(ii) governing design, construction, operation, and maintenance of public water systems;

(iii) granting variances and exemptions to the requirements established under this chapter that are not less stringent than those allowed under federal law;

(iv) protecting watersheds and water sources used for public water systems; and

(v) governing capacity development in compliance with Section 1420 of the federal Safe Drinking Water Act, 42 U.S.C.[A.] Sec. 300f et seq.;

(b) The board may:

(i) order the director to:

(A) issue orders necessary to enforce the provisions of this chapter;

(B) enforce the orders by appropriate administrative and judicial proceedings; or

(C) institute judicial proceedings to secure compliance with this chapter;

(ii) (A) hold a hearing that is not an adjudicative proceeding relating to the administration of this chapter; or

(B) appoint hearing officers to conduct a hearing that is not an adjudicative proceeding; or

(iii) request and accept financial assistance from other public agencies, private entities, and the federal government to carry out the purposes of this chapter.

(c) The board shall:

(i) require the submission to the director of plans and specifications for construction of, substantial addition to, or alteration of public water systems for review and approval by the board before that action begins and require any modifications or impose any conditions that may be necessary to carry out the purposes of this chapter;

(ii) advise, consult, cooperate with, provide technical assistance to, and enter into agreements, contracts, or cooperative arrangements with state, federal, or interstate agencies, municipalities, local health departments, educational institutions, and others necessary to carry out the purposes of this chapter and to support the laws, ordinances, rules, and regulations of local jurisdictions;

(iii) develop and implement an emergency plan to protect the public when declining drinking water quality or quantity creates a serious health risk and issue emergency orders if a health risk is imminent; ~~and~~

(iv) require a certified operator of a public water supplier to verify by signature and certification number, or a professional engineer performing the duties of a certified water operator to verify by signature and stamp, the accuracy of any data on water use and water supply submitted by the public water supplier to the division; and

~~[(iv)]~~ (v) meet the requirements of federal law related or pertaining to drinking water.

(2) (a) The board may adopt and enforce standards and establish fees for certification of operators of any public water system.

(b) The board may not require certification of operators for a water system serving a population of 800 or less except:

(i) to the extent required for compliance with Section 1419 of the federal Safe Drinking Water Act, 42 U.S.C.[A.] Sec. 300f et seq.; and

(ii) for a system that is required to treat its drinking water.

(c) The certification program shall be funded from certification and renewal fees.

(3) Routine extensions or repairs of existing public water systems that comply with the rules and do not alter the system's ability to provide an adequate supply of water are exempt from the provisions of Subsection (1)(c)(i).

(4) (a) The board may adopt and enforce standards and establish fees for certification of persons engaged in administering cross connection control programs or backflow prevention assembly training, repair, and maintenance testing.

(b) The certification program shall be funded from certification and renewal fees.

(5) A board member may not speak or act for the board unless the board member is authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

Section 2. Section 73-5-8 is amended to read:

73-5-8. Audits -- Reports by users to engineer.

(1) The Division of Water Rights shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules specifying:

(a) what water use data a person shall report, pursuant to this section; and

(b) how the Division of Water Rights shall validate the data described in Subsection (1)(a).

(2) The Division of Water Rights may collect and validate water use data.

(3) Every person using water from any river system or water source, when requested by the state engineer, shall within 30 days after such request report to the state engineer in writing:

(1) (a) the nature of the use of any such water;

(2) (b) the area on which used;

(3) (c) the kind of crops to be grown; ~~and~~

(4) (d) water elevations on wells or tunnels; and

(e) quantity of ~~underground~~ water used.

Section 3. Section 73-10-18 is amended to read:

73-10-18. Division of Water Resources -- Creation -- Power and authority.

(1) There is created the Division of Water Resources, which shall be within the Department of Natural Resources under the administration and general supervision of the executive director of

natural resources and under the policy direction of the Board of Water Resources.

(2) The Division of Water Resources shall:

(a) be the water ~~resource(s)~~ resource authority for the state ~~of Utah, shall~~; and

(b) assume all of the functions, powers, duties, rights, and responsibilities of the Utah water and power board except those which are delegated to the board by this act and is vested with such other functions, powers, duties, rights and responsibilities as provided in this act and other law.

Section 4. Section 73-10-19 is amended to read:

73-10-19. Director's power and authority.

The director shall:

(1) be the executive and administrative head of the Division of Water Resources;

(2) ~~and shall be a person~~ be selected with special reference to ~~his~~ training, experience, and interest in the field of water conservation and development~~[-];~~

~~The director of the Division of Water Resources shall~~

(3) administer the Division of Water Resources ~~and shall~~;

(4) succeed to all of the powers and duties conferred upon the executive secretary of the Utah water and power board pursuant to Title 73, Chapter 10, Board of Water Resources - Division of Water Resources~~[-The director shall]; and~~

(5) have the power, within ~~polices~~ rules established by the Board of Water Resources, to:

(1) (a) make studies, investigations, and plans for the full development and utilization and promotion of the water and power resources of the state, including preliminary surveys, stream gauging, examinations, tests, and other estimates either separately or in consultation with federal, state, and other agencies;

(2) (b) initiate and conduct water resource investigations, surveys and studies, prepare plans and estimates, make reports thereon, and perform necessary work to develop an over-all state water plan;

(3) (c) file applications in the name of the division for the appropriation of water~~[-All pending water applications heretofore filed in behalf of the state or any agency thereof for the use and benefit of the state are transferred to the board, and it is authorized to take such action thereon as it may deem proper];~~

(4) (d) take all action necessary to acquire or perfect water rights for projects sponsored by the board; and

(5) (e) accept, execute, and deliver deeds and all other conveyances.

Section 5. Section 73-10-20 is amended to read:

**73-10-20. Loans for water systems --
Legislative declaration -- Authority of
Division of Water Resources to audit water
data.**

The Legislature recognizes and declares that:

(1) the development, protection, and maintenance of adequate and safe water supplies for human consumption is vital to public health, safety, and welfare;

(2) ~~that~~ there exists within the state a need to assist cities, towns, improvement districts, and special service districts in providing an adequate and safe water supply for those users from municipal and district systems; and

(3) ~~that~~ the acquisition or construction of systems and the improvement and extension of existing systems, based on proper planning and sound engineering, will not only provide safer water supplies, but will also serve to ensure that the water resources of the state are used in an efficient manner and will avoid wasteful practices.

CHAPTER 59**H. B. 344**

Passed March 4, 2016

Approved March 18, 2016

Effective May 10, 2016

MOVE OVER AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies the Traffic Code to allow lane changes across the double white lines of an HOV lane for the safety of emergency vehicles.

Highlighted Provisions:

This bill:

- ▶ amends the Traffic Code to allow the operator of a vehicle to cross the double white lines of an HOV lane to ensure the safety of emergency vehicles and emergency services personnel; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-904, as last amended by Laws of Utah 2015, Chapter 412

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

Section 1. Section 41-6a-904 is amended to read:

41-6a-904. Approaching emergency vehicle -- Necessary signals -- Stationary emergency vehicle -- Duties of respective operators.

(1) Except when otherwise directed by a peace officer, the operator of a vehicle, upon the immediate approach of an authorized emergency vehicle using audible or visual signals under Section 41-6a-212 or 41-6a-1625, shall:

(a) yield the right-of-way and immediately move to a position parallel to, and as close as possible to, the right-hand edge or curb of the highway, clear of any intersection; and

(b) then stop and remain stopped until the authorized emergency vehicle has passed.

(2) (a) The operator of a vehicle, upon approaching a stationary authorized emergency vehicle that is displaying alternately flashing red, red and white, or red and blue lights, shall:

(a) (i) reduce the speed of the vehicle;

(a) (ii) provide as much space as practical to the stationary authorized emergency vehicle; and

(a) (iii) if traveling in a lane adjacent to the stationary authorized emergency vehicle and if practical, with due regard to safety and traffic

conditions, make a lane change into a lane not adjacent to the authorized emergency vehicle.

(b) (i) If the operator of a vehicle is traveling in an HOV lane, upon approaching a stationary authorized emergency vehicle that is displaying alternately flashing red, red and white, or red and blue lights, the requirements in Subsection (2)(a) apply.

(ii) The operator of a vehicle traveling in an HOV lane, upon approaching a stationary authorized emergency vehicle that is displaying alternately flashing red, red and white, or red and blue lights, shall, if practical, with due regard to safety and traffic conditions, make a lane change out of the HOV lane into a lane not adjacent to the authorized emergency vehicle.

(3) (a) The operator of a vehicle, upon approaching a stationary tow truck or highway maintenance vehicle that is displaying flashing amber lights, shall:

(a) (i) reduce the speed of the vehicle; and

(a) (ii) provide as much space as practical to the stationary tow truck or highway maintenance vehicle.

(b) The operator of a vehicle traveling in an HOV lane, upon approaching a stationary tow truck or highway maintenance vehicle that is displaying flashing amber lights, shall, if practical, with due regard to safety and traffic conditions, make a lane change out of the HOV lane into a lane not adjacent to the tow truck or highway maintenance vehicle.

(4) This section does not relieve the operator of an authorized emergency vehicle, tow truck, or highway maintenance vehicle from the duty to drive with regard for the safety of all persons using the highway.

(5) (a) (i) In addition to the penalties prescribed under Subsection (7), a person who violates this section shall attend a four hour live classroom defensive driving course approved by:

(A) the Driver License Division; or

(B) a court in this state.

(ii) Upon completion of the four hour live classroom course under Subsection (5)(a)(i), the person shall provide to the Driver License Division a certificate of attendance of the classroom course.

(b) The Driver License Division shall suspend a person's driver license for a period of 90 days if the person:

(i) violates a provision of Subsections (1) through (3); and

(ii) fails to meet the requirements of Subsection (5)(a)(i) within 90 days of sentencing for or pleading guilty to a violation of this section.

(c) Notwithstanding the provisions of Subsection (5)(b), the Driver License Division shall shorten the 90-day suspension period imposed under Subsection (5)(b) effective immediately upon receiving a certificate of attendance of the four hour

live classroom course required under Subsection (5)(a)(i) if the certificate of attendance is received ~~prior to~~ before the completion of the suspension period.

(d) A person whose license is suspended under Subsection (5)(b) ~~[is required to pay the license reinstatement fees under Subsection 53-3-105(23), including]~~ and a person whose suspension is shortened as described under Subsection (5)(c) shall pay the license reinstatement fees under Subsection 53-3-105(23).

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Driver License Division shall make rules to implement the provisions of this part.

(7) A violation of Subsection (1), (2), or (3) is a class C misdemeanor.

CHAPTER 60**H. B. 379**

Passed March 10, 2016
 Approved March 18, 2016
 Effective May 10, 2016

**INTERSTATE RECIPROCITY AGREEMENT
 FOR POSTSECONDARY DISTANCE
 EDUCATION**

Chief Sponsor: Val L. Peterson
 Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill authorizes the State Board of Regents to execute an interstate reciprocity agreement regarding postsecondary distance education.

Highlighted Provisions:

This bill:

- ▶ authorizes the State Board of Regents to execute an interstate reciprocity agreement regarding interstate offering of postsecondary distance education courses and programs; and
- ▶ grants rulemaking authority.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53B-16-109, Utah Code Annotated 1953

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

Section 1. Section 53B-16-109 is enacted to read:

53B-16-109. Interstate reciprocity agreement regarding postsecondary distance education courses.

(1) As used in this section:

(a) "Distance education" means instruction offered by a means where the student and faculty member are in separate physical locations.

(b) "Institution" means a degree-granting postsecondary education entity.

(c) "Postsecondary education" means education or educational services offered primarily to an individual who:

(i) has completed or terminated the individual's secondary or high school education; or

(ii) is beyond the age of compulsory school attendance.

(2) The board may execute an interstate reciprocity agreement for postsecondary distance education:

(a) for an institution that offers a postsecondary distance education course or program; and

(b) that requires an institution to meet certain standards to become authorized to operate under the interstate reciprocity agreement.

(3) If the board executes an interstate reciprocity agreement under Subsection (2), the board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) standards for granting an institution authorization to operate under the interstate reciprocity agreement;

(b) a filing, document, or membership fee required for an institution to obtain authorization under the interstate reciprocity agreement; and

(c) a process for administering the interstate reciprocity agreement.

CHAPTER 61**H. B. 445**

Passed March 9, 2016

Approved March 18, 2016

Effective July 1, 2016

STATE SCHOOL BOARD AMENDMENTS

Chief Sponsor: Francis D. Gibson
Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill amends provisions related to the compensation of members of the State Board of Education.

Highlighted Provisions:

This bill:

- ▶ provides that compensation of members of the State Board of Education shall be the same as, and set through the same process as, compensation of members of the Legislature with certain exceptions; and
- ▶ makes technical and conforming corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

36-2-3, as last amended by Laws of Utah 2010, Chapter 133
53A-1-202, as last amended by Laws of Utah 2015, Chapter 289

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

Section 1. Section 36-2-3 is amended to read:**36-2-3. Salaries of members set by Legislature and State Board of Education based on recommendations of Legislative Compensation Commission.**

(1) (a) Except as provided in [Subsections] Subsection (2)[,] or (3), [~~(4),~~] the salaries of members of the Legislature shall automatically be set beginning January [1st] 1 of each odd-numbered year at the amount recommended by the Legislative Compensation Commission in the last report issued by the commission in the preceding even-numbered year.

(b) This salary recommendation shall be based on either:

(i) a daily basis:

(A) for each calendar day for annual general sessions; and

(B) for each day a legislator attends veto-override and special sessions and other authorized legislative meetings; or

(ii) an annualized salary.

(c) In preparing its report, the commission may recommend salary amounts that:

(i) take into account the amounts received by legislators for legislative expenses; and

(ii) provide alternative salary amounts based upon the occurrence of various contingencies.

(2) (a) During an even-numbered annual general session or special session in the year immediately preceding the effective date of any salary change, the Legislature may reject or decrease the salary recommendation, but may not increase the salary recommendation.

(b) If the Legislature does not act as provided in Subsection (2)(a), they have by law accepted the Legislative Compensation Commission's recommendations contained in the last report issued by the commission in the preceding even-numbered year.

~~[(3) Unless the commission issues a revised report after March 11, 2010, and notwithstanding Subsection (2), the salary for a member of the Legislature through calendar year 2011 is \$117 per day for each calendar day that the legislator attends.]~~

~~[(a) the annual general session;]~~

~~[(b) a veto-override session;]~~

~~[(c) a special session; or]~~

~~[(d) an authorized legislative meeting.]~~

~~[(4)] (3) If the last report issued by the commission in an even-numbered year recommends a salary contingent upon certain action being taken by the Legislature, that contingent legislative salary:~~

(a) takes effect on the day after the day that the contingent action is taken by the Legislature; and

(b) supersedes any other salary in effect as of January 1.

(4) (a) The salary for a member of the State Board of Education shall be:

(i) the same as the salary for a member of the Legislature; and

(ii) except as provided in Subsection (4)(b), set in accordance with this section and Subsection 36-2-2(1).

(b) For purposes of setting the salary for a member of the State Board of Education:

(i) a calendar day for the annual general session described in Subsection (1)(b)(i)(A) is interpreted as a calendar day of:

(A) a meeting of the State Board of Education; and

(B) any other meeting authorized by the State Board of Education; and

(ii) unless the Legislative Compensation Commission issues a revised report on or after July 1, 2016, the salary for a member of the State Board

of Education through calendar year 2016 is \$273 per day for each calendar day that a member attends a meeting described in Subsection (4)(b)(i)(A) or (B).

Section 2. Section 53A-1-202 is amended to read:

53A-1-202. Compensation for members of the State Board of Education -- Insurance -- Per diem and expenses.

~~[(1) (a) The Legislature shall set the compensation of members of the State Board of Education annually in an appropriations act.]~~

~~[(b) Until the Legislature sets the compensation of members of the State Board of Education in an appropriations act, each member of the State Board of Education shall receive compensation of \$3,000 per year.]~~

~~[(c) Compensation of members of the State Board of Education is payable monthly.]~~

~~[(d) In setting the compensation of members of the State Board of Education, the Legislature shall consider the recommendations, if any, the Elected Official and Judicial Compensation Commission makes in accordance with Section 67-8-5.]~~

~~(1) The salary for a member of the State Board of Education is set in accordance with Section 36-2-3.~~

~~(2) Compensation for a member of the State Board of Education is payable monthly.~~

~~[(2)] (3) A [board] State Board of Education member may participate in any group insurance plan provided to employees of the State Office of Education as part of [their] the State Board of Education member's compensation on the same basis as required for employee participation.~~

~~[(3)] (4) In addition to the provisions of Subsections (1) and [(2)] (3), a [board] State Board of Education member may receive per diem and travel expenses in accordance with:~~

~~(a) Section 63A-3-106;~~

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

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

Section 3. Effective date.

This bill takes effect on July 1, 2016.

CHAPTER 62**H. B. 452**

Passed March 10, 2016
 Approved March 18, 2016
 Effective March 18, 2016

**VETERANS' AND MILITARY
 AFFAIRS COMMISSION AMENDMENTS**

Chief Sponsor: Paul Ray
 Senate Sponsor: Peter C. Knudson

LONG TITLE**General Description:**

This bill modifies the membership of the Veterans' and Military Affairs Commission.

Highlighted Provisions:

This bill:

- ▶ removes the representative from the Administrative Office of the Courts; and
- ▶ adds a member of the general public to the list from which the commission may select pro tempore members.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

36-28-102, as enacted by Laws of Utah 2014, Chapter 150

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

Section 1. Section 36-28-102 is amended to read:

36-28-102. Veterans' and Military Affairs Commission -- Creation -- Membership -- Chairs -- Terms -- Per diem and expenses.

(1) There is created the Veterans' and Military Affairs Commission.

(2) The commission membership is composed of [19] 18 permanent members, but may not exceed 23 members, and is as follows:

(a) five legislative members to be appointed as follows:

(i) three members from the House of Representatives, appointed by the speaker of the House of Representatives, no more than two of whom may be from the same political party; and

(ii) two members from the Senate, appointed by the president of the Senate, no more than one of whom may be from the same political party;

(b) the executive director of the Department of Veterans' and Military Affairs or the director's designee;

(c) the chair of the Utah Veterans' Advisory Council;

(d) the executive director of the Department of Workforce Services or the director's designee;

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

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

[~~(g) a representative from the Administrative Office of the Courts who is knowledgeable in court services appointed by the Judicial Council;~~]

[~~(h)~~] (g) a representative from the Utah National Guard appointed by the adjutant general;

[~~(i)~~] (h) the Guard and Reserve Transition Assistance Advisor; ~~and~~

[~~(j)~~] (i) a representative from the Board of Regents;

[~~(k)~~] (j) three representatives of veteran service organizations as recommended by the Veterans Advisory Council;

[~~(l)~~] (k) one representative from the Utah Defense Alliance; and

[~~(m)~~] (l) one military affairs representative from a chamber of commerce recommended by the Utah State Chamber of Commerce.

(3) The commission may appoint by majority vote of the entire commission up to ~~four representatives of~~ five pro tempore members, representing:

(a) state ~~and~~ or local government agencies ~~or~~;

(b) interest groups ~~[the commission feels necessary to complete its duties.]~~ concerned with veterans issues; or

(c) the general public.

(4) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a) as a cochair of the commission.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)(a) as a cochair of the commission.

(5) A majority of the members of the commission shall constitute a quorum. The action of a majority of a quorum constitutes the action of the commission.

(6) The term for each ~~[commission]~~ pro tempore member appointed in accordance with Subsection (3) shall be two years from the date of appointment. A pro tempore member may not serve more than three terms.

(7) If a member leaves office or is unable to serve, the vacancy shall be filled as it was originally appointed. A person appointed to fill a vacancy under this section does not serve the remaining unexpired term of the member being replaced but begins serving a new term.

(8) A member may not receive compensation or benefits for the member's service but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

Section 2. Effective date.

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

CHAPTER 63**S. B. 14**

Passed March 9, 2016

Approved March 18, 2016

Effective March 18, 2016

**AMERICAN INDIAN AND
ALASKAN NATIVE AMENDMENTS**

Chief Sponsor: Kevin T. Van Tassel

House Sponsor: Jack R. Draxler

LONG TITLE**General Description:**

This bill amends provisions related to the state system of public education and American Indians and Alaskan Natives.

Highlighted Provisions:

This bill:

- ▶ amends duties of the Native American Legislative Liaison Committee;
- ▶ defines terms;
- ▶ creates a pilot program to fund stipend, recruitment, and retention of teachers who teach in American Indian and Alaskan Native concentrated schools;
- ▶ requires reporting and meetings to be held;
- ▶ provides a sunset date; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates for fiscal year 2017:

- ▶ to the State Board of Education - State Office of Education, as an ongoing appropriation:
 - from the Education Fund, \$250,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

36-22-2, as enacted by Laws of Utah 1995, Chapter 143

63I-1-253, as last amended by Laws of Utah 2015, Chapters 62, 431, and 442

ENACTS:

53A-31-401, Utah Code Annotated 1953

53A-31-402, Utah Code Annotated 1953

53A-31-403, Utah Code Annotated 1953

53A-31-404, Utah Code Annotated 1953

53A-31-405, Utah Code Annotated 1953

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

Section 1. Section 36-22-2 is amended to read:**36-22-2. Duties.**

(1) The committee shall:

(a) serve as a liaison between Utah Native American tribes and the Legislature;

(b) recommend legislation for each annual general session of the Legislature if the committee determines that modifications to current law are in the best interest of the state of Utah and of the Utah Native American tribes;

(c) review the operations of the Division of Indian Affairs and other state agencies working with Utah Native American tribes;

(d) help sponsor meetings and other opportunities for discussion with and between Native Americans[-]; and

(e) hold a meeting at which public education is discussed as required by Section 53A-31-405.

(2) In conducting its business, the committee shall comply with the rules of legislative interim committees.

Section 2. Section 53A-31-401 is enacted to read:**Part 4. American Indian and Alaskan Native Education State Plan Pilot Program****53A-31-401. Title.**

This part is known as the "American Indian and Alaskan Native Education State Plan Pilot Program."

Section 3. Section 53A-31-402 is enacted to read:**53A-31-402. Definitions.**

As used in this part:

(1) "American Indian and Alaskan Native concentrated school" means a school where at least 29% of its students are American Indian or Alaskan Native.

(2) "Board" means the State Board of Education.

(3) "Teacher" means an individual employed by a school district or charter school who is required to hold an educator license issued by the board and who has an assignment to teach in a classroom.

Section 4. Section 53A-31-403 is enacted to read:**53A-31-403. Pilot program created.**

(1) Beginning with fiscal year 2016-2017, there is created a five-year pilot program administered by the board to provide grants targeted to address the needs of American Indian and Alaskan Native students.

(2) The pilot program shall consist of a grant program to school districts and charter schools to be used to fund stipends, recruitment, retention, and professional development of teachers who teach in American Indian and Alaskan Native concentrated schools.

(3) Up to 3% of the money appropriated to the grant program under this part may be used by the board for costs in implementing the pilot program.

Section 5. Section 53A-31-404 is enacted to read:**53A-31-404. Grant program to school districts and charter schools.**

(1) From money appropriated to the grant program, the board shall distribute grant money on a competitive basis to a school district or charter school that applies for a grant and:

(a) (i) has within the school district one or more American Indian and Alaskan Native concentrated schools; or

(ii) is an American Indian and Alaskan Native concentrated school; and

(b) has a program to fund stipends, recruitment, retention, and professional development of teachers who teach at American Indian and Alaskan Native concentrated schools.

(2) The grant money distributed under this section may only be expended to fund a program described in Subsection (1)(b).

(3) (a) If a school district or charter school obtains a grant under this section, by no later than two years from the date the school district or charter school obtains the grant, the board shall review the implementation of the program described in Subsection (1)(b) to determine whether:

(i) the program is effective in addressing the need to retain teachers at American Indian and Alaskan Native concentrated schools; and

(ii) the money is being spent for a purpose not covered by the program described in Subsection (1)(b).

(b) If the board determines that the program is not effective or that the money is being spent for a purpose not covered by the program described in Subsection (1)(b), the board may terminate the grant money being distributed to the school district or charter school.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may make rules providing:

(a) criteria for evaluating grant applications; and

(b) procedures for:

(i) a school district to apply to the board to receive grant money under this section; and

(ii) the review of the use of grant money described in Subsection (3).

(5) The grant money is intended to supplement and not replace existing money supporting American Indian and Alaskan Native concentrated schools.

Section 6. Section 53A-31-405 is enacted to read:

53A-31-405. Reporting -- Meeting.

(1) The liaison shall annually report to the Native American Legislative Liaison Committee during the five years of the pilot program regarding:

(a) what entities receive a grant under this part;

(b) the effectiveness of the expenditures of grant money; and

(c) recommendations, if any, for additional legislative action.

(2) The Native American Legislative Liaison Committee shall annually schedule at least one meeting at which education is discussed with selected stakeholders.

Section 7. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53, 53A, and 53B.

The following provisions are repealed on the following dates:

(1) Section 53-3-232, Conditional license, is repealed July 1, 2015.

(2) Subsection 53-10-202(18) is repealed July 1, 2018.

(3) Section 53-10-202.1 is repealed July 1, 2018.

(4) Title 53A, Chapter 1a, Part 6, Public Education Job Enhancement Program is repealed July 1, 2020.

(5) The State Instructional Materials Commission, created in Section 53A-14-101, is repealed July 1, 2016.

(6) Section 53A-15-106 is repealed July 1, 2019.

(7) Subsections 53A-16-113(3) and (4) are repealed December 31, 2016.

(8) Section 53A-16-114 is repealed December 31, 2016.

(9) Section 53A-17a-163, Performance-based Compensation Pilot Program, is repealed July 1, 2016.

(10) Title 53A, Chapter 31, Part 4, American Indian and Alaskan Native Education State Plan Pilot Program, is repealed July 1, 2022.

~~[(40)]~~ (11) Section 53B-24-402, Rural residency training program, is repealed July 1, 2020.

~~[(41)]~~ (12) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells, other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

Section 8. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or amounts indicated. These sums of money are in addition to amounts previously appropriated for fiscal year 2017.

To State Board of Education - Utah State Office of Education

From Education Fund	\$250,000
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Schedule of Programs:

Pilot Teacher Retention Grant Program	\$250,000
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Section 9. Effective date.

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

CHAPTER 64**S. B. 16**

Passed February 3, 2016

Approved March 18, 2016

Effective May 10, 2016

(Retrospective operation to January 1, 2016)

TAX CREDIT AMENDMENTS

Chief Sponsor: Deidre M. Henderson

House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill amends provisions related to tax credits.

Highlighted Provisions:

This bill:

- ▶ repeals a provision that prohibits a person from carrying forward a tax credit if the State Tax Commission is required to remove the tax credit from a tax return;
- ▶ exempts corporate and individual historic preservation tax credits from provisions requiring the State Tax Commission to remove the tax credits from a tax return under certain circumstances; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:**AMENDS:**

59-7-903, as last amended by Laws of Utah 2015, Chapter 41

59-10-1002.1, as last amended by Laws of Utah 2015, Chapters 30 and 41

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 59-7-903 is amended to read:****59-7-903. Removal of tax credit from tax return -- Prohibition on claiming a tax credit -- Commission publishing requirements.**

(1) Subject to Subsection (2) and except as provided in Subsection (3), the commission shall remove a tax credit from a tax return and a person filing a tax return may not claim ~~or carry forward~~ the tax credit if:

(a) the total amount of tax credit claimed or carried forward by all persons who file a tax return is less than \$10,000 per taxable year for three consecutive taxable years; and

(b) less than 10 persons per year for the three consecutive taxable years described in Subsection (1)(a) file a tax return claiming or carrying forward the tax credit.

(2) If the commission determines the requirements of Subsection (1) are met, the commission shall remove a tax credit from a tax return and a person filing a tax return may not

claim ~~or carry forward~~ the tax credit beginning two taxable years after the January 1 immediately following the date the commission determines the requirements of Subsection (1) are met.

(3) This section does not apply to a tax credit under Section 59-7-609.

~~(3)~~ (4) The commission shall, on or before the November interim meeting of the year after the taxable year in which the commission determines the requirements of Subsection (1) are met, report to the Revenue and Taxation Interim Committee that, in accordance with this section:

(a) the commission is required to remove a tax credit from a return on which the tax credit appears; and

(b) a person filing a tax return may not claim ~~or carry forward~~ the tax credit.

~~(4)~~ (5) (a) Within a 30-day period after making the report required by Subsection ~~(3)~~ (4), the commission shall publish a list in accordance with Subsection ~~(4)~~ (5)(b) stating each tax credit that the commission will remove from a return on which the tax credit appears.

(b) The list shall:

(i) be published on:

(A) the commission's website; and

(B) the public legal notice website in accordance with Section 45-1-101;

(ii) include a statement that:

(A) the commission is required to remove the tax credit from each return on which the tax credit appears; and

(B) the tax credit may not be claimed ~~or carried forward~~ on a return;

(iii) state the taxable year for which the removal described in Subsection ~~(4)~~ (5)(a) takes effect; and

(iv) remain available for viewing and searching until the commission publishes a new list in accordance with this Subsection ~~(4)~~ (5).

Section 2. Section 59-10-1002.1 is amended to read:**59-10-1002.1. Removal of tax credit from tax return and prohibition on claiming a tax credit -- Conditions for removal and prohibition on claiming a tax credit -- Commission publishing requirements.**

(1) As used in this section, "tax return" means a tax return filed in accordance with this chapter.

(2) Except as provided in Subsection (4), beginning two taxable years after the requirements of Subsection (3) are met:

(a) the commission shall remove a tax credit allowed under this part from each tax return on which the tax credit appears; and

(b) a claimant, estate, or trust filing a tax return may not claim ~~or carry forward~~ the tax credit.

(3) Except as provided in Subsection (4), the commission shall remove a tax credit allowed under this part from a tax return and a claimant, estate, or trust filing a tax return may not claim ~~or carry forward~~ the tax credit as provided in Subsection (2) if:

(a) the total amount of the tax credit claimed or carried forward by all claimants, estates, or trusts filing tax returns is less than \$10,000 per year for three consecutive taxable years beginning on or after January 1, 2002; and

(b) less than 10 claimants, estates, and trusts per year for the three consecutive taxable years described in Subsection (3)(a), file a tax return claiming or carrying forward the tax credit.

(4) This section does not apply to a tax credit under Section 59-10-1006 or 59-10-1027.

(5) The commission shall, on or before the November interim meeting of the year after the taxable year in which the requirements of Subsection (3) are met, report to the Revenue and Taxation Interim Committee that in accordance with this section:

(a) the commission is required to remove a tax credit from each tax return on which the tax credit appears; and

(b) a claimant, estate, or trust filing a tax return may not claim ~~or carry forward~~ the tax credit.

(6) (a) Within a 30-day period after making the report required by Subsection (5), the commission shall publish a list in accordance with Subsection (6)(b) stating each tax credit that the commission will remove from a return on which the tax credit appears.

(b) The list shall:

(i) be published on:

(A) the commission's website; and

(B) the public legal notice website in accordance with Section 45-1-101;

(ii) include a statement that:

(A) the commission is required to remove the tax credit from each return on which the tax credit appears; and

(B) the tax credit may not be claimed ~~or carried forward~~ on a return;

(iii) state the taxable year for which the removal described in Subsection (6)(a) takes effect; and

(iv) remain available for viewing and searching until the commission publishes a new list in accordance with this Subsection (6).

Section 3. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2016.

CHAPTER 65**S. B. 24**

Passed February 3, 2016
 Approved March 18, 2016
 Effective May 10, 2016

**UTAH HOUSING CORPORATION
 SUNSET EXTENSION**

Chief Sponsor: Todd Weiler
 House Sponsor: Kraig Powell

LONG TITLE**General Description:**

This bill modifies the Legislative Oversight and Sunset Act.

Highlighted Provisions:

This bill:

- ▶ extends the sunset date of the Utah Housing Corporation Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-263, as last amended by Laws of Utah 2015, Chapters 182, 226, 278, 283, 409, and 424

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

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

63I-1-263. Repeal dates, Titles 63A to 63M.

(1) Section 63A-4-204, authorizing the Risk Management Fund to provide coverage to any public school district which chooses to participate, is repealed July 1, 2016.

(2) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.

(3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2016.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2018.

(5) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(6) Subsection 63G-6a-1402(7) authorizing certain transportation agencies to award a contract for a design-build transportation project in certain circumstances, is repealed July 1, 2015.

(7) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(8) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, [2016] 2026.

(9) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states “the Resource Development Coordinating Committee,” is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read “(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.”;

(c) in Subsection 23-14-21(3), the language that states “and the Resource Development Coordinating Committee” is repealed;

(d) in Subsection 23-21-2.3(1), the language that states “the Resource Development Coordinating Committee created in Section 63J-4-501 and” is repealed;

(e) in Subsection 23-21-2.3(2), the language that states “the Resource Development Coordinating Committee and” is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word “and” is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

(10) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2017.

(11) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2017.

(12) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2018.

(13) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection (13)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections (13)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

(14) Section 63N-2-512 is repealed on July 1, 2021.

(15) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (15)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(16) Title 63N, Chapter 12, Part 3, Utah Broadband Outreach Center, is repealed July 1, 2018.

CHAPTER 66**S. B. 25**

Passed February 23, 2016

Approved March 18, 2016

Effective May 10, 2016

BALLOT AMENDMENTS

Chief Sponsor: Margaret Dayton

House Sponsor: Jack R. Draxler

LONG TITLE**General Description:**

This bill amends provisions of the Election Code relating to ballots.

Highlighted Provisions:

This bill:

- ▶ amends the definition of “ticket”;
- ▶ amends provisions relating to ballot format and content; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 20A-1-102, as last amended by Laws of Utah 2015, Chapters 296, 352, and 392
- 20A-6-101, as last amended by Laws of Utah 2014, Chapter 169
- 20A-6-102, as last amended by Laws of Utah 2014, Chapter 169
- 20A-6-301, as last amended by Laws of Utah 2015, Chapter 392
- 20A-6-303, as last amended by Laws of Utah 2015, Chapter 296
- 20A-6-304, as last amended by Laws of Utah 2015, Chapter 296
- 20A-6-305, as last amended by Laws of Utah 2014, Chapter 17
- 20A-9-406, as last amended by Laws of Utah 2015, Chapter 296

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

Section 1. Section 20A-1-102 is amended to read:**20A-1-102. Definitions.**

As used in this title:

- (1) “Active voter” means a registered voter who has not been classified as an inactive voter by the county clerk.
- (2) “Automatic tabulating equipment” means apparatus that automatically examines and counts votes recorded on paper ballots or ballot sheets and tabulates the results.
- (3) (a) “Ballot” means the storage medium, whether paper, mechanical, or electronic, upon which a voter records the voter’s votes.

(b) “Ballot” includes ballot sheets, paper ballots, electronic ballots, and secrecy envelopes.

(4) “Ballot label” means the cards, papers, booklet, pages, or other materials that:

(a) contain the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) are used in conjunction with ballot sheets that do not display that information.

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

(a) an opinion question specifically authorized by the Legislature;

(b) a constitutional amendment;

(c) an initiative;

(d) a referendum;

(e) a bond proposition;

(f) a judicial retention question;

(g) an incorporation of a city or town; or

(h) any other ballot question specifically authorized by the Legislature.

(6) “Ballot sheet”:

(a) means a ballot that:

(i) consists of paper or a card where the voter’s votes are marked or recorded; and

(ii) can be counted using automatic tabulating equipment; and

(b) includes punch card ballots and other ballots that are machine-countable.

(7) “Bind,” “binding,” or “bound” means securing more than one piece of paper together with a staple or stitch in at least three places across the top of the paper in the blank space reserved for securing the paper.

(8) “Board of canvassers” means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.

(9) “Bond election” means an election held for the purpose of approving or rejecting the proposed issuance of bonds by a government entity.

(10) “Book voter registration form” means voter registration forms contained in a bound book that are used by election officers and registration agents to register persons to vote.

(11) “Business reply mail envelope” means an envelope that may be mailed free of charge by the sender.

(12) “By-mail voter registration form” means a voter registration form designed to be completed by the voter and mailed to the election officer.

(13) “Canvass” means the review of election returns and the official declaration of election results by the board of canvassers.

(14) “Canvassing judge” means a poll worker designated to assist in counting ballots at the canvass.

(15) “Contracting election officer” means an election officer who enters into a contract or interlocal agreement with a provider election officer.

(16) “Convention” means the political party convention at which party officers and delegates are selected.

(17) “Counting center” means one or more locations selected by the election officer in charge of the election for the automatic counting of ballots.

(18) “Counting judge” means a poll worker designated to count the ballots during election day.

(19) “Counting poll watcher” means a person selected as provided in Section 20A-3-201 to witness the counting of ballots.

(20) “Counting room” means a suitable and convenient private place or room, immediately adjoining the place where the election is being held, for use by the poll workers and counting judges to count ballots during election day.

(21) “County officers” means those county officers that are required by law to be elected.

(22) “Date of the election” or “election day” or “day of the election”:

(a) means the day that is specified in the calendar year as the day that the election occurs; and

(b) does not include:

(i) deadlines established for absentee voting; or
 (ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early Voting.

(23) “Elected official” means:

(a) a person elected to an office under Section 20A-1-303;

(b) a person who is considered to be elected to a municipal office in accordance with Subsection 20A-1-206(1)(c)(ii); or

(c) a person who is considered to be elected to a local district office in accordance with Subsection 20A-1-206(3)(c)(ii).

(24) “Election” means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a local district election.

(25) “Election Assistance Commission” means the commission established by ~~[Public Law 107-252, the Help America Vote Act of 2002.]~~ the Help America Vote Act of 2002, Pub. L. No. 107-252.

(26) “Election cycle” means the period beginning on the first day persons are eligible to file declarations of candidacy and ending when the canvass is completed.

(27) “Election judge” means a poll worker that is assigned to:

(a) preside over other poll workers at a polling place;

(b) act as the presiding election judge; or

(c) serve as a canvassing judge, counting judge, or receiving judge.

(28) “Election officer” means:

(a) the lieutenant governor, for all statewide ballots and elections;

(b) the county clerk for:

(i) a county ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(c) the municipal clerk for:

(i) a municipal ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(d) the local district clerk or chief executive officer for:

(i) a local district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5; or

(e) the business administrator or superintendent of a school district for:

(i) a school district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5.

(29) “Election official” means any election officer, election judge, or poll worker.

(30) “Election results” means:

(a) for an election other than a bond election, the count of votes cast in the election and the election returns requested by the board of canvassers; or

(b) for bond elections, the count of those votes cast for and against the bond proposition plus any or all of the election returns that the board of canvassers may request.

(31) “Election returns” includes the pollbook, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.

(32) “Electronic ballot” means a ballot that is recorded using a direct electronic voting device or other voting device that records and stores ballot information by electronic means.

(33) “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(34) (a) “Electronic voting device” means a voting device that uses electronic ballots.

(b) “Electronic voting device” includes a direct recording electronic voting device.

(35) “Inactive voter” means a registered voter who has:

(a) been sent the notice required by Section 20A-2-306; and

(b) failed to respond to that notice.

(36) “Inspecting poll watcher” means a person selected as provided in this title to witness the receipt and safe deposit of voted and counted ballots.

(37) “Judicial office” means the office filled by any judicial officer.

(38) “Judicial officer” means any justice or judge of a court of record or any county court judge.

(39) “Local district” means a local government entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.

(40) “Local district officers” means those local district board members that are required by law to be elected.

(41) “Local election” means a regular county election, a regular municipal election, a municipal primary election, a local special election, a local district election, and a bond election.

(42) “Local political subdivision” means a county, a municipality, a local district, or a local school district.

(43) “Local special election” means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

(44) “Municipal executive” means:

(a) the mayor in the council-mayor form of government defined in Section 10-3b-102;

(b) the mayor in the council-manager form of government defined in Subsection 10-3b-103(7); or

(c) the chair of a metro township form of government defined in Section 10-3b-102.

(45) “Municipal general election” means the election held in municipalities and, as applicable, local districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

(46) “Municipal legislative body” means:

(a) the council of the city or town in any form of municipal government; or

(b) the council of a metro township.

(47) “Municipal office” means an elective office in a municipality.

(48) “Municipal officers” means those municipal officers that are required by law to be elected.

(49) “Municipal primary election” means an election held to nominate candidates for municipal office.

(50) “Official ballot” means the ballots distributed by the election officer to the poll workers to be given to voters to record their votes.

(51) “Official endorsement” means:

(a) the information on the ballot that identifies:

(i) the ballot as an official ballot;

(ii) the date of the election; and

(iii) (A) for a ballot prepared by an election officer other than a county clerk, the facsimile signature required by Subsection 20A-6-401(1)(b)(iii); or

(B) for a ballot prepared by a county clerk, the words required by Subsection 20A-6-301(1)(c)(iii); and

(b) the information on the ballot stub that identifies:

(i) the poll worker’s initials; and

(ii) the ballot number.

(52) “Official register” means the official record furnished to election officials by the election officer that contains the information required by Section 20A-5-401.

(53) “Paper ballot” means a paper that contains:

(a) the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) spaces for the voter to record the voter’s vote for each office and for or against each ballot proposition.

(54) “Pilot project” means the election day voter registration pilot project created in Section 20A-4-108.

(55) “Political party” means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Chapter 8, Political Party Formation and Procedures.

(56) “Pollbook” means a record of the names of voters in the order that they appear to cast votes.

(57) “Polling place” means the building where voting is conducted.

(58) (a) “Poll worker” means a person assigned by an election official to assist with an election, voting, or counting votes.

(b) “Poll worker” includes election judges.

(c) “Poll worker” does not include a watcher.

(59) “Position” means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks the voter’s choice.

(60) “Primary convention” means the political party conventions held during the year of the regular general election.

(61) “Protective counter” means a separate counter, which cannot be reset, that:

(a) is built into a voting machine; and

(b) records the total number of movements of the operating lever.

(62) “Provider election officer” means an election officer who enters into a contract or interlocal agreement with a contracting election officer to conduct an election for the contracting election officer’s local political subdivision in accordance with Section 20A-5-400.1.

(63) “Provisional ballot” means a ballot voted provisionally by a person:

(a) whose name is not listed on the official register at the polling place;

(b) whose legal right to vote is challenged as provided in this title; or

(c) whose identity was not sufficiently established by a poll worker.

(64) “Provisional ballot envelope” means an envelope printed in the form required by Section 20A-6-105 that is used to identify provisional ballots and to provide information to verify a person’s legal right to vote.

(65) “Qualify” or “qualified” means to take the oath of office and begin performing the duties of the position for which the person was elected.

(66) “Receiving judge” means the poll worker that checks the voter’s name in the official register, provides the voter with a ballot, and removes the ballot stub from the ballot after the voter has voted.

(67) “Registration form” means a book voter registration form and a by-mail voter registration form.

(68) “Regular ballot” means a ballot that is not a provisional ballot.

(69) “Regular general election” means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.

(70) “Regular primary election” means the election on the fourth Tuesday of June of each even-numbered year, to nominate candidates of political parties and candidates for nonpartisan local school board positions to advance to the regular general election.

(71) “Resident” means a person who resides within a specific voting precinct in Utah.

(72) “Sample ballot” means a mock ballot similar in form to the official ballot printed and distributed as provided in Section 20A-5-405.

(73) “Scratch vote” means to mark or punch the straight party ticket and then mark or punch the

ballot for one or more candidates who are members of different political parties or who are unaffiliated.

(74) “Secrecy envelope” means the envelope given to a voter along with the ballot into which the voter places the ballot after the voter has voted it in order to preserve the secrecy of the voter’s vote.

(75) “Special election” means an election held as authorized by Section 20A-1-203.

(76) “Spoiled ballot” means each ballot that:

(a) is spoiled by the voter;

(b) is unable to be voted because it was spoiled by the printer or a poll worker; or

(c) lacks the official endorsement.

(77) “Statewide special election” means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

(78) “Stub” means the detachable part of each ballot.

(79) “Substitute ballots” means replacement ballots provided by an election officer to the poll workers when the official ballots are lost or stolen.

(80) “Ticket” means ~~[each list of candidates for each political party or for each group of petitioners.]~~ a list of:

(a) political parties;

(b) candidates for an office; or

(c) ballot propositions.

(81) “Transfer case” means the sealed box used to transport voted ballots to the counting center.

(82) “Vacancy” means the absence of a person to serve in any position created by statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause.

(83) “Valid voter identification” means:

(a) a form of identification that bears the name and photograph of the voter which may include:

(i) a currently valid Utah driver license;

(ii) a currently valid identification card that is issued by:

(A) the state; or

(B) a branch, department, or agency of the United States;

(iii) a currently valid Utah permit to carry a concealed weapon;

(iv) a currently valid United States passport; or

(v) a currently valid United States military identification card;

(b) one of the following identification cards, whether or not the card includes a photograph of the voter:

(i) a valid tribal identification card;

(ii) a Bureau of Indian Affairs card; or

- (iii) a tribal treaty card; or
- (c) two forms of identification not listed under Subsection (83)(a) or (b) but that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:
- (i) a current utility bill or a legible copy thereof, dated within the 90 days before the election;
- (ii) a bank or other financial account statement, or a legible copy thereof;
- (iii) a certified birth certificate;
- (iv) a valid Social Security card;
- (v) a check issued by the state or the federal government or a legible copy thereof;
- (vi) a paycheck from the voter's employer, or a legible copy thereof;
- (vii) a currently valid Utah hunting or fishing license;
- (viii) certified naturalization documentation;
- (ix) a currently valid license issued by an authorized agency of the United States;
- (x) a certified copy of court records showing the voter's adoption or name change;
- (xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;
- (xii) a currently valid identification card issued by:
- (A) a local government within the state;
- (B) an employer for an employee; or
- (C) a college, university, technical school, or professional school located within the state; or
- (xiii) a current Utah vehicle registration.
- (84) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.
- (85) "Voter" means a person who:
- (a) meets the requirements for voting in an election;
- (b) meets the requirements of election registration;
- (c) is registered to vote; and
- (d) is listed in the official register book.
- (86) "Voter registration deadline" means the registration deadline provided in Section 20A-2-102.5.
- (87) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.
- (88) "Voting booth" means:
- (a) the space or compartment within a polling place that is provided for the preparation of ballots,

including the voting machine enclosure or curtain; or

(b) a voting device that is free standing.

(89) "Voting device" means:

(a) an apparatus in which ballot sheets are used in connection with a punch device for piercing the ballots by the voter;

(b) a device for marking the ballots with ink or another substance;

(c) an electronic voting device or other device used to make selections and cast a ballot electronically, or any component thereof;

(d) an automated voting system under Section 20A-5-302; or

(e) any other method for recording votes on ballots so that the ballot may be tabulated by means of automatic tabulating equipment.

(90) "Voting machine" means a machine designed for the sole purpose of recording and tabulating votes cast by voters at an election.

(91) "Voting poll watcher" means a person appointed as provided in this title to witness the distribution of ballots and the voting process.

(92) "Voting precinct" means the smallest voting unit established as provided by law within which qualified voters vote at one polling place.

(93) "Watcher" means a voting poll watcher, a counting poll watcher, an inspecting poll watcher, and a testing watcher.

(94) "Western States Presidential Primary" means the election established in Chapter 9, Part 8, Western States Presidential Primary.

(95) "Write-in ballot" means a ballot containing any write-in votes.

(96) "Write-in vote" means a vote cast for a person whose name is not printed on the ballot according to the procedures established in this title.

Section 2. Section 20A-6-101 is amended to read:

20A-6-101. General requirements for paper ballots.

(1) Each election officer shall ensure that paper ballots:

~~[(a) are printed on only one side of the paper;]~~

~~[(b)]~~ (a) are printed using precisely the same quality and tint of plain white paper through which the printing or writing cannot be seen;

~~[(e)]~~ (b) are printed using precisely the same quality and kind of type;

~~[(d)]~~ (c) are printed using precisely the same quality and tint of plain black ink;

~~[(e)]~~ (d) are uniform in size for all the voting precincts within the election officer's jurisdiction; and

~~[(f)]~~ (e) include, ~~[in an election]~~ on a ticket for a race in which a voter is authorized to cast a write-in

vote and [where] in which a write-in candidate is qualified under Section 20A-9-601, a [write-in column immediately adjacent to the last column on the ballot that is long enough to contain as many written names of candidates as there are persons to be elected with: (i) the offices to be filled printed above the blank spaces on the ticket; and (ii) the words "Write In Voting Column" printed at the head of the column without a 1/2 inch circle] space for a write-in candidate immediately following the last candidate listed on that ticket.

(2) Whenever the vote for candidates is to be limited to the voters of a particular political division, the election officer shall ensure that the names of those candidates are printed only upon those ballots provided to that political division.

Section 3. Section 20A-6-102 is amended to read:

20A-6-102. General requirements for machine counted ballots.

(1) Each election officer shall ensure that ballots and ballot labels are printed:

(a) to a size and arrangement that fits the construction of the voting device; and

(b) in plain, clear type in black ink on clear white stock; or

(c) in plain, clear type in black ink on stock of different colors if it is necessary to:

(i) identify different ballots or parts of the ballot; or

(ii) differentiate between political parties.

(2) Each election officer shall ensure that:

(a) ballot sheets are of a size, design, and stock suitable for processing by automatic data processing machines;

(b) each ballot sheet has an attached perforated stub, on which is printed the words "Official Ballot, (initial) Poll Worker"; and

(c) ballot stubs are numbered consecutively.

(3) [In an election] For a race in which a voter is authorized to cast a write-in vote and [where] in which a write-in candidate is qualified under Section 20A-9-601, the election officer shall [provide a separate write-in ballot, which may be in the form of a paper ballot, a card, or a secrecy envelope in which the voter places his ballot sheet after voting, to permit voters to write in the title of the office and the name of the person or persons for whom the voter wishes to cast a write-in vote] include a space on the ticket for a write-in candidate immediately following the last candidate listed on that ticket.

(4) Notwithstanding any other provisions of this section, the election officer may authorize any ballots that are to be counted by means of electronic or electromechanical devices to be printed to a size, layout, texture, and in any type of ink or combination of inks that will be suitable for use in

the counting devices in which they are intended to be placed.

Section 4. Section 20A-6-301 is amended to read:

20A-6-301. Paper ballots -- Regular general election.

(1) Each election officer shall ensure that:

(a) all paper ballots furnished for use at the regular general election contain:

(i) no captions or other endorsements except as provided in this section;

(ii) no symbols, markings, or other descriptions of a political party or group, except for a registered political party that has chosen to nominate its candidates in accordance with Section 20A-9-403; and

(iii) no indication that a candidate for elective office has been nominated by, or has been endorsed by, or is in any way affiliated with a political party or group, unless the candidate has been nominated by a registered political party in accordance with Subsection 20A-9-202(4) or Subsection 20A-9-403(5).

(b) (i) the paper ballot contains a ballot stub at least one inch wide, placed across the top of the ballot, and divided from the rest of ballot by a perforated line;

(ii) the ballot number and the words "Poll Worker's Initial ____" are printed on the stub; and

(iii) ballot stubs are numbered consecutively;

(c) immediately below the perforated ballot stub, the following endorsements are printed in 18 point bold type:

(i) "Official Ballot for ____ County, Utah";

(ii) the date of the election; and

(iii) the words "Clerk of _____ County" or, as applicable, the name of a combined office that includes the duties of a county clerk;

~~[(d) each ticket is placed in a separate column on the ballot in the order specified under Section 20A-6-305 with the party emblem, followed by the party name, at the head of the column;]~~

~~[(e)]~~ (d) the party name or title is printed in capital letters not less than one-fourth of an inch high;

~~[(f) a circle one-half inch in diameter is printed immediately below the party name or title, and the top of the circle is placed not less than two inches below the perforated line;]~~

~~[(g)]~~ (e) unaffiliated candidates, candidates not affiliated with a registered political party, and all other candidates for elective office who were not nominated by a registered political party in accordance with Subsection 20A-9-202(4) or Subsection 20A-9-403(5), are listed [in one column in the order specified under] with the other candidates for the same office in accordance with Section 20A-6-305, without a party [circle, with the

following instructions printed at the head of the column: "All candidates name or title, and with a mark referencing the following statement at the bottom of the ticket: "This candidate is not affiliated with, or does not qualify to be listed on the ballot as affiliated with, a political party [are listed below. They are to be considered with all offices and candidates listed to the left. Only one vote is allowed for each office].";

~~(h) the columns~~ (f) each ticket containing the lists of candidates, including the party name and device, are separated by heavy parallel lines;

~~(i) (g)~~ the offices to be filled are plainly printed immediately above the names of the candidates for those offices;

~~(j) (h)~~ the names of candidates are printed in capital letters, not less than one-eighth nor more than one-fourth of an inch high in heavy-faced type not smaller than 10 point, between lines or rules three-eighths of an inch apart; and

~~(k) a square with sides measuring not less than one-fourth of an inch in length is printed immediately adjacent to the name of each candidate;~~

~~(l) for the offices of president and vice president and governor and lieutenant governor, one square with sides measuring not less than one-fourth of an inch in length is printed on the same side as but opposite a double bracket enclosing the names of the two candidates;~~

~~(m) (i) [in an election] on a ticket for a race in which a voter is authorized to cast a write-in vote and [where] in which a write-in candidate is qualified under Section 20A-9-601[, immediately adjacent to the unaffiliated ticket on the ballot, the ballot contains a write-in column long enough to contain as many written names of candidates as there are persons to be elected with];~~

~~(i) for each office on the ballot, the office to be filled plainly printed immediately above;~~

~~(A) a blank, horizontal line to enable the entry of a valid write-in candidate and a square with sides measuring not less than one-fourth of an inch in length printed immediately adjacent to the blank horizontal line]~~

(i) the ballot includes a space for a write-in candidate immediately following the last candidate listed on that ticket; or

~~(B) (ii) for the offices of president and vice president and governor and lieutenant governor, [two blank horizontal lines] the ballot includes two spaces for write-in candidates immediately following the last candidates on that ticket, one placed above the other, to enable the entry of two valid write-in candidates[, and one square with sides measuring not less than one-fourth of an inch in length printed on the same side as but opposite a double bracket enclosing the two blank horizontal lines; and].~~

~~(ii) the words "Write-In Voting Column" printed at the head of the column without a one-half inch circle;]~~

~~(n) when required, the ballot includes a nonpartisan ticket placed immediately adjacent to the write-in ticket, or, if there is no write-in ticket, immediately adjacent to the unaffiliated ticket, with the word "NONPARTISAN" in reverse type in an 18 point solid rule running vertically the full length of the nonpartisan ballot copy; and]~~

~~(o) constitutional amendments or other questions submitted to the vote of the people, are printed on the ballot after the list of candidates.]~~

(2) Each election officer shall ensure that:

(a) each person nominated by any registered political party under Subsection 20A-9-202(4) or Subsection 20A-9-403(5), and no other person, is placed on the ballot:

(i) under the registered political party's name [and emblem], if any; or

(ii) under the title of the registered political party as designated by them in their certificates of nomination or petition, or, if none is designated, then under some suitable title;

(b) the names of all unaffiliated candidates that qualify as required in Title 20A, Chapter 9, Part 5, Candidates not Affiliated with a Party, are placed on the ballot;

(c) the names of the candidates for president and vice president are used on the ballot instead of the names of the presidential electors; and

(d) the ballots contain no other names.

(3) When the ballot contains a nonpartisan section, the election officer shall ensure that:

(a) the designation of the office to be filled in the election and the number of candidates to be elected are printed in type not smaller than eight point;

(b) the words designating the office are printed flush with the left-hand margin;

(c) the words, "Vote for one" or "Vote for up to ____ (the number of candidates for which the voter may vote)" extend to the extreme right of the column;

(d) the nonpartisan candidates are grouped according to the office for which they are candidates;

(e) the names in each group are placed in the order specified under Section 20A-6-305 with the surnames last; and

(f) each group is preceded by the designation of the office for which the candidates seek election, and the words, "Vote for one" or "Vote for up to ____ (the number of candidates for which the voter may vote)," according to the number to be elected.

(4) Each election officer shall ensure that:

(a) proposed amendments to the Utah Constitution are listed on the ballot in accordance with Section 20A-6-107;

(b) ballot propositions submitted to the voters are listed on the ballot in accordance with Section 20A-6-107; and

(c) bond propositions that have qualified for the ballot are listed on the ballot under the title assigned to each bond proposition under Section 11-14-206.

Section 5. Section 20A-6-303 is amended to read:

20A-6-303. Regular general election -- Ballot sheets.

(1) Each election officer shall ensure that:

(a) copy on the ballot sheets or ballot labels, as applicable, are arranged in approximately the same order as paper ballots;

~~[(b) the titles of offices and the names of candidates are printed in vertical columns or in a series of separate pages;]~~

~~[(e)]~~ (b) the ballot sheet or any pages used for the ballot label are of sufficient number to include, after the list of candidates:

(i) the names of candidates for judicial offices and any other nonpartisan offices; and

(ii) any ballot propositions submitted to the voters for their approval or rejection;

~~[(d) (i) a voting square or position is included where the voter may record a straight party ticket vote for all the candidates who are listed on the ballot as being from one party by one mark or punch; and]~~

~~[(ii) the name of each political party listed in the straight party selection area includes the word "party" at the end of the party's name;]~~

~~[(e) the tickets are printed in the order specified under Section 20A-6-305;]~~

~~[(f)]~~ (c) the office titles are printed immediately adjacent to the names of candidates so as to indicate clearly the candidates for each office and the number to be elected;

~~[(g)]~~ (d) the party designation of each candidate who has been nominated by a registered political party under Subsection 20A-9-202(4) or Subsection 20A-9-403(5) is printed immediately adjacent to the candidate's name; and

~~[(h)]~~ (e) (i) if possible, all candidates for one office are grouped in one column or upon one page;

(ii) if all candidates for one office cannot be listed in one column or grouped on one page:

(A) the ballot sheet or ballot label shall be clearly marked to indicate that the list of candidates is continued on the following column or page; and

(B) approximately the same number of names shall be printed in each column or on each page.

(2) Each election officer shall ensure that:

(a) proposed amendments to the Utah Constitution are listed in accordance with Section 20A-6-107;

(b) ballot propositions submitted to the voters are listed in accordance with Section 20A-6-107; and

(c) bond propositions that have qualified for the ballot are listed under the title assigned to each bond proposition under Section 11-14-206.

Section 6. Section 20A-6-304 is amended to read:

20A-6-304. Regular general election -- Electronic ballots.

(1) Each election officer shall ensure that:

(a) the format and content of the electronic ballot is arranged in approximately the same order as paper ballots;

(b) the titles of offices and the names of candidates are displayed in vertical columns or in a series of separate display screens;

(c) the electronic ballot is of sufficient length to include, after the list of candidates:

(i) the names of candidates for judicial offices and any other nonpartisan offices; and

(ii) any ballot propositions submitted to the voters for their approval or rejection;

~~[(d) (i) a voting square or position is included where the voter may record a straight party ticket vote for all the candidates who are listed on the ballot as being from one party by making a single selection; and]~~

~~[(ii) the name of each political party listed in the straight party selection area includes the word "party" at the end of the party's name;]~~

~~[(e) the tickets are displayed in the order specified under Section 20A-6-305;]~~

~~[(f)]~~ (d) the office titles are displayed above or at the side of the names of candidates so as to indicate clearly the candidates for each office and the number to be elected;

~~[(g)]~~ (e) the party designation of each candidate who has been nominated by a registered political party under Subsection 20A-9-202(4) or Subsection 20A-9-403(5) is displayed adjacent to the candidate's name; and

~~[(h)]~~ (f) if possible, all candidates for one office are grouped in one column or upon one display screen.

(2) Each election officer shall ensure that:

(a) proposed amendments to the Utah Constitution are displayed in accordance with Section 20A-6-107;

(b) ballot propositions submitted to the voters are displayed in accordance with Section 20A-6-107; and

(c) bond propositions that have qualified for the ballot are displayed under the title assigned to each bond proposition under Section 11-14-206.

Section 7. Section 20A-6-305 is amended to read:

20A-6-305. Master ballot position list -- Random selection -- Procedures -- Publication -- Surname -- Exemptions -- Ballot order.

(1) As used in this section, "master ballot position list" means an official list of the 26 characters in the alphabet listed in random order and numbered from one to 26 as provided under Subsection (2).

(2) The lieutenant governor shall:

(a) by November 15 in the year before each regular general election, conduct a random selection to establish the master ballot position list for the next year and the year following in accordance with procedures established under Subsection (2)(c);

(b) publish the master ballot position lists on the lieutenant governor's election website on or before November 15 in the year before each regular general election; and

(c) establish written procedures for:

(i) the election official to use the master ballot position list; and

(ii) the lieutenant governor in:

(A) conducting the random selection in a fair manner; and

(B) providing a record of the random selection process used.

(3) In accordance with the written procedures established under Subsection (2)(c)(i), an election officer shall use the master ballot position list for the current year to determine the order in which to list candidates on the ballot for an election held during the year.

(4) To determine the order in which to list candidates on the ballot required under Subsection (3), the election officer shall apply the randomized alphabet using:

(a) the candidate's surname;

(b) for candidates with a surname that has the same spelling, the candidate's given name;

(c) the surname of the president and the surname of the governor for an election for the offices of president and vice president and governor and lieutenant governor; and

(d) if the ballot provides for a ticket or a straight party ticket, the registered political party name.

(5) ~~[This section does]~~ Subsections (1) through (4) do not apply to:

(a) an election for an office for which only one candidate is listed on the ballot; or

(b) a judicial retention election under Section 20A-12-201.

(6) Subject to Subsection (7), each ticket that appears on a ballot for an election shall appear separately, in the following order:

(a) a straight party ticket, where the voter may, with one mark, vote for all candidates of one political party;

(b) for federal office:

(i) president and vice president of the United States;

(ii) United States Senate office; and

(iii) United States House of Representatives office;

(c) for state office:

(i) governor and lieutenant governor;

(ii) attorney general;

(iii) state auditor;

(iv) state treasurer;

(v) state Senate office;

(vi) state House of Representatives office; and

(vii) State Board of Education member;

(d) for county office:

(i) county executive office;

(ii) county legislative body member;

(iii) county assessor;

(iv) county or district attorney;

(v) county auditor;

(vi) county clerk;

(vii) county recorder;

(viii) county sheriff;

(ix) county surveyor;

(x) county treasurer; and

(xi) local school board member;

(e) for municipal office:

(i) mayor; and

(ii) city or town council member;

(f) elected planning and service district council member;

(g) judicial retention questions; and

(h) ballot propositions not described in Subsection (6)(g).

(7) (a) A ticket for a race for a combined office shall appear on the ballot in the place of the earliest ballot ticket position that is reserved for an office that is subsumed in the combined office.

(b) Each ticket, other than a ticket described in Subsection (6)(g), shall list:

(i) each candidate in accordance with Subsections (1) through (4); and

(ii) except as otherwise provided in this title, the party name, initials, or title following each candidate's name.

Section 8. Section 20A-9-406 is amended to read:

20A-9-406. Qualified political party -- Requirements and exemptions.

The following provisions apply to a qualified political party:

(1) the qualified political party shall, no later than 5 p.m. on March 1 of each even-numbered year, certify to the lieutenant governor the identity of one or more registered political parties whose members may vote for the qualified political party's candidates;

(2) the provisions of Subsections 20A-9-403(1) through (4)(a), Subsection 20A-9-403(5)(c), and Section 20A-9-405 do not apply to a nomination for the qualified political party;

(3) an individual may only seek the nomination of the qualified political party by using a method described in Section 20A-9-407, Section 20A-9-408, or both;

(4) the qualified political party shall comply with the provisions of Sections 20A-9-407, 20A-9-408, and 20A-9-409;

(5) notwithstanding Subsection 20A-6-301(1)(a), (1)(g), or (2)(a), each election officer shall ensure that a ballot described in Section 20A-6-301 includes each person nominated by a qualified political party:

(a) under the qualified political party's name ~~and emblem~~, if any; or

(b) under the title of the qualified registered political party as designated by the qualified political party in the certification described in Subsection (1), or, if none is designated, then under some suitable title;

(6) notwithstanding Subsection 20A-6-302(1)(a), each election officer shall ensure, for paper ballots in regular general elections, that each candidate who is nominated by the qualified political party is listed by party;

(7) notwithstanding Subsection 20A-6-303(1)(~~g~~)(d), each election officer shall ensure that the party designation of each candidate who is nominated by the qualified political party is printed immediately adjacent to the candidate's name on ballot sheets or ballot labels;

(8) notwithstanding Subsection 20A-6-304(1)(~~g~~)(e), each election officer shall ensure that the party designation of each candidate who is nominated by the qualified political party is displayed adjacent to the candidate's name on an electronic ballot;

(9) "candidates for elective office," defined in Subsection 20A-9-101(1)(a), also includes an individual who files a declaration of candidacy under Section 20A-9-407 or 20A-9-408 to run in a

regular general election for a federal office, constitutional office, multicounty office, or county office;

(10) an individual who is nominated by, or seeking the nomination of, the qualified political party is not required to comply with Subsection 20A-9-201(1)(c);

(11) notwithstanding Subsection 20A-9-403(3), the qualified political party is entitled to have each of the qualified political party's candidates for elective office appear on the primary ballot of the qualified political party with an indication that each candidate is a candidate for the qualified political party;

(12) notwithstanding Subsection 20A-9-403(4)(a), the lieutenant governor shall include on the list provided by the lieutenant governor to the county clerks:

(a) the names of all candidates of the qualified political party for federal, constitutional, multicounty, and county offices; and

(b) the names of unopposed candidates for elective office who have been nominated by the qualified political party and instruct the county clerks to exclude such candidates from the primary-election ballot;

(13) notwithstanding Subsection 20A-9-403(5)(c), a candidate who is unopposed for an elective office in the regular primary election of the qualified political party is nominated by the party for that office without appearing on the primary ballot; and

(14) notwithstanding the provisions of Subsections 20A-9-403(1) and (2) and Section 20A-9-405, the qualified political party is entitled to have the names of its candidates for elective office featured with party affiliation on the ballot at a regular general election.

CHAPTER 67**S. B. 33**

Passed February 3, 2016
Approved March 18, 2016
Effective May 10, 2016

**OCCUPATIONAL SAFETY
AND HEALTH AMENDMENTS**

Chief Sponsor: Karen Mayne
House Sponsor: James A. Dunnigan

LONG TITLE**General Description:**

This bill modifies the Utah Occupational Safety and Health Act to address discharge of or retaliation against an employee.

Highlighted Provisions:

This bill:

- ▶ prohibits discharge of or retaliation against an employee under certain circumstances;
- ▶ addresses the procedures to be followed if there is a claim of prohibited discharge or retaliation, including an investigative and appellate process; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

34A-6-203, as renumbered and amended by Laws of Utah 1997, Chapter 375

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

Section 1. Section 34A-6-203 is amended to read:**34A-6-203. Discharge or retaliation against employee prohibited.**

(1) A person may not discharge or in any ~~manner discriminate~~ way retaliate against ~~any~~ an employee because the employee:

(a) ~~the employee has filed any~~ files a complaint or ~~instituted or caused~~ institutes or causes to be instituted ~~any proceedings~~ a proceeding under or related to this chapter;

(b) ~~the employee has testified~~ testifies or is about to testify in any proceeding under or related to this chapter; or

(c) ~~the employee has exercised any~~ exercises a right granted by this chapter on behalf of the employee or others.

(2) (a) ~~Any~~ An employee who believes that the employee has been discharged or otherwise ~~discriminated~~ retaliated against by any person in violation of this section may, within 30 days after the violation occurs, file a complaint with the division ~~in the commission alleging discrimination~~ alleging discharge or retaliation in violation of this section.

(b) (i) Upon receipt of the complaint, the division shall cause an investigation to be made.

(ii) The division may employ investigators as necessary to carry out the purpose of this Subsection (2).

~~[(c) If the investigator reports a violation and the employer requests a hearing on the alleged violation, the Division of Adjudication shall hold an evidentiary hearing to determine if provisions of this section have been violated.]~~

~~[(d) (i) If the Division of Adjudication determines that a violation has occurred, it may order:]~~

~~[(A) the violation to be restrained; and]~~

~~[(B) all appropriate relief, including reinstatement of the employee to the employee's former position with back pay.]~~

~~[(ii) A determination under this Subsection (2)(d) may be appealed in accordance with Section 34A-6-304.]~~

(c) Upon completion of the investigation, the division shall issue an order:

(i) (A) finding a violation of this section has occurred;

(B) requiring that the violation cease; and

(C) which may include other appropriate relief, such as reinstatement of the employee to the employee's former position with back pay; or

(ii) finding that a violation of the section has not occurred.

(d) An order issued under Subsection (2)(c) is the final order of the commission unless a party to the claim of a violation of this section seeks further review as provided in Subsection (3).

(3) (a) A party to a claim of a violation of this section may seek review of the order issued under Subsection (2)(c) within 30 days from the date the order is issued by filing a request for review with the Division of Adjudication.

(b) The request for review shall comply with Subsection 63G-4-301(1).

(c) If the request for review is made, the Division of Adjudication shall conduct a de novo review of the underlying order.

(d) If the request for review is based on a finding that a violation of this section occurred, the division shall appear in the review proceeding to defend the division's finding.

(e) If the request for review is based on a finding that a violation of this section did not occur, the division may not participate in the review proceeding.

(f) (i) If the Division of Adjudication determines a violation of this section has occurred, it may order relief as provided in Subsection (2)(c).

(ii) If the Division of Adjudication determines that a violation of this section has not occurred, it shall issue an order stating the determination.

(4) A party may appeal an order issued by the Division of Adjudication under Subsection (3)(f) in accordance with Subsection 34A-6-304(1).

CHAPTER 68**S. B. 35**

Passed February 11, 2016

Approved March 18, 2016

Effective May 10, 2016

**VETERAN LICENSE
PLATES AMENDMENTS**

Chief Sponsor: Peter C. Knudson

House Sponsor: Paul Ray

LONG TITLE**General Description:**

This bill provides for a special group license plate for a veteran of a campaign or combat theater.

Highlighted Provisions:

This bill:

- ▶ allows for a combat veteran who is not disabled to display a license plate indicating the campaign or theater the veteran served in.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-1a-418, as last amended by Laws of Utah 2014, Chapter 37

41-1a-421, as last amended by Laws of Utah 2013, Chapter 214

71-8-2, as last amended by Laws of Utah 2013, Chapter 214

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

Section 1. Section 41-1a-418 is amended to read:**41-1a-418. Authorized special group license plates.**

(1) The division shall only issue special group license plates in accordance with this section through Section 41-1a-422 to a person who is specified under this section within the categories listed as follows:

(a) disability special group license plates issued in accordance with Section 41-1a-420;

(b) honor special group license plates, as in a war hero, which plates are issued for a:

(i) survivor of the Japanese attack on Pearl Harbor;

(ii) former prisoner of war;

(iii) recipient of a Purple Heart;

(iv) disabled veteran; ~~or~~

(v) recipient of a gold star award issued by the United States Secretary of Defense; or

(vi) recipient of a campaign or combat theater award determined by the Department of Veterans' and Military Affairs;

(c) unique vehicle type special group license plates, as for historical, collectors value, or other unique vehicle type, which plates are issued for:

(i) a special interest vehicle;

(ii) a vintage vehicle;

(iii) a farm truck; or

(iv) (A) until Subsection (1)(c)(iv)(B) or (4) applies, a vehicle powered by clean fuel as defined in Section 59-13-102; or

(B) beginning on the effective date of rules made by the Department of Transportation authorized under Subsection 41-6a-702(5)(b) and until Subsection (4) applies, a vehicle powered by clean fuel that meets the standards established by the Department of Transportation in rules authorized under Subsection 41-6a-702(5)(b);

(d) recognition special group license plates, which plates are issued for:

(i) a current member of the Legislature;

(ii) a current member of the United States Congress;

(iii) a current member of the National Guard;

(iv) a licensed amateur radio operator;

(v) a currently employed, volunteer, or retired firefighter until June 30, 2009;

(vi) an emergency medical technician;

(vii) a current member of a search and rescue team;

(viii) a current honorary consulate designated by the United States Department of State; or

(ix) an individual that wants to recognize and honor American freedoms and values through an In God We Trust license plate;

(e) support special group license plates, as for a contributor to an institution or cause, which plates are issued for a contributor to:

(i) an institution's scholastic scholarship fund;

(ii) the Division of Wildlife Resources;

(iii) the Department of Veterans' and Military Affairs;

(iv) the Division of Parks and Recreation;

(v) the Department of Agriculture and Food;

(vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;

(vii) the Boy Scouts of America;

(viii) spay and neuter programs through No More Homeless Pets in Utah;

(ix) the Boys and Girls Clubs of America;

(x) Utah public education;

(xi) programs that provide support to organizations that create affordable housing for

those in severe need through the Division of Real Estate;

- (xii) the Department of Public Safety;
- (xiii) programs that support Zion National Park;
- (xiv) beginning on July 1, 2009, programs that provide support to firefighter organizations;
- (xv) programs that promote bicycle operation and safety awareness;
- (xvi) programs that conduct or support cancer research;
- (xvii) programs that create or support autism awareness;
- (xviii) programs that create or support humanitarian service and educational and cultural exchanges;
- (xix) programs that conduct or support prostate cancer awareness, screening, detection, or prevention;
- (xx) programs that support and promote adoptions;
- (xxi) programs that create or support civil rights education and awareness; or
- (xxii) programs that support issues affecting women and children through an organization affiliated with a national professional men's basketball organization.

(2) (a) The division may not issue a new type of special group license plate or decal unless the division receives:

(i) (A) a private donation for the start-up fee established under Section 63J-1-504 for the production and administrative costs of providing the new special group license plates or decals; or

(B) a legislative appropriation for the start-up fee provided under Subsection (2)(a)(i)(A); and

(ii) beginning on January 1, 2012, and for the issuance of a support special group license plate authorized in Section 41-1a-422, at least 500 completed applications for the new type of support special group license plate or decal to be issued with all fees required under this part for the support special group license plate and decal issuance paid by each applicant.

(b) (i) Beginning on January 1, 2012, each participating organization shall collect and hold applications for support special group license plates or decals authorized in Section 41-1a-422 on or after January 1, 2012, until it has received at least 500 applications.

(ii) Once a participating organization has received at least 500 applications, it shall submit the applications, along with the necessary fees, to the division for the division to begin working on the design and issuance of the new type of support special group license plate or decal to be issued.

(iii) Beginning on January 1, 2012, the division may not work on the issuance or design of a new

support special group license plate or decal authorized in Section 41-1a-422 until the applications and fees required under this Subsection (2) have been received by the division.

(iv) The division shall begin issuance of a new support special group license plate or decal authorized in Section 41-1a-422 on or after January 1, 2012, no later than six months after receiving the applications and fees required under this Subsection (2).

(c) (i) Beginning on July 1, 2009, the division may not renew a motor vehicle registration of a motor vehicle that has been issued a firefighter recognition special group license plate unless the applicant is a contributor as defined in Subsection 41-1a-422(1)(a)(ii)(D) to the Firefighter Support Restricted Account.

(ii) A registered owner of a vehicle that has been issued a firefighter recognition special group license plate prior to July 1, 2009, upon renewal of the owner's motor vehicle registration shall:

(A) be a contributor to the Firefighter Support Restricted Account as required under Subsection (2)(c)(i); or

(B) replace the firefighter recognition special group license plate with a new license plate.

(3) (a) Beginning on July 1, 2011, if a support special group license plate or decal type authorized in Section 41-1a-422 and issued on or after January 1, 2012, has fewer than 500 license plates issued each year for a three consecutive year time period that begins on July 1, the division may not issue that type of support special group license plate or decal to a new applicant beginning on January 1 of the following calendar year after the three consecutive year time period for which that type of support special group license plate or decal has fewer than 500 license plates issued each year.

(b) If the division is required to stop the issuance of a type of support special group license plate or decal authorized in Section 41-1a-422 under this Subsection (3), the division shall report to the Transportation Interim Committee that the division will stop the issuance on or before the November interim meeting of the year in which the commission determines to stop the issuance of that type of support special group license plate or decal.

(4) Beginning on July 1, 2011, the division may not issue to an applicant a unique vehicle type license plate for a vehicle powered by clean fuel under Subsection (1)(c)(iv).

Section 2. Section 41-1a-421 is amended to read:

41-1a-421. Honor special group license plates -- Personal identity requirements.

(1) (a) The requirements of this Subsection (1) apply to a vehicle displaying a:

(i) survivor of the Japanese attack on Pearl Harbor license plate;

(ii) former prisoner of war license plate;

- (iii) Purple Heart license plate; [ø] or
- (iv) disabled veteran license plate[-]; or
- (v) campaign or combat theater award license plate.

(b) The vehicle shall be titled in the name of the veteran or the veteran and spouse.

(c) Upon the death of the veteran, the surviving spouse may, upon application to the division, retain the special group license plate decal so long as the surviving spouse remains unmarried.

(d) The division shall require the surviving spouse to make a sworn statement that the surviving spouse is unmarried before renewing the registration under this section.

(2) Proper evidence of a Purple Heart is either:

(a) a membership card in the Military Order of the Purple Heart; or

(b) an original or certificate in lieu of the applicant's military discharge form, DD-214, issued by the National Personnel Records Center.

(3) The Purple Heart license plates shall bear:

(a) the words "Purple Heart" at the bottom of the plate;

(b) a logo substantially depicting a Purple Heart award; and

(c) the letter and number combinations assigned by the division.

(4) Proper evidence that a person is a disabled veteran is a written document issued by a military entity certifying that the person is disabled as a result of service in a branch of the United States Military.

(5) A disabled veteran seeking a disabled veteran license plate shall request the Department of Veterans' and Military Affairs to provide the verification required under Subsection (4).

(6) (a) An applicant for a gold star license plate shall submit written documentation that the applicant is a recipient of a gold star award issued by the United States Secretary of Defense.

(b) Written documentation under Subsection (6)(a) may include any of the following:

(i) a death certificate;

(ii) documentation showing classification of death as listed by the United States Secretary of Defense;

(iii) a casualty report;

(iv) a telegram from the United States Secretary of Defense or one of the branches of the United States armed forces; or

(v) other documentation that verifies the applicant meets the requirements of Subsection (6)(a).

(7) An applicant for a campaign or combat theater award special group license plate shall:

(a) be a contributor in accordance with Subsections 41-1a-422(1)(a)(i)(B) and (1)(a)(ii)(A); and

(b) submit a form to the division obtained from the Department of Veterans' and Military Affairs which verifies that the applicant qualifies for the campaign or combat theater award special group license plate requested.

(8) Each campaign or combat theater award special group license plate authorized by the Department of Veterans' and Military Affairs shall be considered a new special group license plate and require the payment of the fees associated with newly authorized special group license plates.

Section 3. Section 71-8-2 is amended to read:

71-8-2. Department of Veterans' and Military Affairs created -- Appointment of executive director -- Department responsibilities.

(1) There is created the Department of Veterans' and Military Affairs.

(2) The governor shall appoint an executive director for the department, after consultation with the Veterans' Advisory Council, who is subject to Senate confirmation.

(a) The executive director shall be a veteran.

(b) Any veteran or veteran's group may submit names to the council for consideration.

(3) The department shall:

(a) conduct and supervise all veteran activities as provided in this title; [and]

(b) determine which campaign or combat theater awards are eligible for a special group license plate in accordance with Section 41-1a-418;

(c) verify that an applicant for a campaign or combat theater award special group license plate is qualified to receive it;

(d) provide an applicant that qualifies a form indicating the campaign or combat theater award special group license plate for which the applicant qualifies; and

[~~(b)~~] (e) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this title.

CHAPTER 69**S. B. 40**

Passed February 16, 2016

Approved March 18, 2016

Effective May 10, 2016

**UTAH REVISED NONPROFIT
CORPORATION ACT AMENDMENTS**

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Gage Froerer

LONG TITLE**General Description:**

This bill modifies provisions related to nonprofit corporations.

Highlighted Provisions:

This bill:

- ▶ addresses when actions may be taken without a meeting; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

16-6a-813, as last amended by Laws of Utah 2015, Chapter 240

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

Section 1. Section 16-6a-813 is amended to read:**16-6a-813. Action without meeting.**

(1) (a) Unless otherwise provided in the bylaws, any action required or permitted by this chapter to be taken at a board of directors' meeting may be taken without a meeting if all members of the board consent to the action in writing.

(b) Action is taken under Subsection (1)(a) at the time the last director signs a writing describing the action taken, unless, before that time, any director revokes a consent by a writing signed by the director and received by the secretary or any other person authorized by the bylaws or the board of directors to receive the revocation.

(c) Action under Subsection (1)(a) is effective at the time it is taken under Subsection (1)(a) unless the board of directors establishes a different effective date.

(2) (a) [If] Unless otherwise provided in the bylaws, any action required or permitted by this chapter to be taken at a board of directors' meeting may be taken without a meeting if notice is transmitted in writing to each member of the board and each member of the board by the time stated in the notice:

(i) (A) signs a writing for such action; or

(B) signs a writing against such action, abstains in writing from voting, or fails to respond or vote; and

(ii) fails to demand in writing that action not be taken without a meeting.

(b) The notice required by Subsection [(1)] (2)(a) shall state:

(i) the action to be taken;

(ii) the time by which a director must respond to the notice;

(iii) that failure to respond by the time stated in the notice will have the same effect as:

(A) abstaining in writing by the time stated in the notice; and

(B) failing to demand in writing by the time stated in the notice that action not be taken without a meeting; and

(iv) any other matters the nonprofit corporation determines to include.

(c) Action is taken under this Subsection (2) only if at the end of the time stated in the notice transmitted pursuant to Subsection (2)(a):

(i) the affirmative votes in writing for the action received by the nonprofit corporation and not revoked pursuant to Subsection (2)(e) equal or exceed the minimum number of votes that would be necessary to take such action at a meeting at which all of the directors then in office were present and voted; and

(ii) the nonprofit corporation has not received a written demand by a director that the action not be taken without a meeting other than a demand that has been revoked pursuant to Subsection (2)(e).

(d) A director's right to demand that action not be taken without a meeting shall be considered to have been waived unless the nonprofit corporation receives such demand from the director in writing by the time stated in the notice transmitted pursuant to Subsection (2)(a) and the demand has not been revoked pursuant to Subsection (2)(e).

(e) A director who in writing has voted, abstained, or demanded action not be taken without a meeting pursuant to this Subsection (2) may revoke the vote, abstention, or demand in writing received by the nonprofit corporation by the time stated in the notice transmitted pursuant to Subsection (2)(a).

(f) Unless the notice transmitted pursuant to Subsection (2)(a) states a different effective date, action taken pursuant to this Subsection (2) is effective at the end of the time stated in the notice transmitted pursuant to Subsection (2)(a).

(3) (a) Unless otherwise provided by the bylaws, a communication under this section may be delivered by an electronic transmission.

(b) An electronic transmission communicating a vote, abstention, demand, or revocation under Subsection (2) is considered to be written, signed, and dated for purposes of this section if the electronic transmission is delivered with information from which the nonprofit corporation can determine:

(i) that the electronic transmission is transmitted by the director; and

(ii) the date on which the electronic transmission is transmitted.

(c) The date on which an electronic transmission is transmitted is considered the date on which the vote, abstention, demand, or revocation is signed.

(d) For purposes of this section, communications to the nonprofit corporation are not effective until received.

(4) Action taken pursuant to this section:

(a) has the same effect as action taken at a meeting of directors; and

(b) may be described as an action taken at a meeting of directors in any document.

CHAPTER 70**S. B. 64**

Passed February 29, 2016

Approved March 18, 2016

Effective October 1, 2016

**SPECIAL GROUP LICENSE
PLATE MODIFICATIONS**

Chief Sponsor: Luz Escamilla

House Sponsor: Brad R. Wilson

LONG TITLE**General Description:**

This bill authorizes a National Professional Men's Soccer Team Support of Building Communities support special group license plate.

Highlighted Provisions:

This bill:

- ▶ creates a National Professional Men's Soccer Team Support of Building Communities support special group license plate for certain organizations that strengthen youth soccer, build communities, and promote environmental sustainability;
- ▶ requires applicants for the plate to make a \$25 annual donation to the National Professional Men's Soccer Team Support of Building Communities Restricted Account;
- ▶ creates the National Professional Men's Soccer Team Support of Building Communities Restricted Account;
- ▶ requires the Department of Heritage and Arts to distribute the funds in the National Professional Men's Soccer Team Support of Building Communities Restricted Account to certain organizations that strengthen youth soccer, build communities, and promote environmental sustainability; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

41-1a-418, as last amended by Laws of Utah 2014, Chapter 37

41-1a-422, as last amended by Laws of Utah 2014, Chapter 37

63J-1-602.1, as last amended by Laws of Utah 2015, Chapters 136 and 180

ENACTS:

9-19-101, Utah Code Annotated 1953

9-19-102, Utah Code Annotated 1953

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

Section 1. Section 9-19-101 is enacted to read:**CHAPTER 19. NATIONAL PROFESSIONAL
MEN'S SOCCER TEAM SUPPORT OF
BUILDING COMMUNITIES RESTRICTED
ACCOUNT ACT****9-19-101. Title.**

This chapter is known as the "National Professional Men's Soccer Team Support of Building Communities Restricted Account Act."

Section 2. Section 9-19-102 is enacted to read:**9-19-102. National Professional Men's Soccer Team Support of Building Communities Restricted Account.**

(1) There is created in the General Fund a restricted account known as the "National Professional Men's Soccer Team Support of Building Communities Restricted Account."

(2) The account shall be funded by:

(a) contributions deposited into the account in accordance with Section 41-1a-422;

(b) private contributions; and

(c) donations or grants from public or private entities.

(3) Upon appropriation by the Legislature, the department shall distribute funds in the account to one or more charitable organizations that:

(a) qualify as being tax exempt under Section 501(c)(3) of the Internal Revenue Code;

(b) have a board that is appointed by the owners that, either on an individual or joint basis, own a controlling interest in a legal entity that is a franchised member of the internationally recognized national governing body for professional men's soccer in the United States;

(c) are headquartered within the state;

(d) create or support programs that focus on:

(i) strengthening communities through youth soccer by:

(A) using soccer to teach life skills;

(B) combating gang activity through youth involvement; and

(C) providing youth in underserved areas with opportunities to play soccer and become certified referees;

(ii) building communities through professional player initiatives, tournaments, and community gathering areas; and

(iii) promoting environmental sustainability; and

(e) have a board of directors that disperses all funds of the organization.

(4) (a) An organization described in Subsection (3) may apply to the department to receive a distribution in accordance with Subsection (3).

(b) An organization that receives a distribution from the department in accordance with Subsection (3) shall expend the distribution only to:

(i) create or support programs that focus on issues described in Subsection (3);

(ii) create or sponsor programs that will benefit residents within the state; and

(iii) pay the costs of issuing or reordering National Professional Men's Soccer Team Support of Building Communities support special group license plate decals.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules providing procedures for an organization to apply to the department to receive a distribution under this Subsection (4).

(5) In accordance with Section 63J-1-602.1, appropriations from the account are nonlapsing.

Section 3. Section 41-1a-418 is amended to read:

41-1a-418. Authorized special group license plates.

(1) The division shall only issue special group license plates in accordance with this section through Section 41-1a-422 to a person who is specified under this section within the categories listed as follows:

(a) disability special group license plates issued in accordance with Section 41-1a-420;

(b) honor special group license plates, as in a war hero, which plates are issued for a:

(i) survivor of the Japanese attack on Pearl Harbor;

(ii) former prisoner of war;

(iii) recipient of a Purple Heart;

(iv) disabled veteran; or

(v) recipient of a gold star award issued by the United States Secretary of Defense;

(c) unique vehicle type special group license plates, as for historical, collectors value, or other unique vehicle type, which plates are issued for:

(i) a special interest vehicle;

(ii) a vintage vehicle;

(iii) a farm truck; or

(iv) (A) until Subsection (1)(c)(iv)(B) or (4) applies, a vehicle powered by clean fuel as defined in Section 59-13-102; or

(B) beginning on the effective date of rules made by the Department of Transportation authorized under Subsection 41-6a-702(5)(b) and until Subsection (4) applies, a vehicle powered by clean fuel that meets the standards established by the Department of Transportation in rules authorized under Subsection 41-6a-702(5)(b);

(d) recognition special group license plates, which plates are issued for:

(i) a current member of the Legislature;

(ii) a current member of the United States Congress;

(iii) a current member of the National Guard;

(iv) a licensed amateur radio operator;

(v) a currently employed, volunteer, or retired firefighter until June 30, 2009;

(vi) an emergency medical technician;

(vii) a current member of a search and rescue team;

(viii) a current honorary consulate designated by the United States Department of State; or

(ix) an individual that wants to recognize and honor American freedoms and values through an In God We Trust license plate;

(e) support special group license plates, as for a contributor to an institution or cause, which plates are issued for a contributor to:

(i) an institution's scholastic scholarship fund;

(ii) the Division of Wildlife Resources;

(iii) the Department of Veterans' and Military Affairs;

(iv) the Division of Parks and Recreation;

(v) the Department of Agriculture and Food;

(vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;

(vii) the Boy Scouts of America;

(viii) spay and neuter programs through No More Homeless Pets in Utah;

(ix) the Boys and Girls Clubs of America;

(x) Utah public education;

(xi) programs that provide support to organizations that create affordable housing for those in severe need through the Division of Real Estate;

(xii) the Department of Public Safety;

(xiii) programs that support Zion National Park;

(xiv) beginning on July 1, 2009, programs that provide support to firefighter organizations;

(xv) programs that promote bicycle operation and safety awareness;

(xvi) programs that conduct or support cancer research;

(xvii) programs that create or support autism awareness;

(xviii) programs that create or support humanitarian service and educational and cultural exchanges;

(xix) programs that conduct or support prostate cancer awareness, screening, detection, or prevention;

(xx) programs that support and promote adoptions;

(xxi) programs that create or support civil rights education and awareness; [eø]

(xxii) programs that support issues affecting women and children through an organization affiliated with a national professional men's basketball organization[-]; or

(xxiii) programs that strengthen youth soccer, build communities, and promote environmental sustainability through an organization affiliated with a professional men's soccer organization.

(2) (a) The division may not issue a new type of special group license plate unless the division receives:

(i) (A) a private donation for the start-up fee established under Section 63J-1-504 for the production and administrative costs of providing the new special group license plates; or

(B) a legislative appropriation for the start-up fee provided under Subsection (2)(a)(i)(A); and

(ii) beginning on January 1, 2012, and for the issuance of a support special group license plate authorized in Section 41-1a-422, at least 500 completed applications for the new type of support special group license plate to be issued with all fees required under this part for the support special group license plate issuance paid by each applicant.

(b) (i) Beginning on January 1, 2012, each participating organization shall collect and hold applications for support special group license plates authorized in Section 41-1a-422 on or after January 1, 2012, until it has received at least 500 applications.

(ii) Once a participating organization has received at least 500 applications, it shall submit the applications, along with the necessary fees, to the division for the division to begin working on the design and issuance of the new type of support special group license plate to be issued.

(iii) Beginning on January 1, 2012, the division may not work on the issuance or design of a new support special group license plate authorized in Section 41-1a-422 until the applications and fees required under this Subsection (2) have been received by the division.

(iv) The division shall begin issuance of a new support special group license plate authorized in Section 41-1a-422 on or after January 1, 2012, no later than six months after receiving the applications and fees required under this Subsection (2).

(c) (i) Beginning on July 1, 2009, the division may not renew a motor vehicle registration of a motor vehicle that has been issued a firefighter recognition special group license plate unless the applicant is a contributor as defined in Subsection 41-1a-422(1)(a)(ii)(D) to the Firefighter Support Restricted Account.

(ii) A registered owner of a vehicle that has been issued a firefighter recognition special group license plate prior to July 1, 2009, upon renewal of the owner's motor vehicle registration shall:

(A) be a contributor to the Firefighter Support Restricted Account as required under Subsection (2)(c)(i); or

(B) replace the firefighter recognition special group license plate with a new license plate.

(3) (a) Beginning on July 1, 2011, if a support special group license plate type authorized in Section 41-1a-422 and issued on or after January 1, 2012, has fewer than 500 license plates issued each year for a three consecutive year time period that begins on July 1, the division may not issue that type of support special group license plate to a new applicant beginning on January 1 of the following calendar year after the three consecutive year time period for which that type of support special group license plate has fewer than 500 license plates issued each year.

(b) If the division is required to stop the issuance of a type of support special group license plate authorized in Section 41-1a-422 under this Subsection (3), the division shall report to the Transportation Interim Committee that the division will stop the issuance on or before the November interim meeting of the year in which the commission determines to stop the issuance of that type of support special group license plate.

(4) Beginning on July 1, 2011, the division may not issue to an applicant a unique vehicle type license plate for a vehicle powered by clean fuel under Subsection (1)(c)(iv).

Section 4. Section 41-1a-422 is amended to read:

41-1a-422. Support special group license plates -- Contributor -- Voluntary contribution collection procedures.

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), "contributor" means a person who has donated or in whose name at least \$25 has been donated to:

(A) a scholastic scholarship fund of a single named institution;

(B) the Department of Veterans' and Military Affairs for veterans' programs;

(C) the Division of Wildlife Resources for the Wildlife Resources Account created in Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;

(E) the Division of Parks and Recreation for the benefit of snowmobile programs;

(F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that

provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;

(J) the Utah Association of Public School Foundations to support public education;

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to assist people who have severe housing needs;

(L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118 to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees;

(M) the Division of Parks and Recreation for distribution to organizations that provide support for Zion National Park;

(N) the Firefighter Support Restricted Account created in Section 53-7-109 to support firefighter organizations;

(O) the Share the Road Bicycle Support Restricted Account created in Section 72-2-127 to support bicycle operation and safety awareness programs;

(P) the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(Q) Autism Awareness Restricted Account created in Section 53A-1-304 to support autism awareness programs;

(R) Humanitarian Service and Educational and Cultural Exchange Restricted Account created in Section 9-17-102 to support humanitarian service and educational and cultural programs;

(S) Prostate Cancer Support Restricted Account created in Section 26-21a-303 for programs that conduct or support prostate cancer awareness, screening, detection, or prevention;

(T) the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608 to support programs that promote adoption;

(U) the Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102; [ø]

(V) the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202[-]; or

(W) the National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(ii) (A) For a veterans' special group license plate, "contributor" means a person who has donated or in whose name at least a \$25 donation at the time of application and \$10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least \$30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(C) For an Honoring Heroes special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(D) For a firefighter support special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least \$15 has been donated at the time of application and annually after the time of application; and

(II) is a currently employed, volunteer, or retired firefighter.

(E) For a cancer research special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually after the time of application.

(F) For a Martin Luther King, Jr. Civil Rights Support special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(b) "Institution" means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

(i) the name of the contributor;

(ii) the institution to which a donation was made;

(iii) the date of the donation; and

(iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the money collected by the institutions from contributors is used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63J-1-504 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) An applicant for original or renewal support special group license plates under this section must be a contributor to the sponsoring organization associated with the license plate.

(b) This contribution shall be:

(i) unless collected by the named institution under Subsection (2), collected by the division;

(ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee;

(iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates; and

(iv) for a firefighter special group license plate, deposited into the appropriate account less:

(A) the costs of reordering firefighter special group license plate decals; and

(B) the costs of replacing recognition special group license plates with new license plates under Subsection 41-1a-1211(13).

(c) The donation described in Subsection (1)(a) must be made in the 12 months prior to registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

- (i) snowmobile license plates; or
- (ii) conservation license plates.

(4) Veterans' license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

Section 5. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing accounts and funds -- General authority and Title 1 through Title 30.

(1) Appropriations made to the Legislature and its committees.

(2) The Percent-for-Art Program created in Section 9-6-404.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

~~[(4)]~~ (5) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

~~[(5)]~~ (6) An appropriation made to the Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

~~[(6)]~~ (7) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

~~[(7)]~~ (8) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

~~[(8)]~~ (9) Funds collected from the emergency medical services grant program, as provided in Section 26-8a-207.

~~[(9)]~~ (10) The Prostate Cancer Support Restricted Account created in Section 26-21a-303.

~~[(10)]~~ (11) State funds appropriated for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

~~[(11)]~~ (12) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

~~[(12)]~~ (13) The primary care grant program created in Section 26-10b-102.

~~[(13)]~~ (14) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

Section 6. Effective date.

This bill takes effect on October 1, 2016.

CHAPTER 71**S. B. 69**

Passed March 3, 2016
Approved March 18, 2016
Effective October 1, 2016

**CHILDREN'S HEART DISEASE
SPECIAL GROUP LICENSE PLATES**

Chief Sponsor: David P. Hinkins
House Sponsor: Brad King

LONG TITLE**General Description:**

This bill authorizes a Children with Heart Disease support special group license plate.

Highlighted Provisions:

This bill:

- ▶ creates a Children with Heart Disease support special group license plate for certain organizations that provide programs that support children with heart disease;
- ▶ requires applicants for a new plate to make a \$25 annual donation to the Children with Heart Disease Support Restricted Account;
- ▶ requires the Department of Health to distribute funds in the Children with Heart Disease Support Restricted Account to certain organizations that provide programs that support children with heart disease; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 41-1a-418, as last amended by Laws of Utah 2014, Chapter 37
41-1a-422, as last amended by Laws of Utah 2014, Chapter 37
63J-1-602.1, as last amended by Laws of Utah 2015, Chapters 136 and 180

ENACTS:

- 26-58-101, Utah Code Annotated 1953
26-58-102, Utah Code Annotated 1953

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

Section 1. Section 26-58-101 is enacted to read:

**CHAPTER 58. CHILDREN WITH HEART
DISEASESUPPORT RESTRICTED
ACCOUNT**

26-58-101. Title.

This chapter is known as the "Children with Heart Disease Support Restricted Account."

Section 2. Section 26-58-102 is enacted to read:

26-58-102. Children with Heart Disease Support Restricted Account.

(1) As used in this section, "account" means the Children with Heart Disease Support Restricted Account created in Subsection (2).

(2) There is created in the General Fund a restricted account known as the "Children with Heart Disease Support Restricted Account."

(3) The account shall be funded by:

(a) contributions deposited into the account in accordance with Section 41-1a-422;

(b) private contributions;

(c) donations or grants from public or private entities; and

(d) interest and earnings on fund money.

(4) The Legislature shall appropriate money in the account to the department.

(5) Upon appropriation, the department shall distribute funds in the account to one or more charitable organizations that:

(a) qualify as being tax exempt under Section 501(c)(3), Internal Revenue Code; and

(b) have programs that provide awareness, education, support services, and advocacy for and on behalf of children with heart disease.

(6) (a) An organization described in Subsection (5) may apply to the department to receive a distribution in accordance with Subsection (5).

(b) An organization that receives a distribution from the department in accordance with Subsection (5) shall expend the distribution only to provide awareness, education, support services, and advocacy for and on behalf of children with heart disease.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules providing procedures for an organization to apply to the department to receive a distribution under Subsection (5).

(7) In accordance with Section 63J-1-602.1, appropriations from the account are nonlapsing.

Section 3. Section 41-1a-418 is amended to read:

41-1a-418. Authorized special group license plates.

(1) The division shall only issue special group license plates in accordance with this section through Section 41-1a-422 to a person who is specified under this section within the categories listed as follows:

(a) disability special group license plates issued in accordance with Section 41-1a-420;

(b) honor special group license plates, as in a war hero, which plates are issued for a:

(i) survivor of the Japanese attack on Pearl Harbor;

(ii) former prisoner of war;

(iii) recipient of a Purple Heart;

(iv) disabled veteran; or

(v) recipient of a gold star award issued by the United States Secretary of Defense;

(c) unique vehicle type special group license plates, as for historical, collectors value, or other unique vehicle type, which plates are issued for:

(i) a special interest vehicle;

(ii) a vintage vehicle;

(iii) a farm truck; or

(iv) (A) until Subsection (1)(c)(iv)(B) or (4) applies, a vehicle powered by clean fuel as defined in Section 59-13-102; or

(B) beginning on the effective date of rules made by the Department of Transportation authorized under Subsection 41-6a-702(5)(b) and until Subsection (4) applies, a vehicle powered by clean fuel that meets the standards established by the Department of Transportation in rules authorized under Subsection 41-6a-702(5)(b);

(d) recognition special group license plates, which plates are issued for:

(i) a current member of the Legislature;

(ii) a current member of the United States Congress;

(iii) a current member of the National Guard;

(iv) a licensed amateur radio operator;

(v) a currently employed, volunteer, or retired firefighter until June 30, 2009;

(vi) an emergency medical technician;

(vii) a current member of a search and rescue team;

(viii) a current honorary consulate designated by the United States Department of State; or

(ix) an individual that wants to recognize and honor American freedoms and values through an In God We Trust license plate;

(e) support special group license plates, as for a contributor to an institution or cause, which plates are issued for a contributor to:

(i) an institution's scholastic scholarship fund;

(ii) the Division of Wildlife Resources;

(iii) the Department of Veterans' and Military Affairs;

(iv) the Division of Parks and Recreation;

(v) the Department of Agriculture and Food;

(vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;

(vii) the Boy Scouts of America;

(viii) spay and neuter programs through No More Homeless Pets in Utah;

(ix) the Boys and Girls Clubs of America;

(x) Utah public education;

(xi) programs that provide support to organizations that create affordable housing for those in severe need through the Division of Real Estate;

(xii) the Department of Public Safety;

(xiii) programs that support Zion National Park;

(xiv) beginning on July 1, 2009, programs that provide support to firefighter organizations;

(xv) programs that promote bicycle operation and safety awareness;

(xvi) programs that conduct or support cancer research;

(xvii) programs that create or support autism awareness;

(xviii) programs that create or support humanitarian service and educational and cultural exchanges;

(xix) programs that conduct or support prostate cancer awareness, screening, detection, or prevention;

(xx) programs that support and promote adoptions;

(xxi) programs that create or support civil rights education and awareness; [ø];

(xxii) programs that support issues affecting women and children through an organization affiliated with a national professional men's basketball organization[-]; or

(xxiii) programs that support children with heart disease.

(2) (a) The division may not issue a new type of special group license plate unless the division receives:

(i) (A) a private donation for the start-up fee established under Section 63J-1-504 for the production and administrative costs of providing the new special group license plates; or

(B) a legislative appropriation for the start-up fee provided under Subsection (2)(a)(i)(A); and

(ii) beginning on January 1, 2012, and for the issuance of a support special group license plate authorized in Section 41-1a-422, at least 500 completed applications for the new type of support special group license plate to be issued with all fees required under this part for the support special group license plate issuance paid by each applicant.

(b) (i) Beginning on January 1, 2012, each participating organization shall collect and hold applications for support special group license plates authorized in Section 41-1a-422 on or after January 1, 2012, until it has received at least 500 applications.

(ii) Once a participating organization has received at least 500 applications, it shall submit the applications, along with the necessary fees, to the division for the division to begin working on the

design and issuance of the new type of support special group license plate to be issued.

(iii) Beginning on January 1, 2012, the division may not work on the issuance or design of a new support special group license plate authorized in Section 41-1a-422 until the applications and fees required under this Subsection (2) have been received by the division.

(iv) The division shall begin issuance of a new support special group license plate authorized in Section 41-1a-422 on or after January 1, 2012, no later than six months after receiving the applications and fees required under this Subsection (2).

(c) (i) Beginning on July 1, 2009, the division may not renew a motor vehicle registration of a motor vehicle that has been issued a firefighter recognition special group license plate unless the applicant is a contributor as defined in Subsection 41-1a-422(1)(a)(ii)(D) to the Firefighter Support Restricted Account.

(ii) A registered owner of a vehicle that has been issued a firefighter recognition special group license plate prior to July 1, 2009, upon renewal of the owner's motor vehicle registration shall:

(A) be a contributor to the Firefighter Support Restricted Account as required under Subsection (2)(c)(i); or

(B) replace the firefighter recognition special group license plate with a new license plate.

(3) (a) Beginning on July 1, 2011, if a support special group license plate type authorized in Section 41-1a-422 and issued on or after January 1, 2012, has fewer than 500 license plates issued each year for a three consecutive year time period that begins on July 1, the division may not issue that type of support special group license plate to a new applicant beginning on January 1 of the following calendar year after the three consecutive year time period for which that type of support special group license plate has fewer than 500 license plates issued each year.

(b) If the division is required to stop the issuance of a type of support special group license plate authorized in Section 41-1a-422 under this Subsection (3), the division shall report to the Transportation Interim Committee that the division will stop the issuance on or before the November interim meeting of the year in which the commission determines to stop the issuance of that type of support special group license plate.

(4) Beginning on July 1, 2011, the division may not issue to an applicant a unique vehicle type license plate for a vehicle powered by clean fuel under Subsection (1)(c)(iv).

Section 4. Section 41-1a-422 is amended to read:

41-1a-422. Support special group license plates -- Contributor -- Voluntary contribution collection procedures.

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), "contributor" means a person who has donated or in whose name at least \$25 has been donated to:

(A) a scholastic scholarship fund of a single named institution;

(B) the Department of Veterans' and Military Affairs for veterans' programs;

(C) the Division of Wildlife Resources for the Wildlife Resources Account created in Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;

(E) the Division of Parks and Recreation for the benefit of snowmobile programs;

(F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;

(J) the Utah Association of Public School Foundations to support public education;

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to assist people who have severe housing needs;

(L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118 to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees;

(M) the Division of Parks and Recreation for distribution to organizations that provide support for Zion National Park;

(N) the Firefighter Support Restricted Account created in Section 53-7-109 to support firefighter organizations;

(O) the Share the Road Bicycle Support Restricted Account created in Section 72-2-127 to support bicycle operation and safety awareness programs;

(P) the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(Q) Autism Awareness Restricted Account created in Section 53A-1-304 to support autism awareness programs;

(R) Humanitarian Service and Educational and Cultural Exchange Restricted Account created in

Section 9-17-102 to support humanitarian service and educational and cultural programs;

(S) Prostate Cancer Support Restricted Account created in Section 26-21a-303 for programs that conduct or support prostate cancer awareness, screening, detection, or prevention;

(T) the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608 to support programs that promote adoption;

(U) the Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102; [øf]

(V) the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202[-]; or

(W) the Children with Heart Disease Support Restricted Account created in Section 26-58-102.

(ii) (A) For a veterans' special group license plate, "contributor" means a person who has donated or in whose name at least a \$25 donation at the time of application and \$10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least \$30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(C) For an Honoring Heroes special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(D) For a firefighter support special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least \$15 has been donated at the time of application and annually after the time of application; and

(II) is a currently employed, volunteer, or retired firefighter.

(E) For a cancer research special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually after the time of application.

(F) For a Martin Luther King, Jr. Civil Rights Support special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(b) "Institution" means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or

national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

(i) the name of the contributor;

(ii) the institution to which a donation was made;

(iii) the date of the donation; and

(iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the money collected by the institutions from contributors is used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63J-1-504 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) An applicant for original or renewal support special group license plates under this section must be a contributor to the sponsoring organization associated with the license plate.

(b) This contribution shall be:

(i) unless collected by the named institution under Subsection (2), collected by the division;

(ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee;

(iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates; and

(iv) for a firefighter special group license plate, deposited into the appropriate account less:

(A) the costs of reordering firefighter special group license plate decals; and

(B) the costs of replacing recognition special group license plates with new license plates under Subsection 41-1a-1211(13).

(c) The donation described in Subsection (1)(a) must be made in the 12 months prior to registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

- (i) snowmobile license plates; or
- (ii) conservation license plates.

(4) Veterans' license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

Section 5. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing accounts and funds -- General authority and Title 1 through Title 30.

(1) Appropriations made to the Legislature and its committees.

(2) The Percent-for-Art Program created in Section 9-6-404.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(5) An appropriation made to the Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(6) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(7) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(8) Funds collected from the emergency medical services grant program, as provided in Section 26-8a-207.

(9) The primary care grant program created in Section 26-10b-102.

~~[(9)]~~ (10) The Prostate Cancer Support Restricted Account created in Section 26-21a-303.

~~[(10)]~~ (11) State funds appropriated for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

~~[(11)]~~ (12) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

~~[(12) The primary care grant program created in Section 26-10b-102.]~~

(13) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

(14) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

Section 6. Effective date.

This bill takes effect on October 1, 2016.

CHAPTER 72**S. B. 75**

Passed March 2, 2016
 Approved March 18, 2016
 Effective May 10, 2016

**WATER RIGHTS
 ADJUDICATION AMENDMENTS**

Chief Sponsor: Margaret Dayton
 House Sponsor: Scott D. Sandall

LONG TITLE**General Description:**

This bill modifies the procedure for adjudicating water rights.

Highlighted Provisions:

This bill:

- ▶ requires the state engineer to identify all possible claimants in a particular area during an adjudication, if the state engineer's records are incomplete;
- ▶ modifies the procedure following the commencement of an action by the state engineer;
- ▶ states that the failure of a potential party to file a timely statement of claim constitutes a default against that party;
- ▶ requires the state engineer to authorize one extension to those seeking to file a statement of claim;
- ▶ requires the state engineer, after a full consideration of claims and an examination of the river system or water source involved, to:
 - complete a hydrographic survey map;
 - prepare a proposed determination of all rights to the use of the water and file it with the district court;
 - serve notice by publication and by mail; and
 - hold a public meeting; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

73-4-1, as last amended by Laws of Utah 2013, Chapter 258
 73-4-3, as last amended by Laws of Utah 2013, Chapter 258
 73-4-4, as last amended by Laws of Utah 2013, Chapter 258
 73-4-5, as last amended by Laws of Utah 2013, Chapter 258
 73-4-9, as last amended by Laws of Utah 2013, Chapter 258
 73-4-10, Utah Code Annotated 1953
 73-4-11, as last amended by Laws of Utah 2013, Chapter 258
 73-4-12, Utah Code Annotated 1953
 73-4-14, Utah Code Annotated 1953
 73-4-15, Utah Code Annotated 1953
 73-4-16, Utah Code Annotated 1953

73-4-21, Utah Code Annotated 1953
 73-4-22, as last amended by Laws of Utah 2013, Chapter 258
 73-4-24, as repealed and reenacted by Laws of Utah 2010, Chapter 320

ENACTS:

73-4-9.5, Utah Code Annotated 1953

REPEALS:

73-4-6, Utah Code Annotated 1953
 73-4-7, Utah Code Annotated 1953
 73-4-8, Utah Code Annotated 1953

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

Section 1. Section 73-4-1 is amended to read:

73-4-1. Action for a general adjudication of water rights -- Requirements for state engineer to file -- Adjudication area divisions.

(1) (a) Five or more, or a majority of, water users of a water source may submit a signed, verified petition to the state engineer requesting an investigation of the rights of all claimants to the water of the water source.

(b) Upon receipt of a petition described in Subsection (1)(a), the state engineer shall:

(i) investigate whether the facts and circumstances of the water source and its claimants justify a general determination of water rights; and

(ii) if justified, file an action in the district court for a general adjudication of water rights.

(c) In any suit involving water rights the court may order an investigation ~~[and survey]~~ by the state engineer of all the water rights on the source or system involved, as provided in this chapter.

(2) (a) The executive director of the Department of Environmental Quality, with the concurrence of the governor, may request that the state engineer file in the district court an action to determine the various water rights in the stream, water source, or basin for an area within the exterior boundaries of the state for which any person or organization or the federal government is actively pursuing or processing a license application for a storage facility or transfer facility for high-level nuclear waste or greater than class C radioactive waste.

(b) Upon receipt of a request made under Subsection (2)(a), the state engineer shall file an action in the district court for a general adjudication of water rights.

(c) If a general adjudication is filed in the state district court regarding the area requested pursuant to Subsection (2)(a), the state engineer and the state attorney general shall join the United States as a party to the action.

(3) When an action for a general adjudication of water rights for a certain area is filed in district court, the state engineer may divide the general adjudication area into divisions and subdivisions if the state engineer:

(a) fulfills the requirements of this chapter individually for each division or subdivision; and

(b) petitions the court to incorporate the decrees for all the divisions and subdivisions within a general adjudication area into a final decree for the entire general adjudication area.

Section 2. Section 73-4-3 is amended to read:

73-4-3. Notice and procedure for general adjudication of water rights -- Statements of claim -- Incomplete records.

(1) Upon the filing of any action by the state engineer as provided in Section 73-4-1, or by any person claiming the right to use the waters of any river system, lake, underground water basin, or other natural source of supply that involves a determination of the rights to the major part of the water of the source of supply or the rights of 10 or more of the claimants of the source of supply, the clerk of the district court shall notify the state engineer that a suit has been filed.

(2) (a) The state engineer then shall, for each general adjudication area, division, or subdivision, give notice of commencement of action to the claimants by publishing notice:

(i) once a week for two consecutive weeks in a newspaper designated by the court as most likely to give notice to such claimants; and

(ii) in accordance with Section 45-1-101 for two weeks.

(b) The notice of commencement of action shall state:

(i) an action has been filed;

(ii) the name of the action;

(iii) the name and location of the court in which the action is pending; and

(iv) the name or description of the water source involved.

(c) The state engineer shall file proof of the publication of notice of commencement of action with the district court.

(3) The state engineer shall, for each general adjudication area, division, or subdivision, search the records of the state engineer's office to ~~locate~~ identify all possible claimants, and continue to update the records during the adjudication and search for additional claimants.

(4) In accordance with Section 73-4-4, the state engineer shall serve a summons to each claimant of record in the state engineer's office within a general adjudication area, division, or subdivision.

(5) (a) After serving summons to a claimant, the state engineer shall give notice of further proceedings to:

(i) the claimant; and

(ii) an attorney who enters an appearance in court for the claimant.

(b) A court order is not required as a prerequisite for giving notice under Subsection (5)(a).

(c) The state engineer shall give the notice described in Subsection (5)(a):

(i) electronically, if the state engineer can verify the claimant's receipt;

(ii) by mail;

(iii) by personal service; or

(iv) if the notice is for the benefit of the claimants generally, by publishing the notice.

(d) Notice given by mail is complete when the notice is mailed.

(6) Except as provided in Subsection (8)(d)(ii), if the state engineer serves a notice required by this chapter, the state engineer shall, before the day on which the final decree for the general adjudication area, division, or subdivision is filed, file with the ~~clerk of the~~ district court a certificate of service that contains the name and address of the claimant served with the notice.

(7) After publishing notice of commencement of an action, the state engineer shall ~~begin the survey of the water source and the ditches, canals, wells, tunnels, or other works diverting water from the water source; and (b) hold a public meeting in the [survey area] general adjudication area, division, or subdivision to inform a water right claimant of the [survey] general adjudication process.~~

(8) (a) After the ~~[survey] public meeting~~ described in Subsection (7) ~~[is complete for a claimant]~~, the state engineer shall give notice to each claimant, in accordance with Subsection (5), of ~~[completion of survey to the claimant]~~ the time for filing statements of claim.

(b) ~~[Notice of completion of survey]~~ The notice described in Subsection (8)(a) shall include:

(i) a statement that:

~~[(A) the state engineer has investigated the claimant's water right; and (B)]~~

(A) a claimant who desires to claim a water right in the action shall, in accordance with Section 73-4-5, submit a written or electronic statement of claim within 90 days after the day on which the notice is issued; and

(B) failure to file a timely statement of claim, as described in Section 73-4-5, constitutes a default and a judgment may be entered declaring that the claimant has no right to the use of water not claimed; and

(ii) instructions describing how to obtain or access a statement of claim form that the claimant must complete in order to comply with the provisions of Section 73-4-5.

(c) A claimant served with ~~[a notice of completion of survey]~~ the notice described in Subsection (8)(a) who desires to claim a water right in the action shall file a written or electronic statement of claim in accordance with Section 73-4-5.

(d) (i) The state engineer shall compile the statements of claim described in Subsection (8)(c), together with any extensions of time granted by the state engineer as provided by Section 73-4-10, and file them with the ~~[clerk of the]~~ district court contemporaneously with the list of unclaimed rights of record, as described in Section 73-4-9.5.

(ii) If the state engineer files a claimant's statement of claim with the district court in accordance with Subsection (8)(d)(i), the state engineer is not required to file a certificate of service that relates to the notice ~~[of completion of survey]~~ described in Subsection (8)(a) for that claimant.

~~[(9) When a suit has been filed by the state engineer as provided by Section 73-4-1, or by any person involving the major part of the waters of any river system, lake, underground water basin, or other source of supply, or the rights of 10 or more of the water claimants of the source of supply, whether the suit is filed prior to or after the enactment hereof, the state engineer, upon receiving notice,]~~

(9) The state engineer shall examine the records of the state engineer's office with respect to the water source involved, and if ~~[they]~~ the records are incomplete ~~[to make such]~~, make further investigation ~~[and survey]~~ as may be necessary ~~[for the preparation of the report and recommendation as required by Section 73-4-11]~~ to identify potential claimants as required by this section.

(10) In all such cases the court shall proceed to determine the water rights involved in the manner provided by this chapter, and not otherwise.

Section 3. Section 73-4-4 is amended to read:

73-4-4. Summons for general adjudication of water rights -- Requirements to serve summons individually and generally -- Statement of claim requirement.

(1) (a) The state engineer shall, by mail, serve a summons to a claimant of record in the state engineer's office within a general adjudication area, division, or subdivision.

(b) (i) The state engineer may serve, by publication, a general summons to claimants in a general adjudication area, division, or subdivision, who are not of record in the state engineer's office, if the state engineer files an affidavit with the district court, verifying that the state engineer has, in accordance with Section 73-4-3, searched the records of the state engineer's office for claimants in the general adjudication area, division, or subdivision.

(ii) The state engineer shall publish, in accordance with the Utah Rules of Civil Procedure, a general summons described in Subsection (1)(b)(i):

(A) once a week for five successive weeks in one or more newspapers, determined by the judge of the district court as most likely to give notice to the claimants served; and

(B) for five weeks, in accordance with Section 45-1-101.

(iii) Service of a general summons is completed upon the last required date of publication.

(c) The summons shall be substantially in the following form:

"In the District Court of County, State of Utah, in the matter of the general adjudication of water rights in the described water source.

SUMMONS

The State of Utah to the said defendant:

You are hereby summoned to appear and defend the above entitled action which is brought for the purpose of making a general determination of the water rights of the described water source. Upon the service of this summons upon you, you will thereafter be subject to the jurisdiction of the entitled court and it shall be your duty to follow further proceedings in the above entitled action and to protect your rights therein. ~~[When the state engineer has completed the survey you will be given a further written notice, either in person or by mail,]~~ The state engineer will give a further notice sent to your last-known address, that you must file a ~~[water users]~~ statement of claim in this action setting forth the nature of your claim, and said notice will specify the date upon which your ~~[water users]~~ statement of claim is due and thereafter you must file said claim within the time set and your failure so to do will constitute a default in the premises and a judgment may be entered against you declaring ~~[and adjudging]~~ that you have no right ~~[in or to the waters of described water source]~~ to the use of water not claimed."

(2) If the state engineer is required, under this section, to serve a summons on the United States, the state engineer shall serve the summons in accordance with federal law.

Section 4. Section 73-4-5 is amended to read:

73-4-5. Requirements for statement of claim in general adjudication of water rights.

~~[Each]~~ (1) Except as provided in Subsection (2), each person claiming a right to use water of a river system or water source shall, within 90 days after the day on which notice of ~~[completion of survey]~~ the time to file statements of claim as described in Section 73-4-3 is served, file with the state engineer or the ~~[clerk of the]~~ district court a written or electronic statement of claim, signed, and verified under oath, by the claimant, or by unsworn declaration as described in Section 78B-5-705, that includes:

~~[(1)]~~ (a) the name and address of the claimant;

~~[(2)]~~ (b) the nature and measure of beneficial use on which the claim ~~[of appropriation]~~ is based;

~~[(3)]~~ (c) the maximum flow of water used in cubic feet per second, the maximum volume of water used in acre-feet, or the quantity of water stored in acre-feet, ~~[and the time during which the flow or~~

stored water has been used each year;] as applicable;

(d) the period of time during which the water is used each year;

(e) the period of time during which the water is stored each year, if applicable;

[4] (f) the name of the stream or other source from which the water is diverted, the point on the stream or source where the water is diverted, and a description of the nature of the diverting works;

[5] the date when the first work for diverting the water began, and a description of the nature of the work;]

(g) the water right number associated with the claimed right or, if not of record in the state engineer's office, evidence sufficient to enable the state engineer to evaluate the basis of the claimed right, including the information listed in Subsections 73-5-13(2)(a) and (c);

[6] (h) the claimed priority date [when the water was first used, the flow in cubic feet per second, or the quantity of water stored in acre-feet, and the time the water was used during the first year];

[7] (i) the place and manner of current use; and

[8] (j) other facts that clearly define the extent, limits, and nature of the [appropriation claimed] claim, or that are required by the written or electronic form provided by the state engineer with the notice of [completion of survey] the time to file statements of claim.

(2) A person claiming a right to the use of water, as described in Subsection (1):

(a) may request an extension of time as described in Section 73-4-10; and

(b) shall file the statement described in Subsection (1) on or before the granted extension date, if an extension is granted pursuant to Section 73-4-10.

Section 5. Section 73-4-9 is amended to read:

73-4-9. Failure to file a statement of claim.

(1) The filing of each statement [by a claimant] of claim shall be considered notice to all persons of the claim of the party making the same, and [any person] failing to make and deliver such statement of claim to the state engineer or the [clerk of the] district court within the time prescribed by [law shall be forever barred and estopped from subsequently asserting any rights, and shall be held to have forfeited all rights to the use of the water theretofore claimed by him; provided, that any claimant, upon whom no other service of said notice shall have been made than by publication in a newspaper and as required in Section 45-1-101, may apply to the court for permission to file a statement of claim after the time therefor has expired, and the court may extend the time for filing such statement, not exceeding six months from the

publication of said notice; but, before said time is extended, the applicant shall give notice by publication in a newspaper having general circulation and as required in Section 45-1-101 on such river system or near the water source to all other persons interested in the water of such river system or water source, and shall make it appear to the satisfaction of the court that during the pendency of the proceedings he had no actual notice thereof in time to appear and file a statement and make proof of his claim; and all parties interested may be heard as to the matter of his actual notice of the pendency of such proceedings.] Section 73-4-5, or as extended pursuant to Section 73-4-10, shall be considered evidence of an intent to abandon the right.

(2) If a claimant fails to timely file a statement of claim, as provided in this chapter, for a right not of record in the state engineer's office, the claimant is forever barred and estopped from subsequently asserting the unclaimed right.

Section 6. Section 73-4-9.5 is enacted to read:

73-4-9.5. List of unclaimed rights of record.

(1) After the last day on which a claimant may file a statement of claim in accordance with Section 73-4-5, the state engineer shall:

(a) file with the court a list of unclaimed rights of record listing each water right of record in the state engineer's office for which a statement of claim was not timely filed, that includes:

(i) the water right number;

(ii) the point of diversion; and

(iii) the owner of the water right as recognized in the state engineer's records;

(b) serve notice of the list of unclaimed rights of record on all identified potential claimants that were served with a summons, in the same manner as provided in Subsection 73-4-11(1)(c); and

(c) hold a public meeting in the area covered by the division or subdivision to explain the list of unclaimed rights of record.

(2) A claimant who desires to object to the state engineer's list of unclaimed rights of record shall, within 90 days of the day on which the state engineer served the potential claimant notice of the list of unclaimed rights of record, file:

(a) a written objection to the list of unclaimed rights of record with the district court; and

(b) a statement of claim, as provided in this chapter, with the district court and the state engineer.

(3) The state engineer shall evaluate and make a recommendation in the proposed determination for a water right placed on the list of unclaimed rights of record if:

(a) the claimant files a timely objection to the list of unclaimed rights in accordance with Subsection (2); and

(b) the court determines that a claimant's failure to file a timely statement of claim is excused by:

- (i) circumstances beyond the claimant's control;
- (ii) mistake; or
- (iii) any other reason justifying relief.

(4) If a claimant fails to file a timely statement of claim, as provided in this chapter, for a right of record in the state engineer's office and the failure to file a timely claim is not excused by the court as provided in Subsection (3), the claimant is forever barred and estopped from asserting the right to the use of water included in the list and the right shall be considered abandoned.

(5) After resolving all objections to the list of unclaimed rights of record, the court shall render a judgment for the list of unclaimed rights of record that:

(a) identifies any water rights on the list of unclaimed rights that are not abandoned because the court excuses the failure to file a statement of claim as provided in Subsection (3);

(b) adjudges the unclaimed rights abandoned; and

(c) may prohibit future claims from being filed for rights not of record in the state engineer's office, under this chapter and Section 73-5-13, in the general adjudication area, division, or subdivision.

Section 7. Section 73-4-10 is amended to read:

73-4-10. Amendment of pleadings -- Extensions of time.

(1) The court shall have power to allow amendments to any petition, statement of claim, or pleading[; to extend as provided in this title the time for filing any statement of claim;] and to extend, upon due cause shown, the time for filing any other pleading, statement of claim, report, or [protest] objection.

(2) If the claimant files a written request for an extension of time to file a statement of claim within the 90-day period to file a statement of claim, the state engineer shall grant one 30-day extension, in writing.

Section 8. Section 73-4-11 is amended to read:

73-4-11. Proposed determination by engineer to court -- Hydrographic survey map -- Notice -- Public meeting.

[(1) Within 30 days after the last day on which a claimant may file a statement of claim in accordance with Section 73-4-5, the state engineer shall begin to tabulate the facts contained in the statements filed and to investigate, whenever the state engineer shall consider necessary, the facts set forth in the statements by reference to the surveys already made or by further surveys, and shall as expeditiously as possible report to the court a recommendation of how all rights involved shall be determined.]

[(2) (1) After full consideration of the statements of claims, [and of the surveys,] records, and files, and after [a personal] an examination of the river system or water source involved, [if the examination is considered necessary,] the state engineer shall for the general adjudication area, division, or subdivision:

(a) [formulate a report and] complete a hydrographic survey map;

(b) prepare a proposed determination of all rights to the use of the water [of the river system or water source] and file it with the district court;

[(b) (c) serve notice of completion of the [report and] proposed determination by publication and by mail, in accordance with Subsection 73-4-3(5), to each claimant of record in the state engineer's office within the general adjudication area, division, or subdivision, that includes:

(i) (A) a copy of the [report and] proposed determination; or

(B) instructions on how to obtain or access an electronic copy of the [report and] proposed determination; and

(ii) a statement describing the claimant's right to file an objection to the [report and] proposed determination within 90 days after the day on which the notice of completion of the [report and] proposed determination is served; and

[(e) (d) hold a public meeting in the area, division, or subdivision covered by the [report and] proposed determination to [describe the report and] explain the proposed determination to the claimants.

[(3) (2) A claimant who desires to object to the state engineer's [report and] proposed determination shall, within 90 days after the day on which the state engineer served the claimant with notice of completion of the [report and] proposed determination, file a written objection to the [report and] proposed determination with the [clerk of the] district court.

[(4) (3) The state engineer shall distribute the waters from the natural streams or other natural sources:

(a) in accordance with the proposed determination or modification to the proposed determination by court order until a final decree is rendered by the court; or

(b) if the right to the use of the waters has been decreed or adjudicated, in accordance with the decree until the decree is reversed, modified, vacated, or otherwise legally set aside.

Section 9. Section 73-4-12 is amended to read:

73-4-12. Judgment -- In absence of contest.

If no contest on the part of any claimant shall have been filed, the court shall render a judgment in accordance with such proposed determination, which shall:

(1) determine and establish the rights [of the several claimants] to the use of the water of said

river system or water source; and ~~[among other things it shall]~~

(2) set forth:

(a) the name ~~[and post-office address]~~ of the person entitled to the use of the water;

(b) the quantity of water in acre-feet or the flow of water in second-feet;

(c) the time during which the water is to be used each year;

(d) the name of the stream or other source from which the water is diverted;

(e) the point on the stream or other source where the water is diverted;

(f) the priority date of the right; and ~~[such]~~

(g) any other matters as will fully and completely define the rights of said claimants to the use of the water.

Section 10. Section 73-4-14 is amended to read:

73-4-14. Pleadings -- Expert assistance for court.

(1) The statements ~~[filed by the claimants]~~ of claim shall stand in the place of pleadings, and issues may be made thereon.

(2) Whenever requested so to do the state engineer shall furnish the court with any information which ~~[he]~~ the state engineer may possess, or copies of any of the records of ~~[his]~~ the state engineer's office which relate to the water of said river system or water source.

(3) The court may appoint referees, masters, engineers, soil specialists, or other persons ~~[as necessity or emergency may require to assist in taking testimony or investigating facts, and in]~~.

(4) In all proceedings for the determination of the rights of claimants to the water of a river system or water source, the filed statements of ~~[claimants]~~ claim shall be competent evidence of the facts stated therein unless the same are put in issue.

Section 11. Section 73-4-15 is amended to read:

73-4-15. Judgment after hearing.

Upon the completion of the hearing, after objections filed, the court shall enter judgment ~~[which]~~ that shall determine and establish the rights ~~[of the several claimants]~~ to the use of the water of the river system or water source as provided in Section 73-4-12.

Section 12. Section 73-4-16 is amended to read:

73-4-16. Appeals.

~~[From all final judgments of the district court there shall be a right of appeal to the Supreme Court as in other cases.]~~

(1) There shall be a right of appeal from a final judgment of the district court to the Supreme Court as provided in Section 78A-3-102.

(2) The appeal shall be upon the record made in the district court, and may as in equity cases be on questions of both law and fact. ~~[All proceedings on appeal shall be conducted according to the provisions of the Code of Civil Procedure.]~~

Section 13. Section 73-4-21 is amended to read:

73-4-21. Duty to update address and ownership -- Duty to follow court proceedings -- Additional notice.

(1) After the service of summons in the manner prescribed by Section 73-4-4 ~~[hereof]~~, it shall be the duty of every person served individually or by publication to [thereafter]:

(a) record any change in address or water right ownership with the state engineer; and

(b) follow all court proceedings [and no].

(2) Except as provided in Subsection (3), the state engineer is not required to provide any further or additional notice [shall be required] except the notice:

(a) that the ~~[survey has been completed and the water users]~~ statement of claim is due as prescribed by Section 73-4-3, ~~[and notice of the]~~;

(b) of the list of unclaimed rights of record, as described in Section 73-4-9.5; and

(c) of the proposed determinations as provided by Section 73-4-11.

(3) The district court may ~~[, however,]~~ require notice of other proceedings to be given when, in the judgment of the court, it ~~[deems]~~ considers notice necessary.

Section 14. Section 73-4-22 is amended to read:

73-4-22. State engineer's duty to search records for and serve summons on claimants -- Filing of affidavit -- Publication of summons -- Binding on unknown claimants.

(1) The state engineer, throughout the pendency of proceedings, shall serve summons in the manner prescribed by Section 73-4-4 upon all claimants to the use of water in the described source embraced by said action, whenever the names and addresses of said persons come to the attention of the state engineer.

(2) Immediately after the notice of the proposed determination is given, in accordance with Section 73-4-11 hereof, the state engineer shall diligently search for the names and addresses of any claimants to water in the source covered by the proposed determination who have not been previously served with summons other than by publication, and any such persons located shall forthwith be served with summons ~~[, and after]~~.

(3) After the state engineer has exhausted [his] the search for other claimants [~~he shall~~], as described in Subsection (2), the state engineer shall:

(a) make such fact known to the district court by affidavit; and [~~the clerk of the district court shall~~]

(b) as ordered by the court, again publish summons five times, once each week, for five successive weeks which said service shall be binding upon all unknown claimants.

Section 15. Section 73-4-24 is amended to read:

73-4-24. Petition for expedited hearing of objection -- Petition for limited determination.

(1) A claimant to the use of water may petition the court to expedite the hearing of a valid, timely objection to a report and proposed determination prepared in accordance with Section 73-4-11 in which the claimant has a direct interest.

(2) A petition under Subsection (1) shall identify any party directly affected by the objection, if known to the claimant, and state why the hearing of the objection should be expedited.

(3) A petitioner under Subsection (1) shall notify those affected by the petition as directed by the court.

(4) The court may grant a petition under Subsection (1) if:

(a) the court finds that the expedited hearing is necessary in the interest of justice;

(b) granting the petition will facilitate a reasonably prompt resolution of the matters raised in the objection; and

(c) granting the petition does not prejudice the right of another claimant.

(5) During the pendency of a general adjudication suit, a claimant or group of claimants may petition the court to direct the state engineer to [~~survey and~~] prepare a proposed determination and hydrographic survey map for a limited area within the general adjudication area in which the claimant or group of claimants has a claim.

(6) The court may grant a petition under Subsection (5) if:

(a) the claimant or group of claimants will suffer prejudice if the petition is not granted;

(b) the matters raised by the claimant or group of claimants are proper for determination in a general adjudication;

(c) granting the petition will not unduly burden the state engineer's resources; and

(d) granting the petition will not unduly interfere with the state engineer's discretion to allocate resources for the preparation of another proposed determination.

(7) If the court grants a petition under this section, the state engineer shall comply with this chapter in satisfying the court's order.

Section 16. Repealer.

This bill repeals:

Section 73-4-6, In case of use for irrigation.

Section 73-4-7, In case of use for power purposes.

Section 73-4-8, In case of use for mining or milling.

CHAPTER 73**S. B. 108**

Passed March 2, 2016
 Approved March 18, 2016
 Effective May 10, 2016

BIRTHING CENTER AMENDMENTS

Chief Sponsor: Deidre M. Henderson
 House Sponsor: Eric K. Hutchings

LONG TITLE**General Description:**

This bill amends provisions related to birthing centers.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits the Department of Health and the Health Facility Committee from imposing certain requirements on birthing centers licensed under the Health Care Facility Licensing and Inspection Act; and
- ▶ requires the Department of Health to hold a public hearing when it adopts or amends administrative rules that impact birthing centers.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

26-21-28, Utah Code Annotated 1953

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

Section 1. Section 26-21-28 is enacted to read:**26-21-28. Birthing centers -- Regulatory restrictions.**

(1) For purposes of this section:

(a) “Certified nurse midwife” means an individual who is licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act.

(b) “Direct-entry midwife” means an individual who is licensed under Title 58, Chapter 77, Direct-Entry Midwife Act.

(c) “Licensed maternity care practitioner” includes:

- (i) a physician;
- (ii) a certified nurse midwife;
- (iii) a direct entry midwife;
- (iv) a naturopathic physician; and

(v) other individuals who are licensed under Title 58, Division of Occupational and Professional Licensing Act and whose scope of practice includes midwifery or obstetric care.

(d) “Naturopathic physician” means an individual who is licensed under Title 58, Chapter 71, Naturopathic Physician Practice Act.

(e) “Physician” means an individual who is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(2) The Health Facility Committee and the department may not require a birthing center or a licensed maternity care practitioner who practices at a birthing center to:

(a) maintain admitting privileges at a general acute hospital;

(b) maintain a written transfer agreement with one or more general acute hospitals;

(c) maintain a collaborative practice agreement with a physician; or

(d) have a physician or certified nurse midwife present at each birth when another licensed maternity care practitioner is present at the birth and remains until the maternal patient and newborn are stable postpartum.

(3) The Health Facility Committee and the department shall:

(a) permit all types of licensed maternity care practitioners to practice in a birthing center; and

(b) except as provided in Subsection (2)(b), require a birthing center to have a written plan for the transfer of a patient to a hospital in accordance with Subsection (4).

(4) A transfer plan under Subsection (3)(b) shall:

(a) be signed by the patient; and

(b) indicate that the plan is not an agreement with a hospital.

(5) If a birthing center transfers a patient to a licensed maternity care practitioner or facility, the responsibility of the licensed maternity care practitioner or facility, for the patient:

(a) does not begin until the patient is physically within the care of the licensed maternity care practitioner or facility;

(b) is limited to the examination and care provided after the patient is transferred to the licensed maternity care practitioner or facility; and

(c) does not include responsibility or accountability for the patient’s decision to pursue an out-of-hospital birth and the services of a birthing center.

(6) (a) Except as provided in Subsection (6)(c), a licensed maternity care practitioner who is not practicing at a birthing center may, upon receiving a briefing from a member of a birthing center’s clinical staff, issue a medical order for the birthing center’s patient without assuming liability for the care of the patient for whom the order was issued.

(b) Regardless of the advice given or order issued under Subsection (6)(a), the responsibility and

liability for caring for the patient is that of the birthing center and the birthing center's clinical staff.

(c) The licensed maternity care practitioner giving the order under Subsection (6)(a) is responsible and liable only for the appropriateness of the order, based on the briefing received under Subsection (6)(a).

(7) The department shall hold a public hearing under Subsection 63G-3-302(2)(a) for a proposed administrative rule, and amendment to a rule, or repeal of a rule, that relates to birthing centers.

CHAPTER 74**S. B. 126**

Passed March 3, 2016

Approved March 18, 2016

Effective May 10, 2016

(Exception clause in Section 16)

COMMITTEE AUTHORITY AMENDMENTS

Chief Sponsor: Deidre M. Henderson

House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill modifies provisions related to the rulemaking authority of the Department of Health and certain committees created within the department.

Highlighted Provisions:

This bill:

- ▶ modifies the rulemaking authority of the following committees to require concurrence with the Department of Health:
 - State Emergency Medical Services Committee;
 - Primary Care Grant Committee;
 - Health Facility Committee;
 - Health Data Committee; and
 - Child Care Licensing Committee;
- ▶ provides that if concurrence with the Department of Health is required in rulemaking, the department has final authority if no concurrence can be reached; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 26-1-5, as last amended by Laws of Utah 2011, Chapter 297
- 26-8a-104, as last amended by Laws of Utah 2008, Chapter 382
- 26-8a-106 (Superseded 07/01/16), as last amended by Laws of Utah 2011, Chapter 181
- 26-8a-106 (Effective 07/01/16), as last amended by Laws of Utah 2015, Chapter 141
- 26-10b-106, as enacted by Laws of Utah 2014, Chapter 384
- 26-21-5, as last amended by Laws of Utah 2008, Chapter 382
- 26-21-6, as last amended by Laws of Utah 2012, Chapter 328
- 26-21-8, as last amended by Laws of Utah 2011, Chapter 161
- 26-33a-102, as last amended by Laws of Utah 2011, Chapter 400
- 26-33a-104, as last amended by Laws of Utah 2013, Chapter 167
- 26-33a-106.5, as last amended by Laws of Utah 2014, Chapter 425
- 26-33a-107, as last amended by Laws of Utah 1996, Chapter 201

26-33a-109, as last amended by Laws of Utah 2014, Chapter 425

26-39-203, as enacted by Laws of Utah 2014, Chapter 322

26-39-301, as last amended by Laws of Utah 2014, Chapter 322

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

Section 1. Section 26-1-5 is amended to read:**26-1-5. Rules of department.**

(1) (a) ~~Except in areas [regulated by statutory committees created by this title] subject to concurrence between the department and a committee created under this title,~~ the department shall have the power to adopt, amend, or rescind rules necessary to carry out the provisions of this title.

(b) If the adoption of rules under a provision of this title is subject to concurrence between the department and a committee created under this title and no concurrence can be reached, the department has final authority to adopt, amend, or rescind rules necessary to carry out the provisions of this title.

(c) When the provisions of this title require concurrence between the department and a committee created under this title:

(i) the department shall report to and update the committee on a regular basis related to matters requiring concurrence; and

(ii) the committee shall review the report submitted by the department under this Subsection (1)(c) and shall:

(A) concur with the report; or

(B) provide a reason for not concurring with the report and provide an alternative recommendation to the department.

(2) Rules shall have the force and effect of law and may deal with matters which materially affect the security of health or the preservation and improvement of public health in the state, and any matters as to which jurisdiction is conferred upon the department by this title.

(3) Every rule adopted by the department ~~pursuant to this section~~, or by the concurrence of the department and a committee established under Section 26-1-7 or 26-1-7.5, shall be subject to Title 63G, Chapter 3, Utah Administrative Rulemaking Act and shall become effective at the time and in the manner provided in that act.

(4) If, at the next general session of the Legislature following the filing of a rule with the legislative research director, the Legislature passes a bill disapproving such rule, the rule shall be null and void.

(5) The department or the department in concurrence with a committee created under Section 26-1-7 or 26-1-7.5, may not adopt a rule identical to a rule disapproved under Subsection (4)

of this section^[,] before the beginning of the next general session of the Legislature following the general session at which the rule was disapproved.

Section 2. Section 26-8a-104 is amended to read:

26-8a-104. Committee advisory duties.

The committee shall adopt rules, with the concurrence of the department, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

- (1) establish certification and reciprocity requirements under Section 26-8a-302;
- (2) establish designation requirements under Section 26-8a-303;
- (3) promote the development of a statewide emergency medical services system under Section 26-8a-203;
- (4) establish insurance requirements for ambulance providers;
- (5) provide guidelines for requiring patient data under Section 26-8a-203;
- (6) establish criteria for awarding grants under Section 26-8a-207;
- (7) establish requirements for the coordination of emergency medical services and the medical supervision of emergency medical service providers under Section 26-8a-306; and
- (8) are necessary to carry out the responsibilities of the committee as specified in other sections of this chapter.

Section 3. Section 26-8a-106 (Superseded 07/01/16) is amended to read:

26-8a-106 (Superseded 07/01/16). Waiver of rules.

- (1) Upon application, the [~~committee or~~] department, or the committee with the concurrence of the department, may waive the requirements of a rule [~~if~~] the department, or the committee with the concurrence of the department, has adopted if:
 - (a) the person applying for the waiver satisfactorily demonstrates that:
 - (i) the waiver is necessary for a pilot project to be undertaken by the applicant;
 - (ii) in the particular situation, the requirement serves no beneficial public purpose; or
 - (iii) circumstances warrant that waiver of the requirement outweighs the public benefit to be gained by adherence to the rule; and
 - (b) for a waiver granted under Subsection (1)(a)(ii) or (iii) [~~, the committee or department]~~:
 - (i) the committee or department extends the waiver to similarly situated persons upon application; or

- (ii) the department, or the committee with the concurrence of the department, amends the rule to be consistent with the waiver.

- (2) A waiver of education, licensing, or certification requirements may be granted to a veteran, as defined in Section 71-8-1, if the veteran:
 - (a) provides to the committee or department documentation showing military education and training in the field in which certification or licensure is sought; and
 - (b) successfully passes any examination required.

- (3) No waiver may be granted under this section that is inconsistent with the provisions of this chapter.

Section 4. Section 26-8a-106 (Effective 07/01/16) is amended to read:

26-8a-106 (Effective 07/01/16). Waiver of rules.

- (1) Upon application, the [~~committee or~~] department, or the committee with the concurrence of the department, may waive the requirements of a rule [~~if~~] the department, or the committee with the concurrence of the department, has adopted if:
 - (a) the person applying for the waiver satisfactorily demonstrates that:
 - (i) the waiver is necessary for a pilot project to be undertaken by the applicant;
 - (ii) in the particular situation, the requirement serves no beneficial public purpose; or
 - (iii) circumstances warrant that waiver of the requirement outweighs the public benefit to be gained by adherence to the rule; and
 - (b) for a waiver granted under Subsection (1)(a)(ii) or (iii) [~~, the committee or department]~~:
 - (i) the committee or department extends the waiver to similarly situated persons upon application; or
 - (ii) the department, or the committee with the concurrence of the department, amends the rule to be consistent with the waiver.
 - (2) A waiver of education, licensing, or certification requirements may be granted to a veteran, as defined in Section 68-3-12.5, if the veteran:
 - (a) provides to the committee or department documentation showing military education and training in the field in which certification or licensure is sought; and
 - (b) successfully passes any examination required.
 - (3) No waiver may be granted under this section that is inconsistent with the provisions of this chapter.
- Section 5. Section 26-10b-106 is amended to read:**
- 26-10b-106. Primary Care Grant Committee.**

(1) The Primary Care Grant Committee created in Section 26-1-7 shall:

(a) review grant applications forwarded to the committee by the department under Subsection 26-10b-104(1);

(b) recommend, to the executive director, grant applications to award under Subsection 26-10b-102(1);

(c) evaluate:

(i) the need for primary health care in different areas of the state;

(ii) how the program is addressing those needs; and

(iii) the overall effectiveness and efficiency of the program;

(d) review annual reports from primary care grant recipients;

(e) meet as necessary to carry out its duties, or upon a call by the committee chair or by a majority of committee members; and

(f) make rules, with the concurrence of the department, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that govern the committee, including the committee's grant selection criteria.

(2) The committee shall consist of:

(a) as chair, the executive director or an individual designated by the executive director; and

(b) six members appointed by the governor to serve up to two consecutive, two-year terms of office, including:

(i) four licensed health care professionals; and

(ii) two community advocates who are familiar with a medically underserved population and with health care systems, where at least one is familiar with a rural medically underserved population.

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

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

(b) for a rational reason.

(4) A committee member may not ~~[be compensated]~~ receive compensation or benefits for the member's service, except a committee member who is not an employee of the department may ~~[be reimbursed for reasonable travel expenses related to the member's committee responsibilities.]~~ receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

Section 6. Section 26-21-5 is amended to read:

26-21-5. Duties of committee.

The committee shall:

(1) with the concurrence of the department, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) for the licensing of health-care facilities; and

(b) requiring the submission of architectural plans and specifications for any proposed new health-care facility or renovation to the department for review;

(2) approve the information for applications for licensure pursuant to Section 26-21-9;

(3) advise the department as requested concerning the interpretation and enforcement of the rules established under this chapter; and

(4) advise, consult, cooperate with, and provide technical assistance to other agencies of the state and federal government, and other states and affected groups or persons in carrying out the purposes of this chapter.

Section 7. Section 26-21-6 is amended to read:

26-21-6. Duties of department.

(1) The department shall:

(a) enforce rules established pursuant to this chapter;

(b) authorize an agent of the department to conduct inspections of health care facilities pursuant to this chapter;

(c) collect information authorized by the committee that may be necessary to ensure that adequate health care facilities are available to the public;

(d) collect and credit fees for licenses as free revenue;

(e) collect and credit fees for conducting plan reviews as dedicated credits;

(f) (i) collect and credit fees for conducting clearance under Chapter 21, Part 2, Clearance for Direct Patient Access; and

(ii) beginning July 1, 2012:

(A) up to \$105,000 of the fees collected under Subsection (1)(f)(i) are dedicated credits; and

(B) the fees collected for background checks under Subsection 26-21-204(6) and Section 26-21-205 shall be transferred to the Department of Public Safety to reimburse the Department of Public Safety for its costs in conducting the federal background checks;

(g) designate an executive secretary from within the department to assist the committee in carrying out its powers and responsibilities;

(h) establish reasonable standards for criminal background checks by public and private entities;

(i) recognize those public and private entities that meet the standards established pursuant to Subsection (1)(h); and

(j) provide necessary administrative and staff support to the committee.

(2) The department may:

(a) exercise all incidental powers necessary to carry out the purposes of this chapter;

(b) review architectural plans and specifications of proposed health care facilities or renovations of health care facilities to ensure that the plans and specifications conform to rules established by the committee; and

(c) ~~in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules as necessary to implement the provisions of this chapter, except as authority is specifically delegated to the committee.~~

Section 8. Section 26-21-8 is amended to read:

26-21-8. License required -- Not assignable or transferable -- Posting -- Expiration and renewal -- Time for compliance by operating facilities.

(1) (a) A person or governmental unit acting severally or jointly with any other person or governmental unit, may not establish, conduct, or maintain a health care facility in this state without receiving a license from the department as provided by this chapter and the rules ~~[of the committee]~~ adopted pursuant to this chapter.

(b) This Subsection (1) does not apply to facilities that are exempt under Section 26-21-7.

(2) A license issued under this chapter is not assignable or transferable.

(3) The current license shall at all times be posted in each health care facility in a place readily visible and accessible to the public.

(4) (a) The department may issue a license for a period of time not to exceed 12 months from the date of issuance for an abortion clinic and not to exceed 24 months from the date of issuance for other health care facilities that meet the provisions of this chapter and department rules adopted pursuant to this chapter.

(b) Each license expires at midnight on the day designated on the license as the expiration date, unless previously revoked by the department.

(c) The license shall be renewed upon completion of the application requirements, unless the department finds the health care facility has not complied with the provisions of this chapter or the rules adopted pursuant to this chapter.

(5) A license may be issued under this section only for the operation of a specific facility at a specific site by a specific person.

(6) Any health care facility in operation at the time of adoption of any applicable rules as provided

under this chapter shall be given a reasonable time for compliance as determined by the committee.

Section 9. Section 26-33a-102 is amended to read:

26-33a-102. Definitions.

As used in this chapter:

(1) "Committee" means the Health Data Committee created by Section 26-1-7.

(2) "Control number" means a number assigned by the committee to an individual's health data as an identifier so that the health data can be disclosed or used in research and statistical analysis without readily identifying the individual.

(3) "Data supplier" means a health care facility, health care provider, self-funded employer, third-party payor, health maintenance organization, or government department which could reasonably be expected to provide health data under this chapter.

(4) "Disclosure" or "disclose" means the communication of health care data to any individual or organization outside the committee, its staff, and contracting agencies.

(5) "Executive director" means the director of the department.

(6) (a) "Health care facility" means a facility that is licensed by the department under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act. ~~[The committee]~~

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the committee, with the concurrence of the department, may by rule add, delete, or modify the list of facilities that come within this definition for purposes of this chapter.

(7) "Health care provider" means any person, partnership, association, corporation, or other facility or institution that renders or causes to be rendered health care or professional services as a physician, registered nurse, licensed practical nurse, nurse-midwife, dentist, dental hygienist, optometrist, clinical laboratory technologist, pharmacist, physical therapist, podiatric physician, psychologist, chiropractic physician, naturopathic physician, osteopathic physician, osteopathic physician and surgeon, audiologist, speech pathologist, certified social worker, social service worker, social service aide, marriage and family counselor, or practitioner of obstetrics, and others rendering similar care and services relating to or arising out of the health needs of persons or groups of persons, and officers, employees, or agents of any of the above acting in the course and scope of their employment.

(8) "Health data" means information relating to the health status of individuals, health services delivered, the availability of health manpower and facilities, and the use and costs of resources and services to the consumer, except vital records as defined in Section 26-2-2 shall be excluded.

(9) "Health maintenance organization" has the meaning set forth in Section 31A-8-101.

(10) "Identifiable health data" means any item, collection, or grouping of health data that makes the individual supplying or described in the health data identifiable.

(11) "Individual" means a natural person.

(12) "Organization" means any corporation, association, partnership, agency, department, unit, or other legally constituted institution or entity, or part thereof.

(13) "Research and statistical analysis" means activities using health data analysis including:

(a) describing the group characteristics of individuals or organizations;

(b) analyzing the noncompliance among the various characteristics of individuals or organizations;

(c) conducting statistical procedures or studies to improve the quality of health data;

(d) designing sample surveys and selecting samples of individuals or organizations; and

(e) preparing and publishing reports describing these matters.

(14) "Self-funded employer" means an employer who provides for the payment of health care services for employees directly from the employer's funds, thereby assuming the financial risks rather than passing them on to an outside insurer through premium payments.

(15) "Plan" means the plan developed and adopted by the Health Data Committee under Section 26-33a-104.

(16) "Third party payor" means:

(a) an insurer offering a health benefit plan, as defined by Section 31A-1-301, to at least 2,500 enrollees in the state;

(b) a nonprofit health service insurance corporation licensed under Title 31A, Chapter 7, Nonprofit Health Service Insurance Corporations;

(c) a program funded or administered by Utah for the provision of health care services, including the Medicaid and medical assistance programs described in Chapter 18, Medical Assistance Act; and

(d) a corporation, organization, association, entity, or person:

(i) which administers or offers a health benefit plan to at least 2,500 enrollees in the state; and

(ii) which is required by administrative rule adopted by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to supply health data to the committee.

Section 10. Section 26-33a-104 is amended to read:

26-33a-104. Purpose, powers, and duties of the committee.

(1) The purpose of the committee is to direct a statewide effort to collect, analyze, and distribute health care data to facilitate the promotion and accessibility of quality and cost-effective health care and also to facilitate interaction among those with concern for health care issues.

(2) The committee shall:

(a) with the concurrence of the department and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, develop and adopt by rule, following public hearing and comment, a health data plan that shall among its elements:

(i) identify the key health care issues, questions, and problems amenable to resolution or improvement through better data, more extensive or careful analysis, or improved dissemination of health data;

(ii) document existing health data activities in the state to collect, organize, or make available types of data pertinent to the needs identified in Subsection (2)(a)(i);

(iii) describe and prioritize the actions suitable for the committee to take in response to the needs identified in Subsection (2)(a)(i) in order to obtain or to facilitate the obtaining of needed data, and to encourage improvements in existing data collection, interpretation, and reporting activities, and indicate how those actions relate to the activities identified under Subsection (2)(a)(ii);

(iv) detail the types of data needed for the committee's work, the intended data suppliers, and the form in which such data are to be supplied, noting the consideration given to the potential alternative sources and forms of such data and to the estimated cost to the individual suppliers as well as to the department of acquiring these data in the proposed manner; the plan shall reasonably demonstrate that the committee has attempted to maximize cost-effectiveness in the data acquisition approaches selected;

(v) describe the types and methods of validation to be performed to assure data validity and reliability;

(vi) explain the intended uses of and expected benefits to be derived from the data specified in Subsection (2)(a)(iv), including the contemplated tabulation formats and analysis methods; the benefits described shall demonstrably relate to one or more of the following:

(A) promoting quality health care;

(B) managing health care costs; or

(C) improving access to health care services;

(vii) describe the expected processes for interpretation and analysis of the data flowing to the committee; noting specifically the types of expertise and participation to be sought in those processes; and

(viii) describe the types of reports to be made available by the committee and the intended audiences and uses;

(b) have the authority to collect, validate, analyze, and present health data in accordance with the plan while protecting individual privacy through the use of a control number as the health data identifier;

(c) evaluate existing identification coding methods and, if necessary, require by rule adopted in accordance with Subsection (3), that health data suppliers use a uniform system for identification of patients, health care facilities, and health care providers on health data they submit under this chapter; and

(d) advise, consult, contract, and cooperate with any corporation, association, or other entity for the collection, analysis, processing, or reporting of health data identified by control number only in accordance with the plan.

(3) ~~[The] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the committee, with the concurrence of the department, may adopt rules to carry out the provisions of this chapter [in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act].~~

(4) Except for data collection, analysis, and validation functions described in this section, nothing in this chapter shall be construed to authorize or permit the committee to perform regulatory functions which are delegated by law to other agencies of the state or federal governments or to perform quality assurance or medical record audit functions that health care facilities, health care providers, or third party payors are required to conduct to comply with federal or state law. The committee may not recommend or determine whether a health care provider, health care facility, third party payor, or self-funded employer is in compliance with federal or state laws including federal or state licensure, insurance, reimbursement, tax, malpractice, or quality assurance statutes or common law.

(5) Nothing in this chapter shall be construed to require a data supplier to supply health data identifying a patient by name or describing detail on a patient beyond that needed to achieve the approved purposes included in the plan.

(6) No request for health data shall be made of health care providers and other data suppliers until a plan for the use of such health data has been adopted.

(7) If a proposed request for health data imposes unreasonable costs on a data supplier, due consideration shall be given by the committee to altering the request. If the request is not altered, the committee shall pay the costs incurred by the data supplier associated with satisfying the request that are demonstrated by the data supplier to be unreasonable.

(8) After a plan is adopted as provided in Section 26-33a-106.1, the committee may require any data supplier to submit fee schedules, maximum allowable costs, area prevailing costs, terms of contracts, discounts, fixed reimbursement arrangements, capitations, or other specific

arrangements for reimbursement to a health care provider.

(9) The committee may not publish any health data collected under Subsection (8) that would disclose specific terms of contracts, discounts, or fixed reimbursement arrangements, or other specific reimbursement arrangements between an individual provider and a specific payer.

(10) Nothing in Subsection (8) shall prevent the committee from requiring the submission of health data on the reimbursements actually made to health care providers from any source of payment, including consumers.

Section 11. Section 26-33a-106.5 is amended to read:

26-33a-106.5. Comparative analyses.

(1) The committee may publish compilations or reports that compare and identify health care providers or data suppliers from the data it collects under this chapter or from any other source.

(2) (a) Except as provided in Subsection (7)(c), the committee shall publish compilations or reports from the data it collects under this chapter or from any other source which:

(i) contain the information described in Subsection (2)(b); and

(ii) compare and identify by name at least a majority of the health care facilities, health care plans, and institutions in the state.

(b) Except as provided in Subsection (7)(c), the report required by this Subsection (2) shall:

(i) be published at least annually; and

(ii) contain comparisons based on at least the following factors:

(A) nationally or other generally recognized quality standards;

(B) charges; and

(C) nationally recognized patient safety standards.

(3) The committee may contract with a private, independent analyst to evaluate the standard comparative reports of the committee that identify, compare, or rank the performance of data suppliers by name. The evaluation shall include a validation of statistical methodologies, limitations, appropriateness of use, and comparisons using standard health services research practice. The analyst shall be experienced in analyzing large databases from multiple data suppliers and in evaluating health care issues of cost, quality, and access. The results of the analyst's evaluation shall be released to the public before the standard comparative analysis upon which it is based may be published by the committee.

(4) ~~[The] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the committee, with the concurrence of the department, shall adopt by rule a timetable for the collection and analysis of data from multiple types of data suppliers.~~

(5) The comparative analysis required under Subsection (2) shall be available:

(a) free of charge and easily accessible to the public; and

(b) on the Health Insurance Exchange either directly or through a link.

(6) (a) The department shall include in the report required by Subsection (2)(b), or include in a separate report, comparative information on commonly recognized or generally agreed upon measures of cost and quality identified in accordance with Subsection (7), for:

(i) routine and preventive care; and

(ii) the treatment of diabetes, heart disease, and other illnesses or conditions as determined by the committee.

(b) The comparative information required by Subsection (6)(a) shall be based on data collected under Subsection (2) and clinical data that may be available to the committee, and shall compare:

(i) beginning December 31, 2014, results for health care facilities or institutions;

(ii) beginning December 31, 2014, results for health care providers by geographic regions of the state;

(iii) beginning July 1, 2016, a clinic's aggregate results for a physician who practices at a clinic with five or more physicians; and

(iv) beginning July 1, 2016, a geographic region's aggregate results for a physician who practices at a clinic with less than five physicians, unless the physician requests physician-level data to be published on a clinic level.

(c) The department:

(i) may publish information required by this Subsection (6) directly or through one or more nonprofit, community-based health data organizations;

(ii) may use a private, independent analyst under Subsection (3) in preparing the report required by this section; and

(iii) shall identify and report to the Legislature's Health and Human Services Interim Committee by July 1, 2014, and every July 1 thereafter until July 1, 2019, at least three new measures of quality to be added to the report each year.

(d) A report published by the department under this Subsection (6):

(i) is subject to the requirements of Section 26-33a-107; and

(ii) shall, prior to being published by the department, be submitted to a neutral, non-biased entity with a broad base of support from health care payers and health care providers in accordance with Subsection (7) for the purpose of validating the report.

(7) (a) The Health Data Committee shall, through the department, for purposes of Subsection (6)(a), use the quality measures that are developed and agreed upon by a neutral, non-biased entity with a broad base of support from health care payers and health care providers.

(b) If the entity described in Subsection (7)(a) does not submit the quality measures, the department may select the appropriate number of quality measures for purposes of the report required by Subsection (6).

(c) (i) For purposes of the reports published on or after July 1, 2014, the department may not compare individual facilities or clinics as described in Subsections (6)(b)(i) through (iv) if the department determines that the data available to the department can not be appropriately validated, does not represent nationally recognized measures, does not reflect the mix of cases seen at a clinic or facility, or is not sufficient for the purposes of comparing providers.

(ii) The department shall report to the Legislature's Executive Appropriations Committee prior to making a determination not to publish a report under Subsection (7)(c)(i).

Section 12. Section 26-33a-107 is amended to read:

26-33a-107. Limitations on release of reports.

The committee may not release a compilation or report that compares and identifies health care providers or data suppliers unless it:

(1) allows the data supplier and the health care provider to verify the accuracy of the information submitted to the committee and submit to the committee any corrections of errors with supporting evidence and comments within a reasonable period of time to be established by rule, with the concurrence of the department, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(2) corrects data found to be in error; and

(3) allows the data supplier a reasonable amount of time prior to publication to review the committee's interpretation of the data and prepare a response.

Section 13. Section 26-33a-109 is amended to read:

26-33a-109. Exceptions to prohibition on disclosure of identifiable health data.

(1) The committee may not disclose any identifiable health data unless:

(a) the individual has authorized the disclosure; or

(b) the disclosure complies with the provisions of:

(i) this section;

(ii) insurance enrollment and coordination of benefits under Subsection 26-33a-106.1(1)(d); or

(iii) risk adjusting under Subsection 26-33a-106.1(1)(b).

(2) The committee shall consider the following when responding to a request for disclosure of information that may include identifiable health data:

(a) whether the request comes from a person after that person has received approval to do the specific research and statistical work from an institutional review board; and

(b) whether the requesting entity complies with the provisions of Subsection (3).

(3) A request for disclosure of information that may include identifiable health data shall:

(a) be for a specified period; or

(b) be solely for bona fide research and statistical purposes as determined in accordance with administrative rules adopted by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which shall require:

(i) the requesting entity to demonstrate to the department that the data is required for the research and statistical purposes proposed by the requesting entity; and

(ii) the requesting entity to enter into a written agreement satisfactory to the department to protect the data in accordance with this chapter or other applicable law.

(4) A person accessing identifiable health data pursuant to Subsection (3) may not further disclose the identifiable health data:

(a) without prior approval of the department; and

(b) unless the identifiable health data is disclosed or identified by control number only.

Section 14. Section 26-39-203 is amended to read:

26-39-203. Duties of the Child Care Center Licensing Committee.

(1) The licensing committee shall:

(a) in concurrence with the department and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that govern center based child care as necessary to protect qualifying children's common needs for a safe and healthy environment, to provide for:

(i) adequate facilities and equipment; and

(ii) competent caregivers considering the age of the children and the type of program offered by the licensee;

(b) in concurrence with the department and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules necessary to carry out the purposes of this chapter that govern center based child care, in the following areas:

(i) requirements for applications, the application process, and compliance with other applicable statutes and rules;

(ii) documentation and policies and procedures that providers shall have in place in order to be licensed, in accordance with Subsection (1);

(iii) categories, classifications, and duration of initial and ongoing licenses;

(iv) changes of ownership or name, changes in licensure status, and changes in operational status;

(v) license expiration and renewal, contents, and posting requirements;

(vi) procedures for inspections, complaint resolution, disciplinary actions, and other procedural measures to encourage and assure compliance with statute and rule; and

(vii) guidelines necessary to assure consistency and appropriateness in the regulation and discipline of licensees;

(c) advise the department on the administration of a matter affecting center based child care;

(d) advise and assist the department in conducting center based child care provider seminars; and

(e) perform other duties as provided under Section 26-39-301.

(2) (a) The licensing committee may not enforce the rules adopted under this section.

(b) The department shall enforce the rules adopted under this section in accordance with Section 26-39-301.

Section 15. Section 26-39-301 is amended to read:

26-39-301. Duties of the department -- Enforcement of chapter -- Licensing committee requirements.

(1) With regard to residential child care licensed or certified under this chapter, the department may:

(a) make and enforce rules to implement this chapter and, as necessary to protect qualifying children's common needs for a safe and healthy environment, to provide for:

(i) adequate facilities and equipment; and

(ii) competent caregivers considering the age of the children and the type of program offered by the licensee;

(b) make and enforce rules necessary to carry out the purposes of this chapter, in the following areas:

(i) requirements for applications, the application process, and compliance with other applicable statutes and rules;

(ii) documentation and policies and procedures that providers shall have in place in order to be licensed, in accordance with Subsection (1)(a);

(iii) categories, classifications, and duration of initial and ongoing licenses;

(iv) changes of ownership or name, changes in licensure status, and changes in operational status;

(v) license expiration and renewal, contents, and posting requirements;

(vi) procedures for inspections, complaint resolution, disciplinary actions, and other procedural measures to encourage and assure compliance with statute and rule; and

(vii) guidelines necessary to assure consistency and appropriateness in the regulation and discipline of licensees; and

(c) set and collect licensing and other fees in accordance with Section 26-1-6.

(2) The department shall enforce the rules established by the licensing committee, with the concurrence of the department, for center based child care.

(3) Rules made under this chapter by the department, or the licensing committee with the concurrence of the department, shall be made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) (a) The licensing committee and the department may not regulate educational curricula, academic methods, or the educational philosophy or approach of the provider.

(b) The licensing committee and the department shall allow for a broad range of educational training and academic background in certification or qualification of child day care directors.

(5) In licensing and regulating child care programs, the licensing committee and the department shall reasonably balance the benefits and burdens of each regulation and, by rule, provide for a range of licensure, depending upon the needs and different levels and types of child care provided.

(6) Notwithstanding the definition of “qualifying child” in Section 26-39-102, the licensing committee and the department shall count children through age 12 and children with disabilities through age 18 toward the minimum square footage requirement for indoor and outdoor areas, including the child of:

(a) a licensed residential child care provider; or

(b) an owner or employee of a licensed child care center.

(7) Notwithstanding Subsection (1)(a)(i), the licensing committee and the department may not exclude floor space used for furniture, fixtures, or equipment from the minimum square footage requirement for indoor and outdoor areas if the furniture, fixture, or equipment is used:

(a) by qualifying children;

(b) for the care of qualifying children; or

(c) to store classroom materials.

(8) (a) A child care center constructed prior to January 1, 2004, and licensed and operated as a

child care center continuously since January 1, 2004, is exempt from the licensing committee’s and the department’s group size restrictions, if the child to caregiver ratios are maintained, and adequate square footage is maintained for specific classrooms.

(b) An exemption granted under Subsection (7)(a) is transferrable to subsequent licensed operators at the center if a licensed child care center is continuously maintained at the center.

(9) The licensing committee ~~[and the]~~, with the concurrence of the department, shall develop, by rule, a five-year phased-in compliance schedule for playground equipment safety standards.

(10) Nothing in this chapter may be interpreted to grant a municipality or county the authority to license or certify a child care program.

Section 16. Effective date.

This bill takes effect on May 10, 2016, except that the amendments to Section 26-8a-106 (Effective 07/01/16) take effect on July 1, 2016.

CHAPTER 75**S. B. 130**

Passed February 25, 2016

Approved March 18, 2016

Effective May 10, 2016

TATTOO REMOVAL

Chief Sponsor: J. Stuart Adams

House Sponsor: Brad R. Wilson

LONG TITLE**General Description:**

This bill amends the Division of Occupational and Professional Licensing Act.

Highlighted Provisions:

This bill:

- ▶ authorizes an advanced practice registered nurse to perform certain functions associated with tattoo removal;
- ▶ authorizes a physician assistant acting under the supervision of a physician to perform certain functions associated with tattoo removal; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-1-506, as enacted by Laws of Utah 2012, Chapter 362

58-11a-102, as last amended by Laws of Utah 2013, Chapter 13

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

Section 1. Section 58-1-506 is amended to read:**58-1-506. Supervision of cosmetic medical procedures.**

(1) For purposes of this section:

(a) "Delegation group A" means the following who are licensed under this title, acting within their respective [scope] scopes of practice, and qualified under Subsections (2)(f)(i) and (iii):

(i) a physician assistant, if acting under the supervision of a physician and the procedure is included in the delegation of services agreement as defined in Section 58-70a-102;

(ii) a registered nurse;

(iii) a master esthetician; and

(iv) an electrologist, if evaluating for or performing laser hair removal.

(b) "Delegation group B" means:

(i) a practical nurse or an esthetician who is licensed under this title, acting within their respective [scope] scopes of practice, and qualified under Subsections (2)(f)(i) and (iii); and

(ii) a medical assistant who is qualified under Subsections (2)(f)(i) and (iii).

(c) "Direct cosmetic medical procedure supervision" means the supervisor:

(i) has authorized the procedure to be done on the patient by the supervisee; and

(ii) is present and available for a face-to-face communication with the supervisee when and where a cosmetic medical procedure is performed.

(d) "General cosmetic medical procedure supervision" means the supervisor:

(i) has authorized the procedure to be done on the patient by the supervisee;

(ii) is available in a timely and appropriate manner in person to evaluate and initiate care for a patient with a suspected adverse reaction or complication; and

(iii) is located within 60 minutes or 60 miles of the cosmetic medical facility.

~~(f)~~ (e) "Hair removal review" means:

(i) conducting an in-person, face-to-face interview of a patient based on the responses provided by the patient to a detailed medical history assessment that was prepared by the supervisor;

(ii) evaluating for contraindications and conditions that are part of the treatment plan; and

(iii) if the patient history or patient presentation deviates in any way from the treatment plan, referring the patient to the supervisor and receiving clearance from the supervisor before starting the treatment.

~~(e)~~ (f) "Indirect cosmetic medical procedure supervision" means the supervisor:

(i) has authorized the procedure to be done on the patient by the supervisee;

(ii) has given written instructions to the person being supervised;

(iii) is present within the cosmetic medical facility in which the person being supervised is providing services; and

(iv) is available to:

(A) provide immediate face-to-face communication with the person being supervised; and

(B) evaluate the patient, as necessary.

(2) A supervisor supervising a nonablative cosmetic medical procedure for hair removal shall:

(a) have an unrestricted license to practice medicine or advanced practice registered nursing in the state;

(b) develop the medical treatment plan for the procedure;

(c) conduct a hair removal review, or delegate the hair removal review to a member of delegation

group A, of the patient prior to initiating treatment or a series of treatments;

(d) personally perform the nonablative cosmetic medical procedure for hair removal, or authorize and delegate the procedure to a member of delegation group A or B;

(e) during the nonablative cosmetic medical procedure for hair removal provide general cosmetic medical procedure supervision to individuals in delegation group A performing the procedure, except physician assistants, who shall be supervised as provided in Chapter 70a, Physician Assistant Act, and indirect cosmetic medical procedure supervision to individuals in delegation group B performing the procedure; and

(f) verify that a person to whom the supervisor delegates an evaluation under Subsection (2)(c) or delegates a procedure under Subsection (2)(d) or (3)(~~(b)~~)(c)(ii):

(i) has received appropriate training regarding the medical procedures developed under Subsection (2)(b);

(ii) has an unrestricted license under this title or is performing under the license of the supervising physician and surgeon; and

(iii) has maintained competence to perform the nonablative cosmetic medical procedure through documented education and experience of at least 80 hours, as further defined by rule, regarding:

(A) the appropriate standard of care for performing nonablative cosmetic medical procedures;

(B) physiology of the skin;

(C) skin typing and analysis;

(D) skin conditions, disorders, and diseases;

(E) pre- and post-procedure care;

(F) infection control;

(G) laser and light physics training;

(H) laser technologies and applications;

(I) safety and maintenance of lasers;

(J) cosmetic medical procedures an individual is permitted to perform under this title;

(K) recognition and appropriate management of complications from a procedure; and

(L) [~~cardio-pulmonary~~] cardiopulmonary resuscitation (CPR).

(3) For a nonablative cosmetic medical procedure other than hair removal under Subsection (2):

(a) [~~(i) except as provided in Subsection (3)(a)(ii) and (iii),~~] a physician who has an unrestricted license to practice medicine, a nurse practitioner who has an unrestricted license for advanced practice registered nursing, or a physician assistant acting under the supervision of a physician, with

the procedure included in the delegation of service agreement as defined in Section 58-70a-102, shall:

~~[(A)]~~ (i) develop a treatment plan for the nonablative cosmetic medical procedure; and

~~[(B)]~~ (ii) conduct an in-person face-to-face evaluation of the patient prior to the initiation of a treatment protocol or series of treatments; and

~~[(ii) a nurse practitioner who has an unrestricted license for advanced practice registered nursing may perform the evaluation and develop the treatment plan under Subsection (3)(a)(i) for nonablative medical procedures other than tattoo removal; or]~~

~~[(iii) a physician assistant acting under the supervision of a physician, with the procedure included in the delegation of service agreement as defined in Section 58-70a-102, may perform the evaluation under Subsection (3)(a)(i)(B) for nonablative medical procedures other than tattoo removal; and]~~

(b) a nurse practitioner or physician assistant conducting an in-person face-to-face evaluation of a patient under Subsection (3)(a)(ii) prior to removing a tattoo shall:

(i) inspect the patient's skin for any discoloration unrelated to the tattoo and any other indication of cancer or other condition that should be treated or further evaluated before the tattoo is removed;

(ii) refer a patient with any such condition to a physician for treatment or further evaluation; and

(iii) shall not supervise a nonablative cosmetic medical procedure to remove a tattoo on the patient until the patient has been approved for the tattoo removal by a physician who has evaluated the patient; and

~~[(b)]~~ (c) the supervisor supervising the procedure shall:

(i) have an unrestricted license to practice medicine or advanced practice registered nursing;

(ii) personally perform the nonablative cosmetic medical procedure or:

(A) authorize and provide general cosmetic medical procedure supervision for the nonablative cosmetic medical procedure that is performed by a registered nurse or a master esthetician;

(B) authorize and provide supervision as provided in Chapter 70a, Physician Assistant Act, for the nonablative cosmetic medical procedure that is performed by a physician assistant, if the procedure is included in the delegation of services agreement; or

(C) authorize and provide direct cosmetic medical procedure supervision for the nonablative cosmetic medical procedure that is performed by an esthetician; and

(iii) verify that a person to whom the supervisor delegates a procedure under Subsection (3)(~~(b)~~)(c):

(A) has received appropriate training regarding the medical procedures to be performed;

(B) has an unrestricted license and is acting within ~~their~~ the person's scope of practice under this title; and

(C) is qualified under Subsection (2)(f)(iii).

(4) A supervisor performing or supervising a cosmetic medical procedure under Subsection (2) or (3) shall ensure that:

(a) the supervisor's name is prominently posted at the cosmetic medical facility identifying the supervisor;

(b) a copy of the supervisor's license is displayed on the wall of the cosmetic medical facility;

(c) the patient receives written information with the name and licensing information of the supervisor who is supervising the nonablative cosmetic medical procedure and the person who is performing the nonablative cosmetic medical procedure;

(d) the patient is provided with a telephone number that is answered within 24 hours for follow-up communication; and

(e) the cosmetic medical facility's contract with a master esthetician who performs a nonablative cosmetic medical procedure at the facility is kept on the premises of the facility.

(5) Failure to comply with the provisions of this section is unprofessional conduct.

(6) A chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act, is not subject to the supervision requirements in this section for a nonablative cosmetic medical procedure for hair removal if the chiropractic physician is acting within the scope of practice of a chiropractic physician and with training specific to nonablative hair removal.

Section 2. Section 58-11a-102 is amended to read:

58-11a-102. Definitions.

As used in this chapter:

(1) "Approved barber or cosmetologist/barber apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(1) for barbers or Subsection 58-11a-306(2) for cosmetologist/barbers and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) "Approved esthetician apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(3) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) "Approved master esthetician apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(4) and the requirements established by rule by the division in collaboration with the

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

(4) "Approved nail technician apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(5) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) "Barber" means a person who is licensed under this chapter to engage in the practice of barbering.

(6) "Barber instructor" means a barber who is licensed under this chapter to teach barbering at a licensed barber school or in an apprenticeship program as defined in Section 58-11a-306.

(7) "Board" means the Barber, Cosmetology/Barbering, Esthetics, Electrology, and Nail Technology Licensing Board created in Section 58-11a-201.

(8) "Cosmetic laser procedure" includes a nonablative procedure as defined in Section 58-67-102.

(9) "Cosmetic supervisor" means a supervisor as defined in Section 58-1-505.

(10) "Cosmetologist/barber" means a person who is licensed under this chapter to engage in the practice of cosmetology/barbering.

(11) "Cosmetologist/barber instructor" means a cosmetologist/barber who is licensed under this chapter to teach cosmetology/barbering at a licensed cosmetology/barber school, licensed barber school, licensed nail technology school, or in an apprenticeship program as defined in Subsection 58-11a-306(2).

(12) "Direct supervision" means that the supervisor of an apprentice or the instructor of a student is immediately available for consultation, advice, instruction, and evaluation.

(13) "Electrologist" means a person who is licensed under this chapter to engage in the practice of electrology.

(14) "Electrologist instructor" means an electrologist who is licensed under this chapter to teach electrology at a licensed electrology school.

(15) "Esthetician" means a person who is licensed under this chapter to engage in the practice of esthetics.

(16) "Esthetician instructor" means a master esthetician who is licensed under this chapter to teach the practice of esthetics and the practice of master-level esthetics at a licensed esthetics school, a licensed cosmetology/barber school, or in an apprenticeship program as defined in Subsection 58-11a-306(3).

(17) "Fund" means the Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Education and Enforcement Fund created in Section 58-11a-103.

(18) (a) "Hair braiding" means the twisting, weaving, or interweaving of a person's natural human hair.

(b) "Hair braiding" includes the following methods or styles:

- (i) African-style braiding;
- (ii) box braids;
- (iii) cornrows;
- (iv) dreadlocks;
- (v) french braids;
- (vi) invisible braids;
- (vii) micro braids;
- (viii) single braids;
- (ix) single plaits;
- (x) twists;
- (xi) visible braids;
- (xii) the use of lock braids; and
- (xiii) the use of decorative beads, accessories, and nonhair extensions.

(c) "Hair braiding" does not include:

- (i) the use of:
 - (A) wefts;
 - (B) synthetic tape;
 - (C) synthetic glue;
 - (D) keratin bonds;
 - (E) fusion bonds; or
 - (F) heat tools;
- (ii) the cutting of human hair; or
- (iii) the application of heat, dye, a reactive chemical, or other preparation to:
 - (A) alter the color of the hair; or
 - (B) straighten, curl, or alter the structure of the hair.

(19) "Licensed barber or cosmetology/barber school" means a barber or cosmetology/barber school licensed under this chapter.

(20) "Licensed electrology school" means an electrology school licensed under this chapter.

(21) "Licensed esthetics school" means an esthetics school licensed under this chapter.

(22) "Licensed nail technology school" means a nail technology school licensed under this chapter.

(23) "Master esthetician" means an individual who is licensed under this chapter to engage in the practice of master-level esthetics.

(24) "Nail technician" means an individual who is licensed under this chapter to engage in the practice of nail technology.

(25) "Nail technician instructor" means a nail technician licensed under this chapter to teach the

practice of nail technology in a licensed nail technology school, a licensed cosmetology/barber school, or in an apprenticeship program as defined in Subsection 58-11a-306(5).

(26) "Practice of barbering" means:

(a) cutting, clipping, or trimming the hair of the head of any person by the use of scissors, shears, clippers, or other appliances;

(b) draping, shampooing, scalp treatments, basic wet styling, and blow drying; and

(c) removing hair from the face or neck of a person by the use of shaving equipment.

(27) "Practice of barbering instruction" means instructing barbering in a licensed barber school, licensed cosmetology/barber school, or in an apprenticeship program as defined in Subsection 58-11a-306(1).

(28) "Practice of basic esthetics" means any one of the following skin care procedures done on the head, face, neck, arms, hands, legs, feet, eyebrows, or eyelashes for cosmetic purposes and not for the treatment of medical, physical, or mental ailments:

(a) cleansing, stimulating, manipulating, exercising, applying oils, antiseptics, clays, or masks, manual extraction, including a comedone extractor, depilatories, waxes, tweezing, the application of eyelash extensions, natural nail manicures or pedicures, or callous removal by buffing or filing;

(b) limited chemical exfoliation as defined by rule;

(c) removing superfluous hair by means other than electrolysis, except that an individual is not required to be licensed as an esthetician to engage in the practice of threading;

(d) other esthetic preparations or procedures with the use of the hands, a high-frequency or galvanic electrical apparatus, or a heat lamp for cosmetic purposes and not for the treatment of medical, physical, or mental ailments;

(e) arching eyebrows, tinting eyebrows or eyelashes, perming eyelashes, applying eyelash extensions, or a combination of these procedures; or

(f) except as provided in Subsection (28)(f)(i), cosmetic laser procedures under the direct cosmetic medical procedure supervision of a cosmetic supervisor limited to the following:

(i) superfluous hair removal which shall be under indirect supervision;

(ii) anti-aging resurfacing enhancements;

(iii) photo rejuvenation; or

(iv) tattoo removal.

(29) (a) "Practice of cosmetology/barbering" means:

(i) styling, arranging, dressing, curling, waving, permanent waving, cleansing, singeing, bleaching, dyeing, tinting, coloring, or similarly treating the hair of the head of a person;

(ii) cutting, clipping, or trimming the hair by the use of scissors, shears, clippers, or other appliances;

(iii) arching eyebrows, tinting eyebrows or eyelashes, perming eyelashes, applying eyelash extensions, or a combination of these procedures;

(iv) removing hair from the face, neck, shoulders, arms, back, torso, feet, bikini line, or legs of a person by the use of depilatories, waxing, or shaving equipment;

(v) cutting, curling, styling, fitting, measuring, or forming caps for wigs or hairpieces or both on the human head; or

(vi) practicing hair weaving or hair fusing or servicing previously medically implanted hair.

(b) The term “practice of cosmetology/barbering” includes:

(i) the practice of basic esthetics; and

(ii) the practice of nail technology.

(c) An individual is not required to be licensed as a cosmetologist/barber to engage in the practice of threading.

(30) “Practice of cosmetology/barbering instruction” means instructing cosmetology/barbering as defined in Subsection (29) in a licensed cosmetology/barber school or in an apprenticeship program as defined in Subsection 58-11a-306(2).

(31) “Practice of electrology” means:

(a) the removal of superfluous hair from the body of a person by the use of electricity, waxing, shaving, or tweezing; or

(b) cosmetic laser procedures under the supervision of a cosmetic supervisor limited to superfluous hair removal.

(32) “Practice of electrology instruction” means instructing electrology in a licensed electrology school.

(33) “Practice of esthetics instruction” means instructing esthetics in a licensed esthetics school, a licensed cosmetology/barber school, or instructing master-level esthetics in a licensed esthetics school or in an apprenticeship program as defined in Subsections 58-11a-306(2), (3), and (4).

(34) (a) “Practice of master-level esthetics” means:

(i) any of the following when done for cosmetic purposes on the head, face, neck, torso, abdomen, back, arms, hands, legs, feet, eyebrows, or eyelashes and not for the treatment of medical, physical, or mental ailments:

(A) body wraps as defined by rule;

(B) hydrotherapy as defined by rule;

(C) chemical exfoliation as defined by rule;

(D) advanced pedicures as defined by rule;

(E) sanding, including microdermabrasion;

(F) advanced extraction;

(G) other esthetic preparations or procedures with the use of:

(I) the hands; or

(II) a mechanical or electrical apparatus which is approved for use by division rule for beautifying or similar work performed on the body for cosmetic purposes and not for the treatment of a medical, physical, or mental ailment; or

(H) cosmetic laser procedures under the supervision of a cosmetic supervisor with a physician’s evaluation before the procedure, as needed, unless specifically required under Section 58-1-506, and limited to the following:

(I) superfluous hair removal;

(II) anti-aging resurfacing enhancements;

(III) photo rejuvenation; or

(IV) tattoo removal with a physician’s, advanced practice nurse’s, or physician assistant’s evaluation before the tattoo removal procedure, as required by Subsection 58-1-506(3)(a); and

(ii) lymphatic massage by manual or other means as defined by rule.

(b) Notwithstanding the provisions of Subsection (34)(a), a master-level esthetician may perform procedures listed in Subsection (34)(a)(i)(H) if done under the supervision of a cosmetic supervisor acting within the scope of the cosmetic supervisor license.

(c) The term “practice of master-level esthetics” includes the practice of esthetics, but an individual is not required to be licensed as an esthetician or master-level esthetician to engage in the practice of threading.

(35) “Practice of nail technology” means to trim, cut, clean, manicure, shape, massage, or enhance the appearance of the hands, feet, and nails of an individual by the use of hands, mechanical, or electrical preparation, antiseptic, lotions, or creams, including the application and removal of sculptured or artificial nails.

(36) “Practice of nail technology instruction” means instructing nail technology in a licensed nail technician school, licensed cosmetology/barber school, or in an apprenticeship program as defined in Subsection 58-11a-306(5).

(37) “Recognized barber school” means a barber school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

(38) “Recognized cosmetology/barber school” means a cosmetology/barber school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

(39) “Recognized electrology school” means an electrology school located in a state other than

Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

(40) “Recognized esthetics school” means an esthetics school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

(41) “Recognized nail technology school” means a nail technology school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

(42) “Salon” means a place, shop, or establishment in which cosmetology/barbering, esthetics, electrology, or nail technology is practiced.

(43) “Unlawful conduct” is as defined in Sections 58-1-501 and 58-11a-502.

(44) “Unprofessional conduct” is as defined in Sections 58-1-501 and 58-11a-501 and as may be further defined by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

CHAPTER 76**S. B. 152**

Passed March 9, 2016
 Approved March 18, 2016
 Effective May 10, 2016

**ACCELERATED FOREIGN
 LANGUAGE COURSE AMENDMENTS**

Chief Sponsor: Howard A. Stephenson
 House Sponsor: Eric K. Hutchings

LONG TITLE**General Description:**

This bill provides for the development of concurrent enrollment courses for accelerated foreign language students.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the University of Utah to develop concurrent enrollment courses for accelerated foreign language students; and
- ▶ provides certain exceptions for the concurrent enrollment courses.

Monies Appropriated in this Bill:

This bill appropriates:

- ▶ to the University of Utah – Accelerated Foreign Language Course Development, as an ongoing appropriation:
 - from the Education Fund, \$300,000.

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**ENACTS:**

53B-17-1001, Utah Code Annotated 1953
 53B-17-1002, Utah Code Annotated 1953
 53B-17-1003, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

53A-15-1703, Utah Code Annotated 1953
 53A-15-1708, Utah Code Annotated 1953

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

Section 1. Section 53B-17-1001 is enacted to read:**Part 10. Concurrent Enrollment Courses for Accelerated Foreign Language Students****53B-17-1001. Title.**

This part is known as “Concurrent Enrollment Courses for Accelerated Foreign Language Students.”

Section 2. Section 53B-17-1002 is enacted to read:**53B-17-1002. Definitions.**

As used in this part:

(1) “Accelerated foreign language student” means a student who:

- (a) has passed a world language advanced placement exam; and

(b) is in grade 10, grade 11, or grade 12.

(2) “Blended learning delivery model” means an education delivery model in which a student learns, at least in part:

(a) through online learning with an element of student control over time, place, path, and pace; and

(b) in the physical presence of an instructor.

(3) “State institution of higher education” means the same as that term is defined in Section 53B-3-102.

(4) “State university” means a state institution of higher education that offers courses leading to a bachelor’s degree.

Section 3. Section 53B-17-1003 is enacted to read:**53B-17-1003. Concurrent enrollment courses for accelerated foreign language students -- Exceptions.**

(1) The University of Utah shall partner with all state universities to develop age-appropriate upper division foreign language courses for accelerated foreign language students that:

(a) allow an accelerated foreign language student to earn credit concurrently:

(i) toward high school graduation; and

(ii) at a state institution of higher education;

(b) count toward a foreign language degree offered by a state institution of higher education; and

(c) are delivered using a blended learning delivery model.

(2) The courses described in Subsection (1) shall be delivered through the concurrent enrollment program described in Section 53A-15-101, except:

(a) faculty of a state institution of higher education shall provide the instruction; and

(b) the courses are not subject to the requirement described in Subsection 53A-15-101(4)(a).

(3) Notwithstanding Subsection 53A-17a-120.5(6), a course described in this section is eligible for concurrent enrollment funding under Section 53A-17a-120.5.

Section 4. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or amounts indicated. These sums of money are in addition to amounts previously appropriated for fiscal year 2017.

To University of Utah – Accelerated Foreign Language Course Development

From Education Fund \$300,000

Schedule of Programs:

Accelerated Foreign Language
Course Development \$300,000

The Legislature intends that appropriations under this section:

(1) be used to develop foreign language concurrent enrollment courses for accelerated foreign language students; and

(2) under Section 63J-1-603, not lapse at the close of fiscal year 2017.

Section 5. Coordinating S.B. 152 with H.B. 182 -- Substantive and technical amendments.

If this S.B. 152 and H.B. 182, Concurrent Enrollment Education Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by:

(1) not giving effect to Title 53B, Chapter 17, Part 10, Concurrent Enrollment Courses for Accelerated Foreign Language Students; and

(2) replacing Subsection 53A-15-1703(1)(b)(ii) with the following:

"(i) are one of the following: (A) general education courses;

(B) career and technical education courses;

(C) pre-major college level courses; or

(D) foreign language concurrent enrollment courses described in Section 53A-15-1708; and";

(3) replacing Subsection 53A-15-1703(2)(a)(ii)(B) with the following:

"(B) except for foreign language concurrent enrollment courses described in Section 53A-15-1708, institution of higher education lower division courses numbered at or above the 1000 level; and";

(4) replacing Subsection 53A-15-1703(5) with the following:

"(5) An LEA and an institution of higher education may qualify a grade 9 or grade 10 student to enroll in a current enrollment course by exception, including a student who otherwise qualifies to take a foreign language concurrent enrollment course described in Subsection 53A-15-1708."; and

(5) replacing Section 53A-15-1708 with the following:

"53A-15-1708. Concurrent enrollment courses for accelerated foreign language students.

(1) As used in this section:

(a) "Accelerated foreign language student" means a student who:

(i) has passed a world language advanced placement exam; and

(ii) is in grade 10, grade 11, or grade 12.

(b) "Blended learning delivery model" means an education delivery model in which a student learns, at least in part:

(i) through online learning with an element of student control over time, place, path, and pace; and

(ii) in the physical presence of an instructor.

(c) "State university" means an institution of higher education that offers courses leading to a bachelor's degree.

(2) The University of Utah shall partner with all state universities to develop, as part of the concurrent enrollment program described in this part, concurrent enrollment courses that:

(a) are age-appropriate foreign language courses for accelerated foreign language students who are eligible students;

(b) count toward a foreign language degree offered by an institution of higher education; and

(c) are delivered:

(i) using a blended learning delivery model; and

(ii) by an eligible instructor that is faculty of a state institution of higher education."

CHAPTER 77**S. B. 190**

Passed March 3, 2016
 Approved March 18, 2016
 Effective March 18, 2016

**OPEN AND PUBLIC
 MEETINGS LAW REVISIONS**

Chief Sponsor: Karen Mayne
 House Sponsor: Don L. Ipson

LONG TITLE**General Description:**

This bill modifies provisions of the Open and Public Meetings Act.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of “specified body”; and
- ▶ clarifies application of the Open and Public Meetings Act to specified bodies.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

52-4-103, as last amended by Laws of Utah 2015, Chapters 265 and 276
 52-4-202, as last amended by Laws of Utah 2015, Chapter 202

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

Section 1. Section 52-4-103 is amended to read:

52-4-103. Definitions.

As used in this chapter:

(1) “Anchor location” means the physical location from which:

- (a) an electronic meeting originates; or
- (b) the participants are connected.

(2) “Capitol hill complex” means the grounds and buildings within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake City.

(3) “Convening” means the calling together of a public body by a person authorized to do so for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.

(4) “Electronic meeting” means a public meeting convened or conducted by means of a conference using electronic communications.

(5) “Electronic message” means a communication transmitted electronically, including:

- (a) electronic mail;
- (b) instant messaging;
- (c) electronic chat;

(d) text messaging as defined in Section 76-4-401; or

(e) any other method that conveys a message or facilitates communication electronically.

(6) (a) “Meeting” means the convening of a public body or a specified body, with a quorum present, including a workshop or an executive session, whether in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body or specific body has jurisdiction or advisory power.

(b) “Meeting” does not mean:

(i) a chance gathering or social gathering; or

(ii) a convening of the State Tax Commission to consider a confidential tax matter in accordance with Section 59-1-405.

(c) “Meeting” does not mean the convening of a public body that has both legislative and executive responsibilities if:

(i) no public funds are appropriated for expenditure during the time the public body is convened; and

(ii) the public body is convened solely for the discussion or implementation of administrative or operational matters:

(A) for which no formal action by the public body is required; or

(B) that would not come before the public body for discussion or action.

(7) “Monitor” means to hear or observe, live, by audio or video equipment, all of the public statements of each member of the public body who is participating in a meeting.

(8) “Participate” means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each member of the public body can hear or observe the communication.

(9) (a) “Public body” means any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

(i) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

(ii) consists of two or more persons;

(iii) expends, disburses, or is supported in whole or in part by tax revenue; and

(iv) is vested with the authority to make decisions regarding the public’s business.

(b) “Public body” includes, as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking.

(c) “Public body” does not include a:

(i) political party, political group, or political caucus;

(ii) conference committee, rules committee, or sifting committee of the Legislature; or

(iii) school community council or charter trust land council as defined in Section 53A-1a-108.1.

(10) "Public statement" means a statement made in the ordinary course of business of the public body with the intent that all other members of the public body receive it.

(11) (a) "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.

(b) "Quorum" does not include a meeting of two elected officials by themselves when no action, either formal or informal, is taken on a subject over which these elected officials have advisory power.

(12) "Recording" means an audio, or an audio and video, record of the proceedings of a meeting that can be used to review the proceedings of the meeting.

(13) "Specified body":

(a) means an administrative, advisory, executive, or legislative body that:

~~(a)~~ (i) is not a public body;

~~(b)~~ (ii) consists of three or more members; and

~~(c)~~ (iii) includes at least one member who is:

~~(1)~~ (A) a legislator; and

~~(2)~~ (B) officially appointed to the body by the president of the Senate, speaker of the House of Representatives, or governor[-]; and

(b) does not include a body listed in Subsection 9)(c)(ii).

(14) "Transmit" means to send, convey, or communicate an electronic message by electronic means.

Section 2. Section 52-4-202 is amended to read:

52-4-202. Public notice of meetings -- Emergency meetings.

(1) (a) (i) A public body shall give not less than 24 hours' public notice of each meeting.

(ii) A specified body shall give not less than 24 hours' public notice of each meeting that the specified body holds on the capitol hill complex.

(b) The public notice required under Subsection (1)(a) shall include the meeting:

(i) agenda;

(ii) date;

(iii) time; and

(iv) place.

(2) (a) In addition to the requirements under Subsection (1), a public body which holds regular meetings that are scheduled in advance over the course of a year shall give public notice at least once each year of its annual meeting schedule as provided in this section.

(b) The public notice under Subsection (2)(a) shall specify the date, time, and place of the scheduled meetings.

(3) (a) A public body or specified body satisfies a requirement for public notice by:

(i) posting written notice:

(A) at the principal office of the public body or specified body, or if no principal office exists, at the building where the meeting is to be held; and

(B) on the Utah Public Notice Website created under Section 63F-1-701; and

(ii) providing notice to:

(A) at least one newspaper of general circulation within the geographic jurisdiction of the public body; or

(B) a local media correspondent.

(b) A public body or specified body is in compliance with the provisions of Subsection (3)(a)(ii) by providing notice to a newspaper or local media correspondent under the provisions of Subsection 63F-1-701(4)(d).

(c) A public body whose limited resources make compliance with Subsection (3)(a)(i)(B) difficult may request the Division of Archives and Records Service, created in Section 63A-12-101, to provide technical assistance to help the public body in its effort to comply.

(4) A public body and a specified body are encouraged to develop and use additional electronic means to provide notice of their meetings under Subsection (3).

(5) (a) The notice requirement of Subsection (1) may be disregarded if:

(i) because of unforeseen circumstances it is necessary for a public body or specified body to hold an emergency meeting to consider matters of an emergency or urgent nature; and

(ii) the public body or specified body gives the best notice practicable of:

(A) the time and place of the emergency meeting; and

(B) the topics to be considered at the emergency meeting.

(b) An emergency meeting of a public body may not be held unless:

(i) an attempt has been made to notify all the members of the public body; and

(ii) a majority of the members of the public body approve the meeting.

(6) (a) A public notice that is required to include an agenda under Subsection (1) shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting. Each topic shall be listed under an agenda item on the meeting agenda.

(b) Subject to the provisions of Subsection (6)(c), and at the discretion of the presiding member of the

public body, a topic raised by the public may be discussed during an open meeting, even if the topic raised by the public was not included in the agenda or advance public notice for the meeting.

(c) Except as provided in Subsection (5), relating to emergency meetings, a public body may not take final action on a topic in an open meeting unless the topic is:

(i) listed under an agenda item as required by Subsection (6)(a); and

(ii) included with the advance public notice required by this section.

(7) Except as provided in this section, this chapter does not apply to a specified body.

Section 3. Effective date.

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

CHAPTER 78**S. B. 192**

Passed March 8, 2016

Approved March 18, 2016

Effective May 10, 2016

**STUDY ON CLAIMS
EXCEEDING STATUTORY LIMIT**

Chief Sponsor: Jani Iwamoto

House Sponsor: V. Lowry Snow

Cosponsors: Lyle W. Hillyard

Howard A. Stephenson

LONG TITLE**General Description:**

This bill addresses a study of personal injury claims that exceed a statutory limit.

Highlighted Provisions:

This bill:

- ▶ encourages the formation of an informal working group or task force to study how to address statutory limits on individual and aggregate claims for damages for personal injury and to present its findings, conclusions, and conceptual outline for any suggested legislation to the Legislature before the 2017 General Session.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. Study regarding personal injury damages claims that exceed the statutory limit.

(1) Utah Code Section 63G-7-604 currently contains a limit on the amount that an individual may claim against a governmental entity for damages for personal injury, and a limit on the aggregate amount of individual awards that may be awarded in relation to a single occurrence.

(2) If an individual's claim against a governmental entity for damages for personal injury exceeds the amount of that statutory limit, the individual cannot recover the amount of damages that exceed the statutory limit, or the individual has the option of seeking recovery of some or all of that amount through a process before the state Board of Examiners. Likewise, if multiple individuals' claims against a governmental entity for damages for personal injury arising from the same occurrence exceed the aggregate limit, those individuals cannot recover the amount of damages that exceed the statutory limit, or those individuals have the option of seeking recovery of some or all of that amount through a process before the state Board of Examiners.

(3) Some have expressed an interest in exploring possible alternatives to the current system in order to enable those with legitimate claims for personal injury damages that exceed the statutory limits to

recover their damages while still protecting taxpayer money against large personal injury damage claims.

(4) This issue is very complex, and formulating a workable alternative to the current system will require the thoughtful participation of a number of stakeholders.

(5) The Legislature encourages the formation of a voluntary, informal working group or task force:

(a) to study possible options to the current statutory system for dealing with legitimate, large individual and aggregate personal injury damage claims, while still protecting taxpayer money and limited government resources; and

(b) with representation from:

(i) the Division of Risk Management;

(ii) the Insurance Department;

(iii) state agencies covered under the Risk Management Fund;

(iv) local governments, including counties, cities, towns, local districts, special service districts, school districts, and other political subdivisions of the state;

(v) the Office of the Attorney General;

(vi) trial lawyers representing personal injury plaintiffs;

(vii) the insurance industry;

(viii) the Utah Public Risk Manager's Association; and

(ix) other groups, associations, or entities with an interest in the issue described in Subsection (3).

(6) The working group or task force should seek and receive input from affected or interested parties, including private individuals who regularly use public facilities and private individuals or companies that perform services for public agencies.

(7) Among other things, the working group or task force might consider studying:

(a) the effectiveness of the process of presenting a claim before the state Board of Examiners and any options for improving the process or replacing it with a better process;

(b) the feasibility of creating a fund or risk pool, with participation from state agencies and local government entities, to provide money or insurance coverage or both for individual and aggregate personal injury damage claims that exceed the statutory limit;

(c) the modification of the statutory limit on personal injury individual and aggregate damages; and

(d) any other alternatives the working group or task force considers appropriate to address the issues described in this section.

(8) The working group or task force should present its findings and conclusions and prepare a

recommendation, with a conceptual outline of any suggested legislation, to the Legislature before the 2017 General Session.

CHAPTER 79**S. B. 195**

Passed March 7, 2016

Approved March 18, 2016

Effective May 10, 2016

**HIGHWAY BRIDGE
DESIGNATION AMENDMENTS**

Chief Sponsor: David P. Hinkins

House Sponsor: Brad King

LONG TITLE**General Description:**

This bill names a bridge in memory of a fallen Utah soldier.

Highlighted Provisions:

This bill:

- ▶ designates the bridge spanning the San Juan River in Mexican Hat, Utah, as the Chief Special Warfare Officer (SEAL) Jason R. Workman Memorial Bridge.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

72-4-216, Utah Code Annotated 1953

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

Section 1. Section 72-4-216 is enacted to read:**72-4-216. Chief Special Warfare Operator (SEAL) Jason R. Workman Memorial Bridge.**

There is established the Chief Special Warfare Operator (SEAL) Jason R. Workman Memorial Bridge spanning the San Juan River on Route 163 in Mexican Hat.

CHAPTER 80**S. B. 217**

Passed March 10, 2016
 Approved March 18, 2016
 Effective May 10, 2016

**ALCOHOLIC BEVERAGE CONTROL
 ACT LICENSING AMENDMENTS**

Chief Sponsor: Jerry W. Stevenson
 House Sponsor: Brad R. Wilson

LONG TITLE**General Description:**

This bill modifies provisions related to the issuance of alcoholic beverage licenses.

Highlighted Provisions:

This bill:

- ▶ amends definition provisions;
- ▶ modifies the powers and duties of the commission;
- ▶ amends operational requirements for package agencies held by hotel licensees;
- ▶ applies provisions related to inferences and presumptions to hotel licensees;
- ▶ amends provisions related to unlawful bringing onto premises for consumption to include hotel licensees;
- ▶ modifies provisions related to operating without a license to include hotel licensees;
- ▶ addresses the commission's power to issue a club license;
- ▶ enacts the Hotel License Act, including:
 - defining terms;
 - outlining the hotel licensing process;
 - providing for operational requirements; and
 - providing for enforcement; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

32B-1-102, as last amended by Laws of Utah 2013, Chapter 349
 32B-2-202, as last amended by Laws of Utah 2013, Chapter 349
 32B-2-605, as last amended by Laws of Utah 2012, Chapter 365
 32B-4-303, as enacted by Laws of Utah 2010, Chapter 276
 32B-4-415, as enacted by Laws of Utah 2010, Chapter 276
 32B-4-501, as enacted by Laws of Utah 2010, Chapter 276
 32B-6-403, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2

ENACTS:

32B-8b-101, Utah Code Annotated 1953
 32B-8b-102, Utah Code Annotated 1953
 32B-8b-201, Utah Code Annotated 1953
 32B-8b-202, Utah Code Annotated 1953
 32B-8b-203, Utah Code Annotated 1953

32B-8b-204, Utah Code Annotated 1953
 32B-8b-301, Utah Code Annotated 1953
 32B-8b-302, Utah Code Annotated 1953
 32B-8b-401, Utah Code Annotated 1953
 32B-8b-402, Utah Code Annotated 1953

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

Section 1. Section 32B-1-102 is amended to read:

32B-1-102. Definitions.

As used in this title:

(1) "Airport lounge" means a business location:

(a) at which an alcoholic product is sold at retail for consumption on the premises; and

(b) that is located at an international airport with a United States Customs office on the premises of the international airport.

(2) "Airport lounge license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

(3) "Alcoholic beverage" means the following:

(a) beer; or

(b) liquor.

(4) (a) "Alcoholic product" means a product that:

(i) contains at least .5% of alcohol by volume; and

(ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol in an amount equal to or greater than .5% of alcohol by volume.

(b) "Alcoholic product" includes an alcoholic beverage.

(c) "Alcoholic product" does not include any of the following common items that otherwise come within the definition of an alcoholic product:

(i) except as provided in Subsection (4)(d), an extract;

(ii) vinegar;

(iii) cider;

(iv) essence;

(v) tincture;

(vi) food preparation; or

(vii) an over-the-counter medicine.

(d) "Alcoholic product" includes an extract containing alcohol obtained by distillation when it is used as a flavoring in the manufacturing of an alcoholic product.

(5) "Alcohol training and education seminar" means a seminar that is:

(a) required by Chapter 5, Part 4, Alcohol Training and Education Act; and

(b) described in Section 62A-15-401.

- (6) “Banquet” means an event:
- (a) that is held at one or more designated locations approved by the commission in or on the premises of a:
- (i) hotel;
 - (ii) resort facility;
 - (iii) sports center; or
 - (iv) convention center;
- (b) for which there is a contract:
- (i) between a person operating a facility listed in Subsection (6)(a) and another person; and
 - (ii) under which the person operating a facility listed in Subsection (6)(a) is required to provide an alcoholic product at the event; and
- (c) at which food and alcoholic products may be sold, offered for sale, or furnished.
- (7) (a) “Bar” means a surface or structure:
- (i) at which an alcoholic product is:
 - (A) stored; or
 - (B) dispensed; or
 - (ii) from which an alcoholic product is served.
- (b) “Bar structure” means a surface or structure on a licensed premises if on or at any place of the surface or structure an alcoholic product is:
- (i) stored; or
 - (ii) dispensed.
- (8) (a) Subject to Subsection (8)(d), “beer” means a product that:
- (i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by volume or 3.2% by weight; and
 - (ii) is obtained by fermentation, infusion, or decoction of malted grain.
- (b) “Beer” may or may not contain hops or other vegetable products.
- (c) “Beer” includes a product that:
- (i) contains alcohol in the percentages described in Subsection (8)(a); and
 - (ii) is referred to as:
 - (A) beer;
 - (B) ale;
 - (C) porter;
 - (D) stout;
 - (E) lager; or
 - (F) a malt or malted beverage.
 - (d) “Beer” does not include a flavored malt beverage.
- (9) “Beer-only restaurant license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.
- (10) “Beer retailer” means a business:
- (a) that is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for consumption on or off the business premises; and
 - (b) to whom a license is issued:
 - (i) for an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority; or
 - (ii) for an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License.
- (11) “Beer wholesaling license” means a license:
- (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and
 - (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more retail licensees or off-premise beer retailers.
- (12) “Billboard” means a public display used to advertise, including:
- (a) a light device;
 - (b) a painting;
 - (c) a drawing;
 - (d) a poster;
 - (e) a sign;
 - (f) a signboard; or
 - (g) a scoreboard.
- (13) “Brewer” means a person engaged in manufacturing:
- (a) beer;
 - (b) heavy beer; or
 - (c) a flavored malt beverage.
- (14) “Brewery manufacturing license” means a license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License.
- (15) “Certificate of approval” means a certificate of approval obtained from the department under Section 32B-11-201.
- (16) “Chartered bus” means a passenger bus, coach, or other motor vehicle provided by a bus company to a group of persons pursuant to a common purpose:
- (a) under a single contract;
 - (b) at a fixed charge in accordance with the bus company’s tariff; and
 - (c) to give the group of persons the exclusive use of the passenger bus, coach, or other motor vehicle, and a driver to travel together to one or more specified destinations.

- (17) "Church" means a building:
- (a) set apart for worship;
 - (b) in which religious services are held;
 - (c) with which clergy is associated; and
 - (d) that is tax exempt under the laws of this state.
- (18) (a) "Club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License.
- (b) "Club license" includes:
- (i) a dining club license;
 - (ii) an equity club license;
 - (iii) a fraternal club license; or
 - (iv) a social club license.
- (19) "Commission" means the Alcoholic Beverage Control Commission created in Section 32B-2-201.
- (20) "Commissioner" means a member of the commission.
- (21) "Community location" means:
- (a) a public or private school;
 - (b) a church;
 - (c) a public library;
 - (d) a public playground; or
 - (e) a public park.
- (22) "Community location governing authority" means:
- (a) the governing body of the community location; or
- (b) if the commission does not know who is the governing body of a community location, a person who appears to the commission to have been given on behalf of the community location the authority to prohibit an activity at the community location.
- (23) "Container" means a receptacle that contains an alcoholic product, including:
- (a) a bottle;
 - (b) a vessel; or
 - (c) a similar item.
- (24) "Convention center" means a facility that is:
- (a) in total at least 30,000 square feet; and
 - (b) otherwise defined as a "convention center" by the commission by rule.
- (25) (a) Subject to Subsection (25)(b), "counter" means a surface or structure in a dining area of a licensed premises where seating is provided to a patron for service of food.
- (b) "Counter" does not include a surface or structure if on or at any point of the surface or structure an alcoholic product is:
- (i) stored; or
 - (ii) dispensed.
- (26) "Department" means the Department of Alcoholic Beverage Control created in Section 32B-2-203.
- (27) "Department compliance officer" means an individual who is:
- (a) an auditor or inspector; and
 - (b) employed by the department.
- (28) "Department sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling.
- (29) "Dining club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a dining club license.
- (30) "Director," unless the context requires otherwise, means the director of the department.
- (31) "Disciplinary proceeding" means an adjudicative proceeding permitted under this title:
- (a) against a person subject to administrative action; and
 - (b) that is brought on the basis of a violation of this title.
- (32) (a) Subject to Subsection (32)(b), "dispense" means:
- (i) drawing of an alcoholic product:
 - (A) from an area where it is stored; or
 - (B) as provided in Subsection 32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii), 32B-6-805(15)(b)(ii), or 32B-6-905(12)(b)(ii); and
 - (ii) using the alcoholic product described in Subsection (32)(a)(i) on the premises of the licensed premises to mix or prepare an alcoholic product to be furnished to a patron of the retail licensee.
- (b) The definition of "dispense" in this Subsection (32) applies only to:
- (i) a full-service restaurant license;
 - (ii) a limited-service restaurant license;
 - (iii) a reception center license; and
 - (iv) a beer-only restaurant license.
- (33) "Distillery manufacturing license" means a license issued in accordance with Chapter 11, Part 4, Distillery Manufacturing License.
- (34) "Distressed merchandise" means an alcoholic product in the possession of the department that is saleable, but for some reason is unappealing to the public.
- (35) "Educational facility" includes:
- (a) a nursery school;
 - (b) an infant day care center; and
 - (c) a trade and technical school.

(36) "Equity club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as an equity club license.

(37) "Event permit" means:

- (a) a single event permit; or
- (b) a temporary beer event permit.

(38) "Exempt license" means a license exempt under Section 32B-1-201 from being considered in determining the total number of a retail license that the commission may issue at any time.

(39) (a) "Flavored malt beverage" means a beverage:

- (i) that contains at least .5% alcohol by volume;
- (ii) that is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of a beer as described in 27 C.F.R. Sec. 25.55;
- (iii) to which is added a flavor or other ingredient containing alcohol, except for a hop extract; and
- (iv) (A) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or

(B) that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.

(b) "Flavored malt beverage" is considered liquor for purposes of this title.

(40) "Fraternal club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a fraternal club license.

(41) "Full-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

(42) (a) "Furnish" means by any means to provide with, supply, or give an individual an alcoholic product, by sale or otherwise.

- (b) "Furnish" includes to:
 - (i) serve;
 - (ii) deliver; or
 - (iii) otherwise make available.

(43) "Guest" means an individual who meets the requirements of Subsection 32B-6-407(9).

(44) "Health care practitioner" means:

- (a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;
- (b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

(c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act;

(e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy Practice Act;

(g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act;

(h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;

(i) a mental health professional licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;

(j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; and

(m) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.

(45) (a) "Heavy beer" means a product that:

- (i) contains more than 4% alcohol by volume; and
- (ii) is obtained by fermentation, infusion, or decoction of malted grain.

(b) "Heavy beer" is considered liquor for the purposes of this title.

(46) "Hotel" is as defined by the commission by rule.

(47) "Hotel license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8b, Hotel License Act.

[47] (48) "Identification card" means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.

[48] (49) "Industry representative" means an individual who is compensated by salary, commission, or other means for representing and selling an alcoholic product of a manufacturer, supplier, or importer of liquor.

[49] (50) "Industry representative sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling by a local industry representative on the premises of the department to educate the local industry representative of the quality and characteristics of the product.

[50] (51) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing of an alcoholic product is prohibited by:

- (a) law; or

(b) court order.

~~[(51)]~~ (52) “Intoxicated” means that a person:

(a) is significantly impaired as to the person’s mental or physical functions as a result of the use of:

(i) an alcoholic product;

(ii) a controlled substance;

(iii) a substance having the property of releasing toxic vapors; or

(iv) a combination of Subsections ~~[(51)]~~ (52)(a)(i) through (iii); and

(b) exhibits plain and easily observed outward manifestations of behavior or physical signs produced by the overconsumption of an alcoholic product.

~~[(52)]~~ (53) “Investigator” means an individual who is:

(a) a department compliance officer; or

(b) a nondepartment enforcement officer.

~~[(53)]~~ (54) “Invitee” ~~[is as]~~ means the same as that term is defined in Section 32B-8-102.

~~[(54)]~~ (55) “License” means:

(a) a retail license;

(b) a license issued in accordance with Chapter 11, Manufacturing and Related Licenses Act;

(c) a license issued in accordance with Chapter 12, Liquor Warehousing License Act; or

(d) a license issued in accordance with Chapter 13, Beer Wholesaling License Act.

~~[(55)]~~ (56) “Licensee” means a person who holds a license.

~~[(56)]~~ (57) “Limited-service restaurant license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

~~[(57)]~~ (58) “Limousine” means a motor vehicle licensed by the state or a local authority, other than a bus or taxicab:

(a) in which the driver and a passenger are separated by a partition, glass, or other barrier;

(b) that is provided by a business entity to one or more individuals at a fixed charge in accordance with the business entity’s tariff; and

(c) to give the one or more individuals the exclusive use of the limousine and a driver to travel to one or more specified destinations.

~~[(58)]~~ (59) (a) (i) “Liquor” means a liquid that:

(A) is:

(I) alcohol;

(II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;

(III) a combination of liquids a part of which is spirituous, vinous, or fermented; or

(IV) other drink or drinkable liquid; and

(B) (I) contains at least .5% alcohol by volume; and

(II) is suitable to use for beverage purposes.

(ii) “Liquor” includes:

(A) heavy beer;

(B) wine; and

(C) a flavored malt beverage.

(b) “Liquor” does not include beer.

~~[(59)]~~ (60) “Liquor Control Fund” means the enterprise fund created by Section 32B-2-301.

~~[(60)]~~ (61) “Liquor warehousing license” means a license that is issued:

(a) in accordance with Chapter 12, Liquor Warehousing License Act; and

(b) to a person, other than a licensed manufacturer, who engages in the importation for storage, sale, or distribution of liquor regardless of amount.

~~[(61)]~~ (62) “Local authority” means:

(a) for premises that are located in an unincorporated area of a county, the governing body of a county; or

(b) for premises that are located in an incorporated city or a town, the governing body of the city or town.

~~[(62)]~~ (63) “Lounge or bar area” is as defined by rule made by the commission.

~~[(63)]~~ (64) “Manufacture” means to distill, brew, rectify, mix, compound, process, ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to others.

~~[(64)]~~ (65) “Member” means an individual who, after paying regular dues, has full privileges in an equity club licensee or fraternal club licensee.

~~[(65)]~~ (66) (a) “Military installation” means a base, air field, camp, post, station, yard, center, or homeport facility for a ship:

(i) (A) under the control of the United States Department of Defense; or

(B) of the National Guard;

(ii) that is located within the state; and

(iii) including a leased facility.

(b) “Military installation” does not include a facility used primarily for:

(i) civil works;

(ii) a rivers and harbors project; or

(iii) a flood control project.

~~[(66)]~~ (67) “Minor” means an individual under the age of 21 years.

[(67)] (68) “Nondepartment enforcement agency” means an agency that:

(a) (i) is a state agency other than the department; or

(ii) is an agency of a county, city, or town; and

(b) has a responsibility to enforce one or more provisions of this title.

[(68)] (69) “Nondepartment enforcement officer” means an individual who is:

(a) a peace officer, examiner, or investigator; and

(b) employed by a nondepartment enforcement agency.

[(69)] (70) (a) “Off-premise beer retailer” means a beer retailer who is:

(i) licensed in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority; and

(ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer’s premises.

(b) “Off-premise beer retailer” does not include an on-premise beer retailer.

[(70)] (71) “On-premise banquet license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

[(71)] (72) “On-premise beer retailer” means a beer retailer who is:

(a) authorized to sell, offer for sale, or furnish beer under a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) engaged in the sale of beer to a patron for consumption on the beer retailer’s premises:

(i) regardless of whether the beer retailer sells beer for consumption off the licensed premises; and

(ii) on and after March 1, 2012, operating:

(A) as a tavern; or

(B) in a manner that meets the requirements of Subsection 32B-6-703(2)(e)(i).

[(72)] (73) “Opaque” means impenetrable to sight.

[(73)] (74) “Package agency” means a retail liquor location operated:

(a) under an agreement with the department; and

(b) by a person:

(i) other than the state; and

(ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package Agency, to sell packaged liquor for consumption off the premises of the package agency.

[(74)] (75) “Package agent” means a person who holds a package agency.

[(75)] (76) “Patron” means an individual to whom food, beverages, or services are sold, offered for sale, or furnished, or who consumes an alcoholic product including:

(a) a customer;

(b) a member;

(c) a guest;

(d) an attendee of a banquet or event;

(e) an individual who receives room service;

(f) a resident of a resort;

(g) a public customer under a resort spa sublicense, as defined in Section 32B-8-102; or

(h) an invitee.

[(76)] (77) “Permittee” means a person issued a permit under:

(a) Chapter 9, Event Permit Act; or

(b) Chapter 10, Special Use Permit Act.

[(77)] (78) “Person subject to administrative action” means:

(a) a licensee;

(b) a permittee;

(c) a manufacturer;

(d) a supplier;

(e) an importer;

(f) one of the following holding a certificate of approval:

(i) an out-of-state brewer;

(ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or

(iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or

(g) staff of:

(i) a person listed in Subsections [(77)] (78)(a) through (f); or

(ii) a package agent.

[(78)] (79) “Premises” means a building, enclosure, or room used in connection with the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product, unless otherwise defined in this title or rules made by the commission.

[(79)] (80) “Prescription” means an order issued by a health care practitioner when:

(a) the health care practitioner is licensed under Title 58, Occupations and Professions, to prescribe a controlled substance, other drug, or device for medicinal purposes;

(b) the order is made in the course of that health care practitioner’s professional practice; and

(c) the order is made for obtaining an alcoholic product for medicinal purposes only.

~~[(80)]~~ (81) (a) "Private event" means a specific social, business, or recreational event:

(i) for which an entire room, area, or hall is leased or rented in advance by an identified group; and

(ii) that is limited in attendance to people who are specifically designated and their guests.

(b) "Private event" does not include an event to which the general public is invited, whether for an admission fee or not.

~~[(81)]~~ (82) (a) "Proof of age" means:

(i) an identification card;

(ii) an identification that:

(A) is substantially similar to an identification card;

(B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;

(C) includes date of birth; and

(D) has a picture affixed;

(iii) a valid driver license certificate that:

(A) includes date of birth;

(B) has a picture affixed; and

(C) is issued:

(I) under Title 53, Chapter 3, Uniform Driver License Act; or

(II) in accordance with the laws of the state in which it is issued;

(iv) a military identification card that:

(A) includes date of birth; and

(B) has a picture affixed; or

(v) a valid passport.

(b) "Proof of age" does not include a driving privilege card issued in accordance with Section 53-3-207.

~~[(82)]~~ (83) (a) "Public building" means a building or permanent structure that is:

(i) owned or leased by:

(A) the state; or

(B) a local government entity; and

(ii) used for:

(A) public education;

(B) transacting public business; or

(C) regularly conducting government activities.

(b) "Public building" does not include a building owned by the state or a local government entity when the building is used by a person, in whole or in part, for a proprietary function.

~~[(83)]~~ (84) "Public conveyance" means a conveyance to which the public or a portion of the

public has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance.

~~[(84)]~~ (85) "Reception center" means a business that:

(a) operates facilities that are at least 5,000 square feet; and

(b) has as its primary purpose the leasing of the facilities described in Subsection ~~[(84)]~~ (85)(a) to a third party for the third party's event.

~~[(85)]~~ (86) "Reception center license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

~~[(86)]~~ (87) (a) "Record" means information that is:

(i) inscribed on a tangible medium; or

(ii) stored in an electronic or other medium and is retrievable in a perceivable form.

(b) "Record" includes:

(i) a book;

(ii) a book of account;

(iii) a paper;

(iv) a contract;

(v) an agreement;

(vi) a document; or

(vii) a recording in any medium.

~~[(87)]~~ (88) "Residence" means a person's principal place of abode within Utah.

~~[(88)]~~ (89) "Resident," in relation to a resort, [is as] means the same as that term is defined in Section 32B-8-102.

~~[(89)]~~ (90) "Resort" [is as] means the same as that term is defined in Section 32B-8-102.

~~[(90)]~~ (91) "Resort facility" is as defined by the commission by rule.

~~[(91)]~~ (92) "Resort license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8, Resort License Act.

~~[(92)]~~ (93) "Restaurant" means a business location:

(a) at which a variety of foods are prepared;

(b) at which complete meals are served to the general public; and

(c) that is engaged primarily in serving meals to the general public.

~~[(93)]~~ (94) "Retail license" means one of the following licenses issued under this title:

(a) a full-service restaurant license;

(b) a master full-service restaurant license;

(c) a limited-service restaurant license;

(d) a master limited-service restaurant license;

(e) a club license;

(f) an airport lounge license;

(g) an on-premise banquet license;

(h) an on-premise beer license;

(i) a reception center license; [øf]

(j) a beer-only restaurant license[-];

(k) a resort license; or

(l) a hotel license.

[~~94~~] (95) “Room service” means furnishing an alcoholic product to a person in a guest room of a:

(a) hotel; or

(b) resort facility.

(96) (a) “School” means a building used primarily for the general education of minors.

(b) “School” does not include an educational facility.

(97) “Sell” or “offer for sale” means a transaction, exchange, or barter whereby, for consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules made by the commission.

[~~95~~] (98) “Serve” means to place an alcoholic product before an individual.

[~~98~~] (99) “Sexually oriented entertainer” means a person who while in a state of seminudity appears at or performs:

(a) for the entertainment of one or more patrons;

(b) on the premises of:

(i) a social club licensee; or

(ii) a tavern;

(c) on behalf of or at the request of the licensee described in Subsection [~~98~~] (99)(b);

(d) on a contractual or voluntary basis; and

(e) whether or not the person is designated as:

(i) an employee;

(ii) an independent contractor;

(iii) an agent of the licensee; or

(iv) a different type of classification.

[~~99~~] (100) “Single event permit” means a permit issued in accordance with Chapter 9, Part 3, Single Event Permit.

[~~100~~] (101) “Small brewer” means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt beverages per year.

[~~101~~] (102) “Social club license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License, that is

designated by the commission as a social club license.

[~~102~~] (103) “Special use permit” means a permit issued in accordance with Chapter 10, Special Use Permit Act.

[~~103~~] (104) (a) “Spirituous liquor” means liquor that is distilled.

(b) “Spirituous liquor” includes an alcoholic product defined as a “distilled spirit” by 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

[~~104~~] (105) “Sports center” is as defined by the commission by rule.

[~~105~~] (106) (a) “Staff” means an individual who engages in activity governed by this title:

(i) on behalf of a business, including a package agent, licensee, permittee, or certificate holder;

(ii) at the request of the business, including a package agent, licensee, permittee, or certificate holder; or

(iii) under the authority of the business, including a package agent, licensee, permittee, or certificate holder.

(b) “Staff” includes:

(i) an officer;

(ii) a director;

(iii) an employee;

(iv) personnel management;

(v) an agent of the licensee, including a managing agent;

(vi) an operator; or

(vii) a representative.

[~~106~~] (107) “State of nudity” means:

(a) the appearance of:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus; or

(b) a state of dress that fails to opaquely cover:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus.

[~~107~~] (108) “State of seminudity” means a state of dress in which opaque clothing covers no more than:

(a) the nipple and areola of the female human breast in a shape and color other than the natural shape and color of the nipple and areola; and

(b) the human genitals, pubic area, and anus:

(i) with no less than the following at its widest point:

(A) four inches coverage width in the front of the human body; and

(B) five inches coverage width in the back of the human body; and

(ii) with coverage that does not taper to less than one inch wide at the narrowest point.

~~[(108)]~~ (109) (a) "State store" means a facility for the sale of packaged liquor:

(i) located on premises owned or leased by the state; and

(ii) operated by a state employee.

(b) "State store" does not include:

(i) a package agency;

(ii) a licensee; or

(iii) a permittee.

~~[(109)]~~ (110) (a) "Storage area" means an area on licensed premises where the licensee stores an alcoholic product.

(b) "Store" means to place or maintain in a location an alcoholic product from which a person draws to prepare an alcoholic product to be furnished to a patron, except as provided in Subsection 32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii), 32B-6-805(15)(b)(ii), or 32B-6-905(12)(b)(ii).

~~[(110)]~~ (111) "Sublicense" ~~[is as]~~ means the same as that term is defined in Section 32B-8-102 or 32B-8b-102.

~~[(111)]~~ (112) "Supplier" means a person who sells an alcoholic product to the department.

~~[(112)]~~ (113) "Tavern" means an on-premise beer retailer who is:

(a) issued a license by the commission in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) designated by the commission as a tavern in accordance with Chapter 6, Part 7, On-Premise Beer Retailer License.

~~[(113)]~~ (114) "Temporary beer event permit" means a permit issued in accordance with Chapter 9, Part 4, Temporary Beer Event Permit.

~~[(114)]~~ (115) "Temporary domicile" means the principal place of abode within Utah of a person who does not have a present intention to continue residency within Utah permanently or indefinitely.

~~[(115)]~~ (116) "Translucent" means a substance that allows light to pass through, but does not allow an object or person to be seen through the substance.

~~[(116)]~~ (117) "Unsaleable liquor merchandise" means a container that:

(a) is unsaleable because the container is:

(i) unlabeled;

(ii) leaky;

(iii) damaged;

(iv) difficult to open; or

(v) partly filled;

(b) (i) has faded labels or defective caps or corks;

(ii) has contents that are:

(A) cloudy;

(B) spoiled; or

(C) chemically determined to be impure; or

(iii) contains:

(A) sediment; or

(B) a foreign substance; or

(c) is otherwise considered by the department as unfit for sale.

~~[(117)]~~ (118) (a) "Wine" means an alcoholic product obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not another ingredient is added.

(b) "Wine" is considered liquor for purposes of this title, except as otherwise provided in this title.

~~[(118)]~~ (119) "Winery manufacturing license" means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

Section 2. Section 32B-2-202 is amended to read:

32B-2-202. Powers and duties of the commission.

(1) The commission shall:

(a) consistent with the policy established by the Legislature by statute, act as a general policymaking body on the subject of alcoholic product control;

(b) adopt and issue policies, rules, and procedures;

(c) set policy by written rules that establish criteria and procedures for:

(i) issuing, denying, not renewing, suspending, or revoking a package agency, license, permit, or certificate of approval; and

(ii) determining the location of a state store, package agency, or retail licensee;

(d) decide within the limits, and under the conditions imposed by this title, the number and location of state stores, package agencies, and retail licensees in the state;

(e) issue, deny, suspend, revoke, or not renew the following package agencies, licenses, permits, or certificates of approval for the purchase, storage, sale, offer for sale, furnishing, consumption, manufacture, and distribution of an alcoholic product:

(i) a package agency;

- (ii) a full-service restaurant license;
- (iii) a master full-service restaurant license;
- (iv) a limited-service restaurant license;
- (v) a master limited-service restaurant license;
- (vi) a club license;
- (vii) an airport lounge license;
- (viii) an on-premise banquet license;
- (ix) a resort license, under which at least four or more sublicenses may be included;
- (x) an on-premise beer retailer license;
- (xi) a reception center license;
- (xii) a beer-only restaurant license;
- (xiii) a hotel license, under which at least three or more sublicenses may be included;
- ~~[(xiii)]~~ (xiv) subject to Subsection (4), a single event permit;
- ~~[(xiv)]~~ (xv) subject to Subsection (4), a temporary beer event permit;
- ~~[(xv)]~~ (xvi) a special use permit;
- ~~[(xvi)]~~ (xvii) a manufacturing license;
- ~~[(xvii)]~~ (xviii) a liquor warehousing license;
- ~~[(xviii)]~~ (xix) a beer wholesaling license; and
- ~~[(xix)]~~ (xx) one of the following that holds a certificate of approval:
 - (A) an out-of-state brewer;
 - (B) an out-of-state importer of beer, heavy beer, or flavored malt beverages; and
 - (C) an out-of-state supplier of beer, heavy beer, or flavored malt beverages;
- (f) in accordance with Section 32B-5-205, issue, deny, suspend, or revoke conditional licenses for the purchase, storage, sale, furnishing, consumption, manufacture, and distribution of an alcoholic product;
- (g) prescribe the duties of the department in assisting the commission in issuing a package agency, license, permit, or certificate of approval under this title;
- (h) to the extent a fee is not specified in this title, establish a fee allowed under this title in accordance with Section 63J-1-504;
 - (i) fix prices at which liquor is sold that are the same at all state stores, package agencies, and retail licensees;
 - (j) issue and distribute price lists showing the price to be paid by a purchaser for each class, variety, or brand of liquor kept for sale by the department;
 - (k) (i) require the director to follow sound management principles; and

(ii) require periodic reporting from the director to ensure that:

(A) sound management principles are being followed; and

(B) policies established by the commission are being observed;

(l) (i) receive, consider, and act in a timely manner upon the reports, recommendations, and matters submitted by the director to the commission; and

(ii) do the things necessary to support the department in properly performing the department's duties;

(m) obtain temporarily and for special purposes the services of an expert or person engaged in the practice of a profession, or a person who possesses a needed skill if:

(i) considered expedient; and

(ii) approved by the governor;

(n) prescribe the conduct, management, and equipment of premises upon which an alcoholic product may be stored, sold, offered for sale, furnished, or consumed;

(o) make rules governing the credit terms of beer sales within the state to retail licensees; and

(p) in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, take disciplinary action against a person subject to administrative action.

(2) Consistent with the policy established by the Legislature by statute, the power of the commission to do the following is plenary, except as otherwise provided by this title, and not subject to review:

(a) establish a state store;

(b) issue authority to act as a package agent or operate a package agency; and

(c) issue or deny a license, permit, or certificate of approval.

(3) If the commission is authorized or required to make a rule under this title, the commission shall make the rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) Notwithstanding Subsections (1)(e)~~[(xiii) and]~~(xiv) and (xv), the director or deputy director may issue an event permit in accordance with Chapter 9, Event Permit Act.

Section 3. Section 32B-2-605 is amended to read:

32B-2-605. Operational requirements for package agency.

(1) (a) A person may not operate a package agency until a package agency agreement is entered into by the package agent and the department.

(b) A package agency agreement shall state the conditions of operation by which the package agent and the department are bound.

(c) (i) If a package agent or staff of the package agent violates this title, rules under this title, or the package agency agreement, the department may take any action against the package agent that is allowed by the package agency agreement.

(ii) An action against a package agent is governed solely by its package agency agreement and may include suspension or revocation of the package agency.

(iii) A package agency agreement shall provide procedures to be followed if a package agent fails to pay money owed to the department including a procedure for replacing the package agent or operator of the package agency.

(iv) A package agency agreement shall provide that the package agency is subject to covert investigations for selling an alcoholic product to a minor.

(v) Notwithstanding that this part refers to "package agency" or "package agent," staff of the package agency or package agent is subject to the same requirement or prohibition.

(2) (a) A package agency shall be operated by an individual who is either:

- (i) the package agent; or
- (ii) an individual designated by the package agent.

(b) An individual who is a designee under this Subsection (2) shall be:

- (i) an employee of the package agent; and
- (ii) responsible for the operation of the package agency.

(c) The conduct of the designee is attributable to the package agent.

(d) A package agent shall submit the name of the person operating the package agency to the department for the department's approval.

(e) A package agent shall state the name and title of a designee on the application for a package agency.

(f) A package agent shall:

- (i) inform the department of a proposed change in the individual designated to operate a package agency; and
- (ii) receive prior approval from the department before implementing the change described in this Subsection (2)(f).

(g) Failure to comply with the requirements of this Subsection (2) may result in the immediate termination of a package agency agreement.

(3) (a) A package agent shall display in a prominent place in the package agency the record issued by the commission that designates the package agency.

(b) A package agent that displays or stores liquor at a location visible to the public shall display in a prominent place in the package agency a sign in large letters that consists of text in the following order:

(i) a header that reads: "WARNING";

(ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child.";

(iii) a statement in smaller font that reads: "Call the Utah Department of Health at [insert most current toll-free number] with questions or for more information.";

(iv) a header that reads: "WARNING"; and

(v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

(c) (i) The text described in Subsections (3)(b)(i) through (iii) shall be in a different font style than the text described in Subsections (3)(b)(iv) and (v).

(ii) The warning statements in the sign described in Subsection (3)(b) shall be in the same font size.

(d) The Department of Health shall work with the commission and department to facilitate consistency in the format of a sign required under this section.

(4) A package agency may not display liquor or a price list in a window or showcase that is visible to passersby.

(5) (a) A package agency may not purchase liquor from a person except from the department.

(b) At the discretion of the department, liquor may be provided by the department to a package agency for sale on consignment.

(6) A package agency may not store, sell, offer for sale, or furnish liquor in a place other than as designated in the package agent's application, unless the package agent first applies for and receives approval from the department for a change of location within the package agency premises.

(7) A package agency may not sell, offer for sale, or furnish liquor except at a price fixed by the commission.

(8) A package agency may not sell, offer for sale, or furnish liquor to:

- (a) a minor;
- (b) a person actually, apparently, or obviously intoxicated;
- (c) a known interdicted person; or
- (d) a known habitual drunkard.

(9) (a) A package agency may not employ a minor to handle liquor.

(b) (i) Staff of a package agency may not:

(A) consume an alcoholic product on the premises of a package agency; or

(B) allow any person to consume an alcoholic product on the premises of a package agency.

(ii) Violation of this Subsection (9)(b) is a class B misdemeanor.

(10) (a) A package agency may not close or cease operation for a period longer than 72 hours, unless:

(i) the package agency notifies the department in writing at least seven days before the closing; and

(ii) the closure or cessation of operation is first approved by the department.

(b) Notwithstanding Subsection (10)(a), in the case of emergency closure, a package agency shall immediately notify the department by telephone.

(c) (i) The department may authorize a closure or cessation of operation for a period not to exceed 60 days.

(ii) The department may extend the initial period an additional 30 days upon written request of the package agency and upon a showing of good cause.

(iii) A closure or cessation of operation may not exceed a total of 90 days without commission approval.

(d) The notice required by Subsection (10)(a) shall include:

(i) the dates of closure or cessation of operation;

(ii) the reason for the closure or cessation of operation; and

(iii) the date on which the package agency will reopen or resume operation.

(e) Failure of a package agency to provide notice and to obtain department authorization before closure or cessation of operation results in an automatic termination of the package agency agreement effective immediately.

(f) Failure of a package agency to reopen or resume operation by the approved date results in an automatic termination of the package agency agreement effective on that date.

(11) A package agency may not transfer its operations from one location to another location without prior written approval of the commission.

(12) (a) A person, having been issued a package agency, may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the package agency to another person, whether for monetary gain or not.

(b) A package agency has no monetary value for any type of disposition.

(13) (a) Subject to the other provisions of this Subsection (13):

(i) sale or delivery of liquor may not be made on or from the premises of a package agency, and a package agency may not be kept open for the sale of liquor:

(A) on Sunday; or

(B) on a state or federal legal holiday.

(ii) Sale or delivery of liquor may be made on or from the premises of a package agency, and a package agency may be open for the sale of liquor, only on a day and during hours that the commission directs by rule or order.

(b) A package agency located at a manufacturing facility is not subject to Subsection (13)(a) if:

(i) the package agency is located at a manufacturing facility licensed in accordance with Chapter 11, Manufacturing and Related Licenses Act;

(ii) the manufacturing facility licensed in accordance with Chapter 11, Manufacturing and Related Licenses Act, holds:

(A) a full-service restaurant license;

(B) a limited-service restaurant license;

(C) a beer-only restaurant license; or

(D) dining club license;

(iii) the restaurant or dining club is located at the manufacturing facility;

(iv) the restaurant or dining club sells an alcoholic product produced at the manufacturing facility;

(v) the manufacturing facility:

(A) owns the restaurant or dining club; or

(B) operates the restaurant or dining club;

(vi) the package agency only sells an alcoholic product produced at the manufacturing facility; and

(vii) the package agency's days and hours of sale are the same as the days and hours of sale at the restaurant or dining club.

(c) (i) Subsection (13)(a) does not apply to a package agency held by [a resort licensee] the following if the package agent that holds the package agency to sell liquor at [the] a resort or hotel does not sell liquor in a manner similar to a state store:

(A) a resort licensee; or

(B) a hotel licensee.

(ii) The commission may by rule define what constitutes a package agency that sells liquor "in a manner similar to a state store."

(14) (a) Except to the extent authorized by commission rule, a minor may not be admitted into, or be on the premises of, a package agency unless accompanied by a person who is:

(i) 21 years of age or older; and

(ii) the minor's parent, legal guardian, or spouse.

(b) A package agent or staff of a package agency that has reason to believe that a person who is on the premises of a package agency is under the age of 21 and is not accompanied by a person described in Subsection (14)(a) may:

- (i) ask the suspected minor for proof of age;
- (ii) ask the person who accompanies the suspected minor for proof of age; and
- (iii) ask the suspected minor or the person who accompanies the suspected minor for proof of parental, guardianship, or spousal relationship.

(c) A package agent or staff of a package agency shall refuse to sell liquor to the suspected minor and to the person who accompanies the suspected minor into the package agency if the minor or person fails to provide any information specified in Subsection (14)(b).

(d) A package agent or staff of a package agency shall require the suspected minor and the person who accompanies the suspected minor into the package agency to immediately leave the premises of the package agency if the minor or person fails to provide information specified in Subsection (14)(b).

(15) (a) A package agency shall sell, offer for sale, or furnish liquor in a sealed container.

(b) A person may not open a sealed container on the premises of a package agency.

(c) Notwithstanding Subsection (15)(a), a package agency may sell, offer for sale, or furnish liquor in other than a sealed container:

(i) if the package agency is the type of package agency that authorizes the package agency to sell, offer for sale, or furnish the liquor as part of room service;

(ii) if the liquor is sold, offered for sale, or furnished as part of room service; and

(iii) subject to:

(A) staff of the package agency providing the liquor in person only to an adult guest in the guest room;

(B) staff of the package agency not leaving the liquor outside a guest room for retrieval by a guest; and

(C) the same limits on the portions in which an alcoholic product may be sold by a retail licensee under Section 32B-5-304.

(16) On or after October 1, 2011, a package agency may not sell, offer for sale, or furnish heavy beer in a sealed container that exceeds two liters.

(17) The department may pay or otherwise remunerate a package agent on any basis, including sales or volume of business done by the package agency.

(18) The commission may prescribe by policy or rule general operational requirements of a package agency that are consistent with this title and relate to:

- (a) physical facilities;
- (b) conditions of operation;
- (c) hours of operation;

- (d) inventory levels;
- (e) payment schedules;
- (f) methods of payment;
- (g) premises security; and
- (h) any other matter considered appropriate by the commission.

Section 4. Section 32B-4-303 is amended to read:

32B-4-303. Special burdens of proof -- Inferences and presumptions.

(1) In a prosecution of an offense defined in this title or in a proceeding brought to enforce this title:

(a) it is not necessary that the state or commission establish:

(i) the precise description or quantity of an alcoholic product; or

(ii) the precise consideration, if any, given or received for an alcoholic product;

(b) there is an inference, absent proof to the contrary, that an alcoholic product in question is an alcoholic product if the witness describes it:

(i) as an alcoholic product;

(ii) by a name that is commonly applied to an alcoholic product; or

(iii) as intoxicating;

(c) if it is alleged that an entity for which a record is required to be filed with the Division of Corporations and Commercial Code to be organized or conduct business in this state has violated this title, the fact of the entity is presumed absent proof to the contrary;

(d) a record signed or purporting to be signed by a state chemist, assistant state chemist, or state crime laboratory chemist, as to the analysis or ingredients of an alcoholic product is:

(i) prima facie evidence:

(A) of the facts stated in that record; and

(B) of the authority of the person giving or making the record; and

(ii) admissible in evidence without proof of appointment or signature absent proof to the contrary; and

(e) a copy of an entry made in a record of the United States internal revenue collector, certified by the collector or a qualified notary public, showing the payment of the United States internal revenue special tax for the manufacture or sale of an alcoholic product is prima facie evidence of the manufacture or sale by the party named in the entry within the period set forth in the record.

(2) (a) In proving the unlawful purchase, sale, gift, or disposal, gratuitous or otherwise, or consumption of an alcoholic product, it is not necessary that the state or commission establish that money or other consideration actually passed

or that an alcoholic product is actually consumed if the court or trier of fact is satisfied that:

(i) a transaction in the nature of a purchase, sale, gift, or disposal actually occurs; or

(ii) consumption of an alcoholic product is about to occur.

(b) Proof of consumption or intended consumption of an alcoholic product on premises on which consumption is prohibited, by some person not authorized to consume an alcoholic product on those premises, is evidence that an alcoholic product is sold, given to, or purchased by the person consuming, about to consume, or carrying away the alcoholic product as against the occupant of the premises.

(3) For purposes of a provision applicable under this chapter to a retail licensee or staff of a retail licensee, the provision is applicable to a resort licensee or hotel licensee or a person operating under a sublicense of the resort licensee or hotel licensee.

(4) Notwithstanding the other provisions of this chapter, a criminal offense identified in this title as a criminal offense may not be enforced under this chapter if the criminal offense relates to a violation:

(a) of a provision in this title related to intoxication or becoming intoxicated; and

(b) if the violation is first investigated by a law enforcement officer, as defined in Section 53-13-103, who has not received training regarding the requirements of this title related to responsible alcoholic product sale or furnishing.

Section 5. Section 32B-4-415 is amended to read:

32B-4-415. Unlawful bringing onto premises for consumption.

(1) Except as provided in Subsection (4), a person may not bring an alcoholic product for on-premise consumption onto the premises of:

(a) a retail licensee or person required to be licensed under this title as a retail licensee;

(b) an establishment that conducts a business similar to a retail licensee;

(c) an event where an alcoholic product is sold, offered for sale, or furnished under a single event permit or temporary beer event permit issued under this title; or

(d) an establishment open to the general public.

(2) Except as provided in Subsection (4), the following may not allow a person to bring onto its premises an alcoholic product for on-premise consumption or allow consumption of an alcoholic product brought onto its premises in violation of this section:

(a) a retail licensee or a person required to be licensed under this title as a retail licensee;

(b) an establishment that conducts a business similar to a retail licensee;

(c) a single event permittee or temporary beer event permittee;

(d) an establishment open to the general public; or

(e) staff of a person listed in Subsections (2)(a) through (d).

(3) Except as provided in Subsection (4)(c)(i)(A), a person may not consume an alcoholic product in a limousine or chartered bus if the limousine or chartered bus drops off a passenger at a location from which the passenger departs in a private vehicle.

(4) (a) A person may bring bottled wine onto the premises of the following and consume the wine pursuant to Section 32B-5-307:

(i) a full-service restaurant licensee;

(ii) a limited restaurant licensee;

(iii) a club licensee; or

(iv) a person operating under a resort spa sublicense.

(b) A passenger of a limousine may bring onto, possess, and consume an alcoholic product on the limousine if:

(i) the travel of the limousine begins and ends at:

(A) the residence of the passenger;

(B) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

(C) the temporary domicile of the passenger; and

(ii) the driver of the limousine is separated from the passengers by partition or other means approved by the department.

(c) A passenger of a chartered bus may bring onto, possess, and consume an alcoholic product on the chartered bus:

(i) (A) but may consume only during travel to a specified destination of the chartered bus and not during travel back to the place where the travel begins; or

(B) if the travel of the chartered bus begins and ends at:

(I) the residence of the passenger;

(II) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

(III) the temporary domicile of the passenger; and

(ii) if the chartered bus has a nondrinking designee other than the driver traveling on the chartered bus to monitor consumption.

(5) A person may bring onto any premises, possess, and consume an alcoholic product at a private event.

(6) The restrictions of Subsections (2) and (3) apply to a resort licensee or hotel licensee or person operating under a sublicense in relationship to:

(a) the boundary of a resort building or boundary of a hotel in an area that is open to the public; or

(b) except as provided in Subsection (4), a sublicense premises.

Section 6. Section 32B-4-501 is amended to read:

32B-4-501. Operating without a license or permit.

(1) A person may not operate the following businesses without first obtaining a license under this title if the business allows a person to purchase or consume an alcoholic product on the premises of the business:

(a) a restaurant;

(b) an airport lounge;

(c) a business operated in the same manner as a club licensee;

(d) a resort;

(e) a business operated to sell, offer for sale, or furnish beer for on-premise consumption;

(f) a business operated as an on-premise banquet licensee; ~~or~~

(g) a hotel; or

~~[(g)]~~ (h) a business similar to one listed in Subsections (1)(a) through ~~[(f)]~~ (g).

(2) A person conducting an event that is open to the general public may not directly or indirectly sell, offer for sale, or furnish an alcoholic product to a person attending the event without first obtaining an event permit under this title.

(3) A person conducting a private event may not directly or indirectly sell or offer for sale an alcoholic product to a person attending the private event without first obtaining an event permit under this title.

(4) A person may not operate the following businesses in this state without first obtaining a license under this title:

(a) a winery manufacturer;

(b) a distillery manufacturer;

(c) a brewery manufacturer;

(d) a local industry representative of:

(i) a manufacturer of an alcoholic product;

(ii) a supplier of an alcoholic product; or

(iii) an importer of an alcoholic product;

(e) a liquor warehouse; or

(f) a beer wholesaler.

(5) A person may not operate a public conveyance in this state without first obtaining a public service permit under this title if that public conveyance allows a person to purchase or consume an alcoholic product:

(a) on the public conveyance; or

(b) on the premises of a hospitality room located within a depot, terminal, or similar facility at which a service is provided to a patron of the public conveyance.

Section 7. Section 32B-6-403 is amended to read:

32B-6-403. Commission's power to issue club license.

(1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on its premises as a club licensee, the person shall first obtain a club license from the commission in accordance with this part.

(2) The commission may issue a club license to establish club licensed premises at places and in numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on premises operated by a club licensee.

(3) Subject to Section 32B-1-201:

(a) The commission may not issue a total number of club licenses that at any time exceeds the number determined by dividing the population of the state by 7,850.

(b) The commission may issue a seasonal club license in accordance with Section 32B-5-206 to:

(i) a dining club licensee; or

(ii) a social club licensee.

(c) (i) If the location, design, and construction of a hotel may require more than one dining club license or social club license location within the hotel to serve the public convenience, the commission may authorize as many as three club license locations within the hotel under one club license if:

(A) the hotel has a minimum of 150 guest rooms; ~~and~~

(B) all locations under the club license are:

(I) within the same hotel; and

(II) on premises that are managed or operated, and owned or leased, by the club licensee~~[-]; and~~

(C) the locations under the club license operate under the same type of club license.

(ii) A facility other than a hotel shall have a separate club license for each club license location where an alcoholic product is sold, offered for sale, or furnished.

(d) When a business establishment undergoes a change of ownership, the commission may issue a club license to the new owner of the business establishment notwithstanding that there is no club license available under Subsection (3)(a) if:

(i) the primary business activity at the business establishment before and after the change of ownership is not the sale, offer for sale, or furnishing of an alcoholic product;

(ii) before the change of ownership there are two or more licensed premises on the business

establishment that operate under a retail license, with at least one of the retail licenses being a club license;

(iii) subject to Subsection (3)(e), the licensed premises of the club license issued under this Subsection (3)(d) is at the same location where the club license licensed premises was located before the change of ownership; and

(iv) the person who is the new owner of the business establishment qualifies for the club license, except for there being no club license available under Subsection (3)(a).

(e) If a club licensee of a club license issued under Subsection (3)(d) requests a change of location, the club licensee may retain the club license after the change of location only if on the day on which the club licensee seeks a change of location a club license is available under Subsection (3)(a).

Section 8. Section 32B-8b-101 is enacted to read:

CHAPTER 8b. HOTEL LICENSE ACT

Part 1. General Provisions

32B-8b-101. Title.

This chapter is known as the "Hotel License Act."

Section 9. Section 32B-8b-102 is enacted to read:

32B-8b-102. Definitions.

As used in this chapter:

(1) "Boundary of a hotel" means the physical boundary of the contiguous parcels of real estate owned by the same person on which is located one or more buildings and any structure or improvement to that real estate as determined by the commission.

(2) "Hotel" means one or more buildings that:

(a) constitute a hotel, as defined by the commission;

(b) are owned by the same person or by a person who has a majority interest in and can direct or exercise control over the management or policy of the person who owns any other building under the hotel license within the boundary of the hotel;

(c) primarily operate to provide lodging accommodations;

(d) provide room service within the boundary of the hotel meeting the requirements of this title;

(e) have on-premise banquet space and provide on-premise banquet service within the boundary of the hotel meeting the requirements of this title;

(f) have a restaurant or club within the boundary of the hotel meeting the requirements of this title; and

(g) have at least 40 guest rooms.

(3) "Provisions applicable to a sublicense" means:

(a) for a full-service restaurant sublicense, Chapter 6, Part 2, Full-Service Restaurant License;

(b) for a limited-service restaurant sublicense, Chapter 6, Part 3, Limited-Service Restaurant License;

(c) for a club sublicense, Chapter 6, Part 4, Club License;

(d) for an on-premise banquet sublicense, Chapter 6, Part 6, On-Premise Banquet License;

(e) for an on-premise beer retailer sublicense, Chapter 6, Part 7, On-Premise Beer Retailer License; and

(f) for a beer-only restaurant sublicense, Chapter 6, Part 9, Beer-Only Restaurant License.

(4) "Sublicense" means:

(a) a full-service restaurant sublicense;

(b) a limited-service restaurant sublicense;

(c) a club sublicense;

(d) an on-premise banquet sublicense;

(e) an on-premise beer retailer sublicense; and

(f) a beer-only restaurant sublicense.

(5) "Sublicense premises" means a building, enclosure, or room used pursuant to a sublicense in connection with the storage, sale, furnishing, or consumption of an alcoholic product, unless otherwise defined in this title or in the rules made by the commission, except that sublicense premises may have only one sublicense within a room or an enclosure that is separate from a room.

Section 10. Section 32B-8b-201 is enacted to read:

Part 2. Hotel Licensing Process

32B-8b-201. Commission's power to issue a hotel license.

(1) Before a person as a hotel under a single license may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on sublicense premises, the person shall first obtain a hotel license from the commission in accordance with this part.

(2) (a) The commission may issue to a person a hotel license to allow the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product in connection with a hotel designated in the hotel license if the person operates at least three sublicenses under the hotel license one of which is an on-premise banquet license and one of which is a sublicense for a restaurant or club.

(b) A hotel license shall:

(i) consist of:

(A) a general hotel license; and

(B) three or more sublicenses meeting the requirements of Subsection (2)(a); and

(ii) designate the boundary of the hotel and sublicenses.

(c) This chapter does not prohibit an alcoholic product on the boundary of the hotel to the extent otherwise permitted by this title.

(d) The commission may not issue a sublicense that is separate from a hotel license.

(3) (a) The commission may not issue a total number of hotel licenses that at any time totals more than 80.

(b) Subject to Subsection (3)(c), when determining the total number of licenses the commission has issued for each type of retail license, the commission may not include a sublicense as one of the retail licenses issued under the provisions applicable to the sublicense.

(c) If a hotel license issued under this chapter includes a club sublicense that before the issuance of the hotel license was a club license, the commission shall include the club sublicense as one of the club licenses in determining if the total number of licenses issued under the provisions applicable to the club license exceeds the number calculated by dividing the population of the state by the number specified in the provisions applicable to the club license.

(d) A person may not transfer a club license under Chapter 8a, Transfer of Retail License Act, in a manner that circumvents the limitations of Subsection (3)(c).

Section 11. Section 32B-8b-202 is enacted to read:

32B-8b-202. Specific licensing requirements for hotel license.

(1) To obtain a hotel license, in addition to complying with Chapter 5, Part 2, Retail Licensing Process, a person shall submit with the written application:

(a) the current business license for each sublicense, if the business license is separate from the person's business license;

(b) evidence:

(i) of proximity of each building under the hotel license to any community location, with proximity requirements being governed by Section 32B-1-202;

(ii) that each of the three or more sublicense premises is entirely within the boundary of the hotel; and

(iii) that a building designated in the application as a building under the hotel license qualifies to be under the hotel license;

(c) a description and boundary map of the hotel;

(d) a description, floor plan, and boundary map of each sublicense premises designating:

(i) any location at which the person proposes that an alcoholic product be stored; and

(ii) a designated location on the sublicense premises from which the person proposes that an alcoholic product be sold, furnished, or consumed;

(e) evidence that the hotel licensee carries dramshop insurance coverage equal to the sum of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate to cover both the general hotel license and each sublicense; and

(f) a signed consent form stating that the person will permit any authorized representative of the commission or department, or any law enforcement officer, to have unrestricted right to enter the boundary of the hotel and each sublicense premises.

(2) (a) A hotel license expires on October 31 of each year.

(b) To renew a person's hotel license, the person shall comply with the requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.

(3) (a) The nonrefundable application fee for a hotel license is \$500.

(b) The initial license fee for a hotel license is calculated as follows:

(i) \$5,000 if three sublicenses are being applied for under the hotel license; or

(ii) if more than three sublicenses are being applied for under the hotel license, the sum of:

(A) \$5,000; and

(B) \$2,000 for each sublicense in excess of three sublicenses for which the person is applying.

(c) The renewal fee for a hotel license is \$1,000 for each sublicense under the hotel license.

(4) (a) The bond amount required for a hotel license is the penal sum of \$10,000.

(b) A hotel licensee is not required to have a separate bond for each sublicense, except that the aggregate of the bonds posted by the hotel licensee shall cover each sublicense under the hotel license.

(5) The commission may not issue a hotel license that includes a building under the hotel license that does not meet the proximity requirements of Section 32B-1-202.

Section 12. Section 32B-8b-203 is enacted to read:

32B-8b-203. Qualifications for hotel license and sublicense.

For purposes of this chapter, the commission shall apply the requirements of Section 32B-1-304 to a hotel license and each sublicense under the hotel license.

Section 13. Section 32B-8b-204 is enacted to read:

32B-8b-204. Commission and department duties before issuing hotel license.

(1) Before the issuance of a hotel license, the department shall comply with the requirements of Subsection 32B-5-203(1) in relation to the hotel license and each sublicense.

(2) Before issuing a hotel license, in addition to considering the factors described in Section 32B-8b-202, the commission shall:

(a) consider the hotel license person's ability to manage and operate a hotel license and the ability of any individual who will act in a supervisory or managerial capacity for a sublicense, including:

- (i) past management experience;
- (ii) past alcoholic product license experience; and
- (iii) the type of management scheme to be used by the hotel license person;

(b) consider the nature or type of:

(i) the person's business operation of the hotel license; and

(ii) the business operation of each sublicense; and

(c) subject to Subsection (3), determine that each sublicense meets the requirements imposed under the provisions applicable to each sublicense.

(3) (a) Subject to Subsection (3)(b), notwithstanding the requirements to obtain a retail license under the provisions applicable to a sublicense, a sublicense of a hotel license is not subject to:

(i) a requirement to submit an application or renewal application that is separate from the hotel license application;

(ii) a requirement to carry public liability insurance or dramshop insurance coverage that is separate from that carried by the hotel licensee; or

(iii) a requirement to post a bond that is separate from the bond posted by the hotel licensee.

(b) If a hotel licensee seeks to add a sublicense after its hotel license is issued, the hotel licensee shall file with the department:

- (i) a nonrefundable \$300 application fee;
- (ii) an initial license fee of \$2,250, which is refundable if the sublicense is not issued;
- (iii) written consent of the local authority;
- (iv) a copy of:

(A) the hotel licensee's current business license; and

(B) the current business license for the sublicense, if the business licensee is separate from the hotel licensee's business license;

(v) evidence that the sublicense premises is entirely within the boundary of the hotel;

(vi) a description, floor plan, and boundary map of the sublicense premises designating:

(A) any location at which the person proposes that an alcoholic product be stored; and

(B) any designated location on the sublicense premises from which the person proposes that an alcoholic product be sold, furnished, or consumed;

(vii) evidence that the person carries public liability insurance in an amount and form satisfactory to the department;

(viii) evidence that the person carries dramshop insurance coverage in the amount required by Section 32B-8b-202 that covers the sublicense to be added;

(ix) a signed consent form stating that the hotel licensee will permit any authorized representative of the commission or department, or any law enforcement officer, to have unrestricted right to enter the sublicense premises;

(x) if the hotel licensee is an entity, proper verification evidencing that a person who signs the application is authorized to sign on behalf of the entity; and

(xi) any other information the commission or department may require.

Section 14. Section 32B-8b-301 is enacted to read:

Part 3. Operational Requirements

32B-8b-301. Specific operational requirements for hotel license.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a hotel licensee, staff of the hotel licensee, and a person otherwise operating under a sublicense shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- (i) a hotel licensee;
- (ii) individual staff of a hotel licensee;
- (iii) a person otherwise operating under a sublicense;
- (iv) individual staff of a person otherwise operating under a sublicense; or
- (v) any combination of the persons listed in this Subsection (1)(b).

(2) (a) A hotel licensee may not sell, offer for sale, or furnish an alcoholic product except:

- (i) on a sublicense premises;
- (ii) pursuant to a permit issued under this title; or
- (iii) under a package agency agreement with the department, subject to Chapter 2, Part 6, Package Agency.

(b) A hotel licensee who sells, offers for sale, or furnishes an alcoholic product as provided in Subsection (2)(a) shall sell, offer for sale, or furnish the alcoholic product:

- (i) if on a sublicense premises, in accordance with the operational requirements under the provisions applicable to the sublicense;
- (ii) if under a permit issued under this title, in accordance with the operational requirements under the provisions applicable to the permit; and

(iii) if as a package agency, in accordance with the contract with the department and Chapter 2, Part 6, Package Agency.

(c) Notwithstanding the other provisions of this Subsection (2), a hotel licensee may not permit a patron to carry an alcoholic product off the premises of a sublicense in violation of Section 32B-5-307 or off an area designated under a permit.

(3) A hotel licensee shall comply with Subsections 32B-5-301(4) and (5) within the boundary of the hotel.

(4) A hotel licensee shall supervise and direct a person involved in the sale, offer for sale, or furnishing of an alcoholic product under a hotel license.

(5) (a) Room service of an alcoholic product to a lodging accommodation of a hotel licensee shall be provided in person by staff of a hotel licensee only to an adult occupant in the lodging accommodation.

(b) An alcoholic product may not be left outside a lodging accommodation for retrieval by an occupant.

Section 15. Section 32B-8b-302 is enacted to read:

32B-8b-302. Specific operational requirements for a sublicense.

(1) A person operating under a sublicense is subject to the operational requirements under the provisions applicable to the sublicense.

(2) For purposes of interpreting an operational requirement imposed by the provisions applicable to a sublicense:

(a) a requirement imposed on a person operating under a sublicense applies to the hotel licensee; and

(b) a requirement imposed on staff of a person operating under a sublicense applies to staff of the hotel licensee.

Section 16. Section 32B-8b-401 is enacted to read:

Part 4. Enforcement

32B-8b-401. Enforcement of operational requirements for hotel license or sublicense.

(1) (a) Failure by a person described in Subsection (1)(b) to comply with this chapter or an operational requirement under a provision applicable to a sublicense may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a hotel licensee;

(ii) individual staff of a hotel licensee;

(iii) a person otherwise operating under a sublicense;

(iv) individual staff of a person otherwise operating under a sublicense; or

(v) any combination of the persons listed in this Subsection (1)(a).

(b) This Subsection (1) applies to:

(i) a hotel licensee;

(ii) a person operating under a sublicense; or

(iii) staff of a hotel licensee or other person operating under a sublicense.

(2) An operational requirement applicable to a person operating under a sublicense is enforced as provided by the provisions applicable to the sublicense.

Section 17. Section 32B-8b-402 is enacted to read:

32B-8b-402. Enforcement of Nuisance Retail Licensee Act.

Chapter 3, Part 3, Nuisance Retail Licensee Act, applies to a hotel license only if three or more of the sublicenses of the hotel license have not been renewed in accordance with Chapter 3, Part 3, Nuisance Retail Licensee Act, within three years from the day on which a hotel licensee applies for the renewal of its hotel license.

CHAPTER 81**S. B. 237**

Passed March 10, 2016

Approved March 18, 2016

Effective May 10, 2016

**IMMIGRATION AND ALIEN
RELATED AMENDMENTS**

Chief Sponsor: Howard A. Stephenson

House Sponsor: Keven J. Stratton

LONG TITLE**General Description:**

This bill modifies provisions related to immigration and aliens.

Highlighted Provisions:

This bill:

- ▶ extends dates related to certain immigration and alien related statutes; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-12-202, as last amended by Laws of Utah 2014, Chapter 200

63G-14-201, as last amended by Laws of Utah 2014, Chapter 200

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

Section 1. Section 63G-12-202 is amended to read:**63G-12-202. Federal waivers, exemptions, or authorizations -- Implementation without waiver, exemption, or authorization.**

(1) The department, under the direction of the governor, shall seek one or more federal waivers, exemptions, or authorizations to implement the program.

(2) The governor shall actively participate in the effort to obtain one or more federal waivers, exemptions, or authorizations under this section.

(3) The department shall implement the program the sooner of:

(a) 120 days after the day on which the governor finds that the state has the one or more federal waivers, exemptions, or authorizations needed to implement the program; or

(b) July 1, [2017] 2027.

Section 2. Section 63G-14-201 is amended to read:**63G-14-201. Creation of program.**

(1) (a) The governor shall create a program known as the "Utah Pilot Sponsored Resident Immigrant Program":

(i) that is consistent with this chapter; and

(ii) under which a resident immigrant may reside, work, and study in Utah, except that the program may not permit a resident immigrant to travel outside of the state except as provided in Subsection 63G-14-206(1).

(b) The governor shall:

(i) begin implementation of the program by no later than July 1, [2017] 2027; and

(ii) end operation of the program on June 30, [2022] 2032.

(c) Under the program, the governor may facilitate transport to Utah for a foreign national who has been accepted into the program.

(d) The governor may recommend legislation to the Legislature to address how a resident immigrant is to be treated under statutes that relate to an alien.

(2) The department shall administer the program, except to the extent that the governor delegates a power or duty under the program to another state agency. Subject to Subsection (3), the department may make rules in accordance with Chapter 3, Utah Administrative Rulemaking Act, to implement the program to the extent expressly provided for in this chapter.

(3) The governor may act by executive order whenever the department is authorized to make rules under this chapter. If there is a conflict between a rule made by the department and an executive order of the governor, the executive order governs.

CHAPTER 82**S. B. 250**

Passed March 9, 2016
Approved March 18, 2016
Effective March 18, 2016

**ALCOHOLIC BEVERAGE
POLICY AMENDMENTS**

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Brad R. Wilson

LONG TITLE**General Description:**

This bill modifies provisions related to alcoholic policies.

Highlighted Provisions:

This bill:

- ▶ amends the provision related to bringing alcoholic products onto or removing alcoholic products from premises;
- ▶ modifies licensing requirements of an on-premise beer retailer that is not a tavern;
- ▶ modifies certain quotas;
- ▶ addresses licensing fees;
- ▶ amends the operational requirements for transferees;
- ▶ repeals the requirement that a person file a notice of intended transfer and makes conforming amendments;
- ▶ amends notice requirements related to notice of a transfer of a license;
- ▶ amends the application process for transfers; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 32B-5-307, as last amended by Laws of Utah 2011, Chapters 307 and 334
- 32B-6-203, as last amended by Laws of Utah 2012, Fourth Special Session, Chapter 1
- 32B-6-303, as last amended by Laws of Utah 2012, Fourth Special Session, Chapter 1
- 32B-6-304, as last amended by Laws of Utah 2012, Fourth Special Session, Chapter 1
- 32B-6-603, as last amended by Laws of Utah 2011, Chapter 334
- 32B-6-703, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2
- 32B-6-803, as enacted by Laws of Utah 2011, Chapter 334
- 32B-8a-202, as enacted by Laws of Utah 2011, Chapter 334 and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 349
- 32B-8a-203, as enacted by Laws of Utah 2011, Chapter 334 and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 349
- 32B-8a-302, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 349

32B-8a-401, as enacted by Laws of Utah 2011, Chapter 334 and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 349

REPEALS:

- 32B-8a-301, as enacted by Laws of Utah 2011, Chapter 334 and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 349
- 32B-8a-403, as enacted by Laws of Utah 2011, Chapter 334 and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 349

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

Section 1. Section 32B-5-307 is amended to read:**32B-5-307. Bringing alcoholic product onto or removing alcoholic product from premises.**

(1) Except as provided in Subsection (3):

(a) A person may not bring onto the licensed premises of a retail licensee an alcoholic product for on-premise consumption.

(b) A retail licensee may not allow a person to:

(i) bring onto licensed premises an alcoholic product for on-premise consumption; or

(ii) consume an alcoholic product brought onto the licensed premises by a person other than the retail licensee.

(c) A retail licensee may not sell, offer for sale, or furnish an alcoholic product through a window or door to a location off the licensed premises or to a vehicular traffic area.

(2) Except as provided in Subsection (3):

(a) A person may not carry from a licensed premises of a retail licensee an open container that:

(i) is used primarily for drinking purposes; and

(ii) contains an alcoholic product.

(b) A retail licensee may not permit a patron to carry from the licensed premises an open container described in Subsection (2)(a).

(c) Except as provided in Subsection (3)(d) or Subsection 32B-4-415(5):

(i) a person may not carry from a licensed premises of a retail licensee a sealed container of liquor that has been purchased from the retail licensee; and

(ii) a retail licensee may not permit a patron to carry from the licensed premises a sealed container of liquor that has been purchased from the retail licensee.

(3) (a) A patron may bring a bottled wine onto the premises of a retail licensee for on-premise consumption if:

(i) permitted by the retail licensee; and

(ii) the retail licensee is authorized to sell, offer for sale, or furnish wine.

(b) If a patron carries bottled wine onto the licensed premises of a retail licensee, the patron shall deliver the bottled wine to a server or other representative of the retail licensee upon entering the licensed premises.

(c) A retail licensee authorized to sell, offer for sale, or furnish wine, may provide a wine service for a bottled wine carried onto the licensed premises in accordance with this Subsection (3).

(d) A patron may remove from a licensed premises the unconsumed contents of a bottle of wine purchased in the licensed premises, or brought onto the licensed premises in accordance with this Subsection (3), only if before removal the bottle is recorked or recapped.

Section 2. Section 32B-6-203 is amended to read:

32B-6-203. Commission's power to issue full-service restaurant license.

(1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on its premises as a full-service restaurant, the person shall first obtain a full-service restaurant license from the commission in accordance with this part.

(2) The commission may issue a full-service restaurant license to establish full-service restaurant licensed premises at places and in numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on premises operated as a full-service restaurant.

(3) Subject to Section 32B-1-201:

(a) The commission may not issue a total number of full-service restaurant licenses that at any time exceeds the number determined by dividing the population of the state by [4,534] 4,467.

(b) The commission may issue a seasonal full-service restaurant license in accordance with Section 32B-5-206.

(c) (i) If the location, design, and construction of a hotel may require more than one full-service restaurant sales location within the hotel to serve the public convenience, the commission may authorize the sale, offer for sale, or furnishing of an alcoholic product at as many as three full-service restaurant locations within the hotel under one full-service restaurant license if:

(A) the hotel has a minimum of 150 guest rooms; and

(B) the locations under the full-service restaurant license are:

(I) within the same hotel; and

(II) on premises that are managed or operated, and owned or leased, by the full-service restaurant licensee.

(ii) A facility other than a hotel shall have a separate full-service restaurant license for each

full-service restaurant where an alcoholic product is sold, offered for sale, or furnished.

(4) (a) Except as provided in Subsection (4)(b), the commission may not issue a full-service restaurant license for premises that do not meet the proximity requirements of Section 32B-1-202.

(b) With respect to the premises of a full-service restaurant license issued by the commission that undergoes a change of ownership, the commission shall waive or vary the proximity requirements of Subsection 32B-1-202(2) in considering whether to issue a full-service restaurant license to the new owner of the premises if:

(i) when a full-service restaurant license was issued to a previous owner, the premises met the proximity requirements of Subsection 32B-1-202(2);

(ii) the premises has had a full-service restaurant license at all times since the full-service restaurant license described in Subsection (4)(b)(i) was issued without a variance; and

(iii) the community location was located within the proximity requirements of Subsection 32B-1-202(2) after the day on which the full-service restaurant license described in Subsection (4)(b)(i) was issued.

Section 3. Section 32B-6-303 is amended to read:

32B-6-303. Commission's power to issue limited-service restaurant license.

(1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of wine, heavy beer, or beer on its premises as a limited-service restaurant, the person shall first obtain a limited-service restaurant license from the commission in accordance with this part.

(2) (a) The commission may issue a limited-service restaurant license to establish limited-service restaurant licensed premises at places and in numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of wine, heavy beer, or beer on premises operated as a limited-service restaurant.

(b) A person may not sell, offer for sale, furnish, or allow the consumption of the following on the licensed premises of a limited-service restaurant licensee:

(i) spirituous liquor; or

(ii) a flavored malt beverage.

(3) Subject to Section 32B-1-201:

(a) The commission may not issue a total number of limited-service restaurant licenses that at any time exceeds the number determined by dividing the population of the state by [7,493] 6,817.

(b) The commission may issue a seasonal limited-service restaurant license in accordance with Section 32B-5-206.

(c) (i) If the location, design, and construction of a hotel may require more than one limited-service restaurant sales location within the hotel to serve the public convenience, the commission may authorize the sale of wine, heavy beer, and beer at as many as three limited-service restaurant locations within the hotel under one limited-service restaurant license if:

(A) the hotel has a minimum of 150 guest rooms; and

(B) the locations under the limited-service restaurant license are:

(I) within the same hotel; and

(II) on premises that are managed or operated, and owned or leased, by the limited-service restaurant licensee.

(ii) A facility other than a hotel shall have a separate limited-service restaurant license for each limited-service restaurant where wine, heavy beer, or beer is sold, offered for sale, or furnished.

(4) (a) Except as provided in Subsection (4)(b), the commission may not issue a limited-service restaurant license for premises that do not meet the proximity requirements of Section 32B-1-202.

(b) With respect to the premises of a limited-service restaurant license issued by the commission that undergoes a change of ownership, the commission shall waive or vary the proximity requirements of Subsection 32B-1-202(2) in considering whether to issue a limited-service restaurant license to the new owner of the premises if:

(i) when a limited-service restaurant license was issued to a previous owner, the premises met the proximity requirements of Subsection 32B-1-202(2);

(ii) the premises has had a limited-service restaurant license at all times since the limited-service restaurant license described in Subsection (4)(b)(i) was issued without a variance; and

(iii) the community location was located within the proximity requirements of Subsection 32B-1-202(2) after the day on which the limited-service restaurant license described in Subsection (4)(b)(i) was issued.

Section 4. Section 32B-6-304 is amended to read:

32B-6-304. Specific licensing requirements for limited-service restaurant license.

(1) To obtain a limited-service restaurant license a person shall comply with Chapter 5, Part 2, Retail Licensing Process.

(2) (a) A limited-service restaurant license expires on October 31 of each year.

(b) To renew a person's limited-service restaurant license, a person shall comply with the

renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.

(3) (a) The nonrefundable application fee for a limited-service restaurant license is \$330.

(b) The initial license fee for a limited-service restaurant license is [~~\$825~~] \$1,275.

(c) The renewal fee for a limited-service restaurant license is [~~\$605~~] \$750.

(4) The bond amount required for a limited-service restaurant license is the penal sum of \$5,000.

Section 5. Section 32B-6-603 is amended to read:

32B-6-603. Commission's power to issue on-premise banquet license -- Contracts as host.

(1) (a) Before a person may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product in connection with the person's banquet and room service activities at one of the following, the person shall first obtain an on-premise banquet license in accordance with this part:

(i) a hotel;

(ii) a resort facility;

(iii) a sports center; or

(iv) a convention center.

(b) This part does not prohibit an alcoholic product on the premises of a person listed in Subsection (1)(a) to the extent otherwise permitted by this title.

(c) This section does not prohibit a person who applies for an on-premise banquet license to also apply for a package agency if otherwise qualified.

(2) The commission may issue an on-premise banquet license to establish on-premise banquet licensees in the numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product at a banquet or as part of room service activities operated by an on-premise banquet licensee.

(3) Subject to Section 32B-1-201, the commission may not issue a total number of on-premise banquet licenses that at any time exceed the number determined by dividing the population of the state by [~~30,000~~] 28,765.

(4) Pursuant to a contract between the host of a banquet and an on-premise banquet licensee:

(a) the host of the banquet may request an on-premise banquet licensee to provide an alcoholic product served at the banquet; and

(b) an on-premise banquet licensee may provide an alcoholic product served at the banquet.

(5) At a banquet, an on-premise banquet licensee may furnish an alcoholic product:

(a) without charge to a patron at a banquet, except that the host of the banquet shall pay for an alcoholic product furnished at the banquet; or

(b) with a charge to a patron at the banquet.

Section 6. Section 32B-6-703 is amended to read:

32B-6-703. Commission's power to issue on-premise beer retailer license.

(1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of beer on the premises as an on-premise beer retailer, the person shall first obtain an on-premise beer retailer license from the commission in accordance with this part.

(2) (a) The commission may issue an on-premise beer retailer license to establish on-premise beer retailer licensed premises at places and in numbers as the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of beer on premises operated as an on-premise beer retailer.

(b) At the time that the commission issues an on-premise beer retailer license, the commission shall designate whether the on-premise beer retailer is a tavern.

(c) The commission may change its designation of whether an on-premise beer retailer is a tavern in accordance with rules made by the commission.

(d) (i) In determining whether an on-premise beer retailer is a tavern, the commission shall determine whether the on-premise beer retailer will engage primarily in the retail sale of beer for consumption on the establishment's premises.

(ii) In making a determination under this Subsection (2)(d), the commission shall consider:

(A) whether the on-premise beer retailer will operate as one of the following:

- (I) a beer bar;
- (II) a parlor;
- (III) a lounge;
- (IV) a cabaret; or
- (V) a nightclub;

(B) if the on-premise beer retailer will operate as described in Subsection (2)(d)(ii)(A):

(I) whether the on-premise beer retailer will sell food in the establishment; and

(II) if the on-premise beer retailer sells food, whether the revenue from the sale of beer will exceed the revenue of the sale of food;

(C) whether full meals including appetizers, main courses, and desserts will be served;

(D) the square footage and seating capacity of the premises;

(E) what portion of the square footage and seating capacity will be used for a dining area in comparison

to the portion that will be used as a lounge or bar area;

(F) whether the person will maintain adequate on-premise culinary facilities to prepare full meals, except a person that is located on the premises of a hotel or resort facility may use the culinary facilities of the hotel or resort facility;

(G) whether the entertainment provided on the premises of the beer retailer will be suitable for minors; and

(H) the beer retailer management's ability to manage and operate an on-premise beer retailer license including:

(I) management experience;

(II) past beer retailer management experience; and

(III) the type of management scheme that will be used by the beer retailer.

(e) On or after March 1, 2012:

(i) To be licensed as an on-premise beer retailer that is not a tavern, a person shall:

(A) maintain at least 70% of the person's total gross revenues from business directly related to a recreational amenity on or directly adjoining the licensed premises of the beer retailer, except that a person may include gross revenue from business directly related to a recreational amenity that is owned or operated by a political subdivision if the person has a contract meeting the requirements of Subsection (2)(e)(v) with the political subdivision; or

(B) have a recreational amenity on or directly adjoining the licensed premises of the beer retailer and maintain at least 70% of the person's total gross revenues from the sale of food.

(ii) The commission may not license a person as an on-premise beer retailer if the person does not:

(A) meet the requirements of Subsection (2)(e)(i); or

(B) operate as a tavern.

(iii) (A) A person licensed as an on-premise beer retailer that is not a tavern as of July 1, 2011 shall notify the department by no later than August 1, 2011, whether effective March 1, 2012, the person will seek to be licensed as a beer-only restaurant licensee, a tavern, or an on-premise beer retailer that meets the requirements of Subsection (2)(e)(i).

(B) If an on-premise beer retailer fails to notify the department as required by Subsection (2)(e)(iii)(A), the on-premise beer retailer's license expires as of February 29, 2012, and to operate as an on-premise beer retailer after February 29, 2012, the on-premise beer retailer is required to apply as a new licensee, and any bar or bar structure on the premises of an on-premise beer retailer license that is not a tavern and does not meet the requirements of Subsection (2)(e)(i) will not be grandfathered under Subsection 32B-6-902(1).

(iv) A person who, after August 1, 2011, applies for an on-premise beer retailer license that is not a

tavern and does not meet the requirements of Subsection (2)(e)(i), may not have or construct facilities for the dispensing or storage of an alcoholic product that do not meet the requirements of Subsection 32B-6-905(12)(a)(ii).

(v) A contract described in Subsection (2)(e)(i)(A) shall:

(A) allow the beer retailer to include the total gross revenue from operations of the recreational amenity in the beer retailer's total gross receipts for purposes of Subsection (2)(e)(i)(A); and

(B) give the department the authority to audit financial information of the political subdivision to the extent necessary to confirm that the requirements of Subsection (2)(e)(i)(A) are met.

(3) Subject to Section 32B-1-201:

(a) The commission may not issue a total number of on-premise beer retailer licenses that are taverns that at any time exceeds the number determined by dividing the population of the state by ~~[54,147]~~ 73,666.

(b) The commission may issue a seasonal on-premise beer retailer license for a tavern in accordance with Section 32B-5-206.

(4) (a) Unless otherwise provided in Subsection (4)(b):

(i) only one on-premise beer retailer license is required for each building or resort facility owned or leased by the same person; and

(ii) a separate license is not required for each retail beer dispensing location in the same building or on the same resort premises owned or operated by the same person.

(b) (i) Subsection (4)(a) applies only if each retail beer dispensing location in the building or resort facility operates in the same manner.

(ii) If each retail beer dispensing location does not operate in the same manner:

(A) one on-premise beer retailer license designated as a tavern is required for the locations in the same building or on the same resort premises that operate as a tavern; and

(B) one on-premise beer retailer license is required for the locations in the same building or on the same resort premises that do not operate as a tavern.

Section 7. Section 32B-6-803 is amended to read:

32B-6-803. Commission's power to issue reception center license.

(1) Before a person may store, sell, offer for sale, or furnish an alcoholic product on its premises as a reception center, the person shall first obtain a reception center license from the commission in accordance with this part.

(2) The commission may issue a reception center license to establish reception center licensed

premises at places and in numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on premises operated as a reception center.

(3) Subject to Section 32B-1-201, the commission may not issue a total number of reception center licenses that at any time exceeds the number determined by dividing the population of the state by ~~[56,313]~~ 251,693.

(4) The commission may not issue a reception center license for premises that do not meet the proximity requirements of Section 32B-1-202.

Section 8. Section 32B-8a-202 is amended to read:

32B-8a-202. Effect of transfer of ownership of business entity.

(1) (a) When the ownership of 51% or more of the shares of stock of a corporation is acquired by or transferred to one or more persons who did not hold the ownership of 51% of those shares of stock on the date a retail license is issued to the corporation, the corporation shall comply with this chapter to transfer the retail license to the corporation as if the corporation is newly constituted.

(b) When there is a new general partner or when the ownership of 51% or more of the capital or profits of a limited partnership is acquired by or transferred to one or more persons as general or limited partners and who did not hold ownership of 51% or more of the capital or profits of the limited partnership on the date a retail license is issued to the limited partnership, the limited partnership shall comply with this chapter to transfer the retail license to the limited partnership as if the limited partnership is newly constituted.

(c) When the ownership of 51% or more of the interests in a limited liability company is acquired by or transferred to one or more persons as members who did not hold ownership of 51% or more of the interests in the limited liability company on the date a retail license is issued to the limited liability company, the limited liability company shall comply with this chapter to transfer the retail license to the limited liability company as if the limited liability company is newly constituted.

~~[(2) A business entity may not transfer a retail license under this section unless, before the filing of the transfer application with the department, the business entity initiating the transfer complies with Section 32B-8a-301.]~~

~~[(3)] (2) If a business entity fails to comply with this section within 30 days of the day on which the event described in Subsection (1) occurs, the business entity's retail license is automatically forfeited.~~

Section 9. Section 32B-8a-203 is amended to read:

32B-8a-203. Operational requirements for transferee.

(1) (a) A transferee shall begin operations of the retail license within 30 days from the day on which a

transfer is approved by the commission, except that:

(i) the department may grant an extension of this time period not to exceed 30 days[.]; and

(ii) after the extension is authorized by the department under Subsection (1)(a)(i), the commission may grant one or more additional extensions not to exceed, in the aggregate, seven months from the day on which the commission approves the transfer, if the transferee can demonstrate to the commission that the transferee:

(A) cannot begin operations because the transferee is improving the licensed premises;

(B) has obtained a building permit for the improvements described in Subsection (1)(a)(ii)(A); and

(C) is working expeditiously to complete the improvements to the licensed premises.

(b) A transferee is considered to have begun operations of the retail license if the transferee:

(i) has a licensed premises that is open to the public;

(ii) sells, offers for sale, or furnishes alcoholic products to a patron on the licensed premises described in Subsection (1)(b)(i); and

(iii) has a valid business license.

(2) If a transferee fails to begin operations of the retail license within the time period required by Subsection (1), ~~the retail license is forfeited and the commission may issue the retail license to another person~~ the following are automatically forfeited effective immediately:

(a) the retail license; and

(b) the retail license fee.

(3) A transferee shall begin operations of the retail license at the location to which the transfer applies before the transferee may seek a transfer of the retail license to a different location.

(4) Notwithstanding Subsection (1), the commission may not issue a conditional license unless the requirements of Section 32B-5-205 are met, except that the time periods required by this section supersede the time period provided in Section 32B-5-205.

Section 10. Section 32B-8a-302 is amended to read:

32B-8a-302. Application -- Approval process.

(1) To obtain the transfer of a retail license from a retail licensee, the transferee shall file a transfer application with the department that includes:

(a) an application in the form provided by the department;

(b) a statement as to whether the consideration, if any, to be paid to the transferor includes payment

for ~~[any or all of the following: (i) inventory; (ii) fixtures; and (iii)]~~ transfer of the retail license;

(c) ~~[a copy of the notice of intended transfer]~~ a statement executed under penalty of perjury that the consideration as set forth in the escrow agreement required by Section 32B-8a-401 is deposited with the escrow holder; and

(d) (i) an application fee of \$300; and

(ii) a transfer fee determined in accordance with Section 32B-8a-303.

(2) If the intended transfer of a retail license involves consideration, at least 10 days before the commission may approve the transfer, the department shall post a notice of the intended transfer on the Public Notice Website created in Section 63F-1-701 that states the following:

(a) the name of the transferor;

(b) the name and address of the business currently associated with the retail license;

(c) instructions for filing a claim with the escrow holder; and

(d) the projected date that the commission may consider the transfer application.

~~[(2)]~~ (3) (a) (i) Before the commission may approve the transfer of a retail license, the department shall conduct an investigation and may hold public hearings to gather information and make recommendations to the commission as to whether the transfer of the retail license should be approved.

(ii) The department shall forward the information and recommendations described in this Subsection ~~[(2)]~~ (3)(a) to the commission to aid in the commission's determination.

(b) Before approving a transfer, the commission shall:

(i) determine that the transferee filed a complete application;

(ii) determine that the transferee is eligible to hold the type of retail license that is to be transferred at the premises to which the retail license would be transferred;

(iii) determine that the transferee is not delinquent in the payment of an amount described in Subsection 32B-8a-201(3);

(iv) determine that the transferee is not disqualified under Section 32B-1-304;

(v) consider the locality within which the proposed licensed premises is located, including the factors listed in Section 32B-5-203 for the issuance of a retail license;

(vi) consider the transferee's ability to manage and operate the retail license to be transferred, including the factors listed in Section 32B-5-203 for the issuance of a retail license;

(vii) consider the nature or type of retail licensee operation of the transferee, including the factors listed in Section 32B-5-203 for the issuance of a retail license;

(viii) if the transfer involves consideration, determine that the transferee and transferor have complied with Part 4, Protection of Creditors; and

(ix) consider any other factor the commission considers necessary.

~~[(3)]~~ (4) (a) Except as provided in Subsection ~~[(3)]~~ (4)(b), the commission may not approve the transfer of a retail license to premises that do not meet the proximity requirements of Section 32B-1-202.

(b) If after a transfer of a retail license the transferee operates the same type of retail license at the same location as did the transferor, the commission may waive or vary the proximity requirements of Subsection 32B-1-202(2) in considering whether to approve the transfer under the same circumstances that the commission may waive or vary the proximity requirements in accordance with Subsection 32B-1-202(4) when considering whether to issue a retail license.

Section 11. Section 32B-8a-401 is amended to read:

32B-8a-401. Notification of creditors -- Escrow -- Priority of payments.

(1) Before the filing of a transfer application with the department, if the intended transfer of a retail license involves consideration:

(a) the transferor shall provide the transferee a list of creditors who have a claim against the transferor;

(b) the transferee shall ~~[provide a copy of the notice of intended transfer to]~~ notify each creditor on the list provided under Subsection (1)(a) of the intended transfer;

(c) the transferor and the transferee shall establish an escrow with a person who is not a party to the transfer to act as escrow holder;

(d) the transferee shall deposit with the escrow holder the full amount of the consideration; and

(e) the transferor and transferee shall enter into an agreement that:

(i) the consideration is deposited with the escrow holder;

(ii) requires the escrow holder to distribute the consideration within a reasonable time after the completion of the transfer of the retail license; and

(iii) directs the escrow holder to distribute the consideration in accordance with Subsection (2).

(2) Subject to the other requirements of this section, if a creditor with a claim against the transferor files the claim with the escrow holder before the escrow holder is notified by the department that the transfer is approved, the escrow holder shall distribute the consideration in the following order:

(a) to the payment of:

(i) the United States for a claim based on income or withholding taxes; and

(ii) a claim based on a tax other than specified in Subsection 32B-8a-201(3);

(b) to the payment of a claim for wages, salaries, or fringe benefits earned or accrued by an employee of the transferor before the transfer or opening of the escrow for the transfer of the retail license;

(c) to the payment of a claim of a secured creditor to the extent of the proceeds that arise from the sale of the security;

(d) to the payment of a claim on a mechanics lien;

(e) to the payment of:

(i) escrow fees;

(ii) a claim for prevailing brokerage fees for services rendered; and

(iii) a claim for reasonable attorney fees for services rendered;

(f) to the payment of claims:

(i) of a landlord, to the extent of proceeds on past due rent or lease requirements;

(ii) for goods sold and delivered to the retail licensee for resale at the transferor's licensed premises; and

(iii) for services rendered, performed, or supplied in connection with the operation of the transferor's licensed business;

(g) to the payment of other types of claims that are reduced to court-ordered judgments, including a claim for court-ordered support of a minor child; and

(h) to the payment of all other claims.

Section 12. Repealer.

This bill repeals:

Section 32B-8a-301, Notice of intended transfer.

Section 32B-8a-403, Statement by transferee.

Section 13. Effective date.

(1) Amendments to the following sections take effect if approved by two-thirds of all the members elected to each house, upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override:

(a) Section 32B-6-203;

(b) Section 32B-6-303;

(c) Section 32B-6-703; and

(d) Section 32B-6-803.

(2) Except for the sections listed in Subsection (1), this bill takes effect on May 10, 2016.

CHAPTER 83**H. B. 14**

Passed February 18, 2016

Approved March 21, 2016

Effective May 10, 2016

**EMERGENCY SERVICES
ACCOUNT LOAN AMENDMENTS**

Chief Sponsor: Curtis Oda

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies the Emergency Management Act.

Highlighted Provisions:

This bill:

- ▶ defines “agent of the state” for emergency response purposes;
- ▶ authorizes the Division of Emergency Management to provide short-term loans to agents of the state for the purpose of providing emergency services to a member state of the Emergency Management Assistance Compact when:
 - the member state has a declared disaster;
 - the member state has requested support from the agent of the state; and
 - the agent of the state has no funds available to respond to the request from a member state;
- ▶ provides that agents of the state will reimburse the State Disaster Recovery Restricted Account when reimbursed by the member state for emergency services provided; and
- ▶ clarifies that the applicant or sub-applicant agency is responsible for any financial match requirements when requesting a federal disaster declaration.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 53-2a-602, as last amended by Laws of Utah 2013, Chapter 117 and renumbered and amended by Laws of Utah 2013, Chapter 295
- 53-2a-603, as last amended by Laws of Utah 2013, Chapter 117 and renumbered and amended by Laws of Utah 2013, Chapter 295
- 53-2a-604, as last amended by Laws of Utah 2013, Chapter 117 and renumbered and amended by Laws of Utah 2013, Chapter 295 and last amended by Coordination Clause, Laws of Utah 2013, Chapter 117

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 53-2a-602 is amended to read:****53-2a-602. Definitions.**

(1) Unless otherwise defined in this section, the terms ~~defined in Part 1, Emergency Management~~

Act, shall have the same meaning for this part] that are used in this part mean the same as those terms are defined in Part 1, Emergency Management Act.

(2) As used in this part:

(a) “Agent of the state” means any representative of a state agency, local agency, or non-profit entity that agrees to provide support to a requesting intrastate or interstate government entity that has declared an emergency or disaster and has requested assistance through the division.

~~[(a)]~~ (b) “Declared disaster” means one or more events:

- (i) within the state;
- (ii) that occur within a limited period of time;
- (iii) that involve:

(A) a significant number of persons being at risk of bodily harm, sickness, or death; or

(B) a significant portion of real property at risk of loss;

(iv) that are sudden in nature and generally occur less frequently than every three years; and

(v) that results in:

(A) the president of the United States declaring an emergency or major disaster in the state;

(B) the governor declaring a state of emergency under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act; or

(C) the chief executive officer of a local government declaring a local emergency under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act.

~~[(b)]~~ (c) “Disaster recovery ~~[fund]~~ account” means the State Disaster Recovery Restricted Account created in Section 53-2a-603.

(d) (i) “Emergency disaster services” means ~~[the following]~~:

(A) evacuation;

(B) shelter;

(C) medical triage;

(D) emergency transportation;

(E) repair of infrastructure;

(F) safety services, including fencing or roadblocks;

(G) sandbagging;

(H) debris removal;

(I) temporary bridges;

(J) procurement and distribution of food, water, or ice;

(K) procurement and deployment of generators;

(L) rescue or recovery;

(M) emergency protective measures; or

(N) services similar to those described in Subsections (2)(d)(i)(A) through (M), as defined by the division by rule, that are generally required in response to a declared disaster.

(ii) "Emergency disaster services" does not include:

(A) emergency preparedness; or

(B) notwithstanding whether or not a county participates in the Wildland Fire Suppression Fund created in Section 65A-8-204, any fire suppression or presuppression costs that may be paid for from the Wildland Fire Suppression Fund if the county participates in the Wildland Fire Suppression Fund.

~~[(e)]~~ (e) "Emergency preparedness" means the following done for the purpose of being prepared for an emergency as defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

- (i) the purchase of equipment;
- (ii) the training of personnel; or
- (iii) the obtaining of a certification.

~~[(e)]~~ (f) "Governing body" means:

(i) for a county, city, or town, the legislative body of the county, city, or town;

(ii) for a local district, the board of trustees of the local district; and

(iii) for a special service district:

(A) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(B) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301.

~~[(f)]~~ (g) "Local district" ~~[has the same meaning as]~~ means the same as that term is defined in Section 17B-1-102.

~~[(g)]~~ (h) "Local fund" means a local government disaster fund created in accordance with Section 53-2a-605.

~~[(h)]~~ (i) "Local government" means:

- (i) a county;
- (ii) a city or town; or
- (iii) a local district or special service district that:

(A) operates a water system;

(B) provides transportation service;

(C) provides, operates, and maintains correctional and rehabilitative facilities and programs for municipal, state, and other detainees and prisoners;

(D) provides consolidated 911 and emergency dispatch service;

(E) operates an airport; or

(F) operates a sewage system.

~~[(j)]~~ (j) "Special fund" means a fund other than a general fund of a local government that is created for a special purpose established under the uniform system of budgeting, accounting, and reporting.

~~[(j)]~~ (k) "Special service district" ~~[has the same meaning as]~~ means the same as that term is defined in Section 17D-1-102.

Section 2. Section 53-2a-603 is amended to read:

53-2a-603. State Disaster Recovery Restricted Account.

(1) (a) There is created a restricted account in the General Fund known as the "State Disaster Recovery Restricted Account."

(b) The disaster recovery ~~[fund shall consist]~~ account consists of:

(i) money deposited into the disaster recovery ~~[fund]~~ account in accordance with Section 63J-1-314;

(ii) money appropriated to the disaster recovery ~~[fund]~~ account by the Legislature; and

(iii) any other public or private money received by the division that is:

(A) given to the division for purposes consistent with this section; and

(B) deposited into the disaster recovery ~~[fund]~~ account at the request of:

(I) the division; or

(II) the person or entity giving the money.

(c) The Division of Finance shall deposit interest or other earnings derived from investment of ~~[fund]~~ account money into the General Fund.

(2) Subject to being appropriated by the Legislature, money in the disaster recovery ~~[fund]~~ account may only be expended or committed to be expended as follows:

(a) (i) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that does not exceed \$250,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster;

(ii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that exceeds \$250,000, but does not exceed \$1,000,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster if the division:

(A) before making the expenditure or commitment to expend, obtains approval for the expenditure or commitment to expend from the governor;

(B) subject to Subsection (5), provides written notice of the expenditure or commitment to expend

to the speaker of the House of Representatives, the president of the Senate, the Division of Finance, and the Office of the Legislative Fiscal Analyst no later than 72 hours after making the expenditure or commitment to expend; and

(C) makes the report required by Subsection 53-2a-606(2);

(iii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that exceeds \$1,000,000, but does not exceed \$3,000,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster if, before making the expenditure or commitment to expend, the division:

(A) obtains approval for the expenditure or commitment to expend from the governor; and

(B) submits the expenditure or commitment to expend to the Executive Appropriations Committee in accordance with Subsection 53-2a-606(3); and

(iv) in any fiscal year the division may expend or commit to expend an amount that does not exceed \$150,000 to fund expenses incurred by the National Guard if:

(A) in accordance with Section 39-1-5, the governor orders into active service the National Guard in response to a declared disaster; and

(B) the money is not used for expenses that qualify for payment as emergency disaster services; ~~and~~

(b) ~~[subject to being appropriated by the Legislature,]~~ money not described in Subsections (2)(a)(i), (ii), and (iii) may be expended or committed to be expended to fund costs to the state directly related to a declared disaster that are not costs related to:

(i) emergency disaster services;

(ii) emergency preparedness; or

(iii) notwithstanding whether a county participates in the Wildland Fire Suppression Fund created in Section 65A-8-204, any fire suppression or suppression costs that may be paid for from the Wildland Fire Suppression Fund if the county participates in the Wildland Fire Suppression Fund[-]; and

(c) the division may provide advanced funding from the disaster recovery account to recognized agents of the state when:

(i) Utah has agreed, through the division, to enact the Emergency Management Assistance Compact with another member state that has requested assistance during a declared disaster;

(ii) Utah agrees to provide resources to the requesting member state;

(iii) the agent of the state who represents the requested resource has no other funding source

available at the time of the Emergency Management Assistance Compact request; and

(iv) the disaster recovery account has a balance of funds available to be utilized while maintaining a minimum balance of \$10,000,000.

(3) All funding provided in advance to an agent of the state and subsequently reimbursed shall be credited to the account.

~~[(3)]~~ (4) The state treasurer shall invest money in the disaster recovery ~~[fund]~~ account according to Title 51, Chapter 7, State Money Management Act.

~~[(4)]~~ (5) (a) Except as provided in Subsections (1) and (2), the money in the disaster recovery ~~[fund]~~ account may not be diverted, appropriated, expended, or committed to be expended for a purpose that is not listed in this section.

(b) Notwithstanding Section 63J-1-410, the Legislature may not appropriate money from the disaster recovery ~~[fund]~~ account to eliminate or otherwise reduce an operating deficit if the money appropriated from the disaster recovery ~~[fund]~~ account is expended or committed to be expended for a purpose other than one listed in this section.

(c) The Legislature may not amend the purposes for which money in the disaster recovery ~~[fund]~~ account may be expended or committed to be expended except by the affirmative vote of two-thirds of all the members elected to each house.

~~[(5)]~~ (6) The division:

(a) shall provide the notice required by Subsection (2)(a)(ii) using the best available method under the circumstances as determined by the division; and

(b) may provide the notice required by Subsection (2)(a)(ii) in electronic format.

Section 3. Section 53-2a-604 is amended to read:

53-2a-604. State costs for emergency disaster services.

(1) Subject to this section and Section 53-2a-603, the division may expend or commit to expend money described in Subsection 53-2a-603(2)(a)(i), (ii), or (iii) to fund costs to the state of emergency disaster services if, at the discretion of the division, the expenditure is necessary in response to the disaster.

(2) Money paid by the division under this section to government entities and private persons providing emergency disaster services are subject to Title 63G, Chapter 6a, Utah Procurement Code.

(3) If Utah requests and receives a federal disaster declaration, the applicant or sub-applicant agencies approved to receive assistance through federal disaster programs are responsible for any financial match requirements.

CHAPTER 84**H. B. 15**

Passed March 3, 2016
 Approved March 21, 2016
 Effective May 10, 2016

**DOMESTIC RELATIONS
 RETIREMENT SHARES**

Chief Sponsor: Kay L. McIff
 Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending certain death benefits.

Highlighted Provisions:

This bill:

- ▶ provides that a former spouse of a member who dies before retiring may receive a death benefit in certain circumstances; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

49-11-102, as last amended by Laws of Utah 2014, Chapter 15
 49-12-405, as last amended by Laws of Utah 2011, Chapter 439
 49-13-405, as last amended by Laws of Utah 2011, Chapter 439
 49-14-501, as last amended by Laws of Utah 2015, Chapter 166
 49-14-502, as last amended by Laws of Utah 2015, Chapter 166
 49-14-503, as last amended by Laws of Utah 2011, Chapter 439
 49-14-504, as last amended by Laws of Utah 2014, Chapter 15
 49-14-505, as enacted by Laws of Utah 2002, Chapter 250
 49-14-506, as enacted by Laws of Utah 2003, Chapter 240
 49-15-501, as last amended by Laws of Utah 2015, Chapter 166
 49-15-502, as last amended by Laws of Utah 2015, Chapter 166
 49-15-503, as last amended by Laws of Utah 2011, Chapter 439
 49-15-504, as last amended by Laws of Utah 2014, Chapter 15
 49-15-505, as enacted by Laws of Utah 2002, Chapter 250
 49-15-506, as enacted by Laws of Utah 2003, Chapter 240
 49-16-501, as last amended by Laws of Utah 2015, Chapter 166
 49-16-502, as last amended by Laws of Utah 2015, Chapter 166
 49-16-503, as last amended by Laws of Utah 2011, Chapter 439

49-16-504, as last amended by Laws of Utah 2014, Chapter 15
 49-16-505, as enacted by Laws of Utah 2002, Chapter 250
 49-16-506, as enacted by Laws of Utah 2002, Chapter 250
 49-16-507, as enacted by Laws of Utah 2003, Chapter 240
 49-17-501, as last amended by Laws of Utah 2011, Chapter 439
 49-17-502, as last amended by Laws of Utah 2014, Chapter 15
 49-18-501, as last amended by Laws of Utah 2011, Chapter 439
 49-18-502, as last amended by Laws of Utah 2014, Chapter 15
 49-19-501, as last amended by Laws of Utah 2011, Chapter 439
 49-22-502, as last amended by Laws of Utah 2011, Chapter 439
 49-23-301, as last amended by Laws of Utah 2015, Chapter 166
 49-23-502, as last amended by Laws of Utah 2011, Chapter 439
 49-23-503, as last amended by Laws of Utah 2015, Chapters 166, 463, and 463

ENACTS:

49-14-507, Utah Code Annotated 1953
 49-15-507, Utah Code Annotated 1953
 49-16-508, Utah Code Annotated 1953
 49-17-503, Utah Code Annotated 1953
 49-18-503, Utah Code Annotated 1953
 49-19-502, Utah Code Annotated 1953

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

Section 1. Section 49-11-102 is amended to read:

49-11-102. Definitions.

As used in this title:

- (1) (a) "Active member" means a member who:
 - (i) is employed by a participating employer and accruing service credit; or
 - (ii) within the previous 120 days:
 - (A) has been employed by a participating employer; and
 - (B) accrued service credit.
- (b) "Active member" does not include a retiree.
- (2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of mortality tables as recommended by the actuary and adopted by the executive director, including regular interest.
- (3) "Actuarial interest rate" means the interest rate as recommended by the actuary and adopted by the board upon which the funding of system costs and benefits are computed.
- (4) (a) "Agency" means:
 - (i) a department, division, agency, office, authority, commission, board, institution, or hospital of the state;

(ii) a county, municipality, school district, local district, or special service district;

(iii) a state college or university; or

(iv) any other participating employer.

(b) "Agency" does not include an entity listed under Subsection (4)(a)(i) that is a subdivision of another entity listed under Subsection (4)(a).

(5) "Allowance" or "retirement allowance" means the pension plus the annuity, including any cost of living or other authorized adjustments to the pension and annuity.

(6) "Alternate payee" means a member's former spouse or family member eligible to receive payments under a Domestic Relations Order in compliance with Section 49-11-612.

(7) "Amortization rate" means the board certified percent of salary required to amortize the unfunded actuarial accrued liability in accordance with policies established by the board upon the advice of the actuary.

(8) "Annuity" means monthly payments derived from member contributions.

(9) "Appointive officer" means an employee appointed to a position for a definite and fixed term of office by official and duly recorded action of a participating employer whose appointed position is designated in the participating employer's charter, creation document, or similar document, and:

(a) who earns \$500 or more per month, indexed as of January 1, 1990, as provided in Section 49-12-407 for a Tier I appointive officer; and

(b) whose appointive position is full-time as certified by the participating employer for a Tier II appointive officer.

(10) (a) "At-will employee" means a person who is employed by a participating employer and:

(i) who is not entitled to merit or civil service protection and is generally considered exempt from a participating employer's merit or career service personnel systems;

(ii) whose on-going employment status is entirely at the discretion of the person's employer; or

(iii) who may be terminated without cause by a designated supervisor, manager, or director.

(b) "At-will employee" does not include a career employee who has obtained a reasonable expectation of continued employment based on inclusion in a participating employer's merit system, civil service protection system, or career service personnel systems, policies, or plans.

(11) "Beneficiary" means any person entitled to receive a payment under this title through a relationship with or designated by a member, participant, covered individual, or alternate payee of a defined contribution plan.

(12) "Board" means the Utah State Retirement Board established under Section 49-11-202.

(13) "Board member" means a person serving on the Utah State Retirement Board as established under Section 49-11-202.

(14) "Certified contribution rate" means the board certified percent of salary paid on behalf of an active member to the office to maintain the system on a financially and actuarially sound basis.

(15) "Contributions" means the total amount paid by the participating employer and the member into a system or to the Utah Governors' and Legislators' Retirement Plan under Chapter 19, Utah Governors' and Legislators' Retirement Act.

(16) "Council member" means a person serving on the Membership Council established under Section 49-11-202.

(17) "Covered individual" means any individual covered under Chapter 20, Public Employees' Benefit and Insurance Program Act.

(18) "Current service" means covered service under:

(a) Chapter 12, Public Employees' Contributory Retirement Act;

(b) Chapter 13, Public Employees' Noncontributory Retirement Act;

(c) Chapter 14, Public Safety Contributory Retirement Act;

(d) Chapter 15, Public Safety Noncontributory Retirement Act;

(e) Chapter 16, Firefighters' Retirement Act;

(f) Chapter 17, Judges' Contributory Retirement Act;

(g) Chapter 18, Judges' Noncontributory Retirement Act;

(h) Chapter 19, Utah Governors' and Legislators' Retirement Act;

(i) Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or

(j) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act.

(19) "Defined benefit" or "defined benefit plan" or "defined benefit system" means a system or plan offered under this title to provide a specified allowance to a retiree or a retiree's spouse after retirement that is based on a set formula involving one or more of the following factors:

(a) years of service;

(b) final average monthly salary; or

(c) a retirement multiplier.

(20) "Defined contribution" or "defined contribution plan" means any defined contribution plan or deferred compensation plan authorized under the Internal Revenue Code and administered by the board.

(21) “Educational institution” means a political subdivision or instrumentality of the state or a combination thereof primarily engaged in educational activities or the administration or servicing of educational activities, including:

- (a) the State Board of Education and its instrumentalities;
- (b) any institution of higher education and its branches;
- (c) any school district and its instrumentalities;
- (d) any vocational and technical school; and
- (e) any entity arising out of a consolidation agreement between entities described under this Subsection (21).

(22) “Elected official”:

- (a) means a person elected to a state office, county office, municipal office, school board or school district office, local district office, or special service district office;
- (b) includes a person who is appointed to serve an unexpired term of office described under Subsection (22)(a); and
- (c) does not include a judge or justice who is subject to a retention election under Section 20A-12-201.

(23) (a) “Employer” means any department, educational institution, or political subdivision of the state eligible to participate in a government-sponsored retirement system under federal law.

(b) “Employer” may also include an agency financed in whole or in part by public funds.

(24) “Exempt employee” means an employee working for a participating employer:

- (a) who is not eligible for service credit under Section 49-12-203, 49-13-203, 49-14-203, 49-15-203, or 49-16-203; and
- (b) for whom a participating employer is not required to pay contributions or nonelective contributions.

(25) “Final average monthly salary” means the amount computed by dividing the compensation received during the final average salary period under each system by the number of months in the final average salary period.

(26) “Fund” means any fund created under this title for the purpose of paying benefits or costs of administering a system, plan, or program.

(27) (a) “Inactive member” means a member who has not been employed by a participating employer for a period of at least 120 days.

(b) “Inactive member” does not include retirees.

(28) (a) “Initially entering” means hired, appointed, or elected for the first time, in current

service as a member with any participating employer.

(b) “Initially entering” does not include a person who has any prior service credit on file with the office.

(c) “Initially entering” includes an employee of a participating employer, except for an employee that is not eligible under a system or plan under this title, who:

- (i) does not have any prior service credit on file with the office;
- (ii) is covered by a retirement plan other than a retirement plan created under this title; and
- (iii) moves to a position with a participating employer that is covered by this title.

(29) “Institution of higher education” means an institution described in Section 53B-1-102.

(30) (a) “Member” means a person, except a retiree, with contributions on deposit with a system, the Utah Governors’ and Legislators’ Retirement Plan under Chapter 19, Utah Governors’ and Legislators’ Retirement Act, or with a terminated system.

(b) “Member” also includes leased employees within the meaning of Section 414(n)(2) of the Internal Revenue Code, if the employees have contributions on deposit with the office. If leased employees constitute less than 20% of the participating employer’s work force that is not highly compensated within the meaning of Section 414(n)(5)(c)(ii), Internal Revenue Code, “member” does not include leased employees covered by a plan described in Section 414(n)(5) of the federal Internal Revenue Code.

(31) “Member contributions” means the sum of the contributions paid to a system or the Utah Governors’ and Legislators’ Retirement Plan, including refund interest if allowed by a system, and which are made by:

(a) the member; and

(b) the participating employer on the member’s behalf under Section 414(h) of the Internal Revenue Code.

(32) “Nonelective contribution” means an amount contributed by a participating employer into a participant’s defined contribution account.

(33) “Normal cost rate”:

(a) means the percent of salary that is necessary for a retirement system that is fully funded to maintain its fully funded status; and

(b) is determined by the actuary based on the assumed rate of return established by the board.

(34) “Office” means the Utah State Retirement Office.

(35) “Participant” means an individual with voluntary deferrals or nonelective contributions on deposit with the defined contribution plans administered under this title.

(36) “Participating employer” means a participating employer, as defined by Chapter 12, Public Employees’ Contributory Retirement Act, Chapter 13, Public Employees’ Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act, Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters’ Retirement Act, Chapter 17, Judges’ Contributory Retirement Act, and Chapter 18, Judges’ Noncontributory Retirement Act, or an agency financed in whole or in part by public funds which is participating in a system or plan as of January 1, 2002.

(37) “Part-time appointed board member” means a person:

(a) who is appointed to serve as a member of a board, commission, council, committee, or panel of a participating employer; and

(b) whose service as a part-time appointed board member does not qualify as a regular full-time employee as defined under Section 49-12-102, 49-13-102, or 49-22-102.

(38) “Pension” means monthly payments derived from participating employer contributions.

(39) “Plan” means the Utah Governors’ and Legislators’ Retirement Plan created by Chapter 19, Utah Governors’ and Legislators’ Retirement Act, the New Public Employees’ Tier II Defined Contribution Plan created by Chapter 22, Part 4, Tier II Defined Contribution Plan, the New Public Safety and Firefighter Tier II Defined Contribution Plan created by Chapter 23, Part 4, Tier II Defined Contribution Plan, or the defined contribution plans created under Section 49-11-801.

(40) (a) “Political subdivision” means any local government entity, including cities, towns, counties, and school districts, but only if the subdivision is a juristic entity that is legally separate and distinct from the state and only if its employees are not by virtue of their relationship to the entity employees of the state.

(b) “Political subdivision” includes local districts, special service districts, or authorities created by the Legislature or by local governments, including the office.

(c) “Political subdivision” does not include a project entity created under Title 11, Chapter 13, Interlocal Cooperation Act, that was formed prior to July 1, 1987.

(41) “Program” means the Public Employees’ Insurance Program created under Chapter 20, Public Employees’ Benefit and Insurance Program Act, or the Public Employees’ Long-Term Disability program created under Chapter 21, Public Employees’ Long-Term Disability Act.

(42) “Public funds” means those funds derived, either directly or indirectly, from public taxes or public revenue, dues or contributions paid or donated by the membership of the organization, used to finance an activity whose objective is to improve, on a nonprofit basis, the governmental,

educational, and social programs and systems of the state or its political subdivisions.

(43) “Qualified defined contribution plan” means a defined contribution plan that meets the requirements of Section 401(k) or Section 403(b) of the Internal Revenue Code.

(44) (a) “Reemployed,” “reemploy,” or “reemployment” means work or service performed for a participating employer after retirement, in exchange for compensation.

(b) Reemployment includes work or service performed on a contract for a participating employer if the retiree is:

(i) listed as the contractor; or

(ii) an owner, partner, or principal of the contractor.

(45) “Refund interest” means the amount accrued on member contributions at a rate adopted by the board.

(46) “Retiree” means an individual who has qualified for an allowance under this title.

(47) “Retirement” means the status of an individual who has become eligible, applies for, and is entitled to receive an allowance under this title.

(48) “Retirement date” means the date selected by the member on which the member’s retirement becomes effective with the office.

(49) “Retirement related contribution”:

(a) means any employer payment to any type of retirement plan or program made on behalf of an employee; and

(b) does not include Social Security payments or Social Security substitute payments made on behalf of an employee.

(50) “Service credit” means:

(a) the period during which an employee is employed and compensated by a participating employer and meets the eligibility requirements for membership in a system or the Utah Governors’ and Legislators’ Retirement Plan, provided that any required contributions are paid to the office; and

(b) periods of time otherwise purchasable under this title.

(51) “Surviving spouse” means:

(a) the lawful spouse who has been married to a member for at least six months immediately before the death date of the member; or

(b) a former lawful spouse of a member with a valid domestic relations order benefits on file with the office before the member’s death date in accordance with Section 49-11-612.

[51] (52) “System” means the individual retirement systems created by Chapter 12, Public Employees’ Contributory Retirement Act, Chapter 13, Public Employees’ Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act, Chapter 15, Public Safety

Noncontributory Retirement Act, Chapter 16, Firefighters' Retirement Act, Chapter 17, Judges' Contributory Retirement Act, Chapter 18, Judges' Noncontributory Retirement Act, and Chapter 19, Utah Governors' and Legislators' Retirement Act, the defined benefit portion of the Tier II Hybrid Retirement System under Chapter 22, Part 3, Tier II Hybrid Retirement System, and the defined benefit portion of the Tier II Hybrid Retirement System under Chapter 23, Part 3, Tier II Hybrid Retirement System.

[452] (53) "Tier I" means a system or plan under this title for which:

(a) an employee is eligible to participate if the employee initially enters regular full-time employment before July 1, 2011; or

(b) a governor or legislator who initially enters office before July 1, 2011.

[453] (54) (a) "Tier II" means a system or plan under this title provided in lieu of a Tier I system or plan for an employee, governor, legislator, or full-time elected official who does not have Tier I service credit in a system or plan under this title:

(i) if the employee initially enters regular full-time employment on or after July 1, 2011; or

(ii) if the governor, legislator, or full-time elected official initially enters office on or after July 1, 2011.

(b) "Tier II" includes:

(i) the Tier II hybrid system established under:

(A) Chapter 22, Part 3, Tier II Hybrid Retirement System; or

(B) Chapter 23, Part 3, Tier II Hybrid Retirement System; and

(ii) the Tier II Defined Contribution Plan (Tier II DC Plan) established under:

(A) Chapter 22, Part 4, Tier II Defined Contribution Plan; or

(B) Chapter 23, Part 4, Tier II Defined Contribution Plan.

[454] (55) "Unfunded actuarial accrued liability" or "UAAL":

(a) is determined by the system's actuary; and

(b) means the excess, if any, of the accrued liability of a retirement system over the actuarial value of its assets.

[455] (56) "Voluntary deferrals" means an amount contributed by a participant into that participant's defined contribution account.

Section 2. Section 49-12-405 is amended to read:

49-12-405. Death of married member -- Service retirement benefits to surviving spouse.

(1) Upon the request of a deceased member's [lawful] surviving spouse [at the time of the member's death], the deceased member is

considered to have retired under Option Three on the first day of the month following the month in which the member died if the following requirements are met:

(a) the member has:

(i) 25 or more years of service credit;

(ii) attained age 60 with 20 or more years of service credit;

(iii) attained age 62 with 10 or more years of service credit; or

(iv) attained age 65 with four or more years of service credit; and

(b) the member dies leaving a surviving spouse [to whom the member has been married at least six months immediately prior to the death date].

(2) The surviving spouse who requests a benefit under this section shall apply in writing to the office. The allowance shall begin on the first day of the month:

(a) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(b) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the [spouse's] member's death.

(3) The Option Three benefit calculation, when there are 25 or more years of service credit, shall be calculated without a reduction in allowance under Section 49-12-402.

(4) The benefit calculation for a surviving spouse with a valid domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612 is calculated according to the manner in which the court order specified benefits to be partitioned, whether as a fixed amount or as a percentage of the benefit.

[44] (5) Except for a return of member contributions, benefits payable under this section are retirement benefits and shall be paid in addition to any payments made under Section 49-12-501 and constitute a full and final settlement of the claim of the surviving spouse or any other beneficiary filing claim for benefits under Section 49-12-501.

(6) If the death benefits under this section are partitioned among more than one surviving spouse due to domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612, the total amount received by the surviving spouses may not exceed the death benefits normally provided to one surviving spouse under this section.

Section 3. Section 49-13-405 is amended to read:

49-13-405. Death of married members -- Service retirement benefits to surviving spouse.

(1) As used in this section, "member's full allowance" means an Option Three allowance

calculated under Section 49-13-402 without an actuarial reduction.

(2) Upon the request of a deceased member's ~~lawful~~ surviving spouse ~~[at the time of the member's death]~~, the deceased member is considered to have retired under Option Three on the first day of the month following the month in which the member died if the following requirements are met:

(a) the member has:

(i) 15 or more years of service credit;

(ii) attained age 62 with 10 or more years of service credit; or

(iii) attained age 65 with four or more years of service credit; and

(b) the member dies leaving a surviving spouse ~~[to whom the member has been married at least six months immediately prior to the death date]~~.

(3) The surviving spouse who requests a benefit under this section shall apply in writing to the office. The allowance shall begin on the first day of the month:

(a) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(b) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the ~~[spouse's]~~ member's death.

(4) The allowance payable to a surviving spouse under Subsection (2) is:

(a) if the member has 25 or more years of service credit at the time of death, the surviving spouse shall receive the member's full allowance;

(b) if the member has between 20-24 years of service credit and is not age 60 or older at the time of death, the surviving spouse shall receive two-thirds of the member's full allowance;

(c) if the member has between 15-19 years of service credit and is not age 62 or older at the time of death, the surviving spouse shall receive one-third of the member's full allowance; or

(d) if the member is age 60 or older with 20 or more years of service credit, age 62 or older with 10 or more years of service credit, or age 65 or older with four or more years of service credit at the time of death, the surviving spouse shall receive an Option Three benefit with actuarial reductions.

(5) The benefit calculation for a surviving spouse with a valid domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612 is calculated according to the manner in which the court order specified benefits to be partitioned, whether as a fixed amount or as a percentage of the benefit.

~~[(5)]~~ (6) Except for a return of member contributions, benefits payable under this section

are retirement benefits and shall be paid in addition to any other payments made under Section 49-13-501 and shall constitute a full and final settlement of the claim of the surviving spouse or any other beneficiary filing a claim for benefits under Section 49-13-501.

(7) If the death benefits under this section are partitioned among more than one surviving spouse due to domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612, the total amount received by the surviving spouses may not exceed the death benefits normally provided to one surviving spouse under this section.

Section 4. Section 49-14-501 is amended to read:

49-14-501. Death of active member in Division A -- Payment of benefits.

(1) If an active member of this system enrolled in Division A under Section 49-14-301 dies, benefits are payable as follows:

(a) If the death is classified by the office as a line-of-duty death, the surviving spouse ~~[at the time of death]~~ shall receive a lump sum equal to six months of the active member's final average salary and an allowance equal to 30% of the deceased member's final average monthly salary.

(b) If the death is not classified by the office as a line-of-duty death, benefits are payable as follows:

(i) If the member has accrued less than 10 years of public safety service credit, the beneficiary shall receive the sum of \$1,000 or a refund of the member's member contributions, whichever is greater.

(ii) If the member has accrued 10 or more years of public safety service credit at the time of death, the surviving spouse ~~[at the time of death]~~ shall receive the sum of \$500, plus an allowance equal to 2% of the member's final average monthly salary for each year of service credit accrued by the member up to a maximum of 30% of the member's final average monthly salary.

(2) Except as provided under Subsection (1)(b)(i), benefits are not payable to minor children of members covered under Division A.

(3) If a benefit is not distributed under this section, and the member has designated a beneficiary, the member's member contributions shall be paid to the beneficiary.

(4) (a) A surviving spouse who requests a benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month following the month in which the:

(i) member died, if the application is received by the office within 90 days of the member's death; or

(ii) application is received by the office, if the application is received by the office more than 90 days after the member's death.

Section 5. Section 49-14-502 is amended to read:

49-14-502. Death of active member in Division B -- Payment of benefits.

(1) If an active member of this system enrolled in Division B under Section 49-14-301 dies, benefits are payable as follows:

(a) If the death is classified by the office as a line-of-duty death, the surviving spouse [~~at the time of death~~] shall receive:

(i) a lump sum equal to six months of the active member's final average salary; and

(ii) an allowance equal to 37.5% of the member's final average monthly salary.

(b) If the death is not classified by the office as a line-of-duty death, benefits are payable as follows:

(i) If the member has accrued two or more years of public safety service credit at the time of death, the death is considered a line-of-duty death and the surviving spouse [~~at the time of death~~] shall receive:

(A) a lump sum of \$1,500; and

(B) an allowance as provided under Subsection (1)(a)(ii).

(ii) If the member has accrued less than two years of public safety service credit at the time of death, the surviving spouse [~~at the time of death~~] shall receive a refund of the member's member contributions, plus 50% of the member's most recent 12 months' compensation.

(c) (i) If the member has accrued two or more years of public safety service credit at the time of death, each of the member's unmarried children to age 18 or dependent unmarried children with a mental or physical disability shall receive a monthly allowance of \$50.

(ii) Payments shall be made to the surviving parent or to a duly appointed guardian, or as otherwise provided under Sections 49-11-609 and 49-11-610.

(2) [~~In the event of the death of both parents,~~] If the member dies and there is no surviving spouse, any amounts that would have been the surviving spouse's benefit shall be prorated and paid to each of the member's unmarried children to age 18.

(3) If a benefit is not distributed under [~~the previous subsections~~] Subsection (1) or (2), and the member has designated a beneficiary, the member's member contributions shall be paid to the beneficiary.

(4) The combined annual payments made to the beneficiaries of any member under this section may not exceed 75% of the member's final average monthly salary.

(5) (a) A surviving spouse who requests a benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month:

(i) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(ii) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.

Section 6. Section 49-14-503 is amended to read:

49-14-503. Benefits payable upon death of inactive member.

(1) If an inactive member who has less than 20 years of public safety service credit dies, the surviving spouse [~~at the time of death~~], or, if there is no surviving spouse [~~at the time of death~~], the member's minor children shall receive a refund of the member's member contributions or \$500, whichever is greater.

(2) (a) If an inactive member with 20 or more years of public safety service credit dies, the surviving spouse [~~at the time of death~~] shall receive an allowance in an amount of 50% of the amount the member would have received had retirement occurred on the first of the month following the month in which the death occurred.

(b) This allowance shall be based on years of service credit and final average monthly salary under Section 49-14-402, reduced actuarially from age 50 to the age of the member at the time of death if the member is under age 50 at the time of death.

(3) (a) A surviving spouse who requests a benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month:

(i) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(ii) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.

Section 7. Section 49-14-504 is amended to read:

49-14-504. Benefits payable upon death of retired member -- Enhanced benefit election -- Rulemaking.

(1) If a retiree who retired under either Division A or Division B dies, the retiree's surviving spouse [~~at the time of death of the retiree~~] shall receive an allowance equal to 65% of the allowance that was being paid to the retiree at the time of death.

(2) (a) Notwithstanding the amount of the allowance under Subsection (1), at the time of retirement, a retiree may elect to increase the surviving spousal death benefit to 75% of an allowance computed in accordance with Section 49-14-402.

(b) If an election is made under Subsection (2)(a), the member's allowance shall be reduced to an

amount payable monthly for life to reflect the actuarial equivalent necessary to pay for the increased surviving spousal death benefit above 65%.

(3) (a) For a retiree whose retirement date is before July 1, 2009, the office shall provide an optional surviving spousal death benefit to bring the total surviving spousal death benefit up to 75% of an allowance computed in accordance with Section 49-14-402.

(b) A retiree may elect to purchase the optional surviving spousal death benefit until July 1, 2010.

(c) If an election is made under Subsection (3)(b), the retiree's allowance shall be reduced to an amount payable monthly for life to reflect the actuarial equivalent necessary to pay for the increased surviving spousal death benefit above 65%.

(d) The board shall make rules to administer the death benefit under this Subsection (3).

(4) If the retiree retired solely under Division B and dies leaving unmarried children under the age of 18 or dependent unmarried children with a mental or physical disability, the children shall qualify for a benefit as prescribed for children under Subsection 49-14-502(1)(c).

(5) (a) A beneficiary who qualifies for a monthly benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month following the month in which the:

(i) member or participant died, if the application is received by the office within 90 days of the date of death of the member or participant; or

(ii) application is received by the office, if the application is received by the office more than 90 days after the date of death of the member or participant.

Section 8. Section 49-14-505 is amended to read:

49-14-505. Benefits for surviving spouse under Division A or Division B.

The surviving spouse [~~at the time of death~~], if eligible, shall receive a benefit computed under either Division A or Division B, whichever provides the larger benefit, but may not receive a benefit under both divisions if it would result in a duplicate benefit.

Section 9. Section 49-14-506 is amended to read:

49-14-506. Benefits payable upon death of active or inactive member without spouse or minor children.

If an active or inactive member dies and at the time of death the member does not have a surviving spouse or minor children, the benefit payable to a designated beneficiary is a refund of the member's member contributions or \$500, whichever is larger.

Section 10. Section 49-14-507 is enacted to read:

49-14-507. Surviving spouse includes certain former spouses -- Benefit calculation for former spouse.

(1) The benefit calculation for a surviving spouse with a valid domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612 is calculated according to the manner in which the court order specified benefits to be partitioned, whether as a fixed amount or as a percentage of the benefit.

(2) If the death benefits under this section are partitioned among more than one surviving spouse due to domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612, the total amount received by the surviving spouses may not exceed the death benefits normally provided to one surviving spouse under this section.

Section 11. Section 49-15-501 is amended to read:

49-15-501. Death of active member in Division A -- Payment of benefits.

(1) If an active member of this system enrolled in Division A under Section 49-15-301 dies, benefits are payable as follows:

(a) If the death is classified by the office as a line-of-duty death, benefits are payable as follows:

(i) If the member has accrued less than 20 years of public safety service credit, the surviving spouse [~~at the time of death~~] shall receive a lump sum equal to six months of the active member's final average salary and an allowance equal to 30% of the member's final average monthly salary.

(ii) If the member has accrued 20 or more years of public safety service credit, the member shall be considered to have retired with an allowance calculated under Section 49-15-402 and the surviving spouse [~~at the time of death~~] shall receive the death benefit payable to a surviving spouse [~~at the time of death~~] under Section 49-15-504.

(b) If the death is not classified as a line-of-duty death by the office, benefits are payable as follows:

(i) If the member has accrued less than 10 years of public safety service credit, the beneficiary shall receive the sum of \$1,000 or a refund of the member's member contributions, whichever is greater.

(ii) If the member has accrued 10 or more years, but less than 20 years of public safety service credit at the time of death, the surviving spouse [~~at the time of death~~] shall receive the sum of \$500, plus an allowance equal to 2% of the member's final average monthly salary for each year of service credit accrued by the member up to a maximum of 30% of the member's final average monthly salary.

(iii) If the member has accrued 20 or more years of public safety service credit, the benefit shall be calculated as provided in Subsection (1)(a)(ii).

(2) Except as provided under Subsection (1)(b)(i), benefits are not payable to minor children under Division A.

(3) If a benefit is not distributed under this section, and the member has designated a beneficiary, the member's member contribution shall be paid to the beneficiary.

(4) (a) A surviving spouse who requests a benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month following the month in which the:

(i) member died, if the application is received by the office within 90 days of the member's death; or

(ii) application is received by the office, if the application is received by the office more than 90 days after the member's death.

Section 12. Section 49-15-502 is amended to read:

49-15-502. Death of active member in Division B -- Payment of benefits.

(1) If an active member of this system enrolled in Division B under Section 49-15-301 dies, benefits are payable as follows:

(a) If the death is classified by the office as a line-of-duty death, the surviving spouse [~~at the time of death~~] shall receive:

(i) a lump sum equal to six months of the active member's final average salary; and

(ii) an allowance equal to 37.5% of the member's final average monthly salary.

(b) If the death is not classified by the office as a line-of-duty death, and the member has accrued two or more years of public safety service credit at the time of death, the death is considered line-of-duty and the surviving spouse [~~at the time of death~~] shall receive:

(i) a lump sum of \$1,500; and

(ii) an allowance as provided under Subsection (1)(a)(ii).

(c) If the death is not classified by the office as a line-of-duty death, and the member has accrued less than two years of public safety service credit at the time of death, the surviving spouse [~~at the time of death~~] shall receive a refund of the member's member contributions, plus 50% of the member's most recent 12 months' compensation.

(d) (i) If the member has accrued two or more years of public safety service credit at the time of death, each of the member's unmarried children to age 18 or dependent unmarried children with a mental or physical disability shall receive an allowance of \$50.

(ii) Payments shall be made to the surviving parent or to a duly appointed guardian, or as otherwise provided under Section 49-11-609 or 49-11-610.

(2) [~~In the event of the death of both parents, the~~] If the member dies and there is no surviving spouse, any amounts that would have been the surviving

spouse's benefit shall be prorated and paid to each of the member's unmarried children to age 18.

(3) If a benefit is not distributed under [~~the previous subsections~~] Subsection (1) or (2), and the member has designated a beneficiary, the member's member contributions shall be paid to the beneficiary.

(4) The combined payments to beneficiaries of any member under this section may not exceed 75% of the member's final average monthly salary.

(5) (a) A surviving spouse who requests a benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month:

(i) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(ii) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.

Section 13. Section 49-15-503 is amended to read:

49-15-503. Benefits payable upon death of inactive member.

(1) If an inactive member who has less than 20 years of public safety service credit dies, the surviving spouse [~~at the time of death~~], or, if there is no surviving spouse [~~at the time of death~~], the member's minor children shall receive a refund of the member's member contributions or \$500, whichever is greater.

(2) (a) If an inactive member with 20 or more years of public safety service credit dies, the surviving spouse [~~at the time of death~~] shall receive an allowance in an amount of 50% of the amount the member would have received had retirement occurred on the first of the month following the month in which the death occurred.

(b) This allowance shall be based on years of service credit and final average monthly salary under Section 49-15-402, reduced actuarially from age 50 to the age of the member at the time of death if the member is under 50 years of age at the time of death.

(3) (a) A surviving spouse who requests a benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month:

(i) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(ii) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.

Section 14. Section 49-15-504 is amended to read:

49-15-504. Benefits payable upon death of retired member -- Enhanced benefit election -- Rulemaking.

(1) If a retiree who retired under either Division A or Division B dies, the retiree's surviving spouse [~~at the time of death of the retiree~~] shall receive an allowance equal to 65% of the allowance that was being paid to the retiree at the time of death.

(2) (a) Notwithstanding the amount of the allowance under Subsection (1), at the time of retirement, a retiree may elect to increase the spousal death benefit to 75% of an allowance computed in accordance with Section 49-15-402.

(b) If an election is made under Subsection (2)(a), the member's allowance shall be reduced to an amount payable monthly for life to reflect the actuarial equivalent necessary to pay for the increased spousal death benefit above 65%.

(3) (a) For a retiree whose retirement date is before July 1, 2009, the office shall provide an optional spousal death benefit to bring the total spousal death benefit up to 75% of an allowance computed in accordance with Section 49-15-402.

(b) A retiree may elect to purchase the optional spousal death benefit until July 1, 2010.

(c) If an election is made under Subsection (3)(b), the retiree's allowance shall be reduced to an amount payable monthly for life to reflect the actuarial equivalent necessary to pay for the increased spousal death benefit above 65%.

(d) The board shall make rules to administer the death benefit under this Subsection (3).

(4) If the retiree retired solely under Division B and dies leaving unmarried children under the age of 18 or dependent unmarried children with a mental or physical disability, the children shall qualify for a benefit as prescribed under Subsection 49-15-502(1)(d).

(5) (a) A beneficiary who qualifies for a monthly benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month following the month in which the:

(i) member or participant died, if the application is received by the office within 90 days of the date of death of the member or participant; or

(ii) application is received by the office, if the application is received by the office more than 90 days after the date of death of the member or participant.

Section 15. Section 49-15-505 is amended to read:

49-15-505. Benefits for surviving spouse under Division A or Division B.

The surviving spouse [~~at the time of death~~], if eligible, shall receive a benefit computed under

either Division A or Division B, whichever provides the larger benefit, but may not receive a benefit under both divisions if it would result in a duplicate benefit.

Section 16. Section 49-15-506 is amended to read:

49-15-506. Benefits payable upon death of active or inactive member without spouse or minor children.

If an active or inactive member dies and at the time of death the member does not have a surviving spouse or minor children, the benefit payable to a designated beneficiary is a refund of the member's member contributions or \$500, whichever is larger.

Section 17. Section 49-15-507 is enacted to read:

49-15-507. Surviving spouse includes certain former spouses -- Benefit calculation for former spouse.

(1) The benefit calculation for a surviving spouse with a valid domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612 is calculated according to the manner in which the court order specified benefits to be partitioned, whether as a fixed amount or as a percentage of the benefit.

(2) If the death benefits under this section are partitioned among more than one surviving spouse due to domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612, the total amount received by the surviving spouses may not exceed the death benefits normally provided to one surviving spouse under this section.

Section 18. Section 49-16-501 is amended to read:

49-16-501. Death of active member in Division A -- Payment of benefits.

(1) If an active member of this system enrolled in Division A under Section 49-16-301 dies, benefits are payable as follows:

(a) If the death is classified by the office as a line-of-duty death, benefits are payable as follows:

(i) If the member has accrued less than 20 years of firefighter service credit, the surviving spouse [~~at the time of death~~] shall receive a lump sum equal to six months of the active member's final average salary and an allowance equal to 30% of the member's final average monthly salary.

(ii) If the member has accrued 20 or more years of firefighter service credit, the member shall be considered to have retired with an allowance calculated under Section 49-16-402 and the surviving spouse [~~at the time of death~~] shall receive the death benefit payable to a surviving spouse under Section 49-16-504.

(b) If the death is not classified as a line-of-duty death by the office, benefits are payable as follows:

(i) If the member has accrued less than 10 years of firefighter service credit, the beneficiary shall

receive a sum of \$1,000 or a refund of the member's member contributions, whichever is greater.

(ii) If the member has accrued 10 or more years of firefighter service credit, the surviving spouse [~~at the time of death~~] shall receive a sum of \$500, plus an allowance equal to 2% of the member's final average monthly salary for each year of service credit accrued by the member up to a maximum of 30% of the member's final average monthly salary.

(2) (a) If the member dies without a [~~current~~] surviving spouse, the surviving spouse's allowance shall be equally divided and paid to each unmarried child until the child reaches age 21.

(b) The payment shall be made to a duly appointed guardian or as provided under Sections 49-11-609 and 49-11-610.

(3) If the benefit is not distributed under this section, and the member has designated a beneficiary, the member's member contributions shall be paid to the beneficiary.

(4) (a) A surviving spouse who requests a benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month:

(i) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(ii) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.

Section 19. Section 49-16-502 is amended to read:

49-16-502. Death of active member in Division B -- Payment of benefits.

(1) If an active member of this system enrolled in Division B under Section 49-16-301 dies, benefits are payable as follows:

(a) If the death is classified by the office as a line-of-duty death, benefits are payable as follows:

(i) If the member has accrued less than 20 years of firefighter service credit, the surviving spouse [~~at the time of death~~] shall receive:

(A) a lump sum equal to six months of the active member's final average salary; and

(B) an allowance equal to 37.5% of the member's final average monthly salary.

(ii) If the member has accrued 20 or more years of firefighter service credit, the member shall be considered to have retired with an allowance calculated under Section 49-16-402 and the surviving spouse [~~at the time of death~~] shall receive the death benefit payable to a surviving spouse under Section 49-16-504.

(b) If the death is not classified by the office as a line-of-duty death, the benefits are payable as follows:

(i) If the member has accrued five or more years of firefighter service credit, the death is considered line-of-duty and the surviving spouse [~~at time of death~~] shall receive:

(A) a lump sum of \$1,500; and

(B) an allowance as established under Subsection (1)(a)(i)(B).

(ii) If the member has accrued less than five years of firefighter service credit, the surviving spouse [~~at the time of death~~] shall receive a refund of the member's contributions, plus 50% of the member's most recent 12 months compensation.

(c) If the member has accrued five or more years of firefighter service credit, the member's unmarried children until they reach age 21 or dependent unmarried children with a mental or physical disability, shall receive a monthly allowance of \$75.

(2) (a) [~~In the event of the death of~~] If the member dies and there is no surviving spouse, [~~the~~] any amounts that would have been the surviving spouse's benefits are equally divided and paid to each unmarried child until the child reaches age 21.

(b) The payments shall be made to the surviving parent or duly appointed guardian or as provided under Sections 49-11-609 and 49-11-610.

(3) If a benefit is not distributed under [~~the previous subsections~~] Subsection (1) or (2), and the member has designated a beneficiary, the member's member contributions shall be paid to the beneficiary.

(4) The combined monthly payments made to the beneficiaries of any member under this section may not exceed 75% of the member's final average monthly salary.

(5) (a) A surviving spouse who requests a benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month:

(i) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(ii) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.

Section 20. Section 49-16-503 is amended to read:

49-16-503. Benefits payable upon death of inactive member.

(1) If an inactive member who has less than 20 years of firefighter service credit dies, the surviving spouse [~~at the time of death~~], or, if there is no surviving spouse [~~at the time of death~~], the member's minor children shall receive a refund of the member's member contributions or \$500, whichever is greater.

(2) (a) If an inactive member with 20 or more years of firefighter service credit dies, the surviving spouse ~~[at the time of death]~~ shall receive an allowance in the amount of 50% of the amount the member would have received had retirement occurred on the first of the month following the month in which the death occurred.

(b) This allowance shall be based on years of service credit and final average monthly salary under Section 49-16-402, reduced actuarially from age 50 to the age of the member at the time of death if the member is under 50 years of age at the time of death.

(3) (a) A surviving spouse who requests a benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month:

(i) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(ii) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.

Section 21. Section 49-16-504 is amended to read:

49-16-504. Benefits payable upon death of retired member.

(1) If a retiree who retired under either Division A or Division B dies, the retiree's surviving spouse ~~[at the time of death]~~ shall receive an allowance equal to 75% of the allowance that was being paid to the retiree at the time of death.

(2) If the retiree retired solely under Division B and dies leaving unmarried children under the age of 21 or dependent unmarried children with a mental or physical disability, the children shall qualify for a benefit as prescribed under Subsection 49-16-502(1)(c).

(3) (a) A beneficiary who qualifies for a monthly benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month following the month in which the:

(i) member or participant died, if the application is received by the office within 90 days of the date of death of the member or participant; or

(ii) application is received by the office, if the application is received by the office more than 90 days after the date of death of the member or participant.

Section 22. Section 49-16-505 is amended to read:

49-16-505. Benefits for surviving spouse under Division A or Division B.

The surviving spouse ~~[at the time of death]~~, if eligible, shall receive a benefit computed under

either Division A or Division B, whichever provides the larger benefit, but may not receive a benefit under both divisions if it would result in a duplicate benefit.

Section 23. Section 49-16-506 is amended to read:

49-16-506. Minimum allowance for surviving spouse.

The minimum allowance payable to the surviving spouse who qualifies for an allowance under Section 49-16-501, 49-16-502, 49-16-503 or 49-16-504, shall be \$350 per month.

Section 24. Section 49-16-507 is amended to read:

49-16-507. Benefits payable upon death of active or inactive member without a surviving spouse or minor children.

If an active or inactive member dies and at the time of death the member does not have a surviving spouse or minor children, the benefit payable to a designated beneficiary is a refund of the member's member contributions or \$500, whichever is larger.

Section 25. Section 49-16-508 is enacted to read:

49-16-508. Surviving spouse includes certain former spouses -- Benefit calculation for former spouse.

(1) The benefit calculation for a surviving spouse with a valid domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612 is calculated according to the manner in which the court order specified benefits to be partitioned, whether as a fixed amount or as a percentage of the benefit.

(2) If the death benefits under this section are partitioned among more than one surviving spouse due to domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612, the total amount received by the surviving spouses may not exceed the death benefits normally provided to one surviving spouse under this section.

Section 26. Section 49-17-501 is amended to read:

49-17-501. Death benefit for members before retirement -- Computation.

(1) Upon the receipt of acceptable proof of death of a member before the member's retirement date, the member's surviving spouse ~~[at the time of death]~~ shall have the choice of the following death benefits:

(a) a refund of the member's member contributions, including refund interest, plus 65% of the member's most recent 12 months' compensation prior to death; or

(b) an allowance equal to 65% of the allowance computed in accordance with Section 49-17-402, but disregarding early retirement reductions.

(2) If there is no surviving spouse ~~[to whom the member is married at the time of death]~~, member

contributions, including refund interest, shall be refunded to a beneficiary, in accordance with Sections 49-11-609 and 49-11-610.

(3) (a) A surviving spouse who requests a benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month:

(i) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(ii) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.

Section 27. Section 49-17-502 is amended to read:

49-17-502. Benefits payable upon death of retired member.

(1) (a) The death benefit payable to a retiree's surviving spouse [~~at the time of death~~] is an allowance equal to 65% of the allowance which was being paid to the retiree at the time of death.

(b) The effective date of the accrual of this allowance is the first day of the month following the month in which the retiree died.

(2) (a) Notwithstanding the amount of the allowance under Subsection (1), at the time of retirement, a retiree may elect to increase the spousal death benefit up to 75% of an allowance computed in accordance with Section 49-17-402.

(b) If an election is made under Subsection (2)(a), the member's allowance shall be reduced to reflect the actuarial equivalent necessary to pay for the increased spousal death benefit above 65%.

(3) (a) A surviving spouse who qualifies for a monthly benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month following the month in which the:

(i) member or participant died, if the application is received by the office within 90 days of the date of death of the member or participant; or

(ii) application is received by the office, if the application is received by the office more than 90 days after the date of death of the member or participant.

Section 28. Section 49-17-503 is enacted to read:

49-17-503. Surviving spouse includes certain former spouses -- Benefit calculation for former spouse.

(1) The benefit calculation for a surviving spouse with a valid domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612 is calculated according to the manner in which the court order

specified benefits to be partitioned, whether as a fixed amount or as a percentage of the benefit.

(2) If the death benefits under this section are partitioned among more than one surviving spouse due to domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612, the total amount received by the surviving spouses may not exceed the death benefits normally provided to one surviving spouse under this section.

Section 29. Section 49-18-501 is amended to read:

49-18-501. Death benefit for members before retirement -- Computation.

(1) Upon the receipt of acceptable proof of death of a member before the member's retirement date, the member's surviving spouse [~~at the time of death~~] shall have the choice of the following death benefits:

(a) a refund of the member's member contributions, if any, plus 65% of the member's most recent 12 months' compensation prior to death; or

(b) an allowance equal to 65% of the allowance computed in accordance with Section 49-18-402, but disregarding early retirement reductions.

(2) If there is no surviving spouse [~~to whom the member is married at the time of death~~], member contributions shall be refunded to a beneficiary, in accordance with Sections 49-11-609 and 49-11-610.

(3) (a) A surviving spouse who requests a benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month:

(i) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(ii) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.

Section 30. Section 49-18-502 is amended to read:

49-18-502. Benefits payable upon death of retired member.

(1) The death benefit payable to a retiree's surviving spouse [~~at the time of death~~] is an allowance equal to 65% of the allowance which was being paid to the retiree at the time of death.

(2) (a) Notwithstanding the amount of the allowance under Subsection (1), at the time of retirement, a retiree may elect to increase the spousal death benefit up to 75% of an allowance computed in accordance with Section 49-18-402.

(b) If an election is made under Subsection (2)(a), the member's allowance shall be reduced to an amount payable monthly for life to reflect the actuarial equivalent necessary to pay for the increased spousal death benefit above 65%.

(3) (a) A surviving spouse who qualifies for a monthly benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month following the month in which the:

(i) member or participant died, if the application is received by the office within 90 days of the date of death of the member or participant; or

(ii) application is received by the office, if the application is received by the office more than 90 days after the date of death of the member or participant.

Section 31. Section 49-18-503 is enacted to read:

49-18-503. Surviving spouse includes certain former spouses -- Benefit calculation for former spouse.

(1) The benefit calculation for a surviving spouse with a valid domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612 is calculated according to the manner in which the court order specified benefits to be partitioned, whether as a fixed amount or as a percentage of the benefit.

(2) If the death benefits under this section are partitioned among more than one surviving spouse due to domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612, the total amount received by the surviving spouses may not exceed the death benefits normally provided to one surviving spouse under this section.

Section 32. Section 49-19-501 is amended to read:

49-19-501. Death of member or retiree -- Surviving spouse benefit.

(1) Upon the death of a governor or legislator who has not yet retired and who has completed four or more years in the elected office, the member's surviving spouse [at the time of death] shall receive an allowance equal to 50% of the allowance to which the governor or legislator would have been entitled upon reaching age 65, if the governor or legislator and surviving spouse had been married at least six months.

(2) Upon the death of a governor or legislator receiving an allowance under this plan, the member's surviving spouse [at the time of death] is entitled to an allowance equal to 50% of the allowance being paid to the member at the time of death.

(3) (a) A surviving spouse who requests a benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month:

(i) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(ii) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.

Section 33. Section 49-19-502 is enacted to read:

49-19-502. Surviving spouse at the time of death includes certain former spouses -- Benefit calculation for former spouse.

(1) The benefit calculation for a surviving spouse with a valid domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612 is calculated according to the manner in which the court order specified benefits to be partitioned, whether as a fixed amount or as a percentage of the benefit.

(2) If the death benefits under this section are partitioned among more than one surviving spouse due to domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612, the total amount received by the surviving spouses may not exceed the death benefits normally provided to one surviving spouse under this section.

Section 34. Section 49-22-502 is amended to read:

49-22-502. Death of married members -- Service retirement benefits to surviving spouse.

(1) As used in this section, "member's full allowance" means an Option Three allowance calculated under Section 49-22-305 without an actuarial reduction.

(2) Upon the request of a deceased member's [lawful] surviving spouse [~~at the time of the member's death~~], the deceased member is considered to have retired under Option Three on the first day of the month following the month in which the member died if the following requirements are met:

(a) the member has:

(i) 15 or more years of service credit;

(ii) attained age 62 with 10 or more years of service credit; or

(iii) attained age 65 with four or more years of service credit; and

(b) the member dies leaving a surviving spouse [~~to whom the member has been married at least six months immediately prior to the death date~~].

(3) The surviving spouse who requests a benefit under this section shall apply in writing to the office. The allowance shall begin on the first day of the month:

(a) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(b) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the [spouse's] member's death.

(4) The allowance payable to a surviving spouse under Subsection (2) is as follows:

(a) if the member has 25 or more years of service credit at the time of death, the surviving spouse shall receive the member's full allowance;

(b) if the member has between 20-24 years of service credit and is not age 60 or older at the time of death, the surviving spouse shall receive 2/3 of the member's full allowance;

(c) if the member has between 15-19 years of service credit and is not age 62 or older at the time of death, the surviving spouse shall receive 1/3 of the member's full allowance; or

(d) if the member is age 60 or older with 20 or more years of service credit, age 62 or older with 10 or more years of service credit, or age 65 or older with four or more years of service credit at the time of death, the surviving spouse shall receive an Option Three benefit with actuarial reductions.

(5) The benefit calculation for a surviving spouse with a valid domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612 is calculated according to the manner in which the court order specified benefits to be partitioned, whether as a fixed amount or as a percentage of the benefit.

~~[(5)]~~ (6) Except for a return of member contributions, benefits payable under this section are retirement benefits and shall be paid in addition to any other payments made under Section 49-22-501 and shall constitute a full and final settlement of the claim of the surviving spouse or any other beneficiary filing a claim for benefits under Section 49-22-501.

(7) If the death benefits under this section are partitioned among more than one surviving spouse due to domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612, the total amount received by the surviving spouses may not exceed the death benefits normally provided to one surviving spouse under this section.

Section 35. Section 49-23-301 is amended to read:

49-23-301. Contributions.

(1) Participating employers and members shall pay the certified contribution rates to the office to maintain the defined benefit portion of this system on a financially and actuarially sound basis in accordance with Subsection (2).

(2) (a) A participating employer shall pay up to 12% of compensation toward the certified contribution rate to the office for the defined benefit portion of this system.

(b) A member shall only pay to the office the amount, if any, of the certified contribution rate for the defined benefit portion of this system that exceeds the percent of compensation paid by the participating employer under Subsection (2)(a).

(c) In addition to the percent specified under Subsection (2)(a), the participating employer shall pay the corresponding Tier I system amortization rate of the employee's compensation to the office to be applied to the employer's corresponding Tier I system liability.

(3) A participating employer may not elect to pay all or part of the required member contributions under Subsection (2)(b), in addition to the required participating employer contributions.

(4) (a) A member contribution is credited by the office to the account of the individual member.

(b) This amount, together with refund interest, is held in trust for the payment of benefits to the member or the member's beneficiaries.

(c) A member contribution is vested and nonforfeitable.

(5) (a) Each member is considered to consent to payroll deductions of member contributions.

(b) The payment of compensation less these payroll deductions is considered full payment for services rendered by the member.

(6) Except as provided under Subsection (7), benefits provided under the defined benefit portion of the Tier II hybrid retirement system created under this part:

(a) may not be increased unless the actuarial funded ratios of all systems under this title reach 100%; and

(b) may be decreased only in accordance with the provisions of Section 49-23-309.

(7) The Legislature authorizes an increase to the death benefit provided to a Tier II public safety service employee or firefighter member's surviving spouse ~~[at the time of death]~~ effective on May 12, 2015, as provided in Section 49-23-503.

Section 36. Section 49-23-502 is amended to read:

49-23-502. Death of married members -- Service retirement benefits to surviving spouse.

(1) As used in this section, "member's full allowance" means an Option Three allowance calculated under Section 49-23-304 without an actuarial reduction.

(2) Upon the request of a deceased member's ~~[lawful]~~ surviving spouse at the time of the member's death, the deceased member is considered to have retired under Option Three on the first day of the month following the month in which the member died if the following requirements are met:

(a) the member has:

(i) 15 or more years of service credit;

(ii) attained age 62 with 10 or more years of service credit; or

(iii) attained age 65 with four or more years of service credit; and

(b) the member dies leaving a surviving spouse [~~to whom the member has been married at least six months immediately prior to the death date~~].

(3) The surviving spouse who requests a benefit under this section shall apply in writing to the office. The allowance shall begin on the first day of the month:

(a) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(b) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the spouse's member's death.

(4) The allowance payable to a surviving spouse under Subsection (2) is:

(a) if the member has 25 or more years of service credit at the time of death, the surviving spouse shall receive the member's full allowance;

(b) if the member has between 20-24 years of service credit and is not age 60 or older at the time of death, the surviving spouse shall receive two-thirds of the member's full allowance;

(c) if the member has between 15-19 years of service credit and is not age 62 or older at the time of death, the surviving spouse shall receive one-third of the member's full allowance; or

(d) if the member is age 60 or older with 20 or more years of service credit, age 62 or older with 10 or more years of service credit, or age 65 or older with four or more years of service credit at the time of death, the surviving spouse shall receive an Option Three benefit with actuarial reductions.

(5) The benefit calculation for a surviving spouse with a valid domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612 is calculated according to the manner in which the court order specified benefits to be partitioned, whether as a fixed amount or as a percentage of the benefit.

~~(5)~~ (6) Except for a return of member contributions, benefits payable under this section are retirement benefits and shall be paid in addition to any other payments made under Section 49-23-501 and shall constitute a full and final settlement of the claim of the surviving spouse or any other beneficiary filing a claim for benefits under Section 49-23-501.

(7) If the death benefits under this section or Section 49-23-503 are partitioned among more than one surviving spouse due to domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612, the total amount received by the surviving spouses may not exceed the death benefits normally provided to one surviving spouse under this section.

Section 37. Section 49-23-503 is amended to read:

49-23-503. Death of active member in line of duty -- Payment of benefits.

If an active member of this system dies, benefits are payable as follows:

(1) If the death is classified by the office as a line-of-duty death, benefits are payable as follows:

(a) If the member has accrued less than 20 years of public safety service or firefighter service credit, the surviving spouse [~~at the time of death~~] shall receive a lump sum equal to six months of the active member's final average salary and an allowance equal to 30% of the member's final average monthly salary.

(b) If the member has accrued 20 or more years of public safety service or firefighter service credit, the member shall be considered to have retired with an Option One allowance calculated without an actuarial reduction under Section 49-23-304 and the surviving spouse [~~at the time of death~~] shall receive the allowance that would have been payable to the member.

(2) (a) A volunteer firefighter is eligible for a line-of-duty death benefit under this section if the death results from external force, violence, or disease directly resulting from firefighter service.

(b) The lowest monthly compensation of firefighters of a city of the first class in this state at the time of death shall be considered to be the final average monthly salary of a volunteer firefighter for purposes of computing these benefits.

(c) Each volunteer fire department shall maintain a current roll of all volunteer firefighters which meet the requirements of Subsection 49-23-102(13) to determine the eligibility for this benefit.

(3) (a) If the death is classified as a line-of-duty death by the office, death benefits are payable under this section and the surviving spouse [~~at the time of death~~] is not eligible for benefits under Section 49-23-502.

(b) If the death is not classified as a line-of-duty death by the office, benefits are payable in accordance with Section 49-23-502.

(4) (a) A surviving spouse who qualifies for a monthly benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month following the month in which the:

(i) member or participant died, if the application is received by the office within 90 days of the date of death of the member or participant; or

(ii) application is received by the office, if the application is received by the office more than 90 days after the date of death of the member or participant.

CHAPTER 85**H. B. 17**

Passed March 1, 2016
 Approved March 21, 2016
 Effective May 10, 2016

**ASSESSMENT AREA
 FORECLOSURE AMENDMENTS**

Chief Sponsor: R. Curt Webb
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends foreclosure provisions in the Assessment Area Act.

Highlighted Provisions:

This bill:

- ▶ modifies the methods by which a local entity may enforce an assessment lien; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 11-42-202, as last amended by Laws of Utah 2015, Chapters 349 and 396
 11-42-207, as last amended by Laws of Utah 2015, Chapter 396
 11-42-502, as enacted by Laws of Utah 2007, Chapter 329

ENACTS:

11-42-502.1, Utah Code Annotated 1953

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

Section 1. Section 11-42-202 is amended to read:

11-42-202. Requirements applicable to a notice of a proposed assessment area designation.

(1) Each notice required under Subsection 11-42-201(2)(a) shall:

- (a) state that the local entity proposes to:
 - (i) designate one or more areas within the local entity's jurisdictional boundaries as an assessment area;
 - (ii) provide an improvement to property within the proposed assessment area; and
 - (iii) finance some or all of the cost of improvements by an assessment on benefitted property within the assessment area;
- (b) describe the proposed assessment area by any reasonable method that allows an owner of property in the proposed assessment area to determine that the owner's property is within the proposed assessment area;

(c) describe, in a general and reasonably accurate way, the improvements to be provided to the assessment area, including:

(i) the nature of the improvements; and

(ii) the location of the improvements, by reference to streets or portions or extensions of streets or by any other means that the governing body chooses that reasonably describes the general location of the improvements;

(d) state the estimated cost of the improvements as determined by a project engineer;

(e) for the version of notice mailed in accordance with Subsection (4)(b), state the estimated total assessment specific to the benefitted property for which the notice is mailed;

(f) state that the local entity proposes to levy an assessment on benefitted property within the assessment area to pay some or all of the cost of the improvements according to the estimated benefits to the property from the improvements;

(g) if applicable, state that an unassessed benefitted government property will receive improvements for which the cost will be allocated proportionately to the remaining benefitted properties within the proposed assessment area and that a description of each unassessed benefitted government property is available for public review at the location or website described in Subsection (6);

(h) state the assessment method by which the governing body proposes to levy the assessment, including, if the local entity is a municipality or county, whether the assessment will be collected:

(i) by directly billing a property owner; or

(ii) by inclusion on a property tax notice issued in accordance with Section 59-2-1317 and in compliance with Section 11-42-401;

(i) state:

(i) the date described in Section 11-42-203 and the location at which protests against designation of the proposed assessment area or of the proposed improvements are required to be filed;

(ii) the method by which the governing body will determine the number of protests required to defeat the designation of the proposed assessment area or acquisition or construction of the proposed improvements; and

(iii) in large, boldface, and conspicuous type that a property owner must protest the designation of the assessment area in writing if the owner objects to the area designation or being assessed for the proposed improvements, operation and maintenance costs, or economic promotion activities;

(j) state the date, time, and place of the public hearing required in Section 11-42-204;

(k) if the governing body elects to create and fund a reserve fund under Section 11-42-702, include a description of:

(i) how the reserve fund will be funded and replenished; and

(ii) how remaining money in the reserve fund is to be disbursed upon full payment of the bonds;

(l) if the governing body intends to designate a voluntary assessment area, include a property owner consent form that:

(i) estimates the total assessment to be levied against the particular parcel of property;

(ii) describes any additional benefits that the governing body expects the assessed property to receive from the improvements; ~~and~~

(iii) designates the date and time by which the fully executed consent form is required to be submitted to the governing body; and

(iv) if the governing body intends to enforce an assessment lien on the property in accordance with Subsection 11-42-502.1(2)(c):

(A) appoints a trustee that satisfies the requirements described in Section 57-1-21;

(B) gives the trustee the power of sale; and

(C) explains that if an assessment or an installment of an assessment is not paid when due, the local entity may sell the property owner's property to satisfy the amount due plus interest, penalties, and costs, in the manner described in Title 57, Chapter 1, Conveyances;

(m) if the local entity intends to levy an assessment to pay operation and maintenance costs or for economic promotion activities, include:

(i) a description of the operation and maintenance costs or economic promotion activities to be paid by assessments and the initial estimated annual assessment to be levied;

(ii) a description of how the estimated assessment will be determined;

(iii) a description of how and when the governing body will adjust the assessment to reflect the costs of:

(A) in accordance with Section 11-42-406, current economic promotion activities; or

(B) current operation and maintenance costs;

(iv) a description of the method of assessment if different from the method of assessment to be used for financing any improvement; and

(v) a statement of the maximum number of years over which the assessment will be levied for:

(A) operation and maintenance costs; or

(B) economic promotion activities;

(n) if the governing body intends to divide the proposed assessment area into classifications under Subsection 11-42-201(1)(b), include a description of the proposed classifications;

(o) if applicable, state the portion and value of the improvement that will be increased in size or

capacity to serve property outside of the assessment area and how the increases will be financed; and

(p) state whether the improvements will be financed with a bond and, if so, the currently estimated interest rate and term of financing, subject to Subsection (2), for which the benefitted properties within the assessment area may be obligated.

(2) The estimated interest rate and term of financing in Subsection (1)(p) may not be interpreted as a limitation to the actual interest rate incurred or the actual term of financing as subject to the market rate at the time of the issuance of the bond.

(3) A notice required under Subsection 11-42-201(2)(a) may contain other information that the governing body considers to be appropriate, including:

(a) the amount or proportion of the cost of the improvement to be paid by the local entity or from sources other than an assessment;

(b) the estimated total amount of each type of assessment for the various improvements to be financed according to the method of assessment that the governing body chooses; and

(c) provisions for any improvements described in Subsection 11-42-102(25)(a)(ii).

(4) Each notice required under Subsection 11-42-201(2)(a) shall:

(a) (i) (A) be published in a newspaper of general circulation within the local entity's jurisdictional boundaries, once a week for four consecutive weeks, with the last publication at least five but not more than 20 days before the day of the hearing required in Section 11-42-204; or

(B) if there is no newspaper of general circulation within the local entity's jurisdictional boundaries, be posted in at least three public places within the local entity's jurisdictional boundaries at least 20 but not more than 35 days before the day of the hearing required in Section 11-42-204; and

(ii) be published on the Utah Public Notice Website described in Section 63F-1-701 for four weeks before the deadline for filing protests specified in the notice under Subsection (1)(i); and

(b) be mailed, postage prepaid, within 10 days after the first publication or posting of the notice under Subsection (4)(a) to each owner of property to be assessed within the proposed assessment area at the property owner's mailing address.

(5) (a) The local entity may record the version of the notice that is published or posted in accordance with Subsection (4)(a) with the office of the county recorder, by legal description and tax identification number as identified in county records, against the property proposed to be assessed.

(b) The notice recorded under Subsection (5)(a) expires and is no longer valid one year after the day on which the local entity records the notice if the local entity has failed to adopt the designation

ordinance or resolution under Section 11-42-201 designating the assessment area for which the notice was recorded.

(6) A local entity shall make available on the local entity's website, or, if no website is available, at the local entity's place of business, the address and type of use of each unassessed benefitted government property described in Subsection (1)(g).

(7) If a governing body fails to provide actual or constructive notice under this section, the local entity may not assess a levy against a benefitted property omitted from the notice unless:

(a) the property owner gives written consent;

(b) the property owner received notice under Subsection 11-42-401(2)(a)(iii) and did not object to the levy of the assessment before the final hearing of the board of equalization; or

(c) the benefitted property is conveyed to a subsequent purchaser and, before the date of conveyance, the requirements of Subsections 11-42-206(3)(a)(i) and (ii), or, if applicable, Subsection 11-42-207(1)(d)(i) are met.

Section 2. Section 11-42-207 is amended to read:

11-42-207. Adding property to an assessment area.

(1) A local entity may add to a designated assessment area property to be benefitted and assessed if the governing body:

(a) finds that the inclusion of the property will not adversely affect the owners of property already in the assessment area;

(b) obtains from each owner of property to be added and benefitted a written consent that contains:

(i) the owner's consent to:

(A) the owner's property being added to the assessment area; and

(B) the making of the proposed improvements with respect to the owner's property;

(ii) if the assessment area to which the local entity seeks to add property is a voluntary assessment area, the items described in Subsection 11-42-202(1)(l);

~~[(iii)]~~ (iii) the legal description and tax identification number of the property to be added; and

~~[(iii)]~~ (iv) the owner's waiver of any right to protest the creation of the assessment area;

(c) amends the designation resolution or ordinance to include the added property; and

(d) within 15 days after amending the designation resolution or ordinance:

(i) records in the office of the recorder of the county in which the added property is located the original or certified copy of the amended

designation resolution or ordinance containing the legal description and tax identification number as identified on county records of each additional parcel of property added to the assessment area and proposed to be assessed; and

(ii) gives written notice to the property owner of the inclusion of the owner's property in the assessment area.

(2) (a) If a governing body fails to comply with the requirements of Subsection (1)(d)(i):

(i) the failure does not invalidate the amended designation resolution or ordinance; and

(ii) the local entity may not assess a levy against a subsequent purchaser of a benefitted property that lacked recorded notice unless:

(A) the subsequent purchaser gives written consent;

(B) the subsequent purchaser has actual notice of the assessment levy; or

(C) the subsequent purchaser purchased the property after a corrected notice was filed under Subsection (2)(c).

(b) The governing body may file a corrected notice under Subsection (1)(d)(i) if it failed to comply with the date or other requirements for recording notice of the amended designation resolution or ordinance.

(c) If a governing body has filed a corrected notice under Subsection (2)(b), the local entity may not retroactively collect or adjust the amount of the levy to recapture lost funds for a levy that the local entity was prohibited from collecting, if applicable, under Subsection (2)(a).

(d) A local entity shall pay for a shortfall in assessment funds created under Subsection (2)(a) or (c) from the local entity's general fund and not by increasing or adjusting the assessment of any other property within the assessment area.

(3) Except as provided in this section, a local entity may not add to an assessment area property not included in a notice under Section 11-42-202, or provide for making improvements that are not stated in the notice, unless the local entity gives notice as provided in Section 11-42-202 and holds a hearing as required under Section 11-42-204 as to the added property or additional improvements.

Section 3. Section 11-42-502 is amended to read:

11-42-502. Enforcement of an assessment lien -- Pre-May 10, 2016, procedure.

(1) The provisions of this section apply to any property that is:

(a) (i) located within the boundaries of an assessment area; and

(ii) the subject of a foreclosure procedure initiated before May 10, 2016, for an assessment or an installment of an assessment that is not paid when due; or

(b) located within the boundaries of an assessment area for which the local entity issued an assessment bond or a refunding assessment bond:

- (i) before May 10, 2016;
- (ii) that has not reached final maturity; and
- (iii) that is not refinanced on or after May 10, 2016.

[4] (2) If an assessment or an installment of an assessment is not paid when due, the local entity may sell the property on which the assessment has been levied for the amount due plus interest, penalties, and costs, in the manner provided:

- (a) by resolution or ordinance of the local entity;
- (b) in Title 59, Chapter 2, Part 13, Collection of Taxes, for the sale of property for delinquent general property taxes; or
- (c) in Title 57, Chapter 1, Conveyances, as though the property were the subject of a trust deed in favor of the local entity.

[2] (3) Except as [modified by] otherwise provided in this chapter, each tax sale under Subsection [4] (2)(b) shall be governed by Title 59, Chapter 2, Part 13, Collection of Taxes, to the same extent as if the sale were for the sale of property for delinquent general property taxes.

[3] (4) (a) In a foreclosure under Subsection [4] (2)(c):

- (i) the local entity may bid at the sale;
- (ii) the local entity's governing body shall designate a trustee satisfying the requirements of Section 57-1-21;
- (iii) each trustee designated under Subsection [3] (4)(a)(ii) has a power of sale with respect to the property that is the subject of the delinquent assessment lien;
- (iv) the property that is the subject of the delinquent assessment lien is considered to have been conveyed to the trustee, in trust, for the sole purpose of permitting the trustee to exercise the trustee's power of sale under Subsection [3] (4)(a)(iii);
- (v) if no one bids at the sale and pays the local entity the amount due on the assessment, plus interest and costs, the property is considered sold to the local entity for those amounts; and
- (vi) the local entity's chief financial officer may substitute and appoint one or more successor trustees, as provided in Section 57-1-22.

(b) The designation of a trustee under Subsection [3] (4)(a)(ii) shall be disclosed in the notice of default that the trustee gives to commence the foreclosure, and need not be stated in a separate instrument.

[4] (5) (a) The redemption of property that is the subject of a tax sale under Subsection [4] (2)(b) is governed by Title 59, Chapter 2, Part 13, Collection of Taxes.

(b) The redemption of property that is the subject of a foreclosure proceeding under Subsection [4]

(2)(c) is governed by Title 57, Chapter 1, Conveyances.

[5] (6) (a) The remedies [provided for] described in this part for the collection of an assessment and the enforcement of an assessment lien are cumulative.

(b) The use of one or more of the remedies [provided for] described in this part [may not be considered to] does not deprive the local entity of any other available remedy or means of collecting the assessment or enforcing the assessment lien.

Section 4. Section 11-42-502.1 is enacted to read:

11-42-502.1. Enforcement of an assessment lien -- Post-May 10, 2016, procedure.

(1) (a) Except as provided in Subsection (1)(b), the provisions of this section apply to any property that is:

- (i) located within the boundaries of an assessment area; and
- (ii) the subject of a foreclosure procedure initiated on or after May 10, 2016, for an assessment or an installment of an assessment that is not paid when due.

(b) The provisions of this chapter do not apply to property described in Subsection 11-42-502(1)(b).

(2) If an assessment or an installment of an assessment is not paid when due, the local entity may sell the property on which the assessment has been levied for the amount due plus interest, penalties, and costs:

- (a) in the manner provided in Title 59, Chapter 2, Part 13, Collection of Taxes, for the sale of property for delinquent general property taxes;
- (b) by judicial foreclosure; or
- (c) in the manner described in Title 57, Chapter 1, Conveyances, if:

(i) the property is in a voluntary assessment area; and

(ii) the owner of record of the property at the time the local entity initiates the process to sell the property in accordance with Title 57, Chapter 1, Conveyances, executed a property owner's consent form described in Subsection 11-42-202(1)(l) that includes a provision described in Subsection 11-42-202(1)(l)(iv).

(3) Except as otherwise provided in this chapter, each tax sale under Subsection (2)(a) shall be governed by Title 59, Chapter 2, Part 13, Collection of Taxes, to the same extent as if the sale were for the sale of property for delinquent general property taxes.

(4) (a) The redemption of property that is the subject of a tax sale under Subsection (2)(a) is governed by Title 59, Chapter 2, Part 13, Collection of Taxes.

(b) The redemption of property that is the subject of a judicial foreclosure proceeding under

Subsection (2)(b) is governed by Title 78B, Chapter 6, Part 9, Mortgage Foreclosure.

(c) The redemption of property that is the subject of a foreclosure proceeding under Subsection (2)(c) is governed by Title 57, Chapter 1, Conveyances.

(5) (a) The remedies described in this part for the collection of an assessment and the enforcement of an assessment lien are cumulative.

(b) The use of one or more of the remedies described in this part does not deprive the local entity of any other available remedy or means of collecting the assessment or enforcing the assessment lien.

CHAPTER 86**H. B. 30**

Passed February 11, 2016

Approved March 21, 2016

Effective May 10, 2016

**GOOD LANDLORD
PROGRAM AMENDMENTS**

Chief Sponsor: Gage Froerer

Senate Sponsor: Daniel W. Thatcher

LONG TITLE**General Description:**

This bill amends provisions related to a good landlord program.

Highlighted Provisions:

This bill:

- ▶ defines “residential landlord”;
- ▶ prohibits a municipality from requiring a residential landlord to deny tenancy to certain individuals;
- ▶ prohibits a municipality from requiring a residential landlord to provide certain information on a tenant or on a contract with a tenant;
- ▶ permits a municipality to require a copy of an agreement between the owner of record of real property and a third-party provider who manages the property;
- ▶ if a residential landlord owns multiple properties, requires a municipality to charge a disproportionate rental fee reduction for each property that is in compliance; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

10-1-203.5, as enacted by Laws of Utah 2012, Chapter 289

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

Section 1. Section 10-1-203.5 is amended to read:**10-1-203.5. Disproportionate rental fee -- Good landlord training program -- Fee reduction.**

(1) As used in this section:

(a) “Business” means the rental of one or more residential units within a municipality.

(b) “Disproportionate rental fee” means a fee adopted by a municipality to recover its disproportionate costs of providing municipal services to residential rental units compared to similarly-situated owner-occupied housing.

(c) “Disproportionate rental fee reduction” means a reduction of a disproportionate rental fee as a condition of complying with the requirements of a good landlord training program.

(d) “Exempt business” means the rental of a residential unit within a single structure that contains:

- (i) no more than four residential units; and
- (ii) one unit occupied by the owner.

(e) “Exempt landlord” means a residential landlord who demonstrates to a municipality:

(i) completion of any live good landlord training program offered by any other Utah city that offers a good landlord program;

(ii) that the residential landlord has a current professional designation of “property manager”; or

(iii) compliance with a requirement described in Subsection [(4)] (6).

(f) “Good landlord training program” means a program offered by a municipality to encourage business practices that are designed to reduce the disproportionate cost of municipal services to residential rental units by offering a disproportionate rental fee reduction for any residential landlord who:

(i) (A) completes a landlord training program provided by the municipality; or

(B) is an exempt landlord;

(ii) implements measures to reduce crime in rental housing as specified in a municipal ordinance or policy; and

(iii) operates and manages rental housing in accordance with an applicable municipal ordinance.

(g) “Municipal services” means:

(i) public utilities;

(ii) police;

(iii) fire;

(iv) code enforcement;

(v) storm water runoff;

(vi) traffic control;

(vii) parking;

(viii) transportation;

(ix) beautification; or

(x) snow removal.

(h) “Municipal services study” means a study of the cost of all municipal services to rental housing that:

(i) are reasonably attributable to the rental housing; and

(ii) exceed the municipality’s cost to serve similarly-situated, owner-occupied housing.

(i) “Residential landlord” means:

(i) the owner of record of residential real property that is leased or rented to another; or

(ii) a third-party provider that has an agreement with the owner of record to manage the owner’s real property.

(2) The legislative body of a municipality may charge and collect a disproportionate rental fee on a business that causes disproportionate costs to municipal services if the municipality:

(a) has performed a municipal services study; and

(b) adopts a disproportionate rental fee that does not exceed the amount that is justified by the municipal services study on a per residential rental unit basis.

(3) A municipality may not:

(a) impose a disproportionate rental fee on an exempt business;

(b) require a residential landlord to deny tenancy to an individual released from probation or parole whose conviction date occurred more than four years before the date of tenancy; [ø]

(c) without cause and notice, require a residential landlord to submit to a random building inspection[-];

(d) unless agreed to by a residential landlord and in compliance with state and federal law, collect from a residential landlord or retain:

(i) a tenant's consumer report, as defined in 15 U.S.C. Sec. 1681a, in violation of 15 U.S.C. Sec. 1681b as amended;

(ii) a tenant's criminal history record information in violation of Section 53-10-108; or

(iii) a copy of an agreement between the residential landlord and a tenant regarding the tenant's term of occupancy, rent, or any other condition of occupancy;

(e) require that any documents required from the landlord be notarized; or

(f) prohibit a residential landlord from passing on to the tenant the license or disproportionate fee.

(4) Nothing in this section shall limit:

(a) a municipality's right to audit and inspect an exempt residential landlord's records to ensure compliance with a disproportionate rental fee reduction program; or

(b) the right of a municipality with a short-term or vacation rental ordinance to review an owner's rental agreement to verify compliance with the municipality's ordinance.

(5) Notwithstanding Section 10-11-2, a residential landlord may provide the name and address of a person to whom all correspondence regarding the property shall be sent. If the landlord provides the name and address in writing, the municipality shall provide all further correspondence regarding the property to the designated person. The municipality may also provide copies of notices to the residential landlord.

[4] (6) In addition to a requirement or qualification described in Subsection (1)(e), a municipality may recognize a good landlord training program described in its ordinance.

[5] (7) (a) If a municipality adopts a good landlord program, the municipality shall provide an appeal procedure affording due process of law to a residential landlord who is denied a disproportionate rental fee reduction.

(b) A municipality may not adopt a new disproportionate rental fee unless the municipality provides a disproportionate rental fee reduction.

(8) A property manager who represents an owner of property that qualifies for a municipal disproportionate rental fee may not be restricted from simultaneously representing another owner of property that does not qualify for a municipal disproportionate rental fee.

CHAPTER 87**H. B. 39**

Passed February 8, 2016

Approved March 21, 2016

Effective May 10, 2016

(Retrospective operation to January 1, 2016)

**PASS-THROUGH ENTITY
RETURN FILING DATE**Chief Sponsor: Steve Eliason
Senate Sponsor: Curtis S. Bramble**LONG TITLE****General Description:**

This bill modifies the date for a pass-through entity to file a tax return.

Highlighted Provisions:

This bill:

- ▶ modifies the date for a pass-through entity to file a tax return; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:**AMENDS:**

- 59-7-701, as last amended by Laws of Utah 2009, Chapter 312
- 59-10-507, as last amended by Laws of Utah 2009, Chapter 312
- 59-10-514, as last amended by Laws of Utah 2008, Chapter 382
- 59-10-518, as last amended by Laws of Utah 2007, Chapter 28
- 59-10-1403, as last amended by Laws of Utah 2009, Chapter 312

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

Section 1. Section 59-7-701 is amended to read:**59-7-701. Taxation of S corporations.**

(1) Except as provided in Section 59-7-102 and subject to the other provisions of this part, beginning on July 1, 1994, and ending on the last day of the taxable year that begins on or after January 1, 2012, but begins on or before December 31, 2012, an S corporation is subject to taxation in the same manner as that S corporation is taxed under Subchapter S - Tax Treatment of S Corporations and Their Shareholders, Sec. 1361 et seq., Internal Revenue Code.

(2) An S corporation is taxed at the tax rate provided in Section 59-7-104.

(3) The business income and nonbusiness income of an S corporation is subject to Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions.

(4) An S corporation having income derived from or connected with Utah sources shall make a return

in accordance with [Section] Sections 59-10-507 and 59-10-514.

(5) An S corporation shall make payments of estimated tax as required by Section 59-7-504.

(6) An S corporation is subject to Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act.

(7) A pass-through entity taxpayer as defined in Section 59-10-1402 of an S corporation is subject to Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act.

(8) Provisions under this chapter governing the following apply to an S corporation:

- (a) an assessment;
- (b) a penalty;
- (c) a refund; or
- (d) a record required for an S corporation.

~~[(9) (a) During the 2011 interim, the Revenue and Taxation Interim Committee shall study the fiscal impacts of:]~~

~~[(i) the enactment of Laws of Utah 2009, Chapter 312; and]~~

~~[(ii) the taxation of S corporations under this part.]~~

~~[(b) On or before November 30, 2011, the Revenue and Taxation Interim Committee shall report its findings and recommendations on the study to the Executive Appropriations Committee.]~~

Section 2. Section 59-10-507 is amended to read:**59-10-507. Return by a pass-through entity.**

(1) As used in this section:

(a) "Pass-through entity" is as defined in Section 59-10-1402.

(b) "Taxable year" means a year or other time period that would be a taxable year of a pass-through entity if the pass-through entity were subject to taxation under this chapter.

(2) A pass-through entity having any income derived from or connected with Utah sources shall make a return for the taxable year ~~[as prescribed by the commission]~~ in accordance with Section 59-10-514.

Section 3. Section 59-10-514 is amended to read:**59-10-514. Return filing requirements -- Rulemaking authority.**

(1) Subject to Subsection (3) and Section 59-10-518:

(a) an individual income tax return filed for a tax imposed in accordance with Part 1, Determination and Reporting of Tax Liability and Information, shall be filed with the commission~~[:]~~ on or before the day on which a federal individual income tax return is due under the Internal Revenue Code;

~~(i) except as provided in Subsection (1)(a)(ii), on or before the 15th day of the fourth month following the last day of the taxpayer's taxable year; or]~~

~~(ii) on or before the day on which a federal individual income tax return is due under the Internal Revenue Code if the Internal Revenue Code provides a due date for filing that federal individual income tax return that is different from the due date described in Subsection (1)(a)(i);]~~

(b) a fiduciary income tax return filed for a tax imposed in accordance with Part 2, Trusts and Estates, shall be filed with the commission[;] on or before the day on which a federal return for estates and trusts is due under the Internal Revenue Code; or

~~(i) except as provided in Subsection (1)(b)(ii), on or before the 15th day of the fourth month following the last day of the taxpayer's taxable year; or]~~

~~(ii) on or before the day on which a federal tax return for estates and trusts is due under the Internal Revenue Code if the Internal Revenue Code provides a due date for filing that federal tax return for estates and trusts that is different from the due date described in Subsection (1)(b)(i); or]~~

(c) a return filed in accordance with Section 59-10-507[;] shall be filed with the commission[;] on or before the 15th day of the fourth month following the last day of the taxpayer's taxable year.

~~(i) except as provided in Subsection (1)(c)(ii), in accordance with Section 59-10-507; or]~~

~~(ii) on or before the day on which a federal return of partnership income is due under the Internal Revenue Code if the Internal Revenue Code provides a due date for filing that federal return of partnership income that is different from the due date described in Subsection (1)(c)(i).]~~

(2) A person required to make and file a return under this chapter shall, without assessment, notice, or demand, pay any tax due:

(a) to the commission; and

(b) before the due date for filing the return [determined], without regard to any extension of time for filing the return.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing what constitutes filing a return with the commission.

Section 4. Section 59-10-518 is amended to read:

59-10-518. Time for performance of acts when last day falls on Saturday, Sunday, or legal holiday.

(1) As used in this section, "legal holiday" means a legal holiday in this state.

(2) ~~[Subject to Section 59-10-514, if]~~ If the last day prescribed under authority of this chapter for performing any act falls on Saturday, Sunday, or a legal holiday, the performance of the act shall be considered to be timely if it is performed on the next

succeeding day which is not a Saturday, Sunday, or a legal holiday.

(3) For purposes of this section, the last day for the performance of any act shall be determined by including any authorized extension of time.

Section 5. Section 59-10-1403 is amended to read:

59-10-1403. Income tax treatment of a pass-through entity -- Returns -- Classification same as under Internal Revenue Code.

(1) Subject to Subsection (3), a pass-through entity is not subject to a tax imposed by this chapter.

(2) The income, gain, loss, deduction, or credit of a pass-through entity shall be passed through to one or more pass-through entity taxpayers as provided in this part.

(3) A pass-through entity is subject to the return filing requirements of ~~[Section]~~ Sections 59-10-507 and 59-10-514.

(4) A pass-through entity that transacts business in the state shall be classified for purposes of taxation under this title in the same manner as the pass-through entity is classified for federal income tax purposes.

Section 6. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2016.

CHAPTER 88**H. B. 52**

Passed March 9, 2016
 Approved March 21, 2016
 Effective May 10, 2016

OFFICE OF OUTDOOR RECREATION AMENDMENTS

Chief Sponsor: Patrice M. Arent
 Senate Sponsor: Ralph Okerlund
 Cosponsors: Stewart Barlow
 Melvin R. Brown
 Rebecca Chavez-Houck
 Scott H. Chew
 Brad L. Dee
 Sophia M. DiCaro
 Jack R. Draxler
 Susan Duckworth
 Rebecca P. Edwards
 Steve Eliason
 Gage Froerer
 Stephen G. Handy
 Timothy D. Hawkes
 Lynn N. Hemingway
 Sandra Hollins
 Eric K. Hutchings
 Don L. Ipson
 Brad King
 Bradley G. Last
 Kay L. McIff
 Carol Spackman Moss
 Merrill F. Nelson
 Michael E. Noel
 Curtis Oda
 Derrin Owens
 Lee B. Perry
 Dixon M. Pitcher
 Marie H. Poulson
 Kraig Powell
 Paul Ray
 Edward H. Redd
 Angela Romero
 Scott D. Sandall
 V. Lowry Snow
 Robert M. Spendlove
 Jon E. Stanard
 Keven J. Stratton
 Earl D. Tanner
 Raymond P. Ward
 R. Curt Webb
 John R. Westwood
 Mark A. Wheatley
 Brad R. Wilson

LONG TITLE**General Description:**

This bill modifies provisions related to the Utah Office of Outdoor Recreation.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Outdoor Recreational Infrastructure Grant Program;
- ▶ describes the requirements and purposes of the program;

- ▶ grants rulemaking authority to the Utah Office of Outdoor Recreation; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2017:

- ▶ to the Governor's Office of Economic Development -- Utah Office of Outdoor Recreation -- Outdoor Recreational Infrastructure Grant Program, as a one-time appropriation:
 - from the General Fund, One-time, \$1,000,000

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 63N-9-102, as renumbered and amended by Laws of Utah 2015, Chapter 283
 63N-9-104, as renumbered and amended by Laws of Utah 2015, Chapter 283
 63N-9-105, as renumbered and amended by Laws of Utah 2015, Chapter 283
 63N-9-106, as renumbered and amended by Laws of Utah 2015, Chapter 283

ENACTS:

- 63N-9-201, Utah Code Annotated 1953
 63N-9-202, Utah Code Annotated 1953
 63N-9-203, Utah Code Annotated 1953

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

Section 1. Section 63N-9-102 is amended to read:**63N-9-102. Definitions.**

As used in this chapter:

(1) "Accessible to the general public," in relation to the awarding of an infrastructure grant, means:

- (a) the public may use the infrastructure in accordance with federal and state regulations; and
- (b) no community or group retains exclusive rights to access the infrastructure.

(1) (2) "Director" means the director of the outdoor recreation office.

(2) (3) "Executive director" means the executive director of GOED.

(4) "Infrastructure grant" means an outdoor recreational infrastructure grant described in Section 63N-9-202.

(3) (5) "Outdoor recreation office" means the Utah Office of Outdoor Recreation created in Section 63N-9-104.

(6) (a) "Recreational infrastructure project" means an undertaking to build or improve the approved facilities, services, and installations needed for the public to access and enjoy the state's outdoors.

(b) "Recreational infrastructure project" may include the:

- (i) establishment, construction, or renovation of a trail, trail infrastructure, or trail facilities;

(ii) construction of a project for water-related outdoor recreational activities;

(iii) development of a project for wildlife watching opportunities, including bird watching;

(iv) development of a project that provides winter recreation amenities;

(v) construction or improvement of a community park that has amenities for outdoor recreation;

(vi) construction or improvement of a naturalistic and accessible playground; and

(vii) development, establishment, or expansion of a program for youth related to outdoor recreation.

(7) “Underserved or underprivileged community” means a group of people, including a municipality, county, or American Indian tribe that:

(a) has limited access or has demonstrated a low level of use of recreational infrastructure; and

(b) is economically disadvantaged.

Section 2. Section 63N-9-104 is amended to read:

63N-9-104. Creation of outdoor recreation office and appointment of director -- Responsibilities of outdoor recreation office.

(1) There is created within the Governor’s Office of Economic Development the Utah Office of Outdoor Recreation.

(2) (a) The executive director shall appoint a director of the outdoor recreation office.

(b) The director shall report to the executive director and may appoint staff.

(3) The ~~[purposes of the office are to]~~ outdoor recreation office shall:

(a) coordinate outdoor recreation policy, management, and promotion:

(i) among state and federal agencies and local government entities in the state; and

(ii) with the Public Lands Policy Coordinating Office created in Section 63J-4-602, if public land is involved;

(b) promote economic development in the state by:

(i) coordinating with outdoor recreation stakeholders;

(ii) improving recreational opportunities; and

(iii) recruiting outdoor recreation business;

(c) recommend to the governor and Legislature policies and initiatives to enhance recreational amenities and experiences in the state and help implement those policies and initiatives;

(d) develop data regarding the impacts of outdoor recreation in the state; and

(e) promote the health and social benefits of outdoor recreation, especially to young people.

(4) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the outdoor recreation office may:

(a) seek federal grants or loans;

(b) seek to participate in federal programs; and

(c) in accordance with applicable federal program guidelines, administer federally funded outdoor recreation programs.

(5) For purposes of administering this part, the outdoor recreation office may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 3. Section 63N-9-105 is amended to read:

63N-9-105. Duties of director.

~~(1)~~ The director shall:

~~[(a) assure]~~ (1) ensure that the [purposes] responsibilities of the outdoor recreation office outlined in [Subsection 63N-9-104(3)] this chapter are fulfilled; and

~~[(b)]~~ (2) organize and provide administrative oversight to the outdoor recreation office staff.

~~[(2) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the outdoor recreation office may:]~~

~~[(a) seek federal grants or loans;]~~

~~[(b) seek to participate in federal programs; and]~~

~~[(c) in accordance with applicable federal program guidelines, administer federally funded outdoor recreation programs.]~~

~~[(3) For purposes of administering this part, the outdoor recreation office may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.]~~

Section 4. Section 63N-9-106 is amended to read:

63N-9-106. Annual report.

The executive director shall include in the annual written report described in Section 63N-1-301[,] a report from the director on the activities of the outdoor recreation office, including a description and the amount of any awarded infrastructure grants.

Section 5. Section 63N-9-201 is enacted to read:

Part 2. Outdoor Recreational Infrastructure Grant Program

63N-9-201. Title.

This part is known as the “Outdoor Recreational Infrastructure Grant Program.”

Section 6. Section 63N-9-202 is enacted to read:

63N-9-202. Creation and purpose of infrastructure grant program.

(1) There is created the Outdoor Recreational Infrastructure Grant Program administered by the outdoor recreation office.

(2) The outdoor recreation office may seek to accomplish the following objectives in administering the infrastructure grant program:

(a) build, maintain, and promote recreational infrastructure to provide greater access to low-cost outdoor recreation for the state's citizens;

(b) encourage residents and nonresidents of the state to take advantage of the beauty of Utah's outdoors;

(c) encourage individuals and businesses to relocate to the state;

(d) promote outdoor exercise; and

(e) provide outdoor recreational opportunities to an underserved or underprivileged community in the state.

Section 7. Section 63N-9-203 is enacted to read:

63N-9-203. Rulemaking and requirements for awarding an infrastructure grant.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the outdoor recreation office shall make rules establishing the eligibility and reporting criteria for an entity to receive an infrastructure grant, including:

(a) the form and process of submitting an application to the outdoor recreation office for an infrastructure grant;

(b) which entities are eligible to apply for an infrastructure grant;

(c) specific categories of projects that are eligible for an infrastructure grant;

(d) the method and formula for determining grant amounts; and

(e) the reporting requirements of grant recipients.

(2) In determining the award of an infrastructure grant, the outdoor recreation office may prioritize a project that will serve an underprivileged or underserved community.

(3) An infrastructure grant may only be awarded by the executive director after consultation with the director and the board.

(4) The following entities may not receive an infrastructure grant under this part:

(a) a federal government entity;

(b) a state agency; and

(c) a for-profit entity.

(5) An infrastructure grant may only be awarded under this part:

(a) for a project that is accessible to the general public; and

(b) subject to Subsections (6) and (7), if the grant recipient agrees to provide matching funds having a value equal to or greater than the amount of the infrastructure grant.

(6) Up to 50% of the grant recipient match described in Subsection (5)(b) may be provided through an in-kind contribution by the grant recipient, if:

(a) approved by the executive director after consultation with the director and the board; and

(b) the in-kind donation does not include real property.

(7) An infrastructure grant may not be awarded under this part if the grant, or the grant recipient match described in Subsection (5)(b), will be used for the purchase of real property or for the purchase or transfer of a conservation easement.

Section 8. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to amounts previously appropriated for fiscal year 2017.

To Governor's Office of Economic Development -- Utah Office of Outdoor Recreation

From General Fund, One-time \$1,000,000

Schedule of Programs:

Outdoor Recreational Infrastructure
Grant Program \$1,000,000

With regards to the appropriation provided under this section, the Legislature intends that:

(1) under Section 63J-1-603, the appropriation not lapse at the close of fiscal year 2017;

(2) \$300,000 be used for an infrastructure grant, where the grant recipient meets the requirements of Section 63N-9-203, related to the Kanab Trail at the Jackson Flat Reservoir;

(3) the use of any nonlapsing funds be limited to providing grants and paying for the administration costs of the Outdoor Recreational Infrastructure Grant Program created in Section 65N-9-202.

CHAPTER 89**H. B. 58**

Passed February 5, 2016
 Approved March 21, 2016
 Effective May 10, 2016

HEMP EXTRACT AMENDMENTS

Chief Sponsor: Gage Froerer
 Senate Sponsor: Stephen H. Urquhart
 Cosponsor: Norman K. Thurston

LONG TITLE**General Description:**

This bill amends provisions related to hemp extract.

Highlighted Provisions:

This bill:

- ▶ amends the definition of “hemp extract”;
- ▶ modifies Title 63I, Chapter 1, Legislative Oversight and Sunset Act, by extending the repeal date of the Hemp Extract Registration Act to July 1, 2021;
- ▶ modifies Title 63I, Chapter 1, Legislative Oversight and Sunset Act, by extending the repeal date of Section 58-37-4.3, Exemption for use or possession of hemp extract, to July 1, 2021; and
- ▶ requires the Department of Health to request proposals to conduct a study of hemp extract.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-56-103, as enacted by Laws of Utah 2014, Chapter 25
 58-37-4.3, as enacted by Laws of Utah 2014, Chapter 25
 63I-1-226, as last amended by Laws of Utah 2015, Chapters 16, 31, and 258
 63I-1-258, as last amended by Laws of Utah 2015, Chapters 40, 186, 187, 320, 367, and 432

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

Section 1. Section 26-56-103 is amended to read:**26-56-103. Hemp extract registration card -- Application -- Fees -- Database.**

(1) The department shall issue a hemp extract registration card to an individual who:

- (a) is at least 18 years of age;
- (b) is a Utah resident;
- (c) provides the department with a statement signed by a neurologist that:
 - (i) indicates that the individual:
 - (A) suffers from intractable epilepsy; and
 - (B) may benefit from treatment with hemp extract; and

(ii) is consistent with a record from the neurologist, concerning the individual, contained in the database described in Subsection (8);

(d) pays the department a fee in an amount established by the department under Subsection (5); and

(e) submits an application to the department, on a form created by the department, that contains:

- (i) the individual’s name and address;
- (ii) a copy of the individual’s valid photo identification; and
- (iii) any other information the department considers necessary to implement this chapter.

(2) The department shall issue a hemp extract registration card to a parent who:

- (a) is at least 18 years of age;
- (b) is a Utah resident;
- (c) provides the department with a statement signed by a neurologist that:
 - (i) indicates that a minor in the parent’s care:
 - (A) suffers from intractable epilepsy; and
 - (B) may benefit from treatment with hemp extract; and

(ii) is consistent with a record from the neurologist, concerning the minor, contained in the database described in Subsection (8);

(d) pays the department a fee in an amount established by the department under Subsection (5); and

(e) submits an application to the department, on a form created by the department, that contains:

- (i) the parent’s name and address;
- (ii) the minor’s name;
- (iii) a copy of the parent’s valid photo identification; and
- (iv) any other information the department considers necessary to implement this chapter.

(3) The department shall maintain a record of:

- (a) the name of each registrant; and
- (b) the name of each minor receiving care from a registrant.

(4) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

- (a) establish the information an applicant is required to provide to the department under Subsections (1)(e)(iii) and (2)(e)(iv); and
- (b) establish, in accordance with recommendations from the Department of Public Safety, the form and content of the hemp extract registration card.

(5) The department shall establish fees in accordance with Section 63J-1-504 that are no

greater than the amount necessary to cover the cost the department incurs to implement this chapter.

(6) The registration cards issued under Subsections (1) and (2) are:

(a) valid for one year; and

(b) renewable, if, at the time of renewal, the registrant meets the requirements of either Subsection (1) or (2).

(7) The neurologist who signs the statement described in Subsection (1)(c) or (2)(c) shall:

(a) keep a record of the neurologist's evaluation and observation of a patient who is a registrant or minor under a registrant's care, including the patient's response to hemp extract; and

(b) transmit the record described in Subsection (7)(a) to the department.

(8) The department shall:

(a) maintain a database of the records described in Subsection (7); ~~and~~

(b) treat the records as identifiable health data, as defined in Section 26-3-1[-]; and

(c) establish a procedure for ensuring that neurologists transmit the records described in Subsection (7).

(9) (a) The department ~~[may share the]~~ shall prepare a de-identified set of data based on records described in Subsection (8) ~~[with]~~ and make the set of data available to researchers at a higher education institution for the purpose of studying hemp extract.

(b) No later than July 1, 2016, the department shall, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, request proposals to conduct a study of hemp extract.

(c) The study of hemp extract shall include at least the following:

(i) analysis of data from the records of patients who have held hemp extract registration cards for one year or more;

(ii) the effect of hemp extract on the patient's seizure control; and

(iii) any adverse effects or other effects on the patient that may be attributable to the patient's use of hemp extract.

(d) The department shall report to the Health and Human Services Interim Committee of the Legislature on or before the November 2016 interim meeting on the study of hemp extract.

Section 2. Section 58-37-4.3 is amended to read:

58-37-4.3. Exemption for use or possession of hemp extract.

(1) As used in this section, "hemp extract" means an extract from a cannabis plant, or a mixture or

preparation containing cannabis plant material, that:

(a) is composed of less than 0.3% tetrahydrocannabinol by weight;

(b) is composed of at least ~~[15%]~~ 5% cannabidiol by weight; and

(c) contains no other psychoactive substance.

(2) Notwithstanding any other provision of this chapter, an individual who possesses or uses hemp extract is not subject to the penalties described in this chapter for possession or use of the hemp extract if the individual:

(a) possesses or uses the hemp extract only to treat intractable epilepsy, as defined in Section 26-56-102;

(b) originally obtained the hemp extract from a sealed container with a label indicating the hemp extract's place of origin, and a number that corresponds with a certificate of analysis;

(c) possesses, in close proximity to the hemp extract, a certificate of analysis that:

(i) has a number that corresponds with the number on the label described in Subsection (2)(b);

(ii) indicates the hemp extract's ingredients, including its percentages of tetrahydrocannabinol and cannabidiol by weight; and

(iii) is created by a laboratory that is:

(A) not affiliated with the producer of the hemp extract; and

(B) licensed in the state where the hemp extract was produced; and

~~[(iv) is transmitted by the laboratory to the Department of Health; and]~~

(d) has a current hemp extract registration card issued by the Department of Health under Section 26-56-103.

(3) Notwithstanding any other provision of this chapter, an individual who possesses hemp extract lawfully under Subsection (2) and administers hemp extract to a minor is not subject to the penalties described in this chapter for administering the hemp extract to the minor if:

(a) the individual is the minor's parent or legal guardian; and

(b) the individual is registered with the Department of Health as the minor's parent under Section 26-56-103.

Section 3. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates, Title 26.

(1) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(2) Section 26-10-11 is repealed July 1, 2020.

(3) Section 26-21-23, Licensing of non-Medicaid nursing care facility beds, is repealed July 1, 2018.

(4) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(5) Title 26, Chapter 36a, Hospital Provider Assessment Act, is repealed July 1, 2016.

(6) Section 26-38-2.5 is repealed July 1, 2017.

(7) Section 26-38-2.6 is repealed July 1, 2017.

(8) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed July 1, [~~2016~~] 2021.

Section 4. Section 63I-1-258 is amended to read:

63I-1-258. Repeal dates, Title 58.

(1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2026.

(2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

(3) Title 58, Chapter 20a, Environmental Health Scientist Act, is repealed July 1, 2018.

(4) Section 58-37-4.3 is repealed July 1, [~~2016~~] 2021.

(5) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.

(6) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2019.

(7) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2025.

(8) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2023.

(9) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

(10) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1, 2026.

(11) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2017.

CHAPTER 90**H. B. 63**

Passed March 3, 2016
 Approved March 21, 2016
 Effective May 10, 2016

**FEES FOR GOVERNMENT
 RECORDS REQUESTS**

Chief Sponsor: Brian S. King
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies provisions of the Government Records Access and Management Act relating to fees charged for record requests.

Highlighted Provisions:

This bill:

- ▶ provides for de novo review of an appeal of a fee waiver request.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-2-203, as last amended by Laws of Utah 2009, Chapter 183

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

Section 1. Section 63G-2-203 is amended to read:

63G-2-203. Fees.

(1) A governmental entity may charge a reasonable fee to cover the governmental entity's actual cost of providing a record. This fee shall be approved by the governmental entity's executive officer.

(2) (a) When a governmental entity compiles a record in a form other than that normally maintained by the governmental entity, the actual costs under this section may include the following:

(i) the cost of staff time for compiling, formatting, manipulating, packaging, summarizing, or tailoring the record either into an organization or media to meet the person's request;

(ii) the cost of staff time for search, retrieval, and other direct administrative costs for complying with a request; and

(iii) in the case of fees for a record that is the result of computer output other than word processing, the actual incremental cost of providing the electronic services and products together with a reasonable portion of the costs associated with formatting or interfacing the information for particular users, and the administrative costs as set forth in Subsections (2)(a)(i) and (ii).

(b) An hourly charge under Subsection (2)(a) may not exceed the salary of the lowest paid employee who, in the discretion of the custodian of records,

has the necessary skill and training to perform the request.

(c) Notwithstanding Subsections (2)(a) and (b), no charge may be made for the first quarter hour of staff time.

(3) (a) Fees shall be established as provided in this Subsection (3).

(b) A governmental entity with fees established by the Legislature:

(i) shall establish the fees defined in Subsection (2), or other actual costs associated with this section through the budget process; and

(ii) may use the procedures of Section 63J-1-504 to set fees until the Legislature establishes fees through the budget process.

(c) Political subdivisions shall establish fees by ordinance or written formal policy adopted by the governing body.

(d) The judiciary shall establish fees by rules of the judicial council.

(4) A governmental entity may fulfill a record request without charge and is encouraged to do so ~~when~~ if it determines that:

(a) releasing the record primarily benefits the public rather than a person;

(b) the individual requesting the record is the subject of the record, or an individual specified in Subsection 63G-2-202(1) or (2); or

(c) the requester's legal rights are directly implicated by the information in the record, and the requester is impecunious.

(5) A governmental entity may not charge a fee for:

(a) reviewing a record to determine whether it is subject to disclosure, except as permitted by Subsection (2)(a)(ii); or

(b) inspecting a record.

(6) (a) A person who believes that there has been an unreasonable denial of a fee waiver under Subsection (4) may appeal the denial in the same manner as a person appeals when inspection of a public record is denied under Section 63G-2-205.

(b) The adjudicative body hearing the appeal:

(i) shall review the fee waiver de novo, but shall review and consider the governmental entity's denial of the fee waiver and any determination under Subsection (4); and

(ii) has the same authority when a fee waiver or reduction is denied as it has when the inspection of a public record is denied.

(7) (a) All fees received under this section by a governmental entity subject to Subsection (3)(b) shall be retained by the governmental entity as a dedicated credit.

(b) Those funds shall be used to recover the actual cost and expenses incurred by the governmental

entity in providing the requested record or record series.

(8) (a) A governmental entity may require payment of past fees and future estimated fees before beginning to process a request if:

- (i) fees are expected to exceed \$50; or
- (ii) the requester has not paid fees from previous requests.

(b) Any prepaid amount in excess of fees due shall be returned to the requester.

(9) This section does not alter, repeal, or reduce fees established by other statutes or legislative acts.

(10) (a) Notwithstanding Subsection (3)(c), fees for voter registration records shall be set as provided in this Subsection (10).

(b) The lieutenant governor shall:

(i) after consultation with county clerks, establish uniform fees for voter registration and voter history records that meet the requirements of this section; and

(ii) obtain legislative approval of those fees by following the procedures and requirements of Section 63J-1-504.

CHAPTER 91**H. B. 66**

Passed March 10, 2016
 Approved March 21, 2016
 Effective May 10, 2016

**ONLINE PARENTING COURSE
 FOR DIVORCING FAMILIES**

Chief Sponsor: Carol Spackman Moss
 Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill authorizes the educational course for divorcing parents to be attended online.

Highlighted Provisions:

This bill:

- ▶ authorizes the courts to provide an online option for the mandatory educational course for divorcing parents.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

30-3-11.3, as last amended by Laws of Utah 2012, Chapter 347

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

Section 1. Section 30-3-11.3 is amended to read:

30-3-11.3. Mandatory educational course for divorcing parents -- Purpose -- Curriculum -- Exceptions.

(1) The Judicial Council shall approve and implement a mandatory course for divorcing parents in all judicial districts. The mandatory course is designed to educate and sensitize divorcing parties to their children's needs both during and after the divorce process.

(2) The Judicial Council shall adopt rules to implement and administer this program.

(3) As a prerequisite to receiving a divorce decree, both parties are required to attend a mandatory course on their children's needs after filing a complaint for divorce and receiving a docket number, unless waived under Section 30-3-4. If that requirement is waived, the court may permit the divorce action to proceed.

(4) The court may require unmarried parents to attend this educational course when those parents are involved in a visitation or custody proceeding before the court.

(5) The mandatory course shall instruct both parties:

- (a) about divorce and its impacts on:
 - (i) their child or children;
 - (ii) their family relationship; and

(iii) their financial responsibilities for their child or children; and

(b) that domestic violence has a harmful effect on children and family relationships.

(6) The course may be provided through live instruction, video instruction, or an online provider. The online and video options must be formatted as interactive presentations that ensure active participation and learning by the parent.

[(6)] (7) The Administrative Office of the Courts shall administer the course pursuant to Title 63G, Chapter 6a, Utah Procurement Code, through private or public contracts and organize the program in each of Utah's judicial districts. The contracts shall provide for the recoupment of administrative expenses through the costs charged to individual parties, pursuant to Subsection [(8)] (9).

[(7)] (8) A certificate of completion constitutes evidence to the court of course completion by the parties.

[(8)] (9) (a) Each party shall pay the costs of the course to the independent contractor providing the course at the time and place of the course. A fee of \$8 shall be collected, as part of the course fee paid by each participant, and deposited in the Children's Legal Defense Account, described in Section 51-9-408.

(b) Each party who is unable to pay the costs of the course may attend the course without payment upon a prima facie showing of impecuniosity as evidenced by an affidavit of impecuniosity filed in the district court. In those situations, the independent contractor shall be reimbursed for its costs from the appropriation to the Administrative Office of the Courts for "Mandatory Educational Course for Divorcing Parents Program." Before a decree of divorce may be entered, the court shall make a final review and determination of impecuniosity and may order the payment of the costs if so determined.

[(9)] (10) Appropriations from the General Fund to the Administrative Office of the Courts for the "Mandatory Educational Course for Divorcing Parents Program" shall be used to pay the costs of an indigent parent who makes a showing as provided in Subsection [(8)] (9)(b).

[(10)] (11) The Administrative Office of the Courts shall adopt a program to evaluate the effectiveness of the mandatory educational course. Progress reports shall be provided if requested by the Judiciary Interim Committee.

CHAPTER 92**H. B. 68**

Passed February 26, 2016

Approved March 21, 2016

Effective May 10, 2016

POST-EXPOSURE BLOOD TESTING AMENDMENTSChief Sponsor: Edward H. Redd
Senate Sponsor: Brian E. Shiozawa**LONG TITLE****General Description:**

This bill allows an emergency service provider to request a blood sample if significantly exposed to a person's bodily fluids in the course of performing the provider's duties.

Highlighted Provisions:

This bill:

- ▶ allows a law enforcement agency to request a court order on behalf of an emergency services provider authorizing a blood sample from an individual if, during the course of performing the provider's duties, the provider is significantly exposed to the individual's bodily fluids.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78B-8-402, as last amended by Laws of Utah 2013, Chapter 114

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

Section 1. Section 78B-8-402 is amended to read:**78B-8-402. Petition -- Disease testing -- Notice -- Payment for testing.**

(1) An emergency services provider or first aid volunteer who is significantly exposed during the course of performing the emergency services provider's duties or during the course of performing emergency assistance or first aid may:

(a) request that the person to whom the emergency services provider or first aid volunteer was significantly exposed voluntarily submit to testing; or

(b) petition the district court or a magistrate for an order requiring that the person to whom the emergency services provider or first aid volunteer was significantly exposed submit to testing to determine the presence of a disease, as defined in Section 78B-8-401, and that the results of that test be disclosed to the petitioner by the Department of Health.

(2) (a) A law enforcement agency may submit on behalf of the petitioner by electronic or other means an ex parte request for a warrant ordering a blood draw from the respondent.

(b) The court or magistrate shall issue a warrant ordering the respondent to provide a specimen of the respondent's blood within 24 hours, and that reasonable force may be used, if necessary, if the court or magistrate finds that:

(i) the petitioner was significantly exposed during the course of performing the petitioner's duties as an emergency services or first aid provider;

(ii) the respondent has refused consent to the blood draw or is unable to give consent;

(iii) there may not be an opportunity to obtain a sample at a later date; and

(iv) a delay in administering available FDA-approved post-exposure treatment or prophylaxis could result in a lack of effectiveness of the treatment or prophylaxis.

(c) The petitioner shall request a person authorized under Section 41-6a-523 perform the blood draw.

(d) A sample drawn in accordance with a warrant following an ex parte request shall be sent to the Department of Health for testing.

~~[(2) (a) The]~~ (3) If a petitioner does not seek or obtain a warrant pursuant to Subsection (2), the petitioner ~~[shall]~~ may file a petition with the district court seeking an order to submit to testing and to disclose the results in accordance with the provisions of this section.

~~[(b) The petition shall be sealed upon filing and made accessible only to the petitioner, the subject of the petition, and their attorneys, upon court order.]~~

~~[(3)]~~ (4) (a) The petition described in Subsection ~~[(2)]~~ (3) shall be accompanied by an affidavit in which the petitioner certifies that the petitioner has been significantly exposed to the individual who is the subject of the petition and describes that exposure.

(b) The petitioner shall submit to testing to determine the presence of a disease, when the petition is filed or within three days after the petition is filed.

~~[(4)]~~ (5) The petitioner shall cause the petition required under this section to be served on the person who the petitioner is requesting to be tested in a manner that will best preserve the confidentiality of that person.

~~[(5)]~~ (6) (a) The court shall set a time for a hearing on the matter within 10 days after the petition is filed and shall give the petitioner and the individual who is the subject of the petition notice of the hearing at least 72 hours prior to the hearing.

(b) The individual who is the subject of the petition shall also be notified that the individual may have an attorney present at the hearing and that the individual's attorney may examine and cross-examine witnesses.

(c) The hearing shall be conducted in camera.

~~[(6)]~~ (7) The district court may enter an order requiring that an individual submit to testing,

including blood testing, for a disease if the court finds probable cause to believe:

(a) the petitioner was significantly exposed; and

(b) the exposure occurred during the course of the emergency services provider's duties, or the provision of emergency assistance or first aid by a first aid volunteer.

~~[(7)]~~ (8) The court may order that the blood specimen be obtained by the use of reasonable force if the individual who is the subject of the petition is a prisoner.

~~[(8)]~~ (9) The court may order that additional, follow-up testing be conducted and that the individual submit to that testing, as it determines to be necessary and appropriate.

~~[(9)]~~ (10) The court is not required to order an individual to submit to a test under this section if it finds that there is a substantial reason, relating to the life or health of the individual, not to enter the order.

~~[(10)]~~ (11) (a) Upon order of the district court that a person submit to testing for a disease, that person shall report to the designated local health department to have the person's blood drawn within 10 days from the issuance of the order, and thereafter as designated by the court, or be held in contempt of court.

(b) The court shall send the order to the Department of Health and to the local health department ordered to draw the blood.

(c) Notwithstanding the provisions of Section 26-6-27, the Department of Health and a local health department may disclose the test results pursuant to a court order as provided in this section.

(d) Under this section, anonymous testing as provided under Section 26-6-3.5 ~~shall~~ may not satisfy the requirements of the court order.

~~[(11)]~~ (12) The local health department or the Department of Health shall inform the subject of the petition and the petitioner of the results of the test and advise both parties that the test results are confidential. That information shall be maintained as confidential by all parties to the action.

~~[(12)]~~ (13) The court, its personnel, the process server, the Department of Health, local health department, and petitioner shall maintain confidentiality of the name and any other identifying information regarding the individual tested and the results of the test as they relate to that individual, except as specifically authorized by this chapter.

~~[(13)]~~ (14) (a) Except as provided in Subsection ~~[(13)]~~ (14)(b), the petitioner shall remit payment for the drawing of the blood specimen and the analysis of the specimen for the mandatory disease testing to the entity that draws the blood.

(b) If the petitioner is an emergency services provider, the agency that employs the emergency services provider shall remit payment for the drawing of the blood specimen and the analysis of

the specimen for the mandatory disease testing to the entity that draws the blood.

~~[(14)]~~ (15) The entity that draws the blood shall cause the blood and the payment for the analysis of the specimen to be delivered to the Department of Health for analysis.

~~[(15)]~~ (16) If the individual is incarcerated, the incarcerating authority shall either draw the blood specimen or shall pay the expenses of having the individual's blood drawn.

(17) The ex parte request or petition shall be sealed upon filing and made accessible only to the petitioner, the subject of the petition, and their attorneys, upon court order.

CHAPTER 93**H. B. 81**

Passed February 23, 2016

Approved March 21, 2016

Effective May 10, 2016

**GOVERNMENT EMPLOYEES
INSURANCE OFFERINGS AMENDMENTS**

Chief Sponsor: Michael S. Kennedy

Senate Sponsor: Alvin B. Jackson

LONG TITLE**General Description:**

This bill amends the Utah State Retirement and Insurance Benefit Act related to high deductible health insurance plans.

Highlighted Provisions:

This bill:

- ▶ provides that an employee who is not eligible for a contribution to a health savings account and is eligible for a contribution for a high deductible plan may receive that contribution in a health reimbursement account or other qualified account the employee is otherwise eligible for.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

49-20-410, as last amended by Laws of Utah 2013, Chapters 310 and 319

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

Section 1. Section 49-20-410 is amended to read:**49-20-410. High deductible health plan -- Health savings account -- Contributions.**

(1) (a) In addition to other employee benefit plans offered under Subsection 49-20-201(1), the office shall offer at least one federally qualified high deductible health plan with a health savings account as an optional health plan.

(b) The provisions and limitations of the plan shall be:

(i) determined by the office in accordance with federal requirements and limitations; and

(ii) designed to promote appropriate health care utilization by consumers, including preventive health care services.

(c) A state employee hired on or after July 1, 2011, who is offered a plan under Subsection 49-20-202(1)(a), shall be enrolled in a federally qualified high deductible health plan unless the employee chooses a different health benefit plan during the employee's open enrollment period.

(2) The office shall:

(a) administer the high deductible health plan in coordination with a health savings account for

medical expenses for each covered individual in the high deductible health plan;

(b) offer to all employees training regarding all health plans offered to employees;

(c) prepare online training as an option for the training required by Subsections (2)(b) and (4);

(d) ensure the training offered under Subsections (2)(b) and (c) includes information on changing coverages to the high deductible plan with a health savings account, including coordination of benefits with other insurances, restrictions on other insurance coverages, and general tax implications; and

(e) coordinate annual open enrollment with the Department of Human Resource Management to give state employees the opportunity to affirmatively select preferences from among insurance coverage options.

(3) (a) Contributions to the health savings account may be made by the employer.

(b) The amount of the employer contributions under Subsection (3)(a) shall be determined annually by the office, after consultation with the Department of Human Resource Management and the Governor's Office of Management and Budget so that the annual employer contribution amount reflects the difference in the actuarial value between the program's health maintenance organization coverage and the federally qualified high deductible health plan coverage, after taking into account any difference in employee premium contribution.

(c) The office shall distribute the annual amount determined under Subsection (3)(b) to employees in two equal amounts with a pay date in January and a pay date in July of each plan year.

(d) An employee may also make contributions to the health savings account.

(e) If an employee is ineligible for a contribution to a health savings account under federal law and would otherwise be eligible for the contribution under Subsection (3)(a), the contribution shall be distributed into a health reimbursement account or other tax-advantaged arrangement authorized under the Internal Revenue Code for the benefit of the employee.

(4) (a) An employer participating in a plan offered under Subsection 49-20-202(1)(a) shall require each employee to complete training on the health plan options available to the employee.

(b) The training required by Subsection (4)(a):

(i) shall include materials prepared by the office under Subsection (2);

(ii) may be completed online; and

(iii) shall be completed:

(A) before the end of the 2012 open enrollment period for current enrollees in the program; and

(B) for employees hired on or after July 1, 2011, before the employee's selection of a plan in the program.

CHAPTER 94**H. B. 83**

Passed February 24, 2016

Approved March 21, 2016

Effective May 10, 2016

**CAMPAIGN FINANCE DISCLOSURES
IN MUNICIPAL ELECTIONS**Chief Sponsor: Craig Hall
Senate Sponsor: Deidre M. Henderson**LONG TITLE****General Description:**

This bill amends provisions relating to campaign finance disclosures in municipal elections.

Highlighted Provisions:

This bill:

- ▶ requires a candidate for municipal office to make a campaign finance disclosure before the municipal primary.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

10-3-208, as last amended by Laws of Utah 2015, Chapters 21 and 247

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

Section 1. Section 10-3-208 is amended to read:**10-3-208. Campaign finance disclosure in municipal election.**

(1) Unless a municipality adopts by ordinance more stringent definitions, the following are defined terms for purposes of this section:

- (a) "Agent of a candidate" means:
 - (i) a person acting on behalf of a candidate at the direction of the reporting entity;
 - (ii) a person employed by a candidate in the candidate's capacity as a candidate;
 - (iii) the personal campaign committee of a candidate;
 - (iv) a member of the personal campaign committee of a candidate in the member's capacity as a member of the personal campaign committee of the candidate; or
 - (v) a political consultant of a candidate.
- (b) (i) "Candidate" means a person who:
 - (A) files a declaration of candidacy for municipal office; or
 - (B) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a municipal office.

(ii) "Candidate" does not mean a person who files for the office of judge.

(c) (i) "Contribution" means any of the following when done for political purposes:

(A) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to a candidate;

(B) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the candidate;

(C) any transfer of funds from another reporting entity to the candidate;

(D) compensation paid by any person or reporting entity other than the candidate for personal services provided without charge to the candidate;

(E) a loan made by a candidate deposited to the candidate's own campaign; and

(F) an in-kind contribution.

(ii) "Contribution" does not include:

(A) services provided by an individual volunteering a portion or all of the individual's time on behalf of the candidate if the services are provided without compensation by the candidate or any other person;

(B) money lent to the candidate by a financial institution in the ordinary course of business; or

(C) goods or services provided for the benefit of a candidate at less than fair market value that are not authorized by or coordinated with the candidate.

(d) "Coordinated with" means that goods or services provided for the benefit of a candidate are provided:

(i) with the candidate's prior knowledge, if the candidate does not object;

(ii) by agreement with the candidate;

(iii) in coordination with the candidate; or

(iv) using official logos, slogans, and similar elements belonging to a candidate.

(e) (i) "Expenditure" means any of the following made by a candidate or an agent of the candidate on behalf of the candidate:

(A) any disbursement from contributions, receipts, or from an account described in Subsection (3)(a)(i);

(B) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;

(C) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for a political purpose;

(D) compensation paid by a candidate for personal services rendered by a person without charge to a reporting entity;

(E) a transfer of funds between the candidate and a candidate's personal campaign committee as defined in Section 20A-11-101; or

(F) goods or services provided by a reporting entity to or for the benefit of the candidate for political purposes at less than fair market value.

(ii) "Expenditure" does not include:

(A) services provided without compensation by an individual volunteering a portion or all of the individual's time on behalf of a candidate; or

(B) money lent to a candidate by a financial institution in the ordinary course of business.

(f) "In-kind contribution" means anything of value other than money, that is accepted by or coordinated with a candidate.

(g) (i) "Political consultant" means a person who is paid by a candidate, or paid by another person on behalf of and with the knowledge of the candidate, to provide political advice to the candidate.

(ii) "Political consultant" includes a circumstance described in Subsection (1)(g)(i), where the person:

(A) has already been paid, with money or other consideration;

(B) expects to be paid in the future, with money or other consideration; or

(C) understands that the person may, in the discretion of the candidate or another person on behalf of and with the knowledge of the candidate, be paid in the future, with money or other consideration.

(h) "Political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate or a person seeking a municipal office at any caucus, political convention, or election.

(i) "Reporting entity" means:

(i) a candidate;

(ii) a committee appointed by a candidate to act for the candidate;

(iii) a person who holds an elected municipal office;

(iv) a party committee as defined in Section 20A-11-101;

(v) a political action committee as defined in Section 20A-11-101;

(vi) a political issues committee as defined in Section 20A-11-101;

(vii) a corporation as defined in Section 20A-11-101; or

(viii) a labor organization as defined in Section 20A-11-1501.

(j) "Reporting limit" means for each calendar year:

(i) \$50; or

(ii) an amount lower than \$50 that is specified in an ordinance of the municipality.

(2) (a) A municipality may adopt an ordinance establishing campaign finance disclosure requirements for a candidate that are more stringent than the requirements provided in Subsections (3) and (4).

(b) The municipality may adopt definitions that are more stringent than those provided in Subsection (1).

(c) If a municipality fails to adopt a campaign finance disclosure ordinance described in Subsection (2)(a), a candidate shall comply with financial reporting requirements contained in Subsections (3) and (4).

(3) (a) Each candidate:

(i) shall deposit a contribution in a separate campaign account in a financial institution; and

(ii) may not deposit or mingle any campaign contributions received into a personal or business account.

(b) In a year in which a municipal primary is held, each candidate who will participate in the municipal primary shall file a campaign finance statement with the municipal clerk or recorder no later than seven days before the day described in Subsection 20A-1-201.5(2).

~~(b)~~ (c) Each candidate who is not eliminated at a municipal primary election shall file with the municipal clerk or recorder a campaign finance statement:

(i) no later than seven days before the day on which the municipal general election is held; and

(ii) no later than 30 days after the day on which the municipal general election is held.

~~(c)~~ (d) Each candidate for municipal office who is eliminated at a municipal primary election shall file with the municipal clerk or recorder a campaign finance statement 30 days after the day on which the municipal primary election is held.

(4) Each campaign finance statement ~~[under]~~ described in Subsection (3)~~(b) or (c)~~ shall:

(a) except as provided in Subsection (4)(b):

(i) report all of the candidate's itemized and total:

(A) contributions, including in-kind and other nonmonetary contributions, received up to and including five days before the campaign finance statement is due, excluding a contribution previously reported; and

(B) expenditures made up to and including five days before the campaign finance statement is due, excluding an expenditure previously reported; and

(ii) identify:

(A) for each contribution that exceeds the reporting limit, the amount of the contribution and the name of the donor, if known;

(B) the aggregate total of all contributions that individually do not exceed the reporting limit; and

(C) for each expenditure, the amount of the expenditure and the name of the recipient of the expenditure; or

(b) report the total amount of all contributions and expenditures if the candidate receives \$500 or less in contributions and spends \$500 or less on the candidate's campaign.

(c) Within 30 days after receiving a contribution that is cash or a negotiable instrument, exceeds the reporting limit, and is from a donor whose name is unknown, a candidate shall disburse the amount of the contribution to:

(i) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or

(ii) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

(5) (a) A municipality may, by ordinance:

(i) provide a reporting limit lower than \$50;

(ii) require greater disclosure of contributions or expenditures than is required in this section; and

(iii) impose additional penalties on candidates who fail to comply with the applicable requirements beyond those imposed by this section.

(b) A candidate is subject to the provisions of this section and not the provisions of an ordinance adopted by the municipality under Subsection (5)(a) if:

(i) the municipal ordinance establishes requirements or penalties that differ from those established in this section; and

(ii) the municipal clerk or recorder fails to notify the candidate of the provisions of the ordinance as required in Subsection (6).

(6) Each municipal clerk or recorder shall, at the time the candidate for municipal office files a declaration of candidacy, and again 14 days before each municipal general election, notify the candidate in writing of:

(a) the provisions of statute or municipal ordinance governing the disclosure of contributions and expenditures;

(b) the dates when the candidate's campaign finance statement is required to be filed; and

(c) the penalties that apply for failure to file a timely campaign finance statement, including the statutory provision that requires removal of the candidate's name from the ballot for failure to file

the required campaign finance statement when required.

(7) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the municipal clerk or recorder shall:

(a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and

(b) make the campaign finance statement filed by a candidate available for public inspection by:

(i) (A) posting an electronic copy or the contents of the statement on the municipality's website no later than seven business days after the statement is filed; and

(B) verifying that the address of the municipality's website has been provided to the lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or

(ii) submitting a copy of the statement to the lieutenant governor for posting on the website established by the lieutenant governor under Section 20A-11-103 no later than two business days after the statement is filed.

(8) (a) If a candidate fails to timely file a campaign finance statement ~~[before the municipal general election by the deadline specified in Subsection] required under Subsection (3)(b)(i)], the municipal clerk or recorder shall inform the appropriate election official who:~~

(i) shall:

(A) if practicable, remove the candidate's name from the ballot by blacking out the candidate's name before the ballots are delivered to voters; or

(B) if removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not be counted; and

(ii) may not count any votes for that candidate.

(b) Notwithstanding Subsection (8)(a), a candidate who ~~[files a] timely files each~~ campaign finance statement ~~[seven days before a municipal general election] required under Subsection (3) is not disqualified if:~~

(i) the statement details accurately and completely the information required under Subsection (4), except for inadvertent omissions or insignificant errors or inaccuracies; and

(ii) the omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

(9) A campaign finance statement required under this section is considered filed if it is received in the municipal clerk or recorder's office by 5 p.m. on the date that it is due.

(10) (a) A private party in interest may bring a civil action in district court to enforce the provisions

of this section or an ordinance adopted under this section.

(b) In a civil action under Subsection (10)(a), the court may award costs and attorney fees to the prevailing party.

CHAPTER 95**H. B. 95**

Passed February 25, 2016

Approved March 21, 2016

Effective May 10, 2016

**POLITICAL ISSUES
COMMITTEE AMENDMENTS**

Chief Sponsor: Kraig Powell

Senate Sponsor: Kevin T. Van Tassell

LONG TITLE**General Description:**

This bill amends the definition of a political issues committee in the Campaign and Financial Reporting Requirements chapter of the Election Code.

Highlighted Provisions:

This bill:

- ▶ expands the definition of a group that does not qualify as a political issues committee.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-11-101, as last amended by Laws of Utah 2015, Chapters 21, 26, 352, and 388

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

Section 1. Section 20A-11-101 is amended to read:**20A-11-101. Definitions.**

As used in this chapter:

(1) "Address" means the number and street where an individual resides or where a reporting entity has its principal office.

(2) "Agent of a reporting entity" means:

(a) a person acting on behalf of a reporting entity at the direction of the reporting entity;

(b) a person employed by a reporting entity in the reporting entity's capacity as a reporting entity;

(c) the personal campaign committee of a candidate or officeholder;

(d) a member of the personal campaign committee of a candidate or officeholder in the member's capacity as a member of the personal campaign committee of the candidate or officeholder; or

(e) a political consultant of a reporting entity.

(3) "Ballot proposition" includes initiatives, referenda, proposed constitutional amendments, and any other ballot propositions submitted to the voters that are authorized by the Utah Code Annotated 1953.

(4) "Candidate" means any person who:

(a) files a declaration of candidacy for a public office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a public office.

(5) "Chief election officer" means:

(a) the lieutenant governor for state office candidates, legislative office candidates, officeholders, political parties, political action committees, corporations, political issues committees, state school board candidates, judges, and labor organizations, as defined in Section 20A-11-1501; and

(b) the county clerk for local school board candidates.

(6) (a) "Contribution" means any of the following when done for political purposes:

(i) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to the filing entity;

(ii) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the filing entity;

(iii) any transfer of funds from another reporting entity to the filing entity;

(iv) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;

(v) remuneration from:

(A) any organization or its directly affiliated organization that has a registered lobbyist; or

(B) any agency or subdivision of the state, including school districts;

(vi) a loan made by a candidate deposited to the candidate's own campaign; and

(vii) in-kind contributions.

(b) "Contribution" does not include:

(i) services provided by individuals volunteering a portion or all of their time on behalf of the filing entity if the services are provided without compensation by the filing entity or any other person;

(ii) money lent to the filing entity by a financial institution in the ordinary course of business; or

(iii) goods or services provided for the benefit of a candidate or political party at less than fair market value that are not authorized by or coordinated with the candidate or political party.

(7) "Coordinated with" means that goods or services provided for the benefit of a candidate or political party are provided:

(a) with the candidate's or political party's prior knowledge, if the candidate or political party does not object;

(b) by agreement with the candidate or political party;

(c) in coordination with the candidate or political party; or

(d) using official logos, slogans, and similar elements belonging to a candidate or political party.

(8) (a) "Corporation" means a domestic or foreign, profit or nonprofit, business organization that is registered as a corporation or is authorized to do business in a state and makes any expenditure from corporate funds for:

(i) the purpose of expressly advocating for political purposes; or

(ii) the purpose of expressly advocating the approval or the defeat of any ballot proposition.

(b) "Corporation" does not mean:

(i) a business organization's political action committee or political issues committee; or

(ii) a business entity organized as a partnership or a sole proprietorship.

(9) "County political party" means, for each registered political party, all of the persons within a single county who, under definitions established by the political party, are members of the registered political party.

(10) "County political party officer" means a person whose name is required to be submitted by a county political party to the lieutenant governor in accordance with Section 20A-8-402.

(11) "Detailed listing" means:

(a) for each contribution or public service assistance:

(i) the name and address of the individual or source making the contribution or public service assistance, except to the extent that the name or address of the individual or source is unknown;

(ii) the amount or value of the contribution or public service assistance; and

(iii) the date the contribution or public service assistance was made; and

(b) for each expenditure:

(i) the amount of the expenditure;

(ii) the person or entity to whom it was disbursed;

(iii) the specific purpose, item, or service acquired by the expenditure; and

(iv) the date the expenditure was made.

(12) (a) "Donor" means a person that gives money, including a fee, due, or assessment for membership in the corporation, to a corporation without receiving full and adequate consideration for the money.

(b) "Donor" does not include a person that signs a statement that the corporation may not use the

money for an expenditure or political issues expenditure.

(13) "Election" means each:

(a) regular general election;

(b) regular primary election; and

(c) special election at which candidates are eliminated and selected.

(14) "Electioneering communication" means a communication that:

(a) has at least a value of \$10,000;

(b) clearly identifies a candidate or judge; and

(c) is disseminated through the Internet, newspaper, magazine, outdoor advertising facility, direct mailing, broadcast, cable, or satellite provider within 45 days of the clearly identified candidate's or judge's election date.

(15) (a) "Expenditure" means any of the following made by a reporting entity or an agent of a reporting entity on behalf of the reporting entity:

(i) any disbursement from contributions, receipts, or from the separate bank account required by this chapter;

(ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;

(iii) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for political purposes;

(iv) compensation paid by a filing entity for personal services rendered by a person without charge to a reporting entity;

(v) a transfer of funds between the filing entity and a candidate's personal campaign committee; or

(vi) goods or services provided by the filing entity to or for the benefit of another reporting entity for political purposes at less than fair market value.

(b) "Expenditure" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a reporting entity;

(ii) money lent to a reporting entity by a financial institution in the ordinary course of business; or

(iii) anything listed in Subsection (15)(a) that is given by a reporting entity to candidates for office or officeholders in states other than Utah.

(16) "Federal office" means the office of president of the United States, United States Senator, or United States Representative.

(17) "Filing entity" means the reporting entity that is required to file a financial statement required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(18) "Financial statement" includes any summary report, interim report, verified financial

statement, or other statement disclosing contributions, expenditures, receipts, donations, or disbursements that is required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(19) “Governing board” means the individual or group of individuals that determine the candidates and committees that will receive expenditures from a political action committee, political party, or corporation.

(20) “Incorporation” means the process established by Title 10, Chapter 2a, Municipal Incorporation, by which a geographical area becomes legally recognized as a city, town, or metro township.

(21) “Incorporation election” means the election authorized by Section 10-2a-210, 10-2a-304, or 10-2a-404.

(22) “Incorporation petition” means a petition authorized by Section 10-2a-208 or 10-2a-302.

(23) “Individual” means a natural person.

(24) “In-kind contribution” means anything of value, other than money, that is accepted by or coordinated with a filing entity.

(25) “Interim report” means a report identifying the contributions received and expenditures made since the last report.

(26) “Legislative office” means the office of state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

(27) “Legislative office candidate” means a person who:

(a) files a declaration of candidacy for the office of state senator or state representative;

(b) declares oneself to be a candidate for, or actively campaigns for, the position of speaker of the House of Representatives, president of the Senate, or the leader, whip, and assistant whip of any party caucus in either house of the Legislature; or

(c) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person’s nomination, election, or appointment to a legislative office.

(28) “Major political party” means either of the two registered political parties that have the greatest number of members elected to the two houses of the Legislature.

(29) “Officeholder” means a person who holds a public office.

(30) “Party committee” means any committee organized by or authorized by the governing board of a registered political party.

(31) “Person” means both natural and legal persons, including individuals, business

organizations, personal campaign committees, party committees, political action committees, political issues committees, and labor organizations, as defined in Section 20A-11-1501.

(32) “Personal campaign committee” means the committee appointed by a candidate to act for the candidate as provided in this chapter.

(33) “Personal use expenditure” has the same meaning as provided under Section 20A-11-104.

(34) (a) “Political action committee” means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive contributions from any other person, group, or entity for political purposes; or

(ii) make expenditures to expressly advocate for any person to refrain from voting or to vote for or against any candidate or person seeking election to a municipal or county office.

(b) “Political action committee” includes groups affiliated with a registered political party but not authorized or organized by the governing board of the registered political party that receive contributions or makes expenditures for political purposes.

(c) “Political action committee” does not mean:

(i) a party committee;

(ii) any entity that provides goods or services to a candidate or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account;

(v) a corporation, except a corporation a major purpose of which is to act as a political action committee; or

(vi) a personal campaign committee.

(35) (a) “Political consultant” means a person who is paid by a reporting entity, or paid by another person on behalf of and with the knowledge of the reporting entity, to provide political advice to the reporting entity.

(b) “Political consultant” includes a circumstance described in Subsection (35)(a), where the person:

(i) has already been paid, with money or other consideration;

(ii) expects to be paid in the future, with money or other consideration; or

(iii) understands that the person may, in the discretion of the reporting entity or another person on behalf of and with the knowledge of the reporting entity, be paid in the future, with money or other consideration.

(36) “Political convention” means a county or state political convention held by a registered political party to select candidates.

(37) (a) "Political issues committee" means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive donations from any other person, group, or entity to assist in placing a ballot proposition on the ballot, assist in keeping a ballot proposition off the ballot, or to advocate that a voter refrain from voting or vote for or vote against any ballot proposition;

(ii) make expenditures to expressly advocate for any person to sign or refuse to sign a ballot proposition or incorporation petition or refrain from voting, vote for, or vote against any proposed ballot proposition or an incorporation in an incorporation election; or

(iii) make expenditures to assist in qualifying or placing a ballot proposition on the ballot or to assist in keeping a ballot proposition off the ballot.

(b) "Political issues committee" does not mean:

(i) a registered political party or a party committee;

(ii) any entity that provides goods or services to an individual or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account;

(v) a corporation, except a corporation a major purpose of which is to act as a political issues committee; or

(vi) a group of individuals who:

(A) associate together for the purpose of challenging or supporting a single ballot proposition, ordinance, or other governmental action by a county, city, town, local district, special service district, or other local political subdivision of the state;

(B) have a common liberty, property, or financial interest that is directly impacted by the ballot proposition, ordinance, or other governmental action;

(C) do not associate together, for the purpose described in Subsection (37)(b)(vi)(A), via a legal entity;

(D) do not receive funds for challenging or supporting the ballot proposition, ordinance, or other governmental action from a person other than an individual in the group; and

(E) do not expend a total of more than \$5,000 for the purpose described in Subsection (37)(b)(vi)(A).

(38) (a) "Political issues contribution" means any of the following:

(i) a gift, subscription, unpaid or partially unpaid loan, advance, or deposit of money or anything of value given to a political issues committee;

(ii) an express, legally enforceable contract, promise, or agreement to make a political issues donation to influence the approval or defeat of any ballot proposition;

(iii) any transfer of funds received by a political issues committee from a reporting entity;

(iv) compensation paid by another reporting entity for personal services rendered without charge to a political issues committee; and

(v) goods or services provided to or for the benefit of a political issues committee at less than fair market value.

(b) "Political issues contribution" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

(39) (a) "Political issues expenditure" means any of the following when made by a political issues committee or on behalf of a political issues committee by an agent of the reporting entity:

(i) any payment from political issues contributions made for the purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(ii) a purchase, payment, distribution, loan, advance, deposit, or gift of money made for the express purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(iii) an express, legally enforceable contract, promise, or agreement to make any political issues expenditure;

(iv) compensation paid by a reporting entity for personal services rendered by a person without charge to a political issues committee; or

(v) goods or services provided to or for the benefit of another reporting entity at less than fair market value.

(b) "Political issues expenditure" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

(40) "Political purposes" means an act done with the intent or in a way to influence or tend to

influence, directly or indirectly, any person to refrain from voting or to vote for or against any:

(a) candidate or a person seeking a municipal or county office at any caucus, political convention, or election; or

(b) judge standing for retention at any election.

(41) (a) "Poll" means the survey of a person regarding the person's opinion or knowledge of an individual who has filed a declaration of candidacy for public office, or of a ballot proposition that has legally qualified for placement on the ballot, which is conducted in person or by telephone, facsimile, Internet, postal mail, or email.

(b) "Poll" does not include:

(i) a ballot; or

(ii) an interview of a focus group that is conducted, in person, by one individual, if:

(A) the focus group consists of more than three, and less than thirteen, individuals; and

(B) all individuals in the focus group are present during the interview.

(42) "Primary election" means any regular primary election held under the election laws.

(43) "Publicly identified class of individuals" means a group of 50 or more individuals sharing a common occupation, interest, or association that contribute to a political action committee or political issues committee and whose names can be obtained by contacting the political action committee or political issues committee upon whose financial statement the individuals are listed.

(44) "Public office" means the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state school board member, state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

(45) (a) "Public service assistance" means the following when given or provided to an officeholder to defray the costs of functioning in a public office or aid the officeholder to communicate with the officeholder's constituents:

(i) a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to an officeholder; or

(ii) goods or services provided at less than fair market value to or for the benefit of the officeholder.

(b) "Public service assistance" does not include:

(i) anything provided by the state;

(ii) services provided without compensation by individuals volunteering a portion or all of their time on behalf of an officeholder;

(iii) money lent to an officeholder by a financial institution in the ordinary course of business;

(iv) news coverage or any publication by the news media; or

(v) any article, story, or other coverage as part of any regular publication of any organization unless substantially all the publication is devoted to information about the officeholder.

(46) "Receipts" means contributions and public service assistance.

(47) "Registered lobbyist" means a person registered under Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act.

(48) "Registered political action committee" means any political action committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

(49) "Registered political issues committee" means any political issues committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

(50) "Registered political party" means an organization of voters that:

(a) participated in the last regular general election and polled a total vote equal to 2% or more of the total votes cast for all candidates for the United States House of Representatives for any of its candidates for any office; or

(b) has complied with the petition and organizing procedures of Chapter 8, Political Party Formation and Procedures.

(51) (a) "Remuneration" means a payment:

(i) made to a legislator for the period the Legislature is in session; and

(ii) that is approximately equivalent to an amount a legislator would have earned during the period the Legislature is in session in the legislator's ordinary course of business.

(b) "Remuneration" does not mean anything of economic value given to a legislator by:

(i) the legislator's primary employer in the ordinary course of business; or

(ii) a person or entity in the ordinary course of business:

(A) because of the legislator's ownership interest in the entity; or

(B) for services rendered by the legislator on behalf of the person or entity.

(52) "Reporting entity" means a candidate, a candidate's personal campaign committee, a judge, a judge's personal campaign committee, an officeholder, a party committee, a political action committee, a political issues committee, a corporation, or a labor organization, as defined in Section 20A-11-1501.

(53) "School board office" means the office of state school board.

(54) (a) "Source" means the person or entity that is the legal owner of the tangible or intangible asset that comprises the contribution.

(b) "Source" means, for political action committees and corporations, the political action committee and the corporation as entities, not the contributors to the political action committee or the owners or shareholders of the corporation.

(55) "State office" means the offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

(56) "State office candidate" means a person who:

(a) files a declaration of candidacy for a state office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination, election, or appointment to a state office.

(57) "Summary report" means the year end report containing the summary of a reporting entity's contributions and expenditures.

(58) "Supervisory board" means the individual or group of individuals that allocate expenditures from a political issues committee.

CHAPTER 96**H. B. 98**

Passed February 12, 2016

Approved March 21, 2016

Effective May 10, 2016

**NATIONAL GUARD DEATH
BENEFIT AMENDMENTS**

Chief Sponsor: Paul Ray
 Senate Sponsor: Peter C. Knudson
 Cosponsors: Gage Froerer
 Eric K. Hutchings
 Don L. Ipson
 David E. Lifferth
 Merrill F. Nelson
 Michael E. Noel
 Curtis Oda
 Lee B. Perry
 Dixon M. Pitcher

LONG TITLE**General Description:**

This bill provides for a death gratuity for the next of kin of a National Guard member who dies while on state active duty.

Highlighted Provisions:

This bill:

- ▶ provides for a \$100,000 death gratuity for the next-of-kin of a National Guard member who dies while on state active duty.

Monies Appropriated in this Bill:

This bill appropriates:

- ▶ to the National Guard Death Benefit Account, as an ongoing appropriation from the General Fund, \$9,500.

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

39-1-59.5, Utah Code Annotated 1953

REPEALS AND REENACTS:

39-1-59, as last amended by Laws of Utah 2011, Chapter 366

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

Section 1. Section 39-1-59 is repealed and reenacted to read:**39-1-59. Compensation for injury or death.**

Within 72 hours of the reported death of a member of the National Guard on state active duty, the state shall provide a death gratuity payment of \$100,000 to:

(1) the person designated as the recipient of the member's unpaid pay and allowances in the member's service record; or

(2) if no one is designated, the designated person cannot be found, or the designated person has predeceased the member, the member's heirs in accordance with Title 75, Chapter 2, Part 1, Intestate Succession.

Section 2. Section 39-1-59.5 is enacted to read:**39-1-59.5. National Guard Death Benefit Restricted Account.**

(1) There is created within the General Fund a restricted account known as "National Guard Death Benefit Account."

(2) (a) The restricted account shall be funded from funds appropriated by the Legislature.

(b) Funds in the restricted account may only be used to pay the death benefit authorized in Section 39-1-59.

(c) The restricted account may accrue interest which shall be deposited into the restricted account.

(d) At the close of any fiscal year, any balance in the fund in excess of \$2,000,000 shall be transferred to the General Fund.

Section 3. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or amounts indicated. These sums of money are in addition to amounts previously appropriated for fiscal year 2017.

To the National Guard Death Benefit Account as an ongoing appropriation

<u>From the General Fund</u>	<u>\$9,500</u>
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CHAPTER 97**H. B. 100**

Passed February 11, 2016

Approved March 21, 2016

Effective May 10, 2016

**EMERGENCY MEDICAL SERVICES
PERSONNEL LICENSURE
INTERSTATE COMPACT**Chief Sponsor: Mike Schultz
Senate Sponsor: Evan J. Vickers**LONG TITLE****General Description:**

This bill enacts the EMS Personnel Licensure Interstate Compact.

Highlighted Provisions:

This bill:

- ▶ enacts the EMS Personnel Licensure Interstate Compact.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

26-8c-101, Utah Code Annotated 1953

26-8c-102, Utah Code Annotated 1953

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

Section 1. Section 26-8c-101 is enacted to read:**CHAPTER 8c. EMS PERSONNEL
LICENSURE INTERSTATE COMPACT****26-8c-101. Title.**

This chapter is known as the “EMS Personnel Licensure Interstate Compact.”

Section 2. Section 26-8c-102 is enacted to read:**26-8c-102. EMS Personnel Licensure
Interstate Compact.****EMS PERSONNEL LICENSURE INTERSTATE
COMPACT SECTION 1. PURPOSE**

In order to protect the public through verification of competency and ensure accountability for patient care related activities all states license emergency medical services (EMS) personnel, such as emergency medical technicians (EMTs), advanced EMTs and paramedics. This Compact is intended to facilitate the day to day movement of EMS personnel across state boundaries in the performance of their EMS duties as assigned by an appropriate authority and authorize state EMS offices to afford immediate legal recognition to EMS personnel licensed in a member state. This Compact recognizes that states have a vested interest in protecting the public's health and safety through their licensing and regulation of EMS personnel and that such state regulation shared among the member states will best protect public

health and safety. This Compact is designed to achieve the following purposes and objectives:

1. Increase public access to EMS personnel;
2. Enhance the states' ability to protect the public's health and safety, especially patient safety;
3. Encourage the cooperation of member states in the areas of EMS personnel licensure and regulation;
4. Support licensing of military members who are separating from an active duty tour and their spouses;
5. Facilitate the exchange of information between member states regarding EMS personnel licensure, adverse action and significant investigatory information;
6. Promote compliance with the laws governing EMS personnel practice in each member state; and
7. Invest all member states with the authority to hold EMS personnel accountable through the mutual recognition of member state licenses.

SECTION 2. DEFINITIONS

In this compact:

A. “Advanced Emergency Medical Technician (AEMT)” means: an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

B. “Adverse Action” means: any administrative, civil, equitable or criminal action permitted by a state's laws which may be imposed against licensed EMS personnel by a state EMS authority or state court, including, but not limited to, actions against an individual's license such as revocation, suspension, probation, consent agreement, monitoring or other limitation or encumbrance on the individual's practice, letters of reprimand or admonition, fines, criminal convictions and state court judgments enforcing adverse actions by the state EMS authority.

C. “Alternative program” means: a voluntary, non-disciplinary substance abuse recovery program approved by a state EMS authority.

D. “Certification” means: the successful verification of entry-level cognitive and psychomotor competency using a reliable, validated, and legally defensible examination.

E. “Commission” means: the national administrative body of which all states that have enacted the compact are members.

F. “Emergency Medical Technician (EMT)” means: an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

G. “Home State” means: a member state where an individual is licensed to practice emergency medical services.

H. “License” means: the authorization by a state for an individual to practice as an EMT, AEMT, paramedic, or a level in between EMT and paramedic.

I. “Medical Director” means: a physician licensed in a member state who is accountable for the care delivered by EMS personnel.

J. “Member State” means: a state that has enacted this compact.

K. “Privilege to Practice” means: an individual’s authority to deliver emergency medical services in remote states as authorized under this compact.

L. “Paramedic” means: an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

M. “Remote State” means: a member state in which an individual is not licensed.

N. “Restricted” means: the outcome of an adverse action that limits a license or the privilege to practice.

O. “Rule” means: a written statement by the interstate Commission promulgated pursuant to Section 12 of this compact that is of general applicability; implements, interprets, or prescribes a policy or provision of the compact; or is an organizational, procedural, or practice requirement of the Commission and has the force and effect of statutory law in a member state and includes the amendment, repeal, or suspension of an existing rule.

P. “Scope of Practice” means: defined parameters of various duties or services that may be provided by an individual with specific credentials. Whether regulated by rule, statute, or court decision, it tends to represent the limits of services an individual may perform.

Q. “Significant Investigatory Information” means:

1. investigative information that a state EMS authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proved true, would result in the imposition of an adverse action on a license or privilege to practice; or

2. investigative information that indicates that the individual represents an immediate threat to public health and safety regardless of whether the individual has been notified and had an opportunity to respond.

R. “State” means: means any state, commonwealth, district, or territory of the United States.

S. “State EMS Authority” means: the board, office, or other agency with the legislative mandate to license EMS personnel.

SECTION 3. HOME STATE LICENSURE

A. Any member state in which an individual holds a current license shall be deemed a home state for purposes of this compact.

B. Any member state may require an individual to obtain and retain a license to be authorized to practice in the member state under circumstances not authorized by the privilege to practice under the terms of this compact.

C. A home state’s license authorizes an individual to practice in a remote state under the privilege to practice only if the home state:

1. Currently requires the use of the National Registry of Emergency Medical Technicians (NREMT) examination as a condition of issuing initial licenses at the EMT and paramedic levels;

2. Has a mechanism in place for receiving and investigating complaints about individuals;

3. Notifies the Commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding an individual;

4. No later than five years after activation of the Compact, requires a criminal background check of all applicants for initial licensure, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation with the exception of federal employees who have suitability determination in accordance with US CFR ̄731.202 and submit documentation of such as promulgated in the rules of the Commission; and

5. Complies with the rules of the Commission.

SECTION 4. COMPACT PRIVILEGE TO PRACTICE

A. Member states shall recognize the privilege to practice of an individual licensed in another member state that is in conformance with Section 3.

B. To exercise the privilege to practice under the terms and provisions of this compact, an individual must:

1. Be at least 18 years of age;

2. Possess a current unrestricted license in a member state as an EMT, AEMT, paramedic, or state recognized and licensed level with a scope of practice and authority between EMT and paramedic; and

3. Practice under the supervision of a medical director.

C. An individual providing patient care in a remote state under the privilege to practice shall function within the scope of practice authorized by the home state unless and until modified by an appropriate authority in the remote state as may be defined in the rules of the commission.

D. Except as provided in Section 4 subsection C, an individual practicing in a remote state will be subject to the remote state’s authority and laws. A remote state may, in accordance with due process and that state’s laws, restrict, suspend, or revoke an

individual's privilege to practice in the remote state and may take any other necessary actions to protect the health and safety of its citizens. If a remote state takes action it shall promptly notify the home state and the Commission.

E. If an individual's license in any home state is restricted or suspended, the individual shall not be eligible to practice in a remote state under the privilege to practice until the individual's home state license is restored.

F. If an individual's privilege to practice in any remote state is restricted, suspended, or revoked the individual shall not be eligible to practice in any remote state until the individual's privilege to practice is restored.

SECTION 5. CONDITIONS OF PRACTICE IN A REMOTE STATE

An individual may practice in a remote state under a privilege to practice only in the performance of the individual's EMS duties as assigned by an appropriate authority, as defined in the rules of the Commission, and under the following circumstances:

1. The individual originates a patient transport in a home state and transports the patient to a remote state;

2. The individual originates in the home state and enters a remote state to pick up a patient and provide care and transport of the patient to the home state;

3. The individual enters a remote state to provide patient care and/or transport within that remote state;

4. The individual enters a remote state to pick up a patient and provide care and transport to a third member state;

5. Other conditions as determined by rules promulgated by the commission.

SECTION 6. RELATIONSHIP TO EMERGENCY MANAGEMENT ASSISTANCE COMPACT

Upon a member state's governor's declaration of a state of emergency or disaster that activates the Emergency Management Assistance Compact (EMAC), all relevant terms and provisions of EMAC shall apply and to the extent any terms or provisions of this Compact conflicts with EMAC, the terms of EMAC shall prevail with respect to any individual practicing in the remote state in response to such declaration.

SECTION 7. VETERANS, SERVICE MEMBERS SEPARATING FROM ACTIVE DUTY MILITARY, AND THEIR SPOUSES

A. Member states shall consider a veteran, active military service member, and member of the National Guard and Reserves separating from an active duty tour, and a spouse thereof, who holds a current valid and unrestricted NREMT certification at or above the level of the state license being sought as satisfying the minimum training and examination requirements for such licensure.

B. Member states shall expedite the processing of licensure applications submitted by veterans, active military service members, and members of the National Guard and Reserves separating from an active duty tour, and their spouses.

C. All individuals functioning with a privilege to practice under this Section remain subject to the Adverse Actions provisions of Section VIII.

SECTION 8. ADVERSE ACTIONS

A. A home state shall have exclusive power to impose adverse action against an individual's license issued by the home state.

B. If an individual's license in any home state is restricted or suspended, the individual shall not be eligible to practice in a remote state under the privilege to practice until the individual's home state license is restored.

1. All home state adverse action orders shall include a statement that the individual's compact privileges are inactive. The order may allow the individual to practice in remote states with prior written authorization from both the home state and remote state's EMS authority.

2. An individual currently subject to adverse action in the home state shall not practice in any remote state without prior written authorization from both the home state and remote state's EMS authority.

C. A member state shall report adverse actions and any occurrences that the individual's compact privileges are restricted, suspended, or revoked to the Commission in accordance with the rules of the Commission.

D. A remote state may take adverse action on an individual's privilege to practice within that state.

E. Any member state may take adverse action against an individual's privilege to practice in that state based on the factual findings of another member state, so long as each state follows its own procedures for imposing such adverse action.

F. A home state's EMS authority shall investigate and take appropriate action with respect to reported conduct in a remote state as it would if such conduct had occurred within the home state. In such cases, the home state's law shall control in determining the appropriate adverse action.

G. Nothing in this Compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain non-public if required by the member state's laws. Member states must require individuals who enter any alternative programs to agree not to practice in any other member state during the term of the alternative program without prior authorization from such other member state.

SECTION 9. ADDITIONAL POWERS INVESTED IN A MEMBER STATE'S EMS AUTHORITY

A member state's EMS authority, in addition to any other powers granted under state law, is authorized under this compact to:

1. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a member state's EMS authority for the attendance and testimony of witnesses, and/or the production of evidence from another member state, shall be enforced in the remote state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing state EMS authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses and/or evidence are located; and

2. Issue cease and desist orders to restrict, suspend, or revoke an individual's privilege to practice in the state.

SECTION 10. ESTABLISHMENT OF THE INTERSTATE COMMISSION FOR EMS PERSONNEL PRACTICE

A. The Compact states hereby create and establish a joint public agency known as the Interstate Commission for EMS Personnel Practice.

1. The Commission is a body politic and an instrumentality of the Compact states.

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting, and Meetings

1. Each member state shall have and be limited to one (1) delegate. The responsible official of the state EMS authority or his designee shall be the delegate to this Compact for each member state. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the member state in which the vacancy exists. In the event that more than one board, office, or other agency with the legislative mandate to license EMS personnel at and above the level of EMT exists, the Governor of the state will determine which entity will be responsible for assigning the delegate.

2. Each delegate shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

3. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

4. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Section XII.

5. The Commission may convene in a closed, non-public meeting if the Commission must discuss:

a. Non-compliance of a member state with its obligations under the Compact;

b. The employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

c. Current, threatened, or reasonably anticipated litigation;

d. Negotiation of contracts for the purchase or sale of goods, services, or real estate;

e. Accusing any person of a crime or formally censuring any person;

f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

h. Disclosure of investigatory records compiled for law enforcement purposes;

i. Disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact; or

j. Matters specifically exempted from disclosure by federal or member state statute.

6. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

C. The Commission shall, by a majority vote of the delegates, prescribe bylaws and/or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the compact, including but not limited to:

1. Establishing the fiscal year of the Commission;

2. Providing reasonable standards and procedures:

a. for the establishment and meetings of other committees; and

b. governing any general or specific delegation of any authority or function of the Commission;

3. Providing reasonable procedures for calling and conducting meetings of the Commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The Commission may meet in closed session only after a majority of the membership votes to close a meeting in whole or in part. As soon as practicable, the Commission must make public a copy of the vote to close the meeting revealing the vote of each member with no proxy votes allowed;

4. Establishing the titles, duties and authority, and reasonable procedures for the election of the officers of the Commission;

5. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar laws of any member state, the bylaws shall exclusively govern the personnel policies and programs of the Commission;

6. Promulgating a code of ethics to address permissible and prohibited activities of Commission members and employees;

7. Providing a mechanism for winding up the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of the Compact after the payment and/or reserving of all of its debts and obligations;

8. The Commission shall publish its bylaws and file a copy thereof, and a copy of any amendment thereto, with the appropriate agency or officer in each of the member states, if any.

9. The Commission shall maintain its financial records in accordance with the bylaws.

10. The Commission shall meet and take such actions as are consistent with the provisions of this Compact and the bylaws.

D. The Commission shall have the following powers:

1. The authority to promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all member states;

2. To bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any state EMS authority or other regulatory body responsible for EMS personnel licensure to sue or be sued under applicable law shall not be affected;

3. To purchase and maintain insurance and bonds;

4. To borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;

5. To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

6. To accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the Commission shall strive to avoid any appearance of impropriety and/or conflict of interest;

7. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall strive to avoid any appearance of impropriety;

8. To sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

9. To establish a budget and make expenditures;

10. To borrow money;

11. To appoint committees, including advisory committees comprised of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;

12. To provide and receive information from, and to cooperate with, law enforcement agencies;

13. To adopt and use an official seal; and

14. To perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of EMS personnel licensure and practice.

E. Financing of the Commission

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

3. The Commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by

the Commission, which shall promulgate a rule binding upon all member states.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the member states, except by and with the authority of the member state.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

F. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

2. The Commission shall defend any member, officer, executive director, employee or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the

intentional or willful or wanton misconduct of that person.

SECTION 11. COORDINATED DATABASE

A. The Commission shall provide for the development and maintenance of a coordinated database and reporting system containing licensure, adverse action, and significant investigatory information on all licensed individuals in member states.

B. Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the coordinated database on all individuals to whom this compact is applicable as required by the rules of the Commission, including:

1. Identifying information;
2. Licensure data;
3. Significant investigatory information;
4. Adverse actions against an individual's license;
5. An indicator that an individual's privilege to practice is restricted, suspended or revoked;
6. Non-confidential information related to alternative program participation;
7. Any denial of application for licensure, and the reason(s) for such denial; and
8. Other information that may facilitate the administration of this Compact, as determined by the rules of the Commission.

C. The coordinated database administrator shall promptly notify all member states of any adverse action taken against, or significant investigative information on, any individual in a member state.

D. Member states contributing information to the coordinated database may designate information that may not be shared with the public without the express permission of the contributing state.

E. Any information submitted to the coordinated database that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the coordinated database.

SECTION 12. RULEMAKING

A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

B. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact, then such rule shall have no further force and effect in any member state.

C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

D. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon, the

Commission shall file a Notice of Proposed Rulemaking:

1. On the website of the Commission; and

2. On the website of each member state EMS authority or the publication in which each state would otherwise publish proposed rules.

E. The Notice of Proposed Rulemaking shall include:

1. The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

2. The text of the proposed rule or amendment and the reason for the proposed rule;

3. A request for comments on the proposed rule from any interested person; and

4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

F. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

1. At least twenty-five (25) persons;

2. A governmental subdivision or agency; or

3. An association having at least twenty-five (25) members.

H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing.

1. All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. No transcript of the hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the Commission from making a transcript or recording of the hearing if it so chooses.

4. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

J. The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

K. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing.

L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of Commission or member state funds;

3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

4. Protect public health and safety.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

SECTION 13. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight

1. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state

pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the Commission.

3. The Commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact, or promulgated rules.

B. Default, Technical Assistance, and Termination

1. If the Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the Commission shall:

a. Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the Commission; and

b. Provide remedial training and specific technical assistance regarding the default.

2. If a state in default fails to cure the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the member states, and all rights, privileges and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

3. Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

4. A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

5. The Commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the Commission and the defaulting state.

6. The defaulting state may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

C. Dispute Resolution

1. Upon request by a member state, the Commission shall attempt to resolve disputes

related to the compact that arise among member states and between member and non-member states.

2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

SECTION 14. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR EMS PERSONNEL PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

A. The compact shall come into effect on the date on which the compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

B. Any state that joins the compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the compact becomes law in that state.

C. Any member state may withdraw from this compact by enacting a statute repealing the same.

1. A member state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing state's EMS authority to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

D. Nothing contained in this compact shall be construed to invalidate or prevent any EMS personnel licensure agreement or other cooperative arrangement between a member state and a

non-member state that does not conflict with the provisions of this compact.

E. This Compact may be amended by the member states. No amendment to this Compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

SECTION 15. CONSTRUCTION
AND SEVERABILITY

This Compact shall be liberally construed so as to effectuate the purposes thereof. If this compact shall be held contrary to the constitution of any state member thereto, the compact shall remain in full force and effect as to the remaining member states. Nothing in this compact supersedes state law or rules related to licensure of EMS agencies.

CHAPTER 98**H. B. 104**

Passed February 24, 2016

Approved March 21, 2016

Effective May 10, 2016

PROPERTY TAXATION AMENDMENTS

Chief Sponsor: Jeremy A. Peterson
Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill modifies the Property Tax Act to address providing notices.

Highlighted Provisions:

This bill:

- ▶ permits the county auditor to provide certain notices by electronic means if certain conditions are met; and
- ▶ makes conforming and technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 59-2-102, as last amended by Laws of Utah 2015, Chapters 133, 198, and 287
- 59-2-918.5, as last amended by Laws of Utah 2014, Chapter 256
- 59-2-918.6, as last amended by Laws of Utah 2009, Chapter 204
- 59-2-919.1, as last amended by Laws of Utah 2014, Chapter 256, and further amended by Revisor Instructions, Laws of Utah 2014, Chapter 256
- 59-2-1004, as last amended by Laws of Utah 2013, Chapter 180

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

Section 1. Section 59-2-102 is amended to read:**59-2-102. Definitions.**

As used in this chapter and title:

(1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness certificate from the Federal Aviation Administration certifying the aircraft or rotorcraft's use for agricultural and pest control purposes.

(2) "Air charter service" means an air carrier operation which requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

(3) "Air contract service" means an air carrier operation available only to customers who engage the services of the carrier through a contractual

agreement and excess capacity on any trip and is not available to the public at large.

(4) "Aircraft" [is as] means the same as that term is defined in Section 72-10-102.

(5) (a) Except as provided in Subsection (5)(b), "airline" means an air carrier that:

(i) operates:

(A) on an interstate route; and

(B) on a scheduled basis; and

(ii) offers to fly one or more passengers or cargo on the basis of available capacity on a regularly scheduled route.

(b) "Airline" does not include an:

(i) air charter service; or

(ii) air contract service.

(6) "Assessment roll" means a permanent record of the assessment of property as assessed by the county assessor and the commission and may be maintained manually or as a computerized file as a consolidated record or as multiple records by type, classification, or categories.

(7) (a) "Certified revenue levy" means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:

(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a school minimum basic tax rate, as specified in Section 53A-17a-135, or multicounty assessing and collecting levy, as specified in Section 59-2-1602; and

(ii) the product of:

(A) new growth, as defined in:

(I) Section 59-2-924; and

(II) rules of the commission; and

(B) the school minimum basic tax rate or multicounty assessing and collecting levy certified by the commission for the previous year.

(b) For purposes of this Subsection (7), "ad valorem property tax revenue" does not include property tax revenue received by a taxing entity from personal property that is:

(i) assessed by a county assessor in accordance with Part 3, County Assessment; and

(ii) semiconductor manufacturing equipment.

(c) For purposes of calculating the certified revenue levy described in this Subsection (7), the commission shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

(ii) the taxable value of real and personal property assessed by the commission; and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.

(8) “County-assessed commercial vehicle” means:

(a) any commercial vehicle, trailer, or semitrailer which is not apportioned under Section 41-1a-301 and is not operated interstate to transport the vehicle owner’s goods or property in furtherance of the owner’s commercial enterprise;

(b) any passenger vehicle owned by a business and used by its employees for transportation as a company car or vanpool vehicle; and

(c) vehicles that are:

(i) especially constructed for towing or wrecking, and that are not otherwise used to transport goods, merchandise, or people for compensation;

(ii) used or licensed as taxicabs or limousines;

(iii) used as rental passenger cars, travel trailers, or motor homes;

(iv) used or licensed in this state for use as ambulances or hearses;

(v) especially designed and used for garbage and rubbish collection; or

(vi) used exclusively to transport students or their instructors to or from any private, public, or religious school or school activities.

(9) (a) Except as provided in Subsection (9)(b), for purposes of Section 59-2-801, “designated tax area” means a tax area created by the overlapping boundaries of only the following taxing entities:

(i) a county; and

(ii) a school district.

(b) Notwithstanding Subsection (9)(a), “designated tax area” includes a tax area created by the overlapping boundaries of:

(i) the taxing entities described in Subsection (9)(a); and

(ii) (A) a city or town if the boundaries of the school district under Subsection (9)(a) and the boundaries of the city or town are identical; or

(B) a special service district if the boundaries of the school district under Subsection (9)(a) are located entirely within the special service district.

(10) “Eligible judgment” means a final and unappealable judgment or order under Section 59-2-1330:

(a) that became a final and unappealable judgment or order no more than 14 months prior to the day on which the notice required by Section 59-2-919.1 is required to be ~~mailed~~ provided; and

(b) for which a taxing entity’s share of the final and unappealable judgment or order is greater than or equal to the lesser of:

(i) \$5,000; or

(ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year.

(11) (a) “Escaped property” means any property, whether personal, land, or any improvements to the property, subject to taxation and is:

(i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed to the wrong taxpayer by the assessing authority;

(ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to comply with the reporting requirements of this chapter; or

(iii) undervalued because of errors made by the assessing authority based upon incomplete or erroneous information furnished by the taxpayer.

(b) Property that is undervalued because of the use of a different valuation methodology or because of a different application of the same valuation methodology is not “escaped property.”

(12) “Fair market value” means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. For purposes of taxation, “fair market value” shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.

(13) “Farm machinery and equipment,” for purposes of the exemption provided under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and cubers, and any other machinery or equipment used primarily for agricultural purposes; but does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other equipment used for business purposes other than farming.

(14) “Geothermal fluid” means water in any form at temperatures greater than 120 degrees centigrade naturally present in a geothermal system.

(15) “Geothermal resource” means:

(a) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and

(b) the energy, in whatever form, including pressure, present in, resulting from, created by, or which may be extracted from that natural heat, directly or through a material medium.

(16) (a) “Goodwill” means:

(i) acquired goodwill that is reported as goodwill on the books and records:

(A) of a taxpayer; and

(B) that are maintained for financial reporting purposes; or

(ii) the ability of a business to:

- (A) generate income:
- (I) that exceeds a normal rate of return on assets; and
- (II) resulting from a factor described in Subsection (16)(b); or
- (B) obtain an economic or competitive advantage resulting from a factor described in Subsection (16)(b).
- (b) The following factors apply to Subsection (16)(a)(ii):
- (i) superior management skills;
- (ii) reputation;
- (iii) customer relationships;
- (iv) patronage; or
- (v) a factor similar to Subsections (16)(b)(i) through (iv).
- (c) “Goodwill” does not include:
- (i) the intangible property described in Subsection (20)(a) or (b);
- (ii) locational attributes of real property, including:
- (A) zoning;
- (B) location;
- (C) view;
- (D) a geographic feature;
- (E) an easement;
- (F) a covenant;
- (G) proximity to raw materials;
- (H) the condition of surrounding property; or
- (I) proximity to markets;
- (iii) value attributable to the identification of an improvement to real property, including:
- (A) reputation of the designer, builder, or architect of the improvement;
- (B) a name given to, or associated with, the improvement; or
- (C) the historic significance of an improvement; or
- (iv) the enhancement or assemblage value specifically attributable to the interrelation of the existing tangible property in place working together as a unit.
- (17) “Governing body” means:
- (a) for a county, city, or town, the legislative body of the county, city, or town;
- (b) for a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, the local district’s board of trustees;
- (c) for a school district, the local board of education; or
- (d) for a special service district under Title 17D, Chapter 1, Special Service District Act:
- (i) the legislative body of the county or municipality that created the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board established under Section 17D-1-301; or
- (ii) the administrative control board, to the extent that the county or municipal legislative body has delegated authority to an administrative control board established under Section 17D-1-301.
- (18) (a) For purposes of Section 59-2-103:
- (i) “household” means the association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses; and
- (ii) “household” includes married individuals, who are not legally separated, that have established domiciles at separate locations within the state.
- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term “domicile.”
- (19) (a) Except as provided in Subsection (19)(c), “improvement” means a building, structure, fixture, fence, or other item that is permanently attached to land, regardless of whether the title has been acquired to the land, if:
- (i) (A) attachment to land is essential to the operation or use of the item; and
- (B) the manner of attachment to land suggests that the item will remain attached to the land in the same place over the useful life of the item; or
- (ii) removal of the item would:
- (A) cause substantial damage to the item; or
- (B) require substantial alteration or repair of a structure to which the item is attached.
- (b) “Improvement” includes:
- (i) an accessory to an item described in Subsection (19)(a) if the accessory is:
- (A) essential to the operation of the item described in Subsection (19)(a); and
- (B) installed solely to serve the operation of the item described in Subsection (19)(a); and
- (ii) an item described in Subsection (19)(a) that:
- (A) is temporarily detached from the land for repairs; and
- (B) remains located on the land.
- (c) Notwithstanding Subsections (19)(a) and (b), “improvement” does not include:
- (i) an item considered to be personal property pursuant to rules made in accordance with Section 59-2-107;

- (ii) a moveable item that is attached to land:
- (A) for stability only; or
- (B) for an obvious temporary purpose;
- (iii) (A) manufacturing equipment and machinery; or
- (B) essential accessories to manufacturing equipment and machinery;
- (iv) an item attached to the land in a manner that facilitates removal without substantial damage to:
- (A) the land; or
- (B) the item; or
- (v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that transportable factory-built housing unit is considered to be personal property under Section 59-2-1503.
- (20) "Intangible property" means:
- (a) property that is capable of private ownership separate from tangible property, including:
- (i) money;
- (ii) credits;
- (iii) bonds;
- (iv) stocks;
- (v) representative property;
- (vi) franchises;
- (vii) licenses;
- (viii) trade names;
- (ix) copyrights; and
- (x) patents;
- (b) a low-income housing tax credit;
- (c) goodwill; or
- (d) a renewable energy tax credit or incentive, including:
- (i) a federal renewable energy production tax credit under Section 45, Internal Revenue Code;
- (ii) a federal energy credit for qualified renewable electricity production facilities under Section 48, Internal Revenue Code;
- (iii) a federal grant for a renewable energy property under American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and
- (iv) a tax credit under Subsection 59-7-614(5).
- (21) "Livestock" means:
- (a) a domestic animal;
- (b) a fish;
- (c) a fur-bearing animal;
- (d) a honeybee; or
- (e) poultry.
- (22) "Low-income housing tax credit" means:
- (a) a federal low-income housing tax credit under Section 42, Internal Revenue Code; or
- (b) a low-income housing tax credit under:
- (i) Section 59-7-607; or
- (ii) Section 59-10-1010.
- (23) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.
- (24) "Mine" means a natural deposit of either metalliferous or nonmetalliferous valuable mineral.
- (25) "Mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a mine.
- (26) (a) "Mobile flight equipment" means tangible personal property that is:
- (i) owned or operated by an:
- (A) air charter service;
- (B) air contract service; or
- (C) airline; and
- (ii) (A) capable of flight;
- (B) attached to an aircraft that is capable of flight; or
- (C) contained in an aircraft that is capable of flight if the tangible personal property is intended to be used:
- (I) during multiple flights;
- (II) during a takeoff, flight, or landing; and
- (III) as a service provided by an air charter service, air contract service, or airline.
- (b) (i) "Mobile flight equipment" does not include a spare part other than a spare engine that is rotated:
- (A) at regular intervals; and
- (B) with an engine that is attached to the aircraft.
- (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "regular intervals."
- (27) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts, sand, rock, gravel, and all carboniferous materials.
- (28) "Part-year residential property" means property that is not residential property on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.
- (29) "Personal property" includes:
- (a) every class of property as defined in Subsection (30) that is the subject of ownership and not included within the meaning of the terms "real estate" and "improvements";
- (b) gas and water mains and pipes laid in roads, streets, or alleys;

- (c) bridges and ferries;
- (d) livestock; and
- (e) outdoor advertising structures as defined in Section 72-7-502.

(30) (a) "Property" means property that is subject to assessment and taxation according to its value.

(b) "Property" does not include intangible property as defined in this section.

(31) "Public utility," for purposes of this chapter, means the operating property of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation, telephone corporation, sewerage corporation, or heat corporation where the company performs the service for, or delivers the commodity to, the public generally or companies serving the public generally, or in the case of a gas corporation or an electrical corporation, where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use. Public utility also means the operating property of any entity or person defined under Section 54-2-1 except water corporations.

(32) (a) Subject to Subsection (32)(b), "qualifying exempt primary residential rental personal property" means household furnishings, furniture, and equipment that:

(i) are used exclusively within a dwelling unit that is the primary residence of a tenant;

(ii) are owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(iii) after applying the residential exemption described in Section 59-2-103, are exempt from taxation under this chapter in accordance with Subsection 59-2-1115(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of this Subsection (32) and Subsection (35).

(33) "Real estate" or "real property" includes:

(a) the possession of, claim to, ownership of, or right to the possession of land;

(b) all mines, minerals, and quarries in and under the land, all timber belonging to individuals or corporations growing or being on the lands of this state or the United States, and all rights and privileges appertaining to these; and

(c) improvements.

(34) "Relationship with an owner of the property's land surface rights" means a relationship described in Subsection 267(b), Internal Revenue Code:

(a) except that notwithstanding Subsection 267(b), Internal Revenue Code, the term 25% shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code; and

(b) using the ownership rules of Subsection 267(c), Internal Revenue Code, for determining the ownership of stock.

(35) (a) Subject to Subsection (35)(b), "residential property," for the purposes of the reductions and adjustments under this chapter, means any property used for residential purposes as a primary residence.

(b) Subject to Subsection (35)(c), "residential property":

(i) except as provided in Subsection (35)(b)(ii), includes household furnishings, furniture, and equipment if the household furnishings, furniture, and equipment are:

(A) used exclusively within a dwelling unit that is the primary residence of a tenant; and

(B) owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(ii) does not include property used for transient residential use.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of Subsection (32) and this Subsection (35).

(36) "Split estate mineral rights owner" means a person who:

(a) has a legal right to extract a mineral from property;

(b) does not hold more than a 25% interest in:

(i) the land surface rights of the property where the wellhead is located; or

(ii) an entity with an ownership interest in the land surface rights of the property where the wellhead is located;

(c) is not an entity in which the owner of the land surface rights of the property where the wellhead is located holds more than a 25% interest; and

(d) does not have a relationship with an owner of the land surface rights of the property where the wellhead is located.

(37) (a) "State-assessed commercial vehicle" means:

(i) any commercial vehicle, trailer, or semitrailer which operates interstate or intrastate to transport passengers, freight, merchandise, or other property for hire; or

(ii) any commercial vehicle, trailer, or semitrailer which operates interstate and transports the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

(b) "State-assessed commercial vehicle" does not include vehicles used for hire which are specified in Subsection (8)(c) as county-assessed commercial vehicles.

(38) "Taxable value" means fair market value less any applicable reduction allowed for residential property under Section 59-2-103.

(39) "Tax area" means a geographic area created by the overlapping boundaries of one or more taxing entities.

(40) "Taxing entity" means any county, city, town, school district, special taxing district, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or other political subdivision of the state with the authority to levy a tax on property.

(41) "Tax roll" means a permanent record of the taxes charged on property, as extended on the assessment roll and may be maintained on the same record or records as the assessment roll or may be maintained on a separate record properly indexed to the assessment roll. It includes tax books, tax lists, and other similar materials.

Section 2. Section 59-2-918.5 is amended to read:

59-2-918.5. Hearings on judgment levies -- Advertisement.

(1) A taxing entity may not impose a judgment levy unless it first advertises its intention to do so and holds a public hearing in accordance with the requirements of this section.

(2) (a) The advertisement required by this section may be combined with the advertisement described in Section 59-2-919.

(b) The advertisement shall be at least 1/8 of a page in size and shall meet the type, placement, and frequency requirements established under Section 59-2-919.

(c) (i) For taxing entities operating under a July 1 through June 30 fiscal year the public hearing shall be held at the same time as the hearing at which the annual budget is adopted.

(ii) For taxing entities operating under a January 1 through December 31 fiscal year:

(A) for an eligible judgment issued on or after March 1 but on or before September 15, the public hearing shall be held at the same time as the hearing at which the annual budget is adopted; or

(B) for an eligible judgment issued on or after September 16 but on or before the last day of February, the public hearing shall be held at the same time as the hearing at which property tax levies are set.

(3) The advertisement shall specify the date, time, and location of the public hearing at which the levy will be considered and shall set forth the total amount of the eligible judgment and the tax impact on an average residential and business property located within the taxing entity.

(4) If a final decision regarding the judgment levy is not made at the public hearing, the taxing entity shall announce at the public hearing the scheduled time and place for consideration and adoption of the judgment levy.

(5) The date, time, and place of public hearings required by Subsections (2)(c)(i) and (2)(c)(ii)(B) shall be included on the notice ~~[mailed]~~ provided to property owners pursuant to Section 59-2-919.1.

Section 3. Section 59-2-918.6 is amended to read:

59-2-918.6. New and remaining school district budgets -- Advertisement -- Public hearing.

(1) As used in this section, "existing school district," "new school district," and "remaining school district" are as defined in Section 53A-2-117.

(2) For the first fiscal year in which a new school district created under Section 53A-2-118.1 assumes responsibility for providing student instruction, the new school district and the remaining school district or districts may not impose a property tax unless the district imposing the tax:

(a) advertises its intention to do so in accordance with Subsection (3); and

(b) holds a public hearing in accordance with Subsection (4).

(3) The advertisement required by this section:

(a) may be combined with the advertisement described in Section 59-2-919;

(b) shall be at least 1/4 of a page in size and shall meet the type, placement, and frequency requirements established under Section 59-2-919; and

(c) shall specify the date, time, and location of the public hearing at which the levy will be considered and shall set forth the total amount of the district's proposed property tax levy and the tax impact on an average residential and business property located within the taxing entity compared to the property tax levy imposed in the prior year by the existing school district.

(4) (a) The date, time, and place of public hearings required by this section shall be included on the notice ~~[mailed]~~ provided to property owners pursuant to Section 59-2-919.1.

(b) If a final decision regarding the property tax levy is not made at the public hearing, the school district shall announce at the public hearing the scheduled time and place for consideration and adoption of the budget and property tax levies.

Section 4. Section 59-2-919.1 is amended to read:

59-2-919.1. Notice of property valuation and tax changes.

(1) In addition to the notice requirements of Section 59-2-919, the county auditor, on or before July 22 of each year, shall notify ~~[by mail]~~ each owner of real estate ~~[as defined in Section 59-2-102]~~ who is listed on the assessment roll.

(2) The notice described in Subsection (1) shall:

(a) except as provided in Subsection (4), be sent to all owners of real property by mail 10 or more days before the day on which:

- (i) the county board of equalization meets; and
- (ii) the taxing entity holds a public hearing on the proposed increase in the certified tax rate;
- (b) be ~~[printed]~~ on a form that is:
 - (i) approved by the commission; and
 - (ii) uniform in content in all counties in the state; and
- (c) contain for each property:
 - (i) the assessor's determination of the value of the property;
 - (ii) the date the county board of equalization will meet to hear complaints on the valuation;
 - (iii) itemized tax information for all applicable taxing entities, including:
 - (A) the dollar amount of the taxpayer's tax liability for the property in the prior year; and
 - (B) the dollar amount of the taxpayer's tax liability under the current rate;
 - (iv) the tax impact on the property;
 - (v) the time and place of the required public hearing for each entity;
 - (vi) property tax information pertaining to:
 - (A) taxpayer relief;
 - (B) options for payment of taxes; and
 - (C) collection procedures;
 - (vii) information specifically authorized to be included on the notice under this chapter;
 - (viii) the last property review date of the property as described in Subsection 59-2-303.1(1)(c); and
 - (ix) other property tax information approved by the commission.

(3) If a taxing entity that is subject to the notice and hearing requirements of Subsection 59-2-919(4) proposes a tax increase, the notice described in Subsection (1) shall state, in addition to the information required by Subsection (2):

- (a) the dollar amount of the taxpayer's tax liability if the proposed increase is approved;
- (b) the difference between the dollar amount of the taxpayer's tax liability if the proposed increase is approved and the dollar amount of the taxpayer's tax liability under the current rate, placed in close proximity to the information described in Subsection (2)(c)(v); and
- (c) the percentage increase that the dollar amount of the taxpayer's tax liability under the proposed tax rate represents as compared to the dollar amount of the taxpayer's tax liability under the current tax rate.

(4) (a) Subject to the other provisions of this Subsection (4), a county auditor may, at the county auditor's discretion, provide the notice required by this section to a taxpayer by electronic means if a taxpayer makes an election, according to procedures determined by the county auditor, to receive the notice by electronic means.

(b) (i) If a notice required by this section is sent by electronic means, a county auditor shall attempt to verify whether a taxpayer receives the notice.

(ii) If receipt of the notice sent by electronic means cannot be verified 14 days or more before the county board of equalization meets and the taxing entity holds a public hearing on a proposed increase in the certified tax rate, the notice required by this section shall also be sent by mail as provided in Subsection (2).

(c) A taxpayer may revoke an election to receive the notice required by this section by electronic means if the taxpayer provides written notice to the county auditor on or before April 30.

(d) An election or a revocation of an election under this Subsection (4):

(i) does not relieve a taxpayer of the duty to pay a tax due under this chapter on or before the due date for paying the tax; or

(ii) does not alter the requirement that a taxpayer appealing the valuation or the equalization of the taxpayer's real property submit the application for appeal within the time period provided in Subsection 59-2-1004(2).

(e) A county auditor shall provide the notice required by this section as provided in Subsection (2), until a taxpayer makes a new election in accordance with this Subsection (4), if:

(i) the taxpayer revokes an election in accordance with Subsection (4)(c) to receive the notice required by this section by electronic means; or

(ii) the county auditor finds that the taxpayer's electronic contact information is invalid.

(f) A person is considered to be a taxpayer for purposes of this Subsection (4) regardless of whether the property that is the subject of the notice required by this section is exempt from taxation.

Section 5. Section 59-2-1004 is amended to read:

59-2-1004. Appeal to county board of equalization -- Real property -- Time period for appeal -- Decision of board -- Extensions approved by commission -- Appeal to commission.

(1) (a) A taxpayer dissatisfied with the valuation or the equalization of the taxpayer's real property may make an application to appeal by:

(i) filing the application with the county board of equalization within the time period described in Subsection (2); or

(ii) making an application by telephone or other electronic means within the time period described

in Subsection (2) if the county legislative body passes a resolution under Subsection (7) authorizing applications to be made by telephone or other electronic means.

(b) The contents of the application shall be prescribed by rule of the county board of equalization.

(2) (a) Except as provided in Subsection (2)(b), for purposes of Subsection (1), a taxpayer shall make an application to appeal the valuation or the equalization of the taxpayer's real property on or before the later of:

(i) September 15 of the current calendar year; or

(ii) the last day of a 45-day period beginning on the day on which the county auditor ~~mails~~ provides the notice under Section 59-2-919.1.

(b) Notwithstanding Subsection (2)(a), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing for circumstances under which the county board of equalization is required to accept an application to appeal that is filed after the time period prescribed in Subsection (2)(a).

(3) The owner shall include in the application under Subsection (1)(a)(i) the owner's estimate of the fair market value of the property and any evidence which may indicate that the assessed valuation of the owner's property is improperly equalized with the assessed valuation of comparable properties.

(4) In reviewing evidence submitted to a county board of equalization by or on behalf of an owner or a county assessor, the county board of equalization shall consider and weigh:

(a) the accuracy, reliability, and comparability of the evidence presented by the owner or the county assessor;

(b) if submitted, the sales price of relevant property that was under contract for sale as of the lien date but sold after the lien date;

(c) if submitted, the sales offering price of property that was offered for sale as of the lien date but did not sell, including considering and weighing the amount of time for which, and manner in which, the property was offered for sale; and

(d) if submitted, other evidence that is relevant to determining the fair market value of the property.

(5) (a) The county board of equalization shall meet and hold public hearings as prescribed in Section 59-2-1001.

(b) The county board of equalization shall make a decision on each appeal filed in accordance with this section within a 60-day period after the day on which the application is made.

(c) The commission may approve the extension of a time period provided for in Subsection (5)(b) for a county board of equalization to make a decision on an appeal.

(d) Unless the commission approves the extension of a time period under Subsection (5)(c), if a county board of equalization fails to make a decision on an appeal within the time period described in Subsection (5)(b), the county legislative body shall:

(i) list the appeal, by property owner and parcel number, on the agenda for the next meeting of the county legislative body that is held after the expiration of the time period described in Subsection (5)(b); and

(ii) hear the appeal at the meeting described in Subsection (5)(d)(i).

(e) The decision of the board shall contain a determination of the valuation of the property based on fair market value, and a conclusion that the fair market value is properly equalized with the assessed value of comparable properties.

(f) If no evidence is presented before the county board of equalization, it will be presumed that the equalization issue has been met.

(g) (i) If the fair market value of the property that is the subject of the appeal deviates plus or minus 5% from the assessed value of comparable properties, the valuation of the appealed property shall be adjusted to reflect a value equalized with the assessed value of comparable properties.

(ii) Subject to Sections 59-2-301.1, 59-2-301.2, 59-2-301.3, and 59-2-301.4, equalized value established under Subsection (5)(g)(i) shall be the assessed value for property tax purposes until the county assessor is able to evaluate and equalize the assessed value of all comparable properties to bring them all into conformity with full fair market value.

(6) If any taxpayer is dissatisfied with the decision of the county board of equalization, the taxpayer may file an appeal with the commission as prescribed in Section 59-2-1006.

(7) A county legislative body may pass a resolution authorizing taxpayers owing taxes on property assessed by that county to file property tax appeals applications under this section by telephone or other electronic means.

CHAPTER 99**H. B. 114**

Passed March 9, 2016
 Approved March 21, 2016
 Effective May 10, 2016

CONTROLLED SUBSTANCE REPORTING

Chief Sponsor: Raymond P. Ward
 Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill amends the Utah Health Code, the Utah Controlled Substances Act, and the Controlled Substance Database Act.

Highlighted Provisions:

This bill:

- ▶ amends the requirement for a general acute hospital to report to the Division of Occupational and Professional Licensing admissions for poisoning or overdose involving a prescribed controlled substance;
- ▶ requires courts to report to the division certain violations of the Utah Controlled Substances Act;
- ▶ amends the purposes of the division's controlled substance database;
- ▶ requires the division to enter into the database information it receives in reports by hospitals concerning persons admitted for poisoning involving a prescribed controlled substance; and
- ▶ requires the division to enter into the database information it receives in reports by courts concerning persons convicted for:
 - driving under the influence of a prescribed controlled substance that renders the person incapable of safely operating a vehicle;
 - driving while impaired, in whole or in part, by a prescribed controlled substance; or
 - certain violations of the Utah Controlled Substances Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill coordinates with H.B. 149, Reporting Death Involving Controlled Substance Amendments, by providing substantive amendments.

Utah Code Sections Affected:**AMENDS:**

26-21-26, as enacted by Laws of Utah 2010, Chapter 290
 58-37-8, as last amended by Laws of Utah 2015, Chapters 165 and 412
 58-37f-201, as enacted by Laws of Utah 2010, Chapter 287
 58-37f-702, as enacted by Laws of Utah 2010, Chapter 290 and renumbered and amended by Coordination Clause, Laws of Utah 2010, Chapter 290
 58-37f-703, as enacted by Laws of Utah 2010, Chapter 109 and renumbered and amended by Coordination Clause, Laws of Utah 2010, Chapter 109

ENACTS:

58-37f-704, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

58-37f-702, as enacted by Laws of Utah 2010, Chapter 290 and renumbered and amended by Coordination Clause, Laws of Utah 2010, Chapter 290

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

Section 1. Section 26-21-26 is amended to read:**26-21-26. General acute hospital to report prescribed controlled substance poisoning or overdose.**

(1) [~~Beginning on July 1, 2012, if~~] If a person who is 12 years of age or older is admitted to a general acute hospital for poisoning or overdose involving a prescribed controlled substance, the general acute hospital shall, within three business days after the day on which the person is admitted, send a written report to the Division of Occupational and Professional Licensing, created in Section 58-1-103, that includes:

- (a) the patient's name and date of birth;
- (b) each drug or other substance found in the person's system that may have contributed to the poisoning or overdose, if known; [~~and~~]
- (c) the name of each person who the general acute hospital has reason to believe may have prescribed a controlled substance described in Subsection (1)(b) to the person, if known[-]; and
- (d) the name of the hospital and the date of admission.

(2) Nothing in this section may be construed as creating a new cause of action.

Section 2. Section 58-37-8 is amended to read:**58-37-8. Prohibited acts -- Penalties.**

(1) Prohibited acts A -- Penalties and reporting:

(a) Except as authorized by this chapter, it is unlawful for any person to knowingly and intentionally:

- (i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;
- (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;
- (iii) possess a controlled or counterfeit substance with intent to distribute; or
- (iv) engage in a continuing criminal enterprise where:

(A) the person participates, directs, or engages in conduct [~~which~~] that results in any violation of any provision of Title 58, Chapters 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b, Imitation Controlled Substances Act, 37c,

Utah Controlled Substance Precursor Act, or 37d, Clandestine Drug Lab Act, that is a felony; and

(B) the violation is a part of a continuing series of two or more violations of Title 58, Chapters 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b, Imitation Controlled Substances Act, 37c, Utah Controlled Substance Precursor Act, or 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.

(b) Any person convicted of violating Subsection (1)(a) with respect to:

(i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony, punishable by imprisonment for not more than 15 years, and upon a second or subsequent conviction is guilty of a first degree felony;

(ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or

(iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.

(c) Any person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on his person or in his immediate possession during the commission or in furtherance of the offense, the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently.

(d) Any person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than seven years and which may be for life. Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(e) The Administrative Office of the Courts shall report to the Division of Occupational and Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (2)(a).

(2) Prohibited acts B -- Penalties and reporting:

(a) It is unlawful:

(i) for any person knowingly and intentionally to possess or use a controlled substance analog or a

controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the person's professional practice, or as otherwise authorized by this chapter;

(ii) for any owner, tenant, licensee, or person in control of any building, room, tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied by persons unlawfully possessing, using, or distributing controlled substances in any of those locations; or

(iii) for any person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.

(b) Any person convicted of violating Subsection (2)(a)(i) with respect to:

(i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony; or

(ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty of a class A misdemeanor on a first or second conviction, and on a third or subsequent conviction is guilty of a third degree felony.

(c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than provided in this Subsection (2).

(d) Any person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section 58-37-4.2, or marijuana, is guilty of a class B misdemeanor. Upon a third conviction the person is guilty of a class A misdemeanor, and upon a fourth or subsequent conviction the person is guilty of a third degree felony.

(e) Any person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of property occupied by any correctional facility as defined in Section 64-13-1 or any public jail or other place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as listed in:

(i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and:

(A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted to a term of six months to run consecutively and not concurrently.

(f) Any person convicted of violating Subsection (2)(a)(ii) or (iii) is:

(i) on a first conviction, guilty of a class B misdemeanor;

(ii) on a second conviction, guilty of a class A misdemeanor; and

(iii) on a third or subsequent conviction, guilty of a third degree felony.

(g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not amounting to a violation of Section 76-5-207:

(i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's body any measurable amount of a controlled substance; and

(ii) operates a motor vehicle as defined in Section 76-5-207 in a negligent manner, causing serious bodily injury as defined in Section 76-1-601 or the death of another.

(h) A person who violates Subsection (2)(g) by having in the person's body:

(i) a controlled substance classified under Schedule I, other than those described in Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second degree felony;

(ii) marijuana, tetrahydrocannabinols, or equivalents described in Subsection 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in Section 58-37-4.2 is guilty of a third degree felony; or

(iii) any controlled substance classified under Schedules III, IV, or V is guilty of a class A misdemeanor.

(i) A person is guilty of a separate offense for each victim suffering serious bodily injury or death as a result of the person's negligent driving in violation of Subsection 58-37-8(2)(g) whether or not the injuries arise from the same episode of driving.

(j) The Administrative Office of the Courts shall report to the Division of Occupational and Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (2)(a).

(3) Prohibited acts C -- Penalties:

(a) It is unlawful for any person knowingly and intentionally:

(i) to use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person;

(ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain a prescription for, to prescribe or dispense to

any person known to be attempting to acquire or obtain possession of, or to procure the administration of any controlled substance by misrepresentation or failure by the person to disclose receiving any controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a prescription or written order for a controlled substance, or the use of a false name or address;

(iii) to make any false or forged prescription or written order for a controlled substance, or to utter the same, or to alter any prescription or written order issued or written under the terms of this chapter; or

(iv) to make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render any drug a counterfeit controlled substance.

(b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A misdemeanor.

(ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third degree felony.

(c) A violation of Subsection (3)(a)(iv) is a third degree felony.

(4) Prohibited acts D -- Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act that is unlawful under Subsection (1)(a), Section 58-37a-5, or Section 58-37b-4 is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools during the hours of 6 a.m. through 10 p.m.;

(ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

(iii) in or on the grounds of a preschool or child-care facility during the preschool's or facility's hours of operation;

(iv) in a public park, amusement park, arcade, or recreation center when the public or amusement park, arcade, or recreation center is open to the public;

(v) in or on the grounds of a house of worship as defined in Section 76-10-501;

(vi) in or on the grounds of a library when the library is open to the public;

(vii) within any area that is within 100 feet of any structure, facility, or grounds included in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);

(viii) in the presence of a person younger than 18 years of age, regardless of where the act occurs; or

(ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of any correctional facility as defined in Section 76-8-311.3.

(b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this Subsection (4) would have been a first degree felony.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

(d) (i) If the violation is of Subsection (4)(a)(ix):

(A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) the penalties under this Subsection (4)(d) apply also to any person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(ix).

(e) It is not a defense to a prosecution under this Subsection (4) that the actor mistakenly believed the individual to be 18 years of age or older at the time of the offense or was unaware of the individual's true age; nor that the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).

(5) Any violation of this chapter for which no penalty is specified is a class B misdemeanor.

(6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of guilty or no contest to a violation or attempted violation of this section or a plea which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a conviction that is:

(i) from a separate criminal episode than the current charge; and

(ii) from a conviction that is separate from any other conviction used to enhance the current charge.

(7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.

(8) (a) Any penalty imposed for violation of this section is in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law.

(b) Where violation of this chapter violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

(9) In any prosecution for a violation of this chapter, evidence or proof which shows a person or persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.

(10) This section does not prohibit a veterinarian, in good faith and in the course of the veterinarian's professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances or from causing the substances to be administered by an assistant or orderly under the veterinarian's direction and supervision.

(11) Civil or criminal liability may not be imposed under this section on:

(a) any person registered under this chapter who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research; or

(b) any law enforcement officer acting in the course and legitimate scope of the officer's employment.

(12) (a) Civil or criminal liability may not be imposed under this section on any Indian, as defined in Subsection 58-37-2(1)(v), who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion as defined in Subsection 58-37-2(1)(w).

(b) In a prosecution alleging violation of this section regarding peyote as defined in Subsection 58-37-4(2)(a)(iii)(V), it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.

(c) (i) The defendant shall provide written notice of intent to claim an affirmative defense under this

Subsection (12) as soon as practicable, but not later than 10 days prior to trial.

(ii) The notice shall include the specific claims of the affirmative defense.

(iii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

(d) The defendant shall establish the affirmative defense under this Subsection (12) by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.

(13) (a) It is an affirmative defense that the person produced, possessed, or administered a controlled substance listed in Section 58-37-4.2 if the person:

(i) was engaged in medical research; and

(ii) was a holder of a valid license to possess controlled substances under Section 58-37-6.

(b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a controlled substance listed in Section 58-37-4.2.

(14) It is an affirmative defense that the person possessed, in the person's body, a controlled substance listed in Section 58-37-4.2 if:

(a) the person was the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(b) the substance was administered to the person by the medical researcher.

(15) The application of any increase in penalty under this section to a violation of Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This Subsection (15) takes precedence over any conflicting provision of this section.

(16) (a) It is an affirmative defense to an allegation of the commission of an offense listed in Subsection (16)(b) that the person:

(i) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(ii) reports in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this Subsection (16);

(iii) provides in the report under Subsection (16)(a)(ii) a functional description of the actual location of the overdose event that facilitates responding to the person experiencing the overdose event;

(iv) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical

service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

(v) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

(vi) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

(b) The offenses referred to in Subsection (16)(a) are:

(i) the possession or use of less than 16 ounces of marijuana;

(ii) the possession or use of a scheduled or listed controlled substance other than marijuana; and

(iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act.

(c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not include seeking medical assistance under this section during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

(17) If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

(18) A legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of this chapter.

(19) (a) If a minor who is under 18 years of age is found by a court to have violated this section and the violation is the minor's first violation of this section, the court may:

(i) order the minor to complete a screening as defined in Section 41-6a-501;

(ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(iii) order the minor to complete an educational series as defined in Section 41-6a-501 or substance abuse treatment as indicated by an assessment.

(b) If a minor who is under 18 years of age is found by a court to have violated this section and the violation is the minor's second or subsequent violation of this section, the court shall:

(i) order the minor to complete a screening as defined in Section 41-6a-501;

(ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(iii) order the minor to complete an educational series as defined in Section 41-6a-501 or substance abuse treatment as indicated by an assessment.

Section 3. Section 58-37f-201 is amended to read:

58-37f-201. Controlled substance database -- Creation -- Purpose.

(1) There is created within the division a controlled substance database.

(2) The division shall administer and direct the functioning of the database in accordance with this chapter.

(3) The division may, under state procurement laws, contract with another state agency or a private entity to establish, operate, or maintain the database.

(4) The division shall, in collaboration with the board, determine whether to operate the database within the division or contract with another entity to operate the database, based on an analysis of costs and benefits.

(5) The purpose of the database is to contain:

(a) the data described in Section 58-37f-203 regarding every prescription for a controlled substance dispensed in the state to any individual other than an inpatient in a licensed health care facility[-];

(b) data reported to the division under Section 26-21-26 regarding poisoning or overdose;

(c) data reported to the division under Subsection 41-6a-502(4) or 41-6a-502.5(5)(b) regarding convictions for driving under the influence of a prescribed controlled substance or impaired driving; and

(d) data reported to the division under Subsection 58-37-8(1)(e) or 58-37-8(2)(j) regarding certain violations of the Utah Controlled Substances Act.

(6) The division shall maintain the database in an electronic file or by other means established by the division to facilitate use of the database for identification of:

(a) prescribing practices and patterns of prescribing and dispensing controlled substances;

(b) practitioners prescribing controlled substances in an unprofessional or unlawful manner;

(c) individuals receiving prescriptions for controlled substances from licensed practitioners, and who subsequently obtain dispensed controlled substances from a drug outlet in quantities or with a frequency inconsistent with generally recognized standards of dosage for that controlled substance; [and]

(d) individuals presenting forged or otherwise false or altered prescriptions for controlled substances to a pharmacy[-];

(e) individuals admitted to a general acute hospital for poisoning or overdose involving a prescribed controlled substance; and

(f) individuals convicted for:

(i) driving under the influence of a prescribed controlled substance that renders the individual incapable of safely operating a vehicle;

(ii) driving while impaired, in whole or in part, by a prescribed controlled substance; or

(iii) certain violations of the Utah Controlled Substances Act.

Section 4. Section 58-37f-702 is amended to read:

58-37f-702. Entering prescribed controlled substance poisonings and overdoses into the database and reporting them to practitioners.

(1) [~~Beginning on July 1, 2012, if the division~~] When the database receives a report from a general acute hospital under Section 26-21-26, regarding admission to a general acute hospital for poisoning or overdose involving a prescribed controlled substance, the division shall, within three business days after the day on which the report is received:

(a) attempt to identify, through the database, each practitioner who may have prescribed the controlled substance to the patient; and

(b) provide each practitioner identified under Subsection (1)(a) with:

(i) a copy of the report provided by the general acute hospital under Section 26-21-26; and

(ii) the information obtained from the database that led the division to determine that the practitioner receiving the information may have prescribed the controlled substance to the person named in the report.

(2) It is the intent of the Legislature that the information provided under Subsection (1)(b) is provided for the purpose of assisting the practitioner in:

(a) discussing with the patient issues relating to the poisoning or overdose;

(b) advising the patient of measures that may be taken to avoid a future poisoning or overdose; and

(c) making decisions regarding future prescriptions written for the patient.

(3) Beginning on July 1, 2010, the division shall, in accordance with Section 63J-1-504, increase the licensing fee described in Subsection 58-37-6(1)(b) to pay the startup and ongoing costs of the division for complying with the requirements of this section.

Section 5. Section 58-37f-703 is amended to read:

58-37f-703. Entering certain convictions into the database and reporting them to practitioners.

(1) [~~Beginning on July 1, 2012, if~~] When the division receives a report from a court under

Subsection 41-6a-502(4) or 41-6a-502.5(5)(b) relating to a conviction for driving under the influence of, or while impaired by, a prescribed controlled substance, the division shall:

(a) daily enter into the database the information supplied in the report, including the date on which the person was convicted;

~~[(a)]~~ (b) attempt to identify, through the database, each practitioner who may have prescribed the controlled substance to the convicted person; and

~~[(b)]~~ (c) provide each practitioner identified under Subsection (1)~~[(a)]~~(b) with:

(i) a copy of the information provided by the court; and

(ii) the information obtained from the database that led the division to determine that the practitioner receiving the information may have prescribed the controlled substance to the convicted person.

(2) It is the intent of the Legislature that the information provided under Subsection (1)(b) is provided for the purpose of assisting the practitioner in:

(a) discussing the manner in which the controlled substance may impact the convicted person's driving;

(b) advising the convicted person on measures that may be taken to avoid adverse impacts of the controlled substance on future driving; and

(c) making decisions regarding future prescriptions written for the convicted person.

(3) Beginning on July 1, 2010, the division shall, in accordance with Section 63J-1-504, increase the licensing fee described in Subsection 58-37-6(1)(b) to pay the startup and ongoing costs of the division for complying with the requirements of this section.

Section 6. Section 58-37f-704 is enacted to read:

58-37f-704. Entering certain convictions into the database.

Beginning October 1, 2016, if the division receives a report from a court under Subsection 58-37-8(1)(e) or 58-37-8(2)(j), the division shall daily enter into the database the information supplied in the report.

Section 7. Coordinating H.B. 114 with H.B. 149 -- Superseding technical and substantive amendments.

If this H.B. 114 and H.B. 149, Reporting Death Involving Controlled Substance Amendments, both pass and become law, it is the intent of the Legislature that the amendments to Subsection 58-37f-702(1) in H.B. 149 supersede the amendments to Subsection 58-37f-702(1) in this bill when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

CHAPTER 100**H. B. 120**

Passed March 7, 2016
 Approved March 21, 2016
 Effective May 10, 2016

**DUI ENFORCEMENT
 FUNDING AMENDMENTS**

Chief Sponsor: Steve Eliason
 Senate Sponsor: Curtis S. Bramble
 Cosponsor: Lee B. Perry

LONG TITLE**General Description:**

This bill increases the administrative fee for impounding a vehicle.

Highlighted Provisions:

This bill:

- ▶ increases the administrative fee for impounding a vehicle due to an arrest, citation, or referral for administrative action for driving under the influence or reckless driving; and
- ▶ allocates the funds from the increased impound fee to the Department of Public Safety Restricted Account.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2017:

- ▶ to the Department of Public Safety - Highway Safety as a one-time appropriation:
 - from the Department of Public Safety Restricted Account, \$423,200.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-1406, as last amended by Laws of Utah 2014, Chapter 249

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

Section 1. Section 41-6a-1406 is amended to read:**41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**

(1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under Section 41-1a-1101, 41-6a-527, 41-6a-1405, 41-6a-1408, or 73-18-20.1 by an order of a peace officer or by an order of a person acting on behalf of a law enforcement agency or highway authority, the removal or impoundment of the vehicle, vessel, or outboard motor shall be at the expense of the owner.

(2) The vehicle, vessel, or outboard motor under Subsection (1) shall be removed or impounded to:

- (a) a state impound yard; or
- (b) if none, a garage, docking area, or other place of safety.

(3) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be removed by a tow truck motor carrier that meets standards established:

(a) under Title 72, Chapter 9, Motor Carrier Safety Act; and

(b) by the department under Subsection (10).

(4) (a) Immediately after the removal of the vehicle, vessel, or outboard motor, a report of the removal shall be sent to the Motor Vehicle Division by:

(i) the peace officer or agency by whom the peace officer is employed; and

(ii) the tow truck operator or the tow truck motor carrier by whom the tow truck operator is employed.

(b) The report shall be in a form specified by the Motor Vehicle Division and shall include:

(i) the operator's name, if known;

(ii) a description of the vehicle, vessel, or outboard motor;

(iii) the vehicle identification number or vessel or outboard motor identification number;

(iv) the license number or other identification number issued by a state agency;

(v) the date, time, and place of impoundment;

(vi) the reason for removal or impoundment;

(vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or outboard motor; and

(viii) the place where the vehicle, vessel, or outboard motor is stored.

(c) Until the tow truck operator or tow truck motor carrier reports the removal as required under this Subsection (4), a tow truck motor carrier or impound yard may not:

(i) collect any fee associated with the removal; and

(ii) begin charging storage fees.

(5) (a) Except as provided in Subsection (5)(e) and upon receipt of the report, the Motor Vehicle Division shall give notice to the registered owner of the vehicle, vessel, or outboard motor and any lien holder in the manner prescribed by Section 41-1a-114.

(b) The notice shall:

(i) state the date, time, and place of removal, the name, if applicable, of the person operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal, and the place where the vehicle, vessel, or outboard motor is stored;

(ii) state that the registered owner is responsible for payment of towing, impound, and storage fees charged against the vehicle, vessel, or outboard motor;

(iii) inform the registered owner of the vehicle, vessel, or outboard motor of the conditions that must be satisfied before the vehicle, vessel, or outboard motor is released; and

(iv) inform the registered owner and lienholder of the division's intent to sell the vehicle, vessel, or outboard motor, if within 30 days from the date of the removal or impoundment under this section, the owner, lien holder, or the owner's agent fails to make a claim for release of the vehicle, vessel, or outboard motor.

(c) Except as provided in Subsection (5)(e) and if the vehicle, vessel, or outboard motor is not registered in this state, the Motor Vehicle Division shall make a reasonable effort to notify the registered owner and any lien holder of the removal and the place where the vehicle, vessel, or outboard motor is stored.

(d) The Motor Vehicle Division shall forward a copy of the notice to the place where the vehicle, vessel, or outboard motor is stored.

(e) The Motor Vehicle Division is not required to give notice under this Subsection (5) if a report was received by a tow truck operator or tow truck motor carrier reporting a tow truck service in accordance with Subsection 72-9-603(1)(a)(i).

(6) (a) The vehicle, vessel, or outboard motor shall be released after the registered owner, lien holder, or the owner's agent:

(i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of the State Tax Commission;

(ii) presents identification sufficient to prove ownership of the impounded vehicle, vessel, or outboard motor;

(iii) completes the registration, if needed, and pays the appropriate fees;

(iv) if the impoundment was made under Section 41-6a-527, pays an administrative impound fee of [§350] \$400; and

(v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard motor is stored.

(b) (i) Twenty-nine dollars of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be dedicated credits to the Motor Vehicle Division;

(ii) [§97] \$147 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited in the Department of Public Safety Restricted Account created in Section 53-3-106;

(iii) \$20 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited in the Traumatic Spinal Cord and Brain Injury Rehabilitation Fund; and

(iv) the remainder of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited in the General Fund.

(c) The administrative impound fee assessed under Subsection (6)(a)(iv) shall be waived or refunded by the State Tax Commission if the registered owner, lien holder, or owner's agent presents written evidence to the State Tax Commission that:

(i) the Driver License Division determined that the arrested person's driver license should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter or other report from the Driver License Division presented within 30 days of the final notification from the Driver License Division; or

(ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the stolen vehicle report presented within 30 days of the impoundment.

(d) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept payment by cash and debit or credit card for a removal or impoundment under Subsection (1) or any service rendered, performed, or supplied in connection with a removal or impoundment under Subsection (1).

(e) The owner of an impounded vehicle may not be charged a fee for the storage of the impounded vehicle, vessel, or outboard motor if:

(i) the vehicle, vessel, or outboard motor is being held as evidence; and

(ii) the vehicle, vessel, or outboard motor is not being released to the registered owner, lien holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent satisfies the requirements to release the vehicle, vessel, or outboard motor under this Subsection (6).

(7) (a) An impounded vehicle, vessel, or outboard motor not claimed by the registered owner or the owner's agent within the time prescribed by Section 41-1a-1103 shall be sold in accordance with that section and the proceeds, if any, shall be disposed of as provided under Section 41-1a-1104.

(b) The date of impoundment is considered the date of seizure for computing the time period provided under Section 41-1a-1103.

(8) The registered owner who pays all fees and charges incurred in the impoundment of the owner's vehicle, vessel, or outboard motor, has a cause of action for all the fees and charges, together with damages, court costs, and attorney fees, against the operator of the vehicle, vessel, or outboard motor whose actions caused the removal or impoundment.

(9) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel, or outboard motor.

(10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules setting the performance standards for towing companies to be used by the department.

(11) (a) The Motor Vehicle Division may specify that a report required under Subsection (4) be

submitted in electronic form utilizing a database for submission, storage, and retrieval of the information.

(b) (i) Unless otherwise provided by statute, the Motor Vehicle Division or the administrator of the database may adopt a schedule of fees assessed for utilizing the database.

(ii) The fees under this Subsection (11)(b) shall:

(A) be reasonable and fair; and

(B) reflect the cost of administering the database.

Section 2. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or amounts indicated. These sums of money are in addition to amounts previously appropriated for fiscal year 2017.

To Department of Public Safety - Highway Safety

<u>From Department of Public Safety Restricted Account</u>	<u>\$423,200</u>
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Schedule of Programs:

<u>Highway Safety</u>	<u>\$423,200</u>
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The Legislature intends that the appropriation under this section be used to carry out the requirements described in Section 53-1-117.

CHAPTER 101**H. B. 126**

Passed March 7, 2016
Approved March 21, 2016
Effective May 10, 2016

UNMANNED AIRCRAFT REVISIONS

Chief Sponsor: Kraig Powell
Senate Sponsor: Kevin T. Van Tassell

LONG TITLE**General Description:**

This bill addresses the use of an unmanned aircraft in relation to a wildland fire.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ subject to certain exceptions, prohibits an individual from flying an unmanned aircraft within certain areas relating to a wildland fire; and
- ▶ provides criminal penalties for certain violations of the provisions of this bill.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-18-101, as last amended by Laws of Utah 2015, Chapter 269

ENACTS:

65A-3-2.5, Utah Code Annotated 1953

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

Section 1. Section 63G-18-101 is amended to read:**CHAPTER 18. UNMANNED AIRCRAFT -- DRONES****63G-18-101. Title.**

This chapter is known as [~~the "Government Use of Unmanned Aircraft Systems Act."~~] "Unmanned Aircraft -- Drones."

Section 2. Section 65A-3-2.5 is enacted to read:**65A-3-2.5. Wildland fire and unmanned aircraft.**

(1) As used in this section:

(a) "Incident commander" means the government official or employee in command of the response to a wildland fire.

(b) "Sanctioned entity" includes a person that oversees, is employed by, or is working under the direction of:

- (i) a government entity;
- (ii) a telecommunications provider;

(iii) a utility provider;

(iv) the owner or operator of a pipeline;

(v) an insurance provider;

(vi) a resource extraction entity;

(vii) news media;

(viii) a person that operates an unmanned aircraft system under a certificate of waiver, a certificate of authorization, or any other grant of authority obtained from the Federal Aviation Administration that expressly authorizes operation of the unmanned aircraft system; or

(ix) a person similar to a person described in Subsections (1)(c)(i) through (vii).

(c) "Unmanned aircraft" means an aircraft that is:

(i) capable of sustaining flight; and

(ii) operated with no possible direct human intervention from on or within the aircraft.

(d) "Unmanned aircraft system" means the entire system used to operate an unmanned aircraft, including:

(i) the unmanned aircraft;

(ii) communications equipment;

(iii) navigation equipment;

(iv) controllers;

(v) support equipment; and

(vi) autopilot functionality.

(2) A person may not operate an unmanned aircraft system within an area that is under a temporary flight restriction that is issued by the Federal Aviation Administration as a result of the wildland fire, or an area designated as a wildland fire scene on a system managed by a federal, state, or local government entity that disseminates emergency information to the public, unless the person operates the unmanned aircraft system with the permission of, and in accordance with the restrictions established by, the incident commander.

(3) A person, other than a government official or a government employee acting within the person's capacity as a government official or government employee, that recklessly operates an unmanned aircraft within an area described in Subsection (2) is guilty of:

(a) except as provided in Subsection (3)(b), (c), or (d), a class B misdemeanor;

(b) except as provided in Subsection (3)(c) or (d), a class A misdemeanor, if the operation of the unmanned aircraft system causes an aircraft being used to contain or control a wildland fire to:

(i) drop a payload of water or fire retardant in a location other than the location originally designated for the aircraft to drop the payload; or

(ii) land without dropping a payload of water or fire retardant in the location originally designated for the aircraft to drop the payload;

(c) except as provided in Subsection (3)(d), a third degree felony, if the operation of the unmanned aircraft system causes the unmanned aircraft to come into direct physical contact with a manned aircraft; or

(d) a second degree felony if the operation of the unmanned aircraft is the proximate cause of a manned aircraft colliding with the ground, a structure, or another manned aircraft.

(4) The incident commander of a wildland fire shall grant reasonable access to the area of, and within three miles of, the wildland fire to a sanctioned entity if:

(a) the access is for a purpose related to the responsibilities or business of the sanctioned entity; and

(b) the access can be granted, with reasonable restrictions, without imposing a safety risk or impairing efforts to control the wildland fire.

(5) A political subdivision of the state, or an entity within a political subdivision of the state, may not enact a law, ordinance, or rule governing the private use of an unmanned aircraft in relation to a wildland fire.

CHAPTER 102**H. B. 127**

Passed March 9, 2016
 Approved March 21, 2016
 Effective January 1, 2017

LICENSE PLATE OPTIONS

Chief Sponsor: Val L. Peterson
 Senate Sponsor: Todd Weiler
 Cosponsors: Jacob L. Anderegg
 Johnny Anderson
 Stewart Barlow
 Melvin R. Brown
 Scott H. Chew
 LaVar Christensen
 Kay J. Christofferson
 Kim Coleman
 Fred C. Cox
 Rich Cunningham
 Bruce R. Cutler
 Brad M. Daw
 Brad L. Dee
 Sophia M. DiCaro
 Jack R. Draxler
 Susan Duckworth
 Justin L. Fawson
 Keith Grover
 Stephen G. Handy
 Timothy D. Hawkes
 Sandra Hollins
 Eric K. Hutchings
 Ken Ivory
 Michael S. Kennedy
 Brad King
 John Knotwell
 David E. Liffirth
 Mike K. McKell
 Merrill F. Nelson
 Michael E. Noel
 Curtis Oda
 Derrin Owens
 Lee B. Perry
 Dixon M. Pitcher
 Kraig Powell
 Paul Ray
 Marc K. Roberts
 Douglas V. Sagers
 Scott D. Sandall
 Mike Schultz
 V. Lowry Snow
 Robert M. Spendlove
 Jon E. Stanard
 Keven J. Stratton
 Earl D. Tanner
 Norman K Thurston
 R. Curt Webb
 John R. Westwood
 Mark A. Wheatley
 Brad R. Wilson

LONG TITLE**General Description:**

This bill designates the In God We Trust license plate as one of the standard issue license plates.

Highlighted Provisions:

This bill:

- ▶ adds the In God We Trust license plate as one of the standard options available; and
- ▶ removes the In God We Trust license plate from the list of special group license plates.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 41-1a-402, as last amended by Laws of Utah 2015, Chapter 412
 41-1a-418, as last amended by Laws of Utah 2014, Chapter 37

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

Section 1. Section 41-1a-402 is amended to read:**41-1a-402. Required colors, numerals, and letters -- Expiration.**

- (1) Each license plate shall have displayed on it:
- (a) the registration number assigned to the vehicle for which it is issued;
 - (b) the name of the state; and
 - (c) a registration decal showing the date of expiration displayed in accordance with Subsection (6).
- (2) If registration is extended by affixing a registration decal to the license plate, the expiration date of the decal governs the expiration date of the license plate.
- (3) Except as provided in Subsection (4), each original license plate that is not one of the special group license plates issued under Section 41-1a-418 shall be [a]:
- (a) a statehood centennial license plate with the same color, design, and slogan as the plates issued in conjunction with the statehood centennial; [or]
 - (b) a Ski Utah license plate[-]; or
 - (c) an In God We Trust license plate.
- (4) Beginning on the date that the division determines the existing inventories of statehood centennial license plates and Ski Utah license plates are exhausted, each license plate that is not one of the special group license plates issued under Section 41-1a-418 shall:
- (a) (i) display the "Life Elevated" slogan; and
 - [~~(b)~~] (ii) have a color and design approved by the 57th Legislature in the 2007 General Session that features:
 - [~~(i)~~] (A) a skier with the "Greatest Snow on Earth" slogan; or
 - [~~(ii)~~] (B) Delicate Arch[-]; or
 - (b) be an In God We Trust license plate.

(5) (a) Except as provided under Subsection 41-1a-215(2), license plates shall be renewed annually.

(b) (i) The division shall issue the vehicle owner a month decal and a year decal upon the vehicle's first registration with the division.

(ii) The division shall issue the vehicle owner only a year decal upon subsequent renewals of registration to validate registration renewal.

(6) The decals issued in accordance with Subsection (5) shall be applied as follows:

(a) for license plates issued beginning in 1974 through 1985, decals displayed on license plates with black lettering on a white background shall be applied to the lower left-hand corner of the rear of the license plate vehicles;

(b) decals displayed on statehood centennial license plates and on Ski Utah license plates issued in accordance with Subsection (3) shall be applied to the upper left-hand corner of the rear license plate;

(c) decals displayed on special group license plates issued in accordance with Section 41-1a-418 shall be applied to the upper right-hand corner of the license plate unless there is a plate indentation on the upper left-hand corner of the license plate;

(d) decals displayed on license plates with the "Life Elevated" slogan issued in accordance with Subsection (4) shall be applied in the upper left-hand corner for the month decal and the upper right-hand corner for the year decal;

(e) decals displayed on license plates with the "In God We Trust" slogan issued in accordance with Subsection (4)(b) shall be applied in the upper right-hand corner of the rear license plate unless there is a plate indentation on the upper left-hand corner of the license plate;

~~(e)~~ (f) decals issued for truck tractors shall be applied to the front license plate in the position described in Subsection (6)(a), (b), or (d);

~~(f)~~ (g) decals issued for motorcycles shall be applied to the upper corner of the license plate opposite the word "Utah"; and

~~(g)~~ (h) decals displayed on license plates issued under Section 41-1a-416 shall be applied as appropriate for the year of the plate.

(7) (a) The month decal issued in accordance with Subsection (5) shall be displayed on the license plate in the left position.

(b) The year decal issued in accordance with Subsection (5) shall be displayed on the license plate in the right position.

(8) The current year decal issued in accordance with Subsection (5) shall be placed over the previous year decal.

(9) If a license plate, month decal, or year decal is lost or destroyed, a replacement shall be issued upon application and payment of the fees required under Section 41-1a-1211 or 41-1a-1212.

(10) A violation of this section is an infraction.

Section 2. Section 41-1a-418 is amended to read:

41-1a-418. Authorized special group license plates.

(1) The division shall only issue special group license plates in accordance with this section through Section 41-1a-422 to a person who is specified under this section within the categories listed as follows:

(a) disability special group license plates issued in accordance with Section 41-1a-420;

(b) honor special group license plates, as in a war hero, which plates are issued for a:

(i) survivor of the Japanese attack on Pearl Harbor;

(ii) former prisoner of war;

(iii) recipient of a Purple Heart;

(iv) disabled veteran; or

(v) recipient of a gold star award issued by the United States Secretary of Defense;

(c) unique vehicle type special group license plates, as for historical, collectors value, or other unique vehicle type, which plates are issued for:

(i) a special interest vehicle;

(ii) a vintage vehicle;

(iii) a farm truck; or

(iv) (A) until Subsection (1)(c)(iv)(B) or (4) applies, a vehicle powered by clean fuel as defined in Section 59-13-102; or

(B) beginning on the effective date of rules made by the Department of Transportation authorized under Subsection 41-6a-702(5)(b) and until Subsection (4) applies, a vehicle powered by clean fuel that meets the standards established by the Department of Transportation in rules authorized under Subsection 41-6a-702(5)(b);

(d) recognition special group license plates, which plates are issued for:

(i) a current member of the Legislature;

(ii) a current member of the United States Congress;

(iii) a current member of the National Guard;

(iv) a licensed amateur radio operator;

(v) a currently employed, volunteer, or retired firefighter until June 30, 2009;

(vi) an emergency medical technician;

(vii) a current member of a search and rescue team; or

(viii) a current honorary consulate designated by the United States Department of State; ~~or~~

~~[(ix) an individual that wants to recognize and honor American freedoms and values through an In God We Trust license plate;]~~

(e) support special group license plates, as for a contributor to an institution or cause, which plates are issued for a contributor to:

- (i) an institution's scholastic scholarship fund;
- (ii) the Division of Wildlife Resources;
- (iii) the Department of Veterans' and Military Affairs;
- (iv) the Division of Parks and Recreation;
- (v) the Department of Agriculture and Food;
- (vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;
- (vii) the Boy Scouts of America;
- (viii) spay and neuter programs through No More Homeless Pets in Utah;
- (ix) the Boys and Girls Clubs of America;
- (x) Utah public education;
- (xi) programs that provide support to organizations that create affordable housing for those in severe need through the Division of Real Estate;
- (xii) the Department of Public Safety;
- (xiii) programs that support Zion National Park;
- (xiv) beginning on July 1, 2009, programs that provide support to firefighter organizations;
- (xv) programs that promote bicycle operation and safety awareness;
- (xvi) programs that conduct or support cancer research;
- (xvii) programs that create or support autism awareness;
- (xviii) programs that create or support humanitarian service and educational and cultural exchanges;
- (xix) programs that conduct or support prostate cancer awareness, screening, detection, or prevention;
- (xx) programs that support and promote adoptions;
- (xxi) programs that create or support civil rights education and awareness; or
- (xxii) programs that support issues affecting women and children through an organization affiliated with a national professional men's basketball organization.

(2) (a) The division may not issue a new type of special group license plate unless the division receives:

- (i) (A) a private donation for the start-up fee established under Section 63J-1-504 for the production and administrative costs of providing the new special group license plates; or

(B) a legislative appropriation for the start-up fee provided under Subsection (2)(a)(i)(A); and

(ii) beginning on January 1, 2012, and for the issuance of a support special group license plate authorized in Section 41-1a-422, at least 500 completed applications for the new type of support special group license plate to be issued with all fees required under this part for the support special group license plate issuance paid by each applicant.

(b) (i) Beginning on January 1, 2012, each participating organization shall collect and hold applications for support special group license plates authorized in Section 41-1a-422 on or after January 1, 2012, until it has received at least 500 applications.

(ii) Once a participating organization has received at least 500 applications, it shall submit the applications, along with the necessary fees, to the division for the division to begin working on the design and issuance of the new type of support special group license plate to be issued.

(iii) Beginning on January 1, 2012, the division may not work on the issuance or design of a new support special group license plate authorized in Section 41-1a-422 until the applications and fees required under this Subsection (2) have been received by the division.

(iv) The division shall begin issuance of a new support special group license plate authorized in Section 41-1a-422 on or after January 1, 2012, no later than six months after receiving the applications and fees required under this Subsection (2).

(c) (i) Beginning on July 1, 2009, the division may not renew a motor vehicle registration of a motor vehicle that has been issued a firefighter recognition special group license plate unless the applicant is a contributor as defined in Subsection 41-1a-422(1)(a)(ii)(D) to the Firefighter Support Restricted Account.

(ii) A registered owner of a vehicle that has been issued a firefighter recognition special group license plate prior to July 1, 2009, upon renewal of the owner's motor vehicle registration shall:

(A) be a contributor to the Firefighter Support Restricted Account as required under Subsection (2)(c)(i); or

(B) replace the firefighter recognition special group license plate with a new license plate.

(3) (a) Beginning on July 1, 2011, if a support special group license plate type authorized in Section 41-1a-422 and issued on or after January 1, 2012, has fewer than 500 license plates issued each year for a three consecutive year time period that begins on July 1, the division may not issue that type of support special group license plate to a new applicant beginning on January 1 of the following calendar year after the three consecutive year time period for which that type of support special group license plate has fewer than 500 license plates issued each year.

(b) If the division is required to stop the issuance of a type of support special group license plate

authorized in Section 41-1a-422 under this Subsection (3), the division shall report to the Transportation Interim Committee that the division will stop the issuance on or before the November interim meeting of the year in which the commission determines to stop the issuance of that type of support special group license plate.

(4) Beginning on July 1, 2011, the division may not issue to an applicant a unique vehicle type license plate for a vehicle powered by clean fuel under Subsection (1)(c)(iv).

Section 3. Effective date.

This bill takes effect on January 1, 2017.

CHAPTER 103**H. B. 129**

Passed March 3, 2016

Approved March 21, 2016

Effective May 10, 2016

TOWING SURCHARGE AMENDMENTS

Chief Sponsor: Keven J. Stratton
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions related to tow truck operations.

Highlighted Provisions:

This bill:

- ▶ enacts a provision related to the collection of a credit card processing fee by a tow truck driver, a tow truck motor carrier, or an impound yard.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

72-9-603, as last amended by Laws of Utah 2014, Chapter 249

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

Section 1. Section 72-9-603 is amended to read:**72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned vehicle title restrictions -- Rules for maximum rates and certification.**

(1) Except for a tow truck service that was ordered by a peace officer, or a person acting on behalf of a law enforcement agency, or a highway authority, after performing a tow truck service that is being done without the vehicle, vessel, or outboard motor owner's knowledge, the tow truck operator or the tow truck motor carrier shall:

(a) immediately upon arriving at the place of storage or impound of the vehicle, vessel, or outboard motor:

(i) send a report of the removal to the Motor Vehicle Division that complies with the requirements of Subsection 41-6a-1406(4)(b); and

(ii) contact the law enforcement agency having jurisdiction over the area where the vehicle, vessel, or outboard motor was picked up and notify the agency of the:

(A) location of the vehicle, vessel, or outboard motor;

(B) date, time, and location from which the vehicle, vessel, or outboard motor was removed;

(C) reasons for the removal of the vehicle, vessel, or outboard motor;

(D) person who requested the removal of the vehicle, vessel, or outboard motor; and

(E) vehicle, vessel, or outboard motor's description, including its identification number and license number or other identification number issued by a state agency;

(b) within two business days of performing the tow truck service under Subsection (1)(a), send a certified letter to the last-known address of the registered owner and lien holder of the vehicle, vessel, or outboard motor obtained from the Motor Vehicle Division or if the person has actual knowledge of the owner's address to the current address, notifying the owner of the:

(i) location of the vehicle, vessel, or outboard motor;

(ii) date, time, location from which the vehicle, vessel, or outboard motor was removed;

(iii) reasons for the removal of the vehicle, vessel, or outboard motor;

(iv) person who requested the removal of the vehicle, vessel, or outboard motor;

(v) a description, including its identification number and license number or other identification number issued by a state agency; and

(vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor; and

(c) upon initial contact with the owner whose vehicle, vessel, or outboard motor was removed, provide the owner with a copy of the Utah Consumer Bill of Rights Regarding Towing established by the department in Subsection (7)(e).

(2) (a) Until the tow truck operator or tow truck motor carrier reports the removal as required under Subsection (1)(a), a tow truck operator, tow truck motor carrier, or impound yard may not:

(i) collect any fee associated with the removal; or

(ii) begin charging storage fees.

(b) (i) Except as provided in Subsection (2)(c), a tow truck operator or tow truck motor carrier may not perform a tow truck service without the vehicle, vessel, or outboard motor owner's or a lien holder's knowledge at either of the following locations without signage that meets the requirements of Subsection (2)(b)(ii):

(A) a mobile home park as defined in Section 57-16-3; or

(B) a multifamily dwelling of more than eight units.

(ii) Signage under Subsection (2)(b)(i) shall display:

(A) where parking is subject to towing; and

(B) (I) the Internet website address that provides access to towing database information in accordance with Section 41-6a-1406; or

(II) one of the following:

(Aa) the name and phone number of the tow truck operator or tow truck motor carrier that performs a

tow truck service for the locations listed under Subsection (2)(b)(i); or

(Bb) the name of the mobile home park or multifamily dwelling and the phone number of the mobile home park or multifamily dwelling manager or management office that authorized the vehicle, vessel, or outboard motor to be towed.

(c) Signage is not required under Subsection (2)(b) for parking in a location:

(i) that is prohibited by law; or

(ii) if it is reasonably apparent that the location is not open to parking.

(d) Nothing in Subsection (2)(b) restricts the ability of a mobile home park as defined in Section 57-16-3 or a multifamily dwelling from instituting and enforcing regulations on parking.

(3) The owner of a vehicle, vessel, or outboard motor lawfully removed is only responsible for paying:

(a) the tow truck service and storage fees set in accordance with Subsection (7); and

(b) the administrative impound fee set in Section 41-6a-1406, if applicable.

(4) The fees under Subsection (3) are a possessory lien on the vehicle, non-life essential items that are owned by the owner of the vehicle and securely stored by the tow truck operator, vessel, or outboard motor until paid.

(5) A person may not request a transfer of title to an abandoned vehicle until at least 30 days after notice has been sent under Subsection (1)(b).

(6) (a) A tow truck motor carrier or impound yard shall clearly and conspicuously post and disclose all its current fees, rates, and acceptable forms of payment for tow truck service and storage of a vehicle in accordance with rules established under Subsection (7).

(b) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept payment by cash and debit or credit card for a tow truck service under Subsection (1) or any service rendered, performed, or supplied in connection with a tow truck service under Subsection (1).

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Transportation shall:

(a) subject to the restriction in Subsection (8), set maximum rates that:

(i) a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel, or outboard motor that are transported in response to:

(A) a peace officer dispatch call;

(B) a motor vehicle division call; and

(C) any other call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal; and

(ii) an impound yard may charge for the storage of a vehicle, vessel, or outboard motor stored as a result of one of the conditions listed under Subsection (7)(a)(i);

(b) establish authorized towing certification requirements, not in conflict with federal law, related to incident safety, clean-up, and hazardous material handling;

(c) specify the form and content of the posting and disclosure of fees and rates charged and acceptable forms of payment by a tow truck motor carrier or impound yard;

(d) set a maximum rate for an administrative fee that a tow truck motor carrier may charge for reporting the removal as required under Subsection (1)(a)(i) and providing notice of the removal to the registered owner and lienholder of the vehicle, vessel, or outboard motor as required in Subsection (1)(b); and

(e) establish a Utah Consumer Bill of Rights Regarding Towing form that contains specific information regarding:

(i) a vehicle owner's rights and responsibilities if the owner's vehicle is towed;

(ii) identifies the maximum rates that a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel, or outboard motor that is transported in response to a call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal; and

(iii) identifies the maximum rates that an impound yard may charge for the storage of vehicle, vessel, or outboard motor that is transported in response to a call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal.

(8) An impound yard may not charge a fee for the storage of an impounded vehicle, vessel, or outboard motor if:

(a) the vehicle, vessel, or outboard motor is being held as evidence; and

(b) the vehicle, vessel, or outboard motor is not being released to the registered owner, lien holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent satisfies the requirements to release the vehicle, vessel, or outboard motor under Section 41-6a-1406.

(9) In addition to the maximum rates established under Subsection (7) and when receiving payment by credit card, a tow truck operator, a tow truck motor carrier, or an impound yard may charge a credit card processing fee in an amount equal to the lesser of:

(a) the actual cost of processing the credit card transaction; or

(b) 3% of the transaction total.

CHAPTER 104**H. B. 149**

Passed March 9, 2016

Approved March 21, 2016

Effective October 31, 2016

**DEATH REPORTING AND INVESTIGATION
INFORMATION REGARDING
CONTROLLED SUBSTANCES**Chief Sponsor: Brad M. Daw
Senate Sponsor: Curtis S. Bramble**LONG TITLE****General Description:**

This bill provides for the notification of a practitioner when the medical examiner determines that a death resulted from poisoning or overdose involving a controlled substance that the practitioner may have prescribed to the decedent.

Highlighted Provisions:

This bill:

- ▶ requires the medical examiner to provide a report to the Division of Occupational and Professional Licensing (DOPL) when the medical examiner determines that a death resulted from poisoning or overdose involving a prescribed controlled substance;
- ▶ requires that, when DOPL receives a report described in the preceding paragraph, DOPL shall notify each practitioner who may have written a prescription for the controlled substance involved in the poisoning or overdose;
- ▶ allows probation and parole officers to obtain information in the controlled substance database without a warrant;
- ▶ allows the division to provide information to law enforcement officers engaged in specified types of investigations; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

58-37f-301, as last amended by Laws of Utah 2015, Chapters 89, 326, and 336

58-37f-702, as enacted by Laws of Utah 2010, Chapter 290 and renumbered and amended by Coordination Clause, Laws of Utah 2010, Chapter 290

ENACTS:

26-4-10.5, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 26-4-10.5 is enacted to read:****26-4-10.5. Medical examiner to report death caused by prescribed controlled substance poisoning or overdose.**

(1) If a medical examiner determines that the death of a person who is 12 years of age or older at the time of death resulted from poisoning or

overdose involving a prescribed controlled substance, the medical examiner shall, within three business days after the day on which the medical examiner determines the cause of death, send a written report to the Division of Occupational and Professional Licensing, created in Section 58-1-103, that includes:

- (a) the decedent's name;
- (b) each drug or other substance found in the decedent's system that may have contributed to the poisoning or overdose, if known; and
- (c) the name of each person the medical examiner has reason to believe may have prescribed a controlled substance described in Subsection (1)(b) to the decedent.

(2) This section does not create a new cause of action.

Section 2. Section 58-37f-301 is amended to read:**58-37f-301. Access to database.**

(1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

- (a) effectively enforce the limitations on access to the database as described in this part; and
- (b) establish standards and procedures to ensure accurate identification of individuals requesting information or receiving information without request from the database.

(2) The division shall make information in the database and information obtained from other state or federal prescription monitoring programs by means of the database available only to the following individuals, in accordance with the requirements of this chapter and division rules:

(a) (i) personnel of the division specifically assigned to conduct investigations related to controlled substance laws under the jurisdiction of the division; and

(ii) the following law enforcement officers, but the division may only provide nonidentifying information, limited to gender, year of birth, and postal ZIP code, regarding individuals for whom a controlled substance has been prescribed or to whom a controlled substance has been dispensed:

(A) a law enforcement agency officer who is engaged in a joint investigation with the division; and

(B) a law enforcement agency officer to whom the division has referred a suspected criminal violation of controlled substance laws;

(b) authorized division personnel engaged in analysis of controlled substance prescription information as a part of the assigned duties and responsibilities of their employment;

(c) in accordance with a written agreement entered into with the department, employees of the Department of Health:

(i) whom the director of the Department of Health assigns to conduct scientific studies regarding the

use or abuse of controlled substances, if the identity of the individuals and pharmacies in the database are confidential and are not disclosed in any manner to any individual who is not directly involved in the scientific studies; or

(ii) when the information is requested by the Department of Health in relation to a person or provider whom the Department of Health suspects may be improperly obtaining or providing a controlled substance;

(d) in accordance with a written agreement entered into with the department, a designee of the director of the Department of Health, who is not an employee of the Department of Health, whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances pursuant to an application process established in rule by the Department of Health, if:

(i) the designee provides explicit information to the Department of Health regarding the purpose of the scientific studies;

(ii) the scientific studies to be conducted by the designee:

(A) fit within the responsibilities of the Department of Health for health and welfare;

(B) are reviewed and approved by an Institutional Review Board that is approved for human subject research by the United States Department of Health and Human Services; and

(C) are not conducted for profit or commercial gain; and

(D) are conducted in a research facility, as defined by division rule, that is associated with a university or college in the state accredited by one or more regional or national accrediting agencies recognized by the United States Department of Education;

(iii) the designee protects the information as a business associate of the Department of Health; and

(iv) the identity of the prescribers, patients, and pharmacies in the database are de-identified, confidential, not disclosed in any manner to the designee or to any individual who is not directly involved in the scientific studies;

(e) in accordance with the written agreement entered into with the department and the Department of Health, authorized employees of a managed care organization, as defined in 42 C.F.R. Sec. 438, if:

(i) the managed care organization contracts with the Department of Health under the provisions of Section 26-18-405 and the contract includes provisions that:

(A) require a managed care organization employee who will have access to information from the database to submit to a criminal background check; and

(B) limit the authorized employee of the managed care organization to requesting either the division or the Department of Health to conduct a search of the database regarding a specific Medicaid enrollee and to report the results of the search to the authorized employee; and

(ii) the information is requested by an authorized employee of the managed care organization in relation to a person who is enrolled in the Medicaid program with the managed care organization, and the managed care organization suspects the person may be improperly obtaining or providing a controlled substance;

(f) a licensed practitioner having authority to prescribe controlled substances, to the extent the information:

(i) (A) relates specifically to a current or prospective patient of the practitioner; and

(B) is provided to or sought by the practitioner for the purpose of:

(I) prescribing or considering prescribing any controlled substance to the current or prospective patient;

(II) diagnosing the current or prospective patient;

(III) providing medical treatment or medical advice to the current or prospective patient; or

(IV) determining whether the current or prospective patient:

(Aa) is attempting to fraudulently obtain a controlled substance from the practitioner; or

(Bb) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the practitioner;

(ii) (A) relates specifically to a former patient of the practitioner; and

(B) is provided to or sought by the practitioner for the purpose of determining whether the former patient has fraudulently obtained, or has attempted to fraudulently obtain, a controlled substance from the practitioner;

(iii) relates specifically to an individual who has access to the practitioner's Drug Enforcement Administration identification number, and the practitioner suspects that the individual may have used the practitioner's Drug Enforcement Administration identification number to fraudulently acquire or prescribe a controlled substance;

(iv) relates to the practitioner's own prescribing practices, except when specifically prohibited by the division by administrative rule;

(v) relates to the use of the controlled substance database by an employee of the practitioner, described in Subsection (2)(g); or

(vi) relates to any use of the practitioner's Drug Enforcement Administration identification number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a controlled substance;

(g) in accordance with Subsection (3)(a), an employee of a practitioner described in Subsection (2)(f), for a purpose described in Subsection (2)(f)(i) or (ii), if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner provides written notice to the division of the identity of the employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee;

(h) an employee of the same business that employs a licensed practitioner under Subsection (2)(f) if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner and the employing business provide written notice to the division of the identity of the designated employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee;

(i) a licensed pharmacist having authority to dispense a controlled substance to the extent the information is provided or sought for the purpose of:

(i) dispensing or considering dispensing any controlled substance; or

(ii) determining whether a person:

(A) is attempting to fraudulently obtain a controlled substance from the pharmacist; or

(B) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the pharmacist;

(j) in accordance with Subsection (3)(a), a licensed pharmacy technician and pharmacy intern who is an employee of a pharmacy as defined in Section 58-17b-102, for the purposes described in Subsection (2)(h)(i) or (ii), if:

(i) the employee is designated by the pharmacist-in-charge as an individual authorized to access the information on behalf of a licensed pharmacist employed by the pharmacy;

(ii) the pharmacist-in-charge provides written notice to the division of the identity of the employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee;

(k) pursuant to a valid search warrant, federal, state, and local law enforcement [~~agencies~~] officers and state and local prosecutors [~~that~~] who are engaged in an investigation related to:

(i) one or more controlled substances; and

(ii) a specific person who is a subject of the investigation;

(l) a probation or parole officer employed by the Department of Corrections or by a political subdivision who is not required to obtain a search warrant to gain access to database information necessary for the officer's supervision of a specific probationer or parolee who is under the officer's direct supervision;

~~(4)~~ (m) employees of the Office of Internal Audit and Program Integrity within the Department of Health who are engaged in their specified duty of ensuring Medicaid program integrity under Section 26-18-2.3;

~~(n)~~ (n) a mental health therapist, if:

(i) the information relates to a patient who is:

(A) enrolled in a licensed substance abuse treatment program; and

(B) receiving treatment from, or under the direction of, the mental health therapist as part of the patient's participation in the licensed substance abuse treatment program described in Subsection ~~(2)(n)~~ (2)(n)(i)(A);

(ii) the information is sought for the purpose of determining whether the patient is using a controlled substance while the patient is enrolled in the licensed substance abuse treatment program described in Subsection ~~(2)(n)~~ (2)(n)(i)(A); and

(iii) the licensed substance abuse treatment program described in Subsection ~~(2)(m)~~ (2)(m)(i)(A) is associated with a practitioner who:

(A) is a physician, a physician assistant, an advance practice registered nurse, or a pharmacist; and

(B) is available to consult with the mental health therapist regarding the information obtained by the mental health therapist, under this Subsection ~~(2)(n)~~ (2)(n), from the database;

~~(o)~~ (o) an individual who is the recipient of a controlled substance prescription entered into the database, upon providing evidence satisfactory to

the division that the individual requesting the information is in fact the individual about whom the data entry was made;

~~[(p)]~~ (p) an individual under Subsection (2)~~[(a)]~~(o) for the purpose of obtaining a list of the persons and entities that have requested or received any information from the database regarding the individual, except if the individual's record is subject to a pending or current investigation as authorized under this Subsection (2);

~~[(q)]~~ (q) the inspector general, or a designee of the inspector general, of the Office of Inspector General of Medicaid Services, for the purpose of fulfilling the duties described in Title 63A, Chapter 13, Part 2, Office and Powers; and

~~[(r)]~~ (r) the following licensed physicians for the purpose of reviewing and offering an opinion on an individual's request for workers' compensation benefits under Title 34A, Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:

(i) a member of the medical panel described in Section 34A-2-601;

(ii) a physician employed as medical director for a licensed workers' compensation insurer or an approved self-insured employer; or

(iii) a physician offering a second opinion regarding treatment.

(3) (a) (i) A practitioner described in Subsection (2)(f) may designate up to three employees to access information from the database under Subsection (2)(g), (2)(h), or (4)(c).

(ii) A pharmacist described in Subsection (2)(i) who is a pharmacist-in-charge may designate up to five employees to access information from the database under Subsection (2)(j).

(b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) establish background check procedures to determine whether an employee designated under Subsection (2)(g), (2)(h), or (4)(c) should be granted access to the database; and

(ii) establish the information to be provided by an emergency room employee under Subsection (4).

(c) The division shall grant an employee designated under Subsection (2)(g), (2)(h), or (4)(c) access to the database, unless the division determines, based on a background check, that the employee poses a security risk to the information contained in the database.

(4) (a) An individual who is employed in the emergency room of a hospital may exercise access to the database under this Subsection (4) on behalf of a licensed practitioner if the individual is designated under Subsection (4)(c) and the licensed practitioner:

(i) is employed in the emergency room;

(ii) is treating an emergency room patient for an emergency medical condition; and

(iii) requests that an individual employed in the emergency room and designated under Subsection (4)(c) obtain information regarding the patient from the database as needed in the course of treatment.

(b) The emergency room employee obtaining information from the database shall, when gaining access to the database, provide to the database the name and any additional identifiers regarding the requesting practitioner as required by division administrative rule established under Subsection (3)(b).

(c) An individual employed in the emergency room under this Subsection (4) may obtain information from the database as provided in Subsection (4)(a) if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner and the hospital operating the emergency room provide written notice to the division of the identity of the designated employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee.

(d) The division may impose a fee, in accordance with Section 63J-1-504, on a practitioner who designates an employee under Subsection (2)(g), (2)(h), or (4)(c) to pay for the costs incurred by the division to conduct the background check and make the determination described in Subsection (3)(b).

(5) (a) An individual who is granted access to the database based on the fact that the individual is a licensed practitioner or a mental health therapist shall be denied access to the database when the individual is no longer licensed.

(b) An individual who is granted access to the database based on the fact that the individual is a designated employee of a licensed practitioner shall be denied access to the database when the practitioner is no longer licensed.

Section 3. Section 58-37f-702 is amended to read:

58-37f-702. Reporting prescribed controlled substance poisoning or overdose to a practitioner.

(1) ~~Beginning on July 1, 2012,~~ The division shall take the actions described in Subsection (2) if the division receives a report from:

(a) a medical examiner under Section 26-4-10.5 regarding a death caused by poisoning or overdose involving a prescribed controlled substance; or

(b) a general acute hospital under Section 26-21-26^[3] regarding admission to a general acute hospital for poisoning or overdose involving a prescribed controlled substance~~[, the]~~.

(2) The division shall, within three business days after the day on which ~~the~~ a report in Subsection (1) is received:

(a) attempt to identify, through the database, each practitioner who may have prescribed the controlled substance to the patient; and

(b) provide each practitioner identified under Subsection ~~[(1)]~~ (2)(a) with:

(i) a copy of the report provided by the medical examiner under Section 26-4-10.5 or the general acute hospital under Section 26-21-26; and

(ii) the information obtained from the database that led the division to determine that the practitioner receiving the information may have prescribed the controlled substance to the person named in the report.

~~[(2)]~~ (3) It is the intent of the Legislature that the information provided under Subsection ~~[(1)]~~ (2)(b) is provided for the purpose of assisting the practitioner in:

(a) discussing with the patient or others issues relating to the poisoning or overdose;

(b) advising the patient or others of measures that may be taken to avoid a future poisoning or overdose; and

(c) making decisions regarding future prescriptions written for the patient or others.

~~[(3)]~~ (4) Beginning on July 1, 2010, the division shall, in accordance with Section 63J-1-504, increase the licensing fee described in Subsection 58-37-6(1)(b) to pay the startup and ongoing costs of the division for complying with the requirements of this section.

Section 4. Effective date.

This bill takes effect on October 31, 2016.

CHAPTER 105**H. B. 172**

Passed March 3, 2016
 Approved March 21, 2016
 Effective May 10, 2016

**PUBLIC ASSISTANCE
 BENEFITS AMENDMENTS**

Chief Sponsor: Angela Romero
 Senate Sponsor: Luz Escamilla

LONG TITLE**General Description:**

This bill modifies provisions of the Family Employment Program.

Highlighted Provisions:

This bill:

- ▶ defines “licensed clinical therapist”;
- ▶ modifies the requirements to receive cash assistance under the state’s Family Employment Program;
- ▶ modifies when an individual receiving cash assistance under the Family Employment Program must take a written questionnaire designed to determine the likelihood of the applicant having a substance use disorder; and
- ▶ requires that an individual be evaluated by a licensed clinical therapist before an individual may be required to take a drug test as a condition of continuing to receive cash assistance under the Family Employment Program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 35A-3-102, as last amended by Laws of Utah 2015, Chapter 221
 35A-3-304, as last amended by Laws of Utah 2015, Chapters 143 and 221
 35A-3-304.5, as last amended by Laws of Utah 2015, Chapter 221

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

Section 1. Section 35A-3-102 is amended to read:**35A-3-102. Definitions.**

As used in this chapter:

- (1) “Adjudicative proceeding” has the same meaning as defined in Section 63G-4-103.
- (2) “Administrative order” means an order issued by the department that addresses an overpayment of public assistance.
- (3) “Applicant” means a person who requests assistance under this chapter.
- (4) “Assignment of support” means the transfer to the state of a recipient’s right to receive support from another person that accrues during the period the recipient receives public assistance, including a right to receive support on behalf of any family

member for whom the recipient is applying for or receiving assistance.

(5) “Average monthly number of families” means the average number of families who received cash assistance on a monthly basis during the previous federal fiscal year.

(6) “Cash assistance” means the monthly dollar amount a recipient is eligible to receive under the Family Employment Program under Section 35A-3-302.

(7) “Child care services” means care of a child by a responsible person who is not the child’s parent or legal guardian, for a portion of the day that is less than 24 hours in a qualified setting, as defined by rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(8) (a) “Civic organization” means an organization that provides services to its community.

(b) “Civic organization” includes a community service club or organization, a charitable health care or service organization, a fraternal organization, a labor union, a minority or ethnic organization, a commercial or industrial organization, a commerce or business club, a private nonprofit organization, a private nonprofit corporation that provides funding to a community service organization, an organization that advocates or provides for the needs of persons with low incomes, a religious organization, and an organization that fosters strong neighborhoods and communities.

(9) “Court order” means a judgment or order of a court of this state, another state, or the federal government that addresses an overpayment of public assistance.

(10) “Date of enrollment” means the date on which the applicant was approved as eligible for cash assistance.

(11) “Director” means the director of the division assigned by the department to administer a program.

(12) “Diversion” or “diversion payment” means a one-time cash assistance payment under Section 35A-3-303 to a recipient who is eligible for cash assistance, but does not require extended cash assistance under Part 3, Family Employment Program.

(13) “Education or training” means:

- (a) basic remedial education;
- (b) adult education;
- (c) high school education;
- (d) education to obtain the equivalent of a high school diploma;
- (e) education to learn English as a second language;
- (f) applied technology training;

(g) employment skills training; or

(h) on-the-job training.

(14) “Full-time education or training” means training on a full-time basis as defined by the educational institution attended by the parent recipient.

(15) “General assistance” means financial assistance provided to a person under Part 4, General Assistance.

(16) “Licensed clinical therapist” means an individual licensed by the state under:

(a) Title 58, Chapter 60, Part 2, Social Worker Licensing Act;

(b) Title 58, Chapter 60, Part 3, Marriage and Family Therapist Licensing Act;

(c) Title 58, Chapter 60, Part 4, Clinical Mental Health Counselor Licensing Act; or

(d) Title 58, Chapter 61, Psychologist Licensing Act.

[46] (17) “Notice of agency action” means the notice required to commence an adjudicative proceeding as described in Section 63G-4-201.

[47] (18) “Obligor” means an individual:

(a) who is liable to the state under Section 35A-3-603 and applicable federal statutes and regulations; or

(b) against whom an administrative or judicial order determining overpayment has been obtained.

[48] (19) (a) “Overpayment” means money, public assistance, or another item of value provided under a state or federally funded benefit program to a person that is not entitled to receive it or is not entitled to receive it at the level provided.

(b) “Overpayment” includes money paid to a provider under this title in connection with public assistance or another publicly funded assistance program to the extent that the provider receives payment:

(i) for goods or services not provided; or

(ii) in excess of the amount to which the provider is entitled.

[49] (20) “Parent recipient” means a person who enters into an employment plan with the department to qualify for cash assistance under Part 3, Family Employment Program.

[20] (21) “Performance goals” means a target level of performance that will be compared to actual performance.

[21] (22) “Performance indicators” means actual performance information regarding a program or activity.

[22] (23) “Performance monitoring system” means a process to regularly collect and analyze performance information, including performance indicators and performance goals.

[23] (24) “Plan” or “state plan” means the state plan submitted to the Secretary of the United States Department of Health and Human Services to receive funding from the United States through the Temporary Assistance for Needy Families Block Grant in accordance with 42 U.S.C. Sec. 602.

[24] (25) “Recipient” means a person who is qualified to receive, is receiving, or has received assistance under this chapter.

[25] (26) “Single minor parent” means a person under 18 years of age who is not married and has a minor child in the person’s care and custody.

[26] (27) “Transitional cash assistance” means assistance provided to a recipient to stabilize employment and reduce the future use of cash assistance provided under Part 3, Family Employment Program.

Section 2. Section 35A-3-304 is amended to read:

35A-3-304. Assessment -- Participation requirements and limitations -- Employment plan -- Mentors.

(1) (a) Within 30 business days of the date of enrollment, the department shall provide that a parent recipient:

(i) is assigned an employment counselor; and

(ii) completes an assessment provided by the department regarding the parent recipient’s:

(A) prior work experience;

(B) ability to become employable; and

(C) skills[;and].

~~[(D) likelihood of a substance use disorder involving the misuse of a controlled substance.]~~

(b) The assessment provided under Subsection (1)(a)(ii) shall include[;and] a survey to be completed by the parent recipient with the assistance of the department[;and].

~~[(ii) a written questionnaire to be completed by the parent recipient designed to accurately determine the likelihood of the parent recipient having a substance use disorder involving the misuse of a controlled substance.]~~

~~[(c) In addition to the other requirements of this part, if the results of the written questionnaire taken by a parent recipient indicate a reasonable likelihood that the parent recipient has a substance use disorder involving the misuse of a controlled substance, the parent recipient may only receive cash assistance provided under this part in accordance with the additional requirements of Section 35A-3-304.5.]~~

(2) (a) Within 15 business days of a parent recipient completing an assessment[;]:

(i) the department and the parent recipient shall enter into an employment plan[;]; and

(ii) the parent recipient shall complete a written questionnaire, provided by the department, designed to accurately determine the likelihood of

the parent recipient having a substance use disorder involving the misuse of a controlled substance.

(b) The employment plan shall have a target date for entry into employment.

(c) The department shall provide a copy of the employment plan to the parent recipient.

(d) For the parent recipient, the employment plan may include:

(i) job searching requirements;

(ii) if the parent recipient does not have a high school diploma, participation in an educational program to obtain a high school diploma, or its equivalent;

(iii) education or training necessary to obtain employment;

(iv) a combination of work and education or training; and

(v) assisting the Office of Recovery Services in good faith to:

(A) establish the paternity of a minor child; and

(B) establish or enforce a child support order.

(e) If the parent recipient tests positive for the unlawful use of a controlled substance after taking a drug test under Section 35A-3-304.5, the employment plan shall include an agreement by the parent recipient to:

(i) participate in treatment for a substance use disorder; and

(ii) meet the other requirements of Section 35A-3-304.5.

(f) The department's responsibilities under the employment plan may include:

(i) providing cash and other types of public and employment assistance, including child care;

(ii) assisting the parent recipient to obtain education or training necessary for employment;

(iii) assisting the parent recipient to set up and follow a household budget; and

(iv) assisting the parent recipient to obtain employment.

(g) The department may amend the employment plan to reflect new information or changed circumstances.

(h) If immediate employment is an activity in the employment plan, the parent recipient shall:

(i) promptly commence a search for employment for a specified number of hours each week; and

(ii) regularly submit a report to the department on:

(A) how time was spent in search for a job;

(B) the number of job applications completed;

(C) the interviews attended;

(D) the offers of employment extended; and

(E) other related information required by the department.

(i) If full-time education or training to secure employment is an activity in an employment plan, the parent recipient shall promptly undertake a full-time education or training program.

(ii) The employment plan may describe courses, education or training goals, and classroom hours.

(j) (i) The department may only provide cash assistance under this part if the parent recipient agrees in writing to make a good faith effort to comply with the parent recipient's employment plan.

(ii) The department shall establish a process to reconcile disputes between a parent recipient and the department as to whether:

(A) the parent recipient has made a good faith effort to comply with the employment plan; or

(B) the department has complied with the employment plan.

(iii) If a parent recipient consistently fails to show good faith in complying with the employment plan, the department may seek to terminate all or part of the cash assistance services provided under this part.

(3) The department may only provide cash assistance on behalf of a minor child under this part if the minor child is:

(a) enrolled in and attending school in compliance with Sections 53A-11-101.5 and 53A-11-101.7; or

(b) exempt from school attendance under Section 53A-11-102.

(4) This section does not apply to a person who has received diversion assistance under Section 35A-3-303.

(5) (a) The department may recruit and train volunteers to serve as mentors for parent recipients.

(b) A mentor may advocate on behalf of a parent recipient and help a parent recipient:

(i) develop life skills;

(ii) implement an employment plan; or

(iii) obtain services and support from:

(A) the volunteer mentor;

(B) the department; or

(C) civic organizations.

Section 3. Section 35A-3-304.5 is amended to read:

35A-3-304.5. Drug testing requirements.

(1) (a) If the results of [a] the written questionnaire described in Subsection 35A-3-304[(1)](2) indicate a reasonable likelihood

that [an applicant] a parent recipient may have a substance use disorder involving the misuse of a controlled substance, the department shall require the [applicant] parent recipient to meet with a licensed clinical therapist and be evaluated for a potential substance use disorder involving the misuse of a controlled substance.

(b) If the licensed clinical therapist determines that there is a reasonable likelihood that the parent recipient may have a substance use disorder involving the misuse of a controlled substance, the department shall require the parent applicant to take a drug test at the department's expense in order to continue to receive cash assistance under this part.

(2) If [an applicant] a parent recipient refuses to meet with a licensed clinical therapist or take a drug test if required under Subsection (1), the department shall terminate cash assistance under this part and the [applicant] parent recipient may not reapply for cash assistance under this part for:

(a) 90 days after a first refusal to meet with a licensed clinical therapist or take a drug test; or

(b) one year after a second refusal to meet with a licensed clinical therapist or take a drug test within one year.

(3) A drug test given under this section shall be administered with due regard to the privacy and dignity of the person being tested.

(4) Before taking a drug test under this section, [an applicant] a parent recipient may advise the person administering the test regarding any prescription or over-the-counter medication the [applicant] parent recipient is taking.

(5) The result of a drug test given under this section is a private record in accordance with Section 63G-2-302 and disclosure to a third party is prohibited except as provided under Title 63G, Chapter 2, Government Records Access and Management Act.

(6) If [an applicant] a parent recipient tests negative for the unlawful use of a controlled substance after taking a drug test under Subsection (1), the [applicant] parent recipient is eligible for cash assistance, subject to the other eligibility requirements of this part.

(7) If [an applicant] a parent recipient tests positive for the unlawful use of a controlled substance after taking a drug test under Subsection (1), the [applicant] parent recipient:

(a) shall be given a list of approved substance use disorder treatment providers that are available in the area in which the individual resides; and

(b) may continue to receive benefits if the [applicant] parent recipient enters into and follows the requirements of the [applicant's] parent recipient's employment plan, including:

(i) receiving treatment, at the department's expense, from an approved substance use disorder treatment provider for at least 60 days;

(ii) testing negative for the unlawful use of a controlled substance:

(A) in each subsequent drug test required by department rule during treatment; and

(B) in an additional drug test given at the conclusion of treatment; and

(iii) meeting the other requirements of receiving cash assistance under this part.

(8) (a) The department shall terminate cash assistance under this part, if [an applicant] a parent recipient:

(i) declines to enter into an employment plan required by Subsection (7); or

(ii) enters into, but fails to meet, a requirement of an employment plan under Subsection (7), including if the [applicant] parent recipient refuses to take a drug test required by the employment plan or tests positive for the unlawful use of a controlled substance in a drug test required by the employment plan.

(b) [An applicant] A parent recipient whose cash assistance has been terminated under Subsection (8)(a) may not reapply for cash assistance under this part for:

(i) except as provided in Subsection (8)(b)(ii), 90 days after the day on which the department determines, under this Subsection (8), that the [applicant] parent recipient is no longer eligible for cash assistance; or

(ii) one year after the day on which the department determines, under this Subsection (8), that the [applicant] parent recipient is no longer eligible for cash assistance, if the department has previously determined on at least one other occasion in the past year that the [applicant] parent recipient is no longer eligible for cash assistance under this Subsection (8).

CHAPTER 106**H. B. 177**

Passed March 3, 2016
 Approved March 21, 2016
 Effective May 10, 2016

MORTGAGE LENDING AMENDMENTS

Chief Sponsor: Jon E. Stanard
 Senate Sponsor: Alvin B. Jackson

LONG TITLE**General Description:**

This bill modifies provisions that address mortgage lending.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ addresses the application of the Mortgage Lending and Servicing Act to mortgage lenders; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

70D-2-102, as last amended by Laws of Utah 2015, Chapter 284

70D-2-201, as last amended by Laws of Utah 2015, Chapter 284

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

Section 1. Section 70D-2-102 is amended to read:**70D-2-102. Definitions.**

As used in this chapter:

(1) (a) Except as provided in Subsection (1)(b), “broker” means a person who in the regular course of business assists a person in obtaining a mortgage loan for a fee or other consideration paid directly or indirectly.

(b) “Broker” does not include a person solely because of the person’s:

(i) real estate brokerage activities; or

(ii) activities as an attorney licensed to practice law in this state who, in the course of the attorney’s practice as an attorney, assists a person in obtaining a mortgage loan.

(2) “Business as a lender, broker, or servicer” means a person who engages in an act for compensation or in the expectation of compensation that makes the person a lender, broker, or servicer.

(3) (a) Except as provided in Subsection (3)(~~(b)~~)(c), “lender” means a person who in the regular course of business originates a loan secured by a mortgage.

(b) “Lender” includes a mortgage lender.

~~(b)~~ (c) “Lender” does not include a person who:

(i) as a seller only receives one or more mortgages as security for a purchase money obligation; or

(ii) only receives a mortgage as security for an obligation:

(A) payable on an installment or deferred payment basis; and

(B) arising out of materials furnished or services rendered in the improvement of real property.

(4) “Manufactured home” means a transportable factory built housing unit that:

(a) is constructed:

(i) on or after June 15, 1976, according to the National Manufactured Housing Construction and Safety Standards Act of 1974; and

(ii) in one or more sections, which:

(A) in the traveling mode, is eight body feet or more in width or 40 body feet or more in length; or

(B) when erected on site, is 400 or more square feet;

(b) is built on a permanent chassis;

(c) is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities; and

(d) includes the plumbing, heating, air-conditioning, and electrical systems.

(5) “Mobile home” means a transportable factory built housing unit built before June 15, 1976, in accordance with a state mobile home code that existed before the National Manufactured Housing Construction and Safety Standards Act of 1974.

(6) “Modular home” means a modular unit as defined in Section 15A-1-302.

(7) “Mortgage lender” means an entity that performs each of the following related to originating a mortgage loan:

(a) taking and processing an application;

(b) providing a required disclosure;

(c) in some circumstances, underwriting the mortgage loan and making the final credit approval decision;

(d) closing the mortgage loan in its name;

(e) funding the mortgage loan; and

(f) selling the mortgage loan to an investor.

~~(7)~~ (8) “Nationwide database” means the Nationwide Mortgage Licensing System and Registry, authorized under 12 U.S.C. Sec. 5101 for federal licensing of mortgage loan originators.

~~(8)~~ (9) “Permanently affixed” means anchored to, and supported by, a permanent foundation or installed in accordance with the manufactured housing installation standard code referred to in Section 15A-1-202.

~~(9)~~ (10) “Servicer” means a person who in the regular course of business assumes responsibility

for servicing and accepting payments for a mortgage loan.

Section 2. Section 70D-2-201 is amended to read:

70D-2-201. Registration -- Exemptions.

(1) (a) Except as provided in Subsection (2), a person may not engage in business as a lender, broker, or servicer in this state before the day on which the person:

(i) provides evidence satisfactory to the commissioner that the person is registered with the nationwide database; and

(ii) pays a fee required by Section 70D-2-203.

(b) The commissioner may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the transition of persons registering with the nationwide database.

(2) The following persons are exempt from this part, except for a reimbursement or fee described in Subsection 70D-2-203(2):

(a) a federally insured depository institution;

(b) a wholly owned subsidiary of a depository institution described in Subsection (2)(a); and

(c) a person who:

(i) is required to be licensed with the Division of Real Estate pursuant to Title 61, Chapter 2c, Utah Residential Mortgage Practices and Licensing Act; and

(ii) is not a:

(A) servicer[-]; or

(B) mortgage lender.

(3) A mortgage lender who is required to be registered under this chapter is not exempt from Title 61, Chapter 2c, Utah Residential Mortgage Practices and Licensing Act.

CHAPTER 107**H. B. 184**

Passed March 4, 2016

Approved March 21, 2016

Effective May 10, 2016

UNLICENSED DIRECT-ENTRY MIDWIFERY

Chief Sponsor: Carol Spackman Moss

Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill amends the Direct-Entry Midwife Act.

Highlighted Provisions:

This bill:

- ▶ amends the unlawful conduct provisions of the Direct-Entry Midwife Act; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-77-501, as enacted by Laws of Utah 2005, Chapter 299

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 58-77-501 is amended to read:****58-77-501. Unlawful conduct.**

(1) In addition to the ~~[definition in Subsection 58-1-501(1), "unlawful conduct" includes]~~ conduct that constitutes unlawful conduct under Subsection 58-1-501(1), it is unlawful conduct for an individual who is not licensed under this chapter to:

(a) ~~[representing or holding oneself out as a] represent or hold out that the individual is a licensed direct-entry midwife ~~[when not licensed under this chapter; and];~~~~

(b) ~~[using] administer a prescription [medications] medication, except oxygen, [while engaged] in the practice of direct-entry midwifery [when not licensed under this chapter.];~~

(c) before engaging in the practice of midwifery with a client, fail to obtain from the client an informed consent statement that includes the following:

(i) a description of the individual's midwifery education, training, continuing education, and experience;

(ii) a statement that the individual is not licensed by the state as a direct-entry midwife;

(iii) a statement that it is unlawful for the individual to administer to the client a prescription medication, except oxygen, in the practice of direct-entry midwifery;

(iv) a written plan to address medical issues the client may experience during pregnancy, labor, or childbirth, which plan shall address transfer of the client to a licensed health care provider or facility, if necessary;

(v) the name and signature of the individual;

(vi) the name and signature of the client;

(vii) the date the individual signed the statement; and

(viii) the date the client signed the statement; or

(d) fail to retain for at least 4 years a signed statement from a client described by Subsection (1)(c).

(2) (a) ~~Except [as provided in Subsections (1)(a) and (b)] for conduct that constitutes unlawful conduct under Subsection (1), it is lawful to practice direct-entry midwifery in the state without being licensed under this chapter.~~

(b) The practice of direct-entry midwifery is not considered the practice of medicine, nursing, or nurse-midwifery.

CHAPTER 108**H. B. 186**

Passed February 29, 2016

Approved March 21, 2016

Effective May 10, 2016

**VOLUNTEER HEALTH CARE
CONTINUING EDUCATION CREDIT**Chief Sponsor: David E. Lifferth
Senate Sponsor: Brian E. Shiozawa**LONG TITLE****General Description:**

This bill addresses continuing education credit for a health care professional.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ allows a health care professional to fulfill a portion of the health care professional's continuing education requirement, established by the Division of Occupational and Professional Licensing, by providing hours of uncompensated health care; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-13-3, as last amended by Laws of Utah 2014, Chapter 400

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

Section 1. Section 58-13-3 is amended to read:**58-13-3. Qualified immunity -- Health professionals -- Charity care.**

(1) (a) (i) The Legislature finds many residents of this state do not receive medical care and preventive health care because they lack health insurance or because of financial difficulties or cost.

(ii) The Legislature also finds that many physicians, charity health care facilities, and other health care professionals in this state would be willing to volunteer medical and allied services without compensation if they were not subject to the high exposure of liability connected with providing these services.

(b) The Legislature therefore declares that its intention in enacting this section is to encourage the provision of uncompensated volunteer charity health care in exchange for a limitation on liability for the health care facilities and health care professionals who provide those volunteer services.

(2) As used in this section:

(a) "Continuing education requirement" means the requirement for hours of continuing education, established by the division, with which a health care professional must comply to renew the health

care professional's license under the applicable chapter described in Subsection (2)(c).

~~(a)~~ (b) "Health care facility" means any clinic or hospital, church, or organization whose primary purpose is to sponsor, promote, or organize uncompensated health care services for people unable to pay for health care services.

~~(b)~~ (c) "Health care professional" means a person licensed under:

- (i) Chapter 5a, Podiatric Physician Licensing Act;
- (ii) Chapter 16a, Utah Optometry Practice Act;
- (iii) Chapter 17b, Pharmacy Practice Act;
- (iv) Chapter 24b, Physical Therapy Practice Act;
- (v) Chapter 31b, Nurse Practice Act;
- (vi) Chapter 40, Recreational Therapy Practice Act;
- (vii) Chapter 41, Speech-Language Pathology and Audiology Licensing Act;
- (viii) Chapter 42a, Occupational Therapy Practice Act;
- (ix) Chapter 44a, Nurse Midwife Practice Act;
- (x) Chapter 49, Dietitian Certification Act;
- (xi) Chapter 60, Mental Health Professional Practice Act;
- (xii) Chapter 67, Utah Medical Practice Act;
- (xiii) Chapter 68, Utah Osteopathic Medical Practice Act;
- (xiv) Chapter 69, Dentist and Dental Hygienist Practice Act;
- (xv) Chapter 70a, Physician Assistant Act; and
- (xvi) Chapter 73, Chiropractic Physician Practice Act.

~~(e)~~ (d) "Remuneration or compensation":

(i) (A) means direct or indirect receipt of any payment by a health care professional or health care facility on behalf of the patient, including payment or reimbursement under Medicare or Medicaid, or under the state program for the medically indigent on behalf of the patient; and

(B) compensation, salary, or reimbursement to the health care professional from any source for the health care professional's services or time in volunteering to provide uncompensated health care; and

(ii) does not mean:

(A) any grant or donation to the health care facility used to offset direct costs associated with providing the uncompensated health care such as:

(I) medical supplies;

(II) drugs; or

(III) a charitable donation that is restricted for charitable services at the health care facility; or

(B) incidental reimbursements to the volunteer such as:

(I) food supplied to the volunteer;

(II) clothing supplied to the volunteer to help identify the volunteer during the time of volunteer services;

(III) mileage reimbursement to the volunteer; or

(IV) other similar support to the volunteer.

(3) A health care professional who provides health care treatment at or on behalf of a health care facility is not liable in a medical malpractice action if:

(a) the treatment was within the scope of the health care professional's license under this title;

(b) neither the health care professional nor the health care facility received compensation or remuneration for the treatment;

(c) the acts or omissions of the health care professional were not grossly negligent or willful and wanton; and

(d) prior to rendering services:

(i) the health care professional disclosed in writing to the patient, or if a minor, to the patient's parent or legal guardian, that the health care professional is providing the services without receiving remuneration or compensation; and

(ii) the patient consented in writing to waive any right to sue for professional negligence except for acts or omissions which are grossly negligent or are willful and wanton.

(4) A health care facility which sponsors, promotes, or organizes the uncompensated care is not liable in a medical malpractice action for acts and omissions if:

(a) the health care facility meets the requirements in Subsection (3)(b);

(b) the acts and omissions of the health care facility were not grossly negligent or willful and wanton; and

(c) the health care facility has posted, in a conspicuous place, a notice that in accordance with this section the health care facility is not liable for any civil damages for acts or omissions except for those acts or omissions that are grossly negligent or are willful and wanton.

(5) A health care professional who provides health care treatment at a federally qualified health center, as defined in Subsection 1905(1)(2)(b) of the Social Security Act, or an Indian health clinic or Urban Indian Health Center, as defined in Title V of the Indian Health Care Improvement Act, is not liable in a medical malpractice action if:

(a) the treatment was within the scope of the health care professional's license under this title;

(b) the health care professional:

(i) does not receive compensation or remuneration for treatment provided to any patient that the provider treats at the federally qualified health center, the Indian health clinic, or the Urban Indian Health Center; and

(ii) is not eligible to be included in coverage under the Federal Tort Claims Act for the treatment provided at the federally qualified health center, the Indian health clinic, or the Urban Indian Health Center;

(c) the acts or omissions of the health care professional were not grossly negligent or willful and wanton; and

(d) prior to rendering services:

(i) the health care professional disclosed in writing to the patient, or if a minor, to the patient's parent or legal guardian, that the health care professional is providing the services without receiving remuneration or compensation; and

(ii) the patient consented in writing to waive any right to sue for professional negligence except for acts or omissions that are grossly negligent or are willful and wanton.

(6) Immunity from liability under this section does not extend to the use of general anesthesia or care that requires an overnight stay in a general acute or specialty hospital licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(7) The provisions of Subsection (5) apply to treatment provided by a healthcare professional on or after May 13, 2014.

(8) A health care professional:

(a) may, in accordance with Subsection (8)(b), fulfill up to 15% of the health care professional's continuing education requirement with hours the health care professional spends providing health care treatment described in Subsection (3) or (5); and

(b) subject to Subsection (8)(a), earns one hour of the health care professional's continuing education requirement for every four documented hours of volunteer health care treatment.

CHAPTER 109**H. B. 206**

Passed March 9, 2016
 Approved March 21, 2016
 Effective May 10, 2016

**HUMAN TRAFFICKING
 SAFE HARBOR AMENDMENTS**

Chief Sponsor: Angela Romero
 Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill modifies the Utah Criminal Code and Juvenile Court Act regarding a child subjected to prostitution or human trafficking.

Highlighted Provisions:

This bill:

- ▶ requires the Division of Child and Family Services to provide services to a child who is engaged in prostitution or sexual solicitation and has been referred to the division;
- ▶ provides that any child engaged in prostitution or sexual solicitation may not be subject to delinquency proceedings; and
- ▶ amends the definition of abuse in the Juvenile Court Act to include human trafficking of a child for sexual exploitation.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-10-1302, as last amended by Laws of Utah 2015, Chapter 363
 78A-6-105, as last amended by Laws of Utah 2015, Chapter 274

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

Section 1. Section 76-10-1302 is amended to read:**76-10-1302. Prostitution.**

(1) An individual is guilty of prostitution when the individual:

(a) engages in any sexual activity with another individual for a fee, or the functional equivalent of a fee;

(b) is an inmate of a house of prostitution; or

(c) loiters in or within view of any public place for the purpose of being hired to engage in sexual activity.

(2) (a) Except as provided in Subsection (2)(b) or Section 76-10-1309, prostitution is a class B misdemeanor.

(b) Except as provided in Section 76-10-1309, an individual who is convicted a second time, and on all subsequent convictions, of a subsequent offense of prostitution under this section or under a local

ordinance adopted in compliance with Section 76-10-1307, is guilty of a class A misdemeanor.

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

(i) "Child" ~~[is as]~~ means the same as that term is defined in Section 76-10-1301.

(ii) "Child engaged in prostitution" means a child who engages in conduct described in Subsection (1).

(iii) "Child engaged in sexual solicitation" means a child who offers or agrees to commit or engage in any sexual activity with another person for a fee under Subsection 76-10-1313(1)(a) or (c).

(iv) "Division" means the Division of Child and Family Services created in Section 62A-4a-103.

(v) "Receiving center" ~~[is as]~~ means the same as that term is defined in Section 62A-7-101.

(b) Upon encountering a child engaged in prostitution or sexual solicitation, a law enforcement officer shall:

(i) conduct an investigation;

(ii) refer the child to the division;

(iii) if an arrest is made, bring the child to a receiving center, if available; and

(iv) contact the child's parent or guardian, if practicable.

~~[(c) If a law enforcement officer refers a child to the division under Subsection (3)(b)(ii), the division shall:]~~

~~[(i) check the division's records to verify whether law enforcement referred the child to the division under Subsection (3)(b)(ii) on a prior occasion; and]~~

~~[(ii) provide the information described in Subsection (3)(c)(i) to the law enforcement officer.]~~

~~[(d) If] (c) When law enforcement has [not] referred the child to the division under Subsection (3)(b)(ii) [on at least one prior occasion,];~~

(i) the division shall provide services to the child under Title 62A, Chapter 4a, Child and Family Services~~[-(e) If law enforcement has referred the child to the division under Subsection (3)(b)(ii) on at least one prior occasion]; and~~

(ii) the child may not be ~~[subject]~~ subjected to delinquency proceedings under Title 62A, Chapter 7, Juvenile Justice Services, and Section 78A-6-601 through Section 78A-6-704.

Section 2. Section 78A-6-105 is amended to read:**78A-6-105. Definitions.**

As used in this chapter:

(1) (a) "Abuse" means:

(i) nonaccidental harm of a child;

(ii) threatened harm of a child;

(iii) sexual exploitation; ~~[or]~~

(iv) sexual abuse~~[-]; or~~

(v) human trafficking of a child in violation of Section 76-5-308.5.

~~(v)~~ (b) that a child's natural parent:

~~[(A)]~~ (i) intentionally, knowingly, or recklessly causes the death of another parent of the child;

~~[(B)]~~ (ii) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

~~[(C)]~~ (iii) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

~~[(b)]~~ (c) "Abuse" does not include:

(i) reasonable discipline or management of a child, including withholding privileges;

(ii) conduct described in Section 76-2-401; or

(iii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).

(2) "Abused child" means a child who has been subjected to abuse.

(3) "Adjudication" means a finding by the court, incorporated in a decree, that the facts alleged in the petition have been proved. A finding of not competent to proceed pursuant to Section 78A-6-1302 is not an adjudication.

(4) "Adult" means a person 18 years of age or over, except that a person 18 years or over under the continuing jurisdiction of the juvenile court pursuant to Section 78A-6-120 shall be referred to as a minor.

(5) "Board" means the Board of Juvenile Court Judges.

(6) "Child" means a person under 18 years of age.

(7) "Child placement agency" means:

(a) a private agency licensed to receive a child for placement or adoption under this code; or

(b) a private agency that receives a child for placement or adoption in another state, which agency is licensed or approved where such license or approval is required by law.

(8) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.

(9) "Commit" means, unless specified otherwise:

(a) with respect to a child, to transfer legal custody; and

(b) with respect to a minor who is at least 18 years of age, to transfer custody.

(10) "Court" means the juvenile court.

(11) "Dependent child" includes a child who is homeless or without proper care through no fault of the child's parent, guardian, or custodian.

(12) "Deprivation of custody" means transfer of legal custody by the court from a parent or the parents or a previous legal custodian to another person, agency, or institution.

(13) "Detention" means home detention and secure detention as defined in Section 62A-7-101 for the temporary care of a minor who requires secure custody in a physically restricting facility:

(a) pending court disposition or transfer to another jurisdiction; or

(b) while under the continuing jurisdiction of the court.

(14) "Division" means the Division of Child and Family Services.

(15) "Formal referral" means a written report from a peace officer or other person informing the court that a minor is or appears to be within the court's jurisdiction and that a petition may be filed.

(16) "Group rehabilitation therapy" means psychological and social counseling of one or more persons in the group, depending upon the recommendation of the therapist.

(17) "Guardianship of the person" includes the authority to consent to:

(a) marriage;

(b) enlistment in the armed forces;

(c) major medical, surgical, or psychiatric treatment; or

(d) legal custody, if legal custody is not vested in another person, agency, or institution.

(18) "Habitual truant" means the same as that term is defined in Section 53A-11-101.

(19) "Harm" means:

(a) physical or developmental injury or damage;

(b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(c) sexual abuse; or

(d) sexual exploitation.

(20) (a) "Incest" means engaging in sexual intercourse with a person whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) The relationships described in Subsection (20)(a) include:

(i) blood relationships of the whole or half blood, without regard to legitimacy;

(ii) relationships of parent and child by adoption; and

(iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(21) “Intellectual disability” means:

(a) significantly subaverage intellectual functioning, an IQ of approximately 70 or below on an individually administered IQ test, for infants, a clinical judgment of significantly subaverage intellectual functioning;

(b) concurrent deficits or impairments in present adaptive functioning, the person’s effectiveness in meeting the standards expected for his or her age by the person’s cultural group, in at least two of the following areas: communication, self-care, home living, social/interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health, and safety; and

(c) the onset is before the person reaches the age of 18 years.

(22) “Legal custody” means a relationship embodying the following rights and duties:

(a) the right to physical custody of the minor;

(b) the right and duty to protect, train, and discipline the minor;

(c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;

(d) the right to determine where and with whom the minor shall live; and

(e) the right, in an emergency, to authorize surgery or other extraordinary care.

(23) “Mental disorder” means a serious emotional and mental disturbance that severely limits a minor’s development and welfare over a significant period of time.

(24) “Minor” means:

(a) a child; or

(b) a person who is:

(i) at least 18 years of age and younger than 21 years of age; and

(ii) under the jurisdiction of the juvenile court.

(25) “Molestation” means that a person, with the intent to arouse or gratify the sexual desire of any person:

(a) touches the anus or any part of the genitals of a child;

(b) takes indecent liberties with a child; or

(c) causes a child to take indecent liberties with the perpetrator or another.

(26) “Natural parent” means a minor’s biological or adoptive parent, and includes the minor’s noncustodial parent.

(27) (a) “Neglect” means action or inaction causing:

(i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence, education, or medical care, or any other care necessary for the child’s health, safety, morals, or well-being; or

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused.

(b) The aspect of neglect relating to education, described in Subsection (27)(a)(iii), means that, after receiving a notice of compulsory education violation under Section 53A-11-101.5, or notice that a parent or guardian has failed to cooperate with school authorities in a reasonable manner as required under Subsection 53A-11-101.7(5)(a), the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

(c) A parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child, is not guilty of neglect.

(d) (i) Notwithstanding Subsection (27)(a), a health care decision made for a child by the child’s parent or guardian does not constitute neglect unless the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

(ii) Nothing in Subsection (27)(d)(i) may prohibit a parent or guardian from exercising the right to obtain a second health care opinion and from pursuing care and treatment pursuant to the second health care opinion, as described in Section 78A-6-301.5.

(28) “Neglected child” means a child who has been subjected to neglect.

(29) “Nonjudicial adjustment” means closure of the case by the assigned probation officer without judicial determination upon the consent in writing of:

(a) the assigned probation officer; and

(b) (i) the minor; or

(ii) the minor and the minor’s parent, legal guardian, or custodian.

(30) “Not competent to proceed” means that a minor, due to a mental disorder, intellectual disability, or related condition as defined, lacks the ability to:

(a) understand the nature of the proceedings against them or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against them with a reasonable degree of rational understanding.

(31) "Physical abuse" means abuse that results in physical injury or damage to a child.

(32) "Probation" means a legal status created by court order following an adjudication on the ground of a violation of law or under Section 78A-6-103, whereby the minor is permitted to remain in the minor's home under prescribed conditions and under supervision by the probation department or other agency designated by the court, subject to return to the court for violation of any of the conditions prescribed.

(33) "Protective supervision" means a legal status created by court order following an adjudication on the ground of abuse, neglect, or dependency, whereby the minor is permitted to remain in the minor's home, and supervision and assistance to correct the abuse, neglect, or dependency is provided by the probation department or other agency designated by the court.

(34) "Related condition" means a condition closely related to intellectual disability in accordance with 42 C.F.R. Part 435.1010 and further defined in Rule R539-1-3, Utah Administrative Code.

(35) (a) "Residual parental rights and duties" means those rights and duties remaining with the parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

- (i) the responsibility for support;
- (ii) the right to consent to adoption;
- (iii) the right to determine the child's religious affiliation; and
- (iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, "residual parental rights and duties" also include the right to consent to:

- (i) marriage;
- (ii) enlistment; and
- (iii) major medical, surgical, or psychiatric treatment.

(36) "Secure facility" means any facility operated by or under contract with the Division of Juvenile Justice Services, that provides 24-hour supervision and confinement for youth offenders committed to the division for custody and rehabilitation.

(37) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

(38) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

(39) "Sexual abuse" means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation directed towards a child; or

(b) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the person who engages in the conduct is actually charged with, or convicted of, the offense:

- (i) Title 76, Chapter 5, Part 4, Sexual Offenses;
- (ii) child bigamy, Section 76-7-101.5;
- (iii) incest, Section 76-7-102;
- (iv) lewdness, Section 76-9-702;
- (v) sexual battery, Section 76-9-702.1;
- (vi) lewdness involving a child, Section 76-9-702.5; or
- (vii) voyeurism, Section 76-9-702.7.

(40) "Sexual exploitation" means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

- (i) pose in the nude for the purpose of sexual arousal of any person; or
- (ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

- (i) in the nude, for the purpose of sexual arousal of any person; or
- (ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, regardless of whether the person who engages in the conduct is actually charged with, or convicted of, the offense.

(41) "Shelter" means the temporary care of a child in a physically unrestricted facility pending court disposition or transfer to another jurisdiction.

(42) "State supervision" means a disposition that provides a more intensive level of intervention than standard probation but is less intensive or restrictive than a community placement with the Division of Juvenile Justice Services.

(43) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.

(44) "Substantiated" means the same as that term is defined in Section 62A-4a-101.

(45) "Supported" means the same as that term is defined in Section 62A-4a-101.

(46) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

(47) "Therapist" means:

(a) a person employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in its custody;
or

(b) any other person licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

(48) "Unsubstantiated" means the same as that term is defined in Section 62A-4a-101.

(49) "Without merit" means the same as that term is defined in Section 62A-4a-101.

CHAPTER 110**H. B. 230**

Passed February 25, 2016

Approved March 21, 2016

Effective May 10, 2016

**WORKERS' COMPENSATION
FUND AMENDMENTS**Chief Sponsor: Val L. Peterson
Senate Sponsor: Curtis S. Bramble**LONG TITLE****General Description:**

This bill modifies provisions related to the Workers' Compensation Fund to address its board of directors.

Highlighted Provisions:

This bill:

- ▶ modifies limits on compensation for directors;
- ▶ modifies requirements for and restrictions on who can be a director;
- ▶ allows for the number of directors to increase by two under certain circumstances;
- ▶ addresses terms, quorum, and voting requirements if the board is increased to nine directors; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

31A-33-106, as last amended by Laws of Utah 2015, Chapter 427

31A-33-107, as last amended by Laws of Utah 2015, Chapter 427

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

Section 1. Section 31A-33-106 is amended to read:**31A-33-106. Board of directors -- Status of the fund in relationship to the state.**

(1) There is created a board of directors of the Workers' Compensation Fund.

(2) [The] Except as provided in Subsection (18), the board shall consist of seven directors.

(3) One director shall be the chief executive officer of the fund.

(4) (a) In accordance with a plan that meets the requirements of this section and the fund's articles of incorporation and bylaws, the board shall nominate and the policyholders shall elect six public directors as follows:

(i) four directors who are owners, officers, directors, or employees of policyholders, each of whom is an owner, officer, or employee of a policyholder that has been insured by the Workers' Compensation Fund for at least one year before the

election of the director representing the policyholder; and

(ii) two directors from the public in general.

(b) The plan described in Subsection (4)(a) shall comply with Section 31A-5-409 to the extent that Section 31A-5-409 does not conflict with this section.

(5) No two directors may represent or be employed by the same policyholder.

(6) At least five directors elected by the policyholders shall have had previous experience in:

- (a) the actuarial profession;
- (b) accounting;
- (c) investments;
- (d) risk management;
- (e) occupational safety;
- (f) casualty insurance; or
- (g) the legal profession.

(7) A director who represents a policyholder that fails to maintain workers' compensation insurance through the Workers' Compensation Fund shall immediately resign from the board.

(8) A person may not be a director if that person:

(a) has any interest as a stockholder, employee, attorney, or contractor of a competing insurance carrier providing workers' compensation insurance [in Utah];

(b) fails to meet or comply with the conflict of interest policies established by the board; or

(c) is not bondable.

(9) After notice and a hearing, the board may remove any director for cause which includes:

- (a) neglect of duty; or
- (b) malfeasance.

(10) (a) Except as required by Subsection (10)(b), the term of office of the directors elected by the policyholders shall be four years, beginning July 1 of the year of appointment.

(b) Notwithstanding the requirements of Subsection (10)(a), the board shall, at the time of election or reelection, adjust the length of terms to ensure that no more than two terms expire in a calendar year.

(11) A director shall hold office until the director's successor is selected and qualified.

(12) When a vacancy occurs in the membership of the board for any reason, the replacement shall be appointed by a majority of the board for the unexpired term, after which time the replacement shall stand for policyholder election as described in the fund's articles of incorporation and bylaws.

(13) The board shall annually elect a chair and other officers as needed from its membership.

(14) (a) The board shall meet at least quarterly at a time and place designated by the chair.

(b) The chair:

(i) may call board meetings more frequently than quarterly; and

(ii) shall call additional board meetings if requested to do so by a majority of the board.

(15) ~~[Four]~~ Except as provided in Subsection (18), four directors are a quorum for the purpose of transacting all business of the board.

(16) ~~[Each]~~ Except as provided in Subsection (18), a decision of the board requires the affirmative vote of at least four directors for approval.

(17) (a) ~~[(i)]~~ A director may receive compensation and be reimbursed for reasonable expenses incurred in the performance of the director's official duties:

~~[(A)]~~ (i) as determined by the board of directors; and

~~[(B)]~~ if the aggregate of compensation paid to all directors of the Workers' Compensation Fund in a calendar year is less than or equal to the amount described in Subsection (17)(a)(ii).]

~~[(ii)]~~ (A) For the period beginning January 1, 2016, and ending December 31, 2016, the amount described in Subsection (17)(a)(i)(B) is \$150,000.]

~~[(B)]~~ For calendar years beginning on or after January 1, 2017, the amount described in Subsection (17)(a)(i)(B) is the sum of the amount under this Subsection (17)(a) for the previous year and an amount equal to the greater of:]

~~[(I)]~~ an amount calculated by multiplying the amount under this Subsection (17)(a) for the previous year by the actual percent change during the previous calendar year in the consumer price index; and]

~~[(II)]~~ 0.]

~~[(C)]~~ For purposes of this Subsection (17), the consumer price index shall be calculated as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.]

(ii) in an amount not to exceed the reasonable market rate for directors of similarly situated insurance carriers.

(b) Directors may decline to receive compensation and expenses for their service.

(c) The Worker's Compensation Fund shall pay compensation to and reimburse reasonable expenses of directors as permitted by this section:

(i) from the Injury Fund; and

(ii) upon vouchers drawn in the same manner as the Workers' Compensation Fund pays its normal operating expenses.

(d) The chief executive officer of the Workers' Compensation Fund shall serve on the board without payment of compensation, but may be

reimbursed for reasonable expenses in accordance with Subsection (17)(a).

(e) The Workers' Compensation Fund shall annually report to the commissioner compensation and expenses paid to the directors on the board.

(18) (a) In accordance with this Subsection (18), the board may increase the number of directors on the board by one or two directors, except the board may not exceed a total of nine directors.

(b) The board may increase the number of directors if:

(i) the board determines by unanimous vote, that the business needs of the Workers' Compensation Fund would be best served by the expansion;

(ii) the majority of the total number of directors after the increase are policyholders of the Workers' Compensation Fund;

(iii) an added director has experience described in Subsection (6);

(iv) the term of an additional director is compliant with Subsection (10), except that if the board is increased to nine directors, at the time of election or reelection, the board shall adjust the length of terms to ensure that no more than three terms expire in a calendar year;

(v) at least one of the two additional directors is nominated and elected by the policyholders of the Workers' Compensation Fund subject to the requirements of:

(A) this section; and

(B) the Workers' Compensation Fund's articles of incorporation and bylaws; and

(vi) one of the two additional directors is not elected in accordance with Subsection (18)(b)(v), the director shall be selected subject to the requirements of:

(A) this section; and

(B) the Workers' Compensation Fund's articles of incorporation and bylaws.

(c) If the board is increased to nine directors:

(i) five directors are a quorum for the purpose of transacting all business of the board; and

(ii) a decision of the board requires the affirmative vote of at least five directors for approval.

~~[(48)]~~ (19) The placement of this chapter in this title does not:

(a) remove from the board of directors the managerial, financial, or operational control of the Workers' Compensation Fund;

(b) give to the state or the governor managerial, financial, or operational control of the Workers' Compensation Fund;

(c) consistent with Section 31A-33-105, cause the state to be liable for any:

(i) obligation of the Workers' Compensation Fund; or

(ii) expense, liability, or debt described in Section 31A-33-105;

(d) alter the legal status of the Workers' Compensation Fund as:

(i) a nonprofit, self-supporting, quasi-public corporation; and

(ii) an insurer:

(A) regulated under this title;

(B) that is structured to operate in perpetuity; and

(C) domiciled in the state; or

(e) alter the requirement that the Workers' Compensation Fund provide workers' compensation:

(i) for the purposes set forth in Section 31A-33-102;

(ii) consistent with Section 34A-2-201; and

(iii) as provided in Section 31A-22-1001.

Section 2. Section 31A-33-107 is amended to read:

31A-33-107. Duties of board -- Creation of subsidiaries -- Entering into joint enterprises.

(1) The board shall:

(a) appoint a chief executive officer to administer the Workers' Compensation Fund;

(b) receive and act upon financial, management, and actuarial reports covering the operations of the Workers' Compensation Fund;

(c) ensure that the Workers' Compensation Fund is administered according to law;

(d) examine and approve an annual operating budget for the Workers' Compensation Fund;

(e) serve as investment trustees and fiduciaries of the Injury Fund;

(f) receive and act upon recommendations of the chief executive officer;

(g) develop broad policy for the long-term operation of the Workers' Compensation Fund, consistent with its mission and fiduciary responsibility;

(h) subject to Chapter 19a, Part 4, Workers' Compensation Rates, approve any rating plans that would modify a policyholder's premium;

(i) subject to Chapter 19a, Part 4, Workers' Compensation Rates, approve the amount of deviation, if any, from standard insurance rates;

(j) approve the amount of the dividends, if any, to be returned to policyholders;

(k) adopt a procurement policy consistent with the provisions of Title 63G, Chapter 6a, Utah Procurement Code;

(l) develop and publish an annual report to policyholders, the governor, the Legislature, and interested parties that describes the financial condition of the Injury Fund, including a statement of expenses and income and what measures were taken or will be necessary to keep the Injury Fund actuarially sound;

(m) establish a fiscal year;

(n) determine and establish an actuarially sound price for insurance offered by the fund;

(o) establish conflict of interest requirements that govern the board, officers, and employees;

(p) establish compensation and reasonable expenses to be paid to directors on the board subject to the requirements of Section 31A-33-106, so that the board may not approve compensation that exceeds the amount described in Subsection 31A-33-106(17)(a)(~~ii~~)(B); and

(q) perform all other acts necessary for the policymaking and oversight of the Workers' Compensation Fund.

(2) Subject to board review and its responsibilities under Subsection (1)(e), the board may delegate authority to make daily investment decisions.

(3) The fund may form or acquire a subsidiary or enter into a joint enterprise:

(a) only if that action is approved by the board; and

(b) subject to the limitations in Section 31A-33-103.5.

CHAPTER 111**H. B. 237**

Passed March 8, 2016
 Approved March 21, 2016
 Effective May 10, 2016

**INCOME TAX CONTRIBUTION
FOR CLEAN AIR**

Chief Sponsor: Patrice M. Arent
 Senate Sponsor: Curtis S. Bramble
 Cosponsors: Joel K. Briscoe
 Rebecca Chavez-Houck
 Jack R. Draxler
 Edward H. Redd
 V. Lowry Snow

LONG TITLE**General Description:**

This bill modifies provisions relating to the Individual Income Tax Contribution Act.

Highlighted Provisions:

This bill:

- ▶ creates the Clean Air Fund;
- ▶ allows a resident or nonresident individual who files an individual income tax return to designate on the resident or nonresident individual's income tax return a contribution to the Clean Air Fund;
- ▶ establishes criteria for the distribution of funds from the Clean Air Fund; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

59-10-1304, as last amended by Laws of Utah 2015, Chapters 30 and 41

ENACTS:

59-10-1319, Utah Code Annotated 1953

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

Section 1. Section 59-10-1304 is amended to read:

59-10-1304. Removal of designation and prohibitions on collection for certain contributions on income tax return -- Conditions for removal and prohibitions on collection -- Commission publication requirements.

(1) (a) If a contribution or combination of contributions described in Subsection (1)(b) generate less than \$30,000 per year for three consecutive years, the commission shall remove the designation for the contribution from the individual income tax return and may not collect the contribution from a resident or nonresident individual beginning two taxable years after the three-year period for which the contribution generates less than \$30,000 per year.

(b) The following contributions apply to Subsection (1)(a):

(i) the contribution provided for in Section 59-10-1306;

(ii) the sum of the contributions provided for in Subsection 59-10-1307(1);

(iii) the contribution provided for in Section 59-10-1308;

(iv) the contribution provided for in Section 59-10-1310;

(v) the contribution provided for in Section 59-10-1315;

(vi) the sum of the contributions provided for in:

(A) Section 59-10-1316; and

(B) Section 59-10-1317; ~~or~~

(vii) the contribution provided for in Section 59-10-1318[-]; or

(viii) the contribution provided for in Section 59-10-1319.

(2) If the commission removes the designation for a contribution under Subsection (1), the commission shall report to the Revenue and Taxation Interim Committee that the commission removed the designation on or before the November interim meeting of the year in which the commission determines to remove the designation.

(3) (a) Within a 30-day period after making the report required by Subsection (2), the commission shall publish a list in accordance with Subsection (3)(b) stating each contribution that the commission will remove from the individual income tax return.

(b) The list shall:

(i) be published on:

(A) the commission's website; and

(B) the public legal notice website in accordance with Section 45-1-101;

(ii) include a statement that the commission:

(A) is required to remove the contribution from the individual income tax return; and

(B) may not collect the contribution;

(iii) state the taxable year for which the removal described in Subsection (3)(a) takes effect; and

(iv) remain available for viewing and searching until the commission publishes a new list in accordance with this Subsection (3).

Section 2. Section 59-10-1319 is enacted to read:**59-10-1319. Contribution to Clean Air Fund.**

(1) (a) There is created an agency fund known as the "Clean Air Fund."

(b) The fund shall consist of all amounts deposited into the fund in accordance with Subsection (2).

(2) Except as provided in Section 59-10-1304, for a taxable year beginning on or after January 1, 2017, a resident or nonresident individual who files an individual income tax return under this chapter may designate on the resident or nonresident individual's individual income tax return a contribution as provided in this section to be:

- (a) deposited into the Clean Air Fund; and
- (b) expended as provided in Subsection (3).

(3) (a) At least once each year, the commission shall disburse from the Clean Air Fund all money deposited into the fund since the last disbursement.

(b) The commission shall disburse money under Subsection (3)(a) to the Division of Air Quality for the purpose of:

(i) providing money for grants to individuals or organizations in the state to fund activities intended to improve air quality in the state; or

(ii) enhancing programs designed to educate the public about the importance of air quality to the health, well-being, and livelihood of individuals in the state.

CHAPTER 112**H. B. 239**

Passed March 9, 2016

Approved March 21, 2016

Effective May 10, 2016

**ACCESS TO OPIOID PRESCRIPTION
INFORMATION VIA PRACTITIONER
DATA MANAGEMENT SYSTEMS**

Chief Sponsor: Mike K. McKell
 Senate Sponsor: Curtis S. Bramble
 Cosponsors: Rich Cunningham
 Brad King

LONG TITLE**General Description:**

This bill amends the Controlled Substance Database Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Division of Occupational and Professional Licensing within the Department of Commerce to make opioid prescription data information in its controlled substance database accessible to an opioid prescriber or pharmacist via the prescriber's or pharmacist's electronic data system;
- ▶ limits access to and use of the information by an electronic data system, a prescriber, or a pharmacist in accordance with rules established by the division;
- ▶ requires rulemaking by the division;
- ▶ requires the division to periodically audit use of the information; and
- ▶ amends Controlled Substance Database Act penalty provisions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-37f-601, as last amended by Laws of Utah 2015, Chapter 326

ENACTS:

58-37f-303, Utah Code Annotated 1953

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

Section 1. Section 58-37f-303 is enacted to read:**58-37f-303. Access to opioid prescription information via an electronic data system.**

(1) As used in this section:

(a) "Dispense" means the same as that term is defined in Section 58-17b-102.

(b) "EDS user":

(i) means:

(A) a prescriber;

(B) a pharmacist; or

(C) an individual granted access to the database under Subsection 58-37f-301(3)(c); and

(ii) does not mean an individual whose access to the database has been revoked by the division pursuant to Subsection 58-37f-301(5)(b).

(c) "Electronic data system" means a software product or an electronic service used by:

(i) a prescriber to manage electronic health records; or

(ii) a pharmacist to manage the dispensing of prescription drugs.

(d) "Opioid" means any substance listed in Subsection 58-37-4(2)(b)(i) or (2)(b)(ii).

(e) "Pharmacist" means the same as that term is defined in Section 58-17b-102.

(f) "Prescriber" means a practitioner, as that term is defined in Section 58-37-2, who is licensed under Section 58-37-6 to prescribe an opioid.

(g) "Prescription drug" means the same as that term is defined in Section 58-17b-102.

(2) Subject to Subsections (3) through (6), no later than January 1, 2017, the division shall make opioid prescription information in the database available to an EDS user via the user's electronic data system.

(3) An electronic data system may be used to make opioid prescription information in the database available to an EDS user only if the electronic data system complies with rules established by the division under Subsection (4).

(4) (a) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying:

(i) an electronic data system's:

(A) allowable access to and use of opioid prescription information in the database; and

(B) minimum actions that must be taken to ensure that opioid prescription information accessed from the database is protected from inappropriate disclosure or use; and

(ii) an EDS user's:

(A) allowable access to opioid prescription information in the database via an electronic data system; and

(B) allowable use of the information.

(b) The rules shall establish:

(i) minimum user identification requirements that in substance are the same as the database identification requirements in Section 58-37f-301;

(ii) user access restrictions that in substance are the same as the database identification requirements in Section 58-37f-301; and

(iii) any other requirements necessary to ensure that in substance the provisions of Sections 58-37f-301 and 58-37f-302 apply to opioid prescription information in the database that has

been made available to an EDS user via an electronic data system.

(5) The division may not make opioid prescription information in the database available to an EDS user via the user's electronic data system if:

(a) the electronic data system does not comply with the rules established by the division under Subsection (4); or

(b) the EDS user does not comply with the rules established by the division under Subsection (4).

(6) (a) The division shall periodically audit the use of opioid prescription information made available to an EDS user via the user's electronic data system.

(b) The audit shall review compliance by:

(i) the electronic data system with rules established by the division under Subsection (4); and

(ii) the EDS user with rules established by the division under Subsection (4).

(c) (i) If the division determines by audit or other means that an electronic data system is not in compliance with rules established by the division under Subsection (4), the division shall immediately suspend or revoke the electronic data system's access to opioid prescription information in the database.

(ii) If the division determines by audit or other means that an EDS user is not in compliance with rules established by the division under Subsection (4), the division shall immediately suspend or revoke the EDS user's access to opioid prescription information in the database via an electronic data system.

(iii) If the division suspends or revokes access to opioid prescription information in the database under Subsection (6)(c)(i) or (6)(c)(ii), the division shall also take any other appropriate corrective or disciplinary action authorized by this chapter or title.

(7) The division shall report to the Health and Human Services Interim Committee during the 2017 interim and the 2018 interim on the implementation of this section. The reports shall be made before October 1 each year.

Section 2. Section 58-37f-601 is amended to read:

58-37f-601. Unlawful release or use of database information -- Criminal and civil penalties.

(1) (a) Any person who knowingly and intentionally releases:

(i) any information in the database or any information obtained from other state or federal prescription monitoring programs by means of the database in violation of the limitations under Part 3, Access, is guilty of a third degree felony; or

(ii) any information in the database accessed under Section 58-37f-303 by an electronic data system, or accessed by a person via an electronic data system, in violation of rules established by the division under Subsection 58-37f-303(4) is guilty of a third degree felony.

(b) Any person who negligently or recklessly releases:

(i) any information in the database or any information obtained from other state or federal prescription monitoring programs by means of the database in violation of the limitations under [Title 58, Chapter 37f,] Part 3, Access, is guilty of a class C misdemeanor; or

(ii) any information in the database accessed under Section 58-37f-303 by an electronic data system, or accessed by a person via an electronic data system, in violation of rules established by the division under Subsection 58-37f-303(4) is guilty of a class C misdemeanor.

(2) (a) Any person who obtains or attempts to obtain the following by misrepresentation or fraud is guilty of a third degree felony:

(i) information from the database [øf];

(ii) information from any other state or federal prescription monitoring [programs] program by means of the database [by misrepresentation or fraud is guilty of a third degree felony]; or

(iii) information from the database or any other state or federal prescription monitoring program via an electronic data system under Section 58-37f-303.

(b) Any person who obtains or attempts to obtain information from the database, including via an electronic data system under Section 58-37f-303 that has access to the database, for a purpose other than a purpose authorized by this chapter or by rule is guilty of a third degree felony.

(3) (a) Except as provided in Subsection (3)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person [any] the following information for any purpose other than those specified in Part 3, Access:

(i) information obtained from the database [øf];

(ii) information obtained from any other state or federal prescription monitoring [programs] program by means of the database [for any purpose other than those specified in Part 3, Access]; or

(iii) information in the database accessed under Section 58-37f-303 by:

(A) an electronic data system; or

(B) a person via an electronic data system.

(b) Each separate violation of this Subsection (3) is a third degree felony and is also subject to a civil penalty not to exceed \$5,000.

(c) The procedure for determining a civil violation of this Subsection (3) is in accordance with Section 58-1-108, regarding adjudicative proceedings within the division.

(d) Civil penalties assessed under this Subsection (3) shall be deposited in the General Fund as a dedicated credit to be used by the division under Subsection 58-37f-502(1).

(e) This Subsection (3) does not prohibit a person who obtains information from the database under Subsection 58-37f-301(2)(f), (g), (i), or (4)(c) from:

(i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file; or

(ii) providing the information to a person in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996.

CHAPTER 113**H. B. 245**

Passed February 29, 2016

Approved March 21, 2016

Effective May 10, 2016

**LOCAL HEALTH
DEPARTMENT AMENDMENTS**Chief Sponsor: Brad L. Dee
Senate Sponsor: Allen M. Christensen**LONG TITLE****General Description:**

This bill provides a county governing body the option to combine the local health department with the local mental health authority and the local substance abuse authority.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ provides a county the option to create a united local health department, which combines the local health department with the local substance abuse authority and the local mental health authority;
- ▶ permits multiple counties to join together in an interlocal agreement to form a multicounty united local health department;
- ▶ requires a united local health department to coordinate the duties of a local health department, a local mental health authority, and a local substance abuse authority;
- ▶ provides that the governing body of a county may select the executive director of a united local health department;
- ▶ amends the types of funds that may be established and maintained by a united local health department; and
- ▶ makes technical amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 17-43-201, as last amended by Laws of Utah 2014, Chapter 213
- 17-43-204, as last amended by Laws of Utah 2008, Chapter 194
- 17-43-301, as last amended by Laws of Utah 2014, Chapter 213
- 17-43-305, as last amended by Laws of Utah 2013, Chapter 17
- 26A-1-102, as last amended by Laws of Utah 2002, Chapter 249
- 26A-1-105, as last amended by Laws of Utah 2002, Chapter 249
- 26A-1-109, as last amended by Laws of Utah 2002, Chapter 249
- 26A-1-110, as last amended by Laws of Utah 2003, Chapter 131
- 26A-1-111, as last amended by Laws of Utah 2010, Chapter 324

26A-1-118, as last amended by Laws of Utah 2002, Chapter 249

26A-1-119, as last amended by Laws of Utah 2002, Chapter 249

62A-15-103, as last amended by Laws of Utah 2015, Chapter 412

ENACTS:

26A-1-105.5, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 17-43-201 is amended to read:****17-43-201. Local substance abuse authorities -- Responsibilities.**

(1) (a) (i) In each county operating under a county executive-council form of government under Section 17-52-504, the county legislative body is the local substance abuse authority, provided however that any contract for plan services shall be administered by the county executive.

(ii) In each county operating under a council-manager form of government under Section 17-52-505, the county manager is the local substance abuse authority.

(iii) In each county other than a county described in Subsection (1)(a)(i) or (ii), the county legislative body is the local substance abuse authority.

(b) Within legislative appropriations and county matching funds required by this section, and under the direction of the division, each local substance abuse authority shall:

(i) develop substance abuse prevention and treatment services plans;

(ii) provide substance abuse services to residents of the county; and

(iii) cooperate with efforts of the Division of Substance Abuse and Mental Health to promote integrated programs that address an individual's substance abuse, mental health, and physical healthcare needs, as described in Section 62A-15-103.

(c) Within legislative appropriations and county matching funds required by this section, each local substance abuse authority shall cooperate with the efforts of the Department of Human Services to promote a system of care, as defined in Section 62A-1-104, for minors with or at risk for complex emotional and behavioral needs, as described in Section 62A-1-111.

(2) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, two or more counties may join to:

(i) provide substance abuse prevention and treatment services; or

(ii) create a united local health department that provides substance abuse treatment services, mental health services, and local health department services in accordance with Subsection (3).

(b) The legislative bodies of counties joining to provide services may establish acceptable ways of apportioning the cost of substance abuse services.

(c) Each agreement for joint substance abuse services shall:

(i) (A) designate the treasurer of one of the participating counties or another person as the treasurer for the combined substance abuse authorities and as the custodian of money available for the joint services; and

(B) provide that the designated treasurer, or other disbursing officer authorized by the treasurer, may make payments from the money for the joint services upon audit of the appropriate auditing officer or officers representing the participating counties;

(ii) provide for the appointment of an independent auditor or a county auditor of one of the participating counties as the designated auditing officer for the combined substance abuse authorities;

(iii) (A) provide for the appointment of the county or district attorney of one of the participating counties as the designated legal officer for the combined substance abuse authorities; and

(B) authorize the designated legal officer to request and receive the assistance of the county or district attorneys of the other participating counties in defending or prosecuting actions within their counties relating to the combined substance abuse authorities; and

(iv) provide for the adoption of management, clinical, financial, procurement, personnel, and administrative policies as already established by one of the participating counties or as approved by the legislative body of each participating county or interlocal board.

(d) An agreement for joint substance abuse services may provide for joint operation of services and facilities or for operation of services and facilities under contract by one participating local substance abuse authority for other participating local substance abuse authorities.

(3) A county governing body may elect to combine the local substance abuse authority with the local mental health authority created in Part 3, Local Mental Health Authorities, and the local health department created in Title 26A, Chapter 1, Part 1, Local Health Department Act, to create a united local health department under Section 26A-1-105.5. A local substance abuse authority that joins a united local health department shall comply with this part.

(4) (a) Each local substance abuse authority is accountable to the department, the Department of Health, and the state with regard to the use of state and federal funds received from those departments for substance abuse services, regardless of whether the services are provided by a private contract provider.

(b) Each local substance abuse authority shall comply, and require compliance by its contract provider, with all directives issued by the department and the Department of Health regarding the use and expenditure of state and federal funds received from those departments for the purpose of providing substance abuse programs and services. The department and Department of Health shall ensure that those directives are not duplicative or conflicting, and shall consult and coordinate with local substance abuse authorities with regard to programs and services.

[4] (5) Each local substance abuse authority shall:

(a) review and evaluate substance abuse prevention and treatment needs and services, including substance abuse needs and services for individuals incarcerated in a county jail or other county correctional facility;

(b) annually prepare and submit to the division a plan approved by the county legislative body for funding and service delivery that includes:

(i) provisions for services, either directly by the substance abuse authority or by contract, for adults, youth, and children, including those incarcerated in a county jail or other county correctional facility; and

(ii) primary prevention, targeted prevention, early intervention, and treatment services;

(c) establish and maintain, either directly or by contract, programs licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities;

(d) appoint directly or by contract a full or part time director for substance abuse programs, and prescribe the director's duties;

(e) provide input and comment on new and revised rules established by the division;

(f) establish and require contract providers to establish administrative, clinical, procurement, personnel, financial, and management policies regarding substance abuse services and facilities, in accordance with the rules of the division, and state and federal law;

(g) establish mechanisms allowing for direct citizen input;

(h) annually contract with the division to provide substance abuse programs and services in accordance with the provisions of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

(i) comply with all applicable state and federal statutes, policies, audit requirements, contract requirements, and any directives resulting from those audits and contract requirements;

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

(k) provide funding equal to at least 20% of the state funds that it receives to fund services described in the plan;

(l) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;

(m) for persons convicted of driving under the influence in violation of Section 41-6a-502 or 41-6a-517, conduct the following as defined in Section 41-6a-501:

- (i) a screening;
- (ii) an assessment;
- (iii) an educational series; and
- (iv) substance abuse treatment; and

(n) utilize proceeds of the accounts described in Subsection 62A-15-503(1) to supplement the cost of providing the services described in Subsection [4] (5)(m).

[5] (6) Before disbursing any public funds, each local substance abuse authority shall require that each entity that receives any public funds from the local substance abuse authority agrees in writing that:

(a) the entity's financial records and other records relevant to the entity's performance of the services provided to the local substance abuse authority shall be subject to examination by:

- (i) the division;
- (ii) the local substance abuse authority director;
- (iii) (A) the county treasurer and county or district attorney; or

(B) if two or more counties jointly provide substance abuse services under an agreement under Subsection (2), the designated treasurer and the designated legal officer;

- (iv) the county legislative body; and

(v) in a county with a county executive that is separate from the county legislative body, the county executive;

(b) the county auditor may examine and audit the entity's financial and other records relevant to the entity's performance of the services provided to the local substance abuse authority; and

(c) the entity will comply with the provisions of Subsection [3] (4)(b).

[6] (7) A local substance abuse authority may receive property, grants, gifts, supplies, materials, contributions, and any benefit derived therefrom, for substance abuse services. If those gifts are conditioned upon their use for a specified service or program, they shall be so used.

[7] (8) (a) As used in this section, "public funds" means the same as that term is defined in Section 17-43-203.

(b) Public funds received for the provision of services pursuant to the local substance abuse plan may not be used for any other purpose except those authorized in the contract between the local substance abuse authority and the provider for the provision of plan services.

[8] (9) Subject to the requirements of the federal Substance Abuse Prevention and Treatment Block Grant, [Public Law] Pub. L. No. 102-321, a local substance abuse authority shall ensure that all substance abuse treatment programs that receive public funds:

(a) accept and provide priority for admission to a pregnant woman or a pregnant minor; and

(b) if admission of a pregnant woman or a pregnant minor is not possible within 24 hours of the time that a request for admission is made, provide a comprehensive referral for interim services that:

(i) are accessible to the pregnant woman or pregnant minor;

(ii) are best suited to provide services to the pregnant woman or pregnant minor;

(iii) may include:

(A) counseling;

(B) case management; or

(C) a support group; and

(iv) shall include a referral for:

(A) prenatal care; and

(B) counseling on the effects of alcohol and drug use during pregnancy.

[9] (10) If a substance abuse treatment program described in Subsection [8] (9) is not able to accept and admit a pregnant woman or pregnant minor under Subsection [8] (9) within 48 hours of the time that request for admission is made, the local substance abuse authority shall contact the Division of Substance Abuse and Mental Health for assistance in providing services to the pregnant woman or pregnant minor.

Section 2. Section 17-43-204 is amended to read:

17-43-204. Fees for substance abuse services -- Responsibility for cost of service if rendered by authority to nonresident -- Authority may receive funds from other sources.

(1) Each local substance abuse authority shall charge a fee for substance abuse services, except that substance abuse services may not be refused to any person because of inability to pay.

(2) If a local substance abuse authority, through its designated provider, provides a service described in Subsection 17-43-201[4](5) to a person who resides within the jurisdiction of another local substance abuse authority, the local substance abuse authority in whose jurisdiction the person resides is responsible for the cost of that

service if its designated provider has authorized the provision of that service.

(3) A local substance abuse authority and entities that contract with a local substance abuse authority to provide substance abuse services may receive funds made available by federal, state, or local health, substance abuse, mental health, education, welfare, or other agencies, in accordance with the provisions of this part and Title 62A, Chapter 15, Substance Abuse and Mental Health Act.

Section 3. Section 17-43-301 is amended to read:

17-43-301. Local mental health authorities -- Responsibilities.

(1) (a) (i) In each county operating under a county executive-council form of government under Section 17-52-504, the county legislative body is the local mental health authority, provided however that any contract for plan services shall be administered by the county executive.

(ii) In each county operating under a council-manager form of government under Section 17-52-505, the county manager is the local mental health authority.

(iii) In each county other than a county described in Subsection (1)(a)(i) or (ii), the county legislative body is the local mental health authority.

(b) Within legislative appropriations and county matching funds required by this section, under the direction of the division, each local mental health authority shall:

(i) provide mental health services to persons within the county; and

(ii) cooperate with efforts of the Division of Substance Abuse and Mental Health to promote integrated programs that address an individual's substance abuse, mental health, and physical healthcare needs, as described in Section 62A-15-103.

(c) Within legislative appropriations and county matching funds required by this section, each local mental health authority shall cooperate with the efforts of the Department of Human Services to promote a system of care, as defined in Section 62A-1-104, for minors with or at risk for complex emotional and behavioral needs, as described in Section 62A-1-111.

(2) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, two or more counties may join to:

(i) provide mental health prevention and treatment services; or

(ii) create a united local health department that combines substance abuse treatment services, mental health services, and local health department services in accordance with Subsection (3).

(b) The legislative bodies of counties joining to provide services may establish acceptable ways of apportioning the cost of mental health services.

(c) Each agreement for joint mental health services shall:

(i) (A) designate the treasurer of one of the participating counties or another person as the treasurer for the combined mental health authorities and as the custodian of money available for the joint services; and

(B) provide that the designated treasurer, or other disbursing officer authorized by the treasurer, may make payments from the money available for the joint services upon audit of the appropriate auditing officer or officers representing the participating counties;

(ii) provide for the appointment of an independent auditor or a county auditor of one of the participating counties as the designated auditing officer for the combined mental health authorities;

(iii) (A) provide for the appointment of the county or district attorney of one of the participating counties as the designated legal officer for the combined mental health authorities; and

(B) authorize the designated legal officer to request and receive the assistance of the county or district attorneys of the other participating counties in defending or prosecuting actions within their counties relating to the combined mental health authorities; and

(iv) provide for the adoption of management, clinical, financial, procurement, personnel, and administrative policies as already established by one of the participating counties or as approved by the legislative body of each participating county or interlocal board.

(d) An agreement for joint mental health services may provide for:

(i) joint operation of services and facilities or for operation of services and facilities under contract by one participating local mental health authority for other participating local mental health authorities; and

(ii) allocation of appointments of members of the mental health advisory council between or among participating counties.

(3) A county governing body may elect to combine the local mental health authority with the local substance abuse authority created in Part 2, Local Substance Abuse Authorities, and the local health department created in Title 26A, Chapter 1, Part 1, Local Health Department Act, to create a united local health department under Section 26A-1-105.5. A local mental health authority that joins with a united local health department shall comply with this part.

(4) (a) Each local mental health authority is accountable to the department, the Department of Health, and the state with regard to the use of state and federal funds received from those departments

for mental health services, regardless of whether the services are provided by a private contract provider.

(b) Each local mental health authority shall comply, and require compliance by its contract provider, with all directives issued by the department and the Department of Health regarding the use and expenditure of state and federal funds received from those departments for the purpose of providing mental health programs and services. The department and Department of Health shall ensure that those directives are not duplicative or conflicting, and shall consult and coordinate with local mental health authorities with regard to programs and services.

[(4)] (5) (a) Each local mental health authority shall:

(i) review and evaluate mental health needs and services, including mental health needs and services for persons incarcerated in a county jail or other county correctional facility;

(ii) as provided in Subsection [(4)] (5)(b), annually prepare and submit to the division a plan approved by the county legislative body for mental health funding and service delivery, either directly by the local mental health authority or by contract;

(iii) establish and maintain, either directly or by contract, programs licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities;

(iv) appoint, directly or by contract, a full-time or part-time director for mental health programs and prescribe the director's duties;

(v) provide input and comment on new and revised rules established by the division;

(vi) establish and require contract providers to establish administrative, clinical, personnel, financial, procurement, and management policies regarding mental health services and facilities, in accordance with the rules of the division, and state and federal law;

(vii) establish mechanisms allowing for direct citizen input;

(viii) annually contract with the division to provide mental health programs and services in accordance with the provisions of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

(ix) comply with all applicable state and federal statutes, policies, audit requirements, contract requirements, and any directives resulting from those audits and contract requirements;

(x) provide funding equal to at least 20% of the state funds that it receives to fund services described in the plan;

(xi) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title 51, Chapter 2a, Accounting Reports from Political

Subdivisions, Interlocal Organizations, and Other Local Entities Act; and

(xii) take and retain physical custody of minors committed to the physical custody of local mental health authorities by a judicial proceeding under Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(b) Each plan under Subsection [(4)] (5)(a)(ii) shall include services for adults, youth, and children, which shall include:

(i) inpatient care and services;

(ii) residential care and services;

(iii) outpatient care and services;

(iv) 24-hour crisis care and services;

(v) psychotropic medication management;

(vi) psychosocial rehabilitation, including vocational training and skills development;

(vii) case management;

(viii) community supports, including in-home services, housing, family support services, and respite services;

(ix) consultation and education services, including case consultation, collaboration with other county service agencies, public education, and public information; and

(x) services to persons incarcerated in a county jail or other county correctional facility.

[(5)] (6) Before disbursing any public funds, each local mental health authority shall require that each entity that receives any public funds from a local mental health authority agrees in writing that:

(a) the entity's financial records and other records relevant to the entity's performance of the services provided to the mental health authority shall be subject to examination by:

(i) the division;

(ii) the local mental health authority director;

(iii) (A) the county treasurer and county or district attorney; or

(B) if two or more counties jointly provide mental health services under an agreement under Subsection (2), the designated treasurer and the designated legal officer;

(iv) the county legislative body; and

(v) in a county with a county executive that is separate from the county legislative body, the county executive;

(b) the county auditor may examine and audit the entity's financial and other records relevant to the entity's performance of the services provided to the local mental health authority; and

(c) the entity will comply with the provisions of Subsection [(3)] (4)(b).

[46] (7) A local mental health authority may receive property, grants, gifts, supplies, materials, contributions, and any benefit derived therefrom, for mental health services. If those gifts are conditioned upon their use for a specified service or program, they shall be so used.

[47] (8) (a) As used in this section, "public funds" means the same as that term is defined in Section 17-43-303.

(b) Public funds received for the provision of services pursuant to the local mental health plan may not be used for any other purpose except those authorized in the contract between the local mental health authority and the provider for the provision of plan services.

Section 4. Section 17-43-305 is amended to read:

17-43-305. Responsibility for cost of services provided by local mental health authority.

If a local mental health authority, through its designated provider, provides any service described in Subsection 17-43-301[44](5)(b) to a person who resides within the jurisdiction of another local mental health authority, the local mental health authority in whose jurisdiction the person resides is responsible for the cost of that service if its designated provider has authorized the provision of that service.

Section 5. Section 26A-1-102 is amended to read:

26A-1-102. Definitions.

As used in this part:

(1) "Board" means a local board of health established under Section 26A-1-109.

(2) "County governing body" means one of the types of county government provided for in Title 17, Chapter 52, Part 5, Forms of County Government.

(3) "County health department" means a local health department that serves a county and municipalities located within that county.

(4) "Department" means the Department of Health created in Title 26, Chapter 1, Department of Health Organization.

(5) "Local health department" means:

(a) a single county [or] local health department;

(b) a multicounty local health department [established under this part];

(c) a united local health department; or

(d) a multicounty united local health department.

(6) "Mental health authority" means a local mental health authority created in Section 17-43-301.

(7) "Multicounty local health department" means a local health department that is formed under Section 26A-1-105 and that serves two or more

contiguous counties and municipalities within those counties.

(8) "Multicounty united local health department" means a united local health department that is formed under Section 26A-1-105.5 and that serves two or more contiguous counties and municipalities within those counties.

(9) "Single county local health department" means a local health department that is created by the governing body of one county to provide services to the county and the municipalities within that county.

(10) "Substance abuse authority" means a local substance abuse authority created in Section 17-43-201.

(11) "United local health department":

(a) means a substance abuse authority, a mental health authority, and a local health department that join together under Section 26A-1-105.5; and

(b) includes a multicounty united local health department.

Section 6. Section 26A-1-105 is amended to read:

26A-1-105. Multicounty local health departments.

(1) Two or more contiguous counties may [~~unite to create and maintain a local health department~~], by executing an agreement pursuant to the provisions of Title 11, Chapter 13, Interlocal Cooperation Act, unite to create and maintain a local health department that does not combine the substance abuse authority and the mental health authority with the local health department.

(2) Any municipalities within counties comprising a multicounty local health department under Subsection (1) shall be served by the multicounty local health department.

Section 7. Section 26A-1-105.5 is enacted to read:

26A-1-105.5. United local health department -- Multicounty united local health department -- Election by county governing body -- Appointment of director.

(1) A county governing body may elect to:

(a) form a united local health department for the purpose of combining into a single entity the duties of:

(i) the local health department;

(ii) the mental health authority; and

(iii) the substance abuse authority; and

(b) provide for the coordination of services for the populations served by the entities described in Subsection (1)(a).

(2) (a) Two or more contiguous counties may, by executing an agreement pursuant to the provisions of Title 11, Chapter 13, Interlocal Cooperation Act,

unite to create and maintain a multicounty united local health department.

(b) Any municipalities within counties comprising a multicounty united local health department under Subsection (2)(a) shall be served by the multicounty united local health department.

(3) A united local health department created under this section shall administer the programs and services of each entity listed in Subsections (1)(a) in accordance with:

(a) this chapter;

(b) Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities; and

(c) Title 17, Chapter 43, Part 3, Local Mental Health Authorities.

(4) (a) Notwithstanding Section 26A-1-110:

(i) the county governing body shall, in consultation with the board, appoint an executive director for a united local health department and determine the executive director's compensation; and

(ii) the county governing bodies of a multicounty united local health department shall, in consultation with the board, appoint an executive director for the multicounty local health department and determine the executive director's compensation.

(b) An executive director appointed under Subsection (4)(a):

(i) shall serve as the local health officer; and

(ii) may be removed for cause under Section 26A-1-111.

(5) The treasurer of a united local health department may establish and maintain funds in addition to the local health department fund established under Section 26A-1-119, if the additional fund is necessary to:

(a) provide substance abuse authority services or mental health authority services; and

(b) comply with federal regulation or federal statute.

Section 8. Section 26A-1-109 is amended to read:

26A-1-109. Local boards of health -- Membership -- Organization -- Meetings.

(1) A local health department shall have a board of health with at least three members.

(a) (i) Board members shall be appointed pursuant to county ordinance or interlocal agreement by the counties creating the local health department.

(ii) The board may include representatives from the municipalities included within the area served by the local health department.

(b) The board shall be nonpartisan.

(c) An employee of the local health department may not be a board member.

(2) (a) As possible, of the initial board:

(i) 1/3 shall serve a term of one year;

(ii) 1/3 shall serve a term of two years; and

(iii) 1/3 shall serve a term of three years.

(b) All subsequent appointments shall be for terms of three years and shall be made, as possible, so 1/3 of the terms of office of those serving on the board expire each year. Members appointed to fill vacancies shall hold office until expiration of the terms of their predecessors.

(c) Board members may be removed by the appointing county for cause prior to the expiration of the member's term. Any board member removed pursuant to this Subsection (2) may request and receive a hearing before the county legislative body prior to the effective date of the removal.

(3) (a) All members of the board shall reside within the boundaries of the area served by the local health department.

(b) A majority of the members may not:

(i) be primarily engaged in providing health care to individuals or in the administration of facilities or institutions in which health care is provided;

(ii) hold a fiduciary position or have a fiduciary interest in any entity involved in the provision of health care;

(iii) receive either directly or through a spouse more than 1/10 of the member's gross income from any entity or activity relating to health care; and

(iv) be members of one type of business or profession.

(4) (a) The board shall at its organizational meeting elect from its members a chairman and a vice chairman and secretary.

(b) The health officer of the local health department appointed pursuant to Section 26A-1-110 or Section 26A-1-105.5 may serve as secretary to the board.

(5) (a) (i) Regular meetings of the board shall be held not less than once every three months.

(ii) Special meetings may be called by the chairman, the health officer, or a majority of the members at any time on three days' notice by mail, or in case of emergency, as soon as possible after the members of the board have been notified.

(b) A board may adopt and amend bylaws for the transaction of its business. A majority of the board members constitute a quorum.

(c) Members serve without compensation, but shall be reimbursed for actual and necessary traveling and subsistence expenses when absent from their place of residence in attendance at authorized meetings.

(d) All meetings are presumed to have been called and held in accordance with this section and all

orders and proceedings are presumed to be authorized unless the contrary is proved.

(6) The board shall annually report the operations of the local health department and the board to the local governing bodies of the municipalities and counties served by the local health department.

(7) The board shall annually send a copy of the local health department's approved budget to the department and all local governing bodies of the municipalities and counties served by the local health department. The report shall be submitted no later than 30 days after the beginning of the local health department's fiscal year.

(8) The board shall determine the general public health policies to be followed in administration of the local health department and may adopt and enforce public health rules, regulations, and standards necessary to implement the board's public health policies. The board shall adopt written procedures to carry out the provisions of this section.

Section 9. Section 26A-1-110 is amended to read:

26A-1-110. Local health officer -- Powers and duties -- Vacancy.

(1) [The] Except as provided in Section 26A-1-105.5, the board shall appoint a local health officer and determine the officer's compensation:

(a) subject to ratification by the county executive of the county or counties in the local health department; and

(b) as provided by:

(i) ordinance adopted by a county creating a county health department; or

(ii) the interlocal agreement pursuant to which a multicounty health department is created.

(2) The local health officer shall:

(a) have the qualifications of training and experience for that office equivalent to those approved by the department for local health officers;

(b) be the administrative and executive officer of the local health department and devote full time to the duties of the office;

(c) if provisions have been made with the department, act as the local registrar of vital statistics within the local health department's boundaries without additional compensation or payment of fees provided by law;

(d) (i) prior to the beginning of each fiscal year, prepare an annual budget approved by the board and present it:

(A) to the county legislative body if the local health department is a county health department; or

(B) to the entity designated in the interlocal agreement creating the local health department if the local health department is a multicounty health department; and

(ii) obtain final approval of the annual budget from the governing bodies designated in Subsection (2)(d)(i)(A) or (B) after the governing body either:

(A) reviews and approves the budget; or

(B) amends and approves the budget; and

(e) prepare an annual report and provide it to the department and all counties in the local health department.

(3) The report under Subsection (2)(e) shall contain a copy of the independent financial audit required under Section 26A-1-115, a description of the population served by the local health department, and other information as requested by the board or the county or counties creating the local health department.

(4) In the absence or disability of the local health officer, or if there is a vacancy in that office, the board shall appoint an acting health officer for a temporary period not to exceed one year. The appointment shall be ratified by the county executive of the county or counties in the local health department.

Section 10. Section 26A-1-111 is amended to read:

26A-1-111. Removal of local health officer.

(1) The local health officer may be removed for cause in accordance with this section by:

(a) the board, if the local health officer is appointed for a single county local health department; ~~or~~

(b) a majority of the counties in the local health department if:

(i) the local health department is:

(A) a multicounty local health department created under Section 26A-1-105; or

(B) a multicounty united local health department created under Section 26A-1-105.5; and

(ii) the county executives rescind~~s~~ or withdraw, in writing, the ratification of the local health officer; or

(c) the county governing body, if the local health department is a united local health department for a single county, and the county governing body rescinds or withdraws, in writing, the ratification of the local health officer.

(2) (a) A hearing shall be granted, if requested by the local health officer, prior to removal of the local health officer.

(b) If a hearing is requested, it shall be conducted by a five-member panel with:

(i) two elected members from the county or counties in the local health department, selected by the county executives;

(ii) two members of the board of the local health department who are not elected officials of the counties in the local health department, selected by the board; and

(iii) one member selected by the members appointed under Subsections (2)(b)(i) and (ii), however, the member appointed under this Subsection (2)(b)(iii) may not be an elected official of the counties in the local health department and may not be a member of the board of the local health department.

(c) (i) The hearing panel shall report its decision regarding termination to the board and to the counties in the local health department.

(ii) The counties and board receiving the report shall vote on whether to retain or terminate the local health officer.

(iii) The health officer is terminated if:

(A) the board votes to terminate; or

(B) a majority of the counties in the local health department vote to terminate.

Section 11. Section 26A-1-118 is amended to read:

26A-1-118. Treasurer of local department -- Bond.

(1) ~~[In county health departments, the]~~ The county treasurer shall serve as treasurer of ~~[the]~~ a local health department.

(2) Unless another county treasurer is designated pursuant to the interlocal agreement creating the multicounty local health department or the multicounty united local health department, the county treasurer of the county in which the headquarters of the multicounty local health department or the multicounty united local health department is located shall serve as treasurer of the multicounty local health department.

(3) The official bond of a county treasurer shall cover the duties as treasurer of a local health department.

Section 12. Section 26A-1-119 is amended to read:

26A-1-119. Local health department fund -- Sources -- Uses.

(1) ~~[The]~~ Except as provided in Section 26A-1-105.5, the treasurer of a local health department shall, as part of the department organization, create a local health department fund to which shall be credited any money appropriated or otherwise made available by participating counties or other local political subdivisions, and any money received from the state, federal government, or from surpluses, grants, fees, or donations for local health purposes.

(2) (a) Money credited to the fund shall be placed in a restricted account and expended only for maintenance and operation of the local health department.

(b) Claims or demands against the fund shall be allowed on certification by the health officer or other employee of the local health department designated by the health officer.

Section 13. Section 62A-15-103 is amended to read:

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

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

(2) The division shall:

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

(ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance abuse;

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

(iv) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance abuse disorder, by identifying and disseminating information about effective practices and programs;

(v) promote integrated programs that address an individual's substance abuse, mental health, physical health, and criminal risk factors;

(vi) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with substance abuse and mental illness that addresses criminal risk factors;

(vii) evaluate the effectiveness of programs described in Subsection (2);

(viii) consider the impact of the programs described in Subsection (2) on:

(A) emergency department utilization;

(B) jail and prison populations;

(C) the homeless population; and

(D) the child welfare system; and

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

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

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

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

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

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

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

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

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

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

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

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

(viii) monitor the expenditure of public funds by:

(A) local substance abuse authorities;

(B) local mental health authorities; and

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

(ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;

(x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;

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

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

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

(C) services result in improved overall health and functioning;

(D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance abuse or mental illness conditions or both, and who are involved in the criminal justice system;

(E) compliance, where appropriate, with the certification requirements in Subsection (2)(i); and

(F) appropriate expenditure of public funds;

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

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

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

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

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

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

(i) a review and determination regarding whether:

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

(B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds

allocated for substance abuse and mental health programs and services; and

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

(g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

(h) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, minimum standards and requirements for the provision of substance abuse and mental health treatment to individuals who are required to participate in treatment by the court or the Board of Pardons and Parole, or who are incarcerated, including:

(i) collaboration with the Department of Corrections, the Utah Substance Abuse Advisory Council to develop and coordinate the standards, including standards for county and state programs serving individuals convicted of class A and class B misdemeanors;

(ii) determining that the standards ensure available treatment includes the most current practices and procedures demonstrated by recognized scientific research to reduce recidivism, including focus on the individual's criminal risk factors; and

(iii) requiring that all public and private treatment programs meet the standards established under this Subsection (2)(h) in order to receive public funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice for the costs of providing screening, assessment, prevention, treatment, and recovery support;

(i) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements and procedures for the certification of licensed public and private providers who provide, as part of their practice, substance abuse and mental health treatment to individuals involved in the criminal justice system, including:

(i) collaboration with the Department of Corrections, the Utah Substance Abuse Advisory Council, and the Utah Association of Counties to develop, coordinate, and implement the certification process;

(ii) basing the certification process on the standards developed under Subsection (2)(h) for the treatment of individuals involved in the criminal justice system; and

(iii) the requirement that all public and private providers of treatment to individuals involved in the criminal justice system shall obtain certification on or before July 1, 2016, and shall renew the certification every two years, in order to qualify for funds allocated to the division, the Department of Corrections, or the Commission on

Criminal and Juvenile Justice on or after July 1, 2016;

(j) collaboration with the Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:

(i) pretrial services and the resources needed for the reduced recidivism efforts;

(ii) county jail and county behavioral health early-assessment resources needed for offenders convicted of a class A or class B misdemeanor; and

(iii) the replacement of federal dollars associated with drug interdiction law enforcement task forces that are reduced;

(k) (i) establish performance goals and outcome measurements for all treatment programs for which minimum standards are established under Subsection (2)(h), including recidivism data and data regarding cost savings associated with recidivism reduction and the reduction in the number of inmates, that are obtained in collaboration with the Administrative Office of the Courts and the Department of Corrections; and

(ii) collect data to track and determine whether the goals and measurements are being attained and make this information available to the public;

(l) in its discretion, use the data to make decisions regarding the use of funds allocated to the division, the Administrative Office of the Courts, and the Department of Corrections to provide treatment for which standards are established under Subsection (2)(h); and

(m) annually, on or before August 31, submit the data collected under Subsection (2)(j) to the Commission on Criminal and Juvenile Justice, which shall compile a report of findings based on the data and provide the report to the legislative Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees.

(3) (a) The division may refuse to contract with and may pursue its legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.

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

(4) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with its oversight and management responsibilities described in Sections 17-43-201,

17-43-203, 17-43-303, and 17-43-309. Nothing in this Subsection (4) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.

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

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

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

- (a) the use of public funds;
- (b) oversight responsibilities regarding public funds; and
- (c) governance of substance abuse and mental health programs and services.

(8) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.

(9) If a local substance abuse authority contacts the division under Subsection 17-43-201~~(9)~~(10) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:

- (a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or
- (b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

CHAPTER 114**H. B. 247**

Passed March 3, 2016

Approved March 21, 2016

Effective May 10, 2016

MEDICAID VISION AMENDMENTS

Chief Sponsor: Paul Ray

Senate Sponsor: Allen M. Christensen

LONG TITLE**General Description:**

This bill amends the Medicaid populations required to be included in certain requests for proposals.

Highlighted Provisions:

This bill:

- ▶ amends the Medicaid populations that the Department of Health must include in a request for proposals for Medicaid vision services; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-18-19, as enacted by Laws of Utah 2013, Chapter 366

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

Section 1. Section 26-18-19 is amended to read:**26-18-19. Medicaid vision services -- Request for proposals.**

The department may select one or more contractors, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, to provide vision services to [all] the Medicaid populations that are eligible for vision services, as described in department rules, without restricting provider participation, and within existing appropriations from the Legislature.

CHAPTER 115**H. B. 252**

Passed March 9, 2016

Approved March 21, 2016

Effective May 10, 2016

**INTELLECTUAL DISABILITY
TERMINOLOGY AMENDMENTS**Chief Sponsor: Paul Ray
Senate Sponsor: Lyle W. Hillyard**LONG TITLE****General Description:**

This bill modifies the Utah Criminal Code and the Utah Code of Criminal Procedure regarding terms relating to mental retardation.

Highlighted Provisions:

This bill replaces the term “mental retardation” and its variations with “intellectual disability.”

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-2-305, as last amended by Laws of Utah 2003, Chapter 11

77-15-5, as last amended by Laws of Utah 2012, Chapters 109 and 311

77-15a-101, as enacted by Laws of Utah 2003, Chapter 11

77-15a-102, as enacted by Laws of Utah 2003, Chapter 11

77-15a-103, as enacted by Laws of Utah 2003, Chapter 11

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

Section 1. Section 76-2-305 is amended to read:**76-2-305. Mental illness -- Use as a defense -- Influence of alcohol or other substance voluntarily consumed -- Definition.**

(1) (a) It is a defense to a prosecution under any statute or ordinance that the defendant, as a result of mental illness, lacked the mental state required as an element of the offense charged.

(b) Mental illness is not otherwise a defense, but may be evidence in mitigation of the penalty in a capital felony under Section 76-3-207 and may be evidence of special mitigation reducing the level of a criminal homicide or attempted criminal homicide offense under Section 76-5-205.5.

(2) The defense defined in this section includes the defenses known as “insanity” and “diminished mental capacity.”

(3) A person who asserts a defense of insanity or diminished mental capacity, and who is under the influence of voluntarily consumed, injected, or ingested alcohol, controlled substances, or volatile substances at the time of the alleged offense is not excused from criminal responsibility on the basis of

mental illness if the alcohol or substance caused, triggered, or substantially contributed to the mental illness.

(4) As used in this section:

(a) “Intellectual disability” means a significant subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior, and manifested prior to age 22.

~~[(4)-(a)]~~ (b) (i) “Mental illness” means a mental disease or defect that substantially impairs a person’s mental, emotional, or behavioral functioning. A mental defect may be a congenital condition, the result of injury, or a residual effect of a physical or mental disease and includes, but is not limited to, ~~[mental retardation]~~ intellectual disability.

~~[(4)]~~ (ii) “Mental illness” does not mean an abnormality manifested primarily by repeated criminal conduct.

~~[(5) “Mental retardation” means a significant subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior, and manifested prior to age 22.]~~

Section 2. Section 77-15-5 is amended to read:**77-15-5. Order for hearing -- Stay of other proceedings -- Examinations of defendant -- Scope of examination and report.**

(1) (a) When a petition is filed pursuant to Section 77-15-3 raising the issue of the defendant’s competency to stand trial or when the court raises the issue of the defendant’s competency pursuant to Section 77-15-4, the court in which proceedings are pending shall stay all proceedings. If the proceedings are in a court other than the district court in which the petition is filed, the district court shall notify that court of the filing of the petition.

(b) The district court in which the petition is filed:

(i) shall review the allegations of incompetency;

(ii) may hold a limited hearing solely for the purpose of determining the sufficiency of the petition if the court finds the petition is not clearly sufficient on its face;

(iii) shall hold a hearing if the petition is opposed by either party;

(iv) may not order an examination of the defendant or order a hearing on the mental condition of the defendant unless the court finds that the allegations in the petition raise a bona fide doubt as to the defendant’s competency to stand trial; and

(v) shall order an examination of the defendant and a hearing on the defendant’s mental condition if the court finds that the allegations raise a bona fide doubt as to the defendant’s competency to stand trial.

(2) (a) After the granting of a petition and prior to a full competency hearing, the court may order the Department of Human Services to examine the

person and to report to the court concerning the defendant's mental condition.

(b) The defendant shall be examined by at least two mental health experts not involved in the current treatment of the defendant.

(c) If the issue is sufficiently raised in the petition or if it becomes apparent that the defendant may be incompetent due to ~~[mental retardation]~~ intellectual disability, at least one expert experienced in ~~[mental retardation]~~ intellectual disability assessment shall evaluate the defendant. Upon appointment of the experts, the petitioner or other party as directed by the court shall provide information and materials to the examiners relevant to a determination of the defendant's competency and shall provide copies of the charging document, arrest or incident reports pertaining to the charged offense, known criminal history information, and known prior mental health evaluations and treatments.

(d) The prosecuting and defense attorneys shall cooperate in providing the relevant information and materials to the examiners, and the court may make the necessary orders to provide the information listed in Subsection (2)(c) to the examiners. The court may provide in its order for a competency examination of a defendant that custodians of mental health records pertaining to the defendant shall provide those records to the examiners without the need for consent of the defendant or further order of the court.

(3) During the examination under Subsection (2), unless the court or the executive director of the department directs otherwise, the defendant shall be retained in the same custody or status he was in at the time the examination was ordered.

(4) The experts shall in the conduct of their examination and in their report to the court consider and address, in addition to any other factors determined to be relevant by the experts:

(a) the defendant's present capacity to:

(i) comprehend and appreciate the charges or allegations against the defendant;

(ii) disclose to counsel pertinent facts, events, and states of mind;

(iii) comprehend and appreciate the range and nature of possible penalties, if applicable, that may be imposed in the proceedings against the defendant;

(iv) engage in reasoned choice of legal strategies and options;

(v) understand the adversary nature of the proceedings against the defendant;

(vi) manifest appropriate courtroom behavior; and

(vii) testify relevantly, if applicable;

(b) the impact of the mental disorder^[s] or ~~[mental retardation]~~ intellectual disability, if any, on the

nature and quality of the defendant's relationship with counsel;

(c) if psychoactive medication is currently being administered:

(i) whether the medication is necessary to maintain the defendant's competency; and

(ii) the effect of the medication, if any, on the defendant's demeanor and affect and ability to participate in the proceedings; and

(d) whether the defendant is exhibiting false or exaggerated physical or psychological symptoms relevant to the defendant's capacity to stand trial.

(5) If the expert's opinion is that the defendant is incompetent to proceed, the expert shall indicate in the report:

(a) which of the above factors contributes to the defendant's incompetency;

(b) the nature of the defendant's mental disorder or ~~[mental retardation]~~ intellectual disability and its relationship to the factors contributing to the defendant's incompetency;

(c) the treatment or treatments appropriate and available;

(d) the defendant's capacity to give informed consent to treatment to restore competency; and

(e) any diagnostic instruments, methods, and observations used by the expert to determine whether or not the defendant is exhibiting false or exaggerated physical or psychological symptoms relevant to the defendant's capacity to stand trial and the expert's opinion as to the significance of any false or exaggerated symptoms regarding the defendant's capacity.

(6) The experts examining the defendant shall provide an initial report to the court and the prosecuting and defense attorneys within 30 days of the receipt of the court's order. The report shall inform the court of the examiner's opinion concerning the competency of the defendant to stand trial, or, in the alternative, the examiner may inform the court in writing that additional time is needed to complete the report. If the examiner informs the court that additional time is needed, the examiner shall have up to an additional 30 days to provide the report to the court and counsel. The examiner shall provide the report within 60 days from the receipt of the court's order unless, for good cause shown, the court authorizes an additional period of time to complete the examination and provide the report.

(7) Any written report submitted by the experts shall:

(a) identify the specific matters referred for evaluation;

(b) describe the procedures, techniques, and tests used in the examination and the purpose or purposes for each;

(c) state the expert's clinical observations, findings, and opinions on each issue referred for

examination by the court, and indicate specifically those issues, if any, on which the expert could not give an opinion; and

(d) identify the sources of information used by the expert and present the basis for the expert's clinical findings and opinions.

(8) (a) Any statement made by the defendant in the course of any competency examination, whether the examination is with or without the consent of the defendant, any testimony by the expert based upon the statement, and any other fruits of the statement may not be admitted in evidence against the defendant in any criminal proceeding except on an issue respecting mental condition on which the defendant has introduced evidence. The evidence may be admitted, however, where relevant to a determination of the defendant's competency.

(b) Prior to examining the defendant, examiners should specifically advise the defendant of the limits of confidentiality as provided under Subsection (8)(a).

(9) (a) When the report is received the court shall set a date for a mental hearing. The hearing shall be held in not less than five and not more than 15 days, unless the court enlarges the time for good cause.

(b) Any person or organization directed by the department to conduct the examination may be subpoenaed to testify at the hearing. If the experts are in conflict as to the competency of the defendant, all experts should be called to testify at the hearing if reasonably available. A conflict in the opinions of the experts does not require the appointment of an additional expert unless the court determines the appointment to be necessary.

(c) The court may call any examiner to testify at the hearing who is not called by the parties. If the court calls an examiner, counsel for the parties may cross-examine the expert.

(10) (a) A person shall be presumed competent unless the court, by a preponderance of the evidence, finds the person incompetent to proceed. The burden of proof is upon the proponent of incompetency at the hearing.

(b) An adjudication of incompetency to proceed does not operate as an adjudication of incompetency to give informed consent for medical treatment or for any other purpose, unless specifically set forth in the court order.

(11) In determining the defendant's competency to stand trial, the court shall consider the totality of the circumstances, which may include the testimony of lay witnesses, in addition to the expert testimony, studies, and reports provided under this section.

(12) (a) If the court finds the defendant incompetent to stand trial, its order shall contain findings addressing each of the factors in Subsections (4)(a) and (b). The order issued pursuant to Subsection 77-15-6(1) which the court sends to the facility where the defendant is committed or to the person who is responsible for

assessing the defendant's progress toward competency shall be provided contemporaneously with the transportation and commitment order of the defendant, unless exigent circumstances require earlier commitment in which case the court shall forward the order within five working days of the order of transportation and commitment of the defendant.

(b) The order finding the defendant incompetent to stand trial shall be accompanied by:

(i) copies of the reports of the experts filed with the court pursuant to the order of examination if not provided previously;

(ii) copies of any of the psychiatric, psychological, or social work reports submitted to the court relative to the mental condition of the defendant; and

(iii) any other documents made available to the court by either the defense or the prosecution, pertaining to the defendant's current or past mental condition.

(13) (a) If the court finds it necessary to order the defendant transported prior to the completion of findings and compilation of documents required under Subsection (12), the transportation and commitment order delivering the defendant to the Utah State Hospital, or other mental health facility as directed by the executive director of the Department of Human Services or a designee, shall indicate that the defendant's commitment is based upon a finding of incompetency, and the mental health facility's copy of the order shall be accompanied by the reports of any experts filed with the court pursuant to the order of examination.

(b) The executive director of the Department of Human Services or a designee may refuse to accept a defendant as a patient unless the defendant is accompanied by a transportation and commitment order which is accompanied by the reports.

(14) Upon a finding of incompetency to stand trial by the court, the prosecuting and defense attorneys shall provide information and materials relevant to the defendant's competency to the facility where the defendant is committed or to the person responsible for assessing the defendant's progress towards competency. In addition to any other materials, the prosecuting attorney shall provide:

(a) copies of the charging document and supporting affidavits or other documents used in the determination of probable cause;

(b) arrest or incident reports prepared by a law enforcement agency pertaining to the charged offense; and

(c) information concerning the defendant's known criminal history.

(15) The court may make any reasonable order to insure compliance with this section.

(16) Failure to comply with this section does not result in the dismissal of criminal charges.

Section 3. Section 77-15a-101 is amended to read:

77-15a-101. Intellectually disabled defendant not subject to death penalty -- Defendant with subaverage functioning not subject to death penalty if confession not corroborated.

(1) A defendant who is found by the court to be ~~mentally retarded~~ intellectually disabled as defined in Section 77-15a-102 is not subject to the death penalty.

(2) A defendant who does not meet the definition of ~~mental retardation~~ intellectually disabled under Section 77-15a-102 is not subject to the death penalty if:

(a) the defendant has significantly subaverage general intellectual functioning that exists concurrently with significant deficiencies in adaptive functioning;

(b) the functioning described in Subsection (2)(a) is manifested prior to age 22; and

(c) the state intends to introduce into evidence a confession by the defendant which is not supported by substantial evidence independent of the confession.

Section 4. Section 77-15a-102 is amended to read:

77-15a-102. "Intellectually disabled" defined.

As used in this chapter, a defendant is "~~mentally retarded~~ intellectually disabled" if:

(1) the defendant has significant subaverage general intellectual functioning that results in and exists concurrently with significant deficiencies in adaptive functioning that exist primarily in the areas of reasoning or impulse control, or in both of these areas; and

(2) the subaverage general intellectual functioning and the significant deficiencies in adaptive functioning under Subsection (1) are both manifested prior to age 22.

Section 5. Section 77-15a-103 is amended to read:

77-15a-103. Court may raise issue of intellectual disability at any time.

The court in which a capital charge is pending may raise the issue of the defendant's ~~mental retardation~~ intellectual disability at any time. If raised by the court, counsel for each party shall be allowed to address the issue of ~~mental retardation~~ intellectual disability.

CHAPTER 116**H. B. 260**

Passed March 3, 2016

Approved March 21, 2016

Effective May 10, 2016

**SEXUAL EXPLOITATION
OF A MINOR AMENDMENTS**

Chief Sponsor: Francis D. Gibson

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies the Utah Criminal Code regarding sexual exploitation of a minor.

Highlighted Provisions:

This bill:

- ▶ provides that jurors, court employees, and counsel are not subject to criminal or civil liability for viewing child pornography when acting within the course of the judicial process.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-5b-201, as renumbered and amended by Laws of Utah 2011, Chapter 320

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

Section 1. Section 76-5b-201 is amended to read:**76-5b-201. Sexual exploitation of a minor -- Offenses.**

(1) A person is guilty of sexual exploitation of a minor:

- (a) when the person:
 - (i) knowingly produces, possesses, or possesses with intent to distribute child pornography; or
 - (ii) intentionally distributes or views child pornography; or
 - (b) if the person is a minor's parent or legal guardian and knowingly consents to or permits the minor to be sexually exploited as described in Subsection (1)(a).

(2) Sexual exploitation of a minor is a second degree felony.

(3) It is a separate offense under this section:

- (a) for each minor depicted in the child pornography; and
- (b) for each time the same minor is depicted in different child pornography.

(4) It is an affirmative defense to a charge of violating this section that no person under 18 years of age was actually depicted in the visual depiction or used in producing or advertising the visual depiction.

(5) In proving a violation of this section in relation to an identifiable minor, proof of the actual identity of the identifiable minor is not required.

(6) This section may not be construed to impose criminal or civil liability on:

(a) any entity or an employee, director, officer, or agent of an entity when acting within the scope of employment, for the good faith performance of:

(i) reporting or data preservation duties required under any federal or state law; or

(ii) implementing a policy of attempting to prevent the presence of child pornography on any tangible or intangible property, or of detecting and reporting the presence of child pornography on the property; [øø]

(b) any law enforcement officer acting within the scope of a criminal investigation[-];

(c) any employee of a court who may be required to view child pornography during the course of and within the scope of the employee's employment;

(d) any juror who may be required to view child pornography during the course of the person's service as a juror; or

(e) any attorney or employee of an attorney who is required to view child pornography during the course of a judicial process and while acting within the scope of employment.

CHAPTER 117**H. B. 263**

Passed March 7, 2016
 Approved March 21, 2016
 Effective May 10, 2016

FRAUD AMENDMENTS

Chief Sponsor: Craig Hall
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies the Utah Criminal Code regarding offenses against property.

Highlighted Provisions:

This bill:

- ▶ modifies an offense regarding an identification document to provide that the possession of a stolen or forged identification document with the intent to transfer the document is an offense, in addition to the current offense of the actual transfer of a stolen or forged identification document.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-6-501, as last amended by Laws of Utah 2015, Chapter 258

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

Section 1. Section 76-6-501 is amended to read:**76-6-501. Forgery and producing false identification -- Elements of offense -- Definitions.**

(1) As used in this part:

(a) "Authentication feature" means any hologram, watermark, certification, symbol, code, image, sequence of numbers or letters, or other feature that either individually or in combination with another feature is used by the issuing authority on an identification document, document-making implement, or means of identification to determine if the document is counterfeit, altered, or otherwise falsified.

(b) "Document-making implement" means any implement, impression, template, computer file, computer disc, electronic device, computer hardware or software, or scanning, printing, or laminating equipment that is specifically configured or primarily used for making an identification document, a false identification document, or another document-making implement.

(c) "False authentication feature" means an authentication feature that:

(i) is genuine in origin but that, without the authorization of the issuing authority, has been tampered with or altered for purposes of deceit;

(ii) is genuine, but has been distributed, or is intended for distribution, without the authorization of the issuing authority and not in connection with a lawfully made identification document, document-making implement, or means of identification to which the authentication feature is intended to be affixed or embedded by the issuing authority; or

(iii) appears to be genuine, but is not.

(d) "False identification document" means a document of a type intended or commonly accepted for the purposes of identification of individuals, and that:

(i) is not issued by or under the authority of a governmental entity or was issued under the authority of a governmental entity but was subsequently altered for purposes of deceit; and

(ii) appears to be issued by or under the authority of a governmental entity.

(e) "Governmental entity" means the United States government, a state, a political subdivision of a state, a foreign government, a political subdivision of a foreign government, an international governmental organization, or a quasi-governmental organization.

(f) "Identification document" means a document made or issued by or under the authority of a governmental entity, which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

(g) "Issuing authority" means:

(i) any governmental entity that is authorized to issue identification documents, means of identification, or authentication features; or

(ii) a business organization or financial institution or its agent that issues a financial transaction card as defined in Section 76-6-506.

(h) "Means of identification" means any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual, including:

(i) name, social security number, date of birth, government issued driver license or identification number, alien registration number, government passport number, or employer or taxpayer identification number;

(ii) unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation; or

(iii) unique electronic identification number, address, or routing code.

(i) "Personal identification card" means an identification document issued by a governmental entity solely for the purpose of identification of an individual.

(j) "Produce" includes altering, authenticating, or assembling.

(k) "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other commonwealth, possession, or territory of the United States.

(l) "Traffic" means to:

(i) transport, transfer, or otherwise dispose of an item to another, as consideration for anything of value; or

(ii) make or obtain control of with intent to transport, transfer, or otherwise dispose of an item to another.

(m) "Writing" includes printing, electronic storage or transmission, or any other method of recording valuable information including forms such as:

(i) checks, tokens, stamps, seals, credit cards, badges, trademarks, money, and any other symbols of value, right, privilege, or identification;

(ii) a security, revenue stamp, or any other instrument or writing issued by a government or any agency; or

(iii) a check, an issue of stocks, bonds, or any other instrument or writing representing an interest in or claim against property, or a pecuniary interest in or claim against any person or enterprise.

(2) A person is guilty of forgery if, with purpose to defraud anyone, or with knowledge that the person is facilitating a fraud to be perpetrated by anyone, the person:

(a) alters any writing of another without his authority or utters the altered writing; or

(b) makes, completes, executes, authenticates, issues, transfers, publishes, or utters any writing so that the writing or the making, completion, execution, authentication, issuance, transference, publication, or utterance:

(i) purports to be the act of another, whether the person is existent or nonexistent;

(ii) purports to be an act on behalf of another party with the authority of that other party; or

(iii) purports to have been executed at a time or place or in a numbered sequence other than was in fact the case, or to be a copy of an original when an original did not exist.

(3) It is not a defense to a charge of forgery under Subsection (2)(b)(ii) if an actor signs his own name to the writing if the actor does not have authority to make, complete, execute, authenticate, issue, transfer, publish, or utter the writing on behalf of the party for whom the actor purports to act.

(4) A person is guilty of producing or transferring any false identification document who:

(a) knowingly and without lawful authority produces, attempts, or conspires to produce an

identification document, authentication feature, or a false identification document that is or appears to be issued by or under the authority of an issuing authority;

(b) transfers, or possesses with intent to transfer, an identification document, authentication feature, or a false identification document knowing that the document or feature was stolen or produced without lawful authority;

(c) produces, transfers, or possesses a document-making implement or authentication feature with the intent that the document-making implement or the authentication feature be used in the production of a false identification document or another document-making implement or authentication feature; or

(d) traffics in false or actual authentication features for use in false identification documents, document-making implements, or means of identification.

(5) A person who violates:

(a) Subsection (2) is guilty of a third degree felony; and

(b) Subsection (4) is guilty of a second degree felony.

(6) This part may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(7) The forfeiture of property under this part, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

(8) The court shall order, in addition to the penalty prescribed for any person convicted of a violation of this section, the forfeiture and destruction or other disposition of all illicit authentication features, identification documents, false transaction cards, document-making implements, or means of identification.

CHAPTER 118**H. B. 285**

Passed March 4, 2016

Approved March 21, 2016

Effective May 10, 2016

**BOARD OF EXAMINERS
MEETING NOTICE AMENDMENTS**

Chief Sponsor: Rebecca Chavez-Houck

Senate Sponsor: Alvin B. Jackson

LONG TITLE**General Description:**

This bill modifies a provision relating to the Board of Examiners.

Highlighted Provisions:

This bill:

- ▶ eliminates a requirement that notice of Board of Examiners meetings be published in newspapers; and
- ▶ modifies language relating to the meeting of the Legislature.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-9-303, as last amended by Laws of Utah 2010, Chapter 90

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

Section 1. Section 63G-9-303 is amended to read:**63G-9-303. Meeting to examine claims --
Notice of meeting.**

(1) At least 60 days preceding the ~~[meeting of each]~~ annual general session of the Legislature, the board shall hold a session for the purpose of examining the claims referred to in Section 63G-9-302, and may adjourn from time to time until the work is completed.

(2) The board shall cause notice of such meeting or meetings to be published ~~[(a) in some newspaper at the seat of government and such other newspapers as may be determined by the board for such time as the board may prescribe; and (b)]~~ on the Utah Public Notice Website created in Section 63F-1-701.

CHAPTER 119**H. B. 295**

Passed March 9, 2016

Approved March 21, 2016

Effective May 10, 2016

OBESITY REPORT

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: Evan J. Vickers

Cosponsor: Patrice M. Arent

LONG TITLE**General Description:**

This bill modifies the Public Employees' Benefit and Insurance Program Act to address obesity.

Highlighted Provisions:

This bill:

- ▶ requires the Public Employees Health Plan to report to the Health and Human Services Interim Committee regarding obesity;
- ▶ outlines the requirements of the report; and
- ▶ permits others to work with the Public Employees' Health Plan on the report.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

49-20-106, Utah Code Annotated 1953

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

Section 1. Section 49-20-106 is enacted to read:**49-20-106. Obesity report.**

(1) The Public Employees' Health Plan shall report to the Health and Human Services Interim Committee by no later than the Health and Human Services Interim Committee's November 2016 interim meeting regarding the analysis required by Subsection (2).

(2) For purposes of the report required by Subsection (1), the Public Employees' Health Plan shall:

(a) estimate the costs and benefits to the Public Employees' Health Plan associated with providing insurance coverage for anti-obesity treatment, including:

- (i) counseling;
- (ii) medication; and
- (iii) surgery;

(b) compare the costs and benefits estimated under Subsection (2)(a) with the costs and benefits to the Public Employees' Health Plan associated with treating diseases caused by or linked to obesity, including:

- (i) diabetes;
- (ii) hypertension;

(iii) heart disease; and

(iv) other diseases; and

(c) analyze whether there would be cost savings by providing the insurance coverage described in Subsection (2)(a).

(3) The Public Employees' Health Plan may work with other insurers or other interested persons in developing the report required by this section.

CHAPTER 120**H. B. 351**

Passed March 10, 2016
 Approved March 21, 2016
 Effective May 10, 2016

**ATTORNEY GENERAL
FISCAL AMENDMENTS**

Chief Sponsor: Sophia M. DiCaro
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill enacts and modifies provisions related to funding of the Office of the Attorney General.

Highlighted Provisions:

This bill:

- ▶ provides that the Office of the Attorney General may operate as an internal service fund agency for legal services that the office provides to state agencies;
- ▶ establishes a rate committee; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63J-2-102, as renumbered and amended by Laws of Utah 2008, Chapter 382
 67-5-1, as last amended by Laws of Utah 2013, Chapters 101 and 237
 67-5-4, as enacted by Laws of Utah 1973, Chapter 186

ENACTS:

67-5-34, Utah Code Annotated 1953

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

Section 1. Section 63J-2-102 is amended to read:**63J-2-102. Definitions.**

As used in this chapter:

(1) (a) "Agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(b) "Agency" does not include the legislative branch, the board of regents, the Utah Higher Education Assistance Authority, the board of trustees of each higher education institution, each higher education institution and its associated branches, centers, divisions, institutes, foundations, hospitals, colleges, schools, or departments, a public education entity, or an independent agency.

(2) (a) "Dedicated credits revenues" means revenues from collections by an agency that are

deposited directly into an account for expenditure on a separate line item and program.

(b) "Dedicated credits" does not mean:

(i) federal revenues and the related pass through or the related state match paid by one agency to another;

(ii) revenues that are not deposited in governmental funds; or

(iii) revenues from any contracts~~;~~ and.

~~[(iv) revenues received by the Attorney General's Office from billings for professional services.]~~

(3) "Fees" means revenue collected by an agency for performing a service or providing a function that the agency deposits or accounts for as dedicated credits or fixed collections.

(4) (a) "Fixed collections revenues" means revenue from collections:

(i) fixed by law or by the appropriation act at a specific amount; and

(ii) required by law to be deposited into a separate line item and program.

(b) "Fixed collections" does not mean:

(i) federal revenues and the related pass through or the related state match paid by one agency to another;

(ii) revenues that are not deposited in governmental funds;

(iii) revenues from any contracts; and

(iv) revenues received by the Attorney General's Office from billings for professional services.

(5) (a) "Governmental fund" means funds used to account for the acquisition, use, and balances of expendable financial resources and related liabilities using a measurement focus that emphasizes the flow of financial resources.

(b) "Governmental fund" does not include internal service funds, enterprise funds, capital projects funds, debt service funds, or trust and agency funds as established in Section 51-5-4.

(6) "Independent agency" means the Utah State Retirement Office, the Utah Housing Corporation, and the Workers' Compensation Fund.

(7) "Program" means the function or service provided by an agency for which the agency collects fees.

(8) "Revenue types" means the categories established by the Division of Finance under the authority of this chapter that classify revenue according to the purpose for which it is collected.

Section 2. Section 67-5-1 is amended to read:**67-5-1. General duties.**

The attorney general shall:

(1) perform all duties in a manner consistent with the attorney-client relationship under Section 67-5-17;

(2) except as provided in Sections 10-3-928 and 17-18a-403, attend the Supreme Court and the Court of Appeals of this state, and all courts of the United States, and prosecute or defend all causes to which the state or any officer, board, or commission of the state in an official capacity is a party, and take charge, as attorney, of all civil legal matters in which the state is interested;

(3) after judgment on any cause referred to in Subsection (2), direct the issuance of process as necessary to execute the judgment;

(4) account for, and pay over to the proper officer, all money that comes into the attorney general's possession that belongs to the state;

(5) keep a file of all cases in which the attorney general is required to appear, including any documents and papers showing the court in which the cases have been instituted and tried, and whether they are civil or criminal, and:

(a) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to judgment, a memorandum of the judgment and of any process issued if satisfied, and if not satisfied, documentation of the return of the sheriff;

(b) if criminal, the nature of the crime, the mode of prosecution, the stage of proceedings, and, when prosecuted to sentence, a memorandum of the sentence and of the execution, if the sentence has been executed, and, if not executed, the reason for the delay or prevention; and

(c) deliver this information to the attorney general's successor in office;

(6) exercise supervisory powers over the district and county attorneys of the state in all matters pertaining to the duties of their offices, and from time to time require of them reports of the condition of public business entrusted to their charge;

(7) give the attorney general's opinion in writing and without fee to the Legislature or either house and to any state officer, board, or commission, and to any county attorney or district attorney, when required, upon any question of law relating to their respective offices;

(8) when required by the public service or directed by the governor, assist any county, district, or city attorney in the discharge of his county, district, or city attorney's duties;

(9) purchase in the name of the state, under the direction of the state Board of Examiners, any property offered for sale under execution issued upon judgments in favor of or for the use of the state, and enter satisfaction in whole or in part of the judgments as the consideration of the purchases;

(10) when the property of a judgment debtor in any judgment mentioned in Subsection (9) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance taking precedence of the judgment in favor of the state, redeem the property, under the direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and pay all money necessary for the

redemption, upon the order of the state Board of Examiners, out of any money appropriated for these purposes;

(11) when in the attorney general's opinion it is necessary for the collection or enforcement of any judgment, institute and prosecute on behalf of the state any action or proceeding necessary to set aside and annul all conveyances fraudulently made by the judgment debtors, and pay the cost necessary to the prosecution, when allowed by the state Board of Examiners, out of any money not otherwise appropriated;

(12) discharge the duties of a member of all official boards of which the attorney general is or may be made a member by the Utah Constitution or by the laws of the state, and other duties prescribed by law;

(13) institute and prosecute proper proceedings in any court of the state or of the United States to restrain and enjoin corporations organized under the laws of this or any other state or territory from acting illegally or in excess of their corporate powers or contrary to public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations, and wind up their affairs;

(14) institute investigations for the recovery of all real or personal property that may have escheated or should escheat to the state, and for that purpose, subpoena any persons before any of the district courts to answer inquiries and render accounts concerning any property, examine all books and papers of any corporations, and when any real or personal property is discovered that should escheat to the state, institute suit in the district court of the county where the property is situated for its recovery, and escheat that property to the state;

(15) administer the Children's Justice Center as a program to be implemented in various counties pursuant to Sections 67-5b-101 through 67-5b-107;(16) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4a, Constitutional and Federalism Defense Act;

(17) pursue any appropriate legal action to implement the state's public lands policy established in Section 63C-4a-103;

(18) investigate and prosecute violations of all applicable state laws relating to fraud in connection with the state Medicaid program and any other medical assistance program administered by the state, including violations of Title 26, Chapter 20, Utah False Claims Act;

(19) investigate and prosecute complaints of abuse, neglect, or exploitation of patients at:

(a) health care facilities that receive payments under the state Medicaid program; and

(b) board and care facilities, as defined in the federal Social Security Act, 42 U.S.C. Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility; ~~and~~

(20) (a) report at least twice per year to the Legislative Management Committee on any pending or anticipated lawsuits, other than eminent domain lawsuits, that might:

- (i) cost the state more than \$500,000; or
- (ii) require the state to take legally binding action that would cost more than \$500,000 to implement; and

(b) if the meeting is closed, include an estimate of the state's potential financial or other legal exposure in that report[-]; and

(21) if the attorney general operates the Office of the Attorney General or any portion of the Office of the Attorney General as an internal service fund agency in accordance with Section 67-5-4, submit to the rate committee established in Section 67-5-34:

(a) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and

(b) any other information or analysis requested by the rate committee.

Section 3. Section 67-5-4 is amended to read:

67-5-4. Interaccount billings included in budget -- Payment of staff members.

(1) The attorney general shall include in his annual budget all interaccount billings and pay directly out of his funds all members of his staff, whether housed in his offices or not.

(2) The attorney general may operate the Office of the Attorney General or any portion of the Office of the Attorney General as an internal service fund agency in accordance with Section 63J-1-410 for legal services that the Office of the Attorney General provides.

Section 4. Section 67-5-34 is enacted to read:

67-5-34. Rate committee -- Membership -- Duties.

(1) (a) There is created a rate committee that consists of:

(i) the executive director of the Governor's Office of Management and Budget, or the executive director's designee; and

(ii) the executive directors of six state agencies that use or are likely to use services and pay rates to the Office of the Attorney General's internal service fund, appointed by the governor for a two-year term, or the executive directors' designees.

(b) The rate committee shall elect a chair from the rate committee's members.

(2) Each member of the rate committee who is a state government employee and does not receive salary, per diem, or expenses from the member's agency for the member's service on the rate committee shall receive no compensation, benefits, per diem, or expenses for the member's service on the rate committee.

(3) The Office of the Attorney General shall provide staff services to the rate committee.

(4) The Office of the Attorney General shall submit to the rate committee a proposed rate and

fee schedule for legal services rendered by the Office of the Attorney General to an agency.

(5) (a) The rate committee shall:

(i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings Act;

(ii) review the proposed rate and fee schedules and, at the rate committee's discretion, approve, increase, or decrease the rate and fee schedules;

(iii) recommend a proposed rate and fee schedule for the internal service fund to:

(A) the Governor's Office of Management and Budget; and

(B) each legislative appropriations subcommittee that, in accordance with Section 63J-1-410, approves the internal service fund rates, fees, and budget; and

(iv) review and approve, increase or decrease an interim rate, fee, or amount when the office begins a new service or introduces a new product between annual general sessions of the Legislature.

(b) The committee may, in accordance with Subsection 63J-1-410(4), decrease a rate, fee, or amount that has been approved by the Legislature.

CHAPTER 121**H. B. 363**

Passed March 4, 2016
 Approved March 21, 2016
 Effective May 10, 2016

GRAZING ZONE AMENDMENTS

Chief Sponsor: Michael E. Noel
 Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill establishes and modifies Utah Grazing Agricultural Commodity Zones.

Highlighted Provisions:

This bill:

- ▶ establishes Utah Grazing Agricultural Commodity Zones in Beaver County; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63J-8-105.8, as last amended by Laws of Utah 2015, Chapter 87

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

Section 1. Section 63J-8-105.8 is amended to read:**63J-8-105.8. Utah Grazing Agricultural Commodity Zones established -- Findings -- Management and land use priorities.**

(1) There are established Utah Grazing Agricultural Commodity Zones in the counties of Beaver, Emery, Garfield, Kane, Piute, Iron, Sanpete, San Juan, Sevier, Washington, and Wayne for the purpose of:

(a) preserving and protecting the agricultural livestock industry from ongoing threats;

(b) preserving and protecting the history, culture, custom, and economic value of the agricultural livestock industry from ongoing threats; and

(c) maximizing efficient and responsible restoration, reclamation, preservation, enhancement, and development of forage and watering resources for grazing and wildlife practices and affected natural, historical, and cultural activities.

(2) The titles, land area, and boundaries of the zones are as follows:

(a) "Escalante Region Grazing Zone," consisting of certain BLM and Forest Service lands in the following townships in Garfield and Kane counties, as more fully illustrated in the map jointly prepared by the Garfield County and Kane County Geographic Information Systems departments entitled "Escalante Region Grazing Zone":

(i) in Garfield County, Township 32S Range 6E, Township 32S Range 7E, Township 33S Range 4E, Township 33S Range 5E, Township 33S Range 6E, Township 33S Range 7E, Township 33S Range 8E, Township 34S Range 2E, Township 34S Range 3E, Township 34S Range 4E, Township 34S Range 5E, Township 34S Range 6E, Township 34S Range 7E, Township 34S Range 8E, Township 35S Range 1E, Township 35S Range 2E, Township 35S Range 3E, Township 35S Range 4E, Township 35S Range 5E, Township 35S Range 6E, Township 35S Range 7E, Township 35S Range 8E, Township 36S Range 1W, Township 36S Range 2W, Township 36S Range 3W, Township 36S Range 1E, Township 36S Range 2E, Township 36S Range 3E, Township 36S Range 4E, Township 36S Range 5E, Township 36S Range 6E, Township 36S Range 7E, Township 36S Range 8E, Township 36S Range 9E, Township 37S Range 1W, Township 37S Range 2W, Township 37S Range 3W, Township 37S Range 4W, Township 37S Range 1E, Township 37S Range 2E, Township 37S Range 3E, Township 37S Range 4E, Township 37S Range 5E, Township 37S Range 6E, Township 37S Range 7E, Township 37S Range 8E, and Township 37S Range 9E; and

(ii) in Kane County, Township 38S Range 1W, Township 38S Range 2W, Township 38S Range 3W, Township 38S Range 4W, Township 38S Range 1E, Township 38S Range 2E, Township 38S Range 3E, Township 38S Range 4E, Township 38S Range 5E, Township 38S Range 6E, Township 38S Range 7E, Township 38S Range 8E, Township 38S Range 9E, Township 39S Range 1W, Township 39S Range 2W, Township 39S Range 3W, Township 39S Range 4W, Township 39S Range 4.5W, Township 39S Range 1E, Township 39S Range 2E, Township 39S Range 3E, Township 39S Range 4E, Township 39S Range 5E, Township 39S Range 6E, Township 39S Range 7E, Township 39S Range 8E, Township 39S Range 9E, Township 40S Range 1W, Township 40S Range 2W, Township 40S Range 3W, Township 40S Range 4W, Township 40S Range 4.5W, Township 40S Range 5W, Township 40S Range 1E, Township 40S Range 2E, Township 40S Range 3E, Township 40S Range 4E, Township 40S Range 5E, Township 40S Range 6E, Township 40S Range 7E, Township 40S Range 8E, Township 40S Range 9E, Township 40.5S Range 9E, Township 41S Range 1W, Township 41S Range 2W, Township 41S Range 3W, Township 41S Range 4W, Township 41S Range 4.5W, Township 41S Range 5W, Township 41S Range 1E, Township 41S Range 2E, Township 41S Range 3E, Township 41S Range 4E, Township 41S Range 5E, Township 41S Range 6E, Township 41S Range 7E, Township 41S Range 8E, Township 41S Range 9E, Township 42S Range 1W, Township 42S Range 2W, Township 42S Range 3W, Township 42S Range 4W, Township 42S Range 4.5W, Township 42S Range 5W, Township 42S Range 1E, Township 42S Range 2E, Township 42S Range 3E, Township 42S Range 4E, Township 42S Range 5E, Township 42S Range 6E, Township 42S Range 7E, Township 42S Range 8E, Township 42S Range 9E, Township 42.5S Range 6.5E, Township 42.5S Range 7E, Township 43S Range 1W, Township 43S Range 2W, Township 43S Range 3W, Township 43S Range 4W, Township 43S Range 4.5W, Township 43S Range

5W, Township 43S Range 1E, Township 43S Range 2E, Township 43S Range 3E, Township 43S Range 4E, Township 43S Range 5E, Township 43S Range 6E, Township 44S Range 1W, Township 44S Range 2W, Township 44S Range 3W, Township 44S Range 4W, Township 44S Range 4.5W, Township 44S Range 5W, Township 44S Range 1E, Township 44S Range 2E, Township 44S Range 3E, Township 44S Range 4E, and Township 44S Range 5E;

(b) “Beaver County Southwest Desert Region Grazing Zone,” consisting of certain BLM lands in the following townships in Beaver County, as more fully illustrated in the map prepared by the Beaver County Geographic Information Systems Departments entitled “Beaver County Southeast Desert Grazing Zone”: Township 26S Range 11W, Township 27S Range 11W, Township 28S Range 11W, Township 29S Range 11W, Township 30S Range 11W, Township 26S Range 12W, Township 27S Range 12W, Township 28S Range 12W, Township 29S Range 12W, Township 30S Range 12W, Township 26S Range 13W, Township 27S Range 13W, Township 28S Range 13W, Township 29S Range 13W, Township 30S Range 13W, Township 26S Range 14W, Township 27S Range 14W, Township 28S Range 14W, Township 29S Range 14W, Township 30S Range 14W, Township 26S Range 15W, Township 27S Range 15W, Township 28S Range 15W, Township 29S Range 15W, Township 30S Range 15W, Township 26S Range 16W, Township 27S Range 16W, Township 28S Range 16W, Township 29S Range 16W, Township 30S Range 16W, Township 26S Range 17W, Township 27S Range 17W, Township 28S Range 17W, Township 29S Range 17W, Township 30S Range 17W, Township 26S Range 18W, Township 27S Range 18W, Township 28S Range 18W, Township 29S Range 18W, Township 30S Range 18W, Township 26S Range 19W, Township 27S Range 19W, Township 28S Range 19W, Township 29S Range 19W, Township 30S Range 19W, Township 26S Range 20W, Township 27S Range 20W, Township 28S Range 20W, Township 29S Range 20W, and Township 30S Range 20W;

(c) “Beaver County Central Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Beaver County, as more fully illustrated in the map prepared by the Beaver County Geographic Information Systems Department entitled “Beaver County Central Grazing Zone”: Township 26S Range 7W, Township 26S Range 8W, Township 26S Range 9W, Township 26S Range 10W, Township 27S Range 7W, Township 27S Range 8W, Township 27S Range 9W, Township 27S Range 10W, Township 28S Range 7W, Township 28S Range 8W, Township 28S Range 9W, Township 28S Range 10W, Township 29S Range 7W, Township 29S Range 8W, Township 29S Range 9W, Township 29S Range 10W, Township 30S Range 7W, Township 30S Range 8W, Township 30S Range 9W, and Township 30S Range 10W;

(e) (d) “Tushar Mountain Region Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Beaver, Garfield, and Piute counties, as more fully illustrated in the map jointly prepared by the Beaver, Garfield, and Piute

counties GIS departments in February 2014, entitled “Tushar Mountain Region Grazing Zone”:

(i) in Beaver County, Township 28S Range 4W, Township 29S Range 4W, Township 27S Range 5W, Township 28S Range 5W, Township 29S Range 5W, Township 30S Range 5W, Township 26S Range 6W, Township 27S Range 6W, Township 28S Range 6W, Township 29S Range 6W, and Township 30S Range 6W;

(ii) in Piute County, Township 26S Range 6W, Township 27S Range 6W, Township 26S Range 5W, Township 27S Range 5W, Township 28S Range 5W, Township 29S Range 5W, Township 30S Range 5W, Township 26S Range 4.5W, Township 26S Range 4W, Township 27S Range 4W, Township 28S Range 4W, Township 29S Range 4W, and Township 30S Range 4W; and

(iii) in Garfield County, Township 32S Range 5 1/2 W, Township 31S Range 5W, Township 32S Range 5W, Township 33S Range 5W, Township 32S Range 4 1/2W, Township 33S Range 4 1/2W, Township 31S Range 4W, and Township 31S Range 3W;

(d) (e) “Last Chance Region Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Sevier County, as more fully illustrated in the map prepared by the Sevier County GIS department in February 2014, entitled “Last Chance Region Grazing Zone”: Township 23S Range 5E, Township 24S Range 4E, Township 24S Range 5E, Township 25S Range 5E, and Township 26S Range 5E;

(e) (f) “Muddy Creek Region Grazing Zone,” consisting of certain BLM lands in the following townships in Emery County, as more fully illustrated in the map prepared by the Emery County GIS department in February 2014, entitled “Muddy Creek Region Grazing Zone”: Township 22S Range 7E, Township 23S Range 7E, Township 24S Range 7E, Township 25S Range 7E, Township 22S Range 8E, Township 23S Range 8E, Township 24S Range 8E, Township 25S Range 8E, Township 23S Range 9E, and Township 24S Range 9E;

(f) (g) “McKay Flat Region Grazing Zone,” consisting of certain BLM lands in the following townships in Emery County, as more fully illustrated in the map prepared by the Emery County GIS department in February 2014, entitled “McKay Flat Region Grazing Zone”: Township 25S Range 9E, Township 26S Range 9E, Township 23S Range 10E, Township 24S Range 10E, Township 25S Range 10E, Township 24S Range 11E, and Township 25S Range 11E;

(g) (h) “Sinbad Region Grazing Zone,” consisting of certain BLM lands in the following townships in Emery County, as more fully illustrated in the map prepared by the Emery County GIS department in February 2014, entitled “Sinbad Region Grazing Zone”: Township 20S Range 11E, Township 21S Range 11E, Township 21S Range 12E, Township 22S Range 12E, Township 23S Range 12E, Township 21S Range 13E, Township 22S Range 13E, and Township 23S Range 13E;

(h) (i) “Robbers Roost Region Grazing Zone,” consisting of certain BLM lands in the following

townships in Emery County, as more fully illustrated in the map prepared by the Emery County GIS department in February 2014, entitled "Robbers Roost Region Grazing Zone": Township 25S Range 13E, Township 26S Range 13E, Township 25S Range 14E, Township 26S Range 14E, Township 25S Range 15E, and Township 26S Range 15E;

(j) (j) "Western Iron County Region Grazing Zone," consisting of certain BLM and Forest Service lands in the following townships in Iron County, as more fully illustrated in the map prepared by the Iron County GIS department in February 2014, entitled "Western Iron County Region Grazing Zone": Township 31S Range 7W, Township 31S Range 8W, Township 31S Range 9W, Township 31S Range 10W, Township 31S Range 11W, Township 31S Range 12W, Township 31S Range 13W, Township 31S Range 14W, Township 31S Range 15W, Township 31S Range 16W, Township 31S Range 17W, Township 31S Range 18W, Township 31S Range 19W, Township 31S Range 20W, Township 32S Range 8W, Township 32S Range 9W, Township 32S Range 10W, Township 32S Range 11W, Township 32S Range 12W, Township 32S Range 13W, Township 32S Range 14W, Township 32S Range 15W, Township 32S Range 16W, Township 32S Range 17W, Township 32S Range 18W, Township 32S Range 19W, Township 32S Range 20W, Township 33S Range 8W, Township 33S Range 9W, Township 33S Range 10W, Township 33S Range 11W, Township 33S Range 12W, Township 33S Range 13W, Township 33S Range 14W, Township 33S Range 15W, Township 33S Range 16W, Township 33S Range 17W, Township 33S Range 18W, Township 33S Range 19W, Township 33S Range 20W, Township 34S Range 9W, Township 34S Range 10W, Township 34S Range 11W, Township 34S Range 12W, Township 34S Range 13W, Township 34S Range 14W, Township 34S Range 15W, Township 34S Range 16W, Township 34S Range 17W, Township 34S Range 18W, Township 34S Range 19W, Township 34S Range 20W, Township 35S Range 10W, Township 35S Range 12W, Township 35S Range 13W, Township 35S Range 14W, Township 35S Range 15W, Township 35S Range 17W, Township 35S Range 18W, Township 35S Range 19W, Township 35S Range 20W, Township 36S Range 11W, Township 36S Range 12W, Township 36S Range 13W, Township 36S Range 14W, Township 36S Range 15W, Township 36S Range 17W, Township 36S Range 18W, Township 36S Range 19W, Township 36S Range 20W, Township 37S Range 12W, Township 37S Range 13W, Township 37S Range 14W, and Township 38S Range 12W;

(j) (k) "Eastern Iron County Region Grazing Zone," consisting of certain BLM and Forest Service lands in the following townships in Iron County, as more fully illustrated in the map prepared by the Iron County GIS department in February 2014, entitled "Eastern Iron County Region Grazing Zone": Township 31S Range 6W, Township 31S Range 7W, Township 32S Range 6W, Township 32S Range 7W, Township 33S Range 6W, Township 33S Range 7W, Township 33S Range 8W, Township 34S

Range 7W, Township 34S Range 8W, Township 34S Range 9W, Township 35S Range 8W, Township 35S Range 9W, Township 35S Range 10W, Township 36S Range 8W, Township 36S Range 9W, Township 36S Range 10W, Township 36S Range 11W, Township 37S Range 8W, Township 37S Range 9W, Township 37S Range 11W, Township 37S Range 12W, Township 38S Range 11W, Township 38S Range 12W, Township 38S Range 10W, Township 38S Range 11W, and Township 38S Range 12W, excluding Zion National Park;

(k) (l) "Panguitch Lake Region Grazing Zone," consisting of certain BLM and Forest Service lands in the following townships in Kane and Garfield counties, as more fully illustrated in the map prepared by the Kane County GIS department in February 2014, entitled "Panguitch Lake Region Grazing Zone":

(i) in Kane County, Township 38S Range 9W, Township 38S Range 8W, Township 38S Range 7W, Township 38S Range 6W, Township 39S Range 8W, and Township 39S Range 7W; and

(ii) in Garfield County, Township 35S Range 7W, Township 36S Range 7W, Township 34S Range 6W, Township 35S Range 6W, Township 36S Range 6W, Township 37S Range 6W, Township 34S Range 5W, Township 35S Range 5W, Township 36S Range 5W, and Township 37S Range 5W;

(l) (m) "East Fork Region Grazing Zone," consisting of certain BLM and Forest Service lands in the following townships in Kane and Garfield counties, as more fully illustrated in the map jointly prepared by the Kane and Garfield counties GIS departments in February 2014, entitled "East Fork Region Grazing Zone":

(i) in Kane County, Township 38S Range 5W, Township 38S Range 4.5W, Township 39S Range 5W, and Township 39S Range 4.5W; and

(ii) in Garfield County, Township 34S Range 4 1/2W, Township 35S Range 4 1/2W, Township 36S Range 4 1/2W, Township 37S Range 4 1/2W, Township 33S Range 4W, Township 34S Range 4W, Township 35S Range 4W, Township 36S Range 4W, Township 37S Range 4W, Township 33S Range 3W, Township 34S Range 3W, Township 35S Range 3W, Township 36S Range 3W, Township 33S Range 2W, Township 34S Range 2W, and Township 35S Range 2W;

(m) (n) "Sevier River Region Grazing Zone," consisting of certain BLM and Forest Service lands in the following townships in Piute County, as more fully illustrated in the map prepared by the Piute GIS department in February 2014, entitled "Sevier River Region Grazing Zone": Township 27S Range 3W, Township 28S Range 3W, and Township 29S Range 3W;

(n) (o) "Kingston Canyon Region Grazing Zone," consisting of certain BLM and Forest Service lands in the following townships in Piute and Garfield counties, as more fully illustrated in the map jointly prepared by the Piute and Garfield counties GIS departments in February 2014, entitled "Kingston Canyon Region Grazing Zone":

(i) in Piute County, Township 30S Range 3W, Township 30S Range 2.5W, and Township 30S Range 2W; and

(ii) in Garfield County, Township 32S Range 4W, Township 31S Range 3W, Township 32S Range 3W, Township 31S Range 2 1/2W, Township 31S Range 2W, Township 32S Range 2W, Township 31S Range 1W, and Township 32S Range 1W;

~~(p)~~ (p) “Monroe Mountain Region Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Piute County, as more fully illustrated in the map prepared by the Piute County GIS department in February 2014, entitled “Monroe Mountain Region Grazing Zone”: Township 26S Range 3W, Township 27S Range 2.5W, Township 28S Range 2.5W, Township 29S Range 2.5W, Township 26S Range 2W, Township 27S Range 2W, Township 28S Range 2W, Township 29S Range 2W, Township 26S Range 1W, and Township 27S Range 1W;

~~(q)~~ (q) “Parker Mountain Region Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Wayne County, as more fully illustrated in the map prepared by the Wayne County GIS department in February 2014, entitled “Parker Mountain Region Grazing Zone”: Township 26S Range 2E, Township 27S Range 2E, Township 28S Range 2E, Township 29S Range 2E, and Township 30S Range 2E;

~~(r)~~ (r) “Boulder Mountain Region Grazing Zone,” consisting of certain Forest Service lands in the following townships in Wayne and Garfield counties, as more fully illustrated in the map jointly prepared by the Wayne and Garfield counties GIS departments in February 2014, entitled “Boulder Mountain Region Grazing Zone”:

(i) in Wayne County, Township 30S Range 3E, Township 30S Range 4E, and Township 30S Range 5E; and

(ii) in Garfield County, Township 35S Range 3W, Township 33S Range 2W, Township 34S Range 2W, Township 35S Range 2W, Township 31S Range 1W, Township 32S Range 1W, Township 33S Range 1W, Township 34S Range 1W, Township 35S Range 1W, Township 31S Range 1E, Township 32S Range 1E, Township 33S Range 1E, Township 34S Range 1E, Township 31S Range 2E, Township 32S Range 2E, Township 33S Range 2E, Township 34S Range 2E, Township 31S Range 3E, Township 32S Range 3E, Township 33S Range 3E, Township 31S Range 4E, Township 32S Range 4E, Township 33S Range 4E, Township 30 1/2S Range 5E, Township 31S Range 5E, Township 32S Range 5E, and Township 31S Range 6E;

~~(s)~~ (s) “Thousand Lake Region Grazing Zone,” consisting of certain Forest Service lands in the following townships in Wayne County, as more fully illustrated in the map prepared by the Wayne County GIS department in February 2014, entitled “Thousand Lake Region Grazing Zone”: Township 26S Range 4E, Township 27S Range 4E, and Township 28S Range 4E;

~~(t)~~ (t) “Hartnet-Middle Desert Region Grazing Zone,” consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map prepared by the Wayne County GIS department in February 2014, entitled “Hartnet-Middle Desert Region Grazing Zone”: Township 28S Range 7E, Township 27S Range 8E, and Township 28S Range 8E;

~~(u)~~ (u) “Sandy No. 1 Region Grazing Zone,” consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map prepared by the Wayne County GIS department in February 2014, entitled “Sandy No. 1 Region Grazing Zone”: Township 29S Range 8E and Township 30S Range 8E;

~~(v)~~ (v) “Blue Benches Region Grazing Zone,” consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map prepared by the Wayne County GIS department in February 2014, entitled “Blue Benches Region Grazing Zone”: Township 29S Range 9E, Township 29S Range 10E, and Township 30S Range 10E;

~~(w)~~ (w) “Wild Horse Region Grazing Zone,” consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map prepared by the Wayne County GIS department in February 2014, entitled “Wild Horse Region Grazing Zone”: Township 27S Range 10E and Township 27S Range 11E;

~~(x)~~ (x) “Hanksville Region Grazing Zone,” consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map prepared by the Wayne County GIS department in February 2014, entitled “Hanksville Region Grazing Zone”: Township 29S Range 11E, Township 30S Range 11E, Township 28S Range 12E, Township 29S Range 12E, Township 30S Range 12E, and Township 30S Range 13E;

~~(y)~~ (y) “Jeffery Wells Region Grazing Zone,” consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map prepared by the Wayne County GIS department in February 2014, entitled “Jeffery Wells Region Grazing Zone”: Township 27S Range 14E and Township 27S Range 15E;

~~(z)~~ (z) “Robbers Roost Region Grazing Zone,” consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map prepared by the Wayne County GIS department in February 2014, entitled “Robbers Roost Region Grazing Zone”: Township 29S Range 14E;

~~(aa)~~ (aa) “French Springs Region Grazing Zone,” consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map prepared by the Wayne County GIS department in February 2014, entitled “French Springs Region Grazing Zone”: Township 30S Range 16E;

~~(bb)~~ (bb) “12 Mile C&H Region Grazing Zone,” consisting of certain Forest Service lands in the following townships in Sanpete County, as more

fully illustrated in the map prepared by the Sanpete County GIS department in February 2014, entitled "12 Mile C&H Region Grazing Zone": Township 19S Range 3E and Township 20S Range 3E;

~~(bb)~~ (cc) "Horseshoe Region Grazing Zone," consisting of certain Forest Service lands in the following townships in Sanpete County, as more fully illustrated in the map prepared by the Sanpete County GIS department in February 2014, entitled "Horseshoe Region Grazing Zone": Township 14S Range 5E, Township 14S Range 6E, Township 15S Range 5E, and Township 15S Range 6E;

~~(ee)~~ (dd) "Nokai Dome Region Grazing Zone," consisting of certain BLM and National Park Service lands in the following townships in San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled "Nokai Dome Region Grazing Zone": Township 38S Range 11E, Township 38S Range 12E, Township 39S Range 11E, Township 39S Range 12E, Township 39S Range 13E, Township 39S Range 14E, Township 39S Range 15E, Township 40S Range 10E, Township 40S Range 11E, Township 40S Range 12E, Township 40S Range 13E, Township 40S Range 14E, Township 41S Range 9E, Township 41S Range 10E, Township 41S Range 11E, and Township 41S Range 12E;

~~(dd)~~ (ee) "Grand Gulch Region Grazing Zone," consisting of certain BLM and National Park Service lands in the following townships in San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled "Grand Gulch Region Grazing Zone": Township 37S Range 17E, Township 37S Range 18E, Township 38S Range 16E, Township 38S Range 17E, Township 38S Range 18E, Township 39S Range 14E, Township 39S Range 15E, Township 39S Range 16E, Township 39S Range 17E, Township 39S Range 18E, Township 40S Range 14E, Township 40S Range 15E, Township 40S Range 16E, Township 40S Range 17E, and Township 40S Range 18E;

~~(ee)~~ (ff) "Cedar Mesa East Region Grazing Zone," consisting of certain BLM and National Park Service lands in the following townships in San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled "Cedar Mesa East Region Grazing Zone": Township 36S Range 20E, Township 37S Range 18E, Township 37S Range 19E, Township 37S Range 20E, Township 37S Range 21E, Township 38S Range 18E, Township 38S Range 19E, Township 38S Range 20E, Township 38S Range 21E, Township 39S Range 18E, Township 39S Range 19E, Township 39S Range 20E, Township 39S Range 21E, Township 40S Range 18E, Township 40S Range 19E, Township 40S Range 20E, Township 40S Range 21E, Township 41S Range 18E, Township 41S Range 19E, Township 41S Range 20E, and Township 41S Range 21E;

~~(ff)~~ (gg) "Mancos Mesa Region Grazing Zone," consisting of certain BLM and National Park Service lands in the following townships in San

Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled "Mancos Mesa Region Grazing Zone": Township 35S Range 13E, Township 36S Range 12E, Township 36S Range 13E, Township 36S Range 14E, Township 37S Range 12E, Township 37S Range 13E, Township 37S Range 14E, Township 37S Range 15E, Township 38S Range 11E, Township 38S Range 12E, Township 38S Range 13E, Township 38S Range 14E, Township 38S Range 15E, Township 38S Range 18E, Township 39S Range 13E, Township 39S Range 14E, and Township 39S Range 15E;

~~(gg)~~ (hh) "Red Canyon Region Grazing Zone," consisting of certain BLM and National Park Service lands in the following townships in San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled "Red Canyon Region Grazing Zone": Township 33S Range 14E, Township 34S Range 13E, Township 34S Range 14E, Township 34S Range 15E, Township 35S Range 13E, Township 35S Range 14E, Township 35S Range 15E, Township 36S Range 14E, Township 36S Range 15E, Township 36S Range 16E, Township 36S Range 17E, Township 37S Range 14E, Township 37S Range 15E, Township 37S Range 16E, Township 37S Range 17E, Township 38S Range 15E, and Township 38S Range 16E;

~~(hh)~~ (ii) "White Canyon Region Grazing Zone," consisting of certain BLM and National Park Service lands in the following townships in San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled "White Canyon Region Grazing Zone": Township 33S Range 14E, Township 33S Range 15E, Township 33S Range 16E, Township 34S Range 14E, Township 34S Range 15E, Township 34S Range 16E, Township 34S Range 17E, Township 35S Range 15E, Township 35S Range 16E, Township 35S Range 17E, Township 35S Range 18E, Township 36S Range 15E, Township 36S Range 16E, Township 36S Range 17E, Township 36S Range 18E, Township 37S Range 17E, and Township 37S Range 18E;

~~(ii)~~ (jj) "Dark Canyon/Hammond Canyon Region Grazing Zone," consisting of certain Forest Service lands in the following townships in San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled "Dark Canyon/Hammond Canyon Region Grazing Zone": Township 34S Range 17E, Township 34S Range 18E, Township 34S Range 19E, Township 34S Range 20E, Township 35S Range 17E, Township 35S Range 18E, Township 35S Range 19E, Township 35S Range 20E, Township 36S Range 18E, Township 36S Range 19E, Township 36S Range 20E, and Township 37S Range 19E;

~~(jj)~~ (kk) "Chippean/Indian Creek Region Grazing Zone," consisting of certain Forest Service lands in the following townships in San Juan County, as more fully illustrated in the map

prepared by the San Juan County GIS department in February 2014, entitled "Chippean/Indian Creek Region Grazing Zone": Township 32S Range 21E, Township 32S Range 22E, Township 33S Range 21E, Township 33S Range 22E, Township 34S Range 20E, Township 34S Range 21E, Township 34S Range 22E, Township 35S Range 20E, Township 35S Range 21E, and Township 35S Range 22E;

~~[(kk)]~~ (ll) "Henry Mountain Region Grazing Zone," consisting of certain BLM lands in the following townships in Garfield County, as more fully illustrated in the map prepared by the Garfield County GIS department in February 2014, entitled "Henry Mountain Region Grazing Zone": Township 31S Range 7E, Township 31S Range 8E, Township 32S Range 8E, Township 33S Range 8E, Township 34S Range 8E, Township 31S Range 9E, Township 32S Range 9E, Township 33S Range 9E, Township 34S Range 9E, Township 35S Range 9E, Township 31S Range 10E, Township 32S Range 10E, Township 33S Range 10E, Township 34S Range 10E, Township 35S Range 10E, Township 31S Range 11E, Township 32S Range 11E, Township 33S Range 11E, Township 34S Range 11E, Township 32S Range 12E, Township 33S Range 12E, and Township 34S Range 12E;

~~[(ll)]~~ (mm) "Glen Canyon Region Grazing Zone," consisting of certain BLM and National Park Service lands in the following townships in Garfield County, as more fully illustrated in the map prepared by the Garfield County GIS department in February 2014, entitled "Glen Canyon Region Grazing Zone": Township 36S Range 9E, Township 36S Range 10E, Township 37S Range 10E, Township 35S Range 11E, Township 36S Range 11E, Township 37S Range 11E, Township 31S Range 12E, Township 32S Range 12E, Township 33S Range 12E, Township 34S Range 12E, Township 35S Range 12E, Township 35 1/2S Range 12E, Township 36S Range 12E, Township 37S Range 12E, Township 31S Range 13E, Township 32S Range 13E, Township 33S Range 13E, Township 34S Range 13E, Township 35S Range 13E, Township 35 1/2S Range 13E, Township 36S Range 13E, Township 31S Range 14E, Township 32S Range 14E, Township 32 1/2S Range 14E, Township 33S Range 14E, Township 31S Range 15E, Township 32S Range 15E, Township 32 1/2S Range 15E, Township 33S Range 15E, Township 30 1/2S Range 16E, Township 31S Range 16E, Township 32S Range 16E, Township 30 1/2S Range 17E, Township 31S Range 17E, Township 32S Range 17E, Township 30 1/2S Range 18E, and Township 31S Range 18E;

~~[(mmm)]~~ (nn) "Glendale Bench Region Grazing Zone," consisting of certain BLM and Forest Service lands in the following townships in Kane County, as more fully illustrated in the map prepared by the Kane County GIS department in February 2014, entitled "Glendale Bench Region Grazing Zone": Township 39S Range 6W, Township 39S Range 5W, Township 39S Range 4.5W, Township 40S Range 7W, Township 40S Range 6W, Township 41S Range 7W, and Township 41S Range 6W;

~~[(nn)]~~ (oo) "John R. Region Grazing Zone," consisting of certain BLM and Forest Service lands in the following townships in Kane County, as more fully illustrated in the map prepared by the Kane County GIS department in February 2014, entitled "John R. Region Grazing Zone": Township 41S Range 7W, Township 41S Range 6W, Township 42S Range 7W, Township 42S Range 6W, Township 43S Range 6W, and Township 44S Range 6W;

~~[(oo)]~~ (pp) "Beaver Dam Scope Region Grazing Zone," consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 42 South Range 17 West, Township 43 South Range 18 West, Township 43 South Range 19 West, Township 43 South Range 20 West, Township 42 South Range 18 West, Township 42 South Range 19 West, Township 42 South Range 20 West, Township 41 South Range 17 West, Township 41 South Range 18 West, Township 41 South Range 19 West, Township 41 South Range 20 West, Township 40 South Range 18 West, Township 40 South Range 19 West, and Township 40 South Range 20 West;

~~[(pp)]~~ (qq) "Square Top Daggett Flat Region Grazing Zone," consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 40 South Range 17 West, Township 40 South Range 18 West, Township 40 South Range 19 West, Township 40 South Range 20 West, Township 39 South Range 16 West, Township 39 South Range 17 West, Township 39 South Range 18 West, Township 39 South Range 19 West, Township 39 South Range 20 West, Township 38 South Range 18 West, Township 38 South Range 19 West, and Township 38 South Range 20 West;

~~[(qq)]~~ (rr) "Enterprise Region Grazing Zone," consisting of certain BLM and Forest Service lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 37 South Range 17 West and Township 37 South Range 18 West;

~~[(rr)]~~ (ss) "Apex Region Grazing Zone," consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 42 South Range 16 West, Township 42 South Range 17 West, Township 43 South Range 16 West, and Township 43 South Range 17 West;

~~[(ss)]~~ (tt) "Veyo/Gunlock Region Grazing Zone," consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 39 South Range 16 West, Township 39 South Range 17 West, Township 40 South Range 16 West, Township 40 South Range 17 West, Township 41 South Range 16 West, Township 41 South Range 17 West, and Township 41 South Range 18 West;

~~[(tt)]~~ (uu) "Pine Valley Dixie National Forest Grazing Zone," consisting of certain Forest Service

lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 37 South Range 15 West, Township 37 South Range 16 West, Township 37 South Range 17 West, Township 37 South Range 18 West, Township 37 South Range 19 West, Township 37 South Range 20 West, Township 38 South Range 13 West, Township 38 South Range 14 West, Township 38 South Range 15 West, Township 38 South Range 16 West, Township 38 South Range 17 West, Township 38 South Range 18 West, Township 38 South Range 19 West, Township 39 South Range 13 West, Township 39 South Range 14 West, Township 39 South Range 15 West, Township 39 South Range 16 West, Township 39 South Range 17 West, and Township 39 South Range 18 West;

~~(uuu)~~ (vv) “New Harmony Region Grazing Zone,” consisting of certain BLM lands in the following township in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 38 South Range 13 West;

~~(vww)~~ (ww) “Kanarra Region Grazing Zone,” consisting of certain BLM lands in the following township in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 38 South Range 11 West;

~~(www)~~ (xx) “Kolob Region Grazing Zone,” consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 38 South Range 10 West and Township 39 South Range 10 West;

~~(xxx)~~ (yy) “La Verkin Creek/Dry Creek Region Grazing Zone,” consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 39 South Range 11 West, Township 39 South Range 12 West, Township 39 South Range 13 West, Township 40 South Range 11 West, Township 40 South Range 12 West, Township 40 South Range 13 West, Township 41 South Range 11 West, Township 41 South Range 12 West, and Township 41 South Range 13 West;

~~(yyy)~~ (zz) “Grafton Region Grazing Zone,” consisting of certain BLM lands in the following townships in Washington County: Township 41 South Range 11 West, Township 41 South Range 12 West, Township 41 South Range 13 West, Township 42 South Range 11 West, Township 42 South Range 12 West, and Township 42 South Range 13 West;

~~(zzz)~~ (aaa) “Hurricane Region Grazing Zone,” consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 42 South Range 13 West, Township 42 South Range 14 West, Township 42 South Range 15 West, Township 43 South Range 13 West, Township 43 South Range 14 West, and Township 43 South Range 15 West;

~~(aaa)~~ (bbb) “Little Creek Region Grazing Zone,” consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 42 South Range 11 West, Township 42 South Range 12 West, Township 42 South Range 13 West, Township 43 South Range 11 West, Township 43 South Range 12 West, and Township 43 South Range 13 West; and

~~(bbb)~~ (ccc) “Canaan Mountain Grazing Zone,” consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 42 South Range 9.5 West, Township 42 South Range 10 West, Township 42 South Range 11 West, Township 43 South Range 9.5 West, Township 43 South Range 10 West, and Township 43 South Range 11 West.

(3) Printed copies of the maps referenced in Subsection (2) shall be available for inspection by the public at the offices of the Utah Association of Counties.

(4) The state finds with respect to the grazing zones described in Subsection (2) that:

(a) agricultural livestock industry on the lands comprising these zones has provided a significant contribution to the history, customs, culture, economy, welfare, and other values of each area for more than 100 years;

(b) the potential for abundant natural and vegetative resources exists within these zones if managed properly, that will support and expand continued, responsible agricultural livestock activities and wildlife habitat;

(c) agricultural livestock activities in these zones and the associated historic resources, human history, shaping of human endeavors, variety of cultural resources, landmarks, structures, and other objects of historic or scientific interest are worthy of recognition, preservation, and protection;

(d) (i) the highest management priority for lands within these zones is the preservation, restoration, and enhancement of watershed and rangeland health to sustain and expand forage production for both livestock grazing and wildlife habitat, and the restoration and development of historic, existing, and future livestock grazing and wildlife habitat resources in order to provide protection for the resources, objects, customs, culture, and values identified above; and

(ii) notwithstanding Subsection (4)(d)(i), if part or all of any zone lies within a sage grouse management area, then the management priorities for such part shall be consistent with the management priorities set forth in Subsection (4)(d)(i) to the maximum extent consistent with the management priorities of the sage grouse management area;

(e) subject to Subsection (4)(d)(ii), responsible development of any deposits of energy and mineral resources, including oil, natural gas, oil shale, oil sands, coal, phosphate, gold, uranium, and copper, as well as areas with wind and solar energy

potential, that may exist in these zones is compatible with the management priorities of Subsection (4)(d)(i) in these zones; and

(f) subject to Subsection (4)(d)(ii), responsible development of any recreation resources, including roads, campgrounds, water resources, trails, OHV use, sightseeing, canyoneering, hunting, fishing, trapping, and hiking resources that may exist in these grazing zones is compatible with the management priorities of Subsection (4)(d)(i) in these grazing zones.

(5) The state finds with respect to the zones described in Subsection (2) that the historic levels of livestock grazing activity and other values identified in Subsection (4) in each zone have greatly diminished, or are under other serious threat, due to:

(a) unreasonable, arbitrary, and unlawfully restrictive federal management policies, including:

(i) de facto managing for wilderness in nonwilderness areas and non-WSAs;

(ii) ignoring the chiefly valuable for grazing designation of the Secretary of the Interior applicable to each of these zones; and

(iii) the arbitrary administrative reductions in animal unit months of permitted forage;

(b) inflexible federal grazing practices that disallow grazing at different times each year proven to be most effective for maintaining and enhancing rangeland conditions;

(c) mismanagement of wild horses and burros resulting in competition for forage by excess and mismanaged populations of wild horses and burros in Beaver and Emery counties;

(d) improper management of vegetation resulting in the overgrowth of pinion, invasive species, and juniper, and other woody vegetation that:

(i) compromise watershed and rangeland health;

(ii) crowd out grazing forage;

(iii) degrade habitat and limit wildlife populations;

(iv) reduce water yield; and

(v) heighten the risk of catastrophic wildfire; and

(e) other practices that degrade overall rangeland health.

(6) To protect and preserve against the threats described in Subsection (5), the state supports the following with respect to the zones described in Subsection (2):

(a) efficient and sustained policies, programs, and practices directed at preserving, restoring, and enhancing watershed and rangeland health to maximize:

(i) all permitted forage production for livestock grazing and other compatible uses, including

flexible grazing on and off dates adaptive to yearly climate and range conditions; and

(ii) forage for fish and wildlife;

(b) a cooperative management approach by federal agencies, the state, and local government agencies to achieve broadly supported management plans for the full development of:

(i) forage resources for grazing livestock and wildlife; and

(ii) other uses compatible with livestock grazing and wildlife utilization;

(c) effective and responsible management of wild horses and burros to eliminate excess populations; and

(d) effective and responsible management of wildlife habitat.

(7) The state requests that the federal agencies that administer lands within each grazing zone:

(a) fully cooperate and coordinate with the state and the respective counties within which each grazing zone is situated to develop, amend, and implement land and resource management plans, and implement management decisions that are consistent with the purposes, goals, and policies described in this section to the maximum extent allowed under federal law;

(b) expedite the processing, granting, and streamlining of grazing permits, range improvements, and applications to enhance and otherwise develop all existing and permitted grazing resources located within each grazing zone, including renewable vegetative resources;

(c) allow continued maintenance and increased development of roads, power lines, pipeline infrastructure, and other utilities necessary to achieve the goals, purposes, and policies described in this section and consistent with multiple use and sustained yield principles;

(d) refrain from any planning decisions and management actions that will undermine, restrict, or diminish the goals, purposes, and policies for each grazing zone as stated in this section;

(e) subject to Subsection (4)(d)(ii), refrain from implementing a policy that is contrary to the goals and purposes described within this section; and

(f) refrain from implementing utilization standards less than 50%, unless:

(i) implementing a standard of less than 50% utilization on a temporary basis is necessary to resolve site-specific concerns; and

(ii) the federal agency consults, coordinates, and cooperates fully with local governments.

(8) (a) If a grazing zone described in Subsection (2) is managed or neglected in such a way as to increase the risk of catastrophic wildfire, and if the chief executive officer of a county or a county sheriff finds that the catastrophic wildfire risk adversely affects the health, safety, and welfare of the people

of the political subdivision and that increased livestock grazing in part or all of the grazing zone would substantially reduce that adverse effect:

(i) Subsections 11-51-103(1)(a) and (b) shall govern and apply to the chief executive officer and the county sheriff with respect to making increased livestock grazing available in the grazing zone; and

(ii) Subsection 11-51-103(1)(b) shall govern and apply to the attorney general with respect to making increased livestock grazing available in the grazing zone.

(b) If a grazing zone described in Subsection (2) is managed or neglected in such a way as to increase the risk of catastrophic wildfire, and if the chief executive officer of a county or a county sheriff finds that the catastrophic wildfire risk constitutes an imminent threat to the health, safety, and welfare of the people of the political subdivision and that increased livestock grazing in part or all of the grazing zone would substantially reduce that imminent threat:

(i) Subsections 11-51-103(2) and (3) shall govern and apply to the chief executive officer and the county sheriff with respect to making increased livestock grazing available in the grazing zone; and

(ii) Subsection 11-51-103(3) and Section 11-51-104 shall govern and apply to the attorney general with respect to making increased livestock grazing available in the grazing zone.

(9) (a) The state recognizes the importance of all grazing districts on Utah BLM and Forest Service lands but establishes the grazing zones described in Subsection (2) to provide special protection and preservation against the identified threats found in Subsection (5) to exist in these zones.

(b) It is the intent of the state to designate additional grazing agricultural commodity zones in future years, if circumstances warrant special protection and preservation for new zones.

(10) The state calls upon applicable federal, state, and local agencies to coordinate with each other and establish applicable intergovernmental standing commissions, with membership consisting of representatives from the United States government, the state, and local governments to coordinate and achieve consistency in planning decisions and management actions in zones described in Subsection (2) in order to achieve the goals, purposes, and policies described in this section.

(11) Notwithstanding the provisions of this section, and subject to Subsection (4)(d)(ii), the state's mineral, oil, gas, and energy policies and plans on land within the zones described in Subsection (2) shall be governed by Sections 63J-4-401 and 63J-8-104.

CHAPTER 122**H. B. 371**

Passed March 10, 2016
 Approved March 21, 2016
 Effective May 10, 2016

**HUMAN SERVICES LICENSEE
 AND CONTRACTOR
 SCREENING AMENDMENTS**

Chief Sponsor: Dean Sanpei
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill requires Department of Human Services contractors who have access to certain vulnerable populations to pass a background screening and comply with certain requirements.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires contractors who have access to certain vulnerable populations to:
 - submit certain information for background screening to the Office of Licensing within the Department of Human Services; and
 - comply with certain requirements and restrictions regarding certain vulnerable populations;
- ▶ requires the Office of Licensing within the Department of Human Services to follow certain procedures regarding contractors who have access to certain vulnerable populations;
- ▶ amends the Juvenile Court Act regarding records access for certain background screening; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

62A-2-101, as last amended by Laws of Utah 2015, Chapters 67 and 255
 62A-2-120, as repealed and reenacted by Laws of Utah 2015, Chapter 255
 78A-6-209, as last amended by Laws of Utah 2015, Chapters 255 and 307

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

Section 1. Section 62A-2-101 is amended to read:

62A-2-101. Definitions.

As used in this chapter:

(1) "Adult day care" means nonresidential care and supervision:

(a) for three or more adults for at least four but less than 24 hours a day; and

(b) that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

(2) "Applicant" means ~~[-(a)]~~ a person who applies for an initial license or a license renewal under this chapter~~[s]~~.

~~[(b) an individual who:]~~

~~[(i) is associated with the licensee; and]~~

~~[(ii) has direct access to a child or a vulnerable adult;]~~

~~[(c) an individual who is 12 years of age or older, other than the child or vulnerable adult who is receiving the service, who resides in a residence with the child or vulnerable adult who is receiving services from the person described in Subsection (2)(a) or (b), if the child or vulnerable adult is not receiving services in the child's or vulnerable adult's own residence; or]~~

~~[(d) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion.]~~

(3) (a) "Associated with the licensee" means that an individual is:

(i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent, provider of care, department contractor, or volunteer; or

(ii) applying to become affiliated with a licensee in a capacity described in Subsection (3)(a)(i).

(b) "Associated with the licensee" does not include:

(i) service on the following bodies, unless that service includes direct access to a child or a vulnerable adult:

(A) a local mental health authority described in Section 17-43-301;

(B) a local substance abuse authority described in Section 17-43-201; or

(C) a board of an organization operating under a contract to provide mental health or substance abuse programs, or services for the local mental health authority or substance abuse authority; or

(ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised ~~[by the licensee]~~ at all times.

(4) (a) "Boarding school" means a private school that:

(i) uses a regionally accredited education program;

(ii) provides a residence to the school's students:

(A) for the purpose of enabling the school's students to attend classes at the school; and

(B) as an ancillary service to educating the students at the school;

(iii) has the primary purpose of providing the school's students with an education, as defined in Subsection (4)(b)(i); and

(iv) (A) does not provide the treatment or services described in Subsection (28)(a); or

(B) provides the treatment or services described in Subsection (28)(a) on a limited basis, as described in Subsection (4)(b)(ii).

(b) (i) For purposes of Subsection (4)(a)(iii), "education" means a course of study for one or more of grades kindergarten through 12th grade.

(ii) For purposes of Subsection (4)(a)(iv)(B), a private school provides the treatment or services described in Subsection (28)(a) on a limited basis if:

(A) the treatment or services described in Subsection (28)(a) are provided only as an incidental service to a student; and

(B) the school does not:

(I) specifically solicit a student for the purpose of providing the treatment or services described in Subsection (28)(a); or

(II) have a primary purpose of providing the treatment or services described in Subsection (28)(a).

(c) "Boarding school" does not include a therapeutic school.

(5) "Child" means a person under 18 years of age.

(6) "Child placing" means receiving, accepting, or providing custody or care for any child, temporarily or permanently, for the purpose of:

(a) finding a person to adopt the child;

(b) placing the child in a home for adoption; or

(c) foster home placement.

(7) "Client" means an individual who receives or has received services from a licensee.

(8) "Day treatment" means specialized treatment that is provided to:

(a) a client less than 24 hours a day; and

(b) four or more persons who:

(i) are unrelated to the owner or provider; and

(ii) have emotional, psychological, developmental, physical, or behavioral dysfunctions, impairments, or chemical dependencies.

(9) "Department" means the Department of Human Services.

(10) "Department contractor" means an individual who:

(a) provides services under a contract with the department; and

(b) due to the contract with the department, has or will likely have direct access to a child or vulnerable adult.

~~[(40)]~~ (11) "Direct access" means that an individual has, or likely will have:

(a) contact with or access to a child or vulnerable adult that provides the individual with an opportunity for personal communication or touch; or

(b) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parents or legal guardians, or the vulnerable adult.

~~[(44)]~~ (12) "Directly supervised" means that an individual is being supervised under the uninterrupted visual and auditory surveillance of another individual who has a current background screening approval issued by the office.

~~[(42)]~~ (13) "Director" means the director of the Office of Licensing.

~~[(43)]~~ (14) "Domestic violence" means the same as that term is defined in Section 77-36-1.

~~[(44)]~~ (15) "Domestic violence treatment program" means a nonresidential program designed to provide psychological treatment and educational services to perpetrators and victims of domestic violence.

~~[(45)]~~ (16) "Elder adult" means a person 65 years of age or older.

~~[(46)]~~ (17) "Executive director" means the executive director of the department.

~~[(47)]~~ (18) "Foster home" means a temporary residential living environment for the care of:

(a) (i) fewer than five foster children in the home of a licensed foster parent; or

(ii) five or more foster children in the home of a licensed foster parent if there are no foster children or if there is one foster child in the home at the time of the placement of a sibling group; or

(b) (i) fewer than four foster children in the home of a certified foster parent; or

(ii) four or more foster children in the home of a certified foster parent if there are no foster children or if there is one foster child in the home at the time of the placement of a sibling group.

~~[(48)]~~ (19) (a) "Human services program" means a:

(i) foster home;

(ii) therapeutic school;

(iii) youth program;

(iv) resource family home;

(v) recovery residence; or

(vi) facility or program that provides:

(A) secure treatment;

(B) inpatient treatment;

(C) residential treatment;

(D) residential support;

- (E) adult day care;
- (F) day treatment;
- (G) outpatient treatment;
- (H) domestic violence treatment;
- (I) child placing services;
- (J) social detoxification; or
- (K) any other human services that are required by contract with the department to be licensed with the department.

(b) "Human services program" does not include a boarding school.

[419] (20) "Licensee" means an individual or a human services program licensed by the office.

[420] (21) "Local government" means a:

- (a) city; or
- (b) county.

[421] (22) "Minor" has the same meaning as "child."

[422] (23) "Office" means the Office of Licensing within the Department of Human Services.

[423] (24) "Outpatient treatment" means individual, family, or group therapy or counseling designed to improve and enhance social or psychological functioning for those whose physical and emotional status allows them to continue functioning in their usual living environment.

[424] (25) "Recovery residence" means a home or facility, other than a residential treatment or residential support program, that meets at least two of the following requirements:

(a) provides a supervised living environment for individuals recovering from a substance abuse disorder;

(b) requires more than half of the individuals in the residence to be recovering from a substance abuse disorder;

(c) provides or arranges for residents to receive services related to their recovery from a substance abuse disorder, either on or off site;

(d) holds the home or facility out as being a recovery residence; or

(e) (i) receives public funding; or

(ii) runs the home or facility as a commercial venture for financial gain.

[425] (26) "Regular business hours" means:

(a) the hours during which services of any kind are provided to a client; or

(b) the hours during which a client is present at the facility of a licensee.

[426] (27) (a) "Residential support" means arranging for or providing the necessities of life as a protective service to individuals or families who

have a disability or who are experiencing a dislocation or emergency that prevents them from providing these services for themselves or their families.

(b) "Residential support" includes providing a supervised living environment for persons with dysfunctions or impairments that are:

- (i) emotional;
- (ii) psychological;
- (iii) developmental; or
- (iv) behavioral.

(c) Treatment is not a necessary component of residential support.

(d) "Residential support" does not include:

- (i) a recovery residence; or
- (ii) residential services that are performed:

(A) exclusively under contract with the Division of Services for People with Disabilities; or

(B) in a facility that serves fewer than four individuals.

[427] (28) (a) "Residential treatment" means a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies.

(b) "Residential treatment" does not include a:

- (i) boarding school;
- (ii) foster home; or
- (iii) recovery residence.

[428] (29) "Residential treatment program" means a human services program that provides:

- (a) residential treatment; or
- (b) secure treatment.

[429] (30) (a) "Secure treatment" means 24-hour specialized residential treatment or care for persons whose current functioning is such that they cannot live independently or in a less restrictive environment.

(b) "Secure treatment" differs from residential treatment to the extent that it requires intensive supervision, locked doors, and other security measures that are imposed on residents with neither their consent nor control.

[430] (31) "Social detoxification" means short-term residential services for persons who are experiencing or have recently experienced drug or alcohol intoxication, that are provided outside of a health care facility licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and that include:

(a) room and board for persons who are unrelated to the owner or manager of the facility;

(b) specialized rehabilitation to acquire sobriety; and

(c) aftercare services.

[(31)] (32) "Substance abuse treatment program" means a program:

(a) designed to provide:

(i) specialized drug or alcohol treatment;

(ii) rehabilitation; or

(iii) habilitation services; and

(b) that provides the treatment or services described in Subsection [(31)] (32)(a) to persons with:

(i) a diagnosed substance abuse disorder; or

(ii) chemical dependency disorder.

[(32)] (33) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals that are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to:

(I) a disability;

(II) emotional development;

(III) behavioral development;

(IV) familial development; or

(V) social development.

[(33)] (34) "Unrelated persons" means persons other than parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts.

[(34)] (35) "Vulnerable adult" means an elder adult or an adult who has a temporary or permanent mental or physical impairment that substantially affects the person's ability to:

(a) provide personal protection;

(b) provide necessities such as food, shelter, clothing, or mental or other health care;

(c) obtain services necessary for health, safety, or welfare;

(d) carry out the activities of daily living;

(e) manage the adult's own resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

[(35)] (36) (a) "Youth program" means a nonresidential program designed to provide behavioral, substance abuse, or mental health services to minors that:

(i) serves adjudicated or nonadjudicated youth;

(ii) charges a fee for its services;

(iii) may or may not provide host homes or other arrangements for overnight accommodation of the youth;

(iv) may or may not provide all or part of its services in the outdoors;

(v) may or may not limit or censor access to parents or guardians; and

(vi) prohibits or restricts a minor's ability to leave the program at any time of the minor's own free will.

(b) "Youth program" does not include recreational programs such as Boy Scouts, Girl Scouts, 4-H, and other such organizations.

Section 2. Section 62A-2-120 is amended to read:

62A-2-120. Background check -- Direct access to children or vulnerable adults.

(1) As used in this section:

(a) "Applicant" means:

(i) a person described in Section 62A-2-101;

(ii) an individual who:

(A) is associated with a licensee; and

(B) has or will likely have direct access to a child or a vulnerable adult;

(iii) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion;

(iv) a department contractor; or

(v) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years of age or older and:

(A) resides in a home, that is licensed or certified by the office, with the child or vulnerable adult who is receiving services; or

(B) is a person or individual described in Subsection (1)(a)(i), (ii), (iii), or (iv).

(b) "Application" means a background screening application to the office.

[(a)] (c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.

~~(4b)~~ (d) "Personal identifying information" means:

(i) current name, former names, nicknames, and aliases;

(ii) date of birth;

(iii) physical address and email address;

(iv) telephone number;

(v) driver license number or other government-issued identification number;

(vi) social security number;

(vii) only for applicants who are 18 years of age or older, fingerprints, ~~[except for applicants under the age of 18,]~~ in a form specified by the office; and

(viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) Except as provided in Subsection ~~[(13)]~~ (14), an applicant shall submit the following to the office:

(i) personal identifying information;

(ii) a fee established by the office under Section 63J-1-504; and

(iii) a form, specified by the office, for consent for:

(A) an initial background check upon submission of the information described under Subsection (2)(a);

(B) a background check at the applicant's annual renewal;

(C) a background check when the office determines that reasonable cause exists; and

(D) retention of personal identifying information, including fingerprints, for monitoring and notification as described in Subsections (3)(d) and (4).

(b) In addition to the requirements described in Subsection (2)(a), if an applicant spent time outside of the United States and its territories during the five years immediately preceding the day on which the information described in Subsection (2)(a) is submitted to the office, the office may require the applicant to submit documentation establishing whether the applicant was convicted of a crime during the time that the applicant spent outside of the United States or its territories.

(3) The office:

(a) shall perform the following duties as part of a background check of an applicant:

(i) check state and regional criminal background databases for the applicant's criminal history by:

(A) submitting personal identifying information to the Bureau for a search; or

(B) using the applicant's personal identifying information to search state and regional criminal

background databases as authorized under Section 53-10-108;

(ii) submit the applicant's personal identifying information and fingerprints to the Bureau for a criminal history search of applicable national criminal background databases;

(iii) search the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006;

(iv) search the Department of Human Services, Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

(v) search the juvenile court records for substantiated findings of severe child abuse or neglect described in Section 78A-6-323; and

(vi) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;

(b) shall conduct a background check of an applicant for an initial background check upon submission of the information described under Subsection (2)(a);

(c) may conduct all or portions of a background check of an applicant, as provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) for an annual renewal; or

(ii) when the office determines that reasonable cause exists;

(d) may submit an applicant's personal identifying information, including fingerprints, to the Bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated with the applicant;

(e) shall track the status of an approved applicant under this section to ensure that an approved applicant ~~[who applies for]~~ is not required to duplicate the submission of the applicant's fingerprints if the applicant applies for:

(i) more than one license ~~[or for]~~;

(ii) direct access to a child or a vulnerable adult in more than one human services program ~~[is not required to duplicate the submission of the applicant's fingerprints]; or~~

(iii) direct access to a child or a vulnerable adult under a contract with the department;

(f) shall track the status of each license and each individual with direct access to a child or a vulnerable adult and notify the Bureau when the license has expired or the individual's direct access to a child or a vulnerable adult has ceased;

(g) shall adopt measures to strictly limit access to personal identifying information solely to the office employees responsible for processing the applications for background checks and to protect

the security of the personal identifying information the office reviews under this Subsection (3); and

(h) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.

(4) (a) With the personal identifying information the office submits to the Bureau under Subsection (3), the Bureau shall check against state and regional criminal background databases for the applicant's criminal history.

(b) With the personal identifying information and fingerprints the office submits to the Bureau under Subsection (3), the Bureau shall check against national criminal background databases for the applicant's criminal history.

(c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the Bureau under Subsection (3)(d), the Bureau shall:

(i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and

(ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.

(d) The Bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next Generation Identification System, to be retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of:

(i) being searched by future submissions to the national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System and latent prints; and

(ii) monitoring national criminal background databases and identifying criminal activity associated with the applicant.

(e) The Bureau shall notify and release to the office all information of criminal activity associated with the applicant.

(f) Upon notice from the office that a license has expired or an individual's direct access to a child or a vulnerable adult has ceased, the Bureau shall:

(i) discard and destroy any retained fingerprints; and

(ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next Generation Identification System.

(5) (a) After conducting the background check described in Subsections (3) and (4), the office shall deny an application to an applicant who, within 10 years before the day on which the applicant submits

information to the office under Subsection (2) for a background check, has been convicted of any of the following, regardless of whether the offense is a felony, a misdemeanor, or an infraction:

(i) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality;

(ii) a violation of any pornography law, including sexual exploitation of a minor;

(iii) prostitution;

(iv) an offense included in:

(A) Title 76, Chapter 5, Offenses Against the Person;

(B) Section 76-5b-201, Sexual Exploitation of a Minor; or

(C) Title 76, Chapter 7, Offenses Against the Family;

(v) aggravated arson, as described in Section 76-6-103;

(vi) aggravated burglary, as described in Section 76-6-203;

(vii) aggravated robbery, as described in Section 76-6-302;

(viii) identity fraud crime, as described in Section 76-6-1102; or

(ix) a conviction for a felony or misdemeanor offense committed outside of the state that, if committed in the state, would constitute a violation of an offense described in Subsections (5)(a)(i) through (viii).

(b) If the office denies an application to an applicant based on a conviction described in Subsection (5)(a), the applicant is not entitled to a comprehensive review described in Subsection (6).

(6) (a) The office shall conduct a comprehensive review of an applicant's background check if the applicant has:

(i) a conviction for any felony offense, not described in Subsection (5)(a), regardless of the date of the conviction;

(ii) a conviction for a misdemeanor offense, not described in Subsection (5)(a), and designated by the office, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if the conviction is within five years before the day on which the applicant submits information to the office under Subsection (2) for a background check;

(iii) a conviction for any offense described in Subsection (5)(a) that occurred more than 10 years before the day on which the applicant submitted information under Subsection (2)(a);

(iv) pleaded no contest to or is currently subject to a plea in abeyance or diversion agreement for any offense described in Subsection (5)(a);

(v) a listing in the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006;

(vi) a listing in the Department of Human Services, Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

(vii) a record in the juvenile court of a substantiated finding of severe child abuse or neglect described in Section 78A-6-323; ~~or~~

(viii) a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:

(A) under 28 years of age; or

(B) 28 years of age or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection (5)(a)~~[-];~~ or

(ix) a pending charge for an offense described in Subsection (5)(a).

(b) The comprehensive review described in Subsection (6)(a) shall include an examination of:

(i) the date of the offense or incident;

(ii) the nature and seriousness of the offense or incident;

(iii) the circumstances under which the offense or incident occurred;

(iv) the age of the perpetrator when the offense or incident occurred;

(v) whether the offense or incident was an isolated or repeated incident;

(vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including:

(A) actual or threatened, nonaccidental physical or mental harm;

(B) sexual abuse;

(C) sexual exploitation; or

(D) negligent treatment;

(vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed; and

(viii) any other pertinent information.

(c) At the conclusion of the comprehensive review described in Subsection (6)(a), the office shall deny an application to an applicant if the office finds that approval would likely create a risk of harm to a child or a vulnerable adult.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules, consistent with this chapter, to establish procedures for the comprehensive review described in this Subsection (6).

(7) Subject to Subsection (10), the office shall approve an application to an applicant who is not denied under Subsection (5), (6), or (13).

(8) (a) The office may conditionally approve an application of an applicant, for a maximum of 60 days after the day on which the office sends written notice to the applicant under Subsection ~~((11))~~ (12), without requiring that the applicant be directly supervised, if the office:

(i) is awaiting the results of the criminal history search of national criminal background databases; and

(ii) would otherwise approve an application of the applicant under Subsection (7).

(b) Upon receiving the results of the criminal history search of national criminal background databases, the office shall approve or deny the application of the applicant in accordance with Subsections (5) through (7).

(9) A licensee or department contractor may not permit an individual to have direct access to a child or a vulnerable adult unless, subject to Subsection (10)~~], the individual is~~:

(a) the individual is associated with the licensee or department contractor and:

(i) the individual's application is approved by the office under this section;

(ii) the individual's application is conditionally approved by the office under Subsection (8); or

(iii) (A) the individual has submitted the background check information described in Subsection (2) to the office;

(B) the office has not determined whether to approve the applicant's application; and

(C) the individual is directly supervised by an individual who ~~is licensed~~ has a current background screening approval issued by the office under this section and is associated with the licensee or department contractor;

(b) (i) the individual is associated with the licensee or department contractor;

(ii) the individual has a current background screening approval issued by the office under this section;

(iii) one of the following circumstances, that the office has not yet reviewed under Subsection (6), applies to the individual:

(A) the individual was charged with an offense described in Subsection (5)(a);

(B) the individual is listed in the Licensing Information System, described in Section 62A-4a-1006;

(C) the individual is listed in the vulnerable adult abuse, neglect, or exploitation database, described in Section 62A-3-311.1;

(D) the individual has a record in the juvenile court of a substantiated finding of severe child abuse or neglect, described in Section 78A-6-323; or

(E) the individual has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or a misdemeanor; and

(iv) the individual is directly supervised by an individual who:

(A) has a current background screening approval issued by the office under this section; and

(B) is associated with the licensee or department contractor;

(c) the individual:

(i) is not associated with the licensee or department contractor; and

(ii) is directly supervised by an individual who [is licensed];

(A) has a current background screening approval issued by the office under this section; and

(B) is associated with the licensee or department contractor;

~~[(e)]~~ (d) the individual is the parent or guardian of the child, or the guardian of the vulnerable adult; [or]

~~[(d) an individual]~~ (e) the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult[-]; or

(f) the individual is only permitted to have direct access to a vulnerable adult who voluntarily invites the individual to visit.

(10) An individual may not have direct access to a child or a vulnerable adult if the individual is prohibited by court order from having that access.

(11) Notwithstanding any other provision of this section, an individual for whom the office denies an application may not have supervised or unsupervised direct access to a child or vulnerable adult unless the office approves a subsequent application by the individual.

~~[(11)]~~ (12) (a) Within 30 days after the day on which the office receives the background check information for an applicant, the office shall give written notice to:

(i) the applicant, and the licensee or department contractor, of [-(i)] the office's decision regarding [its] the background check and findings; and

(ii) [a list] the applicant of any convictions and potentially disqualifying charges and adjudications found in the search.

(b) With the notice described in Subsection ~~[(11)]~~ (12)(a), the office shall also give the applicant the details of any comprehensive review conducted under Subsection (6).

(c) If the notice under Subsection ~~[(11)]~~ (12)(a) states that the applicant's application is denied, the notice shall further advise the applicant that the applicant may, under Subsection 62A-2-111(2), request a hearing in the department's Office of Administrative Hearings, to challenge the office's decision.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules, consistent with this chapter:

(i) defining procedures for the challenge of its background check decision described in Subsection ~~[(11)]~~ (12)(c); and

(ii) expediting the process for renewal of a license under the requirements of this section and other applicable sections.

~~[(12)]~~ (13) This section does not apply to a department contractor, or an applicant for an initial license, or license renewal, [to operate] regarding a substance abuse program that provides services to adults only.

~~[(13)]~~ (14) (a) Except as provided in Subsection ~~[(13)]~~ (14)(b), in addition to the other requirements of this section, if the background check of an applicant is being conducted for the purpose of licensing a prospective foster home or approving a prospective adoptive placement of a child in state custody, the office shall:

(i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the applicant applied to be a foster parent or adoptive parent, to determine whether the prospective foster parent or prospective adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(ii) check the child abuse and neglect registry in each state where each adult living in the home of the applicant described in Subsection ~~[(13)]~~ (14)(a)(i) resided in the five years immediately preceding the day on which the applicant applied to be a foster parent or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect.

(b) The requirements described in Subsection ~~[(13)]~~ (14)(a) do not apply to the extent that:

(i) federal law or rule permits otherwise; or

(ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:

(A) a noncustodial parent under Section 62A-4a-209, 78A-6-307, or 78A-6-307.5; or

(B) a relative, other than a noncustodial parent, under Section 62A-4a-209, 78A-6-307, or 78A-6-307.5, pending completion of the background check described in Subsection (5).

(c) Notwithstanding Subsections (5) through (9), the office shall deny a license or a license renewal to a prospective foster parent or a prospective adoptive parent if the applicant has been convicted of:

(i) a felony involving conduct that constitutes any of the following:

(A) child abuse, as described in Section 76-5-109;

(B) commission of domestic violence in the presence of a child, as described in Section 76-5-109.1;

(C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

(D) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

(E) aggravated murder, as described in Section 76-5-202;

(F) murder, as described in Section 76-5-203;

(G) manslaughter, as described in Section 76-5-205;

(H) child abuse homicide, as described in Section 76-5-208;

(I) homicide by assault, as described in Section 76-5-209;

(J) kidnapping, as described in Section 76-5-301;

(K) child kidnapping, as described in Section 76-5-301.1;

(L) aggravated kidnapping, as described in Section 76-5-302;

(M) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

(N) sexual exploitation of a minor, as described in Section 76-5b-201;

(O) aggravated arson, as described in Section 76-6-103;

(P) aggravated burglary, as described in Section 76-6-203;

(Q) aggravated robbery, as described in Section 76-6-302; or

(R) domestic violence, as described in Section 77-36-1; or

(ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection ~~[(43)]~~ (14)(c)(i).

(d) Notwithstanding Subsections (5) through (9), the office shall deny a license or license renewal to a prospective foster parent or a prospective adoptive parent if, within the five years immediately preceding the day on which the individual's application or license would otherwise be approved, the applicant was convicted of a felony involving conduct that constitutes a violation of any of the following:

(i) aggravated assault, as described in Section 76-5-103;

(ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;

(iii) mayhem, as described in Section 76-5-105;

(iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;

(v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;

(vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

(e) In addition to the circumstances described in Subsection (6)(a), the office shall conduct the comprehensive review of an applicant's background check pursuant to this section if the registry check described in Subsection ~~[(43)]~~ (14)(a) indicates that the individual is listed in a child abuse and neglect registry of another state as having a substantiated or supported finding of a severe type of child abuse or neglect as defined in Section 62A-4a-1002.

Section 3. Section 78A-6-209 is amended to read:

78A-6-209. Court records -- Inspection.

(1) The court and the probation department shall keep records as required by the board and the presiding judge.

(2) Court records shall be open to inspection by:

(a) the parents or guardian of a child, a minor who is at least 18 years of age, other parties in the case, the attorneys, and agencies to which custody of a minor has been transferred;

(b) for information relating to adult offenders alleged to have committed a sexual offense, a felony or class A misdemeanor drug offense, or an offense against the person under Title 76, Chapter 5, Offenses Against the Person, the State Office of Education for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, with the understanding that the office must provide the individual with an opportunity to respond to any information gathered from its inspection of the records before it makes a decision concerning licensure or employment;

(c) the Criminal Investigations and Technical Services Division, established in Section 53-10-103, for the purpose of a criminal history background check for the purchase of a firearm and establishing good character for issuance of a concealed firearm permit as provided in Section 53-5-704;

(d) the Division of Child and Family Services for the purpose of Child Protective Services Investigations in accordance with Sections 62A-4a-403 and 62A-4a-409 and administrative hearings in accordance with Section 62A-4a-1009;

(e) the Office of Licensing for the purpose of conducting a background check ~~[of an applicant for an initial license or a license renewal]~~ in accordance with Section 62A-2-120;

(f) for information related to a juvenile offender who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health for the purpose of evaluating under the provisions of Subsection 26-39-404(3) whether a licensee should be permitted to obtain or retain a license to provide child care, with the understanding that the

department must provide the individual who committed the offense with an opportunity to respond to any information gathered from its inspection of records before it makes a decision concerning licensure;

(g) for information related to a juvenile offender who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health to determine whether an individual meets the background screening requirements of Title 26, Chapter 21, Part 2, Clearance for Direct Patient Access, with the understanding that the department must provide the individual who committed the offense an opportunity to respond to any information gathered from its inspection of records before it makes a decision under that part; and

(h) for information related to a juvenile offender who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health to determine whether to grant, deny, or revoke background clearance under Section 26-8a-310 for an individual who is seeking or who has obtained emergency medical service personnel certification under Section 26-8a-302, with the understanding that the department must provide the individual who committed the offense an opportunity to respond to any information gathered from the department's inspection of records before it makes a determination.

(3) With the consent of the judge, court records may be inspected by the child, by persons having a legitimate interest in the proceedings, and by persons conducting pertinent research studies.

(4) If a petition is filed charging a minor 14 years of age or older with an offense that would be a felony if committed by an adult, the court shall make available to any person upon request the petition, any adjudication or disposition orders, and the delinquency history summary of the minor charged unless the records are closed by the court upon findings on the record for good cause.

(5) Probation officers' records and reports of social and clinical studies are not open to inspection, except by consent of the court, given under rules adopted by the board.

(6) (a) Any juvenile delinquency adjudication or disposition orders and the delinquency history summary of any person charged as an adult with a felony offense shall be made available to any person upon request.

(b) This provision does not apply to records that have been destroyed or expunged in accordance with court rules.

(c) The court may charge a reasonable fee to cover the costs associated with retrieving a requested record that has been archived.

CHAPTER 123**H. B. 380**

Passed March 10, 2016
 Approved March 21, 2016
 Effective May 10, 2016

**UTAH COMMUNICATIONS
 AUTHORITY AMENDMENTS**

Chief Sponsor: Brad L. Dee
 Senate Sponsor: Kevin T. Van Tassell

LONG TITLE**General Description:**

This bill amends the Utah Communications Authority Act.

Highlighted Provisions:

This bill:

- ▶ amends the method of appointing the chair of the Utah Communications Authority Board to appointment by the governor with consultation with the board and with consent by the Senate;
- ▶ requires the governor to rotate appointment of the chair, every two years, between a local government representative and a state representative;
- ▶ requires the Utah Communications Authority Board to create a comprehensive strategic plan;
- ▶ establishes requirements for the comprehensive strategic plan;
- ▶ requires each division of the Utah Communications Authority to contribute to the comprehensive strategic plan;
- ▶ requires yearly reports from the Utah Communications Authority Board to the Legislative Management Committee and the Executive Offices and Criminal Justice Appropriations Subcommittee;
- ▶ amends the 911 Advisory Committee, the Radio Network Advisory Committee, and the Interoperability Advisory Committee;
- ▶ requires the Utah Communications Authority to report to the Legislative Executive Appropriations Committee before issuing bonds;
- ▶ makes the Utah Communications Authority Board and committee members subject to the Utah Public Officers' and Employees' Ethics Act;
- ▶ clarifies that the Utah Communications Authority is subject to the Utah Procurement Code; and
- ▶ requires the Utah Communications Authority to establish human resource guidelines substantially similar to those that apply to state government.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63H-7a-203, as renumbered and amended by Laws of Utah 2015, Chapter 411
 63H-7a-204, as renumbered and amended by Laws of Utah 2015, Chapter 411
 63H-7a-205, as renumbered and amended by Laws of Utah 2015, Chapter 411

63H-7a-206, as enacted by Laws of Utah 2015, Chapter 450 and last amended by Coordination Clause, Laws of Utah 2015, Chapter 450
 63H-7a-302, as renumbered and amended by Laws of Utah 2015, Chapter 411
 63H-7a-307, as renumbered and amended by Laws of Utah 2015, Chapter 411
 63H-7a-402, as enacted by Laws of Utah 2015, Chapter 411
 63H-7a-403, as enacted by Laws of Utah 2015, Chapter 411
 63H-7a-405, as enacted by Laws of Utah 2015, Chapter 411
 63H-7a-502, as enacted by Laws of Utah 2015, Chapter 411
 63H-7a-504, as enacted by Laws of Utah 2015, Chapter 411
 63H-7a-701, as renumbered and amended by Laws of Utah 2015, Chapter 411
 63H-7a-803, as renumbered and amended by Laws of Utah 2015, Chapter 411

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

Section 1. Section 63H-7a-203 is amended to read:

63H-7a-203. Board established -- Terms -- Vacancies.

(1) There is created the "Utah Communications Authority Board."

(2) The board shall consist of the following individuals, who may not be employed by the authority or any office or division of the authority:

(a) the member representatives elected as follows:

(i) one representative elected from each county of the first and second class, who:

(A) is in law enforcement, fire service, or a public safety answering point; and

(B) has a leadership position with public safety communication experience;

(ii) one representative elected from each of the seven associations of government who:

(A) is in law enforcement, fire service, or a public safety answering point; and

(B) has a leadership position with public safety communication experience;

(iii) one representative of the Native American tribes elected by the representative of tribal governments listed in Subsection 9-9-104.5(2);

(iv) one representative elected by the Utah National Guard;

(v) one representative elected by an association that represents fire chiefs;

(vi) one representative elected by an association that represents sheriffs;

(vii) one representative elected by an association that represents chiefs of police; and

(viii) one member elected by the 911 Advisory Committee created in Section 63H-7a-307; ~~and~~

(b) seven state representatives appointed in accordance with Subsection (3)[-]; and

(c) two members of the public selected as follows:

(i) one member who:

(A) may not have financial ties to a provider of telecommunication services;

(B) may not have a relationship to a user of public safety telecommunications services; and

(C) is selected by the speaker of the House of Representatives; and

(ii) one member who:

(A) may not have financial ties to a provider of telecommunication services;

(B) may not have a relationship to a user of public safety telecommunications services; and

(C) is selected by the president of the Senate.

(3) (a) (i) Six of the state representatives shall be appointed by the governor, with two of the positions having an initial term of two years, two having an initial term of three years, and ~~one~~ two having an initial term of four years.

(ii) Successor state representatives shall each serve for a term of four years.

(iii) The six governor-appointed state representatives shall consist of:

(A) the executive director of the Utah Department of Transportation or the director's designee;

(B) the commissioner of public safety or the commissioner's designee;

(C) the executive director of the Department of Natural Resources or the director's designee;

(D) the executive director of the Department of Corrections or the director's designee;

(E) the chief information officer of the Department of Technology Services, or the officer's designee; and

(F) the executive director of the Department of Health or the director's designee.

(b) The seventh state representative shall be the Utah State Treasurer or the treasurer's designee.

(c) A vacancy on the board for a state representative shall be filled for the unexpired term by the director of the department or the director's designee as described in Subsection (3)(a)(iii).

(d) An employee of the authority may not be a member of the board.

(4) (a) (i) One-half of the positions for member representatives selected under Subsection (2) shall have an initial term of two years and one-half of the positions shall have an initial term of four years.

(ii) Successor member representatives of the board shall each serve for a term of four years, so that the term of office for six of the member representatives expires every two years.

(b) The member representatives of the board shall be removable, with or without cause, by the entity that selected the member. A vacancy on the board for a member representative shall be filled for the unexpired term by the entity the member represents.

~~[(5) The board shall elect annually one of its members as chair.]~~

(5) (a) The governor shall, in accordance with Subsection (5)(b) and after consultation with the board, appoint the chair of the board with the consent of the Senate. The chair shall serve a two-year term and the appointment as chair will automatically extend the term of the board member to coincide with the appointment as chair.

(b) The governor shall make the initial selection of a chair from one of the members described in Subsection (2). After the initial selection of a chair, the governor shall alternate the selection of the chair between a local member described in Subsection (2)(a) and a state member described in Subsection (2)(b).

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

(6) The board shall meet on an as-needed basis and as provided in the bylaws.

(7) The board shall also elect a vice chair, secretary, and treasurer to perform those functions provided in the bylaws.

(a) The vice chair shall be a member of the board.

(b) The secretary and treasurer need not be members of the board, but shall not have voting powers if they are not members of the board.

(c) The offices of chair, vice chair, secretary, and treasurer shall be held by separate individuals.

(8) Each member representative and state representative shall have one vote, including the chair, at all meetings of the board.

(9) A constitutional majority of the members of the board constitutes a quorum. A vote of a majority of the quorum at any meeting of the board is necessary to take action on behalf of the board.

(10) A board member may not receive compensation for the member's service on the board, but may, in accordance with administrative rules adopted by the board, receive:

(a) a per diem at the rate established under Section 63A-3-106; and

(b) travel expenses at the rate established under Section 63A-3-107.

Section 2. Section 63H-7a-204 is amended to read:

63H-7a-204. Board -- Powers and duties.

The board shall:

(1) manage the affairs and business of the authority consistent with this chapter including adopting bylaws by a majority vote of its members;

(2) appoint an executive director to administer the authority;

(3) receive and act upon reports covering the operations of the public safety communications network and funds administered by the authority;

(4) ensure that the public safety communications network and funds are administered according to law;

(5) examine and approve an annual operating budget for the authority;

(6) receive and act upon recommendations of the ~~chair~~ director;

(7) recommend to the governor and Legislature any necessary or desirable changes in the statutes governing the public safety communications network;

(8) develop broad policies for the long-term operation of the authority for the performance of its functions;

(9) make and execute contracts and other instruments on behalf of the authority, including agreements with members and other entities;

(10) authorize the borrowing of money, the incurring of indebtedness, and the issuance of bonds as provided in this chapter;

(11) adopt rules consistent with this chapter and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the management of the public safety communications network in order to carry out the purposes of this chapter, and perform all other acts necessary for the administration of the public safety communications network;

(12) exercise the powers and perform the duties conferred on it by this chapter;

(13) provide for audits of the authority;

(14) establish the following divisions within the authority:

(a) 911 Division;

(b) Radio Network Division;

(c) Interoperability Division; and

(d) Administrative Services Division;

(15) establish a 911 advisory committee to the 911 Division in accordance with Section 63H-7a-307;

(16) establish one or more advisory committees to the Radio Network Division in accordance with Section 63H-7a-405; ~~and~~

(17) establish one or more advisory committees to the Interoperability Division in accordance with Section 63H-7a-504[-];

(18) create, maintain and review annually a comprehensive multi-year strategic plan in consultation with state and local stakeholders, the 911 Advisory Committee created under Section 63H-7a-307, the Radio Network Advisory Committee created under Section 63H-7a-405, and the Interoperability Advisory Committee created under Section 63H-7a-504 that:

(a) coordinates the authority's activities and duties in the:

(i) 911 Division;

(ii) Radio Network Division;

(iii) Interoperability Division; and

(iv) Administrative Services Division; and

(b) includes a plan for:

(i) the communications network;

(ii) developing new systems;

(iii) expanding existing systems, including microwave and fiber optics based systems;

(iv) statewide interoperability;

(v) statewide coordination; and

(vi) FirstNet standards; and

(c) the board updates each year;

(19) each year, after the board submits the strategic plan described in Subsection (18) to the Legislature, issue a request for proposals if a request for proposals is necessary to carry out the strategic plan; and

(20) on or before November 30, 2016, and on or before each November 30 thereafter, submit the state's strategic plan to the Executive Offices and Criminal Justice Appropriations Subcommittee and the Legislative Management Committee.

Section 3. Section 63H-7a-205 is amended to read:

63H-7a-205. Executive director -- Appointment -- Powers and duties.

The executive director shall:

(1) (a) serve at the pleasure of the board; and

(b) act as the executive officer of the authority;

(2) administer the various acts, systems, plans, programs, and functions assigned to the office;

(3) recommend administrative rules and policies to the board, which are within the authority granted by this title for the administration of the authority;

(4) recommend to the board any changes in the statutes affecting the authority;

(5) recommend to the board an annual administrative budget covering administration, management, and operations of the public safety communications network and, upon approval of the board, direct and control the subsequent expenditures of the budget;

(6) within the limitations of the budget, employ staff personnel, consultants, a financial officer, and legal counsel to provide professional services and advice regarding the administration of the authority; and

(7) submit an annual report, on or before November 1 of each year, to the Executive Offices and Criminal Justice Appropriations Subcommittee and the Legislative Management Committee, which shall be available to the public and shall include:

(a) the total aggregate surcharge collected by local entities in the state in the last fiscal year under Sections 69-2-5 and 69-2-5.6;

(b) the amount of each disbursement from the restricted accounts;

(c) the recipient of each disbursement, or goods and services received, describing the project for which money was disbursed, or goods and services provided;

(d) the conditions, if any, placed by a division, the authority, the executive director, or the board on the disbursements from a restricted account;

(e) the anticipated expenditures from the restricted accounts for the next fiscal year;

(f) the amount of any unexpended funds carried forward;

(g) the goals for implementation of the authority strategic plan and the progress report of accomplishments and updates to the plan, and a progress report of implementation of statewide 911 emergency services, including:

(i) fund balance or balance sheet from the emergency telephone service fund of each agency that has imposed a levy under Section 69-2-5;

(ii) a report from each public safety answering point of annual call activity separating wireless and land-based 911 call volumes; and

(iii) other relevant justification for ongoing support from the restricted accounts created by Sections 63H-7a-303, 63H-7a-304, and 63H-7a-403; and

(h) the anticipated expenditures from the restricted accounts.

Section 4. Section 63H-7a-206 is amended to read:

63H-7a-206. Functional consolidation of PSAPs study -- Creation of statewide strategic plan.

(1) As used in this section:

(a) "Functional consolidation" means the process of ensuring that disparate public safety answering points and public safety dispatching centers work together in an efficient and effective way.

(b) "PSAP operator":

(i) means a public agency that operates a PSAP; and

(ii) does not include an institution of higher education, a school district, or an airport authority that operates a PSAP.

(2) Beginning on or after July 1, 2015, the board shall commission and oversee a performance audit and study of the state's 911 emergency response system and related elements of the public safety communications network, which shall include:

(a) a review of statutory provisions and efforts of the authority, executive director, Utah 911 Division, and Interoperability Division regarding the assessment, planning, rules, technology review, and standardization of the state's 911 emergency response system and related elements of the public safety communications network;

(b) working with state and local stakeholders to determine potential cost savings and increases in quality and efficiency that may be achieved by the functional consolidation of PSAPs and dispatch centers throughout the state, including recommendations regarding:

(i) an efficient and effective public safety communications management structure to ensure that high quality 911 emergency services are available to the state's citizens;

(ii) common standard operating procedures that ensure the least amount of call processing time;

(iii) efficient methods to transfer calls between PSAPs and from a PSAP to a first responder, regardless of jurisdiction;

(iv) uniformity of equipment and software protocols to accomplish seamless functionality between computer aided dispatch systems;

(v) interoperable telephonic and radio systems to ensure coordination between jurisdictions; and

(vi) how unnecessary duplication of services may be reduced or eliminated;

(c) making recommendations for inclusion in the comprehensive strategic plan required by Subsection 63H-7a-204(18), which recommendations shall include for the state's 911 emergency response system and related elements of the public safety communications network~~[, which recommendations may include]:~~

(i) ~~[how PSAPs may]~~ whether the state's 911 emergency response system would benefit from functional consolidation of PSAPs;

(ii) how PSAPs within designated regions may accept calls and provide emergency communication services for first responders using interoperable equipment, software, protocols, and standard operating procedures; and

(iii) how PSAPs, regardless of physical location, may operate on interoperable, shared, or hosted technology platforms and with common policies to reduce the need to transfer calls between PSAPs;

(d) describing and recommending potential solutions to the biggest impediments to functional consolidation of PSAPs; and

(e) making recommendations regarding necessary personnel and associated job duties within the authority.

(3) On or before July 1, 2016, the performance audit and study described in Subsection (2) shall be completed and submitted by the board in writing to the Law Enforcement and Criminal Justice Interim Committee and the Retirement and Independent Entities Interim Committee.

(4) (a) Money from the Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304 may not be used to fund a new local PSAP, call taking, or dispatching project before the completion of the performance audit and study described in Subsection (2), unless the board determines that an exigent circumstance requires the allocation of funds.

(b) Money from the Unified Statewide 911 Emergency Service Account may be used to fund ongoing maintenance of existing equipment and projects approved before July 1, 2015.

(5) After July 1, 2016, money spent from the Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304 for projects, including state and local PSAP and dispatching projects, shall be made after consideration of the:

(a) recommendations of the performance audit and study described in Subsection (2); and

(b) comprehensive strategic plan for the state's network 911 emergency response system and related elements of the public safety communications network described in Subsection [(2)(e)] 63H-7a-204(18).

Section 5. Section 63H-7a-302 is amended to read:

63H-7a-302. 911 Division duties and powers.

(1) The 911 Division shall:

(a) review and make recommendations to the executive director:

(i) regarding:

(A) technical, administrative, fiscal, network, and operational standards for the implementation of unified statewide 911 emergency services;

(B) emerging technology; and

(C) expenditures from the restricted accounts created in Section 69-2-5.6 by the 911 Division on behalf of local public safety answering points in the state, with an emphasis on efficiencies and coordination in a regional manner;

(ii) to assure implementation of a unified statewide 911 emergency services network;

(iii) to establish standards of operation throughout the state; and

(iv) regarding mapping systems and technology necessary to implement the unified statewide 911 emergency services;

(b) prepare and submit to the executive director for approval by the board:

(i) an annual budget for the 911 Division; [and]

(ii) an annual plan for the programs funded by the Computer Aided Dispatch Restricted Account created in Section 63H-7a-303 and the Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304; and

(iii) information required by the director to contribute to the comprehensive strategic plan described in Subsection 63H-7a-204(18);

(c) assist local Utah public safety answering points with the implementation and coordination of the 911 Division responsibilities as approved by the executive director and the board;

(d) reimburse the state's Automated Geographic Reference Center in the Division of Integrated Technology of the Department of Technology Services, an amount equal to 1 cent per month levied on telecommunications service under Section 69-2-5.6 to enhance and upgrade digital mapping standards for unified statewide 911 emergency service as required by the division; and

(e) fulfill all other duties imposed on the 911 Division by this chapter.

(2) The 911 Division may recommend to the executive director to sell, lease, or otherwise dispose of equipment or personal property purchased, leased, or belonging to the authority that is related to funds expended from the restricted account created in Sections 69-2-5.5 and 69-2-5.6, the proceeds from which shall return to the respective restricted accounts.

(3) The 911 Division may make recommendations to the executive director to own, operate, or enter into contracts for the use of the funds expended from the restricted account created in Section 69-2-5.5.

(4) (a) The 911 Division shall review information regarding:

(i) in aggregate, the number of service subscribers by service type in a political subdivision;

(ii) network costs;

(iii) public safety answering point costs;

(iv) system engineering information; and

(v) a computer aided dispatch system.

(b) In accordance with Subsection (4)(a) the 911 Division may request:

(i) information as described in Subsection (4)(a)(i) from the [Utah] State Tax Commission; and

(ii) information from public safety answering points related to the computer aided dispatch system.

(c) The information requested by and provided to the 911 Division under Subsection (4) is a protected record in accordance with Section 63G-2-305.

(5) The 911 Division shall recommend to the executive director, for approval by the board, rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) administer the program funded by the Unified Statewide 911 Emergency Service restricted account created in Section 63H-7a-304, including rules that establish the criteria, standards, technology, and equipment that a public safety answering point in Utah must adopt in order to qualify for goods or services that are funded from the restricted account; and

(b) administer the Computer Aided Dispatch Restricted Account created in Section 63H-7a-303, including rules that establish the criteria, standards, technology, and equipment that a public safety answering point must adopt in order to qualify as a recipient of goods or services that are funded from the restricted account.

(6) The board may authorize the 911 Division to employ an outside consultant to study and advise the division on matters related to the 911 Division duties regarding the public safety communications network.

(7) This section does not expand the authority of the [Utah] State Tax Commission to request additional information from a telecommunication service provider.

Section 6. Section 63H-7a-307 is amended to read:

63H-7a-307. 911 Advisory Committee -- Membership -- Duties.

(1) There is created within the 911 Division the 911 Advisory Committee consisting of the following members:

(a) one representative from a primary public safety answering point from each county of the first and second class;

(b) one representative from a primary public safety answering point representing each of the following:

- (i) Bear River Association;
- (ii) Uintah Basin Association;
- (iii) South East Association;
- (iv) Six County Association;
- (v) Five County Association;
- (vi) Mountainlands Association; and
- (vii) Wasatch Front Regional Council; ~~and~~

(c) one representative from the Department of Public Safety who represents a Utah public safety answering point[-]; and

(d) representatives from providers, as described in Subsection (3).

(2) ~~[(a)]~~ Each advisory committee member shall be appointed as follows:

~~[(i)]~~ (a) a member described in Subsection (1)(a) shall be appointed by the board from a nominee or nominees submitted to the board by the council of government for that member's county;

~~[(ii)]~~ (b) the seven members described in Subsection (1)(b) shall be appointed by the board from a nominee or nominees submitted to the board by the associations described in Subsection (1)(b); ~~[and]~~

~~[(iii)]~~ (c) the member described in Subsection (1)(c) shall be appointed by the board based on the nomination from the public safety commissioner[-]; and

(d) the members described in Subsection (1)(d) shall be appointed by the board, as provided in Subsection (3) and rules adopted by the board.

~~[(b) The term of office of each member is four years.]~~

~~[(e) Each mid-term vacancy shall be filled for the unexpired term in the same manner as an appointment under Subsection (2)(a).]~~

~~[(3) (a) The 911 Advisory Committee members shall annually elect a chair for the advisory committee by selecting from the members described in Subsections (1)(a) through (e).]~~

~~[(b) Staff and contracting services to the advisory committee shall be provided by the 911 Division.]~~

~~[(c) Funding for staff and contracting services shall be provided with funds approved by the board from those identified under Section 63H-7a-304.]~~

~~[(4) (a) No advisory committee member may receive compensation or benefits for the member's service on the advisory committee.]~~

~~[(b) A member is not required to give bond for the performance of official duties.]~~

~~[(5) A majority of the advisory committee constitutes a quorum for voting purposes.]~~

~~[(6) An advisory committee member can be removed from the advisory committee by the board based on rules adopted by the board.]~~

~~[(7) The advisory committee shall:]~~

~~[(a) provide input and guidance to the 911 Division concerning the public safety communications network;]~~

~~[(b) advise the 911 Division regarding standards related to the public safety communications network;]~~

~~[(c) review and make recommendations for the 911 Division's strategic plan;]~~

~~[(d) provide information and evaluate industry trends related to the 911 Division's responsibilities;]~~

~~[(e) advise the 911 Division regarding professional development; and]~~

~~[(f) make recommendations to the 911 Division regarding the development of cooperative partnerships.]~~

(3) The board shall appoint three or more members to the advisory committee under Subsection (1)(d) who demonstrate a knowledge of highly technical communications network systems, including one or more of the following:

- (a) the operation of the systems;
- (b) the technical specifications of the systems components;
- (c) experience with communication network planning, including the development of new systems and expansion of existing systems;
- (d) knowledge of microwave and fiber optics based communications systems and how the communications systems integrate across carrier circuits;

(e) a strong understanding of the 911 system; and
(f) experience with level of service agreements for telecommunications.

(4) (a) The term for each advisory committee member is four years. Each mid-term vacancy shall be filled for the unexpired term in the same manner as an appointment under Subsection (2).

(b) Staff and contracting services to the advisory committee shall be provided by the 911 Division.

(c) Funding for staff and contracting services shall be provided with funds approved by the board from those identified under Section 63H-7a-304.

(d) No advisory committee member may receive compensation or benefits for the member's service on the advisory committee and a member is not required to give bond for the performance of the member's official duties.

(e) A majority of the advisory committee constitutes a quorum for voting purposes.

(f) An advisory committee member may be removed from the advisory committee by the board based on rules adopted by the board.

(5) (a) The advisory committee shall elect co-chairs from the membership of the advisory committee as follows:

(i) one co-chair shall represent the PSAP users; and

(ii) one co-chair shall represent the providers under Subsection (1)(d).

(b) The co-chairs shall report to the board on a regular basis.

(6) The advisory committee shall:

(a) provide input and guidance to the 911 Division concerning the public safety communications network;

(b) advise the 911 Division regarding standards related to the public safety communications network;

(c) review and make recommendations for the 911 Division's strategic plan;

(d) provide information and evaluate industry trends related to the 911 Division responsibilities;

(e) advise the 911 Division regarding professional development;

(f) make recommendations to the 911 Division regarding the development of cooperative partnerships; and

(g) make recommendations to the board in accordance with Subsection 63H-7a-204(18).

Section 7. Section 63H-7a-402 is amended to read:

63H-7a-402. Radio Network Division duties.

(1) The Radio Network Division shall:

(a) provide and maintain the public safety communications network for state and local government agencies within the authority network, including the existing VHF and 800 MHz networks, in a manner that:

(i) promotes high quality, cost effective service;

(ii) evaluates the benefits, cost, existing facilities, equipment, and services of public and private providers; and

(iii) where economically feasible, utilizes existing infrastructure to avoid duplication of facilities, equipment, and services of providers of communication services;

(b) prepare and submit to the executive director for approval by the board:

(i) an annual budget for the Radio Network Division; ~~and~~

(ii) an annual plan for the program funded by the Utah Statewide Radio System Restricted Account created in Section 63H-7a-403; and

(iii) information required by the director to contribute to the comprehensive strategic plan described in Subsection 63H-7a-204(18);

~~[(e) conduct bi-monthly meetings;]~~

~~[(i) including:]~~

~~[(A) if retained, a consultant assisting with the design and development of a public safety radio network;]~~

~~[(B) all private and public vendors; and]~~

~~[(C) all public safety radio users;]~~

~~[(ii) for the purpose of discussing public safety radio network emerging technologies; and]~~

~~[(iii) for which minutes shall be made available to the public;]~~

~~[(d)]~~ (c) recommend to the executive director administrative rules for approval by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the program funded by the restricted account created in Section 63H-7a-403, including rules that establish the criteria, standards, technology, equipment, and

services that will qualify for goods or services that are funded from the restricted accounts; and

[~~(e)~~] (d) fulfill other duties assigned to the Radio Network Division under this chapter.

(2) The Radio Network Division may:

(a) recommend to the executive director to sell, lease, or otherwise dispose of equipment or personal property purchased, leased, or belonging to the authority that is related to the public safety communications network;

(b) recommend to the executive director to own, operate, or enter into contracts for the public safety communications network;

(c) review information regarding:

(i) in aggregate, the number of radio service subscribers by service type in a political subdivision; and

(ii) matters related to the public safety communications network;

(d) in accordance with Subsection (2)(c), request information from:

(i) local and state entities; and

(ii) public safety agencies; and

(e) employ outside consultants to study and advise the division on issues related to:

(i) the public safety communications network;

(ii) radio technologies and services;

(iii) microwave connectivity;

(iv) fiber connectivity; and

(v) public safety communication network connectivity and usage.

(3) The information requested by and provided to the Radio Network Division under Subsections (2)(c) and (d) is a protected record in accordance with Section 63G-2-305.

(4) This section does not expand the authority of the State Tax Commission to request additional information from a telecommunication service provider.

Section 8. Section 63H-7a-403 is amended to read:

63H-7a-403. Creation of Utah Statewide Radio System Restricted Account -- Administration -- Use of money.

(1) There is created a restricted account within the General Fund known as the "Utah Statewide Radio System Restricted Account," consisting of:

(a) money appropriated or otherwise made available by the Legislature; and

(b) contributions of money from federal agencies, political subdivisions of the state, persons, or corporations.

(2) The money in this restricted account shall be used exclusively for the statewide purpose of acquiring, constructing, operating, maintaining, and repairing a statewide radio system public safety communications network as authorized in Section 63H-7a-202, including:

(a) a public safety communications network and related facilities, real property, improvements, and equipment necessary for the acquisition, construction, and operation of services and facilities;

(b) installation, implementation, and maintenance of the public safety communications network;

(c) maintaining the VHF and 800 MHz radio networks; and

(d) an operating budget to include personnel costs not otherwise covered by funds from another account.

(3) (a) Subject to appropriation, the Administrative Services Division, created in Section 63H-7a-601 may charge the administrative costs incurred in discharging the responsibilities imposed by this section.

(b) Subject to an annual legislative appropriation from the restricted account to the Administrative Services Division, the Administrative Services Division shall disburse the money in the fund, based on the authorization of the board and the Radio Network Division under Subsection 63H-7a-402(1)[~~(e)~~](d).

Section 9. Section 63H-7a-405 is amended to read:

63H-7a-405. Radio network advisory committees.

[~~(1) (a) The Radio Network Division may request the executive director to ask the board to establish one or more technical advisory committees in accordance with this section.~~]

[~~(b) If approved by the board under Subsection (1), the board may appoint any combination of the following as members of the advisory committee:]~~

[~~(i) local government officials;]~~

[~~(ii) consumers;]~~

[~~(iii) 911 public safety answering point personnel;]~~

[~~(iv) law enforcement personnel;]~~

[~~(v) firefighting personnel;]~~

[~~(vi) emergency medical services personnel;]~~

[~~(vii) emergency management personnel;]~~

[~~(viii) information technology personnel and radio technicians; and]~~

[~~(ix) other representatives selected by the board.]~~

[~~(2) (a) The Radio Network Advisory Committee shall annually elect a chair for the advisory committee by selecting from members described in Subsections (1)(b)(i) through (viii).]~~

(1) (a) There is created within the Radio Network Division, the Radio Network Advisory Committee composed of public safety radio system users and providers appointed by the board in accordance with this section.

(b) The board shall select at least ten members of the advisory committee:

(i) no more than one of whom may be from the same company; and

(ii) who represent a balance between users of public safety radio systems and providers of public safety radio systems and who meet the requirements of Subsection (2).

(2) The board shall appoint members to the advisory committee described in Subsection (1)(b) who demonstrate a knowledge of highly technical communications network systems, including one or more of the following:

(a) the operation of the systems;

(b) the technical specifications of the systems components;

(c) experience with communication network planning, including the development of new systems and expansion of existing systems;

(d) knowledge of microwave and fiber optics based communications systems and how the communications systems integrate across carrier circuits;

(e) a strong understanding of the public safety radio systems; and

(f) experience with level of service agreements for telecommunications.

(3) The term for each committee members is four years. Each mid-term vacancy shall be filled for the unexpired term in the same manner as an appointment under Subsection (2).

[4b] (4) (a) Staff and contracting services to the advisory committee shall be provided by the Radio Network Division.

[4e] (b) Funding for staff and contracting services shall be provided with funds approved by the board from those identified under Section 63H-7a-403.

[43] (5) An advisory committee member:

(a) shall not receive compensation or benefits for the member's service on the advisory committee;

(b) is not required to give bond for the performance of official duties; and

(c) can be removed from the advisory committee by the board based on rules adopted by the board.

[44] (6) A majority of the advisory committee constitutes a quorum for voting purposes.

(7) (a) The advisory committee shall elect co-chairs from the membership of the committee as follows:

(i) one shall represent public safety radio system users; and

(ii) one shall represent providers.

(b) The co-chairs shall report to the board on a regular basis.

[45] (8) The advisory committee shall:

(a) provide input and guidance to the Radio Network Division concerning the public safety communications network;

(b) advise the Radio Network Division regarding standards related to the public safety communications network;

(c) review and make recommendations for the Radio Network Division's strategic plan;

(d) provide information and evaluate industry trends related to the Radio Network Division's responsibilities;

(e) advise the Radio Network Division regarding professional development; ~~and~~

(f) make recommendations regarding the development of cooperative partnerships[-]; and

(g) make recommendations to the board in accordance with Subsection 63H-7a-204(18).

Section 10. Section 63H-7a-502 is amended to read:

63H-7a-502. Interoperability Division duties.

(1) The Interoperability Division shall:

(a) review and make recommendations to the executive director, for approval by the board, regarding:

(i) statewide interoperability coordination and FirstNet standards;

(ii) technical, administrative, fiscal, technological, network, and operational issues for the implementation of statewide interoperability, coordination, and FirstNet;

(iii) assisting local agencies with the implementation and coordination of the Interoperability Division responsibilities; and

(iv) training for the public safety communications network and unified statewide 911 emergency services;

(b) review information and records regarding:

(i) aggregate information of the number of service subscribers by service type in a political subdivision;

(ii) matters related to statewide interoperability coordination;

(iii) matters related to FirstNet including advising the governor regarding FirstNet; and

(iv) training needs;

(c) prepare and submit to the executive director for approval by the board:

(i) an annual plan for the Interoperability Division; and

(ii) information required by the director to contribute to the comprehensive strategic plan described in Subsection 63H-7a-204(18); and

(d) fulfill all other duties imposed on the Interoperability Division by this chapter.

(2) The Interoperability Division may:

(a) recommend to the executive director to own, operate, or enter into contracts related to statewide interoperability, FirstNet, and training;

(b) request information needed under Subsection (1)(b)(i) from:

(i) the State Tax Commission; and

(ii) public safety agencies;

(c) employ an outside consultant to study and advise the Interoperability Division on:

(i) issues of statewide interoperability;

(ii) FirstNet; and

(iii) training; and

(d) request the board to appoint an advisory committee in accordance with Section 63H-7a-504.

(3) The information requested by and provided to the Interoperability Division under Subsection (1)(b)(i) is a protected record in accordance with Section 63G-2-305.

(4) This section does not expand the authority of the State Tax Commission to request additional information from a telecommunication service provider.

Section 11. Section 63H-7a-504 is amended to read:

63H-7a-504. Interoperability advisory committees.

~~[(1) (a) The Interoperability Division may request the board to establish one or more temporary advisory committees in accordance with this section.]~~

~~[(b) If approved by the board under Subsection (1)(a), the board may appoint any combination of the following as members of the advisory committee:]~~

~~[(i) local government officials;]~~

~~[(ii) consumers;]~~

~~[(iii) 911 public safety answering point personnel;]~~

~~[(iv) law enforcement personnel;]~~

~~[(v) firefighting personnel;]~~

~~[(vi) emergency medical services personnel;]~~

~~[(vii) emergency management personnel;]~~

~~[(viii) information technology personnel and radio technicians; and]~~

~~[(ix) other representatives selected by the board. (e)]~~

~~(1) (a) There is created within the Interoperability Division, the Interoperability Advisory Committee composed of public safety communications network users and providers appointed by the board in accordance with this section.~~

~~(b) The board shall appoint a minimum of ten members to the advisory committee:~~

~~(i) no more than one of whom may be from the same company; and~~

~~(ii) who represent a balance between public safety communications network users and providers and who meet the requirements of Subsection (2).~~

~~(2) The board shall appoint members to the advisory committee described in Subsection (1)(b) who demonstrate a knowledge of highly technical communications network systems including one or more of the following:~~

~~(a) the operation of the systems;~~

~~(b) the technical specifications of the systems components;~~

~~(c) experience with communication network planning, including the development of new systems and expansion of existing systems;~~

~~(d) knowledge of microwave and fiber optics based communications systems and how the communications systems integrate across carrier circuits;~~

~~(e) a strong understanding of the public safety communications network; and~~

~~(f) experience with level of service agreements for telecommunications.~~

~~(3) The term for each advisory committee member is four years. Each mid-term vacancy shall be filled for the unexpired term in the same manner as an appointment under Subsection (1)(b).~~

~~(4) A member appointed to an advisory committee:~~

~~[(i)] (a) shall not receive compensation or benefits for the member's service on the advisory committee;~~

~~[(ii)] (b) is not required to give bond for the performance of official duties; and~~

~~[(iii)] (c) can be removed from the advisory committee by the board based on rules adopted by the board.~~

~~[(2) (a) The Interoperability Advisory Committee shall annually elect a chair for the advisory committee by selecting from the members described in Subsections (1)(b)(i) through (viii).]~~

~~[(b)] (5) Staff and contracting services to the advisory committee shall be provided by the Interoperability Division.~~

[4e)] (6) Funding for staff and contracting services shall be provided with funds approved by the board from those identified under Section 63H-7a-602.

[43)] (7) A majority of the advisory committee constitutes a quorum for voting purposes.

(8) (a) The advisory committee shall elect co-chairs from the membership of the committee as follows:

(i) one shall represent public safety communications network users; and

(ii) one shall represent providers.

(b) The co-chairs shall report to the board on a regular basis.

[44)] (9) The advisory committee shall:

(a) provide input and guidance to the Interoperability Division concerning the public safety communications network;

(b) advise the Interoperability Division regarding standards related to the public safety communications network;

(c) review and make recommendations for the Interoperability Division's strategic plan;

(d) provide information and evaluate industry trends related to the Interoperability Division's responsibilities;

(e) advise the Interoperability Division regarding professional development; [and]

(f) make recommendations regarding the development of cooperative partnerships[-]; and

(g) make recommendations to the board in accordance with Subsection 63H-7a-204(18).

Section 12. Section 63H-7a-701 is amended to read:

63H-7a-701. Bond authorized -- Payment -- Security -- Liability -- Purpose -- Exemption from certain taxes.

(1) (a) The authority shall report its intent to issue bonds under this part to the Legislature's Executive Appropriations Committee prior to the board adopting a resolution to issue a bond under Subsection 63H-7a-702.

(b) The Legislature's Executive Appropriations Committee may, but is not required to, advise the board regarding the Executive Appropriations Committee's determination that:

(i) issuing a bond is necessary to carry out the duties and operation of the authority, and the state's strategic plan adopted under Subsection 63H-7a-204(18); or

(ii) issuing a bond is:

(A) not necessary to carry out the duties and operation of the authority, and the state's strategic plan adopted under Subsection 63H-7a-204(18); or

(B) not appropriate based on some other reason decided by the Executive Appropriations Committee.

[4)] (2) The authority may:

(a) issue bonds from time to time for any of its corporate purposes provided in Section 63H-7a-102;

(b) issue refunding bonds for the purpose of paying or retiring bonds previously issued by it;

(c) issue bonds on which the principal and interest are payable:

(i) exclusively from the income, purchase or lease payments, and revenues of all or a portion of the public safety communications network; or

(ii) from its revenues generally.

[2)] (3) Any bonds issued by the authority may be additionally secured by a pledge of any loan, lease, grant, agreement, or contribution, in whole or in part, from the federal government or other source, or a pledge of any income or revenue of the authority.

[3)] (4) The officers of the authority and any person executing the bonds are not liable personally on the bonds.

[4)] (5) (a) The bonds and other obligations of the authority are not a debt of any member or state representative of the authority, and do not constitute indebtedness for purposes of any constitutional or statutory debt limitation or restrictions.

(b) The face of the bonds and other obligations shall state the provisions of Subsection [44)] (5)(a).

[5)] (6) Any bonds of the authority shall be revenue obligations, payable solely from the proceeds, revenues, or purchase and lease payments received by the authority for the public safety communications network.

[6)] (7) The full faith and credit of any member or state representative may not be pledged directly or indirectly for the payment of the bonds.

[7)] (8) A member or state representative may not incur any pecuniary liability under this chapter until it enters into a service contract, lease, or other financing obligation with the authority. Once a member enters into a service contract, lease, or other financing obligation with the authority, the member shall be obligated to the authority as provided in that contract, lease, or financing obligation.

[8)] (9) A bond or obligation may not be made payable out of any funds or properties other than those of the authority.

[9)] (10) Bonds of the authority are:

(a) declared to be issued for an essential public and governmental purpose by public instrumentalities; and

(b) together with interest and income, exempt from all taxes, except the corporate franchise tax.

~~[(10)]~~ (11) The provisions of this chapter exempting the properties of the authority and its bonds and interest and income on them from taxation shall be considered part of the contract for the security of bonds and have the force of contract, by virtue of this part and without the necessity of this being restated in the bonds, between the bondholders, including all transferees of the bonds, the authority and the state.

Section 13. Section 63H-7a-803 is amended to read:

63H-7a-803. Relation to certain acts -- Participation in Risk Management Fund.

(1) The Utah Communications Authority is exempt from:

~~[(a) Title 63J, Chapter 1, Budgetary Procedures Act;]~~

~~[(b)]~~ (a) Title 63A, Utah Administrative Services Code, except as provided in Section 63A-4-205.5;

~~[(c) Title 63G, Chapter 6a, Utah Procurement Code, however, the authority shall adopt and follow an open and transparent purchasing policy which shall be published on the authority website;]~~

~~[(d)]~~ (b) Title 63G, Chapter 4, Administrative Procedures Act; ~~[and]~~

(c) Title 63J, Chapter 1, Budgetary Procedures Act; and

~~[(e)]~~ (d) Title 67, Chapter 19, Utah State Personnel Management Act.

(2) (a) The board shall adopt budgetary procedures, accounting, ~~[procurement,]~~ and personnel and human resource policies substantially similar to those from which they have been exempted in Subsection (1).

(b) The authority, the board, and the committee members are subject to Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(c) The authority is subject to Title 52, Chapter 4, Open and Public Meetings Act.

(3) Subject to the requirements of Subsection 63E-1-304(2), the administration may participate in coverage under the Risk Management Fund created by Section 63A-4-201.

CHAPTER 124**H. B. 424**

Passed March 10, 2016
 Approved March 21, 2016
 Effective May 10, 2016

**COORDINATION OF HEALTH
 INSURANCE BENEFIT AMENDMENTS**

Chief Sponsor: Norman K Thurston
 Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill addresses payments to health care providers through coordination of benefits.

Highlighted Provisions:

This bill:

- ▶ requires a health care provider to return overpayments, with interest, to patients in certain circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

31A-26-301.5, as last amended by Laws of Utah 2001, Chapter 240

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

Section 1. Section 31A-26-301.5 is amended to read:

31A-26-301.5. Health care claims practices.

(1) Except as provided in Section 31A-8-407, an insured retains ultimate responsibility for paying for health care services the insured receives. If a service is covered by one or more individual or group health insurance policies, all insurers covering the insured have the responsibility to pay valid health care claims in a timely manner according to the terms and limits specified in the policies.

(2) (a) Except as provided in Section 31A-22-610.1, a health care provider may bill and collect for any deductible, copayment, or uncovered service.

(b) A health care provider may bill an insured for services covered by health insurance policies or may otherwise notify the insured of the expenses covered by the policies. However, a provider may not make any report to a credit bureau, use the services of a collection agency, or use methods other than routine billing or notification until the later of:

(i) the expiration of the time afforded to an insurer under Section 31A-26-301.6 to determine its obligation to pay or deny the claim without penalty; or

(ii) in the case of medicare beneficiaries or retirees 65 years of age or older, 60 days from the date medicare determines its liability for the claim.

(c) Beginning October 31, 1992, all insurers covering the insured shall notify the insured of

payment and the amount of payment made to the provider.

(d) A health care provider shall return to an insured any amount the insured overpaid, including interest that begins accruing 90 days after the date of the overpayment, if:

(i) the insured has multiple insurers with whom the health care provider has contracts that cover the insured; and

(ii) the health care provider becomes aware that the provider has received, for any reason, payment for a claim in an amount greater than the provider's contracted rate allows.

(3) The commissioner shall make rules consistent with this chapter governing disclosure to the insured of customary charges by health care providers on the explanation of benefits as part of the claims payment process. These rules shall be limited to the form and content of the disclosures on the explanation of benefits, and shall include:

(a) a requirement that the method of determination of any specifically referenced customary charges and the range of the customary charges be disclosed; and

(b) a prohibition against an implication that the provider is charging excessively if the provider is:

(i) a participating provider; and

(ii) prohibited from balance billing.

CHAPTER 125**S. B. 11**

Passed March 4, 2016

Approved March 21, 2016

Effective May 10, 2016

**CANCELLATION OF AUTO
INSURANCE COVERAGE**

Chief Sponsor: Wayne A. Harper

House Sponsor: Eric K. Hutchings

LONG TITLE**General Description:**

This bill prohibits automatic charges for, or reinstatement of, cancelled auto insurance policies.

Highlighted Provisions:

This bill:

- ▶ prohibits continued automatic charges after an insured person cancels a policy;
- ▶ prohibits reinstatement of a cancelled policy without the consent of the insured; and
- ▶ provides a penalty for insurers who violate this section.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

31A-22-322, Utah Code Annotated 1953

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

Section 1. Section 31A-22-322 is enacted to read:**31A-22-322. Improper administration of cancelled auto insurance coverage.**

(1) Upon cancellation by an insured of auto insurance coverage, the insurer shall discontinue any automatic payments and withdrawals related to the cancelled policy before the later of:

- (a) 15 days after the request for cancellation; or
- (b) 15 days after the effective date of the cancellation.

(2) After cancellation by an insured of auto insurance coverage, the insurer may not reinstate the cancelled policy without the express consent of the insured.

(3) After cancellation by an insured of auto insurance coverage, the insurer shall refund any funds collected by the insurer to which the insurer is not entitled, calculated according to the terms of the insurance policy, before the later of:

- (a) 30 days after the request for cancellation; or
- (b) 30 days after the effective date of the cancellation.

(4) The commissioner may order an insurer who violates this section to forfeit to the state not more than \$2,500 for each violation.

CHAPTER 126**S. B. 42**

Passed February 19, 2016

Approved March 21, 2016

Effective May 10, 2016

PUBLIC NOTICE OF COURT RECORDING

Chief Sponsor: Karen Mayne

House Sponsor: Jon E. Stanard

LONG TITLE**General Description:**

This bill requires that notice be given to the public when court proceedings are being recorded.

Highlighted Provisions:

This bill:

- ▶ requires the Judicial Council to direct courts to give notice to the public when court proceedings are being recorded.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78A-2-208, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

Section 1. Section 78A-2-208 is amended to read:**78A-2-208. Sittings of courts -- To be public -- Notice to public of recording -- Right to exclude in certain cases.**

(1) The sittings of every court of justice are public, except as provided in Subsections ~~[(2) and]~~ (3) and (4).

(2) The Judicial Council shall require that notice be given to the public that the proceedings are being recorded when an electronic or digital recording system is being used during court proceedings.

~~[(2)]~~ (3) The court may, in its discretion, during the examination of a witness exclude any and all other witnesses in the proceedings.

~~[(3)]~~ (4) In an action of divorce, criminal conversation, seduction, abortion, rape, or assault with intent to commit rape, the court may, in its discretion, exclude all persons who do not have a direct interest in the proceedings, except jurors, witnesses and officers of the court.

CHAPTER 127**S. B. 58**

Passed March 9, 2016

Approved March 21, 2016

Effective May 10, 2016

NURSE PRACTITIONER AMENDMENTS

Chief Sponsor: David P. Hinkins

House Sponsor: Justin L. Fawson

LONG TITLE**General Description:**

This bill allows an advanced practice registered nurse to prescribe a Schedule II controlled substance without a consultation and referral plan under certain circumstances.

Highlighted Provisions:

This bill:

- ▶ defines pain clinic for Title 58, Division of Occupational and Professional Licensing Act;
- ▶ allows an advanced practice registered nurse to prescribe a Schedule II controlled substance without a consultation and referral plan if the advanced practice registered nurse:
 - meets certain experience requirements;
 - consults the Controlled Substance Database; and
 - when treating an injured worker, follows prescribing for chronic pain guidelines developed by the Workers' Compensation System;
- ▶ prohibits an advanced practice registered nurse from establishing an independent pain clinic without a consultation and referral plan; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-55-102, as enacted by Laws of Utah 2014, Chapter 130

58-1-102, as last amended by Laws of Utah 2012, Chapter 362

58-31b-102, as last amended by Laws of Utah 2011, Chapter 366

58-31b-502, as last amended by Laws of Utah 2014, Chapter 72

58-31d-103, as last amended by Laws of Utah 2015, Chapter 258

ENACTS:

58-31b-803, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 26-55-102 is amended to read:****26-55-102. Definitions.**

As used in this chapter:

(1) "Health care facility" means a hospital, a hospice inpatient residence, a nursing facility, a dialysis treatment facility, an assisted living

residence, an entity that provides home- and community-based services, a hospice or home health care agency, or another facility that provides or contracts to provide health care services, which facility is licensed under Chapter 21, Health Care Facility Licensing and Inspection Act.

(2) "Health care provider" means:

- (a) a physician as defined in Section 58-67-102;
- (b) an advanced practice registered nurse as defined in [Subsection] Section 58-31b-102[(43)]; or
- (c) a physician assistant as defined in Section 58-70a-102.

(3) "Opiate" is as defined in Section 58-37-2.

(4) "Opiate antagonist" means naloxone hydrochloride or any similarly acting drug that is not a controlled substance and that is approved by the federal Food and Drug Administration for the treatment of a drug overdose.

(5) "Opiate-related drug overdose event" means an acute condition, including a decreased level of consciousness or respiratory depression resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance was combined, and that a person would reasonably believe to require medical assistance.

Section 2. Section 58-1-102 is amended to read:**58-1-102. Definitions.**

For purposes of this title:

(1) "Ablative procedure" is as defined in Section 58-67-102.

(2) "Cosmetic medical procedure":

(a) is as defined in Section 58-67-102; and

(b) except for Chapter 67, Utah Medical Practice Act, and Chapter 68, Utah Osteopathic Medical Practice Act, does not apply to the scope of practice of an individual licensed under this title if the individual's scope of practice includes the authority to operate or perform surgical procedures.

(3) "Department" means the Department of Commerce.

(4) "Director" means the director of the Division of Occupational and Professional Licensing.

(5) "Division" means the Division of Occupational and Professional Licensing created in Section 58-1-103.

(6) "Executive director" means the executive director of the Department of Commerce.

(7) "Licensee" includes any holder of a license, certificate, registration, permit, student card, or apprentice card authorized under this title.

(8) (a) (i) "Nonablative procedure" means a procedure that is expected or intended to alter living tissue, but not intended or expected to excise, vaporize, disintegrate, or remove living tissue.

(ii) Notwithstanding Subsection (8)(a)(i), nonablative procedure includes hair removal.

(b) “Nonablative procedure” does not include:

(i) a superficial procedure;

(ii) the application of permanent make-up; or

(iii) the use of photo therapy and lasers for neuromusculoskeletal treatments that are performed by an individual licensed under this title who is acting within their scope of practice.

(9) “Pain clinic” means:

(a) a clinic that advertises its primary purpose is the treatment of chronic pain; or

(b) a clinic in which greater than 50% of the clinic’s annual patient population receive treatment primarily for non-terminal chronic pain using Schedule II-III controlled substances.

(10) “Superficial procedure” means a procedure that is expected or intended to temporarily alter living skin tissue and may excise or remove stratum corneum but have no appreciable risk of damage to any tissue below the stratum corneum.

[40] (11) “Unlawful conduct” has the meaning given in Subsection 58-1-501(1).

[41] (12) “Unprofessional conduct” has the meaning given in Subsection 58-1-501(2).

Section 3. Section 58-31b-102 is amended to read:

58-31b-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) “Administrative penalty” means a monetary fine or citation imposed by the division for acts or omissions determined to constitute unprofessional or unlawful conduct in accordance with a fine schedule established by rule and as a result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(2) “Applicant” means a person who applies for licensure or certification under this chapter by submitting a completed application for licensure or certification and the required fees to the department.

(3) “Approved education program” means a nursing education program that meets the minimum standards for educational programs established under this chapter and by division rule in collaboration with the board.

(4) “Board” means the Board of Nursing created in Section 58-31b-201.

(5) “Consultation and referral plan” means a written plan jointly developed by an advanced practice registered nurse and a consulting physician that permits the advanced practice registered nurse to prescribe Schedule II[~~III~~] controlled substances in consultation with the consulting physician.

(6) “Consulting physician” means a physician and surgeon or osteopathic physician and surgeon licensed in accordance with this title who has agreed to consult with an advanced practice registered nurse with a controlled substance license, a DEA registration number, and who will be prescribing Schedule II[~~III~~] controlled substances.

(7) “Diagnosis” means the identification of and discrimination between physical and psychosocial signs and symptoms essential to the effective execution and management of health care.

(8) “Examinee” means a person who applies to take or does take any examination required under this chapter for licensure.

(9) “Licensee” means a person who is licensed or certified under this chapter.

(10) “Long-term care facility” means any of the following facilities licensed by the Department of Health pursuant to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act:

(a) a nursing care facility;

(b) a small health care facility;

(c) an intermediate care facility for people with an intellectual disability;

(d) an assisted living facility Type I or II; or

(e) a designated swing bed unit in a general hospital.

(11) “Medication aide certified” means a certified nurse aide who:

(a) has a minimum of 2,000 hours experience working as a certified nurse aide;

(b) has received a minimum of 60 hours of classroom and 40 hours of practical training that is approved by the division in collaboration with the board, in administering routine medications to patients or residents of long-term care facilities; and

(c) is certified by the division as a medication aide certified.

(12) “Pain clinic” means the same as that term is defined in Section 58-1-102.

[42] (13) (a) “Practice as a medication aide certified” means the limited practice of nursing under the supervision, as defined by the division by administrative rule, of a licensed nurse, involving routine patient care that requires minimal or limited specialized or general knowledge, judgment, and skill, to an individual who:

(i) is ill, injured, infirm, has a physical, mental, developmental, or intellectual disability; and

(ii) is in a regulated long-term care facility.

(b) “Practice as a medication aide certified”:

(i) includes:

(A) providing direct personal assistance or care; and

(B) administering routine medications to patients in accordance with a formulary and protocols to be defined by the division by rule; and

(ii) does not include assisting a resident of an assisted living facility, a long term care facility, or an intermediate care facility for people with an intellectual disability to self administer a medication, as regulated by the Department of Health by administrative rule.

~~[(13)]~~ (14) “Practice of advanced practice registered nursing” means the practice of nursing within the generally recognized scope and standards of advanced practice registered nursing as defined by rule and consistent with professionally recognized preparation and education standards of an advanced practice registered nurse by a person licensed under this chapter as an advanced practice registered nurse. Advanced practice registered nursing includes:

(a) maintenance and promotion of health and prevention of disease;

(b) diagnosis, treatment, correction, consultation, and referral for common health problems;

(c) prescription or administration of prescription drugs or devices including:

(i) local anesthesia;

(ii) Schedule ~~[IV]~~ III-V controlled substances; and

(iii) Schedule ~~II~~~~[III]~~ controlled substances in accordance with ~~[a consultation and referral plan]~~ Section 58-31b-803; or

(d) the provision of preoperative, intraoperative, and postoperative anesthesia care and related services upon the request of a licensed health care professional by an advanced practice registered nurse specializing as a certified registered nurse anesthetist, including:

(i) preanesthesia preparation and evaluation including:

(A) performing a preanesthetic assessment of the patient;

(B) ordering and evaluating appropriate lab and other studies to determine the health of the patient; and

(C) selecting, ordering, or administering appropriate medications;

(ii) anesthesia induction, maintenance, and emergence, including:

(A) selecting and initiating the planned anesthetic technique;

(B) selecting and administering anesthetics and adjunct drugs and fluids; and

(C) administering general, regional, and local anesthesia;

(iii) postanesthesia follow-up care, including:

(A) evaluating the patient’s response to anesthesia and implementing corrective actions; and

(B) selecting, ordering, or administering the medications and studies listed in Subsection ~~[(13)]~~ (14)(d); and

(iv) other related services within the scope of practice of a certified registered nurse anesthetist, including:

(A) emergency airway management;

(B) advanced cardiac life support; and

(C) the establishment of peripheral, central, and arterial invasive lines; and

(v) for purposes of Subsection ~~[(13)]~~ (14)(d), “upon the request of a licensed health care professional”:

(A) means a health care professional practicing within the scope of the health care professional’s license, requests anesthesia services for a specific patient; and

(B) does not require an advanced practice registered nurse specializing as a certified registered nurse anesthetist to enter into a consultation and referral plan or obtain additional authority to select, administer, or provide preoperative, intraoperative, or postoperative anesthesia care and services.

~~[(14)]~~ (15) “Practice of nursing” means assisting individuals or groups to maintain or attain optimal health, implementing a strategy of care to accomplish defined goals and evaluating responses to care and treatment. The practice of nursing requires substantial specialized or general knowledge, judgment, and skill based upon principles of the biological, physical, behavioral, and social sciences, and includes:

(a) initiating and maintaining comfort measures;

(b) promoting and supporting human functions and responses;

(c) establishing an environment conducive to well-being;

(d) providing health counseling and teaching;

(e) collaborating with health care professionals on aspects of the health care regimen;

(f) performing delegated procedures only within the education, knowledge, judgment, and skill of the licensee; and

(g) delegating nurse interventions that may be performed by others and are not in conflict with this chapter.

~~[(15)]~~ (16) “Practice of practical nursing” means the performance of nursing acts in the generally recognized scope of practice of licensed practical nurses as defined by rule and as provided in this Subsection ~~[(15)]~~ (16) by a person licensed under this chapter as a licensed practical nurse and under the direction of a registered nurse, licensed physician, or other specified health care professional as defined by rule. Practical nursing acts include:

(a) contributing to the assessment of the health status of individuals and groups;

(b) participating in the development and modification of the strategy of care;

(c) implementing appropriate aspects of the strategy of care;

(d) maintaining safe and effective nursing care rendered to a patient directly or indirectly; and

(e) participating in the evaluation of responses to interventions.

[~~(16)~~] (17) "Practice of registered nursing" means performing acts of nursing as provided in this Subsection [~~(16)~~] (17) by a person licensed under this chapter as a registered nurse within the generally recognized scope of practice of registered nurses as defined by rule. Registered nursing acts include:

(a) assessing the health status of individuals and groups;

(b) identifying health care needs;

(c) establishing goals to meet identified health care needs;

(d) planning a strategy of care;

(e) prescribing nursing interventions to implement the strategy of care;

(f) implementing the strategy of care;

(g) maintaining safe and effective nursing care that is rendered to a patient directly or indirectly;

(h) evaluating responses to interventions;

(i) teaching the theory and practice of nursing; and

(j) managing and supervising the practice of nursing.

[~~(17)~~] (18) "Routine medications":

(a) means established medications administered to a medically stable individual as determined by a licensed health care practitioner or in consultation with a licensed medical practitioner; and

(b) is limited to medications that are administered by the following routes:

(i) oral;

(ii) sublingual;

(iii) buccal;

(iv) eye;

(v) ear;

(vi) nasal;

(vii) rectal;

(viii) vaginal;

(ix) skin ointments, topical including patches and transdermal;

(x) premeasured medication delivered by aerosol/nebulizer; and

(xi) medications delivered by metered hand-held inhalers.

[~~(18)~~] (19) "Unlawful conduct" [~~is as~~] means the same as that term is defined in Sections 58-1-501 and 58-31b-501.

[~~(19)~~] (20) "Unlicensed assistive personnel" means any unlicensed person, regardless of title, to whom tasks are delegated by a licensed nurse as permitted by rule and in accordance with the standards of the profession.

[~~(20)~~] (21) "Unprofessional conduct" [~~is as~~] means the same as that term is defined in Sections 58-1-501 and 58-31b-502 and as may be further defined by rule.

Section 4. Section 58-31b-502 is amended to read:

58-31b-502. Unprofessional conduct.

"Unprofessional conduct" includes:

(1) failure to safeguard a patient's right to privacy as to the patient's person, condition, diagnosis, personal effects, or any other matter about which the licensee is privileged to know because of the licensee's or person with a certification's position or practice as a nurse or practice as a medication aide certified;

(2) failure to provide nursing service or service as a medication aide certified in a manner that demonstrates respect for the patient's human dignity and unique personal character and needs without regard to the patient's race, religion, ethnic background, socioeconomic status, age, sex, or the nature of the patient's health problem;

(3) engaging in sexual relations with a patient during any:

(a) period when a generally recognized professional relationship exists between the person licensed or certified under this chapter and patient; or

(b) extended period when a patient has reasonable cause to believe a professional relationship exists between the person licensed or certified under the provisions of this chapter and the patient;

(4) (a) as a result of any circumstance under Subsection (3), exploiting or using information about a patient or exploiting the licensee's or the person with a certification's professional relationship between the licensee or holder of a certification under this chapter and the patient; or

(b) exploiting the patient by use of the licensee's or person with a certification's knowledge of the patient obtained while acting as a nurse or a medication aide certified;

(5) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;

(6) unauthorized taking or personal use of nursing supplies from an employer;

(7) unauthorized taking or personal use of a patient's personal property;

(8) knowingly entering into any medical record any false or misleading information or altering a medical record in any way for the purpose of concealing an act, omission, or record of events, medical condition, or any other circumstance related to the patient and the medical or nursing care provided;

(9) unlawful or inappropriate delegation of nursing care;

(10) failure to exercise appropriate supervision of persons providing patient care services under supervision of the licensed nurse;

(11) employing or aiding and abetting the employment of an unqualified or unlicensed person to practice as a nurse;

(12) failure to file or record any medical report as required by law, impeding or obstructing the filing or recording of such a report, or inducing another to fail to file or record such a report;

(13) breach of a statutory, common law, regulatory, or ethical requirement of confidentiality with respect to a person who is a patient, unless ordered by a court;

(14) failure to pay a penalty imposed by the division;

(15) prescribing a Schedule II-III controlled substance without [~~a consulting physician or outside of a consultation and referral plan;~~] complying with the requirements in Section 58-31b-803;

(16) violating Section 58-31b-801; ~~and~~

(17) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable[-]; and

(18) establishing or operating a pain clinic without a consultation and referral plan for Schedule II-III controlled substances.

Section 5. Section 58-31b-803 is enacted to read:

58-31b-803. Prescriptive authority for advanced practice registered nurses -- Schedule II controlled substance or device -- Workers' compensation -- Pain clinics.

(1) This section does not apply to an advanced practice registered nurse specializing as a certified registered nurse anesthetist under Subsection 58-31b-102(14)(d).

(2) Except as provided in Subsection (3), an advanced practice registered nurse shall prescribe or administer a Schedule II controlled substance in accordance with a consultation and referral plan.

(3) Except as provided by Subsection 58-31b-502(18), an advanced practice registered nurse may prescribe or administer a Schedule II controlled substance without a consultation and referral plan if the advanced practice registered nurse:

(a) has the lesser of:

(i) two years of licensure as a nurse practicing advanced practice registered nursing; or

(ii) 2,000 hours of experience practicing advanced practice registered nursing;

(b) (i) prior to the first time prescribing or administering a Schedule III controlled substance for chronic pain, or a Schedule II controlled substance to a particular patient, unless treating the patient in a licensed general acute hospital, checks information about the patient in the Controlled Substance Database created in Section 58-37f-201; and

(ii) periodically, thereafter, checks information about the patient in the Controlled Substance Database created in Section 58-37f-201; and

(c) follows the health care provider prescribing guidelines for the treatment of an injured worker, developed by the Labor Commission under Title 34A, Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act, if:

(i) the patient is an injured worker; and

(ii) the Schedule II or III controlled substance is prescribed for chronic pain.

Section 6. Section 58-31d-103 is amended to read:

58-31d-103. Rulemaking authority -- Enabling provisions.

(1) The division may adopt rules necessary to implement Section 58-31d-102.

(2) As used in Article VIII (1) of the Advanced Practice Registered Nurse Compact, "head of the licensing board" means the executive administrator of the Utah Board of Nursing.

(3) For purposes of the Advanced Practice Registered Nurse Compact, "APRN" as defined in Article II (1) of the compact includes an individual who is:

(a) licensed to practice under Subsection 58-31b-301(2) as an advanced practice registered nurse; or

(b) licensed to practice under Section 58-44a-301 as a certified nurse midwife.

(4) An APRN practicing in this state under a multistate licensure privilege may only be granted prescriptive authority if that individual can document completion of graduate level course work in the following areas:

(a) advanced health assessment;

(b) pharmacotherapeutics; and

(c) diagnosis and treatment.

(5) (a) An APRN practicing in this state under a multistate licensure privilege who seeks to obtain prescriptive authority must:

(i) meet all the requirements of Subsection (4) and this Subsection (5); and

- (ii) be placed on a registry with the division.
- (b) To be placed on a registry under Subsection (5)(a)(ii), an APRN must:
- (i) submit a form prescribed by the division;
 - (ii) pay a fee; and
 - (iii) if prescribing a controlled substance:
 - (A) obtain a controlled substance license as required under Section 58-37-6; and
 - (B) ~~[if prescribing] that is a Schedule II [or III] controlled substance, [have a consultation and referral plan with a physician licensed in Utah as required under Subsection 58-31b-102(13)(e)(iii) or 58-44a-102(9)(e)(iii)(C)]~~ comply with the requirements of Section 58-31b-803.

CHAPTER 128**S. B. 118**

Passed March 2, 2016

Approved March 21, 2016

Effective May 10, 2016

**UINTAH BASIN AIR QUALITY
RESEARCH PROJECT**

Chief Sponsor: Kevin T. Van Tassell

House Sponsor: Scott H. Chew

LONG TITLE**General Description:**

This bill creates the Uintah Basin Air Quality Research Project.

Highlighted Provisions:

This bill:

- ▶ modifies the purposes for which the Legislature may appropriate money from the Infrastructure and Economic Diversification Investment Account;
- ▶ creates the Uintah Basin Air Quality Research Project;
- ▶ requires the Utah State University Bingham Entrepreneurship and Energy Research Center to conduct the Uintah Basin Air Quality Research Project;
- ▶ provides reporting requirements; and
- ▶ establishes a sunset date.

Monies Appropriated in this Bill:

This bill appropriates:

- ▶ to Utah State University, as an ongoing appropriation:
 - from the Infrastructure and Economic Diversification Investment Account, \$250,000, subject to intent language stating that the money appropriated is to be used to fund the Bingham Entrepreneurship and Energy Research Center for the purpose of conducting the Uintah Basin Air Quality Research Project as required by Section 53B-18-1401.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

51-9-303, as last amended by Laws of Utah 2008, Chapters 141, 216 and renumbered and amended by Laws of Utah 2008, Chapter 382

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

ENACTS:

53B-18-1401, Utah Code Annotated 1953

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

Section 1. Section 51-9-303 is amended to read:**51-9-303. Creation of Infrastructure and Economic Diversification Investment Account.**

(1) (a) There is created a restricted account within the General Fund known as the "Infrastructure and Economic Diversification Investment Account."

(b) The Infrastructure and Economic Diversification Investment Account shall consist of:

- (i) all money credited to the account under Section 51-9-305;
- (ii) appropriations from the Legislature; and
- (iii) grants from private foundations.

(2) (a) The state treasurer shall invest money in the account according to Title 51, Chapter 7, State Money Management Act.

(b) The Division of Finance shall deposit interest or other earnings derived from investment of account money into the General Fund.

(3) The Legislature may appropriate money from the Infrastructure and Economic Diversification Investment Account for:

- (a) infrastructure and economic diversification investment projects[-]; and
- (b) research projects that support economic and capital development within areas of the state that produced the severance tax revenues.

(4) At least 25% of the money appropriated in accordance with Subsection (3) shall be used for the following projects within areas of the state that produced the severance tax revenues:

- (a) capital and infrastructure development; ~~and~~
- (b) economic diversification investment[-]; and
- (c) research to support Subsections (4)(a) and (b).

Section 2. Section 53B-18-1401 is enacted to read:**Part 14. Uintah Basin Air Quality Research Project****53B-18-1401. Uintah Basin Air Quality Research Project -- Report.**

(1) There is created the Uintah Basin Air Quality Research Project to study ozone formation in the Uintah Basin.

(2) The Utah State University Bingham Entrepreneurship and Energy Research Center shall:

(a) conduct the Uintah Basin Air Quality Research Project by:

(i) developing and improving computer models to simulate ozone formation and determine its cause;

(ii) measuring pollutants in the ambient air to:

(A) track how emissions are changing over time; and

(B) verify the accuracy of computer models; and

(iii) characterizing pollutant emissions from various sources; and

(b) annually report to the Natural Resources, Agriculture, and Environment Interim Committee

on the results of the research described in Subsection (2)(a) by no later than November 30 of each year.

Section 3. Section 63I-2-253 is amended to read:

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

- (1) Section 53A-1-403.5 is repealed July 1, 2017.
- (2) Subsection 53A-1-410(5) is repealed July 1, 2015.
- (3) Section 53A-1-411 is repealed July 1, 2017.
- (4) Section 53A-1a-513.5 is repealed July 1, 2017.
- (5) Title 53A, Chapter 1a, Part 10, UPSTART, is repealed July 1, 2019.
- (6) Title 53A, Chapter 8a, Part 8, Peer Assistance and Review Pilot Program, is repealed July 1, 2017.
- (7) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

Section 4. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or amounts indicated. These sums of money are in addition to amounts previously appropriated for fiscal year 2017.

<u>To Utah State University</u>	
<u>From Infrastructure and</u>	
<u>Economic Diversification</u>	
<u>Investment Account</u>	<u>\$250,000</u>

Schedule of Programs:

<u>Utah State University - Uintah</u>	
<u>Basin Regional Campus</u>	<u>\$250,000</u>

The Legislature intends that Utah State University shall use the money appropriated to Utah State University under this section to fund the Bingham Entrepreneurship and Energy Research Center for the purpose of conducting the Uintah Basin Air Quality Research Project as required by Section 53B-18-1401.

CHAPTER 129**S. B. 119**

Passed February 18, 2016

Approved March 21, 2016

Effective May 10, 2016

DEBT COLLECTION AMENDMENTS

Chief Sponsor: Lyle W. Hillyard
House Sponsor: Jack R. Draxler

LONG TITLE**General Description:**

This bill modifies the Utah Administrative Services Code by amending provisions relating to debt collection.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ provides that a political subdivision may proceed to collect certain delinquent accounts receivable;
- ▶ authorizes the Office of State Debt Collection to collect accounts receivable for a political subdivision of the state in certain circumstances; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63A-3-302, as enacted by Laws of Utah 1993, Chapter 212

63A-3-501, as last amended by Laws of Utah 2014, Chapter 286

63A-3-502, as last amended by Laws of Utah 2015, Chapters 193 and 258

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

Section 1. Section 63A-3-302 is amended to read:**63A-3-302. Unpaid accounts receivable due the state.**

If any account receivable has been unpaid for more than 90 days, any agency, department, division, commission, committee, board, council, institution, [or] any other authority of state government, or any political subdivision, as defined in Section 63G-7-102, of the state responsible for collection of the account may proceed under this part to collect the delinquent amount.

Section 2. Section 63A-3-501 is amended to read:**63A-3-501. Definitions.**

As used in this part:

(1) (a) "Accounts receivable" or "receivables" means any amount due to a state agency from an entity for which payment has not been received by the state agency that is servicing the debt.

(b) "Accounts receivable" includes unpaid fees, licenses, taxes, loans, overpayments, fines, forfeitures, surcharges, costs, contracts, interest, penalties, restitution to victims, third-party claims, sale of goods, sale of services, claims, and damages.

(2) "Administrative offset" means:

(a) a reduction of an individual's tax refund or other payments due to the individual to reduce or eliminate accounts receivable that the individual owes to a state agency; and

(b) a reduction of an entity's tax refund or other payments due to the entity to reduce or eliminate accounts receivable that the entity owes to a state agency.

(3) "Entity" means an individual, a corporation, partnership, or other organization that pays taxes to or does business with the state.

(4) "Office" means the Office of State Debt Collection established by this part.

(5) "Past due" means any accounts receivable that the state has not received by the payment due date.

(6) "Political subdivision" means the same as that term is defined in Section 63G-7-102.

[~~(6)~~] (7) "Restitution to victims" means restitution ordered by a court to be paid to a victim of an offense in a criminal or juvenile proceeding.

[~~(7)~~] (8) (a) "State agency" includes:

(i) any department, division, commission, council, board, bureau, committee, office, or other administrative subunit of Utah state government;

(ii) the legislative branch of state government; and

(iii) the judicial branches of state government, including justice courts.

(b) "State agency" does not include:

(i) any institution of higher education;

(ii) except in Subsection 63A-3-502(7)(g), the State Tax Commission; or

(iii) the administrator of the Uninsured Employers' Fund appointed by the Labor Commissioner under Section 34A-2-704, solely for the purposes of collecting money required to be deposited into the Uninsured Employers' Fund under:

(A) Section 34A-1-405;

(B) Title 34A, Chapter 2, Workers' Compensation Act; or

(C) Title 34A, Chapter 3, Utah Occupational Disease Act.

[~~(8)~~] (9) "Writing-off" means the removal of an accounts receivable from an agency's accounts receivable records but does not necessarily eliminate further collection efforts.

Section 3. Section 63A-3-502 is amended to read:**63A-3-502. Office of State Debt Collection created -- Duties.**

(1) The state and each state agency shall comply with the requirements of this chapter and any rules established by the Office of State Debt Collection.

(2) There is created the Office of State Debt Collection in the Division of Finance.

(3) The office shall:

(a) have overall responsibility for collecting and managing state receivables;

(b) assist the Division of Finance to develop consistent policies governing the collection and management of state receivables;

(c) oversee and monitor state receivables to ensure that state agencies are:

(i) implementing all appropriate collection methods;

(ii) following established receivables guidelines; and

(iii) accounting for and reporting receivables in the appropriate manner;

(d) assist the Division of Finance to develop policies, procedures, and guidelines for accounting, reporting, and collecting money owed to the state;

(e) provide information, training, and technical assistance to each state agency on various collection-related topics;

(f) write an inclusive receivables management and collection manual for use by each state agency;

(g) prepare quarterly and annual reports of the state's receivables;

(h) create or coordinate a state accounts receivable database;

(i) develop reasonable criteria to gauge state agencies' efforts in maintaining an effective accounts receivable program;

(j) identify any state agency that is not making satisfactory progress toward implementing collection techniques and improving accounts receivable collections;

(k) coordinate information, systems, and procedures between each state agency to maximize the collection of past-due accounts receivable;

(l) establish an automated cash receipt process between each state agency;

(m) assist the Division of Finance to establish procedures for writing off accounts receivable for accounting and collection purposes;

(n) establish standard time limits after which an agency will delegate responsibility to collect state receivables to the office or its designee;

(o) be a real party in interest for an account receivable referred to the office by any state agency or for any restitution to victims referred to the office by a court; and

(p) allocate money collected for judgments registered under Section 77-18-6 in accordance

with Sections 51-9-402, 63A-3-506, and 78A-5-110.

(4) The office may:

(a) recommend to the Legislature new laws to enhance collection of past-due accounts by state agencies;

(b) collect accounts receivables for higher education entities, if the higher education entity agrees;

(c) prepare a request for proposal for consulting services to:

(i) analyze the state's receivable management and collection efforts; and

(ii) identify improvements needed to further enhance the state's effectiveness in collecting its receivables;

(d) contract with private or state agencies to collect past-due accounts;

(e) perform other appropriate and cost-effective coordinating work directly related to collection of state receivables;

(f) obtain access to records and databases of any state agency that are necessary to the duties of the office by following the procedures and requirements of Section 63G-2-206, including the financial disclosure form described in Section 77-38a-204;

(g) collect interest and fees related to the collection of receivables under this chapter, and establish, by following the procedures and requirements of Section 63J-1-504:

(i) a fee to cover the administrative costs of collection, on accounts administered by the office;

(ii) a late penalty fee that may not be more than 10% of the account receivable on accounts administered by the office;

(iii) an interest charge that is:

(A) the postjudgment interest rate established by Section 15-1-4 in judgments established by the courts; or

(B) not more than 2% above the prime rate as of July 1 of each fiscal year for accounts receivable for which no court judgment has been entered; and

(iv) fees to collect accounts receivable for higher education;

(h) collect reasonable attorney fees and reasonable costs of collection that are related to the collection of receivables under this chapter;

(i) make rules that allow accounts receivable to be collected over a reasonable period of time and under certain conditions with credit cards;

(j) file a satisfaction of judgment in the court by following the procedures and requirements of the Utah Rules of Civil Procedure;

(k) ensure that judgments for which the office is the judgment creditor are renewed, as necessary;

(l) notwithstanding Section 63G-2-206, share records obtained under Subsection (4)(f) with

private sector vendors under contract with the state to assist state agencies in collecting debts owed to the state agencies without changing the classification of any private, controlled, or protected record into a public record; ~~and~~

(m) enter into written agreements with other governmental agencies to obtain information for the purpose of collecting state accounts receivable and restitution for victims; and

(n) collect accounts receivable for a political subdivision of the state, if the political subdivision enters into an agreement or contract with the office under Title 11, Chapter 13, Interlocal Cooperation Act, for the office to collect the political subdivision's accounts receivable.

(5) The office shall ensure that:

(a) a record obtained by the office or a private sector vendor as referred to in Subsection (4)(l):

(i) is used only for the limited purpose of collecting accounts receivable; and

(ii) is subject to federal, state, and local agency records restrictions; and

(b) any person employed by, or formerly employed by, the office or a private sector vendor as referred to in Subsection (4)(l) is subject to:

(i) the same duty of confidentiality with respect to the record imposed by law on officers and employees of the state agency from which the record was obtained; and

(ii) any civil or criminal penalties imposed by law for violations of lawful access to a private, controlled, or protected record.

(6) (a) The office shall collect accounts receivable ordered by a court as a result of prosecution for a criminal offense that have been transferred to the office under Subsection 76-3-201.1(5)(h) or (8).

(b) The office may not assess the interest charge established by the office under Subsection (4) on an account receivable subject to the postjudgment interest rate established by Section 15-1-4.

(7) The office shall require a state agency to:

(a) transfer collection responsibilities to the office or its designee according to time limits established by the office;

(b) make annual progress towards implementing collection techniques and improved accounts receivable collections;

(c) use the state's accounts receivable system or develop systems that are adequate to properly account for and report their receivables;

(d) develop and implement internal policies and procedures that comply with the collections policies and guidelines established by the office;

(e) provide internal accounts receivable training to staff involved in the management and collection of receivables as a supplement to statewide training;

(f) bill for and make initial collection efforts of its receivables up to the time the accounts must be transferred; and

(g) submit quarterly receivable reports to the office that identify the age, collection status, and funding source of each receivable.

(8) The office shall use the information provided by the agencies and any additional information from the office's records to compile a one-page summary report of each agency.

(9) The summary shall include:

(a) the type of revenue that is owed to the agency;

(b) any attempted collection activity; and

(c) any costs incurred in the collection process.

(10) The office shall annually provide copies of each agency's summary to the governor and to the Legislature.

(11) All interest, fees, and other amounts authorized to be charged by the office under Subsection (4):

(a) are penalties that may be charged by the office; and

(b) are not compensation for actual pecuniary loss.

CHAPTER 130**S. B. 124**

Passed March 2, 2016
Approved March 21, 2016
Effective May 10, 2016

**GANG ENHANCEMENT
PROVISION AMENDMENTS**

Chief Sponsor: Daniel W. Thatcher
House Sponsor: Paul Ray

LONG TITLE**General Description:**

This bill modifies the Utah Criminal Code regarding offenses committed with other persons.

Highlighted Provisions:

This bill adds retaliation against a witness, victim, or informant as an offense for which a person is subject to an enhanced penalty if the person is found to have acted in concert with two or more persons or the action was related to criminal street gang activity.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-3-203.1, as last amended by Laws of Utah 2011, Chapter 320

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

Section 1. Section 76-3-203.1 is amended to read:

76-3-203.1. Offenses committed in concert with two or more persons or in relation to a criminal street gang -- Notice -- Enhanced penalties.

(1) As used in this section:

(a) "Criminal street gang" has the same definition as in Section 76-9-802.

(b) "In concert with two or more persons" means:

(i) the defendant was aided or encouraged by at least two other persons in committing the offense and was aware of this aid or encouragement; and

(ii) each of the other persons:

(A) was physically present; or

(B) participated as a party to any offense listed in Subsection (5).

(c) "In concert with two or more persons" means, regarding intent:

(i) other persons participating as parties need not have the intent to engage in the same offense or degree of offense as the defendant; and

(ii) a minor is a party if the minor's actions would cause the minor to be a party if the minor were an adult.

(2) A person who commits any offense listed in Subsection (5) is subject to an enhanced penalty for the offense as provided in Subsection (4) if the trier of fact finds beyond a reasonable doubt that the person acted:

(a) in concert with two or more persons;

(b) for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802; or

(c) to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802.

(3) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to be subscribed upon the information or indictment notice that the defendant is subject to the enhanced penalties provided under this section.

(4) The enhanced penalty for a:

(a) class B misdemeanor is a class A misdemeanor;

(b) class A misdemeanor is a third degree felony;

(c) third degree felony is a second degree felony;

(d) second degree felony is a first degree felony; and

(e) first degree felony is an indeterminate prison term of not less than five years in addition to the statutory minimum prison term for the offense, and which may be for life.

(5) Offenses referred to in Subsection (2) are:

(a) any criminal violation of the following chapters of Title 58, Occupations and Professions:

(i) Chapter 37, Utah Controlled Substances Act;

(ii) Chapter 37a, Utah Drug Paraphernalia Act;

(iii) Chapter 37b, Imitation Controlled Substances Act; or

(iv) Chapter 37c, Utah Controlled Substance Precursor Act;

(b) assault and related offenses under Title 76, Chapter 5, Part 1, Assault and Related Offenses;

(c) any criminal homicide offense under Title 76, Chapter 5, Part 2, Criminal Homicide;

(d) kidnapping and related offenses under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(e) any felony sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses;

(f) sexual exploitation of a minor as defined in Section 76-5b-201;

(g) any property destruction offense under Title 76, Chapter 6, Part 1, Property Destruction;

(h) burglary, criminal trespass, and related offenses under Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;

(i) robbery and aggravated robbery under Title 76, Chapter 6, Part 3, Robbery;

(j) theft and related offenses under Title 76, Chapter 6, Part 4, Theft, or Part 6, Retail Theft;

(k) any fraud offense under Title 76, Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507, 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516, 76-6-517, 76-6-518, and 76-6-520;

(l) any offense of obstructing government operations under Title 76, Chapter 8, Part 3, Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-304, 76-8-307, 76-8-308, and 76-8-312;

(m) tampering with a witness or other violation of Section 76-8-508;

(n) retaliation against a witness, victim, informant, or other violation of Section 76-8-508.3;

~~[(n)]~~ (o) extortion or bribery to dismiss criminal proceeding as defined in Section 76-8-509;

~~[(o)]~~ (p) any explosives offense under Title 76, Chapter 10, Part 3, Explosives;

~~[(p)]~~ (q) any weapons offense under Title 76, Chapter 10, Part 5, Weapons;

~~[(q)]~~ (r) pornographic and harmful materials and performances offenses under Title 76, Chapter 10, Part 12, Pornographic and Harmful Materials and Performances;

~~[(r)]~~ (s) prostitution and related offenses under Title 76, Chapter 10, Part 13, Prostitution;

~~[(s)]~~ (t) any violation of Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;

~~[(t)]~~ (u) any violation of Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

~~[(u)]~~ (v) communications fraud as defined in Section 76-10-1801;

~~[(v)]~~ (w) any violation of Title 76, Chapter 10, Part 19, Money Laundering and Currency Transaction Reporting Act; and

~~[(w)]~~ (x) burglary of a research facility as defined in Section 76-10-2002.

(6) It is not a bar to imposing the enhanced penalties under this section that the persons with whom the actor is alleged to have acted in concert are not identified, apprehended, charged, or convicted, or that any of those persons are charged with or convicted of a different or lesser offense.

CHAPTER 131**S. B. 169**

Passed March 10, 2016
 Approved March 21, 2016
 Effective March 21, 2016

**OLENE WALKER HOUSING
 LOAN FUND AMENDMENTS**

Chief Sponsor: Todd Weiler
 House Sponsor: Francis D. Gibson

LONG TITLE**General Description:**

This bill modifies provisions relating to the Olene Walker Housing Loan Fund and other housing issues.

Highlighted Provisions:

This bill:

- ▶ prohibits a municipality from adopting an ordinance that prohibits a homeless shelter from operating year-round;
- ▶ prioritizes certain applications for grants or loans from the Olene Walker Housing Loan Fund;
- ▶ modifies the activities for which the executive director of the Department of Workforce Services may distribute money from the Olene Walker Housing Loan Fund;
- ▶ addresses how the executive director of the Department of Workforce Services distributes fund money;
- ▶ provides a sunset date for certain provisions related to homeless shelters; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

35A-8-504, as last amended by Laws of Utah 2012, Chapter 347 and renumbered and amended by Laws of Utah 2012, Chapter 212

35A-8-505, as renumbered and amended by Laws of Utah 2012, Chapter 212

35A-8-507, as renumbered and amended by Laws of Utah 2012, Chapter 212

63I-1-210, as renumbered and amended by Laws of Utah 2008, Chapter 382

ENACTS:

10-9a-526, Utah Code Annotated 1953

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

Section 1. Section 10-9a-526 is enacted to read:

10-9a-526. Homeless shelters.

(1) As used in this section, "homeless shelter" means a facility that:

- (a) is located within a municipality;
- (b) provides temporary shelter to homeless families with children;

(c) has capacity to provide temporary shelter to at least 200 individuals per night; and

(d) began operation on or before January 1, 2016.

(2) A municipality may not adopt or enforce an ordinance or other regulation that prohibits a homeless shelter from operating year-round.

Section 2. Section 35A-8-504 is amended to read:

35A-8-504. Distribution of fund money.

(1) The executive director shall:

(a) make grants and loans from the fund for any of the activities authorized by Section 35A-8-505, as directed by the board;

(b) establish the criteria with the approval of the board by which loans and grants will be made; and

(c) determine with the approval of the board the order in which projects will be funded.

(2) The executive director shall distribute, as directed by the board, any federal money contained in the fund according to the procedures, conditions, and restrictions placed upon the use of the money by the federal government.

(3) (a) The executive director shall distribute, as directed by the board, any funds received under Section 17C-1-412 to pay the costs of providing income targeted housing within the community that created the community development and renewal agency under Title 17C, Limited Purpose Local Government Entities - Community Development and Renewal Agencies Act.

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

(i) "Community" [~~has the meaning as~~] means the same as that term is defined in Section 17C-1-102.

(ii) "Income targeted housing" [~~has the meaning as~~] means the same as that term is defined in Section 17C-1-102.

(4) Except for federal money and money received under Section 17C-1-412, the executive director shall distribute, as directed by the board, money [~~from~~] in the fund according to the following requirements:

~~[(a) Not less than 30% of all fund money shall be distributed to rural areas of the state.]~~

~~[(b) At least 50% of the money in the fund shall be distributed as loans to be repaid to the fund by the entity receiving them.]~~

~~[(i) (A) Of the fund money distributed as loans, at least 50% shall be distributed to benefit persons whose annual income is at or below 50% of the median family income for the state.]~~

~~[(B) The remaining loan money shall be distributed to benefit persons whose annual income is at or below 80% of the median family income for the state.]~~

~~[(ii) The executive director or the executive director's designee shall lend money in accordance with this Subsection (4) at a rate based upon the borrower's ability to pay.]~~

~~[(c) Any fund money not distributed as loans shall be distributed as grants.]~~

~~[(i) At least 90% of the fund money distributed as grants shall be distributed to benefit persons whose annual income is at or below 50% of the median family income for the state.]~~

~~[(ii) The remaining fund money distributed as grants may be used by the executive director to obtain federal matching funds or for other uses consistent with the intent of this part, including the payment of reasonable loan servicing costs, but no more than 3% of the revenues of the fund may be used to offset other department or board administrative expenses.]~~

(a) the executive director shall distribute at least 30% of the money in the fund to rural areas of the state;

(b) the executive director shall distribute at least 70% of the money in the fund to benefit persons whose annual income is at or below 50% of the median family income for the state;

(c) the executive director may not use more than 3% of the revenues of the fund to offset department or board administrative expenses;

(d) the executive director shall distribute any remaining money in the fund to benefit persons whose annual income is at or below 80% of the median family income for the state; and

(e) if the executive director or the executive director's designee makes a loan in accordance with this section, the interest rate of the loan shall be based on the borrower's ability to pay.

(5) The executive director may, with the approval of the board:

(a) enact rules to establish procedures for the grant and loan process by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) service or contract, under Title 63G, Chapter 6a, Utah Procurement Code, for the servicing of loans made by the fund.

Section 3. Section 35A-8-505 is amended to read:

35A-8-505. Activities authorized to receive fund money -- Powers of the executive director.

At the direction of the board, the executive director may:

(1) provide fund money to any of the following activities:

(a) the acquisition, rehabilitation, or new construction of low-income housing units;

(b) matching funds for social services projects directly related to providing housing for special-need renters in assisted projects;

(c) the development and construction of accessible housing designed for low-income persons;

~~[(d) shelters and transitional housing for the homeless; and]~~

(d) the construction or improvement of a shelter or transitional housing facility that provides services intended to prevent or minimize homelessness among members of a specific homeless subpopulation; and

(e) other activities that will assist in minimizing homelessness or improving the availability or quality of housing in the state for low-income persons;

(2) do any act necessary or convenient to the exercise of the powers granted by this part or reasonably implied from those granted powers, including:

(a) making or executing contracts and other instruments necessary or convenient for the performance of the executive director and board's duties and the exercise of the executive director and board's powers and functions under this part, including contracts or agreements for the servicing and originating of mortgage loans;

(b) procuring insurance against a loss in connection with property or other assets held by the fund, including mortgage loans, in amounts and from insurers it considers desirable;

(c) entering into agreements with a department, agency, or instrumentality of the United States or this state and with mortgagors and mortgage lenders for the purpose of planning and regulating and providing for the financing and refinancing, purchase, construction, reconstruction, rehabilitation, leasing, management, maintenance, operation, sale, or other disposition of residential housing undertaken with the assistance of the department under this part;

(d) proceeding with a foreclosure action, to own, lease, clear, reconstruct, rehabilitate, repair, maintain, manage, operate, assign, encumber, sell, or otherwise dispose of real or personal property obtained by the fund due to the default on a mortgage loan held by the fund in preparation for disposition of the property, taking assignments of leases and rentals, proceeding with foreclosure actions, and taking other actions necessary or incidental to the performance of its duties; and

(e) selling, at a public or private sale, with public bidding, a mortgage or other obligation held by the fund.

Section 4. Section 35A-8-507 is amended to read:

35A-8-507. Application process and priorities.

(1) (a) In each calendar year that money is available from the fund for distribution by the executive director under the direction of the board, the executive director shall, at least once in that

year, announce a grant and loan application period by sending notice to interested persons.

(b) The executive director shall accept applications that are received in a timely manner.

(2) The executive director shall give ~~first~~ priority to applications for projects and activities in the following order:

(a) first, to applications for projects and activities intended to minimize homelessness;

(b) second, to applications for projects and activities that use existing privately owned housing stock, including privately owned housing stock purchased by a nonprofit public development ~~authorities-~~ authority; and

(c) third, to all other applications.

(3) ~~The~~ Within each level of priority described in Subsection (2), the executive director shall give preference to applications that demonstrate the following:

(a) a high degree of leverage with other sources of financing;

(b) high recipient contributions to total project costs, including allied contributions from other sources such as professional, craft, and trade services and lender interest rate subsidies;

(c) high local government project contributions in the form of infrastructure improvements, or other assistance;

(d) projects that encourage ownership, management, and other project-related responsibility opportunities;

(e) projects that demonstrate a strong probability of serving the original target group or income level for a period of at least 15 years;

(f) projects where the applicant has demonstrated the ability, stability, and resources to complete the project;

(g) projects that appear to serve the greatest need;

(h) projects that provide housing for persons and families with the lowest income;

(i) projects that promote economic development benefits;

(j) projects that ~~[allow integration into a local government housing plan]~~ align with a local government plan to address housing and homeless services; and

(k) projects that would mitigate or correct existing health, safety, or welfare problems.

(4) The executive director may give consideration to projects that increase the supply of accessible housing.

Section 5. Section 63I-1-210 is amended to read:

63I-1-210. Repeal dates, Title 10.

Section 10-9a-526 is repealed December 31, 2020.

Section 6. Effective date.

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

CHAPTER 132**S. B. 185**

Passed March 8, 2016

Approved March 21, 2016

Effective May 10, 2016

LABOR REMEDY AMENDMENTS

Chief Sponsor: Jani Iwamoto

House Sponsor: Sophia M. DiCaro

LONG TITLE**General Description:**

This bill amends provisions related to discriminatory employment practices.

Highlighted Provisions:

This bill:

- ▶ amends a definition;
- ▶ provides that a person who is subject to discrimination in matters of compensation may receive a remedy in an additional amount equal to the back pay amount already available; and
- ▶ requires the Division of Antidiscrimination and Labor to report to the Business and Labor Interim Committee annually regarding discrimination in matters of compensation.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

34A-5-104, as last amended by Laws of Utah 2015, Chapter 13

34A-5-107, as last amended by Laws of Utah 2015, Chapter 13

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

Section 1. Section 34A-5-104 is amended to read:**34A-5-104. Powers.**

(1) (a) The commission has jurisdiction over the subject of employment practices and discrimination made unlawful by this chapter.

(b) The commission may adopt, publish, amend, and rescind rules, consistent with, and for the enforcement of this chapter.

(2) The division may:

(a) appoint and prescribe the duties of an investigator, other employee, or agent of the commission that the commission considers necessary for the enforcement of this chapter;

(b) receive, reject, investigate, and pass upon complaints alleging:

(i) discrimination in:

(A) employment;

(B) an apprenticeship program;

(C) an on-the-job training program; or

(D) a vocational school; or

(ii) the existence of a discriminatory or prohibited employment practice by:

(A) a person;

(B) an employer;

(C) an employment agency;

(D) a labor organization;

(E) an employee or member of an employment agency or labor organization;

(F) a joint apprenticeship committee; and

(G) a vocational school;

(c) investigate and study the existence, character, causes, and extent of discrimination in employment, apprenticeship programs, on-the-job training programs, and vocational schools in this state by:

(i) employers;

(ii) employment agencies;

(iii) labor organizations;

(iv) joint apprenticeship committees; and

(v) vocational schools;

(d) formulate plans for the elimination of discrimination by educational or other means;

(e) hold hearings upon complaint made against:

(i) a person;

(ii) an employer;

(iii) an employment agency;

(iv) a labor organization;

(v) an employee or member of an employment agency or labor organization;

(vi) a joint apprenticeship committee; or

(vii) a vocational school;

(f) issue publications and reports of investigations and research that:

(i) promote good will among the various racial, religious, and ethnic groups of the state; and

(ii) minimize or eliminate discrimination in employment because of race, color, sex, religion, national origin, age, disability, sexual orientation, or gender identity;

(g) prepare and transmit to the governor, at least once each year, reports describing:

(i) the division's proceedings, investigations, and hearings;

(ii) the outcome of those hearings;

(iii) decisions the division renders; and

(iv) the other work performed by the division;

(h) recommend policies to the governor, and submit recommendation to employers, employment agencies, and labor organizations to implement those policies;

(i) recommend legislation to the governor that the division considers necessary concerning discrimination because of:

- (i) race;
- (ii) sex;
- (iii) color;
- (iv) national origin;
- (v) religion;
- (vi) age;
- (vii) disability;
- (viii) sexual orientation; or
- (ix) gender identity; and

(j) within the limits of appropriations made for its operation, cooperate with other agencies or organizations, both public and private, in the planning and conducting of educational programs designed to eliminate discriminatory practices prohibited under this chapter.

(3) The division shall investigate an alleged discriminatory practice involving an officer or employee of state government if requested to do so by the Career Service Review Office.

(4) (a) In a hearing held under this chapter, the division may:

- (i) subpoena witnesses and compel their attendance at the hearing;
- (ii) administer oaths and take the testimony of a person under oath; and
- (iii) compel a person to produce for examination a book, paper, or other information relating to the matters raised by the complaint.

(b) The division director or a hearing examiner appointed by the division director may conduct a hearing.

(c) If a witness fails or refuses to obey a subpoena issued by the division, the division may petition the district court to enforce the subpoena.

(d) If a witness asserts a privilege against self-incrimination, testimony and evidence from the witness may be compelled pursuant to Title 77, Chapter 22b, Grants of Immunity.

(5) In 2018, before November 1, the division shall report to the Business and Labor Interim Committee on the effectiveness of the commission and state law in addressing discrimination in matters of compensation.

Section 2. Section 34A-5-107 is amended to read:

34A-5-107. Procedure for aggrieved person to file claim -- Investigations -- Adjudicative proceedings -- Settlement -- Reconsideration -- Determination.

(1) (a) A person claiming to be aggrieved by a discriminatory or prohibited employment practice

may, or that person's attorney or agent may, make, sign, and file with the division a request for agency action.

(b) A request for agency action shall be verified under oath or affirmation.

(c) A request for agency action made under this section shall be filed within 180 days after the alleged discriminatory or prohibited employment practice occurs.

(d) The division may transfer a request for agency action filed with the division pursuant to this section to the federal Equal Employment Opportunity Commission in accordance with a work-share agreement that is:

- (i) between the division and the Equal Employment Opportunity Commission; and
- (ii) in effect on the day on which the request for agency action is transferred.

(2) An employer, labor organization, joint apprenticeship committee, or vocational school who has an employee or member who refuses or threatens to refuse to comply with this chapter may file with the division a request for agency action asking the division for assistance to obtain the employee's or member's compliance by conciliation or other remedial action.

(3) (a) Before a hearing is set or held as part of any adjudicative proceeding, the division shall promptly assign an investigator to attempt a settlement between the parties by conference, conciliation, or persuasion.

(b) If no settlement is reached, the investigator shall make a prompt impartial investigation of all allegations made in the request for agency action.

(c) The division and its staff, agents, and employees:

- (i) shall conduct every investigation in fairness to all parties and agencies involved; and
- (ii) may not attempt a settlement between the parties if it is clear that no discriminatory or prohibited employment practice has occurred.

(d) An aggrieved party may withdraw the request for agency action prior to the issuance of a final order.

(4) (a) If the initial attempts at settlement are unsuccessful, and the investigator uncovers insufficient evidence during the investigation to support the allegations of a discriminatory or prohibited employment practice set out in the request for agency action, the investigator shall formally report these findings to the director or the director's designee.

(b) Upon receipt of the investigator's report described in Subsection (4)(a), the director or the director's designee may issue a determination and order for dismissal of the adjudicative proceeding.

(c) A party may make a written request to the Division of Adjudication for an evidentiary hearing to review de novo the director's or the director's

designee's determination and order within 30 days of the date the determination and order for dismissal is issued.

(d) If the director or the director's designee receives no timely request for a hearing, the determination and order issued by the director or the director's designee becomes the final order of the commission.

(5) (a) If the initial attempts at settlement are unsuccessful and the investigator uncovers sufficient evidence during the investigation to support the allegations of a discriminatory or prohibited employment practice set out in the request for agency action, the investigator shall formally report these findings to the director or the director's designee.

(b) (i) Upon receipt of the investigator's report described in Subsection (5)(a), the director or the director's designee may issue a determination and order based on the investigator's report.

(ii) A determination and order issued under this Subsection (5)(b) shall:

(A) direct the respondent to cease any discriminatory or prohibited employment practice; and

(B) provide relief to the aggrieved party as the director or the director's designee determines is appropriate.

(c) A party may file a written request to the Division of Adjudication for an evidentiary hearing to review de novo the director's or the director's designee's determination and order within 30 days of the date the determination and order is issued.

(d) If the director or the director's designee receives no timely request for a hearing, the determination and order issued by the director or the director's designee in accordance with Subsection (5)(b) becomes the final order of the commission.

(6) In an adjudicative proceeding to review the director's or the director's designee's determination that a prohibited employment practice has occurred, the division shall present the factual and legal basis of the determination or order issued under Subsection (5).

(7) (a) Before the commencement of an evidentiary hearing:

(i) the party filing the request for agency action may reasonably and fairly amend any allegation; and

(ii) the respondent may amend its answer.

(b) An amendment permitted under this Subsection (7) may be made:

(i) during or after a hearing; and

(ii) only with permission of the presiding officer.

(8) (a) If, upon reviewing all the evidence at a hearing, the presiding officer finds that a respondent has not engaged in a discriminatory or

prohibited employment practice, the presiding officer shall issue an order dismissing the request for agency action containing the allegation of a discriminatory or prohibited employment practice.

(b) The presiding officer may order that the respondent be reimbursed by the complaining party for the respondent's attorneys' fees and costs.

(9) If, upon reviewing all the evidence at the hearing, the presiding officer finds that a respondent has engaged in a discriminatory or prohibited employment practice, the presiding officer shall issue an order requiring the respondent to:

(a) cease any discriminatory or prohibited employment practice; ~~and~~

(b) provide relief to the complaining party, including:

(i) reinstatement;

(ii) back pay and benefits;

(iii) attorney fees; and

(iv) costs.

(10) If a discriminatory practice described in Subsection (9) includes discrimination in matters of compensation, the presiding officer may provide, to the complaining party, in addition to the amount available to the complaining party under Subsection (9)(b), an additional amount equal to the amount of back pay available to the complaining party under Subsection (9)(b)(ii) unless a respondent shows that:

(a) the act or omission that gave rise to the order was in good faith; and

(b) the respondent had reasonable grounds to believe that the act or omission was not discrimination in matters of compensation under this chapter.

~~[(40)]~~ (11) Conciliation between the parties is to be urged and facilitated at all stages of the adjudicative process.

~~[(41)]~~ (12) (a) Either party may file with the Division of Adjudication a written request for review before the commissioner or Appeals Board of the order issued by the presiding officer in accordance with:

(i) Section 63G-4-301; and

(ii) Chapter 1, Part 3, Adjudicative Proceedings.

(b) If there is no timely request for review, the order issued by the presiding officer becomes the final order of the commission.

~~[(42)]~~ (13) An order of the commission under Subsection ~~[(41)]~~ (12)(a) is subject to judicial review as provided in:

(a) Section 63G-4-403; and

(b) Chapter 1, Part 3, Adjudicative Proceedings.

~~[(43)]~~ (14) The commission may make rules concerning procedures under this chapter in

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

~~[(14)]~~ (15) The commission and its staff may not divulge or make public information gained from an investigation, settlement negotiation, or proceeding before the commission except as provided in Subsections ~~[(14)]~~ (15)(a) through (d).

(a) Information used by the director or the director's designee in making a determination may be provided to all interested parties for the purpose of preparation for and participation in proceedings before the commission.

(b) General statistical information may be disclosed provided the identities of the individuals or parties are not disclosed.

(c) Information may be disclosed for inspection by the attorney general or other legal representatives of the state or the commission.

(d) Information may be disclosed for information and reporting requirements of the federal government.

~~[(15)]~~ (16) The procedures contained in this section are the exclusive remedy under state law for employment discrimination based upon:

- (a) race;
- (b) color;
- (c) sex;
- (d) retaliation;
- (e) pregnancy, childbirth, or pregnancy-related conditions;
- (f) age;
- (g) religion;
- (h) national origin;
- (i) disability;
- (j) sexual orientation; or
- (k) gender identity.

~~[(16)]~~ (17) (a) The commencement of an action under federal law for relief based upon an act prohibited by this chapter bars the commencement or continuation of an adjudicative proceeding before the commission in connection with the same claim under this chapter.

(b) The transfer of a request for agency action to the Equal Employment Opportunity Commission in accordance with Subsection (1)(d) is considered the commencement of an action under federal law for purposes of Subsection ~~[(16)]~~ (17)(a).

(c) Nothing in this Subsection ~~[(16)]~~ (17) is intended to alter, amend, modify, or impair the exclusive remedy provision set forth in Subsection ~~[(15)]~~ (16).

CHAPTER 133**S. B. 238**

Passed March 10, 2016
Approved March 21, 2016
Effective July 1, 2016

SAFETY NET INITIATIVE AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: John Knotwell

LONG TITLE**General Description:**

This bill modifies provisions related to the Safety Net Initiative.

Highlighted Provisions:

This bill:

- ▶ transfers the administration of the Safety Net Initiative from the Office of the Attorney General to the Department of Workforce Services; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

35A-1-104, as last amended by Laws of Utah 2008, Chapter 382
67-5-1.5, as last amended by Laws of Utah 2012, Chapter 350

ENACTS:

35A-3-801, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

35A-3-802, (Renumbered from 67-5-26, as enacted by Laws of Utah 2008, Chapter 116)

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

Section 1. Section 35A-1-104 is amended to read:**35A-1-104. Department authority.**

Within all other authority or responsibility granted to it by law, the department may:

- (1) adopt rules when authorized by this title, in accordance with the procedures of Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (2) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;
- (3) conduct adjudicative proceedings in accordance with the procedures of Title 63G, Chapter 4, Administrative Procedures Act;
- (4) establish eligibility standards for its programs, not inconsistent with state or federal law or regulations;

(5) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who is not eligible;

(6) administer oaths, certify to official acts, issue subpoenas to compel witnesses and the production of books, accounts, documents, and other records necessary as evidence;

(7) acquire, manage, and dispose of any real or personal property needed or owned by the department, not inconsistent with state law;

(8) receive gifts, grants, devises, and donations or their proceeds, crediting the program designated by the donor, and using the gift, grant, devise, or donation for the purposes requested by the donor, as long as the request conforms to state and federal policy;

(9) accept and employ volunteer labor or services;

(10) reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;

(11) carry out the responsibility assigned by the State Workforce Services Plan developed by the State Council on Workforce Services;

(12) provide training and educational opportunities for its staff;

(13) examine and audit the expenditures of any public funds provided to a local authority, agency, or organization that contracts with or receives funds from those authorities or agencies;

(14) accept and administer grants from the federal government and from other sources, public or private;

(15) employ and determine the compensation of clerical, legal, technical, investigative, and other employees necessary to carry out its policymaking, regulatory, and enforcement powers, rights, duties, and responsibilities under this title;

(16) establish and conduct free employment agencies, and bring together employers seeking employees and working people seeking employment, and make known the opportunities for employment in this state;

(17) collect, collate, and publish statistical and other information relating to employees, employers, employments, and places of employment, and other statistics as it considers proper;

(18) encourage the expansion and use of apprenticeship programs meeting state or federal standards for apprenticeship programs;

(19) develop processes to ensure that the department responds to the full range of employee and employer clients; ~~and~~

(20) carry out the responsibilities assigned to it by statute~~[-]; and~~

(21) administer the Safety Net Initiative as described in Section 35A-3-802.

Section 2. Section 35A-3-801 is enacted to read:

Part 8. Safety Net Initiative

35A-3-801. Title.

This part is known as the "Safety Net Initiative."

Section 3. Section 35A-3-802, which is renumbered from Section 67-5-26 is renumbered and amended to read:

[67-5-26]. 35A-3-802. Safety Net Initiative -- Staff.

(1) As used in this section, "individuals in underserved communities" means ~~[men, women, and children]~~ individuals living in culturally isolated communities ~~[of Utah and northern Arizona]~~ in the state who may lack access to ~~[justice, safety, and services]~~ public assistance and other government services.

(2) There is created within the ~~[Office of the Attorney General]~~ department the Safety Net Initiative to:

~~[(a) address and prevent the crimes of domestic violence, sexual assault, stalking, incest, and child abuse relating to individuals in underserved communities; and]~~

~~[(b)]~~ (a) implement strategies to increase awareness and ~~[to]~~ reduce risk factors in order to improve the safety and well-being of individuals in underserved communities~~[-]~~;

~~[(3) There is created within the Office of the Attorney General the Safety Net Task Force, which is a statewide multi-disciplinary and multi-jurisdictional task force focused on accomplishing the following objectives:]~~

~~[(a) —coordinating]~~ (b) coordinate with government agencies, nonprofit organizations, and interested individuals ~~[in order to work]~~ to provide open communication with individuals in underserved communities; and

~~[(b) —coordinating]~~ (c) coordinate efforts to give individuals in underserved communities ~~[equal]~~ needed access to ~~[justice, safety, and services]~~ public assistance and other government services.

~~[(4)]~~ (3) The ~~[attorney general]~~ department may employ or contract with individuals, entities, and support staff as necessary to administer the duties required by this section.

Section 4. Section 67-5-1.5 is amended to read:

67-5-1.5. Special duties -- Employment of staff.

(1) The attorney general may undertake special duties and projects as follows:

(a) employment of child protection services investigators under Section 67-5-16;

(b) employment of an Obscenity and Pornography Complaints Ombudsman under Section 67-5-18;

(c) administration of the Internet Crimes Against Children Task Force under Section 67-5-20;

(d) administration of the Internet Crimes Against Children (ICAC) Unit under Section 67-5-21;

(e) administration of the Identity Theft Reporting Information System (IRIS) Program under Section 67-5-22;

(f) administration of the Attorney General Crime and Violence Prevention Fund under Section 67-5-24; and

~~[(g) administration of the Safety Net Initiative as provided under Section 67-5-26; and]~~

~~[(4b)]~~ (g) administration of the Mortgage and Financial Fraud Unit under Section 67-5-30.

(2) As permitted by the provisions of this chapter, the attorney general may employ or contract with investigators, prosecutors, and necessary support staff to fulfill the special duties undertaken under this section.

Section 5. Effective date.

This bill takes effect on July 1, 2016.

CHAPTER 134**H. B. 12**

Passed February 24, 2016

Approved March 22, 2016

Effective May 10, 2016

**DISASTER RECOVERY
FOR LOCAL GOVERNMENTS**Chief Sponsor: Curtis Oda
Senate Sponsor: J. Stuart Adams**LONG TITLE****General Description:**

This bill modifies the Public Safety Code and the Budgetary Procedures Act to establish a loan program to local government entities for the purpose of providing emergency disaster services.

Highlighted Provisions:

This bill:

- ▶ creates the Local Government Emergency Response Loan Fund for the purpose of providing short-term, low-interest loans to local government entities to be used for:
 - costs incurred for providing emergency disaster services; and
 - matching funds required to secure federal funds or grants related to a declared disaster;
- ▶ provides the criteria by which loans from the fund will be awarded;
- ▶ provides rulemaking authority for the Division of Emergency Management to administer the loan program;
- ▶ provides that funds from the State Disaster Recovery Restricted Account may be appropriated to the Local Government Emergency Response Loan Fund; and
- ▶ provides that a specified portion of the General Fund revenue surplus be deposited annually into the Local Government Emergency Response Loan Fund.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-2a-602, as last amended by Laws of Utah 2013, Chapter 117 and renumbered and amended by Laws of Utah 2013, Chapter 295

53-2a-603, as last amended by Laws of Utah 2013, Chapter 117 and renumbered and amended by Laws of Utah 2013, Chapter 295

63J-1-314, as last amended by Laws of Utah 2013, Chapter 295

ENACTS:

53-2a-607, Utah Code Annotated 1953

53-2a-608, Utah Code Annotated 1953

53-2a-609, Utah Code Annotated 1953

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

Section 1. Section 53-2a-602 is amended to read:**53-2a-602. Definitions.**

(1) Unless otherwise defined in this section, the terms ~~(defined in Part 1, Emergency Management Act, shall have the same meaning for this part)~~ that are used in this part mean the same as those terms are defined in Part 1, Emergency Management Act.

(2) As used in this part:

(a) "Declared disaster" means one or more events:

- (i) within the state;
- (ii) that occur within a limited period of time;
- (iii) that involve:
 - (A) a significant number of persons being at risk of bodily harm, sickness, or death; or
 - (B) a significant portion of real property at risk of loss;

(iv) that are sudden in nature and generally occur less frequently than every three years; and

(v) that results in:

(A) the president of the United States declaring an emergency or major disaster in the state;

(B) the governor declaring a state of emergency under [Title 53, Chapter 2a,] Part 2, Disaster Response and Recovery Act; or

(C) the chief executive officer of a local government declaring a local emergency under [Title 53, Chapter 2a,] Part 2, Disaster Response and Recovery Act.

(b) "Disaster recovery fund" means the State Disaster Recovery Restricted Account created in Section 53-2a-603.

(c) "Emergency preparedness" means the following done for the purpose of being prepared for an emergency as defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

- (i) the purchase of equipment;
 - (ii) the training of personnel; or
 - (iii) the obtaining of a certification.
- (d) (i) "Emergency disaster services" means the following:

(A) evacuation;

(B) shelter;

(C) medical triage;

(D) emergency transportation;

(E) repair of infrastructure;

(F) safety services, including fencing or roadblocks;

(G) sandbagging;

(H) debris removal;

(I) repair of infrastructure;

(J) safety services, including fencing or roadblocks;

(K) sandbagging;

(L) debris removal;

- (I) temporary bridges;
- (J) procurement and distribution of food, water, or ice;
- (K) procurement and deployment of generators;
- (L) rescue or recovery;
- (M) emergency protective measures; or
- (N) services similar to those described in Subsections (2)(d)(i)(A) through (M), as defined by the division by rule, that are generally required in response to a declared disaster.

(ii) "Emergency disaster services" does not include:

- (A) emergency preparedness; or
- (B) notwithstanding whether or not a county participates in the Wildland Fire Suppression Fund created in Section 65A-8-204, any fire suppression or presuppression costs that may be paid for from the Wildland Fire Suppression Fund if the county participates in the Wildland Fire Suppression Fund.
- (e) "Governing body" means:
 - (i) for a county, city, or town, the legislative body of the county, city, or town;
 - (ii) for a local district, the board of trustees of the local district; and
 - (iii) for a special service district:
 - (A) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or
 - (B) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301.

(f) "Local district" ~~[has the same meaning as]~~ means the same as that term is defined in Section 17B-1-102.

(g) "Local fund" means a local government disaster fund created in accordance with Section 53-2a-605.

- (h) "Local government" means:
 - (i) a county;
 - (ii) a city or town; or
 - (iii) a local district or special service district that:
 - (A) operates a water system;
 - (B) provides transportation service;
 - (C) provides, operates, and maintains correctional and rehabilitative facilities and programs for municipal, state, and other detainees and prisoners;
 - (D) provides consolidated 911 and emergency dispatch service;
 - (E) operates an airport; or

(F) operates a sewage system.

(i) "Special fund" means a fund other than a general fund of a local government that is created for a special purpose established under the uniform system of budgeting, accounting, and reporting.

(j) "Special service district" ~~[has the same meaning as]~~ means the same as that term is defined in Section 17D-1-102.

(k) "State's prime interest rate" means the average interest rate paid by the state on general obligation bonds issued during the most recent fiscal year in which bonds were sold.

Section 2. Section 53-2a-603 is amended to read:

53-2a-603. State Disaster Recovery Restricted Account.

(1) (a) There is created a restricted account in the General Fund known as the "State Disaster Recovery Restricted Account."

(b) The disaster recovery ~~[fund shall consist]~~ account consists of:

(i) money deposited into the disaster recovery ~~[fund]~~ account in accordance with Section 63J-1-314;

(ii) money appropriated to the disaster recovery ~~[fund]~~ account by the Legislature; and

(iii) any other public or private money received by the division that is:

(A) given to the division for purposes consistent with this section; and

(B) deposited into the disaster recovery ~~[fund]~~ account at the request of:

(I) the division; or

(II) the person or entity giving the money.

(c) The Division of Finance shall deposit interest or other earnings derived from investment of ~~[fund]~~ account money into the General Fund.

(2) Subject to being appropriated by the Legislature, money in the disaster recovery ~~[fund]~~ account may only be expended or committed to be expended as follows:

(a) (i) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that does not exceed \$250,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster;

(ii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that exceeds \$250,000, but does not exceed \$1,000,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster if the division:

(A) before making the expenditure or commitment to expend, obtains approval for the expenditure or commitment to expend from the governor;

(B) subject to Subsection (5), provides written notice of the expenditure or commitment to expend to the speaker of the House of Representatives, the president of the Senate, the Division of Finance, and the Office of the Legislative Fiscal Analyst no later than 72 hours after making the expenditure or commitment to expend; and

(C) makes the report required by Subsection 53-2a-606(2);

(iii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that exceeds \$1,000,000, but does not exceed \$3,000,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster if, before making the expenditure or commitment to expend, the division:

(A) obtains approval for the expenditure or commitment to expend from the governor; and

(B) submits the expenditure or commitment to expend to the Executive Appropriations Committee in accordance with Subsection 53-2a-606(3); and

(iv) in any fiscal year the division may expend or commit to expend an amount that does not exceed \$150,000 to fund expenses incurred by the National Guard if:

(A) in accordance with Section 39-1-5, the governor orders into active service the National Guard in response to a declared disaster; and

(B) the money is not used for expenses that qualify for payment as emergency disaster services; [and]

(b) subject to being appropriated by the Legislature, money not described in Subsections (2)(a)(i), (ii), and (iii) may be expended or committed to be expended to fund costs to the state directly related to a declared disaster that are not costs related to:

(i) emergency disaster services;

(ii) emergency preparedness; or

(iii) notwithstanding whether a county participates in the Wildland Fire Suppression Fund created in Section 65A-8-204, any fire suppression or presuppression costs that may be paid for from the Wildland Fire Suppression Fund if the county participates in the Wildland Fire Suppression Fund[-]; and

(c) to fund the Local Government Emergency Response Loan Fund created in Section 53-2a-607.

(3) The state treasurer shall invest money in the disaster recovery fund according to Title 51, Chapter 7, State Money Management Act.

(4) (a) Except as provided in Subsections (1) and (2), the money in the disaster recovery [fund] account may not be diverted, appropriated, expended, or committed to be expended for a purpose that is not listed in this section.

(b) Notwithstanding Section 63J-1-410, the Legislature may not appropriate money from the disaster recovery [fund] account to eliminate or otherwise reduce an operating deficit if the money appropriated from the disaster recovery [fund] account is expended or committed to be expended for a purpose other than one listed in this section.

(c) The Legislature may not amend the purposes for which money in the disaster recovery [fund] account may be expended or committed to be expended except by the affirmative vote of two-thirds of all the members elected to each house.

(5) The division:

(a) shall provide the notice required by Subsection (2)(a)(ii) using the best available method under the circumstances as determined by the division; and

(b) may provide the notice required by Subsection (2)(a)(ii) in electronic format.

Section 3. Section 53-2a-607 is enacted to read:

53-2a-607. Creation and administration.

(1) (a) There is created an enterprise fund known as the Local Government Emergency Response Loan Fund.

(b) The division as defined in Section 53-2a-103 is the administrator of the fund.

(2) The fund consists of:

(a) money appropriated to the fund by the Legislature;

(b) money received for the repayment of loans made from the fund;

(c) interest earned on the fund; and

(d) money deposited into the fund in accordance with Section 63J-1-314.

(3) The money in the fund shall be invested by the state treasurer according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, except that all interest or other earnings derived from money in the fund shall be deposited into the fund.

(4) Local government entities may apply through the division for a short-term loan from the fund for the purposes provided in Section 53-2a-608, provided that the local government entity:

(a) agrees to the terms of the loan; and

(b) is not in default on any other state loans administered by the Division of Finance or any other state agency.

(5) The division may not loan out:

(a) more than 50% of the total account balance available at the time that a loan request is made by a local government entity; or

(b) an amount that will leave the fund balance at less than \$10,000,000.

Section 4. Section 53-2a-608 is enacted to read:

53-2a-608. Purposes and criteria for loans.

(1) Money in the fund shall be used by the division, as prioritized by the director, only to:

(a) provide loans to local government entities for:

(i) the costs incurred by a local government entity for providing emergency disaster services as defined in Section 53-2a-602; or

(ii) providing any state or local matching funds to secure federal funds or grants related to a declared disaster, as defined in Section 53-2a-602;

(b) pay the Division of Finance for the costs of administering the fund, providing loans, and obtaining repayments of loans; and

(c) provide funds to state agencies for the costs of responding to a declared disaster.

(2) The division shall establish the terms and conditions of the loans and the repayment schedule consistent with the following criteria:

(a) the interest rate charged and the maximum payback period on all loans shall be:

(i) the state's prime interest rate at the time of loan closing, plus zero percent, with a maximum payback period of 10 years if the applicant has reserved an average of 90% to 100% of the amount authorized in Section 53-2a-605 over the previous five fiscal years;

(ii) the state's prime interest rate at the time of loan closing, plus 2%, with a maximum payback period of five years if the applicant has reserved an average of 70% up to 90% of the amount authorized in Section 53-2a-605 over the previous five fiscal years; or

(iii) the state's prime interest rate at the time of loan closing, plus 4%, with a maximum payback period of three years if the applicant has reserved an average of 50% up to 70% of the amount authorized in Section 53-2a-605 over the previous five fiscal years; and

(b) the division may not authorize a loan from this fund on any terms or conditions to local government entities that have reserved an average of less than 50% of the amount authorized in Section 53-2a-605 over the previous five fiscal years.

(3) If the division receives multiple loan applications concurrently, priority shall be given to applicants based on the extent of their participation in the reserve account authorized in Section 53-2a-605.

Section 5. Section 53-2a-609 is enacted to read:

53-2a-609. Division to make rules to administer the loan program.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing:

(1) form, content, and procedure for loan and grant applications;

(2) criteria and procedures for prioritizing loan and grant applications;

(3) requirements and procedures for securing loans and grants;

(4) procedures for making loans;

(5) procedures for administering and ensuring repayment of loans, including late payment penalties; and

(6) procedures for recovering on defaulted loans.

Section 6. Section 63J-1-314 is amended to read:

63J-1-314. Deposits related to the Disaster Recovery Funding Act.

(1) As used in this section, "operating deficit" means that, at the end of the fiscal year, the unassigned fund balance in the General Fund is less than zero.

(2) Except as provided under [Subsection] Subsections (3) and (4), at the end of each fiscal year, the Division of Finance shall, after the transfer of General Fund revenue surplus has been made to the Medicaid Growth Reduction and Budget Stabilization Account, as provided in Section 63J-1-315, and the General Fund Budget Reserve Account, as provided in Section 63J-1-312, transfer an amount into the State Disaster Recovery Restricted Account, created in Section 53-2a-603, from the General Fund revenue surplus as defined in Section 63J-1-312, calculated by:

(a) determining the amount of General Fund revenue surplus after the transfer to the Medicaid Growth Reduction and Budget Stabilization Account under Section 63J-1-315 and the General Fund Budget Reserve Account under Section 63J-1-312;

(b) calculating an amount equal to the lesser of:

(i) 25% of the amount determined under Subsection (2)(a); or

(ii) 6% of the total of the General Fund appropriation amount for the fiscal year in which the surplus occurs; and

(c) adding to the amount calculated under Subsection (2)(b) an amount equal to the lesser of:

(i) 25% more of the amount described in Subsection (2)(a); or

(ii) the amount necessary to replace, in accordance with this Subsection (2)(c), any amount appropriated from the State Disaster Recovery Restricted Account within 10 fiscal years before the fiscal year in which the surplus occurs if:

(A) a surplus exists; and

(B) the Legislature appropriates money from the State Disaster Recovery Restricted Account that is not replaced by appropriation or as provided in this Subsection (2)(c).

(3) Notwithstanding Subsection (2), if, at the end of a fiscal year, the Division of Finance determines that an operating deficit exists, the division shall reduce the transfer to the State Disaster Recovery Restricted Account by the amount necessary to eliminate the operating deficit.

(4) Notwithstanding Subsection (2):

(a) for the period beginning July 1, 2015, and ending June 30, 2020, the Division of Finance shall transfer to the Local Government Emergency Response Loan Fund 25% of the amount to be transferred into the State Disaster Recovery Restricted Account as provided in Subsection (2)(b); and

(b) on and after July 1, 2020, the Division of Finance shall transfer to the Local Government Emergency Response Loan Fund 10% of the amount to be transferred into the State Disaster Recovery Restricted Account as provided in Subsection (2)(b).

CHAPTER 135**H. B. 26**

Passed February 24, 2016

Approved March 22, 2016

Effective May 10, 2016

**REVENUE AND TAXATION INTERIM
COMMITTEE REPORT AMENDMENTS**Chief Sponsor: Daniel McCay
Senate Sponsor: Deidre M. Henderson**LONG TITLE****General Description:**

This bill addresses reports to and by the Revenue and Taxation Interim Committee.

Highlighted Provisions:

This bill:

- ▶ repeals certain reports to and by the Revenue and Taxation Interim Committee;
- ▶ requires that certain reports be provided electronically to the committee;
- ▶ addresses requirements of reports made by the Governor's Office of Economic Development to the committee; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

35A-5-306, as enacted by Laws of Utah 2014, Chapter 315
 59-1-213, as enacted by Laws of Utah 2004, Chapter 176
 59-1-304, as last amended by Laws of Utah 2008, Chapter 382
 59-2-303.1, as last amended by Laws of Utah 2010, Chapter 131
 59-2-1308.5, as enacted by Laws of Utah 2011, Chapter 325
 59-5-102, as last amended by Laws of Utah 2013, Chapter 310
 59-7-607, as last amended by Laws of Utah 2006, Chapter 223
 59-7-612, as last amended by Laws of Utah 2012, Chapter 405
 59-7-613, as last amended by Laws of Utah 2011, Chapter 384
 59-7-614.2, as last amended by Laws of Utah 2015, Chapter 283
 59-7-614.5, as last amended by Laws of Utah 2015, Chapter 283
 59-7-614.7, as enacted by Laws of Utah 2012, Chapter 410
 59-7-614.8, as last amended by Laws of Utah 2015, Chapter 283
 59-7-701, as last amended by Laws of Utah 2009, Chapter 312
 59-7-903, as last amended by Laws of Utah 2015, Chapter 41
 59-9-101, as last amended by Laws of Utah 2011, Chapter 266
 59-10-1002.1, as last amended by Laws of Utah

2015, Chapters 30 and 41
 59-10-1010, as renumbered and amended by Laws of Utah 2006, Chapter 223
 59-10-1012, as last amended by Laws of Utah 2012, Chapter 405
 59-10-1013, as last amended by Laws of Utah 2011, Chapter 384
 59-10-1029, as enacted by Laws of Utah 2012, Chapter 410
 59-10-1030, as last amended by Laws of Utah 2015, Chapter 283
 59-10-1107, as last amended by Laws of Utah 2015, Chapter 283
 59-10-1108, as last amended by Laws of Utah 2015, Chapter 283
 59-10-1304, as last amended by Laws of Utah 2015, Chapters 30 and 41
 59-12-103.1, as last amended by Laws of Utah 2013, Chapter 150
 59-12-104, as last amended by Laws of Utah 2015, Chapters 11, 294, and 353
 59-12-104.2, as last amended by Laws of Utah 2009, Chapter 203
 59-12-104.5, as last amended by Laws of Utah 2012, Chapter 41
 59-23-4, as last amended by Laws of Utah 2010, Chapter 105
 63M-4-505, as enacted by Laws of Utah 2012, Chapter 410
 63N-2-810, as renumbered and amended by Laws of Utah 2015, Chapter 283

REPEALS:

59-26-110, as enacted by Laws of Utah 2004, Chapter 300

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

Section 1. Section 35A-5-306 is amended to read:**35A-5-306. Report to the Legislature.**

Beginning with the 2016 interim, the department shall ~~report~~ annually provide an electronic report to the Economic Development and Workforce Services Interim Committee and the Revenue and Taxation Interim Committee:

- (1) on or before the November interim meeting; and
- (2) on the amount of tax credits the department grants under this part.

Section 2. Section 59-1-213 is amended to read:**59-1-213. Annual report on Internal Revenue Code changes.**

The commission shall annually provide an electronic report to the Revenue and Taxation Interim Committee on or before the October interim meeting concerning the impacts of the reliance of this title on the Internal Revenue Code, including:

- (1) any modification to the Internal Revenue Code that is likely to have a fiscal impact on state revenues:
 - (a) that became effective:

(i) if the commission is preparing its initial report in accordance with this section, during the previous calendar year; or

(ii) if the commission has prepared a previous report in accordance with this section, after the most recent report prepared in accordance with this section; or

(b) that have been enacted and will become effective prior to the end of the calendar year that begins January 1 following the current report prepared in accordance with this section;

(2) the fiscal impacts a modification described in Subsection (1) may have on state revenues; and

(3) statutory or administrative options to:

(a) implement the effects on this title of a modification described in Subsection (1); or

(b) change this title to prevent this title from implementing a modification described in Subsection (1).

Section 3. Section 59-1-304 is amended to read:

59-1-304. Definition -- Limitations on maintaining a class action that relates to a tax or fee -- Requirements for a person to be included as a member of a class in a class action -- Rulemaking authority -- Limitations on recovery by members of a class -- Severability.

(1) As used in this section, "tax or fee" means a tax or fee administered by the commission.

(2) A class action that relates to a tax or fee may not be maintained in any court if a claim sought by a representative party seeking to maintain the class action arises as a result of:

(a) a person collecting a tax or fee from the representative party if the representative party is not required by law to pay the tax or fee; or

(b) any of the following that requires a change in the manner in which a tax or fee is required to be collected or paid:

(i) an administrative rule made by the commission;

(ii) a private letter ruling issued by the commission; or

(iii) a decision issued by:

(A) the commission; or

(B) a court of competent jurisdiction.

(3) (a) A person may be included as a member of a class in a class action relating to a tax or fee only if the person:

(i) exhausts all administrative remedies with the commission; and

(ii) requests in writing to be included as a member of the class.

(b) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules to simplify and expedite the administrative remedies a person shall exhaust as required by Subsection (3)(a).

(ii) The rules required by Subsection (3)(b)(i) may include rules providing for:

(A) expedited filing procedures and forms;

(B) consolidation of hearings procedures as may be reasonably needed to accommodate potential inclusion of similarly situated persons; and

(C) the designation of test or sample cases to avoid multiple hearings.

~~[(iii) The commission shall report to the Revenue and Taxation Interim Committee on the status of the rules required by this Subsection (3)(b) on or before the October 2004 interim meeting.]~~

(4) Subject to Subsection (5), in a class action brought under this section against the state or its political subdivisions in which members of the class are awarded a refund or credit of a tax or fee by a court of competent jurisdiction, the total amount that may be recovered by members of the class may not exceed the difference between:

(a) the sum of:

(i) the amount of the refund or credit awarded to members of the class; and

(ii) interest as provided in Section 59-1-402; and

(b) if awarded in accordance with Subsection (5), the sum of:

(i) reasonable costs; and

(ii) reasonable attorney fees.

(5) (a) For purposes of Subsection (4), at the discretion of the court, the court may award:

(i) reasonable costs as determined by the court; and

(ii) reasonable attorney fees determined under Subsection (5)(b).

(b) Reasonable attorney fees awarded in a class action may not exceed a reasonable hourly rate for work actually performed:

(i) as determined by the court; and

(ii) taking into account all facts and circumstances that the court considers reasonable.

(6) If any provision of this section, or the application of any provision of this section to any person or circumstance is held unconstitutional or invalid by a court of competent jurisdiction, the remainder of the section shall be given effect without the invalid provision or application.

Section 4. Section 59-2-303.1 is amended to read:

59-2-303.1. Mandatory cyclical appraisals.

(1) For purposes of this section:

(a) "Corrective action" includes:

- (i) factoring pursuant to Section 59-2-704;
- (ii) notifying the state auditor that the county failed to comply with the requirements of this section; or
- (iii) filing a petition for a court order requiring a county to take action.

(b) "Mass appraisal system" means a computer assisted mass appraisal system that:

(i) a county assessor uses to value real property; and

(ii) includes at least the following system features:

(A) has the ability to update all parcels of real property located within the county each year;

(B) can be programmed with specialized criteria;

(C) provides uniform and equal treatment of parcels within the same class of real property throughout the county; and

(D) annually updates all parcels of residential real property within the county using accepted valuation methodologies as determined by rule.

(c) "Property review date" means the date a county assessor completes a detailed review of the property characteristics of a parcel of real property in accordance with Subsection (3)(a).

(2) (a) The county assessor shall annually update property values of property as provided in Section 59-2-301 based on a systematic review of current market data.

(b) The county assessor shall conduct the annual update described in Subsection (2)(a) by using a mass appraisal system on or before the following:

- (i) for a county of the first class, January 1, 2009;
- (ii) for a county of the second class, January 1, 2011;
- (iii) for a county of the third class, January 1, 2014; and
- (iv) for a county of the fourth, fifth, or sixth class, January 1, 2015.

(c) The county assessor and the commission shall jointly certify that the county's mass appraisal system meets the requirements:

- (i) described in Subsection (1)(b); and
- (ii) of the commission.

(3) (a) In addition to the requirements in Subsection (2), the county assessor shall complete a detailed review of property characteristics for each property at least once every five years.

(b) The county assessor shall maintain on the county's computer system, a record of the last property review date for each parcel of real property located within the county assessor's county.

(4) (a) The commission shall take corrective action if the commission determines that:

(i) a county assessor has not satisfactorily followed the current mass appraisal standards, as provided by law;

(ii) the sales-assessment ratio, coefficients of dispersion, or other statistical measures of appraisal performance related to the studies required by Section 59-2-704 are not within the standards provided by law; or

(iii) the county assessor has failed to comply with the requirements of this section.

(b) If a county assessor fails to comply with the requirements of this section for one year, the commission shall assist the county assessor in fulfilling the requirements of Subsections (2) and (3).

(c) If a county assessor fails to comply with the requirements of this section for two consecutive years, the county will lose the county's allocation of the revenue generated statewide from the imposition of the multicounty assessing and collecting levy authorized in Sections 59-2-1602 and 59-2-1603.

(d) If a county loses its allocation of the revenue generated statewide from the imposition of the multicounty assessing and collecting levy described in Subsection (4)(c), the revenue the county would have received shall be distributed to the Multicounty Appraisal Trust created by interlocal agreement by all counties in the state.

(5) (a) On or before July 1, 2008, the county assessor shall prepare a five-year plan to comply with the requirements of Subsections (2) and (3).

(b) The plan shall be available in the county assessor's office for review by the public upon request.

(c) The plan shall be annually reviewed and revised as necessary.

(6) ~~(a)~~ A county assessor shall create, maintain, and regularly update a database containing the following information that the county assessor may use to enhance the county's ability to accurately appraise and assess property on an annual basis:

~~(i)~~ (a) fee and other appraisals;

~~(ii)~~ (b) property characteristics and features;

~~(iii)~~ (c) property surveys;

~~(iv)~~ (d) sales data; and

~~(v)~~ (e) any other data or information on sales, studies, transfers, changes to property, or property characteristics.

~~(b) A county assessor shall submit a report to the commission on or before September 1 stating the progress of the county assessor to meet the requirements of Subsection (6)(a).]~~

~~(c) The commission shall report to the Revenue and Taxation Interim Committee on or before the October interim meeting concerning the information received from the county assessors pursuant to Subsection (6)(b).]~~

Section 5. Section 59-2-1308.5 is amended to read:

59-2-1308.5. Equal payment agreements.

(1) (a) The commission may enter into an agreement with a commercial or industrial taxpayer to provide for equal, or approximately equal, property tax payments over a reasonable period of years, not to exceed 20 years, if:

(i) the payment schedule is based on an accepted valuation methodology that reasonably estimates the property's anticipated fair market value over the period of the proposed equal payments;

(ii) the agreement includes a provision making the initial equal payment schedule subject to an annual adjustment, as necessary, to account for differences between the property's fair market value as of the annual lien date and the property's fair market value that formed the basis of the initial equal payment schedule;

(iii) the commission, the taxpayer, and each affected taxing entity approve the agreement; and

(iv) the total amount the taxpayer pays under the agreement is no less than the amount the taxpayer would have paid in the absence of the agreement.

(b) A taxing entity may not approve an agreement under this section on behalf of another taxing entity.

(2) (a) Subject to Subsection (2)(b), a tax lien under this chapter against the taxpayer's property is not affected by a payment pursuant to an agreement under this section to the extent of the difference between the amount the taxpayer would have been required to pay in the absence of the agreement and the amount of the payment under the agreement.

(b) For purposes of enforcing a tax lien under this chapter, a taxpayer's failure to pay the full amount of taxes that the taxpayer would have been required to pay in the absence of an agreement under this section does not constitute a failure to pay the full amount of taxes owing:

(i) if the taxpayer pays the full amount of the payment owing under the agreement; and

(ii) unless the taxpayer:

(A) files for bankruptcy;

(B) transfers ownership of the property that is the subject of the property taxes; or

(C) has a change in ownership and the new owner does not assume all responsibility and liability under the agreement.

(3) (a) The commission may revise, accelerate, or cancel an equal payment agreement under this section to the same extent and for the same reasons that the commission may revise, accelerate, or cancel an installment agreement under Section 59-1-1004.

(b) The commission shall give the taxpayer reasonable notice of its intent to revise or cancel an equal payment agreement under this section.

(4) The commission shall promulgate rules to ensure that tax revenue derived from payments pursuant to an agreement under this section do not affect the calculation of the certified tax rate under Section 59-2-924.

(5) ~~[(a) The]~~ If the commission or a taxing entity enters into an equal payment agreement under this section:

(a) the commission shall annually provide an electronic report to the Revenue and Taxation Interim Committee [an assessment of] on the effects of equal payment agreements under this section[-]; and

(b) the Revenue and Taxation Interim Committee shall annually review and assess the effects of equal payment agreements under this section.

Section 6. Section 59-5-102 is amended to read:

59-5-102. Severance tax -- Rate -- Computation -- Annual exemption -- Tax credit -- Tax rate reduction.

(1) (a) Subject to Subsection (1)(b), a person owning an interest in oil or gas produced from a well in the state, including a working interest, royalty interest, payment out of production, or any other interest, or in the proceeds of the production of oil or gas, shall pay to the state a severance tax on the basis of the value determined under Section 59-5-103.1 of the oil or gas:

(i) produced; and

(ii) (A) saved;

(B) sold; or

(C) transported from the field where the substance was produced.

(b) This section applies to an interest in oil or gas produced from a well in the state or in the proceeds of the production of oil or gas produced from a well in the state except for:

(i) an interest of the United States in oil or gas or in the proceeds of the production of oil or gas;

(ii) an interest of the state or a political subdivision of the state in oil or gas or in the proceeds of the production of oil or gas; or

(iii) an interest of an Indian or Indian tribe as defined in Section 9-9-101 in oil or gas or in the proceeds of the production of oil or gas produced from land under the jurisdiction of the United States.

(2) (a) ~~[Subject to Subsection (2)(d), the]~~ The severance tax rate for oil is as follows:

(i) 3% of the value of the oil up to and including the first \$13 per barrel for oil; and

(ii) 5% of the value of the oil from \$13.01 and above per barrel for oil.

~~(b) [Subject to Subsection (2)(d), the] The severance tax rate for natural gas is as follows:~~

~~(i) 3% of the value of the natural gas up to and including the first \$1.50 per MCF for gas; and~~

~~(ii) 5% of the value of the natural gas from \$1.51 and above per MCF for gas.~~

~~(c) [Subject to Subsection (2)(d), the] The severance tax rate for natural gas liquids is 4% of the value of the natural gas liquids.~~

~~[(d) (i) On or before December 15, 2004, the Office of the Legislative Fiscal Analyst and the Governor's Office of Management and Budget shall prepare a revenue forecast estimating the amount of revenues that:]~~

~~[(A) would be generated by the taxes imposed by this part for the calendar year beginning on January 1, 2004 had 2004 General Session S.B. 191 not taken effect; and]~~

~~[(B) will be generated by the taxes imposed by this part for the calendar year beginning on January 1, 2004.]~~

~~[(ii) Effective on January 1, 2005, the tax rates described in Subsections (2)(a) through (e) shall be:]~~

~~[(A) increased as provided in Subsection (2)(d)(iii) if the amount of revenues estimated under Subsection (2)(d)(i)(B) is less than the amount of revenues estimated under Subsection (2)(d)(i)(A); or]~~

~~[(B) decreased as provided in Subsection (2)(d)(iii) if the amount of revenues estimated under Subsection (2)(d)(i)(B) is greater than the amount of revenues estimated under Subsection (2)(d)(i)(A).]~~

~~[(iii) For purposes of Subsection (2)(d)(ii):]~~

~~[(A) subject to Subsection (2)(d)(iv)(B);]~~

~~[(4) if an increase is required under Subsection (2)(d)(ii)(A), the total increase in the tax rates shall be by the amount necessary to generate for the calendar year beginning on January 1, 2005 revenues equal to the amount by which the revenues estimated under Subsection (2)(d)(i)(A) exceed the revenues estimated under Subsection (2)(d)(i)(B); or]~~

~~[(II) if a decrease is required under Subsection (2)(d)(ii)(B), the total decrease in the tax rates shall be by the amount necessary to reduce for the calendar year beginning on January 1, 2005 revenues equal to the amount by which the revenues estimated under Subsection (2)(d)(i)(B) exceed the revenues estimated under Subsection (2)(d)(i)(A); and]~~

~~[(B) an increase or decrease in each tax rate under Subsection (2)(d)(ii) shall be in proportion to the amount of revenues generated by each tax rate under this part for the calendar year beginning on January 1, 2003.]~~

~~[(iv) (A) The commission shall calculate any tax rate increase or decrease required by Subsection~~

~~(2)(d)(ii) using the best information available to the commission.]~~

~~[(B) If the tax rates described in Subsections (2)(a) through (e) are increased or decreased as provided in this Subsection (2)(d), the commission shall mail a notice to each person required to file a return under this part stating the tax rate in effect on January 1, 2005 as a result of the increase or decrease.]~~

~~(3) If oil or gas is shipped outside the state:~~

~~(a) the shipment constitutes a sale; and~~

~~(b) the oil or gas is subject to the tax imposed by this section.~~

~~(4) (a) Except as provided in Subsection (4)(b), if the oil or gas is stockpiled, the tax is not imposed until the oil or gas is:~~

~~(i) sold;~~

~~(ii) transported; or~~

~~(iii) delivered.~~

~~(b) Notwithstanding Subsection (4)(a), if oil or gas is stockpiled for more than two years, the oil or gas is subject to the tax imposed by this section.~~

~~(5) A tax is not imposed under this section upon:~~

~~(a) stripper wells, unless the exemption prevents the severance tax from being treated as a deduction for federal tax purposes;~~

~~(b) the first 12 months of production for wildcat wells started after January 1, 1990; or~~

~~(c) the first six months of production for development wells started after January 1, 1990.~~

~~(6) (a) Subject to Subsections (6)(b) and (c), a working interest owner who pays for all or part of the expenses of a recompletion or workover may claim a nonrefundable tax credit equal to 20% of the amount paid.~~

~~(b) The tax credit under Subsection (6)(a) for each recompletion or workover may not exceed \$30,000 per well during each calendar year.~~

~~(c) If any amount of tax credit a taxpayer is allowed under this Subsection (6) exceeds the taxpayer's tax liability under this part for the calendar year for which the taxpayer claims the tax credit, the amount of tax credit exceeding the taxpayer's tax liability for the calendar year may be carried forward for the next three calendar years.~~

~~(7) A 50% reduction in the tax rate is imposed upon the incremental production achieved from an enhanced recovery project.~~

~~(8) The taxes imposed by this section are:~~

~~(a) in addition to all other taxes provided by law; and~~

~~(b) delinquent, unless otherwise deferred, on June 1 next succeeding the calendar year when the oil or gas is:~~

~~(i) produced; and~~

- (ii) (A) saved;
- (B) sold; or
- (C) transported from the field.

(9) With respect to the tax imposed by this section on each owner of oil or gas or in the proceeds of the production of those substances produced in the state, each owner is liable for the tax in proportion to the owner's interest in the production or in the proceeds of the production.

(10) The tax imposed by this section shall be reported and paid by each producer that takes oil or gas in kind pursuant to agreement on behalf of the producer and on behalf of each owner entitled to participate in the oil or gas sold by the producer or transported by the producer from the field where the oil or gas is produced.

(11) Each producer shall deduct the tax imposed by this section from the amounts due to other owners for the production or the proceeds of the production.

~~[(12) (a) The Revenue and Taxation Interim Committee shall review the applicability of the tax provided for in this chapter to coal-to-liquids, oil shale, and tar sands technology on or before the October 2011 interim meeting.]~~

~~[(b) The Revenue and Taxation Interim Committee shall address in its review the cost and benefit of not applying the tax provided for in this chapter to coal-to-liquids, oil shale, and tar sands technology.]~~

~~[(c) The Revenue and Taxation Interim Committee shall report its findings and recommendations under this Subsection (12) to the Legislative Management Committee on or before the November 2011 interim meeting.]~~

Section 7. Section 59-7-607 is amended to read:

59-7-607. Utah low-income housing tax credit.

- (1) As used in this section:
 - (a) "Allocation certificate" means:
 - (i) the certificate prescribed by the commission and issued by the Utah Housing Corporation to each taxpayer that specifies the percentage of the annual federal low-income housing tax credit that each taxpayer may take as an annual credit against state income tax; or
 - (ii) a copy of the allocation certificate that the housing sponsor provides to the taxpayer.
 - (b) "Building" means a qualified low-income building as defined in Section 42(c), Internal Revenue Code.
 - (c) "Federal low-income housing tax credit" means the tax credit under Section 42, Internal Revenue Code.
 - (d) "Housing sponsor" means a corporation in the case of a C corporation, a partnership in the case of a

partnership, a corporation in the case of an S corporation, or a limited liability company in the case of a limited liability company.

(e) "Qualified allocation plan" means the qualified allocation plan adopted by the Utah Housing Corporation pursuant to Section 42(m), Internal Revenue Code.

(f) "Special low-income housing tax credit certificate" means a certificate:

- (i) prescribed by the commission;
- (ii) that a housing sponsor issues to a taxpayer for a taxable year; and
- (iii) that specifies the amount of tax credit a taxpayer may claim under this section if the taxpayer meets the requirements of this section.

(g) "Taxpayer" means a person that is allowed a tax credit in accordance with this section which is the corporation in the case of a C corporation, the partners in the case of a partnership, the shareholders in the case of an S corporation, and the members in the case of a limited liability company.

(2) (a) For taxable years beginning on or after January 1, 1995, there is allowed a nonrefundable tax credit against taxes otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for taxpayers issued an allocation certificate.

(b) The tax credit shall be in an amount equal to the greater of the amount of:

- (i) federal low-income housing tax credit to which the taxpayer is allowed during that year multiplied by the percentage specified in an allocation certificate issued by the Utah Housing Corporation; or
- (ii) tax credit specified in the special low-income housing tax credit certificate that the housing sponsor issues to the taxpayer as provided in Subsection (2)(c).

(c) For purposes of Subsection (2)(b)(ii), the tax credit is equal to the product of:

(i) the total amount of low-income housing tax credit under this section that:

- (A) a housing sponsor is allowed for a building; and
- (B) all of the taxpayers may claim with respect to the building if the taxpayers meet the requirements of this section; and

(ii) the percentage of tax credit a taxpayer may claim:

- (A) under this section if the taxpayer meets the requirements of this section; and
- (B) as provided in the agreement between the taxpayer and the housing sponsor.

(d) (i) For the calendar year beginning on January 1, 1995, through the calendar year beginning on January 1, 2015, the aggregate annual tax credit

that the Utah Housing Corporation may allocate for the credit period described in Section 42(f), Internal Revenue Code, pursuant to this section and Section 59-10-1010 is an amount equal to the product of:

(A) 12.5 cents; and

(B) the population of Utah.

(ii) For purposes of this section, the population of Utah shall be determined in accordance with Section 146(j), Internal Revenue Code.

(3) (a) By October 1, 1994, the Utah Housing Corporation shall determine criteria and procedures for allocating the tax credit under this section and Section 59-10-1010 and incorporate the criteria and procedures into the Utah Housing Corporation's qualified allocation plan.

(b) The Utah Housing Corporation shall create the criteria under Subsection (3)(a) based on:

(i) the number of affordable housing units to be created in Utah for low and moderate income persons in the residential housing development of which the building is a part;

(ii) the level of area median income being served by the development;

(iii) the need for the tax credit for the economic feasibility of the development; and

(iv) the extended period for which the development commits to remain as affordable housing.

(4) (a) The following may apply to the Utah Housing Corporation for a tax credit under this section:

(i) any housing sponsor that has received an allocation of the federal low-income housing tax credit; or

(ii) any applicant for an allocation of the federal low-income housing tax credit.

(b) The Utah Housing Corporation may not require fees for applications of the tax credit under this section in addition to those fees required for applications for the federal low-income housing tax credit.

(5) (a) The Utah Housing Corporation shall determine the amount of the tax credit to allocate to a qualifying housing sponsor in accordance with the qualified allocation plan of the Utah Housing Corporation.

(b) (i) The Utah Housing Corporation shall allocate the tax credit to housing sponsors by issuing an allocation certificate to qualifying housing sponsors.

(ii) The allocation certificate under Subsection (5)(b)(i) shall specify the allowed percentage of the federal low-income housing tax credit as determined by the Utah Housing Corporation.

(c) The percentage specified in an allocation certificate may not exceed 100% of the federal low-income housing tax credit.

(6) A housing sponsor shall provide a copy of the allocation certificate to each taxpayer that is issued a special low-income housing tax credit certificate.

(7) (a) A housing sponsor shall provide to the commission a list of:

(i) the taxpayers issued a special low-income housing tax credit certificate; and

(ii) for each taxpayer described in Subsection (7)(a)(i), the amount of tax credit listed on the special low-income housing tax credit certificate.

(b) A housing sponsor shall provide the list required by Subsection (7)(a):

(i) to the commission;

(ii) on a form provided by the commission; and

(iii) with the housing sponsor's tax return for each taxable year for which the housing sponsor issues a special low-income housing tax credit certificate described in this Subsection (7).

(8) (a) All elections made by the taxpayer pursuant to Section 42, Internal Revenue Code, shall apply to this section.

(b) (i) If a taxpayer is required to recapture a portion of any federal low-income housing tax credit, the taxpayer shall also be required to recapture a portion of any state tax credits authorized by this section.

(ii) The state recapture amount shall be equal to the percentage of the state tax credit that equals the proportion the federal recapture amount bears to the original federal low-income housing tax credit amount subject to recapture.

(9) (a) Any tax credits returned to the Utah Housing Corporation in any year may be reallocated within the same time period as provided in Section 42, Internal Revenue Code.

(b) Tax credits that are unallocated by the Utah Housing Corporation in any year may be carried over for allocation in the subsequent year.

(10) (a) Amounts otherwise qualifying for the tax credit, but not allowable because the tax credit exceeds the tax, may be carried back three years or may be carried forward five years as a credit against the tax.

(b) Carryover tax credits under Subsection (10)(a) shall be applied against the tax:

(i) before the application of the tax credits earned in the current year; and

(ii) on a first-earned first-used basis.

(11) Any tax credit taken in this section may be subject to an annual audit by the commission.

(12) The Utah Housing Corporation shall annually provide an [annual] electronic report to the Revenue and Taxation Interim Committee which shall include at least:

(a) the purpose and effectiveness of the tax credits; and

(b) the benefits of the tax credits to the state.

(13) The commission may, in consultation with the Utah Housing Corporation, promulgate rules to implement this section.

Section 8. Section 59-7-612 is amended to read:

59-7-612. Tax credits for research activities conducted in the state -- Carry forward -- Commission to report modification or repeal of certain federal provisions -- Revenue and Taxation Interim Committee study.

(1) (a) A taxpayer meeting the requirements of this section may claim the following nonrefundable tax credits:

(i) a research tax credit of 5% of the taxpayer's qualified research expenses for the current taxable year that exceed the base amount provided for under Subsection (4);

(ii) a tax credit for a payment to a qualified organization for basic research as provided in Section 41(e), Internal Revenue Code, of 5% for the current taxable year that exceed the base amount provided for under Subsection (4); and

(iii) a tax credit equal to 7.5% of the taxpayer's qualified research expenses for the current taxable year.

(b) Subject to Subsection (5), a taxpayer may claim a tax credit under:

(i) Subsection (1)(a)(i) or (1)(a)(iii), for the taxable year for which the taxpayer incurs the qualified research expenses; or

(ii) Subsection (1)(a)(ii), for the taxable year for which the taxpayer makes the payment to the qualified organization.

(c) The tax credits provided for in this section do not include the alternative incremental credit provided for in Section 41(c)(4), Internal Revenue Code.

(2) For purposes of claiming a tax credit under this section, a unitary group as defined in Section 59-7-101 is considered to be one taxpayer.

(3) Except as specifically provided for in this section:

(a) the tax credits authorized under Subsection (1) shall be calculated as provided in Section 41, Internal Revenue Code; and

(b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating the tax credits authorized under Subsection (1).

(4) For purposes of this section:

(a) the base amount shall be calculated as provided in Sections 41(c) and 41(h), Internal Revenue Code, except that:

(i) the base amount does not include the calculation of the alternative incremental credit provided for in Section 41(c)(4), Internal Revenue Code;

(ii) a taxpayer's gross receipts include only those gross receipts attributable to sources within this state as provided in Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions; and

(iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating the base amount, a taxpayer:

(A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B) regardless of whether the taxpayer meets the requirements of Section 41(c)(3)(B)(i)(I) or (II); and

(B) may not revoke an election to be treated as a start-up company under Subsection (4)(a)(iii)(A);

(b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except that the term includes only basic research conducted in this state;

(c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except that the term includes only qualified research conducted in this state;

(d) "qualified research expenses" is as defined and calculated in Section 41(b), Internal Revenue Code, except that the term includes only:

(i) in-house research expenses incurred in this state; and

(ii) contract research expenses incurred in this state; and

(e) a tax credit provided for in this section is not terminated if a credit terminates under Section 41, Internal Revenue Code.

(5) (a) If the amount of a tax credit claimed by a taxpayer under Subsection (1)(a)(i) or (ii) exceeds the taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability:

(i) may be carried forward for a period that does not exceed the next 14 taxable years; and

(ii) may not be carried back to a taxable year preceding the current taxable year.

(b) A taxpayer may not carry forward the tax credit allowed by Subsection (1)(a)(iii).

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for purposes of this section prescribing a certification process for qualified organizations to ensure that amounts paid to the qualified organizations are for basic research conducted in this state.

(7) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the commission shall provide an electronic report of the modification or repeal to the Revenue and Taxation Interim Committee within 60 days after the day on which the modification or repeal becomes effective.

(8) (a) The Revenue and Taxation Interim Committee shall review the tax credits provided for in this section on or before October 1 of the year

after the year in which the commission reports under Subsection (7) a modification or repeal of a provision of Section 41, Internal Revenue Code.

(b) Notwithstanding Subsection (8)(a), the Revenue and Taxation Interim Committee is not required to review the tax credits provided for in this section if the only modification to a provision of Section 41, Internal Revenue Code, is the extension of the termination date provided for in Section 41(h), Internal Revenue Code.

(c) The Revenue and Taxation Interim Committee shall address in a review under this section:

(i) the cost of the tax credits provided for in this section;

(ii) the purpose and effectiveness of the tax credits provided for in this section;

(iii) whether the tax credits provided for in this section benefit the state; and

(iv) whether the tax credits provided for in this section should be:

(A) continued;

(B) modified; or

(C) repealed.

(d) If the Revenue and Taxation Interim Committee reviews the tax credits provided for in this section, the committee shall report its findings to the Legislative Management Committee on or before the November interim meeting of the year in which the Revenue and Taxation Interim Committee reviews the tax credits.

Section 9. Section 59-7-613 is amended to read:

59-7-613. Tax credits for machinery, equipment, or both primarily used for conducting qualified research or basic research -- Carry forward -- Commission to report modification or repeal of certain federal provisions -- Revenue and Taxation Interim Committee study.

(1) As used in this section:

(a) "Basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except that the term includes only basic research conducted in this state.

(b) "Equipment" includes:

(i) a computer;

(ii) computer equipment; and

(iii) computer software.

(c) "Purchase price":

(i) includes the cost of installing an item of machinery or equipment; and

(ii) does not include a tax imposed under Chapter 12, Sales and Use Tax Act, on an item of machinery or equipment.

(d) "Qualified organization" is as defined in Section 41(e)(6), Internal Revenue Code.

(e) "Qualified research" is as defined in Section 41(d), Internal Revenue Code, except that the term includes only qualified research conducted in this state.

(2) (a) Except as provided in Subsection (2)(c), for taxable years beginning on or after January 1, 1999, but beginning before December 31, 2010, a taxpayer meeting the requirements of this section may claim the following nonrefundable tax credits:

(i) a tax credit of 6% of the purchase price of machinery, equipment, or both:

(A) purchased by the taxpayer during the taxable year;

(B) that is subject to a tax under Chapter 12, Sales and Use Tax Act; and

(C) that is primarily used to conduct qualified research in this state; and

(ii) a tax credit of 6% of the purchase price of machinery, equipment, or both:

(A) purchased by the taxpayer during the taxable year;

(B) that is subject to a tax under Chapter 12, Sales and Use Tax Act;

(C) that is donated to a qualified organization; and

(D) that is primarily used to conduct basic research in this state.

(b) Subject to Subsection (5), a taxpayer may claim a tax credit under this section for the taxable year for which the taxpayer purchases the machinery, equipment, or both.

(c) If a taxpayer qualifies for a tax credit under Subsection (2)(a) for a purchase of machinery, equipment, or both, the taxpayer may not claim the tax credit or carry the tax credit forward if the machinery, equipment, or both, is primarily used to conduct qualified research in the state for a time period that is less than 12 consecutive months.

(3) For purposes of claiming a tax credit under this section, a unitary group as defined in Section 59-7-101 is considered to be one taxpayer.

(4) Notwithstanding Section 41(h), Internal Revenue Code, a tax credit provided for in this section is not terminated if a credit terminates under Section 41, Internal Revenue Code.

(5) If the amount of a tax credit claimed by a taxpayer under this section exceeds the taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability:

(a) may be carried forward for a period that does not exceed the next 14 taxable years; and

(b) may not be carried back to a taxable year preceding the current taxable year.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission

may make rules for purposes of this section prescribing a certification process for qualified organizations to ensure that machinery, equipment, or both provided to the qualified organization is to be primarily used to conduct basic research in this state.

(7) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the commission shall provide an electronic report of the modification or repeal to the Revenue and Taxation Interim Committee within 60 days after the day on which the modification or repeal becomes effective.

(8) (a) The Revenue and Taxation Interim Committee shall review the tax credits provided for in this section on or before October 1 of the year after the year in which the commission reports under Subsection (7) a modification or repeal of a provision of Section 41, Internal Revenue Code.

(b) Notwithstanding Subsection (8)(a), the Revenue and Taxation Interim Committee is not required to review the tax credits provided for in this section if the only modification to a provision of Section 41, Internal Revenue Code, is the extension of the termination date provided for in Section 41(h), Internal Revenue Code.

(c) The Revenue and Taxation Interim Committee shall address in a review under this section the:

(i) cost of the tax credits provided for in this section;

(ii) purpose and effectiveness of the tax credits provided for in this section;

(iii) whether the tax credits provided for in this section benefit the state; and

(iv) whether the tax credits provided for in this section should be:

(A) continued;

(B) modified; or

(C) repealed.

(d) If the Revenue and Taxation Interim Committee reviews the tax credits provided for in this section, the committee shall report its findings to the Legislative Management Committee on or before the November interim meeting of the year in which the Revenue and Taxation Interim Committee reviews the tax credits.

Section 10. Section 59-7-614.2 is amended to read:

59-7-614.2. Refundable economic development tax credit.

(1) As used in this section:

(a) "Business entity" means a taxpayer that meets the definition of "business entity" as defined in Section 63N-2-103.

(b) "Community development and renewal agency" [is-as] means the same as that term is defined in Section 17C-1-102.

(c) "Local government entity" [is-as] means the same as that term is defined in Section 63N-2-103.

(d) "New incremental jobs" means the same as that term is defined in Section 63N-2-103.

(e) "New state revenues" means the same as that term is defined in Section 63N-2-103.

[~~(d)~~] (f) "Office" means the Governor's Office of Economic Development.

(2) Subject to the other provisions of this section, a business entity, local government entity, or community development and renewal agency may claim a refundable tax credit for economic development.

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity, local government entity, or community development and renewal agency for the taxable year.

(4) A community development and renewal agency may claim a tax credit under this section only if a local government entity assigns the tax credit to the community development and renewal agency in accordance with Section 63N-2-104.

(5) (a) In accordance with any rules prescribed by the commission under Subsection (5)(b), the commission shall make a refund to the following that claim a tax credit under this section:

(i) a local government entity;

(ii) a community development and renewal agency; or

(iii) a business entity if the amount of the tax credit exceeds the business entity's tax liability for a taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a business entity, local government entity, or community development and renewal agency as required by Subsection (5)(a).

(6) (a) On or before October 1, 2013, and every five years after October 1, 2013, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (6), the office shall provide the following information to the Revenue and Taxation Interim Committee by electronic means:

(i) the amount of tax credit that the office grants to each business entity, local government entity, or community development and renewal agency for each calendar year;

(ii) the criteria that the office uses in granting a tax credit;

(iii) (A) for a business entity, the new state revenues generated by the business entity for the calendar year; or

(B) for a local government entity, regardless of whether the local government entity assigns the tax credit in accordance with Section 63N-2-104, the new state revenues generated as a result of a new commercial project within the local government entity for each calendar year;

(iv) estimates for each of the next five calendar years of the following:

(A) the amount of tax credits that the office will grant;

(B) the amount of new state revenues that will be generated; and

(C) the number of new incremental jobs within the state that will be generated;

(v) the information contained in the office's latest report to the Legislature under Section 63N-2-106; and

(vi) any other information that the Revenue and Taxation Interim Committee requests.

(c) The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (6)(a) include an evaluation of:

- (i) the cost of the tax credit to the state;
- (ii) the purpose and effectiveness of the tax credit; and
- (iii) the extent to which the state benefits from the tax credit.

Section 11. Section 59-7-614.5 is amended to read:

59-7-614.5. Refundable motion picture tax credit.

(1) As used in this section:

(a) "Motion picture company" means a taxpayer that meets the definition of a motion picture company under Section 63N-8-102.

(b) "Office" means the Governor's Office of Economic Development.

(c) "State-approved production" has the same meaning as defined in Section 63N-8-102.

(2) For taxable years beginning on or after January 1, 2009, a motion picture company may claim a refundable tax credit for a state-approved production.

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to a motion picture company under Section 63N-8-103 for the taxable year.

(4) (a) In accordance with any rules prescribed by the commission under Subsection (4)(b), the commission shall make a refund to a motion picture company that claims a tax credit under this section if the amount of the tax credit exceeds the motion picture company's tax liability for a taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission

may make rules providing procedures for making a refund to a motion picture company as required by Subsection (4)(a).

(5) (a) On or before October 1, 2014, and every five years after October 1, 2014, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (5), the office shall provide the following information to the Revenue and Taxation Interim Committee by electronic means:

(i) (A) the amount of tax credit that the office grants to each motion picture company for each calendar year; and

(B) estimates of the amount of tax credit that the office will grant for each of the next five calendar years;

(ii) the criteria that the office uses in granting the tax credit;

(iii) the dollars left in the state, as defined in Section 63N-8-102, by each motion picture company for each calendar year;

(iv) the information contained in the office's latest report to the Legislature under Section 63N-8-105; and

(v) any other information requested by the Revenue and Taxation Interim Committee.

(c) The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (5)(a) include an evaluation of:

- (i) the cost of the tax credit to the state;
- (ii) the effectiveness of the tax credit; and
- (iii) the extent to which the state benefits from the tax credit.

Section 12. Section 59-7-614.7 is amended to read:

59-7-614.7. Nonrefundable alternative energy development tax credit.

(1) As used in this section:

(a) "Alternative energy entity" is as defined in Section 63M-4-502.

(b) "Alternative energy project" is as defined in Section 63M-4-502.

(c) "Office" is as defined in Section 63M-4-401.

(2) Subject to the other provisions of this section, an alternative energy entity may claim a nonrefundable tax credit for alternative energy development as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63M, Chapter 4, Part 5, Alternative Energy Development Tax Credit Act, to the alternative energy entity for the taxable year.

(4) An alternative energy entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the alternative energy entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the alternative energy entity's tax liability under this chapter for that taxable year.

(5) (a) On or before October 1, 2017, and every five years after October 1, 2017, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (5), the office shall provide the following information to the Revenue and Taxation Interim Committee by electronic means:

(i) the amount of tax credit that the office grants to each alternative energy entity for each taxable year;

(ii) the new state revenues generated by each alternative energy project;

(iii) the information contained in the office's latest report to the Legislature under Section 63M-4-505; and

(iv) any other information that the Revenue and Taxation Interim Committee requests.

(c) The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 13. Section 59-7-614.8 is amended to read:

59-7-614.8. Nonrefundable alternative energy manufacturing tax credit.

(1) As used in this section:

(a) "Alternative energy entity" ~~[is as]~~ means the same as that term is defined in Section 63N-2-702.

(b) "Alternative energy manufacturing project" ~~[is as]~~ means the same as that term is defined in Section 63N-2-702.

(c) "New incremental job within the state" means the same as that term is defined in Section 63N-2-702.

(d) "New state revenues" means the same as that term is defined in Section 63N-2-702.

~~[e]~~ (e) "Office" means the Governor's Office of Economic Development.

(2) Subject to the other provisions of this section, an alternative energy entity may claim a nonrefundable tax credit for alternative energy manufacturing as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63N, Chapter 2, Part 7, Alternative Energy Manufacturing Tax Credit Act, to the alternative energy entity for the taxable year.

(4) An alternative energy entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the alternative energy entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the alternative energy entity's tax liability under this chapter for that taxable year.

(5) (a) On or before October 1, 2017, and every five years after October 1, 2017, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (5), the office shall provide the following information to the Revenue and Taxation Interim Committee by electronic means:

(i) the amount of tax credit that the office grants to each alternative energy entity for each taxable year;

(ii) the new state revenues generated by each alternative energy manufacturing project;

(iii) estimates for each of the next five calendar years of the following:

(A) the amount of tax credits that the office will grant;

(B) the amount of new state revenues that will be generated; and

(C) the number of new incremental jobs within the state that will be generated;

~~[(iii)]~~ (iv) the information contained in the office's latest report to the Legislature under Section 63N-2-705; and

~~[(iv)]~~ (v) any other information that the Revenue and Taxation Interim Committee requests.

(c) The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 14. Section 59-7-701 is amended to read:

59-7-701. Taxation of S corporations.

(1) Except as provided in Section 59-7-102 and subject to the other provisions of this part, beginning on July 1, 1994, and ending on the last day of the taxable year that begins on or after January 1, 2012, but begins on or before December 31, 2012, an S corporation is subject to taxation in the same manner as that S corporation is taxed under Subchapter S - Tax Treatment of S Corporations and Their Shareholders, Sec. 1361 et seq., Internal Revenue Code.

(2) An S corporation is taxed at the tax rate provided in Section 59-7-104.

(3) The business income and nonbusiness income of an S corporation is subject to Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions.

(4) An S corporation having income derived from or connected with Utah sources shall make a return in accordance with Section 59-10-507.

(5) An S corporation shall make payments of estimated tax as required by Section 59-7-504.

(6) An S corporation is subject to Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act.

(7) A pass-through entity taxpayer as defined in Section 59-10-1402 of an S corporation is subject to Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act.

(8) Provisions under this chapter governing the following apply to an S corporation:

- (a) an assessment;
- (b) a penalty;
- (c) a refund; or
- (d) a record required for an S corporation.

~~[(9) (a) During the 2011 interim, the Revenue and Taxation Interim Committee shall study the fiscal impacts of:]~~

~~[(i) the enactment of Laws of Utah 2009, Chapter 312; and]~~

~~[(ii) the taxation of S corporations under this part.]~~

~~[(b) On or before November 30, 2011, the Revenue and Taxation Interim Committee shall report its findings and recommendations on the study to the Executive Appropriations Committee.]~~

Section 15. Section 59-7-903 is amended to read:

59-7-903. Removal of tax credit from tax return -- Prohibition on claiming or carrying forward a tax credit -- Commission publishing requirements.

(1) Subject to Subsection (2), the commission shall remove a tax credit from a tax return and a person filing a tax return may not claim or carry forward the tax credit if:

(a) the total amount of tax credit claimed or carried forward by all persons who file a tax return is less than \$10,000 per taxable year for three consecutive taxable years; and

(b) less than 10 persons per year for the three consecutive taxable years described in Subsection (1)(a) file a tax return claiming or carrying forward the tax credit.

(2) If the commission determines the requirements of Subsection (1) are met, the commission shall remove a tax credit from a tax return and a person filing a tax return may not claim or carry forward the tax credit beginning two taxable years after the January 1 immediately following the date the commission determines the requirements of Subsection (1) are met.

(3) The commission shall, on or before the November interim meeting of the year after the taxable year in which the commission determines the requirements of Subsection (1) are met, report to the Revenue and Taxation Interim Committee by electronic means that, in accordance with this section:

(a) the commission is required to remove a tax credit from a return on which the tax credit appears; and

(b) a person filing a tax return may not claim or carry forward the tax credit.

(4) (a) Within a 30-day period after making the report required by Subsection (3), the commission shall publish a list in accordance with Subsection (4)(b) stating each tax credit that the commission will remove from a return on which the tax credit appears.

(b) The list shall:

(i) be published on:

(A) the commission's website; and

(B) the public legal notice website in accordance with Section 45-1-101;

(ii) include a statement that:

(A) the commission is required to remove the tax credit from each return on which the tax credit appears; and

(B) the tax credit may not be claimed or carried forward on a return;

(iii) state the taxable year for which the removal described in Subsection (4)(a) takes effect; and

(iv) remain available for viewing and searching until the commission publishes a new list in accordance with this Subsection (4).

Section 16. Section 59-9-101 is amended to read:

59-9-101. Tax basis -- Rates -- Exemptions -- Rate reductions.

(1) (a) Except as provided in Subsection (1)(b), (1)(d), or (5), an admitted insurer shall pay to the commission on or before March 31 in each year, a tax of 2-1/4% of the total premiums received by it

during the preceding calendar year from insurance covering property or risks located in this state.

(b) This Subsection (1) does not apply to:

(i) workers' compensation insurance, assessed under Subsection (2);

(ii) title insurance premiums taxed under Subsection (3);

(iii) annuity considerations;

(iv) insurance premiums paid by an institution within the state system of higher education as specified in Section 53B-1-102; and

(v) ocean marine insurance.

(c) The taxable premium under this Subsection (1) shall be reduced by:

(i) the premiums returned or credited to policyholders on direct business subject to tax in this state;

(ii) the premiums received for reinsurance of property or risks located in this state; and

(iii) the dividends, including premium reduction benefits maturing within the year:

(A) paid or credited to policyholders in this state; or

(B) applied in abatement or reduction of premiums due during the preceding calendar year.

(d) (i) For purposes of this Subsection (1)(d):

(A) "Utah variable life insurance premium" means an insurance premium paid:

(I) by:

(Aa) a corporation; or

(Bb) a trust established or funded by a corporation; and

(II) for variable life insurance covering risks located within the state.

(B) "Variable life insurance" means an insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of one or more separate accounts that are established and maintained by the insurer pursuant to Title 31A, Insurance Code.

(ii) Notwithstanding Subsection (1)(a), beginning on January 1, 2006, the tax on that portion of the total premiums subject to a tax under Subsection (1)(a) that is a Utah variable life insurance premium shall be calculated as follows:

(A) 2-1/4% of the first \$100,000 of Utah variable life insurance premiums:

(I) paid for each variable life insurance policy; and

(II) received by the admitted insurer in the preceding calendar year; and

(B) 0.08% of the Utah variable life insurance premiums that exceed \$100,000:

(I) paid for the policy described in Subsection (1)(d)(ii)(A); and

(II) received by the admitted insurer in the preceding calendar year.

~~[(iii) (A) On or before October 1, 2009, and every three years after October 1, 2009, the Revenue and Taxation Interim Committee shall study the rate reduction contained in this Subsection (1)(d).]~~

~~[(B) As part of the study required by Subsection (1)(d)(iii)(A) the Revenue and Taxation Interim Committee shall:]~~

~~[(I) hear testimony from the commission and industry representatives;]~~

~~[(II) make recommendations concerning whether the rate reduction should be continued, modified, or repealed; and]~~

~~[(III) make findings regarding:]~~

~~[(Aa) the cost of the rate reduction;]~~

~~[(Bb) the purpose and effectiveness of the rate reduction; and]~~

~~[(Cc) any benefits of the rate reduction to the state.]~~

(2) (a) An admitted insurer writing workers' compensation insurance in this state, including the Workers' Compensation Fund created under Title 31A, Chapter 33, Workers' Compensation Fund, shall pay to the tax commission, on or before March 31 in each year, a premium assessment on the basis of the total workers' compensation premium income received by the insurer from workers' compensation insurance in this state during the preceding calendar year as follows:

(i) on or before December 31, 2010, an amount of equal to or greater than 1%, but equal to or less than 5.75% of the total workers' compensation premium income described in this Subsection (2);

(ii) on and after January 1, 2011, but on or before December 31, 2017, an amount of equal to or greater than 1%, but equal to or less than 4.25% of the total workers' compensation premium income described in this Subsection (2); and

(iii) on and after January 1, 2018, an amount equal to 1.25% of the total workers' compensation premium income described in this Subsection (2).

(b) Total workers' compensation premium income means the net written premium as calculated before any premium reduction for any insured employer's deductible, retention, or reimbursement amounts and also those amounts equivalent to premiums as provided in Section 34A-2-202.

(c) The percentage of premium assessment applicable for a calendar year shall be determined by the Labor Commission under Subsection (2)(d). The total premium income shall be reduced in the same manner as provided in Subsections (1)(c)(i) and (1)(c)(ii), but not as provided in Subsection (1)(c)(iii). The commission shall promptly remit from the premium assessment collected under this Subsection (2):

(i) income to the state treasurer for credit to the Employers' Reinsurance Fund created under Subsection 34A-2-702(1) as follows:

(A) on or before December 31, 2009, an amount of up to 5% of the total workers' compensation premium income;

(B) on and after January 1, 2010, but on or before December 31, 2010, an amount of up to 4.5% of the total workers' compensation premium income;

(C) on and after January 1, 2011, but on or before December 31, 2017, an amount of up to 3% of the total workers' compensation premium income; and

(D) on and after January 1, 2018, 0% of the total workers' compensation premium income;

(ii) an amount equal to 0.25% of the total workers' compensation premium income to the state treasurer for credit to the Workplace Safety Account created by Section 34A-2-701;

(iii) an amount of up to 0.5% and any remaining assessed percentage of the total workers' compensation premium income to the state treasurer for credit to the Uninsured Employers' Fund created under Section 34A-2-704; and

(iv) beginning on January 1, 2010, 0.5% of the total workers' compensation premium income to the state treasurer for credit to the Industrial Accident Restricted Account created in Section 34A-2-705.

(d) (i) The Labor Commission shall determine the amount of the premium assessment for each year on or before each October 15 of the preceding year. The Labor Commission shall make this determination following a public hearing. The determination shall be based upon the recommendations of a qualified actuary.

(ii) The actuary shall recommend a premium assessment rate sufficient to provide payments of benefits and expenses from the Employers' Reinsurance Fund and to project a funded condition with assets greater than liabilities by no later than June 30, 2025.

(iii) The actuary shall recommend a premium assessment rate sufficient to provide payments of benefits and expenses from the Uninsured Employers' Fund and to maintain it at a funded condition with assets equal to or greater than liabilities.

(iv) At the end of each fiscal year the minimum approximate assets in the Employers' Reinsurance Fund shall be \$5,000,000 which amount shall be adjusted each year beginning in 1990 by multiplying by the ratio that the total workers' compensation premium income for the preceding calendar year bears to the total workers' compensation premium income for the calendar year 1988.

(v) The requirements of Subsection (2)(d)(iv) cease when the future annual disbursements from the Employers' Reinsurance Fund are projected to be less than the calculations of the corresponding

future minimum required assets. The Labor Commission shall, after a public hearing, determine if the future annual disbursements are less than the corresponding future minimum required assets from projections provided by the actuary.

(vi) At the end of each fiscal year the minimum approximate assets in the Uninsured Employers' Fund shall be \$2,000,000, which amount shall be adjusted each year beginning in 1990 by multiplying by the ratio that the total workers' compensation premium income for the preceding calendar year bears to the total workers' compensation premium income for the calendar year 1988.

(e) A premium assessment that is to be transferred into the General Fund may be collected on premiums received from Utah public agencies.

(3) An admitted insurer writing title insurance in this state shall pay to the commission, on or before March 31 in each year, a tax of .45% of the total premium received by either the insurer or by its agents during the preceding calendar year from title insurance concerning property located in this state. In calculating this tax, "premium" includes the charges made to an insured under or to an applicant for a policy or contract of title insurance for:

(a) the assumption by the title insurer of the risks assumed by the issuance of the policy or contract of title insurance; and

(b) abstracting title, title searching, examining title, or determining the insurability of title, and every other activity, exclusive of escrow, settlement, or closing charges, whether denominated premium or otherwise, made by a title insurer, an agent of a title insurer, a title insurance producer, or any of them.

(4) Beginning July 1, 1986, a former county mutual and a former mutual benefit association shall pay the premium tax or assessment due under this chapter. Premiums received after July 1, 1986, shall be considered in determining the tax or assessment.

(5) The following insurers are not subject to the premium tax on health care insurance that would otherwise be applicable under Subsection (1):

(a) an insurer licensed under Title 31A, Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(b) an insurer licensed under Title 31A, Chapter 7, Nonprofit Health Service Insurance Corporations;

(c) an insurer licensed under Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(d) an insurer licensed under Title 31A, Chapter 9, Insurance Fraternal;

(e) an insurer licensed under Title 31A, Chapter 11, Motor Clubs;

(f) an insurer licensed under Title 31A, Chapter 13, Employee Welfare Funds and Plans; and

(g) an insurer licensed under Title 31A, Chapter 14, Foreign Insurers.

(6) An insurer issuing multiple policies to an insured may not artificially allocate the premiums among the policies for purposes of reducing the aggregate premium tax or assessment applicable to the policies.

(7) The retaliatory provisions of Title 31A, Chapter 3, Department Funding, Fees, and Taxes, apply to the tax or assessment imposed under this chapter.

Section 17. Section 59-10-1002.1 is amended to read:

59-10-1002.1. Removal of tax credit from tax return and prohibition on claiming or carrying forward a tax credit -- Conditions for removal and prohibition on claiming or carrying forward a tax credit -- Commission publishing requirements.

(1) As used in this section, "tax return" means a tax return filed in accordance with this chapter.

(2) Except as provided in Subsection (4), beginning two taxable years after the requirements of Subsection (3) are met:

(a) the commission shall remove a tax credit allowed under this part from each tax return on which the tax credit appears; and

(b) a claimant, estate, or trust filing a tax return may not claim or carry forward the tax credit.

(3) Except as provided in Subsection (4), the commission shall remove a tax credit allowed under this part from a tax return and a claimant, estate, or trust filing a tax return may not claim or carry forward the tax credit as provided in Subsection (2) if:

(a) the total amount of the tax credit claimed or carried forward by all claimants, estates, or trusts filing tax returns is less than \$10,000 per year for three consecutive taxable years beginning on or after January 1, 2002; and

(b) less than 10 claimants, estates, and trusts per year for the three consecutive taxable years described in Subsection (3)(a), file a tax return claiming or carrying forward the tax credit.

(4) This section does not apply to a tax credit under Section 59-10-1027.

(5) The commission shall, on or before the November interim meeting of the year after the taxable year in which the requirements of Subsection (3) are met, report to the Revenue and Taxation Interim Committee by electronic means that in accordance with this section:

(a) the commission is required to remove a tax credit from each tax return on which the tax credit appears; and

(b) a claimant, estate, or trust filing a tax return may not claim or carry forward the tax credit.

(6) (a) Within a 30-day period after making the report required by Subsection (5), the commission shall publish a list in accordance with Subsection (6)(b) stating each tax credit that the commission will remove from a return on which the tax credit appears.

(b) The list shall:

(i) be published on:

(A) the commission's website; and

(B) the public legal notice website in accordance with Section 45-1-101;

(ii) include a statement that:

(A) the commission is required to remove the tax credit from each return on which the tax credit appears; and

(B) the tax credit may not be claimed or carried forward on a return;

(iii) state the taxable year for which the removal described in Subsection (6)(a) takes effect; and

(iv) remain available for viewing and searching until the commission publishes a new list in accordance with this Subsection (6).

Section 18. Section 59-10-1010 is amended to read:

59-10-1010. Utah low-income housing tax credit.

(1) As used in this section:

(a) "Allocation certificate" means:

(i) the certificate prescribed by the commission and issued by the Utah Housing Corporation to each claimant, estate, or trust that specifies the percentage of the annual federal low-income housing credit that each claimant, estate, or trust may take as an annual tax credit against a tax imposed by this chapter; or

(ii) a copy of the allocation certificate that the housing sponsor provides to the claimant, estate, or trust.

(b) "Building" means a qualified low-income building as defined in Section 42(c), Internal Revenue Code.

(c) "Federal low-income housing credit" means the low-income housing credit under Section 42, Internal Revenue Code.

(d) "Housing sponsor" means a corporation in the case of a C corporation, a partnership in the case of a partnership, a corporation in the case of an S corporation, or a limited liability company in the case of a limited liability company.

(e) "Qualified allocation plan" means the qualified allocation plan adopted by the Utah Housing Corporation pursuant to Section 42(m), Internal Revenue Code.

(f) "Special low-income housing tax credit certificate" means a certificate:

- (i) prescribed by the commission;
- (ii) that a housing sponsor issues to a claimant, estate, or trust for a taxable year; and
- (iii) that specifies the amount of a tax credit a claimant, estate, or trust may claim under this section if the claimant, estate, or trust meets the requirements of this section.

(2) (a) For taxable years beginning on or after January 1, 1995, there is allowed a nonrefundable tax credit against taxes otherwise due under this chapter for a claimant, estate, or trust issued an allocation certificate.

(b) The tax credit shall be in an amount equal to the greater of the amount of:

- (i) federal low-income housing credit to which the claimant, estate, or trust is allowed during that year multiplied by the percentage specified in an allocation certificate issued by the Utah Housing Corporation; or
- (ii) tax credit specified in the special low-income housing tax credit certificate that the housing sponsor issues to the claimant, estate, or trust as provided in Subsection (2)(c).

(c) For purposes of Subsection (2)(b)(ii), the tax credit is equal to the product of:

(i) the total amount of low-income housing tax credit under this section that:

(A) a housing sponsor is allowed for a building; and

(B) all of the claimants, estates, and trusts may claim with respect to the building if the claimants, estates, and trusts meet the requirements of this section; and

(ii) the percentage of tax credit a claimant, estate, or trust may claim:

(A) under this section if the claimant, estate, or trust meets the requirements of this section; and

(B) as provided in the agreement between the claimant, estate, or trust and the housing sponsor.

(d) (i) For the calendar year beginning on January 1, 1995, through the calendar year beginning on January 1, 2015, the aggregate annual tax credit that the Utah Housing Corporation may allocate for the credit period described in Section 42(f), Internal Revenue Code, pursuant to this section and Section 59-7-607 is an amount equal to the product of:

(A) 12.5 cents; and

(B) the population of Utah.

(ii) For purposes of this section, the population of Utah shall be determined in accordance with Section 146(j), Internal Revenue Code.

(3) (a) By October 1, 1994, the Utah Housing Corporation shall determine criteria and procedures for allocating the tax credit under this

section and Section 59-7-607 and incorporate the criteria and procedures into the Utah Housing Corporation's qualified allocation plan.

(b) The Utah Housing Corporation shall create the criteria under Subsection (3)(a) based on:

(i) the number of affordable housing units to be created in Utah for low and moderate income persons in the residential housing development of which the building is a part;

(ii) the level of area median income being served by the development;

(iii) the need for the tax credit for the economic feasibility of the development; and

(iv) the extended period for which the development commits to remain as affordable housing.

(4) (a) The following may apply to the Utah Housing Corporation for a tax credit under this section:

(i) any housing sponsor that is a claimant, estate, or trust if that housing sponsor has received an allocation of the federal low-income housing credit; or

(ii) any applicant for an allocation of the federal low-income housing credit if that applicant is a claimant, estate, or trust.

(b) The Utah Housing Corporation may not require fees for applications of the tax credit under this section in addition to those fees required for applications for the federal low-income housing credit.

(5) (a) The Utah Housing Corporation shall determine the amount of the tax credit to allocate to a qualifying housing sponsor in accordance with the qualified allocation plan of the Utah Housing Corporation.

(b) (i) The Utah Housing Corporation shall allocate the tax credit to housing sponsors by issuing an allocation certificate to qualifying housing sponsors.

(ii) The allocation certificate under Subsection (5)(b)(i) shall specify the allowed percentage of the federal low-income housing credit as determined by the Utah Housing Corporation.

(c) The percentage specified in an allocation certificate may not exceed 100% of the federal low-income housing credit.

(6) A housing sponsor shall provide a copy of the allocation certificate to each claimant, estate, or trust that is issued a special low-income housing tax credit certificate.

(7) (a) A housing sponsor shall provide to the commission a list of:

(i) the claimants, estates, and trusts issued a special low-income housing tax credit certificate; and

(ii) for each claimant, estate, or trust described in Subsection (7)(a)(i), the amount of tax credit listed

on the special low-income housing tax credit certificate.

(b) A housing sponsor shall provide the list required by Subsection (7)(a):

- (i) to the commission;
- (ii) on a form provided by the commission; and
- (iii) with the housing sponsor's tax return for each taxable year for which the housing sponsor issues a special low-income housing tax credit certificate described in this Subsection (7).

(8) (a) All elections made by the claimant, estate, or trust pursuant to Section 42, Internal Revenue Code, shall apply to this section.

(b) (i) If a claimant, estate, or trust is required to recapture a portion of any federal low-income housing credit, the claimant, estate, or trust shall also be required to recapture a portion of any state tax credits authorized by this section.

(ii) The state recapture amount shall be equal to the percentage of the state tax credit that equals the proportion the federal recapture amount bears to the original federal low-income housing credit amount subject to recapture.

(9) (a) Any tax credits returned to the Utah Housing Corporation in any year may be reallocated within the same time period as provided in Section 42, Internal Revenue Code.

(b) Tax credits that are unallocated by the Utah Housing Corporation in any year may be carried over for allocation in the subsequent year.

(10) (a) Amounts otherwise qualifying for the tax credit, but not allowable because the tax credit exceeds the tax, may be carried back three years or may be carried forward five years as a tax credit.

(b) Carryover tax credits under Subsection (10)(a) shall be applied against the tax:

- (i) before the application of the tax credits earned in the current year; and
- (ii) on a first-earned first-used basis.

(11) Any tax credit taken in this section may be subject to an annual audit by the commission.

(12) The Utah Housing Corporation shall annually provide an ~~annual~~ electronic report to the Revenue and Taxation Interim Committee which shall include at least:

- (a) the purpose and effectiveness of the tax credits; and
- (b) the benefits of the tax credits to the state.

(13) The commission may, in consultation with the Utah Housing Corporation, promulgate rules to implement this section.

Section 19. Section 59-10-1012 is amended to read:

59-10-1012. Tax credits for research activities conducted in the state -- Carry

forward -- Commission to report modification or repeal of certain federal provisions -- Revenue and Taxation Interim Committee study.

(1) (a) A claimant, estate, or trust meeting the requirements of this section may claim the following nonrefundable tax credits:

(i) a research tax credit of 5% of the claimant's, estate's, or trust's qualified research expenses for the current taxable year that exceed the base amount provided for under Subsection (3);

(ii) a tax credit for a payment to a qualified organization for basic research as provided in Section 41(e), Internal Revenue Code of 5% for the current taxable year that exceed the base amount provided for under Subsection (3); and

(iii) a tax credit equal to 7.5% of the claimant's, estate's, or trust's qualified research expenses for the current taxable year.

(b) Subject to Subsection (4), a claimant, estate, or trust may claim a tax credit under:

(i) Subsection (1)(a)(i) or (1)(a)(iii), for the taxable year for which the claimant, estate, or trust incurs the qualified research expenses; or

(ii) Subsection (1)(a)(ii), for the taxable year for which the claimant, estate, or trust makes the payment to the qualified organization.

(c) The tax credits provided for in this section do not include the alternative incremental credit provided for in Section 41(c)(4), Internal Revenue Code.

(2) Except as specifically provided for in this section:

(a) the tax credits authorized under Subsection (1) shall be calculated as provided in Section 41, Internal Revenue Code; and

(b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating the tax credits authorized under Subsection (1).

(3) For purposes of this section:

(a) the base amount shall be calculated as provided in Sections 41(c) and 41(h), Internal Revenue Code, except that:

(i) the base amount does not include the calculation of the alternative incremental credit provided for in Section 41(c)(4), Internal Revenue Code;

(ii) a claimant's, estate's, or trust's gross receipts include only those gross receipts attributable to sources within this state as provided in Section 59-10-118; and

(iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating the base amount, a claimant, estate, or trust:

(A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B), Internal Revenue Code, regardless of whether the claimant, estate, or

trust meets the requirements of Section 41(c)(3)(B)(i)(I) or (II), Internal Revenue Code; and

(B) may not revoke an election to be treated as a start-up company under Subsection (3)(a)(iii)(A);

(b) “basic research” is as defined in Section 41(e)(7), Internal Revenue Code, except that the term includes only basic research conducted in this state;

(c) “qualified research” is as defined in Section 41(d), Internal Revenue Code, except that the term includes only qualified research conducted in this state;

(d) “qualified research expenses” is as defined and calculated in Section 41(b), Internal Revenue Code, except that the term includes only:

(i) in-house research expenses incurred in this state; and

(ii) contract research expenses incurred in this state; and

(e) a tax credit provided for in this section is not terminated if a credit terminates under Section 41, Internal Revenue Code.

(4) (a) If the amount of a tax credit claimed by a claimant, estate, or trust under Subsection (1)(a)(i) or (ii) exceeds the claimant’s, estate’s, or trust’s tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability:

(i) may be carried forward for a period that does not exceed the next 14 taxable years; and

(ii) may not be carried back to a taxable year preceding the current taxable year.

(b) A claimant, estate, or trust may not carry forward the tax credit allowed by Subsection (1)(a)(iii).

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for purposes of this section prescribing a certification process for qualified organizations to ensure that amounts paid to the qualified organizations are for basic research conducted in this state.

(6) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the commission shall report the modification or repeal by electronic means to the Revenue and Taxation Interim Committee within 60 days after the day on which the modification or repeal becomes effective.

(7) (a) The Revenue and Taxation Interim Committee shall review the tax credits provided for in this section on or before October 1 of the year after the year in which the commission reports under Subsection (6) a modification or repeal of a provision of Section 41, Internal Revenue Code.

(b) Notwithstanding Subsection (7)(a), the Revenue and Taxation Interim Committee is not required to review the tax credits provided for in this section if the only modification to a provision of Section 41, Internal Revenue Code, is the extension

of the termination date provided for in Section 41(h), Internal Revenue Code.

(c) The Revenue and Taxation Interim Committee shall address in a review under this section:

(i) the cost of the tax credits provided for in this section;

(ii) the purpose and effectiveness of the tax credits provided for in this section;

(iii) whether the tax credits provided for in this section benefit the state; and

(iv) whether the tax credits provided for in this section should be:

(A) continued;

(B) modified; or

(C) repealed.

(d) If the Revenue and Taxation Interim Committee reviews the tax credits provided for in this section, the committee shall report its findings to the Legislative Management Committee on or before the November interim meeting of the year in which the Revenue and Taxation Interim Committee reviews the tax credits.

Section 20. Section 59-10-1013 is amended to read:

59-10-1013. Tax credits for machinery, equipment, or both primarily used for conducting qualified research or basic research -- Carry forward -- Commission to report modification or repeal of certain federal provisions -- Revenue and Taxation Interim Committee study.

(1) As used in this section:

(a) “Basic research” is as defined in Section 41(e)(7), Internal Revenue Code, except that the term includes only basic research conducted in this state.

(b) “Equipment” includes:

(i) a computer;

(ii) computer equipment; and

(iii) computer software.

(c) “Purchase price”:

(i) includes the cost of installing an item of machinery or equipment; and

(ii) does not include a tax imposed under Chapter 12, Sales and Use Tax Act, on an item of machinery or equipment.

(d) “Qualified organization” is as defined in Section 41(e)(6), Internal Revenue Code.

(e) “Qualified research” is as defined in Section 41(d), Internal Revenue Code, except that the term includes only qualified research conducted in this state.

(2) (a) Except as provided in Subsection (2)(c), for taxable years beginning on or after January 1, 1999,

but beginning before December 31, 2010, a claimant, estate, or trust meeting the requirements of this section may claim the following nonrefundable tax credits:

(i) a tax credit of 6% of the purchase price of machinery, equipment, or both:

(A) purchased by the claimant, estate, or trust during the taxable year;

(B) that is subject to a tax under Chapter 12, Sales and Use Tax Act; and

(C) that is primarily used to conduct qualified research in this state; and

(ii) a tax credit of 6% of the purchase price paid by the claimant, estate, or trust for machinery, equipment, or both:

(A) purchased by the claimant, estate, or trust during the taxable year;

(B) that is subject to a tax under Chapter 12, Sales and Use Tax Act;

(C) that is donated to a qualified organization; and

(D) that is primarily used to conduct basic research in this state.

(b) Subject to Subsection (4), a claimant, estate, or trust may claim a tax credit under this section for the taxable year for which the claimant, estate, or trust purchases the machinery, equipment, or both.

(c) If a claimant, estate, or trust qualifies for a tax credit under Subsection (2)(a) for a purchase of machinery, equipment, or both, the claimant, estate, or trust may not claim the tax credit or carry the tax credit forward if the machinery, equipment, or both, is primarily used to conduct qualified research in the state for a time period that is less than 12 consecutive months.

(3) Notwithstanding Section 41(h), Internal Revenue Code, a tax credit provided for in this section is not terminated if a credit terminates under Section 41, Internal Revenue Code.

(4) If the amount of a tax credit claimed by a claimant, estate, or trust under this section exceeds a claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability:

(a) may be carried forward for a period that does not exceed the next 14 taxable years; and

(b) may not be carried back to a taxable year preceding the current taxable year.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for purposes of this section prescribing a certification process for qualified organizations to ensure that machinery, equipment, or both provided to the qualified organization is to be primarily used to conduct basic research in this state.

(6) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the commission shall report the modification or repeal by electronic means to the Revenue and Taxation Interim Committee within 60 days after the day on which the modification or repeal becomes effective.

(7) (a) The Revenue and Taxation Interim Committee shall review the tax credits provided for in this section on or before October 1 of the year after the year in which the commission reports under Subsection (6) a modification or repeal of a provision of Section 41, Internal Revenue Code.

(b) Notwithstanding Subsection (7)(a), the Revenue and Taxation Interim Committee is not required to review the tax credits provided for in this section if the only modification to a provision of Section 41, Internal Revenue Code, is the extension of the termination date provided for in Section 41(h), Internal Revenue Code.

(c) The Revenue and Taxation Interim Committee shall address in a review under this section the:

(i) cost of the tax credits provided for in this section;

(ii) purpose and effectiveness of the tax credits provided for in this section;

(iii) whether the tax credits provided for in this section benefit the state; and

(iv) whether the tax credits provided for in this section should be:

(A) continued;

(B) modified; or

(C) repealed.

(d) If the Revenue and Taxation Interim Committee reviews the tax credits provided for in this section, the committee shall report its findings to the Legislative Management Committee on or before the November interim meeting of the year in which the Revenue and Taxation Interim Committee reviews the tax credits.

Section 21. Section 59-10-1029 is amended to read:

59-10-1029. Nonrefundable alternative energy development tax credit.

(1) As used in this section:

(a) "Alternative energy entity" is as defined in Section 63M-4-502.

(b) "Alternative energy project" is as defined in Section 63M-4-502.

(c) "Office" is as defined in Section 63M-4-401.

(2) Subject to the other provisions of this section, an alternative energy entity may claim a nonrefundable tax credit for alternative energy development as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63M,

Chapter 4, Part 5, Alternative Energy Development Tax Credit Act, to the alternative energy entity for the taxable year.

(4) An alternative energy entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the alternative energy entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the alternative energy entity's tax liability under this chapter for that taxable year.

(5) (a) On or before October 1, 2017, and every five years after October 1, 2017, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (5), the office shall provide the following information to the Revenue and Taxation Interim Committee by electronic means:

(i) the amount of tax credit that the office grants to each alternative energy entity for each taxable year;

(ii) the new state revenues generated by each alternative energy project;

(iii) the information contained in the office's latest report to the Legislature under Section 63M-4-505; and

(iv) any other information that the Revenue and Taxation Interim Committee requests.

(c) The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 22. Section 59-10-1030 is amended to read:

59-10-1030. Nonrefundable alternative energy manufacturing tax credit.

(1) As used in this section:

(a) "Alternative energy entity" ~~is as~~ means the same as that term is defined in Section 63N-2-702.

(b) "Alternative energy manufacturing project" ~~is as~~ means the same as that term is defined in Section 63N-2-702.

(c) "New incremental job with the state" means the same as that term is defined in Section 63N-2-702.

(d) "New state revenues" means the same as that term is defined in Section 63N-2-702.

~~(e)~~ (e) "Office" means the Governor's Office of Economic Development.

(2) Subject to the other provisions of this section, an alternative energy entity may claim a nonrefundable tax credit for alternative energy manufacturing as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63N, Chapter 2, Part 7, Alternative Energy Manufacturing Tax Credit Act, to the alternative energy entity for the taxable year.

(4) An alternative energy entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the alternative energy entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the alternative energy entity's tax liability under this chapter for that taxable year.

(5) (a) On or before October 1, 2017, and every five years after October 1, 2017, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (5), the office shall provide the following information to the Revenue and Taxation Interim Committee by electronic means:

(i) the amount of tax credit that the office grants to each alternative energy entity for each taxable year;

(ii) the new state revenues generated by each alternative energy manufacturing project;

(iii) estimates for each of the next five calendar years of the following:

(A) the amount of tax credits that the office will grant;

(B) the amount of new state revenues that will be generated; and

(C) the number of new incremental jobs within the state that will be generated;

~~(iii)~~ (iv) the information contained in the office's latest report to the Legislature under Section 63N-2-705; and

~~(iv)~~ (v) any other information that the Revenue and Taxation Interim Committee requests.

(c) The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 23. Section 59-10-1107 is amended to read:

59-10-1107. Refundable economic development tax credit.

(1) As used in this section:

(a) "Business entity" means a claimant, estate, or trust that meets the definition of "business entity" as defined in Section 63N-2-103.

(b) "New incremental jobs" means the same as that term is defined in Section 63N-2-103.

(c) "New state revenues" means the same as that term is defined in Section 63N-2-103.

~~(d)~~ (d) "Office" means the Governor's Office of Economic Development.

(2) Subject to the other provisions of this section, a business entity may claim a refundable tax credit for economic development.

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity for the taxable year.

(4) (a) In accordance with any rules prescribed by the commission under Subsection (4)(b), the commission shall make a refund to a business entity that claims a tax credit under this section if the amount of the tax credit exceeds the business entity's tax liability for a taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a business entity as required by Subsection (4)(a).

(5) (a) On or before October 1, 2013, and every five years after October 1, 2013, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (5), the office shall provide the following information to the Revenue and Taxation Interim Committee by electronic means:

(i) the amount of tax credit the office grants to each taxpayer for each calendar year;

(ii) the criteria the office uses in granting a tax credit;

(iii) the new state revenues generated by each taxpayer for each calendar year;

(iv) estimates for each of the next five calendar years of the following:

(A) the amount of tax credits that the office will grant;

(B) the amount of new state revenues that will be generated; and

(C) the number of new incremental jobs within the state that will be generated;

~~(v)~~ (v) the information contained in the office's latest report to the Legislature under Section 63N-2-106; and

~~(vi)~~ (vi) any other information that the Revenue and Taxation Interim Committee requests.

(c) The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 24. Section 59-10-1108 is amended to read:

59-10-1108. Refundable motion picture tax credit.

(1) As used in this section:

(a) "Motion picture company" means a claimant, estate, or trust that meets the definition of a motion picture company under Section 63N-8-102.

(b) "Office" means the Governor's Office of Economic Development.

(c) "State-approved production" has the same meaning as defined in Section 63N-8-102.

(2) For taxable years beginning on or after January 1, 2009, a motion picture company may claim a refundable tax credit for a state-approved production.

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to a motion picture company under Section 63N-8-103 for the taxable year.

(4) (a) In accordance with any rules prescribed by the commission under Subsection (4)(b), the commission shall make a refund to a motion picture company that claims a tax credit under this section if the amount of the tax credit exceeds the motion picture company's tax liability for the taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a motion picture company as required by Subsection (4)(a).

(5) (a) On or before October 1, 2014, and every five years after October 1, 2014, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (5), the office shall provide the following information to the Revenue and Taxation Interim Committee by electronic means:

(i) (A) the amount of tax credit the office grants to each taxpayer for each calendar year; and

(B) estimates of the amount of tax credit that the office will grant for each of the next five calendar years;

(ii) the criteria the office uses in granting a tax credit;

(iii) the dollars left in the state, as defined in Section 63N-8-102, by each motion picture company for each calendar year;

(iv) the information contained in the office's latest report to the Legislature under Section 63N-8-105; and

(v) any other information requested by the Revenue and Taxation Interim Committee.

(c) The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 25. Section 59-10-1304 is amended to read:

59-10-1304. Removal of designation and prohibitions on collection for certain contributions on income tax return -- Conditions for removal and prohibitions on collection -- Commission publication requirements.

(1) (a) If a contribution or combination of contributions described in Subsection (1)(b) generate less than \$30,000 per year for three consecutive years, the commission shall remove the designation for the contribution from the individual income tax return and may not collect the contribution from a resident or nonresident individual beginning two taxable years after the three-year period for which the contribution generates less than \$30,000 per year.

(b) The following contributions apply to Subsection (1)(a):

(i) the contribution provided for in Section 59-10-1306;

(ii) the sum of the contributions provided for in Subsection 59-10-1307(1);

(iii) the contribution provided for in Section 59-10-1308;

(iv) the contribution provided for in Section 59-10-1310;

(v) the contribution provided for in Section 59-10-1315;

(vi) the sum of the contributions provided for in:

(A) Section 59-10-1316; and

(B) Section 59-10-1317; or

(vii) the contribution provided for in Section 59-10-1318.

(2) If the commission removes the designation for a contribution under Subsection (1), the commission shall report to the Revenue and Taxation Interim Committee by electronic means that the commission removed the designation on or before the November interim meeting of the year in which the commission determines to remove the designation.

(3) (a) Within a 30-day period after making the report required by Subsection (2), the commission shall publish a list in accordance with Subsection (3)(b) stating each contribution that the commission will remove from the individual income tax return.

(b) The list shall:

(i) be published on:

(A) the commission's website; and

(B) the public legal notice website in accordance with Section 45-1-101;

(ii) include a statement that the commission:

(A) is required to remove the contribution from the individual income tax return; and

(B) may not collect the contribution;

(iii) state the taxable year for which the removal described in Subsection (3)(a) takes effect; and

(iv) remain available for viewing and searching until the commission publishes a new list in accordance with this Subsection (3).

Section 26. Section 59-12-103.1 is amended to read:

59-12-103.1. Action by Supreme Court of the United States authorizing or action by Congress permitting a state to require certain sellers to collect a sales or use tax -- Collection of tax by commission -- Commission report to Revenue and Taxation Interim Committee -- Revenue and Taxation Interim Committee study -- Division of Finance requirement to make certain deposits.

(1) Except as provided in Section 59-12-107.1, a seller shall remit a tax to the commission as provided in Section 59-12-107 if:

(a) the Supreme Court of the United States issues a decision authorizing a state to require the following sellers to collect a sales or use tax:

(i) a seller that does not meet one or more of the criteria described in Subsection 59-12-107(2)(a); or

(ii) a seller that is not a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b); or

(b) Congress permits the state to require the following sellers to collect a sales or use tax:

(i) a seller that does not meet one or more of the criteria described in Subsection 59-12-107(2)(a); or

(ii) a seller that is not a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b).

(2) The commission shall:

(a) collect the tax described in Subsection (1) from the seller:

(i) to the extent:

(A) authorized by the Supreme Court of the United States; or

(B) permitted by Congress; and

(ii) beginning on the first day of a calendar quarter as prescribed by the Revenue and Taxation Interim Committee; and

(b) make a report to the Revenue and Taxation Interim Committee by electronic means:

(i) regarding the actions taken by:

(A) the Supreme Court of the United States; or

(B) Congress; and

(ii) (A) stating the amount of state revenue collected at the time of the report, if any; and

(B) estimating the state sales and use tax rate reduction that would offset the amount of state revenue estimated to be collected for the current fiscal year and the next fiscal year; and

~~[(iii) (A) at]~~

(c) report to the Revenue and Taxation Interim Committee at:

(i) the Revenue and Taxation Interim Committee meeting immediately following the day on which the actions of the Supreme Court of the United States or Congress become effective; and

~~[(B)]~~ (ii) any other meeting of the Revenue and Taxation Interim Committee as requested by the chairs of the committee.

(3) The Revenue and Taxation Interim Committee shall after ~~[hearing]~~ receiving the commission's ~~[report]~~ reports under ~~[Subsection]~~ Subsections (2)(b) and (c):

(a) review the actions taken by:

(i) the Supreme Court of the United States; or

(ii) Congress;

(b) direct the commission regarding the day on which the commission is required to collect the tax described in Subsection (1); and

(c) make recommendations to the Legislative Management Committee:

(i) regarding whether as a result of the actions of the Supreme Court of the United States or Congress any provisions of this chapter should be amended or repealed; and

(ii) within a one-year period after the day on which the commission makes a report under Subsection (2)~~(b)~~(c).

(4) The Division of Finance shall deposit a portion of the revenue collected under this section into the

Remote Sales Restricted Account as required by Section 59-12-103.2.

Section 27. Section 59-12-104 is amended to read:

59-12-104. Exemptions.

Exemptions from the taxes imposed by this chapter are as follows:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed \$1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts and equipment:

(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(II) for:

(Aa) installation in an aircraft, including services relating to the installation of parts or equipment in the aircraft;

(Bb) renovation of an aircraft; or

(Cc) repair of an aircraft; or

(B) for installation in an aircraft operated by a common carrier in interstate or foreign commerce; or

(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce; and

(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before September 30, 2011;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if the vehicle is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii) (A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) "syringe"; or

(B) "stoma supply";

(11) purchases or leases exempt under Section 19-12-201;

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

(A) a church; or

(B) a charitable institution;

- (ii) an institution of higher education if:
- (A) the item described in Subsection (12)(c) is not available to the general public; or
- (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or
- (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- (i) a medical facility; or
- (ii) a nursing facility; and
- (c) Subsections (12)(a) and (b) apply to:
- (i) food and food ingredients;
- (ii) prepared food; or
- (iii) alcoholic beverages;
- (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:
- (i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and
- (ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;
- (b) this Subsection (13) does not apply if:
- (i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;
- (ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;
- (iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or
- (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:
- (A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or
- (B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and
- (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:
- (i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;
- (ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;
- (iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;
- (14) (a) amounts paid or charged for a purchase or lease:
- (i) by a manufacturing facility located in the state; and
- (ii) of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts have an economic life of three or more years and are used:
- (A) in the manufacturing process to manufacture an item sold as tangible personal property; or
- (B) for a scrap recycler, to process an item sold as tangible personal property;
- (b) amounts paid or charged for a purchase or lease:
- (i) by an establishment:
- (A) described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and
- (B) located in the state; and
- (ii) of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts have an economic life of three or more years and are used in:
- (A) the production process to produce an item sold as tangible personal property;
- (B) research and development;
- (C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;
- (D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or
- (E) preventing, controlling, or reducing dust or other pollutants from mining;
- (c) amounts paid or charged for a purchase or lease:
- (i) by an establishment:
- (A) described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive

Office of the President, Office of Management and Budget; and

(B) located in the state; and

(ii) of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts:

(A) are used in the operation of the web search portal; and

(B) have an economic life of three or more years; and

(d) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission:

(i) shall by rule define the term "establishment"; and

(ii) may by rule define what constitutes:

(A) processing an item sold as tangible personal property;

(B) the production process, to produce an item sold as tangible personal property; or

(C) research and development; [and]

~~[(e) on or before October 1, 2016, and every five years after October 1, 2016, the commission shall:]~~

~~[(i) review the exemptions described in this Subsection (14) and make recommendations to the Revenue and Taxation Interim Committee concerning whether the exemptions should be continued, modified, or repealed; and]~~

~~[(ii) include in its report:]~~

~~[(A) an estimate of the cost of the exemptions;]~~

~~[(B) the purpose and effectiveness of the exemptions; and]~~

~~[(C) the benefits of the exemptions to the state;]~~

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the

tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a:

(I) farmer;

(II) contractor; or

(III) subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is incidental to farming:

- (I) machinery;
- (II) equipment;
- (III) materials; or
- (IV) supplies; and
- (B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:
- (I) hand tools; or
- (II) maintenance and janitorial equipment and supplies;
- (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and
- (B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:
- (I) office equipment and supplies; or
- (II) equipment and supplies used in:
- (Aa) the sale or distribution of farm products;
- (Bb) research; or
- (Cc) transportation; or
- (iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;
- (19) sales of hay;
- (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:
- (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;
- (b) an employee of the producer described in Subsection (20)(a); or
- (c) a member of the immediate family of the producer described in Subsection (20)(a);
- (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;
- (23) a product stored in the state for resale;
- (24) (a) purchases of a product if:
- (i) the product is:
- (A) purchased outside of this state;
- (B) brought into this state:
- (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
- (II) by a nonresident person who is not living or working in this state at the time of the purchase;
- (C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
- (D) not used in conducting business in this state; and
- (ii) for:
- (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;
- (B) a boat, the boat is registered outside of this state; or
- (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;
- (b) the exemption provided for in Subsection (24)(a) does not apply to:
- (i) a lease or rental of a product; or
- (ii) a sale of a vehicle exempt under Subsection (33); and
- (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:
- (i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);
- (ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or
- (iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);
- (25) a product purchased for resale in this state, in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;
- (26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;
- (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;
- (28) purchases made in accordance with the special supplemental nutrition program for women,

infants, and children established in 42 U.S.C. Sec. 1786;

(29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

(31) sales of aircraft manufactured in Utah;

(32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

(33) sales, leases, or uses of the following:

(a) a vehicle by an authorized carrier; or

(b) tangible personal property that is installed on a vehicle:

(i) sold or leased to or used by an authorized carrier; and

(ii) before the vehicle is placed in service for the first time;

(34) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

(a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a tariff adopted by the Public Service Commission of Utah only for purchase of electricity produced from a new alternative energy source, as designated in the tariff by the Public Service Commission of Utah; and

(b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

(i) a motion picture;

(ii) a television program;

(iii) a movie made for television;

(iv) a music video;

(v) a commercial;

(vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

(i) NAICS Code 512110; or

(ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

(A) "commercial distribution";

(B) "live musical performance";

(C) "live news program"; or

(D) "live sporting event";

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) a wind turbine;

(B) generating equipment;

(C) a control and monitoring system;

(D) a power line;

(E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state;

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter; and

(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by this Subsection (58) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before June 30, 2011;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location

of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

(a) clearly identified;

(b) segregated; and

(c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

(A) as defined in Section 41(d), Internal Revenue Code; and

(B) in the state; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

(ii) that have an economic life of three or more years;

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

(b) for a lease:

(i) the ownership of the lessor and the ownership of the lessee are identical; and

(ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;

(76) (a) purchases of machinery or equipment if:

(i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) the machinery or equipment:

(A) has an economic life of three or more years; and

(B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

(iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

(A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(B) subject to taxation under this chapter; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:

(i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(ii) subject to taxation under this chapter; ~~and~~

~~[(c) on or before the November 2018 interim meeting, and every five years after the November 2018 interim meeting, the commission shall review the exemption provided in this Subsection (76) and report to the Revenue and Taxation Interim Committee on:]~~

~~[(i) the revenue lost to the state and local taxing jurisdictions as a result of the exemption;]~~

~~[(ii) the purpose and effectiveness of the exemption; and]~~

~~[(iii) whether the exemption benefits the state;]~~

(77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);

(78) amounts paid or charged to access a database:

(a) if the primary purpose for accessing the database is to view or retrieve information from the database; and

(b) not including amounts paid or charged for a:

(i) digital audiowork;

(ii) digital audio-visual work; or

(iii) digital book;

(79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

(a) machinery and equipment that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years;

(80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;

(81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:

(a) is stored, used, or consumed in the state; and

(b) is temporarily brought into the state from another state:

(i) during a disaster period as defined in Section 53-2a-1202;

(ii) by an out-of-state business as defined in Section 53-2a-1202;

(iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

(iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

(82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and Recreation Program;

(83) amounts paid or charged for a purchase or lease of molten magnesium; and

(84) (a) except as provided in Subsection (84)(b), amounts paid or charged for a purchase or lease made by a drilling equipment manufacturer of machinery, equipment, materials, or normal operating repair or replacement parts:

(i) that are used or consumed exclusively in the drilling equipment manufacturer's manufacturing process; and

(ii) except for office:

(A) equipment; or

(B) supplies; and

(b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an exemption described in Subsection (84)(a) only by filing for a refund:

(i) of 50% of the tax paid on the amounts paid or charged; and

(ii) in accordance with Section 59-1-1410.

Section 28. Section 59-12-104.2 is amended to read:

59-12-104.2. Exemption for accommodations and services taxed by the Navajo Nation.

(1) As used in this section "tribal taxing area" means the geographical area that:

(a) is subject to the taxing authority of the Navajo Nation; and

(b) consists of:

(i) notwithstanding the issuance of a patent, all land:

(A) within the limits of an Indian reservation under the jurisdiction of the federal government; and

(B) including any rights-of-way running through the reservation; and

(ii) all Indian allotments the Indian titles to which have not been extinguished, including any rights-of-way running through an Indian allotment.

(2) (a) Beginning July 1, 2001, amounts paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) are exempt from the tax imposed by Subsection 59-12-103(2)(a)(i)(A) or (2)(d)(i)(A)(I) to the extent permitted under Subsection (2)(b) if:

(i) the accommodations and services described in Subsection 59-12-103(1)(i) are provided within:

(A) the state; and

(B) a tribal taxing area;

(ii) the Navajo Nation imposes and collects a tax on the amounts paid by or charged to the purchaser for the accommodations and services described in Subsection 59-12-103(1)(i);

(iii) the Navajo Nation imposes the tax described in Subsection (2)(a)(ii) without regard to whether or not the purchaser that pays or is charged for the accommodations and services is an enrolled member of the Navajo Nation; and

(iv) the requirements of Subsection (4) are met.

(b) If but for Subsection (2)(a) the amounts paid by or charged to a purchaser for accommodations and services described in Subsection (2)(a) are subject to a tax imposed by Subsection 59-12-103(2)(a)(i)(A) or (2)(d)(i)(A)(I):

(i) the seller shall collect and pay to the state the difference described in Subsection (3) if that difference is greater than \$0; and

(ii) a person may not require the state to provide a refund, a credit, or similar tax relief if the difference described in Subsection (3) is equal to or less than \$0.

(3) The difference described in Subsection (2)(b) is equal to the difference between:

(a) the amount of tax imposed by Subsection 59-12-103(2)(a)(i)(A) or (2)(d)(i)(A)(I) on the

amounts paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i); less

(b) the tax imposed and collected by the Navajo Nation on the amounts paid by or charged to a purchaser for the accommodations and services described in Subsection 59-12-103(1)(i).

(4) (a) If, on or after July 1, 2001, the Navajo Nation changes the tax rate of a tax imposed on amounts paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i), any change in the amount of the exemption under Subsection (2) as a result of the change in the tax rate is not effective until the first day of the calendar quarter after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (4)(b) from the Navajo Nation.

(b) The notice described in Subsection (4)(a) shall state:

(i) that the Navajo Nation has changed or will change the tax rate of a tax imposed on amounts paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i);

(ii) the effective date of the rate change on the tax described in Subsection (4)(b)(i); and

(iii) the new rate of the tax described in Subsection (4)(b)(i).

~~[(5) Beginning with the 2006 interim, the Revenue and Taxation Interim Committee:]~~

~~[(a) shall review the exemption provided for in this section one or more times every five years;]~~

~~[(b) shall determine on or before the November interim meeting of the year in which the Revenue and Taxation Interim Committee reviews the exemption provided for in this section whether the exemption should be:]~~

~~[(i) continued;]~~

~~[(ii) modified; or]~~

~~[(iii) repealed; and]~~

~~[(c) may review any other issue related to the exemption provided for in this section as determined by the Revenue and Taxation Interim Committee.]~~

Section 29. Section 59-12-104.5 is amended to read:

59-12-104.5. Revenue and Taxation Interim Committee review of sales and use taxes.

The Revenue and Taxation Interim Committee shall:

(1) review Subsection 59-12-104(28) before October 1 of the year after the year in which Congress permits a state to participate in the special supplemental nutrition program under 42 U.S.C. Sec. 1786 even if state or local sales taxes are

collected within the state on purchases of food under that program; and

(2) review Subsection 59-12-104(21) before October 1 of the year after the year in which Congress permits a state to participate in the SNAP as defined in Section 35A-1-102, even if state or local sales taxes are collected within the state on purchases of food under that program; ~~and].~~

~~[(3) review Subsection 59-12-104(62) before the October 2011 interim meeting.]~~

Section 30. Section 59-23-4 is amended to read:

59-23-4. Brine shrimp royalty -- Royalty rate -- Commission to prepare billing statement -- Deposit of revenue.

(1) A person shall pay for each tax year a brine shrimp royalty of 3.75 cents multiplied by the total number of pounds of unprocessed brine shrimp eggs that the person harvests within the state during the tax year.

(2) (a) A person that harvests unprocessed brine shrimp eggs shall report to the Department of Natural Resources the total number of pounds of unprocessed brine shrimp eggs harvested by that person for that tax year on or before the February 15 immediately following the last day of that tax year.

(b) The Department of Natural Resources shall provide the following information to the commission on or before the March 1 immediately following the last day of a tax year:

(i) the total number of pounds of unprocessed brine shrimp eggs harvested for that tax year; and

(ii) for each person that harvested unprocessed brine shrimp eggs for that tax year:

(A) the total number of pounds of unprocessed brine shrimp eggs harvested by that person for that tax year; and

(B) a current billing address for that person; and

(iii) any additional information required by the commission.

(c) (i) The commission shall prepare and mail a billing statement to each person that harvested unprocessed brine shrimp eggs in a tax year by the March 30 immediately following the last day of a tax year.

(ii) The billing statement under Subsection (2)(c)(i) shall specify:

(A) the total number of pounds of unprocessed brine shrimp eggs harvested by that person for that tax year;

(B) the brine shrimp royalty that the person owes; and

(C) the date that the brine shrimp royalty payment is due as provided in Section 59-23-5.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the information required under Subsection (2)(b)(iii).

(3) Revenue generated by the brine shrimp royalty shall be deposited in the Species Protection Account created in Section 79-2-303.

~~[(4) Beginning with the 2004 interim, the Revenue and Taxation Interim Committee;]~~

~~[(a) shall review the brine shrimp royalty imposed under this section at least every five years;]~~

~~[(b) shall determine on or before the November interim meeting of the year in which the Revenue and Taxation Interim Committee reviews the brine shrimp royalty imposed under this section whether the brine shrimp royalty should be continued, modified, or repealed; and]~~

~~[(c) may review any other issue related to the brine shrimp royalty imposed under this part.]~~

Section 31. Section 63M-4-505 is amended to read:

63M-4-505. Report to the Legislature.

The office shall annually provide an electronic report ~~[annually]~~ to the Public Utilities and Technology Interim Committee and the Revenue and Taxation Interim Committee describing:

(1) its success in attracting alternative energy projects to the state and the resulting increase in new state revenues under this part;

(2) the amount of tax credits the office has granted or will grant and the time period during which the tax credits have been or will be granted; and

(3) the economic impact on the state by comparing new state revenues to tax credits that have been or will be granted under this part.

Section 32. Section 63N-2-810 is amended to read:

63N-2-810. Reports on tax credit certificates -- Study by legislative committees.

(1) The office shall include the following information in the annual written report described in Section 63N-1-301:

(a) the total amount listed on tax credit certificates the office issues under this part;

(b) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax credit applicants under this part; and

(c) the economic impact on the state related to providing tax credits under this part.

(2) (a) On or before November 1, 2016, and every five years after November 1, 2016, the Revenue and Taxation Interim Committee shall:

(i) study the tax credits allowed under Sections 59-7-614.6, 59-10-1025, and 59-10-1109; and

(ii) make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) The study under Subsection (2)(a) shall include an evaluation of:

(i) the cost of the tax credits under Sections 59-7-614.6, 59-10-1025, and 59-10-1109;

(ii) the purposes and effectiveness of the tax credits; and

(iii) the extent to which the state benefits from the tax credits.

(c) For purposes of the study required by this Subsection (2), the office shall provide the following information to the Revenue and Taxation Interim Committee by electronic means:

(i) the amount of tax credits that the office grants to each eligible business entity for each taxable year;

(ii) the amount of eligible new state tax revenues generated by each eligible product or project;

(iii) estimates for each of the next five calendar years of the following:

(A) the amount of tax credits that the office will grant;

(B) the amount of eligible new state tax revenues that will be generated; and

(C) the number of new incremental jobs within the state that will be generated;

(iv) the information contained in the office's latest report to the Legislature under Section 63N-2-705; and

(v) any other information that the Revenue and Taxation Interim Committee requests.

Section 33. Repealer.

This bill repeals:

Section 59-26-110, Revenue and Taxation Interim Committee study.

CHAPTER 136**H. B. 27**

Passed February 9, 2016
 Approved March 22, 2016
 Effective May 10, 2016

**SCHOOL DISTRICT PARTICIPATION
 IN RISK MANAGEMENT FUND**

Chief Sponsor: Jack R. Draxler
 Senate Sponsor: Margaret Dayton

LONG TITLE**General Description:**

This bill removes the repeal date and review requirement for provisions relating to public school district participation in the Risk Management Fund.

Highlighted Provisions:

This bill:

- ▶ removes the repeal date and committee review requirement for Section 63A-4-204, which authorizes the Risk Management Fund to provide coverage to any public school district that chooses to participate.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-263, as last amended by Laws of Utah 2015, Chapters 182, 226, 278, 283, 409, and 424

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

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

63I-1-263. Repeal dates, Titles 63A to 63M.

~~[(1)] Section 63A-4-204, authorizing the Risk Management Fund to provide coverage to any public school district which chooses to participate, is repealed July 1, 2016.~~

~~[(2)] (1) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.~~

~~[(3)] (2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2016.~~

~~[(4)] (3) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2018.~~

~~[(5)] (4) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.~~

~~[(6)] (5) Subsection 63G-6a-1402(7) authorizing certain transportation agencies to award a contract for a design-build transportation project in certain circumstances, is repealed July 1, 2015.~~

~~[(7)] (6) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.~~

~~[(8)] (7) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2016.~~

~~[(9)] (8) On July 1, 2025:~~

~~(a) in Subsection 17-27a-404(3)(c)(ii), the language that states “the Resource Development Coordinating Committee,” is repealed;~~

~~(b) Subsection 23-14-21(2)(c) is amended to read “(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.”;~~

~~(c) in Subsection 23-14-21(3), the language that states “and the Resource Development Coordinating Committee” is repealed;~~

~~(d) in Subsection 23-21-2.3(1), the language that states “the Resource Development Coordinating Committee created in Section 63J-4-501 and” is repealed;~~

~~(e) in Subsection 23-21-2.3(2), the language that states “the Resource Development Coordinating Committee and” is repealed;~~

~~(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;~~

~~(g) Subsections 63J-4-401(5)(a) and (c) are repealed;~~

~~(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word “and” is inserted immediately after the semicolon;~~

~~(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);~~

~~(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and~~

~~(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.~~

~~[(10)] (9) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2017.~~

~~[(11)] (10) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2017.~~

~~[(12)] (11) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2018.~~

~~[(13)] (12) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.~~

~~(b) Subject to Subsection [(13)] (12)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.~~

~~(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:~~

~~(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or~~

~~(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.~~

(d) Notwithstanding Subsections ~~[(13)]~~ (12)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

~~[(14)]~~ (13) Section 63N-2-512 is repealed on July 1, 2021.

~~[(15)]~~ (14) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection ~~[(15)]~~ (14)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

~~[(16)]~~ (15) Title 63N, Chapter 12, Part 3, Utah Broadband Outreach Center, is repealed July 1, 2018.

CHAPTER 137**H. B. 29**

Passed February 8, 2016

Approved March 22, 2016

Effective May 10, 2016

**TRANSPORTATION INTERIM
COMMITTEE REPORTS AMENDMENTS**

Chief Sponsor: Kay J. Christofferson

Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill modifies the Motor Vehicle Act and the Transportation Code by amending provisions relating to reports.

Highlighted Provisions:

This bill:

- ▶ repeals certain reporting requirements to the Legislature's Transportation Interim Committee;
- ▶ modifies certain reporting requirements that the Department of Transportation and the Transportation Commission are required to make to the Legislature's Transportation Interim Committee; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-1a-418, as last amended by Laws of Utah 2014, Chapter 37

41-6a-602, as last amended by Laws of Utah 2014, Chapter 62

41-6a-702, as last amended by Laws of Utah 2015, Chapter 412

72-1-201, as last amended by Laws of Utah 2013, Chapter 303

72-2-124, as last amended by Laws of Utah 2015, Chapter 421

72-4-102, as last amended by Laws of Utah 2008, Chapter 382

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

Section 1. Section 41-1a-418 is amended to read:**41-1a-418. Authorized special group license plates.**

(1) The division shall only issue special group license plates in accordance with this section through Section 41-1a-422 to a person who is specified under this section within the categories listed as follows:

(a) disability special group license plates issued in accordance with Section 41-1a-420;

(b) honor special group license plates, as in a war hero, which plates are issued for a:

(i) survivor of the Japanese attack on Pearl Harbor;

(ii) former prisoner of war;

(iii) recipient of a Purple Heart;

(iv) disabled veteran; or

(v) recipient of a gold star award issued by the United States Secretary of Defense;

(c) unique vehicle type special group license plates, as for historical, collectors value, or other unique vehicle type, which plates are issued for:

(i) a special interest vehicle;

(ii) a vintage vehicle;

(iii) a farm truck; or

(iv) (A) until Subsection (1)(c)(iv)(B) or (4) applies, a vehicle powered by clean fuel as defined in Section 59-13-102; or

(B) beginning on the effective date of rules made by the Department of Transportation authorized under Subsection 41-6a-702(5)(b) and until Subsection (4) applies, a vehicle powered by clean fuel that meets the standards established by the Department of Transportation in rules authorized under Subsection 41-6a-702(5)(b);

(d) recognition special group license plates, which plates are issued for:

(i) a current member of the Legislature;

(ii) a current member of the United States Congress;

(iii) a current member of the National Guard;

(iv) a licensed amateur radio operator;

(v) a currently employed, volunteer, or retired firefighter until June 30, 2009;

(vi) an emergency medical technician;

(vii) a current member of a search and rescue team;

(viii) a current honorary consulate designated by the United States Department of State; or

(ix) an individual that wants to recognize and honor American freedoms and values through an In God We Trust license plate;

(e) support special group license plates, as for a contributor to an institution or cause, which plates are issued for a contributor to:

(i) an institution's scholastic scholarship fund;

(ii) the Division of Wildlife Resources;

(iii) the Department of Veterans' and Military Affairs;

(iv) the Division of Parks and Recreation;

(v) the Department of Agriculture and Food;

(vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;

(vii) the Boy Scouts of America;

(viii) spay and neuter programs through No More Homeless Pets in Utah;

(ix) the Boys and Girls Clubs of America;

(x) Utah public education;

(xi) programs that provide support to organizations that create affordable housing for those in severe need through the Division of Real Estate;

(xii) the Department of Public Safety;

(xiii) programs that support Zion National Park;

(xiv) beginning on July 1, 2009, programs that provide support to firefighter organizations;

(xv) programs that promote bicycle operation and safety awareness;

(xvi) programs that conduct or support cancer research;

(xvii) programs that create or support autism awareness;

(xviii) programs that create or support humanitarian service and educational and cultural exchanges;

(xix) programs that conduct or support prostate cancer awareness, screening, detection, or prevention;

(xx) programs that support and promote adoptions;

(xxi) programs that create or support civil rights education and awareness; or

(xxii) programs that support issues affecting women and children through an organization affiliated with a national professional men's basketball organization.

(2) (a) The division may not issue a new type of special group license plate unless the division receives:

(i) (A) a private donation for the start-up fee established under Section 63J-1-504 for the production and administrative costs of providing the new special group license plates; or

(B) a legislative appropriation for the start-up fee provided under Subsection (2)(a)(i)(A); and

(ii) beginning on January 1, 2012, and for the issuance of a support special group license plate authorized in Section 41-1a-422, at least 500 completed applications for the new type of support special group license plate to be issued with all fees required under this part for the support special group license plate issuance paid by each applicant.

(b) (i) Beginning on January 1, 2012, each participating organization shall collect and hold applications for support special group license plates authorized in Section 41-1a-422 on or after January 1, 2012, until it has received at least 500 applications.

(ii) Once a participating organization has received at least 500 applications, it shall submit the applications, along with the necessary fees, to the division for the division to begin working on the design and issuance of the new type of support special group license plate to be issued.

(iii) Beginning on January 1, 2012, the division may not work on the issuance or design of a new support special group license plate authorized in Section 41-1a-422 until the applications and fees required under this Subsection (2) have been received by the division.

(iv) The division shall begin issuance of a new support special group license plate authorized in Section 41-1a-422 on or after January 1, 2012, no later than six months after receiving the applications and fees required under this Subsection (2).

(c) (i) Beginning on July 1, 2009, the division may not renew a motor vehicle registration of a motor vehicle that has been issued a firefighter recognition special group license plate unless the applicant is a contributor as defined in Subsection 41-1a-422(1)(a)(ii)(D) to the Firefighter Support Restricted Account.

(ii) A registered owner of a vehicle that has been issued a firefighter recognition special group license plate prior to July 1, 2009, upon renewal of the owner's motor vehicle registration shall:

(A) be a contributor to the Firefighter Support Restricted Account as required under Subsection (2)(c)(i); or

(B) replace the firefighter recognition special group license plate with a new license plate.

(3) ~~(a)~~ Beginning on July 1, 2011, if a support special group license plate type authorized in Section 41-1a-422 and issued on or after January 1, 2012, has fewer than 500 license plates issued each year for a three consecutive year time period that begins on July 1, the division may not issue that type of support special group license plate to a new applicant beginning on January 1 of the following calendar year after the three consecutive year time period for which that type of support special group license plate has fewer than 500 license plates issued each year.

~~(b) If the division is required to stop the issuance of a type of support special group license plate authorized in Section 41-1a-422 under this Subsection (3), the division shall report to the Transportation Interim Committee that the division will stop the issuance on or before the November interim meeting of the year in which the commission determines to stop the issuance of that type of support special group license plate.~~

(4) Beginning on July 1, 2011, the division may not issue to an applicant a unique vehicle type license plate for a vehicle powered by clean fuel under Subsection (1)(c)(iv).

Section 2. Section 41-6a-602 is amended to read:

41-6a-602. Speed limits established on state highways.

(1) (a) The Department of Transportation shall determine the reasonable and safe speed limit for each highway or section of highway under its jurisdiction.

(b) For each highway or section of highway, each speed limit shall be based on a traffic engineering and safety study consistent with the requirements and recommendations in the most current version of the "Manual on Uniform Traffic Control Devices."

(c) The traffic engineering and safety studies shall include:

- (i) the design speed;
- (ii) prevailing vehicle speeds;
- (iii) accident history;
- (iv) highway, traffic, and roadside conditions; and
- (v) other highway safety factors.

(2) In addition to the provisions of Subsection (1), the Department of Transportation may establish different speed limits on a highway or section of highway based on:

- (a) time of day;
- (b) highway construction;
- (c) type of vehicle;
- (d) weather conditions; and
- (e) other highway safety factors.

(3) (a) Except as provided in Subsection (3)(b) and (c), a posted speed limit may not exceed 65 miles per hour.

(b) Except as provided in Subsection (3)(c), a posted speed limit on a freeway or other limited access highway may not exceed 75 miles per hour.

(c) (i) The Department of Transportation may establish a posted speed limit on a freeway or other limited access highway that exceeds the maximum speed limit in Subsection (3)(b) if the speed limit is based on a highway traffic engineering and safety study.

(ii) If the Department of Transportation establishes a posted speed limit that exceeds the limit under Subsection (3)(b), the Department of Transportation shall evaluate the results and impacts of increasing a speed limit under this Subsection (3)(c).

~~[(iii) The Department of Transportation shall report the findings of an evaluation conducted under Subsection (3)(c)(ii) to the Transportation Interim Committee no later than one year after a speed limit has been imposed under this Subsection (3)(c).]~~

(d) This Subsection (3) is an exception to the provisions of Subsections (1) and (2).

(4) When establishing or changing a speed limit, the Department of Transportation shall consult with the following entities prior to erecting or changing a speed limit sign:

(a) the county for state highways in an unincorporated area of the county;

(b) the municipality for state highways within the municipality's incorporated area;

(c) the Department of Public Safety; and

(d) the Transportation Commission.

(5) The speed limit is effective when appropriate signs giving notice are erected along the highway or section of the highway.

Section 3. Section 41-6a-702 is amended to read:

41-6a-702. Left lane restrictions -- Exceptions -- Other lane restrictions -- Penalties.

(1) As used in this section and Section 41-6a-704, "general purpose lane" means a highway lane open to vehicular traffic but does not include a designated:

- (a) high occupancy vehicle (HOV) lane; or
- (b) auxiliary lane that begins as a freeway on-ramp and ends as part of the next freeway off-ramp.

(2) On a freeway or section of a freeway which has three or more general purpose lanes in the same direction, a person may not operate a vehicle in the left most general purpose lane if the person's:

- (a) vehicle is drawing a trailer or semitrailer regardless of size; or
- (b) vehicle or combination of vehicles has a gross vehicle weight of 12,001 or more pounds.

(3) Subsection (2) does not apply to a person operating a vehicle who is:

- (a) preparing to turn left or taking a different highway split or an exit on the left;
- (b) responding to emergency conditions;
- (c) avoiding actual or potential traffic moving onto the highway from an acceleration or merging lane; or
- (d) following direction signs that direct use of a designated lane.

(4) (a) A highway authority may designate a specific lane or lanes of travel for any type of vehicle on a highway or portion of a highway under its jurisdiction for the:

- (i) safety of the public;
- (ii) efficient maintenance of a highway; or
- (iii) use of high occupancy vehicles.

(b) The lane designation under Subsection (4)(a) is effective when appropriate signs giving notice are erected on the highway or portion of the highway.

~~[(c) If a highway authority establishes an HOV lane, the highway authority shall annually report to the Transportation Interim Committee no later than November 30 of each year regarding:]~~

~~(i) the types of vehicles that may access the lane;~~

~~(ii) where, when, and how a vehicle may access the lane;~~

~~(iii) how a tax, fee, or charge is assessed for a vehicle carrying less than the number of persons specified for the lane;~~

~~(iv) the usage of the HOV lane as compared to the usage of the general purpose lanes along the same stretch of highway; and~~

~~(v) the compliance issues, safety risks, and impacts of the lane parameters described under Subsections (4)(e)(i), (ii), and (iii).]~~

(5) (a) Subject to Subsection (5)(b) and beginning on July 1, 2011, the lane designation under Subsection (4)(a)(iii) shall allow a vehicle with a clean fuel vehicle decal issued in accordance with Section 72-6-121 to travel in lanes designated for the use of high occupancy vehicles regardless of the number of occupants as permitted by federal law or federal regulation.

(b) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Transportation may make rules to allow a vehicle with a clean fuel vehicle decal to travel in lanes designated for the use of high occupancy vehicles regardless of the number of occupants as permitted by federal law or federal regulation.

(ii) Except as provided in Subsection (5)(b)(iii), the Department of Transportation may not issue more than 6,000 clean fuel vehicle decals under Section 72-6-121.

(iii) The Department of Transportation may, through rules made under Subsection (5)(b)(i), increase the number of clean fuel vehicle decals issued in accordance with Section 72-6-121 beyond the minimum described in Subsection (5)(b)(ii) if the increased issuance will allow the Department of Transportation to continue to meet its goals for operational management of the lane designated under Subsection (4)(a)(iii).

(6) A person who operates a vehicle in violation of Subsection (2) or in violation of the restrictions made under Subsection (4) is guilty of an infraction.

Section 4. Section 72-1-201 is amended to read:

72-1-201. Creation of Department of Transportation -- Functions, powers, duties, rights, and responsibilities.

(1) There is created the Department of Transportation which shall:

(a) have the general responsibility for planning, research, design, construction, maintenance, security, and safety of state transportation systems;

(b) provide administration for state transportation systems and programs;

(c) implement the transportation policies of the state;

(d) plan, develop, construct, and maintain state transportation systems that are safe, reliable, environmentally sensitive, and serve the needs of the traveling public, commerce, and industry;

(e) establish standards and procedures regarding the technical details of administration of the state transportation systems as established by statute and administrative rule;

(f) advise the governor and the Legislature about state transportation systems needs;

(g) coordinate with utility companies for the reasonable, efficient, and cost-effective installation, maintenance, operation, relocation, and upgrade of utilities within state highway rights-of-way;

(h) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make policy and rules for the administration of the department, state transportation systems, and programs; and

(i) annually report to~~[-(4)]~~ the Transportation Interim Committee, by November 30 of each year, as to the:

(i) operation ~~[and]~~, maintenance, condition, and safety needs for highways; and

~~[(ii) an appropriate legislative committee as designated by the Legislative Management Committee the transfers that need to be made between all transportation-related funds to maintain the state highway construction program as prioritized by the commission.]~~

(ii) condition, safety, and mobility of the state transportation system jointly with the Transportation Commission.

(2) (a) The department shall exercise reasonable care in designing, constructing, and maintaining a state highway in a reasonably safe condition for travel.

(b) Nothing in this section shall be construed as:

(i) creating a private right of action; or

(ii) expanding or changing the department's common law duty as described in Subsection (2)(a) for liability purposes.

Section 5. Section 72-2-124 is amended to read:

72-2-124. Transportation Investment Fund of 2005.

(1) There is created a capital projects fund entitled the Transportation Investment Fund of 2005.

(2) The fund consists of money generated from the following sources:

(a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways;

(b) appropriations made to the fund by the Legislature;

(c) the sales and use tax revenues deposited into the fund in accordance with Section 59-12-103; and

(d) registration fees designated under Section 41-1a-1201.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) Except as provided in Subsection (4)(b), the executive director may use fund money only to pay:

(i) the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects described in Subsections 63B-18-401(2), (3), and (4);

(iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 minus the costs paid from the County of the First Class Highway Projects Fund in accordance with Subsection 72-2-121(4)(f);

(iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on \$30,000,000 of the revenue bonds issued by Salt Lake County;

(v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 for projects prioritized in accordance with Section 72-2-125;

(vi) all highway general obligation bonds that are intended to be paid from revenues in the Centennial Highway Fund created by Section 72-2-118; and

(vii) for fiscal year 2015-16 only, to transfer \$25,000,000 to the County of the First Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121.

(b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).

(5) (a) Before bonds authorized by Section 63B-18-401 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the department needs to provide funding for the projects identified in Subsections 63B-18-401(2), (3), and (4) for the next fiscal year.

(b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.

(6) The Division of Finance shall, from money deposited into the fund, transfer the amount of

funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 in the current fiscal year to the appropriate debt service or sinking fund.

~~[(7) (a) The commission shall develop prior to June 30, 2015, a funding plan and identify a highway construction program using the prioritization process for new transportation capacity projects adopted under Section 72-1-304 that meets long-term transportation needs beyond the normal four year programming horizon.]~~

~~[(b) The commission shall report the plan and program established under Subsection (7)(a) to the Transportation Interim Committee of the Legislature by no later than September 30, 2015.]~~

Section 6. Section 72-4-102 is amended to read:

72-4-102. Additions to or deletions from state highway system -- Designation of highways as state highways between sessions.

(1) (a) The Legislature may add to or delete highways or sections of highways from the state highway system.

(b) The department shall annually submit to the Legislature a list of highways or sections of highways the commission recommends for addition to or deletion from the state highway system.

(c) All recommendations under Subsection (1)(b) shall be based on:

(i) the criteria for state highways under Section 72-4-102.5;

(ii) funding and operational considerations identified under Subsection (3);

(iii) efficiency of highway operations and maintenance; and

(iv) other factors the commission determines are appropriate, in consultation with the department and the highway authorities involved in the transfer.

(2) Between general sessions of the Legislature, highways may be designated as state highways or deleted from the state highway system if:

(a) approved by the commission in accordance with:

(i) the criteria for state highways under Section 72-4-102.5;

(ii) funding and operational considerations identified under Subsection (3);

(iii) efficiency of highway operations and maintenance; and

(iv) other factors the commission determines are appropriate, in consultation with the department and the highway authorities involved in the transfer;

(b) a deletion is agreed upon by all highway authorities involved in the transfer; and

(c) the highways are included in the list of recommendations submitted to the Legislature in the next year for legislative approval or disapproval.

(3) All highway authorities involved in a highway transfer under this section shall consider available highway financing levels and operational abilities for the maintenance and construction of a transferred highway.

~~[(4) (a) The department shall no later than June 30 report to the Transportation Interim Committee of the Legislature any proposed additions to or deletions from the state highway system whether proposed by the department or another highway authority.]~~

~~[(b)]~~ (4) (a) The department or the commission shall submit to the Transportation Interim Committee of the Legislature on or before November 1 of each year:

(i) the list of highways recommended for transfer under Subsection (1);

(ii) a list of potential additions to or deletions from the state highway system that are currently under consideration; and

(iii) a list of additions to or deletions from the state highway system that were proposed but not agreed to by the affected highway authorities.

~~[(e)]~~ (b) The recommendations shall include:

(i) any fiscal and funding recommendations of each highway authority involved in the transfer of a highway or section of a highway; and

(ii) a cost estimate, fiscal analysis, and funding recommendation, or recommendation for further study from the Office of the Legislative Fiscal Analyst.

(5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules, in consultation with the department and local highway authorities, establishing a process for a highway authority to propose an addition to or deletion from the state highway system.

(b) The rules established under Subsection (5)(a) shall include provisions for:

(i) notification to highway authorities of the department's intent to:

(A) collect proposed additions to or deletions from the state highway system; and

(B) report the proposals to the Transportation Interim Committee as required under Subsection (4)(a);

(ii) public comment regarding a proposed addition to or deletion from the state highway system under this section during a commission meeting held under Section 72-1-302;

(iii) notification to any affected highway authority of an addition to or deletion from the state

highway system under consideration prior to the meeting held under Subsection (5)(b)(ii); and

(iv) opportunity for a highway authority to initiate consideration of additions to or deletions from the state highway system by the commission.

CHAPTER 138**H. B. 36**

Passed March 4, 2016

Approved March 22, 2016

Effective May 10, 2016

(Exception clause in Section 52)

INSURANCE REVISIONS

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies provisions related to insurance.

Highlighted Provisions:

This bill:

- ▶ corrects citations;
- ▶ amends definitions;
- ▶ modifies language related to comparison tables;
- ▶ addresses compliance with PPACA and administrative rules;
- ▶ addresses application of vehicle protection product warranties under the statute;
- ▶ modifies the Risk Retention Groups Act, including:
 - amending definitions;
 - imposing requirements on risk retention groups chartered in this state;
 - providing that countersignatures are not required;
 - addressing purchasing groups;
 - addressing the role of producers; and
 - granting rulemaking authority;
- ▶ addresses credit allowed a domestic ceding insurer against reserves for reinsurance;
- ▶ lists in what form security may be in for purposes of asset or reduction from liability for reinsurance ceded by a domestic insurer to another assuming insurer;
- ▶ addresses rulemaking authority of the commissioner;
- ▶ provides when a motor vehicle liability policy may be rescinded or cancelled;
- ▶ modifies reference to husband and wife;
- ▶ addresses insurance for alcohol and drug dependency treatment;
- ▶ provides that violation of an order by a regulatory agency in any jurisdiction may be grounds for discipline;
- ▶ addresses continuing education requirements;
- ▶ provides that a person's variable contracts line of authority is cancelled when that person's securities license is no longer active;
- ▶ addresses insurer's liability if the insured pays a premium to a licensee or group policyholder;
- ▶ addresses licensee compensation disclosures;
- ▶ addresses exemption from claims filing requirements;
- ▶ modifies citations related to allowance of contingent and unliquidated claims;
- ▶ amends training requirements for insurance producers related to the Health Insurance Exchange;
- ▶ requires insurers to have antifraud plans;
- ▶ amends definitions related to captive insurers;

- ▶ addresses the application of the Risk Retention Groups Act to captive insurers;
- ▶ modifies provisions related to reinsurance and captive insurance companies;
- ▶ amends reporting requirements for captive insurance companies;
- ▶ clarifies timing of examinations of captive insurance companies;
- ▶ addresses assessments related to title insurance;
- ▶ modifies provisions related to the Title Insurance Recovery, Education, and Research Fund Act;
- ▶ modifies the repeal date for specified statutory provisions;
- ▶ repeals provisions related to employee welfare funds and plans;
- ▶ repeals provisions related to credit allowed a foreign ceding insurer;
- ▶ makes technical and conforming amendments;
- ▶ reauthorizes the Health Reform Task Force until December 30, 2017; and
- ▶ amends the duties of the task force.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2016-2017:

- ▶ To the Senate, as one-time appropriation:
 - from the General Fund, \$13,000, to pay for the Health Reform Task Force; and
- ▶ To the House of Representatives, as a one-time appropriation:
 - from the General Fund, \$22,000, to pay for the Health Reform Task Force.

Other Special Clauses:

This bill provides a repeal date.

Utah Code Sections Affected:**AMENDS:**

- 13-51-108, as enacted by Laws of Utah 2015, Chapter 244 and last amended by Coordination Clause, Laws of Utah 2015, Chapter 244
- 31A-1-301, as last amended by Laws of Utah 2015, Chapters 244 and 330
- 31A-2-208.5, as enacted by Laws of Utah 1990, Chapter 129
- 31A-2-212, as last amended by Laws of Utah 2015, Chapter 283
- 31A-2-309, as last amended by Laws of Utah 2008, Chapter 257
- 31A-6a-101, as last amended by Laws of Utah 2015, Chapter 244
- 31A-6a-104, as last amended by Laws of Utah 2015, Chapter 244
- 31A-15-202, as last amended by Laws of Utah 2010, Chapter 324
- 31A-15-203, as last amended by Laws of Utah 2011, Chapter 297
- 31A-15-204, as last amended by Laws of Utah 2003, Chapter 298
- 31A-15-208, as last amended by Laws of Utah 2010, Chapter 10
- 31A-15-209, as enacted by Laws of Utah 1992, Chapter 258
- 31A-15-212, as last amended by Laws of Utah 2003, Chapter 298
- 31A-17-404, as last amended by Laws of Utah 2008, Chapter 257
- 31A-17-404.1, as enacted by Laws of Utah 2008, Chapter 257

31A-17-404.3, as enacted by Laws of Utah 2008, Chapter 257

31A-22-202, as enacted by Laws of Utah 1985, Chapter 242

31A-22-603, as last amended by Laws of Utah 2001, Chapter 116

31A-22-715, as last amended by Laws of Utah 2001, Chapter 116

31A-22-1201, as last amended by Laws of Utah 2008, Chapter 257

31A-23a-111, as last amended by Laws of Utah 2012, Chapter 253

31A-23a-202, as last amended by Laws of Utah 2014, Chapters 290 and 300

31A-23a-206, as last amended by Laws of Utah 2012, Chapter 253

31A-23a-410, as last amended by Laws of Utah 2009, Chapter 349

31A-23a-501, as last amended by Laws of Utah 2015, Chapter 195

31A-23b-401, as enacted by Laws of Utah 2013, Chapter 341

31A-25-208, as last amended by Laws of Utah 2014, Chapters 290 and 300

31A-26-213, as last amended by Laws of Utah 2014, Chapters 290 and 300

31A-27a-601, as enacted by Laws of Utah 2007, Chapter 309

31A-27a-605, as enacted by Laws of Utah 2007, Chapter 309

31A-30-116, as last amended by Laws of Utah 2015, Chapter 283

31A-30-209, as last amended by Laws of Utah 2014, Chapters 290 and 300

31A-37-102, as last amended by Laws of Utah 2015, Chapter 244

31A-37-103, as last amended by Laws of Utah 2011, Chapter 284

31A-37-204, as last amended by Laws of Utah 2015, Chapter 244

31A-37-303, as last amended by Laws of Utah 2015, Chapter 244

31A-37-501, as last amended by Laws of Utah 2015, Chapter 244

31A-37-502, as last amended by Laws of Utah 2015, Chapter 244

31A-40-208, as last amended by Laws of Utah 2012, Chapter 169

31A-41-202, as last amended by Laws of Utah 2015, Chapter 330

31A-41-301, as last amended by Laws of Utah 2012, Chapter 253

31A-41-303, as enacted by Laws of Utah 2008, Chapter 220

63I-2-231, as last amended by Laws of Utah 2015, Chapter 244

ENACTS:

31A-15-206.5, Utah Code Annotated 1953

31A-15-213.5, Utah Code Annotated 1953

31A-31-112, Utah Code Annotated 1953

REPEALS AND REENACTS:

31A-41-302, as enacted by Laws of Utah 2008, Chapter 220

REPEALS:

31A-13-101, as last amended by Laws of Utah 1986, Chapter 204

31A-13-102, as enacted by Laws of Utah 1985, Chapter 242

31A-13-103, as last amended by Laws of Utah 1986, Chapter 204

31A-13-104, as enacted by Laws of Utah 1985, Chapter 242

31A-13-105, as enacted by Laws of Utah 1985, Chapter 242

31A-13-106, as enacted by Laws of Utah 1985, Chapter 242

31A-13-107, as last amended by Laws of Utah 2007, Chapter 309

31A-13-108, as enacted by Laws of Utah 1985, Chapter 242

31A-13-109, as last amended by Laws of Utah 1986, Chapter 204

31A-17-404.2, as enacted by Laws of Utah 2008, Chapter 257

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. Section 13-51-108 is amended to read:**13-51-108. Insurance.**

(1) A transportation network company or a transportation network driver shall maintain insurance that covers, on a primary basis, a transportation network driver's use of a vehicle during a prearranged ride and that includes:

(a) an acknowledgment that the transportation network driver is using the vehicle in connection with a transportation network company during a prearranged ride or that the transportation network driver is otherwise using the vehicle for a commercial purpose;

(b) liability coverage for a minimum amount of \$1,000,000 per occurrence;

(c) personal injury protection to the extent required under Sections 31A-22-306 through 31A-22-309;

(d) uninsured motorist coverage where required by Section 31A-22-305; and

(e) underinsured motorist coverage where required by Section 31A-22-305.3.

(2) A transportation network company or a transportation network driver shall maintain insurance that covers, on a primary basis, a transportation network driver's use of a vehicle during a waiting period and that includes:

(a) an acknowledgment that the transportation network driver is using the vehicle in connection with a transportation network company during a waiting period or that the transportation network driver is otherwise using the vehicle for a commercial purpose;

(b) liability coverage in a minimum amount, per occurrence, of:

(i) \$50,000 to any one individual;

(ii) \$100,000 to all individuals; and

- (iii) \$30,000 for property damage;
- (c) personal injury protection to the extent required under Sections 31A-22-306 through 31A-22-309;
- (d) uninsured motorist coverage where required by Section 31A-22-305; and
- (e) underinsured motorist coverage where required by Section 31A-22-305.3.
- (3) A transportation network company or a transportation network driver shall maintain comprehensive and collision insurance that covers, on a primary or contingent basis, a transportation network driver's use of a vehicle while providing transportation network services, and that includes:
- (a) an acknowledgment that the transportation network driver is using the vehicle in connection with a transportation network company during a prearranged ride or waiting period, or that the transportation network driver is otherwise using the vehicle for a commercial purpose; and
- (b) coverage limits that are at least equal to such coverage limits, if any, for the personal automobile insurance maintained by the vehicle's owner and reported to the transportation network company.
- (4) A transportation network company and a transportation network driver may satisfy the requirements of Subsections (1), (2), and (3) by:
- (a) the transportation network driver purchasing coverage that complies with Subsections (1), (2), and (3);
- (b) the transportation network company purchasing, on the transportation network driver's behalf, coverage that complies with Subsections (1), (2), and (3); or
- (c) a combination of Subsections (4)(a) and (b).
- (5) An insurer may offer to a transportation network driver a personal automobile liability insurance policy, or an amendment or endorsement to a personal automobile liability policy, that:
- (a) covers a private passenger motor vehicle while used to provide transportation network services; and
- (b) satisfies the coverage requirements described in Subsection (1), (2), or (3).
- (6) Nothing in this section requires a personal automobile insurance policy to provide coverage while a driver is providing transportation network services.
- (7) If a transportation network company does not purchase a policy that complies with Subsections (1), (2), and (3) on behalf of a transportation network driver, the transportation network company shall verify that the driver has purchased a policy that complies with Subsections (1), (2), and (3).
- (8) An insurance policy that a transportation network company or a transportation network driver maintains under Subsection (1) or (2):

- (a) satisfies the security requirements of Section 41-12a-301; and
- (b) may, along with insurance maintained under Subsection (3), be placed with:
- (i) an insurer that is certified under Section 31A-4-103; or
- (ii) a surplus lines insurer [~~licensed~~] eligible under Section [~~31A-23a-104~~] 31A-15-103.
- (9) An insurer that provides coverage for a transportation network driver explicitly for the transportation network driver's transportation network services under Subsection (1) or (2) shall have the duty to defend a liability claim arising from an occurrence while the transportation network driver is providing transportation network services.
- (10) (a) If insurance a transportation network driver maintains under Subsection (1), (2), or (3) lapses or ceases to exist, a transportation network company shall provide coverage complying with Subsection (1), (2), or (3) beginning with the first dollar of a claim.
- (b) Subsection (10)(a) does not apply to comprehensive or collision insurance otherwise required under Subsection (3) if, at the time of a claim for damage to a vehicle being used to provide transportation network services, there is no outstanding lien on the vehicle.
- (11) (a) An insurance policy that a transportation network company or transportation network driver maintains under Subsection (1) or (2) may not provide that coverage is dependent on a transportation network driver's personal automobile insurance policy first denying a claim.
- (b) Subsection (11)(a) does not apply to coverage a transportation network company provides under Subsection [~~(9)~~] (10) in the event a transportation network driver's coverage under Subsection (1) or (2) lapses or ceases to exist.
- (12) A personal automobile insurer:
- (a) notwithstanding Section 31A-22-302, may offer a personal automobile liability policy that excludes coverage for a loss that arises from the use of the insured vehicle to provide transportation network services; and
- (b) does not have the duty to defend or indemnify a loss if an exclusion described in Subsection (12)(a) excludes coverage according to the policy's terms.

Section 2. Section 31A-1-301 is amended to read:

31A-1-301. Definitions.

As used in this title, unless otherwise specified:

- (1) (a) "Accident and health insurance" means insurance to provide protection against economic losses resulting from:
- (i) a medical condition including:
- (A) a medical care expense; or
- (B) the risk of disability;

- (ii) accident; or
- (iii) sickness.
- (b) "Accident and health insurance":
 - (i) includes a contract with disability contingencies including:
 - (A) an income replacement contract;
 - (B) a health care contract;
 - (C) an expense reimbursement contract;
 - (D) a credit accident and health contract;
 - (E) a continuing care contract; and
 - (F) a long-term care contract; and
 - (ii) may provide:
 - (A) hospital coverage;
 - (B) surgical coverage;
 - (C) medical coverage;
 - (D) loss of income coverage;
 - (E) prescription drug coverage;
 - (F) dental coverage; or
 - (G) vision coverage.
 - (c) "Accident and health insurance" does not include workers' compensation insurance.
- (2) "Actuary" is as defined by the commissioner by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (3) "Administrator" is defined in Subsection (166).
- (4) "Adult" means an individual who has attained the age of at least 18 years.
- (5) "Affiliate" means a person who controls, is controlled by, or is under common control with, another person. A corporation is an affiliate of another corporation, regardless of ownership, if substantially the same group of individuals manage the corporations.
- (6) "Agency" means:
 - (a) a person other than an individual, including a sole proprietorship by which an individual does business under an assumed name; and
 - (b) an insurance organization licensed or required to be licensed under Section 31A-23a-301, 31A-25-207, or 31A-26-209.
- (7) "Alien insurer" means an insurer domiciled outside the United States.
- (8) "Amendment" means an endorsement to an insurance policy or certificate.
- (9) "Annuity" means an agreement to make periodical payments for a period certain or over the lifetime of one or more individuals if the making or continuance of all or some of the series of the

payments, or the amount of the payment, is dependent upon the continuance of human life.

(10) "Application" means a document:

(a) (i) completed by an applicant to provide information about the risk to be insured; and

(ii) that contains information that is used by the insurer to evaluate risk and decide whether to:

(A) insure the risk under:

(I) the coverage as originally offered; or

(II) a modification of the coverage as originally offered; or

(B) decline to insure the risk; or

(b) used by the insurer to gather information from the applicant before issuance of an annuity contract.

(11) "Articles" or "articles of incorporation" means:

(a) the original articles;

(b) a special law;

(c) a charter;

(d) an amendment;

(e) restated articles;

(f) articles of merger or consolidation;

(g) a trust instrument;

(h) another constitutive document for a trust or other entity that is not a corporation; and

(i) an amendment to an item listed in Subsections (11)(a) through (h).

(12) "Bail bond insurance" means a guarantee that a person will attend court when required, up to and including surrender of the person in execution of a sentence imposed under Subsection 77-20-7(1), as a condition to the release of that person from confinement.

(13) "Binder" means the same as that term is defined in Section 31A-21-102.

(14) "Blanket insurance policy" means a group policy covering a defined class of persons:

(a) without individual underwriting or application; and

(b) that is determined by definition without designating each person covered.

(15) "Board," "board of trustees," or "board of directors" means the group of persons with responsibility over, or management of, a corporation, however designated.

(16) "Bona fide office" means a physical office in this state:

(a) that is open to the public;

(b) that is staffed during regular business hours on regular business days; and

(c) at which the public may appear in person to obtain services.

(17) "Business entity" means:

- (a) a corporation;
- (b) an association;
- (c) a partnership;
- (d) a limited liability company;
- (e) a limited liability partnership; or
- (f) another legal entity.

(18) "Business of insurance" is defined in Subsection (89).

(19) "Business plan" means the information required to be supplied to the commissioner under Subsections 31A-5-204(2)(i) and (j), including the information required when these subsections apply by reference under:

- (a) Section 31A-7-201;
- (b) Section 31A-8-205; or
- (c) Subsection 31A-9-205(2).

(20) (a) "Bylaws" means the rules adopted for the regulation or management of a corporation's affairs, however designated.

(b) "Bylaws" includes comparable rules for a trust or other entity that is not a corporation.

(21) "Captive insurance company" means:

- (a) an insurer:
 - (i) owned by another organization; and
 - (ii) whose exclusive purpose is to insure risks of the parent organization and an affiliated company; or

(b) in the case of a group or association, an insurer:

- (i) owned by the insureds; and
- (ii) whose exclusive purpose is to insure risks of:
 - (A) a member organization;
 - (B) a group member; or
 - (C) an affiliate of:
 - (I) a member organization; or
 - (II) a group member.

(22) "Casualty insurance" means liability insurance.

(23) "Certificate" means evidence of insurance given to:

- (a) an insured under a group insurance policy; or
- (b) a third party.

(24) "Certificate of authority" is included within the term "license."

(25) "Claim," unless the context otherwise requires, means a request or demand on an insurer for payment of a benefit according to the terms of an insurance policy.

(26) "Claims-made coverage" means an insurance contract or provision limiting coverage under a policy insuring against legal liability to claims that are first made against the insured while the policy is in force.

(27) (a) "Commissioner" or "commissioner of insurance" means Utah's insurance commissioner.

(b) When appropriate, the terms listed in Subsection (27)(a) apply to the equivalent supervisory official of another jurisdiction.

(28) (a) "Continuing care insurance" means insurance that:

- (i) provides board and lodging;
- (ii) provides one or more of the following:
 - (A) a personal service;
 - (B) a nursing service;
 - (C) a medical service; or
 - (D) any other health-related service; and
- (iii) provides the coverage described in this Subsection (28)(a) under an agreement effective:
 - (A) for the life of the insured; or
 - (B) for a period in excess of one year.

(b) Insurance is continuing care insurance regardless of whether or not the board and lodging are provided at the same location as a service described in Subsection (28)(a)(ii).

(29) (a) "Control," "controlling," "controlled," or "under common control" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person. This control may be:

- (i) by contract;
- (ii) by common management;
- (iii) through the ownership of voting securities; or
- (iv) by a means other than those described in Subsections (29)(a)(i) through (iii).

(b) There is no presumption that an individual holding an official position with another person controls that person solely by reason of the position.

(c) A person having a contract or arrangement giving control is considered to have control despite the illegality or invalidity of the contract or arrangement.

(d) There is a rebuttable presumption of control in a person who directly or indirectly owns, controls, holds with the power to vote, or holds proxies to vote 10% or more of the voting securities of another person.

(30) "Controlled insurer" means a licensed insurer that is either directly or indirectly controlled by a producer.

(31) “Controlling person” means a person that directly or indirectly has the power to direct or cause to be directed, the management, control, or activities of a reinsurance intermediary.

(32) “Controlling producer” means a producer who directly or indirectly controls an insurer.

(33) (a) “Corporation” means an insurance corporation, except when referring to:

(i) a corporation doing business:

(A) as:

(I) an insurance producer;

(II) a surplus lines producer;

(III) a limited line producer;

(IV) a consultant;

(V) a managing general agent;

(VI) a reinsurance intermediary;

(VII) a third party administrator; or

(VIII) an adjuster; and

(B) under:

(I) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries;

(II) Chapter 25, Third Party Administrators; or

(III) Chapter 26, Insurance Adjusters; or

(ii) a noninsurer that is part of a holding company system under Chapter 16, Insurance Holding Companies.

(b) “Stock corporation” means a stock insurance corporation.

(c) “Mutual” or “mutual corporation” means a mutual insurance corporation.

(34) (a) “Creditable coverage” has the same meaning as provided in federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act.

(b) “Creditable coverage” includes coverage that is offered through a public health plan such as:

(i) the Primary Care Network Program under a Medicaid primary care network demonstration waiver obtained subject to Section 26-18-3;

(ii) the Children’s Health Insurance Program under Section 26-40-106; or

(iii) the Ryan White Program Comprehensive AIDS Resources Emergency Act, Pub. L. No. 101-381, and Ryan White HIV/AIDS Treatment Modernization Act of 2006, Pub. L. No. 109-415.

(35) “Credit accident and health insurance” means insurance on a debtor to provide indemnity for payments coming due on a specific loan or other credit transaction while the debtor has a disability.

(36) (a) “Credit insurance” means insurance offered in connection with an extension of credit

that is limited to partially or wholly extinguishing that credit obligation.

(b) “Credit insurance” includes:

(i) credit accident and health insurance;

(ii) credit life insurance;

(iii) credit property insurance;

(iv) credit unemployment insurance;

(v) guaranteed automobile protection insurance;

(vi) involuntary unemployment insurance;

(vii) mortgage accident and health insurance;

(viii) mortgage guaranty insurance; and

(ix) mortgage life insurance.

(37) “Credit life insurance” means insurance on the life of a debtor in connection with an extension of credit that pays a person if the debtor dies.

(38) “Creditor” means a person, including an insured, having a claim, whether:

(a) matured;

(b) unmatured;

(c) liquidated;

(d) unliquidated;

(e) secured;

(f) unsecured;

(g) absolute;

(h) fixed; or

(i) contingent.

(39) “Credit property insurance” means insurance:

(a) offered in connection with an extension of credit; and

(b) that protects the property until the debt is paid.

(40) “Credit unemployment insurance” means insurance:

(a) offered in connection with an extension of credit; and

(b) that provides indemnity if the debtor is unemployed for payments coming due on a:

(i) specific loan; or

(ii) credit transaction.

(41) (a) “Crop insurance” means insurance providing protection against damage to crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation, disease, or other yield-reducing conditions or perils that is:

(i) provided by the private insurance market; or

(ii) subsidized by the Federal Crop Insurance Corporation.

(b) “Crop insurance” includes multiperil crop insurance.

(42) (a) “Customer service representative” means a person that provides an insurance service and insurance product information:

(i) for the customer service representative’s:

- (A) producer;
- (B) surplus lines producer; or
- (C) consultant employer; and

(ii) to the customer service representative’s employer’s:

- (A) customer;
- (B) client; or
- (C) organization.

(b) A customer service representative may only operate within the scope of authority of the customer service representative’s producer, surplus lines producer, or consultant employer.

(43) “Deadline” means a final date or time:

(a) imposed by:

- (i) statute;
- (ii) rule; or
- (iii) order; and

(b) by which a required filing or payment must be received by the department.

(44) “Deemer clause” means a provision under this title under which upon the occurrence of a condition precedent, the commissioner is considered to have taken a specific action. If the statute so provides, a condition precedent may be the commissioner’s failure to take a specific action.

(45) “Degree of relationship” means the number of steps between two persons determined by counting the generations separating one person from a common ancestor and then counting the generations to the other person.

(46) “Department” means the Insurance Department.

(47) “Director” means a member of the board of directors of a corporation.

(48) “Disability” means a physiological or psychological condition that partially or totally limits an individual’s ability to:

- (a) perform the duties of:
 - (i) that individual’s occupation; or

(ii) an occupation for which the individual is reasonably suited by education, training, or experience; or

(b) perform two or more of the following basic activities of daily living:

- (i) eating;
- (ii) toileting;

(iii) transferring;

(iv) bathing; or

(v) dressing.

(49) “Disability income insurance” is defined in Subsection (80).

(50) “Domestic insurer” means an insurer organized under the laws of this state.

(51) “Domiciliary state” means the state in which an insurer:

- (a) is incorporated;
- (b) is organized; or

(c) in the case of an alien insurer, enters into the United States.

(52) (a) “Eligible employee” means:

(i) an employee who:

- (A) works on a full-time basis; and
 - (B) has a normal work week of 30 or more hours;
- or

(ii) a person described in Subsection (52)(b).

(b) “Eligible employee” includes[~~;~~]:

(i) an owner who:

- (A) works on a full-time basis; and
 - (B) has a normal work week of 30 or more hours;
- and

(ii) if the individual is included under a health benefit plan of a small employer:

~~[(4)]~~ (A) a sole proprietor;

~~[(4ii)]~~ (B) a partner in a partnership; or

~~[(4iii)]~~ (C) an independent contractor.

(c) “Eligible employee” does not include, unless eligible under Subsection (52)(b):

(i) an individual who works on a temporary or substitute basis for a small employer;

(ii) an employer’s spouse who does not meet the requirements of Subsection (52)(a)(i); or

(iii) a dependent of an employer who does not meet the requirements of Subsection (52)(a)(i).

(53) “Employee” means:

(a) an individual employed by an employer[.]; and

(b) an owner who meets the requirements of Subsection (52)(b)(i).

(54) “Employee benefits” means one or more benefits or services provided to:

- (a) an employee; or
- (b) a dependent of an employee.

(55) (a) “Employee welfare fund” means a fund:

(i) established or maintained, whether directly or through a trustee, by:

- (A) one or more employers;
- (B) one or more labor organizations; or
- (C) a combination of employers and labor organizations; and

(ii) that provides employee benefits paid or contracted to be paid, other than income from investments of the fund:

(A) by or on behalf of an employer doing business in this state; or

(B) for the benefit of a person employed in this state.

(b) "Employee welfare fund" includes a plan funded or subsidized by a user fee or tax revenues.

(56) "Endorsement" means a written agreement attached to a policy or certificate to modify the policy or certificate coverage.

(57) "Enrollment date," with respect to a health benefit plan, means:

(a) the first day of coverage; or

(b) if there is a waiting period, the first day of the waiting period.

(58) "Enterprise risk" means an activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including anything that would cause:

(a) the insurer's risk-based capital to fall into an action or control level as set forth in Sections 31A-17-601 through 31A-17-613; or

(b) the insurer to be in hazardous financial condition set forth in Section 31A-27a-101.

(59) (a) "Escrow" means:

(i) a transaction that effects the sale, transfer, encumbering, or leasing of real property, when a person not a party to the transaction, and neither having nor acquiring an interest in the title, performs, in accordance with the written instructions or terms of the written agreement between the parties to the transaction, any of the following actions:

(A) the explanation, holding, or creation of a document; or

(B) the receipt, deposit, and disbursement of money;

(ii) a settlement or closing involving:

(A) a mobile home;

(B) a grazing right;

(C) a water right; or

(D) other personal property authorized by the commissioner.

(b) "Escrow" does not include:

(i) the following notarial acts performed by a notary within the state:

(A) an acknowledgment;

(B) a copy certification;

(C) jurat; and

(D) an oath or affirmation;

(ii) the receipt or delivery of a document; or

(iii) the receipt of money for delivery to the escrow agent.

(60) "Escrow agent" means an agency title insurance producer meeting the requirements of Sections 31A-4-107, 31A-14-211, and 31A-23a-204, who is acting through an individual title insurance producer licensed with an escrow subline of authority.

(61) (a) "Excludes" is not exhaustive and does not mean that another thing is not also excluded.

(b) The items listed in a list using the term "excludes" are representative examples for use in interpretation of this title.

(62) "Exclusion" means for the purposes of accident and health insurance that an insurer does not provide insurance coverage, for whatever reason, for one of the following:

(a) a specific physical condition;

(b) a specific medical procedure;

(c) a specific disease or disorder; or

(d) a specific prescription drug or class of prescription drugs.

(63) "Expense reimbursement insurance" means insurance:

(a) written to provide a payment for an expense relating to hospital confinement resulting from illness or injury; and

(b) written:

(i) as a daily limit for a specific number of days in a hospital; and

(ii) to have a one or two day waiting period following a hospitalization.

(64) "Fidelity insurance" means insurance guaranteeing the fidelity of a person holding a position of public or private trust.

(65) (a) "Filed" means that a filing is:

(i) submitted to the department as required by and in accordance with applicable statute, rule, or filing order;

(ii) received by the department within the time period provided in applicable statute, rule, or filing order; and

(iii) accompanied by the appropriate fee in accordance with:

(A) Section 31A-3-103; or

(B) rule.

(b) "Filed" does not include a filing that is rejected by the department because it is not submitted in accordance with Subsection (65)(a).

(66) "Filing," when used as a noun, means an item required to be filed with the department including:

- (a) a policy;
- (b) a rate;
- (c) a form;
- (d) a document;
- (e) a plan;
- (f) a manual;
- (g) an application;
- (h) a report;
- (i) a certificate;
- (j) an endorsement;
- (k) an actuarial certification;
- (l) a licensee annual statement;
- (m) a licensee renewal application;
- (n) an advertisement;
- (o) a binder; or
- (p) an outline of coverage.

(67) "First party insurance" means an insurance policy or contract in which the insurer agrees to pay a claim submitted to it by the insured for the insured's losses.

(68) "Foreign insurer" means an insurer domiciled outside of this state, including an alien insurer.

(69) (a) "Form" means one of the following prepared for general use:

- (i) a policy;
- (ii) a certificate;
- (iii) an application;
- (iv) an outline of coverage; or
- (v) an endorsement.

(b) "Form" does not include a document specially prepared for use in an individual case.

(70) "Franchise insurance" means an individual insurance policy provided through a mass marketing arrangement involving a defined class of persons related in some way other than through the purchase of insurance.

(71) "General lines of authority" include:

(a) the general lines of insurance in Subsection (72);

(b) title insurance under one of the following sublines of authority:

(i) title examination, including authority to act as a title marketing representative;

(ii) escrow, including authority to act as a title marketing representative; and

(iii) title marketing representative only;

(c) surplus lines;

(d) workers' compensation; and

(e) another line of insurance that the commissioner considers necessary to recognize in the public interest.

(72) "General lines of insurance" include:

(a) accident and health;

(b) casualty;

(c) life;

(d) personal lines;

(e) property; and

(f) variable contracts, including variable life and annuity.

(73) "Group health plan" means an employee welfare benefit plan to the extent that the plan provides medical care:

(a) (i) to an employee; or

(ii) to a dependent of an employee; and

(b) (i) directly;

(ii) through insurance reimbursement; or

(iii) through another method.

(74) (a) "Group insurance policy" means a policy covering a group of persons that is issued:

(i) to a policyholder on behalf of the group; and

(ii) for the benefit of a member of the group who is selected under a procedure defined in:

(A) the policy; or

(B) an agreement that is collateral to the policy.

(b) A group insurance policy may include a member of the policyholder's family or a dependent.

(75) "Guaranteed automobile protection insurance" means insurance offered in connection with an extension of credit that pays the difference in amount between the insurance settlement and the balance of the loan if the insured automobile is a total loss.

(76) (a) Except as provided in Subsection (76)(b), "health benefit plan" means a policy or certificate that:

(i) provides health care insurance;

(ii) provides major medical expense insurance; or

(iii) is offered as a substitute for hospital or medical expense insurance, such as:

(A) a hospital confinement indemnity; or

(B) a limited benefit plan.

(b) "Health benefit plan" does not include a policy or certificate that:

- (i) provides benefits solely for:
 - (A) accident;
 - (B) dental;
 - (C) income replacement;
 - (D) long-term care;
 - (E) a Medicare supplement;
 - (F) a specified disease;
 - (G) vision; or
 - (H) a short-term limited duration; or
- (ii) is offered and marketed as supplemental health insurance.

(77) "Health care" means any of the following intended for use in the diagnosis, treatment, mitigation, or prevention of a human ailment or impairment:

- (a) a professional service;
- (b) a personal service;
- (c) a facility;
- (d) equipment;
- (e) a device;
- (f) supplies; or
- (g) medicine.

(78) (a) "Health care insurance" or "health insurance" means insurance providing:

- (i) a health care benefit; or
- (ii) payment of an incurred health care expense.

(b) "Health care insurance" or "health insurance" does not include accident and health insurance providing a benefit for:

- (i) replacement of income;
- (ii) short-term accident;
- (iii) fixed indemnity;
- (iv) credit accident and health;
- (v) supplements to liability;
- (vi) workers' compensation;
- (vii) automobile medical payment;
- (viii) no-fault automobile;
- (ix) equivalent self-insurance; or

(x) a type of accident and health insurance coverage that is a part of or attached to another type of policy.

(79) "Health Insurance Portability and Accountability Act" means the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended.

(80) "Income replacement insurance" or "disability income insurance" means insurance

written to provide payments to replace income lost from accident or sickness.

(81) "Indemnity" means the payment of an amount to offset all or part of an insured loss.

(82) "Independent adjuster" means an insurance adjuster required to be licensed under Section 31A-26-201 who engages in insurance adjusting as a representative of an insurer.

(83) "Independently procured insurance" means insurance procured under Section 31A-15-104.

(84) "Individual" means a natural person.

(85) "Inland marine insurance" includes insurance covering:

- (a) property in transit on or over land;
- (b) property in transit over water by means other than boat or ship;
- (c) bailee liability;
- (d) fixed transportation property such as bridges, electric transmission systems, radio and television transmission towers and tunnels; and
- (e) personal and commercial property floaters.

(86) "Insolvency" means that:

(a) an insurer is unable to pay its debts or meet its obligations as the debts and obligations mature;

(b) an insurer's total adjusted capital is less than the insurer's mandatory control level RBC under Subsection 31A-17-601(8)(c); or

(c) an insurer is determined to be hazardous under this title.

(87) (a) "Insurance" means:

(i) an arrangement, contract, or plan for the transfer of a risk or risks from one or more persons to one or more other persons; or

(ii) an arrangement, contract, or plan for the distribution of a risk or risks among a group of persons that includes the person seeking to distribute that person's risk.

(b) "Insurance" includes:

(i) a risk distributing arrangement providing for compensation or replacement for damages or loss through the provision of a service or a benefit in kind;

(ii) a contract of guaranty or suretyship entered into by the guarantor or surety as a business and not as merely incidental to a business transaction; and

(iii) a plan in which the risk does not rest upon the person who makes an arrangement, but with a class of persons who have agreed to share the risk.

(88) "Insurance adjuster" means a person who directs or conducts the investigation, negotiation, or settlement of a claim under an insurance policy other than life insurance or an annuity, on behalf of an insurer, policyholder, or a claimant under an insurance policy.

(89) "Insurance business" or "business of insurance" includes:

(a) providing health care insurance by an organization that is or is required to be licensed under this title;

(b) providing a benefit to an employee in the event of a contingency not within the control of the employee, in which the employee is entitled to the benefit as a right, which benefit may be provided either:

(i) by a single employer or by multiple employer groups; or

(ii) through one or more trusts, associations, or other entities;

(c) providing an annuity:

(i) including an annuity issued in return for a gift; and

(ii) except an annuity provided by a person specified in Subsections 31A-22-1305(2) and (3);

(d) providing the characteristic services of a motor club as outlined in Subsection (117);

(e) providing another person with insurance;

(f) making as insurer, guarantor, or surety, or proposing to make as insurer, guarantor, or surety, a contract or policy of title insurance;

(g) transacting or proposing to transact any phase of title insurance, including:

(i) solicitation;

(ii) negotiation preliminary to execution;

(iii) execution of a contract of title insurance;

(iv) insuring; and

(v) transacting matters subsequent to the execution of the contract and arising out of the contract, including reinsurance;

(h) transacting or proposing a life settlement; and

(i) doing, or proposing to do, any business in substance equivalent to Subsections (89)(a) through (h) in a manner designed to evade this title.

(90) "Insurance consultant" or "consultant" means a person who:

(a) advises another person about insurance needs and coverages;

(b) is compensated by the person advised on a basis not directly related to the insurance placed; and

(c) except as provided in Section 31A-23a-501, is not compensated directly or indirectly by an insurer or producer for advice given.

(91) "Insurance holding company system" means a group of two or more affiliated persons, at least one of whom is an insurer.

(92) (a) "Insurance producer" or "producer" means a person licensed or required to be licensed

under the laws of this state to sell, solicit, or negotiate insurance.

(b) (i) "Producer for the insurer" means a producer who is compensated directly or indirectly by an insurer for selling, soliciting, or negotiating an insurance product of that insurer.

(ii) "Producer for the insurer" may be referred to as an "agent."

(c) (i) "Producer for the insured" means a producer who:

(A) is compensated directly and only by an insurance customer or an insured; and

(B) receives no compensation directly or indirectly from an insurer for selling, soliciting, or negotiating an insurance product of that insurer to an insurance customer or insured.

(ii) "Producer for the insured" may be referred to as a "broker."

(93) (a) "Insured" means a person to whom or for whose benefit an insurer makes a promise in an insurance policy and includes:

(i) a policyholder;

(ii) a subscriber;

(iii) a member; and

(iv) a beneficiary.

(b) The definition in Subsection (93)(a):

(i) applies only to this title; and

(ii) does not define the meaning of this word as used in an insurance policy or certificate.

(94) (a) "Insurer" means a person doing an insurance business as a principal including:

(i) a fraternal benefit society;

(ii) an issuer of a gift annuity other than an annuity specified in Subsections 31A-22-1305(2) and (3);

(iii) a motor club;

(iv) an employee welfare plan; and

(v) a person purporting or intending to do an insurance business as a principal on that person's own account.

(b) "Insurer" does not include a governmental entity to the extent the governmental entity is engaged in an activity described in Section 31A-12-107.

(95) "Interinsurance exchange" is defined in Subsection (148).

(96) "Involuntary unemployment insurance" means insurance:

(a) offered in connection with an extension of credit; and

(b) that provides indemnity if the debtor is involuntarily unemployed for payments coming due on a:

- (i) specific loan; or
- (ii) credit transaction.

(97) (a) “Large employer,” in connection with a health benefit plan, means an employer who, with respect to a calendar year and to a plan year:

~~[(a)]~~ (i) employed an average of at least 51 ~~[eligible]~~ employees on ~~[each]~~ business ~~[day]~~ days during the preceding calendar year; and

~~[(b)]~~ (ii) employs at least ~~[two employees]~~ one employee on the first day of the plan year.

(b) The number of employees shall be determined using the method set forth in 26 U.S.C. Sec. 4980H(c)(2).

(98) “Late enrollee,” with respect to an employer health benefit plan, means an individual whose enrollment is a late enrollment.

(99) “Late enrollment,” with respect to an employer health benefit plan, means enrollment of an individual other than:

(a) on the earliest date on which coverage can become effective for the individual under the terms of the plan; or

(b) through special enrollment.

(100) (a) Except for a retainer contract or legal assistance described in Section 31A-1-103, “legal expense insurance” means insurance written to indemnify or pay for a specified legal expense.

(b) “Legal expense insurance” includes an arrangement that creates a reasonable expectation of an enforceable right.

(c) “Legal expense insurance” does not include the provision of, or reimbursement for, legal services incidental to other insurance coverage.

(101) (a) “Liability insurance” means insurance against liability:

(i) for death, injury, or disability of a human being, or for damage to property, exclusive of the coverages under:

(A) Subsection (111) for medical malpractice insurance;

(B) Subsection (139) for professional liability insurance; and

(C) Subsection (175) for workers’ compensation insurance;

(ii) for a medical, hospital, surgical, and funeral benefit to a person other than the insured who is injured, irrespective of legal liability of the insured, when issued with or supplemental to insurance against legal liability for the death, injury, or disability of a human being, exclusive of the coverages under:

(A) Subsection (111) for medical malpractice insurance;

(B) Subsection (139) for professional liability insurance; and

(C) Subsection (175) for workers’ compensation insurance;

(iii) for loss or damage to property resulting from an accident to or explosion of a boiler, pipe, pressure container, machinery, or apparatus;

(iv) for loss or damage to property caused by:

(A) the breakage or leakage of a sprinkler, water pipe, or water container; or

(B) water entering through a leak or opening in a building; or

(v) for other loss or damage properly the subject of insurance not within another kind of insurance as defined in this chapter, if the insurance is not contrary to law or public policy.

(b) “Liability insurance” includes:

(i) vehicle liability insurance;

(ii) residential dwelling liability insurance; and

(iii) making inspection of, and issuing a certificate of inspection upon, an elevator, boiler, machinery, or apparatus of any kind when done in connection with insurance on the elevator, boiler, machinery, or apparatus.

(102) (a) “License” means authorization issued by the commissioner to engage in an activity that is part of or related to the insurance business.

(b) “License” includes a certificate of authority issued to an insurer.

(103) (a) “Life insurance” means:

(i) insurance on a human life; and

(ii) insurance pertaining to or connected with human life.

(b) The business of life insurance includes:

(i) granting a death benefit;

(ii) granting an annuity benefit;

(iii) granting an endowment benefit;

(iv) granting an additional benefit in the event of death by accident;

(v) granting an additional benefit to safeguard the policy against lapse; and

(vi) providing an optional method of settlement of proceeds.

(104) “Limited license” means a license that:

(a) is issued for a specific product of insurance; and

(b) limits an individual or agency to transact only for that product or insurance.

(105) “Limited line credit insurance” includes the following forms of insurance:

(a) credit life;

(b) credit accident and health;

(c) credit property;

- (d) credit unemployment;
- (e) involuntary unemployment;
- (f) mortgage life;
- (g) mortgage guaranty;
- (h) mortgage accident and health;
- (i) guaranteed automobile protection; and
- (j) another form of insurance offered in connection with an extension of credit that:

(i) is limited to partially or wholly extinguishing the credit obligation; and

(ii) the commissioner determines by rule should be designated as a form of limited line credit insurance.

(106) "Limited line credit insurance producer" means a person who sells, solicits, or negotiates one or more forms of limited line credit insurance coverage to an individual through a master, corporate, group, or individual policy.

(107) "Limited line insurance" includes:

- (a) bail bond;
- (b) limited line credit insurance;
- (c) legal expense insurance;
- (d) motor club insurance;
- (e) car rental related insurance;
- (f) travel insurance;
- (g) crop insurance;
- (h) self-service storage insurance;
- (i) guaranteed asset protection waiver;
- (j) portable electronics insurance; and
- (k) another form of limited insurance that the commissioner determines by rule should be designated a form of limited line insurance.

(108) "Limited lines authority" includes the lines of insurance listed in Subsection (107).

(109) "Limited lines producer" means a person who sells, solicits, or negotiates limited lines insurance.

(110) (a) "Long-term care insurance" means an insurance policy or rider advertised, marketed, offered, or designated to provide coverage:

(i) in a setting other than an acute care unit of a hospital;

(ii) for not less than 12 consecutive months for a covered person on the basis of:

- (A) expenses incurred;
- (B) indemnity;
- (C) prepayment; or
- (D) another method;

(iii) for one or more necessary or medically necessary services that are:

- (A) diagnostic;
- (B) preventative;
- (C) therapeutic;
- (D) rehabilitative;
- (E) maintenance; or
- (F) personal care; and

(iv) that may be issued by:

- (A) an insurer;
- (B) a fraternal benefit society;
- (C) (I) a nonprofit health hospital; and
- (II) a medical service corporation;
- (D) a prepaid health plan;
- (E) a health maintenance organization; or

(F) an entity similar to the entities described in Subsections (110)(a)(iv)(A) through (E) to the extent that the entity is otherwise authorized to issue life or health care insurance.

(b) "Long-term care insurance" includes:

(i) any of the following that provide directly or supplement long-term care insurance:

- (A) a group or individual annuity or rider; or
- (B) a life insurance policy or rider;

(ii) a policy or rider that provides for payment of benefits on the basis of:

- (A) cognitive impairment; or
- (B) functional capacity; or

(iii) a qualified long-term care insurance contract.

(c) "Long-term care insurance" does not include:

(i) a policy that is offered primarily to provide basic Medicare supplement coverage;

(ii) basic hospital expense coverage;

(iii) basic medical/surgical expense coverage;

(iv) hospital confinement indemnity coverage;

(v) major medical expense coverage;

(vi) income replacement or related asset-protection coverage;

(vii) accident only coverage;

(viii) coverage for a specified:

- (A) disease; or
- (B) accident;

(ix) limited benefit health coverage; or

(x) a life insurance policy that accelerates the death benefit to provide the option of a lump sum payment:

(A) if the following are not conditioned on the receipt of long-term care:

- (I) benefits; or
- (II) eligibility; and

(B) the coverage is for one or more the following qualifying events:

- (I) terminal illness;
- (II) medical conditions requiring extraordinary medical intervention; or
- (III) permanent institutional confinement.

(111) "Medical malpractice insurance" means insurance against legal liability incident to the practice and provision of a medical service other than the practice and provision of a dental service.

(112) "Member" means a person having membership rights in an insurance corporation.

(113) "Minimum capital" or "minimum required capital" means the capital that must be constantly maintained by a stock insurance corporation as required by statute.

(114) "Mortgage accident and health insurance" means insurance offered in connection with an extension of credit that provides indemnity for payments coming due on a mortgage while the debtor has a disability.

(115) "Mortgage guaranty insurance" means surety insurance under which a mortgagee or other creditor is indemnified against losses caused by the default of a debtor.

(116) "Mortgage life insurance" means insurance on the life of a debtor in connection with an extension of credit that pays if the debtor dies.

(117) "Motor club" means a person:

- (a) licensed under:
 - (i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;
 - (ii) Chapter 11, Motor Clubs; or
 - (iii) Chapter 14, Foreign Insurers; and
- (b) that promises for an advance consideration to provide for a stated period of time one or more:
 - (i) legal services under Subsection 31A-11-102(1)(b);
 - (ii) bail services under Subsection 31A-11-102(1)(c); or
 - (iii) (A) trip reimbursement;
- (B) towing services;
- (C) emergency road services;
- (D) stolen automobile services;
- (E) a combination of the services listed in Subsections (117)(b)(iii)(A) through (D); or
- (F) other services given in Subsections 31A-11-102(1)(b) through (f).

(118) "Mutual" means a mutual insurance corporation.

(119) "Network plan" means health care insurance:

- (a) that is issued by an insurer; and
- (b) under which the financing and delivery of medical care is provided, in whole or in part, through a defined set of providers under contract with the insurer, including the financing and delivery of an item paid for as medical care.

(120) "Nonparticipating" means a plan of insurance under which the insured is not entitled to receive a dividend representing a share of the surplus of the insurer.

(121) "Ocean marine insurance" means insurance against loss of or damage to:

- (a) ships or hulls of ships;
- (b) goods, freight, cargoes, merchandise, effects, disbursements, profits, money, securities, choses in action, evidences of debt, valuable papers, bottomry, respondentia interests, or other cargoes in or awaiting transit over the oceans or inland waterways;
- (c) earnings such as freight, passage money, commissions, or profits derived from transporting goods or people upon or across the oceans or inland waterways; or
- (d) a vessel owner or operator as a result of liability to employees, passengers, bailors, owners of other vessels, owners of fixed objects, customs or other authorities, or other persons in connection with maritime activity.

(122) "Order" means an order of the commissioner.

(123) "Outline of coverage" means a summary that explains an accident and health insurance policy.

(124) "Participating" means a plan of insurance under which the insured is entitled to receive a dividend representing a share of the surplus of the insurer.

(125) "Participation," as used in a health benefit plan, means a requirement relating to the minimum percentage of eligible employees that must be enrolled in relation to the total number of eligible employees of an employer reduced by each eligible employee who voluntarily declines coverage under the plan because the employee:

- (a) has other group health care insurance coverage; or
- (b) receives:
 - (i) Medicare, under the Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965; or
 - (ii) another government health benefit.

(126) "Person" includes:

- (a) an individual;

- (b) a partnership;
- (c) a corporation;
- (d) an incorporated or unincorporated association;
- (e) a joint stock company;
- (f) a trust;
- (g) a limited liability company;
- (h) a reciprocal;
- (i) a syndicate; or
- (j) another similar entity or combination of entities acting in concert.

(127) "Personal lines insurance" means property and casualty insurance coverage sold for primarily noncommercial purposes to:

- (a) an individual; or
- (b) a family.

(128) "Plan sponsor" is as defined in 29 U.S.C. Sec. 1002(16)(B).

(129) "Plan year" means:

- (a) the year that is designated as the plan year in:
 - (i) the plan document of a group health plan; or
 - (ii) a summary plan description of a group health plan;
- (b) if the plan document or summary plan description does not designate a plan year or there is no plan document or summary plan description:

(i) the year used to determine deductibles or limits;

(ii) the policy year, if the plan does not impose deductibles or limits on a yearly basis; or

(iii) the employer's taxable year if:

(A) the plan does not impose deductibles or limits on a yearly basis; and

(B) (I) the plan is not insured; or

(II) the insurance policy is not renewed on an annual basis; or

(c) in a case not described in Subsection (129)(a) or (b), the calendar year.

(130) (a) "Policy" means a document, including an attached endorsement or application that:

- (i) purports to be an enforceable contract; and
- (ii) memorializes in writing some or all of the terms of an insurance contract.

(b) "Policy" includes a service contract issued by:

- (i) a motor club under Chapter 11, Motor Clubs;
- (ii) a service contract provided under Chapter 6a, Service Contracts; and
- (iii) a corporation licensed under:

(A) Chapter 7, Nonprofit Health Service Insurance Corporations; or

(B) Chapter 8, Health Maintenance Organizations and Limited Health Plans.

(c) "Policy" does not include:

(i) a certificate under a group insurance contract; or

(ii) a document that does not purport to have legal effect.

(131) "Policyholder" means a person who controls a policy, binder, or oral contract by ownership, premium payment, or otherwise.

(132) "Policy illustration" means a presentation or depiction that includes nonguaranteed elements of a policy of life insurance over a period of years.

(133) "Policy summary" means a synopsis describing the elements of a life insurance policy.

(134) "PPACA" means the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal regulations and guidance.

(135) "Preexisting condition," with respect to a health benefit plan:

(a) means a condition that was present before the effective date of coverage, whether or not medical advice, diagnosis, care, or treatment was recommended or received before that day; and

(b) does not include a condition indicated by genetic information unless an actual diagnosis of the condition by a physician has been made.

(136) (a) "Premium" means the monetary consideration for an insurance policy.

(b) "Premium" includes, however designated:

- (i) an assessment;
- (ii) a membership fee;
- (iii) a required contribution; or
- (iv) monetary consideration.

(c) (i) "Premium" does not include consideration paid to a third party administrator for the third party administrator's services.

(ii) "Premium" includes an amount paid by a third party administrator to an insurer for insurance on the risks administered by the third party administrator.

(137) "Principal officers" for a corporation means the officers designated under Subsection 31A-5-203(3).

(138) "Proceeding" includes an action or special statutory proceeding.

(139) "Professional liability insurance" means insurance against legal liability incident to the practice of a profession and provision of a professional service.

(140) (a) Except as provided in Subsection (140)(b), "property insurance" means insurance

against loss or damage to real or personal property of every kind and any interest in that property:

(i) from all hazards or causes; and

(ii) against loss consequential upon the loss or damage including vehicle comprehensive and vehicle physical damage coverages.

(b) "Property insurance" does not include:

(i) inland marine insurance; and

(ii) ocean marine insurance.

(141) "Qualified long-term care insurance contract" or "federally tax qualified long-term care insurance contract" means:

(a) an individual or group insurance contract that meets the requirements of Section 7702B(b), Internal Revenue Code; or

(b) the portion of a life insurance contract that provides long-term care insurance:

(i) (A) by rider; or

(B) as a part of the contract; and

(ii) that satisfies the requirements of Sections 7702B(b) and (e), Internal Revenue Code.

(142) "Qualified United States financial institution" means an institution that:

(a) is:

(i) organized under the laws of the United States or any state; or

(ii) in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any state;

(b) is regulated, supervised, and examined by a United States federal or state authority having regulatory authority over a bank or trust company; and

(c) meets the standards of financial condition and standing that are considered necessary and appropriate to regulate the quality of a financial institution whose letters of credit will be acceptable to the commissioner as determined by:

(i) the commissioner by rule; or

(ii) the Securities Valuation Office of the National Association of Insurance Commissioners.

(143) (a) "Rate" means:

(i) the cost of a given unit of insurance; or

(ii) for property or casualty insurance, that cost of insurance per exposure unit either expressed as:

(A) a single number; or

(B) a pure premium rate, adjusted before the application of individual risk variations based on loss or expense considerations to account for the treatment of:

(I) expenses;

(II) profit; and

(III) individual insurer variation in loss experience.

(b) "Rate" does not include a minimum premium.

(144) (a) Except as provided in Subsection (144)(b), "rate service organization" means a person who assists an insurer in rate making or filing by:

(i) collecting, compiling, and furnishing loss or expense statistics;

(ii) recommending, making, or filing rates or supplementary rate information; or

(iii) advising about rate questions, except as an attorney giving legal advice.

(b) "Rate service organization" does not mean:

(i) an employee of an insurer;

(ii) a single insurer or group of insurers under common control;

(iii) a joint underwriting group; or

(iv) an individual serving as an actuarial or legal consultant.

(145) "Rating manual" means any of the following used to determine initial and renewal policy premiums:

(a) a manual of rates;

(b) a classification;

(c) a rate-related underwriting rule; and

(d) a rating formula that describes steps, policies, and procedures for determining initial and renewal policy premiums.

(146) (a) "Rebate" means a licensee paying, allowing, giving, or offering to pay, allow, or give, directly or indirectly:

(i) a refund of premium or portion of premium;

(ii) a refund of commission or portion of commission;

(iii) a refund of all or a portion of a consultant fee; or

(iv) providing services or other benefits not specified in an insurance or annuity contract.

(b) "Rebate" does not include:

(i) a refund due to termination or changes in coverage;

(ii) a refund due to overcharges made in error by the licensee; or

(iii) savings or wellness benefits as provided in the contract by the licensee.

(147) "Received by the department" means:

(a) the date delivered to and stamped received by the department, if delivered in person;

(b) the post mark date, if delivered by mail;

(c) the delivery service's post mark or pickup date, if delivered by a delivery service;

(d) the received date recorded on an item delivered, if delivered by:

- (i) facsimile;
- (ii) email; or
- (iii) another electronic method; or
- (e) a date specified in:
 - (i) a statute;
 - (ii) a rule; or
 - (iii) an order.

(148) "Reciprocal" or "interinsurance exchange" means an unincorporated association of persons:

(a) operating through an attorney-in-fact common to all of the persons; and

(b) exchanging insurance contracts with one another that provide insurance coverage on each other.

(149) "Reinsurance" means an insurance transaction where an insurer, for consideration, transfers any portion of the risk it has assumed to another insurer. In referring to reinsurance transactions, this title sometimes refers to:

- (a) the insurer transferring the risk as the "ceding insurer"; and
- (b) the insurer assuming the risk as the:
 - (i) "assuming insurer"; or
 - (ii) "assuming reinsurer."

(150) "Reinsurer" means a person licensed in this state as an insurer with the authority to assume reinsurance.

(151) "Residential dwelling liability insurance" means insurance against liability resulting from or incident to the ownership, maintenance, or use of a residential dwelling that is a detached single family residence or multifamily residence up to four units.

(152) (a) "Retrocession" means reinsurance with another insurer of a liability assumed under a reinsurance contract.

(b) A reinsurer "retrocedes" when the reinsurer reinsures with another insurer part of a liability assumed under a reinsurance contract.

(153) "Rider" means an endorsement to:

- (a) an insurance policy; or
- (b) an insurance certificate.

~~(154)~~ (154) "Secondary medical condition" means a complication related to an exclusion from coverage in accident and health insurance.

~~(154)~~ (155) (a) "Security" means a:

- (i) note;

(ii) stock;

(iii) bond;

(iv) debenture;

(v) evidence of indebtedness;

(vi) certificate of interest or participation in a profit-sharing agreement;

(vii) collateral-trust certificate;

(viii) preorganization certificate or subscription;

(ix) transferable share;

(x) investment contract;

(xi) voting trust certificate;

(xii) certificate of deposit for a security;

(xiii) certificate of interest of participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease;

(xiv) commodity contract or commodity option;

(xv) certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the items listed in Subsections ~~(154)~~ (155)(a)(i) through (xiv); or

(xvi) another interest or instrument commonly known as a security.

(b) "Security" does not include:

(i) any of the following under which an insurance company promises to pay money in a specific lump sum or periodically for life or some other specified period:

- (A) insurance;
- (B) an endowment policy; or
- (C) an annuity contract; or

(ii) a burial certificate or burial contract.

~~(155)~~ (156) "Securityholder" means a specified person who owns a security of a person, including:

- (a) common stock;
- (b) preferred stock;
- (c) debt obligations; and

(d) any other security convertible into or evidencing the right of any of the items listed in this Subsection ~~(155)~~ (156).

(157) (a) "Self-insurance" means an arrangement under which a person provides for spreading its own risks by a systematic plan.

(b) Except as provided in this Subsection (157), "self-insurance" does not include an arrangement under which a number of persons spread their risks among themselves.

(c) "Self-insurance" includes:

(i) an arrangement by which a governmental entity undertakes to indemnify an employee for

liability arising out of the employee's employment; and

(ii) an arrangement by which a person with a managed program of self-insurance and risk management undertakes to indemnify its affiliates, subsidiaries, directors, officers, or employees for liability or risk that is related to the relationship or employment.

(d) "Self-insurance" does not include an arrangement with an independent contractor.

(158) "Sell" means to exchange a contract of insurance:

- (a) by any means;
- (b) for money or its equivalent; and
- (c) on behalf of an insurance company.

(159) "Short-term care insurance" means an insurance policy or rider advertised, marketed, offered, or designed to provide coverage that is similar to long-term care insurance, but that provides coverage for less than 12 consecutive months for each covered person.

(160) "Significant break in coverage" means a period of 63 consecutive days during each of which an individual does not have creditable coverage.

(161) (a) "Small employer" means, in connection with a health benefit plan and with respect to a calendar year and to a plan year, an employer who:

~~(a)~~ (i) employed at least one employee but not more than ~~[an average of]~~ 50 ~~[eligible]~~ employees on business days during the preceding calendar year; and

~~(b)~~ (ii) employs at least one employee on the first day of the plan year.

(b) The number of employees shall:

(i) be determined using the method set forth in 26 U.S.C. Sec. 4980H(c)(2); and

(ii) include an owner described in Subsection (52)(b)(i).

(c) "Small employer" does not include a sole proprietor that does not employ at least one employee.

(162) "Special enrollment period," in connection with a health benefit plan, has the same meaning as provided in federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act.

(163) (a) "Subsidiary" of a person means an affiliate controlled by that person either directly or indirectly through one or more affiliates or intermediaries.

(b) "Wholly owned subsidiary" of a person is a subsidiary of which all of the voting shares are owned by that person either alone or with its affiliates, except for the minimum number of shares the law of the subsidiary's domicile requires to be owned by directors or others.

(164) Subject to Subsection (87)(b), "surety insurance" includes:

- (a) a guarantee against loss or damage resulting from the failure of a principal to pay or perform the principal's obligations to a creditor or other obligee;
- (b) bail bond insurance; and
- (c) fidelity insurance.

(165) (a) "Surplus" means the excess of assets over the sum of paid-in capital and liabilities.

(b) (i) "Permanent surplus" means the surplus of an insurer or organization that is designated by the insurer or organization as permanent.

(ii) Sections 31A-5-211, 31A-7-201, 31A-8-209, 31A-9-209, and 31A-14-205 require that insurers or organizations doing business in this state maintain specified minimum levels of permanent surplus.

(iii) Except for assessable mutuals, the minimum permanent surplus requirement is the same as the minimum required capital requirement that applies to stock insurers.

(c) "Excess surplus" means:

(i) for a life insurer, accident and health insurer, health organization, or property and casualty insurer as defined in Section 31A-17-601, the lesser of:

(A) that amount of an insurer's or health organization's total adjusted capital that exceeds the product of:

(I) 2.5; and

(II) the sum of the insurer's or health organization's minimum capital or permanent surplus required under Section 31A-5-211, 31A-9-209, or 31A-14-205; or

(B) that amount of an insurer's or health organization's total adjusted capital that exceeds the product of:

(I) 3.0; and

(II) the authorized control level RBC as defined in Subsection 31A-17-601(8)(a); and

(ii) for a monoline mortgage guaranty insurer, financial guaranty insurer, or title insurer that amount of an insurer's paid-in-capital and surplus that exceeds the product of:

(A) 1.5; and

(B) the insurer's total adjusted capital required by Subsection 31A-17-609(1).

(166) "Third party administrator" or "administrator" means a person who collects charges or premiums from, or who, for consideration, adjusts or settles claims of residents of the state in connection with insurance coverage, annuities, or service insurance coverage, except:

- (a) a union on behalf of its members;
- (b) a person administering a:

(i) pension plan subject to the federal Employee Retirement Income Security Act of 1974;

(ii) governmental plan as defined in Section 414(d), Internal Revenue Code; or

(iii) nonelecting church plan as described in Section 410(d), Internal Revenue Code;

(c) an employer on behalf of the employer's employees or the employees of one or more of the subsidiary or affiliated corporations of the employer;

(d) an insurer licensed under the following, but only for a line of insurance for which the insurer holds a license in this state:

(i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(ii) Chapter 7, Nonprofit Health Service Insurance Corporations;

(iii) Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(iv) Chapter 9, Insurance Fraternal; or

(v) Chapter 14, Foreign Insurers;

(e) a person:

(i) licensed or exempt from licensing under:

(A) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries; or

(B) Chapter 26, Insurance Adjusters; and

(ii) whose activities are limited to those authorized under the license the person holds or for which the person is exempt; or

(f) an institution, bank, or financial institution:

(i) that is:

(A) an institution whose deposits and accounts are to any extent insured by a federal deposit insurance agency, including the Federal Deposit Insurance Corporation or National Credit Union Administration; or

(B) a bank or other financial institution that is subject to supervision or examination by a federal or state banking authority; and

(ii) that does not adjust claims without a third party administrator license.

(167) "Title insurance" means the insuring, guaranteeing, or indemnifying of an owner of real or personal property or the holder of liens or encumbrances on that property, or others interested in the property against loss or damage suffered by reason of liens or encumbrances upon, defects in, or the unmarketability of the title to the property, or invalidity or unenforceability of any liens or encumbrances on the property.

(168) "Total adjusted capital" means the sum of an insurer's or health organization's statutory

capital and surplus as determined in accordance with:

(a) the statutory accounting applicable to the annual financial statements required to be filed under Section 31A-4-113; and

(b) another item provided by the RBC instructions, as RBC instructions is defined in Section 31A-17-601.

(169) (a) "Trustee" means "director" when referring to the board of directors of a corporation.

(b) "Trustee," when used in reference to an employee welfare fund, means an individual, firm, association, organization, joint stock company, or corporation, whether acting individually or jointly and whether designated by that name or any other, that is charged with or has the overall management of an employee welfare fund.

(170) (a) "Unauthorized insurer," "unadmitted insurer," or "nonadmitted insurer" means an insurer:

(i) not holding a valid certificate of authority to do an insurance business in this state; or

(ii) transacting business not authorized by a valid certificate.

(b) "Admitted insurer" or "authorized insurer" means an insurer:

(i) holding a valid certificate of authority to do an insurance business in this state; and

(ii) transacting business as authorized by a valid certificate.

(171) "Underwrite" means the authority to accept or reject risk on behalf of the insurer.

(172) "Vehicle liability insurance" means insurance against liability resulting from or incident to ownership, maintenance, or use of a land vehicle or aircraft, exclusive of a vehicle comprehensive or vehicle physical damage coverage under Subsection (140).

(173) "Voting security" means a security with voting rights, and includes a security convertible into a security with a voting right associated with the security.

(174) "Waiting period" for a health benefit plan means the period that must pass before coverage for an individual, who is otherwise eligible to enroll under the terms of the health benefit plan, can become effective.

(175) "Workers' compensation insurance" means:

(a) insurance for indemnification of an employer against liability for compensation based on:

(i) a compensable accidental injury; and

(ii) occupational disease disability;

(b) employer's liability insurance incidental to workers' compensation insurance and written in connection with workers' compensation insurance; and

(c) insurance assuring to a person entitled to workers' compensation benefits the compensation provided by law.

Section 3. Section 31A-2-208.5 is amended to read:

31A-2-208.5. Comparison tables.

(1) (a) The commissioner shall annually publish a table comparing the rates charged by insurers for private passenger motor vehicle and homeowners insurance in this state.

(b) The comparison shall list the top 20 insurers writing the greatest volume by premium dollar per calendar year and others requesting inclusion in the comparison.

(c) The commissioner shall develop at least four hypothetical examples of risk in preparing the comparison.

(2) In conjunction with the rate comparison described in Subsection (1), the commissioner shall publish:

(a) a table listing, for each insurer compared, the ratio of ~~[justified and questionable]~~ confirmed complaints received by the department to the premium dollar amount written by the insurer; and

(b) a table listing for each insurer the combined loss and expense ratio for the most current year available.

(3) The department shall make copies of the tables available to the public at minimal or no cost.

Section 4. Section 31A-2-212 is amended to read:

31A-2-212. Miscellaneous duties.

(1) Upon issuance of an order limiting, suspending, or revoking a person's authority to do business in Utah, and when the commissioner begins a proceeding against an insurer under Chapter 27a, Insurer Receivership Act, the commissioner:

(a) shall notify by mail the producers of the person or insurer of whom the commissioner has record; and

(b) may publish notice of the order or proceeding in any manner the commissioner considers necessary to protect the rights of the public.

(2) When required for evidence in a legal proceeding, the commissioner shall furnish a certificate of authority of a licensee to transact the business of insurance in Utah on any particular date. The court or other officer shall receive the certificate of authority in lieu of the commissioner's testimony.

(3) (a) On the request of an insurer authorized to do a surety business, the commissioner shall furnish a copy of the insurer's certificate of authority to a designated public officer in this state who requires that certificate of authority before accepting a bond.

(b) The public officer described in Subsection (3)(a) shall file the certificate of authority furnished under Subsection (3)(a).

(c) After a certified copy of a certificate of authority is furnished to a public officer, it is not necessary, while the certificate of authority remains effective, to attach a copy of it to any instrument of suretyship filed with that public officer.

(d) Whenever the commissioner revokes the certificate of authority or begins a proceeding under Chapter 27a, Insurer Receivership Act, against an insurer authorized to do a surety business, the commissioner shall immediately give notice of that action to each public officer who is sent a certified copy under this Subsection (3).

(4) (a) The commissioner shall immediately notify every judge and clerk of the courts of record in the state when:

(i) an authorized insurer doing a surety business:

(A) files a petition for receivership; or

(B) is in receivership; or

(ii) the commissioner has reason to believe that the authorized insurer doing surety business:

(A) is in financial difficulty; or

(B) has unreasonably failed to carry out any of its contracts.

(b) Upon the receipt of the notice required by this Subsection (4), it is the duty of the judges and clerks to notify and require a person that files with the court a bond on which the authorized insurer doing surety business is surety to immediately file a new bond with a new surety.

(5) (a) The commissioner shall report to the Legislature in accordance with Section 63N-11-106 ~~[prior to]~~ before adopting a rule authorized by Subsection (5)(b).

(b) The commissioner shall require an insurer that issues, sells, renews, or offers health insurance coverage in this state to comply with ~~[the provisions of]~~ PPACA and administrative rules adopted by the commissioner related to regulation of health benefit plans, including:

(i) lifetime and annual limits;

(ii) prohibition of rescissions;

(iii) coverage of preventive health services;

(iv) coverage for a child or dependent;

(v) pre-existing condition [coverage for children] limitations;

(vi) insurer transparency of consumer information including plan disclosures, uniform coverage documents, and standard definitions;

(vii) premium rate reviews;

(viii) essential health benefits;

(ix) provider choice;

- (x) waiting periods;
- (xi) appeals processes;
- (xii) rating restrictions;
- (xiii) uniform applications and notice provisions; ~~and~~
- (xiv) certification and regulation of qualified health plans~~[-]; and~~

(xv) network adequacy standards.

(c) The commissioner shall preserve state control over:

- (i) the health insurance market in the state;
- (ii) qualified health plans offered in the state; and
- (iii) the conduct of navigators, producers, and in-person assisters operating in the state.

(d) If the state enters into an agreement with the United States Department of Health and Human Services in which the state operates health insurance plan management, the commissioner may:

(i) for fiscal year 2014, hire one temporary and two permanent full-time employees to be funded through the department's existing budget; and

(ii) for fiscal year 2015, hire two permanent full-time employees funded through the Insurance Department Restricted Account, subject to appropriations from the Legislature and approval by the governor.

Section 5. Section 31A-2-309 is amended to read:

31A-2-309. Service of process through state officer.

(1) The commissioner, or the lieutenant governor when the subject proceeding is brought by the state, is the agent for receipt of service of a summons, notice, order, pleading, or other legal process relating to a Utah court or administrative agency upon the following:

(a) an insurer authorized to do business in this state, while authorized to do business in this state, and thereafter in a proceeding arising from or related to a transaction having a connection with this state;

(b) a surplus lines insurer for a proceeding arising out of a contract of insurance that is subject to the surplus lines law, or out of a certificate, cover note, or other confirmation of that type of insurance;

(c) an unauthorized insurer or other person assisting an unauthorized insurer under Subsection 31A-15-102(1) by doing an act specified in Subsection 31A-15-102(2), for a proceeding arising out of a transaction that is subject to the unauthorized insurance law;

(d) a nonresident producer, consultant, adjuster, or third party administrator, while authorized to do business in this state, and thereafter in a

proceeding arising from or related to a transaction having a connection with this state; and

(e) a reinsurer submitting to the commissioner's jurisdiction under Subsection 31A-17-404~~(8)~~(9).

(2) The following is considered to have irrevocably appointed the commissioner and lieutenant governor as that person's agents in accordance with Subsection (1):

(a) a licensed insurer by applying for and receiving a certificate of authority;

(b) a surplus lines insurer by entering into a contract subject to the surplus lines law;

(c) an unauthorized insurer by doing in this state an act prohibited by Section 31A-15-103; and

(d) a nonresident producer, consultant, adjuster, and third party administrator.

(3) The commissioner and lieutenant governor are also agents for an executor, administrator, personal representative, receiver, trustee, or other successor in interest of a person specified under Subsection (1).

(4) A litigant serving process on the commissioner or lieutenant governor under this section shall pay the fee applicable under Section 31A-3-103.

(5) The right to substituted service under this section does not limit the right to serve a summons, notice, order, pleading, demand, or other process upon a person in another manner provided by law.

Section 6. Section 31A-6a-101 is amended to read:

31A-6a-101. Definitions.

(1) "Mechanical breakdown insurance" means a policy, contract, or agreement issued by an insurance company that has complied with either Chapter 5, Domestic Stock and Mutual Insurance Corporations, or Chapter 14, Foreign Insurers, that undertakes to perform or provide repair or replacement service on goods or property, or indemnification for repair or replacement service, for the operational or structural failure of the goods or property due to a defect in materials, workmanship, or normal wear and tear.

(2) "Nonmanufacturers' parts" means replacement parts not made for or by the original manufacturer of the goods commonly referred to as "after market parts."

(3) (a) "Road hazard" means a hazard that is encountered while driving a motor vehicle.

(b) "Road hazard" includes potholes, rocks, wood debris, metal parts, glass, plastic, curbs, or composite scraps.

(4) (a) "Service contract" means a contract or agreement to perform or reimburse for the repair or maintenance of goods or property, for their operational or structural failure due to a defect in materials, workmanship, or normal wear and tear, with or without additional provision for incidental payment of indemnity under limited circumstances.

(b) "Service contract" does not include mechanical breakdown insurance.

(c) "Service contract" includes any contract or agreement to perform or reimburse the service contract holder for any one or more of the following services:

(i) the repair or replacement of tires, wheels, or both on a motor vehicle damaged as a result of coming into contact with a road hazard;

(ii) the removal of dents, dings, or creases on a motor vehicle that can be repaired using the process of paintless dent removal without affecting the existing paint finish and without replacing vehicle body panels, sanding, bonding, or painting;

(iii) the repair of chips or cracks in or the replacement of a motor vehicle windshield as a result of damage caused by a road hazard, that is primary to the coverage offered by the motor vehicle owner's motor vehicle insurance policy; or

(iv) the replacement of a motor vehicle key or key-fob if the key or key-fob becomes inoperable, lost, or stolen, except that the replacement of lost or stolen property is limited to only the replacement of a lost or stolen motor vehicle key or key-fob.

(5) "Service contract holder" or "contract holder" means a person who purchases a service contract.

(6) "Service contract provider" means a person who issues, makes, provides, administers, sells or offers to sell a service contract, or who is contractually obligated to provide service under a service contract.

(7) "Service contract reimbursement policy" or "reimbursement insurance policy" means a policy of insurance providing coverage for all obligations and liabilities incurred by the service contract provider or warrantor under the terms of the service contract or vehicle protection product warranty issued by the provider or warrantor.

(8) (a) "Vehicle protection product" means a device or system that is:

- (i) installed on or applied to a motor vehicle; and
- (ii) designed to prevent the theft of the vehicle.

(b) "Vehicle protection product" includes:

- (i) a vehicle protection product warranty;
- (ii) an alarm system;
- (iii) a body part marking product;
- (iv) a steering lock;
- (v) a window etch product;
- (vi) a pedal and ignition lock;
- (vii) a fuel and ignition kill switch; and
- (viii) an electronic, radio, or satellite tracking device.

(9) "Vehicle protection product warranty" means a written agreement by a warrantor that provides if the vehicle protection product fails to prevent the

theft of the motor vehicle, that the warrantor will reimburse the warranty holder under the warranty in a fixed amount specified in the warranty, not to exceed \$5,000.

(10) "Warrantor" means a person who is contractually obligated to the warranty holder under the terms of a vehicle protection product warranty.

(11) "Warranty holder" means the person who purchases a vehicle protection product, any authorized transferee or assignee of the purchaser, or any other person legally assuming the purchaser's rights under the vehicle protection product warranty.

Section 7. Section 31A-6a-104 is amended to read:

31A-6a-104. Required disclosures.

(1) A service contract reimbursement insurance policy insuring a service contract or a vehicle protection product warranty that is issued, sold, or offered for sale in this state shall conspicuously state that, upon failure of the service contract provider or warrantor to perform under the contract, the issuer of the policy shall:

(a) pay on behalf of the service contract provider or warrantor any sums the service contract provider or warrantor is legally obligated to pay according to the service contract provider's or warrantor's contractual obligations under the service contract or a vehicle protection product warranty issued or sold by the service contract provider or warrantor; or

(b) provide the service which the service contract provider is legally obligated to perform, according to the service contract provider's contractual obligations under the service contract issued or sold by the service contract provider.

(2) (a) A service contract may not be issued, sold, or offered for sale in this state unless the service contract contains the following statements in substantially the following form:

(i) "Obligations of the provider under this service contract are guaranteed under a service contract reimbursement insurance policy. Should the provider fail to pay or provide service on any claim within 60 days after proof of loss has been filed, the contract holder is entitled to make a claim directly against the Insurance Company.," and

(ii) "This service contract or warranty is subject to limited regulation by the Utah Insurance Department. To file a complaint, contact the Utah Insurance Department."

(iii) A service contract or reimbursement insurance policy may not be issued, sold, or offered for sale in this state unless the contract contains a statement in substantially the following form, "Coverage afforded under this contract is not guaranteed by the Property and Casualty Guaranty Association."

(b) A vehicle protection product warranty may not be issued, sold, or offered for sale in this state

unless the vehicle protection product warranty contains the following statements in substantially the following form:

(i) “Obligations of the warrantor under this vehicle protection product warranty are guaranteed under a reimbursement insurance policy. Should the warrantor fail to pay on any claim within 60 days after proof of loss has been filed, the warranty holder is entitled to make a claim directly against the Insurance Company.”; and

(ii) “This vehicle protection product warranty is subject to limited regulation by the Utah Insurance Department. To file a complaint, contact the Utah Insurance Department.”

~~[(b) A service contract or reimbursement insurance policy may not be issued, sold, or offered for sale in this state unless the contract contains a statement in substantially the following form, “Coverage afforded under this contract is not guaranteed by the Property and Casualty Guaranty Association.”]~~

(c) A vehicle protection product warranty, or reimbursement insurance policy, may not be issued, sold, or offered for sale in this state unless the warranty contains a statement in substantially the following form, “Coverage afforded under this warranty is not guaranteed by the Property and Casualty Guaranty Association.”

(3) A service contract and a vehicle protection product warranty shall:

(a) conspicuously state the name, address, and a toll free claims service telephone number of the reimbursement insurer;

(b) (i) identify the service contract provider, the seller, and the service contract holder; or

(ii) identify the warrantor, the seller, and the warranty holder;

(c) conspicuously state the total purchase price and the terms under which the service contract or warranty is to be paid;

(d) conspicuously state the existence of any deductible amount;

(e) specify the merchandise, service to be provided, and any limitation, exception, or exclusion;

(f) state a term, restriction, or condition governing the transferability of the service contract or warranty; and

(g) state a term, restriction, or condition that governs cancellation of the service contract as provided in Sections 31A-21-303 through 31A-21-305 by either the contract holder or service contract provider.

(4) If prior approval of repair work is required, a service contract shall conspicuously state the procedure for obtaining prior approval and for making a claim, including:

(a) a toll free telephone number for claim service; and

(b) a procedure for obtaining reimbursement for emergency repairs performed outside of normal business hours.

(5) A preexisting condition clause in a service contract shall specifically state which preexisting condition is excluded from coverage.

(6) (a) Except as provided in Subsection (6)(c), a service contract shall state the conditions upon which the use of a nonmanufacturers’ part is allowed.

(b) A condition described in Subsection (6)(a) shall comply with applicable state and federal laws.

(c) This Subsection (6) does not apply to a home warranty contract.

(7) This section applies to a vehicle protection product warranty, except for the requirements of [Subsection] Subsections (3)(d) and (g), (4), (5), and (6). The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the application of this section to a vehicle protection product warranty.

(8) A vehicle protection product warranty shall contain a conspicuous statement in substantially the following form: “Purchase of this product is optional and is not required in order to finance, lease, or purchase a motor vehicle.”

Section 8. Section 31A-15-202 is amended to read:

31A-15-202. Definitions.

As used in this part:

(1) [~~“Completed”~~] Notwithstanding Section 31A-1-301, “commissioner” means the insurance commissioner of Utah or the commissioner, director, or superintendent of insurance in another state.

(2) (a) Subject to Subsection (2)(b), “completed operations liability” means liability [~~including liability for activities which are completed or abandoned before the date of the occurrence giving rise to the liability,~~] arising out of the installation, maintenance, or repair of any product at a site [~~which~~] that is not owned or controlled by:

~~(a)~~ (i) any person who performs that work; or

~~(b)~~ (ii) any person who hires an independent contractor to perform that work.

(b) “Completed operations liability” includes liability for an activity that is completed or abandoned before the date of the occurrence giving rise to the liability.

~~(2)~~ (3) “Domicile,” for purposes of determining the state in which a purchasing group is domiciled, means:

(a) for a corporation, the state in which the purchasing group is incorporated; and

(b) for an unincorporated entity, the state of its principal place of business.

~~[(3)]~~ (4) “Hazardous financial condition” means that a risk retention group, based on its present or reasonably anticipated financial condition, although not yet financially impaired or insolvent, is unlikely to be able:

(a) to meet obligations to policyholders with respect to known claims and reasonably anticipated claims; or

(b) to pay other obligations in the normal course of business.

~~[(4)]~~ (5) “Insurance” means primary insurance, excess insurance, reinsurance, surplus lines insurance, and any other arrangement for shifting and distributing risk which is determined to be insurance under the laws of this state.

~~[(5)]~~ (6) (a) “Liability” means legal liability for damages, including costs of defense, legal costs and fees, and other claims expenses because of injuries to other persons, damage to their property, or other damage or loss to other persons~~[,]~~ resulting from or arising out of:

(i) any business, whether profit or nonprofit ~~[business], trade, product, services, including professional [or other] services, premises, or operations; or~~

(ii) any activity of any state or local government or any agency or political subdivision of any state or local government.

(b) “Liability” does not include personal risk liability and an employer’s liability with respect to its employees other than legal liability under the Federal Employers’ Liability Act, 45 U.S.C. Sec. 51 et seq.

~~[(6) “NAIC” means the National Association of Insurance Commissioners.]~~

(7) “Personal risk liability” means liability for damages because of injury to any person, damage to property, or other loss or damage resulting from any personal, familial, or household responsibilities or activities, rather than from responsibilities or activities referred to in Subsection ~~[(5)]~~ (6).

(8) “Plan of operation” or [a] “feasibility study” means an analysis ~~[which] that~~ presents the expected activities and results of a risk retention group, including at a minimum:

(a) information sufficient to verify that its members are engaged in businesses or activities similar or related with respect to the liability to which the members are exposed by virtue of any related, similar or common business, trade, product, services, premises or operations;

(b) for each state in which it intends to operate, the coverages, deductibles, coverage limits, rates, and rating classification systems for each line of insurance the group intends to offer;

(c) historical and expected loss experience of the proposed members and national experience of

similar exposures to the extent that this experience is reasonably available;

(d) pro forma financial statements and projections;

(e) appropriate opinions by a qualified, independent casualty actuary, including a determination of minimum premium or participation levels required to commence operations and to prevent a hazardous financial condition;

(f) identification of management, underwriting and claims procedures, marketing methods, managerial oversight methods, investment policies, and reinsurance agreements;

(g) identification of each state in which the risk retention group has obtained, or sought to obtain, a charter and license, and a description of its status in each such state; and

(h) any other matters required by the commissioner of the state in which the risk retention group is chartered for liability insurance companies authorized by the insurance laws of that state.

(9) (a) “Product liability” means liability for damages because of any personal injury, death, emotional harm, consequential economic damage, or property damage, including damages resulting from the loss of use of property~~[,] if the liability arises] arising~~ out of the manufacture, design, importation, distribution, packaging, labeling, lease, or sale of a product.

(b) “Product liability” does not include the liability of any person for those damages described in Subsection (9)(a) if the product involved was in the possession of the person when the incident giving rise to the claim occurred.

(10) “Purchasing group” means any group ~~[which] that~~:

(a) has as one of its purposes the purchase of liability insurance on a group basis;

(b) purchases liability insurance only for its group members and only to cover their similar or related liability exposure, as described in Subsection (10)(c);

(c) is composed of members whose businesses or activities are similar or related with respect to the liability to which members are exposed by virtue of any related, similar, or common business, trade, products, services, premises, or operations; and

(d) is domiciled in any state.

(11) “Risk retention group” means any corporation or other limited liability association:

(a) whose primary activity consists of assuming and spreading all, or any portion of, the liability exposure of its group members;

(b) which is organized for the primary purpose of conducting the activity described under Subsection (11)(a);

(c) ~~[which] that~~:

(i) is chartered and licensed as a liability insurance company and authorized to engage in the business of insurance under the laws of any state; or

(ii) (A) before January 1, 1985, was chartered or licensed and authorized to engage in the business of insurance under the laws of Bermuda or the Cayman Islands and, before January 1, 1985, had certified to the insurance commissioner of at least one state that it satisfied the capitalization requirements of that state;

(B) ~~however,~~ except that any ~~such~~ group as described in Subsection (11)(c)(ii)(A) shall be considered to be a risk retention group only if it has been engaged in business continuously since January 1, 1985, and only for the purpose of continuing to provide insurance to cover product liability or completed operations liability, as these terms were defined in the Product Liability Risk Retention Act of 1981 before the date of the enactment of the Liability Risk Retention Act of 1986;

(d) ~~which~~ that does not exclude any person from membership in the group solely to provide for members of the group a competitive advantage over the excluded person;

(e) ~~which~~ that:

(i) has as its owners only persons who comprise the membership of the risk retention group and who are provided insurance by the group; or

(ii) has as its sole owner an organization ~~which~~ that has as:

(A) ~~has as~~ its members only persons who comprise the membership of the risk retention group; and

(B) ~~has as~~ its owners only persons who comprise the membership of the risk retention group and who are provided insurance by the group;

(f) whose members are engaged in businesses or activities similar or related with respect to the liability to which the members are exposed by virtue of any related, similar, or common business trade, products, services, premises or operations;

(g) whose activities do not include providing insurance other than:

(i) liability insurance for assuming and spreading all or any portion of the liability of its group members; and

(ii) reinsurance with respect to the liability of any other risk retention group, or any members of the other group, which is engaged in businesses or activities so that the group or member meets the requirement described in Subsection (11)(f) for membership in the risk retention group which provides the reinsurance; and

(h) the name of which includes the phrase "risk retention group."

(12) "State" means:

(a) a state of the United States; or

(b) the District of Columbia.

Section 9. Section 31A-15-203 is amended to read:

31A-15-203. Risk retention groups chartered in this state.

(1) As used in this section:

(a) "Board of directors" or "board" means the governing body of the risk retention group elected by the shareholders or members to establish policy, elect or appoint officers and committees, and make other governing decisions.

(b) "Director" means a natural person designated in the articles of the risk retention group, or designated, elected, or appointed by any other manner, name, or title to act as a director.

~~(4)~~ (2) (a) A risk retention group under this part shall be chartered and licensed to write only liability insurance pursuant to this part and, except as provided elsewhere in this part, shall comply with all of the laws, rules, and requirements that apply to liability insurers chartered and licensed in this state, and with Section 31A-15-204 to the extent the requirements are not a limitation on other laws, rules, or requirements of this state.

(b) Notwithstanding any other provision to the contrary, all risk retention groups chartered in this state shall file with the commissioner and the National Association of Insurance Commissioners an annual statement ~~with the department and the NAIC~~ in a form prescribed by the commissioner~~,~~ and ~~completed in diskette form if required by the commissioner,~~ completed in accordance with the statement instructions and the ~~NAIC~~ National Association of Insurance Commissioners Accounting Practices and Procedures Manual.

~~(2)~~ (3) Before it may offer insurance in any state, each risk retention group shall also submit for approval to the commissioner of this state a plan of operation or feasibility study. The risk retention group shall submit an appropriate revision of the plan or study in the event of any subsequent material change in any item of the plan of operation or feasibility study within 10 days of any ~~such~~ change. The group may not offer any additional kinds of liability insurance, in this state or in any other state, until any revision of the plan or study is approved by the commissioner.

~~(3)~~ (4) (a) At the time of filing its application for charter, the risk retention group shall provide to the commissioner in summary form the following information:

(i) the identity of the initial members of the group;

(ii) the identity of those individuals who organized the group or who will provide administrative services or otherwise influence or control the activities of the group;

(iii) the amount and nature of initial capitalization;

(iv) the coverages to be afforded; and

(v) the states in which the group intends to operate.

(b) Upon receipt of this information, the commissioner shall forward the information to the [NAIC] National Association of Insurance Commissioners. Providing notification to the [NAIC] National Association of Insurance Commissioners is in addition to, and may not be sufficient to satisfy, the requirements of Section 31A-15-204 or any other sections of this part.

(5) The governance standards for risk retention groups are as follows:

(a) A risk retention group that exists as of May 10, 2016, shall be in compliance with the governance standards described in this Subsection (5) by no later than May 10, 2017. A risk retention group licensed on or after May 10, 2016, shall be in compliance with the governance standards described in this Subsection (5) at the time of licensure.

(b) The board of directors of a risk retention group shall have a majority of independent directors. If the risk retention group is a reciprocal:

(i) the attorney-in-fact is required to adhere to the same standards regarding independence of operation and governance as imposed on the risk retention group's board of directors and subscribers advisory committee under these standards; and

(ii) to the extent permissible under state law, service providers of a reciprocal risk retention group shall contract with the risk retention group and not the attorney-in-fact.

(c) A director does not qualify as independent unless the board of directors affirmatively determines that the director has no material relationship with the risk retention group. Each risk retention group shall disclose these determinations to its domestic regulator, at least annually. For this purpose, any person who is a direct or indirect owner of, or subscriber in, the risk retention group or is an officer, director, or employee of the owner and insured, is considered to be independent, unless some other position of the officer, director, or employee constitutes a material relationship, as contemplated by Section 3901(a)(4)(E)(ii) of the Liability Risk Retention Act.

(d) Material relationship of a person with the risk retention group includes the following:

(i) A material relationship exists if the person receives in any one 12-month period compensation or payment of any other item of value by the person, a member of the person's immediate family, or a business with which the person is affiliated, from the risk retention group or a consultant or service provider to the risk retention group is greater than the greater of the following as measured at the end of any fiscal quarter falling in the 12-month period:

(A) 5% of the risk retention group's gross written premium for the 12-month period; or

(B) 2% of the risk retention group's surplus.

(ii) The person or immediate family member of the person is not independent until one year after the person's compensation from the risk retention

group falls below the threshold outlined in Subsection (5)(d)(i).

(iii) A material relationship exists if a director or an immediate family member of a director is affiliated with or employed in a professional capacity by a present or former internal or external auditor of the risk retention group.

(iv) The director or immediate family member of a director described in Subsection (5)(d)(iii) is not independent until one year after the end of the affiliation, employment, or auditing relationship.

(v) A material relationship exists if the director or immediate family member of a director who is employed as an executive officer of another company where any of the risk retention group's present executives serve on that other company's board of directors is not independent until one year after the end of the service or the employment relationship.

(e) (i) The term of any material service provider contract with the risk retention group may not exceed five years. A material service provider contract, or its renewal, shall require the approval of the majority of the risk retention group's independent directors. The service provider contract is considered material if the amount to be paid for the contract is greater than or equal to the greater of:

(A) 5% of the risk retention group's annual gross written premium; or

(B) 2% of the risk retention group's surplus.

(ii) For purposes of Subsection (5)(e)(i), "service provider" includes a captive manager, auditor, accountant, actuary, investment advisor, lawyer, managing general underwriter, or other party responsible for underwriting, determining rates, collecting premiums, adjusting and settling claims, or preparing financial statements. A reference to "lawyer" in this Subsection (5)(e)(ii) does not include defense counsel retained by the risk retention group to defend claims, unless the amount of fees paid to the lawyer is "material" as referenced in Section (5)(e)(i).

(iii) A service provider contract meeting the definition of material relationship contained in Section (5)(d) may not be entered into unless the risk retention group has, at least 30 days before entering into the service provider contract, notified the commissioner in writing of its intention to enter into the transaction and the commissioner has not disapproved it within the 30-day period.

(iv) The risk retention group's board of directors shall have the right to terminate any service provider, audit contract, or actuarial contract at any time for cause after providing adequate notice as defined in the contract.

(f) The risk retention group's board of directors shall adopt a written policy in the plan of operation as approved by the board that requires the board to:

(i) assure that an owner of the risk retention group receive evidence of ownership interest;

(ii) develop a set of governance standards applicable to the risk retention group;

(iii) oversee the evaluation of the risk retention group's management including the performance of the captive manager, managing general underwriter, or one or more other parties responsible for underwriting, determining rates, collecting premiums, adjusting or settling claims, or preparing financial statements;

(iv) review and approve the amount to be paid for all material service providers; and

(v) review and approve at least annually:

(A) the risk retention group's goals and objectives relevant to the compensation of officers and service providers;

(B) the officers' and service providers' performance in light of those goals and objectives; and

(C) the continued engagement of the officers and material service providers.

(g) (i) A risk retention group shall have an audit committee composed of at least three independent board members as defined in Subsection (5)(c). A non-independent board member may participate in the activities of the audit committee, if invited by the members of the audit committee, but cannot be a member of the audit committee.

(ii) The audit committee shall have a written charter that defines the audit committee's purpose, which, at a minimum, shall be to:

(A) assist the board's oversight of the integrity of the financial statements, the compliance with legal and regulatory requirements, and the qualifications, independence, and performance of the independent auditor and actuary;

(B) discuss the annual audited financial statements and quarterly financial statements with management;

(C) discuss the annual audited financial statements with its independent auditor and, if advisable, discuss its quarterly financial statements with its independent auditor;

(D) discuss policies with respect to risk assessment and risk management;

(E) meet separately and periodically, either directly or through a designated representative of the committee, with management and the independent auditor;

(F) review with the independent auditor any audit problems or difficulties and management's response;

(G) set clear hiring policies of the risk retention group as to the hiring of employees or former employees of the independent auditor;

(H) require the external auditor to rotate the lead or coordinating audit partner having primary responsibility for the risk retention group's audit as well as the audit partner responsible for reviewing

that audit so that neither individual performs audit services for more than five consecutive fiscal years; and

(I) report regularly to the board of directors.

(iii) The domestic regulator may waive the requirement to establish an audit committee composed of independent board members if the risk retention group is able to demonstrate to the domestic regulator that it is impracticable to do so and the risk retention group's board of directors itself is otherwise able to accomplish the purposes of an audit committee, as described in this Section (5)(g).

(h) The board of directors shall adopt and disclose governance standards, where "disclose" means making such information available through election, including posting the information on the risk retention group's website or other means, and providing such information to owners upon request, which shall include:

(i) a process by which the directors are elected by the owners;

(ii) director qualification standards;

(iii) director responsibilities;

(iv) director access to management and, as necessary and appropriate, independent advisors;

(v) director compensation;

(vi) director orientation and continuing education;

(vii) the policies and procedures that are followed for management succession; and

(viii) the policies and procedures that are followed for annual performance evaluation of the board.

(i) The board of directors shall adopt and disclose a code of business conduct and ethics for directors, officers, and employees and promptly disclose to the board of directors any waivers of the code for directors or executive officers, which shall include the following topics:

(i) conflicts of interest;

(ii) matters covered under the corporate opportunities doctrine under the state of domicile;

(iii) confidentiality;

(iv) fair dealing;

(v) protection and proper use of risk retention group assets;

(vi) compliance with all applicable laws, rules, and regulations; and

(vii) requiring the reporting of any illegal or unethical behavior that affects the operation of the risk retention group.

(j) A captive manager, president, or chief executive officer of a risk retention group shall promptly notify the domestic regulator in writing if the captive manager, president, or chief executive

officer becomes aware of any material non-compliance with any of the governance standards in this Subsection (5).

Section 10. Section 31A-15-204 is amended to read:

31A-15-204. Risk retention groups not chartered in this state -- Designation of commissioner as agent -- Compliance with unfair claims settlement practices act -- Deceptive, false, or fraudulent practices -- Examination regarding financial condition -- Prohibitions -- Penalties -- Operation prior to enactment of this part.

(1) Risk retention groups chartered and licensed in other states and seeking to do business as a risk retention group in this state shall comply with the following:

(a) Before offering insurance in this state a risk retention group shall submit to the commissioner:

(i) a statement identifying the states in which the group is chartered and licensed as a liability insurance company, its charter date, its principal place of business, and any other information, including information on its membership, the commissioner may require to verify that the group is a qualified risk retention group as defined in [Subsection] Section 31A-15-202[(11)]; and

(ii) a copy of its plan of operations or feasibility study and revisions of the plan or study submitted to the state in which the risk retention group is chartered and licensed, except a plan or study is not required for any line or classification of liability insurance that:

(A) was defined in the Product Liability Risk Retention Act of 1981 before October 27, 1986; and

(B) was offered before that date by any risk retention group that had been chartered and operating for not less than three years before that date.

(b) The risk retention group shall submit to the commissioner a copy of any revision to its plan or study required by Subsection 31A-15-203[(2)](3) at the same time it submits the revision of its chartering state.

(c) The risk retention group shall submit, on a form approved by the commissioner, a statement of registration and a notice designating the commissioner as agent for the purpose of receiving service of legal documents or process.

(d) The risk retention group shall pay annual license fees required by Section 31A-3-103.

(2) Any risk retention group doing business in this state shall submit to the commissioner:

(a) a copy of the group's financial statement submitted to the state in which the risk retention group is chartered and licensed, which shall be certified by an independent public accountant and shall contain a statement of opinion on loss and loss adjustment expense reserves made by a member of the American Academy of Actuaries or a loss

reserve specialist qualified under criteria approved by the commissioner;

(b) a copy of each examination of the risk retention group as certified by the commissioner or public official conducting the examination;

(c) if the commissioner requests, a copy of any information or document pertaining to any outside audit performed with respect to the risk retention group; and

(d) any other information required to verify the group's continuing qualification as a risk retention group within the definition in [Subsection] Section 31A-15-202[(11)].

(3) (a) Each risk retention group shall pay premium taxes and taxes on premiums of direct business for risks resident or located within this state, and shall report to the Utah State Tax Commission the net premiums written for risks resident or located within this state. Each risk retention group shall be subject to taxation, and any applicable fines and penalties related to taxation, on the same basis as a foreign admitted insurer.

(b) To the extent licensed producers are utilized pursuant to Section 31A-15-212, they shall report to the commissioner the premiums for direct business for all risks resident or located within this state that the producers have placed with, or on behalf of, a risk retention group not chartered in this state.

(c) To the extent that insurance producers are utilized pursuant to Section 31A-15-212 they shall keep a complete and separate record of all policies procured from each risk retention group. The record shall be open to examination by the commissioner, as provided under Section 31A-23a-412. These records shall include the following for each policy and each kind of insurance provided under each policy:

(i) the limit of liability;

(ii) the time period covered;

(iii) the effective date;

(iv) the name of the risk retention group that issued the policy;

(v) the gross premium charged;

(vi) the amount of any returned premiums; and

(vii) additional information required by the insurance commissioner.

(4) Each risk retention group and its agents and representatives shall comply with:

(a) the Unfair Claims Settlement Practices Act, including Section 31A-15-207[, Title 31A,];

(b) Chapter 26, Part 3, Claim Practices[;]; and

(c) any other provision of law relating to claims settlement practices.

(5) Each risk retention group shall comply with the laws of this state regarding deceptive, false, and fraudulent acts, practices regulated under [Title

31A.] Chapter 23a, Part 4, Marketing Practices, and any other provision of law relating to deceptive, false, or fraudulent practices. The commissioner may only obtain an injunction regarding the conduct described in this subsection from a court of competent jurisdiction.

(6) If the commissioner of the jurisdiction in which the group is chartered and licensed has not initiated an examination or does not initiate an examination within 60 days after a request by the commissioner of this state, the risk retention group shall submit to an examination by the commissioner of this state to determine its financial condition. Any examination conducted under this subsection shall be coordinated to avoid unjustified repetition and shall be conducted in an expeditious manner and in accordance with the [NAIC's] National Association of Insurance Commissioner's Examiner Handbook.

(7) Each application form for insurance from a risk retention group and each policy and certificate issued by a risk retention group shall contain the following notice in ten-point type on its front and declaration pages:

"NOTICE

This policy is issued by your risk retention group. Your risk retention group may not be subject to all of the insurance laws and regulations of your state. State insurance insolvency guaranty funds are not available for your risk retention group."

(8) The following acts by a risk retention group are prohibited:

(a) the solicitation or sale of insurance by a risk retention group to any person who is not eligible for membership in the group; and

(b) the solicitation or sale of insurance by, or operation of, a risk retention group that is in hazardous financial condition or financially impaired.

(9) A risk retention group may not do business in this state if an insurance company is directly or indirectly a member or owner of the risk retention group, unless all members of the group are insurance companies.

(10) The terms of any insurance policy issued by a risk retention group may not provide, or be construed to provide, coverage prohibited generally by statute of this state or declared unlawful by the Utah Supreme Court.

(11) A risk retention group not chartered in this state and doing business in this state shall comply with a lawful order issued in a voluntary dissolution proceeding or in a delinquency proceeding commenced by any state's insurance commissioner if there has been a finding of financial impairment after an examination under Subsection (6).

(12) A risk retention group that violates any provision of this part is subject to fines and penalties applicable to licensed insurers generally, including revocation of its right to do business in this state.

(13) In addition to complying with the requirements of this section, each risk retention group operating in this state before the effective date of this part shall comply with Subsection (1)(a) within 30 days after the effective date of this part.

Section 11. Section 31A-15-206.5 is enacted to read:

31A-15-206.5. Countersignatures not required.

A policy of insurance issued to a risk retention group or any member of the risk retention group may not be required to be countersigned.

Section 12. Section 31A-15-208 is amended to read:

31A-15-208. Purchasing groups -- Notice and registration requirements.

(1) A purchasing group that intends to do business in this state shall, [prior to] before doing business, furnish reasonable notice to the insurance commissioner in this state. The notice shall be on forms prescribed by the National Association of Insurance Commissioners and shall:

(a) [identifying] identify the state in which the [purchasing] group is domiciled;

(b) [identifying any state] identify the other states in which the [purchasing] group intends to do business;

(c) [specifying] specify the lines and classifications of liability insurance that the [purchasing] group intends to purchase;

(d) [identifying the insurers] identify the one or more insurance companies from which the group intends to purchase its insurance and the domicile of the insurers;

(e) [specifying] specify the method by which, and [any] the one or more persons, if any, through whom, insurance will be offered to [group] its members whose risks are resident or located in this state;

(f) [identifying] identify the principal place of business of the [purchasing] group; and

(g) [providing any] provide any other information as may be required by the commissioner to verify that the [purchasing] group is a qualified "purchasing group," as defined in Section 31A-15-202.

(2) A purchasing group shall notify the commissioner of a change in an item listed in Subsection (1) within 10 days of the change.

(3) (a) A purchasing group shall annually register with the commissioner and pay a filing fee.

(b) A purchasing group shall designate the commissioner as its agent solely for the purpose of receiving service of legal documents or process.

(c) The registration and fee requirements of this Subsection (3) do not apply to a purchasing group that only purchases insurance that was authorized under the Product Liability Risk Retention Act of 1981, and that:

(i) in any state of the United States:

(A) was domiciled before April 1, 1986; and

(B) is domiciled after October 27, 1986;

(ii) (A) before October 27, 1986, purchased insurance from an insurer licensed in any state; and

(B) since October 27, 1986, purchased its insurance from an insurer licensed in any state; or

(iii) was a purchasing group under the requirements of the Product Liability Risk Retention Act of 1981 before October 27, 1986.

(4) [A] Each purchasing group that is required to give notice under Subsection (1) shall also furnish the information required by the commissioner to:

(a) verify that the entity qualifies as a purchasing group;

(b) determine where the purchasing group is located; and

(c) determine appropriate tax treatment of the purchasing group.

Section 13. Section 31A-15-209 is amended to read:

31A-15-209. Restrictions on purchasing groups.

~~[(1) A purchasing group which obtains liability insurance from an insurer not admitted in this state or from a risk retention group shall inform each of the group members which have a risk resident or located in this state that the risk is not protected by an insurance insolvency guaranty fund in this state, and that the risk retention group or insurer may not be subject to all insurance laws and regulations of this state.]~~

(1) A purchasing group may not purchase insurance from a risk retention group that is not chartered in a state or from an insurer not admitted in the state in which the purchasing group is located, unless the purchase is effected through a licensed producer acting pursuant to the surplus lines laws and regulations of the state in which the purchasing group is located.

(2) A purchasing group that obtains liability insurance from an insurer not admitted in this state or a risk retention group shall inform each of the members of the purchasing group or risk retention group that have a risk resident or located in this state that:

(a) the risk is not protected by an insurance insolvency guaranty fund in this state; and

(b) the risk retention group or insurer may not be subject to all insurance laws and regulations of this state.

~~[(2)] (3) (a) A purchasing group may not purchase insurance providing for a deductible or self-insured retention applicable to the group as a whole; however,].~~

(b) Notwithstanding Subsection (3)(a), coverage may provide for a deductible or self-insured retention applicable to individual members.

~~[(3)] (4) Purchases of insurance by purchasing groups are subject to the same standards regarding aggregate limits which are applicable to all purchases of group insurance.~~

Section 14. Section 31A-15-212 is amended to read:

31A-15-212. Duty of producers to obtain license -- Risk retention groups -- Purchasing groups.

(1) A person may do the following only if [he] the person is licensed as an insurance [agent or broker] producer or is exempt from licensure under [Title 31A,] Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries:

(a) solicit, negotiate, or procure liability insurance in this state from a risk retention group;

(b) solicit, negotiate, or procure liability insurance in this state for a purchasing group from an authorized insurer or a risk retention group; and

(c) solicit, negotiate, or procure liability insurance coverage in this state for any member of a purchasing group under a purchasing group's policy.

~~[(2) A person may solicit, negotiate, or procure liability insurance from an insurer not authorized to do business in this state on behalf of a purchasing group located in this state only if he is licensed as a surplus lines producer or is exempt from licensure under Title 31A, Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries.]~~

~~[(3) The requirement of residence in this state does not apply for purposes of acting as a producer for a risk retention group or purchasing group under Subsections (1) and (2).]~~

~~[(4) On business placed with a risk retention group or written through a purchasing group, each person licensed under this title shall provide to each prospective insured the notice required by Subsection 31A-15-204(7) in the case of a risk retention group, and by Subsection 31A-15-209(1) in the case of a purchasing group.]~~

~~[(5) Solicitation for membership in a purchasing group is not of itself a solicitation for insurance.]~~

(2) (a) A person may not act or aid in any manner in soliciting, negotiating, or procuring liability insurance in this state for a purchasing group from an authorized insurer or a risk retention group chartered in a state unless that person is licensed as an insurance producer, or is exempt from licensure under Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries.

(b) A person may not act or aid in any manner in soliciting, negotiating, or procuring liability insurance coverage in this state for any member of a purchasing group under a purchasing group's policy

unless that person is licensed as an insurance producer, or is exempt from licensure under Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries.

(c) A person may not act or aid in any manner in soliciting, negotiating, or procuring liability insurance from an insurer not authorized to do business in this state on behalf of a purchasing group located in this state unless that person is licensed as a surplus lines producer or excess lines producer or is exempt from licensure under Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries.

(3) For purposes of acting as a producer for a risk retention group or purchasing group pursuant to Subsections (1) and (2), the requirement of residence in this state does not apply.

(4) A person licensed pursuant to Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries, on business placed with a risk retention group or written through a purchasing group, shall inform each prospective insured of the provisions of the notice required by Subsection 31A-15-204(7) in the case of a purchasing group.

Section 15. Section 31A-15-213.5 is enacted to read:

31A-15-213.5. Rulemaking.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner may make and from time to time amend rules relating to risk retention groups as may be necessary or desirable to carry out this part.

Section 16. Section 31A-17-404 is amended to read:

31A-17-404. Credit allowed a domestic ceding insurer against reserves for reinsurance.

(1) A domestic ceding insurer is allowed credit for reinsurance as either an asset or a reduction from liability for reinsurance ceded only if the reinsurer meets the requirements of Subsection (3), (4), (5), (6), ~~(7)~~, or (8), subject to the following:

(a) Credit is allowed under Subsection (3), (4), or (5) only with respect to a cession of a kind or class of business that the assuming insurer is licensed or otherwise permitted to write or assume:

(i) in its state of domicile; or

(ii) in the case of a United States branch of an alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance.

(b) Credit is allowed under Subsection (5) or (6) only if the applicable requirements of Subsection ~~(8)~~ (9) are met.

(2) A domestic ceding insurer is allowed credit for reinsurance ceded:

(a) only if the reinsurance is payable in a manner consistent with Section 31A-22-1201;

(b) only to the extent that the accounting:

(i) is consistent with the terms of the reinsurance contract; and

(ii) clearly reflects:

(A) the amount and nature of risk transferred; and

(B) liability, including contingent liability, of the ceding insurer;

(c) only to the extent the reinsurance contract shifts insurance policy risk from the ceding insurer to the assuming reinsurer in fact and not merely in form; and

(d) only if the reinsurance contract contains a provision placing on the reinsurer the credit risk of all dealings with intermediaries regarding the reinsurance contract.

(3) A domestic ceding insurer is allowed a credit if the reinsurance is ceded to an assuming insurer that is licensed to transact insurance or reinsurance in this state.

(4) (a) A domestic ceding insurer is allowed a credit if the reinsurance is ceded to an assuming insurer that is accredited by the commissioner as a reinsurer in this state.

(b) An insurer is accredited as a reinsurer if the insurer:

(i) files with the commissioner evidence of the insurer's submission to this state's jurisdiction;

(ii) submits to the commissioner's authority to examine the insurer's books and records;

(iii) (A) is licensed to transact insurance or reinsurance in at least one state; or

(B) in the case of a United States branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;

(iv) files annually with the commissioner a copy of the insurer's:

(A) annual statement filed with the insurance department of its state of domicile; and

(B) most recent audited financial statement; and

(v) (A) (I) has not had its accreditation denied by the commissioner within 90 days of the day on which the insurer submits the information required by this Subsection (4); and

(II) maintains a surplus with regard to policyholders in an amount not less than \$20,000,000; or

(B) (I) has its accreditation approved by the commissioner; and

(II) maintains a surplus with regard to policyholders in an amount less than \$20,000,000.

(c) Credit may not be allowed a domestic ceding insurer if the assuming insurer's accreditation is

revoked by the commissioner after a notice and hearing.

(5) (a) A domestic ceding insurer is allowed a credit if:

(i) the reinsurance is ceded to an assuming insurer that is:

(A) domiciled in a state meeting the requirements of Subsection (5)(a)(ii); or

(B) in the case of a United States branch of an alien assuming insurer, is entered through a state meeting the requirements of Subsection (5)(a)(ii);

(ii) the state described in Subsection (5)(a)(i) employs standards regarding credit for reinsurance substantially similar to those applicable under this section; and

(iii) the assuming insurer or United States branch of an alien assuming insurer:

(A) maintains a surplus with regard to policyholders in an amount not less than \$20,000,000; and

(B) submits to the authority of the commissioner to examine its books and records.

(b) The requirements of Subsections (5)(a)(i) and (ii) do not apply to reinsurance ceded and assumed pursuant to a pooling arrangement among insurers in the same holding company system.

(6) (a) A domestic ceding insurer is allowed a credit if the reinsurance is ceded to an assuming insurer that maintains a trust fund:

(i) created in accordance with rules made by the commissioner; and

(ii) in a qualified United States financial institution for the payment of a valid claim of:

(A) a United States ceding insurer of the assuming insurer;

(B) an assign of the United States ceding insurer; and

(C) a successor in interest to the United States ceding insurer.

(b) To enable the commissioner to determine the sufficiency of the trust fund described in Subsection (6)(a), the assuming insurer shall:

(i) report annually to the commissioner information substantially the same as that required to be reported on the National Association of Insurance Commissioners Annual Statement form by a licensed insurer; and

(ii) (A) submit to examination of its books and records by the commissioner; and

(B) pay the cost of an examination.

(c) (i) Credit for reinsurance may not be granted under this Subsection (6) unless the form of the trust and any amendment to the trust is approved by:

(A) the commissioner of the state where the trust is domiciled; or

(B) the commissioner of another state who, pursuant to the terms of the trust instrument, accepts principal regulatory oversight of the trust.

(ii) The form of the trust and an amendment to the trust shall be filed with the commissioner of every state in which a ceding insurer beneficiary of the trust is domiciled.

(iii) The trust instrument shall provide that a contested claim is valid and enforceable upon the final order of a court of competent jurisdiction in the United States.

(iv) The trust shall vest legal title to its assets in its one or more trustees for the benefit of:

(A) a United States ceding insurer of the assuming insurer;

(B) an assign of the United States ceding insurer; or

(C) a successor in interest to the United States ceding insurer.

(v) The trust and the assuming insurer are subject to examination as determined by the commissioner.

(vi) The trust shall remain in effect for as long as the assuming insurer has an outstanding obligation due under a reinsurance agreement subject to the trust.

(vii) No later than February 28 of each year, the trustee of the trust shall:

(A) report to the commissioner in writing the balance of the trust;

(B) list the trust's investments at the end of the preceding calendar year; and

(C) (I) certify the date of termination of the trust, if so planned; or

(II) certify that the trust will not expire prior to the following December 31.

(d) The following requirements apply to the following categories of assuming insurer:

(i) For a single assuming insurer:

(A) the trust fund shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers; and

(B) the assuming insurer shall maintain a trustee surplus of not less than \$20,000,000^[1], except as provided in Subsection (6)(d)(ii).

(ii) (A) At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trustee surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of United States ceding insurers,

policyholders, and claimants in light of reasonably foreseeable adverse loss development.

(B) The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including, when applicable, the lines of business involved, the stability of the incurred loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or solvency.

(C) The minimum required trustee surplus may not be reduced to an amount less than 30% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust.

(iii) (iii) For a group acting as assuming insurer, including incorporated and individual unincorporated underwriters:

(A) for reinsurance ceded under a reinsurance agreement with an inception, amendment, or renewal date on or after August 1, 1995, the trust shall consist of a trustee account in an amount not less than the [group's] respective underwriters' several liabilities attributable to business ceded by the one or more United States domiciled ceding insurers to [a member] an underwriter of the group;

(B) for reinsurance ceded under a reinsurance agreement with an inception date on or before July 31, 1995, and not amended or renewed after July 31, 1995, notwithstanding the other provisions of this chapter, the trust shall consist of a trustee account in an amount not less than the [group's] respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States;

(C) in addition to a trust described in Subsection (6)(d)(iii)(A) or (B), the group shall maintain in trust a trustee surplus of which \$100,000,000 is held jointly for the benefit of the one or more United States domiciled ceding insurers of a member of the group for all years of account;

(D) the incorporated members of the group:

(I) may not be engaged in a business other than underwriting as a member of the group; and

(II) are subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members; and

(E) within 90 days after the day on which the group's financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the commissioner:

(I) an annual certification by the group's domiciliary regulator of the solvency of each underwriter member; or

(II) if a certification is unavailable, a financial statement, prepared by an independent public accountant, of each underwriter member of the group.

(iii) (iv) For a group of incorporated underwriters under common administration, the group shall:

(A) have continuously transacted an insurance business outside the United States for at least three years immediately preceding the day on which the group makes application for accreditation;

(B) maintain aggregate policyholders' surplus of at least \$10,000,000,000;

(C) maintain a trust fund in an amount not less than the group's several liabilities attributable to business ceded by the one or more United States domiciled ceding insurers to a member of the group pursuant to a reinsurance contract issued in the name of the group;

(D) in addition to complying with the other provisions of this Subsection (6)(d)(iii)(iv), maintain a joint trustee surplus of which \$100,000,000 is held jointly for the benefit of the one or more United States domiciled ceding insurers of a member of the group as additional security for these liabilities; and

(E) within 90 days after the day on which the group's financial statements are due to be filed with the group's domiciliary regulator, make available to the commissioner:

(I) an annual certification of each underwriter member's solvency by the member's domiciliary regulator; and

(II) a financial statement of each underwriter member of the group prepared by an independent public accountant.

(7) If reinsurance is ceded to an assuming insurer not meeting the requirements of Subsection (3), (4), (5), or (6), a domestic ceding insurer is allowed credit only as to the insurance of a risk located in a jurisdiction where the reinsurance is required by applicable law or regulation of that jurisdiction.

(8) A domestic ceding insurer is allowed a credit if the reinsurance is ceded to an assuming insurer that secures its obligations in accordance with this Subsection (8):

(a) The insurer shall be certified by the commissioner as a reinsurer in this state.

(b) To be eligible for certification, the assuming insurer shall:

(i) be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the commissioner pursuant to Subsection (8)(d);

(ii) maintain minimum capital and surplus, or its equivalent, in an amount to be determined by the commissioner pursuant to rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(iii) maintain financial strength ratings from two or more rating agencies considered acceptable by the commissioner pursuant to rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(iv) agree to:

(A) submit to the jurisdiction of this state;

(B) appoint the commissioner as its agent for service of process in this state;

(C) provide security for 100% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if it resists enforcement of a final United States judgment;

(D) agree to meet applicable information filing requirements as determined by the commissioner including an application for certification, a renewal and on an ongoing basis; and

(E) any other requirements for certification considered relevant by the commissioner.

(c) An association, including incorporated and individual unincorporated underwriters, may be a certified reinsurer. To be eligible for certification, in addition to satisfying requirements of Subsections (8)(a) and (b), the association:

(i) shall satisfy its minimum capital and surplus requirements through the capital and surplus equivalents, net of liabilities, of the association and its members, which shall include a joint central fund that may be applied to any unsatisfied obligation of the association or any of its members in an amount determined by the commissioner to provide adequate protection;

(ii) may not have incorporated members of the association engaged in any business other than underwriting as a member of the association;

(iii) shall be subject to the same level of regulation and solvency control of the incorporated members of the association by the association's domiciliary regulator as are the unincorporated members; and

(iv) within 90 days after its financial statements are due to be filed with the association's domiciliary regulator provide:

(A) to the commissioner an annual certification by the association's domiciliary regulator of the solvency of each underwriter member; or

(B) if a certification is unavailable, financial statements prepared by independent public accountants, of each underwriter member of the association.

(d) The commissioner shall create and publish a list of qualified jurisdictions under which an assuming insurer licensed and domiciled in the jurisdiction is eligible to be considered for certification by the commissioner as a certified reinsurer.

(i) To determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the commissioner:

(A) shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both initially and on an ongoing basis;

(B) shall consider the rights, the benefits, and the extent of reciprocal recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled in the United States;

(C) shall require the qualified jurisdiction to share information and cooperate with the commissioner with respect to all certified reinsurers domiciled within that jurisdiction; and

(D) may not recognize a jurisdiction as a qualified jurisdiction if the commissioner has determined that the jurisdiction does not adequately and promptly enforce final United States judgments and arbitration awards.

(ii) The commissioner may consider additional factors in determining a qualified jurisdiction.

(iii) A list of qualified jurisdictions shall be published through the National Association of Insurance Commissioners' Committee Process and the commissioner shall:

(A) consider this list in determining qualified jurisdictions; and

(B) if the commissioner approves a jurisdiction as qualified that does not appear on the National Association of Insurance Commissioner's list of qualified jurisdictions, provide thoroughly documented justification in accordance with criteria to be developed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(iv) United States jurisdictions that meet the requirement for accreditation under the National Association of Insurance Commissioners' financial standards and accreditation program shall be recognized as qualified jurisdictions.

(v) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the commissioner may suspend the reinsurer's certification indefinitely, in lieu of revocation.

(e) The commissioner shall:

(i) assign a rating to each certified reinsurer, giving due consideration to the financial strength ratings that have been assigned by rating agencies considered acceptable to the commissioner by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) publish a list of all certified reinsurers and their ratings.

(f) A certified reinsurer shall secure obligations assumed from United States ceding insurers under this Subsection (8) at a level consistent with its rating, as specified in rules made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(i) For a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain security in a form acceptable to the commissioner and consistent with Section 31A-17-404.1, or in a multibeneficiary trust in accordance with Subsections (5), (6), and (7), except as otherwise provided in this Subsection (8).

(ii) If a certified reinsurer maintains a trust to fully secure its obligations subject to Subsections (5), (6), and (7), and chooses to secure its obligations incurred as a certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer shall maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this Subsection (8) or comparable laws of other United States jurisdictions and for its obligations subject to Subsections (5), (6), and (7).

(iii) It shall be a condition to the grant of certification under this Subsection (8) that the certified reinsurer shall have bound itself, by the language of the trust and agreement with the commissioner with principal regulatory oversight of the trust account, to fund, upon termination of the trust account, out of the remaining surplus of the trust, any deficiency of any other the trust account.

(iv) The minimum trustee surplus requirements provided in Subsections (5), (6), and (7) are not applicable with respect to a multibeneficiary trust maintained by a certified reinsurer for the purpose of securing obligations incurred under this Subsection (8), except that the trust shall maintain a minimum trustee surplus of \$10,000,000.

(v) With respect to obligations incurred by a certified reinsurer under this Subsection (8), if the security is insufficient, the commissioner:

(A) shall reduce the allowable credit by an amount proportionate to the deficiency; and

(B) may impose further reductions in allowable credit upon finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due.

(vi) For purposes of this Subsection (8), a certified reinsurer whose certification has been terminated for any reason shall be treated as a certified reinsurer required to secure 100% of its obligations.

(A) As used in this Subsection (8), the term "terminated" refers to revocation, suspension, voluntary surrender, and inactive status.

(B) If the commissioner continues to assign a higher rating as permitted by other provisions of this section, the requirement under this Subsection (8)(f)(vi) does not apply to a certified reinsurer in inactive status or to a reinsurer whose certification has been suspended.

(g) If an applicant for certification has been certified as a reinsurer in a National Association of Insurance Commissioners' accredited jurisdiction, the commissioner may:

(i) defer to that jurisdiction's certification;

(ii) defer to the rating assigned by that jurisdiction; and

(iii) consider such reinsurer to be a certified reinsurer in this state.

(h) (i) A certified reinsurer that ceases to assume new business in this state may request to maintain its certification in inactive status in order to continue to qualify for a reduction in security for its in-force business.

(ii) An inactive certified reinsurer shall continue to comply with all applicable requirements of this Subsection (8).

(iii) The commissioner shall assign a rating to a reinsurer that qualifies under this Subsection (8)(h), that takes into account, if relevant, the reasons why the reinsurer is not assuming new business.

~~[(8)]~~ (9) Reinsurance credit may not be allowed a domestic ceding insurer unless the assuming insurer under the reinsurance contract submits to the jurisdiction of Utah courts by:

(a) (i) being an admitted insurer; and

(ii) submitting to jurisdiction under Section 31A-2-309;

(b) having irrevocably appointed the commissioner as the domestic ceding insurer's agent for service of process in an action arising out of or in connection with the reinsurance, which appointment is made under Section 31A-2-309; or

(c) agreeing in the reinsurance contract:

(i) that if the assuming insurer fails to perform its obligations under the terms of the reinsurance contract, the assuming insurer, at the request of the ceding insurer, shall:

(A) submit to the jurisdiction of a court of competent jurisdiction in a state of the United States;

(B) comply with all requirements necessary to give the court jurisdiction; and

(C) abide by the final decision of the court or of an appellate court in the event of an appeal; and

(ii) to designate the commissioner or a specific attorney licensed to practice law in this state as its attorney upon whom may be served lawful process in an action, suit, or proceeding instituted by or on behalf of the ceding company.

~~[(9)]~~ (10) Submitting to the jurisdiction of Utah courts under Subsection ~~[(8)]~~ (9) does not override a duty or right of a party under the reinsurance contract, including a requirement that the parties arbitrate their disputes.

~~[(10)]~~ (11) If an assuming insurer does not meet the requirements of Subsection (3), (4), or (5), the credit permitted by Subsection (6) or (8) may not be allowed unless the assuming insurer agrees in the trust instrument to the following conditions:

(a) (i) Notwithstanding any other provision in the trust instrument, if an event described in Subsection ~~[(10)]~~ (11)(a)(ii) occurs the trustee shall comply with:

(A) an order of the commissioner with regulatory oversight over the trust; or

(B) an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight all of the assets of the trust fund.

(ii) This Subsection [(40)] (11)(a) applies if:

(A) the trust fund is inadequate because the trust contains an amount less than the amount required by Subsection (6)(d); or

(B) the grantor of the trust is:

(I) declared insolvent; or

(II) placed into receivership, rehabilitation, liquidation, or similar proceeding under the laws of its state or country of domicile.

(b) The assets of a trust fund described in Subsection [(40)] (11)(a) shall be distributed by and a claim shall be filed with and valued by the commissioner with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of a domestic insurance company.

(c) If the commissioner with regulatory oversight determines that the assets of the trust fund, or any part of the assets, are not necessary to satisfy the claims of the one or more United States ceding insurers of the grantor of the trust, the assets, or a part of the assets, shall be returned by the commissioner with regulatory oversight to the trustee for distribution in accordance with the trust instrument.

(d) A grantor shall waive any right otherwise available to it under United States law that is inconsistent with this Subsection [(40)] (11).

(12) If an accredited or certified reinsurer ceases to meet the requirements for accreditation or certification, the commissioner may suspend or revoke the reinsurer's accreditation or certification.

(a) The commissioner shall give the reinsurer notice and opportunity for hearing.

(b) The suspension or revocation may not take effect until after the commissioner's order after a hearing, unless:

(i) the reinsurer waives its right to hearing;

(ii) the commissioner's order is based on:

(A) regulatory action by the reinsurer's domiciliary jurisdiction; or

(B) the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or primary certifying state under Subsection (8)(g); or

(iii) the commissioner's finding that an emergency requires immediate action and a court of competent jurisdiction has not stayed the commissioner's action.

(c) While a reinsurer's accreditation or certification is suspended, no reinsurance contract issued or renewed after the effective date of the

suspension qualifies for credit except to the extent that the reinsurer's obligations under the contract are secured in accordance with Section 31A-17-404.1.

(d) If a reinsurer's accreditation or certification is revoked, no credit for reinsurance may be granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the contract are secured in accordance with Subsection (8)(f) or Section 31A-17-404.1.

(13) (a) A ceding insurer shall take steps to manage its reinsurance recoverables proportionate to its own book of business.

(b) (i) A domestic ceding insurer shall notify the commissioner within 30 days after reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers:

(A) exceeds 50% of the domestic ceding insurer's last reported surplus to policyholders; or

(B) after it is determined that reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed 50% of the domestic ceding insurer's last reported surplus to policyholders.

(ii) The notification required by Subsection (13)(b)(i) shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

(c) A ceding insurer shall take steps to diversify its reinsurance program.

(d) (i) A domestic ceding insurer shall notify the commissioner within 30 days after ceding or being likely to cede more than 20% of the ceding insurer's gross written premium in the prior calendar year to any:

(A) single assuming insurer; or

(B) group of affiliated assuming insurers.

(ii) The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

Section 17. Section 31A-17-404.1 is amended to read:

31A-17-404.1. Asset or reduction from liability for reinsurance ceded by a domestic insurer to other assuming insurers.

(1) (a) An asset or a reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer that does not meet the requirements of Section 31A-17-404 is allowed in an amount not exceeding the liabilities carried by the ceding insurer.

(b) A reduction described in Subsection (1)(a) shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer:

(i) that are held:

(A) under a reinsurance contract with the assuming insurer; and

(B) as security for the payment of obligations under the reinsurance contract; and

(ii) if the security is held:

(A) in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or

(B) in the case of a trust, in a qualified United States financial institution.

(2) Security described in Subsection (1) may be in the form of:

(a) cash;

(b) a security:

(i) listed by the Securities Valuation Office of the National Association of Insurance Commissioners, including those considered exempt from filing as defined by the Purposes and Procedures Manual of the Securities Valuation Office; and

(ii) qualifying as an admitted asset;

(c) subject to Subsection (3), a clean, irrevocable, unconditional letter of credit, issued or confirmed by a qualified United States financial institution:

(i) effective no later than December 31 of the year for which the filing is being made; and

(ii) in the possession of, or in trust for, the ceding [company] insurer on or before the filing date of its annual statement; or

(d) another form of security acceptable to the commissioner.

(3) Notwithstanding an issuing or confirming institution's subsequent failure to meet an applicable standard of acceptability, a letter of credit described in Subsection (2) that meets the applicable standards of issuer acceptability as of the day on which it is issued or confirmed shall continue to be acceptable as security until the sooner of the day on which the letter of credit expires, is extended, is renewed, is modified, or is amended.

Section 18. Section 31A-17-404.3 is amended to read:

31A-17-404.3. Rules.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and this chapter, the commissioner may make rules prescribing:

[1] (a) the form of a letter of credit required under this chapter;

[2] (b) the requirements for a trust or trust instrument required by this chapter;

[3] (c) the procedures for licensing and accrediting; and

[4] (d) minimum capital and surplus requirements[-];

(e) additional requirements relating to calculation of credit allowed a domestic ceding

insurer against reserves for reinsurance under Section 31A-17-404; and

(f) additional requirements relating to calculation of asset reduction from liability for reinsurance ceded by a domestic insurer to other ceding insurers under Section 31A-17-404.1.

(2) A rule made pursuant to Subsection (1)(e) or (f) may apply to reinsurance relating to:

(a) a life insurance policy with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits;

(b) a universal life insurance policy with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period;

(c) a variable annuity with guaranteed death or living benefits;

(d) a long-term care insurance policy; or

(e) such other life and health insurance or annuity product as to which the National Association of Insurance Commissioners adopts model regulatory requirements with respect for credit for reinsurance.

(3) A rule adopted pursuant to Subsection (1)(e) or (f) may apply to a treaty containing:

(a) a policy issued on or after January 1, 2015; and

(b) a policy issued before January 1, 2015, if risk pertaining to the policy is ceded in connection with the treaty, either in whole or in part, on or after January 1, 2015.

(4) A rule adopted pursuant to Subsection (1)(e) or (f) may require the ceding insurer, in calculating the amounts or forms of security required to be held under rules made under this section, to use the Valuation Manual adopted by the National Association of Insurance Commissioners under Section 11B(1) of the National Association of Insurance Commissioners Standard Valuation Law, including all amendments adopted by the National Association of Insurance Commissioners and in effect on the date as of which the calculation is made, to the extent applicable.

(5) A rule adopted pursuant to Subsection (1)(e) or (f) may not apply to cessions to an assuming insurer that:

(a) is certified in this state or, if this state has not adopted provisions substantially equivalent to Section 2E of the Credit for Reinsurance Model Law, certified in a minimum of five other states; or

(b) maintains at least \$250,000,000 in capital and surplus when determined in accordance with the National Association of Insurance Commissioners Accounting Practices and Procedures Manual, including all amendments thereto adopted by the National Association of Insurance Commissioners, excluding the impact of any permitted or prescribed practices and is:

(i) licensed in at least 26 states; or

(ii) licensed in at least 10 states, and licensed or accredited in a total of at least 35 states.

(6) The authority to adopt rules pursuant to Subsection (1)(e) or (f) does not otherwise limit the commissioner's general authority to make rules pursuant to Subsection (1).

Section 19. Section 31A-22-202 is amended to read:

31A-22-202. Protection of third-party claimants.

(1) ~~[N]e~~ An insurance contract insuring against loss or damage through legal liability for the bodily injury or death by accident of any person, or for damage to the property of any person, may not be retroactively abrogated to the detriment of any third-party claimant by any agreement between the insurer and insured after the occurrence of any injury, death, or damage for which the insured may be liable. This attempted abrogation is void.

(2) A motor vehicle liability policy may be rescinded or cancelled as to an insured for fraud, material misrepresentation, or any reason allowable under the law.

(3) A motor vehicle liability policy may not be rescinded for fraud or material misrepresentation, as to minimum liability coverage limits under Section 31A-22-304, to the detriment of a third party for a loss otherwise covered by the policy.

Section 20. Section 31A-22-603 is amended to read:

31A-22-603. Persons insured under an individual accident and health policy.

A policy of individual accident and health insurance may insure only one person, except that originally or by subsequent amendment, upon the application of an adult policyholder, a policy may insure any two or more eligible members of the policyholder's family, including ~~husband, wife~~ spouse, dependent children, and any other person dependent upon the policyholder.

Section 21. Section 31A-22-715 is amended to read:

31A-22-715. Alcohol and drug dependency treatment.

(1) ~~[Each group accident and health insurance policy shall contain an optional rider allowing certificate holders to obtain]~~ An insurer offering a health benefit plan providing coverage for alcohol or drug dependency treatment ~~[in programs]~~ may require an inpatient facility to be licensed by:

(a) (i) the Department of Human Services, under Title 62A, Chapter 2, Licensure of Programs and Facilities, ~~inpatient hospitals accredited by the joint commission on the accreditation of hospitals, or facilities licensed by~~; or

(ii) the Department of Health~~[-]~~; or

(b) for an inpatient facility located outside the state, a state agency similar to one described in Subsection (1)(a).

(2) For inpatient coverage provided pursuant to Subsection (1), an insurer may require an inpatient facility to be accredited by the following:

(a) the joint commission; and

(b) one other nationally recognized accrediting agency.

Section 22. Section 31A-22-1201 is amended to read:

31A-22-1201. Assumption agreement.

(1) Subject to Subsection (2), a credit for reinsurance ceded under Section 31A-17-404~~[-]~~ or 31A-17-404.1~~[-]~~ ~~or 31A-17-404.2~~ is not allowed unless, in addition to meeting the requirements of Section 31A-17-404~~[-]~~ or 31A-17-404.1~~[-]~~ ~~or 31A-17-404.2~~, the reinsurance agreement provides in substance that if the ceding insurer is insolvent, the reinsurance is payable by the assuming insurer:

(a) on the basis of the liability of the ceding insurer under the contract or contracts reinsured;

(b) without diminution because of the insolvency of the ceding insurer; and

(c) directly to the ceding insurer or to its domiciliary liquidator or receiver.

(2) Subsection (1) applies except if:

(a) a contract specifically provides another payee of the insurance in the event of the insolvency of the ceding insurer; or

(b) the assuming insurer, with the consent of the one or more direct insureds, assumes the policy obligations of the ceding insurer:

(i) as direct obligations of the assuming insurer to the payees under the policies; and

(ii) in substitution for the obligations of the ceding insurer to the payees.

Section 23. Section 31A-23a-111 is amended to read:

31A-23a-111. Revoking, suspending, surrendering, lapsing, limiting, or otherwise terminating a license -- Rulemaking for renewal or reinstatement.

(1) A license type issued under this chapter remains in force until:

(a) revoked or suspended under Subsection (5);

(b) surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;

(c) the licensee dies or is adjudicated incompetent as defined under:

(i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

(ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors;

(d) lapsed under Section 31A-23a-113; or

(e) voluntarily surrendered.

(2) The following may be reinstated within one year after the day on which the license is no longer in force:

(a) a lapsed license; or

(b) a voluntarily surrendered license, except that a voluntarily surrendered license may not be reinstated after the license period in which the license is voluntarily surrendered.

(3) Unless otherwise stated in a written agreement for the voluntary surrender of a license, submission and acceptance of a voluntary surrender of a license does not prevent the department from pursuing additional disciplinary or other action authorized under:

(a) this title; or

(b) rules made under this title in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) A line of authority issued under this chapter remains in force until:

(a) the qualifications pertaining to a line of authority are no longer met by the licensee; or

(b) the supporting license type:

(i) is revoked or suspended under Subsection (5);

(ii) is surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;

(iii) lapses under Section 31A-23a-113; or

(iv) is voluntarily surrendered; or

(c) the licensee dies or is adjudicated incompetent as defined under:

(i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

(ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors.

(5) (a) If the commissioner makes a finding under Subsection (5)(b), as part of an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:

(i) revoke:

(A) a license; or

(B) a line of authority;

(ii) suspend for a specified period of 12 months or less:

(A) a license; or

(B) a line of authority;

(iii) limit in whole or in part:

(A) a license; or

(B) a line of authority; or

(iv) deny a license application.

(b) The commissioner may take an action described in Subsection (5)(a) if the commissioner finds that the licensee:

(i) is unqualified for a license or line of authority under Section 31A-23a-104, 31A-23a-105, or 31A-23a-107;

(ii) violates:

(A) an insurance statute;

(B) a rule that is valid under Subsection 31A-2-201(3); or

(C) an order that is valid under Subsection 31A-2-201(4);

(iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other delinquency proceedings in any state;

(iv) fails to pay a final judgment rendered against the person in this state within 60 days after the day on which the judgment became final;

(v) fails to meet the same good faith obligations in claims settlement that is required of admitted insurers;

(vi) is affiliated with and under the same general management or interlocking directorate or ownership as another insurance producer that transacts business in this state without a license;

(vii) refuses:

(A) to be examined; or

(B) to produce its accounts, records, and files for examination;

(viii) has an officer who refuses to:

(A) give information with respect to the insurance producer's affairs; or

(B) perform any other legal obligation as to an examination;

(ix) provides information in the license application that is:

(A) incorrect;

(B) misleading;

(C) incomplete; or

(D) materially untrue;

(x) violates an insurance law, valid rule, or valid order of another [state's insurance department] regulatory agency in any jurisdiction;

(xi) obtains or attempts to obtain a license through misrepresentation or fraud;

(xii) improperly withholds, misappropriates, or converts money or properties received in the course of doing insurance business;

(xiii) intentionally misrepresents the terms of an actual or proposed:

(A) insurance contract;

(B) application for insurance; or

(C) life settlement;

(xiv) is convicted of a felony;

(xv) admits or is found to have committed an insurance unfair trade practice or fraud;

(xvi) in the conduct of business in this state or elsewhere:

(A) uses fraudulent, coercive, or dishonest practices; or

(B) demonstrates incompetence, untrustworthiness, or financial irresponsibility;

(xvii) has an insurance license, or its equivalent, denied, suspended, or revoked in another state, province, district, or territory;

(xviii) forges another's name to:

(A) an application for insurance; or

(B) a document related to an insurance transaction;

(xix) improperly uses notes or another reference material to complete an examination for an insurance license;

(xx) knowingly accepts insurance business from an individual who is not licensed;

(xxi) fails to comply with an administrative or court order imposing a child support obligation;

(xxii) fails to:

(A) pay state income tax; or

(B) comply with an administrative or court order directing payment of state income tax;

(xxiii) violates or permits others to violate the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and therefore under 18 U.S.C. Sec. 1033 is prohibited from engaging in the business of insurance; or

(xxiv) engages in a method or practice in the conduct of business that endangers the legitimate interests of customers and the public.

(c) For purposes of this section, if a license is held by an agency, both the agency itself and any individual designated under the license are considered to be the holders of the license.

(d) If an individual designated under the agency license commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting the individual's license, the commissioner may suspend, revoke, or limit the license of:

(i) the individual;

(ii) the agency, if the agency:

(A) is reckless or negligent in its supervision of the individual; or

(B) knowingly participates in the act or failure to act that is the ground for suspending, revoking, or limiting the license; or

(iii) (A) the individual; and

(B) the agency if the agency meets the requirements of Subsection (5)(d)(ii).

(6) A licensee under this chapter is subject to the penalties for acting as a licensee without a license if:

(a) the licensee's license is:

(i) revoked;

(ii) suspended;

(iii) limited;

(iv) surrendered in lieu of administrative action;

(v) lapsed; or

(vi) voluntarily surrendered; and

(b) the licensee:

(i) continues to act as a licensee; or

(ii) violates the terms of the license limitation.

(7) A licensee under this chapter shall immediately report to the commissioner:

(a) a revocation, suspension, or limitation of the person's license in another state, the District of Columbia, or a territory of the United States;

(b) the imposition of a disciplinary sanction imposed on that person by another state, the District of Columbia, or a territory of the United States; or

(c) a judgment or injunction entered against that person on the basis of conduct involving:

(i) fraud;

(ii) deceit;

(iii) misrepresentation; or

(iv) a violation of an insurance law or rule.

(8) (a) An order revoking a license under Subsection (5) or an agreement to surrender a license in lieu of administrative action may specify a time, not to exceed five years, within which the former licensee may not apply for a new license.

(b) If no time is specified in an order or agreement described in Subsection (8)(a), the former licensee may not apply for a new license for five years from the day on which the order or agreement is made without the express approval by the commissioner.

(9) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of a license issued under this part if so ordered by a court.

(10) The commissioner shall by rule prescribe the license renewal and reinstatement procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 24. Section 31A-23a-202 is amended to read:

31A-23a-202. Continuing education requirements.

(1) Pursuant to this section, the commissioner shall by rule prescribe the continuing education requirements for a producer and a consultant.

(2) (a) The commissioner may not state a continuing education requirement in terms of formal education.

(b) The commissioner may state a continuing education requirement in terms of hours of insurance-related instruction received.

(c) Insurance-related formal education may be a substitute, in whole or in part, for the hours required under Subsection (2)(b).

(3) (a) The commissioner shall impose continuing education requirements in accordance with a two-year licensing period in which the licensee meets the requirements of this Subsection (3).

(b) (i) Except as provided in this section, the continuing education requirements shall require:

(A) that a licensee complete 24 credit hours of continuing education for every two-year licensing period;

(B) that 3 of the 24 credit hours described in Subsection (3)(b)(i)(A) be ethics courses; and

(C) that the licensee complete at least half of the required hours through classroom hours of insurance-related instruction.

(ii) An hour of continuing education in accordance with Subsection (3)(b)(i) may be obtained through:

(A) classroom attendance;

(B) home study;

(C) watching a video recording;

(D) experience credit; or

(E) another method provided by rule.

(iii) (A) Notwithstanding Subsections (3)(b)(i)(A) and (B), an individual title insurance producer is required to complete 12 credit hours of continuing education for every two-year licensing period, with 3 of the credit hours being ethics courses unless the individual title insurance producer is licensed in this state as an individual title insurance producer for 20 or more consecutive years.

(B) If an individual title insurance producer is licensed in this state as an individual title insurance producer for 20 or more consecutive years, the individual title insurance producer is required to complete 6 credit hours of continuing education for every two-year licensing period, with 3 of the credit hours being ethics courses.

(C) Notwithstanding Subsection (3)(b)(iii)(A) or (B), an individual title insurance producer is considered to have met the continuing education requirements imposed under Subsection (3)(b)(iii)(A) or (B) if at the time of license renewal the individual title insurance producer:

(I) provides the department evidence that the individual title insurance producer is an active member in good standing with the Utah State Bar;

(II) is in compliance with the continuing education requirements of the Utah State Bar; and

(III) if requested by the department, provides the department evidence that the individual title insurance producer complied with the continuing education requirements of the Utah State Bar.

(c) A licensee may obtain continuing education hours at any time during the two-year licensing period.

(d) (i) A licensee is exempt from continuing education requirements under this section if:

(A) the licensee was first licensed before December 31, 1982;

(B) the license does not have a continuous lapse for a period of more than one year, except for a license for which the licensee has had an exemption approved before May 11, 2011;

(C) the licensee requests an exemption from the department; and

(D) the department approves the exemption.

(ii) If the department approves the exemption under Subsection (3)(d)(i), the licensee is not required to apply again for the exemption.

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall, by rule:

(i) publish a list of insurance professional designations whose continuing education requirements can be used to meet the requirements for continuing education under Subsection (3)(b);

(ii) authorize a continuing education provider or a state or national professional producer or consultant association to:

(A) offer a qualified program for a license type or line of authority on a geographically accessible basis; and

(B) collect a reasonable fee for funding and administration of a continuing education program, subject to the review and approval of the commissioner; and

(iii) provide that membership by a producer or consultant in a state or national professional producer or consultant association is considered a substitute for the equivalent of two hours for each year during which the producer or consultant is a member of the professional association, except that the commissioner may not give more than two hours of continuing education credit in a year regardless of the number of professional associations of which the producer or consultant is a member.

(f) A fee permitted under Subsection (3)(e)(ii)(B) that is charged for attendance at a professional producer or consultant association program may be less for an association member, on the basis of the member's affiliation expense, but shall preserve the right of a nonmember to attend without affiliation.

(4) The commissioner shall approve a continuing education provider or continuing education course that satisfies the requirements of this section.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner

shall by rule set the processes and procedures for continuing education provider registration and course approval.

(6) The requirements of this section apply only to a producer or consultant who is an individual.

(7) A nonresident producer or consultant is considered to have satisfied this state's continuing education requirements if the nonresident producer or consultant satisfies the nonresident producer's or consultant's home state's continuing education requirements for a licensed insurance producer or consultant.

(8) A producer or consultant subject to this section shall keep documentation of completing the continuing education requirements of this section for two years after the end of the two-year licensing period to which the continuing education applies.

Section 25. Section 31A-23a-206 is amended to read:

31A-23a-206. Special requirements for variable contracts line of authority.

(1) Before applying for a variable contracts line of authority:

(a) a producer shall be licensed under Section 61-1-3 as a:

- (i) broker-dealer; or
- (ii) broker-dealer agent; and

(b) a consultant shall be licensed under Section 61-1-3 as an:

- (i) investment adviser; or
- (ii) investment adviser representative.

(2) A producer's or consultant's variable contracts line of authority is ~~revoked~~ canceled on the day the producer's or consultant's securities related license under Section 61-1-3 is no longer ~~valid~~ active.

Section 26. Section 31A-23a-410 is amended to read:

31A-23a-410. Insurer's liability if insured pays premium to a licensee or group policyholder.

(1) Subject to Subsections (2) and (5), as between the insurer and the insured, the insurer is considered to have received the premium and is liable to the insured for losses covered by the insurance and for any unearned premiums upon cancellation of the insurance if an insurer, including a surplus lines insurer:

- (a) assumes a risk; and
- (b) the premium for that insurance is received by:
 - (i) a licensee who placed the insurance;
 - (ii) a group policyholder;
 - (iii) an employer who deducts part or all of the premium from an employee's wages or salary; or
 - (iv) an employer who pays all or part of the premium for an employee.

(2) Subsection (1) does not apply if:

(a) the insured pays a licensee, knowing the licensee does not intend to submit the premium to the insurer; or

(b) the insured has premium withheld from the insured's wages or salary knowing the employer does not intend to submit it to the insurer.

(3) (a) In the case of ~~[an employer]~~ a group policyholder who has received the premium ~~[by deducting all or part of it from the wages or salaries of the certificate holders]~~, the insurer may terminate its liability by giving notice of coverage termination to:

- (i) the certificate holders;
- (ii) the policyholder; and
- (iii) the producer, if any, for the policy.

(b) The insurer may not send the notice required by Subsection (3)(a) to a certificate holder before 20 days after the day on which premium is due and unpaid.

(c) The liability of the insurer for the losses covered by the insurance terminates at the later of:

- (i) the last day of the coverage period for which premium has been ~~[withheld]~~ received by the ~~[employer]~~ group policyholder;
- (ii) 10 days after the date the insurer mails notice to the certificate holder that coverage has terminated; or
- (iii) if the insurer fails to provide notice as required by this Subsection (3), 45 days from the last date for which premium is received.

(4) Despite ~~[an employer's]~~ a group policyholder's collection of premium under Subsection (1), the responsibility of an insurer to continue to cover the losses covered by the insurance to group policy certificate holders terminates upon the effective date of notice from the policyholder that:

- (a) coverage of a similar kind and quality has been obtained from another insurer; or
- (b) the policyholder is electing to voluntarily terminate the certificate holder's coverage and has given the ~~[employees]~~ certificate holder's notice of the termination.

(5) If the insurer is obligated to pay a claim pursuant to this section, the licensee or ~~[employer]~~ group policyholder who received the premium and failed to forward it is obligated to the insurer for the entire unpaid premium due under the policy together with reasonable expenses of suit and reasonable attorney fees.

(6) If, under an employee health insurance plan, an employee builds up credit for future coverage because the employee has not used the policy protection, or in some other way, the insurer is obligated to the employee for that future coverage earned while the policy was in full effect.

(7) (a) Notwithstanding that an insurer is liable for losses as provided in this section, this section

applies only to apportion the liability for the losses described in this section.

(b) This section does not:

(i) extend a policy or coverage beyond its date of termination; or

(ii) alter or amend a provision of a policy.

Section 27. Section 31A-23a-501 is amended to read:

31A-23a-501. Licensee compensation.

(1) As used in this section:

(a) "Commission compensation" includes funds paid to or credited for the benefit of a licensee from:

(i) commission amounts deducted from insurance premiums on insurance sold by or placed through the licensee;

(ii) commission amounts received from an insurer or another licensee as a result of the sale or placement of insurance; or

(iii) overrides, bonuses, contingent bonuses, or contingent commissions received from an insurer or another licensee as a result of the sale or placement of insurance.

(b) (i) "Compensation from an insurer or third party administrator" means commissions, fees, awards, overrides, bonuses, contingent commissions, loans, stock options, gifts, prizes, or any other form of valuable consideration:

(A) whether or not payable pursuant to a written agreement; and

(B) received from:

(I) an insurer; or

(II) a third party to the transaction for the sale or placement of insurance.

(ii) "Compensation from an insurer or third party administrator" does not mean compensation from a customer that is:

(A) a fee or pass-through costs as provided in Subsection (1)(e); or

(B) a fee or amount collected by or paid to the producer that does not exceed an amount established by the commissioner by administrative rule.

(c) (i) "Customer" means:

(A) the person signing the application or submission for insurance; or

(B) the authorized representative of the insured actually negotiating the placement of insurance with the producer.

(ii) "Customer" does not mean a person who is a participant or beneficiary of:

(A) an employee benefit plan; or

(B) a group or blanket insurance policy or group annuity contract sold, solicited, or negotiated by the producer or affiliate.

(d) (i) "Noncommission compensation" includes all funds paid to or credited for the benefit of a licensee other than commission compensation.

(ii) "Noncommission compensation" does not include charges for pass-through costs incurred by the licensee in connection with obtaining, placing, or servicing an insurance policy.

(e) "Pass-through costs" include:

(i) costs for copying documents to be submitted to the insurer; and

(ii) bank costs for processing cash or credit card payments.

(2) A licensee may receive from an insured or from a person purchasing an insurance policy, noncommission compensation if the noncommission compensation is stated on a separate, written disclosure.

(a) The disclosure required by this Subsection (2) shall:

(i) include the signature of the insured or prospective insured acknowledging the noncommission compensation;

(ii) clearly specify:

(A) the amount of any known noncommission compensation; and

(B) the type and amount, if known, of any potential and contingent noncommission compensation; and

(iii) be provided to the insured or prospective insured before the performance of the service.

(b) Noncommission compensation shall be:

(i) limited to actual or reasonable expenses incurred for services; and

(ii) uniformly applied to all insureds or prospective insureds in a class or classes of business or for a specific service or services.

(c) A copy of the signed disclosure required by this Subsection (2) shall be maintained by any licensee who collects or receives the noncommission compensation or any portion of the noncommission compensation.

(d) All accounting records relating to noncommission compensation shall be maintained by the person described in Subsection (2)(c) in a manner that facilitates an audit.

(3) (a) A licensee may receive noncommission compensation when acting as a producer for the insured in connection with the actual sale or placement of insurance if:

(i) the producer and the insured have agreed on the producer's noncommission compensation; and

(ii) the producer has disclosed to the insured the existence and source of any other compensation

that accrues to the producer as a result of the transaction.

(b) The disclosure required by this Subsection (3) shall:

(i) include the signature of the insured or prospective insured acknowledging the noncommission compensation;

(ii) clearly specify:

(A) the amount of any known noncommission compensation;

(B) the type and amount, if known, of any potential and contingent noncommission compensation; and

(C) the existence and source of any other compensation; and

(iii) be provided to the insured or prospective insured before the performance of the service.

(c) The following additional noncommission compensation is authorized:

(i) compensation received by a producer of a compensated corporate surety who under procedures approved by a rule or order of the commissioner is paid by surety bond principal debtors for extra services;

(ii) compensation received by an insurance producer who is also licensed as a public adjuster under Section 31A-26-203, for services performed for an insured in connection with a claim adjustment, so long as the producer does not receive or is not promised compensation for aiding in the claim adjustment prior to the occurrence of the claim;

(iii) compensation received by a consultant as a consulting fee, provided the consultant complies with the requirements of Section 31A-23a-401; or

(iv) other compensation arrangements approved by the commissioner after a finding that they do not violate Section 31A-23a-401 and are not harmful to the public.

(d) Subject to Section 31A-23a-402.5, a producer for the insured may receive compensation from an insured through an insurer, for the negotiation and sale of a health benefit plan, if there is a separate written agreement between the insured and the licensee for the compensation. An insurer who passes through the compensation from the insured to the licensee under this Subsection (3)(d) is not providing direct or indirect compensation or commission compensation to the licensee.

(4) (a) For purposes of this Subsection (4):

(i) "Large customer" means an employer who, with respect to a calendar year and to a plan year:

(A) employed an average of at least 100 eligible employees on each business day during the preceding calendar year; and

(B) employs at least two employees on the first day of the plan year.

(ii) "Producer" includes:

(A) a producer;

(B) an affiliate of a producer; or

(C) a consultant.

(b) A producer may not accept or receive any compensation from an insurer or third party administrator for the initial placement of a health benefit plan, other than a hospital confinement indemnity policy, unless prior to a large customer's initial purchase of the health benefit plan the producer discloses in writing to the large customer that the producer will receive compensation from the insurer or third party administrator for the placement of insurance, including the amount or type of compensation known to the producer at the time of the disclosure.

(c) A producer shall:

(i) obtain the large customer's signed acknowledgment that the disclosure under Subsection (4)(b) was made to the large customer; or

(ii) (A) sign a statement that the disclosure required by Subsection (4)(b) was made to the large customer; and

(B) keep the signed statement on file in the producer's office while the health benefit plan placed with the large customer is in force.

(d) A licensee who collects or receives any part of the compensation from an insurer or third party administrator in a manner that facilitates an audit shall, while the health benefit plan placed with the large customer is in force, maintain a copy of:

(i) the signed acknowledgment described in Subsection (4)(c)(i); or

(ii) the signed statement described in Subsection (4)(c)(ii).

(e) Subsection (4)(c) does not apply to:

(i) a person licensed as a producer who acts only as an intermediary between an insurer and the customer's producer, including a managing general agent; or

(ii) the placement of insurance in a secondary or residual market.

(f) (i) A producer shall provide to a large customer listed in this Subsection (4)(f) an annual accounting, as defined by rule made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, of all amounts the producer receives in commission compensation from an insurer or third party administrator as a result of the sale or placement of ~~insurance~~ a health benefit plan to a large customer that is:

(A) the state;

(B) a political subdivision or instrumentality of the state or a combination thereof primarily engaged in educational activities or the administration or servicing of educational activities, including the State Board of Education

and its instrumentalities, an institution of higher education and its branches, a school district and its instrumentalities, a vocational and technical school, and an entity arising out of a consolidation agreement between entities described under this Subsection (4)(f)(i)(B);

(C) a county, city, town, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district under Title 17D, Chapter 1, Special Service District Act, an entity created by an interlocal cooperation agreement under Title 11, Chapter 13, Interlocal Cooperation Act, or any other governmental entity designated in statute as a political subdivision of the state; or

(D) a quasi-public corporation, that has the same meaning as defined in Section 63E-1-102.

(ii) The department shall pattern the annual accounting required by this Subsection (4)(f) on the insurance related information on Internal Revenue Service Form 5500 and its relevant attachments.

(g) At the request of the department, a producer shall provide the department a copy of:

(i) a disclosure required by this Subsection (4); or

(ii) an Internal Revenue Service Form 5500 and its relevant attachments.

(5) This section does not alter the right of any licensee to recover from an insured the amount of any premium due for insurance effected by or through that licensee or to charge a reasonable rate of interest upon past-due accounts.

(6) This section does not apply to bail bond producers or bail enforcement agents as defined in Section 31A-35-102.

(7) A licensee may not receive noncommission compensation from an insured or enrollee for providing a service or engaging in an act that is required to be provided or performed in order to receive commission compensation, except for the surplus lines transactions that do not receive commissions.

Section 28. Section 31A-23b-401 is amended to read:

31A-23b-401. Revoking, suspending, surrendering, lapsing, limiting, or otherwise terminating a license -- Rulemaking for renewal or reinstatement.

(1) A license as a navigator under this chapter remains in force until:

(a) revoked or suspended under Subsection (4);

(b) surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;

(c) the licensee dies or is adjudicated incompetent as defined under:

(i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

(ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors;

(d) lapsed under this section; or

(e) voluntarily surrendered.

(2) The following may be reinstated within one year after the day on which the license is no longer in force:

(a) a lapsed license; or

(b) a voluntarily surrendered license, except that a voluntarily surrendered license may not be reinstated after the license period in which the license is voluntarily surrendered.

(3) Unless otherwise stated in a written agreement for the voluntary surrender of a license, submission and acceptance of a voluntary surrender of a license does not prevent the department from pursuing additional disciplinary or other action authorized under:

(a) this title; or

(b) rules made under this title in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) (a) If the commissioner makes a finding under Subsection (4)(b), as part of an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:

(i) revoke a license;

(ii) suspend a license for a specified period of 12 months or less;

(iii) limit a license in whole or in part; or

(iv) deny a license application.

(b) The commissioner may take an action described in Subsection (4)(a) if the commissioner finds that the licensee:

(i) is unqualified for a license under Section 31A-23b-204, 31A-23b-205, or 31A-23b-206;

(ii) violated:

(A) an insurance statute;

(B) a rule that is valid under Subsection 31A-2-201(3); or

(C) an order that is valid under Subsection 31A-2-201(4);

(iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other delinquency proceedings in any state;

(iv) failed to pay a final judgment rendered against the person in this state within 60 days after the day on which the judgment became final;

(v) refused:

(A) to be examined; or

(B) to produce its accounts, records, and files for examination;

(vi) had an officer who refused to:

(A) give information with respect to the navigator's affairs; or

(B) perform any other legal obligation as to an examination;

(vii) provided information in the license application that is:

(A) incorrect;

(B) misleading;

(C) incomplete; or

(D) materially untrue;

(viii) violated an insurance law, valid rule, or valid order of another [state's insurance department] regulatory agency in any jurisdiction;

(ix) obtained or attempted to obtain a license through misrepresentation or fraud;

(x) improperly withheld, misappropriated, or converted money or properties received in the course of doing insurance business;

(xi) intentionally misrepresented the terms of an actual or proposed:

(A) insurance contract;

(B) application for insurance; or

(C) application for public program;

(xii) is convicted of a felony;

(xiii) admitted or is found to have committed an insurance unfair trade practice or fraud;

(xiv) in the conduct of business in this state or elsewhere:

(A) used fraudulent, coercive, or dishonest practices; or

(B) demonstrated incompetence, untrustworthiness, or financial irresponsibility;

(xv) had an insurance license, navigator license, or its equivalent, denied, suspended, or revoked in another state, province, district, or territory;

(xvi) forged another's name to:

(A) an application for insurance;

(B) a document related to an insurance transaction;

(C) a document related to an application for a public program; or

(D) a document related to an application for premium subsidies;

(xvii) improperly used notes or another reference material to complete an examination for a license;

(xviii) knowingly accepted insurance business from an individual who is not licensed;

(xix) failed to comply with an administrative or court order imposing a child support obligation;

(xx) failed to:

(A) pay state income tax; or

(B) comply with an administrative or court order directing payment of state income tax;

(xxi) violated or permitted others to violate the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and therefore under 18 U.S.C. Sec. 1033 is prohibited from engaging in the business of insurance; or

(xxii) engaged in a method or practice in the conduct of business that endangered the legitimate interests of customers and the public.

(c) For purposes of this section, if a license is held by an agency, both the agency itself and any individual designated under the license are considered to be the holders of the license.

(d) If an individual designated under the agency license commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting the individual's license, the commissioner may suspend, revoke, or limit the license of:

(i) the individual;

(ii) the agency, if the agency:

(A) is reckless or negligent in its supervision of the individual; or

(B) knowingly participates in the act or failure to act that is the ground for suspending, revoking, or limiting the license; or

(iii) (A) the individual; and

(B) the agency if the agency meets the requirements of Subsection (4)(d)(ii).

(5) A licensee under this chapter is subject to the penalties for acting as a licensee without a license if:

(a) the licensee's license is:

(i) revoked;

(ii) suspended;

(iii) surrendered in lieu of administrative action;

(iv) lapsed; or

(v) voluntarily surrendered; and

(b) the licensee:

(i) continues to act as a licensee; or

(ii) violates the terms of the license limitation.

(6) A licensee under this chapter shall immediately report to the commissioner:

(a) a revocation, suspension, or limitation of the person's license in another state, the District of Columbia, or a territory of the United States;

(b) the imposition of a disciplinary sanction imposed on that person by another state, the District of Columbia, or a territory of the United States; or

(c) a judgment or injunction entered against that person on the basis of conduct involving:

(i) fraud;

- (ii) deceit;
- (iii) misrepresentation; or
- (iv) a violation of an insurance law or rule.

(7) (a) An order revoking a license under Subsection (4) or an agreement to surrender a license in lieu of administrative action may specify a time, not to exceed five years, within which the former licensee may not apply for a new license.

(b) If no time is specified in an order or agreement described in Subsection (7)(a), the former licensee may not apply for a new license for five years from the day on which the order or agreement is made without the express approval of the commissioner.

(8) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of a license issued under this chapter if so ordered by a court.

(9) The commissioner shall by rule prescribe the license renewal and reinstatement procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 29. Section 31A-25-208 is amended to read:

31A-25-208. Revoking, suspending, surrendering, lapsing, limiting, or otherwise terminating a license -- Rulemaking for renewal and reinstatement.

(1) A license type issued under this chapter remains in force until:

- (a) revoked or suspended under Subsection (4);
- (b) surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;
- (c) the licensee dies or is adjudicated incompetent as defined under:
 - (i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or
 - (ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors;
 - (d) lapsed under Section 31A-25-210; or
 - (e) voluntarily surrendered.

(2) The following may be reinstated within one year after the day on which the license is no longer in force:

- (a) a lapsed license; or
- (b) a voluntarily surrendered license, except that a voluntarily surrendered license may not be reinstated after the license period in which the license is voluntarily surrendered.

(3) Unless otherwise stated in a written agreement for the voluntary surrender of a license, submission and acceptance of a voluntary surrender of a license does not prevent the department from pursuing additional disciplinary or other action authorized under:

- (a) this title; or
- (b) rules made under this title in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) (a) If the commissioner makes a finding under Subsection (4)(b), as part of an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:

- (i) revoke a license;
- (ii) suspend a license for a specified period of 12 months or less;
- (iii) limit a license in whole or in part; or
- (iv) deny a license application.

(b) The commissioner may take an action described in Subsection (4)(a) if the commissioner finds that the licensee:

- (i) is unqualified for a license under Section 31A-25-202, 31A-25-203, or 31A-25-204;
- (ii) has violated:
 - (A) an insurance statute;
 - (B) a rule that is valid under Subsection 31A-2-201(3); or
 - (C) an order that is valid under Subsection 31A-2-201(4);

(iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other delinquency proceedings in any state;

(iv) fails to pay a final judgment rendered against the person in this state within 60 days after the day on which the judgment became final;

(v) fails to meet the same good faith obligations in claims settlement that is required of admitted insurers;

(vi) is affiliated with and under the same general management or interlocking directorate or ownership as another third party administrator that transacts business in this state without a license;

(vii) refuses:

- (A) to be examined; or
- (B) to produce its accounts, records, and files for examination;

(viii) has an officer who refuses to:

- (A) give information with respect to the third party administrator's affairs; or
- (B) perform any other legal obligation as to an examination;

(ix) provides information in the license application that is:

- (A) incorrect;
- (B) misleading;
- (C) incomplete; or

- (D) materially untrue;
- (x) has violated an insurance law, valid rule, or valid order of another [state's insurance department] regulatory agency in any jurisdiction;
- (xi) has obtained or attempted to obtain a license through misrepresentation or fraud;
- (xii) has improperly withheld, misappropriated, or converted money or properties received in the course of doing insurance business;
- (xiii) has intentionally misrepresented the terms of an actual or proposed:
- (A) insurance contract; or
- (B) application for insurance;
- (xiv) has been convicted of a felony;
- (xv) has admitted or been found to have committed an insurance unfair trade practice or fraud;
- (xvi) in the conduct of business in this state or elsewhere has:
- (A) used fraudulent, coercive, or dishonest practices; or
- (B) demonstrated incompetence, untrustworthiness, or financial irresponsibility;
- (xvii) has had an insurance license or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory;
- (xviii) has forged another's name to:
- (A) an application for insurance; or
- (B) a document related to an insurance transaction;
- (xix) has improperly used notes or any other reference material to complete an examination for an insurance license;
- (xx) has knowingly accepted insurance business from an individual who is not licensed;
- (xxi) has failed to comply with an administrative or court order imposing a child support obligation;
- (xxii) has failed to:
- (A) pay state income tax; or
- (B) comply with an administrative or court order directing payment of state income tax;
- (xxiii) has violated or permitted others to violate the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and therefore under 18 U.S.C. Sec. 1033 is prohibited from engaging in the business of insurance; or
- (xxiv) has engaged in methods and practices in the conduct of business that endanger the legitimate interests of customers and the public.
- (c) For purposes of this section, if a license is held by an agency, both the agency itself and any individual designated under the license are considered to be the holders of the agency license.
- (d) If an individual designated under the agency license commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting the individual's license, the commissioner may suspend, revoke, or limit the license of:
- (i) the individual;
- (ii) the agency if the agency:
- (A) is reckless or negligent in its supervision of the individual; or
- (B) knowingly participated in the act or failure to act that is the ground for suspending, revoking, or limiting the license; or
- (iii) (A) the individual; and
- (B) the agency if the agency meets the requirements of Subsection (4)(d)(ii).
- (5) A licensee under this chapter is subject to the penalties for acting as a licensee without a license if:
- (a) the licensee's license is:
- (i) revoked;
- (ii) suspended;
- (iii) limited;
- (iv) surrendered in lieu of administrative action;
- (v) lapsed; or
- (vi) voluntarily surrendered; and
- (b) the licensee:
- (i) continues to act as a licensee; or
- (ii) violates the terms of the license limitation.
- (6) A licensee under this chapter shall immediately report to the commissioner:
- (a) a revocation, suspension, or limitation of the person's license in any other state, the District of Columbia, or a territory of the United States;
- (b) the imposition of a disciplinary sanction imposed on that person by any other state, the District of Columbia, or a territory of the United States; or
- (c) a judgment or injunction entered against the person on the basis of conduct involving:
- (i) fraud;
- (ii) deceit;
- (iii) misrepresentation; or
- (iv) a violation of an insurance law or rule.
- (7) (a) An order revoking a license under Subsection (4) or an agreement to surrender a license in lieu of administrative action may specify a time, not to exceed five years, within which the former licensee may not apply for a new license.
- (b) If no time is specified in the order or agreement described in Subsection (7)(a), the former licensee may not apply for a new license for five years from the day on which the order or agreement is made without the express approval of the commissioner.

(8) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of a license issued under this part if so ordered by the court.

(9) The commissioner shall by rule prescribe the license renewal and reinstatement procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 30. Section 31A-26-213 is amended to read:

31A-26-213. Revoking, suspending, surrendering, lapsing, limiting, or otherwise terminating a license -- Rulemaking for renewal or reinstatement.

(1) A license type issued under this chapter remains in force until:

- (a) revoked or suspended under Subsection (5);
- (b) surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;
- (c) the licensee dies or is adjudicated incompetent as defined under:

(i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

(ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors;

(d) lapsed under Section 31A-26-214.5; or

(e) voluntarily surrendered.

(2) The following may be reinstated within one year after the day on which the license is no longer in force:

(a) a lapsed license; or

(b) a voluntarily surrendered license, except that a voluntarily surrendered license may not be reinstated after the license period in which it is voluntarily surrendered.

(3) Unless otherwise stated in a written agreement for the voluntary surrender of a license, submission and acceptance of a voluntary surrender of a license does not prevent the department from pursuing additional disciplinary or other action authorized under:

(a) this title; or

(b) rules made under this title in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) A license classification issued under this chapter remains in force until:

(a) the qualifications pertaining to a license classification are no longer met by the licensee; or

(b) the supporting license type:

(i) is revoked or suspended under Subsection (5); or

(ii) is surrendered to the commissioner and accepted by the commissioner in lieu of administrative action.

(5) (a) If the commissioner makes a finding under Subsection (5)(b) as part of an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:

(i) revoke:

(A) a license; or

(B) a license classification;

(ii) suspend for a specified period of 12 months or less:

(A) a license; or

(B) a license classification;

(iii) limit in whole or in part:

(A) a license; or

(B) a license classification; or

(iv) deny a license application.

(b) The commissioner may take an action described in Subsection (5)(a) if the commissioner finds that the licensee:

(i) is unqualified for a license or license classification under Section 31A-26-202, 31A-26-203, 31A-26-204, or 31A-26-205;

(ii) has violated:

(A) an insurance statute;

(B) a rule that is valid under Subsection 31A-2-201(3); or

(C) an order that is valid under Subsection 31A-2-201(4);

(iii) is insolvent, or the subject of receivership, conservatorship, rehabilitation, or other delinquency proceedings in any state;

(iv) fails to pay a final judgment rendered against the person in this state within 60 days after the judgment became final;

(v) fails to meet the same good faith obligations in claims settlement that is required of admitted insurers;

(vi) is affiliated with and under the same general management or interlocking directorate or ownership as another insurance adjuster that transacts business in this state without a license;

(vii) refuses:

(A) to be examined; or

(B) to produce its accounts, records, and files for examination;

(viii) has an officer who refuses to:

(A) give information with respect to the insurance adjuster's affairs; or

(B) perform any other legal obligation as to an examination;

(ix) provides information in the license application that is:

- (A) incorrect;
- (B) misleading;
- (C) incomplete; or
- (D) materially untrue;

(x) has violated an insurance law, valid rule, or valid order of another [state's ~~insurance department~~ regulatory agency in any jurisdiction;

(xi) has obtained or attempted to obtain a license through misrepresentation or fraud;

(xii) has improperly withheld, misappropriated, or converted money or properties received in the course of doing insurance business;

(xiii) has intentionally misrepresented the terms of an actual or proposed:

- (A) insurance contract; or
- (B) application for insurance;

(xiv) has been convicted of a felony;

(xv) has admitted or been found to have committed an insurance unfair trade practice or fraud;

(xvi) in the conduct of business in this state or elsewhere has:

(A) used fraudulent, coercive, or dishonest practices; or

(B) demonstrated incompetence, untrustworthiness, or financial irresponsibility;

(xvii) has had an insurance license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory;

(xviii) has forged another's name to:

- (A) an application for insurance; or
- (B) a document related to an insurance transaction;

(xix) has improperly used notes or any other reference material to complete an examination for an insurance license;

(xx) has knowingly accepted insurance business from an individual who is not licensed;

(xxi) has failed to comply with an administrative or court order imposing a child support obligation;

(xxii) has failed to:

- (A) pay state income tax; or
- (B) comply with an administrative or court order directing payment of state income tax;

(xxiii) has violated or permitted others to violate the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and therefore under 18 U.S.C. Sec. 1033 is prohibited from engaging in the business of insurance; or

(xxiv) has engaged in methods and practices in the conduct of business that endanger the legitimate interests of customers and the public.

(c) For purposes of this section, if a license is held by an agency, both the agency itself and any individual designated under the license are considered to be the holders of the license.

(d) If an individual designated under the agency license commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting the individual's license, the commissioner may suspend, revoke, or limit the license of:

- (i) the individual;
- (ii) the agency, if the agency:

(A) is reckless or negligent in its supervision of the individual; or

(B) knowingly participated in the act or failure to act that is the ground for suspending, revoking, or limiting the license; or

- (iii) (A) the individual; and

(B) the agency if the agency meets the requirements of Subsection (5)(d)(ii).

(6) A licensee under this chapter is subject to the penalties for conducting an insurance business without a license if:

- (a) the licensee's license is:

- (i) revoked;
- (ii) suspended;
- (iii) limited;
- (iv) surrendered in lieu of administrative action;
- (v) lapsed; or
- (vi) voluntarily surrendered; and

- (b) the licensee:

- (i) continues to act as a licensee; or
- (ii) violates the terms of the license limitation.

(7) A licensee under this chapter shall immediately report to the commissioner:

(a) a revocation, suspension, or limitation of the person's license in any other state, the District of Columbia, or a territory of the United States;

(b) the imposition of a disciplinary sanction imposed on that person by any other state, the District of Columbia, or a territory of the United States; or

(c) a judgment or injunction entered against that person on the basis of conduct involving:

- (i) fraud;
- (ii) deceit;
- (iii) misrepresentation; or
- (iv) a violation of an insurance law or rule.

(8) (a) An order revoking a license under Subsection (5) or an agreement to surrender a

license in lieu of administrative action may specify a time not to exceed five years within which the former licensee may not apply for a new license.

(b) If no time is specified in the order or agreement described in Subsection (8)(a), the former licensee may not apply for a new license for five years without the express approval of the commissioner.

(9) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of a license issued under this part if so ordered by a court.

(10) The commissioner shall by rule prescribe the license renewal and reinstatement procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 31. Section 31A-27a-601 is amended to read:

31A-27a-601. Filing of claims.

(1) (a) Subject to the other provisions of this Subsection (1), proof of a claim shall be filed with the liquidator in the form required by Section 31A-27a-602 on or before the last day for filing specified in the notice required under Section 31A-27a-406.

(b) The last day for filing specified in the notice may not be later than 18 months after the day on which the order of liquidation is entered unless the receivership court, for good cause shown, extends the time.

(c) Proof of a claim for the following does not need to be filed unless the liquidator expressly requires filing of proof:

- (i) cash surrender value in life insurance and annuities;
- (ii) investment value in life insurance and annuities other than cash surrender value; and
- (iii) any other policy insuring the life of a person.

(d) Only upon application of the liquidator, the receivership court may allow alternative procedures and requirements for the filing of proof of a claim or for allowing or proving a claim.

(e) Upon application, if the receivership court dispenses with the requirements of filing a proof of claim by a person, class, or group of persons, a proof of claim for that person, class, or group is considered as being filed for all purposes, except that the receivership court's waiver of proof of claim requirements may not impact guaranty association proof of claim filing requirements or coverage determinations to the extent that the guaranty association statute or filing requirements are inconsistent with the receivership court's waiver of proof.

(2) The liquidator may permit a claimant that makes a late filing to share ratably in distributions, whether past or future, as if the claim were not filed late, to the extent that the payment will not

prejudice the orderly administration of the liquidation, under the following circumstances:

(a) the eligibility to file a proof of claim was not known to the claimant, and the claimant files a proof of claim within 90 days after the day on which the claimant first learns of the eligibility;

(b) (i) a transfer to a creditor is:

(A) avoided under Section 31A-27a-503, 31A-27a-504, 31A-27a-506, or 31A-27a-507; or

(B) voluntarily surrendered under Section 31A-27a-509; and

(ii) the filing satisfies the conditions of Section 31A-27a-509; or

(c) the valuation of security held by a secured creditor under Section 31A-27a-610 shows a deficiency and the claim for the deficiency is filed within 30 days after the valuation.

(3) If a reinsurer's reinsurance contract terminates pursuant to Section 31A-27a-513:

(a) a claim filed by the receiver which arises from the termination may not be considered late if the claim is filed within 90 days of the day on which the reinsurance contract terminates; and

(b) the reinsurer shall receive a ratable share of distributions, whether past or future, as if the claim described in Subsection (3)(a) is not late.

(4) Notwithstanding any other provision of this chapter, the liquidator may petition the receivership court, subject to Section 31A-27a-107, to set a date certain after which no further claims may be filed.

(5) A Class 1 claim pursuant to Subsection 31A-27a-701(2)(a) is not subject to the claim filing provisions of this section.

Section 32. Section 31A-27a-605 is amended to read:

31A-27a-605. Allowance of contingent and unliquidated claims.

(1) As used in this section, "claim" means a demand for payment pursuant to Section 31A-27a-601 under the terms and conditions of a contract issued by the insurer as a result of a known accident, casualty, disaster, loss, event, or occurrence.

(2) (a) A claim of an insured or third party may be allowed under Section 31A-27a-603, regardless of the fact that it is contingent or unliquidated if:

(i) any contingency is removed in accordance with Subsection (3); and

(ii) the value of the claim is determined in accordance with Subsection (4).

(b) A claim is contingent if:

(i) the accident, casualty, disaster, loss, event, or occurrence insured, reinsured, or bonded against occurs on or before the date fixed under Section ~~31A-27a-601~~ 31A-27a-401; and

(ii) the act or event triggering the insurer's obligation to pay has not occurred as of [the] that date [~~fixed under Section 31A-27a-401~~].

(c) A claim is unliquidated if the insurer's obligation to pay is established, but the amount of the claim has not been determined.

(3) (a) Unless the receivership court directs otherwise, a contingent claim may be allowed if:

(i) the claimant presents proof of the insurer's obligation to pay reasonably satisfactory to the liquidator; or

(ii) subject to Subsection (3)(b), the claim is based on a cause of action against an insured of the insurer, and:

(A) it may be reasonably inferred from proof presented upon the claim that the claimant would be able to obtain a judgment; and

(B) the person furnishes suitable proof.

(b) A contingent claim may not be allowed under Subsection (3)(a)(ii)(B) if the receivership court for good cause shown shall otherwise direct that no further valid claims can be made against the insurer arising out of the cause of action other than those already presented.

(4) (a) An unliquidated claim may be allowed if its amount has been determined.

(b) If the amount of an unliquidated claim filed pursuant to Section 31A-27a-601 remains undetermined, the valuation of the unliquidated claim may be made by estimate whenever the liquidator determines that:

(i) liquidation of the claim would unduly delay the administration of the liquidation proceeding; or

(ii) the administrative expense of processing and adjudicating the claim or group of claims of a similar type would be unduly excessive when compared with the property that is estimated to be available for distribution with respect to the claim.

(c) Any estimate shall be based on an accepted method of valuing a claim with reasonable certainty at the claim's net present value, such as an actuarial evaluation.

(5) (a) Notwithstanding the other provisions of this section, a claim for the value or breach of a life insurance policy, disability income insurance policy, long-term care insurance policy, or annuity may not result in or serve as the basis of any liability of a reinsurer of the insurer.

(b) A reinsurer's liability to the insurer shall be determined exclusively on the basis of its contracts of reinsurance and Section 31A-27a-513.

(6) (a) The liquidator may petition the receivership court to set a date certain before which all claims under this section shall be final.

(b) In addition to the notice requirements of Section 31A-27a-107, the liquidator shall give notice of the filing of the petition to all claimants

with claims that remain contingent or unliquidated under this section.

Section 33. Section 31A-30-116 is amended to read:

31A-30-116. Essential health benefits.

(1) For purposes of this section, the [~~"Affordable Care Act" is as~~] PPACA means the same as that term is defined in Section [~~31A-2-212~~] 31A-1-301 and includes federal rules related to the offering of essential health benefits.

(2) The state chooses to designate its own essential health benefits rather than accept a federal determination of the essential health benefits required to be offered in the individual and small group market for plans renewed or offered on or after January 1, 2014.

(3) (a) Subject to Subsections (3)(b) and (c), to the extent required by the [~~Affordable Care Act~~] PPACA, and after considering public testimony, the Legislature's Health System Reform Task Force shall recommend to the commissioner, no later than September 1, 2012, a benchmark plan for the state's essential health benefits based on:

(i) the largest plan by enrollment in any of the three largest small employer group insurance products in the state's small employer group market;

(ii) any of the largest three state employee health benefit plans by enrollment;

(iii) the largest insured commercial non-Medicaid health maintenance organization operating in the state; or

(iv) other benchmarks required or permitted by the [~~Affordable Care Act~~] PPACA.

(b) Notwithstanding the provisions of Subsection 63N-11-106(2), based on the recommendation of the task force under Subsection (3)(a), and within 30 days of the task force recommendation, the commissioner shall adopt an emergency administrative rule that designates the essential health benefits that shall be included in a plan offered or renewed on or after January 1, 2014, in the small employer group and individual markets.

(c) The essential health benefit plan:

(i) shall not include a state mandate if the inclusion of the state mandate would require the state to contribute to premium subsidies under the [~~Affordable Care Act~~] PPACA; and

(ii) may add benefits in addition to the benefits included in a benchmark plan described in Subsection (3)(b) if the additional benefits are mandated under the [~~Affordable Care Act~~] PPACA.

Section 34. Section 31A-30-209 is amended to read:

31A-30-209. Insurance producers and the Health Insurance Exchange.

(1) A producer may be listed on the Health Insurance Exchange as a credentialed producer if the producer is designated as a credentialed agent

for the Health Insurance Exchange in accordance with Subsection (2).

(2) A producer whose license under this title authorizes the producer to sell accident and health insurance may be credentialed by the Health Insurance Exchange and may sell any product on the Health Insurance Exchange, if the producer:

(a) is an appointed producer with:

(i) all carriers that offer a plan in the defined contribution market on the Health Insurance Exchange; and

(ii) at least one carrier that offers a dental plan on the Health Insurance Exchange; and

(b) completes each year the Health Insurance Exchange training [~~that includes training on premium assistance programs~~].

(3) A carrier shall appoint a producer to sell the carrier's products in the defined contribution arrangement market of the Health Insurance Exchange, within 30 days of the notice required in Subsection (3)(b), if:

(a) the producer is currently appointed by a majority of the carriers in the Health Insurance Exchange to sell products either outside or inside of the Health Insurance Exchange; and

(b) the producer informs the carrier that the producer is:

(i) applying to be appointed to the defined contribution arrangement market in the Health Insurance Exchange;

(ii) appointed by a majority of the carriers in the defined contribution arrangement market in the Health Insurance Exchange;

(iii) willing to complete training regarding the carrier's products offered on the defined contribution arrangement market in the Health Insurance Exchange; and

(iv) willing to sign the contracts and business associate's agreements that the carrier requires for appointed producers in the Health Insurance Exchange.

Section 35. Section 31A-31-112 is enacted to read:

31A-31-112. Insurance antifraud plan.

(1) An insurer, as defined in Section 31A-31-102, shall prepare, implement, and maintain an insurance antifraud plan for its operations in this state.

(2) The insurance antifraud plan required by Subsection (1) shall outline specific procedures, actions, and safeguards that include how the authorized insurer or health maintenance organization will do each of the following:

(a) detect, investigate, and prevent all forms of insurance fraud, including:

(i) fraud involving its employees or agents;

(ii) fraud resulting from misrepresentations in the application, renewal, or rating of insurance policies;

(iii) fraudulent claims; and

(iv) breach of security of its data processing systems;

(b) educate employees of fraud detection and the insurance antifraud plan;

(c) provide for fraud investigations, whether through the use of internal fraud investigators or third-party contractors;

(d) report a suspected fraudulent insurance act, as described in Section 31A-31-103, to the department as required by Section 31A-31-110; and

(e) pursue restitution for financial loss caused by insurance fraud.

(3) The commissioner may investigate and examine the records and operations of authorized insurers and health maintenance organizations to determine if they have implemented and complied with the insurance antifraud plan.

(4) The commissioner may:

(a) direct any modification to the insurance antifraud plan necessary to comply with the requirements of this section; and

(b) require action to remedy substantial noncompliance with the insurance antifraud plan.

Section 36. Section 31A-37-102 is amended to read:

31A-37-102. Definitions.

As used in this chapter:

(1) "Affiliated company" means a business entity that because of common ownership, control, operation, or management is in the same corporate or limited liability company system as:

(a) a parent;

(b) an industrial insured; or

(c) a member organization.

(2) "Alien captive insurance company" means an insurer:

(a) formed to write insurance business for a parent or affiliate of the insurer; and

(b) licensed pursuant to the laws of an alien or foreign jurisdiction that imposes statutory or regulatory standards:

(i) on a business entity transacting the business of insurance in the alien jurisdiction; and

(ii) in a form acceptable to the commissioner.

(3) "Association" means a legal association of two or more persons that has been in continuous existence for at least one year if:

(a) the association or its member organizations:

(i) own, control, or hold with power to vote all of the outstanding voting securities of an association

captive insurance company incorporated as a stock insurer; or

(ii) have complete voting control over an association captive insurance company incorporated as a mutual insurer;

(b) the association's member organizations collectively constitute all of the subscribers of an association captive insurance company formed as a reciprocal insurer; or

(c) the association or its member organizations have complete voting control over an association captive insurance company formed as a limited liability company.

(4) "Association captive insurance company" means a business entity that insures risks of:

(a) a member organization of the association;

(b) an affiliate of a member organization of the association; and

(c) the association.

(5) "Branch business" means an insurance business transacted by a branch captive insurance company in this state.

(6) "Branch captive insurance company" means an alien captive insurance company that has a certificate of authority from the commissioner to transact the business of insurance in this state through a ~~[business unit with a principal place of business in]~~ captive insurance company that is domiciled outside of this state.

(7) "Branch operation" means a business operation of a branch captive insurance company in this state.

(8) "Captive insurance company" means any of the following formed or holding a certificate of authority under this chapter:

(a) a branch captive insurance company;

(b) a pure captive insurance company;

(c) an association captive insurance company;

(d) a sponsored captive insurance company;

(e) an industrial insured captive insurance company, including an industrial insured captive insurance company formed as a risk retention group captive in this state pursuant to the provisions of the Federal Liability Risk Retention Act of 1986;

(f) a special purpose captive insurance company; or

(g) a special purpose financial captive insurance company.

(9) "Commissioner" means Utah's Insurance Commissioner or the commissioner's designee.

(10) "Common ownership and control" means that two or more captive insurance companies are owned or controlled by the same person or group of persons as follows:

(a) in the case of a captive insurance company that is a stock corporation, the direct or indirect ownership of 80% or more of the outstanding voting stock of the stock corporation;

(b) in the case of a captive insurance company that is a mutual corporation, the direct or indirect ownership of 80% or more of the surplus and the voting power of the mutual corporation;

(c) in the case of a captive insurance company that is a limited liability company, the direct or indirect ownership by the same member or members of 80% or more of the membership interests in the limited liability company; or

(d) in the case of a sponsored captive insurance company, a protected cell is a separate captive insurance company owned and controlled by the protected cell's participant, only if:

(i) the participant is the only participant with respect to the protected cell; and

(ii) the participant is the sponsor or is affiliated with the sponsor of the sponsored captive insurance company through common ownership and control.

(11) "Consolidated debt to total capital ratio" means the ratio of Subsection (11)(a) to (b).

(a) This Subsection (11)(a) is an amount equal to the sum of all debts and hybrid capital instruments including:

(i) all borrowings from depository institutions;

(ii) all senior debt;

(iii) all subordinated debts;

(iv) all trust preferred shares; and

(v) all other hybrid capital instruments that are not included in the determination of consolidated GAAP net worth issued and outstanding.

(b) This Subsection (11)(b) is an amount equal to the sum of:

(i) total capital consisting of all debts and hybrid capital instruments as described in Subsection (11)(a); and

(ii) shareholders' equity determined in accordance with generally accepted accounting principles for reporting to the United States Securities and Exchange Commission.

(12) "Consolidated GAAP net worth" means the consolidated shareholders' or members' equity determined in accordance with generally accepted accounting principles for reporting to the United States Securities and Exchange Commission.

(13) "Controlled unaffiliated business" means a business entity:

(a) (i) in the case of a pure captive insurance company, that is not in the corporate or limited liability company system of a parent or the parent's affiliate; or

(ii) in the case of an industrial insured captive insurance company, that is not in the corporate or limited liability company system of an industrial

insured or an affiliated company of the industrial insured;

(b) (i) in the case of a pure captive insurance company, that has a contractual relationship with a parent or affiliate; or

(ii) in the case of an industrial insured captive insurance company, that has a contractual relationship with an industrial insured or an affiliated company of the industrial insured; and

(c) whose risks are managed by one of the following in accordance with Subsection 31A-37-106(1)(j):

(i) a pure captive insurance company; or

(ii) an industrial insured captive insurance company.

(14) "Department" means the Insurance Department.

(15) "Industrial insured" means an insured:

(a) that produces insurance:

(i) by the services of a full-time employee acting as a risk manager or insurance manager; or

(ii) using the services of a regularly and continuously qualified insurance consultant;

(b) whose aggregate annual premiums for insurance on all risks total at least \$25,000; and

(c) that has at least 25 full-time employees.

(16) "Industrial insured captive insurance company" means a business entity that:

(a) insures risks of the industrial insureds that comprise the industrial insured group; and

(b) may insure the risks of:

(i) an affiliated company of an industrial insured; or

(ii) a controlled unaffiliated business of:

(A) an industrial insured; or

(B) an affiliated company of an industrial insured.

(17) "Industrial insured group" means:

(a) a group of industrial insureds that collectively:

(i) own, control, or hold with power to vote all of the outstanding voting securities of an industrial insured captive insurance company incorporated or organized as a limited liability company as a stock insurer; or

(ii) have complete voting control over an industrial insured captive insurance company incorporated or organized as a limited liability company as a mutual insurer;

(b) a group that is:

(i) created under the Product Liability Risk Retention Act of 1981, 15 U.S.C. Sec. 3901 et seq., as

amended, as a corporation or other limited liability association; and

(ii) taxable under this title as a:

(A) stock corporation; or

(B) mutual insurer; or

(c) a group that has complete voting control over an industrial captive insurance company formed as a limited liability company.

(18) "Member organization" means a person that belongs to an association.

(19) "Parent" means a person that directly or indirectly owns, controls, or holds with power to vote more than 50% of:

(a) the outstanding voting securities of a pure captive insurance company; or

(b) the pure captive insurance company, if the pure captive insurance company is formed as a limited liability company.

(20) "Participant" means an entity that is insured by a sponsored captive insurance company:

(a) if the losses of the participant are limited through a participant contract to the assets of a protected cell; and

(b)(i) the entity is permitted to be a participant under Section 31A-37-403; or

(ii) the entity is an affiliate of an entity permitted to be a participant under Section 31A-37-403.

(21) "Participant contract" means a contract by which a sponsored captive insurance company:

(a) insures the risks of a participant; and

(b) limits the losses of the participant to the assets of a protected cell.

(22) "Protected cell" means a separate account established and maintained by a sponsored captive insurance company for one participant.

(23) "Pure captive insurance company" means a business entity that insures risks of a parent or affiliate of the business entity.

(24) "Special purpose financial captive insurance company" is as defined in Section 31A-37a-102.

(25) "Sponsor" means an entity that:

(a) meets the requirements of Section 31A-37-402; and

(b) is approved by the commissioner to:

(i) provide all or part of the capital and surplus required by applicable law in an amount of not less than \$350,000, which amount the commissioner may increase by order if the commissioner considers it necessary; and

(ii) organize and operate a sponsored captive insurance company.

(26) "Sponsored captive insurance company" means a captive insurance company:

(a) in which the minimum capital and surplus required by applicable law is provided by one or more sponsors;

(b) that is formed or holding a certificate of authority under this chapter;

(c) that insures the risks of a separate participant through the contract; and

(d) that segregates each participant's liability through one or more protected cells.

(27) "Treasury rates" means the United States Treasury strip asked yield as published in the Wall Street Journal as of a balance sheet date.

Section 37. Section 31A-37-103 is amended to read:

31A-37-103. Chapter exclusivity.

(1) Except as provided in Subsections (2) and (3) or otherwise provided in this chapter, a provision of this title other than this chapter does not apply to a captive insurance company.

(2) To the extent that a provision of the following does not contradict this chapter, the provision applies to a captive insurance company that receives a certificate of authority under this chapter:

(a) Chapter 2, Administration of the Insurance Laws;

(b) Chapter 4, Insurers in General;

(c) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(d) Chapter 14, Foreign Insurers;

(e) Chapter 16, Insurance Holding Companies;

(f) Chapter 17, Determination of Financial Condition;

(g) Chapter 18, Investments;

(h) Chapter 19a, Utah Rate Regulation Act;

(i) Chapter 27, Delinquency Administrative Action Provisions; and

(j) Chapter 27a, Insurer Receivership Act.

(3) In addition to this chapter, and subject to Section 31A-37a-103:

(a) Chapter 37a, Special Purpose Financial Captive Insurance Company Act, applies to a special purpose financial captive insurance company; and

(b) for purposes of a special purpose financial captive insurance company, a reference in this chapter to "this chapter" includes a reference to Chapter 37a, Special Purpose Financial Captive Insurance Company Act.

(4) In addition to this chapter, an industrial group captive insurance company formed as a risk retention group captive is subject to Chapter 15, Part 2, Risk Retention Groups Act, to the extent that this chapter is silent regarding regulation of risk retention groups conducting business in the state.

Section 38. Section 31A-37-204 is amended to read:

31A-37-204. Paid-in capital -- Other capital.

(1) (a) The commissioner may not issue a certificate of authority to a company described in Subsection (1)(c) unless the company possesses and thereafter maintains unimpaired paid-in capital and unimpaired paid-in surplus of:

(i) in the case of a pure captive insurance company, not less than \$250,000;

(ii) in the case of an association captive insurance company incorporated as a stock insurer, not less than \$750,000;

(iii) in the case of an industrial insured captive insurance company incorporated as a stock insurer, not less than \$700,000;

(iv) in the case of a sponsored captive insurance company, not less than \$1,000,000, of which a minimum of \$350,000 is provided by the sponsor; or

(v) in the case of a special purpose captive insurance company, an amount determined by the commissioner after giving due consideration to the company's business plan, feasibility study, and pro-formas, including the nature of the risks to be insured.

(b) The paid-in capital and surplus required under this Subsection (1) may be in the form of:

(i) (A) cash; or

(B) cash equivalent; ~~or~~

(ii) an irrevocable letter of credit:

(A) issued by:

(I) a bank chartered by this state; or

(II) a member bank of the Federal Reserve System; and

(B) approved by the commissioner~~[-];~~ or

(iii) marketable securities as determined by Subsections 31A-18-105(1) and (6).

(c) This Subsection (1) applies to:

(i) a pure captive insurance company;

(ii) a sponsored captive insurance company;

(iii) a special purpose captive insurance company;

(iv) an association captive insurance company incorporated as a stock insurer; or

(v) an industrial insured captive insurance company incorporated as a stock insurer.

(2) (a) The commissioner may, under Section 31A-37-106, prescribe additional capital based on the type, volume, and nature of insurance business transacted.

(b) The capital prescribed by the commissioner under this Subsection (2) may be in the form of:

(i) cash; ~~or~~

(ii) an irrevocable letter of credit issued by:

(A) a bank chartered by this state; or

(B) a member bank of the Federal Reserve System~~[-];~~ or

(iii) marketable securities as determined by Subsections 31A-18-105(1) and (6).

(3) (a) Except as provided in Subsection (3)(c), a branch captive insurance company, as security for the payment of liabilities attributable to branch operations, shall, through its branch operations, establish and maintain a trust fund:

(i) funded by an irrevocable letter of credit or other acceptable asset; and

(ii) in the United States for the benefit of:

(A) United States policyholders; and

(B) United States ceding insurers under:

(I) insurance policies issued; or

(II) reinsurance contracts issued or assumed.

(b) The amount of the security required under this Subsection (3) shall be no less than:

(i) the capital and surplus required by this chapter; and

(ii) the reserves on the insurance policies or reinsurance contracts, including:

(A) reserves for losses;

(B) allocated loss adjustment expenses;

(C) incurred but not reported losses; and

(D) unearned premiums with regard to business written through branch operations.

(c) Notwithstanding the other provisions of this Subsection (3), the commissioner may permit a branch captive insurance company that is required to post security for loss reserves on branch business by its reinsurer to reduce the funds in the trust account required by this section by the same amount as the security posted if the security remains posted with the reinsurer.

(4) (a) A captive insurance company may not pay the following without the prior approval of the commissioner:

(i) a dividend out of capital or surplus in excess of the limits under Section 16-10a-640; or

(ii) a distribution with respect to capital or surplus in excess of the limits under Section 16-10a-640.

(b) The commissioner shall condition approval of an ongoing plan for the payment of dividends or other distributions on the retention, at the time of each payment, of capital or surplus in excess of:

(i) amounts specified by the commissioner under Section 31A-37-106; or

(ii) determined in accordance with formulas approved by the commissioner under Section 31A-37-106.

(5) Notwithstanding Subsection (1), a captive insurance company organized as a reciprocal insurer under this chapter may not be issued a certificate of authority unless the captive insurance company possesses and maintains unimpaired paid-in surplus of \$1,000,000.

(6) (a) The commissioner may prescribe additional unimpaired paid-in surplus based upon the type, volume, and nature of the insurance business transacted.

(b) The unimpaired paid-in surplus required under this Subsection (6) may be in the form of an irrevocable letter of credit issued by:

(i) a bank chartered by this state; or

(ii) a member bank of the Federal Reserve System.

Section 39. Section 31A-37-303 is amended to read:

31A-37-303. Reinsurance.

(1) A captive insurance company may provide reinsurance, as authorized in this title, on risks ceded for the benefit of a parent, affiliate, or controlled unaffiliated business.

(2) (a) A captive insurance company may take credit for reserves on risks or portions of risks ceded to reinsurers if the captive insurance company complies with Section 31A-17-404, 31A-17-404.1, 31A-17-404.3, or 31A-17-404.4 or if the captive insurance company complies with other requirements as the commissioner may establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) Unless the reinsurer is in compliance with Section 31A-17-404, 31A-17-404.1, 31A-17-404.3, or 31A-17-404.4 or a rule adopted under Subsection (2)(a), a captive insurance company may not take credit for:

(i) reserves on risks ceded to a reinsurer; or

(ii) portions of risks ceded to a reinsurer.

Section 40. Section 31A-37-501 is amended to read:

31A-37-501. Reports to commissioner.

(1) A captive insurance company is not required to make a report except those provided in this chapter.

(2) (a) Before March 1 of each year, a captive insurance company shall submit to the commissioner a report of the financial condition of the captive insurance company, verified by oath of ~~[two]~~ one of the executive officers of the captive insurance company.

(b) Except as provided in Section 31A-37-204, a captive insurance company shall report:

(i) using generally accepted accounting principles, except to the extent that the

commissioner requires, approves, or accepts the use of a statutory accounting principle;

(ii) using a useful or necessary modification or adaptation to an accounting principle that is required, approved, or accepted by the commissioner for the type of insurance and kind of insurer to be reported upon; and

(iii) supplemental or additional information required by the commissioner.

(c) Except as otherwise provided:

(i) a licensed captive insurance company shall file the report required by Section 31A-4-113; and

(ii) an industrial insured group shall comply with Section 31A-4-113.5.

(3) (a) A pure captive insurance company may make written application to file the required report on a fiscal year end that is consistent with the fiscal year of the parent company of the pure captive insurance company.

(b) If the commissioner grants an alternative reporting date for a pure captive insurance company requested under Subsection (3)(a), the annual report is due 60 days after the fiscal year end.

(4) (a) Sixty days after the fiscal year end, a branch captive insurance company shall file with the commissioner a copy of the reports and statements required to be filed under the laws of the jurisdiction in which the alien captive insurance company is formed, verified by oath by two of the alien captive insurance company's executive officers.

(b) If the commissioner is satisfied that the annual report filed by the alien captive insurance company in the jurisdiction in which the alien captive insurance company is formed provides adequate information concerning the financial condition of the alien captive insurance company, the commissioner may waive the requirement for completion of the annual statement required for a captive insurance company under this section with respect to business written in the alien or foreign jurisdiction.

(c) A waiver by the commissioner under Subsection (4)(b):

(i) shall be in writing; and

(ii) is subject to public inspection.

(5) Before March 1 of each year, a sponsored cell captive insurance company shall submit to the commissioner a consolidated report of the financial condition of each individual protected cell, including a financial statement for each protected cell.

Section 41. Section 31A-37-502 is amended to read:

31A-37-502. Examination.

(1) (a) As provided in this section, the commissioner, or a person appointed by the

commissioner, shall examine each captive insurance company in each five-year period.

(b) The five-year period described in Subsection (1)(a) shall be determined on the basis of five full annual accounting periods of operation.

(c) The examination is to be made as of:

(i) December 31 of the full ~~three-year~~ five-year period; or

(ii) the last day of the month of an annual accounting period authorized for a captive insurance company under this section.

(d) In addition to an examination required under this Subsection (1), the commissioner, or a person appointed by the commissioner may examine a captive insurance company whenever the commissioner determines it to be prudent.

(2) During an examination under this section the commissioner, or a person appointed by the commissioner, shall thoroughly inspect and examine the affairs of the captive insurance company to ascertain:

(a) the financial condition of the captive insurance company;

(b) the ability of the captive insurance company to fulfill the obligations of the captive insurance company; and

(c) whether the captive insurance company has complied with this chapter.

(3) The commissioner may accept a comprehensive annual independent audit in lieu of an examination:

(a) of a scope satisfactory to the commissioner; and

(b) performed by an independent auditor approved by the commissioner.

(4) A captive insurance company that is inspected and examined under this section shall pay, as provided in Subsection 31A-37-202(6)(b), the expenses and charges of an inspection and examination.

Section 42. Section 31A-40-208 is amended to read:

31A-40-208. Benefit plan.

(1) A client and a professional employer organization licensed under this chapter shall each be considered an employer for purposes of sponsoring a retirement or welfare benefit plan for a covered employee.

(2) (a) A fully insured welfare benefit plan offered to a covered employee of a single professional employer organization licensed under this chapter ~~is~~ ~~to be treated as a single employer welfare benefit plan for purposes of this title and rules made under this title~~ is.

~~(b) may not be considered an employer welfare fund or plan, as described in Section 31A-13-101; and~~

(e) (b) The single professional employer organization that sponsors the fully insured welfare plan is exempt from the registration requirements under this title for:

- (i) an insurance provider; or
- (ii) an employer welfare fund or plan.

(3) For purposes of Chapter 30, Individual, Small Employer, and Group Health Insurance Act:

(a) a professional employer organization licensed under this chapter is considered the employer of a covered employee; and

(b) all covered employees of one or more clients participating in a health benefit plan sponsored by a single professional employer organization licensed under this chapter are considered employees of that professional employer organization.

(4) A professional employer organization licensed under this chapter may offer to a covered employee a health benefit plan that is not fully insured by an authorized insurer, only if:

(a) the professional employer organization has operated as a professional employer organization for at least one year before the day on which the professional employer organization offers the health benefit plan; and

(b) the health benefit plan:

(i) is administered by a third-party administrator licensed to do business in this state;

(ii) holds all assets of the health benefit plan, including participant contributions, in a trust account;

(iii) has and maintains reserves that are sound for the health benefit plan as determined by an actuary who:

(A) uses generally accepted actuarial standards of practice; and

(B) is an independent qualified actuary, including not being an employee or covered employee of the professional employer organization;

(iv) provides written notice to a covered employee participating in the health benefit plan that the health benefit plan is self-insured or is not fully insured;

(v) consents to an audit:

(A) on a random basis; or

(B) upon a finding of a reasonable need by the commissioner; and

(vi) provides for continuation of coverage in compliance with Section 31A-22-722.

(5) The cost of an audit described in Subsection (4)(b)(v) shall be paid by the sponsoring professional employer organization.

(6) A plan of a professional employer organization described in Subsection (4) that is not fully insured:

(a) is subject to the requirements of this section; and

(b) is not subject to another licensure or approval requirement of this title.

Section 43. Section 31A-41-202 is amended to read:

31A-41-202. Assessments.

(1) ~~[Beginning January 1, 2009, an]~~ An agency title insurance producer licensed under this title shall pay an annual assessment determined by the commission by rule made in accordance with Section 31A-2-404, except that the annual assessment:

(a) may not exceed \$1,000; and

(b) shall be determined on the basis of title insurance premium volume.

(2) ~~[Beginning January 1, 2009, an]~~ An individual who applies for a license or renewal of a license as an individual title insurance producer, shall pay in addition to any other fee required by this title, an assessment not to exceed \$20, as determined by the commission by rule made in accordance with Section 31A-2-404, except that if the individual holds more than one license, the total of all assessments under this Subsection (2) may not exceed \$20 in a fiscal year.

(3) (a) To be licensed as an agency title insurance producer ~~[on or after July 1, 2008]~~, a person shall pay to the department an assessment of \$1,000 before the day on which the person is licensed as a title insurance agency.

(b) (i) ~~[By no later than July 15, 2008, the]~~ The department shall assess on ~~[an]~~ a licensed agency title insurance producer ~~[licensed as of June 30, 2008,]~~ an amount equal to the greater of:

(A) \$1,000; or

(B) subject to Subsection (3)(b)(ii), 2% of the balance ~~[as of December 31, 2007,]~~ in the agency title insurance producer's reserve account described in Subsection 31A-23a-204(3).

(ii) The department may assess on an agency title insurance producer an amount less than 2% of the balance described in Subsection (3)(b)(i)(B) if:

(A) before issuing the assessments under this Subsection (3)(b) the department determines that the total of all assessments under Subsection (3)(b)(i) will exceed \$250,000;

(B) the amount assessed on the agency title insurance producer is not less than \$1,000; and

(C) the department reduces the assessment in a proportionate amount for agency title insurance producers assessed on the basis of the 2% of the balance described in Subsection (3)(b)(i)(B).

(iii) An agency title insurance producer assessed under this Subsection (3)(b) shall pay the assessment by no later than August 1~~[, 2008]~~.

(4) The department may not assess a title insurance licensee an assessment for purposes of

the fund if that assessment is not expressly provided for in this section.

Section 44. Section 31A-41-301 is amended to read:

31A-41-301. Procedure for making a claim against the fund.

~~[(1) (a) To bring a claim against the fund a person shall notify the department within 30 business days of the day on which the person files an action against a title insurance licensee alleging the following related to a title insurance transaction:]~~

~~[(i) fraud;]~~

~~[(ii) misrepresentation; or]~~

~~[(iii) deceit.]~~

~~[(b) The notification required by Subsection (1)(a) shall be:]~~

~~[(i) in writing; and]~~

~~[(ii) signed by the person who provides the notice.]~~

~~[(c) Within 30 days of the day on which the department receives a notice under Subsection (1)(a), the department may intervene in the action described in Subsection (1)(a).]~~

~~[(2) (a) Subject to the other provisions in this section, a person who provides the notice required under Subsection (1) may maintain a claim against the fund if:]~~

~~[(i) in an action described in Subsection (1), the person obtains a final judgment in a court of competent jurisdiction in this state against a title insurance licensee;]~~

~~[(ii) all proceedings including appeals related to the final judgment described in Subsection (2)(a)(i) are at an end; and]~~

~~[(iii) the person files a verified petition in the court where the judgment is entered for an order directing payment from the fund for the uncollected actual damages included in the judgment and unpaid.]~~

~~[(b) A court may not direct the payment from the fund of:]~~

~~[(i) punitive damages;]~~

~~[(ii) attorney fees;]~~

~~[(iii) interest; or]~~

~~[(iv) court costs.]~~

~~[(c) Regardless of the number of claimants or parcels of real estate involved in a single real estate transaction, the liability of the fund may not exceed:]~~

~~[(i) \$15,000 for a single real estate transaction; or]~~

~~[(ii) \$50,000 for all transactions of a title insurance license.]~~

~~[(d) A person shall:]~~

~~[(i) serve the verified petition required by Subsection (2)(a) on the department; and]~~

~~[(ii) file an affidavit of service with the court.]~~

~~[(3) (a) A court shall conduct a hearing on a petition filed with the court within 30 days after the day on which the department is served.]~~

~~[(b) The person who files the petition may recover from the fund only if the person shows all of the following:]~~

~~(1) To recover from the fund, a person shall:~~

~~(a) obtain a final judgment against a title insurance licensee establishing that fraud, misrepresentation, or deceit by the licensee in a real estate transaction proximately caused economic harm to the person; and~~

~~(b) apply to the department to receive compensation for the economic harm from the fund.~~

~~(2) An application under Subsection (1)(b) shall establish all of the following:~~

~~[(i) (a) the [person] applicant is not a spouse of the judgment debtor or the personal representative of the spouse;~~

~~[(ii) the person complied with this chapter;]~~

~~[(iii) (b) the [person] applicant has obtained a final judgment in accordance with [this section indicating the amount of the judgment awarded] Subsections (1)(a) and (3);~~

~~[(iv) (c) [the] an amount is still [owing] owed on the judgment at the date of the [petition] application;~~

~~[(v) (d) the [person] applicant has had a writ of execution issued under the judgment, and the officer executing the writ has returned showing that:~~

~~[(A) (i) no property subject to execution in satisfaction of the judgment could be found; or~~

~~[(B) (ii) the amount realized upon the execution levied against the property of the judgment debtor is insufficient to satisfy the judgment;~~

~~[(vi) (e) the [person] applicant has made reasonable searches and inquiries to ascertain whether the judgment debtor has any interest in property, real or personal, that may satisfy the judgment; and~~

~~[(vii) (f) the [person] applicant has exercised reasonable diligence to secure payment of the judgment from the assets of the judgment debtor.~~

~~[(4) If the person described in Subsection (3) satisfies the court that it is not practicable for the person to comply with one or more of the requirements in Subsections (3)(b)(v) through (vii), the court may waive those requirements.]~~

~~[(5) (a) A judgment that is the basis for a claim against the fund may not have been discharged in bankruptcy.]~~

~~[(b) If a bankruptcy proceeding is still open or is commenced during the pendency of the claim, the~~

~~person bringing a claim against the fund shall obtain an order from the bankruptcy court declaring the judgment and debt to be nondischargeable.]~~

~~(3) (a) A final judgment under Subsection (1)(a) does not include a default judgment entered against a title insurance licensee. If grounds exist for a default judgment against a title insurance licensee, the requirement of a final judgment may be satisfied by complying with Section 31A-41-302.~~

~~(b) A final judgment under Subsection (1)(a) does not include a judgment that is discharged in bankruptcy. If a bankruptcy proceeding is open or is commenced during the pendency of an application under Subsection (1)(b) before the department or the court, the applicant shall obtain an order from the bankruptcy court declaring the judgment and debt to be non-dischargeable.~~

~~(4) The department may hold a hearing on the application filed pursuant to Subsection (2). The hearing shall be an informal adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, with rights of appeal as provided in Title 63G, Chapter 4, Administrative Procedures Act.~~

Section 45. Section 31A-41-302 is repealed and reenacted to read:

31A-41-302. Department may defend action in which title insurance licensee does not appear or defend.

~~(1) In a lawsuit alleging that fraud, misrepresentation, or deceit by a title insurance licensee in a real estate transaction proximately caused economic harm, if grounds arise for the entry of a default judgment against the title insurance licensee, the plaintiff may petition the court to join the department as a defendant in the lawsuit.~~

~~(2) After being served, the department may appear, conduct discovery, and otherwise defend against any claim asserted against the title insurance licensee for which the fund may be liable under this part. A judgment under this Subsection (2) may not be issued against the department.~~

Section 46. Section 31A-41-303 is amended to read:

31A-41-303. Determination and amount of fund liability.

~~(1) Subject to the requirements of this part, if the [court] department determines that a claim should be levied against the fund, the [court] department shall enter an order [directing the department to pay from the fund] that the fund pay that portion of the petitioner's judgment that is [payable] eligible for payment from the fund.~~

~~(2) A payment from the fund may not compensate for punitive damages, attorney fees, interest, or court costs.~~

~~(3) Regardless of the number of claimants or parcels of real estate involved in a single transaction, the liability of the fund may not exceed:~~

~~(a) \$15,000 for a single real estate transaction; or~~

~~(b) \$50,000 for all transactions of a title insurance licensee.~~

Section 47. Section 63I-2-231 is amended to read:

63I-2-231. Repeal dates, Title 31A.

~~(1) Section 31A-22-315.5 is repealed July 1, [2016] 2019.~~

~~(2) Title 31A, Chapter 42, Defined Contribution Risk Adjuster Act, is repealed [July 1, 2016] December 31, 2018.~~

Section 48. Health Reform Task Force -- Creation -- Membership -- Interim rules followed -- Compensation -- Staff.

~~(1) There is created the Health Reform Task Force consisting of the following 11 members:~~

~~(a) four members of the Senate appointed by the president of the Senate, no more than three of whom may be from the same political party; and~~

~~(b) seven members of the House of Representatives appointed by the speaker of the House of Representatives, no more than five of whom may be from the same political party.~~

~~(2) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (1)(a) as a cochair of the task force.~~

~~(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (1)(b) as a cochair of the task force.~~

~~(3) In conducting its business, the task force shall comply with the rules of legislative interim committees.~~

~~(4) Salaries and expenses of the members of the task force shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.~~

~~(5) The Office of Legislative Research and General Counsel shall provide staff support to the task force.~~

Section 49. Duties -- Interim report.

~~(1) The task force shall review and make recommendations on the following issues:~~

~~(a) substance abuse and mental health;~~

~~(b) telehealth services;~~

~~(c) health professional licensing;~~

~~(d) regulation of health maintenance organizations and preferred provider organizations;~~

~~(e) balanced billing for covered medical services;~~

~~(f) re-codification of the health insurance related parts of Title 31A, Insurance Code;~~

~~(g) the state Medicaid program; and~~

~~(h) the efficacy of managed care for dental services under Medicaid.~~

(2) A final report, including any proposed legislation, shall be presented to the Business and Labor Interim Committee before November 30, 2016.

Section 50. Repealer.

This bill repeals:

Section 31A-13-101, Scope.

Section 31A-13-102, Regulation in general.

Section 31A-13-103, Registration.

Section 31A-13-104, Commissioner to file information.

Section 31A-13-105, Reports to employers and employees.

Section 31A-13-106, Annual accounting by insurance companies, service plans, and corporate trustees and agents.

Section 31A-13-107, Commissioner's remedies.

Section 31A-13-108, Investments.

Section 31A-13-109, Political activities.

Section 31A-17-404.2, Credit allowed a foreign ceding insurer.

Section 51. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to amounts previously appropriated for fiscal year 2016-2017.

To Legislature - Senate

<u>From General Fund, one-time</u>	<u>\$13,000</u>
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Schedule of Programs:

<u>Administration</u>	<u>\$13,000</u>
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To Legislature - House of Representatives

<u>From General Fund, one-time</u>	<u>\$22,000</u>
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Schedule of Programs:

<u>Administration</u>	<u>\$22,000</u>
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Section 52. Repeal date.

Uncodified Sections 48 and 49 that create the Health Reform Task Force are repealed December 30, 2016.

CHAPTER 139**H. B. 45**

Passed February 11, 2016

Approved March 22, 2016

Effective May 10, 2016

STEM PROGRAM AMENDMENTS

Chief Sponsor: Val L. Peterson
Senate Sponsor: Stephen H. Urquhart

LONG TITLE**General Description:**

This bill modifies provisions related to the STEM (Science, Technology, Engineering, and Mathematics) Action Center.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies:
 - the membership and duties of the STEM Action Center Board;
 - the duties of the director of the STEM Action Center; and
 - the rulemaking authority of the State Board of Education related to the award of STEM education endorsement incentives;
- ▶ adds Utah State University Eastern to the list of educational institutions that may partner with a school district or charter school to provide a STEM related certification program; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63N-12-203, as renumbered and amended by Laws of Utah 2015, Chapter 283

63N-12-204, as renumbered and amended by Laws of Utah 2015, Chapter 283

63N-12-205, as renumbered and amended by Laws of Utah 2015, Chapter 283

63N-12-209, as last amended by Laws of Utah 2015, Chapter 258 and renumbered and amended by Laws of Utah 2015, Chapter 283

63N-12-210, as renumbered and amended by Laws of Utah 2015, Chapter 283

63N-12-212, as renumbered and amended by Laws of Utah 2015, Chapter 283

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

Section 1. Section 63N-12-203 is amended to read:**63N-12-203. STEM Action Center Board creation -- Membership.**

(1) There is created the STEM Action Center Board within the office, composed of the following members:

(a) six private sector members who represent business, appointed by the governor;

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

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

(d) one member appointed by the governor;

(e) a member of the State Board of Education, chosen by the chair of the State Board of Education;

(f) the executive director of the office or the executive director's designee;

(g) the president of the Utah College of Applied Technology or the president of the Utah College of Applied Technology's designee; ~~and~~

(h) the executive director of the Department of Workforce Services or the executive director of the Department of Workforce Services' designee; and

~~(4)(i)~~ (i) one member who has a degree in engineering and experience working in a government military installation, appointed by the governor.

(2) (a) The private sector members appointed by the governor in Subsection (1)(a) shall represent a business or trade association whose primary focus is science, technology, or engineering.

(b) Except as required by Subsection (2)(c), members appointed by the governor shall be appointed to four-year terms.

(c) The length of terms of the members shall be staggered so that approximately half of the committee is appointed every two years.

(d) The members may not serve more than two full consecutive terms except where the governor determines that an additional term is in the best interest of the state.

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

(3) Attendance of a simple majority of the members constitutes a quorum for the transaction of official committee business.

(4) Formal action by the committee requires a majority vote of a quorum.

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

(a) Section 63A-3-106;

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

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

(6) The governor shall select the chair of the board to serve a ~~one-year~~ two-year term.

(7) The executive director of the office or the executive director's designee shall serve as the vice chair of the board.

Section 2. Section 63N-12-204 is amended to read:**63N-12-204. STEM Action Center Board -- Duties.**

- (1) The board shall:
- (a) establish a STEM Action Center to:
- (i) coordinate STEM activities in the state among the following stakeholders:
- (A) the State Board of Education;
- (B) school districts and charter schools;
- (C) the State Board of Regents;
- (D) institutions of higher education;
- (E) parents of home-schooled students; ~~and~~
- (F) other state agencies; and
- (G) business and industry representatives;
- (ii) align public education STEM activities with higher education STEM activities; and
- (iii) create and coordinate best practices among public education and higher education;
- (b) with the consent of the Senate, appoint a director to oversee the administration of the STEM Action Center;
- (c) select a physical location for the STEM Action Center;
- (d) strategically engage industry and business entities to cooperate with the board:
- (i) to support high quality professional development and provide other assistance for educators and students; and
- (ii) to provide private funding and support for the STEM Action Center;
- (e) give direction to the STEM Action Center and the providers selected through a request for proposals process pursuant to this part; and
- (f) work to meet the following expectations:
- (i) that at least 50 educators are implementing best practice learning tools in classrooms ~~[per each product specialist or manager working with the STEM Action Center];~~
- (ii) performance change in student achievement in each classroom ~~[working with] participating in a STEM Action Center [product specialist or manager] project;~~ and
- (iii) that students from at least 50 ~~[high]~~ schools in the state participate in the STEM competitions, fairs, and camps described in Subsection 63N-12-205(2)(d).
- (2) The board may:
- (a) enter into contracts for the purposes of this part;
- (b) apply for, receive, and disburse funds, contributions, or grants from any source for the purposes set forth in this part;
- (c) employ, compensate, and prescribe the duties and powers of individuals necessary to execute the duties and powers of the board;

(d) prescribe the duties and powers of the STEM Action Center providers; and

(e) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to administer this part.

(3) The board may establish a foundation to assist in:

(a) the development and implementation of the programs authorized under this part to promote STEM education; and

(b) implementation of other STEM education objectives described in this part.

(4) A foundation established by the board under Subsection (3):

(a) may solicit and receive contributions from a private organization for STEM education objectives described in this part;

(b) shall comply with Title 51, Chapter 7, State Money Management Act;

(c) does not have power or authority to incur contractual obligations or liabilities that constitute a claim against public funds;

(d) may not exercise executive or administrative authority over the programs or other activities described in this part, except to the extent specifically authorized by the board;

(e) shall provide the board with information detailing transactions and balances of funds managed for the board; and

(f) may not:

(i) engage in lobbying activities;

(ii) attempt to influence legislation; or

(iii) participate in any campaign activity for or against:

(A) a political candidate; or

(B) an initiative, referendum, proposed constitutional amendment, bond, or any other ballot proposition submitted to the voters.

(5) Money donated to a foundation established under Subsection (3) may be accounted for in an expendable special revenue fund.

Section 3. Section 63N-12-205 is amended to read:

63N-12-205. STEM Action Center.

(1) As funding allows, the board shall:

(a) establish a STEM Action Center;

(b) ensure that the STEM Action Center:

(i) is accessible by the public; and

(ii) includes the components described in Subsection (2);

(c) work cooperatively with the State Board of Education to:

(i) further STEM education; and

(ii) ensure best practices are implemented as described in Sections 63N-12-206 and 63N-12-207; ~~and~~

(d) engage private entities to provide financial support or employee time for STEM activities in schools in addition to what is currently provided by private entities~~[-]; and~~

(e) work cooperatively with stakeholders to support and promote activities that align STEM education and training activities with the employment needs of business and industry in the state.

(2) As funding allows, the director of the STEM Action Center shall:

(a) support high quality professional development for educators regarding STEM education;

(b) ensure that the STEM Action Center acts as a research and development center for STEM education through a request for proposals process described in Section 63N-12-206;

(c) review and acquire STEM education related materials and products for:

(i) high quality professional development;

(ii) assessment, data collection, analysis, and reporting; and

(iii) public school instruction;

(d) facilitate participation in interscholastic STEM related competitions, fairs, camps, and STEM education activities;

(e) engage private industry in the development and maintenance of the STEM Action Center and STEM Action Center projects;

(f) use resources to bring the latest STEM education learning tools into public education classrooms;

(g) identify at least 10 best practice innovations used in Utah that have resulted in [at least 80% of students performing at grade level] a measurable improvement in student performance or outcomes in STEM areas;

(h) identify best practices being used outside the state and, as appropriate, develop and implement selected practices through a pilot program;

(i) identify:

(i) learning tools for kindergarten through grade 6 identified as best practices; and

(ii) learning tools for grades 7 through 12 identified as best practices;

(j) ~~[provide a]~~ collect data on Utah best practices ~~[database]~~, including best practices from public education, higher education, the Utah Education and Telehealth Network, and other STEM related entities;

(k) keep track of the following items related to ~~[the]~~ best practices ~~[database]~~ described in Subsection (2)(j):

(i) how the best practices ~~[database is]~~ data are being used; and

(ii) how many individuals are using the ~~[database]~~ data, including the demographics of the users, if available;

(l) as appropriate, join and participate in a national STEM network;

~~[(m) identify performance changes linked to use of the best practices database described in Subsection (2)(j)];~~

~~[(n) (m) work cooperatively with the State Board of Education to designate schools as STEM schools, where the schools have agreed to adopt a plan of STEM implementation in alignment with criteria set by the State Board of Education and the board;~~

~~[(o) (n) support best methods of high quality professional development for STEM education in kindergarten through grade 12, including methods of high quality professional development that reduce cost and increase effectiveness, to help educators learn how to most effectively implement best practice learning tools in classrooms;~~

~~[(p) (o) recognize [a high school's] achievement in the STEM competitions, fairs, and camps described in Subsection (2)(d);~~

~~[(q) (p) send student results from STEM competitions, fairs, and camps described in Subsection (2)(d) to media and ask the media to report on them;~~

~~[(r) (q) develop and distribute STEM information to parents of students [being served by the STEM Action Center] in the state;~~

~~[(s) (r) support targeted high quality professional development for improved instruction in STEM education, including:~~

(i) improved instructional materials that are dynamic and engaging for students;

(ii) use of applied instruction; and

(iii) introduction of other research-based methods that support student achievement in STEM areas; and

~~[(t) (s) ensure that an online college readiness assessment tool be accessible by:~~

(i) public education students; and

(ii) higher education students.

(3) The board may prescribe other duties for the STEM Action Center in addition to the responsibilities described in this section.

(4) (a) The director shall work with an independent evaluator to track and compare the student performance of students participating in a STEM Action Center program to all other similarly situated students in the state, if appropriate, in the following [STEM-related] activities[-] at the beginning and end of each year:

- (i) public education high school graduation rates;
- (ii) the number of students taking a remedial mathematics course at an institution of higher education described in Section 53B-2-101;
- (iii) the number of students who graduate from a Utah public school and begin a postsecondary education program; and
- (iv) the number of students, as compared to all similarly situated students, who are performing at grade level in STEM classes.

(b) The State Board of Education and the State Board of Regents shall provide information to the board to assist the board in complying with the requirements of Subsection (4)(a) if allowed under federal law.

Section 4. Section 63N-12-209 is amended to read:

63N-12-209. STEM education endorsements and incentive program.

(1) The State Board of Education shall collaborate with the STEM Action Center to:

- (a) develop STEM education endorsements; and
- (b) create and implement financial incentives for:
 - (i) an educator to earn an elementary or secondary STEM education endorsement described in Subsection (1)(a); and
 - (ii) a school district or a charter school to have STEM endorsed educators on staff.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules ~~[to establish how a]~~ establishing the uses of STEM education [endorsement] endorsements described in Subsection (1) [will be valued on a salary scale for educators]., including that:

- (a) an incentive for an educator to take a course leading to a STEM education endorsement may only be given for a course that carries higher-education credit; and
- (b) a school district or a charter school may consider a STEM education endorsement as part of an educator's salary schedule.

Section 5. Section 63N-12-210 is amended to read:

63N-12-210. Acquisition of STEM education high quality professional development.

(1) The STEM Action Center shall, through a request for proposals process, select technology providers for the purpose of providing a STEM education high quality professional development application.

(2) The high quality professional development application described in Subsection (1) shall:

- (a) allow the State Board of Education, a school district, or a school to define the application's input

and track results of the high quality professional development;

(b) allow educators to access automatic tools, resources, and strategies, including instructional materials with integrated STEM content;

(c) allow educators to work in online learning communities, including giving and receiving feedback via uploaded video;

(d) track and report data on the usage of the components of the application's system and the relationship to improvement in classroom instruction;

(e) include video examples of highly effective STEM education teaching that:

- (i) cover a cross section of grade levels and subjects;
- (ii) under the direction of the State Board of Education, include videos of highly effective Utah STEM educators; and
- (iii) contain tools to help educators implement what they have learned; and

(f) allow for additional STEM education video content to be added.

(3) In addition to the high quality professional development application described in Subsections (1) and (2), the STEM Action Center may create STEM education hybrid or blended high quality professional development that allows for face-to-face applied learning.

Section 6. Section 63N-12-212 is amended to read:

63N-12-212. High school STEM education initiative.

(1) Subject to legislative appropriations, after consulting with State Board of Education staff, the STEM Action Center shall award grants to school districts and charter schools to fund STEM related certification for high school students.

(2) (a) A school district or charter school may apply for a grant from the STEM Action Center, through a competitive process, to fund the school district's or charter school's STEM related certification training program.

(b) A school district's or charter school's STEM related certification training program shall:

(i) prepare high school students to be job ready for available STEM related positions of employment; and

(ii) when a student completes the program, result in the student gaining ~~[a nationally]~~ an industry-recognized employer STEM related certification.

(3) A school district or charter school may partner with one or more of the following to provide a STEM related certification program:

- (a) A Utah College of Applied Technology college campus;

- (b) Salt Lake Community College;
- (c) Snow College; ~~[øø]~~
- (d) Utah State University Eastern; or
- ~~[(d)]~~ (e) a private sector employer.

CHAPTER 140**H. B. 77**

Passed February 19, 2016

Approved March 22, 2016

Effective May 10, 2016

SPECIAL DISTRICT AMENDMENTS

Chief Sponsor: Stephen G. Handy
Senate Sponsor: Jerry W. Stevenson

LONG TITLE**General Description:**

This bill amends provisions related to a local and a special service district.

Highlighted Provisions:

This bill:

- ▶ provides that certain members of a local district board of trustees do not need to reside within the local district;
- ▶ amends reporting requirements related to the withdrawal of a municipality from a local district; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17B-1-302, as last amended by Laws of Utah 2011, Chapter 68

17B-1-505, as last amended by Laws of Utah 2015, Chapter 352

17B-1-512, as last amended by Laws of Utah 2014, Chapter 189

17B-1-513, as renumbered and amended by Laws of Utah 2007, Chapter 329

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

Section 1. Section 17B-1-302 is amended to read:**17B-1-302. Board member qualifications -- Number of board members.**

(1) (a) Each member of a local district board of trustees shall be:

(i) a registered voter at the location of the member's residence; and

(ii) except as otherwise provided in [Subsections] this Subsection (1)(~~b~~) and (e), a resident within:

(A) the boundaries of the local district; and

(B) if applicable, the boundaries of the division of the local district from which the member is elected.

(b) (i) As used in this Subsection (1)(b):

(A) "Proportional number" means the number of members of a board of trustees that bears, as close as mathematically possible, the same proportion to all members of the board that the number of seasonally occupied homes bears to all residences

within the district that receive service from the district.

(B) "Seasonally occupied home" means a single-family residence:

(I) that is located within the local district;

(II) that receives service from the local district; and

(III) whose owner:

(Aa) does not reside permanently at the residence; and

(Bb) may occupy the residence on a temporary or seasonal basis.

(ii) If over 50% of the residences within a local district that receive service from the local district are seasonally occupied homes, the requirement under Subsection (1)(a)(ii) is replaced, for a proportional number of members of the board of trustees, with the requirement that the member be an owner of land, or an agent or officer of the owner of land, that:

(A) receives service from the district; and

(B) is located within:

(I) the local district; and

(II) if applicable, the division from which the member is elected.

(c) For a board of trustees member in a basic local district that has within its boundaries fewer than one residential dwelling unit per 10 acres of land, the requirement under Subsection (1)(a)(ii) is replaced with the requirement that the member be an owner of land within the local district that receives service from the district, or an agent or officer of the owner.

(d) A member of the board of trustees of a service area described in Subsection 17B-2a-905(2)(a) or (3)(a), who is an elected official of the county appointing the individual, is not subject to the requirements described in Subsection (1)(a)(ii) if the elected official was elected at large by the voters of the county.

(2) Except as otherwise provided by statute, the number of members of each board of trustees of a local district shall be an odd number that is no less than three.

(3) For a newly created local district, the number of members of the initial board of trustees shall be the number specified:

(a) for a local district whose creation was initiated by a petition under Subsection 17B-1-203(1)(a), (b), or (c), in the petition; or

(b) for a local district whose creation was initiated by a resolution under Subsection 17B-1-203(1)(d) or (e), in the resolution.

(4) (a) For an existing local district, the number of members of the board of trustees may be changed by a two-thirds vote of the board of trustees.

(b) No change in the number of members of a board of trustees under Subsection (4)(a) may:

- (i) violate Subsection (2); or
- (ii) serve to shorten the term of any member of the board.

Section 2. Section 17B-1-505 is amended to read:

17B-1-505. Withdrawal of municipality in certain districts providing fire protection, paramedic, and emergency services or law enforcement service.

(1) (a) The process to withdraw an area from a local district may be initiated by a resolution adopted by the legislative body of a municipality, subject to Subsection (1)(b), that is entirely within the boundaries of a local district:

- (i) that provides:
 - (A) fire protection, paramedic, and emergency services;
 - (B) law enforcement service; or
 - (C) municipal services, as defined in Section 17B-2a-1102; and
- (ii) in the creation of which an election was not required because of Subsection 17B-1-214(3)(d) or (g).

(b) A municipal legislative body of a municipality that is within a municipal services district established under Chapter 2a, Part 11, Municipal Services District Act, may not adopt a resolution under Subsection (1)(a) to withdraw from the municipal services district unless the municipality has conducted a feasibility study in accordance with Section 17B-2a-1110.

(c) Within 10 days after adopting a resolution under Subsection (1)(a), the municipal legislative body shall submit to the board of trustees of the local district written notice of the adoption of the resolution, accompanied by a copy of the resolution.

(2) If a resolution is adopted under Subsection (1)(a), the municipal legislative body shall hold an election at the next municipal general election that is more than 60 days after adoption of the resolution on the question of whether the municipality should withdraw from the local district.

(3) If a majority of those voting on the question of withdrawal at an election held under Subsection (2) vote in favor of withdrawal, the municipality shall be withdrawn from the local district.

(4) (a) Within 10 days after the canvass of an election at which a withdrawal under this section is submitted to voters, the municipal legislative body shall send written notice to the board of the local district from which the municipality is proposed to withdraw.

- (b) Each notice under Subsection (4)(a) shall:
 - (i) state the results of the withdrawal election; and
 - (ii) if the withdrawal was approved by voters, be accompanied by a ~~map or legal description of the~~

~~area to be withdrawn, adequate for purposes of the county assessor and recorder] copy of an approved final local entity plat, as defined in Section 67-1a-6.5.~~

(5) The effective date of a withdrawal under this section is governed by Subsection 17B-1-512(2)(a).

Section 3. Section 17B-1-512 is amended to read:

17B-1-512. Filing of notice and plat -- Recording requirements -- Contest period -- Judicial review.

(1) (a) Within the time specified in Subsection (1)(b), the board of trustees shall file with the lieutenant governor:

- (i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and
- (ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

(b) The board of trustees shall file the documents listed in Subsection (1)(a):

(i) within 10 days after adopting a resolution approving a withdrawal under Section 17B-1-510; ~~and]~~

~~[(ii) as soon as practicable]~~

(ii) on or before January 31 of the year following the board of trustees' receipt of a notice or copy described in Subsection (1)(c), if the board of trustees receives the notice or copy between July 1 and December 31; or

(iii) on or before the July 31 following the board of trustees' receipt of a notice or copy described in Subsection (1)(c), if the board of trustees receives the notice or copy between January 1 and June 30.

(c) The board of trustees shall comply with the requirements described in Subsection (1)(b)(ii) or (iii) after receiving:

(i) a notice under Subsection 10-2-425(2) of an automatic withdrawal under Subsection 17B-1-502(2)[, after receiving];

(ii) a copy of the municipal legislative body's resolution approving an automatic withdrawal under Subsection 17B-1-502(3)(a)[, or after receiving]; or

(iii) notice of a withdrawal of a municipality from a local district under Section 17B-1-502.

~~[(e)] (d) Upon the lieutenant governor's issuance of a certificate of withdrawal under Section 67-1a-6.5, the board shall:~~

(i) if the withdrawn area is located within the boundary of a single county, submit to the recorder of that county:

- (A) the original;
- (I) notice of an impending boundary action;
- (II) certificate of withdrawal; and
- (III) approved final local entity plat; and

(B) if applicable, a certified copy of the resolution or notice referred to in Subsection (1)(b); or

(ii) if the withdrawn area is located within the boundaries of more than a single county, submit:

(A) the original of the documents listed in Subsections (1)(c)(i)(A)(I), (II), and (III) and, if applicable, a certified copy of the resolution or notice referred to in Subsection (1)(b) to one of those counties; and

(B) a certified copy of the documents listed in Subsections (1)(c)(i)(A)(I), (II), and (III) and a certified copy of the resolution or notice referred to in Subsection (1)(b) to each other county.

(2) (a) Upon the lieutenant governor's issuance of the certificate of withdrawal under Section 67-1a-6.5 for a withdrawal under Section 17B-1-510, for an automatic withdrawal under Subsection 17B-1-502(3), or for the withdrawal of a municipality from a local district under Section 17B-1-505, the withdrawal shall be effective, subject to the conditions of the withdrawal resolution, if applicable.

(b) An automatic withdrawal under Subsection 17B-1-502(3) shall be effective upon the lieutenant governor's issuance of a certificate of withdrawal under Section 67-1a-6.5.

(3) (a) The local district may provide for the publication of any resolution approving or denying the withdrawal of an area:

(i) in a newspaper of general circulation in the area proposed for withdrawal; and

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

(b) In lieu of publishing the entire resolution, the local district may publish a notice of withdrawal or denial of withdrawal, containing:

(i) the name of the local district;

(ii) a description of the area proposed for withdrawal;

(iii) a brief explanation of the grounds on which the board of trustees determined to approve or deny the withdrawal; and

(iv) the times and place where a copy of the resolution may be examined, which shall be at the place of business of the local district, identified in the notice, during regular business hours of the local district as described in the notice and for a period of at least 30 days after the publication of the notice.

(4) Any sponsor of the petition or receiving entity may contest the board's decision to deny a withdrawal of an area from the local district by submitting a request, within 60 days after the resolution is adopted under Section 17B-1-510, to the board of trustees, suggesting terms or conditions to mitigate or eliminate the conditions upon which the board of trustees based its decision to deny the withdrawal.

(5) Within 60 days after the request under Subsection (4) is submitted to the board of trustees, the board may consider the suggestions for mitigation and adopt a resolution approving or denying the request in the same manner as provided in Section 17B-1-510 with respect to the original resolution denying the withdrawal and file a notice of the action as provided in Subsection (1).

(6) (a) Any person in interest may seek judicial review of:

(i) the board of trustees' decision to withdraw an area from the local district;

(ii) the terms and conditions of a withdrawal; or

(iii) the board's decision to deny a withdrawal.

(b) Judicial review under this Subsection (6) shall be initiated by filing an action in the district court in the county in which a majority of the area proposed to be withdrawn is located:

(i) if the resolution approving or denying the withdrawal is published under Subsection (3), within 60 days after the publication or after the board of trustees' denial of the request under Subsection (5);

(ii) if the resolution is not published pursuant to Subsection (3), within 60 days after the resolution approving or denying the withdrawal is adopted; or

(iii) if a request is submitted to the board of trustees of a local district under Subsection (4), and the board adopts a resolution under Subsection (5), within 60 days after the board adopts a resolution under Subsection (5) unless the resolution is published under Subsection (3), in which event the action shall be filed within 60 days after the publication.

(c) A court in which an action is filed under this Subsection (6) may not overturn, in whole or in part, the board of trustees' decision to approve or reject the withdrawal unless:

(i) the court finds the board of trustees' decision to be arbitrary or capricious; or

(ii) the court finds that the board materially failed to follow the procedures set forth in this part.

(d) A court may award costs and expenses of an action under this section, including reasonable attorney fees, to the prevailing party.

(7) After the applicable contest period under Subsection (4) or (6), no person may contest the board of trustees' approval or denial of withdrawal for any cause.

Section 4. Section 17B-1-513 is amended to read:

17B-1-513. Termination of terms of trustees representing withdrawn areas.

(1) ~~On~~ Except as provided in Subsection (4), on the effective date of withdrawal of an area from a local district, any trustee residing in the withdrawn area shall cease to be a member of the board of trustees of the local district.

(2) [H] Except as provided in Subsection (4), if the local district has been divided into divisions for the purpose of electing or appointing trustees and the area withdrawn from a district constitutes all or substantially all of the area in a division of the local district that is represented by a member of the board of trustees, on the effective date of the withdrawal, the trustee representing the division shall cease to be a member of the board of trustees of the local district.

(3) In the event of a vacancy on the board of trustees as a result of an area being withdrawn from the local district:

(a) the board of trustees shall reduce the number of trustees of the local district as provided by law; or

(b) the trustee vacancy shall be filled as provided by law.

(4) Subsections (1) and (2) apply only to a trustee who is required by law to be a resident of the local district or of a particular division within the local district.

CHAPTER 141**H. B. 124**

Passed February 26, 2016

Approved March 22, 2016

Effective May 10, 2016

**MONITORING EQUIPMENT
IN A CARE FACILITY**

Chief Sponsor: Timothy D. Hawkes

Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill adds provisions to the Health Care Facility Licensing and Inspection Act related to monitoring devices installed in assisted living facilities.

Highlighted Provisions:

This bill:

- ▶ allows a resident of an assisted living facility to install a video or audio monitoring device in the resident's room under certain conditions;
- ▶ prohibits an assisted living facility from denying an individual admission to the facility or discharging a resident from the facility solely because the individual or resident wants to operate or install a monitoring device in the individual's or resident's room; and
- ▶ provides certain liability protections related to operating or installing a monitoring device in a resident's room.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

26-21-301, Utah Code Annotated 1953

26-21-302, Utah Code Annotated 1953

26-21-303, Utah Code Annotated 1953

26-21-304, Utah Code Annotated 1953

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

Section 1. Section 26-21-301 is enacted to read:**Part 3. Assisted Living Facility Surveillance Act****26-21-301. Title.**

This part is known as the "Assisted Living Facility Surveillance Act."

Section 2. Section 26-21-302 is enacted to read:**26-21-302. Definitions.**

As used in this part:

- (1) "Facility" means an assisted living facility.
- (2) "Legal representative" means an individual who is legally authorized to make health care decisions on behalf of another individual.

(3) (a) "Monitoring device" means:

(i) a video surveillance camera; or

(ii) a microphone or other device that captures audio.

(b) "Monitoring device" does not include:

(i) a device that is specifically intended to intercept wire, electronic, or oral communication without notice to or the consent of a party to the communication; or

(ii) a device that is connected to the Internet or that is set up to transmit data via an electronic communication.

(4) "Resident" means an individual who receives health care from a facility.

(5) "Room" means a resident's private or shared primary living space.

(6) "Roommate" means an individual sharing a room with a resident.

Section 3. Section 26-21-303 is enacted to read:**26-21-303. Monitoring device --
Installation, notice, and consent --
Liability.**

(1) A resident or the resident's legal representative may operate or install a monitoring device in the resident's room if the resident and the resident's legal representative, if any, unless the resident is incapable of informed consent:

(a) notifies the resident's facility in writing that the resident or the resident's legal representative, if any:

(i) intends to operate or install a monitoring device in the resident's room; and

(ii) consents to a waiver agreement, if required by a facility;

(b) obtains written consent from each of the resident's roommates, and their legal representative, if any, that specifically states the hours when each roommate consents to the resident or the resident's legal representative operating the monitoring device; and

(c) assumes all responsibility for any cost related to installing or operating the monitoring device.

(2) A facility shall not be civilly or criminally liable to:

(a) a resident or resident's roommate for the operation of a monitoring device consistent with this part; and

(b) any person other than the resident or resident's roommate for any claims related to the use or operation of a monitoring device consistent with this part, unless the claim is caused by the acts or omissions of an employee or agent of the facility.

(3) Notwithstanding any other provision of this part, an individual may not, under this part, operate a monitoring device in a facility without a court order:

(a) in secret; or

(b) with an intent to intercept a wire, electronic, or oral communication without notice to or the consent of a party to the communication.

Section 4. Section 26-21-304 is enacted to read:

26-21-304. Monitoring device -- Facility admission, patient discharge, and posted notice.

(1) A facility may not deny an individual admission to the facility for the sole reason that the individual or the individual's legal representative requests to install or operate a monitoring device in the individual's room.

(2) A facility may not discharge a resident for the sole reason that the resident or the resident's legal representative requests to install or operate a monitoring device in the individual's room.

(3) A facility may require the resident or the resident's legal representative to place a sign near the entrance of the resident's room that states that the room contains a monitoring device.

CHAPTER 142**H. B. 135**

Passed February 22, 2016

Approved March 22, 2016

Effective May 10, 2016

**STATE PARKS FEE
EXEMPTION AMENDMENTS**

Chief Sponsor: Lynn N. Hemingway

Senate Sponsor: Gene Davis

Cosponsors: Patrice M. Arent

Joel K. Briscoe

Rebecca Chavez-Houck

Susan Duckworth

Sandra Hollins

Brad King

Brian S. King

Carol Spackman Moss

Marie H. Poulson

Angela Romero

Mark A. Wheatley

LONG TITLE**General Description:**

This bill provides free admission to state parks for certain disabled veterans.

Highlighted Provisions:

This bill:

- ▶ requires the Board of Parks and Recreation to make rules granting free admission to state parks for certain disabled veterans; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

79-4-304, as enacted by Laws of Utah 2009, Chapter 344

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

Section 1. Section 79-4-304 is amended to read:**79-4-304. Board rulemaking authority.**

(1) Rules made by the board shall be made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~[(4)]~~ (2) (a) The board may make rules:

- (i) governing the use of the state park system;
 - (ii) to protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities; and
 - (iii) to provide for public safety and preserve the peace within state parks.
- (b) To accomplish the purposes stated in Subsection ~~[(4)]~~ (2)(a), the board may enact rules that:

(i) close or partially close state parks; or

(ii) establish use or access restrictions within state parks.

(c) Rules made under Subsection ~~[(4)]~~ (2) may not have the effect of preventing the transfer of livestock along a livestock highway established in accordance with Section 72-3-112.

~~[(2)]~~ (3) The board shall adopt ~~[appropriate]~~ rules:

(a) governing the collection of charges under Subsection 79-4-203(8)~~[-]~~; and

(b) granting free admission to state parks to an honorably discharged veteran who is:

(i) a resident of the state; and

(ii) at least 50% disabled, as evidenced by documentation from:

(A) the United States Department of Veterans Affairs;

(B) an active component of the United States armed forces; or

(C) a reserve component of the United States armed forces.

CHAPTER 143**H. B. 138**

Passed February 18, 2016

Approved March 22, 2016

Effective May 10, 2016

**CONSUMER ELECTRONIC DEVICE
RECYCLING REPORT AMENDMENTS**Chief Sponsor: Lee B. Perry
Senate Sponsor: Scott K. Jenkins**LONG TITLE****General Description:**

This bill modifies Department of Environmental Quality consumer electronic device recycling reporting requirements.

Highlighted Provisions:

This bill:

- ▶ modifies Department of Environmental Quality consumer electronic device recycling reporting requirements.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

19-6-1203, as enacted by Laws of Utah 2011, Chapter 213

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

Section 1. Section 19-6-1203 is amended to read:**19-6-1203. Reporting requirements.**

(1) On or after July 1, 2011, a manufacturer may not offer a consumer electronic device for sale in the state unless the manufacturer, either individually, through a group manufacturer organization, or through the manufacturer's industry trade group, prepares and submits, subject to Subsection (2), a report on or before August 1 of each year to the department.

(2) The report required under Subsection (1):

(a) shall include a list of eligible programs, subject to Subsection (3); and

(b) may include:

(i) an existing collection, transportation, or recycling system for a consumer electronic device; and

(ii) an eligible program offered by:

- (A) a consumer electronic device recycler;
- (B) a consumer electronic device repair shop;
- (C) a recycler of other commodities;
- (D) a reuse organization;
- (E) a not-for-profit corporation;
- (F) a retailer; or

(G) another similar operation, including a local government collection event.

(3) The list required in Subsection (2)(a) may be in the form of a geographic map identifying the type and location of an eligible program.

~~[(4) The department shall:]~~

~~[(a) compile the report required under Subsection (1); and]~~

~~[(b) beginning on October 31, 2012, submit annually on or before October 31 the compiled report to the Natural Resources, Agriculture, and Environment Interim Committee and the Public Utilities and Technology Interim Committee.]~~

CHAPTER 144**H. B. 147**

Passed February 24, 2016

Approved March 22, 2016

Effective May 10, 2016

STATE BOARD OF EDUCATION REVISIONS

Chief Sponsor: Bruce R. Cutler
 Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill modifies provisions regarding the public education system.

Highlighted Provisions:

This bill:

- ▶ deletes references to the State Office of Education;
- ▶ requires the State Board of Education to assume certain responsibilities formerly assigned to the State Office of Education and the state superintendent of public instruction;
- ▶ allows the State Board of Education to delegate duties and responsibilities to employees; and
- ▶ makes conforming and technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

9-7-204, as last amended by Laws of Utah 2010, Chapters 286 and 324
 19-3-320, as last amended by Laws of Utah 2012, Chapter 212
 20A-14-103, as last amended by Laws of Utah 2011, Third Special Session, Chapter 3
 20A-14-202, as last amended by Laws of Utah 2011, Chapter 297
 26-10-5, as enacted by Laws of Utah 1981, Chapter 126
 26-10-5.5, as enacted by Laws of Utah 1999, Chapter 27
 32B-2-405, as enacted by Laws of Utah 2010, Chapter 276 and last amended by Coordination Clause, Laws of Utah 2010, Chapter 276
 35A-3-205, as last amended by Laws of Utah 2015, Chapter 221
 35A-5-103, as renumbered and amended by Laws of Utah 1997, Chapter 375
 49-12-701, as last amended by Laws of Utah 2010, Chapter 264
 49-13-701, as last amended by Laws of Utah 2010, Chapter 264
 51-9-405, as last amended by Laws of Utah 2009, Chapter 356
 53-10-202, as last amended by Laws of Utah 2015, Chapter 348
 53-10-211, as last amended by Laws of Utah 2010, Chapter 324
 53A-1-202, as last amended by Laws of Utah 2015, Chapter 289
 53A-1-302, as last amended by Laws of Utah 1990, Chapter 261

53A-1-403.5, as last amended by Laws of Utah 2012, Chapter 23
 53A-1-413, as last amended by Laws of Utah 2015, Chapter 415
 53A-1-708, as last amended by Laws of Utah 2015, Chapter 415
 53A-1a-501.7, as last amended by Laws of Utah 2008, Chapter 319
 53A-3-402, as last amended by Laws of Utah 2015, Chapters 399 and 415
 53A-3-402.9, as last amended by Laws of Utah 2008, Chapter 171
 53A-3-424, as last amended by Laws of Utah 2008, Chapter 382
 53A-3-603, as last amended by Laws of Utah 2000, Chapter 219
 53A-6-103, as last amended by Laws of Utah 2008, Chapter 382
 53A-6-104.5, as last amended by Laws of Utah 2015, Chapter 389
 53A-6-105, as last amended by Laws of Utah 2009, Chapter 183
 53A-6-110, as enacted by Laws of Utah 2003, Chapter 315
 53A-6-302, as repealed and reenacted by Laws of Utah 1999, Chapter 108
 53A-6-403, as last amended by Laws of Utah 2015, Chapter 389
 53A-6-404, as last amended by Laws of Utah 2015, Chapter 389
 53A-13-101, as last amended by Laws of Utah 2004, Chapter 196
 53A-13-208, as last amended by Laws of Utah 2008, Chapter 382
 53A-14-107, as last amended by Laws of Utah 2015, Chapter 415
 53A-15-1301, as last amended by Laws of Utah 2015, Chapter 85
 53A-16-101.6, as last amended by Laws of Utah 2015, Chapter 276
 53A-20-104, as last amended by Laws of Utah 2008, Chapter 290
 53A-25b-306, as enacted by Laws of Utah 2009, Chapter 294
 53A-25b-501, as enacted by Laws of Utah 2009, Chapter 294
 53B-6-104, as enacted by Laws of Utah 1994, Chapter 295
 53B-17-105, as enacted by Laws of Utah 2014, Chapter 63
 53B-18-801, as enacted by Laws of Utah 1999, Chapter 333
 53D-1-102, as enacted by Laws of Utah 2014, Chapter 426
 58-41-4, as last amended by Laws of Utah 2010, Chapter 324
 59-10-1307, as last amended by Laws of Utah 2009, Chapter 17
 62A-4a-412, as last amended by Laws of Utah 2008, Chapters 3, 87, 299, and 382
 62A-5a-102, as last amended by Laws of Utah 2002, Fifth Special Session, Chapter 8
 62A-15-1101, as last amended by Laws of Utah 2015, Chapter 85
 63A-9-101, as last amended by Laws of Utah 2008, Chapter 65

63B-3-301, as last amended by Laws of Utah 2013, Chapter 310

63B-4-201, as last amended by Laws of Utah 2013, Chapters 310 and 465

63B-5-201, as last amended by Laws of Utah 2013, Chapter 465

63F-2-102, as enacted by Laws of Utah 2015, Chapter 371

63G-6a-202, as last amended by Laws of Utah 2012, Chapter 91 and renumbered and amended by Laws of Utah 2012, Chapter 347 and last amended by Coordination Clause, Laws of Utah 2012, Chapter 347

63G-10-102, as renumbered and amended by Laws of Utah 2008, Chapter 382

63G-12-209, as enacted by Laws of Utah 2011, Chapter 18

63I-5-102, as last amended by Laws of Utah 2014, Chapter 433

63I-5-201, as repealed and reenacted by Laws of Utah 2014, Chapter 433

63J-1-219, as last amended by Laws of Utah 2013, Chapter 214

63M-10-201, as renumbered and amended by Laws of Utah 2008, Chapter 382

67-19-6.7, as last amended by Laws of Utah 2013, Chapter 214

77-40-109, as last amended by Laws of Utah 2014, Chapter 199

78A-6-209, as last amended by Laws of Utah 2015, Chapters 255 and 307

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

Section 1. Section 9-7-204 is amended to read:

9-7-204. State Library Board -- Members -- Meetings -- Expenses.

(1) There is created within the department the State Library Board.

(2) (a) The board shall consist of nine members appointed by the governor.

(b) One member shall be appointed on recommendation from each of the following [agencies]:

- (i) the State [Office] Board of Education;
- (ii) the Board of Control of the State Law Library;
- (iii) the Office of Legislative Research and General Counsel; and
- (iv) the Utah System of Higher Education.

(c) Of the five remaining members at least two shall be appointed from rural areas.

(3) (a) Except as required by Subsection (3)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(4) The members may not serve more than two full consecutive terms.

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in the same manner as originally appointed.

(6) Five members of the board constitute a quorum for conducting board business.

(7) The governor shall select one of the board members as chair who shall serve for a period of two years.

(8) The director of the State Library Division shall be executive officer of the board.

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

(a) Section 63A-3-106;

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

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

Section 2. Section 19-3-320 is amended to read:

19-3-320. Efforts to prevent siting of any nuclear waste facility to include economic development study regarding Native American reservation lands within the state.

(1) It is the intent of the Legislature that the department, in its efforts to prevent the siting of a nuclear waste facility within the exterior borders of the state, include in its work the study under Subsection (2) and the report under Subsection (3).

(2) It is the intent of the Legislature that the Department of Environmental Quality, in coordination with the office of the governor, and in cooperation with the Departments of Heritage and Arts, Human Services, Health, Workforce Services, Agriculture and Food, Natural Resources, and Transportation, the [state Office] State Board of Education, and the Board of Regents:

(a) study the needs and requirements for economic development on the Native American reservations within the state; and

(b) prepare, on or before November 30, 2001, a long-term strategic plan for economic development on the reservations.

(3) It is the intent of the Legislature that this plan, prepared under Subsection (2)(b), shall be distributed to the governor and the members of the Legislature on or before December 31, 2001.

Section 3. Section 20A-14-103 is amended to read:

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

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

(i) serve out the term of office for which that member was elected; and

(ii) represent the realigned district if the member resides in that district.

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

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

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

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

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

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

(3) A State Board of Education member shall:

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

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

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

(a) the State Board of Education; or

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

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

Section 4. Section 20A-14-202 is amended to read:

20A-14-202. Local boards of education -- Membership -- When elected -- Qualifications -- Avoiding conflicts of interest.

(1) (a) Except as provided in Subsection (1)(b), the board of education of a school district with a student population of up to 24,000 students shall consist of five members.

(b) The board of education of a school district with a student population of more than 10,000 students but fewer than 24,000 students shall increase from five to seven members beginning with the 2004 regular general election.

(c) The board of education of a school district with a student population of 24,000 or more students shall consist of seven members.

(d) Student population is based on the October 1 student count submitted by districts to the State ~~[Office]~~ Board of Education.

(e) If the number of members of a local school board is required to change under Subsection (1)(b), the board shall be reapportioned and elections conducted as provided in Sections 20A-14-201 and 20A-14-203.

(f) A school district which now has or increases to a seven-member board shall maintain a seven-member board regardless of subsequent changes in student population.

(g) (i) Members of a local board of education shall be elected at each regular general election.

(ii) Except as provided in Subsection (1)(g)(iii), no more than three members of a local board of education may be elected to a five-member board, nor more than four members elected to a seven-member board, in any election year.

(iii) More than three members of a local board of education may be elected to a five-member board and more than four members elected to a seven-member board in any election year only when required by reapportionment or to fill a vacancy or to implement Subsection (1)(b).

(h) One member of the local board of education shall be elected from each local school board district.

(2) (a) For an election held after the 2008 general election, a person seeking election to a local school board shall have been a resident of the local school board district in which the person is seeking election for at least one year as of the date of the election.

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

(3) A member of a local school board shall:

(a) be and remain a registered voter in the local school board district from which the member is elected or appointed; and

(b) maintain the member's primary residence within the local school board district from which the member is elected or appointed during the member's term of office.

(4) A member of a local school board may not, during the member's term in office, also serve as an employee of that board.

Section 5. Section 26-10-5 is amended to read:

26-10-5. Plan for school health services.

The department shall establish a plan for school health services for pupils in elementary and secondary schools. The department shall cooperate with the ~~[state office of education]~~ State Board of Education and local health departments in developing such plan and shall coordinate activities between these agencies. The plan may provide for the delivery of health services by and through intermediate and local school districts and local health departments.

Section 6. Section 26-10-5.5 is amended to read:

26-10-5.5. Child literacy -- Distribution of information kits.

(1) The Legislature recognizes that effective child literacy programs can have a dramatic long-term impact on each child's ability to:

- (a) succeed in school;
- (b) successfully compete in a global society; and
- (c) become a productive, responsible citizen.

(2) (a) To help further this end, the department may make available to parents of new-born infants, as a resource, an information kit regarding child development, the development of emerging literacy skills, and activities which promote and enhance emerging literacy skills, including reading aloud to the child on a regular basis.

(b) The department shall seek private funding to help support this program.

(3) (a) The department may seek assistance from the State ~~[Office]~~ Board of Education and local hospitals in making the information kit available to parents on a voluntary basis.

(b) The department may also seek assistance from private entities in making the kits available to parents.

Section 7. Section 32B-2-405 is amended to read:

32B-2-405. Reporting by municipalities and counties -- Grants.

(1) A municipality or county that receives money under this part during a fiscal year shall by no later than October 1 following the fiscal year:

- (a) report to the advisory council:
 - (i) the programs or projects of the municipality or county that receive money under this part;
 - (ii) if the money for programs or projects were exclusively used as required by Subsection 32B-2-403(2);
 - (iii) indicators of whether the programs or projects that receive money under this part are effective; and

(iv) if money received under this part was not expended by the municipality or county; and

(b) provide the advisory council a statement signed by the chief executive officer of the county or municipality attesting that the money received under this part was used in addition to money appropriated or otherwise available for the county's or municipality's law enforcement and was not used to supplant that money.

(2) The advisory council may, by a majority vote:

(a) suspend future payments under Subsection 32B-2-404(4) to a municipality or county that:

(i) does not file a report that meets the requirements of Subsection (1); or

(ii) the advisory council finds does not use the money as required by Subsection 32B-2-403(2) on the basis of the report filed by the municipality or county under Subsection (1); and

(b) cancel a suspension under Subsection (2)(a).

(3) The State Tax Commission shall notify the advisory council of the balance of any undistributed money after the annual distribution under Subsection 32B-2-404(5).

(4) (a) Subject to the requirements of this Subsection (4), the advisory council shall award the balance of undistributed money under Subsection (3):

(i) as prioritized by majority vote of the advisory council; and

(ii) as grants to:

- (A) a county;
- (B) a municipality;
- (C) the department;
- (D) the Department of Human Services;
- (E) the Department of Public Safety; or
- (F) the ~~[Utah]~~ State [Office] Board of Education.

(b) By not later than May 30 of the fiscal year of the appropriation, the advisory council shall notify the State Tax Commission of grants awarded under this Subsection (4).

(c) The State Tax Commission shall make payments of a grant:

(i) upon receiving notice as provided under Subsection (4)(b); and

(ii) by not later than June 30 of the fiscal year of the appropriation.

(d) An entity that receives a grant under this Subsection (4) shall use the grant money exclusively for programs or projects described in Subsection 32B-2-403(2).

Section 8. Section 35A-3-205 is amended to read:

35A-3-205. Creation of committee.

(1) There is created a Child Care Advisory Committee.

(2) The committee shall counsel and advise the office in fulfilling its statutory obligations, including:

(a) reviewing and providing recommendations on the office's annual budget;

(b) providing recommendations on how the office might best respond to child care needs throughout the state; and

(c) providing recommendations on the use of money in the Child Care Fund and other money that comes into the office.

(3) The committee is composed of the following members, with special attention given to insure diversity and representation from both urban and rural groups:

(a) one expert in early childhood development;

(b) one child care provider who operates a center;

(c) one child care provider who operates a family child care business;

(d) one parent who is representative of households receiving a child care subsidy from the office;

(e) one representative from the public at-large;

(f) one representative [of] selected by the State [Office] Board of Education;

(g) one representative of the Department of Health;

(h) one representative of the Department of Human Services;

(i) two representatives from the corporate community, one who is a recent "Family Friendly" award winner and who received the award because of efforts related to child care;

(j) two representatives from the small business community;

(k) one representative from child care advocacy groups;

(l) one representative of children with disabilities;

(m) one representative from the state Head Start Association appointed by the association;

(n) one representative from each child care provider association; and

(o) one representative of a child care resource and referral center appointed by the organization representing child care resource and referral agencies.

(4) (a) The executive director shall appoint the members designated in Subsections (3)(a) through (e) and (j) through (n).

(b) The head of the respective departments shall appoint the members referred to in Subsections (3)(f) through (i).

(c) Each child care provider association shall appoint its respective member referred to in Subsection (3)(o).

(5) (a) Except as required by Subsection (5)(b), as terms of current committee members expire, the appointing authority shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (5)(a), the appointing authority shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(6) When a vacancy occurs in the membership for any reason, including missing three consecutive meetings where the member has not been excused by the chair prior to or during the meeting, the replacement shall be appointed for the unexpired term.

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

(8) (a) The executive director shall select a chair from the committee membership.

(b) A chair may serve no more than two one-year terms as chair.

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

(a) Section 63A-3-106;

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

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

Section 9. Section 35A-5-103 is amended to read:

35A-5-103. Roles of service providers.

(1) Delivery of job training related services not administered by the department under this chapter shall be provided in accordance with Subsections (2) and (3).

(2) The State [Office] Board of Education and the Board of Regents shall provide for basic education, remedial education, and applied technology training.

(3) The Office of Rehabilitation shall provide those services authorized under the Rehabilitation Act of 1973, as amended.

Section 10. Section 49-12-701 is amended to read:

49-12-701. Early retirement incentive -- Eligibility -- Calculation of benefit -- Payment of costs -- Savings to be appropriated by Legislature -- Restrictions on reemployment.

(1) Any member of this system may retire and receive the allowance allowed under Subsection (2) if the member meets the following requirements as of the member's retirement date:

(a) the member is eligible for retirement under Section 49-12-401, or has 25 years of service credit;

(b) the member elects to forfeit any stipend for retirement offered by the participating employer; and

(c) the member elects to retire from this system by applying for retirement by the date established under Subsection (3)(a) or (3)(b).

(2) (a) A member who retires under Subsection (1) shall receive 2% of that member's final average salary for all years of service credit.

(b) An actuarial reduction may not be applied to the allowance granted under this section.

(3) In order to receive the allowance allowed by this section, a member shall submit an application to the office as follows:

(a) (i) For state and school employees under Level A, the application shall be filed by May 31, 1987. The member's retirement date shall then be set by the member on the 1st or 16th day of July, August, or September, 1987.

(ii) If a Level A member elects to retire, the executive director or participating employer may request the member to delay the retirement date until a later date, but no later than June 30, 1988.

(iii) If the member agrees to delay the retirement date, the retirement date shall be delayed, but service credit may not be accrued after the member's original retirement date elected by the member, and compensation earned after the member's original retirement date may not be used in the calculation of the final average salary for determining the retirement allowance.

(b) (i) For political subdivision employees under Level B, the application shall be filed by September 30, 1987.

(ii) The retirement date shall then be set by the member on the 1st or 16th day of July, August, September, October, November, or December, 1987.

(4) (a) The cost of providing the allowance under this section shall be funded in fiscal year 1987-88 by a supplemental appropriation in the 1988 General Session based on the retirement contribution rate increase established by the consulting actuary and approved by the board.

(b) The cost of providing the allowance under this section shall be funded beginning July 1, 1988, by means of an increase in the retirement contribution rate established by the consulting actuary and approved by the board.

(c) The rate increase under Subsections (4)(a) and (b) shall be funded:

(i) for state employees, by an appropriation from the account established by the Division of Finance under Subsection (4)(d), which is funded by savings derived from this early retirement incentive and a work force reduction;

(ii) for school employees, by direct contributions from the employing unit, which may not be funded through an increase in the retirement contribution amount established in Title 53A, Chapter 17a, Minimum School Program Act; and

(iii) for political subdivisions under Level B, by direct contributions by the participating employer.

(d) (i) Each year, any excess savings derived from this early retirement incentive which are above the costs of funding the increase and the costs of paying insurance, sick leave, compensatory leave, and vacation leave under Subsections (4)(c)(i) and (c)(ii) shall be reported to the Legislature and shall be appropriated as provided by law.

(ii) In the case of Subsection (4)(c)(i), the Division of Finance shall establish an account into which all savings derived from this early retirement incentive shall be deposited as the savings are realized.

(iii) In the case of Subsection (4)(c)(ii), the State [Office] Board of Education shall certify the amount of savings derived from this early retirement incentive.

(iv) The State [Office] Board of Education and the participating employer may not spend the savings until appropriated by the Legislature as provided by law.

(5) A member who retires under this section is subject to Sections 49-11-504 and 49-11-505.

(6) The board may adopt rules to administer this section.

(7) The Legislative Auditor General shall perform an audit to ensure compliance with this section.

Section 11. Section 49-13-701 is amended to read:

49-13-701. Early retirement incentive -- Eligibility -- Calculation of benefit -- Payment of costs -- Savings to be appropriated by Legislature -- Restrictions on reemployment.

(1) Any member of this system may retire and receive the allowance allowed under Subsection (2) if the member meets the following requirements as of the member's retirement:

(a) the member is eligible for retirement under Section 49-13-401, or has 25 years of service credit;

(b) the member elects to forfeit any stipend for retirement offered by the participating employer; and

(c) the member elects to retire from this system by applying for retirement by the date established under Subsection (3)(a) or (3)(b).

(2) (a) A member who retires under Subsection (1) shall receive 2% of that member's final average salary for all years of service credit.

(b) No actuarial reduction may be applied to the allowance granted under this section.

(3) In order to receive the allowance allowed by this section, a member shall submit an application to the office as follows:

(a) (i) For state and school employees under Level A, the application shall be filed by May 31, 1987. The member's retirement date shall then be set by the member on the 1st or 16th day of July, August, or September, 1987.

(ii) If a Level A member elects to retire, the executive director or participating employer may request the member to delay the retirement date until a later date, but no later than June 30, 1988.

(iii) If the member agrees to delay the retirement date, the retirement date shall be delayed, but service credit may not be accrued after the member's original retirement date elected by the member, and compensation earned after the member's original retirement date may not be used in the calculation of the final average salary for determining the retirement allowance.

(b) (i) For political subdivision employees under Level B, the application shall be filed by September 30, 1987.

(ii) The member's retirement date shall then be set by the member on the 1st or 16th day of July, August, September, October, November, or December, 1987.

(4) (a) The cost of providing the allowance under this section shall be funded in fiscal year 1987-88 by a supplemental appropriation in the 1988 General Session based on the retirement contribution rate increase established by the consulting actuary and approved by the board.

(b) The cost of providing the allowance under this section shall be funded beginning July 1, 1988, by means of an increase in the retirement contribution rate established by the consulting actuary and approved by the board.

(c) The rate increase under Subsections (4)(a) and (b) shall be funded:

(i) for state employees, by an appropriation from the account established by the Division of Finance under Subsection (4)(d), which is funded by savings derived from this early retirement incentive and a work force reduction;

(ii) for school employees, by direct contributions from the employing unit, which may not be funded through an increase in the retirement contribution amount established in Title 53A, Chapter 17a, Minimum School Program Act; and

(iii) for political subdivisions under Level B, by direct contributions by the participating employer.

(d) (i) Each year, any excess savings derived from this early retirement incentive which are above the

costs of funding the increase and the costs of paying insurance, sick leave, compensatory leave, and vacation leave under Subsections (4)(c)(i) and (c)(ii) shall be reported to the Legislature and shall be appropriated as provided by law.

(ii) In the case of Subsection (4)(c)(i), the Division of Finance shall establish an account into which all savings derived from this early retirement incentive shall be deposited as the savings are realized.

(iii) In the case of Subsection (4)(c)(ii), the State [Office] Board of Education shall certify the amount of savings derived from this early retirement incentive.

(iv) The State [Office] Board of Education and the participating employer may not spend the savings until appropriated by the Legislature as provided by law.

(5) A member who retires under this section is subject to Sections 49-11-504 and 49-11-505.

(6) The board may make rules to administer this section.

(7) The Legislative Auditor General shall perform an audit to ensure compliance with this section.

Section 12. Section 51-9-405 is amended to read:

51-9-405. Substance Abuse Prevention Account established -- Funding -- Uses.

(1) There is created a restricted account within the General Fund known as the Substance Abuse Prevention Account.

(2) (a) The Division of Finance shall allocate to the Substance Abuse Prevention Account from the collected surcharge established in Section 51-9-401:

(i) 2.5% for the juvenile court, but not to exceed the amount appropriated by the Legislature; and

(ii) 2.5% for the State [Office] Board of Education, but not to exceed the amount appropriated by the Legislature.

(b) The juvenile court shall use the allocation to pay for compensatory service programs required by Subsection 78A-6-117(2)(m).

(c) The State [Office] Board of Education shall use the allocation in public school programs for:

(i) substance abuse prevention and education;

(ii) substance abuse prevention training for teachers and administrators; and

(iii) district and school programs to supplement, not supplant, existing local prevention efforts in cooperation with local substance abuse authorities.

Section 13. Section 53-10-202 is amended to read:

53-10-202. Criminal identification -- Duties of bureau.

The bureau shall:

(1) procure and file information relating to identification and activities of persons who:

- (a) are fugitives from justice;
- (b) are wanted or missing;

(c) have been arrested for or convicted of a crime under the laws of any state or nation; and

(d) are believed to be involved in racketeering, organized crime, or a dangerous offense;

(2) establish a statewide uniform crime reporting system that shall include:

(a) statistics concerning general categories of criminal activities;

(b) statistics concerning crimes that exhibit evidence of prejudice based on race, religion, ancestry, national origin, ethnicity, or other categories that the division finds appropriate; and

(c) other statistics as required by the Federal Bureau of Investigation;

(3) make a complete and systematic record and index of the information obtained under this part;

(4) subject to the restrictions in this part, establish policy concerning the use and dissemination of data obtained under this part;

(5) publish an annual report concerning the extent, fluctuation, distribution, and nature of crime in Utah;

(6) establish a statewide central register for the identification and location of missing persons, which may include:

(a) identifying data including fingerprints of each missing person;

(b) identifying data of any missing person who is reported as missing to a law enforcement agency having jurisdiction;

(c) dates and circumstances of any persons requesting or receiving information from the register; and

(d) any other information, including blood types and photographs found necessary in furthering the purposes of this part;

(7) publish a quarterly directory of missing persons for distribution to persons or entities likely to be instrumental in the identification and location of missing persons;

(8) list the name of every missing person with the appropriate nationally maintained missing persons lists;

(9) establish and operate a 24-hour communication network for reports of missing persons and reports of sightings of missing persons;

(10) coordinate with the National Center for Missing and Exploited Children and other agencies to facilitate the identification and location of missing persons and the identification of unidentified persons and bodies;

(11) receive information regarding missing persons, as provided in Sections 26-2-27 and 53A-11-502, and stolen vehicles, vessels, and outboard motors, as provided in Section 41-1a-1401;

(12) adopt systems of identification, including the fingerprint system, to be used by the division to facilitate law enforcement;

(13) assign a distinguishing number or mark of identification to any pistol or revolver, as provided in Section 76-10-520;

(14) check certain criminal records databases for information regarding motor vehicle salesperson applicants, maintain a separate file of fingerprints for motor vehicle salespersons, and inform the Motor Vehicle Enforcement Division when new entries are made for certain criminal offenses for motor vehicle salespersons in accordance with the requirements of Section 41-3-205.5;

(15) check certain criminal records databases for information regarding driving privilege card applicants or cardholders and maintain a separate file of fingerprints for driving privilege applicants and cardholders and inform the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security when new entries are made in accordance with the requirements of Section 53-3-205.5.

(16) review and approve or disapprove applications for license renewal that meet the requirements for renewal;

(17) forward to the board those applications for renewal under Subsection (16) that do not meet the requirements for renewal; and

(18) within funds appropriated by the Legislature for the purpose, implement and manage the operation of a firearm safety program, in conjunction with the state suicide prevention coordinator, as described in this section and Section 62A-15-1101, including:

(a) coordinating with the Department of Health, local mental health and substance abuse authorities, the [State Office of Education] public education suicide prevention coordinator, and a representative from a Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to:

(i) produce a firearm safety brochure with information about the safe handling and use of firearms that includes:

(A) rules for safe handling, storage, and use of firearms in a home environment;

(B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;

(C) information about suicide prevention and awareness; and

(D) information about the availability of firearm safety packets;

(ii) procure cable-style gun locks for distribution pursuant to this section; and

(iii) produce a firearm safety packet that includes both the firearm safety brochure described in Subsection (18)(a)(i) and the cable-style gun lock described in Subsection (18)(a)(ii);

(b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the firearm safety packet available free of charge:

(i) health care providers, including emergency rooms;

(ii) mental health practitioners;

(iii) other public health suicide prevention organizations;

(iv) entities that teach firearm safety courses; and

(v) school districts for use in the seminar, described in Section 53A-15-1302, for parents of students in the school district;

(c) creating and administering a redeemable coupon program described in this section and Section 76-10-526, that may include:

(i) producing a redeemable coupon that offers between \$10 and \$200 off the purchase of a gun safe from a participating federally licensed firearms dealer, as defined in Section 76-10-501, by a Utah resident who has filed an application for a concealed firearm permit;

(ii) advertising the redeemable coupon program to all federally licensed firearms dealers and maintaining a list of dealers who wish to participate in the program;

(iii) printing or writing the name of a Utah resident who has filed an application for a concealed firearm permit on the redeemable coupon;

(iv) mailing the redeemable coupon and the firearm safety brochure to Utah residents who have filed an application for a concealed firearm permit; and

(v) collecting from the participating dealers receipts described in Section 76-10-526 and reimbursing the dealers;

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that establish procedures for:

(i) producing and distributing the firearm safety brochures and packets;

(ii) procuring the cable-style gun locks for distribution; and

(iii) administering the redeemable coupon program; and

(e) reporting to the Law Enforcement and Criminal Justice Interim Committee regarding implementation and success of the firearm safety program:

(i) during the 2016 interim, before November 1; and

(ii) during the 2018 interim, before June 1.

Section 14. Section 53-10-211 is amended to read:

53-10-211. Notice required of arrest of school employee for controlled substance or sex offense.

(1) The chief administrative officer of the law enforcement agency making the arrest or receiving notice under Subsection (2) shall immediately notify ~~the following individuals~~:

(a) ~~the administrator of teacher certification in~~ the State ~~Office~~ Board of Education; and

(b) the superintendent of schools of the employing public school district or, if the offender is an employee of a private school, the administrator of that school.

(2) Subsection (1) applies upon:

(a) the arrest of any school employee for any offense:

(i) in Section 58-37-8;

(ii) in Title 76, Chapter 5, Part 4, Sexual Offenses; or

(iii) involving sexual conduct; or

(b) upon receiving notice from any other jurisdiction that a school employee has committed an act which would, if committed in Utah, be an offense under Subsection (2)(a).

Section 15. Section 53A-1-202 is amended to read:

53A-1-202. Compensation for members of the State Board of Education -- Insurance -- Per diem and expenses.

(1) (a) The Legislature shall set the compensation of members of the State Board of Education annually in an appropriations act.

(b) Until the Legislature sets the compensation of members of the State Board of Education in an appropriations act, each member of the State Board of Education shall receive compensation of \$3,000 per year.

(c) Compensation of members of the State Board of Education is payable monthly.

(d) In setting the compensation of members of the State Board of Education, the Legislature shall consider the recommendations, if any, the Elected Official and Judicial Compensation Commission makes in accordance with Section 67-8-5.

(2) A board member may participate in any group insurance plan provided to employees of the State ~~Office~~ Board of Education as part of their compensation on the same basis as required for employee participation.

(3) In addition to the provisions of Subsections (1) and (2), a board member may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

Section 16. Section 53A-1-302 is amended to read:

53A-1-302. Compensation of state superintendent -- Other board employees.

(1) The board shall establish the compensation of the state superintendent.

(2) The board may, as necessary for the proper administration and supervision of the public school system:

(a) appoint other employees [as necessary for the proper administration and supervision of the public school system-]; and

(b) delegate appropriate duties and responsibilities to board employees.

(3) The compensation and duties of [these other] board employees shall be established by the board and paid from money appropriated for that purpose.

Section 17. Section 53A-1-403.5 is amended to read:

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

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

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

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

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

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

(i) inmate assessment;

(ii) cognitive problem-solving skills;

(iii) basic literacy skills;

(iv) career skills;

(v) job placement;

(vi) postrelease tracking and support;

(vii) research and evaluation;

(viii) family involvement and support; and

(ix) multiagency collaboration.

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

(i) the State Board of Regents;

(ii) the Utah College of Applied Technology Board of Trustees;

(iii) local boards of education;

(iv) the Department of Workforce Services;

(v) the Department of Human Services;

(vi) the Board of Pardons and Parole;

(vii) the State Office of Rehabilitation; and

(viii) the Governor's Office.

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

Section 18. Section 53A-1-413 is amended to read:

53A-1-413. Student Achievement Backpack -- Utah Student Record Store.

(1) As used in this section:

(a) "Authorized LEA user" means a teacher or other person who is:

(i) employed by an LEA that provides instruction to a student; and

(ii) authorized to access data in a Student Achievement Backpack through the Utah Student Record Store.

(b) "LEA" means a school district, charter school, or the Utah Schools for the Deaf and the Blind.

(c) "Student Achievement Backpack" means, for a student from kindergarten through grade 12, a complete learner profile that:

(i) is in electronic format;

(ii) follows the student from grade to grade and school to school; and

(iii) is accessible by the student's parent or guardian or an authorized LEA user.

(d) "U-PASS" means the Utah Performance Assessment System for Students established in Part 6, Achievement Tests.

(e) "Utah Student Record Store" means a repository of student data collected from LEAs as part of the state's longitudinal data system that is:

(i) managed by the ~~Utah~~ State ~~Office~~ Board of Education;

(ii) cloud-based; and

(iii) accessible via a web browser to authorized LEA users.

(2) (a) The State Board of Education shall use the State Board of Education's robust, comprehensive data collection system ~~[maintained by the Utah State Office of Education]~~, which collects longitudinal student transcript data from LEAs and the unique student identifiers as described in Section 53A-1-603.5, to allow the following to access a student's Student Achievement Backpack:

(i) the student's parent or guardian; and

(ii) each LEA that provides instruction to the student.

(b) The State Board of Education shall ensure that a Student Achievement Backpack:

(i) provides a uniform, transparent reporting mechanism for individual student progress;

(ii) provides a complete learner history for postsecondary planning;

(iii) provides a teacher with visibility into a student's complete learner profile to better inform instruction and personalize education;

(iv) assists a teacher or administrator in diagnosing a student's learning needs through the use of data already collected by the State Board of Education;

(v) facilitates a student's parent or guardian taking an active role in the student's education by simplifying access to the student's complete learner profile; and

(vi) serves as additional disaster mitigation for LEAs by using a cloud-based data storage and collection system.

(3) Using existing information collected and stored in the State Board of Education's data warehouse ~~[maintained by the Utah State Office of Education]~~, the State Board of Education shall create the Utah Student Record Store where an authorized LEA user may:

(a) access data in a Student Achievement Backpack relevant to the user's LEA or school; or

(b) request student records to be transferred from one LEA to another.

(4) The State Board of Education shall implement security measures to ensure that:

(a) student data stored or transmitted to or from the Utah Student Record Store is secure and confidential pursuant to the requirements of the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g; and

(b) an authorized LEA user may only access student data that is relevant to the user's LEA or school.

(5) A student's parent or guardian may request the student's Student Achievement Backpack from the LEA or the school in which the student is enrolled.

(6) No later than June 30, 2014, an authorized LEA user shall be able to access student data in a Student Achievement Backpack, which shall include the following data, or request the data be transferred from one LEA to another:

(a) student demographics;

(b) course grades;

(c) course history; and

(d) results for an assessment administered under U-PASS.

(7) No later than June 30, 2015, an authorized LEA user shall be able to access student data in a Student Achievement Backpack, which shall include the data listed in Subsections (6)(a) through (d) and the following data, or request the data be transferred from one LEA to another:

(a) section attendance;

(b) the name of a student's teacher for classes or courses the student takes;

(c) teacher qualifications for a student's teacher, including years of experience, degree, license, and endorsement;

(d) results of formative, interim, and summative computer adaptive assessments administered pursuant to Section 53A-1-603;

(e) detailed data demonstrating a student's mastery of the core standards for Utah public schools and objectives as measured by computer adaptive assessments administered pursuant to Section 53A-1-603;

(f) a student's writing sample written for an online writing assessment administered pursuant to Section 53A-1-603;

(g) student growth scores for U-PASS tests;

(h) a school's grade assigned pursuant to Part 11, School Grading Act;

(i) results of benchmark assessments of reading administered pursuant to Section 53A-1-606.6; and

(j) a student's reading level at the end of grade 3.

(8) No later than June 30, 2017, the State Board of Education shall ensure that data collected in the Utah Student Record Store for a Student Achievement Backpack shall be integrated into each LEA's student information system and shall be made available to a student's parent or guardian and an authorized LEA user in an easily accessible viewing format.

Section 19. Section 53A-1-708 is amended to read:

53A-1-708. Grants for online delivery of U-PASS tests.

(1) As used in this section:

(a) "Adaptive tests" means tests administered during the school year using an online adaptive test system.

(b) "Core standards for Utah public schools" means the standards developed and adopted by the State Board of Education that define the knowledge and skills students should have in kindergarten through grade 12 to enable students to be prepared for college or workforce training.

(c) "Summative tests" means tests administered near the end of a course to assess overall achievement of course goals.

(d) "Uniform online summative test system" means a single system for the online delivery of summative tests required under U-PASS that:

(i) is coordinated by the [Utah] State [Office] Board of Education;

(ii) ensures the reliability and security of U-PASS tests; and

(iii) is selected through collaboration between [Utah] the State [Office] Board of Education and school district representatives with expertise in technology, assessment, and administration.

(e) "U-PASS" means the Utah Performance Assessment System for Students.

(2) The State Board of Education may award grants to school districts and charter schools to implement one or both of the following:

(a) a uniform online summative test system to enable parents of students and school staff to review U-PASS test scores by the end of the school year; or

(b) an online adaptive test system to enable parents of students and school staff to measure and monitor a student's academic progress during a school year.

(3) (a) Grant money may be used to pay for any of the following, provided it is directly related to implementing a uniform online summative test system, an online adaptive test system, or both:

(i) computer equipment and peripherals, including electronic data capture devices designed for electronic test administration and scoring;

(ii) software;

(iii) networking equipment;

(iv) upgrades of existing equipment or software;

(v) upgrades of existing physical plant facilities;

(vi) personnel to provide technical support or coordination and management; and

(vii) teacher professional development.

(b) Equipment purchased in compliance with Subsection (3)(a), when not in use for the online delivery of summative tests or adaptive tests

required under U-PASS may be used for other purposes.

(4) The State Board of Education shall make rules:

(a) establishing procedures for applying for and awarding grants;

(b) specifying how grant money shall be allocated among school districts and charter schools;

(c) requiring reporting of grant money expenditures and evidence showing that the grant money has been used to implement a uniform online summative test system, an online adaptive test system, or both;

(d) establishing technology standards for an online adaptive testing system;

(e) requiring a school district or charter school that receives a grant under this section to implement, in compliance with Chapter 13, Part 3, Utah Family Educational Rights and Privacy Act, an online adaptive test system by the 2014-15 school year that:

(i) meets the technology standards established under Subsection (4)(d); and

(ii) is aligned with the core standards for Utah public schools;

(f) requiring a school district or charter school to provide matching funds to implement a uniform online summative test system, an online adaptive test system, or both in an amount that is greater than or equal to the amount of a grant received under this section; and

(g) assuring that student identifiable data is not released to any person, except as provided by Section 53A-13-301 and rules of the State Board of Education adopted under that section.

(5) If a school district or charter school uses grant money for purposes other than those stated in Subsection (3), the school district or charter school is liable for reimbursing the State Board of Education in the amount of the grant money improperly used.

(6) A school district or charter school may not use federal funds to provide the matching funds required to receive a grant under this section.

(7) A school district may not impose a tax rate above the certified tax rate for the purpose of generating revenue to provide matching funds for a grant under this section.

Section 20. Section 53A-1a-501.7 is amended to read:

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

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

(b) The State Charter School Board shall have authority to remove the staff director with the consent of the superintendent of public instruction.

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

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

Section 21. Section 53A-3-402 is amended to read:

53A-3-402. Powers and duties generally.

(1) Each local school board shall:

(a) implement the core standards for Utah public schools utilizing instructional materials that best correlate to the core standards for Utah public schools and graduation requirements;

(b) administer tests, required by the State Board of Education, which measure the progress of each student, and coordinate with the state superintendent and State Board of Education to assess results and create plans to improve the student's progress, which shall be submitted to the State [Office] Board of Education for approval;

(c) use progress-based assessments as part of a plan to identify schools, teachers, and students that need remediation and determine the type and amount of federal, state, and local resources to implement remediation;

(d) develop early warning systems for students or classes failing to make progress;

(e) work with the State [Office] Board of Education to establish a library of documented best practices, consistent with state and federal regulations, for use by the local districts; and

(f) implement training programs for school administrators, including basic management training, best practices in instructional methods, budget training, staff management, managing for learning results and continuous improvement, and how to help every child achieve optimal learning in basic academic subjects.

(2) Local school boards shall spend minimum school program funds for programs and activities for which the State Board of Education has established minimum standards or rules under Section 53A-1-402.

(3) (a) A board may purchase, sell, and make improvements on school sites, buildings, and equipment and construct, erect, and furnish school buildings.

(b) School sites or buildings may only be conveyed or sold on board resolution affirmed by at least two-thirds of the members.

(4) (a) A board may participate in the joint construction or operation of a school attended by

children residing within the district and children residing in other districts either within or outside the state.

(b) Any agreement for the joint operation or construction of a school shall:

(i) be signed by the president of the board of each participating district;

(ii) include a mutually agreed upon pro rata cost; and

(iii) be filed with the State Board of Education.

(5) A board may establish, locate, and maintain elementary, secondary, and applied technology schools.

(6) Except as provided in Section 53A-1-1001, a board may enroll children in school who are at least five years of age before September 2 of the year in which admission is sought.

(7) A board may establish and support school libraries.

(8) A board may collect damages for the loss, injury, or destruction of school property.

(9) A board may authorize guidance and counseling services for children and their parents or guardians prior to, during, or following enrollment of the children in schools.

(10) (a) A board shall administer and implement federal educational programs in accordance with Title 53A, Chapter 1, Part 9, Implementing Federal or National Education Programs Act.

(b) Federal funds are not considered funds within the school district budget under Title 53A, Chapter 19, Public School Budgets.

(11) (a) A board may organize school safety patrols and adopt rules under which the patrols promote student safety.

(b) A student appointed to a safety patrol shall be at least 10 years old and have written parental consent for the appointment.

(c) Safety patrol members may not direct vehicular traffic or be stationed in a portion of a highway intended for vehicular traffic use.

(d) Liability may not attach to a school district, its employees, officers, or agents or to a safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting the program by virtue of the organization, maintenance, or operation of a school safety patrol.

(12) (a) A board may on its own behalf, or on behalf of an educational institution for which the board is the direct governing body, accept private grants, loans, gifts, endowments, devises, or bequests that are made for educational purposes.

(b) These contributions are not subject to appropriation by the Legislature.

(13) (a) A board may appoint and fix the compensation of a compliance officer to issue citations for violations of Subsection 76-10-105(2).

(b) A person may not be appointed to serve as a compliance officer without the person's consent.

(c) A teacher or student may not be appointed as a compliance officer.

(14) A board shall adopt bylaws and rules for its own procedures.

(15) (a) A board shall make and enforce rules necessary for the control and management of the district schools.

(b) All board rules and policies shall be in writing, filed, and referenced for public access.

(16) A board may hold school on legal holidays other than Sundays.

(17) (a) Each board shall establish for each school year a school traffic safety committee to implement this Subsection (17).

(b) The committee shall be composed of one representative of:

(i) the schools within the district;

(ii) the Parent Teachers' Association of the schools within the district;

(iii) the municipality or county;

(iv) state or local law enforcement; and

(v) state or local traffic safety engineering.

(c) The committee shall:

(i) receive suggestions from school community councils, parents, teachers, and others and recommend school traffic safety improvements, boundary changes to enhance safety, and school traffic safety program measures;

(ii) review and submit annually to the Department of Transportation and affected municipalities and counties a child access routing plan for each elementary, middle, and junior high school within the district;

(iii) consult the Utah Safety Council and the Division of Family Health Services and provide training to all school children in kindergarten through grade six, within the district, on school crossing safety and use; and

(iv) help ensure the district's compliance with rules made by the Department of Transportation under Section 41-6a-303.

(d) The committee may establish subcommittees as needed to assist in accomplishing its duties under Subsection (17)(c).

(18) (a) Each school board shall adopt and implement a comprehensive emergency response plan to prevent and combat violence in its public schools, on school grounds, on its school vehicles, and in connection with school-related activities or events.

(b) The plan shall:

(i) include prevention, intervention, and response components;

(ii) be consistent with the student conduct and discipline policies required for school districts under Title 53A, Chapter 11, Part 9, School Discipline and Conduct Plans;

(iii) require inservice training for all district and school building staff on what their roles are in the emergency response plan;

(iv) provide for coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to violence in the areas and activities referred to in Subsection (18)(a); and

(v) include procedures to notify a student, to the extent practicable, who is off campus at the time of a school violence emergency because the student is:

(A) participating in a school-related activity; or

(B) excused from school for a period of time during the regular school day to participate in religious instruction at the request of the student's parent or guardian.

(c) The State Board of Education, through the state superintendent of public instruction, shall develop comprehensive emergency response plan models that local school boards may use, where appropriate, to comply with Subsection (18)(a).

(d) Each local school board shall, by July 1 of each year, certify to the State Board of Education that its plan has been practiced at the school level and presented to and reviewed by its teachers, administrators, students, and their parents and local law enforcement and public safety representatives.

(19) (a) Each local school board may adopt an emergency response plan for the treatment of sports-related injuries that occur during school sports practices and events.

(b) The plan may be implemented by each secondary school in the district that has a sports program for students.

(c) The plan may:

(i) include emergency personnel, emergency communication, and emergency equipment components;

(ii) require inservice training on the emergency response plan for school personnel who are involved in sports programs in the district's secondary schools; and

(iii) provide for coordination with individuals and agency representatives who:

(A) are not employees of the school district; and

(B) would be involved in providing emergency services to students injured while participating in sports events.

(d) The board, in collaboration with the schools referred to in Subsection (19)(b), may review the plan each year and make revisions when required to improve or enhance the plan.

(e) The State Board of Education, through the state superintendent of public instruction, shall

provide local school boards with an emergency plan response model that local boards may use to comply with the requirements of this Subsection (19).

(20) A board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.

(21) (a) Before closing a school or changing the boundaries of a school, a board shall:

(i) hold a public hearing, as defined in Section 10-9a-103; and

(ii) provide public notice of the public hearing, as specified in Subsection (21)(b).

(b) The notice of a public hearing required under Subsection (21)(a) shall:

(i) indicate the:

(A) school or schools under consideration for closure or boundary change; and

(B) date, time, and location of the public hearing; and

(ii) at least 10 days prior to the public hearing, be:

(A) published:

(I) in a newspaper of general circulation in the area; and

(II) on the Utah Public Notice Website created in Section 63F-1-701; and

(B) posted in at least three public locations within the municipality or on the district's official website.

(22) A board may implement a facility energy efficiency program established under Title 11, Chapter 44, Performance Efficiency Act.

Section 22. Section 53A-3-402.9 is amended to read:

53A-3-402.9. Assessment of emerging and early reading skills -- Resources provided by school districts.

(1) The Legislature recognizes that well-developed reading skills help:

(a) children to succeed in school, develop self esteem, and build positive relationships with others;

(b) young adults to become independent learners; and

(c) adults to become and remain productive members of a rapidly changing technology-based society.

(2) (a) Each potential kindergarten student, the student's parent or guardian, and kindergarten personnel at the student's school may participate in an assessment of the student's reading and numeric skills.

(b) The State [Office] Board of Education, in cooperation with the state's school districts, may develop the assessment instrument and any

additional materials needed to implement and supplement the assessment program.

(3) The potential kindergarten student's teacher may use the assessment in planning and developing an instructional program to meet the student's identified needs.

(4) (a) Each school is encouraged to schedule the assessment early enough before the kindergarten starting date so that a potential kindergarten student's parent or guardian has time to develop the child's needed skills as identified by the assessment.

(b) Based on the assessment under Subsection (2), the school shall provide the potential student's parent or guardian with appropriate resource materials to assist the parent or guardian at home in the student's literacy development.

Section 23. Section 53A-3-424 is amended to read:

53A-3-424. Rulemaking -- Reporting.

The State [Office] Board of Education may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding compliance standards and reporting requirements for local school boards with respect to the policy required by Section 53A-3-422.

Section 24. Section 53A-3-603 is amended to read:

53A-3-603. State board models, guidelines, and training.

(1) The State Board of Education [~~through the State Office of Education~~] shall develop and provide models, guidelines, and training to school districts to enable each district to comply with Section 53A-3-602.5.

(2) The models and guidelines shall focus on systematic, simplified organizational analysis and reporting of available data.

(3) A school district is not restricted to using the models and guidelines developed by the board if it develops or finds a better approach for clearly communicating the data required under Section 53A-3-602.5.

Section 25. Section 53A-6-103 is amended to read:

53A-6-103. Definitions.

As used in this chapter:

(1) "Accredited institution" means an institution meeting the requirements of Section 53A-6-107.

(2) (a) "Alternative preparation program" means preparation for licensure in accordance with applicable law and rule through other than an approved preparation program.

(b) "Alternative preparation program" includes the competency-based licensing program described in Section 53A-6-104.5.

(3) "Ancillary requirement" means a requirement established by law or rule in addition to completion

of an approved preparation program or alternative education program or establishment of eligibility under the NASDTEC Interstate Contract, and may include any of the following:

- (a) minimum grade point average;
- (b) standardized testing or assessment;
- (c) mentoring;
- (d) recency of professional preparation or experience;
- (e) graduation from an accredited institution; or
- (f) evidence relating to moral, ethical, physical, or mental fitness.

(4) "Approved preparation program" means a program for preparation of educational personnel offered through an accredited institution in Utah or in a state which is a party to a contract with Utah under the NASDTEC Interstate Contract and which, at the time the program was completed by the applicant:

- (a) was approved by the governmental agency responsible for licensure of educators in the state in which the program was provided;
- (b) satisfied requirements for licensure in the state in which the program was provided;
- (c) required completion of a baccalaureate; and
- (d) included a supervised field experience.

(5) "Board" means the [Utah] State Board of Education.

(6) "Certificate" means a license issued by a governmental jurisdiction outside the state.

(7) "Core academic subjects" means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

(8) "Educator" means:

- (a) a person who holds a license;
- (b) a teacher, counselor, administrator, librarian, or other person required, under rules of the board, to hold a license; or
- (c) a person who is the subject of an allegation which has been received by the board or UPPAC and was, at the time noted in the allegation, a license holder or a person employed in a position requiring licensure.

(9) (a) "Endorsement" means a stipulation appended to a license setting forth the areas of practice to which the license applies.

(b) An endorsement shall be issued upon completion of a competency-based teacher preparation program from a regionally accredited university that meets state content standards.

(10) "License" means an authorization issued by the board which permits the holder to serve in a professional capacity in the public schools. The five levels of licensure are:

(a) "letter of authorization," which is:

(i) a temporary license issued to a person who has not completed requirements for a competency-based, or level 1, 2, or 3 license, such as:

- (A) a student teacher; or
- (B) a person participating in an alternative preparation program; or

(ii) a license issued, pursuant to board rules, to a person who has achieved eminence, or has outstanding qualifications, in a field taught in public schools;

(b) "competency-based license" which is issued to a teacher based on the teacher's demonstrated teaching skills and abilities;

(c) "level 1 license," which is a license issued upon completion of:

- (i) a competency-based teacher preparation program from a regionally accredited university; or
- (ii) an approved preparation program or an alternative preparation program, or pursuant to an agreement under the NASDTEC Interstate Contract, to candidates who have also met all ancillary requirements established by law or rule;

(d) "level 2 license," which is a license issued after satisfaction of all requirements for a level 1 license as well as any additional requirements established by law or rule relating to professional preparation or experience; and

(e) "level 3 license," which is a license issued to an educator who holds a current Utah level 2 license and has also received, in the educator's field of practice, National Board certification or a doctorate from an accredited institution.

(11) "NASDTEC" means the National Association of State Directors of Teacher Education and Certification.

(12) "NASDTEC Interstate Contract" means the contract implementing Title 53A, Chapter 6, Part 2, Compact for Interstate Qualification of Educational Personnel, which is administered through NASDTEC.

(13) "National Board certification" means a current certificate issued by the National Board for Professional Teaching Standards.

(14) "Necessarily existent small school" means a school classified as a necessarily existent small school in accordance with Section 53A-17a-109.

~~[(15) "Office" means the Utah State Office of Education.]~~

~~[(16)] (15) "Rule" means an administrative rule adopted by the board under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~

~~[(17)] (16) "School" means a public or private entity which provides educational services to a minor child.~~

~~[(18)] (17) "Small school district" means a school district with an enrollment of less than 5,000 students.~~

[49] (18) "UPPAC" means the Utah Professional Practices Advisory Commission.

Section 26. Section 53A-6-104.5 is amended to read:

53A-6-104.5. Licensing by competency.

(1) A competency-based license to teach may be issued based on the demonstrated competence of a teacher as provided in this section.

(2) A local school board or charter school may request, and the [State Board of Education] board shall grant, upon receipt of documentation from the local school board or charter school verifying the person's qualifications as specified in this section, a competency-based license to a person who meets the qualifications specified in this section and submits to a criminal background check as required in Section 53A-15-1504.

(3) A local school board or charter school may request a competency-based license if the candidate meets the following qualifications:

(a) a license candidate who teaches one or more core academic subjects in an elementary school shall:

(i) hold at least a bachelor's degree; and

(ii) have demonstrated, by passing a rigorous state test, subject knowledge and teaching skills in reading, writing, mathematics, and other areas of the basic elementary school curriculum;

(b) a license candidate who teaches one or more core academic subjects in a middle or secondary school shall:

(i) hold at least a bachelor's degree; and

(ii) have demonstrated a high level of competency in each of the academic subjects in which the teacher teaches by:

(A) passing a rigorous state academic subject test in each of the academic subjects in which the teacher teaches; or

(B) successful completion, in each of the academic subjects in which the teacher teaches, of an academic major, a graduate degree, course work equivalent to an undergraduate academic major, or advanced certification or credentialing; or

(c) a license candidate who teaches subjects other than a core academic subject in an elementary, middle, or high school shall:

(i) hold a bachelor's degree, associate's degree, or skill certification; and

(ii) have skills, talents, or abilities, as evaluated by the employing entity, that make the person suited for the teaching position.

(4) A school district or charter school:

(a) shall monitor and assess the performance of each teacher holding a competency-based license; and

(b) may recommend that the competency-based license holder's training and assessment be reviewed by the [Utah State Office of Education] board for a level 1 license.

Section 27. Section 53A-6-105 is amended to read:

53A-6-105. Licensing fees -- Credit to subfund -- Payment of expenses.

(1) The board shall levy a fee for each new, renewed, or reinstated license or endorsement in accordance with Section 63J-1-504.

(2) Fee payments are credited to the Professional Practices Restricted Subfund in the Uniform School Fund.

(3) The board shall pay the expenses of issuing licenses and of UPPAC operations, and the costs of collecting license fees from the restricted subfund.

(4) The [office] board shall submit an annual report to the Legislature's Public Education Appropriations Subcommittee informing the Legislature about the fund, fees assessed and collected, and expenditures from the fund.

Section 28. Section 53A-6-110 is amended to read:

53A-6-110. Administrative/supervisory letters of authorization.

(1) A local school board may request, and the [State Board of Education] board may grant, a letter of authorization permitting a person with outstanding professional qualifications to serve in any position that requires a person to hold an administrative/supervisory license or certificate, including principal, assistant principal, associate principal, vice principal, assistant superintendent, administrative assistant, director, specialist, or other district position.

(2) The [State Board of Education] board may grant a letter of authorization permitting a person with outstanding professional qualifications to serve in [any] a position [at the State Office of Education] that requires a person to hold an administrative/supervisory license or certificate.

Section 29. Section 53A-6-302 is amended to read:

53A-6-302. UPPAC members -- Executive secretary.

(1) UPPAC shall consist of a nonvoting executive secretary and 11 voting members, nine of whom shall be licensed educators in good standing, and two of whom shall be members nominated by the education organization within the state that has the largest membership of parents of students and teachers.

(2) Six of the voting members shall be persons whose primary responsibility is teaching.

(3) (a) The state superintendent of public instruction shall appoint an employee [of the office] to serve as executive secretary.

(b) Voting members are appointed by the superintendent as provided under Section 53A-6-303.

(4) ~~[The office shall provide staff support for]~~ Board employees shall staff UPPAC activities.

Section 30. Section 53A-6-403 is amended to read:

53A-6-403. Tie-in with the Criminal Investigations and Technical Services Division.

(1) The [office] board shall:

(a) [be] designate employees to act, with board supervision, as an online terminal agency with the Department of Public Safety's Criminal Investigations and Technical Services Division under Section 53-10-108; and

(b) provide relevant information concerning current or prospective employees or volunteers upon request to other school officials as provided in Section 53A-6-402.

(2) The cost of the online service shall be borne by the entity making the inquiry.

Section 31. Section 53A-6-404 is amended to read:

53A-6-404. Certification in other jurisdictions -- Impact on licensing in Utah.

(1) An applicant for a license, renewal of a license, or reinstatement of a license shall provide the administrator of teacher licensing with an affidavit, stating under oath the current status of any certificate, license, or other authorization required for a professional position in education, which the applicant holds or has held in any other jurisdiction.

(2) An applicant for a license who has held a teacher's license in any other jurisdiction or who graduated from an institution of higher education in another state shall also provide the administrator of teacher licensing with:

(a) a complete listing of the higher education institutions attended by the applicant, whether the applicant's enrollment or eligibility for completion of a program was terminated by the institution, and, if so, the reasons for termination;

(b) a complete list of prior school employers; and

(c) a release on a form provided by the administrator permitting the [office] board to obtain records from other jurisdictions and from institutions of higher education attended by the applicant, including expunged or otherwise protected records, relating to any offense described substantially in the same language as in Section 53A-15-1506.

(3) If the applicant's certificate, license, or authorization as an educator in any other jurisdiction is under investigation, has expired or been surrendered, suspended or revoked, or is currently not valid for any other reason, the [office] board may not grant the requested license, renewal, or reinstatement until it has received confirmation from the administrator of professional certification in that jurisdiction that the applicant would be

eligible for certification or licensure in that jurisdiction.

(4) The [office] board may not withhold a license for the sole reason that the applicant would be ineligible for certification, licensure, or authorization in the jurisdiction referred to in Subsection (3) because of failure to meet current requirements in that jurisdiction relating to education, time in service, or residence.

Section 32. Section 53A-13-101 is amended to read:

53A-13-101. Instruction in health -- Parental consent requirements -- Conduct and speech of school employees and volunteers -- Political and religious doctrine prohibited.

(1) (a) The State Board of Education shall establish curriculum requirements under Section 53A-1-402, that include instruction in:

- (i) community and personal health;
- (ii) physiology;
- (iii) personal hygiene; and
- (iv) prevention of communicable disease.

(b) (i) That instruction shall stress:

(A) the importance of abstinence from all sexual activity before marriage and fidelity after marriage as methods for preventing certain communicable diseases; and

(B) personal skills that encourage individual choice of abstinence and fidelity.

(ii) (A) At no time may instruction be provided, including responses to spontaneous questions raised by students, regarding any means or methods that facilitate or encourage the violation of any state or federal criminal law by a minor or an adult.

(B) Subsection (1)(b)(ii)(A) does not preclude an instructor from responding to a spontaneous question as long as the response is consistent with the provisions of this section.

(c) (i) The board shall recommend instructional materials for use in the curricula required under Subsection (1)(a) after considering evaluations of instructional materials by the State Instructional Materials Commission.

(ii) A local school board may choose to adopt:

(A) the instructional materials recommended under Subsection (1)(c)(i); or

(B) other instructional materials as provided in state board rule.

(iii) The state board rule made under Subsection (1)(c)(ii)(B) shall include, at a minimum:

(A) that the materials adopted by a local school board under Subsection (1)(c)(ii)(B) shall be based upon recommendations of the school district's Curriculum Materials Review Committee that comply with state law and state board rules

emphasizing abstinence before marriage and fidelity after marriage, and prohibiting instruction in:

(I) the intricacies of intercourse, sexual stimulation, or erotic behavior;

(II) the advocacy of homosexuality;

(III) the advocacy or encouragement of the use of contraceptive methods or devices; or

(IV) the advocacy of sexual activity outside of marriage;

(B) that the adoption of instructional materials shall take place in an open and regular meeting of the local school board for which prior notice is given to parents and guardians of students attending schools in the district and an opportunity for them to express their views and opinions on the materials at the meeting;

(C) provision for an appeal and review process of the local school board's decision; and

(D) provision for a report by the local school board to the State Board of Education of the action taken and the materials adopted by the local school board under Subsections (1)(c)(ii)(B) and (1)(c)(iii).

(2) (a) Instruction in the courses described in Subsection (1) shall be consistent and systematic in grades eight through 12.

(b) At the request of the board, the Department of Health shall cooperate with the board in developing programs to provide instruction in those areas.

(3) (a) The board shall adopt rules that:

(i) provide that the parental consent requirements of Sections 76-7-322 and 76-7-323 are complied with; and

(ii) require a student's parent or legal guardian to be notified in advance and have an opportunity to review the information for which parental consent is required under Sections 76-7-322 and 76-7-323.

(b) The board shall also provide procedures for disciplinary action for violation of Section 76-7-322 or 76-7-323.

(4) (a) In keeping with the requirements of Section 53A-13-109, and because school employees and volunteers serve as examples to their students, school employees or volunteers acting in their official capacities may not support or encourage criminal conduct by students, teachers, or volunteers.

(b) To ensure the effective performance of school personnel, the limitations described in Subsection (4)(a) also apply to school employees or volunteers acting outside of their official capacities if:

(i) they knew or should have known that their action could result in a material and substantial interference or disruption in the normal activities of the school; and

(ii) that action does result in a material and substantial interference or disruption in the normal activities of the school.

(c) Neither the State [Office] Board of Education nor local school districts may [provide] allow training of school employees or volunteers that supports or encourages criminal conduct.

(d) The State Board of Education shall adopt rules implementing this section.

(e) Nothing in this section limits the ability or authority of the State Board of Education and local school boards to enact and enforce rules or take actions that are otherwise lawful, regarding educators', employees', or volunteers' qualifications or behavior evidencing unfitness for duty.

(5) Except as provided in Section 53A-13-101.1, political, atheistic, sectarian, religious, or denominational doctrine may not be taught in the public schools.

(6) (a) Local school boards and their employees shall cooperate and share responsibility in carrying out the purposes of this chapter.

(b) Each school district shall provide appropriate inservice training for its teachers, counselors, and school administrators to enable them to understand, protect, and properly instruct students in the values and character traits referred to in this section and Sections 53A-13-101.1, 53A-13-101.2, 53A-13-101.3, 53A-13-109, 53A-13-301, and 53A-13-302 and distribute appropriate written materials on the values, character traits, and conduct to each individual receiving the inservice training.

(c) The written materials shall also be made available to classified employees, students, and parents and guardians of students.

(d) In order to assist school districts in providing the inservice training required under Subsection (6)(b), the State Board of Education shall as appropriate, contract with a qualified individual or entity possessing expertise in the areas referred to in Subsection (6)(b) to develop and disseminate model teacher inservice programs which districts may use to train the individuals referred to in Subsection (6)(b) to effectively teach the values and qualities of character referenced in that subsection.

(e) In accordance with the provisions of Subsection (4)(c), inservice training may not support or encourage criminal conduct.

(7) If any one or more provision, subsection, sentence, clause, phrase, or word of this section, or the application thereof to any person or circumstance, is found to be unconstitutional, the balance of this section shall be given effect without the invalid provision, subsection, sentence, clause, phrase, or word.

Section 33. Section 53A-13-208 is amended to read:

53A-13-208. Driver education teachers certified as license examiners.

(1) The Driver License Division of the Department of Public Safety and the State Board of

Education [~~through the State Office of Education~~] shall establish procedures and standards to certify teachers of driver education classes under this part to administer written and driving tests.

(2) The division is the certifying authority.

(3) (a) A teacher certified under this section shall give written and driving tests designed for driver education classes authorized under this part.

(b) The Driver License Division shall, in conjunction with the State [~~Office~~] Board of Education, establish minimal standards for the driver education class tests that are at least as difficult as those required to receive a class D operator's license under Title 53, Chapter 3, Uniform Driver License Act.

(c) A student who passes the written test but fails the driving test given by a teacher certified under this section may apply for a learner permit or class D operator's license under Title 53, Chapter 3, Part 2, Driver Licensing Act, and complete the driving test at a Driver License Division office.

(4) A student shall have a learner permit issued by the Driver License Division under Section 53-3-210.5 in the student's immediate possession at all times when operating a motor vehicle under this section.

(5) A student who successfully passes the tests given by a certified driver education teacher under this section satisfies the written and driving parts of the test required for a learner permit or class D operator's license.

(6) The Driver License Division and the State Board of Education shall establish procedures to enable school districts to administer or process any tests for students to receive a learner permit or class D operator's license.

(7) The division and board shall establish the standards and procedures required under this section by rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 34. Section 53A-14-107 is amended to read:

53A-14-107. Instructional materials alignment with core standards for Utah public schools.

(1) For a school year beginning with or after the 2012-13 school year, a school district may not purchase primary instructional materials unless the primary instructional materials provider:

(a) contracts with an independent party to evaluate and map the alignment of the primary instructional materials with the core standards for Utah public schools adopted under Section 53A-1-402;

(b) provides a detailed summary of the evaluation under Subsection (1)(a) on a public website at no charge, for use by teachers and the general public; and

(c) pays the costs related to the requirements of this Subsection (1).

(2) The requirements under Subsection (1) may not be performed by:

(a) the State Board of Education;

(b) the superintendent of public instruction or [~~the State Office~~] employees of the State Board of Education;

(c) the State Instructional Materials Commission appointed pursuant to Section 53A-14-101;

(d) a local school board or a school district; or

(e) the instructional materials creator or publisher.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules that establish:

(a) the qualifications of the independent parties who may evaluate and map the alignment of the primary instructional materials in accordance with the provisions of Subsection (1)(a); and

(b) requirements for the detailed summary of the evaluation and its placement on a public website in accordance with the provisions of Subsection (1)(b).

Section 35. Section 53A-15-1301 is amended to read:

53A-15-1301. Youth suicide prevention programs required in secondary schools -- State Board of Education to develop model programs -- Reporting requirements.

(1) As used in the section:

(a) "Board" means the State Board of Education.

(b) "Intervention" means an effort to prevent a student from attempting suicide.

(c) "Postvention" means mental health intervention after a suicide attempt or death to prevent or contain contagion.

(d) "Program" means a youth suicide prevention program described in Subsection (2).

(e) "Public education suicide prevention coordinator" means an individual designated by the board as described in Subsection (3).

[~~(e)~~] (f) "Secondary grades":

(i) means grades 7 through 12; and

(ii) if a middle or junior high school includes grade 6, includes grade 6.

[~~(f) "State Office of Education suicide prevention coordinator" means a person designated by the board as described in Subsection (3).]~~

(g) "State suicide prevention coordinator" means the state suicide prevention coordinator described in Section 62A-15-1101.

(2) (a) In collaboration with the [~~State Office of Education~~] public education suicide prevention coordinator, a school district or charter school shall implement a youth suicide prevention program in

the secondary grades of the school district or charter school.

(b) A school district or charter school's program shall include the following components:

(i) in collaboration with the training, programs, and initiatives described in Section 53A-11a-401, programs and training to address bullying and cyberbullying, as those terms are defined in Section 53A-11a-102;

(ii) prevention of youth suicides;

(iii) youth suicide intervention; and

(iv) postvention for family, students, and faculty.

(3) The board shall:

(a) designate a ~~[State Office of Education]~~ public education suicide prevention coordinator; and

(b) in collaboration with the Department of Health and the state suicide prevention coordinator, develop model programs to provide to school districts and charter schools:

(i) program training; and

(ii) resources regarding the required components described in Subsection (2)(b).

(4) The ~~[State Office of Education]~~ public education suicide prevention coordinator shall:

(a) oversee the youth suicide prevention programs of school districts and charter schools; and

(b) coordinate prevention and postvention programs, services, and efforts with the state suicide prevention coordinator.

(5) A public school suicide prevention program may allow school personnel to ask a student questions related to youth suicide prevention, intervention, or postvention.

(6) (a) Subject to legislative appropriation, the board may distribute money to a school district or charter school to be used to implement evidence-based practices and programs, or emerging best practices and programs, for preventing suicide in the school district or charter school.

(b) The board shall distribute money under Subsection (6)(a) so that each school that enrolls students in grade 7 or a higher grade receives an allocation of at least \$500, or a lesser amount per school if the legislative appropriation is not sufficient to provide at least \$500 per school.

(c) (i) A school shall use money allocated to the school under Subsection (6)(b) to implement evidence-based practices and programs, or emerging best practices and programs, for preventing suicide.

(ii) Each school may select the evidence-based practices and programs, or emerging best practices and programs, for preventing suicide that the school implements.

(7) (a) The board shall provide a written report, and shall orally report to the Legislature's Education Interim Committee, by the October 2015 meeting, jointly with the ~~[State Office of Education]~~ public education suicide prevention coordinator and the state suicide prevention coordinator, on:

(i) the progress of school district and charter school youth suicide prevention programs, including rates of participation by school districts, charter schools, and students;

(ii) the board's coordination efforts with the Department of Health and the state suicide prevention coordinator;

(iii) the ~~[State Office of Education]~~ public education suicide prevention coordinator's model program for training and resources related to youth suicide prevention, intervention, and postvention;

(iv) data measuring the effectiveness of youth suicide programs;

(v) funds appropriated to each school district and charter school for youth suicide prevention programs; and

(vi) five-year trends of youth suicides per school, school district, and charter school.

(b) School districts and charter schools shall provide to the board information that is necessary for the board's report to the Legislature's Education Interim Committee as required in Subsection (7)(a).

Section 36. Section 53A-16-101.6 is amended to read:

53A-16-101.6. Creation of School Children's Trust Section -- Duties.

(1) As used in this section:

(a) "School and institutional trust lands" is as defined in Section 53C-1-103.

(b) "Section" means the School Children's Trust Section created in this section.

(c) "Trust" means:

(i) the School LAND Trust Program created in Section 53A-16-101.5; and

(ii) the lands and funds associated with the trusts described in Subsection 53C-1-103(7).

(2) There is established a School Children's Trust Section ~~[within]~~ under the State ~~[Office]~~ Board of Education.

(3) (a) The section shall have a director.

(b) The director shall have professional qualifications and expertise in the areas generating revenue to the trust, including:

(i) economics;

(ii) energy development;

(iii) finance;

(iv) investments;

(v) public education;

- (vi) real estate;
- (vii) renewable resources;
- (viii) risk management; and
- (ix) trust law.
- (c) The director shall be appointed as provided in this Subsection (3).
- (d) The School and Institutional Trust Lands Board of Trustees nominating committee shall submit to the State Board of Education the name of one person to serve as director.
- (e) The State Board of Education may:
- (i) appoint the person described in Subsection (3)(d) to serve as director; or
- (ii) deny the appointment of the person described in Subsection (3)(d) to serve as director.
- (f) If the State Board of Education denies an appointment under this Subsection (3):
- (i) the State Board of Education shall provide in writing one or more reasons for the denial to the School and Institutional Trust Lands Board of Trustees nominating committee; and
- (ii) the School and Institutional Trust Lands Board of Trustees nominating committee and the State Board of Education shall follow the procedures and requirements of this Subsection (3) until the State Board of Education appoints a director.
- (g) The State Board of Education may remove the director only by majority vote of a quorum in an open and public meeting after proper notice and the inclusion of the removal item on the agenda.
- (4) The State Board of Education shall make rules regarding:
- (a) regular reporting from the School Children's Trust Section director to the State Board of Education, to allow the State Board of Education to fulfill its duties in representing the trust beneficiaries; and
- (b) the day-to-day reporting of the School Children's Trust Section director.
- (5) (a) The director shall annually submit a proposed section budget to the State Board of Education.
- (b) After approving a section budget, the State Board of Education shall propose the approved budget to the Legislature.
- (6) The director is entitled to attend any presentation, discussion, meeting, or other gathering concerning the trust, subject to:
- (a) provisions of law prohibiting the director's attendance to preserve confidentiality; or
- (b) other provisions of law that the director's attendance would violate.
- (7) The section shall have a staff.
- (8) The section shall protect current and future beneficiary rights and interests in the trust consistent with the state's perpetual obligations under:
- (a) the Utah Enabling Act;
- (b) the Utah Constitution;
- (c) state statute; and
- (d) standard trust principles described in Section 53C-1-102.
- (9) The section shall promote:
- (a) productive use of school and institutional trust lands; and
- (b) the efficient and prudent investment of funds managed by the School and Institutional Trust Fund Office, created in Section 53D-1-201.
- (10) The section shall provide representation, advocacy, and input:
- (a) on behalf of current and future beneficiaries of the trust, school community councils, schools, and school districts;
- (b) on federal, state, and local land decisions and policies that affect the trust; and
- (c) to:
- (i) the School and Institutional Trust Lands Administration;
- (ii) the School and Institutional Trust Lands Board of Trustees;
- (iii) the Legislature;
- (iv) the School and Institutional Trust Fund Office, created in Section 53D-1-201;
- (v) the School and Institutional Trust Fund Board of Trustees, created in Section 53D-1-301;
- (vi) the attorney general;
- (vii) the public; and
- (viii) other entities as determined by the section.
- (11) The section shall provide independent oversight on the prudent and profitable management of the trust and report annually to the State Board of Education and the Legislature.
- (12) The section shall provide information requested by a person or entity described in Subsections (10)(c)(i) through (vii).
- (13) (a) The section shall provide training to the entities described in Subsection (13)(b) on:
- (i) the School LAND Trust Program established in Section 53A-16-101.5; and
- (ii) (A) a school community council established pursuant to Section 53A-1a-108; or
- (B) a charter trust land council established under Section 53A-16-101.5.
- (b) The section shall provide the training to:
- (i) a local school board or a charter school governing board;

- (ii) a school district or a charter school; and
- (iii) a school community council.

Section 37. Section 53A-20-104 is amended to read:

53A-20-104. Enforcement of chapter by state superintendent -- Employment of personnel -- School districts and charter schools -- Certificate of inspection verification.

(1) The state superintendent of public instruction shall enforce this chapter.

(2) The superintendent may employ architects or other qualified personnel, or contract with the State Building Board, the state fire marshal, or a local governmental entity to:

(a) examine the plans and specifications of any school building or alteration submitted under this chapter;

(b) verify the inspection of any school building during or following construction; and

(c) perform other functions necessary to ensure compliance with this chapter.

(3) (a) (i) If a local school board uses the school district's building inspector under Subsection 10-9a-305(6)(a)(ii) or 17-27a-305(6)(a)(ii) and issues its own certificate authorizing permanent occupancy of the school building, the local school board shall file a certificate of inspection verification with the local governmental entity's building official and the State [Office] Board of Education, advising those entities that the school district has complied with the inspection provisions of this chapter.

(ii) If a charter school uses a school district building inspector under Subsection 10-9a-305(6)(a)(ii) or 17-27a-305(6)(a)(ii) and the school district issues to the charter school a certificate authorizing permanent occupancy of the school building, the charter school shall file with the State [Office] Board of Education a certificate of inspection verification.

(iii) If a local school board or charter school uses a local governmental entity's building inspector under Subsection 10-9a-305(6)(a)(i) or 17-27a-305(6)(a)(i) and the local governmental entity issues the local school board or charter school a certificate authorizing permanent occupancy of the school building, the local school board or charter school shall file with the State [Office] Board of Education a certificate of inspection verification.

(iv) (A) If a local school board or charter school uses an independent, certified building inspector under Subsection 10-9a-305(6)(a)(iii) or 17-27a-305(6)(a)(iii), the local school board or charter school shall, upon completion of all required inspections of the school building, file with the State [Office] Board of Education a certificate of inspection verification and a request for the issuance of a certificate authorizing permanent occupancy of the school building.

(B) Upon the local school board's or charter school's filing of the certificate and request as provided in Subsection (3)(a)(iv)(A), the school district or charter school shall be entitled to temporary occupancy of the school building that is the subject of the request for a period of 90 days, beginning the date the request is filed, if the school district or charter school has complied with all applicable fire and life safety code requirements.

(C) Within 30 days after the local school board or charter school files a request under Subsection (3)(a)(iv)(A) for a certificate authorizing permanent occupancy of the school building, the state superintendent of public instruction shall:

(I) (Aa) issue to the local school board or charter school a certificate authorizing permanent occupancy of the school building; or

(Bb) deliver to the local school board or charter school a written notice indicating deficiencies in the school district's or charter school's compliance with the inspection provisions of this chapter; and

(II) mail a copy of the certificate authorizing permanent occupancy or the notice of deficiency to the building official of the local governmental entity in which the school building is located.

(D) Upon the local school board or charter school remedying the deficiencies indicated in the notice under Subsection (3)(a)(iv)(C)(I)(Bb) and notifying the state superintendent of public instruction that the deficiencies have been remedied, the state superintendent of public instruction shall issue a certificate authorizing permanent occupancy of the school building and mail a copy of the certificate to the building official of the local governmental entity in which the school building is located.

(E) (I) The state superintendent of public instruction may charge the school district or charter school a fee for an inspection that the superintendent considers necessary to enable the superintendent to issue a certificate authorizing permanent occupancy of the school building.

(II) A fee under Subsection (3)(a)(iv)(E)(I) may not exceed the actual cost of performing the inspection.

(b) For purposes of this Subsection (3):

(i) "local governmental entity" means either a municipality, for a school building located within a municipality, or a county, for a school building located within an unincorporated area in the county; and

(ii) "certificate of inspection verification" means a standard inspection form developed by the state superintendent in consultation with local school boards and charter schools to verify that inspections by qualified inspectors have occurred.

Section 38. Section 53A-25b-306 is amended to read:

53A-25b-306. Programs for deafblind individuals -- State deafblind education specialist.

(1) The board shall adopt policies and programs for providing appropriate educational services to individuals who are deafblind.

(2) Except as provided in Subsection (4), the board shall designate an employee [~~of the Utah State Office of Education~~] who holds a deafblind certification or equivalent training and expertise to:

(a) act as a resource coordinator for the board on public education programs designed for individuals who are deafblind;

(b) facilitate the design and implementation of professional development programs to assist school districts, charter schools, and the Utah Schools for the Deaf and the Blind in meeting the educational needs of those who are deafblind; and

(c) facilitate the design of and assist with the implementation of one-on-one intervention programs in school districts, charter schools, and at the Utah Schools for the Deaf and the Blind for those who are deafblind, serving as a resource for, or team member of, individual IEP teams.

(3) The board may authorize and approve the costs of an employee [~~of the Utah State Office of Education~~] to obtain a deafblind certification or equivalent training and expertise to qualify for the position described in Subsection (2).

(4) The board may contract with a third party for the services required under Subsection (2).

Section 39. Section 53A-25b-501 is amended to read:

53A-25b-501. Instructional Materials Access Center -- Board to make rules.

(1) The [~~Utah State Office of Education~~] board shall collaborate with the Utah Schools for the Deaf and the Blind, school districts, and charter schools in establishing the Utah State Instructional Materials Access Center to provide students with print disabilities access to instructional materials in alternate formats in a timely manner.

(2) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) establish the Utah State Instructional Materials Access Center;

(b) define how the Educational Resource Center at the Utah Schools for the Deaf and the Blind shall collaborate in the operation of the Utah State Instructional Materials Access Center;

(c) specify procedures for the operation of the Utah State Instructional Materials Access Center, including procedures to:

(i) identify students who qualify for instructional materials in alternate formats; and

(ii) distribute and store instructional materials in alternate formats;

(d) establish the contribution of school districts and charter schools towards the cost of instructional materials in alternate formats; and

(e) require textbook publishers, as a condition of contract, to provide electronic file sets in

conformance with the National Instructional Materials Accessibility Standard.

Section 40. Section 53B-6-104 is amended to read:

53B-6-104. Multi-University Consortium for Teacher Training in Sensory Impairments -- Purposes -- Appropriation.

(1) (a) In conjunction with the State Board of Regents' master plan for higher education, there is established a Multi-University Consortium for Teacher Training in Sensory Impairments which is an outgrowth of a consortium established by the federal government.

(b) The consortium shall include within its membership the University of Utah, Utah State University, Brigham Young University, the Utah Schools for the Deaf and the Blind, the Services for At-Risk Students section [øf] under the State [Office] Board of Education, and local school districts.

(2) The consortium, in collaboration with the State Board of Regents and the State Board of Education, shall develop and implement teacher preparation programs that qualify and certify instructors to work with students who are visually impaired, hearing impaired, or both visually and hearing impaired.

(3) (a) There is appropriated from the General Fund for fiscal year 1994-95, \$200,000 to the State Board of Regents to fund the consortium's teacher preparation programs referred to in Subsection (2).

(b) The appropriation is nonlapsing.

(c) The State Board of Regents shall consider including within its annual budget recommendations a line item appropriation to provide ongoing funding for the programs provided pursuant to this section.

Section 41. Section 53B-17-105 is amended to read:

53B-17-105. Utah Education and Telehealth Network.

(1) There is created the Utah Education and Telehealth Network, or UETN.

(2) UETN shall:

(a) coordinate and support the telecommunications needs of public and higher education, public libraries, and entities affiliated with the state systems of public and higher education as approved by the Utah Education and Telehealth Network Board, including the statewide development and implementation of a network for education, which utilizes satellite, microwave, fiber-optic, broadcast, and other transmission media;

(b) coordinate the various telecommunications technology initiatives of public and higher education;

(c) provide high-quality, cost-effective Internet access and appropriate interface equipment for schools and school systems;

(d) procure, install, and maintain telecommunication services and equipment on behalf of public and higher education;

(e) develop or implement other programs or services for the delivery of distance learning and telehealth services as directed by law;

(f) apply for state and federal funding on behalf of:

(i) public and higher education; and

(ii) telehealth services;

(g) in consultation with health care providers from a variety of health care systems, explore and encourage the development of telehealth services as a means of reducing health care costs and increasing health care quality and access, with emphasis on assisting rural health care providers and special populations; and

(h) in consultation with the Utah Department of Health, advise the governor and the Legislature on:

(i) the role of telehealth in the state;

(ii) the policy issues related to telehealth;

(iii) the changing telehealth needs and resources in the state; and

(iv) state budgetary matters related to telehealth.

(3) In performing the duties under Subsection (2), UETN shall:

(a) provide services to schools, school districts, and the public and higher education systems through an open and competitive bidding process;

(b) work with the private sector to deliver high-quality, cost-effective services;

(c) avoid duplicating facilities, equipment, or services of private providers or public telecommunications service, as defined under Section 54-8b-2;

(d) utilize statewide economic development criteria in the design and implementation of the educational telecommunications infrastructure; and

(e) assure that public service entities, such as educators, public service providers, and public broadcasters, are provided access to the telecommunications infrastructure developed in the state.

(4) The University of Utah shall provide administrative support for UETN.

(5) (a) The Utah Education and Telehealth Network Board, which is the governing board for UETN, is created.

(b) The Utah Education and Telehealth Network Board shall have 13 members as follows:

(i) four members representing the state system of higher education appointed by the commissioner of higher education;

(ii) four members representing the state system of public education ~~[including:]~~ appointed by the State Board of Education;

~~[(A) three members appointed by the State Board of Education; and]~~

~~[(B) one member representing the Utah State Office of Education appointed by the state superintendent;]~~

(iii) one member representing applied technology centers appointed by the president of the Utah College of Applied Technology;

(iv) one member representing the state library appointed by the state librarian;

(v) two members representing hospitals as follows:

(A) the members may not be employed by the same hospital system;

(B) one member shall represent a rural hospital;

(C) one member shall represent an urban hospital; and

(D) the chief administrator or the administrator's designee for each hospital licensed in this state shall select the two hospital representatives; and

(vi) one member representing the office of the governor, appointed by the governor.

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

(d) (i) The board shall elect a chair.

(ii) The chair shall set the agenda for the board meetings.

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

(a) Section 63A-3-106;

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

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

(7) The board:

(a) shall hire an executive director for UETN who may hire staff for UETN as permitted by the budget;

(b) may terminate the executive director's employment or assignment;

(c) shall determine the executive director's salary;

(d) shall annually conduct a performance evaluation of the executive director;

(e) shall establish policies the board determines are necessary for the operation of UETN and the administration of UETN's duties; and

(f) shall advise UETN in:

(i) the development and operation of a coordinated, statewide, multi-option

telecommunications system to assist in the delivery of educational services and telehealth services throughout the state; and

(ii) acquiring, producing, and distributing instructional content.

(8) The executive director of UETN shall be an at-will employee.

(9) UETN shall locate and maintain educational and telehealth telecommunication infrastructure throughout the state.

(10) Educational institutions shall manage site operations under policy established by UETN.

(11) Subject to future budget constraints, the Legislature shall provide an annual appropriation to operate UETN.

(12) If the network operated by the Department of Technology Services is not available, UETN may provide network connections to the central administration of counties and municipalities for the sole purpose of transferring data to a secure facility for backup and disaster recovery.

Section 42. Section 53B-18-801 is amended to read:

53B-18-801. Establishment of the center -- Purpose -- Duties and responsibilities.

(1) There is hereby established the Center for the School of the Future at Utah State University, hereafter referred to as “the center.”

(2) (a) The purpose of the center is to promote best practices in the state’s public education system and encourage cooperative and research development relationships between public and higher education.

(b) For purposes of this section “best practices” means the best process or system that effectively achieves an educational objective.

(3) The center has the following duties and responsibilities:

(a) to direct its efforts to those education issues judged to be of greatest importance by the State [Office] Board of Education, school districts, and their patrons, subject to the availability of funds to sustain its efforts;

(b) to coordinate and collaborate with education stakeholders, such as institutions of higher education, the State [Office] Board of Education, school districts, parent-teacher organizations, and other public and private educational interests in identifying or developing and then implementing best practices throughout the state’s public education system;

(c) to contribute to the creation and maintenance of a public education system that continually and systematically improves itself by building upon the most effective education policies, programs, and practices and rejecting those that are less effective;

(d) to identify problems and challenges in providing educational and related services to all

students in the public schools, including special education students and students at risk;

(e) to identify current public and private resources at both the state and national level that are available to resolve problems or overcome challenges within the public education system and seek additional resources as necessary; and

(f) to support the implementation of best practices in the public education system through professional development programs and dissemination of information.

(4) The center in collaboration with the State [Office] Board of Education shall:

(a) clarify the problems and challenges identified under this section, identify desired outcomes, and agree upon measures of outcomes;

(b) prioritize the problems and challenges;

(c) identify readily accessible resources to solve problems and challenges, including best practices that could be implemented with little or no adaptation;

(d) determine whether new programs or procedures should be developed, and estimate the extent of effort required for that development;

(e) determine which existing programs should be eliminated; and

(f) assist in implementing solutions, monitoring accomplishments, disseminating results, and facilitating the extension of successful efforts to new settings.

Section 43. Section 53D-1-102 is amended to read:

53D-1-102. Definitions.

(1) “Account” means the School and Institutional Trust Fund Management Account, created in Section 53D-1-203.

(2) “Beneficiaries”:

(a) means those for whose benefit the trust fund is managed and preserved, consistent with the enabling act, the Utah Constitution, and state law; and

(b) does not include other government institutions or agencies, the public at large, or the general welfare of the state.

(3) “Board” means the board of trustees established in Section 53D-1-301.

(4) “Director” means the director of the office.

(5) “Enabling act” means the act of Congress, dated July 16, 1894, enabling the people of Utah to form a constitution and state government and to be admitted into the Union.

(6) “Nominating committee” means the committee established under Section 53D-1-501.

(7) “Office” means the School and Institutional Trust Fund Office, created in Section 53D-1-201.

(8) "School children's trust section" means the School Children's Trust Section [within] under the State [Office] Board of Education, established in Section 53A-16-101.6.

(9) "Trust fund" means money derived from:

(a) the sale or use of land granted to the state under Sections 6, 8, and 12 of the enabling act;

(b) proceeds referred to in Section 9 of the enabling act from the sale of public land; and

(c) revenue and assets referred to in Utah Constitution, Article X, Section 5, Subsections (1)(c), (e), and (f).

Section 44. Section 58-41-4 is amended to read:

58-41-4. Exemptions from chapter.

(1) In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in the practice of speech-language pathology and audiology subject to the stated circumstances and limitations without being licensed under this chapter:

(a) a qualified person licensed in this state under any law existing in this state prior to May 13, 1975, from engaging in the profession for which he is licensed;

(b) a medical doctor, physician, or surgeon licensed in this state, from engaging in his specialty in the practice of medicine;

(c) a hearing aid dealer or salesman from selling, fitting, adjusting, and repairing hearing aids, and conducting hearing tests solely for that purpose. However, a hearing aid dealer may not conduct audiologic testing on persons under the age of 18 years except under the direct supervision of an audiologist licensed under this chapter;

(d) a person who has obtained a valid and current credential issued by the [Utah] State [Office] Board of Education while performing specifically the functions of a speech-language pathologist or audiologist, in no way in his own interest, solely within the confines of and under the direction and jurisdiction of and only in the academic interest of the schools by which employed in this state;

(e) a person employed as a speech-language pathologist or audiologist by federal government agencies or subdivisions or, prior to July 1, 1989, by state or local government agencies or subdivisions, while specifically performing speech-language pathology or audiology services in no way in his own interest, solely within the confines of and under the direction and jurisdiction of and in the specific interest of that agency or subdivision;

(f) a person identified in Subsections (1)(d) and (e) may offer lectures for a fee, or monetary or other compensation, without being licensed; however, such person may elect to be subject to the requirements of this chapter;

(g) a person employed by accredited colleges or universities as a speech-language pathologist or audiologist from performing the services or functions described in this chapter when they are:

(i) performed solely as an assigned teaching function of employment;

(ii) solely in academic interest and pursuit as a function of that employment;

(iii) in no way for their own interest; and

(iv) provided for no fee, monetary or otherwise, other than their agreed institutional salary;

(h) a person pursuing a course of study leading to a degree in speech-language pathology or audiology while enrolled in an accredited college or university, provided those activities constitute an assigned, directed, and supervised part of his curricular study, and in no other interest, and that all examinations, tests, histories, charts, progress notes, reports, correspondence, and all documents and records which he produces be identified clearly as having been conducted and prepared by a student in training and that such a person is obviously identified and designated by appropriate title clearly indicating the training status and provided that he does not hold himself out directly or indirectly as being qualified to practice independently;

(i) a person trained in elementary audiometry and qualified to perform basic audiometric tests while employed by a licensed medical doctor to perform solely for him while under his direct supervision, the elementary conventional audiometric tests of air conduction screening, air conduction threshold testing, and tympanometry;

(j) a person while performing as a speech-language pathologist or audiologist for the purpose of obtaining required professional experience under the provisions of this chapter, if he meets all training requirements and is professionally responsible to and under the supervision of a speech-language pathologist or audiologist who holds the CCC or a state license in speech-language pathology or audiology. This provision is applicable only during the time that person is obtaining the required professional experience;

(k) a corporation, partnership, trust, association, group practice, or like organization engaging in speech-language pathology or audiology services without certification or license, if it acts only through employees or consists only of persons who are licensed under this chapter;

(l) performance of speech-language pathology or audiology services in this state by a speech-language pathologist or audiologist who is not a resident of this state and is not licensed under this chapter if those services are performed for no more than one month in any calendar year in association with a speech-language pathologist or audiologist licensed under this chapter, and if that person meets the qualifications and requirements for application for licensure described in Section 58-41-5; and

(m) a person certified under Title 53A, State System of Public Education, as a teacher of the deaf, from providing the services or performing the functions he is certified to perform.

(2) No person is exempt from the requirements of this chapter who performs or provides any services as a speech–language pathologist or audiologist for which a fee, salary, bonus, gratuity, or compensation of any kind paid by the recipient of the service; or who engages any part of his professional work for a fee practicing in conjunction with, by permission of, or apart from his position of employment as speech–language pathologist or audiologist in any branch or subdivision of local, state, or federal government or as otherwise identified in this section.

Section 45. Section 59-10-1307 is amended to read:

59-10-1307. Contributions for education.

(1) Except as provided in Section 59-10-1304, a resident or nonresident individual that files an individual income tax return under this chapter may designate on the resident or nonresident individual's individual income tax return a contribution as provided in this part to:

(a) the foundation of any school district if that foundation is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code; or

(b) a school district described in Title 53A, Chapter 2, School Districts, if the school district has not established a foundation.

(2) If a resident or nonresident individual designates an amount as a contribution under:

(a) Subsection (1)(a), but does not designate a particular school district foundation to receive the contribution, the contribution shall be made to the [Utah] State [Office] Board of Education to be distributed to one or more associations of foundations:

(i) if those foundations that are members of the association are established in accordance with Section 53A-4-205; and

(ii) as determined by the [Utah] State [Office] Board of Education; or

(b) Subsection (1)(b), but does not designate a particular school district to receive the contribution, the contribution shall be made to the [Utah] State [Office] Board of Education.

(3) The commission shall:

(a) determine annually the total amount of contributions designated to each entity described in Subsection (1) in accordance with this section; and

(b) subject to Subsection (2), credit the amounts described in Subsection (1) to the entities.

Section 46. Section 62A-4a-412 is amended to read:

62A-4a-412. Reports and information confidential.

(1) Except as otherwise provided in this chapter, reports made pursuant to this part, as well as any other information in the possession of the division obtained as the result of a report are private, protected, or controlled records under Title 63G, Chapter 2, Government Records Access and Management Act, and may only be made available to:

(a) a police or law enforcement agency investigating a report of known or suspected abuse or neglect;

(b) a physician who reasonably believes that a child may be the subject of abuse or neglect;

(c) an agency that has responsibility or authority to care for, treat, or supervise a minor who is the subject of a report;

(d) a contract provider that has a written contract with the division to render services to a minor who is the subject of a report;

(e) except as provided in Subsection 63G-2-202(10), a subject of the report, the natural parents of the child, and the guardian ad litem;

(f) a court, upon a finding that access to the records may be necessary for the determination of an issue before the court, provided that in a divorce, custody, or related proceeding between private parties, the record alone is:

(i) limited to objective or undisputed facts that were verified at the time of the investigation; and

(ii) devoid of conclusions drawn by the division or any of the division's workers on the ultimate issue of whether or not a person's acts or omissions constituted any level of abuse or neglect of another person;

(g) an office of the public prosecutor or its deputies in performing an official duty;

(h) a person authorized by a Children's Justice Center, for the purposes described in Section 67-5b-102;

(i) a person engaged in bona fide research, when approved by the director of the division, if the information does not include names and addresses;

(j) the State [Office] Board of Education, acting on behalf of itself or on behalf of a school district, for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, limited to information with substantiated findings involving an alleged sexual offense, an alleged felony or class A misdemeanor drug offense, or any alleged offense against the person under Title 76, Chapter 5, Offenses Against the Person, and with the understanding that the office must provide the subject of a report received under Subsection (1)(k) with an opportunity to respond to the report before making a decision concerning licensure or employment;

(k) any person identified in the report as a perpetrator or possible perpetrator of abuse or neglect, after being advised of the screening prohibition in Subsection (2);

(l) except as provided in Subsection 63G-2-202(10), a person filing a petition for a child protective order on behalf of a child who is the subject of the report; and

(m) a licensed child-placing agency or person who is performing a preplacement adoptive evaluation in accordance with the requirements of Sections 78B-6-128 and 78B-6-130.

(2) (a) A person, unless listed in Subsection (1), may not request another person to obtain or release a report or any other information in the possession of the division obtained as a result of the report that is available under Subsection (1)(k) to screen for potential perpetrators of abuse or neglect.

(b) A person who requests information knowing that it is a violation of Subsection (2)(a) to do so is subject to the criminal penalty in Subsection (4).

(3) (a) Except as provided in Section 62A-4a-1007 and Subsection (3)(b), the division and law enforcement officials shall ensure the anonymity of the person or persons making the initial report and any others involved in its subsequent investigation.

(b) Notwithstanding any other provision of law, excluding Section 78A-6-317, but including this chapter and Title 63G, Chapter 2, Government Records Access and Management Act, when the division makes a report or other information in its possession available under Subsection (1)(e) to a subject of the report or a parent of a child, the division shall remove from the report or other information only the names, addresses, and telephone numbers of individuals or specific information that could:

- (i) identify the referent;
- (ii) impede a criminal investigation; or
- (iii) endanger a person's safety.

(4) Any person who wilfully permits, or aides and abets the release of data or information obtained as a result of this part, in the possession of the division or contained on any part of the Management Information System, in violation of this part or Sections 62A-4a-1003 through 62A-4a-1007, is guilty of a class C misdemeanor.

(5) The physician-patient privilege is not a ground for excluding evidence regarding a child's injuries or the cause of those injuries, in any proceeding resulting from a report made in good faith pursuant to this part.

(6) A child-placing agency or person who receives a report in connection with a preplacement adoptive evaluation pursuant to Sections 78B-6-128 and 78B-6-130:

(a) may provide this report to the person who is the subject of the report; and

(b) may provide this report to a person who is performing a preplacement adoptive evaluation in accordance with the requirement of Sections 78B-6-128 and 78B-6-130, or to a licensed

child-placing agency or to an attorney seeking to facilitate an adoption.

Section 47. Section 62A-5a-102 is amended to read:

62A-5a-102. Definitions.

As used in this chapter:

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

(2) "State agencies" means:

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

(b) the Division of Health Care Financing within the Department of Health;

(c) family health services programs established under Title 26, Chapter 10, Family Health Services, operated by the Department of Health;

(d) the Utah State Office of Rehabilitation; and

(e) special education programs operated by the State [Office] Board of Education and local school districts under Title 53A, Chapter 15, Part 3, Education of Children with Disabilities.

Section 48. Section 62A-15-1101 is amended to read:

62A-15-1101. Suicide prevention -- Reporting requirements.

(1) As used in the section:

(a) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

(b) "Division" means the Division of Substance Abuse and Mental Health.

(c) "Intervention" means an effort to prevent a person from attempting suicide.

(d) "Postvention" means mental health intervention after a suicide attempt or death to prevent or contain contagion.

(e) "State suicide prevention coordinator" means an individual designated by the division as described in Subsections (2) and (3).

(2) The division shall appoint a state suicide prevention coordinator to administer a state suicide prevention program composed of suicide prevention, intervention, and postvention programs, services, and efforts.

(3) The state suicide prevention program may include the following components:

(a) delivery of resources, tools, and training to community-based coalitions;

(b) evidence-based suicide risk assessment tools and training;

(c) town hall meetings for building community-based suicide prevention strategies;

- (d) suicide prevention gatekeeper training;
 - (e) training to identify warning signs and to manage an at-risk individual's crisis;
 - (f) evidence-based intervention training;
 - (g) intervention skills training; and
 - (h) postvention training.
- (4) The state suicide prevention coordinator shall coordinate with at least the following:
- (a) local mental health and substance abuse authorities;
 - (b) the State Board of Education, including the ~~[State Office of Education]~~ public education suicide prevention coordinator described in Section 53A-15-1301;
 - (c) the Department of Health;
 - (d) health care providers, including emergency rooms; and
 - (e) other public health suicide prevention efforts.
- (5) The state suicide prevention coordinator shall provide a written report, and shall orally report to the Health and Human Services Interim Committee, by the October meeting every year, on:
- (a) implementation of the state suicide prevention program, as described in Subsections (2) and (3);
 - (b) data measuring the effectiveness of each component of the state suicide prevention program;
 - (c) funds appropriated for each component of the state suicide prevention program; and
 - (d) five-year trends of suicides in Utah, including subgroups of youths and adults and other subgroups identified by the state suicide prevention coordinator.
- (6) The state suicide prevention coordinator shall report to the Legislature's Education Interim Committee, by the October 2015 meeting, jointly with the State Board of Education, on the coordination of suicide prevention programs and efforts with the State Board of Education and the ~~[State Office of Education]~~ public education suicide prevention coordinator as described in Section 53A-15-1301.
- (7) The state suicide prevention coordinator shall consult with the bureau to implement and manage the operation of a firearm safety program, as described in Subsection 53-10-202(18) and Section 53-10-202.1.
- (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules governing the implementation of the state suicide prevention program, consistent with this section.

Section 49. Section 63A-9-101 is amended to read:

63A-9-101. Definitions.

(1) (a) "Agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(b) "Agency" includes the State Board of Education~~], the Office of Education]~~, each Applied Technology Center, the Board of Regents, the institutional councils of each higher education institution, and each higher education institution.

(c) "Agency" includes the legislative and judicial branches.

(2) "Committee" means the Motor Vehicle Review Committee created by this chapter.

(3) "Director" means the director of the division.

(4) "Division" means the Division of Fleet Operations created by this chapter.

(5) "Executive director" means the executive director of the Department of Administrative Services.

(6) "Local agency" means:

(a) a county;

(b) a municipality;

(c) a school district;

(d) a local district;

(e) a special service district;

(f) an interlocal entity as defined under Section 11-13-103; or

(g) any other political subdivision of the state, including a local commission, board, or other governmental entity that is vested with the authority to make decisions regarding the public's business.

(7) (a) "Motor vehicle" means a self-propelled vehicle capable of carrying passengers.

(b) "Motor vehicle" includes vehicles used for construction and other nontransportation purposes.

(8) "State vehicle" means each motor vehicle owned, operated, or in the possession of an agency.

Section 50. Section 63B-3-301 is amended to read:

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

(1) It is the intent of the Legislature that, for any lease purchase agreement that the Legislature may authorize the Division of Facilities Construction and Management to enter into during its 1994 Annual General Session, the State Building Ownership Authority, at the reasonable rates and amounts it may determine, and with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Management and Budget, may seek out the most cost effective and

prudent lease purchase plans available to the state and may, pursuant to Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, certificate out interests in, or obligations of the authority pertaining to:

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

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

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

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

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

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

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

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

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

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

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

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

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

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

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

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

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

(8) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a

lease purchase agreement in which participation interests may be created, to provide up to \$6,800,000 for the construction of a Prerelease and Parole Center for the Department of Corrections, containing a minimum of 300 beds, together with additional amounts necessary to:

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

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

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

(a) the Legislative Management Committee, the Interim Appropriation Subcommittees for General Government and Capital Facilities and Executive Offices, Courts, and Corrections, the Office of the Legislative Fiscal Analyst, the Governor's Office of Management and Budget, and the State Building Board participate in a review of the proposed facility design for the Courts Complex no later than December 1994; and

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

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

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

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

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

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

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

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

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

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

(f) the Division of Facilities Construction and Management issue a Request for Proposal for one of the facilities, with that facility designed and constructed entirely by the winning firm;

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

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

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

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

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

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

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

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

(b) the master plan:

(i) establish priorities for development;

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

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

(c) the results of the effort be reported to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee and Infrastructure and General Government Appropriations Subcommittee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(21) It is the intent of the Legislature that the Bridgerland Applied Technology Center and the Ogden-Weber Applied Technology Center projects as designed in fiscal year 1995 be considered as the highest priority projects for construction funding in fiscal year 1996.

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

(a) the Division of Facilities Construction and Management complete physical space utilization standards by June 30, 1995, for the use of technology education activities;

(b) these standards are to be developed with and approved by the State [Office] Board of Education, the Board of Regents, and the Utah State Building Board;

(c) these physical standards be used as the basis for:

(i) determining utilization of any technology space based on number of stations capable and occupied for any given hour of operation; and

(ii) requests for any new space or remodeling;

(d) the fiscal year 1995 projects at the Bridgerland Applied Technology Center and the Ogden-Weber Applied Technology Center are exempt from this process; and

(e) the design of the Davis Applied Technology Center take into account the utilization formulas established by the Division of Facilities Construction and Management.

(23) It is the intent of the Legislature that Utah Valley State College may use the money from the bond allocated to the remodel of the Signetics building to relocate its technical education programs at other designated sites or facilities under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(24) It is the intent of the Legislature that the money provided for the fiscal year 1995 project for the Bridgerland Applied Technology Center be used to design and construct the space associated with Utah State University and design the technology center portion of the project.

(25) It is the intent of the Legislature that the governor provide periodic reports on the expenditure of the funds provided for electronic technology, equipment, and hardware to the Public Utilities and Technology Interim Committee, the Infrastructure and General Government Appropriations Subcommittee, and the Legislative Management Committee.

Section 51. Section 63B-4-201 is amended to read:

63B-4-201. Legislative intent statements -- Capital facilities.

(1) (a) It is the intent of the Legislature that the University of Utah use institutional and other funds to plan, design, and construct two campus child care centers under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(b) The university shall work with Salt Lake City and the surrounding neighborhood to ensure site compatibility for future recreational development by the city.

(2) It is the intent of the Legislature that the University of Utah use institutional funds to plan, design, and construct:

(a) the Union Parking structure under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) the stadium renovation under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(c) the Huntsman Cancer Institute under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(d) the Business Case Method Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(e) the Fine Arts Museum expansion under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(3) It is the intent of the Legislature that Utah State University use institutional funds to plan, design, and construct:

(a) a student health services facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) a women's softball field under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(c) an addition to the Nutrition and Food Services Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(d) a Human Resource Research Center under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(4) It is the intent of the Legislature that Weber State University use institutional funds to plan, design, and construct:

(a) a track renovation under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(b) the Dee Events Center offices under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(5) It is the intent of the Legislature that Southern Utah University use:

(a) institutional funds to plan, design, and construct an institutional residence under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(b) project revenues and other funds to plan, design, and construct the Shakespearean Festival support facilities under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(6) It is the intent of the Legislature that Dixie College use institutional funds to plan, design, and construct an institutional residence under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(7) It is the intent of the Legislature that the Division of Forestry, Fire, and State Lands use federal and other funds to plan, design, and construct a wetlands enhancement facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(8) (a) As provided in Subsection 63A-5-209(2), the funds appropriated to the Project Reserve Fund may only be used for the award of contracts in excess of the construction budget if these funds are required to meet the intent of the project.

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

(i) up to \$2,000,000 of the amount may be used to award the construction contract for the Ogden Court Building; and

(ii) the need for any funds remaining as of December 31, 1995 be reviewed by the 1996 Legislature.

(9) (a) It is the intent of the Legislature that the State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created to provide up to \$539,700 for the purchase and demolition of the Keyston property and construction of parking facilities adjacent to the State [Office] Board of Education building in Salt Lake City, with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

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

(10) (a) It is the intent of the Legislature that the money appropriated for Phase One of the Remodeling/Life Safety Upgrades of the Browning Fine Arts Center at Weber State University is to include design of full code compliance, life safety, space necessary to maintain required programs, and seismic upgrades.

(b) The design shall identify the full scope and cost of Phase Two of the remodeling for funding consideration in the fiscal year 1997 budget cycle.

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

(a) the fiscal year 1996 appropriation for the Davis County Higher Education land purchase includes up to \$250,000 for planning purposes;

(b) the Division of Facilities Construction and Management, the Board of Regents, and the assigned institution of higher education work

jointly to ensure the following elements are part of the planning process:

(i) projections of student enrollment and programmatic needs for the next 10 years;

(ii) review and make recommendations for better use of existing space, current technologies, public/private partnerships, and other alternatives as a means to reduce the need for new facilities and still accommodate the projected student needs; and

(iii) use of a master plan that includes issues of utilities, access, traffic circulation, drainage, rights of way, future developments, and other infrastructure items considered appropriate; and

(c) every effort is used to minimize expenditures for this part until a definitive decision has been made by BRACC relative to Hill Air Force Base.

(12) (a) It is the intent of the Legislature that the State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$7,400,000 for the acquisition and improvement of the Human Services Building located at 120 North 200 West, Salt Lake City, Utah, with associated parking for the Department of Human Services together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

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

(13) (a) It is the intent of the Legislature that the State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created to provide up to \$63,218,600 for the construction of a Salt Lake Courts Complex together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

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

(c) It is the intent of the Legislature that the Division of Facilities Construction and

Management lease land to the State Building Ownership Authority for the construction of a Salt Lake Courts Complex.

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

(a) the Board of Regents use the higher education design project money to design no more than two higher education projects from among the following projects:

(i) Utah State University Eastern - Student Center;

(ii) Snow College - Noyes Building;

(iii) University of Utah - Gardner Hall;

(iv) Utah State University - Widtsoe Hall; or

(v) Southern Utah University - Physical Education Building; and

(b) the higher education institutions that receive approval from the Board of Regents to design projects under this chapter design those projects under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

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

(a) the Board of Regents may authorize the University of Utah to use institutional funds and donated funds to design Gardner Hall; and

(b) if authorized by the Board of Regents, the University of Utah may use institutional funds and donated funds to design Gardner Hall under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(16) It is the intent of the Legislature that the Division of Facilities Construction and Management use up to \$250,000 of the capital improvement money to fund the site improvements required at the San Juan campus of the Utah State University Eastern.

Section 52. Section 63B-5-201 is amended to read:

63B-5-201. Legislative intent statements.

(1) If the United States Department of Defense has not provided matching funds to construct the National Guard Armory in Orem by December 31, 1997, the Division of Facilities Construction and Management shall transfer any funds received from issuance of a General Obligation Bond for benefit of the Orem Armory to the Provo Armory for capital improvements.

(2) It is the intent of the Legislature that the University of Utah use institutional funds to plan, design, and construct:

(a) the Health Science East parking structure under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) the Health Science Office Building under the supervision of the director of the Division of

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

(c) the new Student Housing/Olympic Athletes Village under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(3) It is the intent of the Legislature that Utah State University use institutional funds to plan, design, and construct a multipurpose facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(4) It is the intent of the Legislature that the Utah Geologic Survey use agency internal funding to plan, design, and construct a sample library facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(5) (a) If legislation introduced in the 1996 General Session to fund the Wasatch State Park Club House does not pass, the State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$1,500,000 for the remodel and expansion of the clubhouse at Wasatch Mountain State Park for the Division of Parks and Recreation, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Division of Parks and Recreation to seek out the most cost effective and prudent lease purchase plan available.

(6) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$835,300 for the construction of a liquor store in the Snyderville area, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Department of Alcoholic Beverage Control to seek out the most cost effective and prudent lease purchase plan available.

(7) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue

or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$15,000,000 for the construction of the Huntsman Cancer Institute, together with additional amounts necessary to:

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

(b) The State Building Ownership Authority shall work cooperatively with the University of Utah to seek out the most cost effective and prudent lease purchase plan available.

(c) It is the intent of the Legislature that the University of Utah lease land to the State Building Ownership Authority for the construction of the Huntsman Cancer Institute facility.

(8) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$857,600 for the construction of an addition to the Human Services facility in Vernal, Utah together with additional amounts necessary to:

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

(b) The State Building Ownership Authority shall work cooperatively with the Department of Human Services to seek out the most cost effective and prudent lease purchase plan available.

(9) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$3,470,200 for the construction of the Student Services Center, at Utah State University Eastern, together with additional amounts necessary to:

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

(b) The State Building Ownership Authority shall work cooperatively with Utah State University Eastern to seek out the most cost effective and prudent lease purchase plan available.

(10) (a) Notwithstanding anything to the contrary in Title 53B, Chapter 21, Revenue Bonds, which prohibits the issuance of revenue bonds payable from legislative appropriations, the State Board of Regents, on behalf of Dixie College, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Dixie College to borrow money on the credit of the income and revenues,

including legislative appropriations, of Dixie College, to finance the acquisition of the Dixie Center.

(b) (i) The bonds or other evidences of indebtedness authorized by this section shall be issued in accordance with Title 53B, Chapter 21, Revenue Bonds, under terms and conditions and in amounts that the board, by resolution, determines are reasonable and necessary and may not exceed \$6,000,000 together with additional amounts necessary to:

- (A) pay cost of issuance;
- (B) pay capitalized interest; and
- (C) fund any debt service reserve requirements.

(ii) To the extent that future legislative appropriations will be required to provide for payment of debt service in full, the board shall ensure that the revenue bonds are issued containing a clause that provides for payment from future legislative appropriations that are legally available for that purpose.

(11) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$10,479,000 for the construction of a facility for the Courts - Davis County Regional Expansion, together with additional amounts necessary to:

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

(b) The State Building Ownership Authority shall work cooperatively with the Office of the Court Administrator to seek out the most cost effective and prudent lease purchase plan available.

(12) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$4,200,000 for the purchase and remodel of the Washington County Courthouse, together with additional amounts necessary to:

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

(b) The State Building Ownership Authority shall work cooperatively with the Office of the Court Administrator to seek out the most cost effective and prudent lease purchase plan available.

(13) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to

\$14,299,700 for the construction of a facility for the State Library and the Division of Services for the Blind and Visually Impaired, together with additional amounts necessary to:

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

(b) The State Building Ownership Authority shall work cooperatively with the [Office] State Board of Education and the Governor's Office of Economic Development to seek out the most cost effective and prudent lease purchase plan available.

Section 53. Section 63F-2-102 is amended to read:

63F-2-102. Data Security Management Council -- Membership -- Duties.

(1) There is created the Data Security Management Council composed of nine members as follows:

(a) the chief information officer appointed under Section 63F-1-201, or the chief information officer's designee;

(b) one individual appointed by the governor;

(c) one individual appointed by the speaker of the House of Representatives and the president of the Senate from the Legislative Information Technology Steering Committee; and

(d) the highest ranking information technology official, or the highest ranking information technology official's designee, from each of:

- (i) the Judicial Council;
- (ii) the State Board of Regents;
- (iii) the State [Office] Board of Education;
- (iv) the Utah College of Applied Technology;
- (v) the State Tax Commission; and
- (vi) the Office of the Attorney General.

(2) The council shall elect a chair of the council by majority vote.

(3) (a) A majority of the members of the council constitutes a quorum.

(b) Action by a majority of a quorum of the council constitutes an action of the council.

(4) The Department of Technology Services shall provide staff to the council.

(5) The council shall meet monthly, or as often as necessary, to:

(a) review existing state government data security policies;

(b) assess ongoing risks to state government information technology;

(c) create a method to notify state and local government entities of new risks;

(d) coordinate data breach simulation exercises with state and local government entities; and

(e) develop data security best practice recommendations for state government that include recommendations regarding:

(i) hiring and training a chief information security officer for each government entity;

(ii) continuous risk monitoring;

(iii) password management;

(iv) using the latest technology to identify and respond to vulnerabilities;

(v) protecting data in new and old systems; and

(vi) best procurement practices.

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

(a) Section 63A-3-106;

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

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

Section 54. Section 63G-6a-202 is amended to read:

63G-6a-202. Creation of Utah State Procurement Policy Board.

(1) There is created the Utah State Procurement Policy Board.

(2) The board consists of up to 15 members as follows:

(a) two representatives of state institutions of higher education, appointed by the board of regents;

(b) a representative of the Department of Human Services, appointed by the executive director of that department;

(c) a representative of the Department of Transportation, appointed by the executive director of that department;

(d) two representatives of school districts, appointed by the State [Office] Board of Education;

(e) a representative of the Division of Facilities Construction and Management, appointed by the director of that division;

(f) one representative of a county, appointed by the Utah Association of Counties;

(g) one representative of a city or town, appointed by the Utah League of Cities and Towns;

(h) two representatives of local districts or special service districts, appointed by the Utah Association of Special Districts;

(i) the executive director of the Department of Technology Services or the executive director's designee;

(j) the chief procurement officer or the chief procurement officer's designee; and

(k) two representatives of state agencies, other than a state agency already represented on the board, appointed by the executive director of the Department of Administrative Services, with the approval of the executive director of the state agency that employs the employee.

(3) Members of the board shall be knowledgeable and experienced in, and have supervisory responsibility for, procurement in their official positions.

(4) A board member may serve as long as the member meets the description in Subsection (2) unless removed by the person or entity with the authority to appoint the board member.

(5) (a) The board shall:

(i) adopt rules of procedure for conducting its business; and

(ii) elect a chair to serve for one year.

(b) The chair of the board shall be selected by a majority of the members of the board and may be elected to succeeding terms.

(c) The chief procurement officer shall designate an employee of the division to serve as the nonvoting secretary to the policy board.

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

(a) Section 63A-3-106;

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

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

Section 55. Section 63G-10-102 is amended to read:

63G-10-102. Definitions.

As used in this chapter:

(1) (a) "Action settlement agreement" includes a stipulation, consent decree, settlement agreement, or any other legally binding document or representation that resolves a threatened or pending lawsuit between the state and another party by requiring the state to take legally binding action.

(b) "Action settlement agreement" includes stipulations, consent decrees, settlement agreements, and other legally binding documents or representations resolving a dispute between the state and another party when the state is required to pay money and required to take legally binding action.

(c) "Action settlement agreement" does not include:

(i) the internal process established by the Department of Transportation to resolve construction contract claims;

(ii) any resolution of an employment dispute or claim made by an employee of the state of Utah against the state as employer;

(iii) adjudicative orders issued by the State Tax Commission, the Public Service Commission, the Labor Commission, or the Department of Workforce Services; or

(iv) the settlement of disputes arising from audits, defaults, or breaches of permits, contracts of sale, easements, or leases by the School and Institutional Trust Lands Administration.

(2) (a) "Agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(b) "Agency" includes the legislative branch, the judicial branch, the attorney general's office, the State [Office] Board of Education, the Board of Regents, the institutional councils of each higher education institution, and each higher education institution.

(3) (a) "Financial settlement agreement" includes a stipulation, consent decree, settlement agreement, and any other legally binding document or representation that resolves a dispute between the state and another party exclusively by requiring the payment of money from one party to the other.

(b) "Financial settlement agreement" does not include:

(i) agreements made under the internal process established by the Department of Transportation to resolve construction contract claims;

(ii) adjudicative orders issued by the State Tax Commission, Public Service Commission, Labor Commission, or the Department of Workforce Services;

(iii) the settlement of disputes arising from audits, defaults, or breaches of permits, contracts of sale, easements, or leases by the School and Institutional Trust Lands Administration; or

(iv) agreements made under the internal processes established by the Division of Facilities Construction and Management or by law to resolve construction contract claims made against the state by contractors or subcontractors.

(4) "Government entities" means the state and its political subdivisions.

Section 56. Section 63G-12-209 is amended to read:

63G-12-209. Proficiency standards for English.

(1) A permit holder shall in good faith use best efforts to become proficient in the English language at or above the equivalent to an intermediate level

on a language proficiency assessment test used by the State [Office] Board of Education for purposes of secondary school students.

(2) An undocumented individual shall pay the costs of complying with this section.

Section 57. Section 63I-5-102 is amended to read:

63I-5-102. Definitions.

As used in this chapter:

(1) "Agency governing board" is any board or commission that has policy making and oversight responsibility over the agency, including the authority to appoint and remove the agency director.

(2) "Agency head" means a cabinet officer, an elected official, an executive director, or a board or commission vested with responsibility to administer or make policy for a state agency.

(3) "Agency internal audit director" or "audit director" means the person who:

(a) directs the internal audit program for the state agency; and

(b) is appointed by the audit committee or, if no audit committee has been established, by the agency head.

(4) "Appointing authority" means:

(a) the governor, for state agencies other than the State Tax Commission;

(b) the Judicial Council, for judicial branch agencies;

(c) the Board of Regents, for higher education entities;

(d) the State Board of Education, for the State Office entities administered by the State Board of Education; and or

(e) the four tax commissioners, for the State Tax Commission.

(5) "Audit committee" means a standing committee composed of members who:

(a) are appointed by an appointing authority;

(b) (i) do not have administrative responsibilities within the agency; and

(ii) are not an agency contractor or other service provider; and

(c) have the expertise to provide effective oversight of and advice about internal audit activities and services.

(6) "Audit plan" means a prioritized list of audits to be performed by an internal audit program within a specified period of time.

(7) "Higher education entity" means the Board of Regents, the institutional councils of each higher education institution, and or each higher education institution.

(8) "Internal audit" means an independent appraisal activity established within a state agency as a control system to examine and evaluate the adequacy and effectiveness of other internal control systems within the agency.

(9) "Internal audit program" means an audit function that:

(a) is conducted by an agency, division, bureau, or office, independent of the agency, division, bureau, or office operations;

(b) objectively evaluates the effectiveness of agency, division, bureau, or office governance, risk management, internal controls, and the efficiency of operations; and

(c) is conducted in accordance with the current:

(i) International Standards for the Professional Practice of Internal Auditing; or

(ii) The Government Auditing Standards, issued by the Comptroller General of the United States.

(10) "Judicial branch agency" means each administrative entity of the judicial branch.

(11) (a) "State agency" means:

(i) each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state; and or

(ii) each state public education entity.

(b) "State agency" does not mean:

(i) a legislative branch agency;

(ii) an independent state agency as defined in Section 63E-1-102;

(iii) a county, municipality, school district, local district, or special service district; or

(iv) any administrative subdivision of a county, municipality, school district, local district, or special service district.

Section 58. Section 63I-5-201 is amended to read:

63I-5-201. Internal auditing programs -- State agencies.

(1) (a) The departments of Administrative Services, Agriculture, Commerce, Heritage and Arts, Corrections, Workforce Services, Environmental Quality, Health, Human Services, Natural Resources, Public Safety, and Transportation, and the State Tax Commission shall conduct various types of auditing procedures as determined by the agency head or governor.

(b) The governor may, by executive order, require a state agency not described in Subsection (1)(a) to establish an internal audit program.

(c) The governor shall ensure that each state agency that reports to the governor has adequate internal audit coverage.

(2) (a) The Office of the Court Administrator shall establish an internal audit program under the

direction of the Judicial Council, including auditing procedures for courts not of record.

(b) The Judicial Council may, by rule, require other judicial agencies to establish an internal audit program.

(3) (a) Dixie State University, the University of Utah, Utah State University, Salt Lake Community College, Southern Utah University, Utah Valley University, Weber State University, and Snow College shall establish an internal audit program under the direction of the Board of Regents.

(b) The State Board of Regents may issue policies requiring other higher education entities or programs to establish an internal audit program.

(4) The State [Office] Board of Education shall establish [under the direction of the State Board of Education] an internal audit program that provides internal audit services for each program administered by the State [Office] Board of Education.

(5) Subject to Section 32B-2-302.5, the internal audit division of the Department of Alcoholic Beverage Control shall establish an internal audit program under the direction of the Alcoholic Beverage Control Commission.

Section 59. Section 63J-1-219 is amended to read:

63J-1-219. Definitions -- Federal receipts reporting requirements.

(1) As used in this section:

(a) (i) "Designated state agency" means the Department of Administrative Services, the Department of Agriculture and Food, the Department of Alcoholic Beverage Control, the Department of Commerce, the Department of Heritage and Arts, the Department of Corrections, the Department of Environmental Quality, the Department of Financial Institutions, the Department of Health, the Department of Human Resource Management, the Department of Human Services, the Department of Insurance, the Department of Natural Resources, the Department of Public Safety, the Department of Technology Services, the Department of Transportation, the Department of Veterans' and Military Affairs, the Department of Workforce Services, the Labor Commission, the Office of Economic Development, the Public Service Commission, the State Board of Regents, the State [Office] Board of Education, the State Tax Commission, or the Utah National Guard.

(ii) "Designated state agency" does not include the judicial branch, the legislative branch, or an office or other entity within the judicial branch or the legislative branch.

(b) "Federal receipts" means the federal financial assistance, as defined in 31 U.S.C. Sec. 7501, that is reported as part of a single audit.

(c) "Single audit" is as defined in 31 U.S.C. Sec. 7501.

(2) Subject to Subsections (3) and (4), a designated state agency shall each year, on or before October 31, prepare a report that:

(a) reports the aggregate value of federal receipts the designated state agency received for the preceding fiscal year;

(b) reports the aggregate amount of federal funds appropriated by the Legislature to the designated state agency for the preceding fiscal year;

(c) calculates the percentage of the designated state agency's total budget for the preceding fiscal year that constitutes federal receipts that the designated state agency received for that fiscal year; and

(d) develops plans for operating the designated state agency if there is a reduction of:

(i) 5% or more in the federal receipts that the designated state agency receives; and

(ii) 25% or more in the federal receipts that the designated state agency receives.

(3) (a) The report required by Subsection (2) that the Board of Regents prepares shall include the information required by Subsections (2)(a) through (c) for each state institution of higher education listed in Section 53B-2-101.

(b) The report required by Subsection (2) that the State [Office] Board of Education prepares shall include the information required by Subsections (2)(a) through (c) for each school district and each charter school within the public education system.

(4) A designated state agency that prepares a report in accordance with Subsection (2) shall submit the report to the Division of Finance on or before November 1 of each year.

(5) (a) The Division of Finance shall, on or before November 30 of each year, prepare a report that:

(i) compiles and summarizes the reports the Division of Finance receives in accordance with Subsection (4); and

(ii) compares the aggregate value of federal receipts each designated state agency received for the previous fiscal year to the aggregate amount of federal funds appropriated by the Legislature to that designated state agency for that fiscal year.

(b) The Division of Finance shall, as part of the report required by Subsection (5)(a), compile a list of designated state agencies that do not submit a report as required by this section.

(6) The Division of Finance shall submit the report required by Subsection (5) to the Executive Appropriations Committee on or before December 1 of each year.

(7) Upon receipt of the report required by Subsection (5), the chairs of the Executive Appropriations Committee shall place the report on the agenda for review and consideration at the next Executive Appropriations Committee meeting.

(8) When considering the report required by Subsection (5), the Executive Appropriations Committee may elect to:

(a) recommend that the Legislature reduce or eliminate appropriations for a designated state agency;

(b) take no action; or

(c) take another action that a majority of the committee approves.

Section 60. Section 63M-10-201 is amended to read:

63M-10-201. Creation -- Purpose -- Administration -- Access.

(1) There is created the Serious Habitual Offender Comprehensive Action Program (SHOCAP) to establish a SHOCAP Database to identify and track youthful offenders in order to assist agencies in providing collaborative and comprehensive services to them.

(2) The database shall be administered by the Administrative Office of the Courts with information contributed by the following agencies:

(a) the State [Office] Board of Education[, including] and all school districts and charter schools;

(b) the Department of Health;

(c) the Department of Human Services, including all county mental health agencies;

(d) the Department of Public Safety;

(e) all county and municipal law enforcement agencies; and

(f) all county and district attorney offices.

(3) The database shall be maintained in accordance with guidelines established by the Administrative Office of the Courts so that the agencies listed in Subsection (2) can efficiently access the database.

(4) Information provided by schools in compliance with the provisions of this chapter is authorized under the Family Educational Rights and Privacy Act Regulations, 34 CFR Part 99.

(5) Information in the database provided by an agency to the database is considered to be the property of the agency providing the information and retains any classification given it under Title 63G, Chapter 2, Government Records Access and Management Act.

(6) Any person who knowingly releases or discloses information from the database for a purpose other than authorized by this chapter or to a person who is not entitled to it is guilty of a class B misdemeanor.

(7) Neither the state nor the courts are liable to any person for gathering, managing, or using the information in the database as provided in this chapter.

Section 61. Section 67-19-6.7 is amended to read:

67-19-6.7. Overtime policies for state employees.

(1) As used in this section:

(a) "Accrued overtime hours" means:

(i) for nonexempt employees, overtime hours earned during a fiscal year that, at the end of the fiscal year, have not been paid and have not been taken as time off by the nonexempt state employee who accrued them; and

(ii) for exempt employees, overtime hours earned during an overtime year.

(b) "Appointed official" means:

(i) each department executive director and deputy director, each division director, and each member of a board or commission; and

(ii) any other person employed by a department who is appointed by, or whose appointment is required by law to be approved by, the governor and who:

(A) is paid a salary by the state; and

(B) who exercises managerial, policy-making, or advisory responsibility.

(c) "Department" means the Department of Administrative Services, the Department of Corrections, the Department of Financial Institutions, the Department of Alcoholic Beverage Control, the Insurance Department, the Public Service Commission, the Labor Commission, the Department of Agriculture and Food, the Department of Human Services, the State Board of Education, the Department of Natural Resources, the Department of Technology Services, the Department of Transportation, the Department of Commerce, the Department of Workforce Services, the State Tax Commission, the Department of Heritage and Arts, the Department of Health, the National Guard, the Department of Environmental Quality, the Department of Public Safety, the Department of Human Resource Management, the Commission on Criminal and Juvenile Justice, all merit employees except attorneys in the Office of the Attorney General, merit employees in the Office of the State Treasurer, merit employees in the Office of the State Auditor, Department of Veterans' and Military Affairs, and the Board of Pardons and Parole.

(d) "Elected official" means any person who is an employee of the state because the person was elected by the registered voters of Utah to a position in state government.

(e) "Exempt employee" means a state employee who is exempt as defined by the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.

(f) "FLSA" means the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.

(g) "FLSA agreement" means the agreement authorized by the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq., by which a nonexempt

employee elects the form of compensation the nonexempt employee will receive for overtime.

(h) “Nonexempt employee” means a state employee who is nonexempt as defined by the Department of Human Resource Management applying FLSA requirements.

(i) “Overtime” means actual time worked in excess of the employee’s defined work period.

(j) “Overtime year” means the year determined by a department under Subsection (4)(b) at the end of which an exempt employee’s accrued overtime lapses.

(k) “State employee” means every person employed by a department who is not:

- (i) an appointed official;
- (ii) an elected official;
- (iii) a member of a board or commission who is paid only for per diem or travel expenses; or
- (iv) employed on a contractual basis [at] by the State [Office] Board of Education.

(l) “Uniform annual date” means the date when an exempt employee’s accrued overtime lapses.

(m) “Work period” means:

- (i) for all nonexempt employees, except law enforcement and hospital employees, a consecutive seven day 24 hour work period of 40 hours;
- (ii) for all exempt employees, a 14 day, 80 hour payroll cycle; and
- (iii) for nonexempt law enforcement and hospital employees, the period established by each department by rule for those employees according to the requirements of the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.

(2) Each department shall compensate each state employee who works overtime by complying with the requirements of this section.

(3) (a) Each department shall negotiate and obtain a signed FLSA agreement from each nonexempt employee.

(b) In the FLSA agreement, the nonexempt employee shall elect either to be compensated for overtime by:

- (i) taking time off work at the rate of one and one-half hour off for each overtime hour worked; or
- (ii) being paid for the overtime worked at the rate of one and one-half times the rate per hour that the state employee receives for nonovertime work.

(c) Any nonexempt employee who elects to take time off under this Subsection (3) shall be paid for any overtime worked in excess of the cap established by the Department of Human Resource Management.

(d) Before working any overtime, each nonexempt employee shall obtain authorization to

work overtime from the employee’s immediate supervisor.

(e) Each department shall:

(i) for employees who elect to be compensated with time off for overtime, allow overtime earned during a fiscal year to be accumulated; and

(ii) for employees who elect to be paid for overtime worked, pay them for overtime worked in the paycheck for the pay period in which the employee worked the overtime.

(f) If the department pays a nonexempt employee for overtime, the department shall charge that payment to the department’s budget.

(g) At the end of each fiscal year, the Division of Finance shall total all the accrued overtime hours for nonexempt employees and charge that total against the appropriate fund or subfund.

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), each department shall compensate exempt employees who work overtime by granting them time off at the rate of one hour off for each hour of overtime worked.

(ii) The executive director of the Department of Human Resource Management may grant limited exceptions to this requirement, where work circumstances dictate, by authorizing a department to pay employees for overtime worked at the rate per hour that the employee receives for nonovertime work, if the department has funds available.

(b) (i) Each department shall:

(A) establish in its written human resource policies a uniform annual date for each division that is at the end of any pay period; and

(B) communicate the uniform annual date to its employees.

(ii) If any department fails to establish a uniform annual date as required by this Subsection (4), the executive director of the Department of Human Resource Management, in conjunction with the director of the Division of Finance, shall establish the date for that department.

(c) (i) Any overtime earned under this Subsection (4) is not an entitlement, is not a benefit, and is not a vested right.

(ii) A court may not construe the overtime for exempt employees authorized by this Subsection (4) as an entitlement, a benefit, or as a vested right.

(d) At the end of the overtime year, upon transfer to another department at any time, and upon termination, retirement, or other situations where the employee will not return to work before the end of the overtime year:

(i) any of an exempt employee’s overtime that is more than the maximum established by the Department of Human Resource Management rule lapses; and

(ii) unless authorized by the executive director of the Department of Human Resource Management

under Subsection (4)(a)(ii), a department may not compensate the exempt employee for that lapsed overtime by paying the employee for the overtime or by granting the employee time off for the lapsed overtime.

(e) Before working any overtime, each exempt employee shall obtain authorization to work overtime from the exempt employee's immediate supervisor.

(f) If the department pays an exempt employee for overtime under authorization from the executive director of the Department of Human Resource Management, the department shall charge that payment to the department's budget in the pay period earned.

(5) The Department of Human Resource Management shall:

(a) ensure that the provisions of the FLSA and this section are implemented throughout state government;

(b) determine, for each state employee, whether that employee is exempt, nonexempt, law enforcement, or has some other status under the FLSA;

(c) in coordination with modifications to the systems operated by the Division of Finance, make rules:

(i) establishing procedures for recording overtime worked that comply with FLSA requirements;

(ii) establishing requirements governing overtime worked while traveling and procedures for recording that overtime that comply with FLSA requirements;

(iii) establishing requirements governing overtime worked if the employee is "on call" and procedures for recording that overtime that comply with FLSA requirements;

(iv) establishing requirements governing overtime worked while an employee is being trained and procedures for recording that overtime that comply with FLSA requirements;

(v) subject to the FLSA, establishing the maximum number of hours that a nonexempt employee may accrue before a department is required to pay the employee for the overtime worked;

(vi) subject to the FLSA, establishing the maximum number of overtime hours for an exempt employee that do not lapse; and

(vii) establishing procedures for adjudicating appeals of any FLSA determinations made by the Department of Human Resource Management as required by this section;

(d) monitor departments for compliance with the FLSA; and

(e) recommend to the Legislature and the governor any statutory changes necessary because of federal government action.

(6) In coordination with the procedures for recording overtime worked established in rule by the Department of Human Resource Management, the Division of Finance shall modify its payroll and human resource systems to accommodate those procedures.

(a) Notwithstanding the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, Section 67-19-31, and Section 67-19a-301, any employee who is aggrieved by the FLSA designation made by the Department of Human Resource Management as required by this section may appeal that determination to the executive director of the Department of Human Resource Management by following the procedures and requirements established in Department of Human Resource Management rule.

(b) Upon receipt of an appeal under this section, the executive director shall notify the executive director of the employee's department that the appeal has been filed.

(c) If the employee is aggrieved by the decision of the executive director of the Department of Human Resource Management, the employee shall appeal that determination to the Department of Labor, Wage and Hour Division, according to the procedures and requirements of federal law.

Section 62. Section 77-40-109 is amended to read:

77-40-109. Retention and release of expunged records -- Agencies.

(1) The bureau shall keep, index, and maintain all expunged records of arrests and convictions.

(2) (a) Employees of the bureau may not divulge any information contained in its index to any person or agency without a court order unless specifically authorized by statute.

(b) The following organizations may receive information contained in expunged records upon specific request:

(i) the Board of Pardons and Parole;

(ii) Peace Officer Standards and Training;

(iii) federal authorities, unless prohibited by federal law;

(iv) the Department of Commerce;

(v) the Department of Insurance;

(vi) the State ~~Office~~ Board of Education; and

(vii) the Commission on Criminal and Juvenile Justice, for purposes of investigating applicants for judicial office.

(c) A person or agency authorized by this Subsection (2) to view expunged records may not reveal or release any information obtained from the expunged records to anyone outside the court order or specific request, including distribution on a public website.

(3) The bureau may also use the information in its index as provided in Section 53-5-704.

(4) If, after obtaining an expungement, the petitioner is charged with a felony, the state may petition the court to open the expunged records upon a showing of good cause.

(5) (a) For judicial sentencing, a court may order any records expunged under this chapter or Section 77-27-5.1 to be opened and admitted into evidence.

(b) The records are confidential and are available for inspection only by the court, parties, counsel for the parties, and any other person who is authorized by the court to inspect them.

(c) At the end of the action or proceeding, the court shall order the records expunged again.

(d) Any person authorized by this Subsection (5) to view expunged records may not reveal or release any information obtained from the expunged records to anyone outside the court.

(6) Records released under this chapter are classified as protected under Section 63G-2-305 and are accessible only as provided under Title 63G, Chapter 2, Part 2, Access to Records.

Section 63. Section 78A-6-209 is amended to read:

78A-6-209. Court records -- Inspection.

(1) The court and the probation department shall keep records as required by the board and the presiding judge.

(2) Court records shall be open to inspection by:

(a) the parents or guardian of a child, a minor who is at least 18 years of age, other parties in the case, the attorneys, and agencies to which custody of a minor has been transferred;

(b) for information relating to adult offenders alleged to have committed a sexual offense, a felony or class A misdemeanor drug offense, or an offense against the person under Title 76, Chapter 5, Offenses Against the Person, the State [Office] Board of Education for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, with the understanding that the [office] State Board of Education must provide the individual with an opportunity to respond to any information gathered from its inspection of the records before it makes a decision concerning licensure or employment;

(c) the Criminal Investigations and Technical Services Division, established in Section 53-10-103, for the purpose of a criminal history background check for the purchase of a firearm and establishing good character for issuance of a concealed firearm permit as provided in Section 53-5-704;

(d) the Division of Child and Family Services for the purpose of Child Protective Services Investigations in accordance with Sections 62A-4a-403 and 62A-4a-409 and administrative hearings in accordance with Section 62A-4a-1009;

(e) the Office of Licensing for the purpose of conducting a background check of an applicant for an initial license or a license renewal in accordance with Section 62A-2-120;

(f) for information related to a juvenile offender who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health for the purpose of evaluating under the provisions of Subsection 26-39-404(3) whether a licensee should be permitted to obtain or retain a license to provide child care, with the understanding that the department must provide the individual who committed the offense with an opportunity to respond to any information gathered from its inspection of records before it makes a decision concerning licensure;

(g) for information related to a juvenile offender who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health to determine whether an individual meets the background screening requirements of Title 26, Chapter 21, Part 2, Clearance for Direct Patient Access, with the understanding that the department must provide the individual who committed the offense an opportunity to respond to any information gathered from its inspection of records before it makes a decision under that part; and

(h) for information related to a juvenile offender who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health to determine whether to grant, deny, or revoke background clearance under Section 26-8a-310 for an individual who is seeking or who has obtained emergency medical service personnel certification under Section 26-8a-302, with the understanding that the department must provide the individual who committed the offense an opportunity to respond to any information gathered from the department's inspection of records before it makes a determination.

(3) With the consent of the judge, court records may be inspected by the child, by persons having a legitimate interest in the proceedings, and by persons conducting pertinent research studies.

(4) If a petition is filed charging a minor 14 years of age or older with an offense that would be a felony if committed by an adult, the court shall make available to any person upon request the petition, any adjudication or disposition orders, and the delinquency history summary of the minor charged unless the records are closed by the court upon findings on the record for good cause.

(5) Probation officers' records and reports of social and clinical studies are not open to inspection, except by consent of the court, given under rules adopted by the board.

(6) (a) Any juvenile delinquency adjudication or disposition orders and the delinquency history summary of any person charged as an adult with a felony offense shall be made available to any person upon request.

(b) This provision does not apply to records that have been destroyed or expunged in accordance with court rules.

(c) The court may charge a reasonable fee to cover the costs associated with retrieving a requested record that has been archived.

CHAPTER 145**H. B. 154**

Passed February 17, 2016

Approved March 22, 2016

Effective May 10, 2016

COUNTY PERSONNEL REQUIREMENTS

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

LONG TITLE**General Description:**

This bill modifies provisions relating to a career service council.

Highlighted Provisions:

This bill:

- ▶ provides that under certain circumstances a career service council shall refer an appeal to an administrative law judge for a final decision.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17-33-4, as last amended by Laws of Utah 2001, Chapter 241

17-33-4.5, as enacted by Laws of Utah 2001, Chapter 241

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

Section 1. Section 17-33-4 is amended to read:**17-33-4. Career service council -- Members and alternate members -- Powers and duties -- Appeals -- Time limit -- Qualifications, appointment, terms, and compensation of council members.**

(1) (a) (i) There shall be in each county establishing a system a three-member bipartisan career service council appointed by the county executive. The members of the council shall be persons in sympathy with the application of merit principles to public employment.

(ii) (A) The county executive may appoint alternate members of the career service council to hear appeals that one or more regular career service council members are unable to hear.

(B) The term of an alternate member of the career service council may not exceed one year.

(b) The council shall hear appeals not resolved at lower levels in the cases of career service employees suspended, transferred, demoted, or dismissed as well in the cases of other grievances not resolved by the grievance procedure at the division or departmental level.

(c) The career service council:

(i) may make an initial determination in each appeal whether the appeal is one of the types of

matters under Subsection (1)(b) over which the council has jurisdiction;

(ii) shall, subject to Section 17-33-4.5, review written appeals in cases of applicants rejected for examination and report final binding appeals decisions, in writing, to the county legislative body;

(iii) may not hear any other personnel matter; and

(iv) may affirm, modify, vacate, or set aside an order for disciplinary action.

(d) (i) A person adversely affected by a decision of the career service council may appeal the decision to the district court.

(ii) An appeal to the district court under this Subsection (1)(d) is barred unless it is filed within 30 days after the career service council issues its decision.

(iii) If there is a record of the career service council proceedings, the district court review shall be limited to the record provided by the career service council.

(iv) In reviewing a decision of the career service council, the district court shall presume that the decision is valid and may determine only whether the decision is arbitrary or capricious.

(2) Each council member shall serve a term of three years to expire on June 30, three years after the date of his or her appointment, except that original appointees shall be chosen as follows: one member for a term expiring June 30, 1982; one member for a term expiring June 30, 1983; and one member for a term expiring June 30, 1984. Successors of original council members shall be chosen for three-year terms. An appointment to fill a vacancy on the council shall be for only the unexpired term of the appointee's successor. Each member of the board shall hold office until his successor is appointed and confirmed. A member of the council may be removed by the county executive for cause, after having been given a copy of the charges against him or her and an opportunity to be heard publicly on the charges before the county legislative body. Adequate annual appropriations shall be made available to enable the council effectively to carry out its duties under this law.

(3) Members and alternates of the council shall be United States citizens and be actual and bona fide residents of the state of Utah and the county from which appointed for a period of not less than one year preceding the date of appointment and a member may not hold another government office or be employed by the county.

(4) The council shall elect one of its members as chairperson, and two or more members of the council shall constitute a quorum necessary for carrying on the business and activity of the council.

(5) The council shall have subpoena power to compel attendance of witnesses, and to authorize witness fees where it deems appropriate, to be paid at the same rate as in justice courts.

(6) (a) (i) Council members shall receive compensation for each day or partial day they are in

session at a per diem rate determined by the county legislative body.

(ii) An alternate member shall receive compensation for each day or partial day that the alternate member is required to replace a regular council member, at a per diem rate determined by the county legislative body.

(b) The county legislative body may periodically adjust the compensation rate for inflation.

Section 2. Section 17-33-4.5 is amended to read:

17-33-4.5. Council may refer an appeal to an administrative law judge for a recommendation -- Council action on recommendation.

(1) (a) A county legislative body may appoint one or more administrative law judges to hear appeals referred by a career service council under this section.

(b) Each administrative law judge shall be trained and experienced in personnel matters.

~~[(2) (a) If a career service council determines that it is in the county's best interest, it may initially refer an appeal to an administrative law judge who has been appointed under Subsection (1).]~~

(2) (a) A career service council may refer an appeal to an administrative law judge appointed under Subsection (1) if the career service council determines that the referral is in the parties' best interest.

(b) After holding a hearing on an appeal described in Subsection (2)(a), the administrative law judge shall make findings of fact and a recommendation to the career service council.

(c) After receiving the administrative law judge's recommendation, [a] the career service council may request the administrative law judge to hold a further factual hearing before the career service [council's] council issues a decision.

(d) [A] The career service council may adopt or reject [an] the administrative law judge's recommendation, whether before or after a further hearing under Subsection (2)(c).

(3) (a) A career service council shall refer an appeal to an administrative law judge appointed under Subsection (1) if the county employee or county official assigned by the governing body to manage personnel functions requests that the appeal be referred.

(b) In an appeal described in Subsection (3)(a), the administrative law judge, not the career service council, shall issue a final decision.

CHAPTER 146**H. B. 160**

Passed March 10, 2016
 Approved March 22, 2016
 Effective May 10, 2016

JUSTICE COURT AMENDMENTS

Chief Sponsor: Craig Hall
 Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill requires justice court judges in the first and second class counties to be law school graduates.

Highlighted Provisions:

This bill:

- ▶ requires justice court judges in counties of the first and second class to have graduated from law school;
- ▶ allows current justice court judges to remain in office until they leave; and
- ▶ permits certain political subdivisions with more than one justice court to initiate reductions in force.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78A-7-201, as last amended by Laws of Utah 2012, Chapter 205

78A-7-203, as last amended by Laws of Utah 2012, Chapter 205

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

Section 1. Section 78A-7-201 is amended to read:**78A-7-201. Justice court judge eligibility -- Mandatory retirement.**

- (1) A justice court judge shall be:
- (a) a citizen of the United States;
 - (b) 25 years of age or older;
 - (c) a resident of Utah for at least three years immediately preceding his appointment;
 - (d) a resident of the county in which the court is located or an adjacent county for at least six months immediately preceding appointment; and
 - (e) a qualified voter of the county in which the judge resides.
- (2) ~~[Justice]~~ Effective May 10, 2016, a justice court judge is not required to be admitted to practice law in the state as a qualification to hold office but:

(a) in counties of the first and second class, a justice court judge shall have a degree from a law school that makes one eligible to apply for admission to a bar in any state; and

(b) in counties of the third, fourth, fifth, and sixth class, a justice court judge shall have at the minimum a diploma of graduation from high school or its equivalent.

(3) A justice court judge shall be a person who has demonstrated maturity of judgment, integrity, and the ability to understand and apply appropriate law with impartiality.

(4) ~~[Justice]~~ A justice court judge shall retire upon attaining the age of 75 years.

(5) In counties of the first and second class, if there are not at least three applicants for a justice court judge position who meet the requirements of Subsection (2)(a), the justice court nominating commission shall re-advertise the position, and may accept applications from persons who do not meet the requirements of Subsections (1)(d) and (2)(a).

(6) (a) In accordance with Subsection 78A-7-202(3), the Administrative Office of the Courts shall provide notice to all attorneys in the county and adjacent counties when a justice court judge position is vacant.

(b) If the justice court nominating commission waives the requirement of Subsection (1)(d) in accordance with Subsection (5), the Administrative Office of the Courts shall provide notice to all attorneys in the state.

(7) A justice court judge holding office on May 10, 2016, who does not meet the qualification in Subsection (2)(a) may continue in the judge's position until the judge resigns, retires, is not retained in a retention election, or is removed from office.

Section 2. Section 78A-7-203 is amended to read:**78A-7-203. Term of office for justice court judge -- Retention -- Reduction in force.**

- (1) The term of a justice court judge is six years beginning the first Monday in January following the date of election.
- (2) Upon the expiration of a justice court judge's term of office, the judge shall be subject to an unopposed retention election in accordance with the procedures set forth in Section 20A-12-201:

(a) in the county or counties in which the court to which the judge is appointed is located if the judge is a county justice court judge or a municipal justice court judge in a town or city of the fourth or fifth class; or

(b) in the municipality in which the court to which the judge is appointed is located if the judge is a municipal justice court judge and Subsection (2)(a) does not apply.

(3) Before each retention election, each justice court judge shall be evaluated in accordance with the performance evaluation program established in Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act.

(4) Notwithstanding Subsection (3), each justice court judge who is subject to a retention election in

2012, 2014, and 2016, and who is not a full-time justice court judge on July 1, 2012, shall be evaluated by the Judicial Performance Evaluation Commission according to the following performance standards:

(a) the justice court judge shall have at least 30 annual hours of continuing legal education for each year of the justice court judge's current term;

(b) the justice court judge may not have more than one public reprimand issued by the Judicial Conduct Commission or the Supreme Court during the justice court judge's current term; and

(c) the justice court judge may not have had any cases under advisement for more than two months.

(5) Political subdivisions in counties of the first and second class that have more than one justice court judge and the weighted caseload per judge is lower than 0.60 as determined by the Administrative Office of the Courts may, at the political subdivision's discretion and at the end of a judge's term of office, initiate a reduction in force and reduce, lay off, terminate, or eliminate a judge's position pursuant to the political subdivision's employment policies.

(6) Political subdivisions in counties of the first and second class may only add new justice court judge positions if the Judicial Council, after considering the caseload of the court, approves creation of the position.

CHAPTER 147**H. B. 161**

Passed February 26, 2016

Approved March 22, 2016

Effective May 10, 2016

AGRICULTURE PARCEL AMENDMENTS

Chief Sponsor: Mike K. McKell
Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill amends provisions relating to certain agricultural parcels.

Highlighted Provisions:

This bill:

- ▶ provides that a county legislative body may enact an ordinance allowing division of a parcel of land with an existing family dwelling, under certain circumstances, without complying with plat requirements; and
- ▶ provides for the enforcement of plat requirements if a parcel created under this bill is used for nonagricultural purposes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17-27a-605, as last amended by Laws of Utah 2015, Chapter 465

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

Section 1. Section 17-27a-605 is amended to read:**17-27a-605. Exemptions from plat requirement.**

(1) Notwithstanding Sections 17-27a-603 and 17-27a-604, the land use authority may approve the subdivision of unincorporated land or mountainous planning district land into 10 lots or less without a plat, by certifying in writing that:

- (a) the county has provided notice as required by ordinance; and
- (b) the proposed subdivision:
 - (i) is not traversed by the mapped lines of a proposed street as shown in the general plan and does not require the dedication of any land for street or other public purposes;
 - (ii) has been approved by the culinary water authority and the sanitary sewer authority;
 - (iii) is located in a zoned area; and
 - (iv) conforms to all applicable land use ordinances or has properly received a variance from the requirements of an otherwise conflicting and applicable land use ordinance.

(2) (a) Subject to Subsection (1), a lot or parcel resulting from a division of agricultural land is

exempt from the plat requirements of Section 17-27a-603 if:

(i) the lot or parcel:

(A) qualifies as land in agricultural use under Section 59-2-502; and

(B) is not used and will not be used for any nonagricultural purpose; and

(ii) the new owner of record completes, signs, and records with the county recorder a notice:

(A) describing the parcel by legal description; and

(B) stating that the lot or parcel is created for agricultural purposes as defined in Section 59-2-502 and will remain so until a future zoning change permits other uses.

(b) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural purpose, the county shall require the lot or parcel to comply with the requirements of Section 17-27a-603 and all applicable land use ordinance requirements.

(3) (a) Except as provided in Subsection (4), a document recorded in the county recorder's office that divides property by a metes and bounds description does not create an approved subdivision allowed by this part unless the land use authority's certificate of written approval required by Subsection (1) is attached to the document.

(b) The absence of the certificate or written approval required by Subsection (1) does not:

- (i) prohibit the county recorder from recording a document; or
- (ii) affect the validity of a recorded document.

(c) A document which does not meet the requirements of Subsection (1) may be corrected by the recording of an affidavit to which the required certificate or written approval is attached in accordance with Section 57-3-106.

(4) (a) As used in this Subsection (4):

(i) "Divided land" means land that:

(A) is described as the land to be divided in a notice under Subsection (4)(b)(ii); and

(B) has been divided by a minor subdivision.

(ii) "Land to be divided" means land that is proposed to be divided by a minor subdivision.

(iii) "Minor subdivision" means a division of at least 100 contiguous acres of agricultural land in a county of the third, fourth, fifth, or sixth class to create one new lot that, after the division, is separate from the remainder of the original 100 or more contiguous acres of agricultural land.

(iv) "Minor subdivision lot" means a lot created by a minor subdivision.

(b) Notwithstanding Sections 17-27a-603 and 17-27a-604, an owner of at least 100 contiguous acres of agricultural land may make a minor subdivision by submitting for recording in the office of the recorder of the county in which the land to be divided is located:

(i) a recordable deed containing the legal description of the minor subdivision lot; and

(ii) a notice:

(A) indicating that the owner of the land to be divided is making a minor subdivision;

(B) referring specifically to this section as the authority for making the minor subdivision; and

(C) containing the legal description of:

(I) the land to be divided; and

(II) the minor subdivision lot.

(c) A minor subdivision lot:

(i) may not be less than one acre in size;

(ii) may not be within 1,000 feet of another minor subdivision lot; and

(iii) is not subject to the subdivision ordinance of the county in which the minor subdivision lot is located.

(d) Land to be divided by a minor subdivision may not include divided land.

(e) A county:

(i) may not deny a building permit to an owner of a minor subdivision lot based on:

(A) the lot's status as a minor subdivision lot; or

(B) the absence of standards described in Subsection (4)(e)(ii); and

(ii) may, in connection with the issuance of a building permit, subject a minor subdivision lot to reasonable health, safety, and access standards that the county has established and made public.

(5) (a) Notwithstanding Sections 17-27a-603 and 17-27a-604, and subject to Subsection (1), the legislative body of a county may enact an ordinance allowing the subdivision of a parcel, without complying with the plat requirements of Section 17-27a-603, if:

(i) the parcel contains an existing legal single family dwelling unit;

(ii) the subdivision results in two parcels, one of which is agricultural land;

(iii) the parcel of agricultural land:

(A) qualifies as land in agricultural use under Section 59-2-502; and

(B) is not used, and will not be used, for a nonagricultural purpose;

(iv) both the parcel with an existing legal single family dwelling unit and the parcel of agricultural land meet the minimum area, width, frontage, and setback requirements of the applicable zoning designation in the applicable land use ordinance; and

(v) the owner of record completes, signs, and records with the county recorder a notice:

(A) describing the parcel of agricultural land by legal description; and

(B) stating that the parcel of agricultural land is created as land in agricultural use, as defined in Section 59-2-502, and will remain as land in agricultural use until a future zoning change permits another use.

(b) If a parcel of agricultural land divided from another parcel under Subsection (5)(a) is later used for a nonagricultural purpose, the exemption provided in Subsection (5)(a) no longer applies, and the county shall require the owner of the parcel to:

(i) retroactively comply with the subdivision plat requirements of Section 17-27a-603; and

(ii) comply with all applicable land use ordinance requirements.

CHAPTER 148**H. B. 189**

Passed February 22, 2016

Approved March 22, 2016

Effective May 10, 2016

**MOTOR VEHICLE
IMPOUND AMENDMENTS**Chief Sponsor: Stephen G. Handy
Senate Sponsor: Wayne A. Harper**LONG TITLE****General Description:**

This bill amends provisions relating to towing and impoundment notifications.

Highlighted Provisions:

This bill:

- ▶ amends the sentencing requirements for DUI convictions by requiring payment of the administrative impound fee and towing and storage fees by the person convicted;
- ▶ requires the Motor Vehicle Division to provide notification to a dealer who has issued a temporary permit for a car that is towed and impounded; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-505, as last amended by Laws of Utah 2015, Chapters 116 and 438

41-6a-1406, as last amended by Laws of Utah 2014, Chapter 249

72-9-603, as last amended by Laws of Utah 2014, Chapter 249

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

Section 1. Section 41-6a-505 is amended to read:**41-6a-505. Sentencing requirements for driving under the influence of alcohol, drugs, or a combination of both violations.**

(1) As part of any sentence for a first conviction of Section 41-6a-502:

(a) the court shall:

(i) (A) impose a jail sentence of not less than 48 consecutive hours;

(B) require the person to work in a compensatory-service work program for not less than 48 hours; or

(C) require the person to participate in home confinement of not fewer than 48 consecutive hours through the use of electronic monitoring in accordance with Section 41-6a-506;

(ii) order the person to participate in a screening;

(iii) order the person to participate in an assessment, if it is found appropriate by a screening under Subsection (1)(a)(ii);

(iv) order the person to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (1)(b);

(v) impose a fine of not less than \$700; ~~and~~

(vi) order probation for the person in accordance with Section 41-6a-507, if there is admissible evidence that the person had a blood alcohol level of .16 or higher; ~~and~~

(vii) (A) order the person to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the person sentenced, order the person sentenced to reimburse the party; or

(viii) (A) order the person to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the person sentenced, order the person sentenced to reimburse the party; and

(b) the court may:

(i) order the person to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate; or

(ii) order probation for the person in accordance with Section 41-6a-507.

(2) If a person has a prior conviction as defined in Subsection 41-6a-501(2) that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based:

(a) the court shall:

(i) (A) impose a jail sentence of not less than 240 consecutive hours;

(B) require the person to work in a compensatory-service work program for not less than 240 hours; or

(C) require the person to participate in home confinement of not fewer than 240 consecutive hours through the use of electronic monitoring in accordance with Section 41-6a-506;

(ii) order the person to participate in a screening;

(iii) order the person to participate in an assessment, if it is found appropriate by a screening under Subsection (2)(a)(ii);

(iv) order the person to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (2)(b);

(v) impose a fine of not less than \$800; ~~and~~

(vi) order probation for the person in accordance with Section 41-6a-507; ~~and~~

(vii) (A) order the person to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the person sentenced, order the person sentenced to reimburse the party; or

(viii) (A) order the person to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the person sentenced, order the person sentenced to reimburse the party; and

(b) the court may order the person to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate.

(3) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison sentence and places the defendant on probation:

(a) the court shall impose:

(i) a fine of not less than \$1,500;

(ii) a jail sentence of not less than 1,500 hours; and

(iii) supervised probation; and

(b) in lieu of Subsection (3)(a)(ii), the court may require the person to participate in home confinement of not fewer than 1,500 hours through the use of electronic monitoring in accordance with Section 41-6a-506.

(4) For Subsection (3)(a) or Subsection 41-6a-503(2)(b), the court shall impose an order requiring the person to obtain a screening and assessment for alcohol and substance abuse, and treatment as appropriate.

(5) (a) The requirements of Subsections (1)(a), (2)(a), (3)(a), and (4) may not be suspended.

(b) Probation or parole resulting from a conviction for a violation under this section may not be terminated.

(6) If a person is convicted of a violation of Section 41-6a-502 and there is admissible evidence that the person had a blood alcohol level of .16 or higher, the court shall order the following, or describe on record why the order or orders are not appropriate:

(a) treatment as described under Subsection (1)(b), (2)(b), or (4); and

(b) one or more of the following:

(i) the installation of an ignition interlock system as a condition of probation for the person in accordance with Section 41-6a-518;

(ii) the imposition of an ankle attached continuous transdermal alcohol monitoring device as a condition of probation for the person; or

(iii) the imposition of home confinement through the use of electronic monitoring in accordance with Section 41-6a-506.

Section 2. Section 41-6a-1406 is amended to read:

41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.

(1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under Section 41-1a-1101, 41-6a-527, 41-6a-1405, 41-6a-1408, or 73-18-20.1 by an order of a peace officer or by an order of a person acting on behalf of a law enforcement agency or highway authority, the removal or impoundment of the vehicle, vessel, or outboard motor shall be at the expense of the owner.

(2) The vehicle, vessel, or outboard motor under Subsection (1) shall be removed or impounded to:

(a) a state impound yard; or

(b) if none, a garage, docking area, or other place of safety.

(3) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be removed by a tow truck motor carrier that meets standards established:

(a) under Title 72, Chapter 9, Motor Carrier Safety Act; and

(b) by the department under Subsection (10).

(4) (a) Immediately after the removal of the vehicle, vessel, or outboard motor, a report of the removal shall be sent to the Motor Vehicle Division by:

(i) the peace officer or agency by whom the peace officer is employed; and

(ii) the tow truck operator or the tow truck motor carrier by whom the tow truck operator is employed.

(b) The report shall be in a form specified by the Motor Vehicle Division and shall include:

(i) the operator's name, if known;

(ii) a description of the vehicle, vessel, or outboard motor;

(iii) the vehicle identification number or vessel or outboard motor identification number;

(iv) the license number, temporary permit number, or other identification number issued by a state agency;

(v) the date, time, and place of impoundment;

(vi) the reason for removal or impoundment;

(vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or outboard motor; and

(viii) the place where the vehicle, vessel, or outboard motor is stored.

(c) Until the tow truck operator or tow truck motor carrier reports the removal as required under

this Subsection (4), a tow truck motor carrier or impound yard may not:

(i) collect any fee associated with the removal; and

(ii) begin charging storage fees.

(5) (a) Except as provided in Subsection (5)(e) and upon receipt of the report, the Motor Vehicle Division shall give notice ~~[to]~~, in the manner described in Section 41-1a-114, to the following parties with an interest in the vehicle, vessel, or outboard motor, as applicable:

(i) the registered owner ~~[of the vehicle, vessel, or outboard motor and];~~

(ii) any lien holder ~~[in the manner prescribed by Section 41-1a-114]; or~~

(iii) a dealer, as defined in Section 41-1a-102, if the vehicle, vessel, or outboard motor is currently operating under a temporary permit issued by the dealer, as described in Section 41-3-302.

(b) The notice shall:

(i) state the date, time, and place of removal, the name, if applicable, of the person operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal, and the place where the vehicle, vessel, or outboard motor is stored;

(ii) state that the registered owner is responsible for payment of towing, impound, and storage fees charged against the vehicle, vessel, or outboard motor;

(iii) ~~[inform the registered owner of the vehicle, vessel, or outboard motor of]~~ state the conditions that must be satisfied before the vehicle, vessel, or outboard motor is released; and

(iv) inform the ~~[registered owner and lienholder]~~ parties described in Subsection (5)(a) of the division's intent to sell the vehicle, vessel, or outboard motor, if, within 30 days ~~[from the date]~~ after the day of the removal or impoundment under this section, ~~[the owner, lien holder, or the owner's agent]~~ one of the parties fails to make a claim for release of the vehicle, vessel, or outboard motor.

(c) Except as provided in Subsection (5)(e) and if the vehicle, vessel, or outboard motor is not registered in this state, the Motor Vehicle Division shall make a reasonable effort to notify the ~~[registered owner and any lien holder]~~ parties described in Subsection (5)(a) of the removal and the place where the vehicle, vessel, or outboard motor is stored.

(d) The Motor Vehicle Division shall forward a copy of the notice to the place where the vehicle, vessel, or outboard motor is stored.

(e) The Motor Vehicle Division is not required to give notice under this Subsection (5) if a report was received by a tow truck operator or tow truck motor carrier reporting a tow truck service in accordance with Subsection 72-9-603(1)(a)(i).

(6) (a) The vehicle, vessel, or outboard motor shall be released after ~~[the registered owner, lien holder, or the owner's agent]~~ a party described in Subsection (5)(a):

(i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of the State Tax Commission;

(ii) presents identification sufficient to prove ownership of the impounded vehicle, vessel, or outboard motor;

(iii) completes the registration, if needed, and pays the appropriate fees;

(iv) if the impoundment was made under Section 41-6a-527, pays an administrative impound fee of \$350; and

(v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard motor is stored.

(b) (i) Twenty-nine dollars of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be dedicated credits to the Motor Vehicle Division;

(ii) \$97 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited in the Department of Public Safety Restricted Account created in Section 53-3-106;

(iii) \$20 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited in the Traumatic Spinal Cord and Brain Injury Rehabilitation Fund; and

(iv) the remainder of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited in the General Fund.

(c) The administrative impound fee assessed under Subsection (6)(a)(iv) shall be waived or refunded by the State Tax Commission if the registered owner, lien holder, or owner's agent presents written evidence to the State Tax Commission that:

(i) the Driver License Division determined that the arrested person's driver license should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter or other report from the Driver License Division presented within 30 days of the final notification from the Driver License Division; or

(ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the stolen vehicle report presented within 30 days of the impoundment.

(d) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept payment by cash and debit or credit card for a removal or impoundment under Subsection (1) or any service rendered, performed, or supplied in connection with a removal or impoundment under Subsection (1).

(e) The owner of an impounded vehicle may not be charged a fee for the storage of the impounded vehicle, vessel, or outboard motor if:

(i) the vehicle, vessel, or outboard motor is being held as evidence; and

(ii) the vehicle, vessel, or outboard motor is not being released to ~~[the registered owner, lien holder, or the owner's agent]~~ a party described in Subsection 5(a), even if the ~~[registered owner, lien holder, or the owner's agent]~~ party satisfies the requirements to release the vehicle, vessel, or outboard motor under this Subsection (6).

(7) (a) An impounded vehicle, vessel, or outboard motor not claimed by ~~[the registered owner or the owner's agent]~~ a party described in Subsection (5)(a) within the time prescribed by Section 41-1a-1103 shall be sold in accordance with that section and the proceeds, if any, shall be disposed of as provided under Section 41-1a-1104.

(b) The date of impoundment is considered the date of seizure for computing the time period provided under Section 41-1a-1103.

(8) ~~[The registered owner who]~~ A party described in Subsection (5)(a) that pays all fees and charges incurred in the impoundment of the owner's vehicle, vessel, or outboard motor⁵, has a cause of action for all the fees and charges, together with damages, court costs, and attorney fees, against the operator of the vehicle, vessel, or outboard motor whose actions caused the removal or impoundment.

(9) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel, or outboard motor.

(10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules setting the performance standards for towing companies to be used by the department.

(11) (a) The Motor Vehicle Division may specify that a report required under Subsection (4) be submitted in electronic form utilizing a database for submission, storage, and retrieval of the information.

(b) (i) Unless otherwise provided by statute, the Motor Vehicle Division or the administrator of the database may adopt a schedule of fees assessed for utilizing the database.

(ii) The fees under this Subsection (11)(b) shall:

(A) be reasonable and fair; and

(B) reflect the cost of administering the database.

Section 3. Section 72-9-603 is amended to read:

72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned vehicle title restrictions -- Rules for maximum rates and certification.

(1) Except for a tow truck service that was ordered by a peace officer, or a person acting on behalf of a law enforcement agency, or a highway authority, after performing a tow truck service that is being done without the vehicle, vessel, or outboard motor owner's knowledge, the tow truck operator or the tow truck motor carrier shall:

(a) immediately upon arriving at the place of storage or impound of the vehicle, vessel, or outboard motor:

(i) send a report of the removal to the Motor Vehicle Division that complies with the requirements of Subsection 41-6a-1406(4)(b); and

(ii) contact the law enforcement agency having jurisdiction over the area where the vehicle, vessel, or outboard motor was picked up and notify the agency of the:

(A) location of the vehicle, vessel, or outboard motor;

(B) date, time, and location from which the vehicle, vessel, or outboard motor was removed;

(C) reasons for the removal of the vehicle, vessel, or outboard motor;

(D) person who requested the removal of the vehicle, vessel, or outboard motor; and

(E) vehicle, vessel, or outboard motor's description, including its identification number and license number or other identification number issued by a state agency;

(b) within two business days of performing the tow truck service under Subsection (1)(a), send a certified letter to the last-known address of ~~[the registered owner and lien holder of]~~ each party described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor obtained from the Motor Vehicle Division or, if the person has actual knowledge of the ~~[owner's]~~ party's address, to the current address, notifying the ~~[owner]~~ party of the:

(i) location of the vehicle, vessel, or outboard motor;

(ii) date, time, and location from which the vehicle, vessel, or outboard motor was removed;

(iii) reasons for the removal of the vehicle, vessel, or outboard motor;

(iv) person who requested the removal of the vehicle, vessel, or outboard motor;

(v) a description, including its identification number and license number or other identification number issued by a state agency; and

(vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor; and

(c) upon initial contact with the owner whose vehicle, vessel, or outboard motor was removed, provide the owner with a copy of the Utah Consumer Bill of Rights Regarding Towing established by the department in Subsection (7)(e).

(2) (a) Until the tow truck operator or tow truck motor carrier reports the removal as required under Subsection (1)(a), a tow truck operator, tow truck motor carrier, or impound yard may not:

(i) collect any fee associated with the removal; or

(ii) begin charging storage fees.

(b) (i) Except as provided in Subsection (2)(c), a tow truck operator or tow truck motor carrier may

not perform a tow truck service without the vehicle, vessel, or outboard motor owner's or a lien holder's knowledge at either of the following locations without signage that meets the requirements of Subsection (2)(b)(ii):

(A) a mobile home park as defined in Section 57-16-3; or

(B) a multifamily dwelling of more than eight units.

(ii) Signage under Subsection (2)(b)(i) shall display:

(A) where parking is subject to towing; and

(B) (I) the Internet website address that provides access to towing database information in accordance with Section 41-6a-1406; or

(II) one of the following:

(Aa) the name and phone number of the tow truck operator or tow truck motor carrier that performs a tow truck service for the locations listed under Subsection (2)(b)(i); or

(Bb) the name of the mobile home park or multifamily dwelling and the phone number of the mobile home park or multifamily dwelling manager or management office that authorized the vehicle, vessel, or outboard motor to be towed.

(c) Signage is not required under Subsection (2)(b) for parking in a location:

(i) that is prohibited by law; or

(ii) if it is reasonably apparent that the location is not open to parking.

(d) Nothing in Subsection (2)(b) restricts the ability of a mobile home park as defined in Section 57-16-3 or a multifamily dwelling from instituting and enforcing regulations on parking.

(3) The ~~owner of~~ party described in Subsection 41-6a-1406(5)(a) with an interest in a vehicle, vessel, or outboard motor lawfully removed is only responsible for paying:

(a) the tow truck service and storage fees set in accordance with Subsection (7); and

(b) the administrative impound fee set in Section 41-6a-1406, if applicable.

(4) The fees under Subsection (3) are a possessory lien on the vehicle, non-life essential items that are owned by the owner of the vehicle and securely stored by the tow truck operator, vessel, or outboard motor until paid.

(5) A person may not request a transfer of title to an abandoned vehicle until at least 30 days after notice has been sent under Subsection (1)(b).

(6) (a) A tow truck motor carrier or impound yard shall clearly and conspicuously post and disclose all its current fees, rates, and acceptable forms of payment for tow truck service and storage of a vehicle in accordance with rules established under Subsection (7).

(b) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept payment by cash and debit or credit card for a tow truck service under Subsection (1) or any service rendered, performed, or supplied in connection with a tow truck service under Subsection (1).

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Transportation shall:

(a) subject to the restriction in Subsection (8), set maximum rates that:

(i) a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel, or outboard motor that are transported in response to:

(A) a peace officer dispatch call;

(B) a motor vehicle division call; and

(C) any other call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal; and

(ii) an impound yard may charge for the storage of a vehicle, vessel, or outboard motor stored as a result of one of the conditions listed under Subsection (7)(a)(i);

(b) establish authorized towing certification requirements, not in conflict with federal law, related to incident safety, clean-up, and hazardous material handling;

(c) specify the form and content of the posting and disclosure of fees and rates charged and acceptable forms of payment by a tow truck motor carrier or impound yard;

(d) set a maximum rate for an administrative fee that a tow truck motor carrier may charge for reporting the removal as required under Subsection (1)(a)(i) and providing notice of the removal to ~~the registered owner and lienholder of~~ each party described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor as required in Subsection (1)(b); and

(e) establish a Utah Consumer Bill of Rights Regarding Towing form that contains specific information regarding:

(i) a vehicle owner's rights and responsibilities if the owner's vehicle is towed;

(ii) identifies the maximum rates that a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel, or outboard motor that is transported in response to a call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal; and

(iii) identifies the maximum rates that an impound yard may charge for the storage of vehicle, vessel, or outboard motor that is transported in response to a call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal.

(8) An impound yard may not charge a fee for the storage of an impounded vehicle, vessel, or outboard motor if:

(a) the vehicle, vessel, or outboard motor is being held as evidence; and

(b) the vehicle, vessel, or outboard motor is not being released to ~~[the registered owner, lien holder, or the owner's agent]~~ a party described in Subsection 41-6a-1406(5)(a), even if the ~~[registered owner, lien holder, or the owner's agent]~~ party satisfies the requirements to release the vehicle, vessel, or outboard motor under Section 41-6a-1406.

CHAPTER 149**H. B. 191**

Passed March 3, 2016
 Approved March 22, 2016
 Effective May 10, 2016

INTERLOCK RESTRICTED DRIVER AMENDMENTS

Chief Sponsor: Edward H. Redd
 Senate Sponsor: Scott K. Jenkins

LONG TITLE**General Description:**

This bill modifies provisions relating to interlock restricted drivers.

Highlighted Provisions:

This bill:

- ▶ defines “employer verification”;
- ▶ requires an interlock restricted driver to have written verification of certain information from the driver’s employer in the driver’s possession while operating the employer’s motor vehicle;
- ▶ requires the Driver License Division to post the ignition interlock restriction on a person’s electronic record that is available to law enforcement;
- ▶ amends the requirements for an affirmative defense to an interlock restricted driver violation;
- ▶ amends the requirements for the Driver License Division to clear the suspension for an interlock restricted driver violation;
- ▶ requires the Driver License Division to suspend the driving privileges of an interlock restricted driver in certain circumstances; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 41-6a-518, as last amended by Laws of Utah 2015, Chapters 412 and 438
 41-6a-518.2, as last amended by Laws of Utah 2009, Chapter 390
 53-3-1007, as last amended by Laws of Utah 2014, Chapter 101

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

Section 1. Section 41-6a-518 is amended to read:**41-6a-518. Ignition interlock devices -- Use -- Probationer to pay cost -- Impecuniosity -- Fee.**

(1) As used in this section:

(a) “Commissioner” means the commissioner of the Department of Public Safety.

(b) “Employer verification” means written verification from the employer that:

(i) the employer is aware that the employee is an interlock restricted driver;

(ii) the vehicle the employee is operating for employment purposes is not made available to the employee for personal use;

(iii) the business entity that employs the employee is not entirely or partly owned or controlled by the employee;

(iv) the employer’s auto insurance company is aware that the employee is an interlock restricted driver; and

(v) the employee has been added to the employer’s auto insurance policy as an operator of the vehicle.

[(b)] (c) “Ignition interlock system” or “system” means a constant monitoring device or any similar device certified by the commissioner that prevents a motor vehicle from being started or continuously operated without first determining the driver’s breath alcohol concentration.

[(e)] (d) “Probation provider” means the supervisor and monitor of the ignition interlock system required as a condition of probation who contracts with the court in accordance with Subsections 41-6a-507(2) and (3).

(2) (a) In addition to any other penalties imposed under Sections 41-6a-503 and 41-6a-505, and in addition to any requirements imposed as a condition of probation, the court may require that any person who is convicted of violating Section 41-6a-502 and who is granted probation may not operate a motor vehicle during the period of probation unless that motor vehicle is equipped with a functioning, certified ignition interlock system installed and calibrated so that the motor vehicle will not start or continuously operate if the operator’s blood alcohol concentration exceeds a level ordered by the court.

(b) If a person convicted of violating Section 41-6a-502 was under the age of 21 when the violation occurred, the court shall order the installation of the ignition interlock system as a condition of probation.

(c) (i) If a person is convicted of a violation of Section 41-6a-502 within 10 years of a prior conviction as defined in Subsection 41-6a-501(2), the court shall order the installation of the interlock ignition system, at the person’s expense, for all motor vehicles registered to that person and all motor vehicles operated by that person.

(ii) A person who operates a motor vehicle without an ignition interlock device as required under this Subsection (2)(c) is in violation of Section 41-6a-518.2.

(d) The division shall post the ignition interlock restriction on the electronic record available to law enforcement.

(e) This section does not apply to a person convicted of a violation of Section 41-6a-502 whose violation involves drugs other than alcohol.

(3) If the court imposes the use of an ignition interlock system as a condition of probation, the court shall:

(a) stipulate on the record the requirement for and the period of the use of an ignition interlock system;

(b) order that an ignition interlock system be installed on each motor vehicle owned or operated by the probationer, at the probationer's expense;

(c) immediately notify the Driver License Division and the person's probation provider of the order; and

(d) require the probationer to provide proof of compliance with the court's order to the probation provider within 30 days of the order.

(4) (a) The probationer shall provide timely proof of installation within 30 days of an order imposing the use of a system or show cause why the order was not complied with to the court or to the probationer's probation provider.

(b) The probation provider shall notify the court of failure to comply under Subsection (4)(a).

(c) For failure to comply under Subsection (4)(a) or upon receiving the notification under Subsection (4)(b), the court shall order the Driver License Division to suspend the probationer's driving privileges for the remaining period during which the compliance was imposed.

(d) Cause for failure to comply means any reason the court finds sufficiently justifiable to excuse the probationer's failure to comply with the court's order.

(5) (a) Any probationer required to install an ignition interlock system shall have the system monitored by the manufacturer or dealer of the system for proper use and accuracy at least semiannually and more frequently as the court may order.

(b) (i) A report of the monitoring shall be issued by the manufacturer or dealer to the court or the person's probation provider.

(ii) The report shall be issued within 14 days following each monitoring.

(6) (a) If an ignition interlock system is ordered installed, the probationer shall pay the reasonable costs of leasing or buying and installing and maintaining the system.

(b) A probationer may not be excluded from this section for inability to pay the costs, unless:

(i) the probationer files an affidavit of impecuniosity; and

(ii) the court enters a finding that the probationer is impecunious.

(c) In lieu of waiver of the entire amount of the cost, the court may direct the probationer to make partial or installment payments of costs when appropriate.

(d) The ignition interlock provider shall cover the costs of waivers by the court under this Subsection (6).

(7) (a) If a probationer is required in the course and scope of employment to operate a motor vehicle owned by the probationer's employer, the probationer may operate that motor vehicle without installation of an ignition interlock system only if:

(i) the motor vehicle is used in the course and scope of employment;

(ii) the employer has been notified that the employee is restricted; and

(iii) the employee has ~~[proof of the notification]~~ employer verification in the employee's possession while operating the employer's motor vehicle.

(b) (i) To the extent that an employer-owned motor vehicle is made available to a probationer subject to this section for personal use, no exemption under this section shall apply.

(ii) A probationer intending to operate an employer-owned motor vehicle for personal use and who is restricted to the operation of a motor vehicle equipped with an ignition interlock system shall notify the employer and obtain consent in writing from the employer to install a system in the employer-owned motor vehicle.

(c) A motor vehicle owned by a business entity that is all or partly owned or controlled by a probationer subject to this section is not a motor vehicle owned by the employer and does not qualify for an exemption under this Subsection (7).

(8) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall make rules setting standards for the certification of ignition interlock systems.

(b) The standards under Subsection (8)(a) shall require that the system:

(i) not impede the safe operation of the motor vehicle;

(ii) have features that make circumventing difficult and that do not interfere with the normal use of the motor vehicle;

(iii) require a deep lung breath sample as a measure of breath alcohol concentration;

(iv) prevent the motor vehicle from being started if the driver's breath alcohol concentration exceeds a specified level;

(v) work accurately and reliably in an unsupervised environment;

(vi) resist tampering and give evidence if tampering is attempted;

(vii) operate reliably over the range of motor vehicle environments; and

(viii) be manufactured by a party who will provide liability insurance.

(c) The commissioner may adopt in whole or in part, the guidelines, rules, studies, or independent laboratory tests relied upon in certification of ignition interlock systems by other states.

(d) A list of certified systems shall be published by the commissioner and the cost of certification shall

be borne by the manufacturers or dealers of ignition interlock systems seeking to sell, offer for sale, or lease the systems.

(e) (i) In accordance with Section 63J-1-504, the commissioner may establish an annual dollar assessment against the manufacturers of ignition interlock systems distributed in the state for the costs incurred in certifying.

(ii) The assessment under Subsection (8)(e)(i) shall be apportioned among the manufacturers on a fair and reasonable basis.

(f) The commissioner shall require a provider of an ignition interlock system certified in accordance with this section to comply with the requirements of Title 53, Chapter 3, Part 10, Ignition Interlock System Program Act.

(9) A violation of this section is a class C misdemeanor.

(10) There shall be no liability on the part of, and no cause of action of any nature shall arise against, the state or its employees in connection with the installation, use, operation, maintenance, or supervision of an interlock ignition system as required under this section.

Section 2. Section 41-6a-518.2 is amended to read:

41-6a-518.2. Interlock restricted driver -- Penalties for operation without ignition interlock system.

(1) As used in this section:

(a) “[~~ignition~~] Ignition interlock system” means a constant monitoring device or any similar device that:

(i) is in working order at the time of operation or actual physical control; and

(ii) is certified by the Commissioner of Public Safety in accordance with Subsection 41-6a-518(8)[~~and~~].

(b) (i) “[~~interlock~~] Interlock restricted driver” means a person who:

(A) has been ordered by a court or the Board of Pardons and Parole as a condition of probation or parole not to operate a motor vehicle without an ignition interlock system;

(B) within the last 18 months has been convicted of a driving under the influence violation under Section 41-6a-502 that was committed on or after July 1, 2009;

(C) (I) within the last three years has been convicted of an offense that occurred after May 1, 2006 which would be a conviction as defined under Section 41-6a-501; and

(II) the offense described under Subsection (1)(b)(i)(C)(I) is committed within 10 years from the date that one or more prior offenses was committed if the prior offense resulted in a conviction as defined in Subsection 41-6a-501(2);

(D) within the last three years has been convicted of a violation of this section;

(E) within the last three years has had the person’s driving privilege revoked for refusal to submit to a chemical test under Section 41-6a-520, which refusal occurred after May 1, 2006;

(F) within the last three years has been convicted of a violation of Section 41-6a-502 and was under the age of 21 at the time the offense was committed;

(G) within the last six years has been convicted of a felony violation of Section 41-6a-502 for an offense that occurred after May 1, 2006; or

(H) within the last 10 years has been convicted of automobile homicide under Section 76-5-207 for an offense that occurred after May 1, 2006[~~and~~].

(ii) “[~~interlock~~] Interlock restricted driver” does not include a person [~~if~~]:

(A) [~~the person’s~~] whose conviction described in Subsection (1)(b)(i)(C)(I) is a conviction under Section 41-6a-517; and

(B) [~~all of the person’s~~] whose prior convictions described in Subsection (1)(b)(i)(C)(II) are all convictions under Section 41-6a-517.

(2) The division shall post the ignition interlock restriction on a person’s electronic record that is available to law enforcement.

[~~(2)~~] (3) For purposes of this section, a plea of guilty or no contest to a violation of Section 41-6a-502 which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

[~~(3)~~] (4) An interlock restricted driver [~~that~~] who operates or is in actual physical control of a vehicle in [~~this~~] the state without an ignition interlock system is guilty of a class B misdemeanor.

[~~(4)(a)~~] (5) It is an affirmative defense to a charge of a violation of Subsection [~~(3)~~] if: (i) an interlock restricted driver] (4) if:

[~~(A)~~] (a) the interlock restricted driver operated or was in actual physical control of a vehicle owned by the interlock restricted driver’s employer;

[~~(B)~~] (b) the interlock restricted driver had given written notice to the employer of the interlock restricted driver’s interlock restricted status prior to the operation or actual physical control under Subsection [(4)(a)(i); and] (5)(a);

[~~(C)~~] (c) the interlock restricted driver had on the interlock restricted driver’s person, or in the vehicle, at the time of operation or physical control [~~proof of having given notice to the interlock restricted driver’s employer; and~~] employer verification, as defined in Subsection 41-6a-518(1); and

[~~(ii)~~] (d) the operation or actual physical control [~~under~~] described in Subsection [(4)(a)(i)(A)] (5)(a)

was in the scope of the ~~[interlock restricted]~~ interlock restricted driver's employment.

~~[(b)]~~ (6) The affirmative defense ~~[under]~~ described in Subsection ~~[(4)(a)]~~ (5) does not apply to:

~~[(i)]~~ (a) an employer-owned motor vehicle that is made available to an interlock restricted driver for personal use; or

~~[(ii)]~~ (b) a motor vehicle owned by a business entity that is ~~[all]~~ entirely or partly owned or controlled by the interlock restricted driver.

Section 3. Section 53-3-1007 is amended to read:

53-3-1007. Ignition interlock system provider -- Notification to the division upon installation or removal of an ignition interlock system -- License suspension or revocation for failure to install or remove.

(1) An ignition interlock system provider who installs an ignition interlock system on a person's vehicle shall:

(a) provide proof of installation to the person; and

(b) electronically notify the division of installation of an ignition interlock system on the person's vehicle.

(2) An ignition interlock system provider shall electronically notify the division if a person has removed an ignition interlock system from the person's vehicle.

(3) If an individual is an interlock restricted driver, the division shall:

(a) suspend the person's driving privilege for the duration of the restriction period as defined in Section 41-6a-518.2; and

(b) notify the person of the suspension period in place and the requirements for reinstatement of the driving privilege with respect to the ignition interlock restriction suspension~~[- and]~~.

~~[(e)]~~ (4) The division shall clear ~~[the]~~ a suspension described in Subsection (3) upon:

~~[(i)]~~ (a) receipt of payment of the fee or fees ~~[specified in]~~ required under Section 53-3-105; and

~~[(ii)]~~ (A) (b) (i) receipt of electronic notification from an ignition interlock system provider showing proof of the installation of an ignition interlock system on the person's vehicle or the vehicle the person will be operating; ~~[or]~~

(ii) if the person does not own a vehicle or will not be operating a vehicle owned by another individual:

~~[(B)]~~ electronically verifying

(A) electronic verification that the person does not have a vehicle registered in the person's name in the state ~~[of Utah]~~; and

(B) receipt of employer verification, as defined in Subsection 41-6a-518(1); or

(iii) if the person is not a resident of Utah, electronic verification that the person is licensed in

the person's state of residence or is in the process of obtaining a license in the person's state of residence.

(5) If Subsection (4)(b)(ii) applies, the division shall every six months:

(a) electronically verify the person does not have a vehicle registered in the person's name in the state; and

(b) require the person to provide updated documentation described in Subsection (4)(b)(ii).

(6) If the person described in Subsection (5) does not provide the required documentation described in Subsection (4)(b)(ii), the division shall suspend the person's driving privilege until:

(a) the division receives payment of the fee or fees required under Section 53-3-105; and

(b) (i) the division:

(A) receives electronic notification from an ignition interlock system provider showing proof of the installation of an ignition interlock system on the person's vehicle or the vehicle the person will be operating; or

(B) if the person does not own a vehicle or will not be operating a vehicle owned by another individual, receives electronic verification that the person does not have a vehicle registered in the person's name in the state, and receives employer verification, as defined in Subsection 41-6a-518(1); or

(ii) if the person is not a resident of Utah, electronic verification that the person is licensed in the person's state of residence or is in the process of obtaining a license in the person's state of residence.

~~[(4)]~~ (7) By following the procedures in Title 63G, Chapter 4, Administrative Procedures Act, the division shall suspend the license of any person without receiving a record of the person's conviction of crime seven days after receiving electronic notification from an ignition interlock system provider that a person has removed an ignition interlock system from the person's vehicle or a vehicle owned by another individual and operated by the person if the person is an interlock restricted driver until:

(a) the division~~[-(i)]~~ receives payment of the fee or fees specified in Section 53-3-105; and

~~[(ii)]~~ (b) (i) (A) the division receives electronic notification from an ignition interlock system provider showing new proof of the installation of an ignition interlock system on the person's vehicle or the vehicle the person will be operating; or

~~[(B)]~~ electronically verifies

(B) if the person does not own a vehicle or will not be operating a vehicle owned by another individual, the division receives electronic verification that the person does not have a vehicle registered in the person's name in the state ~~[of Utah]~~, and receives employer verification, as defined in Subsection 41-6a-518(1);

(ii) if the person is not a resident of Utah, the division receives electronic verification that the

person is licensed in the person's state of residence or is in the process of obtaining a license in the person's state of residence; or

~~[(4)]~~ (iii) the person's interlock restricted period has expired.

~~[(5)]~~ (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing:

(a) procedures for certification and regulation of ignition interlock system providers;

(b) acceptable documentation for proof of the installation of an ignition interlock device;

(c) procedures for an ignition interlock system provider to electronically notify the division; and

(d) policies and procedures for the administration of the ignition interlock system program created under this section.

CHAPTER 150**H. B. 217**

Passed March 9, 2016

Approved March 22, 2016

Effective May 10, 2016

SMALL SCHOOL FUNDING

Chief Sponsor: Kay L. McIff
 Senate Sponsor: Ralph Okerlund

LONG TITLE**General Description:**

This bill appropriates additional funding for certain public schools.

Highlighted Provisions:

This bill:

- ▶ appropriates additional WPUs to necessarily existent small schools.

Monies Appropriated in this Bill:

This bill appropriates:

- ▶ to the State Board of Education - Minimum School Program - Basic School Program, as an ongoing appropriation:
 - from the Education Fund, \$500,000.

Other Special Clauses:

None

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to amounts previously appropriated for fiscal year 2017.

To State Board of Education - Minimum School Program - Basic School Program

From Education Fund	\$500,000
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Schedule of Programs:

<u>Necessarily Existent Small Schools (157 WPUs)</u>	<u>\$500,000</u>
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CHAPTER 151**H. B. 227**

Passed March 9, 2016

Approved March 22, 2016

Effective May 10, 2016

(Exception clause in Section 2)

**ELECTRONIC DRIVER
LICENSE AMENDMENTS**

Chief Sponsor: Craig Hall

Senate Sponsor: Alvin B. Jackson

LONG TITLE**General Description:**

This bill requires a study related to electronic driver licenses.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Driver License Division and Department of Technology Services to conduct a study and report findings and recommendations regarding electronic driver licenses; and
- ▶ provides an automatic repeal date.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a repeal date.

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. Electronic driver license study.

(1) As used in this section:

(a) "Application" means a program downloaded onto and used in conjunction with a mobile electronic communication device and available through multiple software platforms.

(b) "Electronic driver license" means a virtual form of driver license accessed through an application on a mobile electronic communication device.

(c) "Mobile electronic communication device" means any mobile device capable of communication or other transmission of information, including:

- (i) a cellular phone;
- (ii) a wireless tablet; or
- (iii) another mobile device with Internet or wireless communication capability.

(2) The Department of Public Safety, in consultation with the Department of Technology Services, shall study, prepare a report, and make recommendations concerning the feasibility of implementing an electronic driver license program in Utah. The study shall include:

- (a) the costs and resources required by the state;
- (b) the appropriate fee to be charged, if any, for an electronic driver license to be issued;

- (c) advantages and disadvantages;
- (d) privacy and security issues;
- (e) compliance with national standards;
- (f) use by law enforcement and other government entities;

(g) possible concerns regarding acceptance and use by private entities;

(h) an assessment of the means of issuing an electronic driver license through a mobile application, including:

(i) the costs, advantages, and disadvantages of the Department of Technology Services developing an application and maintaining the technology; and

(ii) the costs, advantages, and disadvantages of contracting with a private entity to develop an application and maintaining the technology;

(i) an evaluation of other states' implementation of an electronic driver license program; and

(j) a recommended date by which Utah can implement an electronic driver license program within the state.

(3) The Driver License Division and Department of Technology Services shall provide a written report and present the findings of the report, including recommendations, to the Transportation Interim Committee before September 1, 2016.

Section 2. Repeal date.

This bill is repealed on November 30, 2016.

CHAPTER 152**H. B. 232**

Passed March 9, 2016

Approved March 22, 2016

Effective May 10, 2016

SCENIC BYWAY AMENDMENTS

Chief Sponsor: Michael E. Noel
Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill modifies the Designation of State Highways Act by amending provisions relating to scenic byways.

Highlighted Provisions:

This bill:

- ▶ requires the legislative body of a county, city, or town to segment a state scenic byway, National Scenic Byway, or All-American Road in certain circumstances;
- ▶ requires the Utah State Scenic Byway Committee to segment a state scenic byway, National Scenic Byway, or All-American Road at the written request of the owner of real property that is a non-scenic area adjacent to a state scenic byway, National Scenic Byway, or All-American Road; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

72-4-303, as last amended by Laws of Utah 2009, Chapter 393

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

Section 1. Section 72-4-303 is amended to read:

72-4-303. Powers and duties of the Utah State Scenic Byway Committee -- Requirements for designation -- Segmentation -- Rulemaking authority -- Designation on state maps -- Outdoor advertising.

(1) The committee shall have the responsibility to:

(a) administer a coordinated scenic byway program within the state that:

(i) preserves and protects the intrinsic qualities described in Subsection (1)(b) unique to scenic byways;

(ii) enhances recreation; and

(iii) promotes economic development through tourism and education;

(b) ensure that a highway nominated for a scenic byway designation possesses at least one of the following six intrinsic qualities:

(i) scenic quality;

(ii) natural quality;

(iii) historic quality;

(iv) cultural quality;

(v) archaeological quality; or

(vi) recreational quality;

(c) designate highways as state scenic byways from nominated highways within the state if the committee determines that the highway possesses the criteria for a state scenic byway; and

(d) remove the designation of a highway as a scenic byway if the committee determines that the highway no longer meets the criteria under which it was designated.

(2) (a) A highway located within a county, city, or town within this state may not be included as part of a designation or nomination as a state scenic byway, National Scenic Byway, or All-American Road unless the nomination or designation is sanctioned in writing by an official action of the legislative body of each county, city, or town through which the proposed state scenic byway, National Scenic Byway, or All-American Road passes.

(b) If a county, city, or town does not give approval as required under Subsection (2)(a), then the portion of the highway located within the boundaries of the county, city, or town may not be included as part of any state scenic byway designation or nomination as a National Scenic Byway or All-American Road.

(3) (a) ~~[A]~~ Except as provided in Subsection (3)(d), a non-scenic segment of a state scenic byway, National Scenic Byway, or All-American Road ~~[may]~~ shall be segmented from the byway or road:

(i) by the legislative body of the county, city, or town where the segmentation is to occur if:

~~[(4)]~~ (A) a person or another entity, with the consent of any landowners affected by the segmentation, has requested the segmentation of a portion of a road or highway; and

~~[(4)]~~ (B) the legislative body of the county, city, or town reviews the segmentation proposed under this Subsection (3)(a)(i)[-]; or

(ii) by the committee at the written request of the owner of real property that is a non-scenic area adjacent to a state scenic byway, National Scenic Byway, or All-American Road.

(b) The legislative body of a county, city, or town shall render a decision on a segmentation request under Subsection (3)(a)(i) within 60 days and may grant segmentation to the person or entity if the property is a non-scenic area.

(c) (i) If the legislative body of a county, city, or town denies the request to segment the state scenic byway, National Scenic Byway, or All-American Road under Subsection (3)(a)(i) upon the request of a person or another entity, with the consent of any landowners affected by the segmentation, that

person or entity may appeal the denial of the request to the committee.

(ii) The committee shall hear and answer an appeal of the denial of a segmentation request within 60 days of a request submitted in accordance with Subsection (3)(c)(i).

(iii) If the committee does not render a decision on an appeal in accordance with Subsection (3)(c)(ii), the segmentation request shall be granted if the property is a non-scenic area.

(d) A state scenic byway, National Scenic Byway, or All-American Road is not required to be segmented under Subsection (3)(a)(ii) if, within 60 days after the day on which the request is received, the committee demonstrates to an administrative law judge selected by agreement of the owner of real property and the committee where the non-scenic area is located, that the property to be segmented is not a non-scenic area.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules in consultation with the committee:

(a) for the administration of a scenic byway program;

(b) establishing the criteria that a highway shall possess to be designated as a scenic byway, including the criteria described in Subsection (1)(b);

(c) establishing the process for nominating a highway to be designated as a state scenic byway;

(d) specifying the process for hearings to be conducted in the area of proposed designation prior to the highway being designated as a scenic byway;

(e) identifying the highways within the state designated as scenic byways; and

(f) establishing the process and criteria for removing the designation of a highway as a scenic byway.

(5) The department shall designate scenic byway routes on future state highway maps.

(6) A highway within the state designated as a scenic byway is subject to federal outdoor advertising regulations in accordance with 23 U.S.C. Sec. 131.

CHAPTER 153**H. B. 251**

Passed March 9, 2016
 Approved March 22, 2016
 Effective May 10, 2016

**POST-EMPLOYMENT
RESTRICTIONS AMENDMENTS**

Chief Sponsor: Mike Schultz
 Senate Sponsor: J. Stuart Adams
 Cosponsors: Rebecca Chavez-Houck
 Scott H. Chew
 Kim Coleman
 Susan Duckworth
 Justin L. Fawson
 Francis D. Gibson
 Brian M. Greene
 Timothy D. Hawkes
 Sandra Hollins
 Gregory H. Hughes
 Don L. Ipson
 Michael S. Kennedy
 Brad King
 Brian S. King
 John Knotwell
 Daniel McCay
 Michael E. Noel
 Derrin Owens
 Paul Ray
 Angela Romero
 Scott D. Sandall
 V. Lowry Snow
 Robert M. Spendlove
 Jon E. Stanard
 Norman K Thurston
 Brad R. Wilson

LONG TITLE**General Description:**

This bill enacts provisions related to post-employment restrictive covenants.

Highlighted Provisions:

This bill:

- ▶ enacts the Post-Employment Restrictions Act, including:
 - defining terms;
 - addressing post-employment restrictive covenants;
 - addressing exceptions; and
 - addressing remedies.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

34-51-101, Utah Code Annotated 1953
 34-51-102, Utah Code Annotated 1953
 34-51-201, Utah Code Annotated 1953
 34-51-202, Utah Code Annotated 1953
 34-51-301, Utah Code Annotated 1953

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

Section 1. Section 34-51-101 is enacted to read:**CHAPTER 51. POST-EMPLOYMENT
RESTRICTIONS ACT****Part 1. General Provisions****34-51-101. Title.**

This chapter is known as the "Post-Employment Restrictions Act."

Section 2. Section 34-51-102 is enacted to read:**34-51-102. Definition.**

As used in this chapter:

(1) (a) "Post-employment restrictive covenant," also known as a "covenant not to compete" or "noncompete agreement," means an agreement, written or oral, between an employer and employee under which the employee agrees that the employee, either alone or as an employee of another person, will not compete with the employer in providing products, processes, or services that are similar to the employer's products, processes, or services.

(b) "Post-employment restrictive covenant" does not include nonsolicitation agreements or nondisclosure or confidentiality agreements.

(2) "Sale of a business" means a transfer of the ownership by sale, acquisition, merger, or other method of the tangible or intangible assets of a business entity, or a division or segment of the business entity.

Section 3. Section 34-51-201 is enacted to read:**Part 2. Scope of Post-Employment
Restrictions****34-51-201. Post-employment restrictive covenants.**

In addition to any requirements imposed under common law, for a post-employment restrictive covenant entered into on or after May 10, 2016, an employer and an employee may not enter into a post-employment restrictive covenant for a period of more than one year from the day on which the employee is no longer employed by the employer. A post-employment restrictive covenant that violates this section is void.

Section 4. Section 34-51-202 is enacted to read:**34-51-202. Exceptions.**

(1) This chapter does not prohibit a reasonable severance agreement mutually and freely agreed upon in good faith at or after the time of termination that includes a post-employment restrictive covenant. A severance agreement remains subject to any requirements imposed under common law.

(2) This chapter does not prohibit a post-employment restrictive covenant related to or arising out of the sale of a business, if the individual

subject to the restrictive covenant receives value related to the sale of the business.

Section 5. Section 34-51-301 is enacted to read:

Part 3. Remedies

34-51-301. Award of arbitration costs, attorney fees and court costs, and damages.

If an employer seeks to enforce a post-employment restrictive covenant through arbitration or by filing a civil action and it is determined that the post-employment restrictive covenant is unenforceable, the employer is liable for the employee's:

- (1) costs associated with arbitration;
- (2) attorney fees and court costs; and
- (3) actual damages.

CHAPTER 154**H. B. 273**

Passed March 3, 2016
 Approved March 22, 2016
 Effective May 10, 2016

**CONDOMINIUM
 ASSOCIATION AMENDMENTS**

Chief Sponsor: Kraig Powell
 Senate Sponsor: Kevin T. Van Tassell

LONG TITLE**General Description:**

This bill amends a provision related to rules enacted by an association of unit owners.

Highlighted Provisions:

This bill:

- ▶ allows an association of unit owners to enact a rule, for a unit that a unit owner leases for a term of less than 30 days, that imposes a reasonable limit on the number of individuals that may use the common areas and facilities as the rental unit tenant's guest or as the unit owner's guest.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

57-8-8.1, as enacted by Laws of Utah 2015, Chapter 22

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

Section 1. Section 57-8-8.1 is amended to read:

57-8-8.1. Equal treatment by rules required -- Limits on rules.

(1) (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated unit owners similarly.

(b) Notwithstanding Subsection (1)(a), a rule may:

(i) vary according to the level and type of service that the association of unit owners provides to unit owners; and

(ii) differ between residential and nonresidential uses[-]; or

(iii) for a unit that a unit owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals that may use the common areas and facilities as the rental unit tenant's guest or as the unit owner's guest.

(2) (a) If a unit owner owns a rental unit and is in compliance with the association of unit owners' governing documents and any rule that the association of unit owners adopts under Subsection (4), a rule may not treat the unit owner differently because the unit owner owns a rental unit.

(b) Notwithstanding Subsection (2)(a), a rule may:

(i) limit or prohibit a rental unit owner from using the common areas and facilities for purposes other than attending an association meeting or managing the rental unit;

(ii) if the rental unit owner retains the right to use the association of unit owners' common areas and facilities, even occasionally[-];

(A) charge a rental unit owner a fee to use the common areas and facilities; and

(B) for a unit that a unit owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals that may use the common areas and facilities as the rental unit tenant's guest or as the unit owner's guest; or

(iii) include a provision in the association of unit owners' governing documents that:

(A) requires each tenant of a rental unit to abide by the terms of the governing documents; and

(B) holds the tenant and the rental unit owner jointly and severally liable for a violation of a provision of the governing documents.

(3) (a) A rule may not interfere with the freedom of a unit owner to determine the composition of the unit owner's household.

(b) Notwithstanding Subsection (3)(a), an association of unit owners may:

(i) require that all occupants of a dwelling be members of a single housekeeping unit; or

(ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:

(A) size and facilities; and

(B) fair use of the common areas and facilities.

(4) Unless contrary to a declaration, a rule may require a minimum lease term.

(5) Unless otherwise provided in the declaration, an association of unit owners may by rule:

(a) regulate the use, maintenance, repair, replacement, and modification of common areas and facilities;

(b) impose and receive any payment, fee, or charge for:

(i) the use, rental, or operation of the common areas, except limited common areas and facilities; and

(ii) a service provided to a unit owner;

(c) impose a charge for a late payment of an assessment; or

(d) provide for the indemnification of the association of unit owners' officers and board consistent with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(6) A rule shall be reasonable.

(7) A declaration, or an amendment to a declaration, may vary any of the requirements of Subsections (1) through (5), except Subsection (1)(b)(ii).

(8) This section applies to an association regardless of when the association is created.

CHAPTER 155**H. B. 298**

Passed March 10, 2016
 Approved March 22, 2016
 Effective May 10, 2016

LAWFUL COMMERCE IN ARMS

Chief Sponsor: Justin L. Fawson
 Senate Sponsor: Curtis S. Bramble
 Cosponsor: Derrin Owens

LONG TITLE**General Description:**

This bill limits the liability of manufacturers and sellers of firearms and ammunition.

Highlighted Provisions:

This bill:

- ▶ enacts the Lawful Commerce in Arms Act;
- ▶ creates definitions; and
- ▶ limits the liability of manufacturers and sellers of firearms and ammunition to specific situations.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53-5d-101, Utah Code Annotated 1953
 53-5d-102, Utah Code Annotated 1953
 53-5d-103, Utah Code Annotated 1953

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

Section 1. Section 53-5d-101 is enacted to read:**CHAPTER 5d. LAWFUL COMMERCE IN ARMS ACT****53-5d-101. Title.**

This chapter is known as the "Lawful Commerce in Arms Act."

Section 2. Section 53-5d-102 is enacted to read:**53-5d-102. Definitions.**

As used in this chapter:

(1) "Ammunition" means a bullet, a cartridge case, primer, propellant powder, or other ammunition designed for use in any firearm, either as an individual component part or in a completely assembled cartridge.

(2) "Manufacturer" means, with respect to a qualified product, a person who is engaged in the business of manufacturing a qualified product and who is licensed to engage in business as a manufacturer under 18 U.S.C. Chapter 44.

(3) "Negligent entrustment" means the supplying of a qualified product by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is

likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

(4) "Person" means the same as that term is defined in Section 68-3-12.5.

(5) (a) "Qualified civil liability action" means a civil action or proceeding or an administrative proceeding brought by any person against a manufacturer or seller of a qualified product, or a trade association, for damages, punitive damages, injunctive or declaratory relief, abatement, restitution, fines, or penalties, or other relief, resulting from the criminal or unlawful misuse of a qualified product by the person or a third party.

(b) "Qualified civil liability action" does not include:

(i) an action brought against a transferor convicted under 18 U.S.C. Sec. 924(h) or Section 76-10-503 by a party directly harmed by the conduct of which the transferee was convicted;

(ii) an action brought against a seller for negligent entrustment or negligence per se;

(iii) an action in which a manufacturer or seller of a qualified product knowingly violated a state or federal statute applicable to the sale or marketing of the product, and the violation was a proximate cause of the harm for which relief is sought, including:

(A) any incident in which the manufacturer or seller knowingly made any false entry in, or failed to make appropriate entry in, any record required to be kept under federal or state law with respect to the qualified product, or aided, abetted, or conspired with any person in making any false or fictitious oral or written statement with respect to any fact material to the lawfulness of the sale or other disposition of a qualified product; or

(B) any case in which the manufacturer or seller aided, abetted, or conspired with any other person to sell or otherwise dispose of a qualified product, knowing, or having reasonable cause to believe, that the actual buyer of the qualified product was prohibited from possessing or receiving a firearm or ammunition under 18 U.S.C. Sec. 922(g) or (n) or Section 76-10-503;

(iv) an action for breach of contract or warranty in connection with the purchase of the product;

(v) an action for death, physical injuries, or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense, then the act shall be considered the sole proximate cause of any resulting death, personal injuries, or property damage; or

(vi) an action or proceeding commenced to enforce the provisions of 18 U.S.C. Chapter 44, 26 U.S.C. Chapter 53, or Title 76, Chapter 10, Part 5, Weapons.

(6) "Qualified product" means a firearm or antique firearm, as defined in Section 76-10-501,

ammunition, or a component part of a firearm or ammunition.

(7) "Seller" means, with respect to a qualified product, a federal firearms licensee, as defined in Section 76-10-501.

(8) "Trade association" means:

(a) any corporation, unincorporated association, federation, business league, or professional or business organization not organized or operated for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(b) an organization described in 26 U.S.C. Sec. 501(c)(6) and exempt from tax under 26 U.S.C. Sec. 501(a); and

(c) an organization, two or more members of which are manufacturers or sellers of a qualified product.

(9) "Unlawful misuse" means conduct that violates a statute, ordinance, or regulation as it relates to the use of a qualified product.

Section 3. Section 53-5d-103 is enacted to read:

53-5d-103. Limitations on liability.

(1) A manufacturer or seller of a qualified product, or trade association, is not subject to a qualified civil liability action regarding the unlawful misuse of a qualified product unless an injury or death results from an act or omission of the manufacturer, seller, or trade association that constitutes gross negligence, recklessness, or intentional misconduct.

(2) A civil liability action against a manufacturer, seller, or trade association that does not allege any of the provisions of Subsection 53-5d-102(5)(b) shall be dismissed.

CHAPTER 156**H. B. 318**

Passed March 9, 2016
 Approved March 22, 2016
 Effective May 10, 2016

**POINT OF THE MOUNTAIN
 DEVELOPMENT COMMISSION ACT**

Chief Sponsor: Brad R. Wilson
 Senate Sponsor: Jerry W. Stevenson

LONG TITLE**General Description:**

This bill enacts the Point of the Mountain Development Commission Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Point of the Mountain Development Commission;
- ▶ describes the membership and duties of the commission; and
- ▶ provides for staff and expenses.

Monies Appropriated in this Bill:

This bill appropriates, in fiscal year 2016:

- ▶ to the Legislature - Legislative Services, as a one-time appropriation:
 - from the General Fund, \$750,000;
- ▶ to the Legislature - Senate, as a one-time appropriation:
 - from the General Fund, \$5,000, to pay salaries of senators serving on the commission;
- ▶ to the Legislature - House of Representatives, as a one-time appropriation:
 - from the General Fund, \$5,000, to pay salaries of representatives serving on the commission; and
- ▶ to the Legislature - Office of Legislative Research and General Counsel, as a one-time appropriation:
 - from the General Fund, \$40,000, to pay for staff services for the commission.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-263, as last amended by Laws of Utah 2015, Chapters 182, 226, 278, 283, 409, and 424

ENACTS:

63C-17-101, Utah Code Annotated 1953
 63C-17-102, Utah Code Annotated 1953
 63C-17-103, Utah Code Annotated 1953
 63C-17-104, Utah Code Annotated 1953
 63C-17-105, Utah Code Annotated 1953
 63C-17-106, Utah Code Annotated 1953
 63C-17-107, Utah Code Annotated 1953

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

Section 1. Section 63C-17-101 is enacted to read:

**CHAPTER 17. POINT OF THE MOUNTAIN
 DEVELOPMENT COMMISSION ACT**

63C-17-101. Title.

This chapter is known as the "Point of the Mountain Development Commission Act."

Section 2. Section 63C-17-102 is enacted to read:

63C-17-102. Definitions.

As used in this chapter:

(1) "Commission" means the Point of the Mountain Development Commission, created in Section 63C-17-103.

(2) "Project area" means the area surrounding the border between Salt Lake County and Utah County, commonly referred to as the Point of the Mountain.

Section 3. Section 63C-17-103 is enacted to read:

63C-17-103. Creation of Point of the Mountain Development Commission -- Members.

(1) There is created the Point of the Mountain Development Commission consisting of the following 15 members:

(a) two members shall be members of the Senate appointed by the president of the Senate;

(b) two members shall be members of the House of Representatives appointed by the speaker of the House of Representatives;

(c) one member shall be the mayor of Lehi City, Utah, or the mayor's designee;

(d) one member shall be the mayor of Draper City, Utah, or the mayor's designee;

(e) one member shall be the mayor of Salt Lake County, or the mayor's designee;

(f) one member shall be an appointee of the Utah County Commission;

(g) two members shall be mayors of communities in or close to the project area who shall be appointed by the Utah League of Cities and Towns;

(h) one member shall be an appointee of the Economic Development Corporation of Utah;

(i) one member, who is a member of the Board of the Governor's Office of Economic Development, shall be appointed by the governor;

(j) one member, who is an employee of the Governor's Office of Economic Development, shall be an appointee of the governor;

(k) one member shall be a member of the public, representing the school boards in or close to the project area, jointly appointed by the president of the Senate and the speaker of the House of Representatives; and

(1) one member shall be a member of the public, representing the information technology sector with a physical presence within the project area, jointly appointed by the president of the Senate and the speaker of the House of Representatives.

(2) (a) The president of the Senate and the speaker of the House of Representatives shall jointly designate a member of the Legislature appointed under Subsection (1)(a) or (b) as a cochair of the commission.

(b) The governor shall designate a representative from the Governor's Office of Economic Development appointed under Subsection (1)(i) or (j) as a cochair of the commission.

(3) Any vacancy shall be filled in the same manner under this section as the appointment of the member whose vacancy is being filled.

(4) Each member of the commission shall serve until a successor is appointed and qualified.

(5) A majority of members constitutes a quorum. The action of a majority of a quorum constitutes the action of the commission.

Section 4. Section 63C-17-104 is enacted to read:

63C-17-104. Commission duties.

(1) The commission shall evaluate, study, prepare one or more reports, and make recommendations concerning the future planning and development of the project area. The study shall focus on the three key areas described in Subsections (2), (3), and (4).

(2) The commission shall study and develop strategies to engage the public and collaborate with stakeholders, including:

(a) providing a public forum to gather insight from citizens; and

(b) evaluating the costs and benefits of growth, land use, and economic development strategies in the project area and the impacts of those strategies on residents of the project area and the state.

(3) (a) The commission shall study and make recommendations regarding future transportation and infrastructure needs within the project area, including:

(i) evaluation of projected population, housing, and employment growth;

(ii) identification of transportation infrastructure needs, including:

(A) development, construction, operation, and maintenance of highways and streets, on both the local and state jurisdictional levels;

(B) development, construction, operation, and maintenance of public transit; and

(C) development, construction, operation, and maintenance of active transportation facilities, including trails; and

(iii) evaluation of projected costs related to transportation and other infrastructure needs.

(b) In performing the study described in Subsection (3)(a), the commission shall coordinate with transportation agencies, including:

(i) the Wasatch Front Regional Council;

(ii) the Mountainland Association of Governments;

(iii) the Utah Department of Transportation; and

(iv) the Utah Transit Authority.

(4) The commission shall study and make recommendations regarding financing economic development of, and the infrastructure investment in, the project area, including:

(a) evaluation of economic growth projections; and

(b) evaluation of financing tools to encourage and facilitate economic growth in the project area, including:

(i) property tax increment financing, with the requirement that the property tax increment remain within the jurisdiction in which the property tax increment is created;

(ii) assessment districts;

(iii) bonding;

(iv) partnerships between public and private entities;

(v) excise taxes, including transient room taxes and taxes on community resorts;

(vi) redevelopment agency funds;

(vii) federal funding;

(viii) private capital;

(ix) investment strategies used by other governmental entities for purposes of economic development; and

(x) other innovative financing strategies.

(5) The commission may hire or direct the hiring of one or more consultants, or enter into agreements and otherwise collaborate with governmental entities and other stakeholders, with experience or expertise in a subject under consideration by the commission, to assist the commission in fulfilling the commission's duties under this part.

(6) In carrying out the study, the commission shall consider the following objectives for the project area and the state as a whole:

(a) maximizing job creation;

(b) ensuring a high quality of life for residents in and surrounding the project area;

(c) strategic residential and commercial growth;

(d) preservation of natural lands and expansion of recreational opportunities;

(e) provision of a variety of community and housing types that match workforce needs; and

(f) planning for future transportation infrastructure and other investments to enhance mobility and protect the environment.

(7) The commission shall report the commission's interim findings and recommendations to the Transportation Interim Committee, the Economic Development and Workforce Services Interim Committee, the Revenue and Taxation Interim Committee, the Executive Appropriations Committee, and the governor before December 1, 2016.

(8) The commission's recommendations under this section are advisory only.

Section 5. Section 63C-17-105 is enacted to read:

63C-17-105. Commission staff and expenses.

The Office of Legislative Research and General Counsel, in coordination with the Governor's Office of Economic Development, shall provide staff support for the commission.

Section 6. Section 63C-17-106 is enacted to read:

63C-17-106. Compensation and expenses of commission members.

(1) Salaries and expenses of commission members who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(2) A commission member who is not a legislator may not receive compensation or benefits for the member's service on the commission, but may receive per diem and reimbursement for travel expenses incurred as a commission member at the rates established by the Division of Finance under:

(a) Sections 63A-3-106 and 63A-3-107; and

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

Section 7. Section 63C-17-107 is enacted to read:

63C-17-107. No effect on local land use authority.

(1) This chapter does not limit or otherwise affect a municipality's authority under Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, with respect to private development on land within the jurisdiction of the municipality.

(2) This chapter does not limit or otherwise affect a county's authority under Title 17, Chapter 27a, County Land Use, Development, and Management Act, with respect to private development on land within the jurisdiction of the county.

Section 8. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63M.

(1) Section 63A-4-204, authorizing the Risk Management Fund to provide coverage to any public school district which chooses to participate, is repealed July 1, 2016.

(2) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.

(3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2016.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2018.

(5) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

~~[(6) Subsection 63C-6a-1402(7) authorizing certain transportation agencies to award a contract for a design-build transportation project in certain circumstances, is repealed July 1, 2015.]~~

(6) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(7) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(8) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2016.

(9) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states "the Resource Development Coordinating Committee," is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read "(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.";

(c) in Subsection 23-14-21(3), the language that states "and the Resource Development Coordinating Committee" is repealed;

(d) in Subsection 23-21-2.3(1), the language that states "the Resource Development Coordinating Committee created in Section 63J-4-501 and" is repealed;

(e) in Subsection 23-21-2.3(2), the language that states "the Resource Development Coordinating Committee and" is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word "and" is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

(10) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2017.

(11) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2017.

(12) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2018.

(13) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection (13)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections (13)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

(14) Section 63N-2-512 is repealed on July 1, 2021.

(15) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (15)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(16) Title 63N, Chapter 12, Part 3, Utah Broadband Outreach Center, is repealed July 1, 2018.

Section 9. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal

year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or amounts indicated. These sums of money are in addition to amounts previously appropriated for fiscal year 2016.

To Legislature - Legislative Services

From General Fund, one-time \$750,000

Schedule of Programs:

Administration \$750,000

To Legislature - Senate

From General Fund, one-time \$5,000

Schedule of Programs:

Administration \$5,000

To Legislature - House of Representatives

From General Fund, one-time \$5,000

Schedule of Programs:

Administration \$5,000

To Legislature - Office of Legislative Research and General Counsel

From General Fund, one-time \$40,000

Schedule of Programs:

Administration \$40,000

The Legislature intends that the appropriation of \$750,000 under this section be used to carry out the requirements described in Title 63C, Chapter 17, Point of the Mountain Development Commission Act.

CHAPTER 157**H. B. 328**

Passed March 9, 2016

Approved March 22, 2016

Effective May 10, 2016

HOUSING AND HOMELESS AMENDMENTS

Chief Sponsor: Rebecca Chavez-Houck

Senate Sponsor: Jim Dabakis

LONG TITLE**General Description:**

This bill modifies provisions related to the Homeless Coordinating Committee.

Highlighted Provisions:

This bill:

- ▶ requires the Homeless Coordinating Committee to review data gathering and reporting efforts related to homelessness in the state; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

35A-8-602, as last amended by Laws of Utah 2014, Chapter 371

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

Section 1. Section 35A-8-602 is amended to read:**35A-8-602. Purposes of Homeless Coordinating Committee -- Uses of Pamela Atkinson Homeless Account.**

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

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

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

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

(d) Before October 1, 2016, the committee shall conduct a needs assessment or contract with another state agency or private entity to conduct a needs assessment that:

- (i) identifies desired statewide outcomes related to minimizing homelessness;

(ii) reviews technology used for data gathering by state, county and local governments and private organizations for reporting information about, and providing service to, homeless individuals in the state, including an evaluation of:

- (A) the functionality of existing databases;
- (B) the ability to expand and tailor existing databases to better serve the needs of homeless individuals; and
- (C) the ability of the technology to ensure proper privacy restrictions and sharing between reporting entities, including those addressing domestic violence, as allowed by federal privacy regulations;

(iii) identifies gaps between the data described in Subsection (1)(d)(i) and the data needed to implement best practices in minimizing homelessness and achieve the outcomes identified in accordance with this Subsection (1)(d);

(iv) evaluates the technical capacity of existing databases and information technology systems used to gather and report data related to homelessness and identifies improvements needed to better serve the homeless population and meet the needs of all stakeholders;

(v) identifies opportunities to align data gathering and reporting related to homelessness with state efforts to reduce intergenerational poverty, incarceration, and recidivism rates; and

(vi) makes recommendations regarding the needed improvements related to this Subsection (1)(d) and outlines steps for implementing the recommendations.

(e) Before October 1, 2016, the committee shall report to the department the findings and recommendations of the needs assessment described in Subsection (1)(d) for inclusion in the annual written report described in Section 35A-1-109.

(2) The committee members designated in Subsection 35A-8-601(2) shall:

(a) award contracts funded by the Pamela Atkinson Homeless Account with the advice and input of those designated in Subsection 35A-8-601(3);

(b) consider need, diversity of geographic location, coordination with or enhancement of existing services, and the extensive use of volunteers in awarding contracts described in Subsection (2)(a); and

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

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

(b) The committee may:

- (i) expend up to 3% of its annual appropriation for administrative costs associated with the allocation

of funds from the Pamela Atkinson Homeless Account, and up to 2% of its annual appropriation for marketing the account and soliciting donations to the account; and

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

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

~~[(b)] (4)~~ If there are decreases in contributions to the account, the committee may expend money held in the account to provide program stability, but the committee shall reimburse the amount of those expenditures to the account.

(5) The committee shall make an annual report to the department regarding the programs and services funded by contributions to the Pamela Atkinson Homeless Account for inclusion in the annual written report described in Section 35A-1-109.

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

CHAPTER 158**H. B. 342**

Passed March 10, 2016
 Approved March 22, 2016
 Effective May 10, 2016

**SUBSTANCE ABUSE
 PROGRAMS AMENDMENTS**

Chief Sponsor: Paul Ray
 Senate Sponsor: Jerry W. Stevenson

LONG TITLE**General Description:**

This bill modifies provisions of the Utah Code regarding the Utah Substance Abuse Advisory Council.

Highlighted Provisions:

This bill:

- ▶ changes the name of the Utah Substance Abuse Advisory Council to the Utah Substance Use and Mental Health Advisory Council;
- ▶ modifies the membership of the Utah Substance Use and Mental Health Advisory Council;
- ▶ changes the title of the Drug Offender Reform Act to the Drug-Related Offenses Reform Act;
- ▶ expands the application of the Drug-Related Offenses Reform Act beyond persons convicted of a felony to any convicted offenders determined to be eligible under the implementation plan developed by the Utah Substance Use and Mental Health Advisory Council; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

32B-2-210, as enacted by Laws of Utah 2012, Chapter 365
 32B-2-402, as last amended by Laws of Utah 2014, Chapter 119
 53-1-119, as last amended by Laws of Utah 2014, Chapter 163
 63M-7-301, as last amended by Laws of Utah 2012, Chapter 212
 63M-7-302, as last amended by Laws of Utah 2014, Chapter 387
 63M-7-303, as last amended by Laws of Utah 2014, Chapter 120
 63M-7-305, as last amended by Laws of Utah 2011, Chapter 51
 77-18-1.1, as last amended by Laws of Utah 2011, Chapters 342 and 366

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

Section 1. Section 32B-2-210 is amended to read:

32B-2-210. Alcoholic Beverage Control Advisory Board.

(1) There is created within the department an advisory board known as the "Alcoholic Beverage Control Advisory Board."

(2) The advisory board shall consist of 12 members as follows:

(a) the following voting members appointed by the commission, a representative of:

- (i) a full-service restaurant licensee;
- (ii) a limited-service restaurant licensee;
- (iii) a beer-only restaurant licensee;
- (iv) a social club licensee;
- (v) a fraternal club licensee;
- (vi) a dining club licensee;
- (vii) a wholesaler licensee;
- (viii) an on-premise banquet licensee;
- (ix) an on-premise beer retailer licensee; and

(x) a reception center licensee;

(b) the chair of the Utah Substance [Abuse] Use and Mental Health Advisory Council, or the chair's designee, who serves as a voting member; and

(c) the chair of the commission or the chair's designee from the members of the commission, who shall serve as a nonvoting member.

(3) (a) Except as required by Subsection (3)(b), as terms of current voting members of the advisory board expire, the commission shall appoint each new member or reappointed member to a four-year term beginning July 1 and ending June 30.

(b) Notwithstanding the requirements of Subsection (3)(a), the commission shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of voting advisory board members are staggered so that approximately half of the advisory board is appointed every two years.

(c) No two members of the board may be employed by the same company or nonprofit organization.

(4) (a) When a vacancy occurs in the membership for any reason, the commission shall appoint a replacement for the unexpired term.

(b) The commission shall terminate the term of a voting advisory board member who ceases to be representative as designated by the member's original appointment.

(5) The advisory board shall meet no more than quarterly as called by the chair for the purpose of advising the commission and the department, with discussion limited to administrative rules made under this title.

(6) The chair of the commission or the chair's designee shall serve as the chair of the advisory board and call the necessary meetings.

(7) (a) Six members of the board constitute a quorum of the board.

(b) An action of the majority when a quorum is present is the action of the board.

(8) The department shall provide staff support to the advisory board.

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

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and

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

Section 2. Section 32B-2-402 is amended to read:

32B-2-402. Definitions -- Calculations.

(1) As used in this part:

(a) "Account" means the Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account created in Section 32B-2-403.

(b) "Advisory council" means the Utah Substance Abuse Use and Mental Health Advisory Council created in Section 63M-7-301.

(c) "Alcohol-related offense" means:

(i) a violation of:

(A) Section 41-6a-502; or

(B) an ordinance that complies with the requirements of:

(I) Subsection 41-6a-510(1); or

(II) Section 76-5-207; or

(ii) an offense involving the illegal:

(A) sale of an alcoholic product;

(B) consumption of an alcoholic product;

(C) distribution of an alcoholic product;

(D) transportation of an alcoholic product; or

(E) possession of an alcoholic product.

(d) "Annual conviction time period" means the time period that:

(i) begins on July 1 and ends on June 30; and

(ii) immediately precedes the fiscal year for which an appropriation under this part is made.

(e) "Municipality" means:

(i) a city; or

(ii) a town.

(f) (i) "Prevention" is as defined by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the Division of Substance Abuse and Mental Health within the Department of Human Services.

(ii) In defining the term "prevention," the Division of Substance Abuse and Mental Health shall:

(A) include only evidence-based or evidence-informed programs; and

(B) provide for coordination with local substance abuse authorities designated to provide substance

abuse services in accordance with Section 17-43-201.

(2) For purposes of Subsection 32B-2-404(1)(b)(iii), the number of premises located within the limits of a municipality or county:

(a) is the number determined by the department to be so located;

(b) includes the aggregate number of premises of the following:

(i) a state store;

(ii) a package agency; and

(iii) a retail licensee; and

(c) for a county, consists only of the number located within an unincorporated area of the county.

(3) The department shall determine:

(a) a population figure according to the most current population estimate prepared by the Utah Population Estimates Committee;

(b) a county's population for the 25% distribution to municipalities and counties under Subsection 32B-2-404(1)(b)(i) only with reference to the population in the unincorporated areas of the county; and

(c) a county's population for the 25% distribution to counties under Subsection 32B-2-404(1)(b)(iv) only with reference to the total population in the county, including that of a municipality.

(4) (a) A conviction occurs in the municipality or county that actually prosecutes the offense to judgment.

(b) If a conviction is based upon a guilty plea, the conviction is considered to occur in the municipality or county that, except for the guilty plea, would have prosecuted the offense.

Section 3. Section 53-1-119 is amended to read:

53-1-119. Tracking effects of abuse of alcoholic products.

(1) There is created a committee within the department known as the "Alcohol Abuse Tracking Committee" that consists of:

(a) the commissioner, or the commissioner's designee;

(b) the executive director of the Department of Health, or the executive director's designee;

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

(d) the director of the Department of Alcoholic Beverage Control, or the director's designee;

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

(f) the chair of the Utah Substance Abuse Use and Mental Health Advisory Council, or the chair's designee;

(g) the state court administrator or the state court administrator's designee; and

(h) the executive director of the Department of Technology Services, or the executive director's designee.

(2) The commissioner, or the commissioner's designee, shall chair the committee.

(3) (a) Four members of the committee constitute a quorum.

(b) A vote of the majority of the committee members present when a quorum is present is an action of the committee.

(4) The committee shall meet at the call of the chair, except that the chair shall call a meeting at least twice a year:

(a) with one meeting held before April 1 of each year to develop the report required under Subsection (7); and

(b) with one meeting to review and finalize the report before it is issued July 1.

(5) The committee may adopt additional procedures or requirements for:

(a) voting, when there is a tie of the committee members;

(b) how meetings are to be called; and

(c) the frequency of meetings.

(6) The committee shall establish a process to collect for each calendar year the following information:

(a) the number of individuals statewide who are convicted of, plead guilty to, plead no contest to, plead guilty in a similar manner to, or resolve by diversion or its equivalent to a violation related to underage drinking of alcohol;

(b) the number of individuals statewide who are convicted of, plead guilty to, plead no contest to, plead guilty in a similar manner to, or resolve by diversion or its equivalent to a violation related to driving under the influence of alcohol;

(c) the number of violations statewide of Title 32B, Alcoholic Beverage Control Act, related to over-serving or over-consumption of an alcoholic product;

(d) the cost of social services provided by the state related to abuse of alcohol, including services provided by the Division of Child and Family Services within the Department of Human Services;

(e) where the alcoholic products are obtained that results in the violations or costs described in Subsections (6)(a) through (d); and

(f) any information the committee determines can be collected and relates to the abuse of alcoholic products.

(7) Beginning July 1, 2014, the committee shall report the information collected under Subsection (6) annually to the governor and the Legislature by no later than the July 1 immediately following the calendar year for which the information is collected.

Section 4. Section 63M-7-301 is amended to read:

63M-7-301. Definitions -- Creation of council -- Membership -- Terms.

(1) (a) As used in this part, "council" means the Utah Substance ~~Abuse~~ Use and Mental Health Advisory Council created in this section.

(b) There is created within the governor's office the Utah Substance ~~Abuse~~ Use and Mental Health Advisory Council.

(2) The council shall be comprised of the following voting members:

(a) the attorney general or the attorney general's designee;

(b) ~~[a county commissioner designated]~~ an elected county official appointed by the Utah Association of Counties;

(c) the commissioner of public safety or the commissioner's designee;

(d) the director of the Division of Substance Abuse and Mental Health or the director's designee;

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

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

(g) the executive director of the Commission on Criminal and Juvenile Justice or the executive director's designee;

~~[(h) the governor or the governor's designee;]~~

~~[(4)]~~ (h) the executive director of the Department of Corrections or the executive director's designee;

~~[(j)]~~ (i) the director of the Division of Juvenile Justice Services or the director's designee;

~~[(k) the executive director of the private nonprofit Utah Domestic Violence Council or the executive director's designee;]~~

(j) the director of the Division of Child and Family Services or the director's designee;

(k) the chair of the Board of Pardons and Parole or the chair's designee;

(l) the director of the Office of Multicultural Affairs or the director's designee;

~~[(4)]~~ (m) the director of the Division of Indian Affairs or the director's designee;

~~[(m)]~~ (n) the state court administrator or the state court administrator's designee;

(o) a district court judge who presides over a drug court and who is appointed by the chief justice of the Utah Supreme Court;

(p) a district court judge who presides over a mental health court and who is appointed by the chief justice of the Utah Supreme Court;

(q) a juvenile court judge who presides over a drug court and who is appointed by the chief justice of the Utah Supreme Court;

(r) a prosecutor appointed by the Statewide Association of Prosecutors;

(s) the chair or co-chair of each committee established by the council;

~~[(n)]~~ (t) the following members [designated] appointed to serve four-year terms:

(i) a member of the House of Representatives [designated] appointed by the speaker of the House of Representatives;

(ii) a member of the Senate [designated] appointed by the president of the Senate; and

(iii) a representative [designated] appointed by the Utah League of Cities and Towns;

~~[(o)]~~ (u) the following members appointed by the governor to serve four-year terms:

~~[(i) a representative of the Utah National Guard;]~~

~~[(ii)]~~ (i) one resident of the state who has been personally affected by [alcohol or other drug abuse] a substance use or mental health disorder; and

~~[(iii)]~~ (ii) one citizen representative; and

~~[(p)]~~ (v) in addition to the voting members described in Subsections (2)(a) through [(o)] (u), the following voting members [may be] appointed by a majority of the members described in Subsections (2)(a) through [(o)] (u) to serve four-year terms:

~~[(i) a person knowledgeable in criminal justice issues;]~~

~~[(ii) a person knowledgeable in substance abuse treatment issues;]~~

~~[(iii) a person knowledgeable in substance abuse prevention issues; and]~~

~~[(iv) a person knowledgeable in judiciary issues; and]~~

~~[(q) in addition to the voting members described in Subsections (2)(a) through (p), one or more chairs or co-chairs of a committee established by the council under Subsection 63M-7-302(5) may be appointed as a voting member by a majority of the members described in Subsections (2)(a) through (p).]~~

(i) one resident of the state who represents a statewide advocacy organization for recovery from substance use disorders;

(ii) one resident of the state who represents a statewide advocacy organization for recovery from mental illness;

(iii) one resident of the state who represents prevention professionals;

(iv) one resident of the state who represents treatment professionals;

(v) one resident of the state who represents the physical health care field;

(vi) one resident of the state who is a criminal defense attorney;

(vii) one resident of the state who is a military servicemember or military veteran under Section 53B-8-102; and

(viii) one resident of the state who represents local law enforcement agencies.

(3) A person other than a person described in Subsection (2) may not be appointed as a voting member of the council.

Section 5. Section 63M-7-302 is amended to read:

63M-7-302. Chair -- Vacancies -- Quorum -- Expenses.

(1) The Utah Substance ~~[Abuse]~~ Use and Mental Health Advisory Council shall annually select one of its members to serve as chair and one of its members to serve as vice chair.

(2) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in the same manner as the position was originally filled.

(3) A majority of the members of the council constitutes a quorum.

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

(i) Section 63A-3-106;

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

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

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

(5) The council may establish committees as needed to assist in accomplishing its duties under Section 63M-7-303.

Section 6. Section 63M-7-303 is amended to read:

63M-7-303. Duties of council.

(1) The Utah Substance ~~[Abuse]~~ Use and Mental Health Advisory Council shall:

(a) provide leadership and generate unity for Utah's ongoing efforts to ~~[combat substance abuse]~~ reduce and eliminate the impact of substance use and mental health disorders in Utah through a comprehensive and evidence-based prevention, treatment, and justice strategy;

(b) recommend and coordinate the creation, dissemination, and implementation of [a] statewide

~~[substance abuse policy] policies to address substance use and mental health disorders;~~

(c) facilitate planning for a balanced continuum of substance ~~[abuse] use and mental health disorder prevention, treatment, and justice services;~~

(d) promote collaboration and mutually beneficial public and private partnerships;

(e) coordinate recommendations made by any committee created under Section 63M-7-302;

(f) analyze and provide an objective assessment of all proposed legislation concerning ~~[alcohol and other drug] substance use, mental health, and related issues;~~

(g) coordinate the implementation of Section 77-18-1.1 and related provisions in Subsections 77-18-1(5)(b)(iii) and (iv), as provided in Section 63M-7-305; and

(h) comply with Section 32B-2-306.

(2) The council shall meet quarterly or more frequently as determined necessary by the chair.

(3) The council shall report its recommendations annually to the commission, governor, the Legislature, and the Judicial Council.

Section 7. Section 63M-7-305 is amended to read:

63M-7-305. Drug-Related Offenses Reform Act -- Coordination.

(1) As used in this section:

(a) "Council" means the Utah Substance ~~[Abuse] Use and Mental Health Advisory Council.~~

(b) "Drug ~~[Offender]-Related Offenses Reform Act" and "act" mean the screening, assessment, substance [abuse] use disorder treatment, and supervision provided to convicted [offenders] persons under Subsection 77-18-1.1(2) to:~~

(i) determine ~~[offenders'] a person's specific substance [abuse] use disorder treatment needs as early as possible in the judicial process;~~

(ii) expand treatment resources for ~~[offenders] persons in the community;~~

(iii) integrate a person's treatment ~~[of offenders] with supervision by the Department of Corrections; and~~

(iv) reduce the incidence of substance ~~[abuse] use disorders and related criminal conduct.~~

(c) "Substance abuse authority" has the same meaning as in Section 17-43-201.

(2) The council shall provide ongoing oversight of the implementation, functions, and evaluation of the Drug ~~[Offender]-Related Offenses Reform Act.~~

(3) The council shall develop an implementation plan for the Drug ~~[Offender]-Related Offenses Reform Act. The plan shall:~~

(a) identify local substance abuse authority areas where the act will be implemented, in cooperation

with the Division of Substance Abuse and Mental Health, the Department of Corrections, and the local substance abuse authorities;

(b) include guidelines for local substance abuse authorities and the Utah Department of Corrections on how funds appropriated under the act should be used, including eligibility requirements for convicted persons who participate in services funded by the act, that are consistent with the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism; and

(c) require that treatment plans under the act are appropriate for ~~[criminal offenders;] persons involved in the criminal justice system.~~

~~[(d) include guidelines on the membership of local planning groups;]~~

~~[(e) include guidelines on the membership of the Department of Corrections' planning group under Subsection (5); and (f) provide guidelines for the Commission on Criminal and Juvenile Justice to conduct an evaluation of the implementation, impact, and results of the act.]~~

~~[(4) (a) Each local substance abuse authority designated under Subsection (3) to implement the act shall establish a local planning group and shall submit a plan to the council detailing how the authority proposes to use the act funds. The uses shall be in accordance with the guidelines established by the council under Subsection (3).]~~

~~[(b) Upon approval of the plan by the council, the Division of Substance Abuse and Mental Health shall allocate the funds.]~~

~~[(c) Local substance abuse authorities shall annually, on or before October 1, submit to the Division of Substance Abuse and Mental Health and to the council reports detailing use of the funds and the impact and results of the use of the funds during the prior fiscal year ending June 30.]~~

~~[(5) (a) The Department of Corrections shall establish a planning group and shall submit a plan to the council detailing how the department proposes to use the act funds. The uses shall be in accordance with the guidelines established by the council under Subsection (3).]~~

~~[(b) The Department of Corrections shall annually, before October 1, submit to the council a report detailing use of the funds and the impact and results of the use of the funds during the prior fiscal year ending June 30.]~~

~~[(6) The council shall monitor the progress and evaluation of the act and shall provide a written report on the implementation, impact, and results of the act to the Law Enforcement and Criminal Justice and the Health and Human Services legislative interim committees annually before November 1.]~~

Section 8. Section 77-18-1.1 is amended to read:

77-18-1.1. Screening, assessment, and treatment.

(1) As used in this section:

(a) "Assessment" has the same meaning as in Section 41-6a-501.

(b) "Convicted" means:

(i) a conviction by entry of a plea of guilty or nolo contendere, guilty with a mental illness, or no contest; and

(ii) conviction of any crime or offense.

(c) "Screening" has the same meaning as in Section 41-6a-501.

(d) "Substance ~~abuse~~ use disorder treatment" means treatment obtained through a substance ~~abuse~~ use disorder program that is licensed by the Office of Licensing within the Department of Human Services.

(2) On or after July 1, 2009, the courts of the judicial districts where the Drug ~~Offender~~-Related Offenses Reform Act under Section 63M-7-305 is implemented shall, in coordination with the local substance abuse authority regarding available resources, order ~~offenders convicted of a felony~~ convicted persons determined to be eligible in accordance with the implementation plan developed by the Utah Substance Use and Mental Health Advisory Council under Section 63M-7-305 to:

(a) participate in a screening prior to sentencing;

(b) participate in an assessment prior to sentencing if the screening indicates an assessment to be appropriate; and

(c) participate in substance ~~abuse~~ use disorder treatment if:

(i) the assessment indicates treatment to be appropriate;

(ii) the court finds treatment to be appropriate for the ~~offender~~ convicted person; and

(iii) the court finds the ~~offender~~ convicted person to be an appropriate candidate for community-based supervision.

(3) The findings from any screening and any assessment conducted under this section shall be part of the presentence investigation report submitted to the court before sentencing of the ~~offender~~ convicted person.

(4) Money appropriated by the Legislature to assist in the funding of the screening, assessment, substance ~~abuse~~ use disorder treatment, and supervision provided under this section is not subject to any requirement regarding matching funds from a state or local governmental entity.

CHAPTER 159**H. B. 345**

Passed March 3, 2016

Approved March 22, 2016

Effective May 10, 2016

CLINIC DEFINITION AMENDMENTS

Chief Sponsor: Stewart Barlow

Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill amends the Pharmacy Practice Act to clarify that certain clinics qualify as employer sponsored clinics.

Highlighted Provisions:

This bill:

- ▶ amends the definition of employer sponsored clinic to include a clinic designated as an employer sponsored clinic under a pilot program created by the Public Employees' Benefit and Insurance Program; and
- ▶ permits a prescriber to dispense to any patient at a clinic designated as an employer sponsored clinic under the Public Employees' Benefit and Insurance Program pilot program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-17b-802, as enacted by Laws of Utah 2014, Chapter 72

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

Section 1. Section 58-17b-802 is amended to read:**58-17b-802. Definitions.**

As used in this part:

(1) (a) "Cosmetic drug" means a prescription drug that:

(i) is for the purpose of promoting attractiveness or altering the appearance of an individual; and

(ii) (A) is listed as a cosmetic drug subject to the exemption under this section by the division by administrative rule; or

(B) has been expressly approved for online dispensing, whether or not it is dispensed online or through a physician's office.

(b) "Cosmetic drug" does not include a prescription drug that is:

(i) a controlled substance;

(ii) compounded by the physician; or

(iii) prescribed for or used by the patient for the purpose of diagnosing, curing, or preventing a disease.

(2) "Employer sponsored clinic" means:

(a) an entity that has a medical director who is licensed as a physician as defined in Section 58-67-102 and offers health care only to the employees of an exclusive group of employers and the employees' dependents[-]; or

(b) a clinic designated as a clinic for state employees and their dependents by the Public Employees' Benefit and Insurance Program under the pilot program created by Section 49-20-413 including all the patients at that clinic, regardless of the patients' participation in the pilot program.

(3) "Health care" is as defined in Section 31A-1-301.

(4) (a) "Injectable weight loss drug" means an injectable prescription drug:

(i) prescribed to promote weight loss; and

(ii) listed as an injectable prescription drug subject to exemption under this section by the division by administrative rule.

(b) "Injectable weight loss drug" does not include a prescription drug that is a controlled substance.

(5) "Prepackaged drug" means a prescription drug that:

(a) is not listed under federal or state law as a Schedule I, II, III, IV, or V drug; and

(b) is packaged in a fixed quantity per package by:

(i) the drug manufacturer;

(ii) a pharmaceutical wholesaler or distributor; or

(iii) a pharmacy licensed under this title.

CHAPTER 160**H. B. 359**

Passed March 4, 2016
 Approved March 22, 2016
 Effective May 10, 2016

**POLITICAL SUBDIVISION
 ETHICS COMMISSION AMENDMENTS**

Chief Sponsor: Jack R. Draxler
 Senate Sponsor: Margaret Dayton

LONG TITLE**General Description:**

This bill modifies provisions related to filing a complaint with the Political Subdivisions Ethics Review Commission.

Highlighted Provisions:

This bill:

- ▶ addresses the individual with whom a complainant may file a complaint against a political subdivision officer or employee.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

11-49-501, as enacted by Laws of Utah 2012, Chapter 202

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

Section 1. Section 11-49-501 is amended to read:

11-49-501. Ethics complaints -- Who may file -- Form.

(1) (a) Notwithstanding any other provision, the following may file a complaint, subject to the requirements of Subsections (1)(b) and (c) and Section 11-49-301, against a political subdivision officer or employee:

(i) two or more registered voters who reside within the boundaries of a political subdivision;

(ii) two or more registered voters who pay a fee or tax to a political subdivision; or

(iii) one or more registered voters who reside within the boundaries of a political subdivision and one or more registered voters who pay a fee or tax to the political subdivision.

(b) A person described in Subsection (1)(a) may not file a complaint unless at least one person described in Subsection (1)(a)(i), (ii), or (iii) has actual knowledge of the facts and circumstances supporting the alleged ethics violation.

(c) A complainant may file a complaint only against an individual who, on the date that the complaint is filed, is serving as a political subdivision officer or is a political subdivision employee.

~~[(2) (a) (i) A complainant shall file a complaint with the Office of the Lieutenant Governor.]~~

~~[(ii) The lieutenant governor shall forward the complaint to the chair of the commission no later than five days after the day on which the complaint is filed.]~~

(2) (a) The lieutenant governor shall post, on the homepage of the lieutenant governor's website, a conspicuous and clearly identified link to the name and address of an individual authorized to accept a complaint on behalf of the commission.

(b) A complainant shall file a complaint with the individual described in Subsection (2)(a).

~~[(b)] (c) An individual may not file a complaint during the 60 calendar days immediately preceding:~~

(i) a regular primary election, if the accused political subdivision officer is a candidate in the primary election; or

(ii) a regular general election in which an accused political subdivision officer is a candidate, unless the accused political subdivision officer is unopposed in the election.

(3) A complainant shall ensure that each complaint filed under this section is in writing and contains the following information:

(a) the name and position of the political subdivision officer or employee alleged to be in violation;

(b) the name, address, and telephone number of each individual who is filing the complaint;

(c) a description of each alleged ethics violation, as applicable of:

(i) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

(ii) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

(iii) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act;

(d) include for each alleged ethics violation:

(i) a reference to the section of the code alleged to have been violated;

(ii) the name of the complainant who has actual knowledge of the facts and circumstances supporting each allegation; and

(iii) with reasonable specificity, the facts and circumstances supporting each allegation, which shall be provided by:

(A) copies of official records or documentary evidence; or

(B) one or more affidavits that include the information required in Subsection (4);

(e) a list of the witnesses that a complainant wishes to have called, including for each witness:

(i) the name, address, and, if available, one or more telephone numbers of the witness;

(ii) a brief summary of the testimony to be provided by the witness; and

(iii) a specific description of any documents or evidence a complainant desires the witness to produce;

(f) a statement that each complainant:

(i) has reviewed the allegations contained in the complaint and the sworn statements and documents attached to the complaint;

(ii) believes that the complaint is submitted in good faith and not for any improper purpose such as for the purpose of harassing the respondent, causing unwarranted harm to the respondent's reputation, or causing unnecessary expenditure of public funds; and

(iii) believes the allegations contained in the complaint to be true and accurate; and

(g) the signature of each complainant.

(4) An affidavit described in Subsection (3)(d)(iii)(B) shall include:

(a) the name, address, and telephone number of the signer;

(b) a statement that the signer has actual knowledge of the facts and circumstances alleged in the affidavit;

(c) the facts and circumstances testified by the signer;

(d) a statement that the affidavit is believed to be true and correct and that false statements are subject to penalties of perjury; and

(e) the signature of the signer.

CHAPTER 161**H. B. 369**

Passed March 9, 2016
 Approved March 22, 2016
 Effective May 10, 2016

**ELECTRONIC DEVICE
 LOCATION DATA AMENDMENTS**

Chief Sponsor: John Knotwell
 Senate Sponsor: Mark B. Madsen

LONG TITLE**General Description:**

This bill allows a government entity to collect anonymous electronic data.

Highlighted Provisions:

This bill:

- ▶ allows a government entity to collect anonymous electronic data; and
- ▶ prohibits the use of the collected data in a judicial proceeding.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

77-23c-102, as enacted by Laws of Utah 2014, Chapter 223 and last amended by Coordination Clause, Laws of Utah 2014, Chapter 223

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

Section 1. Section 77-23c-102 is amended to read:

**77-23c-102. Location information privacy
 -- Warrant required for disclosure.**

(1) (a) Except as provided in Subsection (2), a government entity may not obtain the location information, stored data, or transmitted data of an electronic device without a search warrant issued by a court upon probable cause.

(b) Except as provided in Subsection (1)(c), a government entity may not use, copy, or disclose, for any purpose, the location information, stored data, or transmitted data of an electronic device that is not the subject of the warrant that is collected as part of an effort to obtain the location information, stored data, or transmitted data of the electronic device that is the subject of the warrant in Subsection (1)(a).

(c) A government entity may use, copy, or disclose the transmitted data of an electronic device used to communicate with the electronic device that is the subject of the warrant if the government entity reasonably believes that the transmitted data is necessary to achieve the objective of the warrant.

(d) The data described in Subsection (1)(b) shall be destroyed in an unrecoverable manner by the government entity as soon as reasonably possible after the data is collected.

(2) (a) A government entity may obtain location information without a warrant for an electronic device:

- (i) in accordance with Section 53-10-104.5;
- (ii) if the device is reported stolen by the owner;
- (iii) with the informed, affirmative consent of the owner or user of the electronic device;
- (iv) in accordance with judicially recognized exceptions to warrant requirements; or
- (v) if the owner has voluntarily and publicly disclosed the location information.

(b) A prosecutor may obtain a judicial order as defined in Section 77-22-2.5 for the purposes enumerated in Section 77-22-2.5.

(3) An electronic communication service provider, its officers, employees, agents, or other specified persons may not be held liable for providing information, facilities, or assistance in accordance with the terms of the warrant issued under this section or without a warrant pursuant to Subsection (2).

(4) (a) Notwithstanding Subsections (1) through (3), a government entity may receive and utilize electronic data containing the location information of an electronic device from a non-government entity as long as the electronic data contains no information that includes, or may reveal, the identity of an individual.

(b) Electronic data collected in accordance with this subsection may not be used for investigative purposes by a law enforcement agency.

CHAPTER 162**H. B. 381**

Passed March 10, 2016
 Approved March 22, 2016
 Effective May 10, 2016

**STANDARDS FOR ISSUANCE OF
 SUMMONS**

Chief Sponsor: LaVar Christensen
 Senate Sponsor: Mark B. Madsen

LONG TITLE**General Description:**

This bill requires that a summons be issued before an arrest warrant under certain circumstances.

Highlighted Provisions:

This bill:

- ▶ sets standards for a summons to be issued for a person accused of committing a crime instead of a warrant; and
- ▶ requires that the magistrate issue a summons if the magistrate finds that the accused is likely to appear and is not:
 - a danger to the community;
 - a flight risk; or
 - a danger to other persons or property.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

77-7-5, as last amended by Laws of Utah 2010, Chapter 324

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

Section 1. Section 77-7-5 is amended to read:

**77-7-5. Issuance of summons or warrant --
 Time and place arrests may be made --
 Contents of warrant or summons --
 Responsibility for transporting prisoners
 -- Court clerk to dispense restitution for
 transportation.**

(1) A magistrate may issue a warrant for arrest in lieu of a summons for the appearance of the accused only upon finding:

(a) probable cause to believe that the person to be arrested has committed a public offense~~;~~; and

(b) under the Utah Rules of Criminal Procedure, and this section that a warrant is necessary to:

- (i) prevent risk of injury to a person or property;
- (ii) secure the appearance of the accused; or
- (iii) protect the public safety and welfare of the community or an individual.

(2) If the offense charged is:

(a) a felony, the arrest upon a warrant may be made at any time of the day or night; or

(b) a misdemeanor, the arrest upon a warrant can be made at night only if:

(i) the magistrate has endorsed authorization to do so on the warrant;

(ii) the person to be arrested is upon a public highway, in a public place, or in a place open to or accessible to the public; or

(iii) the person to be arrested is encountered by a peace officer in the regular course of that peace officer's investigation of a criminal offense unrelated to the misdemeanor warrant for arrest.

~~[(2)]~~ (3) For the purpose of Subsection (1):

(a) daytime hours are the hours of 6 a.m. to 10 p.m.; and

(b) nighttime hours are the hours after 10 p.m. and before 6 a.m.

~~[(3)]~~ (4) (a) If the magistrate determines that the accused must appear in court, the magistrate shall include in the arrest warrant the name of the law enforcement agency in the county or municipality with jurisdiction over the offense charged.

(b) (i) The law enforcement agency identified by the magistrate under Subsection ~~[(3)]~~ (4)(a) is responsible for providing inter-county transportation of the defendant, if necessary, from the arresting law enforcement agency to the court site.

(ii) The law enforcement agency named on the warrant may contract with another law enforcement agency to have a defendant transported.

(c) (i) The law enforcement agency identified by the magistrate under Subsection ~~[(3)]~~ (4)(a) as responsible for transporting the defendant shall provide to the court clerk of the court in which the defendant is tried, an affidavit stating that the defendant was transported, indicating the law enforcement agency responsible for the transportation, and stating the number of miles the defendant was transported.

(ii) The court clerk shall account for restitution paid under Subsection 76-3-201(5) for governmental transportation expenses and dispense restitution money collected by the court to the law enforcement agency responsible for the transportation of a convicted defendant.

CHAPTER 163**H. B. 421**

Passed March 10, 2016
Approved March 22, 2016
Effective May 10, 2016

INSURANCE CHANGES

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies the Insurance Code.

Highlighted Provisions:

This bill:

- ▶ addresses confidentiality of information obtained by the commissioner;
- ▶ defines terms;
- ▶ modifies provisions related to reserve valuation;
- ▶ addresses actuarial opinion of reserves;
- ▶ modifies computation of minimum standard under various circumstances;
- ▶ addresses minimum reserves;
- ▶ addresses the reserve calculation under various circumstances;
- ▶ modifies minimum standards for accident and health insurance;
- ▶ addresses adoption and use of a valuation manual;
- ▶ enacts requirements of principle-based valuation;
- ▶ enacts provisions related to experience reporting;
- ▶ addresses confidentiality of information;
- ▶ enacts a single state and small company exemption;
- ▶ modifies Standard Nonforfeiture Law for Life Insurance; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 31A-16-109, as last amended by Laws of Utah 2015, Chapter 244
31A-17-501, as enacted by Laws of Utah 1993, Chapter 305
31A-17-502, as enacted by Laws of Utah 1993, Chapter 305
31A-17-503, as last amended by Laws of Utah 2015, Chapter 258
31A-17-504, as last amended by Laws of Utah 2001, Chapter 116
31A-17-505, as last amended by Laws of Utah 2002, Chapter 308
31A-17-506, as last amended by Laws of Utah 2011, Chapter 297
31A-17-507, as last amended by Laws of Utah 2011, Chapter 297
31A-17-509, as last amended by Laws of Utah 2001, Chapter 116

31A-17-510, as last amended by Laws of Utah 2011, Chapter 297

31A-17-511, as enacted by Laws of Utah 1993, Chapter 305

31A-22-408, as last amended by Laws of Utah 2015, Chapter 258

ENACTS:

31A-17-514, Utah Code Annotated 1953

31A-17-515, Utah Code Annotated 1953

31A-17-516, Utah Code Annotated 1953

31A-17-517, Utah Code Annotated 1953

31A-17-518, Utah Code Annotated 1953

31A-17-519, Utah Code Annotated 1953

REPEALS AND REENACTS:

31A-17-513, as last amended by Laws of Utah 2001, Chapter 116

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

Section 1. Section 31A-16-109 is amended to read:**31A-16-109. Confidentiality of information obtained by commissioner.**

(1) Information, documents, and copies of these that are obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made under Section 31A-16-107.5, and all information reported under Section 31A-16-105, is confidential. It is not subject to subpoena and may not be made public by the commissioner or any other person without the permission of the insurer, except it may be provided to the insurance departments of other states, without the prior written consent of the insurer to which it pertains. ~~[The confidentiality of this section does not apply if the commissioner, after giving the insurer and its affiliates who would be affected by the disclosure, proper notice and an opportunity to be heard, and determines that the interests of policyholders, shareholders, or the public will be served by the publication of the information. In this situation, the commissioner may publish all or any part of the information in any manner the commissioner considers appropriate.]~~

(2) The commissioner and any person who received documents, materials, or other information while acting under the authority of the commissioner or with whom the documents, materials, or other information are shared pursuant to this chapter shall keep confidential any confidential documents, materials, or information subject to Subsection (1).

(3) (a) To assist in the performance of the commissioner's duties, the commissioner:

(i) may share documents, materials, or other information, including the confidential documents, materials, or information subject to Subsection (1), with the following if the recipient agrees in writing to maintain the confidentiality status of the document, material, or other information, and has verified in writing the legal authority to maintain confidentiality:

(A) other state, federal, and international regulatory agencies;

(B) the National Association of Insurance Commissioners and its affiliates and subsidiaries; and

(C) state, federal, and international law enforcement authorities, including members of a supervisory college described in Section 31A-16-108.5;

(ii) notwithstanding Subsection (1), may only share confidential documents, material, or information reported pursuant to Section 31A-16-105 with commissioners of states having statutes or regulations substantially similar to Subsection (1) and who have agreed in writing not to disclose the documents, material, or information;

(iii) may receive documents, materials, or information, including otherwise confidential documents, materials, or information from the National Association of Insurance Commissioners and its affiliates and subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential any document, material, or information received with notice or the understanding that it is confidential under the laws of the jurisdiction that is the source of the document, material, or information; and

(iv) shall enter into written agreements with the National Association of Insurance Commissioners governing sharing and use of information provided pursuant to this chapter consistent with this Subsection (3) that shall:

(A) specify procedures and protocols regarding the confidentiality and security of information shared with the National Association of Insurance Commissioners and its affiliates and subsidiaries pursuant to this chapter, including procedures and protocols for sharing by the National Association of Insurance Commissioners with other state, federal, or international regulators;

(B) specify that ownership of information shared with the National Association of Insurance Commissioners and its affiliates and subsidiaries pursuant to this chapter remains with the commissioner and the National Association of Insurance Commissioner's use of the information is subject to the direction of the commissioner;

(C) require prompt notice to be given to an insurer whose confidential information in the possession of the National Association of Insurance Commissioners pursuant to this chapter is subject to a request or subpoena to the National Association of Insurance Commissioners for disclosure or production; and

(D) require the National Association of Insurance Commissioners and its affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the National Association of Insurance Commissioners and its affiliates and subsidiaries may be required to disclose confidential information about the insurer shared with the National Association of Insurance Commissioners and its affiliates and subsidiaries pursuant to this chapter.

(4) The sharing of information by the commissioner pursuant to this chapter does not constitute a delegation of regulatory authority or rulemaking, and the commissioner is solely responsible for the administration, execution, and enforcement of this chapter.

(5) A waiver of any applicable claim of confidentiality in the documents, materials, or information does not occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in Subsection (3).

(6) Documents, materials, or other information in the possession or control of the National Association of Insurance Commissioners pursuant to this chapter are:

(a) confidential, not public records, and not open to public inspection; and

(b) not subject to Title 63G, Chapter 2, Government Records Access and Management Act.

Section 2. Section 31A-17-501 is amended to read:

31A-17-501. Standard Valuation Law -- Definitions.

(1) This part is known as the "Standard Valuation Law."

(2) As used in this part, the following definitions apply on or after the operative date of the valuation manual:

(a) Notwithstanding Section 31A-1-301, "accident and health insurance" means a contract that incorporates morbidity risk and provides protection against economic loss resulting from accident, sickness, or medical conditions and as may be specified in the valuation manual.

(b) "Appointed actuary" means a qualified actuary who is appointed in accordance with the valuation manual to prepare the actuarial opinion required in Subsection 31A-17-503(2).

(c) "Company" means an entity that:

(i) has written, issued, or reinsured a life insurance contract, accident and health insurance contract, or deposit-type contract in this state and has at least one such policy in force or on claim; or

(ii) has written, issued, or reinsured a life insurance contract, accident and health insurance contract, or deposit-type contract in any state and is required to hold a certificate of authority to write life insurance, accident and health insurance, or deposit-type contracts in this state.

(d) "Deposit-type contract" means a contract that does not incorporate mortality or morbidity risks and as may be specified in the valuation manual.

(e) Notwithstanding Section 31A-1-301, "life insurance" means a contract that incorporates mortality risk, including annuity and pure endowment contracts, and as may be specified in the valuation manual.

(f) "Policyholder behavior" means an action that a policyholder, contract holder, or any other person

with the right to elect options, such as a certificate holder, may take under a policy or contract subject to this part, including lapse, withdrawal, transfer, deposit, premium payment, loan, annuitization, or benefit elections prescribed by the policy or contract, but excluding events of mortality or morbidity that result in benefits prescribed in their essential aspects by the terms of the policy or contract.

(g) "Principle-based valuation" means a reserve valuation that uses one or more methods or one or more assumptions determined by the insurer and is required to comply with Section 31A-17-515 as specified in the valuation manual.

(h) "Qualified actuary" means an individual who is qualified to sign the applicable statement of actuarial opinion in accordance with the American Academy of Actuaries qualification standards for actuaries signing the statements and who meets the requirements specified in the valuation manual.

(i) "Tail risk" means a risk that occurs either when the frequency of low probability events is higher than expected under a normal probability distribution or when there are observed events of very significant size or magnitude.

(j) "Valuation manual" means the manual of valuation instructions adopted in accordance with Section 31A-17-514.

Section 3. Section 31A-17-502 is amended to read:

31A-17-502. Reserve valuation.

(1) The following apply to a policy or contract issued before the operative date of the valuation manual:

(a) The commissioner shall annually value, or cause to be valued, the reserve liabilities [c], also called "reserves" in this part[)], for [all] outstanding life insurance policies and annuity and pure endowment contracts, of every life insurance company doing business in this state, [and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest, and methods (net level premium method or other) used in the calculation of such reserves] issued before the operative date of the valuation manual. In calculating [such] the reserves, [he] the commissioner may use group methods and approximate averages for fractions of a year or otherwise. In lieu of the valuation of the reserves required in this part of any foreign or alien company, [he] the commissioner may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard provided in this part[, and if the official of such state or jurisdiction accepts as sufficient and for all valid legal purposes the certificate of valuation of the commissioner when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if

they had been computed in the manner prescribed by the law of that state or jurisdiction].

(b) (i) Sections 31A-17-504, 31A-17-505, 31A-17-506, 31A-17-507, 31A-17-508, 31A-17-509, 31A-17-510, 31A-17-511, 31A-17-512, and 31A-17-513 apply to a policy or contract, as appropriate, subject to this part issued before the operative date of the valuation manual.

(ii) Sections 31A-17-514 and 31A-17-515 do not apply to a policy or contract described in Subsection (1)(b)(i).

(2) The following apply to a policy or contract issued on or after the operative date of the valuation manual:

(a) The commissioner shall annually value, or cause to be valued, the reserve liabilities, also called "reserves" in this part, for an outstanding life insurance contract, annuity and pure endowment contract, accident and health contract, and deposit-type contract of every company issued on or after the operative date of the valuation manual. In lieu of the valuation of the reserve liabilities required of a foreign or alien company, the commissioner may accept a valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when the valuation complies with the minimum standard provided in this part.

(b) Sections 31A-17-514 and 31A-17-515 apply to a policy or contract issued on or after the operative date of the valuation manual.

Section 4. Section 31A-17-503 is amended to read:

31A-17-503. Actuarial opinion of reserves.

~~[(1) This section becomes operative on December 31, 1993.]~~

~~[(2) General: Every]~~ (1) (a) For an actuarial opinion before the operative date of the valuation manual, a life insurance company doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by rule are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The commissioner by rule shall define the specifics of this opinion and add any other items considered to be necessary to its scope.

~~[(3) Actuarial]~~ (b) The following apply to the actuarial analysis of reserves and assets supporting reserves:

~~[(a) Every]~~ (i) A life insurance company, except as exempted by or pursuant to rule, shall also annually include in the opinion required by Subsection ~~[(2)]~~ (1)(a), an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by rule, when considered in light of the assets held by the company with respect to the reserves and related

actuarial items, including the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including the benefits under the expenses associated with the policies and contracts.

~~[(b)]~~ (ii) The commissioner may provide by rule for a transition period for establishing any higher reserves which the qualified actuary may consider necessary in order to render the opinion required by this section.

~~[(4) Requirement for opinion under Subsection (3): Each]~~

~~(c)~~ An opinion required by Subsection ~~[(3)]~~ (1)(b) shall be governed by the following provisions:

~~[(a)]~~ (i) A memorandum, in form and substance acceptable to the commissioner as specified by rule, shall be prepared to support each actuarial opinion.

~~[(b)]~~ (ii) If the insurance company fails to provide a supporting memorandum at the request of the commissioner within a period specified by rule or the commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the rule or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare such supporting memorandum as is required by the commissioner.

~~[(5) Requirement for all opinions: Every]~~

~~(d)~~ An opinion subject to this Subsection (1) shall be governed by the following provisions:

~~[(a)]~~ (i) The opinion shall be submitted with the annual statement reflecting the valuation of the reserve liabilities for each year ending on or after December 31, 1993.

~~[(b)]~~ (ii) The opinion shall apply to ~~[all]~~ the business in force including individual and group health insurance plans, in form and substance acceptable to the commissioner as specified by rule.

~~[(e)]~~ (iii) The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board and on such additional standards as the commissioner may by rule prescribe.

~~[(d)]~~ (iv) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

~~[(e)]~~ (v) For the purposes of this section, "qualified actuary" means a member in good standing of the American Academy of Actuaries who meets the requirements set forth by department rule.

~~[(f)]~~ (vi) Except in cases of fraud or willful misconduct, the qualified actuary is not liable for damages to any person, other than the insurance

company and the commissioner, for any act, error, omission, decision, or conduct with respect to the actuary's opinion.

~~[(g)]~~ (vii) Disciplinary action by the commissioner against the company or the qualified actuary shall be defined in rules by the commissioner consistent with Section 31A-2-308 and Title 63G, Chapter 4, Administrative Procedures Act.

~~[(h) (i)]~~ (viii) (A) Any memorandum in support of the opinion, and any other material provided by the company to the commissioner in connection ~~[therewith]~~ with the opinion, are considered protected records under Section 63G-2-305 and may not be made public and are not subject to subpoena under Subsection 63G-2-202(7), other than for the purpose of defending an action seeking damages from any person by reason of any action required by this section or rules ~~[promulgated]~~ made under this section.

~~[(ii)]~~ (B) However, the memorandum or other material may otherwise be released by the commissioner ~~[-(A)]~~ with the written consent of the company~~[-]~~, or ~~[(B)]~~ to the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material.

~~[(iii)]~~ (C) Once any portion of the confidential memorandum is cited in its marketing or is cited before any governmental agency other than the department or is released to the news media, all portions of the memorandum are no longer confidential.

(2) The following apply to an actuarial opinion of reserves after the operative date of the valuation manual:

(a) A company with an outstanding life insurance contract, accident and health insurance contract, or deposit-type contract in this state and subject to rule made by the commissioner shall annually submit the opinion of the appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The valuation manual will prescribe the specifics of this opinion including any items considered to be necessary to its scope.

(b) A company with an outstanding life insurance contract, accident and health insurance contract, or deposit-type contract in this state and subject to rule made by the commissioner, except as exempted in the valuation manual, shall also annually include in the opinion required by Subsection (2)(a) an opinion of the same appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified in the valuation manual, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including the investment earnings on the assets

and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including the benefits under and expenses associated with the policies and contracts.

(c) An opinion required by Subsection (2)(b) shall be governed by the following provisions:

(i) A memorandum, in form and substance as specified in the valuation manual, and acceptable to the commissioner, shall be prepared to support each actuarial opinion.

(ii) If the insurance company fails to provide a supporting memorandum at the request of the commissioner within a period specified in the valuation manual or the commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the valuation manual or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting memorandum required by the commissioner.

(d) An opinion subject to this Subsection (2) shall be governed by the following provisions:

(i) The opinion shall be in form and substance as specified in the valuation manual and acceptable to the commissioner.

(ii) The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after the operative date of the valuation manual.

(iii) The opinion shall apply to the policies and contracts subject to Subsection (2)(b), plus other actuarial liabilities as may be specified in the valuation manual.

(iv) The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board or its successor, and on such additional standards as may be prescribed in the valuation manual.

(v) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

(vi) Except in cases of fraud or willful misconduct, the appointed actuary may not be liable for damages to any person, other than the insurance company and the commissioner, for any act, error, omission, decision, or conduct with respect to the appointed actuary's opinion.

(vii) Disciplinary action by the commissioner against the company or the appointed actuary shall be defined in rules by the commissioner consistent with Section 31A-2-308 and Title 63G, Chapter 4, Administrative Procedures Act.

Section 5. Section 31A-17-504 is amended to read:

31A-17-504. Computation of minimum standard.

Except as [otherwise] provided in Sections 31A-17-505, 31A-17-506, and 31A-17-513, the minimum standard for the valuation of [all] the life insurance policies and annuity and pure endowment contracts issued [prior to] before January 1, 1994, shall be that provided by the laws in effect immediately [prior to] before that date. Except as otherwise provided in Sections 31A-17-505, 31A-17-506, and 31A-17-513, the minimum standard for the valuation of [all] such policies and contracts issued on or after January 1, 1994, shall be the commissioner's reserve valuation methods defined in Sections 31A-17-507, 31A-17-508, 31A-17-511, and 31A-17-513, 3.5% interest, or in the case of life insurance policies and contracts, other than annuity and pure endowment contracts, issued on or after June 1, 1973, 4% interest for such policies issued [prior to] before April 2, 1980, 5.5% interest for single premium life insurance policies, and 4.5% interest for all other such policies issued on and after April 2, 1980, and the following tables:

(1) For [all] an ordinary [policies] policy of life insurance issued on the standard basis, excluding any accident and health and accidental death benefits in [such policies: the National Association of Insurance Commissioners] the policy, the Commissioner's 1941 Standard Ordinary Mortality Table for such policies issued [prior to] before the operative date of Subsection 31A-22-408(6)(a) [(that is, the Standard Nonforfeiture Law for Life Insurance)], the [National Association of Insurance Commissioners] Commissioner's 1958 Standard Ordinary Mortality Table for such policies issued on or after the operative date of Subsection 31A-22-408(6)(a) and [prior to] before the operative date of Subsection 31A-22-408(6)(d), provided that for any category of such policies issued on female risks, all modified net premiums and present values referred to in this section may be calculated according to an age not more than six years younger than the actual age of the insured[s], and for such policies issued on or after the operative date of Subsection 31A-22-408(6)(d):

(a) the [National Association of Insurance Commissioners] Commissioner's 1980 Standard Ordinary Mortality Table;

(b) at the election of the company for any one or more specified plans of life insurance, the [National Association of Insurance Commissioners] Commissioner's 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors; or

(c) any ordinary mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by rule [promulgated] made by the commissioner for use in determining the minimum standard of valuation for such policies.

(2) For [all] an industrial life insurance [policies] policy issued on the standard basis, excluding any

accident and health and accidental death benefits in ~~[such policies;]~~ the policy, the 1941 Standard Industrial Mortality Table for ~~[such policies]~~ the policy issued ~~[prior to]~~ before the operative date of Subsection 31A-22-408(6)(c), and for such policies issued on or after such operative date, the ~~[National Association of Insurance Commissioners]~~ Commissioner's 1961 Standard Industrial Mortality Table or any industrial mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by rule ~~[promulgated]~~ made by the commissioner for use in determining the minimum standard of valuation for such policies.

(3) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies:

- (a) the 1937 Standard Annuity Mortality Table;
- (b) at the option of the company, the Annuity Mortality Table for 1949, Ultimate; or
- (c) any modification of either of these tables approved by the commissioner.

(4) For group annuity and pure endowment contracts, excluding any accident and health and accidental death benefits in such policies:

- (a) the Group Annuity Mortality Table for 1951, any modification of such table approved by the commissioner; or
- (b) at the option of the company, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

(5) For total and permanent disability benefits in or supplementary to ordinary policies or contracts:

(a) (i) for ~~[policies or contracts]~~ a policy or contract issued on or after January 1, 1966, the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to the type of benefit or any tables of disablement rates and termination rates adopted after 1980 by the National Association of Insurance Commissioners, that are approved by rule ~~[promulgated]~~ made by the commissioner for use in determining the minimum standard of valuation for ~~[such policies]~~ the policy;

(ii) for ~~[policies or contracts]~~ a policy or contract issued on or after January 1, 1961, and ~~[prior to]~~ before January 1, 1966, either such tables or, at the option of the company, the Class (3) Disability Table (1926); and

(iii) for ~~[policies]~~ a policy issued ~~[prior to]~~ before January 1, 1961, the Class (3) Disability Table (1926). ~~[Any such]~~

(b) A table described in this Subsection (5) shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(6) For accidental death benefits in or supplementary to policies issued on or after January 1, 1966, the 1959 Accidental Death

Benefits Table or any accidental death benefits table adopted after 1980 by the National Association of Insurance Commissioners, that is approved by rule ~~[promulgated]~~ made by the commissioner for use in determining the minimum standard of valuation for such policies, for policies issued on or after January 1, 1961, and ~~[prior to]~~ before January 1, 1966, either such table or, at the option of the company, the Inter-Company Double Indemnity Mortality Table~~;~~, and for policies issued ~~[prior to]~~ before January 1, 1961, the Inter-Company Double Indemnity Mortality Table. Either table shall be combined with a mortality table for calculating the reserves for life insurance policies.

(7) For group life insurance, life insurance issued on the substandard basis and other special benefits: such tables as may be approved by the commissioner.

Section 6. Section 31A-17-505 is amended to read:

31A-17-505. Computation of minimum standard for annuities.

(1) Except as provided in Section 31A-17-506, the minimum standard ~~[for the]~~ of valuation ~~[of all]~~ for individual annuity and pure endowment contracts issued on or after the operative date of this section, as defined in Subsection (2), and for ~~[all]~~ annuities and pure endowments purchased on or after such operative date under group annuity and pure endowment contracts, shall be the commissioner's reserve valuation methods defined in Sections 31A-17-507 and 31A-17-508 and the following tables and interest rates:

(a) for individual annuity and pure endowment contracts issued ~~[prior to]~~ before April 2, 1980, excluding any accident and health and accidental death benefits in the contracts:

(i) (A) the 1971 Individual Annuity Mortality Table; or

(B) any modification of the 1971 Individual Annuity Mortality Table approved by the commissioner;

(ii) 6% interest for single premium immediate annuity contracts; and

(iii) 4% interest for all other individual annuity and pure endowment contracts;

(b) for individual single premium immediate annuity contracts issued on or after April 2, 1980, excluding any accident and health and accidental death benefits in the contracts:

(i) (A) any individual annuity mortality table that is approved by rule made by the commissioner for use in determining the minimum standard of valuation for such contracts; or

(B) any modification of a table described in Subsection (1)(b)(i)(A) approved by the commissioner; and

(ii) 7.5% interest;

(c) for individual annuity and pure endowment contracts issued on or after April 2, 1980, other than

single premium immediate annuity contracts, excluding any accident and health and accidental death benefits in the contracts:

(i) (A) any individual annuity mortality table that is approved by rule made by the commissioner for use in determining the minimum standard of valuation for such contracts; or

(B) any modification of a table described in Subsection (1)(c)(i)(A) approved by the commissioner;

(ii) 5.5% interest for single premium deferred annuity and pure endowment contracts; and

(iii) 4.5% interest for all other such individual annuity and pure endowment contracts;

(d) for ~~all~~ the annuities and pure endowments purchased ~~prior to~~ before April 2, 1980, under group annuity and pure endowment contracts, excluding any accident and health and accidental death benefits purchased under the contracts:

(i) (A) the 1971 Group Annuity Mortality Table; or

(B) any modification of the 1971 Group Annuity Mortality Table approved by the commissioner; and

(ii) 6.5% interest; and

(e) for ~~all~~ the annuities and pure endowments purchased on or after April 2, 1980, under group annuity and pure endowment contracts, excluding any accident and health and accidental death benefits purchased under the contracts:

(i) (A) any group annuity mortality table that is approved by rule made by the commissioner for use in determining the minimum standard of valuation for such annuities and pure endowments; or

(B) any modification of a table described in Subsection (1)(e)(i)(A) approved by the commissioner; and

(ii) 7.5% interest.

(2) (a) After June 1, 1973, any company may file with the commissioner a written notice of its election to comply with this section after a specified date before January 1, 1979, which shall be the operative date of this section for the company.

(b) If a company does not make an election under Subsection (2)(a), the operative date of this section for the company shall be January 1, 1979.

Section 7. Section 31A-17-506 is amended to read:

31A-17-506. Computation of minimum standard by calendar year of issue.

(1) ~~[Applicability of Section 31A-17-506:]~~ The interest rates used in determining the minimum standard for the valuation shall be the calendar year statutory valuation interest rates as defined in this section for:

(a) ~~all~~ life insurance policies issued in a particular calendar year, on or after the operative date of Subsection 31A-22-408(6)(d);

(b) ~~all~~ individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1982;

(c) ~~all~~ annuities and pure endowments purchased in a particular calendar year on or after January 1, 1982, under group annuity and pure endowment contracts; and

(d) the net increase, if any, in a particular calendar year after January 1, 1982, in amounts held under guaranteed interest contracts.

(2) Calendar year statutory valuation interest rates:

(a) The calendar year statutory valuation interest rates, "I," shall be determined as follows and the results rounded to the nearer 1/4 of 1%:

(i) for life insurance:

$$I = .03 + W(R1 - .03) + (W/2)(R2 - .09);$$

(ii) for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options:

$$I = .03 + W(R - .03),$$

where R1 is the lesser of R and .03,

R2 is the greater of R and .09,

R is the reference interest rate defined in Subsection (4), and

W is the weighting factor defined in this section;

(iii) for other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in Subsection (2)(a)(ii), the formula for life insurance stated in Subsection (2)(a)(i) shall apply to annuities and guaranteed interest contracts with guarantee durations in excess of 10 years, and the formula for single premium immediate annuities stated in Subsection (2)(a)(ii) shall apply to annuities and guaranteed interest contracts with guarantee duration of 10 years or less;

(iv) for other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in Subsection (2)(a)(ii) shall apply; and

(v) for other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single premium immediate annuities stated in Subsection (2)(a)(ii) shall apply.

(b) However, if the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one-half of 1% the calendar year statutory valuation interest rate for such life insurance policies shall be equal to the corresponding actual

rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980, using the reference interest rate defined in 1979, and shall be determined for each subsequent calendar year regardless of when Subsection 31A-22-408(6)(d) becomes operative.

(3) Weighting factors:

(a) The weighting factors referred to in the formulas stated in Subsection (2) are given in the following tables:

(i) (A) Weighting factors for life insurance:

Guarantee Duration (Years)	Weighting Factors
10 or less:	.50
More than 10, but less than 20:	.45
More than 20:	.35

(B) For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values or both which are guaranteed in the original policy;

(ii) Weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options: .80

(iii) Weighting factors for other annuities and for guaranteed interest contracts, except as stated in Subsection (3)(a)(ii), shall be as specified in the tables in Subsections (3)(a)(iii)(A), (B), and (C), according to the rules and definitions in Subsection (3)(b):

(A) For annuities and guaranteed interest contracts valued on an issue year basis:

Guarantee Duration (Years)	Weighting Factors for Plan Type		
	A	B	C
5 or less:	.80	.60	.50
More than 5, but not more than 10:	.75	.60	.50
More than 10, but not more than 20:	.65	.50	.45
More than 20:	.45	.35	.35

(B) For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in Subsection (3)(a)(iii)(A) increased by:

Plan Type	A	B	C
		.15	.25	.05

Plan Type

A B C

(C) For annuities and guaranteed interest contracts valued on an issue year basis, other than those with no cash settlement options, which do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis which do not guarantee interest rates on considerations received more than 12 months beyond the valuation date, the factors shown in Subsection (3)(a)(iii)(A) ordered in Subsection (3)(a)(iii)(B) increased by:

	.05	.05	.05
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(b) (i) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of 20 years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guaranteed duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

(ii) Plan type as used in the [above] tables in this Subsection (3) is defined as follows:

(A) Plan Type A: At any time policyholder may withdraw funds only:

(I) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company;

(II) without such adjustment but in installments over five years or more;

(III) as an immediate life annuity; or

(IV) no withdrawal permitted.

(B) (I) Plan Type B: Before expiration of the interest rate guarantee, policyholder withdraw funds only:

(Aa) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company;

(Bb) without such adjustment but in installments over five years or more; or

(Cc) no withdrawal permitted.

(II) At the end of interest rate guarantee, funds may be withdrawn without such adjustment in a single sum or installments over less than five years.

(C) Plan Type C: Policyholder may withdraw funds before expiration of interest rate guarantee in a single sum or installments over less than five years either:

(I) without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company; or

(II) subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

(iii) A company may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue year basis or on a change in fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options shall be valued on an issue year basis. As used in this section, an issue year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract, and the change in fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

(4) Reference interest rate: "Reference interest rate" referred to in Subsection (2)(a) is defined as follows:

(a) For ~~all~~ life insurance, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year next preceding the year of issue, of the Monthly Average of the composite Yield on Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.

(b) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or year of purchase, of the Monthly Average of the Composite Yield on Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.

(c) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in Subsection (4)(b), with guarantee duration in excess of 10 years, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of the Monthly Average of the Composite Yield on Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.

(d) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in Subsection (4)(b), with guarantee duration of 10 years or less, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of the Monthly Average of the Composite Yield on Seasoned

Corporate Bonds, as published by Moody's Investors Service, Inc.

(e) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of the Monthly Average of the Composite Yield on Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.

(f) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except as stated in Subsection (4)(b), the average over a period of 12 months, ending on June 30 of the calendar year of the change in the fund, of the Monthly Average of the Composite Yield on Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.

(5) Alternative method for determining reference interest rates: In the event that the Monthly Average of the Composite Yield on Seasoned Corporate Bonds is no longer published by Moody's Investors Service, Inc. or in the event that the National Association of Insurance Commissioners determines that the Monthly Average of the Composite Yield on Seasoned Corporate Bonds as published by Moody's Investors Service, Inc. is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate, which is adopted by the National Association of Insurance Commissioners and approved by rule ~~promulgated~~ made by the commissioner, may be substituted.

Section 8. Section 31A-17-507 is amended to read:

31A-17-507. Reserve valuation method -- Life insurance and endowment benefits.

(1) Except as otherwise provided in Sections 31A-17-508, 31A-17-511, and 31A-17-513, reserves according to the commissioner's reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of Subsection (1)(a) over Subsection (1)(b), as follows:

(a) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a

premium falls due; provided, however, that such net level annual premium may not exceed the net level annual premium on the 19 year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such policy.

(b) A net one year term premium for such benefits provided for in the first policy year.

(2) (a) Provided that for any life insurance policy issued on or after January 1, 1997, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the reserve according to the commissioner's reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined ~~herein~~ in this Subsection (2) as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium shall, except as otherwise provided in Section 31A-17-511, be the greater of the reserve as of such policy anniversary calculated as described in Subsection (1) and the reserve as of such policy anniversary calculated as described in that subsection, but with:

~~(a)~~ (i) the value defined in Subsection (1)(a) being reduced by 15% of the amount of such excess first year premium;

~~(b) all~~ (ii) the present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date;

~~(c)~~ (iii) the policy being assumed to mature on such date as an endowment; and

~~(d)~~ (iv) the cash surrender value provided on such date being considered as an endowment benefit.

(b) In making the ~~above~~ comparison described in Subsection (2)(a), the mortality and interest bases stated in Sections 31A-17-504 and 31A-17-506 shall be used.

(3) Reserves according to the commissioner's reserve valuation method for:

(a) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums;

(b) group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408, Internal Revenue Code;

(c) accident and health and accidental death benefits in all policies and contracts; and

(d) ~~all~~ other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by ~~all~~ other annuity and pure endowment contracts, shall be calculated by a method consistent with the principles of Subsections (1) and (2).

Section 9. Section 31A-17-509 is amended to read:

31A-17-509. Minimum reserves.

(1) In no event shall a company's aggregate reserves for ~~all~~ life insurance policies, excluding accident and health and accidental death benefits, issued on or after January 1, 1994, be less than the aggregate reserves calculated in accordance with the methods set forth in Sections 31A-17-507, 31A-17-508, 31A-17-511, and 31A-17-512 and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

(2) In no event shall the aggregate reserves for ~~all~~ policies, contracts, and benefits be less than the aggregate reserves determined by the ~~qualified~~ appointed actuary to be necessary to render the opinion required by Section 31A-17-503.

Section 10. Section 31A-17-510 is amended to read:

31A-17-510. Optional reserve calculation.

(1) Reserves for ~~all~~ policies and contracts issued ~~prior to~~ before January 1, 1994, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for ~~all~~ such policies and contracts than the minimum reserves required by the laws in effect immediately ~~prior to~~ before that date. Reserves for any category of policies, contracts, or benefits as established by the commissioner, issued on or after January 1, 1994, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard ~~herein~~ provided in this part, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, may not be ~~higher~~ greater than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided ~~therein~~ in the policy or contract.

(2) Any such company which at any time shall have adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard ~~herein~~ provided in this part may, with the approval of the commissioner, adopt any lower standard of valuation, but not lower than the minimum ~~herein~~ provided~~;~~ ~~provided, however,~~ in this part, except that, for the purposes of this section, the holding of additional reserves previously determined by ~~a~~ ~~qualified~~ the appointed actuary to be necessary to render the opinion required by Section ~~31A-17-502~~ 31A-17-503 may not be considered to be the adoption of a higher standard of valuation.

Section 11. Section 31A-17-511 is amended to read:

31A-17-511. Reserve calculation -- Valuation net premium exceeding the gross premium charged.

(1) If in any contract year the gross premium charged by any [~~life insurance~~] company on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this section are those standards stated in Sections 31A-17-504 and 31A-17-506.

(2) Provided that for any life insurance policy issued on or after January 1, 1997, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination [~~thereof~~] of an endowment benefit and cash surrender value in an amount greater than such excess premium, [the foregoing provisions of] this section shall be applied as if the method actually used in calculating the reserve for such policy were the method described in Section 31A-17-507, ignoring Subsection 31A-17-507(2). The minimum reserve at each policy anniversary of such a policy shall be the greater of the minimum reserve calculated in accordance with Section 31A-17-507, including Subsection 31A-17-507(2), and the minimum reserve calculated in accordance with this section.

Section 12. Section 31A-17-513 is repealed and reenacted to read:

31A-17-513. Minimum standards for accident and health insurance contracts.

(1) For an accident and health insurance contract issued before the operative date of the valuation manual, the minimum standard of valuation is the standard adopted by the commissioner by rule.

(2) For an accident and health insurance contract issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under Subsection 31A-17-502(2).

Section 13. Section 31A-17-514 is enacted to read:

31A-17-514. Valuation manual for policies issued on or after the operative date of the valuation manual.

(1) For a policy issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under Subsection 31A-17-502(2), except as provided under Subsection (5) or (6).

(2) The operative date of the valuation manual is January 1 of the first calendar year following the first July 1 as of which all of the following have occurred:

(a) the valuation manual is adopted by the National Association of Insurance Commissioners by an affirmative vote of at least 42 members, or three-fourths of the members voting, whichever is greater;

(b) the Standard Valuation Law, as amended by the National Association of Insurance Commissioners in 2009, or legislation including substantially similar terms and provisions, has been enacted by states representing greater than 75% of the direct premiums written as reported in the following annual statements submitted for 2008:

(i) life;

(ii) accident and health annual statements;

(iii) health annual statements; or

(iv) fraternal annual statements; and

(c) the Standard Valuation Law, as amended by the National Association of Insurance Commissioners in 2009, or legislation including substantially similar terms and provisions, has been enacted by at least 42 of the following 55 jurisdictions:

(i) the 50 states of the United States;

(ii) American Samoa;

(iii) the American Virgin Islands;

(iv) the District of Columbia;

(v) Guam; and

(vi) Puerto Rico.

(3) Unless a change in the valuation manual specifies a later effective date, changes to the valuation manual shall be effective on January 1 following the date when the change to the valuation manual has been adopted by the National Association of Insurance Commissioners by an affirmative vote representing:

(a) at least three-fourths of the members of the National Association of Insurance Commissioners voting, but not less than a majority of the total membership; and

(b) members of the National Association of Insurance Commissioners representing

jurisdictions totaling greater than 75% of the direct premiums written as reported in the following annual statements most recently available before the vote in Subsection (3)(a):

- (i) life;
- (ii) accident and health annual statements;
- (iii) health annual statements; or
- (iv) fraternal annual statements.

(4) The valuation manual shall specify all of the following:

(a) minimum valuation standards for and definitions of a policy or contract subject to Subsection 31A-17-502(2), except such minimum valuation standards shall be:

(i) the commissioner's reserve valuation method for life insurance contracts, other than annuity contracts, subject to Subsection 31A-17-502(2);

(ii) the commissioner's annuity reserve valuation method for annuity contracts subject to Subsection 31A-17-502(2); and

(iii) minimum reserves for other policies or contracts subject to Subsection 31A-17-502(2);

(b) which policies or contracts or types of policies or contracts are subject to the requirements of a principle-based valuation in Subsection 31A-17-515(1) and the minimum valuation standards consistent with those requirements;

(c) for policies and contracts subject to a principle-based valuation under Section 31A-17-515:

(i) requirements for the format of reports to the commissioner under Subsection 31A-17-515(2)(c), which shall include information necessary to determine if the valuation is appropriate in compliance with this part;

(ii) prescribed assumptions for risks over which the company does not have significant control; and

(iii) procedures for corporate governance and oversight of the actuarial function, and a process for appropriate waiver or modification of such procedures;

(d) for policies not subject to a principle-based valuation under Section 31A-17-515 the minimum valuation standard shall either:

(i) be consistent with the minimum standard of valuation before the operative date of the valuation manual; or

(ii) develop reserves that quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring;

(e) other requirements, including those relating to reserve methods, models for measuring risk, generation of economic scenarios, assumptions,

margins, use of company experience, risk measurement, disclosure, certifications, reports, actuarial opinions and memorandums, transition rules, and internal controls; and

(f) the data and form of the data required under Section 31A-17-516, with whom the data must be submitted, and may specify other requirements including data analyses and reporting of analyses.

(5) In the absence of a specific valuation requirement or if a specific valuation requirement in the valuation manual is not, in the opinion of the commissioner, in compliance with this part, then the company shall, with respect to the requirement, comply with minimum valuation standards prescribed by the commissioner by rule.

(6) The commissioner may engage a qualified actuary, at the expense of the company, to perform an actuarial examination of the company and opine on the appropriateness of any reserve assumption or method used by the company, or to review and opine on a company's compliance with any requirement set forth in this part. The commissioner may rely upon the opinion, regarding provisions contained within this part, of a qualified actuary engaged by the commissioner of another state, district, or territory of the United States. As used in this Subsection (6), "engage" includes employment and contracting.

(7) The commissioner may require a company to change any assumption or method that in the opinion of the commissioner is necessary in order to comply with the requirements of the valuation manual or this part, and the company shall adjust the reserves as required by the commissioner. The commissioner may take other disciplinary action as permitted pursuant to Section 31A-2-308 and Title 63G, Chapter 4, Administrative Procedures Act.

Section 14. Section 31A-17-515 is enacted to read:

31A-17-515. Requirements of a principle-based valuation.

(1) A company shall establish reserves using a principle-based valuation that meets the following conditions for a policy or contract as specified in the valuation manual:

(a) A company shall quantify the benefits and guarantees, and the funding, associated with the policy or contract and the policy's or contract's risks at a level of conservatism that reflects:

(i) conditions that include unfavorable events that have a reasonable probability of occurring during the lifetime of the policies or contracts; and

(ii) for policies or contracts with significant tail risk, conditions appropriately adverse to quantify the tail risk.

(b) The company shall incorporate assumptions, risk analysis methods, and financial models and management techniques that are consistent with, but not necessarily identical to, those used within the company's overall risk assessment process, while recognizing potential differences in financial

reporting structures and any prescribed assumptions or methods.

(c) The company shall incorporate assumptions that are derived in one of the following manners:

(i) the assumption is prescribed in the valuation manual; and

(ii) for assumptions that are not prescribed, the assumptions shall:

(A) be established using the company's available experience, to the extent it is relevant and statistically credible; or

(B) to the extent that company data is not available, relevant, or statistically credible, be established using other relevant, statistically credible experience.

(d) The company shall provide margins for uncertainty including adverse deviation and estimation error, such that the greater the uncertainty the larger the margin and resulting reserve.

(2) A company using a principle-based valuation for one or more policies or contracts subject to this section as specified in the valuation manual shall:

(a) establish procedures for corporate governance and oversight of the actuarial valuation function consistent with those described in the valuation manual;

(b) provide to the commissioner and the board of directors an annual certification of the effectiveness of the internal controls with respect to the principle-based valuation:

(i) which controls shall be designed to assure that all material risks inherent in the liabilities and associated assets subject to such valuation are included in the valuation, and that valuations are made in accordance with the valuation manual; and

(ii) the certification shall be based on the controls in place as of the end of the preceding calendar year; and

(c) develop, and file with the commissioner upon request, a principle-based valuation report that complies with standards prescribed in the valuation manual.

(3) A principle-based valuation may include a prescribed formulaic reserve component.

Section 15. Section 31A-17-516 is enacted to read:

31A-17-516. Experience reporting for policies in force on or after the operative date of the valuation manual.

A company shall submit mortality, morbidity, policyholder behavior, or expense experience and other data as prescribed in the valuation manual.

Section 16. Section 31A-17-517 is enacted to read:

31A-17-517. Confidentiality.

(1) For purposes of this section, "confidential information" means:

(a) a memorandum in support of an opinion submitted under Section 31A-17-503 and any other document, material, and other information, including working papers, and copies of a document, material, and other information, created, produced, or obtained by or disclosed to the commissioner or any other person in connection with the memorandum;

(b) a document, material, and other information, including working papers, and copies of a document, material, and other information created, produced, or obtained by or disclosed to the commissioner or any other person in the course of an examination made under Subsection 31A-17-514(6), except that if an examination report or other material prepared in connection with an examination made under Sections 31A-2-203 through 31A-2-205 is not held as private and confidential information under Sections 31A-2-203 through 31A-2-205, an examination report or other material prepared in connection with an examination made under Subsection 31A-17-514(6) may not be confidential information to the same extent as if the examination report or other material had been prepared under Sections 31A-2-203 through 31A-2-205;

(c) a report, document, material, or other information developed by a company in support of, or in connection with, an annual certification by the company under Subsection 31A-17-515(2)(b) evaluating the effectiveness of the company's internal controls with respect to a principle-based valuation and any other document, material, and other information, including working papers, and copies of the document, material, and other information, created, produced, or obtained by or disclosed to the commissioner or any other person in connection with such reports, documents, materials, and other information;

(d) any principle-based valuation report developed under Subsection 31A-17-515(2)(c) and any other document, material, and other information, including working papers, and copies of the document, material, and other information, created, produced, or obtained by or disclosed to the commissioner or any other person in connection with such report; and

(e) any document, material, data, and other information submitted by a company under Section 31A-17-516, collectively, "experience data," and any other document, material, data, or other information, including working papers, and copies of the document, material, data, and information created or produced in connection with such experience data, in each case that include any potentially company-identifying or personally identifiable information, that is provided to or obtained by the commissioner, together with any "experience data," the "experience materials," and any other document, material, data, and other information, including working papers, and copies of the document, material, data, and other

information created, produced, or obtained by or disclosed to the commissioner or any other person in connection with such experience materials.

(2) (a) Except as provided in this section, a company's confidential information is confidential, not public records, not open to public inspection, and not subject to Title 63G, Chapter 2, Government Records Access and Management Act.

(b) The commissioner is authorized to use the confidential information in the furtherance of any regulatory or legal action brought against the company as a part of the commissioner's official duties.

(c) In order to assist in the performance of the commissioner's duties, the commissioner may share confidential information:

(i) with other state, federal, and international regulatory agencies and with the National Association of Insurance Commissioners and its affiliates and subsidiaries;

(ii) in the case of confidential information specified in Subsections (1)(a) and (1)(d) only, with the Actuarial Board for Counseling and Discipline or its successor, upon request, stating that the confidential information is required for the purpose of professional disciplinary proceedings and with state, federal, and international law enforcement officials; and

(iii) in the case of Subsections (2)(c)(i) and (ii), provided that the recipient agrees, and has the legal authority to agree, to maintain the confidentiality of a document, material, data, and other information in the same manner and to the same extent as required for the commissioner.

(d) The commissioner may receive a document, material, data, and other information, including an otherwise confidential document, material, data, or information, from the National Association of Insurance Commissioners and its affiliates and subsidiaries, from regulatory or law enforcement officials of other foreign or domestic jurisdictions and from the Actuarial Board for Counseling and Discipline or its successor and shall maintain as confidential any document, material, data, or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or other information.

(e) The commissioner may enter into agreements governing sharing and use of information consistent with this Subsection (2).

(f) No waiver of an applicable privilege or claim of confidentiality in the confidential information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in Subsection (2)(c).

(g) A privilege established under the law of any state or jurisdiction that is substantially similar to the confidentiality established under this Subsection (2) shall be available and enforced in any proceeding in, and in any court of, this state.

(h) In this section "regulatory agency," "law enforcement agency," and the "National Association of Insurance Commissioners" include their employees, agents, consultants, and contractors.

(3) Notwithstanding Subsection (2), confidential information specified in Subsections (1)(a) and (1)(d):

(a) may be subject to subpoena for the purpose of defending an action seeking damages from the appointed actuary who submitted the related memorandum in support of an opinion submitted under Section 31A-17-503 or principle-based valuation report developed under Subsection 31A-17-515(2)(c) by reason of an action required by this part or by rules made under this part;

(b) may otherwise be released by the commissioner with the written consent of the company; and

(c) once any portion of a memorandum in support of an opinion submitted under Section 31A-17-503 or a principle-based valuation report developed under Subsection 31A-17-515(2)(c) is cited by the company in its marketing or is publicly volunteered to or before a governmental agency other than a state insurance department or is released by the company to the news media, all portions of the memorandum or report shall no longer be confidential.

Section 17. Section 31A-17-518 is enacted to read:

31A-17-518. Single state exemption.

(1) The commissioner may exempt specific product forms or product lines of a domestic company that is licensed and doing business only in Utah from the requirements of Section 31A-17-514 provided:

(a) the commissioner has issued an exemption in writing to the company and has not subsequently revoked the exemption in writing; and

(b) the company computes reserves using assumptions and methods used before the operative date of the valuation manual in addition to any requirements established by the commissioner and made by rule.

(2) For any company granted an exemption under this section, Sections 31A-17-503, 31A-17-504, 31A-17-505, 31A-17-506, 31A-17-507, 31A-17-508, 31A-17-509, 31A-17-510, 31A-17-511, 31A-17-512, and 31A-17-513 are applicable. With respect to any company applying this exemption, any reference to Section 31A-17-514 found in Sections 31A-17-503, 31A-17-504, 31A-17-505, 31A-17-506, 31A-17-507, 31A-17-508, 31A-17-509, 31A-17-510, 31A-17-511, 31A-17-512, and 31A-17-513 is not applicable.

Section 18. Section 31A-17-519 is enacted to read:

31A-17-519. Small company exemption.

(1) A company that is licensed and doing business in Utah, and whose reserves are computed subject

to the requirements of Subsection 31A-17-502(2), may hold reserves for life insurance policies based on the mortality tables and interest rates defined by the valuation manual for net premium reserves and using the methodology defined in Sections 31A-17-507 through 31A-17-512 as they apply to ordinary life insurance in lieu of the reserves required by Sections 31A-17-514 and 31A-17-515, provided that all of the following conditions have been met:

(a) the company has less than \$300,000,000 of ordinary life premium;

(b) if the company is a member of a group of life insurers, the group has combined ordinary life premiums of less than \$600,000,000;

(c) the company reported total adjusted capital of at least 450% of Authorized Control Level Risk Based Capital in the risk-based capital report for the prior calendar year;

(d) the appointed actuary has provided an unqualified opinion on the reserves in accordance with Subsection 31A-17-503(2) for the prior calendar year;

(e) the company has provided a certification by a qualified actuary that any universal life policy with a secondary guarantee issued after the operative date of the valuation manual meets the definition of a non-material secondary guarantee universal life product as defined in the valuation manual;

(f) the company has filed by July 1 of the calendar year for which valuation under Subsection 31A-17-502(2) is required a statement with its domiciliary commissioner certifying that these conditions are met and that the company intends to calculate reserves as described in this section; and

(g) the company's domiciliary commissioner has not informed the company in writing before September 1 of the calendar year for which valuation under Subsection 31A-17-502(2) is required that the company must comply with the valuation manual requirements for life insurance reserves.

(2) For purposes of Subsections (1)(a) and (b), ordinary life premiums are measured as direct premium plus reinsurance assumed from an unaffiliated company, as reported in the prior calendar year annual statement.

Section 19. Section 31A-22-408 is amended to read:

31A-22-408. Standard Nonforfeiture Law for Life Insurance.

(1) (a) This section is known as the "Standard Nonforfeiture Law for Life Insurance." [H]

(b) This section does not apply to group life insurance.

(c) As used in this section, "operative date of the valuation manual" means the same as that term is described in Subsection 31A-17-514(2).

(2) In the case of policies issued on or after July 1, 1961, no policy of life insurance, except as stated in Subsection (8), may be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the defaulting or surrendering policyholder as are the minimum requirements [hereinafter] specified in this section, and are essentially in compliance with Subsection (8):

(a) That, in the event of default in any premium payment, after premiums have been paid for at least one full year the company will grant, upon proper request not later than 60 days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such amount as is specified in this section. In lieu of that stipulated paid-up nonforfeiture benefit, the company may substitute, upon proper request not later than 60 days after the due date of the premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit which provides a greater amount or longer period of death benefits or, if applicable, a greater amount or earlier payment of endowment benefits.

(b) That, upon surrender of the policy within 60 days after the due date of any premium payment in default after premiums have been paid for at least three full years in the case of ordinary insurance or five full years in the case of industrial insurance, the company will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as is specified in this section.

(c) That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than 60 days after the due date of the premium in default.

(d) That, if the policy shall have been paid by the completion of all premium payments or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, the company will pay upon surrender of the policy within 30 days after any policy anniversary, a cash surrender value in the amount specified in this section.

(e) In the case of policies which cause, on a basis guaranteed in the policy, unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, a statement of the mortality table, interest rate, and method used in calculating cash surrender values and the paid-up nonforfeiture benefits available under the policy. In the case of [aH] other policies, a statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary either during the first 20 policy years or during the term of the policy, whichever is shorter, such values and benefits to be

calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the company on the policy.

(f) A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of the state in which the policy is delivered; an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the company on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated [therein] in the policy, a statement that such method of computation has been filed with the insurance supervisory official of the state in which the policy is delivered; and a statement of the method to be used in calculating the cash surrender value and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

(g) Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy.

(h) The company shall reserve the right to defer the payment of any cash surrender value for a period of six months after demand therefor with surrender of the policy with the consent of the commissioner; provided, however, that the policy shall remain in full force and effect until the insurer has made the payment.

(3) (a) Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary, whether or not required by Subsection (2), shall be an amount not less than the excess, if any, of the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions, if there had been no default, over the sum of:

(i) the then present value of the adjusted premiums as defined in Subsections (5) and (6), corresponding to premiums which would have fallen due on and after such anniversary; and

(ii) the amount of any indebtedness to the company on the policy.

(b) Provided, however, that for any policy issued on or after the operative date of Subsection (6)(d) as defined [therein] in Subsection (6)(d), which provides supplemental life insurance or annuity benefits at the option of the insured and for an identifiable additional premium by rider or supplemental policy provision, the cash surrender value referred to in Subsection (3)(a) shall be an amount not less than the sum of the cash surrender value as defined in Subsection (3)(a) for an otherwise similar policy issued at the same age without such rider or supplemental policy provision

and the cash surrender value as defined in Subsection (3)(a) for a policy which provides only the benefits otherwise provided by such rider or supplemental policy provision.

(c) Provided, further, that for any family policy issued on or after the operative date of Subsection (6)(d) as defined [therein] in Subsection (6)(d), which defines a primary insured and provides term insurance on the life of the spouse of the primary insured expiring before the spouse's age 71, the cash surrender value referred to in Subsection (3)(a) shall be an amount not less than the sum of the cash surrender value as defined in Subsection (3)(a) for an otherwise similar policy issued at the same age without such term insurance on the life of the spouse and the cash surrender value as defined in Subsection (3)(a) for a policy which provides only the benefits otherwise provided by such term insurance on the life of the spouse.

(d) Any cash surrender value available within 30 days after any policy anniversary under any policy paid-up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefit, whether or not required by Subsection (2) shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the company on the policy.

(4) Any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then provided for by the policy or, if none is provided for, that cash surrender value which would have been required by this section in the absence of the condition that premiums shall have been paid for at least a specified period.

(5) (a) (i) This Subsection (5) does not apply to policies issued on or after the operative date of Subsection (6)(d) as defined [therein] in Subsection (6)(d).

(ii) Except as provided in Subsection (5)(c), the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding any extra premiums charged because of impairments or special hazards, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of:

(A) the then present value of the future guaranteed benefits provided for by the policy;

(B) 2% of the amount of insurance, if the insurance be uniform in amount, or of the equivalent uniform amount if the amount of insurance varies with duration of the policy;

(C) 40% of the adjusted premium for the first policy year; and

(D) 25% of either the adjusted premium for the first policy year or the adjusted premium for a whole

life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less.

(iii) Provided, however, that in applying the percentages specified in Subsections (5)(a)(ii)(C) and (D), no adjusted premium shall be considered to exceed 4% of the amount of insurance or uniform amount equivalent thereto. The date of issue of a policy for the purpose of this Subsection (5) shall be the date as of which the rated age of the insured is determined.

(b) In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent uniform amount thereof for the purpose of this Subsection (5) shall be considered to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy; provided, however, that in the case of a policy providing a varying amount of insurance issued on the life of a child under age 10, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy ~~prior to~~ before the attainment of age 10 were the amount provided by such policy at age 10.

(c) (i) The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to the sum of:

(A) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits~~], increased~~; and

(B) during the period for which premiums for such term insurance benefits are payable, the adjusted premiums for such term insurance.

(ii) The foregoing items (A) and (B) of Subsection (5)(c)(i) being calculated separately and as specified in Subsections (5)(a) and (b) except that, for the purposes of (B), (C), and (D) of Subsection (5)(a)(ii), the amount of insurance or equivalent uniform amount of insurance used in calculation of the adjusted premiums referred to in (B) of Subsection (5)~~(c)(i)~~(a)(ii) shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in (A) of ~~this~~ Subsection (5)(c)(i).

(d) Except as otherwise provided in Subsection (6), all adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the Commissioner's 1941 Standard Ordinary Mortality Table, provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than three years younger than the actual age of the insured and such

calculations for all policies of industrial insurance shall be made on the basis of the 1941 Standard Industrial Mortality Table. All calculations shall be made on the basis of the rate of interest, not exceeding 3-1/2% per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than 130% of the rates of mortality according to such applicable table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

(6) (a) This Subsection (6)(a) does not apply to ordinary policies issued on or after the operative date of Subsection (6)(d) as defined ~~therein~~ in Subsection (6)(d). In the case of ordinary policies issued on or after the operative date of Subsection (6)(a) as defined in Subsection (6)(b), all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioner's 1958 Standard Ordinary Mortality Table and the rate of interest as specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided that such rate of interest may not exceed 3-1/2% per annum for policies issued before June 1, 1973, 4% per annum for policies issued on or after May 31, 1973, and before April 2, 1980, and the rate of interest may not exceed 5-1/2% per annum for policies issued after April 2, 1980, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding 6-1/2% per annum may be used, and provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than six years younger than the actual age of the insured. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioner's 1958 Extended Term Insurance Table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

(b) Any company may file with the commissioner a written notice of its election to comply with the provisions of Subsection (6)(a) after a specified date before January 1, 1966. After filing such notice, then upon such specified date, which is the operative date of Subsection (6)(a) for such company, this Subsection (6)(a) shall become operative with respect to the ordinary policies thereafter issued by such company. If a company makes no such election, the operative date of Subsection (6)(a) for such company is January 1, 1966.

(c) (i) This Subsection (6)(c) does not apply to industrial policies issued after the operative date of Subsection (6)(d) as defined ~~[therein]~~ in Subsection (6)(d). In the case of industrial policies issued on or after the operative date of this Subsection (6)(c) as defined ~~[herein]~~ in this Subsection (6)(c), all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioner's 1961 Standard Industrial Mortality Table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided that such rate of interest may not exceed 3-1/2% per annum for policies issued before June 1, 1973, 4% per annum for policies issued after May 31, 1973, and before April 2, 1980, and 5-1/2% per annum for policies issued after April 2, 1980, except that for any single premium whole life or endowment insurance policy issued after April 2, 1980, a rate of interest not exceeding 6-1/2% per annum may be used. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioner's 1961 Industrial Extended Term Insurance Table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

(ii) Any company may file with the commissioner a written notice of its election to comply with the provisions of this Subsection (6)(c) after a specified date before January 1, 1968. After filing such notice, then upon that specified date, which is the operative date of this Subsection (6)(c) for such company, this Subsection (6)(c) shall become operative with respect to the industrial policies thereafter issued by such company. If a company makes no such election, the operative date of this Subsection (6)(c) for such company shall be January 1, 1968.

(d) (i) This Subsection (6)(d) applies to all policies issued on or after the operative date of this Subsection (6)(d) as defined ~~[herein]~~ in this Subsection (6)(d). Except as provided in Subsection (6)(d)(vii), the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of policy, of all adjusted premiums shall be equal to the sum of:

(A) the then present value of the future guaranteed benefits provided for by the policy;

(B) 1% of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years; and

(C) 125% of the nonforfeiture net level premium as ~~[hereinafter]~~ defined ~~[- Provided, however,]~~ in Subsection (6)(d)(iii), except that in applying the percentage specified in this Subsection (6)(d)(i)(C), no nonforfeiture net level premium shall be considered to exceed 4% of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years.

(ii) The date of issue of a policy for the purpose of this Subsection (6)(d) shall be the date as of which the rated age of the insured is determined.

~~(iii)~~ (iii) The nonforfeiture net level premium shall be equal to the present value, at the date of issue of the policy, of the guaranteed benefits provided for by the policy divided by the present value, at the date of issue of the policy, of an annuity of one per annum payable on the date of issue of the policy and on each anniversary of such policy on which a premium falls due.

~~(iv)~~ (iv) In the case of policies which cause on a basis guaranteed in the policy unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than change to a new policy, the adjusted premiums and present values shall initially be calculated on the assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy. At the time of any such change in the benefits or premiums the future adjusted premiums, nonforfeiture net level premiums, and present values shall be recalculated on the assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.

~~(v)~~ (v) Except as otherwise provided in Subsection (6)(d)~~(vii)~~(viii), the recalculated future adjusted premiums for any such policy shall be such uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards, and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the time of change to the newly defined benefits or premiums, of all such future adjusted premiums shall be equal to the excess of:

(A) the sum of:

(I) the then present value of the then future guaranteed benefits provided for by the policy; and

(II) the additional expense allowance, if any; over

(B) the then cash surrender value, if any, or present value of any paid-up nonforfeiture benefit under the policy.

~~[(v)]~~ (vi) The additional expense allowance, at the time of the change to the newly defined benefits or premiums, shall be the sum of:

(A) 1% of the excess, if positive, of the average amount of insurance at the beginning of each of the first 10 policy years subsequent to the change over the average amount of insurance ~~[prior to]~~ before the change at the beginning of each of the first 10 policy years subsequent to the time of the most recent previous change, or, if there has been no previous change, the date of issue of the policy; and

(B) 125% of the increase, if positive, in the nonforfeiture net level premium.

~~[(vi)]~~ (vii) The recalculated nonforfeiture net level premium shall be equal to:

(A) the sum of:

(I) the nonforfeiture net level premium applicable ~~[prior to]~~ before the change times the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of the change on which a premium would have fallen due had the change not occurred; and

(II) the present value of the increase in future guaranteed benefits provided for by the policy; divided by

(B) the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of change on which a premium falls due.

~~[(vii)]~~ (viii) Notwithstanding any other provision of this Subsection (6)(d) to the contrary, in the case of a policy issued on a substandard basis which provides reduced graded amounts of insurance so that, in each policy year, such policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis which provides higher uniform amounts of insurance, adjusted premiums and present values for such substandard policy may be calculated as if it were issued to provide such higher uniform amounts of insurance on the standard basis.

~~[(viii)—All]~~ (ix) Any adjusted premiums and present values referred to in this section shall:

(A) for ~~[all]~~ policies of ordinary insurance be calculated on the basis of:

(I) the Commissioner's 1980 Standard Ordinary Mortality Table; or

(II) at the election of the company for any one or more specified plans of life insurance, the Commissioner's 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors;

(B) for all policies of industrial insurance be calculated on the basis of the Commissioner's 1961 Standard Industrial Mortality Table; and

(C) for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in Subsection (6)(d)~~[(x)]~~(xi), for policies issued in that calendar year.

~~[(ix)]~~ (x) Notwithstanding Subsection (6)(d)~~[(viii)]~~(ix):

(A) At the option of the company, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in Subsection (6)(d)~~[(x)]~~(xi), for policies issued in the immediately preceding calendar year.

(B) Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by Subsection (2), shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of such paid-up nonforfeiture benefit and paid-up dividend additions, if any.

(C) A company may calculate the amount of any guaranteed paid-up nonforfeiture benefit, including paid-up additions under the policy, on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values.

(D) In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioner's 1980 Extended Term Insurance Table for policies of ordinary insurance and not more than the Commissioner's 1961 Industrial Extended Term Insurance Table for policies of industrial insurance.

(E) For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on appropriate modifications of the aforementioned tables.

(F) ~~[Any ordinary mortality tables]~~ For a policy issued before the operative date of the valuation manual, a Commissioner's Standard Ordinary Mortality Tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by rules adopted by the commissioner for use in determining the minimum nonforfeiture standard, may be substituted for the Commissioner's 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioner's 1980 Extended Term Insurance Table. For a policy issued on or after the operative date of the valuation manual, the valuation manual shall provide the Commissioner's Standard Mortality Table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioner's 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioner's 1980 Extended Term Insurance Table. If the commissioner approves by rule any Commissioner's Standard Ordinary Mortality Table adopted by the National Association of Insurance Commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

(G) ~~[Any industrial mortality tables]~~ For a policy issued before the operative date of the valuation manual, any Commissioner's Standard Industrial Mortality Tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by rules adopted by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioner's 1961 Industrial Extended Term Insurance Table. For a policy issued on or after the operative date of the valuation manual, the valuation manual shall provide the Commissioner's Standard Mortality Table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioner's 1961 Standard Industrial Mortality Table or the Commissioner's 1961 Industrial Extended Term Insurance Table. If the commissioner approves by rule any Commissioner's Standard Industrial Mortality Table adopted by the National Association of Insurance Commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

~~[(x)]~~ (xi) The nonforfeiture interest rate is defined in this Subsection (6)(d)(xi):

(A) for a policy issued before the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to 125% of the calendar year statutory valuation interest rate for such policy as defined in the Standard Valuation Law, rounded to the nearest one-fourth of 1%[-], except that the nonforfeiture interest rate may not be less than 4%; and

(B) for a policy issued on and after the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be provided by the valuation manual.

~~[(xii)]~~ (xii) Notwithstanding any other provision in this title to the contrary, any refiling of nonforfeiture values or their methods of computation for any previously approved policy form which involves only a change in the interest rate or mortality table used to compute nonforfeiture values does not require refiling of any other provisions of that policy form.

~~[(xiii)]~~ (xiii) After the effective date of this Subsection (6)(d), any company may, at any time before January 1, 1989, file with the commissioner a written notice of its election to comply with the provisions of this subsection with regard to any number of plans of insurance after a specified date before January 1, 1989, which specified date shall be the operative date of this Subsection (6)(d) for the plan or plans, but if a company elects to make the provisions of this subsection operative before January 1, 1989, for fewer than all plans, the company shall comply with rules adopted by the commissioner. There is no limit to the number of times this election may be made. If the company makes no such election, the operative date of this

subsection for such company shall be January 1, 1989.

(7) In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurance company based on the estimates of future experience, or in the case of any plan of life insurance which is of such nature that minimum values cannot be determined by the methods described in Subsection (2), (3), (4), (5), (6)(a), (6)(b), (6)(c), or (6)(d) ~~[herein]~~, then:

(a) the insurer shall demonstrate to the satisfaction of the commissioner that the benefits provided under the plan are substantially as favorable to policyholders and insureds as the minimum benefits otherwise required by Subsection (2), (3), (4), (5), (6)(a), (6)(b), (6)(c), or (6)(d);

(b) the plan of life insurance shall satisfy the commissioner that the benefits and the pattern of premiums of that plan are not such as to mislead prospective policyholders or insureds; and

(c) the cash surrender values and paid-up nonforfeiture benefits provided by the plan may not be less than the minimum values and benefits required for the plan computed by a method consistent with the principles of this Standard Nonforfeiture Law for Life Insurance, as determined by rules adopted by the commissioner.

(8) (a) (i) Any cash surrender value and any paid-up nonforfeiture benefit, available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary.

(ii) All values referred to in Subsections (3), (4), (5), and (6) may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death.

(iii) The net value of any paid-up additions, other than paid-up term additions, may not be less than the amounts used to provide such additions.

(b) Notwithstanding the provisions of Subsection (3), additional benefits specified in Subsection (8)(c) and premiums for all such additional benefits shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

(c) Additional benefits referred to in Subsection (8)(b) include benefits payable:

(i) in the event of death or dismemberment by accident or accidental means;

(ii) in the event of total and permanent disability;

(iii) as reversionary annuity or deferred reversionary annuity benefits;

(iv) as term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply;

(v) as term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if such term insurance expires before the child's age is 26, if uniform in amount after the child's age is one, and has not become paid-up by reason of the death of a parent of the child; and

(vi) as other policy benefits additional to life insurance endowment benefits.

(9) (a) This Subsection (9), in addition to all other applicable subsections of this section, applies to all policies issued on or after January 1, 1985. Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary shall be in an amount which does not differ by more than 2/10 of 1% of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years, from the sum of:

(i) the greater of zero and the basic cash value [hereinafter] specified in Subsection (9)(b); and

(ii) the present value of any existing paid-up additions less the amount of any indebtedness to the company under the policy.

(b) The basic cash value shall be equal to the present value, on such anniversary of the future guaranteed benefits which would have been provided for by the policy, excluding any existing paid-up additions and before deduction of any indebtedness to the company, if there had been no default, less the then present value of the nonforfeiture factors, as [hereinafter] defined in Subsection (9)(c), corresponding to premiums which would have fallen due on and after such anniversary. Provided, however, that the effects on the basic cash value of supplemental life insurance or annuity benefits or of family coverage, as described in Subsection (3) or (5), whichever is applicable, shall be the same as are the effects specified in Subsection (3) or (5), whichever is applicable, on the cash surrender values defined in that subsection.

(c) The nonforfeiture factor for each policy year shall be an amount equal to a percentage of the adjusted premium for the policy year, as defined in Subsection (5) or (6)(d), whichever is applicable. Except as is required by the next succeeding sentence of this paragraph, such percentage:

(i) shall be the same percentage for each policy year between the second policy anniversary and the later of:

(A) the fifth policy anniversary; and

(B) the first policy anniversary at which there is available under the policy a cash surrender value in an amount, before including any paid-up additions and before deducting any indebtedness, of at least 2/10 of 1% of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years; and

(ii) shall be such that no percentage after the later of the two policy anniversaries specified in Subsection (9)(a) may apply to fewer than five consecutive policy years.

(d) Provided, that no basic cash value may be less than the value which would be obtained if the adjusted premiums for the policy, as defined in Subsection (5) or Subsection (6)(d), whichever is applicable, were substituted for the nonforfeiture factors in the calculation of the basic value.

(e) All adjusted premiums and present values referred to in this Subsection (9) shall for a particular policy be calculated on the same mortality and interest bases as are used in demonstrating the policy's compliance with the other subsections of this nonforfeiture law. The cash surrender values referred to in this Subsection (9) shall include any endowment benefits provided for by the policy.

(f) Any cash surrender value available other than in the event of default in a premium payment due on a policy anniversary, and the amount of any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment shall be determined in manners consistent with the manners specified for determining the analogous minimum amounts in Subsections (2), (3), (4), (5), (6), and (8). The amounts of any cash surrender values and of any paid-up nonforfeiture benefits granted in connection with additional benefits such as those listed as Subsection (8)(c) shall conform with the principles of this Subsection (9).

(10) (a) This section does not apply to any of the following:

(i) reinsurance;

(ii) group insurance;

(iii) pure endowment;

(iv) an annuity or reversionary annuity contract;

(v) a term policy of uniform amount, which provides no guaranteed nonforfeiture or endowment benefits, or renewal thereof, of 20 years or less expiring before age 71, for which uniform premiums are payable during the entire term of the policy;

(vi) a term policy of decreasing amount, which provides no guaranteed nonforfeiture or endowment benefits, on which each adjusted premium, calculated as specified in Subsections (5) and (6), is less than the adjusted premium so calculated, on a term policy of uniform amount, or renewal thereof, which provides no guaranteed nonforfeiture or endowment benefits, issued at the same age and for the same initial amount of insurance, and for a term of 20 years or less expiring before age 71, for which uniform premiums are payable during the entire term of the policy;

(vii) a policy, which provides no guaranteed nonforfeiture or endowment benefits, for which no cash surrender value, if any, or present value of any paid-up nonforfeiture benefit, at the beginning of any policy year, calculated as specified in Subsections (3), (4), (5), and (6) exceeds 2-1/2% of

the amount of insurance at the beginning of the same policy year; or

(viii) a policy which shall be delivered outside this state through an agent or other representative of the company issuing the policy.

(b) For purposes of determining the applicability of this section, the age of expiry for a joint term insurance policy shall be the age of expiry of the oldest life.

(11) The commissioner may adopt rules interpreting, describing, and clarifying the application of this nonforfeiture law to any form of life insurance for which the interpretation, description, or clarification is considered necessary by the commissioner, including unusual and new forms of life insurance.

CHAPTER 164**H. B. 440**

Passed March 9, 2016
 Approved March 22, 2016
 Effective May 10, 2016

**SUICIDE PREVENTION
AND GUN DATA STUDY**

Chief Sponsor: Brian S. King
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies the duties of the state suicide prevention coordinator.

Highlighted Provisions:

This bill:

- ▶ requires the state suicide prevention coordinator to conduct a study on violent incidents that involve a gun;
- ▶ authorizes the state suicide prevention coordinator to contract with a state agency, private entity, or research institution to assist in the study;
- ▶ requires reports to the Health and Human Services Interim Committee; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

62A-15-1101, as last amended by Laws of Utah 2015, Chapter 85

ENACTS:

62A-15-1102, Utah Code Annotated 1953

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

Section 1. Section 62A-15-1101 is amended to read:**62A-15-1101. Suicide prevention -- Reporting requirements.**

(1) As used in the section:

(a) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

(b) "Division" means the Division of Substance Abuse and Mental Health.

(c) "Intervention" means an effort to prevent a person from attempting suicide.

(d) "Postvention" means mental health intervention after a suicide attempt or death to prevent or contain contagion.

(e) "State suicide prevention coordinator" means an individual designated by the division as described in Subsections (2) and (3).

(2) The division shall appoint a state suicide prevention coordinator to administer a state suicide

prevention program composed of suicide prevention, intervention, and postvention programs, services, and efforts.

(3) The state suicide prevention program may include the following components:

(a) delivery of resources, tools, and training to community-based coalitions;

(b) evidence-based suicide risk assessment tools and training;

(c) town hall meetings for building community-based suicide prevention strategies;

(d) suicide prevention gatekeeper training;

(e) training to identify warning signs and to manage an at-risk individual's crisis;

(f) evidence-based intervention training;

(g) intervention skills training; and

(h) postvention training.

(4) The state suicide prevention coordinator shall coordinate with ~~at least~~ the following to gather statistics, among other duties:

(a) local mental health and substance abuse authorities;

(b) the State Board of Education, including the State Office of Education suicide prevention coordinator described in Section 53A-15-1301;

(c) the Department of Health;

(d) health care providers, including emergency rooms; ~~and~~

(e) federal agencies, including the Federal Bureau of Investigation;

(f) other unbiased sources; and

~~(e)~~ (g) other public health suicide prevention efforts.

(5) The state suicide prevention coordinator shall provide a written report, and shall orally report to the Health and Human Services Interim Committee, by the October meeting every year, on:

(a) implementation of the state suicide prevention program, as described in Subsections (2) and (3);

(b) data measuring the effectiveness of each component of the state suicide prevention program;

(c) funds appropriated for each component of the state suicide prevention program; and

(d) five-year trends of suicides in Utah, including subgroups of youths and adults and other subgroups identified by the state suicide prevention coordinator.

(6) The state suicide prevention coordinator shall report to the Legislature's:

(a) Education Interim Committee, by the October 2015 meeting, jointly with the State Board of Education, on the coordination of suicide prevention programs and efforts with the State

Board of Education and the State Office of Education suicide prevention coordinator as described in Section 53A-15-1301[-]; and

(b) Health and Human Services Interim Committee, by the October 2017 meeting, statistics on the number of annual suicides in Utah, including how many suicides were committed with a gun, and if so:

(i) where the victim procured the gun and if the gun was legally possessed by the victim;

(ii) if the victim purchased the gun legally and whether a background check was performed before the victim purchased the gun;

(iii) whether the victim had a history of mental illness or was under the treatment of a mental health professional;

(iv) whether any medication or illegal drugs or alcohol were also involved in the suicide; and

(v) if the suicide incident also involved the injury or death of another individual, whether the shooter had a history of domestic violence.

(7) The state suicide prevention coordinator shall consult with the bureau to implement and manage the operation of a firearm safety program, as described in Subsection 53-10-202(18) and Section 53-10-202.1.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules governing the implementation of the state suicide prevention program, consistent with this section.

Section 2. Section 62A-15-1102 is enacted to read:

62A-15-1102. Study on gun use -- Report.

(1) As used in this section:

(a) “Coordinator” means the state suicide prevention coordinator described in Section 62A-15-1101.

(b) “Legal intervention” means an incident in which an individual is shot by another individual who has legal authority to use deadly force.

(c) “Shooter” means an individual who uses a gun in an act that results in the death of the actor or another individual, whether the act was a suicide, homicide, legal intervention, act of self-defense, or accident.

(2) The coordinator shall, by October 30, 2018, conduct a study on use of guns in the state and on an ongoing basis report on the progress and findings of the study to the Health and Human Services Interim Committee.

(3) By October 30, 2016, the coordinator shall:

(a) determine what information, and from which state, local, and federal agencies, will be necessary to complete the study;

(b) determine how much the study will cost;

(c) make recommendations for legislation, if any, that will be necessary to facilitate information-sharing between local, state, federal, and private entities and the coordinator; and

(d) report the findings described in Subsections (3)(a) through (c) to the Health and Human Services Interim Committee.

(4) The study described in Subsection (2) shall investigate:

(a) the number of deaths in the state that involved a gun, including deaths from suicide, homicide including gang-related violence, legal intervention, self-defense, and accidents;

(b) where and how a gun that was involved in a death described in Subsection (4)(a) was procured, and whether that procurement was legal;

(c) demographic information on the shooter and, where applicable, a victim of a death described in Subsection (4)(a), including gender, race, age, criminal history, and gang affiliation, if any;

(d) the total estimated number of gun owners in the state;

(e) information on the shooter, including whether the shooter has a history of:

(i) mental illness; or

(ii) domestic violence; and

(f) whether gun deaths are seasonal.

(5) The coordinator shall ensure that the study described in Subsection (2) is conducted in an unbiased manner, with no preconceived conclusions about potential results.

(6) The coordinator may contract with another state agency, private entity, or research institution to assist the coordinator and office with the study required by Subsection (2).

(7) (a) The coordinator shall submit a final report on the study described in Subsection (2), including proposed legislation and recommendations, to the Health and Human Services Interim Committee before November 30, 2018.

(b) The final report shall include references to all sources of information and data used in the report and study.

CHAPTER 165**H. B. 460**

Passed March 9, 2016
Approved March 22, 2016
Effective May 10, 2016

**SCHOOL RESOURCE OFFICERS
AND SCHOOL ADMINISTRATORS
TRAINING AND AGREEMENT**

Chief Sponsor: Sandra Hollins
Senate Sponsor: Daniel W. Thatcher

LONG TITLE**General Description:**

This bill enacts provisions regarding a law enforcement officer who provides police services to a public school.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ enacts provisions that require:
 - the State Board of Education to create a certain training program relating to a law enforcement officer who provides police services to a public school; and
 - a contract for a law enforcement officer to provide police services to a public school to contain certain provisions; and
- ▶ gives rulemaking authority.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53A-11-1601, Utah Code Annotated 1953
53A-11-1602, Utah Code Annotated 1953
53A-11-1603, Utah Code Annotated 1953
53A-11-1604, Utah Code Annotated 1953

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

Section 1. Section 53A-11-1601 is enacted to read:**Part 16. School Resource Officers****53A-11-1601. Title.**

This part is known as "School Resource Officers."

Section 2. Section 53A-11-1602 is enacted to read:**53A-11-1602. Definitions.**

As used in this section:

- (1) "Governing authority" means:
- (a) for a school district, the local school board;
 - (b) for a charter school, the governing board; or
 - (c) for the Utah Schools for the Deaf and the Blind, the State Board of Education.

(2) "Law enforcement agency" means the same as that term is defined in Section 53-1-102.

(3) "Local education agency" or "LEA" means:

- (a) a school district;
- (b) a charter school; or
- (c) the Utah Schools for the Deaf and the Blind.

(4) "School resource officer" or "SRO" means a law enforcement officer, as defined in Section 53-13-103, who contracts with or whose law enforcement agency contracts with an LEA to provide law enforcement services for the LEA.

Section 3. Section 53A-11-1603 is enacted to read:**53A-11-1603. School resource officer training -- Curriculum.**

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules that prepare and make available a training program for school principals and school resource officers to attend.

(2) To create the curriculum and materials for the training program described in Subsection (1), the State Board of Education shall:

(a) work in conjunction with the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201;

(b) solicit input from local school boards, charter school governing boards, and the Utah Schools for the Deaf and the Blind;

(c) solicit input from local law enforcement and other interested community stakeholders; and

(d) consider the current United States Department of Education recommendations on school discipline and the role of a school resource officer.

(3) The training program described in Subsection (1) may include training on the following:

- (a) childhood and adolescent development;
- (b) responding age-appropriately to students;
- (c) working with disabled students;
- (d) techniques to de-escalate and resolve conflict;
- (e) cultural awareness;
- (f) restorative justice practices;
- (g) identifying a student exposed to violence or trauma and referring the student to appropriate resources;
- (h) student privacy rights;
- (i) negative consequences associated with youth involvement in the juvenile and criminal justice systems;
- (j) strategies to reduce juvenile justice involvement; and
- (k) roles of and distinctions between a school resource officer and other school staff who help keep a school secure.

Section 4. Section 53A-11-1604 is enacted to read:**53A-11-1604. Contracts between an LEA and law enforcement for school resource officer services -- Requirements.**

(1) An LEA may contract with a law enforcement agency or an individual to provide school resource officer services at the LEA if the LEA's governing authority reviews and approves the contract.

(2) If an LEA contracts with a law enforcement agency or an individual to provide SRO services at the LEA, the LEA's governing authority shall require in the contract:

(a) an acknowledgment by the law enforcement agency or the individual that an SRO hired under the contract shall:

(i) provide for and maintain a safe, healthy, and productive learning environment in a school;

(ii) act as a positive role model to students;

(iii) work to create a cooperative, proactive, and problem-solving partnership between law enforcement and the LEA;

(iv) emphasize the use of restorative approaches to address negative behavior; and

(v) at the request of the LEA, teach a vocational law enforcement class;

(b) a description of the shared understanding of the LEA and the law enforcement agency or individual regarding the roles and responsibilities of law enforcement and the LEA to:

(i) maintain safe schools;

(ii) improve school climate; and

(iii) support educational opportunities for students;

(c) a designation of student offenses that the SRO shall confer with the LEA to resolve, including an offense that:

(i) is a minor violation of the law; and

(ii) would not violate the law if the offense was committed by an adult;

(d) a designation of student offenses that are administrative issues that an SRO shall refer to a school administrator for resolution;

(e) a detailed description of the rights of a student under state and federal law with regard to:

(i) searches;

(ii) questioning; and

(iii) information privacy;

(f) a detailed description of:

(i) job duties;

(ii) training requirements; and

(iii) other expectations of the SRO and school administration in relation to law enforcement at the LEA;

(g) that an SRO who is hired under the contract and the principal at the school where an SRO will be working, or the principal's designee, will jointly complete the SRO training described in Section 53A-11-1603; and

(h) if the contract is between an LEA and a law enforcement agency, that:

(i) both parties agree to jointly discuss SRO applicants; and

(ii) the law enforcement agency will accept feedback from an LEA about an SRO's performance.

CHAPTER 166

H. B. 464

Passed March 9, 2016
 Approved March 22, 2016
 Effective March 22, 2016

PUBLIC LANDS WILDFIRE STUDY

Chief Sponsor: Ken Ivory
 Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill requires the Conservation Commission to study and analyze certain issues regarding wildfires on public lands within Utah.

Highlighted Provisions:

This bill:

- ▶ requires the Conservation Commission within the Department of Agriculture and Food to work with Utah State University and certain conservation districts to:
 - complete a study and economic analysis of certain issues regarding wildfires on public lands within Utah, including the impact of wildfires on the state’s watershed and air quality; and
 - report to the Legislature’s Commission for the Stewardship of Public Lands; and
- ▶ allows the Conservation Commission to contract with another state agency or private entity to complete the required study and economic analysis.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2016:

- ▶ to the Department of Agriculture and Food as a one-time appropriation, from the General Fund, one-time, \$200,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

4-18-109, Utah Code Annotated 1953

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

Section 1. Section 4-18-109 is enacted to read:

4-18-109. Public lands wildfire study and analysis -- Report.

(1) As used in this section:

(a) “Conservation districts” means the conservation districts created under Title 17D, Chapter 3, Conservation District Act.

(b) “Public lands” means the same as that term is defined in Section 63L-6-102.

(2) (a) The commission shall work with Utah State University and the conservation districts to conduct a study and analysis of the environmental and economic impact of:

(i) potential catastrophic wildfires on public lands within Utah, including the impact to the state

and the state’s counties, of catastrophic wildfire on the state’s watershed and air quality; and

(ii) changing rangeland and forest management practices to reduce the probability and severity of wildfires in Utah.

(b) The study and economic analysis described in Subsection (2)(a) shall:

(i) document historical acreage and severity of wildfires in Utah;

(ii) assess and document differences in state and federal wildfire preparedness activities;

(iii) update and expand upon existing studies of wildfire fuel loads on public lands, including consideration of insect damage, invasive species, grazing management, and timber management;

(iv) assess the relative size, probability, and severity of wildfires on public lands in Utah, including consideration of factors that lead to wildfires, including biology and characteristics of land;

(v) identify the most cost-effective wildfire preparedness actions; and

(vi) develop a statistical model that would allow public land managers to more efficiently allocate funds between wildfire expenditures and other expenditures.

(3) The commission, in consultation with Utah State University and the conservation districts, may contract with another state agency or private entity to assist with the study and analysis required by Subsection (2).

(4) Before December 31, 2016, the commission shall work with Utah State University and the conservation districts to submit a final report on the study and analysis described in Subsection (2), including proposed legislation and recommendations, to the Legislature’s Commission for the Stewardship of Public Lands.

Section 2. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or amounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2016.

To the Department of Agriculture and Food - Resource Conservation

<u>From General Fund, One-time</u>	<u>\$200,000</u>
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Schedule of Programs:

<u>Conservation Commission</u>	<u>\$200,000</u>
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The Legislature intends that:

(1) the appropriation provided under this section be used to carry out the requirements of Section 4-18-109;

(2) under Section 63J-1-603, the appropriation provided under this section not lapse at the close of fiscal year 2016; and

(3) use of any non-lapsing funds is limited to carrying out the requirements of Section 4-18-109.

Section 3. Effective date.

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

CHAPTER 167**H. B. 479**

Passed March 9, 2016

Approved March 22, 2016

Effective May 10, 2016

JAIL CONTRACTING RATE AMENDMENTS

Chief Sponsor: Michael E. Noel
Senate Sponsor: Ralph Okerlund

LONG TITLE**General Description:**

This bill modifies the State Institutions code regarding the jail contracting rate for county jail beds that provide treatment services for state inmates.

Highlighted Provisions:

This bill:

- ▶ increases the contract rate for county jail beds that house state inmates and that provide treatment services from 84% to 86% of the average state daily incarceration rate.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

64-13e-103, as last amended by Laws of Utah 2015, Chapter 271

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

Section 1. Section 64-13e-103 is amended to read:**64-13e-103. Contracts for housing state inmates.**

(1) Subject to Subsection (6), the department may contract with a county to house state inmates in a county or other correctional facility.

(2) The department shall give preference for placement of state inmates, over private entities, to county correctional facility bed spaces for which the department has contracted under Subsection (1).

(3) (a) The compensation rate for housing state inmates pursuant to a contract described in Subsection (1) shall be:

(i) [84%] 86% of the final state daily incarceration rate for beds in a county that, pursuant to the contract, are dedicated to a treatment program to state inmates, if the treatment program is approved by the department under Subsection (3)(c); and

(ii) 73% of the final state daily incarceration rate for beds in a county other than the beds described in Subsection (3)(a)(i).

(b) The department shall:

(i) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish standards that a treatment program is required to meet before the treatment program is

considered for approval for the purpose of a county receiving payment based on the rate described in Subsection (3)(a)(i); and

(ii) determine on an annual basis, based on appropriations made by the Legislature for the contracts described in this section, whether to approve a treatment program that meets the standards established under Subsection (3)(b)(i), for the purpose of a county receiving payment based on the rate described in Subsection (3)(a)(i).

(c) The department may not approve a treatment program for the purpose of a county receiving payment based on the rate described in Subsection (3)(a)(i), unless:

(i) the program meets the standards established under Subsection (3)(b)(i);

(ii) the department determines that the Legislature has appropriated sufficient funds to:

(A) pay the county that provides the treatment program at the rate described in Subsection (3)(a)(i); and

(B) pay each county that does not provide a treatment program an amount per state inmate that is not less than the amount per state inmate received for the preceding fiscal year by a county that did not provide a treatment program; and

(iii) the department determines that the treatment program is needed by the department at the location where the treatment program will be provided.

(4) Compensation to a county for state inmates incarcerated under this section shall be made by the department.

(5) Counties that contract with the department under Subsection (1) shall, on or before June 30 of each year, submit a report to the department that includes:

(a) the number of state inmates the county housed under this section; and

(b) the total number of state inmate days of incarceration that were provided by the county.

(6) Except as provided under Subsection (7), the department may not enter into a contract described under Subsection (1), unless the Legislature has previously passed a joint resolution that includes the following information regarding the proposed contract:

(a) the approximate number of beds to be contracted;

(b) the final state daily incarceration rate;

(c) the approximate amount of the county's long-term debt; and

(d) the repayment time of the debt for the facility where the inmates are to be housed.

(7) The department may enter into a contract with a county government to house inmates without complying with the approval process described in Subsection (6) only if the county facility was under

construction, or already in existence, on March 16, 2001.

(8) Any resolution passed by the Legislature under Subsection (6) does not bind or obligate the Legislature or the department regarding the proposed contract.

CHAPTER 168**S. B. 21**

Passed February 3, 2016
 Approved March 22, 2016
 Effective May 10, 2016

**REPEAL OF HEALTH AND HUMAN
 SERVICES REPORTS AND PROGRAMS**

Chief Sponsor: Evan J. Vickers
 House Sponsor: Kay L. McIff

LONG TITLE**General Description:**

This bill repeals Utah Code provisions requiring certain reports, primarily to various entities of the Utah Legislature, on health and human services issues, and repeals other statutory requirements.

Highlighted Provisions:

This bill:

- ▶ repeals and amends provisions requiring certain reports, primarily to various entities of the Utah Legislature, on health and human services issues, including expired reporting provisions;
- ▶ repeals an expired provision for the Department of Health to study and implement a patient-centered medical home demonstration project;
- ▶ repeals an expired provision for the Health and Human Services Interim Committee to study whether statewide practice standards should be implemented to assist the Child Welfare Parental Defense Program to provide legal services to indigent parents whose children are in the custody of the Division of Child and Family Services; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-8a-105, as last amended by Laws of Utah 2015, Chapter 167
 26-18-2.4, as last amended by Laws of Utah 2012, Chapters 242 and 343
 26-18-3, as last amended by Laws of Utah 2013, Chapter 167
 26-18-405, as enacted by Laws of Utah 2011, Chapter 211
 26-50-202, as last amended by Laws of Utah 2012, Chapter 242
 26-52-202, as last amended by Laws of Utah 2014, Chapter 302
 59-14-204, as last amended by Laws of Utah 2012, Chapter 341
 62A-1-119, as last amended by Laws of Utah 2013, Chapter 400
 62A-4a-401, as last amended by Laws of Utah 2013, Chapter 171
 62A-15-1101, as last amended by Laws of Utah 2015, Chapter 85

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

Section 1. Section 26-8a-105 is amended to read:**26-8a-105. Department powers.**

The department shall:

- (1) coordinate the emergency medical services within the state;
 - (2) administer this chapter and the rules established pursuant to it;
 - (3) establish a voluntary task force representing a diversity of emergency medical service providers to advise the department and the committee on rules;
 - (4) establish an emergency medical service personnel peer review board to advise the department concerning discipline of emergency medical service personnel under this chapter; and
 - (5) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:
 - (a) license ambulance providers and paramedic providers;
 - (b) permit ambulances and emergency medical response vehicles, including approving an emergency vehicle operator's course in accordance with Section 26-8a-304;
 - (c) establish:
 - (i) the qualifications for membership of the peer review board created by this section;
 - (ii) a process for placing restrictions on a certification while an investigation is pending;
 - (iii) the process for the investigation and recommendation by the peer review board; and
 - (iv) the process for determining the status of a license or certification while a peer review board investigation is pending;
 - (d) establish application, submission, and procedural requirements for licenses, designations, certificates, and permits; and
 - (e) establish and implement the programs, plans, and responsibilities as specified in other sections of this chapter[; and].
- ~~[(6) report to the Legislature's Health and Human Services Interim Committee on or before July 15, 2015, regarding rules developed under Subsection (5)(e).]~~

Section 2. Section 26-18-2.4 is amended to read:**26-18-2.4. Medicaid drug program -- Preferred drug list.**

- (1) A Medicaid drug program developed by the department under Subsection 26-18-2.3(2)(f):
 - (a) shall, notwithstanding Subsection 26-18-2.3(1)(b), be based on clinical and cost-related factors which include medical necessity as determined by a provider in accordance with administrative rules established by the Drug Utilization Review Board;

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

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

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

(i) on the preferred drug list on the date that this act takes effect; or

(ii) added to the preferred drug list after this act takes effect; and

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

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

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

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

(2) (a) For purposes of this Subsection (2):

(i) "Immunosuppressive drug":

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

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

(ii) "Psychotropic drug" means the following classes of drugs: atypical anti-psychotic, anti-depressants, anti-convulsant/mood stabilizer, anti-anxiety, attention deficit hyperactivity disorder stimulants, or sedative/hypnotics.

(iii) "Stabilized" means a health care provider has documented in the patient's medical chart that a patient has achieved a stable or steadfast medical

state within the past 90 days using a particular psychotropic drug.

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

(i) except as provided in Subsection (2)(e), a psychotropic or anti-psychotic drug; or

(ii) an immunosuppressive drug.

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

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

(e) The department may include a sedative hypnotic on a preferred drug list in accordance with Subsection (2)(f).

(f) The department shall grant a prior authorization for a sedative hypnotic that is not on the preferred drug list under Subsection (2)(e), if the health care provider has documentation related to one of the following conditions for the Medicaid client:

(i) a trial and failure of at least one preferred agent in the drug class, including the name of the preferred drug that was tried, the length of therapy, and the reason for the discontinuation;

(ii) detailed evidence of a potential drug interaction between current medication and the preferred drug;

(iii) detailed evidence of a condition or contraindication that prevents the use of the preferred drug;

(iv) objective clinical evidence that a patient is at high risk of adverse events due to a therapeutic interchange with a preferred drug;

(v) the patient is a new or previous Medicaid client with an existing diagnosis previously stabilized with a nonpreferred drug; or

(vi) other valid reasons as determined by the department.

(g) A prior authorization granted under Subsection (2)(f) is valid for one year from the date the department grants the prior authorization and shall be renewed in accordance with Subsection (2)(f).

[3] ~~The department shall report to the Health and Human Services Interim Committee and to the~~

Social Services Appropriations Subcommittee prior to November 1, 2013, regarding the savings to the Medicaid program resulting from the use of the preferred drug list permitted by Subsection (1).]

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

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

(1) The department shall be the single state agency responsible for the administration of the Medicaid program in connection with the United States Department of Health and Human Services pursuant to Title XIX of the Social Security Act.

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

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

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

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

(iii) reimbursement methodologies for providers under the Medicaid program; and

(iv) a requirement that:

(A) a person receiving Medicaid services shall participate in the electronic exchange of clinical health records established in accordance with Section 26-1-37 unless the individual opts out of participation;

(B) prior to enrollment in the electronic exchange of clinical health records the enrollee shall receive notice of enrollment in the electronic exchange of clinical health records and the right to opt out of participation at any time; and

(C) beginning July 1, 2012, when the program sends enrollment or renewal information to the enrollee and when the enrollee logs onto the program's website, the enrollee shall receive notice of the right to opt out of the electronic exchange of clinical health records.

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

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

(ii) initiates a new Medicaid waiver;

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

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

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

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

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

(ii) include:

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

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

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

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

(E) the degree to which any proposed cut may result in cost-shifting to more expensive services in health or human service programs; and

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

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

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

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

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

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

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

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

(b) recovery of overpayments; and

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

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

- (a) termination from the program;
- (b) recovery of claim reimbursements incorrectly paid; and
- (c) those specified in Section 1919 of Title XIX of the federal Social Security Act.

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

(8) (a) In determining whether an applicant or recipient is eligible for a service or benefit under this part or Chapter 40, Utah Children's Health Insurance Act, the department shall, if Subsection (8)(b) is satisfied, exclude from consideration one passenger vehicle designated by the applicant or recipient.

(b) Before Subsection (8)(a) may be applied:

(i) the federal government shall:

(A) determine that Subsection (8)(a) may be implemented within the state's existing public assistance-related waivers as of January 1, 1999;

(B) extend a waiver to the state permitting the implementation of Subsection (8)(a); or

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

(ii) the department shall determine that Subsection (8)(a) can be implemented within existing funding.

(9) (a) For purposes of this Subsection (9):

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

(ii) "spend down" means an amount of income in excess of the allowable income standard that shall be paid in cash to the department or incurred through the medical services not paid by Medicaid.

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

(i) the allowable income standard for eligibility for services or benefits; and

(ii) the allowable income standard for eligibility as a result of spend down.

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

~~[(11) In order to determine the feasibility of contracting for direct Medicaid providers for primary care services, the department shall: (a) issue a request for information for direct contracting for primary services that shall provide~~

~~that a provider shall exclusively serve all Medicaid clients;]~~

~~[(i) in a geographic area;]~~

~~[(ii) for a defined range of primary care services; and]~~

~~[(iii) for a predetermined total contracted amount; and]~~

~~[(b) by February 1, 2011, report to the Social Services Appropriations Subcommittee on the response to the request for information under Subsection (11)(a).]~~

~~[(12) (a) By December 31, 2010, the department shall:]~~

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

~~[(ii) report the department's findings and recommendations under Subsection (12)(a)(i) to the Social Services Appropriations Subcommittee.]~~

~~[(b) If the department determines that the medical home demonstration project described in Subsection (12)(a) is feasible, and the Social Services Appropriations Subcommittee recommends that the demonstration project be implemented, the department shall:]~~

~~[(i) implement the demonstration project; and]~~

~~[(ii) by December 1, 2012, make recommendations to the Social Services Appropriations Subcommittee regarding the:]~~

~~[(A) continuation of the demonstration project;]~~

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

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

~~[(13) (1) (a) The department may apply for and, if approved, implement a demonstration program for health opportunity accounts, as provided for in 42 U.S.C. Sec. 1396u-8.~~

~~(b) A health opportunity account established under Subsection [(13)] (11)(a) shall be an alternative to the existing benefits received by an individual eligible to receive Medicaid under this chapter.~~

~~(c) Subsection [(13)] (11)(a) is not intended to expand the coverage of the Medicaid program.~~

Section 4. Section 26-18-405 is amended to read:

26-18-405. Waivers to maximize replacement of fee-for-service delivery model.

(1) The department shall develop a proposal to amend the state plan for the Medicaid program in a way that maximizes replacement of the fee-for-service delivery model with one or more risk-based delivery models.

(2) The proposal shall:

(a) restructure the program's provider payment provisions to reward health care providers for delivering the most appropriate services at the lowest cost and in ways that, compared to services delivered before implementation of the proposal, maintain or improve recipient health status;

(b) restructure the program's cost sharing provisions and other incentives to reward recipients for personal efforts to:

(i) maintain or improve their health status; and

(ii) use providers that deliver the most appropriate services at the lowest cost;

(c) identify the evidence-based practices and measures, risk adjustment methodologies, payment systems, funding sources, and other mechanisms necessary to reward providers for delivering the most appropriate services at the lowest cost, including mechanisms that:

(i) pay providers for packages of services delivered over entire episodes of illness rather than for individual services delivered during each patient encounter; and

(ii) reward providers for delivering services that make the most positive contribution to a recipient's health status;

(d) limit total annual per-patient-per-month expenditures for services delivered through fee-for-service arrangements to total annual per-patient-per-month expenditures for services delivered through risk-based arrangements covering similar recipient populations and services; and

(e) limit the rate of growth in per-patient-per-month General Fund expenditures for the program to the rate of growth in General Fund expenditures for all other programs, when the rate of growth in the General Fund expenditures for all other programs is greater than zero.

(3) To the extent possible, the department shall develop the proposal with the input of stakeholder groups representing those who will be affected by the proposal.

~~[(4) No later than June 1, 2011, the department shall submit a written report on the development of the proposal to the Legislature's Executive Appropriations Committee, Social Services Appropriations Subcommittee, and Health and Human Services Interim Committee.]~~

~~[(5)] (4)~~ No later than July 1, 2011, the department shall submit to the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services a request for waivers from federal statutory and regulatory law necessary to implement the proposal.

~~[(6)] (5)~~ After the request for waivers has been made, and prior to its implementation, the department shall report to the Legislature in

accordance with Section 26-18-3 on any modifications to the request proposed by the department or made by the Centers for Medicare and Medicaid Services.

~~[(7)] (6)~~ The department shall implement the proposal in the fiscal year that follows the fiscal year in which the United States Secretary of Health and Human Services approves the request for waivers.

Section 5. Section 26-50-202 is amended to read:

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

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

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

(a) persons with a traumatic brain injury;

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

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

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

(e) department representatives.

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

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

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

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

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

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

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

(ii) for good cause.

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

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

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

(6) A member may not receive compensation or benefits for the member's service, but, at the

executive director's discretion, may receive per diem and travel expenses in accordance with:

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

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

- (a) the executive director of the department; and
- ~~[(b) the Health and Human Services Interim Committee; and]~~
- ~~[(c) the Social Services Appropriations Subcommittee.~~

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

Section 6. Section 26-52-202 is amended to read:

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

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

- (i) one individual holding a doctorate degree who has experience in treating persons with an autism spectrum disorder;
- (ii) one board certified behavior analyst;
- (iii) one physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, who has completed a residency program in pediatrics;
- (iv) one employee of the Department of Health; and
- (v) two individuals who are familiar with autism spectrum disorders and their effects, diagnosis, treatment, rehabilitation, and support needs, including:
 - (A) family members of a person with an autism spectrum disorder;
 - (B) representatives of an association which advocates for persons with an autism spectrum disorder; and
 - (C) specialists or professionals who work with persons with autism spectrum disorders.

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

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

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

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

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

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

- (i) if the member is unable or unwilling to carry out the member's assigned responsibilities; or
- (ii) for good cause.

(4) The committee shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules governing the committee's activities that comply with the requirements of this title, including rules that:

- (a) establish criteria and procedures for selecting qualified children to participate in the program;
- (b) establish the services, providers, and treatments to include in the program, and the qualifications, criteria, and procedures for evaluating the providers and treatments; and
- (c) address and avoid conflicts of interest that may arise in relation to the committee and its duties.

(5) As part of its duties under Subsection 26-52-201(5), the committee shall, at minimum:

- (a) offer applied behavior analysis provided by or supervised by a board certified behavior analyst or a licensed psychologist with equivalent university training and supervised experience;
- (b) collaborate with existing telehealth networks to reach children in rural and under-served areas of the state; and
- (c) engage family members in the treatment process.

(6) The committee shall meet as necessary to carry out its duties and shall meet upon a call of the committee chair or a call of a majority of the committee members.

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

- (a) Title 52, Chapter 4, Open and Public Meetings Act; and
- (b) Title 63G, Chapter 2, Government Records Access and Management Act.

(8) Committee members may not receive compensation or per diem allowance for their services.

(9) Not later than November 30 of each year, the committee shall provide a written report

summarizing the activities of the committee to~~[-(a)]~~ the executive director of the department~~[-]~~.

~~[(b) the Legislature's Health and Human Services Interim Committee; and]~~

~~[(c) the Legislature's Social Services Appropriations Subcommittee.]~~

(10) The report under Subsection (9) shall include:

(a) the number of children diagnosed with autism spectrum disorder who are receiving services under this chapter;

(b) the types of services provided to qualified children under this chapter; and

(c) results of any evaluations on the effectiveness of treatments and services provided under this chapter.

Section 7. Section 59-14-204 is amended to read:

59-14-204. Tax basis -- Rate -- Future increase -- Cigarette Tax Restricted Account -- Appropriation and expenditure of revenues.

(1) Except for cigarettes described under Subsection 59-14-210(3), there is levied a tax upon the sale, use, storage, or distribution of cigarettes in the state.

(2) The rates of the tax levied under Subsection (1) are, beginning on July 1, 2010:

(a) 8.5 cents on each cigarette, for all cigarettes weighing not more than three pounds per thousand cigarettes; and

(b) 9.963 cents on each cigarette, for all cigarettes weighing in excess of three pounds per thousand cigarettes.

(3) Except as otherwise provided under this chapter, the tax levied under Subsection (1) shall be paid by any person who is the manufacturer, jobber, importer, distributor, wholesaler, retailer, user, or consumer.

(4) The tax rates specified in this section shall be increased by the commission by the same amount as any future reduction in the federal excise tax on cigarettes.

(5) (a) There is created within the General Fund a restricted account known as the "Cigarette Tax Restricted Account."

(b) The Cigarette Tax Restricted Account consists of:

(i) the first \$7,950,000 of the revenues collected from a tax under this section; and

(ii) any other appropriations the Legislature makes to the Cigarette Tax Restricted Account.

(c) For each fiscal year beginning with fiscal year 2011-12 and subject to appropriation by the Legislature, the Division of Finance shall distribute

money from the Cigarette Tax Restricted Account as follows:

(i) \$250,000 to the Department of Health to be expended for a tobacco prevention and control media campaign targeted towards children;

(ii) \$2,900,000 to the Department of Health to be expended for tobacco prevention, reduction, cessation, and control programs;

(iii) \$2,000,000 to the University of Utah Health Sciences Center for the Huntsman Cancer Institute to be expended for cancer research; and

(iv) \$2,800,000 to the University of Utah Health Sciences Center to be expended for medical education at the University of Utah School of Medicine.

(d) In determining how to appropriate revenue deposited into the Cigarette Tax Restricted Account that is not otherwise appropriated under Subsection (5)(c), the Legislature shall give particular consideration to enhancing Medicaid provider reimbursement rates and medical coverage for the uninsured.

~~[(e) Any program or entity that receives funding under Subsection (5)(c) shall provide an annual report to the Health and Human Services Interim Committee no later than September 1 of each year. The report shall include:]~~

~~[(i) the amount funded;]~~

~~[(ii) the amount expended;]~~

~~[(iii) a description of the effectiveness of the program; and]~~

~~[(iv) if the program is a tobacco cessation program, the report required in Section 51-9-203.]~~

Section 8. Section 62A-1-119 is amended to read:

62A-1-119. Respite Care Assistance Fund -- Use of money -- Restrictions.

(1) There is created an expendable special revenue fund known as the Respite Care Assistance Fund.

(2) The fund shall consist of:

(a) gifts, grants, devises, donations, and bequests of real property, personal property, or services, from any source, made to the fund; and

(b) any additional amounts as appropriated by the Legislature.

(3) The fund shall be administered by the director of the Utah Developmental Disabilities Council.

(4) The fund money shall be used for the following activities:

(a) to support a respite care information and referral system;

(b) to educate and train caregivers and respite care providers; and

(c) to provide grants to caregivers.

(5) An individual who receives services paid for from the fund shall:

- (a) be a resident of Utah; and
- (b) be a primary care giver for:
 - (i) an aging individual; or
 - (ii) an individual with a cognitive, mental, or physical disability.
- (6) The fund money may not be used for:
 - (a) administrative expenses that are normally provided for by legislative appropriation; or
 - (b) direct services or support mechanisms that are available from or provided by another government or private agency.
- (7) All interest and other earnings derived from the fund money shall be deposited into the fund.

(8) The state treasurer shall invest the money in the fund under Title 51, Chapter 7, State Money Management Act.

~~[(9) The Department of Human Services shall make an annual report to the appropriate appropriations subcommittee of the Legislature regarding the status of the fund, including a report on the contributions received, expenditures made, and programs and services funded.]~~

Section 9. Section 62A-4a-401 is amended to read:

62A-4a-401. Legislative purpose.

~~[(1)] It is the purpose of this part to protect the best interests of children, offer protective services to prevent harm to children, stabilize the home environment, preserve family life whenever possible, and encourage cooperation among the states in dealing with the problem of abuse or neglect.~~

~~[(2) The division shall, during the 2013 interim, report to the Health and Human Services Interim Committee on:]~~

~~[(a) the division's efforts to use existing staff and funds while shifting resources away from foster care and to in-home services;]~~

~~[(b) a proposal to:]~~

~~[(i) keep sibling groups together, as much as possible; and]~~

~~[(ii) provide necessary services to available structured foster families to avoid sending foster children to proctor homes;]~~

~~[(c) the disparity between foster care payments and adoption subsidies, and whether an adjustment to those rates could result in savings to the state; and]~~

~~[(d) the utilization of guardianship, in the event an appropriate adoptive placement is not available after a termination of parental rights.]~~

~~[(3) The Health and Human Services Interim Committee shall, during the 2013 interim, study~~

~~whether statewide practice standards should be implemented to assist the Child Welfare Parental Defense Program with its mission to provide legal services to indigent parents whose children are in the custody of the division.]~~

Section 10. Section 62A-15-1101 is amended to read:

62A-15-1101. Suicide prevention -- Reporting requirements.

(1) As used in the section:

(a) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

(b) "Division" means the Division of Substance Abuse and Mental Health.

(c) "Intervention" means an effort to prevent a person from attempting suicide.

(d) "Postvention" means mental health intervention after a suicide attempt or death to prevent or contain contagion.

(e) "State suicide prevention coordinator" means an individual designated by the division as described in Subsections (2) and (3).

(2) The division shall appoint a state suicide prevention coordinator to administer a state suicide prevention program composed of suicide prevention, intervention, and postvention programs, services, and efforts.

(3) The state suicide prevention program may include the following components:

(a) delivery of resources, tools, and training to community-based coalitions;

(b) evidence-based suicide risk assessment tools and training;

(c) town hall meetings for building community-based suicide prevention strategies;

(d) suicide prevention gatekeeper training;

(e) training to identify warning signs and to manage an at-risk individual's crisis;

(f) evidence-based intervention training;

(g) intervention skills training; and

(h) postvention training.

(4) The state suicide prevention coordinator shall coordinate with at least the following:

(a) local mental health and substance abuse authorities;

(b) the State Board of Education, including the State Office of Education suicide prevention coordinator described in Section 53A-15-1301;

(c) the Department of Health;

(d) health care providers, including emergency rooms; and

(e) other public health suicide prevention efforts.

(5) The state suicide prevention coordinator shall provide a written report[, and shall orally report] to

the Health and Human Services Interim Committee^[,] by the October meeting every year, on:

(a) implementation of the state suicide prevention program, as described in Subsections (2) and (3);

(b) data measuring the effectiveness of each component of the state suicide prevention program;

(c) funds appropriated for each component of the state suicide prevention program; and

(d) five-year trends of suicides in Utah, including subgroups of youths and adults and other subgroups identified by the state suicide prevention coordinator.

(6) The state suicide prevention coordinator shall report to the Legislature's Education Interim Committee, by the October 2015 meeting, jointly with the State Board of Education, on the coordination of suicide prevention programs and efforts with the State Board of Education and the State Office of Education suicide prevention coordinator as described in Section 53A-15-1301.

(7) The state suicide prevention coordinator shall consult with the bureau to implement and manage the operation of a firearm safety program, as described in Subsection 53-10-202(18) and Section 53-10-202.1.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules governing the implementation of the state suicide prevention program, consistent with this section.

CHAPTER 169**S. B. 43**

Passed March 10, 2016
 Approved March 22, 2016
 Effective May 10, 2016

**FIREARM SAFETY AND VIOLENCE
 PREVENTION IN PUBLIC SCHOOLS**

Chief Sponsor: Todd Weiler
 House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill provides for firearm safety and violence prevention instruction in public schools.

Highlighted Provisions:

This bill:

- ▶ creates a pilot program to provide instruction to certain public school students on firearm safety and violence prevention;
- ▶ directs the Office of the Attorney General, in collaboration with the State Board of Education, to select a provider to supply materials and curriculum for the instruction to be provided under the pilot program;
- ▶ provides a reporting requirement; and
- ▶ provides a sunset date.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2017:

- ▶ to the Attorney General - Attorney General, as a one-time appropriation:
 - from the Education Fund, \$75,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-253, as last amended by Laws of Utah 2015, Chapters 62, 431, and 442

ENACTS:

53A-13-106.5, Utah Code Annotated 1953

REPEALS:

53A-13-106, as last amended by Laws of Utah 2008, Chapter 382

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

Section 1. Section 53A-13-106.5 is enacted to read:

53A-13-106.5. Firearm Safety and Violence Prevention Pilot Program.

(1) As used in this section:

(a) "District school" means a public school under the control of a local school board elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(b) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle, or short barreled rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.

(c) "Pilot program" means the Firearm Safety and Violence Prevention Pilot Program created under Subsection (2).

(2) There is created a Firearm Safety and Violence Prevention Pilot Program to provide instruction that a public school may offer to a student in any of grades 5 through 12 on:

(a) firearm safety, including:

(i) developing the knowledge, habits, skills, and attitudes necessary for the safe handling of firearms; and

(ii) teaching a student that to avoid injury when the student finds a firearm the student should:

(A) not touch the firearm;

(B) tell an adult about finding the firearm and the location of the firearm; and

(C) share the information described in Subsection (2)(a)(i)(A) and (B) with any other minors who are with the student when the student finds the firearm; and

(b) what to do if the student becomes aware of a threat against the school.

(3) The instruction described in Subsection (2):

(a) may be delivered:

(i) in a public school using live instruction or a video or online materials; or

(ii) at home using a video or online materials; and

(b) shall be neutral of political statements on guns.

(4) The Office of the Attorney General, in collaboration with the State Board of Education, shall select one or more providers, through the standard procurement process or an exception to the standard procurement process as described in Title 63G, Chapter 6a, Utah Procurement Code, to supply materials and curriculum for the pilot program.

(5) (a) A district school or charter school may participate in the pilot program, subject to approval by the district school's local school board or charter school's charter school governing board.

(b) A district school or charter school that chooses to participate in the pilot program:

(i) shall use the materials and curriculum supplied by the provider selected under Subsection (4);

(ii) may permit the following to provide instruction on a voluntary basis:

(A) the Division of Wildlife Resources;

(B) a local law enforcement agency;

(C) a peace officer, as defined in Section 53-13-102; or

(D) another certified firearms safety instructor, as defined in rules made by the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) shall ensure that a firearm is not used in providing the instruction.

(c) A student may not be given the instruction described in Subsection (2) unless the student's parent or legal guardian has given prior written consent.

(6) The Office of the Attorney General, in collaboration with the State Board of Education, shall evaluate the pilot program and report to the Law Enforcement and Criminal Justice Interim Committee on or before December 1, 2018.

Section 2. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53, 53A, and 53B.

The following provisions are repealed on the following dates:

~~[(1) Section 53-3-232, Conditional license, is repealed July 1, 2015.]~~

~~[(2)] (1) Subsection 53-10-202(18) is repealed July 1, 2018.~~

~~[(3)] (2) Section 53-10-202.1 is repealed July 1, 2018.~~

~~[(4)] (3) Title 53A, Chapter 1a, Part 6, Public Education Job Enhancement Program is repealed July 1, 2020.~~

(4) Section 53A-13-106.5 is repealed July 1, 2019.

(5) The State Instructional Materials Commission, created in Section 53A-14-101, is repealed July 1, 2016.

(6) Section 53A-15-106 is repealed July 1, 2019.

(7) Subsections 53A-16-113(3) and (4) are repealed December 31, 2016.

(8) Section 53A-16-114 is repealed December 31, 2016.

(9) Section 53A-17a-163, Performance-based Compensation Pilot Program is repealed July 1, 2016.

(10) Section 53B-24-402, Rural residency training program, is repealed July 1, 2020.

(11) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells, other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

Section 3. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2017.

To Attorney General - Attorney General

From Education Fund, One-time \$75,000

Schedule of Programs:

Administration \$75,000

The Legislature intends that appropriations provided under this section:

(1) be used for the Firearm Safety and Violence Prevention Pilot Program described in Section 53A-13-106.5; and

(2) under Section 63J-1-603, not lapse at the close of fiscal year 2017.

Section 4. Repealer.

This bill repeals:

Section 53A-13-106, Instruction in firearm safety -- Purpose -- School districts to implement volunteer education classes -- Parental consent exception.

CHAPTER 170**S. B. 50**

Passed February 22, 2016

Approved March 22, 2016

Effective May 10, 2016

HEALTH CODE REPEALER

Chief Sponsor: Evan J. Vickers

House Sponsor: Kay L. McIff

LONG TITLE**General Description:**

This bill modifies the Utah Health Code by repealing the Autism Treatment Account.

Highlighted Provisions:

This bill:

- ▶ repeals Title 26, Chapter 52, Autism Treatment Account; and
- ▶ provides that funds remaining in the Autism Treatment Account on June 30, 2016, shall be deposited into the state Medicaid plan for the autism spectrum disorder program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-52-201, as last amended by Laws of Utah 2014, Chapter 302

63I-1-226, as last amended by Laws of Utah 2015, Chapters 16, 31, and 258

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

Section 1. Section 26-52-201 is amended to read:**26-52-201. Autism Treatment Account -- Medical loss ratio calculation -- Use of account.**

(1) There is created within the General Fund a restricted account known as the Autism Treatment Account.

(2) The account shall consist of:

(a) gifts, grants, devises, donations, and bequests of real property, personal property, or services, from any source, or any other conveyance that may be made to the account from private sources;

(b) interest and other earnings derived from the account money; and

(c) any additional amounts as appropriated by the Legislature.

(3) If an insurer contributes to the account, for purposes of calculating an insurer's medical loss ratio under the PPACA, as defined in Section 31A-1-301, the insurance commissioner shall consider the contribution to the account to be a claims payment by the insurer.

(4) Except as provided in Subsection (5), the executive director of the department shall be responsible for administering the account.

(5) The committee shall, consistent with the requirements of this title:

(a) prioritize spending of account funds, as permitted under Subsection (6);

(b) determine which treatment providers qualify for disbursements from the account for services rendered; and

(c) authorize all other distributions from the account, except that disbursements for expenses authorized under Subsections (6)(b) and (c) shall also require the approval of the executive director.

(6) Account money may be used to:

(a) evaluate and treat a qualified child by utilizing applied behavior analysis or other proven effective treatments as determined by the committee under Subsection 26-52-202(4)(b);

(b) pay all actual and necessary operating expenses for the committee and staff; and

(c) pay administrative or other expenses of the Department of Health related to the program, except where those expenses are greater than 9% of the total account funds.

(7) All interest and other earnings derived from the account money shall be deposited into the account.

(8) The state treasurer shall invest the money in the account under Title 51, Chapter 7, State Money Management Act.

(9) Any money remaining in the Autism Treatment Account on June 30, 2016, shall be deposited into the state Medicaid plan and shall be used for the autism spectrum disorder program described in Section 26-18-407.

Section 2. Section 63I-1-226 is amended to read:**63I-1-226. Repeal dates, Title 26.**

(1) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(2) Section 26-10-11 is repealed July 1, 2020.

(3) Section 26-21-23, Licensing of non-Medicaid nursing care facility beds, is repealed July 1, 2018.

(4) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(5) Title 26, Chapter 36a, Hospital Provider Assessment Act, is repealed July 1, 2016.

(6) Section 26-38-2.5 is repealed July 1, 2017.

(7) Section 26-38-2.6 is repealed July 1, 2017.

(8) Title 26, Chapter 52, Autism Treatment Account, is repealed July 1, 2016.

[~~8~~] (9) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed July 1, 2016.

CHAPTER 171**S. B. 63**

Passed March 2, 2016

Approved March 22, 2016

Effective May 10, 2016

SURVEY MONUMENT REPLACEMENT

Chief Sponsor: Ralph Okerlund
House Sponsor: John R. Westwood

LONG TITLE**General Description:**

This bill modifies provisions relating to state survey monuments.

Highlighted Provisions:

This bill:

- ▶ addresses the timing for certain notices to the county surveyor; and
- ▶ modifies the date on which any unused funds appropriated to the Monument Replacement and Restoration Committee shall be distributed to certain counties.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17-23-14, as last amended by Laws of Utah 2015, Chapter 373

63F-1-510, as enacted by Laws of Utah 2015, Chapter 373

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

Section 1. Section 17-23-14 is amended to read:**17-23-14. Disturbed corners -- County surveyor to be notified -- Coordination with certain state agencies.**

(1) As used in this section:

(a) “Committee” means the Monument Replacement and Restoration Committee created in Section 63F-1-510.

~~[(a)]~~ (b) “Corner” means the same as that term is defined in Section 17-23-17.5.

~~[(b)]~~ (c) “Monument” means the same as that term is defined in Section 17-23-17.5.

(2) A person who finds it necessary to disturb any established corner ~~[in]~~ for any reason, including the improvement of a road, ~~[or for any other cause, or]~~ shall notify the county surveyor at least five business days before the day on which the person disturbs the corner.

(3) A person who finds a monument that needs rehabilitation~~[,]~~ shall notify the county surveyor within five business days after the day on which the person finds the monument.

~~[(3)]~~ (4) The county surveyor or the county surveyor’s designee shall:

(a) consistent with federal law or rule, reconstruct or rehabilitate the monument for the corner by lowering and witnessing the corner or placing another monument and witness over the existing monument so that the monument:

(i) is left in a physical condition to remain as permanent a monument as is reasonably possible; and

(ii) may be reasonably located at all times in the future; and

(b) file the record of each reconstruction or rehabilitation under Subsection ~~[(3)]~~ (4)(a).

Section 2. Section 63F-1-510 is amended to read:**63F-1-510. Monument Replacement and Restoration Committee.**

(1) As used in this section:

(a) “Committee” means the Monument Replacement and Restoration Committee created in this section.

(b) “Corner” means the same as that term is defined in Section 17-23-17.5.

(c) “Monument” means the same as that term is defined in Section 17-23-17.5.

(2) (a) There is created the Monument Replacement and Restoration Committee composed of the following seven members:

(i) five members appointed by an organization or association that represents Utah counties:

(A) that have knowledge and understanding of the Public Land Survey System; and

(B) who each represents a different county; and

(ii) two members, appointed by the center, who have a knowledge and understanding of the Public Land Survey System.

(b) (i) Except as provided in Subsection (2)(b)(ii), a member appointed to the committee is appointed for a four-year term.

(ii) The director of the center shall, at the time an entity appoints or reappoints an individual to serve on the committee, adjust the length of the appointed individual’s term, as necessary, to ensure that the terms of committee members are staggered so that approximately half of the committee members are appointed every two years.

(iii) When a vacancy occurs on the committee for any reason, the replacement appointee shall serve on the committee for the unexpired term.

(c) The committee shall elect one committee member to serve as chair of the committee for a term of two years.

(d) A majority of the committee constitutes a quorum, and the action of a majority of a quorum constitutes the action of the committee.

(e) (i) The center shall provide staff support to the committee.

(ii) An individual who is a member of the committee may not serve as staff to the committee.

(f) A member of the committee may not receive compensation for the member's service on the committee.

(g) The committee may adopt bylaws to govern the committee's operation.

(3) (a) The committee shall administer a grant program to assist counties in maintaining and protecting corners or monuments.

(b) A county wishing to receive a grant under the program described in Subsection (3)(a) shall submit to the committee an application that:

(i) identifies one or more monuments in the county that are in need of protection or rehabilitation;

(ii) establishes a plan that is consistent with federal law or rule to protect or rehabilitate each monument identified under Subsection (3)(b)(i); and

(iii) requests a specific amount of funding to complete the plan established under Subsection (3)(b)(ii).

(c) The committee shall:

(i) adopt criteria to:

(A) evaluate whether a monument identified by a county under Subsection (3)(b)(i) needs protection or rehabilitation; and

(B) identify which monuments identified by a county under Subsection (3)(b)(i) have the greatest need of protection or rehabilitation;

(ii) evaluate each application submitted by a county under Subsection (3)(b) using the criteria adopted by the committee under Subsection (3)(c)(i);

(iii) subject to sufficient funding and Subsection (3)(d), award grants to counties whose applications are most favorably evaluated under Subsection (3)(c)(ii); and

(iv) establish a date by which a county awarded a grant under Subsection (3)(c)(iii) shall report back to the committee.

(d) The committee may not award a grant to a county under this section in an amount greater than \$100,000.

(4) A county that is awarded a grant under this section shall:

(a) document the work performed by the county, pursuant to the plan established by the county under Subsection (3)(b)(ii), to protect or rehabilitate a monument; and

(b) before the date established under Subsection (3)(c)(iv), report to the committee on the work performed by the county.

(5) (a) If the committee has not expended all of the funds appropriated to the committee by the

Legislature for the fulfillment of the committee's duties under this section before December 31, [2016] 2017, the committee shall disburse any remaining funds equally among all counties that have established a dedicated monument preservation fund by ordinance as provided in Section 17-23-19.

(b) A county to which the center has disbursed funds under Subsection (5)(a) shall:

(i) deposit the funds into the county's monument preservation fund; and

(ii) expend the funds, in consultation with the committee, for the maintenance and preservation of monuments in the county.

CHAPTER 172**S. B. 109**

Passed March 8, 2016

Approved March 22, 2016

Effective July 1, 2017

(Exception clause in Section 9)

**SCHOOL AND INSTITUTIONAL
TRUST LANDS AMENDMENTS**Chief Sponsor: Ann Millner
House Sponsor: Melvin R. Brown**LONG TITLE****General Description:**

This bill amends provisions related to schools and institutional trust lands and related education funding.

Highlighted Provisions:

This bill:

- ▶ enacts language related to the distributions deposited in the Uniform School Fund;
- ▶ creates the Trust Distribution Account within the Uniform School Fund;
- ▶ amends language governing the disposition of revenues in the State School Fund;
- ▶ repeals and reenacts language related to the Invest More for Education Account;
- ▶ directs the School Children's Trust Section to review each school for compliance with applicable law;
- ▶ amends language governing the disposition of net revenues from institutional trust lands to be deposited into the respective institutional permanent funds;
- ▶ enacts language related to the distributions of investment income from institutional trust funds; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

53A-16-101, as last amended by Laws of Utah 2013, Chapter 235

53A-16-101.5, as last amended by Laws of Utah 2015, Chapter 276

53A-16-101.6, as last amended by Laws of Utah 2015, Chapter 276

53C-3-101, as last amended by Laws of Utah 2011, Chapter 247

53C-3-102, as last amended by Laws of Utah 2014, Chapter 426

53C-3-103, as last amended by Laws of Utah 2003, Chapter 226

59-10-1318, as enacted by Laws of Utah 2013, Chapter 235

ENACTS:

53A-16-115, Utah Code Annotated 1953

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

Section 1. Section 53A-16-101 is amended to read:**53A-16-101. Uniform School Fund -- Contents -- Trust Distribution Account.**

(1) The Uniform School Fund, a special revenue fund within the Education Fund, established by Utah Constitution, Article X, Section 5, consists of:

(a) ~~[interest and dividends]~~ distributions derived from the investment of money in the permanent State School Fund established by Utah Constitution, Article X, Section 5;

(b) money transferred to the fund pursuant to Title 67, Chapter 4a, Unclaimed Property Act; and

(c) all other constitutional or legislative allocations to the fund, including revenues received by donation.

(2) (a) There is created within the Uniform School Fund a restricted account known as the ~~[Interest and Dividends]~~ Trust Distribution Account.

(b) The ~~[Interest and Dividends]~~ Trust Distribution Account consists of the average of:

~~[(i) interest and dividends derived from the investment of money in the permanent State School Fund referred to in Subsection (1)(a); and]~~

~~[(ii) interest on account money.]~~

(i) 4% of the average market value of the permanent State School Fund based on an annual review each July of the past 12 consecutive quarters; and

(ii) the prior year's distribution from the Trust Distribution Account as described in Section 53A-16-101.5, increased by prior year changes in the percentage of student enrollment growth and in the consumer price index.

(3) Notwithstanding Subsection (2)(b), the distribution may not exceed 4% of the average market value of the permanent State School Fund over the past 12 consecutive quarters.

(4) The School and Institutional Trust Fund Board of Trustees created in Section 53D-1-301 shall:

(a) annually review distribution of the Trust Distribution Account; and

(b) make recommendations, if necessary, to the Legislature for changes to the formula described in Subsection (2)(b).

~~[(3)]~~ (5) (a) Upon appropriation by the Legislature, [money from the Interest and Dividends Account shall be used for] the director of the School and Institutional Trust Fund Office created in Section 53D-1-201 shall place in the Trust Distribution Account funds for:

(i) the administration of the School LAND Trust Program as provided in Section 53A-16-101.5; [and]

(ii) the performance of duties described in Section 53A-16-101.6[-];

~~(iii) the School and Institutional Trust Fund Office; and~~

~~(iv) the School and Institutional Trust Fund Board of Trustees created in Section 53D-1-301.~~

(b) The Legislature may appropriate any remaining balance for the support of the public education system.

~~[(4) (a) There is created within the Uniform School Fund a restricted account known as the Invest More for Education Account.]~~

~~[(b) The account shall be funded by contributions deposited into the restricted account in accordance with Section 59-10-1318.]~~

~~[(c) The account shall earn interest.]~~

~~[(d) Interest earned on the account shall be deposited into the account.]~~

~~[(e) The Legislature may appropriate money from the account for the support of the public education system.]~~

Section 2. Section 53A-16-101.5 is amended to read:

53A-16-101.5. School LAND Trust Program -- Purpose -- Distribution of funds -- School plans for use of funds.

(1) As used in this section:

(a) "Charter agreement" means an agreement made in accordance with Section 53A-1a-508 that authorizes the operation of a charter school.

(b) "Charter school authorizer" means the same as that term is defined in Section 53A-1a-501.3.

(c) "Charter trust land council" means a council established by a charter school governing board under this section.

(d) "Council" means a school community council or a charter trust land council.

(e) "District school" means a public school under the control of a local school board elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(f) "School community council" means a council established at a district school in accordance with Section 53A-1a-108.

(2) There is established the School LAND (Learning And Nurturing Development) Trust Program to:

(a) provide financial resources to public schools to enhance or improve student academic achievement and implement a component of a district school's school improvement plan or a charter school's charter agreement; and

(b) involve parents and guardians of a school's students in decision making regarding the expenditure of School LAND Trust Program money allocated to the school.

(3) (a) The program shall be funded each fiscal year:

(i) from the ~~[Interest and Dividends]~~ Trust Distribution Account created in Section 53A-16-101; and

(ii) in the amount of the sum of the following:

(A) the ~~[interest and dividends]~~ distributions from the investment of money in the permanent State School Fund deposited to the ~~[Interest and Dividends]~~ Trust Distribution Account ~~[in the immediately preceding]~~ on or about July 15 each year; and

(B) interest accrued on ~~[money in the Interest and Dividends]~~ the Trust Distribution Account in the immediately preceding fiscal year.

(b) The program shall be funded as provided in Subsection (3)(a) up to an amount equal to 3% of the funds provided for the Minimum School Program, pursuant to Title 53A, Chapter 17a, Minimum School Program Act, each fiscal year.

(c) (i) The Legislature shall annually allocate, through an appropriation to the State Board of Education, a portion of the ~~[Interest and Dividends]~~ Trust Distribution Account created in Section 53A-16-101 to be used for:

(A) the administration of the School LAND Trust Program; and

(B) the performance of duties described in Section 53A-16-101.6.

(ii) Any unused balance remaining from an amount appropriated under Subsection (3)(c)(i) shall be deposited in the ~~[Interest and Dividends]~~ Trust Distribution Account for distribution to schools in the School LAND Trust Program.

(4) (a) The State Board of Education shall allocate the money referred to in Subsection (3) annually as follows:

(i) the Utah Schools for the Deaf and the Blind shall receive funding equal to the product of:

(A) enrollment on October 1 in the prior year at the Utah Schools for the Deaf and the Blind divided by enrollment on October 1 in the prior year in public schools statewide; and

(B) the total amount available for distribution under Subsection (3);

(ii) charter schools shall receive funding equal to the product of:

(A) charter school enrollment on October 1 in the prior year, divided by enrollment on October 1 in the prior year in public schools statewide; and

(B) the total amount available for distribution under Subsection (3); and

(iii) of the funds available for distribution under Subsection (3) after the allocation of funds for the Utah Schools for the Deaf and the Blind and charter schools:

(A) school districts shall receive 10% of the funds on an equal basis; and

(B) the remaining 90% of the funds shall be distributed to school districts on a per student basis.

(b) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules specifying a formula to distribute the amount allocated under Subsection (4)(a)(ii) to charter schools.

(ii) In making rules under Subsection (4)(b)(i), the State Board of Education shall:

(A) consult with the State Charter School Board; and

(B) ensure that the rules include a provision that allows a charter school in the charter school's first year of operations to receive funding based on projected enrollment, to be adjusted in future years based on actual enrollment.

(c) A school district shall distribute its allocation under Subsection (4)(a)(iii) to each school within the school district on an equal per student basis.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education may make rules regarding the time and manner in which the student count shall be made for allocation of the money under Subsection (4)(a)(iii).

(5) To receive its allocation under Subsection (4):

(a) a district school shall have established a school community council in accordance with Section 53A-1a-108;

(b) a charter school shall have established a charter trust land council in accordance with Subsection (9); and

(c) the school's principal shall provide a signed, written assurance that the school is in compliance with Subsection (5)(a) or (b).

(6) (a) A council shall create a program to use its allocation under Subsection (4) to implement a component of the school's improvement plan or charter agreement, including:

(i) the school's identified most critical academic needs;

(ii) a recommended course of action to meet the identified academic needs;

(iii) a specific listing of any programs, practices, materials, or equipment which the school will need to implement a component of its school improvement plan to have a direct impact on the instruction of students and result in measurable increased student performance; and

(iv) how the school intends to spend its allocation of funds under this section to enhance or improve academic excellence at the school.

(b) (i) A council shall create and vote to adopt a plan for the use of School LAND Trust Program money in a meeting of the council at which a quorum is present.

(ii) If a majority of the quorum votes to adopt a plan for the use of School LAND Trust Program money, the plan is adopted.

(c) A council shall:

(i) post a plan for the use of School LAND Trust Program money that is adopted in accordance with Subsection (6)(b) on the School LAND Trust Program website; and

(ii) include with the plan a report noting the number of council members who voted for or against the approval of the plan and the number of council members who were absent for the vote.

(d) (i) The local school board of a district school shall approve or disapprove a plan for the use of School LAND Trust Program money.

(ii) If a local school board disapproves a plan for the use of School LAND Trust Program money:

(A) the local school board shall provide a written explanation of why the plan was disapproved and request the school community council who submitted the plan to revise the plan; and

(B) the school community council shall submit a revised plan in response to a local school board's request under Subsection (6)(d)(ii)(A).

(iii) Once a plan has been approved by a local school board, a school community council may amend the plan, subject to a majority vote of the school community council and local school board approval.

(e) A charter trust land council's plan for the use of School LAND Trust Program money is subject to approval by the:

(i) charter school governing board; and

(ii) charter school's charter school authorizer.

(7) (a) A district school or charter school shall:

(i) implement the program as approved;

(ii) provide ongoing support for the council's program; and

(iii) meet State Board of Education reporting requirements regarding financial and performance accountability of the program.

(b) (i) A district school or charter school shall prepare and post an annual report of the program on the School LAND Trust Program website each fall.

(ii) The report shall detail the use of program funds received by the school under this section and an assessment of the results obtained from the use of the funds.

(iii) A summary of the report shall be provided to parents or guardians of students attending the school.

(8) On or before October 1 of each year, a school district shall record the amount of the program funds distributed to each school under Subsection (4)(c) on the School LAND Trust Program website to assist schools in developing the annual report described in Subsection (7)(b).

(9) (a) The governing board of a charter school shall establish a council, which shall prepare a plan

for the use of School LAND Trust Program money that includes the elements listed in Subsection (6).

(b) (i) The membership of the council shall include parents or guardians of students enrolled at the school and may include other members.

(ii) The number of council members who are parents or guardians of students enrolled at the school shall exceed all other members combined by at least two.

(c) A charter school governing board may serve as the council that prepares a plan for the use of School LAND Trust Program money if the membership of the charter school governing board meets the requirements of Subsection (9)(b)(ii).

(d) (i) Except as provided in Subsection (9)(d)(ii), council members who are parents or guardians of students enrolled at the school shall be elected in accordance with procedures established by the charter school governing board.

(ii) Subsection (9)(d)(i) does not apply to a charter school governing board that serves as the council that prepares a plan for the use of School LAND Trust Program money.

(e) A parent or guardian of a student enrolled at the school shall serve as chair or cochair of a council that prepares a plan for the use of School LAND Trust Program money.

(10) The president or chair of a local school board or charter school governing board shall ensure that the members of the local school board or charter school governing board are provided with annual training on the requirements of this section.

Section 3. Section 53A-16-101.6 is amended to read:

53A-16-101.6. Creation of School Children's Trust Section -- Duties.

(1) As used in this section:

(a) "School and institutional trust lands" is as defined in Section 53C-1-103.

(b) "Section" means the School Children's Trust Section created in this section.

(c) "Trust" means:

(i) the School LAND Trust Program created in Section 53A-16-101.5; and

(ii) the lands and funds associated with the trusts described in Subsection 53C-1-103(7).

(2) There is established a School Children's Trust Section within the State Office of Education.

(3) (a) The section shall have a director.

(b) The director shall have professional qualifications and expertise in the areas generating revenue to the trust, including:

(i) economics;

(ii) energy development;

(iii) finance;

(iv) investments;

(v) public education;

(vi) real estate;

(vii) renewable resources;

(viii) risk management; and

(ix) trust law.

(c) The director shall be appointed as provided in this Subsection (3).

(d) The School and Institutional Trust Lands Board of Trustees nominating committee shall submit to the State Board of Education the name of one person to serve as director.

(e) The State Board of Education may:

(i) appoint the person described in Subsection (3)(d) to serve as director; or

(ii) deny the appointment of the person described in Subsection (3)(d) to serve as director.

(f) If the State Board of Education denies an appointment under this Subsection (3):

(i) the State Board of Education shall provide in writing one or more reasons for the denial to the School and Institutional Trust Lands Board of Trustees nominating committee; and

(ii) the School and Institutional Trust Lands Board of Trustees nominating committee and the State Board of Education shall follow the procedures and requirements of this Subsection (3) until the State Board of Education appoints a director.

(g) The State Board of Education may remove the director only by majority vote of a quorum in an open and public meeting after proper notice and the inclusion of the removal item on the agenda.

(4) The State Board of Education shall make rules regarding:

(a) regular reporting from the School Children's Trust Section director to the State Board of Education, to allow the State Board of Education to fulfill its duties in representing the trust beneficiaries; and

(b) the day-to-day reporting of the School Children's Trust Section director.

(5) (a) The director shall annually submit a proposed section budget to the State Board of Education.

(b) After approving a section budget, the State Board of Education shall propose the approved budget to the Legislature.

(6) The director is entitled to attend any presentation, discussion, meeting, or other gathering concerning the trust, subject to:

(a) provisions of law prohibiting the director's attendance to preserve confidentiality; or

(b) other provisions of law that the director's attendance would violate.

(7) The section shall have a staff.

(8) The section shall protect current and future beneficiary rights and interests in the trust consistent with the state's perpetual obligations under:

(a) the Utah Enabling Act;

(b) the Utah Constitution;

(c) state statute; and

(d) standard trust principles described in Section 53C-1-102.

(9) The section shall promote:

(a) productive use of school and institutional trust lands; and

(b) the efficient and prudent investment of funds managed by the School and Institutional Trust Fund Office, created in Section 53D-1-201.

(10) The section shall provide representation, advocacy, and input:

(a) on behalf of current and future beneficiaries of the trust, school community councils, schools, and school districts;

(b) on federal, state, and local land decisions and policies that affect the trust; and

(c) to:

(i) the School and Institutional Trust Lands Administration;

(ii) the School and Institutional Trust Lands Board of Trustees;

(iii) the Legislature;

(iv) the School and Institutional Trust Fund Office, created in Section 53D-1-201;

(v) the School and Institutional Trust Fund Board of Trustees, created in Section 53D-1-301;

(vi) the attorney general;

(vii) the public; and

(viii) other entities as determined by the section.

(11) The section shall provide independent oversight on the prudent and profitable management of the trust and report annually to the State Board of Education and the Legislature.

(12) The section shall provide information requested by a person or entity described in Subsections (10)(c)(i) through (vii).

(13) (a) The section shall provide training to the entities described in Subsection (13)(b) on:

(i) the School LAND Trust Program established in Section 53A-16-101.5; and

(ii) (A) a school community council established pursuant to Section 53A-1a-108; or

(B) a charter trust land council established under Section 53A-16-101.5.

(b) The section shall provide the training to:

(i) a local school board or a charter school governing board;

(ii) a school district or a charter school; and

(iii) a school community council.

(14) The section shall annually:

(a) review each school's compliance with applicable law, including rules adopted by the State Board of Education; and

(b) report findings to the State Board of Education.

Section 4. Section 53A-16-115 is enacted to read:

53A-16-115. Invest More for Education Account.

(1) There is created within the Uniform School Fund a restricted account known as the Invest More for Education Account.

(2) The account shall be funded by contributions deposited into the restricted account in accordance with Section 59-10-1318.

(3) The account shall earn interest.

(4) Interest earned on the account shall be deposited into the account.

(5) The Legislature may appropriate money from the account for the support of the public education system.

Section 5. Section 53C-3-101 is amended to read:

53C-3-101. Land Grant Management Fund -- Contents -- Use of money.

(1) (a) There is created an enterprise fund known as the Land Grant Management Fund.

(b) This fund shall consist of:

(i) all revenues derived from trust lands except revenues from the sale of those lands;

(ii) all interest earned by the fund;

(iii) all revenues deposited in the fund in accordance with Subsection 41-22-19(3); and

(iv) all revenues obtained from other activities of the director or administration.

(2) The director may expend money:

(a) from the Land Grant Management Fund in accordance with the approved budget for the support of director and administration activities; and

(b) deposited in the fund in accordance with Subsection 41-22-19(3) as necessary to fulfill the purposes of Subsection 41-22-19(3)(b).

(3) Except for revenues deposited under Subsection (1)(b)(iii), any amount in excess of that

required to fund the budget shall be distributed to the various trust beneficiaries as of June 30 of each calendar year, and at other times determined by the director, in shares equal to the portion of total Land Grant Management Fund revenues obtained from each beneficiary's land during the accounting period.

(4) Money from the lease or rental of school trust lands or from the use, sale, or lease of resources on school trust lands, all sums paid for fees, and all forfeitures or penalties received in connection with those transactions shall be deposited in the Permanent State School Fund.

(5) Money from the lease or rental of lands acquired by the state for the benefit of an institution named in Sections 7, 8, and 12 of the Utah Enabling Act, or from the use, sale, or lease of renewable or nonrenewable resources on those lands, and all forfeitures or penalties received in connection with those transactions, shall be ~~distributed to the institution.~~ deposited into the respective permanent funds established for the benefit of an institution named in Sections 7, 8, and 12 of the Utah Enabling Act.

(6) Except for revenues deposited under Subsection (1)(b)(iii), any remaining money, including interest earned on the account, shall be distributed in pro rata shares to the various beneficiaries.

Section 6. Section 53C-3-102 is amended to read:

53C-3-102. Deposit and allocation of money received.

(1) (a) The director shall pay to the School and Institutional Trust Fund Office, created in Section 53D-1-201, all money received, accompanied by a statement showing the respective sources of this money.

(b) Each source shall be classified as to sales, rentals, royalties, interest, fees, penalties, and forfeitures.

(2) All money received from the sale of lands granted by Section 6 of the Utah Enabling Act for the support of the common schools, all money received from the sale of lands selected in lieu of those lands, all money received from the United States under Section 9 of the Utah Enabling Act, all money received from the sale of lands or other securities acquired by the state from the investment of those funds, all sums paid for fees, all forfeitures, and all penalties paid in connection with these sales shall be deposited in the Permanent State School Fund.

(3) All money received from the sale ~~or other disposition~~ and all net proceeds from other contractual arrangements of institutional trust lands granted to the state by the United States under Section 7, 8, or 12 of the Utah Enabling Act, ~~and all sums paid for fees, forfeitures, and penalties received in connection with these sales or dispositions shall go to~~ shall be deposited into the

respective permanent funds established for the benefit of those institutions under the Utah Enabling Act and the Utah Constitution.

(4) (a) All lands acquired by the state through foreclosure of mortgages securing school or institutional trust funds or through deeds from mortgagors or owners of those lands shall become a part of the respective school or institutional trust lands.

(b) All money received from these lands shall be treated as money received from school or institutional trust lands.

(5) All money received from the sale of lands acquired by the state through foreclosure of mortgages securing trust funds or through deeds from mortgagors or owners of such lands, whether a profit is realized or a loss sustained on the principal invested, shall be regarded as principal and shall go into the principal or permanent fund from which it was originally taken in reimbursement of that fund, with profits being used to offset losses.

(6) (a) All money received by the director as a first or down payment on applications to purchase, permit, or lease trust lands or minerals shall be paid to the state treasurer and held in suspense pending final action on those applications.

(b) After final action the payments received under Subsection (6)(a) shall either be credited to the appropriate fund or account, or refunded to the applicant in accordance with the action taken.

(7) Distributions to the respective institutions from the associated permanent funds created from lands granted in Sections 8 and 12 of the Utah Enabling Act shall consist of 4% of the average market value of each institutional permanent fund over the past 12 consecutive quarters.

Section 7. Section 53C-3-103 is amended to read:

53C-3-103. Disposition of interest on permanent funds.

~~[(1)] The [interest and dividends] trust distributions derived from the investment of funds belonging to the permanent State School Fund and [the interest, dividends, and other income of] the permanent funds of the respective state institutions shall be distributed for use for the maintenance of public elementary and secondary schools or the state institutions in accordance with [Title 51, Chapter 7, State Money Management Act] applicable law.~~

~~[(2) Realized and unrealized gains shall be retained in the Permanent State School Fund.]~~

Section 8. Section 59-10-1318 is amended to read:

59-10-1318. Contribution to Invest More for Education Account.

(1) Except as provided in Section 59-10-1304, a resident or nonresident individual that files an individual income tax return under this chapter may designate on the resident or nonresident

individual's individual income tax return a contribution as provided in this section to be:

(a) deposited into the Invest More for Education Account; and

(b) expended as provided in [~~Subsection 53A-16-101(4)~~] Section 53A-16-115.

(2) The commission shall:

(a) determine the total amount of contributions designated in accordance with this section for a taxable year; and

(b) credit the amount described in Subsection (2)(a) to the Invest More for Education Account created in [~~Subsection 53A-16-101(4)~~] Section 53A-16-115.

Section 9. Effective date -- Contingent effective date.

(1) Sections 53C-3-101 and 53C-3-102 of this bill take effect July 1, 2017.

(2) Except as provided in Subsection (1), this bill takes effect July 1, 2017, if the amendment to the Utah Constitution proposed by S.J.R. 12, Joint Resolution on Proposal to Amend Utah Constitution -- Changes to School Funds, passes during the 2016 General Session and is approved by a majority of those voting on it at the next regular general election.

CHAPTER 173**S. B. 121**

Passed March 10, 2016
 Approved March 22, 2016
 Effective May 10, 2016

**ELECTRIC ASSISTED
BICYCLE AMENDMENTS**

Chief Sponsor: Todd Weiler
 House Sponsor: Johnny Anderson

LONG TITLE**General Description:**

This bill amends provisions related to electric assisted bicycles.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of an electric assisted bicycle and related definitions;
- ▶ amends and enacts provisions related to the operation of an electric assisted bicycle; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

- 41-6a-102, as last amended by Laws of Utah 2014, Chapters 104 and 229
 41-6a-1505, as last amended by Laws of Utah 2015, Chapter 412
 53-3-202, as last amended by Laws of Utah 2015, Chapters 331 and 412
 79-5-102, as renumbered and amended by Laws of Utah 2009, Chapter 344

ENACTS:

41-6a-1115.5, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

41-6a-1505, as last amended by Laws of Utah 2015, Chapter 412

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

Section 1. Section 41-6a-102 is amended to read:**41-6a-102. Definitions.**

As used in this chapter:

(1) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for through vehicular traffic.

(2) "All-terrain type I vehicle" has the same meaning as defined in Section 41-22-2.

(3) "Authorized emergency vehicle" includes:

- (a) fire department vehicles;
- (b) police vehicles;
- (c) ambulances; and

(d) other publicly or privately owned vehicles as designated by the commissioner of the Department of Public Safety.

(4) (a) "Bicycle" means a wheeled vehicle:

(i) propelled by human power by feet or hands acting upon pedals or cranks;

(ii) with a seat or saddle designed for the use of the operator;

(iii) designed to be operated on the ground; and

(iv) whose wheels are not less than 14 inches in diameter.

(b) "Bicycle" includes an electric assisted bicycle.

(c) "Bicycle" does not include scooters and similar devices.

(5) (a) "Bus" means a motor vehicle:

(i) designed for carrying more than 15 passengers and used for the transportation of persons; or

(ii) designed and used for the transportation of persons for compensation.

(b) "Bus" does not include a taxicab.

(6) (a) "Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection where traffic passes to the right of the island.

(b) "Circular intersection" includes:

- (i) roundabouts;
- (ii) rotaries; and
- (iii) traffic circles.

(7) "Class 1 electric assisted bicycle" means an electric assisted bicycle described in Subsection (16)(d)(i).

(8) "Class 2 electric assisted bicycle" means an electric assisted bicycle described in Subsection (16)(d)(ii).

(9) "Class 3 electric assisted bicycle" means an electric assisted bicycle described in Subsection (16)(d)(iii).

~~(7)~~ (10) "Commissioner" means the commissioner of the Department of Public Safety.

~~(8)~~ (11) "Controlled-access highway" means a highway, street, or roadway:

(a) designed primarily for through traffic; and

(b) to or from which owners or occupants of abutting lands and other persons have no legal right of access, except at points as determined by the highway authority having jurisdiction over the highway, street, or roadway.

~~(9)~~ (12) "Crosswalk" means:

(a) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from:

- (i) (A) the curbs; or

(B) in the absence of curbs, from the edges of the traversable roadway; and

(ii) in the absence of a sidewalk on one side of the roadway, that part of a roadway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline; or

(b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

[40] (13) "Department" means the Department of Public Safety.

[41] (14) "Direct supervision" means oversight at a distance within which:

(a) visual contact is maintained; and

(b) advice and assistance can be given and received.

[42] (15) "Divided highway" means a highway divided into two or more roadways by:

(a) an unpaved intervening space;

(b) a physical barrier; or

(c) a clearly indicated dividing section constructed to impede vehicular traffic.

[43] (16) "Electric assisted bicycle" ~~means a moped~~ means a bicycle with an electric motor that:

(a) ~~[with an electric motor with]~~ has a power output of not more than ~~[1,000]~~ 750 watts; ~~[and]~~

~~[(b) which is not capable of:]~~

~~[(i) propelling the device at a speed of more than 20 miles per hour on level ground when:]~~

~~[(A) powered solely by the electric motor; and]~~

~~[(B) operated by a person who weighs 170 pounds; and]~~

~~[(ii) increasing the speed of the device when human power is used to propel the device at more than 20 miles per hour;]~~

~~[(e) (b) has fully operable pedals on permanently affixed cranks; [and]~~

~~[(d) weighs less than 75 pounds.]~~

(c) is fully operable as a bicycle without the use of the electric motor; and

(d) is one of the following:

(i) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling; and

(B) ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour;

(ii) an electric assisted bicycle equipped with a motor or electronics that:

(A) may be used exclusively to propel the bicycle; and

(B) is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour; or

(iii) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling;

(B) ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour; and

(C) is equipped with a speedometer.

[44] (17) (a) "Electric personal assistive mobility device" means a self-balancing device with:

(i) two nontandem wheels in contact with the ground;

(ii) a system capable of steering and stopping the unit under typical operating conditions;

(iii) an electric propulsion system with average power of one horsepower or 750 watts;

(iv) a maximum speed capacity on a paved, level surface of 12.5 miles per hour; and

(v) a deck design for a person to stand while operating the device.

(b) "Electric personal assistive mobility device" does not include a wheelchair.

[45] (18) "Explosives" means any chemical compound or mechanical mixture commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustible units or other ingredients in proportions, quantities, or packing so that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases, and the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of causing death or serious bodily injury.

[46] (19) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry.

[47] (20) "Flammable liquid" means a liquid that has a flashpoint of 100 degrees F. or less, as determined by a tagliabue or equivalent closed-cup test device.

[48] (21) "Freeway" means a controlled-access highway that is part of the interstate system as defined in Section 72-1-102.

[49] (22) (a) "Full-sized all-terrain vehicle" means any recreational vehicle designed for and capable of travel over unimproved terrain:

(i) traveling on four or more tires;

(ii) having a width that, when measured at the widest point of the vehicle:

(A) is not less than 55 inches; or

(B) does not exceed 92 inches;

(iii) having an unladen dry weight of 6,500 pounds or less;

(iv) having a maximum seat height of 50 inches when measured at the forward edge of the seat bottom; and

(v) having a steering wheel for control.

(b) “Full-sized all-terrain vehicle” does not include:

(i) all-terrain type I vehicle;

(ii) a utility type vehicle;

(iii) a motorcycle; or

(iv) a snowmobile as defined in Section 41-22-2.

[(20)] (23) “Gore area” means the area delineated by two solid white lines that is between a continuing lane of a through roadway and a lane used to enter or exit the continuing lane including similar areas between merging or splitting highways.

[(21)] (24) “Gross weight” means the weight of a vehicle without a load plus the weight of any load on the vehicle.

[(22)] (25) “Highway” means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.

[(23)] (26) “Highway authority” has the same meaning as defined in Section 72-1-102.

[(24)] (27) (a) “Intersection” means the area embraced within the prolongation or connection of the lateral curblines, or, if none, then the lateral boundary lines of the roadways of two or more highways which join one another.

(b) Where a highway includes two roadways 30 feet or more apart:

(i) every crossing of each roadway of the divided highway by an intersecting highway is a separate intersection; and

(ii) if the intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of the highways is a separate intersection.

(c) “Intersection” does not include the junction of an alley with a street or highway.

[(25)] (28) “Island” means an area between traffic lanes or at an intersection for control of vehicle movements or for pedestrian refuge designated by:

(a) pavement markings, which may include an area designated by two solid yellow lines surrounding the perimeter of the area;

(b) channelizing devices;

(c) curbs;

(d) pavement edges; or

(e) other devices.

[(26)] (29) “Law enforcement agency” has the same meaning as defined in Section 53-1-102.

[(27)] (30) “Limited access highway” means a highway:

(a) that is designated specifically for through traffic; and

(b) over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

[(28)] (31) “Local highway authority” means the legislative, executive, or governing body of a county, municipal, or other local board or body having authority to enact laws relating to traffic under the constitution and laws of the state.

[(29)] (32) (a) “Low-speed vehicle” means a four wheeled electric motor vehicle that:

(i) is designed to be operated at speeds of not more than 25 miles per hour; and

(ii) has a capacity of not more than four passengers, including the driver.

(b) “Low-speed vehicle” does not include a golfcart or an off-highway vehicle.

[(30)] (33) “Metal tire” means a tire, the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

[(31)] (34) (a) “Mini-motorcycle” means a motorcycle or motor-driven cycle that has a seat or saddle that is less than 24 inches from the ground as measured on a level surface with properly inflated tires.

(b) “Mini-motorcycle” does not include a moped or a motor assisted scooter.

(c) “Mini-motorcycle” does not include a motorcycle that is:

(i) designed for off-highway use; and

(ii) registered as an off-highway vehicle under Section 41-22-3.

[(32)] (35) “Mobile home” means:

(a) a trailer or semitrailer that is:

(i) designed, constructed, and equipped as a dwelling place, living abode, or sleeping place either permanently or temporarily; and

(ii) equipped for use as a conveyance on streets and highways; or

(b) a trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a mobile home, as defined in Subsection [(32)] (35)(a), but that is instead used permanently or temporarily for:

(i) the advertising, sale, display, or promotion of merchandise or services; or

(ii) any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

[(33)] (36) (a) “Moped” means a motor-driven cycle having:

(i) pedals to permit propulsion by human power; and

(ii) a motor that:

(A) produces not more than two brake horsepower; and

(B) is not capable of propelling the cycle at a speed in excess of 30 miles per hour on level ground.

(b) If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

(c) "Moped" includes ~~[an electric assisted bicycle and]~~ a motor assisted scooter.

(d) "Moped" does not include an electric assisted bicycle.

[34] (37) (a) "Motor assisted scooter" means a self-propelled device with:

~~[(a)]~~ (i) at least two wheels in contact with the ground;

~~[(b)]~~ (ii) a braking system capable of stopping the unit under typical operating conditions;

~~[(c)]~~ (iii) a gas or electric motor not exceeding 40 cubic centimeters;

~~[(d)]~~ (iv) either:

~~[(i)]~~ (A) a deck design for a person to stand while operating the device; or

~~[(ii)]~~ (B) a deck and seat designed for a person to sit, straddle, or stand while operating the device; and

~~[(e)]~~ (v) a design for the ability to be propelled by human power alone.

(b) "Motor assisted scooter" does not include an electric assisted bicycle.

[35] (38) "Motorcycle" means a motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground.

[36] (39) (a) "Motor-driven cycle" means every motorcycle, motor scooter, moped, ~~[electric assisted bicycle,]~~ motor assisted scooter, and every motorized bicycle having:

(i) an engine with less than 150 cubic centimeters displacement; or

(ii) a motor that produces not more than five horsepower.

(b) "Motor-driven cycle" does not include ~~[an electric personal assistive mobility device.]:~~

(i) an electric personal assistive mobility device; or

(ii) an electric assisted bicycle.

[37] (40) (a) "Motor vehicle" means a vehicle that is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(b) "Motor vehicle" does not include vehicles moved solely by human power, motorized wheelchairs, ~~[or]~~ an electric personal assistive mobility device, or an electric assisted bicycle.

~~[(38)]~~ (41) "Off-highway implement of husbandry" has the same meaning as defined under Section 41-22-2.

~~[(39)]~~ (42) "Off-highway vehicle" has the same meaning as defined under Section 41-22-2.

~~[(40)]~~ (43) "Operator" means a person who is in actual physical control of a vehicle.

~~[(41)]~~ (44) (a) "Park" or "parking" means the standing of a vehicle, whether the vehicle is occupied or not.

(b) "Park" or "parking" does not include the standing of a vehicle temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

~~[(42)]~~ (45) "Peace officer" means a peace officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to direct or regulate traffic or to make arrests for violations of traffic laws.

~~[(43)]~~ (46) "Pedestrian" means a person traveling:

(a) on foot; or

(b) in a wheelchair.

~~[(44)]~~ (47) "Pedestrian traffic-control signal" means a traffic-control signal used to regulate pedestrians.

~~[(45)]~~ (48) "Person" means every natural person, firm, copartnership, association, or corporation.

~~[(46)]~~ (49) "Pole trailer" means every vehicle without motive power:

(a) designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle; and

(b) that is ordinarily used for transporting long or irregular shaped loads including poles, pipes, or structural members generally capable of sustaining themselves as beams between the supporting connections.

~~[(47)]~~ (50) "Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

~~[(48)]~~ (51) "Railroad" means a carrier of persons or property upon cars operated on stationary rails.

~~[(49)]~~ (52) "Railroad sign or signal" means a sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

~~[(50)]~~ (53) "Railroad train" means a locomotive propelled by any form of energy, coupled with or operated without cars, and operated upon rails.

~~[(51)]~~ (54) "Right-of-way" means the right of one vehicle or pedestrian to proceed in a lawful manner

in preference to another vehicle or pedestrian approaching under circumstances of direction, speed, and proximity that give rise to danger of collision unless one grants precedence to the other.

[452] (55) (a) “Roadway” means that portion of highway improved, designed, or ordinarily used for vehicular travel.

(b) “Roadway” does not include the sidewalk, berm, or shoulder, even though any of them are used by persons riding bicycles or other human-powered vehicles.

(c) “Roadway” refers to any roadway separately but not to all roadways collectively, if a highway includes two or more separate roadways.

[453] (56) “Safety zone” means the area or space officially set apart within a roadway for the exclusive use of pedestrians and that is protected, marked, or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

[454] (57) (a) “School bus” means a motor vehicle that:

(i) complies with the color and identification requirements of the most recent edition of “Minimum Standards for School Buses”; and

(ii) is used to transport school children to or from school or school activities.

(b) “School bus” does not include a vehicle operated by a common carrier in transportation of school children to or from school or school activities.

[455] (58) (a) “Semitrailer” means a vehicle with or without motive power:

(i) designed for carrying persons or property and for being drawn by a motor vehicle; and

(ii) constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(b) “Semitrailer” does not include a pole trailer.

[456] (59) “Shoulder area” means:

(a) that area of the hard-surfaced highway separated from the roadway by a pavement edge line as established in the current approved “Manual on Uniform Traffic Control Devices”; or

(b) that portion of the road contiguous to the roadway for accommodation of stopped vehicles, for emergency use, and for lateral support.

[457] (60) “Sidewalk” means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

[458] (61) “Solid rubber tire” means a tire of rubber or other resilient material that does not depend on compressed air for the support of the load.

[459] (62) “Stand” or “standing” means the temporary halting of a vehicle, whether occupied or

not, for the purpose of and while actually engaged in receiving or discharging passengers.

[460] (63) “Stop” when required means complete cessation from movement.

[461] (64) “Stop” or “stopping” when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when:

(a) necessary to avoid conflict with other traffic; or

(b) in compliance with the directions of a peace officer or traffic-control device.

[462] (65) “Street-legal all-terrain vehicle” or “street-legal ATV” means an all-terrain type I vehicle, utility type vehicle, or full-sized all-terrain vehicle that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with Section 41-6a-1509.

[463] (66) “Traffic” means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for the purpose of travel.

[464] (67) “Traffic-control device” means a sign, signal, marking, or device not inconsistent with this chapter placed or erected by a highway authority for the purpose of regulating, warning, or guiding traffic.

[465] (68) “Traffic-control signal” means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

[466] (69) “Traffic signal preemption device” means an instrument or mechanism designed, intended, or used to interfere with the operation or cycle of a traffic-control signal.

[467] (70) (a) “Trailer” means a vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(b) “Trailer” does not include a pole trailer.

[468] (71) “Truck” means a motor vehicle designed, used, or maintained primarily for the transportation of property.

[469] (72) “Truck tractor” means a motor vehicle:

(a) designed and used primarily for drawing other vehicles; and

(b) constructed to carry a part of the weight of the vehicle and load drawn by the truck tractor.

[470] (73) “Two-way left turn lane” means a lane:

(a) provided for vehicle operators making left turns in either direction;

(b) that is not used for passing, overtaking, or through travel; and

(c) that has been indicated by a lane traffic-control device that may include lane markings.

[471] (74) "Urban district" means the territory contiguous to and including any street, in which structures devoted to business, industry, or dwelling houses are situated at intervals of less than 100 feet, for a distance of a quarter of a mile or more.

[472] (75) (a) "Utility type vehicle" means any recreational vehicle designed for and capable of travel over unimproved terrain:

- (i) traveling on four or more tires;
- (ii) having a width that, when measured at the widest point of the vehicle:
 - (A) is not less than 30 inches; or
 - (B) does not exceed 70 inches;
- (iii) having an unladen dry weight of 2,200 pounds or less;
- (iv) having a seat height of 20 to 40 inches when measured at the forward edge of the seat bottom; and
- (v) having side-by-side seating with a steering wheel for control.

(b) "Utility type vehicle" does not include:

- (i) an all-terrain type I vehicle;
- (ii) a motorcycle; or
- (iii) a snowmobile as defined in Section 41-22-2.

[473] (76) "Vehicle" means a device in, on, or by which a person or property is or may be transported or drawn on a highway, except devices used exclusively on stationary rails or tracks.

Section 2. Section 41-6a-1115.5 is enacted to read:

41-6a-1115.5. Electric assisted bicycles -- Restrictions -- Penalties.

(1) Except as otherwise provided in this section, an electric assisted bicycle is subject to the provisions under this chapter for a bicycle.

(2) An individual may operate an electric assisted bicycle on a path or trail designated for the use of a bicycle.

(3) A local authority or state agency may adopt an ordinance or rule to regulate or restrict the use of an electric assisted bicycle, or a specific classification of an electric assisted bicycle, on a sidewalk, path, or trail within the jurisdiction of the local authority or state agency.

(4) An individual under 16 years of age may not operate a class 3 electric assisted bicycle.

(5) An individual under 14 years of age may not operate an electric assisted bicycle with the electric motor engaged on any public property, highway, path, or sidewalk unless the individual is under the direct supervision of the individual's parent or guardian.

(6) An individual under eight years of age may not operate an electric assisted bicycle with the electric motor engaged on any public property, highway, path, or sidewalk.

(7) The owner of an electric assisted bicycle may not authorize or knowingly permit an individual to operate an electric assisted bicycle in violation of this section.

(8) (a) Beginning January 1, 2017, each Utah-based manufacturer of an electric assisted bicycle and each distributor of an electric assisted bicycle in Utah shall permanently affix a label in a prominent location on the electric assisted bicycle.

(b) Each manufacturer and each distributor shall ensure that the label is printed in Arial font, in 9-point type or larger, and includes the:

(i) appropriate electric assisted bicycle classification number described in Section 41-6a-102;

(ii) top assisted speed; and

(iii) wattage of the motor.

(9) An individual who violates this section is guilty of an infraction.

Section 3. Section 41-6a-1505 is amended to read:

41-6a-1505. Motorcycle or motor-driven cycle -- Protective headgear -- Closed cab excepted -- Electric assisted bicycles, motor assisted scooters, electric personal assistive mobility devices.

(1) A person under the age of 18 may not operate or ride ~~on a motorcycle or motor-driven cycle~~ any of the following on a highway unless the person is wearing protective headgear ~~which~~ that complies with specifications adopted under Subsection (3)[-]:

- (a) a motorcycle;
- (b) a motor-driven cycle; or
- (c) a class 3 electric assisted bicycle.

(2) This section does not apply to persons riding within an enclosed cab.

(3) The following standards and specifications for protective headgear are adopted:

- (a) 49 C.F.R. 571.218 related to protective headgear for motorcycles; and
- (b) 16 C.F.R. Part 1203 related to protective headgear for bicycles, motor assisted scooters, and electric personal assistive mobility devices.

(4) A court shall waive \$8 of a fine charged to a person operating a motorcycle or motor-driven cycle for a moving traffic violation if the person was:

- (a) 18 years of age or older at the time of operation; and
- (b) wearing protective headgear that complies with the specifications adopted under Subsection (3) at the time of operation.

(5) The failure to wear protective headgear:

(a) does not constitute contributory or comparative negligence on the part of a person seeking recovery for injuries; and

(b) may not be introduced as evidence in any civil litigation on the issue of negligence, injuries, or the mitigation of damages.

(6) Notwithstanding Subsection (4), a court may not waive \$8 of a fine charged to a person operating a motorcycle or motor-driven cycle for a driving under the influence violation of Section 41-6a-502.

(7) A violation of this section is an infraction.

Section 4. Section 53-3-202 is amended to read:

53-3-202. Drivers must be licensed -- Taxicab endorsement -- Violation.

(1) A person may not drive a motor vehicle on a highway in this state unless the person is:

(a) granted the privilege to operate a motor vehicle by being licensed as a driver by the division under this chapter;

(b) driving an official United States Government class D motor vehicle with a valid United States Government driver permit or license for that type of vehicle;

(c) (i) driving a road roller, road machinery, or any farm tractor or implement of husbandry temporarily drawn, moved, or propelled on the highways; and

(ii) driving the vehicle described in Subsection (1)(c)(i) in conjunction with a construction or agricultural activity;

(d) a nonresident who is at least 16 years of age and younger than 18 years of age who has in the nonresident's immediate possession a valid license certificate issued to the nonresident in the nonresident's home state or country and is driving in the class or classes identified on the home state license certificate, except those persons referred to in Part 6, Drivers' License Compact, of this chapter;

(e) a nonresident who is at least 18 years of age and who has in the nonresident's immediate possession a valid license certificate issued to the nonresident in the nonresident's home state or country if driving in the class or classes identified on the home state license certificate, except those persons referred to in Part 6, Drivers' License Compact, of this chapter;

(f) driving under a learner permit in accordance with Section 53-3-210.5;

(g) driving with a temporary license certificate issued in accordance with Section 53-3-207; or

(h) exempt under Title 41, Chapter 22, Off-Highway Vehicles.

(2) A person may not drive or, while within the passenger compartment of a motor vehicle, exercise any degree or form of physical control of a motor

vehicle being towed by a motor vehicle upon a highway unless the person:

(a) holds a valid license issued under this chapter for the type or class of motor vehicle being towed; or

(b) is exempted under either Subsection (1)(b) or (1)(c).

(3) A person may not drive a motor vehicle as a taxicab on a highway of this state unless the person has a taxicab endorsement issued by the division on his license certificate.

(4) (a) Except as provided in Subsections (4)(b) ~~and~~, (c), and (d), a person may not operate:

(i) a motorcycle unless the person has a valid class D driver license and a motorcycle endorsement issued under this chapter;

(ii) a street legal all-terrain vehicle unless the person has a valid class D driver license; or

(iii) a motor-driven cycle unless the person has a valid class D driver license and a motorcycle endorsement issued under this chapter.

(b) A person operating a moped, as defined in Section 41-6a-102~~, or an electric assisted bicycle, as defined in Section 41-6a-102~~, is not required to have a motorcycle endorsement issued under this chapter.

(c) A person operating an electric assisted bicycle, as defined in Section 41-6a-102, is not required to have a valid class D driver license or a motorcycle endorsement issued under this chapter.

~~[(e)]~~ (d) A person is not required to have a valid class D driver license if the person is:

(i) operating a motor assisted scooter, as defined in Section 41-6a-102, in accordance with Section 41-6a-1115; or

(ii) operating an electric personal assistive mobility device, as defined in Section 41-6a-102, in accordance with Section 41-6a-1116.

(5) A person who violates this section is guilty of an infraction.

Section 5. Section 79-5-102 is amended to read:

79-5-102. Definitions.

As used in this chapter:

(1) "Board" means the Board of Parks and Recreation.

(2) "Council" means the Recreational Trails Advisory Council.

(3) "Division" means the Division of Parks and Recreation.

(4) "Recreational trail" or "trail" means a multi-use path used for:

(a) muscle-powered activities, including:

(i) bicycling;

(ii) cross-country skiing;

(iii) walking;

(iv) jogging; and

(v) horseback riding; and

(b) uses compatible with the uses described in Subsection (4)(a), including the use of an electric assisted bicycle, as defined in Section 41-6a-102.

Section 6. Coordinating S.B. 121 with H.B.

38 -- Substantive and technical amendments.

If this S.B. 121 and H.B. 38, Unconventional Vehicle Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by amending Subsection 41-6a-1505(1) to read:

”(1) A person under the age of 18 may not operate or ride [~~on a motoreyele or motor-driven eyele~~] any of the following on a highway unless the person is wearing protective headgear [~~which~~] that complies with specifications adopted under Subsection (3)[-].:

(a) a motorcycle;

(b) a motor-driven cycle;

(c) a class 3 electric assisted bicycle; or

(d) an autocyte that is not fully enclosed.”

CHAPTER 174**S. B. 122**

Passed March 9, 2016

Approved March 22, 2016

Effective January 1, 2017

WILDLAND FIRE POLICY UPDATES

Chief Sponsor: Evan J. Vickers

House Sponsor: Joel K. Briscoe

LONG TITLE**General Description:**

This bill modifies procedures surrounding the management of wildland fire.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a municipality to abate uncontrolled wildfire on private or municipality-owned land within its boundaries, under certain circumstances;
- ▶ authorizes a municipality, county, or certain special districts to enter into a cooperative agreement with the Division of Forestry, Fire, and State Lands;
- ▶ states that a city, town, county, or special district that enters into a cooperative agreement may be eligible to have the costs of catastrophic wildland fire suppression paid by the state;
- ▶ states that a city, town, county, or special district that does not enter into a cooperative agreement shall be responsible for wildland fire suppression costs within its jurisdiction;
- ▶ describes the requirements to enter into a cooperative agreement; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates:

- ▶ to the Department of Natural Resources -- Forestry, Fire, and States Lands, as a one-time appropriation:
 - from Wildland Fire Suppression Fund, \$4,800,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 11-7-1, as last amended by Laws of Utah 1986, Chapter 175
- 15A-5-203, as last amended by Laws of Utah 2015, Chapter 158
- 65A-1-1, as last amended by Laws of Utah 2013, Chapter 413
- 65A-3-3, as last amended by Laws of Utah 2013, Chapter 237
- 65A-8-101, as last amended by Laws of Utah 2008, Chapter 20
- 65A-8-103, as last amended by Laws of Utah 2015, Chapter 33
- 65A-8-201, as renumbered and amended by Laws of Utah 2007, Chapter 136
- 65A-8-202, as renumbered and amended by Laws of Utah 2007, Chapter 136

- 65A-8-203, as renumbered and amended by Laws of Utah 2007, Chapter 136
- 65A-8-204, as renumbered and amended by Laws of Utah 2007, Chapter 136
- 65A-8-206, as renumbered and amended by Laws of Utah 2007, Chapter 136
- 65A-8-207, as last amended by Laws of Utah 2008, Chapter 382
- 65A-8-209, as renumbered and amended by Laws of Utah 2007, Chapter 136
- 65A-8-210, as renumbered and amended by Laws of Utah 2007, Chapter 136
- 65A-8-211, as renumbered and amended by Laws of Utah 2007, Chapter 136

ENACTS:

- 65A-8-202.5, Utah Code Annotated 1953
- 65A-8-203.1, Utah Code Annotated 1953
- 65A-8-203.2, Utah Code Annotated 1953
- 65A-8-209.1, Utah Code Annotated 1953

REPEALS:

- 65A-8-103.5, as enacted by Laws of Utah 2015, Chapter 33
- 65A-8-205, as last amended by Laws of Utah 2011, Chapter 342
- 65A-8-208, as renumbered and amended by Laws of Utah 2007, Chapter 136

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

Section 1. Section 11-7-1 is amended to read:**11-7-1. Cooperation with other governmental units -- Burning permits -- Contracts.**

(1) The governing body of every incorporated municipality and the board of commissioners or county council of every county shall:

(a) provide adequate fire protection within their own territorial limits; and [shall]

(b) cooperate with all contiguous counties, municipal corporations, private corporations, fire districts, state agencies, or federal governmental agencies to maintain adequate fire protection within their territorial limits.

(2) Every incorporated municipality and every county may:

(a) require that persons obtain a burning permit before starting a fire on any forest, wildland urban interface, brush, range, grass, grain, stubble, or hay land, except that a municipality or county may not require a burning permit for the burning of fence lines on cultivated lands, canals, or irrigation ditches, provided that the individual notifies the nearest fire department of the approximate time that the burning will occur;

(b) maintain and support a fire-fighting force or fire department for its own protection;

(c) contract to furnish fire protection to any proximate county, municipal corporation, private corporation, fire district, state agency, or federal agency;

(d) contract to receive fire protection from any contiguous county, municipal corporation, private

corporation, fire district, state agency, or federal governmental agency;

(e) contract to jointly provide fire protection with any contiguous county, municipal corporation, private corporation, fire district, state agency, or federal governmental agency; or

(f) contract to contribute toward the support of a fire-fighting force, or fire department in any contiguous county, municipal corporation, private corporation, fire district, state agency, or federal governmental agency in return for fire protection.

Section 2. Section 15A-5-203 is amended to read:

15A-5-203. Amendments and additions to IFC related to fire safety, building, and site requirements.

(1) For IFC, Chapter 5, Fire Service Features:

(a) In IFC, Chapter 5, a new Section 501.5, Access grade and fire flow, is added as follows: "An authority having jurisdiction over a structure built in accordance with the requirements of the International Residential Code as adopted in the State Construction Code, may require an automatic fire sprinkler system for the structure only by ordinance and only if any of the following conditions exist:

(i) the structure:

(A) is located in an urban-wildland interface area as provided in the Utah Wildland Urban Interface Code adopted as a construction code under the State Construction Code; and

(B) does not meet the requirements described in Utah Code, Subsection [65A-8-203(3)(a)] 65A-8-203(4)(a) and Utah Administrative Code, R652-122-200, Minimum Standards for Wildland Fire Ordinance;

(ii) the structure is in an area where a public water distribution system with fire hydrants does not exist as required in Utah Administrative Code, R309-550-5, Water Main Design;

(iii) the only fire apparatus access road has a grade greater than 10% for more than 500 continual feet; or

(iv) (A) the water supply to the structure does not provide at least 500 gallons fire flow per minute for a minimum of 30 minutes, if the total square foot living space of the structure is equal to or less than 5,000 square feet;

(B) the water supply to the structure does not provide at least 750 gallons per minute fire flow for a minimum of 30 minutes, if the total square foot living space exceeds 5,000 square feet, but is equal to or less than 10,000 square feet; or

(C) the water supply to the structure does not provide at least 1,000 gallons per minute fire flow for a minimum of 30 minutes, if the total square foot living space exceeds 10,000 square feet."

(b) In IFC, Chapter 5, Section 506.1, Where Required, is deleted and rewritten as follows: "Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the fire code official, after consultation with the building owner, may require a key box to be installed in an approved location. The key box shall contain keys to gain necessary access as required by the fire code official. For each fire jurisdiction that has at least one building with a required key box, the fire jurisdiction shall adopt an ordinance, resolution, or other operating rule or policy that creates a process to ensure that each key to each key box is properly accounted for and secure."

(c) In IFC, Chapter 5, a new Section 507.1.1, Isolated one- and two-family dwellings, is added as follows: "Fire flow may be reduced for an isolated one- and two-family dwelling when the authority having jurisdiction over the dwelling determines that the development of a full fire-flow requirement is impractical."

(d) In IFC, Chapter 5, a new Section 507.1.2, Pre-existing subdivision lots, is added as follows: "Total water supply requirements shall not exceed the fire flows described in Section 501.5(iv) for the largest one- or two-family dwelling, protected by an automatic fire sprinkler system, on a subdivision lot platted before December 31, 1980, unless the municipality or county in which the lot is located provides the required fire flow capacity."

(e) In IFC, Chapter 5, Section 510.1, Emergency Responder Radio Coverage in New Buildings, is amended by adding: "When required by the fire code official," at the beginning of the first paragraph.

(2) For IFC, Chapter 6, Building Services and Systems:

(a) In IFC, Chapter 6, Section 605.11.3.3.1, Access, is deleted and rewritten as follows: "There shall be a minimum three foot wide (914 mm) clear perimeter around the edges of the roof."

(b) In IFC, Chapter 6, Section 605.11.3.3.2, Pathways, is deleted and rewritten as follows: "The solar installation shall be designed to provide designated pathways. The pathways shall meet the following requirements:

1. The pathway shall be over areas capable of supporting the live load of fire fighters accessing the roof.

2. The centerline axis pathways shall be provided in both axes of the roof. Centerline axis pathways shall run where the roof structure is capable of supporting the live load of fire fighters accessing the roof.

3. Smoke and heat vents required by Section 910.2.1 or 910.2.2 of this Code, shall be provided with a clear pathway width of not less than three feet (914 mm) to vents.

4. Access to roof area required by Section 504.2 or 1009.16 of this Code, shall be provided with a clear

pathway width of not less than three feet (914 mm) around access opening and at least three feet (914 mm) clear pathway to parapet or roof edge.”

(c) In IFC, Chapter 6, Section 605.11.3.2, Residential Systems for One and Two Family Dwellings, is deleted and rewritten as follows: “Access to residential systems for one and two family dwellings shall be provided in accordance with Sections 605.11.3.2.1 through 605.11.3.2.4.

Exception: Reduction in pathways and clear access width shall be permitted where shown that a rational approach has been used and that such reductions are warranted when approved by the Fire Code Official.”

(d) In IFC, Chapter 6, Section 605.11.3.3.3, Smoke Ventilation, is deleted and rewritten as follows: “The solar installation shall be designed to meet the following requirements:

1. Arrays shall be no greater than 150 feet (45.720 mm) by 150 feet (45.720 mm) in distance in either axis in order to create opportunities for fire department smoke ventilation operations.

2. Smoke ventilation options between array sections shall be one of the following:

2.1. A pathway six feet (1829 mm) or greater in width.

2.2. A three foot (914 mm) or greater in width pathway and bordering roof skylights or smoke and heat vents when required by Section 910.2.1 or Section 910.2.2 of this Code.

2.3. Smoke and heat vents designed for remote operation using devices that can be connected to the vent by mechanical, electrical, or any other suitable means, shall be protected as necessary to remain operable for the design period. Controls for remote operation shall be located in a control panel, clearly identified and located in an approved location.”

(e) In IFC, Chapter 6, Section 607.4, Elevator Key Location, is deleted and rewritten as follows: “Firefighter service keys shall be kept in a “Supra-Stor-a-key” elevator key box or similar box with corresponding key system that is adjacent to the elevator for immediate use by the fire department. The key box shall contain one key for each elevator, one key for lobby control, and any other keys necessary for emergency service. The elevator key box shall be accessed using a 6049 numbered key.”

(f) In IFC, Chapter 6, Section 609.1, General, is amended as follows: On line three, after the word “Code”, add the words “and NFPA 96”.

(3) For IFC, Chapter 7, Fire-Resistance-Rated Construction, IFC, Chapter 7, Section 703.2, is amended to add the following: “Exception: In Group E Occupancies, where the corridor serves an occupant load greater than 30 and the building does not have an automatic fire sprinkler system installed, the door closers may be of the friction hold-open type on classrooms’ doors with a rating of 20 minutes or less only.”

Section 3. Section 65A-1-1 is amended to read:

65A-1-1. Definitions.

As used in this title:

(1) “Division” means the Division of Forestry, Fire, and State Lands.

(2) “Initial attack” means action taken by the first resource to arrive at a wildland fire incident, including evaluating the wildland fire, patrolling, monitoring, holding action, or aggressive suppression action.

~~(2)~~ (3) “Multiple use” means the management of various surface and subsurface resources in a manner that will best meet the present and future needs of the people of this state.

(4) “Municipality” means a city, town, or metro township.

~~(3)~~ (5) “Public trust assets” means those lands and resources, including sovereign lands, administered by the division.

(4) (6) “Sovereign lands” means those lands lying below the ordinary high water mark of navigable bodies of water at the date of statehood and owned by the state by virtue of its sovereignty.

~~(5)~~ (7) “State lands” means all lands administered by the division.

~~(6)~~ (8) “Sustained yield” means the achievement and maintenance of high level annual or periodic output of the various renewable resources of land without impairment of the productivity of the land.

~~(7)~~ (9) “Wildland” means an area where:

(a) development is essentially non-existent, except for roads, railroads, powerlines, or similar transportation facilities; and

(b) structures, if any, are widely scattered.

~~(8)~~ (10) “Wildland fire” means a fire that consumes:

(a) wildland; or

(b) wildland-urban interface, as defined in Section 65A-8a-102.

Section 4. Section 65A-3-3 is amended to read:

65A-3-3. Enforcement of laws -- City, county, or district attorney to prosecute.

(1) It is the duty of the division, county sheriffs, their deputies, peace officers, and other law enforcement officers within the law enforcement jurisdiction to enforce the provisions of this chapter and to investigate and gather evidence that may indicate a violation under this chapter.

(2) (a) The city attorney, county attorney, or district attorney, as appropriate under Sections 10-3-928, 17-18a-202, and 17-18a-203, shall~~[-(a)]~~ prosecute any criminal violations of this chapter~~;~~ and~~].~~

~~(b) initiate a civil action to recover suppression costs incurred by the county or state for suppression of fire on private land.]~~

(b) The counsel for an eligible entity, as defined in Section 65A-8-203, shall initiate a civil action to recover suppression costs incurred by the eligible entity for suppression of fire on private land.

Section 5. Section 65A-8-101 is amended to read:

65A-8-101. Division responsibilities for fire management and the conservation of forest, watershed, and other lands -- Reciprocal agreements for fire protection.

(1) The division, in consultation with local authorities, shall determine and execute the best method for protecting private and public property by:

(a) except as provided by Subsection (1)(~~e~~)(d), preventing, preparing for, or mitigating the origin and spread of fire on nonfederal forest, range, ~~or~~ watershed, or wildland urban interface land in ~~an unincorporated area of~~ the state;

~~(b) protecting a nonfederal forest or watershed area using conservation principles;~~

(~~e~~) (b) encouraging a ~~private~~ landowner to ~~preserve~~ conserve, protect, and manage forest or other land throughout the state;

(~~d~~) (c) taking action the division considers appropriate to ~~control~~ manage wildland fire and protect life and property on ~~the~~ nonfederal forest, range, ~~or~~ watershed, or wildland urban interface land within ~~an unincorporated area of~~ the state; and

(~~e~~) (d) implementing a limited fire suppression strategy, including allowing a fire to burn with limited or modified suppression, if the division determines that the strategy is appropriate for a specific area or circumstance.

(2) The division may:

(a) enter into an agreement with a public or private agency or individual:

(i) for the purpose of protecting, managing, or rehabilitating land owned or managed by the agency or individual; and

(ii) establishing a predetermined fire suppression plan, including a limited fire suppression strategy, for a specific fire management area; and

(b) enter into a reciprocal agreement with a fire protection organization, including a federal agency, to provide fire protection for land, and an improvement on land, for which the organization normally provides fire protection.

Section 6. Section 65A-8-103 is amended to read:

65A-8-103. Forestry and fire control funds.

(1) The division shall use money available to it to meet the costs of:

(a) ~~controlling~~ managing forest, range, ~~and~~ watershed, and wildland urban interface fires;

(b) ~~controlling~~ managing insect and disease epidemics;

(c) rehabilitating or reforesting nonfederal forest, range, and watershed lands;

(d) promoting wildfire preparedness, wildfire mitigation, and wildfire prevention; ~~and~~

(e) restoring and maintaining landscapes ensuring landscapes across the state are resilient to wildfire-related disturbances, in accordance with fire management objectives;

(f) creating fire-adapted communities, ensuring that human populations and infrastructure can withstand a wildfire without loss of life or property;

(g) improving wildfire response, ensuring that all political subdivisions can participate in making and implementing safe, effective, and efficient risk-based wildfire management decisions;

(h) reducing risks to wildlife such as the greater sage grouse; and

(~~e~~) (i) carrying on the purposes of this chapter.

(2) All money available to the division to meet the costs of Subsections (1)(a) through (~~e~~) (i) is nonlapsing and available to the division until expended.

(3) (a) The collection and disbursement of all money made available to the division shall be in accordance with the rules of the Division of Finance.

(b) Money collected by the division from fees, rentals, sales, contributions, reimbursements, and other such sources shall be deposited in the appropriate account.

Section 7. Section 65A-8-201 is amended to read:

65A-8-201. Uncontrolled fire is a public nuisance.

Any fire on forest, range, ~~or~~ watershed, or wildland urban interface land in the state burning uncontrolled and without proper and adequate action being taken to ~~control or prevent its spread~~ manage it is a public nuisance.

Section 8. Section 65A-8-202 is amended to read:

65A-8-202. Fire control -- County responsibilities.

(1) ~~Counties~~ A county shall abate the public nuisance caused by ~~uncontrolled fire~~ wildfire on unincorporated, privately owned or county owned forest, range, ~~and~~ watershed, and wildland urban interface lands within its boundaries.

(2) ~~Counties, or other political subdivisions of the state as determined to be appropriate by the state forester,~~ A county may participate in the wildland fire protection system of the division and become eligible for assistance from the state by agreement under the provisions of this chapter.

(3) A county shall:

(a) reduce the risk of wildfire to unincorporated, privately owned or county owned forest, range,

watershed, and wildland urban interface land within the county's boundaries, with private landowner permission, through appropriate wildfire prevention, preparedness, and mitigation actions; and

(b) ensure effective wildfire initial attack on unincorporated privately owned or county owned forest, range, watershed, and wildland urban interface land within the county's boundaries.

(4) A county may assign the responsibilities described in Subsections (1) and (3) to a fire service provider or an eligible entity, as defined in Section 65A-8-203, through contract, delegation, interlocal agreement, or another method.

~~[(3)]~~ (5) The state forester shall make certain that appropriate action is taken to control wildland fires on unincorporated nonfederal forest, range, ~~and~~ watershed, and wildland urban interface lands.

~~[(4) The actual costs of suppression action taken by the division on privately owned lands shall be a charge against the county in which the lands lie, unless otherwise provided by cooperative agreement.]~~

(6) Nothing in this section excuses a private landowner from complying with an applicable county ordinance.

Section 9. Section 65A-8-202.5 is enacted to read:

65A-8-202.5. City and town responsibilities.

(1) A municipality shall abate the public nuisance caused by wildfire on forest, range, watershed, and wildland urban interface land within the boundaries of the municipality if the land is:

- (a) privately owned; or
- (b) owned by the municipality.

(2) A municipality may participate in the wildland fire protection system of the division and become eligible for assistance from the state by agreement under the provisions of this chapter.

(3) A municipality shall:

(a) reduce the risk of wildfire to incorporated, privately owned and municipality owned forest, range, watershed, and wildland urban interface land, with private landowner permission, through appropriate wildfire prevention, preparedness, and mitigation actions; and

(b) ensure effective wildfire initial attack on forest, range, watershed, and wildland urban interface land within the municipality's fire protection boundary.

(4) A municipality may assign the responsibilities described in Subsections (1) and (3) to a fire service provider or an eligible entity, as defined in Section 65A-8-203, through contract, delegation, interlocal agreement, or another method.

(5) The state forester shall make certain that appropriate action is taken to control wildland fires

on incorporated, nonfederal forest, range, watershed, and wildland urban interface lands.

(6) Nothing in this section excuses a private landowner from complying with an applicable county ordinance.

Section 10. Section 65A-8-203 is amended to read:

65A-8-203. Cooperative fire protection agreements with counties, cities, towns, or special service districts.

(1) As used in this section:

(a) "Eligible entity" means:

(i) a county, a municipality, or a special service district, local district, or service area with:

(A) wildland fire suppression responsibility as described in Section 11-7-1; and

(B) wildland fire suppression cost responsibility and taxing authority for a specific geographic jurisdiction; or

(ii) upon approval by the director, a political subdivision established by a county, municipality, special service district, local district, or service area that is responsible for:

(A) providing wildland fire suppression services; and

(B) paying for the cost of wildland fire suppression services.

(b) "Fire service provider" means a public or private entity that fulfills the duties of Subsection 11-7-1(1).

~~[(1)]~~ (2) (a) The ~~[county legislative]~~ governing body of any ~~[county]~~ eligible entity may enter into a cooperative agreement with the division to receive financial and ~~[supervisory]~~ wildfire management cooperation and assistance from the division, as described in this Title 65A, Chapter 8, Part 2, Fire Control.

(b) A cooperative agreement shall last for a term of no more than five years and be renewable if the eligible entity continues to meet the requirements of this chapter.

~~[(2) A county]~~ (3) (a) An eligible entity may not receive financial cooperation or financial assistance under Subsection ~~[(1)]~~ (2)(a) until a cooperative agreement is executed by the ~~[county legislative body]~~ eligible entity and the division.

(b) The state shall assume an eligible entity's cost of suppressing catastrophic wildfire as defined in the cooperative agreement if the eligible entity has entered into, and is in full compliance with, a cooperative agreement with the division, as described in this section.

(c) A county or municipality that is not covered by a cooperative agreement with the division, as described in this section, shall be responsible for wildland fire costs within the county or municipality's jurisdiction, as described in Section 65A-8-203.2.

~~[(3)] (4) In order to [be eligible to] enter into a cooperative agreement with the division, the [county] eligible entity shall:~~

~~(a) if the eligible entity is a county, adopt and enforce on unincorporated land a wildland fire ordinance based upon minimum standards established by the division or Uniform Building Code Commission;~~

~~(b) require that the [county] fire department or equivalent [private] fire service provider under contract with, or delegated by, the [county] eligible entity on unincorporated land meet minimum standards for wildland fire training, certification, and [wildland fire] suppression equipment based upon nationally accepted standards as specified by the division; [and]~~

~~(c) invest in prevention, preparedness, and mitigation efforts, as agreed to with the division, that will reduce the eligible entity's risk of catastrophic wildfire;~~

~~[(e)] (d) file with the division [a budget for fire suppression] an annual accounting of wildfire prevention, preparedness, mitigation actions, and associated costs[-];~~

~~(e) return the financial statement described in Subsection (6), signed by the chief executive of the eligible entity, to the division on or before the date set by the division; and~~

~~(f) if the eligible entity is a county, have a designated fire warden as described in Section 65A-8-209.1.~~

~~[(4) A county that chooses not to enter into a cooperative agreement with the division may not be eligible to receive financial assistance from the division.]~~

~~(5) (a) The state forester may execute [the agreements and may divide the state into fire protection districts. (6) These districts shall provide efficient and economical fire protection within the area defined. (7) The districts may comprise one or more counties, or portions of counties to be specified in the cooperative agreements.] a cooperative agreement with the eligible entity.~~

~~(b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the:~~

~~(i) cooperative agreements described in this section;~~

~~(ii) manner in which an eligible entity shall provide proof of compliance with Subsection (4);~~

~~(iii) manner by which the division may revoke a cooperative agreement if an eligible entity ceases to meet the requirements described in this section;~~

~~(iv) accounting system for determining suppression costs;~~

~~(v) manner in which the division shall determine the eligible entity's participation commitment; and~~

~~(vi) manner in which an eligible entity may appeal a division determination.~~

~~(6) (a) The division shall send a financial statement to each eligible entity participating in a cooperative agreement that details the eligible entity's participation commitment for the coming fiscal year, including the prevention, preparedness, and mitigation actions agreed to under Subsection (4)(c).~~

~~(b) Each eligible entity participating in a cooperative agreement shall:~~

~~(i) have the chief executive of the eligible entity sign the financial statement, or the legislative body of the eligible entity approve the financial statement by resolution, confirming the eligible entity's participation for the upcoming year; and~~

~~(ii) return the financial statement to the division, on or before a date set by the division.~~

~~(c) A financial statement shall be effective for one calendar year, beginning on the date set by the division, as described in Subsection (6)(b).~~

~~[(8) Under the terms of the cooperative agreements, the state forester shall file annual budgets for operation of the cooperative districts with each participating county.]~~

~~[(9) If the county approves a budget mutually acceptable to the county and the state forester, and budgets an amount for actual fire suppression costs determined to be normal by the state forester, the agreement shall commit the state to pay 1/2 of the actual suppression costs that exceed the stated normal costs.]~~

~~(7) (a) An eligible entity may revoke a cooperative agreement before the end of the cooperative agreement's term by:~~

~~(i) informing the division, in writing, of the eligible entity's intention to revoke the cooperative agreement; or~~

~~(ii) failing to sign and return its annual financial statement, as described in Subsection (6)(b), unless the director grants an extension.~~

~~(b) An eligible entity may not revoke a cooperative agreement before the end of the term of a signed annual financial statement, as described in Subsection (6)(c).~~

Section 11. Section 65A-8-203.1 is enacted to read:

65A-8-203.1. Delegation of fire management authority.

(1) As used in this section, "delegation of fire management authority" means the acceptance by the division of responsibility for:

(a) managing a wildfire; and

(b) the cost of fire suppression, as described in Section 65A-8-203.

(2) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the process for delegation of fire management authority.

(3) Upon delegation of fire management authority, the division and its named designee becomes the primary incident commander.

Section 12. Section 65A-8-203.2 is enacted to read:

65A-8-203.2. Billing a county or municipality not covered by a cooperative agreement -- Calculating cost of wildfire suppression.

(1) The division shall bill a county that is not covered by a cooperative agreement with the division, as described in Section 65A-8-203, for the cost of wildfire suppression within the jurisdiction of that county accrued by the state.

(2) The division shall bill a municipality that is not covered by a cooperative agreement with the division, as described in Section 65A-8-203, for the cost of wildfire suppression within the jurisdiction of that municipality accrued by the state.

(3) The cost of wildfire suppression to a county or municipality that is not covered by a cooperative agreement with the division, as described in Section 65A-8-203, shall be calculated by determining the number of acres burned within the borders of a county or municipality, dividing that number by the total number of acres burned by a wildfire, and multiplying the resulting percentage by the state's total cost of wildfire suppression for that wildfire.

(4) A county or municipality that receives a bill from the division, pursuant to this section, shall pay the bill, or make arrangements to pay the bill, within 90 days of receipt of the bill, subject to the county or municipality's right to appeal, as described in Subsection 65A-8-203(5)(b)(vi).

Section 13. Section 65A-8-204 is amended to read:

65A-8-204. Wildland Fire Suppression Fund created.

(1) There is created a private-purpose trust fund known as the "Wildland Fire Suppression Fund."

(2) The fund shall be administered by the division to pay ~~fire~~ wildfire suppression ~~and presuppression~~ costs on eligible lands ~~[within unincorporated areas of counties], including for an eligible entity that has entered into a cooperative agreement, as described in Section 65A-8-203.~~

(3) The contents of the fund shall include:

~~[(a) payments by counties pursuant to written agreements made under Section 65A-8-205;]~~

~~[(b) (a) interest and earnings from the investment of fund money; and]~~

~~[(e) (b) money appropriated by the Legislature[.];]~~

(c) costs recovered from successful investigations;

(d) federal funds received by the division for wildfire management costs;

(e) suppression costs billed to an eligible entity that does not participate in a cooperative agreement;

(f) suppression costs paid to the division by another state agency;

(g) costs recovered from settlements and civil actions related to wildfire suppression; and

(h) restitution payments ordered by a court following a criminal adjudication.

(4) Fund money shall be invested by the state treasurer with the earnings and interest accruing to the fund.

(5) ~~[(a)]~~ A maximum level of \$8,000,000 is established for the fund.

~~[(b) (i) Except as provided in Subsection (5)(b)(ii), if the amount of money in the fund equals or exceeds \$8,000,000 on March 31, no assessments may be charged for the following year.]~~

~~[(ii) The waiver of assessments provided in Subsection (5)(b)(i) does not apply to any equity payment required by Section 65A-8-205.]~~

Section 14. Section 65A-8-206 is amended to read:

65A-8-206. Disbursements from the Wildland Fire Suppression Fund.

(1) Disbursements from the fund created in Section 65A-8-204 shall be made only upon written order of the state forester or ~~his~~ the state forester's authorized representative.

(2) If the state forester determines money in the fund may be insufficient to cover eligible costs in a program year, the state forester may:

(a) delay making disbursements from the fund until the close of the program year~~[, at which time available money shall be prorated among those entitled to payments at less than 100%.];~~ and

(b) request supplemental appropriations from the Legislature.

Section 15. Section 65A-8-207 is amended to read:

65A-8-207. Division to administer Wildland Fire Suppression Fund -- Rulemaking -- Procedures.

~~[(4)]~~ By following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules to administer the Wildland Fire Suppression Fund~~[, including rules].~~

~~[(a) requiring documentation for: (i) the number of acres of privately or county-owned land in the unincorporated area of a participating county; and (ii) an acre or real property exempt in Subsection 65A-8-205(2)(b); (b)]~~

~~[describing the method or formula for determining: (i) normal fire suppression costs; and (ii) equity payments required by Section 65A-8-205; and (e)]~~

[specifying fire suppression and presuppression costs that may be paid with disbursements from the fund.]

~~[(2) By following the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, the division shall determine whether an acre or real property is eligible for the exemption provided in Subsection 65A-8-205(2)(b).]~~

Section 16. Section 65A-8-209 is amended to read:

65A-8-209. Responsibilities of county sheriffs and fire wardens in controlling fires.

(1) In ~~[those counties not directly participating in the state wildland fire protection organization by]~~ a county that has not entered into a cooperative agreement as ~~[provided in this chapter]~~ described in Section 65A-8-203, the county sheriff shall take appropriate action to suppress ~~[uncontrolled fires]~~ wildfires on state or private lands.

(2) In all cases the county sheriff shall:

(a) report, as prescribed by the state forester, on wildland fire control action;

(b) investigate and report ~~[fire]~~ wildfire causes; and

(c) enforce the provisions of this chapter either independently or in cooperation with the state forester.

(3) In ~~[those counties participating in the state wildland fire protection organization by]~~ an eligible entity that has entered into a cooperative agreement, as described in Section 65A-8-203, the primary responsibility for ~~[fire control is delegated to the district fire warden, who is designated by the state forester]~~ wildfire management is the division, upon the delegation of fire management authority, as described in Section 65A-8-203.1.

(4) The county sheriff and ~~[his]~~ the county sheriff's organization shall maintain cooperative support of the fire ~~[control]~~ management organization.

Section 17. Section 65A-8-209.1 is enacted to read:

65A-8-209.1. County fire warden.

(1) (a) Each county that participates in a cooperative agreement with the division, as described in Section 65A-8-203, shall be represented by a county fire warden at a minimum during the closed fire season, as described in Section 65A-8-211, except as provided in Subsections (1)(b) and (c).

(b) A county of the fifth class that, as of January 1, 2016, is cost-sharing a fire warden with an adjacent county may continue to do so with the approval of the state forester.

(c) A county of the sixth class may cost-share a county fire warden with an adjacent county, with the approval of the state forester.

(2) The salary and benefits paid to a county fire warden shall be:

(a) divided by the division and the county; or

(b) paid partly by the division with the remainder shared by agreement between all the counties the county fire warden represents.

(3) (a) The division shall employ all county fire wardens.

(b) An individual who is employed by a county as a county fire warden on or before January 1, 2016, is not subject to the requirement to be employed by the division.

Section 18. Section 65A-8-210 is amended to read:

65A-8-210. Fire control on state-owned lands -- Responsibilities of state agencies.

(1) The division shall abate the public nuisance caused by ~~[uncontrolled fire]~~ wildfire on state-owned forest, range, ~~[and]~~ watershed, and wildland urban interface lands.

(2) ~~[(a)]~~ State agencies responsible for the administration of state-owned lands shall recognize the need for providing wildland fire protection and the responsibility for ~~[sharing the costs. (b) Those agencies shall annually allocate funds to the division in amounts as are determined to be fair and equitable proportionate costs for providing a basic level of fire protection. (c) The amount of protection costs shall be negotiated by the respective land agencies and the division.]~~ reducing the risk of wildfire through appropriate wildfire prevention, preparedness, and mitigation actions.

Section 19. Section 65A-8-211 is amended to read:

65A-8-211. Closed fire season -- Notice -- Violations -- Burning permits -- Personal liability -- Exemptions from burning permits.

(1) (a) The period from June 1 to October 31 of each year is a closed fire season throughout the state.

(b) The state forester may advance or extend the closed season wherever and whenever that action is necessary.

(c) The alteration of the closed season is done by posting the appropriate proclamation in the courthouse of each county seat for at least seven days in advance of the date the change is effective.

(2) During the closed season it is a class B misdemeanor to set on fire, or cause to be set on fire, any flammable material on any forest, brush, range, grass, grain, stubble, or hay land without:

(a) first securing a written permit from the state forester or a designated deputy; and

(b) complying fully with the terms and conditions prescribed by the permit.

(3) The ~~[district]~~ county fire warden ~~[appointed by the state forester]~~, or the county sheriff ~~[in~~

nonparticipating counties] in a county that has not entered into a cooperative agreement as described in Section 65A-8-203, shall issue burning permits using the form prescribed by the division.

(4) (a) The burning permit does not relieve an individual from personal liability due to neglect or incompetence.

(b) A fire escaping control of the permittee that necessitates fire control action or does injury to the property of another is prima facie evidence that the fire was not safe.

(5) The state forester, [~~his deputies~~] the state forester's designees, and the county sheriffs may refuse, revoke, postpone, or cancel permits when they find it necessary in the interest of public safety.

(6) (a) A burning permit is not required for the burning of fence lines on cultivated lands, canals, or irrigation ditches if:

(i) the burning does not pose a threat to forest, range, or watershed lands;

(ii) due care is used in the control of the burning; and

(iii) the individual notifies the nearest fire department of the approximate time the burning will occur.

(b) Failure to notify the nearest fire department of the burning as required by this section is a class B misdemeanor.

(7) A burning conducted in accordance with Subsection (6) is not a reckless burning under Section 76-6-104 unless the fire escapes control and requires fire control action.

Section 20. Repealer.

This bill repeals:

Section 65A-8-103.5, Wildland fire policy -- Report.

Section 65A-8-205, Agreements for coverage by the Wildland Fire Suppression Fund -- Eligible lands -- County and state obligations -- Termination -- Revocation.

Section 65A-8-208, Presuppression costs -- Disbursements from fund -- Credit against assessment -- Limited by appropriation.

Section 21. Appropriations -- Expendable funds and accounts.

The Legislature has reviewed the following expendable funds for the fiscal year beginning July 1, 2016, and ending June 30, 2017. Where applicable, the Legislature authorizes the State Division of Finance to distribute amounts as indicated. Outlays and expenditures from the recipient entities may be made without further legislative action according to a fund or account's applicable authorizing statute.

To Department of Natural Resources —
Forestry, Fire, and State Lands

From Wildland Fire
Suppression Fund, one-time \$4,800,000

Schedule of Programs:

Fire Suppression Emergencies	\$4,800,000
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Section 22. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on January 1, 2017.

(2) The appropriation in Section 21 of this bill takes effect on July 1, 2016.

CHAPTER 175**S. B. 132**

Passed February 24, 2016

Approved March 22, 2016

Effective May 10, 2016

**COMMERCIAL DRIVER
LICENSE AMENDMENTS**

Chief Sponsor: Kevin T. Van Tassell

House Sponsor: Don L. Ipson

LONG TITLE**General Description:**

This bill modifies disclosure and application provisions for commercial driver licenses.

Highlighted Provisions:

This bill:

- ▶ modifies provisions relating to the disclosure of driving records, temporary licenses, the term of a commercial driving instruction permit, application information, and medical certification requirements; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-3-109, as last amended by Laws of Utah 2015, Chapter 52

53-3-205, as last amended by Laws of Utah 2015, Chapter 422

53-3-408, as last amended by Laws of Utah 2015, Chapter 422

53-3-410, as last amended by Laws of Utah 2011, Chapters 190 and 415

53-3-410.1, as last amended by Laws of Utah 2015, Chapter 52

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

Section 1. Section 53-3-109 is amended to read:**53-3-109. Records -- Access -- Fees -- Rulemaking.**

(1) (a) Except as provided in this section, all records of the division shall be classified and disclosed in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(b) The division may only disclose personal identifying information:

(i) when the division determines it is in the interest of the public safety to disclose the information; and

(ii) in accordance with the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. Chapter 123.

(c) The division may disclose personal identifying information:

(i) to a licensed private investigator holding a valid agency license, with a legitimate business need;

(ii) to an insurer, insurance support organization, or a self-insured entity, or its agents, employees, or contractors that issues any motor vehicle insurance under Title 31A, Chapter 22, Part 3, Motor Vehicle Insurance, for use in connection with claims investigation activities, antifraud activities, rating, or underwriting for any person issued a license certificate under this chapter; or

(iii) to a depository institution as defined in Section 7-1-103 for use in accordance with the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. Chapter 123.

(2) (a) A person who receives personal identifying information shall be advised by the division that the person may not:

(i) disclose the personal identifying information from that record to any other person; or

(ii) use the personal identifying information from that record for advertising or solicitation purposes.

(b) Any use of personal identifying information by an insurer or insurance support organization, or by a self-insured entity or its agents, employees, or contractors not authorized by Subsection (1)(c)(ii) is:

(i) an unfair marketing practice under Section 31A-23a-402; or

(ii) an unfair claim settlement practice under Subsection 31A-26-303(3).

(3) (a) Notwithstanding the provisions of Subsection (1)(b), the division or its designee may disclose portions of a driving record, in accordance with this Subsection (3), to:

(i) an insurer as defined under Section 31A-1-301, or a designee of an insurer, for purposes of assessing driving risk on the insurer's current motor vehicle insurance policyholders;

(ii) an employer or a designee of an employer, for purposes of monitoring the driving record and status of current employees who drive as a responsibility of the employee's employment if the requester demonstrates that the requester has obtained the written consent of the individual to whom the information pertains; and

(iii) an employer or the employer's agents to obtain or verify information relating to a holder of a commercial driver license that is required under 49 U.S.C. Chapter 313.

(b) A disclosure under Subsection (3)(a)(i) shall:

(i) include the licensed driver's name, driver license number, date of birth, and an indication of whether the driver has had a moving traffic violation that is a reportable violation, as defined under Section 53-3-102 during the previous month;

(ii) be limited to the records of drivers who, at the time of the disclosure, are covered under a motor vehicle insurance policy of the insurer; and

(iii) be made under a contract with the insurer or a designee of an insurer.

(c) A disclosure under Subsection (3)(a)(ii) or (iii) shall:

(i) include the licensed driver's name, driver license number, date of birth, and an indication of whether the driver has had a moving traffic violation that is a reportable violation, as defined under Section 53-3-102, during the previous month;

(ii) be limited to the records of a current employee of an employer;

(iii) be made under a contract with the employer or a designee of an employer; and

(iv) include an indication of whether the driver has had a change reflected in the driver's [~~driving status or license class~~]:

(A) driving status;

(B) license class;

(C) medical self-certification status; or

(D) medical examiner's certificate under 49 C.F.R. Sec. 391.45.

(d) The contract under Subsection (3)(b)(iii) or (c)(iii) shall specify:

(i) the criteria for searching and compiling the driving records being requested;

(ii) the frequency of the disclosures;

(iii) the format of the disclosures, which may be in bulk electronic form; and

(iv) a reasonable charge for the driving record disclosures under this Subsection (3).

(4) The division may:

(a) collect fees in accordance with Section 53-3-105 for searching and compiling its files or furnishing a report on the driving record of a person;

(b) prepare under the seal of the division and deliver upon request, a certified copy of any record of the division, and charge a fee under Section 63J-1-504 for each document authenticated; and

(c) charge reasonable fees established in accordance with the procedures and requirements of Section 63J-1-504 for disclosing personal identifying information under Subsection (1)(c).

(5) Each certified copy of a driving record furnished in accordance with this section is admissible in any court proceeding in the same manner as the original.

(6) (a) A driving record furnished under this section may only report on the driving record of a person for a period of 10 years.

(b) Subsection (6)(a) does not apply to court or law enforcement reports, reports of commercial driver license violations, or reports for commercial driver license holders.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to designate:

(a) what information shall be included in a report on the driving record of a person;

(b) the form of a report or copy of the report which may include electronic format;

(c) the form of a certified copy, as required under Section 53-3-216, which may include electronic format;

(d) the form of a signature required under this chapter which may include electronic format;

(e) the form of written request to the division required under this chapter which may include electronic format;

(f) the procedures, requirements, and formats for disclosing personal identifying information under Subsection (1)(c); and

(g) the procedures, requirements, and formats necessary for the implementation of Subsection (3).

(8) (a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created or maintained by the division or any information contained in a record created or maintained by the division for a purpose prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

(b) A person who discovers or becomes aware of any unauthorized use of records created or maintained by the division shall inform the commissioner and the division director of the unauthorized use.

Section 2. Section 53-3-205 is amended to read:

53-3-205. Application for license or endorsement -- Fee required -- Tests -- Expiration dates of licenses and endorsements -- Information required -- Previous licenses surrendered -- Driving record transferred from other states -- Reinstatement -- Fee required -- License agreement.

(1) An application for any original license, provisional license, or endorsement shall be:

(a) made upon a form furnished by the division; and

(b) accompanied by a nonrefundable fee set under Section 53-3-105.

(2) An application and fee for an original provisional class D license or an original class D license entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and the skills tests for a class D license within six months of the date of the application;

(b) a learner permit if needed pending completion of the application and testing process; and

(c) an original class D license and license certificate after all tests are passed and requirements are completed.

(3) An application and fee for a motorcycle or taxicab endorsement entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and skills tests within six months of the date of the application;

(b) a motorcycle learner permit after the motorcycle knowledge test is passed; and

(c) a motorcycle or taxicab endorsement when all tests are passed.

(4) An application and fees for a commercial class A, B, or C license entitle the applicant to:

(a) not more than two attempts to pass a knowledge test and not more than two attempts to pass a skills test within six months of the date of the application;

(b) both a commercial driver instruction permit and a temporary license permit for the license class held before the applicant submits the application if needed after the knowledge test is passed; and

(c) an original commercial class A, B, or C license and license certificate when all applicable tests are passed.

(5) An application and fee for a CDL endorsement entitle the applicant to:

(a) not more than two attempts to pass a knowledge test and not more than two attempts to pass a skills test within six months of the date of the application; and

(b) a CDL endorsement when all tests are passed.

(6) (a) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement test within the number of attempts provided in Subsection (4) or (5), each test may be taken two additional times within the six months for the fee provided in Section 53-3-105.

(b) (i) Beginning July 1, 2015, an out-of-state resident who holds a valid CDIP issued by a state or jurisdiction that is compliant with 49 C.F.R. Part 383 may take a skills test administered by the division if the out-of-state resident pays the fee provided in Subsection 53-3-105(20)(b).

(ii) The division shall:

(A) electronically transmit skills test results for an out-of-state resident to the licensing agency in the state or jurisdiction in which the person has obtained a valid CDIP; and

(B) provide the out-of-state resident with documentary evidence upon successful completion of the skills test.

(7) (a) Except as provided under Subsections (7)(f), (g), and (h), an original license expires on the birth date of the applicant in the fifth year following the year the license certificate was issued.

(b) Except as provided under Subsections (7)(f), (g), and (h), a renewal or an extension to a license expires on the birth date of the licensee in the fifth

year following the expiration date of the license certificate renewed or extended.

(c) Except as provided under Subsections (7)(f) and (g), a duplicate license expires on the same date as the last license certificate issued.

(d) An endorsement to a license expires on the same date as the license certificate regardless of the date the endorsement was granted.

(e) (i) A regular license certificate and any endorsement to the regular license certificate held by a person described in Subsection (7)(e)(ii), which expires during the time period the person is stationed outside of the state, is valid until 90 days after the person's orders have been terminated, the person has been discharged, or the person's assignment has been changed or terminated, unless:

(A) the license is suspended, disqualified, denied, or has been cancelled or revoked by the division; or

(B) the licensee updates the information or photograph on the license certificate.

(ii) The provisions in Subsection (7)(e)(i) apply to a person:

(A) ordered to active duty and stationed outside of Utah in any of the armed forces of the United States;

(B) who is an immediate family member or dependent of a person described in Subsection (7)(e)(ii)(A) and is residing outside of Utah;

(C) who is a civilian employee of the United States State Department or United States Department of Defense and is stationed outside of the United States; or

(D) who is an immediate family member or dependent of a person described in Subsection (7)(e)(ii)(C) and is residing outside of the United States.

(f) (i) Except as provided in Subsection (7)(f)(ii), a limited-term license certificate or a renewal to a limited-term license certificate expires:

(A) on the expiration date of the period of time of the individual's authorized stay in the United States or on the date provided under this Subsection (7), whichever is sooner; or

(B) on the date of issuance in the first year following the year that the limited-term license certificate was issued if there is no definite end to the individual's period of authorized stay.

(ii) A limited-term license certificate or a renewal to a limited-term license certificate issued to an approved asylee or a refugee expires on the birth date of the applicant in the fourth year following the year that the limited-term license certificate was issued.

(g) A driving privilege card issued or renewed under Section 53-3-207 expires on the birth date of the applicant in the first year following the year that the driving privilege card was issued or renewed.

(h) An original license or a renewal to an original license expires on the birth date of the applicant in the first year following the year that the license was issued if the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(8) (a) In addition to the information required by Title 63G, Chapter 4, Administrative Procedures Act, for requests for agency action, each applicant shall:

(i) provide:

(A) the applicant's full legal name;

(B) the applicant's birth date;

(C) the applicant's gender;

(D) (I) documentary evidence of the applicant's valid Social Security number;

(II) written proof that the applicant is ineligible to receive a Social Security number;

(III) the applicant's temporary identification number (ITIN) issued by the Internal Revenue Service for a person who:

(Aa) does not qualify for a Social Security number; and

(Bb) is applying for a driving privilege card; or

(IV) other documentary evidence approved by the division;

(E) the applicant's Utah residence address as documented by a form or forms acceptable under rules made by the division under Section 53-3-104, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b); and

(F) fingerprints and a photograph in accordance with Section 53-3-205.5 if the person is applying for a driving privilege card;

(ii) provide evidence of the applicant's lawful presence in the United States by providing documentary evidence:

(A) that a person is:

(I) a United States citizen;

(II) a United States national; or

(III) a legal permanent resident alien; or

(B) of the applicant's:

(I) unexpired immigrant or nonimmigrant visa status for admission into the United States;

(II) pending or approved application for asylum in the United States;

(III) admission into the United States as a refugee;

(IV) pending or approved application for temporary protected status in the United States;

(V) approved deferred action status;

(VI) pending application for adjustment of status to legal permanent resident or conditional resident; or

(VII) conditional permanent resident alien status;

(iii) provide a description of the applicant;

(iv) state whether the applicant has previously been licensed to drive a motor vehicle and, if so, when and by what state or country;

(v) state whether the applicant has ever had any license suspended, cancelled, revoked, disqualified, or denied in the last 10 years, or whether the applicant has ever had any license application refused, and if so, the date of and reason for the suspension, cancellation, revocation, disqualification, denial, or refusal;

(vi) state whether the applicant intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act, in compliance with Subsection (15);

(vii) state whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(viii) state whether the applicant is a veteran of the United States military, provide verification that the applicant was granted an honorable or general discharge from the United States Armed Forces, and state whether the applicant does or does not authorize sharing the information with the state Department of Veterans' and Military Affairs;

(ix) provide all other information the division requires; and

(x) sign the application which signature may include an electronic signature as defined in Section 46-4-102.

(b) Each applicant shall have a Utah residence address, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b).

(c) Each applicant shall provide evidence of lawful presence in the United States in accordance with Subsection (8)(a)(ii), unless the application is for a driving privilege card.

(d) The division shall maintain on its computerized records an applicant's:

(i) (A) Social Security number;

(B) temporary identification number (ITIN); or

(C) other number assigned by the division if Subsection (8)(a)(i)(D)(IV) applies; and

(ii) indication whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(9) The division shall require proof of every applicant's name, birthdate, and birthplace by at least one of the following means:

(a) current license certificate;

(b) birth certificate;

(c) Selective Service registration; or

(d) other proof, including church records, family Bible notations, school records, or other evidence considered acceptable by the division.

(10) (a) Except as provided in Subsection (10)(c), if an applicant receives a license in a higher class than what the applicant originally was issued:

(i) the license application shall be treated as an original application; and

(ii) license and endorsement fees shall be assessed under Section 53-3-105.

(b) An applicant that receives a downgraded license in a lower license class during an existing license cycle that has not expired:

(i) may be issued a duplicate license with a lower license classification for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105(22) if a duplicate license is issued under Subsection (10)(b)(i).

(c) An applicant who has received a downgraded license in a lower license class under Subsection (10)(b):

(i) may, when eligible, receive a duplicate license in the highest class previously issued during a license cycle that has not expired for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105(22) if a duplicate license is issued under Subsection (10)(c)(i).

(11) (a) When an application is received from a person previously licensed in another state to drive a motor vehicle, the division shall request a copy of the driver's record from the other state.

(b) When received, the driver's record becomes part of the driver's record in this state with the same effect as though entered originally on the driver's record in this state.

(12) An application for reinstatement of a license after the suspension, cancellation, disqualification, denial, or revocation of a previous license shall be accompanied by the additional fee or fees specified in Section 53-3-105.

(13) A person who has an appointment with the division for testing and fails to keep the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee under Section 53-3-105.

(14) A person who applies for an original license or renewal of a license agrees that the person's license is subject to any suspension or revocation authorized under this title or Title 41, Motor Vehicles.

(15) (a) The indication of intent under Subsection (8)(a)(vi) shall be authenticated by the licensee in accordance with division rule.

(b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ

procurement organization, as defined in Section 26-28-102, the names and addresses of all persons who under Subsection (8)(a)(vi) indicate that they intend to make an anatomical gift.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry; and

(B) inform licensees of anatomical gift options, procedures, and benefits.

(16) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may release to the Department of Veterans' and Military Affairs the names and addresses of all persons who indicate their status as a veteran under Subsection (8)(a)(viii).

(17) The division and its employees are not liable, as a result of false or inaccurate information provided under Subsection (8)(a)(vi) or (viii), for direct or indirect:

(a) loss;

(b) detriment; or

(c) injury.

(18) A person who knowingly fails to provide the information required under Subsection (8)(a)(vii) is guilty of a class A misdemeanor.

(19) (a) Until December 1, 2014, a person born on or after December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification card.

(b) On or after December 1, 2014, a person born on or after December 1, 1964:

(i) may not hold both an unexpired Utah license certificate and an unexpired identification card; and

(ii) if the person has both an unexpired Utah license certificate and an unexpired Utah identification card in the person's possession, shall be required to surrender either the unexpired Utah license certificate or the unexpired Utah identification card.

(c) If a person has not surrendered either the Utah license certificate or the Utah identification card as required under this Subsection (19), the division shall cancel the Utah identification card on December 1, 2014.

(20) (a) Until December 1, 2017, a person born prior to December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification card.

(b) On or after December 1, 2017, a person born prior to December 1, 1964:

(i) may not hold both an unexpired Utah license certificate and an unexpired identification card; and

(ii) if the person has both an unexpired Utah license certificate and an unexpired Utah

identification card in the person's possession, shall be required to surrender either the unexpired Utah license certificate or the unexpired Utah identification card.

(c) If a person has not surrendered either the Utah license certificate or the Utah identification card as required under this Subsection (20), the division shall cancel the Utah identification card on December 1, 2017.

(21) (a) A person who applies for an original motorcycle endorsement to a regular license certificate is exempt from the requirement to pass the knowledge and skills test to be eligible for the motorcycle endorsement if the person:

(i) is a resident of the state of Utah;

(ii) (A) is ordered to active duty and stationed outside of Utah in any of the armed forces of the United States; or

(B) is an immediate family member or dependent of a person described in Subsection (21)(a)(ii)(A) and is residing outside of Utah;

(iii) has a digitized driver license photo on file with the division;

(iv) provides proof to the division of the successful completion of a certified Motorcycle Safety Foundation rider training course; and

(v) provides the necessary information and documentary evidence required under Subsection (8).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:

(i) establishing the procedures for a person to obtain a motorcycle endorsement under this Subsection (21); and

(ii) identifying the applicable restrictions for a motorcycle endorsement issued under this Subsection (21).

Section 3. Section 53-3-408 is amended to read:

53-3-408. Qualifications for commercial driver instruction permit.

(1) The division may issue a CDIP to a person who:

(a) is 18 years of age or older;

(b) holds a valid license;

(c) has at least one year of driving experience; and

(d) has passed the vision and knowledge test for the class of license for which the person is applying.

(2) ~~[A CDIP may be:]~~ The division may issue a CDIP only for a period not to exceed 180 days.

~~[(a) issued only for a period not to exceed six months; and]~~

~~[(b) renewed or issued again only once within a two-year period.]~~

(3) The holder of a CDIP may drive a commercial motor vehicle on a highway only when accompanied by a person who:

(a) (i) holds a CDL valid for the class and endorsements of commercial motor vehicle driven; or

(ii) is certified by the division to administer driver licensing examinations to CDL applicants; and

(b) occupies a seat beside the individual for the purpose of:

(i) giving the driver instruction regarding the driving of the commercial motor vehicle; or

(ii) administering a driver licensing examination to a CDL applicant.

(4) A CDL or CDIP may not be issued to a person:

(a) subject to disqualification from driving a commercial motor vehicle; or

(b) whose license is suspended, revoked, or canceled in any state.

(5) A CDL or CDIP may not be issued to a person until the person has surrendered all license certificates the person holds to the division for cancellation.

Section 4. Section 53-3-410 is amended to read:

53-3-410. Applicant information required for CDIP and CDL -- State resident to have state CDL.

(1) The application for a CDL, limited-term CDL, or CDIP shall include the following information regarding the applicant:

(a) full legal name;

(b) current mailing address;

(c) Utah residential address, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b);

(d) physical description, including sex, height, weight, and eye color;

(e) date of birth;

(f) documentary evidence of the applicant's valid Social Security number;

(g) a complete list of all states in which the applicant was issued a driver license in the previous 10 years[;] upon:

(i) initial issuance of a Utah license;

(ii) renewal of a CDL for the first time after September 30, 2002; or

(iii) transfer of a CDL from another state;

(h) the applicant's signature;

(i) evidence of the applicant's lawful presence in the United States by providing documentary evidence:

(i) that a person is:

- (A) a United States Citizen;
- (B) a United States national; or
- (C) a legal permanent resident alien; or
- (ii) of the applicant's:
 - (A) unexpired immigrant or nonimmigrant visa status for admission into the United States;
 - (B) pending or approved application for asylum in the United States;
 - (C) admission into the United States as a refugee;
 - (D) pending or approved application for temporary protected status in the United States;
 - (E) approved deferred action status;
 - (F) pending application for adjustment of status to legal permanent resident or conditional resident; or
 - (G) conditional permanent resident alien status; and
 - (j) beginning on January 30, 2012, a medical certification status.

(2) An application under this section shall also include all certifications required by 49 C.F.R., Part 383.71.

(3) When the holder of a license under this part changes the holder's name, mailing address, or residence, the holder shall make application for a duplicate license within 30 days of the change.

(4) A person who has been a resident of this state for 30 consecutive days may not drive a commercial motor vehicle under the authority of a commercial driver license issued by another jurisdiction.

Section 5. Section 53-3-410.1 is amended to read:

53-3-410.1. Medical certification requirements.

- (1) A person whose medical certification status is:
 - (a) "non-excepted interstate" under Subsection 53-3-402(12)(a) is required to provide the division a medical ~~[self certification]~~ self-certification and an updated medical examiner's certificate under 49 C.F.R. Sec. 391.45 upon request by the division;
 - (b) "excepted interstate" under Subsection 53-3-402(12)(b) is required to provide to the division a medical ~~[self—certification]~~ self-certification upon request by the division;
 - (c) "non-excepted intrastate" under Subsection 53-3-402(12)(c) is required to, upon request by the division:
 - (i) provide to the division a medical ~~[self certification]~~ self-certification; and
 - (ii) comply with the requirements of Section 53-3-303.5; or
 - (d) "excepted intrastate" under Subsection 53-3-402(12)(b) is required to, upon request by the division:

(i) provide to the division a medical ~~[self certification]~~ self-certification; and

(ii) (A) provide to the division an updated medical examiner's certificate under 49 C.F.R. Sec. 391.45; or

(B) comply with the requirements of Section 53-3-303.5.

(2) A request by the division for a person to comply with Subsection (1) shall correspond with:

(a) the expiration of the previously submitted medical examiner's certificate[-];

(b) the expiration of the previously submitted medical self-certification; or

(c) documentary evidence received by the division under Subsection (1) that indicates the driver may not be medically qualified to operate a CMV.

(3) (a) Except as provided in Subsection (3)(b), if the division determines that a person is no longer medically qualified to operate a CMV, the person shall be required to downgrade the person's CDL to a class D license.

(b) If the division determines that a person is incompetent to drive a motor vehicle or has a mental or physical disability rendering the person unable to safely drive a motor vehicle upon the highways, the division shall deny the person's driving privileges as described in Section 53-3-221.

~~[(3)]~~ (4) If a person fails to comply with a request under this section, the person shall be required to downgrade the person's CDL to a class D license.

~~[(4)]~~ (5) Failure to comply with the requirement of this section shall result in the denial of the license under Section 53-3-221.

CHAPTER 176**S. B. 150**

Passed March 10, 2016
 Approved March 22, 2016
 Effective May 10, 2016

METRO TOWNSHIP AMENDMENTS

Chief Sponsor: Karen Mayne
 House Sponsor: Eric K. Hutchings

LONG TITLE**General Description:**

This bill modifies provisions relating to metro townships.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of a municipality in various sections to include a metro township;
- ▶ addresses the annexation or incorporation of certain areas;
- ▶ provides for continuity of county process when a metro township is incorporated;
- ▶ modifies the staff that a county provides to a metro township;
- ▶ amends provisions related to certain local districts; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

10-2a-405, as enacted by Laws of Utah 2015, Chapter 352
 10-3c-103, as enacted by Laws of Utah 2015, Chapter 352
 10-3c-203, as enacted by Laws of Utah 2015, Chapter 352
 11-14-102, as last amended by Laws of Utah 2008, Chapter 360
 11-17-2, as last amended by Laws of Utah 2013, Chapter 345
 11-39-101, as last amended by Laws of Utah 2012, Chapter 347
 11-41-102, as last amended by Laws of Utah 2008, Chapters 286 and 384
 17B-1-102, as last amended by Laws of Utah 2015, Chapter 352
 17B-1-502, as last amended by Laws of Utah 2015, Chapter 352
 17B-1-1308, as last amended by Laws of Utah 2009, Chapter 350
 17B-2a-1106, as last amended by Laws of Utah 2015, Chapter 352
 17B-2a-1110, as enacted by Laws of Utah 2015, Chapter 352
 17B-2a-1111, as enacted by Laws of Utah 2015, Chapter 352
 20A-1-102, as last amended by Laws of Utah 2015, Chapters 296, 352, and 392
 20A-5-301, as last amended by Laws of Utah 2007, Chapter 256

20A-6-401, as last amended by Laws of Utah 2012, Chapter 68
 20A-6-402, as last amended by Laws of Utah 2014, Chapter 169
 20A-7-101, as last amended by Laws of Utah 2014, Chapters 364 and 396
 20A-7-501, as last amended by Laws of Utah 2011, Chapter 17
 32B-1-102, as last amended by Laws of Utah 2013, Chapter 349
 32B-1-202, as enacted by Laws of Utah 2010, Chapter 276
 32B-2-402, as last amended by Laws of Utah 2014, Chapter 119
 32B-4-202, as enacted by Laws of Utah 2010, Chapter 276
 32B-5-403, as enacted by Laws of Utah 2010, Chapter 276
 52-1-1, Utah Code Annotated 1953
 63G-6a-103, as last amended by Laws of Utah 2015, Chapters 218 and 464
 63I-1-220, as last amended by Laws of Utah 2014, Chapter 231

ENACTS:

10-2a-414, Utah Code Annotated 1953
 52-1-5.1, Utah Code Annotated 1953

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

Section 1. Section 10-2a-405 is amended to read:

10-2a-405. Duties of county legislative body -- Public hearing -- Notice -- Other election and incorporation issues -- Rural real property excluded.

(1) The legislative body of a county of the first class shall before an election described in Section 10-2a-404:

(a) in accordance with Subsection (3), publish notice of the public hearing described in Subsection (1)(b);

(b) hold a public hearing; and

(c) at the public hearing, adopt a resolution:

(i) identifying, including a map prepared by the county surveyor, all unincorporated islands within the county;

(ii) identifying each eligible city that will annex each unincorporated island, including whether the unincorporated island may be annexed by one eligible city or divided and annexed by multiple eligible cities, if approved by the residents at an election under Section 10-2a-404; and

(iii) identifying, including a map prepared by the county surveyor, the planning townships within the county and any changes to the boundaries of a planning township that the county legislative body proposes under Subsection (5).

(2) The county legislative body shall exclude from a resolution adopted under Subsection (1)(c) rural real property unless the owner of the rural real property provides written consent to include the property in accordance with Subsection [(6)] (7).

(3) (a) The county clerk shall publish notice of the public hearing described in Subsection (1)(b):

(i) by mailing notice to each owner of real property located in an unincorporated island or planning township no later than 15 days before the day of the public hearing;

(ii) at least once a week for three successive weeks in a newspaper of general circulation within each unincorporated island, each eligible city, and each planning township; and

(iii) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks before the day of the public hearing.

(b) The last publication of notice required under Subsection (3)(a)(ii) shall be at least three days before the first public hearing required under Subsection (1)(b).

(c) (i) If, under Subsection (3)(a)(ii), there is no newspaper of general circulation within an unincorporated island, an eligible city, or a planning township, the county clerk shall post at least one notice of the hearing per 1,000 population in conspicuous places within the selected unincorporated island, eligible city, or planning township, as applicable, that are most likely to give notice of the hearing to the residents of the unincorporated island, eligible city, or planning township.

(ii) The clerk shall post the notices under Subsection (3)(c)(i) at least seven days before the hearing under Subsection (1)(b).

(d) The notice under Subsection (3)(a) or (c) shall include:

(i) (A) for a resident of an unincorporated island, a statement that the property in the unincorporated island may be, if approved at an election under Section 10-2a-404, annexed by an eligible city, including divided and annexed by multiple cities if applicable, and the name of the eligible city or cities; or

(B) for residents of a planning township, a statement that the property in the planning township shall be, pending the results of the election held under Section 10-2a-404, incorporated as a city, town, or metro township;

(ii) the location and time of the public hearing; and

(iii) the county website where a map may be accessed showing:

(A) how the unincorporated island boundaries will change if annexed by an eligible city; or

(B) how the planning township area boundaries will change, if applicable under Subsection (5), when the planning township incorporates as a metro township or as a city or town.

(e) The county clerk shall publish a map described in Subsection (3)(d)(iii) on the county website.

(4) The county legislative body may, by ordinance or resolution adopted at a public meeting and in accordance with applicable law, resolve an issue that arises with an election held in accordance with this part or the incorporation and establishment of a metro township in accordance with this part.

(5) (a) The county legislative body may, by ordinance or resolution adopted at a public meeting, change the boundaries of a planning township.

(b) A change to a planning township boundary under this Subsection (5) is effective only upon the vote of the residents of the planning township at an election under Section 10-2a-404 to incorporate as a metro township or as a city or town and does not affect the boundaries of the planning township before the election.

(c) The county legislative body:

(i) may alter a planning township boundary under Subsection (5)(a) only if the alteration:

(A) affects less than 5% of the residents residing within the planning advisory area; and

(B) does not increase the area located within the planning township's boundaries; and

(ii) may not alter the boundaries of a planning township whose boundaries are entirely surrounded by one or more municipalities.

(6) After November 2, 2015, and before January 1, 2017, a person may not initiate an annexation or an incorporation process that, if approved, would change the boundaries of a planning township.

~~[(6)]~~ (7) (a) As used in this Subsection ~~[(6)]~~ (7), "rural real property" means an area:

(i) zoned primarily for manufacturing, commercial, or agricultural purposes; and

(ii) that does not include residential units with a density greater than one unit per acre.

(b) Unless an owner of rural real property gives written consent to a county legislative body, rural real property described in Subsection ~~[(6)]~~ (7)(c) may not be:

(i) included in a planning township identified under Subsection (1)(c); or

(ii) incorporated as part of a metro township, city, or town, in accordance with this part.

(c) The following rural real property is subject to an owner's written consent under Subsection ~~[(6)]~~ (7)(b):

(i) rural real property that consists of 1,500 or more contiguous acres of real property consisting of one or more tax parcels;

(ii) rural real property that is not contiguous to, but used in connection with, rural real property that consists of 1,500 or more contiguous acres of real property consisting of one or more tax parcels;

(iii) rural real property that is owned, managed, or controlled by a person, company, or association, including a parent, subsidiary, or affiliate related to

the owner of 1,500 or more contiguous acres of rural real property consisting of one or more tax parcels; or

(iv) rural real property that is located in whole or in part in one of the following as defined in Section 17-41-101:

- (A) an agricultural protection area;
- (B) an industrial protection area; or
- (C) a mining protection area.

Section 2. Section 10-2a-414 is enacted to read:

10-2a-414. Transition -- Continuity of county process.

When a metro township is incorporated:

(1) the operations, services, and functions provided by the county shall continue with as little interruption as possible as the operations, services, and functions are assumed by the metro township;

(2) all proceedings pending before the county shall continue without change until altered by a valid metro township ordinance, action, or decision; and

(3) each county ordinance in effect on the day on which the metro township is incorporated shall remain in effect as a metro township ordinance until the metro township council amends or repeals the ordinance.

Section 3. Section 10-3c-103 is amended to read:

10-3c-103. Status and powers.

A metro township:

(1) is:

(a) a body corporate and politic with perpetual succession;

(b) a ~~[quasi-municipal]~~ municipal corporation; and

(c) a political subdivision of the state; and

(2) may:

(a) sue and be sued[.]; and

(b) except where expressly prohibited, exercise any power or responsibility generally granted to a municipality.

Section 4. Section 10-3c-203 is amended to read:

10-3c-203. Administrative and operational services -- Staff provided by county or municipal services district.

(1) (a) The following officials elected or appointed, or persons employed by, the county in which a ~~[municipality]~~ metro township is located shall, for the purposes of interpreting and complying with applicable law, fulfill the responsibilities and hold the following metro township offices or positions:

(i) the county treasurer shall fulfill the duties and hold the powers of treasurer for the metro township;

(ii) the county clerk shall fulfill the duties and hold the powers of recorder and clerk for the metro township;

(iii) the county surveyor shall fulfill, on behalf of the metro township, all surveyor duties imposed by law;

(iv) the county engineer shall fulfill the duties and hold the powers of engineer for the metro township; and

~~[(v) the district attorney shall provide legal counsel to the metro township; and]~~

~~[(vi)]~~ (v) subject to Subsection (1)(b), the county auditor shall fulfill the duties and hold the powers of auditor for the metro township.

(b) (i) The county auditor shall fulfill the duties and hold the powers of auditor for the metro township to the extent that the county auditor's powers and duties are described in and delegated to the county auditor in accordance with Title 17, Chapter 19a, County Auditor, and a municipal auditor's powers and duties described in this title are the same.

(ii) Notwithstanding Subsection (1)(b), in a metro township, services described in Sections 17-19a-203, 17-19a-204, and 17-19a-205, and services other than those described in Subsection (1)(b)(i) that are provided by a municipal auditor in accordance with this title that are required by law, shall be performed by county staff other than the county auditor.

(2) (a) Nothing in Subsection (1) may be construed to relieve an official described in Subsections (1)(a)(i) through (iv) of a duty to either the county or metro township or a duty to fulfill that official's position as required by law.

(b) Notwithstanding Subsection (2)(a), an official or the official's deputy or other person described in Subsections (1)(a)(i) through (iv):

(i) is elected, appointed, or otherwise employed, in accordance with the provisions of Title 17, Counties, as applicable to that official's or person's county office;

(ii) is paid a salary and benefits and subject to employment discipline in accordance with the provisions of Title 17, Counties, as applicable to that official's or person's county office;

(iii) is not subject to:

(A) Chapter 3, Part 11, Personnel Rules and Benefits; or

(B) Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act; and

(iv) is not required to provide a bond for the applicable municipal office if a bond for the office is required by this title.

(3) The district attorney of the county in which a metro township is located may provide legal counsel to the metro township if the county and the metro township agree.

[43] (4) The metro township may establish a planning commission in accordance with Section 10-9a-301 and an appeal authority in accordance with Section 10-9a-701.

[44] (5) A municipal services district established in accordance with Title 17B, Chapter 2a, Part 11, Municipal Services District Act, and of which the metro township is a part, may provide staff to the metro township planning commission and appeal authority.

[45] (6) (a) This section applies only to a metro township in which:

(i) the electors at an election under Section 10-2a-404 chose a metro township that is included in a municipal services district and has limited municipal powers; or

(ii) the metro township subsequently joins a municipal services district.

(b) This section does not apply to a metro township described in Subsection [45] (6)(a) if the municipal services district is dissolved.

Section 5. Section 11-14-102 is amended to read:

11-14-102. Definitions.

For the purpose of this chapter:

(1) "Bond" means any bond authorized to be issued under this chapter, including municipal bonds.

(2) "Election results" has the same meaning as defined in Section 20A-1-102.

(3) "Governing body" means:

(a) for a county, city, ~~town~~, or metro township, the legislative body of the county, city, or town;

(b) for a local district, the board of trustees of the local district;

(c) for a school district, the local board of education; or

(d) for a special service district under Title 17D, Chapter 1, Special Service District Act:

(i) the governing body of the county or municipality that created the special service district, if no administrative control board has been established under Section 17D-1-301; or

(ii) the administrative control board, if one has been established under Section 17D-1-301 and the power to issue bonds not payable from taxes has been delegated to the administrative control board.

(4) "Local district" means a district operating under Title 17B, Limited Purpose Local Government Entities - Local Districts.

(5) (a) "Local political subdivision" means a county, city, town, metro township, school district, local district, or special service district.

(b) "Local political subdivision" does not include the state and its institutions.

Section 6. Section 11-17-2 is amended to read:

11-17-2. Definitions.

As used in this chapter:

(1) "Bonds" means bonds, notes, or other evidences of indebtedness.

(2) "Energy efficiency upgrade" means an improvement that is permanently affixed to real property and that is designed to reduce energy consumption, including:

(a) insulation in:

(i) a wall, ceiling, roof, floor, or foundation; or

(ii) a heating or cooling distribution system;

(b) an insulated window or door, including:

(i) a storm window or door;

(ii) a multiglazed window or door;

(iii) a heat-absorbing window or door;

(iv) a heat-reflective glazed and coated window or door;

(v) additional window or door glazing;

(vi) a window or door with reduced glass area; or

(vii) other window or door modifications that reduce energy loss;

(c) an automatic energy control system;

(d) in a building or a central plant, a heating, ventilation, or air conditioning and distribution system;

(e) caulking or weatherstripping;

(f) a light fixture that does not increase the overall illumination of a building unless an increase is necessary to conform with the applicable building code;

(g) an energy recovery system;

(h) a daylighting system;

(i) measures to reduce the consumption of water, through conservation or more efficient use of water, including:

(i) installation of a low-flow toilet or showerhead;

(ii) installation of a timer or timing system for a hot water heater; or

(iii) installation of a rain catchment system; or

(j) any other modified, installed, or remodeled fixture that is approved as a utility cost-savings measure by the governing body.

(3) "Finance" or "financing" includes the issuing of bonds by a municipality, county, or state university for the purpose of using a portion, or all or substantially all of the proceeds to pay for or to reimburse the user, lender, or the user or lender's designee for the costs of the acquisition of facilities of a project, or to create funds for the project itself where appropriate, whether these costs are

incurred by the municipality, the county, the state university, the user, or a designee of the user. If title to or in these facilities at all times remains in the user, the bonds of the municipality or county shall be secured by a pledge of one or more notes, debentures, bonds, other secured or unsecured debt obligations of the user or lender, or the sinking fund or other arrangement as in the judgment of the governing body is appropriate for the purpose of assuring repayment of the bond obligations to investors in accordance with their terms.

(4) “Governing body” means:

(a) for a county, city, ~~or~~ town, or metro township, the legislative body of the county, city, ~~or~~ town, or metro township;

(b) for the military installation development authority created in Section 63H-1-201, the authority board, as defined in Section 63H-1-102;

(c) for a state university except as provided in Subsection (4)(d), the board or body having the control and supervision of the state university; and

(d) for a nonprofit corporation or foundation created by and operating under the auspices of a state university, the board of directors or board of trustees of that corporation or foundation.

(5) (a) “Industrial park” means land, including all necessary rights, appurtenances, easements, and franchises relating to it, acquired and developed by a municipality, county, or state university for the establishment and location of a series of sites for plants and other buildings for industrial, distribution, and wholesale use.

(b) “Industrial park” includes the development of the land for an industrial park under this chapter or the acquisition and provision of water, sewerage, drainage, street, road, sidewalk, curb, gutter, street lighting, electrical distribution, railroad, or docking facilities, or any combination of them, but only to the extent that these facilities are incidental to the use of the land as an industrial park.

(6) “Lender” means a trust company, savings bank, savings and loan association, bank, credit union, or any other lending institution that lends, loans, or leases proceeds of a financing to the user or a user’s designee.

(7) “Mortgage” means a mortgage, trust deed, or other security device.

(8) “Municipality” means any incorporated city ~~or~~ town, or metro township in the state, including cities or towns operating under home rule charters.

(9) “Pollution” means any form of environmental pollution including water pollution, air pollution, pollution caused by solid waste disposal, thermal pollution, radiation contamination, or noise pollution.

(10) (a) “Project” means:

(i) an industrial park, land, interest in land, building, structure, facility, system, fixture, improvement, appurtenance, machinery,

equipment, or any combination of them, whether or not in existence or under construction:

(A) that is suitable for industrial, manufacturing, warehousing, research, business, and professional office building facilities, commercial, shopping services, food, lodging, low income rental housing, recreational, or any other business purposes;

(B) that is suitable to provide services to the general public;

(C) that is suitable for use by any corporation, person, or entity engaged in health care services, including hospitals, nursing homes, extended care facilities, facilities for the care of persons with a physical or mental disability, and administrative and support facilities; or

(D) that is suitable for use by a state university for the purpose of aiding in the accomplishment of its authorized academic, scientific, engineering, technical, and economic development functions;

(ii) any land, interest in land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment, or any combination of them, used by any individual, partnership, firm, company, corporation, public utility, association, trust, estate, political subdivision, state agency, or any other legal entity, or its legal representative, agent, or assigns, for the reduction, abatement, or prevention of pollution, including the removal or treatment of any substance in process material, if that material would cause pollution if used without the removal or treatment;

(iii) an energy efficiency upgrade;

(iv) a renewable energy system;

(v) facilities, machinery, or equipment, the manufacturing and financing of which will maintain or enlarge domestic or foreign markets for Utah industrial products; or

(vi) any economic development or new venture investment fund to be raised other than from:

(A) municipal or county general fund money;

(B) money raised under the taxing power of any county or municipality; or

(C) money raised against the general credit of any county or municipality.

(b) “Project” does not include any property, real, personal, or mixed, for the purpose of the construction, reconstruction, improvement, or maintenance of a public utility as defined in Section 54-2-1.

(11) “Renewable energy system” means a product, system, device, or interacting group of devices that is permanently affixed to real property and that produces energy from renewable resources, including:

(a) a photovoltaic system;

(b) a solar thermal system;

(c) a wind system;

- (d) a geothermal system, including:
- (i) a direct-use system; or
 - (ii) a ground source heat pump system;
 - (e) a micro-hydro system; or
 - (f) another renewable energy system approved by the governing body.

(12) "State university" means an institution of higher education as described in Section 53B-2-101 and includes any nonprofit corporation or foundation created by and operating under their authority.

(13) "User" means the person, whether natural or corporate, who will occupy, operate, maintain, and employ the facilities of, or manage and administer a project after the financing, acquisition, or construction of it, whether as owner, manager, purchaser, lessee, or otherwise.

Section 7. Section 11-39-101 is amended to read:

11-39-101. Definitions.

As used in this chapter:

- (1) "Bid limit" means:
- (a) for a building improvement:
 - (i) for the year 2003, \$40,000; and
 - (ii) for each year after 2003, the amount of the bid limit for the previous year, plus an amount calculated by multiplying the amount of the bid limit for the previous year by the lesser of 3% or the actual percent change in the Consumer Price Index during the previous calendar year; and
 - (b) for a public works project:
 - (i) for the year 2003, \$125,000; and
 - (ii) for each year after 2003, the amount of the bid limit for the previous year, plus an amount calculated by multiplying the amount of the bid limit for the previous year by the lesser of 3% or the actual percent change in the Consumer Price Index during the previous calendar year.
- (2) "Building improvement":
- (a) means the construction or repair of a public building or structure; and
 - (b) does not include construction or repair at an international airport.
- (3) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.
- (4) "Design-build project":
- (a) means a building improvement or public works project costing over \$250,000 with respect to which both the design and construction are provided for in a single contract with a contractor or combination of contractors capable of providing design-build services; and

(b) does not include a building improvement or public works project:

(i) that is undertaken by a local entity under contract with a construction manager that guarantees the contract price and is at risk for any amount over the contract price; and

(ii) each component of which is competitively bid.

(5) "Design-build services" means the engineering, architectural, and other services necessary to formulate and implement a design-build project, including its actual construction.

(6) "Emergency repairs" means a building improvement or public works project undertaken on an expedited basis to:

(a) eliminate an imminent risk of damage to or loss of public or private property;

(b) remedy a condition that poses an immediate physical danger; or

(c) reduce a substantial, imminent risk of interruption of an essential public service.

(7) "Governing body" means:

(a) for a county, city, ~~or~~ town, or metro township, the legislative body of the county, city, ~~or~~ town, or metro township;

(b) for a local district, the board of trustees of the local district; and

(c) for a special service district:

(i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301.

(8) "Local district" has the same meaning as defined in Section 17B-1-102.

(9) "Local entity" means a county, city, town, metro township, local district, or special service district.

(10) "Lowest responsive responsible bidder" means a prime contractor who:

(a) has submitted a bid in compliance with the invitation to bid and within the requirements of the plans and specifications for the building improvement or public works project;

(b) is the lowest bidder that satisfies the local entity's criteria relating to financial strength, past performance, integrity, reliability, and other factors that the local entity uses to assess the ability of a bidder to perform fully and in good faith the contract requirements;

(c) has furnished a bid bond or equivalent in money as a condition to the award of a prime contract; and

(d) furnishes a payment and performance bond as required by law.

(11) "Procurement code" means the provisions of Title 63G, Chapter 6a, Utah Procurement Code.

(12) "Public works project":

(a) means the construction of:

(i) a park or recreational facility; or

(ii) a pipeline, culvert, dam, canal, or other system for water, sewage, storm water, or flood control; and

(b) does not include:

(i) the replacement or repair of existing infrastructure on private property;

(ii) construction commenced before June 1, 2003; and

(iii) construction or repair at an international airport.

(13) "Special service district" has the same meaning as defined in Section 17D-1-102.

Section 8. Section 11-41-102 is amended to read:

11-41-102. Definitions.

As used in this chapter:

(1) "Agreement" means an oral or written agreement between a:

(a) (i) county; or

(ii) municipality; and

(b) person.

(2) "Municipality" means a:

(a) city; [or]

(b) town[-]; or

(c) metro township.

(3) "Payment" includes:

(a) a payment;

(b) a rebate;

(c) a refund; or

(d) an amount similar to Subsections (3)(a) through (c).

(4) "Regional retail business" means a:

(a) retail business that occupies a floor area of more than 80,000 square feet;

(b) dealer as defined in Section 41-1a-102;

(c) retail shopping facility that has at least two anchor tenants if the total number of anchor tenants in the shopping facility occupy a total floor area of more than 150,000 square feet; or

(d) grocery store that occupies a floor area of more than 30,000 square feet.

(5) (a) "Sales and use tax" means a tax:

(i) imposed on transactions within a:

(A) county; or

(B) municipality; and

(ii) except as provided in Subsection (5)(b), authorized under Title 59, Chapter 12, Sales and Use Tax Act.

(b) Notwithstanding Subsection (5)(a)(ii), "sales and use tax" does not include a tax authorized under:

(i) Subsection 59-12-103(2)(a)(i);

(ii) Subsection 59-12-103(2)(b)(i);

(iii) Subsection 59-12-103(2)(c)(i);

(iv) Subsection 59-12-103(2)(d)(i)(A);

(v) Section 59-12-301;

(vi) Section 59-12-352;

(vii) Section 59-12-353;

(viii) Section 59-12-603; or

(ix) Section 59-12-1201.

(6) (a) "Sales and use tax incentive payment" means a payment of revenues:

(i) to a person;

(ii) by a:

(A) county; or

(B) municipality;

(iii) to induce the person to locate or relocate a regional retail business within the:

(A) county; or

(B) municipality; and

(iv) that are derived from a sales and use tax.

(b) "Sales and use tax incentive payment" does not include funding for public infrastructure.

Section 9. Section 17B-1-102 is amended to read:

17B-1-102. Definitions.

As used in this title:

(1) "Appointing authority" means the person or body authorized to make an appointment to the board of trustees.

(2) "Basic local district":

(a) means a local district that is not a specialized local district; and

(b) includes an entity that was, under the law in effect before April 30, 2007, created and operated as a local district, as defined under the law in effect before April 30, 2007.

(3) "Bond" means:

(a) a written obligation to repay borrowed money, whether denominated a bond, note, warrant, certificate of indebtedness, or otherwise; and

(b) a lease agreement, installment purchase agreement, or other agreement that:

(i) includes an obligation by the district to pay money; and

(ii) the district's board of trustees, in its discretion, treats as a bond for purposes of Title 11, Chapter 14, Local Government Bonding Act, or Title 11, Chapter 27, Utah Refunding Bond Act.

(4) "Cemetery maintenance district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 1, Cemetery Maintenance District Act, including an entity that was created and operated as a cemetery maintenance district under the law in effect before April 30, 2007.

(5) "Drainage district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 2, Drainage District Act, including an entity that was created and operated as a drainage district under the law in effect before April 30, 2007.

(6) "Facility" or "facilities" includes any structure, building, system, land, water right, water, or other real or personal property required to provide a service that a local district is authorized to provide, including any related or appurtenant easement or right-of-way, improvement, utility, landscaping, sidewalk, road, curb, gutter, equipment, or furnishing.

(7) "Fire protection district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 3, Fire Protection District Act, including an entity that was created and operated as a fire protection district under the law in effect before April 30, 2007.

(8) "General obligation bond":

(a) means a bond that is directly payable from and secured by ad valorem property taxes that are:

(i) levied:

(A) by the district that issues the bond; and

(B) on taxable property within the district; and

(ii) in excess of the ad valorem property taxes of the district for the current fiscal year; and

(b) does not include:

(i) a short-term bond;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

(9) "Improvement assurance" means a surety bond, letter of credit, cash, or other security:

(a) to guarantee the proper completion of an improvement;

(b) that is required before a local district may provide a service requested by a service applicant; and

(c) that is offered to a local district to induce the local district before construction of an improvement begins to:

(i) provide the requested service; or

(ii) commit to provide the requested service.

(10) "Improvement assurance warranty" means a promise that the materials and workmanship of an improvement:

(a) comply with standards adopted by a local district; and

(b) will not fail in any material respect within an agreed warranty period.

(11) "Improvement district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 4, Improvement District Act, including an entity that was created and operated as a county improvement district under the law in effect before April 30, 2007.

(12) "Irrigation district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 5, Irrigation District Act, including an entity that was created and operated as an irrigation district under the law in effect before April 30, 2007.

(13) "Local district" means a limited purpose local government entity, as described in Section 17B-1-103, that operates under, is subject to, and has the powers set forth in:

(a) this chapter; or

(b) (i) this chapter; and

(ii) (A) Chapter 2a, Part 1, Cemetery Maintenance District Act;

(B) Chapter 2a, Part 2, Drainage District Act;

(C) Chapter 2a, Part 3, Fire Protection District Act;

(D) Chapter 2a, Part 4, Improvement District Act;

(E) Chapter 2a, Part 5, Irrigation District Act;

(F) Chapter 2a, Part 6, Metropolitan Water District Act;

(G) Chapter 2a, Part 7, Mosquito Abatement District Act;

(H) Chapter 2a, Part 8, Public Transit District Act;

(I) Chapter 2a, Part 9, Service Area Act;

(J) Chapter 2a, Part 10, Water Conservancy District Act; or

(K) Chapter 2a, Part 11, Municipal Services District Act.

(14) "Metropolitan water district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 6, Metropolitan Water District Act, including an entity that was created and operated as a metropolitan water district under the law in effect before April 30, 2007.

(15) "Mosquito abatement district" means a local district that operates under and is subject to the

provisions of this chapter and Chapter 2a, Part 7, Mosquito Abatement District Act, including an entity that was created and operated as a mosquito abatement district under the law in effect before April 30, 2007.

(16) “Municipal” means of or relating to a municipality.

(17) “Municipality” means a city [œ], town, or metro township.

(18) “Municipal services district” means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 11, Municipal Services District Act.

(19) “Person” means an individual, corporation, partnership, organization, association, trust, governmental agency, or other legal entity.

(20) “Political subdivision” means a county, city, town, metro township, local district under this title, special service district under Title 17D, Chapter 1, Special Service District Act, an entity created by interlocal cooperation agreement under Title 11, Chapter 13, Interlocal Cooperation Act, or any other governmental entity designated in statute as a political subdivision of the state.

(21) “Private,” with respect to real property, means not owned by the United States or any agency of the federal government, the state, a county, or a political subdivision.

(22) “Public entity” means:

(a) the United States or an agency of the United States;

(b) the state or an agency of the state;

(c) a political subdivision of the state or an agency of a political subdivision of the state;

(d) another state or an agency of that state; or

(e) a political subdivision of another state or an agency of that political subdivision.

(23) “Public transit district” means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 8, Public Transit District Act, including an entity that was created and operated as a public transit district under the law in effect before April 30, 2007.

(24) “Revenue bond”:

(a) means a bond payable from designated taxes or other revenues other than the local district’s ad valorem property taxes; and

(b) does not include:

(i) an obligation constituting an indebtedness within the meaning of an applicable constitutional or statutory debt limit;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

(25) “Rules of order and procedure” means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

(26) “Service applicant” means a person who requests that a local district provide a service that the local district is authorized to provide.

(27) “Service area” means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 9, Service Area Act, including an entity that was created and operated as a county service area or a regional service area under the law in effect before April 30, 2007.

(28) “Short-term bond” means a bond that is required to be repaid during the fiscal year in which the bond is issued.

(29) “Special assessment” means an assessment levied against property to pay all or a portion of the costs of making improvements that benefit the property.

(30) “Special assessment bond” means a bond payable from special assessments.

(31) “Specialized local district” means a local district that is a cemetery maintenance district, a drainage district, a fire protection district, an improvement district, an irrigation district, a metropolitan water district, a mosquito abatement district, a public transit district, a service area, a water conservancy district, or a municipal services district.

(32) “Taxable value” means the taxable value of property as computed from the most recent equalized assessment roll for county purposes.

(33) “Tax and revenue anticipation bond” means a bond:

(a) issued in anticipation of the collection of taxes or other revenues or a combination of taxes and other revenues; and

(b) that matures within the same fiscal year as the fiscal year in which the bond is issued.

(34) “Unincorporated” means not included within a municipality.

(35) “Water conservancy district” means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 10, Water Conservancy District Act, including an entity that was created and operated as a water conservancy district under the law in effect before April 30, 2007.

(36) “Works” includes a dam, reservoir, well, canal, conduit, pipeline, drain, tunnel, power plant, and any facility, improvement, or property necessary or convenient for supplying or treating water for any beneficial use, and for otherwise accomplishing the purposes of a local district.

Section 10. Section 17B-1-502 is amended to read:

17B-1-502. Withdrawal of area from local district -- Automatic withdrawal in certain circumstances.

(1) (a) An area within the boundaries of a local district may be withdrawn from the local district only as provided in this part or, if applicable, as provided in Chapter 2a, Part 11, Municipal Services District Act.

(b) Except as provided in Subsections (2) and (3), the inclusion of an area of a local district within a municipality because of a municipal incorporation under Title 10, Chapter 2a, Municipal Incorporation, or a municipal annexation or boundary adjustment under Title 10, Chapter 2, Part 4, Annexation, does not affect the requirements under this part for the process of withdrawing that area from the local district.

(2) (a) An area within the boundaries of a local district is automatically withdrawn from the local district by the annexation of the area to a municipality or the adding of the area to a municipality by boundary adjustment under Title 10, Chapter 2, Part 4, Annexation, if:

(i) the local district provides:

(A) fire protection, paramedic, and emergency services; or

(B) law enforcement service;

(ii) an election for the creation of the local district was not required because of Subsection 17B-1-214(3)(d) or (g); and

(iii) before annexation or boundary adjustment, the boundaries of the local district do not include any of the annexing municipality.

(b) The effective date of a withdrawal under this Subsection (2) is governed by Subsection 17B-1-512(2)(b).

(3) (a) Except as provided in Subsection (3)(c) or (d), an area within the boundaries of a local district located in a county of the first class is automatically withdrawn from the local district by the incorporation of a municipality whose boundaries include the area if:

(i) the local district provides [(A) fire protection, paramedic, and emergency services; (B) law enforcement service; or (C)] municipal services, as defined in Section 17B-2a-1102, excluding fire protection, paramedic, emergency, and law enforcement services;

(ii) an election for the creation of the local district was not required because of Subsection 17B-1-214(3)[(d) or (g)]; and

(iii) the legislative body of the newly incorporated municipality:

(A) for a city or town incorporated under Title 10, Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County

of the First Class on and after May 12, 2015, complies with the feasibility study requirements of Section 17B-2a-1110;

(B) adopts a resolution no later than 180 days after the effective date of incorporation approving the withdrawal that includes the legal description of the area to be withdrawn; and

(C) delivers a copy of the resolution to the board of trustees of the local district.

(b) The effective date of a withdrawal under this Subsection (3) is governed by Subsection 17B-1-512(2)(a).

(c) Section 17B-1-505 shall govern the withdrawal of an incorporated area within a county of the first class ~~[after the expiration of the 180-day period described in Subsection (3)(a)(iii)(B)]~~ if:

(i) the local district from which the area is withdrawn provides:

(A) fire protection, paramedic, and emergency services;

(B) law enforcement service; or

(C) municipal services, as defined in Section 17B-2a-1102; ~~and~~

(ii) an election for the creation of the local district was not required under Subsection 17B-1-214(3)(d) or (g); and

(iii) for a local district that provides municipal services, as defined in Section 17B-2a-1102, excluding fire protection, paramedic, emergency, and law enforcement services, the 180-day period described in Subsection (3)(a)(iii)(B) is expired.

(d) An area ~~[within the boundaries of]~~ may not be withdrawn from a local district that provides municipal services, as defined in Section 17B-2a-1102, excluding fire protection, paramedic, emergency, and law enforcement services, if:

(i) the area is incorporated as a metro township; and [for which the residents of the metro township at an]

(ii) at the election to incorporate as a metro township, the residents of the area chose to be included in a municipal services district [is not subject to the provisions of this Subsection (3)].

Section 11. Section 17B-1-1308 is amended to read:

17B-1-1308. Dissolution resolution -- Limitations on dissolution -- Distribution of remaining assets -- Notice to lieutenant governor -- Recording requirements.

(1) After the public hearing required under Section 17B-1-1306 and subject to Subsection (2), the administrative body may adopt a resolution approving dissolution of the local district.

(2) A resolution under Subsection (1) may not be adopted unless:

(a) any outstanding debt of the local district is:

(i) satisfied and discharged in connection with the dissolution; or

(ii) assumed by another governmental entity with the consent of all the holders of that debt and all the holders of other debts of the local district;

(b) for a local district that has provided service during the preceding three years or undertaken planning or other activity preparatory to providing service:

(i) another entity has committed to provide the same service to the area being served or proposed to be served by the local district; and

(ii) all who are to receive the service have consented to the service being provided by the other entity; and

(c) all outstanding contracts to which the local district is a party are resolved through mutual termination or the assignment of the district's rights, duties, privileges, and responsibilities to another entity with the consent of the other parties to the contract.

(3) (a) (i) Any assets of the local district remaining after paying all debts and other obligations of the local district shall be used to pay costs associated with the dissolution process under this part.

(ii) Any costs of the dissolution process remaining after exhausting the remaining assets of the local district under Subsection (3)(a)(i) shall be paid by the administrative body.

(b) Any assets of the local district remaining after application of Subsection (3)(a) shall be distributed:

(i) proportionately to the owners of real property within the dissolved local district if there is a readily identifiable connection between a financial burden borne by the real property owners in the district and the remaining assets; or

(ii) except as provided in Subsection (3)(b)(i), to each county, city, ~~town~~, or metro township in which the dissolved local district was located before dissolution in the same proportion that the land area of the local district located within the unincorporated area of the county or within the city ~~town~~, or metro township bears to the total local district land area.

(4) (a) The administrative body shall:

(i) within 30 days after adopting a resolution approving dissolution, file with the lieutenant governor a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) upon the lieutenant governor's issuance of a certificate of dissolution under Section 67-1a-6.5:

(A) if the local district was located within the boundary of a single county, submit to the recorder of that county:

(I) the original;

(Aa) notice of an impending boundary action; and

(Bb) certificate of dissolution; and

(II) a certified copy of the resolution adopted under Subsection (1); or

(B) if the local district was located within the boundaries of more than a single county:

(I) submit to the recorder of one of those counties:

(Aa) the original of the documents listed in Subsections (4)(a)(ii)(A)(I)(Aa) and (Bb); and

(Bb) a certified copy of the resolution adopted under Subsection (1); and

(II) submit to the recorder of each other county:

(Aa) a certified copy of the documents listed in Subsections (4)(a)(ii)(A)(I)(Aa) and (Bb); and

(Bb) a certified copy of the resolution adopted under Subsection (1).

(b) Upon the lieutenant governor's issuance of the certificate of dissolution under Section 67-1a-6.5, the local district is dissolved.

Section 12. Section 17B-2a-1106 is amended to read:

17B-2a-1106. Municipal services district board of trustees -- Governance.

(1) Except as provided in Subsection (2), and notwithstanding any other provision of law regarding the membership of a local district board of trustees, the initial board of trustees of a municipal services district shall consist of the county legislative body.

(2) (a) Notwithstanding any provision of law regarding the membership of a local district board of trustees or the governance of a local district, and, except as provided in Subsection (3), if a municipal services district is created in a county of the first class with the county executive-council form of government, the initial governance of the municipal services district is as follows:

(i) subject to Subsection (2)(b), the county council is the municipal services district board of trustees; and

(ii) subject to Subsection (2)(c), the county executive is the executive of the municipal services district.

(b) Notwithstanding any other provision of law, the board of trustees of a municipal services district described in Subsection (2)(a) shall:

(i) act as the legislative body of the district; and

(ii) exercise legislative branch powers and responsibilities established for county legislative bodies in:

(A) Title 17, Counties; and

(B) an optional plan, as defined in Section 17-52-101, adopted for a county executive-council form of county government as described in Section 17-52-504.

(c) Notwithstanding any other provision of law, in a municipal services district described in Subsection (2)(a), the executive of the district shall:

(i) act as the executive of the district; ~~and~~

(ii) nominate a general manager of the municipal services district, subject to the advice and consent of the board of trustees; and

~~(iii)~~ (iii) exercise executive branch powers and responsibilities established for a county executive in:

(A) Title 17, Counties; and

(B) an optional plan, as defined in Section 17-52-101, adopted for a county executive-council form of county government as described in Section 17-52-504.

(3) (a) If, after the initial creation of a municipal services district, an area within the district is incorporated as a municipality as defined in Section 10-1-104 and the area is not withdrawn from the district in accordance with Section 17B-1-502 or 17B-1-505, or an area within the municipality is annexed into the municipal services district in accordance with Section 17B-2a-1103, the district's board of trustees shall be as follows:

(i) subject to Subsection (3)(b), a member of that municipality's governing body;

(ii) subject to Subsection (4), two members of the county council of the county in which the municipal services district is located; and

(iii) the total number of board members shall be an odd number.

(b) A member described in Subsection (3)(a)(i) shall be:

(i) for a municipality other than a metro township, designated by the municipal legislative body; and

(ii) for a metro township, the chair of the metro township.

(c) A member of the board of trustees has the powers and duties described in Subsection (2)(b).

(d) The county executive is the executive and has the powers and duties as described in Subsection (2)(c).

(4) (a) The number of county council members may be increased or decreased to meet the membership requirements of Subsection (3)(a)(iii) but may not be less than one.

(b) The number of county council members described in Subsection (3)(a)(ii) does not include the county mayor.

(5) For a board of trustees described in Subsection (3), each board member's vote is weighted using the proportion of the municipal services district population that resides:

(a) for each member described in Subsection (3)(a)(i), within that member's municipality; and

(b) for each member described in Subsection (3)(a)(ii), within the unincorporated county, with the members' weighted vote divided evenly if there is more than one member on the board described in Subsection (3)(a)(ii).

(6) The board may adopt a resolution providing for future board members to be appointed, as provided in Section 17B-1-304, or elected, as provided in Section 17B-1-306.

(7) (a) Notwithstanding Subsections 17B-1-309(1) or 17B-1-310(1), the board of trustees may adopt a resolution to determine the internal governance of the board.

(b) A resolution adopted under Subsection (7)(a) may not alter or impair the board of trustees' duties, powers, or responsibilities described in Subsection (2)(b) or the executive's duties, powers, or responsibilities described in Subsection (2)(c).

(8) The municipal services district and the county may enter into an agreement for the provision of legal services to the municipal services district.

Section 13. Section 17B-2a-1110 is amended to read:

17B-2a-1110. Withdrawal from a municipal services district upon incorporation -- Feasibility study required for city or town withdrawal -- Public hearing -- Revenues transferred to municipal services district.

(1) (a) A municipality may withdraw from a municipal services district in accordance with Section 17B-1-502 or 17B-1-505, as applicable, and the requirements of this section.

(b) If a municipality engages a feasibility consultant to conduct a feasibility study under Subsection (2)(a), the 180 days described in Subsection 17B-1-502(3)(a)(iii)~~(A)~~(B) is tolled from the day that the municipality engages the feasibility consultant to the day on which the municipality holds the final public hearing under Subsection (5).

(2) (a) If a municipality decides to withdraw from a municipal services district, the municipal legislative body shall, before adopting a resolution under Section 17B-1-502 or 17B-1-505, as applicable, engage a feasibility consultant to conduct a feasibility study.

(b) The feasibility consultant shall be chosen:

(i) by the municipal legislative body; and

(ii) in accordance with applicable municipal procurement procedures.

(3) The municipal legislative body shall require the feasibility consultant to:

(a) complete the feasibility study and submit the written results to the municipal legislative body before the council adopts a resolution under Section 17B-1-502;

(b) submit with the full written results of the feasibility study a summary of the results no longer than one page in length; and

(c) attend the public hearings under Subsection (5).

(4) (a) The feasibility study shall consider:

(i) population and population density within the withdrawing municipality;

(ii) current and five-year projections of demographics and economic base in the withdrawing municipality, including household size and income, commercial and industrial development, and public facilities;

(iii) projected growth in the withdrawing municipality during the next five years;

(iv) subject to Subsection (4)(b), the present and five-year projections of the cost, including overhead, of municipal services in the withdrawing municipality;

(v) assuming the same tax categories and tax rates as currently imposed by the municipal services district and all other current service providers, the present and five-year projected revenue for the withdrawing municipality;

(vi) a projection of any new taxes per household that may be levied within the withdrawing municipality within five years of the withdrawal; and

(vii) the fiscal impact on other municipalities serviced by the municipal services district.

(b) (i) For purposes of Subsection (4)(a)(iv), the feasibility consultant shall assume a level and quality of municipal services to be provided to the withdrawing municipality in the future that fairly and reasonably approximates the level and quality of municipal services being provided to the withdrawing municipality at the time of the feasibility study.

(ii) In determining the present cost of a municipal service, the feasibility consultant shall consider:

(A) the amount it would cost the withdrawing municipality to provide municipal services for the first five years after withdrawing; and

(B) the municipal services district's present and five-year projected cost of providing municipal services.

(iii) The costs calculated under Subsection (4)(a)(iv) shall take into account inflation and anticipated growth.

(5) If the results of the feasibility study meet the requirements of Subsection (4), the municipal legislative body shall, at its next regular meeting after receipt of the results of the feasibility study, schedule at least one public hearing to be held:

(a) within the following 60 days; and

(b) for the purpose of allowing:

(i) the feasibility consultant to present the results of the study; and

(ii) the public to become informed about the feasibility study results, including the requirement that if the municipality withdraws from the municipal services district, the municipality must comply with Subsection (9), and to ask questions about those results of the feasibility consultant.

(6) At a public hearing described in Subsection (5), the municipal legislative body shall:

(a) provide a copy of the feasibility study for public review; and

(b) allow the public to express its views about the proposed withdrawal from the municipal services district.

(7) (a) (i) The municipal clerk or recorder shall publish notice of the public hearings required under Subsection (5):

(A) at least once a week for three successive weeks in a newspaper of general circulation within the municipality; and

(B) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks.

(ii) The municipal clerk or recorder shall publish the last publication of notice required under Subsection (7)(a)(i)(A) at least three days before the first public hearing required under Subsection (5).

(b) (i) If, under Subsection (7)(a)(i)(A), there is no newspaper of general circulation within the proposed municipality, the municipal clerk or recorder shall post at least one notice of the hearings per 1,000 population in conspicuous places within the municipality that are most likely to give notice of the hearings to the residents.

(ii) The municipal clerk or recorder shall post the notices under Subsection (7)(b)(i) at least seven days before the first hearing under Subsection (5).

(c) The notice under Subsections (7)(a) and (b) shall include the feasibility study summary and shall indicate that a full copy of the study is available for inspection and copying at the office of the municipal clerk or recorder.

(8) At a public meeting held after the public hearing required under Subsection (5), the municipal legislative body may adopt a resolution under Section 17B-1-502 or 17B-1-505, as applicable, if the municipality is in compliance with the other requirements of that section.

(9) The municipality shall pay revenues in excess of 5% to the municipal services district for 10 years beginning on the next fiscal year immediately following the municipal legislative body adoption of a resolution or an ordinance to withdraw under Section 17B-1-502 or 17B-1-505 if the results of the feasibility study show that the average annual amount of revenue under Subsection (4)(a)(v) exceed the average annual amount of cost under Subsection (4)(a)(iv) by more than 5%.

Section 14. Section 17B-2a-1111 is amended to read:

17B-2a-1111. Withdrawal of a municipality that changes form of government.

If a municipality after the 180-day period described in Subsection 17B-1-502(3)(a)(iii)(A)(B) changes form of government in accordance with Title 10, Chapter 3b, Part 6, Changing to Another Form of Municipal Government, the municipality under the new form of government may withdraw from a municipal services district only in accordance with the provisions of Section 17B-1-505.

Section 15. Section 20A-1-102 is amended to read:

20A-1-102. Definitions.

As used in this title:

(1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.

(2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on paper ballots or ballot sheets and tabulates the results.

(3) (a) "Ballot" means the storage medium, whether paper, mechanical, or electronic, upon which a voter records the voter's votes.

(b) "Ballot" includes ballot sheets, paper ballots, electronic ballots, and secrecy envelopes.

(4) "Ballot label" means the cards, papers, booklet, pages, or other materials that:

(a) contain the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) are used in conjunction with ballot sheets that do not display that information.

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

(a) an opinion question specifically authorized by the Legislature;

(b) a constitutional amendment;

(c) an initiative;

(d) a referendum;

(e) a bond proposition;

(f) a judicial retention question;

(g) an incorporation of a city or town; or

(h) any other ballot question specifically authorized by the Legislature.

(6) "Ballot sheet":

(a) means a ballot that:

(i) consists of paper or a card where the voter's votes are marked or recorded; and

(ii) can be counted using automatic tabulating equipment; and

(b) includes punch card ballots and other ballots that are machine-countable.

(7) "Bind," "binding," or "bound" means securing more than one piece of paper together with a staple or stitch in at least three places across the top of the paper in the blank space reserved for securing the paper.

(8) "Board of canvassers" means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.

(9) "Bond election" means an election held for the purpose of approving or rejecting the proposed issuance of bonds by a government entity.

(10) "Book voter registration form" means voter registration forms contained in a bound book that are used by election officers and registration agents to register persons to vote.

(11) "Business reply mail envelope" means an envelope that may be mailed free of charge by the sender.

(12) "By-mail voter registration form" means a voter registration form designed to be completed by the voter and mailed to the election officer.

(13) "Canvass" means the review of election returns and the official declaration of election results by the board of canvassers.

(14) "Canvassing judge" means a poll worker designated to assist in counting ballots at the canvass.

(15) "Contracting election officer" means an election officer who enters into a contract or interlocal agreement with a provider election officer.

(16) "Convention" means the political party convention at which party officers and delegates are selected.

(17) "Counting center" means one or more locations selected by the election officer in charge of the election for the automatic counting of ballots.

(18) "Counting judge" means a poll worker designated to count the ballots during election day.

(19) "Counting poll watcher" means a person selected as provided in Section 20A-3-201 to witness the counting of ballots.

(20) "Counting room" means a suitable and convenient private place or room, immediately adjoining the place where the election is being held, for use by the poll workers and counting judges to count ballots during election day.

(21) "County officers" means those county officers that are required by law to be elected.

(22) "Date of the election" or "election day" or "day of the election":

(a) means the day that is specified in the calendar year as the day that the election occurs; and

(b) does not include:

- (i) deadlines established for absentee voting; or
- (ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early Voting.
- (23) "Elected official" means:
- (a) a person elected to an office under Section 20A-1-303;
- (b) a person who is considered to be elected to a municipal office in accordance with Subsection 20A-1-206(1)(c)(ii); or
- (c) a person who is considered to be elected to a local district office in accordance with Subsection 20A-1-206(3)(c)(ii).
- (24) "Election" means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a local district election.
- (25) "Election Assistance Commission" means the commission established by ~~Public Law 107-252,~~ the Help America Vote Act of 2002, Pub. L. No. 107-252.
- (26) "Election cycle" means the period beginning on the first day persons are eligible to file declarations of candidacy and ending when the canvass is completed.
- (27) "Election judge" means a poll worker that is assigned to:
- (a) preside over other poll workers at a polling place;
- (b) act as the presiding election judge; or
- (c) serve as a canvassing judge, counting judge, or receiving judge.
- (28) "Election officer" means:
- (a) the lieutenant governor, for all statewide ballots and elections;
- (b) the county clerk for:
- (i) a county ballot and election; and
- (ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;
- (c) the municipal clerk for:
- (i) a municipal ballot and election; and
- (ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;
- (d) the local district clerk or chief executive officer for:
- (i) a local district ballot and election; and
- (ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5; or
- (e) the business administrator or superintendent of a school district for:
- (i) a school district ballot and election; and
- (ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5.
- (29) "Election official" means any election officer, election judge, or poll worker.
- (30) "Election results" means:
- (a) for an election other than a bond election, the count of votes cast in the election and the election returns requested by the board of canvassers; or
- (b) for bond elections, the count of those votes cast for and against the bond proposition plus any or all of the election returns that the board of canvassers may request.
- (31) "Election returns" includes the pollbook, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.
- (32) "Electronic ballot" means a ballot that is recorded using a direct electronic voting device or other voting device that records and stores ballot information by electronic means.
- (33) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.
- (34) (a) "Electronic voting device" means a voting device that uses electronic ballots.
- (b) "Electronic voting device" includes a direct recording electronic voting device.
- (35) "Inactive voter" means a registered voter who has:
- (a) been sent the notice required by Section 20A-2-306; and
- (b) failed to respond to that notice.
- (36) "Inspecting poll watcher" means a person selected as provided in this title to witness the receipt and safe deposit of voted and counted ballots.
- (37) "Judicial office" means the office filled by any judicial officer.
- (38) "Judicial officer" means any justice or judge of a court of record or any county court judge.
- (39) "Local district" means a local government entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.
- (40) "Local district officers" means those local district board members that are required by law to be elected.
- (41) "Local election" means a regular county election, a regular municipal election, a municipal primary election, a local special election, a local district election, and a bond election.

(42) “Local political subdivision” means a county, a municipality, a local district, or a local school district.

(43) “Local special election” means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

(44) “Municipal executive” means:

(a) the mayor in the council–mayor form of government defined in Section 10–3b–102;

(b) the mayor in the council–manager form of government defined in Subsection 10–3b–103(7); or

(c) the chair of a metro township form of government defined in Section 10–3b–102.

(45) “Municipal general election” means the election held in municipalities and, as applicable, local districts on the first Tuesday after the first Monday in November of each odd–numbered year for the purposes established in Section 20A–1–202.

(46) “Municipal legislative body” means:

(a) the council of the city or town in any form of municipal government; or

(b) the council of a metro township.

(47) “Municipal office” means an elective office in a municipality.

(48) “Municipal officers” means those municipal officers that are required by law to be elected.

(49) “Municipal primary election” means an election held to nominate candidates for municipal office.

(50) “Municipality” means a city, town, or metro township.

~~[(50)]~~ (51) “Official ballot” means the ballots distributed by the election officer to the poll workers to be given to voters to record their votes.

~~[(51)]~~ (52) “Official endorsement” means:

(a) the information on the ballot that identifies:

(i) the ballot as an official ballot;

(ii) the date of the election; and

(iii) (A) for a ballot prepared by an election officer other than a county clerk, the facsimile signature required by Subsection 20A–6–401(1)(b)(iii); or

(B) for a ballot prepared by a county clerk, the words required by Subsection 20A–6–301(1)(c)(iii); and

(b) the information on the ballot stub that identifies:

(i) the poll worker’s initials; and

(ii) the ballot number.

~~[(52)]~~ (53) “Official register” means the official record furnished to election officials by the election

officer that contains the information required by Section 20A–5–401.

~~[(53)]~~ (54) “Paper ballot” means a paper that contains:

(a) the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) spaces for the voter to record the voter’s vote for each office and for or against each ballot proposition.

~~[(54)]~~ (55) “Pilot project” means the election day voter registration pilot project created in Section 20A–4–108.

~~[(55)]~~ (56) “Political party” means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Chapter 8, Political Party Formation and Procedures.

~~[(56)]~~ (57) “Pollbook” means a record of the names of voters in the order that they appear to cast votes.

~~[(57)]~~ (58) “Polling place” means the building where voting is conducted.

~~[(58)]~~ (59) (a) “Poll worker” means a person assigned by an election official to assist with an election, voting, or counting votes.

(b) “Poll worker” includes election judges.

(c) “Poll worker” does not include a watcher.

~~[(59)]~~ (60) “Position” means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks the voter’s choice.

~~[(60)]~~ (61) “Primary convention” means the political party conventions held during the year of the regular general election.

~~[(61)]~~ (62) “Protective counter” means a separate counter, which cannot be reset, that:

(a) is built into a voting machine; and

(b) records the total number of movements of the operating lever.

~~[(62)]~~ (63) “Provider election officer” means an election officer who enters into a contract or interlocal agreement with a contracting election officer to conduct an election for the contracting election officer’s local political subdivision in accordance with Section 20A–5–400.1.

~~[(63)]~~ (64) “Provisional ballot” means a ballot voted provisionally by a person:

(a) whose name is not listed on the official register at the polling place;

(b) whose legal right to vote is challenged as provided in this title; or

(c) whose identity was not sufficiently established by a poll worker.

~~[(64)]~~ (65) “Provisional ballot envelope” means an envelope printed in the form required by Section 20A–6–105 that is used to identify provisional ballots and to provide information to verify a person’s legal right to vote.

[(65)] (66) "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the person was elected.

[(66)] (67) "Receiving judge" means the poll worker that checks the voter's name in the official register, provides the voter with a ballot, and removes the ballot stub from the ballot after the voter has voted.

[(67)] (68) "Registration form" means a book voter registration form and a by-mail voter registration form.

[(68)] (69) "Regular ballot" means a ballot that is not a provisional ballot.

[(69)] (70) "Regular general election" means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.

[(70)] (71) "Regular primary election" means the election on the fourth Tuesday of June of each even-numbered year, to nominate candidates of political parties and candidates for nonpartisan local school board positions to advance to the regular general election.

[(71)] (72) "Resident" means a person who resides within a specific voting precinct in Utah.

[(72)] (73) "Sample ballot" means a mock ballot similar in form to the official ballot printed and distributed as provided in Section 20A-5-405.

[(73)] (74) "Scratch vote" means to mark or punch the straight party ticket and then mark or punch the ballot for one or more candidates who are members of different political parties or who are unaffiliated.

[(74)] (75) "Secrecy envelope" means the envelope given to a voter along with the ballot into which the voter places the ballot after the voter has voted it in order to preserve the secrecy of the voter's vote.

[(75)] (76) "Special election" means an election held as authorized by Section 20A-1-203.

[(76)] (77) "Spoiled ballot" means each ballot that:

- (a) is spoiled by the voter;
- (b) is unable to be voted because it was spoiled by the printer or a poll worker; or
- (c) lacks the official endorsement.

[(77)] (78) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

[(78)] (79) "Stub" means the detachable part of each ballot.

[(79)] (80) "Substitute ballots" means replacement ballots provided by an election officer to the poll workers when the official ballots are lost or stolen.

[(80)] (81) "Ticket" means each list of candidates for each political party or for each group of petitioners.

[(81)] (82) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

[(82)] (83) "Vacancy" means the absence of a person to serve in any position created by statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause.

[(83)] (84) "Valid voter identification" means:

(a) a form of identification that bears the name and photograph of the voter which may include:

- (i) a currently valid Utah driver license;
- (ii) a currently valid identification card that is issued by:

(A) the state; or

(B) a branch, department, or agency of the United States;

(iii) a currently valid Utah permit to carry a concealed weapon;

(iv) a currently valid United States passport; or

(v) a currently valid United States military identification card;

(b) one of the following identification cards, whether or not the card includes a photograph of the voter:

(i) a valid tribal identification card;

(ii) a Bureau of Indian Affairs card; or

(iii) a tribal treaty card; or

(c) two forms of identification not listed under Subsection [(83)] (84)(a) or (b) but that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:

(i) a current utility bill or a legible copy thereof, dated within the 90 days before the election;

(ii) a bank or other financial account statement, or a legible copy thereof;

(iii) a certified birth certificate;

(iv) a valid social security card;

(v) a check issued by the state or the federal government or a legible copy thereof;

(vi) a paycheck from the voter's employer, or a legible copy thereof;

(vii) a currently valid Utah hunting or fishing license;

(viii) certified naturalization documentation;

(ix) a currently valid license issued by an authorized agency of the United States;

(x) a certified copy of court records showing the voter's adoption or name change;

(xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

(xii) a currently valid identification card issued by:

(A) a local government within the state;

(B) an employer for an employee; or

(C) a college, university, technical school, or professional school located within the state; or

(xiii) a current Utah vehicle registration.

[84] (85) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.

[85] (86) "Voter" means a person who:

(a) meets the requirements for voting in an election;

(b) meets the requirements of election registration;

(c) is registered to vote; and

(d) is listed in the official register book.

[86] (87) "Voter registration deadline" means the registration deadline provided in Section 20A-2-102.5.

[87] (88) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.

[88] (89) "Voting booth" means:

(a) the space or compartment within a polling place that is provided for the preparation of ballots, including the voting machine enclosure or curtain; or

(b) a voting device that is free standing.

[89] (90) "Voting device" means:

(a) an apparatus in which ballot sheets are used in connection with a punch device for piercing the ballots by the voter;

(b) a device for marking the ballots with ink or another substance;

(c) an electronic voting device or other device used to make selections and cast a ballot electronically, or any component thereof;

(d) an automated voting system under Section 20A-5-302; or

(e) any other method for recording votes on ballots so that the ballot may be tabulated by means of automatic tabulating equipment.

[90] (91) "Voting machine" means a machine designed for the sole purpose of recording and tabulating votes cast by voters at an election.

[91] (92) "Voting poll watcher" means a person appointed as provided in this title to witness the distribution of ballots and the voting process.

[92] (93) "Voting precinct" means the smallest voting unit established as provided by law within which qualified voters vote at one polling place.

[93] (94) "Watcher" means a voting poll watcher, a counting poll watcher, an inspecting poll watcher, and a testing watcher.

[94] (95) "Western States Presidential Primary" means the election established in Chapter 9, Part 8, Western States Presidential Primary.

[95] (96) "Write-in ballot" means a ballot containing any write-in votes.

[96] (97) "Write-in vote" means a vote cast for a person whose name is not printed on the ballot according to the procedures established in this title.

Section 16. Section 20A-5-301 is amended to read:

20A-5-301. Combined voting precincts -- Municipalities.

(1) (a) The municipal legislative body of a city of the first or second class may combine up to four regular county voting precincts into one municipal voting precinct for purposes of a municipal election if they designate the location and address of each of those combined voting precincts.

(b) The polling place shall be within the combined voting precinct or within 1/2 mile of the boundaries of the voting precinct.

(2) (a) The municipal legislative body of a city of the third, fourth, or fifth class ~~or~~, a town, or a metro township may combine two or more regular county voting precincts into one municipal voting precinct for purposes of an election if it designates the location and address of that combined voting precinct.

(b) If only two precincts are combined, the polling place shall be within the combined precinct or within 1/2 mile of the boundaries of the combined voting precinct.

(c) If more than two precincts are combined, the polling place should be as near as practical to the middle of the combined precinct.

Section 17. Section 20A-6-401 is amended to read:

20A-6-401. Ballots for municipal primary elections.

(1) Each election officer shall ensure that:

(a) (i) the ballot contains a perforated ballot stub at least one inch wide, placed across the top of the ballot;

(ii) the ballot number and the words "Poll Worker's Initial ____" are printed on the stub; and

(iii) ballot stubs are numbered consecutively;

(b) immediately below the perforated ballot stub, the following endorsements are printed in 18 point bold type:

(i) "Official Primary Ballot for ____ (City ~~or~~, Town, or Metro Township), Utah";

(ii) the date of the election; and

(iii) a facsimile of the signature of the election officer and the election officer's title in eight point type;

(c) immediately below the election officer's title, two one-point parallel horizontal rules separate endorsements from the rest of the ballot;

(d) immediately below the horizontal rules, an "Instructions to Voters" section is printed in 10 point bold type that states: "To vote for a candidate, place a cross (X) in the square following the name(s) of the person(s) you favor as the candidate(s) for each respective office." followed by two one-point parallel rules;

(e) after the rules, the designation of the office for which the candidates seek nomination is printed flush with the left-hand margin and the words, "Vote for one" or "Vote for up to ____ (the number of candidates for which the voter may vote)" are printed to extend to the extreme right of the column in 10-point bold type, followed by a hair-line rule;

(f) after the hair-line rule, the names of the candidates are printed in heavy face type between lines or rules three-eighths inch apart, in the order specified under Section 20A-6-305 with surnames last and grouped according to the office that they seek;

(g) a square with sides not less than one-fourth inch long is printed immediately adjacent to the names of the candidates; and

(h) the candidate groups are separated from each other by one light and one heavy line or rule.

(2) A municipal primary ballot may not contain any space for write-in votes.

Section 18. Section 20A-6-402 is amended to read:

20A-6-402. Ballots for municipal general elections.

(1) When using a paper ballot at municipal general elections, each election officer shall ensure that:

(a) the names of the two candidates who received the highest number of votes for mayor in the municipal primary are placed upon the ballot;

(b) if no municipal primary election was held, the names of the candidates who filed declarations of candidacy for municipal offices are placed upon the ballot;

(c) for other offices:

(i) twice the number of candidates as there are positions to be filled are certified as eligible for election in the municipal general election from those candidates who received the greater number of votes in the primary election; and

(ii) the names of those candidates are placed upon the municipal general election ballot;

(d) the names of the candidates are placed on the ballot in the order specified under Section 20A-6-305;

(e) in an election in which a voter is authorized to cast a write-in vote and where a write-in candidate is qualified under Section 20A-9-601, a write-in area is placed upon the ballot that contains, for each office in which there is a qualified write-in candidate:

(i) a blank, horizontal line to enable a voter to submit a valid write-in candidate; and

(ii) a square or other conforming area that is adjacent to or opposite the blank horizontal line to enable the voter to indicate the voter's vote;

(f) ballot propositions that have qualified for the ballot, including propositions submitted to the voters by the municipality, municipal initiatives, and municipal referenda, are listed on the ballot in accordance with Section 20A-6-107; and

(g) bond propositions that have qualified for the ballot are listed on the ballot under the title assigned to each bond proposition under Section 11-14-206.

(2) When using a punch card ballot at municipal general elections, each election officer shall ensure that:

(a) (i) the ballot contains a perforated ballot stub at least one inch wide, placed across the top of the ballot;

(ii) the ballot number and the words "Poll Worker's Initial ____" are printed on the stub; and

(iii) ballot stubs are numbered consecutively;

(b) immediately below the perforated ballot stub, the following endorsements are printed in 18 point bold type:

(i) "Official Ballot for ____ (City [øø], Town, or Metro Township), Utah";

(ii) the date of the election; and

(iii) a facsimile of the signature of the election officer and the election officer's title in eight-point type;

(c) immediately below the election officer's title, two one-point parallel horizontal rules separate endorsements from the rest of the ballot;

(d) immediately below the horizontal rules, an "Instructions to Voters" section is printed in 10-point bold type that states: "To vote for a candidate, place a cross (X) in the square following the name(s) of the person(s) you favor as the candidate(s) for each respective office." followed by two one-point parallel rules;

(e) after the rules, the designation of the office for which the candidates seek election is printed flush with the left-hand margin and the words, "Vote for one" or "Vote for up to ____ (the number of candidates for which the voter may vote)" are printed to extend to the extreme right of the column in 10-point bold type, followed by a hair-line rule;

(f) after the hair-line rule, the names of the candidates are printed in heavy face type between lines or rules three-eighths inch apart, in the order specified under Section 20A-6-305 with surnames last and grouped according to the office that they seek;

(g) a square with sides not less than one-fourth inch long is printed immediately adjacent to the names of the candidates;

(h) following the name of the last candidate for each office in which a write-in candidate is qualified under Section 20A-9-601, the ballot contains:

(i) a write-in space for each elective office in which a write-in candidate is qualified where the voter may enter the name of a valid write-in candidate; and

(ii) a square printed immediately adjacent to the write-in space or line where the voter may vote for a valid write-in candidate; and

(i) the candidate groups are separated from each other by one light and one heavy line or rule.

(3) When using a ballot sheet other than a punch card ballot at municipal general elections, each election officer shall ensure that:

(a) (i) the ballot contains a perforated ballot stub placed across the top of the ballot;

(ii) the ballot number and the words "Poll Worker's Initial ____" are printed on the stub; and

(iii) ballot stubs are numbered consecutively;

(b) immediately below the perforated ballot stub, the following endorsements are printed:

(i) "Official Ballot for ____ (City [ø], Town, or Metro Township), Utah";

(ii) the date of the election; and

(iii) a facsimile of the signature of the election officer and the election officer's title;

(c) immediately below the election officer's title, a distinct border or line separates endorsements from the rest of the ballot;

(d) immediately below the border or line, an "Instructions to Voters" section is printed that states: "To vote for a candidate, select the name(s) of the person(s) you favor as the candidate(s) for each respective office." followed by another border or line;

(e) after the border or line, the designation of the office for which the candidates seek election is printed and the words, "Vote for one" or "Vote for up to ____ (the number of candidates for which the voter may vote)" are printed, followed by a line or border;

(f) after the line or border, the names of the candidates are printed in the order specified under Section 20A-6-305 with surnames last and grouped according to the office that they seek;

(g) an oval is printed adjacent to the names of the candidates;

(h) following the name of the last candidate for each office in which a write-in candidate is qualified under Section 20A-9-601, the ballot contains:

(i) a write-in space or blank line for each elective office in which a write-in candidate is qualified where the voter may enter the name of a valid write-in candidate; and

(ii) an oval printed adjacent to the write-in space or line where the voter may vote for a valid write-in candidate; and

(i) the candidate groups are separated from each other by a line or border.

(4) When using an electronic ballot at municipal general elections, each election officer shall ensure that:

(a) the following endorsements are displayed on the first screen of the ballot:

(i) "Official Ballot for ____ (City [ø], Town, or Metro Township), Utah";

(ii) the date of the election; and

(iii) a facsimile of the signature of the election officer and the election officer's title;

(b) immediately below the election officer's title, a distinct border or line separates the endorsements from the rest of the ballot;

(c) immediately below the border or line, an "Instructions to Voters" section is displayed that states: "To vote for a candidate, select the name(s) of the person(s) you favor as the candidate(s) for each respective office." followed by another border or line;

(d) after the border or line, the designation of the office for which the candidates seek election is displayed, and the words, "Vote for one" or "Vote for up to ____ (the number of candidates for which the voter may vote)" are displayed, followed by a line or border;

(e) after the line or border, the names of the candidates are displayed in the order specified under Section 20A-6-305 with surnames last and grouped according to the office that they seek;

(f) a voting square or position is located adjacent to the name of each candidate;

(g) following the name of the last candidate for each office in which a write-in candidate is qualified under Section 20A-9-601, the ballot contains a write-in space where the voter may enter the name of and vote for a valid write-in candidate for the office; and

(h) the candidate groups are separated from each other by a line or border.

(5) When a municipality has chosen to nominate candidates by convention or committee, the election officer shall ensure that the party name is included with the candidate's name on the ballot.

Section 19. Section 20A-7-101 is amended to read:

20A-7-101. Definitions.

As used in this chapter:

(1) "Budget officer" means:

(a) for a county, the person designated as budget officer in Section 17-19a-203;

(b) for a city, the person designated as budget officer in Subsection 10-6-106(5); [ø] or

(c) for a town, the town council[.]; or

(d) for a metro township, the person described in Subsection (1)(a) for the county in which the metro township is located.

(2) "Certified" means that the county clerk has acknowledged a signature as being the signature of a registered voter.

(3) "Circulation" means the process of submitting an initiative or referendum petition to legal voters for their signature.

(4) "Final fiscal impact statement" means a financial statement prepared after voters approve an initiative that contains the information required by Subsection 20A-7-202.5(2) or 20A-7-502.5(2).

(5) "Initial fiscal impact estimate" means:

(a) a financial statement prepared under Section 20A-7-202.5 after the filing of an application for an initiative petition; or

(b) a financial and legal statement prepared under Section 20A-7-502.5 or 20A-7-602.5 for an initiative or referendum petition.

(6) "Initiative" means a new law proposed for adoption by the public as provided in this chapter.

(7) "Initiative packet" means a copy of the initiative petition, a copy of the proposed law, and the signature sheets, all of which have been bound together as a unit.

(8) "Legal signatures" means the number of signatures of legal voters that:

(a) meet the numerical requirements of this chapter; and

(b) have been certified and verified as provided in this chapter.

(9) "Legal voter" means a person who:

(a) is registered to vote; or

(b) becomes registered to vote before the county clerk certifies the signatures on an initiative or referendum petition.

(10) "Local attorney" means the county attorney, city attorney, or town attorney in whose jurisdiction a local initiative or referendum petition is circulated.

(11) "Local clerk" means the county clerk, city recorder, or town clerk in whose jurisdiction a local initiative or referendum petition is circulated.

(12) (a) "Local law" includes an ordinance, resolution, master plan, and any comprehensive zoning regulation adopted by ordinance or resolution.

(b) "Local law" does not include an individual property zoning decision.

(13) "Local legislative body" means the legislative body of a county, city, [ø] town, or metro township.

(14) "Local obligation law" means a local law passed by the local legislative body regarding a bond that was approved by a majority of qualified voters in an election.

(15) "Local tax law" means a local law, passed by a political subdivision with an annual or biannual calendar fiscal year, that increases a tax or imposes a new tax.

(16) "Measure" means a proposed constitutional amendment, an initiative, or referendum.

(17) "Referendum" means a process by which a law passed by the Legislature or by a local legislative body is submitted or referred to the voters for their approval or rejection.

(18) "Referendum packet" means a copy of the referendum petition, a copy of the law being submitted or referred to the voters for their approval or rejection, and the signature sheets, all of which have been bound together as a unit.

(19) (a) "Signature" means a holographic signature.

(b) "Signature" does not mean an electronic signature.

(20) "Signature sheets" means sheets in the form required by this chapter that are used to collect signatures in support of an initiative or referendum.

(21) "Sponsors" means the legal voters who support the initiative or referendum and who sign the application for petition copies.

(22) "Sufficient" means that the signatures submitted in support of an initiative or referendum petition have been certified and verified as required by this chapter.

(23) "Verified" means acknowledged by the person circulating the petition as required in Sections 20A-7-205 and 20A-7-305.

Section 20. Section 20A-7-501 is amended to read:

20A-7-501. Initiatives.

(1) (a) Except as provided in Subsection (1)(b), a person seeking to have an initiative submitted to a local legislative body or to a vote of the people for approval or rejection shall obtain legal signatures equal to:

(i) 10% of all the votes cast in the county, city, [ø] town, or metro township for all candidates for

President of the United States at the last election at which a President of the United States was elected if the total number of votes exceeds 25,000;

(ii) 12-1/2% of all the votes cast in the county, city, [ø] town, or metro township for all candidates for President of the United States at the last election at which a President of the United States was elected if the total number of votes does not exceed 25,000 but is more than 10,000;

(iii) 15% of all the votes cast in the county, city, [ø] town, or metro township for all candidates for President of the United States at the last election at which a President of the United States was elected if the total number of votes does not exceed 10,000 but is more than 2,500;

(iv) 20% of all the votes cast in the county, city, [ø] town, or metro township for all candidates for President of the United States at the last election at which a President of the United States was elected if the total number of votes does not exceed 2,500 but is more than 500;

(v) 25% of all the votes cast in the county, city, [ø] town, or metro township for all candidates for President of the United States at the last election at which a President of the United States was elected if the total number of votes does not exceed 500 but is more than 250; and

(vi) 30% of all the votes cast in the county, city, [ø] town, or metro township for all candidates for President of the United States at the last election at which a President of the United States was elected if the total number of votes does not exceed 250.

(b) In addition to the signature requirements of Subsection (1)(a), a person seeking to have an initiative submitted to a local legislative body or to a vote of the people for approval or rejection in a county, city, [ø] town, or metro township where the local legislative body is elected from council districts shall obtain, from each of a majority of council districts, legal signatures equal to the percentages established in Subsection (1)(a).

(2) If the total number of certified names from each verified signature sheet equals or exceeds the number of names required by this section, the clerk or recorder shall deliver the proposed law to the local legislative body at its next meeting.

(3) (a) The local legislative body shall either adopt or reject the proposed law without change or amendment within 30 days of receipt of the proposed law.

(b) The local legislative body may:

(i) adopt the proposed law and refer it to the people;

(ii) adopt the proposed law without referring it to the people; or

(iii) reject the proposed law.

(c) If the local legislative body adopts the proposed law but does not refer it to the people, it is subject to referendum as with other local laws.

(d) (i) If a county legislative body rejects a proposed county ordinance or amendment, or takes no action on it, the county clerk shall submit it to the voters of the county at the next regular general election immediately after the petition is filed under Section 20A-7-502.

(ii) If a local legislative body rejects a proposed municipal ordinance or amendment, or takes no action on it, the municipal recorder or clerk shall submit it to the voters of the municipality at the next municipal general election immediately after the petition is filed under Section 20A-7-502.

(e) (i) If the local legislative body rejects the proposed ordinance or amendment, or takes no action on it, the local legislative body may adopt a competing local law.

(ii) The local legislative body shall prepare and adopt the competing local law within the 30 days allowed for its action on the measure proposed by initiative petition.

(iii) If the local legislative body adopts a competing local law, the clerk or recorder shall submit it to the voters of the county or municipality at the same election at which the initiative proposal is submitted.

(f) If conflicting local laws are submitted to the people at the same election and two or more of the conflicting measures are approved by the people, then the measure that receives the greatest number of affirmative votes shall control all conflicts.

Section 21. Section 32B-1-102 is amended to read:

32B-1-102. Definitions.

As used in this title:

(1) "Airport lounge" means a business location:

(a) at which an alcoholic product is sold at retail for consumption on the premises; and

(b) that is located at an international airport with a United States Customs office on the premises of the international airport.

(2) "Airport lounge license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

(3) "Alcoholic beverage" means the following:

(a) beer; or

(b) liquor.

(4) (a) "Alcoholic product" means a product that:

(i) contains at least .5% of alcohol by volume; and

(ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol in an amount equal to or greater than .5% of alcohol by volume.

(b) "Alcoholic product" includes an alcoholic beverage.

(c) "Alcoholic product" does not include any of the following common items that otherwise come within the definition of an alcoholic product:

(i) except as provided in Subsection (4)(d), an extract;

(ii) vinegar;

(iii) cider;

(iv) essence;

(v) tincture;

(vi) food preparation; or

(vii) an over-the-counter medicine.

(d) "Alcoholic product" includes an extract containing alcohol obtained by distillation when it is used as a flavoring in the manufacturing of an alcoholic product.

(5) "Alcohol training and education seminar" means a seminar that is:

(a) required by Chapter 5, Part 4, Alcohol Training and Education Act; and

(b) described in Section 62A-15-401.

(6) "Banquet" means an event:

(a) that is held at one or more designated locations approved by the commission in or on the premises of a:

(i) hotel;

(ii) resort facility;

(iii) sports center; or

(iv) convention center;

(b) for which there is a contract:

(i) between a person operating a facility listed in Subsection (6)(a) and another person; and

(ii) under which the person operating a facility listed in Subsection (6)(a) is required to provide an alcoholic product at the event; and

(c) at which food and alcoholic products may be sold, offered for sale, or furnished.

(7) (a) "Bar" means a surface or structure:

(i) at which an alcoholic product is:

(A) stored; or

(B) dispensed; or

(ii) from which an alcoholic product is served.

(b) "Bar structure" means a surface or structure on a licensed premises if on or at any place of the surface or structure an alcoholic product is:

(i) stored; or

(ii) dispensed.

(8) (a) Subject to Subsection (8)(d), "beer" means a product that:

(i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by volume or 3.2% by weight; and

(ii) is obtained by fermentation, infusion, or decoction of malted grain.

(b) "Beer" may or may not contain hops or other vegetable products.

(c) "Beer" includes a product that:

(i) contains alcohol in the percentages described in Subsection (8)(a); and

(ii) is referred to as:

(A) beer;

(B) ale;

(C) porter;

(D) stout;

(E) lager; or

(F) a malt or malted beverage.

(d) "Beer" does not include a flavored malt beverage.

(9) "Beer-only restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.

(10) "Beer retailer" means a business:

(a) that is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for consumption on or off the business premises; and

(b) to whom a license is issued:

(i) for an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority; or

(ii) for an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License.

(11) "Beer wholesaling license" means a license:

(a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and

(b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more retail licensees or off-premise beer retailers.

(12) "Billboard" means a public display used to advertise, including:

(a) a light device;

(b) a painting;

(c) a drawing;

(d) a poster;

(e) a sign;

(f) a signboard; or

(g) a scoreboard.

(13) "Brewer" means a person engaged in manufacturing:

(a) beer;

(b) heavy beer; or

- (c) a flavored malt beverage.
- (14) “Brewery manufacturing license” means a license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License.
- (15) “Certificate of approval” means a certificate of approval obtained from the department under Section 32B-11-201.
- (16) “Chartered bus” means a passenger bus, coach, or other motor vehicle provided by a bus company to a group of persons pursuant to a common purpose:
- (a) under a single contract;
 - (b) at a fixed charge in accordance with the bus company’s tariff; and
 - (c) to give the group of persons the exclusive use of the passenger bus, coach, or other motor vehicle, and a driver to travel together to one or more specified destinations.
- (17) “Church” means a building:
- (a) set apart for worship;
 - (b) in which religious services are held;
 - (c) with which clergy is associated; and
 - (d) that is tax exempt under the laws of this state.
- (18) (a) “Club license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License.
- (b) “Club license” includes:
- (i) a dining club license;
 - (ii) an equity club license;
 - (iii) a fraternal club license; or
 - (iv) a social club license.
- (19) “Commission” means the Alcoholic Beverage Control Commission created in Section 32B-2-201.
- (20) “Commissioner” means a member of the commission.
- (21) “Community location” means:
- (a) a public or private school;
 - (b) a church;
 - (c) a public library;
 - (d) a public playground; or
 - (e) a public park.
- (22) “Community location governing authority” means:
- (a) the governing body of the community location; or
 - (b) if the commission does not know who is the governing body of a community location, a person who appears to the commission to have been given on behalf of the community location the authority to prohibit an activity at the community location.
- (23) “Container” means a receptacle that contains an alcoholic product, including:
- (a) a bottle;
 - (b) a vessel; or
 - (c) a similar item.
- (24) “Convention center” means a facility that is:
- (a) in total at least 30,000 square feet; and
 - (b) otherwise defined as a “convention center” by the commission by rule.
- (25) (a) Subject to Subsection (25)(b), “counter” means a surface or structure in a dining area of a licensed premises where seating is provided to a patron for service of food.
- (b) “Counter” does not include a surface or structure if on or at any point of the surface or structure an alcoholic product is:
- (i) stored; or
 - (ii) dispensed.
- (26) “Department” means the Department of Alcoholic Beverage Control created in Section 32B-2-203.
- (27) “Department compliance officer” means an individual who is:
- (a) an auditor or inspector; and
 - (b) employed by the department.
- (28) “Department sample” means liquor that is placed in the possession of the department for testing, analysis, and sampling.
- (29) “Dining club license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a dining club license.
- (30) “Director,” unless the context requires otherwise, means the director of the department.
- (31) “Disciplinary proceeding” means an adjudicative proceeding permitted under this title:
- (a) against a person subject to administrative action; and
 - (b) that is brought on the basis of a violation of this title.
- (32) (a) Subject to Subsection (32)(b), “dispense” means:
- (i) drawing of an alcoholic product:
 - (A) from an area where it is stored; or
 - (B) as provided in Subsection 32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii), 32B-6-805(15)(b)(ii), or 32B-6-905(12)(b)(ii); and
 - (ii) using the alcoholic product described in Subsection (32)(a)(i) on the premises of the licensed premises to mix or prepare an alcoholic product to be furnished to a patron of the retail licensee.
 - (b) The definition of “dispense” in this Subsection (32) applies only to:

- (i) a full-service restaurant license;
- (ii) a limited-service restaurant license;
- (iii) a reception center license; and
- (iv) a beer-only restaurant license.
- (33) “Distillery manufacturing license” means a license issued in accordance with Chapter 11, Part 4, Distillery Manufacturing License.
- (34) “Distressed merchandise” means an alcoholic product in the possession of the department that is saleable, but for some reason is unappealing to the public.
- (35) “Educational facility” includes:
- (a) a nursery school;
- (b) an infant day care center; and
- (c) a trade and technical school.
- (36) “Equity club license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as an equity club license.
- (37) “Event permit” means:
- (a) a single event permit; or
- (b) a temporary beer event permit.
- (38) “Exempt license” means a license exempt under Section 32B-1-201 from being considered in determining the total number of a retail license that the commission may issue at any time.
- (39) (a) “Flavored malt beverage” means a beverage:
- (i) that contains at least .5% alcohol by volume;
- (ii) that is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of a beer as described in 27 C.F.R. Sec. 25.55;
- (iii) to which is added a flavor or other ingredient containing alcohol, except for a hop extract; and
- (iv) (A) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or
- (B) that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.
- (b) “Flavored malt beverage” is considered liquor for purposes of this title.
- (40) “Fraternal club license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a fraternal club license.
- (41) “Full-service restaurant license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.
- (42) (a) “Furnish” means by any means to provide with, supply, or give an individual an alcoholic product, by sale or otherwise.
- (b) “Furnish” includes to:
- (i) serve;
- (ii) deliver; or
- (iii) otherwise make available.
- (43) “Guest” means an individual who meets the requirements of Subsection 32B-6-407(9).
- (44) “Health care practitioner” means:
- (a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;
- (b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;
- (c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
- (d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act;
- (e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;
- (f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy Practice Act;
- (g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act;
- (h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;
- (i) a mental health professional licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;
- (j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;
- (k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
- (l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; and
- (m) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.
- (45) (a) “Heavy beer” means a product that:
- (i) contains more than 4% alcohol by volume; and
- (ii) is obtained by fermentation, infusion, or decoction of malted grain.
- (b) “Heavy beer” is considered liquor for the purposes of this title.
- (46) “Hotel” is as defined by the commission by rule.
- (47) “Identification card” means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.
- (48) “Industry representative” means an individual who is compensated by salary,

commission, or other means for representing and selling an alcoholic product of a manufacturer, supplier, or importer of liquor.

(49) "Industry representative sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling by a local industry representative on the premises of the department to educate the local industry representative of the quality and characteristics of the product.

(50) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing of an alcoholic product is prohibited by:

- (a) law; or
- (b) court order.

(51) "Intoxicated" means that a person:

(a) is significantly impaired as to the person's mental or physical functions as a result of the use of:

- (i) an alcoholic product;
- (ii) a controlled substance;
- (iii) a substance having the property of releasing toxic vapors; or
- (iv) a combination of Subsections (51)(a)(i) through (iii); and

(b) exhibits plain and easily observed outward manifestations of behavior or physical signs produced by the overconsumption of an alcoholic product.

(52) "Investigator" means an individual who is:

- (a) a department compliance officer; or
- (b) a nondepartment enforcement officer.

(53) "Invitee" ~~[is-as]~~ means the same as that term is defined in Section 32B-8-102.

(54) "License" means:

- (a) a retail license;
- (b) a license issued in accordance with Chapter 11, Manufacturing and Related Licenses Act;
- (c) a license issued in accordance with Chapter 12, Liquor Warehousing License Act; or
- (d) a license issued in accordance with Chapter 13, Beer Wholesaling License Act.

(55) "Licensee" means a person who holds a license.

(56) "Limited-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

(57) "Limousine" means a motor vehicle licensed by the state or a local authority, other than a bus or taxicab:

- (a) in which the driver and a passenger are separated by a partition, glass, or other barrier;

(b) that is provided by a business entity to one or more individuals at a fixed charge in accordance with the business entity's tariff; and

(c) to give the one or more individuals the exclusive use of the limousine and a driver to travel to one or more specified destinations.

(58) (a) (i) "Liquor" means a liquid that:

(A) is:

- (I) alcohol;
- (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;

(III) a combination of liquids a part of which is spirituous, vinous, or fermented; or

(IV) other drink or drinkable liquid; and

(B) (I) contains at least .5% alcohol by volume; and

(II) is suitable to use for beverage purposes.

(ii) "Liquor" includes:

- (A) heavy beer;
- (B) wine; and
- (C) a flavored malt beverage.

(b) "Liquor" does not include beer.

(59) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.

(60) "Liquor warehousing license" means a license that is issued:

(a) in accordance with Chapter 12, Liquor Warehousing License Act; and

(b) to a person, other than a licensed manufacturer, who engages in the importation for storage, sale, or distribution of liquor regardless of amount.

(61) "Local authority" means:

(a) for premises that are located in an unincorporated area of a county, the governing body of a county; or

(b) for premises that are located in an incorporated city ~~[or-a]~~, town, or metro township, the governing body of the city ~~[or]~~, town, or metro township.

(62) "Lounge or bar area" is as defined by rule made by the commission.

(63) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to others.

(64) "Member" means an individual who, after paying regular dues, has full privileges in an equity club licensee or fraternal club licensee.

(65) (a) "Military installation" means a base, air field, camp, post, station, yard, center, or homeport facility for a ship:

(i) (A) under the control of the United States Department of Defense; or

(B) of the National Guard;

(ii) that is located within the state; and

(iii) including a leased facility.

(b) “Military installation” does not include a facility used primarily for:

(i) civil works;

(ii) a rivers and harbors project; or

(iii) a flood control project.

(66) “Minor” means an individual under the age of 21 years.

(67) “Nondepartment enforcement agency” means an agency that:

(a) (i) is a state agency other than the department; or

(ii) is an agency of a county, city, ~~or~~ town, or metro township; and

(b) has a responsibility to enforce one or more provisions of this title.

(68) “Nondepartment enforcement officer” means an individual who is:

(a) a peace officer, examiner, or investigator; and

(b) employed by a nondepartment enforcement agency.

(69) (a) “Off-premise beer retailer” means a beer retailer who is:

(i) licensed in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority; and

(ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer’s premises.

(b) “Off-premise beer retailer” does not include an on-premise beer retailer.

(70) “On-premise banquet license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

(71) “On-premise beer retailer” means a beer retailer who is:

(a) authorized to sell, offer for sale, or furnish beer under a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) engaged in the sale of beer to a patron for consumption on the beer retailer’s premises:

(i) regardless of whether the beer retailer sells beer for consumption off the licensed premises; and

(ii) on and after March 1, 2012, operating:

(A) as a tavern; or

(B) in a manner that meets the requirements of Subsection 32B-6-703(2)(e)(i).

(72) “Opaque” means impenetrable to sight.

(73) “Package agency” means a retail liquor location operated:

(a) under an agreement with the department; and

(b) by a person:

(i) other than the state; and

(ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package Agency, to sell packaged liquor for consumption off the premises of the package agency.

(74) “Package agent” means a person who holds a package agency.

(75) “Patron” means an individual to whom food, beverages, or services are sold, offered for sale, or furnished, or who consumes an alcoholic product including:

(a) a customer;

(b) a member;

(c) a guest;

(d) an attendee of a banquet or event;

(e) an individual who receives room service;

(f) a resident of a resort;

(g) a public customer under a resort spa sublicense, as defined in Section 32B-8-102; or

(h) an invitee.

(76) “Permittee” means a person issued a permit under:

(a) Chapter 9, Event Permit Act; or

(b) Chapter 10, Special Use Permit Act.

(77) “Person subject to administrative action” means:

(a) a licensee;

(b) a permittee;

(c) a manufacturer;

(d) a supplier;

(e) an importer;

(f) one of the following holding a certificate of approval:

(i) an out-of-state brewer;

(ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or

(iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or

(g) staff of:

(i) a person listed in Subsections (77)(a) through (f); or

(ii) a package agent.

(78) "Premises" means a building, enclosure, or room used in connection with the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product, unless otherwise defined in this title or rules made by the commission.

(79) "Prescription" means an order issued by a health care practitioner when:

(a) the health care practitioner is licensed under Title 58, Occupations and Professions, to prescribe a controlled substance, other drug, or device for medicinal purposes;

(b) the order is made in the course of that health care practitioner's professional practice; and

(c) the order is made for obtaining an alcoholic product for medicinal purposes only.

(80) (a) "Private event" means a specific social, business, or recreational event:

(i) for which an entire room, area, or hall is leased or rented in advance by an identified group; and

(ii) that is limited in attendance to people who are specifically designated and their guests.

(b) "Private event" does not include an event to which the general public is invited, whether for an admission fee or not.

(81) (a) "Proof of age" means:

(i) an identification card;

(ii) an identification that:

(A) is substantially similar to an identification card;

(B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;

(C) includes date of birth; and

(D) has a picture affixed;

(iii) a valid driver license certificate that:

(A) includes date of birth;

(B) has a picture affixed; and

(C) is issued:

(I) under Title 53, Chapter 3, Uniform Driver License Act; or

(II) in accordance with the laws of the state in which it is issued;

(iv) a military identification card that:

(A) includes date of birth; and

(B) has a picture affixed; or

(v) a valid passport.

(b) "Proof of age" does not include a driving privilege card issued in accordance with Section 53-3-207.

(82) (a) "Public building" means a building or permanent structure that is:

(i) owned or leased by:

(A) the state; or

(B) a local government entity; and

(ii) used for:

(A) public education;

(B) transacting public business; or

(C) regularly conducting government activities.

(b) "Public building" does not include a building owned by the state or a local government entity when the building is used by a person, in whole or in part, for a proprietary function.

(83) "Public conveyance" means a conveyance to which the public or a portion of the public has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance.

(84) "Reception center" means a business that:

(a) operates facilities that are at least 5,000 square feet; and

(b) has as its primary purpose the leasing of the facilities described in Subsection (84)(a) to a third party for the third party's event.

(85) "Reception center license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

(86) (a) "Record" means information that is:

(i) inscribed on a tangible medium; or

(ii) stored in an electronic or other medium and is retrievable in a perceivable form.

(b) "Record" includes:

(i) a book;

(ii) a book of account;

(iii) a paper;

(iv) a contract;

(v) an agreement;

(vi) a document; or

(vii) a recording in any medium.

(87) "Residence" means a person's principal place of abode within Utah.

(88) "Resident," in relation to a resort, ~~is as~~ means the same as that term is defined in Section 32B-8-102.

(89) "Resort" ~~is as~~ means the same as that term is defined in Section 32B-8-102.

(90) "Resort facility" is as defined by the commission by rule.

(91) "Resort license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8, Resort License Act.

(92) "Restaurant" means a business location:

(a) at which a variety of foods are prepared;

(b) at which complete meals are served to the general public; and

(c) that is engaged primarily in serving meals to the general public.

(93) "Retail license" means one of the following licenses issued under this title:

(a) a full-service restaurant license;

(b) a master full-service restaurant license;

(c) a limited-service restaurant license;

(d) a master limited-service restaurant license;

(e) a club license;

(f) an airport lounge license;

(g) an on-premise banquet license;

(h) an on-premise beer license;

(i) a reception center license; or

(j) a beer-only restaurant license.

(94) "Room service" means furnishing an alcoholic product to a person in a guest room of a:

(a) hotel; or

(b) resort facility.

[96] (95) (a) "School" means a building used primarily for the general education of minors.

(b) "School" does not include an educational facility.

[97] (96) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules made by the commission.

[95] (97) "Serve" means to place an alcoholic product before an individual.

(98) "Sexually oriented entertainer" means a person who while in a state of seminudity appears at or performs:

(a) for the entertainment of one or more patrons;

(b) on the premises of:

(i) a social club licensee; or

(ii) a tavern;

(c) on behalf of or at the request of the licensee described in Subsection (98)(b);

(d) on a contractual or voluntary basis; and

(e) whether or not the person is designated as:

(i) an employee;

(ii) an independent contractor;

(iii) an agent of the licensee; or

(iv) a different type of classification.

(99) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3, Single Event Permit.

(100) "Small brewer" means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt beverages per year.

(101) "Social club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a social club license.

(102) "Special use permit" means a permit issued in accordance with Chapter 10, Special Use Permit Act.

(103) (a) "Spirituous liquor" means liquor that is distilled.

(b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

(104) "Sports center" is as defined by the commission by rule.

(105) (a) "Staff" means an individual who engages in activity governed by this title:

(i) on behalf of a business, including a package agent, licensee, permittee, or certificate holder;

(ii) at the request of the business, including a package agent, licensee, permittee, or certificate holder; or

(iii) under the authority of the business, including a package agent, licensee, permittee, or certificate holder.

(b) "Staff" includes:

(i) an officer;

(ii) a director;

(iii) an employee;

(iv) personnel management;

(v) an agent of the licensee, including a managing agent;

(vi) an operator; or

(vii) a representative.

(106) "State of nudity" means:

(a) the appearance of:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus; or

- (b) a state of dress that fails to opaquely cover:
 - (i) the nipple or areola of a female human breast;
 - (ii) a human genital;
 - (iii) a human pubic area; or
 - (iv) a human anus.

(107) "State of seminudity" means a state of dress in which opaque clothing covers no more than:

(a) the nipple and areola of the female human breast in a shape and color other than the natural shape and color of the nipple and areola; and

(b) the human genitals, pubic area, and anus:

(i) with no less than the following at its widest point:

(A) four inches coverage width in the front of the human body; and

(B) five inches coverage width in the back of the human body; and

(ii) with coverage that does not taper to less than one inch wide at the narrowest point.

(108) (a) "State store" means a facility for the sale of packaged liquor:

(i) located on premises owned or leased by the state; and

(ii) operated by a state employee.

(b) "State store" does not include:

(i) a package agency;

(ii) a licensee; or

(iii) a permittee.

(109) (a) "Storage area" means an area on licensed premises where the licensee stores an alcoholic product.

(b) "Store" means to place or maintain in a location an alcoholic product from which a person draws to prepare an alcoholic product to be furnished to a patron, except as provided in Subsection 32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii), 32B-6-805(15)(b)(ii), or 32B-6-905(12)(b)(ii).

(110) "Sublicense" [is-as] means the same as that term is defined in Section 32B-8-102.

(111) "Supplier" means a person who sells an alcoholic product to the department.

(112) "Tavern" means an on-premise beer retailer who is:

(a) issued a license by the commission in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) designated by the commission as a tavern in accordance with Chapter 6, Part 7, On-Premise Beer Retailer License.

(113) "Temporary beer event permit" means a permit issued in accordance with Chapter 9, Part 4, Temporary Beer Event Permit.

(114) "Temporary domicile" means the principal place of abode within Utah of a person who does not have a present intention to continue residency within Utah permanently or indefinitely.

(115) "Translucent" means a substance that allows light to pass through, but does not allow an object or person to be seen through the substance.

(116) "Unsaleable liquor merchandise" means a container that:

(a) is unsaleable because the container is:

(i) unlabeled;

(ii) leaky;

(iii) damaged;

(iv) difficult to open; or

(v) partly filled;

(b) (i) has faded labels or defective caps or corks;

(ii) has contents that are:

(A) cloudy;

(B) spoiled; or

(C) chemically determined to be impure; or

(iii) contains:

(A) sediment; or

(B) a foreign substance; or

(c) is otherwise considered by the department as unfit for sale.

(117) (a) "Wine" means an alcoholic product obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not another ingredient is added.

(b) "Wine" is considered liquor for purposes of this title, except as otherwise provided in this title.

(118) "Winery manufacturing license" means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

Section 22. Section 32B-1-202 is amended to read:

32B-1-202. Proximity to community location.

(1) For purposes of this section, "outlet" means:

(a) a state store;

(b) a package agency; or

(c) a retail licensee, except an airport lounge licensee.

(2) Except as otherwise provided in this section, the premises of an outlet may not be located:

(a) within 600 feet of a community location, as measured from the nearest entrance of the outlet by

following the shortest route of ordinary pedestrian travel to the property boundary of the community location; or

(b) within 200 feet of a community location, measured in a straight line from the nearest entrance of the outlet to the nearest property boundary of the community location.

(3) With respect to the location of an outlet, the commission may authorize a variance to reduce the proximity requirement of Subsection (2) if:

(a) when the variance reduces the proximity requirement of Subsection (2)(b), the community location at issue is:

(i) a public library; or

(ii) a public park;

(b) except with respect to a state store, the local authority gives its written consent to the variance;

(c) the commission finds that alternative locations for locating that type of outlet in the community are limited;

(d) a public hearing is held in the city, town, metro township, or county, and when practical in the neighborhood concerned;

(e) after giving full consideration to the attending circumstances and the policies stated in Subsections 32B-1-103(3) and (4), the commission determines that locating the outlet in that location would not be detrimental to the public health, peace, safety, and welfare of the community;

(f) (i) the community location governing authority gives its written consent to the variance; or

(ii) if the community location governing authority does not give its written consent to a variance, the commission finds the following for a state store, or if the outlet is a package agency or retail licensee, the commission finds that the applicant establishes the following:

(A) there is substantial unmet public demand to consume an alcoholic product:

(I) within the geographic boundary of the local authority in which the outlet is to be located; and

(II) for an outlet that is a retail licensee, in a public setting;

(B) there is no reasonably viable alternative for satisfying the substantial unmet demand other than through locating that type of outlet in that location; and

(C) there is no reasonably viable alternative location within the geographic boundary of the local authority in which the outlet is to be located for locating that type of outlet to satisfy the unmet demand.

(4) With respect to the premises of a package agency or retail licensee that undergoes a change of ownership, the commission may waive or vary the proximity requirements of Subsection (2) in considering whether to issue the package agency or

same type of retail license to the new owner of the premises if:

(a) the premises previously received a variance reducing the proximity requirement of Subsection (2)(a);

(b) the premises received a variance reducing the proximity requirement of Subsection (2)(b) on or before May 4, 2008; or

(c) a variance from proximity requirements was otherwise allowed under this title.

(5) Nothing in this section prevents the commission from considering the proximity of an educational, religious, and recreational facility, or any other relevant factor in reaching a decision on a proposed location of an outlet.

Section 23. Section 32B-2-402 is amended to read:

32B-2-402. Definitions -- Calculations.

(1) As used in this part:

(a) "Account" means the Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account created in Section 32B-2-403.

(b) "Advisory council" means the Utah Substance Abuse Advisory Council created in Section 63M-7-301.

(c) "Alcohol-related offense" means:

(i) a violation of:

(A) Section 41-6a-502; or

(B) an ordinance that complies with the requirements of:

(I) Subsection 41-6a-510(1); or

(II) Section 76-5-207; or

(ii) an offense involving the illegal:

(A) sale of an alcoholic product;

(B) consumption of an alcoholic product;

(C) distribution of an alcoholic product;

(D) transportation of an alcoholic product; or

(E) possession of an alcoholic product.

(d) "Annual conviction time period" means the time period that:

(i) begins on July 1 and ends on June 30; and

(ii) immediately precedes the fiscal year for which an appropriation under this part is made.

(e) "Municipality" means:

(i) a city; [øø]

(ii) a town[-]; or

(iii) a metro township.

(f) (i) "Prevention" is as defined by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the Division of Substance Abuse and Mental Health within the Department of Human Services.

(ii) In defining the term “prevention,” the Division of Substance Abuse and Mental Health shall:

(A) include only evidence-based or evidence-informed programs; and

(B) provide for coordination with local substance abuse authorities designated to provide substance abuse services in accordance with Section 17-43-201.

(2) For purposes of Subsection 32B-2-404(1)(b)(iii), the number of premises located within the limits of a municipality or county:

(a) is the number determined by the department to be so located;

(b) includes the aggregate number of premises of the following:

- (i) a state store;
- (ii) a package agency; and
- (iii) a retail licensee; and

(c) for a county, consists only of the number located within an unincorporated area of the county.

(3) The department shall determine:

(a) a population figure according to the most current population estimate prepared by the Utah Population Estimates Committee;

(b) a county’s population for the 25% distribution to municipalities and counties under Subsection 32B-2-404(1)(b)(i) only with reference to the population in the unincorporated areas of the county; and

(c) a county’s population for the 25% distribution to counties under Subsection 32B-2-404(1)(b)(iv) only with reference to the total population in the county, including that of a municipality.

(4) (a) A conviction occurs in the municipality or county that actually prosecutes the offense to judgment.

(b) If a conviction is based upon a guilty plea, the conviction is considered to occur in the municipality or county that, except for the guilty plea, would have prosecuted the offense.

Section 24. Section 32B-4-202 is amended to read:

32B-4-202. Duties to enforce this title.

(1) It is the duty of the following to diligently enforce this title in their respective capacities:

- (a) the governor;
- (b) a commissioner;
- (c) the director;

(d) an official, inspector, or department employee;

(e) a prosecuting official of the state or its political subdivisions;

(f) a county, city, [ø] town, or metro township;

(g) a peace officer, sheriff, deputy sheriff, constable, marshal, or law enforcement official;

(h) a state health official; and

(i) a clerk of the court.

(2) Immediately upon conviction of a person for violation of this title or of a local ordinance relating to an alcoholic product, it is the duty of the clerk of the court to notify the department of the conviction in writing on forms supplied by the department.

Section 25. Section 32B-5-403 is amended to read:

32B-5-403. Alcohol training and education -- Revocation, suspension, or nonrenewal of retail license.

(1) The commission may suspend, revoke, or not renew a license of a retail licensee if any of the following individuals, as defined in Section 62A-15-401, fail to complete an alcohol training and education seminar:

(a) an individual who manages operations at the licensed premises for consumption on the licensed premises;

(b) an individual who supervises the furnishing of an alcoholic product to a patron for consumption on the licensed premises; or

(c) an individual who serves an alcoholic product to a patron for consumption on the licensed premises.

(2) A city, town, metro township, or county in which a retail licensee conducts its business may suspend, revoke, or not renew the business license of the retail licensee if an individual described in Subsection (1) fails to complete an alcohol training and education seminar.

(3) A local authority that issues an off-premise beer retailer license to a business that is engaged in the retail sale of beer for consumption off the beer retailer’s premises may immediately suspend the off-premise beer retailer license if any of the following individuals fails to complete an alcohol training and education seminar, an individual who:

(a) directly supervises the sale of beer to a patron for consumption off the premises of the off-premise beer retailer; or

(b) sells beer to a patron for consumption off the premises of the off-premise beer retailer.

Section 26. Section 52-1-1 is amended to read:

52-1-1. Official bonds to run to state, county, municipality, or other agency.

When the law directs that a public officer shall give a bond without prescribing to whom it shall run it shall be made, if [he] the public officer is a state officer, to the state; if a county, precinct or district officer, to the county; if a municipal officer, to the

city [œ], town, or metro township; and if a school officer, to the board of education.

Section 27. Section 52-1-5.1 is enacted to read:

52-1-5.1. Metro township officers -- Where filed.

Official oaths and bonds of metro township officers shall be filed with the county clerk.

Section 28. Section 63G-6a-103 is amended to read:

63G-6a-103. Definitions.

As used in this chapter:

(1) "Bidder" means a person who responds to an invitation for bids.

(2) "Change directive" means a written order signed by the procurement officer that directs the contractor to suspend work or make changes, as authorized by contract, without the consent of the contractor.

(3) "Change order" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.

(4) "Chief procurement officer" means the chief procurement officer appointed under Subsection 63G-6a-302(1).

(5) "Conducting procurement unit" means a procurement unit that conducts all aspects of a procurement:

(a) except:

(i) reviewing a solicitation to verify that it is in proper form; and

(ii) causing the publication of a notice of a solicitation; and

(b) including:

(i) preparing any solicitation document;

(ii) appointing an evaluation committee;

(iii) conducting the evaluation process, except as provided in Subsection 63G-6a-707(5)(b) relating to scores calculated for costs of proposals;

(iv) selecting and recommending the person to be awarded a contract;

(v) negotiating the terms and conditions of a contract, subject to the issuing procurement unit's approval; and

(vi) administering a contract.

(6) (a) "Construction" means the process of building, renovating, altering, improving, or repairing a public building or public work.

(b) "Construction" does not include the routine operation, routine repair, or routine maintenance of an existing structure, building, or real property.

(7) (a) "Construction manager/general contractor" means a contractor who enters into a contract for the management of a construction project when the contract allows the contractor to subcontract for additional labor and materials that are not included in the contractor's cost proposal submitted at the time of the procurement of the contractor's services.

(b) "Construction manager/general contractor" does not include a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of the contractor's services is to meet subcontracted portions of change orders approved within the scope of the project.

(8) "Contract" means an agreement for the procurement or disposal of a procurement item.

(9) "Contractor" means a person who is awarded a contract with a procurement unit.

(10) "Cooperative procurement" means procurement conducted by, or on behalf of:

(a) more than one procurement unit; or

(b) a procurement unit and a cooperative purchasing organization.

(11) "Cost-plus-a-percentage-of-cost contract" means a contract where the contractor is paid a percentage over and above the contractor's actual expenses or costs.

(12) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

(13) "Days" means calendar days, unless expressly provided otherwise.

(14) "Definite quantity contract" means a fixed price contract that provides for the supply of a specified amount of goods over a specified period, with deliveries scheduled according to a specified schedule.

(15) "Design-build" means the procurement of design professional services and construction by the use of a single contract with the design-build provider.

(16) "Design professional" means:

(a) an individual licensed as an architect under Title 58, Chapter 3a, Architects Licensing Act; or

(b) an individual licensed as a professional engineer or professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

(17) "Design professional services" means:

(a) professional services within the scope of the practice of architecture as defined in Section 58-3a-102;

(b) professional engineering as defined in Section 58-22-102; or

(c) master planning and programming services.

(18) “Directed procurement” means a procurement of a procurement item in which the source of the funds used to procure the procurement item:

(a) directs from whom the procurement item is to be procured; or

(b) imposes requirements on how the procurement is to be administered.

(19) “Director” means the director of the division.

(20) “Established catalogue price” means the price included in a catalogue, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is either published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

(21) “Fixed price contract” means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except to the extent that:

(a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is not based on cost to the contractor; or

(b) an adjustment is required by law.

(22) “Fixed price contract with price adjustment” means a fixed price contract that provides for an upward or downward revision of price, precisely described in the contract, that:

(a) is based on the consumer price index or another commercially acceptable index, source, or formula; and

(b) is not based on a percentage of the cost to the contractor.

(23) “Grant” means an expenditure of public funds or other assistance, or an agreement to expend public funds or other assistance, for a public purpose authorized by law, without acquiring a procurement item in exchange.

(24) “Head of a procurement unit” means:

(a) as it relates to a legislative procurement unit, any person designated by rule made by the applicable rulemaking authority;

(b) as it relates to an executive branch procurement unit:

(i) the director of a division; or

(ii) any other person designated by the board, by rule;

(c) as it relates to a judicial procurement unit:

(i) the Judicial Council; or

(ii) any other person designated by the Judicial Council, by rule;

(d) as it relates to a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) any other person designated by the local government procurement unit;

(e) as it relates to a local district, the board of trustees of the local district or a designee of the board of trustees;

(f) as it relates to a special service district, the governing body of the special service district or a designee of the governing body;

(g) as it relates to a local building authority, the board of directors of the local building authority or a designee of the board of directors;

(h) as it relates to a conservation district, the board of supervisors of the conservation district or a designee of the board of supervisors;

(i) as it relates to a public corporation, the board of directors of the public corporation or a designee of the board of directors;

(j) as it relates to a school district or any school or entity within a school district, the board of the school district, or the board’s designee;

(k) as it relates to a charter school, the individual or body with executive authority over the charter school, or the individual’s or body’s designee;

(l) as it relates to an institution of higher education of the state, the president of the institution of higher education, or the president’s designee; or

(m) as it relates to a public transit district, the board of trustees or a designee of the board of trustees.

(25) “Indefinite quantity contract” means a fixed price contract that:

(a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit; and

(b) (i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(26) “Independent procurement authority” means authority granted to a procurement unit under Subsection 63G-6a-106(4)(a).

(27) “Invitation for bids” includes all documents, including documents that are attached or incorporated by reference, used for soliciting bids to provide a procurement item to a procurement unit.

(28) “Issuing procurement unit” means a procurement unit that:

(a) reviews a solicitation to verify that it is in proper form;

(b) causes the notice of a solicitation to be published; and

(c) negotiates the terms and conditions of a contract.

(29) "Labor hour contract" is a contract where:

(a) the supplies and materials are not provided by, or through, the contractor; and

(b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified number of labor hours or days.

(30) "Multiple award contracts" means the award of a contract for an indefinite quantity of a procurement item to more than one bidder or offeror.

(31) "Multiyear contract" means a contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.

(32) "Municipality" means a city ~~[or a]~~, town, or metro township.

(33) "Offeror" means a person who responds to a request for proposals.

(34) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

(35) "Procure" means to acquire a procurement item through a procurement.

(36) "Procurement":

(a) means an expenditure of public funds, or an agreement to expend public funds, in exchange for a procurement item;

(b) includes all functions that pertain to the acquisition of a procurement item, including:

(i) the description of requirements;

(ii) the selection process;

(iii) solicitation of sources;

(iv) the preparation for soliciting a procurement item; and

(v) the award of a contract; and

(c) does not include a grant.

(37) "Procurement item" means a supply, a service, construction, or technology.

(38) "Procurement officer" means:

(a) as it relates to a procurement unit with independent procurement authority:

(i) the head of the procurement unit;

(ii) a designee of the head of the procurement unit; or

(iii) a person designated by rule made by the applicable rulemaking authority; or

(b) as it relates to the division or a procurement unit without independent procurement authority, the chief procurement officer.

(39) "Professional service" means a service that requires a high degree of specialized knowledge and discretion in the performance of the service, including:

(a) legal services;

(b) consultation services;

(c) architectural services;

(d) engineering;

(e) design;

(f) underwriting;

(g) bond counsel;

(h) financial advice;

(i) construction management;

(j) medical services;

(k) psychiatric services; or

(l) counseling services.

(40) "Protest officer" means:

(a) as it relates to the division or a procurement unit with independent procurement authority:

(i) the head of the procurement unit;

(ii) a designee of the head of the procurement unit; or

(iii) a person designated by rule made by the applicable rulemaking authority; or

(b) as it relates to a procurement unit without independent procurement authority, the chief procurement officer or the chief procurement officer's designee.

(41) "Request for information" means a nonbinding process where a procurement unit requests information relating to a procurement item.

(42) "Request for proposals" includes all documents, including documents that are attached or incorporated by reference, used for soliciting proposals to provide a procurement item to a procurement unit.

(43) "Request for statement of qualifications" means all documents used to solicit information about the qualifications of the person interested in responding to a potential procurement, including documents attached or incorporated by reference.

(44) "Requirements contract" means a contract:

(a) where a contractor agrees to provide a procurement unit's entire requirements for certain procurement items at prices specified in the contract during the contract period; and

(b) that:

(i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(45) "Responsible" means being capable, in all respects, of:

(a) meeting all the requirements of a solicitation; and

(b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.

(46) "Responsive" means conforming in all material respects to the invitation for bids or request for proposals.

(47) "Sealed" means manually or electronically sealed and submitted bids or proposals.

(48) (a) "Services" means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than a report that is incidental to the required performance.

(b) "Services" does not include an employment agreement or a collective bargaining agreement.

(49) "Sole source contract" means a contract resulting from a sole source procurement.

(50) "Sole source procurement" means a procurement without competition pursuant to a determination under Subsection 63G-6a-802(2)(a) that there is only one source for the procurement item.

(51) "Solicitation" means an invitation for bids, request for proposals, notice of a sole source procurement, request for statement of qualifications, request for information, or any document used to obtain bids, proposals, pricing, qualifications, or information for the purpose of entering into a procurement contract.

(52) "Specification" means any description of the physical or functional characteristics, or nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

(a) a requirement for inspecting or testing a procurement item; or

(b) preparing a procurement item for delivery.

(53) "Standard procurement process" means one of the following methods of obtaining a procurement item:

(a) bidding, as described in Part 6, Bidding;

(b) request for proposals, as described in Part 7, Request for Proposals; or

(c) small purchases, in accordance with the requirements established under Section 63G-6a-408.

(54) "State cooperative contract" means a contract awarded by the division for and in behalf of all public entities.

(55) "Statement of qualifications" means a written statement submitted to a procurement unit in response to a request for statement of qualifications.

(56) (a) "Subcontractor" means a person under contract with a contractor or another subcontractor to provide services or labor for design or construction.

(b) "Subcontractor" includes a trade contractor or specialty contractor.

(c) "Subcontractor" does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor.

(57) "Supplies" means all property, including equipment, materials, and printing.

(58) "Tie bid" means that the lowest responsive and responsible bids are identical in price.

(59) "Time and materials contract" means a contract where the contractor is paid:

(a) the actual cost of direct labor at specified hourly rates;

(b) the actual cost of materials and equipment usage; and

(c) an additional amount, expressly described in the contract, to cover overhead and profit, that is not based on a percentage of the cost to the contractor.

Section 29. Section 63I-1-220 is amended to read:

63I-1-220. Repeal dates, Title 20A.

On January 1, 2017:

(1) Subsection 20A-1-102[(54)](55) is repealed.

(2) Subsection 20A-2-102.5(1) the language that states "20A-4-108, or" is repealed.

~~[(3) Subsection 20A-2-201(3) the language that states "Except as provided in Subsection 20A-4-108(5)," is repealed.]~~

[(4)] (3) Subsection 20A-2-202(3)(a) the language that states "Except as provided in Subsection 20A-4-108(6)," is repealed.

[(5)] (4) Subsection 20A-2-204(5)(a) the language that states "Except as provided in Subsection 20A-4-108(7)," is repealed.

[(6)] (5) Subsection 20A-2-205(7)(a) the language that states "Except as provided in Subsection 20A-4-108(8)," is repealed.

[(7)] (6) Subsection 20A-2-206(8)[(b)](c) the language that states "Except as provided in Subsection 20A-4-108(9)," is repealed.

[(8)] (7) Subsection 20A-2-307(2)(a) is repealed.

[(9)] (8) Subsection 20A-4-107(2)(b) the language that states "Except as provided in Subsection 20A-4-108(10)," is repealed.

[(10)] (9) Subsection 20A-4-107(3) the language that states "or if the voter is, in accordance with the pilot project, registered to vote under Subsection 20A-4-108(10)," is repealed.

[(11)] (10) Subsection 20A-4-107(4) the language that states "Except as provided in Subsection 20A-4-108(12)," is repealed.

[(12)] (11) Section 20A-4-108 is repealed.

CHAPTER 177**S. B. 155**

Passed March 9, 2016
 Approved March 22, 2016
 Effective May 10, 2016

INDIGENT DEFENSE

Chief Sponsor: Todd Weiler
 House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill creates the Utah Indigent Defense Commission.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Utah Indigent Defense Commission and describes the commission's membership;
- ▶ gives the commission authority to collect data from local indigent criminal defense authorities for the purpose of studying the provision of indigent criminal defense services statewide;
- ▶ requires the commission to study the indigent criminal defense system statewide and report to the Legislature on its findings, including recommendations to improve the system;
- ▶ authorizes the commission to assist local jurisdictions to meet minimum standards of effective representation by:
 - establishing advisory caseload principles and guidelines for defense services providers; and
 - reviewing contracts and interlocal agreements with defense services providers and providing recommendations for contract design;
- ▶ establishes a restricted account to provide financial assistance to indigent criminal defense systems;
- ▶ conditions grants received from the account on indigent criminal defense systems maintaining current funding levels for indigent criminal defense services;
- ▶ allows juvenile courts to appoint counsel for an indigent private party in parental termination cases; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates:

- ▶ to the Commission on Criminal and Juvenile Justice -- Utah Indigent Defense Commission as a one-time appropriation
 - from the General Fund, \$1,500,000; and
- ▶ to the Commission on Criminal and Juvenile Justice -- Utah Indigent Defense Commission
 - from the General Fund, \$500,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63J-1-602.5, as last amended by Laws of Utah 2015, Chapter 137
 77-32-201, as last amended by Laws of Utah 2012, Chapter 180

77-32-301, as last amended by Laws of Utah 2015, Chapter 258
 77-32-302, as last amended by Laws of Utah 2012, Chapter 180
 77-32-306, as last amended by Laws of Utah 2012, Chapter 180
 78A-6-1111, as last amended by Laws of Utah 2015, Chapter 338

ENACTS:

77-32-801, Utah Code Annotated 1953
 77-32-802, Utah Code Annotated 1953
 77-32-803, Utah Code Annotated 1953
 77-32-804, Utah Code Annotated 1953
 77-32-805, Utah Code Annotated 1953
 77-32-806, Utah Code Annotated 1953
 77-32-807, Utah Code Annotated 1953
 77-32-808, Utah Code Annotated 1953
 77-32-809, Utah Code Annotated 1953
 77-32-810, Utah Code Annotated 1953

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

Section 1. Section 63J-1-602.5 is amended to read:**63J-1-602.5. List of nonlapsing funds and accounts -- Title 64 and thereafter.**

(1) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

(2) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

(3) The Department of Human Resource Management user training program, as provided in Section 67-19-6.

(4) Funds for the University of Utah Poison Control Center program, as provided in Section 69-2-5.5.

(5) The Traffic Noise Abatement Program created in Section 72-6-112.

(6) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

(7) Certain money appropriated from the Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

(8) Certain funds appropriated for compensation for special prosecutors, as provided in Section 77-10a-19.

(9) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

(10) A state rehabilitative employment program, as provided in Section 78A-6-210.

(11) Fees for certificate of admission created under Section 78A-9-102.

(12) The money for the Utah Geological Survey, as provided in Section 79-3-401.

(13) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, Jordan

River State Park, and Green River State Park, as provided under Section 79-4-403.

(14) Certain funds received by the Division of Parks and Recreation from the sale or disposal of buffalo, as provided under Section 79-4-1001.

(15) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(16) Funds appropriated and collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(17) Funds appropriated and collected for indigent defense as provided in Title 77, Chapter 32, Part 8, Utah Indigent Defense Commission.

Section 2. Section 77-32-201 is amended to read:

77-32-201. Definitions.

For the purposes of this chapter:

(1) "Board" means the Indigent Defense Funds Board created in Section 77-32-401.

(2) "Commission" means the Utah Indigent Defense Commission created in Section 77-32-801.

~~(3)~~ (3) "Compelling reason" shall include one or more of the following circumstances relating to the contracting attorney:

- (a) a conflict of interest;
- (b) the contracting attorney does not have sufficient expertise to provide an effective defense of the indigent; or
- (c) the legal defense is insufficient or lacks expertise to provide a complete defense.

~~(4)~~ (4) "Defense resources" means a competent investigator, expert witness, scientific or medical testing, or other appropriate means necessary, for an effective defense of an indigent, but does not include legal counsel.

~~(4)~~ (5) "Defense services provider" means a legal aid association, legal defender's office, regional legal defense association, law firm, attorney, or attorneys contracting with a county or municipality to provide legal defense and includes any combination of counties or municipalities to provide regional ~~legal defense~~ indigent criminal defense services.

(6) "Effective representation" means legal representation consistent with the Sixth Amendment to the United States Constitution, and Utah Constitution, Article I, Section 12, as interpreted through federal and Utah state appellate courts.

~~(5)~~ (7) "Indigent" means a person qualifying as an indigent under indigency standards established in Part 3, Counsel for Indigents.

(8) "Indigent criminal defense services" means the provision of a defense services provider and defense resources to a defendant who is:

(a) being prosecuted or sentenced for a crime for which the defendant may be incarcerated upon conviction, beginning with the defendant's initial appearance in court to answer to the criminal charge; and

(b) determined to be indigent under Section 77-32-202.

(9) "Indigent criminal defense system" means:

(a) indigent criminal defense services provided by local units of government, including counties, cities, and towns funded by state and local government; or

(b) indigent criminal defense services provided by regional legal defense funded by state and local government.

~~(6)~~ (10) "Legal aid association" means a nonprofit defense association or society that provides legal defense for indigent defendants.

~~(7)~~ (11) "Legal defender's office" means a division of county government created and authorized by the county legislative body to provide legal representation in criminal matters to indigent defendants.

~~(8)~~ (12) "Legal defense" means to:

- (a) provide defense counsel for each indigent who faces the potential deprivation of the indigent's liberty;
- (b) afford timely representation by defense counsel;
- (c) provide the defense resources necessary for a complete defense;
- (d) assure undivided loyalty of defense counsel to the client;
- (e) provide a first appeal of right; and
- (f) prosecute other remedies before or after a conviction, considered by defense counsel to be in the interest of justice except for other and subsequent discretionary appeals or discretionary writ proceedings.

(13) "Local funding" includes funding by an indigent criminal defense system for defense services. Local funding may be adjusted annually to reflect population growth and inflation for consideration of state funding for indigent criminal defense resources and critical need indigent criminal defense providers.

~~(9)~~ (14) "Participating county" means a county ~~which~~ that has complied with the provisions of this chapter for participation in the Indigent ~~Capital~~ Aggravated Murder Defense Trust Fund as provided in Sections 77-32-602 and 77-32-603 or the Indigent Felony Defense Trust Fund as provided in Sections 77-32-702 and 77-32-703.

~~(10)~~ (15) "Regional legal defense" means a defense services provider which provides legal defense to any combination of counties or municipalities through an interlocal cooperation agreement pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, and Subsection 77-32-306(3).

~~[(11)]~~ (16) “Serious offense” means a felony or capital felony.

(17) “State funding” means funding by the state for:

(a) the establishment of a statewide indigent criminal defense data collection system;

(b) defense resources; and

(c) critical need defense services providers.

(18) “Shared state and local funding” means the recognition of the state’s constitutional responsibility for the provision of indigent defense services and the collaborative assistance by indigent criminal defense systems to fairly provide effective representation in the state, consistent with the safeguards of the United States Constitution, the Utah Constitution, and this chapter.

Section 3. Section 77-32-301 is amended to read:

77-32-301. Minimum standards for defense of an indigent.

(1) Each county, city, and town shall provide for the legal defense of an indigent in criminal cases in the courts and various administrative bodies of the state in accordance with legal defense standards as defined in Subsection 77-32-201~~[(8)]~~(12).

(2) (a) A county or municipality which contracts with a defense services provider shall provide that all legal defense elements be included as a single package of legal defense services made available to indigents, except as provided in Sections 77-32-302 and 77-32-303.

(b) When needed to avoid a conflict of interest between:

(i) trial counsel and counsel on appeal, a defense services provider contract shall also provide for separate trial and appellate counsel; and

(ii) counsel for co-defendants, a defense services provider contract shall also provide for separate trial counsel.

(c) If a county or municipality contracts to provide all legal defense elements as a single package, a defendant may not receive funding for defense resources unless represented by publicly funded counsel or as provided in Subsection 77-32-303(2).

Section 4. Section 77-32-302 is amended to read:

77-32-302. Assignment of counsel on request of indigent or order of court.

(1) ~~[The]~~ An indigent criminal defense services provider shall be assigned to represent each indigent and shall provide the legal defense services necessary for ~~[an]~~ effective ~~[defense]~~ representation, if the indigent is under arrest for or charged with a crime in which there is a substantial probability that the penalty to be imposed is confinement in either jail or prison if:

(a) the indigent requests legal defense; or

(b) the court on its own motion or otherwise orders legal defense services and the defendant does not affirmatively waive or reject on the record the opportunity to be provided legal defense.

(2) (a) If a county responsible for providing indigent legal defense has established a county legal defender’s office and the court has received notice of the establishment of the office, the court shall assign to the county legal defender’s office the responsibility to defend indigent defendants within the county and provide defense resources.

(b) If the county or municipality responsible to provide for the legal defense of an indigent has arranged by contract to provide those services through a defense services provider, and the court has received notice or a copy of the contract, the court shall assign the defense services provider named in the contract to provide legal defense.

(c) If no county or municipal defense services provider contract exists, the court shall select and assign a legal defense provider.

(d) If the court considers the assignment of a noncontracting legal defense provider to an indigent defendant despite the existence of a defense services provider contract and the court has a copy or notice of the contract, before the court may make the assignment, it shall:

(i) set the matter for a hearing;

(ii) give proper notice of the hearing to the attorney of the responsible county or municipality and county clerk or municipal recorder; and

(iii) make findings that there is a compelling reason to appoint a noncontracting attorney.

(e) The indigent’s preference for other counsel or defense resources may not be considered a compelling reason justifying the appointment of a noncontracting defense services provider.

(3) The court may make a determination of indigency at any time.

Section 5. Section 77-32-306 is amended to read:

77-32-306. County or municipal legislative body to provide legal defense.

(1) The county or municipal legislative body shall either:

(a) contract with a defense services provider; or

(b) authorize the court to provide the services prescribed by this chapter by assigning a qualified attorney in each case.

(2) A county may create a county legal defender’s office to provide for the legal defense as prescribed by this chapter.

(3) A county legal defender’s office may, through the county legislative body, contract with other counties and municipalities ~~[within a judicial district]~~ to provide the legal services as prescribed.

(4) Counties and municipalities are encouraged to enter into interlocal cooperation agreements pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, for the provision of legal defense, including multiple counties and municipalities contracting with either a private defense services provider or with a legal defender's office. An interlocal agreement may provide for:

(a) the creation of or contract with a private defense services provider, as defined in Subsection 77-32-201[(4)](5);

(b) multiple counties or municipalities to contract with a county legal defender's office, as defined in Subsection 77-32-201[(7)](11); or

(c) the creation of an interlocal entity under the provisions of Section 11-13-203.

(5) When a county or municipality has contracted under Subsection (1)(a) or a county has created a legal defender's office as provided under Subsection (2) to provide the legal defense resources required by this chapter, the legal services provider is the exclusive source from which the legal defense may be provided, unless the court finds a compelling reason for the appointment of noncontracting attorneys and defense resources, under the provisions of Section 77-32-302 or 77-32-303, in which case the judge shall state the compelling reason and the findings of the hearing held under Subsections 77-32-303(2) and (3) on the record.

(6) A county or municipality may, by ordinance, provide for some other means which are constitutionally adequate for legal defense of indigents.

Section 6. Section 77-32-801 is enacted to read:

Part 8. Utah Indigent Defense Commission

77-32-801. Indigent Defense Commission creation -- Purpose.

(1) There is created within the Commission on Criminal and Juvenile Justice the Utah Indigent Defense Commission.

(2) The purpose of the commission is to assist the state in meeting the state's obligations for the provision of indigent criminal defense services, consistent with the United States Constitution, the Utah Constitution, and this chapter.

Section 7. Section 77-32-802 is enacted to read:

77-32-802. Commission members -- Membership qualifications -- Terms -- Vacancy -- Administrative support.

(1) The commission is composed of 11 voting and two ex officio, nonvoting members.

(a) The governor, with the consent of the Senate, shall appoint the following nine members:

(i) two practicing criminal defense attorneys recommended by the Utah Association of Criminal Defense Lawyers;

(ii) an attorney representing minority interests recommended by the Utah Minority Bar Association;

(iii) one member recommended by the Utah Association of Counties from a county of the first or second class;

(iv) one member recommended by the Utah Association of Counties from a county of the third through sixth class;

(v) a director of a county public defender organization recommended by the Utah Association of Criminal Defense Lawyers;

(vi) two members recommended by the Utah League of Cities and Towns from its membership;

(vii) a retired judge recommended by the Judicial Council; and

(viii) one member of the Utah Legislature selected jointly by the Speaker of the House and President of the Senate.

(b) The executive director of the Commission on Criminal and Juvenile Justice or the executive director's designee shall be a voting member of the commission.

(c) The ex officio, nonvoting members of the commission are:

(i) the director of the Utah Indigent Defense Commission appointed in Section 77-32-803; and

(ii) a representative from the Administrative Office of the Courts appointed by the Judicial Council.

(2) Members appointed by the governor shall serve four-year terms, except as provided in Subsection (3).

(3) The governor shall stagger the initial terms of appointees so that approximately half of the commission is appointed every two years.

(4) Members appointed to the commission shall have significant experience in criminal defense proceedings or have demonstrated a strong commitment to providing effective representation in indigent criminal defense services.

(5) Commission members shall hold office until their successors are appointed.

(6) The commission may remove a member for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or for any other good cause.

(7) When a vacancy occurs in the membership for any reason, a replacement shall be appointed for the remaining unexpired term in the same manner as the original appointment.

(8) The governor shall appoint one of the initial commission members to serve as chair of the commission for a term of one year. At the expiration of that year, or upon the vacancy in the membership of the appointed chair, the commission shall annually elect a chair from the commission's membership to serve a one-year term. A

commission member may not serve as chair of the commission for more than three consecutive terms.

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

(a) Section 63A-3-106;

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

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

(10) Six members constitute a quorum, however, the affirmative vote of at least six members of the commission is required for official action of the commission.

Section 8. Section 77-32-803 is enacted to read:

77-32-803. Director -- Qualifications -- Staff.

(1) The commission shall appoint a director to carry out the following duties:

(a) establish an annual budget;

(b) assist the commission in developing and regularly reviewing advisory caseload guidelines and procedures, including recommending to the commission suggested changes to the criteria for an indigent defendant's eligibility to receive criminal defense services under this chapter; and

(c) perform all other duties as assigned.

(2) The director shall be a full-time licensed attorney with appropriate background and experience to serve as the full-time director.

(3) The director shall hire staff as necessary to carry out the duties of the commission, including at least one individual with data collection and analysis skills to carry out duties as outlined in Subsection 77-32-804(1)(a).

Section 9. Section 77-32-804 is enacted to read:

77-32-804. Duties of the commission -- Annual report.

(1) The commission shall:

(a) develop and adopt guiding principles for the assessment and oversight of criminal defense systems with the state that, at a minimum, address the following:

(i) Indigent defense service providers shall have independent judgment without fear of retaliation.

(ii) Service providers shall provide conflict-free representation, including the need for a separate contract for conflict counsel.

(iii) The state may not interfere with the service provider's access to clients and the service provider is free to defend the client based on the service provider's own independent judgment.

(iv) Accused persons shall be provided counsel at all critical stages of the criminal process.

(v) Counsel shall be free to provide meaningful, adversarial testing of the evidence, including:

(A) adequate access to defense resources; and

(B) workloads that allow for time to meet with clients, investigate cases, and file appropriate motions.

(vi) Service providers shall be fairly compensated and incentivized to represent clients fully through:

(A) compensation, that shall be independent from prosecutors' compensation;

(B) incentives that are structured to represent criminal defendants well; and

(C) separate contracts that are offered to ensure the right to appeal.

(vii) The commission may maintain oversight to collect data, audit attorney performance, establish standards, and enforce the principles listed above;

(b) identify and collect data necessary for the commission to:

(i) review compliance by criminal defense systems of minimum principles for effective representation;

(ii) establish procedures for the collection and analysis of the data; and

(iii) provide reports regarding the operation of the commission and the provision of indigent criminal defense services by each indigent criminal defense system;

(c) develop and oversee the establishment of advisory caseload principles and guidelines to aid indigent criminal defense systems in delivering effective representation in the state consistent with the safeguards of the United States Constitution, the Utah Constitution, and this chapter;

(d) review all contracts and interlocal agreements in the state for the provision of indigent criminal defense services and provide assistance and recommendations regarding compliance with minimum principles for effective representation;

(e) investigate, audit, and review the provision of indigent criminal defense services for compliance with minimum principles;

(f) establish procedures for the receipt, acceptance, and resolution of complaints regarding the provision of indigent criminal defense services;

(g) establish procedures that enable indigent criminal defense systems to apply for state funding as provided under Section 77-32-805;

(h) establish procedures for annually reporting to the governor, Legislature, Judicial Council, and indigent criminal defense systems throughout the state that include reporting the following:

(i) the operations of the commission;

(ii) the operations of each indigent criminal defense system; and

(iii) each indigent criminal defense system's compliance with minimum standards for the

provision of indigent criminal defense services for effective representation;

(i) award grants to indigent criminal defense systems consistent with metrics established by the commission under this part and appropriations by the state;

(j) encourage and aid in the regionalization of indigent criminal defense services within the state for effective representation and for efficiency and cost savings to local systems;

(k) submit to legislative, executive, and judicial leadership, from time to time, proposed recommendations for improvement in the provision of indigent criminal defense services to ensure effective representation in the state, consistent with the safeguards of the United States Constitution and the Utah Constitution; and

(1) identify and encourage best practices for effective representation to indigent defendants charged with crimes.

(2) The commission shall emphasize the importance of indigent criminal defense services provided to defendants, whether charged with a misdemeanor or felony.

(3) The commission shall establish procedures for the conduct of the commission's affairs and internal policies necessary to carry out the commission's duties and responsibilities under this part.

(4) Commission policies shall be placed in an appropriate manual, made publicly available on a website, and made available to all attorneys and professionals providing indigent criminal defense services, the Judicial Council, the governor, and the Legislature.

(5) The delivery of indigent criminal defense services shall be independent of the judiciary, but the commission shall ensure that judges are permitted and encouraged to contribute information and advice concerning the delivery of indigent criminal defense services.

(6) An indigent criminal defense system that is in compliance with minimum principles and procedures may not be required to provide indigent criminal defense services in excess of those principles and procedures.

(7) The commission shall submit a report annually to the Judiciary Interim Committee on the commission's efforts to improve the provision of indigent criminal defense services statewide.

Section 10. Section 77-32-805 is enacted to read:

77-32-805. Indigent Defense Resources Account -- Administration.

(1) For purposes of this part, "account" means the Indigent Defense Resources Account.

(2) (a) There is created within the General Fund a restricted account known as the "Indigent Defense Resources Restricted Account."

(b) Funds in the account shall be nonlapsing.

(c) Subject to appropriation, funds from the account shall be disbursed by the Utah Indigent Defense Commission in accordance with the provisions of this chapter.

(3) The account consists of:

(a) funds appropriated by the Legislature based upon recommendations from the commission consistent with principles of shared state and local funding;

(b) other moneys received by the commission pursuant to Subsection 77-32-809(3); and

(c) interest and earnings from the investment of account funds.

(4) Funds from the account shall be invested by the state treasurer with the earnings and interest accruing to the account.

(5) The account shall be administered by the commission for:

(a) the establishment and maintenance of a statewide indigent criminal defense data collection system;

(b) grants to indigent criminal defense systems for defense resources; and

(c) grants to indigent criminal defense systems for defense services providers.

(6) Money allocated to or deposited into the account shall be used:

(a) to reimburse participating systems for commission-approved expenditures for the purposes listed in Subsection (5); and

(b) for administrative costs.

Section 11. Section 77-32-806 is enacted to read:

77-32-806. Indigent criminal defense system participation.

(1) To qualify for grant funds described in Subsection 77-32-805(5), the legislative body responsible for an indigent criminal defense system shall:

(a) adopt a resolution stating the intent to apply for grant funds from the account and committing that the indigent criminal defense system shall meet minimum principles for effective representation; and

(b) submit a certified copy of that resolution together with an application to the commission.

(2) The commission may revoke an indigent criminal defense system's grant award if the system fails to meet minimum principles for effective representation.

Section 12. Section 77-32-807 is enacted to read:

77-32-807. Application for grant funds.

(1) Applications for grant moneys may seek resources for the following expenses:

(a) establishment and maintenance of an indigent criminal defense data collection system;

(b) defense resources;

(c) matching fund grants for defense services providers; and

(d) critical need grants for defense services providers.

(2) (a) Matching fund grants, as described in Subsection (1)(c), may be awarded if the indigent criminal defense system spends an amount greater than the system's baseline budget, as described in Subsection 77-32-809(2)(a), for defense services providers.

(b) For the purposes of Subsection (2)(a), matching funds is an amount equal to the product of:

(i) the indigent criminal defense system's spending above the system's baseline budget; and

(ii) (A) 50% for counties of the first class;

(B) 100% for counties of the second or third class; or

(C) 200% for counties of the fourth through sixth class.

(3) Critical need grant moneys, as described in Subsection (1)(d), may be awarded if the indigent criminal defense system can demonstrate to the commission's satisfaction that:

(a) the system has incurred or reasonably anticipates incurring expenses in excess of the system's annual local funding, as adjusted for population growth and inflation;

(b) the funding for the expenses described in Subsection (3)(a) is necessary for the indigent criminal defense system to meet minimum standards for effective representation; and

(c) increasing the system's local share for indigent criminal defense providers would constitute an undue burden on the indigent criminal defense system.

(4) If the application of a participating indigent criminal defense system is approved by the commission, the director of the commission shall negotiate, enter into, and administer a contract with the participating indigent criminal defense system for the purposes listed in Subsection (1).

(5) Nonparticipating systems remain responsible for meeting minimum principles for effective representation but may not be eligible for any legislative relief.

(6) A county or municipality may not be required to increase the county or municipality's certified tax rate pursuant to Section 59-2-924 to participate in the fund.

Section 13. Section 77-32-808 is enacted to read:

77-32-808. Annual report, budget, and listing of expenditures -- Availability on website.

(1) As used in this section, "expenditures" means all payments or disbursements of commission funds, received from any source, made by the commission.

(2) The commission shall publish and make available to the public on a website the commission's annual report, budget, salary information, a listing of all expenditures, and a list of all indigent criminal defense systems.

(3) Publication and availability of the listing of expenditures shall be on a quarterly basis. The commission's budget and salary information may be published and made available on an annual basis.

Section 14. Section 77-32-809 is enacted to read:

77-32-809. Investigation, audit, and review of indigent criminal defense services -- Cooperation and participation with commission -- Maintenance of local share -- Necessity for excess funding -- Funds received by commission as state funds.

(1) All indigent criminal defense systems and attorneys engaged in providing indigent criminal defense services shall cooperate and participate with the commission in the investigation, audit, and review of all indigent criminal defense services.

(2) (a) For purposes of this part, "baseline budget" means an indigent criminal defense system's share of local funding, adjusted annually for growth in population and inflation.

(b) An indigent criminal defense system shall maintain the system's baseline budget each year.

(c) If the commission determines that funding in excess of the indigent criminal defense system's baseline budget is necessary to achieve minimum principles for effective representation, the excess funding shall be paid from state or local funding, or a combination of both, as determined by the grant application process described in Section 77-32-807.

(d) An indigent criminal defense system is not required to expend all of the system's local funding if minimum principles for effective representation may be met for less than local funding.

(3) The commission may apply for and obtain state funding from any source to carry out the purposes of this part. All funds received by the commission, from any source, are state funds and shall be appropriated as provided by law.

Section 15. Section 77-32-810 is enacted to read:

77-32-810. Applicability of GRAMA and Open and Public Meetings Act.

(1) Official business conducted by the commission is subject to Title 63G, Chapter 2, Government Records Access and Management Act.

(2) Meetings convened by the commission in the commission's official capacity are subject to Title 52, Chapter 4, Open and Public Meetings Act.

Section 16. Section 78A-6-1111 is amended to read:

**78A-6-1111. Right to counsel --
Appointment of counsel for indigent --
Costs.**

(1) (a) In any action in juvenile court initiated by the state, a political subdivision of the state, or a private party, the parents, legal guardian, and the minor, where applicable, shall be informed that they may be represented by counsel at every stage of the proceedings.

(b) In any action initiated by a private party, the parents or legal guardian shall have the right to employ counsel of their own choice at their own expense.

(c) If, in any action initiated by the state or a political subdivision of the state under Part 3, Abuse, Neglect, and Dependency Proceedings; Part 5, Termination of Parental Rights Act; or Part 10, Adult Offenses, of this chapter or under Section 78A-6-1101, a parent or legal guardian requests an attorney and is found by the court to be indigent, counsel shall be appointed by the court to represent the parent or legal guardian in all proceedings directly related to the petition or motion filed by the state, or a political subdivision of the state, subject to the provisions of this section.

(d) In any action initiated by the state, a political subdivision of the state, or a private party under Part 3, Abuse, Neglect, and Dependency Proceedings, or Part 5, Termination of Parental Rights Act, of this chapter, the child shall be represented by a guardian ad litem in accordance with Sections 78A-6-317 and 78A-6-902. The child shall also be represented by an attorney guardian ad litem in other actions initiated under this chapter when appointed by the court under Section 78A-6-902 or as otherwise provided by law.

(e) In any action initiated by the state or a political subdivision of the state under Part 6, Delinquency and Criminal Actions, or Part 7, Transfer of Jurisdiction, of this chapter, or against a minor under Section 78A-6-1101, the parents or legal guardian and the minor shall be informed that the minor has the right to be represented by counsel at every stage of the proceedings.

(i) In cases where a minor is facing a felony level offense, the court shall appoint counsel, who shall appear until counsel is retained on the minor's behalf. The minor may not waive counsel unless the minor has had a meaningful opportunity to consult with a defense attorney. The court shall make findings on the record, taking into consideration the minor's unique circumstances and attributes, that the waiver is knowing and voluntary and the minor understands the consequences of waiving the right to counsel.

(ii) In all other situations the right to counsel may not be waived by a minor unless there has been a

finding on the record, taking into consideration the minor's unique circumstances and attributes, that the waiver is knowing and voluntary, and the minor understands the consequences of waiving the right to counsel.

(iii) If the minor is found to be indigent, counsel shall be appointed by the court to represent the minor in all proceedings directly related to the petition or motion filed by the state or a political subdivision of the state, subject to the provisions of this section.

(f) Indigency of a parent, legal guardian, or minor shall be determined in accordance with the process and procedure defined in Section 77-32-202. The court shall take into account the income and financial ability of the parent or legal guardian to retain counsel in determining the indigency of the minor.

(g) The cost of appointed counsel for a party found to be indigent, including the cost of counsel and expense of the first appeal, shall be paid by the county in which the trial court proceedings are held. Counties may levy and collect taxes for these purposes.

(2) Counsel appointed by the court may not provide representation as court-appointed counsel for a parent or legal guardian in any action initiated by, or in any proceeding to modify court orders in a proceeding initiated by, a private party, except that in a private action to terminate parental rights the court may appoint counsel to represent an indigent parent if it finds that the failure to appoint counsel will result in a deprivation of due process.

(3) If the county responsible to provide legal counsel for an indigent under Subsection (1)(g) has arranged by contract to provide services, the court shall appoint the contracting attorney as legal counsel to represent that indigent.

(4) The court may order a parent or legal guardian for whom counsel is appointed, and the parents or legal guardian of any minor for whom counsel is appointed, to reimburse the county for the cost of appointed counsel.

(5) The state, or an agency of the state, may not be ordered to reimburse the county for expenses incurred under Subsection (1)(g).

Section 17. Appropriation.

(1) Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the following sums of money are appropriated for the fiscal year beginning July 1, 2015, and ending June 30, 2016. These are additions to amounts previously appropriated for fiscal year 2016.

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

To Fund and Account Transfers - General Fund
Restricted - Indigent Defense Resources Account

<u>From General Fund, One-time</u>	<u>\$1,500,000</u>
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Schedule of Programs:

General Fund Restricted - Indigent
Defense Resources Account \$1,500,000

(b) Under the terms and conditions of Utah Code Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

To Governor's Office - Commission on Criminal and Juvenile Justice - Utah Indigent Defense Commission

From General Fund Restricted -
Indigent Defense Resources
Account \$1,500,000

Schedule of Programs:

Administration \$1,500,000

(2) Under the terms and conditions of Utah Code Title 63J, Chapter 1, Budgetary Procedures Act, the following sums of money are appropriated for the fiscal year beginning July 1, 2016 and ending June 30, 2017.

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

To Fund and Account Transfers - General Fund
Restricted - Indigent Defense Resources Account

From General Fund \$500,000

Schedule of Programs:

General Fund Restricted - Indigent
Defense Resources Account \$500,000

(b) Under the terms and conditions of Utah Code Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

To Governor's Office - Commission on Criminal and Juvenile Justice - Utah Indigent Defense Commission

From General Fund Restricted -
Indigent Defense Resources Account \$500,000

Schedule of Programs:

Administration \$500,000

CHAPTER 178**S. B. 177**

Passed March 10, 2016
 Approved March 22, 2016
 Effective May 10, 2016

**NIGHTTIME HIGHWAY
 CONSTRUCTION NOISE AMENDMENTS**

Chief Sponsor: Kevin T. Van Tassell
 House Sponsor: Johnny Anderson

LONG TITLE**General Description:**

This bill modifies the Transportation Code by enacting provisions relating to nighttime highway construction noise.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ provides that certain state highway construction projects are exempt from any noise ordinance, regulation, or standard of a local jurisdictional authority;
- ▶ provides that certain state highway construction projects are exempt from noise standards of any local jurisdictional authority if the department meets certain requirements;
- ▶ requires a local jurisdictional authority or local government to issue a nighttime highway construction noise permit to the Department of Transportation in certain circumstances; and
- ▶ grants the Department of Transportation rulemaking authority to make rules establishing a procedure for a local jurisdictional authority or local government to appeal the decision of the department to conduct nighttime highway construction on roads in certain circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

72-6-112.5, Utah Code Annotated 1953

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

Section 1. Section 72-6-112.5 is enacted to read:

72-6-112.5. Definitions -- Nighttime highway construction noise -- Exemptions -- Permits.

(1) As used in this section:

(a) (i) “Front row receptor” means a noise-sensitive residential receptor that is:

(A) immediately adjacent to a transportation facility; or

(B) within 800 feet of a transportation facility that is within a commercial or industrialized area.

(ii) “Front row receptor” includes a residence that is contiguous to a property immediately adjacent to a transportation facility in a residential area.

(b) “Nighttime highway construction” means highway construction occurring between the hours of 10:00 p.m. and 7:00 a.m.

(2) A state highway construction project conducted on a road where the normal posted speed limit is 55 miles per hour or greater is exempt from any noise ordinance, regulation, or standard of a local jurisdictional authority.

(3) A state highway construction project conducted on a road where the normal posted speed limit is less than 55 miles per hour is exempt from any noise ordinance, regulation, or standard of a local jurisdictional authority if the department:

(a) provides reasonable written notice at least 48 hours in advance of any required nighttime highway construction to each residential dwelling located within front row receptors of the activity;

(b) determines a net community, including traveler community, benefit exists to conduct nighttime highway construction after considering the following:

(i) public health;

(ii) project completion time;

(iii) air quality;

(iv) traffic;

(v) economics;

(vi) safety; and

(vii) local jurisdiction concerns; and

(c) institutes best management noise reduction practices, as determined by the department, for front row receptors, in consultation with local government or the local jurisdictional authority for all nighttime highway construction, which may include:

(i) equipment maintenance;

(ii) noise shielding;

(iii) scheduling the most noise intrusive activities during the day; and

(iv) other noise mitigation methods.

(4) (a) Subject to Subsection (2) or (3), a state highway project shall secure required noise permits from the local jurisdictional authority to conduct nighttime highway construction.

(b) To the extent practical, the department shall coordinate with the local jurisdictional authority during the pre-construction phase of a project to address noise exemption conditions.

(5) A local jurisdictional authority shall issue a nighttime highway construction noise permit without additional requirements to the department at the request of the department or the department’s designated project agent if the requirements of Subsections (2) and (3) are met.

(6) (a) For the exemption provided in Subsection (3) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

department shall make rules establishing procedures:

(i) for a local jurisdictional authority or local government to appeal the decision of the department to conduct nighttime highway construction on roads where the normal posted speed limit is less than 55 miles per hour; and

(ii) for the local jurisdictional authority to request that the department enforce the terms of a noise permit.

(b) After review and upon receiving a written notice from a local jurisdictional authority that the conditions for the noise exemption permit are not met, the department shall take corrective action to ensure nighttime highway construction activities meet requirements of the local permit.

CHAPTER 179**S. B. 193**

Passed March 10, 2016
 Approved March 22, 2016
 Effective May 10, 2016

**UTAH COMMUNICATIONS
 AUTHORITY ACT AMENDMENTS**

Chief Sponsor: Wayne A. Harper
 House Sponsor: Brad L. Dee

LONG TITLE**General Description:**

This bill amends provisions related to the Utah Communications Authority.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Utah Communications Authority Board to create a comprehensive strategic plan that includes a plan for the authority's activities and duties in each of the authority's divisions;
- ▶ requires each division of the Utah Communications Authority to contribute to the comprehensive strategic plan;
- ▶ extends a restriction on the allocation of funds from the Unified Statewide 911 Emergency Service Account;
- ▶ extends a due date for a performance audit and study; and
- ▶ requires a county, city, or town that levies and receives money from a monthly 911 charge to remit the money directly to a public safety answering point.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 63H-7a-103, as renumbered and amended by Laws of Utah 2015, Chapter 411
- 63H-7a-204, as renumbered and amended by Laws of Utah 2015, Chapter 411
- 63H-7a-206, as enacted by Laws of Utah 2015, Chapter 450 and last amended by Coordination Clause, Laws of Utah 2015, Chapter 450
- 63H-7a-302, as renumbered and amended by Laws of Utah 2015, Chapter 411
- 63H-7a-402, as enacted by Laws of Utah 2015, Chapter 411
- 63H-7a-502, as enacted by Laws of Utah 2015, Chapter 411
- 69-2-2, as last amended by Laws of Utah 2014, Chapters 36 and 320
- 69-2-5, as last amended by Laws of Utah 2015, Chapters 352 and 411
- 69-2-5.5, as last amended by Laws of Utah 2015, Chapters 352 and 411
- 69-2-5.6, as last amended by Laws of Utah 2015, Chapters 352 and 411
- 69-2-5.7, as last amended by Laws of Utah 2015, Chapters 352 and 411

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

Section 1. Section 63H-7a-103 is amended to read:

63H-7a-103. Definitions.

As used in this chapter:

- (1) "Authority" means the Utah Communications Authority, an independent state agency created in Section 63H-7a-201.
- (2) "Board" means the Utah Communications Authority Board created in Section 63H-7a-203.
- (3) "Bonds" means bonds, notes, certificates, debentures, contracts, lease purchase agreements, or other evidences of indebtedness or borrowing issued or incurred by the authority pursuant to this chapter.
- (4) "FirstNet" means the First Responder Network Authority created by Congress in the Middle Class Tax Relief and Job Creation Act of 2012.
- (5) "Lease" means any lease, lease purchase, sublease, operating, management, or similar agreement.
- (6) "Local entity" means a county, city, town, local district, special service district, or interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act.
- (7) "Member" means a public agency which:
 - (a) adopts a membership resolution to be included within the authority; and
 - (b) submits an originally executed copy of an authorizing resolution to the authority's office.
- (8) "Member representative" means a person or that person's designee appointed by the governing body of each member.
- (9) "Public agency" means any political subdivision of the state, including cities, towns, counties, school districts, local districts, and special service districts, dispatched by a public safety answering point.
- (10) "Public safety answering point" or "PSAP" means ~~[an organization, entity, or combination of entities that have joined together to form a central answering point for the receipt, management, and dissemination to the proper responding agency, of emergency and nonemergency communications, including 911 communications, police, fire, emergency medical, transportation, parks, wildlife, corrections, and any other governmental communications.]~~ an entity that:
 - (a) receives direct 911 emergency and non-emergency communications requesting a public safety service;
 - (b) has a facility with the equipment and staff necessary to receive the communication;
 - (c) assesses, classifies, and prioritizes the communication; and
 - (d) transfers the communication to the proper responding agency.

(11) "Public safety communications network" means:

(a) a regional or statewide public safety governmental communications network and related facilities, including real property, improvements, and equipment necessary for the acquisition, construction, and operation of the services and facilities; and

(b) 911 emergency services, including radio communications, [~~microwave~~] connectivity, [~~FirstNet—coordination,~~] and computer aided dispatch [~~system~~] systems.

(12) "State" means the state of Utah.

(13) "State representative" means the six appointees of the governor or their designees and the Utah State Treasurer or his designee.

Section 2. Section 63H-7a-204 is amended to read:

63H-7a-204. Board -- Powers and duties -- Strategic plan.

The board shall:

(1) manage the affairs and business of the authority consistent with this chapter including adopting bylaws by a majority vote of its members;

(2) appoint an executive director to administer the authority;

(3) receive and act upon reports covering the operations of the public safety communications network and funds administered by the authority;

(4) ensure that the public safety communications network and funds are administered according to law;

(5) examine and approve an annual operating budget for the authority;

(6) receive and act upon recommendations of the chair;

(7) recommend to the governor and Legislature any necessary or desirable changes in the statutes governing the public safety communications network;

(8) develop broad policies for the long-term operation of the authority for the performance of its functions;

(9) make and execute contracts and other instruments on behalf of the authority, including agreements with members and other entities;

(10) authorize the borrowing of money, the incurring of indebtedness, and the issuance of bonds as provided in this chapter;

(11) adopt rules consistent with this chapter and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the management of the public safety communications network in order to carry out the purposes of this chapter, and perform all other acts necessary for the administration of the public safety communications network;

(12) exercise the powers and perform the duties conferred on it by this chapter;

(13) provide for audits of the authority;

(14) establish the following divisions within the authority:

(a) 911 Division;

(b) Radio Network Division;

(c) Interoperability Division; and

(d) Administrative Services Division;

(15) establish a 911 advisory committee to the 911 Division in accordance with Section 63H-7a-307;

(16) establish one or more advisory committees to the Radio Network Division in accordance with Section 63H-7a-405; ~~and~~

(17) establish one or more advisory committees to the Interoperability Division in accordance with Section 63H-7a-504[.]; and

(18) create and maintain a statewide, comprehensive strategic plan that:

(a) coordinates the authority's activities and duties in the:

(i) 911 Division;

(ii) Radio Network Division;

(iii) Interoperability Division; and

(iv) Administrative Services Division; and

(b) the board updates before July 1 of each year.

Section 3. Section 63H-7a-206 is amended to read:

63H-7a-206. Functional consolidation of PSAPs study.

(1) As used in this section:

(a) "Exigent circumstance" means an unexpected or unforeseen circumstance that, if not addressed, will result in imminent injury or loss.

~~(a)~~ (b) "Functional consolidation" means the process of ensuring that disparate public safety answering points and public safety dispatching centers work together in an efficient and effective way.

~~(b)~~ (c) "PSAP operator":

(i) means a public agency that operates a PSAP; and

(ii) does not include an institution of higher education, a school district, or an airport authority that operates a PSAP.

(2) Beginning on or after July 1, 2015, the board shall commission and oversee a performance audit and study of the state's 911 emergency response system and related elements of the public safety communications network, which shall include:

(a) a review of statutory provisions and efforts of the authority, executive director, Utah 911 Division, and Interoperability Division regarding

the assessment, planning, rules, technology review, and standardization of the state's 911 emergency response system and related elements of the public safety communications network;

(b) working with state and local stakeholders to determine potential cost savings and increases in quality and efficiency that may be achieved by the functional consolidation of PSAPs and dispatch centers throughout the state, including recommendations regarding:

(i) an efficient and effective public safety communications management structure to ensure that high quality 911 emergency services are available to the state's citizens;

(ii) common standard operating procedures that ensure the least amount of call processing time;

(iii) efficient methods to transfer calls between PSAPs and from a PSAP to a first responder, regardless of jurisdiction;

(iv) uniformity of equipment and software protocols to accomplish seamless functionality between computer aided dispatch systems;

(v) interoperable telephonic and radio systems to ensure coordination between jurisdictions; and

(vi) how unnecessary duplication of services may be reduced or eliminated;

(c) making recommendations for inclusion in the strategic plan for the state's 911 emergency response system and related elements of the public safety communications network, which recommendations may include:

(i) how PSAPs may benefit from functional consolidation;

(ii) how PSAPs within designated regions may accept calls and provide emergency communication services for first responders using interoperable equipment, software, protocols, and standard operating procedures; ~~and~~

(iii) how PSAPs, regardless of physical location, may operate on interoperable, shared, or hosted technology platforms and with common policies to reduce the need to transfer calls between PSAPs;

(iv) whether a PSAP should be required to meet minimum operational, technical, or financial standards;

(v) whether PSAP staff should be required to meet minimum training standards; and

(vi) how PSAPs can better use the available communications spectrum to reduce the number of devices that first responders are required to use;

(d) describing and recommending potential solutions to the biggest impediments to functional consolidation of PSAPs; and

(e) making recommendations regarding necessary personnel and associated job duties within the authority.

(3) On or before ~~[July 1, 2016,]~~ September 30, 2016, the board shall complete and submit the performance audit and study described in Subsection (2) ~~[shall be completed and submitted by the board]~~, in writing, to the Law Enforcement and Criminal Justice Interim Committee and the Retirement and Independent Entities Interim Committee.

(4) (a) Money from the Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304 may not be used to fund a new local PSAP, call taking, or dispatching ~~[project before the completion of the performance audit and study described in Subsection (2)]~~ project or entity before June 30, 2017, unless the board determines that an exigent circumstance requires the allocation of funds.

(b) Money from the Unified Statewide 911 Emergency Service Account may be used to fund ongoing maintenance of existing equipment and projects approved before July 1, 2015.

(5) After July 1, ~~[2016]~~ 2017, money spent from the Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304 for projects, including state and local PSAP and dispatching projects, shall be made after consideration of the:

(a) recommendations of the performance audit and study described in Subsection (2); and

(b) strategic plan for the state's network 911 emergency response system and related elements of the public safety communications network described in Subsection (2)(c).

Section 4. Section 63H-7a-302 is amended to read:

63H-7a-302. 911 Division duties and powers.

(1) The 911 Division shall:

(a) review and make recommendations to the executive director:

(i) regarding:

(A) technical, administrative, fiscal, network, and operational standards for the implementation of unified statewide 911 emergency services;

(B) emerging technology; and

(C) expenditures from the restricted accounts created in Section 69-2-5.6 by the 911 Division on behalf of local public safety answering points in the state, with an emphasis on efficiencies and coordination in a regional manner;

(ii) to assure implementation of a unified statewide 911 emergency services network;

(iii) to establish standards of operation throughout the state; and

(iv) regarding mapping systems and technology necessary to implement the unified statewide 911 emergency services;

(b) prepare and submit to the executive director for approval by the board:

- (i) an annual budget for the 911 Division; ~~and~~
- (ii) an annual plan for the programs funded by the Computer Aided Dispatch Restricted Account created in Section 63H-7a-303 and the Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304; and
- (iii) information required by the director to contribute to the comprehensive strategic plan described in Subsection 63H-7-204(18);
- (c) assist local Utah public safety answering points with the implementation and coordination of the 911 Division responsibilities as approved by the executive director and the board;
- (d) reimburse the state's Automated Geographic Reference Center in the Division of Integrated Technology of the Department of Technology Services, an amount equal to 1 cent per month levied on telecommunications service under Section 69-2-5.6 to enhance and upgrade digital mapping standards for unified statewide 911 emergency service as required by the division; and
- (e) fulfill all other duties imposed on the 911 Division by this chapter.
- (2) The 911 Division may recommend to the executive director to sell, lease, or otherwise dispose of equipment or personal property purchased, leased, or belonging to the authority that is related to funds expended from the restricted account created in Sections 69-2-5.5 and 69-2-5.6, the proceeds from which shall return to the respective restricted accounts.
- (3) The 911 Division may make recommendations to the executive director to own, operate, or enter into contracts for the use of the funds expended from the restricted account created in Section 69-2-5.5.
- (4) (a) The 911 Division shall review information regarding:
- (i) in aggregate, the number of service subscribers by service type in a political subdivision;
- (ii) network costs;
- (iii) public safety answering point costs;
- (iv) system engineering information; and
- (v) a computer aided dispatch system.
- (b) In accordance with Subsection (4)(a) the 911 Division may request:
- (i) information as described in Subsection (4)(a)(i) from the Utah State Tax Commission; and
- (ii) information from public safety answering points related to the computer aided dispatch system.
- (c) The information requested by and provided to the 911 Division under Subsection (4) is a protected record in accordance with Section 63G-2-305.

(5) The 911 Division shall recommend to the executive director, for approval by the board, rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) administer the program funded by the Unified Statewide 911 Emergency Service restricted account created in Section 63H-7a-304, including rules that establish the criteria, standards, technology, and equipment that a public safety answering point in Utah must adopt in order to qualify for goods or services that are funded from the restricted account; and

(b) administer the Computer Aided Dispatch Restricted Account created in Section 63H-7a-303, including rules that establish the criteria, standards, technology, and equipment that a public safety answering point must adopt in order to qualify as a recipient of goods or services that are funded from the restricted account.

(6) The board may authorize the 911 Division to employ an outside consultant to study and advise the division on matters related to the 911 Division duties regarding the public safety communications network.

(7) This section does not expand the authority of the Utah State Tax Commission to request additional information from a telecommunication service provider.

Section 5. Section 63H-7a-402 is amended to read:

63H-7a-402. Radio Network Division duties.

(1) The Radio Network Division shall:

(a) provide and maintain the public safety communications network for state and local government agencies within the authority network, including the existing VHF and 800 MHz networks, in a manner that:

(i) promotes high quality, cost effective service;

(ii) evaluates the benefits, cost, existing facilities, equipment, and services of public and private providers; and

(iii) where economically feasible, utilizes existing infrastructure to avoid duplication of facilities, equipment, and services of providers of communication services;

(b) prepare and submit to the executive director for approval by the board:

(i) an annual budget for the Radio Network Division; ~~and~~

(ii) an annual plan for the program funded by the Utah Statewide Radio System Restricted Account created in Section 63H-7a-403; and

(iii) information required by the director to contribute to the comprehensive strategic plan described in Subsection 63H-7-204(18);

(c) conduct bi-monthly meetings:

(i) including:

(A) if retained, a consultant assisting with the design and development of a public safety radio network;

(B) all private and public vendors; and

(C) all public safety radio users;

(ii) for the purpose of discussing public safety radio network emerging technologies; and

(iii) for which minutes shall be made available to the public;

(d) recommend to the executive director administrative rules for approval by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the program funded by the restricted account created in Section 63H-7a-403, including rules that establish the criteria, standards, technology, equipment, and services that will qualify for goods or services that are funded from the restricted accounts; and

(e) fulfill other duties assigned to the Radio Network Division under this chapter.

(2) The Radio Network Division may:

(a) recommend to the executive director to sell, lease, or otherwise dispose of equipment or personal property purchased, leased, or belonging to the authority that is related to the public safety communications network;

(b) recommend to the executive director to own, operate, or enter into contracts for the public safety communications network;

(c) review information regarding:

(i) in aggregate, the number of radio service subscribers by service type in a political subdivision; and

(ii) matters related to the public safety communications network;

(d) in accordance with Subsection (2)(c), request information from:

(i) local and state entities; and

(ii) public safety agencies; and

(e) employ outside consultants to study and advise the division on issues related to:

(i) the public safety communications network;

(ii) radio technologies and services;

(iii) microwave connectivity;

(iv) fiber connectivity; and

(v) public safety communication network connectivity and usage.

(3) The information requested by and provided to the Radio Network Division under Subsections (2)(c) and (d) is a protected record in accordance with Section 63G-2-305.

(4) This section does not expand the authority of the State Tax Commission to request additional

information from a telecommunication service provider.

Section 6. Section 63H-7a-502 is amended to read:

63H-7a-502. Interoperability Division duties.

(1) The Interoperability Division shall:

(a) review and make recommendations to the executive director, for approval by the board, regarding:

(i) statewide interoperability coordination and FirstNet standards;

(ii) technical, administrative, fiscal, technological, network, and operational issues for the implementation of statewide interoperability, coordination, and FirstNet;

(iii) assisting local agencies with the implementation and coordination of the Interoperability Division responsibilities; and

(iv) training for the public safety communications network and unified statewide 911 emergency services;

(b) review information and records regarding:

(i) aggregate information of the number of service subscribers by service type in a political subdivision;

(ii) matters related to statewide interoperability coordination;

(iii) matters related to FirstNet including advising the governor regarding FirstNet; and

(iv) training needs;

(c) prepare and submit to the executive director for approval by the board:

(i) an annual plan for the Interoperability Division; and

(ii) information required by the director to contribute to the comprehensive strategic plan described in Subsection 63H-7-204(18); and

(d) fulfill all other duties imposed on the Interoperability Division by this chapter.

(2) The Interoperability Division may:

(a) recommend to the executive director to own, operate, or enter into contracts related to statewide interoperability, FirstNet, and training;

(b) request information needed under Subsection (1)(b)(i) from:

(i) the State Tax Commission; and

(ii) public safety agencies;

(c) employ an outside consultant to study and advise the Interoperability Division on:

(i) issues of statewide interoperability;

(ii) FirstNet; and

(iii) training; and

(d) request the board to appoint an advisory committee in accordance with Section 63H-7a-504.

(3) The information requested by and provided to the Interoperability Division under Subsection (1)(b)(i) is a protected record in accordance with Section 63G-2-305.

(4) This section does not expand the authority of the State Tax Commission to request additional information from a telecommunication service provider.

Section 7. Section 69-2-2 is amended to read:

69-2-2. Definitions.

As used in this chapter:

(1) "911 emergency service" means a unified statewide communication system which provides citizens with rapid direct access to public safety answering points by accessing "911" with the objective of reducing the response time to situations requiring law enforcement, fire, medical, rescue, and other emergency services.

(2) "Local exchange service" means the provision of public telecommunications services by a wireline common carrier to customers within a geographic area encompassing one or more local communities as described in the carrier's service territory maps, tariffs, price lists, or rate schedules filed with and approved by the Public Service Commission.

(3) "Local exchange service switched access line" means the transmission facility and local switching equipment used by a wireline common carrier to connect a customer location to a carrier's local exchange switching network for providing two-way interactive voice, or voice capable, services.

(4) "Mobile telecommunications service" is as defined in Section 54-8b-2.

(5) "Public agency" means any county, city, town, special service district, or public authority located within the state which provides or has authority to provide fire fighting, law enforcement, ambulance, medical, or other emergency services.

(6) "Public safety agency" means a functional division of a public agency which provides fire fighting, law enforcement, medical, or other emergency services.

(7) "Public safety answering point" means a facility that: the same as that term is defined in Section 63H-7a-203.

~~[(a) is equipped and staffed under the authority of a political subdivision; and]~~

~~[(b) receives 911 communications, other calls for emergency services, and asynchronous event notifications for a defined geographic area.]~~

(8) "Public switched telecommunications network" means the network of equipment, lines, and controls assembled to establish communication paths between calling and called parties in North America.

~~[(8)]~~ (9) "Radio communications access line" means the radio equipment and assigned customer identification number used to connect a mobile or fixed radio customer in Utah to a radio communication service provider's network for two-way interactive voice, or voice capable, services.

~~[(9)]~~ (10) "Radio communications service" means a public telecommunications service providing the capability of two-way interactive telecommunications between mobile and fixed radio customers, and between mobile or fixed radio customers and the local exchange service network customers of a wireline common carrier. Radio communications service providers include corporations, persons or entities offering cellular telephone service, enhanced specialized mobile radio service, rural radio service, radio common carrier services, personal communications services, and any equivalent wireless public telecommunications service, as defined in 47 CFR, parts 20, 22, 24, and 90.

~~[(10)]~~ (11) "Voice over Internet protocol service" is as defined in Section 54-19-102.

~~[(11)]~~ (12) "Wireline common carrier" means a public telecommunications service provider that primarily uses metallic or nonmetallic cables and wires for connecting customers to its local exchange service networks.

Section 8. Section 69-2-5 is amended to read:

69-2-5. Funding for 911 emergency service -- Administrative charge.

(1) In providing funding of 911 emergency service, any public agency establishing a 911 emergency service may:

(a) seek assistance from the federal or state government, to the extent constitutionally permissible, in the form of loans, advances, grants, subsidies, and otherwise, directly or indirectly;

(b) seek funds appropriated by local governmental taxing authorities for the funding of public safety agencies; and

(c) seek gifts, donations, or grants from individuals, corporations, or other private entities.

(2) For purposes of providing funding of 911 emergency service, special service districts may raise funds as provided in Section 17D-1-105 and may borrow money and incur indebtedness as provided in Section 17D-1-103.

(3) (a) (i) Except as provided in Subsection (3)(b) and subject to the other provisions of this Subsection (3), a county, city, town, or metro township within which 911 emergency service is provided may levy a monthly 911 emergency services charge on:

(A) each local exchange service switched access line within the boundaries of the county, city, town, or metro township;

(B) each revenue producing radio communications access line with a billing address

within the boundaries of the county, city, town, or metro township; and

(C) any other service, including voice over Internet protocol, provided to a user within the boundaries of the county, city, town, or metro township that allows the user to make calls to and receive calls from the public switched telecommunications network, including commercial mobile radio service networks.

(ii) (A) Except as provided in Subsections (3)(a)(ii)(B) and (C), if a subscriber of a service subject to a levy described in Subsection (3)(a)(i) is not required to pay for the service, the provider of the service shall collect the levy from the person that is required to pay for the service.

(B) The levy described in Subsection (3)(a)(i) is not imposed on a provider or a consumer of federal wireless lifeline service if the consumer does not pay the provider for the service.

(C) A consumer of federal wireless lifeline service shall pay, and the provider of the service shall collect and remit, the levy described in Subsection (3)(a)(i) when the consumer purchases from the provider optional services in addition to the federally funded lifeline benefit.

~~[(iii)]~~ (iii) If a metro township levies a charge under this chapter, the metro township is subject to the same requirements a city is required to meet under this chapter.

~~[(iii)]~~ (iv) Except as provided in Subsection (3)(a)~~[(iv)]~~(v) and notwithstanding any other provision of this chapter, if a metro township levies a charge described in Subsection (3)(a)(i) under this chapter, the State Tax Commission shall distribute the revenue collected from the charge to the metro township.

~~[(iv)]~~ (v) The State Tax Commission shall transfer the revenues collected within a metro township under this chapter to a municipal services district created under Title 17B, Chapter 2a, Part 11, Municipal Services District Act, if the metro township:

(A) provides written notice to the State Tax Commission requesting the transfer; and

(B) designates the municipal services district to which the metro township requests the State Tax Commission to transfer the revenues.

(b) Notwithstanding Subsection (3)(a), an access line provided for public coin telecommunications service is exempt from 911 emergency service charges.

(c) The amount of the charge levied under this section may not exceed:

(i) 61 cents per month for each local exchange service switched access line;

(ii) 61 cents per month for each radio communications access line; and

(iii) 61 cents per month for each service under Subsection (3)(a)~~[(iii)]~~(i)(C).

(d) (i) For purposes of this Subsection (3)(d) the following terms shall be defined as provided in Section 59-12-102 or 59-12-215:

(A) “mobile telecommunications service”;

(B) “place of primary use”;

(C) “service address”; and

(D) “telecommunications service.”

(ii) An access line described in Subsection (3)(a) is considered to be within the boundaries of a county, city, or town if the telecommunications services provided over the access line are located within the county, city, or town:

(A) for purposes of sales and use taxes under Title 59, Chapter 12, Sales and Use Tax Act; and

(B) determined in accordance with Section 59-12-215.

(iii) The rate imposed on an access line under this section shall be determined in accordance with Subsection (3)(d)(iv) if the location of an access line described in Subsection (3)(a) is determined under Subsection (3)(d)(ii) to be a county, city, or town other than county, city, or town in which is located:

(A) for a telecommunications service, the purchaser’s service address; or

(B) for mobile telecommunications service, the purchaser’s place of primary use.

(iv) The rate imposed on an access line under this section shall be the lower of:

(A) the rate imposed by the county, city, or town in which the access line is located under Subsection (3)(d)(ii); or

(B) the rate imposed by the county, city, or town in which it is located:

(I) for telecommunications service, the purchaser’s service address; or

(II) for mobile telecommunications service, the purchaser’s place of primary use.

(e) (i) A county, city, or town shall notify the Public Service Commission of the intent to levy the charge under this Subsection (3) at least 30 days before the effective date of the charge being levied.

(ii) For purposes of this Subsection (3)(e):

(A) “Annexation” means an annexation to:

(I) a city or town under Title 10, Chapter 2, Part 4, Annexation; or

(II) a county under Title 17, Chapter 2, County Consolidations and Annexations.

(B) “Annexing area” means an area that is annexed into a county, city, or town.

(iii) (A) Except as provided in Subsection (3)(e)(iii)(C) or (D), if a county, city, or town enacts or repeals a charge or changes the amount of the charge under this section, the enactment, repeal, or change shall take effect:

(I) on the first day of a calendar quarter; and

(II) after a 90-day period beginning on the date the State Tax Commission receives notice meeting the requirements of Subsection (3)(e)(iii)(B) from the county, city, or town.

(B) The notice described in Subsection (3)(e)(iii)(A) shall state:

(I) that the county, city, or town will enact or repeal a charge or change the amount of the charge under this section;

(II) the statutory authority for the charge described in Subsection (3)(e)(iii)(B)(I);

(III) the effective date of the charge described in Subsection (3)(e)(iii)(B)(I); and

(IV) if the county, city, or town enacts the charge or changes the amount of the charge described in Subsection (3)(e)(iii)(B)(I), the amount of the charge.

(C) Notwithstanding Subsection (3)(e)(iii)(A), the enactment of a charge or a charge increase under this section shall take effect on the first day of the first billing period:

(I) that begins after the effective date of the enactment of the charge or the charge increase; and

(II) if the billing period for the charge begins before the effective date of the enactment of the charge or the charge increase imposed under this section.

(D) Notwithstanding Subsection (3)(e)(iii)(A), the repeal of a charge or a charge decrease under this section shall take effect on the first day of the last billing period:

(I) that began before the effective date of the repeal of the charge or the charge decrease; and

(II) if the billing period for the charge begins before the effective date of the repeal of the charge or the charge decrease imposed under this section.

(iv) (A) Except as provided in Subsection (3)(e)(iv)(C) or (D), if the annexation will result in the enactment, repeal, or a change in the amount of a charge imposed under this section for an annexing area, the enactment, repeal, or change shall take effect:

(I) on the first day of a calendar quarter; and

(II) after a 90-day period beginning on the date the State Tax Commission receives notice meeting the requirements of Subsection (3)(e)(iv)(B) from the county, city, or town that annexes the annexing area.

(B) The notice described in Subsection (3)(e)(iv)(A) shall state:

(I) that the annexation described in Subsection (3)(e)(iv)(A) will result in an enactment, repeal, or a change in the charge being imposed under this section for the annexing area;

(II) the statutory authority for the charge described in Subsection (3)(e)(iv)(B)(I);

(III) the effective date of the charge described in Subsection (3)(e)(iv)(B)(I); and

(IV) if the county, city, or town enacts the charge or changes the amount of the charge described in Subsection (3)(e)(iv)(B)(I), the amount of the charge.

(C) Notwithstanding Subsection (3)(e)(iv)(A), the enactment of a charge or a charge increase under this section shall take effect on the first day of the first billing period:

(I) that begins after the effective date of the enactment of the charge or the charge increase; and

(II) if the billing period for the charge begins before the effective date of the enactment of the charge or the charge increase imposed under this section.

(D) Notwithstanding Subsection (3)(e)(iv)(A), the repeal of a charge or a charge decrease under this section shall take effect on the first day of the last billing period:

(I) that began before the effective date of the repeal of the charge or the charge decrease; and

(II) if the billing period for the charge begins before the effective date of the repeal of the charge or the charge decrease imposed under this section.

(f) Subject to Subsection (3)(g), a 911 emergency services charge levied under this section shall:

(i) be billed and collected by the person that provides the:

(A) local exchange service switched access line services; or

(B) radio communications access line services; and

(ii) except for costs retained under Subsection (3)(h), remitted to the State Tax Commission.

(g) A 911 emergency services charge on a mobile telecommunications service may be levied, billed, and collected only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

(h) The person that bills and collects the charges levied under Subsection (3)(f) may:

(i) bill the charge imposed by this section in combination with the charge levied under Section 69-2-5.6 as one line item charge; and

(ii) retain an amount not to exceed 1.5% of the levy collected under this section as reimbursement for the cost of billing, collecting, and remitting the levy.

(i) The State Tax Commission shall collect, enforce, and administer the charge imposed under this Subsection (3) using the same procedures used in the administration, collection, and enforcement of the state sales and use taxes under:

(i) Title 59, Chapter 1, General Taxation Policies; and

(ii) Title 59, Chapter 12, Part 1, Tax Collection, except for:

- (A) Section 59-12-104;
- (B) Section 59-12-104.1;
- (C) Section 59-12-104.2;
- (D) Section 59-12-104.6;
- (E) Section 59-12-107.1; and
- (F) Section 59-12-123.

(j) (i) The State Tax Commission shall transmit money collected under this Subsection (3) monthly by electronic funds transfer to the county, city, or town that imposes the charge.

(ii) A county, city, or town that receives money under Subsection (3)(j)(i):

(A) shall remit the money directly to a public safety answering point; and

(B) may not disburse the money to a local dispatch center that is not a public safety answering point.

(k) A person that pays a charge under this section shall pay the charge to the commission:

(i) monthly on or before the last day of the month immediately following the last day of the previous month if:

(A) the person is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(B) the person is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

(ii) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the person is required to file a sales and use tax return with the commission quarterly under Section 59-12-107.

(l) A charge a person pays under this section shall be paid using a form prescribed by the State Tax Commission.

(m) The State Tax Commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the State Tax Commission collects from a charge under this section.

(n) A charge under this section is subject to Section 69-2-5.8.

(4) (a) Any money received by a public agency for the provision of 911 emergency service shall be deposited in a special emergency telecommunications service fund.

(b) (i) Except as provided in Subsection (5)(b), the money in the 911 emergency service fund shall be expended by the public agency to pay the costs of:

(A) establishing, installing, maintaining, and operating a 911 emergency service system;

(B) receiving and processing emergency communications from the 911 system or other communications or requests for emergency services;

(C) integrating a 911 emergency service system into an established public safety dispatch center, including contracting with the providers of local exchange service, radio communications service, and vendors of appropriate terminal equipment as necessary to implement the 911 emergency services; or

(D) indirect costs associated with the maintaining and operating of a 911 emergency services system.

(ii) Revenues derived for the funding of 911 emergency service may be used by the public agency for personnel costs associated with receiving and processing communications and deploying emergency response resources when the system is integrated with any public safety dispatch system.

(c) Any unexpended money in the 911 emergency service fund at the end of a fiscal year does not lapse, and must be carried forward to be used for the purposes described in this section.

(5) (a) Revenue received by a local entity from an increase in the levy imposed under Subsection (3) after the 2004 Annual General Session:

(i) may be used by the public safety answering point for the purposes under Subsection (4)(b); and

(ii) shall be deposited into the special 911 emergency service fund described in Subsection (4)(a).

(b) Revenue received by a local entity from disbursements from the 911 Division under Section 63H-7a-602:

(i) shall be deposited into the special 911 emergency service fund under Subsection (4)(a); and

(ii) shall only be used for that portion of the costs related to the development and operation of wireless and land-based enhanced 911 emergency telecommunications service and the implementation of 911 services as provided in Subsection (5)(c).

(c) The costs allowed under Subsection (5)(b)(ii) include the public safety answering point's costs for:

(i) acquisition, upgrade, modification, maintenance, and operation of public service answering point equipment capable of receiving 911 information;

(ii) database development, operation, and maintenance; and

(iii) personnel costs associated with establishing, installing, maintaining, and operating wireless 911 services, including training emergency service personnel regarding receipt and use of 911 wireless service information and educating consumers regarding the appropriate and responsible use of 911 wireless service.

(6) A local entity that increases the levy it imposes under Subsection (3)(c) after the 2004

Annual General Session shall increase the levy to the maximum amount permitted by Subsection (3)(c).

Section 9. Section 69-2-5.5 is amended to read:

69-2-5.5. Emergency services telecommunications charge to fund the Computer Aided Dispatch Restricted Account -- Administrative charge.

(1) Subject to Subsection (6), there is imposed an emergency services telecommunications charge of 6 cents per month on a service that is subject to an emergency services telecommunications charge levied by a county, city, town, or metro township under Section 69-2-5, including:

(a) each local exchange service switched access line ~~and~~;

(b) each revenue producing radio communications access line ~~[that is subject to an emergency services telecommunications charge levied by a county, city, town, or metro township under Section 69-2-5.]; and~~

(c) each other service line, including voice over Internet protocol, used to make calls to and receive calls from the public switched telecommunications network, including a commercial mobile radio service network.

(2) (a) Subject to Subsection (6), an emergency services telecommunications charge imposed under this section shall be billed and collected by the person that provides:

(i) local exchange service switched access line services; ~~or~~

(ii) radio communications access line services~~[-]; or~~

(iii) any other service line, including voice over Internet protocol, that allows a user to make calls to and receive calls from the public switched telecommunications network, including a commercial mobile radio service network.

(b) A person that pays an emergency services telecommunications charge under this section shall pay the emergency services telecommunications charge to the commission:

(i) monthly on or before the last day of the month immediately following the last day of the previous month if:

(A) the person is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(B) the person is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

(ii) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the person is required to file a

sales and use tax return with the commission quarterly under Section 59-12-107.

(c) If a subscriber of a service subject to a charge described in Subsection (3)(a) is not required to pay for the service, the provider of the service shall collect the charge from the person that is required to pay for the service.

~~[(e)]~~ (d) An emergency services telecommunications charge imposed under this section shall be deposited into the Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

(3) Emergency services telecommunications charges remitted to the State Tax Commission pursuant to Subsection (2) shall be accompanied by the form prescribed by the State Tax Commission.

(4) (a) The State Tax Commission shall administer, collect, and enforce the charge imposed under Subsection (1) according to the same procedures used in the administration, collection, and enforcement of the state sales and use tax under:

(i) Title 59, Chapter 1, General Taxation Policies; and

(ii) Title 59, Chapter 12, Part 1, Tax Collection, except for:

(A) Section 59-12-104;

(B) Section 59-12-104.1;

(C) Section 59-12-104.2;

(D) Section 59-12-104.6;

(E) Section 59-12-107.1; and

(F) Section 59-12-123.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Tax Commission may make rules to administer, collect, and enforce the emergency services telecommunications charges imposed under this section.

(c) The State Tax Commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the State Tax Commission collects from an emergency services telecommunications charge under this section.

(d) A charge under this section is subject to Section 69-2-5.8.

(5) A provider of local exchange service switched access line services or radio communications access line services who fails to comply with this section is subject to penalties and interest as provided in Sections 59-1-401 and 59-1-402.

(6) An emergency services telecommunications charge under this section on a mobile telecommunications service may be imposed, billed, and collected only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

Section 10. Section 69-2-5.6 is amended to read:

69-2-5.6. 911 services charge to fund unified statewide 911 emergency service -- Administrative charge.

(1) Subject to Subsection 69-2-5(3)(g), there is imposed a unified statewide 911 emergency service charge of 9 cents per month on each local exchange service switched access line and each revenue producing radio communications access line that is subject to a 911 emergency services charge levied by a county, city, town, or metro township under Section 69-2-5.

(2) (a) A 911 emergency services charge imposed under this section shall be:

(i) subject to Subsection 69-2-5(3)(g); and

(ii) billed and collected by the person that provides:

(A) local exchange service switched access line services;

(B) radio communications access line services; or

(C) service described in Subsection 69-2-5(3)(a)(i)(C).

(b) A person that pays a charge under this section shall pay the charge to the commission:

(i) monthly on or before the last day of the month immediately following the last day of the previous month if:

(A) the person is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(B) the person is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

(ii) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the person is required to file a sales and use tax return with the commission quarterly under Section 59-12-107.

(c) A charge imposed under this section shall be deposited into the Unified Statewide 911 Emergency Service Account created by Section 63H-7a-304.

(d) If a subscriber of a service subject to a charge described in Subsection (1) is not required to pay for the service, the provider of the service shall collect the charge from the person that is required to pay for the service.

(3) The person that bills and collects the charges levied by this section pursuant to Subsections (2)(b) and (c) may:

(a) bill the charge imposed by this section in combination with the charge levied under Section 69-2-5 as one line item charge; and

(b) retain an amount not to exceed 1.5% of the charges collected under this section as

reimbursement for the cost of billing, collecting, and remitting the levy.

(4) The State Tax Commission shall collect, enforce, and administer the charges imposed under Subsection (1) using the same procedures used in the administration, collection, and enforcement of the emergency services telecommunications charge to fund the Computer Aided Dispatch Restricted Account under Section 63H-7a-303.

(5) Notwithstanding Section 63H-7a-304, the State Tax Commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the State Tax Commission collects from a charge under this section.

(6) A charge under this section is subject to Section 69-2-5.8.

(7) This section sunsets in accordance with Section 63I-1-269.

Section 11. Section 69-2-5.7 is amended to read:

69-2-5.7. Prepaid wireless telecommunications charge to fund 911 service -- Administrative charge.

(1) As used in this section:

(a) "Consumer" means a person who purchases prepaid wireless telecommunications service in a transaction.

(b) "Prepaid wireless 911 service charge" means the charge that is required to be collected by a seller from a consumer in the amount established under Subsection (2).

(c) (i) "Prepaid wireless telecommunications service" means a wireless telecommunications service that:

(A) is paid for in advance;

(B) is sold in predetermined units of time or dollars that decline with use in a known amount or provides unlimited use of the service for a fixed amount or time; and

(C) allows a caller to access 911 emergency service.

(ii) "Prepaid wireless telecommunications service" does not include a wireless telecommunications service that is billed:

(A) to a customer on a recurring basis; and

(B) in a manner that includes the emergency services telecommunications charges, described in Sections 69-2-5, 69-2-5.5, and 69-2-5.6, for each radio communication access line assigned to the customer.

(d) "Seller" means a person that sells prepaid wireless telecommunications service to a consumer.

(e) "Transaction" means each purchase of prepaid wireless telecommunications service from a seller.

(f) "Wireless telecommunications service" means commercial mobile radio service as defined by 47 C.F.R. Sec. 20.3, as amended.

(2) There is imposed a prepaid wireless 911 service charge of 1.9% of the sales price per transaction.

(3) (a) The prepaid wireless 911 service charge shall be collected by the seller from the consumer for each transaction occurring in this state.

(b) (i) Except as provided in Subsections (3)(b)(ii) and (iii), if a user of a service subject to a charge described in Subsection (2) is not the consumer, the seller shall collect the charge from the consumer for the service.

(ii) The charge described in Subsection (2) is not imposed on a seller or a consumer of federal wireless lifeline service if the consumer does not pay the seller for the service.

(iii) A consumer of federal wireless lifeline service shall pay, and the seller of the service shall collect and remit, the charge described in Subsection (2) when the consumer purchases from the seller optional services in addition to the federally funded lifeline benefit.

(4) The prepaid wireless 911 service charge shall be separately stated on an invoice, receipt, or similar document that is provided by the seller to the consumer.

(5) For purposes of Subsection (3), the location of a transaction is determined in accordance with Sections 59-12-211 through 59-12-215.

(6) When prepaid wireless telecommunications service is sold with one or more other products or services for a single non-itemized price, then the percentage specified in Section (2) shall apply to the entire non-itemized price.

(7) A seller may retain 3% of prepaid wireless 911 service charges that are collected by the seller from consumers as reimbursement for the cost of billing, collecting, and remitting the charge.

(8) Prepaid wireless 911 service charges collected by a seller, except as retained under Subsection (7), shall be remitted to the State Tax Commission at the same time as the seller remits to the State Tax Commission money collected by the person under Title 59, Chapter 12, Sales and Use Tax Act.

(9) The State Tax Commission:

(a) shall collect, enforce, and administer the charge imposed under this section using the same procedures used in the administration, collection, and enforcement of the state sales and use taxes under:

(i) Title 59, Chapter 1, General Taxation Policies; and

(ii) Title 59, Chapter 12, Part 1, Tax Collection, except for:

(A) Section 59-12-104;

(B) Section 59-12-104.1;

(C) Section 59-12-104.2;

(D) Section 59-12-107.1; and

(E) Section 59-12-123;

(b) may retain up to 1.5% of the prepaid wireless 911 service charge revenue collected under Subsection (9)(a) as reimbursement for administering this section;

(c) shall distribute the prepaid wireless 911 service charge revenue, except as retained under Subsection (9)(b), as follows:

(i) 80.3% of the revenue shall be distributed to each county, city, town, or metro township in the same percentages and in the same manner as the entities receive money to fund 911 emergency telecommunications services under Section 69-2-5;

(ii) 7.9% of the revenue shall be distributed to fund the Computer Aided Dispatch Restricted Account created in Section 63H-7a-303;

(iii) 11.8% of the revenue shall be distributed to fund the unified statewide 911 emergency service as in Section 69-2-5.6; and

(d) may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer, collect, and enforce the charges imposed under this section.

(10) A charge under this section is subject to Section 69-2-5.8.

CHAPTER 180**S. B. 197**

Passed March 9, 2016
Approved March 22, 2016
Effective May 10, 2016

**RESALE OF PROCUREMENT
ITEM AMENDMENTS**

Chief Sponsor: Karen Mayne
House Sponsor: Don L. Ipson

LONG TITLE**General Description:**

This bill modifies provisions related to the resale of a procurement item.

Highlighted Provisions:

This bill:

- ▶ imposes requirements and places limits on a state or local government entity that sells a procurement item to the original seller for more than the purchase price.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

11-54-101, Utah Code Annotated 1953
11-54-102, Utah Code Annotated 1953
11-54-103, Utah Code Annotated 1953
63G-6a-110, Utah Code Annotated 1953

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

Section 1. Section 11-54-101 is enacted to read:**CHAPTER 54. LOCAL GOVERNMENT SALE
OF PROCUREMENT ITEM****11-54-101. Title.**

This chapter is known as "Local Government Sale of Procurement Item."

Section 2. Section 11-54-102 is enacted to read:**11-54-102. Definitions.**

As used in this chapter:

(1) "Buyback purchaser" means a person who buys a procurement item from the local government entity to which the person previously sold the procurement item.

(2) "Excess repurchase amount" means the difference between:

(a) the amount a buyback purchaser pays to a local government entity to purchase a procurement item that the buyback purchaser previously sold to the local government entity; and

(b) the amount the local government entity paid to the buyback purchaser to purchase the procurement item.

(3) "Local government entity" means a county, city, town, metro township, local district, special service district, community development and renewal agency, conservation district, or school district that is not subject to Title 63G, Chapter 6a, Utah Procurement Code.

(4) "Procurement item" means the same as that term is defined in Section 63G-6a-103.

Section 3. Section 11-54-103 is enacted to read:**11-54-103. Sale of previously purchased item -- Limitations.**

A local government entity that sells a procurement item to a buyback purchaser for an amount that exceeds the amount the local government entity paid for the procurement item:

(1) shall require the buyback purchaser to pay cash for the procurement item;

(2) may not accept the excess repurchase amount in the form of a credit, discount, or other incentive on a future purchase that the local government entity makes from the buyback purchaser; and

(3) may not use the excess repurchase amount to acquire an additional procurement item from the person who paid the excess repurchase amount.

Section 4. Section 63G-6a-110 is enacted to read:**63G-6a-110. Sale of previously purchased procurement item -- Limitations.**

(1) As used in this section:

(a) "Buyback purchaser" means a person who buys a procurement item from the procurement unit to which the person previously sold the procurement item.

(b) "Excess repurchase amount" means the difference between:

(i) the amount a buyback purchaser pays to a procurement unit to purchase a procurement item that the buyback purchaser previously sold to the procurement unit; and

(ii) the amount the procurement unit paid to the buyback purchaser to purchase the procurement item.

(2) A procurement unit that sells a procurement item to a buyback purchaser for an amount that exceeds the amount the procurement unit paid for the procurement item:

(a) shall require the buyback purchaser to pay cash for the procurement item;

(b) may not accept the excess repurchase amount in the form of a credit, discount, or other incentive on a future purchase that the procurement unit makes from the buyback purchaser; and

(c) may not use the excess repurchase amount to acquire an additional procurement item from the person who paid the excess repurchase amount.

CHAPTER 181**S. B. 203**

Passed March 10, 2016
 Approved March 22, 2016
 Effective May 10, 2016

IMMUNITY AMENDMENTS

Chief Sponsor: J. Stuart Adams
 House Sponsor: Curtis Oda

LONG TITLE**General Description:**

This bill modifies the General Government code by amending immunity provisions.

Highlighted Provisions:

This bill:

- ▶ provides that a governmental entity's officers and employees' immunity from suit for an injury or damage resulting from the implementation of or failure to implement measures to respond to emergency or public health conditions includes the use, provision, operation, and management of certain facilities;
- ▶ provides that a person or business entity owning a building or other facility and an operator of or an employee in a building or facility is immune from liability with respect to any decisions or actions related to emergency or public health conditions while acting under the general supervision of or on behalf of any public entity; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-7-201, as last amended by Laws of Utah 2015, Chapter 342
 63G-8-201, as last amended by Laws of Utah 2013, Chapter 249

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

Section 1. Section 63G-7-201 is amended to read:**63G-7-201. Immunity of governmental entities and employees from suit.**

(1) Except as otherwise provided in this chapter, each governmental entity and each employee of a governmental entity are immune from suit for any injury that results from the exercise of a governmental function.

(2) Notwithstanding the waiver of immunity provisions of Section 63G-7-301, a governmental entity, its officers, and its employees are immune from suit for any injury or damage resulting from the implementation of or the failure to implement measures to:

(a) control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health or

necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health Departments;

(b) investigate and control suspected bioterrorism and disease as set out in Title 26, Chapter 23b, Detection of Public Health Emergencies Act;

(c) respond to a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the President of the United States or other federal official requesting public health related activities; and, including the use, provision, operation, and management of:

(i) an emergency shelter;

(ii) housing;

(iii) a staging place; or

(iv) a medical facility; and

(d) adopt methods or measures, in accordance with Section 26-1-30, for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals they serve.

(3) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury if the injury arises out of or in connection with, or results from:

(a) a latent dangerous or latent defective condition of:

(i) any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, or viaduct; or

(ii) another structure located on any of the items listed in Subsection (3)(a)(i); or

(b) a latent dangerous or latent defective condition of any public building, structure, dam, reservoir, or other public improvement.

(4) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment, if the injury arises out of or in connection with, or results from:

(a) the exercise or performance, or the failure to exercise or perform, a discretionary function, whether or not the discretion is abused;

(b) assault, battery, false imprisonment, false arrest, malicious prosecution, intentional trespass, abuse of process, libel, slander, deceit, interference with contract rights, infliction of mental anguish, or violation of civil rights;

(c) the issuance, denial, suspension, or revocation of, or the failure or refusal to issue, deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar authorization;

(d) a failure to make an inspection or making an inadequate or negligent inspection;

(e) the institution or prosecution of any judicial or administrative proceeding, even if malicious or without probable cause;

(f) a misrepresentation by an employee whether or not the misrepresentation is negligent or intentional;

(g) a riot, unlawful assembly, public demonstration, mob violence, or civil disturbance;

(h) the collection or assessment of taxes;

(i) an activity of the Utah National Guard;

(j) the incarceration of a person in a state prison, county or city jail, or other place of legal confinement;

(k) a natural condition on publicly owned or controlled land;

(l) a condition existing in connection with an abandoned mine or mining operation;

(m) an activity authorized by the School and Institutional Trust Lands Administration or the Division of Forestry, Fire, and State Lands;

(n) the operation or existence of a pedestrian or equestrian trail that is along a ditch, canal, stream, or river, regardless of ownership or operation of the ditch, canal, stream, or river, if:

(i) the trail is designated under a general plan adopted by a municipality under Section 10-9a-401 or by a county under Section 17-27a-401;

(ii) the trail right-of-way or the right-of-way where the trail is located is open to public use as evidenced by a written agreement between:

(A) the owner or operator of the trail right-of-way or of the right-of-way where the trail is located; and

(B) the municipality or county where the trail is located; and

(iii) the written agreement:

(A) contains a plan for operation and maintenance of the trail; and

(B) provides that an owner or operator of the trail right-of-way or of the right-of-way where the trail is located has, at a minimum, the same level of immunity from suit as the governmental entity in connection with or resulting from the use of the trail;

(o) research or implementation of cloud management or seeding for the clearing of fog;

(p) the management of flood waters, earthquakes, or natural disasters;

(q) the construction, repair, or operation of flood or storm systems;

(r) the operation of an emergency vehicle, while being driven in accordance with the requirements of Section 41-6a-212;

(s) the activity of:

(i) providing emergency medical assistance;

(ii) fighting fire;

(iii) regulating, mitigating, or handling hazardous materials or hazardous wastes;

(iv) an emergency evacuation;

(v) transporting or removing an injured person to a place where emergency medical assistance can be rendered or where the person can be transported by a licensed ambulance service; or

(vi) intervening during a dam emergency;

(t) the exercise or performance, or the failure to exercise or perform, any function pursuant to Title 73, Chapter 10, Board of Water Resources - Division of Water Resources;

(u) an unauthorized access to government records, data, or electronic information systems by any person or entity; or

(v) an activity of wildlife, as defined in Section 23-13-2, that arises during the use of a public or private road.

Section 2. Section 63G-8-201 is amended to read:

63G-8-201. Voluntary services -- Immunity from liability -- Exceptions.

(1) A person performing services on a voluntary basis, without compensation, under the general supervision of, and on behalf of any public entity, is immune from liability with respect to any decisions or actions, other than in connection with the operation of a motor vehicle, taken during the course of those services, unless it is established that such decisions or actions were grossly negligent, not made in good faith, or were made maliciously.

(2) A volunteer facilitator is immune from liability to the extent provided in Subsection 67-20-3(4).

(3) A person or entity owning a building or other facility and an operator of or an employee in a building or facility is immune from liability with respect to any decisions or actions related to emergency or public health conditions, as described in Subsection 63G-7-201(2)(c), while acting under the general supervision of or on behalf of any public entity.

CHAPTER 182**S. B. 204**

Passed March 10, 2016
 Approved March 22, 2016
 Effective May 10, 2016

**FREE MARKET PROTECTION
 AND PRIVATIZATION BOARD
 ACT AMENDMENTS**

Chief Sponsor: Howard A. Stephenson

House Sponsor: Johnny Anderson

LONG TITLE**General Description:**

This bill modifies provisions related to the Free Market Protection and Privatization Board Act.

Highlighted Provisions:

This bill:

- ▶ authorizes the Free Market Protection and Privatization Board to review privatization of an activity of an exempted state entity if the entity requests that the board review privatization of the activity provided by the entity; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-4a-203, as last amended by Laws of Utah 2014, Chapter 371

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

Section 1. Section 63I-4a-203 is amended to read:

63I-4a-203. Free Market Protection and Privatization Board -- Duties.

(1) The board shall:

(a) determine whether an activity provided by an agency could be privatized to provide the same types and quality of a good or service that would result in cost savings;

(b) review privatization of an activity at the request of:

- (i) an agency; or
- (ii) a private enterprise;

(c) review issues concerning agency competition with one or more private enterprises to determine:

(i) whether privatization:

- (A) would be feasible;
- (B) would result in cost savings; and

(C) would result in equal or better quality of a good or service; and

(ii) ways to eliminate any unfair competition with a private enterprise;

(d) recommend privatization to an agency if a proposed privatization is demonstrated to provide a more cost efficient and effective manner of providing a good or service, taking into account:

- (i) the scope of providing the good or service;
- (ii) whether cost savings will be realized;
- (iii) whether quality will be improved;
- (iv) the impact on risk management;
- (v) the impact on timeliness;
- (vi) the ability to accommodate fluctuating demand;
- (vii) the ability to access outside expertise;
- (viii) the impact on oversight;
- (ix) the ability to develop sound policy and implement best practices; and
- (x) legal and practical impediments to privatization;

(e) comply with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in making rules establishing privatization standards, procedures, and requirements;

(f) in fulfilling the duties described in this Subsection (1), consult with, maintain communication with, and access information from:

- (i) other entities promoting privatization; and
 - (ii) managers and employees in the public sector;
- (g) comply with Part 3, Commercial Activities Inventory and Review; and

(h) (i) prepare an annual report for each calendar year that contains:

- (A) information about the board's activities;
- (B) recommendations on privatizing an activity provided by an agency; and

(C) the status of the inventory created under Part 3, Commercial Activities Inventory and Review;

(ii) submit the annual report to the Legislature and the governor by no later than January 15 immediately following the calendar year for which the report is made; and

(iii) submit, before November 1, an annual written report to the Government Operations Interim Committee.

(2) (a) The board may, using the criteria described in Subsection (1), consider whether to recommend privatization of an activity provided by an agency[; a county,] or a [special district] local entity:

[~~(a)~~] (i) on the board's own initiative;

[~~(b)~~] (ii) upon request by an agency[; a county,] or a [special district] local entity;

[~~(c)~~] (iii) in response to a complaint that an agency[; a county,] or a [special district] local entity is engaging in unfair competition with a private enterprise; or

~~[(d)]~~ (iv) in light of a proposal made by any person, regardless of whether the proposal was solicited.

(b) The board may, using the criteria described in Subsection (1), consider whether to recommend privatization of an activity provided by an entity that is an exempted agency under Subsection 63I-4a-102(2)(b) if the entity requests that the board review privatization of the activity provided by the entity.

(3) In addition to filing a copy of recommendations for privatization with an agency head, the board shall file a copy of its recommendations for privatization with:

(a) the governor's office; and

(b) the Office of Legislative Fiscal Analyst for submission to the relevant legislative appropriation subcommittee.

(4) (a) The board may appoint advisory groups to conduct studies, research, or analyses, and make reports and recommendations with respect to a matter within the jurisdiction of the board.

(b) At least one member of the board shall serve on each advisory group.

(5) (a) Subject to Subsection (5)(b), this chapter does not preclude an agency from privatizing the provision of a good or service independent of the board.

(b) If an agency privatizes the provision of a good or service, the agency shall include as part of the contract that privatizes the provision of the good or service that any contractor assumes all liability to provide the good or service.

CHAPTER 183**S. B. 212**

Passed March 9, 2016
 Approved March 22, 2016
 Effective May 10, 2016

WILDLAND FIRE SUPPRESSION FUND

Chief Sponsor: Evan J. Vickers
 House Sponsor: Joel K. Briscoe

LONG TITLE**General Description:**

This bill modifies the Wildland Fire Suppression Fund.

Highlighted Provisions:

This bill:

- ▶ creates a source of funding for the Wildland Fire Suppression Fund;
- ▶ modifies the structure of the Wildland Fire Suppression Fund; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates:

- ▶ to the Wildland Fire Suppression Fund, as a one-time appropriation:
 - from the Mineral Bonus Account, \$2,000,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 59-21-2, as last amended by Laws of Utah 2012, Chapters 212 and 242
 63J-1-314, as last amended by Laws of Utah 2013, Chapter 295
 63J-1-315, as last amended by Laws of Utah 2015, Chapter 283
 63J-3-103, as last amended by Laws of Utah 2014, Chapter 63
 63N-3-106, as renumbered and amended by Laws of Utah 2015, Chapter 283
 65A-8-204, as renumbered and amended by Laws of Utah 2007, Chapter 136

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

Section 1. Section 59-21-2 is amended to read:

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

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

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

(c) The Legislature shall make appropriations from the Mineral Bonus Account in accordance with Section 35 of the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 191.

(d) The state treasurer shall:

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

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

(e) The Division of Finance shall, beginning on July 1, 2017, annually deposit 30% of mineral lease bonus payments deposited under Subsection (1)(b) from the previous fiscal year into the Wildland Fire Suppression Fund created in Section 65A-8-204, up to \$2,000,000 but not to exceed 20% of the amount expended in the previous fiscal year from the Wildland Fire Suppression Fund.

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

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

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

(d) The Legislature shall annually appropriate 32.5% of all deposits made to the Mineral Lease Account to the Permanent Community Impact Fund established by Section 35A-8-303.

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

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

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

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

(A) counties;

(B) special service districts established:

(I) by counties;

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

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

(C) special service districts established:

(I) by counties;

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

(III) for other purposes authorized by statute.

(ii) The Department of Transportation shall allocate the funds specified in Subsection (2)(h)(i):

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

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

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

(A) special service districts established:

(I) by counties;

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

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

(B) special service districts established:

(I) by counties;

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

(III) for other purposes authorized by statute.

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

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

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

(C) that are significantly socially or economically impacted as provided in Subsection (2)(i)(iii) by the development of minerals under the Mineral Lands Leasing Act, 30 U.S.C. Sec. 181 et seq.

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

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

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

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

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

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

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

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

(v) The executive director of the Department of Workforce Services:

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

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

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

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

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

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

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

(B) to each county in which school or institutional trust lands are transferred to the federal government after December 31, 1992, an amount equal to the number of transferred acres in the county multiplied by a payment per acre equal to the difference between 52 cents per acre and the per acre payment made to that county in the most recent payment under the federal payment in lieu of taxes program, 31 U.S.C. Sec. 6901 et seq., unless the federal payment was equal to or exceeded the 52 cents per acre, in which case a payment under this

Subsection (2)(j)(i)(B) may not be made for the transferred lands;

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

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

(I) \$1,000; and

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

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

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

(B) school districts; or

(C) public institutions of higher education.

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

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

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

(A) owned by:

(I) the Division of Parks and Recreation; or

(II) the Division of Wildlife Resources;

(B) located on lands that are owned by:

(I) the Division of Parks and Recreation; or

(II) the Division of Wildlife Resources; and

(C) are not subject to taxation under:

(I) Chapter 2, Property Tax Act; or

(II) Chapter 4, Privilege Tax.

(k) The Legislature shall annually appropriate to the Permanent Community Impact Fund all

deposits remaining in the Mineral Lease Account after making the appropriations provided for in Subsections (2)(d) through (j).

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

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

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

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

Section 2. Section 63J-1-314 is amended to read:

63J-1-314. Deposits related to the Wildland Fire Suppression Fund and the Disaster Recovery Funding Act.

(1) As used in this section, "operating deficit" means that, at the end of the fiscal year, the unassigned fund balance in the General Fund is less than zero.

(2) Except as provided under Subsection (3), at the end of each fiscal year, the Division of Finance shall, after the transfer of General Fund revenue surplus has been made to the Medicaid Growth Reduction and Budget Stabilization Account, as provided in Section 63J-1-315, and the General Fund Budget Reserve Account, as provided in Section 63J-1-312, transfer:

(a) \$4,000,000 to the Wildland Fire Suppression Fund created in Section 65A-8-204, not to exceed the cap described in Subsection 65A-8-204(5); and

(b) an amount into the State Disaster Recovery Restricted Account, created in Section 53-2a-603, from the General Fund revenue surplus as defined in Section 63J-1-312, calculated by:

~~(a)~~ (i) determining the amount of General Fund revenue surplus after the transfer to the Medicaid Growth Reduction and Budget Stabilization Account under Section 63J-1-315 ~~and~~, the General Fund Budget Reserve Account under Section 63J-1-312, and the transfer to the Wildland Fire Suppression Fund as described in Subsection (2)(a);

~~(b)~~ (ii) calculating an amount equal to the lesser of:

~~(i)~~ (A) 25% of the amount determined under Subsection ~~(2)(a)~~ (2)(b)(ii); or

~~(ii)~~ (B) 6% of the total of the General Fund appropriation amount for the fiscal year in which the surplus occurs; and

~~(c)~~ (iii) adding to the amount calculated under Subsection (2)(b)(ii) an amount equal to the lesser of:

~~(4)~~ (A) 25% more of the amount described in Subsection ~~(2)(a)~~ (2)(b)(i); or

~~(4)~~ (B) the amount necessary to replace, in accordance with this Subsection ~~(2)(e)~~ (2)(b)(iii), any amount appropriated from the State Disaster Recovery Restricted Account within 10 fiscal years before the fiscal year in which the surplus occurs if:

~~(A)~~ (I) a surplus exists; and

~~(B)~~ (II) the Legislature appropriates money from the State Disaster Recovery Restricted Account that is not replaced by appropriation or as provided in this Subsection ~~(2)(e)~~ (2)(b)(iii).

(3) Notwithstanding Subsection (2), if, at the end of a fiscal year, the Division of Finance determines that an operating deficit exists, the division shall reduce the transfer to the State Disaster Recovery Restricted Account by the amount necessary to eliminate the operating deficit.

Section 3. Section 63J-1-315 is amended to read:

63J-1-315. Medicaid Growth Reduction and Budget Stabilization Account -- Transfers of Medicaid growth savings -- Base budget adjustments.

(1) As used in this section:

(a) "Department" means the Department of Health created in Section 26-1-4.

(b) "Division" means the Division of Health Care Financing created within the department under Section 26-18-2.1.

(c) "General Fund revenue surplus" means a situation where actual General Fund revenues collected in a completed fiscal year exceed the estimated revenues for the General Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the Legislature.

(d) "Medicaid growth savings" means the Medicaid growth target minus Medicaid program expenditures, if Medicaid program expenditures are less than the Medicaid growth target.

(e) "Medicaid growth target" means Medicaid program expenditures for the previous year multiplied by 1.08.

(f) "Medicaid program" is as defined in Section 26-18-2.

(g) "Medicaid program expenditures" means total state revenue expended for the Medicaid program from the General Fund, including restricted accounts within the General Fund, during a fiscal year.

(h) "Medicaid program expenditures for the previous year" means total state revenue expended for the Medicaid program from the General Fund, including restricted accounts within the General Fund, during the fiscal year immediately preceding a fiscal year for which Medicaid program expenditures are calculated.

(i) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund balance in the General Fund is less than zero.

(j) "State revenue" means revenue other than federal revenue.

(k) "State revenue expended for the Medicaid program" includes money transferred or appropriated to the Medicaid Growth Reduction and Budget Stabilization Account only to the extent the money is appropriated for the Medicaid program by the Legislature.

(2) There is created within the General Fund a restricted account to be known as the Medicaid Growth Reduction and Budget Stabilization Account.

(3) (a) (i) Except as provided in Subsection (6), if, at the end of a fiscal year, there is a General Fund revenue surplus, the Division of Finance shall transfer an amount equal to Medicaid growth savings from the General Fund to the Medicaid Growth Reduction and Budget Stabilization Account.

(ii) If the amount transferred is reduced to prevent an operating deficit, as provided in Subsection (6), the Legislature shall include, to the extent revenue is available, an amount equal to the reduction as an appropriation from the General Fund to the account in the base budget for the second fiscal year following the fiscal year for which the reduction was made.

(b) If, at the end of a fiscal year, there is not a General Fund revenue surplus, the Legislature shall include, to the extent revenue is available, an amount equal to Medicaid growth savings as an appropriation from the General Fund to the account in the base budget for the second fiscal year following the fiscal year for which the reduction was made.

(c) Subsections (3)(a) and (3)(b) apply only to the fiscal year in which the department implements the proposal developed under Section 26-18-405 to reduce the long-term growth in state expenditures for the Medicaid program, and to each fiscal year after that year.

(4) The Division of Finance shall calculate the amount to be transferred under Subsection (3):

(a) before transferring revenue from the General Fund revenue surplus to:

(i) the General Fund Budget Reserve Account under Section 63J-1-312; ~~and~~

(ii) the Wildland Fire Suppression Fund created in Section 65A-8-204, as described in Section 63J-1-314; and

~~(4)~~ (iii) the State Disaster Recovery Restricted Account under Section 63J-1-314;

(b) before earmarking revenue from the General Fund revenue surplus to the Industrial Assistance Account under Section 63N-3-106; and

(c) before making any other year-end contingency appropriations, year-end set-asides, or other year-end transfers required by law.

(5) (a) If, at the close of any fiscal year, there appears to be insufficient money to pay additional debt service for any bonded debt authorized by the Legislature, the Division of Finance may hold back from any General Fund revenue surplus money sufficient to pay the additional debt service requirements resulting from issuance of bonded debt that was authorized by the Legislature.

(b) The Division of Finance may not spend the hold back amount for debt service under Subsection (5)(a) unless and until it is appropriated by the Legislature.

(c) If, after calculating the amount for transfer under Subsection (3), the remaining General Fund revenue surplus is insufficient to cover the hold back for debt service required by Subsection (5)(a), the Division of Finance shall reduce the transfer to the Medicaid Growth Reduction and Budget Stabilization Account by the amount necessary to cover the debt service hold back.

(d) Notwithstanding Subsections (3) and (4), the Division of Finance shall hold back the General Fund balance for debt service authorized by this Subsection (5) before making any transfers to the Medicaid Growth Reduction and Budget Stabilization Account or any other designation or allocation of General Fund revenue surplus.

(6) Notwithstanding Subsections (3) and (4), if, at the end of a fiscal year, the Division of Finance determines that an operating deficit exists and that holding back earmarks to the Industrial Assistance Account under Section 63N-3-106, transfers to the Wildland Fire Suppression Fund and State Disaster Recovery Restricted Account under Section 63J-1-314, transfers to the General Fund Budget Reserve Account under Section 63J-1-312, or earmarks and transfers to more than one of those accounts, in that order, does not eliminate the operating deficit, the Division of Finance may reduce the transfer to the Medicaid Growth Reduction and Budget Stabilization Account by the amount necessary to eliminate the operating deficit.

(7) The Legislature may appropriate money from the Medicaid Growth Reduction and Budget Stabilization Account only:

(a) if Medicaid program expenditures for the fiscal year for which the appropriation is made are estimated to be 108% or more of Medicaid program expenditures for the previous year; and

(b) for the Medicaid program.

(8) The Division of Finance shall deposit interest or other earnings derived from investment of Medicaid Growth Reduction and Budget Stabilization Account money into the General Fund.

Section 4. Section 63J-3-103 is amended to read:

63J-3-103. Definitions.

As used in this chapter:

(1) (a) "Appropriations" means actual unrestricted capital and operating appropriations from unrestricted General Fund and Education Fund sources.

(b) "Appropriations" includes appropriations that are contingent upon available surpluses in the General Fund and Education Fund.

(c) "Appropriations" does not mean:

(i) public education expenditures;

(ii) Utah Education and Telehealth Network expenditures in support of public education;

(iii) Utah College of Applied Technology expenditures in support of public education;

(iv) Tax Commission expenditures related to collection of income taxes in support of public education;

(v) debt service expenditures;

(vi) emergency expenditures;

(vii) expenditures from all other fund or subfund sources;

(viii) transfers or appropriations from the Education Fund to the Uniform School Fund;

(ix) transfers into, or appropriations made to, the General Fund Budget Reserve Account established in Section 63J-1-312;

(x) transfers into, or appropriations made to, the Education Budget Reserve Account established in Section 63J-1-313;

(xi) transfers in accordance with Section 63J-1-314 into, or appropriations made to the Wildland Fire Suppression Fund created in Section 65A-8-204 or the State Disaster Recovery Restricted Account created in Section 53-2a-603;

(xii) money appropriated to fund the total one-time project costs for the construction of capital developments as defined in Section 63A-5-104;

(xiii) transfers or deposits into or appropriations made to the Centennial Highway Fund created by Section 72-2-118;

(xiv) transfers or deposits into or appropriations made to the Transportation Investment Fund of 2005 created by Section 72-2-124;

(xv) transfers or deposits into or appropriations made to:

(A) the Department of Transportation from any source; or

(B) any transportation-related account or fund from any source; or

(xvi) supplemental appropriations from the General Fund to the Division of Forestry, Fire, and State Lands to provide money for wildland fire control expenses incurred during the current or previous fire years.

(2) "Base year real per capita appropriations" means the result obtained for the state by dividing

the fiscal year 1985 actual appropriations of the state less debt money by:

- (a) the state's July 1, 1983 population; and
- (b) the fiscal year 1983 inflation index divided by 100.

(3) "Calendar year" means the time period beginning on January 1 of any given year and ending on December 31 of the same year.

(4) "Fiscal emergency" means an extraordinary occurrence requiring immediate expenditures and includes the settlement under Laws of Utah 1988, Fourth Special Session, Chapter 4.

(5) "Fiscal year" means the time period beginning on July 1 of any given year and ending on June 30 of the subsequent year.

(6) "Fiscal year 1985 actual base year appropriations" means fiscal year 1985 actual capital and operations appropriations from General Fund and non-Uniform School Fund income tax revenue sources, less debt money.

(7) "Inflation index" means the change in the general price level of goods and services as measured by the Gross National Product Implicit Price Deflator of the Bureau of Economic Analysis, U.S. Department of Commerce calculated as provided in Section 63J-3-202.

(8) (a) "Maximum allowable appropriations limit" means the appropriations that could be, or could have been, spent in any given year under the limitations of this chapter.

(b) "Maximum allowable appropriations limit" does not mean actual appropriations spent or actual expenditures.

(9) "Most recent fiscal year's inflation index" means the fiscal year inflation index two fiscal years previous to the fiscal year for which the maximum allowable inflation and population appropriations limit is being computed under this chapter.

(10) "Most recent fiscal year's population" means the fiscal year population two fiscal years previous to the fiscal year for which the maximum allowable inflation and population appropriations limit is being computed under this chapter.

(11) "Population" means the number of residents of the state as of July 1 of each year as calculated by the Governor's Office of Management and Budget according to the procedures and requirements of Section 63J-3-202.

(12) "Revenues" means the revenues of the state from every tax, penalty, receipt, and other monetary exaction and interest connected with it that are recorded as unrestricted revenue of the General Fund and from non-Uniform School Fund income tax revenues, except as specifically exempted by this chapter.

(13) "Security" means any bond, note, warrant, or other evidence of indebtedness, whether or not the bond, note, warrant, or other evidence of

indebtedness is or constitutes an "indebtedness" within the meaning of any provision of the constitution or laws of this state.

Section 5. Section 63N-3-106 is amended to read:

63N-3-106. Loans, grants, and assistance -- Repayment -- Earned credits.

(1) (a) A company that qualifies under Section 63N-3-105 may receive loans, grants, or other financial assistance from the Industrial Assistance Account for expenses related to establishment, relocation, or development of industry in Utah.

(b) A company creating an economic impediment that qualifies under Section 63N-3-108 may in accordance with this part receive loans, grants, or other financial assistance from the restricted account for the expenses of the company creating an economic impediment related to:

- (i) relocation to a rural area in Utah of the company creating an economic impediment; and
- (ii) the siting of a replacement company.

(c) An entity offering an economic opportunity that qualifies under Section 63N-3-109 may:

(i) receive loans, grants, or other financial assistance from the restricted account for expenses related to the establishment, relocation, retention, or development of industry in the state; and

(ii) include infrastructure or other economic development precursor activities that act as a catalyst and stimulus for economic activity likely to lead to the maintenance or enlargement of the state's tax base.

(2) (a) Subject to Subsection (2)(b), the administrator has authority to determine the structure, amount, and nature of any loan, grant, or other financial assistance from the restricted account.

(b) Loans made under Subsection (2)(a) shall be structured so the intended repayment or return to the state, including cash or credit, equals at least the amount of the assistance together with an annual interest charge as negotiated by the administrator.

(c) Payments resulting from grants awarded from the restricted account shall be made only after the administrator has determined that the company has satisfied the conditions upon which the payment or earned credit was based.

(3) (a) (i) Except as provided in Subsection (3)(b), the administrator may provide for a system of earned credits that may be used to support grant payments or in lieu of cash repayment of a restricted account loan obligation.

(ii) The value of the credits described in Subsection (3)(a)(i) shall be based on factors determined by the administrator, including:

(A) the number of Utah jobs created;

(B) the increased economic activity in Utah; or

(C) other events and activities that occur as a result of the restricted account assistance.

(b) (i) The administrator shall provide for a system of credits to be used to support grant payments or in lieu of cash repayment of a restricted account loan when loans are made to a company creating an economic impediment.

(ii) The value of the credits described in Subsection (3)(b)(i) shall be based on factors determined by the administrator, including:

- (A) the number of Utah jobs created;
- (B) the increased economic activity in Utah; or
- (C) other events and activities that occur as a result of the restricted account assistance.

(4) (a) A cash loan repayment or other cash recovery from a company receiving assistance under this section, including interest, shall be deposited into the restricted account.

(b) The administrator and the Division of Finance shall determine the manner of recognizing and accounting for the earned credits used in lieu of loan repayments or to support grant payments as provided in Subsection (3).

(5) (a) (i) At the end of each fiscal year, the Division of Finance shall set aside the balance of the General Fund revenue surplus as defined in Section 63J-1-312 after the transfers of General Fund revenue surplus described in Subsection (5)(b) to the Industrial Assistance Account in an amount equal to any credit that has accrued under this part.

(ii) The set aside under Subsection (5)(a)(i) shall be capped at \$50,000,000, at which time no subsequent contributions may be made and any interest accrued above the \$50,000,000 cap shall be deposited into the General Fund.

(b) The set aside required by Subsection (5)(a) shall be made after the transfer of surplus General Fund revenue surplus is made:

(i) to the Medicaid Growth Reduction and Budget Stabilization Restricted Account, as provided in Section 63J-1-315;

(ii) to the General Fund Budget Reserve Account, as provided in Section 63J-1-312; and

(iii) to the Wildland Fire Suppression Fund or State Disaster Recovery Restricted Account, as provided in Section 63J-1-314.

(c) These credit amounts may not be used for purposes of the restricted account as provided in this part until appropriated by the Legislature.

Section 6. Section 65A-8-204 is amended to read:

65A-8-204. Wildland Fire Suppression Fund created.

(1) There is created ~~[a private purpose trust]~~ an expendable special revenue fund known as the "Wildland Fire Suppression Fund."

(2) The fund shall be administered by the division to pay ~~[fire]~~ wildfire suppression ~~[and presuppression]~~ costs on eligible lands ~~[within unincorporated areas of counties].~~

(3) The contents of the fund shall include:

~~[(a) payments by counties pursuant to written agreements made under Section 65A-8-205;]~~

(a) the balance of the fund as of July 1, 2016;

(b) money deposited by the Division of Finance, pursuant to Section 59-21-2;

(c) money transferred by the Division of Finance, pursuant to Section 63J-1-312;

(d) costs recovered from successful investigations;

(e) federal funds received by the division for wildfire management costs;

(f) suppression costs paid to the division from another state agency;

(g) costs recovered from settlements and civil actions related to wildfire suppression;

~~[(b)]~~ (h) interest and earnings from the investment of fund money; and

~~[(e)]~~ (i) money appropriated by the Legislature.

(4) Fund money shall be invested by the state treasurer with the earnings and interest accruing to the fund.

(5) ~~[(a)]~~ A maximum level of ~~[\$8,000,000]~~ \$12,000,000 is established for the fund.

~~[(b) (i) Except as provided in Subsection (5)(b)(ii), if the amount of money in the fund equals or exceeds \$8,000,000 on March 31, no assessments may be charged for the following year.]~~

~~[(ii) The waiver of assessments provided in Subsection (5)(b)(i) does not apply to any equity payment required by Section 65A-8-205.]~~

Section 7. Appropriation.

Under the terms and conditions of Utah Code Title 63J Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These are additions to amounts previously appropriated for fiscal year 2017.

To Wildland Fire Suppression Fund

From Mineral Bonus Account -- One-time	\$2,000,000
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Schedule of Programs:

Wildland Fire Suppression Fund	\$2,000,000
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CHAPTER 184**S. B. 246**

Passed March 10, 2016
Approved March 22, 2016
Effective July 1, 2016

**FUNDING FOR
INFRASTRUCTURE REVISIONS**

Chief Sponsor: J. Stuart Adams
House Sponsor: Mike K. McKell

LONG TITLE**General Description:**

This bill modifies and enacts provisions relating to funding for infrastructure projects.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ reduces certain sales and use tax earmarks that are deposited into the Transportation Investment Fund of 2005;
- ▶ provides that certain sales and use tax revenue shall be deposited into the Throughput Infrastructure Fund;
- ▶ provides that certain revenues shall be appropriated from the Mineral Lease Account to the Impacted Communities Transportation Development Restricted Account;
- ▶ creates the Throughput Infrastructure Fund;
- ▶ enacts provisions related to deposits into and use of funds in the Throughput Infrastructure Fund;
- ▶ requires the Permanent Community Impact Fund Board to administer the Throughput Infrastructure Fund;
- ▶ creates the Impacted Communities Transportation Development Restricted Account;
- ▶ enacts provisions related to deposits into and use of funds in the Impacted Communities Transportation Development Restricted Account; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

35A-8-302, as last amended by Laws of Utah 2012, Chapter 9 and renumbered and amended by Laws of Utah 2012, Chapter 212
59-12-103, as last amended by Laws of Utah 2015, Chapter 283
59-12-1201, as last amended by Laws of Utah 2012, Chapter 121
59-21-2, as last amended by Laws of Utah 2012, Chapters 212 and 242

ENACTS:

35A-8-308, Utah Code Annotated 1953
35A-8-309, Utah Code Annotated 1953
72-2-128, Utah Code Annotated 1953

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

Section 1. Section 35A-8-302 is amended to read:**35A-8-302. Definitions.**

As used in this part:

(1) "Bonus payments" means that portion of the bonus payments received by the United States government under the Leasing Act paid to the state under Section 35 of the Leasing Act, 30 U.S.C. Sec. 191, together with any interest that had accrued on those payments.

(2) "Impact board" means the Permanent Community Impact Fund Board created under Section 35A-8-304.

(3) "Impact fund" means the Permanent Community Impact Fund established by this chapter.

(4) "Interlocal Agency" means a legal or administrative entity created by a subdivision or combination of subdivisions under the authority of Title 11, Chapter 13, Interlocal Cooperation Act.

(5) "Leasing Act" means the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 181 et seq.

(6) "Qualifying sales and use tax distribution reduction" means that, for the calendar year beginning on January 1, 2008, the total sales and use tax distributions a city received under Section 59-12-205 were reduced by at least 15% from the total sales and use tax distributions the city received under Section 59-12-205 for the calendar year beginning on January 1, 2007.

(7) "Subdivision" means a county, city, town, county service area, special service district, special improvement district, water conservancy district, water improvement district, sewer improvement district, housing authority, building authority, school district, or public postsecondary institution organized under the laws of this state.

(8) (a) "Throughput infrastructure project" means the following facilities, whether located within, partially within, or outside of the state:

(i) a bulk commodities ocean terminal;

(ii) a pipeline for the transportation of liquid or gaseous hydrocarbons;

(iii) electric transmission lines and ancillary facilities; or

(iv) a shortline freight railroad and ancillary facilities.

(b) "Throughput infrastructure project" includes:

(i) an ownership interest or a joint or undivided ownership interest in a facility;

(ii) a membership interest in the owner of a facility; or

(iii) a contractual right, whether secured or unsecured, to use all or a portion of the throughput, transportation, or transmission capacity of a facility.

Section 2. Section 35A-8-308 is enacted to read:

35A-8-308. Throughput Infrastructure Fund.

(1) There is created an enterprise fund known as the Throughput Infrastructure Fund.

(2) The fund consists of money generated from the following revenue sources:

(a) all amounts transferred to the fund under Subsection 59-12-103(14);

(b) any voluntary contributions received;

(c) appropriations made to the fund by the Legislature; and

(d) all amounts received from the repayment of loans made by the impact board under Section 35A-8-309.

(3) The state treasurer shall:

(a) invest the money in the fund by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and

(b) deposit all interest or other earnings derived from those investments into the fund.

Section 3. Section 35A-8-309 is enacted to read:

35A-8-309. Throughput Infrastructure Fund administered by impact board -- Uses -- Review by board -- Annual report.

(1) The impact board shall:

(a) make grants and loans from the Throughput Infrastructure Fund created in Section 35A-8-308 for a throughput infrastructure project;

(b) use money transferred to the Throughput Infrastructure Fund in accordance with Subsection 59-12-103(14) to provide a loan or grant to finance the cost of acquisition or construction of a throughput infrastructure project to one or more local political subdivisions, including a Utah interlocal entity created under the Interlocal Cooperation Act, Title 11, Chapter 13;

(c) administer the Throughput Infrastructure Fund in a manner that will keep a portion of the fund revolving;

(d) determine provisions for repayment of loans;

(e) establish criteria for awarding loans and grants; and

(f) establish criteria for determining eligibility for assistance under this section.

(2) The cost of acquisition or construction of a throughput infrastructure project includes amounts for working capital, reserves, transaction costs, and other amounts determined by the impact board to be allocable to a throughput infrastructure project.

(3) The impact board may restructure or forgive all or part of a local political subdivision's or interlocal entity's obligation to repay loans for extenuating circumstances.

(4) In order to receive assistance under this section, a local political subdivision or an interlocal entity shall submit a formal application containing the information that the impact board requires.

(5) (a) The impact board shall:

(i) review the proposed uses of the Throughput Infrastructure Fund for a loan or grant before approving the loan or grant and may condition its approval on whatever assurances the impact board considers necessary to ensure that proceeds of the loan or grant will be used in accordance with this section;

(ii) ensure that each loan specifies terms for interest deferments, accruals, and scheduled principal repayment; and

(iii) ensure that repayment terms are evidenced by bonds, notes, or other obligations of the appropriate local political subdivision or interlocal entity issued to the impact board and payable from the net revenues of a throughput infrastructure project.

(b) An instrument described in Subsection 5)(a)(iii) may be:

(i) non-recourse to the local political subdivision or interlocal entity; and

(ii) limited to a pledge of the net revenues from a throughput infrastructure project.

(6) (a) Subject to the restriction in Subsection 6)(b), the impact board shall allocate from the Throughput Infrastructure Fund to the board those amounts that are appropriated by the Legislature for the administration of the Throughput Infrastructure Fund.

(b) The amount described in Subsection 6)(a) may not exceed 2% of the annual receipts to the fund.

(7) The board shall include in the annual written report described in Section 35A-1-109:

(a) the number and type of loans and grants made under this section; and

(b) a list of local political subdivisions or interlocal entities that received assistance under this section.

Section 4. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

- (b) amounts paid for:
- (i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;
- (ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
- (iii) an ancillary service associated with a:
- (A) telecommunications service described in Subsection (1)(b)(i); or
- (B) mobile telecommunications service described in Subsection (1)(b)(ii);
- (c) sales of the following for commercial use:
- (i) gas;
- (ii) electricity;
- (iii) heat;
- (iv) coal;
- (v) fuel oil; or
- (vi) other fuels;
- (d) sales of the following for residential use:
- (i) gas;
- (ii) electricity;
- (iii) heat;
- (iv) coal;
- (v) fuel oil; or
- (vi) other fuels;
- (e) sales of prepared food;
- (f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;
- (g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- (i) the tangible personal property; and
- (ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:
- (A) any parts are actually used in the repairs or renovations of that tangible personal property; or
- (B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;
- (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;
- (i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;
- (j) amounts paid or charged for laundry or dry cleaning services;
- (k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:
- (i) stored;
- (ii) used; or
- (iii) otherwise consumed;
- (l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:
- (i) stored;
- (ii) used; or
- (iii) consumed; and
- (m) amounts paid or charged for a sale:
- (i) (A) of a product transferred electronically; or
- (B) of a repair or renovation of a product transferred electronically; and
- (ii) regardless of whether the sale provides:
- (A) a right of permanent use of the product; or
- (B) a right to use the product that is less than a permanent use, including a right:
- (I) for a definite or specified length of time; and
- (II) that terminates upon the occurrence of a condition.
- (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:
- (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
- (A) 4.70%; and
- (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(d)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller

keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(f) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection (2)(d)(i)(A)(I).

(h) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

(i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); or

(iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c)(ii); and

(iv) the tax imposed by Subsection (2)(d)(i)(B).

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) \$17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development Fund created in

Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than \$1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) \$17,500,000.

(b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as dedicated credits; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in

Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as dedicated credits; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 94% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c) and subject to Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred for employing additional technical staff for the administration of water rights.

(f) At the end of each fiscal year, any unexpended dedicated credits described in Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the

fiscal year shall be deposited in the Transportation Fund created by Section 72-2-102.

(7) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created in Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable transactions under Subsection (1).

(8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (7), and subject to Subsection (8)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

(A) the tax imposed by Subsection (2)(a)(i)(A);

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (8)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (8)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (8)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (8)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (8)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) for the current fiscal year under Subsection (8)(a).

(iii) In all subsequent fiscal years after a year in which 17% of the revenues collected from the sales

and use taxes described in Subsections (8)(a)(i)(A) through (D) was deposited under Subsection (8)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year under Subsection (8)(a).

(9) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (7) and (8), for the 2016-17 fiscal year only, the Division of Finance shall deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (7) and (8), for the 2017-18 fiscal year only, the Division of Finance shall deposit \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

~~(9)~~ (c) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (7) and (8), for a fiscal year beginning on or after July 1, ~~2012~~ 2018, the Division of Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(11) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b), and in addition to any amounts deposited under Subsections (7), (8), and (9), beginning on July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .025% tax rate on the transactions described in Subsection (1).

(b) For purposes of Subsection (11)(a), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(d).

(12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a .025% tax rate on the transactions

described in Subsection (1) to be expended to address chokepoints in construction management.

(b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into the Transportation Fund any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(d).

(13) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under Subsection 63N-2-510(3) that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(14) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

(b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

~~[(14)]~~ (15) Notwithstanding Subsections (4) through ~~[(13)]~~ (14), an amount required to be expended or deposited in accordance with Subsections (4) through ~~[(13)]~~ (14) may not include an amount the Division of Finance deposits in accordance with Section 59-12-103.2.

Section 5. Section 59-12-1201 is amended to read:

59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration, collection, and enforcement of tax -- Administrative charge -- Deposits.

(1) (a) Except as provided in Subsection (3), there is imposed a tax of 2.5% on all short-term leases and rentals of motor vehicles not exceeding 30 days.

(b) The tax imposed in this section is in addition to all other state, county, or municipal fees and taxes imposed on rentals of motor vehicles.

(2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax imposed under Subsection (1) shall take effect on the first day of a calendar quarter.

(b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of a tax rate increase imposed under Subsection (1).

(ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(3) A motor vehicle is exempt from the tax imposed under Subsection (1) if:

(a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

(b) the motor vehicle is rented as a personal household goods moving van; or

(c) the lease or rental of the motor vehicle is made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an insurance agreement.

(4) (a) (i) The tax authorized under this section shall be administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under Part 1, Tax Collection; and

(B) Chapter 1, General Taxation Policies.

(ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to Subsections 59-12-103(4) through ~~[(42)]~~ (14) or Section 59-12-107.1 or 59-12-123.

(b) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this part.

(c) Except as provided under Subsection (4)(b), all revenue received by the commission under this section shall be deposited daily with the state treasurer and credited monthly to the Marda Dillree Corridor Preservation Fund under Section 72-2-117.

Section 6. Section 59-21-2 is amended to read:

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

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

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

(c) The Legislature shall make appropriations from the Mineral Bonus Account in accordance with Section 35 of the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 191.

(d) The state treasurer shall:

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

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

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

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

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

(d) ~~[The]~~ (i) Except as provided in Subsections (2)(d)(ii) and (iii), the Legislature shall annually appropriate 32.5% of all deposits made to the Mineral Lease Account to the Permanent Community Impact Fund established by Section 35A-8-303.

(ii) For fiscal year 2016-17 only and from the amount required to be deposited under Subsection (2)(d)(i), the Legislature shall appropriate \$26,000,000 of the deposits made to the Mineral Lease Account to the Impacted Communities Transportation Development Restricted Account established by Section 72-2-128.

(iii) For fiscal year 2017-18 only and from the amount required to be deposited under Subsection (2)(d)(i), the Legislature shall appropriate \$27,000,000 of the deposits made to the Mineral Lease Account to the Impacted Communities Transportation Development Restricted Account established by Section 72-2-128.

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

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

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

(h) (i) The Legislature shall annually appropriate to the Department of Transportation 40% of all

deposits made to the Mineral Lease Account to be distributed as provided in Subsection (2)(h)(ii) to:

- (A) counties;
- (B) special service districts established:
- (I) by counties;
- (II) under Title 17D, Chapter 1, Special Service District Act; and

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

(C) special service districts established:

- (I) by counties;
- (II) under Title 17D, Chapter 1, Special Service District Act; and
- (III) for other purposes authorized by statute.

(ii) The Department of Transportation shall allocate the funds specified in Subsection (2)(h)(i):

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

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

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

- (A) special service districts established:
- (I) by counties;
- (II) under Title 17D, Chapter 1, Special Service District Act; and

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

(B) special service districts established:

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

(III) for other purposes authorized by statute.

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

- (A) of the third, fourth, fifth, or sixth class;
- (B) in which 4.5% or less of the mineral lease money within the state is generated; and
- (C) that are significantly socially or economically impacted as provided in Subsection (2)(i)(iii) by the development of minerals under the Mineral Lands Leasing Act, 30 U.S.C. Sec. 181 et seq.
- (iii) The significant social or economic impact required under Subsection (2)(i)(ii)(C) shall be as a result of:

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

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

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

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

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

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

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

(v) The executive director of the Department of Workforce Services:

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

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

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

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

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

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

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

(B) to each county in which school or institutional trust lands are transferred to the federal

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

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

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

(I) \$1,000; and

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

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

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

(B) school districts; or

(C) public institutions of higher education.

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

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

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

(A) owned by:

(I) the Division of Parks and Recreation; or

(II) the Division of Wildlife Resources;

(B) located on lands that are owned by:

(I) the Division of Parks and Recreation; or

(II) the Division of Wildlife Resources; and

(C) are not subject to taxation under:

(I) Chapter 2, Property Tax Act; or

(II) Chapter 4, Privilege Tax.

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

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

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

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

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

Section 7. Section 72-2-128 is enacted to read:

72-2-128. Impacted Communities Transportation Development Restricted Account.

(1) There is created a restricted account known as the Impacted Communities Transportation Development Restricted Account within the Transportation Investment Fund of 2005 created by Section 72-2-124.

(2) The account consists of money generated from the following revenue sources:

(a) Mineral Lease Account money deposited into the account in accordance with Section 59-21-2;

(b) any voluntary contributions received for the construction, major reconstruction, or major renovation of state or federal highways; and

(c) appropriations made to the fund by the Legislature.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) The executive director may use fund money, as prioritized by the Transportation Commission, only to pay the costs of construction, reconstruction, or renovation to state and federal highways that are qualified projects under the Mineral Lands Leasing Act, 30 U.S.C. Sec. 181 et seq.

Section 8. Effective date.

This bill takes effect on July 1, 2016.

CHAPTER 185**H. B. 16**

Passed March 10, 2016
 Approved March 23, 2016
 Effective May 10, 2016

OFFENDER REGISTRY AMENDMENTS

Chief Sponsor: Jack R. Draxler
 Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill modifies provisions of the Sex and Kidnap Offender Registry.

Highlighted Provisions:

This bill:

- ▶ adds the class A misdemeanor offenses of enticing a minor and voyeurism to the provisions allowing an offender to apply for removal from the registry five years after the offender completes the sentence and meets specified requirements; and
- ▶ provides that if an offender's petition to reduce the offender's time on the registry is denied, the offender may not petition again for three years.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

77-40-105, as last amended by Laws of Utah 2014, Chapter 199
 77-41-105, as last amended by Laws of Utah 2015, Chapter 210
 77-41-112, as last amended by Laws of Utah 2013, Chapter 122

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

Section 1. Section 77-40-105 is amended to read:**77-40-105. Eligibility for expungement of conviction -- Requirements.**

(1) A person convicted of an offense may apply to the bureau for a certificate of eligibility to expunge the record of conviction as provided in this section.

(2) A petitioner is not eligible to receive a certificate of eligibility from the bureau if:

(a) the conviction for which expungement is sought is:

- (i) a capital felony;
- (ii) a first degree felony;
- (iii) a violent felony as defined in Subsection 76-3-203.5(1)(c)(i);
- (iv) felony automobile homicide;

(v) a felony violation of Subsection 41-6a-501(2);
 or

(vi) a registerable sex offense as defined in Subsection 77-41-102[(16)](17);

(b) a criminal proceeding is pending against the petitioner; or

(c) the petitioner intentionally or knowingly provides false or misleading information on the application for a certificate of eligibility.

(3) A petitioner seeking to obtain expungement for a record of conviction is not eligible to receive a certificate of eligibility from the bureau until all of the following have occurred:

(a) all fines and interest ordered by the court have been paid in full;

(b) all restitution ordered by the court pursuant to Section 77-38a-302, or by the Board of Pardons and Parole pursuant to Section 77-27-6, has been paid in full; and

(c) the following time periods have elapsed from the date the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for each conviction the petitioner seeks to expunge:

(i) 10 years in the case of a misdemeanor conviction of Subsection 41-6a-501(2) or a felony conviction of Subsection 58-37-8(2)(g);

(ii) seven years in the case of a felony;

(iii) five years in the case of any class A misdemeanor or a felony drug possession offense;

(iv) four years in the case of a class B misdemeanor; or

(v) three years in the case of any other misdemeanor or infraction.

(4) The bureau may not issue a certificate of eligibility if, at the time the petitioner seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following:

(a) two or more felony convictions other than for drug possession offenses, each of which is contained in a separate criminal episode;

(b) any combination of three or more convictions other than for drug possession offenses that include two class A misdemeanor convictions, each of which is contained in a separate criminal episode;

(c) any combination of four or more convictions other than for drug possession offenses that include three class B misdemeanor convictions, each of which is contained in a separate criminal episode; or

(d) five or more convictions other than for drug possession offenses of any degree whether misdemeanor or felony, excluding infractions and any traffic offenses, each of which is contained in a separate criminal episode.

(5) The bureau may not issue a certificate of eligibility if, at the time the petitioner seeks a certificate of eligibility, the bureau determines that

the petitioner's criminal history, including previously expunged convictions, contains any of the following:

(a) three or more felony convictions for drug possession offenses, each of which is contained in a separate criminal episode; or

(b) any combination of five or more convictions for drug possession offenses, each of which is contained in a separate criminal episode.

(6) If the petitioner's criminal history contains convictions for both a drug possession offense and a non drug possession offense arising from the same criminal episode, that criminal episode shall be counted as provided in Subsection (4) if any non drug possession offense in that episode:

(a) is a felony or class A misdemeanor; or

(b) has the same or a longer waiting period under Subsection (3) than any drug possession offense in that episode.

(7) If, prior to May 14, 2013, the petitioner has received a pardon from the Utah Board of Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned crimes pursuant to Section 77-27-5.1.

Section 2. Section 77-41-105 is amended to read:

77-41-105. Registration of offenders -- Offender responsibilities.

(1) An offender convicted by any other jurisdiction is required to register under Subsection (3) and Subsection 77-41-102(9) or (17). The offender shall register with the department within 10 days of entering the state, regardless of the offender's length of stay.

(2) (a) An offender required to register under Subsection 77-41-102(9) or (17) who is under supervision by the department shall register in person with Division of Adult Probation and Parole.

(b) An offender required to register under Subsection 77-41-102(9) or (17) who is no longer under supervision by the department shall register in person with the police department or sheriff's office that has jurisdiction over the area where the offender resides.

(3) (a) Except as provided in Subsections (3)(b), (c), and (4), and Section 77-41-106, an offender shall, for the duration of the sentence and for 10 years after termination of sentence or custody of the division, register every year during the month of the offender's date of birth, during the month that is the sixth month after the offender's birth month, and also within three business days of every change of the offender's primary residence, any secondary residences, place of employment, vehicle information, or educational information required to be submitted under Subsection (8).

(b) Except as provided in Subsections (4) and (5), and Section 77-41-106, an offender who is convicted in another jurisdiction of an offense listed in Subsection 77-41-102(9)(a) or (17)(a), a

substantially similar offense, or any other offense that requires registration in the jurisdiction of conviction, shall:

(i) register for the time period, and in the frequency, required by the jurisdiction where the offender was convicted if that jurisdiction's registration period or registration frequency requirement for the offense that the offender was convicted of is greater than the 10 years from completion of the sentence registration period that is required under Subsection (3)(a), or is more frequent than every six months; or

(ii) register in accordance with the requirements of Subsection (3)(a), if the jurisdiction's registration period or frequency requirement for the offense that the offender was convicted of is less than the registration period required under Subsection (3)(a), or is less frequent than every six months.

(c) (i) An offender convicted as an adult of any of the offenses listed in Section 77-41-106 shall, for the offender's lifetime, register every year during the month of the offender's birth, during the month that is the sixth month after the offender's birth month, and also within three business days of every change of the offender's primary residence, any secondary residences, place of employment, vehicle information, or educational information required to be submitted under Subsection (8).

(ii) This registration requirement is not subject to exemptions and may not be terminated or altered during the offender's lifetime, unless a petition is granted under Section 77-41-112.

(d) For the purpose of establishing venue for a violation of this Subsection (3), the violation is considered to be committed:

(i) at the most recent registered primary residence of the offender or at the location of the offender, if the actual location of the offender at the time of the violation is not known; or

(ii) at the location of the offender at the time the offender is apprehended.

(4) Notwithstanding Subsection (3) and Section 77-41-106, an offender who is confined in a secure facility or in a state mental hospital is not required to register during the period of confinement.

(5) In the case of an offender adjudicated in another jurisdiction as a juvenile and required to register under this chapter, the offender shall register in the time period and in the frequency consistent with the requirements of this Subsection (5). However, if the jurisdiction of the offender's adjudication does not publish the offender's information on a public website, the department shall maintain, but not publish the offender's information on the Sex Offender and Kidnap Offender Registration website.

(6) An offender who is required to register under Subsection (3) shall surrender the offender's license, certificate, or identification card as required under Subsection 53-3-216(3) or 53-3-807(4) and may apply for a license certificate or identification card as provided under Section 53-3-205 or 53-3-804.

(7) A sex offender who violates Section 77-27-21.8 regarding being in the presence of a child while required to register under this chapter shall register for an additional five years subsequent to the registration period otherwise required under this chapter.

(8) An offender shall provide the department or the registering entity with the following information:

(a) all names and aliases by which the offender is or has been known;

(b) the addresses of the offender's primary and secondary residences;

(c) a physical description, including the offender's date of birth, height, weight, eye and hair color;

(d) the make, model, color, year, plate number, and vehicle identification number of any vehicle or vehicles the offender owns or regularly drives;

(e) a current photograph of the offender;

(f) a set of fingerprints, if one has not already been provided;

(g) a DNA specimen, taken in accordance with Section 53-10-404, if one has not already been provided;

(h) telephone numbers and any other designations used by the offender for routing or self-identification in telephonic communications from fixed locations or cellular telephones;

(i) Internet identifiers and the addresses the offender uses for routing or self-identification in Internet communications or postings;

(j) the name and Internet address of all websites on which the offender is registered using an online identifier, including all online identifiers used to access those websites;

(k) a copy of the offender's passport, if a passport has been issued to the offender;

(l) if the offender is an alien, all documents establishing the offender's immigration status;

(m) all professional licenses that authorize the offender to engage in an occupation or carry out a trade or business, including any identifiers, such as numbers;

(n) each educational institution in Utah at which the offender is employed, carries on a vocation, or is a student, and any change of enrollment or employment status of the offender at any educational institution;

(o) the name, the telephone number, and the address of any place where the offender is employed or will be employed;

(p) the name, the telephone number, and the address of any place where the offender works as a volunteer or will work as a volunteer; and

(q) the offender's social security number.

(9) Notwithstanding Section 42-1-1, an offender:

(a) may not change the offender's name:

(i) while under the jurisdiction of the department; and

(ii) until the registration requirements of this statute have expired; and

(b) may not change the offender's name at any time, if registration is for life under Subsection 77-41-105(3)(c).

(10) Notwithstanding Subsections (8)(i) and (j) and 77-41-103(1)(c), an offender is not required to provide the department with:

(a) the offender's online identifier and password used exclusively for the offender's employment on equipment provided by an employer and used to access the employer's private network; or

(b) online identifiers for the offender's financial accounts, including any bank, retirement, or investment accounts.

Section 3. Section 77-41-112 is amended to read:

77-41-112. Removal from registry -- Requirements -- Procedure.

(1) An offender may petition the court where the offender was convicted of the offense requiring registration for an order removing the offender from the Sex Offender and Kidnap Offender Registry if:

(a) the offender was convicted of ~~violating~~ an offense under Subsection (2);

(b) at least five years have passed since the completion of the offender's sentence for the offense;

(c) the offense is the only conviction for which the offender is required to register; and

(d) the offender has not been convicted, subsequently to the offense for which the offender was placed on the registry, of a violation listed in:

(i) Subsection 77-41-102(9), which defines a kidnap offender; or

(ii) Subsection 77-41-102(17), which defines a sex offender.

(2) The offenses referred to in Subsection (1)(a) are:

(a) Section 76-4-401, Enticing a minor, if the offense is a class A misdemeanor;

~~(b) Section 76-5-301, Kidnapping, and the conviction of violating Section 76-5-301 [is the only conviction for which the offender is required to register];~~

~~(c) Section 76-5-304, Unlawful detention, and the conviction of violating Section 76-5-304 is the only conviction for which the offender is required to register;~~

~~(d) Section 76-5-401, Unlawful sexual activity with a minor and, at the time of the offense, was not more than 10 years older than the victim; [or]~~

~~[(4*)]~~ (e) Section 76-5-401.2, Unlawful sexual conduct with a 16 or 17 year old, and at the time of the offense, was not more than 15 years older than the victim; or

(f) Section 76-9-702.7, Voyeurism, if the offense is a class A misdemeanor.

~~[(b) five years have passed since the completion of the offender's sentence;]~~

(3) An offender who meets the requirements under Subsection (1) shall also complete all of the following requirements:

~~[(e)]~~ (a) the offender has successfully completed all treatment ordered by the court or the Board of Pardons and Parole relating to the conviction;

~~[(4)]~~ (b) (i) the offender has not been convicted of any other crime, excluding traffic offenses, as evidenced by a certificate of eligibility issued by the bureau; and

(ii) as used in this section, "traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

~~[(e)]~~ (c) the offender has paid all restitution ordered by the court;

~~[(4)]~~ (d) the offender has complied with all the registration requirements at all times as required in this chapter, as evidenced by a document obtained by the offender from the Utah Department of Corrections, which confirms compliance; and

~~[(g)]~~ (e) the office that prosecuted the offender, and the victim, or if the victim is still a minor, the victim's parent, are notified and provided with an opportunity to respond in accordance with Subsection ~~[(3)]~~ (6)(a).

~~[(2)]~~ (4) (a) (i) An offender seeking removal from the Sex Offender or Kidnap Offender Registry shall apply for a certificate of eligibility from the bureau.

(ii) An offender who intentionally or knowingly provides any false or misleading information to the bureau when applying for a certificate of eligibility is guilty of a class B misdemeanor and subject to prosecution under Section 76-8-504.6.

(iii) Regardless of whether the offender is prosecuted, the bureau may deny a certificate of eligibility to anyone providing false information on an application.

(b) (i) The bureau shall perform a check of records of governmental agencies, including national criminal databases, to determine whether an offender is eligible to receive a certificate of eligibility under this section.

(ii) If the offender meets all of the criteria under Subsections ~~[(1)(b) and (d)]~~ (1), (2), and (3), the bureau shall issue a certificate of eligibility to the offender, which shall be valid for a period of 90 days from the date the certificate is issued.

~~[(e)]~~ (5) (a) (i) The bureau shall charge application and issuance fees for a certificate of eligibility in accordance with the process in Section 63J-1-504.

(ii) The application fee shall be paid at the time the offender submits an application for a certificate of eligibility to the bureau.

(iii) If the bureau determines that the issuance of a certificate of eligibility is appropriate, the offender will be charged an additional fee for the issuance of a certificate of eligibility.

~~[(4)]~~ (b) Funds generated under ~~[this]~~ Subsection ~~[(2)]~~ (5) shall be deposited in the General Fund as a dedicated credit by the department to cover the costs incurred in determining eligibility.

~~[(3)]~~ (6) (a) The offender shall file the petition, original information, and court docket with the court, and deliver a copy of the petition to the office of the prosecutor.

(i) Upon receipt of a petition for removal from the Sex Offender and Kidnap Offender Registry, the office of the prosecutor shall provide notice of the petition:

(A) by first-class mail to the victim at the most recent address of record on file or, if the victim is still a minor, to the parent or guardian of the victim~~[-];~~ and

(B) to the Sex and Kidnap Offender Registry office in the Department of Corrections.

(ii) The notice shall include a copy of the petition, state that the victim has a right to object to the removal of the offender from the registry, and provide instructions for registering an objection with the court.

(b) The office of the prosecutor shall provide the following, if available, to the court within 30 days after receiving the petition:

(i) presentencing report;

(ii) any evaluation done as part of sentencing; and

(iii) any other information the office of the prosecutor feels the court should consider.

(c) The victim, or the victim's parent or guardian if the victim is a minor, may respond to the petition by filing a recommendation or objection with the court within 45 days after the mailing of the petition to the victim.

~~[(4)]~~ (7) (a) The court shall:

(i) review the petition and all documents submitted with the petition; and

(ii) hold a hearing if requested by the prosecutor or the victim.

(b) The court shall consider whether the offender has paid all restitution ordered by the court or the Board of Pardons.

(c) If the court determines that it is not contrary to the interests of the public to do so, it may grant the petition and order removal of the offender from the registry.

(d) If the court grants the petition, it shall forward a copy of the order directing removal of the offender from the registry to the department and the office of the prosecutor.

(e) If the court denies the petition, the offender may not submit another petition for three years.

[~~(5)~~] (8) The office of the prosecutor shall notify the victim and the Sex and Kidnap Offender Registry office in the Department of Corrections of the court's decision in the same manner as notification was provided in Subsection [~~(3)~~] (6)(a).

CHAPTER 186**H. B. 33**

Passed February 8, 2016
 Approved March 23, 2016
 Effective May 10, 2016

**FIRE PREVENTION BOARD
 MEMBERSHIP AMENDMENTS**

Chief Sponsor: James A. Dunnigan
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies the Public Safety Code regarding board membership.

Highlighted Provisions:

This bill:

- ▶ reduces the Utah Fire Prevention Board from 13 to 11 members, and specifies the two membership positions to be removed.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-7-203, as last amended by Laws of Utah 2015, Chapter 448

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

Section 1. Section 53-7-203 is amended to read:

53-7-203. Utah Fire Prevention Board -- Creation -- Members -- Terms -- Selection of chair and officers -- Quorum -- Meetings -- Compensation -- Division's duty to implement board rules.

(1) There is created within the division the Utah Fire Prevention Board.

(2) The board shall be nonpartisan and be composed of ~~[13]~~ 11 members appointed by the governor as follows:

~~[(a) a city or county official;]~~

~~[(b)]~~ (a) a licensed architect;

~~[(c)]~~ (b) a licensed engineer;

~~[(d)]~~ (c) a member of the Utah State Firemen's Association;

~~[(e)]~~ (d) the state forester or the state forester's designee;

~~[(f) the commissioner of the Labor Commission or the commissioner's designee;]~~

~~[(g)]~~ (e) a member of the Utah State Fire Chiefs Association;

~~[(h)]~~ (f) a member of the Utah Fire Marshal's Association;

~~[(i)]~~ (g) a building inspector;

~~[(j)]~~ (h) a citizen appointed at large;

~~[(k)]~~ (i) a fire executive appointed from a full-time fire department in a county of the first class;

~~[(l)]~~ (j) a fire executive appointed from a full-time fire department in a county of the second class; and

~~[(m)]~~ (k) a fire executive appointed from a fire department in a county of the third, fourth, fifth, or sixth class.

(3) (a) Except as required by Subsection (3)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

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

(5) A member whose term has expired may continue to serve until a replacement is appointed pursuant to Subsection (3).

(6) The board shall select from its members a chair and other officers as the board finds necessary.

(7) A majority of the members of the board is a quorum.

(8) The board shall hold regular semiannual meetings for the transaction of its business at a time and place to be fixed by the board and shall hold other meetings as necessary for proper transaction of business.

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

(a) Section 63A-3-106;

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

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

(10) The division shall implement ~~[the rules of]~~ rules made by the board under Section 53-7-503 and perform all other duties delegated by the board.

CHAPTER 187**H. B. 34**

Passed February 8, 2016

Approved March 23, 2016

Effective May 10, 2016

**BUSINESS AND LABOR INTERIM
COMMITTEE REPORT AMENDMENTS**Chief Sponsor: Val L. Peterson
Senate Sponsor: Curtis S. Bramble**LONG TITLE****General Description:**

This bill modifies provisions regarding reporting to the Business and Labor Interim Committee.

Highlighted Provisions:

This bill:

- ▶ clarifies that various reports are to be written;
- ▶ changes various dates when reports are due;
- ▶ repeals reporting requirement related to workers' compensation cases;
- ▶ repeals the requirement that the state coordinator of resource stewardship report to the Business and Labor Interim Committee;
- ▶ requires USTAR to annually submit a written report to the Business and Labor Interim Committee;
- ▶ repeals the requirement that a workers' compensation insurance market conditions report be given by the Insurance Department; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

13-14-310, as enacted by Laws of Utah 2015, Chapter 268

34-47-202, as enacted by Laws of Utah 2011, Chapter 15

34A-2-801, as last amended by Laws of Utah 2014, Chapter 192

63A-1-116, as enacted by Laws of Utah 2014, Chapter 292

63M-2-401, as last amended by Laws of Utah 2015, Chapter 357

REPEALS:

31A-22-1013, as enacted by Laws of Utah 2008, Chapter 348

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

Section 1. Section 13-14-310 is amended to read:**13-14-310. Reporting requirement.**

By [November 30] September 1 of each year, the advisory board shall submit an annual written report to the Business and Labor Interim Committee that, for the [12 months before] fiscal year immediately preceding the day on which the report is submitted, describes:

(1) the number of applications for a new or relocated dealership that the advisory board received; and

(2) for each application described in Subsection (1):

(a) the number of protests that the advisory board received;

(b) whether the advisory board conducted a hearing;

(c) if the advisory board conducted a hearing, the disposition of the hearing; and

(d) the basis for any disposition described in Subsection (2)(c).

Section 2. Section 34-47-202 is amended to read:**34-47-202. Duties and powers of the council.**

(1) The council shall meet at least quarterly with the attorney general or a designee of the attorney general to coordinate regulatory and law enforcement efforts related to misclassification.

(2) (a) The council shall provide a written report by no later than [November 30] September 1 of each year regarding the previous fiscal year to:

(i) the governor; and

(ii) the Business and Labor Interim Committee.

(b) The report required by this Subsection (2) shall include:

(i) the nature and extent of misclassification in this state;

(ii) the results of regulatory and law enforcement efforts related to the council;

(iii) the status of sharing information by member agencies; and

(iv) recommended legislative changes, if any.

(c) As part of the report required by this Subsection (2), the [~~chairs of the Business and Labor Interim Committee~~] council shall provide an opportunity to the following to include in the report [~~to the Business and Labor Interim Committee~~] comments on the effectiveness of the council:

(i) the attorney general; and

(ii) each member agency.

(3) The council may study:

(a) how to reduce costs to the state resulting from misclassification;

(b) how to extend outreach and education efforts regarding the nature and requirements of classifying an individual;

(c) how to promote efficient and effective information sharing amongst the member agencies; and

(d) the need, if any, to create by statute a database or other method to facilitate sharing of information related to misclassification.

(4) A member agency shall cooperate with the commission and council to provide information related to misclassification to the extent that:

- (a) the information is public information; or
- (b) providing the information is otherwise permitted by law other than this chapter.

(5) (a) A record provided to the commission or council under this chapter is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act, unless otherwise classified as private or controlled under Title 63G, Chapter 2, Government Records Access and Management Act.

(b) Notwithstanding Subsection (5)(a), the commission or council may disclose the record to the extent:

- (i) necessary to take an administrative action by a member agency;
- (ii) necessary to prosecute a criminal act; or
- (iii) that the record is:
 - (A) obtainable from a source other than the member agency that provides the record to the commission or council; or
 - (B) public information or permitted to be disclosed by a law other than this chapter.

Section 3. Section 34A-2-801 is amended to read:

34A-2-801. Initiating adjudicative proceedings -- Procedure for review of administrative action.

(1) (a) To contest an action of the employee's employer or its insurance carrier concerning a compensable industrial accident or occupational disease alleged by the employee or a dependent any of the following shall file an application for hearing with the Division of Adjudication:

- (i) the employee;
- (ii) a representative of the employee, the qualifications of whom are defined in rule by the commission; or
- (iii) a dependent as described in Section 34A-2-403.

(b) To appeal the imposition of a penalty or other administrative act imposed by the division on the employer or its insurance carrier for failure to comply with this chapter or Chapter 3, Utah Occupational Disease Act, any of the following shall file an application for hearing with the Division of Adjudication:

- (i) the employer;
- (ii) the insurance carrier; or
- (iii) a representative of either the employer or the insurance carrier, the qualifications of whom are defined in rule by the commission.

(c) A person providing goods or services described in Subsections 34A-2-407(11) and 34A-3-108(12)

may file an application for hearing in accordance with Section 34A-2-407 or 34A-3-108.

(d) An attorney may file an application for hearing in accordance with Section 34A-1-309.

(2) (a) Unless all parties agree to the assignment in writing, the Division of Adjudication may not assign the same administrative law judge to hear a claim under this section by an injured employee if the administrative law judge previously heard a claim by the same injured employee for a different injury or occupational disease.

(b) Unless all parties agree to the appointment in writing, an administrative law judge may not appoint the same medical panel or individual panel member to evaluate a claim by an injured employee if the medical panel or individual panel member previously evaluated a claim by the same injured employee for a different injury or occupational disease.

(3) Unless a party in interest appeals the decision of an administrative law judge in accordance with Subsection (4), the decision of an administrative law judge on an application for hearing filed under Subsection (1) is a final order of the commission 30 days after the day on which the decision is issued. An administrative law judge shall issue a decision by no later than 60 days from the day on which the hearing is held under this part unless:

- (a) the parties agree to a longer period of time; or
- (b) a decision within the 60-day period is impracticable.

(4) (a) A party in interest may appeal the decision of an administrative law judge by filing a motion for review with the Division of Adjudication within 30 days of the date the decision is issued.

(b) Unless a party in interest to the appeal requests under Subsection (4)(c) that the appeal be heard by the Appeals Board, the commissioner shall hear the review.

(c) A party in interest may request that an appeal be heard by the Appeals Board by filing the request with the Division of Adjudication:

- (i) as part of the motion for review; or
- (ii) if requested by a party in interest who did not file a motion for review, within 20 days of the day on which the motion for review is filed with the Division of Adjudication.

(d) A case appealed to the Appeals Board shall be decided by the majority vote of the Appeals Board.

(5) The Division of Adjudication shall maintain a record on appeal, including an appeal docket showing the receipt and disposition of the appeals on review.

(6) Upon appeal, the commissioner or Appeals Board shall make its decision in accordance with Section 34A-1-303. The commissioner or Appeals Board shall issue a decision under this part by no later than 90 days from the day on which the motion for review is filed unless:

- (a) the parties agree to a longer period of time; or

(b) a decision within the 90-day period is impracticable.

(7) The commissioner or Appeals Board shall promptly notify the parties to a proceeding before it of its decision, including its findings and conclusions.

(8) (a) Subject to Subsection (8)(b), the decision of the commissioner or Appeals Board is final unless within 30 days after the date the decision is issued further appeal is initiated under the provisions of this section or Title 63G, Chapter 4, Administrative Procedures Act.

(b) In the case of an award of permanent total disability benefits under Section 34A-2-413, the decision of the commissioner or Appeals Board is a final order of the commission unless set aside by the court of appeals.

(9) (a) Within 30 days after the day on which the decision of the commissioner or Appeals Board is issued, an aggrieved party may secure judicial review by commencing an action in the court of appeals against the commissioner or Appeals Board for the review of the decision of the commissioner or Appeals Board.

(b) In an action filed under Subsection (9)(a):

(i) any other party to the proceeding before the commissioner or Appeals Board shall be made a party; and

(ii) the commission shall be made a party.

(c) A party claiming to be aggrieved may seek judicial review only if the party exhausts the party's remedies before the commission as provided by this section.

(d) At the request of the court of appeals, the commission shall certify and file with the court all documents and papers and a transcript of all testimony taken in the matter together with the decision of the commissioner or Appeals Board.

(10) (a) The commission shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to facilitate timely completion of administrative actions under this part.

(b) The commission shall monitor the time from filing of an application for a hearing to issuance of a final order of the commission for cases brought under this part.

~~[(c) The commission shall annually report to the Business and Labor Interim Committee;]~~

~~[(i) the number of cases for which an application for hearing is filed under this part in the previous calendar year;]~~

~~[(ii) the number of cases described in Subsection (10)(e)(i) for which the decision of the administrative law judge was not issued within the 60-day period required by Subsection (3);]~~

~~[(iii) the number of cases described in Subsection (10)(e)(i) that are appealed to the commissioner or~~

~~Appeals Board for which the decision of the commissioner or Appeals Board was not issued within the 90-day period required by Subsection (6);]~~

~~[(iv) the number of cases described in Subsection (10)(e)(i) for which a final order of the commission is issued within 18 months of the day on which the application for hearing is filed;]~~

~~[(v) the number of cases for which a final order of the commission is not issued within 18 months of the day on which the application for a hearing is filed; and]~~

~~[(vi) the reasons the cases described in Subsection (10)(e)(v) were not resolved within 18 months of the day on which the application for a hearing is filed;]~~

Section 4. Section 63A-1-116 is amended to read:

63A-1-116. Appointment of coordinator of resource stewardship -- Duties of the coordinator of resource stewardship.

(1) The executive director of the department shall appoint a state coordinator of resource stewardship and establish the coordinator of resource stewardship's salary.

(2) The coordinator of resource stewardship shall report to the executive director or the executive director's designee.

(3) The coordinator of resource stewardship shall:

(a) work with agencies to implement best practices and stewardship measures to improve air quality; and

(b) make an annual report on best practices and stewardship efforts to improve air quality to the ~~[Business and Labor Interim Committee and]~~ Natural Resources, Agriculture, and Environment Interim Committee.

(4) Each agency will retain absolute discretion whether or not to incorporate any of the practices or measures suggested by the coordinator.

Section 5. Section 63M-2-401 is amended to read:

63M-2-401. Reporting requirements.

(1) By October 1 of each year, the USTAR governing authority shall submit an annual written report of the operations, activities, programs, and services of the governing authority and the USTAR initiative for the preceding fiscal year to:

(a) the governor;

(b) the Legislature;

(c) the Business, Economic Development, and Labor Appropriations Subcommittee; ~~[and]~~

(d) the Economic Development and Workforce Services Interim Committee ~~[an annual written report of the operations, activities, programs, and services of the governing authority and the USTAR initiative for the preceding fiscal year;]~~ and

(e) the Business and Labor Interim Committee.

(2) For each project, operation, activity, program, or service related to the USTAR initiative or overseen or funded through the USTAR governing authority, the annual report shall include:

(a) a description of the project, operation, activity, program, or service;

(b) data selected and used by the governing authority to measure progress, performance, and scope of the project, operation, activity, program, or service, including summary data;

(c) a clear description of the methodology for any data in the report that includes an estimation;

(d) the amount and source of all USTAR initiative funding, including:

(i) funding from legislative appropriations;

(ii) funding procured outside of legislative appropriations, including a separate accounting of grants or investments contributing to research teams and other activities of the USTAR initiative from the federal government, private entities, or other sources, and an explanation of the extent to which:

(A) outside funding was contingent on or leveraged by legislative appropriations; and

(B) outside funding would continue if legislative appropriations were discontinued;

(iii) commercialization revenue, including a separate accounting of:

(A) realized commercialization revenue;

(B) unrealized commercialization revenue; and

(C) commercialization revenue going to other parties attributable to USTAR initiative funding;

(iv) lease revenue from each building in which the USTAR governing authority holds title; and

(v) the amount of money deposited with the state treasurer for deposit into the sinking fund created under Section 63B-1a-301 for debt service on the bonds issued to fund planning, design, and construction of the research buildings;

(e) all expenses of the USTAR initiative, including:

(i) operational expenses;

(ii) for each employee receiving compensation from USTAR initiative funding, compensation information, including:

(A) salary expenses, benefit expenses, and travel expenses;

(B) information for each research team employee and each employee of the TOIP that receives compensation directly or indirectly through USTAR initiative funding; and

(C) information regarding compensation for each employee from sources other than USTAR

initiative funding, including grants and compensation from a university or private entity;

(iii) for each research team, salary expenses, benefit expenses, travel expenses, and operations and maintenance expenses;

(iv) operational and maintenance expenses for each building in which the USTAR governing authority holds title;

(v) operational and maintenance expenses paid for by USTAR initiative funding for each location that has an established TOIP; and

(vi) each grant or other incentive given as a result of the USTAR initiative, including grants or incentives awarded through the TOIP;

(f) the number of jobs and the corresponding salary ranges created by the USTAR initiative, including the number of jobs where the employee is expected to be employed for at least one year and earns at least 125% of the prevailing wage of the county where the employee works;

(g) the name of each business entity receiving a grant or other incentive as a result of the USTAR initiative, including the outreach program;

(h) a list of business entities that have hired employees as a result of the USTAR initiative;

(i) the tax revenue generated as a result of the USTAR initiative, with actual revenue generated clearly separated from potential revenue;

(j) a list of intellectual property assets, including patents, generated by research teams as a result of the USTAR initiative, including a reasonable estimate of the USTAR initiative's percentage share of potential commercialization revenue that may be realized from those assets;

(k) a description of any agreements entered into regarding private equity investment in the USTAR initiative;

(l) beginning with data from the fiscal year beginning July 1, 2013, historical data from previous years for comparison with the annual data reported under this Subsection (2);

(m) goals, challenges, and achievements related to the project, operation, activity, program, or service;

(n) relevant federal and state statutory references and requirements;

(o) contact information of officials knowledgeable and responsible for each project, operation, activity, program, or service;

(p) other information determined by the USTAR governing authority that:

(i) may be needed, useful, or of historical significance; or

(ii) promotes accountability and transparency for each project, operation, activity, program, or service with the public and with elected officials;

(q) the written economic development objectives required under Subsection 63M-2-302(1)(e) and a

description of any progress or challenges in meeting the objectives; and

(r) the audit report described in Section 63M-2-402.

(3) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(4) The governing authority shall:

(a) submit the annual report in accordance with Section 68-3-14; and

(b) make the annual report and previous annual reports accessible to the public by placing a link to the reports on the USTAR initiative's website.

(5) In addition to the annual written report described in this section:

(a) upon the request of a committee, the USTAR governing authority shall provide information and progress reports to:

(i) the Economic Development and Workforce Services Interim Committee;

(ii) the Business and Labor Interim Committee; and

(iii) the Business, Economic Development, and Labor Appropriations Subcommittee; and

(b) on or before October 1, 2019, and every five years after October 1, 2019, the USTAR governing authority shall include with the annual report described in this section a written analysis and recommendations concerning the usefulness of the information required in the annual report and the ongoing effectiveness of the USTAR initiative, including whether:

(i) the reporting requirements are effective at measuring the performance of the USTAR initiative;

(ii) the reporting requirements should be modified; and

(iii) the USTAR initiative is beneficial to the state and should continue.

Section 6. Repealer.

This bill repeals:

Section 31A-22-1013, Department report on workers' compensation.

CHAPTER 188**H. B. 40**

Passed February 10, 2016

Approved March 23, 2016

Effective May 10, 2016

AGENCY REPORTING REQUIREMENTS

Chief Sponsor: Bradley G. Last

Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill amends agency reporting requirements relating to education.

Highlighted Provisions:

This bill:

- ▶ repeals certain agency requirements for reporting to the Education Interim Committee;
- ▶ amends the way in which agencies are required to make certain reports to the Education Interim Committee; and
- ▶ amends the entities to which agencies are required to make certain reports.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 53A-1-403.5, as last amended by Laws of Utah 2012, Chapter 23
- 53A-17a-124.5, as last amended by Laws of Utah 2013, Chapter 299
- 53A-17a-150, as last amended by Laws of Utah 2013, Chapter 466
- 53A-17a-162, as last amended by Laws of Utah 2015, Chapter 12
- 53A-17a-171, as enacted by Laws of Utah 2014, Chapter 375
- 53A-25b-201, as last amended by Laws of Utah 2013, Chapter 278
- 53B-1-202, as enacted by Laws of Utah 2010, Chapter 243
- 53B-8-108, as last amended by Laws of Utah 2010, Chapter 270
- 53B-16-107, as last amended by Laws of Utah 2014, Chapter 215

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

Section 1. Section 53A-1-403.5 is amended to read:

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

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

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

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

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

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

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

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

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

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

Section 2. Section 53A-17a-124.5 is amended to read:

53A-17a-124.5. Appropriation for class size reduction.

(1) Money appropriated to the State Board of Education for class size reduction shall be used to reduce the average class size in kindergarten through the eighth grade in the state's public schools.

(2) Each district or charter school shall receive its allocation based upon prior year average daily membership in kindergarten through grade 8 plus growth as determined under Subsection 53A-17a-106(3) as compared to the total prior year average daily membership in kindergarten through grade 8 plus growth of school districts and charter schools that qualify for an allocation pursuant to Subsection (8).

(3) (a) A district may use its allocation to reduce class size in any one or all of the grades referred to under this section, except as otherwise provided in Subsection (3)(b).

(b) (i) Each district or charter school shall use 50% of its allocation to reduce class size in any one or all of grades kindergarten through grade 2, with an emphasis on improving student reading skills.

(ii) If a district's or charter school's average class size is below 18 in grades kindergarten through grade 2, it may petition the state board for, and the state board may grant, a waiver to use its allocation under Subsection (3)(b)(i) for class size reduction in the other grades.

(4) Schools may use nontraditional innovative and creative methods to reduce class sizes with this appropriation and may use part of their allocation to focus on class size reduction for specific groups, such as at risk students, or for specific blocks of time during the school day.

(5) (a) A school district or charter school may use up to 20% of its allocation under Subsection (1) for capital facilities projects if such projects would help to reduce class size.

(b) If a school district's or charter school's student population increases by 5% or 700 students from the previous school year, the school district or charter school may use up to 50% of any allocation it receives under this section for classroom construction.

(6) This appropriation is to supplement any other appropriation made for class size reduction.

(7) The Legislature shall provide for an annual adjustment in the appropriation authorized under this section in proportion to the increase in the number of students in the state in kindergarten through grade eight.

(8) (a) To qualify for class size reduction money, a school district or charter school shall submit:

(i) a plan for the use of the school district's or charter school's allocation of class size reduction money to the State Board of Education; and

(ii) beginning with the 2014-15 school year, a report on the school district's or charter school's use of class size reduction money in the prior school year.

(b) The plan and report required pursuant to Subsection (8)(a) shall include the following information:

(i) (A) the number of teachers employed using class size reduction money;

(B) the amount of class size reduction money expended for teachers; and

(C) if supplemental school district or charter school funds are expended to pay for teachers employed using class size reduction money, the amount of the supplemental money;

(ii) (A) the number of paraprofessionals employed using class size reduction money;

(B) the amount of class size reduction money expended for paraprofessionals; and

(C) if supplemental school district or charter school funds are expended to pay for paraprofessionals employed using class size reduction money, the amount of the supplemental money; and

(iii) the amount of class size reduction money expended for capital facilities.

(c) In addition to submitting a plan and report on the use of class size reduction money, a school district or charter school shall annually submit a report to the State Board of Education that includes the following information:

(i) the number of teachers employed using K-3 Reading Improvement Program money received pursuant to Sections 53A-17a-150 and 53A-17a-151;

(ii) the amount of K-3 Reading Improvement Program money expended for teachers;

(iii) the number of teachers employed in kindergarten through grade 8 using Title I money;

(iv) the amount of Title I money expended for teachers in kindergarten through grade 8; and

(v) a comparison of actual average class size by grade in grades kindergarten through 8 in the school district or charter school with what the average class size would be without the expenditure of class size reduction, K-3 Reading Improvement Program, and Title I money.

(d) The information required to be reported in Subsections (8)(b)(i)(A) through (C), (8)(b)(ii)(A) through (C), and (8)(c) shall be categorized by a teacher's or paraprofessional's teaching assignment, such as the grade level, course, or subject taught.

(e) The State Board of Education may make rules specifying procedures and standards for the submission of:

(i) a plan and a report on the use of class size reduction money as required by this section; and

(ii) a report required under Subsection (8)(c).

(f) Based on the data contained in the class size reduction plans and reports submitted by school districts and charter schools, and data on average class size, the State Board of Education shall annually report to the [~~Education Interim Committee~~] Public Education Appropriations Subcommittee on the impact of class size reduction, K-3 Reading Improvement Program, and Title I money on class size.

Section 3. Section 53A-17a-150 is amended to read:

53A-17a-150. K-3 Reading Improvement Program.

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Five domains of reading" include phonological awareness, phonics, fluency, comprehension, and vocabulary.

(c) "Program" means the K-3 Reading Improvement Program.

(d) "Program money" means:

(i) school district revenue allocated to the program from other money available to the school district, except money provided by the state, for the purpose of receiving state funds under this section; and

(ii) money appropriated by the Legislature to the program.

(2) The K-3 Reading Improvement Program consists of program money and is created to supplement other school resources to achieve the state's goal of having third graders reading at or above grade level.

(3) Subject to future budget constraints, the Legislature may annually appropriate money to the K-3 Reading Improvement Program.

(4) (a) To receive program money, a school district or charter school must submit a plan to the board for reading proficiency improvement that incorporates the following components:

(i) assessment;

(ii) intervention strategies;

(iii) professional development for classroom teachers in kindergarten through grade three;

(iv) reading performance standards; and

(v) specific measurable goals that include the following:

(A) a growth goal for each school within a school district and each charter school based upon student learning gains as measured by benchmark assessments administered pursuant to Section 53A-1-606.6; and

(B) a growth goal for each school district and charter school to increase the percentage of third grade students who read on grade level from year to year as measured by the third grade reading test administered pursuant to Section 53A-1-603.

(b) The board shall provide model plans which a school district or charter school may use, or the school district or charter school may develop its own plan.

(c) Plans developed by a school district or charter school shall be approved by the board.

(d) The board shall develop uniform standards for acceptable growth goals that a school district or charter school adopts as described in this Subsection (4).

(5) (a) There is created within the K-3 Reading Achievement Program three funding programs:

(i) the Base Level Program;

(ii) the Guarantee Program; and

(iii) the Low Income Students Program.

(b) The board may use no more than \$7,500,000 from an appropriation described in Subsection (3) for computer-assisted instructional learning and assessment programs.

(6) Money appropriated to the board for the K-3 Reading Improvement Program and not used by the board for computer-assisted instructional learning and assessments as described in Subsection (5)(b), shall be allocated to the three funding programs as follows:

(a) 8% to the Base Level Program;

(b) 46% to the Guarantee Program; and

(c) 46% to the Low Income Students Program.

(7) (a) To participate in the Base Level Program, a school district or charter school shall submit a reading proficiency improvement plan to the board as provided in Subsection (4) and must receive approval of the plan from the board.

(b) (i) Each school district qualifying for Base Level Program funds and the qualifying elementary charter schools combined shall receive a base amount.

(ii) The base amount for the qualifying elementary charter schools combined shall be allocated among each school in an amount proportionate to:

(A) each existing charter school's prior year fall enrollment in grades kindergarten through grade three; and

(B) each new charter school's estimated fall enrollment in grades kindergarten through grade three.

(8) (a) A school district that applies for program money in excess of the Base Level Program funds shall choose to first participate in either the Guarantee Program or the Low Income Students Program.

(b) A school district must fully participate in either the Guarantee Program or the Low Income Students Program before it may elect to either fully or partially participate in the other program.

(c) To fully participate in the Guarantee Program, a school district shall allocate to the program money available to the school district, except money provided by the state, equal to the amount of revenue that would be generated by a tax rate of .000056.

(d) To fully participate in the Low Income Students Program, a school district shall allocate to the program money available to the school district, except money provided by the state, equal to the amount of revenue that would be generated by a tax rate of .000065.

(e) (i) The board shall verify that a school district allocates the money required in accordance with Subsections (8)(c) and (d) before it distributes funds in accordance with this section.

(ii) The State Tax Commission shall provide the board the information the board needs in order to comply with Subsection (8)(e)(i).

(9) (a) Except as provided in Subsection (9)(c), a school district that fully participates in the Guarantee Program shall receive state funds in an amount that is:

(i) equal to the difference between \$21 times the district's total WPUs and the revenue the school district is required to allocate under Subsection (8)(c) to fully participate in the Guarantee Program; and

(ii) not less than \$0.

(b) Except as provided in Subsection (9)(c), an elementary charter school shall receive under the Guarantee Program an amount equal to \$21 times the school's total WPUs.

(c) The board may adjust the \$21 guarantee amount described in Subsections (9)(a) and (b) to account for actual appropriations and money used by the board for computer-assisted instructional learning and assessments.

(10) The board shall distribute Low Income Students Program funds in an amount proportionate to the number of students in each school district or charter school who qualify for free or reduced price school lunch multiplied by two.

(11) A school district that partially participates in the Guarantee Program or Low Income Students Program shall receive program funds based on the amount of school district revenue allocated to the program as a percentage of the amount of revenue that could have been allocated if the school district had fully participated in the program.

(12) (a) A school district or charter school shall use program money for reading proficiency improvement interventions in grades kindergarten through grade 3 that have proven to significantly increase the percentage of students reading at grade level, including:

(i) reading assessments; and

(ii) focused reading remediations that may include:

(A) the use of reading specialists;

(B) tutoring;

(C) before or after school programs;

(D) summer school programs; or

(E) the use of reading software; or

(F) the use of interactive computer software programs for literacy instruction and assessments for students.

(b) A school district or charter school may use program money for portable technology devices used to administer reading assessments.

(c) Program money may not be used to supplant funds for existing programs, but may be used to augment existing programs.

(13) (a) Each school district and charter school shall annually submit a report to the board accounting for the expenditure of program money in accordance with its plan for reading proficiency improvement.

~~[(b) On or before the November meeting of the Education Interim Committee of each year, the board shall report a summary of the reading improvement program expenditures of each school district and charter school.]~~

~~[(e)]~~ (b) If a school district or charter school uses program money in a manner that is inconsistent with Subsection (12), the school district or charter school is liable for reimbursing the board for the amount of program money improperly used, up to the amount of program money received from the board.

(14) (a) The board shall make rules to implement the program.

(b) (i) The rules under Subsection (14)(a) shall require each school district or charter school to annually report progress in meeting school and school district goals stated in the school district's or charter school's plan for student reading proficiency.

(ii) If a school does not meet or exceed the school's goals, the school district or charter school shall prepare a new plan which corrects deficiencies. The new plan must be approved by the board before the school district or charter school receives an allocation for the next year.

(15) (a) If for two consecutive school years, a school district fails to meet its goal to increase the percentage of third grade students who read on grade level as measured by the third grade reading test administered pursuant to Section 53A-1-603, the school district shall terminate any levy imposed under Section 53A-17a-151 and may not receive money appropriated by the Legislature for the K-3 Reading Improvement Program.

(b) If for two consecutive school years, a charter school fails to meet its goal to increase the

percentage of third grade students who read on grade level as measured by the third grade reading test administered pursuant to Section 53A-1-603, the charter school may not receive money appropriated by the Legislature for the K-3 Reading Improvement Program.

(16) The board shall make an annual report to the Public Education Appropriations Subcommittee that:

(a) includes information on:

(i) student learning gains in reading for the past school year and the five-year trend;

(ii) the percentage of third grade students reading on grade level in the past school year and the five-year trend;

(iii) the progress of schools and school districts in meeting goals stated in a school district's or charter school's plan for student reading proficiency; and

(iv) the correlation between third grade students reading on grade level and results of third grade language arts scores on a criterion-referenced test or computer adaptive test; and

(b) may include recommendations on how to increase the percentage of third grade students who read on grade level.

Section 4. Section 53A-17a-162 is amended to read:

53A-17a-162. Beverley Taylor Sorenson Elementary Arts Learning Program.

(1) As used in this section:

(a) "Endowed chair" means a person who holds an endowed position or administrator of an endowed program for the purpose of arts and integrated arts instruction at an endowed university.

(b) "Endowed university" means an institution of higher education in the state that:

(i) awards elementary education degrees in arts instruction;

(ii) has received a major philanthropic donation for the purpose of arts and integrated arts instruction; and

(iii) has created an endowed position as a result of a donation described in Subsection (1)(b)(ii).

(c) "Integrated arts advocate" means a person who:

(i) advocates for arts and integrated arts instruction in the state; and

(ii) coordinates with an endowed chair pursuant to the agreement creating the endowed chair.

(d) "Local education agency" or "LEA" means:

(i) a school district;

(ii) a charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(2) The Legislature finds that a strategic placement of arts in elementary education can impact the critical thinking of students in other core subject areas, including mathematics, reading, and science.

(3) The Beverley Taylor Sorenson Elementary Arts Learning Program is created to enhance the social, emotional, academic, and arts learning of students in kindergarten through grade six by integrating arts teaching and learning into core subject areas and providing professional development for positions that support elementary arts and integrated arts education.

(4) From money appropriated for the Beverley Taylor Sorenson Elementary Arts Learning Program, and subject to Subsection (5), the State Board of Education shall, after consulting with endowed chairs and the integrated arts advocate and receiving their recommendations, administer a grant program to enable LEAs to:

(a) hire highly qualified arts specialists, art coordinators, and other positions that support arts education and arts integration;

(b) provide up to \$10,000 in one-time funds for each new school arts specialist described under Subsection (4)(a) to purchase supplies and equipment; and

(c) engage in other activities that improve the quantity and quality of integrated arts education.

(5) (a) An LEA that receives a grant under Subsection (4) shall provide matching funds of no less than 20% of the grant amount, including no less than 20% of the grant amount for actual salary and benefit costs per full-time equivalent position funded under Subsection (4)(a).

(b) An LEA may not:

(i) include administrative, facility, or capital costs to provide the matching funds required under Subsection (5)(a); or

(ii) use funds from the Beverley Taylor Sorenson Elementary Arts Learning Program to supplant funds for existing programs.

(6) An LEA that receives a grant under this section shall partner with an endowed chair to provide professional development in integrated elementary arts education.

(7) From money appropriated for the Beverley Taylor Sorenson Elementary Arts Learning Program, the State Board of Education shall administer a grant program to fund activities within arts and the integrated arts programs at an endowed university in the college where the endowed chair resides to:

(a) provide high quality professional development in elementary integrated arts education in accordance with the professional learning standards in Section 53A-3-701 to LEAs that receive a grant under Subsection (4);

(b) design and conduct research on:

(i) elementary integrated arts education and instruction;

(ii) implementation and evaluation of the Beverley Taylor Sorenson Elementary Arts Learning Program; and

(iii) effectiveness of the professional development under Subsection (7)(a); and

(c) provide the public with integrated elementary arts education resources.

(8) The State Board of Education shall~~[-(a)]~~ make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the Beverley Taylor Sorenson Elementary Arts Learning Program~~[-and]~~.

~~[(b) after consultation with endowed chairs and the integrated arts advocate, submit an annual written report to the Education Interim Committee describing the program's impact on students in kindergarten through grade six.]~~

Section 5. Section 53A-17a-171 is amended to read:

53A-17a-171. Intergenerational Poverty Interventions Grant Program -- Definitions -- Grant requirements -- Reporting requirements.

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Eligible student" means a student who is classified as a child affected by intergenerational poverty.

(c) "Intergenerational poverty" has the same meaning as in Section 35A-9-102.

(d) "Local Education Agency" or "LEA" means a school district or charter school.

(e) "Program" means the Intergenerational Poverty Interventions Grant Program created in Subsection (2).

(2) The Intergenerational Poverty Interventions Grant Program is created to provide grants to eligible LEAs to fund additional educational opportunities for eligible students, outside of the regular school day offerings.

(3) Subject to future budget constraints, the board shall distribute to LEAs money appropriated for the program in accordance with this section.

(4) The board shall:

(a) solicit proposals from LEAs to receive money under the program; and

(b) award grants to LEAs based on criteria described in Subsection (5).

(5) In awarding a grant under Subsection (4), the board shall consider:

(a) the percentage of an LEA's students that are classified as children affected by intergenerational poverty;

(b) the level of administrative support and leadership at an eligible LEA to effectively implement, monitor, and evaluate the program; and

(c) an LEA's commitment and ability to work with the Department of Workforce Services, the Department of Health, the Department of Human Services, and the juvenile courts to provide services to the LEA's eligible students.

(6) To receive a grant under the program, an LEA shall submit a proposal to the board detailing:

(a) the LEA's strategy to implement the program, including the LEA's strategy to improve the academic achievement of children affected by intergenerational poverty;

(b) the LEA's strategy for coordinating with and engaging the Department of Workforce Services to provide services for the LEA's eligible students;

(c) the number of students the LEA plans to serve, categorized by age and intergenerational poverty status;

(d) the number of students, eligible students, and schools the LEA plans to fund with the grant money; and

(e) the estimated cost per student.

(7) (a) The board shall annually report to ~~[the Legislature's Education Interim Committee and]~~ the Utah Intergenerational Welfare Reform Commission, created in Section 35A-9-301, by November 30 of each year, on:

(i) the progress of LEA programs using grant money;

(ii) the progress of LEA programs in improving the academic achievement of children affected by intergenerational poverty; and

(iii) the LEA's coordination efforts with the Department of Workforce Services, the Department of Health, the Department of Human Services, and the juvenile courts.

(b) The board shall provide the report described in Subsection (7)(a) to the Education Interim Committee upon request.

~~[(b)]~~ (c) LEAs that receive grant money pursuant to this section shall provide to the board information that is necessary for the board's report ~~[to the Legislature's Education Interim Committee and the Utah Intergenerational Welfare Reform Commission as required]~~ described in Subsection (7)(a).

Section 6. Section 53A-25b-201 is amended to read:

53A-25b-201. Authority of the State Board of Education -- Rulemaking -- Superintendent -- Advisory Council.

(1) The State Board of Education is the governing board of the Utah Schools for the Deaf and the Blind.

(2) (a) The board shall appoint a superintendent for the Utah Schools for the Deaf and the Blind.

(b) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the qualifications, terms of employment, and duties of the superintendent for the Utah Schools for the Deaf and the Blind.

(3) The superintendent shall:

(a) subject to the approval of the board, appoint an associate superintendent to administer the Utah School for the Deaf based on:

(i) demonstrated competency as an expert educator of deaf persons; and

(ii) knowledge of school management and the instruction of deaf persons;

(b) subject to the approval of the board, appoint an associate superintendent to administer the Utah School for the Blind based on:

(i) demonstrated competency as an expert educator of blind persons; and

(ii) knowledge of school management and the instruction of blind persons, including an understanding of the unique needs and education of deafblind persons.

(4) (a) The board shall:

(i) establish an Advisory Council for the Utah Schools for the Deaf and the Blind and appoint no more than 11 members to the advisory council;

(ii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the operation of the advisory council; and

(iii) receive and consider the advice and recommendations of the advisory council but is not obligated to follow the recommendations of the advisory council.

(b) The advisory council described in Subsection (4)(a) shall include at least:

(i) two members who are blind;

(ii) two members who are deaf; and

(iii) two members who are deafblind or parents of a deafblind child.

(5) The board shall approve the annual budget and expenditures of the Utah Schools for the Deaf and the Blind.

(6) (a) On or before the November interim meeting each year, the board shall report to the Education Interim Committee on the Utah Schools for the Deaf and the Blind.

(b) The ~~report shall be presented verbally and in written form to the Education Interim Committee and shall include~~ board shall ensure that the report described in Subsection (6)(a) includes:

(i) a financial report;

(ii) a report on the activities of the superintendent and associate superintendents;

(iii) a report on activities to involve parents and constituency and advocacy groups in the governance of the school; and

(iv) a report on student achievement, including:

(A) ~~[student academic achievement data, including]~~ longitudinal student achievement data for both current and previous students served by the Utah Schools for the Deaf and the Blind;

(B) graduation rates; and

(C) ~~[students exiting the Utah Schools for the Deaf and the Blind and their]~~ a description of the educational placement ~~[after]~~ of students exiting the Utah Schools for the Deaf and the Blind.

Section 7. Section 53B-1-202 is amended to read:

53B-1-202. Disclosure of foreign gifts to higher education institutions.

(1) (a) Except as provided in Subsection (1)(c), on or before July 31 of each year, a higher education institution shall disclose to the board, by filing a disclosure report described in Subsection (2), a gift received by the higher education institution of \$50,000 or more from a foreign person, considered alone or in combination with all other gifts from the foreign person, during the period beginning July 1 and ending on June 30 immediately preceding the July 31 deadline.

(b) A higher education institution may rely on the following address of a foreign person to determine the citizenship or nationality of the foreign person if the citizenship or nationality is unknown:

(i) for a foreign person that is an individual, the principal residence; and

(ii) for a foreign person that is not an individual, the principal place of business.

(c) The \$50,000 amount described in Subsection (1)(a) is increased to \$250,000 if the gift, considered alone or in combination with all other gifts, described in Subsection (1)(a) is from a foreign person:

(i) with a principal residence or principal place of business located in the United States; and

(ii) with a permanent resident status:

(A) under Section 245 of the Immigration and Nationality Act; and

(B) for 10 years or more.

(2) A disclosure report regarding all gifts described in Subsection (1) shall include:

(a) the amount of each gift described in Subsection (1);

(b) the date on which each gift described in Subsection (1) was received by the higher education institution;

(c) the name of the foreign person making each gift described in Subsection (1);

(d) the aggregate amount of all gifts described in Subsection (1) from a foreign person during the prior fiscal year of the higher education institution;

(e) for a conditional gift, a description of the conditions or restrictions related to the conditional gift;

(f) for a conditional gift:

(i) for a foreign person that is an individual, if known, the country of citizenship or principal residence of the individual; or

(ii) for a foreign person that is not an individual, if known, the country of incorporation or place of business of the foreign person; and

(g) for a conditional gift that is a contract entered into between a higher education institution and a foreign person:

(i) the amount;

(ii) the date;

(iii) a description of all conditions or restrictions; and

(iv) the name of the foreign person.

(3) A disclosure report required by this section is a public record open to inspection and review during the higher education institution's business hours.

(4) At the request of the board, the attorney general may file a civil action to compel a higher education institution to comply with the requirements of this section.

~~[(5) On or before the November interim meeting of each year, the board shall report to the Education Interim Committee and provide a summary of all gifts described in Subsection (1) received by higher education institutions during the prior fiscal year.]~~

~~[(6)]~~ (5) The board shall make rules for the administration of this section in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 8. Section 53B-8-108 is amended to read:

53B-8-108. Regents' Scholarship Program -- General provisions -- Board policies.

(1) The Regents' Scholarship Program is created to award merit scholarships to students who complete a rigorous core course of study in high school.

(2) (a) A student who is awarded the Base Regents' scholarship established in Section 53B-8-109 may also be awarded each of the supplemental awards established in Sections 53B-8-110 and 53B-8-111.

(b) A student may not receive both a Regents' scholarship and a New Century scholarship established in Section 53B-8-105.

(3) A Regents' scholarship may only be used at a:

(a) credit-granting higher education institution within the state system of higher education; or

(b) private, nonprofit college or university in the state that is accredited by the Northwest Association of Schools and Colleges.

(4) (a) A scholarship holder shall enroll full-time at a higher education institution described in Subsection (3) by no later than the fall term immediately following the student's high school graduation date or receive an approved deferral from the board.

(b) The board may grant a deferral or leave of absence to a scholarship holder, but the student may only receive scholarship money within five years of the student's high school graduation date.

(5) (a) The board shall annually report on the Regents' Scholarship Program at the beginning of each school year to ~~the Education Interim Committee and~~ the Higher Education Appropriations Subcommittee.

(b) The ~~report shall include~~ board shall ensure that the report includes the number of students in each school district and public high school who meet the academic criteria for the Base Regents' scholarship and for the Exemplary Academic Achievement Scholarship.

(c) The State Board of Education, school districts, and public high schools shall cooperate with the board to facilitate the collection and distribution of Regents' Scholarship Program data.

(6) The State Board of Education shall annually provide the board a complete list of directory information, including student name and address, for all grade 8 students in the state.

(7) The board shall adopt policies establishing:

(a) the high school and college course requirements described in Subsection 53B-8-109(1)(d)(i);

(b) the additional weights assigned to grades earned in certain courses described in Subsections 53B-8-109(4) and 53B-8-111(7);

(c) the regional accrediting bodies that may accredit a private high school described in Subsection 53B-8-109(1)(a)(ii);

(d) (i) the application process and an appeal process for a Regents' scholarship, including procedures to allow a student to apply for the scholarship on-line; and

(ii) a disclosure on all applications and related materials that the amount of the awards is subject to funding and may be reduced, in accordance with Subsection (8)(b); and

(e) how college credits correlate to high school units for purposes of Subsection 53B-8-109(1)(d)(i).

(8) (a) Subject to future budget constraints, the Legislature shall make an annual appropriation from the Education Fund to the board for the costs associated with the Regents' Scholarship Program authorized under this section and Sections 53B-8-109, 53B-8-110, and 53B-8-111.

(b) Notwithstanding the provisions of this section and Sections 53B-8-109, 53B-8-110, and 53B-8-111, if the appropriation under Subsection (8)(a) is insufficient to cover the costs associated

with the Regents' Scholarship Program, the board may reduce the amount of the Base Regents' scholarships and supplemental awards.

(9) The board may set deadlines for receiving Regents' scholarship applications and supporting documentation.

Section 9. Section 53B-16-107 is amended to read:

53B-16-107. Credit for military service and training -- Notification -- Transferability -- Reporting.

(1) As used in this section, "credit" includes proof of equivalent noncredit course completion awarded by the Utah College of Applied Technology.

(2) An institution of higher education listed in Section 53B-2-101 shall provide written notification to each student applying for admission that the student is required to meet with a college counselor in order to receive credit for military service and training as recommended by a postsecondary accreditation agency or association designated by the State Board of Regents or the Utah College of Applied Technology Board of Trustees if:

(a) credit for military service and training is requested by the student; and

(b) the student has met with an advisor at an institution of higher education listed in Section 53B-2-101 at which the student intends to enroll to discuss applicability of credit to program requirements, possible financial aid implications, and other factors that may impact attainment of the student's educational goals.

(3) Upon transfer within the state system of higher education, a student may present a transcript to the receiving institution for evaluation and to determine the applicability of credit to the student's program of study, and the receiving institution shall evaluate the credit to be transferred pursuant to Subsection (2).

(4) The State Board of Regents and the Utah College of Applied Technology Board of Trustees shall annually report the number of credits awarded under this section by each institution of higher education to ~~[the Education Interim Committee and]~~ the Utah Department of Veterans' Affairs.

CHAPTER 189**H. B. 49**

Passed February 11, 2016

Approved March 23, 2016

Effective May 10, 2016

**STATE LIABILITY PROTECTION
FOR SCHOOL EMPLOYEES**

Chief Sponsor: Curtis Oda

Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill modifies provisions relating to public school participation in the Risk Management Fund.

Highlighted Provisions:

This bill:

- ▶ modifies certain deadlines related to public school employee participation in the Risk Management Fund.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63A-4-204, as last amended by Laws of Utah 2008, Chapter 382

63A-4-204.5, as last amended by Laws of Utah 2008, Chapter 382

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

Section 1. Section 63A-4-204 is amended to read:**63A-4-204. School district participation in Risk Management Fund.**

(1) (a) For the purpose of this section, action by a public school district shall be taken upon resolution by a majority of the members of the school district's board of education.

(b) (i) Upon approval by the state risk manager and the board of education of the school district, a public school district may participate in the Risk Management Fund and may permit a foundation established under Section 53A-4-205 to participate in the Risk Management Fund.

(ii) Upon approval by the state risk manager and the State Board of Education, a state public education foundation may participate in the Risk Management Fund.

(c) Subject to any cancellation or other applicable coverage provisions, either the state risk manager or the public school district may terminate participation in the fund.

(2) The state risk manager shall contract for all insurance, legal, loss adjustment, consulting, loss control, safety, and other related services necessary to support the insurance program provided to a participating public school district, except that all

supporting legal services are subject to the prior approval of the state attorney general.

(3) (a) The state risk manager shall treat each participating public school district as a state agency when participating in the Risk Management Fund.

(b) Each public school district participating in the fund shall comply with the provisions of this part that affect state agencies.

(4) (a) ~~[By no later than March 31 of each]~~ Each year, the risk manager shall prepare, in writing, the information required by Subsection (4)(b) regarding the coverage against legal liability provided a school district employee of this state:

(i) by the Risk Management Fund;

(ii) under Title 63G, Chapter 7, Governmental Immunity Act of Utah; and

(iii) under Title 52, Chapter 6, Reimbursement of Legal Fees and Costs to Officers and Employees Act.

(b) (i) The information described in Subsection (4)(a) shall include:

(A) the eligibility requirements, if any, to receive the coverage;

(B) the basic nature of the coverage for a school district employee, including what is not covered; and

(C) whether the coverage is primary or in excess of any other coverage the risk manager knows is commonly available to a school district employee in this state.

(ii) The information described in Subsection (4)(a) may include:

(A) comparisons the risk manager considers beneficial to a school district employee between:

(I) the coverage described in Subsection (4)(a); and

(II) other coverage the risk manager knows is commonly available to a school district employee in this state; and

(B) any other information the risk manager considers appropriate.

(c) ~~[The]~~ By no later than July 1 of each year, the risk manager shall provide the information prepared under this Subsection (4) to each school district that participates in the Risk Management Fund.

(d) A school district that participates in the Risk Management Fund shall provide a copy of the information described in Subsection (4)(c) to each school district employee within the school district~~[:]~~ no later than the first day of each school year.

~~[(i) at the time an employee enters into an employment contract and signs a separate acknowledgment of legal liability protection in accordance with Section 53A-3-411; or]~~

~~[(ii) if the school district does not provide the information to the employee pursuant to Subsection (4)(d)(i);]~~

~~[(A) within 30 days of the day the school district employee is hired by the school district; and]~~

~~[(B) by no later than April 15 of each calendar year.]~~

(e) If a school district hires an employee after the first day of the school year, no later than 10 days after the day on which the employee is hired, the school district shall provide the information described in Subsection (4)(c) to the employee.

Section 2. Section 63A-4-204.5 is amended to read:

63A-4-204.5. Charter school participation in Risk Management Fund.

(1) A charter school established under the authority of Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act, may participate in the Risk Management Fund upon the approval of the state risk manager and the governing body of the charter school.

(2) (a) For purposes of administration, the state risk manager shall treat each charter school participating in the fund as a state agency.

(b) Each charter school participating in the fund shall comply with the provisions of this part that affect state agencies.

(3) (a) ~~[By no later than March 31 of each]~~ Each year, the risk manager shall prepare, in writing, the information required by Subsection (3)(b) regarding the coverage against legal liability provided a charter school employee of this state:

(i) by the Risk Management Fund;

(ii) under Title 63G, Chapter 7, Utah Governmental Immunity Act of Utah; and

(iii) under Title 52, Chapter 6, Reimbursement of Legal Fees and Costs to Officers and Employees Act.

(b) (i) The information described in Subsection (3)(a) shall include:

(A) the eligibility requirements, if any, to receive the coverage;

(B) the basic nature of the coverage for a charter school employee, including what is not covered; and

(C) whether the coverage is primary or in excess of any other coverage the risk manager knows is commonly available to a charter school employee in this state.

(ii) The information described in Subsection (3)(a) may include:

(A) comparisons the risk manager considers beneficial to a charter school employee between:

(I) the coverage described in Subsection (3)(a); and

(II) other coverage the risk manager knows is commonly available to a charter school employee in this state; and

(B) any other information the risk manager considers appropriate.

~~(c) [The]~~ By no later than July 1 of each year, the risk manager shall provide the information prepared under this Subsection (3) to each charter school that participates in the Risk Management Fund.

(d) A charter school that participates in the Risk Management Fund shall provide a copy of the information described in Subsection (3)(c) to each charter school employee within the charter school~~[:]~~ no later than the first day of each school year.

~~[(i) within 30 days of the day the charter school employee is hired by the charter school; and]~~

~~[(ii) by no later than April 15 of each calendar year.]~~

(e) If a charter school hires an employee after the first day of the school year, no later than 10 days after the day on which the employee is hired, the charter school shall provide the information described in Subsection (3)(c) to the employee.

CHAPTER 190**H. B. 54**

Passed February 11, 2016

Approved March 23, 2016

Effective May 10, 2016

**ECONOMIC DEVELOPMENT TAX
INCREMENT FINANCING AMENDMENTS**

Chief Sponsor: Rebecca P. Edwards

Senate Sponsor: Lincoln Fillmore

LONG TITLE**General Description:**

This bill modifies economic development incentives administered by the Governor's Office of Economic Development.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ allows for the state to pay certain outstanding financial commitments;
- ▶ enacts provisions for the state to pay a partial rebate to a business entity for a portion of new state revenue generated by a business entity's new commercial project for an agreement initially entered into before May 5, 2008;
- ▶ creates the Economic Incentive Restricted Account as a restricted account in the General Fund; and
- ▶ provides procedures for the applications and payment of a partial rebate.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

63N-2-109, Utah Code Annotated 1953

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

Section 1. Section 63N-2-109 is enacted to read:**63N-2-109. Payment of partial rebates.**

(1) As used in this section:

(a) "Account" means the Economic Incentive Restricted Account created in Subsection (2).

(b) "Partial rebate" means an agreement between the office and a business entity under which the state agrees to pay back to the business entity a portion of new state revenue generated by a business entity's new commercial project.

(2) (a) There is created a restricted account in the General Fund known as the Economic Incentive Restricted Account.

(b) The account shall consist of money transferred into the account by the Division of Finance from the General Fund as provided in this section.

(c) The Division of Finance shall make payments from the account as required by this section.

(3) The Division of Finance shall make partial rebate payments due under an agreement initially entered into by the office before May 5, 2008, as provided in this section.

(4) (a) Each business entity seeking a partial rebate shall follow the procedures and requirements of this Subsection (4) to obtain a partial rebate.

(b) Within 90 days of the end of each calendar year, a business entity seeking a partial rebate shall:

(i) provide the office with documentation of the new state revenue that the business entity generated during the preceding calendar year;

(ii) provide the office with a document that expressly directs and authorizes the State Tax Commission to disclose to the office the business entity's returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and

(iii) ensure that the documentation includes:

(A) the types of taxes and corresponding amounts of taxes paid directly to the State Tax Commission; and

(B) the sales taxes paid to Utah vendors and suppliers that were indirectly paid to the State Tax Commission.

(c) The office shall:

(i) audit or review the documentation for accuracy;

(ii) based on the office's analysis of the documentation, determine the amount of a partial rebate that the business entity earned under the agreement; and

(iii) submit to the Division of Finance:

(A) a request for payment of a partial rebate to the business entity;

(B) the name and address of the payee; and

(C) any other information requested by the Division of Finance.

(5) Upon receipt of a request for payment of a partial rebate from the office, the Division of Finance shall:

(a) transfer from the General Fund to the restricted account the amount contained in the request for payment of a partial rebate after reducing the amount transferred by any unencumbered balances in the restricted account; and

(b) notwithstanding Subsections 51-5-3(23)(b) and 63J-1-104(3)(c), after receiving a request for payment of a partial rebate and making the transfer required by Subsection (5)(a), pay the partial rebate from the account.

CHAPTER 191**H. B. 62**

Passed February 22, 2016

Approved March 23, 2016

Effective May 10, 2016

LAW ENFORCEMENT AND CRIMINAL JUSTICE - STATUTORY REPORTS REPEAL

Chief Sponsor: Don L. Ipson

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies provisions of the Utah Code regarding annual reporting requirements for agencies.

Highlighted Provisions:

This bill:

- ▶ eliminates the following annual agency reporting requirements:
 - Commission on Criminal and Juvenile Justice report on the grants allocated from the Law Enforcement Operations Account;
 - Commission on Criminal and Juvenile Justice report on the funds allocated from the Law Enforcement Services Account;
 - Utah Substance Abuse Advisory Council written report on the implementation, impact, and results of the Drug Offender Reform Act;
 - Utah Department of Corrections written report regarding the housing of state inmates in county jails; and
 - Commission on Criminal and Juvenile Justice written report on the number of state parole and probationary inmates who are housed in county jails.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

51-9-411, as last amended by Laws of Utah 2011, Chapter 342

51-9-412, as last amended by Laws of Utah 2014, Chapter 280

63M-7-305, as last amended by Laws of Utah 2011, Chapter 51

REPEALS:

64-13e-106, as last amended by Laws of Utah 2015, Chapter 48

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

Section 1. Section 51-9-411 is amended to read:**51-9-411. Law Enforcement Operations Account -- Share of surcharge -- Uses.**

(1) As used in this section:

(a) "Account" means the Law Enforcement Operations Account.

(b) "Commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(c) "Law enforcement agency" means a state or local law enforcement agency.

(d) "Other appropriate agency" means a state or local government agency, or a nonprofit organization, that works to prevent illegal drug activity and enforce laws regarding illegal drug activity and related criminal activity by:

(i) programs, including education, prevention, treatment, and research programs; and

(ii) enforcement of laws regarding illegal drugs.

(2) There is created a restricted account within the General Fund known as the Law Enforcement Operations Account.

(3) (a) The Division of Finance shall allocate the balance of the collected surcharge under Section 51-9-401 that is not allocated under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation, to the account, to be appropriated by the Legislature.

(b) Money in the account shall be appropriated to the commission for implementing law enforcement operations and programs related to reducing illegal drug activity and related criminal activity as listed in Subsection (5).

(c) The state treasurer shall invest money in the account according to Title 51, Chapter 7, State Money Management Act.

(d) The Division of Finance shall deposit interest or other earnings derived from investment of account money into the General Fund.

(4) (a) The commission shall allocate grants of funds from the account for the purposes under Subsection (5) to state, local, or multijurisdictional law enforcement agencies and other appropriate agencies.

(b) The grants shall be made by an application process established by the commission in accordance with Subsection (6).

(5) (a) The first priority of the commission is to annually allocate not more than \$2,500,000, depending upon funding available from other sources, to directly fund the operational costs of state and local law enforcement agencies' drug or crime task forces, including multijurisdictional task forces.

(b) The second priority of the commission is to allocate grants for specified law enforcement agency functions and other agency functions as the commission finds appropriate to more effectively reduce illegal drug activity and related criminal activity, including providing education, prevention, treatment, and research programs.

(6) (a) In allocating grants and determining the amount of the grants, the commission shall consider:

(i) the demonstrated ability of the agency to appropriately use the grant to implement the

proposed functions and how this function or task force will add to the law enforcement agency's current efforts to reduce illegal drug activity and related criminal activity; and

(ii) the agency's cooperation with other state and local agencies and task forces.

(b) Agencies qualify for a grant only if they demonstrate compliance with all reporting and policy requirements applicable under this section and under Title 63M, Chapter 7, Criminal Justice and Substance Abuse, in order to qualify as a potential grant recipient.

(7) Recipient agencies may only use grant money after approval or appropriation by the agency's governing body, and a determination that the grant money is nonlapsing.

(8) A recipient law enforcement agency may use funds granted under this section only for the purposes stated by the commission in the grant.

(9) For each fiscal year, any law enforcement agency that receives a grant from the commission under this section shall prepare, and file with the commission and the state auditor, a report in a form specified by the commission. The report shall include the following regarding each grant:

- (a) the agency's name;
- (b) the amount of the grant;
- (c) the date of the grant;
- (d) how the grant has been used; and

(e) a statement signed by both the agency's or political subdivision's executive officer or designee and by the agency's legal counsel, that all grant funds were used for law enforcement operations and programs approved by the commission and that relate to reducing illegal drug activity and related criminal activity, as specified in the grant.

~~[(10) The commission shall report in writing to the legislative Law Enforcement and Criminal Justice Interim Committee annually regarding the grants allocated under this section, including the amounts and uses of the grants.]~~

Section 2. Section 51-9-412 is amended to read:

51-9-412. Law Enforcement Services Account -- Funding -- Uses.

(1) As used in this section:

(a) "Account" means the Law Enforcement Services Account.

(b) "Commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(c) "Halfway house" means a facility that houses parolees upon release from prison or houses probationers who have violated the terms of their probation.

(d) "Law enforcement agency" means a local law enforcement agency.

(e) "Parole violator center" means a facility that houses parolees who have violated the conditions of their parole agreement.

(2) There is created a restricted account within the General Fund known as the "Law Enforcement Services Account."

(3) (a) The Division of Finance shall allocate funds from the collected surcharge in accordance with Subsection 51-9-401(1)(c) to the account, but not to exceed the amount appropriated by the Legislature.

(b) Money in the account shall be appropriated to the commission to administer and distribute to law enforcement agencies providing services directly to areas with halfway houses or parole violator centers, or both.

(4) The commission shall allocate funds from the account to local law enforcement agencies on a pro-rata basis determined by:

(a) the average daily number of occupied beds in a halfway house in each agency's jurisdiction for increased enforcement in areas with halfway houses;

(b) the average daily number of occupied beds in a parole violator center in each agency's jurisdiction; or

(c) both Subsections (4)(a) and (b).

(5) A law enforcement agency may use funds received under this section only for the purposes stated in this section.

(6) For each fiscal year, any law enforcement agency that receives funds from the commission under this section shall prepare, and file with the commission and the state auditor, a report in a form specified by the commission. The report shall include the following:

(a) the agency's name;

(b) the amount received;

(c) how the funds were used, including the impact on crime reduction efforts in areas with halfway houses or parole violator centers, or both; and

(d) a statement signed by both the agency's or political subdivision's executive officer or designee and by the agency's legal counsel that all funds were used for law enforcement operations related to reducing criminal activity in areas with halfway houses or parole violator centers, or both.

~~[(7) The commission shall report in writing to the legislative Law Enforcement and Criminal Justice Interim Committee annually regarding the funds allocated under this section, including the amounts and uses.]~~

Section 3. Section 63M-7-305 is amended to read:

63M-7-305. Drug Offender Reform Act -- Coordination.

(1) As used in this section:

(a) "Council" means the Utah Substance Abuse Advisory Council.

(b) “Drug Offender Reform Act” and “act” mean the screening, assessment, substance abuse treatment, and supervision provided to convicted offenders under Subsection 77-18-1.1(2) to:

(i) determine offenders’ specific substance abuse treatment needs as early as possible in the judicial process;

(ii) expand treatment resources for offenders in the community;

(iii) integrate treatment of offenders with supervision by the Department of Corrections; and

(iv) reduce the incidence of substance abuse and related criminal conduct.

(c) “Substance abuse authority” has the same meaning as in Section 17-43-201.

(2) The council shall provide ongoing oversight of the implementation, functions, and evaluation of the Drug Offender Reform Act.

(3) The council shall develop an implementation plan for the Drug Offender Reform Act. The plan shall:

(a) identify local substance abuse authority areas where the act will be implemented, in cooperation with the Division of Substance Abuse and Mental Health, the Department of Corrections, and the local substance abuse authorities;

(b) include guidelines on how funds appropriated under the act should be used;

(c) require that treatment plans under the act are appropriate for criminal offenders;

(d) include guidelines on the membership of local planning groups;

(e) include guidelines on the membership of the Department of Corrections’ planning group under Subsection (5); and

(f) provide guidelines for the Commission on Criminal and Juvenile Justice to conduct an evaluation of the implementation, impact, and results of the act.

(4) (a) Each local substance abuse authority designated under Subsection (3) to implement the act shall establish a local planning group and shall submit a plan to the council detailing how the authority proposes to use the act funds. The uses shall be in accordance with the guidelines established by the council under Subsection (3).

(b) Upon approval of the plan by the council, the Division of Substance Abuse and Mental Health shall allocate the funds.

(c) Local substance abuse authorities shall annually, on or before October 1, submit to the Division of Substance Abuse and Mental Health and to the council reports detailing use of the funds and the impact and results of the use of the funds during the prior fiscal year ending June 30.

(5) (a) The Department of Corrections shall establish a planning group and shall submit a plan to the council detailing how the department

proposes to use the act funds. The uses shall be in accordance with the guidelines established by the council under Subsection (3).

(b) The Department of Corrections shall annually, before October 1, submit to the council a report detailing use of the funds and the impact and results of the use of the funds during the prior fiscal year ending June 30.

~~[(6) The council shall monitor the progress and evaluation of the act and shall provide a written report on the implementation, impact, and results of the act to the Law Enforcement and Criminal Justice and the Health and Human Services legislative interim committees annually before November 1.]~~

Section 4. Repealer.

This bill repeals:

Section 64-13e-106, Report to Legislature.

CHAPTER 192**H. B. 89**

Passed February 16, 2016

Approved March 23, 2016

Effective May 10, 2016

**OFFICE OF STATE DEBT COLLECTION
REPORTING AMENDMENTS**

Chief Sponsor: Craig Hall

Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill modifies provisions relating to the reporting of certain fiscal information.

Highlighted Provisions:

This bill:

- ▶ eliminates a requirement that the Office of State Debt Collection submit an annual report to an appropriations subcommittee.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63A-3-505, as last amended by Laws of Utah 2013, Chapter 400

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

Section 1. Section 63A-3-505 is amended to read:**63A-3-505. State Debt Collection Fund.**

(1) There is created an expendable special revenue fund entitled the "State Debt Collection Fund."

(2) The fund consists of:

(a) all amounts appropriated to the fund under this chapter;

(b) fees and interest established by the office under Subsection 63A-3-502(4)(g); and

(c) except as otherwise provided by law, all postjudgment interest collected by the office or the state except postjudgment interest on restitution.

(3) Money in this fund shall be used to pay for:

(a) the costs of the office in the performance of its duties under this chapter;

(b) restitution to victims to whom the debt is owed;

(c) interest accrued that is associated with the debt;

(d) principal on the debt to the state agencies or other entities that placed the receivable for collection; and

(e) other legal obligations including those ordered by a court.

(4) (a) The fund may collect interest.

(b) All interest earned from the fund shall be deposited in the General Fund.

(5) The office shall ensure that money remaining in the fund at the end of the fiscal year that is not committed under the priorities established under Subsection (3) is deposited into the General Fund.

~~[(6) (a) The office shall report at least annually to the appropriations subcommittee assigned to review the budget of the Department of Administrative Services on the fund balance and its revenues and expenditures and administrative offsets.]~~

~~[(b) The report shall include the amounts paid under each provision under Subsection (3).]~~

CHAPTER 193**H. B. 103**

Passed February 9, 2016
 Approved March 23, 2016
 Effective May 10, 2016

DEPARTMENT OF ADMINISTRATIVE SERVICES AMENDMENTS

Chief Sponsor: Curtis Oda
 Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill modifies provisions relating to the Department of Administrative Services.

Highlighted Provisions:

This bill:

- ▶ replaces the Division of Administrative Rules with the Office of Administrative Rules within the Department of Administrative Services;
- ▶ provides that a coordinator shall administer the Office of Administrative Rules;
- ▶ creates certain duties of the Office of Administrative Rules regarding technological improvements to the rulemaking process; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 31A-2-404, as last amended by Laws of Utah 2015, Chapter 330
- 35A-3-302, as last amended by Laws of Utah 2015, Chapter 221
- 53-2a-209, as last amended by Laws of Utah 2015, Chapter 358
- 53C-1-201, as last amended by Laws of Utah 2015, Chapter 177
- 63A-1-109, as last amended by Laws of Utah 2011, Chapters 79 and 265
- 63A-1-109.5, as last amended by Laws of Utah 2011, Chapter 79
- 63A-1-111, as renumbered and amended by Laws of Utah 1993, Chapter 212
- 63G-3-102, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 63G-3-201, as last amended by Laws of Utah 2009, Chapter 347
- 63G-3-301, as last amended by Laws of Utah 2009, Chapter 93
- 63G-3-303, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 63G-3-304, as last amended by Laws of Utah 2008, Chapter 300 and renumbered and amended by Laws of Utah 2008, Chapter 382
- 63G-3-305, as last amended by Laws of Utah 2014, Chapter 57
- 63G-3-401, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 63G-3-402, as last amended by Laws of Utah 2010, Chapter 341

- 63G-3-403, as last amended by Laws of Utah 2008, Chapter 300 and renumbered and amended by Laws of Utah 2008, Chapter 382
- 63G-3-501, as last amended by Laws of Utah 2015, Chapter 383
- 63G-3-702, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 63J-1-602.4, as last amended by Laws of Utah 2015, Chapters 179 and 283

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

Section 1. Section 31A-2-404 is amended to read:**31A-2-404. Duties of the commissioner and Title and Escrow Commission.**

(1) (a) Notwithstanding the other provisions of this chapter, to the extent provided in this part, the commissioner shall administer and enforce the provisions in this title related to a title insurance matter.

(b) (i) The commissioner may impose a penalty:

(A) under this title related to a title insurance matter;

(B) after investigation by the commissioner in accordance with Part 3, Procedures and Enforcement; and

(C) that is enforced by the commissioner.

(ii) The commissioner shall consult with and seek concurrence of the commission in a meeting subject to Title 52, Chapter 4, Open and Public Meetings Act, regarding the imposition of a penalty, and if concurrence cannot be reached, the commissioner has final authority.

(c) Unless a provision of this title grants specific authority to the commission, the commissioner has authority over the implementation of this title related to a title insurance matter. When a provision requires concurrence between the commission and commissioner, and concurrence cannot be reached, the commissioner has final authority.

(d) Except as provided in Subsection (1)(e), when this title requires concurrence between the commissioner and commission related to a title insurance matter:

(i) the commissioner shall report to and update the commission on a regular basis related to that title insurance matter; and

(ii) the commission shall review the report submitted by the commissioner under this Subsection (1)(d) and concur with the report, or:

(A) provide a reason for not concurring with the report; and

(B) provide recommendations to the commissioner.

(e) When this title requires concurrence between the commissioner and commission under Subsection (2), (3), or (4):

(i) the commission shall report to and update the commissioner on a regular basis related to that title insurance matter; and

(ii) the commissioner shall review a report submitted by the commission under this Subsection (1)(e) and concur with the report or:

(A) provide a reason for not concurring with the report; and

(B) provide recommendations to the commission.

(2) The commission shall:

(a) subject to Subsection (4), make rules for the administration of the provisions in this title related to title insurance matters including rules related to:

(i) rating standards and rating methods for a title licensee, as provided in Section 31A-19a-209;

(ii) the licensing for a title licensee, including the licensing requirements of Section 31A-23a-204;

(iii) continuing education requirements of Section 31A-23a-202; and

(iv) standards of conduct for a title licensee;

(b) concur in the issuance and renewal of a license in accordance with Section 31A-23a-105 or 31A-26-203;

(c) in accordance with Section 31A-3-103, establish, with the concurrence of the commissioner, the fees imposed by this title on a title licensee;

(d) in accordance with Section 31A-23a-415 determine, after consulting with the commissioner, the assessment on a title insurer as defined in Section 31A-23a-415;

(e) with the concurrence of the commissioner, approve a continuing education program required by Section 31A-23a-202;

(f) on a regular basis advise the commissioner of the most critical matters affecting the title insurance industry and request the commissioner to direct the department's investigative resources to investigate and enforce those matters;

(g) in accordance with Section 31A-23a-204, participate in the annual license testing evaluation conducted by the commissioner's test administrator;

(h) advise the commissioner on matters affecting the commissioner's budget related to title insurance; and

(i) perform other duties as provided in this title.

(3) The commission may make rules establishing an examination for a license that will satisfy Section 31A-23a-204:

(a) after consultation with the commissioner's test administrator; and

(b) subject to Subsection (4).

(4) (a) The commission may make a rule under this title only:

(i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(ii) with the concurrence of the commissioner, except that if concurrence cannot be reached, the commissioner has final authority; and

(iii) if at the time the commission files its proposed rule and rule analysis with the [Division] Office of Administrative Rules in accordance with Section 63G-3-301, the commission provides the Real Estate Commission that same information.

(b) The commission may not make a rule regarding adjudicative procedures.

(c) In accordance with Section 31A-2-201, the commissioner may make rules regarding adjudicative procedures.

(5) (a) The commissioner shall annually report the information described in Subsection (5)(b) in writing to the commission.

(b) The information required to be reported under this Subsection (5):

(i) may not identify a person; and

(ii) shall include:

(A) the number of complaints the commissioner receives with regard to transactions involving title insurance or a title licensee during the calendar year immediately proceeding the report;

(B) the type of complaints described in Subsection (5)(b)(ii)(A); and

(C) for each complaint described in Subsection (5)(b)(ii)(A):

(I) any action taken by the commissioner with regard to the complaint; and

(II) the time-period beginning the day on which a complaint is made and ending the day on which the commissioner determines it will take no further action with regard to the complaint.

Section 2. Section 35A-3-302 is amended to read:

35A-3-302. Eligibility requirements.

(1) There is created the "Family Employment Program" to provide cash assistance under this part.

(2) (a) The department shall submit a state plan to the Secretary of the United States Department of Health and Human Services to obtain funding under the federal Temporary Assistance for Needy Families Block Grant.

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

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

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

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

- (a) have at least one minor dependent child; or
- (b) have a parent who is in the third trimester of a pregnancy.

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

- (a) family size;
- (b) family income;
- (c) income disregards;
- (d) other relevant factors; and
- (e) if the applicant has met the eligibility requirements under Subsections (5)(a) through (d), the assessment and other requirements described in Sections 35A-3-304 and 35A-3-304.5.

(6) To determine eligibility, the department may not consider money on deposit in an Individual Development Account established under Section 35A-3-312.

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

(8) (a) The department shall make a report to either the Legislature's Executive Appropriations Committee or the Social Services Appropriations Subcommittee on any proposed rule change made under Subsection (5) that would modify the:

- (i) eligibility requirements for cash assistance; or
- (ii) amount of cash assistance a family is eligible to receive.

(b) The department shall submit the report under Subsection (8)(a) prior to implementing the proposed rule change.

(c) The report under Subsection (8)(a) shall include:

- (i) a description of the department's current practice or policy that it is proposing to change;
- (ii) an explanation of why the department is proposing the change;
- (iii) the effect of an increase or decrease in cash benefits on families; and
- (iv) the fiscal impact of the proposed change.

(d) The department may use the Notice of Proposed Rule Amendment form filed with the [Division] Office of Administrative Rules as its report if the notice contains the information required under Subsection (8)(c).

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to ensure that:

(a) a recipient of assistance from the Family Employment Program:

- (i) has adequate access to the assistance;
- (ii) has the ability to use and withdraw assistance with minimal fees or surcharges, including the opportunity to obtain assistance with no fees or surcharges;
- (iii) is provided information regarding fees and surcharges that may apply to assistance accessed through an electronic fund transaction; and
- (iv) is provided information explaining the restrictions on accessing assistance described in Subsection (10); and

(b) information regarding fees and surcharges that may apply when accessing assistance from the Family Employment Program through an electronic fund transaction is available to the public.

(10) An individual receiving assistance under this section may not access the assistance through an electronic benefit transfer, including through an automated teller machine or point-of-sale device, in an establishment in the state that:

- (a) exclusively or primarily sells intoxicating liquor;
- (b) allows gambling or gaming; or
- (c) provides adult-oriented entertainment where performers disrobe or perform unclothed.

(11) An establishment described under Subsection (10)(a), (b), or (c) may not allow an individual to access the assistance under this section on the establishment's premises through an electronic benefit transfer, including through an automated teller machine or point-of-sale device.

(12) In accordance with federal requirements and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to prevent individuals from accessing assistance in a manner prohibited by Subsections (10) and (11), which rules may include enforcement provisions that impose sanctions that temporarily or permanently disqualify an individual from receiving assistance.

Section 3. Section 53-2a-209 is amended to read:

53-2a-209. Orders, rules, and regulations having force of law -- Filing requirements -- Suspension of state agency rules -- Suspension of enforcement of certain statutes during a state of emergency.

(1) All orders, rules, and regulations promulgated by the governor, a municipality, a county, or other agency authorized by this part to make orders, rules, and regulations, not in conflict with existing laws except as specifically provided in this section, shall have the full force and effect of law during the state of emergency.

(2) A copy of the order, rule, or regulation promulgated under Subsection (1) shall be filed as soon as practicable with:

(a) the ~~Division~~ Office of Administrative Rules, if issued by the governor or a state agency; or

(b) the office of the clerk of the municipality or county, if issued by the chief executive officer of a municipality or county.

(3) The governor may suspend the provisions of any order, rule, or regulation of any state agency, if the strict compliance with the provisions of the order, rule, or regulation would substantially prevent, hinder, or delay necessary action in coping with the emergency or disaster.

(4) (a) Except as provided in Subsection (4)(b) and subject to Subsections (4)(c) and (d), the governor may by executive order suspend the enforcement of a statute if:

(i) the governor declares a state of emergency in accordance with Section 53-2a-206;

(ii) the governor determines that suspending the enforcement of the statute is:

(A) directly related to the state of emergency described in Subsection (4)(a)(i); and

(B) necessary to address the state of emergency described in Subsection (4)(a)(i);

(iii) the executive order:

(A) describes how the suspension of the enforcement of the statute is:

(I) directly related to the state of emergency described in Subsection (4)(a)(i); and

(II) necessary to address the state of emergency described in Subsection (4)(a)(i); and

(B) provides the citation of the statute that is the subject of suspended enforcement;

(iv) the governor acts in good faith;

(v) the governor provides notice of the suspension of the enforcement of the statute to the speaker of the House of Representatives and the president of the Senate no later than 24 hours after suspending the enforcement of the statute; and

(vi) the governor makes the report required by Section 53-2a-210.

(b) (i) Except as provided in Subsection (4)(b)(ii), the governor may not suspend the enforcement of a criminal penalty created in statute.

(ii) The governor may suspend the enforcement of a misdemeanor or infraction if:

(A) the misdemeanor or infraction relates to food, health, or transportation; and

(B) the requirements of Subsection (4)(a) are met.

(c) A suspension described in this Subsection (4) terminates no later than the date the governor terminates the state of emergency in accordance with Section 53-2a-206 to which the suspension relates.

(d) The governor:

(i) shall provide the notice required by Subsection (4)(a)(v) using the best available method under the circumstances as determined by the governor;

(ii) may provide the notice required by Subsection (4)(a)(v) in electronic format; and

(iii) shall provide the notice in written form, if practicable.

(e) If circumstances prevent the governor from providing notice to the speaker of the House of Representatives or the president of the Senate, notice shall be provided in the best available method to the presiding member of the respective body as is reasonable.

Section 4. Section 53C-1-201 is amended to read:

53C-1-201. Creation of administration -- Purpose -- Director -- Participation in Risk Management Fund.

(1) (a) There is established within state government the School and Institutional Trust Lands Administration.

(b) The administration shall manage all school and institutional trust lands and assets within the state, except as otherwise provided in Title 53C, Chapter 3, Deposit and Allocation of Revenue from Trust Lands, and Title 53D, Chapter 1, School and Institutional Trust Fund Management Act.

(2) The administration is an independent state agency and not a division of any other department.

(3) (a) It is subject to the usual legislative and executive department controls except as provided in this Subsection (3).

(b) (i) The director may make rules as approved by the board that allow the administration to classify a business proposal submitted to the administration as protected under Section 63G-2-305, for as long as is necessary to evaluate the proposal.

(ii) The administration shall return the proposal to the party who submitted the proposal, and incur no further duties under Title 63G, Chapter 2, Government Records Access and Management Act, if the administration determines not to proceed with the proposal.

(iii) The administration shall classify the proposal pursuant to law if it decides to proceed with the proposal.

(iv) Section 63G-2-403 does not apply during the review period.

(c) The director shall make rules in compliance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except that the administration is not subject to Subsections 63G-3-301(6) and (7) and Section 63G-3-601, and the director, with the board's approval, may establish a procedure for the expedited approval of rules, based on written findings by the director showing:

(i) the changes in business opportunities affecting the assets of the trust;

(ii) the specific business opportunity arising out of those changes which may be lost without the rule or changes to the rule;

(iii) the reasons the normal procedures under Section 63G-3-301 cannot be met without causing the loss of the specific opportunity;

(iv) approval by at least five board members; and

(v) that the director has filed a copy of the rule and a rule analysis, stating the specific reasons and justifications for its findings, with the [Division] Office of Administrative Rules and notified interested parties as provided in Subsection 63G-3-301(10).

(d) (i) The administration shall comply with Title 67, Chapter 19, Utah State Personnel Management Act, except as provided in this Subsection (3)(d).

(ii) The board may approve, upon recommendation of the director, that exemption for specific positions under Subsections 67-19-12(2) and 67-19-15(1) is required in order to enable the administration to efficiently fulfill its responsibilities under the law. The director shall consult with the executive director of the Department of Human Resource Management prior to making such a recommendation.

(iii) The positions of director, deputy director, associate director, assistant director, legal counsel appointed under Section 53C-1-305, administrative assistant, and public affairs officer are exempt under Subsections 67-19-12(2) and 67-19-15(1).

(iv) Salaries for exempted positions, except for the director, shall be set by the director, after consultation with the executive director of the Department of Human Resource Management, within ranges approved by the board. The board and director shall consider salaries for similar positions in private enterprise and other public employment when setting salary ranges.

(v) The board may create an annual incentive and bonus plan for the director and other administration employees designated by the board, based upon the attainment of financial performance goals and other measurable criteria defined and budgeted in advance by the board.

(e) The administration shall comply with Title 63G, Chapter 6a, Utah Procurement Code, except where the board approves, upon recommendation of the director, exemption from the Utah Procurement Code, and simultaneous adoption of rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for procurement, which enable the administration to efficiently fulfill its responsibilities under the law.

(f) (i) Except as provided in Subsection (3)(f)(ii), the administration is not subject to the fee agency requirements of Section 63J-1-504.

(ii) The following fees of the administration are subject to the requirements of Section 63J-1-504: application, assignment, amendment, affidavit for lost documents, name change, reinstatement,

grazing nonuse, extension of time, partial conveyance, patent reissue, collateral assignment, electronic payment, and processing.

(g) (i) The administration is not subject to Subsection 63J-1-206(3)(f).

(ii) Before transferring appropriated funds between line items, the administration shall submit a proposal to the board for its approval.

(iii) If the board gives approval to a proposal to transfer appropriated funds between line items, the administration shall submit the proposal to the Legislative Executive Appropriations Committee for its review and recommendations.

(iv) The Legislative Executive Appropriations Committee may recommend:

(A) that the administration transfer the appropriated funds between line items;

(B) that the administration not transfer the appropriated funds between line items; or

(C) to the governor that the governor call a special session of the Legislature to supplement the appropriated budget for the administration.

(4) The administration is managed by a director of school and institutional trust lands appointed by a majority vote of the board of trustees with the consent of the governor.

(5) (a) The board of trustees shall provide policies for the management of the administration and for the management of trust lands and assets.

(b) The board shall provide policies for the ownership and control of Native American remains that are discovered or excavated on school and institutional trust lands in consultation with the Division of Indian Affairs and giving due consideration to Title 9, Chapter 9, Part 4, Native American Grave Protection and Repatriation Act. The director may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement policies provided by the board regarding Native American remains.

(6) In connection with joint ventures and other transactions involving trust lands and minerals approved under Sections 53C-1-303 and 53C-2-401, the administration, with board approval, may become a member of a limited liability company under [~~Title 48, Chapter 2e, Utah Revised Limited Liability Company Act, or~~] Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant to Section 48-3a-1405 and is considered a person under [~~Section 48-2e-102 or~~] Section 48-3a-102.

(7) Subject to the requirements of Subsection 63E-1-304(2), the administration may participate in coverage under the Risk Management Fund created by Section 63A-4-201.

Section 5. Section 63A-1-109 is amended to read:

63A-1-109. Divisions of department -- Administration.

(1) The department shall be composed of:

(a) the following divisions:

~~[(a) administrative rules;]~~

~~[(b)] (i) archives and records;~~

~~[(c)] (ii) facilities construction and management;~~

~~[(d)] (iii) finance;~~

~~[(e)] (iv) fleet operations;~~

~~[(f)] (v) state purchasing and general services; and~~

~~[(g)] (vi) risk management[-]; and~~

(b) the Office of Administrative Rules.

(2) Each division described in Subsection (1)(a) shall be administered and managed by a division director.

Section 6. Section 63A-1-109.5 is amended to read:

63A-1-109.5. Department authority to operate a division or office as an internal service fund agency.

Subject to Section 63A-1-114 and provisions governing internal service funds or internal service fund agencies under Title 63J, Chapter 1, Budgetary Procedures Act, the department may operate a division or office described in Section 63A-1-109 as an internal service fund agency.

Section 7. Section 63A-1-111 is amended to read:

63A-1-111. Service plans established by each division -- Contents -- Distribution.

(1) Each division and each office of the department shall formulate and establish service plans for each fiscal year.

(2) The service plans shall describe:

(a) the services to be rendered to state agencies;

(b) the methods of providing those services;

(c) the standards of performance; and

(d) the performance measures used to gauge compliance with those standards.

(3) Before the beginning of each fiscal year, the service plans shall be distributed to each state agency and institution that uses the services provided by that division.

Section 8. Section 63G-3-102 is amended to read:

63G-3-102. Definitions.

As used in this chapter:

(1) "Administrative record" means information an agency relies upon when making a rule under this chapter including:

(a) the proposed rule, change in the proposed rule, and the rule analysis form;

(b) the public comment received and recorded by the agency during the public comment period;

(c) the agency's response to the public comment;

(d) the agency's analysis of the public comment; and

(e) the agency's report of its decision-making process.

(2) "Agency" means each state board, authority, commission, institution, department, division, officer, or other state government entity other than the Legislature, its committees, the political subdivisions of the state, or the courts, which is authorized or required by law to make rules, adjudicate, grant or withhold licenses, grant or withhold relief from legal obligations, or perform other similar actions or duties delegated by law.

(3) "Bulletin" means the Utah State Bulletin.

(4) "Catchline" means a short summary of each section, part, rule, or title of the code that follows the section, part, rule, or title reference placed before the text of the rule and serves the same function as boldface in legislation as described in Section 68-3-13.

(5) "Code" means the body of all effective rules as compiled and organized by the division and entitled "Utah Administrative Code."

~~[(6) "Director" means the director of the Division of Administrative Rules.]~~

~~[(7) "Division" means the Division of Administrative Rules.]~~

(6) "Department" means the Department of Administrative Services created in Section 63A-1-104.

~~[(8)] (7) "Effective" means operative and enforceable.~~

(8) "Executive director" means the executive director of the department.

(9) (a) "File" means to submit a document to the ~~[division] office~~ as prescribed by the ~~[division] department~~.

(b) "Filing date" means the day and time the document is recorded as received by the ~~[division] office~~.

(10) "Interested person" means any person affected by or interested in a proposed rule, amendment to an existing rule, or a nonsubstantive change made under Section 63G-3-402.

(11) "Office" means the Office of Administrative Rules created in Section 63G-3-401.

~~[(11)] (12) "Order" means an agency action that determines the legal rights, duties, privileges, immunities, or other interests of one or more specific persons, but not a class of persons.~~

~~[(12)] (13) "Person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency.~~

[43] (14) "Publication" or "publish" means making a rule available to the public by including the rule or a summary of the rule in the bulletin.

[44] (15) "Publication date" means the inscribed date of the bulletin.

[45] (16) "Register" may include an electronic database.

[46] (17) (a) "Rule" means an agency's written statement that:

(i) is explicitly or implicitly required by state or federal statute or other applicable law;

(ii) implements or interprets a state or federal legal mandate; and

(iii) applies to a class of persons or another agency.

(b) "Rule" includes the amendment or repeal of an existing rule.

(c) "Rule" does not mean:

(i) orders;

(ii) an agency's written statement that applies only to internal management and that does not restrict the legal rights of a public class of persons or another agency;

(iii) the governor's executive orders or proclamations;

(iv) opinions issued by the attorney general's office;

(v) declaratory rulings issued by the agency according to Section 63G-4-503 except as required by Section 63G-3-201;

(vi) rulings by an agency in adjudicative proceedings, except as required by Subsection 63G-3-201(6); or

(vii) an agency written statement that is in violation of any state or federal law.

[47] (18) "Rule analysis" means the format prescribed by the ~~division~~ department to summarize and analyze rules.

[48] (19) "Small business" means a business employing fewer than 50 persons.

[49] (20) "Substantive change" means a change in a rule that affects the application or results of agency actions.

Section 9. Section 63G-3-201 is amended to read:

63G-3-201. When rulemaking is required.

(1) Each agency shall:

(a) maintain a current version of its rules; and

(b) make it available to the public for inspection during its regular business hours.

(2) In addition to other rulemaking required by law, each agency shall make rules when agency action:

(a) authorizes, requires, or prohibits an action;

(b) provides or prohibits a material benefit;

(c) applies to a class of persons or another agency; and

(d) is explicitly or implicitly authorized by statute.

(3) Rulemaking is also required when an agency issues a written interpretation of a state or federal legal mandate.

(4) Rulemaking is not required when:

(a) agency action applies only to internal agency management, inmates or residents of a state correctional, diagnostic, or detention facility, persons under state legal custody, patients admitted to a state hospital, members of the state retirement system, or students enrolled in a state education institution;

(b) a standardized agency manual applies only to internal fiscal or administrative details of governmental entities supervised under statute;

(c) an agency issues policy or other statements that are advisory, informative, or descriptive, and do not conform to the requirements of Subsections (2) and (3); or

(d) an agency makes nonsubstantive changes in a rule, except that the agency shall file all nonsubstantive changes in a rule with the ~~division~~ office.

(5) (a) A rule shall enumerate any penalty authorized by statute that may result from its violation, subject to Subsections (5)(b) and (c).

(b) A violation of a rule may not be subject to the criminal penalty of a class C misdemeanor or greater offense, except as provided under Subsection (5)(c).

(c) A violation of a rule may be subject to a class C or greater criminal penalty under Subsection (5)(a) when:

(i) authorized by a specific state statute;

(ii) a state law and programs under that law are established in order for the state to obtain or maintain primacy over a federal program; or

(iii) state civil or criminal penalties established by state statute regarding the program are equivalent to or less than corresponding federal civil or criminal penalties.

(6) Each agency shall enact rules incorporating the principles of law not already in its rules that are established by final adjudicative decisions within 120 days after the decision is announced in its cases.

(7) (a) Each agency may enact a rule that incorporates by reference:

(i) all or any part of another code, rule, or regulation that has been adopted by a federal

agency, an agency or political subdivision of this state, an agency of another state, or by a nationally recognized organization or association;

(ii) state agency implementation plans mandated by the federal government for participation in the federal program;

(iii) lists, tables, illustrations, or similar materials that are subject to frequent change, fully described in the rule, and are available for public inspection; or

(iv) lists, tables, illustrations, or similar materials that the executive director or the executive director's designee determines are too expensive to reproduce in the administrative code.

(b) Rules incorporating materials by reference shall:

(i) be enacted according to the procedures outlined in this chapter;

(ii) state that the referenced material is incorporated by reference;

(iii) state the date, issue, or version of the material being incorporated; and

(iv) define specifically what material is incorporated by reference and identify any agency deviations from it.

(c) The agency shall identify any substantive changes in the material incorporated by reference by following the rulemaking procedures of this chapter.

(d) The agency shall maintain a complete and current copy of the referenced material available for public review at the agency and at the ~~division~~ office.

(8) (a) This chapter is not intended to inhibit the exercise of agency discretion within the limits prescribed by statute or agency rule.

(b) An agency may enact a rule creating a justified exception to a rule.

(9) An agency may obtain assistance from the attorney general to ensure that its rules meet legal and constitutional requirements.

Section 10. Section 63G-3-301 is amended to read:

63G-3-301. Rulemaking procedure.

(1) An agency authorized to make rules is also authorized to amend or repeal those rules.

(2) Except as provided in Sections 63G-3-303 and 63G-3-304, when making, amending, or repealing a rule agencies shall comply with:

(a) the requirements of this section;

(b) consistent procedures required by other statutes;

(c) applicable federal mandates; and

(d) rules made by the ~~division~~ department to implement this chapter.

(3) Subject to the requirements of this chapter, each agency shall develop and use flexible approaches in drafting rules that meet the needs of the agency and that involve persons affected by the agency's rules.

(4) (a) Each agency shall file its proposed rule and rule analysis with the ~~division~~ office.

(b) Rule amendments shall be marked with new language underlined and deleted language struck out.

(c) (i) The ~~division~~ office shall publish the information required under Subsection (8) on the rule analysis and the text of the proposed rule in the next issue of the bulletin.

(ii) For rule amendments, only the section or subsection of the rule being amended need be printed.

(iii) If the executive director or the executive director's designee determines that the rule is too long to publish, the ~~director~~ office shall publish the rule analysis and shall publish the rule by reference to a copy on file with the ~~division~~ office.

(5) Prior to filing a rule with the ~~division~~ office, the department head shall consider and comment on the fiscal impact a rule may have on businesses.

(6) If the agency reasonably expects that a proposed rule will have a measurable negative fiscal impact on small businesses, the agency shall consider, as allowed by federal law, each of the following methods of reducing the impact of the rule on small businesses:

(a) establishing less stringent compliance or reporting requirements for small businesses;

(b) establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

(c) consolidating or simplifying compliance or reporting requirements for small businesses;

(d) establishing performance standards for small businesses to replace design or operational standards required in the proposed rule; and

(e) exempting small businesses from all or any part of the requirements contained in the proposed rule.

(7) If during the public comment period an agency receives comment that the proposed rule will cost small business more than one day's annual average gross receipts, and the agency had not previously performed the analysis in Subsection (6), the agency shall perform the analysis described in Subsection (6).

(8) The rule analysis shall contain:

(a) a summary of the rule or change;

(b) the purpose of the rule or reason for the change;

(c) the statutory authority or federal requirement for the rule;

(d) the anticipated cost or savings to:

- (i) the state budget;
 - (ii) local governments;
 - (iii) small businesses; and
 - (iv) persons other than small businesses, businesses, or local governmental entities;
 - (e) the compliance cost for affected persons;
 - (f) how interested persons may review the full text of the rule;
 - (g) how interested persons may present their views on the rule;
 - (h) the time and place of any scheduled public hearing;
 - (i) the name and telephone number of an agency employee who may be contacted about the rule;
 - (j) the name of the agency head or designee who authorized the rule;
 - (k) the date on which the rule may become effective following the public comment period; and
- (1) comments by the department head on the fiscal impact the rule may have on businesses.
- (9) (a) For a rule being repealed and reenacted, the rule analysis shall contain a summary that generally includes the following:
- (i) a summary of substantive provisions in the repealed rule which are eliminated from the enacted rule; and
 - (ii) a summary of new substantive provisions appearing only in the enacted rule.
- (b) The summary required under this Subsection (9) is to aid in review and may not be used to contest any rule on the ground of noncompliance with the procedural requirements of this chapter.
- (10) A copy of the rule analysis shall be mailed to all persons who have made timely request of the agency for advance notice of its rulemaking proceedings and to any other person who, by statutory or federal mandate or in the judgment of the agency, should also receive notice.
- (11) (a) Following the publication date, the agency shall allow at least 30 days for public comment on the rule.
- (b) The agency shall review and evaluate all public comments submitted in writing within the time period under Subsection (11)(a) or presented at public hearings conducted by the agency within the time period under Subsection (11)(a).
- (12) (a) Except as provided in Sections 63G-3-303 and 63G-3-304, a proposed rule becomes effective on any date specified by the agency that is no fewer than seven calendar days after the close of the public comment period under Subsection (11), nor more than 120 days after the publication date.

(b) The agency shall provide notice of the rule's effective date to the [division] office in the form required by the [division] department.

(c) The notice of effective date may not provide for an effective date prior to the date it is received by the [division] office.

(d) The [division] office shall publish notice of the effective date of the rule in the next issue of the bulletin.

(e) A proposed rule lapses if a notice of effective date or a change to a proposed rule is not filed with the [division] office within 120 days of publication.

(13) (a) As used in this Subsection (13), "initiate rulemaking proceedings" means the filing, for the purposes of publication in accordance with Subsection (4), of an agency's proposed rule that is required by state statute.

(b) A state agency shall initiate rulemaking proceedings no later than 180 days after the effective date of the statutory provision that specifically requires the rulemaking, except under Subsection (13)(c).

(c) When a statute is enacted that requires agency rulemaking and the affected agency already has rules in place that meet the statutory requirement, the agency shall submit the rules to the Administrative Rules Review Committee for review within 60 days after the statute requiring the rulemaking takes effect.

(d) If a state agency does not initiate rulemaking proceedings in accordance with the time requirements in Subsection (13)(b), the state agency shall appear before the legislative Administrative Rules Review Committee and provide the reasons for the delay.

Section 11. Section 63G-3-303 is amended to read:

63G-3-303. Changes in rules.

(1) (a) To change a proposed rule already published in the bulletin, an agency shall file with the [division] office:

(i) the text of the changed rule; and

(ii) a rule analysis containing a description of the change and the information required by Section 63G-3-301.

(b) A change to a proposed rule may not be filed more than 120 days after publication of the rule being changed.

(c) The [division] office shall publish the rule analysis for the changed rule in the bulletin.

(d) The changed proposed rule and its associated proposed rule will become effective on a date specified by the agency, not less than 30 days or more than 120 days after publication of the last change in proposed rule.

(e) A changed proposed rule and its associated proposed rule lapse if a notice of effective date or another change to a proposed rule is not filed with the [division] office within 120 days of publication of the last change in proposed rule.

(2) If the rule change is nonsubstantive:

(a) the agency need not comply with the requirements of Subsection (1); and

(b) the agency shall notify the ~~[division]~~ office of the change in writing.

(3) If the rule is effective, the agency shall amend the rule according to the procedures specified in Section 63G-3-301.

Section 12. Section 63G-3-304 is amended to read:

63G-3-304. Emergency rulemaking procedure.

(1) All agencies shall comply with the rulemaking procedures of Section 63G-3-301 unless an agency finds that these procedures would:

(a) cause an imminent peril to the public health, safety, or welfare;

(b) cause an imminent budget reduction because of budget restraints or federal requirements; or

(c) place the agency in violation of federal or state law.

(2) (a) When finding that its rule is excepted from regular rulemaking procedures by this section, the agency shall file with the ~~[division]~~ office:

(i) the text of the rule; and

(ii) a rule analysis that includes the specific reasons and justifications for its findings.

(b) The ~~[division]~~ office shall publish the rule in the bulletin as provided in Subsection 63G-3-301(4).

(c) The agency shall notify interested persons as provided in Subsection 63G-3-301(10).

(d) The rule becomes effective for a period not exceeding 120 days on the date of filing or any later date designated in the rule.

(3) If the agency intends the rule to be effective beyond 120 days, the agency shall also comply with the procedures of Section 63G-3-301.

Section 13. Section 63G-3-305 is amended to read:

63G-3-305. Agency review of rules -- Schedule of filings -- Limited exemption for certain rules.

(1) Each agency shall review each of its rules within five years after the rule's original effective date or within five years after the filing of the last five-year review, whichever is later.

(2) An agency may consider any substantial review of a rule to be a five-year review if the agency also meets the requirements described in Subsection (3).

(3) At the conclusion of its review, and no later than the deadline described in Subsection (1), the agency shall decide whether to continue, repeal, or

amend and continue the rule and comply with Subsections (3)(a) through (c), as applicable.

(a) If the agency continues the rule, the agency shall file with the ~~[division]~~ office a five-year notice of review and statement of continuation that includes:

(i) a concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require the rule;

(ii) a summary of written comments received during and since the last five-year review of the rule from interested persons supporting or opposing the rule; and

(iii) a reasoned justification for continuation of the rule, including reasons why the agency disagrees with comments in opposition to the rule, if any.

(b) If the agency repeals the rule, the agency shall:

(i) comply with Section 63G-3-301; and

(ii) in the rule analysis described in Section 63G-3-301, state that the repeal is the result of the agency's five-year review under this section.

(c) If the agency amends and continues the rule, the agency shall comply with the requirements described in Section 63G-3-301 and file with the ~~[division]~~ office the five-year notice of review and statement of continuation required in Subsection (3)(a).

(4) The ~~[division]~~ office shall publish a five-year notice of review and statement of continuation in the bulletin no later than one year after the deadline described in Subsection (1).

(5) (a) The ~~[division]~~ office shall make a reasonable effort to notify an agency that a rule is due for review at least 180 days before the deadline described in Subsection (1).

(b) The ~~[division's]~~ office's failure to comply with the requirement described in Subsection (5)(a) does not exempt an agency from complying with any provision of this section.

(6) If an agency finds that it will not meet the deadline established in Subsection (1):

(a) before the deadline described in Subsection (1), the agency may file one extension with the ~~[division]~~ office indicating the reason for the extension; and

(b) the ~~[division]~~ office shall publish notice of the extension in the bulletin in accordance with the ~~[division's]~~ office's publication schedule established by ~~[division]~~ rule under Section 63G-3-402.

(7) An extension permits the agency to comply with the requirements described in Subsections (1) and (3) up to 120 days after the deadline described in Subsection (1).

(8) (a) If an agency does not comply with the requirements described in Subsection (3), and does not file an extension under Subsection (6), the rule

expires automatically on the day immediately after the date of the missed deadline.

(b) If an agency files an extension under Subsection (6) and does not comply with the requirements described in Subsection (3) within 120 days after the day on which the deadline described in Subsection (1) expires, the rule expires automatically on the day immediately after the date of the missed deadline.

(9) After a rule expires under Subsection (8), the ~~[division]~~ office shall:

(a) publish a notice in the next issue of the bulletin that the rule has expired and is no longer enforceable;

(b) remove the rule from the code; and

(c) notify the agency that the rule has expired.

(10) After a rule expires, an agency must comply with the requirements of Section 63G-3-301 to reenact the rule.

Section 14. Section 63G-3-401 is amended to read:

63G-3-401. Office of Administrative Rules created -- Coordinator.

(1) There is created within the Department of Administrative Services the ~~[Division]~~ Office of Administrative Rules, to be administered by a ~~[director]~~ coordinator.

~~[(2) The director of administrative rules shall be appointed by the executive director with the approval of the governor.]~~

(2) The coordinator shall hire, train, and supervise staff necessary for the office to carry out the provisions of this chapter.

Section 15. Section 63G-3-402 is amended to read:

63G-3-402. Office of Administrative Rules -- Duties generally.

(1) The ~~[Division of Administrative Rules]~~ office shall:

~~[(a) establish all filing, publication, and hearing procedures necessary to make rules under this chapter;]~~

~~[(b)]~~ (a) record in a register the receipt of all agency rules, rule analysis forms, and notices of effective dates;

~~[(e)]~~ (b) make the register, copies of all proposed rules, and rulemaking documents available for public inspection;

~~[(d)]~~ (c) publish all proposed rules, rule analyses, notices of effective dates, and review notices in the bulletin at least monthly, except that the ~~[division]~~ office may publish the complete text of any proposed rule that the executive director or the executive director's designee determines is too long to print or too expensive to publish by reference to the text maintained by the ~~[division]~~ office;

~~[(e)]~~ (d) compile, format, number, and index all effective rules in an administrative code, and periodically publish that code and supplements or revisions to it;

~~[(f)]~~ (e) publish a digest of all rules and notices contained in the most recent bulletin;

~~[(g)]~~ (f) publish at least annually an index of all changes to the administrative code and the effective date of each change;

~~[(h)]~~ (g) print, or contract to print, all rulemaking publications the ~~[division]~~ executive director determines necessary to implement this chapter;

~~[(i)]~~ (h) distribute without charge the bulletin and administrative code to state-designated repositories, the Administrative Rules Review Committee, the Office of Legislative Research and General Counsel, and the two houses of the Legislature;

~~[(j)]~~ (i) distribute without charge the digest and index to state legislators, agencies, political subdivisions on request, and the Office of Legislative Research and General Counsel;

~~[(k)]~~ (j) distribute, at prices covering publication costs, all paper rulemaking publications to all other requesting persons and agencies;

~~[(l)]~~ (k) provide agencies assistance in rulemaking;

~~[(m)]~~ (l) if the ~~[Department of Administrative Services]~~ department operates the ~~[division]~~ office as an internal service fund agency in accordance with Section 63A-1-109.5, submit to the Rate Committee established in Section 63A-1-114:

(i) the proposed rate and fee schedule as required by Section 63A-1-114; and

(ii) other information or analysis requested by the Rate Committee; ~~[and]~~

~~[(n)]~~ (m) administer this chapter and require state agencies to comply with filing, publication, and hearing procedures~~;~~ and

(n) make technological improvements to the rulemaking process, including improvements to automation and digital accessibility.

(2) The department shall establish by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, all filing, publication, and hearing procedures necessary to make rules under this chapter.

~~[(2)]~~ (3) The ~~[division]~~ office may after notifying the agency make nonsubstantive changes to rules filed with the ~~[division]~~ office or published in the bulletin or code by:

(a) implementing a uniform system of formatting, punctuation, capitalization, organization, numbering, and wording;

(b) correcting obvious errors and inconsistencies in punctuation, capitalization, numbering, referencing, and wording;

(c) changing a catchline to more accurately reflect the substance of each section, part, rule, or title;

(d) updating or correcting annotations associated with a section, part, rule, or title; and

(e) merging or determining priority of any amendment, enactment, or repeal to the same rule or section made effective by an agency.

[~~(3)~~] (4) In addition, the [division] office may make the following nonsubstantive changes with the concurrence of the agency:

(a) eliminate duplication within rules;

(b) eliminate obsolete and redundant words; and

(c) [correcting] correct defective or inconsistent section and paragraph structure in arrangement of the subject matter of rules.

[~~(4)~~] (5) For nonsubstantive changes made in accordance with Subsection [~~(2) or (3)~~] (3) or (4) after publication of the rule in the bulletin, the [division] office shall publish a list of nonsubstantive changes in the bulletin. For each nonsubstantive change, the list shall include:

(a) the affected code citation;

(b) a brief description of the change; and

(c) the date the change was made.

[~~(5)~~] (6) All funds appropriated or collected for publishing the [division's] office's publications shall be nonlapsing.

Section 16. Section 63G-3-403 is amended to read:

63G-3-403. Repeal and reenactment of Utah Administrative Code.

(1) When the executive director determines that the Utah Administrative Code requires extensive revision and reorganization, the [division] office may repeal the code and reenact a new code according to the requirements of this section.

(2) The [division] office may:

(a) reorganize, reformat, and renumber the code;

(b) require each agency to review its rules and make any organizational or substantive changes according to the requirements of Section 63G-3-303; and

(c) require each agency to prepare a brief summary of all substantive changes made by the agency.

(3) The [division] office may make nonsubstantive changes in the code by:

(a) adopting a uniform system of punctuation, capitalization, numbering, and wording;

(b) eliminating duplication;

(c) correcting defective or inconsistent section and paragraph structure in arrangement of the subject matter of rules;

(d) eliminating all obsolete or redundant words;

(e) correcting obvious errors and inconsistencies in punctuation, capitalization, numbering, referencing, and wording;

(f) changing a catchline to more accurately reflect the substance of each section, part, rule, or title;

(g) updating or correcting annotations associated with a section, part, rule, or title; and

(h) merging or determining priority of any amendment, enactment, or repeal to the same rule or section made effective by an agency.

(4) (a) To inform the public about the proposed code reenactment, the [division] office shall publish in the bulletin:

(i) notice of the code reenactment;

(ii) the date, time, and place of a public hearing where members of the public may comment on the proposed reenactment of the code;

(iii) locations where the proposed reenactment of the code may be reviewed; and

(iv) agency summaries of substantive changes in the reenacted code.

(b) To inform the public about substantive changes in agency rules contained in the proposed reenactment, each agency shall:

(i) make the text of their reenacted rules available:

(A) for public review during regular business hours; and

(B) in an electronic version; and

(ii) comply with the requirements of Subsection 63G-3-301(10).

(5) The [division] office shall hold a public hearing on the proposed code reenactment no fewer than 30 days nor more than 45 days after the publication required by Subsection (4)(a).

(6) The [division] office shall distribute complete text of the proposed code reenactment without charge to:

(a) state-designated repositories in Utah;

(b) the Administrative Rules Review Committee; and

(c) the Office of Legislative Research and General Counsel.

(7) The former code is repealed and the reenacted code is effective at noon on a date designated by the [division] office that is not fewer than 45 days nor more than 90 days after the publication date required by this section.

(8) Repeal and reenactment of the code meets the requirements of Section 63G-3-305 for a review of all agency rules.

Section 17. Section 63G-3-501 is amended to read:

63G-3-501. Administrative Rules Review Committee.

(1) (a) There is created an Administrative Rules Review Committee of the following 10 permanent members:

(i) five members of the Senate appointed by the president of the Senate, no more than three of whom may be from the same political party; and

(ii) five members of the House of Representatives appointed by the speaker of the House of Representatives, no more than three of whom may be from the same political party.

(b) Each permanent member shall serve:

(i) for a two-year term; or

(ii) until the permanent member's successor is appointed.

(c) (i) A vacancy exists when a permanent member ceases to be a member of the Legislature, or when a permanent member resigns from the committee.

(ii) When a vacancy exists:

(A) if the departing member is a member of the Senate, the president of the Senate shall appoint a member of the Senate to fill the vacancy; or

(B) if the departing member is a member of the House of Representatives, the speaker of the House of Representatives shall appoint a member of the House of Representatives to fill the vacancy.

(iii) The newly appointed member shall serve the remainder of the departing member's unexpired term.

(d) (i) The president of the Senate shall designate a member of the Senate appointed under Subsection (1)(a)(i) as a cochair of the committee.

(ii) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (1)(a)(ii) as a cochair of the committee.

(e) Three representatives and three senators from the permanent members are a quorum for the transaction of business at any meeting.

(f) (i) Subject to Subsection (1)(f)(ii), the committee shall meet at least once each month to review new agency rules, amendments to existing agency rules, and repeals of existing agency rules.

(ii) The committee chairs may suspend the meeting requirement described in Subsection (1)(f)(i) at the committee chairs' discretion.

(2) The [division] office shall submit a copy of each issue of the bulletin to the committee.

(3) (a) The committee shall exercise continuous oversight of the rulemaking process.

(b) The committee shall examine each rule submitted by an agency to determine:

(i) whether the rule is authorized by statute;

(ii) whether the rule complies with legislative intent;

(iii) the rule's impact on the economy and the government operations of the state and local political subdivisions; and

(iv) the rule's impact on affected persons.

(c) To carry out these duties, the committee may examine any other issues that the committee considers necessary. The committee may also notify and refer rules to the chairs of the interim committee that has jurisdiction over a particular agency when the committee determines that an issue involved in an agency's rules may be more appropriately addressed by that committee.

(d) In reviewing a rule, the committee shall follow generally accepted principles of statutory construction.

(4) When the committee reviews existing rules, the committee chairs shall invite the Senate and House chairs of the standing committee and of the appropriation subcommittee that have jurisdiction over the agency whose existing rules are being reviewed to participate as nonvoting, ex officio members with the committee.

(5) The committee may request that the Office of the Legislative Fiscal Analyst prepare a fiscal note on any rule.

(6) In order to accomplish the committee's functions described in this chapter, the committee has all the powers granted to legislative interim committees under Section 36-12-11.

(7) (a) The committee may prepare written findings of the committee's review of a rule and may include any recommendations, including legislative action.

(b) When the committee reviews a rule, the committee shall provide to the agency that enacted the rule:

(i) the committee's findings, if any; and

(ii) a request that the agency notify the committee of any changes the agency makes to the rule.

(c) The committee shall provide a copy of the committee's findings, if any, to:

(i) any member of the Legislature, upon request;

(ii) any person affected by the rule, upon request;

(iii) the president of the Senate;

(iv) the speaker of the House of Representatives;

(v) the Senate and House chairs of the standing committee that has jurisdiction over the agency that made the rule; and

(vi) the Senate and House chairs of the appropriation subcommittee that has jurisdiction over the agency that made the rule.

(8) (a) The committee may submit a report on its review of state agency rules to each member of the Legislature at each regular session.

(b) The report shall include:

(i) any findings and recommendations the committee made under Subsection (7);

(ii) any action an agency took in response to committee recommendations; and

(iii) any recommendations by the committee for legislation.

Section 18. Section 63G-3-702 is amended to read:

63G-3-702. Utah Administrative Code -- Organization -- Official compilation.

(1) The Utah Administrative Code shall be divided into three parts:

- (a) titles, whose number shall begin with "R";
- (b) rules; and
- (c) sections.

(2) All sections contained in the code are referenced by a three-part number indicating its location in the code.

(3) The ~~[division]~~ office shall maintain the official compilation of the code and is the state-designated repository for administrative rules. If a dispute arises in which there is more than one version of a rule, the latest effective version on file with the ~~[division]~~ office is considered the correct, current version.

Section 19. Section 63J-1-602.4 is amended to read:

63J-1-602.4. List of nonlapsing funds and accounts -- Title 61 through Title 63N.

(1) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(2) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(3) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

(4) Appropriations from the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

(5) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

(6) Appropriations from the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

(7) Appropriations to the Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(8) Appropriations to the Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(9) A portion of the funds appropriated to the Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(10) Funds appropriated or collected for publishing the ~~[Division]~~ Office of Administrative Rules' publications, as provided in Section 63G-3-402.

(11) The Immigration Act Restricted Account created in Section 63G-12-103.

(12) Money received by the military installation development authority, as provided in Section 63H-1-504.

(13) Appropriations to fund the Governor's Office of Economic Development's Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(14) The Motion Picture Incentive Account created in Section 63N-8-103.

(15) Certain money payable for commission expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

CHAPTER 194**H. B. 105**

Passed February 22, 2016

Approved March 23, 2016

Effective May 10, 2016

HUMAN TRAFFICKING REVISIONS

Chief Sponsor: Angela Romero
Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill modifies the Utah Criminal Code regarding the crime of human trafficking of a child.

Highlighted Provisions:

This bill:

- ▶ provides that mistakenly believing a victim to be 18 years of age or older at the time of the alleged offense is not a defense to the crime of human trafficking of a child.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-2-304.5, as last amended by Laws of Utah 2013, Chapters 34 and 196

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

Section 1. Section 76-2-304.5 is amended to read:**76-2-304.5. Mistake as to victim's age not a defense.**

(1) It is not a defense to the crime of child kidnapping, a violation of Section 76-5-301.1; rape of a child, a violation of Section 76-5-402.1; object rape of a child, a violation of Section 76-5-402.3; sodomy on a child, a violation of Section 76-5-403.1; sexual abuse of a child, a violation of Section 76-5-404.1; aggravated sexual abuse of a child, a violation of Subsection 76-5-404.1(4); or an attempt to commit any of these offenses, that the actor mistakenly believed the victim to be 14 years of age or older at the time of the alleged offense or was unaware of the victim's true age.

(2) It is not a defense to the crime of unlawful sexual activity with a minor, a violation of Section 76-5-401; sexual abuse of a minor, a violation of Section 76-5-401.1; or an attempt to commit either of these offenses, that the actor mistakenly believed the victim to be 16 years of age or older at the time of the alleged offense or was unaware of the victim's true age.

(3) It is not a defense to the crime of aggravated human trafficking or aggravated human smuggling, a violation of Section 76-5-310, or human trafficking of a child, a violation of Section 76-5-308.5, that the actor mistakenly believed the victim to be 18 years of age or older at the time of the alleged offense or was unaware of the victim's true age.

(4) It is not a defense to the crime of unlawful sexual activity with a minor, a violation of Subsection 76-5-401.2(2)(a)(ii), that the actor mistakenly believed the victim to be 18 years of age or older at the time of the alleged offense or was unaware of the victim's true age.

(5) It is not a defense to any of the following crimes that the actor mistakenly believed the victim to be 18 years of age or older at the time of the alleged offense or was unaware of the victim's true age:

(a) patronizing a prostitute, a violation of Section 76-10-1303;

(b) aggravated exploitation of a prostitute, a violation of Section 76-10-1306; or

(c) sexual solicitation, a violation of Section 76-10-1313.

CHAPTER 195**H. B. 142**

Passed February 29, 2016

Approved March 23, 2016

Effective May 10, 2016

**AGENCY AUDITING
PROCEDURES FOR EDUCATION**Chief Sponsor: Bruce R. Cutler
Senate Sponsor: J. Stuart Adams**LONG TITLE****General Description:**

This bill modifies provisions relating to the state agency internal audit program for the education state agency.

Highlighted Provisions:

This bill:

- ▶ requires the State Board of Education to establish an internal audit program for programs administered by the State Board of Education;
- ▶ requires an audit committee to approve internal auditing policies proposed by an agency internal audit director; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-5-102, as last amended by Laws of Utah 2014, Chapter 433

63I-5-201, as repealed and reenacted by Laws of Utah 2014, Chapter 433

63I-5-301, as last amended by Laws of Utah 2014, Chapter 433

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

Section 1. Section 63I-5-102 is amended to read:**63I-5-102. Definitions.**

As used in this chapter:

(1) "Agency governing board" is any board or commission that has policy making and oversight responsibility over the agency, including the authority to appoint and remove the agency director.

(2) "Agency head" means a cabinet officer, an elected official, an executive director, or a board or commission vested with responsibility to administer or make policy for a state agency.

(3) "Agency internal audit director" or "audit director" means the person who:

(a) directs the internal audit program for the state agency; and

(b) is appointed by the audit committee or, if no audit committee has been established, by the agency head.

(4) "Appointing authority" means:

(a) the governor, for state agencies other than the State Tax Commission;

(b) the Judicial Council, for judicial branch agencies;

(c) the Board of Regents, for higher education entities;

(d) the State Board of Education, for ~~the~~ entities administered by the State ~~Office~~ Board of Education; ~~and~~ or

(e) the four tax commissioners, for the State Tax Commission.

(5) "Audit committee" means a standing committee composed of members who:

(a) are appointed by an appointing authority;

(b) (i) do not have administrative responsibilities within the agency; and

(ii) are not an agency contractor or other service provider; and

(c) have the expertise to provide effective oversight of and advice about internal audit activities and services.

(6) "Audit plan" means a prioritized list of audits to be performed by an internal audit program within a specified period of time.

(7) "Higher education entity" means the Board of Regents, the institutional councils of each higher education institution, ~~and~~ or each higher education institution.

(8) "Internal audit" means an independent appraisal activity established within a state agency as a control system to examine and evaluate the adequacy and effectiveness of other internal control systems within the agency.

(9) "Internal audit program" means an audit function that:

(a) is conducted by an agency, division, bureau, or office, independent of the agency, division, bureau, or office operations;

(b) objectively evaluates the effectiveness of agency, division, bureau, or office governance, risk management, internal controls, and the efficiency of operations; and

(c) is conducted in accordance with the current:

(i) International Standards for the Professional Practice of Internal Auditing; or

(ii) The Government Auditing Standards, issued by the Comptroller General of the United States.

(10) "Judicial branch agency" means each administrative entity of the judicial branch.

(11) (a) "State agency" means:

(i) each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state; ~~and~~ or

- (ii) each state public education entity.
- (b) "State agency" does not mean:
 - (i) a legislative branch agency;
 - (ii) an independent state agency as defined in Section 63E-1-102;
 - (iii) a county, municipality, school district, local district, or special service district; or
 - (iv) any administrative subdivision of a county, municipality, school district, local district, or special service district.

Section 2. Section 63I-5-201 is amended to read:

63I-5-201. Internal auditing programs -- State agencies.

(1) (a) The departments of Administrative Services, Agriculture, Commerce, Heritage and Arts, Corrections, Workforce Services, Environmental Quality, Health, Human Services, Natural Resources, Public Safety, and Transportation, and the State Tax Commission shall conduct various types of auditing procedures as determined by the agency head or governor.

(b) The governor may, by executive order, require a state agency not described in Subsection (1)(a) to establish an internal audit program.

(c) The governor shall ensure that each state agency that reports to the governor has adequate internal audit coverage.

(2) (a) The Office of the Court Administrator shall establish an internal audit program under the direction of the Judicial Council, including auditing procedures for courts not of record.

(b) The Judicial Council may, by rule, require other judicial agencies to establish an internal audit program.

(3) (a) Dixie State University, the University of Utah, Utah State University, Salt Lake Community College, Southern Utah University, Utah Valley University, Weber State University, and Snow College shall establish an internal audit program under the direction of the Board of Regents.

(b) The State Board of Regents may issue policies requiring other higher education entities or programs to establish an internal audit program.

(4) The ~~[State Office of Education shall establish under the direction of the]~~ State Board of Education shall establish an internal audit program that provides internal audit services for each program administered by the State ~~[Office]~~ Board of Education.

(5) Subject to Section 32B-2-302.5, the internal audit division of the Department of Alcoholic Beverage Control shall establish an internal audit program under the direction of the Alcoholic Beverage Control Commission.

Section 3. Section 63I-5-301 is amended to read:

63I-5-301. Audit committee -- Powers and duties.

(1) (a) Each appointing authority may establish an audit committee to monitor the activities of the agency internal audit program.

(b) An audit committee may serve more than one state agency internal audit program.

(2) The appointing authority shall ensure that audit committee members have the expertise to provide effective oversight of and advice about internal audit activities and services.

(3) If an audit committee has been established, the audit committee shall:

(a) appoint, evaluate, and, if necessary, remove the agency internal audit director;

(b) prepare and adopt formal policies that define:

(i) the purpose of the agency's internal audit program; and

(ii) the authority and responsibility of the agency's internal auditors;

(c) ensure that policies adopted under Subsection (3)(b):

(i) do not place limitations on the scope of the internal audit program's work; and

(ii) clarify that an auditor does not have authority or responsibility for an activity that the auditor audits;

(d) ensure that:

(i) the audit director employs a sufficient number of professional and support staff to implement an effective internal audit program;

(ii) compensation, training, job tenure, and advancement of internal auditing staff is based upon job performance;

(iii) the audit director and staff collectively possess the knowledge, skills, and experience essential to the practices of the profession and are proficient in applying internal auditing standards, procedures, and techniques;

(iv) the internal audit program has ~~[employees]~~ staff who are qualified in disciplines necessary to meet the audit responsibilities, including accounting, business management, public administration, human resource management, economics, finance, statistics, electronic data processing, or engineering;

(v) internal audit staff are free of operational and management responsibilities that would impair their ability to make independent audits of any aspects of the agency's operations;

(vi) the audit director and the internal audit staff have access to all personnel and records, data, and other agency information that the audit director or staff consider necessary to carry out their assigned duties; and

(vii) ~~[that]~~ the audit director and ~~[the director's employees]~~ internal audit staff have the necessary access to the agency head, agency management, and agency staff;

(e) ~~[consent to the]~~ approve internal auditing policies proposed by the agency head or audit director;

(f) review and approve the annual internal audit plan, modifications to the internal audit plan, risk assessment, and budget;

(g) review internal and external audit reports, follow-up reports, and quality assurance reviews of the internal audit office; and

(h) periodically meet with the agency internal audit director to discuss pertinent matters, including whether there are any restrictions on the scope of audits.

CHAPTER 196**H. B. 148**

Passed March 7, 2016

Approved March 23, 2016

Effective May 10, 2016

PROTECTIVE ORDER AMENDMENTS

Chief Sponsor: Angela Romero
Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill modifies protective order provisions in the Judicial Code by amending dismissal of protective order provisions.

Highlighted Provisions:

This bill:

- ▶ amends protective order provisions for a dismissal in the case of a pending divorce proceeding under certain conditions; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78B-7-115, as last amended by Laws of Utah 2009, Chapter 232

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

Section 1. Section 78B-7-115 is amended to read:**78B-7-115. Dismissal of protective order.**

(1) [A] Except as provided in Subsection (6), a protective order that has been in effect for at least two years may be dismissed if the court determines that the petitioner no longer has a reasonable fear of future abuse. In determining whether the petitioner no longer has a reasonable fear of future abuse, the court shall consider the following factors:

(a) whether the respondent has complied with treatment recommendations related to domestic violence, entered at the time the protective order was entered;

(b) whether the protective order was violated during the time it was in force;

(c) claims of harassment, abuse, or violence by either party during the time the protective order was in force;

(d) counseling or therapy undertaken by either party;

(e) impact on the well-being of any minor children of the parties, if relevant; and

(f) any other factors the court considers relevant to the case before it.

(2) [The] Except as provided in Subsection (6), the court may amend or dismiss a protective order

issued in accordance with this part that has been in effect for at least one year if it finds that:

(a) the basis for the issuance of the protective order no longer exists;

(b) the petitioner has repeatedly acted in contravention of the protective order provisions to intentionally or knowingly induce the respondent to violate the protective order;

(c) the petitioner's actions demonstrate that the petitioner no longer has a reasonable fear of the respondent; and

(d) the respondent has not been convicted of a protective order violation or any crime of violence subsequent to the issuance of the protective order, and there are no unresolved charges involving violent conduct still on file with the court.

(3) The court shall enter sanctions against either party if the court determines that either party acted:

(a) in bad faith; or

(b) with intent to harass or intimidate either party.

(4) Notice of a motion to dismiss a protective order shall be made by personal service on the petitioner in a protective order action as provided in Rules 4 and 5, Utah Rules of Civil Procedure.

(5) If a divorce proceeding is pending between [the] parties to a protective order action, the protective order shall be dismissed when the court issues a decree of divorce for the parties if:

(a) the petitioner in the protective order action is present or has been given notice in both the divorce and protective order action of the hearing; and

(b) the court specifically finds that the order need not continue[.], and as provided in Subsection (1), the petitioner no longer has a reasonable fear of future abuse.

(6) (a) Notwithstanding Subsection (1) or (2), a protective order that has been entered under this chapter concerning a petitioner and a respondent who are divorced shall automatically expire, subject to Subsections (6)(b) and (c), 10 years from the day on which one of the following occurs:

(i) the decree of divorce between the petitioner and respondent became absolute; or

(ii) the protective order was entered.

(b) The protective order shall automatically expire, as described in Subsection (6)(a), unless:

(i) the petitioner demonstrates that the petitioner has a reasonable fear of future abuse, as described in Subsection (1); or

(ii) the respondent has been convicted of a protective order violation or any crime of violence subsequent to the issuance of the protective order.

(c) The 10 years described in Subsection (6)(a) is tolled for any period of time that the respondent is incarcerated.

~~[(6)]~~ (7) When the court dismisses a protective order, the court shall immediately:

(a) issue an order of dismissal to be filed in the protective order action; and

(b) transmit a copy of the order of dismissal to the statewide domestic violence network as described in Section 78B-7-113.

CHAPTER 197**H. B. 150**

Passed March 9, 2016

Approved March 23, 2016

Effective May 10, 2016

**CONTROLLED SUBSTANCE
PRESCRIPTION NOTIFICATION**Chief Sponsor: Brad M. Daw
Senate Sponsor: Curtis S. Bramble**LONG TITLE****General Description:**

This bill modifies provisions regarding controlled substances.

Highlighted Provisions:

This bill:

- ▶ amends the Controlled Substance Database Act to allow a person for whom a controlled substance is prescribed to designate a third party who is to be notified when a controlled substance prescription is dispensed to the person;
- ▶ allows the person to direct the division to discontinue providing the information;
- ▶ requires that the division advise the person that if the person discontinues the notification, the third party will be advised of the discontinuance;
- ▶ requires that the division comply with the direction and also notify the third party of the discontinuance; and
- ▶ authorizes the division to make administrative rules to facilitate implementation of this provision.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-37f-301, as last amended by Laws of Utah 2015, Chapters 89, 326, and 336

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

Section 1. Section 58-37f-301 is amended to read:**58-37f-301. Access to database.**

(1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) effectively enforce the limitations on access to the database as described in this part; and

(b) establish standards and procedures to ensure accurate identification of individuals requesting information or receiving information without request from the database.

(2) The division shall make information in the database and information obtained from other state or federal prescription monitoring programs by means of the database available only to the following individuals, in accordance with the requirements of this chapter and division rules:

(a) personnel of the division specifically assigned to conduct investigations related to controlled substance laws under the jurisdiction of the division;

(b) authorized division personnel engaged in analysis of controlled substance prescription information as a part of the assigned duties and responsibilities of their employment;

(c) in accordance with a written agreement entered into with the department, employees of the Department of Health:

(i) whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances, if the identity of the individuals and pharmacies in the database are confidential and are not disclosed in any manner to any individual who is not directly involved in the scientific studies; or

(ii) when the information is requested by the Department of Health in relation to a person or provider whom the Department of Health suspects may be improperly obtaining or providing a controlled substance;

(d) in accordance with a written agreement entered into with the department, a designee of the director of the Department of Health, who is not an employee of the Department of Health, whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances pursuant to an application process established in rule by the Department of Health, if:

(i) the designee provides explicit information to the Department of Health regarding the purpose of the scientific studies;

(ii) the scientific studies to be conducted by the designee:

(A) fit within the responsibilities of the Department of Health for health and welfare;

(B) are reviewed and approved by an Institutional Review Board that is approved for human subject research by the United States Department of Health and Human Services; and

(C) are not conducted for profit or commercial gain; and

(D) are conducted in a research facility, as defined by division rule, that is associated with a university or college in the state accredited by one or more regional or national accrediting agencies recognized by the United States Department of Education;

(iii) the designee protects the information as a business associate of the Department of Health; and

(iv) the identity of the prescribers, patients, and pharmacies in the database are de-identified, confidential, not disclosed in any manner to the designee or to any individual who is not directly involved in the scientific studies;

(e) in accordance with the written agreement entered into with the department and the

Department of Health, authorized employees of a managed care organization, as defined in 42 C.F.R. Sec. 438, if:

(i) the managed care organization contracts with the Department of Health under the provisions of Section 26-18-405 and the contract includes provisions that:

(A) require a managed care organization employee who will have access to information from the database to submit to a criminal background check; and

(B) limit the authorized employee of the managed care organization to requesting either the division or the Department of Health to conduct a search of the database regarding a specific Medicaid enrollee and to report the results of the search to the authorized employee; and

(ii) the information is requested by an authorized employee of the managed care organization in relation to a person who is enrolled in the Medicaid program with the managed care organization, and the managed care organization suspects the person may be improperly obtaining or providing a controlled substance;

(f) a licensed practitioner having authority to prescribe controlled substances, to the extent the information:

(i) (A) relates specifically to a current or prospective patient of the practitioner; and

(B) is provided to or sought by the practitioner for the purpose of:

(I) prescribing or considering prescribing any controlled substance to the current or prospective patient;

(II) diagnosing the current or prospective patient;

(III) providing medical treatment or medical advice to the current or prospective patient; or

(IV) determining whether the current or prospective patient:

(Aa) is attempting to fraudulently obtain a controlled substance from the practitioner; or

(Bb) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the practitioner;

(ii) (A) relates specifically to a former patient of the practitioner; and

(B) is provided to or sought by the practitioner for the purpose of determining whether the former patient has fraudulently obtained, or has attempted to fraudulently obtain, a controlled substance from the practitioner;

(iii) relates specifically to an individual who has access to the practitioner's Drug Enforcement Administration identification number, and the practitioner suspects that the individual may have used the practitioner's Drug Enforcement

Administration identification number to fraudulently acquire or prescribe a controlled substance;

(iv) relates to the practitioner's own prescribing practices, except when specifically prohibited by the division by administrative rule;

(v) relates to the use of the controlled substance database by an employee of the practitioner, described in Subsection (2)(g); or

(vi) relates to any use of the practitioner's Drug Enforcement Administration identification number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a controlled substance;

(g) in accordance with Subsection (3)(a), an employee of a practitioner described in Subsection (2)(f), for a purpose described in Subsection (2)(f)(i) or (ii), if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner provides written notice to the division of the identity of the employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee;

(h) an employee of the same business that employs a licensed practitioner under Subsection (2)(f) if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner and the employing business provide written notice to the division of the identity of the designated employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee;

(i) a licensed pharmacist having authority to dispense a controlled substance to the extent the information is provided or sought for the purpose of:

(i) dispensing or considering dispensing any controlled substance; or

(ii) determining whether a person:

(A) is attempting to fraudulently obtain a controlled substance from the pharmacist; or

(B) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the pharmacist;

(j) in accordance with Subsection (3)(a), a licensed pharmacy technician and pharmacy intern who is an employee of a pharmacy as defined in Section 58-17b-102, for the purposes described in Subsection (2)(h)(i) or (ii), if:

(i) the employee is designated by the pharmacist-in-charge as an individual authorized to access the information on behalf of a licensed pharmacist employed by the pharmacy;

(ii) the pharmacist-in-charge provides written notice to the division of the identity of the employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee;

(k) pursuant to a valid search warrant, federal, state, and local law enforcement agencies and state and local prosecutors that are engaged in an investigation related to:

(i) one or more controlled substances; and

(ii) a specific person who is a subject of the investigation;

(l) employees of the Office of Internal Audit and Program Integrity within the Department of Health who are engaged in their specified duty of ensuring Medicaid program integrity under Section 26-18-2.3;

(m) a mental health therapist, if:

(i) the information relates to a patient who is:

(A) enrolled in a licensed substance abuse treatment program; and

(B) receiving treatment from, or under the direction of, the mental health therapist as part of the patient's participation in the licensed substance abuse treatment program described in Subsection (2)(m)(i)(A);

(ii) the information is sought for the purpose of determining whether the patient is using a controlled substance while the patient is enrolled in the licensed substance abuse treatment program described in Subsection (2)(m)(i)(A); and

(iii) the licensed substance abuse treatment program described in Subsection (2)(m)(i)(A) is associated with a practitioner who:

(A) is a physician, a physician assistant, an advance practice registered nurse, or a pharmacist; and

(B) is available to consult with the mental health therapist regarding the information obtained by the mental health therapist, under this Subsection (2)(m), from the database;

(n) an individual who is the recipient of a controlled substance prescription entered into the database, upon providing evidence satisfactory to the division that the individual requesting the information is in fact the individual about whom the data entry was made;

(o) an individual under Subsection (2)(n) for the purpose of obtaining a list of the persons and entities that have requested or received any information from the database regarding the individual, except if the individual's record is subject to a pending or current investigation as authorized under this Subsection (2);

(p) the inspector general, or a designee of the inspector general, of the Office of Inspector General of Medicaid Services, for the purpose of fulfilling the duties described in Title 63A, Chapter 13, Part 2, Office and Powers; and

(q) the following licensed physicians for the purpose of reviewing and offering an opinion on an individual's request for workers' compensation benefits under Title 34A, Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:

(i) a member of the medical panel described in Section 34A-2-601;

(ii) a physician employed as medical director for a licensed workers' compensation insurer or an approved self-insured employer; or

(iii) a physician offering a second opinion regarding treatment.

(3) (a) (i) A practitioner described in Subsection (2)(f) may designate up to three employees to access information from the database under Subsection (2)(g), (2)(h), or (4)(c).

(ii) A pharmacist described in Subsection (2)(i) who is a pharmacist-in-charge may designate up to five employees to access information from the database under Subsection (2)(j).

(b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) establish background check procedures to determine whether an employee designated under Subsection (2)(g), (2)(h), or (4)(c) should be granted access to the database; ~~and~~

(ii) establish the information to be provided by an emergency room employee under Subsection (4)[-]; and

(iii) facilitate providing controlled substance prescription information to a third party under Subsection (5).

(c) The division shall grant an employee designated under Subsection (2)(g), (2)(h), or (4)(c) access to the database, unless the division

determines, based on a background check, that the employee poses a security risk to the information contained in the database.

(4) (a) An individual who is employed in the emergency room of a hospital may exercise access to the database under this Subsection (4) on behalf of a licensed practitioner if the individual is designated under Subsection (4)(c) and the licensed practitioner:

(i) is employed in the emergency room;

(ii) is treating an emergency room patient for an emergency medical condition; and

(iii) requests that an individual employed in the emergency room and designated under Subsection (4)(c) obtain information regarding the patient from the database as needed in the course of treatment.

(b) The emergency room employee obtaining information from the database shall, when gaining access to the database, provide to the database the name and any additional identifiers regarding the requesting practitioner as required by division administrative rule established under Subsection (3)(b).

(c) An individual employed in the emergency room under this Subsection (4) may obtain information from the database as provided in Subsection (4)(a) if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner and the hospital operating the emergency room provide written notice to the division of the identity of the designated employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee.

(d) The division may impose a fee, in accordance with Section 63J-1-504, on a practitioner who designates an employee under Subsection (2)(g), (2)(h), or (4)(c) to pay for the costs incurred by the division to conduct the background check and make the determination described in Subsection (3)(b).

(5) (a) (i) An individual may request that the division provide the information under Subsection (5)(b) to a third party who is designated by the individual each time a controlled substance prescription for the individual is dispensed.

(ii) The division shall upon receipt of the request under this Subsection (5)(a) advise the individual in writing that the individual may direct the division to discontinue providing the information to a third party and that notice of the individual's direction to discontinue will be provided to the third party.

(b) The information the division shall provide under Subsection (5)(a) is:

(i) the fact a controlled substance has been dispensed to the individual, but without identifying the controlled substance; and

(ii) the date the controlled substance was dispensed.

(c) (i) An individual who has made a request under Subsection (5)(a) may direct that the division discontinue providing information to the third party.

(ii) The division shall:

(A) notify the third party that the individual has directed the division to no longer provide information to the third party; and

(B) discontinue providing information to the third party.

~~[(5)]~~ (6) (a) An individual who is granted access to the database based on the fact that the individual is a licensed practitioner or a mental health therapist shall be denied access to the database when the individual is no longer licensed.

(b) An individual who is granted access to the database based on the fact that the individual is a designated employee of a licensed practitioner shall be denied access to the database when the practitioner is no longer licensed.

CHAPTER 198**H. B. 151**

Passed February 17, 2016

Approved March 23, 2016

Effective May 10, 2016

ACUPUNCTURE LICENSING BOARD AMENDMENTS

Chief Sponsor: Sophia M. DiCaro

Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill modifies provisions of the Division of Occupational and Professional Licensing Act.

Highlighted Provisions:

This bill:

- ▶ modifies the authority of the Acupuncture Licensing Board; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-1-202, as last amended by Laws of Utah 2012, Chapter 259

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

Section 1. Section 58-1-202 is amended to read:**58-1-202. Boards -- Duties, functions, and responsibilities.**

(1) The duties, functions, and responsibilities of each board include the following:

- (a) recommending to the director appropriate rules;
- (b) recommending to the director policy and budgetary matters;
- (c) approving and establishing a passing score for applicant examinations;
- (d) screening applicants and recommending licensing, renewal, reinstatement, and relicensure actions to the director in writing;
- (e) assisting the director in establishing standards of supervision for students or persons in training to become qualified to obtain a license in the occupation or profession it represents; and
- (f) acting as presiding officer in conducting hearings associated with adjudicative proceedings and in issuing recommended orders when so designated by the director[; ~~and~~].

[~~(g) in accordance with Subsection (3), each board may recommend to the appropriate legislative committee whether the board supports a change to the licensing act.~~]

(2) Subsection (1) does not apply to boards created in Title 58, Chapter 55, Utah Construction Trades Licensing Act.

(3) (a) [~~This Subsection (3) applies to the following~~] The following boards may recommend to the appropriate legislative committee whether the board supports a change to a licensing act:

- (i) Chapter 5a, Podiatric Physician Licensing Act;
- (ii) Chapter 16a, Utah Optometry Practice Act;
- (iii) Chapter 17b, Pharmacy Practice Act;
- (iv) Chapter 24b, Physical Therapy Practice Act;
- (v) Chapter 28, Veterinary Practice Act;
- (vi) Chapter 31b, Nurse Practice Act;
- (vii) Chapter 40a, Athletic Trainer Licensing Act;
- (viii) Chapter 44a, Nurse Midwife Practice Act;
- (ix) Chapter 67, Utah Medical Practice Act;
- (x) Chapter 68, Utah Osteopathic Medical Practice Act;
- (xi) Chapter 69, Dentist and Dental Hygienist Practice Act;
- (xii) Chapter 70a, Physician Assistant Act;
- (xiii) Chapter 71, Naturopathic Physician Practice Act; ~~and~~
- (xiv) Chapter 72, Acupuncture Licensing Act; and

[~~(xiv)~~] (xv) Chapter 73, Chiropractic Physician Practice Act.

(b) This Subsection [(1)(g)] (3) does not:

- (i) require a board's approval to amend a practice act; and
- (ii) apply to technical or clarifying amendments to a practice act.

CHAPTER 199**H. B. 175**

Passed March 10, 2016
 Approved March 23, 2016
 Effective May 10, 2016

**PUBLIC EDUCATION
 EMPLOYMENT AMENDMENTS**

Chief Sponsor: Kraig Powell
 Senate Sponsor: Kevin T. Van Tassell

LONG TITLE**General Description:**

This bill amends and enacts provisions related to employment and licensing in the public education system.

Highlighted Provisions:

This bill:

- ▶ repeals provisions requiring a public school to provide or obtain certain information about a public school employee;
- ▶ enacts provisions requiring a school district, charter school, or the Utah Schools for the Deaf and the Blind to solicit information about certain employee applicants and certain volunteers; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-6-402, as last amended by Laws of Utah 2015, Chapter 311

ENACTS:

53A-15-1511, Utah Code Annotated 1953

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

Section 1. Section 53A-6-402 is amended to read:

53A-6-402. Board-required licensing or employment recommendations -- Local public school-required licensing recommendations -- Notice requirements for affected parties -- Exemption from liability.

(1) (a) The board shall provide the appropriate administrator of a public or private school or of an agency outside the state that is responsible for licensing or certifying educational personnel with a recommendation or other information possessed by the board that has significance in evaluating the employment or license of:

- (i) a current or prospective school employee;
- (ii) an educator or education license holder; or
- (iii) a license applicant.

(b) Information supplied under Subsection (1)(a) shall include:

- (i) the complete record of a hearing; and

(ii) the investigative report for matters that:

- (A) the educator has had an opportunity to contest; and
- (B) did not proceed to a hearing.

(2) At the request of the board, an administrator of a public school or school district shall, and an administrator of a private school may, provide the board with a recommendation or other information possessed by the school or school district that has significance in evaluating the ~~employment or licensure of~~:

- (a) ~~[a current or prospective school employee] license of an educator or education license holder; or~~
- (b) ~~[an educator or education license holder; or (e)] potential licensure of a license applicant.~~

(3) ~~[If a decision is made] If the board decides to deny licensure[, to not hire a prospective employee,] or to take action against [a current employee or educator] an educator's license based upon information provided under this section, [the affected individual shall receive notice of the information and be given an opportunity to respond to the information.] the board shall:~~

- (a) give notice of the information to the educator or license applicant; and
- (b) afford the educator or license applicant an opportunity to respond to the information.

~~[(4) A local school board, a charter school governing board, or the Utah Schools for the Deaf and the Blind shall obtain references and a discipline record from prior employers of an individual before hiring the individual to work:]~~

~~[(a) as an educator; or]~~

~~[(b) in a public school, if the individual would have significant unsupervised access to students.]~~

~~[(5)] (4) A person who, in good faith, provides a recommendation or discloses or receives information under this section is exempt from civil and criminal liability relating to that recommendation, receipt, or disclosure.~~

~~[(6) For purposes of this section, "employee" includes a volunteer.]~~

Section 2. Section 53A-15-1511 is enacted to read:

53A-15-1511. Reference check requirements for LEA applicants and volunteers.

(1) As used in this section:

- (a) "Child" means an individual who is younger than 18 years old.
- (b) "LEA applicant" means an applicant for employment by an LEA.
- (c) "Physical abuse" means the same as that term is defined in Section 78A-6-105.
- (d) "Potential volunteer" means an individual who:
 - (i) has volunteered for but not yet fulfilled an unsupervised volunteer assignment; and

(ii) during the last three years, has worked in a qualifying position.

(e) “Qualifying position” means paid employment that requires the employee to directly care for, supervise, control, or have custody of a child.

(f) “Sexual abuse” means the same as that term is defined in Section 78A-6-105.

(g) “Student” means an individual who:

(i) is enrolled in an LEA in any grade from preschool through grade 12; or

(ii) receives special education services from an LEA under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(h) “Unsupervised volunteer assignment” means a volunteer assignment at an LEA that allows the volunteer significant unsupervised access to a student.

(2) (a) Before hiring an LEA applicant or giving an unsupervised volunteer assignment to a potential volunteer, an LEA shall:

(i) require the LEA applicant or potential volunteer to sign a release authorizing the LEA applicant or potential volunteer’s previous qualifying position employers to disclose information regarding any employment action taken or discipline imposed for the physical abuse or sexual abuse of a child or student by the LEA applicant or potential volunteer;

(ii) for an LEA applicant, request that the LEA applicant’s most recent qualifying position employer disclose information regarding any employment action taken or discipline imposed for the physical abuse or sexual abuse of a child or student by the LEA applicant;

(iii) for a potential volunteer, request that the potential volunteer’s most recent qualifying position employer disclose information regarding any employment action taken or discipline imposed for the physical abuse or sexual abuse of a child or student by the potential volunteer; and

(iv) document the efforts taken to make a request described in Subsection (2)(a)(ii) or (iii).

(b) An LEA may not hire an LEA applicant who does not sign a release described in Subsection (2)(a)(i).

(c) An LEA may not give an unsupervised volunteer assignment to a potential volunteer who does not sign a release described in Subsection (2)(a)(i).

(d) An LEA shall use the LEA’s best efforts to request information under Subsection (2)(a)(ii) or (iii) before:

(i) hiring an LEA applicant; or

(ii) giving an unsupervised volunteer assignment to a potential volunteer.

(e) In accordance with state and federal law, an LEA may request from an LEA applicant or

potential volunteer other information the LEA determines is relevant.

(3) (a) An LEA that receives a request described in Subsection (2)(a)(ii) or (iii) shall use the LEA’s best efforts to respond to the request within 20 business days after the day on which the LEA received the request.

(b) If an LEA or other employer in good faith discloses information that is within the scope of a request described in Subsection (2)(a)(ii) or (iii), the LEA or other employer is immune from civil and criminal liability for the disclosure.

CHAPTER 200**H. B. 182**

Passed February 25, 2016

Approved March 23, 2016

Effective May 10, 2016

**CONCURRENT ENROLLMENT
EDUCATION AMENDMENTS**

Chief Sponsor: Val L. Peterson

Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill repeals, amends, and enacts provisions regarding concurrent enrollment.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends and reenacts concurrent enrollment provisions, including:
 - state and local level administration of the program;
 - student and teacher eligibility; and
 - funding;
- ▶ gives rulemaking authority; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-17a-105.5, as last amended by Laws of Utah 2011, Chapter 7

53B-1-109, as last amended by Laws of Utah 2011, Chapter 301

ENACTS:

53A-15-1701, Utah Code Annotated 1953

53A-15-1702, Utah Code Annotated 1953

53A-15-1703, Utah Code Annotated 1953

53A-15-1704, Utah Code Annotated 1953

53A-15-1705, Utah Code Annotated 1953

53A-15-1706, Utah Code Annotated 1953

53A-15-1707, Utah Code Annotated 1953

53A-15-1708, Utah Code Annotated 1953

53A-15-1709, Utah Code Annotated 1953

REPEALS:

53A-15-101, as last amended by Laws of Utah 2013, Chapter 75

53A-15-101.5, as last amended by Laws of Utah 2014, Chapter 63

53A-17a-120.5, as last amended by Laws of Utah 2010, Chapter 3

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

Section 1. Section 53A-15-1701 is enacted to read:**Part 17. Concurrent Enrollment****53A-15-1701. Title.**

This part is known as "Concurrent Enrollment."

Section 2. Section 53A-15-1702 is enacted to read:**53A-15-1702. Definitions.**

(1) "Concurrent enrollment" means enrollment in a course offered through the concurrent enrollment program described in Section 53A-15-1703.

(2) "Educator" means the same as that term is defined in Section 53A-6-103.

(3) "Eligible instructor" means an instructor who is:

(a) employed as faculty by an institution of higher education; or

(b) (i) employed by an LEA;

(ii) licensed by the State Board of Education under Title 53A, Chapter 6, Educator Licensing and Professional Practices Act;

(iii) (A) approved as adjunct faculty by an institution of higher education; or

(B) a mathematics educator who has an upper level mathematics endorsement; and

(iv) supervised by an institution of higher education.

(4) "Eligible student" means a student who:

(a) is enrolled in, and counted in average daily membership in, a high school within the state;

(b) has a student education occupation plan, as described in Section 53A-1a-106, on file at a high school within the state; and

(c) (i) is a grade 11 or grade 12 student; or

(ii) is a grade 9 or grade 10 student who qualifies by exception as described in Section 53A-15-1703.

(5) "Endorsement" means a stipulation, authorized by the State Board of Education and appended to a license, that specifies an area of practice to which the license applies.

(6) "Institution of higher education" means the same as that term is defined in Section 53B-3-102.

(7) "License" means the same as that term is defined in Section 53A-6-103.

(8) "Local education agency" or "LEA" means a school district or charter school.

(9) "Participating eligible student" means an eligible student enrolled in a concurrent enrollment course.

(10) "Upper level mathematics endorsement" means an endorsement required by the State Board of Education for an educator to teach calculus.

(11) "Value of the weighted pupil unit" means the same as that term is defined in Section 53A-1a-703.

Section 3. Section 53A-15-1703 is enacted to read:**53A-15-1703. Concurrent enrollment program.**

(1) The State Board of Education and the State Board of Regents shall establish and maintain a concurrent enrollment program that:

(a) provides an eligible student the opportunity to enroll in a course that allows the eligible student to earn credit concurrently:

(i) toward high school graduation; and

(ii) at an institution of higher education;

(b) includes only courses that:

(i) lead to a degree or certificate offered by an institution of higher education; and

(ii) are one of the following:

(A) general education courses;

(B) career and technical education courses; or

(C) pre-major college level courses; and

(c) is designed and implemented to take full advantage of the most current available education technology.

(2) The State Board of Education and the State Board of Regents shall coordinate:

(a) to establish a concurrent enrollment course approval process that ensures:

(i) credit awarded for concurrent enrollment is consistent and transferable to all institutions of higher education; and

(ii) learning outcomes for concurrent enrollment courses align with:

(A) core standards for Utah public schools adopted by the State Board of Education; and

(B) institution of higher education lower division courses numbered at or above the 1000 level; and

(b) advising to eligible students, including:

(i) providing information on general education requirements at institutions of higher education; and

(ii) choosing concurrent enrollment courses to avoid duplication or excess credit hours.

(3) The State Board of Regents shall provide guidelines to an institution of higher education for establishing qualifying academic criteria for an eligible student to enroll in a concurrent enrollment course.

(4) To qualify for funds under Section 53A-15-1707, an LEA and an institution of higher education shall:

(a) enter into a contract, in accordance with Section 53A-15-1704, to provide one or more concurrent enrollment courses that are approved under the course approval process described in Subsection (2);

(b) ensure that an instructor who teaches a concurrent enrollment course is an eligible instructor;

(c) establish qualifying academic criteria for an eligible student to enroll in a concurrent enrollment course, in accordance with the guidelines described in Subsection (3);

(d) ensure that a student who enrolls in a concurrent enrollment course is an eligible student; and

(e) coordinate advising to eligible students.

(5) An LEA and an institution of higher education may qualify a grade 9 or grade 10 student to enroll in a concurrent enrollment course by exception.

(6) An institution of higher education shall accept credits earned by a student who completes a concurrent enrollment course on the same basis as credits earned by a full-time or part-time student enrolled at the institution of higher education.

(7) An institution of higher education shall require an eligible instructor to submit to a background check and ongoing monitoring, as described in Section 53A-15-1503, in the same manner as a non-licensed employee of an LEA, if the eligible instructor:

(a) teaches a concurrent enrollment course in a high school; and

(b) is not licensed by the State Board of Education under Title 53A, Chapter 6, Educator Licensing and Professional Practices Act.

Section 4. Section 53A-15-1704 is enacted to read:

53A-15-1704. Designated institution of higher education -- Concurrent enrollment course right of first refusal.

(1) As used in this section, "designated institution of higher education" means an institution of higher education that is designated by the State Board of Regents to provide a course or program of study within a specific geographic region.

(2) To offer a concurrent enrollment course, an LEA shall contact the LEA's designated institution of higher education to request that the designated institution of higher education contract with the LEA to provide the concurrent enrollment course.

(3) If the LEA's designated institution of higher education chooses to offer the concurrent enrollment course, the LEA shall contract with the LEA's designated institution of higher education to provide the concurrent enrollment course.

(4) An LEA may contract with an institution of higher education that is not the LEA's designated institution of higher education to provide a concurrent enrollment course if the LEA's designated institution of higher education:

(a) chooses not to offer the concurrent enrollment course proposed by the LEA; or

(b) fails to respond to the LEA's request under Subsection (2) within 30 days after the day on which the LEA contacts the designated institution of higher education.

Section 5. Section 53A-15-1705 is enacted to read:

53A-15-1705. Concurrent enrollment participation form -- Parental permission.

(1) The State Board of Regents shall create a higher education concurrent enrollment participation form that includes a parental permission form.

(2) Before allowing an eligible student to participate in concurrent enrollment, an LEA and an institution of higher education shall ensure that the eligible student has, for the current school year:

(a) submitted the participation form described in Subsection (1);

(b) signed an acknowledgment of program participation requirements; and

(c) obtained parental permission as indicated by the signature of a student's parent or legal guardian on the parental permission form.

Section 6. Section 53A-15-1706 is enacted to read:

53A-15-1706. Tuition and fees.

(1) Except as provided in this section, the State Board of Regents or an institution of higher education may not charge tuition or fees for a concurrent enrollment course.

(2) (a) The State Board of Regents may charge a one-time fee for a student to participate in the concurrent enrollment program.

(b) A student who pays a fee described in Subsection (2)(a) does not satisfy a general admission application fee requirement for a full-time or part-time student at an institution of higher education.

(3) (a) An institution of higher education may charge a one-time admission application fee for concurrent enrollment course credit offered by the institution of higher education.

(b) Payment of the fee described in Subsection (3)(a) satisfies the general admission application fee requirement for a full-time or part-time student at an institution of higher education.

(4) (a) Except as provided in Subsection (4)(b), an institution of higher education may charge partial tuition of no more than \$30 per credit hour for a concurrent enrollment course for which a student earns college credit.

(b) A higher education institution may not charge more than:

(i) \$5 per credit hour for an eligible student who qualifies for free or reduced price school lunch;

(ii) \$10 per credit hour for a concurrent enrollment course that is taught at an LEA by an eligible instructor described in Subsection 53A-15-1702(3)(b); or

(iii) \$15 per credit hour for a concurrent enrollment course that is taught through video conferencing.

Section 7. Section 53A-15-1707 is enacted to read:

53A-15-1707. Funding.

(1) The State Board of Education shall allocate money appropriated for concurrent enrollment in accordance with this section.

(2) (a) The State Board of Education shall allocate money appropriated for concurrent enrollment in proportion to the number of credit hours earned for courses taken where:

(i) an LEA primarily bears the cost of instruction; and

(ii) an institution of higher education primarily bears the cost of instruction.

(b) From the money allocated under Subsection (2)(a)(i), the State Board of Education shall distribute:

(i) 60% of the money to LEAs; and

(ii) 40% of the money to the State Board of Regents.

(c) From the money allocated under Subsection (2)(a)(ii), the State Board of Education shall distribute:

(i) 40% of the money to LEAs; and

(ii) 60% of the money to the State Board of Regents.

(d) The State Board of Education shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing for the distribution of the money to LEAs under Subsections (2)(b)(i) and (2)(c)(i).

(e) The State Board of Regents shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing for the distribution of the money allocated to institutions of higher education under Subsections (2)(b)(ii) and (2)(c)(ii).

(3) Subject to budget constraints, the Legislature shall annually increase the money appropriated for concurrent enrollment in proportion to the percentage increase over the previous school year in:

(a) kindergarten through grade 12 student enrollment; and

(b) the value of the weighted pupil unit.

Section 8. Section 53A-15-1708 is enacted to read:

53A-15-1708. Concurrent enrollment courses for accelerated foreign language students.

The State Board of Education and the State Board of Regents may develop and implement a concurrent enrollment course of study for accelerated foreign language students, including dual language immersion students.

Section 9. Section 53A-15-1709 is enacted to read:

53A-15-1709. Reporting.

The State Board of Education and the State Board of Regents shall submit an annual written report to

the Higher Education Appropriations Subcommittee and the Public Education Appropriations Subcommittee on student participation in the concurrent enrollment program, including:

- (1) data on the higher education tuition not charged due to the hours of higher education credit granted through concurrent enrollment;
- (2) tuition or fees charged under Section 53A-15-1706;
- (3) an accounting of the money appropriated for concurrent enrollment; and
- (4) a justification of the distribution method described in Subsections 53A-15-1707(2)(d) and (e).

Section 10. Section 53A-17a-105.5 is amended to read:

53A-17a-105.5. Flexibility in the use of program funds.

(1) As used in this section, “qualifying program” means:

- (a) the Enhancement for At-Risk Students Program created in Section 53A-17a-166;
- (b) the Enhancement for Accelerated Students Program created in Section 53A-17a-165; and
- (c) the concurrent enrollment program [created] established in Section [53A-15-101] 53A-15-1703.

(2) If a school district or charter school receives an allocation of state funds for a qualifying program that is less than \$10,000, the school district or charter school may:

- (a) (i) combine the funds with one or more qualifying program fund allocations each of which is less than \$10,000; and
- (ii) use the combined funds in accordance with the program requirements for any of the qualifying programs that are combined; or
- (b) (i) transfer the funds to a qualifying program for which the school district or charter school received an allocation of funds that is greater than or equal to \$10,000; and
- (ii) use the combined funds in accordance with the program requirements for the qualifying program to which the funds are transferred.

Section 11. Section 53B-1-109 is amended to read:

53B-1-109. Coordination of higher education and public education information technology systems -- Use of unique student identifier.

(1) As used in this section, “unique student identifier” [has the same meaning as provided] means the same as that term is defined in Section 53A-1-603.5.

(2) The State Board of Regents and State Board of Education shall coordinate public education and higher education information technology systems

to allow individual student academic achievement to be tracked through both education systems in accordance with this section and Section 53A-1-603.5.

(3) Information technology systems utilized at an institution within the state system of higher education shall utilize the unique student identifier of all students who have previously been assigned a unique student identifier.

~~[(4) (a) The State Board of Regents and the State Board of Education shall coordinate advising to a prospective or current high school student who participates in the concurrent enrollment program established in 53A-15-101.]~~

~~[(b) Advising shall include information on general education requirements at higher education institutions and how the student can efficiently choose concurrent enrollment courses to avoid duplication or excess credit hours.]~~

~~[(5) (a) Eight weeks after the end of each semester, the State Board of Regents shall make available, to a requesting higher education institution in the state system of higher education that participates in concurrent enrollment, a report listing each public high school student who was enrolled in a concurrent enrollment course and admitted to the requesting higher education institution, including:]~~

~~[(i) the student’s name and unique student identifier;]~~

~~[(ii) the student’s:]~~

~~[(A) school district and school; or]~~

~~[(B) charter school;]~~

~~[(iii) the course name of each concurrent enrollment course taken by the student;]~~

~~[(iv) the higher education institution where the student enrolled to take each concurrent enrollment course; and]~~

~~[(v) (A) all the credits the student earned in each concurrent enrollment course; and]~~

~~[(B) a designation that indicates which credits listed in Subsection (5)(a)(v) the student earned at a grade “C” or higher.]~~

~~[(b) The board shall report the information described in Subsection (5)(a) for every concurrent enrollment course taken by a student in any year.]~~

Section 12. Repealer.

This bill repeals:

Section 53A-15-101, Higher education courses in the public schools -- Cooperation between public and higher education -- Partial tuition -- Reporting.

Section 53A-15-101.5, Concurrent enrollment instruction in Mandarin Chinese.

Section 53A-17a-120.5, Appropriation for concurrent enrollment.

CHAPTER 201**H. B. 185**

Passed February 18, 2016

Approved March 23, 2016

Effective May 10, 2016

**DECEPTION DETECTION
EXAMINERS LICENSING AMENDMENTS**Chief Sponsor: Francis D. Gibson
Senate Sponsor: Deidre M. Henderson**LONG TITLE****General Description:**

This bill amends provisions of the Deception Detection Examiners Licensing Act and related provisions.

Highlighted Provisions:

This bill:

- ▶ creates a new license within the Division of Occupational and Professional Licensing for a deception detection examination administrator;
- ▶ defines deception detection examination administrator and the qualifications for receiving a license as a deception detection examination administrator;
- ▶ provides certain exemptions for a law enforcement officer who is using a software application designed for detecting deception; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 58-1-307, as last amended by Laws of Utah 2012, Chapter 150
- 58-64-102, as last amended by Laws of Utah 2008, Chapter 211
- 58-64-301, as enacted by Laws of Utah 1995, Chapter 215
- 58-64-302, as last amended by Laws of Utah 2009, Chapter 183
- 58-64-303, as enacted by Laws of Utah 1995, Chapter 215
- 58-64-601, as enacted by Laws of Utah 1995, Chapter 215
- 58-64-701, as enacted by Laws of Utah 1995, Chapter 215

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

Section 1. Section 58-1-307 is amended to read:**58-1-307. Exemptions from licensure.**

(1) Except as otherwise provided by statute or rule, the following individuals may engage in the practice of their occupation or profession, subject to the stated circumstances and limitations, without being licensed under this title:

(a) an individual serving in the armed forces of the United States, the United States Public Health

Service, the United States Department of Veterans Affairs, or other federal agencies while engaged in activities regulated under this chapter as a part of employment with that federal agency if the individual holds a valid license to practice a regulated occupation or profession issued by any other state or jurisdiction recognized by the division;

(b) a student engaged in activities constituting the practice of a regulated occupation or profession while in training in a recognized school approved by the division to the extent the activities are supervised by qualified faculty, staff, or designee and the activities are a defined part of the training program;

(c) an individual engaged in an internship, residency, preceptorship, postceptorship, fellowship, apprenticeship, or on-the-job training program approved by the division while under the supervision of qualified individuals;

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

(e) an individual who is invited by a recognized school, association, society, or other body approved by the division to conduct a lecture, clinic, or demonstration of the practice of a regulated occupation or profession if the individual does not establish a place of business or regularly engage in the practice of the regulated occupation or profession in this state;

(f) an individual licensed under the laws of this state, other than under this title, to practice or engage in an occupation or profession, while engaged in the lawful, professional, and competent practice of that occupation or profession;

(g) an individual licensed in a health care profession in another state who performs that profession while attending to the immediate needs of a patient for a reasonable period during which the patient is being transported from outside of this state, into this state, or through this state;

(h) an individual licensed in another state or country who is in this state temporarily to attend to the needs of an athletic team or group, except that the practitioner may only attend to the needs of the athletic team or group, including all individuals who travel with the team or group in any capacity except as a spectator;

(i) an individual licensed and in good standing in another state, who is in this state:

(i) temporarily, under the invitation and control of a sponsoring entity;

(ii) for a reason associated with a special purpose event, based upon needs that may exceed the ability of this state to address through its licensees, as determined by the division; and

(iii) for a limited period of time not to exceed the duration of that event, together with any necessary preparatory and conclusionary periods;

(j) a law enforcement officer, as defined under Section 53-13-103, who:

(i) is operating a voice stress analyzer or software application designed for detecting deception in the course of the officer's ~~full-time~~ full or part-time employment with a federal, state, or local law enforcement agency;

(ii) has completed the manufacturer's training course and is certified by the manufacturer to operate ~~that~~ the voice stress analyzer or software application designed for detecting deception; and

(iii) is operating the voice stress analyzer or software application designed for detecting deception in accordance with Section 58-64-601, regarding deception detection instruments; and

(k) the spouse of an individual serving in the armed forces of the United States while the individual is stationed within this state, provided:

(i) the spouse holds a valid license to practice a regulated occupation or profession issued by any other state or jurisdiction recognized by the division; and

(ii) the license is current and the spouse is in good standing in the state of licensure.

(2) (a) A practitioner temporarily in this state who is exempted from licensure under Subsection (1) shall comply with each requirement of the licensing jurisdiction from which the practitioner derives authority to practice.

(b) Violation of a limitation imposed by this section constitutes grounds for removal of exempt status, denial of license, or other disciplinary proceedings.

(3) An individual who is licensed under a specific chapter of this title to practice or engage in an occupation or profession may engage in the lawful, professional, and competent practice of that occupation or profession without additional licensure under other chapters of this title, except as otherwise provided by this title.

(4) Upon the declaration of a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the President of the United States or other federal official requesting public health-related activities, the division in collaboration with the board may:

(a) suspend the requirements for permanent or temporary licensure of individuals who are licensed in another state for the duration of the emergency while engaged in the scope of practice for which they are licensed in the other state;

(b) modify, under the circumstances described in this Subsection (4) and Subsection (5), the scope of practice restrictions under this title for individuals who are licensed under this title as:

(i) a physician under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act;

(ii) a nurse under Chapter 31b, Nurse Practice Act, or Chapter 31c, Nurse Licensure Compact;

(iii) a certified nurse midwife under Chapter 44a, Nurse Midwife Practice Act;

(iv) a pharmacist, pharmacy technician, or pharmacy intern under Chapter 17b, Pharmacy Practice Act;

(v) a respiratory therapist under Chapter 57, Respiratory Care Practices Act;

(vi) a dentist and dental hygienist under Chapter 69, Dentist and Dental Hygienist Practice Act; and

(vii) a physician assistant under Chapter 70a, Physician Assistant Act;

(c) suspend the requirements for licensure under this title and modify the scope of practice in the circumstances described in this Subsection (4) and Subsection (5) for medical services personnel or paramedics required to be certified under Section 26-8a-302;

(d) suspend requirements in Subsections 58-17b-620(3) through (6) which require certain prescriptive procedures;

(e) exempt or modify the requirement for licensure of an individual who is activated as a member of a medical reserve corps during a time of emergency as provided in Section 26A-1-126; and

(f) exempt or modify the requirement for licensure of an individual who is registered as a volunteer health practitioner as provided in Title 26, Chapter 49, Uniform Emergency Volunteer Health Practitioners Act.

(5) Individuals exempt under Subsection (4)(c) and individuals operating under modified scope of practice provisions under Subsection (4)(b):

(a) are exempt from licensure or subject to modified scope of practice for the duration of the emergency;

(b) must be engaged in the distribution of medicines or medical devices in response to the emergency or declaration; and

(c) must be employed by or volunteering for:

(i) a local or state department of health; or

(ii) a host entity as defined in Section 26-49-102.

(6) In accordance with the protocols established under Subsection (8), upon the declaration of a national, state, or local emergency, the Department of Health or a local health department shall coordinate with public safety authorities as defined in Subsection 26-23b-110(1) and may:

(a) use a vaccine, antiviral, antibiotic, or other prescription medication that is not a controlled substance to prevent or treat a disease or condition that gave rise to, or was a consequence of, the emergency; or

(b) distribute a vaccine, antiviral, antibiotic, or other prescription medication that is not a controlled substance:

(i) if necessary, to replenish a commercial pharmacy in the event that the commercial pharmacy's normal source of the vaccine, antiviral, antibiotic, or other prescription medication is exhausted; or

(ii) for dispensing or direct administration to treat the disease or condition that gave rise to, or was a consequence of, the emergency by:

(A) a pharmacy;

(B) a prescribing practitioner;

(C) a licensed health care facility;

(D) a federally qualified community health clinic; or

(E) a governmental entity for use by a community more than 50 miles from a person described in Subsections (6)(b)(ii)(A) through (D).

(7) In accordance with protocols established under Subsection (8), upon the declaration of a national, state, or local emergency, the Department of Health shall coordinate the distribution of medications:

(a) received from the strategic national stockpile to local health departments; and

(b) from local health departments to emergency personnel within the local health departments' geographic region.

(8) The Department of Health shall establish by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for administering, dispensing, and distributing a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a controlled substance in the event of a declaration of a national, state, or local emergency. The protocol shall establish procedures for the Department of Health or a local health department to:

(a) coordinate the distribution of:

(i) a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a controlled substance received by the Department of Health from the strategic national stockpile to local health departments; and

(ii) a vaccine, an antiviral, an antibiotic, or other non-controlled prescription medication received by a local health department to emergency personnel within the local health department's geographic region;

(b) authorize the dispensing, administration, or distribution of a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a controlled substance to the contact of a patient, as defined in Section 26-6-2, without a patient-practitioner relationship, if the contact's condition is the same as that of the physician's patient; and

(c) authorize the administration, distribution, or dispensing of a vaccine, an antiviral, an antibiotic,

or other non-controlled prescription medication to an individual who:

(i) is working in a triage situation;

(ii) is receiving preventative or medical treatment in a triage situation;

(iii) does not have coverage for the prescription in the individual's health insurance plan;

(iv) is involved in the delivery of medical or other emergency services in response to the declared national, state, or local emergency; or

(v) otherwise has a direct impact on public health.

(9) The Department of Health shall give notice to the division upon implementation of the protocol established under Subsection (8).

Section 2. Section 58-64-102 is amended to read:

58-64-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Board" means the Deception Detection Examiners Board created in Section 58-64-201.

(2) "Deception detection examination" means the use of an instrument, or software application designed for detecting deception, on an individual for the purpose of detecting whether that individual is engaged in deception.

(3) "Deception detection examination administrator" means an individual who engages in or represents that the individual is engaged in:

(a) conducting or administering a deception detection examination using a software application designed for detecting deception without intervention from the examination administrator; or

(b) the interpretation of deception detection examination results derived from a software application designed for detecting deception.

[~~(3)~~] (4) "Deception detection examiner" means an individual who engages in or represents that the individual is engaged in conducting or performing deception detection examinations or in the interpretation of deception detection examinations.

[~~(4)~~] (5) "Deception detection intern" means an individual who engages in deception detection examinations under the supervision and control of a deception detection examiner for the purpose of training and qualification as a deception detection examiner.

[~~(5)~~] (6) "Instrument" means a polygraph, voice stress analyzer, ocular-motor test, or any other device or software application that records the examinee's cardiovascular patterns, respiratory patterns, galvanic skin response, cognitive response, eye behavior, memory recall, or other physiologic characteristics of the examinee for the purpose of monitoring factors relating to whether the examinee is truthful or engaged in deception.

[~~(6)~~] (7) "Unlawful conduct" [~~is as~~] means the same as that term is defined in Sections 58-1-501 and 58-64-501.

[~~(7)~~] (8) "Unprofessional conduct" [~~is as~~] means the same as that term is defined in Sections 58-1-501 and 58-64-502 and as may be further defined by rule.

Section 3. Section 58-64-301 is amended to read:

58-64-301. Licensure required -- License classifications.

(1) A license is required to engage in the practice of deception detection, except as specifically provided in Section 58-64-304 or 58-1-307.

(2) The division shall issue to an individual who qualifies under this chapter a license in the classifications of:

- (a) deception detection examiner; [ø]
- (b) deception detection intern[.]; or
- (c) deception detection examination administrator.

Section 4. Section 58-64-302 is amended to read:

58-64-302. Qualifications for licensure.

(1) Each applicant for licensure as a deception detection examiner [~~shall~~]:

(a) shall submit an application in a form prescribed by the division;

(b) shall pay a fee determined by the department under Section 63J-1-504;

(c) shall be of good moral character in that the applicant has not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime which when considered with the duties and responsibilities of a deception detection examiner is considered by the division and the board to indicate that the best interests of the public will not be served by granting the applicant a license;

(d) may not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(e) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(f) shall have completed one of the following:

(i) have earned a bachelor's degree from a four year university or college meeting standards established by the division by rule in collaboration with the board;

(ii) have completed not less than 8,000 hours of investigation experience approved by the division in collaboration with the board; or

(iii) have completed a combination of university or college education and investigation experience, as defined by rule by the division in collaboration

with the board as being equivalent to the requirements under Subsection (1)(f)(i) or (1)(f)(ii);

(g) shall have successfully completed a training program in deception detection meeting criteria established by rule by the division in collaboration with the board; and

(h) shall have performed satisfactorily as a licensed deception detection intern for a period of not less than one year and shall have satisfactorily conducted not less than 100 deception detection examinations under the supervision of a licensed deception detection examiner.

(2) Each applicant for licensure as a deception detection intern [~~shall~~]:

(a) shall submit an application in a form prescribed by the division;

(b) shall pay a fee determined by the department under Section 63J-1-504;

(c) shall be of good moral character in that the applicant has not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime which when considered with the duties and responsibilities of a deception detection intern is considered by the division and the board to indicate that the best interests of the public will not be served by granting the applicant a license;

(d) may not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(e) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(f) shall have completed one of the following:

(i) have earned a bachelor's degree from a four year university or college meeting standards established by the division by rule in collaboration with the board;

(ii) have completed not less than 8,000 hours of investigation experience approved by the division in collaboration with the board; or

(iii) have completed a combination of university or college education and investigation experience, as defined by rule by the division in collaboration with the board as being equivalent to the requirements under Subsection (2)(f)(i) or (2)(f)(ii);

(g) shall have successfully completed a training program in deception detection meeting criteria established by rule by the division in collaboration with the board; and

(h) shall provide the division with an intern supervision agreement in a form prescribed by the division under which:

(i) a licensed deception detection examiner agrees to supervise the intern; and

(ii) the applicant agrees to be supervised by that licensed deception detection examiner.

(3) Each applicant for licensure as a deception detection examination administrator:

(a) shall submit an application in a form prescribed by the division;

(b) shall pay a fee determined by the department under Section 63J-1-504;

(c) shall be of good moral character in that the applicant has not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that when considered with the duties and responsibilities of a deception detection examination administrator is considered by the division and the board to indicate that the best interests of the public will not be served by granting the applicant a license;

(d) may not have been declared by a court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(e) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(f) shall have earned an associate degree from a state-accredited university or college or have an equivalent number of years' work experience; and

(g) shall have successfully completed a training program and have obtained certification in deception detection examination administration provided by the manufacturer of a scientific or technology-based software application solution that is approved by the director.

[43] (4) To determine if an applicant meets the qualifications of Subsection (1)(c) ~~or~~, (2)(c), or (3)(c) the division shall provide an appropriate number of copies of fingerprint cards to the Department of Public Safety with the division's request to:

(a) conduct a search of records of the Department of Public Safety for criminal history information relating to each applicant for licensure under this chapter; and

(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant requiring a check of records of the F.B.I. for criminal history information under this section.

[44] (5) The Department of Public Safety shall send to the division:

(a) a written record of criminal history, or certification of no criminal history record, as contained in the records of the Department of Public Safety in a timely manner after receipt of a fingerprint card from the division and a request for review of Department of Public Safety records; and

(b) the results of the F.B.I. review concerning an applicant in a timely manner after receipt of information from the F.B.I.

[45] (6) (a) The division shall charge each applicant a fee, in accordance with Section 63J-1-504, equal to the cost of performing the records reviews under this section.

(b) The division shall pay the Department of Public Safety the costs of all records reviews, and

the Department of Public Safety shall pay the F.B.I. the costs of records reviews under this chapter.

[46] (7) Information obtained by the division from the reviews of criminal history records of the Department of Public Safety and the F.B.I. shall be used or disseminated by the division only for the purpose of determining if an applicant for licensure under this chapter is qualified for licensure.

Section 5. Section 58-64-303 is amended to read:

58-64-303. Term of license -- Expiration -- Renewal.

(1) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by rule. The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.

(2) At the time of renewal, the licensee shall show satisfactory evidence of:

(a) having performed not less than 25 deception detection examinations during the two years immediately preceding the date of the renewal notice[-]; and

(b) obtaining recertification within the past two years from the manufacturer of a scientific or technology-based software solution, if the licensee is renewing a deception detection examination administrator license.

(3) Each license automatically expires on the expiration date shown on the license unless the licensee renews it in accordance with Section 58-1-308.

Section 6. Section 58-64-601 is amended to read:

58-64-601. Deception detection instruments.

(1) Instruments or software applications used in performing deception detection examinations shall be those that are generally recognized in the profession or, if approved by the director, those with results published in peer-reviewed, scientific journals generally recognized by the scientific community.

(2) An instrument or software application used for deception detection shall have a permanent recording or written report produced by the instrument or software application for objective analysis by the examiner, the division, or the board.

(3) A written interpretation by an examiner while conducting a deception detection examination does not satisfy the requirements of a permanent recording.

Section 7. Section 58-64-701 is amended to read:

58-64-701. State preemption of local regulation.

(1) A political subdivision of ~~this~~ the state may not enact ~~any~~ legislation, ~~code, or ordinance, or~~

~~make any rules~~ ordinances, or rules relating to the licensing, training, or regulation of deception detection examiners ~~[or]~~, ~~deception detection interns,~~ or ~~deception detection examination administrators.~~

(2) Any legislation, ~~[code, ordinance, or rules]~~ ordinances, or rules made by ~~[any]~~ a political subdivision of ~~[this]~~ the state~~;~~ relating to the licensing, training, or regulation of deception detection examiners ~~[or]~~, ~~deception detection interns,~~ or ~~deception detection examination administrators~~ is superseded by this chapter.

CHAPTER 202**H. B. 192**

Passed March 9, 2016
Approved March 23, 2016
Effective May 10, 2016

**OPIATE OVERDOSE RESPONSE ACT --
PILOT PROGRAM AND OTHER
AMENDMENTS**

Chief Sponsor: Mike K. McKell
Senate Sponsor: Curtis S. Bramble
Cosponsors: Rich Cunningham
Brad King

LONG TITLE**General Description:**

This bill renames the Emergency Administration of Opiate Antagonist Act as the Opiate Overdose Response Act, amends the act, and makes related amendments.

Highlighted Provisions:

This bill:

- ▶ renames the Emergency Administration of Opiate Antagonist Act as the Opiate Overdose Response Act;
- ▶ amends definitions;
- ▶ amends liability provisions;
- ▶ creates the Opiate Overdose Outreach Pilot Program within the Department of Health;
- ▶ specifies how money appropriated for the program may be used;
- ▶ authorizes the department to make grants through the program to persons that are in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event;
- ▶ specifies how grants may be used;
- ▶ requires annual reporting by grantees;
- ▶ requires rulemaking by the department;
- ▶ requires annual reporting on the program by the department;
- ▶ designates program funding as nonlapsing; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates:

- ▶ to Department of Health -- Disease Control and Prevention, as a one-time appropriation:
 - from the General Fund, \$250,000, for the newly created Opiate Overdose Outreach Pilot Program.

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

26-55-101, as enacted by Laws of Utah 2014, Chapter 130
26-55-102, as enacted by Laws of Utah 2014, Chapter 130
26-55-104, as enacted by Laws of Utah 2014, Chapter 130
58-17b-507, as enacted by Laws of Utah 2014, Chapter 130
58-31b-703, as enacted by Laws of Utah 2014, Chapter 130

58-67-702, as enacted by Laws of Utah 2014, Chapter 130
58-68-702, as enacted by Laws of Utah 2014, Chapter 130
58-70a-505, as enacted by Laws of Utah 2014, Chapter 130
63J-1-602.1, as last amended by Laws of Utah 2015, Chapters 136 and 180

ENACTS:

26-55-105, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

26-55-104, as enacted by Laws of Utah 2014, Chapter 130
26-55-105, Utah Code Annotated 1953
26-55-106, Utah Code Annotated 1953
58-17b-507, as enacted by Laws of Utah 2014, Chapter 130
58-31b-703, as enacted by Laws of Utah 2014, Chapter 130
58-67-702, as enacted by Laws of Utah 2014, Chapter 130
58-68-702, as enacted by Laws of Utah 2014, Chapter 130
58-70a-505, as enacted by Laws of Utah 2014, Chapter 130

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

Section 1. Section 26-55-101 is amended to read:

**CHAPTER 55. OPIATE OVERDOSE
RESPONSE ACT**

26-55-101. Title.

This chapter is known as the “[~~Emergency Administration of~~] Opiate [~~Antagonist~~] Overdose Response Act.”

Section 2. Section 26-55-102 is amended to read:**26-55-102. Definitions.**

As used in this chapter:

(1) “Controlled substance” means the same as that term is defined in Title 58, Chapter 37, Utah Controlled Substances Act.

(2) “Dispense” means the same as that term is defined in Section 58-17b-102.

(1)(3) “Health care facility” means a hospital, a hospice inpatient residence, a nursing facility, a dialysis treatment facility, an assisted living residence, an entity that provides home- and community-based services, a hospice or home health care agency, or another facility that provides or contracts to provide health care services, which facility is licensed under Chapter 21, Health Care Facility Licensing and Inspection Act.

(2)(4) “Health care provider” means:

- (a) a physician, as defined in Section 58-67-102;
- (b) an advanced practice registered nurse, as defined in Subsection 58-31b-102(13); or

(c) a physician assistant, as defined in Section 58-70a-102.

(5) “Increased risk” means risk exceeding the risk typically experienced by an individual who is not using, and is not likely to use, an opiate.

~~(3)~~ (6) “Opiate” [is] means the same as that term is defined in Section 58-37-2.

[4] (7) “Opiate antagonist” means naloxone hydrochloride or any similarly acting drug that is not a controlled substance and that is approved by the federal Food and Drug Administration for the diagnosis or treatment of [a] an opiate-related drug overdose.

[5] (8) “Opiate-related drug overdose event” means an acute condition, including a decreased level of consciousness or respiratory depression resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance was combined, and that a person would reasonably believe to require medical assistance.

(9) “Prescribe” means the same as that term is defined in Section 58-17b-102.

Section 3. Section 26-55-104 is amended to read:

26-55-104. Prescribing, dispensing, and administering an opiate antagonist -- Immunity from liability.

(1) (a) (i) For purposes of Subsection (1)(a)(ii), “a person other than a health care facility or health care provider” includes the following, regardless of whether the person has received funds from the department through the Opiate Overdose Outreach Pilot Program created in Section 26-55-105:

(A) a person described in Subsections 26-55-105(1)(a)(i)(A) through (1)(a)(i)(F); or

(B) an organization defined by department rule made under Subsection 26-55-105(7)(e) that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event.

(ii) Except as provided in Subsection (1)(b), a person other than a health care facility or health care provider [who] that acts in good faith to administer an opiate antagonist to [another person] an individual whom the person believes to be [suffering] experiencing an opiate-related drug overdose event is not liable for any civil damages [or] for acts or omissions made as a result of administering the opiate antagonist.

(b) A health care provider:

(i) does not have immunity from liability under Subsection (1)(a) when the health care provider is acting within the scope of the health care provider’s responsibilities or duty of care; and

(ii) does have immunity from liability under Subsection (1)(a) if the health care provider is under

no legal duty to respond and otherwise complies with Subsection (1)(a).

(2) Notwithstanding Sections 58-1-501, 58-17b-501, and 58-17b-502, a health care provider who is licensed to prescribe [or dispense] an opiate antagonist may, ~~without a prescriber-patient relationship,~~ prescribe or dispense an opiate antagonist [without liability for any civil damages or acts or omissions made as a result of prescribing or dispensing an opiate antagonist in good faith, to]:

(a) (i) to an individual who is at increased risk of experiencing [or who is likely to experience] an opiate-related drug overdose event; or

~~(b)~~ (ii) to a family member of, friend of, or other person [who may be], including a person described in Subsections 26-55-105(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist an individual who [may be] is at increased risk of experiencing [or who is likely to experience] an opiate-related drug overdose event[-];

(b) without a prescriber-patient relationship; and

(c) without liability for any civil damages for acts or omissions made as a result of prescribing or dispensing the opiate antagonist in good faith.

(3) A [person] health care provider who [prescribes or] dispenses an opiate antagonist to an individual under Subsection (2)(a) shall provide education to the individual [described in Subsection (2)(a) or (b)] that includes [instructions to take the person who received] instruction:

(a) on the proper administration of the opiate antagonist; and

(b) that the individual to whom the opiate antagonist is dispensed should ensure that the individual to whom the opiate antagonist is administered is taken to an emergency care facility for a medical evaluation immediately following administration of the opiate antagonist.

Section 4. Section 26-55-105 is enacted to read:

26-55-105. Opiate Overdose Outreach Pilot Program -- Grants -- Annual reporting by grantees -- Rulemaking -- Annual reporting by department.

(1) As used in this section:

(a) “Persons that are in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event”:

(i) means the following organizations:

(A) a law enforcement agency;

(B) the department or a local health department, as defined in Section 26A-1-102;

(C) an organization that provides drug or alcohol treatment services;

(D) an organization that provides services to the homeless;

(E) an organization that provides training on the proper administration of an opiate antagonist in response to an opiate-related drug overdose event;

(F) a school; or

(G) except as provided in Subsection (1)(a)(ii), any other organization, as defined by department rule made under Subsection (7)(e), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; and

(ii) does not mean:

(A) a person licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(B) a health care facility; or

(C) an individual.

(b) "School" means:

(i) a public school:

(A) for elementary or secondary education, including a charter school; or

(B) for other purposes;

(ii) a private school:

(A) for elementary or secondary education; or

(B) accredited for other purposes, including higher education or specialty training; or

(iii) an institution within the state system of higher education, as described in Section 53B-1-102.

(2) There is created within the department the "Opiate Overdose Outreach Pilot Program."

(3) The department may use funds appropriated for the program to:

(a) provide grants under Subsection (4);

(b) promote public awareness of the signs, symptoms, and risks of opioid misuse and overdose;

(c) increase the availability of educational materials and other resources designed to assist individuals at increased risk of opioid overdose, their families, and others in a position to help prevent or respond to an overdose event;

(d) increase public awareness of, access to, and use of opiate antagonist;

(e) update the department's Utah Clinical Guidelines on Prescribing Opioids and promote its use by prescribers and dispensers of opioids;

(f) develop a directory of substance misuse treatment programs and promote its dissemination to and use by opioid prescribers, dispensers, and others in a position to assist individuals at increased risk of opioid overdose;

(g) coordinate a multi-agency coalition to address opioid misuse and overdose; and

(h) maintain department data collection efforts designed to guide the development of opioid

overdose interventions and track their effectiveness.

(4) No later than September 1, 2016, and with available funding, the department shall grant funds through the program to persons that are in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event.

(5) Funds granted by the program:

(a) may be used by a grantee to:

(i) pay for the purchase by the grantee of an opiate antagonist; or

(ii) pay for the grantee's cost of providing training on the proper administration of an opiate antagonist in response to an opiate-related drug overdose event; and

(b) may not be used:

(i) to pay for costs associated with the storage or dispensing of an opiate antagonist; or

(ii) for any other purposes.

(6) Grantees shall report annually to the department on the use of granted funds in accordance with department rules made under Subsection (7)(d).

(7) No later than July 1, 2016, the department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules specifying:

(a) how to apply for a grant from the program;

(b) the criteria used by the department to determine whether a grant request is approved, including criteria providing that:

(i) grants are awarded to areas of the state, including rural areas, that would benefit most from the grant; and

(ii) no more than 15% of the total amount granted by the program is used to pay for grantees' costs of providing training on the proper administration of an opiate antagonist in response to an opiate-related drug overdose event;

(c) the criteria used by the department to determine the amount of a grant;

(d) the information a grantee shall report annually to the department under Subsection (6), including:

(i) the amount of opiate antagonist purchased and dispensed by the grantee during the reporting period;

(ii) the number of individuals to whom the opiate antagonist was dispensed by the grantee;

(iii) the number of lives known to have been saved during the reporting period as a result of opiate antagonist dispensed by the grantee; and

(iv) the manner in which the grantee shall record, preserve, and make available for audit by the department the information described in Subsections (7)(d)(i) through (7)(d)(iii); and

(e) as required by Subsection (1)(a)(i)(G), any other organization that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event.

(8) The department shall report to the Legislature's Social Services Appropriations Subcommittee no later than September 1 of each year on the outcomes of the Opiate Overdose Outreach Pilot Program.

Section 5. Section 58-17b-507 is amended to read:

58-17b-507. Opiate antagonist -- Immunity from liability -- Exclusion from unlawful or unprofessional conduct.

(1) As used in this section:

(a) "Opiate antagonist" means the same as that term is defined in Section 26-55-102.

(b) "Opiate-related drug overdose event" means the same as that term is defined in Section 26-55-102.

(4) (2) A person licensed under this chapter [who] that dispenses an opiate antagonist [as defined in Section 26-55-102] to an individual with a prescription for an opiate antagonist is not liable for any civil damages resulting from the outcomes [that result from] of the eventual administration of the opiate antagonist to [a person] an individual who another [person] individual believes is [suffering] experiencing an opiate-related drug overdose [as defined in Section 26-55-102] event.

(2) (3) The provisions of this section and Title 26, Chapter 55, Opiate Overdose Response Act, do not establish a duty or standard of care in the prescribing, dispensing, or administration of an opiate antagonist.

(3) (4) It is not unprofessional conduct or unlawful conduct for a licensee under this chapter to dispense an opiate antagonist to a person, including a person described in Subsections 26-55-105(1)(a)(i)(A) through (1)(a)(i)(F), on behalf of [another person] an individual if the person obtaining the opiate antagonist has a prescription for the opiate antagonist from a licensed prescriber.

Section 6. Section 58-31b-703 is amended to read:

58-31b-703. Opiate antagonist -- Exclusion from unprofessional or unlawful conduct.

(1) ~~Title 26, Chapter 55, Emergency Administration of Opiate Antagonist Act, applies to a licensee under this chapter.~~

(1) As used in this section:

(a) "Dispense" means the same as that term is defined in Section 58-17b-102.

(b) "Increased risk" means the same as that term is defined in Section 26-55-102.

(c) "Opiate antagonist" means the same as that term is defined in Section 26-55-102.

(d) "Opiate-related drug overdose event" means the same as that term is defined in Section 26-55-102.

(e) "Prescribe" means the same as that term is defined in Section 58-17b-102.

(2) The prescribing or dispensing of an opiate antagonist [as defined in Section 26-55-102] by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist in a good faith effort to assist:

(a) [a person] an individual who is at increased risk of experiencing [or who is likely to experience] an opiate-related drug overdose event [as defined in Section 26-55-102]; or

(b) a family member of, friend of, or other person [who], including a person described in Subsections 26-55-105(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist [a person] an individual who [may be] is at increased risk of experiencing [or who is likely to experience] an opiate-related drug overdose event.

(3) The provisions of this section and Title 26, Chapter 55, ~~Emergency Administration of~~ Opiate ~~Antagonist~~ Overdose Response Act, do not establish a duty or standard of care in the prescribing, dispensing, or administration of an opiate antagonist.

Section 7. Section 58-67-702 is amended to read:

58-67-702. Opiate antagonist -- Exclusion from unlawful or unprofessional conduct.

(1) ~~Title 26, Chapter 55, Emergency Administration of Opiate Antagonist Act, applies to a licensee under this chapter.~~

(1) As used in this section:

(a) "Dispense" means the same as that term is defined in Section 58-17b-102.

(b) "Increased risk" means the same as that term is defined in Section 26-55-102.

(c) "Opiate antagonist" means the same as that term is defined in Section 26-55-102.

(d) "Opiate-related drug overdose event" means the same as that term is defined in Section 26-55-102.

(e) "Prescribe" means the same as that term is defined in Section 58-17b-102.

(2) The prescribing or dispensing of an opiate antagonist [as defined in Section 26-55-102] by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist in a good faith effort to assist:

(a) [a person] an individual who is at increased risk of experiencing [or who is likely to experience] an opiate-related drug overdose event [as defined in Section 26-55-102]; or

(b) a family member of, friend of, or other person [who], including a person described in Subsections

26-55-105(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist ~~[a person]~~ an individual who ~~[may be]~~ is at increased risk of experiencing ~~[or who is likely to experience]~~ an opiate-related drug overdose event.

(3) The provisions of this section and Title 26, Chapter 55, ~~[Emergency Administration of]~~ Opiate ~~[Antagonist]~~ Overdose Response Act, do not establish a duty or standard of care in the prescribing, dispensing, or administration of an opiate antagonist.

Section 8. Section 58-68-702 is amended to read:

58-68-702. Opiate antagonist -- Exclusion from unlawful or unprofessional conduct.

~~[(1) Title 26, Chapter 55, Emergency Administration of Opiate Antagonist Act, applies to a licensee under this chapter.]~~

(1) As used in this section:

(a) "Dispense" means the same as that term is defined in Section 58-17b-102.

(b) "Increased risk" means the same as that term is defined in Section 26-55-102.

(c) "Opiate antagonist" means the same as that term is defined in Section 26-55-102.

(d) "Opiate-related drug overdose event" means the same as that term is defined in Section 26-55-102.

(e) "Prescribe" means the same as that term is defined in Section 58-17b-102.

(2) The prescribing or dispensing of an opiate antagonist ~~[as defined in Section 26-55-102]~~ by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist in a good faith effort to assist:

(a) ~~[a person]~~ an individual who is at increased risk of experiencing ~~[or who is likely to experience]~~ an opiate-related drug overdose event ~~[as defined in Section 26-55-102];~~ or

(b) a family member of, friend of, or other person ~~[who]~~, including a person described in Subsections 26-55-105(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist ~~[a person]~~ an individual who ~~[may be]~~ is at increased risk of experiencing ~~[or who is likely to experience]~~ an opiate-related drug overdose event.

(3) The provisions of this section and Title 26, Chapter 55, ~~[Emergency Administration of]~~ Opiate ~~[Antagonist]~~ Overdose Response Act, do not establish a duty or standard of care in the prescribing, dispensing, or administration of an opiate antagonist.

Section 9. Section 58-70a-505 is amended to read:

58-70a-505. Opiate antagonist -- Exclusion from unlawful or unprofessional conduct.

~~[(1) Title 26, Chapter 55, Emergency Administration of Opiate Antagonist Act, applies to a licensee under this chapter.]~~

(1) As used in this section:

(a) "Dispense" means the same as that term is defined in Section 58-17b-102.

(b) "Increased risk" means the same as that term is defined in Section 26-55-102.

(c) "Opiate antagonist" means the same as that term is defined in Section 26-55-102.

(d) "Opiate-related drug overdose event" means the same as that term is defined in Section 26-55-102.

(e) "Prescribe" means the same as that term is defined in Section 58-17b-102.

(2) The prescribing or dispensing of an opiate antagonist ~~[as defined in Section 26-55-102]~~ by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist in a good faith effort to assist:

(a) ~~[a person]~~ an individual who is at increased risk of experiencing ~~[or who is likely to experience]~~ an opiate-related drug overdose event ~~[as defined in Section 26-55-102];~~ or

(b) a family member of, friend of, or other person ~~[who]~~, including a person described in Subsections 26-55-105(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist ~~[a person]~~ an individual who ~~[may be]~~ is at increased risk of experiencing ~~[or who is likely to experience]~~ an opiate-related drug overdose event.

(3) The provisions of this section and Title 26, Chapter 55, ~~[Emergency Administration of]~~ Opiate ~~[Antagonist]~~ Overdose Response Act, do not establish a duty or standard of care in the prescribing, dispensing, or administration of an opiate antagonist.

Section 10. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing accounts and funds -- General authority and Title 1 through Title 30.

(1) Appropriations made to the Legislature and its committees.

(2) The Percent-for-Art Program created in Section 9-6-404.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(5) An appropriation made to the Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(6) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(7) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(8) Funds collected from the emergency medical services grant program, as provided in Section 26-8a-207.

(9) The Prostate Cancer Support Restricted Account created in Section 26-21a-303.

(10) State funds appropriated for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(11) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(12) The primary care grant program created in Section 26-10b-102.

(13) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

(14) The Opiate Overdose Outreach Pilot Program created in Section 26-55-105.

Section 11. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or amounts indicated. These sums of money are in addition to amounts previously appropriated for fiscal year 2017.

Item 1. To Department of Health - Disease Control and Prevention

From General Fund, One-time	\$250,000
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Schedule of Programs:

Opiate Overdose Outreach Pilot Program	\$250,000
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Section 12. Coordinating H.B. 192 with H.B. 240 -- Substantive and technical amendments.

If this H.B. 192 and H.B. 240, Opiate Overdose Response Act -- Standing Orders and Other Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by:

(1) renumbering Section 26-55-105 enacted in H.B. 192 to Section 26-55-106 and renumbering cross references accordingly;

(2) modifying Subsection 26-55-104(2) to read:

“(2) Notwithstanding Sections 58-1-501, 58-17b-501, and 58-17b-502, a health care provider who is licensed to prescribe an opiate antagonist may prescribe, including by a standing prescription drug order issued in accordance with

Subsection 26-55-105(2), or dispense an opiate antagonist:

(a) (i) to an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(ii) to a family member of, friend of, or other person, including a person described in Subsections 26-55-106(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event;

(b) without a prescriber-patient relationship; and

(c) without liability for any civil damages for acts or omissions made as a result of prescribing or dispensing the opiate antagonist in good faith.”;

(3) modifying Section 26-55-105 enacted in H.B. 240, to read:

“26-55-105. Standing prescription drug orders for an opiate antagonist.

(1) Notwithstanding Title 58, Chapter 17b, Pharmacy Practice Act, a person licensed under Title 58, Chapter 17b, Pharmacy Practice Act, to dispense an opiate antagonist may dispense the opiate antagonist:

(a) pursuant to a standing prescription drug order made in accordance with Subsection (2); and

(b) without any other prescription drug order from a person licensed to prescribe an opiate antagonist.

(2) A physician who is licensed to prescribe an opiate antagonist, including a physician acting in the physician's capacity as an employee of the department, or a medical director of a local health department, as defined in Section 26A-1-102, may issue a standing prescription drug order authorizing the dispensing of the opiate antagonist under Subsection (1) in accordance with a protocol that:

(a) limits dispensing of the opiate antagonist to:

(i) an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(ii) a family member of, friend of, or other person, including a person described in Subsections 26-55-106(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event;

(b) requires the physician to specify the persons, by professional license number, authorized to dispense the opiate antagonist;

(c) requires the physician to review at least annually the dispensing practices of those authorized by the physician to dispense the opiate antagonist;

(d) requires those authorized by the physician to dispense the opiate antagonist to make and retain a record of each person to whom the opiate antagonist is dispensed, which shall include:

(i) the name of the person;

(ii) the drug dispensed; and

(iii) other relevant information; and

(e) is approved by the Division of Occupational and Professional Licensing within the Department of Commerce by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.”;

(4) modifying Section 58-17b-507 to read:

“(1) As used in this section:

(a) “Opiate antagonist” means the same as that term is defined in Section 26-55-102.

(b) “Opiate-related drug overdose event” means the same as that term is defined in Section 26-55-102.

(2) A person licensed under this chapter that dispenses an opiate antagonist to an individual with a prescription for an opiate antagonist, or pursuant to a standing prescription drug order issued in accordance with Subsection 26-55-105(2), is not liable for any civil damages resulting from the outcomes of the eventual administration of the opiate antagonist to an individual who another individual believes is experiencing an opiate-related drug overdose event.

(3) The provisions of this section and Title 26, Chapter 55, Opiate Overdose Response Act, do not establish a duty or standard of care in the prescribing, dispensing, or administration of an opiate antagonist.

(4) It is not unprofessional conduct or unlawful conduct for a licensee under this chapter to dispense an opiate antagonist to a person, including a person described in Subsections 26-55-106(1)(a)(i)(A) through (1)(a)(i)(F), on behalf of an individual if the person obtaining the opiate antagonist has a prescription for the opiate antagonist from a licensed prescriber or the opiate antagonist is dispensed pursuant to a standing prescription drug order issued in accordance with Subsection 26-55-102(2).”;

(5) modifying Subsections 58-31b-703(1)(a), 58-67-702(1)(a), 58-68-702(1)(a), and 58-70a-505(1)(a) to read:

“(a) “Dispense” means the same as that term is defined in Section 58-17b-102.”;

(6) modifying Subsections 58-31b-703(1)(e), 58-67-702(1)(e), 58-68-702(1)(e), and 58-70a-505(1)(e) to read:

“(e) “Prescribe” means the same as that term is defined in Section 58-17b-102.”;

(7) modifying Subsection 58-31b-703(2) to read:

“(2) The prescribing or dispensing of an opiate antagonist by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist in a good faith effort to assist:

(a) an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(b) a family member of, friend of, or other person, including a person described in Subsections 26-55-106(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event.”;

(8) modifying Subsection 58-67-702(2) to read:

“(2) The prescribing or dispensing of an opiate antagonist by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist in a good faith effort to assist:

(a) an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(b) a family member of, friend of, or other person, including a person described in Subsections 26-55-106(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event.”;

(9) modifying Subsection 58-68-702(2) to read:

“(2) The prescribing or dispensing of an opiate antagonist by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist:

(a) in a good faith effort to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(b) a family member of, friend of, or other person, including a person described in Subsections 26-55-106(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event.”; and

(10) modifying Subsection 58-70a-505(2) to read:

“(2) The prescribing or dispensing of an opiate antagonist by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist in a good faith effort to assist:

(a) an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(b) a family member of, friend of, or other person, including a person described in Subsections 26-55-106(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event.”

CHAPTER 203**H. B. 200**

Passed March 9, 2016
 Approved March 23, 2016
 Effective May 10, 2016

STUDENT ASSESSMENT MODIFICATIONS

Chief Sponsor: Marie H. Poulson
 Senate Sponsor: Lincoln Fillmore

LONG TITLE**General Description:**

This bill amends provisions related to student assessments.

Highlighted Provisions:

This bill:

- ▶ provides that a school district or charter school may waive certain assessment requirements for students in grade 11; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-1-603, as last amended by Laws of Utah 2015, Chapters 258, 415, and 444
 53A-1-611, as last amended by Laws of Utah 2013, Chapter 161

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

Section 1. Section 53A-1-603 is amended to read:**53A-1-603. Duties of State Board of Education.**

(1) The State Board of Education shall:

(a) require ~~each~~ a school district ~~and~~ or charter school to implement the Utah Performance Assessment System for Students~~, hereafter referred to as U-PASS~~;

(b) require the state superintendent of public instruction to submit and recommend criterion-referenced achievement tests or online computer adaptive tests, college readiness assessments, an online writing assessment for grades 5 and 8, and a test for students in grade 3 to measure reading grade level to the board for approval and adoption and distribution to ~~each~~ a school district ~~and~~ or charter school by the state superintendent;

(c) develop an assessment method to uniformly measure statewide performance, school district performance, and school performance of students in grades 3 through 12 in mastering basic academic subjects; and

(d) provide for the state to participate in the National Assessment of Educational Progress state-by-state comparison testing program.

(2) Except as provided in Subsection ~~(3)~~ (9) and Subsection 53A-1-611~~(3)~~(4), under U-PASS, the State Board of Education shall annually require ~~each~~ a school district ~~and~~ or charter school~~, as applicable,~~ to administer:

(a) as determined by the State Board of Education, statewide criterion-referenced tests or online computer adaptive tests in grades 3 through 12 and courses in basic academic subjects of the core standards for Utah public schools;

(b) an online writing assessment to all students in grades 5 and 8;

(c) college readiness assessments as detailed in Section 53A-1-611; and

(d) a test to all students in grade 3 to measure reading grade level.

(3) ~~Beginning with the 2014-15 school year, the~~ The State Board of Education shall annually require ~~each~~ a school district ~~and~~ or charter school~~, as applicable,~~ to administer a computer adaptive assessment system that is:

(a) adopted by the State Board of Education; and

(b) aligned to the core standards for Utah public schools.

(4) The board shall adopt rules for the conduct and administration of U-PASS to include the following:

(a) the computation of student performance based on information that is disaggregated with respect to race, ethnicity, gender, limited English proficiency, and those students who qualify for free or reduced price school lunch;

(b) security features to maintain the integrity of the system, which ~~could~~ may include statewide uniform testing dates, multiple test forms, and test administration protocols;

(c) the exemption of student test scores, by exemption category, such as limited English proficiency, mobility, and students with disabilities, with the percent or number of student test scores exempted being ~~publically~~ publicly reported at a district level;

(d) compiling of criterion-referenced, online computer adaptive, and online writing test scores and test score averages at the classroom level to allow for:

(i) an annual review of those scores by parents of students and professional and other appropriate staff at the classroom level at the earliest point in time;

(ii) the assessment of year-to-year student progress in specific classes, courses, and subjects; and

(iii) a teacher to review, prior to the beginning of a new school year, test scores from the previous school year of students who have been assigned to the teacher's class for the new school year;

(e) allowing a school district or charter school to have its tests administered and scored

electronically to accelerate the review of test scores and their usefulness to parents and educators under Subsection (4)(d), without violating the integrity of U-PASS; and

(f) providing that scores on the tests and assessments required under Subsection (2)(a) and Subsection (3) may not be considered in determining:

(i) a student's academic grade for the appropriate course; or

(ii) whether a student may advance to the next grade level.

(5) (a) A school district or charter school ~~[, as applicable, is encouraged to]~~ may administer an online writing assessment to students in grade 11.

(b) The State Board of Education may award a grant to a school district or charter school to pay for an online writing assessment and instruction program that may be used to assess the writing of students in grade 11.

(6) The State Board of Education shall make rules:

(a) establishing procedures for applying for and awarding money for computer adaptive tests;

(b) specifying how money for computer adaptive tests shall be allocated among school districts and charter schools that qualify to receive the money; and

(c) requiring reporting of the expenditure of money awarded for computer adaptive testing and evidence that the money was used to implement computer adaptive testing.

(7) The State Board of Education shall assure that computer adaptive tests are administered in compliance with the requirements of Chapter 13, Part 3, Utah Family Educational Rights and Privacy Act.

(8) (a) The State Board of Education shall establish a committee consisting of 15 parents of Utah public education students to review all computer adaptive test questions.

(b) The committee established in Subsection (8)(a) shall include the following parent members:

(i) five members appointed by the chair of the State Board of Education;

(ii) five members appointed by the speaker of the House of Representatives; and

(iii) five members appointed by the president of the Senate.

(c) The State Board of Education shall provide staff support to the parent committee.

(d) The term of office of each member appointed in Subsection (8)(b) is four years.

(e) The chair of the State Board of Education, the speaker of the House of Representatives, and the president of the Senate shall adjust the length of

terms to stagger the terms of committee members so that approximately 1/2 of the committee members are appointed every two years.

(f) No member may receive compensation or benefits for the member's service on the committee.

(9) Beginning with the 2016-17 school year, for all students in grade 11, a school district or charter school may waive the obligation to administer a test required under Subsection (2)(a).

~~[(9)]~~ (10) (a) School districts and charter schools shall require each licensed employee to complete two hours of professional development on youth suicide prevention within their license cycle in accordance with Section 53A-6-104.

(b) The State Board of Education shall develop or adopt sample materials to be used by a school district or charter school for professional development training on youth suicide prevention.

(c) The training required by this Subsection ~~[(9)]~~ (10) shall be incorporated into professional development training required by rule in accordance with Section 53A-6-104.

Section 2. Section 53A-1-611 is amended to read:

53A-1-611. College readiness assessments.

(1) The Legislature recognizes the need for the State Board of Education to develop and implement standards and assessment processes to ensure that student progress is measured and that school boards and school personnel are accountable.

(2) In addition to its responsibilities under Sections 53A-1-603 through 53A-1-605, the State Board of Education shall:

(a) adopt college readiness assessments for secondary students; and

(b) require a school ~~[districts and charter schools]~~ district or charter school to administer the college readiness assessments adopted by the State Board of Education ~~[beginning with the 2013-14 school year].~~

(3) ~~[The]~~ A college readiness ~~[assessments]~~ assessment adopted by the State Board of Education:

(a) shall include the college admissions test that includes an assessment of language arts, mathematics, and science that is most commonly submitted to local universities; and

(b) may include:

(i) the Armed Services Vocational Aptitude Battery; and

(ii) a battery of assessments that are predictive of success in higher education.

(4) (a) Except as provided in Subsection (4)(b), the State Board of Education shall require a school ~~[districts and charter schools]~~ district or charter school to administer a test adopted under Subsection (3)(a) to all students in grade 11.

(b) A student with an IEP may take an appropriate college readiness assessment other than a test adopted by the State Board of Education under Subsection (3)(a), as determined by the student's IEP.

~~[(5) The requirements of this section are to be complementary to the other achievement testing provisions of this part.]~~

CHAPTER 204**H. B. 201**

Passed March 10, 2016
 Approved March 23, 2016
 Effective May 10, 2016

STUDENT TESTING AMENDMENTS

Chief Sponsor: Marie H. Poulson
 Senate Sponsor: Lincoln Fillmore
 Cosponsors: Patrice M. Arent
 Joel K. Briscoe
 Kim Coleman
 Rich Cunningham
 Susan Duckworth
 Justin L. Fawson
 Francis D. Gibson
 Lynn N. Hemingway
 Brad King
 David E. Lifferth
 Carol Spackman Moss
 Angela Romero
 Norman K Thurston

LONG TITLE**General Description:**

This bill amends provisions related to the evaluation of educators and administrators.

Highlighted Provisions:

This bill:

- ▶ places restrictions on the use of end-of-level assessment scores for the evaluation and compensation of certain employees; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-8a-405, as renumbered and amended by Laws of Utah 2012, Chapter 425
 53A-8a-409, as last amended by Laws of Utah 2014, Chapter 262
 53A-8a-601, as last amended by Laws of Utah 2014, Chapter 262
 53A-8a-702, as last amended by Laws of Utah 2014, Chapter 262

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

Section 1. Section 53A-8a-405 is amended to read:**53A-8a-405. Components of educator evaluation program.**

An educator evaluation program adopted by a local school board in consultation with a joint committee established in Section 53A-8a-403:

(1) shall include the following components:

(1) (a) a reliable and valid evaluation program consistent with generally accepted professional standards for personnel evaluation systems;

(2) (a) (b) (i) the evaluation of provisional and probationary educators at least twice each school year; and

(4) (ii) the annual evaluation of all career educators;

(3) (c) systematic evaluation procedures for both provisional and career educators;

(4) (d) the use of multiple lines of evidence, ~~such as~~ including:

(a) (i) self-evaluation;

(b) (ii) student and parent input;

(e) (iii) peer observation;

(4) (iv) supervisor observations;

(e) (v) evidence of professional growth;

(4) (vi) student achievement data; and

(4) (vii) other indicators of instructional improvement;

(5) (e) a reasonable number of observation periods for an evaluation to ~~insure~~ ensure adequate reliability;

(6) (f) administration of an educator's evaluation by:

(a) (i) the principal;

(b) (ii) the principal's designee;

(e) (iii) the educator's immediate supervisor; or

(4) (iv) another person specified in the evaluation program;

(7) (g) an orientation for educators on the educator evaluation program; and

(8) (h) a summative evaluation that differentiates among four levels of performance[-]; and

(2) may not use end-of-level assessment scores in educator evaluation.

Section 2. Section 53A-8a-409 is amended to read:**53A-8a-409. State Board of Education to establish a framework for the evaluation of educators.**

[The] (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules:

(4) (a) establishing a framework for the evaluation of educators that is consistent with the requirements of Part 3, Employee Evaluations, and this part;

(2) (b) requiring a teacher's summative evaluation to be based on[-] ~~(a) student learning growth or achievement, if measures of student learning growth are not available; and (b) standards of instructional quality; and~~

(3) (c) requiring each school district to fully implement an evaluation system for educators in

accordance with the framework established by the State Board of Education no later than the 2015-16 school year.

(2) The rules described in Subsection (1) shall prohibit the use of end-of-level assessment scores in educator evaluation.

Section 3. Section 53A-8a-601 is amended to read:

53A-8a-601. State Board of Education to make rules on performance compensation.

(1) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules requiring a school district's employee compensation system to be aligned with the district's annual evaluation system described in Section 53A-8a-405.

(2) Rules adopted under Subsection (1) shall:

(a) establish a timeline for developing and implementing an employee compensation system that is aligned with an annual evaluation system; and

(b) provide that beginning no later than the 2016-17 school year:

(i) any advancement on an adopted wage or salary schedule:

(A) shall be based primarily on an evaluation; and

(B) may not be based on end-of-level assessment scores; and

(ii) an employee may not advance on an adopted wage or salary schedule if the employee's rating on the most recent evaluation is at the lowest level of an evaluation instrument.

Section 4. Section 53A-8a-702 is amended to read:

53A-8a-702. Evaluation of school and district administrators.

~~[The]~~ (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall ~~[(1) establish in]~~ make rules that establish a framework for the evaluation of school and district administrators that includes the following components:

(a) student achievement indicators emphasizing learning growth and proficiency;

(b) the results of an evaluation tool utilized by the local school board that includes input from employees, parents, and students;

(c) the effectiveness of evaluating employee performance in a school or district for which the school or district administrator has responsibility; and

(d) other factors as determined by a local school board in implementing state law and State Board of Education rules~~;~~ and.

(2) The rules described in Subsection (1) shall prohibit the use of end-of-level assessment scores

in the evaluation of school and district administrators.

~~[(2)]~~ (3) The State Board of Education shall require each school district to fully implement an evaluation system for school and district administrators in accordance with the framework established by the State Board of Education no later than the 2015-16 school year.

CHAPTER 205**H. B. 209**

Passed March 9, 2016

Approved March 23, 2016

Effective May 10, 2016

**PUBLIC TRANSIT DISTRICT BOARD
COUNTY APPOINTMENT AMENDMENTS**Chief Sponsor: Johnny Anderson
Senate Sponsor: Brian E. Shiozawa**LONG TITLE****General Description:**

This bill modifies the Public Transit District Act by amending provisions relating to a public transit district board of trustees.

Highlighted Provisions:

This bill:

- ▶ amends the membership of a public transit district board of trustees for a public transit district with more than 200,000 people residing within the boundaries of the public transit district; and
- ▶ makes conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17B-2a-807, as last amended by Laws of Utah 2014, Chapter 377

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

Section 1. Section 17B-2a-807 is amended to read:**17B-2a-807. Public transit district board of trustees -- Appointment -- Apportionment -- Qualifications -- Quorum -- Compensation -- Terms.**

(1) (a) If 200,000 people or fewer reside within the boundaries of a public transit district, the board of trustees shall consist of members appointed by the legislative bodies of each municipality, county, or unincorporated area within any county on the basis of one member for each full unit of regularly scheduled passenger routes proposed to be served by the district in each municipality or unincorporated area within any county in the following calendar year.

(b) For purposes of determining membership under Subsection (1)(a), the number of service miles comprising a unit shall be determined jointly by the legislative bodies of the municipalities or counties comprising the district.

(c) The board of trustees of a public transit district under this Subsection (1) may include a member that is a commissioner on the Transportation Commission created in Section 72-1-301 and appointed as provided in Subsection (11), who shall serve as a nonvoting, ex officio member.

(d) Members appointed under this Subsection (1) shall be appointed and added to the board or omitted from the board at the time scheduled routes are changed, or as municipalities, counties, or unincorporated areas of counties annex to or withdraw from the district using the same appointment procedures.

(e) For purposes of appointing members under this Subsection (1), municipalities, counties, and unincorporated areas of counties in which regularly scheduled passenger routes proposed to be served by the district in the following calendar year is less than a full unit, as defined in Subsection (1)(b), may combine with any other similarly situated municipality or unincorporated area to form a whole unit and may appoint one member for each whole unit formed.

(2) (a) Subject to Section 17B-2a-807.5, if more than 200,000 people reside within the boundaries of a public transit district, the board of trustees shall consist of:

(i) 11 members:

(A) appointed as described under this Subsection (2); or

(B) retained in accordance with Section 17B-2a-807.5;

(ii) three members appointed as described in Subsection (4);

(iii) one voting member appointed as provided in Subsection (11); and

(iv) one nonvoting member appointed as provided in Subsection (12).

(b) Except as provided in Subsections (2)(c) and (d), the board shall apportion voting members to each county within the district using an average of:

(i) the proportion of population included in the district and residing within each county, rounded to the nearest 1/11 of the total transit district population; and

(ii) the cumulative proportion of transit sales and use tax collected from areas included in the district and within each county, rounded to the nearest 1/11 of the total cumulative transit sales and use tax collected for the transit district.

(c) The board shall join an entire or partial county not apportioned a voting member under this Subsection (2) with an adjacent county for representation. The combined apportionment basis included in the district of both counties shall be used for the apportionment.

(d) (i) If rounding to the nearest 1/11 of the total public transit district apportionment basis under Subsection (2)(b) results in an apportionment of more than 11 members, the county or combination of counties with the smallest additional fraction of a whole member proportion shall have one less member apportioned to it.

(ii) If rounding to the nearest 1/11 of the total public transit district apportionment basis under Subsection (2)(b) results in an apportionment of less

than 11 members, the county or combination of counties with the largest additional fraction of a whole member proportion shall have one more member apportioned to it.

~~(e) [If the population in the unincorporated area of a county is at least 140,000, the county executive, with the advice and consent of the county legislative body, shall appoint one voting member to represent the population within a county's unincorporated area.]~~ If the population of a county is at least 750,000, the county executive, with the advice and consent of the county legislative body, shall appoint one voting member to represent the population of the county.

(f) If a municipality's population is at least 160,000, the chief municipal executive, with the advice and consent of the municipal legislative body, shall appoint one voting member to represent the population within a municipality.

(g) (i) The number of voting members appointed from a county and municipalities within a county under Subsections (2)(e) and (f) shall be subtracted from the county's total voting member apportionment under this Subsection (2).

(ii) Notwithstanding Subsections (2)(l) and (10), no more than one voting member appointed by an appointing entity may be a locally elected public official.

(h) If the entire county is within the district, the remaining voting members for the county shall represent the county or combination of counties, if Subsection (2)(c) applies, or the municipalities within the county.

(i) If the entire county is not within the district, and the county is not joined with another county under Subsection (2)(c), the remaining voting members for the county shall represent a municipality or combination of municipalities.

(j) (i) Except as provided under Subsections (2)(e) and (f), voting members representing counties, combinations of counties if Subsection (2)(c) applies, or municipalities within the county shall be designated and appointed by a simple majority of the chief executives of the municipalities within the county or combinations of counties if Subsection (2)(c) applies.

(ii) The appointments shall be made by joint written agreement of the appointing municipalities, with the consent and approval of the county legislative body of the county that has at least 1/11 of the district's apportionment basis.

(k) Voting members representing a municipality or combination of municipalities shall be designated and appointed by the chief executive officer of the municipality or simple majority of chief executive officers of municipalities with the consent of the legislative body of the municipality or municipalities.

(l) The appointment of members shall be made without regard to partisan political affiliation from among citizens in the community.

(m) Each member shall be a bona fide resident of the municipality, county, or unincorporated area or areas which the member is to represent for at least six months before the date of appointment, and shall continue in that residency to remain qualified to serve as a member.

(n) (i) All population figures used under this section shall be derived from the most recent official census or census estimate of the United States Bureau of the Census.

(ii) If population estimates are not available from the United States Bureau of Census, population figures shall be derived from the estimate from the Utah Population Estimates Committee.

(iii) All transit sales and use tax totals shall be obtained from the State Tax Commission.

(o) (i) The board shall be apportioned as provided under this section in conjunction with the decennial United States Census Bureau report every 10 years.

(ii) Within 120 days following the receipt of the population estimates under this Subsection (2)(o), the district shall reapportion representation on the board of trustees in accordance with this section.

(iii) The board shall adopt by resolution a schedule reflecting the current and proposed apportionment.

(iv) Upon adoption of the resolution, the board shall forward a copy of the resolution to each of its constituent entities as defined under Section 17B-1-701.

(v) The appointing entities gaining a new board member shall appoint a new member within 30 days following receipt of the resolution.

(vi) The appointing entities losing a board member shall inform the board of which member currently serving on the board will step down:

(A) upon appointment of a new member under Subsection (2)(o)(v); or

(B) in accordance with Section 17B-2a-807.5.

(3) Upon the completion of an annexation to a public transit district under Chapter 1, Part 4, Annexation, the annexed area shall have a representative on the board of trustees on the same basis as if the area had been included in the district as originally organized.

(4) In addition to the voting members appointed in accordance with Subsection (2), the board shall consist of three voting members appointed as follows:

(a) one member appointed by the speaker of the House of Representatives;

(b) one member appointed by the president of the Senate; and

(c) one member appointed by the governor.

(5) Except as provided in Section 17B-2a-807.5, the terms of office of the members of the board shall be four years or until a successor is appointed, qualified, seated, and has taken the oath of office.

(6) (a) Vacancies for members shall be filled by the official appointing the member creating the vacancy for the unexpired term, unless the official fails to fill the vacancy within 90 days.

(b) If the appointing official under Subsection (1) does not fill the vacancy within 90 days, the board of trustees of the authority shall fill the vacancy.

(c) If the appointing official under Subsection (2) does not fill the vacancy within 90 days, the governor, with the advice and consent of the Senate, shall fill the vacancy.

(7) (a) Each voting member may cast one vote on all questions, orders, resolutions, and ordinances coming before the board of trustees.

(b) A majority of all voting members of the board of trustees are a quorum for the transaction of business.

(c) The affirmative vote of a majority of all voting members present at any meeting at which a quorum was initially present shall be necessary and, except as otherwise provided, is sufficient to carry any order, resolution, ordinance, or proposition before the board of trustees.

(8) Each public transit district shall pay to each member:

(a) an attendance fee of \$50 per board or committee meeting attended, not to exceed \$200 in any calendar month to any member; and

(b) reasonable mileage and expenses necessarily incurred to attend board or committee meetings.

(9) (a) Members of the initial board of trustees shall convene at the time and place fixed by the chief executive officer of the entity initiating the proceedings.

(b) The board of trustees shall elect from its voting membership a chair, vice chair, and secretary.

(c) The members elected under Subsection (9)(b) shall serve for a period of two years or until their successors shall be elected and qualified.

(d) On or after January 1, 2011, a locally elected public official is not eligible to serve as the chair, vice chair, or secretary of the board of trustees.

(10) (a) Except as otherwise authorized under Subsections (2)(g) and (10)(b) and Section 17B-2a-807.5, at the time of a member's appointment or during a member's tenure in office, a member may not hold any employment, except as an independent contractor or locally elected public official, with a county or municipality within the district.

(b) A member appointed by a county or municipality may hold employment with the county or municipality if the employment is disclosed in writing and the public transit district board of trustees ratifies the appointment.

(11) The Transportation Commission created in Section 72-1-301:

(a) for a public transit district serving a population of 200,000 people or fewer, may appoint a commissioner of the Transportation Commission to serve on the board of trustees as a nonvoting, ex officio member; and

(b) for a public transit district serving a population of more than 200,000 people, shall appoint a commissioner of the Transportation Commission to serve on the board of trustees as a voting member.

(12) (a) The board of trustees of a public transit district serving a population of more than 200,000 people shall include a nonvoting member who represents all municipalities and unincorporated areas within the district that are located within a county that is not annexed into the public transit district.

(b) The nonvoting member representing the combination of municipalities and unincorporated areas described in Subsection (12)(a) shall be designated and appointed by a weighted vote of the majority of the chief executive officers of the municipalities described in Subsection (12)(a).

(c) Each municipality's vote under Subsection (12)(b) shall be weighted using the proportion of the public transit district population that resides within that municipality and the adjacent unincorporated areas within the same county.

(13) (a) (i) Each member of the board of trustees of a public transit district is subject to recall at any time by the legislative body of the county or municipality from which the member is appointed.

(ii) Each recall of a board of trustees member shall be made in the same manner as the original appointment.

(iii) The legislative body recalling a board of trustees member shall provide written notice to the member being recalled.

(b) Upon providing written notice to the board of trustees, a member of the board may resign from the board of trustees.

(c) Except as provided in Section 17B-2a-807.5, if a board member is recalled or resigns under this Subsection (13), the vacancy shall be filled as provided in Subsection (6).

CHAPTER 206**H. B. 210**

Passed February 24, 2016

Approved March 23, 2016

Effective May 10, 2016

**SIMULATED EMERGENCY
VEHICLE EXEMPTION**

Chief Sponsor: Daniel McCay

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies the Traffic Code by amending simulated emergency vehicle provisions.

Highlighted Provisions:

This bill:

- ▶ requires a media production to provide advance notice to law enforcement when using a simulated emergency vehicle on a highway;
- ▶ provides for notice requirements; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-1718, as enacted by Laws of Utah 2015, Chapter 405

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

Section 1. Section 41-6a-1718 is amended to read:**41-6a-1718. Simulated emergency vehicle****-- Definition -- Exemption --****Identification.**

(1) As used in this section:

(a) "Media production" means the making of a motion picture, television show, video, commercial, Internet video, or other viewable programming provided to viewers via a movie theater or transmitted through broadcast radio wave, cable, satellite, wireless, or Internet.

(b) "[~~Media production~~] Simulated emergency vehicle" means a vehicle used:

- (i) exclusively for media production[-]; and
- (ii) to simulate an authorized emergency vehicle.

(2) [~~A media production~~] If a media production entity using a simulated emergency vehicle provides reasonable advance written notice as described in Subsection (3) to the law enforcement agency having jurisdiction of the highway being used by the simulated emergency vehicle, the simulated emergency vehicle is exempt from the restrictions of Section 41-6a-1616 while the vehicle is:

(a) being used to simulate an authorized emergency vehicle in [~~a~~] the media production; or

(b) being driven in transit between the media production location and the [~~media production~~] simulated emergency vehicle storage location if, during transit, the vehicle displays a sign prominently on each front-side door of the [~~media production~~] simulated emergency vehicle stating "[~~Media Production~~] Simulated Emergency Vehicle."

(3) The written notice required in Subsection (2) shall include:

- (a) the date;
- (b) the time;
- (c) the designated route of travel and location of use;
- (d) a description of the simulated emergency vehicle; and
- (e) contact information for a person who is employed by, or has contracted with, the media production entity to whom the law enforcement agency may direct questions or concerns about the simulated emergency vehicle's use or the notice.

CHAPTER 207**H. B. 238**

Passed March 9, 2016
Approved March 23, 2016
Effective May 10, 2016

**OPIATE OVERDOSE RESPONSE ACT --
OVERDOSE OUTREACH PROVIDERS AND
OTHER AMENDMENTS**

Chief Sponsor: Carol Spackman Moss
Senate Sponsor: Brian E. Shiozawa
Cosponsors: Patrice M. Arent
Rebecca Chavez-Houck
Lynn N. Hemingway
Sandra Hollins
Brad King
Mike K. McKell
Derrin Owens
Marie H. Poulson
Edward H. Redd
Mark A. Wheatley

LONG TITLE**General Description:**

This bill renames the Emergency Administration of Opiate Antagonist Act as the Opiate Overdose Response Act, amends the act, and makes related amendments.

Highlighted Provisions:

This bill:

- ▶ renames the Emergency Administration of Opiate Antagonist Act as the Opiate Overdose Response Act;
- ▶ amends definitions;
- ▶ amends civil liability provisions;
- ▶ authorizes an overdose outreach provider to furnish an opiate antagonist without civil liability;
- ▶ requires an overdose outreach provider to furnish instruction on how to recognize and respond appropriately to an opiate-related drug overdose event;
- ▶ exempts an overdose outreach provider from licensure under the Pharmacy Practice Act;
- ▶ specifies that the prescribing or dispensing of an opiate antagonist by a dentist is not unprofessional or unlawful conduct; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides coordination clauses.

Utah Code Sections Affected:**AMENDS:**

26-55-101, as enacted by Laws of Utah 2014, Chapter 130
26-55-102, as enacted by Laws of Utah 2014, Chapter 130
26-55-104, as enacted by Laws of Utah 2014, Chapter 130
58-17b-309, as last amended by Laws of Utah 2015, Chapter 206
58-17b-507, as enacted by Laws of Utah 2014, Chapter 130

58-31b-703, as enacted by Laws of Utah 2014, Chapter 130
58-67-702, as enacted by Laws of Utah 2014, Chapter 130
58-68-702, as enacted by Laws of Utah 2014, Chapter 130
58-70a-505, as enacted by Laws of Utah 2014, Chapter 130

ENACTS:

26-55-105, Utah Code Annotated 1953
58-69-702, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

26-55-104, as enacted by Laws of Utah 2014, Chapter 130
26-55-105, Utah Code Annotated 1953
26-55-106, Utah Code Annotated 1953
26-55-107, Utah Code Annotated 1953
58-17b-507, as enacted by Laws of Utah 2014, Chapter 130
58-31b-703, as enacted by Laws of Utah 2014, Chapter 130
58-67-702, as enacted by Laws of Utah 2014, Chapter 130
58-68-702, as enacted by Laws of Utah 2014, Chapter 130
58-69-702, Utah Code Annotated 1953
58-70a-505, as enacted by Laws of Utah 2014, Chapter 130

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

Section 1. Section 26-55-101 is amended to read:

**CHAPTER 55. OPIATE OVERDOSE
RESPONSE ACT**

26-55-101. Title.

This chapter is known as the “[~~Emergency Administration of~~] Opiate [~~Antagonist~~] Overdose Response Act.”

Section 2. Section 26-55-102 is amended to read:**26-55-102. Definitions.**

As used in this chapter:

(1) “Controlled substance” means the same as that term is defined in Title 58, Chapter 37, Utah Controlled Substances Act.

(2) “Dispense” means the same as that term is defined in Section 58-17b-102.

[~~(4)~~] (3) “Health care facility” means a hospital, a hospice inpatient residence, a nursing facility, a dialysis treatment facility, an assisted living residence, an entity that provides home- and community-based services, a hospice or home health care agency, or another facility that provides or contracts to provide health care services, which facility is licensed under Chapter 21, Health Care Facility Licensing and Inspection Act.

[~~(2)~~] (4) “Health care provider” means:

(a) a physician, as defined in Section 58-67-102;

(b) an advanced practice registered nurse, as defined in Subsection 58-31b-102(13); ~~or~~

(c) a physician assistant, as defined in Section 58-70a-102; or

(d) an individual licensed to engage in the practice of dentistry, as defined in Section 58-69-102.

(5) "Increased risk" means risk exceeding the risk typically experienced by an individual who is not using, and is not likely to use, an opiate.

(6) "Local health department" means:

(a) a local health department, as defined in Section 26A-1-102; or

(b) a multicounty local health department, as defined in Section 26A-1-102.

~~[(3)]~~ (7) "Opiate" ~~[is as]~~ means the same as that term is defined in Section 58-37-2.

~~[(4)]~~ (8) "Opiate antagonist" means naloxone hydrochloride or any similarly acting drug that is not a controlled substance and that is approved by the federal Food and Drug Administration for the diagnosis or treatment of ~~[a]~~ an opiate-related drug overdose.

~~[(5)]~~ (9) "Opiate-related drug overdose event" means an acute condition, including a decreased level of consciousness or respiratory depression resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance was combined, and that a person would reasonably believe to require medical assistance.

(10) "Overdose outreach provider" means:

(a) a law enforcement agency;

(b) a fire department;

(c) an emergency medical service provider, as defined in Section 26-8a-102;

(d) emergency medical service personnel, as defined in Section 26-8a-102;

(e) an organization providing treatment or recovery services for drug or alcohol use;

(f) an organization providing support services for an individual, or a family of an individual, with a substance use disorder;

(g) an organization providing substance use or mental health services under contract with a local substance abuse authority, as defined in Section 62A-15-102, or a local mental health authority, as defined in Section 62A-15-102;

(h) an organization providing services to the homeless;

(i) a local health department; or

(j) an individual.

(11) "Patient counseling" means the same as that term is defined in Section 58-17b-102.

(12) "Pharmacist" means the same as that term is defined in Section 58-17b-102.

(13) "Pharmacy intern" means the same as that term is defined in Section 58-17b-102.

(14) "Prescribe" means the same as that term is defined in Section 58-17b-102.

Section 3. Section 26-55-104 is amended to read:

26-55-104. Prescribing, dispensing, and administering an opiate antagonist -- Immunity from liability.

(1) (a) Except as provided in Subsection (1)(b), a person ~~other than~~, including an overdose outreach provider, but not including a health care facility or health care provider, ~~who~~ that acts in good faith to administer an opiate antagonist to ~~another person~~ an individual whom the person believes to be ~~suffering~~ experiencing an opiate-related drug overdose event is not liable for any civil damages ~~or~~ for acts or omissions made as a result of administering the opiate antagonist.

(b) A health care provider:

(i) does not have immunity from liability under Subsection (1)(a) when the health care provider is acting within the scope of the health care provider's responsibilities or duty of care; and

(ii) does have immunity from liability under Subsection (1)(a) if the health care provider is under no legal duty to respond and otherwise complies with Subsection (1)(a).

(2) Notwithstanding Sections 58-1-501, 58-17b-501, and 58-17b-502, a health care provider who is licensed to prescribe ~~or dispense~~ an opiate antagonist may ~~without a prescriber-patient relationship,~~ prescribe or dispense an opiate antagonist ~~without liability for any civil damages or acts or omissions made as a result of prescribing or dispensing an opiate antagonist in good faith, to~~:

(a) (i) to an individual who is at increased risk of experiencing ~~or who is likely to experience~~ an opiate-related drug overdose event; ~~or~~

~~[(b)]~~ (ii) to a family member of, friend of, or other ~~person~~ individual who ~~may be~~ is in a position to assist an individual who ~~may be~~ is at increased risk of experiencing ~~or who is likely to experience~~ an opiate-related drug overdose event; or

(iii) to an overdose outreach provider for:

(A) furnishing to an individual under Subsection (2)(a)(i) or (2)(a)(ii), as provided in Section 26-55-105; or

(B) administering to an individual experiencing an opiate-related drug overdose event;

(b) without a prescriber-patient relationship; and

(c) without liability for any civil damages for acts or omissions made as a result of prescribing or dispensing the opiate antagonist in good faith.

(3) A ~~person~~ health care provider who ~~prescribes or~~ dispenses an opiate antagonist to an

individual or an overdose outreach provider under Subsection (2)(a) shall provide education to the individual [described in Subsection (2)(a) or (b)] or overdose provider that includes [instructions to take the person who received the opiate antagonist to an emergency care facility for a medical evaluation.] written instruction on how to:

(a) recognize an opiate-related drug overdose event; and

(b) respond appropriately to an opiate-related drug overdose event, including how to:

(i) administer an opiate antagonist; and

(ii) ensure that an individual to whom an opiate antagonist has been administered receives, as soon as possible, additional medical care and a medical evaluation.

Section 4. Section 26-55-105 is enacted to read:

26-55-105. Overdose outreach providers.

Notwithstanding Sections 58-1-501, 58-17b-501, and 58-17b-502:

(1) an overdose outreach provider may:

(a) obtain an opiate antagonist dispensed on prescription by:

(i) a health care provider, in accordance with Subsections 26-55-104(2) and (3); or

(ii) a pharmacist or pharmacy intern, as otherwise authorized by Title 58, Chapter 17b, Pharmacy Practice Act;

(b) store the opiate antagonist; and

(c) furnish the opiate antagonist:

(i) (A) to an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(B) to a family member of, friend of, or other individual who is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; and

(ii) without liability for any civil damages for acts or omissions made as a result of furnishing the opiate antagonist in good faith; and

(2) when furnishing an opiate antagonist under Subsection (1), an overdose outreach provider:

(a) shall also furnish to the recipient of the opiate antagonist:

(i) the written instruction under Subsection 26-55-104(3) received by the overdose outreach provider from the health care provider at the time the opiate antagonist was dispensed to the overdose outreach provider; or

(ii) if the opiate antagonist was dispensed to the overdose outreach provider by a pharmacist or pharmacy intern, any written patient counseling under Section 58-17b-613 received by the overdose outreach provider at the time of dispensing; and

(b) may provide additional instruction on how to recognize and respond appropriately to an opiate-related drug overdose event.

Section 5. Section 58-17b-309 is amended to read:

58-17b-309. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, the following individuals may engage in the acts or practices described in this section without being licensed under this chapter:

(1) a person selling or providing contact lenses in accordance with Section 58-16a-801; [and]

(2) an animal shelter that:

(a) under the indirect supervision of a veterinarian, stores, handles, or administers a drug used for euthanising an animal; and

(b) under the indirect supervision of a veterinarian who is under contract with the animal shelter, stores, handles, or administers a rabies vaccine; and

(3) an overdose outreach provider, as defined in Section 26-55-102, that obtains, stores, or furnishes an opiate antagonist in accordance with Title 26, Chapter 55, Opiate Overdose Response Act.

Section 6. Section 58-17b-507 is amended to read:

58-17b-507. Opiate antagonist -- Immunity from liability -- Exclusion from unlawful or unprofessional conduct.

(1) As used in this section:

(a) "Opiate antagonist" means the same as that term is defined in Section 26-55-102.

(b) "Opiate-related drug overdose event" means the same as that term is defined in Section 26-55-102.

(2) A person licensed under this chapter [who] that dispenses an opiate antagonist [as defined in Section 26-55-102] to an individual with a prescription for an opiate antagonist, or to an overdose outreach provider with a prescription for an opiate antagonist, is not liable for any civil damages resulting from the outcomes [that result from] of the eventual administration of the opiate antagonist to [a person] an individual who another [person] individual believes is [suffering] experiencing an opiate-related drug overdose [as defined in Section 26-55-102] event.

[2] (3) The provisions of this section and Title 26, Chapter 55, Opiate Overdose Response Act, do not establish a duty or standard of care in the prescribing, dispensing, or administration of an opiate antagonist.

[3] (4) It is not unprofessional conduct or unlawful conduct for a licensee under this chapter to dispense an opiate antagonist to [a person] an individual on behalf of another [person] individual if the [person] individual obtaining the opiate antagonist has a prescription for the opiate antagonist from a licensed prescriber.

(5) It is not unprofessional conduct or unlawful conduct for a licensee under this chapter to dispense an opiate antagonist to an overdose outreach provider if the overdose outreach provider has a prescription for the opiate antagonist from a licensed prescriber issued pursuant to Subsection 26-55-104(2)(a)(iii).

Section 7. Section 58-31b-703 is amended to read:

58-31b-703. Opiate antagonist -- Exclusion from unprofessional or unlawful conduct.

~~(1) Title 26, Chapter 55, Emergency Administration of Opiate Antagonist Act, applies to a licensee under this chapter.~~

(1) As used in this section:

(a) "Dispense" means the same as that term is defined in Section 58-17b-102.

(b) "Increased risk" means the same as that term is defined in Section 26-55-102.

(c) "Opiate antagonist" means the same as that term is defined in Section 26-55-102.

(d) "Opiate-related drug overdose event" means the same as that term is defined in Section 26-55-102.

(e) "Prescribe" means the same as that term is defined in Section 58-17b-102.

(2) The prescribing or dispensing of an opiate antagonist [as defined in Section 26-55-102] by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist:

(a) in a good faith effort to assist:

~~[(a) a person] (i) an individual who is at increased risk of experiencing [or who is likely to experience] an opiate-related drug overdose event [as defined in Section 26-55-102]; or~~

~~[(b) (ii) a family member of, friend of, or other [person] individual who is in a position to assist [a person] an individual who [may be] is at increased risk of experiencing [or who is likely to experience] an opiate-related drug overdose event; or~~

(b) to an overdose outreach provider pursuant to Subsection 26-55-104(2)(a)(iii).

(3) The provisions of this section and Title 26, Chapter 55, [Emergency Administration of] Opiate [Antagonist] Overdose Response Act, do not establish a duty or standard of care in the prescribing, dispensing, or administration of an opiate antagonist.

Section 8. Section 58-67-702 is amended to read:

58-67-702. Opiate antagonist -- Exclusion from unlawful or unprofessional conduct.

~~(1) Title 26, Chapter 55, Emergency Administration of Opiate Antagonist Act, applies to a licensee under this chapter.~~

(1) As used in this section:

(a) "Dispense" means the same as that term is defined in Section 58-17b-102.

(b) "Increased risk" means the same as that term is defined in Section 26-55-102.

(c) "Opiate antagonist" means the same as that term is defined in Section 26-55-102.

(d) "Opiate-related drug overdose event" means the same as that term is defined in Section 26-55-102.

(e) "Prescribe" means the same as that term is defined in Section 58-17b-102.

(2) The prescribing or dispensing of an opiate antagonist [as defined in Section 26-55-102] by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist:

(a) in a good faith effort to assist:

~~[(a) a person] (i) an individual who is at increased risk of experiencing [or who is likely to experience] an opiate-related drug overdose event [as defined in Section 26-55-102]; or~~

~~[(b) (ii) a family member of, friend of, or other [person] individual who is in a position to assist [a person] an individual who [may be] is at increased risk of experiencing [or who is likely to experience] an opiate-related drug overdose event; or~~

(b) to an overdose outreach provider pursuant to Subsection 26-55-104(2)(a)(iii).

(3) The provisions of this section and Title 26, Chapter 55, [Emergency Administration of] Opiate [Antagonist] Overdose Response Act, do not establish a duty or standard of care in the prescribing, dispensing, or administration of an opiate antagonist.

Section 9. Section 58-68-702 is amended to read:

58-68-702. Opiate antagonist -- Exclusion from unlawful or unprofessional conduct.

~~(1) Title 26, Chapter 55, Emergency Administration of Opiate Antagonist Act, applies to a licensee under this chapter.~~

(1) As used in this section:

(a) "Dispense" means the same as that term is defined in Section 58-17b-102.

(b) "Increased risk" means the same as that term is defined in Section 26-55-102.

(c) "Opiate antagonist" means the same as that term is defined in Section 26-55-102.

(d) "Opiate-related drug overdose event" means the same as that term is defined in Section 26-55-102.

(e) "Prescribe" means the same as that term is defined in Section 58-17b-102.

(2) The prescribing or dispensing of an opiate antagonist [as defined in Section 26-55-102] by a

licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist:

(a) in a good faith effort to assist:

~~[(a) a person]~~ (i) an individual who is at increased risk of experiencing ~~[or who is likely to experience]~~ an opiate-related drug overdose event ~~[as defined in Section 26-55-102]~~; or

~~[(b) a person]~~ (ii) a family member of, friend of, or other ~~[person]~~ individual who is in a position to assist ~~[a person]~~ an individual who ~~[may be]~~ is at increased risk of experiencing ~~[or who is likely to experience]~~ an opiate-related drug overdose event; or

(b) to an overdose outreach provider pursuant to Subsection 26-55-104(2)(a)(iii).

(3) The provisions of this section and Title 26, Chapter 55, ~~[Emergency Administration of]~~ Opiate ~~[Antagonist]~~ Overdose Response Act, do not establish a duty or standard of care in the prescribing, dispensing, or administration of an opiate antagonist.

Section 10. Section 58-69-702 is enacted to read:

58-69-702. Opiate antagonist -- Exclusion from unlawful or unprofessional conduct.

(1) As used in this section:

(a) "Dispense" means the same as that term is defined in Section 58-17b-102.

(b) "Increased risk" means the same as that term is defined in Section 26-55-102.

(c) "Opiate antagonist" means the same as that term is defined in Section 26-55-102.

(d) "Opiate-related drug overdose event" means the same as that term is defined in Section 26-55-102.

(e) "Prescribe" means the same as that term is defined in Section 58-17b-102.

(2) The prescribing or dispensing of an opiate antagonist by an individual licensed under this chapter to engage in the practice of dentistry is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist:

(a) in a good faith effort to assist:

(i) an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(ii) a family member of, friend of, or other individual who is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(b) to an overdose outreach provider pursuant to Subsection 26-55-104(2)(a)(iii).

(3) The provisions of this section and Title 26, Chapter 55, Opiate Overdose Response Act, do not establish a duty or standard of care in the

prescribing, dispensing, or administration of an opiate antagonist.

Section 11. Section 58-70a-505 is amended to read:

58-70a-505. Opiate antagonist -- Exclusion from unlawful or unprofessional conduct.

~~[(1) Title 26, Chapter 55, Emergency Administration of Opiate Antagonist Act, applies to a licensee under this chapter.]~~

(1) As used in this section:

(a) "Dispense" means the same as that term is defined in Section 58-17b-102.

(b) "Increased risk" means the same as that term is defined in Section 26-55-102.

(c) "Opiate antagonist" means the same as that term is defined in Section 26-55-102.

(d) "Opiate-related drug overdose event" means the same as that term is defined in Section 26-55-102.

(e) "Prescribe" means the same as that term is defined in Section 58-17b-102.

(2) The prescribing or dispensing of an opiate antagonist ~~[as defined in Section 26-55-102]~~ by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist:

(a) in a good faith effort to assist:

~~[(a) a person]~~ (i) an individual who is at increased risk of experiencing ~~[or who is likely to experience]~~ an opiate-related drug overdose event ~~[as defined in Section 26-55-102]~~; or

~~[(b) a person]~~ (ii) a family member of, friend of, or other ~~[person]~~ individual who is in a position to assist ~~[a person]~~ an individual who ~~[may be]~~ is at increased risk of experiencing ~~[or who is likely to experience]~~ an opiate-related drug overdose event; or

(b) to an overdose outreach provider pursuant to Subsection 26-55-104(2)(a)(iii).

(3) The provisions of this section and Title 26, Chapter 55, ~~[Emergency Administration of]~~ Opiate ~~[Antagonist]~~ Overdose Response Act, do not establish a duty or standard of care in the prescribing, dispensing, or administration of an opiate antagonist.

Section 12. Coordinating H.B. 238 with H.B. 240 -- Substantive and technical amendments.

If this H.B. 238 and H.B. 240, Opiate Overdose Response Act -- Standing Orders and Other Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) renumbering Section 26-55-105 enacted in H.B. 238 to Section 26-55-106 and renumbering cross references accordingly;

(2) modifying Subsection 26-55-104(2) to read:

“(2) Notwithstanding Sections 58-1-501, 58-17b-501, and 58-17b-502, a health care provider who is licensed to prescribe an opiate antagonist may prescribe, including by a standing prescription drug order issued in accordance with Subsection 26-55-105(2), or dispense an opiate antagonist:

(a) (i) to an individual who is at increased risk of experiencing an opiate-related drug overdose event;

(ii) to a family member of, friend of, or other individual who is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(iii) to an overdose outreach provider for:

(A) furnishing to an individual under Subsection (2)(a)(i) or (2)(a)(ii), as provided in Section 26-55-106; or

(B) administering to an individual experiencing an opiate-related drug overdose event;

(b) without a prescriber-patient relationship; and

(c) without liability for any civil damages for acts or omissions made as a result of prescribing or dispensing the opiate antagonist in good faith.”;

(3) providing that the amendments to Subsection 26-55-104(3) in H.B. 238 supersede the amendments to Subsection 26-55-104(3) in H.B. 240;

(4) modifying Section 26-55-105 enacted in H.B. 240, to read:

“26-55-105. Standing prescription drug orders for an opiate antagonist.

(1) Notwithstanding Title 58, Chapter 17b, Pharmacy Practice Act, a person licensed under Title 58, Chapter 17b, Pharmacy Practice Act, to dispense an opiate antagonist may dispense the opiate antagonist:

(a) pursuant to a standing prescription drug order made in accordance with Subsection (2); and

(b) without any other prescription drug order from a person licensed to prescribe an opiate antagonist.

(2) A physician who is licensed to prescribe an opiate antagonist, including a physician acting in the physician's capacity as an employee of the department, or a medical director of a local health department, as defined in Section 26A-1-102, may issue a standing prescription drug order authorizing the dispensing of the opiate antagonist under Subsection (1) in accordance with a protocol that:

(a) limits dispensing of the opiate antagonist to:

(i) an individual who is at increased risk of experiencing an opiate-related drug overdose event;

(ii) a family member of, friend of, or other individual who is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(iii) an overdose outreach provider for:

(A) furnishing to an individual under Subsection (2)(a)(i) or (2)(a)(ii), as provided in Section 26-55-106; or

(B) administering to an individual experiencing an opiate-related drug overdose event;

(b) requires the physician to specify the persons, by professional license number, authorized to dispense the opiate antagonist;

(c) requires the physician to review at least annually the dispensing practices of those authorized by the physician to dispense the opiate antagonist;

(d) requires those authorized by the physician to dispense the opiate antagonist to make and retain a record of each person to whom the opiate antagonist is dispensed, which shall include:

(i) the name of the person;

(ii) the drug dispensed; and

(iii) other relevant information; and

(e) is approved by the Division of Occupational and Professional Licensing within the Department of Commerce by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.”;

(5) modifying Section 58-17b-507 to read:

“(1) As used in this section:

(a) “Opiate antagonist” means the same as that term is defined in Section 26-55-102.

(b) “Opiate-related drug overdose event” means the same as that term is defined in Section 26-55-102.

(2) A person licensed under this chapter that dispenses an opiate antagonist to an individual with a prescription for an opiate antagonist, to an overdose outreach provider with a prescription for an opiate antagonist, or pursuant to a standing prescription drug order issued in accordance with Subsection 26-55-105(2) is not liable for any civil damages resulting from the outcomes of the eventual administration of the opiate antagonist to an individual who another individual believes is experiencing an opiate-related drug overdose event.

(3) The provisions of this section and Title 26, Chapter 55, Opiate Overdose Response Act, do not establish a duty or standard of care in the prescribing, dispensing, or administration of an opiate antagonist.

(4) It is not unprofessional conduct or unlawful conduct for a licensee under this chapter to dispense an opiate antagonist to an individual on behalf of another individual if the individual obtaining the opiate antagonist has a prescription for the opiate

antagonist from a licensed prescriber or the opiate antagonist is dispensed pursuant to a standing prescription drug order issued in accordance with Subsection 26-55-105(2).

(5) It is not unprofessional conduct or unlawful conduct for a licensee under this chapter to dispense an opiate antagonist to an overdose outreach provider if the overdose outreach provider has a prescription for the opiate antagonist from a licensed prescriber issued pursuant to Subsection 26-55-104(2)(a)(iii).”;

(6) modifying Subsections 58-31b-703(1)(a), 58-67-702(1)(a), 58-68-702(1)(a), and 58-70a-505(1)(a) to read:

“(a) “Dispense” means the same as that term is defined in Section 58-17b-102.”;

(7) modifying Subsections 58-31b-703(1)(e), 58-67-702(1)(e), 58-68-702(1)(e), and 58-70a-505(1)(e) to read:

“(e) “Prescribe” means the same as that term is defined in Section 58-17b-102.”;

(8) modifying Subsection 58-31b-703(2) to read:

“(2) The prescribing or dispensing of an opiate antagonist by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist:

(a) in a good faith effort to assist:

(i) an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(ii) a family member of, friend of, or other individual who is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(b) to an overdose outreach provider pursuant to Subsection 26-55-104(2)(a)(iii).”;

(9) modifying Subsection 58-67-702(2) to read:

“(2) The prescribing or dispensing of an opiate antagonist by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist:

(a) in a good faith effort to assist:

(i) an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(ii) a family member of, friend of, or other individual who is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(b) to an overdose outreach provider pursuant to Subsection 26-55-104(2)(a)(iii).”;

(10) modifying Subsection 58-68-702(2) to read:

“(2) The prescribing or dispensing of an opiate antagonist by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist:

(a) in a good faith effort to assist:

(i) an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(ii) a family member of, friend of, or other individual who is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(b) to an overdose outreach provider pursuant to Subsection 26-55-104(2)(a)(iii).”;

(11) modifying Subsection 58-70a-505(2) to read:

“(2) The prescribing or dispensing of an opiate antagonist by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist:

(a) in a good faith effort to assist:

(i) an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(ii) a family member of, friend of, or other individual who is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(b) to an overdose outreach provider pursuant to Subsection 26-55-104(2)(a)(iii).”.

Section 13. Coordinating H.B. 238 and H.B. 192 -- Substantive and technical amendments.

If this H.B. 238 and H.B. 192, Opiate Overdose Response Act -- Pilot Program and Other Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) renumbering Section 26-55-105 enacted in H.B. 192 to Section 26-55-106 and renumbering cross references accordingly;

(2) modifying Subsection 26-55-104(2) to read:

“(2) Notwithstanding Sections 58-1-501, 58-17b-501, and 58-17b-502, a health care provider who is licensed to prescribe an opiate antagonist may prescribe or dispense an opiate antagonist:

(a) (i) to an individual who is at increased risk of experiencing an opiate-related drug overdose event;

(ii) to a family member of, friend of, or other person, including a person described in Subsections 26-55-106(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(iii) to an overdose outreach provider for:

(A) furnishing to an individual who is at increased risk of experiencing an opiate-related drug overdose event, or to a family member of, friend of, or other individual who is in a position to assist an individual who is at increased risk of

experiencing an opiate-related drug overdose event, as provided in Section 26-55-105; or

(B) administering to an individual experiencing an opiate-related drug overdose event;

(b) without a prescriber-patient relationship; and

(c) without liability for any civil damages for acts or omissions made as a result of prescribing or dispensing the opiate antagonist in good faith.”;

(3) providing that the amendments to Subsection 26-55-104(3) in H.B. 238 supersede the amendments to Subsection 26-55-104(3) in H.B. 192;

(4) modifying Section 58-17b-507 to read:

“(1) As used in this section:

(a) “Opiate antagonist” means the same as that term is defined in Section 26-55-102.

(b) “Opiate-related drug overdose event” means the same as that term is defined in Section 26-55-102.

(2) A person licensed under this chapter that dispenses an opiate antagonist to an individual with a prescription for an opiate antagonist, or to an overdose outreach provider with a prescription for an opiate antagonist, is not liable for any civil damages resulting from the outcomes of the eventual administration of the opiate antagonist to an individual who another individual believes is experiencing an opiate-related drug overdose event.

(3) The provisions of this section and Title 26, Chapter 55, Opiate Overdose Response Act, do not establish a duty or standard of care in the prescribing, dispensing, or administration of an opiate antagonist.

(4) It is not unprofessional conduct or unlawful conduct for a licensee under this chapter to dispense an opiate antagonist to a person, including a person described in Subsections 26-55-105(1)(a)(i)(A) through (1)(a)(i)(F), on behalf of an individual if the person obtaining the opiate antagonist has a prescription for the opiate antagonist from a licensed prescriber or the opiate antagonist is dispensed pursuant to a standing prescription drug order issued in accordance with Subsection 26-55-105(2).

(5) It is not unprofessional conduct or unlawful conduct for a licensee under this chapter to dispense an opiate antagonist to an overdose outreach provider if the overdose outreach provider has a prescription for the opiate antagonist from a licensed prescriber issued pursuant to Subsection 26-55-104(2)(a)(iii).”;

(5) modifying Subsection 58-31b-703(2) to read:

“(2) The prescribing or dispensing of an opiate antagonist by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist:

(a) in a good faith effort to assist:

(i) an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(ii) a family member of, friend of, or other person, including a person described in Subsections 26-55-106(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(b) to an overdose outreach provider pursuant to Subsection 26-55-104(2)(a)(iii).”;

(6) modifying Subsection 58-67-702(2) to read:

“(2) The prescribing or dispensing of an opiate antagonist by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist:

(a) in a good faith effort to assist:

(i) an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(ii) a family member of, friend of, or other person, including a person described in Subsections 26-55-106(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(b) to an overdose outreach provider pursuant to Subsection 26-55-104(2)(a)(iii).”;

(7) modifying Subsection 58-68-702(2) to read:

“(2) The prescribing or dispensing of an opiate antagonist by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist:

(a) in a good faith effort to assist:

(i) an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(ii) a family member of, friend of, or other person, including a person described in Subsections 26-55-106(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(b) to an overdose outreach provider pursuant to Subsection 26-55-104(2)(a)(iii).”;

(8) modifying Subsection 58-69-702(2)(a)(ii) to read:

“(ii) a family member of, friend of, or other person, including a person described in Subsections 26-55-106(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; or”; and

(9) modifying Subsection 58-70a-505(2) to read:

“(2) The prescribing or dispensing of an opiate antagonist by a licensee under this chapter is not

unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist:

(a) in a good faith effort to assist:

(i) an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(ii) a family member of, friend of, or other person, including a person described in Subsections 26-55-106(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(b) to an overdose outreach provider pursuant to Subsection 26-55-104(2)(a)(iii).”.

Section 14. Coordinating H.B. 238, H.B. 240, and H.B. 192 -- Substantive and technical amendments.

If this H.B. 238, H.B. 240, Opiate Overdose Response Act -- Standing Orders and Other Amendments, and H.B. 192, Opiate Overdose Response Act -- Pilot Program and Other Amendments, all pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) renumbering Section 26-55-105 enacted in H.B. 238 to Section 26-55-106 and renumbering cross references accordingly;

(2) renumbering Section 26-55-105 enacted in H.B. 192 to Section 26-55-107 and renumbering cross references accordingly;

(3) modifying Subsection 26-55-104(2) to read:

“(2) Notwithstanding Sections 58-1-501, 58-17b-501, and 58-17b-502, a health care provider who is licensed to prescribe an opiate antagonist may prescribe, including by a standing prescription drug order issued in accordance with Subsection 26-55-105(2), or dispense an opiate antagonist:

(a) (i) to an individual who is at increased risk of experiencing an opiate-related drug overdose event;

(ii) to a family member of, friend of, or other person, including a person described in Subsections 26-55-107(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(iii) to an overdose outreach provider for:

(A) furnishing to an individual who is at increased risk of experiencing an opiate-related drug overdose event, or to a family member of, friend of, or other individual who is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event, as provided in Section 26-55-106; or

(B) administering to an individual experiencing an opiate-related drug overdose event;

(b) without a prescriber-patient relationship; and

(c) without liability for any civil damages for acts or omissions made as a result of prescribing or dispensing the opiate antagonist in good faith.”;

(4) providing that the amendments to Subsection 26-55-104(3) in H.B. 238 supersede the amendments to Subsection 26-55-104(3) in H.B. 240 and H.B. 192;

(5) modifying Section 26-55-105 enacted in H.B. 240, to read:

“26-55-105. Standing prescription drug orders for an opiate antagonist.

(1) Notwithstanding Title 58, Chapter 17b, Pharmacy Practice Act, a person licensed under Title 58, Chapter 17b, Pharmacy Practice Act, to dispense an opiate antagonist may dispense the opiate antagonist:

(a) pursuant to a standing prescription drug order made in accordance with Subsection (2); and

(b) without any other prescription drug order from a person licensed to prescribe an opiate antagonist.

(2) A physician who is licensed to prescribe an opiate antagonist, including a physician acting in the physician’s capacity as an employee of the department, or a medical director of a local health department, as defined in Section 26A-1-102, may issue a standing prescription drug order authorizing the dispensing of the opiate antagonist under Subsection (1) in accordance with a protocol that:

(a) limits dispensing of the opiate antagonist to:

(i) an individual who is at increased risk of experiencing an opiate-related drug overdose event;

(ii) a family member of, friend of, or other person, including a person described in Subsections 26-55-107(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(iii) an overdose outreach provider for:

(A) furnishing to an individual who is at increased risk of experiencing an opiate-related drug overdose event, or to a family member of, friend of, or other individual who is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event, as provided in Section 26-55-106; or

(B) administering to an individual experiencing an opiate-related drug overdose event;

(b) requires the physician to specify the persons, by professional license number, authorized to dispense the opiate antagonist;

(c) requires the physician to review at least annually the dispensing practices of those authorized by the physician to dispense the opiate antagonist;

(d) requires those authorized by the physician to dispense the opiate antagonist to make and retain a record of each person to whom the opiate antagonist is dispensed, which shall include:

- (i) the name of the person;
- (ii) the drug dispensed; and
- (iii) other relevant information; and

(e) is approved by the Division of Occupational and Professional Licensing within the Department of Commerce by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.;

(6) modifying Section 58-17b-507 to read:

“(1) As used in this section:

(a) “Opiate antagonist” means the same as that term is defined in Section 26-55-102.

(b) “Opiate-related drug overdose event” means the same as that term is defined in Section 26-55-102.

(2) A person licensed under this chapter that dispenses an opiate antagonist to an individual with a prescription for an opiate antagonist, to an overdose outreach provider with a prescription for an opiate antagonist, or pursuant to a standing prescription drug order issued in accordance with Subsection 26-55-105(2) is not liable for any civil damages resulting from the outcomes of the eventual administration of the opiate antagonist to an individual who another individual believes is experiencing an opiate-related drug overdose event.

(3) The provisions of this section and Title 26, Chapter 55, Opiate Overdose Response Act, do not establish a duty or standard of care in the prescribing, dispensing, or administration of an opiate antagonist.

(4) It is not unprofessional conduct or unlawful conduct for a licensee under this chapter to dispense an opiate antagonist to a person, including a person described in Subsections 26-55-107(1)(a)(i)(A) through (1)(a)(i)(F), on behalf of an individual if the person obtaining the opiate antagonist has a prescription for the opiate antagonist from a licensed prescriber or the opiate antagonist is dispensed pursuant to a standing prescription drug order issued in accordance with Subsection 26-55-102(2).

(5) It is not unprofessional conduct or unlawful conduct for a licensee under this chapter to dispense an opiate antagonist to an overdose outreach provider if the overdose outreach provider has a prescription for the opiate antagonist from a licensed prescriber issued pursuant to Subsection 26-55-104(2)(a)(iii).;

(7) modifying Subsections 58-31b-703(1)(a), 58-67-702(1)(a), 58-68-702(1)(a), and 58-70a-505(1)(a) to read:

“(a) “Dispense” means the same as that term is defined in Section 58-17b-102.”;

(8) modifying Subsections 58-31b-703(1)(e), 58-67-702(1)(e), 58-68-702(1)(e), and 58-70a-505(1)(e) to read:

“(e) “Prescribe” means the same as that term is defined in Section 58-17b-102.”;

(9) modifying Subsection 58-31b-703(2) to read:

“(2) The prescribing or dispensing of an opiate antagonist by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist:

(a) in a good faith effort to assist:

(i) an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(ii) a family member of, friend of, or other person, including a person described in Subsections 26-55-107(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(b) to an overdose outreach provider pursuant to Subsection 26-55-104(2)(a)(iii).;

(10) modifying Subsection 58-67-702(2) to read:

“(2) The prescribing or dispensing of an opiate antagonist by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist:

(a) in a good faith effort to assist:

(i) an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(ii) a family member of, friend of, or other person, including a person described in Subsections 26-55-107(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(b) to an overdose outreach provider pursuant to Subsection 26-55-104(2)(a)(iii).;

(11) modifying Subsection 58-68-702(2) to read:

“(2) The prescribing or dispensing of an opiate antagonist by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist:

(a) in a good faith effort to assist:

(i) an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(ii) a family member of, friend of, or other person, including a person described in Subsections 26-55-107(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(b) to an overdose outreach provider pursuant to Subsection 26-55-104(2)(a)(iii).;

(12) modifying Subsection 58-69-702(2)(a)(ii) to read:

“(ii) a family member of, friend of, or other person, including a person described in Subsections 26-55-107(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; or”; and

(13) modifying Subsection 58-70a-505(2) to read:

“(2) The prescribing or dispensing of an opiate antagonist by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist:

(a) in a good faith effort to assist:

(i) an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(ii) a family member of, friend of, or other person, including a person described in Subsections 26-55-107(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(b) to an overdose outreach provider pursuant to Subsection 26-55-104(2)(a)(iii).”

CHAPTER 208**H. B. 240**

Passed March 9, 2016
 Approved March 23, 2016
 Effective May 10, 2016

**OPIATE OVERDOSE RESPONSE ACT --
 STANDING ORDERS AND OTHER
 AMENDMENTS**

Chief Sponsor: Steve Eliason
 Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill renames the Emergency Administration of Opiate Antagonist Act as the Opiate Overdose Response Act, amends the act, and makes related amendments.

Highlighted Provisions:

This bill:

- ▶ renames the Emergency Administration of Opiate Antagonist Act as the Opiate Overdose Response Act;
- ▶ amends definitions;
- ▶ authorizes the use of a standing prescription drug order issued by a physician to dispense an opioid antagonist; and
- ▶ makes technical and clarifying changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-55-101, as enacted by Laws of Utah 2014, Chapter 130
 26-55-102, as enacted by Laws of Utah 2014, Chapter 130
 26-55-104, as enacted by Laws of Utah 2014, Chapter 130
 58-17b-507, as enacted by Laws of Utah 2014, Chapter 130
 58-31b-703, as enacted by Laws of Utah 2014, Chapter 130
 58-67-702, as enacted by Laws of Utah 2014, Chapter 130
 58-68-702, as enacted by Laws of Utah 2014, Chapter 130
 58-70a-505, as enacted by Laws of Utah 2014, Chapter 130

ENACTS:

26-55-105, Utah Code Annotated 1953

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

Section 1. Section 26-55-101 is amended to read:

**CHAPTER 55. OPIATE OVERDOSE
 RESPONSE ACT**

26-55-101. Title.

This chapter is known as the “[~~Emergency Administration of~~] Opiate [~~Antagonist~~] Overdose Response Act.”

Section 2. Section 26-55-102 is amended to read:

26-55-102. Definitions.

As used in this chapter:

(1) “Controlled substance” means the same as that term is defined in Title 58, Chapter 37, Utah Controlled Substances Act.

(2) “Dispense” means the same as that term is defined in Section 58-17b-102.

(1) (3) “Health care facility” means a hospital, a hospice inpatient residence, a nursing facility, a dialysis treatment facility, an assisted living residence, an entity that provides home- and community-based services, a hospice or home health care agency, or another facility that provides or contracts to provide health care services, which facility is licensed under Chapter 21, Health Care Facility Licensing and Inspection Act.

(2) (4) “Health care provider” means:

- (a) a physician, as defined in Section 58-67-102;
- (b) an advanced practice registered nurse, as defined in Subsection 58-31b-102(13); or
- (c) a physician assistant, as defined in Section 58-70a-102.

(5) “Increased risk” means risk exceeding the risk typically experienced by an individual who is not using, and is not likely to use, an opiate.

(3) (6) “Opiate” [is] means the same as that term is defined in Section 58-37-2.

(4) (7) “Opiate antagonist” means naloxone hydrochloride or any similarly acting drug that is not a controlled substance and that is approved by the federal Food and Drug Administration for the diagnosis or treatment of [a] an opiate-related drug overdose.

(5) (8) “Opiate-related drug overdose event” means an acute condition, including a decreased level of consciousness or respiratory depression resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance was combined, and that a person would reasonably believe to require medical assistance.

(9) “Prescribe” means the same as that term is defined in Section 58-17b-102.

Section 3. Section 26-55-104 is amended to read:

26-55-104. Prescribing, dispensing, and administering an opiate antagonist -- Immunity from liability.

(1) (a) Except as provided in Subsection (1)(b), a person other than a health care facility or health care provider [who] that acts in good faith to administer an opiate antagonist to [another person] an individual whom the person believes to be

[suffering] experiencing an opiate-related drug overdose event is not liable for any civil damages [or] for acts or omissions made as a result of administering the opiate antagonist.

(b) A health care provider:

(i) does not have immunity from liability under Subsection (1)(a) when the health care provider is acting within the scope of the health care provider's responsibilities or duty of care; and

(ii) does have immunity from liability under Subsection (1)(a) if the health care provider is under no legal duty to respond and otherwise complies with Subsection (1)(a).

(2) Notwithstanding Sections 58-1-501, 58-17b-501, and 58-17b-502, a health care provider who is licensed to prescribe [or dispense] an opiate antagonist may[, without a prescriber-patient relationship,] prescribe, including by a standing prescription drug order issued in accordance with Subsection 26-55-105(2), or dispense an opiate antagonist [without liability for any civil damages or acts or omissions made as a result of prescribing or dispensing an opiate antagonist in good faith, to]:

(a) (i) to an individual who is at increased risk of experiencing [or who is likely to experience] an opiate-related drug overdose event; or

[~~(b)~~] (ii) to a family member of, friend of, or other [person] individual who [may be] is in a position to assist an individual who [may be] is at increased risk of experiencing [or who is likely to experience] an opiate-related drug overdose event[.];

(b) without a prescriber-patient relationship; and

(c) without liability for any civil damages for acts or omissions made as a result of prescribing or dispensing the opiate antagonist in good faith.

(3) A [person] health care provider who [prescribes or] dispenses an opiate antagonist to an individual under Subsection (2)(a) shall provide education to the individual [described in Subsection (2)(a) or (b)] that includes [instructions to take the person who received] instruction:

(a) on the proper administration of the opiate antagonist; and

(b) that the individual to whom the opiate antagonist is dispensed should ensure that the individual to whom the opiate antagonist is administered is taken to an emergency care facility for a medical evaluation immediately following administration of the opiate antagonist.

Section 4. Section 26-55-105 is enacted to read:

26-55-105. Standing prescription drug orders for an opiate antagonist.

(1) Notwithstanding Title 58, Chapter 17b, Pharmacy Practice Act, a person licensed under Title 58, Chapter 17b, Pharmacy Practice Act, to

dispense an opiate antagonist may dispense the opiate antagonist:

(a) pursuant to a standing prescription drug order made in accordance with Subsection (2); and

(b) without any other prescription drug order from a person licensed to prescribe an opiate antagonist.

(2) A physician who is licensed to prescribe an opiate antagonist, including a physician acting in the physician's capacity as an employee of the department, or a medical director of a local health department, as defined in Section 26A-1-102, may issue a standing prescription drug order authorizing the dispensing of the opiate antagonist under Subsection (1) in accordance with a protocol that:

(a) limits dispensing of the opiate antagonist to:

(i) an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(ii) a family member of, friend of, or other individual who is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event;

(b) requires the physician to specify the persons, by professional license number, authorized to dispense the opiate antagonist;

(c) requires the physician to review at least annually the dispensing practices of those authorized by the physician to dispense the opiate antagonist;

(d) requires those authorized by the physician to dispense the opiate antagonist to make and retain a record of each individual to whom the opiate antagonist is dispensed, which shall include:

(i) the name of the individual;

(ii) the drug dispensed; and

(iii) other relevant information; and

(e) is approved by the Division of Occupational and Professional Licensing within the Department of Commerce by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 5. Section 58-17b-507 is amended to read:

58-17b-507. Opiate antagonist -- Immunity from liability -- Exclusion from unlawful or unprofessional conduct.

(1) As used in this section:

(a) "Opiate antagonist" means the same as that term is defined in Section 26-55-102.

(b) "Opiate-related drug overdose event" means the same as that term is defined in Section 26-55-102.

(2) A person licensed under this chapter [who] that dispenses an opiate antagonist [as defined in Section 26-55-102] to an individual with a

prescription for an opiate antagonist, or pursuant to a standing prescription drug order issued in accordance with Subsection 26-55-105(2), is not liable for any civil damages resulting from the outcomes that result from the eventual administration of the opiate antagonist to ~~[a person]~~ an individual who another ~~[person]~~ individual believes is ~~[suffering]~~ experiencing an opiate-related drug overdose ~~[as defined in Section 26-55-102]~~ event.

~~[(2)]~~ (3) The provisions of this section and Title 26, Chapter 55, Opiate Overdose Response Act, do not establish a duty or standard of care in the prescribing, dispensing, or administration of an opiate antagonist.

~~[(3)]~~ (4) It is not unprofessional conduct or unlawful conduct for a licensee under this chapter to dispense an opiate antagonist to ~~[a person]~~ an individual on behalf of another ~~[person]~~ individual if the ~~[person]~~ individual obtaining the opiate antagonist has a prescription for the opiate antagonist from a licensed prescriber or the opiate antagonist is dispensed pursuant to a standing prescription drug order issued in accordance with Subsection 26-55-105(2).

Section 6. Section 58-31b-703 is amended to read:

58-31b-703. Opiate antagonist -- Exclusion from unprofessional or unlawful conduct.

~~[(1) Title 26, Chapter 55, Emergency Administration of Opiate Antagonist Act, applies to a licensee under this chapter.]~~

(1) As used in this section:

(a) "Dispensing" means the same as that term is defined in Section 58-17b-102.

(b) "Increased risk" means the same as that term is defined in Section 26-55-102.

(c) "Opiate antagonist" means the same as that term is defined in Section 26-55-102.

(d) "Opiate-related drug overdose event" means the same as that term is defined in Section 26-55-102.

(e) "Prescribing" means the same as that term is defined in Section 58-17b-102.

(2) The prescribing or dispensing of an opiate antagonist ~~[as defined in Section 26-55-102]~~ by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist in a good faith effort to assist:

(a) ~~[a person]~~ an individual who is at increased risk of experiencing ~~[or who is likely to experience]~~ an opiate-related drug overdose event ~~[as defined in Section 26-55-102]~~; or

(b) a family member of, friend of, or other ~~[person]~~ individual who is in a position to assist ~~[a person]~~ an individual who ~~[may be]~~ is at increased risk of experiencing ~~[or who is likely to experience]~~ an opiate-related drug overdose event.

(3) The provisions of this section and Title 26, Chapter 55, ~~[Emergency Administration of] Opiate [Antagonist] Overdose Response Act~~, do not establish a duty or standard of care in the prescribing, dispensing, or administration of an opiate antagonist.

Section 7. Section 58-67-702 is amended to read:

58-67-702. Opiate antagonist -- Exclusion from unlawful or unprofessional conduct.

~~[(1) Title 26, Chapter 55, Emergency Administration of Opiate Antagonist Act, applies to a licensee under this chapter.]~~

(1) As used in this section:

(a) "Dispensing" means the same as that term is defined in Section 58-17b-102.

(b) "Increased risk" means the same as that term is defined in Section 26-55-102.

(c) "Opiate antagonist" means the same as that term is defined in Section 26-55-102.

(d) "Opiate-related drug overdose event" means the same as that term is defined in Section 26-55-102.

(e) "Prescribing" means the same as that term is defined in Section 58-17b-102.

(2) The prescribing or dispensing of an opiate antagonist ~~[as defined in Section 26-55-102]~~ by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist in a good faith effort to assist:

(a) ~~[a person]~~ an individual who is at increased risk of experiencing ~~[or who is likely to experience]~~ an opiate-related drug overdose event ~~[as defined in Section 26-55-102]~~; or

(b) a family member of, friend of, or other ~~[person]~~ individual who is in a position to assist ~~[a person]~~ an individual who ~~[may be]~~ is at increased risk of experiencing ~~[or who is likely to experience]~~ an opiate-related drug overdose event.

(3) The provisions of this section and Title 26, Chapter 55, ~~[Emergency Administration of] Opiate [Antagonist] Overdose Response Act~~, do not establish a duty or standard of care in the prescribing, dispensing, or administration of an opiate antagonist.

Section 8. Section 58-68-702 is amended to read:

58-68-702. Opiate antagonist -- Exclusion from unlawful or unprofessional conduct.

~~[(1) Title 26, Chapter 55, Emergency Administration of Opiate Antagonist Act, applies to a licensee under this chapter.]~~

(1) As used in this section:

(a) "Dispensing" means the same as that term is defined in Section 58-17b-102.

(b) "Increased risk" means the same as that term is defined in Section 26-55-102.

(c) “Opiate antagonist” means the same as that term is defined in Section 26-55-102.

(d) “Opiate-related drug overdose event” means the same as that term is defined in Section 26-55-102.

(e) “Prescribing” means the same as that term is defined in Section 58-17b-102.

(2) The prescribing or dispensing of an opiate antagonist [as defined in Section 26-55-102] by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist in a good faith effort to assist:

(a) [a person] an individual who is at increased risk of experiencing [or who is likely to experience] an opiate-related drug overdose event [as defined in Section 26-55-102]; or

(b) a family member of, friend of, or other [person] individual who is in a position to assist [a person] an individual who [may be] is at increased risk of experiencing [or who is likely to experience] an opiate-related drug overdose event.

(3) The provisions of this section and Title 26, Chapter 55, [Emergency Administration of] Opiate [Antagonist] Overdose Response Act, do not establish a duty or standard of care in the prescribing, dispensing, or administration of an opiate antagonist.

Section 9. Section 58-70a-505 is amended to read:

58-70a-505. Opiate antagonist -- Exclusion from unlawful or unprofessional conduct.

[1] Title 26, Chapter 55, Emergency Administration of Opiate Antagonist Act, applies to a licensee under this chapter.]

(1) As used in this section:

(a) “Dispensing” means the same as that term is defined in Section 58-17b-102.

(b) “Increased risk” means the same as that term is defined in Section 26-55-102.

(c) “Opiate antagonist” means the same as that term is defined in Section 26-55-102.

(d) “Opiate-related drug overdose event” means the same as that term is defined in Section 26-55-102.

(e) “Prescribing” means the same as that term is defined in Section 58-17b-102.

(2) The prescribing or dispensing of an opiate antagonist [as defined in Section 26-55-102] by a licensee under this chapter is not unprofessional or unlawful conduct if the licensee prescribed or dispensed the opiate antagonist in a good faith effort to assist:

(a) [a person] an individual who is at increased risk of experiencing [or who is likely to experience] an opiate-related drug overdose event [as defined in Section 26-55-102]; or

(b) a family member of, friend of, or other [person] individual who is in a position to assist [a person] an individual who [may be] is at increased risk of experiencing [or who is likely to experience] an opiate-related drug overdose event.

(3) The provisions of this section and Title 26, Chapter 55, [Emergency Administration of] Opiate [Antagonist] Overdose Response Act, do not establish a duty or standard of care in the prescribing, dispensing, or administration of an opiate antagonist.

CHAPTER 209**H. B. 241**

Passed March 9, 2016
Approved March 23, 2016
Effective May 10, 2016

**COMPUTER ABUSE AND
DATA RECOVERY ACT**

Chief Sponsor: Rebecca Chavez-Houck
Senate Sponsor: Todd Weiler
Cosponsors: Patrice M. Arent
Scott H. Chew
Kay J. Christofferson
Keith Grover
Stephen G. Handy
Lynn N. Hemingway
Ken Ivory
Brian S. King
Kraig Powell
V. Lowry Snow
Keven J. Stratton
Earl D. Tanner

LONG TITLE**General Description:**

This bill enacts provisions related to unauthorized access to information technology.

Highlighted Provisions:

This bill:

- ▶ provides civil penalties for an individual who, without authorization from a protected computer's owner:
 - obtains information from the protected computer;
 - causes the transmission of a program, code, or command to the protected computer; or
 - traffics in a technological access barrier that could be used to access the protected computer;
- ▶ defines terms; and
- ▶ provides that the prevailing party in a civil action under this act is entitled to attorney fees.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

63D-3-101, Utah Code Annotated 1953
63D-3-102, Utah Code Annotated 1953
63D-3-103, Utah Code Annotated 1953
63D-3-104, Utah Code Annotated 1953
63D-3-105, Utah Code Annotated 1953
63D-3-106, Utah Code Annotated 1953

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

Section 1. Section 63D-3-101 is enacted to read:

**CHAPTER 3. UNAUTHORIZED ACCESS TO
INFORMATION TECHNOLOGY**

**Part 1. Computer Abuse and Data Recovery
Act**

63D-3-101. Title.

(1) This chapter is known as "Unauthorized Access to Information Technology."

(2) This part is known as "Computer Abuse and Data Recovery Act."

Section 2. Section 63D-3-102 is enacted to read:

63D-3-102. Definitions.

As used in this part, the term:

(1) "Authorized user" means, for a protected computer:

(a) the protected computer's owner; or

(b) an individual who has permission to access the protected computer under Section 63D-3-103.

(2) (a) "Computer" means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device that performs logical, arithmetic, or storage functions.

(b) "Computer" includes any data storage device, data storage facility, or communications facility that is directly related to or that operates in conjunction with the device described in Subsection (2)(a).

(3) (a) "Damage" means, for a protected computer's owner, the cost associated with an individual's unauthorized access to information stored on a protected computer.

(b) "Damage" includes:

(i) the cost of repairing or restoring a protected computer;

(ii) economic damages;

(iii) consequential damages, including interruption of service; and

(iv) profit by the individual from the unauthorized access to the protected computer.

(4) "Harm" means any impairment to the integrity, access, or availability of:

(a) data;

(b) a program;

(c) a system; or

(d) information.

(5) "Owner" means a person who:

(a) owns or leases a protected computer; or

(b) owns the information stored in a protected computer.

(6) (a) “Protected computer” means a computer that:

(i) is used in connection with the operation of a business, state government entity, or political subdivision; and

(ii) requires a technological access barrier for an individual to access the computer.

(b) “Protected computer” does not include a computer that an individual can access using a technological access barrier that does not, to a reasonable degree of security, effectively control access to the information stored in the computer.

(7) “Technological access barrier” means a password, security code, token, key fob, access device, or other digital security measure.

(8) “Traffic” means to sell, purchase, or deliver.

(9) “Unauthorized user” means an individual who, for a protected computer:

(a) is not an authorized user of the protected computer; and

(b) accesses the protected computer by:

(i) obtaining, without an authorized user’s permission, the authorized user’s technological access barrier; or

(ii) circumventing, without the permission of the protected computer’s owner, a technological access barrier on the protected computer.

Section 3. Section 63D-3-103 is enacted to read:

63D-3-103. Permission to access a protected computer -- Revocation.

(1) Subject to Subsections (2) and (3), an individual has permission to access a protected computer if:

(a) the individual is a director, officer, employee, agent, or contractor of the protected computer’s owner; and

(b) the protected computer’s owner gave the individual express permission to access the protected computer through a technological access barrier.

(2) If a protected computer’s owner gives an individual permission to access the protected computer, the permission is valid only to the extent or for the specific purpose the protected computer’s owner authorizes.

(3) An individual’s permission to access a protected computer is revoked if:

(a) the protected computer’s owner expressly revokes the individual’s permission to access the protected computer; or

(b) the individual ceases to be a director, officer, employee, agent, or contractor of the protected computer’s owner.

Section 4. Section 63D-3-104 is enacted to read:

63D-3-104. Prohibited acts.

(1) An unauthorized user of a protected computer may not, knowingly and with intent to cause harm or damage:

(a) obtain information from the protected computer and, as a result, cause harm or damage;

(b) cause the transmission of a program, code, or command to the protected computer, and, as a result of the transmission, cause harm or loss; or

(c) traffic in any technological access barrier that an unauthorized user could use to access the protected computer.

(2) An individual who violates Subsection (1) is liable to a protected computer’s owner in a civil action for the remedies described in Section 63D-3-105.

Section 5. Section 63D-3-105 is enacted to read:

63D-3-105. Remedies.

(1) A person who brings a civil action against an individual for a violation of Section 63D-3-104 may:

(a) recover actual damages, including the person’s:

(i) lost profits;

(ii) economic damages; and

(iii) reasonable cost of remediation efforts related to the violation;

(b) recover consequential damages, including for interruption of service;

(c) recover, from the individual, the individual’s profit obtained through trafficking in anything obtained by the individual through the violation;

(d) obtain injunctive or other equitable relief to prevent a future violation of Section 63D-3-104; and

(e) recover anything the individual obtained through the violation, including:

(i) misappropriated information or code;

(ii) a misappropriated program; and

(iii) any copies of the information, code, or program described in Subsections (1)(e)(i) and (1)(e)(ii).

(2) A court shall award reasonable attorney fees to the prevailing party in any action arising under this part.

(3) The remedies available for a violation of Section 63D-3-104 are in addition to remedies otherwise available for the same conduct under federal or state law.

(4) A person may not file a civil action under Section 63D-3-104 later than three years after the day on which:

(a) the violation occurred; or

(b) (i) the person discovers the violation; or

(ii) the person should have discovered the violation if the person acted with reasonable diligence to discover the violation.

Section 6. Section 63D-3-106 is enacted to read:

63D-3-106. Exclusions.

(1) This section does not prohibit a lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency, regulatory agency, or political subdivision of this state, another state, the United States, or a foreign country.

(2) This part does not apply to a provider of:

(a) an interactive computer service as defined in 47 U.S.C. Sec. 230(f); or

(b) an information service as defined in 47 U.S.C. Sec. 153.

CHAPTER 210**H. B. 255**

Passed March 10, 2016
 Approved March 23, 2016
 Effective March 23, 2016

**CONDOMINIUM AND COMMUNITY
 OWNERSHIP AMENDMENTS**

Chief Sponsor: Mike Schultz
 Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill amends provisions related to condominium and community associations.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that an unconstructed unit is allocated:
 - the unconstructed unit's share of undivided interest in common areas and facilities; and
 - voting rights; and
- ▶ provides that a declarant of a condominium or community project may, under certain conditions, appoint the declarant's officers, employees, or agents to the association board or management committee.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

57-8-3, as last amended by Laws of Utah 2015, Chapters 22, 34, 213, 325, and 387
 57-8-16.5, as enacted by Laws of Utah 1975, Chapter 173
 57-8-24, as last amended by Laws of Utah 1975, Chapter 173
 57-8a-502, as enacted by Laws of Utah 2013, Chapter 152

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

Section 1. Section 57-8-3 is amended to read:

57-8-3. Definitions.

As used in this chapter:

(1) "Assessment" means any charge imposed by the association, including:

(a) common expenses on or against a unit owner pursuant to the provisions of the declaration, bylaws, or this chapter; and

(b) an amount that an association of unit owners assesses to a unit owner under Subsection 57-8-43(9)(g).

(2) "Association of unit owners" or "association" means all of the unit owners:

(a) acting as a group in accordance with the declaration and bylaws; or

(b) organized as a legal entity in accordance with the declaration.

(3) "Building" means a building, containing units, and comprising a part of the property.

(4) "Commercial condominium project" means a condominium project that has no residential units within the project.

(5) "Common areas and facilities" unless otherwise provided in the declaration or lawful amendments to the declaration means:

(a) the land included within the condominium project, whether leasehold or in fee simple;

(b) the foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances, and exits of the building;

(c) the basements, yards, gardens, parking areas, and storage spaces;

(d) the premises for lodging of janitors or persons in charge of the property;

(e) installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, and incinerating;

(f) the elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all apparatus and installations existing for common use;

(g) such community and commercial facilities as may be provided for in the declaration; and

(h) all other parts of the property necessary or convenient to its existence, maintenance, and safety, or normally in common use.

(6) "Common expenses" means:

(a) all sums lawfully assessed against the unit owners;

(b) expenses of administration, maintenance, repair, or replacement of the common areas and facilities;

(c) expenses agreed upon as common expenses by the association of unit owners; and

(d) expenses declared common expenses by this chapter, or by the declaration or the bylaws.

(7) "Common profits," unless otherwise provided in the declaration or lawful amendments to the declaration, means the balance of all income, rents, profits, and revenues from the common areas and facilities remaining after the deduction of the common expenses.

(8) "Condominium" means the ownership of a single unit in a multiunit project together with an undivided interest in common in the common areas and facilities of the property.

(9) "Condominium plat" means a plat or plats of survey of land and units prepared in accordance with Section 57-8-13.

(10) "Condominium project" means a real estate condominium project; a plan or project whereby two

or more units, whether contained in existing or proposed apartments, commercial or industrial buildings or structures, or otherwise, are separately offered or proposed to be offered for sale. Condominium project also means the property when the context so requires.

(11) "Condominium unit" means a unit together with the undivided interest in the common areas and facilities appertaining to that unit. Any reference in this chapter to a condominium unit includes both a physical unit together with its appurtenant undivided interest in the common areas and facilities and a time period unit together with its appurtenant undivided interest, unless the reference is specifically limited to a time period unit.

(12) "Contractible condominium" means a condominium project from which one or more portions of the land within the project may be withdrawn in accordance with provisions of the declaration and of this chapter. If the withdrawal can occur only by the expiration or termination of one or more leases, then the condominium project is not a contractible condominium within the meaning of this chapter.

(13) "Convertible land" means a building site which is a portion of the common areas and facilities, described by metes and bounds, within which additional units or limited common areas and facilities may be created in accordance with this chapter.

(14) "Convertible space" means a portion of the structure within the condominium project, which portion may be converted into one or more units or common areas and facilities, including limited common areas and facilities in accordance with this chapter.

(15) "Declarant" means all persons who execute the declaration or on whose behalf the declaration is executed. From the time of the recordation of any amendment to the declaration expanding an expandable condominium, all persons who execute that amendment or on whose behalf that amendment is executed shall also come within this definition. Any successors of the persons referred to in this subsection who come to stand in the same relation to the condominium project as their predecessors also come within this definition.

(16) "Declaration" means the instrument by which the property is submitted to the provisions of this act, as it from time to time may be lawfully amended.

(17) "Electrical corporation" means the same as that term is defined in Section 54-2-1.

(18) "Expandable condominium" means a condominium project to which additional land or an interest in it may be added in accordance with the declaration and this chapter.

(19) "Gas corporation" means the same as that term is defined in Section 54-2-1.

(20) "Governing documents":

(a) means a written instrument by which an association of unit owners may:

(i) exercise powers; or

(ii) manage, maintain, or otherwise affect the property under the jurisdiction of the association of unit owners; and

(b) includes:

(i) articles of incorporation;

(ii) bylaws;

(iii) a plat;

(iv) a declaration of covenants, conditions, and restrictions; and

(v) rules of the association of unit owners.

(21) "Independent third party" means a person that:

(a) is not related to the unit owner;

(b) shares no pecuniary interests with the unit owner; and

(c) purchases the unit in good faith and without the intent to defraud a current or future lienholder.

(22) "Leasehold condominium" means a condominium project in all or any portion of which each unit owner owns an estate for years in his unit, or in the land upon which that unit is situated, or both, with all those leasehold interests to expire naturally at the same time. A condominium project including leased land, or an interest in the land, upon which no units are situated or to be situated is not a leasehold condominium within the meaning of this chapter.

(23) "Limited common areas and facilities" means those common areas and facilities designated in the declaration as reserved for use of a certain unit or units to the exclusion of the other units.

(24) "Majority" or "majority of the unit owners," unless otherwise provided in the declaration or lawful amendments to the declaration, means the owners of more than 50% in the aggregate in interest of the undivided ownership of the common areas and facilities.

(25) "Management committee" means the committee as provided in the declaration charged with and having the responsibility and authority to make and to enforce all of the reasonable rules covering the operation and maintenance of the property.

(26) (a) "Means of electronic communication" means an electronic system that allows individuals to communicate orally in real time.

(b) "Means of electronic communication" includes:

(i) web conferencing;

(ii) video conferencing; and

(iii) telephone conferencing.

(27) "Meeting" means a gathering of a management committee, whether in person or by

means of electronic communication, at which the management committee can take binding action.

(28) “Mixed-use condominium project” means a condominium project that has both residential and commercial units in the condominium project.

(29) “Par value” means a number of dollars or points assigned to each unit by the declaration. Substantially identical units shall be assigned the same par value, but units located at substantially different heights above the ground, or having substantially different views, or having substantially different amenities or other characteristics that might result in differences in market value, may be considered substantially identical within the meaning of this subsection. If par value is stated in terms of dollars, that statement may not be considered to reflect or control the sales price or fair market value of any unit, and no opinion, appraisal, or fair market transaction at a different figure may affect the par value of any unit, or any undivided interest in the common areas and facilities, voting rights in the unit owners’ association, liability for common expenses, or right to common profits, assigned on the basis thereof.

(30) “Period of administrative control” means the period of control described in Subsection 57-8-16.5(1).

(31) “Person” means an individual, corporation, partnership, association, trustee, or other legal entity.

(32) “Property” means the land, whether leasehold or in fee simple, the building, if any, all improvements and structures thereon, all easements, rights, and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

(33) “Record,” “recording,” “recorded,” and “recorder” have the meaning stated in [Title 57,] Chapter 3, Recording of Documents.

(34) “Size” means the number of cubic feet, or the number of square feet of ground or floor space, within each unit as computed by reference to the record of survey map and rounded off to a whole number. Certain spaces within the units including attic, basement, or garage space may be omitted from the calculation or be partially discounted by the use of a ratio, if the same basis of calculation is employed for all units in the condominium project and if that basis is described in the declaration.

(35) “Time period unit” means an annually recurring part or parts of a year specified in the declaration as a period for which a unit is separately owned and includes a timeshare estate as defined in Subsection 57-19-2(19).

(36) “Unconstructed unit” means a unit that:

(a) is intended, as depicted in the condominium plat, to be fully or partially contained in a building; and

(b) is not constructed.

~~[(36)]~~ (37) (a) “Unit” means ~~[either]~~ a separate ~~[physical]~~ part of the property intended for any type of independent use, ~~[including one or more rooms or spaces located in one or more floors or part or parts of floors in a building or a time period unit, as the context may require.]~~ A which is created by the recording of a declaration and a condominium plat that describes the unit boundaries.

(b) “Unit” includes one or more rooms or spaces located in one or more floors or a portion of a floor in a building.

(c) “Unit” includes a convertible space ~~[shall be treated as a unit],~~ in accordance with Subsection 57-8-13.4(3). ~~[A proposed condominium unit under an expandable condominium project, not constructed, is a unit two years after the date the recording requirements of Section 57-8-13.6 are met.]~~

~~[(37)]~~ (38) “Unit number” means the number, letter, or combination of numbers and letters designating the unit in the declaration and in the record of survey map.

~~[(38)]~~ (39) “Unit owner” means the person or persons owning a unit in fee simple and an undivided interest in the fee simple estate of the common areas and facilities in the percentage specified and established in the declaration or, in the case of a leasehold condominium project, the person or persons whose leasehold interest or interests in the condominium unit extend for the entire balance of the unexpired term or terms.

Section 2. Section 57-8-16.5 is amended to read:

57-8-16.5. Appointment and removal of committee members and association officers -- Renewal or ratification of contracts -- Failure to establish association or committee.

(1) (a) The declaration may authorize the declarant, or a managing agent or some other person or persons selected or to be selected by the declarant, to appoint and remove some or all of the members of the management committee or some or all of the officers of the ~~[unit owners’]~~ association of unit owners, or to exercise powers and responsibilities otherwise assigned by the declaration and by this act to the ~~[unit owners’]~~ association of unit owners, its officers, or the management committee.

(b) If the declaration authorizes the declarant to appoint or remove some or all members of the management committee or some or all of the officers of the association of unit owners during the period of control contemplated by this Subsection (1), the declarant may appoint the declarant’s officers, employees or agents as members of the management committee or as officers of the association of unit owners.

(c) No amendment to the declaration not consented to by all unit owners shall increase the scope of this authorization, and no such authorization shall be valid after the first to occur of the following:

~~[(a)]~~ (i) expiration of the time limit set by the declaration, which shall not exceed six years in the case of an expandable condominium, four years in the case of a condominium project containing any convertible land, or three years in the case of any other condominium project; or

~~[(b)]~~ (ii) after units to which three-fourths of the undivided interest in the common areas and facilities appertain have been conveyed, or after all additional land has been added to the project and all convertible land has been converted, whichever last occurs.

(2) If entered into during the period of control contemplated by Subsection (1), no management contract, lease of recreational areas or facilities, or any other contract or lease designed to benefit the declarant which was executed by or on behalf of the ~~[unit owners']~~ association of unit owners or the unit owners as a group shall be binding after such period of control unless then renewed or ratified by the consent of unit owners of units to which a majority of the votes in the ~~[unit owners']~~ association of unit owners appertains.

(3) If the ~~[unit owners']~~ association of unit owners or management committee is not in existence or does not have officers at the time of the creation of a condominium project, the declarant shall, until there is an association or management committee with these officers, have the power and responsibility to act in all instances where this act or the declaration requires action by the ~~[unit owners']~~ association of unit owners, the management committee, or any of the officers of them.

(4) This section shall be strictly construed to protect the rights of the unit owners.

Section 3. Section 57-8-24 is amended to read:

57-8-24. Common profits, common expenses, and voting rights -- Unit -- Unconstructed unit.

~~[The common profits of the property shall be distributed among, the common expenses shall be charged to, and the voting rights shall be available to, the unit owners according to their]~~

(1) A unit is created by the recording of the declaration and a condominium plat that describes the unit.

(2) An association of unit owners shall, according to each unit owner's respective percentage or fractional undivided interests in the common areas and facilities[-]:

(a) distribute the property's common profits among the unit owners;

(b) except as otherwise provided in the declaration for unconstructed units, assess the unit owners the property's common expenses; and

(c) make voting rights available to the unit owners.

(3) (a) After the recording of a condominium project's declaration, an unconstructed unit is a unit for the purposes of the declaration and this chapter, including:

(i) allocation of undivided interests in the common areas and facilities in accordance with Subsection 57-8-7(2); and

(ii) voting rights in accordance with Section 57-8-24.

(b) Subsection (3)(a) applies to a condominium project regardless of when the condominium project's initial declaration was recorded.

Section 4. Section 57-8a-502 is amended to read:

57-8a-502. Period of administrative control.

(1) Unless otherwise provided for in a declaration, a period of administrative control terminates on the first to occur of the following:

(a) 60 days after 75% of the lots that may be created are conveyed to lot owners other than a declarant;

(b) seven years after all declarants have ceased to offer lots for sale in the ordinary course of business; or

(c) the day the declarant, after giving written notice to the lot owners, records an instrument voluntarily surrendering all rights to control activities of the association.

(2) (a) A declarant may voluntarily surrender the right to appoint and remove a member of the board before the period of administrative control terminates under Subsection (1).

(b) Subject to Subsection (2)(a), the declarant may require, for the duration of the period of administrative control, that actions of the association or board, as specified in a recorded instrument executed by the declarant, be approved by the declarant before they become effective.

(c) During a period of administrative control, except as provided in Subsection (2)(a), a declarant may appoint the declarant's officers, employees, or agents as members of the board.

(3) (a) Upon termination of the period of administrative control, the lot owners shall elect a board consisting of an odd number of at least three members, a majority of whom shall be lot owners.

(b) Unless the declaration provides for the election of officers by the lot owners, the board shall elect officers of the association.

(c) The board members and officers shall take office upon election or appointment.

Section 5. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon

approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 211**H. B. 259**

Passed March 9, 2016

Approved March 23, 2016

Effective May 10, 2016

SUBSTANCE ABUSE TREATMENT FRAUD

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: Karen Mayne

LONG TITLE**General Description:**

This bill enacts and amends provisions in the Utah Human Services Code related to substance abuse treatment fraud.

Highlighted Provisions:

This bill:

- ▶ amends the definition of “recovery residence” in the Licensure of Programs and Facilities chapter of the Utah Human Services Code;
- ▶ amends provisions related to violations, penalties, and liability of human services programs;
- ▶ requires the Office of Licensing, Department of Human Services (office), to make rules establishing:
 - what constitutes an “outpatient treatment program”;
 - a procedure requiring a licensee to provide an insurer the licensee’s records related to any services or supplies billed to the insurer; and
 - a protocol for the office to investigate and process complaints about licensees;
- ▶ directs the office to electronically post notices of agency action on the office’s website; and
- ▶ directs the Division of Substance Abuse and Mental Health, Department of Human Services, to make rules to develop minimum standards for licensed public and private providers of substance abuse and mental health programs.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 62A-2-101, as last amended by Laws of Utah 2015, Chapters 67 and 255
- 62A-2-106, as last amended by Laws of Utah 2013, Chapter 442
- 62A-2-108, as last amended by Laws of Utah 2012, Chapter 302
- 62A-2-112, as last amended by Laws of Utah 2009, Chapter 75
- 62A-2-113, as last amended by Laws of Utah 2005, Chapter 188
- 62A-2-116, as last amended by Laws of Utah 2005, Chapter 188
- 62A-15-103, as last amended by Laws of Utah 2015, Chapter 412

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

Section 1. Section 62A-2-101 is amended to read:**62A-2-101. Definitions.**

As used in this chapter:

(1) “Adult day care” means nonresidential care and supervision:

(a) for three or more adults for at least four but less than 24 hours a day; and

(b) that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

(2) “Applicant” means:

(a) a person who applies for an initial license or a license renewal under this chapter;

(b) an individual who:

(i) is associated with the licensee; and

(ii) has direct access to a child or a vulnerable adult;

(c) an individual who is 12 years of age or older, other than the child or vulnerable adult who is receiving the service, who resides in a residence with the child or vulnerable adult who is receiving services from the person described in Subsection (2)(a) or (b), if the child or vulnerable adult is not receiving services in the child’s or vulnerable adult’s own residence; or

(d) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion.

(3) (a) “Associated with the licensee” means that an individual is:

(i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent, provider of care, or volunteer; or

(ii) applying to become affiliated with a licensee in a capacity described in Subsection (3)(a)(i).

(b) “Associated with the licensee” does not include:

(i) service on the following bodies, unless that service includes direct access to a child or a vulnerable adult:

(A) a local mental health authority described in Section 17-43-301;

(B) a local substance abuse authority described in Section 17-43-201; or

(C) a board of an organization operating under a contract to provide mental health or substance abuse programs, or services for the local mental health authority or substance abuse authority; or

(ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised by the licensee at all times.

(4) (a) "Boarding school" means a private school that:

(i) uses a regionally accredited education program;

(ii) provides a residence to the school's students:

(A) for the purpose of enabling the school's students to attend classes at the school; and

(B) as an ancillary service to educating the students at the school;

(iii) has the primary purpose of providing the school's students with an education, as defined in Subsection (4)(b)(i); and

(iv) (A) does not provide the treatment or services described in Subsection (28)(a); or

(B) provides the treatment or services described in Subsection (28)(a) on a limited basis, as described in Subsection (4)(b)(ii).

(b) (i) For purposes of Subsection (4)(a)(iii), "education" means a course of study for one or more of grades kindergarten through 12th grade.

(ii) For purposes of Subsection (4)(a)(iv)(B), a private school provides the treatment or services described in Subsection (28)(a) on a limited basis if:

(A) the treatment or services described in Subsection (28)(a) are provided only as an incidental service to a student; and

(B) the school does not:

(I) specifically solicit a student for the purpose of providing the treatment or services described in Subsection (28)(a); or

(II) have a primary purpose of providing the treatment or services described in Subsection (28)(a).

(c) "Boarding school" does not include a therapeutic school.

(5) "Child" means a person under 18 years of age.

(6) "Child placing" means receiving, accepting, or providing custody or care for any child, temporarily or permanently, for the purpose of:

(a) finding a person to adopt the child;

(b) placing the child in a home for adoption; or

(c) foster home placement.

(7) "Client" means an individual who receives or has received services from a licensee.

(8) "Day treatment" means specialized treatment that is provided to:

(a) a client less than 24 hours a day; and

(b) four or more persons who:

(i) are unrelated to the owner or provider; and

(ii) have emotional, psychological, developmental, physical, or behavioral

dysfunctions, impairments, or chemical dependencies.

(9) "Department" means the Department of Human Services.

(10) "Direct access" means that an individual has, or likely will have:

(a) contact with or access to a child or vulnerable adult that provides the individual with an opportunity for personal communication or touch; or

(b) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parents or legal guardians, or the vulnerable adult.

(11) "Directly supervised" means that an individual is being supervised under the uninterrupted visual and auditory surveillance of another individual.

(12) "Director" means the director of the Office of Licensing.

(13) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(14) "Domestic violence treatment program" means a nonresidential program designed to provide psychological treatment and educational services to perpetrators and victims of domestic violence.

(15) "Elder adult" means a person 65 years of age or older.

(16) "Executive director" means the executive director of the department.

(17) "Foster home" means a temporary residential living environment for the care of:

(a) (i) fewer than five foster children in the home of a licensed foster parent; or

(ii) five or more foster children in the home of a licensed foster parent if there are no foster children or if there is one foster child in the home at the time of the placement of a sibling group; or

(b) (i) fewer than four foster children in the home of a certified foster parent; or

(ii) four or more foster children in the home of a certified foster parent if there are no foster children or if there is one foster child in the home at the time of the placement of a sibling group.

(18) (a) "Human services program" means a:

(i) foster home;

(ii) therapeutic school;

(iii) youth program;

(iv) resource family home;

(v) recovery residence; or

(vi) facility or program that provides:

(A) secure treatment;

(B) inpatient treatment;

- (C) residential treatment;
- (D) residential support;
- (E) adult day care;
- (F) day treatment;
- (G) outpatient treatment;
- (H) domestic violence treatment;
- (I) child placing services;
- (J) social detoxification; or
- (K) any other human services that are required by contract with the department to be licensed with the department.

(b) "Human services program" does not include a boarding school.

(19) "Licensee" means an individual or a human services program licensed by the office.

(20) "Local government" means a:

- (a) city; or
- (b) county.

(21) "Minor" has the same meaning as "child."

(22) "Office" means the Office of Licensing within the Department of Human Services.

(23) "Outpatient treatment" means individual, family, or group therapy or counseling designed to improve and enhance social or psychological functioning for those whose physical and emotional status allows them to continue functioning in their usual living environment.

(24) (a) "Recovery residence" means a home, residence, or facility, ~~other than a residential treatment or residential support program,~~ that meets at least two of the following requirements:

~~[(a)]~~ (i) provides a supervised living environment for individuals recovering from a substance abuse disorder;

~~[(b) requires]~~ (ii) provides a living environment in which more than half of the individuals in the residence ~~[to be]~~ are recovering from a substance abuse disorder;

~~[(c)]~~ (iii) provides or arranges for residents to receive services related to their recovery from a substance abuse disorder, either on or off site;

~~[(d) holds the home or facility out as being a recovery residence; or]~~

(iv) is held out as a living environment in which individuals recovering from substance abuse disorders live together to encourage continued sobriety; or

~~[(e)-(i)]~~ (v) (A) receives public funding; or

~~[(ii) runs the home or facility as a commercial venture for financial gain.]~~

(B) is run as a business venture, either for-profit or not-for-profit.

(b) "Recovery residence" does not mean:

(i) a residential treatment program;

(ii) residential support; or

(iii) a home, residence, or facility, in which:

(A) residents, by their majority vote, establish, implement, and enforce policies governing the living environment, including the manner in which applications for residence are approved and the manner in which residents are expelled;

(B) residents equitably share rent and housing-related expenses; and

(C) a landlord, owner, or operator does not receive compensation, other than fair market rental income, for establishing, implementing, or enforcing policies governing the living environment.

(25) "Regular business hours" means:

(a) the hours during which services of any kind are provided to a client; or

(b) the hours during which a client is present at the facility of a licensee.

(26) (a) "Residential support" means arranging for or providing the necessities of life as a protective service to individuals or families who have a disability or who are experiencing a dislocation or emergency that prevents them from providing these services for themselves or their families.

(b) "Residential support" includes providing a supervised living environment for persons with dysfunctions or impairments that are:

- (i) emotional;
- (ii) psychological;
- (iii) developmental; or
- (iv) behavioral.

(c) Treatment is not a necessary component of residential support.

(d) "Residential support" does not include:

- (i) a recovery residence; or
- (ii) residential services that are performed:

(A) exclusively under contract with the Division of Services for People with Disabilities; or

(B) in a facility that serves fewer than four individuals.

(27) (a) "Residential treatment" means a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies.

(b) "Residential treatment" does not include a:

- (i) boarding school;

<p>(ii) foster home; or</p> <p>(iii) recovery residence.</p> <p>(28) “Residential treatment program” means a human services program that provides:</p> <p>(a) residential treatment; or</p> <p>(b) secure treatment.</p> <p>(29) (a) “Secure treatment” means 24-hour specialized residential treatment or care for persons whose current functioning is such that they cannot live independently or in a less restrictive environment.</p> <p>(b) “Secure treatment” differs from residential treatment to the extent that it requires intensive supervision, locked doors, and other security measures that are imposed on residents with neither their consent nor control.</p> <p>(30) “Social detoxification” means short-term residential services for persons who are experiencing or have recently experienced drug or alcohol intoxication, that are provided outside of a health care facility licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and that include:</p> <p>(a) room and board for persons who are unrelated to the owner or manager of the facility;</p> <p>(b) specialized rehabilitation to acquire sobriety; and</p> <p>(c) aftercare services.</p> <p>(31) “Substance abuse treatment program” means a program:</p> <p>(a) designed to provide:</p> <p>(i) specialized drug or alcohol treatment;</p> <p>(ii) rehabilitation; or</p> <p>(iii) habilitation services; and</p> <p>(b) that provides the treatment or services described in Subsection (31)(a) to persons with:</p> <p>(i) a diagnosed substance abuse disorder; or</p> <p>(ii) chemical dependency disorder.</p> <p>(32) “Therapeutic school” means a residential group living facility:</p> <p>(a) for four or more individuals that are not related to:</p> <p>(i) the owner of the facility; or</p> <p>(ii) the primary service provider of the facility;</p> <p>(b) that serves students who have a history of failing to function:</p> <p>(i) at home;</p> <p>(ii) in a public school; or</p> <p>(iii) in a nonresidential private school; and</p> <p>(c) that offers:</p> <p>(i) room and board; and</p>	<p>(ii) an academic education integrated with:</p> <p>(A) specialized structure and supervision; or</p> <p>(B) services or treatment related to:</p> <p>(I) a disability;</p> <p>(II) emotional development;</p> <p>(III) behavioral development;</p> <p>(IV) familial development; or</p> <p>(V) social development.</p> <p>(33) “Unrelated persons” means persons other than parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts.</p> <p>(34) “Vulnerable adult” means an elder adult or an adult who has a temporary or permanent mental or physical impairment that substantially affects the person’s ability to:</p> <p>(a) provide personal protection;</p> <p>(b) provide necessities such as food, shelter, clothing, or mental or other health care;</p> <p>(c) obtain services necessary for health, safety, or welfare;</p> <p>(d) carry out the activities of daily living;</p> <p>(e) manage the adult’s own resources; or</p> <p>(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.</p> <p>(35) (a) “Youth program” means a nonresidential program designed to provide behavioral, substance abuse, or mental health services to minors that:</p> <p>(i) serves adjudicated or nonadjudicated youth;</p> <p>(ii) charges a fee for its services;</p> <p>(iii) may or may not provide host homes or other arrangements for overnight accommodation of the youth;</p> <p>(iv) may or may not provide all or part of its services in the outdoors;</p> <p>(v) may or may not limit or censor access to parents or guardians; and</p> <p>(vi) prohibits or restricts a minor’s ability to leave the program at any time of the minor’s own free will.</p> <p>(b) “Youth program” does not include recreational programs such as Boy Scouts, Girl Scouts, 4-H, and other such organizations.</p> <p>Section 2. Section 62A-2-106 is amended to read:</p> <p>62A-2-106. Office responsibilities.</p> <p>(1) Subject to the requirements of federal and state law, the office shall:</p> <p>(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:</p> <p>(i) except as provided in Subsection (1)(a)(ii), basic health and safety standards for licensees, that shall be limited to:</p>
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- (A) fire safety;
- (B) food safety;
- (C) sanitation;
- (D) infectious disease control;
- (E) safety of the:
 - (I) physical facility and grounds; and
 - (II) area and community surrounding the physical facility;
- (F) transportation safety;
- (G) emergency preparedness and response;
- (H) the administration of medical standards and procedures, consistent with the related provisions of this title;
 - (I) staff and client safety and protection;
 - (J) the administration and maintenance of client and service records;
 - (K) staff qualifications and training, including standards for permitting experience to be substituted for education, unless prohibited by law;
 - (L) staff to client ratios; ~~[and]~~
 - (M) access to firearms; and
 - (N) the prevention of abuse, neglect, exploitation, harm, mistreatment, or fraud;
- (ii) basic health and safety standards for therapeutic schools, that shall be limited to:
 - (A) fire safety, except that the standards are limited to those required by law or rule under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks Act;
 - (B) food safety;
 - (C) sanitation;
 - (D) infectious disease control, except that the standards are limited to:
 - (I) those required by law or rule under Title 26, Utah Health Code or Title 26A, Local Health Authorities; and
 - (II) requiring a separate room for clients who are sick;
 - (E) safety of the physical facility and grounds, except that the standards are limited to those required by law or rule under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks Act;
 - (F) transportation safety;
 - (G) emergency preparedness and response;
 - (H) access to appropriate medical care, including:
 - (I) subject to the requirements of law, designation of a person who is authorized to dispense medication; and
 - (II) storing, tracking, and securing medication;

- (I) staff and client safety and protection that permits the school to provide for the direct supervision of clients at all times;
- (J) the administration and maintenance of client and service records;
- (K) staff qualifications and training, including standards for permitting experience to be substituted for education, unless prohibited by law;
- (L) staff to client ratios; ~~[and]~~
- (M) access to firearms; and
- (N) the prevention of abuse, neglect, exploitation, harm, mistreatment, or fraud;
- (iii) procedures and standards for permitting a licensee to:
 - (A) provide in the same facility and under the same conditions as children, residential treatment services to a person 18 years old or older who:
 - (I) begins to reside at the licensee's residential treatment facility before the person's 18th birthday;
 - (II) has resided at the licensee's residential treatment facility continuously since the time described in Subsection (1)(a)(iii)(A)(I);
 - (III) has not completed the course of treatment for which the person began residing at the licensee's residential treatment facility; and
 - (IV) voluntarily consents to complete the course of treatment described in Subsection (1)(a)(iii)(A)(III); or
 - (B) (I) provide residential treatment services to a child who is:
 - (Aa) 12 years old or older; and
 - (Bb) under the custody of the ~~[Division of Juvenile Justice Services]~~ Department of Human Services, or one of its divisions; and
 - (II) provide, in the same facility as a child described in Subsection (1)(a)(iii)(B)(I), residential treatment services to a person who is:
 - (Aa) at least 18 years old, but younger than 21 years old; and
 - (Bb) under the custody of the ~~[Division of Juvenile Justice Services]~~ Department of Human Services, or one of its divisions;
- (iv) minimum administration and financial requirements for licensees;
- (v) guidelines for variances from rules established under this Subsection (1); ~~[and]~~
- (vi) minimum ethical responsibilities of an adoption agency licensed under this chapter, including prohibiting an adoption agency or its employee from misrepresenting facts or information;
- (vii) what constitutes an "outpatient treatment program" for purposes of this chapter;
- (viii) a procedure requiring a licensee to provide an insurer the licensee's records related to any

services or supplies billed to the insurer, and a procedure allowing the licensee and the insurer to contact the Insurance Department to resolve any disputes;

(ix) a protocol for the office to investigate and process complaints about licensees; and

(x) a procedure for licensees to report incidents;

(b) enforce rules relating to the office;

(c) issue licenses in accordance with this chapter;

(d) if the United States Department of State executes an agreement with the office that designates the office to act as an accrediting entity in accordance with the Intercountry Adoption Act of 2000, Pub. L. No. 106-279, accredit one or more agencies and persons to provide intercountry adoption services pursuant to:

(i) the Intercountry Adoption Act of 2000, Pub. L. No. 106-279; and

(ii) the implementing regulations for the Intercountry Adoption Act of 2000, Pub. L. No. 106-279;

(e) make rules to implement the provisions of Subsection (1)(d);

(f) conduct surveys and inspections of licensees and facilities in accordance with Section 62A-2-118;

(g) collect licensure fees;

(h) notify licensees of the name of a person within the department to contact when filing a complaint;

(i) investigate complaints regarding any licensee or human services program;

(j) have access to all records, correspondence, and financial data required to be maintained by a licensee;

(k) have authority to interview any client, family member of a client, employee, or officer of a licensee; ~~and~~

(l) have authority to deny, condition, revoke, suspend, or extend any license issued by the department under this chapter by following the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act[.]; and

(m) electronically post notices of agency action issued to a human services program, with the exception of a foster home, on the office's website, in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(2) In establishing rules under Subsection (1)(a)(ii)(G), the office shall require a licensee to establish and comply with an emergency response plan that requires clients and staff to:

(a) immediately report to law enforcement any significant criminal activity, as defined by rule, committed:

(i) on the premises where the licensee operates its human services program;

(ii) by or against its clients; or

(iii) by or against a staff member while the staff member is on duty;

(b) immediately report to emergency medical services any medical emergency, as defined by rule:

(i) on the premises where the licensee operates its human services program;

(ii) involving its clients; or

(iii) involving a staff member while the staff member is on duty; and

(c) immediately report other emergencies that occur on the premises where the licensee operates its human services program to the appropriate emergency services agency.

Section 3. Section 62A-2-108 is amended to read:

62A-2-108. Licensure requirements -- Expiration -- Renewal.

(1) Except as provided in Section 62A-2-110, a person, agency, firm, corporation, association, or governmental unit, acting severally or jointly with any other person, agency, firm, corporation, association, or governmental unit, may not establish, conduct, or maintain a human services program in this state without a valid and current license issued by and under the authority of the office as provided by this chapter and the rules under the authority of this chapter.

(2) (a) For purposes of this Subsection (2), "member" means a person or entity that is associated with another person or entity:

(i) as a member;

(ii) as a partner;

(iii) as a shareholder; or

(iv) as a person or entity involved in the ownership or management of a [~~residential treatment~~] human services program owned or managed by the other person or entity.

(b) A license issued under this chapter may not be assigned or transferred.

(c) An application for a license under this chapter shall be treated as an application for reinstatement of a revoked license if:

(i) (A) the person or entity applying for the license had a license revoked under this chapter; and

(B) the revoked license described in Subsection (2)(c)(i)(A) is not reinstated before the application described in this Subsection (2)(c) is made; or

(ii) a member of an entity applying for the license:

(A) (I) had a license revoked under this chapter; and

(II) the revoked license described in Subsection (2)(c)(ii)(A)(I) is not reinstated before the application described in this Subsection (2)(c) is made; or

(B) (I) was a member of an entity that had a license revoked under this chapter at any time before the license was revoked; and

(II) the revoked license described in Subsection (2)(c)(ii)(B)(I) is not reinstated before the application described in this Subsection (2)(c) is made.

(3) A current license shall at all times be posted in the facility where each human services program is operated, in a place that is visible and readily accessible to the public.

(4) (a) Except as provided in Subsection (4)(c), each license issued under this chapter expires at midnight 12 months from the date of issuance unless it has been:

(i) previously revoked by the office; or

(ii) voluntarily returned to the office by the licensee.

(b) A license shall be renewed upon application and payment of the applicable fee, unless the office finds that the licensee:

(i) is not in compliance with the:

(A) provisions of this chapter; or

(B) rules made under this chapter;

(ii) has engaged in a pattern of noncompliance with the:

(A) provisions of this chapter; or

(B) rules made under this chapter;

(iii) has engaged in conduct that is grounds for denying a license under Section 62A-2-112; or

(iv) has engaged in conduct that poses a substantial risk of harm to any person.

(c) The office may issue a renewal license that expires at midnight 24 months after the day on which it is issued if:

(i) the licensee has maintained a human services license for at least 24 months before the day on which the licensee applies for the renewal; and

(ii) the licensee has not violated this chapter or a rule made under this chapter.

(5) Any licensee that is in operation at the time rules are made in accordance with this chapter shall be given a reasonable time for compliance as determined by the rule.

(6) (a) A license for a human services program issued under this section shall apply to a specific human services program site.

(b) A human services program shall obtain a separate license for each site where the human services program is operated.

Section 4. Section 62A-2-112 is amended to read:

62A-2-112. Violations -- Penalties.

[If the office finds that a violation has occurred under Section 62A-2-111, it may:]

(1) The office may deny, place conditions on, suspend, or revoke a human services license, if it finds, related to the human services program:

(a) that there has been a failure to comply with the rules established under this chapter; [or]

(b) evidence of aiding, abetting, or permitting the commission of any illegal act; or

(c) evidence of conduct adverse to the standards required to provide services and promote public trust, including aiding, abetting, or permitting the commission of abuse, neglect, exploitation, harm, mistreatment, or fraud.

(2) The office may restrict or prohibit new admissions to a human services program [or facility], if it finds:

(a) that there has been a failure to comply with rules established under this chapter; [or]

(b) evidence of aiding, abetting, or permitting the commission of any illegal act [~~in the human services program or facility~~]; or

(c) evidence of conduct adverse to the standards required to provide services and promote public trust, including aiding, abetting, or permitting the commission of abuse, neglect, exploitation, harm, mistreatment, or fraud.

Section 5. Section 62A-2-113 is amended to read:

62A-2-113. License revocation -- Suspension.

(1) If a license is revoked, the office may not grant a new license unless:

(a) the human services program provides satisfactory evidence to the office that the conditions upon which revocation was based have been corrected;

(b) the human services program is inspected by the office and found to be in compliance with all provisions of this chapter and applicable rules;

(c) at least [~~one year has~~] five years have passed since the day on which the licensee is served with final notice that the license is revoked; and

(d) the office determines that the interests of the public will not be jeopardized by granting the license.

(2) The office may suspend a license for no longer than one year.

(3) When a license has been suspended, the office may restore, or restore subject to conditions, the suspended license upon a determination that the:

(a) conditions upon which the suspension was based have been completely or partially corrected; and

(b) interests of the public will not be jeopardized by restoration of the license.

Section 6. Section 62A-2-116 is amended to read:

62A-2-116. Violation -- Criminal penalties.

(1) (a) A person who owns, establishes, conducts, maintains, manages, or operates a human services program in violation of this chapter is guilty of a class A misdemeanor if the violation endangers or harms the health, welfare, or safety of persons participating in that program.

(b) Conviction in a criminal proceeding does not preclude the office from:

(i) assessing a civil penalty or an administrative penalty;

(ii) denying, placing conditions on, suspending, or revoking a license; or

(iii) seeking injunctive or equitable relief.

(2) Any person that violates a provision of this chapter, lawful orders of the office, or rules adopted under this chapter may be assessed a penalty not to exceed the sum of \$10,000 per violation, in:

(a) a judicial civil proceeding; or

(b) an administrative action in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(3) Assessment of a judicial penalty or an administrative penalty does not preclude the office from:

(a) seeking criminal penalties;

(b) denying, placing conditions on, suspending, or revoking a license; or

(c) seeking injunctive or equitable relief.

(4) The office may assess the human services program the cost incurred by the office in placing a monitor.

Section 7. Section 62A-15-103 is amended to read:

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

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

(2) The division shall:

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

(ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance abuse;

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

(iv) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance abuse disorder, by identifying and disseminating information about effective practices and programs;

(v) promulgate rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop, in collaboration with public and private programs, minimum standards for public and private providers of substance abuse and mental health programs licensed by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities;

(~~iv~~) (vi) promote integrated programs that address an individual's substance abuse, mental health, physical health, and criminal risk factors;

(~~vi~~) (vii) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with substance abuse and mental illness that addresses criminal risk factors;

(~~vii~~) (viii) evaluate the effectiveness of programs described in Subsection (2);

(~~viii~~) (ix) consider the impact of the programs described in Subsection (2) on:

(A) emergency department utilization;

(B) jail and prison populations;

(C) the homeless population; and

(D) the child welfare system; and

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

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

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

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

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

(c) (i) consult and coordinate with local substance abuse authorities and local mental health authorities regarding programs and services;

(ii) provide consultation and other assistance to public and private agencies and groups working on substance abuse and mental health issues;

(iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups;

(iv) promote or conduct research on substance abuse and mental health issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation;

(v) receive, distribute, and provide direction over public funds for substance abuse and mental health services;

(vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;

(vii) examine expenditures of any local, state, and federal funds;

(viii) monitor the expenditure of public funds by:

(A) local substance abuse authorities;

(B) local mental health authorities; and

(C) in counties where they exist, the private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authorities;

(ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;

(x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;

(xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:

(A) a statewide comprehensive continuum of substance abuse services;

(B) a statewide comprehensive continuum of mental health services;

(C) services result in improved overall health and functioning;

(D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance abuse or mental illness conditions or both, and who are involved in the criminal justice system;

(E) compliance, where appropriate, with the certification requirements in Subsection (2)(i); and

(F) appropriate expenditure of public funds;

(xii) review and make recommendations regarding each local substance abuse authority's contract with its provider of substance abuse programs and services and each local mental health authority's contract with its provider of mental health programs and services to ensure compliance with state and federal law and policy;

(xiii) monitor and ensure compliance with division rules and contract requirements; and

(xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply with division directives regarding the use of public funds, or for misuse of public funds or money;

(d) assure that the requirements of this part are met and applied uniformly by local substance abuse authorities and local mental health authorities across the state;

(e) require each local substance abuse authority and each local mental health authority to submit its plan to the division by May 1 of each year;

(f) conduct an annual program audit and review of each local substance abuse authority in the state and its contract provider and each local mental health authority in the state and its contract provider, including:

(i) a review and determination regarding whether:

(A) public funds allocated to local substance abuse authorities and local mental health authorities are consistent with services rendered and outcomes reported by them or their contract providers; and

(B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance abuse and mental health programs and services; and

(ii) items determined by the division to be necessary and appropriate; and

(g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

(h) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, minimum standards and requirements for the provision of substance abuse and mental health treatment to individuals who are required to participate in treatment by the court or the Board of Pardons and Parole, or who are incarcerated, including:

(i) collaboration with the Department of Corrections, the Utah Substance Abuse Advisory Council to develop and coordinate the standards, including standards for county and state programs

servicing individuals convicted of class A and class B misdemeanors;

(ii) determining that the standards ensure available treatment includes the most current practices and procedures demonstrated by recognized scientific research to reduce recidivism, including focus on the individual's criminal risk factors; and

(iii) requiring that all public and private treatment programs meet the standards established under this Subsection (2)(h) in order to receive public funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice for the costs of providing screening, assessment, prevention, treatment, and recovery support;

(i) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements and procedures for the certification of licensed public and private providers who provide, as part of their practice, substance abuse and mental health treatment to individuals involved in the criminal justice system, including:

(i) collaboration with the Department of Corrections, the Utah Substance Abuse Advisory Council, and the Utah Association of Counties to develop, coordinate, and implement the certification process;

(ii) basing the certification process on the standards developed under Subsection (2)(h) for the treatment of individuals involved in the criminal justice system; and

(iii) the requirement that all public and private providers of treatment to individuals involved in the criminal justice system shall obtain certification on or before July 1, 2016, and shall renew the certification every two years, in order to qualify for funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice on or after July 1, 2016;

(j) ~~collaboration~~ collaborate with the Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:

(i) pretrial services and the resources needed for the reduced recidivism efforts;

(ii) county jail and county behavioral health early-assessment resources needed for offenders convicted of a class A or class B misdemeanor; and

(iii) the replacement of federal dollars associated with drug interdiction law enforcement task forces that are reduced;

(k) (i) establish performance goals and outcome measurements for all treatment programs for which minimum standards are established under Subsection (2)(h), including recidivism data and data regarding cost savings associated with recidivism reduction and the reduction in the number of inmates, that are obtained in

collaboration with the Administrative Office of the Courts and the Department of Corrections; and

(ii) collect data to track and determine whether the goals and measurements are being attained and make this information available to the public;

(l) in its discretion, use the data to make decisions regarding the use of funds allocated to the division, the Administrative Office of the Courts, and the Department of Corrections to provide treatment for which standards are established under Subsection (2)(h); and

(m) annually, on or before August 31, submit the data collected under Subsection (2)(j) to the Commission on Criminal and Juvenile Justice, which shall compile a report of findings based on the data and provide the report to the legislative Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees.

(3) (a) The division may refuse to contract with and may pursue its legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.

(b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract with its provider of substance abuse or mental health programs or services fails to comply with state and federal law or policy.

(4) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with its oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309. Nothing in this Subsection (4) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.

(5) In carrying out its duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.

(6) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.

(7) The division shall annually review with each local substance abuse authority and each local mental health authority the authority's statutory and contract responsibilities regarding:

(a) the use of public funds;

(b) oversight responsibilities regarding public funds; and

(c) governance of substance abuse and mental health programs and services.

(8) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.

(9) If a local substance abuse authority contacts the division under Subsection 17-43-201(9) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:

(a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or

(b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

CHAPTER 212**H. B. 280**

Passed March 10, 2016
 Approved March 23, 2016
 Effective May 10, 2016

AUTONOMOUS VEHICLE STUDY

Chief Sponsor: Robert M. Spendlove
 Senate Sponsor: Kevin T. Van Tassell
 Cosponsor: John Knotwell

LONG TITLE**General Description:**

This bill requires a study related to autonomous vehicles.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires certain state agencies to study autonomous vehicle technologies and report findings;
- ▶ provides authority for agencies to partner with autonomous vehicle technology entities; and
- ▶ grants contracting authority.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

41-26-101, Utah Code Annotated 1953
 41-26-102, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-26-101 is enacted to read:**CHAPTER 26. AUTONOMOUS VEHICLES****41-26-101. Title.**

This chapter is known as "Autonomous Vehicles."

Section 2. Section 41-26-102 is enacted to read:**41-26-102. Autonomous motor vehicle study.**

(1) As used in this section, "autonomous vehicle" means a motor vehicle equipped with technology that allows the motor vehicle to perform one or more driving functions through vehicle automation, without the direct control of the driver.

(2) Each agency of the state with regulatory authority impacting autonomous vehicle technology testing shall facilitate and encourage the responsible testing and operation of autonomous vehicle technology within the state.

(3) (a) The Department of Public Safety, in consultation with other state agencies, including the Division of Motor Vehicles and the Department of Transportation, shall study, prepare a report, and make recommendations regarding the best practices for regulation of autonomous vehicle

technology on Utah highways. The study shall include:

(i) evaluation of standards and best practices suggested by the National Highway Traffic Safety Administration and the American Association of Motor Vehicle Administrators;

(ii) evaluation of appropriate safety features and standards for autonomous vehicles in the unique weather and traffic conditions of Utah;

(iii) evaluation of regulatory strategies and schemes implemented by other states to address autonomous vehicles, including various levels of vehicle automation;

(iv) evaluation of federal standards addressing autonomous vehicles; and

(v) recommendations on how the state should address advances in autonomous vehicle technology through legislation and regulation.

(b) The Department of Public Safety shall provide a written report and present findings of the report, including recommendations, to the Transportation Interim Committee and the Public Utilities and Technology Interim Committee, before December 1, 2016. The Division of Motor Vehicles, the Department of Transportation, and the Department of Technology Services shall be present for the report to the Transportation Interim Committee.

(4) The Department of Public Safety, the Division of Motor Vehicles, the Department of Transportation, and the Department of Technology Services may partner and contract with a person for the purpose of testing autonomous vehicles within the state.

CHAPTER 213**H. B. 289**

Passed March 10, 2016
Approved March 23, 2016
Effective May 10, 2016

**CHARTER SCHOOL
CLOSURE AMENDMENTS**

Chief Sponsor: Sophia M. DiCaro
Senate Sponsor: Luz Escamilla

LONG TITLE**General Description:**

This bill modifies provisions related to the closure of a charter school.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to the closure of a charter school;
- ▶ amends a charter school authorizer's duties;
- ▶ grants rulemaking authority to the State Board of Education; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-1a-502.5, as last amended by Laws of Utah 2014, Chapter 406
53A-1a-504, as last amended by Laws of Utah 2015, Chapter 389
53A-1a-510.5, as last amended by Laws of Utah 2014, Chapter 363

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-1a-502.5 is amended to read:

53A-1a-502.5. Approval of increase in charter school enrollment capacity -- Expansion.

(1) For the purposes of this section:

(a) "High growth area" means an area of the state where school enrollment is significantly increasing or projected to significantly increase.

(b) "Next school year" means the school year that begins on or after the July 1 immediately following the end of a general session of the Legislature.

(2) The State Board of Education may approve an increase in charter school enrollment capacity ~~in the 2012-13 school year or thereafter~~ subject to the Legislature:

(a) appropriating funds for an increase in charter school enrollment capacity in the next school year; or

(b) authorizing an increase in charter school enrollment capacity in the school year immediately following the next school year.

(3) In appropriating funds for, or authorizing, an increase in charter school enrollment capacity, the Legislature shall provide a separate appropriation or authorization of enrollment capacity for a charter school proposed and approved in response to a request for applications issued under Section 53A-1a-501.9.

(4) (a) A charter school may annually submit a request to the State Board of Education for an increase in enrollment capacity in the amount of .25 times the number of students in grades 9 through 12 enrolled in an online course in the previous school year through the Statewide Online Education Program.

(b) A charter school shall submit a request for an increase in enrollment capacity pursuant to Subsection (4)(a) on or before October 1 of the school year for which the increase in enrollment capacity is requested.

(c) The State Board of Education shall approve a request for an increase in enrollment capacity made under Subsection (4)(a) subject to the availability of sufficient funds appropriated under Section 53A-1a-513 to provide the full amount of the per student allocation for each charter school student in the state to supplement school district property tax revenues.

(d) An increase in enrollment capacity approved under Subsection (4)(c) shall be a permanent increase in the charter school's enrollment capacity.

(5) (a) On or before January 1, 2017, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall, after considering suggestions from charter school authorizers, make rules establishing requirements, procedures, and deadlines for an expansion of a charter school.

(b) The rules described in Subsection (5)(a) shall include rules related to:

- (i) an expansion of a charter school when another charter school issues a notice of closure; and
- (ii) the establishment of a satellite campus.

~~[(5)]~~ (6) (a) If the Legislature does not appropriate funds for an increase in charter school enrollment capacity that is tentatively approved by the State Board of Education, the State Board of Education shall prioritize the tentatively approved schools and expansions based on approved funds.

(b) A charter school or expansion that is tentatively approved, but not funded, shall be considered to be tentatively approved for the next application year and receive priority status for available funding.

~~[(6)]~~ (7) (a) Except as provided in Subsection ~~[(5)]~~ (6)(b) or ~~[(6)]~~ (7)(b), in approving an increase in charter school enrollment capacity for new charter

schools and expanding charter schools, the State Board of Education shall give:

(i) high priority to approving a new charter school or a charter school expansion in a high growth area; and

(ii) low priority to approving a new charter school or a charter school expansion in an area where student enrollment is stable or declining.

(b) An applicant seeking to establish a charter school in a high growth area may elect to not receive high priority status as provided in Subsection [(4)(6)] (7)(a)(i).

Section 2. Section 53A-1a-504 is amended to read:

53A-1a-504. Charter school application -- Applicants -- Contents.

(1) (a) An application to establish a charter school may be submitted by:

(i) an individual;

(ii) a group of individuals; or

(iii) a nonprofit legal entity organized under Utah law.

(b) An authorized charter school may apply under this chapter for a charter from another charter school authorizer.

(2) A charter school application shall include:

(a) the purpose and mission of the school;

(b) except for a charter school authorized by a local school board, a statement that, after entering into a charter agreement, the charter school will be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act;

(c) a description of the governance structure of the school, including:

(i) a list of the governing board members that describes the qualifications of each member; and

(ii) an assurance that the applicant shall, within 30 days of authorization, provide the authorizer with the results of a background check for each member;

(d) a description of the target population of the school that includes:

(i) the projected maximum number of students the school proposes to enroll;

(ii) the projected school enrollment for each of the first three years of school operation; and

(iii) the ages or grade levels the school proposes to serve;

(e) academic goals;

(f) qualifications and policies for school employees, including policies that:

(i) comply with the criminal background check requirements described in Section 53A-1a-512.5;

(ii) require employee evaluations; and

(iii) address employment of relatives within the charter school;

(g) a description of how the charter school will provide, as required by state and federal law, special education and related services;

(h) for a public school converting to charter status, arrangements for:

(i) students who choose not to continue attending the charter school; and

(ii) teachers who choose not to continue teaching at the charter school;

(i) a statement that describes the charter school's plan for establishing the charter school's facilities, including:

(i) whether the charter school intends to lease or purchase the charter school's facilities; and

(ii) financing arrangements;

(j) a market analysis of the community the school plans to serve;

(k) a capital facility plan;

(l) a business plan;

(m) other major issues involving the establishment and operation of the charter school; and

(n) the signatures of the governing board members of the charter school.

(3) A charter school authorizer may require a charter school application to include:

(a) the charter school's proposed:

(i) curriculum;

(ii) instructional program; or

(iii) delivery methods;

(b) a method for assessing whether students are reaching academic goals, including, at a minimum, participation in the Utah Performance Assessment System for Students under Chapter 1, Part 6, Achievement Tests;

(c) a proposed calendar;

(d) sample policies;

(e) a description of opportunities for parental involvement;

(f) a description of the school's administrative, supervisory, or other proposed services that may be obtained through service providers; or

(g) other information that demonstrates an applicant's ability to establish and operate a charter school.

~~[(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules regarding the expansion of a charter school, including establishing a satellite campus, that provide:]~~

~~[(a) requirements for a charter school to apply and qualify for expansion; and]~~

~~[(b) procedures and deadlines for the application process.]~~

Section 3. Section 53A-1a-510.5 is amended to read:

53A-1a-510.5. Charter school closure.

(1) If a charter school is closed for any reason, including the termination of a charter in accordance with Section 53A-1a-510 or the conversion of a charter school to a private school, the provisions of this section apply.

~~[(2) (a) As soon as possible after the decision is made to close a charter school, notification of the decision, in writing, shall be provided by the charter school to:]~~

(2) A decision to close a charter school is made:

(a) when a charter school authorizer approves a motion to terminate described in Subsection 53A-1a-510(2)(c);

(b) when the State Board of Education takes final action described in Subsection 53A-1a-510(2)(d)(ii); or

(c) when a charter school provides notice to the charter school's authorizer that the charter school is relinquishing the charter school's charter.

(3) (a) No later than 10 days after the day on which a decision to close a charter school is made, the charter school shall:

(i) provide notice to the following, in writing, of the decision:

~~[(i) its] (A) if the charter school made the decision to close, the charter [school] school's authorizer;~~

~~[(ii) (B) the State Charter School Board;~~

~~[(iii) (C) if the State Board of Education did not make the decision to close, the State Board of Education;~~

~~[(iv) (D) parents of [its] students enrolled at the charter school;~~

~~[(v) its] (E) the charter school's creditors; [and]~~

(F) the charter school's lease holders;

(G) the charter school's bond issuers;

(H) other entities that may have a claim to the charter school's assets;

~~[(vi) (I) the school district in which the charter school is located and other charter schools located in that school district[.]; and]~~

(J) any other person that the charter school determines to be appropriate; and

(ii) post notice of the decision on the Utah Public Notice Website, created in Section 63F-1-701.

(b) The ~~[notification under]~~ notice described in Subsection ~~[(2)] (3)(a)~~ shall include:

(i) the proposed date of the charter school closure;

(ii) the charter school's plans to help students identify and transition into a new school; and

(iii) contact information for the charter school during the transition.

~~[(3) A closing charter school shall:]~~

~~[(a) present a school closure plan to its authorizer as soon as possible after the decision to close is made;]~~

(4) After a decision to close a charter school is made, the closing charter school shall:

~~[(b) (a) designate a custodian for the protection of student files and school business records;~~

~~[(c) (b) maintain a base of operation throughout the charter school closing, including:~~

(i) an office;

(ii) hours of operation; ~~[and]~~

(iii) operational telephone service with voice messaging stating the hours of operation; and

(iv) a designated individual to respond to questions or requests during the hours of operation;

~~[(d) (c) maintain insurance coverage and risk management coverage throughout the transition to closure and for a period following closure of the charter school as specified by the charter school's authorizer;~~

~~[(e) (d) complete a financial audit or other procedure required by board rule immediately after the decision to close is made;~~

~~[(f) (e) inventory all assets of the charter school; and]~~

~~[(g) (f) list all creditors of the charter school and specifically identify secured creditors and assets that are security interests[.]; and]~~

~~[(h) protect all school assets against theft, misappropriation, and deterioration.]~~

~~[(4) (a) Any assets held subject to written conditions or limitations in accordance with Section 53A-1a-517 shall be disposed of in accordance with those conditions or limitations.]~~

~~[(b) All liabilities and obligations of the closing charter school shall be paid and discharged or adequate provisions shall be made to discharge the liabilities and obligations to the extent of the closing school's assets. (c) (i) The remaining assets shall be returned.]~~

(5) The closing charter school's authorizer shall oversee the closing charter school's compliance with Subsection (4).

(6) (a) A closing charter school shall return any assets remaining, after all liabilities and obligations of the closing charter school are paid or discharged, to the closing charter school's authorizer.

~~[(ii) The] (b) The closing charter school's authorizer [may] shall liquidate assets at fair~~

market value or assign the assets to another public school.

~~[(5) To the extent possible, all leases, service agreements, and other contracts not necessary for the transition of the closing charter school should be terminated.]~~

(7) The closing charter school's authorizer shall oversee liquidation of assets and payment of debt in accordance with board rule.

~~[(6)]~~ (8) The closing charter school shall:

(a) comply with all state and federal reporting requirements; and

(b) submit all documentation and complete all state and federal reports required by [its] the closing charter school's authorizer or the State Board of Education, including documents to verify [its] the closing charter school's compliance with procedural requirements [as well as] and satisfaction of all financial issues.

~~[(7)]~~ (9) When the closing charter school's financial affairs are closed out and dissolution is complete, the authorizer shall ensure that a final audit of the charter school is completed.

~~[(8) The]~~ (10) On or before January 1, 2017, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education [may] shall, after considering suggestions from charter school authorizers, make rules that:

(a) provide additional closure [requirements upon] procedures for charter schools [or that specify elements of charter school closure plans.]; and

(b) establish a charter school closure process.

CHAPTER 214**H. B. 301**

Passed March 9, 2016
 Approved March 23, 2016
 Effective May 10, 2016

SCHOOL BUS ROUTE GRANT PROGRAM

Chief Sponsor: Jon E. Stanard
 Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill creates a grant program to fund certain school bus routes.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates a grant program to provide transportation funding for routes that are unsafe for a student to walk; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates:

- ▶ to the State Board of Education -- Minimum School Program -- To and From School -- Pupil Transportation, as an ongoing appropriation:
 - from the Education Fund, \$500,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-17a-126, as last amended by Laws of Utah 2012, Chapter 398

ENACTS:

53A-17a-126.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-17a-126 is amended to read:**53A-17a-126. State support of pupil transportation.**

(1) Money appropriated to the State Board of Education for state-supported transportation of public school students shall be apportioned and distributed in accordance with Section 53A-17a-127, except as otherwise provided in this section or Section 53A-17a-126.5.

(2) (a) The Utah Schools for the Deaf and the Blind shall use its allocation of pupil transportation money to pay for transportation of their students based on current valid contractual arrangements and best transportation options and methods as determined by the schools.

(b) All student transportation costs of the schools shall be paid from the allocation of pupil transportation money specified in statute.

(3) (a) A school district may only claim eligible transportation costs as legally reported on the prior year's annual financial report submitted under Section 53A-3-404.

(b) The state shall contribute 85% of approved transportation costs, subject to budget constraints.

(c) If in a fiscal year the total transportation allowance for all districts exceeds the amount appropriated for that purpose, all allowances shall be reduced pro rata to equal not more than the amount appropriated.

Section 2. Section 53A-17a-126.5 is enacted to read:**53A-17a-126.5. Grants for unsafe routes.**

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Transportation Advisory Committee" means the review committee for addressing school transportation needs described in Subsection 53A-17a-127(5).

(c) "Unsafe route" means a route between a student's residence and school that is:

(i) shorter than a distance described in:

(A) Subsection 53A-17a-127(1)(a) for a student enrolled in kindergarten through grade 6; or

(B) Subsection 53A-17a-127(1)(b) for a student enrolled in grades 7 through 12; and

(ii) due to a health or safety concern, dangerous for a student to walk.

(2) Subject to legislative appropriations for grants for unsafe routes provided under this section, the board shall:

(a) solicit proposals from school districts to receive a grant; and

(b) award grants to school districts.

(3) To receive a grant under this section, a school district shall submit a proposal to the board that:

(a) describes an unsafe route for which the school district intends to receive a grant;

(b) includes a written statement from the following describing why the route is unsafe:

(i) the school district;

(ii) local law enforcement; and

(iii) the municipality or county in which the described route is located; and

(c) includes other information as required by the board.

(4) (a) The Transportation Advisory Committee shall:

(i) evaluate a proposal submitted to the board under Subsection (3); and

(ii) make recommendations to the board regarding whether to fund the proposal.

(b) The board shall consider the recommendations of the Transportation Advisory Committee before awarding a grant described in Subsection (2)(b).

(5) In awarding a grant under this section, the board may not:

(a) contribute an amount exceeding 85% of the cost of an unsafe route funded by the grant; or

(b) award more than 15% of the appropriation under this section to a particular school district.

(6) The Transportation Advisory Committee shall:

(a) review each year an unsafe route funded by a grant; and

(b) make a recommendation to the board regarding whether the board, subject to legislative appropriations, should renew the grant.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to implement the grant program described in this section.

Section 3. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or amounts indicated. These sums of money are in addition to amounts previously appropriated for fiscal year 2017.

To State Board of Education -- Minimum School Program -- To and From School -- Pupil Transportation

<u>From Education Fund</u>	<u>\$500,000</u>
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Schedule of Programs:

<u>Grants for Unsafe Routes</u>	<u>\$500,000</u>
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The Legislature intends that:

(1) the State Board of Education use the appropriation under this section to offer grants for unsafe routes described in Section 53A-17a-126.5; and

(2) the appropriations provided in this section be:

(a) ongoing; and

(b) nonlapsing.

CHAPTER 215**H. B. 322**

Passed March 10, 2016
 Approved March 23, 2016
 Effective May 10, 2016

STATE BUILDING DESIGNATION

Chief Sponsor: Susan Duckworth
 Senate Sponsor: Curtis S. Bramble
 Cosponsors: Jacob L. Anderegg
 Patrice M. Arent
 Melvin R. Brown
 Rebecca Chavez-Houck
 Scott H. Chew
 Kay J. Christofferson
 Kim Coleman
 Fred C. Cox
 Brad M. Daw
 Brad L. Dee
 Sophia M. DiCaro
 Jack R. Draxler
 James A. Dunnigan
 Gage Froerer
 Francis D. Gibson
 Brian M. Greene
 Keith Grover
 Craig Hall
 Stephen G. Handy
 Lynn N. Hemingway
 Sandra Hollins
 Don L. Ipson
 Ken Ivory
 Brad King
 John Knotwell
 David E. Lifferth
 Daniel McCay
 Mike K. McKell
 Carol Spackman Moss
 Michael E. Noel
 Curtis Oda
 Lee B. Perry
 Marie H. Poulson
 Paul Ray
 Edward H. Redd
 Marc K. Roberts
 Angela Romero
 Douglas V. Sagers
 Dean Sanpei
 Mike Schultz
 V. Lowry Snow
 Robert M. Spendlove
 Jon E. Stanard
 Earl D. Tanner
 Norman K Thurston
 Raymond P. Ward
 R. Curt Webb
 John R. Westwood
 Mark A. Wheatley
 Brad R. Wilson

LONG TITLE**General Description:**

This bill modifies provisions governing the State Capitol Preservation Board by instructing the board to designate a name for the House Building on capitol hill.

Highlighted Provisions:

This bill:

- ▶ instructs the State Capitol Preservation Board to name the House Building on capitol hill the "Rebecca D. Lockhart House Building."

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63C-9-301, as last amended by Laws of Utah 2013, Chapter 310

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63C-9-301 is amended to read:**63C-9-301. Board powers -- Subcommittees.**

- (1) The board shall:
- (a) except as provided in Subsection (2), exercise complete jurisdiction and stewardship over capitol hill facilities, capitol hill grounds, and the capitol hill complex;
 - (b) preserve, maintain, and restore the capitol hill complex, capitol hill facilities, capitol hill grounds, and their contents;
 - (c) before October 1 of each year, review and approve the executive director's annual budget request for submittal to the governor and Legislature;
 - (d) by October 1 of each year, prepare and submit a recommended budget request for the upcoming fiscal year for the capitol hill complex to:
 - (i) the governor, through the Governor's Office of Management and Budget; and
 - (ii) the Legislature's appropriations subcommittee responsible for capitol hill facilities, through the Office of Legislative Fiscal Analyst;
 - (e) review and approve the executive director's:
 - (i) annual work plan;
 - (ii) long-range master plan for the capitol hill complex, capitol hill facilities, and capitol hill grounds; and
 - (iii) furnishings plan for placement and care of objects under the care of the board;
 - (f) approve all changes to the buildings and their grounds, including:
 - (i) restoration, remodeling, and rehabilitation projects;
 - (ii) usual maintenance program; and
 - (iii) any transfers or loans of objects under the board's care;
 - (g) define and identify all significant aspects of the capitol hill complex, capitol hill facilities, and capitol hill grounds, after consultation with the:

(i) Division of Facilities Construction and Management;

(ii) State Library Division;

(iii) Division of Archives and Records Service;

(iv) Division of State History;

(v) Office of Museum Services; and

(vi) Arts Council;

(h) inventory, define, and identify all significant contents of the buildings and all state-owned items of historical significance that were at one time in the buildings, after consultation with the:

(i) Division of Facilities Construction and Management;

(ii) State Library Division;

(iii) Division of Archives and Records Service;

(iv) Division of State History;

(v) Office of Museum Services; and

(vi) Arts Council;

(i) maintain archives relating to the construction and development of the buildings, the contents of the buildings and their grounds, including documents such as plans, specifications, photographs, purchase orders, and other related documents, the original copies of which shall be maintained by the Division of Archives and Records Service;

(j) comply with federal and state laws related to program and facility accessibility; and

(k) establish procedures for receiving, hearing, and deciding complaints or other issues raised about the capitol hill complex, capitol hill facilities, and capitol hill grounds, or their use.

(2) (a) Notwithstanding Subsection (1)(a), the supervision and control of the legislative area, as defined in Section 36-5-1, is reserved to the Legislature; and

(b) the supervision and control of the governor's area, as defined in Section 67-1-16, is reserved to the governor.

(3) (a) The board shall make rules to govern, administer, and regulate the capitol hill complex, capitol hill facilities, and capitol hill grounds by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) A person who violates a rule adopted by the board under the authority of this Subsection (3) is subject to a civil penalty not to exceed \$2,500 for each violation, plus the amount of any actual damages, expenses, and costs related to the violation of the rule that are incurred by the state.

(c) The board may take any other legal action allowed by law.

(d) If any violation of a rule adopted by the board is also an offense under Title 76, Utah Criminal

Code, the violation is subject to the civil penalty, damages, expenses, and costs allowed under this Subsection (3) in addition to any criminal prosecution.

(e) The board may not apply this section or rules adopted under the authority of this section in a manner that violates a person's rights under the Utah Constitution or the First Amendment to the United States Constitution, including the right of persons to peaceably assemble.

(f) The board shall send proposed rules under this section to the legislative general counsel and the governor's general counsel for review and comment before the board adopts the rules.

(4) The board is exempt from the requirements of Title 63G, Chapter 6a, Utah Procurement Code, but shall adopt procurement rules substantially similar to the requirements of that chapter.

(5) The board shall name the House Building, that is defined in Section 36-5-1, the "Rebecca D. Lockhart House Building."

~~[(5)]~~ (6) (a) The board may:

(i) establish subcommittees made up of board members and members of the public to assist and support the executive director in accomplishing the executive director's duties;

(ii) establish fees for the use of capitol hill facilities and capitol hill grounds;

(iii) assign and allocate specific duties and responsibilities to any other state agency, if the other agency agrees to perform the duty or accept the responsibility;

(iv) contract with another state agency to provide services;

(v) delegate by specific motion of the board any authority granted to it by this section to the executive director;

(vi) in conjunction with Salt Lake City, expend money to improve or maintain public property contiguous to East Capitol Boulevard and capitol hill;

(vii) provide wireless Internet service to the public without a fee in any capitol hill facility; and

(viii) when necessary, consult with the:

(A) Division of Facilities Construction and Management;

(B) State Library Division;

(C) Division of Archives and Records Service;

(D) Division of State History;

(E) Office of Museum Services; and

(F) Arts Council.

(b) The board's provision of wireless Internet service under Subsection ~~[(5)]~~ (6)(a)(vii) shall be discontinued in the legislative area if the president of the Senate and the speaker of the House of Representatives each submit a signed letter to the

board indicating that the service is disruptive to the legislative process and is to be discontinued.

(c) If a budget subcommittee is established by the board, the following shall serve as ex officio, nonvoting members of the budget subcommittee:

(i) the legislative fiscal analyst, or the analyst's designee, who shall be from the Office of Legislative Fiscal Analyst; and

(ii) the executive director of the Governor's Office of Management and Budget, or the executive director's designee, who shall be from the Governor's Office of Management and Budget.

(d) If a preservation and maintenance subcommittee is established by the board, the board may, by majority vote, appoint one or each of the following to serve on the subcommittee as voting members of the subcommittee:

(i) an architect, who shall be selected from a list of three architects submitted by the American Institute of Architects; or

(ii) an engineer, who shall be selected from a list of three engineers submitted by the American Civil Engineers Council.

(e) If the board establishes any subcommittees, the board may, by majority vote, appoint up to two people who are not members of the board to serve, at the will of the board, as nonvoting members of a subcommittee.

(f) Members of each subcommittee shall, at the first meeting of each calendar year, select one individual to act as chair of the subcommittee for a one-year term.

~~[(6)]~~ (7) (a) The board, and the employees of the board, may not move the office of the governor, lieutenant governor, president of the Senate, speaker of the House of Representatives, or a member of the Legislature from the State Capitol unless the removal is approved by:

(i) the governor, in the case of the governor's office;

(ii) the lieutenant governor, in the case of the lieutenant governor's office;

(iii) the president of the Senate, in the case of the president's office or the office of a member of the Senate; or

(iv) the speaker of the House of Representatives, in the case of the speaker's office or the office of a member of the House.

(b) The board and the employees of the board have no control over the furniture, furnishings, and decorative objects in the offices of the governor, lieutenant governor, or the members of the Legislature except as necessary to inventory or conserve items of historical significance owned by the state.

(c) The board and the employees of the board have no control over records and documents produced by or in the custody of a state agency, official, or

employee having an office in a building on the capitol hill complex.

(d) Except for items identified by the board as having historical significance, and except as provided in Subsection ~~[(6)]~~ (7)(b), the board and the employees of the board have no control over moveable furnishings and equipment in the custody of a state agency, official, or employee having an office in a building on the capitol hill complex.

CHAPTER 216**H. B. 330**

Passed March 7, 2016
Approved March 23, 2016
Effective July 1, 2016

STATE FIRE CODE REVISIONS

Chief Sponsor: Mike Schultz
Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill amends provisions related to the State Fire Code.

Highlighted Provisions:

This bill:

- ▶ incorporates the 2015 edition of the International Fire Code by reference, with amendments; and
- ▶ modifies fire code requirements related to:
 - a fire code official's authority to determine an emergency requirement;
 - solar photovoltaic systems;
 - residential and commercial automatic fire sprinkler systems;
 - carbon monoxide detection systems;
 - fire alarm systems;
 - water control valves and flow notification systems; and
 - hazardous materials.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 15A-5-103, as last amended by Laws of Utah 2014, Chapter 189
- 15A-5-202, as last amended by Laws of Utah 2015, Chapter 158
- 15A-5-202.5, as last amended by Laws of Utah 2015, Chapters 158 and 352
- 15A-5-203, as last amended by Laws of Utah 2015, Chapter 158
- 15A-5-204, as last amended by Laws of Utah 2015, Chapter 185
- 15A-5-205, as last amended by Laws of Utah 2013, Chapter 199
- 15A-5-205.5, as last amended by Laws of Utah 2014, Chapter 74
- 15A-5-206, as last amended by Laws of Utah 2013, Chapter 199
- 15A-5-207, as last amended by Laws of Utah 2013, Chapter 199
- 15A-5-302, as last amended by Laws of Utah 2013, Chapter 199
- 53-7-225, as last amended by Laws of Utah 2013, Chapter 357

ENACTS:

- 15A-5-304, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 15A-5-103 is amended to read:**15A-5-103. Nationally recognized codes incorporated by reference.**

The following codes are incorporated by reference into the State Fire Code:

(1) the International Fire Code, [2012] 2015 edition, excluding appendices, as issued by the International Code Council, Inc., except as amended by Part 2, Statewide Amendments and Additions to International Fire Code Incorporated as Part of State Fire Code;

(2) National Fire Protection Association, NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, 2011 edition, except as amended by Part 3, Amendments and Additions to National Fire Protection Association Incorporated as Part of State Fire Code; and

(3) National Fire Protection Association, NFPA 1403, Standard on Live Fire Training Evolutions, 2012 edition, except as amended by Part 3, Amendments and Additions to National Fire Protection Association Incorporated as Part of State Fire Code.

Section 2. Section 15A-5-202 is amended to read:**15A-5-202. Amendments and additions to IFC related to administration, permits, definitions, and general and emergency planning.**

(1) For IFC, Chapter 1, Scope and Administration:

(a) IFC, Chapter 1, Section 102.5, is deleted and rewritten as follows:

"102.5 Application of residential code.

If a structure is designed and constructed in accordance with the International Residential Code, the provisions of this code apply only as follows:

1. The construction and design provisions of this code apply only to premises identification, fire apparatus access, fire hydrants and water supplies, and construction permits required by Section 105.7.

2. This code does not supercede the land use, subdivision, or development standards established by a local jurisdiction.

3. The administrative, operational, and maintenance provisions of this code apply."

~~[(a)] (b) IFC, Chapter 1, Section 102.9, is [amended by adding the following immediately before the period: ""] deleted and rewritten as follows:~~

"102.9 Matters not provided for.

Requirements that are essential for the public safety of an existing or proposed activity, building or structure, or for the safety of the occupants thereof,

which are not specifically provided for by this code, shall be determined by the fire code official on an emergency basis if:

(a) the facts known to the fire code official show that an immediate and significant danger to the public health, safety, or welfare exists; and

(b) the threat requires immediate action by the fire code official.

~~(2)~~ 102.9.1 Limitation of emergency order.

In issuing its emergency order, the fire code official shall:

(a) limit the order to require only the action necessary to prevent or avoid the danger to the public health, safety, or welfare; and

(b) give immediate notice to the persons who are required to comply with the order, that includes a brief statement of the reasons for the fire code official's order.

~~(3)-(a)~~ 101.9.2 Right to appeal emergency order.

If the emergency order issued under this section will result in the continued infringement or impairment of any legal right or interest of any party, the party shall have a right to appeal the fire code official's order in accordance with IFC, Chapter 1, Section 108."

~~(4)~~ (c) IFC, Chapter 1, Section ~~[105.6.16]~~ 105.6.17, Flammable and combustible liquids, is amended to add the following section: "12. The owner of an underground tank that is out of service for longer than one year shall receive a Temporary Closure Notice from the Department of Environmental Quality and a copy shall be given to the AHJ."

~~(e)~~ (d) In IFC, Chapter 1, Section 108, a new Section ~~108.4~~, Notice of right to appeal, is added as follows: "At the time a fire code official makes an order, decision, or determination that relates to the application or interpretation of this chapter, the fire code official shall inform the person affected by the order, decision, or determination of the person's right to appeal under this section. Upon request, the fire code official shall provide a person affected by an order, decision, or determination that relates to the application or interpretation of this chapter a written notice that describes the person's right to appeal under this section."

(e) A new IFC, Chapter 1, Section 108.1.1, Application of residential code, is added as follows:

"108.1.1 Application of residential code.

For development regulated by a local jurisdiction's land use authority, the fire code official's interpretation of this code is subject to the advisory opinion process described in Section 13-43-205 and to a land use appeal authority appointed under Section 10-9a-701 or 17-27a-701."

~~(4)~~ (f) IFC, Chapter 1, Section 109.3, Notice of violation, is ~~amended as follows: On line three, after the words "is in violation of this code," insert in~~

~~the section the phrase "or other pertinent laws or ordinances".~~ deleted and rewritten as follows:

"109.3 Notice of violation.

If the fire code official determines that a building, premises, vehicle, storage facility, or outdoor area is in violation of this code or other pertinent laws or ordinances, the fire code official is authorized to prepare a written notice of violation that describes the conditions deemed unsafe and, absent immediate compliance, specifies a time for reinspection."

(2) For IFC, Chapter 2, Definitions:

(a) IFC, Chapter 2, Section 202, General Definitions, the following definition is added for Ambulatory Surgical Center: "AMBULATORY SURGICAL CENTER. A building or portion of a building licensed by the Utah Department of Health where procedures are performed that may render patients incapable of self preservation where care is less than 24 hours."

(b) IFC, Chapter 2, Section 202, General Definitions, FOSTER CARE FACILITIES is amended as follows: the word "Foster" is changed to the word "Child."

(c) IFC, Chapter 2, Section 202, General Definitions, Occupancy Classification, Educational Group E, Day care facilities, is amended as follows: On line three delete the word "five" and replace it with the word "four". On line four after the word "supervision" add the words "child care centers."

(d) IFC, Chapter 2, Section 202, General Definitions, Occupancy Classification, Educational Group E, Five or fewer children is amended as follows: On line one the word "five" is deleted and replaced with the word "four" in both places.

(e) IFC, Chapter 2, Section 202, General Definitions, Occupancy Classification, Educational Group E, Five or fewer children in a dwelling unit, the word "five" is deleted and replaced with the word "four" in both places.

(f) IFC, Chapter 2, Section 202, General Definitions, Occupancy Classification, Educational Group E, a new section is added as follows: "Child Day Care -- Residential Certificate or a Family License. Areas used for child day care purposes with a Residential Certificate R430-50 or a Family License, as defined in Utah Administrative Code, R430-90, Licensed Family Child Care, may be located in a Group R-2 or R-3 occupancy as provided in Residential Group R-3, or shall comply with the International Residential Code in accordance with Section R101.2."

(g) IFC, Chapter 2, Section 202, General Definitions, Occupancy Classification, Educational Group E, a new section is added as follows: "Child Care Centers. Areas used for Hourly Child Care Centers, as defined in Utah Administrative Code, R430-60, Child Care Center as defined in Utah Administrative Code, R430-100, or Out of School Time Programs, as defined in Utah Administrative Code, R430-70, may be classified as accessory occupancies."

(h) IFC, Chapter 2, Section 202, General Definitions, Occupancy Classification, Institutional Group I, Group I-1, is amended as follows: ~~(On line 8 add)~~ Insert "Type I" in front of the words "Assisted living facilities".

(i) IFC, Chapter 2, Section 202, General Definitions, Occupancy Classification, Institutional Group I, Five or fewer persons receiving care is amended as follows: On line four after "International Residential Code" the rest of the section is deleted.

(j) IFC, Chapter 2, Section 202, General Definitions, Occupancy Classification, Institutional Group I, Group I-2, is amended as follows:

(i) On line three delete the word "five" and insert the word "three".

(ii) On line six the word "foster" is deleted and replaced with the word "child".

(iii) On line 10, after the words "Psychiatric hospitals", add the following to the list: "both intermediate nursing care and skilled nursing care facilities, ambulatory surgical centers with five or more operating rooms, and Type II assisted living facilities. Type II assisted living facilities with five or fewer persons shall be classified as a Group R-4. Type II assisted living facilities with at least six and not more than 16 residents shall be classified as a Group I-1 facility".

(k) IFC, Chapter 2, Section 202, General Definitions, Occupancy Classification, Institutional Group I, Group I-4, Day care facilities, Classification as Group E, is amended as follows:

(i) On line two delete the word "five" and replace it with the word "four".

(ii) On line three delete the words "2 1/2 years or less of age" and replace with the words "under the age of two".

(l) IFC, Chapter 2, Section 202, General Definitions, Occupancy Classification, Institutional Group Care I, Group I-4, Day care facilities, Five or fewer occupants receiving care in a dwelling unit, is amended as follows: On lines one and two the word "five" is deleted and replaced with the word "four".

(m) IFC, Chapter 2, Section 202, General Definitions, Occupancy Classification, Residential Group R-3, the words "and single family dwellings complying with the IRC" are added after the word "Residential occupancies".

(n) IFC, Chapter 2, Section 202, General Definitions, Occupancy Classification, Residential Group R-3, Care facilities within a dwelling, is amended as follows: On line three after the word "dwelling" insert "other than child care".

(o) IFC, Chapter 2, Section 202, General Definitions, Occupancy Classification, Residential Group R-3, a new section is added as follows: "Child Care. Areas used for child care purposes may be

located in a residential dwelling unit when all of the following conditions are met:

1. Compliance with Utah Administrative Code, R710-8, Day Care Rules, as enacted under the authority of the Utah Fire Prevention Board;

2. Use is approved by the Utah Department of Health under the authority of the Utah Code, Title 26, Chapter 39, Utah Child Care Licensing Act, and in any of the following categories:

1.1. Utah Administrative Code, R430-50, Residential Certificate Child Care; or

1.2. Utah Administrative Code, R430-90, Licensed Family Child Care; and

3. Compliance with all zoning regulations of the local regulator."

(p) IFC, Chapter 2, Section 202, General Definitions, RECORD DRAWINGS, the definition for "RECORD DRAWINGS" is modified by deleting the words "a fire alarm system" and replacing them with "any fire protection system".

Section 3. Section 15A-5-202.5 is amended to read:

15A-5-202.5. Amendments and additions to Chapters 3 and 4 of IFC.

(1) For IFC, Chapter 3, General Requirements:

(a) IFC, Chapter 3, Section 304.1.2, Vegetation, is amended as follows: Delete line six and replace it with: "the Utah Administrative Code, R652-122-200, Minimum Standards for Wildland Fire Ordinance".

~~(b) IFC, Chapter 3, Section 308.1.2, Throwing or Placing Sources of Ignition, is deleted and rewritten as follows: "No person shall throw or place, or cause to be thrown or placed, a lighted match, cigar, cigarette, matches, lighters, or other flaming or glowing substance or object on any surface or article where it can cause an unwanted fire."~~

(e) (b) IFC, Chapter 3, Section 310.8, Hazardous and Environmental Conditions, is deleted and rewritten as follows: "When the fire code official determines that hazardous environmental conditions necessitate controlled use of any ignition source, including fireworks, lighters, matches, sky lanterns, and smoking materials, any of the following may occur:

1. If the hazardous environmental conditions exist in a municipality, the legislative body of the municipality may prohibit the ignition or use of an ignition source in mountainous, brush-covered, or forest-covered areas or the wildland urban interface area, which means the line, area, or zone where structures or other human development meet or intermingle with undeveloped wildland or land being used for an agricultural purpose.

2. Except as provided in paragraph 3, if the hazardous environmental conditions exist in an unincorporated area, the state forester may prohibit the ignition or use of an ignition source in all or part of the areas described in paragraph 1 that are within the unincorporated area, after

consulting with the county fire code official who has jurisdiction over that area.

3. If the hazardous environmental conditions exist in a metro township created under Title 10, Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class, on and after May 12, 2015, the metro township legislative body may prohibit the ignition or use of an ignition source in all or part of the areas described in paragraph 1 that are within the township.”

[~~(d)~~] (c) IFC, Chapter 3, Section 311.1.1, Abandoned Premises, is amended as follows: On line 10 delete the words “International Property Maintenance Code and the”.

[~~(e)~~] (d) IFC, Chapter 3, Section 311.5, Placards, is amended as follows: On line three delete the word “shall” and replace it with the word “may”.

[~~(f)~~] (e) IFC, Chapter 3, Section 315.2.1, Ceiling Clearance, is amended to add the following: “Exception: Where storage is not directly below the sprinkler heads, storage is allowed to be placed to the ceiling on wall-mounted shelves that are protected by fire sprinkler heads in occupancies meeting classification as light or ordinary hazard.”

(2) IFC, Chapter 4, Emergency Planning and Preparedness:

(a) IFC, Chapter 4, Section [~~404.2, Where required, Subsection 8, is amended as follows: After the word “buildings” add “to include sororities and fraternity houses”;~~] 403.10.2.1, College and university buildings, is deleted and replaced with the following:

“403.10.2.1 College and university buildings and fraternity and sorority houses.

(a) College and university buildings, including fraternity and sorority houses, shall prepare an approved fire safety and evacuation plan, in accordance with Section 404.

(b) Group R-2 college and university buildings, including fraternity and sorority houses, shall comply with Sections 403.10.2.1.1 and 403.10.2.1.2.”

(b) IFC, Chapter 4, Section 405.2, Table 405.2, is amended to add the following footnotes:

(i) “e. Secondary schools in Group E occupancies shall have an emergency evacuation drill for fire conducted at least every two months, to a total of four emergency evacuation drills during the nine-month school year. The first emergency evacuation drill for fire shall be conducted within 10 school days after the beginning of classes. The third emergency evacuation drill for fire, weather permitting, shall be conducted 10 school days after the beginning of the next calendar year. The second and fourth emergency evacuation drills may be substituted by a security or safety drill to include shelter in place, earthquake drill, or lock down for violence. If inclement weather causes a secondary school to miss the 10-day deadline for the third emergency evacuation drill for fire, the secondary

school shall perform the third emergency evacuation drill for fire as soon as practicable after the missed deadline.”

(ii) “f. In Group E occupancies, excluding secondary schools, if the AHJ approves, the monthly required emergency evacuation drill can be substituted by a security or safety drill to include shelter in place, earthquake drill, or lock down for violence. The routine emergency evacuation drill for fire must be conducted at least every other evacuation drill.”

(iii) “g. A-3 occupancies in academic buildings of institutions of higher learning are required to have one emergency evacuation drill per year, provided the following conditions are met:

(A) The building has a fire alarm system in accordance with Section 907.2.

(B) The rooms classified as assembly shall have fire safety floor plans as required in [~~Section 404.3.2(4)~~] Subsection 404.2.2(4) posted.

(C) The building is not classified a high-rise building.

(D) The building does not contain hazardous materials over the allowable quantities by code.”

Section 4. Section 15A-5-203 is amended to read:

15A-5-203. Amendments and additions to IFC related to fire safety, building, and site requirements.

(1) For IFC, Chapter 5, Fire Service Features:

(a) In IFC, Chapter 5, a new Section 501.5, Access grade and fire flow, is added as follows: “An authority having jurisdiction over a structure built in accordance with the requirements of the International Residential Code as adopted in the State Construction Code, may require an automatic fire sprinkler system for the structure only by ordinance and only if any of the following conditions exist:

(i) the structure:

(A) is located in an urban-wildland interface area as provided in the Utah Wildland Urban Interface Code adopted as a construction code under the State Construction Code; and

(B) does not meet the requirements described in Utah Code, Subsection 65A-8-203[~~(3)~~](4)(a) and Utah Administrative Code, R652-122-200, Minimum Standards for Wildland Fire Ordinance;

(ii) the structure is in an area where a public water distribution system with fire hydrants does not exist as required in Utah Administrative Code, R309-550-5, Water Main Design;

(iii) the only fire apparatus access road has a grade greater than 10% for more than 500 continual feet; [~~or~~]

[~~(iv) (A) the water supply to the structure does not provide at least 500 gallons fire flow per minute for a minimum of 30 minutes, if the total square foot living space of the structure is equal to or less than 5,000 square feet;~~]

~~[(B) the water supply to the structure does not provide at least 750 gallons per minute fire flow for a minimum of 30 minutes, if the total square foot living space exceeds 5,000 square feet, but is equal to or less than 10,000 square feet; or]~~

~~[(C) the water supply to the structure does not provide at least 1,000 gallons per minute fire flow for a minimum of 30 minutes, if the total square foot living space exceeds 10,000 square feet.]~~

~~(iv) the total floor area of all floor levels within the exterior walls of the dwelling unit exceeds 10,000 square feet; or~~

~~(v) the total floor area of all floor levels within the exterior walls of the dwelling unit is double the average of the total floor area of all floor levels of un sprinkled homes in the subdivision that are no larger than 10,000 square feet.~~

(b) In IFC, Chapter 5, Section 506.1, Where Required, is deleted and rewritten as follows: "Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the fire code official, after consultation with the building owner, may require a key box to be installed in an approved location. The key box shall contain keys to gain necessary access as required by the fire code official. For each fire jurisdiction that has at least one building with a required key box, the fire jurisdiction shall adopt an ordinance, resolution, or other operating rule or policy that creates a process to ensure that each key to each key box is properly accounted for and secure."

(c) In IFC, Chapter 5, a new Section 507.1.1, Isolated one- and two-family dwellings, is added as follows: "Fire flow may be reduced for an isolated one- and two-family dwelling when the authority having jurisdiction over the dwelling determines that the development of a full fire-flow requirement is impractical."

(d) In IFC, Chapter 5, a new Section 507.1.2, Pre-existing subdivision lots, is added as follows[~~"Total water supply requirements]~~:

"507.1.2 Pre-existing subdivision lots.

The requirements for a pre-existing subdivision lot shall not exceed the [fire flows] requirements described in Section 501.5(iv) for the largest one- or two-family dwelling, protected by an automatic fire sprinkler system, on a subdivision lot platted before December 31, 1980, unless the municipality or county in which the lot is located provides the required fire flow capacity.]"

(e) In IFC, Chapter 5, Section 510.1, Emergency Responder Radio Coverage in New Buildings, is amended by adding: "When required by the fire code official," at the beginning of the first paragraph.

(2) For IFC, Chapter 6, Building Services and Systems:

(a) Delete the section title "605.11.1.2 Solar photovoltaic systems for Group R-3." and replace with the section title "605.11.1.2 Solar photovoltaic

systems for Group R-3 and buildings constructed in accordance with IRC."

(b) Section 605.11.1.2, Solar photovoltaic systems for Group R-3, Exception, is deleted and rewritten as follows: "Exception: Reduction in pathways and clear access width shall be permitted where shown that a rational approach has been used and that the reductions are warranted, and approved by the fire code official."

~~[(a)] (c) In IFC, Chapter 6, Section [605.11.3.3.1] 605.11.1.3.1, Access, is deleted and rewritten as follows: "There shall be a minimum three foot wide (914 mm) clear perimeter around the edges of the roof."~~

~~[(b)] (d) In IFC, Chapter 6, Section [605.11.3.3.2] 605.11.1.3.2, Pathways, is deleted and rewritten as follows: "The solar installation shall be designed to provide designated pathways. The pathways shall meet the following requirements:~~

1. The pathway shall be over areas capable of supporting the live load of fire fighters accessing the roof.

2. The centerline axis pathways shall be provided in both axes of the roof. Centerline axis pathways shall run where the roof structure is capable of supporting the live load of fire fighters accessing the roof.

3. Smoke and heat vents required by Section 910.2.1 or 910.2.2 of this Code, shall be provided with a clear pathway width of not less than three feet (914 mm) to vents.

4. Access to roof area required by Section [504.2 or 1009.16] 504.3 or 1011.12 of this Code, shall be provided with a clear pathway width of not less than three feet (914 mm) around access opening and at least three feet (914 mm) clear pathway to parapet or roof edge."

~~[(e) In IFC, Chapter 6, Section 605.11.3.2, Residential Systems for One and Two Family Dwellings, is deleted and rewritten as follows: "Access to residential systems for one and two family dwellings shall be provided in accordance with Sections 605.11.3.2.1 through 605.11.3.2.4.]~~

~~[Exception: Reduction in pathways and clear access width shall be permitted where shown that a rational approach has been used and that such reductions are warranted when approved by the Fire Code Official.]"~~

~~[(d)] (e) In IFC, Chapter 6, Section [605.11.3.3.3] 605.11.1.3.3, Smoke Ventilation, is deleted and rewritten as follows: "The solar installation shall be designed to meet the following requirements:~~

1. Arrays shall be no greater than 150 feet (45.720 mm) by 150 feet (45.720 mm) in distance in either axis in order to create opportunities for fire department smoke ventilation operations.

2. Smoke ventilation options between array sections shall be one of the following:

2.1. A pathway six feet (1829 mm) or greater in width.

2.2. A three foot (914 mm) or greater in width pathway and bordering roof skylights or smoke and heat vents when required by Section 910.2.1 or Section 910.2.2 of this Code.

2.3. Smoke and heat vents designed for remote operation using devices that can be connected to the vent by mechanical, electrical, or any other suitable means, shall be protected as necessary to remain operable for the design period. Controls for remote operation shall be located in a control panel, clearly identified and located in an approved location.”

[~~(e)~~] (f) In IFC, Chapter 6, Section [~~607.4~~] 607.7, Elevator Key Location, is deleted and rewritten as follows: “Firefighter service keys shall be kept in a “Supra-Stor-a-key” elevator key box or similar box with corresponding key system that is adjacent to the elevator for immediate use by the fire department. The key box shall contain one key for each elevator, one key for lobby control, and any other keys necessary for emergency service. The elevator key box shall be accessed using a 6049 numbered key.”

[~~(f)~~] (g) In IFC, Chapter 6, Section 609.1, General, is amended as follows: On line three, after the word “Code”, add the words “and NFPA 96”.

(3) For IFC, Chapter 7, Fire-Resistance-Rated Construction, IFC, Chapter 7, Section 703.2, is amended to add the following: “Exception: In Group E Occupancies, where the corridor serves an occupant load greater than 30 and the building does not have an automatic fire sprinkler system installed, the door closers may be of the friction hold-open type on classrooms’ doors with a rating of 20 minutes or less only.”

Section 5. Section 15A-5-204 is amended to read:

15A-5-204. Amendments and additions to IFC related to fire protection systems.

For IFC, Fire Protection Systems:

(1) IFC, Chapter 9, Section 901.2, Construction Documents, is amended to add the following at the end of the section: “The code official has the authority to request record drawings (“as built”) to verify any modifications to the previously approved construction documents.”

(2) IFC, Chapter 9, Section 901.4.6, Pump and Riser Room Size, is deleted and replaced with the following: “Pump and Riser Room Size. Fire pump and automatic sprinkler system riser rooms shall be designed with adequate space for all installed equipment necessary for the installation and to provide sufficient working space around the stationary equipment. Clearances around equipment shall be in accordance with manufacturer requirements and not less than the following minimum elements: >language<901.4.6.1A minimum clear and unobstructed distance of 12 inches shall be provided from the installed equipment to the elements of permanent construction.

901.4.6.2 A minimum clear and unobstructed distance of 12 inches shall be provided between all other installed equipment and appliances.

901.4.6.3 A clear and unobstructed width of 36 inches shall be provided in front of all installed equipment and appliances, to allow for inspection, service, repair or replacement without removing such elements of permanent construction or disabling the function of a required fire-resistance-rated assembly.

901.4.6.4 Automatic sprinkler system riser rooms shall be provided with a clear and unobstructed passageway to the riser room of not less than 36 inches, and openings into the room shall be clear and unobstructed, with doors swinging in the outward direction from the room and the opening providing a clear width of not less than 34 inches and a clear height of the door opening shall not be less than 80 inches.

901.4.6.5 Fire pump rooms shall be provided with a clear and unobstructed passageway to the fire pump room of not less than 72 inches, and openings into the room shall be clear, unobstructed and large enough to allow for the removal of the largest piece of equipment, with doors swinging in the outward direction from the room and the opening providing a clear width of not less than 68 inches and a clear height of the door opening shall not be less than 80 inches.”

(3) IFC, Chapter 9, Section 903.2.1.2, Group A-2, is amended to add the following subsection: “4. An automatic fire sprinkler system shall be provided throughout Group A-2 occupancies where indoor pyrotechnics are used.”

(4) IFC, Chapter 9, Section 903.2.2, Ambulatory Health Care Facilities, is amended as follows: On line two delete the words “all fire areas floor” and replace with the word “buildings” and delete the last paragraph.

(5) IFC, Chapter 9, Section 903.2.4, Group F-1, Subsection 2, is deleted and rewritten as follows: “A Group F-1 fire area is located more than three stories above the lowest level of fire department vehicle access.”

(6) IFC, Chapter 9, Section 903.2.7, Group M, Subsection 2, is deleted and rewritten as follows: “A Group M fire area is located more than three stories above the lowest level of fire department vehicle access.”

(7) IFC, Chapter 9, Section 903.2.8 Group R, [is amended to add the following: “Exception: ~~Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) constructed in accordance with the International Residential Code for one- and two-family dwellings.~~”] including all subsections, is deleted and rewritten as follows:

“903.2.8 Group R.

An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.

Exceptions:

1. Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) constructed in accordance with the International Residential Code for One- and Two-Family Dwellings.

2. Single story Group R-1 occupancies with fire areas not more than 2,000 square feet that contain no installed plumbing or heating, where no cooking occurs, and constructed of Type I-A, I-B, II-A, or II-B construction.

3. Group R-4 fire areas not more than 4,500 gross square feet and not containing more than 16 residents, provided the building is equipped throughout with an approved fire alarm system that is interconnected and receives its primary power from the building wiring and a commercial power system.

903.2.8.1 Group R-4 Condition 2.

An automatic sprinkler system installed in accordance with Section 903.3.1.2 shall be permitted in Group R-4 Condition 2 occupancies. Attics shall be protected in accordance with Section 903.2.8.1.1 or 903.2.8.1.2.

903.2.8.1.1 Attics used for living purposes, storage, or fuel-fired equipment.

Attics used for living purposes, storage, or fuel-fired equipment shall be protected throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.2.

903.2.8.1.2 Attics not used for living purposes, storage, or fuel-fired equipment.

Attics not used for living purposes, storage, or fuel-fired equipment shall be protected in accordance with one of the following:

1. Attics protected throughout by a heat detector system arranged to activate the building fire alarm system in accordance with Section 907.2.10.

2. Attics constructed of noncombustible materials.

3. Attics constructed of fire-retardant-treated wood framing complying with Section 2303.2 of the International Building Code.

4. The automatic sprinkler system shall be extended to provide protection throughout the attic space."

~~[(8) IFC, Chapter 9, Section 903.2.8, Group R, is amended to add a second exception as follows: "Exception: Group R-4 fire areas not more than 4,500 gross square feet and not containing more than 16 residents, provided the building is equipped throughout with an approved fire alarm system that is interconnected and receives its primary power from the building wiring and a commercial power system."]~~

~~[(9) IFC, Chapter 9, Section 903.2.8 Group R, is amended to add a third exception as follows: "Exception: Single story group R-1 occupancies with fire areas not more than 2,000 square feet that~~

~~contain no installed plumbing or heating, where no cooking occurs, and constructed of Type I-A, I-B, II-A, or II-B construction."]~~

~~[(10)] (8) IFC, Chapter 9, Section 903.2.9, Group S-1, Subsection 2, is deleted and rewritten as follows: "A Group S-1 fire area is located more than three stories above the lowest level of fire department vehicle access."~~

~~[(11) IFC, Chapter 9, Section 903.3.1.1 is amended by adding the following subsection: "903.3.1.1.2 Antifreeze Limitations. Antifreeze used in a new automatic sprinkler system installed in accordance with NFPA 13 may not exceed a maximum concentration of 38% premixed propylene glycol or 48% premixed glycerin, and the capacity of the system may not exceed 150 gallons."]~~

~~[(12) IFC, Chapter 9, Section 903.3.1.2 is amended by adding the following subsection: "903.3.1.2.2 Antifreeze Limitations. Antifreeze used in a new automatic sprinkler system installed in accordance with NFPA 13R may not exceed a maximum concentration of 38% premixed propylene glycol or 48% premixed glycerin, and the capacity of the system may not exceed 150 gallons."]~~

~~[(13) IFC, Chapter 9, Section 903.3.1.3 is amended by adding the following subsection: "903.3.1.3.1 Antifreeze Limitations. Antifreeze used in a new automatic sprinkler system installed in accordance with NFPA 13D may not exceed a maximum concentration of 38% premixed propylene glycol or 48% premixed glycerin, and the capacity of the system may not exceed 150 gallons."]~~

~~[(14)] (9) IFC, Chapter 9, Section 903.3.5, Water supplies, is amended as follows: On line six, after the word "Code", add "and as amended in Utah's State Construction Code".~~

~~[(15)] (10) IFC, Chapter 9, Section 903.5 is amended to add the following subsection: "903.5.1 Tag and Information. A tag shall be attached to the riser indicating the date the antifreeze solution was tested. The tag shall also indicate the type and concentration of antifreeze solution by volume with which the system is filled, the name of the contractor that tested the antifreeze solution, the contractor's license number, and a warning to test the concentration of the antifreeze solutions at yearly intervals."~~

~~[(16)] (11) IFC, Chapter 9, Section 904.11, Commercial cooking systems, is deleted and rewritten as follows: "The automatic fire extinguishing system for commercial cooking systems shall be of a type recognized for protection of commercial cooking equipment and exhaust systems. Pre-engineered automatic extinguishing systems shall be tested in accordance with UL300 and listed and labeled for the intended application. The system shall be installed in accordance with this code, its listing and the manufacturer's installation instructions. The exception in Section 904.11 is not deleted and shall remain as currently written in the IFC."~~

~~[(17)] (12) IFC, Chapter 9, Section [904.11.3] 904.12.3, Carbon dioxide systems, and Section~~

~~[904.11.3.1]~~ 904.12.3.1, Ventilation system, are deleted and rewritten as follows:

~~[(a)]~~ “904.123 existing automatic fire extinguishing systems used for commercial cooking.

Existing automatic fire extinguishing systems used for commercial cooking that use dry chemical are prohibited and shall be removed from service.~~[(2)]~~

~~[(b)–(c)]~~ 904.12.3.1 UL300 listed and labeled existing wet chemical fire extinguishing system.

Existing wet chemical fire extinguishing systems used for commercial cooking that are not UL300 listed and labeled are prohibited and shall be either removed or upgraded to a UL300 listed and labeled system.”

~~[(19)]~~ (13) IFC, Chapter 9, Section ~~[904.11.4]~~ 904.12.4, Special provisions for automatic sprinkler systems, is amended to add the following subsection: “~~[904.11.4.2]~~ 904.12.4.2 Existing automatic fire sprinkler systems protecting commercial cooking equipment, hood, and exhaust systems that generate appreciable depth of cooking oils shall be replaced with a UL300 system that is listed and labeled for the intended application.”

~~[(19)]~~ (14) IFC, Chapter 9, Section ~~[904.11.6.2]~~ 906.12.6.2, Extinguishing system service, is amended to add the following: “Exception: Automatic fire extinguishing systems located in occupancies where usage is limited and less than six consecutive months may be serviced annually if the annual service is conducted immediately before the period of usage, and approval is received from the AHJ.”

~~[(20)]~~ (15) IFC, Chapter 9, Section 905.3.9 is a new subsection as follows: “Open Parking Garages. Open parking garages shall be equipped with an approved Class I manual standpipe system when fire department access is not provided for firefighting operations to within 150 feet of all portions of the open parking garage as measured from the approved fire department vehicle access. Class I manual standpipe shall be accessible throughout the parking garage such that all portions of the parking structure are protected within 150 feet of a hose connection.

Exception: Open parking garages equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1.”

~~[(21)]~~ (16) IFC, Chapter 9, Section 905.8, Dry Standpipes, Exception is deleted and rewritten as follows: “Where subject to freezing conditions and approved by the fire code official.”

~~[(22)]~~ (17) IFC, Chapter 9, Section 905.11, Existing buildings, and IFC, Chapter 11, Section 1103.6, Standpipes, are deleted.

~~[(23)]~~ (18) In IFC, Chapter 9, Section 906.1, Where Required, ~~[the exception under paragraph 1 is deleted and rewritten to read: “Exception: In new and existing Group A, B, and E occupancies equipped with quick response sprinklers, portable fire extinguishers shall be required only in locations~~

~~specified in items 2 through 6.]~~ insert an additional exception as follows:

“Exception: In new and existing Group E occupancies equipped with quick response sprinklers, portable fire extinguishers shall be required only in locations specified in items 2 through 6.”

~~[(24)]~~ (19) IFC, Chapter 9, Section 907.2.3 Group E:

(a) The first sentence is deleted and rewritten as follows: “A manual fire alarm system that ~~[initiates]~~ activates the occupant notification system in accordance with Section 907.5 and installed in accordance with Section 907.6, and with rules made by the Utah Fire Prevention Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall be installed in Group E occupancies.”

(b) Exception 2, delete entirely.

~~[(b)]~~ (c) Exception number ~~[3]~~ 4.2, on line five, delete the words, “emergency voice/alarm communication system” and replace with~~["occupant notification system.”]~~ “fire alarm.”

~~[(25)]~~ (20) IFC, Chapter 9, 907.8, Inspection, testing, and maintenance, is amended to add the following sentences at the end of the section: “Increases in nuisance alarms shall require the fire alarm system to be tested for sensitivity. Fire alarm systems that continue after sensitivity testing with unwarranted nuisance alarms shall be replaced as directed by the AHJ.”

~~[(26)]~~ (21) IFC, Chapter 9, Section ~~[908.7]~~ 915, Carbon Monoxide ~~[Alarms]~~ Detection, is deleted and rewritten as follows:

~~["908.7 Carbon Monoxide Detection.]~~

~~[908.7.1 Groups R-1, R-2, R-3, R-4, I-1, and I-4. Carbon monoxide detection shall be installed on each habitable level of a dwelling unit or a sleeping unit in Groups R-1, R-2, R-3, R-4, I-1, and I-4 occupancies that are equipped with a fuel-burning appliance.]~~

~~[908.7.1.1 If more than one carbon monoxide detector is required, the carbon monoxide detectors shall be interconnected as required in IFC, Chapter 9, Section 907.2.11.3.]~~

~~[908.7.1.2 In new construction, a carbon monoxide detector shall receive its primary power as required under IFC, Chapter 9, Section 907.2.11.4.]~~

~~[908.7.1.3 Upon completion of the installation, a carbon monoxide detector system shall meet the requirements listed in NFPA 720, Installation of Carbon Monoxide Detection and Warning Equipment and UL 2075, Standard for Gas and Vapor Detectors and Sensors.]~~

“915. Carbon Monoxide Detection.

915.1 Where required.

Group I-1, I-2, I-4, and R occupancies located in a building containing a fuel-burning appliance or in a

building that has an attached garage shall be equipped with single-station carbon monoxide alarms. The carbon monoxide alarms shall be listed as complying with UL 2034 or UL 2075 and be installed and maintained in accordance with NFPA 720 and the manufacturer's instructions. An open parking garage, as defined in Chapter 2, or an enclosed parking garage, ventilated in accordance with Section 404 of the International Mechanical Code, shall not be considered an attached garage. A minimum of one carbon monoxide alarm shall be installed on each habitable level.

915.2 Interconnection.

Where more than one carbon monoxide alarm is required to be installed within Group I-1, I-2, I-4, or R occupancies, the carbon monoxide alarm shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms. Physical interconnection of carbon monoxide alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

915.3 Power source.

In new construction, required carbon monoxide alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and shall be equipped with a battery backup. Carbon monoxide alarms with integral strobes that are not equipped with battery backup shall be connected to an emergency electrical system. Carbon monoxide alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

Exceptions.

1. Carbon monoxide alarms are not required to be equipped with battery backup where they are connected to an emergency electrical system.

2. Hard wiring of carbon monoxide alarms in existing areas shall not be required where the alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure. Unless there is an attic, crawl space, or basement available that could provide access for hard wiring, without the removal of interior finishes.

[908.7.2] 915.4 Group E.

A carbon monoxide detection system shall be installed in new buildings that contain Group E occupancies in accordance with [IFC, Chapter 9, Sections 908.7.2.1 through 908.7.2.6.] this section. A carbon monoxide detection system shall be installed in existing buildings that contain Group E occupancies in accordance with IFC, Chapter 11, Section 1103.9.

[908.7.2.1] 915.4.1 Where required.

In Group E occupancies, a carbon monoxide detection system shall be provided where a

fuel-burning appliance, a fuel-burning fireplace, or a fuel-burning forced air furnace is present.

[908.7.2.2] 915.4.2 Detection equipment.

Each carbon monoxide detection system shall be installed in accordance with NFPA 720 and the manufacturer's instructions, and be listed, for single station detectors, as complying with UL 2034, and for system detectors, as complying with UL 2075.

[908.7.2.3 Locations. Each carbon monoxide detection system shall be installed in the locations specified in NFPA 720.]

[908.7.2.4] 915.4.3 Combination detectors.

A combination carbon monoxide/smoke detector is an acceptable alternative to a carbon monoxide detection system if the combination carbon monoxide/smoke detector is listed in accordance with UL 2075 and UL 268.

[908.7.2.5] 915.4.4 Power source.

Each carbon monoxide detection system shall receive primary power from the building wiring if the wiring is served from a commercial source. If primary power is interrupted, each carbon monoxide detection system shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than that required for over-current protection.

[908.7.2.6] 915.4.5 Maintenance.

Each carbon monoxide detection system shall be maintained in accordance with NFPA 720. A carbon monoxide detection system that becomes inoperable or begins to produce end-of-life signals shall be replaced."

[27] IFC Section 908.7.1 is renumbered to 908.7.3.]

Section 6. Section 15A-5-205 is amended to read:

15A-5-205. Amendments and additions to IFC related to means of egress and special processes and uses.

(1) In IFC, Chapter 10, Section 1008.2.1, Illumination level under normal power, delete exemption.

[4] (2) IFC, Chapter 10, Section [1008.1.9.6, Special locking arrangements in Group I-2, is amended as follows:]

[a] The section title "Special locking arrangements in Group I-2." is rewritten to read "Special locking arrangements in Groups I-1 and I-2."

[b] On line three, delete the word "Group", and add the words "Group I-1 and".]

[c] After 1010.1.9.6, Controlled egress doors in groups I-1 and I-2, after existing Item [7] 8 add Item [8] 9 as follows: "[8] 9. The secure area or unit with special egress locks shall be located at the level of exit discharge in Type V construction."

[2] (3) In IFC, Chapter 10, Section [1008.1.9.7] 1010.1.9.7, Delayed egress locks, Item [7] 9 is added

after the existing Item [6] 8 as follows: “[7] 9. The secure area or unit with delayed egress locks shall be located at the level of exit discharge in Type V construction.”

[3] (4) In IFC, Chapter 10, Section ~~[B] 1009.7.2, Stair Treads and Risers, Exception 5~~ [BE] 1011.5.2, Riser height and tread depth, Exception 3 is deleted and replaced with the following: “[5] 3. In Group R-3 occupancies, within dwelling units in Group R-2 occupancies, and in Group U occupancies that are accessory to a Group R-3 occupancy, or accessory to individual dwelling units in Group R-2 occupancies, the maximum riser height shall be 8 inches (203 mm) and the minimum tread depth shall be 9 inches (229 mm). The minimum winder tread depth at the walk line shall be 10 inches (254 mm), and the minimum winder tread depth shall be 6 inches (152 mm). A nosing not less than 0.75 inch (19.1 mm) but not more than 1.25 inches (32 mm) shall be provided on stairways with solid risers where the tread depth is less than 10 inches (254 mm).”

[4] (5) IFC, Chapter 10, Section ~~[1009.12-B] 1009.15~~ [BE] 1011.11, Handrails, is amended to add the following exception: “[6] 5. In occupancies in Group R-3, as applicable in Section ~~[1012] 1014~~ and in occupancies in Group U, which are accessory to an occupancy in Group R-3, as applicable in Section ~~[1012] 1014~~, handrails shall be provided on at least one side of stairways consisting of four or more risers.”

(6) IFC, Chapter 10, Section 1013.5, Internally illuminated exit signs, delete and rewrite the last sentence to read “Exit signs shall be illuminated at all times, including when the building is not fully occupied.”

[5] (7) IFC, Chapter 10, Section ~~[1024] 1025~~, Luminous Egress Path Markings, is deleted.

(8) IFC, Chapter 10, Section 1029.14, Seat stability, delete Exemption 2 and renumber exemptions.

[6] (9) IFC, Chapter 10, Section ~~[1030.2.1] 1031.2.1~~, Security Devices and Egress Locks, is amended to add the following: On line three, after the word “fire”, add the words “and building.”

Section 7. Section 15A-5-205.5 is amended to read:

15A-5-205.5. Amendments to Chapter 11 of IFC.

(1) In IFC, Chapter 11, Section 1103.2 Emergency Responder Radio Coverage in Existing Buildings, is amended as follows: On line two after the title, the following is added: “When required by the fire code official”.

(2) IFC, Chapter 11, Section ~~[1103.5, Sprinkler Systems, is amended to add the following new subsection: “1103.5.3] 1103.5.1~~ Group A-2, is deleted and replaced with the following:

“1103.5.1 Group A-2. An automatic fire sprinkler system shall be provided throughout existing

Group A-2 occupancies where indoor pyrotechnics are used.”

(3) IFC, Chapter 11, Section 1103.6, Standpipes, is deleted.

(4) In IFC, Chapter 11, 1103.7, Fire Alarm Systems, is deleted and rewritten as follows: “1103.7, Fire Alarm Systems. The following shall have an approved fire alarm system installed in accordance with Utah Administrative Code Section R710-4:

1. a building with an occupant load of 300 or more persons that is owned or operated by the state;
2. a building with an occupant load of 300 or more persons that is owned or operated by an institution of higher education; and
3. a building with an occupant load of 50 or more persons that is owned or operated by a school district, private school, or charter school.

Exception: the requirements of this section do not apply to a building designated as an Institutional Group I (as defined in IFC 202) occupancy.”

(5) IFC, Chapter 11, 1103.7.1 Group E, 1103.7.2 Group I-1, 1103.7.3 Group I-2, 1103.7.4 Group I-3, 1103.7.5 Group R-1, 1103.7.5.1 Group R-1 Hotel and Motel Manual Fire Alarm System, 1103.7.5.1.1 Group R-1 Hotel and Motel Automatic Smoke Detection System, 1103.7.5.2 Group R-1 Boarding and Rooming Houses Manual Fire Alarm System, 1103.7.5.2.1 Group R-1 Boarding and Rooming Houses Automatic Smoke Detection System, 1103.7.6 Group R-2 and 1103.7.7 Group R-4, are deleted.

(6) IFC, Chapter 11, Section 1103.9, Carbon Monoxide Alarms, is deleted and rewritten as follows:

“1103.9 Carbon Monoxide Detection.

~~[1103.9.1 Groups R-2, R-3, R-4, I-1, and I-4. Carbon monoxide detection shall be installed on each habitable level of a dwelling unit or a sleeping unit in existing Groups R-2, R-3, R-4, I-1, and I-4 occupancies that are equipped with a fuel-burning appliance.]~~

~~[1103.9.1.1 If more than one carbon monoxide detector is required, they shall be interconnected as required in IFC, Chapter 9, Section 907.2.11.3.]~~

~~[1103.9.1.2 In new construction, a carbon monoxide detector shall receive its primary power as required under IFC, Chapter 9, Section 907.2.11.4.]~~

~~[1103.9.1.3 Upon completion of the installation, the carbon monoxide detector system shall meet the requirements listed in NFPA 720, Installation of Carbon Monoxide Detection and Warning Equipment and UL 2034, Standard for Single and Multiple Carbon Monoxide Alarms.]~~

~~[1103.9.2 Group E. Carbon monoxide detection shall be installed in existing buildings that contain Group E occupancies in accordance with IFC, Chapter 9, Sections 908.7.2.1 through 908.7.2.6.”]~~

Existing Groups E, I-1, I-2, I-4, and R occupancies shall be equipped with carbon monoxide detection in accordance with Section 915.”

Section 8. Section 15A-5-206 is amended to read:

15A-5-206. Amendments and additions to IFC related to hazardous materials, explosives, fireworks, and flammable and combustible liquids.

(1) For IFC, Hazardous Materials - General Provisions, Chapter 50, Table 5003.1.1(1), Maximum Allowable Quantity per Control Area of Hazardous Materials Posing a Physical Hazard, apply footnote d to Consumer Fireworks, Storage, Solid Pounds.

~~[(4)]~~ (2) For IFC, Explosives and Fireworks, IFC, Chapter 56, Section 5601.3, Fireworks, Exception 4 is amended to add the following sentence at the end of the exception: “The use of fireworks for display and retail sales is allowed as set forth in Utah Code, Title 53, Chapter 7, Utah Fire Prevention and Safety Act, Sections 53-7-220 through 53-7-225; Utah Code, Title 11, Chapter 3, County and Municipal Fireworks Act; Utah Administrative Code, R710-2; and the State Fire Code.”

~~[(2)]~~ (3) For IFC, Chapter 57, Flammable and Combustible Liquids:

(a) IFC, Chapter 57, Section 5701.4, Permits, is amended to add the following at the end of the section: “The owner of an underground tank that is out of service for longer than one year shall receive a Temporary Closure Notice from the Department of Environmental Quality, and a copy shall be given to the AHJ.”

(b) IFC, Chapter 57, Section 5706.1, General, is amended to add the following special operation: “8. Sites approved by the AHJ”.

(c) IFC, Chapter 57, Section 5706.2, Storage and dispensing of flammable and combustible liquids on farms and construction sites, is amended to add the following: On line five, after the words “borrow pits”, add the words “and sites approved by the AHJ”.

~~[(3)]~~ (4) For IFC, Chapter 61, Liquefied Petroleum Gas:

(a) IFC, Chapter 61, Section 6101.2, Permits, is amended as follows: On line two, after the word “105.7”, add “and the adopted LP Gas rules”.

(b) IFC, Chapter 61, Section 6103.1, General, is deleted and rewritten as follows: “General. LP Gas equipment shall be installed in accordance with NFPA 54, NFPA 58, the adopted LP Gas rules, and the International Fuel Gas Code, except as otherwise provided in this chapter.”

(c) Chapter 61, Section 6109.12, Location of storage outside of buildings, is amended as follows: In Table 6109.12, Doorway or opening to a building with two or more means of egress, with regard to quantities 720 or less and 721 -- 2,500, the

currently stated “5” is deleted and replaced with “10”.

(d) IFC, Chapter 61, Section 6109.15.1, Automated Cylinder Exchange Stations, is amended as follows: Item # 4 is deleted.

(e) IFC, Chapter 61, Section 6110.1, Temporarily out of service, is amended as follows: On line two, after the word “discontinued”, add the words “for more than one year or longer as allowed by the AHJ.”.

Section 9. Section 15A-5-207 is amended to read:

15A-5-207. Amendments and additions to IFC related to existing buildings and referenced standards.

~~[IFC, Chapter 80, Referenced Standards, is amended as follows:]~~

~~[(1) Under the heading NFPA - National Fire Protection Association, delete the existing “Standard reference number” with regard to the edition and replace it with the following:]~~

~~[(a) “NFPA, Standard 10, Portable Fire Extinguishers, 2010 edition”];~~

~~[(b) “NFPA, Standard 11, Low-, Medium- and High-expansion Foam, 2010 edition”];~~

~~[(c) “NFPA, Standard 12, Carbon Dioxide Extinguishing Systems, 2008 edition”];~~

~~[(d) “NFPA, Standard 12A, Halon 1301 Fire Extinguishing System, 2009 edition”];~~

~~[(e) “NFPA, Standard 13, Installation of Sprinkler Systems, 2010 edition”];~~

~~[(f) “NFPA, Standard 13D, Installation of Sprinkler Systems in One- and Two-family Dwellings and Manufactured Homes, 2010 edition”];~~

~~[(g) “NFPA, Standard 13R, Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height, 2010 edition”];~~

~~[(h) “NFPA, Standard 14, Installation of Standpipe and Hose Systems, 2010 edition”];~~

~~[(i) “NFPA, Standard 17, Dry Chemical Extinguishing Systems, 2009 edition”];~~

~~[(j) “NFPA, Standard 17A, Wet Chemical Extinguishing Systems, 2009 edition”];~~

~~[(k) “NFPA, Standard 20, Installation of Stationary Pumps for Fire Protection, 2010 edition”];~~

~~[(l) “NFPA, Standard 22, Water Tanks for Private Fire Protection, 2008 edition”];~~

~~[(m) “NFPA, Standard 24, Installation of Private Fire Service Mains and Their Appurtenances, 2010 edition”];~~

~~[(n) “NFPA, Standard 72, National Fire Alarm Code, 2010 edition,” all “Referenced in code section numbers” remain the same, except the exclusion of Table 508.1.5;]~~

~~[(o) “NFPA, Standard 92B, Smoke Management Systems in Malls, Atria and Large Spaces, 2009 edition”;~~

~~[(p) “NFPA, Standard 101, Life Safety Code, 2009 edition”;~~

~~[(q) “NFPA, Standard 110, Emergency and Standby Power Systems, 2010 edition”;~~

~~[(r) “NFPA 720, Installation of Carbon Monoxide (CO) Detection and Warning Equipment, 2009 edition”;~~

~~[(s) “NFPA, Standard 750, Water Mist Fire Protection Systems, 2010 edition”;~~ and]

~~[(t) “NFPA, Standard 1123, Fireworks Display, 2010 edition.”]~~

~~[(2) Under the heading UL -- Underwriters Laboratories, Inc., add the following: “UL2034, Standard for Single and Multiple Station Carbon Monoxide Alarms, 1998.”]~~

IFC, Chapter 80, Referenced Standards, is amended as follows:

Under the heading NFPA - National Fire Protection Association, add Standard reference: “NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, 2011 edition.”

Section 10. Section 15A-5-302 is amended to read:

15A-5-302. Amendments and additions to NFPA related to National Fire Alarm Code.

For NFPA 72, National Fire Alarm Code, 2013 edition:

(1) NFPA 72, Chapter 2, Section 2.2, NFPA Publications, is amended to add the following NFPA standard: “NFPA 20, Standard for the Installation of Stationary Pumps for Fire Protection, [2010] 2013 edition.”

(2) NFPA 72, Chapter 10, Section [10.4.1] 10.5.1, System Designer, Subsection [10.4.1.2(2)] 10.5.1.1.2(2), is deleted and rewritten as follows: “National Institute of Certification in Engineering Technologies (NICET) fire alarm level II certified personnel.”

(3) NFPA 72, Chapter 10, Section [10.4.2] 10.5.2, System Installer, Subsection [10.4.2.2(2)] 10.5.2.2(2), is deleted and rewritten as follows: “National Institute of Certification in Engineering Technologies (NICET) fire alarm level II certified personnel.”

(4) NFPA 72, Chapter 10, Section 10.5.3, Inspection, Testing, and Maintenance Personnel, Subsection 10.5.3.1, is deleted and rewritten as follows:

“Service personnel shall be qualified and experienced in the inspection, testing, and maintenance of fire alarm systems. Qualified personnel shall meet the certification requirements stated in rule made by the State Fire Prevention

Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.”

~~[(4)] (5) NFPA 72, Chapter 10, Section [10.10] 10.13, Fire Alarm Signal Deactivation, Subsection [10.10.2] 10.13.2, is amended to add the following sentence: “When approved by the AHJ, the audible notification appliances may be deactivated during the investigation mode to prevent unauthorized reentry into the building.”~~

~~[(5) NFPA 72, Chapter 10, Section 10.15, Protection of Fire Alarm System, is deleted and rewritten as follows: “Automatic smoke detection shall be provided at the location of each fire alarm control unit(s), notification appliance circuit power extenders, and supervising station transmitting equipment to provide notification of fire at the location.”]~~

~~[(6) In NFPA 72, Chapter 10, Section 10.15, a new Exception 1 is added as follows: “When ambient conditions prohibit installation of automatic smoke detection, automatic heat detection shall be permitted.”]~~

~~[(7)] (6) In NFPA 72, Chapter 23, Section 23.8.5.9, Signal Initiation -- Fire Pump, Subsection 23.8.5.9.3 is added as follows: “Automatic fire pumps shall be supervised in accordance with NFPA 20, Standard for the Installation of Stationary Pumps for Fire Protection, and the AHJ.”~~

~~[(8)] (7) NFPA 72, Chapter 26, Section 26.3.4, Indication of Central Station Service, Subsection 26.3.4.7 is amended as follows: On line two, after the word “notified”, insert the words “without delay”.~~

~~[(9) NFPA 72, Chapter 10, Section 10.4.3 Inspection, Testing, and Maintenance Personnel, Subsection 10.4.3.1, is deleted and rewritten as follows: “Service personnel shall be qualified and experienced in the inspection, testing, and maintenance of fire alarm systems. Qualified personnel shall meet the certification requirements stated in Utah Administrative Code, R710-11-3, Fire Alarm System Inspecting and Testing.”]~~

Section 11. Section 15A-5-304 is enacted to read:

15A-5-304. Amendments and additions to NFPA related to Automatic Fire Sprinklers Systems.

(1) NFPA 13, Installation of Sprinkler Systems, 2013 edition.

(a) NFPA 13, Chapter 8, Section 15.22, System Subdivision, is deleted and rewritten as follows:

“8.15.22 System Subdivision - Floor/Zone Control Valves.

Individual floor/zone control valves shall be used at the riser at each floor for connections to piping serving floor areas in excess of 5,000 square feet.”

(b) NFPA 13, Chapter 8, Section 8.17.1.1, Local Waterflow Alarms, is amended by adding a new subsection as follows:

“8.17.1.1.1 Single Tenant Occupancies.

An approved audible/visual waterflow alarm (horn/strobe) shall be provided in the interior of the building, in a normally occupied location, to alert the occupants of the fire sprinkler system activation.”

(c) NFPA 13, Chapter 8, Section 8.17.1.1, Local Waterflow Alarms, is amended by adding a new subsection as follows:

“8.17.1.1.2 Multi-Tenant Occupancies.

An approved audible/visual waterflow alarm (horn/strobe) shall be provided in the interior of each tenant space, in a normally occupied location, to alert the occupants of the fire sprinkler system activation.”

(d) NFPA 13, Chapter 8, Section 8.17.1.1, Local Waterflow Alarms, is amended by adding a new subsection as follows:

“8.17.1.1.3 Exterior Waterflow Alarm.

An approved audible/visual waterflow alarm (horn/strobe) shall be provided on the exterior of the building in a location approved by the AHJ.”

(2) NFPA 13D, Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes, 2013 edition.

(a) NFPA 13D, Chapter 7, Section 7.6, Alarms, is amended by adding a new subsection as follows:

“7.6.1 Exterior Waterflow Alarm.

When an alarm initiating device is included, an approved audible/visual waterflow alarm (horn/strobe) shall be provided on the exterior of the building in a location approved by the AHJ.”

(b) NFPA 13D, Chapter 7, Section 7.6, Alarms, is amended by adding a new subsection as follows:

“7.6.2 Interior Alarm.

When an alarm initiating device is included, an interior fire alarm notification appliance is also required to sound throughout the dwelling. An approved audible sprinkler flow alarm to alert the occupants of the dwelling in a normally occupied location when the flow switch is activated must be provided.”

(3) NFPA, Standard 13R, Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height, 2013 edition.

(a) NFPA 13R, Chapter 6, Section 6.8, Valves, is amended by adding a new subsection as follows:

“6.8.9 Floor/Zone Control Valves.

Individual floor/zone control valves shall be used at the riser at each floor for connections to piping serving floor areas in excess of 5,000 square feet.”

(b) NFPA 13R, Chapter 6, Section 16, Alarms, is amended by adding a new subsection as follows:

“6.16.1.1 Local Waterflow Alarms.

An approved audible/visual waterflow alarm (horn/strobe) shall be provided in the interior of each residential unit/tenant space, in a normally occupied location, to alert the occupants of the fire sprinkler system activation.”

(c) NFPA 13R, Chapter 6, Section 16, Alarms, is amended by adding a new subsection as follows:

“6.16.1.2 Exterior Waterflow Alarm.

An approved audible/visual waterflow alarm (horn/strobe) shall be provided on the exterior of the building in a location approved by the AHJ.”

Section 12. Section 53-7-225 is amended to read:

53-7-225. Times for sale and discharge of fireworks.

(1) This section supercedes any other code provision regarding the sale or discharge of fireworks.

(2) A person may sell class C common state approved explosives in the state as follows:

(a) beginning on June 23 and ending on July 27;

(b) beginning on December 29 and ending on December 31; and

(c) two days before and on the Chinese New Year's eve.

(3) Except as provided in Subsection (5), a county or municipality may not prohibit any person from discharging class C common state approved explosives in the state as follows:

(a) between the hours of 11 a.m. and 11 p.m., except that on July 4 and July 24, the hours are 11 a.m. to midnight:

(i) beginning on July 1 and ending on July 7; and

(ii) beginning on July 21 and ending on July 27;

(b) (i) beginning at 11 a.m. on December 31 and ending at 1 a.m. on the following day; or

(ii) if New Year's eve is on a Sunday and the local governmental jurisdiction determines to celebrate New Year's eve on the prior Saturday, then it is lawful to discharge Class C common state approved explosives on that prior Saturday; and

(c) beginning at 11 a.m. on the Chinese New Year's eve and ending at 1 a.m. on the following day.

(4) A person who violates the time restrictions stated in Subsection (3)(a), (b), or (c) is guilty of an infraction.

(5) A county or municipality may prohibit any person from discharging class C common state approved explosives:

(a) as provided in Subsection 15A-5-202.5(1)(e)(b); or

(b) in accordance with a municipal ordinance prohibiting the negligent discharge of class C common state approved explosives.

Section 13. Effective date.

This bill takes effect on July 1, 2016.

CHAPTER 217**H. B. 331**

Passed March 9, 2016
Approved March 23, 2016
Effective May 10, 2016

EDUCATION PROVISIONS

Chief Sponsor: Steve Eliason
Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill enacts provisions related to school expenditure reporting and funding for educators.

Highlighted Provisions:

This bill:

- ▶ requires the State Board of Education to make recommendations on reporting certain school expenditures;
- ▶ enacts language related to reimbursement for a teacher who receives a certificate;
- ▶ amends the Teacher Salary Supplement Program to include certain certificate teachers; and
- ▶ makes technical and conforming corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-17a-156, as last amended by Laws of Utah 2015, Chapter 122

ENACTS:

53A-1-414, Utah Code Annotated 1953
53A-6-114, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-1-414 is enacted to read:**53A-1-414. School expenditures -- Report.**

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Local education agency" or "LEA" means:

(i) a school district; or

(ii) a charter school.

(c) "Teacher" means an individual employed by an LEA who:

(i) is licensed under Title 53A, Chapter 6, Educator Licensing and Professional Practices Act; and

(ii) has an assignment to teach in a classroom.

(2) (a) On or before October 31, 2017, the board or the board's designee shall make recommendations to the Education Interim Committee regarding the feasibility of reporting certain school level expenditures on the board's website.

(b) The school level expenditures to be reported on the board's website may include the following information:

(i) total teacher salary expenditures;

(ii) capital expenditures;

(iii) overhead and other expenditures not reported under Subsection (2)(b)(i) or (ii);

(iv) the average per pupil funding; and

(v) the percent of teacher turnover from the prior school year.

(3) An LEA shall provide the information described in Subsection (2)(b) as requested by the board or the board's designee.

Section 2. Section 53A-6-114 is enacted to read:**53A-6-114. National Board certification reimbursement.**

(1) As used in this section:

(a) "Eligible educator" means an educator who:

(i) holds a current National Board certification; and

(ii) is employed as an educator by an LEA.

(b) "Local education agency" or "LEA" means:

(i) a school district;

(ii) a charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(2) (a) Subject to legislative appropriations and Subsection (2)(b), the board shall reimburse an eligible educator for the cost to attain or renew a National Board certification.

(b) The board may only issue a reimbursement under Subsection (2)(a) for a certification attained or renewed after July 1, 2016.

(3) The board shall reimburse an eligible educator under this section on a first come, first served basis.

(4) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying procedures and timelines for reimbursing costs under Subsection (2).

Section 3. Section 53A-17a-156 is amended to read:**53A-17a-156. Teacher Salary Supplement Program -- Appeal process.**

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Certificate teacher" means a teacher who holds a National Board certification.

~~(b)~~ (c) "Eligible teacher" means a teacher who:

(i) has an assignment to teach:

(A) a secondary school level mathematics course;

- (B) integrated science in grade seven or eight;
- (C) chemistry;
- (D) physics; or
- (E) computer science;
- (ii) holds the appropriate endorsement for the assigned course;
- (iii) has qualifying educational background; and
- (iv) (A) is a new employee; or
- (B) received a satisfactory rating or above on the teacher's most recent evaluation.

(d) "National Board certification" means the same as that term is defined in Section 53A-6-103.

[(e)] (e) "Qualifying educational background" means:

(i) for a teacher who is assigned a secondary school level mathematics course:

(A) a bachelor's degree major, master's degree, or doctoral degree in mathematics; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements for a bachelor's degree major, master's degree, or doctoral degree in mathematics;

(ii) for a teacher who is assigned a grade seven or eight integrated science course, chemistry course, or physics course, a bachelor's degree major, master's degree, or doctoral degree in:

- (A) integrated science;
- (B) chemistry;
- (C) physics;
- (D) physical science;
- (E) general science; or

(F) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements of those required for a degree listed in Subsections (1)[(e)](e)(ii)(A) through (E);

(iii) for a teacher who is assigned a computer science course, a bachelor's degree major, master's degree, or doctoral degree in:

- (A) computer science;
- (B) computer information technology; or

(C) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements of those required for a degree listed in Subsections (1)[(e)](e)(iii)(A) and (B).

(f) "Title I school" means a school that receives funds under the Elementary and Secondary Education Act of 1965, Title I, 20 U.S.C. Sec. 6301 et seq.

(g) "Title I school certificate teacher" means a certificate teacher who is assigned to teach at a Title I school.

(2) (a) Subject to future budget constraints, the Legislature shall annually appropriate money to the Teacher Salary Supplement Restricted Account established in Section 53A-17a-157 to fund the Teacher Salary Supplement Program.

(b) Money appropriated for the Teacher Salary Supplement Program shall include money for the following employer-paid benefits:

- (i) retirement;
- (ii) workers' compensation;
- (iii) Social Security; and
- (iv) Medicare.

(3) (a) (i) The annual salary supplement for an eligible teacher who is assigned full time to teach one or more courses listed in Subsections (1)[(b)](c)(i)(A) through (E) is \$4,100.

[(b)] (ii) An eligible teacher who has a part-time assignment to teach one or more courses listed in Subsections (1)[(b)](c)(i)(A) through (E) shall receive a partial salary supplement based on the number of hours worked in a course assignment that meets the requirements of Subsections (1)[(b)](c)(ii) and (iii).

(b) The annual salary supplement for a certificate teacher is \$750.

(c) (i) The annual salary supplement for a Title I school certificate teacher is \$1,500.

(ii) A certificate teacher who qualifies for a salary supplement under Subsections (3)(b) and (c) may only receive the salary supplement that is greater in value.

(4) The board shall:

(a) create an online application system for a teacher to apply to receive a salary supplement through the Teacher Salary Supplement Program;

(b) determine if a teacher:

(i) (A) is an eligible teacher; and

[(iii)] (B) has a course assignment as listed in Subsections (1)[(b)](c)(i)(A) through (E); [and]

(ii) is a certificate teacher; or

(iii) is a Title I school certificate teacher;

(c) verify, as needed, the determinations made under Subsection (4)(b) with school district and school administrators[-]; and

(d) certify a list of eligible teachers, certificate teachers, and Title I school certificate teachers.

(5) (a) An eligible teacher, a certificate teacher, or a Title I school certificate teacher shall apply with the board before the conclusion of a school year to receive the salary supplement authorized in this section.

(b) An eligible teacher, a certificate teacher, or a Title I school certificate teacher may apply with the

board, after verification that the requirements under this section have been satisfied, to receive a salary supplement after the completion of:

(i) the school year as an annual award; or

(ii) a semester or trimester as a partial award based on the portion of the school year that has been completed.

(6) (a) The board shall establish and administer an appeal process for a teacher to follow if the teacher applies for the salary supplement and is not certified under Subsection (4).

(b) (i) The appeal process established in Subsection (6)(a) shall allow a teacher to appeal eligibility as an eligible teacher on the basis that the teacher has a degree or degree major with course requirements that are substantially equivalent to the course requirements for a degree listed in:

(A) Subsection (1)[(e)](e)(i)(A);

(B) Subsections (1)[(e)](e)(ii)(A) through (E); or

(C) Subsections (1)[(e)](e)(iii)(A) and (B).

(ii) A teacher shall provide transcripts and other documentation to the board in order for the board to determine if the teacher has a degree or degree major with course requirements that are substantially equivalent to the course requirements for a degree listed in:

(A) Subsection (1)[(e)](e)(i)(A);

(B) Subsections (1)[(e)](e)(ii)(A) through (E); or

(C) Subsections (1)[(e)](e)(iii)(A) and (B).

(c) (i) The appeal process established under Subsection (6)(a) shall allow a teacher to appeal eligibility as a certificate teacher on the basis that the teacher holds a current certificate.

(ii) A teacher shall provide to the board a certificate or other related documentation in order for the board to determine if the teacher holds a current certificate.

(d) (i) The appeal process established under Subsection (6)(a) shall allow a teacher to appeal eligibility as a Title I school certificate teacher on the basis that the teacher:

(A) holds a current certificate; and

(B) is assigned to teach at a Title I school.

(ii) A teacher shall provide to the board:

(A) information described in Subsection (6)(c)(ii); and

(B) verification that the teacher is assigned to teach at a Title I school.

(7) (a) The board shall distribute money from the Teacher Salary Supplement Restricted Account to school districts and charter schools for the Teacher Salary Supplement Program in accordance with the provisions of this section.

(b) The board shall include the employer-paid benefits described under Subsection (2)(b) in the amount of each salary supplement.

(c) The employer-paid benefits described under Subsection (2)(b) are an addition to the salary supplement limits described under Subsection (3).

(8) (a) Money received from the Teacher Salary Supplement Restricted Account shall be used by a school district or charter school to provide a salary supplement equal to the amount specified in Subsection (3) for each eligible teacher, certificate teacher, or Title I school certificate teacher.

(b) The salary supplement is part of the teacher's base pay, subject to the teacher's qualification as an eligible teacher, a certificate teacher, or a Title I school certificate teacher every year, semester, or trimester.

(9) Notwithstanding the provisions of this section, if the appropriation for the program is insufficient to cover the costs associated with salary supplements, the board may limit or reduce the salary supplements.

CHAPTER 218**H. B. 338**

Passed March 10, 2016
 Approved March 23, 2016
 Effective May 10, 2016

JUNETEENTH HOLIDAY OBSERVANCE

Chief Sponsor: Sandra Hollins
 Senate Sponsor: Alvin B. Jackson

LONG TITLE**General Description:**

This bill modifies provisions relating to commemorative periods.

Highlighted Provisions:

This bill:

- ▶ provides that Juneteenth Freedom Day shall be commemorated annually on the third Saturday in June.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-1-401, as last amended by Laws of Utah 2014, Chapters 80, 86, 92, and 123

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-1-401 is amended to read:**63G-1-401. Commemorative periods.**

(1) The following days shall be commemorated annually:

- (a) Bill of Rights Day, on December 15;
- (b) Constitution Day, on September 17;
- (c) Yellow Ribbon Day, on the third Monday in May, in honor of men and women who are serving or have served in the United States Armed Forces around the world in defense of freedom;
- (d) POW/MIA Recognition Day, on the third Friday in September;
- (e) Indigenous People Day, on the Monday immediately preceding Thanksgiving;
- (f) Utah State Flag Day, on March 9;
- (g) Vietnam Veterans Recognition Day, on March 29; ~~and~~
- (h) Utah History Day at the Capitol, on the Friday immediately following the fourth Monday in January, to encourage citizens of the state, including students, to participate in activities that recognize Utah's history[-]; and
- (i) Juneteenth Freedom Day, on the third Saturday in June, in honor of Union General Gordon Granger proclaiming the freedom of all slaves on June 19, 1865, in Galveston, Texas.

(2) The Department of Veterans' and Military Affairs shall coordinate activities, special

programs, and promotional information to heighten public awareness and involvement relating to Subsections (1)(c) and (d).

(3) The month of October shall be commemorated annually as Italian-American Heritage Month.

(4) The month of November shall be commemorated annually as American Indian Heritage Month.

(5) The month of April shall be commemorated annually as Clean Out the Medicine Cabinet Month to:

(a) recognize the urgent need to make Utah homes and neighborhoods safe from prescription medication abuse and poisonings by the proper home storage and disposal of prescription and over-the-counter medications; and

(b) educate citizens about the permanent medication disposal sites in Utah listed on useonlyasdirected.org that allow disposal throughout the year.

(6) The first full week of May shall be commemorated annually as State Water Week to recognize the importance of water conservation, quality, and supply in the state.

(7) The second Friday and Saturday in August shall be commemorated annually as Utah Fallen Heroes Days to:

(a) honor fallen heroes who, during service in the military or public safety, have sacrificed their lives to protect the country and the citizens of the state; and

(b) encourage political subdivisions to acknowledge and honor fallen heroes.

(8) The third full week in August shall be commemorated annually as Drowsy Driving Awareness Week to:

(a) educate the public about the relationship between fatigue and driving performance; and

(b) encourage the Department of Public Safety and the Department of Transportation to recognize and promote educational efforts on the dangers of drowsy driving.

(9) The third full week of June shall be commemorated annually as Workplace Safety Week to heighten public awareness regarding the importance of safety in the workplace.

CHAPTER 219**H. B. 339**

Passed March 10, 2016
Approved March 23, 2016
Effective May 10, 2016

**CHILD WELFARE
SERVICES AMENDMENTS**

Chief Sponsor: Kay J. Christofferson
Senate Sponsor: Peter C. Knudson

LONG TITLE**General Description:**

This bill amends provisions of the Utah Human Services Code in relation to child welfare services.

Highlighted Provisions:

This bill:

- ▶ prohibits the Division of Child and Family Services (the division) from taking certain actions in response to a request for services;
- ▶ prohibits the division from requiring, requesting, or recommending that a parent or guardian give up certain rights in order to obtain certain services;
- ▶ permits the use of out-of-home funds, under certain circumstances, for a child who is not removed from the child's home;
- ▶ permits the use of adoption assistance funds, under certain circumstances, to provide post-adoption services;
- ▶ requires the division to refer an individual to a service provider, under certain circumstances, at the same rate that the service provider charges the division; and
- ▶ establishes a contract requirement for the division's service providers.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

62A-4a-106, as last amended by Laws of Utah 2012, Chapter 290
62A-4a-903, as last amended by Laws of Utah 2009, Chapter 75

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 62A-4a-106 is amended to read:**62A-4a-106. Services provided by division.**

(1) The division may provide, directly or through contract, services that include the following:

- (a) adoptions;
- (b) day care for children;
- (c) out-of-home placements for minors;
- (d) health-related services;
- (e) homemaking services;
- (f) home management services;

(g) protective services for minors;

(h) transportation services; and

(i) domestic violence services.

(2) Services provided directly by the division or through contract shall be monitored by the division to insure compliance with applicable:

(a) state law; and

(b) standards and rules of the division.

(3) When the division provides a service through a private contract, not including a foster parent placement, the division shall post the name of the service provider on the division's website.

(4) Unless a parent or guardian of a child who is adopted from the custody of the division expressly requests otherwise, the division may not, solely on the basis that the parent or guardian contacts the division regarding services or requests services from the division:

(a) remove or facilitate the removal of a child from the child's home;

(b) file a petition for removal of a child from the child's home;

(c) file a petition for a child protective order;

(d) make a supported finding;

(e) seek a substantiated finding;

(f) file a petition alleging that a child is abused, neglected, dependent, or abandoned; or

(g) file a petition for termination of parental rights.

(5) (a) The division shall, to the extent that sufficient funds are available, use out-of-home funds to provide services to a child who is adopted from the custody of the division, without requiring that a parent terminate parental rights, or that a parent or legal guardian of the child transfer or surrender custodial rights, in order to receive the services.

(b) The division may not require, request, or recommend that a parent terminate parental rights, or that a parent or guardian transfer or surrender custodial rights, in order to receive services, using out-of-home funds, for a child who is adopted from the custody of the division.

(6) (a) As used in this Subsection (6), "vendor services" means services that a person provides under contract with the division.

(b) If a parent or guardian of a child who is adopted from the custody of the division requests vendor services from the division, the division shall refer the parent or guardian to a provider of vendor services, at the parent's or guardian's expense, if:

(i) (A) the parent, guardian, or child is not eligible to receive the vendor services from the division; or

(B) the division does not have sufficient funds to provide the services to the parent, guardian, or child;

(ii) the parent, guardian, or child does not have insurance or other funds available to receive the services without the referral; and

(iii) the parent or guardian desires the referral.

(c) If the division awards, extends, or renews a contract with a vendor for vendor services, the division shall include in the contract a requirement that a vendor to whom the division makes a referral under Subsection (6)(b):

(i) provide services to the parent, guardian, or child at a rate that does not exceed the rate that the vendor charges the division for the services; and

(ii) may not charge the parent, guardian, or child any fee that the vendor does not charge the division.

Section 2. Section 62A-4a-903 is amended to read:

62A-4a-903. Eligibility.

(1) The Division of Child and Family Services shall establish, by rule, eligibility criteria for the receipt of adoption assistance and supplemental adoption assistance.

(2) Eligibility determination shall be based upon:

(a) the needs of the child;

(b) the resources available to the child; and

(c) the federal requirements of Section 473, Social Security Act.

(3) The division:

(a) may, to the extent funds are available, use state funds appropriated for adoption assistance to provide post-adoption services to a child who is adopted from the custody of the division; and

(b) unless a parent or guardian of a child who is adopted from the custody of the division expressly requests otherwise, may not require, request, or recommend that a parent terminate parental rights, or that a parent or guardian transfer or surrender custodial rights, in order to receive post-adoption services for the child, regardless of whether funds for the post-adoption services come from funds appropriated for adoption assistance or post-adoption services.

CHAPTER 220**H. B. 343**

Passed March 8, 2016
Approved March 23, 2016
Effective May 10, 2016

**SCHOOL ADMINISTRATION
AMENDMENTS**

Chief Sponsor: Keven J. Stratton
Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill amends provisions regarding school community councils and safe technology use in public schools.

Highlighted Provisions:

This bill:

- ▶ provides that a reading achievement plan is a component of a school improvement plan;
- ▶ requires a school district or charter school to install and configure certain technology consistent with local school board or charter school governing board policies;
- ▶ amends candidate and voter eligibility requirements for school community elections; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 53A-1-606.5, as last amended by Laws of Utah 2013, Chapter 466
- 53A-1-706, as last amended by Laws of Utah 2015, Chapter 150
- 53A-1a-108, as last amended by Laws of Utah 2015, Chapters 150 and 276
- 53A-1a-108.5, as last amended by Laws of Utah 2015, Chapters 276 and 449
- 53A-1a-524, as enacted by Laws of Utah 2015, Chapter 150

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-1-606.5 is amended to read:**53A-1-606.5. State reading goal -- Reading achievement plan.**

(1) As used in this section:

(a) "Competency" means a demonstrable acquisition of a specified knowledge, skill, or ability that has been organized into a hierarchical arrangement leading to higher levels of knowledge, skill, or ability.

(b) "Five domains of reading" include phonological awareness, phonics, fluency, comprehension, and vocabulary.

(2) (a) The Legislature recognizes that:

(i) reading is the most fundamental skill, the gateway to knowledge and lifelong learning;

(ii) there is an ever increasing demand for literacy in the highly technological society we live in;

(iii) students who do not learn to read will be economically and socially disadvantaged;

(iv) reading problems exist in almost every classroom;

(v) almost all reading failure is preventable if reading difficulties are diagnosed and treated early; and

(vi) early identification and treatment of reading difficulties can result in students learning to read by the end of the third grade.

(b) It is therefore the goal of the state to have every student in the state's public education system reading on or above grade level by the end of the third grade.

(3) (a) Each public school containing kindergarten, grade one, grade two, or grade three, including charter schools, shall develop, ~~in conjunction with all other school planning processes and requirements,~~ as a component of the school improvement plan described in Section 53A-1a-108.5, a reading achievement plan for its students in kindergarten through grade three to reach the reading goal set in Subsection (2)(b).

(b) The reading achievement plan shall be:

(i) created under the direction of:

(A) the school community council or a subcommittee or task force created by the school community council, in the case of a school district school; or

(B) the charter school governing board or a subcommittee or task force created by the governing board, in the case of a charter school; and

(ii) implemented by the school's principal, teachers, and other appropriate school staff.

(c) The school principal shall take primary responsibility to provide leadership and allocate resources and support for teachers and students, most particularly for those who are reading below grade level, to achieve the reading goal.

(d) Each reading achievement plan shall include:

(i) an assessment component that:

(A) focuses on ongoing formative assessment to measure the five domains of reading, as appropriate, and inform individualized instructional decisions; and

(B) includes a benchmark assessment of reading approved by the State Board of Education pursuant to Section 53A-1-606.6;

(ii) an intervention component:

(A) that provides adequate and appropriate interventions focused on each student attaining competency in reading skills;

(B) based on best practices identified through proven researched-based methods;

(C) that provides intensive intervention, such as focused instruction in small groups and individualized data driven instruction, implemented at the earliest possible time for students having difficulty in reading;

(D) that provides an opportunity for parents to receive materials and guidance so that they will be able to assist their children in attaining competency in reading skills; and

(E) that, as resources allow, may involve a reading specialist; and

(iii) a reporting component that includes reporting to parents:

(A) at the beginning, in the middle, and at the end of grade one, grade two, and grade three, their child's benchmark assessment results as required by Section 53A-1-606.6; and

(B) at the end of third grade, their child's reading level.

(e) In creating or reviewing a reading achievement plan as required by this section, a school community council, charter school governing board, or a subcommittee or task force of a school community council or charter school governing board may not have access to data that reveal the identity of students.

(4) (a) The school district shall approve each plan developed by schools within the district prior to its implementation and review each plan annually.

(b) The charter school governing board shall approve each plan developed by schools under its control and review each plan annually.

(c) A school district and charter school governing board shall:

(i) monitor the learning gains of a school's students as reported by the benchmark assessments administered pursuant to Section 53A-1-606.6; and

(ii) require a reading achievement plan to be revised, if the school district or charter school governing board determines a school's students are not making adequate learning gains.

Section 2. Section 53A-1-706 is amended to read:

53A-1-706. Purchases of educational technology.

(1) (a) A school district, charter school, or college of education shall comply with Title 63G, Chapter 6a, Utah Procurement Code, in purchasing technology, except as otherwise provided in Subsection (1)(b).

(b) A school district or charter school may purchase computers from, and contract for the repair or refurbishing of computers with, the Utah Correctional Industries without going through the bidding or competition procedures outlined in Title 63G, Chapter 6a, Utah Procurement Code.

(2) A school district, charter school, or college of education may purchase technology through cooperative purchasing contracts administered by the state Division of Purchasing or through its own established purchasing program.

(3) [A] Consistent with policies adopted by a local school board or charter school governing board, a school district or charter school that purchases technology under this section shall ensure that adequate on and off campus Internet filtering is installed and consistently configured to prevent viewing of harmful content by students and school personnel.

Section 3. Section 53A-1a-108 is amended to read:

53A-1a-108. School community councils -- Duties -- Composition -- Election procedures and selection of members.

(1) As used in this section:

(a) "Digital citizenship" means the norms of appropriate, responsible, and healthy behavior related to technology use, including digital literacy, ethics, etiquette, and security.

(b) "District school" means a public school under the control of a local school board elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(c) "Educator" means the same as that term is defined in Section 53A-6-103.

(d) (i) "Parent or guardian member" means a member of a school community council who is a parent or guardian of a student who:

(A) is attending the school; or

(B) will be enrolled at the school during the parent's or guardian's term of office.

(ii) "Parent or guardian member" may not include an educator who is employed at the school.

(e) "School community council" means a council established at a district school in accordance with this section.

(f) "School employee member" means a member of a school community council who is a person employed at the school by the school or school district, including the principal.

(g) "School LAND Trust Program money" means money allocated to a school pursuant to Section 53A-16-101.5.

(2) A district school, in consultation with the district school's local school board, shall establish a school community council at the school building level for the purpose of:

(a) involving parents or guardians of students in decision making at the school level;

(b) improving the education of students;

(c) prudently expending School LAND Trust Program money for the improvement of students' education through collaboration among parents

and guardians, school employees, and the local school board; and

(d) increasing public awareness of:

(i) school trust lands and related land policies;

(ii) management of the State School Fund established in Utah Constitution Article X, Section V; and

(iii) educational excellence.

(3) (a) Except as provided in Subsection (3)(b), a school community council shall:

(i) create a school improvement plan in accordance with Section 53A-1a-108.5;

(ii) create the School LAND Trust Program in accordance with Section 53A-16-101.5;

~~[(iii) assist in the creation and implementation of a professional development plan; and]~~

~~[(iv)]~~ (iii) advise and make recommendations to school and school district administrators and the local school board regarding:

(A) the school and its programs;

(B) school district programs;

(C) a child access routing plan in accordance with Section 53A-3-402;

(D) safe technology utilization and digital citizenship; and

(E) other issues relating to the community environment for students;

~~[(v)]~~ (iv) provide for education and awareness on safe technology utilization and digital citizenship that empowers:

(A) a student to make smart media and online choices; and

(B) a parent or guardian to know how to discuss safe technology use with the parent's or guardian's child; and

~~[(vi)]~~ (v) partner with the school's principal and other administrators to ensure that adequate on and off campus Internet filtering is installed and consistently configured to prevent viewing of harmful content by students and school personnel, in accordance with local school board policy and Subsection 53A-1-706(3).

(b) To fulfill the school community council's duties described in ~~[Subsection]~~ Subsections (3)(a)~~[(v)]~~(iv) and ~~[(vi)]~~ (v), a school community council may:

(i) partner with one or more non-profit organizations; ~~and~~ or

(ii) create a subcommittee.

~~[(e) In addition to the duties specified in Subsection (3)(a), a school community council for an elementary school shall create a reading achievement plan in accordance with Section 53A-1-606.5.]~~

~~[(d)]~~ (c) A school or school district administrator may not prohibit or discourage a school community council from discussing issues, or offering advice or recommendations, regarding the school and its programs, school district programs, the curriculum, or the community environment for students.

(4) (a) Each school community council shall consist of school employee members and parent or guardian members in accordance with this section.

(b) Except as provided in Subsection (4)(c) or (d):

(i) each school community council for a high school shall have six parent or guardian members and four school employee members, including the principal; and

(ii) each school community council for a school other than a high school shall have four parent or guardian members and two school employee members, including the principal.

(c) A school community council may determine the size of the school community council by a majority vote of a quorum of the school community council provided that:

(i) the membership includes two or more parent or guardian members than the number of school employee members; and

(ii) there are at least two school employee members on the school community council.

(d) (i) The number of parent or guardian members of a school community council who are not educators employed by the school district shall exceed the number of parent or guardian members who are educators employed by the school district.

(ii) If, after an election, the number of parent or guardian members who are not educators employed by the school district does not exceed the number of parent or guardian members who are educators employed by the school district, the parent or guardian members of the school community council shall appoint one or more parent or guardian members to the school community council so that the number of parent or guardian members who are not educators employed by the school district exceeds the number of parent or guardian members who are educators employed by the school district.

(5) (a) Except as provided in Subsection (5)(f), a school employee member, other than the principal, shall be elected by secret ballot by a majority vote of the school employees and serve a two-year term. The principal shall serve as an ex officio member with full voting privileges.

(b) (i) Except as provided in Subsection (5)(f), a parent or guardian member shall be elected by secret ballot at an election held at the school by a majority vote of those voting at the election and serve a two-year term.

(ii) (A) ~~[Only parents or guardians of students]~~ Except as provided in Subsection (5)(b)(ii)(B), only a parent or guardian of a student attending the school may vote ~~[at]~~ in, or run as a candidate in, the election under Subsection (5)(b)(i).

(B) If an election is held in the spring, a parent or guardian of a student who will be attending the

school the following school year may vote in, and run as a candidate in, the election under Subsection (5)(b)(i).

(iii) Any parent or guardian of a student who meets the qualifications of this section may file or declare the parent's or guardian's candidacy for election to a school community council.

(iv) (A) Subject to Subsections (5)(b)(iv)(B) and (5)(b)(iv)(C), a timeline for the election of parent or guardian members of a school community council shall be established by a local school board for the schools within the school district.

(B) An election for the parent or guardian members of a school community council shall be held near the beginning of the school year or held in the spring and completed before the last week of school.

(C) Each school shall establish a time period for the election of parent or guardian members of a school community council under Subsection (5)(b)(iv)(B) that is consistent for at least a four-year period.

(c) (i) ~~[The] At least 10 days before the date that voting commences for the elections held under Subsections (5)(a) and (5)(b), the principal of the school, or the principal's designee, shall provide notice to each school employee, parent, or guardian, of the [available community council positions to school employees, parents, and guardians at least 10 days before the date that voting commences for the elections held under Subsections (5)(a) and (5)(b)] opportunity to vote in, and run as a candidate in, an election under this Subsection (5).~~

(ii) The notice shall include:

(A) the dates and times of the elections;

(B) a list of council positions that are up for election; and

(C) instructions for becoming a candidate for a community council position.

(iii) The principal of the school, or the principal's designee, shall oversee the elections held under Subsections (5)(a) and (5)(b).

(iv) Ballots cast in an election held under Subsection (5)(b) shall be deposited in a secure ballot box.

(d) Results of the elections held under Subsections (5)(a) and (5)(b) shall be made available to the public upon request.

(e) (i) If a parent or guardian position on a school community council remains unfilled after an election is held, the other parent or guardian members of the council shall appoint a parent or guardian who meets the qualifications of this section to fill the position.

(ii) If a school employee position on a school community council remains unfilled after an election is held, the other school employee members

of the council shall appoint a school employee to fill the position.

(iii) A member appointed to a school community council under Subsection (5)(e)(i) or (ii) shall serve a two-year term.

(f) (i) If the number of candidates who file for a parent or guardian position or school employee position on a school community council is less than or equal to the number of open positions, an election is not required.

(ii) If an election is not held pursuant to Subsection (5)(f)(i) and a parent or guardian position remains unfilled, the other parent or guardian members of the council shall appoint a parent or guardian who meets the qualifications of this section to fill the position.

(iii) If an election is not held pursuant to Subsection (5)(f)(i) and a school employee position remains unfilled, the other school employee members of the council shall appoint a school employee who meets the qualifications of this section to fill the position.

(g) The principal shall enter the names of the council members on the School LAND Trust website on or before October 20 of each year, pursuant to Section 53A-1a-108.1.

(h) Terms shall be staggered so that approximately half of the council members stand for election each year.

(i) A school community council member may serve successive terms provided the member continues to meet the definition of a parent or guardian member or school employee member as specified in Subsection (1).

(j) Each school community council shall elect:

(i) a chair from its parent or guardian members; and

(ii) a vice chair from either its parent or guardian members or school employee members, excluding the principal.

(6) (a) A school community council may create subcommittees or task forces to:

(i) advise or make recommendations to the council; or

(ii) develop all or part of a plan listed in Subsection (3).

(b) Any plan or part of a plan developed by a subcommittee or task force shall be subject to the approval of the school community council.

(c) A school community council may appoint individuals who are not council members to serve on a subcommittee or task force, including parents or guardians, school employees, or other community members.

(7) (a) A majority of the members of a school community council is a quorum for the transaction of business.

(b) The action of a majority of the members of a quorum is the action of the school community council.

(8) A local school board shall provide training for a school community council each year, including training:

(a) for the chair and vice chair about their responsibilities;

(b) on resources available on the School LAND Trust website; and

(c) on the following statutes governing school community councils:

- (i) Section 53A-1a-108;
- (ii) Section 53A-1a-108.1;
- (iii) Section 53A-1a-108.5; and
- (iv) Section 53A-16-101.5.

Section 4. Section 53A-1a-108.5 is amended to read:

53A-1a-108.5. School improvement plan.

(1) (a) A school community council established under Section 53A-1a-108 shall annually evaluate, with the school's principal, the school's statewide achievement test results, reading achievement plan, class size reduction needs, and technology needs, [~~and professional development plan,~~] and use the evaluations in developing a school improvement plan to improve teaching and learning conditions.

(b) In evaluating statewide achievement test results and developing a school improvement plan, a school community council may not have access to data that reveal the identity of students.

(2) A school community council shall develop a school improvement plan that:

(a) identifies the school's most critical academic needs;

(b) recommends a course of action to meet the identified needs;

(c) lists any programs, practices, materials, or equipment that the school will need to implement its action plan to have a direct impact on the instruction of students and result in measurable increased student performance; [~~and~~]

(d) describes how the school intends to enhance or improve academic achievement, including how financial resources available to the school, such as School LAND Trust Program money received under Section 53A-16-101.5 and state and federal grants, will be used to enhance or improve academic achievement[-]; and

(e) if the school community council represents a school that educates students in kindergarten, grade 1, grade 2, or grade 3, includes a reading achievement plan as described in Section 53A-1-606.5.

(3) Although a school improvement plan focuses on the school's most critical academic needs, the

school improvement plan may include other actions to enhance or improve academic achievement and the community environment for students.

(4) The school principal shall make available to the school community council the school budget and other data needed to develop the school improvement plan.

(5) The school improvement plan is subject to the approval of the local school board of the school district in which the school is located.

(6) A school community council may develop a multiyear school improvement plan, but the multiyear school improvement plan must be presented to and approved annually by the local school board.

(7) Each school shall:

(a) implement the school improvement plan as developed by the school community council and approved by the local school board;

(b) provide ongoing support for the council's school improvement plan; and

(c) meet local school board reporting requirements regarding performance and accountability.

(8) The school community council of a low performing school, as defined in Section 53A-1-1202, shall develop a school improvement plan that is consistent with the school turnaround plan developed by the school turnaround committee under Chapter 1, Part 12, School Turnaround and Leadership Development Act.

Section 5. Section 53A-1a-524 is amended to read:

53A-1a-524. Safe technology utilization and digital citizenship.

A charter school governing board, or a council formed by a charter school governing board to prepare a plan for the use of School LAND Trust Program money under Section 53A-16-101.5:

(1) shall provide for education and awareness on safe technology utilization and digital citizenship that empowers:

(a) a student to make smart media and online choices; and

(b) a parent or guardian to know how to discuss safe technology use with the parent's or guardian's child;

(2) shall partner with the school's principal and other administrators to ensure that adequate on and off campus Internet filtering is installed and consistently configured to prevent viewing of harmful content by students and school personnel, in accordance with charter school governing board policy and Subsection 53A-1-706(3); and

(3) may partner with one or more non-profit organizations to fulfill the duties described in Subsections (1) and (2).

CHAPTER 221**H. B. 358**

Passed March 10, 2016
 Approved March 23, 2016
 Effective May 10, 2016

STUDENT PRIVACY AMENDMENTS

Chief Sponsor: Jacob L. Anderegg
 Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill enacts the Student Data Protection Act and amends provisions related to student privacy.

Highlighted Provisions:

This bill:

- ▶ enacts the Student Data Protection Act;
- ▶ defines terms;
- ▶ provides for student data protection governance at the state and local levels;
- ▶ enacts requirements for data protection and maintenance by state and local education entities and third-party contractors;
- ▶ enacts penalties;
- ▶ gives rulemaking authority;
- ▶ amends provisions related to student privacy;
- ▶ enacts a requirement for notice given to a parent or guardian before a student is required to take a certain type of survey; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

This bill appropriates:

- ▶ to the State Board of Education -- State Office of Education -- Assessment and Accountability, as a one-time appropriation:
 - from the Education Fund, \$800,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 53A-1-603, as last amended by Laws of Utah 2015, Chapters 258, 415, and 444
 53A-1-708, as last amended by Laws of Utah 2015, Chapter 415
 53A-11a-203, as last amended by Laws of Utah 2015, Chapter 253
 53A-13-301, as last amended by Laws of Utah 2015, Chapter 117
 53A-13-302, as last amended by Laws of Utah 2014, Chapter 214

ENACTS:

- 53A-1-1401, Utah Code Annotated 1953
 53A-1-1402, Utah Code Annotated 1953
 53A-1-1403, Utah Code Annotated 1953
 53A-1-1404, Utah Code Annotated 1953
 53A-1-1405, Utah Code Annotated 1953
 53A-1-1406, Utah Code Annotated 1953
 53A-1-1407, Utah Code Annotated 1953
 53A-1-1408, Utah Code Annotated 1953
 53A-1-1409, Utah Code Annotated 1953
 53A-1-1410, Utah Code Annotated 1953
 53A-1-1411, Utah Code Annotated 1953

REPEALS:

53A-1-711, as enacted by Laws of Utah 2015, Chapter 384

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-1-603 is amended to read:**53A-1-603. Duties of State Board of Education.**

(1) The State Board of Education shall:

(a) require each school district and charter school to implement the Utah Performance Assessment System for Students, hereafter referred to as U-PASS;

(b) require the state superintendent of public instruction to submit and recommend criterion-referenced achievement tests or online computer adaptive tests, college readiness assessments, an online writing assessment for grades 5 and 8, and a test for students in grade 3 to measure reading grade level to the board for approval and adoption and distribution to each school district and charter school by the state superintendent;

(c) develop an assessment method to uniformly measure statewide performance, school district performance, and school performance of students in grades 3 through 12 in mastering basic academic subjects; and

(d) provide for the state to participate in the National Assessment of Educational Progress state-by-state comparison testing program.

(2) Except as provided in Subsection (3) and Subsection 53A-1-611(3), under U-PASS, the State Board of Education shall annually require each school district and charter school, as applicable, to administer:

(a) as determined by the State Board of Education, statewide criterion-referenced tests or online computer adaptive tests in grades 3 through 12 and courses in basic academic subjects of the core standards for Utah public schools;

(b) an online writing assessment to all students in grades 5 and 8;

(c) college readiness assessments as detailed in Section 53A-1-611; and

(d) a test to all students in grade 3 to measure reading grade level.

(3) Beginning with the 2014-15 school year, the State Board of Education shall annually require each school district and charter school, as applicable, to administer a computer adaptive assessment system that is:

(a) adopted by the State Board of Education; and

(b) aligned to the core standards for Utah public schools.

(4) The board shall adopt rules for the conduct and administration of U-PASS to include the following:

(a) the computation of student performance based on information that is disaggregated with respect to race, ethnicity, gender, limited English proficiency, and those students who qualify for free or reduced price school lunch;

(b) security features to maintain the integrity of the system, which could include statewide uniform testing dates, multiple test forms, and test administration protocols;

(c) the exemption of student test scores, by exemption category, such as limited English proficiency, mobility, and students with disabilities, with the percent or number of student test scores exempted being publically reported at a district level;

(d) compiling of criterion-referenced, online computer adaptive, and online writing test scores and test score averages at the classroom level to allow for:

(i) an annual review of those scores by parents of students and professional and other appropriate staff at the classroom level at the earliest point in time;

(ii) the assessment of year-to-year student progress in specific classes, courses, and subjects; and

(iii) a teacher to review, prior to the beginning of a new school year, test scores from the previous school year of students who have been assigned to the teacher's class for the new school year;

(e) allowing a school district or charter school to have its tests administered and scored electronically to accelerate the review of test scores and their usefulness to parents and educators under Subsection (4)(d), without violating the integrity of U-PASS; and

(f) providing that scores on the tests and assessments required under Subsection (2)(a) and Subsection (3) may not be considered in determining:

(i) a student's academic grade for the appropriate course; or

(ii) whether a student may advance to the next grade level.

(5) (a) A school district or charter school, as applicable, is encouraged to administer an online writing assessment to students in grade 11.

(b) The State Board of Education may award a grant to a school district or charter school to pay for an online writing assessment and instruction program that may be used to assess the writing of students in grade 11.

(6) The State Board of Education shall make rules:

(a) establishing procedures for applying for and awarding money for computer adaptive tests;

(b) specifying how money for computer adaptive tests shall be allocated among school districts and

charter schools that qualify to receive the money; and

(c) requiring reporting of the expenditure of money awarded for computer adaptive testing and evidence that the money was used to implement computer adaptive testing.

(7) The State Board of Education shall ~~assure~~ ensure that computer adaptive tests are administered in compliance with the requirements of Chapter 1, Part 14, Student Data Protection Act, and Chapter 13, Part 3, Utah Family Educational Rights and Privacy Act.

(8) (a) The State Board of Education shall establish a committee consisting of 15 parents of Utah public education students to review all computer adaptive test questions.

(b) The committee established in Subsection (8)(a) shall include the following parent members:

(i) five members appointed by the chair of the State Board of Education;

(ii) five members appointed by the speaker of the House of Representatives; and

(iii) five members appointed by the president of the Senate.

(c) The State Board of Education shall provide staff support to the parent committee.

(d) The term of office of each member appointed in Subsection (8)(b) is four years.

(e) The chair of the State Board of Education, the speaker of the House of Representatives, and the president of the Senate shall adjust the length of terms to stagger the terms of committee members so that approximately 1/2 of the committee members are appointed every two years.

(f) No member may receive compensation or benefits for the member's service on the committee.

(9) (a) School districts and charter schools shall require each licensed employee to complete two hours of professional development on youth suicide prevention within their license cycle in accordance with Section 53A-6-104.

(b) The State Board of Education shall develop or adopt sample materials to be used by a school district or charter school for professional development training on youth suicide prevention.

(c) The training required by this Subsection (9) shall be incorporated into professional development training required by rule in accordance with Section 53A-6-104.

Section 2. Section 53A-1-708 is amended to read:

53A-1-708. Grants for online delivery of U-PASS tests.

(1) As used in this section:

(a) "Adaptive tests" means tests administered during the school year using an online adaptive test system.

(b) “Core standards for Utah public schools” means the standards developed and adopted by the State Board of Education that define the knowledge and skills students should have in kindergarten through grade 12 to enable students to be prepared for college or workforce training.

(c) “Summative tests” means tests administered near the end of a course to assess overall achievement of course goals.

(d) “Uniform online summative test system” means a single system for the online delivery of summative tests required under U-PASS that:

(i) is coordinated by the Utah State Office of Education;

(ii) ensures the reliability and security of U-PASS tests; and

(iii) is selected through collaboration between Utah State Office of Education and school district representatives with expertise in technology, assessment, and administration.

(e) “U-PASS” means the Utah Performance Assessment System for Students.

(2) The State Board of Education may award grants to school districts and charter schools to implement one or both of the following:

(a) a uniform online summative test system to enable parents of students and school staff to review U-PASS test scores by the end of the school year; or

(b) an online adaptive test system to enable parents of students and school staff to measure and monitor a student’s academic progress during a school year.

(3) (a) Grant money may be used to pay for any of the following, provided it is directly related to implementing a uniform online summative test system, an online adaptive test system, or both:

(i) computer equipment and peripherals, including electronic data capture devices designed for electronic test administration and scoring;

(ii) software;

(iii) networking equipment;

(iv) upgrades of existing equipment or software;

(v) upgrades of existing physical plant facilities;

(vi) personnel to provide technical support or coordination and management; and

(vii) teacher professional development.

(b) Equipment purchased in compliance with Subsection (3)(a), when not in use for the online delivery of summative tests or adaptive tests required under U-PASS may be used for other purposes.

(4) The State Board of Education shall make rules:

(a) establishing procedures for applying for and awarding grants;

(b) specifying how grant money shall be allocated among school districts and charter schools;

(c) requiring reporting of grant money expenditures and evidence showing that the grant money has been used to implement a uniform online summative test system, an online adaptive test system, or both;

(d) establishing technology standards for an online adaptive testing system;

(e) requiring a school district or charter school that receives a grant under this section to implement, in compliance with Chapter 1, Part 14, Student Data Protection Act, and Chapter 13, Part 3, Utah Family Educational Rights and Privacy Act, an online adaptive test system by the 2014-15 school year that:

(i) meets the technology standards established under Subsection (4)(d); and

(ii) is aligned with the core standards for Utah public schools;

(f) requiring a school district or charter school to provide matching funds to implement a uniform online summative test system, an online adaptive test system, or both in an amount that is greater than or equal to the amount of a grant received under this section; and

(g) ~~assuring~~ ensuring that student identifiable data is not released to any person, except as provided by Chapter 1, Part 14, Student Data Protection Act, Section 53A-13-301, and rules of the State Board of Education adopted under that section.

(5) If a school district or charter school uses grant money for purposes other than those stated in Subsection (3), the school district or charter school is liable for reimbursing the State Board of Education in the amount of the grant money improperly used.

(6) A school district or charter school may not use federal funds to provide the matching funds required to receive a grant under this section.

(7) A school district may not impose a tax rate above the certified tax rate for the purpose of generating revenue to provide matching funds for a grant under this section.

Section 3. Section 53A-1-1401 is enacted to read:

Part 14. Student Data Protection Act
53A-1-1401. Title.

This part is known as the “Student Data Protection Act.”

Section 4. Section 53A-1-1402 is enacted to read:

53A-1-1402. Definitions.

As used in this part:

(1) “Adult student” means a student who:

- (a) is at least 18 years old;
- (b) is an emancipated student; or
- (c) qualifies under the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, 42 U.S.C. Sec. 11431 et seq.
- (2) “Aggregate data” means data that:
- (a) are totaled and reported at the group, cohort, school, school district, region, or state level with at least 10 individuals in the level;
- (b) do not reveal personally identifiable student data; and
- (c) are collected in accordance with board rule.
- (3) (a) “Biometric identifier” means a:
- (i) retina or iris scan;
- (ii) fingerprint;
- (iii) human biological sample used for valid scientific testing or screening; or
- (iv) scan of hand or face geometry.
- (b) “Biometric identifier” does not include:
- (i) a writing sample;
- (ii) a written signature;
- (iii) a voiceprint;
- (iv) a photograph;
- (v) demographic data; or
- (vi) a physical description, such as height, weight, hair color, or eye color.
- (4) “Biometric information” means information, regardless of how the information is collected, converted, stored, or shared:
- (a) based on an individual’s biometric identifier; and
- (b) used to identify the individual.
- (5) “Board” means the State Board of Education.
- (6) “Cumulative disciplinary record” means disciplinary student data that is part of a cumulative record.
- (7) “Cumulative record” means physical or electronic information that the education entity intends:
- (a) to store in a centralized location for 12 months or more; and
- (b) for the information to follow the student through the public education system.
- (8) “Data authorization” means written authorization to collect or share a student’s student data, from:
- (a) the student’s parent, if the student is not an adult student; or
- (b) the student, if the student is an adult student.

- (9) “Data governance plan” means an education entity’s comprehensive plan for managing education data that:
- (a) incorporates reasonable data industry best practices to maintain and protect student data and other education-related data;
- (b) provides for necessary technical assistance, training, support, and auditing;
- (c) describes the process for sharing student data between an education entity and another person;
- (d) describes the process for an adult student or parent to request that data be expunged; and
- (e) is published annually and available on the education entity’s website.
- (10) “Education entity” means:
- (a) the board;
- (b) a local school board;
- (c) a charter school governing board;
- (d) a school district;
- (e) a charter school;
- (f) the Utah Schools for the Deaf and the Blind; or
- (g) for purposes of implementing the School Readiness Initiative described in Chapter 1b, Part 1, School Readiness Initiative Act, the School Readiness Board created in Section 53A-1b-103.
- (11) “Expunge” means to seal or permanently delete data, as described in board rule made under Section 53A-1-1407.
- (12) “External application” means a general audience:
- (a) application;
- (b) piece of software;
- (c) website; or
- (d) service.
- (13) “Individualized education program” or “IEP” means a written statement:
- (a) for a student with a disability; and
- (b) that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.
- (14) “Internal application” means an Internet website, online service, online application, mobile application, or software, if the Internet website, online service, online application, mobile application, or software is subject to a third-party contractor’s contract with an education entity.
- (15) “Local education agency” or “LEA” means:
- (a) a school district;
- (b) a charter school;
- (c) the Utah Schools for the Deaf and the Blind; or
- (d) for purposes of implementing the School Readiness Initiative described in Chapter 1b, Part

1, School Readiness Initiative Act, the School Readiness Board created in Section 53A-1b-103.

(16) “Metadata dictionary” means a complete list of an education entity’s student data elements and other education-related data elements, that:

(a) defines and discloses all data collected, used, stored, and shared by the education entity, including:

(i) who uses a data element within an education entity and how a data element is used within an education entity;

(ii) if a data element is shared externally, who uses the data element externally and how a data element is shared externally;

(iii) restrictions on the use of a data element; and

(iv) parent and student rights to a data element;

(b) designates student data elements as:

(i) necessary student data; or

(ii) optional student data;

(c) designates student data elements as required by state or federal law; and

(d) without disclosing student data or security information, is displayed on the education entity’s website.

(17) “Necessary student data” means data required by state statute or federal law to conduct the regular activities of an education entity, including:

(a) name;

(b) date of birth;

(c) sex;

(d) parent contact information;

(e) custodial parent information;

(f) contact information;

(g) a student identification number;

(h) local, state, and national assessment results or an exception from taking a local, state, or national assessment;

(i) courses taken and completed, credits earned, and other transcript information;

(j) course grades and grade point average;

(k) grade level and expected graduation date or graduation cohort;

(l) degree, diploma, credential attainment, and other school exit information;

(m) attendance and mobility;

(n) drop-out data;

(o) immunization record or an exception from an immunization record;

(p) race;

(q) ethnicity;

(r) tribal affiliation;

(s) remediation efforts;

(t) an exception from a vision screening required under Section 53A-11-203 or information collected from a vision screening required under Section 53A-11-203;

(u) information related to the Utah Registry of Autism and Developmental Disabilities, described in Section 26-7-4;

(v) student injury information;

(w) a cumulative disciplinary record created and maintained as described in Section 53A-1-1407;

(x) juvenile delinquency records;

(y) English language learner status; and

(z) child find and special education evaluation data related to initiation of an IEP.

(18) (a) “Optional student data” means student data that is not:

(i) necessary student data; or

(ii) student data that an education entity may not collect under Section 53A-1-1406.

(b) “Optional student data” includes:

(i) information that is:

(A) related to an IEP or needed to provide special needs services; and

(B) not necessary student data;

(ii) biometric information; and

(iii) information that is not necessary student data and that is required for a student to participate in a federal or other program.

(19) “Parent” means a student’s parent or legal guardian.

(20) (a) “Personally identifiable student data” means student data that identifies or is used by the holder to identify a student.

(b) “Personally identifiable student data” includes:

(i) a student’s first and last name;

(ii) the first and last name of a student’s family member;

(iii) a student’s or a student’s family’s home or physical address;

(iv) a student’s email address or other online contact information;

(v) a student’s telephone number;

(vi) a student’s social security number;

(vii) a student’s biometric identifier;

(viii) a student’s health or disability data;

(ix) a student’s education entity student identification number;

(x) a student's social media user name and password or alias;

(xi) if associated with personally identifiable student data, the student's persistent identifier, including:

(A) a customer number held in a cookie; or

(B) a processor serial number;

(xii) a combination of a student's last name or photograph with other information that together permits a person to contact the student online;

(xiii) information about a student or a student's family that a person collects online and combines with other personally identifiable student data to identify the student; and

(xiv) other information that is linked to a specific student that would allow a reasonable person in the school community, who does not have first-hand knowledge of the student, to identify the student with reasonable certainty.

(21) "School official" means an employee or agent of an education entity, if the education entity has authorized the employee or agent to request or receive student data on behalf of the education entity.

(22) (a) "Student data" means information about a student at the individual student level.

(b) "Student data" does not include aggregate or de-identified data.

(23) "Student data disclosure statement" means a student data disclosure statement described in Section 53A-1-1406.

(24) "Student data manager" means:

(a) the state student data officer; or

(b) an individual designated as a student data manager by an education entity under Section 53A-1-1404.

(25) "Targeted advertising" means advertising to a student on an internal or external application, if the advertisement is based on information or student data the third-party contractor collected or received under the third-party contractor's contract with an education entity.

(26) "Third-party contractor" means a person who:

(a) is not an education entity; and

(b) pursuant to a contract with an education entity, collects or receives student data in order to provide a product or service, as described in the contract, if the product or service is not related to school photography, yearbooks, graduation announcements, or a similar product or service.

Section 5. Section 53A-1-1403 is enacted to read:

53A-1-1403. State student data protection governance.

(1) (a) An education entity or a third-party contractor who collects, uses, stores, shares, or deletes student data shall protect student data as described in this part.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to administer this part, including student data protection standards for public education employees, student aides, and volunteers.

(2) The board shall oversee the preparation and maintenance of:

(a) a statewide data governance plan; and

(b) a state-level metadata dictionary.

(3) As described in this Subsection (3), the board shall establish advisory groups to oversee student data protection in the state and make recommendations to the board regarding student data protection.

(a) The board shall establish a student data policy advisory group:

(i) composed of members from:

(A) the Legislature;

(B) the board and board employees; and

(C) one or more LEAs;

(ii) to discuss and make recommendations to the board regarding:

(A) enacted or proposed legislation; and

(B) state and local student data protection policies across the state;

(iii) that reviews and monitors the state student data governance plan; and

(iv) that performs other tasks related to student data protection as designated by the board.

(b) The board shall establish a student data governance advisory group:

(i) composed of the state student data officer and other board employees; and

(ii) that performs duties related to state and local student data protection, including:

(A) overseeing data collection and usage by board program offices; and

(B) preparing and maintaining the board's student data governance plan under the direction of the student data policy advisory group.

(c) The board shall establish a student data users advisory group:

(i) composed of members who use student data at the local level; and

(ii) that provides feedback and suggestions on the practicality of actions proposed by the student data policy advisory group and the student data governance advisory group.

(4) (a) The board shall designate a state student data officer.

(b) The state student data officer shall:

(i) act as the primary point of contact for state student data protection administration in assisting the board to administer this part;

(ii) ensure compliance with student privacy laws throughout the public education system, including:

(A) providing training and support to applicable board and LEA employees; and

(B) producing resource materials, model plans, and model forms for local student data protection governance, including a model student data disclosure statement;

(iii) investigate complaints of alleged violations of this part;

(iv) report violations of this part to:

(A) the board;

(B) an applicable education entity; and

(C) the student data policy advisory group; and

(v) act as a state level student data manager.

(5) The board shall designate:

(a) at least one support manager to assist the state student data officer; and

(b) a student data protection auditor to assist the state student data officer.

(6) The board shall establish an external research review process for a request for data for the purpose of external research or evaluation.

Section 6. Section 53A-1-1404 is enacted to read:

53A-1-1404. Local student data protection governance.

(1) An LEA shall adopt policies to protect student data in accordance with this part and board rule, taking into account the specific needs and priorities of the LEA.

(2) (a) An LEA shall designate an individual to act as a student data manager to fulfill the responsibilities of a student data manager described in Section 53A-1-1409.

(b) If possible, an LEA shall designate the LEA's records officer as defined in Section 63G-2-103, as the student data manager.

(3) An LEA shall create and maintain an LEA:

(a) data governance plan; and

(b) metadata dictionary.

(4) An LEA shall establish an external research review process for a request for data for the purpose of external research or evaluation.

Section 7. Section 53A-1-1405 is enacted to read:

53A-1-1405. Student data ownership -- Notification in case of breach.

(1) (a) A student owns the student's personally identifiable student data.

(b) A student may download, export, transfer, save, or maintain the student's student data, including a document.

(2) If there is a release of a student's personally identifiable student data due to a security breach, an education entity shall notify:

(a) the student, if the student is an adult student; or

(b) the student's parent or legal guardian, if the student is not an adult student.

Section 8. Section 53A-1-1406 is enacted to read:

53A-1-1406. Collecting student data -- Prohibition -- Student data disclosure statement -- Authorization.

(1) An education entity shall comply with this section beginning with the 2017-18 school year.

(2) An education entity may not collect a student's:

(a) social security number; or

(b) except as required in Section 78A-6-112, criminal record.

(3) An education entity that collects student data into a cumulative record shall, in accordance with this section, prepare and distribute to parents and students a student data disclosure statement that:

(a) is a prominent, stand-alone document;

(b) is annually updated and published on the education entity's website;

(c) states the necessary and optional student data the education entity collects;

(d) states that the education entity will not collect the student data described in Subsection (2);

(e) states the student data described in Section 53A-1-1409 that the education entity may not share without a data authorization;

(f) states that students and parents are responsible for the collection, use, or sharing of student data as described in Section 53A-1-1405;

(g) describes how the education entity may collect, use, and share student data;

(h) includes the following statement:

"The collection, use, and sharing of student data has both benefits and risks. Parents and students should learn about these benefits and risks and make choices regarding student data accordingly."

(i) describes in general terms how the education entity stores and protects student data; and

(j) states a student's rights under this part.

(4) An education entity may collect the necessary student data of a student into a cumulative record if the education entity provides a student data disclosure statement to:

(a) the student, if the student is an adult student; or

(b) the student's parent, if the student is not an adult student.

(5) An education entity may collect optional student data into a cumulative record if the education entity:

(a) provides, to an individual described in Subsection (4), a student data disclosure statement that includes a description of:

(i) the optional student data to be collected; and

(ii) how the education entity will use the optional student data; and

(b) obtains a data authorization to collect the optional student data from an individual described in Subsection (4).

(6) An education entity may collect a student's biometric identifier or biometric information into a cumulative record if the education entity:

(a) provides, to an individual described in Subsection (4), a biometric information disclosure statement that is separate from a student data disclosure statement, which states:

(i) the biometric identifier or biometric information to be collected;

(ii) the purpose of collecting the biometric identifier or biometric information; and

(iii) how the education entity will use and store the biometric identifier or biometric information; and

(b) obtains a data authorization to collect the biometric identifier or biometric information from an individual described in Subsection (4).

Section 9. Section 53A-1-1407 is enacted to read:

53A-1-1407. Using and deleting student data -- Rulemaking -- Cumulative disciplinary record.

(1) In accordance with Title 63G, Chapter 2, Government Records Access and Management Act, and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules regarding using and expunging student data, including:

(a) a categorization of cumulative disciplinary records that includes the following levels of maintenance:

(i) one year;

(ii) three years; and

(iii) except as required in Subsection (3), as determined by the education entity;

(b) the types of student data that may be expunged, including:

(i) medical records; and

(ii) behavioral test assessments; and

(c) the types of student data that may not be expunged, including:

(i) grades;

(ii) transcripts;

(iii) a record of the student's enrollment; and

(iv) assessment information.

(2) In accordance with board rule, an education entity may create and maintain a cumulative disciplinary record for a student.

(3) (a) An education entity shall, in accordance with board rule, expunge a student's student data that is stored by the education entity if:

(i) the student is at least 23 years old; and

(ii) the student requests that the education entity expunge the student data.

(b) An education entity shall retain and dispose of records in accordance with Section 63G-2-604 and board rule.

Section 10. Section 53A-1-1408 is enacted to read:

53A-1-1408. Securing and cataloguing student data.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that:

(1) using reasonable data industry best practices, prescribe the maintenance and protection of stored student data by:

(a) an education entity; and

(b) a third-party contractor; and

(2) state requirements for an education entity's metadata dictionary.

Section 11. Section 53A-1-1409 is enacted to read:

53A-1-1409. Sharing student data -- Prohibition -- Requirements for student data manager.

(1) An education entity shall comply with this section beginning with the 2017-18 school year.

(2) An education entity may not share a student's personally identifiable student data if the personally identifiable student data is not shared in accordance with:

(a) the Family Education Rights and Privacy Act and related provisions under 20 U.S.C. Secs. 1232(g) and 1232(h); and

(b) this part.

(3) A student data manager shall:

(a) authorize and manage the sharing, outside of the education entity, of personally identifiable student data from a cumulative record for the education entity as described in this section; and

(b) act as the primary local point of contact for the state student data officer described in Section 53A-1-1403.

(4) (a) Except as provided in this section or required by federal law, a student data manager may not share, outside of the education entity, personally identifiable student data from a cumulative record without a data authorization.

(b) A student data manager may share the personally identifiable student data of a student with the student and the student's parent.

(5) A student data manager may share a student's personally identifiable student data from a cumulative record with:

(a) a school official;

(b) as described in Subsection (6), an authorized caseworker or other representative of the Department of Human Services; or

(c) a person to whom the student data manager's education entity has outsourced a service or function:

(i) to research the effectiveness of a program's implementation; or

(ii) that the education entity's employees would typically perform.

(6) A student data manager may share a student's personally identifiable student data from a cumulative record with a caseworker or representative of the Department of Human Services if:

(a) the Department of Human Services is:

(i) legally responsible for the care and protection of the student; or

(ii) providing services to the student;

(b) the student's personally identifiable student data is not shared with a person who is not authorized:

(i) to address the student's education needs; or

(ii) by the Department of Human Services to receive the student's personally identifiable student data; and

(c) the Department of Human Services maintains and protects the student's personally identifiable student data.

(7) The Department of Human Services, a school official, or the Utah Juvenile Court may share education information, including a student's personally identifiable student data, to improve education outcomes for youth:

(a) in the custody of, or under the guardianship of, the Department of Human Services;

(b) receiving services from the Division of Juvenile Justice Services;

(c) in the custody of the Division of Child and Family Services;

(d) receiving services from the Division of Services for People with Disabilities; or

(e) under the jurisdiction of the Utah Juvenile Court.

(8) Subject to Subsection (9), a student data manager may share aggregate data.

(9) (a) If a student data manager receives a request to share data for the purpose of external research or evaluation, the student data manager shall:

(i) submit the request to the education entity's external research review process; and

(ii) fulfill the instructions that result from the review process.

(b) A student data manager may not share personally identifiable student data for the purpose of external research or evaluation.

(10) (a) A student data manager may share personally identifiable student data in response to a subpoena issued by a court.

(b) A person who receives personally identifiable student data under Subsection (10)(a) may not use the personally identifiable student data outside of the use described in the subpoena.

(11) (a) In accordance with board rule, a student data manager may share personally identifiable information that is directory information.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to:

(i) define directory information; and

(ii) determine how a student data manager may share personally identifiable information that is directory information.

Section 12. Section 53A-1-1410 is enacted to read:

53A-1-1410. Third-party contractors -- Use and protection of student data -- Contract requirements -- Completion of contract -- Required and allowed uses of student data -- Restrictions on the use of student data -- Exceptions.

(1) A third-party contractor shall use personally identifiable student data received under a contract with an education entity strictly for the purpose of providing the contracted product or service.

(2) When contracting with a third-party contractor, an education entity shall require the following provisions in the contract:

(a) requirements and restrictions related to the collection, use, storage, or sharing of student data

by the third-party contractor that are necessary for the education entity to ensure compliance with the provisions of this part and board rule;

(b) a description of a person, or type of person, including an affiliate of the third-party contractor, with whom the third-party contractor may share student data;

(c) provisions that, at the request of the education entity, govern the deletion of the student data received by the third-party contractor;

(d) except as provided in Subsection (4) and if required by the education entity, provisions that prohibit the secondary use of personally identifiable student data by the third-party contractor; and

(e) an agreement by the third-party contractor that, at the request of the education entity that is a party to the contract, the education entity or the education entity's designee may audit the third-party contractor to verify compliance with the contract.

(3) As authorized by law or court order, a third-party contractor shall share student data as requested by law enforcement.

(4) A third-party contractor may:

(a) use student data for adaptive learning or customized student learning purposes;

(b) market an educational application or product to a parent or legal guardian of a student if the third-party contractor did not use student data, shared by or collected on behalf of an education entity, to market the educational application or product;

(c) use a recommendation engine to recommend to a student:

(i) content that relates to learning or employment, within the third-party contractor's internal application, if the recommendation is not motivated by payment or other consideration from another party; or

(ii) services that relate to learning or employment, within the third-party contractor's internal application, if the recommendation is not motivated by payment or other consideration from another party;

(d) respond to a student request for information or feedback, if the content of the response is not motivated by payment or other consideration from another party; or

(e) use student data to allow or improve operability and functionality of the third-party contractor's internal application.

(5) At the completion of a contract with an education entity, if the contract has not been renewed, a third-party contractor shall:

(a) return all personally identifiable student data to the education entity; or

(b) as reasonable, delete all personally identifiable student data related to the third-party contractor's work.

(6) (a) A third-party contractor may not:

(i) except as provided in Subsection (6)(b), sell student data;

(ii) collect, use, or share student data, if the collection, use, or sharing of the student data is inconsistent with the third-party contractor's contract with the education entity; or

(iii) use student data for targeted advertising.

(b) A person may obtain student data through the purchase of, merger with, or otherwise acquiring a third-party contractor if the third-party contractor remains in compliance with this section.

(7) A provider of an electronic store, gateway, marketplace, or other means of purchasing an external application is not required to ensure that the external application obtained through the provider complies with this section.

(8) The provisions of this section do not:

(a) apply to the use of an external application, including the access of an external application with login credentials created by a third-party contractor's internal application;

(b) apply to the providing of Internet service; or

(c) impose a duty on a provider of an interactive computer service, as defined in 47 U.S.C. Sec. 230, to review or enforce compliance with this section.

Section 13. Section 53A-1-1411 is enacted to read:

53A-1-1411. Penalties.

(1) (a) A third-party contractor that knowingly or recklessly permits unauthorized collecting, sharing, or use of student data under this part:

(i) except as provided in Subsection (1)(b), may not enter into a future contract with an education entity;

(ii) may be required by the board to pay a civil penalty of up to \$25,000; and

(iii) may be required to pay:

(A) the education entity's cost of notifying parents and students of the unauthorized sharing or use of student data; and

(B) expenses incurred by the education entity as a result of the unauthorized sharing or use of student data.

(b) An education entity may enter into a contract with a third-party contractor that knowingly or recklessly permitted unauthorized collecting, sharing, or use of student data if:

(i) the board or education entity determines that the third-party contractor has corrected the errors that caused the unauthorized collecting, sharing, or use of student data; and

(ii) the third-party contractor demonstrates:

(A) if the third-party contractor is under contract with an education entity, current compliance with this part; or

(B) an ability to comply with the requirements of this part.

(c) The board may assess the civil penalty described in Subsection (1)(a)(ii) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) The board may bring an action in the district court of the county in which the office of the board is located, if necessary, to enforce payment of the civil penalty described in Subsection (1)(a)(ii).

(e) An individual who knowingly or intentionally permits unauthorized collecting, sharing, or use of student data may be found guilty of a class A misdemeanor.

(2) (a) A parent or student may bring an action in a court of competent jurisdiction for damages caused by a knowing or reckless violation of Section 53A-1-1410 by a third-party contractor.

(b) If the court finds that a third-party contractor has violated Section 53A-1-1410, the court may award to the parent or student:

(i) damages; and

(ii) costs.

Section 14. Section 53A-11a-203 is amended to read:

53A-11a-203. Parental notification of certain incidents and threats required.

(1) For purposes of this section, "parent" includes a student's guardian.

(2) A school shall:

(a) notify a parent if the parent's student threatens to commit suicide; or

(b) notify the parents of each student involved in an incident of bullying, cyber-bullying, harassment, hazing, or retaliation, of the incident involving each parent's student.

(3) (a) If a school notifies a parent of an incident or threat required to be reported under Subsection (2), the school shall produce and maintain a record that verifies that the parent was notified of the incident or threat.

(b) A school shall maintain a record described in Subsection (3)(a) in accordance with the requirements of:

(i) ~~Section 53A-13-301;~~

(ii) ~~Section 53A-13-302;~~

(i) Chapter 1, Part 14, Student Data Protection Act;

(ii) Sections 53A-13-301 and 53A-13-302;

(iii) [20 U.S.C. 1232g,] Federal Family Educational Rights and Privacy Act, 20 U.S.C. 1232g; and

(iv) 34 C.F.R. Part 99.

(4) A local school board or charter school governing board shall adopt a policy regarding the process for:

(a) notifying a parent as required in Subsection (2); and

(b) producing and retaining a record that verifies that a parent was notified of an incident or threat as required in Subsection (3).

(5) At the request of a parent, a school may provide information and make recommendations related to an incident or threat described in Subsection (2).

(6) A school shall:

(a) provide a student a copy of a record maintained in accordance with this section that relates to the student if the student requests a copy of the record; and

(b) expunge a record maintained in accordance with this section that relates to a student if the student:

(i) has graduated from high school; and

(ii) requests the record be expunged.

Section 15. Section 53A-13-301 is amended to read:

53A-13-301. Application of state and federal law to the administration and operation of public schools -- Local school board and charter school governing board policies.

(1) As used in this section "education entity" means:

(a) the State Board of Education;

(b) a local school board or charter school governing board;

(c) a school district;

(d) a public school; or

(e) the Utah Schools for the Deaf and the Blind.

(2) An education entity and an employee, student aide, volunteer, third party contractor, or other agent of an education entity shall protect the privacy of a student, the student's parents, and the student's family and support parental involvement in the education of their children through compliance with the protections provided for family and student privacy under Section 53A-13-302 and the [Federal] Family Educational Rights and Privacy Act and related provisions under 20 U.S.C. Secs. 1232(g) and 1232(h), in the administration and operation of all public school programs, regardless of the source of funding.

(3) A local school board or charter school governing board shall enact policies governing the protection of family and student privacy as required by this section and Section 53A-13-302.

~~(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State~~

~~Board of Education shall makes rules to establish standards for public education employees, student aides, and volunteers in public schools regarding the confidentiality of student information and student records.]~~

~~[(b) The rules described in Subsection (4)(a) shall provide that a local school board or charter school governing board may adopt policies related to public school student confidentiality to address the specific needs or priorities of the school district or charter school.]~~

~~[(5) The State Board of Education shall:]~~

~~[(a) develop resource materials for purposes of training employees, student aides, and volunteers of a school district or charter school regarding the confidentiality of student information and student records; and]~~

~~[(b) provide the materials described in Subsection (5)(a) to each school district and charter school.]~~

~~[(6) An education entity shall notify the parent or guardian of a student if there is a release of the student's personally identifiable student data due to a security breach.]~~

Section 16. Section 53A-13-302 is amended to read:

53A-13-302. Activities prohibited without prior written consent -- Validity of consent -- Qualifications -- Training on implementation.

(1) Except as provided in Subsection (7), Section 53A-11a-203, and Section 53A-15-1301, policies adopted by a school district or charter school under Section 53A-13-301 shall include prohibitions on the administration to a student of any psychological or psychiatric examination, test, or treatment, or any survey, analysis, or evaluation without the prior written consent of the student's parent or legal guardian, in which the purpose or evident intended effect is to cause the student to reveal information, whether the information is personally identifiable or not, concerning the student's or any family member's:

(a) political affiliations or, except as provided under Section 53A-13-101.1 or rules of the State Board of Education, political philosophies;

(b) mental or psychological problems;

(c) sexual behavior, orientation, or attitudes;

(d) illegal, anti-social, self-incriminating, or demeaning behavior;

(e) critical appraisals of individuals with whom the student or family member has close family relationships;

(f) religious affiliations or beliefs;

(g) legally recognized privileged and analogous relationships, such as those with lawyers, medical personnel, or ministers; and

(h) income, except as required by law.

(2) Prior written consent under Subsection (1) is required in all grades, kindergarten through grade 12.

(3) Except as provided in Subsection (7), Section 53A-11a-203, and Section 53A-15-1301, the prohibitions under Subsection (1) shall also apply within the curriculum and other school activities unless prior written consent of the student's parent or legal guardian has been obtained.

(4) (a) Written parental consent is valid only if a parent or legal guardian has been first given written notice, including notice that a copy of the educational or student survey questions to be asked of the student in obtaining the desired information is made available at the school, and a reasonable opportunity to obtain written information concerning:

~~[(a)]~~ (i) records or information, including information about relationships, that may be examined or requested;

~~[(b)]~~ (ii) the means by which the records or information shall be examined or reviewed;

~~[(e)]~~ (iii) the means by which the information is to be obtained;

~~[(d)]~~ (iv) the purposes for which the records or information are needed;

~~[(e)]~~ (v) the entities or persons, regardless of affiliation, who will have access to the personally identifiable information; and

~~[(f)]~~ (vi) a method by which a parent of a student can grant permission to access or examine the personally identifiable information.

(b) For a survey described in Subsection (1), written notice described in Subsection (4)(a) shall include an Internet address where a parent or legal guardian can view the exact survey to be administered to the parent or legal guardian's student.

(5) (a) Except in response to a situation which a school employee reasonably believes to be an emergency, or as authorized under Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements, or by order of a court, disclosure to a parent or legal guardian must be given at least two weeks before information protected under this section is sought.

(b) Following disclosure, a parent or guardian may waive the two week minimum notification period.

(c) Unless otherwise agreed to by a student's parent or legal guardian and the person requesting written consent, the authorization is valid only for the activity for which it was granted.

(d) A written withdrawal of authorization submitted to the school principal by the authorizing parent or guardian terminates the authorization.

(e) A general consent used to approve admission to school or involvement in special education, remedial education, or a school activity does not constitute written consent under this section.

(6) (a) This section does not limit the ability of a student under Section 53A-13-101.3 to spontaneously express sentiments or opinions otherwise protected against disclosure under this section.

(b) (i) If a school employee or agent believes that a situation exists which presents a serious threat to the well-being of a student, that employee or agent shall notify the student's parent or guardian without delay.

(ii) If, however, the matter has been reported to the Division of Child and Family Services within the Department of Human Services, it is the responsibility of the division to notify the student's parent or guardian of any possible investigation, prior to the student's return home from school.

(iii) The division may be exempted from the notification requirements described in this Subsection (6)(b)(ii) only if it determines that the student would be endangered by notification of his parent or guardian, or if that notification is otherwise prohibited by state or federal law.

(7) (a) If a school employee, agent, or school resource officer believes a student is at-risk of attempting suicide, physical self-harm, or harming others, the school employee, agent, or school resource officer may intervene and ask a student questions regarding the student's suicidal thoughts, physically self-harming behavior, or thoughts of harming others for the purposes of:

(i) referring the student to appropriate prevention services; and

(ii) informing the student's parent or legal guardian.

(b) On or before September 1, 2014, a school district or charter school shall develop and adopt a policy regarding intervention measures consistent with Subsection (7)(a) while requiring the minimum degree of intervention to accomplish the goals of this section.

(8) Local school boards and charter school governing boards shall provide inservice for teachers and administrators on the implementation of this section.

(9) The board shall provide procedures for disciplinary action for violations of this section.

Section 17. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or amounts indicated. These sums of money are in addition to amounts previously appropriated for fiscal year 2017.

To State Board of Education -- State Office of Education

From Education Fund, one-time \$800,000

Schedule of Programs:

Assessment and Accountability \$800,000

The Legislature intends that:

(1) the State Board of Education use the appropriation described in this section to administer Title 53A, Chapter 1, Part 14, Student Data Protection Act; and

(2) the appropriation described under this section not lapse.

Section 18. Repealer.

This bill repeals:

Section 53A-1-711, State Board of Education student privacy study -- Chief privacy officer.

CHAPTER 222**H. B. 392**

Passed March 10, 2016
 Approved March 23, 2016
 Effective May 10, 2016

**EXECUTIVE APPROPRIATIONS
 COMMITTEE REPORT AMENDMENTS**

Chief Sponsor: Dean Sanpei
 Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill modifies reporting requirements to the Executive Appropriations Committee.

Highlighted Provisions:

This bill:

- ▶ modifies reporting requirements for the Department of Health;
- ▶ removes reporting requirements for the Department of Workforce Services and the Women in the Economy Commission;
- ▶ removes reporting requirements for the Revenue and Taxation Interim Committee;
- ▶ modifies reporting requirements for the inspector general of Medicaid;
- ▶ modifies reporting requirements for the Department of Natural Resources;
- ▶ removes reduction in funds reporting requirements for state agencies;
- ▶ requires certain reports to be electronic;
- ▶ removes reporting requirements for the Division of Finance on highway general obligation bonds;
- ▶ creates reporting requirements for the Department of Transportation regarding payoff of highway general obligation bonds;
- ▶ removes the Division of Finance's report of general obligation bonds;
- ▶ removes the Department of Transportation's report of prioritized projects and modifies other reporting requirements for the department; and
- ▶ requires the attorney general's annual report to be electronic.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-18-405, as enacted by Laws of Utah 2011, Chapter 211
 26-33a-106.5, as last amended by Laws of Utah 2014, Chapter 425
 35A-3-302, as last amended by Laws of Utah 2015, Chapter 221
 35A-11-203, as enacted by Laws of Utah 2014, Chapter 127
 59-7-701, as last amended by Laws of Utah 2009, Chapter 312
 63A-13-204, as last amended by Laws of Utah 2015, Chapter 135
 63A-13-502, as last amended by Laws of Utah 2013, Chapter 359 and renumbered and amended by Laws of Utah 2013, Chapter 12

63B-17-401, as enacted by Laws of Utah 2008, Chapter 128
 63J-1-218, as last amended by Laws of Utah 2013, Second Special Session, Chapters 1 and 2
 63N-13-206, as renumbered and amended by Laws of Utah 2015, Chapter 283
 63N-13-209, as renumbered and amended by Laws of Utah 2015, Chapter 283
 63N-13-210, as renumbered and amended by Laws of Utah 2015, Chapter 283
 72-2-118, as last amended by Laws of Utah 2013, Chapter 400
 72-2-125, as last amended by Laws of Utah 2013, Chapter 400
 72-6-206, as enacted by Laws of Utah 2006, Chapter 36
 78B-6-1904, as enacted by Laws of Utah 2014, Chapter 310

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-18-405 is amended to read:

26-18-405. Waivers to maximize replacement of fee-for-service delivery model.

(1) The department shall develop a proposal to amend the state plan for the Medicaid program in a way that maximizes replacement of the fee-for-service delivery model with one or more risk-based delivery models.

(2) The proposal shall:

(a) restructure the program's provider payment provisions to reward health care providers for delivering the most appropriate services at the lowest cost and in ways that, compared to services delivered before implementation of the proposal, maintain or improve recipient health status;

(b) restructure the program's cost sharing provisions and other incentives to reward recipients for personal efforts to:

(i) maintain or improve their health status; and

(ii) use providers that deliver the most appropriate services at the lowest cost;

(c) identify the evidence-based practices and measures, risk adjustment methodologies, payment systems, funding sources, and other mechanisms necessary to reward providers for delivering the most appropriate services at the lowest cost, including mechanisms that:

(i) pay providers for packages of services delivered over entire episodes of illness rather than for individual services delivered during each patient encounter; and

(ii) reward providers for delivering services that make the most positive contribution to a recipient's health status;

(d) limit total annual per-patient-per-month expenditures for services delivered through fee-for-service arrangements to total annual per-patient-per-month expenditures for services delivered through risk-based arrangements

covering similar recipient populations and services; and

(e) limit the rate of growth in per-patient-per-month General Fund expenditures for the program to the rate of growth in General Fund expenditures for all other programs, when the rate of growth in the General Fund expenditures for all other programs is greater than zero.

(3) To the extent possible, the department shall develop the proposal with the input of stakeholder groups representing those who will be affected by the proposal.

~~[(4) No later than June 1, 2011, the department shall submit a written report on the development of the proposal to the Legislature's Executive Appropriations Committee, Social Services Appropriations Subcommittee, and Health and Human Services Interim Committee.]~~

~~[(5) No later than July 1, 2011, the department shall submit to the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services a request for waivers from federal statutory and regulatory law necessary to implement the proposal.]~~

~~[(6) After the request for waivers has been made, and prior to its implementation, the department shall report to the Legislature in accordance with Section 26-18-3 on any modifications to the request proposed by the department or made by the Centers for Medicare and Medicaid Services.]~~

~~[(7)]~~ (4) The department shall implement the proposal in the fiscal year that follows the fiscal year in which the United States Secretary of Health and Human Services approves the request for waivers.

Section 2. Section 26-33a-106.5 is amended to read:

26-33a-106.5. Comparative analyses.

(1) The committee may publish compilations or reports that compare and identify health care providers or data suppliers from the data it collects under this chapter or from any other source.

(2) (a) Except as provided in Subsection (7)(c), the committee shall publish compilations or reports from the data it collects under this chapter or from any other source which:

(i) contain the information described in Subsection (2)(b); and

(ii) compare and identify by name at least a majority of the health care facilities, health care plans, and institutions in the state.

(b) Except as provided in Subsection (7)(c), the report required by this Subsection (2) shall:

(i) be published at least annually; and

(ii) contain comparisons based on at least the following factors:

(A) nationally or other generally recognized quality standards;

(B) charges; and

(C) nationally recognized patient safety standards.

(3) The committee may contract with a private, independent analyst to evaluate the standard comparative reports of the committee that identify, compare, or rank the performance of data suppliers by name. The evaluation shall include a validation of statistical methodologies, limitations, appropriateness of use, and comparisons using standard health services research practice. The analyst shall be experienced in analyzing large databases from multiple data suppliers and in evaluating health care issues of cost, quality, and access. The results of the analyst's evaluation shall be released to the public before the standard comparative analysis upon which it is based may be published by the committee.

(4) The committee shall adopt by rule a timetable for the collection and analysis of data from multiple types of data suppliers.

(5) The comparative analysis required under Subsection (2) shall be available:

(a) free of charge and easily accessible to the public; and

(b) on the Health Insurance Exchange either directly or through a link.

(6) (a) The department shall include in the report required by Subsection (2)(b), or include in a separate report, comparative information on commonly recognized or generally agreed upon measures of cost and quality identified in accordance with Subsection (7), for:

(i) routine and preventive care; and

(ii) the treatment of diabetes, heart disease, and other illnesses or conditions as determined by the committee.

(b) The comparative information required by Subsection (6)(a) shall be based on data collected under Subsection (2) and clinical data that may be available to the committee, and shall compare:

(i) beginning December 31, 2014, results for health care facilities or institutions;

(ii) beginning December 31, 2014, results for health care providers by geographic regions of the state;

(iii) beginning July 1, 2016, a clinic's aggregate results for a physician who practices at a clinic with five or more physicians; and

(iv) beginning July 1, 2016, a geographic region's aggregate results for a physician who practices at a clinic with less than five physicians, unless the physician requests physician-level data to be published on a clinic level.

(c) The department:

(i) may publish information required by this Subsection (6) directly or through one or more

nonprofit, community-based health data organizations;

(ii) may use a private, independent analyst under Subsection (3) in preparing the report required by this section; and

(iii) shall identify and report to the Legislature's Health and Human Services Interim Committee by July 1, 2014, and every July 1 thereafter until July 1, 2019, at least three new measures of quality to be added to the report each year.

(d) A report published by the department under this Subsection (6):

(i) is subject to the requirements of Section 26-33a-107; and

(ii) shall, prior to being published by the department, be submitted to a neutral, non-biased entity with a broad base of support from health care payers and health care providers in accordance with Subsection (7) for the purpose of validating the report.

(7) (a) The Health Data Committee shall, through the department, for purposes of Subsection (6)(a), use the quality measures that are developed and agreed upon by a neutral, non-biased entity with a broad base of support from health care payers and health care providers.

(b) If the entity described in Subsection (7)(a) does not submit the quality measures, the department may select the appropriate number of quality measures for purposes of the report required by Subsection (6).

(c) (i) For purposes of the reports published on or after July 1, 2014, the department may not compare individual facilities or clinics as described in Subsections (6)(b)(i) through (iv) if the department determines that the data available to the department can not be appropriately validated, does not represent nationally recognized measures, does not reflect the mix of cases seen at a clinic or facility, or is not sufficient for the purposes of comparing providers.

(ii) The department shall report to the Legislature's ~~[Executive Appropriations]~~ Health and Human Services Interim Committee prior to making a determination not to publish a report under Subsection (7)(c)(i).

Section 3. Section 35A-3-302 is amended to read:

35A-3-302. Eligibility requirements.

(1) There is created the "Family Employment Program" to provide cash assistance under this part.

(2) (a) The department shall submit a state plan to the Secretary of the United States Department of Health and Human Services to obtain funding under the federal Temporary Assistance for Needy Families Block Grant.

(b) The department shall make the state plan consistent with this part and federal law.

(c) If a discrepancy exists between a provision of the state plan and this part, this part supersedes the provision in the state plan.

(3) The services provided under this part are for both one-parent and two-parent families.

(4) To be eligible for cash assistance under this part, a family shall:

(a) have at least one minor dependent child; or

(b) have a parent who is in the third trimester of a pregnancy.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for eligibility and the amount of cash assistance a family is eligible to receive under this part based on:

(a) family size;

(b) family income;

(c) income disregards;

(d) other relevant factors; and

(e) if the applicant has met the eligibility requirements under Subsections (5)(a) through (d), the assessment and other requirements described in Sections 35A-3-304 and 35A-3-304.5.

(6) To determine eligibility, the department may not consider money on deposit in an Individual Development Account established under Section 35A-3-312.

(7) The department shall provide for an appeal of a determination of eligibility in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(8) (a) The department shall make a report to ~~[either the Legislature's Executive Appropriations Committee or]~~ the Social Services Appropriations Subcommittee on any proposed rule change made under Subsection (5) that would modify the:

(i) eligibility requirements for cash assistance; or

(ii) amount of cash assistance a family is eligible to receive.

(b) The department shall submit the report under Subsection (8)(a) prior to implementing the proposed rule change.

(c) The report under Subsection (8)(a) shall include:

(i) a description of the department's current practice or policy that it is proposing to change;

(ii) an explanation of why the department is proposing the change;

(iii) the effect of an increase or decrease in cash benefits on families; and

(iv) the fiscal impact of the proposed change.

(d) The department may use the Notice of Proposed Rule Amendment form filed with the Division of Administrative Rules as its report if the notice contains the information required under Subsection (8)(c).

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to ensure that:

(a) a recipient of assistance from the Family Employment Program:

(i) has adequate access to the assistance;

(ii) has the ability to use and withdraw assistance with minimal fees or surcharges, including the opportunity to obtain assistance with no fees or surcharges;

(iii) is provided information regarding fees and surcharges that may apply to assistance accessed through an electronic fund transaction; and

(iv) is provided information explaining the restrictions on accessing assistance described in Subsection (10); and

(b) information regarding fees and surcharges that may apply when accessing assistance from the Family Employment Program through an electronic fund transaction is available to the public.

(10) An individual receiving assistance under this section may not access the assistance through an electronic benefit transfer, including through an automated teller machine or point-of-sale device, in an establishment in the state that:

(a) exclusively or primarily sells intoxicating liquor;

(b) allows gambling or gaming; or

(c) provides adult-oriented entertainment where performers disrobe or perform unclothed.

(11) An establishment described under Subsection (10)(a), (b), or (c) may not allow an individual to access the assistance under this section on the establishment's premises through an electronic benefit transfer, including through an automated teller machine or point-of-sale device.

(12) In accordance with federal requirements and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to prevent individuals from accessing assistance in a manner prohibited by Subsections (10) and (11), which rules may include enforcement provisions that impose sanctions that temporarily or permanently disqualify an individual from receiving assistance.

Section 4. Section 35A-11-203 is amended to read:

35A-11-203. Annual report.

(1) The commission shall annually prepare and publish a report directed to the:

(a) governor;

(b) Education Interim Committee;

(c) Economic Development and Workforce Services Interim Committee;

~~(d) Executive Appropriations Committee;~~

~~(e) (d) Legislative Management Committee;~~

~~(f) (e) Business, Economic Development, and Labor Appropriations Subcommittee; and~~

~~(g) (f) State Council on Workforce Services.~~

(2) The report described in Subsection (1) shall:

(a) describe how the commission fulfilled its statutory purposes and duties during the year; and

(b) contain recommendations on how the state should act to address issues relating to women in the economy.

Section 5. Section 59-7-701 is amended to read:

59-7-701. Taxation of S corporations -- Revenue and Taxation Interim Committee study.

(1) Except as provided in Section 59-7-102 and subject to the other provisions of this part, beginning on July 1, 1994, and ending on the last day of the taxable year that begins on or after January 1, 2012, but begins on or before December 31, 2012, an S corporation is subject to taxation in the same manner as that S corporation is taxed under Subchapter S - Tax Treatment of S Corporations and Their Shareholders, Sec. 1361 et seq., Internal Revenue Code.

(2) An S corporation is taxed at the tax rate provided in Section 59-7-104.

(3) The business income and nonbusiness income of an S corporation is subject to Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions.

(4) An S corporation having income derived from or connected with Utah sources shall make a return in accordance with Section 59-10-507.

(5) An S corporation shall make payments of estimated tax as required by Section 59-7-504.

(6) An S corporation is subject to Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act.

(7) A pass-through entity taxpayer as defined in Section 59-10-1402 of an S corporation is subject to Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act.

(8) Provisions under this chapter governing the following apply to an S corporation:

(a) an assessment;

(b) a penalty;

(c) a refund; or

(d) a record required for an S corporation.

~~(9) (a) During the 2011 interim, the Revenue and Taxation Interim Committee shall study the fiscal impacts of:~~

~~(i) the enactment of Laws of Utah 2009, Chapter 312; and~~

~~(ii) the taxation of S corporations under this part.~~

~~[(b) On or before November 30, 2011, the Revenue and Taxation Interim Committee shall report its findings and recommendations on the study to the Executive Appropriations Committee.]~~

Section 6. Section 63A-13-204 is amended to read:

63A-13-204. Selection and review of claims.

(1) (a) The office shall periodically select and review a representative sample of claims submitted for reimbursement under the state Medicaid program to determine whether fraud, waste, or abuse occurred.

(b) The office shall limit its review for waste and abuse under Subsection (1)(a) to 36 months prior to the date of the inception of the investigation or 72 months if there is a credible allegation of fraud. In the event the office or the fraud unit determines that there is fraud as defined in Section 63A-13-102, then the statute of limitations defined in Subsection 26-20-15(1) shall apply.

(2) The office may directly contact the recipient of record for a Medicaid reimbursed service to determine whether the service for which reimbursement was claimed was actually provided to the recipient of record.

(3) The office shall:

(a) generate statistics from the sample described in Subsection (1) to determine the type of fraud, waste, or abuse that is most advantageous to focus on in future audits or investigations;

(b) ensure that the office, or any entity that contracts with the office to conduct audits:

(i) has on staff or contracts with a medical or dental professional who is experienced in the treatment, billing, and coding procedures used by the type of provider being audited; and

(ii) uses the services of the appropriate professional described in Subsection (3)(b)(i) if the provider who is the subject of the audit disputes the findings of the audit;

(c) ensure that a finding of overpayment or underpayment to a provider is not based on extrapolation, unless:

(i) there is a determination that the level of payment error involving the provider exceeds a 10% error rate:

(A) for a sample of claims for a particular service code; and

(B) over a three year period of time;

(ii) documented education intervention has failed to correct the level of payment error; and

(iii) the value of the claims for the provider, in aggregate, exceeds \$200,000 in reimbursement for a particular service code on an annual basis; and

(d) require that any entity with which the office contracts, for the purpose of conducting an audit of a service provider, shall be paid on a flat fee basis for

identifying both overpayments and underpayments.

(4) (a) If the office, or a contractor on behalf of the department:

(i) intends to implement the use of extrapolation as a method of auditing claims, the department shall, prior to adopting the extrapolation method of auditing, report its intent to use extrapolation [te]:

(A) to the Social Services Appropriations Subcommittee; and

(B) ~~[the Executive Appropriations Committee pursuant to]~~ as required under Section 63A-13-502; and

(ii) determines Subsections (2)(c)(i) through (iii) are applicable to a provider, the office or the contractor may use extrapolation only for the service code associated with the findings under Subsections (2)(c)(i) through (iii).

(b) (i) If extrapolation is used under this section, a provider may, at the provider's option, appeal the results of the audit based on:

(A) each individual claim; or

(B) the extrapolation sample.

(ii) Nothing in this section limits a provider's right to appeal the audit under Title 63G, Administrative Code, Title 63G, Chapter 4, Administrative Procedures Act, the Medicaid program and its manual or rules, or other laws or rules that may provide remedies to providers.

Section 7. Section 63A-13-502 is amended to read:

63A-13-502. Report and recommendations to governor and Executive Appropriations Committee.

(1) The inspector general of Medicaid services shall, on an annual basis, prepare ~~[a written]~~ an electronic report on the activities of the office for the preceding fiscal year.

(2) The report shall include:

(a) non-identifying information, including statistical information, on:

(i) the items described in Subsection 63A-13-202(1)(b) and Section 63A-13-204;

(ii) action taken by the office and the result of that action;

(iii) fraud, waste, and abuse in the state Medicaid program;

(iv) the recovery of fraudulent or improper use of state and federal Medicaid funds;

(v) measures taken by the state to discover and reduce fraud, waste, and abuse in the state Medicaid program;

(vi) audits conducted by the office;

(vii) investigations conducted by the office and the results of those investigations; and

(viii) administrative and educational efforts made by the office and the division to improve

compliance with Medicaid program policies and requirements;

(b) recommendations on action that should be taken by the Legislature or the governor to:

(i) improve the discovery and reduction of fraud, waste, and abuse in the state Medicaid program;

(ii) improve the recovery of fraudulently or improperly used Medicaid funds; and

(iii) reduce costs and avoid or minimize increased costs in the state Medicaid program;

(c) recommendations relating to rules, policies, or procedures of a state or local government entity; and

(d) services provided by the state Medicaid program that exceed industry standards.

(3) The report described in Subsection (1) may not include any information that would interfere with or jeopardize an ongoing criminal investigation or other investigation.

(4) On or before ~~[October]~~ November 1 of each year, the inspector general of Medicaid services shall provide the electronic report described in Subsection (1) to the Executive Appropriations Committee of the Legislature and to the governor ~~[on or before October 1 of each year].~~

~~[(5) The inspector general of Medicaid services shall present the report described in Subsection (1) to the Executive Appropriations Committee of the Legislature before November 30 of each year.]~~

Section 8. Section 63B-17-401 is amended to read:

63B-17-401. Authorizations to acquire or exchange property.

The Legislature intends that:

(1) the Division of Facilities Construction and Management, acting on behalf of the Department of Natural Resources, may enter into a lease purchase agreement with Uintah County to provide needed space for agency programs in the area;

(2) the agreement shall involve a trade at fair market value between the Division of Facilities Construction and Management and Uintah County of the following two properties:

(a) that portion of the current Uintah County complex that is owned by the state, located at 147 East Main Street, Vernal, Utah, which currently houses the Department of Natural Resources and other state agencies; and

(b) a parcel of land owned by Uintah County, located at approximately 318 North Vernal Avenue, Vernal, Utah, which would become the location of the needed space under the lease purchase agreement;

(3) before entering into an agreement with Uintah County, the Division of Facilities Construction and Management shall ensure that all other state agencies in the Uintah County

complex stay in their current location or receive adequate replacement space, with the terms of any replacement space acceptable to each state agency;

(4) before entering into an agreement with Uintah County, the Department of Natural Resources shall obtain the approval of the State Building Board; and

(5) the State Building Board may approve the agreement only if the Department of Natural Resources demonstrates that the lease purchase will be a benefit to the state~~[; and].~~

~~[(6) before entering into an agreement with Uintah County, and after obtaining the approval of the State Building Board, the Department of Natural Resources shall report the terms of the agreement to the legislative Executive Appropriations Committee.]~~

Section 9. Section 63J-1-218 is amended to read:

63J-1-218. Reduction in federal funds -- Agencies to reduce budgets.

~~[(4)]~~ In any fiscal year in which federal grants to be received by state agencies, departments, divisions, or institutions are reduced below the level estimated in the appropriations acts for that year, the programs supported by those grants must be reduced commensurate with the amount of the federal reduction unless the Legislature appropriates state funds to offset the loss in federal funding.

~~[(2) This program modification shall be reported to the Legislature through the Executive Appropriations Committee and the Office of the Legislative Fiscal Analyst.]~~

Section 10. Section 63N-13-206 is amended to read:

63N-13-206. Review of initial proposal -- Affected department review.

(1) The committee shall review and evaluate an initial proposal submitted in accordance with:

(a) this part; and

(b) any rule established by the board under Section 63N-13-203.

(2) If the committee, in its sole discretion, determines to proceed with the project, the committee shall submit a copy of the initial proposal to:

(a) the affected department; and

(b) the Governor's Office of Management and Budget.

(3) (a) An affected department, directly affected state entity, and school district receiving a copy of the initial proposal under Subsection (2) or (4) shall review the initial proposal and provide the committee with any comment, suggestion, or modification to the project.

(b) After receiving an initial proposal, the Governor's Office of Management and Budget shall prepare an economic feasibility report containing:

(i) information concerning the economic feasibility and effectiveness of the project based upon competent evidence;

(ii) a dollar amount representing the total estimated fiscal impact of the project to the affected department and the state; and

(iii) any other matter the committee requests or is required by the board by rule.

(4) In reviewing an initial proposal, the affected department shall share the initial proposal with any other state entity or school district that will be directly affected if the proposal is ultimately adopted, if the confidentiality of the initial proposal is maintained.

(5) If the committee determines to proceed with the project, the committee shall submit [a] an electronic copy of the initial proposal, including any comment, suggestion, or modification to the initial proposal, to:

(a) the chief procurement officer in accordance with Section 63G-6a-711; and

(b) the Executive Appropriations Committee, for informational purposes.

(6) Before taking any action under Subsection (5), the committee shall consider:

(a) any comment, suggestion, or modification to the initial proposal submitted in accordance with Subsection (3);

(b) the extent to which the project is practical, efficient, and economically beneficial to the state and the affected department;

(c) the economic feasibility report prepared by the Governor's Office of Management and Budget; and

(d) any other reasonable factor identified by the committee or required by the board by rule.

Section 11. Section 63N-13-209 is amended to read:

63N-13-209. Receipt of detailed proposals -- Economic feasibility report -- Acceptance of a detailed proposal.

(1) If the committee, in its sole discretion, determines that a detailed proposal does not substantially meet the guidelines established under Subsection 63N-13-208(1), the committee may elect not to review the detailed proposal.

(2) (a) After receiving a detailed proposal, the Governor's Office of Management and Budget shall update the economic feasibility report prepared under Section 63N-13-206.

(b) A detailed proposal that is to be reviewed by the committee shall be submitted to the affected department, a directly affected state entity, and a directly affected school district for comment or suggestion.

(3) In determining which, if any, of the detailed proposals to accept, in addition to the proposal

evaluation criteria, the committee shall consider the following factors:

(a) any comment, suggestion, or modification offered in accordance with Subsection 63N-13-206(3) or Subsection (2)(b);

(b) the economic feasibility report updated in accordance with Subsection (2)(a);

(c) the source of funding and any resulting constraint necessitated by the funding source;

(d) any alternative funding proposal;

(e) the extent to which the project is practical, efficient, and economically beneficial to the state and the affected department; and

(f) any other reasonable factor identified by the committee or required by the board by rule.

(4) (a) If the committee accepts a detailed proposal, the accepted detailed proposal shall be submitted to the board for approval.

(b) If the affected department or a directly affected state entity or school district disputes the detailed proposal approved by the board, the Governor's Office of Management and Budget shall consider the detailed proposal and any comment, suggestion, or modification and determine whether to proceed with a project agreement.

(c) If there is no funding for a project that is the subject of a detailed proposal and the committee determines to proceed with the project, the office shall submit a report to the Governor's Office of Management and Budget and an electronic copy of the report to the Executive Appropriations Committee detailing the position of the board, the affected department, a directly affected state entity or school district.

(5) A detailed proposal received from a private entity other than the private entity that submitted the initial proposal may not be accepted in place of the detailed proposal offered by the private entity that submitted the initial proposal solely because of a lower cost if the lower cost is within the amount of the fee paid by the private entity that submitted the initial proposal for review of the initial proposal.

Section 12. Section 63N-13-210 is amended to read:

63N-13-210. Project agreement.

(1) If the board accepts the detailed proposal, the executive director shall:

(a) prepare a project agreement in consultation with the affected department and any other state entity directly impacted by the detailed proposal; and

(b) enter into the project agreement with the private entity.

(2) A project agreement shall be signed by the executive director, the affected department, a directly affected state entity or school district, and the private entity.

(3) A project agreement shall include provisions concerning:

- (a) the scope of the project;
 - (b) the pricing method of the project;
 - (c) the executive director's or the state's ability to terminate for convenience or for default, and any termination compensation to be paid to the private entity, if applicable;
 - (d) the ability to monitor performance under the project agreement;
 - (e) the appropriate limits of liability;
 - (f) the appropriate transition of services, if applicable;
 - (g) the exceptions from applicable rules and procedures for the implementation and administration of the project by the affected department, if any;
 - (h) the clauses and remedies applicable to state contracts under Title 63G, Chapter 6a, Part 12, Contracts and Change Orders; and
 - (i) any other matter reasonably requested by the committee or required by the board by rule.
- (4) [A] An electronic copy of the signed project agreement shall be submitted to:
- (a) the affected department; and
 - (b) the Executive Appropriations Committee.
- (5) A project agreement is considered a contract under Title 63G, Chapter 6a, Utah Procurement Code.
- (6) The affected department shall implement and administer the project agreement in accordance with rules made under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except as modified by the project agreement under Subsection (3)(g).

Section 13. Section 72-2-118 is amended to read:

72-2-118. Centennial Highway Fund.

(1) There is created a capital projects fund entitled the Centennial Highway Fund within the Transportation Investment Fund of 2005 created by Section 72-2-124.

(2) The account consists of money generated from the following revenue sources:

(a) any voluntary contributions received for the construction, reconstruction, or renovation of state or federal highways; and

(b) appropriations made to the fund by the Legislature.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) The executive director may use fund money, as prioritized by the Transportation Commission, only to pay the costs of construction, reconstruction, or renovation to state and federal highways.

(5) When the highway general obligation bonds have been paid off and the highway projects completed that are intended to be paid from revenues deposited in the account as determined by the Executive Appropriations Committee under Subsection (6)(d), the Division of Finance shall transfer any existing balance in the account into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(6) (a) The Division of Finance shall monitor the highway general obligation bonds that are being paid from revenues deposited in the fund.

(b) The department shall monitor the highway construction, reconstruction, or renovation projects that are being paid from revenues deposited in the fund.

~~[(c) Upon request by the Executive Appropriations Committee of the Legislature:]~~

~~[(i) the Division of Finance shall report to the committee the status of all highway general obligation bonds that are being paid from revenues deposited in the fund; and]~~

~~[(ii) the department shall report to the committee the status of all highway construction, reconstruction, or renovation projects that are being paid from revenues deposited in the fund.]~~

~~[(d) (c) The [Executive Appropriations Committee of the Legislature] department shall notify the State Tax Commission[, the department,] and the Division of Finance when:~~

(i) all highway general obligation bonds that are intended to be paid from revenues deposited in the fund have been paid off; and

(ii) all highway projects that are intended to be paid from revenues deposited in the account have been completed.

Section 14. Section 72-2-125 is amended to read:

72-2-125. Critical Highway Needs Fund.

(1) There is created a capital projects fund within the Transportation Investment Fund of 2005 known as the "Critical Highway Needs Fund."

(2) The fund consists of money generated from the following sources:

(a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways; and

(b) appropriations made to the fund by the Legislature.

(3) (a) The fund shall earn interest.

(b) Interest on fund money shall be deposited into the fund.

(4) (a) The executive director shall use money deposited into the fund to pay the costs of right-of-way acquisition, maintenance, construction, reconstruction, or renovation to state and federal highways identified by the department

and prioritized by the commission in accordance with this Subsection (4).

(b) (i) The department shall:

(A) establish a complete list of projects to be maintained, constructed, reconstructed, or renovated using the funding described in Subsection (4)(a) based on the following criteria:

(I) the highway construction project is a high priority project due to high growth in the surrounding area;

(II) the highway construction project addresses critical access needs that have a high impact due to commercial and energy development;

(III) the highway construction project mitigates congestion;

(IV) whether local matching funds are available for the highway construction project; and

(V) the highway construction project is a critical alternative route for priority Interstate 15 reconstruction projects; and

(B) submit the list of projects to the commission for prioritization in accordance with Subsection (4)(c).

(ii) A project that is included in the list under this Subsection (4):

(A) is not required to be currently listed in the statewide long-range plan; and

(B) is not required to be prioritized through the prioritization process for new transportation capacity projects adopted under Section 72-1-304.

(c) (i) The commission shall prioritize the project list submitted by the department in accordance with Subsection (4)(b).

(ii) For projects prioritized under this Subsection (4)(c), the commission shall give priority consideration to fully funding a project that meets the criteria under Subsection (4)(b)(i)(A)(V).

(d) (i) Expenditures of bond proceeds issued in accordance with Section 63B-16-101 by the department for the construction of highway projects prioritized under this Subsection (4) may not exceed \$1,200,000,000.

(ii) Money expended from the fund for principal, interest, and issuance costs of bonds issued under Section 63B-16-101 is not considered an expenditure for purposes of the \$1,200,000,000 cap under Subsection (4)(d)(i).

(e) (i) Before bonds authorized by Section 63B-16-101 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present:

(A) the commission's current list of projects established and prioritized in accordance with this Subsection (4); and

(B) the amount of bond proceeds that the department needs to provide funding for projects on

the project list prioritized in accordance with this Subsection (4) for the next fiscal year.

(ii) The Executive Appropriations Committee of the Legislature shall review and comment on the prioritized project list and the amount of bond proceeds needed to fund the projects on the prioritized list.

(f) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 in the current fiscal year to the appropriate debt service or sinking fund.

(5) When the general obligation bonds authorized by Section 63B-16-101 have been paid off and the highway projects completed that are included in the prioritized project list under Subsection (4), the Division of Finance shall transfer any existing balance in the fund into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(6) (a) The Division of Finance shall monitor the general obligation bonds authorized by Section 63B-16-101.

(b) The department shall monitor the highway construction or reconstruction projects that are included in the prioritized project list under Subsection (4).

~~[(e) Upon request by the Executive Appropriations Committee of the Legislature:]~~

~~[(i) the Division of Finance shall report to the committee the status of all general obligation bonds issued under Section 63B-16-101; and]~~

~~[(ii) the department shall report to the committee the status of all highway construction or reconstruction projects that are included in the prioritized project list under Subsection (4).]~~

~~[(d)] (c) When the Division of Finance has reported that the general obligation bonds issued by Section 63B-16-101 have been paid off and the department has reported that projects included in the prioritized project list are complete to the Executive Appropriations Committee of the Legislature, the Division of Finance shall transfer any existing fund balance in accordance with Subsection (5).~~

(7) (a) Unless prioritized and approved by the Transportation Commission, the department may not delay a project prioritized under this section to a different fiscal year than programmed by the commission due to an unavoidable shortfall in revenues if:

(i) the prioritized project was funded by the Legislature in an appropriations act; or

(ii) general obligation bond proceeds have been issued for the project in the current fiscal year.

(b) For projects identified under Subsection (7)(a), the commission shall prioritize and approve any project delays for projects prioritized under this section due to an unavoidable shortfall in revenues if:

(i) the prioritized project was funded by the Legislature in an appropriations act; or

(ii) general obligation bond proceeds have been issued for the project in the current fiscal year.

Section 15. Section 72-6-206 is amended to read:

72-6-206. Commission approval and legislative review of tollway development agreement provisions.

(1) Prior to the department entering into a tollway development agreement under Section 72-6-203, the department shall submit to the commission for approval the tollway development agreement, including:

(a) a description of the tollway facility, including the conceptual design of the facility and all proposed interconnections with other transportation facilities;

(b) the proposed date for development, operation, or both of the tollway facility;

(c) the proposed term of the tollway development agreement;

(d) the proposed method to determine toll rates or user fees, including:

(i) identification of vehicle or user classifications, or both, for toll rates;

(ii) the original proposed toll rate or user fee for the tollway facility;

(iii) proposed toll rate or user fee increases; and

(iv) a maximum toll rate or user fee for the tollway facility; and

(e) any proposed revenue, public or private, or proposed debt or equity investment that will be used for the design, construction, financing, acquisition, maintenance, or operation of the tollway facility.

(2) Prior to amending or modifying a tollway development agreement, the department shall submit the proposed amendment or modification to the commission for approval.

(3) The department shall report to the ~~Executive Appropriations Committee,~~ Transportation Interim Committee^[5] or another committee designated by the Legislative Management Committee on the status and progress of a tollway subject to a tollway development agreement under Section 72-6-203.

Section 16. Section 78B-6-1904 is amended to read:

78B-6-1904. Action -- Enforcement -- Remedies -- Damages.

(1) A target who has received a demand letter asserting patent infringement in bad faith, or a person aggrieved by a violation of this part, may bring an action in district court. The court may award the following remedies to a target who prevails in an action brought pursuant to this part:

(a) equitable relief;

(b) actual damages;

(c) costs and fees, including reasonable attorney fees; and

(d) punitive damages in an amount to be established by the court, of not more than the greater of \$50,000 or three times the total of damages, costs, and fees.

(2) The attorney general may conduct civil investigations and bring civil actions pursuant to this part. In an action brought by the attorney general under this part, the court may award or impose any relief it considers prudent, including the following:

(a) equitable relief;

(b) statutory damages of not less than \$750 per demand letter distributed in bad faith; and

(c) costs and fees, including reasonable attorney fees, to the attorney general.

(3) This part may not be construed to limit other rights and remedies available to the state or to any person under any other law.

(4) A demand letter or assertion of a patent infringement that includes a claim for relief arising under 35 U.S.C. Sec. 271(e)(2) is not subject to the provisions of this part.

(5) The attorney general shall ~~report~~ annually provide an electronic report to the Executive Appropriations Committee regarding the number of investigations and actions brought under this part. The report shall include:

(a) the number of investigations commenced;

(b) the number of actions brought under the provisions of this part;

(c) the current status of actions brought under Subsection (5)(b); and

(d) final resolution of actions brought under this part, including any recovery under Subsection (2).

CHAPTER 223**H. B. 404**

Passed March 10, 2016
 Approved March 23, 2016
 Effective May 10, 2016

**CRIME VICTIM
 RESTITUTION AMENDMENTS**

Chief Sponsor: Brad R. Wilson
 Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill makes changes in the composition of restitution orders and the priority for distribution of restitution payments.

Highlighted Provisions:

This bill:

- ▶ includes reasonable expenses for participation in the adjudicative process as pecuniary damages; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

77-27-5, as last amended by Laws of Utah 2010, Chapter 110
 77-27-6, as last amended by Laws of Utah 2005, Chapter 96
 77-38-3, as last amended by Laws of Utah 2013, Chapters 196 and 445
 77-38a-102, as last amended by Laws of Utah 2015, Chapter 147
 77-38a-302, as last amended by Laws of Utah 2013, Chapter 74

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 77-27-5 is amended to read:

77-27-5. Board of Pardons and Parole authority.

(1) (a) The Board of Pardons and Parole shall determine by majority decision when and under what conditions, subject to this chapter and other laws of the state, persons committed to serve sentences in class A misdemeanor cases at penal or correctional facilities which are under the jurisdiction of the Department of Corrections, and all felony cases except treason or impeachment or as otherwise limited by law, may be released upon parole, pardoned, ordered to pay restitution, or have their fines, forfeitures, or restitution remitted, or their sentences commuted or terminated.

(b) The board may sit together or in panels to conduct hearings. The chair shall appoint members to the panels in any combination and in accordance with rules promulgated by the board, except in hearings involving commutation and pardons. The chair may participate on any panel and when doing

so is chair of the panel. The chair of the board may designate the chair for any other panel.

(c) No restitution may be ordered, no fine, forfeiture, or restitution remitted, no parole, pardon, or commutation granted or sentence terminated, except after a full hearing before the board or the board's appointed examiner in open session. Any action taken under this subsection other than by a majority of the board shall be affirmed by a majority of the board.

(d) A commutation or pardon may be granted only after a full hearing before the board.

(e) The board may determine restitution as provided in Section 77-27-6 and Subsection 77-38a-302(5)(d)(~~iii~~)(iii)(A).

(2) (a) In the case of original parole grant hearings, rehearings, and parole revocation hearings, timely prior notice of the time and location of the hearing shall be given to the defendant, the county or district attorney's office responsible for prosecution of the case, the sentencing court, law enforcement officials responsible for the defendant's arrest and conviction, and whenever possible, the victim or the victim's family.

(b) Notice to the victim, his representative, or his family shall include information provided in Section 77-27-9.5, and any related rules made by the board under that section. This information shall be provided in terms that are reasonable for the lay person to understand.

(3) Decisions of the board in cases involving paroles, pardons, commutations or terminations of sentence, restitution, or remission of fines or forfeitures are final and are not subject to judicial review. Nothing in this section prevents the obtaining or enforcement of a civil judgment, including restitution as provided in Section 77-27-6.

(4) This chapter may not be construed as a denial of or limitation of the governor's power to grant respite or reprieves in all cases of convictions for offenses against the state, except treason or conviction on impeachment. However, respites or reprieves may not extend beyond the next session of the Board of Pardons and Parole and the board, at that session, shall continue or terminate the respite or reprieve, or it may commute the punishment, or pardon the offense as provided. In the case of conviction for treason, the governor may suspend execution of the sentence until the case is reported to the Legislature at its next session. The Legislature shall then either pardon or commute the sentence, or direct its execution.

(5) In determining when, where, and under what conditions offenders serving sentences may be paroled, pardoned, have restitution ordered, or have their fines or forfeitures remitted, or their sentences commuted or terminated, the board shall consider whether the persons have made or are prepared to make restitution as ascertained in accordance with the standards and procedures of Section 77-38a-302, as a condition of any parole, pardon, remission of fines or forfeitures, or commutation or termination of sentence.

(6) In determining whether parole may be terminated, the board shall consider the offense committed by the parolee, the parole period as provided in Section 76-3-202, and in accordance with Section 77-27-13.

Section 2. Section 77-27-6 is amended to read:

77-27-6. Payment of restitution.

(1) When the Board of Pardons and Parole orders the release on parole of an inmate who has been sentenced to make restitution pursuant to Title 77, Chapter 38a, Crime Victims Restitution Act, or whom the board has ordered to make restitution, and all or a portion of restitution is still owing, the board may establish a schedule, including both complete and court-ordered restitution, by which payment of the restitution shall be made, or order compensatory or other service in lieu of or in combination with restitution. In fixing the schedule and supervising the paroled offender's performance, the board may consider the factors specified in Section 77-38a-302.

(2) (a) The board may impose any court order for restitution.

(b) In accordance with Subsection 77-38a-302(5)(d)(~~ii~~)(iii)(A), the board may order that a defendant make restitution for pecuniary damages that were not determined by the court, unless the board applying the criteria as set forth in Section 77-38a-302 determines that restitution is inappropriate.

(c) Except as provided in Subsection (2)(d), the board shall make all orders of restitution within 60 days after the termination or expiration of the defendant's sentence.

(d) If, upon termination or expiration of a defendant's sentence, the board has continuing jurisdiction over the defendant for a separate criminal offense, the board may defer making an order of restitution until termination or expiration of all sentences for that defendant.

(3) The board may also make orders of restitution for recovery of any or all costs incurred by the Department of Corrections or the state or any other agency arising out of the defendant's needs or conduct.

(4) If the defendant, upon termination or expiration of the sentence owes outstanding fines, restitution, or other assessed costs, or if the board makes an order of restitution within 60 days after the termination or expiration of the defendant's sentence, the matter shall be referred to the district court for civil collection remedies. The Board of Pardons and Parole shall forward a restitution order to the sentencing court to be entered on the judgment docket. The entry shall constitute a lien and is subject to the same rules as a judgment for money in a civil judgment.

Section 3. Section 77-38-3 is amended to read:

77-38-3. Notification to victims -- Initial notice, election to receive subsequent notices -- Form of notice -- Protected victim information -- Pretrial criminal no contact order.

(1) Within seven days of the filing of felony criminal charges against a defendant, the prosecuting agency shall provide an initial notice to reasonably identifiable and locatable victims of the crime contained in the charges, except as otherwise provided in this chapter.

(2) The initial notice to the victim of a crime shall provide information about electing to receive notice of subsequent important criminal justice hearings listed in Subsections 77-38-2(5)(a) through (f) and rights under this chapter.

(3) The prosecuting agency shall provide notice to a victim of a crime:

(a) for the important criminal justice hearings, provided in Subsections 77-38-2(5)(a) through (f), which the victim has requested[-]; and

(b) for restitution requests to be submitted as provided in Subsection 77-38a-302(5)(d).

(4) (a) The responsible prosecuting agency may provide initial and subsequent notices in any reasonable manner, including telephonically, electronically, orally, or by means of a letter or form prepared for this purpose.

(b) In the event of an unforeseen important criminal justice hearing, listed in Subsections 77-38-2(5)(a) through (f) for which a victim has requested notice, a good faith attempt to contact the victim by telephone shall be considered sufficient notice, provided that the prosecuting agency subsequently notifies the victim of the result of the proceeding.

(5) (a) The court shall take reasonable measures to ensure that its scheduling practices for the proceedings provided in Subsections 77-38-2(5)(a) through (f) permit an opportunity for victims of crimes to be notified.

(b) The court shall also consider whether any notification system it might use to provide notice of judicial proceedings to defendants could be used to provide notice of those same proceedings to victims of crimes.

(6) A defendant or, if it is the moving party, Adult Probation and Parole, shall give notice to the responsible prosecuting agency of any motion for modification of any determination made at any of the important criminal justice hearings provided in Subsections 77-38-2(5)(a) through (f) in advance of any requested court hearing or action so that the prosecuting agency may comply with its notification obligation.

(7) (a) Notice to a victim of a crime shall be provided by the Board of Pardons and Parole for the important criminal justice hearing provided in Subsection 77-38-2(5)(g).

(b) The board may provide notice in any reasonable manner, including telephonically, electronically, orally, or by means of a letter or form prepared for this purpose.

(8) Prosecuting agencies and the Board of Pardons and Parole are required to give notice to a victim of a crime for the proceedings provided in Subsections 77-38-2(5)(a) through (f) only where the victim has responded to the initial notice, requested notice of subsequent proceedings, and provided a current address and telephone number if applicable.

(9) (a) Law enforcement and criminal justice agencies shall refer any requests for notice or information about crime victim rights from victims to the responsible prosecuting agency.

(b) In a case in which the Board of Pardons and Parole is involved, the responsible prosecuting agency shall forward any request for notice it has received from a victim to the Board of Pardons and Parole.

(10) In all cases where the number of victims exceeds 10, the responsible prosecuting agency may send any notices required under this chapter in its discretion to a representative sample of the victims.

(11) (a) A victim's address, telephone number, and victim impact statement maintained by a peace officer, prosecuting agency, Youth Parole Authority, Division of Juvenile Justice Services, Department of Corrections, and Board of Pardons and Parole, for purposes of providing notice under this section, is classified as protected as provided in Subsection 63G-2-305(10).

(b) The victim's address, telephone number, and victim impact statement is available only to the following persons or entities in the performance of their duties:

(i) a law enforcement agency, including the prosecuting agency;

(ii) a victims' right committee as provided in Section 77-37-5;

(iii) a governmentally sponsored victim or witness program;

(iv) the Department of Corrections;

(v) the Utah Office for Victims of Crime;

(vi) the Commission on Criminal and Juvenile Justice; and

(vii) the Board of Pardons and Parole.

(12) The notice provisions as provided in this section do not apply to misdemeanors as provided in Section 77-38-5 and to important juvenile justice hearings as provided in Section 77-38-2.

(13) (a) When a defendant is charged with a felony crime under Sections 76-5-301 through 76-5-310 regarding kidnapping, human trafficking, and human smuggling; Sections 76-5-401 through 76-5-413 regarding sexual offenses; or Section 76-10-1306 regarding aggravated exploitation of

prostitution, the court may, during any court hearing where the defendant is present, issue a pretrial criminal no contact order:

(i) prohibiting the defendant from harassing, telephoning, contacting, or otherwise communicating with the victim directly or through a third party;

(ii) ordering the defendant to stay away from the residence, school, place of employment of the victim, and the premises of any of these, or any specified place frequented by the victim or any designated family member of the victim directly or through a third party; and

(iii) ordering any other relief that the court considers necessary to protect and provide for the safety of the victim and any designated family or household member of the victim.

(b) Violation of a pretrial criminal no contact order issued pursuant to this section is a third degree felony.

(c) (i) The court shall provide to the victim a certified copy of any pretrial criminal no contact order that has been issued if the victim can be located with reasonable effort.

(ii) The court shall also transmit the pretrial criminal no contact order to the statewide domestic violence network in accordance with Section 78B-7-113.

Section 4. Section 77-38a-102 is amended to read:

77-38a-102. Definitions.

As used in this chapter:

(1) "Conviction" includes a:

(a) judgment of guilt;

(b) a plea of guilty; or

(c) a plea of no contest.

(2) "Criminal activities" means:

(a) any offense of which the defendant is convicted; or

(b) any other criminal conduct for which the defendant admits responsibility to the sentencing court with or without an admission of committing the criminal conduct.

(3) "Department" means the Department of Corrections.

(4) "Diversion" means suspending criminal proceedings prior to conviction on the condition that a defendant agree to participate in a rehabilitation program, make restitution to the victim, or fulfill some other condition.

(5) "Party" means the prosecutor, defendant, or department involved in a prosecution.

(6) "Pecuniary damages" means all demonstrable economic injury, whether or not yet incurred, including those which a person could recover in a civil action arising out of the facts or events

constituting the defendant's criminal activities and includes the fair market value of property taken, destroyed, broken, or otherwise harmed, and losses including lost earnings, including those and other travel expenses reasonably incurred as a result of participation in criminal proceedings, and medical and other expenses, but excludes punitive or exemplary damages and pain and suffering.

(7) "Plea agreement" means an agreement entered between the prosecution and defendant setting forth the special terms and conditions and criminal charges upon which the defendant will enter a plea of guilty or no contest.

(8) "Plea disposition" means an agreement entered into between the prosecution and defendant including diversion, plea agreement, plea in abeyance agreement, or any agreement by which the defendant may enter a plea in any other jurisdiction or where charges are dismissed without a plea.

(9) "Plea in abeyance" means an order by a court, upon motion of the prosecution and the defendant, accepting a plea of guilty or of no contest from the defendant but not, at that time, entering judgment of conviction against him nor imposing sentence upon him on condition that he comply with specific conditions as set forth in a plea in abeyance agreement.

(10) "Plea in abeyance agreement" means an agreement entered into between the prosecution and the defendant setting forth the specific terms and conditions upon which, following acceptance of the agreement by the court, a plea may be held in abeyance.

(11) "Restitution" means full, partial, or nominal payment for pecuniary damages to a victim, including prejudgment interest, the accrual of interest from the time of sentencing, insured damages, reimbursement for payment of a reward, and payment for expenses to a governmental entity for extradition or transportation and as may be further defined by law.

(12) (a) "Reward" means a sum of money:

(i) offered to the public for information leading to the arrest and conviction of an offender; and

(ii) that has been paid to a person or persons who provide this information, except that the person receiving the payment may not be a codefendant, an accomplice, or a bounty hunter.

(b) "Reward" does not include any amount paid in excess of the sum offered to the public.

(13) "Screening" means the process used by a prosecuting attorney to terminate investigative action, proceed with prosecution, move to dismiss a prosecution that has been commenced, or cause a prosecution to be diverted.

(14) (a) "Victim" means any person or entity, including the Utah Office for Victims of Crime, who the court determines has suffered pecuniary damages as a result of the defendant's criminal activities.

(b) "Victim" may not include a codefendant or accomplice.

Section 5. Section 77-38a-302 is amended to read:

77-38a-302. Restitution criteria.

(1) When a defendant is convicted of criminal activity that has resulted in pecuniary damages, in addition to any other sentence it may impose, the court shall order that the defendant make restitution to victims of crime as provided in this chapter, or for conduct for which the defendant has agreed to make restitution as part of a plea disposition. For purposes of restitution, a victim has the meaning as defined in Subsection 77-38a-102(14) and in determining whether restitution is appropriate, the court shall follow the criteria and procedures as provided in Subsections (2) through (5).

(2) In determining restitution, the court shall determine complete restitution and court-ordered restitution.

(a) "Complete restitution" means restitution necessary to compensate a victim for all losses caused by the defendant.

(b) "Court-ordered restitution" means the restitution the court having criminal jurisdiction orders the defendant to pay as a part of the criminal sentence [at the time of sentencing or within one year after sentencing].

(c) Complete restitution and court-ordered restitution shall be determined as provided in Subsection (5).

(3) If the court determines that restitution is appropriate or inappropriate under this part, the court shall make the reasons for the decision part of the court record.

(4) If the defendant objects to the imposition, amount, or distribution of the restitution, the court shall allow the defendant a full hearing on the issue.

(5) (a) For the purpose of determining restitution for an offense, the offense shall include any criminal conduct admitted by the defendant to the sentencing court or to which the defendant agrees to pay restitution. A victim of an offense that involves as an element a scheme, a conspiracy, or a pattern of criminal activity, includes any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern.

(b) In determining the monetary sum and other conditions for complete restitution, the court shall consider all relevant facts, including:

(i) the cost of the damage or loss if the offense resulted in damage to or loss or destruction of property of a victim of the offense;

(ii) the cost of necessary medical and related professional services and devices relating to physical or mental health care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;

(iii) the cost of necessary physical and occupational therapy and rehabilitation;

(iv) the income lost by the victim as a result of the offense [~~if the offense resulted in bodily injury to a victim~~];

(v) [~~up to five days of~~] the individual victim's reasonable determinable wages that are lost due to theft of or damage to tools or equipment items of a trade that were owned by the victim and were essential to the victim's current employment at the time of the offense; and

(vi) the cost of necessary funeral and related services if the offense resulted in the death of a victim.

(c) In determining the monetary sum and other conditions for court-ordered restitution, the court shall consider:

(i) the factors listed in Subsections (5)(a) and (b);

(ii) the financial resources of the defendant, as disclosed in the financial declaration described in Section 77-38a-204;

(iii) the burden that payment of restitution will impose, with regard to the other obligations of the defendant;

(iv) the ability of the defendant to pay restitution on an installment basis or on other conditions to be fixed by the court;

(v) the rehabilitative effect on the defendant of the payment of restitution and the method of payment; and

(vi) other circumstances that the court determines may make restitution inappropriate.

~~[(d) (i) Except as provided in Subsection (5)(d)(ii), the court shall determine complete restitution and court-ordered restitution, and shall make all restitution orders at the time of sentencing if feasible, otherwise within one year after sentencing.]~~

(d) (i) The prosecuting agency shall submit all requests for complete restitution and court ordered restitution to the court at the time of sentencing if feasible, otherwise within one year after sentencing.

(ii) If a defendant is placed on probation pursuant to Section 77-18-1:

(A) the court shall determine complete restitution and court ordered restitution; and

(B) the time period for determination of complete restitution and court ordered restitution may be extended by the court upon a finding of good cause, but may not exceed the period of the probation term served by the defendant.

(iii) If the defendant is committed to prison:

[(ii) Any] (A) any pecuniary damages that have not been determined by the court within one year after sentencing may be determined by the Board of Pardons and Parole[-]; and

~~[(e) The] (B) the Board of Pardons and Parole may, within one year after sentencing, refer an order of judgment and commitment back to the court for determination of restitution.~~

CHAPTER 224**H. B. 448**

Passed March 10, 2016
 Approved March 23, 2016
 Effective May 10, 2016

AIRPORT FEE AMENDMENTS

Chief Sponsor: Derrin Owens
 Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill modifies the Aeronautics Act by repealing provisions requiring an airport to be licensed by the state.

Highlighted Provisions:

This bill:

- ▶ repeals the requirement that a public airport be licensed by the state; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

72-10-110, as last amended by Laws of Utah 2015, Chapter 35
 72-10-116, as last amended by Laws of Utah 2009, Chapter 183

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 72-10-110 is amended to read:**72-10-110. Aircraft registration information requirements -- Registration fee -- Administration -- Partial year registration.**

(1) All applications for aircraft registration shall contain:

- (a) a description of the aircraft, including:
 - (i) the manufacturer or builder;
 - (ii) the aircraft registration number, type, year of manufacture, or if an experimental aircraft, the year the aircraft was completed and certified for air worthiness by an inspector of the Federal Aviation Administration; and
 - (iii) gross weight;
- (b) the name and address of the owner of the aircraft; and
- (c) where the aircraft is located, or the address where the aircraft is usually used or based.

(2) (a) Except as provided in Subsection (3), at the time application is made for registration or renewal of registration of an aircraft under this chapter, an annual registration fee of 0.4% of the average wholesale value of the aircraft shall be paid.

(b) For purposes of calculating the value of the aircraft under Subsection (2)(a) or (3)(d), the State Tax Commission shall use the average wholesale value as stated in the Aircraft Bluebook Price Digest.

(3) (a) An annual registration fee of \$100 is imposed on the following aircraft:

- (i) an aircraft not listed in the Aircraft Bluebook Price Digest;
- (ii) an experimental aircraft; or
- (iii) an aircraft that is used:

(A) exclusively by an entity that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code, and exempt from property taxation under Title 59, Chapter 2, Property Tax Act; and

(B) for the emergency transportation of medical patients for at least 95% of its flight time.

(b) An annual registration fee is imposed on an aircraft 50 years or older equal to the lesser of:

- (i) \$100; or
- (ii) the annual registration fee provided for under Subsection (2)(a).

(c) An aircraft that does not have a valid airworthiness certificate for a period of six months or more:

- (i) may not apply for a certificate of registration required under Section 72-10-109; and
- (ii) is exempt from an annual registration fee until the aircraft has a valid airworthiness certificate.

(d) An annual registration fee of .25% of the average wholesale value of the aircraft is imposed on an aircraft if the aircraft is:

- (i) used by an air charter service for air charter; and
- (ii) owned by a person other than the air charter service.

(4) (a) The State Tax Commission shall provide a registration card to an owner of an aircraft if:

- (i) the owner complies with the registration requirements of this section; and
- (ii) the owner of the aircraft states that the aircraft has a valid airworthiness certificate.

(b) An owner of an aircraft shall carry the registration card in the registered aircraft.

(5) The registration fees assessed under this chapter shall be collected by the State Tax Commission to be distributed as provided in Subsection (6).

(6) After deducting the costs of administering all aircraft registrations under this chapter, the State Tax Commission shall deposit all remaining aircraft registration fees in the Aeronautics Restricted Account created by Section 72-2-126.

(7) Aircraft which are registered under this chapter for less than a full calendar year shall be charged a registration fee which is reduced in proportion to the fraction of the calendar year during which the aircraft is registered in this state.

(8) (a) For purposes of this section, aircraft based at the owner's airport means an aircraft that is hangered, tied down, or parked at an owner's airport for a plurality of the year.

(b) Semi-annually, an owner or operator of an airport open to public use shall provide a list of all aircraft based at the owner's airport to the Utah Division of Aeronautics.

[(8)] (9) (a) The Utah Division of Aeronautics shall maintain a statewide database of all aircraft based within the state.

(b) On or before October 1 of each year, the Utah Division of Aeronautics shall provide the State Tax Commission with the data the State Tax Commission requires from the database described in Subsection [(8)] (9)(a).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the contents of the database described in Subsection [(8)] (9)(a).

(d) The State Tax Commission shall annually provide the Utah Division of Aeronautics a list of all aircraft registered in this state.

[(9)] (10) The State Tax Commission may suspend or revoke a registration if it determines that the required fee has not been paid and the fee is not paid upon reasonable notice and demand.

Section 2. Section 72-10-116 is amended to read:

72-10-116. Restrictions on use of lands or waters of another.

[(1) For purposes of this section, aircraft based at the owner's airport means an aircraft which is hangered, tied down, or parked at an owner's airport for a plurality of the year.]

[(2) (a) An airport open to public use may not be used or operated unless it is duly licensed by the division.]

[(b) A person who owns or operates an airport open to public use shall file an application with the division for a license for the facility.]

[(c) Semi-annually, an owner or operator described in Subsection (2)(b) shall provide a list of all aircraft based at the owner's airport to the Utah Division of Aeronautics.]

[(3) (a) A license shall be granted whenever it is reasonably necessary for the accommodation and convenience of the public and may be granted in other cases in the discretion of the division.]

[(b) The division may not issue a license if the division finds that the facility is not constructed, equipped, and operated in accordance with the standards set by the department.]

[(4)] (1) (a) The landing or taking off of aircraft on or from the lands or waters of another without consent is unlawful, except in the case of a forced landing.

(b) For damages caused by a takeoff or landing, the owner, lessee of the aircraft, operator, or any of them is liable.

[(5)] (2) (a) A student pilot may not land on any area without the knowledge of the operator, instructor, or school from which the student is flying.

(b) The use of private landing fields must not impose a hazard upon the person or property of others.

[(6) A certificate of registration is not required of, and the rules made under this title do not apply to an airport owned or operated by the government of the United States.]

[(7) The division, with the approval of the commission, may charge a fee determined by the division pursuant to Section 63J-1-504 for the issuance of an annual airport license.]

CHAPTER 225**H. B. 455**

Passed March 10, 2016
 Approved March 23, 2016
 Effective May 10, 2016

HEALTH MODIFICATIONS

Chief Sponsor: Timothy D. Hawkes
 Senate Sponsor: Brian E. Shiozawa

LONG TITLE**General Description:**

This bill amends provisions related to the Medicaid program.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to the Medicaid Inspector General's access to records held by the Department of Health.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63A-13-301, as last amended by Laws of Utah 2013, Chapter 359 and renumbered and amended by Laws of Utah 2013, Chapter 12

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-13-301 is amended to read:**63A-13-301. Access to records -- Retention of designation under Government Records Access and Management Act.**

(1) In order to fulfill the duties described in Section 63A-13-202, and in the manner provided in Subsection (4), the office shall have unrestricted access to all records of state executive branch entities, all local government entities, and all providers relating, directly or indirectly, to:

- (a) the state Medicaid program;
- (b) state or federal Medicaid funds;
- (c) the provision of Medicaid related services;
- (d) the regulation or management of any aspect of the state Medicaid program;
- (e) the use or expenditure of state or federal Medicaid funds;
- (f) suspected or proven fraud, waste, or abuse of state or federal Medicaid funds;
- (g) Medicaid program policies, practices, and procedures;
- (h) monitoring of Medicaid services or funds; or

(i) a fatality review of a person who received Medicaid funded services.

(2) The office shall have access to information in any database maintained by the state or a local government to verify identity, income, employment status, or other factors that affect eligibility for Medicaid services.

(3) The records described in Subsections (1) and (2) include records held or maintained by the department, the division, the Department of Human Services, the Department of Workforce Services, a local health department, a local mental health authority, or a school district. The records described in Subsection (1) include records held or maintained by a provider. When conducting an audit of a provider, the office shall, to the extent possible, limit the records accessed to the scope of the audit.

(4) A record, described in Subsection (1) or (2), that is accessed or copied by the office:

(a) may be reviewed or copied by the office during normal business hours, unless otherwise requested by the provider or health care professional under Subsection (4)(b);

(b) unless there is a credible allegation of fraud, shall be accessed, reviewed, and copied in a manner, on a day, and at a time that is minimally disruptive to the health care professional's or provider's care of patients, as requested by the health care professional or provider;

(c) may be submitted electronically;

(d) may be submitted together with other records for multiple claims; and

(e) if it is a government record, shall retain the classification made by the entity responsible for the record, under Title 63G, Chapter 2, Government Records Access and Management Act.

(5) ~~Notwithstanding~~ Except as provided in Subsection (7), notwithstanding any provision of state law to the contrary, the office shall have the same access to all records, information, and databases to which the department or the division ~~have~~ has access.

(6) The office shall comply with the requirements of federal law, including the Health Insurance Portability and Accountability Act of 1996 and 42 C.F.R., Part 2, relating to the office's:

(a) access, review, retention, and use of records; and

(b) use of information included in, or derived from, records.

(7) The office's access to data held by the Health Data Committee:

(a) is not subject to this section; and

(b) is subject to Title 26, Chapter 33a, Utah Health Data Authority Act.

CHAPTER 226**S. B. 18**

Passed February 5, 2016
 Approved March 23, 2016
 Effective May 10, 2016

**WORKFORCE SERVICES
 JOB LISTINGS AMENDMENTS**

Chief Sponsor: Peter C. Knudson
 House Sponsor: Paul Ray

LONG TITLE**General Description:**

This bill requires local education agencies to advertise job openings on the state website.

Highlighted Provisions:

This bill:

- ▶ requires local education agencies to provide a list of job openings to the Utah Department of Workforce Services; and
- ▶ amends the definition of a governmental entity to include local education agencies as defined in Section 53A-30-102.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

35A-1-102, as last amended by Laws of Utah 2014, Chapter 179

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 35A-1-102 is amended to read:

35A-1-102. Definitions.

Unless otherwise specified, as used in this title:

(1) "Client" means an individual who the department has determined to be eligible for services or benefits under:

- (a) Chapter 3, Employment Support Act; and
- (b) Chapter 5, Training and Workforce Improvement Act.

(2) "Department" means the Department of Workforce Services created in Section 35A-1-103.

(3) "Economic service area" means an economic service area established in accordance with Chapter 2, Economic Service Areas.

(4) "Employment assistance" means services or benefits provided by the department under:

- (a) Chapter 3, Employment Support Act; and
- (b) Chapter 5, Training and Workforce Improvement Act.

(5) "Employment center" is a location in an economic service area where the services provided by an economic service area under Section 35A-2-201 may be accessed by a client.

(6) "Employment counselor" means an individual responsible for developing an employment plan and coordinating the services and benefits under this title in accordance with Chapter 2, Economic Service Areas.

(7) "Employment plan" means a written agreement between the department and a client that describes:

- (a) the relationship between the department and the client;
- (b) the obligations of the department and the client; and
- (c) the result if an obligation is not fulfilled by the department or the client.

(8) "Executive director" means the executive director of the department appointed under Section 35A-1-201.

(9) "Government entity" means the state or any county, municipality, local district, special service district, or other political subdivision or administrative unit of the state, ~~including~~ a state ~~institution~~ institution of higher education as defined in Section 53B-2-101, or a local education agency as defined in Section 53A-30-102.

(10) "Public assistance" means:

- (a) services or benefits provided under Chapter 3, Employment Support Act;
- (b) medical assistance provided under Title 26, Chapter 18, Medical Assistance Act;
- (c) foster care maintenance payments provided from the General Fund or under Title IV-E of the Social Security Act;
- (d) SNAP benefits; and
- (e) any other public funds expended for the benefit of a person in need of financial, medical, food, housing, or related assistance.

(11) "SNAP" means the federal "Supplemental Nutrition Assistance Program" under Title 7, U.S.C. Chapter 51, Supplemental Nutrition Assistance Program, formerly known as the federal Food Stamp Program.

(12) "SNAP benefit" or "SNAP benefits" means a financial benefit, coupon, or privilege available under SNAP.

(13) "Stabilization" means addressing the basic living, family care, and social or psychological needs of the client so that the client may take advantage of training or employment opportunities provided under this title or through other agencies or institutions.

CHAPTER 227**S. B. 29**

Passed February 10, 2016

Approved March 23, 2016

Effective May 10, 2016

RETIREMENT SYSTEMS AMENDMENTS

Chief Sponsor: Todd Weiler
House Sponsor: Kraig Powell

LONG TITLE**General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending certain retirement provisions.

Highlighted Provisions:

This bill:

- ▶ clarifies retiree reporting provisions to the Utah State Retirement Office on the status of the reemployment;
- ▶ allows Utah Retirement Systems to make payments to a deceased member's beneficiaries 30 days instead of three months after the date of death;
- ▶ amends the definition of "final average salary" to specify that its basis is contract year for educational institutions, state fiscal year for judges, and calendar year for all other participating employers;
- ▶ clarifies that a public safety employee who is transferred or promoted to an administration position within the same department primarily to manage or supervise public safety service employees will continue to earn public safety service credit;
- ▶ addresses references to death or disability;
- ▶ provides that a person's retirement date is among the circumstances in which a person qualified for a monthly disability benefit will no longer receive the benefit;
- ▶ provides that for an elected official under Tier II retirement, the total amount contributed by the participating employer and the total amount contributed by the elected official vests immediately;
- ▶ clarifies four-year vesting provisions for Tier II defined contribution benefits;
- ▶ repeals provisions that require the Utah State Retirement Office to include accrued earnings in Unused Sick Leave Retirement Program II; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 49-11-505, as last amended by Laws of Utah 2015, Chapters 243 and 256
- 49-11-609, as last amended by Laws of Utah 2005, Chapter 116
- 49-12-102, as last amended by Laws of Utah 2015, Chapter 243
- 49-13-102, as last amended by Laws of Utah 2014, Chapter 15

- 49-14-102, as last amended by Laws of Utah 2015, Chapter 463
- 49-14-201, as last amended by Laws of Utah 2015, Chapters 100 and 463
- 49-15-102, as last amended by Laws of Utah 2015, Chapter 463
- 49-15-201, as last amended by Laws of Utah 2015, Chapters 100 and 463
- 49-16-102, as last amended by Laws of Utah 2015, Chapter 254
- 49-17-102, as last amended by Laws of Utah 2008, Chapter 3
- 49-18-102, as last amended by Laws of Utah 2008, Chapter 3
- 49-21-403, as last amended by Laws of Utah 2013, Chapter 316
- 49-22-102, as last amended by Laws of Utah 2013, Chapters 109 and 127
- 49-22-201, as last amended by Laws of Utah 2015, Chapter 315
- 49-22-205, as enacted by Laws of Utah 2015, Chapter 315
- 49-22-303, as last amended by Laws of Utah 2015, Chapter 315
- 49-22-401, as last amended by Laws of Utah 2015, Chapter 315
- 49-23-102, as last amended by Laws of Utah 2015, Chapters 254 and 463
- 49-23-302, as last amended by Laws of Utah 2011, Chapter 439
- 49-23-401, as last amended by Laws of Utah 2015, Chapter 315
- 67-19-14.4, as last amended by Laws of Utah 2013, Chapter 277

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 49-11-505 is amended to read:**49-11-505. Reemployment of a retiree -- Restrictions.**

- (1) (a) For purposes of this section, "retiree":
- (i) means a person who:
 - (A) retired from a participating employer; and
 - (B) begins reemployment on or after July 1, 2010, with a participating employer;
 - (ii) does not include a person:
 - (A) who was reemployed by a participating employer before July 1, 2010; and
 - (B) whose participating employer that reemployed the person under Subsection (1)(a)(ii)(A) was dissolved, consolidated, merged, or structurally changed in accordance with Section 49-11-621 after July 1, 2010; and
 - (iii) does not include a person who is reemployed as an active senior judge or an active senior justice court judge as described by Utah State Court Rules, appointed to hear cases by the Utah Supreme Court in accordance with Article VIII, Section 4, Utah Constitution.
- (b) (i) This section does not apply to employment as an elected official if the elected official's position

is not full time as certified by the participating employer.

(ii) The provisions of this section apply to an elected official whose elected position is full time as certified by the participating employer.

(c) (i) This section does not apply to employment as a part-time appointed board member who does not receive any remuneration, stipend, or other benefit for the part-time appointed board member's service.

(ii) For purposes of this Subsection (1)(c), remuneration, stipend, or other benefit does not include receipt of per diem and travel expenses up to the amounts established by the Division of Finance in:

(A) Section 63A-3-106;

(B) Section 63A-3-107; and

(C) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(d) (i) For purposes of this Subsection (1)(d), "affiliated emergency services worker" means a person who is employed by a participating employer and who performs emergency services for another participating employer that is a different agency in which the person:

(A) has been trained in techniques and skills required for the service the person provides to the participating employer;

(B) continues to receive regular training required for the service;

(C) is on the rolls as a trained affiliated emergency services worker of the participating employer; and

(D) provides ongoing service for a participating employer, which service may include service as a volunteer firefighter, reserve law enforcement officer, search and rescue personnel, emergency medical technician, ambulance personnel, park ranger, or public utilities worker.

(ii) A person who performs work or service but does not meet the requirements of Subsection (1)(d)(i) is not an affiliated emergency services worker for purposes of this Subsection (1)(d).

(iii) The office may not cancel the retirement allowance of a retiree who is employed as an affiliated emergency services worker within one year of the retiree's retirement date if the affiliated emergency services worker does not receive any compensation, except for:

(A) a nominal fee, stipend, discount, tax credit, voucher, or other fixed sum of money or cash equivalent payment not tied to productivity and paid periodically for services;

(B) a length-of-service award;

(C) insurance policy premiums paid by the participating employer in the event of death of an

affiliated emergency services worker or a line-of-duty accidental death or disability; or

(D) reimbursement of expenses incurred in the performance of duties.

(iv) For purposes of Subsections (1)(d)(iii)(A) and (B), the total amount of any discounts, tax credits, vouchers, and payments to a volunteer may not exceed \$500 per month.

(v) Beginning January 1, 2016, the board shall adjust the amount under Subsection (1)(d)(iv) by the annual change in the Consumer Price Index during the previous calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(vi) The office shall cancel the retirement allowance of a retiree for the remainder of the calendar year if employment as an affiliated emergency services worker with a participating employer exceeds the limitation under Subsection (1)(d)(iv).

(vii) If a retiree is employed as an affiliated emergency services worker under the provisions of Subsection (1)(d), the termination date of the employment as an affiliated emergency services worker, as confirmed in writing by the participating employer, is considered the retiree's retirement date for the purpose of calculating the separation requirement under Subsection (3)(a).

(2) A retiree may not for the same period of reemployment:

(a) (i) earn additional service credit; or

(ii) receive any retirement related contribution from a participating employer; and

(b) receive a retirement allowance.

(3) (a) Except as provided under Subsection (3)(b) or (10), the office shall cancel the retirement allowance of a retiree if the reemployment with a participating employer begins within one year of the retiree's retirement date.

(b) The office may not cancel the retirement allowance of a retiree who is reemployed with a participating employer within one year of the retiree's retirement date if:

(i) the retiree is not reemployed by a participating employer for a period of at least 60 days from the retiree's retirement date;

(ii) upon reemployment after the break in service under Subsection (3)(b)(i), the retiree does not receive any employer provided benefits, including:

(A) medical benefits;

(B) dental benefits;

(C) other insurance benefits except for workers' compensation as provided under Title 34A, Chapter 2, Workers' Compensation Act, and withholdings required by federal or state law for Social Security, Medicare, and unemployment insurance; or

(D) paid time off, including sick, annual, or other type of leave; and

(iii) (A) the retiree does not earn in any calendar year of reemployment an amount in excess of the lesser of \$15,000 or one-half of the retiree's final average salary upon which the retiree's retirement allowance is based; or

(B) the retiree is reemployed as a judge as defined under Section 78A-11-102.

(c) Beginning January 1, 2013, the board shall adjust the amounts under Subsection (3)(b)(iii)(A) by the annual change in the Consumer Price Index during the previous calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(d) The office shall cancel the retirement allowance of a retiree for the remainder of the calendar year if the reemployment with a participating employer exceeds the limitation under Subsection (3)(b)(iii)(A).

(e) If a retiree is reemployed under the provisions of Subsection (3)(b), the termination date of the reemployment, as confirmed in writing by the participating employer, is considered the retiree's retirement date for the purpose of calculating the separation requirement under Subsection (3)(a).

(f) If a retiree received a retirement allowance in error, due to reemployment in violation of this section:

(i) the office shall cancel the retiree's retirement allowance; and

(ii) if the retiree applies for a future benefit, the office shall recover any overpayment in accordance with the provisions of Section 49-11-607.

(4) If a reemployed retiree has completed the one-year separation from employment with a participating employer required under Subsection (3)(a), the retiree may elect to:

(a) earn additional service credit in accordance with this title and cancel the retiree's retirement allowance; or

(b) continue to receive the retiree's retirement allowance and forfeit any retirement related contribution from the participating employer who reemployed the retiree.

(5) (a) As used in this Subsection (5), "amortization rate" means the amortization rate, as defined in Section 49-11-102, to be applied to the system that would have covered the retiree if the retiree's reemployed position were deemed to be an eligible, full-time position within that system.

(b) A participating employer who reemploys a retiree shall contribute to the office the amortization rate if the reemployed retiree:

(i) has completed the one-year separation from employment with a participating employer required under Subsection (3)(a); and

(ii) makes an election under Subsection (4)(b) to continue to receive a retirement allowance while reemployed.

(6) (a) A participating employer shall immediately notify the office:

(i) if the participating employer reemploys a retiree;

(ii) whether the reemployment is subject to Subsection (3)(b) or (4) of this section; and

(iii) of any election by the retiree under Subsection (4).

(b) A participating employer shall certify to the office whether the position of an elected official is or is not full time.

(c) A participating employer is liable to the office for a payment or failure to make a payment in violation of this section.

(d) If a participating employer fails to notify the office in accordance with this section, the participating employer is immediately subject to a compliance audit by the office.

(7) (a) The office shall immediately cancel the retirement allowance of a retiree in accordance with Subsection (7)(b) if the office receives notice or learns of:

(i) the reemployment of a retiree in violation of Subsection (3); or

(ii) the election of a reemployed retiree under Subsection (4)(a).

(b) If the retiree is eligible for retirement coverage in the reemployed position, the office shall cancel the allowance of a retiree subject to Subsection (7)(a), and reinstate the retiree to active member status on the first day of the month following the date of:

(i) reemployment if the retiree is subject to Subsection (3); or

(ii) an election by an employee under Subsection (4)(a).

(c) If the retiree is not otherwise eligible for retirement coverage in the reemployed position:

(i) the office shall cancel the allowance of a retiree subject to Subsection (7)(a)(i); and

(ii) the participating employer shall pay the amortization rate to the office on behalf of the retiree.

(8) (a) A retiree subject to Subsection (7)(b) who retires within two years from the date of reemployment:

(i) is not entitled to a recalculated retirement benefit; and

(ii) will resume the allowance that was being paid at the time of cancellation.

(b) Subject to Subsection (2), a retiree who is reinstated to active membership under Subsection (7) and who retires two or more years after the date of reinstatement to active membership shall:

(i) resume receiving the allowance that was being paid at the time of cancellation; and

(ii) receive an additional allowance based on the formula in effect at the date of the subsequent retirement for all service credit accrued between the first and subsequent retirement dates.

(9) (a) A retiree subject to this section shall report to the office the status of the reemployment under Subsection (1)(d), (3), or (4).

(b) If the retiree fails to inform the office of an election under Subsection (4), the office shall withhold one month's benefit for each month the retiree fails to inform the office under Subsection (9)(a).

(10) A retiree shall be considered as having completed the one-year separation from employment with a participating employer required under Subsection (3)(a), if the retiree:

(a) before retiring:

(i) was employed with a participating employer as a public safety service employee as defined in Section 49-14-102, 49-15-102, or 49-23-102;

(ii) and during the employment under Subsection (10)(a)(i), suffered a physical injury resulting from external force or violence while performing the duties of the employment, and for which injury the retiree would have been approved for total disability in accordance with the provisions under Title 49, Chapter 21, Public Employees' Long-Term Disability Act, if years of service are not considered;

(iii) had less than 30 years of service credit but had sufficient service credit to retire, with an unreduced allowance making the public safety service employee ineligible for long-term disability payments under Title 49, Chapter 21, Public Employees' Long-Term Disability Act, or a substantially similar long-term disability program; and

(iv) does not receive any long-term disability benefits from any participating employer; and

(b) is reemployed by a different participating employer.

(11) The board may make rules to implement this section.

Section 2. Section 49-11-609 is amended to read:

49-11-609. Beneficiary designations -- Revocation of beneficiary designation -- Procedure -- Beneficiary not designated -- Payment to survivors in order established under the Uniform Probate Code -- Restrictions on payment -- Payment of deceased's expenses.

(1) As used in this section, "member" includes a member, retiree, participant, covered individual, a spouse of a retiree participating in the insurance benefits created by Sections 49-12-404 and 49-13-404, or an alternate payee under a domestic relations order dividing a defined contribution account.

(2) The most recent beneficiary designations signed by the member and filed with the office, including electronic records, at the time of the member's death are binding in the payment of any benefits due under this title.

(3) (a) Except where an optional continuing benefit is chosen, or the law makes a specific benefit designation to a dependent spouse, a member may revoke a beneficiary designation at any time and may execute and file a different beneficiary designation with the office.

(b) A change of beneficiary designation shall be completed on forms provided by the office.

(4) (a) All benefits payable by the office may be paid or applied to the benefit of the surviving next of kin of the deceased in the order of precedence established under Title 75, Chapter 2, Intestate Succession and Wills, if:

(i) no beneficiary is designated or if all designated beneficiaries have predeceased the member;

(ii) the location of the beneficiary or secondary beneficiaries cannot be ascertained by the office within 12 months of the date a reasonable attempt is made by the office to locate the beneficiaries; or

(iii) the beneficiary has not completed the forms necessary to pay the benefits within six months of the date that beneficiary forms are sent to the beneficiary's last-known address.

(b) (i) A payment may not be made to a person included in any of the groups referred to in Subsection (4)(a) if at the date of payment there is a living person in any of the groups preceding it.

(ii) Payment to a person in any group based upon receipt from the person of an affidavit in a form satisfactory to the office that:

(A) there are no living individuals in the group preceding it;

(B) the probate of the estate of the deceased has not been commenced; and

(C) more than [~~three months~~] 30 days have elapsed since the date of death of the decedent.

(5) Benefits paid under this section shall be:

(a) a full satisfaction and discharge of all claims for benefits under this title; and

(b) payable by reason of the death of the decedent.

Section 3. Section 49-12-102 is amended to read:

49-12-102. Definitions.

As used in this chapter:

(1) "Benefits normally provided":

(a) means a benefit offered by an employer, including:

(i) a leave benefit of any kind;

(ii) insurance coverage of any kind if the employer pays some or all of the premium for the coverage;

(iii) employer contributions to a health savings account, health reimbursement account, health reimbursement arrangement, or medical expense reimbursement plan; and

(iv) a retirement benefit of any kind if the employer pays some or all of the cost of the benefit; and

(b) does not include:

(i) a payment for Social Security;

(ii) workers' compensation insurance;

(iii) unemployment insurance;

(iv) a payment for Medicare;

(v) a payment or insurance required by federal or state law that is similar to a payment or insurance listed in Subsection (1)(b)(i), (ii), (iii), or (iv);

(vi) any other benefit that state or federal law requires an employer to provide an employee who would not otherwise be eligible to receive the benefit; or

(vii) any benefit that an employer provides an employee in order to avoid a penalty or tax under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal regulations, including a penalty imposed by Internal Revenue Code, Section 4980H.

(2) (a) "Compensation" means, except as provided in Subsection (2)(c), the total amount of payments made by a participating employer to a member of this system for services rendered to the participating employer, including:

(i) bonuses;

(ii) cost-of-living adjustments;

(iii) other payments currently includable in gross income and that are subject to Social Security deductions, including any payments in excess of the maximum amount subject to deduction under Social Security law;

(iv) amounts that the member authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law; and

(v) member contributions.

(b) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code, Section 401(a)(17).

(c) "Compensation" does not include:

(i) the monetary value of remuneration paid in kind, including a residence or use of equipment;

(ii) the cost of any employment benefits paid for by the participating employer;

(iii) compensation paid to a temporary employee, an exempt employee, or an employee otherwise ineligible for service credit;

(iv) any payments upon termination, including accumulated vacation, sick leave payments,

severance payments, compensatory time payments, or any other special payments; or

(v) any allowances or payments to a member for costs or expenses paid by the participating employer, including automobile costs, uniform costs, travel costs, tuition costs, housing costs, insurance costs, equipment costs, and dependent care costs.

(d) The executive director may determine if a payment not listed under this Subsection (2) falls within the definition of compensation.

(3) "Final average salary" means the amount ~~computed~~ calculated by averaging the highest five years of annual compensation preceding retirement subject to Subsections (3)(a), (b), (c), ~~and~~ (d), and (e).

(a) Except as provided in Subsection (3)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(b) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection (3)(a) may be exceeded if:

(i) the member has transferred from another agency; or

(ii) the member has been promoted to a new position.

(c) If the member retires more than six months from the date of termination of employment, the member is considered to have been in service at the member's last rate of pay from the date of the termination of employment to the effective date of retirement for purposes of computing the member's final average salary only.

(d) If the member has less than five years of service credit in this system, final average salary means the average annual compensation paid to the member during the full period of service credit.

(e) The annual compensation used to calculate final average salary shall be based on:

(i) a calendar year for a member employed by a participating employer that is not an educational institution; or

(ii) a contract year for a member employed by an educational institution.

(4) "Participating employer" means an employer which meets the participation requirements of Sections 49-12-201 and 49-12-202.

(5) (a) "Regular full-time employee" means an employee whose term of employment for a participating employer contemplates continued employment during a fiscal or calendar year and whose employment normally requires an average of 20 hours or more per week, except as modified by the board, and who receives benefits normally provided by the participating employer.

(b) "Regular full-time employee" includes:

(i) a teacher whose term of employment for a participating employer contemplates continued employment during a school year and who teaches half-time or more;

(ii) a classified school employee:

(A) who is hired before July 1, 2013; and

(B) whose employment normally requires an average of 20 hours per week or more for a participating employer, regardless of benefits provided;

(iii) an officer, elective or appointive, who earns \$500 or more per month, indexed as of January 1, 1990, as provided in Section 49-12-407;

(iv) a faculty member or employee of an institution of higher education who is considered full-time by that institution of higher education; and

(v) an individual who otherwise meets the definition of this Subsection (5) who performs services for a participating employer through a professional employer organization or similar arrangement.

(c) "Regular full-time employee" does not include a classified school employee:

(i) (A) who is hired on or after July 1, 2013; and

(B) who does not receive benefits normally provided by the participating employer even if the employment normally requires an average of 20 hours per week or more for a participating employer; or

(ii) (A) who is hired before July 1, 2013;

(B) who did not qualify as a regular full-time employee before July 1, 2013;

(C) who does not receive benefits normally provided by the participating employer; and

(D) whose employment hours are increased on or after July 1, 2013, to require an average of 20 hours per week or more for a participating employer.

(6) "System" means the Public Employees' Contributory Retirement System created under this chapter.

(7) "Years of service credit" means:

(a) a period consisting of 12 full months as determined by the board;

(b) a period determined by the board, whether consecutive or not, during which a regular full-time employee performed services for a participating employer, including any time the regular full-time employee was absent on a paid leave of absence granted by a participating employer or was absent in the service of the United States government on military duty as provided by this chapter; or

(c) the regular school year consisting of not less than eight months of full-time service for a regular full-time employee of an educational institution.

Section 4. Section 49-13-102 is amended to read:

49-13-102. Definitions.

As used in this chapter:

(1) "Benefits normally provided" has the same meaning as defined in Section 49-12-102.

(2) (a) Except as provided in Subsection (2)(c), "compensation" means the total amount of payments made by a participating employer to a member of this system for services rendered to the participating employer, including:

(i) bonuses;

(ii) cost-of-living adjustments;

(iii) other payments currently includable in gross income and that are subject to Social Security deductions, including any payments in excess of the maximum amount subject to deduction under Social Security law; and

(iv) amounts that the member authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law.

(b) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code, Section 401(a)(17).

(c) "Compensation" does not include:

(i) the monetary value of remuneration paid in kind, including a residence or use of equipment;

(ii) the cost of any employment benefits paid for by the participating employer;

(iii) compensation paid to a temporary employee, an exempt employee, or an employee otherwise ineligible for service credit;

(iv) any payments upon termination, including accumulated vacation, sick leave payments, severance payments, compensatory time payments, or any other special payments; or

(v) any allowances or payments to a member for costs or expenses paid by the participating employer, including automobile costs, uniform costs, travel costs, tuition costs, housing costs, insurance costs, equipment costs, and dependent care costs.

(d) The executive director may determine if a payment not listed under this Subsection (2) falls within the definition of compensation.

(3) "Final average salary" means the amount ~~computed~~ calculated by averaging the highest three years of annual compensation preceding retirement subject to ~~the following:~~ Subsections (3)(a), (b), (c), and (d).

(a) Except as provided in Subsection (3)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(b) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection (3)(a) may be exceeded if:

(i) the member has transferred from another agency; or

(ii) the member has been promoted to a new position.

(c) If the member retires more than six months from the date of termination of employment and for purposes of computing the member's final average salary only, the member is considered to have been in service at the member's last rate of pay from the date of the termination of employment to the effective date of retirement.

(d) The annual compensation used to calculate final average salary shall be based on:

(i) a calendar year for a member employed by a participating employer that is not an educational institution; or

(ii) a contract year for a member employed by an educational institution.

(4) "Participating employer" means an employer which meets the participation requirements of Sections 49-13-201 and 49-13-202.

(5) (a) "Regular full-time employee" means an employee whose term of employment for a participating employer contemplates continued employment during a fiscal or calendar year and whose employment normally requires an average of 20 hours or more per week, except as modified by the board, and who receives benefits normally provided by the participating employer.

(b) "Regular full-time employee" includes:

(i) a teacher whose term of employment for a participating employer contemplates continued employment during a school year and who teaches half time or more;

(ii) a classified school employee:

(A) who is hired before July 1, 2013; and

(B) whose employment normally requires an average of 20 hours per week or more for a participating employer, regardless of benefits provided;

(iii) an officer, elective or appointive, who earns \$500 or more per month, indexed as of January 1, 1990, as provided in Section 49-13-407;

(iv) a faculty member or employee of an institution of higher education who is considered full time by that institution of higher education; and

(v) an individual who otherwise meets the definition of this Subsection (5) who performs services for a participating employer through a professional employer organization or similar arrangement.

(c) "Regular full-time employee" does not include a classified school employee:

(i) (A) who is hired on or after July 1, 2013; and

(B) who does not receive benefits normally provided by the participating employer even if the employment normally requires an average of 20 hours per week or more for a participating employer; or

(ii) (A) who is hired before July 1, 2013;

(B) who did not qualify as a regular full-time employee before July 1, 2013;

(C) who does not receive benefits normally provided by the participating employer; and

(D) whose employment hours are increased on or after July 1, 2013, to require an average of 20 hours per week or more for a participating employer.

(6) "System" means the Public Employees' Noncontributory Retirement System.

(7) "Years of service credit" means:

(a) a period consisting of 12 full months as determined by the board;

(b) a period determined by the board, whether consecutive or not, during which a regular full-time employee performed services for a participating employer, including any time the regular full-time employee was absent on a paid leave of absence granted by a participating employer or was absent in the service of the United States government on military duty as provided by this chapter; or

(c) the regular school year consisting of not less than eight months of full-time service for a regular full-time employee of an educational institution.

Section 5. Section 49-14-102 is amended to read:

49-14-102. Definitions.

As used in this chapter:

(1) (a) "Compensation" means the total amount of payments that are includable in gross income which are received by a public safety service employee as base income for the regularly scheduled work period. The participating employer shall establish the regularly scheduled work period. Base income shall be determined prior to the deduction of member contributions or any amounts the public safety service employee authorizes to be deducted for salary deferral or other benefits authorized by federal law.

(b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.

(c) "Compensation" does not include:

(i) overtime;

(ii) sick pay incentives;

(iii) retirement pay incentives;

(iv) the monetary value of remuneration paid in kind, including a residence, use of equipment or uniform, travel, or similar payments;

(v) a lump-sum payment or special payments covering accumulated leave; and

(vi) all contributions made by a participating employer under this system or under any other

employee benefit system or plan maintained by a participating employer for the benefit of a member or participant.

(d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code Section 401(a)(17).

(2) "Dispatcher" means the same as that term is defined in Section 53-6-102.

(3) "Final average salary" means the amount [computed] calculated by averaging the highest three years of annual compensation preceding retirement subject to Subsections (3)(a) [and], (b)₂ and (c).

(a) Except as provided in Subsection (3)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(b) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection (3)(a) may be exceeded if:

(i) the public safety service employee has transferred from another agency; or

(ii) the public safety service employee has been promoted to a new position.

(c) The annual compensation used to calculate final average salary shall be based on:

(i) a calendar year for a member employed by a participating employer that is not an educational institution; or

(ii) a contract year for a member employed by an educational institution.

(4) (a) "Line-of-duty death" means a death resulting from:

(i) external force, violence, or disease occasioned by an act of duty as a public safety service employee; or

(ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous training or another strenuous activity required as an act of duty as a public safety service employee.

(b) "Line-of-duty death" does not include a death that:

(i) occurs during an activity that is required as an act of duty as a public safety service employee if the activity is not a strenuous activity, including an activity that is clerical, administrative, or of a nonmanual nature;

(ii) occurs during the commission of a crime committed by the employee;

(iii) the employee's intoxication or use of alcohol or drugs, whether prescribed or nonprescribed, contributes to the employee's death; or

(iv) occurs in a manner other than as described in Subsection (4)(a).

(5) "Participating employer" means an employer which meets the participation requirements of Section 49-14-201.

(6) (a) "Public safety service" means employment normally requiring an average of 2,080 hours of regularly scheduled employment per year rendered by a member who is a:

(i) law enforcement officer in accordance with Section 53-13-103;

(ii) correctional officer in accordance with Section 53-13-104;

(iii) special function officer approved in accordance with Sections 49-14-201 and 53-13-105;

(iv) dispatcher who is certified in accordance with Section 53-6-303; or

(v) full-time member of the Board of Pardons and Parole created under Section 77-27-2.

(b) Except as provided under Subsections (6)(a)(iv) and (v), "public safety service" also requires that in the course of employment the employee's life or personal safety is at risk.

(c) Except for the minimum hour requirement, Subsections (6)(a) and (b) do not apply to any person who was eligible for service credit in this system before January 1, 1984.

(7) "Public safety service employee" means an employee of a participating employer who performs public safety service under this chapter.

(8) (a) "Strenuous activity" means engagement involving a difficult, stressful, or vigorous fire suppression, rescue, hazardous material response, emergency medical service, physical law enforcement, prison security, disaster relief, or other emergency response activity.

(b) "Strenuous activity" includes participating in a participating employer sanctioned and funded training exercise that involves difficult, stressful, or vigorous physical activity.

(9) "System" means the Public Safety Contributory Retirement System created under this chapter.

(10) "Years of service credit" means the number of periods, each to consist of 12 full months as determined by the board, whether consecutive or not, during which a public safety service employee was employed by a participating employer, including time the public safety service employee was absent in the service of the United States government on military duty.

Section 6. Section 49-14-201 is amended to read:

49-14-201. System membership -- Eligibility.

(1) Except as provided in Section 49-15-201, a public safety service employee of a participating

employer participating in this system is eligible for service credit in this system at the earliest of:

(a) July 1, 1969, if the public safety service employee was employed by the participating employer on July 1, 1969, and the participating employer was participating in this system on that date;

(b) the date the participating employer begins participating in this system if the public safety service employee was employed by the participating employer on that date; or

(c) the date the public safety service employee is employed by the participating employer and is eligible to perform public safety service, except that a public safety service employee initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

(2) (a) (i) A participating employer that has public safety service and firefighter service employees that require cross-training and duty shall enroll those dual purpose employees in the system in which the greatest amount of time is actually worked.

(ii) The employees shall either be full-time public safety service or full-time firefighter service employees of the participating employer.

(b) (i) Prior to transferring a dual purpose employee from one system to another, the participating employer shall receive written permission from the office.

(ii) The office may request documentation to verify the appropriateness of the transfer.

(3) The board may combine or segregate the actuarial experience of participating employers in this system for the purpose of setting contribution rates.

(4) (a) (i) Each participating employer participating in this system shall annually submit to the office a schedule indicating the positions to be covered under this system in accordance with this chapter.

(ii) The office may require documentation to justify the inclusion of any position under this system.

(b) If there is a dispute between the office and a participating employer or employee over any position to be covered, the disputed position shall be submitted to the Peace Officer Standards and Training Council established under Section 53-6-106 for determination.

(c) (i) The Peace Officer Standards and Training Council's authority to decide eligibility for public safety service credit is limited to claims for coverage under this system for time periods after July 1, 1989.

(ii) A decision of the Peace Officer Standards and Training Council may not be applied to service

credit earned in another system prior to July 1, 1989.

(iii) Except as provided under Subsection (4)(c)(iv), a decision of the Peace Officer Standards and Training Council granting a position coverage under this system may only be applied prospectively from the date of that decision.

(iv) A decision of the Peace Officer Standards and Training Council granting a position coverage under this system may be applied retroactively only if:

(A) the participating employer covered other similarly situated positions under this system during the time period in question; and

(B) the position otherwise meets all eligibility requirements for receiving service credit in this system during the period for which service credit is to be granted.

(5) The Peace Officer Standards and Training Council may use a subcommittee to provide a recommendation to the council in determining disputes between the office and a participating employer or employee over a position to be covered under this system.

(6) The Peace Officer Standards and Training Council shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.

(7) A public safety employee who is transferred or promoted to an administration position ~~not covered by this system~~ requiring the performance of duties that consist primarily of management or supervision of public safety service employees shall continue to earn public safety service credit in this system as long as the employee remains employed in the same department.

(8) An employee of the Department of Corrections shall continue to earn public safety service credit in this system if:

(a) the employee's position is no longer covered under this system for new employees hired on or after July 1, 2015; and

(b) the employee:

(i) remains employed by the Department of Corrections;

(ii) meets the eligibility requirements of this system;

(iii) was hired into a position covered by this system prior to July 1, 2015; and

(iv) has not had a break in service on or after July 1, 2015.

(9) An employee who is reassigned to the Department of Technology Services or to the Department of Human Resource Management, and who was a member of this system, is entitled to remain a member of this system.

(10) (a) To determine that a position is covered under this system, the office and, if a coverage dispute arises, the Peace Officer Standards and

Training Council shall find that the position requires the employee to:

(i) except for a dispatcher, place the employee's life or personal safety at risk; and

(ii) complete training as provided in Section 53-6-303, 53-13-103, 53-13-104, or 53-13-105.

(b) If a position satisfies the requirements of Subsection (10)(a), the office and the Peace Officer Standards and Training Council shall consider whether or not the position requires the employee to:

(i) perform duties that consist primarily of actively preventing or detecting crime and enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

(ii) perform duties that consist primarily of providing community protection; and

(iii) respond to situations involving threats to public safety and make emergency decisions affecting the lives and health of others.

(11) If a subcommittee is used to recommend the determination of disputes to the Peace Officer Standards and Training Council, the subcommittee shall comply with the requirements of Subsection (10) in making its recommendation.

(12) A final order of the Peace Officer Standards and Training Council regarding a dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative Procedures Act.

(13) Except as provided under Subsection (14), if a participating employer's public safety service employees are not covered by this system or under Chapter 15, Public Safety Noncontributory Retirement Act, as of January 1, 1998, those public safety service employees who may otherwise qualify for membership in this system shall, at the discretion of the participating employer, remain in their current retirement system.

(14) (a) A public safety service employee employed by an airport police department, which elects to cover its public safety service employees under the Public Safety Noncontributory Retirement System under Subsection (13), may elect to remain in the public safety service employee's current retirement system.

(b) The public safety service employee's election to remain in the current retirement system under Subsection (14)(a):

(i) shall be made at the time the employer elects to move its public safety service employees to a public safety retirement system;

(ii) documented by written notice to the participating employer; and

(iii) is irrevocable.

(15) (a) Subject to Subsection (16), beginning July 1, 2015, a public safety service employee who is a dispatcher employed by:

(i) the state shall be eligible for service credit in this system; and

(ii) a participating employer other than the state shall be eligible for service credit in this system if the dispatcher's participating employer elects to cover its dispatchers under this system.

(b) A participating employer's election to cover its dispatchers under this system under Subsection (15)(a)(ii) is irrevocable and shall be documented by a resolution adopted by the governing body of the participating employer in accordance with rules made by the office.

(c) A dispatcher's service before July 1, 2015, or before a date specified by resolution of a participating employer under Subsection (15)(b), is not eligible for service credit in this system.

(16) Notwithstanding any other provision of this section, a person initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

Section 7. Section 49-15-102 is amended to read:

49-15-102. Definitions.

As used in this chapter:

(1) (a) "Compensation" means the total amount of payments that are includable in gross income received by a public safety service employee as base income for the regularly scheduled work period. The participating employer shall establish the regularly scheduled work period. Base income shall be determined prior to the deduction of any amounts the public safety service employee authorizes to be deducted for salary deferral or other benefits authorized by federal law.

(b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.

(c) "Compensation" does not include:

(i) overtime;

(ii) sick pay incentives;

(iii) retirement pay incentives;

(iv) the monetary value of remuneration paid in kind, as in a residence, use of equipment or uniform, travel, or similar payments;

(v) a lump-sum payment or special payment covering accumulated leave; and

(vi) all contributions made by a participating employer under this system or under any other employee benefit system or plan maintained by a participating employer for the benefit of a member or participant.

(d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code Section 401(a)(17).

(2) "Dispatcher" means the same as that term is defined in Section 53-6-102.

(3) “Final average salary” means the amount ~~computed~~ calculated by averaging the highest three years of annual compensation preceding retirement subject to Subsections (3)(a) ~~and~~, (b), and (c).

(a) Except as provided in Subsection (3)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year’s compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(b) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection (3)(a) may be exceeded if:

(i) the public safety service employee has transferred from another agency; or

(ii) the public safety service employee has been promoted to a new position.

(c) The annual compensation used to calculate final average salary shall be based on:

(i) a calendar year for a member employed by a participating employer that is not an educational institution; or

(ii) a contract year for a member employed by an educational institution.

(4) (a) “Line-of-duty death” means a death resulting from:

(i) external force, violence, or disease occasioned by an act of duty as a public safety service employee; or

(ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous training or another strenuous activity required as an act of duty as a public safety service employee.

(b) “Line-of-duty death” does not include a death that:

(i) occurs during an activity that is required as an act of duty as a public safety service employee if the activity is not a strenuous activity, including an activity that is clerical, administrative, or of a nonmanual nature;

(ii) occurs during the commission of a crime committed by the employee;

(iii) the employee’s intoxication or use of alcohol or drugs, whether prescribed or nonprescribed, contributes to the employee’s death; or

(iv) occurs in a manner other than as described in Subsection (4)(a).

(5) “Participating employer” means an employer which meets the participation requirements of Section 49-15-201.

(6) (a) “Public safety service” means employment normally requiring an average of 2,080 hours of

regularly scheduled employment per year rendered by a member who is a:

(i) law enforcement officer in accordance with Section 53-13-103;

(ii) correctional officer in accordance with Section 53-13-104;

(iii) special function officer approved in accordance with Sections 49-15-201 and 53-13-105;

(iv) dispatcher who is certified in accordance with Section 53-6-303; or

(v) full-time member of the Board of Pardons and Parole created under Section 77-27-2.

(b) Except as provided under Subsections (6)(a)(iv) and (v), “public safety service” also requires that in the course of employment the employee’s life or personal safety is at risk.

(7) “Public safety service employee” means an employee of a participating employer who performs public safety service under this chapter.

(8) (a) “Strenuous activity” means engagement involving a difficult, stressful, or vigorous fire suppression, rescue, hazardous material response, emergency medical service, physical law enforcement, prison security, disaster relief, or other emergency response activity.

(b) “Strenuous activity” includes participating in a participating employer sanctioned and funded training exercise that involves difficult, stressful, or vigorous physical activity.

(9) “System” means the Public Safety Noncontributory Retirement System created under this chapter.

(10) “Years of service credit” means the number of periods, each to consist of 12 full months as determined by the board, whether consecutive or not, during which a public safety service employee was employed by a participating employer, including time the public safety service employee was absent in the service of the United States government on military duty.

Section 8. Section 49-15-201 is amended to read:

49-15-201. System membership -- Eligibility.

(1) (a) A public safety service employee employed by the state after July 1, 1989, but before July 1, 2011, is eligible for service credit in this system.

(b) A public safety service employee employed by the state prior to July 1, 1989, may either elect to receive service credit in this system or continue to receive service credit under the system established under Chapter 14, Public Safety Contributory Retirement Act, by following the procedures established by the board under this chapter.

(2) (a) Public safety service employees of a participating employer other than the state that elected on or before July 1, 1989, to remain in the Public Safety Contributory Retirement System

shall be eligible only for service credit in that system.

(b) (i) A participating employer other than the state that elected on or before July 1, 1989, to participate in this system shall, have allowed, prior to July 1, 1989, a public safety service employee to elect to participate in either this system or the Public Safety Contributory Retirement System.

(ii) Except as expressly allowed by this title, the election of the public safety service employee is final and may not be changed.

(c) A public safety service employee hired by a participating employer other than the state after July 1, 1989, but before July 1, 2011, shall become a member in this system.

(d) A public safety service employee of a participating employer other than the state who began participation in this system after July 1, 1989, but before July 1, 2011, is only eligible for service credit in this system.

(e) A person initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

(3) (a) (i) A participating employer that has public safety service and firefighter service employees that require cross-training and duty shall enroll those dual purpose employees in the system in which the greatest amount of time is actually worked.

(ii) The employees shall either be full-time public safety service or full-time firefighter service employees of the participating employer.

(b) (i) Prior to transferring a dual purpose employee from one system to another, the participating employer shall receive written permission from the office.

(ii) The office may request documentation to verify the appropriateness of the transfer.

(4) The board may combine or segregate the actuarial experience of participating employers in this system for the purpose of setting contribution rates.

(5) (a) (i) Each participating employer participating in this system shall annually submit to the office a schedule indicating the positions to be covered under this system in accordance with this chapter.

(ii) The office may require documentation to justify the inclusion of any position under this system.

(b) If there is a dispute between the office and a participating employer or employee over any position to be covered, the disputed position shall be submitted to the Peace Officer Standards and Training Council established under Section 53-6-106 for determination.

(c) (i) The Peace Officer Standards and Training Council's authority to decide eligibility for public safety service credit is limited to claims for coverage under this system for time periods after July 1, 1989.

(ii) A decision of the Peace Officer Standards and Training Council may not be applied to service credit earned in another system prior to July 1, 1989.

(iii) Except as provided under Subsection (5)(c)(iv), a decision of the Peace Officer Standards and Training Council granting a position coverage under this system may only be applied prospectively from the date of that decision.

(iv) A decision of the Peace Officer Standards and Training Council granting a position coverage under this system may be applied retroactively only if:

(A) the participating employer covered other similarly situated positions under this system during the time period in question; and

(B) the position otherwise meets all eligibility requirements for receiving service credit in this system during the period for which service credit is to be granted.

(6) The Peace Officer Standards and Training Council may use a subcommittee to provide a recommendation to the council in determining disputes between the office and a participating employer or employee over a position to be covered under this system.

(7) The Peace Officer Standards and Training Council shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.

(8) A public safety service employee who is transferred or promoted to an administration position [~~not covered by this system~~] requiring the performance of duties that consist primarily of management or supervision of public safety service employees shall continue to earn public safety service credit in this system as long as the employee remains employed in the same department.

(9) An employee of the Department of Corrections shall continue to earn public safety service credit in this system if:

(a) the employee's position is no longer covered under this system for new employees hired on or after July 1, 2015; and

(b) the employee:

(i) remains employed by the Department of Corrections;

(ii) meets the eligibility requirements of this system;

(iii) was hired into a position covered by this system prior to July 1, 2015; and

(iv) has not had a break in service on or after July 1, 2015.

(10) Any employee who is reassigned to the Department of Technology Services or to the Department of Human Resource Management, and who was a member in this system, shall be entitled to remain a member in this system.

(11) (a) To determine that a position is covered under this system, the office and, if a coverage dispute arises, the Peace Officer Standards and Training Council shall find that the position requires the employee to:

(i) except for a dispatcher, place the employee's life or personal safety at risk; and

(ii) complete training as provided in Section 53-6-303, 53-13-103, 53-13-104, or 53-13-105.

(b) If a position satisfies the requirements of Subsection (11)(a), the office and Peace Officer Standards and Training Council shall consider whether the position requires the employee to:

(i) perform duties that consist primarily of actively preventing or detecting crime and enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

(ii) perform duties that consist primarily of providing community protection; and

(iii) respond to situations involving threats to public safety and make emergency decisions affecting the lives and health of others.

(12) If a subcommittee is used to recommend the determination of disputes to the Peace Officer Standards and Training Council, the subcommittee shall comply with the requirements of Subsection (11) in making its recommendation.

(13) A final order of the Peace Officer Standards and Training Council regarding a dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative Procedures Act.

(14) Except as provided under Subsection (15), if a participating employer's public safety service employees are not covered by this system or under Chapter 14, Public Safety Contributory Retirement Act, as of January 1, 1998, those public safety service employees who may otherwise qualify for membership in this system shall, at the discretion of the participating employer, remain in their current retirement system.

(15) (a) A public safety service employee employed by an airport police department, which elects to cover its public safety service employees under the Public Safety Noncontributory Retirement System under Subsection (14), may elect to remain in the public safety service employee's current retirement system.

(b) The public safety service employee's election to remain in the current retirement system under Subsection (15)(a):

(i) shall be made at the time the employer elects to move its public safety service employees to a public safety retirement system;

(ii) shall be documented by written notice to the participating employer; and

(iii) is irrevocable.

(16) (a) Subject to Subsection (17), beginning July 1, 2015, a public safety service employee who is a dispatcher employed by:

(i) the state shall be eligible for service credit in this system; and

(ii) a participating employer other than the state shall be eligible for service credit in this system if the dispatcher's participating employer elects to cover its dispatchers under this system.

(b) A participating employer's election to cover its dispatchers under this system under Subsection (16)(a)(ii) is irrevocable and shall be documented by a resolution adopted by the governing body of the participating employer in accordance with rules made by the office.

(c) A dispatcher's service before July 1, 2015, or before a date specified by resolution of a participating employer under Subsection (16)(b), is not eligible for service credit in this system.

(17) Notwithstanding any other provision of this section, a person initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

Section 9. Section 49-16-102 is amended to read:

49-16-102. Definitions.

As used in this chapter:

(1) (a) "Compensation" means the total amount of payments that are includable as gross income which are received by a firefighter service employee as base income for the regularly scheduled work period. The participating employer shall establish the regularly scheduled work period. Base income shall be determined prior to the deduction of member contributions or any amounts the firefighter service employee authorizes to be deducted for salary deferral or other benefits authorized by federal law.

(b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.

(c) "Compensation" does not include:

(i) overtime;

(ii) sick pay incentives;

(iii) retirement pay incentives;

(iv) remuneration paid in kind such as a residence, use of equipment, uniforms, travel, or similar payments;

(v) a lump-sum payment or special payments covering accumulated leave; and

(vi) all contributions made by a participating employer under this system or under any other

employee benefit system or plan maintained by a participating employer for the benefit of a member or participant.

(d) “Compensation” for purposes of this chapter may not exceed the amount allowed under Section 401(a)(17), Internal Revenue Code.

(2) (a) “Disability” means a physical or mental condition that, in the judgment of the office, is total and presumably permanent, and prevents a member from performing firefighter service.

(b) The determination of disability is based upon medical and other evidence satisfactory to the office.

(3) “Final average salary” means the amount ~~computed~~ calculated by averaging the highest three years of annual compensation preceding retirement subject to Subsections (3)(a) ~~and~~, (b), and (c).

(a) Except as provided in Subsection (3)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year’s compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(b) In cases where the participating employer provides acceptable documentation to the office the limitation in Subsection (3)(a) may be exceeded if:

(i) the member has transferred from another agency; or

(ii) the member has been promoted to a new position.

(c) The annual compensation used to calculate final average salary shall be based on:

(i) a calendar year for a member employed by a participating employer that is not an educational institution; or

(ii) a contract year for a member employed by an educational institution.

(4) (a) “Firefighter service” means employment normally requiring an average of 2,080 hours of regularly scheduled employment per year rendered by a member who is:

(i) a firefighter service employee trained in firefighter techniques and assigned to a position of hazardous duty with a regularly constituted fire department; or

(ii) the state fire marshal appointed under Section 53-7-103 or a deputy state fire marshal.

(b) “Firefighter service” does not include secretarial staff or other similar employees.

(5) “Firefighter service employee” means an employee of a participating employer who provides firefighter service under this chapter. An employee of a regularly constituted fire department who does

not perform firefighter service is not a firefighter service employee.

(6) (a) “Line-of-duty death or disability” means a death or any physical or mental disability resulting from:

(i) external force, violence, or disease directly resulting from firefighter service; or

(ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous training or another strenuous activity required as an act of duty as a firefighter service employee.

(b) “Line-of-duty death or disability” does not include a death or any physical or mental disability that:

(i) occurs during an activity that is required as an act of duty as a firefighter service employee if the activity is not a strenuous activity, including an activity that is clerical, administrative, or of a nonmanual nature;

(ii) occurs during the commission of a crime committed by the employee;

(iii) occurs when the employee’s intoxication or use of alcohol or drugs, whether prescribed or nonprescribed, contributes to the employee’s death or disability; or

(iv) occurs in a manner other than as described in Subsection (6)(a).

(c) “Line-of-duty death or disability” includes the death or disability of a paid firefighter resulting from heart disease, lung disease, or a respiratory tract condition if the paid firefighter has five years of firefighter service credit.

(7) “Participating employer” means an employer which meets the participation requirements of Section 49-16-201.

(8) “Regularly constituted fire department” means a fire department that employs a fire chief who performs firefighter service for at least 2,080 hours of regularly scheduled paid employment per year.

(9) (a) “Strenuous activity” means engagement involving a difficult, stressful, or vigorous fire suppression, rescue, hazardous material response, emergency medical service, physical law enforcement, prison security, disaster relief, or other emergency response activity.

(b) “Strenuous activity” includes participating in a participating employer sanctioned and funded training exercise that involves difficult, stressful, or vigorous physical activity.

(10) “System” means the Firefighters’ Retirement System created under this chapter.

(11) (a) “Volunteer firefighter” means any individual that is not regularly employed as a firefighter service employee, but who:

(i) has been trained in firefighter techniques and skills;

(ii) continues to receive regular firefighter training; and

(iii) is on the rolls of a legally organized volunteer fire department which provides ongoing training and serves a political subdivision of the state.

(b) An individual that volunteers assistance but does not meet the requirements of Subsection (11)(a) is not a volunteer firefighter for purposes of this chapter.

(12) "Years of service credit" means the number of periods, each to consist of 12 full months as determined by the board, whether consecutive or not, during which a firefighter service employee was employed by a participating employer or received full-time pay while on sick leave, including any time the firefighter service employee was absent in the service of the United States on military duty.

Section 10. Section 49-17-102 is amended to read:

49-17-102. Definitions.

As used in this chapter:

(1) (a) "Compensation" means the total amount of payments which are currently includable in gross income made by a participating employer to a member of this system for services rendered to the participating employer.

(b) "Compensation" includes:

(i) performance-based bonuses;

(ii) cost-of-living adjustments;

(iii) payments subject to Social Security deductions;

(iv) any payments in excess of the maximum amount subject to deduction under Social Security law;

(v) amounts which the member authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law; and

(vi) member contributions.

(c) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code Section 401(a)(17).

(d) "Compensation," does not include:

(i) the monetary value of remuneration paid in kind, such as a residence or use of equipment;

(ii) all contributions made by a participating employer under any system or plan for the benefit of a member or participant;

(iii) salary paid to a temporary or exempt employee;

(iv) payments upon termination or any other special payments including early retirement inducements; or

(v) uniform, travel, or similar payments.

(2) "Final average salary" means the amount [computed] calculated by averaging the highest two years of annual compensation preceding

retirement, subject to Subsections (2)(a) [and], (b), and (c).

(a) Except as provided in Subsection (2)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(b) In cases where the participating employer provides acceptable documentation to the board, the limitation in Subsection (2)(a) may be exceeded if:

(i) the member has transferred from another participating employer; or

(ii) the member has been promoted to a new position.

(c) The annual compensation used to calculate final average salary shall be based on the state's fiscal year.

(3) "Judge" means a judge or justice of the courts of record as enumerated in Section 78A-1-101.

(4) "Participating employer" means the state.

(5) "System" means the Judges' Contributory Retirement System created under this chapter.

(6) "Years of service credit" means the number of periods, each to consist of 12 full months as determined by the board, whether consecutive or not, during which a judge was employed by a participating employer.

Section 11. Section 49-18-102 is amended to read:

49-18-102. Definitions.

As used in this chapter:

(1) (a) "Compensation" means the total amount of payments which are currently includable in gross income made by a participating employer to a member of this system for services rendered to the participating employer.

(b) "Compensation" includes:

(i) performance-based bonuses;

(ii) cost-of-living adjustments;

(iii) payments subject to Social Security deductions;

(iv) any payments in excess of the maximum amount subject to deduction under Social Security law; and

(v) amounts which the member authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law.

(c) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code Section 401(a)(17).

(d) "Compensation" does not include:

(i) the monetary value of remuneration paid in kind, such as a residence or use of equipment;

(ii) all contributions made by a participating employer under a system or plan for the benefit of a member or participant;

(iii) salary paid to a temporary or exempt employee;

(iv) payments upon termination or any other special payments including early retirement inducements; or

(v) uniform, travel, or similar payments.

(2) "Final average salary" means the amount ~~computed~~ calculated by averaging the highest two years of annual compensation preceding retirement, subject to Subsections (2)(a) ~~and~~, (b), and (c).

(a) Except as provided in Subsection (2)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(b) In cases where the participating employer provides acceptable documentation to the board, the limitation in Subsection (2)(a) may be exceeded if:

(i) the member has transferred from another agency; or

(ii) the member has been promoted to a new position.

(c) The annual compensation used to calculate final average salary shall be based on the state's fiscal year.

(3) "Judge" means a judge or justice of the courts of record as enumerated in Section 78A-1-101.

(4) "Participating employer" means the state.

(5) "System" means the Judges' Noncontributory Retirement System created under this chapter.

(6) "Years of service credit" means the number of periods, each to consist of 12 full months or as determined by the board, whether consecutive or not, during which a judge was employed by a participating employer.

Section 12. Section 49-21-403 is amended to read:

49-21-403. Termination of disability benefits -- Calculation of retirement benefit.

(1) An eligible employee covered by this chapter and eligible for service credit under a system or plan, including an eligible employee who relinquishes rights to retirement benefits under Section 49-11-619, who applies and is qualified for

a monthly disability benefit shall receive a monthly disability benefit until the earlier of:

(a) the date of the eligible employee's death;

(b) the date the eligible employee no longer has a disability;

(c) the date the eligible employee has accumulated or would have accumulated, if the employee had not chosen the Title 49, Chapter 22, Part 4, Tier II Defined Contribution Plan, Title 49, Chapter 23, Part 4, Tier II Defined Contribution Plan, been a volunteer firefighter, or exempted from a retirement system or plan:

(i) 20 years of service credit if the eligible employee is covered by Chapter 14, Public Safety Contributory Retirement Act, or Chapter 15, Public Safety Noncontributory Retirement Act;

(ii) 25 years of service credit if the eligible employee is covered by Chapter 17, Judges' Contributory Retirement Act, or Chapter 18, Judges' Noncontributory Retirement Act;

(iii) 30 years of service credit if the eligible employee is covered by Chapter 12, Public Employees' Contributory Retirement Act, or Chapter 13, Public Employees' Noncontributory Retirement Act;

(iv) 35 years of service credit if the eligible employee is covered by the defined benefit portion under Chapter 22, Part 3, Tier II Hybrid Retirement System, or is covered by the defined contribution plan under Chapter 22, Part 4, Tier II Defined Contribution Plan; or

(v) 25 years of service credit if the eligible employee is covered by the defined benefit portion under Chapter 23, Part 3, Tier II Hybrid Retirement System, or is covered by the defined contribution plan under Chapter 23, Part 4, Tier II Defined Contribution Plan; ~~or~~

(d) the date the eligible employee has received a monthly disability benefit for the following applicable time periods:

(i) if the eligible employee is under age 60, the monthly disability benefit is payable until age 65;

(ii) if the eligible employee is 60 or 61 years of age on the date of disability, the monthly disability benefit is payable for five years;

(iii) if the eligible employee is 62 or 63 years of age on the date of disability, the monthly disability benefit is payable for four years;

(iv) if the eligible employee is 64 or 65 years of age on the date of disability, the monthly disability benefit is payable for three years;

(v) if the eligible employee is 66, 67, or 68 years of age on the date of disability, the monthly disability benefit is payable for two years; and

(vi) if the eligible employee is 69 years of age or older on the date of disability, the monthly disability benefit is payable for one year~~;~~ or

(e) the eligible employee's retirement date, set when the eligible employee retires from a system or

from the Utah Governors' and Legislators' Retirement Plan.

(2) (a) Upon termination of a monthly disability benefit, an eligible employee eligible for service credit under a system may retire under the requirements of the system which covered the eligible employee on the date of disability.

(b) The final average salary used in the calculation of the allowance shall be based on the annual rate of pay on the date of disability, improved by the annual cost-of-living increase factor applied to retirees of the system which covered the eligible employee on the date of disability.

(3) An eligible employee who is eligible for service credit in a system, but has relinquished rights to an allowance under Section 49-11-619, may receive the benefits the eligible employee would have received by being eligible for service credit in the system covering the eligible employee on the date of disability, except for the accrual of service credit, in accordance with this title.

(4) An eligible employee receiving a monthly disability benefit who has service credit from two or more systems may not combine service credits under Section 49-11-405 in qualifying for retirement, unless the eligible employee would receive a greater allowance by combining the service credits.

(5) An eligible employee covered by this chapter who is a participant in the Tier II Defined Contribution Plan, created in Chapter 22, Part 4, Tier II Defined Contribution Plan, or Chapter 23, Part 4, Tier II Defined Contribution Plan, who applies and is qualified for a monthly disability benefit, shall receive a monthly disability benefit until the earlier of:

(a) the date of the eligible employee's death;

(b) the date the eligible employee no longer has a disability;

(c) (i) 35 years from the date the eligible employee began participation in the Tier II Defined Contribution Plan, created in Chapter 22, Part 4, Tier II Defined Contribution Plan; or

(ii) 25 years from the date the eligible employee began participation in the Tier II Defined Contribution Plan created in Chapter 23, Part 4, Tier II Defined Contribution Plan; or

(d) the date the eligible employee has received a monthly disability benefit for the following applicable time periods:

(i) if the eligible employee is under age 60, the monthly disability benefit is payable until age 65;

(ii) if the eligible employee is 60 or 61 years of age on the date of disability, the monthly disability benefit is payable for five years;

(iii) if the eligible employee is 62 or 63 years of age on the date of disability, the monthly disability benefit is payable for four years;

(iv) if the eligible employee is 64 or 65 years of age on the date of disability, the monthly disability benefit is payable for three years;

(v) if the eligible employee is 66, 67, or 68 years of age on the date of disability, the monthly disability benefit is payable for two years; and

(vi) if the eligible employee is 69 years of age or older on the date of disability, the monthly disability benefit is payable for one year.

Section 13. Section 49-22-102 is amended to read:

49-22-102. Definitions.

As used in this chapter:

(1) "Benefits normally provided" has the same meaning as defined in Section 49-12-102.

(2) (a) "Compensation" means, except as provided in Subsection (2)(c), the total amount of payments made by a participating employer to a member of this system for services rendered to the participating employer, including:

(i) bonuses;

(ii) cost-of-living adjustments;

(iii) other payments currently includable in gross income and that are subject to Social Security deductions, including any payments in excess of the maximum amount subject to deduction under Social Security law;

(iv) amounts that the member authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law; and

(v) member contributions.

(b) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code, Section 401(a)(17).

(c) "Compensation" does not include:

(i) the monetary value of remuneration paid in kind, including a residence or use of equipment;

(ii) the cost of any employment benefits paid for by the participating employer;

(iii) compensation paid to a temporary employee or an employee otherwise ineligible for service credit;

(iv) any payments upon termination, including accumulated vacation, sick leave payments, severance payments, compensatory time payments, or any other special payments; or

(v) any allowances or payments to a member for costs or expenses paid by the participating employer, including automobile costs, uniform costs, travel costs, tuition costs, housing costs, insurance costs, equipment costs, and dependent care costs.

(d) The executive director may determine if a payment not listed under this Subsection (2) falls within the definition of compensation.

(3) "Corresponding Tier I system" means the system or plan that would have covered the member

if the member had initially entered employment before July 1, 2011.

(4) “Final average salary” means the amount ~~computed~~ calculated by averaging the highest five years of annual compensation preceding retirement subject to Subsections (4)(a), (b), (c), ~~and~~ (d), and (e).

(a) Except as provided in Subsection (4)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year’s compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(b) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection (4)(a) may be exceeded if:

(i) the member has transferred from another agency; or

(ii) the member has been promoted to a new position.

(c) If the member retires more than six months from the date of termination of employment, the member is considered to have been in service at the member’s last rate of pay from the date of the termination of employment to the effective date of retirement for purposes of computing the member’s final average salary only.

(d) If the member has less than five years of service credit in this system, final average salary means the average annual compensation paid to the member during the full period of service credit.

(e) The annual compensation used to calculate final average salary shall be based on:

(i) a calendar year for a member employed by a participating employer that is not an educational institution; or

(ii) a contract year for a member employed by an educational institution.

(5) “Participating employer” means an employer which meets the participation requirements of:

(a) Sections 49-12-201 and 49-12-202;

(b) Sections 49-13-201 and 49-13-202;

(c) Section 49-19-201; or

(d) Section 49-22-201 or 49-22-202.

(6) (a) “Regular full-time employee” means an employee whose term of employment for a participating employer contemplates continued employment during a fiscal or calendar year and whose employment normally requires an average of 20 hours or more per week, except as modified by the board, and who receives benefits normally provided by the participating employer.

(b) “Regular full-time employee” includes:

(i) a teacher whose term of employment for a participating employer contemplates continued employment during a school year and who teaches half time or more;

(ii) a classified school employee:

(A) who is hired before July 1, 2013; and

(B) whose employment normally requires an average of 20 hours per week or more for a participating employer, regardless of benefits provided;

(iii) an appointive officer whose appointed position is full time as certified by the participating employer;

(iv) the governor, the lieutenant governor, the state auditor, the state treasurer, the attorney general, and a state legislator;

(v) an elected official not included under Subsection (6)(b)(iv) whose elected position is full time as certified by the participating employer;

(vi) a faculty member or employee of an institution of higher education who is considered full time by that institution of higher education; and

(vii) an individual who otherwise meets the definition of this Subsection (6) who performs services for a participating employer through a professional employer organization or similar arrangement.

(c) “Regular full-time employee” does not include:

(i) a firefighter service employee as defined in Section 49-23-102;

(ii) a public safety service employee as defined in Section 49-23-102;

(iii) a classified school employee:

(A) who is hired on or after July 1, 2013; and

(B) who does not receive benefits normally provided by the participating employer even if the employment normally requires an average of 20 hours per week or more for a participating employer; or

(iv) a classified school employee:

(A) who is hired before July 1, 2013;

(B) who did not qualify as a regular full-time employee before July 1, 2013;

(C) who does not receive benefits normally provided by the participating employer; and

(D) whose employment hours are increased on or after July 1, 2013, to require an average of 20 hours per week or more for a participating employer.

(7) “System” means the New Public Employees’ Tier II Contributory Retirement System created under this chapter.

(8) “Years of service credit” means:

(a) a period consisting of 12 full months as determined by the board;

(b) a period determined by the board, whether consecutive or not, during which a regular full-time employee performed services for a participating employer, including any time the regular full-time employee was absent on a paid leave of absence granted by a participating employer or was absent in the service of the United States government on military duty as provided by this chapter; or

(c) the regular school year consisting of not less than eight months of full-time service for a regular full-time employee of an educational institution.

Section 14. Section 49-22-201 is amended to read:

49-22-201. System membership -- Eligibility.

(1) Beginning July 1, 2011, a participating employer shall participate in this system.

(2) (a) A person initially entering regular full-time employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, is eligible:

(i) as a member for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System; or

(ii) as a participant for defined contributions under the Tier II defined contribution plan established by Part 4, Tier II Defined Contribution Plan.

(b) A person initially entering regular full-time employment with a participating employer on or after July 1, 2011, shall:

(i) make an election to participate in the system created under this chapter:

(A) as a member for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System; or

(B) as a participant for defined contributions under the Tier II defined contribution plan established by Part 4, Tier II Defined Contribution Plan; and

(ii) electronically submit to the office notification of the member's election under Subsection (2)(b)(i) in a manner approved by the office.

(c) An election made by a person initially entering regular full-time employment with a participating employer under this Subsection (2) is irrevocable beginning one year from the date of eligibility for accrual of benefits.

(d) If no election is made under Subsection (2)(b)(i), the person shall become a member eligible for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System.

(3) Notwithstanding the provisions of this section and except as provided in Subsection (4), an elected

official initially entering office on or after July 1, 2011:

(a) is only eligible to participate in the Tier II defined contribution plan established under Part 4, Tier II Defined Contribution Plan; ~~and~~

(b) is not eligible to participate in the Tier II hybrid retirement system established under Part 3, Tier II Hybrid Retirement System~~[-]; and~~

(c) is vested immediately in the elected official's benefit and the benefit is nonforfeitable, including the total amount contributed by the participating employer and the total amount contributed by the member in the Tier II defined contribution plan.

(4) Notwithstanding the provisions of Subsection (3), a legislator or full-time elected official initially entering office on or after July 1, 2011, who has service credit accrued before July 1, 2011:

(a) in a Tier I retirement system or plan administered by the board shall continue in the Tier I system or plan for which the legislator or full-time elected official is eligible; or

(b) in a Tier II hybrid retirement system shall continue in the Tier II system for which the legislator or full-time elected official is eligible.

Section 15. Section 49-22-205 is amended to read:

49-22-205. Exemptions from participation in system.

(1) Upon filing a written request for exemption with the office, the following employees are exempt from participation in the system as provided in this section:

(a) ~~[an elected official; (b)]~~ an executive department head of the state;

~~[(e)]~~ (b) a member of the State Tax Commission;

~~[(d)]~~ (c) a member of the Public Service Commission;

~~[(e)]~~ (d) a member of a full-time or part-time board or commission;

~~[(f)]~~ (e) an employee of the Governor's Office of Management and Budget;

~~[(g)]~~ (f) an employee of the Governor's Office of Economic Development;

~~[(h)]~~ (g) an employee of the Commission on Criminal and Juvenile Justice;

~~[(i)]~~ (h) an employee of the Governor's Office;

~~[(j)]~~ (i) an employee of the State Auditor's Office;

~~[(k)]~~ (j) an employee of the State Treasurer's Office;

~~[(l)]~~ (k) any other member who is permitted to make an election under Section 49-11-406;

~~[(m)]~~ (l) a person appointed as a city manager or appointed as a city administrator or another at-will employee of a municipality, county, or other political subdivision;

~~[(n)]~~ (m) an employee of an interlocal cooperative agency created under Title 11, Chapter 13,

Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members; and

[☐] (n) an employee of the Utah Science Technology and Research Initiative created under Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act.

(2) (a) A participating employer shall prepare a list designating those positions eligible for exemption under Subsection (1).

(b) An employee may not be exempted unless the employee is employed in a position designated by the participating employer under Subsection (1).

(3) (a) In accordance with this section, Section 49-12-203, and Section 49-13-203, a municipality, county, or political subdivision may not exempt a total of more than 50 positions or a number equal to 10% of the employees of the municipality, county, or political subdivision, whichever is less.

(b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.

(4) Each participating employer shall:

(a) file each employee exemption annually with the office; and

(b) update an employee exemption in the event of any change.

(5) Beginning on the effective date of the exemption for an employee who elects to be exempt in accordance with Subsection (1):

(a) for a member of the Tier II defined contribution plan:

(i) the participating employer shall contribute the nonelective contribution and the amortization rate described in Section 49-22-401, except that the nonelective contribution is exempt from the vesting requirements of Subsection 49-22-401(3)(a); and

(ii) the member may make voluntary deferrals as provided in Section 49-22-401; and

(b) for a member of the Tier II hybrid retirement system:

(i) the participating employer shall contribute the nonelective contribution and the amortization rate described in Section 49-22-401, except that the contribution is exempt from the vesting requirements of Subsection 49-22-401(3)(a);

(ii) the member may make voluntary deferrals as provided in Section 49-22-401; and

(iii) the member is not eligible for additional service credit in the system.

(6) If an employee who is a member of the Tier II hybrid retirement system subsequently revokes the election of exemption made under Subsection (1), the provisions described in Subsection (5)(b) shall no longer be applicable and the coverage for the

employee shall be effective prospectively as provided in Part 3, Tier II Hybrid Retirement System.

(7) (a) All employer contributions made on behalf of an employee shall be invested in accordance with Subsection 49-22-303(3)(a) or 49-22-401(4)(a) until the one-year election period under Subsection 49-22-201(2)(c) is expired if the employee:

(i) elects to be exempt in accordance with Subsection (1); and

(ii) continues employment with the participating employer through the one-year election period under Subsection 49-22-201(2)(c).

(b) An employee is entitled to receive a distribution of the employer contributions made on behalf of the employee and all associated investment gains and losses if the employee:

(i) elects to be exempt in accordance with Subsection (1); and

(ii) terminates employment prior to the one-year election period under Subsection 49-22-201(2)(c).

(8) (a) The office shall make rules to implement this section.

(b) The rules made under this Subsection (8) shall include provisions to allow the exemption provided under Subsection (1) to apply to all contributions made beginning on or after July 1, 2011, on behalf of an exempted employee who began the employment before May 8, 2012.

Section 16. Section 49-22-303 is amended to read:

49-22-303. Defined contribution benefit established -- Contribution by employer and employee -- Vesting of contributions -- Plans to be separate -- Tax-qualified status of plans.

(1) (a) A participating employer shall make a nonelective contribution on behalf of each regular full-time employee who is a member of this system in an amount equal to 10% minus the contribution rate paid by the employer ~~pursuant to~~ under Subsection 49-22-301(2)(a) of the member's compensation to a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which:

(i) is sponsored by the board; and

(ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

(b) The member may make voluntary deferrals to:

(i) the qualified 401(k) plan which receives the employer contribution described in this Subsection (1); or

(ii) at the member's option, another defined contribution plan established by the participating employer.

(2) (a) The total amount contributed by the participating employer under Subsection (1)(a), including associated investment gains and losses,

vests to the member upon accruing four years of service credit under this title.

(b) The total amount contributed by the member under Subsection (1)(b) vests to the member's benefit immediately and is nonforfeitable.

(c) (i) Years of service credit under Subsection (2)(a) includes any fraction of a year to which the member may be entitled.

(ii) At the time of vesting, if a member's years of service credit is within one-tenth of one year of the total years required for vesting, the member shall be considered to have the total years of service credit required for vesting.

(3) (a) Contributions made by a participating employer under Subsection (1)(a) shall be invested in a default option selected by the board until the member is vested in accordance with Subsection (2)(a).

(b) A member may direct the investment of contributions made by a participating employer under Subsection (1)(a) only after the contributions have vested in accordance with Subsection (2)(a).

(c) A member may direct the investment of contributions made by the member under Subsection (1)(b).

(4) No loans shall be available from contributions made by a participating employer under Subsection (1)(a).

(5) No hardship distributions shall be available from contributions made by a participating employer under Subsection (1)(a).

(6) (a) Except as provided in Subsection (6)(b) and Section 49-22-205, if a member terminates employment with a participating employer prior to the vesting period described in Subsection (2)(a), all contributions, including associated investment gains and losses, made by a participating employer on behalf of the member under Subsection (1)(a) are subject to forfeiture.

(b) If a member who terminates employment with a participating employer prior to the vesting period described in Subsection (2)(a) subsequently enters employment with the same or another participating employer within 10 years of the termination date of the previous employment:

(i) all contributions made by the previous participating employer on behalf of the member, including associated investment gains and losses, shall be reinstated upon employment as a regular full-time employee; and

(ii) the length of time that the member worked with the previous employer shall be included in determining whether the member has completed the vesting period under Subsection (2)(a).

(c) The office shall establish a forfeiture account and shall specify the uses of the forfeiture account, which may include an offset against administrative costs or employer contributions made under this section.

(7) The office may request from any other qualified 401(k) plan under Subsection (1) or (2) any relevant information pertaining to the maintenance of its tax qualification under the Internal Revenue Code.

(8) The office may take any action which in its judgment is necessary to maintain the tax-qualified status of its 401(k) defined contribution plan under federal law.

Section 17. Section 49-22-401 is amended to read:

49-22-401. Contributions -- Rates.

(1) Up to the amount allowed by federal law, the participating employer shall make a nonelective contribution of 10% of the participant's compensation to a defined contribution plan.

(2) (a) The participating employer shall contribute the 10% nonelective contribution described in Subsection (1) to a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which:

(i) is sponsored by the board; and

(ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

(b) The member may make voluntary deferrals to:

(i) the qualified 401(k) plan which receives the employer contribution described in this Subsection (2); or

(ii) at the member's option, another defined contribution plan established by the participating employer.

(c) In addition to the percent specified under Subsection (2)(a), the participating employer shall pay the corresponding Tier I system amortization rate of the employee's compensation to the office to be applied to the employer's corresponding Tier I system liability.

(3) (a) Except as provided under Subsection (3)(c), the total amount contributed by the participating employer under Subsection (2)(a) vests to the member upon accruing four years of employment as a regular full-time employee under this title.

(b) The total amount contributed by the member under Subsection (2)(b) vests to the member's benefit immediately and is nonforfeitable.

(c) Upon filing a written request for exemption with the office, an eligible employee is exempt from the vesting requirements of Subsection (3)(a) in accordance with Section 49-22-205.

(d) (i) Years of employment under Subsection (3)(a) includes any fraction of a year to which the member may be entitled.

(ii) At the time of vesting, if a member's years of service credit is within one-tenth of one year of the total years required for vesting, the member shall be considered to have the total years of employment required for vesting.

(4) (a) Contributions made by a participating employer under Subsection (2)(a) shall be invested

in a default option selected by the board until the member is vested in accordance with Subsection (3)(a).

(b) A member may direct the investment of contributions including associated investment gains and losses made by a participating employer under Subsection (2)(a) only after the contributions have vested in accordance with Subsection (3)(a).

(c) A member may direct the investment of contributions made by the member under Subsection (3)(b).

(5) No loans shall be available from contributions made by a participating employer under Subsection (2)(a).

(6) No hardship distributions shall be available from contributions made by a participating employer under Subsection (2)(a).

(7) (a) Except as provided in Subsection (7)(b), if a member terminates employment with a participating employer prior to the vesting period described in Subsection (3)(a), all contributions made by a participating employer on behalf of the member including associated investment gains and losses under Subsection (2)(a) are subject to forfeiture.

(b) If a member who terminates employment with a participating employer prior to the vesting period described in Subsection (3)(a) subsequently enters employment with the same or another participating employer within 10 years of the termination date of the previous employment:

(i) all contributions made by the previous participating employer on behalf of the member including associated investment gains and losses shall be reinstated upon the member's employment as a regular full-time employee; and

(ii) the length of time that the member worked with the previous employer shall be included in determining whether the member has completed the vesting period under Subsection (3)(a).

(c) The office shall establish a forfeiture account and shall specify the uses of the forfeiture account, which may include an offset against administrative costs or employer contributions made under this section.

(8) The office may request from any other qualified 401(k) plan under Subsection (2) any relevant information pertaining to the maintenance of its tax qualification under the Internal Revenue Code.

(9) The office may take any action which in its judgment is necessary to maintain the tax-qualified status of its 401(k) defined contribution plan under federal law.

Section 18. Section 49-23-102 is amended to read:

49-23-102. Definitions.

As used in this chapter:

(1) (a) "Compensation" means the total amount of payments that are includable in gross income received by a public safety service employee or a firefighter service employee as base income for the regularly scheduled work period. The participating employer shall establish the regularly scheduled work period. Base income shall be determined prior to the deduction of any amounts the public safety service employee or firefighter service employee authorizes to be deducted for salary deferral or other benefits authorized by federal law.

(b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.

(c) "Compensation" does not include:

(i) overtime;

(ii) sick pay incentives;

(iii) retirement pay incentives;

(iv) the monetary value of remuneration paid in kind, as in a residence, use of equipment or uniform, travel, or similar payments;

(v) a lump-sum payment or special payment covering accumulated leave; and

(vi) all contributions made by a participating employer under this system or under any other employee benefit system or plan maintained by a participating employer for the benefit of a member or participant.

(d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Section 401(a)(17), Internal Revenue Code.

(2) "Corresponding Tier I system" means the system or plan that would have covered the member if the member had initially entered employment before July 1, 2011.

(3) "Dispatcher" means the same as that term is defined in Section 53-6-102.

(4) "Final average salary" means the amount [computed] calculated by averaging the highest five years of annual compensation preceding retirement subject to Subsections (4)(a), (b), (c), ~~and~~ (d), and (e).

(a) Except as provided in Subsection (4)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(b) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection (4)(a) may be exceeded if:

(i) the member has transferred from another agency; or

(ii) the member has been promoted to a new position.

(c) If the member retires more than six months from the date of termination of employment, the

member is considered to have been in service at the member's last rate of pay from the date of the termination of employment to the effective date of retirement for purposes of computing the member's final average salary only.

(d) If the member has less than five years of service credit in this system, final average salary means the average annual compensation paid to the member during the full period of service credit.

(e) The annual compensation used to calculate final average salary shall be based on:

(i) a calendar year for a member employed by a participating employer that is not an educational institution; or

(ii) a contract year for a member employed by an educational institution.

(5) (a) "Firefighter service" means employment normally requiring an average of 2,080 hours of regularly scheduled employment per year rendered by a member who is:

(i) a firefighter service employee trained in firefighter techniques and assigned to a position of hazardous duty with a regularly constituted fire department; or

(ii) the state fire marshal appointed under Section 53-7-103 or a deputy state fire marshal.

(b) "Firefighter service" does not include secretarial staff or other similar employees.

(6) "Firefighter service employee" means an employee of a participating employer who provides firefighter service under this chapter. An employee of a regularly constituted fire department who does not perform firefighter service is not a firefighter service employee.

(7) (a) "Line-of-duty death" means a death resulting from:

(i) external force, violence, or disease occasioned by an act of duty as a public safety service or firefighter service employee; or

(ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous training or another strenuous activity required as an act of duty as a public safety service or firefighter service employee.

(b) "Line-of-duty death" does not include a death that:

(i) occurs during an activity that is required as an act of duty as a public safety service or firefighter service employee if the activity is not a strenuous activity, including an activity that is clerical, administrative, or of a nonmanual nature;

(ii) occurs during the commission of a crime committed by the employee;

(iii) the employee's intoxication or use of alcohol or drugs, whether prescribed or nonprescribed, contributes to the employee's death; or

(iv) occurs in a manner other than as described in Subsection (7)(a).

(8) "Participating employer" means an employer which meets the participation requirements of:

(a) Sections 49-14-201 and 49-14-202;

(b) Sections 49-15-201 and 49-15-202;

(c) Sections 49-16-201 and 49-16-202; or

(d) Sections 49-23-201 and 49-23-202.

(9) (a) "Public safety service" means employment normally requiring an average of 2,080 hours of regularly scheduled employment per year rendered by a member who is a:

(i) law enforcement officer in accordance with Section 53-13-103;

(ii) correctional officer in accordance with Section 53-13-104;

(iii) special function officer approved in accordance with Sections 49-15-201 and 53-13-105;

(iv) dispatcher who is certified in accordance with Section 53-6-303; and

(v) full-time member of the Board of Pardons and Parole created under Section 77-27-2.

(b) Except as provided under Subsections (9)(a)(iv) and (v), "public safety service" also requires that in the course of employment the employee's life or personal safety is at risk.

(10) "Public safety service employee" means an employee of a participating employer who performs public safety service under this chapter.

(11) (a) "Strenuous activity" means engagement involving a difficult, stressful, or vigorous fire suppression, rescue, hazardous material response, emergency medical service, physical law enforcement, prison security, disaster relief, or other emergency response activity.

(b) "Strenuous activity" includes participating in a participating employer sanctioned and funded training exercise that involves difficult, stressful, or vigorous physical activity.

(12) "System" means the New Public Safety and Firefighter Tier II Contributory Retirement System created under this chapter.

(13) (a) "Volunteer firefighter" means any individual that is not regularly employed as a firefighter service employee, but who:

(i) has been trained in firefighter techniques and skills;

(ii) continues to receive regular firefighter training; and

(iii) is on the rolls of a legally organized volunteer fire department which provides ongoing training and serves a political subdivision of the state.

(b) An individual that volunteers assistance but does not meet the requirements of Subsection

(13)(a) is not a volunteer firefighter for purposes of this chapter.

(14) "Years of service credit" means:

(a) a period, consisting of 12 full months as determined by the board; or

(b) a period determined by the board, whether consecutive or not, during which a regular full-time employee performed services for a participating employer, including any time the regular full-time employee was absent on a paid leave of absence granted by a participating employer or was absent in the service of the United States government on military duty as provided by this chapter.

Section 19. Section 49-23-302 is amended to read:

49-23-302. Defined contribution benefit established -- Contribution by employer and employee -- Vesting of contributions -- Plans to be separate -- Tax-qualified status of plans.

(1) (a) A participating employer shall make a nonelective contribution on behalf of each public safety service employee or firefighter service employee who is a member of this system in an amount equal to 12% minus the contribution rate paid by the employer [~~pursuant to~~] under Subsection 49-23-301(2)(a) of the member's compensation to a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which:

(i) is sponsored by the board; and

(ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

(b) The member may make voluntary deferrals to:

(i) the qualified 401(k) plan which receives the employer contribution described in this Subsection (1); or

(ii) at the member's option, another defined contribution plan established by the participating employer.

(2) (a) The total amount contributed by the participating employer under Subsection (1)(a), including associated investment gains and losses, vests to the member upon accruing four years of service credit under this title.

(b) The total amount contributed by the member under Subsection (1)(b) vests to the member's benefit immediately and is nonforfeitable.

(c) (i) Years of service credit under Subsection (2)(a) includes any fraction of a year to which the member may be entitled.

(ii) At the time of vesting, if a member's years of service credit is within one-tenth of one year of the total years required for vesting, the member shall be considered to have the total years of service credit required for vesting.

(3) (a) Contributions made by a participating employer under Subsection (1)(a) shall be invested in a default option selected by the board until the member is vested in accordance with Subsection (2)(a).

(b) A member may direct the investment of contributions made by a participating employer under Subsection (1)(a) only after the contributions have vested in accordance with Subsection (2)(a).

(c) A member may direct the investment of contributions made by the member under Subsection (1)(b).

(4) No loans shall be available from contributions made by a participating employer under Subsection (1)(a).

(5) No hardship distributions shall be available from contributions made by a participating employer under Subsection (1)(a).

(6) (a) Except as provided in Subsection (6)(b), if a member terminates employment with a participating employer prior to the vesting period described in Subsection (2)(a), all contributions, including associated investment gains and losses, made by a participating employer on behalf of the member under Subsection (1)(a) are subject to forfeiture.

(b) If a member who terminates employment with a participating employer prior to the vesting period described in Subsection (2)(a) subsequently enters employment with the same or another participating employer within 10 years of the termination date of the previous employment:

(i) all contributions made by the previous participating employer on behalf of the member, including associated investment gains and losses, shall be reinstated upon the member's employment as a regular full-time employee; and

(ii) the length of time that the member worked with the previous employer shall be included in determining whether the member has completed the vesting period under Subsection (2)(a).

(c) The office shall establish a forfeiture account and shall specify the uses of the forfeiture account, which may include an offset against administrative costs or employer contributions made under this section.

(7) The office may request from any other qualified 401(k) plan under Subsection (1) or (2) any relevant information pertaining to the maintenance of its tax qualification under the Internal Revenue Code.

(8) The office may take any action which in its judgment is necessary to maintain the tax-qualified status of its 401(k) defined contribution plan under federal law.

Section 20. Section 49-23-401 is amended to read:

49-23-401. Contributions -- Rates.

(1) Up to the amount allowed by federal law, the participating employer shall make a nonelective

contribution of 12% of the participant's compensation to a defined contribution plan.

(2) (a) The participating employer shall contribute the 12% nonelective contribution described in Subsection (1) to a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which:

- (i) is sponsored by the board; and
- (ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

(b) The member may make voluntary deferrals to:

(i) the qualified 401(k) plan which receives the employer contribution described in this Subsection (2); or

(ii) at the member's option, another defined contribution plan established by the participating employer.

(c) In addition to the percent specified under Subsection (2)(a), the participating employer shall pay the corresponding Tier I system amortization rate of the employee's compensation to the office to be applied to the employer's corresponding Tier I system liability.

(3) (a) Except as provided under Subsection (3)(c), the total amount contributed by the participating employer under Subsection (2)(a) vests to the member upon accruing four years of service credit under this title.

(b) The total amount contributed by the member under Subsection (2)(b) vests to the member's benefit immediately and is nonforfeitable.

(c) Upon filing a written request for exemption with the office, an eligible employee is exempt from the vesting requirements of Subsection (3)(a) in accordance with Section 49-23-203.

(d) (i) Years of service credit under Subsection (3)(a) includes any fraction of a year to which the member may be entitled.

(ii) At the time of vesting, if a member's years of service credit is within one-tenth of one year of the total years required for vesting, the member shall be considered to have the total years of service credit required for vesting.

(4) (a) Contributions made by a participating employer under Subsection (2)(a) shall be invested in a default option selected by the board until the member is vested in accordance with Subsection (3)(a).

(b) A member may direct the investment of contributions, including associated investment gains and losses, made by a participating employer under Subsection (2)(a) only after the contributions have vested in accordance with Subsection (3)(a).

(c) A member may direct the investment of contributions made by the member under Subsection (3)(b).

(5) No loans shall be available from contributions made by a participating employer under Subsection (2)(a).

(6) No hardship distributions shall be available from contributions made by a participating employer under Subsection (2)(a).

(7) (a) Except as provided in Subsection (7)(b), if a member terminates employment with a participating employer prior to the vesting period described in Subsection (3)(a), all contributions made by a participating employer on behalf of the member under Subsection (2)(a), including associated investment gains and losses are subject to forfeiture.

(b) If a member who terminates employment with a participating employer prior to the vesting period described in Subsection (3)(a) subsequently enters employment with the same or another participating employer within 10 years of the termination date of the previous employment:

(i) all contributions made by the previous participating employer on behalf of the member, including associated investment gains and losses, shall be reinstated upon the member's employment as a regular full-time employee; and

(ii) the length of time that the member worked with the previous employer shall be included in determining whether the member has completed the vesting period under Subsection (3)(a).

(c) The office shall establish a forfeiture account and shall specify the uses of the forfeiture account, which may include an offset against administrative costs of employer contributions made under this section.

(8) The office may request from any other qualified 401(k) plan under Subsection (2) any relevant information pertaining to the maintenance of its tax qualification under the Internal Revenue Code.

(9) The office may take any action which in its judgment is necessary to maintain the tax-qualified status of its 401(k) defined contribution plan under federal law.

Section 21. Section 67-19-14.4 is amended to read:

67-19-14.4. Unused Sick Leave Retirement Program II -- Creation -- Remuneration upon eligibility for allowance -- Medical expense account after retirement.

(1) (a) There is created the "Unused Sick Leave Retirement Program II."

(b) An agency shall offer the Unused Sick Leave Retirement Option Program II to an employee who is eligible to receive a retirement allowance in accordance with Title 49, Utah State Retirement and Insurance Benefit Act.

(c) An employee who is participating in the Unused Sick Leave Retirement Program I under Section 67-19-14.2 may make a one-time and irrevocable election to transfer all unused sick leave hours which shall include all converted sick leave

hours under Section 67-19-14.1 for use under the Unused Sick Leave Retirement Program II under this section.

(2) (a) The Unused Sick Leave Retirement Program II provides that upon becoming eligible to receive a retirement allowance an employee employed by the state between January 1, 2006, and January 3, 2014, shall receive remuneration for the employee's unused accumulated sick leave and converted sick leave accrued between January 1, 2006, and January 3, 2014, in accordance with this section as follows:

(i) subject to federal requirements and limitations, a contribution at the employee's rate of pay at the time of retirement for 25% of the employee's unused accumulated sick leave and converted sick leave shall be transferred directly to the employee's defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which is sponsored by the Utah State Retirement Board; and

(ii) participation in a benefit plan that provides for reimbursement for medical expenses using money deposited at the employee's rate of pay at the time of retirement from remaining unused accumulated sick leave and converted sick leave balances.

(b) If the amount calculated under Subsection (2)(a)(i) exceeds the federal contribution limitations, the amount representing the excess shall be deposited under Subsection (2)(a)(ii).

(c) An employee's rate of pay at the time of retirement for purposes of Subsection (2)(a)(ii) may not be less than the average rate of pay of state employees who retired in the same retirement system under Title 49, Utah State Retirement and Insurance Benefit Act, during the previous calendar year.

(3) The Utah State Retirement Office shall develop and maintain a program to provide a benefit plan that provides for reimbursement for medical expenses under Subsection (2)(a)(ii) with[; ~~(a)~~] money deposited under Subsection (2)(a)(ii)[; and ~~(b)~~ accrued earnings].

CHAPTER 228**S. B. 37**

Passed February 10, 2016

Approved March 23, 2016

Effective May 10, 2016

**HUMAN RESOURCE MANAGEMENT
RATE COMMITTEE**Chief Sponsor: Todd Weiler
House Sponsor: Kraig Powell**LONG TITLE****General Description:**

This bill amends provisions of the Utah State Personnel Management Act relating to the rate committee.

Highlighted Provisions:

This bill:

- ▶ modifies the membership of the rate committee; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

67-19-11, as last amended by Laws of Utah 2013, Chapter 310

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 67-19-11 is amended to read:**67-19-11. Use of department facilities --
Field office facilities cost allocation --
Funding for department.**

(1) (a) ~~[All officers and employees of the state and its political subdivisions]~~ An agency or a political subdivision of the state shall allow the department to use public buildings under ~~[their]~~ the agency's or the political subdivision's control, and furnish heat, light, and furniture, for any examination, training, hearing, or investigation authorized by this chapter.

(b) ~~[The]~~ An agency or political subdivision that allows the department to use a public building under Subsection (1)(a) shall pay the cost of the department's use of ~~[facilities shall be paid by the agency housing a field office staff]~~ the public building.

(2) The executive director shall:

(a) prepare an annual budget request for the department;

(b) submit the budget request to the governor and the Legislature; and

(c) before charging a fee for services provided by the department's internal service fund to an executive branch agency ~~[, the executive director shall]~~:

(i) submit the proposed rates, fees, and cost analysis to the Rate Committee established under Subsection (3); and

(ii) obtain the approval of the Legislature as required under Section 63J-1-410.

(3) (a) There is created a ~~[Rate Committee which]~~ rate committee that shall consist of:

(i) the executive director of the Governor's Office of Management and Budget, or a designee; and

(ii) subject to Subsection (3)(b), the executive directors of [three] six state agencies that use services and pay rates to one of the department internal service funds, or their designee, appointed by the governor for a two-year term[;].

~~[(iii) the director of the Division of Finance, or a designee;]~~

~~[(iv) the executive director of the Department of Human Resource Management, or a designee; and]~~

~~[(v) the attorney general or designee.]~~

(b) The executive director of the Department of Human Resource Management may not serve on the rate committee.

~~[(b)]~~ (c) (i) The rate committee shall elect a chair from [its] the rate committee's members[, except that the chair may not be from an agency that receives payment of a rate set by the committee].

(ii) ~~[Members]~~ Each member of the rate committee who [are] is a state government [employees] employee and who [do] does not receive salary, per diem, or expenses from [their] the member's agency for [their] the member's service on the rate committee shall receive no compensation, benefits, per diem, or expenses for the [members'] member's service on the rate committee.

~~[(e)]~~ (d) The [Department of Human Resource Management] department shall provide staff services to the rate committee.

(4) (a) The department shall submit to the rate committee a proposed rate and fee schedule for:

(i) human resource management services rendered; and

(ii) costs incurred by the Office of the Attorney General in defending the state in a grievance under review by the Career Service Review Office.

(b) The rate committee shall:

(i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings Act;

(ii) review the proposed rate and fee schedules and ~~[may]~~, at the rate committee's discretion, approve, increase, or decrease the rate and fee schedules;

(iii) recommend a proposed rate and fee schedule for the internal service fund to:

(A) the Governor's Office of Management and Budget; and

(B) ~~[the]~~ each legislative appropriations ~~[subcommittees]~~ subcommittee that, in accordance

with Section 63J-1-410, [~~approve~~] approves the internal service fund rates, fees, and budget; and

(iv) review and approve, increase or decrease an interim rate, fee, or amount when the department begins a new service or introduces a new product between annual general sessions of the Legislature.

(c) The committee may in accordance with Subsection 63J-1-410(4) decrease a rate, fee, or amount that has been approved by the Legislature.

CHAPTER 229**S. B. 38**

Passed March 9, 2016

Approved March 23, 2016

Effective July 1, 2016

SCHOOL FUNDING AMENDMENTS

Chief Sponsor: Howard A. Stephenson

House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill amends provisions related to school district property taxes and charter school funding.

Highlighted Provisions:

This bill:

- ▶ amends the definition of “district local property tax revenues” to include school district revenues expended for recreational facilities and revenues received from certain state guarantees;
- ▶ defines terms;
- ▶ amends provisions that require a school district to allocate a certain portion of school district tax revenues for charter schools;
- ▶ amends charter school facility expenditures provisions;
- ▶ amends provisions related to the board local levy;
- ▶ creates a levy for charter school funding;
- ▶ provides for the distribution of revenues from the levy for charter school funding;
- ▶ establishes the Charter School Levy Account;
- ▶ requires certain notice on the charter school funding levy; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

53A-1a-513, as last amended by Laws of Utah 2015, Chapters 64 and 380

53A-17a-105, as last amended by Laws of Utah 2015, Chapter 449

53A-17a-164, as last amended by Laws of Utah 2013, Chapters 178 and 313

63I-2-253, as last amended by Laws of Utah 2015, Chapters 258, 418, and 456

ENACTS:

53A-1a-513.1, Utah Code Annotated 1953

53A-1a-513.2, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-1a-513 is amended to read:**53A-1a-513. Funding for charter schools.**

(1) As used in this section:

(a) “Basic program” means the same as that term is defined in Section 53A-17a-103.

~~(a)~~ (b) “Charter school students’ average local revenues” means the amount determined as follows:

(i) for each student enrolled in a charter school on the previous October 1, calculate the district per pupil local revenues of the school district in which the student resides;

(ii) sum the district per pupil local revenues for each student enrolled in a charter school on the previous October 1; and

(iii) divide the sum calculated under Subsection (1)~~(a)~~(b)(ii) by the number of students enrolled in charter schools on the previous October 1.

(c) “Charter school levy per pupil revenues” means the same as that term is defined in Section 53A-1a-513.1.

~~(b)~~ (d) “District local property tax revenues” means the sum of a school district’s revenue received from the following ~~levies~~:

(i) a voted local levy imposed under Section 53A-17a-133;

(ii) a board local levy imposed under Section 53A-17a-164, excluding revenues expended for:

~~(A) — recreational facilities and activities authorized under Title 11, Chapter 2, Playgrounds;~~

~~(B)~~ (A) pupil transportation, up to the amount of revenue generated by a .0003 per dollar of taxable value of the school district’s board local levy; and

~~(C)~~ (B) the K-3 Reading Improvement Program, up to the amount of revenue generated by a .000121 per dollar of taxable value of the school district’s board local levy; ~~and~~

(iii) a capital local levy imposed under Section 53A-16-113~~;~~; and

(iv) a guarantee described in Section 53A-17a-133, 53A-17a-164, 53A-21-202, or 53A-21-302.

~~(e)~~ (e) “District per pupil local revenues” means ~~[an amount equal to the following]~~, using data from the most recently published school district annual financial reports and state superintendent’s annual report~~[-]~~, an amount equal to ~~(4)~~ district local property tax revenues~~[-]~~ divided by ~~(ii)~~ the sum of:

~~(A)~~ (i) a school district’s average daily membership; and

~~(B)~~ (ii) the average daily membership of a school district’s resident students who attend charter schools.

~~(d)~~ (f) “Resident student” means a student who is considered a resident of the school district under Title 53A, Chapter 2, Part 2, District of Residency.

~~(e)~~ (g) “Statewide average debt service revenues” means the amount determined as follows, using data from the most recently published state superintendent’s annual report:

(i) sum the revenues of each school district from the debt service levy imposed under Section 11-14-310; and

(ii) divide the sum calculated under Subsection (1)(~~(e)~~)(4)(g)(i) by statewide school district average daily membership.

(2) (a) Charter schools shall receive funding as described in this section, except Subsections (3) through (8) do not apply to charter schools described in Subsection (2)(b).

(b) Charter schools authorized by local school boards that are converted from district schools or operate in district facilities without paying reasonable rent shall receive funding as prescribed in Section 53A-1a-515.

(3) (a) Except as provided in Subsections (3)(b) and (3)(c), a charter school shall receive state funds, as applicable, on the same basis as a school district receives funds.

(b) For the 2015-16 school year, the number of weighted pupil units assigned to a charter school for the kindergarten and grades 1 through 12 programs of the Basic School Program shall be:

(i) based on the higher of:

(A) October 1 enrollment in the current school year; or

(B) average daily membership in the prior school year plus growth as determined under Section 53A-17a-106; and

(ii) weighted as provided in Subsection (3)(c).

(c) In distributing funds under Chapter 17a, Minimum School Program Act, to charter schools, charter school pupils shall be weighted, where applicable, as follows:

(i) .55 for kindergarten pupils;

(ii) .9 for pupils in grades 1 through 6;

(iii) .99 for pupils in grades 7 through 8; and

(iv) 1.2 for pupils in grades 9 through 12.

(4) (a) (i) A school district shall allocate a portion of school district revenues for each resident student of the school district who is enrolled in a charter school on the previous October 1 equal to 25% of the district per pupil local revenues~~[.]~~ excluding the amount of revenues:

(A) described in Subsection (1)(d)(iv) collected by the district; and

(B) expended by the school district for recreational facilities and activities authorized under Title 11, Chapter 2, Playgrounds.

(ii) Nothing in this Subsection (4)(a) affects the school bond guarantee program established under Chapter 28, Utah School Bond Guaranty Act.

(b) The State Board of Education shall:

(i) deduct an amount equal to the allocation provided under Subsection (4)(a) from state funds the school district is authorized to receive under Chapter 17a, Minimum School Program Act; and

(ii) remit the money to the student's charter school.

(c) Notwithstanding the method used to transfer school district revenues to charter schools as provided in Subsection (4)(b), a school district may deduct the allocations to charter schools under this section from:

(i) unrestricted revenues available to the school district; or

(ii) the revenue sources listed in Subsection (1)(~~(b)~~)(d) based on the portion of the allocations to charter schools attributed to each of the revenue sources listed in Subsection (1)(~~(b)~~)(d).

(d) (i) Subject to future budget constraints, the Legislature shall provide an appropriation for charter schools for each student enrolled on October 1 to supplement the allocation of school district revenues under Subsection (4)(a).

(ii) Except as provided in Subsection (4)(d)(iii), the amount of money provided by the state for a charter school student shall be the sum of:

(A) charter school students' average local revenues minus the allocation of school district revenues under Subsection (4)(a); and

(B) statewide average debt service revenues.

(iii) If the total of a school district's allocation for a charter school student under Subsection (4)(a) and the amount provided by the state under Subsection (4)(d)(ii) is less than \$1427, the state shall provide an additional supplement so that a charter school receives at least \$1427 per student under this Subsection (4).

(iv) (A) If the appropriation provided under this Subsection (4)(d) is less than the amount prescribed by Subsection (4)(d)(ii) or (4)(d)(iii), the appropriation shall be allocated among charter schools in proportion to each charter school's enrollment as a percentage of the total enrollment in charter schools.

(B) If the State Board of Education makes adjustments to Minimum School Program allocations as provided under Section 53A-17a-105, the allocation provided in Subsection (4)(d)(iv)(A) shall be determined after adjustments are made under Section 53A-17a-105.

(e) ~~[Of]~~ (i) Except as provided in Subsection (4)(e)(ii), of the money provided to a charter school under this Subsection (4), 10% shall be expended for funding school facilities only.

(ii) Subsection (4)(e)(i) does not apply to an online charter school.

(f) This Subsection (4) is repealed July 1, 2017.

(5) (a) As described in Section 53A-1a-513.1, the State Board of Education shall distribute charter school levy per pupil revenues to charter schools.

(b) (i) Subject to future budget constraints, the Legislature shall provide an appropriation for charter schools for each charter school student

enrolled on October 1 to supplement the allocation of charter school levy per pupil revenues described in Subsection (5)(a).

(ii) Except as provided in Subsection (5)(b)(iii), the amount of money provided by the state for a charter school student shall be the sum of:

(A) charter school students' average local revenues minus the charter school levy per pupil revenues; and

(B) statewide average debt service revenues.

(iii) If the total of charter school levy per pupil revenues and the amount provided by the state under Subsection (5)(b)(ii) is less than \$1,427, the state shall provide an additional supplement so that a charter school receives at least \$1,427 per student under this Subsection (5).

(iv) (A) If the appropriation provided under this Subsection (5)(b) is less than the amount prescribed by Subsection (5)(b)(ii) or (5)(b)(iii), the appropriation shall be allocated among charter schools in proportion to each charter school's enrollment as a percentage of the total enrollment in charter schools.

(B) If the State Board of Education makes adjustments to Minimum School Program allocations as provided under Section 53A-17a-105, the allocation provided in Subsection (5)(b)(iv)(A) shall be determined after adjustments are made under Section 53A-17a-105.

(c) (i) Of the money provided to a charter school under this Subsection (5), 10% shall be expended for funding school facilities only.

(ii) Subsection (5)(c)(i) does not apply to an online charter school.

(d) This Subsection (5) is effective July 1, 2017.

[45] (6) Charter schools are eligible to receive federal funds if they meet all applicable federal requirements and comply with relevant federal regulations.

[46] (7) The State Board of Education shall distribute funds for charter school students directly to the charter school.

[47] (8) (a) Notwithstanding Subsection (3), a charter school is not eligible to receive state transportation funding.

(b) The board shall also adopt rules relating to the transportation of students to and from charter schools, taking into account Sections 53A-2-210 and 53A-17a-127.

(c) The governing [body] board of the charter school may provide transportation through an agreement or contract with the local school board, a private provider, or [with] parents.

[48] (9) (a) (i) In accordance with Section 53A-1a-513.5, the State Charter School Board may allocate grants for start-up costs to charter schools from money appropriated for charter school start-up costs.

(ii) The governing board of a charter school that receives money from a grant under Section 53A-1a-513.5 shall use the grant for expenses for planning and implementation of the charter school.

(b) The State Board of Education shall coordinate the distribution of federal money appropriated to help fund costs for establishing and maintaining charter schools within the state.

[49] (10) (a) A charter school may receive, hold, manage and use any devise, bequest, grant, endowment, gift, or donation of any property made to the school for any of the purposes of this part.

(b) It is unlawful for any person affiliated with a charter school to demand or request any gift, donation, or contribution from a parent, teacher, employee, or other person affiliated with the charter school as a condition for employment or enrollment at the school or continued attendance at the school.

Section 2. Section 53A-1a-513.1 is enacted to read:

53A-1a-513.1. Charter school levy.

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Charter School Levy Account" means the Charter School Levy Account created in Section 53A-1a-513.2.

(c) "Charter school levy per district revenues" means the product of:

(i) a school district's district per pupil local revenues; and

(ii) the number of charter school students in the school district who are resident students.

(d) "Charter school levy per pupil revenues" means an amount equal to the following:

(i) charter school levy total local revenues for a given fiscal year, adjusted if necessary as described in Subsection (4); divided by

(ii) the number of students enrolled in a charter school on October 1 of the prior school year.

(e) "Charter school levy revenues" means the charter school levy revenues generated by a charter school levy rate described in Subsection (2)(b)(i).

(f) "Charter school levy total local revenues" means the sum of charter school levy per district revenues for every school district in the state for the same given fiscal year.

(g) "District per pupil local revenues" means the same as that term is defined in Section 53A-1a-513.

(h) "Resident student" means the same as that term is defined in Section 53A-1a-513.

(2) (a) Beginning with the taxable year beginning on January 1, 2017, the state shall annually impose a charter school levy as described in this Subsection (2).

(b) (i) For each school district, before June 22, the State Tax Commission shall certify a rate for the

charter school levy described in Subsection (2)(a) to generate an amount of revenue within a school district equal to 25% of the charter school levy per district revenues excluding the amount of revenues:

(A) described in Subsection 53A-1a-513(1)(d)(iv); and

(B) expended by the school district for recreational facilities and activities authorized under Title 11, Chapter 2, Playgrounds.

(ii) To calculate a charter school levy rate for a school district, the State Tax Commission shall use the calculation method described in Subsection 59-2-924(3)(c)(ii).

(c) The charter school levy shall be separately stated on a tax notice.

(3) (a) A county treasurer shall collect the charter school levy revenues for all school districts located within the county treasurer's county and remit the money monthly to the state treasurer.

(b) The state treasurer shall deposit the charter school levy revenues received from a county treasurer into the Charter School Levy Account.

(4) (a) For each charter school student, the board shall distribute the charter school per pupil levy revenues from the Charter School Levy Account to the student's charter school in accordance with this Subsection (4).

(b) For a given fiscal year, if the actual charter school levy total local revenues are more than the estimated charter school levy total local revenues the board shall:

(i) deduct the amount of revenue that exceeds the estimated charter school levy total local revenues from the actual charter school levy total local revenues; and

(ii) use the remaining amount to calculate the charter school per pupil levy revenues.

(c) For a given fiscal year, if the actual charter school total local revenues are less than the estimated charter school levy total local revenues, the board shall:

(i) if sufficient funds are available in the Charter School Levy Account, add an amount of funds from the Charter School Levy Account to the charter school levy total local revenues to equal the estimated charter school levy total local revenues; and

(ii) if sufficient funds are not available in the Charter School Levy Account, calculate the charter school per pupil levy revenues using the actual amount of the charter school levy total local revenues.

Section 3. Section 53A-1a-513.2 is enacted to read:

53A-1a-513.2. Charter School Levy Account.

(1) As used in this section, "account" means the Charter School Levy Account created in this section.

(2) There is created within the Education Fund a restricted account known as the "Charter School Levy Account."

(3) The account shall be funded by amounts deposited into the account in accordance with Section 53A-1a-513.1.

(4) Upon appropriation from the Legislature, the State Board of Education shall distribute funds from the account as described in Section 53A-1a-513.1.

(5) The account shall earn interest.

(6) Interest earned on the account shall be deposited into the account.

(7) Funds in the account are nonlapsing.

Section 4. Section 53A-17a-105 is amended to read:

53A-17a-105. Powers and duties of State Board of Education to adjust Minimum School Program allocations -- Use of remaining funds at the end of a fiscal year.

(1) For purposes of this section:

(a) "Board" means the State Board of Education.

(b) "ESEA" means the Elementary and Secondary Education Act of 1965, 20 U.S.C. Sec. 6301 et seq.

(c) "LEA" means:

(i) a school district; or

(ii) a charter school.

(d) "Program" means a program or allocation funded by a line item appropriation or other appropriation designated as:

(i) Basic Program;

(ii) Related to Basic Programs;

(iii) Voted and Board Levy Programs; or

(iv) Minimum School Program.

(2) Except as provided in Subsection (3) or (5), if the number of weighted pupil units in a program is underestimated, the board shall reduce the value of the weighted pupil unit in that program so that the total amount paid for the program does not exceed the amount appropriated for the program.

(3) If the number of weighted pupil units in a program is overestimated, the board shall spend excess money appropriated for the following purposes giving priority to the purpose described in Subsection (3)(a):

(a) to support the value of the weighted pupil unit in a program within the basic state-supported school program in which the number of weighted pupil units is underestimated;

(b) to support the state guarantee per weighted pupil unit provided under the voted local levy

program established in Section 53A-17a-133 or the board local levy program established in Section 53A-17a-164, if:

(i) local contributions to the voted local levy program or board local levy program are overestimated; or

(ii) the number of weighted pupil units within school districts qualifying for a guarantee is underestimated;

(c) to support the state supplement to local property taxes allocated to charter schools, if the state supplement is less than the amount prescribed by ~~[Subsection]~~ Section 53A-1a-513(4); or

(d) to support a school district with a loss in student enrollment as provided in Section 53A-17a-139.

(4) If local contributions from the minimum basic tax rate imposed under Section 53A-17a-135 are overestimated, the board shall reduce the value of the weighted pupil unit for all programs within the basic state-supported school program so the total state contribution to the basic state-supported school program does not exceed the amount of state funds appropriated.

(5) If local contributions from the minimum basic tax rate imposed under Section 53A-17a-135 are underestimated, the board shall:

(a) spend the excess local contributions for the purposes specified in Subsection (3), giving priority to supporting the value of the weighted pupil unit in programs within the basic state-supported school program in which the number of weighted pupil units is underestimated; and

(b) reduce the state contribution to the basic state-supported school program so the total cost of the basic state-supported school program does not exceed the total state and local funds appropriated to the basic state-supported school program plus the local contributions necessary to support the value of the weighted pupil unit in programs within the basic state-supported school program in which the number of weighted pupil units is underestimated.

(6) Except as provided in Subsection (3) or (5), the board shall reduce the guarantee per weighted pupil unit provided under the voted local levy program established in Section 53A-17a-133 or board local levy program established in Section 53A-17a-164, if:

(a) local contributions to the voted local levy program or board local levy program are overestimated; or

(b) the number of weighted pupil units within school districts qualifying for a guarantee is underestimated.

(7) (a) The board may use program funds as described in Subsection (7)(b) if:

(i) the state loses flexibility due to the U.S. Department of Education's rejection of the state's

renewal application for flexibility under the ESEA; and

(ii) the state is required to fully implement the requirements of Title I of the ESEA, as amended by the No Child Left Behind Act of 2001.

(b) Subject to the requirements of Subsections (7)(a) and (c), for fiscal year 2016, after any transfers or adjustments described in Subsections (2) through (6) are made, the board may use up to \$15,000,000 of excess money appropriated to a program, remaining at the end of fiscal year 2015, to mitigate a budgetary impact to an LEA due to the LEA's loss of flexibility related to implementing the requirements of Title I of the ESEA, as amended by the No Child Left Behind Act of 2001.

(c) In addition to the reporting requirement described in Subsection (9), the board shall report actions taken by the board under this Subsection (7) to the Executive Appropriations Committee.

(8) Money appropriated to the board is nonlapsing.

(9) The board shall report actions taken by the board under this section to the Office of the Legislative Fiscal Analyst and the Governor's Office of Management and Budget.

Section 5. Section 53A-17a-164 is amended to read:

53A-17a-164. Board local levy -- State guarantee.

(1) Subject to the other requirements of this section, for a calendar year beginning on or after January 1, 2012, a local school board may levy a tax to fund the school district's general fund.

(2) (a) For purposes of this Subsection (2), "combined rate" means the sum of:

(i) the rate imposed by a local school board under Subsection (1); and

(ii) the charter school levy rate, described in Section 53A-1a-513.1, for the local school board's school district.(a) (b) Except as provided in Subsection (2)(b), ~~a tax rate imposed by a school district pursuant to this section~~ (2)(c), beginning on January 1, 2017, a school district's combined rate may not exceed .0018 per dollar of taxable value in any calendar year.

~~(b) A tax rate imposed by a school district pursuant to this section]~~

(c) Beginning on January 1, 2017, a school district's combined rate may not exceed .0025 per dollar of taxable value in any calendar year if, during the calendar year beginning on January 1, 2011, the school district's ~~combined~~ total tax rate for the following levies was greater than .0018 per dollar of taxable value:

(i) a recreation levy imposed under Section 11-2-7;

(ii) a transportation levy imposed under Section 53A-17a-127;

(iii) a board-authorized levy imposed under Section 53A-17a-134;

(iv) an impact aid levy imposed under Section 53A-17a-143;

(v) the portion of a 10% of basic levy imposed under Section 53A-17a-145 that is budgeted for purposes other than capital outlay or debt service;

(vi) a reading levy imposed under Section 53A-17a-151; and

(vii) a tort liability levy imposed under Section 63G-7-704.

(3) (a) In addition to the revenue a school district collects from the imposition of a levy pursuant to this section, the state shall contribute an amount sufficient to guarantee that each .0001 of the first .0004 per dollar of taxable value generates an amount equal to the state guarantee per weighted pupil unit described in Subsection 53A-17a-133(4).

(b) (i) The amount of state guarantee money to which a school district would otherwise be entitled to under this Subsection (3) may not be reduced for the sole reason that the district's levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 pursuant to changes in property valuation.

(ii) Subsection (3)(b)(i) applies for a period of five years following any changes in the certified tax rate.

(4) A school district that imposes a board local levy in the calendar year beginning on January 1, 2012, is exempt from the public notice and hearing requirements of Section 59-2-919 if the school district budgets an amount of ad valorem property tax revenue equal to or less than the sum of the following amounts:

(a) the amount of revenue generated during the calendar year beginning on January 1, 2011, from the sum of the following levies of a school district:

(i) a recreation levy imposed under Section 11-2-7;

(ii) a transportation levy imposed under Section 53A-17a-127;

(iii) a board-authorized levy imposed under Section 53A-17a-134;

(iv) an impact aid levy imposed under Section 53A-17a-143;

(v) the portion of a 10% of basic levy imposed under Section 53A-17a-145 that is budgeted for purposes other than capital outlay or debt service;

(vi) a reading levy imposed under Section 53A-17a-151; and

(vii) a tort liability levy imposed under Section 63G-7-704; and

(b) revenue from new growth as defined in Subsection 59-2-924(4)(c).

(5) (a) For a calendar year beginning on or after January 1, 2017, the State Tax Commission shall

adjust a board local levy rate imposed by a local school board under this section by the amount necessary to offset the change in revenues from the charter school levy imposed under Section 53A-1a-513.1.

(b) A local school board is not required to comply with the notice and public hearing requirements of Section 59-2-919 for an offset described in Subsection (5)(a) to the change in revenues from the charter school levy imposed under Section 53A-1a-513.1.

(c) A local school board may not increase a board local levy rate under this section before December 31, 2016, if the local school board did not give public notice on or before March 4, 2016, of the local school board's intent to increase the board local levy rate.

(d) So long as the charter school levy rate does not exceed 25% of the charter school levy per district revenues, a local school board may not increase a board local levy rate under this section if the purpose of increasing the board local levy rate is to capture the revenues assigned to the charter school levy through the adjustment in a board local levy rate under Subsection (5)(a).

(e) Before a local school board takes action to increase a board local levy rate under this section, the local school board shall:

(i) prepare a written statement that attests that the local school board is in compliance with Subsection (5)(d);

(ii) read the statement described in Subsection (5)(e)(i) during a local school board public meeting where the local school board discusses increasing the board local levy rate; and

(iii) send a copy of the statement described in Subsection (5)(e)(i) to the State Tax Commission.

Section 6. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53, 53A, and 53B.

(1) Section 53A-1-403.5 is repealed July 1, 2017.

(2) Subsection 53A-1-410(5) is repealed July 1, 2015.

(3) Section 53A-1-411 is repealed July 1, 2017.

(4) Subsection 53A-1a-513(4) is repealed July 1, 2017.

[4] (5) Section 53A-1a-513.5 is repealed July 1, 2017.

[5] (6) Title 53A, Chapter 1a, Part 10, UPSTART, is repealed July 1, 2019.

[6] (7) Title 53A, Chapter 8a, Part 8, Peer Assistance and Review Pilot Program, is repealed July 1, 2017.

Section 7. Effective date.

This bill takes effect on July 1, 2016.

CHAPTER 230**S. B. 53**

Passed February 11, 2016

Approved March 23, 2016

Effective May 10, 2016

VETERAN'S DEFINITION AMENDMENTS

Chief Sponsor: Peter C. Knudson

House Sponsor: Paul Ray

LONG TITLE**General Description:**

This bill conforms existing statutes to the new definition of a veteran.

Highlighted Provisions:

This bill:

- ▶ amends documentation requirements for verification for honorable or general discharges as related to public and private sector employment;
- ▶ defines discharge documents;
- ▶ modifies the definition of a veteran for veterans' preference; and
- ▶ specifies the definition of a veteran for specific areas and positions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

34-50-102, as enacted by Laws of Utah 2015, Chapter 263

34-50-103, as enacted by Laws of Utah 2015, Chapter 263

53B-8-107, as last amended by Laws of Utah 2013, Chapter 214

67-19-15, as last amended by Laws of Utah 2015, Chapter 401

71-8-2, as last amended by Laws of Utah 2013, Chapter 214

71-8-4, as last amended by Laws of Utah 2014, Chapter 91

71-8-5, as enacted by Laws of Utah 2013, Chapter 308

71-10-1, as last amended by Laws of Utah 2014, Chapter 137

71-11-2, as last amended by Laws of Utah 2013, Chapter 214

71-11-6, as last amended by Laws of Utah 2005, First Special Session, Chapter 7

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34-50-102 is amended to read:**34-50-102. Definitions.**

As used in this chapter:

~~[(1) "DD 214" means the United States Department of Defense Certificate of Release or Discharge from Active Duty.]~~

~~[(2)] (1) "Department" means the same as that term is defined in Section 71-11-2.~~

~~(2) "Discharge document" means a document received by a servicemember upon separation from military service, including:~~

~~(a) a DD 214, United States Department of Defense Certificate of Release or Discharge from Active Duty;~~

~~(b) a DD 256, United States Department of Defense Honorable Discharge Certificate;~~

~~(c) a DD 257, United States General Discharge Certificate; or~~

~~(d) an NGB 22, Utah National Guard Certificate of Release or Discharge.~~

~~(3) "Preference eligible" means the same as that term is defined in Section 71-10-1.~~

~~(4) "Private employer" means the same as that term is defined in Section 63G-12-102.~~

~~(5) "Veteran" means the same as that term is defined in Section ~~[71-10-1] 68-3-12.5.~~~~

Section 2. Section 34-50-103 is amended to read:**34-50-103. Voluntary veterans preference employment policy -- Private employment -- Antidiscrimination requirements.**

(1) A private sector employer may create a veterans employment preference policy.

(2) The veterans employment preference policy shall be:

(a) in writing; and

(b) applied uniformly to employment decisions regarding hiring, promotion, or retention including during a reduction in force.

(3) A private employer may require a veteran to submit a ~~[DD 214] discharge document~~ form to be eligible for the preference.

(4) A private employer's veterans employment preference policy shall be publicly posted by the employer at the place of employment or on the Internet if the employer has a website or uses the Internet to advertise employment opportunities.

Section 3. Section 53B-8-107 is amended to read:**53B-8-107. Military member surviving dependents -- Tuition waiver.**

(1) As used in this section~~["qualifying deceased military member" means a person: (a) who]~~:

(a) "Federal active duty" means serving under orders in accordance with United States Code, Title 10 or Title 32, at any time on or after September 11, 2001.

(b) "Qualifying deceased military member" means a person who:

(i) ~~[is] was~~ killed while serving on state or federal active duty, under orders of competent authority

and not as a result of the member's own misconduct; or

(ii) dies of wounds or injuries received while serving on state or federal active duty, under orders of competent authority and not as a result of the member's own misconduct; and

~~[(b) who: (i) is]~~ (iii) was a member of the armed forces of the United States and a Utah resident;

~~[(ii) is]~~ (iv) was a member of the reserve component of the armed forces on or after September 11, 2001, and a Utah resident; or

~~[(iii) is]~~ (v) was a member of the Utah National Guard on or after September 11, 2001.

(c) "State active duty" means serving in the Utah National Guard in any duty status authorized by the governor under Title 39, Militias and Armories.

(2) This section shall be known as the Scott B. Lundell Military Survivors' tuition waiver.

(3) A state institution of higher education shall waive undergraduate tuition for a dependent of a qualifying deceased military member under the following conditions:

(a) the dependent has been accepted by the institution in accordance with the institution's admissions guidelines;

(b) except as provided in Subsection (4), the dependent is a resident student as determined under Section 53B-8-102;

(c) the dependent may not have already completed a course of studies leading to an undergraduate degree;

(d) the dependent may only utilize the waiver for courses that are applicable toward the degree or certificate requirements of the program in which the dependent is enrolled; and

(e) the dependent may not be excluded from the waiver if the dependent has previously taken courses at or has been awarded credit by a state institution of higher education.

(4) Notwithstanding Subsection (3)(b), a dependent of a qualifying deceased military member that was a member of the Utah National Guard is not required to be a resident student as determined under Section 53B-8-102.

(5) The tuition waiver in this section is applicable for undergraduate study only.

(6) The Department of Veterans' and Military Affairs, after consultation with the adjutant general if necessary, shall certify to the institution that the dependent is a surviving dependent eligible for the tuition waiver in accordance with this section.

(7) The waiver in this section does not apply to fees, books, or housing expenses.

(8) The State Board of Regents may request reimbursement from the Legislature for costs

incurred in providing the tuition waiver under this section.

Section 4. Section 67-19-15 is amended to read:

67-19-15. Career service -- Exempt positions -- Schedules for civil service positions -- Coverage of career service provisions.

(1) Except as otherwise provided by law or by rules and regulations established for federally aided programs, the following positions are exempt from the career service provisions of this chapter and are designated under the following schedules:

(a) schedule AA includes the governor, members of the Legislature, and all other elected state officers;

(b) schedule AB includes appointed executives and board or commission executives enumerated in Section 67-22-2;

(c) schedule AC includes all employees and officers in:

(i) the office and at the residence of the governor;

(ii) the Utah Science Technology and Research Initiative (USTAR);

(iii) the Public Lands Policy Coordinating Council;

(iv) the Office of the State Auditor; and

(v) the Office of the State Treasurer;

(d) schedule AD includes employees who:

(i) are in a confidential relationship to an agency head or commissioner; and

(ii) report directly to, and are supervised by, a department head, commissioner, or deputy director of an agency or its equivalent;

(e) schedule AG includes employees in the Office of the Attorney General who are under their own career service pay plan under Sections 67-5-7 through 67-5-13;

(f) schedule AH includes:

(i) teaching staff of all state institutions; and

(ii) employees of the Utah Schools for the Deaf and the Blind who are:

(A) educational interpreters as classified by the department; or

(B) educators as defined by Section 53A-25b-102;

(g) schedule AN includes employees of the Legislature;

(h) schedule AO includes employees of the judiciary;

(i) schedule AP includes all judges in the judiciary;

(j) schedule AQ includes:

(i) members of state and local boards and councils appointed by the governor and governing bodies of agencies;

(ii) a water commissioner appointed under Section 73-5-1;

(iii) other local officials serving in an ex officio capacity; and

(iv) officers, faculty, and other employees of state universities and other state institutions of higher education;

(k) schedule AR includes employees in positions that involve responsibility:

(i) for determining policy;

(ii) for determining the way in which a policy is carried out; or

(iii) of a type not appropriate for career service, as determined by the agency head with the concurrence of the executive director;

(l) schedule AS includes any other employee:

(i) whose appointment is required by statute to be career service exempt;

(ii) whose agency is not subject to this chapter; or

(iii) whose agency has authority to make rules regarding the performance, compensation, and bonuses for its employees;

(m) schedule AT includes employees of the Department of Technology Services, designated as executive/professional positions by the executive director of the Department of Technology Services with the concurrence of the executive director;

(n) schedule AU includes patients and inmates employed in state institutions;

(o) employees of the Department of Workforce Services, designated as schedule AW:

(i) who are temporary employees that are federally funded and are required to work under federally qualified merit principles as certified by the director; or

(ii) for whom substantially all of their work is repetitive, measurable, or transaction based, and who voluntarily apply for and are accepted by the Department of Workforce Services to work in a pay for performance program designed by the Department of Workforce Services with the concurrence of the executive director; and

(p) for employees in positions that are temporary, seasonal, time limited, funding limited, or variable hour in nature, under schedule codes and parameters established by the department by administrative rule.

(2) The civil service shall consist of two schedules as follows:

(a) (i) Schedule A is the schedule consisting of positions under Subsection (1).

(ii) Removal from any appointive position under schedule A, unless otherwise regulated by statute, is at the pleasure of the appointing officers without regard to tenure.

(b) Schedule B is the competitive career service schedule, consisting of:

(i) all positions filled through competitive selection procedures as defined by the executive director; or

(ii) positions filled through a department approved on-the-job examination intended to appoint a qualified person with a disability, or a veteran [~~as defined in Section 71-10-1.~~] in accordance with Title 71, Chapter 10, Veteran's Preference.

(3) (a) The executive director, after consultation with the heads of concerned executive branch departments and agencies and with the approval of the governor, shall allocate positions to the appropriate schedules under this section.

(b) Agency heads shall make requests and obtain approval from the executive director before changing the schedule assignment and tenure rights of any position.

(c) Unless the executive director's decision is reversed by the governor, when the executive director denies an agency's request, the executive director's decision is final.

(4) (a) Compensation for employees of the Legislature shall be established by the directors of the legislative offices in accordance with Section 36-12-7.

(b) Compensation for employees of the judiciary shall be established by the state court administrator in accordance with Section 78A-2-107.

(c) Compensation for officers, faculty, and other employees of state universities and institutions of higher education shall be established as provided in Title 53B, Chapter 1, Governance, Powers, Rights, and Responsibilities, and Title 53B, Chapter 2, Institutions of Higher Education.

(d) Unless otherwise provided by law, compensation for all other schedule A employees shall be established by their appointing authorities, within ranges approved by, and after consultation with the executive director of the Department of Human Resource Management.

(5) An employee who is in a position designated schedule AC and who holds career service status on June 30, 2010, shall retain the career service status if the employee:

(a) remains in the position that the employee is in on June 30, 2010; and

(b) does not elect to convert to career service exempt status in accordance with a rule made by the department.

Section 5. Section 71-8-2 is amended to read:

71-8-2. Department of Veterans' and Military Affairs created -- Appointment of

executive director -- Department responsibilities.

(1) There is created the Department of Veterans' and Military Affairs.

(2) The governor shall appoint an executive director for the department, after consultation with the Veterans' Advisory Council, who is subject to Senate confirmation.

(a) The executive director shall be [a-veteran] an individual who:

(i) has served on active duty in the armed forces for more than 180 consecutive days;

(ii) was a member of a reserve component who served in a campaign or expedition for which a campaign medal has been authorized; or

(iii) incurred an actual service-related injury or disability in the line of duty, whether or not that person completed 180 consecutive days of active duty; and

(iv) was separated or retired under honorable conditions.

(b) Any veteran or veteran's group may submit names to the council for consideration.

(3) The department shall:

(a) conduct and supervise all veteran activities as provided in this title; and

(b) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this title.

Section 6. Section 71-8-4 is amended to read:**71-8-4. Veterans' Advisory Council -- Membership -- Duties and responsibilities -- Per diem and travel expenses.**

(1) There is created a Veterans' Advisory Council whose purpose is to advise the executive director of the Department of Veterans' and Military Affairs on issues relating to veterans.

(2) The council shall consist of the following 14 members:

(a) 11 voting members to serve four-year terms:

(i) seven veterans at large appointed by the governor;

(ii) the commander or the commander's designee, whose terms shall last for as long as they hold that office, from each of the following organizations:

(A) Veterans of Foreign Wars;

(B) American Legion; and

(C) Disabled American Veterans; and

(iii) a representative from the Office of the Governor; and

(b) three nonvoting members:

(i) the executive director of the Department of Veterans' and Military Affairs;

(ii) the director of the VA Health Care System or his designee; and

(iii) the director of the VA Benefits Administration Regional Office in Salt Lake City, or his designee.

(3) (a) Except as required by Subsection (3)(b), as terms of current council members expire, the governor shall appoint each new or reappointed member to a four-year term commencing on July 1.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the members appointed by the governor are appointed every two years.

(4) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement for the unexpired term within 60 days of receiving notice.

(5) Members appointed by the governor may not serve more than three consecutive terms.

(6) (a) Any veterans' group or veteran may provide the executive director with a list of recommendations for members on the council.

(b) The executive director shall provide the governor with the list of recommendations for members to be appointed to the council.

(c) The governor shall make final appointments to the council by June 30 of any year in which appointments are to be made under this chapter.

(7) The council shall elect a chair and vice chair from among the council members every two years. The chair and vice chair shall each be [veterans] an individual who:

(a) has served on active duty in the armed forces for more than 180 consecutive days;

(b) was a member of a reserve component who served in a campaign or expedition for which a campaign medal has been authorized; or

(c) incurred an actual service-related injury or disability in the line of duty, whether or not that person completed 180 consecutive days of active duty; and

(d) was separated or retired under honorable conditions.

(8) (a) The council shall meet at least once every quarter.

(b) The executive director of the Department of Veterans' and Military Affairs may convene additional meetings, as necessary.

(9) The department shall provide staff to the council.

(10) Six voting members are a quorum for the transaction of business.

(11) The council shall:

(a) solicit input concerning veterans issues from veterans' groups throughout the state;

(b) report issues received to the executive director of the Department of Veterans' and Military Affairs and make recommendations concerning them;

(c) keep abreast of federal developments that affect veterans locally and advise the executive director of them;

(d) approve, by a majority vote, the use of money generated from veterans' license plates under Section 41-1a-422 for veterans' programs; and

(e) assist the director in developing guidelines and qualifications for:

(i) participation by donors and recipients in the Veterans' Assistance Registry created in Section 71-12-101; and

(ii) developing a process for providing contact information between qualified donors and recipients.

(12) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 7. Section 71-8-5 is amended to read:

71-8-5. Veterans' services coordinator qualifications -- Duties.

(1) The veterans' services coordinator shall:

(a) be ~~[a veteran]~~ an individual who:

(i) has served on active duty in the armed forces for more than 180 consecutive days;

(ii) was a member of a reserve component who served in a campaign or expedition for which a campaign medal has been authorized; or

(iii) incurred an actual service-related injury or disability in the line of duty, whether or not that person completed 180 consecutive days of active duty; and

(iv) was separated or retired under honorable conditions;

(b) have the education and experience in the use of computer technology, including databases, to collect, manage, and store information; and

(c) have some education and experience in public relations.

(2) The veterans' services coordinator shall be responsible to:

(a) identify all government entities that provide services for veterans;

(b) develop a process for coordination of veterans' services across all government entities; and

(c) develop and provide training for veterans' affairs specialists on the coordination of veterans' services with the department.

Section 8. Section 71-10-1 is amended to read:

71-10-1. Definitions.

As used in this chapter:

(1) "Active duty" means active military duty and does not include active duty for training, initial active duty for training, or inactive duty for training.

(2) "Government entity" means the state, any county, municipality, local district, special service district, or any other political subdivision or administrative unit of the state, including state institutions of education.

(3) "Preference eligible" means:

(a) any individual who has served on active duty in the armed forces for more than 180 consecutive days, or was a member of a reserve component who served in a campaign or expedition for which a campaign medal has been authorized and who has been separated under honorable conditions;

(b) a veteran with a disability, regardless of the percentage of disability;

(c) the spouse or unmarried widow or widower of a veteran;

(d) a purple heart recipient; or

(e) a retired member of the armed forces.

~~(4) "Veteran" means: (a) an individual who has served on active duty in the armed forces for more than 180 consecutive days, or was a member of a reserve component who served in a campaign or expedition for which a campaign medal has been authorized and who has been separated or retired under honorable conditions; or (b) any individual incurring an actual service-related injury or disability in the line of duty whether or not that person completed 180 consecutive days of active duty.] the same as that term is defined in Section 68-3-12.5.~~

(5) "Veteran with a disability" means an individual who has:

(a) been separated or retired from the armed forces under honorable conditions; and

(b) established the existence of a service-connected disability or is receiving compensation, disability retirement benefits, or pension because of a public statute administered by the federal Department of Veterans Affairs or a military department.

Section 9. Section 71-11-2 is amended to read:

71-11-2. Definitions.

As used in this chapter:

(1) "Administrator" means a Veterans' Nursing Home Administrator selected in accordance with Section 71-11-5.

(2) "Board" means any Veterans' Nursing Home Advisory Board.

(3) "Department" means the Department of Veterans' and Military Affairs created in Section 71-8-2.

(4) "Executive director" means the executive director of the Department of Veterans' and Military Affairs.

(5) "Home" means any Utah Veterans' Nursing Home.

(6) "Veteran" ~~[is as defined in Subsection 71-10-1(4)]~~ means the same as that term is defined in Section 68-3-12.5.

Section 10. Section 71-11-6 is amended to read:

71-11-6. Eligibility -- Admission requirements.

(1) Application for admission shall be made separately to each nursing home administrator.

(2) Veterans and their spouses or surviving spouses who are residents of Utah, meet federal eligibility requirements, and are in need of nursing home care may be admitted to any home.

(3) Preference shall be given to veterans who are without adequate means of support and unable, due to wounds, disease, old age, or infirmity, to properly maintain themselves.

CHAPTER 231**S. B. 82**

Passed March 9, 2016
Approved March 23, 2016
Effective May 10, 2016

CHILD WELFARE MODIFICATIONS

Chief Sponsor: Wayne A. Harper
House Sponsor: Edward H. Redd

LONG TITLE**General Description:**

This bill amends and enacts provisions concerning child and family services.

Highlighted Provisions:

This bill:

- ▶ amends the name of the Child Abuse Advisory Council to the Child Welfare Improvement Council;
- ▶ requires child welfare caseworkers within the Division of Child and Family Services (the division) to use evidence-informed or evidence-based safety and risk assessments to guide decisions concerning a child throughout a child protection investigation or proceeding;
- ▶ requires a juvenile court to consider the division's safety and risk assessments to determine whether a child should be removed from the custody of the child's parent or guardian;
- ▶ modifies the division's requirements for completing background checks before placing a child in emergency placement;
- ▶ requires the division, through contract with the Department of Health, to establish and operate a psychotropic medication oversight pilot program for children in foster care to ensure that foster children are being prescribed psychotropic medication consistent with their needs;
- ▶ provides for sunset review of the psychotropic medication oversight pilot program before it is repealed July 1, 2019;
- ▶ modifies the Utah Criminal Code regarding the offenses of human trafficking and human trafficking of a child;
- ▶ provides that a juvenile court may order another planned permanent living arrangement for a minor 16 years old or older under certain circumstances; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

62A-4a-117, as last amended by Laws of Utah 2012, Chapter 242
62A-4a-209, as last amended by Laws of Utah 2015, Chapters 142 and 255
62A-4a-302, as last amended by Laws of Utah 2008, Chapter 299
62A-4a-311, as last amended by Laws of Utah 2010, Chapters 278 and 286
63I-1-262, as last amended by Laws of Utah 2014, Chapter 226

76-5-308, as last amended by Laws of Utah 2013, Chapter 196
76-5-308.5, as enacted by Laws of Utah 2015, Chapter 160
78A-6-302, as last amended by Laws of Utah 2015, Chapter 274
78A-6-312, as last amended by Laws of Utah 2015, Chapters 274 and 322
78A-6-314, as last amended by Laws of Utah 2015, Chapter 322

ENACTS:

62A-4a-203.1, Utah Code Annotated 1953
62A-4a-213, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 62A-4a-117 is amended to read:**62A-4a-117. Performance monitoring system -- Annual report.**

(1) As used in this section:

(a) “[~~Committee~~] Council” means the [state qualitative—improvement—committee,] Child Welfare Improvement Council established [by the division to provide community and professional input on the performance of the division] under Section 62A-4a-311.

(b) “Performance indicators” means actual performance in a program, activity, or other function for which there is a performance standard.

(c) (i) “Performance standards” means the targeted or expected level of performance of each area in the child welfare system, including:

- (A) child protection services;
- (B) adoption;
- (C) foster care; and
- (D) other substitute care.

(ii) “Performance standards” includes the performance goals and measures in effect in 2008 that the division was subject to under federal court oversight, as amended pursuant to Subsection (2), including:

- (A) the qualitative case review; and
- (B) the case process review.

(2) (a) The division may not amend the performance standards unless the amendment is:

- (i) necessary and proper for the effective administration of the division; or
- (ii) necessary to comply with, or implement changes in, the law.

(b) Before amending the performance standards, the division shall provide written notice of the proposed amendment to the [~~committee~~] council.

(c) The notice described in Subsection (2)(b) shall include:

- (i) the proposed amendment;
- (ii) a summary of the reason for the proposed amendment; and

(iii) the proposed effective date of the amendment.

(d) Within 45 days after the day on which the division provides the notice described in Subsection (2)(b) to the ~~[committee, the committee]~~ council, the council shall provide to the division written comments on the proposed amendment.

(e) The division may not implement a proposed amendment to the performance standards until the earlier of:

(i) seven days after the day on which the division receives the written comments regarding the proposed change described in Subsection (2)(d); or

(ii) 52 days after the day on which the division provides the notice described in Subsection (2)(b) to the ~~[committee]~~ council.

(f) The division shall:

(i) give full, fair, and good faith consideration to all comments and objections received from the ~~[committee]~~ council;

(ii) notify the ~~[committee]~~ council in writing of:

(A) the division's decision regarding the proposed amendment; and

(B) the reasons that support the decision;

(iii) include complete information on all amendments to the performance standards in the report described in Subsection (4); and

(iv) post the changes on the division's website.

(3) The division shall maintain a performance monitoring system to regularly:

(a) collect information on performance indicators; and

(b) compare performance indicators to performance standards.

(4) Before January 1 each year the director shall submit a written report to the Child Welfare Legislative Oversight Panel and the Social Services Appropriations Subcommittee that includes:

(a) a comparison between the performance indicators for the prior fiscal year and the performance standards;

(b) for each performance indicator that does not meet the performance standard:

(i) the reason the standard was not met;

(ii) the measures that need to be taken to meet the standard; and

(iii) the division's plan to comply with the standard for the current fiscal year;

(c) data on the extent to which new and experienced division employees have received training pursuant to statute and division policy; and

(d) an analysis of the use and efficacy of in-home services, both before and after removal of a child from the child's home.

Section 2. Section 62A-4a-203.1 is enacted to read:

62A-4a-203.1. Safety and risk assessments.

(1) Child welfare caseworkers within the division shall use evidence-informed or evidence-based safety and risk assessments to guide decisions concerning a child throughout a child protection investigation or proceeding.

(2) As part of the evidence-informed or evidence-based safety and risk assessments, the division shall assess at least the following:

(a) threat to a child's safety;

(b) protective capabilities of a parent or guardian, including the parent or guardian's readiness, willingness, and ability to plan for the child's safety;

(c) a child's particular vulnerabilities;

(d) interventions required to protect a child; and

(e) likelihood of future harm to a child.

Section 3. Section 62A-4a-209 is amended to read:

62A-4a-209. Emergency placement.

(1) As used in this section:

(a) "Friend" means the same as that term is defined in Subsection 78A-6-307(1)(a).

(b) "Nonrelative" means an individual, other than a noncustodial parent or a relative.

(c) "Relative" means the same as that term is defined in Subsection 78A-6-307(1)(c).

(2) The division may use an emergency placement under Subsection 62A-4a-202.1(4)(b)(ii) when:

(a) the case worker has made the determination that:

(i) the child's home is unsafe;

(ii) removal is necessary under the provisions of Section 62A-4a-202.1; and

(iii) the child's custodial parent or guardian will agree to not remove the child from the home of the person that serves as the placement and not have any contact with the child until after the shelter hearing required by Section 78A-6-306;

(b) a person, with preference being given in accordance with Subsection (4), can be identified who has the ability and is willing to provide care for the child who would otherwise be placed in shelter care, including:

(i) taking the child to medical, mental health, dental, and educational appointments at the request of the division; and

(ii) making the child available to division services and the guardian ad litem; and

(c) the person described in Subsection (2)(b) agrees to care for the child on an emergency basis under the following conditions:

(i) the person meets the criteria for an emergency placement under Subsection (3);

(ii) the person agrees to not allow the custodial parent or guardian to have any contact with the child until after the shelter hearing unless authorized by the division in writing;

(iii) the person agrees to contact law enforcement and the division if the custodial parent or guardian attempts to make unauthorized contact with the child;

(iv) the person agrees to allow the division and the child's guardian ad litem to have access to the child;

(v) the person has been informed and understands that the division may continue to search for other possible placements for long-term care, if needed;

(vi) the person is willing to assist the custodial parent or guardian in reunification efforts at the request of the division, and to follow all court orders; and

(vii) the child is comfortable with the person.

(3) Except as otherwise provided in Subsection (5), before the division places a child in an emergency placement, the division:

(a) may request the name of a reference and may contact the reference to determine the answer to the following questions:

(i) would the person identified as a reference place a child in the home of the emergency placement; and

(ii) are there any other relatives or friends to consider as a possible emergency or long-term placement for the child;

(b) shall have the custodial parent or guardian sign an emergency placement agreement form during the investigation;

(c) (i) if the emergency placement will be with a relative of the child, shall comply with the background check provisions described in Subsection (7); or

(ii) if the emergency placement will be with a person other than a noncustodial parent or a relative, shall comply with the ~~[criminal]~~ background check provisions described in ~~[Section 78A-6-308]~~ Subsection (8) for adults living in the household where the child will be placed;

(d) shall complete a limited home inspection of the home where the emergency placement is made; and

(e) shall have the emergency placement approved by a family service specialist.

(4) (a) The following order of preference shall be applied when determining the person with whom a child will be placed in an emergency placement described in this section, provided that the person is willing, and has the ability, to care for the child:

(i) a noncustodial parent of the child in accordance with Section 78A-6-307;

(ii) a relative of the child;

(iii) subject to Subsection (4)(b), a friend designated by the custodial parent or guardian of the child; and

(iv) a shelter facility, former foster placement, or other foster placement designated by the division.

(b) Unless the division agrees otherwise, the custodial parent or guardian described in Subsection (4)(a)(iii) may designate up to two friends as a potential emergency placement.

(5) (a) The division may, pending the outcome of the investigation described in Subsections (5)(b) and (c), place a child in emergency placement with the child's noncustodial parent if, based on a limited investigation, prior to making the emergency placement, the division:

(i) determines that the noncustodial parent has regular, unsupervised visitation with the child that is not prohibited by law or court order;

(ii) determines that there is not reason to believe that the child's health or safety will be endangered during the emergency placement; and

(iii) has the custodial parent or guardian sign an emergency placement agreement.

(b) Either before or after making an emergency placement with the noncustodial parent of the child, the division may conduct the investigation described in Subsection (3)(a) in relation to the noncustodial parent.

(c) Before, or within one day, excluding weekends and holidays, after a child is placed in an emergency placement with the noncustodial parent of the child, the division shall conduct a limited:

(i) background check of the noncustodial parent, pursuant to Subsection (7); and

(ii) inspection of the home where the emergency placement is made.

(6) After an emergency placement, the division caseworker must:

(a) respond to the emergency placement's calls within one hour if the custodial parents or guardians attempt to make unauthorized contact with the child or attempt to remove the child;

(b) complete all removal paperwork, including the notice provided to the custodial parents and guardians under Section 78A-6-306;

(c) contact the attorney general to schedule a shelter hearing;

(d) complete the placement procedures required in Section 78A-6-307; and

(e) continue to search for other relatives as a possible long-term placement, if needed.

(7) (a) The background check described in Subsection (3)(c)(i) shall include completion of:

(i) ~~[completion of a nonfingerprint-based]~~ a name-based, Utah Bureau of Criminal Identification background check; and

(ii) a [completed] search of the Management Information System described in Section 62A-4a-1003.

(b) The division shall determine whether a person passes the background check described in this Subsection (7) pursuant to the provisions of Subsection 62A-2-120(13).

(c) Notwithstanding Subsection (7)(b), the division may not place a child with an individual who is prohibited by court order from having access to that child.

(8) (a) The background check described in Subsection (3)(c)(ii) shall include completion of:

(i) a name-based, Utah Bureau of Criminal Identification background check;

(ii) a federal name-based criminal background check; and

(iii) a search of the Management Information System described in Section 62A-4a-1003.

(b) The division shall determine whether a person passes the background checks described in this Subsection (8) pursuant to the provisions of Subsection 62A-2-120.

(c) If the division denies placement of a child as a result of a name-based criminal background check described in Subsection (8)(a), and the person contests that denial, the person shall submit a complete set of fingerprints with written permission to the Utah Bureau of Criminal Identification for submission to the Federal Bureau of Investigation for a fingerprint-based criminal background check.

(d) (i) Within 15 calendar days of the name-based background checks, the division shall require a person to provide a complete set of fingerprints with written permission to the Utah Bureau of Criminal Identification for submission to the Federal Bureau of Investigation for a fingerprint-based criminal background check.

(ii) If a person fails to provide the fingerprints and written permission described in Subsection (8)(d)(i), the child shall immediately be removed from the home.

Section 4. Section 62A-4a-213 is enacted to read:

62A-4a-213. Psychotropic medication oversight pilot program.

(1) As used in this section, “psychotropic medication” means medication prescribed to affect or alter thought processes, mood, or behavior, including antipsychotic, antidepressant, anxiolytic, or behavior medication.

(2) The division shall, through contract with the Department of Health, establish and operate a psychotropic medication oversight pilot program for children in foster care to ensure that foster children are being prescribed psychotropic medication consistent with their needs.

(3) The division shall establish an oversight team to manage the psychotropic medication oversight program, composed of at least the following individuals:

(a) an “advanced practice registered nurse,” as defined in Subsection 58-31b-102(13), employed by the Department of Health; and

(b) a child psychiatrist.

(4) The oversight team shall monitor foster children:

(a) six years old or younger who are being prescribed one or more psychotropic medications; and

(b) seven years old or older who are being prescribed two or more psychotropic medications.

(5) The oversight team shall, upon request, be given information or records related to the foster child’s health care history, including psychotropic medication history and mental and behavioral health history, from:

(a) the foster child’s current or past caseworker;

(b) the foster child; or

(c) the foster child’s:

(i) current or past health care provider;

(ii) natural parents; or

(iii) foster parents.

(6) The oversight team may review and monitor the following information about a foster child:

(a) the foster child’s history;

(b) the foster child’s health care, including psychotropic medication history and mental or behavioral health history;

(c) whether there are less invasive treatment options available to meet the foster child’s needs;

(d) the dosage or dosage range and appropriateness of the foster child’s psychotropic medication;

(e) the short-term or long-term risks associated with the use of the foster child’s psychotropic medication; or

(f) the reported benefits of the foster child’s psychotropic medication.

(7) (a) The oversight team may make recommendations to the foster child’s health care providers concerning the foster child’s psychotropic medication or the foster child’s mental or behavioral health.

(b) The oversight team shall provide the recommendations made in Subsection (7)(a) to the foster child’s parent or guardian after discussing the recommendations with the foster child’s current health care providers.

(8) The division may adopt administrative rules in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, necessary to administer this section.

Section 5. Section 62A-4a-302 is amended to read:

62A-4a-302. Definitions.

As used in this part, "council" means the [~~Child Abuse Advisory~~] Child Welfare Improvement Council established under Section 62A-4a-311.

Section 6. Section 62A-4a-311 is amended to read:

62A-4a-311. Child Welfare Improvement Council -- Creation -- Membership -- Expenses.

(1) (a) There is established the [~~Child Abuse Advisory~~] Child Welfare Improvement Council composed of no more than 25 members who are appointed by the division.

(b) Except as required by Subsection (1)(c), as terms of current council members expire, the division shall appoint each new member or reappointed member to a four-year term.

(c) Notwithstanding the requirements of Subsection (1)(b), the division shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

(d) The council shall have geographic, economic, gender, cultural, and philosophical diversity.

(e) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(2) The council shall elect a chairperson from its membership at least biannually.

(3) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(4) (a) The council shall hold a public meeting quarterly.

(b) Within budgetary constraints, meetings may also be held on the call of the chair, or of a majority of the members.

(c) A majority of the members currently appointed to the council constitute a quorum at any meeting and the action of the majority of the members present shall be the action of the council.

(5) The council shall:

(a) advise the division on matters relating to abuse and neglect; ~~and~~

(b) recommend to the division how funds contained in the Children's Account should be allocated; and

(c) provide community and professional input on the performance of the division.

Section 7. Section 63I-1-262 is amended to read:

63I-1-262. Repeal dates, Title 62A.

~~[(1) Section 62A-2-120.5, Pilot program for expedited background check of a qualified human services applicant, is repealed July 1, 2017.]~~

(1) Section 62A-4a-213 is repealed July 1, 2019.

(2) Subsection 62A-15-1101(5) is repealed July 1, 2018.

Section 8. Section 76-5-308 is amended to read:

76-5-308. Human trafficking -- Human smuggling.

(1) An actor commits human trafficking for forced labor or forced sexual exploitation if the actor recruits, harbors, transports, ~~[or]~~ obtains, patronizes, or solicits a person through the use of force, fraud, or coercion by means of:

(a) threatening serious harm to, or physical restraint against, that person or a third person;

(b) destroying, concealing, removing, confiscating, or possessing any passport, immigration document, or other government identification document;

(c) abusing or threatening abuse of the law or legal process against the person or a third person;

(d) using a condition of a person being a debtor due to a pledge of the debtor's personal services or the personal services of a person under the control of the debtor as a security for debt where the reasonable value of the services is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined; or

(e) using a condition of servitude by means of any scheme, plan, or pattern intended to cause a person to believe that if the person did not enter into or continue in a condition of servitude, that person or a third person would suffer serious harm or physical restraint, or would be threatened with abuse of legal process.

(2) (a) Human trafficking for forced labor includes forced labor in industrial facilities, sweatshops, households, agricultural enterprises, and any other workplace.

(b) Human trafficking for forced sexual exploitation includes all forms of forced commercial sexual activity, including forced sexually explicit performance, forced prostitution, forced participation in the production of pornography, forced performance in strip clubs, and forced exotic dancing or display.

(3) A person commits human smuggling by transporting or procuring the transportation for

one or more persons for a commercial purpose, knowing or having reason to know that the person or persons transported or to be transported are not:

- (a) citizens of the United States;
- (b) permanent resident aliens; or
- (c) otherwise lawfully in this state or entitled to be in this state.

Section 9. Section 76-5-308.5 is amended to read:

76-5-308.5. Human trafficking of a child -- Penalties.

(1) "Commercial sexual activity with a child" means any sexual act with a child, on account of which anything of value is given to or received by any person.

(2) An actor commits human trafficking of a child if the actor recruits, harbors, transports, [or] obtains, patronizes, or solicits a child for sexual exploitation or forced labor.

(3) (a) Human trafficking of a child for forced labor includes labor in industrial facilities, sweatshops, households, agricultural enterprises, or any other workplace.

(b) Human trafficking of a child for sexual exploitation includes all forms of commercial sexual activity with a child, including sexually explicit performance, prostitution, participation in the production of pornography, performance in a strip club, and exotic dancing or display.

(4) Human trafficking of a child in violation of this section is a first degree felony.

Section 10. Section 78A-6-302 is amended to read:

78A-6-302. Court-ordered protective custody of a child following petition filing -- Grounds.

(1) After a petition has been filed under Section 78A-6-304, if the child who is the subject of the petition is not in the protective custody of the division, a court may order that the child be removed from the child's home or otherwise taken into protective custody if the court finds, by a preponderance of the evidence, that any one or more of the following circumstances exist:

- (a) (i) there is an imminent danger to the physical health or safety of the child; and
- (ii) the child's physical health or safety may not be protected without removing the child from the custody of the child's parent or guardian;
- (b) (i) a parent or guardian engages in or threatens the child with unreasonable conduct that causes the child to suffer harm; and
- (ii) there are no less restrictive means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;

(c) the child or another child residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited, by a parent or guardian, a member of the parent's or guardian's household, or other person known to the parent or guardian;

(d) the parent or guardian is unwilling to have physical custody of the child;

(e) the child is abandoned or left without any provision for the child's support;

(f) a parent or guardian who has been incarcerated or institutionalized has not arranged or cannot arrange for safe and appropriate care for the child;

(g) (i) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;

(ii) the whereabouts of the parent or guardian are unknown; and

(iii) reasonable efforts to locate the parent or guardian are unsuccessful;

(h) subject to the provisions of Subsections 78A-6-105(27)(d) and 78A-6-117(2)(n) and Section 78A-6-301.5, the child is in immediate need of medical care;

(i) (i) a parent's or guardian's actions, omissions, or habitual action create an environment that poses a serious risk to the child's health or safety for which immediate remedial or preventive action is necessary; or

(ii) a parent's or guardian's action in leaving a child unattended would reasonably pose a threat to the child's health or safety;

(j) the child or another child residing in the same household has been neglected;

(k) the child's natural parent:

(i) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(ii) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(iii) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child;

(l) an infant has been abandoned, as defined in Section 78A-6-316;

(m) (i) the parent or guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act; and

(ii) any clandestine laboratory operation was located in the residence or on the property where the child resided; or

(n) the child's welfare is otherwise endangered.

(2) (a) For purposes of Subsection (1)(a), if a child has previously been adjudicated as abused, neglected, or dependent, and a subsequent incident of abuse, neglect, or dependency occurs involving the same substantiated abuser or under similar circumstance as the previous abuse, that fact constitutes prima facie evidence that the child cannot safely remain in the custody of the child's parent.

(b) For purposes of Subsection (1)(c):

(i) another child residing in the same household may not be removed from the home unless that child is considered to be at substantial risk of being physically abused, sexually abused, or sexually exploited as described in Subsection (1)(c) or Subsection (2)(b)(ii); and

(ii) if a parent or guardian has received actual notice that physical abuse, sexual abuse, or sexual exploitation by a person known to the parent has occurred, and there is evidence that the parent or guardian failed to protect the child, after having received the notice, by allowing the child to be in the physical presence of the alleged abuser, that fact constitutes prima facie evidence that the child is at substantial risk of being physically abused, sexually abused, or sexually exploited.

(3) (a) For purposes of Subsection (1), if the division files a petition under Section 78A-6-304, the court shall consider the division's safety and risk assessments described in Section 62A-4a-203.1 to determine whether a child should be removed from the custody of the child's parent or guardian or should otherwise be taken into protective custody.

(b) The division shall make a diligent effort to provide the safety and risk assessments described in Section 62A-4a-203.1 to the court, guardian ad litem, and counsel for the parent or guardian, as soon as practicable before the shelter hearing described in Section 78A-6-306.

(4) (3) In the absence of one of the factors described in Subsection (1), a court may not remove a child from the parent's or guardian's custody on the basis of:

(a) educational neglect, truancy, or failure to comply with a court order to attend school;

(b) mental illness or poverty of the parent or guardian; or

(c) disability of the parent or guardian, as defined in Section 57-21-2.

(5) (4) A child removed from the custody of the child's parent or guardian under this section may not be placed or kept in a secure detention facility pending further court proceedings unless the child is detainable based on guidelines promulgated by the Division of Juvenile Justice Services.

(6) (5) This section does not preclude removal of a child from the child's home without a warrant or court order under Section 62A-4a-202.1.

(7) (6) Except as provided in Subsection (7)(b), a court or the Division of Child and Family Services may not remove a child from the custody of the child's parent or guardian on the sole or primary basis that the parent or guardian refuses to consent to:

(i) the administration of a psychotropic medication to a child;

(ii) a psychiatric, psychological, or behavioral treatment for a child; or

(iii) a psychiatric or behavioral health evaluation of a child.

(b) Notwithstanding Subsection (7)(a), a court or the Division of Child and Family Services may remove a child under conditions that would otherwise be prohibited under Subsection (7)(a) if failure to take an action described under Subsection (7)(a) would present a serious, imminent risk to the child's physical safety or the physical safety of others.

Section 11. Section 78A-6-312 is amended to read:

78A-6-312. Dispositional hearing -- Reunification services -- Exceptions.

(1) The court may:

(a) make any of the dispositions described in Section 78A-6-117;

(b) place the minor in the custody or guardianship of any:

(i) individual; or

(ii) public or private entity or agency; or

(c) order:

(i) protective supervision;

(ii) family preservation;

(iii) subject to Subsections (12)(b), 78A-6-105(27)(d), and 78A-6-117(2)(n) and Section 78A-6-301.5, medical or mental health treatment; or

(iv) other services.

(2) Whenever the court orders continued removal at the dispositional hearing, and that the minor remain in the custody of the division, the court shall first:

(a) establish a primary permanency plan for the minor; and

(b) determine whether, in view of the primary permanency plan, reunification services are appropriate for the minor and the minor's family, pursuant to Subsections (20) through (22).

(3) Subject to Subsections (6) and (7), if the court determines that reunification services are appropriate for the minor and the minor's family, the court shall provide for reasonable parent-time with the parent or parents from whose custody the minor was removed, unless parent-time is not in the best interest of the minor.

(4) In cases where obvious sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, neither the division nor the court has any duty to make “reasonable efforts” or to, in any other way, attempt to provide reunification services, or to attempt to rehabilitate the offending parent or parents.

(5) In all cases, the minor’s health, safety, and welfare shall be the court’s paramount concern in determining whether reasonable efforts to reunify should be made.

(6) For purposes of Subsection (3), parent-time is in the best interests of a minor unless the court makes a finding that it is necessary to deny parent-time in order to:

- (a) protect the physical safety of the minor;
- (b) protect the life of the minor; or

(c) prevent the minor from being traumatized by contact with the parent due to the minor’s fear of the parent in light of the nature of the alleged abuse or neglect.

(7) Notwithstanding Subsection (3), a court may not deny parent-time based solely on a parent’s failure to:

- (a) prove that the parent has not used legal or illegal substances; or
- (b) comply with an aspect of the child and family plan that is ordered by the court.

(8) (a) In addition to the primary permanency plan, the court shall establish a concurrent permanency plan that shall include:

(i) a representative list of the conditions under which the primary permanency plan will be abandoned in favor of the concurrent permanency plan; and

(ii) an explanation of the effect of abandoning or modifying the primary permanency plan.

(b) In determining the primary permanency plan and concurrent permanency plan, the court shall consider:

(i) the preference for kinship placement over nonkinship placement;

(ii) the potential for a guardianship placement if the parent-child relationship is legally terminated and no appropriate adoption placement is available; and

(iii) the use of an individualized permanency plan, only as a last resort.

(9) A permanency hearing shall be conducted in accordance with Subsection 78A-6-314(1)(b) within 30 days after the day on which the dispositional hearing ends if something other than reunification is initially established as a minor’s primary permanency plan.

(10) (a) The court may amend a minor’s primary permanency plan before the establishment of a final permanency plan under Section 78A-6-314.

(b) The court is not limited to the terms of the concurrent permanency plan in the event that the primary permanency plan is abandoned.

(c) If, at any time, the court determines that reunification is no longer a minor’s primary permanency plan, the court shall conduct a permanency hearing in accordance with Section 78A-6-314 on or before the earlier of:

(i) 30 days after the day on which the court makes the determination described in this Subsection (10)(c); or

(ii) the day on which the provision of reunification services, described in Section 78A-6-314, ends.

(11) (a) If the court determines that reunification services are appropriate, it shall order that the division make reasonable efforts to provide services to the minor and the minor’s parent for the purpose of facilitating reunification of the family, for a specified period of time.

(b) In providing the services described in Subsection (11)(a), the minor’s health, safety, and welfare shall be the division’s paramount concern, and the court shall so order.

(12) (a) The court shall:

(i) determine whether the services offered or provided by the division under the child and family plan constitute “reasonable efforts” on the part of the division;

(ii) determine and define the responsibilities of the parent under the child and family plan in accordance with Subsection 62A-4a-205(6)(e); and

(iii) identify verbally on the record, or in a written document provided to the parties, the responsibilities described in Subsection (12)(a)(ii), for the purpose of assisting in any future determination regarding the provision of reasonable efforts, in accordance with state and federal law.

(b) If the parent is in a substance abuse treatment program, other than a certified drug court program:

(i) the court may order the parent to submit to supplementary drug or alcohol testing in addition to the testing recommended by the parent’s substance abuse program based on a finding of reasonable suspicion that the parent is abusing drugs or alcohol; and

(ii) the court may order the parent to provide the results of drug or alcohol testing recommended by the substance abuse program to the court or division.

(13) (a) The time period for reunification services may not exceed 12 months from the date that the minor was initially removed from the minor’s home, unless the time period is extended under Subsection 78A-6-314~~(8)~~(7).

(b) Nothing in this section may be construed to entitle any parent to an entire 12 months of reunification services.

(14) (a) If reunification services are ordered, the court may terminate those services at any time.

(b) If, at any time, continuation of reasonable efforts to reunify a minor is determined to be inconsistent with the final permanency plan for the minor established pursuant to Section 78A-6-314, then measures shall be taken, in a timely manner, to:

(i) place the minor in accordance with the permanency plan; and

(ii) complete whatever steps are necessary to finalize the permanent placement of the minor.

(15) Any physical custody of the minor by the parent or a relative during the period described in Subsections (11) through (14) does not interrupt the running of the period.

(16) (a) If reunification services are ordered, a permanency hearing shall be conducted by the court in accordance with Section 78A-6-314 at the expiration of the time period for reunification services.

(b) The permanency hearing shall be held no later than 12 months after the original removal of the minor.

(c) If reunification services are not ordered, a permanency hearing shall be conducted within 30 days, in accordance with Section 78A-6-314.

(17) With regard to a minor in the custody of the division whose parent or parents are ordered to receive reunification services but who have abandoned that minor for a period of six months from the date that reunification services were ordered:

(a) the court shall terminate reunification services; and

(b) the division shall petition the court for termination of parental rights.

(18) When a court conducts a permanency hearing for a minor under Section 78A-6-314, the court shall attempt to keep the minor's sibling group together if keeping the sibling group together is:

(a) practicable; and

(b) in accordance with the best interest of the minor.

(19) (a) Because of the state's interest in and responsibility to protect and provide permanency for minors who are abused, neglected, or dependent, the Legislature finds that a parent's interest in receiving reunification services is limited.

(b) The court may determine that:

(i) efforts to reunify a minor with the minor's family are not reasonable or appropriate, based on the individual circumstances; and

(ii) reunification services should not be provided.

(c) In determining "reasonable efforts" to be made with respect to a minor, and in making "reasonable efforts," the minor's health, safety, and welfare shall be the paramount concern.

(20) There is a presumption that reunification services should not be provided to a parent if the court finds, by clear and convincing evidence, that any of the following circumstances exist:

(a) the whereabouts of the parents are unknown, based upon a verified affidavit indicating that a reasonably diligent search has failed to locate the parent;

(b) subject to Subsection (21)(a), the parent is suffering from a mental illness of such magnitude that it renders the parent incapable of utilizing reunification services;

(c) the minor was previously adjudicated as an abused child due to physical abuse, sexual abuse, or sexual exploitation, and following the adjudication the minor:

(i) was removed from the custody of the minor's parent;

(ii) was subsequently returned to the custody of the parent; and

(iii) is being removed due to additional physical abuse, sexual abuse, or sexual exploitation;

(d) the parent:

(i) caused the death of another minor through abuse or neglect;

(ii) committed, aided, abetted, attempted, conspired, or solicited to commit:

(A) murder or manslaughter of a child; or

(B) child abuse homicide;

(iii) committed sexual abuse against the child;

(iv) is a registered sex offender or required to register as a sex offender; or

(v) (A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child;

(e) the minor suffered severe abuse by the parent or by any person known by the parent, if the parent knew or reasonably should have known that the person was abusing the minor;

(f) the minor is adjudicated an abused child as a result of severe abuse by the parent, and the court finds that it would not benefit the minor to pursue reunification services with the offending parent;

(g) the parent's rights are terminated with regard to any other minor;

(h) the minor was removed from the minor's home on at least two previous occasions and reunification services were offered or provided to the family at those times;

(i) the parent has abandoned the minor for a period of six months or longer;

(j) the parent permitted the child to reside, on a permanent or temporary basis, at a location where the parent knew or should have known that a clandestine laboratory operation was located;

(k) except as provided in Subsection (21)(b), with respect to a parent who is the child's birth mother, the child has fetal alcohol syndrome, fetal alcohol spectrum disorder, or was exposed to an illegal or prescription drug that was abused by the child's mother while the child was in utero, if the child was taken into division custody for that reason, unless the mother agrees to enroll in, is currently enrolled in, or has recently and successfully completed a substance abuse treatment program approved by the department; or

(l) any other circumstance that the court determines should preclude reunification efforts or services.

(21) (a) The finding under Subsection (20)(b) shall be based on competent evidence from at least two medical or mental health professionals, who are not associates, establishing that, even with the provision of services, the parent is not likely to be capable of adequately caring for the minor within 12 months after the day on which the court finding is made.

(b) A judge may disregard the provisions of Subsection (20)(k) if the court finds, under the circumstances of the case, that the substance abuse treatment described in Subsection (20)(k) is not warranted.

(22) In determining whether reunification services are appropriate, the court shall take into consideration:

(a) failure of the parent to respond to previous services or comply with a previous child and family plan;

(b) the fact that the minor was abused while the parent was under the influence of drugs or alcohol;

(c) any history of violent behavior directed at the child or an immediate family member;

(d) whether a parent continues to live with an individual who abused the minor;

(e) any patterns of the parent's behavior that have exposed the minor to repeated abuse;

(f) testimony by a competent professional that the parent's behavior is unlikely to be successful; and

(g) whether the parent has expressed an interest in reunification with the minor.

(23) (a) If reunification services are not ordered pursuant to Subsections (19) through (21), and the whereabouts of a parent become known within six months after the day on which the out-of-home placement of the minor is made, the court may order the division to provide reunification services.

(b) The time limits described in Subsections (2) through (18) are not tolled by the parent's absence.

(24) (a) If a parent is incarcerated or institutionalized, the court shall order reasonable services unless it determines that those services would be detrimental to the minor.

(b) In making the determination described in Subsection (24)(a), the court shall consider:

(i) the age of the minor;

(ii) the degree of parent-child bonding;

(iii) the length of the sentence;

(iv) the nature of the treatment;

(v) the nature of the crime or illness;

(vi) the degree of detriment to the minor if services are not offered;

(vii) for a minor 10 years ~~of age~~ old or older, the minor's attitude toward the implementation of family reunification services; and

(viii) any other appropriate factors.

(c) Reunification services for an incarcerated parent are subject to the time limitations imposed in Subsections (2) through (18).

(d) Reunification services for an institutionalized parent are subject to the time limitations imposed in Subsections (2) through (18), unless the court determines that continued reunification services would be in the minor's best interest.

(25) If, pursuant to Subsections (20)(b) through (l), the court does not order reunification services, a permanency hearing shall be conducted within 30 days, in accordance with Section 78A-6-314.

Section 12. Section 78A-6-314 is amended to read:

78A-6-314. Permanency hearing -- Final plan -- Petition for termination of parental rights filed -- Hearing on termination of parental rights.

(1) (a) When reunification services have been ordered in accordance with Section 78A-6-312, with regard to a minor who is in the custody of the Division of Child and Family Services, a permanency hearing shall be held by the court no later than 12 months after the day on which the minor was initially removed from the minor's home.

(b) If reunification services were not ordered at the dispositional hearing, a permanency hearing shall be held within 30 days after the day on which the dispositional hearing ends.

(2) (a) If reunification services were ordered by the court in accordance with Section 78A-6-312, the court shall, at the permanency hearing, determine, consistent with Subsection (3), whether the minor may safely be returned to the custody of the minor's parent.

(b) If the court finds, by a preponderance of the evidence, that return of the minor to the minor's parent would create a substantial risk of detriment to the minor's physical or emotional well-being, the minor may not be returned to the custody of the minor's parent.

(c) Prima facie evidence that return of the minor to a parent or guardian would create a substantial risk of detriment to the minor is established if:

(i) the parent or guardian fails to:

(A) participate in a court approved child and family plan;

(B) comply with a court approved child and family plan in whole or in part; or

(C) meet the goals of a court approved child and family plan; or

(ii) the child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(3) In making a determination under Subsection (2)(a), the court shall review and consider:

(a) the report prepared by the Division of Child and Family Services;

(b) any admissible evidence offered by the minor's guardian ad litem;

(c) any report submitted by the division under Subsection 78A-6-315(3)(a)(i);

(d) any evidence regarding the efforts or progress demonstrated by the parent; and

(e) the extent to which the parent cooperated and utilized the services provided.

(4) With regard to a case where reunification services were ordered by the court, if a minor is not returned to the minor's parent or guardian at the permanency hearing, the court shall, unless the time for the provision of reunification services is extended under Subsection (8):

(a) order termination of reunification services to the parent;

(b) make a final determination regarding whether termination of parental rights, adoption, or permanent custody and guardianship is the most appropriate final plan for the minor, taking into account the minor's primary permanency plan established by the court pursuant to Section 78A-6-312; and

(c) establish a concurrent permanency plan that identifies the second most appropriate final plan for the minor, if appropriate.

~~[(5) If the Division of Child and Family Services documents to the court that there is a compelling reason that adoption, reunification, guardianship, and a placement described in Subsection 78A-6-306(6)(c) are not in the minor's best interest, the court may order another planned~~

~~permanent living arrangement, in accordance with federal law.]~~

~~[(6) If the minor clearly desires contact with the parent, the court shall take the minor's desire into consideration in determining the final plan.]~~

~~(5) The court may order another planned permanent living arrangement for a minor 16 years old or older upon entering the following findings:~~

~~(a) the Division of Child and Family Services has documented intensive, ongoing, and unsuccessful efforts to reunify the minor with the minor's parent or parents, or to secure a placement for the minor with a guardian, an adoptive parent, or an individual described in Subsection 78A-6-306(6)(e);~~

~~(b) the Division of Child and Family Services has demonstrated that the division has made efforts to normalize the life of the minor while in the division's custody, in accordance with Sections 62A-4a-210 through 62A-4a-212;~~

~~(c) the minor prefers another planned permanent living arrangement; and~~

~~(d) there is a compelling reason why reunification or a placement described in Subsection (5)(a) is not in the minor's best interest.~~

~~[(7)] (6) Except as provided in Subsection [(8)] (7), the court may not extend reunification services beyond 12 months after the day on which the minor was initially removed from the minor's home, in accordance with the provisions of Section 78A-6-312.~~

~~[(8)] (7) (a) Subject to Subsection [(8)] (7)(b), the court may extend reunification services for no more than 90 days if the court finds, beyond a preponderance of the evidence, that:~~

~~(i) there has been substantial compliance with the child and family plan;~~

~~(ii) reunification is probable within that 90-day period; and~~

~~(iii) the extension is in the best interest of the minor.~~

~~(b) (i) Except as provided in Subsection [(8)] (7)(c), the court may not extend any reunification services beyond 15 months after the day on which the minor was initially removed from the minor's home.~~

~~(ii) Delay or failure of a parent to establish paternity or seek custody does not provide a basis for the court to extend services for that parent beyond the 12-month period described in Subsection [(7)] (6).~~

~~(c) In accordance with Subsection [(8)] (7)(d), the court may extend reunification services for one additional 90-day period, beyond the 90-day period described in Subsection [(8)] (7)(a), if:~~

~~(i) the court finds, by clear and convincing evidence, that:~~

~~(A) the parent has substantially complied with the child and family plan;~~

(B) it is likely that reunification will occur within the additional 90-day period; and

(C) the extension is in the best interest of the child;

(ii) the court specifies the facts upon which the findings described in Subsection ~~[(8)]~~ (7)(c)(i) are based; and

(iii) the court specifies the time period in which it is likely that reunification will occur.

(d) A court may not extend the time period for reunification services without complying with the requirements of this Subsection ~~[(8)]~~ (7) before the extension.

(e) In determining whether to extend reunification services for a minor, a court shall take into consideration the status of the minor siblings of the minor.

~~[(9)]~~ (8) The court may, in its discretion:

(a) enter any additional order that it determines to be in the best interest of the minor, so long as that order does not conflict with the requirements and provisions of Subsections (4) through ~~[(8)]~~ (7); or

(b) order the division to provide protective supervision or other services to a minor and the minor's family after the division's custody of a minor has been terminated.

~~[(10)]~~ (9) If the final plan for the minor is to proceed toward termination of parental rights, the petition for termination of parental rights shall be filed, and a pretrial held, within 45 calendar days after the permanency hearing.

~~[(11)]~~ (10) (a) Any party to an action may, at any time, petition the court for an expedited permanency hearing on the basis that continuation of reunification efforts are inconsistent with the permanency needs of the minor.

(b) If the court so determines, it shall order, in accordance with federal law, that:

(i) the minor be placed in accordance with the permanency plan; and

(ii) whatever steps are necessary to finalize the permanent placement of the minor be completed as quickly as possible.

~~[(12)]~~ (11) Nothing in this section may be construed to:

(a) entitle any parent to reunification services for any specified period of time;

(b) limit a court's ability to terminate reunification services at any time prior to a permanency hearing; or

(c) limit or prohibit the filing of a petition for termination of parental rights by any party, or a hearing on termination of parental rights, at any time prior to a permanency hearing.

~~[(13)]~~ (12) (a) Subject to Subsection ~~[(13)]~~ (12)(b), if a petition for termination of parental rights is filed prior to the date scheduled for a permanency

hearing, the court may consolidate the hearing on termination of parental rights with the permanency hearing.

(b) For purposes of Subsection ~~[(13)]~~ (12)(a), if the court consolidates the hearing on termination of parental rights with the permanency hearing:

(i) the court shall first make a finding regarding whether reasonable efforts have been made by the Division of Child and Family Services to finalize the permanency plan for the minor; and

(ii) any reunification services shall be terminated in accordance with the time lines described in Section 78A-6-312.

(c) A decision on a petition for termination of parental rights shall be made within 18 months from the day on which the minor is removed from the minor's home.

~~[(14)]~~ (13) If a court determines that a child will not be returned to a parent of the child, the court shall consider appropriate placement options inside and outside of the state.

CHAPTER 232**S. B. 91**

Passed March 8, 2016
Approved March 23, 2016
Effective May 10, 2016

BOARD OF EDUCATION AMENDMENTS

Chief Sponsor: Lyle W. Hillyard
House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill amends provisions relating to the State Board of Education.

Highlighted Provisions:

This bill:

- ▶ allows the State Board of Education to:
 - enforce Title 53A, State System of Public Education, under certain circumstances;
 - audit the use of certain state funds;
 - require a local education agency to, in certain contracts between a local education agency and a third party contractor, include certain provisions; or
 - appoint an attorney for certain purposes;
- ▶ gives rulemaking authority; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-1-401, as last amended by Laws of Utah 2010, Chapter 305
53A-1a-503.5, as last amended by Laws of Utah 2014, Chapter 363

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-1-401 is amended to read:**53A-1-401. Powers of State Board of Education -- Adoption of rules -- Enforcement -- Attorney.**

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Education entity" means:

(i) an entity that receives a distribution of state funds through a grant program managed by the board under this title;

(ii) an entity that enters into a contract with the board to provide an educational good or service;

(iii) a school district; or

(iv) a charter school.

(c) "Educational good or service" means a good or service that is required or regulated under:

(i) this title; or

(ii) a rule authorized under this title.

(d) "Local education agency" or "LEA" means:

(i) a school district;

(ii) a charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

[4] (2) (a) The State Board of Education has general control and supervision of the state's public education system.

(b) "General control and supervision" as used in Utah Constitution, Article X, [Sec.] Section 3, [of the Utah Constitution] means directed to the whole system.

[2] (3) The board may not govern, manage, or operate school districts, institutions, and programs, unless granted that authority by statute.

~~[(3) The board may adopt rules and policies in accordance with its responsibilities under the constitution and state laws, and may interrupt disbursements of state aid to any district which fails to comply with rules adopted in accordance with this Subsection (3).]~~

(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may make rules to execute the board's duties and responsibilities under the Utah Constitution and state law.

(b) The board may delegate the board's statutory duties and responsibilities to board employees.

[4] (5) (a) The board may sell any interest it holds in real property upon a finding by the board that the property interest is surplus.

(b) The board may use the money it receives from a sale under Subsection [(4)] (5)(a) for capital improvements, equipment, or materials, but not for personnel or ongoing costs.

(c) If the property interest under Subsection [(4)] (5)(a) was held for the benefit of an agency or institution administered by the board, the money may only be used for purposes related to the agency or institution.

(d) The board shall advise the Legislature of any sale under Subsection [(4)] (5)(a) and related matters during the next following session of the Legislature.

[5] (6) The board shall develop policies and procedures related to federal educational programs in accordance with Title 53A, Chapter 1, Part 9, Implementing Federal or National Education Programs Act.

[6] (7) On or before December 31, 2010, the State Board of Education shall review mandates or requirements provided for in board rule to determine whether certain mandates or requirements could be waived to remove funding pressures on public schools on a temporary basis.

(8) (a) If an education entity violates this title or rules authorized under this title, the board may, in accordance with the rules described in Subsection (8)(c):

(i) require the education entity to enter into a corrective action agreement with the board;

(ii) temporarily or permanently withhold state funds from the education entity;

(iii) require the education entity to pay a penalty;
or

(iv) require the education entity to reimburse specified state funds to the board.

(b) Except for temporarily withheld funds, if the board collects state funds under Subsection (8)(a), the board shall pay the funds into the Uniform School Fund.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules:

(i) that require notice and an opportunity to be heard for an education entity affected by a board action described in Subsection (8)(a); and

(ii) to administer this Subsection (8).

(d) The board shall report criminal conduct of an education entity to the district attorney of the county where the education entity is located.

(9) The board may audit the use of state funds by an education entity that receives those state funds as a distribution from the board.

(10) The board may require, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that if an LEA contracts with a third party contractor for an educational good or service, the LEA shall require in the contract that the third party contractor shall provide, upon request of the LEA, information necessary for the LEA to verify that the educational good or service complies with:

(a) this title; and

(b) board rule authorized under this title.

(11) (a) The board may appoint an attorney to provide legal advice to the board and coordinate legal affairs for the board and the board's employees.

(b) An attorney described in Subsection (11)(a) shall cooperate with the Office of the Attorney General.

(c) An attorney described in Subsection (11)(a) may not:

(i) conduct litigation;

(ii) settle claims covered by the Risk Management Fund created in Section 63A-4-201; or

(iii) issue formal legal opinions.

Section 2. Section 53A-1a-503.5 is amended to read:

53A-1a-503.5. Status of charter schools.

(1) Charter schools are:

(a) considered to be public schools within the state's public education system;

(b) subject to Subsection 53A-1-401(~~3~~)(8); and

(c) governed by independent boards and held accountable to a legally binding written contractual agreement.

(2) A charter school may be established by:

(a) creating a new school; or

(b) converting an existing public school to charter status.

(3) A parochial school or home school is not eligible for charter school status.

CHAPTER 233**S. B. 99**

Passed March 9, 2016
 Approved March 23, 2016
 Effective May 10, 2016

**TRANSPARENCY FOR
 POLITICAL SUBDIVISIONS**

Chief Sponsor: Deidre M. Henderson
 House Sponsor: Craig Hall

LONG TITLE**General Description:**

This bill modifies provisions relating to local government disclosures.

Highlighted Provisions:

This bill:

- ▶ requires a local district or a special service district to post on the Utah Public Notice Website the contact information of each member of the district's governing body;
- ▶ removes a size and budget threshold for local government participation in the Utah Public Finance Website; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 17B-1-303, as last amended by Laws of Utah 2014, Chapters 362 and 377
 17D-1-106, as last amended by Laws of Utah 2014, Chapter 362
 63A-3-401, as last amended by Laws of Utah 2015, Chapter 38
 63A-3-403, as last amended by Laws of Utah 2014, Chapters 75, 185, and 387
 63A-3-405, as last amended by Laws of Utah 2012, Chapter 94
 63F-1-701, as last amended by Laws of Utah 2013, Chapter 63

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17B-1-303 is amended to read:

17B-1-303. Term of board of trustees members -- Oath of office -- Bond -- Notice of board member contact information.

(1) (a) Except as provided in Subsections (1)(b) and (c), the term of each member of a board of trustees shall begin at noon on the January 1 following the member's election or appointment.

(b) The term of each member of the initial board of trustees of a newly created local district shall begin:

(i) upon appointment, for an appointed member; and

(ii) upon the member taking the oath of office after the canvass of the election at which the member is elected, for an elected member.

(c) The term of each water conservancy district board member appointed by the governor as provided in Subsection 17B-2a-1005(2)(c) shall:

(i) begin on the later of the following:

(A) the date on which the Senate consents to the appointment; or

(B) the expiration date of the prior term; and

(ii) end on the February 1 that is approximately four years after the date described in Subsection (1)(c)(i)(A) or (B).

(2) (a) (i) Except as provided in Subsection (8), and subject to Subsection (2)(a)(ii), the term of each member of a board of trustees shall be four years, except that approximately half the members of the initial board of trustees, chosen by lot, shall serve a two-year term so that the term of approximately half the board members expires every two years.

(ii) (A) If the terms of members of the initial board of trustees of a newly created local district do not begin on January 1 because of application of Subsection (1)(b), the terms of those members shall be adjusted as necessary, subject to Subsection (2)(a)(ii)(B), to result in the terms of their successors complying with:

(I) the requirement under Subsection (1)(a) for a term to begin on January 1 following a member's election or appointment; and

(II) the requirement under Subsection (2)(a)(i) that terms be four years.

(B) An adjustment under Subsection (2)(a)(ii)(A) may not add more than a year to or subtract more than a year from a member's term.

(b) Each board of trustees member shall serve until a successor is duly elected or appointed and qualified, unless the member earlier is removed from office or resigns or otherwise leaves office.

(c) If a member of a board of trustees no longer meets the qualifications of Subsection 17B-1-302(1), or if the member's term expires without a duly elected or appointed successor:

(i) the member's position is considered vacant, subject to Subsection (2)(c)(ii); and

(ii) the member may continue to serve until a successor is duly elected or appointed and qualified.

(3) (a) (i) Before entering upon the duties of office, each member of a board of trustees shall take the oath of office specified in Utah Constitution Article IV, Section 10.

(ii) An oath of office may be administered by a judge, county clerk, notary public, or the local district clerk.

(b) Each oath of office shall be filed with the clerk of the local district.

(c) The failure of a board of trustees member to take the oath required by Subsection (3)(a) does not invalidate any official act of that member.

(4) A board of trustees member is not limited in the number of terms the member may serve.

(5) Except as provided in Subsection (6), each midterm vacancy in a board of trustees position shall be filled as provided in Section 20A-1-512.

(6) (a) For purposes of this Subsection (6):

(i) "Appointed official" means a person who:

(A) is appointed as a member of a local district board of trustees by a county or municipality entitled to appoint a member to the board; and

(B) holds an elected position with the appointing county or municipality.

(ii) "Appointing entity" means the county or municipality that appointed the appointed official to the board of trustees.

(b) The board of trustees shall declare a midterm vacancy for the board position held by an appointed official if:

(i) during the appointed official's term on the board of trustees, the appointed official ceases to hold the elected position with the appointing entity; and

(ii) the appointing entity submits a written request to the board to declare the vacancy.

(c) Upon the board's declaring a midterm vacancy under Subsection (6)(b), the appointing entity shall appoint another person to fill the remaining unexpired term on the board of trustees.

(7) (a) Each member of a board of trustees shall give a bond for the faithful performance of the member's duties, in the amount and with the sureties prescribed by the board of trustees.

(b) The local district shall pay the cost of each bond required under Subsection (7)(a).

(8) The lieutenant governor may extend the term of an elected district board member by one year in order to compensate for a change in the election year under Subsection 17B-1-306(13).

(9) (a) A local district shall:

(i) post on the Utah Public Notice Website created in Section 63F-1-701 the name, phone number, and email address of each member of the local district's board of trustees;

(ii) update the information described in Subsection (9)(a)(i) when:

(A) the membership of the board of trustees changes; or

(B) a member of the board of trustees' phone number or email address changes; and

(iii) post any update required under Subsection (9)(a)(ii) within 30 days after the day on which the change requiring the update occurs.

(b) This Subsection (9) applies regardless of whether the county or municipal legislative body

also serves as the board of trustees of the local district.

Section 2. Section 17D-1-106 is amended to read:

17D-1-106. Special service districts subject to other provisions.

(1) A special service district is, to the same extent as if it were a local district, subject to and governed by:

(a) (i) Sections 17B-1-105, 17B-1-107, 17B-1-108, 17B-1-110, 17B-1-111, 17B-1-112, 17B-1-113, 17B-1-116, 17B-1-118, 17B-1-119, 17B-1-120, 17B-1-121, 17B-1-304, 17B-1-307, 17B-1-310, 17B-1-311, 17B-1-312, 17B-1-313, and 17B-1-314; and

(ii) Sections 17B-1-305 and 17B-1-306, to the extent that a county legislative body or a municipal legislative body, as applicable, has delegated authority to an administrative control board with elected members, under Section 17D-1-301.

(b) Subsections:

(i) 17B-1-301(3) and (4); and

(ii) 17B-1-303(1), (2)(a) and (b), (3), (4), (5), (6), [and] (7), and (9);

(c) Section 20A-1-512;

(d) Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts;

(e) Title 17B, Chapter 1, Part 7, Local District Budgets and Audit Reports;

(f) Title 17B, Chapter 1, Part 8, Local District Personnel Management; and

(g) Title 17B, Chapter 1, Part 9, Collection of Service Fees and Charges.

(2) For purposes of applying the provisions listed in Subsection (1) to a special service district, each reference in those provisions to the local district board of trustees means the governing body.

Section 3. Section 63A-3-401 is amended to read:

63A-3-401. Definitions.

As used in this part:

(1) "Board" means the Utah Transparency Advisory Board created under Section 63A-3-403.

(2) "Division" means the Division of Finance of the Department of Administrative Services.

(3) (a) "Independent entity," except as provided in Subsection (3)(c), means the same as that term is defined in Section 63E-1-102.

(b) "Independent entity" includes an entity that is part of an independent entity described in this Subsection (3), if the entity is considered a component unit of the independent entity under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(c) "Independent entity" does not include:

(i) the Workers' Compensation Fund created in Section 31A-33-102; or

(ii) the Utah State Retirement Office created in Section 49-11-201.

(4) "Participating local entity" means each of the following local entities~~, if the entity meets the size or budget thresholds established by the board under Subsection 63A-3-403(3)(e)]~~:

(a) a county;

(b) a municipality;

(c) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts;

(d) a special service district under Title 17D, Chapter 1, Special Service District Act;

(e) a school district;

(f) a charter school;

(g) except for a taxed interlocal entity described in Section 11-13-315, an interlocal entity as defined in Section 11-13-103; and

(h) except for a taxed interlocal entity described in Section 11-13-315, an entity that is part of an entity described in Subsections (4)(a) through (g), if the entity is considered a component unit of the entity described in Subsections (4)(a) through (g) under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(5) (a) "Participating state entity" means the state of Utah, including its executive, legislative, and judicial branches, its departments, divisions, agencies, boards, commissions, councils, committees, and institutions.

(b) "Participating state entity" includes an entity that is part of an entity described in Subsection (5)(a), if the entity is considered a component unit of the entity described in Subsection (5)(a) under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(6) "Public financial information" means records that are required to be made available on the Utah Public Finance Website, a participating local entity's website, or an independent entity's website as required by this part, and as the term "public financial information" is defined by rule under Section 63A-3-404.

Section 4. Section 63A-3-403 is amended to read:

63A-3-403. Utah Transparency Advisory Board -- Creation -- Membership -- Duties.

(1) There is created within the department the Utah Transparency Advisory Board comprised of members knowledgeable about public finance or providing public access to public information.

(2) The board consists of:

(a) an individual appointed by the director of the Division of Finance;

(b) an individual appointed by the executive director of the Governor's Office of Management and Budget;

(c) an individual appointed by the governor on advice from the Legislative Fiscal Analyst;

(d) one member of the Senate, appointed by the governor on advice from the president of the Senate;

(e) one member of the House of Representatives, appointed by the governor on advice from the speaker of the House of Representatives;

(f) an individual appointed by the director of the Department of Technology Services;

(g) the director of the Division of Archives and Records Service created in Section 63A-12-101 or the director's designee;

(h) an individual who is a member of the State Records Committee created in Section 63G-2-501, appointed by the governor;

(i) an individual representing counties, appointed by the governor;

(j) an individual representing municipalities, appointed by the governor;

(k) an individual representing special districts, appointed by the governor; and

(l) two individuals who are members of the public and who have knowledge, expertise, or experience in matters relating to the board's duties under Subsection (10), appointed by the board members identified in Subsections (2)(a) through (k).

(3) The board shall:

(a) advise the division on matters related to the implementation and administration of this part;

(b) develop plans, make recommendations, and assist in implementing the provisions of this part;

(c) determine what public financial information shall be provided by a participating state entity, independent entity, and participating local entity, if the public financial information:

(i) only includes records that:

(A) are classified as public under Title 63G, Chapter 2, Government Records Access and Management Act, or, subject to any specific limitations and requirements regarding the provision of financial information from the entity described in Section 63A-3-402, if an entity is exempt from Title 63G, Chapter 2, Government Records Access and Management Act, records that would normally be classified as public if the entity were not exempt from Title 63G, Chapter 2, Government Records Access and Management Act;

(B) are an accounting of money, funds, accounts, bonds, loans, expenditures, or revenues, regardless of the source; and

(C) are owned, held, or administered by the participating state entity, independent entity, or

participating local entity that is required to provide the record; and

(ii) is of the type or nature that should be accessible to the public via a website based on considerations of:

(A) the cost effectiveness of providing the information;

(B) the value of providing the information to the public; and

(C) privacy and security considerations;

(d) evaluate the cost effectiveness of implementing specific information resources and features on the website;

~~[(e) establish size or budget thresholds to identify those local entities that qualify as participating local entities as defined in this part, giving special consideration to the budget and resource limitations of an entity with a current annual budget of less than \$10,000,000;]~~

~~[(f)]~~ (e) require participating local entities to provide public financial information in accordance with the requirements of this part, with a specified content, reporting frequency, and form;

~~[(g)]~~ (f) require an independent entity's website or a participating local entity's website to be accessible by link or other direct route from the Utah Public Finance Website if the independent entity or participating local entity does not use the Utah Public Finance Website;

~~[(h)]~~ (g) determine the search methods and the search criteria that shall be made available to the public as part of a website used by an independent entity or a participating local entity under the requirements of this part, which criteria may include:

(i) fiscal year;

(ii) expenditure type;

(iii) name of the agency;

(iv) payee;

(v) date; and

(vi) amount; and

~~[(i)]~~ (h) analyze ways to improve the information on the Utah Public Finance Website so the information is more relevant to citizens, including through the use of:

(i) infographics that provide more context to the data; and

(ii) geolocation services, if possible.

(4) The board shall annually elect a chair and a vice chair from its members.

(5) (a) Each member shall serve a two-year term.

(b) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the remainder of the unexpired term.

(6) To accomplish its duties, the board shall meet as it determines necessary.

(7) Reasonable notice shall be given to each member of the board before any meeting.

(8) A majority of the board constitutes a quorum for the transaction of business.

(9) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(10) (a) As used in Subsections (10) and (11):

(i) "Information website" means a single Internet website containing public information or links to public information.

(ii) "Public information" means records of state government, local government, or an independent entity that are classified as public under Title 63G, Chapter 2, Government Records Access and Management Act, or, subject to any specific limitations and requirements regarding the provision of financial information from the entity described in Section 63A-3-402, if an entity is exempt from Title 63G, Chapter 2, Government Records Access and Management Act, records that would normally be classified as public if the entity were not exempt from Title 63G, Chapter 2, Government Records Access and Management Act.

(b) The board shall:

(i) study the establishment of an information website and develop recommendations for its establishment;

(ii) develop recommendations about how to make public information more readily available to the public through the information website;

(iii) develop standards to make uniform the format and accessibility of public information posted to the information website; and

(iv) identify and prioritize public information in the possession of a state agency or political subdivision that may be appropriate for publication on the information website.

(c) In fulfilling its duties under Subsection (10)(b), the board shall be guided by principles that encourage:

(i) (A) the establishment of a standardized format of public information that makes the information more easily accessible by the public;

(B) the removal of restrictions on the reuse of public information;

(C) minimizing limitations on the disclosure of public information while appropriately safeguarding sensitive information; and

(D) balancing factors in favor of excluding public information from an information website against the public interest in having the information accessible on an information website;

(ii) (A) permanent, lasting, open access to public information; and

(B) the publication of bulk public information;

(iii) the implementation of well-designed public information systems that ensure data quality, create a public, comprehensive list or index of public information, and define a process for continuous publication of and updates to public information;

(iv) the identification of public information not currently made available online and the implementation of a process, including a timeline and benchmarks, for making that public information available online; and

(v) accountability on the part of those who create, maintain, manage, or store public information or post it to an information website.

(d) The department shall implement the board's recommendations, including the establishment of an information website, to the extent that implementation:

(i) is approved by the Legislative Management Committee;

(ii) does not require further legislative appropriation; and

(iii) is within the department's existing statutory authority.

(11) The department shall, in consultation with the board and as funding allows, modify the information website described in Subsection (10) to:

(a) by January 1, 2015, serve as a point of access for Government Records Access and Management requests for executive agencies;

(b) by January 1, 2016, serve as a point of access for Government Records Access and Management requests for:

(i) school districts;

(ii) charter schools;

(iii) public transit districts created under Title 17B, Chapter 2a, Part 8, Public Transit District Act;

(iv) counties; and

(v) municipalities;

(c) by January 1, 2017, serve as a point of access for Government Records Access and Management requests for:

(i) local districts under Title 17B, Limited Purpose Local Government Entities - Local Districts; and

(ii) special service districts under Title 17D, Chapter 1, Special Service District Act;

(d) except as provided in Subsection (12)(a), provide link capabilities to other existing repositories of public information, including maps, photograph collections, legislatively required reports, election data, statute, rules, regulations, and local ordinances that exist on other agency and political subdivision websites;

(e) provide multiple download options in different formats, including nonproprietary, open formats where possible;

(f) provide any other public information that the board, under Subsection (10), identifies as appropriate for publication on the information website; and

(g) incorporate technical elements the board identifies as useful to a citizen using the information website.

(12) (a) The department, in consultation with the board, shall establish by rule any restrictions on the inclusion of maps and photographs, as described in Subsection (11)(d), on the website described in Subsection (10) if the inclusion would pose a potential security concern.

(b) The website described in Subsection (10) may not publish any record that is classified as private, protected, or controlled under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 5. Section 63A-3-405 is amended to read:

63A-3-405. Participation by local entities.

(1) (a) Not later than May 15, 2010, the following participating local entities, in conformity with the rules established under Section 63A-3-404, shall provide public financial information through the Utah Public Finance Website or their own website and provide a link to their website through the Utah Public Finance Website:

(i) school districts;

(ii) charter schools; and

(iii) public transit districts created under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(b) Participating local entities subject to this Subsection (1) shall permit information that is generated not later than the fiscal year that begins July 1, 2009, to be accessible via the website.

(2) (a) Not later than May 15, 2011, the following participating local entities, in conformity with the rules established under Section 63A-3-404, shall be required to provide public financial information through the Utah Public Finance Website or their own website and provide a link to their website through the Utah Public Finance Website:

(i) counties;

(ii) municipalities;

(iii) local districts under Title 17B, Limited Purpose Local Government Entities - Local

Districts, that are not already required to report; and

(iv) special service districts under Title 17D, Chapter 1, Special Service District Act.

(b) Participating local entities subject to this Subsection (2) shall permit information that is generated not later than the fiscal year that begins July 1, 2010, to be accessible via the website.

(3) (a) On or before May 15, 2013, an interlocal entity that is a participating local entity in conformity with the rules established under Section 63A-3-404, shall, subject to Subsection (3)(b), provide public financial information through the Utah Public Finance Website or the interlocal entity's own website and provide a link to their website through the Utah Public Finance Website.

(b) A participating local entity subject to this Subsection (3) shall provide public financial information that is generated on or after the fiscal year that begins July 1, 2012, to be accessible via the website.

(4) A participating local entity that makes public financial information accessible via the Utah Public Finance Website on or after May 10, 2016, and that was not previously required to make financial information accessible via the website shall permit information that is generated on or after the first day of the participating local entity's fiscal year that includes January 1, 2017, to be accessible via the website.

(5) (a) Except as provided in Subsection (5)(b), a participating local entity described in Subsection (4) shall comply with the provisions of this part on or before January 1, 2017.

(b) A participating local entity described in Subsection (4) that has an annual budget of \$100,000 or less shall comply with the provisions of this part on or before July 1, 2017.

Section 6. Section 63F-1-701 is amended to read:

63F-1-701. Utah Public Notice Website -- Establishment and administration.

(1) As used in this part:

(a) "Division" means the Division of Archives and Records Service of the Department of Administrative Services.

(b) "Public body" has the same meaning as provided under Section 52-4-103.

(c) "Public information" means a public body's public notices, minutes, audio recordings, and other materials that are required to be posted to the website under Title 52, Chapter 4, Open and Public Meetings Act, or other statute or state agency rule.

(d) "Website" means the Utah Public Notice Website created under this section.

(2) There is created the Utah Public Notice Website to be administered by the Division of Archives and Records Service.

(3) The website shall consist of an Internet website provided to assist the public to find posted public information.

(4) The division, with the technical assistance of the Department of Technology Services, shall create the website which shall:

(a) allow a public body, or other certified entity, to easily post any public information, including the contact information required under Subsections 17B-1-303(9) and 17D-1-106(1)(b)(ii);

(b) allow the public to search the public information by:

(i) public body name;

(ii) date of posting of the notice;

(iii) date of any meeting or deadline included as part of the public information; and

(iv) any other criteria approved by the division;

(c) allow the public to search and view past, archived public information;

(d) allow a person to subscribe to receive updates and notices associated with a public body or a particular type of public information;

(e) be easily accessible by the public from the State of Utah home page;

(f) have a unique and simplified website address;

(g) be directly accessible via a link from the main page of the official state website; and

(h) include other links, features, or functionality that will assist the public in obtaining and reviewing public information posted on the website, as may be approved by the division.

(5) The division shall be responsible for:

(a) establishing and maintaining the website, including the provision of equipment, resources, and personnel as is necessary;

(b) providing a mechanism for public bodies or other certified entities to have access to the website for the purpose of posting and modifying public information; and

(c) maintaining an archive of all public information posted to the website.

(6) The timing for posting and the content of the public information posted to the website shall be the responsibility of the public body or other entity posting the public information.

CHAPTER 234**S. B. 105**

Passed February 22, 2016

Approved March 23, 2016

Effective May 10, 2016

BAIL AMENDMENTS

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Jack R. Draxler

LONG TITLE**General Description:**

This bill modifies criminal procedure provisions regarding bail and bail security.

Highlighted Provisions:

This bill:

- ▶ revises specified terms, including adding the use of the terms “bail bond” and “surety agency” to replace current terms;
- ▶ changes specified licensure requirements;
- ▶ modifies certain provisions regarding bail charges;
- ▶ amends liability provisions regarding a bail bond producer and a bail bond agency; and
- ▶ amends record maintenance requirements.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 31A-35-102, as last amended by Laws of Utah 2003, Chapter 298
- 31A-35-103, as last amended by Laws of Utah 2007, Chapter 309
- 31A-35-104, as last amended by Laws of Utah 2000, Chapter 259
- 31A-35-201, as last amended by Laws of Utah 2010, Chapter 286
- 31A-35-202, as last amended by Laws of Utah 2011, Chapter 284
- 31A-35-301, as last amended by Laws of Utah 2009, Chapter 183
- 31A-35-401, as last amended by Laws of Utah 2010, Chapter 10
- 31A-35-401.5, as last amended by Laws of Utah 2012, Chapter 253
- 31A-35-402, as last amended by Laws of Utah 2003, Chapter 298
- 31A-35-404, as last amended by Laws of Utah 2000, Chapter 259
- 31A-35-405, as last amended by Laws of Utah 2009, Chapter 349
- 31A-35-406, as last amended by Laws of Utah 2011, Chapter 284
- 31A-35-407, as enacted by Laws of Utah 1998, Chapter 293
- 31A-35-501, as last amended by Laws of Utah 2000, Chapter 259
- 31A-35-502, as last amended by Laws of Utah 2008, Chapter 382
- 31A-35-503, as last amended by Laws of Utah 2003, Chapter 298
- 31A-35-504, as last amended by Laws of Utah

- 2010, Chapter 178
- 31A-35-601, as last amended by Laws of Utah 2003, Chapter 298
- 31A-35-602, as last amended by Laws of Utah 2011, Chapter 284
- 31A-35-603, as last amended by Laws of Utah 2003, Chapter 298
- 31A-35-604, as last amended by Laws of Utah 2003, Chapter 298
- 31A-35-605, as last amended by Laws of Utah 2003, Chapter 298
- 31A-35-606, as last amended by Laws of Utah 2003, Chapter 298
- 31A-35-607, as last amended by Laws of Utah 2012, Chapter 253
- 31A-35-608, as last amended by Laws of Utah 2003, Chapter 298
- 31A-35-701, as last amended by Laws of Utah 2004, Chapter 274
- 31A-35-702, as last amended by Laws of Utah 2003, Chapter 298
- 31A-35-703, as last amended by Laws of Utah 2003, Chapter 298
- 31A-35-704, as last amended by Laws of Utah 2003, Chapter 298
- 77-18a-1, as last amended by Laws of Utah 2009, Chapter 175
- 77-20-1, as last amended by Laws of Utah 2015, Chapter 99
- 77-20-3, as last amended by Laws of Utah 1998, Chapter 293
- 77-20-4, as last amended by Laws of Utah 2014, Chapter 170
- 77-20-7, as last amended by Laws of Utah 2011, Chapter 179
- 77-20-8.5, as last amended by Laws of Utah 2001, Chapter 245
- 77-20-9, as last amended by Laws of Utah 2008, Chapter 3
- 77-20-10, as last amended by Laws of Utah 2012, Chapter 380
- 77-20b-101, as last amended by Laws of Utah 2011, Chapter 179
- 77-20b-102, as last amended by Laws of Utah 2000, Chapter 259
- 77-20b-103, as last amended by Laws of Utah 2000, Chapter 259
- 77-20b-104, as last amended by Laws of Utah 2006, Chapter 332
- 77-20b-105, as enacted by Laws of Utah 2006, Chapter 332

ENACTS:

- 77-20b-100, Utah Code Annotated 1953

REPEALS:

- 77-20-5, as last amended by Laws of Utah 1998, Chapter 293

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-35-102 is amended to read:**31A-35-102. Definitions.**

As used in this chapter:

- (1) “Bail bond” means a bail bond insurance product for a specified monetary amount that is:

(a) executed by a bail bond producer licensed in accordance with Section 31A-35-401; and

(b) issued to a court, magistrate, or authorized officer [as security for the subsequent court appearance of the defendant upon the defendant's release from actual custody pending the appearance.] to secure:

- (i) the release of a person from incarceration; and
- (ii) the appearance of the released person at court hearings the person is required to attend.

[4.] (2) "Bail bond [surety company] agency" means any sole proprietor or entity [who] that:

(a) is licensed under Subsection 31A-35-404(1) or (2);

[4.] (b) (i) is the agent of a surety insurer that [issues] sells a bail bond in connection with judicial proceedings;

(ii) pledges the assets of a letter of credit from a Utah depository institution for a bail bond in connection with judicial proceedings; or

(iii) pledges personal or real property, or both, as security for a bail bond in connection with judicial proceedings; and

[4.] (c) receives or is promised money or other things of value for a service described in Subsection [4.] (2)(b).

[2.] (3) "Bail bond producer" means an individual who:

- (a) is appointed by:
 - (i) a surety insurer that [issues] sells bail bonds; or
 - (ii) a bail bond [surety company] agency licensed under this chapter;
- (b) is appointed to execute or countersign undertakings of bail in connection with judicial proceedings; and
- (c) receives or is promised money or other things of value for engaging in an act described in Subsection [2.] (3)(b).

[3] "Bail bond surety" means a person that:

[4.] (i) is a bail bond surety company licensed under this chapter; or

[4.] (ii) a surety insurer; and

[4.] (b) issues bonds to secure:

[4.] (i) the release of a person from incarceration; and

[4.] (ii) the appearance of that person at court hearings.]

[5.] (4) "Bail enforcement agent" means [an individual who: (a) is employed or contracted with to: (i) enforce the terms and conditions of a defendant's release on bail in a civil or criminal proceeding; (ii) apprehend a defendant or surrender a defendant to custody; or (iii) both Subsections

(5)(a)(i) and (ii); and (b) receives or is promised money or other things of value for the services described in Subsection (5)(a)] the same as that term is defined in Section 53-11-102.

[6.] (5) "Board" means the Bail Bond [Surety] Oversight Board created in Section 31A-35-201.

[7.] (6) "Certificate" means a certificate of authority issued under this chapter to allow an insurer to operate as a surety insurer.

[8.] (7) "Indemnitor" means an entity or natural person [who] that enters into an agreement with a bail bond [surety] agency to hold the bail bond [surety] agency harmless from loss incurred as a result of executing a bail bond.

[9.] (8) "Liquid assets" means financial holdings that can be converted into cash in a timely manner without the loss of principal.

(9) "Premium" means the specified monetary amount used to purchase a bail bond.

(10) "Principal" means [an individual or corporation whose performance is guaranteed by bond.] a person that:

- (a) guarantees the performance of a bail bond; or
- (b) owns not less than 10% of the bail bond agency.

(11) "Surety insurer" means an insurer that:

(a) is licensed under Chapter 4, Insurers in General, Chapter 5, Domestic Stock and Mutual Insurance Corporations, or Chapter 14, Foreign Insurers;

(b) receives a certificate under this title; and

(c) [issues] sells bail bonds in connection with judicial proceedings.

(12) "Utah depository institution" [is] means a depository institution, as defined in Section 7-1-103, that:

- (a) has Utah as its home state; or
- (b) operates a branch in Utah.

Section 2. Section 31A-35-103 is amended to read:

31A-35-103. Exemption from other provisions of this title.

Bail bond [surety companies] agencies are exempted from:

(1) Chapter 3, Department Funding, Fees, and Taxes, except Section 31A-3-103;

(2) Chapter 4, Insurers in General, except Sections 31A-4-102, 31A-4-103, 31A-4-104, and 31A-4-107;

(3) Chapter 5, Domestic Stock and Mutual Insurance Corporations, except Section 31A-5-103;

(4) Chapter 6a, Service Contracts;

(5) Chapter 6b, Guaranteed Asset Protection Waiver Act;

[45] (6) Chapter 7, Nonprofit Health Service Insurance Corporations;

[46] (7) Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(8) Chapter 8a, Health Discount Program Consumer Protection Act;

[47] (9) Chapter 9, Insurance Fraternal;

[48] (10) Chapter 10, Annuities;

[49] (11) Chapter 11, Motor Clubs;

[40] (12) Chapter 12, State Risk Management Fund;

[41] (13) Chapter 13, Employee Welfare Funds and Plans;

[42] (14) Chapter 14, Foreign Insurers;

[43] (15) Chapter 15, Unauthorized Insurers, Surplus Lines, and Risk Retention Groups;

[44] (16) Chapter 16, Insurance Holding Companies;

[45] (17) Chapter 17, Determination of Financial Condition;

[46] (18) Chapter 18, Investments;

[47] (19) Chapter 19a, Utah Rate Regulation Act;

[48] (20) Chapter 20, Underwriting Restrictions;

(21) Chapter 23b, Navigator License Act;

[49] (22) Chapter 25, Third Party Administrators;

[20] (23) Chapter 26, Insurance Adjusters;

[21] (24) Chapter 27, Delinquency Administrative Action Provisions;

[22] (25) Chapter 27a, Insurer Receivership Act;

[23] (26) Chapter 28, Guaranty Associations;

[24] ~~Chapter 29, Comprehensive Health Insurance Pool Act;~~

[25] (27) Chapter 30, Individual, Small Employer, and Group Health Insurance Act;

[26] (28) Chapter 31, Insurance Fraud Act;

(29) Chapter 32a, Medical Care Savings Account Act;

[27] (30) Chapter 33, Workers' Compensation Fund; ~~and~~

[28] (31) Chapter 34, Voluntary Health Insurance Purchasing Alliance Act[.];

(32) Chapter 36, Life Settlements Act;

(33) Chapter 37, Captive Insurance Companies Act;

(34) Chapter 37a, Special Purpose Financial Captive Insurance Company Act;

(35) Chapter 38, Federal Health Care Tax Credit Program Act;

(36) Chapter 39, Interstate Insurance Product Regulation Compact;

(37) Chapter 40, Professional Employer Organization Licensing Act;

(38) Chapter 41, Title Insurance Recovery, Education, and Research Fund Act;

(39) Chapter 42, Defined Contribution Risk Adjuster Act; and

(40) Chapter 43, Small Employer Stop-Loss Insurance Act.

Section 3. Section 31A-35-104 is amended to read:

31A-35-104. Rulemaking authority.

The commissioner shall by rule establish specific licensure and certification guidelines and standards of conduct for the business of bail bond [surety] insurance under this chapter.

Section 4. Section 31A-35-201 is amended to read:

31A-35-201. Bail Bond Oversight Board.

(1) There is created a Bail Bond [Surety] Oversight Board within the department, consisting of:

(a) the following seven voting members [te] who shall be appointed by the commissioner:

(i) one representative each from four licensed bail bond [surety companies] agencies;

(ii) two members of the general public who do not have any financial interest in or professional affiliation with any bail bond [surety company] agency; and

(iii) one attorney in good standing licensed to practice law in Utah; and

(b) a nonvoting member who is a staff member of the insurance department appointed by the commissioner.

(2) (a) The appointments are for terms of four years. A board member may not serve more than two consecutive terms.

(b) The [insurance] commissioner shall, at the time of appointment or reappointment of a board member described in Subsection (1)(a), adjust the length of terms to ensure that the terms of board members are staggered so approximately half of the board is appointed every two years.

(3) A board member serves until:

(a) removed by the [insurance] commissioner;

(b) the member's resignation; or

(c) for a member described in Subsection (1)(a), the expiration of the member's term and the appointment of a successor.

(4) When a vacancy occurs in the membership of a board member described in Subsection (1)(a) for any

reason, the replacement shall be appointed for the remainder of the unexpired term.

(5) The board shall annually elect one of its members as chair.

(6) Four voting members constitute a quorum for the transaction of business.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) (a) The commissioner, with a majority vote of the board, may remove any member of the board described in Subsection (1)(a) for misconduct, incompetency, or neglect of duty.

(b) The board shall conduct a hearing if requested by the board member described in Subsection (1)(a) that is to be removed.

(9) Members of the board are immune from suit with respect to all acts done and actions taken in good faith in carrying out the purposes of this chapter.

Section 5. Section 31A-35-202 is amended to read:

31A-35-202. Board responsibilities.

(1) The board shall:

(a) meet:

(i) at least quarterly; and

(ii) at the call of the chair;

(b) make written recommendations to the commissioner for rules governing the following aspects of the bail bond ~~surety~~ insurance business:

(i) qualifications, applications, and fees for obtaining:

(A) a license required by this Section 31A-35-401; or

(B) a certificate;

(ii) limits on the aggregate amounts of bail bonds;

(iii) unprofessional conduct;

(iv) procedures for hearing and resolving allegations of unprofessional conduct; and

(v) sanctions for unprofessional conduct;

(c) screen:

(i) bail bond ~~surety company~~ agency license applications; and

(ii) persons applying for a bail bond ~~surety company~~ agency license; and

(d) recommend to the commissioner action regarding the granting, renewing, suspending,

revoking, and reinstating of bail bond ~~surety company~~ agency license.

(2) The board may:

(a) conduct investigations of allegations of unprofessional conduct on the part of persons or bail bond ~~sureties~~ agencies involved in the business of bail bond ~~surety~~ insurance; and

(b) provide the results of the investigations described in Subsection (2)(a) to the commissioner with recommendations for:

(i) action; and

(ii) any appropriate sanctions.

Section 6. Section 31A-35-301 is amended to read:

31A-35-301. The commissioner's authority.

(1) The commissioner shall:

(a) make rules as necessary for the administration of this chapter;

(b) with information as provided by the board, issue or deny licensure under this chapter;

(c) take action regarding a license, including suspension or revocation; and

(d) maintain and publish a current list of licensed bail bond ~~surety companies~~ agencies and bail bond producers.

(2) The commissioner may establish fees for the issuance, renewal, and reinstatement of a bail bond ~~surety company~~ agency license in accordance with Section 63J-1-504.

Section 7. Section 31A-35-401 is amended to read:

31A-35-401. Requirement for license or certificate of authority -- Process -- Fees -- Limitations.

(1) (a) A person may not engage in the bail bond ~~surety~~ insurance business unless that person:

(i) is a bail bond ~~surety company~~ agency licensed under this chapter;

(ii) is a surety insurer that is granted a certificate under this section in the same manner as other insurers doing business in this state are granted certificates of authority under this title; or

(iii) is a bail bond producer licensed in accordance with this section.

(b) A bail bond ~~surety company~~ agency shall be licensed under this chapter as an agency.

(c) A bail bond producer shall be licensed under Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries, as a limited lines producer.

(2) A person applying for a bail bond ~~surety company~~ agency license under this chapter shall submit to the commissioner:

(a) a completed application form as prescribed by the commissioner;

(b) a fee as determined by the commissioner in accordance with Section 31A-3-103; and

(c) any additional information required by rule.

(3) A fee required under this section is not refundable.

(4) A fee collected from a bail bond [surety company] agency shall be deposited [in] into a restricted account created in Section 31A-35-407.

(5) (a) A bail bond [surety company] agency shall be domiciled in Utah.

(b) A bail bond producer shall be a resident of Utah.

(c) A foreign surety insurer that is granted a certificate to [issue] sell bail bonds may only [issue] sell bail bonds through a bail bond [surety company] agency licensed under this chapter.

Section 8. Section 31A-35-401.5 is amended to read:

31A-35-401.5. Additional licensure requirements for a bail bond agency.

(1) A person applying for licensure or the reinstatement of a license as a bail bond [surety or] agency [for the first time] shall, in addition to the requirements of Section 31A-35-401, provide proof that at least one principal of the bail bond [surety or] agency will have a minimum of 2,000 hours of experience working as an employee of a bail bond [surety company] agency as a licensed bail bond [agent] producer.

(2) The applicant shall provide proof of the experience claimed under Subsection (1), including providing:

(a) the exact details of the character and nature of the experience on a form provided by the department;

(b) a statement by each employer verifying the number of hours the applicant worked for the employer; and

(c) (i) federal income reporting forms that account for the wages for hours claimed or documented approval of the claimed hours by the insurance commissioner; and

(ii) the total of 2,000 hours may be proved in part by federal income reporting forms and in part by approval by the insurance commissioner.

(3) The burden of proving the hours of experience as required in this section is upon the applicant.

Section 9. Section 31A-35-402 is amended to read:

31A-35-402. Authority related to bail bonds.

(1) A bail bond [surety company] agency may only [issue] sell bail bonds.

(2) In accordance with Section 31A-23a-205, a bail bond producer may not execute or issue a bail bond in this state without holding a current appointment from a [bail bond] surety insurer or a

current designation from a bail bond [company] agency.

(3) A bail bond surety agency or surety insurer may not allow any person who is not a bail bond producer to engage in the bail bond [surety] insurance business on the bail bond [surety's] agency's or surety insurer's behalf, except for individuals:

(a) employed solely for the performance of clerical, stenographic, investigative, or other administrative duties that do not require a license as:

(i) a bail bond [surety company] agency; or

(ii) a bail bond producer; and

(b) whose compensation is not related to or contingent upon the number of bail bonds written.

Section 10. Section 31A-35-404 is amended to read:

31A-35-404. Minimum financial requirements for bail bond agency license.

(1) (a) A bail bond [surety company] agency that pledges the assets of a letter of credit from a Utah depository institution in connection with a judicial proceeding shall maintain an irrevocable letter of credit with a minimum face value of \$300,000 assigned to the state from a Utah depository institution.

(b) Notwithstanding Subsection (1)(a), a bail bond [surety company] agency described in Subsection (1)(a) that is licensed under this chapter as of December 31, 1999, shall maintain an irrevocable letter of credit with a minimum face value of \$250,000 assigned to the state from a Utah depository institution.

(2) (a) A bail bond [surety company] agency that pledges personal or real property, or both, as security for a bail bond in connection with a judicial proceeding shall maintain:

(i) (A) a [current] financial statement for the current year:

(I) reviewed by a certified public accountant; and

(II) showing a net worth of at least \$300,000, at least \$100,000 of which is in liquid assets; or

(B) notwithstanding Subsection (2)(a)(i), if the bail bond [surety company] agency is licensed under this chapter as of December 31, 1999, a current financial statement:

(I) reviewed by a certified public accountant; and

(II) showing a net worth of at least \$250,000, at least \$50,000 of which is in liquid assets;

(ii) a copy of the applicant's federal and state income tax [return] returns for the preceding two years, but only for an original application; and

(iii) for each parcel of real property owned by the applicant and included in net worth calculations:

(A) a title letter or report, or a current abstract of title from the office of the county recorder; and

(B) ~~[an]~~ (I) a certified appraisal ~~[dated not more than two years prior to the date of application.]~~ made not more than six months prior to licensure for each parcel and a title report that is current as of the date of licensure, if the bail bond agency is in its first year of licensure and has pledged real property owned by the applicant; or

(II) a certified appraisal report or a current tax notice and a title letter or report, or a current abstract of title from the county recorder if the bail bond agency is in its second or subsequent year of licensure and has pledged real property owned by the applicant.

(b) For purposes of this Subsection (2), only real or personal property located in Utah may be included in the net worth of the bail bond ~~[surety company]~~ agency.

(3) A bail bond ~~[surety company]~~ agency shall maintain a qualifying power of attorney issued by a surety insurer if:

(a) ~~[if]~~ the bail bond ~~[surety company]~~ agency is the agent of the surety insurer; and

(b) the surety insurer:

(i) ~~[issues]~~ sells bail bonds;

(ii) is in good standing in its state of domicile; and

(iii) is granted a certificate to write bail bonds in Utah.

(4) The commissioner may revoke the license of a bail bond ~~[surety company]~~ agency that fails to maintain the minimum financial requirements required under this section.

(5) The commissioner may set by rule the limits on the aggregate amounts of bail bonds issued by a bail bond ~~[surety company]~~ agency.

Section 11. Section 31A-35-405 is amended to read:

31A-35-405. Issuance of license -- Denial -- Right of appeal.

(1) Upon a determination by the board that a person applying for a bail bond ~~[surety company]~~ agency license meets the requirements for issuance of a license under this chapter, the commissioner shall issue to that person a bail bond ~~[surety company]~~ agency license.

(2) (a) If the commissioner denies an application for a bail bond ~~[surety company]~~ agency license under this chapter, the commissioner shall provide prompt written notification to the person applying for licensure:

(i) stating the grounds for denial; and

(ii) notifying the person applying for licensure as a bail bond ~~[surety company]~~ agency that:

(A) the person is entitled to a hearing if that person wants to contest the denial; and

(B) if the person wants a hearing, the person shall submit the request in writing to the commissioner within 15 days after the issuance of the denial.

(b) The department shall schedule a hearing described in Subsection (2)(a) no later than 60 days after the commissioner's receipt of the request.

(c) The department shall hear the appeal, and may:

(i) return the case to the commissioner for reconsideration;

(ii) modify the commissioner's decision; or

(iii) reverse the commissioner's decision.

(3) A decision under this section is subject to review under Title 63G, Chapter 4, Administrative Procedures Act.

Section 12. Section 31A-35-406 is amended to read:

31A-35-406. Renewal and reinstatement.

(1) (a) A license under this chapter expires annually on August 14. To renew its license under this chapter, on or before July 15 a bail bond ~~[surety company]~~ agency shall:

(i) complete and submit a renewal application to the department; ~~[and]~~

(ii) require that a principal of the agency attends at least one board meeting each year; and

~~[(ii)]~~ (iii) pay the department the applicable renewal fee established in accordance with Section 31A-3-103.

(b) A bail bond ~~[surety company]~~ agency shall renew its license under this chapter annually as established by department rule, regardless of when the license is issued.

(2) A bail bond ~~[surety company]~~ agency may apply for reinstatement of an expired bail bond ~~[surety company]~~ agency license within one year following the expiration of the license under Subsection (1) by:

(a) submitting the renewal application required by Subsection (1); and

(b) paying a license reinstatement fee established in accordance with Section 31A-3-103.

(3) If a bail bond ~~[surety company]~~ agency license has been expired for more than one year, the person applying for reinstatement of the bail bond ~~[surety company]~~ agency license shall:

(a) submit a new application form to the commissioner; and

(b) pay the application fee established in accordance with Section 31A-3-103.

(4) If a bail bond ~~[surety company]~~ agency license is suspended, the applicant may not submit an application for a bail bond ~~[surety company]~~ agency license until after the end of the period of suspension.

(5) A fee collected under this section shall be deposited in the restricted account created in Section 31A-35-407.

Section 13. Section 31A-35-407 is amended to read:

31A-35-407. Restricted account.

(1) There is created within the General Fund a restricted account known as the "Bail Bond ~~Surety~~ Administration Account."

(2) (a) The account shall be funded from the fees imposed under this chapter.

(b) The department shall deposit all fees collected under this part ~~in~~ into the account.

(c) The funds in the account shall be used by the department to administer this chapter.

(d) The account shall earn interest, which shall be deposited ~~in~~ into the account.

(3) The department shall, at the end of each quarter, provide to the board an itemized accounting that includes the balances at the beginning and the end of the quarter. The department shall provide the report no later than the 30th day of the month subsequent to the last month of the required quarterly report.

Section 14. Section 31A-35-501 is amended to read:

31A-35-501. Emergency action regarding a license.

(1) If the commissioner determines, based on an investigation, that the public health, safety, or welfare requires emergency action, the commissioner may order a summary suspension of a bail bond ~~surety company~~ agency license pending proceedings for revocation or other action.

(2) The order described in Subsection (1) shall:

(a) state the grounds upon which the summary suspension is issued, including the charges made against the licensee; and

(b) advise the licensee of the right to an administrative hearing before the commissioner within 60 days after the summary suspension is ordered.

Section 15. Section 31A-35-502 is amended to read:

31A-35-502. Notification of violation of chapter.

If the commissioner has reason to believe a person licensed as a bail bond ~~surety company~~ agency, surety insurer, or ~~a~~ bail bond producer has violated this chapter, written notice shall be sent to that person, advising the person of:

(1) the alleged violation;

(2) the commissioner's authority to take action against the person's license;

(3) the person's right to an administrative hearing under Title 63G, Chapter 4, Administrative Procedures Act; and

(4) the period of time within which the hearing described in Subsection (3) shall be requested if the person requests a hearing.

Section 16. Section 31A-35-503 is amended to read:

31A-35-503. Disciplinary action -- Hearing -- Appeal.

(1) Based on information the commissioner receives during a hearing described in Section 31A-35-502 regarding a person licensed as a bail bond ~~surety company~~ agency or bail bond producer, the commissioner may:

(a) dismiss the complaint if the commissioner finds it is without merit;

(b) fix a period and terms of probation best adopted to educate the person;

(c) place the license on suspension for a period of not more than 12 months; ~~or~~

(d) impose a forfeiture pursuant to Section 31A-2-308; or

~~(d)~~ (e) revoke the license.

(2) The commissioner shall advise the person described in Subsection (1) in writing of:

(a) the commissioner's findings based on the hearing; and

(b) the person's rights of appeal under this chapter.

(3) (a) Unless the conditions of Subsection (3)(b) are met, if a bail bond ~~surety company~~ agency license is suspended or revoked under this chapter, a member, employee, officer, or director of that corporation may not:

(i) be licensed as a bail bond ~~surety company~~ agency or bail bond producer; or

(ii) be designated in any license to exercise authority under this chapter during the period of the suspension or revocation.

(b) Subsection (3)(a) does not apply if the commissioner determines upon substantial evidence that the member, employee, officer, or director:

(i) was not personally at fault; and

(ii) did not acquiesce in the matter on account of which the license was suspended or revoked.

Section 17. Section 31A-35-504 is amended to read:

31A-35-504. Failure to pay bail bond forfeiture -- Grounds for suspension and revocation of bail bond agency license.

(1) As used in this section:

(a) ~~["Company"] "Agency"~~ means a bail bond ~~surety company~~ agency.

(b) "Judgment" means a judgment of bail bond forfeiture issued under Section 77-20b-104.

(2) (a) (i) ~~[A company]~~ An agency shall pay a judgment not later than 15 days following service of notice upon the ~~company~~ agency from a prosecutor of the entry of the judgment.

(i) ~~[A company]~~ An agency may pay a bail bond forfeiture to the court prior to judgment.

(b) (i) A prosecutor who does not receive proof of or notice of payment of the judgment within 15 days after the service of notice to the ~~[company]~~ agency of a judgment shall notify the commissioner of the failure to pay the judgment.

(ii) The commissioner shall notify the ~~[company]~~ agency, by the most expeditious means available, of the nonpayment of the judgment.

(iii) The ~~[company]~~ agency shall satisfy the judgment within five business days after receiving notice under Subsection (2)(b)(ii). If the judgment is not satisfied at the end of the five days, the commissioner may suspend the ~~[company's]~~ agency's license under Subsection (3).

(c) If notice of entry of judgment is served upon the ~~[company]~~ agency by mail, three additional days are added to the 15 days provided in Subsections (2)(a), (2)(b), and (2)(d).

(d) A prosecutor may not proceed under Subsection (2)(b) if ~~[a company]~~ an agency, within 15 days after service of notice of the entry of judgment is served:

(i) files a motion to set aside the judgment or files an application for an extraordinary writ; and

(ii) provides proof that the ~~[surety]~~ agency has posted the judgment amount with the court in the form of cash, a cashier's check, or certified funds.

(e) As used in this section, the filing of the following tolls the time within which ~~[a company]~~ an agency is required to pay a judgment if the motion or application is filed within 15 days after the day on which service of notice of the entry of a judgment is served:

(i) a motion to set aside a judgment; or

(ii) an application for extraordinary writ.

(3) The commissioner shall suspend the license of the ~~[company]~~ agency not later than five days following the ~~[company's]~~ agency's failure to satisfy the judgment as required under Subsection (2)(b).

(4) If the prosecutor receives proof of or notice of payment of the judgment during the suspension period under Subsection (3), the prosecutor shall immediately notify the commissioner of the payment. The notice shall be in writing and by the most expeditious means possible, including facsimile or other electronic means.

(5) The commissioner shall lift a suspension under Subsection (3) within five days of the day on which all of the following conditions are met:

(a) the suspension has been in place for no fewer than 14 days;

(b) the commissioner has received written notice of payment of the unpaid forfeiture from the prosecutor; and

(c) the commissioner has received:

(i) no other notice of any unpaid forfeiture from a prosecutor; or

(ii) if a notice of unpaid forfeiture is received, written notice from the prosecutor that the unpaid forfeiture has been paid.

(6) The commissioner shall commence an administrative proceeding and revoke the license of ~~[a company]~~ an agency that fails to meet the conditions under Subsection (5) within 60 days following the initial date of suspension.

(7) This section does not restrict or otherwise affect the rights of a prosecutor to commence collection proceedings under Subsection 77-20b-104(5).

Section 18. Section 31A-35-601 is amended to read:

31A-35-601. Acts of producer or agent.

~~[(1) As used in this section:]~~

~~[(a) "Bail recovery agent" means an individual employed by a bail enforcement agent to assist the bail enforcement agent regarding civil or criminal defendants released on bail by:]~~

~~[(i) presenting a defendant for required court appearances;]~~

~~[(ii) apprehending or surrendering a defendant to a court; or]~~

~~[(iii) keeping the defendant under necessary surveillance.]~~

~~[(b) "Bail recovery apprentice" means an individual who:]~~

~~[(i) is employed by a bail enforcement agent; and]~~

~~[(ii) works under the direct supervision of that bail enforcement agent or under the direct supervision of a bail recovery agent employed also by the bail enforcement agent, unless the bail recovery apprentice is conducting activities at the direction of the employing bail enforcement agent that do not require direct supervision.]~~

~~[(2) (1) The acts or conduct of any bail bond producer [or bail enforcement agent, bail recovery agent, or bail recovery apprentice] who acts within the scope of the authority delegated to [him] the producer by the bail bond [surety,] agency or surety insurer are considered to be the acts or conduct of the bail bond agency or surety insurer for which the bail bond producer [or bail bond enforcement agent, bail recovery agent, or bail recovery apprentice] is acting as agent.~~

~~(2) The acts or conduct of any bail bond agency that acts within the scope of the authority delegated to the bail bond agency by the surety insurer are considered to be the acts or conduct of the surety insurer.~~

~~[(3) The acts or conduct of any bail bond producer or bail enforcement agent, bail recovery agent, or bail recovery apprentice who acts within the scope of the authority delegated to him by the bail bond producer are considered to be the acts or conduct of the bail bond producer for which the bail enforcement agent is acting as agent.]~~

(3) (a) Bail bond agencies and surety insurers are not liable for the actions of bail enforcement agents, bail recovery agents, or bail recovery apprentices.

(b) Bail enforcement agent, bail recovery agent, and bail recovery apprentice mean the same as those terms are defined in Section 53-11-102.

Section 19. Section 31A-35-602 is amended to read:

31A-35-602. Place of business -- Records to be kept at place of business.

(1) (a) A bail bond ~~[surety company]~~ agency shall have and maintain in this state a place of business:

(i) accessible to the public; and

(ii) where the bail bond ~~[surety company]~~ agency principally conducts transactions authorized by its bail bond ~~[surety company]~~ agency license.

(b) The address of the place of business described in Subsection (1)(a) shall appear upon:

(i) the application for a bail bond ~~[surety company]~~ agency license; and

(ii) a bail bond ~~[surety company]~~ agency license issued under this chapter.

(c) In addition to complying with Subsection (1)(b), a bail bond ~~[surety company]~~ agency shall register and maintain with the commissioner the following at which the commissioner may contact the bail bond ~~[surety company]~~ agency:

(i) a telephone number; and

(ii) a business email address.

(d) A bail bond ~~[surety company]~~ agency shall notify the commissioner within 20 days of a change in the bail bond ~~[surety company's]~~ agency's:

(i) place of business address;

(ii) telephone number; ~~or~~ and

(iii) business email address.

(e) This section does not prohibit a bail bond ~~[surety company]~~ agency from maintaining the place of business required under this section in the licensee's residence, if the residence is in Utah.

(2) The bail bond ~~[surety company]~~ agency shall keep at the place of business described in Subsection (1)(a) the records required under Section 31A-35-604.

Section 20. Section 31A-35-603 is amended to read:

31A-35-603. Collateral security.

(1) A bail bond producer may accept collateral security in connection with a bail transaction, if the collateral security is reasonable in relation to the face amount of the bail bond.

(2) (a) The collateral security described in Subsection (1) shall be received by the bail bond producer in the bail bond producer's fiduciary capacity.

(b) Before any judgment of forfeiture of bail, the bail bond producer shall keep the collateral separate and apart from any other funds or assets of the licensee.

(c) All cash collateral shall be recorded and deposited into the bail bond agency's trust account within three business days after receipt of the cash.

(d) All personal property and merchandise collateral shall be recorded in the bail bond agency's merchandise log within three business days after receipt of the merchandise.

(3) (a) Any collateral that is deposited with a bail bond producer or bail bond ~~[surety]~~ agency shall be returned to the person who deposited it within 10 days after the return is requested by the person who deposited it if:

(i) the bail bond has been exonerated; and

(ii) all fees owed to the bail bond producer or bail bond ~~[surety]~~ agency have been paid.

(b) A certified copy of the minute order from the court stating the bail or undertaking was ordered exonerated is prima facie evidence of exoneration or termination of liability.

(4) (a) If a bail bond producer accepts collateral, the bail bond producer shall give a written receipt for the collateral.

(b) The receipt required by Subsection (4)(a) shall include a fully detailed account of the collateral received.

(5) Upon return of collateral to the person who posted it, if any amount has been deducted by the bail bond ~~[surety]~~ agency or bail bond producer as expense, the bail bond ~~[surety]~~ agency or bail bond producer shall:

(a) include with the returned collateral an itemized statement of all expenses deducted from the collateral; and

(b) maintain a copy of the statement required by Subsection (5)(a) in the records of the bail bond ~~[surety]~~ agency or bail bond producer.

(6) If the bail bond secured by the collateral is forfeited and the bail bond producer or bail bond ~~[surety]~~ agency retains possession of the collateral in payment of the forfeiture or otherwise disposes of the collateral, the person retaining possession or disposing of the property shall maintain a written record of the collateral, including any disposition.

(7) (a) If a document that conveys title to real property is used as collateral in a bail bond transaction, the document shall state on its face that it is executed as part of a security transaction.

(b) If the document described in Subsection (7)(a) is recorded, the bail bond producer or the bail bond ~~[surety]~~ agency shall:

(i) execute a reconveyance of the property, executed so that the reconveyance can be recorded; and

(ii) promptly deliver the reconveyance document to:

(A) the person executing the original conveyance; or

(B) the heirs, legal representative, or successor in interest of the person described in Subsection (7)(b)(ii)(A).

(8) The bail bond agency shall maintain an itemized list of all merchandise collateral, which shall include:

- (a) the date of the bail bond;
- (b) the full name of the defendant;
- (c) the full name of each cosigner;
- (d) a detailed description of the collateral;
- (e) the amount of bail;
- (f) the approximate value of the merchandise; and
- (g) the final disposition of the merchandise.

Section 21. Section 31A-35-604 is amended to read:

31A-35-604. Records.

(1) A bail bond producer shall maintain at the bail bond producer's place of business:

(a) records of all bail bonds the bail bond producer executes or countersigns, so the public may obtain all necessary information concerning those bail bonds for ~~[at least one]~~ not less than the current calendar year plus the three prior years after the liability of the bail bond agency or surety insurer has been terminated; and

(b) any additional information the commissioner may reasonably require by rule.

(2) Records required to be maintained under Subsection (1) shall be available for examination by the commissioner or the commissioner's representatives during regular business hours.

(3) The bail bond ~~[surety company]~~ agency shall maintain for not less than the current calendar year and the three years after receipt all records of any bail bond executed or countersigned by a bail bond producer appointed by the bail bond ~~[surety company]~~ agency.

Section 22. Section 31A-35-605 is amended to read:

31A-35-605. Guarantors -- Agreement and enforcement.

(1) All agreements of persons to act as guarantor for a bail bond shall be in writing or reduced to writing as soon as possible after completion.

(2) When a person executes an agreement to act as a guarantor, the bail bond ~~[surety company]~~ agency or the bail bond producer shall deliver to that person a copy of the agreement promptly upon that person's execution of the agreement.

(3) A bail bond producer may not enforce any guarantor agreement without disclosing to the guarantor all collateral held by the bail bond producer indemnifying the bail bond to which the

agreement relates, and the identity of each other guarantor.

Section 23. Section 31A-35-606 is amended to read:

31A-35-606. Bail agreement prior to commission of offense prohibited.

A bail bond ~~[surety]~~ agency or bail bond producer may not enter into an agreement or arrangement with any person, guaranteeing or assuring in advance of the commission of any offense that bail will be furnished to that person or any other party if arrested.

Section 24. Section 31A-35-607 is amended to read:

31A-35-607. Filing of forms -- Commissioner maintains files.

(1) (a) In accordance with Section 31A-21-201, ~~[only]~~ a bail bond ~~[surety company]~~ agency that meets the financial capacity requirements through the use of a letter of credit, personal property, ~~[or]~~ real property, or a surety insurer shall file with the commissioner a copy of each form the bail bond ~~[surety company]~~ agency or surety insurer uses in the bail bond ~~[surety]~~ insurance business.

(b) A surety insurer filing shall comply with the following:

(i) a form shall be identified by a unique form number;

(ii) a form shall include the address, telephone number, and business email address of the bail bond agency and the surety insurer;

~~[(iii)]~~ (iii) the surety insurer shall file a form on behalf of each bail bond ~~[surety company]~~ agency appointed to write on behalf of the surety insurer;

~~[(iii)]~~ (iv) once a filing is filed with the commissioner, it is the responsibility of the surety insurer to verify that the bail bond ~~[surety company]~~ agency and its producers are using the correct form;

~~[(iv)]~~ (v) a bail bond ~~[surety company]~~ agency and its bail bond producers are prohibited from using a form that has not been filed by the surety insurer; and

~~[(v)]~~ (vi) a bail bond ~~[surety company]~~ agency and its bail bond producers are prohibited from making changes to a form that is filed by the surety insurer.

(c) A bail bond ~~[surety company]~~ agency filing, for a bail bond ~~[surety company]~~ agency that meets the financial capacity requirements through the use of a letter of credit, personal property, or real estate, shall comply with the following:

(i) a form shall be identified by a unique form number;

(ii) a form shall include the address, telephone number, and business email address of the bail bond agency;

~~[(iii)]~~ (iii) once a filing is filed with the commissioner, it is the responsibility of the bail

bond ~~[surety company]~~ agency to verify that its bail bond producers are using the correct form;

~~[(iii)]~~ (iv) a bail bond producer is prohibited from using a form that has not been filed by the bail bond ~~[surety company]~~ agency; and

~~[(iv)]~~ (v) a bail bond producer is prohibited from making changes to a form that is filed by the bail bond ~~[surety company]~~ agency.

(2) A form described in Subsection (1) shall be filed 30 days before the form:

(a) is first used by the bail bond ~~[surety company]~~ agency or surety insurer; and

(b) is changed after it is filed under Subsection (2)(a).

(3) (a) The commissioner shall maintain and make available for public inspection a file regarding each bail bond ~~[surety company]~~ agency and each surety insurer.

(b) A bail bond ~~[surety company]~~ agency and surety insurer shall maintain a form required to be filed under this section in the office of the bail bond ~~[surety company]~~ agency or surety insurer.

Section 25. Section 31A-35-608 is amended to read:

31A-35-608. Premiums and authorized charges.

(1) A bail bond ~~[surety]~~ agency or bail bond producer may not, in any bail transaction or in connection with that transaction, directly or indirectly, charge or collect money or other valuable consideration from any person except to:

(a) pay the premium on the bail at the rates established by the bail bond agency or surety insurer;

(b) provide collateral;

(c) reimburse ~~[himself]~~ the bail bond agency or bail bond producer for actual expenses, as described in Subsection (2), incurred in connection with the bail bond transaction; or

(d) ~~[to]~~ reimburse ~~[himself]~~ the bail bond agency or bail bond producer, or to establish a right of action against the principal or any indemnitor, for actual expenses the bail bond ~~[surety]~~ agency or bail bond producer incurred:

(i) in good faith; and

(ii) which were by reason of breach by the defendant of any of the terms of the written agreement under which the undertaking of bail or bail bond was written.

(2) (a) A bail bond ~~[surety]~~ agency or surety insurer may bring an action in a court of law to enforce its equitable rights against the principal and the principal's indemnitors in exoneration if:

(i) a bail bond producer did not establish a written agreement; or

(ii) there is only an incomplete writing.

(b) Reimbursement claimed under this Subsection (2) may not exceed the sum of:

(i) the principal sum of the bail bond or undertaking; and

(ii) any reasonable expenses that:

(A) are verified by receipt;

(B) in total do not amount to more than the principal sum of the bail bond or undertaking; and

(C) are incurred in good faith by the bail bond ~~[surety]~~ agency, its bail bond producers, and the bail bond agency's employees by reason of the principal's breach.

(3) This section does not affect or impede the right of a bail bond producer to execute undertaking of bail on behalf of a nonresident producer of the bail bond agency or surety insurer the bail bond producer represents.

(4) A bail bond agency or surety insurer shall maintain complete records of all current and closed accounts receivable regarding financed premiums for the current calendar year and the three prior years.

(5) If the bail amount on the original charge is increased by the court, the bail premium paid on the original bond may be applied to the bail premium due on the increased bail amount for that charge.

Section 26. Section 31A-35-701 is amended to read:

31A-35-701. Prohibited acts.

(1) A bail bond producer or bail bond ~~[surety]~~ agency may not:

(a) solicit business in or about:

(i) any place where persons in the custody of the state or any local law enforcement or correctional agency are confined; or

(ii) any court;

(b) pay a fee or rebate or give or promise anything of value to any person in order to secure a settlement, compromise, remission, or reduction of the amount of any undertaking or bail bond;

(c) pay a fee or rebate or give anything of value to an attorney in regard to any bail bond matter, except payment for legal services actually rendered for the bail bond producer or bail bond ~~[surety]~~ agency;

(d) pay a fee or rebate or give or promise anything of value to the principal or anyone in the principal's behalf; or

(e) engage in any other act prohibited by the commissioner by rule.

(2) The following persons may not act as bail bond producers and may not, directly or indirectly, receive any benefits from the execution of any bail bond:

(a) a person employed at any jail, correctional facility, or other facility used for the incarceration of persons;

(b) a peace officer;

(c) a judge; and

(d) ~~a trusty or prisoner~~ an inmate incarcerated in any jail, correctional facility, or other facility used for the incarceration of persons.

(3) A bail bond producer may not:

(a) sign or countersign in blank any bail bond; ~~or~~

(b) give the power of attorney to, or otherwise authorize anyone to, countersign in the bail bond producer's name to a bail bond~~[-];~~ or

(c) submit a bail bond to a jail or court in Utah without having completed a written agreement that:

(i) states the terms of the bail agreement, contract, or undertaking;

(ii) is signed by the bail bond producer; and

(iii) is filed with the department.

(4) A bail bond producer may not advertise or hold himself or herself out to be a bail bond agency or surety insurer.

(5) The following persons or members of their immediate families may not solicit business on behalf of a bail bond [surety] agency or bail bond producer:

(a) a person employed at any jail, correctional facility, or other facility used for the incarceration of persons;

(b) a peace officer;

(c) a judge; ~~and~~ or

(d) ~~a trusty or prisoner~~ an inmate incarcerated in any jail, correctional facility, or other facility used for the incarceration of persons.

Section 27. Section 31A-35-702 is amended to read:

31A-35-702. Early surrender without cause.

(1) The bail or bail bond premium shall be returned in full if a bail bond producer without good cause surrenders a defendant to custody before:

(a) the time specified in the undertaking of bail or the bail bond for the appearance of the defendant; or

(b) any other occasion where the presence of the defendant in court is lawfully required.

(2) As used in this section, "good cause" includes:

(a) the defendant providing materially false information on the application for bail or a bail bond;

(b) the court's increasing the amount of bail beyond sound underwriting criteria employed by:

(i) the bail bond producer; or

(ii) the bail bond ~~[surety]~~ agency;

(c) a material and detrimental change in the collateral posted by:

(i) the defendant; or

(ii) a person acting on the defendant's behalf;

(d) the defendant changing the defendant's address or telephone number without giving reasonable notice to:

(i) the bail bond producer; or

(ii) the bail bond ~~[surety]~~ agency;

(e) the defendant commits another crime, other than a minor traffic violation, as defined by department rule, while on bail;

(f) failure by the defendant to appear in court at the appointed time; or

(g) a finding of guilt against the defendant by a court of competent jurisdiction.

Section 28. Section 31A-35-703 is amended to read:

31A-35-703. Disciplinary action.

(1) A person found to be in violation of the statutes or rules governing the conduct of bail bond producers and bail bond ~~[sureties]~~ agencies under this chapter is subject to:

(a) disciplinary action by the commissioner against that person's:

(i) license, if the person is a bail bond ~~[surety company]~~ agency or bail bond producer; or

(ii) certificate, if the person is a surety insurer; and

(b) imposition of civil penalties, as authorized under Title 31A, Chapter 2, Administration of the Insurance Laws.

(2) Penalties collected under this section shall be deposited in the restricted account created in Section 31A-35-407.

Section 29. Section 31A-35-704 is amended to read:

31A-35-704. Submission of bail bond agencies and producers to jurisdiction of court.

By applying for and receiving a license or certificate to engage in the bail bond ~~[surety]~~ insurance business in accordance with this chapter, a bail bond [surety] agency or bail bond producer:

(1) submits to the jurisdiction of the court;

(2) irrevocably appoints the clerk of the court as agent upon whom any papers affecting the bail bond ~~[surety's]~~ agency's or bail bond producer's liability on the undertaking may be served; and

(3) acknowledges that liability may be enforced on motion and upon notice as the court may require, without the necessity of an independent action.

Section 30. Section 77-18a-1 is amended to read:

77-18a-1. Appeals -- When proper.

(1) A defendant may, as a matter of right, appeal from:

(a) a final judgment of conviction, whether by verdict or plea;

(b) an order made after judgment that affects the substantial rights of the defendant;

(c) an order adjudicating the defendant's competency to proceed further in a pending prosecution; or

(d) an order denying bail, as provided in Subsection 77-20-1[(7)](8).

(2) In addition to any appeal permitted by Subsection (1), a defendant may seek discretionary appellate review of any interlocutory order.

(3) The prosecution may, as a matter of right, appeal from:

(a) a final judgment of dismissal, including a dismissal of a felony information following a refusal to bind the defendant over for trial;

(b) a pretrial order dismissing a charge on the ground that the court's suppression of evidence has substantially impaired the prosecution's case;

(c) an order granting a motion to withdraw a plea of guilty or no contest;

(d) an order arresting judgment or granting a motion for merger;

(e) an order terminating the prosecution because of a finding of double jeopardy or denial of a speedy trial;

(f) an order granting a new trial;

(g) an order holding a statute or any part of it invalid;

(h) an order adjudicating the defendant's competency to proceed further in a pending prosecution;

(i) an order finding, pursuant to Title 77, Chapter 19, Part 2, Competency for Execution, that an inmate sentenced to death is incompetent to be executed;

(j) an order reducing the degree of offense pursuant to Section 76-3-402; or

(k) an illegal sentence.

(4) In addition to any appeal permitted by Subsection (3), the prosecution may seek discretionary appellate review of any interlocutory order entered before jeopardy attaches.

Section 31. Section 77-20-1 is amended to read:

77-20-1. Right to bail -- Denial of bail -- Hearing.

(1) As used in this chapter:

(a) "Bail bond agency" means the same as that term is defined in Section 31A-35-102.

(b) "Surety" and "sureties" mean a surety insurer or a bail bond agency.

(c) "Surety insurer" means the same as that term is defined in Section 31A-35-102.

[(4)] (2) A person charged with or arrested for a criminal offense shall be admitted to bail as a matter of right, except if the person is charged with a:

(a) capital felony, when the court finds there is substantial evidence to support the charge;

(b) felony committed while on probation or parole, or while free on bail awaiting trial on a previous felony charge, when the court finds there is substantial evidence to support the current felony charge;

(c) felony when there is substantial evidence to support the charge and the court finds by clear and convincing evidence that the person would constitute a substantial danger to any other person or to the community, or is likely to flee the jurisdiction of the court, if released on bail; or

(d) felony when the court finds there is substantial evidence to support the charge and it finds by clear and convincing evidence that the person violated a material condition of release while previously on bail.

[(2)] (3) Any person who may be admitted to bail may be released either on the person's own recognizance or upon posting bail, on condition that the person appear in court for future court proceedings in the case, and on any other conditions imposed in the discretion of the magistrate or court that will reasonably:

(a) ensure the appearance of the accused;

(b) ensure the integrity of the court process;

(c) prevent direct or indirect contact with witnesses or victims by the accused, if appropriate; and

(d) ensure the safety of the public.

[(3)] (4) (a) Except as otherwise provided, the initial order denying or fixing the amount of bail shall be issued by the magistrate or court issuing the warrant of arrest.

(b) A magistrate may set bail upon determining that there was probable cause for a warrantless arrest.

(c) A bail commissioner may set bail in a misdemeanor case in accordance with Sections 10-3-920 and 17-32-1.

(d) A person arrested for a violation of a jail release agreement or jail release order issued pursuant to Section 77-36-2.5:

(i) may not be released before the accused's first judicial appearance; and

(ii) may be denied bail by the court under Subsection 77-36-2.5(8) or (12).

[(4)] (5) The magistrate or court may rely upon information contained in:

- (a) the indictment or information;
- (b) any sworn probable cause statement;
- (c) information provided by any pretrial services agency; or
- (d) any other reliable record or source.

[45] (6) (a) A motion to modify the initial order may be made by a party at any time upon notice to the opposing party sufficient to permit the opposing party to prepare for hearing and to permit any victim to be notified and be present.

(b) Hearing on a motion to modify may be held in conjunction with a preliminary hearing or any other pretrial hearing.

(c) The magistrate or court may rely on information as provided in Subsection [44] (5) and may base its ruling on evidence provided at the hearing so long as each party is provided an opportunity to present additional evidence or information relevant to bail.

[46] (7) Subsequent motions to modify bail orders may be made only upon a showing that there has been a material change in circumstances.

[47] (8) An appeal may be taken from an order of any court denying bail to the Supreme Court, which shall review the determination under Subsection [44] (2).

[48] (9) For purposes of this section, any arrest or charge for a violation of Section 76-5-202, Aggravated murder, is a capital felony unless:

- (a) the prosecutor files a notice of intent to not seek the death penalty; or
- (b) the time for filing a notice to seek the death penalty has expired and the prosecutor has not filed a notice to seek the death penalty.

Section 32. Section 77-20-3 is amended to read:

77-20-3. Release on own recognizance -- Changing amount of bail or conditions of release.

(1) Any person who may be admitted to bail may likewise be released on [his] the person's own recognizance in the discretion of the magistrate or court.

(2) After releasing the defendant on [his] the defendant's own recognizance or admitting the defendant to bail, the magistrate or court may:

- (a) impose bail or increase or decrease the amount of the bail; and
- (b) impose or change the conditions of release under Subsection 77-20-1[42](3).

Section 33. Section 77-20-4 is amended to read:

77-20-4. Bail to be posted in cash, by credit or debit card, or by written undertaking.

- (1) Bail may be posted:

- (a) in cash;
- (b) by written undertaking with or without sureties at the discretion of the magistrate; or
- (c) by credit or debit card, at the discretion of the judge or bail commissioner.

(2) Bail may not be accepted without receiving in writing at the time the bail is posted the current mailing address [and], telephone number, and email address of the surety.

(3) Bail posted by debit or credit card, less the fee charged by the financial institution, shall be tendered to the courts.

(4) Bail refunded by the court may be refunded by credit to the debit or credit card, or cash. The amount refunded shall be the full amount received by the court under Subsection (3), which may be less than the full amount of the bail set by the court.

(5) Before refunding bail that is posted by the defendant in cash, by credit card, or by debit card, the court may apply the amount posted toward accounts receivable, as defined in Section 76-3-201.1, that are owed by the defendant in the priority set forth in Section 77-38a-404.

Section 34. Section 77-20-7 is amended to read:

77-20-7. Duration of liability on undertaking -- Notices to sureties -- Exoneration if charges not filed.

(1) (a) Except as provided in Subsection (1)(b), the principal and the sureties on the written undertaking are liable on the undertaking during all proceedings and for all court appearances required of the defendant up to and including the surrender of the defendant for sentencing, irrespective of any contrary provision in the undertaking. Any failure of the defendant to appear when required is a breach of the conditions of the undertaking or bail and subjects it to forfeiture, regardless of whether or not notice of appearance was given to the sureties. Upon sentencing the bail bond shall be exonerated without motion.

(b) If the sentence includes a commitment to a jail or prison, the bail bond shall be exonerated when the defendant appears at the appropriate jail or prison, unless the judge [doesn't] does not require the defendant to begin the commitment within seven days, in which case the bail bond is exonerated upon sentencing.

(c) For purposes of this section, an order of the court accepting a plea in abeyance agreement and holding that plea in abeyance pursuant to Title 77, Chapter 2a, Pleas in Abeyance, is considered to be the same as a sentencing upon a guilty plea.

(d) Any suspended or deferred sentencing is not the responsibility of the surety and the bail bond is exonerated without any motion, upon acceptance of the court and the defendant of a plea in abeyance, probation, fine payments, post sentencing reviews, or any other deferred sentencing reviews or any other deferred sentencing agreement.

(e) If a surety issues a bail bond after the sentencing, the surety is liable on the undertaking during all proceedings and for all court appearances required of the defendant up to and including the defendant's appearance to commence serving the sentence imposed under Subsection (1).

(2) If no information or indictment charging a person with an offense is filed in court within 120 days after the date of the bail undertaking or cash receipt, the court may relieve a person from conditions of release at the person's request, and the bail bond or undertaking is exonerated without further order of the court unless the prosecutor requests an extension of time before the end of the 120-day period by:

(a) filing a notice for extension with the court; and

(b) serving the notice for extension upon the sureties and the person or his attorney.

(3) A court may extend bail and conditions of release for good cause.

(4) Subsection (2) does not prohibit the filing of charges against a person at any time.

(5) If the court does not set on a calendar any hearings on a case within 18 months of the last court docket activity on a case, the undertaking of bail is exonerated without motion.

Section 35. Section 77-20-8.5 is amended to read:

77-20-8.5. Sureties -- Surrender of defendant -- Arrest of defendant.

(1) (a) Sureties may at any time prior to a defendant's failure to appear surrender the defendant and obtain exoneration of bail, by notifying the clerk of the court in which the bail was posted of the defendant's surrender and requesting exoneration. Notification shall be made immediately following the surrender by surface mail, electronic mail, or fax.

(b) To effect surrender, a certified copy of the surety's undertaking from the court in which it was posted or a copy of the bail agreement with the defendant shall be delivered to the on-duty jailer, who shall detain the defendant in the on-duty jailer's custody as upon a commitment, and shall in writing acknowledge the surrender upon the copy of the undertaking or bail agreement. The certified copy of the undertaking or copy of the bail agreement upon which the acknowledgment of surrender is endorsed shall be filed with the court. The court may then, upon proper application, order the undertaking exonerated and may order a refund of any paid premium, or part of a premium, as it finds just.

(2) For the purpose of surrendering the defendant, the sureties may:

(a) arrest the defendant:

(i) at any time before the defendant is finally exonerated; and

(ii) at any place within the state; and

(b) surrender the defendant to any county jail booking facility in Utah.

(3) An arrest under this section is not a basis for exoneration of the bail bond under Section 77-20b-101.

(4) A surety acting under this section is subject to Title 53, Chapter 11, Bail Bond Recovery Act.

Section 36. Section 77-20-9 is amended to read:

77-20-9. Disposition of forfeitures.

If by reason of the neglect of the defendant to appear, money deposited instead of bail or money paid by sureties on [~~surety~~] bail bond is forfeited and the forfeiture is not discharged or remitted, the clerk with whom it is deposited or paid shall, immediately after final adjournment of the court, pay over the money forfeited as follows:

(1) the forfeited bail cases in or appealed from district courts shall be distributed as provided in Section 78A-5-110;

(2) the forfeited bail in cases in precinct justice courts or in municipal justice courts shall be distributed as provided in Sections 78A-7-120 and 78A-7-121;

(3) the forfeited bail in cases in justice courts where the offense is not triable in that court shall be paid into the General Fund; and

(4) the forfeited bail in cases not provided for in this section shall be paid 50% to the state treasurer and the remaining 50% to the county treasurer in the county in which the violation occurred or the forfeited bail is collected.

Section 37. Section 77-20-10 is amended to read:

77-20-10. Grounds for detaining defendant while appealing the defendant's conviction -- Conditions for release while on appeal.

(1) The court shall order that a defendant who has been found guilty of an offense in a court of record and sentenced to a term of imprisonment in jail or prison, and who has filed an appeal or a petition for a writ of certiorari, be detained, unless the court finds:

(a) the appeal raises a substantial question of law or fact likely to result in:

(i) reversal;

(ii) an order for a new trial; or

(iii) a sentence that does not include a term of imprisonment in jail or prison;

(b) the appeal is not for the purpose of delay; and

(c) by clear and convincing evidence presented by the defendant that the defendant is not likely to flee the jurisdiction of the court, and will not pose a danger to the physical, psychological, or financial and economic safety or well-being of any other person or the community if released.

(2) If the court makes a finding under Subsection (1) that justifies not detaining the defendant, the

court shall order the release of the defendant, subject to conditions that result in the least restrictive condition or combination of conditions that the court determines will reasonably assure the appearance of the person as required and the safety of any other person and the community. The conditions may include that the defendant:

- (a) post appropriate bail;
- (b) execute a bail bond with a [~~bail bond~~] surety under Title 31A, Chapter 35, Bail Bond Act, in an amount necessary to assure the appearance of the defendant as required;
- (c) (i) execute a written agreement to forfeit, upon failing to appear as required, designated property, including money, as is reasonably necessary to assure the appearance of the defendant; and
 - (ii) post with the court indicia of ownership of the property or a percentage of the money as the court may specify;
 - (d) not commit a federal, state, or local crime during the period of release;
 - (e) remain in the custody of a designated person who agrees to assume supervision of the defendant and who agrees to report any violation of a release condition to the court, if the designated person is reasonably able to assure the court that the defendant will appear as required and will not pose a danger to the safety of any other person or the community;
 - (f) maintain employment, or if unemployed, actively seek employment;
 - (g) maintain or commence an educational program;
 - (h) abide by specified restrictions on personal associations, place of abode, or travel;
 - (i) avoid all contact with the victims of the offense and with any witnesses who testified against the defendant or potential witnesses who may testify concerning the offense if the appeal results in a reversal or an order for a new trial;
 - (j) report on a regular basis to a designated law enforcement agency, pretrial services agency, or other designated agency;
 - (k) comply with a specified curfew;
 - (l) not possess a firearm, destructive device, or other dangerous weapon;
 - (m) not use alcohol, or any narcotic drug or other controlled substances except as prescribed by a licensed medical practitioner;
 - (n) undergo available medical, psychological, or psychiatric treatment, including treatment for drug or alcohol dependency, and remain under the supervision of or in a specified institution if required for that purpose;
 - (o) return to custody for specified hours following release for employment, schooling, or other limited purposes;

(p) satisfy any other condition that is reasonably necessary to assure the appearance of the defendant as required and to assure the safety of any other person and the community; and

(q) if convicted of committing a sexual offense or an assault or other offense involving violence against a child 17 years of age or younger, is limited or denied access to any location or occupation where children are, including but not limited to:

- (i) any residence where children are on the premises;
- (ii) activities, including organized activities, in which children are involved; and
- (iii) locations where children congregate, or where a reasonable person should know that children congregate.

(3) The court may, in its discretion, amend an order granting release to impose additional or different conditions of release.

(4) If defendant has been found guilty of an offense in a court not of record and files a timely notice of appeal pursuant to Subsection 78A-7-118(1) for a trial de novo, the court shall stay all terms of a sentence, unless at the time of sentencing the judge finds by a preponderance of the evidence that the defendant poses a danger to another person or the community.

(5) If a stay is ordered, the court may order post-conviction restrictions on the defendant's conduct as appropriate, including:

- (a) continuation of any pre-trial restrictions or orders;
- (b) sentencing protective orders under Section 77-36-5.1;
- (c) drug and alcohol use;
- (d) use of an ignition interlock; and
- (e) posting appropriate bail.

(6) The provisions of Subsections (4) and (5) do not apply to convictions for an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(7) Any stay authorized by Subsection (4) is lifted upon the dismissal of the appeal by the district court.

Section 38. Section 77-20b-100 is enacted to read:

77-20b-100. Definitions.

As used in this chapter:

(1) "Bail bond agency" means the same as that term is defined in Section 31A-35-102.

(2) "Surety" and "sureties" mean a surety insurer or a bail bond agency.

(3) "Surety insurer" means the same as that term is defined in Section 31A-35-102.

Section 39. Section 77-20b-101 is amended to read:

77-20b-101. Entry of nonappearance -- Notice to surety -- Release of surety on failure of timely notice.

(1) If a defendant who has posted bail fails to appear before the appropriate court as required, the court shall within 30 days of the failure to appear issue a bench warrant that includes the original case number. The court shall also direct that the surety be given notice of the nonappearance. The clerk of the court shall:

(a) mail notice of nonappearance by certified mail, return receipt requested, within 30 days to the address of the surety;

(b) notify the surety as listed on the bail bond of the name, address, and telephone number of the prosecutor;

(c) deliver a copy of the notice sent under Subsection (1)(a) to the prosecutor's office at the same time notice is sent under Subsection (1)(a); ~~and~~

(d) ensure that the name, address, business email address, and telephone number of the surety or its agent as listed on the bail bond is stated on the bench warrant[-]; and

(e) mail notice of the failure to appear to the bail ~~[agent if the surety is different than the producer's agent]~~ bond agency and the surety insurer.

(2) The prosecutor may mail notice of nonappearance by certified mail, return receipt requested, to the address of the surety as listed on the bail bond within 37 days after the date of the defendant's failure to appear.

(3) If notice of nonappearance is not mailed to a surety as listed on the bail bond, other than the defendant, in accordance with Subsection (1) or (2), the surety and its ~~[agent]~~ bail bond producer are relieved of further obligation under the bail bond if the surety's current name and address or the current name and address of the ~~[surety's agent]~~ bail bond agency are on the bail bond in the court's file.

(4) (a) (i) If a defendant appears in court within seven days after a missed, scheduled court appearance, the court may reinstate the bail bond without further notice to the ~~[bond company]~~ surety.

(ii) If the defendant, while in custody, appears on the case for which the bail bond was posted, the court may not reinstate the bail bond without the consent of the bond company.

(b) If a defendant fails to appear within seven days after a scheduled court appearance, the court may not reinstate the bail bond without the consent of the surety.

(c) If the defendant is arrested and booked into a county jail booking facility pursuant to a warrant for failure to appear on the original charges and the court is notified of the arrest, or the court recalls the warrant due to the defendant's having paid the fine and prior to entry of judgment of forfeiture, the court shall exonerate the bail bond.

(d) Unless the court makes a finding of good cause why the bond should not be exonerated, it shall exonerate the bail bond if:

(i) the surety has delivered the defendant to the county jail booking facility in the county where the original charge ~~[is]~~ or charges are pending;

(ii) the defendant has been released on a bond secured from a subsequent surety for the original charge and the failure to appear;

(iii) after an arrest, the defendant has escaped from jail or has been released on the defendant's own recognizance, pursuant to a pretrial release, under a court order regulating jail capacity, or by a sheriff's release under Section 17-22-5.5;

(iv) the surety has transported or agreed to pay for the transportation of the defendant from a location outside of the county back to the county where the original charge is pending, and the payment is in an amount equal to government transportation expenses listed in Section 76-3-201; or

(v) the surety demonstrates by a preponderance of the evidence that:

(A) at the time the surety issued the bail bond, it had made reasonable efforts to determine that the defendant was legally present in the United States;

(B) a reasonable person would have concluded, based on the surety's determination, that the defendant was legally present in the United States; and

(C) the surety has failed to bring the defendant before the court because the defendant is in federal custody or has been deported.

(e) Under circumstances not otherwise provided for in this section, the court may exonerate the bail bond if it finds that the prosecutor has been given reasonable notice of a surety's motion and there is good cause for the bail bond to be exonerated.

(f) If a surety's bail bond has been exonerated under this section and the surety remains liable for the cost of transportation of the defendant, the surety may take custody of the defendant for the purpose of transporting the defendant to the jurisdiction where the charge is pending.

Section 40. Section 77-20b-102 is amended to read:

77-20b-102. Time for bringing defendant to court.

(1) If notice of nonappearance has been mailed to a surety under Section 77-20b-101, the surety may bring the defendant before the court or surrender the defendant into the custody of a county sheriff within the state within six months of the date of nonappearance, during which time a forfeiture action on the bail bond may not be brought.

(2) A surety may request an extension of the six-month time period in Subsection (1), if the surety within that time:

(a) files a motion for extension with the court; and

(b) mails the motion for extension and a notice of hearing on the motion to the prosecutor.

(3) The court may extend the six-month time in Subsection (1) for not more than 60 days, if the surety has complied with Subsection (2) and the court finds good cause.

Section 41. Section 77-20b-103 is amended to read:

77-20b-103. Defendant in custody -- Notice to prosecutor.

(1) If a surety is unable to bring a defendant to the court because the defendant is and will be in the custody of authorities of another jurisdiction, the surety shall notify the court and the prosecutor and provide the name, address, and telephone number of the custodial authority.

(2) If the defendant is subject to extradition or other means by which the state can return the defendant to the court's custody, and the surety gives notice under Subsection (1), the surety's bail bond shall be exonerated:

(a) if the prosecutor elects in writing not to extradite the defendant immediately; and

(b) if the prosecutor elects in writing to extradite the defendant, to the extent the bail bond exceeds the reasonable, actual, or estimated costs to extradite and return the defendant to the court's custody, upon the occurrence of the earlier of:

(i) the prosecuting attorney's lodging a detainer on the defendant; or

(ii) 60 days after the surety gives notice to the prosecutor under Subsection (1), if the defendant remains in custody of the same authority during that 60-day period.

Section 42. Section 77-20b-104 is amended to read:

77-20b-104. Forfeiture of bail.

(1) If a surety fails to bring the defendant before the court within the time provided in Section 77-20b-102, the prosecuting attorney may request the forfeiture of the bail by:

(a) filing a motion for bail forfeiture with the court, supported by proof of notice to the surety of the defendant's nonappearance; and

(b) mailing a copy of the motion to the surety.

(2) A court shall enter judgment of bail forfeiture without further notice if it finds by a preponderance of the evidence:

(a) the defendant failed to appear as required;

(b) the surety was given notice of the defendant's nonappearance in accordance with Section 77-20b-101;

(c) the surety failed to bring the defendant to the court within the six-month period under Section 77-20b-102; and

(d) the prosecutor has complied with the notice requirements under Subsection (1).

(3) If the surety shows by a preponderance of the evidence that it has failed to bring the defendant before the court because the defendant is deceased through no act of the surety, the court may not enter judgment of bail forfeiture and the bail bond is exonerated.

(4) The amount of bail forfeited is the face amount of the bail bond, but if the defendant is in the custody of another jurisdiction and the state extradites or intends to extradite the defendant, the court may reduce the amount forfeited to the actual or estimated costs of returning the defendant to the court's jurisdiction. A judgment under Subsection (5) shall:

(a) identify the surety against whom judgment is granted;

(b) specify the amount of bail forfeited;

(c) grant the forfeiture of the bail; and

(d) be docketed by the clerk of the court in the civil judgment docket.

(5) A prosecutor may immediately commence collection proceedings to execute a judgment of bail bond forfeiture against the assets of the surety.

Section 43. Section 77-20b-105 is amended to read:

77-20b-105. Revocation of bail bond.

The surety is entitled to obtain the exoneration of its bail bond prior to judgment by providing written proof to the court and the prosecutor that:

(1) the defendant has been booked for failure to appear regarding the charge for which the bail bond was issued; or

(2) the defendant is in custody and the surety has served the defendant's bail bond revocation on the custodial authority.

Section 44. Repealer.

This bill repeals:

Section 77-20-5, Qualifications of sureties -- Justification -- Requirements of undertaking.

CHAPTER 235**S. B. 127**

Passed February 19, 2016

Approved March 23, 2016

Effective May 10, 2016

LABOR COMMISSION AMENDMENTS

Chief Sponsor: Karen Mayne
House Sponsor: James A. Dunnigan

LONG TITLE**General Description:**

This bill modifies provisions related to payment of workers' compensation benefits.

Highlighted Provisions:

This bill:

- ▶ repeals language related to liability for extended benefits;
- ▶ imposes time frames within which claims for reimbursement from the Employers' Reinsurance Fund may be submitted; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

34A-2-416, as last amended by Laws of Utah 2008, Chapter 90

34A-2-703, as last amended by Laws of Utah 2011, Chapter 366

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34A-2-416 is amended to read:**34A-2-416. Additional benefits in special cases.**

~~[(4)]~~ Benefits received by a wholly dependent person under this chapter or Chapter 3, Utah Occupational Disease Act, extend indefinitely if at the termination of the benefits:

~~[(a)]~~ (1) the wholly dependent person is still in a dependent condition; and

~~[(b)]~~ (2) under all reasonable circumstances the wholly dependent person should be entitled to additional benefits.

~~[(2)]~~ ~~If benefits are extended under Subsection (1),~~

~~[(a)]~~ ~~the liability of the employer or insurance carrier involved may not be extended; and]~~

~~[(b)]~~ ~~the additional benefits allowed shall be paid out of the Employers' Reinsurance Fund created in Subsection 34A-2-702(1).]~~

Section 2. Section 34A-2-703 is amended to read:**34A-2-703. Payments from Employers' Reinsurance Fund.**

If an employee, who has at least a 10% whole person permanent impairment from any cause or origin, subsequently incurs an additional impairment by an accident arising out of and in the course of the employee's employment during the period of July 1, 1988, to June 30, 1994, inclusive, and if the additional impairment results in permanent total disability, the employer or its insurance carrier and the Employers' Reinsurance Fund are liable for the payment of benefits as follows:

(1) The employer or its insurance carrier is liable for the first \$20,000 of medical benefits and the initial 156 weeks of permanent total disability compensation as provided in this chapter or Chapter 3, Utah Occupational Disease Act.

(2) Reasonable medical benefits in excess of the first \$20,000 shall be paid in the first instance by the employer or its insurance carrier. Then, as provided in Subsection (5), the Employers' Reinsurance Fund shall reimburse the employer or its insurance carrier for 50% of those expenses.

(3) After the initial 156-week period under Subsection (1), permanent total disability compensation payable to an employee under this chapter or Chapter 3, Utah Occupational Disease Act, becomes the liability of and shall be paid by the Employers' Reinsurance Fund.

(4) If it is determined that the employee is permanently and totally disabled, the employer or its insurance carrier shall be given credit for all prior payments of temporary total, temporary partial, and permanent partial disability compensation made as a result of the industrial accident. ~~[Any]~~ An overpayment by the employer or its insurance carrier shall be reimbursed by the Employers' Reinsurance Fund under Subsection (5).

(5) (a) (i) Upon receipt of a duly verified petition, the Employers' Reinsurance Fund shall reimburse the employer or its insurance carrier for the Employers' Reinsurance Fund's share of medical benefits and compensation paid to or on behalf of an employee.

(ii) A request for Employers' Reinsurance Fund reimbursements shall be accompanied by satisfactory evidence of payment of the medical or disability compensation for which the reimbursement is requested. ~~[Each]~~

(iii) A request is subject to review as to reasonableness by the administrator. The administrator may determine the manner of reimbursement.

(b) A decision of the administrator under Subsection (5)(a) may be appealed in accordance with Part 8, Adjudication.

(c) An employer or its insurance carrier shall submit to the Employers' Reinsurance Fund, by June 30, 2018, a request for reimbursement related to medical benefits or compensation paid on or before July 1, 2016.

(d) An employer or its insurance carrier shall submit to the Employers' Reinsurance Fund a

request for reimbursement related to medical benefits or compensation paid after July 1, 2016, within 24 months of the later of:

(i) the date the benefits or compensation are paid by the employer or its insurance carrier; or

(ii) the date the Employers' Reinsurance Fund is determined to be liable.

(e) Requests for reimbursement not submitted in accordance with Subsection (5)(c) or (5)(d) are considered untimely and the Employers' Reinsurance Fund may not reimburse the benefits or compensation paid.

(6) If, at the time an employee is determined to have a permanent, total disability, the employee has other actionable workers' compensation claims, the employer or insurance carrier that is liable for the last industrial accident resulting in permanent total disability shall be liable for the benefits payable by the employer as provided in this section and Section 34A-2-413. The employee's entitlement to benefits for prior actionable claims shall then be determined separately on the facts of those claims. ~~Any~~ A previous permanent partial disability arising out of those claims shall then be considered to be impairments that may give rise to Employers' Reinsurance Fund liability under this section.

CHAPTER 236**S. B. 131**

Passed March 10, 2016
Approved March 23, 2016
Effective May 10, 2016

**UTAH COLLEGE OF
APPLIED TECHNOLOGY
GOVERNANCE AMENDMENTS**

Chief Sponsor: Stephen H. Urquhart
House Sponsor: Don L. Ipson

LONG TITLE**General Description:**

This bill modifies provisions related to governance of the Utah College of Applied Technology.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ renames a Utah College of Applied Technology college campus an applied technology college;
- ▶ renames the president of the Utah College of Applied Technology the commissioner of technical education;
- ▶ amends the duties of the commissioner of technical education;
- ▶ amends provisions related to the membership of the Utah College of Applied Technology Board of Trustees;
- ▶ establishes a term limit for a member of the Utah College of Applied Technology Board of Trustees;
- ▶ amends provisions related to the appointment of an applied technology college president; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

- 35A-1-206, as last amended by Laws of Utah 2014, Chapters 371 and 387
35A-5-402, as enacted by Laws of Utah 2015, Chapter 273
53A-1-402, as last amended by Laws of Utah 2005, Chapter 227
53A-1a-501.3, as last amended by Laws of Utah 2014, Chapter 363
53A-1a-521, as last amended by Laws of Utah 2014, Chapters 189 and 363
53A-15-102, as last amended by Laws of Utah 1995, Chapter 96
53A-15-202, as last amended by Laws of Utah 2013, Chapter 465
53A-17a-114, as last amended by Laws of Utah 2012, Chapter 288
53B-1-103, as last amended by Laws of Utah 2014, Chapter 88
53B-2-104, as last amended by Laws of Utah 2010, Chapters 211 and 286
53B-2-106, as last amended by Laws of Utah 2009, Chapter 370
53B-2a-101, as last amended by Laws of Utah 2009, Chapter 346
53B-2a-102, as last amended by Laws of Utah

- 2012, Chapter 78
53B-2a-103, as last amended by Laws of Utah 2014, Chapter 128
53B-2a-104, as last amended by Laws of Utah 2013, Chapter 310
53B-2a-105, as last amended by Laws of Utah 2009, Chapter 346
53B-2a-106, as last amended by Laws of Utah 2015, Chapter 404
53B-2a-107, as last amended by Laws of Utah 2009, Chapter 346
53B-2a-108, as last amended by Laws of Utah 2014, Chapter 128
53B-2a-109, as last amended by Laws of Utah 2010, Chapter 286
53B-2a-110, as last amended by Laws of Utah 2013, Chapter 310
53B-2a-112, as last amended by Laws of Utah 2009, Chapter 346
53B-2a-113, as last amended by Laws of Utah 2009, Chapter 346
53B-6-106, as last amended by Laws of Utah 2009, Chapter 370
53B-8d-102, as last amended by Laws of Utah 2008, Chapter 3
53B-16-102, as last amended by Laws of Utah 2009, Chapter 346
53B-17-105, as enacted by Laws of Utah 2014, Chapter 63
59-12-102, as last amended by Laws of Utah 2015, Chapters 182, 294, and 461
63A-9-101, as last amended by Laws of Utah 2008, Chapter 65
63I-2-253, as last amended by Laws of Utah 2015, Chapters 258, 418, and 456
63M-2-202, as last amended by Laws of Utah 2015, Chapter 357
63N-12-203, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-12-212, as renumbered and amended by Laws of Utah 2015, Chapter 283
67-1-12, as last amended by Laws of Utah 1999, Chapter 269

Utah Code Sections Affected by Coordination Clause:

- 35A-1-206, as last amended by Laws of Utah 2014, Chapters 371 and 387

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 35A-1-206 is amended to read:

35A-1-206. State Council on Workforce Services -- Appointment -- Membership -- Terms of members -- Compensation.

(1) There is created a State Council on Workforce Services that shall:

- (a) perform the activities described in Subsection (8);
- (b) advise on issues requested by the department and the Legislature; and
- (c) make recommendations to the department regarding:
 - (i) the implementation of Chapter 2, Economic Service Areas, Chapter 3, Employment Support

Act, and Chapter 5, Training and Workforce Improvement Act; and

(ii) the coordination of apprenticeship training.

(2) (a) The council shall consist of the following voting members:

(i) a private sector representative from each economic service area as designated by the economic service area director;

(ii) the superintendent of public instruction or the superintendent's designee;

(iii) the commissioner of higher education or the commissioner's designee; and

(iv) the following members appointed by the governor in consultation with the executive director:

(A) four representatives of small employers as defined by rule by the department;

(B) four representatives of large employers as defined by rule by the department;

(C) four representatives of employees or employee organizations, including at least one representative from nominees suggested by public employees organizations;

(D) two representatives of the clients served under this title including community-based organizations;

(E) a representative of veterans in the state;

(F) the executive director of the Utah State Office of Rehabilitation; and

(G) the ~~[Applied Technology College president]~~ Utah College of Applied Technology commissioner of technical education.

(b) The following shall serve as nonvoting ex officio members of the council:

(i) the executive director or the executive director's designee;

(ii) a legislator appointed by the governor from nominations of the speaker of the House of Representatives and president of the Senate;

(iii) the executive director of the Department of Human Services;

(iv) the director of the Governor's Office of Economic Development or the director's designee; and

(v) the executive director of the Department of Health.

(3) (a) The governor shall appoint one nongovernmental member from the council as the chair of the council.

(b) The chair shall serve at the pleasure of the governor.

(4) (a) A member appointed by the governor shall serve a term of four years and may be reappointed to one additional term.

(b) A member shall continue to serve until the member's successor has been appointed and qualified.

(c) Except as provided in Subsection (4)(d), as terms of council members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(d) Notwithstanding the requirements of Subsection (4)(c), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately one half of the council is appointed every two years.

(e) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) A majority of the voting members constitutes a quorum for the transaction of business.

(6) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(7) The department shall provide staff and administrative support to the council at the direction of the executive director.

(8) The council shall:

(a) develop a state workforce services plan in accordance with Section 35A-1-207;

(b) review economic service area plans to certify consistency with state policy guidelines;

(c) improve the understanding and visibility of state workforce services efforts through external and internal marketing strategies;

(d) include in the annual written report described in Section 35A-1-109, information and accomplishments related to the activities of the department;

(e) issue other studies, reports, or documents the council considers advisable that are not required under Subsection (8)(d);

(f) coordinate the planning and delivery of workforce development services with public education, higher education, vocational rehabilitation, and human services; and

(g) perform other responsibilities within the scope of workforce services as requested by:

(i) the Legislature;

(ii) the governor; or

(iii) the executive director.

Section 2. Section 35A-5-402 is amended to read:

35A-5-402. Career and Technical Education Board creation -- Membership.

(1) There is created the Career and Technical Education Board, within the department, composed of the following members:

(a) the state superintendent of public instruction or the state superintendent of public instruction's designee;

(b) the commissioner of higher education or the commissioner of higher education's designee;

(c) the ~~president of the~~ Utah College of Applied Technology commissioner of technical education or the ~~president of the~~ Utah College of Applied ~~Technology's~~ Technology commissioner of technical education's designee;

(d) the executive director of the department or the executive director of the department's designee;

(e) the executive director of the Governor's Office of Economic Development or the executive director of the Governor's Office of Economic Development's designee;

(f) one member of the governor's staff, appointed by the governor;

(g) five private sector members, representing business or industry that employs individuals who hold certificates issued by a CTE program, appointed by the governor;

(h) a member of the Senate, appointed by the president of the Senate; and

(i) a member of the House of Representatives, appointed by the speaker of the House of Representatives.

(2) The CTE Board shall select a chair and vice chair from among the members of the CTE Board.

(3) The CTE Board shall meet at least quarterly.

(4) Attendance of a simple majority of the members of the CTE Board constitutes a quorum for the transaction of official CTE Board business.

(5) Formal action by the CTE Board requires the majority vote of a quorum.

(6) A member of the CTE Board:

(a) may not receive compensation or benefits for the member's service; and

(b) may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 3. Section 53A-1-402 is amended to read:

53A-1-402. Board to establish minimum standards for public schools.

(1) The State Board of Education shall establish rules and minimum standards for the public schools that are consistent with this title, including rules and minimum standards governing the following:

(a) (i) the qualification and certification of educators and ancillary personnel who provide direct student services;

(ii) required school administrative and supervisory services; and

(iii) the evaluation of instructional personnel;

(b) (i) access to programs;

(ii) attendance;

(iii) competency levels;

(iv) graduation requirements; and

(v) discipline and control;

(c) (i) school accreditation;

(ii) the academic year;

(iii) alternative and pilot programs;

(iv) curriculum and instruction requirements;

(v) school libraries; and

(vi) services to:

(A) persons with a disability as defined by and covered under:

(I) the Americans with Disabilities Act of 1990, 42 U.S.C. 12102;

(II) the Rehabilitation Act of 1973, 29 U.S.C. 705(20)(A); and

(III) the Individuals with Disabilities Education Act, 20 U.S.C. 1401(3); and

(B) other special groups;

(d) (i) state reimbursed bus routes;

(ii) bus safety and operational requirements; and

(iii) other transportation needs; and

(e) (i) school productivity and cost effectiveness measures;

(ii) federal programs;

(iii) school budget formats; and

(iv) financial, statistical, and student accounting requirements.

(2) The board shall determine if:

(a) the minimum standards have been met; and

(b) required reports are properly submitted.

(3) The board may apply for, receive, administer, and distribute to eligible applicants funds made available through programs of the federal government.

(4) (a) [The] An applied technology college within the Utah College of Applied Technology shall provide competency-based career and technical education courses that fulfill high school graduation requirements, as requested and authorized by the State Board of Education.

(b) A school district may grant a high school diploma to a student participating in courses described under Subsection (4)(a) that are provided by [the] an applied technology college within the Utah College of Applied Technology.

Section 4. Section 53A-1a-501.3 is amended to read:

53A-1a-501.3. Definitions.

As used in this part:

(1) "Asset" means property of all kinds, real and personal, tangible and intangible, and includes:

- (a) cash;
- (b) stock or other investments;
- (c) real property;
- (d) equipment and supplies;
- (e) an ownership interest;
- (f) a license;
- (g) a cause of action; and
- (h) any similar property.

(2) "Board of trustees of a higher education institution" or "board of trustees" means:

- (a) the board of trustees of:
 - (i) the University of Utah;
 - (ii) Utah State University;
 - (iii) Weber State University;
 - (iv) Southern Utah University;
 - (v) Snow College;
 - (vi) Dixie State University;
 - (vii) Utah Valley University; or
 - (viii) Salt Lake Community College; or

(b) the [ampus] board of directors of [a college campus] an applied technology college within the Utah College of Applied Technology.

(3) "Charter agreement" or "charter" means an agreement made in accordance with Section 53A-1a-508, that authorizes the operation of a charter school.

(4) "Charter school authorizer" or "authorizer" means the State Charter School Board, local school board, or board of trustees of a higher education institution that authorizes the establishment of a charter school.

(5) "Governing board" means the board that operates a charter school.

Section 5. Section 53A-1a-521 is amended to read:

53A-1a-521. Charter schools authorized by a board of trustees of a higher education institution -- Application process -- Board of trustees responsibilities.

(1) Subject to the approval of the State Board of Education and except as provided in Subsection (8), an applicant identified in Section 53A-1a-504 may enter into an agreement with a board of trustees of a higher education institution authorizing the applicant to establish and operate a charter school.

(2) (a) An applicant applying for authorization from a board of trustees to establish and operate a charter school shall provide a copy of the application to the State Charter School Board and the local school board of the school district in which the proposed charter school shall be located either before or at the same time the applicant files the application with the board of trustees.

(b) The State Charter School Board and the local school board may review the application and offer suggestions or recommendations to the applicant or the board of trustees before acting on the application.

(c) The board of trustees shall give due consideration to suggestions or recommendations made by the State Charter School Board or the local school board under Subsection (2)(b).

(3) (a) If a board of trustees approves an application to establish and operate a charter school, the board of trustees shall submit the application to the State Board of Education.

(b) The State Board of Education shall, by majority vote, within 60 days of receipt of the application, approve or deny an application approved by a board of trustees.

(c) The State Board of Education's action under Subsection (3)(b) is final action subject to judicial review.

(4) The State Board of Education shall make a rule providing a timeline for the opening of a charter school following the approval of a charter school application by a board of trustees.

(5) After approval of a charter school application, the applicant and the board of trustees shall set forth the terms and conditions for the operation of the charter school in a written charter agreement.

(6) (a) The school's charter may include a provision that the charter school pay an annual fee for the board of trustees' costs in providing oversight of, and technical support to, the charter school in accordance with Subsection (7).

(b) In the first two years that a charter school is in operation, an annual fee described in Subsection (6)(a) may not exceed the product of 3% of the revenue the charter school receives from the state in the current fiscal year.

(c) Beginning with the third year that a charter school is in operation, an annual fee described in Subsection (6)(a) may not exceed the product of 1%

of the revenue a charter school receives from the state in the current fiscal year.

(d) An annual fee described in Subsection (6)(a) shall be:

(i) paid to the board of trustees' higher education institution; and

(ii) expended as directed by the board of trustees.

(7) A board of trustees shall:

(a) annually review and evaluate the performance of charter schools authorized by the board of trustees and hold the schools accountable for their performance;

(b) monitor charter schools authorized by the board of trustees for compliance with federal and state laws, rules, and regulations; and

(c) provide technical support to charter schools authorized by the board of trustees to assist them in understanding and performing their charter obligations.

(8) (a) In addition to complying with the requirements of this section, a [campus] board of directors of [~~a college campus~~] an applied technology college within the Utah College of Applied Technology shall obtain the approval of the Utah College of Applied Technology Board of Trustees before entering into an agreement to establish and operate a charter school.

(b) If a [campus] board of directors of [~~a college campus with~~] an applied technology college within the Utah College of Applied Technology approves an application to establish and operate a charter school, the [~~campus board of directors of the college campus~~] applied technology college board of directors shall submit the application to the Utah College of Applied Technology Board of Trustees.

(c) The Utah College of Applied Technology Board of Trustees shall, by majority vote, within 60 days of receipt of the application, approve or deny the application approved by the [campus] applied technology college board of directors.

(d) The Utah College of Applied Technology Board of Trustees may deny an application approved by [~~a campus~~] an applied technology college board of directors if the proposed charter school does not accomplish a purpose of charter schools as provided in Section 53A-1a-503.

(e) A charter school application may not be denied on the basis that the establishment of the charter school will have any or all of the following impacts on a public school, including another charter school:

(i) an enrollment decline;

(ii) a decrease in funding; or

(iii) a modification of programs or services.

(9) (a) Subject to the requirements of this part, [~~campus board of directors of a college campus within the Utah College of Applied Technology~~] an

applied technology college board of directors may establish:

(i) procedures for submitting applications to establish and operate a charter school [~~to a campus board of directors of a college campus within the Utah College of Applied Technology~~]; and

(ii) criteria for [~~a campus board of directors'~~] approval of an application to establish and operate a charter school.

(b) The Utah College of Applied Technology Board of Trustees may not establish policy governing the procedures or criteria described in Subsection (9)(a).

(10) Before [~~a board of trustees~~] an applied technology college board of directors accepts a charter school application, the [~~board of trustees~~] applied technology college board of directors shall, in accordance with State Board of Education rules, establish and make public [~~the board of trustees'~~]:

(a) application requirements, in accordance with Section 53A-1a-504;

(b) application process, including timelines, in accordance with this section; and

(c) minimum academic, financial, and enrollment standards.

Section 6. Section 53A-15-102 is amended to read:

53A-15-102. Early graduation incentives -- Incentive to school district -- Partial tuition scholarship for student -- Payments.

(1) Any secondary public school student who has completed all required courses or demonstrated mastery of required skills and competencies may, with the approval of the student, the student's parent or guardian, and an authorized local school official, graduate at any time.

(2) Each public high school shall receive an amount equal to 1/2 of the scholarship awarded to each student who graduates from the school at or prior to the conclusion of the eleventh grade, or a proportionately lesser amount for any student who graduates after the conclusion of the eleventh grade but prior to the conclusion of the twelfth grade.

(3) (a) A student who graduates from high school at or prior to the conclusion of the eleventh grade shall receive a centennial scholarship in the lesser amount of full tuition for one year or \$1,000 to be used for full time enrollment at a Utah public college, university, community college, [~~applied technology center~~] applied technology college within the Utah College of Applied Technology, or any other institution in the state of Utah, accredited by the Northwest Association of Schools and Colleges that offers postsecondary courses of the student's choice upon verification that the student has registered at the institution during the fiscal year following graduation from high school.

(b) In the case of a student who graduates after the conclusion of the eleventh grade but prior to the

conclusion of the twelfth grade, the student shall receive a centennial scholarship of a proportionately lesser amount.

(4) (a) The payments authorized in Subsections (2) and (3)(a) shall be made during the fiscal year that follows the student's graduation.

(b) The payments authorized in Subsection (3)(b) may be made during the fiscal year in which the student graduates or the fiscal year following the student's graduation.

(5) (a) The State Board of Education shall administer the payment program authorized in Subsections (2), (3), and (4).

(b) (i) The Legislature shall make an annual appropriation from the Uniform School Fund to the State Board of Education for the costs associated with the Centennial Scholarship Program based on the projected number of students who will graduate before the conclusion of the twelfth grade in any given year.

(ii) It is understood that the appropriation is offset by the state money that would otherwise be required and appropriated for these students if they were enrolled in an additional grade for a full year.

Section 7. Section 53A-15-202 is amended to read:

53A-15-202. Powers of the board.

The State Board of Education:

(1) shall establish minimum standards for career and technical education programs in the public education system;

(2) may apply for, receive, administer, and distribute funds made available through programs of federal and state governments to promote and aid career and technical education;

(3) shall cooperate with federal and state governments to administer programs which promote and maintain career and technical education;

(4) shall cooperate with the Utah College of Applied Technology, Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern to ensure that students in the public education system have access to career and technical education at Utah College of Applied Technology [~~campuses~~] applied technology colleges, Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern;

(5) shall require that before a minor student may participate in clinical experiences as part of a health care occupation program at a high school or other institution to which the student has been referred, the student's parent or legal guardian has:

(a) been first given written notice through appropriate disclosure when registering and prior to participation that the program contains a clinical experience segment in which the student will observe and perform specific health care procedures

that may include personal care, patient bathing, and bathroom assistance; and

(b) provided specific written consent for the student's participation in the program and clinical experience; and

(6) shall, after consulting with school districts, charter schools, the Utah College of Applied Technology, Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern, prepare and submit an annual report to the governor and to the Legislature's Education Interim Committee by October 31 of each year detailing:

(a) how the career and technical education needs of secondary students are being met; and

(b) what access secondary students have to programs offered:

(i) at applied technology colleges; and

(ii) within the regions served by Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern.

Section 8. Section 53A-17a-114 is amended to read:

53A-17a-114. Career and technical education program alternatives.

(1) A secondary student may attend [~~a campus of~~] an applied technology college within the Utah College of Applied Technology [~~created under Title 53B, Chapter 2a, Utah College of Applied Technology,~~] if the secondary student's career and technical education goals are better achieved by attending [~~the Utah College of Applied Technology~~] an applied technology college as determined by:

(a) the secondary student; and

(b) if the secondary student is a minor, the secondary student's parent or legal guardian.

(2) [~~Beginning with the school year that occurs during the fiscal year that begins on July 1, 2011 and ends on June 30, 2012, a~~] A secondary student served under this section [~~in a campus of~~] by an applied technology college within the Utah College of Applied Technology shall be counted in the average daily membership of the sending school district or charter school.

Section 9. Section 53B-1-103 is amended to read:

53B-1-103. Establishment of State Board of Regents -- Powers and authority.

(1) There is established a State Board of Regents.

(2) (a) Except as provided in Subsection (2)(b), the board is vested with the control, management, and supervision of the institutions of higher education designated in Section 53B-1-102 in a manner consistent with the policy and purpose of this title and the specific powers and responsibilities granted to it.

(b) The board may only exercise powers relating to the Utah College of Applied Technology and [~~its~~

college campuses] applied technology colleges within the Utah College of Applied Technology that are specifically provided in this title.

(c) The board shall coordinate and support articulation agreements between the Utah College of Applied Technology or applied technology colleges within the Utah College of Applied Technology and other institutions of higher education.

(d) The board shall prepare and submit an annual report detailing its progress and recommendations on career and technical education issues to the governor and to the Legislature's Education Interim Committee by October 31 of each year, which shall include information detailing:

(i) how the career and technical education needs of secondary students are being met by institutions of higher education other than applied technology colleges within the Utah College of Applied Technology, including what access secondary students have to programs offered by Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern;

(ii) how the emphasis on high demand, high wage, and high skill jobs in business and industry is being provided;

(iii) performance outcomes, including:

(A) entered employment;

(B) job retention; and

(C) earnings; and

(iv) student tuition and fees.

(e) Except for the Utah College of Applied Technology, the board may modify the name of an institution under its control and management, as designated in Section 53B-1-102, to reflect the role and general course of study of the institution.

(f) The board may not conduct a feasibility study or perform another act relating to merging any of the following institutions with another institution of higher education:

(i) [the] Bridgerland Applied Technology College [Campus];

(ii) [the] Ogden-Weber Applied Technology College [Campus];

(iii) [the] Davis Applied Technology College [Campus];

(iv) [the] Tooele Applied Technology College [Campus];

(v) [the] Mountainland Applied Technology College [Campus];

(vi) [the] Uintah Basin Applied Technology College [Campus];

(vii) [the] Southwest Applied Technology College [Campus]; and

(viii) [the] Dixie Applied Technology College [Campus].

(3) This section does not affect the power and authority vested in the State Board of Education to apply for, accept, and manage federal appropriations for the establishment and maintenance of career and technical education.

(4) The board shall conduct a study regarding the feasibility of providing a veterans' walk-in center or services at each state institution of higher education. The study shall include:

(a) an implementation plan for providing a walk-in center or services at each institution of higher education;

(b) criteria, based upon the size of the institution, to determine whether the institution should be required to provide a walk-in center or services;

(c) responsibilities of the walk-in center or services;

(d) a notification process about the walk-in center or services to veterans upon their application for admission;

(e) the possibility of staffing a veterans walk-in center or services with veterans, including through work-study positions to be filled by veterans;

(f) annual reports from each walk-in center and services to the board which includes summary information of veterans served; and

(g) funding requirements for a veterans walk-in center and services.

(5) Presentation of the study, including the implementation plan with funding and other recommendations, shall be made to a legislative committee, commission, or task force upon request no later than the October 2014 interim meeting.

Section 10. Section 53B-2-104 is amended to read:

53B-2-104. Memberships of board of trustees -- Terms -- Vacancies -- Oath -- Officers -- Bylaws -- Quorum -- Committees -- Compensation.

(1) (a) The board of trustees of an institution of higher education consists of the following:

(i) except as provided in Subsection 53B-18-1201(3)(b), eight persons appointed by the governor and approved by the Senate; and

(ii) two ex officio members who are the president of the institution's alumni association, and the president of the associated students of the institution.

(b) The appointed members of the boards of trustees for Utah Valley University and Salt Lake Community College shall be representative of the interests of business, industry, and labor.

(2) (a) The governor shall appoint four members of each board of trustees during each odd-numbered year to four-year terms commencing on July 1 of the year of appointment.

(b) An appointed member holds office until a successor is appointed and qualified.

(c) The ex officio members serve for the same period as they serve as presidents and until their successors have qualified.

(3) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(4) (a) Each member shall take the official oath of office prior to assuming the office.

(b) The oath shall be filed with the Division of Archives and Records Services.

(5) Each board of trustees shall elect a chair and vice chair, who serve for two years and until their successors are elected and qualified.

(6) (a) Each board of trustees may enact bylaws for its own government, including provision for regular meetings.

(b) (i) The board of trustees may provide for an executive committee in its bylaws.

(ii) If established, the committee shall have full authority of the board of trustees to act upon routine matters during the interim between board of trustees meetings.

(iii) The committee may act on nonroutine matters only under extraordinary and emergency circumstances.

(iv) The committee shall report its activities to the board of trustees at its next regular meeting following the action.

(c) Copies of the board of trustees' bylaws shall be filed with the board.

(7) A quorum is required to conduct business and consists of six members.

(8) A board of trustees may establish advisory committees.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(10) This section does not apply to a board of directors of an applied technology college within the Utah College of Applied Technology.

Section 11. Section 53B-2-106 is amended to read:

53B-2-106. Duties and responsibilities of the president of each institution -- Approval by board of trustees.

(1) (a) The president of each institution may exercise grants of power and authority as delegated by the board, as well as the necessary and proper exercise of powers and authority not specifically

denied to the institution, its administration, faculty, or students by the board or by law, to assure the effective and efficient administration and operation of the institution consistent with the statewide master plan for higher education.

(b) The president of each institution may, after consultation with the institution's board of trustees, exercise powers relating to the institution's employees, including faculty and persons under contract with the institution, by implementing any of the following:

(i) furloughs;

(ii) reductions in force;

(iii) benefit adjustments;

(iv) program reductions or discontinuance;

(v) early retirement incentives that provide cost savings to the institution; and

(vi) other measures that provide cost savings to the institution.

(2) Except as provided by the board, the president of each institution, with the approval of the institution's board of trustees may:

(a) (i) appoint a secretary, a treasurer, administrative officers, deans, faculty members, and other professional personnel, prescribe their duties, and determine their salaries;

(ii) appoint support personnel, prescribe their duties, and determine their salaries from the institution's position classification plan, which may:

(A) be based upon similarity of duties and responsibilities within the institution; and

(B) as funds permit, provide salary and benefits comparable with private enterprise;

(iii) adopt policies for:

(A) employee sick leave use and accrual; and

(B) service recognition for employees with more than 15 years of employment with the institution; and

(iv) subject to the authority of, policy established by, and the approval of the board of regents, and recognizing the status of the institutions within the state system of higher education as bodies politic and corporate, appoint attorneys to provide legal advice to the institution's administration and to coordinate legal affairs within the institution. The board of regents shall coordinate activities of attorneys at the institutions of higher education. The institutions shall provide an annual report to the board of regents on the activities of appointed attorneys. These appointed attorneys may not conduct litigation, settle claims covered by the State Risk Management Fund, or issue formal legal opinions but shall, in all respects, cooperate with the Office of the Attorney General in providing legal representation to the institution;

(b) provide for the constitution, government, and organization of the faculty and administration, and

enact implementing rules, including the establishment of a prescribed system of tenure;

(c) authorize the faculty to determine the general initiation and direction of instruction and of the examination, admission, and classification of students. In recognition of the diverse nature and traditions of the various institutions governed by the board, the systems of faculty government need not be identical but should be designed to further faculty identification with and involvement in the institution's pursuit of achievement and excellence and in fulfillment of the institution's role as established in the statewide master plan for higher education; and

(d) enact rules for administration and operation of the institution which are consistent with the prescribed role established by the board, rules enacted by the board, or the laws of the state. The rules may provide for administrative, faculty, student, and joint committees with jurisdiction over specified institutional matters, for student government and student affairs organization, for the establishment of institutional standards in furtherance of the ideals of higher education fostered and subscribed to by the institution, its administration, faculty, and students, and for the holding of classes on legal holidays, other than Sunday.

(3) Compensation costs and related office expenses for appointed attorneys shall be funded within existing budgets.

(4) The State Board of Regents shall establish guidelines relating to the roles and relationships between institutional presidents and boards of trustees, including those matters which must be approved by a board of trustees before implementation by the president.

(5) This section does not apply to a president of an applied technology college within the Utah College of Applied Technology.

Section 12. Section 53B-2a-101 is amended to read:

53B-2a-101. Definitions.

As used in this chapter:

(1) "Applied technology college" means a member college of the Utah College of Applied Technology.

(1) (2) "Board of trustees" means the Utah College of Applied Technology Board of Trustees.

(2) "College campus" means a college campus of the Utah College of Applied Technology.

(3) "Commissioner of technical education" means the Utah College of Applied Technology commissioner of technical education.

(3) (4) "Competency-based" means mastery of subject matter or skill level, as demonstrated through business and industry approved standards and assessments, achieved through participation in a hands-on learning environment, and which is tied to observable, measurable performance objectives.

(5) "Member" means a member of the board of trustees.

(4) (6) "Open-entry, open-exit" means:

(a) a method of instructional delivery that allows for flexible scheduling in response to individual student needs or requirements and demonstrated competency when knowledge and skills have been mastered;

(b) students have the flexibility to begin or end study at any time, progress through course material at their own pace, and demonstrate competency when knowledge and skills have been mastered; and

(c) if competency is demonstrated in a program of study, a credential, certificate, or diploma may be awarded.

Section 13. Section 53B-2a-102 is amended to read:

53B-2a-102. Commissioner of technical education -- Appointment -- Duties.

(1) (a) The board of trustees, upon approval from the governor and with the consent of the Senate [for each appointee nominated on or after May 8, 2012], shall appoint a [president for the Utah College of Applied Technology] commissioner of technical education to serve as the board of trustees' chief executive officer.

~~(b) The president of the Utah College of Applied Technology does not need to have a doctorate degree, but shall~~

(b) The commissioner of technical education shall:

(i) have an appropriate and relevant educational background; and

(ii) have extensive experience in career and technical education.

(c) The [president] commissioner of technical education shall serve at the board of trustees' discretion and may be terminated by:

(i) the board of trustees; or

(ii) the governor, after consultation with the board of trustees.

(d) If the board of trustees intends to appoint an interim or acting commissioner of technical education during a leave of absence of the commissioner of technical education, the board of trustees shall appoint the interim or acting commissioner of technical education with the consent of the Senate.

~~(d) (e) The name of each final candidate for president of the Utah College of Applied Technology] commissioner of technical education shall be publicly disclosed.~~

~~(2) The president shall:~~

~~(a) direct the Utah College of Applied Technology and coordinate the activities of each of its college campuses;~~

~~[(b) in consultation with the board of trustees, campus presidents, and campus boards of directors, prepare a comprehensive strategic plan for delivering career and technical education through the Utah College of Applied Technology college campuses;]~~

~~[(c) after consulting with school districts, charter schools, and other higher education institutions in the regions, ensure that the curricula of the Utah College of Applied Technology meet the needs of the state, the regions, the school districts, and charter schools;]~~

~~[(d) in consultation with the board of trustees, campus presidents, and campus boards of directors, and after consulting with school districts, charter schools, and other higher education institutions in the region, develop strategies for providing career and technical education in rural areas, specifically considering the distances between rural career and technical education providers;]~~

~~[(e) establish minimum standards for career and technical education programs of the Utah College of Applied Technology college campuses;]~~

~~[(f) in conjunction with the board of trustees:]~~

~~[(i) develop and implement a system of common definitions, standards, and criteria for tracking and measuring the effectiveness of career and technical education;]~~

~~[(ii) maintain a central administration office for coordination, prioritization, support, and reporting of college functions dealing with:]~~

~~[(A) budgets and audits;]~~

~~[(B) facilities, including capital, capital development, and leases;]~~

~~[(C) management information systems;]~~

~~[(D) campus and college master planning efforts;]~~

~~[(E) strategic planning;]~~

~~[(F) articulation with institutions of higher education and public education;]~~

~~[(G) legislative, State System of Public Education, State System of Higher Education, and Board of Regents contact;]~~

~~[(H) general data collection; and]~~

~~[(I) programs, certificates, and curriculum; and]~~

~~[(iii) develop and implement a plan to inform citizens about the availability, cost, and advantages of career and technical education;]~~

~~[(g) after consulting with the State Board of Education, school districts, and charter schools, ensure that secondary students in the public education system have access to career and technical education through the Utah College of Applied Technology college campuses;]~~

~~[(h) in conjunction with the board of trustees, establish benchmarks, provide oversight, evaluate program performance, and obtain independent audits to ensure that college campuses follow the~~

~~non-credit career and technical education mission described in this part; and]~~

~~[(i) with the approval of the board of trustees, appoint each campus president in accordance with Section 53B-2a-107 and annually set the compensation of each campus president.]~~

~~(2) The board of trustees shall:~~

~~(a) set the salary of the commissioner of technical education;~~

~~(b) prescribe the duties and functions of the commissioner of technical education; and~~

~~(c) select a commissioner of technical education on the basis of outstanding professional qualifications.~~

~~(3) The commissioner of technical education is responsible to the board of trustees to:~~

~~(a) ensure that the policies and programs of the board of trustees are properly executed;~~

~~(b) furnish information about the Utah College of Applied Technology and make recommendations regarding the information to the board of trustees;~~

~~(c) provide state-level leadership in an activity affecting an applied technology college; and~~

~~(d) perform other duties as assigned by the board of trustees in carrying out the board of trustees' duties and responsibilities.~~

Section 14. Section 53B-2a-103 is amended to read:

53B-2a-103. Utah College of Applied Technology Board of Trustees -- Membership -- Terms -- Vacancies -- Oath -- Officers -- Quorum -- Committees -- Compensation.

(1) There is created the Utah College of Applied Technology Board of Trustees[.].

(2) Except as provided in Subsections (3) and (4), the board of trustees is composed of the following members:

(a) one member of the State Board of Education appointed by the chair of the State Board of Education, to serve as a nonvoting member;

(b) one member of the State Board of Regents appointed by the chair of the State Board of Regents, to serve as a nonvoting member;

(c) one member, representing business and industry employers from [the campus] each applied technology college board of directors [of each applied technology college campus], appointed by a majority vote of the business and industry employer members of the [campus board] applied technology college board of directors;

(d) one member representing business and industry employers from the Snow College Economic Development and Workforce Preparation Advisory Committee appointed by a majority of the business and industry employer members of the advisory committee;

(e) one member representing business and industry employers from the Utah State University Eastern career and technical education advisory committee appointed by a majority of the business and industry employer members of the advisory committee;

(f) one member representing business and industry employers from the Salt Lake Community College School of Applied Technology Board of Directors appointed by a majority of the business and industry employer members of the board of directors;

(g) one business or industry employer representative appointed by the governor with the consent of the Senate from nominations submitted by the speaker of the House of Representatives and president of the Senate;

(h) one representative of union craft, trade, or apprenticeship programs that prepare workers for employment in career and technical education fields, appointed by the governor with the consent of the Senate;

(i) one representative of non-union craft, trade, or apprenticeship programs that prepare workers for employment in career and technical education fields, appointed by the governor with the consent of the Senate; and

(j) the executive director of the Governor's Office of Economic Development or the executive director's designee.

~~(2) (a) In making appointments to the board of trustees, the governor shall consider:~~

(3) (a) Beginning on July 1, 2019, the board of trustees is composed of 15 voting members appointed by the governor with the consent of the Senate, as follows:

(i) one member representing each applied technology college, selected from at least two nominees presented to the governor by the board of directors of each applied technology college; and

(ii) one member representing each of the following sectors:

(A) information technology;

(B) manufacturing;

(C) life sciences;

(D) health care;

(E) transportation;

(F) union craft, trade, or apprenticeship; and

(G) non-union craft, trade, or apprenticeship.

(b) The seven members described in Subsection (3)(a)(i) shall be selected from the state at large, subject to the following conditions:

(i) at least four members shall reside in a geographic area served by an applied technology college described in Section 53B-2a-105; and

(ii) no more than two members may reside in a single geographic area served by an applied technology college described in Section 53B-2a-105.

~~(i) individuals from the state at large with due consideration for geographical representation;~~

~~(ii) individuals recognized for their knowledge and expertise; and~~

~~(iii) individuals who represent current and emerging business and industry sectors of the state.~~

~~(b) Appointments]~~

(c) (i) In addition to the 15 voting members described in Subsection (3)(a), one member of the Board of Regents, appointed by the chair of the Board of Regents, shall serve as a nonvoting member of the board of trustees.

(ii) The nonvoting member from the Board of Regents is not subject to the term limit described in Subsection (5)(b).

(d) The governor shall make appointments to the board ~~shall be made~~ of trustees on a nonpartisan basis.

(4) (a) Except as provided in Subsection (4)(d), to transition from the composition of the board of trustees described in Subsection (2) to the composition described in Subsection (3), for a member who was appointed to the board of trustees on or before May 10, 2016, the governor shall appoint a replacement:

(i) when the member's current term expires, for a member who, on May 10, 2016, has served less than two consecutive full terms on the board of trustees; or

(ii) on May 10, 2016, for a member who, on May 10, 2016, has served two or more consecutive full terms on the board of trustees.

(b) In replacing a member who was appointed under Subsection (2)(c), the governor shall appoint a member to represent the applied technology college represented by the member whose term expires by:

(i) soliciting the applied technology college's board of directors to nominate at least two individuals for the position; and

(ii) selecting from the nominees presented.

(c) In replacing a member who was appointed under Subsections (2)(d) through (2)(j), the governor shall appoint a new member at large, ensuring representation from the sectors described in Subsection (3)(a)(ii).

(d) (i) A member appointed under Subsection (2)(a) shall remain on the board of trustees until June 30, 2019.

(ii) A member appointed under Subsection (2)(b) may remain on the board following the transition to the board composition described in Subsection (3).

(e) In making an appointment under this Subsection (4), the governor:

(i) shall appoint a member on a nonpartisan basis; and

(ii) may not reappoint the member who is being replaced if the member has served on the board of trustees for at least two consecutive full terms.

~~[(3)-(a)] (5) (a) (i) Except as provided under Subsection [(3)(b), members of the board of trustees] (5)(a)(ii), a member shall be appointed commencing on July 1 of each odd-numbered year to a four-year term.~~

~~[(b) Initial terms of the board members beginning on July 1, 2009 shall be staggered with two-year and four-year terms so that]~~

(ii) The governor shall ensure that member terms are staggered so that approximately one-half of the members' terms [will] expire in any odd-numbered year.

~~[(e) An appointed member holds office until a successor is appointed and qualified.]~~

(b) A member may not hold office for more than two consecutive full terms.

~~[(4)] (6) When a vacancy occurs [in] on the [membership] board of trustees for any reason, the governor shall appoint a replacement [shall be appointed] for the unexpired term.~~

~~[(5)] (7) (a) Each member shall take the official oath of office prior to assuming the office.~~

(b) The oath shall be filed with the Division of Archives and Records Services.

~~[(6)] (8) (a) The board of trustees shall elect a chair and vice chair, who serve for two years and until their successors are elected and qualified.~~

(b) A member may not serve more than two consecutive terms as the chair or vice chair.

~~[(7)] (9) (a) The board of trustees [may] shall enact bylaws for [its] the board of trustees' own government, including [provision] provisions for regular meetings.~~

(b) (i) The board of trustees [may] shall provide for an executive committee in [its] the board of trustees' bylaws.

(ii) [If established, the] The executive committee shall have full authority of the board of trustees to act upon routine matters during the interim between board of trustees meetings.

(iii) The executive committee may act on nonroutine matters only under extraordinary and emergency circumstances.

(iv) The executive committee shall report its activities to the board of trustees at [its] the board of trustees' next regular meeting following the executive committee's action.

~~[(8)] (10) A quorum shall be required to conduct business which shall consist of a majority of voting board of trustee members.~~

~~[(9)] (11) The board of trustees may establish advisory committees.~~

~~[(10)] (12) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:~~

~~(a) Section 63A-3-106;~~

~~(b) Section 63A-3-107; and~~

~~(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.~~

Section 15. Section 53B-2a-104 is amended to read:

53B-2a-104. Utah College of Applied Technology Board of Trustees -- Powers and duties.

(1) The Utah College of Applied Technology Board of Trustees is vested with the control, management, and supervision of applied technology colleges within the Utah College of Applied Technology [college campuses] in a manner consistent with the policy and purpose of this title and the specific powers and responsibilities granted to [it] the board of trustees.

(2) The [Utah College of Applied Technology Board of Trustees] board of trustees shall:

(a) ensure that [the Utah College of Applied Technology] an applied technology college [campuses comply] complies with the requirements in Section 53B-2a-106;

(b) appoint the [president for the Utah College of Applied Technology] commissioner of technical education in accordance with Section 53B-2a-102;

(c) advise the [president of the Utah College of Applied Technology] commissioner of technical education and the State Board of Regents on issues related to career and technical education, including articulation with institutions of higher education and public education;

(d) ensure that a secondary student in the public education system has access to career and technical education through an applied technology college in the secondary student's service region;

(e) in consultation with the State Board of Education, the State Board of Regents, and applied technology college presidents, develop strategies for providing career and technical education in rural areas, considering distances between rural career and technical education providers;

~~[(d)] (f) receive budget requests from each applied technology college [campus], compile and prioritize the requests, and submit the request to:~~

~~(i) the Legislature; and~~

~~(ii) the Governor's Office of Management and Budget;~~

~~[(e)] (g) receive funding requests pertaining to capital facilities and land purchases from each applied technology college [campus], ensure that~~

the requests comply with Section 53B-2a-112, prioritize the requests, and submit the prioritized requests to the State Building Board;

~~[(4)]~~ (h) in conjunction with the ~~[Utah College of Applied Technology president]~~ commissioner of technical education, establish benchmarks, provide oversight, evaluate program performance, and obtain independent audits to ensure that ~~[campuses follow]~~ an applied technology college follows the non-credit career and technical education mission described in this part;

~~[(4)]~~ (i) approve programs for the Utah College of Applied Technology;

~~[(4)]~~ (j) approve the tuition rates for applied technology colleges within the Utah College of Applied Technology;

~~[(4)]~~ (k) prepare and submit an annual report detailing ~~[its]~~ the board of trustees' progress and recommendations on career and technical education issues to the governor and to the Legislature's Education Interim Committee by October 31 of each year, which shall include information detailing:

(i) how the career and technical education needs of secondary students are being met, including what access secondary students have to programs offered at ~~[college campuses]~~ applied technology colleges;

(ii) how the emphasis on high demand, high wage, and high skill jobs in business and industry described in ~~[Subsection]~~ Section 53B-2a-106~~[(1)(e)(ii)]~~ is being provided;

(iii) performance outcomes, including:

(A) entered employment;

(B) job retention; and

(C) earnings; and

(iv) student tuition and fees; and

~~[(4)]~~ (l) collaborate with the State Board of Regents, the State Board of Education, the state system of public education, the state system of higher education, the Department of Workforce Services, and the Governor's Office of Economic Development on the delivery of career and technical education.

~~[(3) The Utah College of Applied Technology Board of Trustees, the president of the Utah College of Applied Technology, and the Utah College of Applied Technology's college campuses, presidents, and boards]~~

(3) The board of trustees, the commissioner of technical education, or an applied technology college, president, or board of directors may not conduct a feasibility study or perform another act relating to offering a degree or awarding credit.

Section 16. Section 53B-2a-105 is amended to read:

53B-2a-105. Utah College of Applied Technology -- Composition.

The Utah College of Applied Technology is composed of the following ~~[college campuses]~~ applied technology colleges:

(1) ~~[the]~~ Bridgerland Applied Technology College ~~[Campus]~~, which serves the geographic area encompassing:

(a) the Box Elder School District;

(b) the Cache School District;

(c) the Logan School District; and

(d) the Rich School District;

(2) ~~[the]~~ Ogden-Weber Applied Technology College ~~[Campus]~~, which serves the geographic area encompassing:

(a) the Ogden City School District; and

(b) the Weber School District;

(3) ~~[the]~~ Davis Applied Technology College ~~[Campus]~~, which serves the geographic area encompassing:

(a) the Davis School District; and

(b) the Morgan School District;

(4) ~~[the]~~ Tooele Applied Technology College ~~[Campus]~~, which serves the geographic area encompassing the Tooele County School District;

(5) ~~[the]~~ Mountainland Applied Technology College ~~[Campus]~~, which serves the geographic area encompassing:

(a) the Alpine School District;

(b) the Nebo School District;

(c) the Provo School District;

(d) the South Summit School District;

(e) the North Summit School District;

(f) the Wasatch School District; and

(g) the Park City School District;

(6) ~~[the]~~ Uintah Basin Applied Technology College ~~[Campus]~~, which serves the geographic area encompassing:

(a) the Daggett School District;

(b) the Duchesne School District; and

(c) the Uintah School District;

(7) ~~[the]~~ Southwest Applied Technology College ~~[Campus]~~, which serves the geographic area encompassing:

(a) the Beaver School District;

(b) the Garfield School District;

(c) the Iron School District; and

(d) the Kane School District; and

(8) ~~[the]~~ Dixie Applied Technology College ~~[Campus]~~, which serves the geographic area encompassing the Washington School District.

Section 17. Section 53B-2a-106 is amended to read:

53B-2a-106. Applied technology colleges -- Duties.

(1) Each applied technology college within the Utah College of Applied Technology [~~college campus~~] shall, within the geographic area served by the applied technology college [~~campus~~]:

(a) offer a non-credit post-secondary and secondary career and technical education curriculum;

(b) offer that curriculum at:

(i) low cost to adult students, as approved by the board of trustees; and

(ii) no tuition to secondary students;

(c) provide career and technical education that will result in:

(i) appropriate licensing, certification, or other evidence of completion of training; and

(ii) qualification for specific employment, with an emphasis on high demand, high wage, and high skill jobs in business and industry;

(d) develop cooperative agreements with school districts, charter schools, other higher education institutions, businesses, industries, and community and private agencies to maximize the availability of instructional facilities within the geographic area served by the applied technology college [~~campus~~]; and

(e) after consulting with school districts and charter schools within the geographic area served by the applied technology college [~~campus~~]:

(i) ensure that secondary students in the public education system have access to career and technical education at [~~each college campus~~] the applied technology college; and

(ii) prepare and submit an annual report to the [~~Utah College of Applied Technology~~] board of trustees detailing:

(A) how the career and technical education needs of secondary students within the region are being met;

(B) what access secondary students within the region have to programs offered at [~~college campuses~~] the applied technology college;

(C) how the emphasis on high demand, high wage, high skill jobs in business and industry described in Subsection (1)(c)(ii) is being provided; and

(D) student tuition and fees.

(2) [A] An applied technology college [~~campus~~] may offer:

(a) a competency-based high school diploma approved by the State Board of Education in accordance with Section 53A-1-402;

(b) non-credit, basic instruction in areas such as reading, language arts, and mathematics that are necessary for student success in a chosen career and technical education or job-related program;

(c) non-credit courses of interest when similar offerings to the community are limited and courses are financially self-supporting; and

(d) secondary school level courses through the Statewide Online Education Program in accordance with Section 53A-15-1205.

(3) Except as provided in Subsection (2)(d), [a ~~college campus~~] an applied technology college may not:

(a) offer courses other than non-credit career and technical education or the non-credit, basic instruction described in Subsections (2)(b) and (c);

(b) offer a degree;

(c) offer career and technical education or basic instruction outside the geographic area served by the [~~college campus~~] applied technology college without a cooperative agreement between an affected institution, except as provided in Subsection (6);

(d) provide tenure or academic rank for its instructors; [~~and~~] or

(e) participate in intercollegiate athletics.

(4) The mission of [a ~~college campus~~] an applied technology college is limited to non-credit career and technical education and may not expand to include credit-based academic programs typically offered by community colleges or other institutions of higher education.

(5) [A ~~campus~~] An applied technology college shall be recognized as a [~~college campus~~] member applied technology college of the Utah College of Applied Technology, and regional affiliation shall be retained and recognized through local designations such as "Bridgerland Applied Technology College: A member applied technology college of the Utah College of Applied Technology [~~Campus~~]."

(6) (a) [A ~~college campus~~] An applied technology college may offer career and technical education or basic instruction outside the geographic area served by the [~~college campus~~] applied technology college without a cooperative agreement, as required in Subsection (3)(c), if:

(i) the career and technical education or basic instruction is specifically requested by:

(A) an employer; or

(B) a craft, trade, or apprenticeship program;

(ii) the [~~college campus~~] applied technology college notifies the affected institution about the request; and

(iii) the affected institution is given an opportunity to make a proposal, prior to any contract being finalized or training being initiated by the applied technology college [~~campus~~], to the employer, craft, trade, or apprenticeship program about offering the requested career and technical education or basic instruction, provided that the proposal shall be presented no later than one business week from the delivery of the notice described under Subsection (6)[~~(b)~~](a)(ii).

(b) The requirements under Subsection (6)(a)(iii) do not apply if there is a prior training relationship.

Section 18. Section 53B-2a-107 is amended to read:

53B-2a-107. Applied technology college presidents -- Appointments -- Duties.

(1) (a) ~~The [president of the Utah College of Applied Technology] board of trustees shall, after consultation with [a campus] an applied technology college board of directors [and with the approval of the board of trustees, appoint a campus], appoint an applied technology college president for [a college campus] an applied technology college.~~

(b) The board of trustees shall establish a policy for appointing an applied technology college president that:

(i) requires the board of trustees to create a search committee that:

(A) shall include an equal number of board of trustee members and members from the applied technology college board of directors; and

(B) may include applied technology college faculty, students, or other individuals;

(ii) requires the search committee to seek nominations, interview candidates, and forward qualified candidates to the board of trustees for consideration;

(iii) provides for at least two members of the applied technology college board of directors to participate in board of trustees' interviews of finalists; and

(iv) provides for the board of trustees to vote to appoint an applied technology college president in a meeting that complies with Title 52, Chapter 4, Open and Public Meetings Act.

~~(b) A campus] (2) (a) An applied technology college president shall serve as the chief administrative officer of the college campus.~~

~~(c) A campus] (b) An applied technology college president does not need to have a doctorate degree, but shall have extensive experience in career and technical education.~~

~~(d) A campus] (c) An applied technology college president is subject to regular review and evaluation administered by the [Utah College of Applied Technology president] board of trustees, in cooperation with the [campus] applied technology college board of directors, through a process approved by the board of trustees.~~

~~(e) A campus] (d) An applied technology college president serves at the discretion of [the Utah College of Applied Technology president, in cooperation with the campus board of directors and] the board of trustees, in cooperation with the applied technology college board of directors.~~

(e) The board of trustees, in cooperation with an applied technology college board of directors, shall set the compensation for an applied technology college president.

~~(2) Each campus president of a college campus shall:]~~

(3) An applied technology college president shall:

(a) serve as the executive officer of the [campus] applied technology college board of directors;

(b) administer the day-to-day operations of the [college campus] applied technology college;

(c) consult with the [campus] applied technology college board of directors; and

(d) administer human resource policies and employee compensation plans in accordance with the requirements of the [Utah College of Applied Technology Board of Trustees] board of trustees.

Section 19. Section 53B-2a-108 is amended to read:

53B-2a-108. Applied technology college boards of directors -- Membership -- Appointments.

~~[A campus] An applied technology college shall have [a campus] an applied technology college board of directors appointed as follows:~~

(1) the Bridgerland Applied Technology College [Campus] Board of Directors shall be composed of the following 12 members:

(a) one elected local school board member appointed by the board of education for the Box Elder School District;

(b) one elected local school board member appointed by the board of education for the Cache School District;

(c) one elected local school board member appointed by the board of education for the Logan School District;

(d) one elected local school board member appointed by the board of education for the Rich School District;

(e) one member of the Utah State University board of trustees; and

(f) seven representatives of business or industry employers within the region appointed jointly by the members appointed under Subsections (1)(a) through (e);

(2) the Ogden-Weber Applied Technology College [Campus] Board of Directors shall be composed of the following 10 members:

(a) one elected local school board member appointed by the board of education for the Ogden City School District;

(b) one elected local school board member appointed by the board of education for the Weber School District;

(c) one member of the Weber State University board of trustees; and

(d) seven representatives of business or industry employers within the region appointed jointly by the members appointed under Subsections (2)(a) through (c);

(3) the Davis Applied Technology College [Campus] Board of Directors shall be composed of the following 10 members:

(a) one elected local school board member appointed by the board of education for the Davis School District;

(b) one elected local school board member appointed by the board of education for the Morgan School District;

(c) one member of the Weber State University board of trustees; and

(d) seven representatives of business or industry employers within the region appointed jointly by the members appointed under Subsections (3)(a) through (c);

(4) the Tooele Applied Technology College [Campus] Board of Directors shall be composed of the following 12 members:

(a) one elected local school board member appointed by the board of education for the Tooele County School District;

(b) one member of the Utah State University board of trustees; and

(c) 10 representatives of business or industry employers within the region appointed jointly by the members appointed under Subsections (4)(a) and (b);

(5) the Mountainland Applied Technology College [Campus] Board of Directors shall be composed of the following 18 members:

(a) one elected local school board member appointed by the board of education for the Alpine School District;

(b) one elected local school board member appointed by the board of education for the Nebo School District;

(c) one elected local school board member appointed by the board of education for the Provo School District;

(d) one elected local school board member appointed by the board of education for the South Summit School District;

(e) one elected local school board member appointed by the board of education for the North Summit School District;

(f) one elected local school board member appointed by the board of education for the Wasatch School District;

(g) one elected local school board member appointed by the board of education for the Park City School District;

(h) one member of the Utah Valley University board of trustees; and

(i) 10 representatives of business or industry employers within the region appointed jointly by

the members appointed under Subsections (5)(a) through (h);

(6) the Uintah Basin Applied Technology College [Campus] Board of Directors shall be composed of the following 10 members:

(a) one elected local school board member appointed by the board of education for the Daggett School District;

(b) one elected local school board member appointed by the board of education for the Duchesne School District;

(c) one elected local school board member appointed by the board of education for the Uintah School District;

(d) one member of the Utah State University board of trustees; and

(e) six representatives of business or industry employers within the region appointed jointly by the members appointed under Subsections (6)(a) through (d);

(7) the Southwest Applied Technology College [Campus] Board of Directors shall be composed of the following 12 members:

(a) one elected local school board member appointed by the board of education for the Beaver School District;

(b) one elected local school board member appointed by the board of education for the Garfield School District;

(c) one elected local school board member appointed by the board of education for the Iron School District;

(d) one elected local school board member appointed by the board of education for the Kane School District;

(e) one member of the Southern Utah University board of trustees; and

(f) seven representatives of business or industry employers within the region appointed jointly by the members appointed under Subsections (7)(a) through (e);

(8) the Dixie Applied Technology College [Campus] Board of Directors shall be composed of the following 10 members:

(a) one elected local school board member appointed by the board of education for the Washington School District;

(b) one member of the Dixie State University board of trustees; and

(c) eight representatives of business or industry employers within the region appointed jointly by the members appointed under Subsections (8)(a) and (b); and

(9) the representatives of business or industry employers shall be:

(a) appointed jointly by the designated members from a list of names provided by local organizations

or associations whose members employ workers with career and technical education;

(b) individuals recognized for their knowledge and expertise;

(c) individuals who represent current and emerging business and industry sectors of the state; and

(d) appointed on a nonpartisan basis.

Section 20. Section 53B-2a-109 is amended to read:

53B-2a-109. Applied technology college boards of directors -- Terms -- Quorum -- Chair -- Compensation.

(1) (a) At the first meeting of ~~[a campus]~~ an applied technology college board of directors after July 1, 2009:

(i) the representatives from the local school boards shall divide up their positions so that approximately half of them serve for two-year terms and half serve for four-year terms; and

(ii) the representatives from business and industry employers shall divide up their positions so that approximately half of them serve for two-year terms and half serve for four-year terms.

(b) Except as provided in Subsection (1)(a), individuals appointed to ~~[a campus]~~ an applied technology college board of directors shall serve four-year terms.

(2) The original appointing authority shall fill any vacancies that occur on ~~[the campus]~~ an applied technology college board of directors.

(3) A majority of ~~[the campus]~~ an applied technology college board of directors is a quorum.

(4) ~~[A campus]~~ An applied technology college board of directors shall elect a chair from its membership.

(5) A member of an applied technology college board of directors may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) (a) ~~[A campus]~~ An applied technology college board of directors may enact bylaws for ~~[its]~~ the applied technology college's own government, including provision for regular meetings, that are in accordance with the policies of the ~~[Utah College of Applied Technology]~~ board of trustees.

(b) (i) ~~[The campus]~~ An applied technology college board of directors may provide for an executive committee in ~~[its]~~ the applied technology college board of directors' bylaws.

(ii) If established, ~~[the]~~ an executive committee shall have the full authority of the ~~[campus]~~ applied technology college board of directors to act upon routine matters during the interim between board meetings.

(iii) ~~[The]~~ An executive committee may act on nonroutine matters only under extraordinary and emergency circumstances.

(iv) ~~[The]~~ An executive committee shall report ~~[its]~~ the executive committee's activities to the ~~[campus]~~ applied technology college board of directors at ~~[its]~~ the applied technology college board of directors' next regular meeting following the action.

(7) ~~[A campus]~~ An applied technology college board of directors may establish advisory committees.

Section 21. Section 53B-2a-110 is amended to read:

53B-2a-110. Applied technology college board of directors' powers and duties.

(1) ~~[A campus]~~ An applied technology college board of directors shall:

(a) assist the ~~[campus]~~ applied technology college president in preparing a budget request for ~~[its]~~ the applied technology college's annual operations to the ~~[Utah College of Applied Technology Board of Trustees]~~ board of trustees;

(b) after consulting with the ~~[Utah College of Applied Technology]~~ board of trustees, other higher education institutions, school districts, and charter schools within ~~[its]~~ the applied technology college's region, prepare a comprehensive strategic plan for delivering career and technical education within ~~[its]~~ the region;

(c) consult with business, industry, the Department of Workforce Services, the Governor's Office of Economic Development, and the Governor's Office of Management and Budget on an ongoing basis to determine what workers and skills are needed for employment in Utah businesses and industries;

(d) develop programs based upon the information gathered in accordance with Subsection (1)(c), including expedited program approval and termination procedures to meet market needs;

(e) adopt an annual budget and fund balances;

(f) develop policies for the operation of career and technical education facilities under ~~[its]~~ the applied technology college board of directors' jurisdiction;

(g) establish human resources and compensation policies for all employees in accordance with policies of the ~~[Utah College of Applied Technology Board of Trustees]~~ board of trustees;

(h) approve credentials for employees and assign employees to duties in accordance with ~~[the Utah College of Applied Technology Board of Trustees]~~ board of trustees policies and accreditation guidelines;

(i) conduct annual program evaluations;

(j) appoint program advisory committees and other advisory groups to provide counsel, support, and recommendations for updating and improving the effectiveness of training programs and services;

(k) approve regulations, both regular and emergency, to be issued and executed by the [~~campus president~~] applied technology college president;

(l) coordinate with local school boards, school districts, and charter schools to meet the career and technical education needs of secondary students; and

(m) develop policies and procedures for the admission, classification, instruction, and examination of students in accordance with the policies and accreditation guidelines of the [~~Utah College of Applied Technology~~] board of trustees and the State Board of Education.

(2) Subsection (1)(g) does not apply to [~~a campus~~] an applied technology college president.

(3) [~~A campus~~] An applied technology college board of directors may not exercise [~~any~~] jurisdiction over career and technical education provided by a school district or charter school or provided by a higher education institution independently of [~~a college campus~~] an applied technology college.

(4) If a program advisory committee or other advisory group submits a printed recommendation to [~~the campus~~] an applied technology college board of directors, the [~~campus~~] applied technology college board of directors shall acknowledge the recommendation with a printed response that explains the [~~campus~~] applied technology college board of directors' action regarding the recommendation and the reasons for the action.

Section 22. Section 53B-2a-112 is amended to read:

53B-2a-112. Applied technology colleges -- Relationships with other public and higher education institutions -- Agreements -- Priorities -- New capital facilities.

(1) As used in this section, "higher education institution" means, for each [~~college campus~~] applied technology college, the higher education institution designated in Section 53B-2a-108 that has a representative on [~~its campus~~] the applied technology college's board of directors.

(2) [~~A college campus~~] An applied technology college shall avoid any unnecessary duplication of career and technical education instructional facilities, programs, administration, and staff between the applied technology college [~~campus~~] and other public and higher education institutions.

(3) [~~A~~] An applied technology college [~~campus~~] may enter into agreements:

(a) with other higher education institutions to cultivate cooperative relationships;

(b) with other public and higher education institutions to enhance career and technical education within its region; or

(c) to comply with Subsection (2).

(4) Before [~~a~~] an applied technology college [~~campus~~] develops [~~its own~~] new instructional facilities, [~~it~~] the applied technology college shall give priority to:

(a) maintaining [~~its own~~] the applied technology college's existing instructional facilities for both secondary and adult students;

(b) coordinating with the president of a higher education institution and entering into any necessary agreements to provide career and technical education to both secondary and adult students that:

(i) maintain and support existing higher education career and technical education programs; and

(ii) maximize the use of existing higher education facilities; and

(c) developing cooperative agreements with school districts, charter schools, other higher education institutions, businesses, industries, and community and private agencies to maximize the availability of career and technical education instructional facilities for both secondary and adult students.

(5) (a) Before submitting a funding request pertaining to new capital facilities and land purchases to the [~~Utah College of Applied Technology, a college campus~~] board of trustees, an applied technology college shall:

(i) ensure that all available instructional facilities are maximized in accordance with Subsections (4)(a) through (c); and

(ii) coordinate the request with the president of a higher education institution, if applicable.

(b) The State Building Board shall make a finding that the requirements of this section are met before [~~it~~] the State Building Board may consider a funding request [~~of the Utah College of Applied Technology~~] from the board of trustees pertaining to new capital facilities and land purchases.

(c) [~~A~~] An applied technology college [~~campus~~] may not construct, approve the construction of, plan for the design or construction of, or consent to the construction of a career and technical education facility without approval of the Legislature.

(6) Before acquiring new fiscal and administrative support structures, [~~a college campus~~] an applied technology college shall:

(a) review the use of existing public or higher education administrative and accounting systems, financial record systems, and student and financial aid systems for the delivery of career and technical education in the region;

(b) determine whether it is feasible to use those existing systems; and

(c) with the approval of the ~~[campus]~~ applied technology college board of directors and the board of trustees, use those existing systems.

Section 23. Section 53B-2a-113 is amended to read:

53B-2a-113. Applied technology colleges -- Leasing authority -- Lease-purchase agreements -- Report.

(1) In accordance with Subsection 53B-2a-112(2), ~~[a college campus]~~ an applied technology college may enter into a lease with other higher education institutions, school districts, charter schools, state agencies, or business and industry for a term of:

(a) one year or less with the approval of the ~~[campus]~~ applied technology college board of directors; and

(b) more than one year with the approval of the board of trustees and:

(i) the approval of funding for the lease by the Legislature prior to ~~[a college campus]~~ an applied technology college entering into the lease; or

(ii) the lease agreement includes language that allows termination of the lease without penalty.

(2) (a) In accordance with Subsection 53B-2a-112(2), ~~[a]~~ an applied technology college ~~[campus]~~ may enter into a lease-purchase agreement if:

(i) there is a long-term benefit to the state;

(ii) the project is included in both the ~~[campus]~~ applied technology college and Utah College of Applied Technology master plans;

(iii) the lease-purchase agreement includes language that allows termination of the lease;

(iv) the lease-purchase agreement is approved by the ~~[campus]~~ applied technology college board of directors and the board of trustees; and

(v) the lease-purchase agreement is:

(A) reviewed by the Division of Facilities Construction and Management;

(B) reviewed by the State Building Board; and

(C) approved by the Legislature.

(b) An approval under Subsection (2)(a) shall include a recognition of:

(i) all parties, dates, and elements of the agreement;

(ii) the equity or collateral component that creates the benefit; and

(iii) the options dealing with the sale and division of equity.

(3) (a) Each ~~[college campus]~~ applied technology college shall provide an annual lease report to the

board of trustees that details each of ~~[its]~~ the applied technology college's leases, annual costs, location, square footage, and recommendations for lease continuation.

(b) The ~~[president of the Utah College of Applied Technology]~~ board of trustees shall compile and distribute an annual combined lease report for all ~~[college campuses]~~ applied technology colleges to the Division of Facilities Construction and Management and to others upon request.

(4) The ~~[Utah College of Applied Technology]~~ board of trustees shall use the annual combined lease report in determining planning, utilization, and budget requests.

Section 24. Section 53B-6-106 is amended to read:

53B-6-106. Jobs Now and Economic Development Initiatives.

(1) (a) The Utah College of Applied Technology Board of Trustees shall develop, establish, and maintain a Jobs Now Initiative, to promote workforce preparation programs that meet critical needs and shortages throughout the state.

(b) The State Board of Regents shall develop, establish, and maintain economic development initiatives within the system of higher education.

(2) The initiatives specified in Subsection (1) shall provide support for technical training expansion that trains skilled potential employees within a period not to exceed 12 months for technical jobs in critical needs occupations and other innovative economic development policy initiatives.

(3) (a) Subject to future budget constraints, the Legislature shall provide an annual appropriation to the Utah College of Applied Technology to fund the Jobs Now Initiative established in Subsection (1)(a).

(b) (i) The Utah College of Applied Technology Board of Trustees shall allocate the appropriation for the Jobs Now Initiative to ~~[college campuses]~~ applied technology colleges within the ~~[college]~~ Utah College of Applied Technology.

(ii) ~~[A college campus]~~ An applied technology college shall use money received under Subsection (3)(b)(i) for technical training expansion referred to in Subsection (2).

(c) Subject to future budget constraints, the Legislature shall provide an annual appropriation to the State Board of Regents to fund economic development initiatives established pursuant Subsection (1)(b).

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) the Utah College of Applied Technology Board of Trustees shall make rules to implement the Jobs Now Initiative; and

(ii) the board shall make rules to implement economic development initiatives.

Section 25. Section 53B-8d-102 is amended to read:

53B-8d-102. Definitions.

As used in this chapter:

(1) "Division" means the Division of Child and Family Services.

(2) "Long-term foster care" means an individual who remains in the custody of the division, whether or not the individual resides:

(a) with licensed foster parents; or

(b) in independent living arrangements under the supervision of the division.

(3) "State institution of higher education" means:

(a) ~~[those institutions]~~ an institution designated in Section 53B-1-102; and

(b) ~~[any]~~ a public institution that offers postsecondary education in consideration of the payment of tuition or fees for the attainment of educational or vocational objectives leading to a degree or certificate, including:

~~[(i) business schools;]~~

~~[(ii) technical schools;]~~

~~[(iii) applied technology centers;]~~

~~[(iv) trade schools; and]~~

(i) a business school;

(ii) a technical school;

(iii) an applied technology college within the Utah College of Applied Technology;

(iv) a trade school; or

(v) ~~[institutions]~~ an institution offering related apprenticeship programs.

(4) "Tuition" means tuition at the rate for residents of the state.

(5) "Ward of the state" means an individual:

(a) who is:

(i) at least 17 years of age; and

(ii) not older than 26 years of age;

(b) who had a permanency goal in the individual's child and family plan, as described in Sections 62A-4a-205 and 78A-6-314, of long-term foster care while in the custody of the division; and

(c) for whom the custody of the division was not terminated as a result of adoption.

Section 26. Section 53B-16-102 is amended to read:

53B-16-102. Changes in curriculum -- Substantial alterations in institutional operations -- Periodic review of programs -- Career and technical education curriculum changes.

(1) Under procedures and policies approved by the board and developed in consultation with each institution of higher education, each institution may make such changes in its curriculum as

necessary to better effectuate the institutional role previously approved by the board.

(2) Notice of a change in the curriculum shall in all cases be promptly submitted to the board.

(3) The board shall establish procedures and policies for considering institutional proposals for substantial alterations in the scope of existing institutional operations.

(4) Alterations shall not be made without prior approval of the state board.

(5) For purposes of this section, "substantial alteration" means the establishment of a branch, extension center, college, professional school, division, institute, department, or a new program in instruction, research, or public services or a new degree, diploma, or certificate.

(6) The board shall conduct periodic reviews of all programs of instruction, research, and public service at each institution, including those funded by gifts, grants, and contracts, and may require the modification or termination of any program.

(7) Prior to requiring modification or termination of a program, the board shall give the institution adequate opportunity for a hearing before the board.

(8) In making decisions related to career and technical education curriculum changes, the board shall request a review of the proposed changes by the State Board of Education and the Utah College of Applied Technology Board of Trustees to ensure an orderly and systematic career and technical education curriculum that eliminates overlap and duplication of course work with the high schools and ~~[the]~~ applied technology colleges within the Utah College of Applied Technology.

Section 27. Section 53B-17-105 is amended to read:

53B-17-105. Utah Education and Telehealth Network.

(1) There is created the Utah Education and Telehealth Network, or UETN.

(2) UETN shall:

(a) coordinate and support the telecommunications needs of public and higher education, public libraries, and entities affiliated with the state systems of public and higher education as approved by the Utah Education and Telehealth Network Board, including the statewide development and implementation of a network for education, which utilizes satellite, microwave, fiber-optic, broadcast, and other transmission media;

(b) coordinate the various telecommunications technology initiatives of public and higher education;

(c) provide high-quality, cost-effective Internet access and appropriate interface equipment for schools and school systems;

(d) procure, install, and maintain telecommunication services and equipment on behalf of public and higher education;

(e) develop or implement other programs or services for the delivery of distance learning and telehealth services as directed by law;

(f) apply for state and federal funding on behalf of:

(i) public and higher education; and

(ii) telehealth services;

(g) in consultation with health care providers from a variety of health care systems, explore and encourage the development of telehealth services as a means of reducing health care costs and increasing health care quality and access, with emphasis on assisting rural health care providers and special populations; and

(h) in consultation with the Utah Department of Health, advise the governor and the Legislature on:

(i) the role of telehealth in the state;

(ii) the policy issues related to telehealth;

(iii) the changing telehealth needs and resources in the state; and

(iv) state budgetary matters related to telehealth.

(3) In performing the duties under Subsection (2), UETN shall:

(a) provide services to schools, school districts, and the public and higher education systems through an open and competitive bidding process;

(b) work with the private sector to deliver high-quality, cost-effective services;

(c) avoid duplicating facilities, equipment, or services of private providers or public telecommunications service, as defined under Section 54-8b-2;

(d) utilize statewide economic development criteria in the design and implementation of the educational telecommunications infrastructure; and

(e) assure that public service entities, such as educators, public service providers, and public broadcasters, are provided access to the telecommunications infrastructure developed in the state.

(4) The University of Utah shall provide administrative support for UETN.

(5) (a) The Utah Education and Telehealth Network Board, which is the governing board for UETN, is created.

(b) The Utah Education and Telehealth Network Board shall have 13 members as follows:

(i) four members representing the state system of higher education appointed by the commissioner of higher education;

(ii) four members representing the state system of public education including:

(A) three members appointed by the State Board of Education; and

(B) one member representing the Utah State Office of Education appointed by the state superintendent;

(iii) one member representing applied technology ~~[enters] colleges~~ appointed by the ~~[president of the]~~ Utah College of Applied Technology commissioner of technical education;

(iv) one member representing the state library appointed by the state librarian;

(v) two members representing hospitals as follows:

(A) the members may not be employed by the same hospital system;

(B) one member shall represent a rural hospital;

(C) one member shall represent an urban hospital; and

(D) the chief administrator or the administrator's designee for each hospital licensed in this state shall select the two hospital representatives; and

(vi) one member representing the office of the governor, appointed by the governor.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(d) (i) The board shall elect a chair.

(ii) The chair shall set the agenda for the board meetings.

(6) A member of the board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The board:

(a) shall hire an executive director for UETN who may hire staff for UETN as permitted by the budget;

(b) may terminate the executive director's employment or assignment;

(c) shall determine the executive director's salary;

(d) shall annually conduct a performance evaluation of the executive director;

(e) shall establish policies the board determines are necessary for the operation of UETN and the administration of UETN's duties; and

(f) shall advise UETN in:

(i) the development and operation of a coordinated, statewide, multi-option telecommunications system to assist in the delivery of educational services and telehealth services throughout the state; and

(ii) acquiring, producing, and distributing instructional content.

(8) The executive director of UETN shall be an at-will employee.

(9) UETN shall locate and maintain educational and telehealth telecommunication infrastructure throughout the state.

(10) Educational institutions shall manage site operations under policy established by UETN.

(11) Subject to future budget constraints, the Legislature shall provide an annual appropriation to operate UETN.

(12) If the network operated by the Department of Technology Services is not available, UETN may provide network connections to the central administration of counties and municipalities for the sole purpose of transferring data to a secure facility for backup and disaster recovery.

Section 28. Section 59-12-102 is amended to read:

59-12-102. Definitions.

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) "900 service" means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) "900 service" does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber's customer:

(A) a product; or

(B) a service.

(3) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include annual membership dues to private organizations.

(4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(5) "Agreement combined tax rate" means the sum of the tax rates:

(a) listed under Subsection (6); and

(b) that are imposed within a local taxing jurisdiction.

(6) "Agreement sales and use tax" means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(b)(i);

(c) Subsection 59-12-103(2)(c)(i);

(d) Subsection 59-12-103(2)(d)(i)(A)(I);

(e) Section 59-12-204;

(f) Section 59-12-401;

(g) Section 59-12-402;

(h) Section 59-12-402.1;

(i) Section 59-12-703;

(j) Section 59-12-802;

(k) Section 59-12-804;

(l) Section 59-12-1102;

(m) Section 59-12-1302;

(n) Section 59-12-1402;

(o) Section 59-12-1802;

(p) Section 59-12-2003;

(q) Section 59-12-2103;

(r) Section 59-12-2213;

(s) Section 59-12-2214;

(t) Section 59-12-2215;

(u) Section 59-12-2216;

(v) Section 59-12-2217; or

(w) Section 59-12-2218.

(7) "Aircraft" is as defined in Section 72-10-102.

(8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

(a) except for:

(i) an airline as defined in Section 59-2-102; or

(ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a

corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and

(b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:

(i) check, diagnose, overhaul, and repair:

(A) an onboard system of a fixed wing turbine powered aircraft; and

(B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

(ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;

(iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:

(A) an inspection;

(B) a repair, including a structural repair or modification;

(C) changing landing gear; and

(D) addressing issues related to an aging fixed wing turbine powered aircraft;

(iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and

(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

(9) "Alcoholic beverage" means a beverage that:

(a) is suitable for human consumption; and

(b) contains .5% or more alcohol by volume.

(10) "Alternative energy" means:

(a) biomass energy;

(b) geothermal energy;

(c) hydroelectric energy;

(d) solar energy;

(e) wind energy; or

(f) energy that is derived from:

(i) coal-to-liquids;

(ii) nuclear fuel;

(iii) oil-impregnated diatomaceous earth;

(iv) oil sands;

(v) oil shale;

(vi) petroleum coke; or

(vii) waste heat from:

(A) an industrial facility; or

(B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

(11) (a) Subject to Subsection (11)(b), "alternative energy electricity production facility" means a facility that:

(i) uses alternative energy to produce electricity; and

(ii) has a production capacity of two megawatts or greater.

(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:

(i) connected to an electric grid; or

(ii) located on the premises of an electricity consumer.

(12) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.

(b) "Ancillary service" includes:

(i) a conference bridging service;

(ii) a detailed communications billing service;

(iii) directory assistance;

(iv) a vertical service; or

(v) a voice mail service.

(13) "Area agency on aging" is as defined in Section 62A-3-101.

(14) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:

(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

(15) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(16) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(17) (a) Except as provided in Subsection (17)(b), “biomass energy” means any of the following that is used as the primary source of energy to produce fuel or electricity:

- (i) material from a plant or tree; or
- (ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;

(E) aquatic plants; and

(F) agricultural products.

(b) “Biomass energy” does not include:

(i) black liquor; or

(ii) treated woods.

(18) (a) “Bundled transaction” means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) “Bundled transaction” does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller’s purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller’s sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

(B) subject to Subsection (18)(f):

(I) the seller’s purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller’s total purchase price of that retail sale; or

(II) the seller’s sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller’s total sales price of that retail sale.

(c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of “purchase price.”

(ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase

of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (18)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (18)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(19) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (19)(a)(i).

(20) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform all of a seller's sales and use tax functions for an agreement sales and use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

(22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (56) or residential use under Subsection (106).

(24) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) "Common carrier" does not include a person who, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(c) “Common carrier” does not include a person that provides transportation network services, as defined in Section 13-51-102.

(25) “Component part” includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(26) “Computer” means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(27) “Computer software” means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(28) “Computer software maintenance contract” means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections (28)(a) and (b).

(29) (a) “Conference bridging service” means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) “Conference bridging service” may include providing a telephone number as part of the ancillary service described in Subsection (29)(a).

(c) “Conference bridging service” does not include a telecommunications service used to reach the ancillary service described in Subsection (29)(a).

(30) “Construction materials” means any tangible personal property that will be converted into real property.

(31) “Delivered electronically” means delivered to a purchaser by means other than tangible storage media.

(32) (a) “Delivery charge” means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) services; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (32)(a)(i) to a location designated by the purchaser.

(b) “Delivery charge” includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(33) “Detailed telecommunications billing service” means an ancillary service of separately stating information pertaining to individual calls on a customer’s billing statement.

(34) “Dietary supplement” means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (34)(b)(i) through (v);

(c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:

(A) tablet form;

(B) capsule form;

(C) powder form;

(D) softgel form;

(E) gelcap form; or

(F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections (34)(c)(i)(A) through (F), is not represented:

(A) as conventional food; and

(B) for use as a sole item of:

(I) a meal; or

(II) the diet; and

(d) is required to be labeled as a dietary supplement:

(i) identifiable by the “Supplemental Facts” box found on the label; and

(ii) as required by 21 C.F.R. Sec. 101.36.

(35) “Digital audio-visual work” means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.

(36) (a) “Digital audio work” means a work that results from the fixation of a series of musical, spoken, or other sounds.

(b) “Digital audio work” includes a ringtone.

(37) “Digital book” means a work that is generally recognized in the ordinary and usual sense as a book.

(38) (a) “Direct mail” means printed material delivered or distributed by United States mail or other delivery service:

(i) to:

(A) a mass audience; or

(B) addressees on a mailing list provided:

(I) by a purchaser of the mailing list; or

(II) at the discretion of the purchaser of the mailing list; and

(ii) if the cost of the printed material is not billed directly to the recipients.

(b) “Direct mail” includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) “Direct mail” does not include multiple items of printed material delivered to a single address.

(39) “Directory assistance” means an ancillary service of providing:

(a) address information; or

(b) telephone number information.

(40) (a) “Disposable home medical equipment or supplies” means medical equipment or supplies that:

(i) cannot withstand repeated use; and

(ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section 26-21-2;

(B) a health care provider as defined in Section 78B-3-403;

(C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or

(D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).

(b) “Disposable home medical equipment or supplies” does not include:

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

(iv) a hearing aid accessory;

(v) mobility enhancing equipment; or

(vi) tangible personal property used to correct impaired vision, including:

(A) eyeglasses; or

(B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

(41) “Drilling equipment manufacturer” means a facility:

(a) located in the state;

(b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;

(c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and

(d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.

(42) (a) “Drug” means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

(i) recognized in:

(A) the official United States Pharmacopoeia;

(B) the official Homeopathic Pharmacopoeia of the United States;

(C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

(C) mitigation of disease;

(D) treatment of disease; or

(E) prevention of disease; or

(iii) intended to affect:

(A) the structure of the body; or

(B) any function of the body.

(b) “Drug” does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

(iii) an alcoholic beverage; or

(iv) a prosthetic device.

(43) (a) Except as provided in Subsection (43)(c), “durable medical equipment” means equipment that:

- (i) can withstand repeated use;
- (ii) is primarily and customarily used to serve a medical purpose;
- (iii) generally is not useful to a person in the absence of illness or injury; and
- (iv) is not worn in or on the body.

(b) “Durable medical equipment” includes parts used in the repair or replacement of the equipment described in Subsection (43)(a).

(c) “Durable medical equipment” does not include mobility enhancing equipment.

(44) “Electronic” means:

- (a) relating to technology; and
- (b) having:
 - (i) electrical capabilities;
 - (ii) digital capabilities;
 - (iii) magnetic capabilities;
 - (iv) wireless capabilities;
 - (v) optical capabilities;
 - (vi) electromagnetic capabilities; or
 - (vii) capabilities similar to Subsections (44)(b)(i) through (vi).

(45) “Electronic financial payment service” means an establishment:

(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(b) that performs electronic financial payment services.

(46) “Employee” is as defined in Section 59-10-401.

(47) “Fixed guideway” means a public transit facility that uses and occupies:

- (a) rail for the use of public transit; or
- (b) a separate right-of-way for the use of public transit.

(48) “Fixed wing turbine powered aircraft” means an aircraft that:

- (a) is powered by turbine engines;
- (b) operates on jet fuel; and
- (c) has wings that are permanently attached to the fuselage of the aircraft.

(49) “Fixed wireless service” means a telecommunications service that provides radio communication between fixed points.

(50) (a) “Food and food ingredients” means substances:

- (i) regardless of whether the substances are in:

- (A) liquid form;
- (B) concentrated form;
- (C) solid form;
- (D) frozen form;
- (E) dried form; or
- (F) dehydrated form; and

- (ii) that are:

- (A) sold for:
 - (I) ingestion by humans; or
 - (II) chewing by humans; and
- (B) consumed for the substance’s:
 - (I) taste; or
 - (II) nutritional value.

(b) “Food and food ingredients” includes an item described in Subsection (91)(b)(iii).

(c) “Food and food ingredients” does not include:

- (i) an alcoholic beverage;
- (ii) tobacco; or
- (iii) prepared food.

(51) (a) “Fundraising sales” means sales:

- (i) (A) made by a school; or
- (B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection (51)(a)(iii), “officially sanctioned school activity” means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.

(52) “Geothermal energy” means energy contained in heat that continuously flows outward

from the earth that is used as the sole source of energy to produce electricity.

(53) “Governing board of the agreement” means the governing board of the agreement that is:

- (a) authorized to administer the agreement; and
- (b) established in accordance with the agreement.

(54) (a) For purposes of Subsection 59-12-104(41), “governmental entity” means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Office of the Court Administrator, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) “Governmental entity” does not include the state systems of public and higher education, including:

(i) ~~[a college campus of]~~ an applied technology college within the Utah College of Applied Technology;

(ii) a school;

(iii) the State Board of Education;

(iv) the State Board of Regents; or

(v) an institution of higher education.

(55) “Hydroelectric energy” means water used as the sole source of energy to produce electricity.

(56) “Industrial use” means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (56)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a cogeneration facility as defined in Section 54-2-1.

(57) (a) Except as provided in Subsection (57)(b), “installation charge” means a charge for installing:

(i) tangible personal property; or

(ii) a product transferred electronically.

(b) “Installation charge” does not include a charge for:

(i) repairs or renovations of:

(A) tangible personal property; or

(B) a product transferred electronically; or

(ii) attaching tangible personal property or a product transferred electronically:

(A) to other tangible personal property; and

(B) as part of a manufacturing or fabrication process.

(58) “Institution of higher education” means an institution of higher education listed in Section 53B-2-101.

(59) (a) “Lease” or “rental” means a transfer of possession or control of tangible personal property or a product transferred electronically for:

(i) (A) a fixed term; or

(B) an indeterminate term; and

(ii) consideration.

(b) “Lease” or “rental” includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or

disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.

(c) "Lease" or "rental" does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

(A) upon completion of required payments; and

(B) if the payment of an option price does not exceed the greater of:

(I) \$100; or

(II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

(i) set-up of tangible personal property;

(ii) maintenance of tangible personal property; or

(iii) inspection of tangible personal property.

(60) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(61) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

(62) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(63) "Local taxing jurisdiction" means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

(64) "Manufactured home" is as defined in Section 15A-1-302.

(65) "Manufacturing facility" means:

(a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (65)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(66) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;

(h) spouse;

(i) person who is the spouse of a person described in Subsections (66)(a) through (g); or

(j) person similar to a person described in Subsections (66)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(67) "Mobile home" is as defined in Section 15A-1-302.

(68) “Mobile telecommunications service” is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(69) (a) “Mobile wireless service” means a telecommunications service, regardless of the technology used, if:

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection (69)(a)(i) and the termination point described in Subsection (69)(a)(ii) are not fixed.

(b) “Mobile wireless service” includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define “commercial mobile radio service provider.”

(70) (a) Except as provided in Subsection (70)(c), “mobility enhancing equipment” means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) “Mobility enhancing equipment” includes parts used in the repair or replacement of the equipment described in Subsection (70)(a).

(c) “Mobility enhancing equipment” does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

(71) “Model 1 seller” means a seller registered under the agreement that has selected a certified service provider as the seller’s agent to perform all of the seller’s sales and use tax functions for agreement sales and use taxes other than the seller’s obligation under Section 59-12-124 to remit a tax on the seller’s own purchases.

(72) “Model 2 seller” means a seller registered under the agreement that:

(a) except as provided in Subsection (72)(b), has selected a certified automated system to perform

the seller’s sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(73) (a) Subject to Subsection (73)(b), “model 3 seller” means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenues of at least \$500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (73)(a), “model 3 seller” includes an affiliated group of sellers using the same proprietary system.

(74) “Model 4 seller” means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(75) “Modular home” means a modular unit as defined in Section 15A-1-302.

(76) “Motor vehicle” is as defined in Section 41-1a-102.

(77) “Oil sands” means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

(78) “Oil shale” means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

(79) “Optional computer software maintenance contract” means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(80) (a) “Other fuels” means products that burn independently to produce heat or energy.

(b) “Other fuels” includes oxygen when it is used in the manufacturing of tangible personal property.

(81) (a) “Paging service” means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection (81)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(82) "Pawnbroker" is as defined in Section 13-32a-102.

(83) "Pawn transaction" is as defined in Section 13-32a-102.

(84) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (84)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (84)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection (124)(c).

(85) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

(86) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(87) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(88) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(89) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(90) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(91) (a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes; or

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (91)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

- (VII) a cookie;
- (VIII) a croissant;
- (IX) a danish;
- (X) a donut;
- (XI) a muffin;
- (XII) a pastry;
- (XIII) a pie;
- (XIV) a roll;
- (XV) a tart;
- (XVI) a torte; or
- (XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

- (i) a container; or
- (ii) packaging.

(92) "Prescription" means an order, formula, or recipe that is issued:

- (a) (i) orally;
- (ii) in writing;
- (iii) electronically; or
- (iv) by any other manner of transmission; and
- (b) by a licensed practitioner authorized by the laws of a state.

(93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer software" means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

- (ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

- (B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (93)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is designed and

developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:

- (i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

(94) (a) "Private communications service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

- (i) an extension line;
- (ii) a station;
- (iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(95) (a) Except as provided in Subsection (95)(b), "product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) "Product transferred electronically" does not include:

- (i) an ancillary service;
- (ii) computer software; or
- (iii) a telecommunications service.

(96) (a) "Prosthetic device" means a device that is worn on or in the body to:

- (i) artificially replace a missing portion of the body;
- (ii) prevent or correct a physical deformity or physical malfunction; or
- (iii) support a weak or deformed portion of the body.

- (b) "Prosthetic device" includes:
- (i) parts used in the repairs or renovation of a prosthetic device;
 - (ii) replacement parts for a prosthetic device;
 - (iii) a dental prosthesis; or
 - (iv) a hearing aid.
- (c) "Prosthetic device" does not include:
- (i) corrective eyeglasses; or
 - (ii) contact lenses.
- (97) (a) "Protective equipment" means an item:
- (i) for human wear; and
 - (ii) that is:
 - (A) designed as protection:
 - (I) to the wearer against injury or disease; or
 - (II) against damage or injury of other persons or property; and
 - (B) not suitable for general use.
- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:
- (i) listing the items that constitute "protective equipment"; and
 - (ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.
- (98) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:
- (i) regardless of:
 - (A) characteristics;
 - (B) copyright;
 - (C) form;
 - (D) format;
 - (E) method of reproduction; or
 - (F) source; and
 - (ii) made available in printed or electronic format.
- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."
- (99) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- (i) valued in money; and
 - (ii) for which tangible personal property, a product transferred electronically, or services are:
 - (A) sold;
 - (B) leased; or
 - (C) rented.
- (b) "Purchase price" and "sales price" include:
- (i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;
 - (ii) expenses of the seller, including:
 - (A) the cost of materials used;
 - (B) a labor cost;
 - (C) a service cost;
 - (D) interest;
 - (E) a loss;
 - (F) the cost of transportation to the seller; or
 - (G) a tax imposed on the seller;
 - (iii) a charge by the seller for any service necessary to complete the sale; or
 - (iv) consideration a seller receives from a person other than the purchaser if:
 - (A) (I) the seller actually receives consideration from a person other than the purchaser; and
 - (II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;
 - (B) the seller has an obligation to pass the price reduction or discount through to the purchaser;
 - (C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and
 - (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and
 - (Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
 - (II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or
 - (III) the price reduction or discount is identified as a third party price reduction or discount on the:
 - (Aa) invoice the purchaser receives; or
 - (Bb) certificate, coupon, or other documentation the purchaser presents.
- (c) "Purchase price" and "sales price" do not include:
- (i) a discount:
 - (A) in a form including:
 - (I) cash;
 - (II) term; or

- (III) coupon;
- (B) that is allowed by a seller;
- (C) taken by a purchaser on a sale; and
- (D) that is not reimbursed by a third party; or
- (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:
- (A) the following from credit extended on the sale of tangible personal property or services:
- (I) a carrying charge;
- (II) a financing charge; or
- (III) an interest charge;
- (B) a delivery charge;
- (C) an installation charge;
- (D) a manufacturer rebate on a motor vehicle; or
- (E) a tax or fee legally imposed directly on the consumer.
- (100) "Purchaser" means a person to whom:
- (a) a sale of tangible personal property is made;
- (b) a product is transferred electronically; or
- (c) a service is furnished.
- (101) "Regularly rented" means:
- (a) rented to a guest for value three or more times during a calendar year; or
- (b) advertised or held out to the public as a place that is regularly rented to guests for value.
- (102) "Rental" is as defined in Subsection (59).
- (103) (a) Except as provided in Subsection (103)(b), "repairs or renovations of tangible personal property" means:
- (i) a repair or renovation of tangible personal property that is not permanently attached to real property; or
- (ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:
- (A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

(104) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(105) (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (105)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

(106) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

(107) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

(108) (a) "Retailer" means any person engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(109) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in

any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(110) "Sale at retail" is as defined in Subsection (107).

(111) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

(112) "Sales price" is as defined in Subsection (99).

(113) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school's educational functions or activities including:

(A) the sale of:

(I) textbooks;

(II) textbook fees;

(III) laboratory fees;

(IV) laboratory supplies; or

(V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:

(I) food and food ingredients; or

(II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) "Sales relating to schools" does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection (113)(a)(i)(B):

(A) clothing;

(B) clothing accessories or equipment;

(C) protective equipment; or

(D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

(114) For purposes of this section and Section 59-12-104, “school”:

(a) means:

(i) an elementary school or a secondary school that:

(A) is a:

(I) public school; or

(II) private school; and

(B) provides instruction for one or more grades kindergarten through 12; or

(ii) a public school district; and

(b) includes the Electronic High School as defined in Section 53A-15-1002.

(115) “Seller” means a person that makes a sale, lease, or rental of:

(a) tangible personal property;

(b) a product transferred electronically; or

(c) a service.

(116) (a) “Semiconductor fabricating, processing, research, or development materials” means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) “Semiconductor fabricating, processing, research, or development materials” includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (116)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

(117) “Senior citizen center” means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

(118) (a) Subject to Subsections (118)(b) and (c), “short-term lodging consumable” means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) “Short-term lodging consumable” includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

(xx) a shower cap;

(xxi) a snack item;

(xxii) soap;

(xxiii) toilet paper;

(xxiv) a toothbrush;

(xxv) toothpaste; or

(xxvi) an item similar to Subsections (118)(b)(i) through (xxv) as the commission may provide by

rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

(119) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

(120) "Solar energy" means the sun used as the sole source of energy for producing electricity.

(121) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

(122) "State" means the state of Utah, its departments, and agencies.

(123) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

(124) (a) Except as provided in Subsection (124)(d) or (e), "tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections (124)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) a hot water heater;

(ii) a water filtration system; or

(iii) a water softener system.

(125) (a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection (125)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection (125)(a):

(i) a pole;

(ii) software;

(iii) a supplementary power supply;

(iv) temperature or environmental equipment or machinery;

(v) test equipment;

(vi) a tower; or

(vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (125)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (125)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (125)(b)(i) through (vi).

(126) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

(127) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

(a) telecommunications enabling or facilitating equipment, machinery, or software;

(b) telecommunications switching or routing equipment, machinery, or software; or

(c) telecommunications transmission equipment, machinery, or software.

(128) (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

(iv) a fixed wireless service;

(v) a mobile wireless service;

(vi) a postpaid calling service;

(vii) a prepaid calling service;

(viii) a prepaid wireless calling service; or

(ix) a private communications service.

(c) "Telecommunications service" does not include:

(i) advertising, including directory advertising;

(ii) an ancillary service;

(iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

(I) (Aa) acquired;

(Bb) generated;

(Cc) processed;

(Dd) retrieved; or

(Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser's primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer's premises:

(A) equipment; or

(B) wiring;

(vi) Internet access service;

(vii) a paging service;

(viii) a product transferred electronically, including:

(A) music;

(B) reading material;

(C) a ring tone;

(D) software; or

(E) video;

(ix) a radio and television audio and video programming service:

(A) regardless of the medium; and

(B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

(129) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection (129)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (129)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

(130) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (130)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (130)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections (130)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (130)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (130)(b)(i) through (ix).

(131) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (131)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (131)(a):

(i) an amplifier;

(ii) a cable;

(iii) a closure;

(iv) a conduit;

(v) a controller;

(vi) a duplexer;

(vii) a filter;

(viii) an input device;

(ix) an input/output device;

(x) an insulator;

(xi) microwave machinery or equipment;

(xii) an oscillator;

(xiii) an output device;

(xiv) a pedestal;

(xv) a power converter;

(xvi) a power supply;

(xvii) a radio channel;

(xviii) a radio receiver;

(xix) a radio transmitter;

(xx) a repeater;

(xxi) software;

(xxii) a terminal;

(xxiii) a timing unit;

(xxiv) a transformer;

(xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection (131)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (xxv).

(132) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

(i) offered by an institution of higher education; and

(ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) "Textbook for a higher education course" includes a textbook in electronic format.

(133) "Tobacco" means:

(a) a cigarette;

- (b) a cigar;
- (c) chewing tobacco;
- (d) pipe tobacco; or
- (e) any other item that contains tobacco.

(134) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

(135) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

(136) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

- (i) code;
- (ii) content;
- (iii) form; or
- (iv) protocol.

(137) (a) Subject to Subsection (137)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

- (i) an aircraft as defined in Section 72-10-102;
- (ii) a vehicle as defined in Section 41-1a-102;

(iii) an off-highway vehicle as defined in Section 41-22-2; or

- (iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- (i) a vehicle described in Subsection (137)(a); or
- (ii) (A) a locomotive;
- (B) a freight car;
- (C) railroad work equipment; or
- (D) other railroad rolling stock.

(138) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (137).

(139) (a) "Vertical service" means an ancillary service that:

- (i) is offered in connection with one or more telecommunications services; and
- (ii) offers an advanced calling feature that allows a customer to:

- (A) identify a caller; and
- (B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

(140) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

(141) (a) Except as provided in Subsection (141)(b), "waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

- (A) tires;
- (B) waste coal;
- (C) oil shale; or
- (D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

(142) "Watercraft" means a vessel as defined in Section 73-18-2.

(143) "Wind energy" means wind used as the sole source of energy to produce electricity.

(144) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 29. Section 63A-9-101 is amended to read:

63A-9-101. Definitions.

(1) (a) "Agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(b) "Agency" includes the State Board of Education, the Office of Education, [each Applied

~~Technology Center~~ an applied technology college within the Utah College of Applied Technology, the board of regents, the institutional councils of each higher education institution, and each higher education institution.

(c) "Agency" includes the legislative and judicial branches.

(2) "Committee" means the Motor Vehicle Review Committee created by this chapter.

(3) "Director" means the director of the division.

(4) "Division" means the Division of Fleet Operations created by this chapter.

(5) "Executive director" means the executive director of the Department of Administrative Services.

(6) "Local agency" means:

(a) a county;

(b) a municipality;

(c) a school district;

(d) a local district;

(e) a special service district;

(f) an interlocal entity as defined under Section 11-13-103; or

(g) any other political subdivision of the state, including a local commission, board, or other governmental entity that is vested with the authority to make decisions regarding the public's business.

(7) (a) "Motor vehicle" means a self-propelled vehicle capable of carrying passengers.

(b) "Motor vehicle" includes vehicles used for construction and other nontransportation purposes.

(8) "State vehicle" means each motor vehicle owned, operated, or in the possession of an agency.

Section 30. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53, 53A, and 53B.

(1) Section 53A-1-403.5 is repealed July 1, 2017.

~~[(2) Subsection 53A-1-410(5) is repealed July 1, 2015.]~~

~~[(3)] (2) Section 53A-1-411 is repealed July 1, 2017.~~

~~[(4)] (3) Section 53A-1a-513.5 is repealed July 1, 2017.~~

~~[(5)] (4) Title 53A, Chapter 1a, Part 10, UPSTART, is repealed July 1, 2019.~~

~~[(6)] (5) Title 53A, Chapter 8a, Part 8, Peer Assistance and Review Pilot Program, is repealed July 1, 2017.~~

~~(6) (a) Subsections 53B-2a-103(2) and (4) are repealed July 1, 2019.~~

~~(b) When repealing Subsections 53B-2a-103(2) and (4), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.~~

Section 31. Section 63M-2-202 is amended to read:

63M-2-202. Technology outreach innovation program.

(1) As funding becomes available from the Legislature or other sources, the USTAR governing authority shall establish a technology outreach innovation program, also known as the TOIP, at up to five locations distributed strategically throughout Utah.

(2) The USTAR governing authority shall ensure that the technology innovation outreach program acts as a resource to:

(a) broker ideas, new technologies, and services to entrepreneurs and businesses throughout a defined service area;

(b) engage local entrepreneurs and professors at applied technology ~~[centers]~~ colleges within the Utah College of Applied Technology, colleges, and universities by connecting them to Utah's research universities;

(c) screen business ideas and new technologies to ensure that the ones with the highest growth potential receive the most targeted services and attention;

(d) connect market ideas and technologies in new or existing businesses or industries or in regional colleges and universities with the expertise of Utah's research universities;

(e) assist businesses, ~~[applied technology centers]~~ applied technology colleges within the Utah College of Applied Technology, colleges, and universities in developing commercial applications for their research; and

(f) disseminate and share discoveries and technologies emanating from Utah's research universities to local entrepreneurs, businesses, ~~[applied technology centers]~~ applied technology colleges within the Utah College of Applied Technology, colleges, and universities.

(3) In designing and operating the TOIP, for each TOIP location the USTAR governing authority:

(a) may hire a TOIP director;

(b) shall establish written performance standards and expectations; and

(c) shall require reporting related to those performance standards and expectations on at least an annual basis.

(4) A TOIP director hired under Subsection (3) shall:

(a) be categorized as a schedule AC employee in accordance with Section 67-19-15;

(b) report to, and be supervised by, the executive director;

(c) ensure the TOIP serves to further the vision and mission of the USTAR initiative; and

(d) as directed by the executive director, implement the policies and procedures adopted by the USTAR governing authority.

Section 32. Section 63N-12-203 is amended to read:

63N-12-203. STEM Action Center Board creation -- Membership.

(1) There is created the STEM Action Center Board within the office, composed of the following members:

(a) six private sector members who represent business, appointed by the governor;

(b) the state superintendent of public instruction or the state superintendent of public instruction's designee;

(c) the commissioner of higher education or the commissioner of higher education's designee;

(d) one member appointed by the governor;

(e) a member of the State Board of Education, chosen by the chair of the State Board of Education;

(f) the executive director of the office or the executive director's designee;

(g) the ~~president of the~~ Utah College of Applied Technology ~~commissioner of technical education or~~ ~~the president of~~ the Utah College of Applied ~~Technology's~~ Technology commissioner of technical education's designee; and

(h) one member who has a degree in engineering and experience working in a government military installation, appointed by the governor.

(2) (a) The private sector members appointed by the governor in Subsection (1)(a) shall represent a business or trade association whose primary focus is science, technology, or engineering.

(b) Except as required by Subsection (2)(c), members appointed by the governor shall be appointed to four-year terms.

(c) The length of terms of the members shall be staggered so that approximately half of the committee is appointed every two years.

(d) The members may not serve more than two full consecutive terms except where the governor determines that an additional term is in the best interest of the state.

(e) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(3) Attendance of a simple majority of the members constitutes a quorum for the transaction of official committee business.

(4) Formal action by the committee requires a majority vote of a quorum.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(6) The governor shall select the chair of the board to serve a one-year term.

(7) The executive director of the office or the executive director's designee shall serve as the vice chair of the board.

Section 33. Section 63N-12-212 is amended to read:

63N-12-212. High school STEM education initiative.

(1) Subject to legislative appropriations, after consulting with State Board of Education staff, the STEM Action Center shall award grants to school districts and charter schools to fund STEM related certification for high school students.

(2) (a) A school district or charter school may apply for a grant from the STEM Action Center, through a competitive process, to fund the school district's or charter school's STEM related certification training program.

(b) A school district's or charter school's STEM related certification training program shall:

(i) prepare high school students to be job ready for available STEM related positions of employment; and

(ii) when a student completes the program, result in the student gaining a nationally industry-recognized employer STEM related certification.

(3) A school district or charter school may partner with one or more of the following to provide a STEM related certification program:

(a) ~~[a] an applied technology college within the Utah College of Applied Technology [college campus];~~

(b) Salt Lake Community College;

(c) Snow College; or

(d) a private sector employer.

Section 34. Section 67-1-12 is amended to read:

67-1-12. Displaced defense workers.

(1) The governor, through the Department of Workforce Services, may use funds specifically appropriated by the Legislature to benefit, in a manner prescribed by Subsection (2):

(a) Department of Defense employees within the state who lose their employment because of reductions in defense spending by the federal government;

(b) persons dismissed by a defense-related industry employer because of reductions in federal government defense contracts received by the employer; and

(c) defense-related businesses in the state that have been severely and adversely impacted because of reductions in defense spending.

(2) Funds appropriated under this section before fiscal year 1999-2000 but not expended shall remain with the agency that possesses the funds and shall be used in a manner consistent with this section. Any amount appropriated under this section in fiscal year 1999-2000 or thereafter may be used to:

(a) provide matching or enhancement funds for grants, loans, or other assistance received by the state from the United States Department of Labor, Department of Defense, or other federal agency to assist in retraining, community assistance, or technology transfer activities;

(b) fund or match available private or public funds from the state or local level to be used for retraining, community assistance, technology transfer, or educational projects coordinated by state or federal agencies;

(c) provide for retraining, upgraded services, and programs at applied technology [centers] colleges, public schools, higher education institutions, or any other appropriate public or private entity that are designed to teach specific job skills requested by a private employer in the state or required for occupations that are in demand in the state;

(d) aid public or private entities that provide assistance in locating new employment;

(e) inform the public of assistance programs available for persons who have lost their employment;

(f) increase funding for assistance and retraining programs;

(g) provide assistance for small start-up companies owned or operated by persons who have lost their employment;

(h) enhance the implementation of dual-use technologies programs, community adjustment assistance programs, or other relevant programs under Pub. L. No. 102-484; and

(i) coordinate local and national resources to protect and enhance current Utah defense installations and related operations and to facilitate conversion or enhancement efforts by:

(i) creating and operating state information clearinghouse operations that monitor relevant activities on the federal, state, and local level;

(ii) identifying, seeking, and matching funds from federal and other public agencies and private donors;

(iii) identifying and coordinating needs in different geographic areas;

(iv) coordinating training and retraining centers;

(v) coordinating technology transfer efforts between public entities, private entities, and institutions of higher education;

(vi) facilitating the development of local and national awareness and support for Utah defense installations;

(vii) studying the creation of strategic alliances, tax incentives, and relocation and consolidation assistance; and

(viii) exploring feasible alternative uses for the physical and human resources at defense installations and in related industries should reductions in mission occur.

(3) The governor, through the Department of Workforce Services, may coordinate and administer the expenditure of money under this section and collaborate with applied technology centers, public institutions of higher learning, or other appropriate public or private entities to provide retraining and other services described in Subsection (2).

Section 35. Coordinating S.B. 131 with S.B. 148 -- Substantive and technical amendments.

If this S.B. 131 and S.B. 148, Workforce Services Revisions, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication on July 1, 2016, by modifying Subsection 35A-1-206(2)(i) in S.B. 148 to read:

“(i) the commissioner of technical education of the Utah College of Applied Technology or the commissioner of technical education’s designee;”

CHAPTER 237**S. B. 135**

Passed March 3, 2016

Approved March 23, 2016

Effective May 10, 2016

**ADMINISTRATIVE LAW
JUDGE AMENDMENTS**

Chief Sponsor: Wayne A. Harper

House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill modifies provisions relating to administrative law judges.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ addresses the process by which a procurement unit may obtain administrative law judge services;
- ▶ provides that a conducting procurement unit shall notify the Department of Human Resource Management when the conducting procurement unit awards a contract for administrative law judge services;
- ▶ provides that each new administrative law judge shall be hired by means of a hiring panel;
- ▶ modifies the content of the administrative law judge performance survey to include questions regarding the elements of procedural fairness;
- ▶ requires the Department of Human Resource Management to establish a procedural fairness training program for administrative law judges; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-6a-103, as last amended by Laws of Utah 2015, Chapters 218 and 464

63G-6a-403, as last amended by Laws of Utah 2015, Chapter 97

63G-6a-408, as last amended by Laws of Utah 2015, Chapter 218

63G-6a-707, as last amended by Laws of Utah 2015, Chapters 97 and 218

67-19e-102, as enacted by Laws of Utah 2013, Chapter 165

67-19e-103, as enacted by Laws of Utah 2013, Chapter 165

67-19e-104, as enacted by Laws of Utah 2013, Chapter 165

67-19e-106, as enacted by Laws of Utah 2013, Chapter 165

67-19e-108, as enacted by Laws of Utah 2013, Chapter 165

ENACTS:

63G-6a-409, Utah Code Annotated 1953

67-19e-104.5, Utah Code Annotated 1953

67-19e-110, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-6a-103 is amended to read:**63G-6a-103. Definitions.**

As used in this chapter:

(1) "Administrative law judge" means the same as that term is defined in Section 67-19e-102.

(2) "Administrative law judge services" means services provided by an administrative law judge.

(3) "Bidder" means a person who responds to an invitation for bids.

(4) "Change directive" means a written order signed by the procurement officer that directs the contractor to suspend work or make changes, as authorized by contract, without the consent of the contractor.

(5) "Change order" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.

(6) "Chief procurement officer" means the chief procurement officer appointed under Subsection 63G-6a-302(1).

(7) "Conducting procurement unit" means a procurement unit that conducts all aspects of a procurement:

(a) except:

(i) reviewing a solicitation to verify that it is in proper form; and

(ii) causing the publication of a notice of a solicitation; and

(b) including:

(i) preparing any solicitation document;

(ii) appointing an evaluation committee;

(iii) conducting the evaluation process, except as provided in Subsection 63G-6a-707(5)(b) relating to scores calculated for costs of proposals;

(iv) selecting and recommending the person to be awarded a contract;

(v) negotiating the terms and conditions of a contract, subject to the issuing procurement unit's approval; and

(vi) administering a contract.

(8) (a) "Construction" means the process of building, renovating, altering, improving, or repairing a public building or public work.

(b) "Construction" does not include the routine operation, routine repair, or routine maintenance of an existing structure, building, or real property.

(9) (a) "Construction manager/general contractor" means a contractor who enters into a contract for the management of a construction project when the contract allows the contractor to subcontract for additional labor and materials that

are not included in the contractor's cost proposal submitted at the time of the procurement of the contractor's services.

(b) "Construction manager/general contractor" does not include a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of the contractor's services is to meet subcontracted portions of change orders approved within the scope of the project.

~~[(8)]~~ (10) "Contract" means an agreement for the procurement or disposal of a procurement item.

~~[(9)]~~ (11) "Contractor" means a person who is awarded a contract with a procurement unit.

~~[(10)]~~ (12) "Cooperative procurement" means procurement conducted by, or on behalf of:

(a) more than one procurement unit; or

(b) a procurement unit and a cooperative purchasing organization.

~~[(11)]~~ (13) "Cost-plus-a-percentage-of-cost contract" means a contract where the contractor is paid a percentage over and above the contractor's actual expenses or costs.

~~[(12)]~~ (14) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

~~[(13)]~~ (15) "Days" means calendar days, unless expressly provided otherwise.

~~[(14)]~~ (16) "Definite quantity contract" means a fixed price contract that provides for the supply of a specified amount of goods over a specified period, with deliveries scheduled according to a specified schedule.

~~[(15)]~~ (17) "Design-build" means the procurement of design professional services and construction by the use of a single contract with the design-build provider.

~~[(16)]~~ (18) "Design professional" means:

(a) an individual licensed as an architect under Title 58, Chapter 3a, Architects Licensing Act; or

(b) an individual licensed as a professional engineer or professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

~~[(17)]~~ (19) "Design professional services" means:

(a) professional services within the scope of the practice of architecture as defined in Section 58-3a-102;

(b) professional engineering as defined in Section 58-22-102; or

(c) master planning and programming services.

~~[(18)]~~ (20) "Directed procurement" means a procurement of a procurement item in which the

source of the funds used to procure the procurement item:

(a) directs from whom the procurement item is to be procured; or

(b) imposes requirements on how the procurement is to be administered.

~~[(19)]~~ (21) "Director" means the director of the division.

~~[(20)]~~ (22) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is either published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

~~[(21)]~~ (23) "Fixed price contract" means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except to the extent that:

(a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is not based on cost to the contractor; or

(b) an adjustment is required by law.

~~[(22)]~~ (24) "Fixed price contract with price adjustment" means a fixed price contract that provides for an upward or downward revision of price, precisely described in the contract, that:

(a) is based on the consumer price index or another commercially acceptable index, source, or formula; and

(b) is not based on a percentage of the cost to the contractor.

~~[(23)]~~ (25) "Grant" means an expenditure of public funds or other assistance, or an agreement to expend public funds or other assistance, for a public purpose authorized by law, without acquiring a procurement item in exchange.

~~[(24)]~~ (26) "Head of a procurement unit" means:

(a) as it relates to a legislative procurement unit, any person designated by rule made by the applicable rulemaking authority;

(b) as it relates to an executive branch procurement unit:

(i) the director of a division; or

(ii) any other person designated by the board, by rule;

(c) as it relates to a judicial procurement unit:

(i) the Judicial Council; or

(ii) any other person designated by the Judicial Council, by rule;

(d) as it relates to a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) any other person designated by the local government procurement unit;

(e) as it relates to a local district, the board of trustees of the local district or a designee of the board of trustees;

(f) as it relates to a special service district, the governing body of the special service district or a designee of the governing body;

(g) as it relates to a local building authority, the board of directors of the local building authority or a designee of the board of directors;

(h) as it relates to a conservation district, the board of supervisors of the conservation district or a designee of the board of supervisors;

(i) as it relates to a public corporation, the board of directors of the public corporation or a designee of the board of directors;

(j) as it relates to a school district or any school or entity within a school district, the board of the school district, or the board's designee;

(k) as it relates to a charter school, the individual or body with executive authority over the charter school, or the individual's or body's designee;

(l) as it relates to an institution of higher education of the state, the president of the institution of higher education, or the president's designee; or

(m) as it relates to a public transit district, the board of trustees or a designee of the board of trustees.

~~(25)~~ (27) "Indefinite quantity contract" means a fixed price contract that:

(a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit; and

(b) (i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

~~(26)~~ (28) "Independent procurement authority" means authority granted to a procurement unit under Subsection 63G-6a-106(4)(a).

~~(27)~~ (29) "Invitation for bids" includes all documents, including documents that are attached or incorporated by reference, used for soliciting bids to provide a procurement item to a procurement unit.

~~(28)~~ (30) "Issuing procurement unit" means a procurement unit that:

(a) reviews a solicitation to verify that it is in proper form;

(b) causes the notice of a solicitation to be published; and

(c) negotiates the terms and conditions of a contract.

~~(29)~~ (31) "Labor hour contract" is a contract where:

(a) the supplies and materials are not provided by, or through, the contractor; and

(b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified number of labor hours or days.

~~(30)~~ (32) "Multiple award contracts" means the award of a contract for an indefinite quantity of a procurement item to more than one bidder or offeror.

~~(31)~~ (33) "Multiyear contract" means a contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.

~~(32)~~ (34) "Municipality" means a city or a town.

~~(33)~~ (35) "Offeror" means a person who responds to a request for proposals.

~~(34)~~ (36) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

~~(35)~~ (37) "Procure" means to acquire a procurement item through a procurement.

~~(36)~~ (38) "Procurement":

(a) means an expenditure of public funds, or an agreement to expend public funds, in exchange for a procurement item;

(b) includes all functions that pertain to the acquisition of a procurement item, including:

(i) the description of requirements;

(ii) the selection process;

(iii) solicitation of sources;

(iv) the preparation for soliciting a procurement item; and

(v) the award of a contract; and

(c) does not include a grant.

~~(37)~~ (39) "Procurement item" means a supply, a service, construction, or technology.

~~(38)~~ (40) "Procurement officer" means:

(a) as it relates to a procurement unit with independent procurement authority:

(i) the head of the procurement unit;

(ii) a designee of the head of the procurement unit; or

(iii) a person designated by rule made by the applicable rulemaking authority; or

(b) as it relates to the division or a procurement unit without independent procurement authority, the chief procurement officer.

~~[(39)]~~ (41) “Professional service” means a service that requires a high degree of specialized knowledge and discretion in the performance of the service, including:

- (a) legal services;
- (b) consultation services;
- (c) architectural services;
- (d) engineering;
- (e) design;
- (f) underwriting;
- (g) bond counsel;
- (h) financial advice;
- (i) construction management;
- (j) medical services;
- (k) psychiatric services; ~~[or]~~
- (l) counseling services~~[-];~~ or
- (m) administrative law judge services.

~~[(40)]~~ (42) “Protest officer” means:

(a) as it relates to the division or a procurement unit with independent procurement authority:

- (i) the head of the procurement unit;
- (ii) a designee of the head of the procurement unit; or
- (iii) a person designated by rule made by the applicable rulemaking authority; or

(b) as it relates to a procurement unit without independent procurement authority, the chief procurement officer or the chief procurement officer’s designee.

~~[(41)]~~ (43) “Request for information” means a nonbinding process where a procurement unit requests information relating to a procurement item.

~~[(42)]~~ (44) “Request for proposals” includes all documents, including documents that are attached or incorporated by reference, used for soliciting proposals to provide a procurement item to a procurement unit.

~~[(43)]~~ (45) “Request for statement of qualifications” means all documents used to solicit information about the qualifications of the person interested in responding to a potential procurement, including documents attached or incorporated by reference.

~~[(44)]~~ (46) “Requirements contract” means a contract:

- (a) where a contractor agrees to provide a procurement unit’s entire requirements for certain

procurement items at prices specified in the contract during the contract period; and

(b) that:

(i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

~~[(45)]~~ (47) “Responsible” means being capable, in all respects, of:

(a) meeting all the requirements of a solicitation; and

(b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.

~~[(46)]~~ (48) “Responsive” means conforming in all material respects to the invitation for bids or request for proposals.

~~[(47)]~~ (49) “Sealed” means manually or electronically sealed and submitted bids or proposals.

~~[(48)]~~ (50) (a) “Services” means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than a report that is incidental to the required performance.

(b) “Services” does not include an employment agreement or a collective bargaining agreement.

~~[(49)]~~ (51) “Sole source contract” means a contract resulting from a sole source procurement.

~~[(50)]~~ (52) “Sole source procurement” means a procurement without competition pursuant to a determination under Subsection 63G-6a-802(2)(a) that there is only one source for the procurement item.

~~[(51)]~~ (53) “Solicitation” means an invitation for bids, request for proposals, notice of a sole source procurement, request for statement of qualifications, request for information, or any document used to obtain bids, proposals, pricing, qualifications, or information for the purpose of entering into a procurement contract.

~~[(52)]~~ (54) “Specification” means any description of the physical or functional characteristics, or nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

(a) a requirement for inspecting or testing a procurement item; or

(b) preparing a procurement item for delivery.

~~[(53)]~~ (55) “Standard procurement process” means one of the following methods of obtaining a procurement item:

(a) bidding, as described in Part 6, Bidding;

(b) request for proposals, as described in Part 7, Request for Proposals; or

(c) small purchases, in accordance with the requirements established under Section 63G-6a-408.

[454] (56) "State cooperative contract" means a contract awarded by the division for and in behalf of all public entities.

[455] (57) "Statement of qualifications" means a written statement submitted to a procurement unit in response to a request for statement of qualifications.

[456] (58) (a) "Subcontractor" means a person under contract with a contractor or another subcontractor to provide services or labor for design or construction.

(b) "Subcontractor" includes a trade contractor or specialty contractor.

(c) "Subcontractor" does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor.

[457] (59) "Supplies" means all property, including equipment, materials, and printing.

[458] (60) "Tie bid" means that the lowest responsive and responsible bids are identical in price.

[459] (61) "Time and materials contract" means a contract where the contractor is paid:

(a) the actual cost of direct labor at specified hourly rates;

(b) the actual cost of materials and equipment usage; and

(c) an additional amount, expressly described in the contract, to cover overhead and profit, that is not based on a percentage of the cost to the contractor.

Section 2. Section 63G-6a-403 is amended to read:

63G-6a-403. Prequalification of potential vendors.

(1) As used in this section:

(a) "Closed-ended prequalification process" means a process to prequalify potential vendors under this section that is characterized by:

(i) a short, specified period of time during which potential vendors may be prequalified; and

(ii) a specified date at which prequalifications expire.

(b) "Open-ended prequalification process" means a process to prequalify vendors and potential vendors under this section that is characterized by an indeterminate period of time during any part of which vendors or potential vendors may be prequalified and the prequalification of previously prequalified vendors or potential vendors may be periodically renewed.

(c) "Vendor" means:

(i) a bidder;

(ii) an offeror; or

(iii) a contractor, including an architect or an engineer.

(2) A procurement unit may, in accordance with this section:

(a) using a closed-ended prequalification process or an open-ended prequalification process:

(i) prequalify potential vendors to provide any procurement item or type of procurement item specified by the procurement unit; or

(ii) rank architects, engineers, or other professional service providers to begin the fee negotiation process, as provided in this chapter; and

(b) limit participation in a standard procurement process to the prequalified potential vendors for the specified procurement item or type of procurement item.

(3) To prequalify potential vendors or rank professional service providers, a procurement unit shall issue a request for statement of qualifications.

(4) A procurement unit that issues a request for statement of qualifications:

(a) shall:

(i) publish the request for statement of qualifications in accordance with the requirements of Section 63G-6a-406; and

(ii) state in the request for statement of qualifications:

(A) the procurement item or type of procurement item to which the request for statement of qualifications relates;

(B) the scope of work to be performed;

(C) the instructions and deadline for submitting a statement of qualifications;

(D) the criteria by which the procurement unit will evaluate statements of qualifications;

(E) whether the prequalification process is a closed-ended prequalification process or an open-ended prequalification process;

(F) if the prequalification process is a closed-ended prequalification process, the period of time during which the list of prequalified potential vendors will remain in effect, which may not be longer than 18 months after the list of prequalified potential vendors is made available to the public under Subsection (11)(b);

(G) if the prequalification process is an open-ended prequalification process, when a potential vendor may submit a statement of qualifications for the potential vendor to be considered for inclusion on the list of prequalified potential vendors; and

(H) that a procurement unit may limit participation in an invitation for bids or a request for proposals to the potential vendors that are prequalified to provide the specified procurement item or type of procurement item; and

(b) may request the person submitting a statement of qualifications to provide:

- (i) basic information about the person;
- (ii) the person's experience and work history;
- (iii) information about the person's management and staff;
- (iv) information about the person's licenses, certifications, and other qualifications;
- (v) any applicable performance ratings;
- (vi) financial statements reporting the person's financial condition;
- (vii) information about the person's work site safety program, including any requirement that the person imposes on subcontractors for a work site safety program; and
- (viii) any other pertinent information.

(5) (a) In order to renew a prequalification, a vendor or potential vendor that has been previously prequalified through an open-ended prequalification process shall submit a statement of qualifications no more than 18 months after the previous prequalification of that vendor or potential vendor.

(b) A previously prequalified vendor or potential vendor submitting a statement of qualifications under Subsection (5)(a) shall comply with all requirements applicable at that time to a potential vendor seeking prequalification for the first time.

(6) A procurement unit may at any time modify prequalification requirements of an open-ended prequalification process.

(7) The criteria described in Subsection (4)(a)(ii)(D):

- (a) shall include the prequalification requirements unique to the procurement;
- (b) may include performance rating criteria; and
- (c) may not be so restrictive that the criteria unreasonably limit competition.

(8) A procurement unit may, before making a final list of prequalified vendors, request additional information to clarify responses made to the request for statement of qualifications.

(9) A potential vendor shall be included on the list of prequalified potential vendors if the potential vendor:

- (a) submits a timely, responsive response to the request for statement of qualifications; and
- (b) meets the criteria for qualification described in Subsection (4)(a)(ii)(D).

(10) If a request for statement of qualifications will result in only one potential vendor being placed on the list of prequalified potential vendors:

- (a) the procurement unit shall cancel the request for statement of qualifications; and

(b) the list may not be used by the procurement unit.

(11) The procurement unit shall:

(a) before making the list of prequalified potential vendors available to the public, provide each potential vendor who provided information in response to the request, but who did not meet the minimum qualifications for placement on the list, a written justification statement describing why the potential vendor did not meet the criteria for inclusion on the list; and

(b) make the list of prequalified potential vendors available to the public within 30 days after:

- (i) completing the evaluation process, if the prequalification process is a closed-ended prequalification process; or
- (ii) updating the list of prequalified potential vendors, if the prequalification process is an open-ended prequalification process.

(12) For the procurement of administrative law judge services, a procurement unit shall review and evaluate each statement of qualifications received under this section by means of an evaluation committee described in Section 63G-6a-409.

Section 3. Section 63G-6a-408 is amended to read:

63G-6a-408. Small purchases.

(1) As used in this section:

(a) "Annual cumulative threshold" means the maximum total annual amount, established by the applicable rulemaking authority under Subsection (2)(a)(i), that a procurement unit may expend to obtain procurement items from the same source under this section.

(b) "Individual procurement threshold" means the maximum amount, established by the applicable rulemaking authority under Subsection (2)(a)(ii), for which a procurement unit may purchase a procurement item under this section.

(c) "Single procurement aggregate threshold" means the maximum total amount, established by the applicable rulemaking authority under Subsection (2)(a)(iii), that a procurement unit may expend to obtain multiple procurement items from one source at one time under this section.

(2) (a) The applicable rulemaking authority may make rules governing small purchases of any procurement item, including construction, job order contracting, design professional services, other professional services, information technology, and goods.

(b) Rules under Subsection (2)(a) may include provisions:

(i) establishing expenditure thresholds, including:

- (A) an annual cumulative threshold;
- (B) an individual procurement threshold; and
- (C) a single procurement aggregate threshold;

(ii) establishing procurement requirements relating to the thresholds described in Subsection (2)(b)(i); and

(iii) providing for the use of electronic, telephone, or written quotes.

(c) If a procurement unit obtains administrative law judge services through a small purchase standard procurement process, rules made under Subsection (2)(a) shall provide that the process for the procurement of administrative law judge services include an evaluation committee described in Section 63G-6a-409.

(3) Expenditures made under this section by a procurement unit may not exceed a threshold established by the applicable rulemaking authority, unless the chief procurement officer or the head of a procurement unit with independent procurement authority gives written authorization to exceed the threshold that includes the reasons for exceeding the threshold.

(4) Except as provided in Subsection (5), an executive branch procurement unit may not obtain a procurement item through a small purchase standard procurement process if the procurement item may be obtained through a state cooperative contract or a contract awarded by the chief procurement officer under Subsection 63G-6a-2105(1).

(5) Subsection (4) does not apply if:

(a) the procurement item is obtained for an unanticipated, urgent or unanticipated, emergency condition, including:

(i) an item needed to avoid stopping a public construction project;

(ii) an immediate repair to a facility or equipment; or

(iii) another emergency condition; or

(b) the chief procurement officer or the head of a procurement unit that is an executive branch procurement unit with independent procurement authority:

(i) determines in writing that it is in the best interest of the procurement unit to obtain an individual procurement item outside of the state contract, comparing:

(A) the contract terms and conditions applicable to the procurement item under the state contract with the contract terms and conditions applicable to the procurement item if the procurement item is obtained outside of the state contract;

(B) the maintenance and service applicable to the procurement item under the state contract with the maintenance and service applicable to the procurement item if the procurement item is obtained outside of the state contract;

(C) the warranties applicable to the procurement item under the state contract with the warranties applicable to the procurement item if the

procurement item is obtained outside of the state contract;

(D) the quality of the procurement item under the state contract with the quality of the procurement item if the procurement item is obtained outside of the state contract; and

(E) the cost of the procurement item under the state contract with the cost of the procurement item if the procurement item is obtained outside of the state contract;

(ii) for a procurement item that, if defective in its manufacture, installation, or performance, may result in serious physical injury, death, or substantial property damage, determines in writing that the terms and conditions, relating to liability for injury, death, or property damage, available from the source other than the contractor who holds the state contract, are similar to, or better than, the terms and conditions available under the state contract; and

(iii) grants an exception, in writing, to the requirement described in Subsection (4).

(6) Except as otherwise expressly provided in this section, a procurement unit:

(a) may not use the small purchase standard procurement process described in this section for ongoing, continuous, and regularly scheduled procurements that exceed the annual cumulative threshold; and

(b) shall make its ongoing, continuous, and regularly scheduled procurements that exceed the annual cumulative threshold through a contract awarded through another standard procurement process described in this chapter or an applicable exception to another standard procurement process, described in Part 8, Exceptions to Procurement Requirements.

(7) This section does not prohibit regularly scheduled payments for a procurement item obtained under another provision of this chapter.

(8) (a) It is unlawful for a person to intentionally or knowingly divide a procurement into one or more smaller procurements with the intent to make a procurement:

(i) qualify as a small purchase, if, before dividing the procurement, it would not have qualified as a small purchase; or

(ii) meet a threshold established by rule made by the applicable rulemaking authority, if, before dividing the procurement, it would not have met the threshold.

(b) A person who engages in the conduct made unlawful under Subsection (8)(a) is guilty of:

(i) a second degree felony, if the value of the procurement before being divided is \$1,000,000 or more;

(ii) a third degree felony, if the value of the procurement before being divided is \$250,000 or more but less than \$1,000,000;

(iii) a class A misdemeanor, if the value of the procurement before being divided is \$100,000 or more but less than \$250,000; or

(iv) a class B misdemeanor, if the value of the procurement before being divided is less than \$100,000.

(9) A division of a procurement that is prohibited under Subsection (8) includes doing any of the following with the intent or knowledge described in Subsection (8):

(a) making two or more separate purchases;

(b) dividing an invoice or purchase order into two or more invoices or purchase orders; or

(c) making smaller purchases over a period of time.

(10) A person who violates Subsection (8) is subject to the criminal penalties described in Section 63G-6a-2405.

(11) The Division of Finance within the Department of Administrative Services may conduct an audit of an executive branch procurement unit to verify compliance with the requirements of this section.

(12) An executive branch procurement unit may not make a small purchase after January 1, 2014, unless the chief procurement officer certifies that the person responsible for procurements in the procurement unit has satisfactorily completed training on this section and the rules made under this section.

Section 4. Section 63G-6a-409 is enacted to read:

63G-6a-409. Procurement of administrative law judge services.

(1) Subject to the provisions of this section, a procurement unit shall use a standard procurement process under this chapter for the procurement of administrative law judge services.

(2) For the procurement of administrative law judge services, the evaluation committee shall consist of:

(a) the head of the conducting procurement unit, or the head's designee;

(b) the head of an executive branch procurement unit other than the conducting procurement unit, appointed by the executive director of the Department of Human Resource Management, or the head's designee; and

(c) the executive director of the Department of Human Resource Management, or the executive director's designee.

(3) Within 30 days after the day on which a conducting procurement unit awards a contract for administrative law judge services, the conducting procurement unit shall give written notice to the Department of Human Resource Management that states:

(a) that the conducting procurement unit awarded a contract for administrative law judge services;

(b) the name of the conducting procurement unit; and

(c) the expected term of the contract.

Section 5. Section 63G-6a-707 is amended to read:

63G-6a-707. Evaluation of proposals -- Evaluation committee.

(1) To determine which proposal provides the best value to the procurement unit, the evaluation committee shall evaluate each responsive and responsible proposal that has not been disqualified from consideration under the provisions of this chapter, using the criteria described in the request for proposals, which may include:

(a) experience;

(b) performance ratings;

(c) inspection;

(d) testing;

(e) quality;

(f) workmanship;

(g) time, manner, or schedule of delivery;

(h) references;

(i) financial solvency;

(j) suitability for a particular purpose;

(k) management plans;

(l) the presence and quality of a work site safety program, including any requirement that the offeror imposes on subcontractors for a work site safety program;

(m) cost; or

(n) other subjective or objective criteria specified in the request for proposals.

(2) Criteria not described in the request for proposals may not be used to evaluate a proposal.

(3) [The] Except as provided in Subsection 63G-6a-409(2), the conducting procurement unit shall:

(a) appoint an evaluation committee consisting of at least three individuals; and

(b) ensure that the evaluation committee and each member of the evaluation committee:

(i) does not have a conflict of interest with any of the offerors;

(ii) can fairly evaluate each proposal;

(iii) does not contact or communicate with an offeror concerning the procurement outside the official evaluation committee process; and

(iv) conducts the evaluation in a manner that ensures a fair and competitive process and avoids the appearance of impropriety.

(4) The evaluation committee may, with the approval of the head of the conducting procurement unit, enter into discussions or conduct interviews with, or attend presentations by, the offerors.

(5) (a) Except as provided in Subsections (5)(b) and (8), each member of the evaluation committee is prohibited from knowing, or having access to, any information relating to the cost, or the scoring of the cost, of a proposal until after the evaluation committee submits its final recommended scores on all other criteria to the issuing procurement unit.

(b) The issuing procurement unit shall:

(i) if applicable, assign an individual who is not a member of the evaluation committee to calculate scores for cost based on the applicable scoring formula, weighting, and other scoring procedures contained in the request for proposals;

(ii) review the evaluation committee's scores and correct any errors, scoring inconsistencies, and reported noncompliance with this chapter;

(iii) add the scores calculated for cost, if applicable, to the evaluation committee's final recommended scores on criteria other than cost to derive the total combined score for each responsive and responsible proposal; and

(iv) provide to the evaluation committee the total combined score calculated for each responsive and responsible proposal, including any applicable cost formula, weighting, and scoring procedures used to calculate the total combined scores.

(c) The evaluation committee may not:

(i) change its final recommended scores described in Subsection (5)(a) after the evaluation committee has submitted those scores to the issuing procurement unit; or

(ii) change cost scores calculated by the issuing procurement unit.

(6) (a) As used in this Subsection (6), "management fee" includes only the following fees of the construction manager/general contractor:

(i) preconstruction phase services;

(ii) monthly supervision fees for the construction phase; and

(iii) overhead and profit for the construction phase.

(b) When selecting a construction manager/general contractor for a construction project, the evaluation committee:

(i) may score a construction manager/general contractor based upon criteria contained in the solicitation, including qualifications, performance ratings, references, management plan, certifications, and other project specific criteria described in the solicitation;

(ii) may, as described in the solicitation, weight and score the management fee as a fixed rate or as a fixed percentage of the estimated contract value;

(iii) may, at any time after the opening of the responses to the request for proposals, have access to, and consider, the management fee proposed by the offerors; and

(iv) except as provided in Subsection (8), may not know or have access to any other information relating to the cost of construction submitted by the offerors, until after the evaluation committee submits its final recommended scores on all other criteria to the issuing procurement unit.

(7) (a) The deliberations of an evaluation committee may be held in private.

(b) If the evaluation committee is a public body, as defined in Section 52-4-103, the evaluation committee shall comply with Section 52-4-205 in closing a meeting for its deliberations.

(8) An issuing procurement unit is not required to comply with Subsection (5) if the head of the issuing procurement unit or a person designated by rule made by the applicable rulemaking authority:

(a) signs a written statement:

(i) indicating that, due to the nature of the proposal or other circumstances, it is in the best interest of the procurement unit to waive compliance with Subsection (5); and

(ii) describing the nature of the proposal and the other circumstances relied upon to waive compliance with Subsection (5); and

(b) makes the written statement available to the public, upon request.

Section 6. Section 67-19e-102 is amended to read:

67-19e-102. Definitions.

[4] In addition to the definitions found in Section 67-19-3, the following definitions apply to this chapter[-]:

(1) (a) "Administrative law judge" means an individual who is employed or contracted by a state agency ~~[that]~~ who:

(i) presides over or conducts formal administrative hearings on behalf of an agency;

(ii) has the power to administer oaths, rule on the admissibility of evidence, take testimony, evaluate evidence, and make determinations of fact; and

(iii) issues written orders, rulings, or final decisions on behalf of an agency.

(b) "Administrative law judge" does not mean:

(i) an individual who reviews an order or ruling of an administrative law judge; or

(ii) the executive director of a state agency.

[e] (2) "Committee" means the Administrative Law Judge Conduct Committee created in Section 67-19e-108.

(3) "Department" means the Department of Human Resource Management created in Section 67-19-5.

(4) "Executive director" means the executive director of the department.

[(2) This chapter applies to all agencies of the state except the:]

[(a) Board of Pardons and Parole;]

[(b) Department of Corrections; and]

[(c) State Tax Commission.]

Section 7. Section 67-19e-103 is amended to read:

67-19e-103. Administrative law judges -- Applicability -- Destruction of evidence.

[(1) All agency administrative law judges who conduct formal administrative hearings are subject to this chapter.]

[(2) All administrative law judges are subject to the code of conduct promulgated by the department in accordance with Section 67-19e-104.]

(1) (a) Except as provided in Subsections (1)(b) and (2), the provisions of this chapter apply to an administrative law judge who conducts formal adjudicative proceedings.

(b) Except as provided in Subsection (2), the provisions of this chapter do not apply to an administrative law judge who is employed by or contracts with:

(i) the Board of Pardons and Parole;

(ii) the Department of Corrections; or

(iii) the State Tax Commission.

(2) The code of conduct established by the department under Subsection 67-19e-104(4) applies to all administrative law judges.

(3) An administrative law judge who tampers with or destroys evidence submitted to the administrative law judge is subject to the provisions of Section 76-8-510.5. This section does not apply to documents destroyed in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

Section 8. Section 67-19e-104 is amended to read:

67-19e-104. Rulemaking authority.

The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(1) establishing minimum performance standards for all administrative law judges;

(2) providing procedures for filing, addressing, and reviewing complaints against administrative law judges;

(3) providing standards for complaints against administrative law judges; ~~and]~~

(4) promulgating a code of conduct for all administrative law judges in all state agencies[-]; and

(5) establishing a procedural fairness training program as described in Section 67-19e-109.

Section 9. Section 67-19e-104.5 is enacted to read:

67-19e-104.5. Hiring of administrative law judges.

(1) Except as provided in Subsection (6), each administrative law judge hired on or after May 10, 2016, shall be hired in accordance with this section.

(2) If an applicant for an administrative law judge position is selected for an interview in accordance with applicable law and department rule, the agency shall interview the applicant by means of a hiring panel.

(3) The hiring panel described in Subsection (2) shall consist of:

(a) the head of the hiring agency;

(b) the head of another agency, appointed by the executive director; and

(c) the executive director.

(4) Each individual described in Subsection (3) may designate another individual to serve on the hiring panel on the individual's behalf.

(5) After the hiring panel completes the interviews for an administrative law judge position:

(a) the hiring panel shall select the top three applicants for the administrative law judge position; and

(b) the head of the hiring agency shall:

(i) consider any opinions or feedback from the other members of the hiring panel with respect to the top three applicants; and

(ii) (A) hire an applicant from the top three applicants to fill the administrative law judge position; or

(B) decide not to hire any of the top three applicants and restart the hiring process to fill the administrative law judge position.

(6) This section does not apply to an administrative law judge who is appointed by the governor.

Section 10. Section 67-19e-106 is amended to read:

67-19e-106. Performance surveys.

(1) For administrative law judges contracted or employed before July 1, 2013, performance surveys shall be conducted initially at either the two-, three-, or four-year mark beginning January 1, 2014. By July 1, 2018, all administrative law judges shall be on a four-year staggered cycle for performance evaluations.

(2) The performance survey shall include as respondents a sample of each of the following groups as applicable:

(a) attorneys who have appeared before the administrative law judge as counsel; and

(b) staff who have worked with the administrative law judge.

(3) The department may include an additional classification of respondents if the department:

(a) considers a survey of that classification of respondents helpful to the department; and

(b) establishes the additional classification of respondents by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) A survey response is anonymous, including any comment included with a survey response.

(5) If the department provides any information to an administrative law judge or the committee, the information shall be provided in such a way as to protect the confidentiality of a survey respondent.

(6) If the department establishes an additional classification, in accordance with Subsection (3), a survey shall be provided to a potential survey respondent within 30 days of the day on which the case in which the person appeared before the administrative law judge is closed, exclusive of any appeal. Staff and attorneys may be surveyed at any time during the survey period.

(7) The performance survey shall include questions relating to whether the administrative law judge's behavior furthers the following elements of procedural fairness:

(a) neutrality, including:

(i) consistent and equal treatment of the individuals who appear before the administrative law judge;

(ii) concern for the individual needs of the individuals who appear before the administrative law judge; and

(iii) careful deliberation;

(b) respectful treatment of others; and

(c) providing individuals a voice and opportunity to be heard.

[(7) Survey categories]

(8) The performance survey may include questions concerning an administrative law judge's:

(a) legal ability, including the following:

(i) demonstration of understanding of the substantive law and any relevant rules of procedure and evidence;

(ii) attentiveness to factual and legal issues before the administrative law judge;

(iii) adherence to precedent and ability to clearly explain departures from precedent;

(iv) grasp of the practical impact on the parties of the administrative law judge's rulings, including the effect of delay and increased litigation expense;

(v) ability to write clear opinions and decisions; and

(vi) ability to clearly explain the legal basis for opinions;

(b) temperament and integrity, including the following:

(i) demonstration of courtesy toward attorneys, staff, and others in the administrative law judge's department;

(ii) maintenance of decorum in the courtroom;

(iii) demonstration of judicial demeanor and personal attributes that promote public trust and confidence in the administrative law judge system;

(iv) preparedness for oral argument;

(v) avoidance of impropriety or the appearance of impropriety;

(vi) display of fairness and impartiality toward all parties; and

(vii) ability to clearly communicate, including the ability to explain the basis for written rulings, court procedures, and decisions; and

(c) administrative performance, including the following:

(i) management of workload;

(ii) sharing proportionally the workload within the department; and

(iii) issuance of opinions and orders without unnecessary delay.

~~[(8)]~~ (9) If the department determines that a certain survey question or category of questions is not appropriate for a respondent group, the department may omit that question or category of questions from the survey provided to that respondent group.

~~[(9)]~~ (10) (a) The survey shall allow respondents to indicate responses in a manner determined by the department, which shall be:

(i) on a numerical scale from one to five; or

(ii) in the affirmative or negative, with an option to indicate the respondent's inability to respond in the affirmative or negative.

(b) To supplement the responses to questions on either a numerical scale or in the affirmative or negative, the department may allow respondents to provide written comments.

~~[(10)]~~ (11) The department shall compile and make available to each administrative law judge that administrative law judge's survey results with each of the administrative law judge's performance evaluations.

Section 11. Section 67-19e-108 is amended to read:

67-19e-108. Administrative Law Judge Conduct Committee.

(1) There is created the Administrative Law Judge Conduct Committee to investigate, review,

and hear complaints filed against administrative law judges.

(2) The committee shall be composed of:

(a) the executive director ~~[of the department]~~, or the executive director's designee, as chair; and

(b) four executive directors, or their designees, of agencies that employ or contract with administrative law judges, to be selected by the executive director as needed.

(3) The department shall provide staff for the committee as needed.

Section 12. Section 67-19e-110 is enacted to read:

67-19e-110. Required training.

(1) Each year that an administrative law judge receives a performance evaluation conducted by the department under this chapter, the administrative law judge shall complete the procedural fairness training program described in this section.

(2) The department shall establish a procedural fairness training program that includes training on how an administrative law judge's actions and behavior influence others' perceptions of the fairness of the adjudicative process.

(3) The procedural fairness training program shall include discussion of the following elements of procedural fairness:

(a) neutrality, including:

(i) consistent and equal treatment of the individuals who appear before the administrative law judge;

(ii) concern for the individual needs of the individuals who appear before the administrative law judge; and

(iii) unhurried and careful deliberation;

(b) respectful treatment of others; and

(c) providing individuals a voice and opportunity to be heard.

(4) The department may contract with a public or private person to develop or provide the procedural fairness training program.

CHAPTER 238**S. B. 136**

Passed March 8, 2016

Approved March 23, 2016

Effective May 10, 2016

**DIVISION OF OCCUPATIONAL
AND PROFESSIONAL LICENSING
AMENDMENTS**

Chief Sponsor: Evan J. Vickers

House Sponsor: Don L. Ipson

LONG TITLE**General Description:**

This bill modifies provisions related to occupational and professional licensing.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ describes requirements for assigning certain claims by a qualified beneficiary;
- ▶ provides that the Division of Occupational and Professional Licensing (DOPL) shall comply with the Open and Public Meetings Act;
- ▶ modifies provisions related to DOPL's adjudicative proceedings and rulemaking authority;
- ▶ permits an esthetics school to provide a certain percent of its curriculum online;
- ▶ modifies provisions related to licensure requirements, licensure exemptions, the reinstatement of licenses, grounds for denying licenses, and penalties for the conduct of licensees under DOPL;
- ▶ modifies provisions related to access to information in the controlled substance database;
- ▶ modifies provisions related to the confidentiality of certain records provided to DOPL; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

- 38-11-203, as last amended by Laws of Utah 2004, Chapter 42
- 38-11-204, as last amended by Laws of Utah 2012, Chapter 278
- 58-1-106, as last amended by Laws of Utah 2008, Chapter 382
- 58-1-109, as last amended by Laws of Utah 2008, Chapter 382
- 58-1-302, as last amended by Laws of Utah 2013, Chapter 262
- 58-1-307, as last amended by Laws of Utah 2012, Chapter 150
- 58-1-308, as last amended by Laws of Utah 2009, Chapter 183
- 58-1-401, as last amended by Laws of Utah 2013, Chapter 262
- 58-1-502, as last amended by Laws of Utah 2013, Chapter 262
- 58-11a-501, as last amended by Laws of Utah 2009,

Chapter 130

- 58-13-3, as last amended by Laws of Utah 2014, Chapter 400
- 58-15-2, as last amended by Laws of Utah 2011, Chapter 366
- 58-16a-302, as last amended by Laws of Utah 2014, Chapter 305
- 58-17b-610.5, as enacted by Laws of Utah 2015, Chapter 336
- 58-24b-301, as enacted by Laws of Utah 2009, Chapter 220
- 58-24b-302, as enacted by Laws of Utah 2009, Chapter 220
- 58-24b-303, as last amended by Laws of Utah 2013, Chapter 31
- 58-26a-501, as last amended by Laws of Utah 2008, Chapter 265
- 58-37f-301, as last amended by Laws of Utah 2015, Chapters 89, 326, and 336
- 58-37f-601, as last amended by Laws of Utah 2015, Chapter 326
- 58-44a-302, as last amended by Laws of Utah 2009, Chapter 183
- 58-55-302, as last amended by Laws of Utah 2015, Chapter 258
- 58-55-307, as last amended by Laws of Utah 2008, Chapter 382
- 58-60-508, as last amended by Laws of Utah 2013, Chapter 262
- 58-63-302, as last amended by Laws of Utah 2013, Chapter 436
- 58-64-304, as enacted by Laws of Utah 1995, Chapter 215
- 58-70a-305, as last amended by Laws of Utah 2010, Chapter 37
- 58-74-102, as last amended by Laws of Utah 2004, Chapter 77
- 58-77-601, as last amended by Laws of Utah 2014, Chapter 189
- 58-81-102, as enacted by Laws of Utah 2009, Chapter 263

ENACTS:

58-11a-302.5, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

58-64-304, as enacted by Laws of Utah 1995, Chapter 215

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 38-11-203 is amended to read:**38-11-203. Disbursements from the fund -- Limitations.**

(1) A payment of any claim upon the fund by a qualified beneficiary shall be made only upon an order issued by the director finding that:

(a) the claimant was a qualified beneficiary during the construction on a residence;

(b) the claimant complied with the requirements of Section 38-11-204; ~~and~~

(c) there is adequate money in the fund to pay the amount ordered[-]; and

(d) the claimant provided the qualified services that are the basis of the claim.

(2) A payment of a claim upon the fund by a laborer shall be made only upon an order issued by the director finding that:

(a) the laborer complied with the requirements of Subsection 38-11-204(7); and

(b) there is adequate money in the fund to pay the amount ordered.

(3) (a) An order under this section may be issued only after the division has complied with the procedures established by rule under Section 38-11-105.

(b) The director shall order payment of the qualified services as established by evidence, or if the claimant has obtained a judgment, then in the amount awarded for qualified services in the judgment to the extent the qualified services are attributable to the owner-occupied residence at issue in the claim.

(c) The director shall order payment of interest on amounts claimed for qualified services based on the current prime interest rate at the time payment was due to the date the claim is approved for payment except for delays attributable to the claimant but not more than 10% per annum.

(d) The rate shall be the prime lending rate as published in the Wall Street Journal on the first business day of each calendar year adjusted annually.

(e) The director shall order payment of costs in the amount stated in the judgment. If the judgment does not state a sum certain for costs, or if no judgment has been obtained, the director shall order payment of reasonable costs as supported by evidence. The claim application fee as established by the division pursuant to Subsection 38-11-204(1)(b) is not a reimbursable cost.

(f) If a judgment has been obtained with attorneys' fees, notwithstanding the amount stated in a judgment, or if no judgment has been obtained but the contract provides for attorneys' fees, the director shall order payment of attorneys' fees not to exceed 15% of qualified services. If the judgment does not state a sum for attorneys' fees, no attorneys' fees will be paid by the director.

(4) (a) Payments made from the fund may not exceed \$75,000 per construction project to qualified beneficiaries and laborers who have claim against the fund for that construction project.

(b) If claims against the fund for a construction project exceed \$75,000, the \$75,000 shall be awarded proportionately so that each qualified beneficiary and laborer awarded compensation from the fund for qualified services shall receive an identical percentage of the qualified beneficiary's or laborer's award.

(5) Subject to the limitations of Subsection (4), if on the day the order is issued there are inadequate funds to pay the entire claim and the director determines that the claimant has otherwise met the requirements of Subsection (1) or (2), the director

shall order additional payments once the fund meets the balance limitations of Section 38-11-206.

(6) (a) A payment of any claim upon the fund may not be made to an assignee or transferee unless an order issued by the director finds that:

(i) the claim is assigned or transferred to a person who is a qualified beneficiary; and

(ii) the person assigning or transferring the claim:

(A) was a qualified beneficiary during the construction on a residence; and

(B) provided the qualified services that are the basis of the claim.

(b) A claimant who is an assignee or transferee of a claim upon the fund under this Subsection (6) does not have to meet the requirements of Subsections 38-11-203(1)(a) and (d).

Section 2. Section 38-11-204 is amended to read:

38-11-204. Claims against the fund -- Requirements to make a claim -- Qualifications to receive compensation -- Qualifications to receive a certificate of compliance.

(1) To claim recovery from the fund a person shall:

(a) meet the requirements of Subsection (4) or (6);

(b) pay an application fee determined by the division under Section 63J-1-504; and

(c) file with the division a completed application on a form provided by the division accompanied by supporting documents establishing:

(i) that the person meets the requirements of Subsection (4) or (6);

(ii) that the person was a qualified beneficiary or laborer during the construction on the owner-occupied residence; and

(iii) the basis for the claim.

(2) To recover from the fund, the application required by Subsection (1) shall be filed no later than one year:

(a) from the date the judgment required by Subsection (4)(d) is entered;

(b) from the date the nonpaying party filed bankruptcy, if the claimant is precluded from obtaining a judgment or from satisfying the requirements of Subsection (4)(d) because the nonpaying party filed bankruptcy within one year after the entry of judgment; or

(c) from the date the laborer, trying to recover from the fund, completed the laborer's qualified services.

(3) The issuance of a certificate of compliance is governed by Section 38-11-110.

(4) To recover from the fund, regardless of whether the residence is occupied by the owner, a subsequent owner, or the owner or subsequent

owner's tenant or lessee, a qualified beneficiary shall establish that:

(a) (i) the owner of the owner-occupied residence or the owner's agent entered into a written contract with an original contractor licensed or exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act:

(A) for the performance of qualified services;

(B) to obtain the performance of qualified services by others; or

(C) for the supervision of the performance by others of qualified services in construction on that residence;

(ii) the owner of the owner-occupied residence or the owner's agent entered into a written contract with a real estate developer for the purchase of an owner-occupied residence; or

(iii) the owner of the owner-occupied residence or the owner's agent entered into a written contract with a factory built housing retailer for the purchase of an owner-occupied residence;

(b) the owner has paid in full the original contractor, licensed or exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, real estate developer, or factory built housing retailer under Subsection (4)(a) with whom the owner has a written contract in accordance with the written contract and any amendments to the contract;

(c) (i) the original contractor, licensed or exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, the real estate developer, or the factory built housing retailer subsequently failed to pay a qualified beneficiary who is entitled to payment under an agreement with that original contractor or real estate developer licensed or exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for services performed or materials supplied by the qualified beneficiary;

(ii) a subcontractor who contracts with the original contractor, licensed or exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, the real estate developer, or the factory built housing retailer failed to pay a qualified beneficiary who is entitled to payment under an agreement with that subcontractor or supplier; or

(iii) a subcontractor who contracts with a subcontractor or supplier failed to pay a qualified beneficiary who is entitled to payment under an agreement with that subcontractor or supplier;

(d) (i) unless precluded from doing so by the nonpaying party's bankruptcy filing within the applicable time, the qualified beneficiary filed an action against the nonpaying party to recover money owed to the qualified beneficiary within the earlier of:

(A) 180 days from the date the qualified beneficiary filed a notice of claim under Section 38-1a-502; or

(B) 270 days from the completion of the original contract pursuant to Subsection 38-1a-502(1);

(ii) the qualified beneficiary has obtained a judgment against the nonpaying party who failed to pay the qualified beneficiary under an agreement to provide qualified services for construction of that owner-occupied residence;

(iii) ~~(A)~~ the qualified beneficiary has:

~~(A)~~ (A) obtained from a court of competent jurisdiction the issuance of an order requiring the judgment debtor, or if a corporation any officer of the corporation, to appear before the court at a specified time and place to answer concerning the debtor's or corporation's property;

~~(B)~~ (B) received return of service of the order from a person qualified to serve documents under the Utah Rules of Civil Procedure, Rule 4(b); and

~~(C)~~ (C) made reasonable efforts to obtain asset information from the supplemental proceedings; and

~~(D)~~ (D) if assets subject to execution are discovered as a result of the order required under this Subsection (4)(d)(iii)~~(A)~~ or for any other reason, ~~to obtain~~ obtained the issuance of a writ of execution from a court of competent jurisdiction; ~~and~~ and

(iv) if the nonpaying party has filed bankruptcy, the qualified beneficiary timely filed a proof of claim where permitted in the bankruptcy action~~, if the nonpaying party has filed bankruptcy~~;

(e) the qualified beneficiary is not entitled to reimbursement from any other person; and

(f) the qualified beneficiary provided qualified services to a contractor, licensed or exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act.

(5) The requirements of Subsections (4)(d)(ii) and (iii) need not be met if the qualified beneficiary is prevented from compliance because the nonpaying party files bankruptcy.

(6) To recover from the fund a laborer shall:

(a) establish that the laborer has not been paid wages due for the work performed at the site of a construction on an owner-occupied residence; and

(b) provide any supporting documents or information required by rule by the division.

(7) A fee determined by the division under Section 63J-1-504 shall be deducted from any recovery from the fund received by a laborer.

(8) The requirements of Subsections (4)(a) and (b) may be satisfied if an owner or agent of the owner establishes to the satisfaction of the director that the owner of the owner-occupied residence or the owner's agent entered into a written contract with an original contractor who:

(a) was a business entity that was not licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, but was solely or partly owned by an individual who was licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act; or

(b) was a natural person who was not licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, but who was the sole or partial owner and qualifier of a business entity that was licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act.

(9) The director shall have equitable power to determine if the requirements of Subsections (4)(a) and (b) have been met, but any decision by the director under this chapter shall not alter or have any effect on any other decision by the division under Title 58, Occupations and Professions.

Section 3. Section 58-1-106 is amended to read:

58-1-106. Division -- Duties, functions, and responsibilities.

(1) The duties, functions, and responsibilities of the division include the following:

(a) prescribing, adopting, and enforcing rules to administer this title;

(b) investigating the activities of any person whose occupation or profession is regulated or governed by the laws and rules administered and enforced by the division;

(c) subpoenaing witnesses, taking evidence, and requiring by subpoena duces tecum the production of any books, papers, documents, records, contracts, recordings, tapes, correspondence, or information relevant to an investigation upon a finding of sufficient need by the director or by the director's designee;

(d) taking administrative and judicial action against persons in violation of the laws and rules administered and enforced by the division, including the issuance of cease and desist orders;

(e) seeking injunctions and temporary restraining orders to restrain unauthorized activity;

(f) ~~[giving public notice of board meetings] complying with Title 52, Chapter 4, Open and Public Meetings Act;~~

~~[(g) keeping records of board meetings, proceedings, and actions and making those records available for public inspection upon request;]~~

~~[(h)] (g) issuing, refusing to issue, revoking, suspending, renewing, refusing to renew, or otherwise acting upon any license;~~

~~[(i)] (h) preparing and submitting to the governor and the Legislature an annual report of the division's operations, activities, and goals;~~

~~[(j)] (i) preparing and submitting to the executive director a budget of the expenses for the division;~~

~~[(k)] (j) establishing the time and place for the administration of examinations; and~~

~~[(l)] (k) preparing lists of licensees and making these lists available to the public at cost upon request unless otherwise prohibited by state or federal law.~~

(2) The division may not include home telephone numbers or home addresses of licensees on the lists prepared under Subsection (1)~~[(l)](k)~~, except as otherwise provided by rules of the division made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) (a) The division may provide the home address or home telephone number of a licensee on a list prepared under Subsection (1) upon the request of an individual who provides proper identification and the reason for the request, in writing, to the division.

(b) A request under Subsection (3)(a) is limited to providing information on only one licensee per request.

(c) The division shall provide, by rule, what constitutes proper identification under Subsection (3)(a).

Section 4. Section 58-1-109 is amended to read:

58-1-109. Presiding officers -- Content of orders -- Recommended orders -- Final orders -- Appeal of orders.

(1) Unless otherwise specified by statute or rule, the presiding officer for adjudicative proceedings before the division shall be the director. However, pursuant to Title 63G, Chapter 4, Administrative Procedures Act, the director may designate in writing an individual or body of individuals to act as presiding officer to conduct or to assist the director in conducting any part or all of an adjudicative proceeding.

(2) Unless otherwise specified by the director, an administrative law judge shall be designated as the presiding officer to conduct formal adjudicative proceedings in accordance with Subsection 63G-4-102(4), Sections 63G-4-204 through 63G-4-207, and 63G-4-209.

(3) Unless otherwise specified by the director, the licensing board of the occupation or profession that is the subject of the proceedings shall be designated as the presiding officer to serve as fact finder at the evidentiary hearing in a formal adjudicative proceeding.

(4) At the close of an evidentiary hearing in an adjudicative proceeding, unless otherwise specified by the director, the presiding officer who served as the fact finder at the hearing shall issue a recommended order based upon the record developed at the hearing determining all issues pending before the division.

(5) (a) The director shall issue a final order affirming the recommended order or modifying or rejecting all or any part of the recommended order and entering new findings of fact, conclusions of

law, statement of reasons, and order based upon the director's personal attendance at the hearing or a review of the record developed at the hearing. Before modifying or rejecting a recommended order, the director shall consult with the presiding officer who issued the recommended order.

(b) If the director issues a final order modifying or rejecting a recommended order, the licensing board of the occupation or profession that is the subject of the proceeding may, by a two-thirds majority vote of all board members, petition the executive director or designee within the department to review the director's final order. The executive director's decision shall become the final order of the division. This subsection does not limit the right of the parties to appeal the director's final order by filing a request for agency review under Subsection (8).

(6) If the director is unable for any reason to rule upon a recommended order of a presiding officer, the director may designate another person within the division to issue a final order.

(7) If the director or the director's designee does not initiate additional fact finding or issue a final order within 20 calendar days after the date of the recommended order of the presiding officer, the recommended order becomes the final order of the director or the director's designee.

(8) The final order of the director may be appealed by filing a request for agency review with the executive director or the executive director's designee within the department.

(9) The content of all orders shall comply with the requirements of Subsection 63G-4-203(1)(i) and Sections 63G-4-208 and 63G-4-209.

Section 5. Section 58-1-302 is amended to read:

58-1-302. License by endorsement.

(1) (a) The division may issue a license without examination to a person who has been licensed in a state, district, or territory of the United States, or in a foreign country, where the education, experience, and examination requirements are, or were at the time the license was issued, substantially equal to the requirements of this state.

(b) The division, in consultation with the applicable licensing board, may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the requirements of this Subsection (1).

(2) Before a person may be issued a license under this section, the person shall produce satisfactory evidence of the person's identity, qualifications, and good standing in the occupation or profession for which licensure is sought.

Section 6. Section 58-1-307 is amended to read:

58-1-307. Exemptions from licensure.

(1) Except as otherwise provided by statute or rule, the following individuals may engage in the

practice of their occupation or profession, subject to the stated circumstances and limitations, without being licensed under this title:

(a) an individual serving in the armed forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or other federal agencies while engaged in activities regulated under this chapter as a part of employment with that federal agency if the individual holds a valid license to practice a regulated occupation or profession issued by any other state or jurisdiction recognized by the division;

(b) a student engaged in activities constituting the practice of a regulated occupation or profession while in training in a recognized school approved by the division to the extent the activities are supervised by qualified faculty, staff, or designee and the activities are a defined part of the training program;

(c) an individual engaged in an internship, residency, preceptorship, postceptorship, fellowship, apprenticeship, or on-the-job training program approved by the division while under the supervision of qualified individuals;

(d) an individual residing in another state and licensed to practice a regulated occupation or profession in that state, who is called in for a consultation by an individual licensed in this state, and the services provided are limited to that consultation;

(e) an individual who is invited by a recognized school, association, society, or other body approved by the division to conduct a lecture, clinic, or demonstration of the practice of a regulated occupation or profession if the individual does not establish a place of business or regularly engage in the practice of the regulated occupation or profession in this state;

(f) an individual licensed under the laws of this state, other than under this title, to practice or engage in an occupation or profession, while engaged in the lawful, professional, and competent practice of that occupation or profession;

(g) an individual licensed in a health care profession in another state who performs that profession while attending to the immediate needs of a patient for a reasonable period during which the patient is being transported from outside of this state, into this state, or through this state;

(h) an individual licensed in another state or country who is in this state temporarily to attend to the needs of an athletic team or group, except that the practitioner may only attend to the needs of the athletic team or group, including all individuals who travel with the team or group in any capacity except as a spectator;

(i) an individual licensed and in good standing in another state, who is in this state:

(i) temporarily, under the invitation and control of a sponsoring entity;

(ii) for a reason associated with a special purpose event, based upon needs that may exceed the ability

of this state to address through its licensees, as determined by the division; and

(iii) for a limited period of time not to exceed the duration of that event, together with any necessary preparatory and conclusionary periods; and

~~[(j) a law enforcement officer, as defined under Section 53-13-103, who:]~~

~~[(i) is operating a voice stress analyzer in the course of the officer's full-time employment with a federal, state, or local law enforcement agency;]~~

~~[(ii) has completed the manufacturer's training course and is certified by the manufacturer to operate that voice stress analyzer; and]~~

~~[(iii) is operating the voice stress analyzer in accordance with Section 58-64-601, regarding deception detection instruments; and]~~

~~[(k)]~~ (j) the spouse of an individual serving in the armed forces of the United States while the individual is stationed within this state, provided:

(i) the spouse holds a valid license to practice a regulated occupation or profession issued by any other state or jurisdiction recognized by the division; and

(ii) the license is current and the spouse is in good standing in the state of licensure.

(2) (a) A practitioner temporarily in this state who is exempted from licensure under Subsection (1) shall comply with each requirement of the licensing jurisdiction from which the practitioner derives authority to practice.

(b) Violation of a limitation imposed by this section constitutes grounds for removal of exempt status, denial of license, or other disciplinary proceedings.

(3) An individual who is licensed under a specific chapter of this title to practice or engage in an occupation or profession may engage in the lawful, professional, and competent practice of that occupation or profession without additional licensure under other chapters of this title, except as otherwise provided by this title.

(4) Upon the declaration of a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the president of the United States or other federal official requesting public health-related activities, the division in collaboration with the board may:

(a) suspend the requirements for permanent or temporary licensure of individuals who are licensed in another state for the duration of the emergency while engaged in the scope of practice for which they are licensed in the other state;

(b) modify, under the circumstances described in this Subsection (4) and Subsection (5), the scope of practice restrictions under this title for individuals who are licensed under this title as:

(i) a physician under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act;

(ii) a nurse under Chapter 31b, Nurse Practice Act, or Chapter 31c, Nurse Licensure Compact;

(iii) a certified nurse midwife under Chapter 44a, Nurse Midwife Practice Act;

(iv) a pharmacist, pharmacy technician, or pharmacy intern under Chapter 17b, Pharmacy Practice Act;

(v) a respiratory therapist under Chapter 57, Respiratory Care Practices Act;

(vi) a dentist and dental hygienist under Chapter 69, Dentist and Dental Hygienist Practice Act; and

(vii) a physician assistant under Chapter 70a, Physician Assistant Act;

(c) suspend the requirements for licensure under this title and modify the scope of practice in the circumstances described in this Subsection (4) and Subsection (5) for medical services personnel or paramedics required to be certified under Section 26-8a-302;

(d) suspend requirements in Subsections 58-17b-620(3) through (6) which require certain prescriptive procedures;

(e) exempt or modify the requirement for licensure of an individual who is activated as a member of a medical reserve corps during a time of emergency as provided in Section 26A-1-126; and

(f) exempt or modify the requirement for licensure of an individual who is registered as a volunteer health practitioner as provided in Title 26, Chapter 49, Uniform Emergency Volunteer Health Practitioners Act.

(5) Individuals exempt under Subsection (4)(c) and individuals operating under modified scope of practice provisions under Subsection (4)(b):

(a) are exempt from licensure or subject to modified scope of practice for the duration of the emergency;

(b) must be engaged in the distribution of medicines or medical devices in response to the emergency or declaration; and

(c) must be employed by or volunteering for:

(i) a local or state department of health; or

(ii) a host entity as defined in Section 26-49-102.

(6) In accordance with the protocols established under Subsection (8), upon the declaration of a national, state, or local emergency, the Department of Health or a local health department shall coordinate with public safety authorities as defined in Subsection 26-23b-110(1) and may:

(a) use a vaccine, antiviral, antibiotic, or other prescription medication that is not a controlled substance to prevent or treat a disease or condition that gave rise to, or was a consequence of, the emergency; or

(b) distribute a vaccine, antiviral, antibiotic, or other prescription medication that is not a controlled substance:

(i) if necessary, to replenish a commercial pharmacy in the event that the commercial pharmacy's normal source of the vaccine, antiviral, antibiotic, or other prescription medication is exhausted; or

(ii) for dispensing or direct administration to treat the disease or condition that gave rise to, or was a consequence of, the emergency by:

(A) a pharmacy;

(B) a prescribing practitioner;

(C) a licensed health care facility;

(D) a federally qualified community health clinic; or

(E) a governmental entity for use by a community more than 50 miles from a person described in Subsections (6)(b)(ii)(A) through (D).

(7) In accordance with protocols established under Subsection (8), upon the declaration of a national, state, or local emergency, the Department of Health shall coordinate the distribution of medications:

(a) received from the strategic national stockpile to local health departments; and

(b) from local health departments to emergency personnel within the local health departments' geographic region.

(8) The Department of Health shall establish by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for administering, dispensing, and distributing a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a controlled substance in the event of a declaration of a national, state, or local emergency. The protocol shall establish procedures for the Department of Health or a local health department to:

(a) coordinate the distribution of:

(i) a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a controlled substance received by the Department of Health from the strategic national stockpile to local health departments; and

(ii) a vaccine, an antiviral, an antibiotic, or other non-controlled prescription medication received by a local health department to emergency personnel within the local health department's geographic region;

(b) authorize the dispensing, administration, or distribution of a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a controlled substance to the contact of a patient~~[, as defined in Section 26-6-2,]~~ without a patient-practitioner relationship, if the contact's condition is the same as that of the physician's patient; and

(c) authorize the administration, distribution, or dispensing of a vaccine, an antiviral, an antibiotic, or other non-controlled prescription medication to an individual who:

(i) is working in a triage situation;

(ii) is receiving preventative or medical treatment in a triage situation;

(iii) does not have coverage for the prescription in the individual's health insurance plan;

(iv) is involved in the delivery of medical or other emergency services in response to the declared national, state, or local emergency; or

(v) otherwise has a direct impact on public health.

(9) The Department of Health shall give notice to the division upon implementation of the protocol established under Subsection (8).

Section 7. Section 58-1-308 is amended to read:

58-1-308. Term of license -- Expiration of license -- Renewal of license -- Reinstatement of license -- Application procedures.

(1) (a) Each license issued under this title shall be issued in accordance with a two-year renewal cycle established by rule.

(b) A renewal period may be extended or shortened by as much as one year to maintain established renewal cycles or to change an established renewal cycle.

(2) (a) The expiration date of a license shall be shown on the license.

(b) A license that is not renewed prior to the expiration date shown on the license automatically expires.

(c) A license automatically expires prior to the expiration date shown on the license upon the death of a licensee who is a natural person, or upon the dissolution of a licensee that is a partnership, corporation, or other business entity.

(d) If the existence of a dissolved partnership, corporation, or other business entity is reinstated prior to the expiration date shown upon the entity's expired license issued by the division, the division shall, upon written application, reinstate the applicant's license, unless it finds that the applicant no longer meets the qualifications for licensure.

(e) Expiration of licensure is not an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act.

(3) (a) The division shall notify each licensee in accordance with procedures established by rule that the licensee's license is due for renewal and that unless an application for renewal is received by the division by the expiration date shown on the license, together with the appropriate renewal fee and documentation showing completion of or compliance with renewal qualifications, the license will not be renewed.

(b) Examples of renewal qualifications which by statute or rule the division may require the licensee

to document completion of or compliance with include:

- (i) continuing education;
- (ii) continuing competency;
- (iii) quality assurance;
- (iv) utilization plan and protocol;
- (v) financial responsibility;
- (vi) certification renewal; and
- (vii) calibration of equipment.

(4) (a) (i) An application for renewal that complies with Subsection (3) is complete.

(ii) A renewed license shall be issued to applicants who submit a complete application, unless it is apparent to the division that the applicant no longer meets the qualifications for continued licensure.

(b) (i) The division may evaluate or verify documentation showing completion of or compliance with renewal requirements on an entire population or a random sample basis, and may be assisted by advisory peer committees.

(ii) If necessary, the division may complete its evaluation or verification subsequent to renewal and, if appropriate, pursue action to suspend or revoke the license of a licensee who no longer meets the qualifications for continued licensure.

(c) The application procedures specified in Subsection 58-1-301(2), apply to renewal applications to the extent they are not in conflict with this section.

(5) (a) Any license that is not renewed may be reinstated ~~[at any time within two years after nonrenewal]~~;

(i) upon submission of an application for reinstatement, payment of the renewal fee together with a reinstatement fee determined by the department under Section 63J-1-504, and upon submission of documentation showing completion of or compliance with renewal qualifications[-]; and

(ii) (A) at any time within two years after nonrenewal; or

(B) between two years and five years after nonrenewal, if established by rule made by the division in consultation with the applicable licensing board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The application procedures specified in Subsection 58-1-301(2) apply to the reinstatement applications to the extent they are not in conflict with this section.

(c) Except as otherwise provided by rule, a license that is reinstated no later than 120 days after it expires shall be retroactively reinstated to the date it expired.

(6) (a) [H] Except as provided in Subsection (5)(a), if not reinstated within two years, the holder may obtain a license only if the holder meets requirements provided by the division by rule or by statute for a new license.

(b) Each licensee under this title who has been active in the licensed occupation or profession while in the full-time employ of the United States government or under license to practice that occupation or profession in any other state or territory of the United States may reinstate the licensee's license without taking an examination by submitting an application for reinstatement, paying the current annual renewal fee and the reinstatement fee, and submitting documentation showing completion of or compliance with any renewal qualifications at any time within six months after reestablishing domicile within Utah or terminating full-time government service.

Section 8. Section 58-1-401 is amended to read:

58-1-401. Grounds for denial of license -- Disciplinary proceedings -- Time limitations -- Sanctions.

(1) The division shall refuse to issue a license to an applicant and shall refuse to renew or shall revoke, suspend, restrict, place on probation, or otherwise act upon the license of a licensee who does not meet the qualifications for licensure under this title.

(2) The division may refuse to issue a license to an applicant and may refuse to renew or may revoke, suspend, restrict, place on probation, issue a public reprimand to, or otherwise act upon the license of a licensee for the following reasons:

(a) the applicant or licensee has engaged in unprofessional conduct, as defined by statute or rule under this title;

(b) the applicant or licensee has engaged in unlawful conduct as defined by statute under this title;

(c) the applicant or licensee has been determined to be mentally incompetent by a court of competent jurisdiction; or

(d) the applicant or licensee is unable to practice the occupation or profession with reasonable skill and safety because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material, or as a result of a mental or physical condition, when the condition demonstrates a threat or potential threat to the public health, safety, or welfare.

(3) A licensee whose license to practice an occupation or profession regulated by this title has been suspended, revoked, placed on probation, or restricted may apply for reinstatement of the license at reasonable intervals and upon compliance with conditions imposed upon the licensee by statute, rule, or terms of the license suspension, revocation, probation, or restriction.

(4) The division may issue cease and desist orders to:

(a) a licensee or applicant who may be disciplined under Subsection (1) or (2);

(b) a person who engages in or represents that the person is engaged in an occupation or profession regulated under this title; and

(c) a person who otherwise violates this title or a rule adopted under this title.

(5) The division may impose an administrative penalty in accordance with Section 58-1-502.

(6) (a) The division may not take disciplinary action against a person for unprofessional or unlawful conduct under this title, unless the division enters into a stipulated agreement or initiates an adjudicative proceeding regarding the conduct within four years after the conduct is reported to the division, except under Subsection (6)(b).

(b) (i) The division may not take disciplinary action against a person for unprofessional or unlawful conduct more than 10 years after the occurrence of the conduct, unless the proceeding is in response to a civil or criminal judgment or settlement and the proceeding is initiated within one year following the judgment or settlement.

(ii) Notwithstanding Subsection (6)(b)(i), the division may refuse to issue a license due to unprofessional or unlawful conduct that occurred more than 10 years before a request or application for licensure is made.

Section 9. Section 58-1-502 is amended to read:

58-1-502. Unlawful and unprofessional conduct -- Penalties.

(1) Unless otherwise specified in this title, a person who violates the unlawful conduct provisions defined in this title is guilty of a class A misdemeanor.

(2) (a) In addition to any other statutory penalty for a violation related to a specific occupation or profession regulated by this title, if upon inspection or investigation, the division concludes that a person has violated Subsection 58-1-501(1)(a), (1)(c), or (2)(o), or a rule or order issued with respect to those subsections, and that disciplinary action is appropriate, the director or the director's designee from within the division shall promptly:

(i) issue a citation to the person according to this section and any pertinent rules;

(ii) attempt to negotiate a stipulated settlement; or

(iii) notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(b) (i) The division may assess a fine under this Subsection (2) against a person who violates Subsection 58-1-501(1)(a), (1)(c), or (2)(o), or a rule or order issued with respect to those subsections, as evidenced by:

(A) an uncontested citation;

(B) a stipulated settlement; or

(C) a finding of a violation in an adjudicative proceeding.

(ii) The division may, in addition to or in lieu of a fine under Subsection (2)(b)(i), order the person to cease and desist from violating Subsection 58-1-501(1)(a), (1)(c), or (2)(o), or a rule or order issued with respect to those subsections.

(c) Except for a cease and desist order, the division may not assess the licensure sanctions cited in Section 58-1-401 through a citation.

(d) A citation shall:

(i) be in writing;

(ii) describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;

(iii) clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(iv) clearly explain the consequences of failure to timely contest the citation or to make payment of a fine assessed by the citation within the time specified in the citation.

(e) The division may issue a notice in lieu of a citation.

(f) (i) If within 20 calendar days from the service of the citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.

(ii) The period to contest a citation may be extended by the division for cause.

(g) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.

(h) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.

(i) The division may not issue a citation under this section after the expiration of ~~six months~~ one year following the occurrence of a violation.

(j) The director or the director's designee shall assess fines according to the following:

(i) for the first offense handled pursuant to Subsection (2)(a), a fine of up to \$1,000;

(ii) for a second offense handled pursuant to Subsection (2)(a), a fine of up to \$2,000; and

(iii) for each subsequent offense handled pursuant to Subsection (2)(a), a fine of up to \$2,000 for each day of continued offense.

(3) (a) An action for a first or second offense that has not yet resulted in a final order of the division

may not preclude initiation of a subsequent action for a second or subsequent offense during the pendency of a preceding action.

(b) The final order on a subsequent action is considered a second or subsequent offense, respectively, provided the preceding action resulted in a first or second offense, respectively.

(4) (a) The director may collect a penalty that is not paid by:

(i) either referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect the penalty.

(c) A court may award reasonable attorney fees and costs to the division in an action brought by the division to enforce the provisions of this section.

Section 10. Section 58-11a-302.5 is enacted to read:

58-11a-302.5. Qualification for licensure as an esthetics school -- Online curriculum.

(1) An applicant for licensure as an esthetics school under Subsection 58-11a-302(13) and an esthetics school licensed under this chapter may offer up to 30% of its total curriculum online:

(a) for instruction in theory; and

(b) in accordance with standards adopted by nationally recognized accrediting organizations.

(2) The provisions of this section do not:

(a) require the board to allow other schools licensed under this chapter to offer curriculum online; or

(b) limit the authority of the board to allow other schools licensed under this chapter to offer curriculum online.

Section 11. Section 58-11a-501 is amended to read:

58-11a-501. Unprofessional conduct.

Unprofessional conduct includes:

(1) failing as a licensed school to obtain or maintain accreditation as required by rule;

(2) failing as a licensed school to comply with the standards of accreditation applicable to such schools;

(3) failing as a licensed school to provide adequate instruction to enrolled students;

(4) failing as an apprentice supervisor to provide direct supervision to the apprentice;

(5) failing as an instructor to provide direct supervision to students who are providing services

to an individual under [their instruction] the instructor's supervision;

(6) failing as an apprentice supervisor to comply with division rules relating to apprenticeship programs under this chapter;

(7) keeping a salon or school, its furnishing, tools, utensils, linen, or appliances in an unsanitary condition;

(8) failing to comply with Title 26, Utah Health Code;

(9) failing to display licenses or certificates as required under Section 58-11a-305;

(10) failing to comply with physical facility requirements established by rule;

(11) failing to maintain mechanical or electrical equipment in safe operating condition;

(12) failing to adequately monitor patrons using steam rooms, dry heat rooms, baths, showers, or saunas;

(13) prescribing or administering prescription drugs;

(14) failing to comply with all applicable state and local health or sanitation laws;

(15) engaging in any act or practice in a professional capacity that is outside the applicable scope of practice;

(16) engaging in any act or practice in a professional capacity which the licensee is not competent to perform through education or training;

(17) in connection with the use of a chemical exfoliant, unless under the supervision of a licensed health care practitioner acting within the scope of his or her license:

(a) using any acid, concentration of an acid, or combination of treatments which violates the standards established by rule;

(b) removing any layer of skin deeper than the stratum corneum of the epidermis; or

(c) using an exfoliant that contains phenol, TCA acid of over 15%, or BCA acid;

(18) in connection with the sanding of the skin, unless under the supervision of a licensed health care practitioner acting within the scope of his or her license, removing any layer of skin deeper than the stratum corneum of the epidermis; or

(19) using as a barber, cosmetologist/barber, or nail technician any laser procedure or intense, pulsed light source, except that nothing in this chapter precludes an individual licensed under this chapter from using a nonprescriptive laser device.

Section 12. Section 58-13-3 is amended to read:

58-13-3. Qualified immunity -- Health professionals -- Charity care.

(1) (a) (i) The Legislature finds many residents of this state do not receive medical care and

preventive health care because they lack health insurance or because of financial difficulties or cost.

(ii) The Legislature also finds that many physicians, charity health care facilities, and other health care professionals in this state would be willing to volunteer medical and allied services without compensation if they were not subject to the high exposure of liability connected with providing these services.

(b) The Legislature therefore declares that its intention in enacting this section is to encourage the provision of uncompensated volunteer charity health care in exchange for a limitation on liability for the health care facilities and health care professionals who provide those volunteer services.

(2) As used in this section:

(a) "Health care facility" means any clinic or hospital, church, or organization whose primary purpose is to sponsor, promote, or organize uncompensated health care services for people unable to pay for health care services.

(b) "Health care professional" means a person licensed under:

- (i) Chapter 5a, Podiatric Physician Licensing Act;
- (ii) Chapter 16a, Utah Optometry Practice Act;
- (iii) Chapter 17b, Pharmacy Practice Act;
- (iv) Chapter 24b, Physical Therapy Practice Act;
- (v) Chapter 31b, Nurse Practice Act;
- (vi) Chapter 40, Recreational Therapy Practice Act;
- (vii) Chapter 41, Speech-Language Pathology and Audiology Licensing Act;
- (viii) Chapter 42a, Occupational Therapy Practice Act;
- (ix) Chapter 44a, Nurse Midwife Practice Act;
- (x) Chapter 49, Dietitian Certification Act;
- (xi) Chapter 60, Mental Health Professional Practice Act;
- (xii) Chapter 67, Utah Medical Practice Act;
- (xiii) Chapter 68, Utah Osteopathic Medical Practice Act;
- (xiv) Chapter 69, Dentist and Dental Hygienist Practice Act;
- (xv) Chapter 70a, Physician Assistant Act; ~~and~~
- (xvi) Chapter 71, Naturopathic Physician Practice Act; and

~~(xvi)~~ (xvii) Chapter 73, Chiropractic Physician Practice Act.

(c) "Remuneration or compensation":

(i) (A) means direct or indirect receipt of any payment by a health care professional or health care facility on behalf of the patient, including

payment or reimbursement under Medicare or Medicaid, or under the state program for the medically indigent on behalf of the patient; and

(B) compensation, salary, or reimbursement to the health care professional from any source for the health care professional's services or time in volunteering to provide uncompensated health care; and

(ii) does not mean:

(A) any grant or donation to the health care facility used to offset direct costs associated with providing the uncompensated health care such as:

- (I) medical supplies;
- (II) drugs; or

(III) a charitable donation that is restricted for charitable services at the health care facility; or

(B) incidental reimbursements to the volunteer such as:

(I) food supplied to the volunteer;

(II) clothing supplied to the volunteer to help identify the volunteer during the time of volunteer services;

(III) mileage reimbursement to the volunteer; or

(IV) other similar support to the volunteer.

(3) A health care professional who provides health care treatment at or on behalf of a health care facility is not liable in a medical malpractice action if:

(a) the treatment was within the scope of the health care professional's license under this title;

(b) neither the health care professional nor the health care facility received compensation or remuneration for the treatment;

(c) the acts or omissions of the health care professional were not grossly negligent or willful and wanton; and

(d) prior to rendering services:

(i) the health care professional disclosed in writing to the patient, or if a minor, to the patient's parent or legal guardian, that the health care professional is providing the services without receiving remuneration or compensation; and

(ii) the patient consented in writing to waive any right to sue for professional negligence except for acts or omissions which are grossly negligent or are willful and wanton.

(4) A health care facility which sponsors, promotes, or organizes the uncompensated care is not liable in a medical malpractice action for acts and omissions if:

(a) the health care facility meets the requirements in Subsection (3)(b);

(b) the acts and omissions of the health care facility were not grossly negligent or willful and wanton; and

(c) the health care facility has posted, in a conspicuous place, a notice that in accordance with this section the health care facility is not liable for any civil damages for acts or omissions except for those acts or omissions that are grossly negligent or are willful and wanton.

(5) A health care professional who provides health care treatment at a federally qualified health center, as defined in Subsection 1905(1)(2)(b) of the Social Security Act, or an Indian health clinic or Urban Indian Health Center, as defined in Title V of the Indian Health Care Improvement Act, is not liable in a medical malpractice action if:

(a) the treatment was within the scope of the health care professional's license under this title;

(b) the health care professional:

(i) does not receive compensation or remuneration for treatment provided to any patient that the provider treats at the federally qualified health center, the Indian health clinic, or the Urban Indian Health Center; and

(ii) is not eligible to be included in coverage under the Federal Tort Claims Act for the treatment provided at the federally qualified health center, the Indian health clinic, or the Urban Indian Health Center;

(c) the acts or omissions of the health care professional were not grossly negligent or willful and wanton; and

(d) prior to rendering services:

(i) the health care professional disclosed in writing to the patient, or if a minor, to the patient's parent or legal guardian, that the health care professional is providing the services without receiving remuneration or compensation; and

(ii) the patient consented in writing to waive any right to sue for professional negligence except for acts or omissions that are grossly negligent or are willful and wanton.

(6) Immunity from liability under this section does not extend to the use of general anesthesia or care that requires an overnight stay in a general acute or specialty hospital licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(7) The provisions of Subsection (5) apply to treatment provided by a healthcare professional on or after May 13, 2014.

Section 13. Section 58-15-2 is amended to read:

58-15-2. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Administrator" means a person who is charged with the general administration of a health facility, regardless of whether that person has an ownership interest in the facility and whether his

functions and duties are shared with one or more persons.

(2) "Board" means the Health Facility Administrators Licensing Board created in Section 58-15-3.

(3) "Health facility" means a skilled nursing facility, an intermediate care facility, or an intermediate care facility for ~~people~~ individuals with an intellectual disability.

(4) "Intermediate care facility" means an institution ~~which~~ that provides, on a regular basis, health care and services to ~~persons~~ individuals who do not require the degree of care and treatment a hospital or skilled nursing facility ~~provide~~ provides, but who require health care and services in addition to room and board.

(5) "Intermediate care facility for people with an intellectual disability" means an institution ~~which~~ that provides, on a regular basis, health-related care and service to ~~mentally retarded individuals or persons~~ individuals with intellectual disabilities as defined in Section 68-3-12.5 or individuals with related conditions, who do not require the degree of care and treatment a hospital or skilled nursing facility ~~provide~~ provides, but who require health-related care and services above the need for room and board.

(6) "Skilled nursing facility" means an institution primarily providing inpatients with skilled nursing care and related services on a continuing basis for patients who require mental, medical, or nursing care, or service for the rehabilitation of an injured ~~person~~ individual, a sick ~~person~~ individual, or ~~a person~~ an individual with a disability.

(7) "Unprofessional conduct" as defined in Section 58-1-501 and as may be further defined by rule includes:

(a) intentionally filing a false report or record, intentionally failing to file a report or record required by state or federal law, or willfully impeding or obstructing the filing of a required report. These reports or records only include those which are signed in the capacity of a licensed health facility administrator; and

(b) acting in a manner inconsistent with the health and safety of the patients of the health facility in which he is the administrator.

Section 14. Section 58-16a-302 is amended to read:

58-16a-302. Qualifications for licensure.

(1) An applicant for licensure as an optometrist shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee as determined by the division under Section 63J-1-504;

(c) be of good moral character;

(d) (i) be a doctoral graduate of a recognized school of optometry accredited by the American

Optometric Association's Accreditation Council on Optometric Education; or

(ii) be a graduate of a school of optometry located outside the United States that meets the criteria that would qualify the school for accreditation under Subsection (1)(d)(i), as demonstrated by the applicant for licensure;

(e) if the applicant graduated from a recognized school of optometry prior to July 1, 1996, have successfully completed a course of study satisfactory to the division, in consultation with the board, in general and ocular pharmacology and emergency medical care;

(f) have passed examinations approved by the division in consultation with the board that include:

(i) a standardized national optometry examination;

(ii) a standardized clinical examination; and

(iii) a standardized national therapeutics examination; and

~~(iv) the Utah Optometry Law Examination; and~~

(g) meet with the board and representatives of the division, if requested by either party, for the purpose of evaluating the applicant's qualifications for licensure.

(2) Notwithstanding Subsection (1) and Section 58-1-302, the division shall issue a license under this chapter by endorsement to an individual who:

(a) submits an application for licensure by endorsement on a form approved by the division;

(b) pays a fee established by the division in accordance with Section 63J-1-504;

(c) provides satisfactory evidence to the division that the individual is of good moral character;

(d) verifies that the individual is licensed as an optometrist in good standing in each state of the United States, or province of Canada, in which the individual is currently licensed as an optometrist; and

(e) has been actively engaged in the legal practice of optometry for at least 3,200 hours during the immediately preceding two years in a manner consistent with the legal practice of optometry in this state.

Section 15. Section 58-17b-610.5 is amended to read:

58-17b-610.5. Dispensing in emergency department -- Patient's immediate need.

(1) The division shall adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in consultation with hospital pharmacies and the boards of ~~[dispensing medical] practitioners authorized to prescribe prescription drugs to establish guidelines under which a [dispensing medical] practitioner may dispense prescription drugs to a patient in a hospital emergency department if:~~

(a) the hospital pharmacy is closed;

(b) in the professional judgment of the ~~[dispensing medical] practitioner~~, dispensing the drug is necessary for the patient's immediate needs; and

(c) dispensing the prescription drug meets protocols established by the hospital pharmacy.

(2) A ~~[prescribing medical] practitioner~~ in an emergency department may dispense a prescription drug in accordance with Subsection (1).

Section 16. Section 58-24b-301 is amended to read:

58-24b-301. Authority to practice physical therapy.

A person may not engage in the practice of physical therapy, unless the person is:

(1) licensed under this chapter and practices within the scope of that license; or

(2) exempted from the licensing requirements of this chapter under Section 58-1-307 or 58-24b-304.

Section 17. Section 58-24b-302 is amended to read:

58-24b-302. Licensure.

(1) An applicant for a license as a physical therapist shall:

(a) be of good moral character;

(b) complete the application process, including payment of fees;

(c) submit proof of graduation from a professional physical therapist education program that is accredited by a recognized accreditation agency;

~~[(d) pass an open-book, take-home Utah Physical Therapy Law and Rule Examination;]~~

~~[(e)]~~ (d) after complying with Subsection (1)(c), pass a licensing examination;

~~[(f)]~~ (e) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board; and

~~[(g)]~~ (f) meet any other requirements established by the division, by rule.

(2) An applicant for a license as a physical therapist assistant shall:

(a) be of good moral character;

(b) complete the application process, including payment of fees set by the division, in accordance with Section 63J-1-504, to recover the costs of administering the licensing requirements relating to physical therapist assistants;

(c) submit proof of graduation from a physical therapist assistant education program that is accredited by a recognized accreditation agency;

~~[(d) pass an open-book, take-home Utah Physical Therapy Law and Rule Examination;]~~

~~[(e)]~~ (d) after complying with Subsection (2)(c), pass a licensing examination;

~~[(f)]~~ (e) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board; and

~~[(g)]~~ (f) meet any other requirements established by the division, by rule.

(3) An applicant for a license as a physical therapist who is educated outside of the United States shall:

(a) be of good moral character;

(b) complete the application process, including payment of fees; ~~and~~

(c) (i) provide satisfactory evidence that the applicant graduated from a professional physical therapist education program that is accredited by a recognized accreditation agency; or

(ii) (A) provide satisfactory evidence that the applicant graduated from a physical therapist education program that prepares the applicant to engage in the practice of physical therapy, without restriction;

(B) provide satisfactory evidence that the education program described in Subsection (3)(c)(ii)(A) is recognized by the government entity responsible for recognizing a physical therapist education program in the country where the program is located; and

(C) pass a credential evaluation to ensure that the applicant has satisfied uniform educational requirements;

~~[(d)] pass an open book, take-home Utah Physical Therapy Law and Rule Examination;~~

~~[(e)]~~ (d) after complying with Subsection (3)(c), pass a licensing examination;

~~[(f)]~~ (e) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board; and

~~[(g)]~~ (f) meet any other requirements established by the division, by rule.

(4) The division shall issue a license to a person who holds a current unrestricted license to practice physical therapy in a state, district, or territory of the United States of America, other than Utah, if the person:

(a) is of good moral character;

(b) completes the application process, including payment of fees; ~~and~~

~~[(e)] passes an open book, take-home Utah Physical Therapy Law and Rule Examination; and~~

~~[(d)]~~ (c) is able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board.

(5) (a) Notwithstanding Subsection 58-1-307(1)(c), an individual may not engage in an internship in physical therapy, unless the person is:

(i) certified by the division; or

(ii) exempt from licensure under Section 58-24b-304.

(b) The provisions of Subsection (5)(a) apply, regardless of whether the individual is participating in the supervised clinical training program for the purpose of becoming a physical therapist or a physical therapist assistant.

Section 18. Section 58-24b-303 is amended to read:

58-24b-303. Term of license -- Renewal -- Temporary license for physical therapist assistant.

(1) A license issued under this chapter shall be issued in accordance with a two-year renewal cycle established by rule. The division may, by rule, extend or shorten a license renewal process by one year in order to stagger the renewal cycles that the division administers.

(2) At the time of license renewal, the licensee shall provide satisfactory evidence that the licensee completed continuing education competency requirements, established by the division, by rule.

(3) If a license renewal cycle is shortened or extended under Subsection (1), the division shall increase or reduce the required continuing education competency requirements accordingly.

(4) A license issued under this chapter expires on the expiration date indicated on the license, unless the license is renewed under this section.

(5) Notwithstanding any other provision of this chapter, the division may, by rule, grant a temporary license, that expires on July 1, 2014, as a physical therapist assistant to an individual who:

(a) was working as a physical therapist assistant in Utah before July 1, 2009; and

(b) complies with the requirements described in Subsections 58-24b-302(2)(a), (b), (c), ~~[(f)]~~ (e), and ~~[(g)]~~ (f).

Section 19. Section 58-26a-501 is amended to read:

58-26a-501. Unlawful conduct.

“Unlawful conduct” includes:

(1) using “certified public accountant,” “public accountant,” “CPA,” or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the person is a certified public accountant, unless that person:

(a) has a current license as a certified public accountant issued under this chapter; or

(b) qualifies for a practice privilege as provided ~~[(f)]~~ in Subsection 58-26a-305(1)(a);

(2) a firm assuming or using “certified public accountant,” “CPA,” or any other title, designation,

words, letters, abbreviation, sign, card, or device tending to indicate that the firm is composed of certified public accountants unless each office of the firm in this state:

- (a) is registered with the division; and
- (b) meets the requirements of Subsections 58-26a-302(3)(a)(iii) and (iv);
- (3) signing or affixing to any accounting or financial statement the person's name or any trade or assumed name used in that person's profession or business, with any wording indicating that the person is an auditor, or with any wording indicating that the person has expert knowledge in accounting or auditing, unless that person is licensed under this chapter and all of the person's offices in this state for the practice of public accountancy are maintained and registered as provided in this chapter; and
- (4) except as provided in Section 58-26a-305, engaging in the following conduct if not licensed under this chapter to practice public accountancy:
 - (a) issuing a report on financial statements of any other person, firm, organization, or governmental unit; or

(b) issuing a report using any form of language substantially similar to conventional language used by licensees respecting:

- (i) a review of financial statements; or
- (ii) a compilation of financial statements.

Section 20. Section 58-37f-301 is amended to read:

58-37f-301. Access to database.

(1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

- (a) effectively enforce the limitations on access to the database as described in this part; and
- (b) establish standards and procedures to ensure accurate identification of individuals requesting information or receiving information without request from the database.

(2) The division shall make information in the database and information obtained from other state or federal prescription monitoring programs by means of the database available only to the following individuals, in accordance with the requirements of this chapter and division rules:

- (a) personnel of the division specifically assigned to conduct investigations related to controlled substance laws under the jurisdiction of the division;
- (b) authorized division personnel engaged in analysis of controlled substance prescription information as a part of the assigned duties and responsibilities of their employment;

- (c) a board member if:

(i) the board member is assigned to monitor a licensee on probation; and

(ii) the board member is limited to obtaining information from the database regarding the specific licensee on probation;

(d) a member of a diversion committee established in accordance with Subsection 58-1-404(2) if:

(i) the diversion committee member is limited to obtaining information from the database regarding the person whose conduct is the subject of the committee's consideration; and

(ii) the conduct that is the subject of the committee's consideration includes a violation or a potential violation of Chapter 37, Utah Controlled Substances Act, or another relevant violation or potential violation under this title;

[(e)] (e) in accordance with a written agreement entered into with the department, employees of the Department of Health:

(i) whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances, if the identity of the individuals and pharmacies in the database are confidential and are not disclosed in any manner to any individual who is not directly involved in the scientific studies; [ø]

(ii) when the information is requested by the Department of Health in relation to a person or provider whom the Department of Health suspects may be improperly obtaining or providing a controlled substance; or

(iii) in the medical examiner's office;

[(d)] (f) in accordance with a written agreement entered into with the department, a designee of the director of the Department of Health, who is not an employee of the Department of Health, whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances pursuant to an application process established in rule by the Department of Health, if:

(i) the designee provides explicit information to the Department of Health regarding the purpose of the scientific studies;

(ii) the scientific studies to be conducted by the designee:

(A) fit within the responsibilities of the Department of Health for health and welfare;

(B) are reviewed and approved by an Institutional Review Board that is approved for human subject research by the United States Department of Health and Human Services; and

(C) are not conducted for profit or commercial gain; and

(D) are conducted in a research facility, as defined by division rule, that is associated with a university or college [in the state] accredited by one or more regional or national accrediting agencies

recognized by the United States Department of Education;

(iii) the designee protects the information as a business associate of the Department of Health; and

(iv) the identity of the prescribers, patients, and pharmacies in the database are de-identified, confidential, not disclosed in any manner to the designee or to any individual who is not directly involved in the scientific studies;

~~(e)~~ (g) in accordance with the written agreement entered into with the department and the Department of Health, authorized employees of a managed care organization, as defined in 42 C.F.R. Sec. 438, if:

(i) the managed care organization contracts with the Department of Health under the provisions of Section 26-18-405 and the contract includes provisions that:

(A) require a managed care organization employee who will have access to information from the database to submit to a criminal background check; and

(B) limit the authorized employee of the managed care organization to requesting either the division or the Department of Health to conduct a search of the database regarding a specific Medicaid enrollee and to report the results of the search to the authorized employee; and

(ii) the information is requested by an authorized employee of the managed care organization in relation to a person who is enrolled in the Medicaid program with the managed care organization, and the managed care organization suspects the person may be improperly obtaining or providing a controlled substance;

~~(f)~~ (h) a licensed practitioner having authority to prescribe controlled substances, to the extent the information:

(i) (A) relates specifically to a current or prospective patient of the practitioner; and

(B) is provided to or sought by the practitioner for the purpose of:

(I) prescribing or considering prescribing any controlled substance to the current or prospective patient;

(II) diagnosing the current or prospective patient;

(III) providing medical treatment or medical advice to the current or prospective patient; or

(IV) determining whether the current or prospective patient:

(Aa) is attempting to fraudulently obtain a controlled substance from the practitioner; or

(Bb) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the practitioner;

(ii) (A) relates specifically to a former patient of the practitioner; and

(B) is provided to or sought by the practitioner for the purpose of determining whether the former patient has fraudulently obtained, or has attempted to fraudulently obtain, a controlled substance from the practitioner;

(iii) relates specifically to an individual who has access to the practitioner's Drug Enforcement Administration identification number, and the practitioner suspects that the individual may have used the practitioner's Drug Enforcement Administration identification number to fraudulently acquire or prescribe a controlled substance;

(iv) relates to the practitioner's own prescribing practices, except when specifically prohibited by the division by administrative rule;

(v) relates to the use of the controlled substance database by an employee of the practitioner, described in Subsection (2)~~(g)~~(i); or

(vi) relates to any use of the practitioner's Drug Enforcement Administration identification number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a controlled substance;

~~(g)~~ (i) in accordance with Subsection (3)(a), an employee of a practitioner described in Subsection (2)~~(f)~~(h), for a purpose described in Subsection (2)~~(f)~~~~(h)~~(i) or (ii), if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner provides written notice to the division of the identity of the employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee;

~~(h)~~ (j) an employee of the same business that employs a licensed practitioner under Subsection (2)~~(f)~~(h) if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner and the employing business provide written notice to the division of the identity of the designated employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee;

~~(k)~~ (k) a licensed pharmacist having authority to dispense a controlled substance to the extent the information is provided or sought for the purpose of:

(i) dispensing or considering dispensing any controlled substance; or

(ii) determining whether a person:

(A) is attempting to fraudulently obtain a controlled substance from the pharmacist; or

(B) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the pharmacist;

~~(l)~~ (l) in accordance with Subsection (3)(a), a licensed pharmacy technician and pharmacy intern who is an employee of a pharmacy as defined in Section 58-17b-102, for the purposes described in Subsection (2)(~~(h)~~)(j)(i) or (ii), if:

(i) the employee is designated by the pharmacist-in-charge as an individual authorized to access the information on behalf of a licensed pharmacist employed by the pharmacy;

(ii) the pharmacist-in-charge provides written notice to the division of the identity of the employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee;

~~(m)~~ (m) pursuant to a valid search warrant, federal, state, and local law enforcement agencies and state and local prosecutors that are engaged in an investigation related to:

(i) one or more controlled substances; and

(ii) a specific person who is a subject of the investigation;

~~(n)~~ (n) employees of the Office of Internal Audit and Program Integrity within the Department of Health who are engaged in their specified duty of ensuring Medicaid program integrity under Section 26-18-2.3;

~~(o)~~ (o) a mental health therapist, if:

(i) the information relates to a patient who is:

(A) enrolled in a licensed substance abuse treatment program; and

(B) receiving treatment from, or under the direction of, the mental health therapist as part of the patient's participation in the licensed substance abuse treatment program described in Subsection (2)(~~(m)~~)(o)(i)(A);

(ii) the information is sought for the purpose of determining whether the patient is using a controlled substance while the patient is enrolled in

the licensed substance abuse treatment program described in Subsection (2)(~~(m)~~)(o)(i)(A); and

(iii) the licensed substance abuse treatment program described in Subsection (2)(~~(m)~~)(o)(i)(A) is associated with a practitioner who:

(A) is a physician, a physician assistant, an advance practice registered nurse, or a pharmacist; and

(B) is available to consult with the mental health therapist regarding the information obtained by the mental health therapist, under this Subsection (2)(~~(m)~~)(o), from the database;

~~(p)~~ (p) an individual who is the recipient of a controlled substance prescription entered into the database, upon providing evidence satisfactory to the division that the individual requesting the information is in fact the individual about whom the data entry was made;

~~(q)~~ (q) an individual under Subsection (2)(~~(n)~~)(p) for the purpose of obtaining a list of the persons and entities that have requested or received any information from the database regarding the individual, except if the individual's record is subject to a pending or current investigation as authorized under this Subsection (2);

~~(r)~~ (r) the inspector general, or a designee of the inspector general, of the Office of Inspector General of Medicaid Services, for the purpose of fulfilling the duties described in Title 63A, Chapter 13, Part 2, Office and Powers; and

~~(s)~~ (s) the following licensed physicians for the purpose of reviewing and offering an opinion on an individual's request for workers' compensation benefits under Title 34A, Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:

(i) a member of the medical panel described in Section 34A-2-601;

(ii) a physician employed as medical director for a licensed workers' compensation insurer or an approved self-insured employer; or

(iii) a physician offering a second opinion regarding treatment.

(3) (a) (i) A practitioner described in Subsection (2)(~~(h)~~)(h) may designate up to three employees to access information from the database under Subsection (2)(~~(g)~~)(i), (2)(~~(h)~~)(j), or (4)(c).

(ii) A pharmacist described in Subsection (2)(~~(i)~~)(k) who is a pharmacist-in-charge may designate up to five employees to access information from the database under Subsection (2)(~~(j)~~)(l).

(b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) establish background check procedures to determine whether an employee designated under Subsection (2)(~~(g)~~)(i), (2)(~~(h)~~)(j), or (4)(c) should be granted access to the database; and

(ii) establish the information to be provided by an emergency room employee under Subsection (4).

(c) The division shall grant an employee designated under Subsection (2)(~~(g)~~)(i), (2)(~~(h)~~)(j), or (4)(c) access to the database, unless the division determines, based on a background check, that the employee poses a security risk to the information contained in the database.

(4) (a) An individual who is employed in the emergency room of a hospital may exercise access to the database under this Subsection (4) on behalf of a licensed practitioner if the individual is designated under Subsection (4)(c) and the licensed practitioner:

(i) is employed in the emergency room;

(ii) is treating an emergency room patient for an emergency medical condition; and

(iii) requests that an individual employed in the emergency room and designated under Subsection (4)(c) obtain information regarding the patient from the database as needed in the course of treatment.

(b) The emergency room employee obtaining information from the database shall, when gaining access to the database, provide to the database the name and any additional identifiers regarding the requesting practitioner as required by division administrative rule established under Subsection (3)(b).

(c) An individual employed in the emergency room under this Subsection (4) may obtain information from the database as provided in Subsection (4)(a) if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner and the hospital operating the emergency room provide written notice to the division of the identity of the designated employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee.

(d) The division may impose a fee, in accordance with Section 63J-1-504, on a practitioner who designates an employee under Subsection (2)(~~(g)~~)(i), (2)(~~(h)~~)(j), or (4)(c) to pay for the costs incurred by the division to conduct the background check and make the determination described in Subsection (3)(b).

(5) (a) An individual who is granted access to the database based on the fact that the individual is a licensed practitioner or a mental health therapist shall be denied access to the database when the individual is no longer licensed.

(b) An individual who is granted access to the database based on the fact that the individual is a designated employee of a licensed practitioner shall be denied access to the database when the practitioner is no longer licensed.

Section 21. Section 58-37f-601 is amended to read:

58-37f-601. Unlawful release or use of database information -- Criminal and civil penalties.

(1) (a) Any person who knowingly and intentionally releases any information in the database or any information obtained from other state or federal prescription monitoring programs by means of the database in violation of the limitations under Part 3, Access, is guilty of a third degree felony.

(b) Any person who negligently or recklessly releases any information in the database or any information obtained from other state or federal prescription monitoring programs by means of the database in violation of the limitations under Title 58, Chapter 37f, Part 3, Access, is guilty of a class C misdemeanor.

(2) (a) Any person who obtains or attempts to obtain information from the database or from any other state or federal prescription monitoring programs by means of the database by misrepresentation or fraud is guilty of a third degree felony.

(b) Any person who obtains or attempts to obtain information from the database for a purpose other than a purpose authorized by this chapter or by rule is guilty of a third degree felony.

(3) (a) Except as provided in Subsection (3)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person any information obtained from the database or from any other state or federal prescription monitoring programs by means of the database for any purpose other than those specified in Part 3, Access.

(b) Each separate violation of this Subsection (3) is a third degree felony and is also subject to a civil penalty not to exceed \$5,000.

(c) The procedure for determining a civil violation of this Subsection (3) is in accordance with Section 58-1-108, regarding adjudicative proceedings within the division.

(d) Civil penalties assessed under this Subsection (3) shall be deposited in the General Fund as a dedicated credit to be used by the division under Subsection 58-37f-502(1).

(e) This Subsection (3) does not prohibit a person who obtains information from the database under Subsection 58-37f-301(2)(~~(f)~~, (~~(g)~~, (~~(i)~~)(h), (i), (k), or (4)(c) from:

(i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file; or

(ii) providing the information to a person in accordance with the requirements of the Health

Insurance Portability and Accountability Act of 1996.

Section 22. Section 58-44a-302 is amended to read:

58-44a-302. Qualifications for licensure.

(1) An applicant for licensure as a nurse midwife shall:

(a) submit an application in a form as prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) at the time of application for licensure hold a license in good standing as a registered nurse in Utah, or be at that time qualified for a license as a registered nurse under Title 58, Chapter 31b, Nurse Practice Act;

(e) have completed:

(i) a certified nurse midwifery education program accredited by the [~~American College of Nurse Midwives~~] Accreditation Commission for Midwifery Education and approved by the division; or

(ii) a nurse midwifery education program located outside of the United States which is approved by the division and is equivalent to a program accredited by the [~~American College of Nurse Midwives~~] Accreditation Commission for Midwifery Education, as demonstrated by a graduate's being accepted to sit for the national certifying examination administered by the [~~American College of Nurse Midwives~~] Accreditation Commission for Midwifery Education or its designee; and

(f) have passed examinations established by the division rule in collaboration with the board within two years after completion of the approved education program required under Subsection (1)(e).

(2) For purposes of Subsection (1)(e), as of January 1, 2010, the accredited education program or its equivalent must grant a graduate degree, including post-master's certificate, in nurse midwifery.

Section 23. Section 58-55-302 is amended to read:

58-55-302. Qualifications for licensure.

(1) Each applicant for a license under this chapter shall:

(a) submit an application prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) (i) meet the examination requirements established by rule by the commission with the concurrence of the director, except for the

classifications of apprentice plumber and apprentice electrician for whom no examination is required; or

(ii) if required in Section 58-55-304, the individual qualifier must pass the required examination if the applicant is a business entity;

(d) if an apprentice, identify the proposed supervisor of the apprenticeship;

(e) if an applicant for a contractor's license:

(i) produce satisfactory evidence of financial responsibility, except for a construction trades instructor for whom evidence of financial responsibility is not required;

(ii) produce satisfactory evidence of:

(A) two years full-time paid employment experience in the construction industry, which experience, unless more specifically described in this section, may be related to any contracting classification; and

(B) knowledge of the principles of the conduct of business as a contractor, reasonably necessary for the protection of the public health, safety, and welfare;

(iii) except as otherwise provided by rule by the commission with the concurrence of the director, complete a 20-hour course established by rule by the commission with the concurrence of the director, which course may include:

(A) construction business practices;

(B) bookkeeping fundamentals;

(C) mechanics lien fundamentals; and

(D) other aspects of business and construction principles considered important by the commission with the concurrence of the director;

(iv) (A) be a licensed master electrician if an applicant for an electrical contractor's license or a licensed master residential electrician if an applicant for a residential electrical contractor's license;

(B) be a licensed master plumber if an applicant for a plumbing contractor's license or a licensed master residential plumber if an applicant for a residential plumbing contractor's license; or

(C) be a licensed elevator mechanic and produce satisfactory evidence of three years experience as an elevator mechanic if an applicant for an elevator contractor's license; and

(v) when the applicant is an unincorporated entity, provide a list of the one or more individuals who hold an ownership interest in the applicant as of the day on which the application is filed that includes for each individual:

(A) the individual's name, address, birth date, and social security number; and

(B) whether the individual will engage in a construction trade; and

(f) if an applicant for a construction trades instructor license, satisfy any additional requirements established by rule.

(2) After approval of an applicant for a contractor's license by the applicable board and the division, the applicant shall file the following with the division before the division issues the license:

(a) proof of workers' compensation insurance which covers employees of the applicant in accordance with applicable Utah law;

(b) proof of public liability insurance in coverage amounts and form established by rule except for a construction trades instructor for whom public liability insurance is not required; and

(c) proof of registration as required by applicable law with the:

(i) Utah Department of Commerce;

(ii) Division of Corporations and Commercial Code;

(iii) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

(iv) State Tax Commission; and

(v) Internal Revenue Service.

(3) In addition to the general requirements for each applicant in Subsection (1), applicants shall comply with the following requirements to be licensed in the following classifications:

(a) (i) A master plumber shall produce satisfactory evidence that the applicant:

(A) has been a licensed journeyman plumber for at least two years and had two years of supervisory experience as a licensed journeyman plumber in accordance with division rule;

(B) has received at least an associate of applied science degree or similar degree following the completion of a course of study approved by the division and had one year of supervisory experience as a licensed journeyman plumber in accordance with division rule; or

(C) meets the qualifications determined by the division in collaboration with the board to be equivalent to Subsection (3)(a)(i)(A) or (B).

(ii) An individual holding a valid Utah license as a journeyman plumber, based on at least four years of practical experience as a licensed apprentice under the supervision of a licensed journeyman plumber and four years as a licensed journeyman plumber, in effect immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current master plumber license under this chapter, and satisfies the requirements of this Subsection (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303.

(iii) An individual holding a valid plumbing contractor's license or residential plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5, 2008:

(A) considered to hold a current master plumber license under this chapter if licensed as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section 58-55-303; and

(B) considered to hold a current residential master plumber license under this chapter if licensed as a residential plumbing contractor and a residential journeyman plumber, and satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section 58-55-303.

(b) A master residential plumber applicant shall produce satisfactory evidence that the applicant:

(i) has been a licensed residential journeyman plumber for at least two years and had two years of supervisory experience as a licensed residential journeyman plumber in accordance with division rule; or

(ii) meets the qualifications determined by the division in collaboration with the board to be equivalent to Subsection (3)(b)(i).

(c) A journeyman plumber applicant shall produce satisfactory evidence of:

(i) successful completion of the equivalent of at least four years of full-time training and instruction as a licensed apprentice plumber under supervision of a licensed master plumber or journeyman plumber and in accordance with a planned program of training approved by the division;

(ii) at least eight years of full-time experience approved by the division in collaboration with the Plumbers Licensing Board; or

(iii) satisfactory evidence of meeting the qualifications determined by the board to be equivalent to Subsection (3)(c)(i) or (c)(ii).

(d) A residential journeyman plumber shall produce satisfactory evidence of:

(i) completion of the equivalent of at least three years of full-time training and instruction as a licensed apprentice plumber under the supervision of a licensed residential master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in accordance with a planned program of training approved by the division;

(ii) completion of at least six years of full-time experience in a maintenance or repair trade involving substantial plumbing work; or

(iii) meeting the qualifications determined by the board to be equivalent to Subsection (3)(d)(i) or (d)(ii).

(e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be in accordance with the following:

(i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be under the immediate supervision of a licensed master plumber, licensed residential master plumber,

licensed journeyman plumber, or a licensed residential journeyman plumber; and

(ii) a licensed apprentice plumber in the fourth through tenth year of training may work without supervision for a period not to exceed eight hours in any 24-hour period, but if the apprentice does not become a licensed journeyman plumber or licensed residential journeyman plumber by the end of the tenth year of apprenticeship, this nonsupervision provision no longer applies.

(f) A master electrician applicant shall produce satisfactory evidence that the applicant:

(i) is a graduate electrical engineer of an accredited college or university approved by the division and has one year of practical electrical experience as a licensed apprentice electrician;

(ii) is a graduate of an electrical trade school, having received an associate of applied sciences degree following successful completion of a course of study approved by the division, and has two years of practical experience as a licensed journeyman electrician;

(iii) has four years of practical experience as a journeyman electrician; or

(iv) meets the qualifications determined by the board to be equivalent to Subsection (3)(f)(i), (ii), or (iii).

(g) A master residential electrician applicant shall produce satisfactory evidence that the applicant:

(i) has at least two years of practical experience as a residential journeyman electrician; or

(ii) meets the qualifications determined by the board to be equivalent to this practical experience.

(h) A journeyman electrician applicant shall produce satisfactory evidence that the applicant:

(i) has successfully completed at least four years of full-time training and instruction as a licensed apprentice electrician under the supervision of a master electrician or journeyman electrician and in accordance with a planned training program approved by the division;

(ii) has at least eight years of full-time experience approved by the division in collaboration with the Electricians Licensing Board; or

(iii) meets the qualifications determined by the board to be equivalent to Subsection (3)(h)(i) or (ii).

(i) A residential journeyman electrician applicant shall produce satisfactory evidence that the applicant:

(i) has successfully completed two years of training in an electrical training program approved by the division;

(ii) has four years of practical experience in wiring, installing, and repairing electrical apparatus and equipment for light, heat, and power under the supervision of a licensed master,

journeyman, residential master, or residential journeyman electrician; or

(iii) meets the qualifications determined by the division and applicable board to be equivalent to Subsection (3)(i)(i) or (ii).

(j) The conduct of licensed apprentice electricians and their licensed supervisors shall be in accordance with the following:

(i) A licensed apprentice electrician shall be under the immediate supervision of a licensed master, journeyman, residential master, or residential journeyman electrician. An apprentice in the fourth year of training may work without supervision for a period not to exceed eight hours in any 24-hour period.

(ii) A licensed master, journeyman, residential master, or residential journeyman electrician may have under immediate supervision on a residential project up to three licensed apprentice electricians.

(iii) A licensed master or journeyman electrician may have under immediate supervision on nonresidential projects only one licensed apprentice electrician.

(k) An alarm company applicant shall:

(i) have a qualifying agent who is an officer, director, partner, proprietor, or manager of the applicant who:

(A) demonstrates 6,000 hours of experience in the alarm company business;

(B) demonstrates 2,000 hours of experience as a manager or administrator in the alarm company business or in a construction business; and

(C) passes an examination component established by rule by the commission with the concurrence of the director;

(ii) if a corporation, provide:

(A) the names, addresses, dates of birth, social security numbers, and fingerprint cards of all corporate officers, directors, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state; and

(B) the names, addresses, dates of birth, social security numbers, and fingerprint cards of all shareholders owning 5% or more of the outstanding shares of the corporation, except this shall not be required if the stock is publicly listed and traded;

(iii) if a limited liability company, provide:

(A) the names, addresses, dates of birth, social security numbers, and fingerprint cards of all company officers, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state; and

(B) the names, addresses, dates of birth, social security numbers, and fingerprint cards of all individuals owning 5% or more of the equity of the company;

(iv) if a partnership, provide the names, addresses, dates of birth, social security numbers, and fingerprint cards of all general partners, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;

(v) if a proprietorship, provide the names, addresses, dates of birth, social security numbers, and fingerprint cards of the proprietor, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;

(vi) if a trust, provide the names, addresses, dates of birth, social security numbers, and fingerprint cards of the trustee, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;

(vii) be of good moral character in that officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management personnel have not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that when considered with the duties and responsibilities of an alarm company is considered by the board to indicate that the best interests of the public are served by granting the applicant a license;

(viii) document that none of the applicant's officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management personnel have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(ix) document that none of the applicant's officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel are currently suffering from habitual drunkenness or from drug addiction or dependence;

(x) file and maintain with the division evidence of:

(A) comprehensive general liability insurance in form and in amounts to be established by rule by the commission with the concurrence of the director;

(B) workers' compensation insurance that covers employees of the applicant in accordance with applicable Utah law; and

(C) registration as is required by applicable law with the:

(I) Division of Corporations and Commercial Code;

(II) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

(III) State Tax Commission; and

(IV) Internal Revenue Service; and

(xi) meet with the division and board.

(l) Each applicant for licensure as an alarm company agent shall:

(i) submit an application in a form prescribed by the division accompanied by fingerprint cards;

(ii) pay a fee determined by the department under Section 63J-1-504;

(iii) be of good moral character in that the applicant has not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that when considered with the duties and responsibilities of an alarm company agent is considered by the board to indicate that the best interests of the public are served by granting the applicant a license;

(iv) not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(v) not be currently suffering from habitual drunkenness or from drug addiction or dependence; and

(vi) meet with the division and board if requested by the division or the board.

(m) (i) Each applicant for licensure as an elevator mechanic shall:

(A) provide documentation of experience and education credits of not less than three years work experience in the elevator industry, in construction, maintenance, or service and repair; and

(B) satisfactorily complete a written examination administered by the division established by rule under Section 58-1-203; or

(C) provide certificates of completion of an apprenticeship program for elevator mechanics, having standards substantially equal to those of this chapter and registered with the United States Department of Labor Bureau Apprenticeship and Training or a state apprenticeship council.

(ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator, the contractor may:

(I) notify the division of the unavailability of licensed personnel; and

(II) request the division issue a temporary elevator mechanic license to an individual certified by the contractor as having an acceptable combination of documented experience and education to perform the work described in this Subsection (3)(m)(ii)(A).

(B) (I) The division may issue a temporary elevator mechanic license to an individual certified under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by the appropriate fee as determined by the department under Section 63J-1-504.

(II) The division shall specify the time period for which the license is valid and may renew the license

for an additional time period upon its determination that a shortage of licensed elevator mechanics continues to exist.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing when Federal Bureau of Investigation records shall be checked for applicants as an alarm company or alarm company agent.

(5) To determine if an applicant meets the qualifications of Subsections (3)(k)(vii) and (3)(l)(iii), the division shall provide an appropriate number of copies of fingerprint cards to the Department of Public Safety with the division's request to:

(a) conduct a search of records of the Department of Public Safety for criminal history information relating to each applicant for licensure as an alarm company or alarm company agent and each applicant's officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel; and

(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant requiring a check of records of the Federal Bureau of Investigation for criminal history information under this section.

(6) The Department of Public Safety shall send to the division:

(a) a written record of criminal history, or certification of no criminal history record, as contained in the records of the Department of Public Safety in a timely manner after receipt of a fingerprint card from the division and a request for review of Department of Public Safety records; and

(b) the results of the Federal Bureau of Investigation review concerning an applicant in a timely manner after receipt of information from the Federal Bureau of Investigation.

(7) (a) The division shall charge each applicant for licensure as an alarm company or alarm company agent a fee, in accordance with Section 63J-1-504, equal to the cost of performing the records reviews under this section.

(b) The division shall pay the Department of Public Safety the costs of all records reviews, and the Department of Public Safety shall pay the Federal Bureau of Investigation the costs of records reviews under this section.

(8) Information obtained by the division from the reviews of criminal history records of the Department of Public Safety and the Federal Bureau of Investigation shall be used or disseminated by the division only for the purpose of determining if an applicant for licensure as an alarm company or alarm company agent is qualified for licensure.

(9) (a) An application for licensure under this chapter shall be denied if:

(i) the applicant has had a previous license, which was issued under this chapter, suspended or revoked within ~~[one year prior to]~~ two years before the date of the applicant's application;

(ii) (A) the applicant is a partnership, corporation, or limited liability company; and

(B) any corporate officer, director, shareholder holding 25% or more of the stock in the applicant, partner, member, agent acting as a qualifier, or any person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant has served in any similar capacity with any person or entity which has had a previous license, which was issued under this chapter, suspended or revoked within ~~[one year prior to]~~ two years before the date of the applicant's application;

(iii) (A) the applicant is an individual or sole proprietorship; and

(B) any owner or agent acting as a qualifier has served in any capacity listed in Subsection (9)(a)(ii)(B) in any entity which has had a previous license, which was issued under this chapter, suspended or revoked within ~~[one year prior to]~~ two years before the date of the applicant's application; or

(iv) (A) the applicant includes an individual who was an owner, director, or officer of an unincorporated entity at the time the entity's license under this chapter was revoked; and

(B) the application for licensure is filed within 60 months after the revocation of the unincorporated entity's license.

(b) An application for licensure under this chapter shall be reviewed by the appropriate licensing board prior to approval if:

(i) the applicant has had a previous license, which was issued under this chapter, suspended or revoked more than ~~[one year prior to]~~ two years before the date of the applicant's application;

(ii) (A) the applicant is a partnership, corporation, or limited liability company; and

(B) any corporate officer, director, shareholder holding 25% or more of the stock in the applicant, partner, member, agent acting as a qualifier, or any person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant has served in any similar capacity with any person or entity which has had a previous license, which was issued under this chapter, suspended or revoked more than ~~[one year prior to]~~ two years before the date of the applicant's application; or

(iii) (A) the applicant is an individual or sole proprietorship; and

(B) any owner or agent acting as a qualifier has served in any capacity listed in Subsection (9)(b)(ii)(B) in any entity which has had a previous license, which was issued under this chapter, suspended or revoked more than ~~[one year prior to]~~ two years before the date of the applicant's application;

two years before the date of the applicant's application.

(10) (a) (i) A licensee that is an unincorporated entity shall file an ownership status report with the division every 30 days after the day on which the license is issued if the licensee has more than five owners who are individuals who:

(A) own an interest in the contractor that is an unincorporated entity;

(B) own, directly or indirectly, less than an 8% interest, as defined by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in the unincorporated entity; and

(C) engage, or will engage, in a construction trade in the state as owners of the contractor described in Subsection (10)(a)(i)(A).

(ii) If the licensee has five or fewer owners described in Subsection (10)(a)(i), the licensee shall provide the ownership status report with an application for renewal of licensure.

(b) An ownership status report required under this Subsection (10) shall:

(i) specify each addition or deletion of an owner:

(A) for the first ownership status report, after the day on which the unincorporated entity is licensed under this chapter; and

(B) for a subsequent ownership status report, after the day on which the previous ownership status report is filed;

(ii) be in a format prescribed by the division that includes for each owner, regardless of the owner's percentage ownership in the unincorporated entity, the information described in Subsection(1)(e)(v);

(iii) list the name of:

(A) each officer or manager of the unincorporated entity; and

(B) each other individual involved in the operation, supervision, or management of the unincorporated entity; and

(iv) be accompanied by a fee set by the division in accordance with Section 63J-1-504 if the ownership status report indicates there is a change described in Subsection (10)(b)(i).

(c) The division may, at any time, audit an ownership status report under this Subsection (10):

(i) to determine if financial responsibility has been demonstrated or maintained as required under Section 58-55-306; and

(ii) to determine compliance with Subsection 58-55-501(24), (25), or (27) or Subsection 58-55-502(8) or (9).

(11) (a) An unincorporated entity that provides labor to an entity licensed under this chapter by providing an individual who owns an interest in the unincorporated entity to engage in a construction trade in Utah shall file with the division:

(i) before the individual who owns an interest in the unincorporated entity engages in a construction trade in Utah, a current list of the one or more individuals who hold an ownership interest in the unincorporated entity that includes for each individual:

(A) the individual's name, address, birth date, and social security number; and

(B) whether the individual will engage in a construction trade; and

(ii) every 30 days after the day on which the unincorporated entity provides the list described in Subsection (11)(a)(i), an ownership status report containing the information that would be required under Subsection (10) if the unincorporated entity were a licensed contractor.

(b) When filing an ownership list described in Subsection (11)(a)(i) or an ownership status report described in Subsection (11)(a)(ii), an unincorporated entity shall pay a fee set by the division in accordance with Section 63J-1-504.

(12) This chapter may not be interpreted to create or support an express or implied independent contractor relationship between an unincorporated entity described in Subsection (10) or (11) and the owners of the unincorporated entity for any purpose, including income tax withholding.

(13) A social security number provided under Subsection (1)(e)(v) is a private record under Subsection 63G-2-302(1)(i).

Section 24. Section 58-55-307 is amended to read:

58-55-307. Confidentiality of records and reports.

(1) Credit reports, financial statements, and other information submitted to the division by or at the request and direction of an applicant or licensee for the purpose of supporting a representation of financial responsibility:

(a) constitute protected records under Title 63G, Chapter 2, Government Records Access and Management Act[;]; and

(b) notwithstanding Subsection (1)(a), may be considered by the commission in a public meeting, unless the owner of the information requests that the meeting be closed to the public in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

(2) Notwithstanding the provisions of Title 63G, Chapter 2, Government Records Access and Management Act, the records described in Subsection (1) are not open for public inspection and are not subject to discovery in civil or administrative proceedings.

Section 25. Section 58-60-508 is amended to read:

58-60-508. Substance use disorder counselor supervisor's qualifications -- Functions.

(1) A mental health therapist supervisor of a substance use disorder counselor shall:

(a) be qualified by education or experience to treat substance use disorders;

(b) be currently working in the substance use disorder treatment field;

(c) review substance use disorder counselor assessment procedures and recommendations;

(d) provide substance use disorder diagnosis and other mental health diagnoses in accordance with Subsection 58-60-102(7);

(e) supervise the development of a treatment plan;

(f) approve the treatment plan; and

(g) provide direct supervision for not more than five persons, unless granted an exception in writing from the board and the division.

(2) A supervisor of a certified substance use disorder counselor, certified substance use disorder counselor intern, certified advanced substance use disorder counselor, certified advanced substance use disorder counselor intern, or licensed substance use disorder counselor ~~may~~ shall:

(a) be a licensed advanced substance use disorder counselor ~~[with:];~~

~~[(i) until July 1, 2014, at least two years of experience as a substance use disorder counselor; or]~~

~~[(ii) beginning on July 1, 2014,]~~

~~(b) have at least two years of experience as a licensed advanced substance use disorder counselor;~~

~~[(b)] (c) be currently working in the substance use disorder field; and~~

~~[(e)] (d) provide direct supervision for no more than three persons, unless granted an exception in writing from the board and the division.~~

Section 26. Section 58-63-302 is amended to read:

58-63-302. Qualifications for licensure.

(1) Each applicant for licensure as an armored car company or a contract security company shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) have a qualifying agent who:

(i) is a resident of the state and an officer, director, partner, proprietor, or manager of the applicant;

(ii) passes an examination component established by rule by the division in collaboration with the board; and

(iii) (A) demonstrates 6,000 hours of compensated experience as a manager, supervisor, or

administrator of an armored car company or a contract security company; or

(B) demonstrates 6,000 hours of supervisory experience acceptable to the division in collaboration with the board with a federal, United States military, state, county, or municipal law enforcement agency;

(d) if a corporation, provide:

(i) the names, addresses, dates of birth, and social security numbers of all corporate officers, directors, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state; and

(ii) the names, addresses, dates of birth, and social security numbers, of all shareholders owning 5% or more of the outstanding shares of the corporation, unless waived by the division if the stock is publicly listed and traded;

(e) if a limited liability company, provide:

(i) the names, addresses, dates of birth, and social security numbers of all company officers, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state; and

(ii) the names, addresses, dates of birth, and social security numbers of all individuals owning 5% or more of the equity of the company;

(f) if a partnership, provide the names, addresses, dates of birth, and social security numbers of all general partners, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;

(g) if a proprietorship, provide the names, addresses, dates of birth, and social security numbers of the proprietor, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;

(h) have good moral character in that officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel have not been convicted of:

(i) a felony;

(ii) a misdemeanor involving moral turpitude; or

(iii) a crime that when considered with the duties and responsibilities of a contract security company or an armored car company by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;

(i) document that none of the applicant's officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel:

(i) have been declared by a court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored; and

(ii) currently suffer from habitual drunkenness or from drug addiction or dependence;

(j) file and maintain with the division evidence of:

(i) comprehensive general liability insurance in a form and in amounts established by rule by the division in collaboration with the board;

(ii) workers' compensation insurance that covers employees of the applicant in accordance with applicable Utah law;

(iii) registration with the Division of Corporations and Commercial Code; and

(iv) registration as required by applicable law with the:

(A) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

(B) State Tax Commission; and

(C) Internal Revenue Service; and

(k) meet with the division and board if requested by the division or board.

(2) Each applicant for licensure as an armed private security officer shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) have good moral character in that the applicant has not been convicted of:

(i) a felony;

(ii) a misdemeanor involving moral turpitude; or

(iii) a crime that when considered with the duties and responsibilities of an armed private security officer by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;

(d) not be prohibited from possession of a firearm or ammunition under 18 U.S.C. Sec. 922(g);

~~(d)~~ (e) not have been declared incompetent by a court of competent jurisdiction by reason of mental defect or disease and not been restored;

~~(e)~~ (f) not be currently suffering from habitual drunkenness or from drug addiction or dependence;

~~(f)~~ (g) successfully complete basic education and training requirements established by rule by the division in collaboration with the board;

~~(g)~~ (h) successfully complete firearms training requirements established by rule by the division in collaboration with the board;

~~(h)~~ (i) pass the examination requirement established by rule by the division in collaboration with the board; and

~~(i)~~ (j) meet with the division and board if requested by the division or the board.

(3) Each applicant for licensure as an unarmed private security officer shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) have good moral character in that the applicant has not been convicted of:

(i) a felony;

(ii) a misdemeanor involving moral turpitude; or

(iii) a crime that when considered with the duties and responsibilities of an unarmed private security officer by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;

(d) not have been declared incompetent by a court of competent jurisdiction by reason of mental defect or disease and not been restored;

(e) not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(f) successfully complete basic education and training requirements established by rule by the division in collaboration with the board;

(g) pass the examination requirement established by rule by the division in collaboration with the board; and

(h) meet with the division and board if requested by the division or board.

(4) Each applicant for licensure as an armored car security officer shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) have good moral character in that the applicant has not been convicted of:

(i) a felony;

(ii) a misdemeanor involving moral turpitude; or

(iii) a crime that when considered with the duties and responsibilities of an armored car security officer by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;

(d) not be prohibited from possession of a firearm or ammunition under 18 U.S.C. Sec. 922(g);

~~(d)~~ (e) not have been declared incompetent by a court of competent jurisdiction by reason of mental defect or disease and not been restored;

~~(e)~~ (f) not be currently suffering from habitual drunkenness or from drug addiction or dependence;

~~(f)~~ (g) successfully complete basic education and training requirements established by rule by the division in collaboration with the board;

~~(g)~~ (h) successfully complete firearms training requirements established by rule by the division in collaboration with the board;

~~(4b)~~ (i) pass the examination requirements established by rule by the division in collaboration with the board; and

~~(4)~~ (j) meet with the division and board if requested by the division or the board.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make a rule establishing when the division shall request a Federal Bureau of Investigation records' review for an applicant.

(6) To determine if an applicant meets the qualifications of Subsections (1)(h), (2)(c), (3)(c), and (4)(c), the division shall provide an appropriate number of copies of fingerprint cards to the Department of Public Safety with the division's request to:

(a) conduct a search of records of the Department of Public Safety for criminal history information relating to each applicant for licensure under this chapter and each applicant's officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel; and

(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant requiring a check of records of the FBI for criminal history information under this section.

(7) The Department of Public Safety shall send the division:

(a) a written record of criminal history, or certification of no criminal history record, as contained in the records of the Department of Public Safety in a timely manner after receipt of a fingerprint card from the division and a request for review of Department of Public Safety records; and

(b) the results of the FBI review concerning an applicant in a timely manner after receipt of information from the FBI.

(8) (a) The division shall charge each applicant a fee, in accordance with Section 63J-1-504, equal to the cost of performing the records reviews under this section.

(b) The division shall pay the Department of Public Safety the costs of all records reviews, and the Department of Public Safety shall pay the FBI the costs of records reviews under this chapter.

(9) The division shall use or disseminate the information it obtains from the reviews of criminal history records of the Department of Public Safety and the FBI only to determine if an applicant for licensure under this chapter is qualified for licensure.

Section 27. Section 58-64-304 is amended to read:

58-64-304. Exemptions from licensure.

~~[The]~~ In addition to the exemptions from licensure ~~[under the provisions of this chapter are limited to those set forth]~~ described in Section 58-1-307~~[-]~~, a law enforcement officer, as defined

under Section 53-13-103, who is not licensed under this chapter may operate a voice stress analyzer in the course of the officer's full-time employment with a federal, state, or local law enforcement agency if the officer:

(1) has completed the manufacturer's training course and is certified by the manufacturer to operate that voice stress analyzer; and

(2) is operating the voice stress analyzer in accordance with Section 58-64-601, regarding deception detection instruments.

Section 28. Section 58-70a-305 is amended to read:

58-70a-305. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in acts included within the definition of practice as a physician assistant, subject to the stated circumstances and limitations, without being licensed under this chapter:

(1) a student enrolled in an accredited physician assistant education program while engaged in activities as a physician assistant:

(a) that are a part of the education program;

(b) that are conducted under the direct supervision of a:

(i) physician associated with the program; or

(ii) licensed physician assistant, at the request of the supervising physician and on a temporary basis, as defined by rule;

(c) for which the program accepts in writing the responsibility for the student; and

(2) a "medical assistant," as defined in Sections 58-67-102 and 58-68-102, who:

~~[(a) is working under the direct supervision of a physician;]~~

~~(b)~~ (a) does not diagnose, advise, independently treat, or prescribe to or on behalf of any person; and

~~(e)~~ (b) for whom the supervising physician accepts responsibility.

Section 29. Section 58-74-102 is amended to read:

58-74-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Board" means the Certified Court Reporters Licensing Board created in Section 58-74-201.

~~[(2) "Certified Shorthand Reporter" means any person licensed under this chapter who is engaged in the practice of shorthand reporting.]~~

~~(3)~~ (2) "Certified court reporter" means any person who engages in the practice of court reporting who is:

(a) a shorthand reporter certified by the National Court Reporters Association; or

(b) a voice reporter certified by the National Verbatim Reporters Association.

~~[(4)]~~ (3) “Certified voice reporter” means any person licensed under this chapter who engages in the practice of voice reporting.

~~[(5)]~~ (4) “Official court reporter” means a certified shorthand reporter employed by the courts.

~~[(6)]~~ (5) “Official court transcriber” means a person certified in accordance with rules of the Judicial Council as competent to transcribe into written form an audio or video recording of court proceedings.

~~[(7)]~~ (6) “Practice of court reporting” means the making of a verbatim record of any trial, legislative public hearing, state agency public hearing, deposition, examination before trial, hearing or proceeding before any grand jury, referee, board, commission, master or arbitrator, or other sworn testimony given under oath.

~~[(8) “Practice of shorthand reporting” means the practice of making a verbatim record, using symbols or abbreviations.]~~

~~[(9)]~~ (7) “Practice of voice reporting” means the practice of making a verbatim record, using voice writing.

~~[(10)]~~ (8) “Voice writing” means the making of a verbatim record of the spoken word by means of repeating the words of the speaker into a device capable of either digital translation into English text or creation of a tape or digital recording.

~~[(11)]~~ (9) “Unlawful conduct” [is-as] means the same as that term is defined in Sections 58-1-501 and 58-74-501.

~~[(12)]~~ (10) “Unprofessional conduct” [is-as] means the same as that term is defined in Sections 58-1-501 and 58-74-502 and as may be further defined by rule.

Section 30. Section 58-77-601 is amended to read:

58-77-601. Standards of practice.

(1) (a) Prior to providing any services, a licensed direct-entry midwife must obtain an informed consent from a client.

(b) The consent must include:

(i) the name and license number of the direct-entry midwife;

(ii) the client’s name, address, telephone number, and primary care provider, if the client has one;

(iii) the fact, if true, that the licensed direct-entry midwife is not a certified nurse midwife or a physician;

(iv) a description of the licensed direct-entry midwife’s education, training, continuing education, and experience in midwifery;

(v) a description of the licensed direct-entry midwife’s peer review process;

(vi) the licensed direct-entry midwife’s philosophy of practice;

(vii) a promise to provide the client, upon request, separate documents describing the rules governing licensed direct-entry midwifery practice, including a list of conditions indicating the need for consultation, collaboration, referral, transfer or mandatory transfer, and the licensed direct-entry midwife’s personal written practice guidelines;

(viii) a medical back-up or transfer plan;

(ix) a description of the services provided to the client by the licensed direct-entry midwife;

(x) the licensed direct-entry midwife’s current legal status;

(xi) the availability of a grievance process;

(xii) client and licensed direct-entry midwife signatures and the date of signing; and

(xiii) whether the licensed direct-entry midwife is covered by a professional liability insurance policy.

(2) A licensed direct-entry midwife shall:

(a) (i) limit the licensed direct-entry midwife’s practice to a normal pregnancy, labor, postpartum, newborn and interconceptual care, which for purposes of this section means a normal labor:

(A) that is not pharmacologically induced;

(B) that is low risk at the start of labor;

(C) that remains low risk through out the course of labor and delivery;

(D) in which the infant is born spontaneously in the vertex position between 37 and 43 completed weeks of pregnancy; and

(E) except as provided in Subsection (2)(a)(ii), in which after delivery, the mother and infant remain low risk; and

(ii) the limitation of Subsection (2)(a)(i) does not prohibit a licensed direct-entry midwife from delivering an infant when there is:

(A) intrauterine fetal demise; or

(B) a fetal anomaly incompatible with life; and

(b) appropriately recommend and facilitate consultation with, collaboration with, referral to, or transfer or mandatory transfer of care to a licensed health care professional when the circumstances require that action in accordance with this section and standards established by division rule.

(3) If after a client has been informed that she has or may have a condition indicating the need for medical consultation, collaboration, referral, or transfer and the client chooses to decline, then the licensed direct-entry midwife shall:

(a) terminate care in accordance with procedures established by division rule; or

(b) continue to provide care for the client if the client signs a waiver of medical consultation, collaboration, referral, or transfer.

(4) If after a client has been informed that she has or may have a condition indicating the need for mandatory transfer, the licensed direct-entry midwife shall, in accordance with procedures established by division rule, terminate the care or initiate transfer by:

(a) calling 911 and reporting the need for immediate transfer;

(b) immediately transporting the client by private vehicle to the receiving provider; or

(c) contacting the physician to whom the client will be transferred and following that physician's orders.

(5) The standards for consultation and transfer are the minimum standards that a licensed direct-entry midwife must follow. A licensed direct-entry midwife shall initiate consultation, collaboration, referral, or transfer of a patient sooner than required by administrative rule if in the opinion and experience of the licensed direct-entry midwife, the condition of the client or infant warrant a consultation, collaboration, referral, or transfer.

~~[(6) For the period from 2006 through 2011, a licensed direct-entry midwife must submit outcome data to the Midwives' Alliance of North America's Division of Research on the form and in the manner prescribed by rule.]~~

~~[(7) (6) This chapter does not mandate health insurance coverage for midwifery services.]~~

Section 31. Section 58-81-102 is amended to read:

58-81-102. Definitions.

For purposes of this chapter:

(1) "Board" means the state licensing board created for each of the health care practitioners included in Subsection (2).

(2) "Health care practitioner" includes:

(a) a podiatrist licensed under Chapter 5a, Podiatric Physician Licensing Act;

(b) a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act;

(c) a nurse or advanced practice registered nurse licensed under Chapter 31b, Nurse Practice Act;

(d) a recreational therapist licensed under Chapter 40, Recreational Therapy Practice Act;

(e) an occupational therapist licensed under Chapter 42a, Occupational Therapy Practice Act;

(f) a nurse midwife licensed under Chapter 44a, Nurse Midwife Practice Act;

(g) a mental health professional licensed under Chapter 60, Mental Health Professional Practice Act;

(h) a psychologist licensed under Chapter 61, Psychologist Licensing Act;

~~[(h)] (i) a physician licensed under Chapter 67, Utah Medical Practice Act;~~

~~[(i)] (j) an osteopath licensed under Chapter 68, Utah Osteopathic Medical Practice Act;~~

~~[(j)] (k) a dentist or dental hygienist licensed under Chapter 69, Dentist and Dental Hygienist Practice Act;~~

~~[(k)] (l) a physician assistant licensed under Chapter 70a, Physician Assistant Act;~~

~~[(l)] (m) a pharmacist licensed under Chapter 17b, Pharmacy Practice Act; or~~

~~[(m)] (n) an optometrist licensed under Chapter 16a, Utah Optometry Practice Act.~~

(3) "Qualified location" means:

(a) a clinic, hospital, church, or organization whose primary purpose is to sponsor, promote, or organize uncompensated health care services for people unable to pay for health care services; and

(b) is a location approved by the division.

(4) "Remuneration or compensation" ~~is as~~ means the same as that term is defined in Section 58-13-3.

(5) "Supervising professional" means a health care practitioner:

(a) who has an active license in the state in good standing;

(b) with a scope of practice that is appropriate for supervising the applicant as determined by the division and board; and

(c) who is practicing at the qualified location.

(6) "Supervision" means:

(a) the level of supervision required for:

(i) a social service worker in Chapter 60, Mental Health Professional Practice Act;

(ii) a dental hygienist in Chapter 69, Dentist and Dental Hygienist Practice Act;

(iii) a recreational therapist technician in Chapter 40, Recreational Therapy Practice Act; and

(iv) an occupational technician assistant in Chapter 42a, Occupational Therapy Practice Act; and

(b) for the health care practitioners listed in Subsections (2)(a) through (m) and not included in Subsection (5)(a):

(i) entering into a delegation of service agreement with a supervising professional in accordance with Subsection 58-81-103(2);

(ii) having the ability to contact the supervising professional during the time the volunteer is providing volunteer services; and

(iii) for every 40 hours of volunteer service hours, meeting with the supervising professional.

(7) "Volunteer" means the individual health care practitioner:

(a) will devote the health care practitioner's practice exclusively to providing care to the needy and indigent in the state:

(i) within:

(A) the practitioner's scope of practice; and

(B) the delegation of service agreement between the volunteer and the supervising professional; and

(ii) at a qualified location;

(b) will agree to donate professional services in a qualified location; and

(c) will not receive remuneration or compensation for the health care practitioner's services.

Section 32. Coordinating S.B. 136 with H.B. 185 -- Substantive and technical amendments.

If this S.B. 136 and H.B. 185, Deception Detection Examiners Licensing Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, modify Section 58-64-304 to read:

“~~The~~ In addition to the exemptions from licensure ~~under the provisions of this chapter are limited to those set forth~~ described in Section 58-1-307~~[-]~~, a law enforcement officer, as defined under Section 53-13-103, who is not licensed under this chapter, may operate a voice stress analyzer or software application designed for detecting deception in the course of the officer's employment with a federal, state, or local law enforcement agency, if the officer:

(1) has completed the manufacturer's training course and is certified by the manufacturer to operate the voice stress analyzer or software application designed for detecting deception; and

(2) is operating the voice stress analyzer or software application designed for detecting deception in accordance with Section 58-64-601, regarding deception detection instruments.”

CHAPTER 239**S. B. 139**

Passed March 9, 2016

Approved March 23, 2016

Effective May 10, 2016

**BOARD OF EDUCATION
APPROVAL AMENDMENTS**

Chief Sponsor: Howard A. Stephenson

House Sponsor: David E. Lifferth

LONG TITLE**General Description:**

This bill amends provisions related to teacher preparation programs.

Highlighted Provisions:

This bill:

- ▶ directs the State Board of Education to designate an employee to engage in monitoring and other conduct related to teacher preparation programs;
- ▶ directs the State Board of Education to consider recommendations and make rules; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-6-107, as repealed and reenacted by Laws of Utah 1999, Chapter 108

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-6-107 is amended to read:**53A-6-107. Teacher preparation programs.**

(1) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that establish ~~[by rule the]~~ standards ~~[which must be met by approved]~~ for approval of a preparation ~~[programs and]~~ program or an alternative preparation ~~[programs]~~ program.

(2) ~~[Standards]~~ The board shall ensure that standards adopted ~~[by the board for approved preparation programs and alternative preparation programs shall]~~ under Subsection (1) meet or exceed generally recognized national standards for preparation of educators, such as those developed by the:

(a) Interstate New Teacher Assessment and Support Consortium~~[, the]~~;

(b) National Board for Professional Teaching Standards~~[, and the National Council for the Accreditation of Teacher Education.];~~ or

(c) Council for the Accreditation of Educator Preparation.

(3) The board shall designate an employee of the board's staff to:

(a) work with education deans of state institutions of higher education to coordinate on-site monitoring of teacher preparation programs that may include:

(i) monitoring courses for teacher preparation programs;

(ii) working with course instructors for teacher preparation programs; and

(iii) interviewing students admitted to teacher preparation programs;

(b) act as a liaison between:

(i) the board;

(ii) local school boards or charter school governing boards; and

(iii) representatives of teacher preparation programs; and

(c) report the employee's findings and recommendations for the improvement of teacher preparation programs to:

(i) the board; and

(ii) education deans of state institutions of higher education.

(4) The board shall:

(a) in good faith, consider the findings and recommendations described in Subsection (3)(c); and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules, as the board determines is necessary, to implement recommendations described in Subsection (3)(c).

CHAPTER 240**S. B. 166**

Passed March 9, 2016

Approved March 23, 2016

Effective May 10, 2016

**UTAH SCIENCE, TECHNOLOGY,
AND RESEARCH MODIFICATIONS**Chief Sponsor: Ann Millner
House Sponsor: Brad R. Wilson**LONG TITLE****General Description:**

This bill modifies provisions related to the Utah Science Technology and Research Initiative.

Highlighted Provisions:

This bill:

- ▶ rewrites provisions relating to the Utah Science and Technology Research Initiative (USTAR), its governing authority, and funding and other support provided by USTAR;
- ▶ modifies the powers and duties of the USTAR governing authority;
- ▶ modifies reporting requirements;
- ▶ modifies provisions related to USTAR researchers and USTAR buildings;
- ▶ modifies provisions related to an audit of USTAR's annual report;
- ▶ repeals provisions relating to a technology outreach innovation program and an advisory council;
- ▶ makes appropriations to USTAR nonlapsing; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63A-5-305, as last amended by Laws of Utah 2003, Chapter 289

63J-1-602.4, as last amended by Laws of Utah 2015, Chapters 179 and 283

63M-2-102, as last amended by Laws of Utah 2015, Chapter 357

63M-2-301, as last amended by Laws of Utah 2015, Chapter 357

63M-2-302.5, as enacted by Laws of Utah 2014, Chapter 186

ENACTS:

63M-2-501, Utah Code Annotated 1953

63M-2-502, Utah Code Annotated 1953

63M-2-503, Utah Code Annotated 1953

63M-2-504, Utah Code Annotated 1953

63M-2-601, Utah Code Annotated 1953

63M-2-602, Utah Code Annotated 1953

63M-2-701, Utah Code Annotated 1953

63M-2-702, Utah Code Annotated 1953

63M-2-703, Utah Code Annotated 1953

63M-2-704, Utah Code Annotated 1953

63M-2-705, Utah Code Annotated 1953

63M-2-801, Utah Code Annotated 1953

63M-2-802, Utah Code Annotated 1953

REPEALS AND REENACTS:

63M-2-302, as last amended by Laws of Utah 2015, Chapter 357

RENUMBERS AND AMENDS:

63M-2-803, (Renumbered from 63M-2-402, as last amended by Laws of Utah 2015, Chapter 357)

REPEALS:

63M-2-201, as last amended by Laws of Utah 2014, Chapter 186

63M-2-202, as last amended by Laws of Utah 2015, Chapter 357

63M-2-203, as last amended by Laws of Utah 2014, Chapter 186

63M-2-204, as last amended by Laws of Utah 2015, Chapter 357

63M-2-303, as last amended by Laws of Utah 2014, Chapter 186

63M-2-401, as last amended by Laws of Utah 2015, Chapter 357

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-5-305 is amended to read:**63A-5-305. Leasing by higher education institutions.**

(1) The Board of Regents shall establish written policies and procedures governing leasing by higher education institutions.

(2) Except as provided in [Section] Sections 53B-2a-113[~~, each~~] and 63M-2-602, a higher education institution shall comply with the procedures and requirements of the Board of Regents' policies before signing or renewing [any] a lease.

Section 2. Section 63J-1-602.4 is amended to read:**63J-1-602.4. List of nonlapsing funds and accounts -- Title 61 through Title 63N.**

(1) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(2) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(3) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

(4) Appropriations from the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

(5) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

(6) Appropriations from the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

(7) Appropriations to the Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(8) Appropriations to the Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(9) A portion of the funds appropriated to the Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(10) Funds appropriated or collected for publishing the Division of Administrative Rules' publications, as provided in Section 63G-3-402.

(11) The Immigration Act Restricted Account created in Section 63G-12-103.

(12) Money received by the military installation development authority, as provided in Section 63H-1-504.

(13) Appropriations to the Utah Science Technology and Research Initiative created in Section 63M-2-301.

~~(13)~~ (14) Appropriations to fund the Governor's Office of Economic Development's Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

~~(14)~~ (15) The Motion Picture Incentive Account created in Section 63N-8-103.

~~(15)~~ (16) Certain money payable for commission expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

Section 3. Section 63M-2-102 is amended to read:

63M-2-102. Definitions.

As used in this chapter:

~~(1) "Commercialization revenues" means dividends, realized capital gains, license fees, royalty fees, and all other revenues received by a university as a result of commercial applications, inventions, or intellectual property developed from the USTAR initiative, less;~~

~~(a) the portion of revenues allocated to the inventor; and~~

~~(b) expenditures incurred by the university to legally protect the intellectual property;~~

~~(2)~~ (1) "Executive director" means the ~~[person]~~ individual appointed under ~~[Section]~~ Subsection 63M-2-301(9).

(2) "Governing authority" means the Utah Science Technology and Research Governing Authority created in Section 63M-2-301.

(3) "Higher education institution" means an institution listed in Section 53B-2-101.

(4) "Principal researcher" means an individual who:

(a) (i) on May 10, 2016, is employed, alone or as part of a research team, by a research university;

(ii) before May 10, 2016, received funding from USTAR for some or all of the researcher's startup costs or research university salary;

(iii) was recruited by a research university to become a member of a research university's faculty; and

(iv) on or after May 10, 2016, continues to receive USTAR support; or

(b) (i) is employed on or after May 10, 2016 as a researcher by a higher education institution;

(ii) receives USTAR support; and

(iii) is recruited by the governing authority and the higher education institution to become a member of the higher education institution's faculty.

(5) "Private entity":

(a) means a privately owned corporation, limited liability company, partnership, or other business entity or association; and

(b) does not include an individual or a sole proprietorship.

~~(3)~~ (6) "Research ~~[buildings]~~ building" means a building:

(a) for which the governing authority holds title; and

(b) that is located on the campus of a research university.

~~(4)~~ (7) "Research ~~[universities]~~ university" means:

(a) the University of Utah ~~and~~; or

(b) Utah State University.

~~(5) "Technology outreach innovation program" or "TOIP" means the program described in Section 63M-2-202.~~

~~(6) "USTAR governing authority" means the Utah Science Technology and Research Governing Authority created in Section 63M-2-301.~~

~~(7)~~ (a) (8) "USTAR ~~[initiative]~~" means the Utah Science Technology and Research Initiative created in Section 63M-2-301.

~~(b) "USTAR initiative" includes the projects, operations, activities, programs, and services described in this chapter.~~

(9) "USTAR researcher" means:

(a) a principal researcher; or

(b) an individual, other than a principal researcher, who:

(i) is employed by a higher education institution; and

(ii) receives USTAR support.

(10) "USTAR support" means assistance provided by USTAR including:

- (a) financial support;
- (b) technical assistance;
- (c) mentoring; and
- (d) the use of:

(i) research or laboratory space controlled by USTAR in a building other than a research building; and

(ii) equipment in space described in Subsection (10)(d)(i).

Section 4. Section 63M-2-301 is amended to read:

63M-2-301. The Utah Science Technology and Research Initiative -- Governing authority -- Executive director.

(1) There is created the Utah Science Technology and Research Initiative.

(2) To oversee ~~[the Utah Science Technology and Research Initiative]~~ USTAR, there is created the Utah Science Technology and Research Governing Authority consisting of:

(a) the state treasurer or the state treasurer's designee[;];

(b) the executive director of the Governor's Office of Economic Development~~[-, and the following eight members appointed as follows:]~~;

~~[(a)]~~ (c) three members appointed by the governor, with the consent of the Senate;

~~[(b)]~~ (d) two members appointed by the president of the Senate;

~~[(c)]~~ (e) two members appointed by the speaker of the House of Representatives; and

~~[(d)]~~ (f) one member appointed by the commissioner of higher education.

(3) (a) ~~[(4)]~~ The eight appointed members under Subsections (2)(c) through (f) shall serve four-year staggered terms.

~~[(ii) The]~~ (b) An appointed ~~[members]~~ member under Subsection (2)(c), (d), (e), or (f):

(i) may not serve more than two full consecutive terms[;]; and

~~[(iii) An appointed member]~~

(ii) may be removed from the ~~[board]~~ governing authority for any reason before the member's term is completed:

(A) at the discretion of the original appointing authority; and

(B) after ~~[consultation]~~ the original appointing authority consults with the governing authority.

~~[(b) Notwithstanding Subsection (3)(a)(i), the terms of the first members of the governing authority shall be staggered by lot so that half of the initial members serve two-year terms and half serve four-year terms.]~~

(4) ~~[Vacancies in the appointed positions]~~ A vacancy on the governing authority in an appointed position under Subsection (2)(c), (d), (e), or (f) shall be filled for the unexpired term by the appointing authority in the same manner as the original appointment ~~[for the unexpired term]~~.

(5) (a) ~~[The]~~ Except as provided in Subsection (5)(b), the governor, with the consent of the Senate, shall select the chair of the governing authority to serve a one-year term.

(b) The governor may extend the term of a sitting chair of the governing authority without the consent of the Senate.

(c) The executive director of the Governor's Office of Economic Development shall serve as the vice chair of the governing authority.

(6) The governing authority shall meet at least six times each year and may meet more frequently at the request of a majority of the members of the governing authority.

(7) Five members of the governing authority are a quorum.

(8) A member of the governing authority may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance ~~[according]~~:

(i) pursuant to Sections 63A-3-106 and 63A-3-107~~[-]; and~~

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(9) (a) After consultation with the ~~[USTAR]~~ governing authority, the governor, with the consent of the Senate, shall appoint a full-time executive director to provide staff support for the ~~[USTAR]~~ governing authority.

(b) The executive director is an at-will employee who may be terminated with or without cause by:

(i) the governor; or ~~[by]~~

(ii) majority vote of the ~~[USTAR]~~ governing authority.

Section 5. Section 63M-2-302 is repealed and reenacted to read:

63M-2-302. USTAR governing authority powers and duties.

(1) The governing authority shall:

(a) ensure that funds appropriated to USTAR are used appropriately, effectively, and efficiently in accordance with this chapter;

(b) in cooperation with a research university's administration, work to expand research at the research university;

(c) enhance technology transfer and commercialization of research and technology

developed at a higher education institution to create high-quality jobs and new industries in the private sector in the state;

(d) ensure that USTAR programs do not duplicate existing or planned programs of other state agencies;

(e) establish written economic development objectives for USTAR that are measurable and verifiable;

(f) consider input from the Governor's Office of Economic Development and higher education institutions;

(g) establish and administer a grant program, as provided in Section 63M-2-503, and provide USTAR support, as provided in Section 63M-2-504, consistent with and to further economic development objectives that the governing authority establishes; and

(h) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to implement this chapter.

(2) The governing authority may:

(a) in addition to receiving money appropriated by the Legislature, receive contributions to USTAR from any source, in the form of money, property, labor, or other thing of value;

(b) subject to restrictions imposed by a donor or legislative appropriation, allocate money for programs and activities described in this chapter;

(c) enter into an agreement necessary to obtain private equity investment in USTAR;

(d) charge and collect rent for space in a facility or building that USTAR controls;

(e) in fulfilling the governing authority's duties and responsibilities under this chapter, collaborate with:

(i) the Governor's Office of Economic Development and other state agencies with an interest in economic development; and

(ii) private entities with an interest in economic development; and

(f) delegate powers and duties to the executive director.

(3) A state agency, higher education institution, or political subdivision with which the governing authority seeks to collaborate in fulfilling the governing authority's duties under this chapter shall cooperate with the governing authority as reasonably necessary to enable the governing authority to fulfill its duties under this chapter.

Section 6. Section 63M-2-302.5 is amended to read:

63M-2-302.5. USTAR governing authority requirements.

The [USTAR] governing authority is subject to the requirements of an executive branch agency and is:

(1) an agency for purposes of Title 63J, Chapter 1, Budgetary Procedures Act;

(2) an executive branch procurement unit for purposes of Title 63G, Chapter 6a, Utah Procurement Code;

(3) a governmental entity for purposes of Title 63G, Chapter 2, Government Records Access and Management Act; and

(4) a public body for purposes of Title 52, Chapter 4, Open and Public Meetings Act.

Section 7. Section 63M-2-501 is enacted to read:

Part 5. USTAR Support

63M-2-501. Title.

This part is known as "USTAR Support."

Section 8. Section 63M-2-502 is enacted to read:

63M-2-502. Principal researchers -- Agreement requirements -- Discontinuing funding.

(1) Subject to legislative appropriation, the governing authority shall:

(a) provide funding to help a research university honor its commitments to principal researchers employed by the research university; and

(b) give priority to funding provided under Subsection (1)(a).

(2) The governing authority shall enter into a written agreement with a higher education institution that employs a principal researcher:

(a) establishing performance standards and expectations for a principal researcher; and

(b) requiring the higher education institution to require a principal researcher to comply with reporting requirements set forth in Section 63M-2-702.

(3) (a) A principal researcher may not be hired on or after May 10, 2016 without the approval of the governing authority and the higher education institution.

(b) A higher education institution that enters into or renews an agreement with a principal researcher on or after May 10, 2016 shall include in the agreement:

(i) a specific time period for the commitment of USTAR funding;

(ii) the amount of USTAR funding committed to the higher education institution for the principal researcher, specifying the purpose of the funding;

(iii) an acknowledgment that the principal researcher understands and agrees to the reporting requirements and performance standards under this chapter; and

(iv) the governing authority's written approval of the terms of the new or renewed agreement.

(4) The governing authority may not allocate money to a higher education institution for a

principal researcher unless the higher education institution provides the reporting required under Section 63M-2-702.

(5) The governing authority may discontinue allocating money to a higher education institution for a principal researcher if the governing authority and the president of the higher education institution employing the principal researcher agree in writing that:

(a) the principal researcher:

(i) fails to meet the performance standards and expectations established under Subsection (2)(a);

(ii) receives a reasonable opportunity to remedy the failure to meet performance standards and expectations; and

(iii) fails to remedy the failure to meet performance standards and expectations; and

(b) under the circumstances, discontinuing USTAR funding to the higher education institution for the principal researcher is appropriate and justified.

Section 9. Section 63M-2-503 is enacted to read:

63M-2-503. USTAR grant programs.

(1) The governing authority shall establish at least one competitive grant program that:

(a) is designed to:

(i) address market gaps in technology development in the state; or

(ii) facilitate research and development of promising technologies;

(b) does not overlap with or duplicate other state funded programs; and

(c) offers grants, on a competitive basis, to:

(i) researchers employed by higher education institutions;

(ii) private entities; or

(iii) partnerships between researchers employed by higher education institutions and private entities.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the governing authority shall make rules that describe, for each grant program:

(a) the purpose;

(b) eligibility criteria to receive a grant;

(c) how the governing authority determines which proposals receive grants;

(d) reporting requirements in accordance with Part 7, Reporting by Recipients of USTAR Support; and

(e) other information the governing authority determines is necessary or appropriate.

(3) The governing authority:

(a) shall solicit proposals for each grant program; and

(b) may, subject to legislative appropriation and Subsection 63M-2-502(1)(b), award grants for each program.

(4) In evaluating a grant proposal received in response to a solicitation under this section, the governing authority shall consider, as applicable:

(a) the extent to which the planned research has the potential for commercialization;

(b) the market gap the technology or research fills; and

(c) other factors the governing authority determines are relevant, important, or necessary.

(5) The governing authority shall require a recipient of a grant under this section, as a condition of receiving a grant, to comply with the reporting requirements described in:

(a) Section 63M-2-702, for a USTAR researcher; or

(b) Section 63M-2-703, for a private entity or for a partnership between a USTAR researcher and a private entity.

Section 10. Section 63M-2-504 is enacted to read:

63M-2-504. Other USTAR support.

(1) The governing authority shall:

(a) provide mentoring, networking, and entrepreneurial training for a private entity or USTAR researcher to help take a new technology to market;

(b) provide support to a private entity or USTAR researcher in assessing the potential for bringing a technology to market; and

(c) encourage industry partnerships between a private entity and a USTAR researcher.

(2) The governing authority shall require a recipient of USTAR support under this section, as a condition of receiving USTAR support, to comply with the reporting requirements in:

(a) Section 63M-2-702, for a USTAR researcher; or

(b) Section 63M-2-703, for a private entity or for a partnership between a USTAR researcher and a private entity.

Section 11. Section 63M-2-601 is enacted to read:

Part 6. Research Buildings

63M-2-601. Title.

This part is known as "Research Buildings."

Section 12. Section 63M-2-602 is enacted to read:

63M-2-602. Lease agreement for a research building -- Requirements for lease agreement.

(1) The governing authority shall enter into a written lease agreement with a research university to lease to the research university a research building constructed on the research university's campus.

(2) A lease agreement under Subsection (1) shall:

(a) require the research university to pay the ongoing operation and maintenance expenses associated with the research building, including for any infrastructure in the research building; and

(b) subject to the reporting requirements described in Section 63M-2-705, permit the research university to use or rent space within the research building for research other than research receiving USTAR support, including research by a private entity.

Section 13. Section 63M-2-701 is enacted to read:

Part 7. Reporting by Recipients of USTAR Support

63M-2-701. Title.

This part is known as "Reporting by Recipients of USTAR Support."

Section 14. Section 63M-2-702 is enacted to read:

63M-2-702. Reporting requirements for higher education institutions.

(1) Except as provided in Subsection (3), on or before September 1 each year, a higher education institution employing a USTAR researcher shall submit a written report to the governing authority.

(2) A report under Subsection (1) shall contain information on:

(a) collaborations established by a USTAR researcher with other researchers;

(b) the amount and source of funding, other than USTAR funding, expended on a USTAR researcher's research program, including:

(i) federal funds;

(ii) philanthropic or nonprofit funds;

(iii) industry funds; and

(iv) state funds other than USTAR funds, including funds from a higher education institution;

(c) a copy of each:

(i) technology disclosure that a USTAR researcher files with a higher education institution;

(ii) license agreement that the higher education institution enters into with respect to a technology

developed by a USTAR researcher, including any current, expired, or breached license; and

(iii) patent filed by the higher education institution based on technology developed by a USTAR researcher;

(d) publications in which a USTAR researcher participated, including a citation for each peer reviewed publication;

(e) the number of research jobs maintained by a USTAR researcher's research program and average wages paid to those holding those jobs;

(f) expenses paid using USTAR funds, including:

(i) salary and benefits for a USTAR researcher or staff;

(ii) operational expenses;

(iii) capital equipment expenses; and

(iv) travel; and

(g) compensation, including salary and benefits, that a USTAR researcher received from a publicly funded source other than USTAR funds.

(3) The governing authority may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to simplify or eliminate the reporting requirements described in this section for a USTAR researcher who has received less than \$100,000 in cumulative USTAR funding for a particular line of research.

Section 15. Section 63M-2-703 is enacted to read:

63M-2-703. Reporting requirements for private entities.

(1) On or before September 1 of each year, the governing authority shall collect the information described in Subsection (2) from each private entity that:

(a) receives USTAR support;

(b) receives more than 20 hours of training from USTAR;

(c) purchases a private entity that previously received USTAR support; or

(d) licenses a technology developed by a USTAR researcher.

(2) The governing authority shall collect information on:

(a) public or private investment received by the private entity after the private entity:

(i) begins to receive USTAR support;

(ii) licenses a technology from a USTAR researcher; or

(iii) purchases a private entity that previously received USTAR support;

(b) sales or revenue generated by the product or technology;

(c) the number of jobs created by the private entity and the average wage for each position; and

(d) the location of the private entity.

(3) (a) To collect the information described in Subsection (2), the governing authority shall, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, contract with an independent third party to conduct a survey of each private entity described in Subsection (1).

(b) The independent third party selected under Subsection (3)(a) shall use industry standard practices to collect the information described in Subsection (2).

(4) The governing authority and Department of Workforce Services shall coordinate to verify the job and average wage information described in Subsection (2)(c).

Section 16. Section 63M-2-704 is enacted to read:

63M-2-704. Reporting on licensed or acquired intellectual property.

In an agreement between an institution of higher education and a private entity that licenses or acquires an interest in intellectual property developed by a USTAR researcher, the institution of higher education shall include a provision requiring the private entity, as a condition of receiving a license or acquiring an interest in intellectual property, to comply with the reporting requirements in Section 63M-2-703.

Section 17. Section 63M-2-705 is enacted to read:

63M-2-705. Reporting on use of research buildings.

On or before September 1 of each year, a research university shall submit a report to the governing authority concerning the use, during the immediately preceding fiscal year, of the research building located on the research university's campus, including:

(1) the name of each individual who conducts research in the research building;

(2) the name of each private entity that uses the research building;

(3) the total amount charged by the research university for the use of space or facilities in the research building;

(4) the amount and source of funding, other than USTAR funding, received by a researcher, other than a researcher that is a private entity, housed in the research building, including:

(a) federal funding;

(b) state funding, including institutional funding;

(c) private philanthropic or nonprofit funding; and

(d) industry funding; and

(5) the number of disclosures, patents, and licenses resulting from research conducted in the research building.

Section 18. Section 63M-2-801 is enacted to read:

Part 8. USTAR Reporting and Audit Requirements

63M-2-801. Title.

This part is known as "USTAR Reporting and Audit Requirements."

Section 19. Section 63M-2-802 is enacted to read:

63M-2-802. USTAR annual report.

(1) (a) On or before October 1 of each year, the governing authority shall submit an annual written report for the preceding fiscal year to:

(i) the Business, Economic Development, and Labor Appropriations Subcommittee;

(ii) the Economic Development and Workforce Services Interim Committee;

(iii) the Business and Labor Interim Committee; and

(iv) the governor.

(b) An annual report under Subsection (1)(a) is subject to modification as provided in Subsection (5) after an audit described in Section 63M-2-803 is released.

(2) An annual report described in Subsection (1) shall include:

(a) information reported to the governing authority:

(i) by an institution of higher education under Section 63M-2-702;

(ii) through the survey described in Section 63M-2-703; and

(iii) by a research university, under Section 63M-2-705;

(b) a clear description of the methodology used to arrive at any information in the report that is based on an estimate;

(c) starting with fiscal year 2017 data as a baseline, data from previous years for comparison with the annual data reported under this Subsection (2);

(d) relevant federal and state statutory references and requirements;

(e) contact information for the executive director;

(f) other information determined by the governing authority that promotes accountability and transparency; and

(g) the written economic development objectives required under Subsection 63M-2-302(1)(e) and a description of progress or challenges in meeting the objectives.

(3) The governing authority shall design the annual report to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(4) The governing authority shall:

(a) submit the annual report in accordance with Section 68-3-14; and

(b) place a link to the annual report and previous annual reports on USTAR's website.

(5) Following the completion of an annual audit described in Section 63M-2-803, the governing authority shall:

(a) publicly issue a revised annual report that:

(i) addresses the audit;

(ii) responds to audit findings; and

(iii) incorporates any revisions to the annual report based on audit findings;

(b) publish the revised annual report on USTAR's website, with a link to the audit; and

(c) provide written notification of any revisions of the annual report to:

(i) the Business, Economic Development, and Labor Appropriations Subcommittee;

(ii) the Economic Development and Workforce Services Interim Committee;

(iii) the Business and Labor Interim Committee; and

(iv) the governor.

(6) In addition to the annual written report described in this section, the governing authority shall:

(a) provide information and progress reports to a legislative committee upon request; and

(b) on or before October 1, 2019, and every five years after October 1, 2019, include with the annual report described in this section a written analysis and recommendations concerning the usefulness of the information required in the annual report and USTAR's ongoing effectiveness, including whether:

(i) the reporting requirements are effective at measuring USTAR's performance;

(ii) the reporting requirements should be modified; and

(iii) USTAR is beneficial to the state and should continue.

Section 20. Section 63M-2-803, which is renumbered from Section 63M-2-402 is renumbered and amended to read:

[63M-2-402]. 63M-2-803. Audit requirements.

(1) ~~[Each fiscal]~~ Every third year beginning 2018, an audit of ~~[the activities of the]~~ USTAR ~~[initiative]~~ shall be made as described in this section.

(2) (a) As approved by the Legislative Audit Subcommittee, the audit shall be conducted by:

(i) the legislative auditor; or

(ii) an independent auditor engaged by the legislative auditor.

(b) An independent auditor used under Subsection (2)(a)(ii) may not have a direct financial conflict of interest with ~~[the]~~ USTAR ~~[initiative]~~ or the ~~[USTAR]~~ governing authority.

(3) The ~~[USTAR]~~ governing authority shall pay the costs associated with the annual audit.

(4) The annual audit shall:

(a) include a verification of the accuracy of the information required to be included in the annual report described in Section ~~[63M-2-401]~~ 63M-2-802; and

(b) be completed by ~~[September]~~ December 1 of ~~[each]~~ the year the report is required under Subsection (1).

Section 21. Repealer.

This bill repeals:

Section 63M-2-201, Science technology research buildings.

Section 63M-2-202, Technology outreach innovation program.

Section 63M-2-203, Research teams.

Section 63M-2-204, Financial participation agreement.

Section 63M-2-303, USTAR Governing Authority Advisory Council -- Chair -- Meetings.

Section 63M-2-401, Reporting requirements.

CHAPTER 241**S. B. 191**

Passed March 10, 2016
 Approved March 23, 2016
 Effective May 10, 2016

**SCHOOL TURNAROUND AND
 LEADERSHIP DEVELOPMENT
 ACT AMENDMENTS**

Chief Sponsor: Ann Millner
 House Sponsor: Bradley G. Last

LONG TITLE**General Description:**

This bill amends provisions regarding the School Turnaround and Leadership Development Act.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ clarifies that certain school turnaround actions may only be taken under certain circumstances;
- ▶ amends the date by which certain school turnaround actions shall be taken;
- ▶ specifies uses for School Turnaround and Leadership Development program funds; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 53A-1-1202, as enacted by Laws of Utah 2015, Chapter 449
 53A-1-1203, as enacted by Laws of Utah 2015, Chapter 449
 53A-1-1204, as enacted by Laws of Utah 2015, Chapter 449
 53A-1-1205, as enacted by Laws of Utah 2015, Chapter 449
 53A-1-1206, as enacted by Laws of Utah 2015, Chapter 449
 53A-1-1207, as enacted by Laws of Utah 2015, Chapter 449
 53A-1-1208, as enacted by Laws of Utah 2015, Chapter 449

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-1-1202 is amended to read:

53A-1-1202. Definitions.

As used in this part:

- (1) "Board" means the State Board of Education.
- (2) "Charter school authorizer" means the same as that term is defined in Section 53A-1a-501.3.
- (3) "District school" means a public school under the control of a local school board elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(4) "Educator" means the same as that term is defined in Section 53A-6-103.

(5) "Final remedial year" means the second school year following the initial remedial year.

~~(5)~~ (6) "Initial remedial year" means the school year ~~[in which]~~ a district school or charter school is designated as a low performing school under Section 53A-1-1203.

~~(6)~~ (7) "Low performing school" means a district school or charter school that has been designated a low performing school by the board because the school is:

(a) in the lowest performing 3% of schools statewide according to the percentage of possible points earned under the school grading system; and

(b) a low performing school according to other outcome-based measures as may be defined in rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~(7)~~ (8) "School grade" or "grade" means the letter grade assigned to a school under the school grading system.

~~(8)~~ (9) "School grading system" means the system established under Part 11, School Grading Act, of assigning letter grades to schools.

~~(9)~~ (10) "Statewide assessment" means a test of student achievement in ~~[English language arts, mathematics, or science,]~~ basic academic subjects, including a test administered in a computer adaptive format that is administered statewide under Part 6, Achievement Tests.

Section 2. Section 53A-1-1203 is amended to read:

53A-1-1203. State Board of Education to designate low performing schools.

On or before ~~[August 15]~~ September 1, the board shall annually designate a school as a low performing school if the school is:

(1) in the lowest performing 3% of schools statewide according to the percentage of possible points earned under the school grading system; and

(2) a low performing school according to other outcome-based measures as may be defined in rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 3. Section 53A-1-1204 is amended to read:

53A-1-1204. Required action to turn around a low performing district school.

(1) On or before ~~[October 1]~~ September 15 of an initial remedial year, a local school board of a low performing school shall establish a school turnaround committee composed of the following members:

(a) the local school board member who represents the voting district where the low performing school is located;

(b) the school principal;

(c) three parents of students enrolled in the low performing school appointed by the chair of the school community council;

(d) one teacher at the low performing school appointed by the principal; and

(e) one teacher at the low performing school appointed by the school district superintendent.

(2) (a) Subject to Subsection (2)(b), on or before October [15] 1 of an initial remedial year, a local school board of a low performing school shall partner with the school turnaround committee to select an independent school turnaround expert from the experts identified by the board under Section 53A-1-1206.

(b) A local school board may not select an independent school turnaround expert that is:

(i) the school district; or

(ii) an employee of the school district.

(3) A school turnaround committee shall partner with the independent school turnaround expert selected under Subsection (2) to develop and implement a school turnaround plan that includes:

(a) the findings of the analysis conducted by the independent school turnaround expert described in Subsection 53A-1-1206(1)(a);

(b) recommendations regarding changes to the low performing school's personnel, culture, curriculum, assessments, instructional practices, governance, leadership, finances, policies, or other areas that may be necessary to implement the school turnaround plan;

(c) measurable student achievement goals and objectives;

(d) a professional development plan that identifies a strategy to address problems of instructional practice;

(e) a detailed budget specifying how the school turnaround plan will be funded;

(f) a plan to assess and monitor progress;

(g) a plan to communicate and report data on progress to stakeholders; and

(h) a timeline for implementation.

(4) A local school board of a low performing school shall:

(a) prioritize school district funding and resources to the low performing school; and

(b) grant the low performing school streamlined authority over staff, schedule, policies, budget, and academic programs to implement the school turnaround plan.

(5) (a) On or before March 1 of an initial remedial year, a school turnaround committee shall submit the school turnaround plan to the local school board for approval.

(b) Except as provided in Subsection (5)(c), on or before April 1 of an initial remedial year, a local school board of a low performing school shall submit the school turnaround plan to the board for approval.

(c) If the local school board does not approve the school turnaround plan submitted under Subsection (5)(a), the school turnaround committee may appeal the disapproval in accordance with rules made by the board as described in Subsection 53A-1-1206(5).

Section 4. Section 53A-1-1205 is amended to read:

53A-1-1205. Required action to terminate or turn around a low performing charter school.

(1) On or before [August 20] September 10 of an initial remedial year, a charter school authorizer of a low performing school shall initiate a review to determine whether the charter school is in compliance with the school's charter agreement described in Section 53A-1a-508, including the school's established minimum standards for student achievement.

(2) If a low performing school is found to be out of compliance with the school's charter agreement, the charter school authorizer may terminate the school's charter in accordance with Section 53A-1a-510.

(3) A charter school authorizer shall make a determination on the status of a low performing school's charter under Subsection (2) on or before [September 15] October 1 of an initial remedial year.

(4) If a charter school authorizer does not terminate a low performing school's charter under Subsection (2), a charter school governing board of a low performing school shall:

(a) on or before October [1] 15 of an initial remedial year, establish a school turnaround committee composed of the following members:

(i) a member of the charter school governing board, appointed by the chair of the charter school governing board;

(ii) the school principal;

(iii) three parents of students enrolled in the low performing school, appointed by the chair of the charter school governing board; and

(iv) two teachers at the low performing school, appointed by the school principal; and

(b) subject to Subsection (5), on or before [October 15] November 1 of an initial remedial year, in partnership with the school turnaround committee, select an independent school turnaround expert from the experts identified by the board under Section 53A-1-1206.

(5) A charter school governing board may not select a school turnaround expert that:

(a) is a member of the charter school governing board;

- (b) is an employee of the charter school; or
- (c) has a contract to operate the charter school.

(6) A school turnaround committee shall partner with the independent school turnaround expert selected under Subsection (4)(b) to develop and implement a school turnaround plan that includes the elements described in Subsection 53A-1-1204(3).

(7) (a) On or before March 1 of an initial remedial year, a school turnaround committee shall submit the school turnaround plan to the charter school governing board for approval.

(b) Except as provided in Subsection (7)(c), on or before April 1 of an initial remedial year, a charter school governing board of a low performing school shall submit the school turnaround plan to the board for approval.

(c) If the charter school governing board does not approve the school turnaround plan submitted under Subsection (7)(a), the school turnaround committee may appeal the disapproval in accordance with rules made by the board as described in Subsection 53A-1-1206(5).

Section 5. Section 53A-1-1206 is amended to read:

53A-1-1206. State Board of Education to identify independent school turnaround experts -- Review and approval of school turnaround plans -- Appeals process.

(1) On or before August 30, the board shall identify two or more approved independent school turnaround experts, through a request for proposals process, that a low performing school may select from to partner with to:

(a) collect and analyze data on the low performing school's student achievement, personnel, culture, curriculum, assessments, instructional practices, governance, leadership, finances, and policies;

(b) recommend changes to the low performing school's culture, curriculum, assessments, instructional practices, governance, finances, policies, or other areas based on data collected under Subsection (1)(a);

(c) develop and implement, in partnership with the school turnaround committee, a school turnaround plan that meets the criteria described in Subsection 53A-1-1204(3);

(d) monitor the effectiveness of a school turnaround plan through reliable means of evaluation, including on-site visits, observations, surveys, analysis of student achievement data, and interviews;

(e) provide ongoing implementation support and project management for a school turnaround plan;

(f) provide high-quality professional development personalized for school staff that is designed to build the:

- (i) leadership capacity of the school principal; and

- (ii) instructional capacity of school staff; and

(g) leverage support from community partners to coordinate an efficient delivery of supports to students both inside and outside the classroom.

(2) In identifying independent school turnaround experts under Subsection (1), the board shall identify experts that:

(a) have a credible track record of improving student academic achievement in public schools with various demographic characteristics, as measured by statewide assessments;

(b) have experience designing, implementing, and evaluating data-driven instructional systems in public schools;

(c) have experience coaching public school administrators and teachers on designing data-driven school improvement plans;

(d) have experience working with the various education entities that govern public schools;

(e) have experience delivering high-quality professional development in instructional effectiveness to public school administrators and teachers;

(f) are willing to be compensated for professional services based on performance as described in Subsection (3); and

(g) are willing to partner with any low performing school in the state, regardless of location.

(3) (a) When awarding a contract to an independent school turnaround expert selected by a local school board under Subsection 53A-1-1204(2) or by a charter school governing board under Subsection 53A-1-1205(4)(b), the board shall ensure that a contract between the board and the independent school turnaround expert specifies that the board will:

(i) pay an independent school turnaround expert no more than 50% of the expert's professional fees at the beginning of the independent school turnaround expert's work for the low performing school; and

(ii) pay the remainder of the independent school turnaround expert's professional fees ~~upon the independent school turnaround expert successfully helping a low performing school improve the low performing school's grade within three school years after a school is designated a low performing school.~~ upon completion of the independent school turnaround expert's work for the low performing school if:

(A) the independent school turnaround expert fulfills the terms of the contract; and

(B) the low performing school's grade improves by at least one letter grade, as determined by the board under Subsection (3)(b).

(b) The board shall determine whether a low performing school's grade has improved under Subsection (3)(a)(ii) by comparing the school's letter grade for the school year prior to the initial remedial year to the school's letter grade:

(i) for the final remedial year; or

(ii) for the last school year of the extension period if, as described in Section 53A-1-1207:

(A) a school is granted an extension; and

(B) the board extends the contract of the school's independent school turnaround expert.

~~(b)~~ (c) In negotiating a contract with an independent school turnaround expert, the board shall offer:

(i) differentiated amounts of funding based on student enrollment; and

(ii) a higher amount of funding for schools that are in the lowest performing 1% of schools statewide according to the percentage of possible points earned under the school grading system.

(4) The board shall:

(a) review a school turnaround plan submitted for approval under Subsection 53A-1-1204(5)(b) or under Subsection 53A-1-1205(7)(b) within 30 days of submission;

(b) approve a school turnaround plan that:

(i) is timely;

(ii) is well-developed; and

(iii) meets the criteria described in Subsection 53A-1-1204(3); and

(c) subject to legislative appropriations, provide funding to a low performing school for interventions identified in an approved school turnaround plan if the local school board or charter school governing board provides matching funds or an in-kind contribution of goods or services in an amount equal to the funding the low performing school would receive from the board.

(5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to establish an appeals process for:

(i) a low performing district school that is not granted approval from the district school's local school board under Subsection 53A-1-1204(5)(b);

(ii) a low performing charter school that is not granted approval from the charter school's charter school governing board under Subsection 53A-1-1205(7)(b); and

(iii) a local school board or charter school governing board that is not granted approval from the board under Subsection (4)(b).

(b) The board shall ensure that rules made under Subsection (5)(a) require an appeals process described in:

(i) Subsections (5)(a)(i) and (ii) to be resolved on or before April 1 of the initial remedial year; and

(ii) Subsection (5)(a)(iii) to be resolved on or before May 15 of the initial remedial year.

(6) ~~[The]~~ (a) Subject to Subsection (6)(b), the board shall balance the need to prioritize funding

appropriated by the Legislature to carry out the provisions of this part to contract with highly qualified independent school turnaround experts with the need to ~~[set aside funding for]~~ fund:

~~(a)~~ (i) interventions to facilitate the implementation of a school turnaround plan under Subsection (4)(c); ~~and~~

~~(b)~~ (ii) the School Recognition and Reward Program created under Section 53A-1-1208~~[-]~~; and

(iii) the School Leadership Development Program created under Section 53A-1-1209.

(b) The board may use up to 4% of the funds appropriated by the Legislature to carry out the provisions of this part for administration if the amount for administration is approved by the board in an open meeting.

Section 6. Section 53A-1-1207 is amended to read:

53A-1-1207. Consequences for failing to improve the school grade of a low performing school.

(1) As used in this section, "high performing charter school" means a charter school that:

(a) satisfies all requirements of state law and board rules;

(b) meets or exceeds standards for student achievement established by the charter school's charter school authorizer; and

(c) has received at least a "B" grade under the school grading system in the previous two school years.

(2) (a) A low performing school ~~[that does not improve]~~ may petition the board for an extension to continue school improvement efforts for up to two years if the low performing school's grade does not improve by at least one letter grade ~~[within three school years after the day on which the school is designated a low performing school may petition the board for an extension to continue school improvement efforts for up to two years]~~, as determined by comparing the school's letter grade for the school year prior to the initial remedial year to the school's letter grade for the final remedial year.

(b) The board may only grant an extension under Subsection (2)(a) if the low performing school has increased the number of points awarded under the school grading system by at least:

(i) 25% for a school that is not a high school; and

(ii) 10% for a high school.

(c) The board shall determine whether a low performing school has increased the number of points awarded under the school grading system by the percentages described in Subsection (2)(b) by comparing the number of points awarded for the school year prior to the initial remedial year to the number of points awarded for the final remedial year.

~~(e)~~ (d) The board may extend the contract of an independent school turnaround expert of a low

performing school that is granted an extension under this Subsection (2).

~~(d)~~ (e) A school that has been granted an extension under this Subsection (2) is eligible for:

(i) continued funding under Subsection 53A-1-1206(4)(c); and

(ii) the School Recognition and Reward Program under Section 53A-1-1208.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules establishing consequences for a low performing school that:

(a) (i) does not improve the school's grade ~~[within three school years after the day on which the school is designated a low performing school]~~ by at least one letter grade, as determined by comparing the school's letter grade for the school year prior to the initial remedial year to the school's letter grade for the final remedial year; and

(ii) is not granted an extension under Subsection (2); or

(b) (i) is granted an extension under Subsection (2); and

(ii) does not improve the school's grade ~~[within two school years after the day on which the low performing school is granted an extension.]~~ by at least one letter grade, as determined by comparing the school's letter grade for the school year prior to the initial remedial year to the school's letter grade for the last school year of the extension period.

(4) The board shall ensure that the rules established under Subsection (3) include a mechanism for:

(a) restructuring a district school that may include:

- (i) contract management;
- (ii) conversion to a charter school; or
- (iii) state takeover; and

(b) restructuring a charter school that may include:

- (i) termination of a school's charter;
- (ii) closure of a charter school; or
- (iii) transferring operation and control of the charter school to:

(A) a high performing charter school; or

(B) the school district in which the charter school is located.

Section 7. Section 53A-1-1208 is amended to read:

53A-1-1208. School Recognition and Reward Program.

(1) As used in this section, "eligible school" means a low performing school that:

(a) improves the school's grade by at least one ~~[grade level within three school years after the day on which the school is designated a low performing school]~~ letter grade, as determined by comparing the school's letter grade for the school year prior to the initial remedial year to the school's letter grade for the final remedial year; or

(b) (i) has been granted an extension under Subsection 53A-1-1207(2); and

(ii) improves the school's grade by at least one ~~[grade level within]~~ letter grade, as determined by comparing the school's letter grade for the school year prior to the initial remedial year to the school's letter grade for the last school year of the extension period.

(2) The School Recognition and Reward Program is created to provide incentives to schools and educators to improve the school grade of a low performing school.

(3) Subject to appropriations by the Legislature, upon the ~~[annual]~~ release of school grades by the board, the board shall distribute a reward equal to:

(a) for an eligible school that improves the eligible school's grade one letter grade ~~[level]~~:

(i) \$100 per tested student; and

(ii) \$1,000 per educator;

(b) for an eligible school that improves the eligible school's grade two ~~[grade levels]~~ letter grades:

(i) \$200 per tested student; and

(ii) \$2,000 per educator;

(c) for an eligible school that improves the eligible school's grade three ~~[grade levels]~~ letter grades:

(i) \$300 per tested student; and

(ii) \$3,000 per educator; and

(d) for an eligible school that improves the eligible school's grade four ~~[grade levels]~~ letter grades:

(i) \$500 per tested student; and

(ii) \$5,000 per educator.

(4) The principal of an eligible school that receives a reward under Subsection (3), in consultation with the educators at the eligible school, may determine how to use the money in the best interest of the school, including providing bonuses to educators.

(5) If the number of qualifying eligible schools exceeds available funds, the board may reduce the amounts specified in Subsection (3).

CHAPTER 242**S. B. 216**

Passed March 10, 2016
 Approved March 23, 2016
 Effective May 10, 2016

**WORKERS' COMPENSATION
 RELATED AMENDMENTS**

Chief Sponsor: Karen Mayne
 House Sponsor: Mike Schultz

LONG TITLE**General Description:**

This bill modifies provisions related to reimbursement of hospitals for certain services.

Highlighted Provisions:

This bill:

- ▶ requires a study regarding hospital costs;
- ▶ addresses reasonable standards for hospital costs;
- ▶ defines terms;
- ▶ addresses contracting with hospitals;
- ▶ provides for the reimbursement amount in the absence of a contract;
- ▶ prohibits balance billing by hospitals;
- ▶ addresses coordination of benefits; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 34A-2-107, as last amended by Laws of Utah 2013, Chapter 43
 34A-2-407, as last amended by Laws of Utah 2013, Chapter 72
 34A-2-418, as renumbered and amended by Laws of Utah 1997, Chapter 375
 34A-2-801, as last amended by Laws of Utah 2014, Chapter 192
 34A-3-108, as last amended by Laws of Utah 2013, Chapter 72

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34A-2-107 is amended to read:

34A-2-107. Appointment of workers' compensation advisory council -- Composition -- Terms of members -- Duties -- Compensation.

(1) The commissioner shall appoint a workers' compensation advisory council composed of:

- (a) the following voting members:
 - (i) five employer representatives; and
 - (ii) five employee representatives; and
- (b) the following nonvoting members:
 - (i) a representative of the Workers' Compensation Fund;

(ii) a representative of a private insurance carrier;

(iii) a representative of health care providers;

(iv) the Utah insurance commissioner or the insurance commissioner's designee; and

(v) the commissioner or the commissioner's designee.

(2) Employers and employees shall consider nominating members of groups who historically may have been excluded from the council, such as women, minorities, and individuals with disabilities.

(3) (a) Except as required by Subsection (3)(b), as terms of current council members expire, the commissioner shall appoint each new member or reappointed member to a two-year term beginning July 1 and ending June 30.

(b) Notwithstanding the requirements of Subsection (3)(a), the commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

(4) (a) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(b) The commissioner shall terminate the term of a council member who ceases to be representative as designated by the member's original appointment.

(5) The council shall confer at least quarterly for the purpose of advising the commission, the division, and the Legislature on:

(a) the Utah workers' compensation and occupational disease laws;

(b) the administration of the laws described in Subsection (5)(a); and

(c) rules related to the laws described in Subsection (5)(a).

(6) Regarding workers' compensation, rehabilitation, and reemployment of employees who acquire a disability because of an industrial injury or occupational disease the council shall:

(a) offer advice on issues requested by:

- (i) the commission;
- (ii) the division; and
- (iii) the Legislature; and

(b) make recommendations to:

- (i) the commission; and
- (ii) the division.

(7) The council shall study how hospital costs may be reduced for purposes of medical benefits for workers' compensation. The council shall report to the Business and Labor Interim Committee the council's recommendations by no later than November 30, 2017.

[~~(7)~~] (8) The commissioner or the commissioner's designee shall serve as the chair of the council and call the necessary meetings.

[~~(8)~~] (9) The commission shall provide staff support to the council.

[~~(9)~~] (10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 2. Section 34A-2-407 is amended to read:

34A-2-407. Reporting of industrial injuries -- Regulation of health care providers.

(1) As used in this section, "physician" is as defined in Section 34A-2-111.

(2) (a) An employee sustaining an injury arising out of and in the course of employment shall provide notification to the employee's employer promptly of the injury.

(b) If the employee is unable to provide the notification required by Subsection (2)(a), the following may provide notification of the injury to the employee's employer:

(i) the employee's next of kin; or

(ii) the employee's attorney.

(c) An employee claiming benefits under this chapter or Chapter 3, Utah Occupational Disease Act, shall comply with rules adopted by the commission regarding disclosure of medical records of the employee medically relevant to the industrial accident or occupational disease claim.

(3) (a) An employee is barred for any claim of benefits arising from an injury if the employee fails to notify within the time period described in Subsection (3)(b):

(i) the employee's employer in accordance with Subsection (2); or

(ii) the division.

(b) The notice required by Subsection (3)(a) shall be made within:

(i) 180 days of the day on which the injury occurs; or

(ii) in the case of an occupational hearing loss, the time period specified in Section 34A-2-506.

(4) The following constitute notification of injury required by Subsection (2):

(a) an employer's report filed with:

(i) the division; or

(ii) the employer's workers' compensation insurance carrier;

(b) a physician's injury report filed with:

(i) the division;

(ii) the employer; or

(iii) the employer's workers' compensation insurance carrier;

(c) a workers' compensation insurance carrier's report filed with the division; or

(d) the payment of any medical or disability benefits by:

(i) the employer; or

(ii) the employer's workers' compensation insurance carrier.

(5) (a) An employer and the employer's workers' compensation insurance carrier, if any, shall file a report in accordance with the rules made under Subsection (5)(b) of a:

(i) work-related fatality; or

(ii) work-related injury resulting in:

(A) medical treatment;

(B) loss of consciousness;

(C) loss of work;

(D) restriction of work; or

(E) transfer to another job.

(b) An employer or the employer's workers' compensation insurance carrier, if any, shall file a report required by Subsection (5)(a), and any subsequent reports of a previously reported injury as may be required by the commission, within the time limits and in the manner established by rule by the commission made after consultation with the workers' compensation advisory council and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. A rule made under this Subsection (5)(b) shall:

(i) be reasonable; and

(ii) take into consideration the practicality and cost of complying with the rule.

(c) A report is not required to be filed under this Subsection (5) for a minor injury, such as a cut or scratch that requires first aid treatment only, unless:

(i) a treating physician files a report with the division in accordance with Subsection (9); or

(ii) a treating physician is required to file a report with the division in accordance with Subsection (9).

(6) An employer and its workers' compensation insurance carrier, if any, required to file a report under Subsection (5) shall provide the employee with:

(a) a copy of the report submitted to the division; and

(b) a statement, as prepared by the division, of the employee's rights and responsibilities related to the industrial injury.

(7) An employer shall maintain a record in a manner prescribed by the commission by rule of all:

- (a) work-related fatalities; or
- (b) work-related injuries resulting in:
 - (i) medical treatment;
 - (ii) loss of consciousness;
 - (iii) loss of work;
 - (iv) restriction of work; or
 - (v) transfer to another job.

(8) (a) Except as provided in Subsection (8)(b), an employer or a workers' compensation insurance carrier who refuses or neglects to make a report, maintain a record, or file a report as required by this section is subject to a civil assessment:

(i) imposed by the division, subject to the requirements of Title 63G, Chapter 4, Administrative Procedures Act; and

(ii) that may not exceed \$500.

(b) An employer or workers' compensation insurance carrier is not subject to the civil assessment under this Subsection (8) if:

(i) the employer or workers' compensation insurance carrier submits a report later than required by this section; and

(ii) the division finds that the employer or workers' compensation insurance carrier has shown good cause for submitting a report later than required by this section.

(c) (i) A civil assessment collected under this Subsection (8) shall be deposited into the Uninsured Employers' Fund created in Section 34A-2-704 to be used for a purpose specified in Section 34A-2-704.

(ii) The administrator of the Uninsured Employers' Fund shall collect money required to be deposited into the Uninsured Employers' Fund under this Subsection (8)(c) in accordance with Section 34A-2-704.

(9) (a) A physician attending an injured employee shall comply with rules established by the commission regarding:

- (i) fees for physician's services;
- (ii) disclosure of medical records of the employee medically relevant to the employee's industrial accident or occupational disease claim;
- (iii) reports to the division regarding:
 - (A) the condition and treatment of an injured employee; or
 - (B) any other matter concerning industrial cases that the physician is treating; and
- (iv) rules made under Section 34A-2-407.5.

(b) A physician who is associated with, employed by, or bills through a hospital is subject to Subsection (9)(a).

(c) A hospital providing services for an injured employee is not subject to the requirements of Subsection (9)(a) except for rules made by the commission that are described in Subsection (9)(a)(ii) or (iii) or Section 34A-2-407.5.

(d) The commission's schedule of fees may reasonably differentiate remuneration to be paid to providers of health services based on:

- (i) the severity of the employee's condition;
- (ii) the nature of the treatment necessary; and
- (iii) the facilities or equipment specially required to deliver that treatment.

(e) This Subsection (9) does not prohibit a contract with a provider of health services relating to the pricing of goods and services.

(10) A copy of the initial report filed under Subsection (9)(a)(iii) shall be furnished to:

- (a) the division;
- (b) the employee; and
- (c) (i) the employer; or
- (ii) the employer's workers' compensation insurance carrier.

(11) (a) As used in this Subsection (11):

(i) "Balance billing" means charging a person, on whose behalf a workers' compensation insurance carrier or self-insured employer is obligated to pay medical benefits under this chapter or Chapter 3, Utah Occupational Disease Act, for the difference between what the workers' compensation insurance carrier or self-insured employer reimburses the hospital for covered medical services and what the hospital charges for those covered medical services.

(ii) "Covered medical services" means medical services provided by a hospital that are covered by workers' compensation medical benefits under this chapter or Chapter 3, Utah Occupational Disease Act.

(iii) "Health benefit plan" means the same as that term is defined in Section 31A-22-619.6.

(iv) "Self-insured employer" means the same as that term is defined in Section 34A-2-201.5.

(b) Subject to Subsection (11)(d), a workers' compensation insurance carrier or self-insured employer may contract, either in writing or by mutual oral agreement, with a hospital to establish reimbursement rates.

(c) Subject to Subsection (11)(d), for the time period beginning on May 10, 2016, and ending on July 1, 2018, a workers' compensation insurance carrier or self-insured employer that is reimbursing a hospital that has not entered into a contract described in Subsection (11)(b) shall reimburse the hospital for covered medical services

at 85% of the billed hospital fees for the covered medical services.

(d) A hospital may not engage in balance billing.

(e) Covered services paid under a health benefit plan are subject to coordination of benefits in accordance with Sections 31A-22-619.6 and 34A-2-213.

~~[(11)]~~ (12) (a) Subject to appellate review under Section ~~34A-1-303~~, the commission has exclusive jurisdiction to hear and determine:

(i) whether goods provided to or services rendered to an employee are compensable pursuant to this chapter or Chapter 3, Utah Occupational Disease Act, including:

(A) medical, nurse, or hospital services;

(B) medicines; and

(C) artificial means, appliances, or prosthesis;

(ii) except for amounts charged or paid under Subsection (11), the reasonableness of the amounts charged or paid for a good or service described in Subsection ~~[(11)]~~ (12)(a)(i); and

(iii) collection issues related to a good or service described in Subsection ~~[(11)]~~ (12)(a)(i).

(b) Except as provided in Subsection ~~[(11)]~~ (12)(a), Subsection 34A-2-211(6), or Section 34A-2-212, a person may not maintain a cause of action in any forum within this state other than the commission for collection or payment for goods or services described in Subsection ~~[(11)]~~ (12)(a) that are compensable under this chapter or Chapter 3, Utah Occupational Disease Act.

Section 3. Section 34A-2-418 is amended to read:

34A-2-418. Awards -- Medical, nursing, hospital, and burial expenses -- Artificial means and appliances.

(1) In addition to the compensation provided in this chapter or Chapter 3, Utah Occupational Disease Act, and subject to Subsection 34A-2-407(11), the employer or the insurance carrier shall pay reasonable sums for medical, nurse, and hospital services, for medicines, and for artificial means, appliances, and prostheses necessary to treat the injured employee.

(2) If death results from the injury, the employer or the insurance carrier shall pay the burial expenses in ordinary cases as established by rule.

(3) If a compensable accident results in the breaking of or loss of an employee's artificial means or appliance including eyeglasses, the employer or insurance carrier shall provide a replacement of the artificial means or appliance.

(4) An administrative law judge may require the employer or insurance carrier to maintain the artificial means or appliances or provide the employee with a replacement of any artificial means or appliance for the reason of breakage, wear and tear, deterioration, or obsolescence.

(5) An administrative law judge may, in unusual cases, order, as the administrative law judge considers just and proper, the payment of additional sums:

(a) for burial expenses; or

(b) to provide for artificial means or appliances.

Section 4. Section 34A-2-801 is amended to read:

34A-2-801. Initiating adjudicative proceedings -- Procedure for review of administrative action.

(1) (a) To contest an action of the employee's employer or its insurance carrier concerning a compensable industrial accident or occupational disease alleged by the employee or a dependent any of the following shall file an application for hearing with the Division of Adjudication:

(i) the employee;

(ii) a representative of the employee, the qualifications of whom are defined in rule by the commission; or

(iii) a dependent as described in Section 34A-2-403.

(b) To appeal the imposition of a penalty or other administrative act imposed by the division on the employer or its insurance carrier for failure to comply with this chapter or Chapter 3, Utah Occupational Disease Act, any of the following shall file an application for hearing with the Division of Adjudication:

(i) the employer;

(ii) the insurance carrier; or

(iii) a representative of either the employer or the insurance carrier, the qualifications of whom are defined in rule by the commission.

(c) A person providing goods or services described in Subsections 34A-2-407~~[(11)]~~(12) and 34A-3-108~~[(12)]~~(13) may file an application for hearing in accordance with Section 34A-2-407 or 34A-3-108.

(d) An attorney may file an application for hearing in accordance with Section 34A-1-309.

(2) (a) Unless all parties agree to the assignment in writing, the Division of Adjudication may not assign the same administrative law judge to hear a claim under this section by an injured employee if the administrative law judge previously heard a claim by the same injured employee for a different injury or occupational disease.

(b) Unless all parties agree to the appointment in writing, an administrative law judge may not appoint the same medical panel or individual panel member to evaluate a claim by an injured employee if the medical panel or individual panel member previously evaluated a claim by the same injured employee for a different injury or occupational disease.

(3) Unless a party in interest appeals the decision of an administrative law judge in accordance with

Subsection (4), the decision of an administrative law judge on an application for hearing filed under Subsection (1) is a final order of the commission 30 days after the day on which the decision is issued. An administrative law judge shall issue a decision by no later than 60 days from the day on which the hearing is held under this part unless:

- (a) the parties agree to a longer period of time; or
- (b) a decision within the 60-day period is impracticable.

(4) (a) A party in interest may appeal the decision of an administrative law judge by filing a motion for review with the Division of Adjudication within 30 days of the date the decision is issued.

(b) Unless a party in interest to the appeal requests under Subsection (4)(c) that the appeal be heard by the Appeals Board, the commissioner shall hear the review.

(c) A party in interest may request that an appeal be heard by the Appeals Board by filing the request with the Division of Adjudication:

- (i) as part of the motion for review; or
- (ii) if requested by a party in interest who did not file a motion for review, within 20 days of the day on which the motion for review is filed with the Division of Adjudication.

(d) A case appealed to the Appeals Board shall be decided by the majority vote of the Appeals Board.

(5) The Division of Adjudication shall maintain a record on appeal, including an appeal docket showing the receipt and disposition of the appeals on review.

(6) Upon appeal, the commissioner or Appeals Board shall make its decision in accordance with Section 34A-1-303. The commissioner or Appeals Board shall issue a decision under this part by no later than 90 days from the day on which the motion for review is filed unless:

- (a) the parties agree to a longer period of time; or
- (b) a decision within the 90-day period is impracticable.

(7) The commissioner or Appeals Board shall promptly notify the parties to a proceeding before it of its decision, including its findings and conclusions.

(8) (a) Subject to Subsection (8)(b), the decision of the commissioner or Appeals Board is final unless within 30 days after the date the decision is issued further appeal is initiated under the provisions of this section or Title 63G, Chapter 4, Administrative Procedures Act.

(b) In the case of an award of permanent total disability benefits under Section 34A-2-413, the decision of the commissioner or Appeals Board is a final order of the commission unless set aside by the court of appeals.

(9) (a) Within 30 days after the day on which the decision of the commissioner or Appeals Board is issued, an aggrieved party may secure judicial review by commencing an action in the court of appeals against the commissioner or Appeals Board for the review of the decision of the commissioner or Appeals Board.

(b) In an action filed under Subsection (9)(a):

- (i) any other party to the proceeding before the commissioner or Appeals Board shall be made a party; and
- (ii) the commission shall be made a party.

(c) A party claiming to be aggrieved may seek judicial review only if the party exhausts the party's remedies before the commission as provided by this section.

(d) At the request of the court of appeals, the commission shall certify and file with the court all documents and papers and a transcript of all testimony taken in the matter together with the decision of the commissioner or Appeals Board.

(10) (a) The commission shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to facilitate timely completion of administrative actions under this part.

(b) The commission shall monitor the time from filing of an application for a hearing to issuance of a final order of the commission for cases brought under this part.

(c) The commission shall annually report to the Business and Labor Interim Committee:

(i) the number of cases for which an application for hearing is filed under this part in the previous calendar year;

(ii) the number of cases described in Subsection (10)(c)(i) for which the decision of the administrative law judge was not issued within the 60-day period required by Subsection (3);

(iii) the number of cases described in Subsection (10)(c)(i) that are appealed to the commissioner or Appeals Board for which the decision of the commissioner or Appeals Board was not issued within the 90-day period required by Subsection (6);

(iv) the number of cases described in Subsection (10)(c)(i) for which a final order of the commission is issued within 18 months of the day on which the application for hearing is filed;

(v) the number of cases for which a final order of the commission is not issued within 18 months of the day on which the application for a hearing is filed; and

(vi) the reasons the cases described in Subsection (10)(c)(v) were not resolved within 18 months of the day on which the application for a hearing is filed.

Section 5. Section 34A-3-108 is amended to read:

34A-3-108. Reporting of occupational diseases -- Regulation of health care providers.

(1) An employee sustaining an occupational disease, as defined in this chapter, arising out of and in the course of employment shall provide notification to the employee's employer promptly of the occupational disease. If the employee is unable to provide notification, the employee's next of kin or attorney may provide notification of the occupational disease to the employee's employer.

(2) (a) An employee who fails to notify the employee's employer or the division within 180 days after the cause of action arises is barred from a claim of benefits arising from the occupational disease.

(b) The cause of action is considered to arise on the date the employee first:

(i) suffers disability from the occupational disease; and

(ii) knows, or in the exercise of reasonable diligence should have known, that the occupational disease is caused by employment.

(3) The following constitute notification of an occupational disease:

(a) an employer's report filed with the:

(i) division; or

(ii) workers' compensation insurance carrier;

(b) a physician's injury report filed with the:

(i) division;

(ii) employer; or

(iii) workers' compensation insurance carrier;

(c) a workers' compensation insurance carrier's report to the division; or

(d) the payment of any medical or disability benefit by the employer or the employer's workers' compensation insurance carrier.

(4) (a) An employer and the employer's workers' compensation insurance carrier, if any, shall file a report in accordance with the rules described in Subsection (4)(b) of any occupational disease resulting in:

(i) medical treatment;

(ii) loss of consciousness;

(iii) loss of work;

(iv) restriction of work; or

(v) transfer to another job.

(b) An employer or the employer's workers' compensation insurance carrier, if any, shall file a report required under Subsection (4)(a) and any subsequent reports of a previously reported occupational disease as may be required by the

commission within the time limits and in the manner established by rule by the commission made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, under Subsection 34A-2-407(5).

(c) A report is not required:

(i) for a minor injury that requires first aid treatment only, unless a treating physician files, or is required to file, the Physician's Initial Report of Work Injury or Occupational Disease with the division;

(ii) for occupational diseases that manifest after the employee is no longer employed by the employer with which the exposure occurred; or

(iii) when the employer is not aware of an exposure occasioned by the employment that results in an occupational disease as defined by Section 34A-3-103.

(5) An employer or its workers' compensation insurance carrier, if any, shall provide the employee with:

(a) a copy of the report submitted to the division; and

(b) a statement, as prepared by the division, of the employee's rights and responsibilities related to the occupational disease.

(6) An employer shall maintain a record in a manner prescribed by the division of occupational diseases resulting in:

(a) medical treatment;

(b) loss of consciousness;

(c) loss of work;

(d) restriction of work; or

(e) transfer to another job.

(7) An employer or a workers' compensation insurance carrier who refuses or neglects to make a report, maintain a record, or file a report with the division as required by this section is subject to citation and civil assessment in accordance with Subsection 34A-2-407(8).

(8) (a) Except as provided in Subsection (8)(c), a physician, surgeon, or other health care provider attending an occupationally diseased employee shall:

(i) comply with the rules, including the schedule of fees, for services as adopted by the commission;

(ii) make reports to the division at any and all times as required as to the condition and treatment of an occupationally diseased employee or as to any other matter concerning industrial cases being treated; and

(iii) comply with rules made under Section 34A-2-407.5.

(b) A physician, as defined in Section 34A-2-111, who is associated with, employed by, or bills through a hospital is subject to Subsection (8)(a).

(c) A hospital is not subject to the requirements of Subsection (8)(a) except a hospital is subject to rules

made by the commission under Subsections 34A-2-407(9)(a)(ii) and (iii) and Section 34A-2-407.5.

(d) The commission's schedule of fees may reasonably differentiate remuneration to be paid to providers of health services based on:

- (i) the severity of the employee's condition;
- (ii) the nature of the treatment necessary; and
- (iii) the facilities or equipment specially required to deliver that treatment.

(e) This Subsection (8) does not prohibit a contract with a provider of health services relating to the pricing of goods and services.

(9) A copy of the physician's initial report shall be furnished to the:

- (a) division;
- (b) employee; and
- (c) employer or its workers' compensation insurance carrier.

(10) A person subject to reporting under Subsection (8)(a)(ii) or Subsection 34A-2-407(9)(a)(iii) who refuses or neglects to make a report or comply with this section is subject to a civil assessment in accordance with Subsection 34A-2-407(8).

(11) (a) As used in this Subsection (11):

(i) "Balance billing" means charging a person, on whose behalf a workers' compensation insurance carrier or self-insured employer is obligated to pay medical benefits under this chapter or Chapter 2, Workers' Compensation Act, for the difference between what the workers' compensation insurance carrier or self-insured employer reimburses the hospital for covered medical services and what the hospital charges for those covered medical services.

(ii) "Covered medical services" means medical services provided by a hospital that are covered by workers' compensation medical benefits under this chapter or Chapter 2, Workers' Compensation Act.

(iii) "Health benefit plan" means the same as that term is defined in Section 31A-22-619.6.

(iv) "Self-insured employer" means the same as that term is defined in Section 34A-2-201.5.

(b) Subject to Subsection (11)(d), a workers' compensation insurance carrier or self-insured employer may contract, either in writing or by mutual oral agreement, with a hospital to establish reimbursement rates.

(c) Subject to Subsection (11)(d), for the time period beginning on May 10, 2016, and ending on July 1, 2018, a workers' compensation insurance carrier or self-insured employer that is reimbursing a hospital that has not entered into a contract described in Subsection (11)(b), shall reimburse the hospital for covered medical services at 85% of the billed hospital fees for the covered medical services.

(d) A hospital may not engage in balance billing.

(e) Covered services paid under a health benefit plan are subject to coordination of benefits in accordance with Sections 31A-22-619.6 and 34A-2-213.

~~[(11)]~~ (12) (a) An application for a hearing to resolve a dispute regarding an occupational disease claim shall be filed with the Division of Adjudication.

(b) After the filing, a copy shall be forwarded by mail to:

- (i) (A) the employer; or
- (B) the employer's workers' compensation insurance carrier;
- (ii) the applicant; and
- (iii) the attorneys for the parties.

~~[(12)]~~ (13) (a) Subject to appellate review under Section 34A-1-303, the commission has exclusive jurisdiction to hear and determine:

(i) whether goods provided to or services rendered to an employee is compensable pursuant to this chapter and Chapter 2, Workers' Compensation Act, including the following:

- (A) medical, nurse, or hospital services;
- (B) medicines; and
- (C) artificial means, appliances, or prosthesis;

(ii) except for amounts charged or paid under Subsection (11), the reasonableness of the amounts charged or paid for a good or service described in Subsection ~~[(12)]~~ (13)(a)(i); and

(iii) collection issues related to a good or service described in Subsection ~~[(12)]~~ (13)(a)(i).

(b) Except as provided in Subsection ~~[(12)]~~ (13)(a), Subsection 34A-2-211(6), or Section 34A-2-212, a person may not maintain a cause of action in any forum within this state other than the commission for collection or payment of goods or services described in Subsection ~~[(12)]~~ (13)(a) that are compensable under this chapter or Chapter 2, Workers' Compensation Act.

CHAPTER 243**S. B. 218**

Passed March 10, 2016
 Approved March 23, 2016
 Effective May 10, 2016

**DEPARTMENT OF
CORRECTIONS AMENDMENTS**

Chief Sponsor: Lincoln Fillmore
 House Sponsor: Paul Ray

LONG TITLE**General Description:**

This bill modifies Title 17, Counties, and Title 64, State Institutions, regarding the Department of Corrections.

Highlighted Provisions:

This bill:

- ▶ repeals language regarding work release programs, including reference to trusty status;
- ▶ eliminates a report to the Commission on Criminal and Juvenile Justice regarding the effectiveness of sex offender treatment;
- ▶ eliminates a report from the Commission on Criminal and Juvenile Justice to the Judiciary Interim Committee regarding the sex offender treatment program; and
- ▶ makes technical changes to reflect current practices of the Department of Corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 17-50-319, as last amended by Laws of Utah 2011, Chapter 64
 64-13-1, as last amended by Laws of Utah 2015, Chapter 412
 64-13-2, as last amended by Laws of Utah 1990, Chapter 183
 64-13-6, as last amended by Laws of Utah 2015, Chapter 412
 64-13-7, as last amended by Laws of Utah 1987, Chapter 116
 64-13-30, as last amended by Laws of Utah 2010, Chapter 386

REPEALS:

- 64-13-14.6, as last amended by Laws of Utah 2004, Chapter 274

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-50-319 is amended to read:**17-50-319. County charges enumerated.**

- (1) County charges are:
- (a) those incurred against the county by any law;
 - (b) the necessary expenses of the county attorney or district attorney incurred in criminal cases arising in the county, and all other expenses necessarily incurred by the county or district

attorney in the prosecution of criminal cases, except jury and witness fees;

(c) medical care as described in Section 17-22-8, and other expenses necessarily incurred in the support of persons charged with or convicted of a criminal offense and committed to the county jail, except as provided in Subsection (2);

(d) for a county not within the state district court administrative system, the sum required by law to be paid jurors in civil cases;

(e) all charges and accounts for services rendered by any justice court judge for services in the trial and examination of persons charged with a criminal offense not otherwise provided for by law;

(f) the contingent expenses necessarily incurred for the use and benefit of the county;

(g) every other sum directed by law to be raised for any county purposes under the direction of the county legislative body or declared a county charge;

(h) the fees of constables for services rendered in criminal cases;

(i) the necessary expenses of the sheriff and deputies incurred in civil and criminal cases arising in the county, and all other expenses necessarily incurred by the sheriff and deputies in performing the duties imposed upon them by law;

(j) the sums required by law to be paid by the county to jurors and witnesses serving at inquests and in criminal cases in justice courts; and

(k) subject to Subsection (2), expenses incurred by a health care facility or provider in providing medical services, treatment, hospitalization, or related transportation, at the request of a county sheriff for:

(i) persons booked into a county jail on a charge of a criminal offense; or

(ii) persons convicted of a criminal offense and committed to a county jail.

(2) (a) Expenses described in Subsections (1)(c) and (1)(k) are a charge to the county only to the extent that they exceed any private insurance in effect that covers those expenses.

(b) ~~[Subject to the priorities for payment under Subsection 64-13-30(1), the]~~ The county may collect costs of medical care, treatment, hospitalization, and related transportation provided to the person described in Subsection (1)(k) who has the resources or the ability to pay~~[-]~~, subject to the following priorities for payment:

(i) first priority shall be given to restitution; and

(ii) second priority shall be given to family support obligations.

(c) A county may seek reimbursement from a person described in Subsection (1)(k) for expenses incurred by the county in behalf of the inmate for medical care, treatment, hospitalization, or related transportation by:

(i) deducting the cost from the inmate's cash account on deposit with the detention facility

during the inmate's incarceration or during a subsequent incarceration if the subsequent incarceration occurs within the same county and the incarceration is within 10 years of the date of the expense in behalf of the inmate;

(ii) placing a lien for the amount of the expense against the inmate's personal property held by the jail; and

(iii) adding the amount of expenses incurred to any other amount owed by the inmate to the jail upon the inmate's release, as allowed under Subsection 76-3-201(6)(a).

(d) An inmate who receives medical care, treatment, hospitalization, or related transportation shall cooperate with the jail facility seeking payment or reimbursement under this section for the inmate's expenses.

(e) If there is no contract between a county jail and a health care facility or provider that establishes a fee schedule for medical services rendered, expenses under Subsection (1)(k) shall be commensurate with:

(i) for a health care facility, the current noncapitated state Medicaid rates; and

(ii) for a health care provider, 65% of the amount that would be paid to the health care provider:

(A) under the Public Employees' Benefit and Insurance Program, created in Section 49-20-103; and

(B) if the person receiving the medical service were a covered employee under the Public Employees' Benefit and Insurance Program.

(f) Subsection (1)(k) does not apply to expenses of a person held at the jail at the request of an agency of the United States.

(g) A county that receives information from the Public Employees' Benefit and Insurance Program to enable the county to calculate the amount to be paid to a health care provider under Subsection (2)(e)(ii) shall keep that information confidential.

Section 2. Section 64-13-1 is amended to read:

64-13-1. Definitions.

As used in this chapter:

(1) "Case action plan" means a document developed by the Department of Corrections that identifies the program priorities for the treatment of the offender, including the criminal risk factors as determined by a risk and needs assessment conducted by the department.

(2) "Community correctional center" means a nonsecure correctional facility operated ~~[-(a)]~~ by the department ~~[-or]~~.

~~[(b) under a contract with the department.]~~

(3) "Correctional facility" means any facility operated to house offenders, either in a secure or nonsecure setting:

(a) by the department; or

(b) under a contract with the department.

(4) "Criminal risk factors" means a person's characteristics and behaviors that:

(a) affect that person's risk of engaging in criminal behavior; and

(b) are diminished when addressed by effective treatment, supervision, and other support resources, resulting in a reduced risk of criminal behavior.

(5) "Department" means the Department of Corrections.

(6) "Emergency" means any riot, disturbance, homicide, inmate violence occurring in any correctional facility, or any situation that presents immediate danger to the safety, security, and control of the department.

(7) "Executive director" means the executive director of the Department of Corrections.

(8) "Inmate" means any person who is committed to the custody of the department and who is housed at a correctional facility or at a county jail at the request of the department.

(9) "Offender" means any person who has been convicted of a crime for which he may be committed to the custody of the department and is at least one of the following:

(a) committed to the custody of the department;

(b) on probation; or

(c) on parole.

(10) "Risk and needs assessment" means an actuarial tool validated on criminal offenders that determines:

(a) an individual's risk of reoffending; and

(b) the criminal risk factors that, when addressed, reduce the individual's risk of reoffending.

(11) "Secure correctional facility" means any prison, penitentiary, or other institution operated by the department or under contract for the confinement of offenders, where force may be used to restrain them if they attempt to leave the institution without authorization.

Section 3. Section 64-13-2 is amended to read:

64-13-2. Creation of department.

There is created a Department of Corrections, under the general supervision of the executive director of the department. The department is the state authority for corrections ~~and assumes all powers and responsibilities formerly vested in the Board of Corrections and the Division of Corrections in the Department of Human Services].~~

Section 4. Section 64-13-6 is amended to read:

64-13-6. Department duties.

(1) The department shall:

(a) protect the public through institutional care and confinement, and supervision in the community of offenders where appropriate;

(b) implement court-ordered punishment of offenders;

(c) provide program opportunities for offenders;

(d) provide treatment for sex offenders who are found to be treatable based upon criteria developed by the department;

(e) provide the results of ongoing assessment of sex offenders and objective diagnostic testing to sentencing and release authorities;

(f) manage programs that take into account the needs and interests of victims, where reasonable;

(g) supervise probationers and parolees as directed by statute and implemented by the courts and the Board of Pardons and Parole;

(h) subject to Subsection (2), investigate criminal conduct involving offenders incarcerated in a state correctional facility;

(i) cooperate and exchange information with other state, local, and federal law enforcement agencies to achieve greater success in prevention and detection of crime and apprehension of criminals;

(j) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult Offender Supervision; and

(k) establish a case action plan for each offender as follows:

(i) if an offender is to be supervised in the community, the case action plan shall be established for the offender not more than 90 days after supervision by the department begins; and

(ii) if the offender is committed to the custody of the department, the case action plan shall be established for the offender not more than 120 days after the commitment.

(2) The department may in the course of supervising probationers and parolees:

(a) impose graduated sanctions, as established by the Utah Sentencing Commission under Subsection 63M-7-404(6), for an individual's violation of one or more terms of the probation or parole; and

(b) upon approval by the court or the Board of Pardons and Parole, impose as a sanction for an individual's violation of the terms of probation or parole a period of incarceration of not more than three consecutive days and not more than a total of five days within a period of 30 days.

(3) (a) By following the procedures in Subsection (3)(b), the department may investigate the

following occurrences at state correctional facilities:

(i) criminal conduct of departmental employees;

(ii) felony crimes resulting in serious bodily injury;

(iii) death of any person; or

(iv) aggravated kidnaping.

(b) Prior to investigating any occurrence specified in Subsection (3)(a), the department shall:

(i) notify the sheriff or other appropriate law enforcement agency promptly after ascertaining facts sufficient to believe an occurrence specified in Subsection (3)(a) has occurred; and

(ii) obtain consent of the sheriff or other appropriate law enforcement agency to conduct an investigation involving an occurrence specified in Subsection (3)(a).

(4) Upon request, the department shall provide copies of investigative reports of criminal conduct to the sheriff or other appropriate law enforcement agencies.

~~[(5) The department shall provide data to the Commission on Criminal and Juvenile Justice to show the criteria for determining sex offender treatability, the implementation and effectiveness of sex offender treatment, and the results of ongoing assessment and objective diagnostic testing. The Commission on Criminal and Juvenile Justice shall then report these data in writing to the Judiciary Interim Committee, if requested by the committee, and to the appropriate appropriations subcommittee annually.]~~

~~[(6)]~~ (5) The Department of Corrections shall collect accounts receivable ordered by the district court as a result of prosecution for a criminal offense according to the requirements and during the time periods established in Subsection 77-18-1(9).

Section 5. Section 64-13-7 is amended to read:

64-13-7. Offenders in custody of department.

All offenders committed for incarceration in a state correctional facility~~;~~ or for supervision on probation or parole, ~~[or for evaluation,]~~ shall be placed in the custody of the department. The department shall establish procedures and is responsible for the appropriate assignment or transfer of public offenders to facilities or programs.

Section 6. Section 64-13-30 is amended to read:

64-13-30. Expenses incurred by offenders -- Payment to department or county jail -- Medical care expenses and copayments.

~~[(1) (a) The department shall establish and collect from each offender on a work release program the reasonable costs of the offender's maintenance, transportation, and incidental expenses incurred by the department on behalf of the offender.]~~

~~[(b) Priority shall be given to restitution and family support obligations.]~~

~~[(c)]~~ The offender's reimbursement to the department for the cost of obtaining the offender's DNA specimen under Section 53-10-404 is the next priority after Subsection (1)(b).]

~~[(2)]~~ The department, under its rules, may advance funds to any offender as necessary to establish the offender in a work release program.]

~~[(3)]~~ (1) (a) The department or county jail may require an inmate to make a copayment for medical and dental services provided by the department or county jail.

(b) For services provided while in the custody of the department, the copayment by the inmate is \$5 for primary medical care, \$5 for dental care, and \$2 for prescription medication.

(c) For services provided outside of a prison facility while in the custody of the department, the offender is responsible for 10% of the costs associated with hospital care with a cap on an inmate's share of hospital care expenses not to exceed \$2,000 per fiscal year.

~~[(4)]~~ (2) (a) An inmate who has assets exceeding \$200,000, as determined by the department upon entry into the department's custody, is responsible to pay the costs of all medical and dental care up to 20% of the inmate's total determined asset value.

(b) After an inmate has received medical and dental care equal to 20% of the inmate's total asset value, the inmate is subject to the copayments provided in Subsection ~~[(3)]~~ (1).

~~[(5)]~~ (3) The department shall turn over to the Office of State Debt Collection any debt under this section that is unpaid at the time the offender is released from parole.

~~[(6)]~~ (4) An inmate may not be denied medical treatment if the inmate is unable to pay for the treatment because of inadequate financial resources.

~~[(7)]~~ (5) When an offender in the custody of the department receives medical care that is provided outside of a prison facility, the department shall pay the costs:

(a) at the contracted rate; or

(b) (i) if there is no contract between the department and a health care facility that establishes a fee schedule for medical services rendered, expenses shall be at the noncapitated state Medicaid rate in effect at the time the service was provided; and

(ii) if there is no contract between the department and a health care provider that establishes a fee schedule for medical services rendered, expenses shall be 65% of the amount that would be paid under the Public Employees' Benefit and Insurance Program, created in Section 49-20-103.

~~[(8)]~~ (6) Expenses described in Subsection ~~[(7)]~~ (5) are a cost to the department only to the extent that they exceed an offender's private insurance that is in effect at the time of the service and that covers those expenses.

~~[(9)]~~ (7) (a) The Public Employees' Benefit and Insurance Program shall provide information to the department that enables the department to calculate the amount to be paid to a health care provider under Subsection ~~[(7)]~~ (5)(b).

(b) The department shall ensure that information provided under Subsection ~~[(9)]~~ (7)(a) is confidential.

Section 7. Repealer.

This bill repeals:

Section 64-13-14.6, Inmate trusty status.

CHAPTER 244**S. B. 219**

Passed March 10, 2016
 Approved March 23, 2016
 Effective May 10, 2016

FAIR HOUSING ACT AMENDMENTS

Chief Sponsor: Todd Weiler
 House Sponsor: Kay L. McIff

LONG TITLE**General Description:**

This bill amends provisions in the Utah Fair Housing Act regarding enforcement.

Highlighted Provisions:

This bill:

- ▶ authorizes the Division of Antidiscrimination and Labor, established under the Labor Commission, to initiate a civil action in a court to enforce the terms of a conciliation agreement in the event of a breach; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 57-21-8, as last amended by Laws of Utah 2008, Chapter 382
 57-21-9, as last amended by Laws of Utah 2008, Chapter 382

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 57-21-8 is amended to read:**57-21-8. Jurisdiction -- Commission -- Division.**

(1) The commission has jurisdiction over the subject of housing discrimination under this chapter and may delegate the responsibility of receiving, processing, and investigating allegations of discriminatory housing practices and enforcing this chapter to the division.

(2) The commission may:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules necessary to administer this chapter [in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act];

(b) appoint and prescribe the duties of investigators, legal counsel, and other employees and agents that it considers necessary for the enforcement of this chapter; and

(c) issue subpoenas to compel the attendance of witnesses or the production of evidence for use in any investigation, conference, or hearing conducted by the division, and if a person fails to comply with [such] a subpoena, petition a court of competent jurisdiction for an order to show cause why that person should not be held in contempt.

(3) The division:

(a) may receive, reject, investigate, and determine complaints alleging discriminatory housing practices prohibited by this chapter;

(b) shall attempt conciliation between the parties through informal efforts, conference, persuasion, or other reasonable methods for the purposes of resolving the complaint;

(c) may seek prompt judicial action for appropriate temporary or preliminary relief pending final disposition of a complaint if the division and the commission conclude that [such] an action is necessary to carry out the purposes of this chapter;

(d) may, with the commission, initiate a civil action in a court of competent jurisdiction to:

(i) enforce the rights granted or protected under this chapter;

(ii) seek injunctive or other equitable relief, including temporary restraining orders, preliminary injunctions, or permanent injunctions;

(iii) seek damages; [and]

(iv) enforce final commission orders on the division's own behalf or on behalf of another person in order to carry out the purposes of this chapter; and

(v) enforce the terms of a conciliation agreement in the event of a breach;

(e) may initiate formal agency action under Title 63G, Chapter 4, Administrative Procedures Act; and

(f) may promote public awareness of the rights and remedies under this chapter by implementing programs to increase the awareness of landlords, real estate agents, and other citizens of their rights and responsibilities under the Utah Fair Housing Act, but may not solicit fair housing complaints or cases.

Section 2. Section 57-21-9 is amended to read:**57-21-9. Procedure for an aggrieved person to file a complaint -- Conciliation -- Investigation -- Determination.**

(1) [Any] An aggrieved person may file a written verified complaint with the division within 180 days after an alleged discriminatory housing practice occurs.

(2) (a) The commission shall adopt rules consistent with the provisions of 24 C.F.R. Sec. 115.3 (1990), relating to procedures under related federal law, to govern:

(i) the form of the complaint;

(ii) the form of any answer to the complaint;

(iii) procedures for filing or amending a complaint or answer; and

(iv) the form of notice to parties accused of the acts or omissions giving rise to the complaint.

(b) The commission may, by rule, prescribe any other procedure pertaining to the division's processing of the complaint.

(3) During the period beginning with the filing of the complaint and ending with the director's determination, the division shall, to the extent feasible, engage in conciliation with respect to the complaint.

(4) The division shall commence proceedings to investigate and conciliate a complaint alleging a discriminatory housing practice within 30 days after the filing of the complaint. After the commencement of an investigation, any party may request that the commission review the proceedings to insure compliance with the requirements of this chapter.

(5) The division shall complete the investigation within 100 days after the filing of the complaint, unless it is impracticable to do so. If the division is unable to complete the investigation within 100 days after the filing of the complaint, the division shall notify the complainant and respondent in writing of the reasons for the delay.

(6) (a) If, as a result of the division's investigation, the director determines that there is no reasonable cause to support the allegations in the complaint, the director shall issue a written determination dismissing the complaint.

(b) If the director dismisses the complaint pursuant to Subsection (6)(a), the complainant may request that the director reconsider the dismissal pursuant to Section 63G-4-302.

(c) Notwithstanding the provisions of Title 63G, Chapter 4, Administrative Procedures Act, the director's determination to dismiss a complaint or, in the case of a request for reconsideration, the director's order denying reconsideration is not subject to further agency action or direct judicial review. However, the complainant may commence a private action pursuant to Section 57-21-12.

(7) If, as a result of the division's investigation of a complaint, the director determines that there is reasonable cause to support the allegations in the complaint, all of the following apply:

(a) The division shall informally endeavor to eliminate or correct the discriminatory housing practice through a conciliation conference between the parties, presided over by the division. Nothing said or done in the course of the conciliation conference may be made public or admitted as evidence in a subsequent proceeding under this chapter without the written consent of the parties concerned.

(b) If the conciliation conference results in voluntary compliance with this chapter, a conciliation agreement, approved by the division, setting forth the resolution of the issues shall be executed by the parties [~~and approved by the division~~]. The parties or the division may enforce the conciliation agreement in an action filed in a court of competent jurisdiction.

(c) If the division is unable to obtain a conciliation agreement, the director shall issue a written determination stating the director's findings and ordering any appropriate relief under Section 57-21-11.

CHAPTER 245**S. B. 221**

Passed March 10, 2016
 Approved March 23, 2016
 Effective May 10, 2016

CAPITOL PROTOCOL AMENDMENTS

Chief Sponsor: Mark B. Madsen
 House Sponsor: Keith Grover

LONG TITLE**General Description:**

This bill modifies provisions related to security at the State Capitol.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits bringing alcohol for consumption onto the capitol hill complex;
- ▶ modifies parking provisions for the capitol hill complex;
- ▶ modifies the duties of the Utah Highway Patrol related to the capitol hill complex;
- ▶ changes the penalty for violating a rule adopted by the Capitol Preservation Board relating to the use of the capitol hill complex;
- ▶ modifies the activities that constitute "interfering with a public servant";
- ▶ modifies provisions related to disorderly conduct; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

32B-4-102, as enacted by Laws of Utah 2010, Chapter 276
 32B-4-415, as enacted by Laws of Utah 2010, Chapter 276
 41-6a-1401, as last amended by Laws of Utah 2011, Chapter 363
 53-8-105, as last amended by Laws of Utah 2005, Chapter 2
 63C-9-301, as last amended by Laws of Utah 2013, Chapter 310
 76-8-301, as last amended by Laws of Utah 1998, Chapter 72
 76-9-102, as last amended by Laws of Utah 2014, Chapter 143

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 32B-4-102 is amended to read:**32B-4-102. Definitions.**

~~[Reserved]~~ As used in this chapter, "capitol hill complex" means the same as that term is defined in Section 63C-9-102.

Section 2. Section 32B-4-415 is amended to read:**32B-4-415. Unlawful bringing onto premises for consumption.**

(1) Except as provided in Subsection (4), a person may not bring an alcoholic product for on-premise consumption onto the premises of:

- (a) a retail licensee or person required to be licensed under this title as a retail licensee;
- (b) an establishment that conducts a business similar to a retail licensee;
- (c) an event where an alcoholic product is sold, offered for sale, or furnished under a single event permit or temporary beer event permit issued under this title; ~~[or]~~
- (d) an establishment open to the general public~~[-]~~; or
- (e) the capitol hill complex.

(2) Except as provided in Subsection (4), the following may not allow a person to bring onto its premises an alcoholic product for on-premise consumption or allow consumption of an alcoholic product brought onto its premises in violation of this section:

- (a) a retail licensee or a person required to be licensed under this title as a retail licensee;
- (b) an establishment that conducts a business similar to a retail licensee;
- (c) a single event permittee or temporary beer event permittee;
- (d) an establishment open to the general public; ~~[or]~~
- (e) the State Capitol Preservation Board created in Section 63C-9-201; or

~~[(e)]~~ (f) staff of a person listed in Subsections (2)(a) through ~~[(d)]~~ (e).

(3) Except as provided in Subsection (4)(c)(i)(A), a person may not consume an alcoholic product in a limousine or chartered bus if the limousine or chartered bus drops off a passenger at:

- (a) a location from which the passenger departs in a private vehicle[-]; or
- (b) the capitol hill complex.

(4) (a) A person may bring bottled wine onto the premises of the following and consume the wine pursuant to Section 32B-5-307:

- (i) a full-service restaurant licensee;
 - (ii) a limited restaurant licensee;
 - (iii) a club licensee; or
 - (iv) a person operating under a resort spa sublicense.
- (b) A passenger of a limousine may bring onto, possess, and consume an alcoholic product on the limousine if:

- (i) the travel of the limousine begins and ends at:
 - (A) the residence of the passenger;
 - (B) the hotel of the passenger, if the passenger is a registered guest of the hotel; or
 - (C) the temporary domicile of the passenger; [and]
 - (ii) the driver of the limousine is separated from the passengers by partition or other means approved by the department[.]; and
 - (iii) the limousine is not located on the capitol hill complex.
- (c) A passenger of a chartered bus may bring onto, possess, and consume an alcoholic product on the chartered bus:
 - (i) (A) but may consume only during travel to a specified destination of the chartered bus and not during travel back to the place where the travel begins; or
 - (B) if the travel of the chartered bus begins and ends at:
 - (I) the residence of the passenger;
 - (II) the hotel of the passenger, if the passenger is a registered guest of the hotel; or
 - (III) the temporary domicile of the passenger; [and]
 - (ii) if the chartered bus has a nondrinking designee other than the driver traveling on the chartered bus to monitor consumption[.]; and
 - (iii) if the chartered bus is not located on the capitol hill complex.
- (5) A person may bring onto any premises, possess, and consume an alcoholic product at a private event.

(6) Notwithstanding Subsection (5), private and public facilities may prohibit the possession or consumption of alcohol on their premises.

~~[(6)]~~ (7) The restrictions of Subsections (2) and (3) apply to a resort licensee or person operating under a sublicense in relationship to:

- (a) the boundary of a resort building; or
- (b) a sublicense premises.

Section 3. Section 41-6a-1401 is amended to read:

41-6a-1401. Standing or parking vehicles -- Restrictions and exceptions.

(1) Except when necessary to avoid conflict with other traffic, or in compliance with law, the directions of a peace officer, or a traffic-control device, a person may not:

- (a) stop, stand, or park a vehicle:
 - (i) on the roadway side of any vehicle stopped or parked at the edge or curb of a street;

- (ii) on a sidewalk;
- (iii) within an intersection;
- (iv) on a crosswalk;
- (v) between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;
- (vi) alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;
- (vii) on any bridge or other elevated structure, on a highway, or within a highway tunnel;
- (viii) on any railroad tracks;
- (ix) on any controlled-access highway;
- (x) in the area between roadways of a divided highway, including crossovers; or
- (xi) any place where a traffic-control device prohibits stopping, standing, or parking:
 - (b) stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:
 - (i) in front of a public or private driveway;
 - (ii) within 15 feet of a fire hydrant;
 - (iii) within 20 feet of a crosswalk;
 - (iv) within 30 feet upon the approach to any flashing signal, stop sign, yield sign, or traffic-control signal located at the side of a roadway;
 - (v) within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of the entrance when properly signposted; ~~[or]~~
 - (vi) at any place where a traffic-control device prohibits standing; or
 - (vii) at the capitol hill complex as defined in Section 63C-9-102 in a parking space identified as reserved for specific users, without:

(A) approval by the executive director of the State Capitol Preservation Board created in Section 63C-9-201; and

(B) a properly displayed placard or other identifying marker approved by the executive director of the State Capitol Preservation Board to indicate this approval; or

(c) park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading property or passengers:

- (i) within 50 feet of the nearest rail of a railroad crossing; or
- (ii) at any place where traffic-control devices prohibit parking.

(2) A person may not move a vehicle that is not lawfully under the person's control into any

prohibited area or into an unlawful distance from the curb.

(3) This section does not apply to a tow truck motor carrier responding to a customer service call if the tow truck motor carrier has already received authorization from the local law enforcement agency in the jurisdiction where the vehicle to be towed is located.

Section 4. Section 53-8-105 is amended to read:

53-8-105. Duties of Highway Patrol.

In addition to the duties in this chapter, the Highway Patrol shall:

(1) enforce the state laws and rules governing use of the state highways;

(2) regulate traffic on all highways and roads of the state;

(3) assist the governor in an emergency or at other times at his discretion;

(4) in cooperation with federal, state, and local agencies, enforce and assist in the enforcement of all state and federal laws related to the operation of a motor carrier on a highway, including all state and federal rules and regulations;

(5) inspect certain vehicles to determine road worthiness and safe condition as provided in Section 41-6a-1630;

(6) upon request, assist with any condition of unrest existing or developing on a campus or related facility of an institution of higher education;

(7) assist the Alcoholic Beverage Control Commission in an emergency to enforce the state liquor laws;

(8) provide security and protection for both houses of the Legislature while in session as the speaker of the House of Representatives and the president of the Senate ~~finds~~ find necessary; ~~and~~

(9) enforce the state laws and rules governing use of the capitol hill complex as defined in Section 63C-9-102; and

~~(9)~~ (10) carry out the following for the Supreme Court and the Court of Appeals:

(a) provide security and protection to those courts when in session in the capital city of the state;

(b) execute orders issued by the courts; and

(c) carry out duties as directed by the courts.

Section 5. Section 63C-9-301 is amended to read:

63C-9-301. Board powers -- Subcommittees.

(1) The board shall:

(a) except as provided in Subsection (2), exercise complete jurisdiction and stewardship over capitol

hill facilities, capitol hill grounds, and the capitol hill complex;

(b) preserve, maintain, and restore the capitol hill complex, capitol hill facilities, capitol hill grounds, and their contents;

(c) before October 1 of each year, review and approve the executive director's annual budget request for submittal to the governor and Legislature;

(d) by October 1 of each year, prepare and submit a recommended budget request for the upcoming fiscal year for the capitol hill complex to:

(i) the governor, through the Governor's Office of Management and Budget; and

(ii) the Legislature's appropriations subcommittee responsible for capitol hill facilities, through the Office of Legislative Fiscal Analyst;

(e) review and approve the executive director's:

(i) annual work plan;

(ii) long-range master plan for the capitol hill complex, capitol hill facilities, and capitol hill grounds; and

(iii) furnishings plan for placement and care of objects under the care of the board;

(f) approve all changes to the buildings and their grounds, including:

(i) restoration, remodeling, and rehabilitation projects;

(ii) usual maintenance program; and

(iii) any transfers or loans of objects under the board's care;

(g) define and identify all significant aspects of the capitol hill complex, capitol hill facilities, and capitol hill grounds, after consultation with the:

(i) Division of Facilities Construction and Management;

(ii) State Library Division;

(iii) Division of Archives and Records Service;

(iv) Division of State History;

(v) Office of Museum Services; and

(vi) Arts Council;

(h) inventory, define, and identify all significant contents of the buildings and all state-owned items of historical significance that were at one time in the buildings, after consultation with the:

(i) Division of Facilities Construction and Management;

(ii) State Library Division;

(iii) Division of Archives and Records Service;

(iv) Division of State History;

(v) Office of Museum Services; and

(vi) Arts Council;

(i) maintain archives relating to the construction and development of the buildings, the contents of the buildings and their grounds, including documents such as plans, specifications, photographs, purchase orders, and other related documents, the original copies of which shall be maintained by the Division of Archives and Records Service;

(j) comply with federal and state laws related to program and facility accessibility; and

(k) establish procedures for receiving, hearing, and deciding complaints or other issues raised about the capitol hill complex, capitol hill facilities, and capitol hill grounds, or their use.

(2) (a) Notwithstanding Subsection (1)(a), the supervision and control of the legislative area, as defined in Section 36-5-1, is reserved to the Legislature; and

(b) the supervision and control of the governor's area, as defined in Section 67-1-16, is reserved to the governor.

(3) (a) The board shall make rules to govern, administer, and regulate the capitol hill complex, capitol hill facilities, and capitol hill grounds by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) A violation of a rule relating to the use of the capitol hill complex adopted by the board under the authority of this Subsection (3) is an infraction.

(c) If an act violating a rule under Subsection (3)(b) also amounts to an offense subject to a greater penalty under this title, Title 32B, Alcoholic Beverage Control Act, Title 41, Motor Vehicles, Title 76, Utah Criminal Code, or other provision of state law, Subsection (3)(b) does not prohibit prosecution and sentencing for the more serious offense.

~~[(b)-A] (d) In addition to any punishment allowed under Subsections (3)(b) and (c), a person who violates a rule adopted by the board under the authority of this Subsection (3) is subject to a civil penalty not to exceed \$2,500 for each violation, plus the amount of any actual damages, expenses, and costs related to the violation of the rule that are incurred by the state.~~

[(e)] (e) The board may take any other legal action allowed by law.

~~[(d) If any violation of a rule adopted by the board is also an offense under Title 76, Utah Criminal Code, the violation is subject to the civil penalty, damages, expenses, and costs allowed under this Subsection (3) in addition to any criminal prosecution.]~~

[(e)] (f) The board may not apply this section or rules adopted under the authority of this section in a manner that violates a person's rights under the Utah Constitution or the First Amendment to the United States Constitution, including the right of persons to peaceably assemble.

~~[(f)]~~ (g) The board shall send proposed rules under this section to the legislative general counsel and the governor's general counsel for review and comment before the board adopts the rules.

(4) The board is exempt from the requirements of Title 63G, Chapter 6a, Utah Procurement Code, but shall adopt procurement rules substantially similar to the requirements of that chapter.

(5) (a) The board may:

(i) establish subcommittees made up of board members and members of the public to assist and support the executive director in accomplishing the executive director's duties;

(ii) establish fees for the use of capitol hill facilities and capitol hill grounds;

(iii) assign and allocate specific duties and responsibilities to any other state agency, if the other agency agrees to perform the duty or accept the responsibility;

(iv) contract with another state agency to provide services;

(v) delegate by specific motion of the board any authority granted to it by this section to the executive director;

(vi) in conjunction with Salt Lake City, expend money to improve or maintain public property contiguous to East Capitol Boulevard and capitol hill;

(vii) provide wireless Internet service to the public without a fee in any capitol hill facility; and

(viii) when necessary, consult with the:

(A) Division of Facilities Construction and Management;

(B) State Library Division;

(C) Division of Archives and Records Service;

(D) Division of State History;

(E) Office of Museum Services; and

(F) Arts Council.

(b) The board's provision of wireless Internet service under Subsection (5)(a)(vii) shall be discontinued in the legislative area if the president of the Senate and the speaker of the House of Representatives each submit a signed letter to the board indicating that the service is disruptive to the legislative process and is to be discontinued.

(c) If a budget subcommittee is established by the board, the following shall serve as ex officio, nonvoting members of the budget subcommittee:

(i) the legislative fiscal analyst, or the analyst's designee, who shall be from the Office of Legislative Fiscal Analyst; and

(ii) the executive director of the Governor's Office of Management and Budget, or the executive director's designee, who shall be from the Governor's Office of Management and Budget.

(d) If a preservation and maintenance subcommittee is established by the board, the board

may, by majority vote, appoint one or each of the following to serve on the subcommittee as voting members of the subcommittee:

(i) an architect, who shall be selected from a list of three architects submitted by the American Institute of Architects; or

(ii) an engineer, who shall be selected from a list of three engineers submitted by the American Civil Engineers Council.

(e) If the board establishes any subcommittees, the board may, by majority vote, appoint up to two people who are not members of the board to serve, at the will of the board, as nonvoting members of a subcommittee.

(f) Members of each subcommittee shall, at the first meeting of each calendar year, select one individual to act as chair of the subcommittee for a one-year term.

(6) (a) The board, and the employees of the board, may not move the office of the governor, lieutenant governor, president of the Senate, speaker of the House of Representatives, or a member of the Legislature from the State Capitol unless the removal is approved by:

(i) the governor, in the case of the governor's office;

(ii) the lieutenant governor, in the case of the lieutenant governor's office;

(iii) the president of the Senate, in the case of the president's office or the office of a member of the Senate; or

(iv) the speaker of the House of Representatives, in the case of the speaker's office or the office of a member of the House.

(b) The board and the employees of the board have no control over the furniture, furnishings, and decorative objects in the offices of the governor, lieutenant governor, or the members of the Legislature except as necessary to inventory or conserve items of historical significance owned by the state.

(c) The board and the employees of the board have no control over records and documents produced by or in the custody of a state agency, official, or employee having an office in a building on the capitol hill complex.

(d) Except for items identified by the board as having historical significance, and except as provided in Subsection (6)(b), the board and the employees of the board have no control over moveable furnishings and equipment in the custody of a state agency, official, or employee having an office in a building on the capitol hill complex.

Section 6. Section 76-8-301 is amended to read:

76-8-301. Interference with public servant.

(1) ~~[A person]~~ An individual is guilty of interference with a public servant if ~~[he]~~ the individual:

(a) uses force, violence, intimidation, or engages in any other unlawful act with a purpose to interfere with a public servant performing or purporting to perform an official function; ~~[ø]~~

(b) knowingly or intentionally interferes with the lawful service of process by a public servant~~[.];~~ or

(c) on property that is owned, operated, or controlled by the state or a political subdivision of the state, willfully denies to a public servant lawful:

(i) freedom of movement;

(ii) use of the property or facilities; or

(iii) ingress to or egress from the facilities.

(2) Interference with a public servant:

(a) under Subsection (1)(a) or (b) is a class B misdemeanor~~[.];~~ and

(b) under Subsection (1)(c) is a class C misdemeanor.

(3) For purposes of this section, "public servant" does not include jurors.

Section 7. Section 76-9-102 is amended to read:

76-9-102. Disorderly conduct.

(1) A person is guilty of disorderly conduct if:

(a) the person refuses to comply with the lawful order of a law enforcement officer to move from a public place, or knowingly creates a hazardous or physically offensive condition, by any act which serves no legitimate purpose; or

(b) intending to cause public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof, the person:

(i) engages in fighting or in violent, tumultuous, or threatening behavior;

(ii) makes unreasonable noises in a public place;

(iii) makes unreasonable noises in a private place which can be heard in a public place; or

(iv) obstructs vehicular or pedestrian traffic in a public place.

(2) "Public place," for the purpose of this section, means any place to which the public or a substantial group of the public has access and includes but is not limited to streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, public buildings and facilities, transport facilities, and shops.

(3) The mere carrying or possession of a holstered or encased firearm, whether visible or concealed, without additional behavior or circumstances that would cause a reasonable person to believe the holstered or encased firearm was carried or possessed with criminal intent, does not constitute a violation of this section. Nothing in this Subsection (3) may limit or prohibit a law enforcement officer from approaching or engaging any person in a voluntary conversation.

(4) Disorderly conduct is a class C misdemeanor if the offense continues after a request by a person to desist. Otherwise it is an infraction.

CHAPTER 246**S. B. 242**

Passed March 10, 2016
 Approved March 23, 2016
 Effective May 10, 2016

**SPECIAL EDUCATION INTENSIVE
 NEEDS FUND AMENDMENTS**

Chief Sponsor: Lincoln Fillmore
 House Sponsor: Joel K. Briscoe

LONG TITLE**General Description:**

This bill enacts intensive special education cost reimbursement provisions.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides rulemaking authority;
- ▶ requires the board to distribute certain special education funds in accordance with board rules; and
- ▶ requires the board to report to the Legislature.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53A-17a-112.1, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-17a-112.1 is enacted to read:

53A-17a-112.1. Appropriation for intensive special education costs.

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Local education agency" or "LEA" means:

(i) a school district;

(ii) a charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(2) (a) On or before February 1, 2017, the board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules establishing a distribution formula to allocate money appropriated to the board for Special Education -- Intensive Services that allocate to an LEA:

(i) 50% of the appropriation based on the highest cost students with disabilities; and

(ii) 50% of the appropriation based on the highest impact to an LEA due to high cost students with disabilities.

(b) Beginning with the 2017-18 school year, the board shall allocate money appropriated to the board for Special Education -- Intensive Services in

accordance with rules described in Subsection (2)(a).

(3) Before initiating the rulemaking process under Subsection (2)(a), the board shall present the proposed rule to the Public Education Appropriations Subcommittee or Education Interim Committee.

CHAPTER 247**H. B. 250**

Passed March 10, 2016

Approved March 24, 2016

Effective May 10, 2016

AIR QUALITY AMENDMENTS

Chief Sponsor: Edward H. Redd

Senate Sponsor: Scott K. Jenkins

Cosponsors: Patrice M. Arent

Stewart Barlow

Joel K. Briscoe

Rebecca Chavez-Houck

Fred C. Cox

Sophia M. DiCaro

Jack R. Draxler

Susan Duckworth

Gage Froerer

Stephen G. Handy

Timothy D. Hawkes

Lynn N. Hemingway

Don L. Ipson

Brad King

Lee B. Perry

Marie H. Poulson

Douglas V. Sagers

Robert M. Spendlove

Earl D. Tanner

Raymond P. Ward

LONG TITLE**General Description:**

This bill deals with the regulation of certain water heaters.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits the sale or purchase of a natural gas-fired water heater that is manufactured after July 1, 2018, with the intent to install the natural gas-fired water heater in Utah if the natural gas-fired water heater exceeds the limits set in Title 15A, State Construction and Fire Codes Act;
- ▶ creates labeling requirements for a manufacturer of a water heater; and
- ▶ exempts certain water heater units.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

19-2-107.7, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 19-2-107.7 is enacted to read:**19-2-107.7. Water heater regulations.**

(1) As used in this section:

(a) "Natural gas-fired water heater" means a device that heats water by the combustion of

natural gas to a thermostatically-controlled temperature not exceeding 210 degrees Fahrenheit for use external to the vessel at pressures not exceeding 160 pounds per square inch gauge.

(b) "Recreational vehicle" means a motor home, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation for recreational, emergency, or other occupancy.

(2) A person may not sell or purchase a natural gas-fired water heater that is manufactured after July 1, 2018 with the intent to install it in Utah if the natural gas-fired water heater exceeds the applicable nitrogen oxide emission rate limit set in Title 15A, State Construction and Fire Codes Act.

(3) A manufacturer in Utah shall display the model number and nitrogen oxide emission rate of a water heater complying with this section on:

(a) the shipping carton for the water heater; and

(b) the permanent rating plate of each water heater unit.

(4) This section does not apply to a water heater unit that:

- (a) uses a fuel other than natural gas;
- (b) is used in a recreational vehicle; or
- (c) is manufactured in Utah for shipment and use outside of Utah.

CHAPTER 248**H. B. 292**

Passed March 9, 2016
Approved March 24, 2016
Effective July 1, 2016

**DEFERRED DEPOSIT
LENDING AMENDMENTS**

Chief Sponsor: Brad M. Daw
Senate Sponsor: Curtis S. Bramble
Cosponsors: James A. Dunnigan
Dixon M. Pitcher

LONG TITLE**General Description:**

This bill modifies provisions related to deferred deposit lending and identity theft.

Highlighted Provisions:

This bill:

- ▶ modifies reporting requirements;
- ▶ addresses operational requirements;
- ▶ amends extended payment plans; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 7-23-201, as last amended by Laws of Utah 2014, Chapter 131
7-23-401, as last amended by Laws of Utah 2014, Chapter 131
7-23-403, as last amended by Laws of Utah 2014, Chapter 131

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 7-23-201 is amended to read:**7-23-201. Registration -- Rulemaking.**

(1) (a) It is unlawful for a person to engage in the business of cashing checks or the business of deferred deposit lending in Utah or with a Utah resident unless the person:

(i) registers with the department in accordance with this chapter; and

(ii) maintains a valid registration.

(b) It is unlawful for a person to operate a mobile facility in this state to engage in the business of:

(i) cashing checks; or

(ii) deferred deposit lending.

(2) (a) A registration and a renewal of a registration expires on December 31 of each year unless on or before that date the person renews the registration.

(b) To register under this section, a person shall:

(i) pay an original registration fee established under Subsection 7-1-401(8);

(ii) submit a registration statement containing the information described in Subsection (2)(d);

(iii) submit evidence satisfactory to the commissioner that the person is authorized to conduct business in this state as a domestic or foreign entity pursuant to filings with the Division of Corporations and Commercial Code under Title 16, Corporations, or Title 48, [Partnership] Unincorporated Business Entity Act; and

(iv) if the person engages in the business of deferred deposit lending, submit evidence satisfactory to the commissioner that the person is registered with the nationwide database.

(c) To renew a registration under this section, a person shall:

(i) pay the annual fee established under Subsection 7-1-401(5);

(ii) submit a renewal statement containing the information described in Subsection (2)(d);

(iii) submit evidence satisfactory to the commissioner that the person is authorized to conduct business in this state as a domestic or foreign entity pursuant to filings with the Division of Corporations and Commercial Code under Title 16, Corporations, or Title 48, [Partnership] Unincorporated Business Entity Act;

(iv) if the person engages in the business of deferred deposit lending, submit evidence satisfactory to the commissioner that the person is registered with the nationwide database; and

(v) if the person engages in the business of deferred deposit lending, submit an operations statement containing the information described in Subsection (2)(e).

(d) A registration or renewal statement shall state:

(i) the name of the person;

(ii) the name in which the business will be transacted if different from that required in Subsection (2)(d)(i);

(iii) the address of the person's principal business office, which may be outside this state;

(iv) the addresses of all offices in this state at which the person conducts the business of:

(A) cashing checks; or

(B) deferred deposit lending;

(v) if the person conducts the business of cashing checks or the business of deferred deposit lending in this state but does not maintain an office in this state, a brief description of the manner in which the business is conducted;

(vi) the name and address in this state of a designated agent upon whom service of process may be made;

(vii) disclosure of an injunction, judgment, administrative order, or conviction of a crime involving moral turpitude with respect to that

person or an officer, director, manager, operator, or principal of that person; and

(viii) any other information required by the rules of the department.

(e) An operations statement required for a deferred deposit lender to renew a registration shall state for the immediately preceding calendar year:

(i) the average principal amount of the deferred deposit loans extended by the deferred deposit lender;

(ii) for deferred deposit loans paid in full, the average number of days a deferred deposit loan is outstanding for the duration of time that interest is charged;

(iii) the minimum and maximum dollar amount of interest and fees charged by the deferred deposit lender for a deferred deposit loan of \$100 with a loan term of seven days;

(iv) the total number of deferred deposit loans rescinded by the deferred deposit lender at the request of the customer pursuant to Subsection 7-23-401(3)(b);

(v) of the persons to whom the deferred deposit lender extended a deferred deposit loan, the percentage that entered into an extended payment plan under Section 7-23-403;

(vi) the total dollar amount of deferred deposit loans rescinded by the deferred deposit lender at the request of the customer pursuant to Subsection 7-23-401(3)(b);

(vii) the average annual percentage rate charged on deferred deposit loans;

(viii) the average dollar amount of extended payment plans entered into under Section 7-23-403 by the deferred deposit lender;

(ix) the number of deferred deposit loans carried to the maximum 10 weeks;

(x) the total dollar amount of deferred deposit loans carried to the maximum 10 weeks;

(xi) the number of deferred deposit loans not paid in full at the end of 10 weeks; ~~and~~

(xii) the total dollar amount of deferred deposit loans not paid in full at the end of 10 weeks[-];

(xiii) the percentage of deferred deposit loans against which the deferred deposit lender initiates civil action to collect on the deferred deposit loan; and

(xiv) for the civil actions described in Subsection (2)(e)(xiii), the percentage of those civil actions whose deferred deposit loans have the following payment history:

(A) no payments;

(B) one payment;

(C) two payments;

(D) three payments;

(E) four payments;

(F) five payments;

(G) six payments;

(H) seven payments;

(I) eight payments;

(J) nine payments; and

(K) 10 or more payments.

(f) The commissioner may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the transition of persons registering with the nationwide database.

(3) Information provided by a deferred deposit lender under Subsection (2)(e) is:

(a) confidential in accordance with Section 7-1-802; and

(b) not subject to Title 63G, Chapter 2, Government Records Access and Management Act.

(4) (a) The commissioner may impose an administrative fine determined under Subsection (4)(b) on a person if:

(i) the person is required to be registered under this chapter;

(ii) the person fails to register or renew a registration in accordance with this chapter;

(iii) the department notifies the person that the person is in violation of this chapter for failure to be registered; and

(iv) the person fails to register within 30 days after the day on which the person receives the notice described in Subsection (4)(a)(iii).

(b) Subject to Subsection (4)(c), the administrative fine imposed under this section is:

(i) \$500 if the person:

(A) has no office in this state at which the person conducts the business of:

(I) cashing checks; or

(II) deferred deposit lending; or

(B) has one office in this state at which the person conducts the business of:

(I) cashing checks; or

(II) deferred deposit lending; or

(ii) if the person has two or more offices in this state at which the person conducts the business of cashing checks or the business of deferred deposit lending, \$500 for each office at which the person conducts the business of:

(A) cashing checks; or

(B) deferred deposit lending.

(c) The commissioner may reduce or waive a fine imposed under this Subsection (4) if the person shows good cause.

(5) If the information in a registration, renewal, or operations statement required under Subsection (2) becomes inaccurate after filing, a person is not required to notify the department until:

(a) that person is required to renew the registration; or

(b) the department specifically requests earlier notification.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules consistent with this section providing for:

(a) the form, content, and filing of a registration and renewal statement described in Subsection (2)(d); and

(b) the form and filing of an operations statement described in Subsection (2)(e).

(7) A deferred deposit loan that is made by a person who is required to be registered under this chapter but who is not registered is void, and the person may not collect, receive, or retain any principal or other interest or fees in connection with the deferred deposit loan.

Section 2. Section 7-23-401 is amended to read:

7-23-401. Operational requirements for deferred deposit loans.

(1) If a deferred deposit lender extends a deferred deposit loan, the deferred deposit lender shall:

(a) post in a conspicuous location on its premises that can be viewed by a person seeking a deferred deposit loan:

(i) a complete schedule of any interest or fees charged for a deferred deposit loan that states the interest and fees using dollar amounts;

(ii) a number the person can call to make a complaint to the department regarding the deferred deposit loan; and

(iii) a list of states where the deferred deposit lender is registered or authorized to offer deferred deposit loans through the Internet or other electronic means;

(b) enter into a written contract for the deferred deposit loan;

(c) conspicuously disclose in the written contract:

(i) that under Subsection (3)(a), a person receiving a deferred deposit loan may make a partial payment in increments of at least \$5 on the principal owed on the deferred deposit loan without incurring additional charges above the charges provided in the written contract;

(ii) that under Subsection (3)(b), a person receiving a deferred deposit loan may rescind the deferred deposit loan on or before 5 p.m. of the next business day without incurring any charges;

(iii) that under Subsection (4)(b), the deferred deposit loan may not be rolled over without the person receiving the deferred deposit loan requesting the rollover of the deferred deposit loan;

(iv) that under Subsection (4)(c), the deferred deposit loan may not be rolled over if the rollover requires the person to pay the amount owed by the person under the deferred deposit loan in whole or in part more than 10 weeks after the day on which the deferred deposit loan is executed; and

(v) (A) the name and address of a designated agent required to be provided the department under Subsection 7-23-201(2)(d)(vi); and

(B) a statement that service of process may be made to the designated agent;

(d) provide the person seeking the deferred deposit loan:

(i) a copy of the written contract described in Subsection (1)(c); and

(ii) written notice that the person seeking the deferred deposit loan is eligible to enter into an extended payment plan described in Section 7-23-403;

(e) orally review with the person seeking the deferred deposit loan the terms of the deferred deposit loan including:

(i) the amount of any interest rate or fee;

(ii) the date on which the full amount of the deferred deposit loan is due;

(iii) that under Subsection (3)(a), a person receiving a deferred deposit loan may make a partial payment in increments of at least \$5 on the principal owed on the deferred deposit loan without incurring additional charges above the charges provided in the written contract;

(iv) that under Subsection (3)(b), a person receiving a deferred deposit loan may rescind the deferred deposit loan on or before 5 p.m. of the next business day without incurring any charges;

(v) that under Subsection (4)(b), the deferred deposit loan may not be rolled over without the person receiving the deferred deposit loan requesting the rollover of the deferred deposit loan; and

(vi) that under Subsection (4)(c), the deferred deposit loan may not be rolled over if the rollover requires the person to pay the amount owed by the person under the deferred deposit loan in whole or in part more than 10 weeks after the day on which the deferred deposit loan is executed;

(f) comply with the following as in effect on the date the deferred deposit loan is extended:

(i) Truth in Lending Act, 15 U.S.C. Sec. 1601 et seq., and its implementing federal regulations;

(ii) Equal Credit Opportunity Act, 15 U.S.C. Sec. 1691, and its implementing federal regulations;

(iii) Bank Secrecy Act, 12 U.S.C. Sec. 1829b, 12 U.S.C. Sec. 1951 through 1959, and 31 U.S.C. Sec.

5311 through 5332, and its implementing regulations; and

(iv) Title 70C, Utah Consumer Credit Code;

(g) in accordance with Subsection (6), make an inquiry to determine whether a person attempting to receive a deferred deposit loan has the ability to repay the deferred deposit loan in the ordinary course, which may include rollovers or extended payment plans as allowed under this chapter; ~~and~~

(h) in accordance with Subsection (7), receive a signed acknowledgment from a person attempting to receive a deferred deposit loan that the person has the ability to repay the deferred deposit loan, which may include rollovers or extended payment plans as allowed by this chapter~~[-]; and~~

(i) report the original loan amount, payment in full, or default of a deferred deposit loan to a consumer reporting agency, as defined in 15 U.S.C. Sec. 1681a, in accordance with procedures established by the consumer reporting agency.

(2) If a deferred deposit lender extends a deferred deposit loan through the Internet or other electronic means, the deferred deposit lender shall provide the information described in Subsection (1)(a) to the person receiving the deferred deposit loan:

(a) in a conspicuous manner; and

(b) prior to the person entering into the deferred deposit loan.

(3) A deferred deposit lender that engages in a deferred deposit loan shall permit a person receiving a deferred deposit loan to:

(a) make partial payments in increments of at least \$5 on the principal owed on the deferred deposit loan at any time prior to maturity without incurring additional charges above the charges provided in the written contract; and

(b) rescind the deferred deposit loan without incurring any charges by returning the deferred deposit loan amount to the deferred deposit lender on or before 5 p.m. the next business day following the deferred deposit loan transaction.

(4) A deferred deposit lender that engages in a deferred deposit loan may not:

(a) collect additional interest on a deferred deposit loan with an outstanding principal balance 10 weeks after the day on which the deferred deposit loan is executed;

(b) roll over a deferred deposit loan without the person receiving the deferred deposit loan requesting the rollover of the deferred deposit loan;

(c) roll over a deferred deposit loan if the rollover requires a person to pay the amount owed by the person under a deferred deposit loan in whole or in part more than 10 weeks from the day on which the deferred deposit loan is first executed;

(d) extend a new deferred deposit loan to a person on the same business day that the person makes a

payment on another deferred deposit loan if the payment:

(i) is made at least 10 weeks after the day on which that deferred deposit loan is extended; and

(ii) results in the principal of that deferred deposit loan being paid in full;

(e) threaten to use or use the criminal process in any state to collect on the deferred deposit loan;

(f) in connection with the collection of money owed on a deferred deposit loan, communicate with a person who owes money on a deferred deposit loan at the person's place of employment if the person or the person's employer communicates, orally or in writing, to the deferred deposit lender that the person's employer prohibits the person from receiving these communications; or

(g) modify by contract the venue provisions in Title 78B, Chapter 3, Actions and Venue.

(5) Notwithstanding Subsections (4)(a) and (e), a deferred deposit lender that is the holder of a check used to obtain a deferred deposit loan that is dishonored may use the remedies and notice procedures provided in Chapter 15, Dishonored Instruments, except that the issuer, as defined in Section 7-15-1, of the check may not be:

(a) asked by the holder to pay the amount described in Subsection 7-15-1(6)(a)(iii) as a condition of the holder not filing a civil action; or

(b) held liable for the damages described in Subsection 7-15-1(7)(b)(vi).

(6) (a) The inquiry required by Subsection (1)(g) applies solely to the initial period of a deferred deposit loan transaction with a person and does not apply to any rollover or extended payment plan of a deferred deposit loan.

(b) [A] Subject to Subsection (6)(c), a deferred deposit lender is in compliance with Subsection (1)(g) if the deferred deposit lender, at the time of the initial period of the deferred deposit loan transaction, obtains one of the following regarding the person seeking the deferred deposit loan:

(i) a consumer report, as defined in 15 U.S.C. Sec. 1681a, from a consumer reporting agency, as defined in 15 U.S.C. Sec. 1681a;

(ii) written proof or verification of income from the person seeking the deferred deposit loan; or

(iii) prior repayment history with the deferred deposit loan from the records of the deferred deposit lender.

(c) If a person seeking a deferred deposit loan has not previously received a deferred deposit loan from that deferred deposit lender, to be in compliance with Subsection (1)(g), the deferred deposit lender, at the time of the initial period of the deferred deposit loan transaction, shall obtain a consumer report, as defined in 15 U.S.C. Sec. 1681a, from a consumer reporting agency, as defined in 15 U.S.C. Sec. 1681a.

(7) A deferred deposit lender is in compliance with Subsection (1)(h) if the deferred deposit lender

obtains from the person seeking the deferred deposit loan a signed acknowledgment that is in 14-point bold font, that the person seeking the deferred deposit loan has:

(a) reviewed the payment terms of the deferred deposit loan agreement;

(b) received a disclosure that a deferred deposit loan may not be rolled over if the rollover requires the person to pay the amount owed by the person under the deferred deposit loan in whole or in part more than 10 weeks after the day on which the deferred deposit loan is first executed;

(c) received a disclosure explaining the extended payment plan options; and

(d) acknowledged the ability to repay the deferred deposit loan in the ordinary course, which may include rollovers, or extended payment plans as allowed under this chapter.

(8) (a) Before initiating a civil action against a person who owes money on a deferred deposit loan, a deferred deposit lender shall provide the person at least 10 days notice of default, describing that:

(i) the person must remedy the default; and ~~that~~

(ii) the deferred deposit lender ~~[intends to]~~ may initiate a civil action against the person if the person fails to cure the default within the 10-day period or through an extended payment plan meeting the requirements of Section 7-23-403.

(b) A deferred deposit lender may provide the notice required under this Subsection (8):

(i) by sending written notice to the address provided by the person to the deferred deposit lender;

(ii) by sending an electronic transmission to a person if electronic contact information is provided to the deferred deposit lender; or

(iii) pursuant to the Utah Rules of Civil Procedure.

(c) A notice under this Subsection (8), in addition to complying with Subsection (8)(a), shall:

(i) be in English, if the initial transaction is conducted in English;

(ii) state the date by which the person must act to enter into an extended payment plan;

(iii) explain the procedures the person must follow to enter into an extended payment plan;

(iv) subject to Subsection 7-23-403(7), if the deferred deposit lender requires the person to make an initial payment to enter into an extended payment plan:

(A) explain the requirement; and

(B) state the amount of the initial payment and the date the initial payment shall be made;

(v) state that the person has the opportunity to enter into an extended payment plan for a time

period meeting the requirements of Subsection 7-23-403(2)(b); and

(vi) include the following amounts:

(A) the remaining balance on the original deferred deposit loan;

(B) the total payments made on the deferred deposit loan;

(C) any charges added to the deferred deposit loan amount allowed pursuant to this chapter; and

(D) the total amount due if the person enters into an extended payment plan.

Section 3. Section 7-23-403 is amended to read:

7-23-403. Extended payment plan.

(1) (a) If a person who owes money on a deferred deposit loan requests to enter into an extended payment plan, the deferred deposit lender who extended the deferred deposit loan shall allow the person to enter into an extended payment plan that meets the requirements of this section at least once during a 12-month period to pay the money owed.

(b) A deferred deposit lender is not required to enter into an extended payment plan with a person who owes money on a deferred deposit loan more than one time during a 12-month period.

(c) Notwithstanding the other provisions of this Subsection (1), if a person is charged 10 continuous weeks of interest or fees on a deferred deposit loan, including rollovers, at the end of the 10-week period:

(i) the person may request to repay the deferred deposit loan and rollovers under an extended payment plan that meets the requirements of this section; and

(ii) the deferred deposit lender shall execute the extended payment plan in accordance with this section.

(2) An extended payment plan shall include the following:

(a) A deferred deposit lender shall require a person who receives a deferred deposit loan and wants to enter an extended payment plan to enter into a written agreement:

(i) with the deferred deposit lender;

(ii) that is executed:

(A) no sooner than the day before the last day of the initial term of the deferred deposit loan; ~~and~~

(B) except as provided in Subsection (2)(a)(ii)(C), no later than the ~~[end of the deferred deposit lender's]~~ business day before the day on which the deferred deposit loan is due; and

(C) for an extended payment plan offered after a default on a deferred deposit loan, 10 days after receiving the notice described in Subsection 7-23-401(8), unless a later date is allowed by the deferred deposit lender;

(iii) that is signed by the deferred deposit lender or its agent and the person;

(iv) a copy of which is given to the person; and

~~(iii)~~ (v) that states:

(A) a payment schedule; and

(B) the money owed under the extended payment plan.

(b) A payment schedule for an extended payment plan shall provide that the money owed may be paid:

(i) in at least four equal payments; and

(ii) over a time period that is at least ~~[60 days.]~~ the greater of:

(A) 90 days after the date of default; or

(B) 60 days after entering into an extended payment plan.

(c) The money owed under an extended payment plan shall equal the money owed under the deferred deposit loan, including interest and fees, that would be due if the deferred deposit loan is paid in full on the last day of the most current term of the deferred deposit loan.

(3) (a) A deferred deposit lender may not charge interest or fees as part of an extended payment plan~~[-]~~ regardless of the name given to the interest or fees including:

(i) an origination fee;

(ii) a set-up fee;

(iii) a collection fee;

(iv) a transaction fee;

(v) a negotiation fee;

(vi) a handling fee;

(vii) a processing fee;

(viii) a late fee; or

(ix) a default fee.

(b) Except as provided in Subsection (7), a deferred deposit lender may not accept any additional security or collateral from the person who receives the deferred deposit loan to enter into the extended payment plan.

(c) A deferred deposit lender may not sell to the person who receives the deferred deposit loan any insurance or require the person to purchase insurance or any other goods or services to enter into the extended payment plan.

~~(4b)~~ (d) A deferred deposit loan may not be considered in default during the extended payment period if the person who receives the deferred deposit loan complies with the terms of the extended payment plan.

~~(4e)~~ (e) If a person who receives a deferred deposit loan defaults during the extended payment plan period, the deferred deposit lender may:

(i) accelerate the requirement to pay the money owed under the extended payment plan;

(ii) charge a fee not to exceed \$20;

(iii) terminate the extended payment plan; and

(iv) subject to the other requirements of this chapter, reinstate the original deferred deposit loan terms.

(4) A deferred deposit loan may not penalize a person who enters into an extended payment plan for paying to the deferred deposit lender money owed under the extended payment plan before the money is due.

(5) (a) A deferred deposit lender may not initiate collection activities for a deferred deposit loan that is subject to an extended payment plan during the period that the person owing money under the extended payment plan is in compliance with the extended payment plan.

(b) A deferred deposit lender may not attempt to collect an amount that is greater than the amount owed under the terms of an extended payment plan.

(6) A deferred deposit lender may not collect additional interest or fees on a deferred deposit loan, except for the fee imposed under Subsection (3)~~(4e)~~(e)(ii), from a person who has been charged 10 weeks interest and defaults under the extended payment plan described in Subsection (1)(c).

(7) Under an extended payment plan:

(a) a deferred deposit lender may require the person who receives a deferred deposit loan to make an initial payment of not more than 20% of the total amount due under the terms of the extended payment plan if the person has defaulted on the deferred deposit loan;

(b) (i) a deferred deposit lender may require a person who receives a deferred deposit loan to provide the deferred deposit lender, as security, one or more checks or written authorizations for an electronic transfer of money that equal the total amount due under the terms of the extended payment plan;

(ii) if the person who receives a deferred deposit loan makes a payment in the amount of a check or written authorization taken as security for that payment, the deferred deposit lender shall:

(A) return to the person the check or written authorization stamped "void"; or

(B) destroy the check or written authorization; and

(iii) the deferred deposit lender may not charge a fee to the person who receives the deferred deposit loan for a check that is provided as security during the extended payment plan and that is not paid upon presentment if the deferred deposit lender has previously charged a fee under Subsection

7-23-401(5) at least once in connection with that deferred deposit loan.

(8) When a person who receives a deferred deposit loan makes a payment pursuant to an extended payment plan, the deferred deposit lender shall give to the person a receipt with the following information:

(a) the name and address of the deferred deposit lender;

(b) the identification number assigned to the deferred deposit loan agreement or other information that identifies the deferred deposit loan;

(c) the date of the payment;

(d) the amount paid;

(e) the balance due on the deferred deposit loan or, when the person makes the final payment, a statement that the deferred deposit loan is paid in full; and

(f) if more than one deferred deposit loan made by the deferred deposit lender to the person is outstanding at the time the payment is made, a statement indicating to which deferred deposit loan the payment is applied.

Section 4. Effective date.

This bill takes effect on July 1, 2016.

CHAPTER 249**H. B. 316**

Passed March 10, 2016
 Approved March 24, 2016
 Effective July 1, 2016

**BUILDING CODE REVIEW
 AND ADOPTION AMENDMENTS**

Chief Sponsor: Brad R. Wilson
 Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill amends provisions related to the State Construction Code.

Highlighted Provisions:

This bill:

- ▶ modifies the process by which the Legislature adopts new versions of the State Construction Code and the State Fire Code;
- ▶ addresses the ability of state and local entities to adopt a rule or ordinance that is different from the State Construction Code or the State Fire Code;
- ▶ adopts, with amendments:
 - the 2015 International Building Code;
 - the 2015 International Residential Code;
 - the 2015 International Plumbing Code;
 - the 2015 International Mechanical Code;
 - the 2015 International Fuel Gas Code;
 - the 2014 National Electric Code;
 - the 2015 International Energy Conservation Code; and
 - the 2015 International Existing Building Code;
- ▶ updates provisions to coordinate with the newly adopted international codes;
- ▶ amends provisions related to the amount of fireworks a person may store in a building equipped with an approved sprinkler system;
- ▶ amends provisions related to carbon monoxide alarm installation;
- ▶ amends provisions related to supplying toilet facilities during building construction;
- ▶ provides an alternative means of complying with the International Energy Conservation Code;
- ▶ amends provisions related to air duct leakage testing;
- ▶ modifies the amount of allowed air duct leakage;
- ▶ modifies energy rating index compliance requirements;
- ▶ modifies installation requirements for potable water supply protection;
- ▶ modifies electrical wiring requirements for a basement, garage, or accessory building;
- ▶ deletes a requirement in the International Plumbing Code that trenching parallel to a footing or wall not extend into the bearing plane of the footing or wall;
- ▶ deletes an International Plumbing Code requirement for installation of a temperature limiting device in a footbath, pedicure bath, or head shampoo sink;
- ▶ deletes an International Plumbing Code requirement for multiple-compartment sinks

- that discharge independently to a waste receptor;
- ▶ provides an alternative method for storm drain installation;
- ▶ provides for the use of a gray water recycling system in a single family residential area;
- ▶ provides an alternative compliance method related to embedded joints;
- ▶ provides an alternative method for installing an overcurrent device;
- ▶ enacts a provision related to building permits for projects using polyurethane insulated concrete form block;
- ▶ provides emission requirements for certain natural gas-fired water heaters; and
- ▶ amends provisions to coordinate with newly adopted codes and related Utah Code sections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 15A-1-204, as last amended by Laws of Utah 2014, Chapters 178 and 189
- 15A-1-403, as enacted by Laws of Utah 2011, Chapter 14
- 15A-2-102, as last amended by Laws of Utah 2014, Chapter 189
- 15A-2-103, as last amended by Laws of Utah 2015, Chapter 258
- 15A-2-104, as last amended by Laws of Utah 2014, Chapter 189
- 15A-3-102, as last amended by Laws of Utah 2013, Chapter 297
- 15A-3-103, as last amended by Laws of Utah 2013, Chapter 297
- 15A-3-104, as last amended by Laws of Utah 2014, Chapter 243
- 15A-3-105, as last amended by Laws of Utah 2013, Chapter 297
- 15A-3-106, as last amended by Laws of Utah 2014, Chapter 153
- 15A-3-107, as last amended by Laws of Utah 2013, Chapter 297
- 15A-3-108, as last amended by Laws of Utah 2013, Chapter 297
- 15A-3-110, as last amended by Laws of Utah 2013, Chapter 297
- 15A-3-112, as last amended by Laws of Utah 2013, Chapter 297
- 15A-3-113, as last amended by Laws of Utah 2013, Chapter 297
- 15A-3-202, as last amended by Laws of Utah 2015, Chapter 205
- 15A-3-203, as last amended by Laws of Utah 2013, Chapter 279
- 15A-3-204, as last amended by Laws of Utah 2013, Chapter 297
- 15A-3-205, as last amended by Laws of Utah 2013, Chapter 297
- 15A-3-206, as last amended by Laws of Utah 2013, Chapter 297
- 15A-3-302, as last amended by Laws of Utah 2013, Chapter 297
- 15A-3-303, as last amended by Laws of Utah 2013, Chapter 297

15A-3-304, as last amended by Laws of Utah 2013, Chapter 297
 15A-3-305, as last amended by Laws of Utah 2013, Chapter 297
 15A-3-306, as last amended by Laws of Utah 2014, Chapter 189
 15A-3-308, as enacted by Laws of Utah 2011, Chapter 14
 15A-3-310, as last amended by Laws of Utah 2013, Chapter 297
 15A-3-311, as last amended by Laws of Utah 2013, Chapter 297
 15A-3-313, as last amended by Laws of Utah 2013, Chapter 297
 15A-3-314, as last amended by Laws of Utah 2013, Chapter 297
 15A-3-401, as last amended by Laws of Utah 2014, Chapter 100
 15A-3-501, as last amended by Laws of Utah 2013, Chapter 297
 15A-3-601, as last amended by Laws of Utah 2013, Chapter 297
 15A-3-701, as last amended by Laws of Utah 2013, Chapter 279
 15A-3-801, as last amended by Laws of Utah 2013, Chapter 297
 15A-4-103, as enacted by Laws of Utah 2011, Chapter 14
 15A-4-107, as enacted by Laws of Utah 2011, Chapter 14
 15A-4-203, as enacted by Laws of Utah 2011, Chapter 14
 58-11a-502, as last amended by Laws of Utah 2014, Chapter 100

ENACTS:

15A-3-315, Utah Code Annotated 1953
 15A-3-901, Utah Code Annotated 1953
 15A-6-101, Utah Code Annotated 1953
 15A-6-102, Utah Code Annotated 1953
 15A-6-201, Utah Code Annotated 1953
 15A-6-202, Utah Code Annotated 1953

REPEALS:

15A-3-106.5, as enacted by Laws of Utah 2014, Chapter 153

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 15A-1-204 is amended to read:**15A-1-204. Adoption of State Construction Code -- Amendments by commission -- Approved codes -- Exemptions.**

(1) (a) The State Construction Code is the construction codes adopted with any modifications in accordance with this section that the state and each political subdivision of the state shall follow.

(b) A person shall comply with the applicable provisions of the State Construction Code when:

- (i) new construction is involved; and
- (ii) the owner of an existing building, or the owner's agent, is voluntarily engaged in:

(A) the repair, renovation, remodeling, alteration, enlargement, rehabilitation, conservation, or reconstruction of the building; or

(B) changing the character or use of the building in a manner that increases the occupancy loads, other demands, or safety risks of the building.

(c) On and after July 1, 2010, the State Construction Code is the State Construction Code in effect on July 1, 2010, until in accordance with this section:

- (i) a new State Construction Code is adopted; or
- (ii) one or more provisions of the State Construction Code are amended or repealed in accordance with this section.

(d) A provision of the State Construction Code may be applicable:

- (i) to the entire state; or
- (ii) within a county, city, or town.

(2) (a) The Legislature shall adopt a State Construction Code by enacting legislation that adopts a nationally recognized construction code with any modifications.

(b) ~~Legislation [enacted under this Subsection (2)]~~ described in Subsection (2)(a) shall state that ~~[it] the legislation takes effect on the July 1 after the day on which the legislation is enacted, unless otherwise stated in the legislation.~~

(c) Subject to Subsection ~~[(5)]~~ (6), a State Construction Code adopted by the Legislature is the State Construction Code until, in accordance with this section, the Legislature adopts a new State Construction Code by:

- (i) adopting a new State Construction Code in its entirety; or
- (ii) amending or repealing one or more provisions of the State Construction Code.

(3) (a) Except as provided in Subsection (3)(b), for each update of a nationally recognized construction code, the commission shall prepare a report described in Subsection (4).

(b) For the provisions of a nationally recognized construction code that apply only to detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with separate means of egress and their accessory structures, the commission shall:

- (i) prepare a report described in Subsection (4) in 2021 and, thereafter, for every second update of the nationally recognized construction code; and
- (ii) not prepare a report described in Subsection (4) in 2018.

(4) (a) In accordance with Subsection (3), on or before September 1 of the same year as the year designated in the title of a nationally recognized construction code, the commission shall prepare and submit a report to the Business and Labor Interim Committee that:

- (i) states whether the commission recommends the Legislature adopt the update with any modifications; and
- (ii) describes the costs and benefits of each recommended change in the update or in any modification.

(b) After the Business and Labor Interim Committee receives the report described in Subsection (4)(a), the Business and Labor Interim Committee shall:

(i) study the recommendations during the remainder of the interim; and

(ii) if the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, prepare legislation for consideration by the Legislature in the next general session.

~~[(3)] (5) (a) (i) The commission shall, by no later than November 30 of each year in which the commission is not required to submit a report described in Subsection (4), recommend in a report to the Business and Labor Interim Committee whether the Legislature should:—(i) amend or repeal one or more provisions of [a] the State Construction Code[;—or].~~

~~[(ii) in a year of a regularly scheduled update of a nationally recognized code, adopt a construction code with any modifications.]~~

(ii) As part of a recommendation described in Subsection (5)(a)(i), the commission shall describe the costs and benefits of each proposed amendment or repeal.

(b) The commission may recommend legislative action related to the State Construction Code:

(i) on its own initiative;

(ii) upon the recommendation of the division; or

(iii) upon the receipt of a request by one of the following that the commission recommend legislative action related to the State Construction Code:

(A) a local regulator;

(B) a state regulator;

(C) a state agency involved with the construction and design of a building;

(D) the Construction Services Commission;

(E) the Electrician Licensing Board;

(F) the Plumbers Licensing Board; or

(G) a recognized construction-related association.

~~[(4)] (c) If the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, the Business and Labor Interim Committee shall prepare legislation for consideration by the Legislature in the next general session [that, if passed by the Legislature, would].~~

~~[(a) adopt a new State Construction Code in its entirety; or]~~

~~[(b) amend or repeal one or more provisions of the State Construction Code.]~~

~~[(5)] (6) (a) Notwithstanding [Subsection (3)] the provisions of this section, the commission may, in accordance with Title 63G, Chapter 3, Utah~~

Administrative Rulemaking Act, amend the State Construction Code if the commission determines that waiting for legislative action in the next general legislative session would:

(i) cause an imminent peril to the public health, safety, or welfare; or

(ii) place a person in violation of federal or other state law.

(b) If the commission amends the State Construction Code in accordance with this Subsection ~~[(5)] (6)~~, the commission shall file with the division:

(i) the text of the amendment to the State Construction Code; and

(ii) an analysis that includes the specific reasons and justifications for the commission's findings.

(c) If the State Construction Code is amended under this Subsection ~~[(5)] (6)~~, the division shall:

(i) publish the amendment to the State Construction Code in accordance with Section 15A-1-205; and

(ii) notify the Business and Labor Interim Committee of the amendment to the State Construction Code, including a copy of the commission's analysis described in Subsection ~~[(5)] (6)~~(b)(ii).

(d) If not formally adopted by the Legislature at ~~[its]~~ the next annual general session, an amendment to the State Construction Code under this Subsection ~~[(5)] (6)~~ is repealed on the July 1 immediately following the next annual general session that follows the adoption of the amendment.

~~[(6)] (7) (a) The division, in consultation with the commission, may approve, without adopting, one or more approved codes, including a specific edition of a construction code, for use by a compliance agency.~~

(b) If the code adopted by a compliance agency is an approved code described in Subsection ~~[(6)] (7)~~(a), the compliance agency may:

(i) adopt an ordinance requiring removal, demolition, or repair of a building;

(ii) adopt, by ordinance or rule, a dangerous building code; or

(iii) adopt, by ordinance or rule, a building rehabilitation code.

(8) Except as provided in Subsections (6), (7), (9), and (10), or as expressly provided in state law, a state executive branch entity or political subdivision of the state may not, after December 1, 2016, adopt or enforce a rule, ordinance, or requirement that applies to a subject specifically addressed by, and that is more restrictive than, the State Construction Code.

(9) A state executive branch entity or political subdivision of the state may:

(a) enforce a federal law or regulation;

(b) adopt or enforce a rule, ordinance, or requirement if the rule, ordinance, or requirement

applies only to a facility or construction owned or used by a state entity or a political subdivision of the state; or

(c) enforce a rule, ordinance, or requirement:

(i) that the state executive branch entity or political subdivision adopted or made effective before July 1, 2015; and

(ii) for which the state executive branch entity or political subdivision can demonstrate, with substantial evidence, that the rule, ordinance, or requirement is necessary to protect an individual from a condition likely to cause imminent injury or death.

(10) The Department of Health or the Department of Environmental Quality may enforce a rule or requirement adopted before January 1, 2015.

[(7)] (11) (a) Except as provided in Subsection [(7)] (11)(b), a structure used solely in conjunction with agriculture use, and not for human occupancy, is exempt from the permit requirements of the State Construction Code.

(b) (i) Unless exempted by a provision other than Subsection [(7)] (11)(a), a plumbing, electrical, and mechanical permit may be required when that work is included in a structure described in Subsection [(7)] (11)(a).

(ii) Unless located in whole or in part in an agricultural protection area created under Title 17, Chapter 41, Agriculture and Industrial Protection Areas, a structure described in Subsection [(7)] (11)(a) is not exempt from a permit requirement if the structure is located on land that is:

(A) within the boundaries of a city or town, and less than five contiguous acres; or

(B) within a subdivision for which the county has approved a subdivision plat under Title 17, Chapter 27a, Part 6, Subdivisions, and less than two contiguous acres.

[(8)] (12) A structure that is no more than 1,000 square feet and is used solely for the type of sales described in Subsection 59-12-104(20) is exempt from the permit requirements described in:

(a) Chapter 2, Adoption of State Construction Code;

(b) Chapter 3, Statewide Amendments Incorporated as Part of State Construction Code; and

(c) Chapter 4, Local Amendments Incorporated as Part of State Construction Code.

Section 2. Section 15A-1-403 is amended to read:

15A-1-403. Adoption of State Fire Code.

(1) (a) The State Fire Code is:

(i) a code promulgated by a nationally recognized code authority that is adopted by the Legislature under this section with any modifications; and

(ii) a code to which cities, counties, fire protection districts, and the state shall adhere in safeguarding life and property from the hazards of fire and explosion.

(b) On and after July 1, 2010, the State Fire Code is the State Fire Code in effect on July 1, 2010, until in accordance with this section:

(i) a new State Fire Code is adopted; or

(ii) one or more provisions of the State Fire Code are amended or repealed in accordance with this section.

(c) A provision of the State Fire Code may be applicable:

(i) to the entire state; or

(ii) within a city, county, or fire protection district.

(2) (a) The Legislature shall adopt a State Fire Code by enacting legislation that adopts a nationally recognized fire code with any modifications.

(b) Legislation ~~enacted under this~~ described in Subsection (2)(a) shall state that ~~it~~ the legislation takes effect on the July 1 after the day on which the legislation is enacted, unless otherwise stated in the legislation.

(c) Subject to Subsection ~~[(5)]~~ (6), a State Fire Code adopted by the Legislature is the State Fire Code until in accordance with this section the Legislature adopts a new State Fire Code by:

(i) adopting a new State Fire Code in its entirety; or

(ii) amending or repealing one or more provisions of the State Fire Code.

(3) (a) Except as provided in Subsection (3)(b), for each update of a nationally recognized fire code, the board shall prepare a report described in Subsection (4).

(b) For the provisions of a nationally recognized fire code that apply only to detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with separate means of egress and their accessory structures, the board shall:

(i) prepare a report described in Subsection (4) in 2021 and, thereafter, for every second update of the nationally recognized fire code; and

(ii) not prepare a report described in Subsection (4) in 2018.

(4) (a) In accordance with Subsection (3), on or before September 1 of the same year as the year designated in the title of an update of a nationally recognized fire code, the board shall prepare and submit a report to the Business and Labor Interim Committee that:

(i) states whether the board recommends the Legislature adopt the update with any modifications; and

(ii) describes the costs and benefits of each recommended change in the update or in any modification.

(b) After the Business and Labor Interim Committee receives the report described in Subsection (4)(a), the Business and Labor Interim Committee shall:

(i) study the recommendations during the remainder of the interim; and

(ii) if the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, prepare legislation for consideration by the Legislature in the next general session.

~~[(3)]~~ (5) (a) (i) The board shall, by no later than November 30 of each year in which the board is not required to submit a report described in Subsection (4), recommend in a report to the Business and Labor Interim Committee whether the Legislature should ~~[(3)]~~ amend or repeal one or more provisions of the State Fire Code ~~[(3)]~~.

~~[(ii) in a year of a regularly scheduled update of a nationally recognized fire code, adopt with any modifications the nationally recognized fire code.]~~

(ii) As part of a recommendation described in Subsection (5)(a)(i), the board shall describe the costs and benefits of each proposed amendment or repeal.

(b) The board may recommend legislative action related to the State Fire Code:

(i) on its own initiative; or

(ii) upon the receipt of a request by a city, county, or fire protection district that the board recommend legislative action related to the State Fire Code.

(c) Within 45 days after ~~[(receipt of)]~~ the day on which the board receives a request under Subsection ~~[(3)]~~ (5)(b), the board shall direct the division to convene an informal hearing concerning the request.

(d) The board shall conduct a hearing under this section in accordance with the rules of the board.

(e) The board shall decide whether to include the request in the report ~~[(required under)]~~ described in Subsection ~~[(3)]~~ (5)(a) ~~[(whether to recommend the legislative action raised by a request)].~~

(f) (i) Within 15 days ~~[(following the completion of a hearing of the board under this Subsection (3), the board)]~~ after the day on which the board conducts a hearing, the board shall direct the division to notify the entity that made the request of the board's decision regarding the request.

(ii) The division shall provide the notice:

~~[(4)]~~ (A) in writing; and

~~[(4)]~~ (B) in a form prescribed by the board.

~~[(4)]~~ (g) If the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, the Business and Labor Interim Committee shall prepare legislation for consideration by the Legislature in the next general session that, if passed by the Legislature, would ~~[(a) adopt a new State Fire Code in its entirety; or~~

~~[(b)]~~ amend or repeal one or more provisions of the State Fire Code.

~~[(5)]~~ (6) (a) Notwithstanding ~~[(Subsection (3))] the provisions of this section, the board may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, amend a State Fire Code if the board determines that waiting for legislative action in the next general legislative session would:~~

(i) cause an imminent peril to the public health, safety, or welfare; or

(ii) place a person in violation of federal or other state law.

(b) If the board amends a State Fire Code in accordance with this Subsection ~~[(6)]~~ (6), the board shall:

(i) publish the State Fire Code with the amendment; and

(ii) notify the Business and Labor Interim Committee of the adoption, including a copy of an analysis by the board identifying specific reasons and justifications for its findings.

(c) If not formally adopted by the Legislature at ~~[(its)]~~ the next annual general session, an amendment to a State Fire Code adopted under this Subsection ~~[(5)]~~ (6) is repealed on the July 1 immediately following the next annual general session that follows the adoption of the amendment.

~~[(6)]~~ (7) (a) [A] Except as provided in Subsection (7)(b), a legislative body of a political subdivision may enact an ordinance in the political subdivision's fire code that is more restrictive ~~[(in its fire code requirements)]~~ than the State Fire Code:

(i) in order to meet a public safety need of the political subdivision; and

(ii) subject to the requirements of ~~[(this)]~~ Subsection ~~[(6)]~~ (7)(c).

(b) Except as provided in Subsections (7)(c), (10), and (11), or as expressly provided in state law, a political subdivision may not, after December 1, 2016, enact or enforce a rule or ordinance that applies to a structure built in accordance with the International Residential Code, as adopted in the State Construction Code, that is more restrictive than the State Fire Code.

(c) A political subdivision may adopt:

(i) the appendices of the International Fire Code, 2015 edition; and

(ii) a fire sprinkler ordinance in accordance with Section 15A-5-203.

~~[(6)]~~ (d) A legislative body of a political subdivision that enacts an ordinance under ~~[(this section on or after July 1, 2010)]~~ Subsection (7)(a) shall:

(i) notify the board in writing at least 30 days before the day on which the legislative body enacts the ordinance and include in the notice a statement as to the proposed subject matter of the ordinance; and

(ii) after the legislative body enacts the ordinance, report to the board before the board makes the report required under Subsection ~~[(6)](e)~~ (7)(e), including providing the board:

(A) a copy of the ordinance enacted under this Subsection ~~[(6)]~~ (7); and

(B) a description of the public safety need that is the basis of enacting the ordinance.

~~[(e)]~~ (e) The board shall submit to the Business and Labor Interim Committee each year with the recommendations submitted in accordance with Subsection ~~[(3)]~~ (4):

(i) a list of the ordinances enacted under this Subsection ~~[(6)]~~ (7) during the fiscal year immediately ~~[proceeding]~~ preceding the report; and

(ii) recommendations, if any, for legislative action related to an ordinance enacted under this Subsection ~~[(6)]~~ (7).

~~[(d)]~~ (f) (i) The state fire marshal shall keep an indexed copy of an ordinance enacted under this Subsection ~~[(6)]~~ (7).

(ii) The state fire marshal shall make a copy of an ordinance enacted under this Subsection ~~[(6)]~~ (7) available on request.

~~[(e)]~~ (g) The board may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish procedures for a legislative body of a political subdivision to follow to provide the notice and report required under this Subsection ~~[(6)]~~ (7).

(8) Except as provided in Subsections (9), (10), and (11), or as expressly provided in state law, a state executive branch entity may not, after December 1, 2016, adopt or enforce a rule or requirement that:

(a) is more restrictive than the State Fire Code; and

(b) applies to detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with a separate means of egress and their accessory structures.

(9) A state government entity may adopt a rule or requirement regarding a residential occupancy that is regulated by:

(a) the State Fire Prevention Board;

(b) the Department of Health; or

(c) the Department of Human Services.

(10) A state executive branch entity or political subdivision of the state may:

(a) enforce a federal law or regulation;

(b) adopt or enforce a rule, ordinance, or requirement if the rule, ordinance, or requirement applies only to a facility or construction owned or used by a state entity or a political subdivision of the state; or

(c) enforce a rule, ordinance, or requirement:

(i) that the state executive branch entity or political subdivision adopted or made effective before July 1, 2015; and

(ii) for which the state executive branch entity or political subdivision can demonstrate, with substantial evidence, that the rule, ordinance, or requirement is necessary to protect an individual from a condition likely to cause imminent injury or death.

(11) The Department of Health or the Department of Environmental Quality may enforce a rule or requirement adopted before January 1, 2015.

Section 3. Section 15A-2-102 is amended to read:

15A-2-102. Definitions.

As used in this chapter and Chapter 3, Statewide Amendments Incorporated as Part of State Construction Code, and Chapter 4, Local Amendments Incorporated as Part of State Construction Code:

(1) "HUD Code" means the Federal Manufactured Housing Construction and Safety Standards Act, as issued by the Department of Housing and Urban Development and published in 24 C.F.R. Parts 3280 and 3282 (as revised April 1, 1990).

(2) "IBC" means the edition of the International Building Code adopted under Section 15A-2-103.

(3) "IEBC" means the edition of the International Existing Building Code adopted under Section 15A-2-103.

~~[(3)]~~ (4) "IECC" means the edition of the International Energy Conservation Code adopted under Section 15A-2-103.

~~[(4)]~~ (5) "IFGC" means the edition of the International Fuel Gas Code adopted under Section 15A-2-103.

~~[(5)]~~ (6) "IMC" means the edition of the International Mechanical Code adopted under Section 15A-2-103.

~~[(6)]~~ (7) "IPC" means the edition of the International Plumbing Code adopted under Section 15A-2-103.

~~[(7)]~~ (8) "IRC" means the edition of the International Residential Code adopted under Section 15A-2-103.

~~[(8)]~~ (9) "NEC" means the edition of the National Electrical Code adopted under Section 15A-2-103.

~~[(9)]~~ (10) "UWUI" means the edition of the Utah Wildland Urban Interface Code adopted under Section 15A-2-103.

Section 4. Section 15A-2-103 is amended to read:

15A-2-103. Specific editions adopted of construction code of a nationally recognized code authority.

(1) Subject to the other provisions of this part, the following construction codes are incorporated by

reference, and together with the amendments specified in Chapter 3, Part 3, Statewide Amendments to International Plumbing Code, and Chapter 4, Local Amendments Incorporated as Part of State Construction Code, are the construction standards to be applied to building construction, alteration, remodeling, and repair, and in the regulation of building construction, alteration, remodeling, and repair in the state:

(a) the [2012] 2015 edition of the International Building Code, including Appendix J, issued by the International Code Council;

(b) the [2012] 2015 edition of the International Residential Code, issued by the International Code Council;

(c) the [2012] 2015 edition of the International Plumbing Code, issued by the International Code Council;

(d) the [2012] 2015 edition of the International Mechanical Code, issued by the International Code Council;

(e) the [2012] 2015 edition of the International Fuel Gas Code, issued by the International Code Council;

(f) the [2011] 2014 edition of the National Electrical Code, issued by the National Fire Protection Association;

(g) the [2012] 2015 edition of the International Energy Conservation Code, issued by the International Code Council;

(h) the 2015 edition of the International Existing Building Code, issued by the International Code Council;

~~(h)~~ (i) subject to Subsection 15A-2-104(2), the HUD Code;

~~(i)~~ (j) subject to Subsection 15A-2-104(1), Appendix E of the [2012] 2015 edition of the International Residential Code, issued by the International Code Council; and

~~(j)~~ (k) subject to Subsection 15A-2-104(1), the 2005 edition of the NFPA 225 Model Manufactured Home Installation Standard, issued by the National Fire Protection Association.

(2) Consistent with Title 65A, Chapter 8, Management of Forest Lands and Fire Control, the Legislature adopts the 2006 edition of the Utah Wildland Urban Interface Code, issued by the International Code Council, with the alternatives or amendments approved by the Utah Division of Forestry, as a construction code that may be adopted by a local compliance agency by local ordinance or other similar action as a local amendment to the codes listed in this section.

Section 5. Section 15A-2-104 is amended to read:

15A-2-104. Installation standards for manufactured housing.

(1) The following are the installation standards for manufactured housing for new installations or

for existing manufactured or mobile homes that are subject to relocation, building alteration, remodeling, or rehabilitation in the state:

(a) The manufacturer's installation instruction for the model being installed is the primary standard.

(b) If the manufacturer's installation instruction for the model being installed is not available or is incomplete, the following standards apply:

(i) Appendix E of the [2012] 2015 edition of the IRC, as issued by the International Code Council for installations defined in Section AE101 of Appendix E; or

(ii) if an installation is beyond the scope of the [2012] 2015 edition of the IRC as defined in Section AE101 of Appendix E, the 2005 edition of the NFPA 225 Model Manufactured Home Installation Standard, issued by the National Fire Protection Association.

(c) A manufacturer, dealer, or homeowner is permitted to design for unusual installation of a manufactured home not provided for in the manufacturer's standard installation instruction, Appendix E of the [2012] 2015 edition of the IRC, or the 2005 edition of the NFPA 225, if the design is approved in writing by a professional engineer or architect licensed in Utah.

(d) For a mobile home built before June 15, 1976, the mobile home shall also comply with the additional installation and safety requirements specified in Chapter 3, Part 8, Installation and Safety Requirements for Mobile Homes Built Before June 15, 1976.

(2) Pursuant to the HUD Code Section 604(d), a manufactured home may be installed in the state that does not meet the local snow load requirements as specified in Chapter 3, Part 2, Statewide Amendments to International Residential Code, except that the manufactured home shall have a protective structure built over the home that meets the IRC and the snow load requirements under Chapter 3, Part 2, Statewide Amendments to International Residential Code.

Section 6. Section 15A-3-102 is amended to read:

15A-3-102. Amendments to Chapters 1 through 3 of IBC.

(1) IBC, Section 106, is deleted.

(2) ~~(a)~~ In IBC, Section 110, a new section is added as follows: "[~~110.3.5~~] 110.3.5.1, Weather-resistant exterior wall envelope. An inspection shall be made of the weather-resistant exterior wall envelope as required by Section 1403.2, and flashing as required by Section 1405.4 to prevent water from entering the weather-resistive barrier."

~~(b) The remaining sections of IBC, Section 110, are renumbered as follows: 110.3.6, Lath or gypsum board inspection; 110.3.7, Fire and smoke-resistant penetrations; 110.3.8, Energy efficiency inspections; 110.3.9, Other inspections;~~

~~110.3.10, Special inspections; and 110.3.11, Final inspection.]~~

(3) IBC, Section 115.1, is deleted and replaced with the following: "115.1 Authority. Whenever the building official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or other pertinent laws or ordinances or is dangerous or unsafe, the building official is authorized to stop work."

(4) In IBC, Section 202, the following definition is added for Ambulatory Surgical Center: "AMBULATORY SURGICAL CENTER. A building or portion of a building licensed by the Utah Department of Health where procedures are performed that may render patients incapable of self preservation where care is less than 24 hours. See Utah Administrative Code R432-13."

(5) In IBC, Section 202, the definition for Foster Care Facilities is modified by changing the word "Foster" to "Child."

(6) In IBC, Section 202, the definition for "[F]Record Drawings" is modified by deleting the words "a fire alarm system" and replacing them with "any fire protection system".

(7) In IBC, Section 202, the following definition is added for Residential Treatment/Support Assisted Living Facility: "RESIDENTIAL TREATMENT/SUPPORT ASSISTED LIVING FACILITY. See Section 308.1.2."

(8) In IBC, Section 202, the following definition is added for Type I Assisted Living Facility: "TYPE I ASSISTED LIVING FACILITY. See Section 308.1.2."

(9) In IBC, Section 202, the following definition is added for Type II Assisted Living Facility: "TYPE II ASSISTED LIVING FACILITY. See Section 308.1.2."

~~[(10) In the list in IBC, Section 304.1, the following words are added after the words "Ambulatory care facilities": "where four or more care recipients are rendered incapable of self preservation."]~~

~~[(11)] (10) In IBC, Section 305.2, the words "child care centers," are inserted after the word "supervision," and the following sentence is added at the end of the paragraph: "See Section 425 for special requirements for Day Care."~~

~~[(12)] (11) In IBC, Section 305.2.2 and 305.2.3, the word "five" is deleted and replaced with the word "four" in both places.~~

~~[(13)] (12) A new IBC Section 305.2.4 is added as follows: "305.2.4 Child Day Care -- Residential Certificate or a Family License. Areas used for child day care purposes with a Residential Certificate R430-50 or a Family License, as defined in Utah Administrative Code, R430-90, Licensed Family Child Care, may be located in a Group R-2 or R-3 occupancy as provided in Section 310.5 or shall comply with the International Residential Code in accordance with Section R101.2."~~

~~[(14)] (13) A new IBC Section 305.2.5 is added as follows: "305.2.5 Child Care Centers. Areas used for Hourly Child Care Centers, as defined in Utah Administrative Code, R430-60, Child Care Center as defined in Utah Administrative Code, R430-100, or Out of School Time Programs, as defined in Utah Administrative Code, R430-70, may be classified as accessory occupancies."~~

~~(14) In IBC, Table 307.1(1), footnote "d" is added to the row for Consumer fireworks in the column titled STORAGE - Solid Pounds (cubic feet).~~

~~(15) In IBC, Section 308.2, the word "FOSTER" is deleted and replaced with "CHILD."~~

~~[(15)] (16) A new IBC Section 308.2.1 is added as follows: "308.2.1 Assisted living facilities and related occupancies. The following words and terms shall, for the purposes of this section and as used elsewhere in this code, have the meanings shown herein.~~

~~TYPE I ASSISTED LIVING FACILITY. A residential facility licensed by the Utah Department of Health that provides a protected living arrangement for ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the assistance of another person.~~

~~Occupancies. Limited capacity, type I assisted living facilities with two to five residents shall be classified as R-3 occupancies. Small, type I assisted living facilities with six to sixteen residents shall be classified as R-4 occupancies. Large, type I assisted living facilities with over sixteen residents shall be classified as I-1 occupancies.~~

~~TYPE II ASSISTED LIVING FACILITY. A residential facility licensed by the Utah Department of Health that provides an array of coordinated supportive personal and health care services to residents who meet the definition of semi-independent.~~

~~Semi-Independent. A person who is:~~

~~A. Physically disabled but able to direct his or her own care; or~~

~~B. Cognitively impaired or physically disabled but able to evacuate from the facility with the physical assistance of one person.~~

~~Occupancies. Limited capacity, type II assisted living facilities with two to five residents shall be classified as R-4 occupancies. Small, type II assisted living facilities with six to sixteen residents shall be classified as I-1 occupancies. Large, type II assisted living facilities with over sixteen residents shall be classified as I-2 occupancies.~~

~~RESIDENTIAL TREATMENT/SUPPORT ASSISTED LIVING FACILITY. A residential treatment/support assisted living facility which creates a group living environment for four or more residents licensed by the Utah Department of Human Services, and provides a protected living arrangement for ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the physical assistance of another person."~~

~~[(46)]~~ (17) In IBC, Section 308.3, the words “(see Section 308.2.1)” are added after the words “assisted living facilities[?]”.

~~[(47)]~~ (18) In IBC, Section ~~[308.3.1]~~ 308.3.4, all of the words after the first International Residential Code are deleted.

~~[(48)]~~ (19) In IBC, Section 308.4, the following changes are made:

(a) The words “five persons” are deleted and replaced with the words “three persons.”

(b) The words “foster care facilities” are deleted and replaced with “child care facilities.”

(c) The words “(both intermediate care facilities and skilled nursing facilities)” are added after “nursing homes.”

~~[(d)]~~ The words “Ambulatory Surgical Centers with five or more operating rooms” are added to the list.]

~~[(19)]~~ (20) In IBC, Section ~~[308.4.1]~~ 308.4.2, the word “five” is deleted and replaced with the word “three” in both places.

~~[(20)]~~ (21) In IBC, Section 308.6, the word “five” is deleted and replaced with the word “four[?]”.

~~[(21)]~~ (22) In IBC, Section 308.6.1, the following changes are made:

(a) The word “five” is deleted and replaced with the word “four[?]”.

(b) The words “2-1/2 years or less of age” are deleted and replaced with “under the age of two[?]”.

(c) The following sentence is added at the end: “See Section ~~[425]~~ 427 for special requirements for Day Care.”

~~[(22)]~~ (23) In IBC, Sections 308.6.3 and 308.6.4, the word “five” is deleted and replaced with the word “four” in both places and the following sentence is added at the end: “See Section ~~[425]~~ 427 for special requirements for Day Care.”

~~[(23)]~~ (24) In IBC, Section 310.5, the words “and single family dwellings complying with the IRC” are added after “Residential occupancies[?]”.

~~[(24)]~~ (25) In IBC, Section 310.5.1, the words “other than Child Care” are inserted after the word “dwelling” in the first sentence and the following sentence is added at the end: “See Section ~~[425]~~ 427 for special requirements for Child Day Care.”

~~[(25)]~~ (26) A new IBC Section ~~[310.5.2]~~ 310.5.3 is added as follows: “[~~310.5.2]~~ 310.5.3 Child Care. Areas used for child care purposes may be located in a residential dwelling unit under all of the following conditions and Section ~~[425]~~ 427:1. Compliance with Utah Administrative Code, R710-8, Day Care Rules, as enacted under the authority of the Utah Fire Prevention Board.2. Use is approved by the Utah Department of Health, as enacted under the authority of the Utah Code, Title 26, Chapter 39, Utah Child Care Licensing Act, and in any of the following categories:a. Utah Administrative Code,

R430-50, Residential Certificate Child Care.b. Utah Administrative Code, R430-90, Licensed Family Child Care.3. Compliance with all zoning regulations of the local regulator.”

~~[(26)]~~ (27) In IBC, Section 310.6, the words “(see Section 308.2.1)” are added after “assisted living facilities[?]”.

Section 7. Section 15A-3-103 is amended to read:

15A-3-103. Amendments to Chapters 4 through 6 of IBC.

(1) IBC Section 403.5.5 is deleted.

~~[(2)]~~ IBC Section ~~(F)406.5.8~~ is deleted and replaced with the following: “(F)406.5.8 Standpipe system. An open parking garage shall be equipped with an approved Class I manual standpipe system when fire department access is not provided for firefighting operations to within 150 feet of all portions of the open parking garage as measured from the approved fire department vehicle access.][Exception: Open parking garages equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 and a standpipe system is not required by Section 905.3.1.”]

~~[(3)]~~ A new IBC Section ~~(F)406.5.8.1~~ is added as follows: “(F)406.5.8.1 Installation requirements. Class I manual standpipe shall be designed and installed in accordance with Section 905 and NFPA 14. Class I manual standpipe shall be accessible throughout the parking garage such that all portions of the parking structure are protected within 150 feet of a hose connection.”]

~~[(4)]~~ (2) In IBC, Section 422.2, a new paragraph is added as follows: “422.2 Separations: Ambulatory care facilities licensed by the Utah Department of Health shall be separated from adjacent tenants with a fire ~~[barrier]~~ partition having a minimum one hour fire-resistance rating. Any level below the level of exit discharge shall be separated from the level of exit discharge by a horizontal assembly having a minimum one hour fire-resistance rating.

Exception: A fire barrier is not required to separate the level of exit discharge when:1. Such levels are under the control of the Ambulatory Care Facility.2. Any hazardous spaces are separated by horizontal assembly having a minimum one hour fire-resistance rating.”

~~[(5)]~~ (3) A new IBC Section ~~[425]~~ 427, Day Care, is added as follows:”

~~[425.1]~~ 427.1 Detailed Requirements. In addition to the occupancy and construction requirements in this code, the additional provisions of this section shall apply to all Day Care in accordance with Utah Administrative Code R710-8 Day Care Rules.

~~[425.2]~~ 427.2 Definitions.

~~[425.2.1]~~ 427.2.1 Authority Having Jurisdiction (AHJ): State Fire Marshal, his duly authorized deputies, or the local fire enforcement authority code official.

~~[425.2.2]~~ 427.2.2 Day Care Facility: Any building or structure occupied by clients of any age who receive custodial care for less than 24 hours by individuals

other than parents, guardians, relatives by blood, marriage or adoption.

[425.2.3] 427.2.3 Day Care Center: Providing care for five or more clients in a place other than the home of the person cared for. This would also include Child Care Centers, Out of School Time or Hourly Child Care Centers licensed by the Department of Health.

[425.2.4] 427.2.4 Family Day Care: Providing care for clients listed in the following two groups:

[425.2.4.1] 427.2.4.1 Type 1: Services provided for five to eight clients in a home. This would also include a home that is certified by the Department of Health as Residential Certificate Child Care or licensed as Family Child Care.

[425.2.4.2] 427.2.4.2 Type 2: Services provided for nine to sixteen clients in a home with sufficient staffing. This would also include a home that is licensed by the Department of Health as Family Child Care.

425.2.5] 427.2.5 R710-8: Utah Administrative Code, R710-8, Day Care Rules, as enacted under the authority of the Utah Fire Prevention Board.

[425.3.] 427.3 Family Day Care.

[425.3.1] 427.3.1 Family Day Care units shall have on each floor occupied by clients, two separate means of egress, arranged so that if one is blocked the other will be available.

[425.3.2] 427.3.2 Family Day Care units that are located in the basement or on the second story shall be provided with two means of egress, one of which shall discharge directly to the outside.

[425.3.2.1] 427.3.2.1 Residential Certificate Child Care and Licensed Family Child Care with five to eight clients in a home, located on the ground level or in a basement, may use an emergency escape or rescue window as allowed in IFC, Chapter 10, Section [1029] 1030.

[425.3.3] 427.3.3 Family Day Care units shall not be located above the second story.

[425.3.4] 427.3.4 In Family Day Care units, clients under the age of two shall not be located above or below the first story.

[425.3.4.1] 427.3.4.1 Clients under the age of two may be housed above or below the first story where there is at least one exit that leads directly to the outside and complies with IFC, Section [1009] 1011 or Section [1010] 1012 or Section [1026] 1027.

[425.3.5] 427.3.5 Family Day Care units located in split entry/split level type homes in which stairs to the lower level and upper level are equal or nearly equal, may have clients housed on both levels when approved by the AHJ.

[425.3.6] 427.3.6 Family Day Care units shall have a portable fire extinguisher on each level occupied by clients, which shall have a classification of not less than 2A:10BC, and shall be serviced in accordance with NFPA, Standard 10, Standard for Portable Fire Extinguishers.

[425.3.7] 427.3.7 Family Day Care units shall have single station smoke detectors in good operating condition on each level occupied by clients. Battery operated smoke detectors shall be permitted if the facility demonstrates testing, maintenance, and

battery replacement to insure continued operation of the smoke detectors.

[425.3.8] 427.3.8 Rooms in Family Day Care units that are provided for clients to sleep or nap, shall have at least one window or door approved for emergency escape.

[425.3.9] 427.3.9 Fire drills shall be conducted in Family Day Care units quarterly and shall include the complete evacuation from the building of all clients and staff. At least annually, in Type I Family Day Care units, the fire drill shall include the actual evacuation using the escape or rescue window, if one is used as a substitute for one of the required means of egress.

[425.4] 427.4 Day Care Centers.

[425.4.1] 427.4.1 Day Care Centers shall comply with either I-4 requirements or E requirements of the IBC, whichever is applicable for the type of Day Care Center.

[425.4.2] 427.4.2 Emergency Evacuation Drills shall be completed as required in IFC, Chapter 4, Section 405.

[425.4.3] 427.4.3 Location at grade. Group E child day care centers shall be located at the level of exit discharge.

[425.4.3.1] 427.4.3.1 Child day care spaces for children over the age of 24 months may be located on the second floor of buildings equipped with automatic fire protection throughout and an automatic fire alarm system.

[425.4.4] 427.4.4 Egress. All Group E child day care spaces with an occupant load of more than 10 shall have a second means of egress. If the second means of egress is not an exit door leading directly to the exterior, the room shall have an emergency escape and rescue window complying with Section [1029] 1030.

[425.4.5] 427.4.5 All Group E Child Day Care Centers shall comply with Utah Administrative Code, R430-100 Child Care Centers, R430-60 Hourly Child Care Centers, and R430-70 Out of School Time.

[425.5] 427.5 Requirements for all Day Care.

[425.5.1] 427.5.1 Heating equipment in spaces occupied by children shall be provided with partitions, screens, or other means to protect children from hot surfaces and open flames.

[425.5.2] 427.5.2 A fire escape plan shall be completed and posted in a conspicuous place. All staff shall be trained on the fire escape plan and procedure."

[6] (4) In IBC, Section [504.2] 504.4, a new section is added as follows: [504.2.1] "504.4.1 Notwithstanding the exceptions to Section 504.2, Group I-2 Assisted Living Facilities shall be allowed [to be two stories of] on each level of a two-story building of Type V-A construction when all of the following apply:

1. All secured units are located at the level of exit discharge in compliance with Section [1008.1.9.3] 1010.1.9.3 as amended;
2. The total combined area of both stories shall not exceed the total allowable area for a one-story building; and
3. All other provisions that apply in Section 407 have been provided."

Section 8. Section 15A-3-104 is amended to read:

15A-3-104. Amendments to Chapters 7 through 9 of IBC.

(1) IBC, Section (F)901.8, is deleted and replaced with the following: “(F)901.8 Pump and riser room size. Fire pump and automatic sprinkler system riser rooms shall be designed with adequate space for all installed equipment necessary for the installation and to provide sufficient working space around the stationary equipment. Clearances around equipment shall be in accordance with manufacturer requirements and not less than the following minimum elements:

901.8.1 A minimum clear and unobstructed distance of 12-inches shall be provided from the installed equipment to the elements of permanent construction.

901.8.2 A minimum clear and unobstructed distance of 12-inches shall be provided between all other installed equipment and appliances.

901.8.3 A clear and unobstructed width of 36-inches shall be provided in front of all installed equipment and appliances, to allow for inspection, service, repair or replacement without removing such elements of permanent construction or disabling the function of a required fire-resistance-rated assembly.

901.8.4 Automatic sprinkler system riser rooms shall be provided with a clear and unobstructed passageway to the riser room of not less than 36-inches, and openings into the room shall be clear and unobstructed, with doors swinging in the outward direction from the room and the opening providing a clear width of not less than 34-inches and a clear height of the door opening shall not be less than 80-inches.

901.8.5 Fire pump rooms shall be provided with a clear and unobstructed passageway to the fire pump room of not less than 72-inches, and openings into the room shall be clear, unobstructed and large enough to allow for the removal of the largest piece of equipment, with doors swinging in the outward direction from the room and the opening providing a clear width of not less than 68-inches and a clear height of the door opening shall not be less than 80-inches.”

(2) In IBC, Section (F)903.2.2, the words “the entire floor” are deleted and replaced with “a building” and the last paragraph is deleted.

(3) IBC, Section (F)903.2.4, condition 2, is deleted and replaced with the following: “2. A Group F-1 fire area is located more than three stories above the lowest level of fire department vehicle access.”

(4) IBC, Section (F)903.2.7, condition 2, is deleted and replaced with the following: “2. A Group M fire area is located more than three stories above the lowest level of fire department vehicle access.”

(5) IBC, Sections (F)903.2.8, (F)903.2.8.1, [and] (F)903.2.8.2, and (F)903.2.8.4, are deleted and replaced with the following: “(F)903.2.8 Group R. An automatic sprinkler system installed in

accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.

Exceptions:

1. Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) constructed in accordance with the International Residential Code For One- and Two-Family Dwellings.

2. Single story Group R-1 occupancies with fire areas not more than 2,000 square feet that contain no installed plumbing or heating, where no cooking occurs, and constructed of Type I-A, I-B, II-A, or II-B construction.”

(6) IBC, Sections (F)903.2.8.3 and (F)903.2.8.3.1, are renumbered to (F)903.2.8.1 and (F)903.2.8.1.1.

(7) IBC, Section (F)903.2.8.3.2, is renumbered to (F)903.2.8.1.2 and the following exception is added:[3.] “Exception: Group R-4 fire areas not more than 4,500 gross square feet and not containing more than 16 residents, provided the building is equipped throughout with an approved fire alarm system that is interconnected and receives its primary power from the building wiring and a commercial power system.”

(8) IBC, Section (F)903.2.8.4, is deleted.

[4.] (9) IBC, Section (F)903.2.9, condition 2, is deleted and replaced with the following: “2. A Group S-1 fire area is located more than three stories above the lowest level of fire department vehicle access.”

[7.] (10) IBC, Section [(F)904.11] (F)904.12, is deleted and replaced with the following: “[F)904.11] (F)904.12 Commercial cooking systems. The automatic fire-extinguishing system for commercial cooking systems shall be of a type recognized for protection of commercial cooking equipment and exhaust systems. Pre-engineered automatic extinguishing systems shall be tested in accordance with UL 300 and listed and labeled for the intended application. The system shall be installed in accordance with this code, its listing and the manufacturer’s installation instructions.

Exception: Factory-built commercial cooking recirculating systems that are tested in accordance with UL 710B and listed, labeled, and installed in accordance with Section 304.1 of the International Mechanical Code.”

[8.] (11) IBC, Sections [(F)904.11.3, (F)904.11.3.1, (F)904.11.4, and (F)904.11.4.1,] (F)904.12.3, (F)904.12.3.1, (F)904.12.4, and (F)904.12.4.1, are deleted.

(12) In IBC, Section 905, a new subsection, Section (F)905.3.9, is added as follows:

“Open Parking Garages. Open parking garages shall be equipped with an approved Class 1 manual standpipe system when fire department access is not provided for firefighting operations to within 150 feet of all portions of the open parking garage as measured from the approved fire department vehicle access. Class 1 manual standpipe shall be accessible throughout the parking garage such that all portions of the parking structure are protected within 150 feet of a hose connection.”

(13) In IBC, Section (F)905.8, the exception is deleted and replaced with the following:

“Exception: Where subject to freezing and approved by the fire code official.”

~~[(9)] (14) In IBC, Section (F)907.2.3 Group E [:(a) The], the first sentence is deleted and rewritten as follows: “A manual fire alarm system that [initiates] activates the occupant notification system in accordance with Section (F)907.5 [and] shall be installed, in accordance with Section (F)907.6 [shall be installed] and administrative rules made by the State Fire Prevention Board in Group E occupancies.”~~

~~[(b) In Exception number 3, starting on line five, the words “emergency voice/alarm communication system” are deleted and replaced with “occupant notification system”.]~~

~~[(10) In IBC, Section (F)908.7, the first sentence is deleted and replaced as follows: “Groups R-1, R-2, R-3, R-4, I-1, and I-4 occupancies”; the exceptions are deleted and the following sentence is added after the first sentence: “A minimum of one carbon monoxide alarm shall be installed on each habitable level.”]~~

~~[(11) In IBC, Section (F)908.7, the following new subsections are added:][(F)908.7.1 Interconnection. Where more than one carbon monoxide alarm is required to be installed within Group R or I-1 occupancies, the carbon monoxide alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms. Physical interconnection of carbon monoxide alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.][(F)908.7.2 Power source. In new construction, required carbon monoxide alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and shall be equipped with a battery backup. Carbon monoxide alarms with integral strobes that are not equipped with battery backup shall be connected to an emergency electrical system. Carbon monoxide alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.][Exception: Carbon monoxide alarms are not required to be equipped with battery backup where they are connected to an emergency electrical system.”]~~

~~[(12) IBC, Section (F)908.7.1, is renumbered to 908.7.3.]~~

(15) IBC, Sections (F)915 through (F)915.6, are deleted and replaced with the following:

“(F)915 Where required.

Group I-1, I-2, I-4, and R occupancies located in a building containing a fuel-burning appliance or in a building that has an attached garage shall be equipped with single-station carbon monoxide

alarms. The carbon monoxide alarms shall be listed as complying with UL 2034 or UL 2075 and be installed and maintained in accordance with NFPA 720 and the manufacturer’s instructions. An open parking garage, as defined in Chapter 2, or an enclosed parking garage, ventilated in accordance with Section 404 of the International Mechanical Code, shall not be considered an attached garage. A minimum of one carbon monoxide alarm shall be installed on each habitable level.

(F)915.1 Interconnection.

Where more than one carbon monoxide alarm is required to be installed within Group I-1, I-2, I-4, or R occupancies, the carbon monoxide alarm shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms. Physical interconnection of carbon monoxide alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

(F)915.2 Power source.

In new construction, required carbon monoxide alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and shall be equipped with a battery backup. Carbon monoxide alarms with integral strobes that are not equipped with a battery backup shall be connected to an emergency electrical system. Carbon monoxide alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

Exceptions.

1. Carbon monoxide alarms are not required to be equipped with a battery backup where they are connected to an emergency electrical system.

2. Hard wiring of carbon monoxide alarms in existing areas shall not be required where the alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space, or basement available that could provide access for hard wiring without the removal of interior finishes.

(F)915.3 Group E.

A carbon monoxide detection system shall be installed in new buildings that contain Group E occupancies in accordance with IFC, Chapter 9, Section 915. A carbon monoxide detection system shall be installed in existing buildings that contain Group E occupancies in accordance with IFC, Chapter 11, Section 1103.9.

(F)915.3.1 Where required.

In Group E occupancies, a carbon monoxide detection system shall be provided where a fuel-burning appliance, a fuel-burning fireplace, or a fuel-burning forced air furnace is present.

(F)915.3.2 Detection equipment.

Each carbon monoxide detection system shall be installed in accordance with NFPA 720 and the manufacturer’s instructions and be listed as

complying with, for single station detectors, UL 2034 and, for system detectors, UL 2075.

(F)915.3.3 Locations.

Each carbon monoxide detection system shall be installed in the locations specified in NFPA 720.

(F)915.3.4 Combination detectors.

A combination carbon monoxide/smoke detector is an acceptable alternative to a carbon monoxide detection system if the combination carbon monoxide/smoke detector is listed in accordance with UL 2075 and UL 268.

(F)915.3.5 Power source.

Each carbon monoxide detection system shall receive primary power from the building wiring if the wiring is served from a commercial source. If primary power is interrupted, each carbon monoxide detection system shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than that required for overcurrent protection.

(F)915.3.6 Maintenance.

Each carbon monoxide detection system shall be maintained in accordance with NFPA 720. A carbon monoxide detection system that becomes inoperable or begins to produce end of life signals shall be replaced."

Section 9. Section 15A-3-105 is amended to read:

15A-3-105. Amendments to Chapters 10 through 12 of IBC.

(1) In IBC, Section [1008.1.9.6, the words "Group I-1 and" are added in the title and in the first sentence before the words "Group I-2" and] 1010.1.9.6, a new number [8] 9 is added as follows: "[8] 9. The secure area or unit with special egress locks shall be located at the level of exit discharge in Type V construction."

[2] In IBC, Section 1008.1.9.7, a new number 7 is added as follows: "7. The secure area or unit with delayed egress locks shall be located at the level of exit discharge in Type V construction."

[3] (2) In IBC, Section [1009.7.2] 1011.5.2, exception [5] 3 is deleted and replaced with the following: "[5] 3. In Group R-3 occupancies, within dwelling units in Group R-2 occupancies, and in Group U occupancies that are accessory to a Group R-3 occupancy, or accessory to individual dwelling units in Group R-2 occupancies, the maximum riser height shall be 8 inches (203 mm) and the minimum tread depth shall be 9 inches (229 mm). The minimum winder tread depth at the walk line shall be 10 inches (254 mm), and the minimum winder tread depth shall be 6 inches (152 mm). A nosing not less than 0.75 inch (19.1 mm) but not more than 1.25 inches (32 mm) shall be provided on stairways with solid risers where the tread depth is less than 10 inches (254 mm)."

[4] (3) In IBC, Section [1009.15] 1011.11, a new exception [6] 5 is added as follows: "[6] 5. In occupancies in Group R-3, as applicable in Section 101.2 and in occupancies in Group U, which are

accessory to an occupancy in Group R-3, as applicable in Section 101.2, handrails shall be provided on at least one side of stairways consisting of four or more risers."

[4] (4) In IBC, Section [1011.5] 1013.5, the words ", including when the building may not be fully occupied[.]" are added at the end of the sentence.

[6] (5) IBC, Section [1024] 1025, is deleted.

[7] (6) In IBC, Section [1028.12] 1029.14, exception 2 is deleted.

[8] (7) In IBC, Section 1109.8, the following words "shall be capable of operation without a key and" are inserted in the second sentence between the words "lift" and "shall".

[9] (8) In IBC, Section 1208.4, subparagraph 1 is deleted and replaced with the following: "1. The unit shall have a living room of not less than 165 square feet (15.3 m²) of floor area. An additional 100 square feet (9.3 m²) of floor area shall be provided for each occupant of such unit in excess of two."

Section 10. Section 15A-3-106 is amended to read:

15A-3-106. Amendments to Chapters 13 through 15 of IBC.

IBC, Chapters 13 [and], 14, and 15 are not amended.

Section 11. Section 15A-3-107 is amended to read:

15A-3-107. Amendments to Chapter 16 of IBC.

(1) In IBC, Table 1604.5, Risk Category III, in the sentence that begins "Group I-2," a new footnote c is added as follows: "c. Type II Assisted Living Facilities that are I-2 occupancy classifications in accordance with Section 308 shall be Risk Category II in this table."

(2) In IBC, Section 1605.2, in the portion of the definition for the value of f_2 , the words "and 0.2 for other roof configurations" are deleted and replaced with the following: " $f_2 = 0.20 + .025(A-5)$ for other configurations where roof snow load exceeds 30 psf; $f_2 = 0$ for roof snow loads of 30 psf (1.44kN/m²) or less.

Where A = Elevation above sea level at the location of the structure (ft./1,000)."

(3) In IBC, Sections 1605.3.1 and 1605.3.2, exception 2 in each section is deleted and replaced with the following: "2. Flat roof snow loads of 30 pounds per square foot (1.44 kNm²) or less need not be combined with seismic loads. Where flat roof snow loads exceed 30 pounds per square foot (1.44 kNm²), the snow loads may be reduced in accordance with the following in load combinations including both snow and seismic loads. W_s as calculated below, shall be combined with seismic loads.

$W_s = (0.20 + 0.025(A-5))Pr$ is greater than or equal to 0.20 Pr.

Where:

W_s = Weight of snow to be included in seismic calculations

A = Elevation above sea level at the location of the structure (ft./1,000)

P_r = Design roof snow load, psf.

For the purpose of this section, snow load shall be assumed uniform on the roof footprint without including the effects of drift or sliding. The Importance Factor, I, used in calculating P_r may be considered 1.0 for use in the formula for W_s .

(4) IBC, Section 1608.1, is deleted and replaced with the following: "1608.1 General. Except as modified in Sections 1608.1.1, 1608.1.2, and 1608.1.3, design snow loads shall be determined in accordance with Chapter 7 of ASCE 7, but the design roof load shall not be less than that determined by Section 1607."

(5) A new IBC, Section 1608.1.1, is added as follows: "1608.1.1 Section 7.4.5 of Chapter 7 of ASCE 7 referenced in Section 1608.1 of the IBC is deleted and replaced with the following: Section 7.4.5 Ice Dams and Icicles Along Eaves. Where ground snow loads exceed 75 psf, eaves shall be capable of sustaining a uniformly distributed load of $2P_r$ on all overhanging portions. No other loads except dead loads shall be present on the roof when this uniformly distributed load is applied. All building exits under down-slope eaves shall be protected from sliding snow and ice."

(6) In IBC, Section 1608.1.2, a new section is added as follows: "1608.1.2 Utah Snow Loads. The snow loads specified in Table 1608.1.2(b) shall be used for the jurisdictions identified in that table. Otherwise, the ground snow load, P_g , to be used in the determination of design snow loads for buildings and other structures shall be determined by using the following formula: $P_g = (P_o^2 + S^2(A - A_o)^2)^{0.5}$ for A greater than A_o , and $P_g = P_o$ for A less than or equal to A_o .

WHERE:

P_g = Ground snow load at a given elevation (psf);

P_o = Base ground snow load (psf) from Table No. 1608.1.2(a);

S = Change in ground snow load with elevation (psf/100 ft.) From Table No. 1608.1.2(a);

A = Elevation above sea level at the site (ft./1,000);

A_o = Base ground snow elevation from Table 1608.1.2(a) (ft./1,000).

The building official may round the roof snow load to the nearest 5 psf. The ground snow load, P_g , may be adjusted by the building official when a licensed engineer or architect submits data substantiating the adjustments.

Where the minimum roof live load in accordance with Section ~~[1607.11]~~ 1607.12 is greater than the design roof snow load, such roof live load shall be used for design, however, it shall not be reduced to a load lower than the design roof snow load. Drifting need not be considered for roof snow loads less than 20 psf."

(7) IBC, Table 1608.1.2(a) and Table 1608.1.2(b), are added as follows:

"TABLE NO. 1608.1.2(a)
STATE OF UTAH - REGIONAL
SNOW LOAD FACTORS

COUNTY	P_o	S	A_o
Beaver	43	63	6.2
Box Elder	43	63	5.2
Cache	50	63	4.5
Carbon	43	63	5.2
Daggett	43	63	6.5
Davis	43	63	4.5
Duchesne	43	63	6.5
Emery	43	63	6.0
Garfield	43	63	6.0
Grand	36	63	6.5
Iron	43	63	5.8
Juab	43	63	5.2
Kane	36	63	5.7
Millard	43	63	5.3
Morgan	57	63	4.5
Piute	43	63	6.2
Rich	57	63	4.1
Salt Lake	43	63	4.5
San Juan	43	63	6.5
Sanpete	43	63	5.2
Sevier	43	63	6.0
Summit	86	63	5.0
Tooele	43	63	4.5
Uintah	43	63	7.0
Utah	43	63	4.5
Wasatch	86	63	5.0
Washington	29	63	6.0
Wayne	36	63	6.5
Weber	43	63	4.5

“TABLE NO. 1608.1.2(B)
REQUIRED SNOW LOADS FOR SELECTED UTAH CITIES AND TOWNS^{1,2}”

The following jurisdictions require design snow load values that differ from the Equation in the Utah Snow Load Study.

County	City	Elevation	Ground Snow Load (psf)	Roof Snow Load (psf) ⁶
Carbon	Price ³	5550	43	30
	All other county locations ⁵	--	--	—
Davis	Fruit Heights ³	4500 - 4850	57	40
Emery	Green River ³	4070	36	25
Garfield	Panguitch ³	6600	43	30
Rich	Woodruff ³	6315	57	40
	Laketown ⁴	6000	57	40
	Garden City ⁵	—	—	--
	Randolph ⁴	6300	57	40
San Juan	Monticello ³	6820	50	35
Summit	Coalville ³	5600	86	60
	Kamas ⁴	6500	114	80
Tooele	Tooele ³	5100	43	30
Utah	Orem ³	4650	43	30
	Pleasant Grove ⁴	5000	43	30
	Provo ⁵	--	--	—
Wasatch	Heber ⁵	—	—	—
Washington	Leeds ³	3460	29	20
	Santa Clara ³	2850	21	15
	St. George ³	2750	21	15
	All other county locations ⁵	--	--	—
Wayne	Loa ³	7080	43	30

¹The IBC requires a minimum live load - See [1607.11.2] Section 1607.12.

²This table is informational only in that actual site elevations may vary. Table is only valid if site elevation is within 100 feet of the listed elevation. Otherwise, contact the local Building Official.

³Values adopted from Table VII of the Utah Snow Load Study.

⁴Values based on site-specific study. Contact local Building Official for additional information.

⁵Contact local Building Official.

⁶Based on $C_e = 1.0$, $C_t = 1.0$ and $I_s = 1.0$

(8) A new IBC, Section 1608.1.3, is added as follows: “1608.1.3 Thermal Factor. The value for the thermal factor, C_t , used in calculation of P_f shall be determined from Table 7.3 in ASCE 7.

Exception: Except for unheated structures, the value of C_t need not exceed 1.0 when ground snow load, P_g is calculated using Section 1608.1.2 as amended.”

(9) IBC, Section 1608.2, is deleted and replaced with the following: “1608.2 Ground Snow Loads. The ground snow loads to be used in determining the design snow loads for roofs in states other than Utah are given in Figure 1608.2 for the contiguous United States and Table 1608.2 for Alaska. Site-specific case studies shall be made in areas designated CS in figure 1608.2. Ground snow loads for sites at elevations above the limits indicated in Figure 1608.2 and for all sites within the CS areas shall be approved. Ground snow load determination for such sites shall be based on an extreme value statistical analysis of data available in the vicinity of the site using a value with a 2-percent annual probability of being exceeded (50-year mean recurrence interval). Snow loads are zero for Hawaii, except in mountainous regions as approved by the building official.”

(10) A new IBC, Section 1613.1.1, is added as follows: “1613.1.1 ASCE 12.7.2 and 12.14.8.1 of Chapter 12 of ASCE 7 referenced in Section 1613.1, Definition of W , Item 4 is deleted and replaced with the following:

4. Where the flat roof snow load, P_f , exceeds 30 psf, the snow load included in seismic design shall be calculated, in accordance with the following formula: $W_s = (0.20 + 0.025(A-5))P_f$ is greater than or equal to $0.20 P_f$.

WHERE:

W_s = Weight of snow to be included in seismic calculations

A = Elevation above sea level at the location of the structure (ft./1,000)

P_f = Design roof snow load, psf.

For the purposes of this section, snow load shall be assumed uniform on the roof footprint without including the effects of drift or sliding. The Importance Factor, I , used in calculating P_f may be considered 1.0 for use in the formula for W_s .”

(11) A new IBC, Section [~~1613.5~~] 1613.7, is added as follows: “ [~~1613.5~~] 1613.7 ASCE 7, Section 13.5.6.2.2 paragraph (e) is modified to read as follows: (e) Penetrations shall have a sleeve or adapter through the ceiling tile to allow for free movement of at least 1 inch (25 mm) in all horizontal directions.

Exceptions:

1. Where rigid braces are used to limit lateral deflections.
2. At fire sprinkler heads in frangible surfaces per NFPA 13.”

Section 12. Section 15A-3-108 is amended to read:

15A-3-108. Amendments to Chapters 17 through 19 of IBC.

(1) A new IBC, Section 1807.1.6.4, is added as follows: “1807.1.6.4 Empirical concrete foundation design. Group R, Division 3 Occupancies three stories or less in height, and Group U Occupancies, which are constructed in accordance with Section 2308, or with other methods employing repetitive wood-frame construction or repetitive cold-formed steel structural member construction, shall be permitted to have concrete foundations constructed in accordance with Table 1807.1.6.4.”

(2) A new IBC, Table 1807.1.6.4 is added as follows:

"TABLE 1807.1.6.4
EMPIRICAL FOUNDATION WALLS (1,7,8)

Max. Height	Top Edge Support	Min. Thickness	Vertical Steel (2)	Horizontal Steel (3)	Steel at Openings (4)	Max. Lintel Length	Min. Lintel Length
2'(610 mm)	None	6"	(5)	2-#4 Bars	2- #4 Bars above 1- #4 Bar each side 1- #4 Bar below	2'(610 mm)	2"for each foot of opening width; min. 6"
3'(914 mm)	None	6"	#4@32"	3-#4 Bars	2-#4 Bars above 1- #4 Bar each side 1- #4 Bar below	2'(610 mm)	2"for each foot of opening width; min. 6"
4'(1,219 mm)	None	6"	#4@32"	4-#4 Bars	2- #4 Bars above 1- #4 Bar each side 1- #4 Bar below	3'(914 mm)	2"for each foot of opening width; min. 6"
6'(1,829 mm)	Floor or roof Diaphragm (6)	8"	#4@24"	5-#4 Bars	2- #4 Bars above 1- #4 Bar each side 1- #4 Bar below	6'(1,829 mm)	2"for each foot of opening width; min. 6"
8'(2,438 mm)	Floor or roof Diaphragm (6)	8"	#4@24"	6-#4 Bars	2- #4 Bars above 1- #4 Bar each side 1- #4 Bar below	6'(1,829 mm)	2"for each foot of opening width; min. 6"
9'(2,743 mm)	Floor or roof Diaphragm (6)	8"	#4@16"	7-#4 Bars	2- #4 Bars above 1- #4 Bar each side 1- #4 Bar below	6'(1,829 mm)	2"for each foot of opening width; min. 6"

Over 9'(2,743 mm), Engineering required for each column

Footnotes:

- (1) Based on 3,000 psi (20.6 Mpa) concrete and 60,000 psi (414 Mpa) reinforcing steel.
- (2) To be placed in the center of the wall, and extended from the footing to within three inches (76 mm) of the top of the wall; dowels of #4 bars to match vertical steel placement shall be provided in the footing, extending 24 inches (610 mm) into the foundation wall.
- (3) One bar shall be located in the top four inches (102 mm), one bar in the bottom four inches (102 mm) and the other bars equally spaced between. Such bar placement satisfies the requirements of Section 1805.9. Corner reinforcing shall be provided so as to lap 24 inches (610 mm).
- (4) Bars shall be placed within two inches (51 mm) of the openings and extend 24 inches (610 mm) beyond the edge of the opening; vertical bars may terminate three inches (76 mm) from the top of the concrete.
- (5) Dowels of #4 bar at 32 inches on center shall be provided in the footing, extending 18 inches (457 mm) into the foundation wall.
- (6) Diaphragm shall conform to the requirements of Section 2308.
- (7) Footing shall be a minimum of nine inches thick by 20 inches wide.
- (8) Soil backfill shall be soil classification types GW, GP, SW, or SP, per Table 1610.1. Soil shall not be submerged or saturated in groundwater."

~~[(3) In IBC, Section 1904.2, a new exception 1 is added as follows and the current exception is modified to be number 2.]~~

~~[Exceptions:]~~

~~["1. In ACI Table 4.3.1, for Exposure Class F1, change Maximum w/cm from 0.45 to 0.5 and Minimum f'c from 4,500 psi to 3,000 psi."]~~

~~[(4)] (3) A new IBC, Section [1905.1.11] 1905.1.9, is added as follows: ["1905.1.11] "1905.1.9 ACI 318, Table 4.2.1." Modify ACI 318, Table [4.2.1] 19.3.1.1 to read as follows: In the portion of the table designated as "Conditions", the following Exposure [categories] category and [classes are] class is deleted and replaced with the following:~~

~~"F0: Concrete elements not exposed to freezing and thawing cycles to include footing and foundation elements that are completely buried in soil."~~

~~[F1: Concrete elements exposed to freezing and thawing cycles and are not likely to be saturated or exposed to deicing chemicals.]~~

~~[F2: Concrete elements exposed to freezing and thawing cycles and are likely to be saturated, but not exposed to deicing chemicals.]~~

~~[F3: Concrete elements exposed to freezing and thawing cycles and are likely to be saturated and exposed to deicing chemicals."]~~

Section 13. Section 15A-3-110 is amended to read:

15A-3-110. Amendments to Chapters 23 through 25 of IBC.

(1) A new IBC, Section 2306.1.5, is added as follows: "2306.1.5 Load duration factors. The allowable stress increase of 1.15 for snow load, shown in Table 2.3.2, Frequently Used Load Duration Factors, Cd, of the National Design Specifications, shall not be utilized at elevations above 5,000 feet (1,524 M)."

(2) In IBC, Section [2308.6] 2308.3.1, a new exception, 3, is added as follows:

~~["Exception:] 3. Where foundation plates or sills are bolted or anchored to the foundation with not less than 1/2 inch (12.7 mm) diameter steel bolts or approved anchors, embedded at least 7 inches (178 mm) into concrete or masonry and spaced not more than 32 inches (816 mm) apart, there shall be a minimum of two bolts or anchor straps per piece located not less than 4 inches (102 mm) from each end of each piece. A properly sized nut and washer shall be tightened on each bolt to the plate."~~

(3) IBC, Section 2506.2.1, is deleted and replaced with the following: "2506.2.1 Other materials. Metal suspension systems for acoustical and lay-in panel ceilings shall conform with ASTM C635 listed in Chapter 35 and Section 13.5.6 of ASCE 7, as amended in Section [1613.8] 1613.5, for installation in high seismic areas."

Section 14. Section 15A-3-112 is amended to read:

15A-3-112. Amendments to Chapters 29 through 31 of IBC.

(1) In IBC [P] Table 2902.1 the following changes are made:

(a) The title for [P] Table 2902.1 is deleted and replaced with the following: "[P] Table 2902.1, Minimum Number of Required Plumbing Facilities a, h".

(b) In the row for "E" occupancy in the field for "OTHER" a new footnote i is added.

(c) In the row for "I-4" occupancy in the field for "OTHER" a new footnote i is added.

(d) A new footnote h is added as follows: "FOOTNOTE: h. When provided, in public toilet facilities there shall be an equal number of diaper changing facilities in male toilet rooms and female toilet rooms."

(e) A new footnote i is added to the table as follows: "FOOTNOTE i: Non-residential child care facilities shall comply with additional sink requirements of Utah Administrative Code R430-100-4."

(2) A new IBC, Section [P]2902.7, is added as follows:

"[P]2902.7 Toilet Facilities for Workers.

Toilet facilities shall be provided for construction workers and such facilities shall be maintained in a sanitary condition. Construction worker toilet facilities of the nonsewer type shall conform to ANSI Z4.3."

~~[(2)] (3) In IBC, Section 3006.5, a new exception is added as follows: "Exception: Hydraulic elevators and roped hydraulic elevators with a rise of 50 feet or less."~~

Section 15. Section 15A-3-113 is amended to read:

15A-3-113. Amendments to Chapters 32 through 35 of IBC.

~~[(1) A new section IBC, Section 3401.7, is added as follows: "3401.7 Parapet bracing, wall anchors, and other appendages. Until June 30, 2014, a building constructed before 1975 shall have parapet bracing, wall anchors, and appendages such as cornices, spires, towers, tanks, signs, statuary, etc. evaluated by a licensed engineer when the building is undergoing structural alterations, which may include structural sheathing replacement of 10% or greater, or other structural repairs. Reroofing or water membrane replacement may not be considered a structural alteration or repair for purposes of this section. Beginning July 1, 2014, a building constructed before 1975 shall have parapet bracing, wall anchors, and appendages such as cornices, spires, towers, tanks, signs, statuary, etc. evaluated by a licensed engineer when the building is undergoing a total reroofing. Parapet bracing, wall anchors, and appendages required by this section shall be evaluated in accordance with 75% of the seismic forces as specified in Section 1613. When allowed by the local building official, alternate methods of equivalent strength as referenced in an approved code under Utah Code, Subsection 15A-1-204(6)(a), will be considered when accompanied by engineer sealed drawings,~~

details, and calculations. When found to be deficient because of design or deteriorated condition, the engineer's recommendations to anchor, brace, reinforce, or remove the deficient feature shall be implemented.]

[Exceptions:]

[1. Group R-3 and U occupancies.]

[2. Unreinforced masonry parapets need not be braced according to the above stated provisions provided that the maximum height of an unreinforced masonry parapet above the level of the diaphragm tension anchors or above the parapet braces shall not exceed one and one-half times the thickness of the parapet wall. The parapet height may be a maximum of two and one-half times its thickness in other than Seismic Design Categories D, E, or F.]

[(2) IBC, Section 3408.4, is deleted and replaced with the following: "3408.4 Seismic. When a change in occupancy results in a structure being reclassified to a higher Risk Category (as defined in Table 1604.5), or when such change of occupancy results in a design occupant load increase of 100% or more, the structure shall conform to the seismic requirements for a new structure.]

[Exceptions:]

[1. Specific seismic detailing requirements of this code or ASCE 7 for a new structure shall not be required to be met where it can be shown that the level of performance and seismic safety is equivalent to that of a new structure. A demonstration of equivalence analysis shall consider the regularity, overstrength, redundancy, and ductility of the structure. Alternatively, the building official may allow the structure to be upgraded in accordance with referenced sections as found in an approved code under Utah Code, Subsection 15A-1-204(6)(a).]

[2. When a change of use results in a structure being reclassified from Risk Category I or II to Risk Category III and the structure is located in a seismic map area where SDS is less than 0.33, compliance with the seismic requirements of this code and ASCE 7 are not required.]

[3. Where design occupant load increase is less than 25 occupants and the Risk Category does not change.]"

[(3) (1) In IBC, Chapter 35, the referenced standard ICCA117.1-09, Section 606.2, Exception 1 is modified to include the following sentence at the end of the exception:

"The minimum clear floor space shall be centered on the sink assembly."

[(4) (2) The following referenced standard is added under UL in IBC, Chapter 35:

Number	Title	Referenced in code section number
2034-2008	Standard of Single- and Multiple-station Carbon Monoxide Alarms	907.9"

Section 16. Section 15A-3-202 is amended to read:

15A-3-202. Amendments to Chapters 1 through 5 of IRC.

(1) In IRC, Section R102, a new Section R102.7.2 is added as follows: "R102.7.2 Physical change for bedroom window egress. A structure whose egress window in an existing bedroom is smaller than required by this code, and that complied with the construction code in effect at the time that the bedroom was finished, is not required to undergo a physical change to conform to this code if the change would compromise the structural integrity of the structure or could not be completed in accordance with other applicable requirements of this code, including setback and window well requirements."

(2) In IRC, Section 109:

(a) A new IRC, Section 109.1.5, is added as follows: "R109.1.5 Weather-resistant exterior wall envelope inspections. An inspection shall be made of the weather-resistant exterior wall envelope as required by Section R703.1 and flashings as required by Section R703.8 to prevent water from entering the weather-resistive barrier."

(b) The remaining sections are renumbered as follows: R109.1.6 Other inspections; R109.1.6.1 Fire- and smoke-resistance-rated construction inspection; R109.1.6.2 Reinforced masonry, insulating concrete form (ICF) and conventionally formed concrete wall inspection; and R109.1.7 Final inspection.

(3) IRC, Section R114.1, is deleted and replaced with the following: "R114.1 Notice to owner. Upon notice from the building official that work on any building or structure is being prosecuted contrary to the provisions of this code or other pertinent laws or ordinances or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent or to the person doing the work; and shall state the conditions under which work will be permitted to resume."

(4) In IRC, Section R202, the following definition is added: "CERTIFIED BACKFLOW PREVENTER ASSEMBLY TESTER: A person who has shown competence to test Backflow prevention assemblies to the satisfaction of the authority having jurisdiction under Utah Code, Subsection 19-4-104(4)."

(5) In IRC, Section R202, the definition for "CONDITIONED SPACE" is modified by deleting the words at the end of the sentence "being heated or cooled by any equipment or appliance" and replacing them with the following: "enclosed within the building thermal envelope that is directly heated or cooled, or indirectly heated or cooled by any of the following means:

1. Openings directly into an adjacent conditioned space.
2. An un-insulated floor, ceiling or wall adjacent to a conditioned space.

3. Un-insulated duct, piping or other heat or cooling source within the space.”

(6) In IRC, Section R202, the definition of “Cross Connection” is deleted and replaced with the following: “CROSS CONNECTION. Any physical connection or potential connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other either water of unknown or questionable safety or steam, gas, or chemical, whereby there exists the possibility for flow from one system to the other, with the direction of flow depending on the pressure differential between the two systems (see “Backflow, Water Distribution”).”

(7) In IRC, Section 202, in the definition for gray water a comma is inserted after the word “washers”; the word “and” is deleted; and the following is added to the end: “and clear water wastes which have a pH of 6.0 to 9.0; are non-flammable; non-combustible; without objectionable odors; non-highly pigmented; and will not interfere with the operation of the sewer treatment facility.”

(8) In IRC, Section R202, the definition of “Potable Water” is deleted and replaced with the following: “POTABLE WATER. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming to the Utah Code, Title 19, [Chapters] Chapter 4, Safe Drinking Water Act, and Title 19, Chapter 5, Water Quality Act, and the regulations of the public health authority having jurisdiction.”

(9) IRC, Figure R301.2(5), is deleted and replaced with Table R301.2(5a) and Table R301.2(5b) as follows:

“TABLE NO. R301.2(5a)

STATE OF UTAH - REGIONAL SNOW LOAD FACTORS

COUNTY	P _o	S	A _o
Beaver	43	63	6.2
Box Elder	43	63	5.2
Cache	50	63	4.5
Carbon	43	63	5.2
Daggett	43	63	6.5
Davis	43	63	4.5
Duchesne	43	63	6.5
Emery	43	63	6.0
Garfield	43	63	6.0
Grand	36	63	6.5
Iron	43	63	5.8
Juab	43	63	5.2
Kane	36	63	5.7
Millard	43	63	5.3
Morgan	57	63	4.5
Piute	43	63	6.2
Rich	57	63	4.1
Salt Lake	43	63	4.5
San Juan	43	63	6.5
Sanpete	43	63	5.2
Sevier	43	63	6.0
Summit	86	63	5.0
Tooele	43	63	4.5
Uintah	43	63	7.0
Utah	43	63	4.5
Wasatch	86	63	5.0
Washington	29	63	6.0
Wayne	36	63	6.5
Weber	43	63	4.5

"TABLE NO. R301.2(5b)
REQUIRED SNOW LOADS FOR SELECTED UTAH CITIES AND TOWNS^{1,2}

The following jurisdictions require design snow load values that differ from the Equation in the Utah Snow Load Study.

County	City	Elevation	Ground Snow Load (psf)	Roof Snow Load (psf) ⁶
Carbon	Price ³	5550	43	30
	All other county locations ⁵	--	--	—
Davis	Fruit Heights ³	4500 - 4850	57	40
Emery	Green River ³	4070	36	25
Garfield	Panguitch ³	6600	43	30
Rich	Woodruff ³	6315	57	40
	Laketown ⁴	6000	57	40
	Garden City ⁵	—	—	--
	Randolph ⁴	6300	57	40
San Juan	Monticello ³	6820	50	35
Summit	Coalville ³	5600	8686	60
	Kamas ⁴	6500	114	80
Tooele	Tooele ³	5100	43	30
Utah	Orem ³	4650	43	30
	Pleasant Grove ⁴	5000	43	30
	Provo ⁵	--	--	—
Wasatch	Heber ⁵	—	—	—
Washington	Leeds ³	3460	29	20
	Santa Clara ³	2850	21	15
	St. George ³	2750	21	15
	All other county locations ⁵	--	--	—
Wayne	Loa ³	7080	43	30

¹The IRC requires a minimum live load - See R301.6.

²This table is informational only in that actual site elevations may vary. Table is only valid if site elevation is within 100 feet of the listed elevation. Otherwise, contact the local Building Official.

³Values adopted from Table VII of the Utah Snow Load Study.

⁴Values based on site-specific study. Contact local Building Official for additional information.

⁵Contact local Building Official.

⁶Based on $C_e = 1.0$, $C_t = 1.0$ and $I_s = 1.0$ "

(10) IRC, Section R301.6, is deleted and replaced with the following: "R301.6 Utah Snow Loads. The snow loads specified in Table R301.2(5b) shall be used for the jurisdictions identified in that table. Otherwise, the ground snow load, P_g , to be used in the determination of design snow loads for buildings and other structures shall be determined by using the following formula: $P_g = (P_o2 + S2(A-A_o)2)0.5$ for A greater than A_o , and $P_g = P_o$ for A less than or equal to A_o .

WHERE:

P_g = Ground snow load at a given elevation (psf);
 P_o = Base ground snow load (psf) from Table No. R301.2(5a);

S = Change in ground snow load with elevation (psf/100 ft.). From Table No. R301.2(5a);

A = Elevation above sea level at the site (ft./1,000);

A_o = Base ground snow elevation from Table R301.2(5a) (ft./1,000).

The building official may round the roof snow load to the nearest 5 psf. The ground snow load, P_g , may be adjusted by the building official when a licensed engineer or architect submits data substantiating the adjustments.

Where the minimum roof live load in accordance with Table R301.6 is greater than the design roof snow load, such roof live load shall be used for design, however, it shall not be reduced to a load lower than the design roof snow load. Drifting need not be considered for roof snow loads less than 20 psf."

~~[(11) In IRC, Section R302.2, the words "Exception: A" are deleted and replaced with the following:]~~

~~["Exceptions:]~~

~~[1. A common 2-hour fire-resistance-rated wall is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. Electrical installation shall be installed in accordance with Chapters 34 through 43. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4.]~~

~~[2. In buildings equipped with an automatic residential fire sprinkler system, a"]~~

~~[(12) In IRC, Section R302.2.4, a new exception 6 is added as follows: "6. Townhouses separated by a common 2-hour fire-resistance-rated wall as provided in Section R302.2."]~~

~~[(13) (11) In IRC, Section R302.5.1, the words "self-closing device" are deleted and replaced with "self-latching hardware".~~

~~(12) IRC, Section R302.13, is deleted.~~

~~[(14) (13) In IRC, Section R303.4, the number "5" is changed to "3" in the first sentence.~~

~~[(15) (14) IRC, Sections R311.7.4 through [R311.7.4.3] R311.7.5.3, are deleted and replaced with the following: "R311.7.4 Stair treads and risers. [R311.7.4.1] R311.7.5.1 Riser height. The maximum riser height shall be 8 inches (203 mm). The riser shall be measured vertically between~~

leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).

~~[R311.7.4.2] R311.7.5.2 Tread depth. The minimum tread depth shall be 9 inches (228 mm). The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's leading edge. The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). Winder treads shall have a minimum tread depth of 10 inches (254 mm) measured as above at a point 12 inches (305 mm) from the side where the treads are narrower. Winder treads shall have a minimum tread depth of 6 inches (152 mm) at any point. Within any flight of stairs, the greatest winder tread depth at the 12-inch (305 mm) walk line shall not exceed the smallest by more than 3/8 inch (9.5 mm).~~

~~[R311.7.4.3] R311.7.5.3 Profile. The radius of curvature at the leading edge of the tread shall be no greater than 9/16 inch (14.3 mm). A nosing not less than 3/4 inch (19 mm) but not more than 1 1/4 inches (32 mm) shall be provided on stairways with solid risers. The greatest nosing projection shall not exceed the smallest nosing projection by more than 3/8 inch (9.5 mm) between two stories, including the nosing at the level of floors and landings. Beveling of nosing shall not exceed 1/2 inch (12.7 mm). Risers shall be vertical or sloped from the underside of the leading edge of the tread above at an angle not more than 30 degrees (0.51 rad) from the vertical. Open risers are permitted, provided that the opening between treads does not permit the passage of a 4-inch diameter (102 mm) sphere.~~

~~Exceptions.~~

~~1. A nosing is not required where the tread depth is a minimum of 10 inches (254 mm).~~

~~2. The opening between adjacent treads is not limited on stairs with a total rise of 30 inches (762 mm) or less."~~

~~[(16) In IRC, Section R312.1.2, the words "adjacent fixed seating" are deleted.]~~

~~[(17) (15) IRC, Section R312.2, is deleted.~~

~~[(18) (16) IRC, Sections R313.1 through R313.2.1, are deleted and replaced with the following: "R313.1 Design and installation. When installed, automatic residential fire sprinkler systems for townhouses or one- and two-family dwellings shall be designed and installed in accordance with Section P2904 or NFPA 13D."~~

~~(17) In IRC, Section 315.3, the following words are added to the first sentence after the word "installed": "on each level of the dwelling unit and"~~

~~[(19) A new] (18) In IRC, Section R315.5, a new exception, 3, is added as follows: ["R315.5 Power source. Carbon monoxide alarms shall receive their primary power from the building wiring when such wiring is served from a commercial source, and when primary power is interrupted, shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than those required for over-current protection.]~~

[Exceptions:]

[1. Carbon monoxide alarms shall be permitted to be battery operated when installed in buildings without commercial power.]

[2] “3. Hard wiring of carbon monoxide alarms in existing areas shall not be required where the alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for hard wiring, without the removal of interior finishes.”

[(20)] (19) A new IRC, Section ~~[R315.6]~~ R315.7, is added as follows: “[~~R315.6~~] R315.7 Interconnection. Where more than one carbon monoxide alarm is required to be installed within an individual dwelling unit in accordance with Section R315.1, the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm.

Exception: Interconnection of carbon monoxide alarms in existing areas shall not be required where alterations or repairs do not result in removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes.”

[(21)] (20) In IRC, Section R403.1.6, a new Exception [4] 3 is added as follows: “[4] 3. When anchor bolt spacing does not exceed 32 inches (813 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls, interior braced wall lines, and at all exterior walls.”

[(22)] (21) In IRC, Section R403.1.6.1, a new exception is added at the end of Item 2 and Item 3 as follows: “Exception: When anchor bolt spacing does not exceed 32 inches (816 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls, interior braced wall lines, and at all exterior walls.”

[(23)] (22) In IRC, Section R404.1, a new exception is added as follows: “Exception: As an

alternative to complying with Sections R404.1 through R404.1.5.3, concrete and masonry foundation walls may be designed in accordance with IBC Sections 1807.1.5 and 1807.1.6 as amended in Section 1807.1.6.4 and Table 1807.1.6.4 under these rules.”

[(24) IRC, Section R501.3, is deleted.]

Section 17. Section 15A-3-203 is amended to read:

15A-3-203. Amendments to Chapters 6 through 15 of IRC.

(1) In IRC, Section ~~[N1101.8]~~ N1101.5 (R103.2), all words after the words “herein governed.” are deleted and replaced with the following: “Construction documents include all documentation required to be submitted in order to issue a building permit.”

(2) In IRC, Section ~~[N1101.14]~~ N1101.12 (R303.3), all wording after the first sentence is deleted.

(3) In IRC, Section N1101.13 (R401.2), add Exception as follows:

“Exception: A project complies if the project demonstrates compliance, using the software RESCheck 2012 Utah Energy Conservation Code, of:

(a) on or after January 1, 2017, and before January 1, 2019, “3 percent better than code”;

(b) on or after January 1, 2019, and before January 1, 2021, “4 percent better than code”; and

(c) after January 1, 2021, “5 percent better than code”.”

[(3)] (4) In IRC, Table ~~[N1102.1.1 (R402.1.1) and Table N1102.1.3 (R402.1.3)]~~, the rows for “climate zone 3”, “climate zone 5 and Marine 4”, and “climate zone 6” are deleted and replaced and] N1102.2 (R402.1.2), in the column titled MASS WALL R-VALUE, a new footnote j is added as follows:

“j. Log walls complying with ICC400 and with a minimum average wall thickness of 5 inches or greater shall be permitted in Zones 5 through 8 when overall window glazing has a .31 U-factor or lower, minimum heating equipment efficiency is 90 AFUE (gas) or 84 AFUE (oil), and all other component requirements are met.”

TABLE N1102.1.1 (R402.1.1)
INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT^a

CLIMATE ZONE	FENESTRATION U-FACTOR ^b	SKYLIGHT ^b U-FACTOR	GLAZED FENESTRATION SHGC ^{b,c}	CEILING R-VALUE	WOOD FRAME WALL R-VALUE	MASS WALL R-VALUE ^{i,j}	FLOOR R-VALUE	BASEMENT ^c WALL R-VALUE	SLAB ^d R-VALUE & DEPTH	CRAWL SPACE ^e WALL R-VALUE
3	0.65	0.65	0.40	30	15	5	19	0	0	5/13
5 and Marine 4	0.35	0.60	NR	38	19 or 13 + 5 ^h	13	30 ^g	10/13	10, 2 ft	10/13
6	0.35	0.60	NR	49	19 or 13 + 5 ^h	15	30 ^g	10/13	10, 4 ft	10/13

^j Log walls complying with ICC 400 and with a minimum average wall thickness of 5" or greater shall be permitted in Zones 5-8 when overall window glazing is .31 U-factor or lower, minimum heating equipment efficiency is 90 AFUE (gas) or 84 AFUE (oil), and all other component requirements are met."

TABLE N1102.1.3 (R402.1.3)
EQUIVALENT U-FACTORS^a

CLIMATE ZONE	FENESTRATION U-FACTOR	SKYLIGHT U-FACTOR	CEILING U-FACTOR	FRAME WALL U-FACTOR	MASS WALL U-FACTOR ^b	FLOOR U-FACTOR	BASEMENT ^c WALL U-FACTOR	CRAWL SPACE WALL U-FACTOR
3	0.65	0.65	0.035	0.082	0.141	0.047	0.360	0.136
5 and Marine 4	0.35	0.60	0.030	0.060	0.082	0.033	0.059	0.065
6	0.35	0.60	0.026	0.060	0.060	0.033	0.059	0.065

~~[(4) In IRC, Section N1102.2.1 (R402.2.1), the last sentence is deleted.]~~

~~[(5) In IRC, Section N1102.2.2 (R402.2.2), the last sentence is deleted.]~~

~~[(6) In IRC, Section N1102.3.3 (R402.3.3), the last sentence is deleted.]~~

~~[(7) In IRC, Section N1102.3.4 (R402.3.4), the last sentence is deleted.]~~

~~[(8)] (5) In IRC, Section N1102.4.1 (R402.4.1), in the first sentence, the word “and” is deleted and replaced with the word “or”.~~

~~[(9)] (6) In IRC, Section N1102.4.1.1 (R402.4.1.1), the last sentence is deleted and replaced with the following: “Where allowed by the [building] code official, the builder may certify compliance to components criteria for items which may not be inspected during regularly scheduled inspections.”~~

~~[(10)] (7) In IRC, Section N1102.4.1.2 (R402.4.1.2), the following changes are made:~~

~~(a) In the first sentence:~~

~~(i) on or after January 1, 2019, and before January 1, 2021, replace the word “five” with “3.5”; and~~

~~(ii) after January 1, 2021, replace the word “five” with “three.”~~

~~[(a)] (b) In the first sentence, the words “in Climate Zones 1 and 2, and [3] three air changes per hour in [Zone] Climate Zones 3 through 8” are deleted.~~

~~[(b)] (c) In the third sentence, [the words “Where required by the building official,” and] the word “third” [are] is deleted.~~

~~[(e)] (d) The following sentence is inserted after the third sentence: “The following parties shall be approved to conduct testing: Parties certified by BPI or RESNET, or licensed contractors who have completed training provided by Blower Door Test equipment manufacturers or other comparable training.”~~

~~[(11) In IRC, Section N1102.4.4 (R402.4.4), the last sentence is deleted.]~~

~~[(12) In IRC, Section N1103.2.2 (R403.2.2), the requirements for total leakage testing are deleted and replaced with the following:]~~

~~“1. Postconstruction test: Total leakage shall be less than or equal to 10 cfm (283 L/min) per 100 square feet (9.29 m²) of conditioned floor space when tested at a pressure differential of 0.1 inches w.g. (25 Pa) across the entire system, including the manufacturer’s air handler enclosure. All register boots shall be taped or otherwise sealed during the test.”~~

~~“2. Rough-in test: Total leakage shall be less than or equal to 10 cfm (283 L/min) per 100 square feet (9.29 m²) of conditioned floor area when tested at a pressure differential of at least 0.1 inches w.g. (25 Pa) across the system, including the manufacturer’s air handler enclosure. All registers~~

~~shall be taped or otherwise sealed during the test. If the air handler is not installed at the time of the test, total leakage shall be less than or equal to 7.5 cfm (212 L/min) per 100 square feet (9.29 m²) of conditioned floor area.”~~

~~[(13)] (8) In IRC, Section [N1103.2.2 (R403.2.2);] N1103.3.3 (R403.3.3):~~

~~(a) the exception for [total] duct air leakage testing is deleted; and~~

~~(b) the exception for duct air leakage is replaced:~~

~~(i) on or after January 1, 2017, and before January 1, 2019, with the following:~~

~~“Exception: The [total] duct air leakage test is not required for systems with all air handlers and at least [50%] 65% of all ducts (measured by length) located entirely within the building thermal envelope.”;~~

~~(ii) on or after January 1, 2019, and before January 1, 2021, with the following: “Exception: The duct air leakage test is not required for systems with all air handlers and at least 75% of all ducts (measured by length) located entirely within the building thermal envelope.”; and~~

~~(iii) on or after January 1, 2021, with the following: “Exception: The duct air leakage test is not required for systems with all air handlers and at least 80% of all ducts (measured by length) located entirely within the building thermal envelope.”~~

~~(9) In IRC, Section N1103.3.3 (R403.3.3), the following is added after the exception: “The following parties shall be approved to conduct testing: Parties certified by BPI or RESNET, or licensed contractors who have completed either training provided by Duct Test equipment manufacturers or other comparable training.”~~

~~(10) In IRC, Section N1103.3.4 (R403.3.4):~~

~~(a) in Subsection 1, the number 4 is changed to 8, the number 113.3 is changed to 170, the number 3 is changed to 6, the number 85 is changed to 114.6; and~~

~~(b) in Subsection 2:~~

~~(i) on or after January 1, 2017, and before January 1, 2019, the number 4 is changed to 8 and the number 113.3 is changed to 226.5;~~

~~(ii) on or after January 1, 2019, and before January 1, 2021, the number 4 is changed to 7 and the number 113.3 is changed to 198.2; and~~

~~(iii) on or after January 1, 2021, the number 4 is changed to 6 and the number 113.3 is changed to 169.9.~~

~~[(14)] (11) In IRC, Section [N1103.2.3 (R403.2.3)] N1103.3.5 (R403.3.5), the words “or plenums” are deleted.~~

~~[(15) In IRC, Section N1103.4.2 (R403.4.2), the sentences for “3,” “9,” and the last sentence are deleted.]~~

~~[(16) In IRC, Section N1103.5 (R403.5), the first sentence is deleted.]~~

~~[(17) IRC, Section N1104.1 (R404.1) and the exception are deleted, and N1104.1.1 (R404.1.1) becomes N1104.1 (R404.1).]~~

~~[(18) In IRC, Table N1105.5.2(1) (R405.5.2(1)), the following changes are made under the column STANDARD REFERENCE DESIGN:]~~

~~[(a) In the row “Air exchange rate”, the words “in Zones 1 and 2, and 3 air changes per hour in Zones 3 through 8” are deleted.]~~

~~[(b) In the row “Heating systemsf, g”, the standard reference design is deleted and replaced with the following:]~~

~~["Fuel Type: same as proposed design]~~

~~[Efficiencies:]~~

~~[Electric: air source heat pump with prevailing federal minimum efficiencies]~~

~~[Nonelectric furnaces: natural gas furnace with prevailing federal minimum efficiencies]~~

~~[Nonelectric boilers: natural gas boiler with prevailing federal minimum efficiencies]~~

~~[Capacity: sized in accordance with Section N1103.6"]~~

~~[(c) In the row “Cooling systemsf, h” the words “As proposed” are deleted and replaced with the following:]~~

~~["Fuel Type: Electric]~~

~~[Efficiency: in accordance with prevailing federal minimum standards"]~~

~~[(d) In the row “Service water heatingf, g, h, i”, the words “As proposed” are deleted and replaced with the following:]~~

~~["Fuel Type: same as proposed design]~~

~~[Efficiency: in accordance with prevailing federal minimum standards]~~

~~[Tank Temperature: 120o F"]~~

~~[(e) In the row “Thermal distribution systems” the word “none” is deleted and replaced with the following: “Thermal distribution system efficiency (DSE) of .080 shall be applied to both the heating and cooling system efficiencies.”]~~

~~[(19) In Table N1105.5.2(2) (R405.5.2(2)), the number “0.80” is inserted under “Forced air systems” for “Distribution system components located in unconditioned space”.]~~

~~(12) In IRC, Section N1103.5.3 (R403.5.3), Subsection 5 is deleted and Subsections 6 and 7 are renumbered.~~

~~(13) In IRC, Section N1106.4 (R406.4), the table is deleted and replaced with the following:~~

CLIMATE ZONE	ENERGY RATING INDEX
3	65
5	69
6	68

~~[(20) (14) In IRC, Section M1307.2, the words “In Seismic Design Categories [D1 and D2]” D0, D1, and D2, and in townhouses in Seismic Design Category C”, are deleted, and in Subparagraph 1, the last sentence is deleted.~~

~~[(21) The RESCheck Software adopted by the United States Department of Energy and modified to meet the requirements of this section shall be used to verify compliance with this section. The software shall address the Total UA alternative approach and account for Equipment Efficiency Trade-offs when applicable per the standard reference design as amended.]~~

~~[(22) (15) IRC, Section [M1411.6] M1411.8, is deleted.~~

Section 18. Section 15A-3-204 is amended to read:

15A-3-204. Amendments to Chapters 16 through 25 of IRC.

~~[(1) In IRC, Table M1601.1.1(2), in the section “Round ducts and enclosed rectangular ducts”, the word “enclosed” is deleted; the words “14 inches or less” are deleted and replaced with “over 8 inches but less than 15 inches”; the wording “8 inches or less” under duct size, “0.013” under minimum thickness (in.), “30” under equivalent gage no., and “0.0159” under aluminum minimum thickness (in.), are added; and the section “Exposed rectangular ducts” is deleted.]~~

~~[(2) In IRC, Section M1901.3, the word “only” is inserted between the words “labeled” and “for”.]~~

~~[(3) A new IRC, Section G2401.2, is added as follows: “G2401.2 Meter Protection. Fuel gas services shall be in an approved location and/or provided with structures designed to protect the fuel gas meter and surrounding piping from physical damage, including falling, moving, or migrating ice and snow. If an added structure is used, it must provide access for service and comply with the IBC or the IRC.”]~~

Section 19. Section 15A-3-205 is amended to read:

15A-3-205. Amendments to Chapters 26 through 35 of IRC.

~~(1) A new IRC, Section P2602.3, is added as follows: “P2602.3 Individual water supply. Where a potable public water supply is not available, individual sources of potable water supply shall be utilized, provided that the source has been developed in accordance with Utah Code, Sections 73-3-1 and 73-3-25, as administered by the Department of Natural Resources, Division of Water Rights. In addition, the quality of the water shall be approved by the local health department having jurisdiction.”]~~

~~(2) A new IRC, Section P2602.4, is added as follows: “P2602.4 Sewer required. Every building in~~

which plumbing fixtures are installed and all premises having drainage piping shall be connected to a public sewer where the sewer is accessible and is within 300 feet of the property line in accordance with Utah Code, Section 10-8-38; or an approved private sewage disposal system in accordance with Utah Administrative Code, Chapter 4, Rule R317, as administered by the Department of Environmental Quality, Division of Water Quality.”

(3) In IRC, Section [P2801.7] P2801.8, all words in the first sentence up to the word “water” are deleted.

(4) A new IRC, Section P2902.1.1, is added as follows: “P2902.1.1 Backflow assembly testing. The premise owner or [his] the premise owner’s designee shall have backflow prevention assemblies operation tested in accordance with administrative rules made by the Drinking Water Board at the time of installation, repair, and relocation and at least on an annual basis thereafter, or more frequently as required by the authority having jurisdiction. Testing shall be performed by a Certified Backflow Preventer Assembly Tester. The assemblies that are subject to this paragraph are the Spill Resistant Vacuum Breaker, the Pressure Vacuum Breaker Assembly, the Double Check Backflow Prevention Assembly, the Double Check Detector Assembly Backflow Preventer, the Reduced Pressure Principle Backflow Preventer, and Reduced Pressure Detector Assembly. Third-party certification for backflow prevention assemblies will consist of any combination of two certifications, laboratory or field. Acceptable third-party laboratory certifying agencies are ASSE, IAPMO, and USC-FCCCHR. USC-FCCCHR currently provides the only field testing of backflow protection assemblies. Also see www.drinkingwater.utah.gov and rules made by the Drinking Water Board.”

[~~(5) IRC, Table P2902.3, is deleted and replaced with the following:~~]

[

DEVICE	DEGREE OF HAZARD ^a	APPLICATION ^b	APPLICABLE STANDARDS
BACKFLOW PREVENTION ASSEMBLIES:			
Double check backflow prevention assembly and double check fire protection backflow prevention assembly	Low hazard	Backpressure or backsiphonage Sizes 3/8" - 16"	ASSE 1015, AWWA C510, CSA B64.5, CSA B64.5.1
Double check detector fire protection backflow prevention assemblies	Low hazard	Backpressure or backsiphonage Sizes 3/8" - 16"	ASSE 1048
Pressure vacuum breaker assembly	High or low hazard	Backsiphonage only Sizes 1/2" - 2"	ASSE 1020, CSA B64.1.2
Reduced pressure principle backflow prevention assembly and reduced pressure principle fire protection backflow assembly	High or low hazard	Backpressure or backsiphonage Sizes 3/8" - 16"	ASSE 1013, AWWA C511, CSA B64.4, CSA B64.4.1
Reduced pressure detector fire protection backflow prevention assemblies	High or low hazard	Backpressure or backsiphonage (Fire Sprinkler Systems)	ASSE 1047
Spill resistant vacuum breaker assembly	High or low hazard	Backsiphonage only Sizes 1/2" - 2"	ASSE 1056
BACKFLOW PREVENTER PLUMBING DEVICES:			
Antisiphon type fill valves for gravity water - closet flush tanks	High hazard	Backsiphonage only	ASSE 1002, CSA B125.3
Backflow preventer for carbonated beverage machines	Low hazard	Backpressure or backsiphonage Sizes 1/4" - 3/8"	ASSE 1022
Backflow preventer with intermediate atmospheric vents	Low hazard	Backpressure or backsiphonage Sizes 1/4" - 3/8"	ASSE 1012, CSA B64.3
Dual check valve type backflow preventers	Low hazard	Backpressure or backsiphonage Sizes 1/4" - 1"	ASSE 1024, CSA B64.6
Hose connection backflow preventer	High or low hazard	Backsiphonage only Sizes 1/2" - 1"	ASSE 1052, CSA B64.2, B64.2.1
Hose connection vacuum breaker	High or low hazard	Backsiphonage only Sizes 1/2", 3/4", 1"	ASSE 1011, CAN/CSA B64.1.1
Atmospheric type vacuum breaker	High or low hazard	Backsiphonage only Sizes 1/2" - 4"	ASSE 1001, CSA B64.1.1
Vacuum breaker wall hydrants, frost resistant, automatic draining type	High or low hazard	Backsiphonage only Sizes 3/4", 1"	ASSE 1019, CSA B64.2.2

OTHER MEANS or METHODS:

Air-gap	High or low hazard	Backsiphonage only	ASME A112.1.2
Air-gap fittings for use with plumbing fixtures, appliances and appurtenances	High or low hazard	Backpressure or backsiphonage	ASME A112.1.3

For SI: 1 inch = 25.4 mm

- a. ~~Low Hazard—See Pollution (Section 202), High Hazard—See Contamination (Section 202)~~
- b. ~~See Backpressure (Section 202), See Backpressure, low head (Section 202), See Backsiphonage (Section 202)~~

Installation Guidelines: The above specialty devices shall be installed in accordance with their listing and the manufacturer's instructions and the specific provisions of this chapter."

]

~~[(6) In IRC, Section P3009.1, all words after the word “urinals” are deleted and the following sentence is added at the end: “Gray water recycling systems for subsurface landscape irrigation shall conform with UAC R317-401 Gray Water Systems.”]~~

~~[(7) A new IRC, Section P3009.1.1, is added as follows: “P3009.1.1 Recording. The existence of a gray water recycling system shall be recorded on the deed of ownership for that property. The certificate of occupancy shall not be issued until the documentation of the recording required under this section is completed by the owner.”]~~

~~[(8) In IRC, Section P3009.2, the words “and systems for subsurface landscape irrigation shall comply with Section P3009.14” are deleted.]~~

~~[(9) IRC, Section P3009.6, is deleted and replaced with the following: “P3009.6 Potable water connections. The potable water supply to any building utilizing a gray water recycling system shall be protected against backflow by a reduced pressure backflow prevention assembly installed in accordance with Section P2902.”]~~

~~[(10) In IRC, Section P3009.7, the following is added at the end of the sentence: “and other clear water wastes which have a pH of 6.0 to 9.0; are non-flammable, non-combustible; without objectionable odor; non-highly pigmented; and will not interfere with the operation of the sewer treatment facility.”]~~

~~[(11) In IRC, Section P3009.13.3, in the second sentence, the following is added between the words “backflow” and “in”: “by a reduced pressure backflow prevention assembly or an air gap installed”.]~~

~~[(12) IRC, Section P3009.14, is deleted and replaced with the following: “Section P3009.14 LANDSCAPE IRRIGATION SYSTEMS. Gray water recycling systems utilized for subsurface irrigation for single family residences shall comply with the requirements of UAC R317-401, Gray Water Systems. Gray water recycling systems utilized for subsurface irrigation for other occupancies shall comply with UAC R317-3, Design Requirements for Wastewater Collection, Treatment and Disposal and UAC R317-4, Onsite Waterwaste Systems.”]~~

(5) In IRC, Section P2902.1, the following subsections are added as follows:

“P2902.1.1 General Installation Criteria.

Assemblies shall not be installed more than five feet above the floor unless a permanent platform is installed. The assembly owner, where necessary, shall provide devices or structures to facilitate testing, repair, and maintenance, and to insure the safety of the backflow technician.

P2902.1.2 Specific Installation Criteria.

P2902.1.2.1 Reduced Pressure Principle Blackflow Prevention Assembly.

The reduced pressure principle backflow prevention assembly shall be installed as follows:

- a. The assembly may not be installed in a pit.
- b. The relief valve of the assembly shall not be directly connected to a waste disposal line, including a sanitary sewer, a storm drain, or a vent.
- c. The assembly shall be installed in a horizontal position only, unless listed or approved for vertical installation in accordance with Section 303.4.
- d. The bottom of the assembly shall be installed a minimum of 12 inches above the floor or ground.
- e. The body of the assembly shall be a minimum of 12 inches from any wall, ceiling, or obstacle, and shall be readily accessible for testing, repair, and maintenance.

P2902.1.2.2 Double Check Valve Backflow Prevention Assembly.

A double check valve backflow prevention assembly shall be installed as follows:

- a. The assembly shall be installed in a horizontal position only, unless listed or approved for vertical installation.
- b. The bottom of the assembly shall be a minimum of 12 inches above the ground or floor.
- c. The body of the assembly shall be a minimum of 12 inches from any wall, ceiling, or obstacle, and shall be readily accessible for testing, repair, and maintenance.
- d. If installed in a pit, the assembly shall be installed with a minimum of 12 inches of clearance between all sides of the vault, including the floor and roof or ceiling, with adequate room for testing and maintenance.

P2902.1.2.3 Pressure Vacuum Break Assembly and Spill Resistant Pressure Vacuum Breaker Assembly.

A pressure vacuum break assembly or a spill resistant pressure vacuum breaker assembly shall be installed as follows:

- a. The assembly shall not be installed in an area that could be subject to backpressure or back drainage conditions.
- b. The assembly shall be installed a minimum of 12 inches above all downstream piping and the highest point of use.
- c. The assembly shall be a minimum of 12 inches from any wall, ceiling, or obstacle, and shall be readily accessible for testing, repair, and maintenance.
- d. The assembly shall not be installed below ground, in a vault, or in a pit.
- e. The assembly shall be installed in a vertical position.”

(6) IRC, Section P2910.5, is deleted and replaced with the following:

“P2910.5 Potable water connections.

When a potable water system is connected to a nonpotable water system, the potable water system shall be protected against backflow by a reduced pressure backflow prevention assembly or an air gap installed in accordance with Section 2901.”

(7) IRC, Section P2910.9.5, is deleted and replaced with the following:

“P2910.9.5 Makeup water.

Where an uninterrupted nonpotable water supply is required for the intended application, potable or reclaimed water shall be provided as a source of makeup water for the storage tank. The makeup water supply shall be protected against backflow by means of an air gap not less than 4 inches (102 millimeters) above the overflow or by a reduced pressure backflow prevention assembly installed in accordance with Section 2902.”

(8) In IRC, Section P2911.12.4, the following words are deleted: “and backwater valves”.

(9) In IRC, Section P2912.15.6, the following words are deleted: “and backwater valves”.

(10) In IRC, Section P2913.4.2, the following words are deleted: “and backwater valves”.

(11) IRC, Section P3009, is deleted and replaced with the following:

“P3009 Connected to nonpotable water from on-site water reuse systems.

Nonpotable systems utilized for subsurface irrigation for single-family residences shall comply with the requirements of R317-401, UAC, Gray Water Systems.”

[43] (12) In IRC, Section P3103.6, the following sentence is added at the end of the paragraph: “Vents extending through the wall shall terminate not less than 12 inches from the wall with an elbow pointing downward.”

[44] (13) In IRC, Section P3104.4, the following sentence is added at the end of the paragraph: “Horizontal dry vents below the flood level rim shall be permitted for floor drain and floor sink installations when installed below grade in accordance with Chapter 30, and Sections P3104.2 and P3104.3. A wall cleanout shall be provided in the vertical vent.”

Section 20. Section 15A-3-206 is amended to read:

15A-3-206. Amendments to Chapters 36 and 44 of IRC.

(1) In IRC, Section E3901.9, the following exception is added:

“Exception: Receptacles or other outlets adjacent to the exterior walls of the garage, outlets adjacent to an exterior wall of the garage, or outlets in a storage room with entry from the garage may be connected to the garage branch circuit.”

[4] (2) In IRC, Section [E3902.12] E3902.16, the following words in the first sentence are deleted: “family rooms, dining rooms, living rooms, parlors, libraries, dens,” and “sunrooms, recreation rooms, closets, hallways, and similar rooms or areas.”

(3) In Section E3902.17:

(a) following the word “Exception” the number “1.” is added; and

(b) at the end of the section, the following sentences are added:

[Exception:] “2. This section does not apply for a simple move or an extension of a branch circuit or an

outlet which does not significantly increase the existing electrical load. This exception does not include changes involving remodeling or additions to a residence.”

[2] (3) IRC, Chapter 44, is amended by adding the following reference standard:

Standard reference number	Title	Referenced in code section number
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USC-FCCCHR 10 th Edition Manual of Cross Connection Control	Foundation for Cross-Connection Control and Hydraulic Research University of Southern California Kaprielian Hall 300 Los Angeles CA 90089-2531	Table P2902.3”
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Section 21. Section 15A-3-302 is amended to read:

15A-3-302. Amendments to Chapters 1 and 2 of IPC.

(1) A new IPC, Section [401.2] 101.2.1, is added as follows: “For clarification, the International Private Sewage Disposal Code is not part of the plumbing code even though it is in the same printed volume.”

(2) In IPC, Section 202, the definition for “Backflow Backpressure, Low Head” is deleted.

(3) In IPC, Section 202, the following definition is added: “Certified Backflow Preventer Assembly Tester. A person who has shown competence to test Backflow prevention assemblies to the satisfaction of the authority having jurisdiction under Utah Code, Subsection 19-4-104(4).”

(4) In IPC, Section 202, the following definition is added: “Contamination (High Hazard). An impairment of the quality of the potable water that creates an actual hazard to the public health through poisoning or through the spread of disease by sewage, industrial fluids or waste.”

(5) In IPC, Section 202, the definition for “Cross Connection” is deleted and replaced with the following: “Cross Connection. Any physical connection or potential connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other either water of unknown or questionable safety or steam, gas, or chemical, whereby there exists the possibility for flow from one system to the other, with the direction of flow depending on the pressure differential between the two systems (see “Backflow”).”

(6) In IPC, Section 202, the following definition is added: “Deep Seal Trap. A manufactured or field fabricated trap with a liquid seal of 4” or larger.”

[7] In IPC, Section 202, in the definition for gray water a comma is inserted after the word “washers”; the word “and” is deleted; and the following is added to the end: “and clear water wastes which have a pH of 6.0 to 9.0; are non-flammable; non-combustible; without objectionable odors; non-highly

pigmented; and will not interfere with the operation of the sewer treatment facility.”]

(7) In IPC, Section 202, the definition for “Essentially Nontoxic Transfer Fluid” is deleted and replaced with the following:

“ESSENTIALLY NONTOXIC TRANSFER FLUID. Fluids having a Gosselin rating of 1, including propylene glycol; and mineral oil.”

(8) In IPC, Section 202, the definition for “Essentially Toxic Transfer Fluid” is deleted and replaced with the following:

“ESSENTIALLY TOXIC TRANSFER FLUID. Soil, waste, or gray water; and any fluid that is not an essentially nontoxic transfer fluid under this code.”

~~[(8)]~~ (9) In IPC, Section 202, the following definition is added: “High Hazard. See Contamination.”

~~[(9)]~~ (10) In IPC, Section 202, the following definition is added: “Low Hazard. See Pollution.”

~~[(10)]~~ (11) In IPC, Section 202, the following definition is added: “Pollution (Low Hazard). An impairment of the quality of the potable water to a degree that does not create a hazard to the public health but that does adversely and unreasonably affect the aesthetic qualities of such potable water for domestic use.”

~~[(11)]~~ (12) In IPC, Section 202, the definition for “Potable Water” is deleted and replaced with the following: “Potable Water. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming to the Utah Code, Title 19, Chapter 4, Safe Drinking Water Act, and Title 19, Chapter 5, Water Quality Act, and the regulations of the public health authority having jurisdiction.”

Section 22. Section 15A-3-303 is amended to read:

15A-3-303. Amendments to Chapter 3 of IPC.

(1) In IPC, Section 303.4, the following exception is added:

“Exception: Third-party certification for backflow prevention assemblies will consist of any combination of two certifications, laboratory or field. Acceptable third party laboratory certifying agencies are ASSE, IAPMO, and USC-FCCCHR. USC-FCCCHR currently provides the only field testing of backflow protection assemblies. Also see www.drinkingwater.utah.gov and Division of Drinking Water Rule, Utah Administrative Code, R309-305-6.”

~~[(2) IPC, Section 304.3, Meter Boxes, is deleted.]~~

~~[(3)]~~ (2) IPC, Section 311.1, is deleted.

~~[(4)]~~ (3) In IPC, Section 312.3, the following is added at the end of the paragraph:

“Where water is not available at the construction site or where freezing conditions limit the use of water on the construction site, plastic drainage and

vent pipe may be permitted to be tested with air. The following procedures shall be followed:

1. Contractor shall recognize that plastic is extremely brittle at lower temperatures and can explode, causing serious injury or death.

2. Contractor assumes all liability for injury or death to persons or damage to property or for claims for labor and/or material arising from any alleged failure of the system during testing with air or compressed gasses.

3. Proper personal protective equipment, including safety eyewear and protective headgear, should be worn by all individuals in any area where an air or gas test is being conducted.

4. Contractor shall take all precautions necessary to limit the pressure within the plastic piping.

5. No ~~[water supply]~~ drain and vent system shall be pressurized in excess of 6 psi as measured by accurate gauges graduated to no more than three times the test pressure.

6. The pressure gauge shall be monitored during the test period, which should not exceed 15 minutes.

7. At the conclusion of the test, the system shall be depressurized gradually, all trapped air or gases should be vented, and test balls and plugs should be removed with caution.”

~~[(5)]~~ (4) In IPC, Section 312.5, the following is added at the end of the paragraph:

“Where water is not available at the construction site or where freezing conditions limit the use of water on the construction site, plastic water pipes may be permitted to be tested with air. The following procedures shall be followed:

1. Contractor shall recognize that plastic is extremely brittle at lower temperatures and can explode, causing serious injury or death.

2. Contractor assumes all liability for injury or death to persons or damage to property or for claims for labor and/or material arising from any alleged failure of the system during testing with air or compressed gasses.

3. Proper personal protective equipment, including safety eyewear and protective headgear, should be worn by all individuals in any area where an air or gas test is being conducted.

4. Contractor shall take all precautions necessary to limit the pressure within the plastic piping.

5. Water supply systems shall be pressure tested to a minimum of 50 psi but not more than 80 psi as measured by accurate gauges graduated to no more than three times the test pressure.

6. The pressure gauge shall be monitored during the test period, which should not exceed 15 minutes.

7. At the conclusion of the test, the system shall be depressurized gradually, all trapped air or gases should be vented, and test balls and plugs should be removed with caution.”

~~[(6)]~~ (5) A new IPC, Section 312.10.3, is added as follows: “312.10.3 Tester Qualifications. Testing shall be performed by a Utah Certified Backflow Preventer Assembly Tester in accordance with Utah Administrative Code, R309-305.”

Section 23. Section 15A-3-304 is amended to read:

15A-3-304. Amendments to Chapter 4 of IPC.

(1) In IPC, Table 403.1, the following changes are made:

(a) The title for Table 403.1 is deleted and replaced with the following: "Table 403.1, Minimum Number of Required Plumbing ~~[Facilities, h]~~ [Fixtures, h]";

(b) In ~~[the]~~ row ~~[for]~~ number "3", for "E" occupancy, in the field for "OTHER", a new footnote ~~[i]~~ g is added.

(c) In ~~[the]~~ row number "5", for "I-4 Adult day care and child day care" occupancy, in the field for "OTHER", a new footnote ~~[i]~~ g is added.

(d) A new footnote ~~[h]~~ f is added as follows: "FOOTNOTE: ~~[h]~~ f. When provided, in public toilet facilities, there shall be an equal number of diaper changing facilities in male toilet rooms and female toilet rooms. Diaper changing facilities shall meet the requirements of ASTM F2285-04 (2010) Standard Consumer Safety Performance Specifications for Diaper Changing Tables for Commercial Use."

(e) A new footnote ~~[i]~~ g is added to the table as follows: "FOOTNOTE ~~[i]~~ g: Non-residential child care facilities shall comply ~~[with additional sink requirements of Utah Administrative Code R430-100-4.]~~ with the additional requirements for sinks in administrative rule made by the Department of Health."

(2) A new IPC, Section 406.3, is added as follows: "406.3 Automatic clothes washer safe pans. Safe pans, when installed under automatic clothes washers, shall be installed in accordance with Section 504.7."

(3) A new IPC, Section 412.5, is added as follows: "412.5 Public toilet rooms. All public toilet rooms in A & E occupancies and M occupancies with restrooms having multiple water closets or urinals shall be equipped with at least one floor drain."

(4) IPC, Section 423.3, is deleted.

Section 24. Section 15A-3-305 is amended to read:

15A-3-305. Amendments to Chapter 5 of IPC.

(1) IPC, Section 502.4, is deleted and replaced with the following: "502.4 Seismic supports. ~~[Appliances designed to be fixed in position shall be fastened or anchored in an approved manner. Water]~~ As a minimum requirement, water heaters shall be anchored or strapped to resist horizontal displacement caused by earthquake motion. Strapping shall be at points within the upper one-third and lower one-third of the appliance's vertical dimensions. ~~[At the lower point, the strapping shall maintain a minimum distance of 4 inches (102 mm) above the controls.]~~"

(2) In IPC, Section 504.7.2, the following is added at the end of the section: "When permitted by the code official, the pan drain may be directly connected to a soil stack, waste stack, or branch drain. The pan drain shall be individually trapped and vented as required in Section 907.1. The pan drain shall not be directly or indirectly connected to any vent. The trap shall be provided with a trap primer conforming to ASSE 1018 or ASSE 1044, a barrier type floor drain trap seal protection device meeting ASSE 1072, or a deep seal p-trap."

(3) A new IPC, Section 504.7.3, is added as follows: "504.7.3 Pan Designation. A water heater pan shall be considered an emergency receptor designated to receive the discharge of water from the water heater only and shall not receive the discharge from any other fixtures, devices, or equipment."

Section 25. Section 15A-3-306 is amended to read:

15A-3-306. Amendments to Chapter 6 of IPC.

(1) IPC, Section 602.3, is deleted and replaced with the following: "602.3 Individual water supply. Where a potable public water supply is not available, individual sources of potable water supply shall be utilized provided that the source has been developed in accordance with Utah Code, Sections 73-3-1, 73-3-3, and 73-3-25, as administered by the Department of Natural Resources, Division of Water Rights. In addition, the quality of the water shall be approved by the local health department having jurisdiction. The source shall supply sufficient quantity of water to comply with the requirements of this chapter."

(2) IPC, Sections 602.3.1, 602.3.2, 602.3.3, 602.3.4, 602.3.5, and 602.3.5.1, are deleted.

(3) A new IPC, Section 604.4.1, is added as follows: "604.4.1 Manually operated metering faucets for food service establishments. Self closing or manually operated metering faucets shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet."

(4) IPC, Section 606.5, is deleted and replaced with the following: "606.5 Water pressure booster systems. Water pressure booster systems shall be provided as required by Section 606.5.1 through 606.5.11."

(5) A new IPC, Section 606.5.11, is added as follows: "606.5.11 Prohibited installation. In no case shall a booster pump be allowed that will lower the pressure in the public main to less than the minimum water pressure specified in Utah Administrative Code R309-105-9."

(6) In IPC, Section 608.1, the words "and pollution" are added after the word "contamination."

~~[(7) IPC, Table 608.1, is deleted and replaced with the following:]~~

[

TABLE 608.1
Application of Back Flow Preventers

DEVICE	DEGREE OF HAZARD _a	APPLICATION _b	APPLICABLE STANDARDS
BACKFLOW PREVENTION ASSEMBLIES:			
Double check backflow prevention assembly and double check fire protection backflow prevention assembly	Low hazard	Backpressure or backsiphonage Sizes 3/8" – 16"	ASSE 1015, AWWA C510, CSA B64.5, CSA B64.5.1
Double check detector fire protection backflow prevention assemblies	Low hazard	Backpressure or backsiphonage Sizes 3/8" – 16"	ASSE 1048
Pressure vacuum breaker assembly	High or low hazard	Backsiphonage only Sizes 1/2" – 2"	ASSE 1020, CSA B64.1.2
Reduced pressure principle backflow prevention assembly and reduced pressure principle fire protection backflow assembly	High or low hazard	Backpressure or backsiphonage Sizes 3/8" – 16"	ASSE 1013, AWWA C511, CSA B64.4, CSA B64.4.1
Reduced pressure detector fire protection backflow prevention assemblies	High or low hazard	Backpressure or backsiphonage (Fire Sprinkler Systems)	ASSE 1047
Spill-resistant vacuum breaker assembly	High or low hazard	Backsiphonage only Sizes 1/2" – 2"	ASSE 1056
BACKFLOW PREVENTER PLUMBING DEVICES:			
Antisiphon-type fill valves for gravity water closet flush tanks	High hazard	Backsiphonage only	ASSE 1002, CSA B125.3
Backflow preventer for carbonated beverage machines	Low hazard	Backpressure or backsiphonage Sizes 1/4" – 3/8"	ASSE 1022
Backflow preventer with intermediate atmospheric vents	Low hazard	Backpressure or backsiphonage Sizes 1/4" – 3/8"	ASSE 1012, CSA B64.3
Dual check valve type backflow preventers	Low hazard	Backpressure or backsiphonage Sizes 1/4" – 1"	ASSE 1024, CSA B64.6
Hose connection backflow preventer	High or low hazard	Backsiphonage only Sizes 1/2" – 1"	ASSE 1052, CSA B64.2, B64.2.1
Hose connection vacuum breaker	High or low hazard	Backsiphonage only Sizes 1/2", 3/4", 1"	ASSE 1011, CAN/CSA B64.1.1
Atmospheric type vacuum breaker	High or low hazard	Backsiphonage only Sizes 1/2" – 4"	ASSE 1001, CSA B64.1.1
Vacuum breaker wall hydrants, frost resistant, automatic draining type	High or low hazard	Backsiphonage only Sizes 3/4", 1"	ASSE 1019, CSA B64.2.2

OTHER MEANS or METHODS:

Air gap	High or low hazard	Backsiphonage only	ASME A112.1.2
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Air gap fittings for use with plumbing fixtures, appliances and appurtenances	High or low hazard	Backpressure or backsiphonage	ASME A112.1.3
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For SI: 1 inch = 25.4 mm

a. Low Hazard – See Pollution (Section 202), High Hazard – See Contamination (Section 202)

b. See Backpressure (Section 202), See Backpressure, low head (Section 202), See Backsiphonage Section 202)

Installation Guidelines: The above specialty devices shall be installed in accordance with their listing and the manufacturer's instructions and the specific provisions of this chapter."

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(7) In IPC, Section 608.1, the following subsections are added as follows:

“608.1.1 General Installation Criteria.

An assembly shall not be installed more than five feet above the floor unless a permanent platform is installed. The assembly owner, where necessary, shall provide devices or structures to facilitate testing, repair, and maintenance and to insure the safety of the backflow technician.

608.1.2 Specific Installation Criteria.

608.1.2.1 Reduced Pressure Principle Backflow Prevention Assembly.

A reduced pressure principle backflow prevention assembly shall be installed as follows:

- a. The assembly shall not be installed in a pit.
- b. The relief valve of the assembly shall not be directly connected to a waste disposal line, including a sanitary sewer, storm drain, or vent.
- c. The assembly shall be installed in a horizontal position, unless the assembly is listed or approved for vertical installation in accordance with Section 303.4.
- d. The bottom of each assembly shall be installed a minimum of 12 inches above the ground or the floor.
- .e. The body of the assembly shall be a minimum of 12 inches from any wall, ceiling, or obstacle, and shall be readily accessible for testing, repair, and maintenance.

608.1.2.2 Double Check Valve Backflow Prevention Assembly.

A double check valve backflow prevention assembly shall be installed as follows:

- a. The assembly shall be installed in a horizontal position unless the assembly is listed or approved for vertical installation.
- b. The bottom of the assembly shall be a minimum of 12 inches above the ground or the floor.
- c. The body of the assembly shall be a minimum of 12 inches from any wall, ceiling, or obstacle, and shall be readily accessible for testing, repair, and maintenance.
- d. If installed in a pit, the assembly shall be installed with a minimum of 12 inches of clearance around all sides of the vault, including the floor and roof or ceiling, with adequate room for testing and maintenance.

608.1.2.3 Pressure Vacuum Break Assembly and Spill Resistant Pressure Vacuum Breaker Assembly.

A pressure vacuum break assembly and spill resistant pressure vacuum breaker assembly shall be installed as follows:

- a. The assembly shall not be installed in an area that could be subject to backpressure or back drainage conditions.
- b. The assembly shall be installed a minimum of 12 inches above all downstream piping and the highest point of use.
- c. The assembly shall be a minimum of 12 inches from any wall, ceiling, or obstacle, and shall be readily accessible for testing, repair, and maintenance.

d. The assembly shall not be installed below ground or in a vault or pit.

e. The assembly shall be installed in a vertical position.”

(8) In IPC, Section 608.3, the word “and” after the word “contamination” is deleted and replaced with a comma and the words “and pollution” are added after the word “contamination” in the first sentence.

(9) In IPC, Section 608.5, the words “with the potential to create a condition of either contamination or pollution or” are added after the word “substances”.

(10) In IPC, Section 608.6, the following sentence is added at the end of the paragraph: “Any connection between potable water piping and sewer-connected waste shall be protected by an air gap in accordance with Section 608.13.1.”

(11) IPC, Section 608.7, is deleted and replaced with the following: “608.7 Stop and Waste Valves installed below grade. Combination stop-and-waste valves shall be permitted to be installed underground or below grade. Freeze proof yard hydrants that drain the riser into the ground are considered to be stop-and-waste valves and shall be permitted. A stop-and-waste valve shall be installed in accordance with a manufacturer’s recommended installation instructions.”

(12) In IPC, Section 608.11, the following sentence is added at the end of the paragraph: “The coating and installation shall conform to NSF Standard 61 and application of the coating shall comply with the manufacturer’s instructions.”

(13) IPC, Section 608.13.3, is deleted and replaced with the following: “608.13.3 Backflow preventer with intermediate atmospheric vent. Backflow preventers with intermediate atmospheric vents shall conform to ASSE 1012 or CSA CAN/CSA-B64.3. These devices shall be permitted to be installed on residential boilers only, without chemical treatment, where subject to continuous pressure conditions. The relief opening shall discharge by air gap and shall be prevented from being submerged.”

(14) IPC, Section 608.13.4, is deleted.

(15) IPC, Section 608.13.9, is deleted and replaced with the following: “608.13.9 Chemical dispenser backflow devices. Backflow devices for chemical dispensers shall comply with Section 608.16.7.”

(16) IPC, Section 608.15.3, is deleted and replaced with the following: “608.15.3 Protection by a backflow preventer with intermediate atmospheric vent. Connections to residential boilers only, without chemical treatment, shall be protected by a backflow preventer with an intermediate atmospheric vent.”

(17) IPC, Section 608.15.4, is deleted and replaced with the following: “608.15.4 Protection by a vacuum breaker. Openings and outlets shall be protected by atmospheric-type or pressure-type vacuum breakers. Vacuum breakers shall not be installed under exhaust hoods or similar locations

that will contain toxic fumes or vapors. Fill valves shall be set in accordance with Section 425.3.1. Atmospheric Vacuum Breakers - The critical level of the atmospheric vacuum breaker shall be set a minimum of 6 inches (152 mm) above the flood level rim of the fixture or device. Pipe-applied vacuum breakers shall be installed not less than 6 inches (152 mm) above the flood level rim of the fixture, receptor, or device served. No valves shall be installed downstream of the atmospheric vacuum breaker. Pressure Vacuum Breaker - The critical level of the pressure vacuum breaker shall be set a minimum of 12 inches (304 mm) above the flood level of the fixture or device.”

(18) In IPC, Section 608.15.4.2, the following is added after the first sentence: “Add-on-backflow prevention devices shall be non-removable. In climates where freezing temperatures occur, a listed self-draining frost proof hose bibb with an integral backflow preventer shall be used.”

(19) IPC, Section 608.16.2, is deleted and replaced as follows: “608.16.2 Connections to boilers. The potable supply to a boiler shall be protected by an air gap or a reduced pressure principle backflow preventer, complying with ASSE 1013, CSA B64.4 or AWWA C511. Exception: The potable supply to a residential boiler without chemical treatment may be equipped with a backflow preventer with an intermediate atmospheric vent complying with ASSE 1012 or CSA CAN/CSA-B64.3.”

~~[(20) IPC, Section 608.16.3, is deleted and replaced with the following: “608.16.3 Heat exchangers. Heat exchangers shall be separated from potable water by double-wall construction. An air gap open to the atmosphere shall be provided between the two walls.]~~

~~[Exceptions:]~~

~~[1. Single wall heat exchangers shall be permitted when all of the following conditions are met:]~~

~~[a. It utilizes a heat transfer medium of potable water or contains only substances which are recognized as safe by the United States Food and Drug Administration (FDA);]~~

~~[b. The pressure of the heat transfer medium is maintained less than the normal minimum operating pressure of the potable water system; and]~~

~~[c. The equipment is permanently labeled to indicate only additives recognized as safe by the FDA shall be used.]~~

~~[2. Steam systems that comply with paragraph 1 above.]~~

~~[3. Approved listed electrical drinking water coolers.”]~~

[(21)] (20) In IPC, Section 608.16.4.1, a new exception is added as follows:

“Exception: All class 1 and 2 systems containing chemical additives consisting of strictly glycerine (C.P. or U.S.P. 96.5 percent grade) or propylene glycol shall be protected against backflow with a double check valve assembly. Such systems shall include written certification of the chemical

additives at the time of original installation and service or maintenance.”

[(22)] (21) IPC, Section 608.16.7, is deleted and replaced with the following: “608.16.7 Chemical dispensers. Where chemical dispensers connect to the water distribution system, the water supply system shall be protected against backflow in accordance with Section 608.13.1, Section 608.13.2, Section 608.13.5, Section 608.13.6 or Section 608.13.8. Installation shall be in accordance with Section 608.1.2. Chemical dispensers shall connect to a separate dedicated water supply [separate from any] line, and not a sink faucet.”

[(23)] (22) IPC, Section 608.16.8, is deleted and replaced with the following: “608.16.8 Portable cleaning equipment. Where the portable cleaning equipment connects to the water distribution system, the water supply system shall be protected against backflow in accordance with Section 608.13.1[7] or Section 608.13.2 [or Section 608.13.8].”

[(24)] (23) A new IPC, Section 608.16.11, is added as follows: “608.16.11 Automatic and coin operated car washes. The water supply to an automatic or coin operated car wash shall be protected in accordance with Section 608.13.1 or Section 608.13.2.”

[(25)] (24) IPC, Section 608.17, is deleted and replaced with the following: “608.17 Protection of individual water supplies. See Section 602.3 for requirements.”

Section 26. Section 15A-3-308 is amended to read:

15A-3-308. Amendments to Chapter 8 of IPC.

~~[IPC, Chapter 8, is not amended.]~~

~~In IPC, Section 802.1.1, the last sentence is deleted.~~

Section 27. Section 15A-3-310 is amended to read:

15A-3-310. Amendments to Chapter 10 of IPC.

~~[In IPC, Section 1002.4, the following is added at the end of the paragraph: “Approved Means of Maintaining Trap Seals. Approved means of maintaining trap seals include the following, but are not limited to the methods cited:]~~

~~[1. A listed trap seal primer conforming to ASSE 1018 and ASSE 1044.]~~

~~[2. A hose bibb or bibbs within the same room.]~~

~~[3. Drainage from an untrapped lavatory discharging to the tailpiece of those fixture traps which require priming. All fixtures shall be in the same room and on the same floor level as the trap primer.]~~

~~[4. Barrier type floor drain trap seal protection device meeting ASSE Standard 1072.]~~

~~[5. Deep seal p-trap”.]~~

IPC, Chapter 10, is not amended.

Section 28. Section 15A-3-311 is amended to read:

15A-3-311. Amendments to Chapter 11 of IPC.

[~~(1) IPC, Section 1104.2, is deleted and replaced with the following: “1104.2 Combining storm and sanitary drainage prohibited. The combining of sanitary and storm drainage systems is prohibited.”]~~

(1) A new IPC, Section 1106.1.1, is added as follows:

“1106.1.1 Alternate Methods.

An approved alternate storm drain sizing method may be allowed.”

(2) IPC, Section 1109, is deleted.

Section 29. Section 15A-3-313 is amended to read:

15A-3-313. Amendments to Chapter 13 of IPC.

[~~(1) In IPC, Section 1301.1, all words after the word “urinals” are deleted and the following sentence is added at the end: “Gray water recycling systems for subsurface landscape irrigation shall conform with UAC R317-401 Gray Water Systems.”]~~

[~~(2) A new IPC, Section 1301.1.1, is added as follows: “1301.1.1 Recording. The existence of a gray water recycling system shall be recorded on the deed of ownership for that property. The certificate of occupancy shall not be issued until the documentation of the recording required under this section is completed by the owner.”]~~

[~~(3) In IPC, Section 1301.2, the words “and systems for subsurface landscape irrigation shall comply with Section 1303” are deleted.]~~

[~~(4) IPC, Section 1301.6, is deleted and replaced with the following: “1301.6 Potable water connections. The potable water supply to any building utilizing a gray water recycling system shall be protected against backflow by a reduced pressure backflow prevention assembly installed in accordance with Section 608.”]~~

[~~(5) In IPC, Section 1301.7, the following is added at the end of the sentence: “and other clear water wastes which have a pH of 6.0 to 9.0; are non-flammable, non-combustible; without objectionable odor; non-highly pigmented; and will not interfere with the operation of the sewer treatment facility.”]~~

[~~(6) In IPC, Section 1302.3, in the second sentence, the following is added between the words “backflow” and “in”: “by a reduced pressure backflow prevention assembly or an air gap installed”.]~~

[~~(7) IPC, Section 1303, is deleted and replaced with the following: “Section 1303 SUBSURFACE LANDSCAPE IRRIGATION SYSTEMS. Gray water recycling systems utilized for subsurface~~

~~irrigation for single family residences shall comply with the requirements of UAC R317-401, Gray Water Systems. Gray water recycling systems utilized for subsurface irrigation for other occupancies shall comply with UAC R317-3, Design Requirements for Wastewater Collection, Treatment and Disposal and UAC R317-4, Onsite Waterwaste Systems.”]~~

(1) A new IPC, Section 1301.4.1, is added as follows:

“1301.4.1 Recording.

The existence of a nonpotable water system shall be recorded on the deed of ownership for the property. The certificate of occupancy shall not be issued until the documentation for the recording required under this section is completed by the property owner.”

(2) IPC, Section 1301.5, is deleted and replaced with the following:

1301.5 Potable water connections.

Where a potable water system is connected to a nonpotable water system, the potable water supply shall be protected against backflow by a reduced pressure backflow prevention assembly or an air gap installed in accordance with Section 608.”

(3) IPC, Section 1301.9.5, is deleted and replaced with the following:

“1301.9.5 Makeup water.

Where an uninterrupted supply is required for the intended application, potable or reclaimed water shall be provided as a source of makeup water for the storage tank. The makeup water supply shall be protected against backflow by a reduced pressure backflow prevention assembly or an air gap installed in accordance with Section 608. A full-open valve located on the makeup water supply line to the storage tank shall be provided. Inlets to the storage tank shall be controlled by fill valves or other automatic supply valves installed to prevent the tank from overflowing and to prevent the water level from dropping below a predetermined point. Where makeup water is provided, the water level shall not be permitted to drop below the source water inlet or the intake of any attached pump.”

(4) IPC, Section 1302.12.4, is deleted and replaced with the following:

“1302.12.4 Inspection and testing of backflow prevention assemblies.

Testing of a backflow preventer shall be conducted in accordance with Sections 312.10.1, 312.10.2, and 312.10.3.”

(5) IPC, Section 1303.15.6, is deleted and replaced with the following:

“1303.15.6 Inspection and testing of backflow prevention assemblies.

Testing of a backflow prevention assembly shall be conducted in accordance with Sections 312.10.1, 312.10.2, and 312.10.3.”

(6) IPC, Section 1304.4.2, is deleted and replaced with the following:

“1304.4.2 Inspection and testing of backflow prevention assemblies.

Testing of a backflow preventer or backwater valve shall be conducted in accordance with Sections 312.10.1, 312.10.2, and 312.10.3.”

Section 30. Section 15A-3-314 is amended to read:

15A-3-314. Amendments to Chapter 14 of IPC.

[~~(1) In IPC, Chapter 14, the following referenced standard is added under ASSE:]~~

Standard reference number	Title	Referenced in code section number
1072-2007	Performance Requirements for Barrier Type Floor Drain Trap Seal Protection Devices	1004.2²

] [~~(2) In IPC, Chapter 14, the following referenced standard is added:]~~

Standard reference number	Title	Referenced in code section number
USC-FCCCHR 10th Edition Manual of Cross Connection Control	Foundation for Cross-Connection Control and Hydraulic Research University of Southern California Kaprielian Hall 300 Los Angeles CA 90089-2531	Table 608.1²

] IPC, Chapter 14, is deleted and replaced with the following:

“1401. Subsurface Landscape Irrigation Systems. Gray water recycling systems utilized for subsurface irrigation for single-family residences shall comply with the requirements of UAC R317-401, Gray Water Systems. Gray water recycling systems utilized for subsurface irrigation for other occupancies shall comply with UAC R317-3, Design Requirements for Wastewater Collection, Treatment, and Disposal, and UAC R317-4, Onsite Waterwaste Systems.”

Section 31. Section 15A-3-315 is enacted to read:

15A-3-315. Amendments to Chapter 15 of IPC.

In IPC, Chapter 15, the following referenced standard is added:

<u>Standard reference number</u>	<u>Title</u>	<u>Referenced in code section number</u>
<u>USC-FCCCHR 10th Edition Manual of Cross Connection Control</u>	<u>Foundation for Cross-Connection Control and Hydraulic Research University of Southern California Kaprielian Hall 300 Los Angeles CA 90089-2531</u>	<u>Table 608.1²</u>

Section 32. Section 15A-3-401 is amended to read:

15A-3-401. General provisions.

The following are adopted as amendments to the IMC to be applicable statewide:

[~~(1) In IMC, Section 202, the definition for “CONDITIONED SPACE” is deleted and replaced with the following: “CONDITIONED SPACE. An area, room, or space enclosed within the building thermal envelope that is directly heated or cooled, or indirectly heated or cooled by any of the following means:]~~

~~[1. Openings directly into an adjacent conditioned space.]~~

~~[2. An un-insulated floor, ceiling or wall adjacent to a conditioned space.]~~

~~[3. Un-insulated duct, piping or other heat or cooling source within the space.”]~~

[~~(2) In IMC, Section 403.2.1, Item 3, is deleted and replaced with the following: “Except as provided in Table 403.3, Note h, where mechanical exhaust is required by Note b in Table 403.3, recirculation of air from such spaces is prohibited. All air supplied to such spaces shall be exhausted, including any air in excess of that required by Table 403.3.”]~~

[~~(3) In IMC, Table 403.3, Note b, is deleted and replaced with the following: “Except as provided in Note h, mechanical exhaust required and the recirculation of air from such spaces is prohibited (see Section 403.2.1, Item 3).”]~~

[~~(4) In IMC, Table 403.3, Note h is deleted and replaced with the following:]~~

~~“1. For a nail salon where a nail technician files or shapes an acrylic nail, as defined by rule by the Division of Occupational and Professional Licensing, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, each nail station where a nail technician files or shapes an acrylic nail shall be provided with:]~~

~~[a. a source capture system capable of filtering and recirculating air to inside space not less than 50 cfm per station; or]~~

~~[b. a source capture system capable of exhausting not less than 50 cfm per station.”]~~

~~[2. Except as provided in paragraph 3, the requirements described in paragraph 1 apply beginning on July 1, 2020.]~~

~~[3. The requirements described in paragraph 1 apply beginning on July 1, 2014 if the nail salon is under or begins new construction or remodeling on or after July 1, 2014.]~~

[~~(5) In IMC, Section 403, a new Section 403.8 is added as follows: “Retrospective effect. Removal, alteration, or abandonment shall not be required, and continued use and maintenance shall be allowed, for a ventilation system within an existing installation that complies with the requirements of this Section 403 regardless of whether the ventilation system satisfied the minimum ventilation rate requirements of prior law.”]~~

[~~(6) In IMC, Table 603.4, in the section “Round ducts and enclosed rectangular ducts”, the word~~

~~“enclosed” is deleted; the words “14 inches or less” are deleted and replaced with “over 8 inches but less than 15 inches”; the wording “8 inches or less” under duct size, “0.013” under minimum thickness (in.), “30” under equivalent gage no., and “0.0159” under aluminum minimum thickness (in.), are added; and the section “Exposed rectangular ducts” is deleted.]~~

[~~(7)~~] (1) In IMC, Section 1004.2, the first sentence is deleted and replaced with the following: “[Boilers] In accordance with Title 34A, Chapter 7, Safety, and requirements made by rule by the Labor Commission, boilers and pressure vessels in Utah are regulated by the Utah Labor Commission, Division of Boiler, Elevator and Coal Mine Safety, except those located in private residences or in apartment houses of less than five family units. Boilers shall be installed in accordance with their listing and labeling, with minimum clearances as prescribed by the manufacturer’s installation instructions and the state boiler code, whichever is greater.”

[~~(8)~~] (2) In IMC, Section 1004.3.1, the word “unlisted” is inserted before the word “boilers”.

[~~(9)~~] (3) IMC, Section 1101.10, is deleted.

(4) In IMC, Section 1209.3, the following words are added at the end of the section: “or other methods approved for the application.”

Section 33. Section 15A-3-501 is amended to read:

15A-3-501. General provisions.

The following are adopted as an amendment to the IFGC to be applicable statewide:

(1) In IFGC, Section 404.9, a new Section 404.9.1, is added as follows: “404.9.1 Meter protection. Fuel gas services shall be in an approved location and/or provided with structures designed to protect the fuel gas meter and surrounding piping from physical damage, including falling, moving, or migrating ice and snow. If an added structure is used, it must still provide access for service and comply with the IBC or the IRC.”

(2) IFGC, Section 409.5.3, is deleted.

(3) In IFGC, Section 631.2, the following sentence is inserted before the first sentence:

~~“[Boilers] In accordance with Title 34A, Chapter 7, Safety, and requirements made by rule by the Labor Commission, boilers and pressure vessels in Utah are regulated by the Utah Labor Commission, Division of Boiler, Elevator and Coal Mine Safety, except those located in private residences or in apartment houses of less than five family units. Boilers shall be installed in accordance with their listing and labeling, with minimum clearances as prescribed by the manufacturer’s installation instructions and the state boiler code, whichever is greater.”~~

Section 34. Section 15A-3-601 is amended to read:

15A-3-601. General provisions.

The following are adopted as amendments to the NEC to be applicable statewide:

(1) The IRC provisions are adopted as the residential electrical standards applicable to installations applicable under the IRC. All other installations shall comply with the adopted NEC.

~~[(2) In NEC, Section 310.15(B)(7), the second sentence is deleted and replaced with the following: “For application of this section, the main power feeder shall be the feeder(s) between the main disconnect and the panelboard(s).”]~~

(2) NEC, Section 240.87(B), is modified to add the following as an additional approved equivalent means:

“6. An instantaneous trip function set at or below the available fault current.”

Section 35. Section 15A-3-701 is amended to read:

15A-3-701. General provisions.

The following is adopted as an amendment to the IECC to be applicable statewide:

~~[(1) In IECC, Section C202, the definition for “CONDITIONED SPACE” is deleted and replaced with the following: “CONDITIONED SPACE. An area, room or space enclosed within the building thermal envelope that is directly heated or cooled, or indirectly heated or cooled by any of the following means:]~~

~~[1. Openings directly into an adjacent conditioned space.]~~

~~[2. An un-insulated floor, ceiling or wall adjacent to a conditioned space.]~~

~~[3. Un-insulated duct, piping or other heat or cooling source within the space.”]~~

~~[(2) In IECC, Section C404.4, a new exception is added as follows: “Exception: Heat traps, other than the arrangement of piping and fittings, shall be prohibited unless a means of controlling thermal expansion can be ensured as required in the IPC Section 607.3.”]~~

(1) In IECC, Section C403.2.9.1.3, the words “by the designer” are deleted.

[~~(3)~~] (2) In IECC, Section R103.2, all words after the words “herein governed.” are deleted and replaced with the following: “Construction documents include all documentation required to be submitted in order to issue a building permit.”

~~[(4) In IECC, Section R202, the definition for “CONDITIONED SPACE” is deleted and replaced with the following: “CONDITIONED SPACE. An area, room or space enclosed within the building thermal envelope that is directly heated or cooled, or indirectly heated or cooled by any of the following means:]~~

~~[1. Openings directly into an adjacent conditioned space.]~~

~~[2. An un-insulated floor, ceiling or wall adjacent to a conditioned space.]~~

~~[3. Un-insulated duct, piping or other heat or cooling source within the space.”]~~

~~[(5)] (3) In IECC, Section R303.3, all wording after the first sentence is deleted.~~

~~(4) In IECC, Section R401.2, a new number 4 is added as follows:~~

~~“4. Compliance may be shown by demonstrating a result, using the software RESCheck 2012 Utah Energy Conservation Code, of:~~

~~(a) on or after January 1, 2017, and before January 1, 2019, “3 percent better than code”;~~

~~(b) on or after January 1, 2019, and before January 1, 2021, “4 percent better than code”; and~~

~~(c) after January 1, 2021, “5 percent better than code”.~~

~~[(6)] (5) In IECC, Table [R402.1.1 and Table R402.1.3, the rows for “climate zone 3”, “climate zone 5 and Marine 4, and climate zone 6” are deleted and replaced and] R402.2, in the column entitled MASS WALL R-VALUE, a new footnote j is added as follows:~~

“TABLE R402.1.1
INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT”^a

CLIMATE ZONE	FENESTRATION U-FACTOR ^b	SKYLIGHT ^b U-FACTOR	GLAZED FENESTRATION SHGC ^{b,e}	CEILING R-VALUE	WOOD FRAME WALL R-VALUE	MASS WALL R-VALUE ^{i,j}	FLOOR R-VALUE	BASEMENT ^c WALL R-VALUE	SLAB ^d R-VALUE & DEPTH	CRAWL SPACE ^c WALL R-VALUE
3	0.65	0.65	0.40	30	15	5	19	0	0	5/13
5 and Marine 4	0.35	0.60	NR	38	19 or 13 + 5 ^h	13	30 ^g	10/13	10, 2 ft	10/13
6	0.35	0.60	NR	49	19 or 13 + 5 ^h	15	30 ^g	10/13	10, 4 ft	10/13

j- Log walls complying with ICC400 and with a minimum average wall thickness of 5” or greater shall be permitted in Zones 5-8 when overall window glazing is .31 U-factor or lower, minimum heating equipment efficiency is 90 AFUE (gas) or 84 AFUE (oil), and all other component requirements are met.

TABLE R402.1.3
EQUIVALENT U-FACTORS^a

CLIMATE ZONE	FENESTRATION U-FACTOR	SKYLIGHT U-FACTOR	CEILING U-FACTOR	FRAME WALL U-FACTOR	MASS WALL U-FACTOR ^b	FLOOR U-FACTOR	BASEMENT ^c WALL U-FACTOR	CRAWL SPACE WALL U-FACTOR
3	0.65	0.65	0.035	0.082	0.141	0.047	0.360	0.136
5 and Marine 4	0.35	0.60	0.030	0.060	0.082	0.033	0.059	0.065
6	0.35	0.60	0.026	0.060	0.060	0.033	0.059	0.065

[~~j~~] Log walls complying with ICC400 and with a minimum average wall thickness of 5 inches or greater shall be permitted in Zones 5 through 8 when overall window glazing has a .31 U-factor or lower, minimum heating equipment efficiency is, for gas, 90 AFUE, or, for oil, 84 AFUE, and all other component requirements are met.”

[~~7~~] In IECC, Section R402.2.1, the last sentence is deleted.]

[~~8~~] In IECC, Section R402.2.2, the last sentence is deleted.]

[~~9~~] In IECC, Section R402.3.3, the last sentence is deleted.]

[~~10~~] In IECC, Section R402.3.4, the last sentence is deleted.]

[~~11~~] (6) In IECC, Section R402.4.1, in the first sentence, the word “and” is deleted and replaced with the word “or”.

[~~12~~] (7) In IECC, Section R402.4.1.1, the last sentence is deleted and replaced with the following: “Where allowed by the [building] code official, the builder may certify compliance to components criteria for items which may not be inspected during regularly scheduled inspections.”

[~~13~~] (8) In IECC, Section R402.4.1.2, the following changes are made:

(a) In the first sentence:

(i) on or after January 1, 2019, and before January 1, 2021, replace the word “five” with “3.5”; and

(ii) after January 1, 2021, replace the word “five” with “three.”

[~~a~~] (b) In the first sentence, the words “in Climate Zones 1 and 2, and [3] three air changes per hour in [Zone] Climate Zones 3 through 8” are deleted.

[~~b~~] (c) In the third sentence, the [words “Where required by the building official,” and the] word “third” [are] is deleted.

[~~e~~] (d) The following sentence is inserted after the third sentence: “The following parties shall be approved to conduct testing: Parties certified by BPI or RESNET, or licensed contractors who have completed training provided by Blower Door Test equipment manufacturers or other comparable training.”

[~~14~~] In IECC, Section R402.4.4, the last sentence is deleted.]

[~~15~~] In IECC, Section R403.2.2, the requirements for duct tightness testing are deleted and replaced with the following:

“1. Postconstruction test: Total leakage shall be less than or equal to 10 cfm (283 L/min) per 100 square feet (9.29 m²) of conditioned floor space when tested at a pressure differential of 0.1 inches w.g. (25 Pa) across the entire system, including the manufacturer’s air handler enclosure. All register

boots shall be taped or otherwise sealed during the test.”

[2. Rough-in test: Total leakage shall be less than or equal to 10 cfm (283 L/min) per 100 square feet (9.29 m²) of conditioned floor area when tested at a pressure differential of at least 0.1 inches w.g. (25 Pa) across the system, including the manufacturer’s air handler enclosure. All registers shall be taped or otherwise sealed during the test. If the air handler is not installed at the time of the test, total leakage shall be less than or equal to 7.5 cfm (212 L/min) per 100 square feet (9.29 m²) of conditioned floor area.”]

[~~16~~] (9) In IECC, Section [R403.2.2,] R403.3.3:

(a) the exception for [total] duct air leakage testing is deleted; and

(b) the exception for duct air leakage is replaced:

(i) on or after January 1, 2017, and before January 1, 2019, with the following:

“Exception: The total leakage test is not required for systems with all air handlers and at least [50%] 65% of all ducts (measured by length) located entirely within the building thermal envelope.”;

(ii) on or after January 1, 2019, and before January 1, 2021, with the following:

“Exception: The duct air leakage test is not required for systems with all air handlers and at least 75% of all ducts (measured by length) located entirely within the building thermal envelope.”; and

(iii) on or after January 1, 2021, with the following: “Exception: The duct air leakage test is not required for systems with all air handlers and at least 80% of all ducts (measured by length) located entirely within the building thermal envelope.”

(10) In IECC, Section R403.3.3, the following is added after the exception:

“The following parties shall be approved to conduct testing:

1. Parties certified by BPI or RESNET.

2. Licensed contractors who have completed training provided by Duct Test equipment manufacturers or other comparable training.”

(11) In IECC, Section R403.3.4:

(a) in Subsection 1, the number 4 is changed to 8, the number 113.3 is changed to 170, the number 3 is changed to 6, and the number 85 is changed to 114.6; and

(b) in Subsection 2:

(i) on or after January 1, 2017, and before January 1, 2019, the number 4 is changed to 8 and the number 113.3 is changed to 226.5;

(ii) on or after January 1, 2019, and before January 1, 2021, the number 4 is changed to 7 and the number 113.3 is changed to 198.2; and

(iii) on or after January 1, 2021, the number 4 is changed to 6 and the number 113.3 is changed to 169.9.

[~~17~~] (12) In IECC, Section [R403.2.3] R403.3.5, the words “or plenums” are deleted.

[18] In IECC, Section R403.4.2, the sentences for “3,” and “9,” and the last sentence are deleted.]

[19] In IECC, Section R403.5, the first sentence is deleted.]

[20] IECC, Section R404.1 and the exception are deleted, and R404.1.1 becomes R404.1.]

[21] In IECC, Table R405.5.2(1), the following changes are made under the column STANDARD REFERENCE DESIGN:]

[a] In the row “Air exchange rate”, the words “in Zones 1 and 2, and 3 air changes per hour in Zones 3 through 8” are deleted.]

[b] In the row “Heating systemsf, g”, the standard reference design is deleted and replaced with the following:]

["Fuel Type: same as proposed design]

[Efficiencies:]

[Electric: air source heat pump with prevailing federal minimum efficiencies]

[Nonelectric furnaces: natural gas furnace with prevailing federal minimum efficiencies]

[Nonelectric boilers: natural gas boiler with prevailing federal minimum efficiencies]

[Capacity: sized in accordance with Section N1103.6"]

[c] In the row “Cooling systemsf, h” the words “As proposed” are deleted and replaced with the following:]

["Fuel Type: Electric]

[Efficiency: in accordance with prevailing federal minimum standards"]

[d] In the row “Service water heatingf, g, h, i”, the words “As proposed” are deleted and replaced with the following:]

["Fuel Type: same as proposed design]

[Efficiency: in accordance with prevailing federal minimum standards]

[Tank Temperature: 120o F"]

[e] In the row “Thermal distribution systems” the word “none” is deleted and replaced with the following: “Thermal distribution system efficiency (DSE) of .080 shall be applied to both the heating and cooling system efficiencies.”]

[22] In IECC, Table R405.5.2(2), the number “0.80” is inserted under “Forced air systems” for “Distribution system components located in unconditioned space.”]

[23] The RESCheck Software adopted by the United States Department of Energy and modified to meet the requirements of this section shall be used to verify compliance with this section. The software shall address the Total UA alternative approach and account for Equipment Efficiency Trade-offs when applicable per the standard reference design as amended.]

(13) In IECC, Section R403.5.3, Subsection 5 is deleted and Subsections 6 and 7 are renumbered.

(14) In IECC, Section R406.4, the table is deleted and replaced with the following:

TABLE R406.4

MAXIMUM ENERGY RATING INDEX

CLIMATE ZONE	ENERGY RATING INDEX
3	65
5	69
6	68

Section 36. Section 15A-3-801 is amended to read:

Part 8. Statewide Amendments to International Existing Building Code

15A-3-801. General provisions.

[Mobile homes built before June 15, 1976 that are subject to relocation, building alteration, remodeling, or rehabilitation shall comply with the following:]

(1) Related to exits and egress windows:]

[a] Egress windows. The home has at least one egress window in each bedroom, or a window that meets the minimum specifications of the U.S. Department of Housing and Urban Development's (HUD) Manufactured Homes Construction and Safety Standards (MHCSS) program as set forth in 24 C.F.R. Parts 3280 and 3282, MHCSS 3280.106 and 3280.404 for manufactured homes. These standards require the window to be at least 22 inches in the horizontal or vertical position in its least dimension and at least five square feet in area. The bottom of the window opening shall be no more than 36 inches above the floor, and the locks and latches and any window screen or storm window devices that need to be operated to permit exiting shall not be located more than 54 inches above the finished floor.]

[b] Exits. The home is required to have two exterior exit doors, located remotely from each other, as required in MHCSS 3280.105. This standard requires that single section homes have the doors no less than 12 feet, center to center, from each other, and multisection home doors no less than 20 feet center to center from each other when measured in a straight line, regardless of the length of the path of travel between the doors. One of the required exit doors must be accessible from the doorway of each bedroom and no more than 35 feet away from any bedroom doorway. An exterior swing door shall have a 28-inch wide by 74-inch high clear opening and sliding glass doors shall have a 28-inch wide by 72-inch high clear opening. Each exterior door other than screen/storm doors shall have a key-operated lock that has a passage latch; locks shall not require the use of a key or special tool for operation from the inside of the home.]

(2) Related to flame spread:]

[a] Walls, ceilings, and doors. Walls and ceilings adjacent to or enclosing a furnace or water heater shall have an interior finish with a flame-spread rating not exceeding 25. Sealants and other trim materials two inches or less in width used to finish

adjacent surfaces within these spaces are exempt from this provision, provided all joints are supported by framing members or materials with a flame spread rating of 25 or less. Combustible doors providing interior or exterior access to furnace and water heater spaces shall be covered with materials of limited combustibility (i.e., 5/16-inch gypsum board, etc.), with the surface allowed to be interrupted for louvers ventilating the space. However, the louvers shall not be of materials of greater combustibility than the door itself (i.e., plastic louvers on a wooden door). Reference MHCSS 3280.203.]

(b) Exposed interior finishes. Exposed interior finishes adjacent to the cooking range (surfaces include vertical surfaces between the range top and overhead cabinets, the ceiling, or both) shall have a flame spread rating not exceeding 50, as required by MHCSS 3280.203. Backsplashes not exceeding six inches in height are exempted. Ranges shall have a vertical clearance above the cooking top of not less than 24 inches to the bottom of combustible cabinets, as required by MHCSS 3280.204(e).]

(3) Related to smoke detectors:]

(a) Location. A smoke detector shall be installed on any ceiling or wall in the hallway or space communicating with each bedroom area between the living area and the first bedroom door, unless a door separates the living area from that bedroom area, in which case the detector shall be installed on the living area side, as close to the door as practicable, as required by MHCSS 3280.208. Homes with bedroom areas separated by anyone or combination of common use areas such as a kitchen, dining room, living room, or family room (but not a bathroom or utility room) shall be required to have one detector for each bedroom area. When located in the hallways, the detector shall be between the return air intake and the living areas.]

(b) Switches and electrical connections. Smoke detectors shall have no switches in the circuit to the detector between the over-current protection device protecting the branch circuit and the detector. The detector shall be attached to an electrical outlet box and connected by a permanent wiring method to a general electrical circuit. The detector shall not be placed on the same branch circuit or any circuit protected by a ground-fault circuit interrupter.]

(4) Related to solid-fuel-burning stoves/fireplaces:]

(a) Solid-fuel-burning fireplaces and fireplace stoves. Solid-fuel-burning, factory-built fireplaces, and fireplace stoves may be used in manufactured homes, provided that they are listed for use in manufactured homes and installed according to their listing/manufacturer's instructions and the minimum requirements of MHCSS 3280.709(g).]

(b) Equipment. A solid-fuel-burning fireplace or fireplace stove shall be equipped with an integral door or shutters designed to close the fire chamber

opening and shall include complete means for venting through the roof, a combustion air inlet, a hearth extension, and means to securely attach the unit to the manufactured home structure.]

(i) Chimney. A listed, factory-built chimney designed to be attached directly to the fireplace/fireplace stove and equipped with, in accordance with the listing, a termination device and spark arrester, shall be required. The chimney shall extend at least three feet above the part of the roof through which it passes and at least two feet above the highest elevation of any part of the manufactured home that is within 10 feet of the chimney.]

(ii) Air-intake assembly and combustion-air inlet. An air-intake assembly shall be installed in accordance with the terms of listings and the manufacturer's instruction. A combustion-air inlet shall conduct the air directly into the fire chamber and shall be designed to prevent material from the hearth from dropping on the area beneath the manufactured home.]

(iii) Hearth. The hearth extension shall be of noncombustible material that is a minimum of 3/8-inch thick and shall extend a minimum of 16 inches in front and eight inches beyond each side of the fireplace/fireplace stove opening. The hearth shall also extend over the entire surface beneath a fireplace stove and beneath an elevated and overhanging fireplace.]

(5) Related to electrical wiring systems:]

(a) Testing. All electrical systems shall be tested for continuity in accordance with MHCSS 3280.810, to ensure that metallic parts are properly bonded; tested for operation, to demonstrate that all equipment is connected and in working order; and given a polarity check, to determine that connections are proper.]

(b) 5.2 Protection. The electrical system shall be properly protected for the required amperage load. If the unit wiring employs aluminum conductors, all receptacles and switches rated at 20 amperes or less that are directly connected to the aluminum conductors shall be marked CO/ALA. Exterior receptacles, other than heat tape receptacles, shall be of the ground-fault circuit interrupter (GFI) type. Conductors of dissimilar metals (copper/aluminum or copper-clad aluminum) must be connected in accordance with NEC, Section 110-14.]

(6) Related to replacement furnaces and water heaters:]

(a) Listing. Replacement furnaces or water heaters shall be listed for use in a manufactured home. Vents, roof jacks, and chimneys necessary for the installation shall be listed for use with the furnace or water heater.]

(b) Securement and accessibility. The furnace and water heater shall be secured in place to avoid displacement. Every furnace and water heater shall be accessible for servicing, for replacement, or both as required by MHCSS 3280.709(a).]

(c) Installation. Furnaces and water heaters shall be installed to provide complete separation of

the combustion system from the interior atmosphere of the manufactured home, as required by MHCSS.]

(i) Separation. The required separation may be achieved by the installation of a direct-vent system (sealed combustion system) furnace or water heater or the installation of a furnace and water heater venting and combustion systems from the interior atmosphere of the home. There shall be no doors, grills, removable access panels, or other openings into the enclosure from the inside of the manufactured home. All openings for ducts, piping, wiring, etc., shall be sealed.]

(ii) Water heater. The floor area in the area of the water heater shall be free from damage from moisture to ensure that the floor will support the weight of the water heater.]The following are adopted as amendments to the IEBC and are applicable statewide:

(1) In Section 202, the following definition is added: “BUILDING OFFICIAL. See Code Official.”

(2) In Section 202, the definition for “code official” is deleted and replaced with the following:

“CODE OFFICIAL. The officer or other designated authority having jurisdiction (AHJ) charged with the administration and enforcement of this code.”

(3) In Section 202, the definition for existing buildings is deleted and replaced with the following:

“EXISTING BUILDING. A building that is not a dangerous building and that was either lawfully erected under a prior adopted code, or deemed a legal non-conforming building by the code official.”

(4) In Section 301.1, the exception is deleted.

(5) Section 403.5 is deleted and replaced with the following:

“403.5 Bracing for unreinforced masonry parapets and other appendages upon reroofing.

Where the intended alteration requires a permit for reroofing and involves removal of roofing materials from more than 25% of the roof area of a building assigned to Seismic Design Category D, E, or F that has parapets constructed of unreinforced masonry or appendages such as cornices, spires, towers, tanks, signs, statuary, etc., the work shall include installation of bracing to resist out-of-plane seismic forces, unless an evaluation demonstrates compliance of such items. For purposes of this section, design seismic forces need not be taken greater than 75% of those that would be required for the design of similar nonstructural components in new buildings of similar purpose and location.”

(6) In Section 705.1, Exception number 3, the following is added at the end of the exception:

“This exception does not apply if the existing facility is undergoing a change of occupancy classification.”

(7) Section 707.3.1 is deleted and replaced with the following:

“707.3.1 Bracing for unreinforced masonry bearing wall parapets and other appendages.

Where a permit is issued for reroofing more than 25 percent of the roof area of a building assigned to

Seismic Design Category D, E, or F that has parapets constructed of unreinforced masonry or appendages such as cornices, spires, towers, tanks, signs, statuary, etc., the work shall include installation of bracing to resist the reduced International Building Code level seismic forces as specified in Section 301.1.4.2 of this code unless an evaluation demonstrates compliance of such items.”

(8) (a) Section 1007.3.1 is deleted and replaced with the following:

“1007.3.1 Compliance with the International Building Code Level Seismic Forces.

When a building or portion thereof is subject to a change of occupancy such that a change in the nature of the occupancy results in a higher risk category based on Table 1604.5 of the International Building Code or when such change of occupancy results in a design occupant load increase of 100% or more, the building shall conform to the seismic requirements of the International Building Code for the new risk category.”

(b) Section 1007.3.1, exceptions 1 through 3 remain unchanged.

(c) In Section 1007.3.1, add a new exception 4 as follows:

“4. Where the design occupant load increase is less than 25 occupants and the occupancy category does not change.”

(9) In Section 1012.7.3, exception 2 is deleted.

(10) In Section 1012.8.2, number 7 is added as follows:

“7. When a change of occupancy in a building or portion of a building results in a Group R-2 occupancy, not less than 20% of the dwelling or sleeping units shall be Type B dwelling or sleeping units. These dwelling or sleeping units may be located on any floor of the building provided with an accessible route. Two percent, but not less than one unit, of the dwelling or sleeping units shall be Type A dwelling units.”

Section 37. Section 15A-3-901 is enacted to read:

Part 9. Installation and Safety Requirements for Mobile Homes Built Before June 15, 1976

15A-3-901. General provisions.

Mobile homes built before June 15, 1976, that are subject to relocation, building alteration, remodeling, or rehabilitation shall comply with the following:

(1) Related to exits and egress windows:

(a) Egress windows. The home has at least one egress window in each bedroom, or a window that meets the minimum specifications of the United States Department of Housing and Urban Development’s (HUD) Manufactured Homes Construction and Safety Standards (MHCSS) program as set forth in 24 C.F.R. Parts 3280 and 3282, MHCSS 3280.106 and 3280.404 for manufactured homes. These standards require the window to be at least 22 inches in the horizontal or

vertical position in its least dimension and at least five square feet in area. The bottom of the window opening shall be no more than 36 inches above the floor, and the locks and latches and any window screen or storm window devices that need to be operated to permit exiting shall not be located more than 54 inches above the finished floor.

(b) Exits. The home is required to have two exterior exit doors, located remotely from each other, as required in MHCSS 3280.105. This standard requires that a single-section home have the doors no less than 12 feet, center-to-center, from each other, and a multisection home have the doors no less than 20 feet, center-to-center, from each other, when measured in a straight line, regardless of the length of the path of travel between the doors. One of the required exit doors must be accessible from the doorway of each bedroom and no more than 35 feet away from any bedroom doorway. An exterior swing door shall have a 28-inch-wide by 74-inch-high clear opening and sliding glass doors shall have a 28-inch-wide by 72-inch-high clear opening. Each exterior door other than screen/storm doors shall have a key-operated lock that has a passage latch; locks shall not require the use of a key or special tool for operation from the inside of the home.

(2) Related to flame spread:

(a) Walls, ceilings, and doors. Walls and ceilings adjacent to or enclosing a furnace or water heater shall have an interior finish with a flame-spread rating not exceeding 25. Sealants and other trim materials two inches or less in width used to finish adjacent surfaces within these spaces are exempt from this provision, provided all joints are supported by framing members or materials with a flame spread rating of 25 or less. Combustible doors providing interior or exterior access to furnace and water heater spaces shall be covered with materials of limited combustibility (i.e., 5/16-inch gypsum board, etc.), with the surface allowed to be interrupted for louvers ventilating the space. However, the louvers shall not be of materials of greater combustibility than the door itself (i.e., plastic louvers on a wooden door). Reference MHCSS 3280.203.

(b) Exposed interior finishes. Exposed interior finishes adjacent to the cooking range (surfaces include vertical surfaces between the range top and overhead cabinets, the ceiling, or both) shall have a flame-spread rating not exceeding 50, as required by MHCSS 3280.203. Backsplashes not exceeding six inches in height are exempted. Ranges shall have a vertical clearance above the cooking top of not less than 24 inches to the bottom of combustible cabinets, as required by MHCSS 3280.204(e).

(3) Related to smoke detectors:

(a) Location. A smoke detector shall be installed on any ceiling or wall in the hallway or space communicating with each bedroom area between the living area and the first bedroom door, unless a door separates the living area from that bedroom area, in which case the detector shall be installed on the living-area side, as close to the door as

practicable, as required by MHCSS 3280.208. Homes with bedroom areas separated by any one or combination of common-use areas such as a kitchen, dining room, living room, or family room (but not a bathroom or utility room) shall be required to have one detector for each bedroom area. When located in the hallways, the detector shall be between the return air intake and the living areas.

(b) Switches and electrical connections. Smoke detectors shall have no switches in the circuit to the detector between the overcurrent protection device protecting the branch circuit and the detector. The detector shall be attached to an electrical outlet box and connected by a permanent wiring method to a general electrical circuit. The detector shall not be placed on the same branch circuit or any circuit protected by a ground-fault circuit interrupter.

(4) Related to solid-fuel-burning stoves/fireplaces:

(a) Solid-fuel-burning fireplaces and fireplace stoves. Solid-fuel-burning, factory-built fireplaces and fireplace stoves may be used in manufactured homes, provided that they are listed for use in manufactured homes and installed according to their listing/manufacturer's instructions and the minimum requirements of MHCSS 3280.709(g).

(b) Equipment. A solid-fuel-burning fireplace or fireplace stove shall be equipped with an integral door or shutters designed to close the fire chamber opening and shall include complete means for venting through the roof, a combustion air inlet, a hearth extension, and means to securely attach the unit to the manufactured home structure.

(i) Chimney. A listed, factory-built chimney designed to be attached directly to the fireplace/fireplace stove and equipped with, in accordance with the listing, a termination device and spark arrester shall be required. The chimney shall extend at least three feet above the part of the roof through which it passes and at least two feet above the highest elevation of any part of the manufactured home that is within 10 feet of the chimney.

(ii) Air-intake assembly and combustion-air inlet. An air-intake assembly shall be installed in accordance with the terms of listings and the manufacturer's instruction. A combustion-air inlet shall conduct the air directly into the fire chamber and shall be designed to prevent material from the hearth from dropping on the area beneath the manufactured home.

(iii) Hearth. The hearth extension shall be of noncombustible material that is a minimum of 3/8-inch thick and shall extend a minimum of 16 inches in front and eight inches beyond each side of the fireplace/fireplace stove opening. The hearth shall also extend over the entire surface beneath a fireplace stove and beneath an elevated and overhanging fireplace.

(5) Related to electrical wiring systems:

(a) Testing. All electrical systems shall be tested for continuity, in accordance with MHCSS

3280.810, to ensure that metallic parts are properly bonded; tested for operation, to demonstrate that all equipment is connected and in working order; and given a polarity check, to determine that connections are proper.

(b) 5.2 Protection. The electrical system shall be properly protected for the required amperage load. If the unit wiring employs aluminum conductors, all receptacles and switches rated at 20 amperes or less that are directly connected to the aluminum conductors shall be marked CO/ALA. Exterior receptacles, other than heat tape receptacles, shall be of the ground-fault circuit interrupter (GFCI) type. Conductors of dissimilar metals (copper/aluminum or copper-clad aluminum) must be connected in accordance with NEC, Section 110-14.

(6) Related to replacement furnaces and water heaters:

(a) Listing. Replacement furnaces or water heaters shall be listed for use in a manufactured home. Vents, roof jacks, and chimneys necessary for the installation shall be listed for use with the furnace or water heater.

(b) Securement and accessibility. The furnace and water heater shall be secured in place to avoid displacement. Every furnace and water heater shall be accessible for servicing, for replacement, or both as required by MHCSS 3280.709(a).

(c) Installation. Furnaces and water heaters shall be installed to provide complete separation of the combustion system from the interior atmosphere of the manufactured home, as required by MHCSS.

(i) Separation. The required separation may be achieved by the installation of a direct-vent system (sealed combustion system) furnace or water heater or the installation of furnace and water heater venting and combustion systems from the interior atmosphere of the home. There shall be no doors, grills, removable access panels, or other openings into the enclosure from the inside of the manufactured home. All openings for ducts, piping, wiring, etc., shall be sealed.

(ii) Water heater. The floor area in the area of the water heater shall be free from damage from moisture to ensure that the floor will support the weight of the water heater.

Section 38. Section 15A-4-103 is amended to read:

15A-4-103. Amendments to IBC applicable to City of Farmington.

The following amendments are adopted as amendments to the IBC for the City of Farmington:

~~[(1) A new IBC, Section (F) 903.2.13, is added as follows: “(F) 903.2.13 Group R, Division 3 Occupancies. An automatic sprinkler system shall be installed throughout every dwelling in accordance with NFPA 13D, when any of the following conditions are present:]~~

~~[1. The structure is over two stories high, as defined by the building code;]~~

~~[2. The nearest point of structure is more than 150 feet from the public way;]~~

~~[3. The total floor area of all stories is over 5,000 square feet (excluding from the calculation the area of the basement and/or garage); or]~~

~~[4. The structure is located on a street constructed after March 1, 2000, that has a gradient over 12% and, during fire department response, access to the structure will be gained by using such street. (If the access is intended to be from a direction where the steep gradient is not used, as determined by the Chief, this criteria shall not apply).][Such sprinkler system shall be installed in basements, but need not be installed in garages, under eaves or in enclosed attic spaces, unless required by the Chief.”]~~

~~[(2)] (1) A new IBC, Section 907.9, is added as follows: “907.9 Alarm Circuit Supervision. Alarm circuits in alarm systems provided for commercial uses (defined as other than one- and two-family dwellings and townhouses) shall have Class “A” type of supervision. Specifically, Type “B” or End-of-line resistor and horn supervised systems are not allowed.”~~

~~[(3)] (2) In NFPA Section 13-07, new sections are added as follows: “6.8.6 FDC Security Locks Required. All Fire Department connections installed for fire sprinkler and standpipe systems shall have approved security locks.~~

6.10 Fire Pump Disconnect Signs. When installing a fire pump, red plastic laminate signs shall be installed in the electrical service panel, if the pump is wired separately from the main disconnect. These signs shall state: “Fire Pump Disconnect ONLY” and “Main Breaker DOES NOT Shut Off Fire Pump”.

22.1.6 Plan Preparation Identification. All plans for fire sprinkler systems, except for manufacturer’s cut sheets of equipment shall include the full name of the person who prepared the drawings. When the drawings are prepared by a registered professional engineer, the engineer’s signature shall also be included.

22.2.2.3 Verification of Water Supply:

22.2.2.3.1 Fire Flow Tests. Fire flow tests for verification of water supply shall be conducted and witnessed for all applications other than residential unless directed otherwise by the Chief. For residential water supply, verification shall be determined by administrative procedure.

22.2.2.3.2 Accurate and Verifiable Criteria. The design calculations and criteria shall include an accurate and verifiable water supply.

24.2.3.7 Testing and Inspection of Systems. Testing and inspection of sprinkler systems shall include, but are not limited to:

Commercial:

FLUSH-Witness Underground Supply Flush;

ROUGH Inspection-Installation of Riser, System Piping, Head Locations and all Components, Hydrostatic Pressure Test;

FINAL Inspection-Head Installation and Escutcheons, Inspectors Test Location and Flow, Main Drain Flow, FDC Location and Escutcheon,

Alarm Function, Spare Parts, Labeling of Components and Signage, System Completeness, Water Supply Pressure Verification, Evaluation of Any Unusual Parameter.”

Section 39. Section 15A-4-107 is amended to read:

15A-4-107. Amendments to IBC applicable to Sandy City.

The following amendments are adopted as amendments to the IBC for Sandy City:

(1) A new IBC, Section (F)903.2.13, is added as follows: “(F)903.2.13 An automatic sprinkler system shall be installed in accordance with NFPA 13 throughout buildings containing all occupancies where fire flow exceeds 2,000 gallons per minute, based on Table B105.1 of the [2009] 2015 International Fire Code. Exempt locations as indicated in Section 903.3.1.1.1 are allowed.

Exception: Automatic fire sprinklers are not required in buildings used solely for worship, Group R Division 3, Group U occupancies and buildings complying with the International Residential Code unless otherwise required by the International Fire Code.

(2) A new IBC, Appendix L, is added and adopted as follows: “Appendix L BUILDINGS AND STRUCTURES CONSTRUCTED IN AREAS DESIGNATED AS WILDLAND-URBAN INTERFACE AREAS

AL 101.1 General. Buildings and structures constructed in areas designated as Wildland-Urban Interface Areas by Sandy City shall be constructed using ignition resistant construction as determined by the Fire Marshal. Section 502 of the 2006 International Wildland-Urban Interface Code (IWUIC), as promulgated by the International Code Council, shall be used to determine Fire Hazard Severity. The provisions listed in Chapter 5 of the 2006 International Wildland-Urban Interface Code, as modified herein, shall be used to determine the requirements for Ignition Resistant Construction.

(i) In Section 504 of the IWUIC Class I IGNITION-RESISTANT CONSTRUCTION a new Section 504.1.1 is added as follows: “504.1.1 General. Subsections 504.5, 504.6, and 504.7 shall only be required on the exposure side of the structure, as determined by the Fire Marshal, where defensible space is less than 50 feet as defined in Section 603 of the 2006 International Wildland-Urban Interface Code.

(ii) In Section 505 of the IWUIC Class 2 IGNITION-RESISTANT CONSTRUCTION Subsections 505.5 and 505.7 are deleted.”

Section 40. Section 15A-4-203 is amended to read:

15A-4-203. Amendments to IRC applicable to City of Farmington.

The following amendments are adopted as amendments to the IRC for the City of Farmington:

[(1) In IRC, R324 Automatic Sprinkler Systems, new IRC, Sections R324.1 and R324.2 are added as

follows: “R324.1 When required. An automatic sprinkler system shall be installed throughout every dwelling in accordance with NFPA 13D, when any of the following conditions are present:]

[1. the structure is over two stories high, as defined by the building code;]

[2. the nearest point of structure is more than 150 feet from the public way;]

[3. the total floor area of all stories is over 5,000 square feet (excluding from the calculation the area of the basement and/or garage); or]

[4. the structure is located on a street constructed after March 1, 2000 that has a gradient over 12% and, during fire department response, access to the structure will be gained by using such street. (If the access is intended to be from a direction where the steep gradient is not used, as determined by the Chief, this criteria shall not apply).] [R324.2 Installation requirements and standards. Such sprinkler system shall be installed in basements, but need not be installed in garages, under eaves or in enclosed attic spaces, unless required by the Chief. Such system shall be installed in accordance with NFPA 13D.”]

[(2) (1) In IRC, Chapter 44, the following NFPA referenced standards are added as follows:

“TABLE

ADD

13D-07 Installation of Sprinkler Systems in One- and Two-family Dwellings and Manufactured Homes, as amended by these rules

13R-07 Installation of Sprinkler Systems in Residential Occupancies Up to and Including Four Stories in Height”

[(3) (2) In NFPA, Section 13D-07, new sections are added as follows: “1.15 Reference to NFPA 13D. All references to NFPA 13D in the codes, ordinances, rules, or regulations governing NFPA 13D systems shall be read to refer to “modified NFPA 13D” to reference the NFPA 13D as amended by additional regulations adopted by Farmington City. 4.9 Testing and Inspection of Systems. Testing and inspection of sprinkler systems shall include, but are not limited to:

Residential:

ROUGH Inspection-Verify Water Supply Piping Size and Materials, Installation of Riser, System Piping, Head Locations and all Components, Hydrostatic Pressure Test.

FINAL Inspection-Inspectors Test Flow, System Completeness, Spare Parts, Labeling of Components and Signage, Alarm Function, Water Supply Pressure Verification. 5.2.2.3 Exposed Piping of Metal. Exposed Sprinkler Piping material in rooms of dwellings shall be of Metal.

EXCEPTIONS:

a. CPVC Piping is allowed in unfinished mechanical and storage rooms only when specifically listed for the application as installed.

b. CPVC Piping is allowed in finished, occupied rooms used for sports courts or similar uses only

when the ceiling/floor framing above is constructed entirely of non-combustible materials, such as a concrete garage floor on metal decking.

5.2.2.4 Water Supply Piping Material. Water Supply Piping from where the water line enters the dwelling adjacent to and inside the foundation to the fire sprinkler contractor point-of-connection shall be metal, suitable for potable plumbing systems. See Section 7.1.4 for valve prohibition in such piping. Piping down stream from the point-of-connection used in the fire sprinkler system, including the riser, shall conform to NFPA 13D standards.

5.4 Fire Pump Disconnect Signs. When installing a Fire Pump, Red Plastic Laminate Signs shall be installed in the electrical service panel, if the pump is wired separately from the main disconnect. These signs shall state: "Fire Pump Disconnect ONLY" and "Main Breaker DOES NOT Shut Off Fire Pump".

7.1.4 Valve Prohibition. NFPA 13D, Section 7.1 is hereby modified such that NO VALVE is permitted from the City Water Meter to the Fire Sprinkler Riser Control.

7.6.1 Mandatory Exterior Alarm. Every dwelling that has a fire sprinkler system shall have an exterior alarm, installed in an approved location. The alarm shall be of the combination horn/strobe or electric bell/strobe type, approved for outdoor use.

8.1.05 Plan Preparation Identification. All plans for fire sprinkler systems, except for manufacturer's cut sheets of equipment, shall include the full name of the person who prepared the drawings. When the drawings are prepared by a registered professional engineer, the engineer's signature shall also be included.

8.7 Verification of Water Supply:

8.7.1 Fire Flow Tests: Fire Flow Tests for verification of Water Supply shall be conducted and witnessed for all applications other than residential, unless directed otherwise by the Chief. For residential Water Supply, verification shall be determined by administrative procedure.

8.7.2 Accurate and Verifiable Criteria. The design calculations and criteria shall include an accurate and verifiable Water Supply.

Section 41. Section 15A-6-101 is enacted to read:

CHAPTER 6. ADDITIONAL CONSTRUCTION REQUIREMENTS

Part 1. Nitrogen Oxide Emission Limits for Natural Gas-Fired Water Heaters

15A-6-101. Title.

(1) This chapter is known as "Additional Construction Requirements."

(2) This part is known as "Nitrogen Oxide Emission Limits for Natural Gas-Fired Water Heaters."

Section 42. Section 15A-6-102 is enacted to read:

15A-6-102. Nitrogen Oxide emission limits for natural gas-fired water heaters.

(1) As used in this section:

(a) "BTU" means British Thermal Unit.

(b) (i) "Heat input" means the heat of combustion released by fuel burned in a water heater based on the heating value of the fuel.

(ii) "Heat input" does not include the enthalpy of a water heater's incoming combustion air.

(c) "Heat output" means the enthalpy of a water heater's working fluid output.

(d) "Natural gas-fired water heater" means a device that heats water:

(i) using natural gas combustion;

(ii) for use external to the device at a pressure that is less than or equal to 160 pounds per square inch gage; and

(iii) to a thermostatically controlled temperature less than or equal to:

(A) 210 degrees Fahrenheit; or

(B) 99 degrees Celsius.

(e) "ppm" means parts of Nitrogen Oxide per million parts of water heater air output.

(f) "Recreational vehicle" means the same as that term is defined in Section 13-14-102.

(2) Subject to Subsection (6), a person may not sell or install a natural gas-fired water heater with an emission rate greater than the following limits:

(a) for a water heater that has a heat input of less than or equal to 75,000 BTU per hour that is not installed in a mobile home, a limit of:

(i) 10 nanograms per Joule of heat output; or

(ii) 15 ppm, corrected to 3% oxygen;

(b) for a water heater that has a heat input of greater than 75,000 BTU per hour and less than 2,000,000 BTU per hour that is not installed in a mobile home, a limit of:

(i) 10 nanograms per Joule of heat output; or

(ii) 20 ppm, corrected to 3% oxygen;

(c) for a water heater installed in a mobile home, a limit of:

(i) 40 nanograms per Joule of heat output; or

(ii) 20 ppm, corrected to 3% oxygen;

(d) for a pool or spa water heater with a heat input that is less than or equal to 400,000 BTU per hour, a limit of:

(i) 40 nanograms per Joule of heat output; or

(ii) 55 ppm, corrected to 3% oxygen; and

(e) for a pool or spa water heater with a heat input of greater than 400,000 BTU per hour and less than 2,000,000 BTU per hour, a limit of:

(i) 14 nanograms per Joule of heat output; or

(ii) 55 ppm, corrected to 3% oxygen.

(3) A water heater manufacturer shall use California South Coast Air Quality Management District Method 100.1 to calculate the emissions rate of a water heater subject to this section.

(4) A water heater manufacturer shall display on a water heater subject to this section, as a permanent label, the model number and the Nitrogen Oxide emission rate of the water heater.

(5) The requirements of this section do not apply to:

(a) a water heater using a fuel other than natural gas;

(b) a water heater used in a recreational vehicle;

(c) a water heater manufactured in the state for sale and shipment outside of the state; or

(d) a water heater manufactured before July 1, 2018.

(6) Subsection (2) applies to the sale or installation of a water heater on or after July 1, 2018.

Section 43. Section 15A-6-201 is enacted to read:

**Part 2. Insulated Concrete Forms
15A-6-201. Polyurethane insulated concrete forms.**

(1) Notwithstanding any other provision of this title, a governing body in the state that issues a building permit may not:

(a) deny issuing a building permit to a project solely because the project uses polyurethane insulated concrete form block that complies with Subsection (2); or

(b) require a project to surface flame retardants on polyurethane insulated concrete form block that has a flame spread that is less than or equal to 25.

(2) A project may use polyurethane insulated concrete form block if:

(a) the polyurethane insulated concrete form block is manufactured using expanded polyurethane foam that:

(i) has a flame spread index that is less than or equal to 50;

(ii) has a smoke index that is less than 350; and

(iii) is capable of withstanding fluid pressure created by fresh concrete; and

(b) the project is designed and stamped by a structural engineer licensed in the state.

Section 44. Section 15A-6-202 is enacted to read:

15A-6-202. Non-polyurethane insulating concrete forms.

(1) Notwithstanding any other provision of this title, a governing body in the state that issues a building permit may not:

(a) deny issuing a building permit to a project solely because the project uses non-polyurethane insulating concrete form block that complies with Subsection (2); or

(b) require a project to apply additional flame retardants to the surface of non-polyurethane insulating concrete form block that has a flame spread that is less than or equal to 25.

(2) A project may use non-polyurethane insulating concrete form block if:

(a) the non-polyurethane insulating concrete form block is manufactured using foam plastic insulation that complies with applicable requirements in Title 15A, State Construction and Fire Codes Act, for flame spread index and smoke development index;

(b) the non-polyurethane insulating concrete form block complies with any other requirements applicable to insulating concrete forms in Title 15A, State Construction and Fire Codes Act; and

(c) the project is designed and stamped by a structural engineer who is licensed in the state.

Section 45. Section 58-11a-502 is amended to read:

58-11a-502. Unlawful conduct.

Unlawful conduct includes:

(1) practicing or engaging in, or attempting to practice or engage in activity for which a license is required under this chapter unless:

(a) the person holds the appropriate license under this chapter; or

(b) an exemption in Section 58-1-307 or 58-11a-304 applies;

(2) knowingly employing any other person to engage in or practice or attempt to engage in or practice any occupation or profession licensed under this chapter if the employee is not licensed to do so under this chapter or exempt from licensure;

(3) touching, or applying an instrument or device to the following areas of a client's body:

(a) the genitals or the anus, except in cases where the patron states to a licensee that the patron requests a hair removal procedure and signs a written consent form, which must also include the witnessed signature of a legal guardian if the patron is a minor, authorizing the licensee to perform a hair removal procedure; or

(b) the breast of a female patron, except in cases in which the female patron states to a licensee that the patron requests breast skin procedures and signs a written consent form, which must also include the witnessed signature of a parent or legal guardian if the patron is a minor, authorizing the licensee to perform breast skin procedures;

(4) using or possessing a solution composed of at least 10% methyl methacrylate on a client;

(5) performing an ablative procedure as defined in Section 58-67-102;

(6) when acting as an instructor regarding a service requiring licensure under this chapter, for a class or education program where attendees are not licensed under this chapter, failing to inform each attendee in writing that:

(a) taking the class or program without completing the requirements for licensure under this chapter is insufficient to certify or qualify the attendee to perform a service for compensation that requires licensure under this chapter; and

(b) the attendee is required to obtain licensure under this chapter before performing the service for compensation; or

(7) failing as a salon or school where nail technology is practiced or taught to maintain a source capture system required under [~~Section 15A-3-401~~] Title 15A, State Construction and Fire Codes Act, including failing to maintain and clean a source capture system's air filter according to the manufacturer's instructions.

Section 46. Repealer.

This bill repeals:

Section 15A-3-106.5, Amendments to Chapter 15 of IBC.

Section 47. Effective date.

This bill takes effect on July 1, 2016.

CHAPTER 250**H. B. 9**

Passed March 10, 2016
 Approved March 25, 2016
 Effective May 10, 2016

REVENUE BOND AMENDMENTS

Chief Sponsor: Gage Froerer
 Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill authorizes certain state agencies and institutions to issue revenue bonds.

Highlighted Provisions:

This bill:

- ▶ authorizes the State Building Ownership Authority to issue revenue bonds as follows:
 - up to \$3,000,000 for the Fourth District Provo Courthouse parking lot; and
 - up to \$5,043,400 for constructing a Syracuse liquor store; and
- ▶ authorizes the Board of Regents to issue revenue bonds as follows:
 - up to \$50,000,000 for constructing the David Eccles School of Business Executive Education Building at the University of Utah;
 - up to \$20,000,000 for purchasing a student apartment building complex and surrounding property at Utah State University; and
 - up to \$12,000,000 for constructing the Space Dynamics Laboratory Phase II at Utah State University.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

63B-26-101, Utah Code Annotated 1953
 63B-26-102, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63B-26-101 is enacted to read:**CHAPTER 26. 2016 BONDING AND FINANCING AUTHORIZATIONS****Part 1. 2016 Revenue Bond Authorizations****63B-26-101. Revenue Bond authorizations -- State Building Ownership Authority.****(1) The Legislature intends that:**

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to \$3,000,000 for the Fourth District Provo Courthouse parking lot, together with additional

amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the judicial branch use court fees and existing lease budgets as the primary revenue sources for repayment of any obligation created under authority of this Subsection (1);

(c) the judicial branch may use state funds for operation and maintenance costs or capital improvements; and

(d) the revenue bond authorized under this Subsection (1) may not be issued until on or after March 1, 2017.

(2) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to \$5,043,400 for a Syracuse liquor store, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage Control use sales revenues as the primary revenue source for repayment of any obligation created under authority of this Subsection (2); and

(c) the Department of Alcoholic Beverage Control may request operation and maintenance funding from sales revenues.

Section 2. Section 63B-26-102 is enacted to read:**63B-26-102. Revenue bond authorizations -- Board of Regents.****(1) The Legislature intends that:**

(a) the Board of Regents, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the David Eccles School of Business Executive Education Building;

(b) the University of Utah use institutional funds and donations as the primary revenue sources for repayment of any obligation created under authority of this Subsection (1);

(c) the maximum amount of revenue bonds or evidences of indebtedness authorized by this Subsection (1) is \$50,000,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the University of Utah may, subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management, use up to \$30,000,000 in donations and institutional funds to plan, design, and construct the David Eccles School of Business

Executive Education Building with up to 150,000 square feet;

(e) the university shall plan, design, and construct the David Eccles School of Business Executive Education Center, subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management; and

(f) the university may use previously authorized state funds for operation and maintenance costs or capital improvements.

(2) The Legislature intends that:

(a) the Board of Regents, on behalf of Utah State University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Utah State University to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of purchasing a student apartment building complex and surrounding property;

(b) Utah State University use revenues from housing operations as the primary revenue source for repayment of any obligation created under authority of this Subsection (2);

(c) the maximum amount of revenue bonds or evidences of indebtedness authorized by this Subsection (2) is \$20,000,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements; and

(d) the university may not request state funds for operation and maintenance costs or capital improvements.

(3) The Legislature intends that:

(a) the Board of Regents, on behalf of Utah State University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Utah State University to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the Space Dynamics Laboratory Phase II;

(b) Utah State University use reimbursement from research projects as the primary revenue source for repayment of any obligation created under authority of this Subsection (3);

(c) the maximum amount of revenue bonds or evidences of indebtedness authorized by this Subsection (3) is \$12,000,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university shall plan, design, and construct the Space Dynamics Laboratory Phase II, subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management; and

(e) the university may not request state funds for operation and maintenance costs or capital improvements.

CHAPTER 251**H. B. 35**

Passed February 18, 2016

Approved March 25, 2016

Effective May 10, 2016

**RETIREMENT AND INSURANCE
BENEFIT CLAIMS LIMITS**

Chief Sponsor: Kraig Powell

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending provisions relating to limitations of retirement systems claims and actions.

Highlighted Provisions:

This bill:

- ▶ provides that a request for a ruling to the executive director by a person who disputes a benefit, right, obligation, or employment right under the Utah State Retirement and Insurance Benefit Act shall constitute the initiation of an action for purposes of the limitations periods;
- ▶ specifies the time period a person has to request a review of a claim by a hearing officer for a person who is dissatisfied by a ruling of the executive director with respect to any benefit, right, obligation, or employment right;
- ▶ requires that certain actions regarding a benefit, right, obligation, or employment right brought under the Utah State Retirement and Insurance Benefit Act be commenced only within a certain time frame;
- ▶ provides that a cause of action accrues under the Utah State Retirement and Insurance Benefit Act and the limitation period runs from the date when the aggrieved party became aware, or through the exercise of reasonable diligence should have become aware, of the facts giving rise to the cause of action;
- ▶ provides that if a claim involves a retirement service credit issue:
 - a cause of action specifically accrues at the time the requisite retirement contributions relating to that retirement service credit are paid or should have been paid to the office; and
 - the person is deemed to be on notice of the payment or nonpayment of those retirement contributions;
- ▶ provides exceptions to the limitations period for certain actions; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

49-11-613, as last amended by Laws of Utah 2011, Chapter 439

ENACTS:

49-11-613.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 49-11-613 is amended to read:**49-11-613. Appeals procedure -- Right of appeal to hearing officer -- Board reconsideration -- Judicial review.**

(1) (a) A member, retiree, participant, alternative payee, covered individual, employer, participating employer, and covered employer shall inform themselves of their rights and obligations under this title.

(b) Subject to the provisions in Subsection (8), any dispute regarding a benefit, right, obligation, or employment right under this title is subject to the procedures provided under this section.

(c) (i) A person who disputes a benefit, right, obligation, or employment right under this title shall request a ruling by the executive director who may delegate the decision to the deputy director.

(ii) A request for a ruling to the executive director under this section shall constitute the initiation of an action for purposes of the limitations periods prescribed in Section 49-11-613.5.

(d) A person who is dissatisfied by a ruling under Subsection (1)(c) with respect to any benefit, right, obligation, or employment right under this title shall have 30 days from the date of the ruling to request a review of that claim by a hearing officer.

(e) The executive director, on behalf of the board, may request that the hearing officer review a dispute regarding any benefit, right, obligation, or employment right under this title by filing a notice of board action and providing notice to all affected parties in accordance with rules adopted by the board.

(2) The hearing officer shall:

(a) be hired by the executive director after consultation with the board;

(b) follow the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, except as specifically modified under this title;

(c) hear and determine all facts relevant to a decision, including facts pertaining to applications for benefits under any system, plan, or program under this title and all matters pertaining to the administration of the office; and

(d) make conclusions of law in determining the person's rights under any system, plan, or program under this title and matters pertaining to the administration of the office.

(3) The board shall review and approve or deny all decisions of the hearing officer in accordance with rules adopted by the board.

(4) The moving party in any proceeding brought under this section shall bear the burden of proof.

(5) A party may file an application for reconsideration by the board upon any of the following grounds:

- (a) that the board acted in excess of its powers;
- (b) that the order or award was procured by fraud;
- (c) that the evidence does not justify the determination of the hearing officer; or

(d) that the party has discovered new material evidence that could not, with reasonable diligence, have been discovered or procured prior to the hearing.

(6) The board shall affirm, reverse, or modify the decision of the hearing officer, or remand the application to the hearing officer for further consideration.

(7) A party aggrieved by the board's decision may obtain judicial review by complying with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

(8) The program shall provide an appeals process for medical claims that complies with federal law.

(9) The board may make rules to implement this section.

Section 2. Section 49-11-613.5 is enacted to read:

49-11-613.5. Limitation of actions -- Cause of action.

(1) Subject to the procedures provided in Section 49-11-613 and except as provided in Subsection (3), an action regarding a benefit, right, obligation, or employment right brought under this title may be commenced only within four years of the date that the cause of action accrues.

(2) (a) A cause of action accrues under this title and the limitation period in this section runs from the date when the aggrieved party became aware, or through the exercise of reasonable diligence should have become aware, of the facts giving rise to the cause of action, including when:

(i) a benefit, right, or employment right is or should have been granted;

(ii) a payment is or should have been made; or

(iii) an obligation is or should have been performed.

(b) If a claim involves a retirement service credit issue under this title:

(i) a cause of action specifically accrues at the time the requisite retirement contributions relating to that retirement service credit are paid or should have been paid to the office; and

(ii) the person is deemed to be on notice of the payment or nonpayment of those retirement contributions.

(3) If an aggrieved party fails to discover the facts giving rise to the cause of action due to misrepresentation, fraud, intentional nondisclosure, or other affirmative steps to conceal the cause of action, a limitation period prescribed in this section does not begin to run until the aggrieved party actually discovers the existence of the cause of action.

(4) The person claiming a benefit, right, obligation, or employment right arising under this title has the burden of bringing the action within the period prescribed in this section.

(5) Nothing in this section relieves a member, retiree, participant, alternative payee, covered individual, employer, participating employer, or covered employer of the obligations under this title.

(6) The office is not required to bring a claim on behalf of a member, retiree, participant, alternative payee, covered individual, employer, participating employer, or covered employer.

(7) (a) A limitation period provided in this section does not apply to actions for which a specific limit is otherwise specified in this title or by contract, including master policies or other insurance contracts.

(b) For actions arising under this title, this section supersedes any applicable limitation period provided in Title 78B, Chapter 2, Statutes of Limitations.

CHAPTER 252**H. B. 46**

Passed February 8, 2016
Approved March 25, 2016
Effective May 10, 2016

VETERANS AFFAIRS AMENDMENTS

Chief Sponsor: Val L. Peterson
Senate Sponsor: Peter C. Knudson

LONG TITLE**General Description:**

This bill modifies the governing structure for certain veterans park and nursing home boards.

Highlighted Provisions:

This bill:

- ▶ modifies who appoints members to the Veterans' Memorial Park Board and the Veterans' nursing home advisory boards;
- ▶ directs to whom minutes of board meetings are provided with a time line; and
- ▶ amends membership of Veterans' nursing home advisory boards.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 71-7-4, as last amended by Laws of Utah 2013, Chapter 214
71-8-2, as last amended by Laws of Utah 2013, Chapter 214
71-11-7, as last amended by Laws of Utah 2013, Chapter 214

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 71-7-4 is amended to read:**71-7-4. Veterans' Memorial Park Board -- Members -- Appointment -- Meetings -- Per diem and travel expenses.**

(1) There is created a Veterans' Memorial Park Board to serve as an advisory body to the Department of Veterans' and Military Affairs on matters relating to the establishment and operation of a veterans' cemetery and memorial park.

(2) The board shall consist of the following five members:

(a) one representative recommended by the state commander of the Veterans of Foreign Wars;

(b) one representative recommended by the state commander of the American Legion;

(c) one representative recommended by the state commander of the Disabled American Veterans;

(d) the executive director of the Department of Veterans' and Military Affairs; and

(e) one person not affiliated with any of the organizations referred to in this Subsection (2).

(3) (a) Except as required by Subsection (3)(b), the [governor] executive director shall appoint members in Subsections (2)(a), (b), (c), and (e) above for four-year terms. The [governor] executive director shall make final appointments to the board by June 30 of any year in which appointments are to be made under this chapter.

(b) Notwithstanding the requirements of Subsection (3)(a), the [governor] executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) All members shall serve until their successors are appointed.

(d) Members may not serve more than two consecutive terms.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in the same manner as the original appointment.

(5) (a) The board shall select a chair annually from among its members at its first meeting after July 1.

(b) Three members of the board constitute a quorum to transact business.

(c) The board shall meet at least quarterly on a regular date fixed by the board.

(d) The chair or three members of the board may call additional meetings.

(6) The board shall provide copies of all minutes ~~[and an annual report of its activities by June 30 of each year to the Veterans' Advisory Council created in Section 71-8-4] to the Department of Veterans' and Military Affairs within 14 days of approval.~~

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 2. Section 71-8-2 is amended to read:**71-8-2. Department of Veterans' and Military Affairs created -- Appointment of executive director -- Department responsibilities.**

(1) There is created the Department of Veterans' and Military Affairs.

(2) The governor shall appoint an executive director for the department, after consultation with the Veterans' Advisory Council, who is subject to Senate confirmation.

- (a) The executive director shall be a veteran.
- (b) Any veteran or veteran's group may submit names to the council for consideration.
- (3) The department shall:
- (a) conduct and supervise all veteran activities as provided in this title; and
- (b) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this title.
- (4) Nothing in this chapter shall be construed as altering or preempting the provisions of Title 39, Militia and Armories, as specifically related to the Utah National Guard.

Section 3. Section 71-11-7 is amended to read:

71-11-7. Veterans' nursing home advisory boards.

- (1) ~~[(a)]~~ Each home shall have a [Veterans' Nursing Home Advisory Board] nursing home advisory board to act as a liaison between the residents, members of the public, and the administration of the home.
- ~~[(b) The board shall interview candidates for the position of nursing home administrator and make a recommendation to the department.]~~
- (2) Each board shall consist of [the following] at least seven, but no more than 11, members appointed as follows by the executive director:
- ~~[(a) one resident of the home appointed by the governor;]~~
- ~~[(b) two members of the Veterans' Advisory Council, designated by the governor, one of which shall specifically be designated as the board's representative to the council;]~~
- ~~[(c) one veteran from the area in which the home is located appointed by the governor;]~~
- ~~[(d) one representative from the VA Health Care System, appointed by its director;]~~
- (a) one appointee of the Resident Council of the specific veterans' nursing home;
- (b) three veterans from the geographic area in which the veterans' nursing home is located;
- (c) one medical professional experienced in veteran nursing home quality of care issues;
- (d) three at-large members with an interest in the success of veterans' nursing homes; and
- ~~[(e) one representative from the Department of Health, appointed by its executive director; and]~~
- (e) one member each from:
- (i) the American Legion;
- (ii) Disabled American Veterans; and
- (iii) the Veterans of Foreign Wars.
- ~~[(f) one representative from the United States Department of Veterans Affairs regional office.]~~

(3) (a) (i) Members shall serve for four-year terms.

(ii) Except as required by Subsection (3)(b), as terms of current board members expire, the ~~[governor]~~ executive director shall appoint each new or reappointed member to a four-year term beginning on July 1.

(b) The ~~[governor]~~ executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) The ~~[governor]~~ executive director shall make final appointments to the board by June 30 of any year in which appointments are to be made under this chapter.

(4) Vacancies not including the Resident Council representative shall be filled by the ~~[governor]~~ executive director within 60 days of receiving notice of a vacancy, but only for the unexpired term of the vacated member.

~~[(a) Except as provided in Subsection (5)(b), members]~~ Members may not serve more than two consecutive terms.

~~[(b) Members appointed by the VA Health Care System and the United States Department of Veterans Affairs are exempt from the term limit requirement.]~~

(6) Each board shall elect a chair annually from among its members at its first meeting after July 1.

(7) Each board shall meet at least quarterly.

(8) ~~[Four]~~ A majority of the members of the board present constitute a quorum for the transaction of business.

(9) Each board shall provide copies of all minutes ~~[and an annual report of its activities by June 30 of each year to the executive director]~~ of each meeting to the Department of Veterans' and Military Affairs~~[-, and the Veterans' Advisory Council]~~ within 14 days of approval.

(10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

CHAPTER 253**H. B. 53**

Passed February 4, 2016
 Approved March 25, 2016
 Effective May 10, 2016

**BUSINESS RESOURCE
 CENTERS AMENDMENTS**

Chief Sponsor: John R. Westwood
 Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill modifies economic development programs under the Governor's Office of Economic Development (GOED) by amending the Utah Business Resource Centers Act.

Highlighted Provisions:

This bill:

- ▶ repeals the Utah Business Assistance Advisory Board;
- ▶ allows GOED to convene an advisory group as needed to make recommendations for business resource center improvements;
- ▶ provides certain rulemaking authority to GOED; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 63N-3-304, as renumbered and amended by Laws of Utah 2015, Chapter 283
 63N-3-305, as renumbered and amended by Laws of Utah 2015, Chapter 283
 63N-3-306, as renumbered and amended by Laws of Utah 2015, Chapter 283
 63N-3-307, as renumbered and amended by Laws of Utah 2015, Chapter 283

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63N-3-304 is amended to read:

63N-3-304. Establishment and administration of business resource centers -- Components.

(1) The office shall establish business resource centers in at least four different geographical regions of the state where host institutions are located and the host institutions agree to enter into a business resource center partnership with the office.

(2) The office, in partnership with a host institution, shall provide methodology and oversight for a business resource center.

(3) A host institution shall contribute 50% of a business resource center's operating costs through cash or in-kind contributions, unless otherwise provided under Subsection 63N-3-307~~(7)~~(3).

(4) The office shall ~~work with the Utah Business Assistance Advisory Board established under Section 63N-3-306, hereafter referred to in this part as "the board," to~~ provide operational oversight and coordination of the business resource centers established under this part.

(5) (a) A business resource center shall work with state agencies in creating methods to coordinate functions and measure the impact of the efforts provided by the state agencies and the center.

(b) The host institution, state, local and federal governmental entities, quasi-governmental entities, and private entities may:

(i) participate in the activities offered by or through a business resource center; and

(ii) provide personnel or other appropriate links to the center.

(c) (i) Other entities that are not initially involved in the establishment of a business resource center and that are capable of providing supportive services to Utah businesses may apply to the center to become a provider of services at the center.

(ii) Entities identified in Subsections (5)(a) and (b) shall provide the ~~board~~ office with a service plan, to include funding, which would be made available or supplied to cover the expenses of their services offered at a business resource center.

~~[(iii) The board shall review each application made under Subsection (5)(e)(i) and make a recommendation for approval by the office as a precondition for providing the service being offered.]~~

(6) A business resource center may:

(a) partner with the office, other host institutions, and other entities to develop and establish web-based access to virtual business resource center services over the Internet to assist in establishing and growing businesses in the state, particularly in those situations where traveling to a business resource center site is not practical;

(b) develop a data base and software for:

(i) tracking clients and their progress; and

(ii) tracking responses and services provided by state agencies and evaluating their effectiveness; and

(c) develop outreach programs and services targeted to business clients in rural areas of the state.

(7) The office shall include in the annual written report described in Section 63N-1-301, a report on measured performance of economic development programs offered by or through established business resource centers.

Section 2. Section 63N-3-305 is amended to read:

63N-3-305. Duties and responsibilities of a business resource center.

(1) A business resource center shall:

- (a) have a director;
 - (b) be the organization responsible for identifying, tracking, coordinating, and measuring output of assisted business clients in its region;
 - (c) develop programs to aid business clients in finding ~~the~~ needed resources ~~they need~~;
 - (d) recruit state-funded agencies to locate and establish their programs in the business center's region;
 - (e) initiate and encourage business education programs, including programs in collaboration with public, private, and governmental and educational institutions; and
 - (f) work with the host institution in providing academic resources, including faculty and student assistance.
- (2) A business resource center shall collaborate with the host institution and state agencies to:
- (a) provide research, development, or training programs for new or existing businesses, industries, or high technology business located in its region;
 - (b) assist in providing needs assessment relating to new or existing businesses, industries, or high technology business in conjunction with other public or private economic development programs or initiatives;
 - (c) assist in providing business incubator space or services, or both, if considered feasible and practical, to clients based on criteria established by the office ~~[in consultation with the board]~~;
 - (d) work with local business leaders and government officials to help them formulate and implement sound, coordinated, and measurable economic development programs for their communities; and
 - (e) work with local government and other entities in its region in developing and certifying non-state funded satellite business resource centers.

Section 3. Section 63N-3-306 is amended to read:

63N-3-306. Advisory group.

- ~~[(1) There is created the Utah Business Assistance Advisory Board, composed of at least 13 members appointed by the executive director of the office.]~~
- ~~[(2) (a) The executive director shall appoint:]~~
- ~~[(i) one member from three host institutions of business resource centers on a rotating basis;~~
- ~~[(ii) three members from urban areas in the state;~~
- ~~[(iii) two members from rural areas in the state; and]~~
- ~~[(iv) one member from each host institution of a statewide business service provider.]~~

~~[(b) The executive director may appoint ex officio board members who are sponsors of or partners with statewide business server providers.]~~

~~[(3) Each board member shall have a background or expertise in any one or all of the following:]~~

~~[(a) state or local economic development;~~

~~[(b) business networking, growth, or development;~~

~~[(c) entrepreneurship;~~

~~[(d) business management or administration; or]~~

~~[(e) the establishment of partnerships or collaborative efforts with state, local, and federal agencies and institutions, as well as private entities.]~~

~~[(4) (a) The executive director shall appoint board members for four-year terms.]~~

~~[(b) The board shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of these members are staggered so that approximately half of the members are appointed every two years.]~~

~~[(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed by the executive director for the unexpired term in the same manner as the vacated member was chosen.]~~

~~[(5) The board shall elect one of its members as a chair of the board for a two-year term.]~~

~~[(6) The board shall meet at the call of the chair, but at least quarterly.]~~

~~[(7) (a) A majority of the members of the board constitute a quorum.]~~

~~[(b) The action of a majority of a quorum constitutes the action of the board.]~~

~~[(8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:]~~

~~[(a) Section 63A-3-106;~~

~~[(b) Section 63A-3-107; and]~~

~~[(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.]~~

The office may convene an advisory group, as needed, to make recommendations regarding:

- (1) improvements to a business resource center;
- (2) the selection of a business-service provider; or
- (3) the general status of a business resource center's duties as described in Section 63N-3-305.

Section 4. Section 63N-3-307 is amended to read:

63N-3-307. Office duties.

The ~~board~~ office shall:

- (1) ~~[assist the office in providing]~~ administer grants to business resource centers and provide operational oversight, coordination, and

performance review ~~[and provide advice and]~~ to improve the effectiveness of state-funded business assistance programs throughout the state [as designated by the executive director];

~~[(2) make recommendations to the office on requirements for the requisite certification of each business resource center and staff at each center by the executive director;]~~

~~[(3) make recommendations to the office for certification of the business plans the board is required to review under Subsection 63N-3-304(5)(c)(iii);]~~

~~[(4) at the direction of the executive director:]~~

~~[(a) assist the office in providing operational oversight to and coordination of the business resource centers established under this part; and]~~

~~[(b) work closely with the Governor's Office of Economic Development's Board of Business and Economic Development;]~~

~~[(5) identify issues and make recommendations to the office regarding programs, policies, and procedures that could be implemented by:]~~

~~[(a) business resource centers in fulfilling their duties and responsibilities under Section 63N-3-305; and]~~

~~[(b) state-funded business service providers;]~~

~~[(6) make budget recommendations to the office]~~

~~(2) create a competitive budget allocation process regarding the operation and staffing of business resource centers established under this part; and~~

~~[(7) recommend] (3) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules establishing:~~

~~(a) matching fund exceptions under Subsection 63N-3-304(3);~~

~~[(8) recommend certification of all non-state funded satellite business resource centers; and]~~

~~(b) criteria for the approval, creation, and oversight of each business resource center and its staff, including a non-state funded satellite business resource center;~~

~~[(9) establish] (c) metrics to report the performance of economic development output in each region serviced by a business resource center[.]; and~~

~~(d) criteria for approving and overseeing business plans.~~

CHAPTER 254**H. B. 59**

Passed February 8, 2016
 Approved March 25, 2016
 Effective May 10, 2016

STATE ARMORY BOARD AMENDMENTS

Chief Sponsor: Val L. Peterson
 Senate Sponsor: Margaret Dayton

LONG TITLE**General Description:**

This bill modifies the powers of the State Armory Board.

Highlighted Provisions:

This bill:

- ▶ authorizes electronic meetings;
- ▶ specifies when official action may be taken; and
- ▶ restricts the use of proceeds from the sale of armories and army premises.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

39-2-2, as last amended by Laws of Utah 2009, Chapter 106

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 39-2-2 is amended to read:**39-2-2. Powers of State Armory Board.**

(1) The board shall supervise and control the armories and arsenals, and all real property held or acquired for the military purposes of the state.

(2) The board may:

(a) provide suitable armories and arsenals for the different organizations of the National Guard;

(b) lease buildings for armory and arsenal purposes throughout the state wherever necessary for the use of organizations of the National Guard and for the storage of state and government property at a rental that the board considers reasonable;

(c) erect armories and arsenals at places within the state that it considers necessary upon lands to which it has acquired the legal title;

(d) expend military funds to acquire legal title to lands and to construct armories and arsenals; ~~and~~

(e) lease land that it holds under Subsection (1) to Department of Defense agencies for military purposes; and

(f) conduct meetings and take official action in person or as necessary via electronic means, including telephone or video teleconferencing, or a combination of these methods.

(3) (a) Subject to Subsection (3)(b), the board may take options for the purchase of any premises under lease to the state for armory and arsenal purposes:

- (i) at any time during the life of the lease; and
- (ii) when the purchase is in the state's interest.

(b) An option is not binding upon the board until it is approved by the Legislature.

(4) (a) Before legally binding the state to sell any armory, army premises, or other real property owned by the National Guard, the board shall submit a description of the proposed sale to the Legislative Management Committee for its review and recommendations.

(b) Before legally binding the state to purchase any interest in real property, the board shall submit a description of the proposed sale to the Legislative Management Committee for its review and recommendations.

(c) The Legislative Management Committee shall review each proposal and may:

- (i) recommend that the board complete the purchase or sale; or
- (ii) recommend that the board not complete the purchase or sale.

(5) The proceeds from the sales of armories and army premises authorized by this section shall be appropriated to the State Armory Board to be applied toward the acquisition and sale of real property, and the construction of new armories.

CHAPTER 255**H. B. 72**

Passed February 11, 2016

Approved March 25, 2016

Effective May 10, 2016

TIMESHARE AMENDMENTS

Chief Sponsor: Gage Froerer

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends the Timeshare and Camp Resort Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ addresses the process for obtaining a registration from the division for a development or a salesperson;
- ▶ modifies notice requirements related to a purchaser's right to cancel;
- ▶ clarifies the process and standard for obtaining an exemption from the provisions of this bill; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 57-8-3, as last amended by Laws of Utah 2015, Chapters 22, 34, 213, 325, and 387
- 57-8-27, as last amended by Laws of Utah 2012, Chapter 166
- 57-19-2, as last amended by Laws of Utah 2012, Chapter 166
- 57-19-4, as enacted by Laws of Utah 1987, Chapter 73
- 57-19-5, as last amended by Laws of Utah 2009, Chapter 352
- 57-19-6, as last amended by Laws of Utah 2012, Chapter 166
- 57-19-7, as enacted by Laws of Utah 1987, Chapter 73
- 57-19-8, as last amended by Laws of Utah 2012, Chapter 166
- 57-19-9, as last amended by Laws of Utah 2000, Chapter 86
- 57-19-10, as enacted by Laws of Utah 1987, Chapter 73
- 57-19-11, as last amended by Laws of Utah 1991, Chapter 165
- 57-19-12, as last amended by Laws of Utah 2012, Chapter 166
- 57-19-13, as last amended by Laws of Utah 2012, Chapter 166
- 57-19-14, as last amended by Laws of Utah 2010, Chapter 379
- 57-19-15, as last amended by Laws of Utah 2009, Chapter 352
- 57-19-16, as last amended by Laws of Utah 2009, Chapter 352
- 57-19-21, as enacted by Laws of Utah 1987, Chapter 73

57-19-26, as last amended by Laws of Utah 2012, Chapter 166

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 57-8-3 is amended to read:**57-8-3. Definitions.**

As used in this chapter:

(1) "Assessment" means any charge imposed by the association, including:

(a) common expenses on or against a unit owner pursuant to the provisions of the declaration, bylaws, or this chapter; and

(b) an amount that an association of unit owners assesses to a unit owner under Subsection 57-8-43(9)(g).

(2) "Association of unit owners" means all of the unit owners:

(a) acting as a group in accordance with the declaration and bylaws; or

(b) organized as a legal entity in accordance with the declaration.

(3) "Building" means a building, containing units, and comprising a part of the property.

(4) "Commercial condominium project" means a condominium project that has no residential units within the project.

(5) "Common areas and facilities" unless otherwise provided in the declaration or lawful amendments to the declaration means:

(a) the land included within the condominium project, whether leasehold or in fee simple;

(b) the foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances, and exits of the building;

(c) the basements, yards, gardens, parking areas, and storage spaces;

(d) the premises for lodging of janitors or persons in charge of the property;

(e) installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, and incinerating;

(f) the elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all apparatus and installations existing for common use;

(g) such community and commercial facilities as may be provided for in the declaration; and

(h) all other parts of the property necessary or convenient to its existence, maintenance, and safety, or normally in common use.

(6) "Common expenses" means:

(a) all sums lawfully assessed against the unit owners;

(b) expenses of administration, maintenance, repair, or replacement of the common areas and facilities;

(c) expenses agreed upon as common expenses by the association of unit owners; and

(d) expenses declared common expenses by this chapter, or by the declaration or the bylaws.

(7) "Common profits," unless otherwise provided in the declaration or lawful amendments to the declaration, means the balance of all income, rents, profits, and revenues from the common areas and facilities remaining after the deduction of the common expenses.

(8) "Condominium" means the ownership of a single unit in a multiunit project together with an undivided interest in common in the common areas and facilities of the property.

(9) "Condominium plat" means a plat or plats of survey of land and units prepared in accordance with Section 57-8-13.

(10) "Condominium project" means a real estate condominium project; a plan or project whereby two or more units, whether contained in existing or proposed apartments, commercial or industrial buildings or structures, or otherwise, are separately offered or proposed to be offered for sale. Condominium project also means the property when the context so requires.

(11) "Condominium unit" means a unit together with the undivided interest in the common areas and facilities appertaining to that unit. Any reference in this chapter to a condominium unit includes both a physical unit together with its appurtenant undivided interest in the common areas and facilities and a time period unit together with its appurtenant undivided interest, unless the reference is specifically limited to a time period unit.

(12) "Contractible condominium" means a condominium project from which one or more portions of the land within the project may be withdrawn in accordance with provisions of the declaration and of this chapter. If the withdrawal can occur only by the expiration or termination of one or more leases, then the condominium project is not a contractible condominium within the meaning of this chapter.

(13) "Convertible land" means a building site which is a portion of the common areas and facilities, described by metes and bounds, within which additional units or limited common areas and facilities may be created in accordance with this chapter.

(14) "Convertible space" means a portion of the structure within the condominium project, which portion may be converted into one or more units or common areas and facilities, including limited common areas and facilities in accordance with this chapter.

(15) "Declarant" means all persons who execute the declaration or on whose behalf the declaration is executed. From the time of the recordation of any amendment to the declaration expanding an expandable condominium, all persons who execute

that amendment or on whose behalf that amendment is executed shall also come within this definition. Any successors of the persons referred to in this subsection who come to stand in the same relation to the condominium project as their predecessors also come within this definition.

(16) "Declaration" means the instrument by which the property is submitted to the provisions of this act, as it from time to time may be lawfully amended.

(17) "Electrical corporation" means the same as that term is defined in Section 54-2-1.

(18) "Expandable condominium" means a condominium project to which additional land or an interest in it may be added in accordance with the declaration and this chapter.

(19) "Gas corporation" means the same as that term is defined in Section 54-2-1.

(20) "Governing documents":

(a) means a written instrument by which an association of unit owners may:

(i) exercise powers; or

(ii) manage, maintain, or otherwise affect the property under the jurisdiction of the association of unit owners; and

(b) includes:

(i) articles of incorporation;

(ii) bylaws;

(iii) a plat;

(iv) a declaration of covenants, conditions, and restrictions; and

(v) rules of the association of unit owners.

(21) "Independent third party" means a person that:

(a) is not related to the unit owner;

(b) shares no pecuniary interests with the unit owner; and

(c) purchases the unit in good faith and without the intent to defraud a current or future lienholder.

(22) "Leasehold condominium" means a condominium project in all or any portion of which each unit owner owns an estate for years in his unit, or in the land upon which that unit is situated, or both, with all those leasehold interests to expire naturally at the same time. A condominium project including leased land, or an interest in the land, upon which no units are situated or to be situated is not a leasehold condominium within the meaning of this chapter.

(23) "Limited common areas and facilities" means those common areas and facilities designated in the declaration as reserved for use of a certain unit or units to the exclusion of the other units.

(24) "Majority" or "majority of the unit owners," unless otherwise provided in the declaration or lawful amendments to the declaration, means the

owners of more than 50% in the aggregate in interest of the undivided ownership of the common areas and facilities.

(25) "Management committee" means the committee as provided in the declaration charged with and having the responsibility and authority to make and to enforce all of the reasonable rules covering the operation and maintenance of the property.

(26) (a) "Means of electronic communication" means an electronic system that allows individuals to communicate orally in real time.

(b) "Means of electronic communication" includes:

- (i) web conferencing;
- (ii) video conferencing; and
- (iii) telephone conferencing.

(27) "Meeting" means a gathering of a management committee, whether in person or by means of electronic communication, at which the management committee can take binding action.

(28) "Mixed-use condominium project" means a condominium project that has both residential and commercial units in the condominium project.

(29) "Par value" means a number of dollars or points assigned to each unit by the declaration. Substantially identical units shall be assigned the same par value, but units located at substantially different heights above the ground, or having substantially different views, or having substantially different amenities or other characteristics that might result in differences in market value, may be considered substantially identical within the meaning of this subsection. If par value is stated in terms of dollars, that statement may not be considered to reflect or control the sales price or fair market value of any unit, and no opinion, appraisal, or fair market transaction at a different figure may affect the par value of any unit, or any undivided interest in the common areas and facilities, voting rights in the unit owners' association, liability for common expenses, or right to common profits, assigned on the basis thereof.

(30) "Period of administrative control" means the period of control described in Subsection 57-8-16.5(1).

(31) "Person" means an individual, corporation, partnership, association, trustee, or other legal entity.

(32) "Property" means the land, whether leasehold or in fee simple, the building, if any, all improvements and structures thereon, all easements, rights, and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

(33) "Record," "recording," "recorded," and "recorder" have the meaning stated in Title 57, Chapter 3, Recording of Documents.

(34) "Size" means the number of cubic feet, or the number of square feet of ground or floor space, within each unit as computed by reference to the record of survey map and rounded off to a whole number. Certain spaces within the units including attic, basement, or garage space may be omitted from the calculation or be partially discounted by the use of a ratio, if the same basis of calculation is employed for all units in the condominium project and if that basis is described in the declaration.

(35) "Time period unit" means an annually recurring part or parts of a year specified in the declaration as a period for which a unit is separately owned and includes a timeshare estate as defined in [Subsection 57-19-2(19)] Section 57-19-2.

(36) "Unit" means either a separate physical part of the property intended for any type of independent use, including one or more rooms or spaces located in one or more floors or part or parts of floors in a building or a time period unit, as the context may require. A convertible space shall be treated as a unit in accordance with Subsection 57-8-13.4(3). A proposed condominium unit under an expandable condominium project, not constructed, is a unit two years after the date the recording requirements of Section 57-8-13.6 are met.

(37) "Unit number" means the number, letter, or combination of numbers and letters designating the unit in the declaration and in the record of survey map.

(38) "Unit owner" means the person or persons owning a unit in fee simple and an undivided interest in the fee simple estate of the common areas and facilities in the percentage specified and established in the declaration or, in the case of a leasehold condominium project, the person or persons whose leasehold interest or interests in the condominium unit extend for the entire balance of the unexpired term or terms.

Section 2. Section 57-8-27 is amended to read:

57-8-27. Separate taxation.

(1) Each unit and its percentage of undivided interest in the common or community areas and facilities shall be considered to be a parcel and shall be subject to separate assessment and taxation by each assessing unit, local district, and special service district for all types of taxes authorized by law, including ad valorem levies and special assessments. Neither the building or buildings, the property, nor any of the common areas and facilities may be considered a parcel.

(2) In the event any of the interests in real property made subject to this chapter by the declaration are leasehold interests, if the lease creating these interests is of record in the office of the county recorder, if the balance of the term remaining under the lease is at least 40 years at the time the leasehold interest is made subject to this chapter, if units are situated or are to be situated on or within the real property covered by the lease, and if the lease provides that the lessee shall pay all taxes and assessments imposed by governmental authority, then until 10 years prior to the date that

the leasehold is to expire or until the lease is terminated, whichever first occurs, all taxes and assessments on the real property covered by the lease shall be levied against the owner of the lessee's interest. If the owner of the reversion under the lease has executed the declaration and condominium plat, until 10 years prior to the date that the leasehold is to expire, or until the lease is terminated, whichever first occurs, all taxes and assessments on the real property covered by the lease shall be separately levied against the unit owners having an interest in the lease, with each unit owner for taxation purposes being considered the owner of a parcel consisting of his undivided condominium interest in the fee of the real property affected by the lease.

(3) No forfeiture or sale of the improvements or the property as a whole for delinquent real estate taxes, special assessments, or charges shall divest or in anywise affect the title to an individual unit if the real estate taxes or duly levied share of the assessments and charges on the individual unit are currently paid.

(4) Any exemption from taxes that may exist on real property or the ownership of the property may not be denied by virtue of the submission of the property to this chapter.

(5) Timeshare interests and timeshare estates, as defined in ~~[Subsection]~~ Section 57-19-2~~(19)~~, may not be separately taxed but shall be valued, assessed, and taxed at the unit level. The value of timeshare interests and timeshare estates, for purposes of ad valorem taxation, shall be determined by valuing the real property interest associated with the timeshare interest or timeshare estate, exclusive of the value of any intangible property and rights associated with the acquisition, operation, ownership, and use of the timeshare interest or timeshare estate, including the fees and costs associated with the sale of timeshare interests and timeshare estates that exceed those fees and costs normally incurred in the sale of other similar properties, the fees and costs associated with the operation, ownership, and use of timeshare interests and timeshare estates, vacation exchange rights, vacation conveniences and services, club memberships, and any other intangible rights and benefits available to a timeshare unit owner. Nothing in this section shall be construed as requiring the assessment of any real property interest associated with a timeshare interest or timeshare estate at less than its fair market value. Notice of assessment, delinquency, sale, or any other purpose required by law is considered sufficient for all purposes if the notice is given to the management committee.

Section 3. Section 57-19-2 is amended to read:

57-19-2. Definitions.

As used in this chapter~~], unless the context clearly requires otherwise]~~:

(1) ~~[~~“Accommodations”~~]~~ includes “Accommodation” means:

- (a) a hotel or motel ~~[rooms,]~~ room;
- (b) a condominium or cooperative ~~[units, cabins, lodges, apartments, and]~~ unit;
- (c) a cabin;
- (d) a lodge;
- (e) an apartment; or
- (f) a private or commercial ~~[structures]~~ structure designed for overnight occupancy by one or more individuals.

(2) “Advertisement” means a written, printed, oral, audio, electronic, or visual offer that:

(a) is made by direct or general solicitation~~[-]~~ to one or more individuals; and

(b) (i) contains an offer to sell an interest; or
(ii) contains a solicitation to visit or obtain additional information about a development.

(3) “Amendment” means a change to an approved registration that is required under Section 57-19-9 or by a division rule made under this chapter.

~~[(3)]~~ (4) “Association” means an organized body consisting solely of owners of timeshare interests in a timeshare development ~~[that has been registered with the division]~~, including developers or purchasers.

~~[(4)]~~ (5) “Business day” means a day other than a Saturday, Sunday, or state or federal holiday.

~~[(7)]~~ (6) “Camping site” means a space designed or promoted for the purpose of locating a trailer, tent, tent trailer, recreational vehicle, pickup camper, motor home, or other similar device used for land-based portable housing.

~~[(5)]~~ (7) “Camp resort” means ~~[any]~~ an enterprise that has as its primary purpose the offering of a camp resort interest.

~~[(6)]~~ (8) “Camp resort interest” means the right to use and occupy a camping site.

(9) “Consolidation” means the registration of one or more additional sites or interests in a development after the division approves the development's registration.

~~[(8)]~~ (10) “Developer” means a person ~~[who]~~ that:

(a) establishes, ~~[promotes,]~~ owns, offers, sells, or operates a timeshare development or camp resort; or

(b) engages one or more other persons to establish, ~~[promote]~~ own, offer, sell, or operate a timeshare development or camp resort on the person's behalf.

(11) (a) “Development” means an enterprise with the primary purpose of offering an interest in a camp resort or timeshare development.

(b) “Development” includes:

(i) a single-site development; or

(ii) a multiple-site development.

(9) (12) “Director” means the director of the division.

(13) “Direct sales presentation” means an in-person, telephonic, or Internet-based communication that presents an offer to purchase an interest in a development to one or more prospective purchasers.

(10) (14) “Division” means the Division of Real Estate of the Department of Commerce.

(11) (15) “Executive director” means the executive director of the Department of Commerce.

(12) (16) (a) “Interest” means ~~[a camp resort interest or a timeshare interest.]~~ a right that a purchaser receives in exchange for consideration to use and occupy a camping site or an accommodation in a development:

(i) on a recurring basis; and

(ii) for a period of time that is less than one year during any given year, regardless of whether the time is determined in advance.

(b) “Interest” includes a membership agreement, sale, lease, deed, license, or right-to-use agreement.

(13) (17) “Offer” means a solicitation solely intended to result in a person purchasing an interest in a ~~[project]~~ development.

(14) “Project” means a camp resort or timeshare development.

(18) “Property report” means the form of a written disclosure described in Section 57-19-11.

(15) (19) “Purchaser” means a person who purchases an interest in a ~~[project]~~ development.

(20) “Registration” means:

(a) for a development, an approved application for registration described in Section 57-19-5; or

(b) for a salesperson, an approved application for registration described in Section 57-19-15.

(21) “Renewal” or “renew” means extending a development’s or a salesperson’s registration for an additional period on or before the registration’s expiration date.

(16) (22) (a) “Sale” or “sell” means selling an interest in a ~~[project]~~ development for value. ~~[It]~~

(b) “Sale” or “sell” does not include charging a reasonable fee to offset the administrative costs of transferring an interest in a ~~[project]~~ development.

(17) (23) (a) “Salesperson” means an individual who, for compensation and as agent for another, is engaged in obtaining commitments of persons to purchase an interest in a ~~[project]~~ development by making direct sales presentations to those persons. ~~[It]~~

(b) “Salesperson” does not include ~~[purchasers]~~ a purchaser or ~~[members]~~ an owner of a timeshare interest engaged in the referral of persons without making a direct sales presentation ~~[to them]~~.

(24) (a) “Site” means a geographic location where one or more camping sites or accommodations are located.

(b) “Site” includes a geographic location where one or more camping sites or accommodations are located that is constructed in phases and is under common management.

(18) (25) “Timeshare development” means ~~[any]~~ an enterprise ~~[that has as its]~~ with the primary purpose ~~[the]~~ of offering ~~[of]~~ a timeshare interest, including ~~[a project in which the purchase of]~~ an interest that gives the purchaser the right to use and occupy an accommodation at ~~[one specific site or more than one site]~~ a single- or multiple-site development.

(26) “Timeshare estate” means a small, undivided fractional fee interest in real property by which the purchaser does not receive any right to use an accommodation except as provided by contract, declaration, or other instrument defining a legal right.

(19) (27) (a) “Timeshare interest” means a right to occupy fixed or variable accommodations during three or more separate fixed or variable time periods over a period of at least three years, including renewal options, whether or not coupled with an estate in land. ~~[It]~~

(b) “Timeshare interest” includes ~~[what is commonly known as a-]~~ a timeshare estate, ~~,” which is a small undivided fractional fee interest in real property by which the purchaser does not receive any right to use accommodations except as provided by contract, declaration, or other instrument defining a legal right].~~

Section 4. Section 57-19-4 is amended to read:

57-19-4. Unregistered sales prohibited.

Except ~~[for transactions exempt under]~~ as provided in Section 57-19-26, it is unlawful for ~~[any]~~ a person to offer or sell in this state an interest in a ~~[project]~~ development unless the ~~[project]~~ development is registered under this chapter or the person holds a temporary permit described in Section 57-19-6.

Section 5. Section 57-19-5 is amended to read:

57-19-5. Registration -- Filing application.

(1) A person may apply for registration of a ~~[project]~~ development by filing with the ~~[director]~~ division:

(a) an application in the form prescribed by the director;

(b) the written disclosure ~~[required to be furnished to prospective purchasers by]~~ described in Section 57-19-11; and

(c) financial statements and other information that the director may by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, require as being reasonably necessary to determine whether the requirements

of this chapter have been met and whether any of the events specified in Subsection 57-19-13(1)(g) have occurred.

(2) ~~[Interests] An interest in a [project which are] development that is encumbered by [liens, mortgages, or other encumbrances] a lien, mortgage, or other encumbrance may not be accepted for registration or offered [for disposition] to the public unless:~~

(a) adequate release or nondisturbance clauses are contained in the encumbering instruments to reasonably assure that the purchaser's interest in the [project] development will not be defeated; or

(b) the division ~~[has accepted]~~ accepts other equivalent assurances ~~[which]~~ that, in the division's opinion [of the division], meet the purposes of this Subsection (2).

(3) (a) ~~[Each application] A person who applies for a development registration [of a project shall be accompanied by: (i)] shall include with the application a filing fee of \$500 for up to 100 interests, plus an additional \$3 per interest for each interest over 100, up to a maximum of \$2,500 for each application[; and].~~

~~[(ii) subject to Subsection (3)(b), a deposit of \$300 to cover all on-site inspection costs and expenses incurred by the division.]~~

~~[(b) (i) If the \$300 deposit is insufficient to meet the estimated costs and expenses of the on-site inspection, the applicant shall make an additional deposit sufficient to cover the estimated costs and expenses before the division will inspect the subdivided lands.]~~

~~[(ii) The deposit shall be refunded to the extent it is not used, together with an itemized statement from the division of all amounts it has used.]~~

(b) If the division determines that an on-site inspection of the development is necessary, the development shall pay the division the actual amount of the costs and expenses incurred by the division in performing the on-site inspection.

~~[(4) If a person registers additional interests to be offered for disposition, the person may consolidate the subsequent registration with any earlier registration offering interests for disposition in the same project]~~

(4) A person may add an additional site or interest to an approved development registration by:

(a) filing an application for consolidation accompanied by an additional fee of \$200 plus \$3 for each additional interest, up to a maximum of \$1,250 for each application~~[, if at the time the person makes the application all of]; and~~

(b) providing the information required ~~[by]~~ under Subsection (1) [has been brought current and covers the additional interests] for each additional site or interest.

Section 6. Section 57-19-6 is amended to read:

57-19-6. Effective date of application.

(1) An application for registration filed pursuant to Section 57-19-5 is effective upon the expiration of 30 business days following its filing with the director, unless:

(a) an order denying the application pursuant to Section 57-19-13 is in effect;

(b) a prior effective date has been ordered by the director; or

(c) the director has, ~~[prior to]~~ before that date, notified the applicant of a defect in the registration application.

(2) An applicant ~~[may]~~ shall consent to the delay of effectiveness until the director by order declares the registration to be effective.

(3) (a) Notwithstanding Section 57-19-4, the division may grant a developer a temporary permit ~~[allowing the developer to begin a sales and marketing program while the registration is in process.]~~ that allows a developer to advertise, offer, or sell an interest:

(i) before the developer's application for registration is approved; and

(ii) for a period of 30 days or less.

(b) To obtain a temporary permit, the developer shall:

(i) submit an application to the division for a temporary permit in the form required by the division;

(ii) submit a substantially complete application for registration to the division, including all appropriate fees and exhibits required under Section 57-19-5, plus a temporary permit fee of \$100;

(iii) provide evidence acceptable to the division that all funds received by the developer or marketing agent will be placed into an independent escrow with instructions that funds will not be released until a final registration has been granted;

(iv) give to each purchaser and potential purchaser a copy of the proposed property report that the developer has submitted to the division with the initial application; and

(v) give to each purchaser the opportunity to cancel the purchase in accordance with Section 57-19-12.

(c) [A] Upon the issuance of an approved registration, a purchaser shall have an additional opportunity to cancel [upon the issuance of an approved registration] the purchase if the division determines that there is a substantial difference in the disclosures contained in the final property report and those given to the purchaser in the proposed property report.

(4) (a) Notwithstanding Section 57-19-4, a developer or a person acting on behalf of a developer

may market and accept a reservation and deposit from a prospective purchaser before submitting to the division ~~[a] an application for registration or a temporary permit [application for a project]~~ if:

(i) the deposit is placed in a non-interest bearing escrow account with a licensed real estate broker, a title company, or another escrow that the division approves in advance; and

(ii) the deposit is guaranteed to be fully refundable at any time at the request of the prospective purchaser.

(b) A deposit that a prospective purchaser tenders under Subsection (4)(a) may not be released to the developer until after:

(i) the division approves the ~~[project]~~ development's registration; and

(ii) the prospective purchaser executes a written purchase contract creating a binding obligation to purchase.

Section 7. Section 57-19-7 is amended to read:

57-19-7. Prior permits.

Any permit to market a ~~[project]~~ development issued by the division ~~[prior to]~~ before April 27, 1987, is considered to be an effective registration, but is subject to the renewal provisions of this chapter upon the anniversary date of the issuance of the original permit.

Section 8. Section 57-19-8 is amended to read:

57-19-8. Filing proposed documents.

(1) Every developer shall file with the director at least five business days ~~[prior to]~~ before using any of the following in this state:

(a) the proposed form of ~~[its]~~ the developer's sales contracts; and

(b) ~~[copies]~~ a copy or the text of any supplements to the written disclosure required ~~[to be furnished to prospective purchasers pursuant to]~~ under Section 57-19-11.

(2) If the text, rather than ~~[copies]~~ a copy, of the materials ~~[specified]~~ described in Subsection (1) ~~[are]~~ is filed, ~~[copies]~~ the developer shall file the copy, including an electronic version, of ~~[these]~~ the materials ~~[shall be filed]~~ with the director within five business days ~~[following the date]~~ after the day on which the materials are first used.

(3) ~~[The]~~ A developer shall notify the division within five ~~[working]~~ business days if ~~[he]~~ the developer is convicted in any court of a crime involving fraud, deception, false pretenses, misrepresentation, false advertising, or dishonest dealing in real estate transactions, or has been subject to any injunction or administrative order restraining a false or misleading promotional plan involving land dispositions.

(4) ~~[The]~~ A developer ~~[must]~~ shall notify the division within five ~~[working]~~ business days if the developer files a petition in bankruptcy or if any other event occurs ~~[which may have]~~ that could result in a material adverse effect on the ~~[subdivision]~~ development.

(5) (a) If any suit by or against a developer ~~[of a camp resort or timeshare development]~~ results in a court finding that the developer engaged in fraud, deception, false pretenses, misrepresentation, false advertising, or dishonest dealing in a real estate transaction, the developer shall promptly ~~[furnish]~~ give the division a copy of the final order, settlement agreement, consent agreement, or other document evidencing resolution of the case at the trial level, whether or not an appeal is anticipated.

(b) A developer's failure to comply with Subsection (5)(a) may, in the discretion of the division, constitute grounds for the division withholding any approval ~~[required by]~~ under this chapter.

Section 9. Section 57-19-9 is amended to read:

57-19-9. Duration of registration -- Amendment and renewal -- Supplemental disclosure -- Notice of amendment.

(1) Registration of a ~~[project]~~ development is effective for a period of one year and may, upon application, be renewed for successive periods of one year each.

(2) (a) A registration may be amended at any time, for any reason, by filing an amended application for registration~~[, which]~~.

(b) The amended registration shall become effective in ~~[the manner provided in]~~ accordance with Section 57-19-6.

~~[(3) The written disclosure required to be furnished to prospective purchasers pursuant to Section 57-19-11]~~

(3) (a) The developer shall ~~[be supplemented]~~ supplement the property report as often as is necessary to keep the required information reasonably current. ~~[These]~~

(b) The supplements described in Subsection (3)(a) shall be filed with the director ~~[as provided]~~ in accordance with Section 57-19-8.

(4) ~~[Every]~~ (a) A developer shall provide timely notice ~~[sent]~~ to the director of any event ~~[which has occurred which may have]~~ that occurs that could result in a material adverse effect on the conduct of the operation of the ~~[project]~~ development.

(b) In addition to ~~[this]~~ the notification described in Subsection (4)(a), the developer shall, within 30 days ~~[of the occurrence of that]~~ after the day on which an event described in Subsection (4)(a) occurs, file an amendment to the registration disclosing the information previously provided.

(5) Each application for renewal of a registration and each supplementary filing ~~[as provided]~~ described in this section shall be accompanied by a fee of \$200.

Section 10. Section 57-19-10 is amended to read:

57-19-10. Effect of application or registration -- Misleading statements to prospective purchasers a misdemeanor.

(1) Neither the fact that an application for registration or the written disclosures required by this chapter have been filed, nor the fact that a [project] development has been effectively registered or exempted, constitutes a finding by the director that the offering or any document filed under this chapter is true, complete, and not misleading, nor does either of these facts mean that the director has determined in any way the merits or qualifications of, or recommended or given approval to, any person, developer, or transaction involving an interest in a [project] development.

(2) It is a class A misdemeanor to make or cause to be made to any purchaser or prospective purchaser any offering or document filed under this chapter [which] that is untrue, incomplete, or misleading.

Section 11. Section 57-19-11 is amended to read:

57-19-11. Disclosure required.

(1) Except ~~in a transaction exempt under~~ as provided in Section 57-19-26, any person who sells or offers to sell an interest in a [project] development located in this state, or who sells or offers to sell in this state an interest in a [project] development located outside of this state, shall provide to ~~the~~ a prospective purchaser, before the prospective purchaser signs an agreement to purchase an interest in ~~a project~~ the development or gives any item of value for the purchase of an interest in ~~a project~~ the development, a written statement [which] that provides a full and fair disclosure of information regarding the [project] development and the purchaser's rights and obligations associated with the purchase of an interest in ~~a project~~ the development.

(2) The written disclosure described in Subsection (1):

(a) may include electronic files; and

(b) shall:

(i) be on the property report form required by the division; and ~~shall~~

(ii) include:

~~(1)~~ (A) the name and address of the developer;

~~(2)~~ (B) a statement regarding whether ~~or not~~ the developer has ever been ~~[-(a)]~~ convicted of a felony~~;~~ or any misdemeanor involving theft, fraud, or dishonesty~~;~~ or ~~(b)~~ enjoined from, assessed any civil penalty for, or found to have engaged in the violation of any law designed to protect consumers;

~~(3)~~ (C) a brief description of the developer's experience in timeshare, camp resort, or any other real estate development;

~~(4)~~ (D) a brief description of the interest [which] that is being offered in the [project] development;

~~(5)~~ (E) a description of any provisions to protect the purchaser's interest from loss due to foreclosure on any underlying financial obligation of the [project] development;

~~(6)~~ (F) a statement ~~[of the maximum number of interests in the project to be marketed, and a commitment that this maximum number will not be exceeded unless disclosed by filing an amendment to the registration as provided in Section 57-19-9 prior to the amendment becoming effective]~~ that the development will not issue more interests during a 12-month period than the development can accommodate during the 12-month period;

~~(7)~~ (G) any event [which] that has occurred ~~[as of]~~ since the date of the offer [which] that may have a material adverse effect on the operation of the [project] development; and

~~(8)~~ (H) any other information the director considers necessary for the protection of purchasers.

Section 12. Section 57-19-12 is amended to read:

57-19-12. Purchaser's right to cancel.

(1) (a) An agreement to purchase an interest in a [project] development may be cancelled, at the option of the purchaser, if:

(i) the purchaser [provides] delivers a written notice of cancellation to the developer~~;~~ at the developer's business address by:

(A) hand ~~[delivery]~~;

(B) certified mail, ~~[written notice of the cancellation]~~ return receipt requested, or a delivery service that provides proof of delivery; and

(ii) the notice is delivered or postmarked not later than midnight of the fifth business day ~~[following]~~ after the day on which the agreement is signed.

(b) In computing the number of business days for purposes of this section, the day on which the agreement was signed is not included.

(c) Within 30 days after ~~[receipt of]~~ the day on which the developer receives a timely notice of cancellation, the developer shall refund any money or other consideration paid by the purchaser.

(2) Every agreement to purchase an interest in a [project which] development that is subject to this chapter shall include the following statement in at least 10-point bold upper-case type, immediately preceding the space for the purchaser's signature:

"PURCHASER'S RIGHT TO CANCEL: YOU MAY CANCEL THIS AGREEMENT WITHOUT ANY CANCELLATION FEE OR OTHER PENALTY BY HAND DELIVERING OR SENDING BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OR A DELIVERY SERVICE THAT PROVIDES PROOF OF DELIVERY, WRITTEN NOTICE OF CANCELLATION TO: (NAME AND ADDRESS OF DEVELOPER). THE NOTICE MUST BE DELIVERED OR POSTMARKED BY MIDNIGHT OF THE FIFTH BUSINESS DAY FOLLOWING

THE DAY ON WHICH THE AGREEMENT IS SIGNED. IN COMPUTING THE NUMBER OF BUSINESS DAYS, THE DAY ON WHICH THE CONTRACT IS SIGNED IS NOT INCLUDED.”

Section 13. Section 57-19-13 is amended to read:

57-19-13. Suspension, revocation, or denial of registration -- Fine.

(1) Subject to Section 57-19-17, ~~[an application for registration of a project may be denied, an existing registration may be suspended or revoked, or a fine of not more than \$500 may be imposed by the director, if the director finds that:]~~ if the director finds that an applicant or developer has engaged in an act described in Subsection (2), the director may:

(a) deny an application for registration of a development;

(b) suspend or revoke an existing registration; or

(c) except as provided in Subsection (3), impose a fine of not more than \$5,000.

(2) Subsection (1) applies if the director finds that:

(a) the developer's advertising or sales techniques or trade practices have been or are deceptive, false, or misleading;

(b) the developer ~~[has failed]~~ fails to file ~~[copies]~~ a copy of ~~[its]~~ the developer's sales contract forms as required ~~[by]~~ under Section 57-19-8;

(c) the developer ~~[has failed]~~ fails to comply with any provision of this chapter or ~~[the rules]~~ any rule adopted under this chapter that materially ~~[affect]~~ affects or would affect the rights of ~~[purchasers or prospective purchasers]~~ a purchaser or prospective purchaser of an interest in a ~~[project]~~ development, or that materially ~~[affect]~~ affects the administration of this chapter;

(d) the ~~[developer's offering]~~ developer makes a fraudulent offer of an interest in a ~~[project has worked or would work a fraud upon purchasers or prospective purchasers of such an]~~ development to a purchaser or prospective purchaser of the interest;

(e) the developer's application or any amendment to an application is incomplete in any material respect;

(f) the developer's application or any amendment to an application contains material misrepresentations or omissions of material fact ~~[which]~~ that are necessary to make the statements contained in the application or amendment not misleading;

(g) the developer or any officer or director of the developer has been:

(i) convicted of a felony, or any misdemeanor involving theft, fraud, or dishonesty;

(ii) enjoined from, assessed a civil penalty for, or found to have engaged in ~~[the]~~ a violation of any law designed to protect consumers; or

(iii) engaged in dishonest practices in any industry involving sales to consumers;

(h) the developer has represented or is representing to purchasers in connection with the offer or sale of an interest in a ~~[project]~~ development that any accommodations, related facilities, or amenities are planned, without reasonable grounds to believe that they will be completed within a reasonable time;

(i) the developer ~~[has disposed of, concealed, or diverted]~~ disposes, conceals, or diverts any funds or assets so as to defeat the rights of purchasers;

(j) the developer ~~[has failed]~~ fails to provide to ~~[purchasers copies]~~ a purchaser a copy of the written disclosure required by Section 57-19-11; or

(k) the developer, the developer's successor in interest, or a managing association discloses a purchaser's name, address, or email address to an unaffiliated entity without first obtaining written consent from the purchaser, unless the disclosure is in response to a subpoena or an order of a court or administrative tribunal.

~~[(2)]~~ (3) The authority to impose ~~[fines as provided in]~~ a fine under this section does not apply to Subsection ~~[(4)]~~ (2)(e).

~~[(3)]~~ (4) Notwithstanding Subsection ~~[(1)]~~ (2)(k), a developer shall, upon request by the division, provide the division a list of ~~[all purchasers' names, addresses, and email addresses]~~ each purchaser's name, address, and email address.

Section 14. Section 57-19-14 is amended to read:

57-19-14. Registration of salesperson.

~~[(1)]~~ Unless the transaction is exempt under ~~]~~ Except as provided in Section 57-19-26, it is unlawful for ~~[any]~~ a person to act as a salesperson ~~[marketing]~~ and market a ~~[project]~~ development in this state without first registering under this chapter as a salesperson.

~~[(2)]~~ The fee for registration as a salesperson is waived by the division for persons licensed by the division under Title 61, Chapter 2f, Real Estate Licensing and Practices Act.]

Section 15. Section 57-19-15 is amended to read:

57-19-15. Application for registration of salesperson.

(1) A person may apply for registration as a salesperson under this chapter by filing with the director an application in the form prescribed by the director, including:

(a) a statement ~~[of]~~ regarding whether ~~[or not]~~ the applicant has ever been:

(i) convicted of:

(A) a felony; or

(B) a misdemeanor involving theft, fraud, or dishonesty; or

(ii) enjoined from, assessed a civil penalty for, or found to have engaged in the violation of a law designed to protect a consumer;

(b) (i) a statement describing the applicant's employment history for the five years immediately preceding the day on which the application is filed; and

(ii) a statement ~~[of]~~ regarding whether ~~[or not]~~ a termination of employment during the period described in Subsection (1)(b)(i) is ~~[as]~~ a result of theft, fraud, or an act of dishonesty; ~~[and]~~

(c) evidence of the applicant's honesty, integrity, truthfulness, and reputation; and

~~[(e)]~~ (d) any other information that the director, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, considers necessary to protect ~~[the interests of a purchaser]~~ a purchaser's interests.

(2) (a) Notwithstanding the requirements for a regulatory fee under Section 63J-1-504, at the time an applicant files an application, the applicant shall pay to the division a fee of \$100.

(b) The fee for registration described in Subsection (2)(a) is waived for a person licensed by the division under Title 61, Chapter 2f, Real Estate Licensing and Practices Act.

(3) (a) Registration as a salesperson is effective for ~~[a period for]~~ two years after the day on which the registration is approved by the director, unless the director specifies otherwise.

(b) To renew a registration, a salesperson shall:

(i) file a form prescribed by the director for that purpose; and

(ii) pay a renewal fee of \$100.

Section 16. Section 57-19-16 is amended to read:

57-19-16. Denial, revocation, or suspension of registration of salesperson -- Fine.

(1) Subject to Section 57-19-17, if the ~~[director]~~ division finds that an applicant or salesperson has engaged in an act described in Subsection (2), the ~~[director]~~ division may:

(a) deny an application for registration as a salesperson;

(b) suspend or revoke an existing registration; or

(c) impose a civil penalty not to exceed ~~[\$500]~~ \$5,000.

(2) Subsection (1) applies if the ~~[director]~~ division finds that the applicant or salesperson:

(a) files, or causes to be filed, with the ~~[director]~~ division a document that contains ~~[an]~~ untrue or misleading information;

(b) makes an untrue or misleading statement of material fact;

(c) fails to state a material fact that is necessary in order to make the statements made not

misleading in light of the circumstances under which the statements are made;

(d) employs a device, scheme, or artifice to defraud, or engages in an act, practice, or course of business that operates or would operate as a fraud or deceit upon a person;

(e) subsequent to the effective date of registration as a salesperson, is:

(i) convicted of:

(A) a felony; or

(B) a misdemeanor involving theft, fraud, or dishonesty; or

(ii) enjoined from, assessed a civil penalty for, or found to have engaged in a violation of any law designed to protect consumers;

(f) violates this chapter;

(g) engages in an activity that constitutes dishonest dealing; or

(h) engages in unprofessional conduct as defined by statute or rule made by the director.

Section 17. Section 57-19-21 is amended to read:

57-19-21. Voidable agreements.

(1) Any agreement to purchase an interest in a ~~[project entered into in violation of]~~ development that violates Section 57-19-4 or 57-19-14 may, at the option of the purchaser, be voided and the purchaser's entire consideration recovered together with interest at the legal rate, costs, and reasonable ~~[attorney's]~~ attorney fees. ~~[However, no]~~

(2) No suit under this section may be brought more than two years after the later of:

~~[(1)]~~ (a) the ~~[date]~~ day on which the agreement is signed; or

~~[(2)]~~ (b) the ~~[date]~~ day on which the purchaser knew or reasonably should have known of the violation.

Section 18. Section 57-19-26 is amended to read:

57-19-26. Exemptions.

(1) Unless entered into for the purpose of evading the provisions of this chapter, the following transactions are exempt from registration:

(a) an isolated ~~[transactions]~~ transaction by an owner of an interest in a ~~[project]~~ development or by a person holding ~~[such an]~~ the owner's executed power of attorney;

(b) an offer or sale by a governmental entity; and

(c) ~~[the]~~ a resale of an interest that is:

(i) acquired:

(A) by the developer who initially registered the ~~[project]~~ development or by the managing association of the ~~[project]~~ development; and

(B) through a foreclosure, quitclaim deed, deed in lieu of foreclosure, or equivalent [~~transfer~~] means;

(ii) not offered as part of a [~~project~~] development that includes one or more interests that are unregistered or have been registered by a different developer or as part of a different [~~project~~] development; and

(iii) closed after the developer or managing association provides a purchaser the disclosures required by Section 57-19-11 and the right to rescind required by Section 57-19-12.

(2) After a resale by a developer or managing association that is claimed to be exempt under Subsection (1)(c), the division retains jurisdiction to:

(a) investigate a complaint regarding the resale; and

(b) if applicable, take an administrative action against the developer or managing association on the basis of unprofessional conduct, [~~as provided~~] as described in Section 57-19-13.

(3) (a) The director may, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, or by order, exempt any person from any [~~or all requirements~~] requirement of this chapter if the director finds that the offering of an interest in a [~~project~~] development is essentially noncommercial.

(b) The offering of [~~one or more interests~~] an interest in a [~~project~~] development that has [~~a maximum of~~] 10 or fewer interests is considered essentially noncommercial.

(c) A person who does not meet the requirements described in Subsection (3)(b), but believes that a proposed offering of more than 10 interests in a development is essentially noncommercial, may request an order of exemption from the director.

(d) To request an order of exemption under this section, a person shall submit to the director a request for agency action in accordance with Section 63G-4-201.

CHAPTER 256**H. B. 74**

Passed March 10, 2016
 Approved March 25, 2016
 Effective May 10, 2016

UNIFORM POWER OF ATTORNEY ACT

Chief Sponsor: V. Lowry Snow
 Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill enacts the Uniform Power of Attorney Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates a framework to create a durable power of attorney;
- ▶ sets requirements for execution and termination;
- ▶ specifies the duties of an agent once the agent accepts appointment;
- ▶ provides for judicial review;
- ▶ describes the different types of grants of authority; and
- ▶ suggests a standardized form for powers of attorney.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-9-602, as last amended by Laws of Utah 2015, Chapter 313

ENACTS:

75-9-101, Utah Code Annotated 1953
 75-9-102, Utah Code Annotated 1953
 75-9-103, Utah Code Annotated 1953
 75-9-104, Utah Code Annotated 1953
 75-9-105, Utah Code Annotated 1953
 75-9-106, Utah Code Annotated 1953
 75-9-107, Utah Code Annotated 1953
 75-9-108, Utah Code Annotated 1953
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 75-9-122, Utah Code Annotated 1953
 75-9-123, Utah Code Annotated 1953
 75-9-201, Utah Code Annotated 1953
 75-9-202, Utah Code Annotated 1953
 75-9-203, Utah Code Annotated 1953
 75-9-204, Utah Code Annotated 1953

75-9-205, Utah Code Annotated 1953
 75-9-206, Utah Code Annotated 1953
 75-9-207, Utah Code Annotated 1953
 75-9-208, Utah Code Annotated 1953
 75-9-209, Utah Code Annotated 1953
 75-9-210, Utah Code Annotated 1953
 75-9-211, Utah Code Annotated 1953
 75-9-212, Utah Code Annotated 1953
 75-9-213, Utah Code Annotated 1953
 75-9-214, Utah Code Annotated 1953
 75-9-215, Utah Code Annotated 1953
 75-9-216, Utah Code Annotated 1953
 75-9-217, Utah Code Annotated 1953
 75-9-301, Utah Code Annotated 1953
 75-9-302, Utah Code Annotated 1953
 75-9-401, Utah Code Annotated 1953
 75-9-402, Utah Code Annotated 1953
 75-9-403, Utah Code Annotated 1953

REPEALS:

75-5-501, as last amended by Laws of Utah 2012, Chapter 274
 75-5-502, as last amended by Laws of Utah 1994, Chapter 82
 75-5-503, as enacted by Laws of Utah 2003, Chapter 241
 75-5-504, as enacted by Laws of Utah 2003, Chapter 241

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-9-602 is amended to read:**58-9-602. Determination of control of disposition.**

The right and duty to control the disposition of a deceased person, which may include cremation as well as the location, manner and conditions of the disposition, and arrangements for funeral goods and services to be provided, vests in the following degrees of relationship in the order named, provided the person is at least 18 and is mentally competent:

(1) the person designated:

(a) in a written instrument, excluding a power of attorney that terminates at death under [Sections 75-5-501 and 75-5-502] Section 75-9-110, if the written instrument is acknowledged before a Notary Public or executed with the same formalities required of a will under Section 75-2-502; or

(b) by a service member while serving in a branch of the United States Armed Forces as defined in 10 U.S.C. Sec. 1481 in a federal Record of Emergency Data, DD Form 93 or subsequent form;

(2) the surviving, legally recognized spouse of the decedent, unless a personal representative was nominated by the decedent subsequent to the marriage, in which case the personal representative shall take priority over the spouse;

(3) the person nominated to serve as the personal representative of the decedent's estate in a will executed with the formalities required in Section 75-2-502;

(4) (a) the sole surviving child of the decedent, or if there is more than one child of the decedent, the majority of the surviving children;

(b) less than one-half of the surviving children are vested with the rights of this section if they have used reasonable efforts to notify all other surviving children of their instructions and are not aware of any opposition to those instructions on the part of more than one-half of all surviving children;

(5) the surviving parent or parents of the decedent, however:

(a) if one of the surviving parents is absent, the remaining parent is vested with the rights and duties of this section after reasonable efforts have been unsuccessful in locating the absent surviving parent; or

(b) if the parents are divorced or separated and the decedent was an incapacitated adult, the parent who was designated as the guardian of the decedent is vested with the rights and duties of this section;

(6) (a) the surviving brother or sister of the decedent, or if there is more than one sibling of the decedent, the majority of the surviving siblings;

(b) less than the majority of surviving siblings, if they have used reasonable efforts to notify all other surviving siblings of their instructions and are not aware of any opposition to those instructions on the part of more than one-half of all surviving siblings;

(7) the person in the classes of the next degree of kinship, in descending order, under the laws of descent and distribution to inherit the estate of the decedent, and if there is more than one person of the same degree, any person of that degree may exercise the right of disposition;

(8) in the absence of any person under Subsections (1) through (7), the person who was the decedent's guardian at the time of death;

(9) any public official charged with arranging the disposition of deceased persons; and

(10) in the absence of any person under Subsections (1) through (9), any other person willing to assume the responsibilities to act and arrange the final disposition of the decedent's remains, including the personal representative of the decedent's estate or the funeral service director with custody of the body, after attesting in writing that a good faith effort has been made to no avail to contact the individuals referred to in Subsections (1) through (9).

Section 2. Section 75-9-101 is enacted to read:

CHAPTER 9. UNIFORM POWER OF ATTORNEY ACT

Part 1. General Provisions

75-9-101. Title.

This chapter is known as the "Uniform Power of Attorney Act."

Section 3. Section 75-9-102 is enacted to read:

75-9-102. Definitions.

In this chapter:

(1) "Agent" means a person granted authority to act for a principal under a power of attorney, whether denominated an agent, attorney-in-fact, or otherwise. The term includes an original agent, coagent, successor agent, and person to which an agent's authority is delegated.

(2) "Durable," with respect to a power of attorney, means not terminated by the principal's incapacity.

(3) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(4) "Good faith" means honesty in fact.

(5) "Incapacity" means the inability of an individual to manage property or business affairs because the individual:

(a) has an impairment in the ability to receive and evaluate information or make or communicate decisions even with the use of technological assistance; or

(b) is:

(i) missing;

(ii) detained, including incarcerated in a penal system; or

(iii) outside the United States and unable to return.

(6) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(7) "Power of attorney" means a writing or other record that grants authority to an agent to act in the place of the principal, whether or not the term power of attorney is used.

(8) "Presently exercisable general power of appointment," with respect to property or a property interest subject to a power of appointment, means power exercisable at the time in question to vest absolute ownership in the principal individually, the principal's estate, the principal's creditors, or the creditors of the principal's estate. The term includes a power of appointment not exercisable until the occurrence of a specified event, the satisfaction of an ascertainable standard, or the passage of a specified period only after the occurrence of the specified event, the satisfaction of the ascertainable standard, or the passage of the specified period. The term does not include a power exercisable in a fiduciary capacity or only by will.

(9) "Principal" means an individual who grants authority to an agent in a power of attorney.

(10) "Property" means anything that may be the subject of ownership, whether real or personal, or legal or equitable, or any interest or right therein.

(11) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(12) "Sign" means, with present intent to authenticate or adopt a record:

(a) to execute or adopt a tangible symbol; or

(b) to attach to or logically associate with the record an electronic sound, symbol, or process.

(13) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(14) "Stocks and bonds" means stocks, bonds, mutual funds, and all other types of securities and financial instruments, whether held directly, indirectly, or in any other manner. The term does not include commodity futures contracts and call or put options on stocks or stock indexes.

Section 4. Section 75-9-103 is enacted to read:

75-9-103. Applicability.

This chapter applies to all powers of attorney except:

(1) a power to the extent it is coupled with an interest in the subject of the power, including a power given to or for the benefit of a creditor in connection with a credit transaction;

(2) a power to make health care decisions;

(3) a proxy or other delegation to exercise voting rights or management rights with respect to an entity; and

(4) a power created on a form prescribed by a government or governmental subdivision, agency, or instrumentality for a governmental purpose.

Section 5. Section 75-9-104 is enacted to read:

75-9-104. Power of attorney is durable.

A power of attorney created under this chapter is durable unless it expressly provides that it is terminated by the incapacity of the principal.

Section 6. Section 75-9-105 is enacted to read:

75-9-105. Execution of power of attorney.

(1) A power of attorney shall be signed by the principal or in the principal's conscious presence by another individual directed by the principal to sign the principal's name on the power of attorney before a notary public or other individual authorized by the law to take acknowledgments. A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgments.

(2) If the principal resides or is about to reside in a hospital, assisted living, skilled nursing, or similar facility, at the time of execution of the power of attorney, the principal may not name any agent that is the owner, operator, health care provider, or employee of the hospital, assisted living facility, skilled nursing, or similar residential care facility unless the agent is the spouse, legal guardian, or next of kin of the principal, or unless the agent's authority is strictly limited to the purpose of assisting the principal to establish eligibility for Medicaid.

(3) A violation of Subsection (2) is a violation of Subsection 76-5-111(4)(a).

Section 7. Section 75-9-106 is enacted to read:

75-9-106. Validity of power of attorney.

(1) A power of attorney executed in this state on or after May 10, 2016, is valid if its execution complies with Section 75-9-105.

(2) A power of attorney executed in this state before May 10, 2016, is valid if its execution complied with the law of this state as it existed at the time of execution.

(3) A power of attorney executed other than in this state is valid in this state if, when the power of attorney was executed, the execution complied with:

(a) the law of the jurisdiction that determines the meaning and effect of the power of attorney pursuant to Section 75-9-107; or

(b) the requirements for a military power of attorney pursuant to 10 U.S.C. Sec. 1044b.

(4) Except as otherwise provided by statute other than this chapter, a photocopy or electronically transmitted copy of an original power of attorney has the same effect as the original. For transactions involving real property, the copy of the power of attorney may be recorded in the county where the transaction lies when attached to an affidavit of the person accepting the power of attorney.

Section 8. Section 75-9-107 is enacted to read:

75-9-107. Meaning and effect of power of attorney.

The meaning and effect of a power of attorney is determined by the law of the jurisdiction indicated in the power of attorney and, in the absence of an indication of jurisdiction, by the law of the jurisdiction in which the power of attorney was executed.

Section 9. Section 75-9-108 is enacted to read:

75-9-108. Nomination of conservator or guardian -- Relation of agent to court appointed fiduciary.

(1) In a power of attorney, a principal may nominate a conservator of the principal's estate or guardian of the principal's person for consideration by the court if protective proceedings for the

principal's estate or person are begun after the principal executes the power of attorney. Except for good cause shown or disqualification, the court shall make its appointment in accordance with the principal's most recent nomination.

(2) If, after a principal executes a power of attorney, a court appoints a conservator of the principal's estate or other fiduciary charged with the management of some or all of the principal's property, the agent is accountable to the fiduciary as well as to the principal. The power of attorney is not terminated and the agent's authority continues unless limited, suspended, or terminated by the court.

Section 10. Section 75-9-109 is enacted to read:

75-9-109. When power of attorney is effective.

(1) A power of attorney is effective when executed unless the principal provides in the power of attorney that it becomes effective at a future date or upon the occurrence of a future event or contingency.

(2) If a power of attorney becomes effective upon the occurrence of a future event or contingency, the principal, in the power of attorney, may authorize one or more persons to determine in a writing or other record that the event or contingency has occurred.

(3) If a power of attorney becomes effective upon the principal's incapacity and the principal has not authorized a person to determine whether the principal is incapacitated, or the person authorized is unable or unwilling to make the determination, the power of attorney becomes effective upon a determination in a writing or other record by:

(a) a physician that the principal is incapacitated within the meaning of Subsection 75-9-102(5)(a); or

(b) an attorney at law, a judge, or an appropriate governmental official that the principal is incapacitated within the meaning of Subsection 75-9-102(5)(b).

(4) A person authorized by the principal in the power of attorney to determine that the principal is incapacitated may act as the principal's personal representative pursuant to the Health Insurance Portability and Accountability Act, Sections 1171 through 1179 of the Social Security Act, 42 U.S.C. Sec. 1320d, and applicable regulations, to obtain access to the principal's health care information and communicate with the principal's health care provider.

Section 11. Section 75-9-110 is enacted to read:

75-9-110. Termination of power of attorney or agent's authority.

(1) A power of attorney terminates when:

(a) the principal dies;

(b) the principal becomes incapacitated, if the power of attorney is not durable;

(c) the principal revokes the power of attorney;

(d) the power of attorney provides that it terminates;

(e) the purpose of the power of attorney is accomplished; or

(f) the principal revokes the agent's authority or the agent dies, becomes incapacitated, or resigns, and the power of attorney does not provide for another agent to act under the power of attorney.

(2) An agent's authority terminates when:

(a) the principal revokes the authority;

(b) the agent dies, becomes incapacitated, or resigns;

(c) an action is filed for the dissolution or annulment of the agent's marriage to the principal or their legal separation, unless the power of attorney otherwise provides; or

(d) the power of attorney terminates.

(3) Unless the power of attorney otherwise provides, an agent's authority is exercisable until the authority terminates under Subsection (2), notwithstanding a lapse of time since the execution of the power of attorney.

(4) Termination of an agent's authority or of a power of attorney is not effective as to the agent or another person that, without actual knowledge of the termination, acts in good faith under the power of attorney. An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.

(5) Incapacity of the principal of a power of attorney that is not durable does not revoke or terminate the power of attorney as to an agent or other person that, without actual knowledge of the incapacity, acts in good faith under the power of attorney. An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.

(6) The execution of a power of attorney does not revoke a power of attorney previously executed by the principal unless the subsequent power of attorney provides that the previous power of attorney is revoked or that all other powers of attorney are revoked.

(7) The principal may revoke or amend a power of attorney:

(a) by substantial compliance with a method provided in the terms of the power of attorney that expressly excludes all other methods for amending or revoking the power of attorney; or

(b) if the terms of the power of attorney do not provide a method or the method provided in the terms is not expressly made exclusive, by any other method manifesting clear and convincing evidence of the principal's intent.

Section 12. Section 75-9-111 is enacted to read:

75-9-111. Coagents and successor agents.

(1) A principal may designate two or more persons to act as coagents. Unless the power of attorney otherwise provides, each coagent may exercise its authority independently.

(2) A principal may designate one or more successor agents to act if an agent resigns, dies, becomes incapacitated, is not qualified to serve, or declines to serve. A principal may grant authority to designate one or more successor agents to an agent or other person designated by name, office, or function. Unless the power of attorney otherwise provides, a successor agent:

(a) has the same authority as that granted to the original agent; and

(b) may not act until all predecessor agents have resigned, died, become incapacitated, are no longer qualified to serve, or have declined to serve.

(3) Except as otherwise provided in the power of attorney and Subsection (4), an agent that does not participate in or conceal a breach of fiduciary duty committed by another agent, including a predecessor agent, is not liable for the actions of the other agent.

(4) An agent that has accepted appointment and that has actual knowledge of a breach or imminent breach of fiduciary duty by another agent shall notify the principal and, if the principal is incapacitated, take any action reasonably appropriate in the circumstances to safeguard the principal's best interest. An agent that fails to notify the principal or take action as required by this subsection is liable for the reasonably foreseeable damages that could have been avoided if the agent had notified the principal or taken action.

Section 13. Section 75-9-112 is enacted to read:

75-9-112. Reimbursement and compensation of agent.

Unless the power of attorney otherwise provides, an agent is entitled to reimbursement of expenses reasonably incurred on behalf of the principal and to compensation that is reasonable under the circumstances.

Section 14. Section 75-9-113 is enacted to read:

75-9-113. Agent's acceptance.

Except as otherwise provided in the power of attorney, a person accepts appointment as an agent under a power of attorney by exercising authority or performing duties as an agent or by any other assertion or conduct indicating acceptance.

Section 15. Section 75-9-114 is enacted to read:

75-9-114. Agent's duties.

(1) Notwithstanding provisions in the power of attorney, an agent that has accepted appointment shall:

(a) act in accordance with the principal's reasonable expectations to the extent actually known by the agent and, otherwise, in the principal's best interest;

(b) act in good faith;

(c) act only within the scope of authority granted in the power of attorney; and

(d) comply with the terms of the power of attorney.

(2) Except as otherwise provided in the power of attorney or other provision of this chapter, an agent that has accepted appointment shall have no further obligation to act under the power of attorney. However, with respect to any action taken by the agent under the power of attorney, the agent shall:

(a) act loyally for the principal's benefit;

(b) act so as not to create a conflict of interest that impairs the agent's ability to act impartially in the principal's best interest;

(c) act with the care, competence, and diligence ordinarily exercised by agents in similar circumstances;

(d) keep a record of all receipts, disbursements, and transactions made on behalf of the principal;

(e) cooperate with a person that has authority to make health care decisions for the principal to carry out the principal's reasonable expectations to the extent actually known by the agent and, otherwise, act in the principal's best interest; and

(f) attempt to preserve the principal's estate plan, to the extent actually known by the agent, if preserving the plan is consistent with the principal's best interest based on all relevant factors, including:

(i) the value and nature of the principal's property;

(ii) the principal's foreseeable obligations and need for maintenance;

(iii) minimization of taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes; and

(iv) eligibility for a benefit, a program, or assistance under a statute, rule, or regulation.

(3) An agent that acts in good faith is not liable to any beneficiary of the principal's estate plan for failure to preserve the plan.

(4) An agent that acts with care, competence, and diligence for the best interest of the principal is not liable solely because the agent also benefits from the act or has an individual or conflicting interest in relation to the property or affairs of the principal.

(5) If an agent is selected by the principal because of special skills or expertise possessed by the agent or in reliance on the agent's representation that the agent has special skills or expertise, the special skills or expertise shall be considered in determining whether the agent has acted with care,

competence, and diligence under the circumstances.

(6) Absent a breach of duty to the principal, an agent is not liable if the value of the principal's property declines.

(7) An agent that exercises authority to delegate to another person the authority granted by the principal or that engages another person on behalf of the principal is not liable for an act, error of judgment, or default of that person if the agent exercises care, competence, and diligence in selecting and monitoring the person.

(8) Except as otherwise provided in the power of attorney, an agent is not required to disclose receipts, disbursements, or transactions conducted on behalf of the principal unless ordered by a court or requested by the principal, a guardian, a conservator, another fiduciary acting for the principal, a governmental agency having authority to protect the welfare of the principal, an interested person as defined in Subsection 75-1-201(24) after the principal's incapacity, or upon the death of the principal, by the personal representative or successor in interest of the principal's estate. If so requested, within 30 days the agent shall comply with the request or provide a writing or other record substantiating why additional time is needed and shall comply with the request within an additional 30 days.

Section 16. Section 75-9-115 is enacted to read:

75-9-115. Exoneration of agent.

A provision in a power of attorney relieving an agent of liability for breach of duty is binding on the principal and the principal's successors in interest except to the extent the provision:

(1) relieves the agent of liability for breach of duty committed dishonestly, with an improper motive, or with reckless indifference to the purposes of the power of attorney or the best interest of the principal; or

(2) was inserted as a result of an abuse of a confidential or fiduciary relationship with the principal.

Section 17. Section 75-9-116 is enacted to read:

75-9-116. Judicial relief.

(1) The following persons may petition a court to construe a power of attorney or review the agent's conduct and grant appropriate relief:

(a) the principal or the agent;

(b) a guardian, conservator, or other fiduciary acting for the principal;

(c) a person authorized to make health care decisions for the principal;

(d) the principal's spouse, parent, or descendant;

(e) an individual who would qualify as a presumptive heir of the principal;

(f) a person named as a beneficiary to receive any property, benefit, or contractual right on the principal's death or as a beneficiary of a trust created by or for the principal that has a financial interest in the principal's estate;

(g) a governmental agency having regulatory authority to protect the welfare of the principal;

(h) the principal's caregiver or another person that demonstrates sufficient interest in the principal's welfare; and

(i) a person asked to accept the power of attorney.

(2) Upon motion by the principal, the court shall dismiss a petition filed under this section, unless the court finds that the principal lacks capacity to revoke the agent's authority or the power of attorney.

Section 18. Section 75-9-117 is enacted to read:

75-9-117. Agent's liability.

An agent that violates this chapter is liable to the principal or the principal's successors in interest for the amount required to:

(1) restore the value of the principal's property to what it would have been had the violation not occurred; and

(2) reimburse the principal or the principal's successors in interest for the attorney fees and costs paid on the agent's behalf.

Section 19. Section 75-9-118 is enacted to read:

75-9-118. Agent's resignation -- Notice.

Unless the power of attorney provides a different method for an agent's resignation, an agent may resign by giving notice to the principal and, if the principal is incapacitated:

(1) to the guardian, if one has been appointed for the principal, and a coagent or successor agent; or

(2) if there is no person described in Subsection (1), to:

(a) the principal's caregiver;

(b) another person reasonably believed by the agent to have sufficient interest in the principal's welfare; or

(c) a governmental agency having authority to protect the welfare of the principal.

Section 20. Section 75-9-119 is enacted to read:

75-9-119. Acceptance of and reliance upon acknowledged power of attorney.

(1) For purposes of this section and Section 75-9-120, "acknowledged" means purportedly verified before a notary public or other individual authorized to take acknowledgements.

(2) A person that in good faith accepts an acknowledged power of attorney without actual knowledge that the signature is not genuine may

rely upon the presumption under Section 75-9-105 that the signature is genuine.

(3) A person that in good faith accepts an acknowledged power of attorney without actual knowledge that the power of attorney is void, invalid, or terminated, that the purported agent's authority is void, invalid, or terminated, or that the agent is exceeding or improperly exercising the agent's authority may rely upon the power of attorney as if the power of attorney were genuine, valid, and still in effect, the agent's authority were genuine, valid, and still in effect, and the agent had not exceeded and had properly exercised the authority.

(4) A person that is asked to accept an acknowledged power of attorney may request, and rely upon, without further investigation:

(a) an agent's certification under penalty of perjury of any factual matter concerning the principal, agent, or power of attorney;

(b) an English translation of the power of attorney if the power of attorney contains, in whole or in part, language other than English; and

(c) an opinion of counsel as to any matter of law concerning the power of attorney if the person making the request provides in a writing or other record the reason for the request.

(5) An English translation or an opinion of counsel requested under this section shall be provided at the principal's expense unless the request is made more than seven business days after the power of attorney is presented for acceptance.

(6) For purposes of this section and Section 75-9-120, a person that conducts activities through employees is without actual knowledge of a fact relating to a power of attorney, a principal, or an agent if the employee conducting the transaction involving the power of attorney is without actual knowledge of the fact.

Section 21. Section 75-9-120 is enacted to read:

75-9-120. Liability for Refusal to Accept Acknowledged Power of Attorney.

(1) Except as otherwise provided in Subsection (2):

(a) a person shall either accept an acknowledged power of attorney or request a certification, a translation, or an opinion of counsel under Subsection 75-9-119(4) no later than seven business days after presentation of the power of attorney for acceptance;

(b) if a person requests a certification, a translation, or an opinion of counsel under Subsection 75-9-119(4), the person shall accept the power of attorney no later than five business days after receipt of the certification, translation, or opinion of counsel; and

(c) a person may not require an additional or different form of power of attorney for authority granted in the power of attorney presented.

(2) A person is not required to accept an acknowledged power of attorney if:

(a) the person is not otherwise required to engage in a transaction with the principal in the same circumstances;

(b) engaging in a transaction with the agent or the principal in the same circumstances would be inconsistent with federal law;

(c) the person has actual knowledge of the termination of the agent's authority or of the power of attorney before exercise of the power;

(d) a request for a certification, a translation, or an opinion of counsel under Subsection 75-9-119(4) is refused;

(e) the person in good faith believes that the power is not valid or that the agent does not have the authority to perform the act requested, whether or not a certification, a translation, or an opinion of counsel under Subsection 75-9-119(4) has been requested or provided; or

(f) the person makes, or has actual knowledge that another person has made, a report to the Division of Aging and Adult Services stating a good faith belief that the principal may be subject to physical or financial abuse, neglect, exploitation, or abandonment by the agent or a person acting for or with the agent.

(3) A person that refuses in violation of this section to accept an acknowledged power of attorney is subject to:

(a) a court order mandating acceptance of the power of attorney; and

(b) liability for reasonable attorney's fees and costs incurred in any action or proceeding that confirms the validity of the power of attorney or mandates acceptance of the power of attorney.

(4) Court proceedings under this section shall be conducted pursuant to the terms in the Uniform Probate Code governing venue and procedures.

Section 22. Section 75-9-121 is enacted to read:

75-9-121. Principles of law and equity.

Unless displaced by a provision of this chapter, the principles of law and equity supplement this act.

Section 23. Section 75-9-122 is enacted to read:

75-9-122. Laws applicable to financial institutions and entities.

This chapter does not supersede any other law applicable to financial institutions or other entities, and the other law controls if inconsistent with this chapter.

Section 24. Section 75-9-123 is enacted to read:

75-9-123. Remedies under other law.

The remedies under this chapter are not exclusive and do not abrogate any right or remedy under the law of this state other than this chapter.

Section 25. Section 75-9-201 is enacted to read:

Part 2. Authority

75-9-201. Authority that requires specific grant -- Grant of general authority.

(1) An agent under a power of attorney may do the following on behalf of the principal or with the principal's property only if the power of attorney expressly grants the agent the authority, and exercise of the authority is not otherwise prohibited by another agreement or instrument to which the authority or property is subject:

(a) create, amend, revoke, or terminate an inter vivos trust;

(b) make a gift;

(c) create or change rights of survivorship;

(d) create or change a beneficiary designation;

(e) delegate authority granted under the power of attorney;

(f) waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan;

(g) exercise fiduciary powers that the principal has authority to delegate; or

(h) disclaim property or otherwise exercise a power of appointment.

(2) Notwithstanding a grant of authority to do an act described in Subsection (1), unless the power of attorney otherwise provides, an agent that is not an ancestor, spouse, or descendant of the principal may not exercise authority under a power of attorney to create in the agent, or in an individual to whom the agent owes a legal obligation of support, an interest in the principal's property, whether by gift, right of survivorship, beneficiary designation, disclaimer, or otherwise.

(3) Subject to Subsections (1), (2), (4), and (5), if a power of attorney grants to an agent authority to do all acts that a principal could do, the agent has the general authority described in Sections 75-9-204 through 75-9-216.

(4) Unless the power of attorney otherwise provides, a grant of authority to make a gift is subject to Section 75-9-217.

(5) Subject to Subsections (1), (2), and (4), if the subjects over which authority is granted in a power of attorney are similar or overlap, the broadest authority controls.

(6) Authority granted in a power of attorney is exercisable with respect to property that the principal has when the power of attorney is

executed or acquires later, whether or not the property is located in this state and whether or not the authority is exercised or the power of attorney is executed in this state.

(7) An act performed by an agent pursuant to a power of attorney has the same effect, inures to the benefit of, and binds the principal and the principal's successors in interest as if the principal had performed the act.

Section 26. Section 75-9-202 is enacted to read:

75-9-202. Incorporation of authority.

(1) An agent has authority described in this part if the power of attorney refers to general authority with respect to the descriptive term for the subjects stated in Sections 75-9-204 through 75-9-217 or cites the section in which the authority is described.

(2) A reference in a power of attorney to general authority with respect to the descriptive term for a subject in Sections 75-9-204 through 75-9-217 or a citation to a section of Sections 75-9-204 through 75-9-217 incorporates the entire section as if it were set out in full in the power of attorney.

(3) A principal may modify authority incorporated by reference.

Section 27. Section 75-9-203 is enacted to read:

75-9-203. Construction of authority generally.

Except as otherwise provided in the power of attorney, by executing a power of attorney that incorporates by reference a subject described in Sections 75-9-204 through 75-9-217 or that grants to an agent authority to do all acts that a principal could do pursuant to Subsection 75-9-201(3), a principal authorizes the agent, with respect to that subject, to:

(1) demand, receive, and obtain, by litigation or otherwise, money or another thing of value to which the principal is, may become, or claims to be entitled, and conserve, invest, disburse, or use anything so received or obtained for the purposes intended;

(2) contract in any manner with any person, on terms agreeable to the agent, to accomplish a purpose of a transaction and perform, rescind, cancel, terminate, reform, restate, release, or modify the contract or another contract made by or on behalf of the principal;

(3) execute, acknowledge, seal, deliver, file, or record any instrument or communication the agent considers desirable to accomplish a purpose of a transaction, including creating at any time a schedule listing some or all of the principal's property and attaching it to the power of attorney;

(4) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to a claim existing in favor of or against the principal or intervene in litigation relating to the claim;

(5) seek on the principal's behalf the assistance of a court or other governmental agency to carry out an act authorized in the power of attorney;

(6) engage, compensate, and discharge an attorney, accountant, discretionary investment manager, expert witness, or other advisor;

(7) prepare, execute, and file a record, report, or other document to safeguard or promote the principal's interest under a statute or regulation;

(8) communicate with any representative or employee of a government or governmental subdivision, agency, or instrumentality on behalf of the principal;

(9) access communications intended for, and communicate on behalf of the principal, whether by mail, electronic transmission, telephone, or other means; and

(10) do any lawful act with respect to the subject and all property related to the subject.

Section 28. Section 75-9-204 is enacted to read:

75-9-204. Real property.

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to real property authorizes the agent to:

(1) demand, buy, lease, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject an interest in real property or a right incident to real property;

(2) (a) sell;

(b) exchange;

(c) convey with or without covenants, representations, or warranties;

(d) quitclaim;

(e) release;

(f) surrender;

(g) retain title for security;

(h) encumber;

(i) partition;

(j) consent to partitioning;

(k) subject to an easement or covenant;

(l) subdivide;

(m) apply for zoning or other governmental permits;

(n) plat or consent to platting;

(o) develop;

(p) grant an option concerning;

(q) lease;

(r) sublease;

(s) contribute to an entity in exchange for an interest in that entity; or

(t) otherwise grant or dispose of an interest in real property or a right incident to real property;

(3) pledge or mortgage an interest in real property or right incident to real property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

(4) release, assign, satisfy, or enforce by litigation or otherwise a mortgage, deed of trust, conditional sale contract, encumbrance, lien, or other claim to real property that exists or is asserted;

(5) manage or conserve an interest in real property or a right incident to real property owned or claimed to be owned by the principal, including:

(a) insuring against liability or casualty or other loss;

(b) obtaining or regaining possession of or protecting the interest or right by litigation or otherwise;

(c) paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with taxes or assessments; and

(d) purchasing supplies, hiring assistance or labor, and making repairs or alterations to the real property;

(6) use, develop, alter, replace, remove, erect, or install structures or other improvements upon real property in or incident to which the principal has, or claims to have, an interest or right;

(7) participate in a reorganization with respect to real property or an entity that owns an interest in or right incident to real property and receive, hold, and act with respect to stocks and bonds or other property received in a plan of reorganization, including:

(a) selling or otherwise disposing of stocks and bonds;

(b) exercising or selling an option, right of conversion, or similar right with respect to stocks and bonds; and

(c) exercising any voting rights in person or by proxy;

(8) change the form of title of an interest in or right incident to real property; and

(9) dedicate to public use, with or without consideration, easements or other real property in which the principal has, or claims to have, an interest.

Section 29. Section 75-9-205 is enacted to read:

75-9-205. Tangible personal property.

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to tangible personal property authorizes the agent to:

(1) demand, buy, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject ownership or possession of tangible personal property or an interest in tangible personal property;

(2) sell; exchange; convey with or without covenants, representations, or warranties; quitclaim; release; surrender; create a security interest in; grant options concerning; lease; sublease; or otherwise dispose of tangible personal property or an interest in tangible personal property;

(3) grant a security interest in tangible personal property or an interest in tangible personal property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

(4) release, assign, satisfy, or enforce by litigation or otherwise, a security interest, lien, or other claim on behalf of the principal, with respect to tangible personal property or an interest in tangible personal property;

(5) manage or conserve tangible personal property or an interest in tangible personal property on behalf of the principal, including:

(a) insuring against liability, casualty, or other loss;

(b) obtaining or regaining possession of or protecting the property or interest, by litigation or otherwise;

(c) paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with taxes or assessments;

(d) moving the property from place to place;

(e) storing the property for hire or on a gratuitous bailment; and

(f) using and making repairs, alterations, or improvements to the property; and

(6) change the form of title of an interest in tangible personal property.

Section 30. Section 75-9-206 is enacted to read:

75-9-206. Stocks and bonds.

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to stocks and bonds authorizes the agent to:

(1) buy, sell, and exchange stocks and bonds;

(2) establish, continue, modify, or terminate an account with respect to stocks and bonds;

(3) pledge stocks and bonds as security to borrow, pay, renew, or extend the time of payment of a debt of the principal;

(4) receive certificates and other evidences of ownership with respect to stocks and bonds; and

(5) exercise voting rights with respect to stocks and bonds in person or by proxy, enter into voting trusts, and consent to limitations on the right to vote.

Section 31. Section 75-9-207 is enacted to read:

75-9-207. Commodities and options.

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to commodities and options authorizes the agent to:

(1) buy, sell, exchange, assign, settle, and exercise commodity futures contracts and call or put options on stocks or stock indexes traded on a regulated option exchange; and

(2) establish, continue, modify, and terminate option accounts.

Section 32. Section 75-9-208 is enacted to read:

75-9-208. Banks and other financial institutions.

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to banks and other financial institutions authorizes the agent to:

(1) continue, modify, and terminate an account or other banking arrangement made by or on behalf of the principal;

(2) establish, modify, and terminate an account or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm, or other financial institution selected by the agent;

(3) contract for services available from a financial institution, including renting or closing a safe deposit box or space in a vault;

(4) withdraw, by check, order, electronic funds transfer, or otherwise, money or property of the principal deposited with or left in the custody of a financial institution;

(5) receive statements of account, vouchers, notices, and similar documents from a financial institution and act with respect to them;

(6) enter a safe deposit box or vault and withdraw or add to the contents;

(7) borrow money and pledge as security personal property of the principal necessary to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

(8) make, assign, draw, endorse, discount, guarantee, and negotiate promissory notes, checks, drafts, and other negotiable or nonnegotiable paper of the principal or payable to the principal or the principal's order, transfer money, receive the cash or other proceeds of those transactions, and accept a draft drawn by a person upon the principal and pay it when due;

(9) receive for the principal and act upon a sight draft, warehouse receipt, or other document of title

whether tangible or electronic, or other negotiable or nonnegotiable instrument;

(10) apply for, receive, and use letters of credit, credit and debit cards, electronic transaction authorizations, and traveler's checks from a financial institution and give an indemnity or other agreement in connection with letters of credit; and

(11) consent to an extension of the time of payment with respect to commercial paper or a financial transaction with a financial institution.

Section 33. Section 75-9-209 is enacted to read:

75-9-209. Operation of entity or business.

Subject to the terms of a document or an agreement governing an entity or an entity ownership interest, and unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to operation of an entity or business authorizes the agent to:

(1) operate, buy, sell, enlarge, reduce, or terminate an ownership interest;

(2) perform a duty or discharge a liability and exercise in person or by proxy a right, power, privilege, or option that the principal has, may have, or claims to have;

(3) enforce the terms of an ownership agreement;

(4) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party because of an ownership interest;

(5) exercise in person or by proxy, or enforce by litigation or otherwise, a right, power, privilege, or option the principal has or claims to have as the holder of stocks and bonds;

(6) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party concerning stocks and bonds;

(7) with respect to an entity or business owned solely by the principal:

(a) continue, modify, renegotiate, extend, and terminate a contract made by or on behalf of the principal with respect to the entity or business before execution of the power of attorney;

(b) determine:

(i) the location of its operation;

(ii) the nature and extent of its business;

(iii) the methods of manufacturing, selling, merchandising, financing, accounting, and advertising employed in its operation;

(iv) the amount and types of insurance carried; and

(v) the mode of engaging, compensating, and dealing with its employees and accountants, attorneys, or other advisors;

(c) change the name or form of organization under which the entity or business is operated and enter into an ownership agreement with other persons to take over all or part of the operation of the entity or business; and

(d) demand and receive money due or claimed by the principal or on the principal's behalf in the operation of the entity or business and control and disburse the money in the operation of the entity or business;

(8) put additional capital into an entity or business in which the principal has an interest;

(9) join in a plan of reorganization, consolidation, conversion, domestication, or merger of the entity or business;

(10) sell or liquidate all or part of an entity or business;

(11) establish the value of an entity or business under a buy-out agreement to which the principal is a party;

(12) prepare, sign, file, and deliver reports, compilations of information, returns, or other papers with respect to an entity or business and make related payments; and

(13) pay, compromise, or contest taxes, assessments, fines, or penalties and perform any other act to protect the principal from illegal or unnecessary taxation, assessments, fines, or penalties, with respect to an entity or business, including attempts to recover, in any manner permitted by law, money paid before or after the execution of the power of attorney.

Section 34. Section 75-9-210 is enacted to read:

75-9-210. Insurance and annuities.

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to insurance and annuities authorizes the agent to:

(1) continue, pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract procured by or on behalf of the principal that insures or provides an annuity to either the principal or another person, whether or not the principal is a beneficiary under the contract;

(2) procure new, different, and additional contracts of insurance and annuities for the principal and the principal's spouse, children, and other dependents, and select the amount, type of insurance or annuity, and mode of payment;

(3) pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract of insurance or annuity procured by the agent;

(4) apply for and receive a loan secured by a contract of insurance or annuity;

(5) surrender and receive the cash surrender value on a contract of insurance or annuity;

(6) exercise an election;

(7) exercise investment powers available under a contract of insurance or annuity;

(8) change the manner of paying premiums on a contract of insurance or annuity;

(9) change or convert the type of insurance or annuity with respect to which the principal has or claims to have authority described in this section;

(10) apply for and procure a benefit or assistance under a statute or regulation to guarantee or pay premiums of a contract of insurance on the life of the principal;

(11) collect, sell, assign, hypothecate, borrow against, or pledge the interest of the principal in a contract of insurance or annuity;

(12) select the form and timing of the payment of proceeds from a contract of insurance or annuity; and

(13) pay, from proceeds or otherwise, compromise or contest, and apply for refunds in connection with a tax or assessment levied by a taxing authority with respect to a contract of insurance or annuity or its proceeds or liability accruing by reason of the tax or assessment.

Section 35. Section 75-9-211 is enacted to read:

75-9-211. Estates, trusts, and other beneficial interests.

(1) In this section, "estate, trust, or other beneficial interest" means a trust, probate estate, guardianship, conservatorship, escrow, custodianship, or fund from which the principal is, may become, or claims to be entitled to a share or payment.

(2) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to estates, trusts, and other beneficial interests authorizes the agent to:

(a) accept, receive, receipt for, sell, assign, pledge, or exchange a share in or payment from an estate, trust, or other beneficial interest;

(b) demand or obtain money or another thing of value to which the principal is, may become, or claims to be entitled by reason of an estate, trust, or other beneficial interest, by litigation or otherwise;

(c) exercise for the benefit of the principal a presently exercisable general power of appointment held by the principal;

(d) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to ascertain the meaning, validity, or effect of a deed, will, declaration of trust, or other instrument or transaction affecting the interest of the principal;

(e) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to remove, substitute, or surcharge a fiduciary;

(f) conserve, invest, disburse, or use anything received for an authorized purpose;

(g) transfer an interest of the principal in real property, stocks and bonds, accounts with financial institutions or securities intermediaries, insurance, annuities, and other property to the trustee of a revocable trust created by the principal as settlor; and

(h) reject, renounce, disclaim, release, or consent to a reduction in or modification of a share in or payment from an estate, trust, or other beneficial interest.

Section 36. Section 75-9-212 is enacted to read:

75-9-212. Claims and litigation.

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to claims and litigation authorizes the agent to:

(1) assert and maintain before a court or administrative agency a claim, claim for relief, cause of action, counterclaim, offset, recoupment, or defense, including an action to recover property or other thing of value, recover damages sustained by the principal, eliminate or modify tax liability, or seek an injunction, specific performance, or other relief;

(2) bring an action to determine adverse claims or intervene or otherwise participate in litigation;

(3) seek an attachment, garnishment, order of arrest, or other preliminary, provisional, or intermediate relief and use an available procedure to effect or satisfy a judgment, order, or decree;

(4) make or accept a tender, offer of judgment, or admission of facts, submit a controversy on an agreed statement of facts, consent to examination, and bind the principal in litigation;

(5) submit to alternative dispute resolution, settle, and propose or accept a compromise;

(6) waive the issuance and service of process upon the principal, accept service of process, appear for the principal, designate persons upon which process directed to the principal may be served, execute and file or deliver stipulations on the principal's behalf, verify pleadings, seek appellate review, procure and give surety and indemnity bonds, contract and pay for the preparation and printing of records and briefs, receive, execute, and file or deliver a consent, waiver, release, confession of judgment, satisfaction of judgment, notice, agreement, or other instrument in connection with the prosecution, settlement, or defense of a claim or litigation;

(7) act for the principal with respect to bankruptcy or insolvency, whether voluntary or involuntary, concerning the principal or some other person, or with respect to a reorganization,

receivership, or application for the appointment of a receiver or trustee that affects an interest of the principal in property or other thing of value;

(8) pay a judgment, award, or order against the principal or a settlement made in connection with a claim or litigation; and

(9) receive money or other thing of value paid in settlement of or as proceeds of a claim or litigation.

Section 37. Section 75-9-213 is enacted to read:

75-9-213. Personal and family maintenance.

(1) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to personal and family maintenance authorizes the agent to:

(a) perform the acts necessary to maintain the customary standard of living of the principal, the principal's spouse, and the following individuals, whether living when the power of attorney is executed or later born:

(i) the principal's children;

(ii) other individuals legally entitled to be supported by the principal; and

(iii) the individuals whom the principal has customarily supported or indicated the intent to support;

(b) make periodic payments of child support and other family maintenance required by a court or governmental agency or an agreement to which the principal is a party;

(c) provide living quarters for the individuals described in Subsection (1)(a) by:

(i) purchase, lease, or other contract; or

(ii) paying the operating costs, including interest, amortization payments, repairs, improvements, and taxes, for premises owned by the principal or occupied by those individuals;

(d) provide normal domestic help, usual vacations and travel expenses, and funds for shelter, clothing, food, appropriate education, including postsecondary and vocational education, and other current living costs for the individuals described in Subsection (1)(a);

(e) pay expenses for necessary health care and custodial care on behalf of the individuals described in Subsection (1)(a);

(f) act as the principal's personal representative pursuant to the Health Insurance Portability and Accountability Act, Sections 1171 through 1179 of the Social Security Act, 42 U.S.C. Sec. 1320d, and applicable regulations, in making decisions related to the past, present, or future payment for the provision of health care consented to by the principal or anyone authorized under the law of this state to consent to health care on behalf of the principal;

(g) continue any provision made by the principal for automobiles or other means of transportation, including registering, licensing, insuring, and replacing them, for the individuals described in Subsection (1)(a);

(h) maintain credit and debit accounts and open new accounts for the convenience of the individuals described in Subsection (1)(a); and

(i) continue payments incidental to the membership or affiliation of the principal in a religious institution, club, society, order, or other organization or to continue contributions to those organizations.

(2) Authority with respect to personal and family maintenance is neither dependent upon, nor limited by, authority that an agent may or may not have with respect to gifts under this chapter.

Section 38. Section 75-9-214 is enacted to read:

75-9-214. Benefits from governmental programs or civil or military service.

(1) In this section, "benefits from governmental programs or civil or military service" means any benefit, program, or assistance provided under a statute or regulation, including social security, Medicare, and Medicaid.

(2) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to benefits from governmental programs or civil or military service authorizes the agent to:

(a) execute vouchers in the name of the principal for allowances and reimbursements payable by the United States or a foreign government or by a state or subdivision of a state to the principal, including allowances and reimbursements for transportation of the individuals described in Subsection 75-9-213(1)(a), and for shipment of their household effects;

(b) take possession and order the removal and shipment of property of the principal from a post, warehouse, depot, dock, or other place of storage or safekeeping, either governmental or private, and execute and deliver a release, voucher, receipt, bill of lading, shipping ticket, certificate, or other instrument for that purpose;

(c) enroll in, apply for, select, reject, change, amend, or discontinue, on the principal's behalf, a benefit or program;

(d) prepare, file, and maintain a claim of the principal for a benefit or assistance, financial or otherwise, to which the principal may be entitled under a statute or regulation;

(e) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation concerning any benefit or assistance the principal may be entitled to receive under a statute or regulation; and

(f) receive the financial proceeds of a claim described in Subsection (2)(d) and conserve, invest,

disburse, or use for a lawful purpose anything received.

Section 39. Section 75-9-215 is enacted to read:

75-9-215. Retirement plans.

(1) In this section, "retirement plan" means a plan or account created by an employer, the principal, or another individual to provide retirement benefits or deferred compensation of which the principal is a participant, beneficiary, or owner, including a plan or account under the following sections of the Internal Revenue Code:

(a) an individual retirement account under Section 408, Internal Revenue Code;

(b) a Roth individual retirement account under Section 408A, Internal Revenue Code;

(c) a deemed individual retirement account under Section 408(q), Internal Revenue Code;

(d) an annuity or mutual fund custodial account under Section 403(b), Internal Revenue Code;

(e) a pension, profit-sharing, stock bonus, or other retirement plan qualified under Section 401(a), Internal Revenue Code;

(f) a plan under Section 457(b), Internal Revenue Code; and

(g) a nonqualified deferred compensation plan under Section 409A, Internal Revenue Code.

(2) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to retirement plans authorizes the agent to:

(a) select the form and timing of payments under a retirement plan and withdraw benefits from a plan;

(b) make a rollover, including a direct trustee-to-trustee rollover, of benefits from one retirement plan to another;

(c) establish a retirement plan in the principal's name;

(d) make contributions to a retirement plan;

(e) exercise investment powers available under a retirement plan; and

(f) borrow from, sell assets to, or purchase assets from a retirement plan.

Section 40. Section 75-9-216 is enacted to read:

75-9-216. Taxes.

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to taxes authorizes the agent to:

(1) prepare, sign, and file federal, state, local, and foreign income, gift, payroll, property, Federal Insurance Contributions Act, and other tax returns,

claims for refunds, requests for extension of time, petitions regarding tax matters, and any other tax-related documents, including receipts, offers, waivers, consents, including consents and agreements under Section 2032A, Internal Revenue Code, closing agreements, and any power of attorney required by the Internal Revenue Service or other taxing authority with respect to a tax year upon which the statute of limitations has not run and the following 25 tax years;

(2) pay taxes due, collect refunds, post bonds, receive confidential information, and contest deficiencies determined by the Internal Revenue Service or other taxing authority;

(3) exercise any election available to the principal under federal, state, local, or foreign tax law; and

(4) act for the principal in all tax matters for all periods before the Internal Revenue Service or other taxing authority.

Section 41. Section 75-9-217 is enacted to read:

75-9-217. Gifts.

(1) In this section, a gift "for the benefit of" a person includes a gift to a trust, an account under the Uniform Transfers to Minors Act (1983/1986), and a tuition savings account or prepaid tuition plan as defined under Section 529, Internal Revenue Code.

(2) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to gifts authorizes the agent only to:

(a) make outright to, or for the benefit of, a person a gift of any of the principal's property, including by the exercise of a presently exercisable general power of appointment held by the principal, in an amount per donee not to exceed the annual dollar limits of the federal gift tax exclusion under Section 2503(b), Internal Revenue Code, without regard to whether the federal gift tax exclusion applies to the gift, or if the principal's spouse agrees to consent to a split gift pursuant to Section 2513, Internal Revenue Code, in an amount per donee not to exceed twice the annual federal gift tax exclusion limit; and

(b) consent, pursuant to Section 2513, Internal Revenue Code, to the splitting of a gift made by the principal's spouse in an amount per donee not to exceed the aggregate annual gift tax exclusions for both spouses.

(3) An agent may make a gift of the principal's property only as the agent determines is consistent with the principal's objectives if actually known by the agent and, if unknown, as the agent determines is consistent with the principal's best interest based on all relevant factors, including:

(a) the value and nature of the principal's property;

(b) the principal's foreseeable obligations and need for maintenance;

- (c) minimization of taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes;
- (d) eligibility for a benefit, program, or assistance under a statute or regulation; and
- (e) the principal's personal history of making or joining in making gifts.

Section 42. Section 75-9-301 is enacted to read:

Part 3. Statutory Forms

75-9-301. Statutory form power of attorney.

A document substantially in the following form may be used to create a statutory form power of attorney that has the meaning and effect prescribed by this chapter.

STATUTORY FORM POWER OF ATTORNEY IMPORTANT INFORMATION

This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). Your agent will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself. The meaning of authority over subjects listed on this form is explained in Title 75, Chapter 9, Uniform Power of Attorney Act.

This power of attorney does not authorize the agent to make health care decisions for you.

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will continue until you die or revoke the power of attorney, or the agent resigns or is unable to act for you.

Your agent is entitled to reasonable compensation unless you state otherwise in the Special Instructions.

This form provides for designation of one agent. If you wish to name more than one agent you may name a coagent in the Special Instructions. Coagents are not required to act together unless you include that requirement in the Special Instructions.

If your agent is unable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.

This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions.

If you have questions about the power of attorney or the authority you are granting to your agent, you should seek legal advice before signing this form.

DESIGNATION OF AGENT

I _____ name the following (Name of Principal) person as my agent:

Name of Agent: _____
Agent's Address: _____
Agent's Telephone Number: _____

DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of Successor Agent: _____
Successor Agent's Address: _____
Successor Agent's Telephone Number: _____

If my successor agent is unable or unwilling to act for me, I name as my second successor agent:

Name of Second Successor Agent: _____
Second Successor Agent's Address: _____
Second Successor Agent's Telephone Number: _____

GRANT OF GENERAL AUTHORITY

I grant my agent and any successor agent general authority to act for me with respect to the following subjects as defined in Title 75, Chapter 9, Uniform Power of Attorney Act: (INITIAL each subject you want to include in the agent's general authority. If you wish to grant general authority over all of the subjects you may initial "All Preceding Subjects" instead of initialing each subject.)

- Real Property
- Tangible Personal Property
- Stocks and Bonds
- Commodities and Options
- Banks and Other Financial Institutions
- Operation of Entity or Business
- Insurance and Annuities
- Estates, Trusts, and Other Beneficial Interests
- Claims and Litigation
- Personal and Family Maintenance
- Benefits from Governmental Programs or Civil or Military Service
- Retirement Plans
- Taxes
- All Preceding Subjects

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

My agent MAY NOT do any of the following specific acts for me UNLESS I have INITIALED the specific authority listed below:

(CAUTION: Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death. INITIAL ONLY the specific authority you WANT to give your agent.)

- Create, amend, revoke, or terminate an inter vivos trust
- Make a gift, subject to the limitations of Section 75-9-217, and any special instructions in this power of attorney

- Create or change rights of survivorship
- Create or change a beneficiary designation
- Authorize another person to exercise the authority granted under this power of attorney
- Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan
- Exercise fiduciary powers that the principal has authority to delegate
- Disclaim or refuse an interest in property, including a power of appointment

LIMITATION ON AGENT'S AUTHORITY

An agent that is not my ancestor, spouse, or descendant MAY NOT use my property to benefit the agent or a person to whom the agent owes an obligation of support unless I have included that authority in the Special Instructions.

SPECIAL INSTRUCTIONS (OPTIONAL)

You may give special instructions on the following lines:

EFFECTIVE DATE

This power of attorney is effective immediately unless I have stated otherwise in the Special Instructions.

NOMINATION OF CONSERVATOR OR GUARDIAN (OPTIONAL)

If it becomes necessary for a court to appoint a conservator of my estate or guardian of my person, I nominate the following person(s) for appointment:

Name of Nominee for conservator of my estate: _____

Nominee's Address: _____

Nominee's Telephone Number: _____

Name of Nominee for guardian of my person: _____

Nominee's Address: _____

Nominee's Telephone Number: _____

RELIANCE ON THIS POWER OF ATTORNEY

Any person, including my agent, may rely upon the validity of this power of attorney or a copy of it unless that person knows it has terminated or is invalid.

SIGNATURE AND ACKNOWLEDGMENT

Your Signature _____
Date _____

Your Name Printed _____

Your Address _____

Your Telephone Number _____

State of _____

County of _____

This document was acknowledged before me on _____, (Date)

by _____.

(Name of Principal) _____ (Seal, if any)

Signature of Notary _____

My commission expires: _____

[This document prepared by: _____]

IMPORTANT INFORMATION FOR AGENT Agent's Duties

When you accept the authority granted under this power of attorney, a special legal relationship is created between you and the principal. This relationship imposes upon you legal duties that continue until you resign or the power of attorney is terminated or revoked. You shall:

- (1) do what you know the principal reasonably expects you to do with the principal's property or, if you do not know the principal's expectations, act in the principal's best interest;
 - (2) act in good faith;
 - (3) do nothing beyond the authority granted in this power of attorney; and
 - (4) disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and signing your own name as "agent" in the following manner: (Principal's Name) by (Your Signature) as Agent
- Unless the Special Instructions in this power of attorney state otherwise, you must also:
- (1) act loyally for the principal's benefit;
 - (2) avoid conflicts that would impair your ability to act in the principal's best interest;
 - (3) act with care, competence, and diligence;
 - (4) keep a record of all receipts, disbursements, and transactions made on behalf of the principal;
 - (5) cooperate with any person that has authority to make health care decisions for the principal to do what you know the principal reasonably expects or, if you do not know the principal's expectations, to act in the principal's best interest; and
 - (6) attempt to preserve the principal's estate plan if you know the plan and preserving the plan is consistent with the principal's best interest.

Termination of Agent's Authority

You must stop acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. Events that terminate a power of attorney or your authority to act under a power of attorney include:

- (1) death of the principal;
- (2) the principal's revocation of the power of attorney or your authority;

(3) the occurrence of a termination event stated in the power of attorney;

(4) the purpose of the power of attorney is fully accomplished; or

(5) if you are married to the principal, a legal action is filed with a court to end your marriage, or for your legal separation, unless the Special Instructions in this power of attorney state that such an action will not terminate your authority.

Liability of Agent

The meaning of the authority granted to you is defined in Title 75, Chapter 9, Uniform Power of Attorney Act. If you violate Title 75, Chapter 9, Uniform Power of Attorney Act, or act outside the authority granted, you may be liable for any damages caused by your violation.

If there is anything about this document or your duties that you do not understand, you should seek legal advice.

Section 43. Section 75-9-302 is enacted to read:

75-9-302. Agent's certification.

The following optional form may be used by an agent to certify facts concerning a power of attorney.

AGENT'S CERTIFICATION AS TO THE VALIDITY OF POWER OF ATTORNEY AND AGENT'S AUTHORITY

State of _____
[County] of _____

I, _____
(Name of Agent), certify under penalty of perjury that _____
(Name of Principal)

granted me authority as an agent or successor agent in a power of attorney dated _____.

I further certify that to my knowledge:

(1) the principal is alive and has not revoked the power of attorney or my authority to act under the power of attorney and the power of attorney and my authority to act under the power of attorney have not terminated;

(2) if the power of attorney was drafted to become effective upon the happening of an event or contingency, the event or contingency has occurred;

(3) if I was named as a successor agent, the prior agent is no longer able or willing to serve; and

(4) _____

(Insert other relevant statements)

SIGNATURE AND ACKNOWLEDGMENT

Agent's Signature _____
Date _____

Agent's Name Printed _____

Agent's _____

Address _____

Agent's Telephone Number _____

This document was acknowledged before me on _____

(Date)

by _____.

(Name of Agent)

(Seal, if any)

Signature of Notary _____

My commission expires: _____

This document prepared by: _____

Section 44. Section 75-9-401 is enacted to read:

Part 4. Miscellaneous Provisions

75-9-401. Uniformity of application and construction.

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact it.

Section 45. Section 75-9-402 is enacted to read:

75-9-402. Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

Section 46. Section 75-9-403 is enacted to read:

75-9-403. Effect on existing powers of attorney.

Except as otherwise provided:

(1) this chapter applies to a power of attorney created before, on, or after May 10, 2016;

(2) this chapter applies to a judicial proceeding concerning a power of attorney commenced on or after May 10, 2016;

(3) this chapter applies to a judicial proceeding concerning a power of attorney commenced before May 10, 2016, unless the court finds that application of a provision of this chapter would substantially interfere with the effective conduct of the judicial proceeding or prejudice the rights of a party, in which case that provision does not apply and the superseded law applies; and

(4) an act done before May 10, 2016, is not affected by this chapter.

Section 47. Repealer.

This bill repeals:

Section 75-5-501, Power of attorney not affected by disability or lapse of time -- Agent responsibilities.

Section 75-5-502, Other powers of attorney not revoked until notice of death or disability.

Section 75-5-503, Power of attorney -- Prohibitions and restrictions.

Section 75-5-504, Voidable transactions.

CHAPTER 257**H. B. 79**

Passed February 23, 2016

Approved March 25, 2016

Effective May 10, 2016

NONPATIENT CAUSE OF ACTIONChief Sponsor: Kay L. McIff
Senate Sponsor: Evan J. Vickers**LONG TITLE****General Description:**

This bill repeals and enacts provisions of the Utah Health Care Malpractice Act.

Highlighted Provisions:

This bill:

- ▶ repeals provisions concerning prelitigation panels; and
- ▶ provides requirements for a nonpatient plaintiff to establish a malpractice action against a health care provider.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78B-3-418, as last amended by Laws of Utah 2013, Chapter 275

ENACTS:

78B-3-426, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-3-418 is amended to read:**78B-3-418. Decision and recommendations of panel -- No judicial or other review.**

(1) (a) The panel shall issue an opinion and the division shall issue a certificate of compliance with the pre-litigation hearing requirements of this part in accordance with this section.

(b) A certificate of compliance issued in accordance with this section is proof that the claimant has complied with all conditions precedent under this part prior to the commencement of litigation as required in Subsection 78B-3-412(1).

~~[(c) (i) Notwithstanding any other provision of this part, any party in a medical malpractice action or arbitration hearing may request a prelitigation panel review as to a health care provider and obtain a certificate of compliance for that specific, individual health care provider for the purpose of allocating fault to that health care provider. A party in a medical malpractice action or arbitration hearing may not attempt to allocate fault to any health care provider unless a certificate of compliance has been issued in accordance with this section for that specific, individual health care provider. A health care provider exempted from the~~

~~requirement of a prelitigation hearing by statute or an arbitration agreement, may nevertheless be joined in a prelitigation hearing to satisfy the requirements of this section. Participation in a prelitigation hearing may not waive any right to enforce an arbitration agreement.]~~

~~[(ii) The party making the claim against, or seeking to allocate fault to, a health care provider is required to seek and obtain the certificate of compliance required by this Subsection (1)(c).]~~

(2) (a) The panel shall render its opinion in writing not later than 30 days after the end of the proceedings, and determine on the basis of the evidence whether:

(i) each claim against each health care provider has merit or has no merit; and

(ii) if a claim is meritorious, whether the conduct complained of resulted in harm to the claimant.

(b) There is no judicial or other review or appeal of the panel's decision or recommendations.

(3) The division shall issue a certificate of compliance to the claimant, for each respondent named in the intent to file a claim under this part, if:

(a) for a named respondent, the panel issues an opinion of merit under Subsections (2)(a)(i) and (ii);

(b) for a named respondent, the claimant files an affidavit of merit in accordance with Section 78B-3-423 if the opinion under Subsection (1)(a) is non-meritorious under either Subsection (2)(a)(i) or (ii);

(c) the claimant has complied with the provisions of Subsections 78B-3-416(3)(c) and (d); or

(d) the parties submitted a stipulation under Subsection 78B-3-416(3)(e).

Section 2. Section 78B-3-426 is enacted to read:**78B-3-426. Nonpatient cause of action.**

(1) For purposes of this section, a nonpatient plaintiff does not include a patient, as defined in Subsection 78B-3-403(23).

(2) This section does not apply to a healthcare malpractice action brought or seeking recovery under Section 30-2-11, 78B-3-106, 78B-3-107, or 78B-3-502.

(3) To establish a malpractice action against a health care provider, a nonpatient plaintiff shall be required to show that:

(a) the nonpatient plaintiff suffered an injury;

(b) the nonpatient plaintiff's injury was proximately caused by an act or omission of the health care provider; and

(c) the health care provider's act or omission was conduct that manifests a knowing and reckless indifference toward, and a disregard of, the injury suffered by the nonpatient plaintiff.

CHAPTER 258**H. B. 84**

Passed February 18, 2016

Approved March 25, 2016

Effective May 10, 2016

WILDLIFE AMENDMENTS

Chief Sponsor: Mike K. McKell
Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill clarifies the nature of a license, permit, tag, certificate of registration, point, or credit issued to a person by the Division of Wildlife Resources and modifies procedures for receiving a big game hunting permit.

Highlighted Provisions:

This bill:

- ▶ states that a license, permit, tag, or certificate of registration issued to a person by the Division of Wildlife Resources is a privilege, not a right;
- ▶ states that a point or credit issued to a person to improve the person's chances of receiving a hunting permit in a division-administered drawing:
 - may not be transferred, sold, or assigned to another person; and
 - is not a right;
- ▶ modifies the procedure for receiving a big game hunting permit; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

23-19-1, as last amended by Laws of Utah 2013, Chapter 418

23-19-14.6, as enacted by Laws of Utah 2014, Chapter 33

23-19-22, as last amended by Laws of Utah 2012, Chapter 142

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 23-19-1 is amended to read:

23-19-1. Possession of licenses, certificates of registration, permits, and tags required -- Nonassignability -- Exceptions -- Free fishing day -- Nature of licenses, permits, or tags issued by the division.

(1) Except as provided in Subsection (5), a person may not take, hunt, fish, or seine protected wildlife or sell, trade, or barter protected wildlife or wildlife parts unless the person:

(a) procures the necessary licenses, certificates of registration, permits, or tags required under this title, by rule made by the Wildlife Board under this title, or by an order or proclamation issued in

accordance with a rule made by the Wildlife Board under this title; and

(b) carries in the person's possession while engaging in the activities described in Subsection (1) the license, certificate of registration, permit, or tag required under this title, by rule made by the Wildlife Board under this title, or by an order or proclamation issued in accordance with a rule made by the Wildlife Board under this title.

(2) Except as provided in Subsection (3) a person may not:

(a) lend, transfer, sell, give, or assign:

(i) a license, certificate of registration, permit, or tag belonging to the person; or

(ii) a right granted by a license, certificate of registration, permit, or tag; or

(b) use or attempt to use a license, certificate of registration, permit, or tag of another person.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Wildlife Board may, by rule, make exceptions to the prohibitions described in Subsection (2) to:

(a) transport wildlife;

(b) allow a person to take protected wildlife for another person if:

(i) the person possessing the license, certificate of registration, permit, or tag has a permanent physical impairment due to a congenital or acquired injury or disease; and

(ii) the injury or disease described in Subsection (3)(b)(i) results in the person having a disability that renders the person physically unable to use a legal hunting weapon or fishing device;

(c) allow a resident minor under 18 years of age to use the resident or nonresident hunting permit of another person if:

(i) the resident minor is:

(A) the permit holder's child, stepchild, grandchild, or legal ward, if the permit holder's guardianship of the legal ward is based solely on the minor's age; or

(B) suffering from a life threatening medical condition; and

(ii) the permit holder:

(A) receives no form of compensation or remuneration for allowing the minor to use the permit;

(B) obtains the division's prior written approval to allow the minor to use the permit; and

(C) accompanies the minor, for the purposes of advising and assisting during the hunt, at a distance where the permit holder can communicate with the minor, in person, by voice or visual signals; or

(d) subject to the requirements of Subsection (4), transfer to another person a certificate of

registration to harvest brine shrimp and brine shrimp eggs, if the certificate is transferred in connection with the sale or transfer of the brine shrimp harvest operation or harvesting equipment.

(4) A person may transfer a certificate of registration to harvest brine shrimp and brine shrimp eggs if:

(a) the person submits to the division an application to transfer the certificate on a form provided by the division;

(b) the proposed transferee meets all requirements necessary to obtain an original certificate of registration; and

(c) the division approves the transfer of the certificate.

(5) A person is not required to obtain a license, certificate of registration, permit, or tag to:

(a) fish on a free fishing day that the Wildlife Board may establish each year by rule made by the Wildlife Board under this title or by an order or proclamation issued in accordance with a rule made by the Wildlife Board under this title;

(b) fish at a private fish pond operated in accordance with Section 23-15-10; or

(c) hunt birds on a commercial hunting area that the owner or operator is authorized to propagate, keep, and release for shooting in accordance with a certificate of registration issued under Section 23-17-6.

(6) (a) A license, permit, tag, or certificate of registration issued under this title, or the rules of the Wildlife Board issued pursuant to authority granted by this title, to take protected wildlife is:

(i) a privilege; and

(ii) not a right or property for any purpose.

(b) A point or other form of credit issued to, or accumulated by, a person under procedures established by the Wildlife Board in rule to improve the likelihood of obtaining a hunting permit in a division-administered drawing:

(i) may not be transferred, sold, or assigned to another person; and

(ii) is not a right or property for any purpose.

Section 2. Section 23-19-14.6 is amended to read:

23-19-14.6. Trial hunting authorization.

(1) Upon application, the division may issue a trial hunting authorization to an individual who:

(a) is 11 years of age or older at the time of application;

(b) is eligible under state and federal law to possess a firearm and archery equipment; and

(c) (i) was born after 1965; and

(ii) has not completed a division approved hunter education course.

(2) Notwithstanding the requirements of Section 23-19-11, an individual who has obtained a trial hunting authorization under Subsection (1) may obtain:

(a) a hunting license under Sections 23-19-17, 23-19-24, and 23-19-26; or

(b) a hunting permit authorized by the Wildlife Board under Subsection (4).

(3) An individual who has obtained a hunting license or permit with a trial hunting authorization under Subsection (2) may use the license or permit if the individual is:

(a) 12 years of age or older~~[, except as required in Subsection 23-19-22(3)];~~ and

(b) accompanied, as defined in Subsection 23-20-20(1), in the field while hunting by an individual who:

(i) is 21 years of age or older;

(ii) is eligible under state and federal law to possess a firearm and archery equipment;

(iii) possesses a current Utah hunting or combination license;

(iv) has satisfied applicable hunter education requirements under this chapter; and

(v) possesses the written consent of the holder's parent or legal guardian, if accompanying a holder of a trial hunting authorization who is under 18 years of age.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Wildlife Board may make rules to:

(a) designate the types of hunting permits under Subsection (2) that may be obtained with a trial hunting authorization;

(b) establish the term of a trial hunting authorization;

(c) establish the number of years a person may obtain a trial hunting authorization;

(d) prescribe the number of individuals using a trial hunting authorization that an individual may accompany in the field under Subsection (3) at a single time;

(e) establish the application process for an individual to obtain a trial hunting authorization; and

(f) administer and enforce the provisions of this section.

Section 3. Section 23-19-22 is amended to read:

23-19-22. Big game hunting permit.

(1) A person who is at least 12 years old, upon paying the big game hunting permit fee established by the Wildlife Board, paying the fee established by Subsection ~~[(5)]~~ (4), and possessing a valid hunting or combination license, may apply for or obtain a permit to hunt big game as provided by rules and proclamations of the Wildlife Board.

(2) (a) A person who is 11 years old may apply for or obtain a big game hunting permit consistent with the requirements of Subsection (1) if that person's 12th birthday falls within the calendar year for which the permit is issued.

(b) A person may not use a permit to hunt big game before the person's 12th birthday.

~~[(3) (a) Except as provided by Subsection (3)(b), a person who is younger than 14 years old may not apply for or obtain the following types of big game permits issued by the division through a public drawing:]~~

~~[(i) premium limited entry;]~~

~~[(ii) limited entry;]~~

~~[(iii) once-in-a-lifetime; and]~~

~~[(iv) cooperative wildlife management unit.]~~

~~[(b) A person who is 13 years old may obtain a type of permit listed in Subsection (3)(a) if that person's 14th birthday falls within the calendar year for which the permit is issued.]~~

~~[(4)] (3) One dollar of each big game permit fee collected from a resident shall be used for the hunter education program as provided in Section 23-19-17.~~

~~[(5)] (4) There is established a fee in the amount of \$5 added to each permit under this section to be deposited in the Predator Control Restricted Account.~~

CHAPTER 259**H. B. 96**

Passed March 9, 2016
 Approved March 25, 2016
 Effective May 10, 2016

SINGLE SIGN-ON BUSINESS DATABASE

Chief Sponsor: Bruce R. Cutler
 Senate Sponsor: Brian E. Shiozawa

LONG TITLE**General Description:**

This bill directs the Department of Technology Services to develop a business database and single sign-on web portal.

Highlighted Provisions:

This bill:

- ▶ directs the Department of Technology Services to develop a business database and single sign-on web portal; and
- ▶ requires the Department of Technology Services to report to the Public Utilities and Technology Interim Committee regarding the business database and single sign-on web portal.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

63F-3-101, Utah Code Annotated 1953
 63F-3-102, Utah Code Annotated 1953
 63F-3-103, Utah Code Annotated 1953
 63F-3-104, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63F-3-101 is enacted to read:**CHAPTER 3. SINGLE SIGN-ON DATABASE****63F-3-101. Title.**

This chapter is known as "Single Sign-On Database."

Section 2. Section 63F-3-102 is enacted to read:**63F-3-102. Definitions.**

As used in this chapter:

- (1) "Business data" means data collected by the state about a person doing business in the state.
- (2) "Business database" means the database described in Subsection 63F-3-103(1).
- (3) "Database" means an electronic means of storing information.
- (4) "Single sign-on web portal" means the web portal described in Subsection 63F-3-103(2).
- (5) "Web portal" means an Internet webpage that can be accessed by an individual where the

individual enters the individual's unique user information in order to access secure information.

Section 3. Section 63F-3-103 is enacted to read:**63F-3-103. Single sign-on database -- Creation.**

(1) The department shall, in consultation with the entities described in Subsection (4), design and create a prototype of a single database, and associated data entry screens, that stores business data agreed upon by the entities described in Subsection (4) that is:

- (a) secure;
- (b) centralized; and
- (c) interconnected.

(2) The department shall create a web portal that allows a person doing business in the state to access, at a single point of entry, all relevant state-collected business data about the person, including information related to:

- (a) business registration;
- (b) workers' compensation;
- (c) tax liability and payment; and

(d) other information collected by the state that the department determines is relevant to a person doing business in the state.

(3) The department shall develop the business database and the single sign-on web portal:

- (a) using an open platform that:

(i) facilitates participation in the database and web portal by a state entity; and

(ii) allows for optional participation by a political subdivision of the state; and

(b) in a manner that anticipates expanding the database and web portal to include:

(i) a database for data collected by the state on an individual; and

(ii) a web portal for an individual to access all relevant data collected by the state on the individual.

(4) In developing the business database and the single sign-on web portal, the department shall consult with:

- (a) the Department of Commerce;
- (b) the State Tax Commission;
- (c) the Labor Commission;
- (d) the Department of Workforce Services;
- (e) the Governor's Office of Management and Budget;
- (f) the Utah League of Cities and Towns;
- (g) the Utah Association of Counties; and
- (h) the business community that is likely to use the business database and single sign-on web portal.

Section 4. Section 63F-3-104 is enacted to read:

63F-3-104. Report.

The department shall report to the Public Utilities and Technology Interim Committee:

(1) no later than November 30, 2016, with an initial design and prototype of the business database and the single sign-on web portal, together with a minimum two-year plan, including projected cost, for the initial implementation phase of the project; and

(2) before November 30 of each year beginning in 2017 until the development of the business database and the single sign-on web portal is complete, regarding the progress the department has made in developing the business database and the single sign-on web portal.

CHAPTER 260**H. B. 112**

Passed March 10, 2016
Approved March 25, 2016
Effective May 10, 2016

**CONTINUING EDUCATION FOR
CONTRACTOR LICENSING AMENDMENTS**

Chief Sponsor: Scott D. Sandall
Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill modifies a provision related to contractor continuing education.

Highlighted Provisions:

This bill:

- ▶ provides that an approved contractor continuing education program may include a course approved by certain entities;
- ▶ provides that an approved contractor continuing education program may include a course offered by:
 - a state executive branch agency;
 - the Workers' Compensation Fund; or
 - a state or nationally accredited college or university with a campus in the state;
- ▶ provides that certain entities may offer and market, to a contractor in the electrical trade, a continuing education course offered by certain electrical trade organizations; and
- ▶ provides that certain entities may market, to a contractor in the plumbing trade, a continuing education course offered by certain plumbing trade organizations.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-55-302.5, as last amended by Laws of Utah 2015, Chapter 148

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-55-302.5 is amended to read:**58-55-302.5. Continuing education requirements for contractor licensees -- Continuing education courses.**

(1) Each contractor licensee under a license issued under this chapter shall complete six hours of approved continuing education during each two-year renewal cycle established by rule under Subsection 58-55-303(1).

(2) (a) The commission shall, with the concurrence of the division, establish by rule a program of approved continuing education for contractor licensees.

(b) ~~Beginning~~ Except as provided in Subsection (2)(e), beginning on or after June 1, 2015, only

courses offered by any of the following may be included in the program of approved continuing education for contractor licensees:

- (i) the Associated General Contractors of Utah;
- (ii) Associated Builders and Contractors, Utah Chapter;
- (iii) the Home Builders Association of Utah;
- (iv) the National Electrical Contractors Association Intermountain Chapter;
- (v) the Utah Plumbing & Heating Contractors Association;
- (vi) the Independent Electrical Contractors of Utah;
- (vii) the Rocky Mountain Gas Association;
- (viii) the Utah Mechanical Contractors Association;
- (ix) the Sheet Metal Contractors Association;
- (x) the Intermountain Electrical Association;
- (xi) the Builders Bid Service of Utah; or
- (xii) Utah Roofing Contractors Association[;].

~~[(xiii) a nationally or regionally accredited college or university that has a physical campus in the state; or]~~

~~[(xiv) an agency of the state.]~~

(c) An approved continuing education program for a contractor licensee may include a course approved by an entity described in Subsections (2)(b)(i) through (2)(b)(iii).

~~[(e) Each entity listed]~~ (d) (i) Except as provided in Subsections (2)(d)(ii) and (iii), an entity listed in Subsections (2)(b)(iv) through (2)(b)(xii) may only offer and market continuing education courses to a licensee who is a member of the entity.

(ii) An entity described in Subsection (2)(b)(iv), (vi), or (x) may offer and market a continuing education course that the entity offers to satisfy the continuing education requirement described in Subsection 58-55-302.7(2)(a) to a contractor in the electrical trade.

(iii) An entity described in Subsection (2)(b)(v) or (viii) may offer and market a continuing education course that the entity offers to satisfy the continuing education requirement described in Subsection 58-55-302.7(2)(b) to a contractor in the plumbing trade.

(e) On or after June 1, 2015, an approved continuing education program for a contractor licensee may include a course offered and taught by:

- (i) a state executive branch agency;
- (ii) the Workers' Compensation Fund created in Section 31A-33-102; or

(iii) a nationally or regionally accredited college or university that has a physical campus in the state.

(3) The division may contract with a person to establish and maintain a continuing education registry to include:

(a) a list of courses that the division has approved for inclusion in the program of approved continuing education; and

(b) a list of courses that:

(i) a contractor licensee has completed under the program of approved continuing education; and

(ii) the licensee may access to monitor the licensee's compliance with the continuing education requirement established under Subsection (1).

(4) The division may charge a fee, as established by the division under Section 63J-1-504, to administer the requirements of this section.

CHAPTER 261**H. B. 159**

Passed March 10, 2016

Approved March 25, 2016

Effective May 10, 2016

(Retrospective operation to July 1, 2005)

**LINE-OF-DUTY DEATH
BENEFITS AMENDMENTS**

Chief Sponsor: Mike K. McKell

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies the Public Safety Code by amending line-of-duty death benefits provisions.

Highlighted Provisions:

This bill:

- ▶ repeals a provision that discontinues employer paid health coverage for a surviving spouse of a peace officer or firefighter who dies in the line-of-duty when the surviving spouse remarries;
- ▶ specifies procedures and requirements for an employer to participate in and be covered from the Local Public Safety and Firefighter Surviving Spouse Trust Fund; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides for retrospective operation.

Utah Code Sections Affected:**AMENDS:**

53-17-201, as enacted by Laws of Utah 2015, Chapter 166

53-17-301, as enacted by Laws of Utah 2015, Chapter 166

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-17-201 is amended to read:**53-17-201. Surviving spouse and children health coverage for line-of-duty death.**

(1) (a) Subject to Subsection (1)(b), and in accordance with this section, an employer shall allow the surviving spouse and children of a member whose death is classified by the Utah State Retirement Office as a line-of-duty death under the provisions of Title 49, Utah State Retirement and Insurance Benefit Act, to remain eligible for health coverage under the employer's group health plan as if the surviving spouse was an employee of the employer.

(b) (i) The employer shall pay 100% of the premium costs and, if the health coverage is a high-deductible plan, the employer share of any contribution into a health savings account for the surviving spouse and dependent children as described under Subsections (1)(a) and (2), and may not require payment from the surviving spouse for premium costs or health savings account

contributions as a condition of qualifying to continue to receive the health coverage.

(ii) For the first 24 months after the line-of-duty death, the employer shall pay the amount specified under Subsection (1)(b)(i).

(iii) Beginning 25 months after the line-of-duty death, an employer may pay the amount specified under Subsection (1)(b)(i) through a cost-sharing agreement under Section 53-17-301 associated with the trust fund created under Section ~~53-17-301~~ 53-17-401.

(2) An employer shall allow a surviving spouse and children to remain eligible to receive health coverage from the employer under this section at the option of the surviving spouse ~~until~~:

(a) for health coverage for the surviving spouse, until the surviving spouse ~~remarries or~~ becomes eligible for Medicare ~~[whichever come first]~~; and

(b) [a] for health coverage of a child, until the child reaches the age of 26.

(3) This section does not apply to a member who:

(a) does not qualify for a line-of-duty death benefit under ~~[the provisions of]~~ Title 49, Utah State Retirement and Insurance Benefit Act;

(b) at the time of death, did not receive or qualify to receive employer group health coverage; or

(c) is covered under ~~[the provisions of]~~ Section 49-20-406.

Section 2. Section 53-17-301 is amended to read:**53-17-301. Cost-sharing agreements -- Deadlines -- Terms -- Reports -- Rulemaking.**

(1) An employer may elect ~~until June 30, 2017,~~ to participate in the trust fund by:

(a) entering into a cost-sharing agreement with the commissioner under this section; and

(b) paying the cost-sharing rate determined by the board.

(2) (a) An employer that does not participate in the trust fund by entering into a cost-sharing agreement in accordance with this section, shall pay the full amount required under Subsection 53-17-201(1)(b)(i).

(b) Subject to the terms of the cost-sharing agreement, an employer that elects to participate in accordance with this section, and stays current with its payments, shall be considered to have paid the employer's full obligation under Subsection 53-17-201(1)(b)(i).

(c) An employer that elects to participate in accordance with this section and that does not stay current with its payments may not be covered from the trust fund ~~[for more than the employer's actual contributions to the trust fund, without interest earnings]~~.

(3) An employer that elects to participate in the trust fund before July 1, 2017, shall be covered from

the trust fund for a line-of-duty death that occurs on or after July 1, 2015.

(4) If an employer does not elect to participate in the trust fund before July 1, 2017:

(a) the employer may elect to participate during an annual open enrollment period as established by the board; and

(b) the employer may not be covered from the trust fund for a line-of-duty death that occurs during a period of time when the employer is not a participant in the trust fund.

~~[(3)]~~ (5) The commissioner shall:

(a) in consultation with the board, establish a form and language for a cost-sharing agreement required to use trust funds in accordance with this section;

(b) as directed by the board, assess the annual fee amount established by the board;

(c) prepare and submit to the governor and the Legislature, by October 1 of each year, an annual written report of the trust fund, including its balance, expenditures, and revenues, and the operations and activities of the board under this chapter; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to implement this chapter.

Section 3. Retrospective operation.

The amendments to Section 53-17-201 in this bill have retrospective operation to July 1, 2005, and create eligibility for benefits beginning on the effective date of this bill.

CHAPTER 262**H. B. 165**

Passed March 10, 2016
 Approved March 25, 2016
 Effective May 10, 2016

GARNISHMENT AMENDMENTS

Chief Sponsor: Brad L. Dee
 Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill lifts the ban on certain property from execution under specific circumstances.

Highlighted Provisions:

This bill:

- ▶ excludes disability and veterans benefits from property exempt from execution if the recipient has been convicted of a felony and ordered to pay restitution to a victim.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78B-5-505, as last amended by Laws of Utah 2015, Chapter 212

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-5-505 is amended to read:**78B-5-505. Property exempt from execution.**

(1) (a) An individual is entitled to exemption of the following property:

(i) a burial plot for the individual and the individual's family;

(ii) health aids reasonably necessary to enable the individual or a dependent to work or sustain health;

(iii) benefits the individual or the individual's dependent have received or are entitled to receive from any source because of:

(A) disability;

(B) illness; or

(C) unemployment;

(iv) benefits paid or payable for medical, surgical, or hospital care to the extent they are used by an individual or the individual's dependent to pay for that care;

(v) veterans benefits;

(vi) money or property received, and rights to receive money or property for child support;

(vii) money or property received, and rights to receive money or property for alimony or separate maintenance, to the extent reasonably necessary

for the support of the individual and the individual's dependents;

(viii) (A) one:

(I) clothes washer and dryer;

(II) refrigerator;

(III) freezer;

(IV) stove;

(V) microwave oven; and

(VI) sewing machine;

(B) all carpets in use;

(C) provisions sufficient for 12 months actually provided for individual or family use;

(D) all wearing apparel of every individual and dependent, not including jewelry or furs; and

(E) all beds and bedding for every individual or dependent;

(ix) except for works of art held by the debtor as part of a trade or business, works of art:

(A) depicting the debtor or the debtor and his resident family; or

(B) produced by the debtor or the debtor and his resident family;

(x) proceeds of insurance, a judgment, or a settlement, or other rights accruing as a result of bodily injury of the individual or of the wrongful death or bodily injury of another individual of whom the individual was or is a dependent to the extent that those proceeds are compensatory;

(xi) the proceeds or benefits of any life insurance contracts or policies paid or payable to the debtor or any trust of which the debtor is a beneficiary upon the death of the spouse or children of the debtor, provided that the contract or policy has been owned by the debtor for a continuous unexpired period of one year;

(xii) the proceeds or benefits of any life insurance contracts or policies paid or payable to the spouse or children of the debtor or any trust of which the spouse or children are beneficiaries upon the death of the debtor, provided that the contract or policy has been in existence for a continuous unexpired period of one year;

(xiii) proceeds and avails of any unexpired life insurance contracts owned by the debtor or any revocable grantor trust created by the debtor, excluding any payments made on the contract during the one year immediately preceding a creditor's levy or execution;

(xiv) except as provided in Subsection (1)(b), any money or other assets held for or payable to the individual as a participant or beneficiary from or an interest of the individual as a participant or beneficiary in a retirement plan or arrangement that is described in Section 401(a), 401(h), 401(k), 403(a), 403(b), 408, 408A, 409, 414(d), 414(e), or 457, Internal Revenue Code;

(xv) the interest of or any money or other assets payable to an alternate payee under a qualified

domestic relations order as those terms are defined in Section 414(p), Internal Revenue Code;

(xvi) unpaid earnings of the household of the filing individual due as of the date of the filing of a bankruptcy petition in the amount of 1/24 of the Utah State annual median family income for the household size of the filing individual as determined by the Utah State Annual Median Family Income reported by the United States Census Bureau and as adjusted based upon the Consumer Price Index for All Urban Consumers for an individual whose unpaid earnings are paid more often than once a month or, if unpaid earnings are not paid more often than once a month, then in the amount of 1/12 of the Utah State annual median family income for the household size of the individual as determined by the Utah State Annual Median Family Income reported by the United States Census Bureau and as adjusted based upon the Consumer Price Index for All Urban Consumers; and

(xvii) except for curio or relic firearms, as defined in Section 76-10-501, any three of the following:

(A) one handgun and ammunition for the handgun not exceeding 1,000 rounds;

(B) one shotgun and ammunition for the shotgun not exceeding 1,000 rounds; and

(C) one shoulder arm and ammunition for the shoulder arm not exceeding 1,000 rounds.

(b) The exemption granted by Subsection (1)(a)(xiv) does not apply to:

(i) an alternate payee under a qualified domestic relations order, as those terms are defined in Section 414(p), Internal Revenue Code; or

(ii) amounts contributed or benefits accrued by or on behalf of a debtor within one year before the debtor files for bankruptcy. This may not include amounts directly rolled over from other funds which are exempt from attachment under this section.

(2) The exemptions in Subsections (1)(a)(xi), (xii), and (xiii) do not apply to proceeds and avails of any matured or unmatured life insurance contract assigned or pledged as collateral for repayment of a loan or other legal obligation.

(3) Disability benefits, as described in Subsection (1)(a)(iii)(A), and veterans benefits, as described in Subsection (1)(a)(v), may be garnished on behalf of a child victim if the person receiving the benefits has been convicted of a felony sex offense against a child and ordered by the convicting court to pay restitution to the victim. The exemption from execution under this section shall be reinstated upon payment of the restitution in full.

[~~3~~] (4) Exemptions under this section do not limit items that may be claimed as exempt under Section 78B-5-506.

CHAPTER 263**H. B. 170**

Passed February 29, 2016

Approved March 25, 2016

Effective January 1, 2017

**MEDICAL CARE SAVINGS
ACCOUNT TAX CREDIT REPEAL**Chief Sponsor: Jeremy A. Peterson
Senate Sponsor: Deidre M. Henderson**LONG TITLE****General Description:**

This bill repeals the medical care savings account tax credit.

Highlighted Provisions:

This bill:

- ▶ repeals the medical care savings account tax credit; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

31A-32a-101, as last amended by Laws of Utah 2008, Chapter 389

31A-32a-106, as last amended by Laws of Utah 2008, Chapter 389

59-10-114, as last amended by Laws of Utah 2010, Chapter 6

59-10-1002.2, as last amended by Laws of Utah 2011, Chapter 302

REPEALS:

59-10-1021, as enacted by Laws of Utah 2008, Chapter 389

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-32a-101 is amended to read:**31A-32a-101. Title.**

~~[(1)] This chapter is known as the "Medical Care Savings Account Act."~~

~~[(2) (a) This chapter applies only to a medical care savings account established for the purpose of seeking a tax credit under Section 59-10-1021.]~~

~~[(b) This chapter does not apply to a medical care savings account with respect to which a tax credit is not claimed under Section 59-10-1021.]~~

Section 2. Section 31A-32a-106 is amended to read:**31A-32a-106. Regulation of account administrators -- Administration of addition to adjusted gross income and tax credit -- Rulemaking authority.**

(1) The department shall regulate account administrators and may adopt rules necessary to administer this chapter.

(2) The State Tax Commission may adopt rules necessary to monitor and implement the ~~[(a)]~~ amounts required to be added to adjusted gross income in accordance with Sections 31A-32a-105 and 59-10-114 ~~[(b)]~~.

~~[(b) amount claimed as a tax credit in accordance with Section 59-10-1021.]~~

Section 3. Section 59-10-114 is amended to read:**59-10-114. Additions to and subtractions from adjusted gross income of an individual.**

(1) There shall be added to adjusted gross income of a resident or nonresident individual:

(a) a lump sum distribution that the taxpayer does not include in adjusted gross income on the taxpayer's federal individual income tax return for the taxable year;

(b) the amount of a child's income calculated under Subsection (4) that:

(i) a parent elects to report on the parent's federal individual income tax return for the taxable year; and

(ii) the parent does not include in adjusted gross income on the parent's federal individual income tax return for the taxable year;

(c) (i) a withdrawal from a medical care savings account and any penalty imposed for the taxable year if:

(A) the resident or nonresident individual does not deduct the amounts on the resident or nonresident individual's federal individual income tax return under Section 220, Internal Revenue Code;

(B) the withdrawal is subject to Subsections 31A-32a-105(1) and (2); and

(C) the withdrawal is ~~[(b)]~~ subtracted on, or used as the basis for claiming a tax credit on, a return the resident or nonresident individual files under this chapter;

~~[(d) subtracted on a return the resident or nonresident individual files under this chapter for a taxable year beginning on or before December 31, 2007; or]~~

~~[(e) used as the basis for a resident or nonresident individual to claim a tax credit under Section 59-10-1021;]~~

(ii) a disbursement required to be added to adjusted gross income in accordance with Subsection 31A-32a-105(3); or

(iii) an amount required to be added to adjusted gross income in accordance with Subsection 31A-32a-105(5)(c);

(d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan, from the account of a resident or nonresident individual who is an account owner as defined in Section 53B-8a-102, for the taxable year for which the

amount is withdrawn, if that amount withdrawn from the account of the resident or nonresident individual who is the account owner:

(i) is not expended for:

(A) higher education costs as defined in Section 53B-8a-102; or

(B) a payment or distribution that qualifies as an exception to the additional tax for distributions not used for educational expenses provided in Sections 529(c) and 530(d), Internal Revenue Code; and

(ii) is:

(A) subtracted by the resident or nonresident individual:

(I) who is the account owner; and

(II) on the resident or nonresident individual's return filed under this chapter for a taxable year beginning on or before December 31, 2007; or

(B) used as the basis for the resident or nonresident individual who is the account owner to claim a tax credit under Section 59-10-1017;

(e) except as provided in Subsection (5), for bonds, notes, and other evidences of indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness issued by one or more of the following entities:

(i) a state other than this state;

(ii) the District of Columbia;

(iii) a political subdivision of a state other than this state; or

(iv) an agency or instrumentality of an entity described in Subsections (1)(e)(i) through (iii);

(f) subject to Subsection (2)(c), any distribution received by a resident beneficiary of a resident trust of income that was taxed at the trust level for federal tax purposes, but was subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(b);

(g) any distribution received by a resident beneficiary of a nonresident trust of undistributed distributable net income realized by the trust on or after January 1, 2004, if that undistributed distributable net income was taxed at the trust level for federal tax purposes, but was not taxed at the trust level by any state, with undistributed distributable net income considered to be distributed from the most recently accumulated undistributed distributable net income; and

(h) any adoption expense:

(i) for which a resident or nonresident individual receives reimbursement from another person; and

(ii) to the extent to which the resident or nonresident individual subtracts that adoption expense:

(A) on a return filed under this chapter for a taxable year beginning on or before December 31, 2007; or

(B) from federal taxable income on a federal individual income tax return.

(2) There shall be subtracted from adjusted gross income of a resident or nonresident individual:

(a) the difference between:

(i) the interest or a dividend on an obligation or security of the United States or an authority, commission, instrumentality, or possession of the United States, to the extent that interest or dividend is:

(A) included in adjusted gross income for federal income tax purposes for the taxable year; and

(B) exempt from state income taxes under the laws of the United States; and

(ii) any interest on indebtedness incurred or continued to purchase or carry the obligation or security described in Subsection (2)(a)(i);

(b) for taxable years beginning on or after January 1, 2000, if the conditions of Subsection (3)(a) are met, the amount of income derived by a Ute tribal member:

(i) during a time period that the Ute tribal member resides on homesteaded land diminished from the Uintah and Ouray Reservation; and

(ii) from a source within the Uintah and Ouray Reservation;

(c) an amount received by a resident or nonresident individual or distribution received by a resident or nonresident beneficiary of a resident trust:

(i) if that amount or distribution constitutes a refund of taxes imposed by:

(A) a state; or

(B) the District of Columbia; and

(ii) to the extent that amount or distribution is included in adjusted gross income for that taxable year on the federal individual income tax return of the resident or nonresident individual or resident or nonresident beneficiary of a resident trust;

(d) the amount of a railroad retirement benefit:

(i) paid:

(A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq.;

(B) to a resident or nonresident individual; and

(C) for the taxable year; and

(ii) to the extent that railroad retirement benefit is included in adjusted gross income on that resident or nonresident individual's federal individual income tax return for that taxable year; and

(e) an amount:

(i) received by an enrolled member of an American Indian tribe; and

(ii) to the extent that the state is not authorized or permitted to impose a tax under this part on that amount in accordance with:

- (A) federal law;
- (B) a treaty; or
- (C) a final decision issued by a court of competent jurisdiction.

(3) (a) A subtraction for an amount described in Subsection (2)(b) is allowed only if:

- (i) the taxpayer is a Ute tribal member; and
- (ii) the governor and the Ute tribe execute and maintain an agreement meeting the requirements of this Subsection (3).

(b) The agreement described in Subsection (3)(a):

- (i) may not:
 - (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

(B) provide a subtraction under this section greater than or different from the subtraction described in Subsection (2)(b); or

(C) affect the power of the state to establish rates of taxation; and

(ii) shall:

(A) provide for the implementation of the subtraction described in Subsection (2)(b);

(B) be in writing;

(C) be signed by:

- (I) the governor; and
- (II) the chair of the Business Committee of the Ute tribe;
- (D) be conditioned on obtaining any approval required by federal law; and

(E) state the effective date of the agreement.

(c) (i) The governor shall report to the commission by no later than February 1 of each year regarding whether or not an agreement meeting the requirements of this Subsection (3) is in effect.

(ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or after the January 1 following the termination of the agreement.

(d) For purposes of Subsection (2)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) for determining whether income is derived from a source within the Uintah and Ouray Reservation; and

(ii) that are substantially similar to how adjusted gross income derived from Utah sources is determined under Section 59-10-117.

(4) (a) For purposes of this Subsection (4), "Form 8814" means:

(i) the federal individual income tax Form 8814, Parents' Election To Report Child's Interest and Dividends; or

(ii) (A) a form designated by the commission in accordance with Subsection (4)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814; and

(B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules designating a form as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814.

(b) The amount of a child's income added to adjusted gross income under Subsection (1)(b) is equal to the difference between:

(i) the lesser of:

(A) the base amount specified on Form 8814; and

(B) the sum of the following reported on Form 8814:

(I) the child's taxable interest;

(II) the child's ordinary dividends; and

(III) the child's capital gain distributions; and

(ii) the amount not taxed that is specified on Form 8814.

(5) Notwithstanding Subsection (1)(e), interest from bonds, notes, and other evidences of indebtedness issued by an entity described in Subsections (1)(e)(i) through (iv) may not be added to adjusted gross income of a resident or nonresident individual if, as annually determined by the commission:

(a) for an entity described in Subsection (1)(e)(i) or (ii), the entity and all of the political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

(b) for an entity described in Subsection (1)(e)(iii) or (iv), the following do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state:

(i) the entity; or

(ii) (A) the state in which the entity is located; or

(B) the District of Columbia, if the entity is located within the District of Columbia.

Section 4. Section 59-10-1002.2 is amended to read:

59-10-1002.2. Apportionment of tax credits.

(1) A nonresident individual or a part-year resident individual that claims a tax credit in accordance with Section 59-10-1017, 59-10-1018, 59-10-1019, ~~[59-10-1021,]~~ 59-10-1022,

59-10-1023, 59-10-1024, or 59-10-1028 may only claim an apportioned amount of the tax credit equal to:

(a) for a nonresident individual, the product of:

(i) the state income tax percentage for the nonresident individual; and

(ii) the amount of the tax credit that the nonresident individual would have been allowed to claim but for the apportionment requirements of this section; or

(b) for a part-year resident individual, the product of:

(i) the state income tax percentage for the part-year resident individual; and

(ii) the amount of the tax credit that the part-year resident individual would have been allowed to claim but for the apportionment requirements of this section.

(2) A nonresident estate or trust that claims a tax credit in accordance with Section 59-10-1017, 59-10-1020, 59-10-1022, 59-10-1024, or 59-10-1028 may only claim an apportioned amount of the tax credit equal to the product of:

(a) the state income tax percentage for the nonresident estate or trust; and

(b) the amount of the tax credit that the nonresident estate or trust would have been allowed to claim but for the apportionment requirements of this section.

Section 5. Repealer.

This bill repeals:

Section 59-10-1021, Nonrefundable medical care savings account tax credit.

Section 6. Effective date.

This bill takes effect for a taxable year beginning on or after January 1, 2017, except that the amendments to Section 31A-32a-101 and Section 31A-32a-106 in this bill take effect on January 1, 2017.

CHAPTER 264**H. B. 196**

Passed March 10, 2016
 Approved March 25, 2016
 Effective May 10, 2016

UNLAWFUL DETAINDER REVISIONS

Chief Sponsor: Keith Grover
 Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill makes changes to the unlawful detainer statutes.

Highlighted Provisions:

This bill:

- ▶ defines peaceable possession;
- ▶ allows that in unlawful detainer actions, the plaintiff need only show that the plaintiff was in peaceable possession of the premises;
- ▶ defines trespasser;
- ▶ allows the defense in an unlawful detainer action to show that the plaintiff had no right to possession of the premises; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78B-6-801, as last amended by Laws of Utah 2009, Chapters 184 and 298
 78B-6-809, as renumbered and amended by Laws of Utah 2008, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-6-801 is amended to read:**78B-6-801. Definitions.**

(1) "Commercial tenant" means any tenant who may be a body politic and corporate, partnership, association, or company.

(2) "Forcible detainer" means:

(a) holding and keeping by force, or by menaces and threats of violence, the possession of any real property, whether acquired peaceably or otherwise; or

(b) unlawfully entering real property during the absence of the occupants or at night, and, after demand is made for the surrender of the property, refusing for a period of three days to surrender the property to the former occupant.

(3) "Forcible entry" means:

(a) entering any real property by:

(i) breaking open doors, windows, or other parts of a house;

(ii) fraud, intimidation, or stealth; or

(iii) any kind of violence or circumstances of terror; or

(b) after entering peaceably upon real property, turning out by force, threats, or menacing conduct the party in actual possession.

(4) "Occupant of real property" means one who within five days preceding an unlawful entry was in the peaceable and undisturbed possession of the property.

(5) "Owner[~~is~~]":

(a) means the actual owner of the premises;

(b) has the same meaning as landlord under common law and the statutes of this state; and

(c) includes the owner's designated agent or successor to the estate.

(6) (a) "Peaceable possession" means having a legal right to possession.

(b) "Peaceable possession" does not include:

(i) the occupation of premises by a trespasser; or

(ii) continuing to occupy real property after being served with an order of restitution issued by a court of competent jurisdiction.

~~(6)~~ (7) (a) "Tenant" means any natural person and any individual, including a commercial tenant.

(b) "Tenant" does not include a person or entity that has no legal right to the premises.

(8) "Trespasser" means a person or entity that occupies real property but never had possessory rights in the premises.

~~(7)~~ (9) "Unlawful detainer" means unlawfully remaining in possession of property after receiving a notice to quit, served as required by this chapter, and failing to comply with that notice.

~~(8)~~ (10) "Willful exclusion" means preventing the tenant from entering into the premises with intent to deprive the tenant of entry.

Section 2. Section 78B-6-809 is amended to read:**78B-6-809. Proof required of plaintiff -- Defense.**

(1) On the trial of any proceeding for any forcible entry or forcible detainer the plaintiff shall only be required to show, in addition to the forcible entry or forcible detainer complained of, that ~~[he]~~ the plaintiff was ~~[peaceably in the]~~ in actual peaceable possession at the time of the forcible entry, or was entitled to the possession at the time of the forcible detainer.

(2) In defense, the defendant may show that ~~[he or his]~~ the defendant or the defendant's ancestors, or those whose interest in the premises ~~[he claims]~~ is claimed, had been in the quiet possession of the property for the space of one entire year continuously before the commencement of the proceedings, and that his interest is not ended or determined, and that this showing is a bar to the proceedings.

(3) An action for unlawful detainer may also be brought in the form of a counterclaim.

CHAPTER 265**H. B. 219**

Passed March 10, 2016
 Approved March 25, 2016
 Effective May 10, 2016

RESOURCE MANAGEMENT PLANNING

Chief Sponsor: Keven J. Stratton
 Senate Sponsor: Ralph Okerlund
 Cosponsors: Melvin R. Brown
 Scott H. Chew
 Kay J. Christofferson
 Ken Ivory
 David E. Lifferth
 Michael E. Noel

LONG TITLE**General Description:**

This bill modifies provisions relating to resource management plans.

Highlighted Provisions:

This bill:

- ▶ modifies the requirements for a county resource management plan;
- ▶ amends certain deadlines relating to a county resource management plan;
- ▶ modifies the duties of the Public Lands Policy Coordinating Office relating to county resource management plans;
- ▶ addresses the circumstances under which the Public Lands Policy Coordinating Office may provide funding to a county for creation of the county's resource management plan;
- ▶ addresses the creation and approval of a statewide resource management plan; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17-27a-401, as last amended by Laws of Utah 2015, Chapters 310 and 465
 17-27a-403, as last amended by Laws of Utah 2015, Chapters 310 and 465
 17-27a-404, as last amended by Laws of Utah 2015, Chapter 310
 63J-4-607, as enacted by Laws of Utah 2015, Chapter 310

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-27a-401 is amended to read:

17-27a-401. General plan required -- Content -- Resource management plan -- Provisions related to radioactive waste facility.

(1) To accomplish the purposes of this chapter, each county shall prepare and adopt a comprehensive, long-range general plan:

- (a) for present and future needs of the county;

(b) (i) for growth and development of all or any part of the land within the unincorporated portions of the county; or

(ii) if a county has designated a mountainous planning district, for growth and development of all or any part of the land within the mountainous planning district; and

(c) as a basis for communicating and coordinating with the federal government on land and resource management issues.

(2) ~~[The]~~ To promote health, safety, and welfare, the general plan may provide for:

(a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

(b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;

(c) the efficient and economical use, conservation, and production of the supply of:

(i) food and water; and

(ii) drainage, sanitary, and other facilities and resources;

(d) the use of energy conservation and solar and renewable energy resources;

(e) the protection of urban development;

(f) the protection or promotion of moderate income housing;

(g) the protection and promotion of air quality;

(h) historic preservation;

(i) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by each affected entity; and

(j) an official map.

(3) (a) ~~The general plan shall contain a resource management plan [to provide for the protection, conservation, development, and managed use of resources that are critical to the health, safety, and welfare of the citizens of the county and of the state] for the public lands, as defined in Section 63L-6-102, within the county.~~

(b) The resource management plan shall address:

~~[(i) be centered on the following core resources:]~~

~~[(A) energy;]~~

~~[(B) air; and]~~

~~[(C) water; and]~~

~~[(ii) contain detailed plans regarding:]~~

~~[(A)] (i) mining;~~

~~[(B)] (ii) land use;~~

~~[(C)] (iii) livestock and grazing;~~

~~(D)~~ (iv) irrigation;
~~(E)~~ (v) agriculture;
~~(F)~~ (vi) fire management;
~~(G)~~ (vii) noxious weeds;
~~(H)~~ (viii) forest management;
~~(I)~~ (ix) water rights;
~~(J)~~ (x) ditches and canals;
~~(K)~~ (xi) water quality and hydrology;
~~(L)~~ (xii) flood plains and river terraces;
~~(M)~~ (xiii) wetlands;
~~(N)~~ (xiv) riparian areas;
~~(O)~~ (xv) predator control;
~~(P)~~ (xvi) wildlife;
~~(Q)~~ (xvii) fisheries;
~~(R)~~ (xviii) recreation and tourism;
~~(S)~~ (xix) energy resources;
~~(T)~~ (xx) mineral resources;
~~(U)~~ (xxi) cultural, historical, geological, and paleontological resources;
~~(V)~~ (xxii) wilderness;
~~(W)~~ (xxiii) wild and scenic rivers;
~~(X)~~ (xxiv) threatened, endangered, and sensitive species;
~~(Y)~~ (xxv) land access;
~~(Z)~~ (xxvi) law enforcement; ~~and~~
~~(AA)~~ (xxvii) economic considerations[-]; and
(xxviii) air.

(c) For each item listed under Subsection (3)(b), a county's resource management plan shall:

(i) establish ~~any relevant~~ findings pertaining to the item;

(ii) establish ~~clearly~~ defined objectives; and

(iii) outline general policies and guidelines on how the objectives described in Subsection (3)(c)(ii) are to be accomplished.

(4) (a) The general plan shall include specific provisions related to any areas within, or partially within, the exterior boundaries of the county, or contiguous to the boundaries of a county, which are proposed for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as these wastes are defined in Section 19-3-303. The provisions shall address the effects of the proposed site upon the health and general welfare of citizens of the state, and shall provide:

(i) the information identified in Section 19-3-305;

(ii) information supported by credible studies that demonstrates that the provisions of Subsection 19-3-307(2) have been satisfied; and

(iii) specific measures to mitigate the effects of high-level nuclear waste and greater than class C radioactive waste and guarantee the health and safety of the citizens of the state.

(b) A county may, in lieu of complying with Subsection (4)(a), adopt an ordinance indicating that all proposals for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste wholly or partially within the county are rejected.

(c) A county may adopt the ordinance listed in Subsection (4)(b) at any time.

(d) The county shall send a certified copy of the ordinance described in Subsection (4)(b) to the executive director of the Department of Environmental Quality by certified mail within 30 days of enactment.

(e) If a county repeals an ordinance adopted under Subsection (4)(b) the county shall:

(i) comply with Subsection (4)(a) as soon as reasonably possible; and

(ii) send a certified copy of the repeal to the executive director of the Department of Environmental Quality by certified mail within 30 days after the repeal.

(5) The general plan may define the county's local customs, local culture, and the components necessary for the county's economic stability.

(6) Subject to Subsection 17-27a-403(2), the county may determine the comprehensiveness, extent, and format of the general plan.

(7) If a county has designated a mountainous planning district, the general plan for the mountainous planning district is the controlling plan and takes precedence over a municipality's general plan for property located within the mountainous planning district.

(8) Nothing in this part may be construed to limit the authority of the state to manage and protect wildlife under Title 23, Wildlife Resources Code of Utah.

Section 2. Section 17-27a-403 is amended to read:

17-27a-403. Plan preparation.

(1) (a) The planning commission shall provide notice, as provided in Section 17-27a-203, of its intent to make a recommendation to the county legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing its recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for:

(i) the unincorporated area within the county; or

(ii) if the planning commission is a planning commission for a mountainous planning district, the mountainous planning district.

(c) (i) The plan may include planning for incorporated areas if, in the planning commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole.

(ii) Elements of the county plan that address incorporated areas are not an official plan or part of a municipal plan for any municipality, unless it is recommended by the municipal planning commission and adopted by the governing body of the municipality.

(iii) Notwithstanding Subsection (1)(c)(ii), if property is located in a mountainous planning district, the plan for the mountainous planning district controls and precedes a municipal plan, if any, to which the property would be subject.

(2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and

(B) may include a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(ii) a transportation and traffic circulation element consisting of the general location and extent of existing and proposed freeways, arterial and collector streets, mass transit, and any other modes of transportation that the planning commission considers appropriate, all correlated with the population projections and the proposed land use element of the general plan;

(iii) an estimate of the need for the development of additional moderate income housing within the unincorporated area of the county or the mountainous planning district, and a plan to provide a realistic opportunity to meet estimated needs for additional moderate income housing if long-term projections for land use and development occur; and

(iv) before [July 1, 2016] May 1, 2017, a resource management plan detailing the findings, objectives, and policies required by Subsection 17-27a-401(3).

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that counties should facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people desiring to live there; and

(B) to allow persons with moderate incomes to benefit from and fully participate in all aspects of neighborhood and community life; and

(ii) may include an analysis of why the recommended means, techniques, or combination of means and techniques provide a realistic opportunity for the development of moderate income housing within the planning horizon, which means or techniques may include a recommendation to:

(A) rezone for densities necessary to assure the production of moderate income housing;

(B) facilitate the rehabilitation or expansion of infrastructure that will encourage the construction of moderate income housing;

(C) encourage the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) consider county general fund subsidies to waive construction related fees that are otherwise generally imposed by the county;

(E) consider utilization of state or federal funds or tax incentives to promote the construction of moderate income housing;

(F) consider utilization of programs offered by the Utah Housing Corporation within that agency's funding capacity; and

(G) consider utilization of affordable housing programs administered by the Department of Workforce Services.

(c) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the unincorporated area of the county or mountainous planning district; and

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture.

~~[(d) In drafting the resource management plan required under Section 17-27a-401, the planning commission shall:]~~

~~[(i) identify any common interests the county shares with any other proximate county with regards to the elements of the resource management plan as described in Subsection 17-27a-401(3)(b); and]~~

~~[(ii) coordinate with the other proximate county to establish, to the greatest extent possible, consistent objectives and policies with regards to the common interests identified under Subsection (2)(d)(i).]~~

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) to the extent not covered by the county's resource management plan, the protection,

conservation, development, and use of natural resources, including the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources; and

(ii) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas, the prevention, control, and correction of the erosion of soils, protection of watersheds and wetlands, and the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of blight; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected county revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the use of land use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 17-27a-401(2); and

(g) any other element the county considers appropriate.

Section 3. Section 17-27a-404 is amended to read:

17-27a-404. Public hearing by planning commission on proposed general plan or amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection by legislative body.

(1) (a) After completing its recommendation for a proposed general plan, or proposal to amend the general plan, the planning commission shall schedule and hold a public hearing on the proposed plan or amendment.

(b) The planning commission shall provide notice of the public hearing, as required by Section 17-27a-204.

(c) After the public hearing, the planning commission may modify the proposed general plan or amendment.

(2) The planning commission shall forward the proposed general plan or amendment to the legislative body.

(3) (a) As provided by local ordinance and by Section 17-27a-204, the legislative body shall provide notice of its intent to consider the general plan proposal.

(b) (i) In addition to the requirements of Subsections (1), (2), and (3)(a), the legislative body shall hold a public hearing in Salt Lake City on provisions of the proposed county plan regarding Subsection 17-27a-401(4). The hearing procedure shall comply with this Subsection (3)(b).

(ii) The hearing format shall allow adequate time for public comment at the actual public hearing, and shall also allow for public comment in writing to be submitted to the legislative body for not fewer than 90 days after the date of the public hearing.

(c) (i) The legislative body shall give notice of the hearing in accordance with this Subsection (3) when the proposed plan provisions required by Subsection 17-27a-401(4) are complete.

(ii) Direct notice of the hearing shall be given, in writing, to the governor, members of the state Legislature, executive director of the Department of Environmental Quality, the state planning coordinator, the Resource Development Coordinating Committee, and any other citizens or entities who specifically request notice in writing.

(iii) Public notice shall be given by publication:

(A) in at least one major Utah newspaper having broad general circulation in the state;

(B) in at least one Utah newspaper having a general circulation focused mainly on the county where the proposed high-level nuclear waste or greater than class C radioactive waste site is to be located; and

(C) on the Utah Public Notice Website created in Section 63F-1-701.

(iv) The notice shall be published to allow reasonable time for interested parties and the state to evaluate the information regarding the provisions of Subsection 17-27a-401(4), including:

(A) in a newspaper described in Subsection (3)(c)(iii)(A), no less than 180 days before the date of the hearing to be held under this Subsection (3); and

(B) publication described in Subsection (3)(c)(iii)(B) or (C) for 180 days before the date of the hearing to be held under this Subsection (3).

(4) (a) After the public hearing required under this section, the legislative body may make any revisions to the proposed general plan that it considers appropriate.

(b) The legislative body shall respond in writing and in a substantive manner to all those providing comments as a result of the hearing required by Subsection (3).

(5) (a) The county legislative body may adopt or reject the proposed general plan or amendment either as proposed by the planning commission or after making any revision the county legislative body considers appropriate.

(b) If the county legislative body rejects the proposed general plan or amendment, it may provide suggestions to the planning commission for its consideration.

(6) The legislative body shall adopt:

(a) a land use element as provided in Subsection 17-27a-403(2)(a)(i);

(b) a transportation and traffic circulation element as provided in Subsection 17-27a-403(2)(a)(ii);

(c) after considering the factors included in Subsection 17-27a-403(2)(b), a plan to provide a realistic opportunity to meet estimated needs for additional moderate income housing if long-term projections for land use and development occur; and

(d) before ~~[January 1, 2017]~~ August 1, 2017, a resource management plan as provided by Subsection 17-27a-403(2)(a)(iv).

Section 4. Section 63J-4-607 is amended to read:

63J-4-607. Resource management plan administration.

(1) The office shall consult with the Commission for the Stewardship of Public Lands before expending funds appropriated by the Legislature for the implementation of this section.

(2) To the extent that the Legislature appropriates sufficient funding, the office ~~[shall]~~ may procure the services of a non-public entity in accordance with Title 63G, Chapter 6a, Utah Procurement Code, to assist the office with the office's responsibilities described in Subsection (3).

(3) The office shall:

(a) assist each county with the creation of the county's resource management plan by:

(i) consulting with the county on policy and legal issues related to the county's resource management plan; and

(ii) helping the county ensure that the county's resource management plan meets the requirements of Subsection 17-27a-401(3); ~~[and]~~

~~[(iii) facilitating coordination between counties as required by Subsection 17-27a-403(2)(d);]~~

(b) ~~[to the greatest extent possible,]~~ promote ~~[consistent]~~ quality standards among all counties' resource management plans; and

~~[(c) calculate the estimated cost of providing the services described in this section to each county.]~~

(c) upon submission by a county, review and verify the county's:

(i) estimated cost for creating a resource management plan; and

(ii) actual cost for creating a resource management plan.

(4) (a) A county shall cooperate with the office, or an entity procured by the office under Subsection (2), with regards to the office's responsibilities under Subsection (3).

~~[(b) A county that receives assistance from the office under this section shall place a deposit with the office in an amount equal to 50% of the estimated cost calculated under Subsection (3)(c).]~~

(b) To the extent that the Legislature appropriates sufficient funding, the office may, in accordance with Subsection (4)(c), provide funding to a county before the county completes a resource management plan.

(c) The office may provide pre-completion funding described in Subsection (4)(b):

(i) after:

(A) the county submits an estimated cost for completing the resource management plan to the office; and

(B) the office reviews and verifies the estimated cost in accordance with Subsection (3)(c)(i); and

(ii) in an amount up to:

(A) 50% of the estimated cost of completing the resource management plan, verified by the office; or

(B) \$25,000, if the amount described in Subsection (4)(c)(i)(A) is greater than \$25,000.

~~[(e)]~~ (d) To the extent that the Legislature appropriates sufficient funding, the office shall ~~[reimburse]~~ provide funding to a county in the amount described in Subsection (4) ~~[(d) when]~~ (e) after:

(i) a county's resource management plan:

~~[(4)]~~ (A) meets the requirements described in Subsection 17-27a-401(3); and

~~[(4)]~~ (B) is adopted under Subsection 17-27a-404(6)(d)[-];

(ii) the county submits the actual cost of completing the resource management plan to the office; and

(iii) the office reviews and verifies the actual cost in accordance with Subsection (3)(c)(ii).

~~[(d)]~~ (e) The office shall ~~[reimburse]~~ provide funding to a county under Subsection (4) ~~[(e)]~~ (d) in an amount equal to the difference between:

(i) the lesser of:

[(4)] (A) the actual cost ~~[estimated under Subsection (3)(e)]~~ of completing the resource management plan, verified by the office; or

[(4)] (B) \$50,000[-]; and

(ii) the amount of any pre-completion funding that the county received under Subsections (4)(b) and (c).

(5) To the extent that the Legislature appropriates sufficient funding, after the deadline established in Subsection 17-27a-404(6)(d) for a county to adopt a resource management plan, the office shall:

(a) obtain a copy of each county's resource management plan; ~~and~~

(b) create a statewide resource management plan that:

(i) meets the same requirements described in Subsection 17-27a-401(3)(~~a~~); and

(ii) to the ~~greatest~~ extent reasonably possible, coordinates and is consistent with any resource management plan or land use plan established under Chapter 8, State of Utah Resource Management Plan for Federal Lands[-]; and

(c) submit a copy of the statewide resource management plan to the Commission for the Stewardship of Public Lands for review.

(6) Following review of the statewide resource management plan, the Commission for the Stewardship of Public Lands shall prepare a concurrent resolution approving the statewide resource management plan for consideration during the 2018 General Session.

~~[(6)]~~ (7) To the extent that the Legislature appropriates sufficient funding, the office shall provide legal support to a county that becomes involved in litigation with the federal government over the requirements of Subsection 17-27a-405(3).

CHAPTER 266**H. B. 228**

Passed March 9, 2016

Approved March 25, 2016

Effective May 10, 2016

ALCOHOL MODIFICATIONS

Chief Sponsor: Gage Froerer

Senate Sponsor: Jerry W. Stevenson

LONG TITLE**General Description:**

This bill modifies provisions related to consumption of alcoholic products.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ clarifies provisions related to unlawful sale or furnishing of alcoholic products;
- ▶ authorizes tastings by manufacturing licensees under certain conditions;
- ▶ addresses when a manufacturing licensee may allow staff to consume alcoholic products; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

32B-4-401, as enacted by Laws of Utah 2010, Chapter 276

32B-11-303, as enacted by Laws of Utah 2010, Chapter 276

32B-11-403, as enacted by Laws of Utah 2010, Chapter 276

32B-11-503, as last amended by Laws of Utah 2011, Chapter 334

ENACTS:

32B-11-210, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 32B-4-401 is amended to read:**32B-4-401. Unlawful sale or furnishing.**

(1) It is unlawful for a retail licensee, a permittee, or staff of a retail licensee or permittee to keep for sale, or to directly or indirectly, sell, offer for sale, or furnish to another, an alcoholic product, except as otherwise provided by this title.

(2) It is unlawful for a person in the business of selling liquor, a manufacturer, a supplier, an importer of liquor, or staff of the person, manufacturer, supplier, or importer to sell, ship, transport, or cause to be sold, shipped, or transported liquor from an out-of-state location directly or indirectly into this state except to the extent authorized by this title to:

- (a) the department;
- (b) a military installation;

(c) a holder of a special use permit, to the extent authorized in the special use permit; or

(d) a liquor warehouser licensee licensed to distribute and transport liquor to:

- (i) the department; or
- (ii) an out-of-state wholesaler or retailer.

(3) (a) It is unlawful for a person in the business of selling beer, a manufacturer, a supplier, an importer of beer, or staff of the person, manufacturer, or importer to sell, ship, transport, or cause to be sold, shipped, or transported beer from an out-of-state location directly or indirectly into this state except to the extent authorized by this title to:

- (i) a beer wholesaler licensee;
- (ii) a military installation; or
- (iii) a holder of a special use permit, to the extent authorized in the special use permit.

(b) Subsection (3)(a) does not preclude a small brewer that holds a certificate of approval from selling, shipping, or transporting beer to the extent authorized by Subsection 32B-11-503(5) directly to:

- (i) a beer retailer; or
- (ii) an event permittee.

(4) (a) It is unlawful for a manufacturer, supplier, or importer of liquor in this state, or staff of the manufacturer, supplier, or importer to sell, ship, transport, or cause to be sold, shipped, or transported liquor directly or indirectly to a person in this state except to the extent authorized by this title to:

- (i) the department;
- (ii) a military installation;
- (iii) a holder of a special use permit, to the extent authorized in the special use permit; or

(iv) a liquor warehouser licensee who is licensed to distribute and transport liquor to:

- (A) the department; or
- (B) an out-of-state wholesaler or retailer.

(b) Subsection (4)(a) does not preclude a winery manufacturing licensee located in this state from selling wine to a person on its winery premises:

- (i) to the extent authorized by Subsection 32B-11-303(4)(e); or
- (ii) under a package agency issued by the commission on the winery premises.

(c) Subsection (4)(a) does not preclude a distillery manufacturing licensee located in this state from selling liquor on its distillery premises:

- (i) to the extent authorized in Subsection 32B-11-403(5); or
- (ii) under a package agency issued by the commission on the distillery premises.

(d) Subsection (4)(a) does not preclude a brewery manufacturing licensee located in this state from selling heavy beer or flavored malt beverages on its brewery premises:

(i) to the extent authorized under Subsection 32B-11-503(4); or

(ii) under a package agency issued by the commission on its brewery premises.

(5) (a) It is unlawful for a manufacturer, supplier, or importer of beer in this state, or staff of the manufacturer, supplier, or importer to sell, ship, transport, or cause to be sold, shipped, or transported beer directly or indirectly to a person in this state except to the extent authorized by this title to:

(i) a beer wholesaler licensee;

(ii) a military installation; or

(iii) a holder of a special use permit, to the extent authorized in the special use permit.

(b) Subsection (5)(a) does not preclude:

(i) a small brewer who is a brewery manufacturing licensee located in this state from selling, shipping, and transporting beer to the extent authorized by Subsection 32B-11-503(5) directly to one of the following in this state:

(A) a beer retailer; or

(B) an event permittee; or

(ii) a brewery manufacturing licensee from selling beer to a person on its manufacturing premises under Subsection 32B-11-503(4)(c).

(6) It is unlawful for a person other than a person described in Subsection (2) or (3) to sell, ship, transport, or cause to be sold, shipped, or transported an alcoholic product from an out-of-state location directly or indirectly into this state, except as otherwise provided by this title.

(7) It is unlawful for a person in this state other than a person described in Subsection (4) or (5) to sell, ship, transport, or cause to be sold, shipped, or transported an alcoholic product directly or indirectly to another person in this state, except as otherwise provided by this title.

(8) (a) A violation of Subsection (1) is a class B misdemeanor, except when otherwise provided by this title.

(b) A violation of Subsection (2), (3), (4), or (5) is a third degree felony.

(c) A violation of Subsection (6) or (7) is a class B misdemeanor.

Section 2. Section 32B-11-210 is enacted to read:

32B-11-210. Tasting provided by manufacturing licensee.

(1) As used in this section:

(a) "Parcel" means the same identifiable contiguous unit of property that is treated as separate for valuation or zoning purposes and includes an improvement on that unit of property.

(b) "Taste" means an amount of an alcoholic product provided by a manufacturing licensee for consumption under this section.

(2) A manufacturing licensee may provide for a tasting in accordance with this section.

(3) Before conducting a tasting, the manufacturing licensee shall provide the department:

(a) evidence of proximity to any community location, with proximity requirements being governed by Section 32B-1-202 as if the manufacturing licensee were a retail licensee;

(b) a floor plan, and boundary map where applicable, of the premises of the manufacturing licensee, including any:

(i) consumption area; and

(ii) area where the person proposes to store, sell, offer for sale, or furnish an alcoholic product to be tasted;

(c) evidence that the manufacturing licensee is carrying public liability insurance in an amount and form satisfactory to the department;

(d) evidence that the manufacturing licensee is carrying dramshop insurance coverage in an amount and form satisfactory to the department; and

(e) any other information the commission or department may require.

(4) A manufacturing licensee may not sell, offer for sale, or furnish a taste on any day during the period that:

(a) begins at midnight; and

(b) ends at 10:59 a.m.

(5) A person who serves a taste on behalf of the manufacturing licensee shall complete an alcohol training and education seminar as if the person were employed by a retail licensee.

(6) (a) A manufacturing licensee shall establish a distinct area for consumption of a taste outside the view of minors on the licensed premises and in which minors are not allowed during the time period when tasting occurs.

(b) The distinct area for consumption for a taste established under this Subsection (6) shall be in the same building as where the manufacturing licensee produces alcoholic product, in a building on the same parcel as the building where the manufacturing licensee produces alcoholic product, or in a patio or similar area immediately adjacent to a building described in this Subsection (6)(b).

(7) (a) A manufacturing licensee shall have substantial food available that is served on the licensed premises to an individual consuming a taste.

(b) The commission may define what constitutes “substantial food” by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except that the rule may not require culinary facilities for food preparation that are equivalent to a restaurant or dining club.

(8) A manufacturing licensee shall charge an individual for a taste and may not sell, offer for sale, or furnish a taste at less than the cost of the taste to a retail licensee.

(9) (a) A manufacturing licensee may provide a taste in more than one container except that the aggregate total of the taste in all of the containers may not exceed:

(i) 5 ounces of wine for a winery manufacturing licensee;

(ii) 2.5 ounces of spirituous liquor for a distillery manufacturing licensee; or

(iii) 16 ounces of beer, heavy beer, or flavored malt beverages for a brewery manufacturing licensee.

(b) A manufacturing licensee may not allow an individual to participate in more than one tasting within a calendar day.

(10) A manufacturing licensee may provide a taste of alcoholic product that is:

(a) manufactured by the manufacturing licensee; and

(b) purchased by the manufacturing licensee from:

(i) a state store or package agency; or

(ii) for beer, the off-premise retail licensee described in Subsection 32B-11-503(4)(c).

(11) (a) A manufacturing licensee shall display in a prominent place in the location where tastes are consumed a sign in large letters that consists of text in the following order:

(i) a header that reads: “WARNING”;

(ii) a warning statement that reads: “Drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child.”;

(iii) a statement in smaller font that reads: “Call the Utah Department of Health at [insert most current toll-free number] with questions or for more information.”;

(iv) a header that reads: “WARNING”; and

(v) a warning statement that reads: “Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah.”

(b) (i) The text described in Subsections (11)(a)(i) through (iii) shall be in a different font style than the text described in Subsections (11)(a)(iv) and (v).

(ii) The warning statements in the sign described in Subsection (11)(a) shall be in the same font size.

(c) The Department of Health shall work with the commission and department to facilitate consistency in the format of a sign required under this Subsection (11).

(12) A manufacturing licensee shall provide educational information as defined by rule by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as part of the tasting.

(13) A manufacturing licensee that conducts tastings under a scientific or educational use permit issued by the commission as of May 10, 2016, shall comply with this section by no later than December 31, 2016, in conducting a tasting. In accordance with Subsection 32B-10-206(1)(c), effective no later than January 1, 2017, the commission shall take action on a scientific or educational use permit used by a manufacturing licensee to conduct tastings.

Section 3. Section 32B-11-303 is amended to read:

32B-11-303. Specific authority and operational requirements for winery manufacturing license.

(1) A winery manufacturing license allows a winery manufacturing licensee to:

(a) store, manufacture, transport, import, or export wine;

(b) sell wine at wholesale to the department and to out-of-state customers;

(c) purchase liquor for fortifying wine, if the department is notified of the purchase and date of delivery; and

(d) warehouse on the licensed premises liquor that is manufactured or purchased for manufacturing purposes.

(2) (a) A wine, brandy, wine spirit, or other liquor imported under authority of a winery manufacturing license shall conform to the standards of identity and quality established in the regulations issued under Federal Alcohol Administration Act, 27 U.S.C. Sec. 201 et seq.

(b) The federal definitions, standards of identity, and quality and labeling requirements for wine, in regulations issued under Federal Alcohol Administration Act, 27 U.S.C. Sec. 201 et seq., are adopted to the extent the regulations are not contrary to or inconsistent with the laws of this state.

(3) If considered necessary, the commission or department may require:

(a) the alteration of the plant, equipment, or licensed premises;

(b) the alteration or removal of unsuitable wine-making equipment or material;

(c) a winery manufacturing licensee to clean, disinfect, ventilate, or otherwise improve the sanitary and working conditions of the plant, licensed premises, and wine-making equipment;

(d) that a marc, pomace, or fruit be destroyed, denatured, or removed from the licensed premises because it is considered:

- (i) unfit for wine making; or
- (ii) as producing or likely to produce an unsanitary condition;

(e) a winery manufacturing licensee to distill or cause to be distilled or disposed of under the department's supervision:

- (i) any unsound, poor quality finished wine; or
- (ii) unfinished wine that will not be satisfactory when finished; or

(f) that a record pertaining to the grapes and other materials and ingredients used in the manufacture of wine be available to the commission or department upon request.

(4) A winery manufacturing licensee may not permit wine to be consumed on its premises, except under the following circumstances:

(a) A winery manufacturing licensee may allow its on-duty staff to ~~consume~~ taste on the licensed premises ~~[wine as]~~ the alcoholic product that the winery manufacturing licensee ~~[furnishes to the staff]~~ manufactures on its premises without charge, but only in connection with the on-duty staff's duties of manufacturing the alcoholic product during the manufacturing process and not otherwise.

(b) A winery manufacturing licensee may allow a person who can lawfully purchase wine for wholesale or retail distribution to consume a bona fide sample of the winery manufacturing licensee's product on the licensed premises.

~~[(c) A winery manufacturing licensee may operate on its licensed premises a retail facility allowing consumption of a sample on the licensed premises of wine as long as food is also available. This type of retail facility located on the licensed premises shall be operated or supervised by the winery manufacturing licensee.]~~

(c) A winery manufacturing licensee may conduct tastings as provided in Section 32B-11-210.

Section 4. Section 32B-11-403 is amended to read:

32B-11-403. Specific authority and operational requirements for distillery manufacturing license.

(1) A distillery manufacturing license allows a distillery manufacturing licensee to:

- (a) store, manufacture, transport, import, or export liquor;
- (b) sell liquor to:
 - (i) the department;
 - (ii) an out-of-state customer; and
 - (iii) as provided in Subsection (2);

(c) purchase an alcoholic product for mixing and manufacturing purposes if the department is notified of:

- (i) the purchase; and
- (ii) the date of delivery; and

(d) warehouse on its licensed premises an alcoholic product that the distillery manufacturing licensee manufactures or purchases for manufacturing purposes.

(2) (a) Subject to the other provisions of this Subsection (2), a distillery manufacturing licensee may directly sell an alcoholic product to a person engaged within the state in:

- (i) a mechanical or industrial business that requires the use of an alcoholic product; or
- (ii) scientific pursuits that require the use of an alcoholic product.

(b) A person who purchases an alcoholic product under Subsection (2)(a) shall hold a valid special use permit issued in accordance with Chapter 10, Special Use Permit Act, authorizing the use of the alcoholic product.

(c) A distillery manufacturing licensee may sell to a special use permittee described in Subsection (2)(b) an alcoholic product only in the type for which the special use permit provides.

(d) The sale of an alcoholic product under this Subsection (2) is subject to rules prescribed by the department and the federal government.

(3) The federal definitions, standards of identity and quality, and labeling requirements for distilled liquor, in the regulations issued under Federal Alcohol Administration Act, 27 U.S.C. Sec. 201 et seq., are adopted to the extent the regulations are not contrary to or inconsistent with laws of this state.

(4) If considered necessary, the commission or department may require:

- (a) the alteration of the plant, equipment, or licensed premises;
- (b) the alteration or removal of unsuitable alcoholic product-making equipment or material;

(c) a distillery manufacturing licensee to clean, disinfect, ventilate, or otherwise improve the sanitary and working conditions of the plant, licensed premises, and equipment; or

(d) that a record pertaining to the materials and ingredients used in the manufacture of an alcoholic product be made available to the commission or department upon request.

(5) A distillery manufacturing licensee may not permit an alcoholic product to be consumed on its premises, except that:

(a) a distillery manufacturing licensee may allow its on-duty staff to ~~consume~~ taste on the licensed premises an alcoholic product that the distillery ~~[furnishes to the staff]~~ manufacturing licensee manufactures on its premises without charge, but

only in connection with the on-duty staff's duties of manufacturing the alcoholic product during the manufacturing process and not otherwise; ~~and~~

(b) a distillery manufacturing licensee may allow a person who can lawfully purchase an alcoholic product for wholesale or retail distribution to consume a bona fide sample of the distillery manufacturing licensee's product on the licensed premises~~[-]; and~~

(c) a distillery manufacturing licensee may conduct tastings as provided in Section 32B-11-210.

Section 5. Section 32B-11-503 is amended to read:

32B-11-503. Specific authority and operational requirements for brewery manufacturing license.

(1) A brewery manufacturing license allows a brewery manufacturing licensee to:

(a) store, manufacture, brew, transport, or export beer, heavy beer, and flavored malt beverages;

(b) sell heavy beer and a flavored malt beverage to:

(i) the department;

(ii) a military installation; or

(iii) an out-of-state customer;

(c) sell beer to a beer wholesaler licensee;

(d) in the case of a small brewer, in accordance with Subsection (5), sell beer manufactured by the small brewer to:

(i) a retail licensee;

(ii) an off-premise beer retailer; or

(iii) an event permittee; and

(e) warehouse on its premises an alcoholic product that the brewery manufacturing licensee manufactures or purchases for manufacturing purposes.

(2) A brewery manufacturing licensee may not sell the following to a person within the state except the department or a military installation:

(a) heavy beer; or

(b) a flavored malt beverage.

(3) If considered necessary, the commission or department may require:

(a) the alteration of the plant, equipment, or licensed premises;

(b) the alteration or removal of any unsuitable alcoholic product-making equipment or material;

(c) a brewery manufacturing licensee to clean, disinfect, ventilate, or otherwise improve the sanitary and working conditions of the plant, licensed premises, and equipment; or

(d) that a record pertaining to the materials and ingredients used in the manufacture of an alcoholic product be available to the commission or department upon request.

(4) A brewery manufacturing licensee may not permit any beer, heavy beer, or flavored malt beverage to be consumed on the licensed premises, except under the circumstances described in this Subsection (4).

(a) A brewery manufacturing licensee may allow its ~~off-duty~~ on-duty staff to ~~consume beer, heavy beer, or a flavored malt beverage~~ taste the alcoholic product that the brewery manufacturing licensee manufactures on its premises without charge, but only in connection with the on-duty staff's duties of manufacturing the alcoholic product during the manufacturing process and not otherwise.

(b) A brewery manufacturing licensee may allow a person who can lawfully purchase the following for wholesale or retail distribution to consume a bona fide sample of the brewery manufacturing licensee's product on the licensed premises:

(i) beer;

(ii) heavy beer; or

(iii) a flavored malt beverage.

~~[(c) (i) A brewery manufacturing licensee may operate on its licensed premises a retail facility allowing consumption on premises of beer in a bottle or on draft if food is also available.]~~

~~[(ii) A retail facility located on the licensed premises of a brewery manufacturing licensee shall be operated or supervised by the brewery manufacturing licensee.]~~

~~[(iii) In operating a retail facility under this Subsection (4)(c), a]~~

(c) A brewery manufacturing licensee ~~[shall comply]~~ may operate a retail facility that complies with the requirements of Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority.

(d) A brewery manufacturing licensee may conduct tastings as provided in Section 32B-11-210.

(5) (a) A small brewer shall own, lease, or maintain and control a warehouse facility located in this state for the storage of beer to be sold to a person described in Subsection (1)(d) if the small brewer:

(i) (A) (I) is located in this state; and

(II) holds a brewery manufacturing license; or

(B) (I) is located outside this state; and

(II) holds a certificate of approval to sell beer in this state; and

(ii) sells beer manufactured by the small brewer directly to a person described in Subsection (1)(d).

(b) A small brewer may not sell beer to a person described in Subsection (1)(d) unless the beer:

(i) is manufactured by the small brewer; and

(ii) is first placed in the small brewer's warehouse facility in this state.

(c) (i) A small brewer warehouse shall make and maintain complete beer importation, inventory, tax, distribution, sales records, and other records as the department and State Tax Commission may require.

(ii) The records described in Subsection (5)(c)(i) are subject to inspection by:

(A) the department; and

(B) the State Tax Commission.

(iii) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (5), except that the provision is considered to include an action described in Section 32B-1-205 made for the purpose of deceiving the State Tax Commission, or an official or employee of the State Tax Commission.

(6) Subject to Subsection (7):

(a) A brewery manufacturing licensee may not sell beer in this state except under a written agreement with a beer wholesaler licensee in this state.

(b) An agreement described in Subsection (6)(a) shall:

(i) create a restricted exclusive sales territory that is mutually agreed upon by the persons entering into the agreement;

(ii) designate the one or more brands that may be distributed in the sales territory; and

(iii) set forth the exact geographical area of the sales territory.

(c) A brewery manufacturing licensee may have more than one agreement described in this Subsection (6) if each brand of the brewery manufacturing licensee is covered by one exclusive sales territory.

(d) A brewery manufacturing licensee may not enter into an agreement with more than one beer wholesaler licensee to distribute the same brand of beer in the same sales territory or any portion of the sales territory.

(7) A small brewer is not subject to the requirements of Subsection (6).

CHAPTER 267**H. B. 244**

Passed March 3, 2016
 Approved March 25, 2016
 Effective May 10, 2016

**INDEPENDENT ENERGY
 PRODUCER AMENDMENTS**

Chief Sponsor: Francis D. Gibson
 Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill amends provisions related to an independent energy producer.

Highlighted Provisions:

This bill:

- ▶ exempts, from regulation by the Public Service Commission as a public utility, under certain conditions, an independent energy producer that provides energy to a residential customer participating in a net metering program in an area served by an electrical corporation with more than 200,000 retail customers in the state;
- ▶ provides that an agreement between an independent energy producer and a customer shall contain certain provisions; and
- ▶ provides that a public utility is obligated to serve a customer in the public utility's service area that is partially served by an independent energy producer.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

54-2-1, as last amended by Laws of Utah 2014, Chapters 20, 381, and 388
 54-15-108, as last amended by Laws of Utah 2014, Chapter 381

ENACTS:

54-2-201, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 54-2-1 is amended to read:

54-2-1. Definitions.

As used in this title:

(1) "Avoided costs" means the incremental costs to an electrical corporation of electric energy or capacity or both that, due to the purchase of electric energy or capacity or both from small power production or cogeneration facilities, the electrical corporation would not have to generate itself or purchase from another electrical corporation.

(2) "Cogeneration facility":

(a) means a facility that produces:

(i) electric energy; and

(ii) steam or forms of useful energy, including heat, that are used for industrial, commercial, heating, or cooling purposes; and

(b) is a qualifying cogeneration facility under federal law.

(3) "Commission" means the Public Service Commission of Utah.

(4) "Commissioner" means a member of the commission.

(5) (a) "Corporation" includes an association and a joint stock company having any powers or privileges not possessed by individuals or partnerships.

(b) "Corporation" does not include towns, cities, counties, conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

(6) "Distribution electrical cooperative" includes an electrical corporation that:

(a) is a cooperative;

(b) conducts a business that includes the retail distribution of electricity the cooperative purchases or generates for the cooperative's members; and

(c) is required to allocate or distribute savings in excess of additions to reserves and surplus on the basis of patronage to the cooperative's:

(i) members; or

(ii) patrons.

(7) (a) "Electrical corporation" includes every corporation, cooperative association, and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any electric plant, or in any way furnishing electric power for public service or to its consumers or members for domestic, commercial, or industrial use, within this state.

(b) "Electrical corporation" does not include:

(i) an independent energy producer;

(ii) where electricity is generated on or distributed by the producer solely for the producer's own use, or the use of the producer's tenants, or the use of members of an association of unit owners formed under Title 57, Chapter 8, Condominium Ownership Act, and not for sale to the public generally;

(iii) an eligible customer who provides electricity for the eligible customer's own use or the use of the eligible customer's tenant or affiliate; or

(iv) a nonutility energy supplier who sells or provides electricity to:

(A) an eligible customer who has transferred the eligible customer's service to the nonutility energy supplier in accordance with Section 54-3-32; or

(B) the eligible customer's tenant or affiliate.

(c) "Electrical corporation" does not include an entity that sells electric vehicle battery charging

services, unless the entity conducts another activity in the state that subjects the entity to the jurisdiction and regulation of the commission as an electrical corporation.

(8) “Electric plant” includes all real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of electricity for light, heat, or power, and all conduits, ducts, or other devices, materials, apparatus, or property for containing, holding, or carrying conductors used or to be used for the transmission of electricity for light, heat, or power.

(9) “Eligible customer” means a person who:

(a) on December 31, 2013:

(i) was a customer of a public utility that, on December 31, 2013, had more than 200,000 retail customers in this state; and

(ii) owned an electric plant that is an electric generation plant that, on December 31, 2013, had a generation name plate capacity of greater than 150 megawatts; and

(b) produces electricity:

(i) from a qualifying power production facility for sale to a public utility in this state;

(ii) primarily for the eligible customer’s own use; or

(iii) for the use of the eligible customer’s tenant or affiliate.

(10) “Eligible customer’s tenant or affiliate” means one or more tenants or affiliates:

(a) of an eligible customer; and

(b) who are primarily engaged in an activity:

(i) related to the eligible customer’s core mining or industrial businesses; and

(ii) performed on real property that is:

(A) within a 25-mile radius of the electric plant described in Subsection (9)(a)(ii); and

(B) owned by, controlled by, or under common control with, the eligible customer.

(11) “Gas corporation” includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any gas plant for public service within this state or for the selling or furnishing of natural gas to any consumer or consumers within the state for domestic, commercial, or industrial use, except in the situation that:

(a) gas is made or produced on, and distributed by the maker or producer through, private property:

(i) solely for the maker’s or producer’s own use or the use of the maker’s or producer’s tenants; and

(ii) not for sale to others;

(b) gas is compressed on private property solely for the owner’s own use or the use of the owner’s employees as a motor vehicle fuel; or

(c) gas is compressed by a retailer of motor vehicle fuel on the retailer’s property solely for sale as a motor vehicle fuel.

(12) “Gas plant” includes all real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of gas, natural or manufactured, for light, heat, or power.

(13) “Heat corporation” includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any heating plant for public service within this state.

(14) (a) “Heating plant” includes all real estate, fixtures, machinery, appliances, and personal property controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of artificial heat.

(b) “Heating plant” does not include either small power production facilities or cogeneration facilities.

(15) “Independent energy producer” means every electrical corporation, person, corporation, or government entity, their lessees, trustees, or receivers, that own, operate, control, or manage an independent power production or cogeneration facility.

(16) “Independent power production facility” means a facility that:

(a) produces electric energy solely by the use, as a primary energy source, of biomass, waste, a renewable resource, a geothermal resource, or any combination of the preceding sources; or

(b) is a qualifying power production facility.

(17) “Nonutility energy supplier” means a person that:

(a) has received market-based rate authority from the Federal Energy Regulatory Commission in accordance with 16 U.S.C. Sec. 824d, 18 C.F.R. Part 35, Filing of Rate Schedules and Tariffs, or applicable Federal Energy Regulatory Commission orders; or

(b) owns, leases, operates, or manages an electric plant that is an electric generation plant that:

(i) has a capacity of greater than 100 megawatts; and

(ii) is hosted on the site of an eligible customer that consumes the output of the electric plant, in whole or in part, for the eligible customer’s own use or the use of the eligible customer’s tenant or affiliate.

(18) “Private telecommunications system” includes all facilities for the transmission of signs, signals, writing, images, sounds, messages, data, or

other information of any nature by wire, radio, lightwaves, or other electromagnetic means, excluding mobile radio facilities, that are owned, controlled, operated, or managed by a corporation or person, including their lessees, trustees, receivers, or trustees appointed by any court, for the use of that corporation or person and not for the shared use with or resale to any other corporation or person on a regular basis.

(19) (a) "Public utility" includes every railroad corporation, gas corporation, electrical corporation, distribution electrical cooperative, wholesale electrical cooperative, telephone corporation, telegraph corporation, water corporation, sewerage corporation, heat corporation, and independent energy producer not described in [Subsection (19)(d)]. Section 54-2-201 where the service is performed for, or the commodity delivered to, the public generally, or in the case of a gas corporation or electrical corporation where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use.

(b) (i) If any railroad corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewerage corporation, heat corporation, or independent energy producer not described in [Subsection (19)(d)] Section 54-2-201, performs a service for or delivers a commodity to the public, it is considered to be a public utility, subject to the jurisdiction and regulation of the commission and this title.

(ii) If a gas corporation, independent energy producer not described in [Subsection (19)(d)] Section 54-2-201, or electrical corporation sells or furnishes gas or electricity to any member or consumers within the state, for domestic, commercial, or industrial use, for which any compensation or payment is received, it is considered to be a public utility, subject to the jurisdiction and regulation of the commission and this title.

(c) Any corporation or person not engaged in business exclusively as a public utility as defined in this section is governed by this title in respect only to the public utility owned, controlled, operated, or managed by the corporation or person, and not in respect to any other business or pursuit.

[d] An independent energy producer is exempt from the jurisdiction and regulations of the commission with respect to an independent power production facility if it meets the requirements of Subsection (19)(d)(i), (ii), (iii), or (iv), or any combination of these:]

[i] the commodity or service is produced or delivered, or both, by an independent energy producer solely for a use described in Subsections (7)(b)(i) through (iv) or for the use of state-owned facilities;]

[ii] the commodity or service is sold by an independent energy producer solely to an electrical corporation or other wholesale purchaser;]

[iii] (A) the commodity or service produced or delivered by the independent energy producer is delivered to an entity that controls, is controlled by, or affiliated with the independent energy producer or to a user located on real property managed or controlled by the independent energy producer; and]

[B] the real property on which the service or commodity is used is contiguous to real property that is owned or controlled by the independent energy producer or is separated only by a public road or an easement for a public road; or]

[iv] the independent energy producer;]

[A] supplies energy for direct consumption by a customer that is:]

[I] a United States governmental entity, including an entity of the United States military, or a county, municipality, city, town, other political subdivision, local district, special service district, state institution of higher education, school district, charter school, or any entity within the state system of public education; or]

[II] an entity qualifying as a charitable organization under 26 U.S.C. Sec. 501(c)(3) operated for religious, charitable, or educational purposes that is exempt from federal income tax and able to demonstrate its tax-exempt status;]

[B] supplies energy to the customer through use of a customer generation system, as defined in Section 54-15-102, for use on the real property where the customer generation system is located;]

[C] supplies energy using a customer generation system designed to supply the lesser of:]

[I] no more than 90% of the average annual consumption of electricity by the customer at that site, based on an annualized billing period; or]

[II] the maximum size allowable under net metering provisions, defined in Section 54-15-102;]

[D] notifies the customer before installing the customer generation system of:]

[I] all costs the customer is required to pay for the customer generation system, including any interconnection costs; and]

[II] the potential for future changes in amounts paid by the customer for energy received from the public utility and the possibility of changes to the customer fees or charges to the customer associated with net metering and generation;]

[E] enters into and performs in accordance with an interconnection agreement with a public utility providing retail electric service where the real property on which the customer generation system is located, with the rates, terms, and conditions of the retail service and interconnection agreement subject to approval by the governing authority of the public utility, as defined in Subsection 54-15-102(8); and]

[F] installs the relevant customer generation system by December 31, 2021.]

~~(e)~~ (d) Any person or corporation defined as an electrical corporation or public utility under this section may continue to serve its existing customers subject to any order or future determination of the commission in reference to the right to serve those customers.

~~(f)~~ (e) (i) "Public utility" does not include any person that is otherwise considered a public utility under this Subsection (19) solely because of that person's ownership of an interest in an electric plant, cogeneration facility, or small power production facility in this state if all of the following conditions are met:

(A) the ownership interest in the electric plant, cogeneration facility, or small power production facility is leased to:

(I) a public utility, and that lease has been approved by the commission;

(II) a person or government entity that is exempt from commission regulation as a public utility; or

(III) a combination of Subsections (19)~~(f)~~(e)(i)(A)(I) and (II);

(B) the lessor of the ownership interest identified in Subsection (19)~~(f)~~(e)(i)(A) is:

(I) primarily engaged in a business other than the business of a public utility; or

(II) a person whose total equity or beneficial ownership is held directly or indirectly by another person engaged in a business other than the business of a public utility; and

(C) the rent reserved under the lease does not include any amount based on or determined by revenues or income of the lessee.

(ii) Any person that is exempt from classification as a public utility under Subsection (19)~~(f)~~(e)(i) shall continue to be so exempt from classification following termination of the lessee's right to possession or use of the electric plant for so long as the former lessor does not operate the electric plant or sell electricity from the electric plant. If the former lessor operates the electric plant or sells electricity, the former lessor shall continue to be so exempt for a period of 90 days following termination, or for a longer period that is ordered by the commission. This period may not exceed one year. A change in rates that would otherwise require commission approval may not be effective during the 90-day or extended period without commission approval.

~~(g)~~ (f) "Public utility" does not include any person that provides financing for, but has no ownership interest in an electric plant, small power production facility, or cogeneration facility. In the event of a foreclosure in which an ownership interest in an electric plant, small power production facility, or cogeneration facility is transferred to a third-party financier of an electric plant, small power production facility, or cogeneration facility, then that third-party financier is exempt from classification as a public utility for 90 days following the foreclosure, or for a longer period that is ordered

by the commission. This period may not exceed one year.

~~(h)~~ (g) (i) The distribution or transportation of natural gas for use as a motor vehicle fuel does not cause the distributor or transporter to be a "public utility," unless the commission, after notice and a public hearing, determines by rule that it is in the public interest to regulate the distributors or transporters, but the retail sale alone of compressed natural gas as a motor vehicle fuel may not cause the seller to be a "public utility."

(ii) In determining whether it is in the public interest to regulate the distributors or transporters, the commission shall consider, among other things, the impact of the regulation on the availability and price of natural gas for use as a motor fuel.

~~(i)~~ (h) "Public utility" does not include:

(i) an eligible customer who provides electricity for the eligible customer's own use or the use of the eligible customer's tenant or affiliate; or

(ii) a nonutility energy supplier that sells or provides electricity to:

(A) an eligible customer who has transferred the eligible customer's service to the nonutility energy supplier in accordance with Section 54-3-32; or

(B) the eligible customer's tenant or affiliate.

~~(j)~~ (i) "Public utility" does not include an entity that sells electric vehicle battery charging services, unless the entity conducts another activity in the state that subjects the entity to the jurisdiction and regulation of the commission as a public utility.

(j) "Public utility" does not include an independent energy producer that is not subject to regulation by the commission as a public utility under Section 54-2-201.

(20) "Purchasing utility" means any electrical corporation that is required to purchase electricity from small power production or cogeneration facilities pursuant to the Public Utility Regulatory Policies Act, 16 U.S.C. [Section] Sec. 824a-3.

(21) "Qualifying power producer" means a corporation, cooperative association, or person, or the lessee, trustee, and receiver of the corporation, cooperative association, or person, who owns, controls, operates, or manages any qualifying power production facility or cogeneration facility.

(22) "Qualifying power production facility" means a facility that:

(a) produces electrical energy solely by the use, as a primary energy source, of biomass, waste, a renewable resource, a geothermal resource, or any combination of the preceding sources;

(b) has a power production capacity that, together with any other facilities located at the same site, is no greater than 80 megawatts; and

(c) is a qualifying small power production facility under federal law.

(23) "Railroad" includes every commercial, interurban, and other railway, other than a street

railway, and each branch or extension of a railway, by any power operated, together with all tracks, bridges, trestles, rights-of-way, subways, tunnels, stations, depots, union depots, yards, grounds, terminals, terminal facilities, structures, and equipment, and all other real estate, fixtures, and personal property of every kind used in connection with a railway owned, controlled, operated, or managed for public service in the transportation of persons or property.

(24) "Railroad corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any railroad for public service within this state.

(25) (a) "Sewerage corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any sewerage system for public service within this state.

(b) "Sewerage corporation" does not include private sewerage companies engaged in disposing of sewage only for their stockholders, or towns, cities, counties, conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

(26) "Telegraph corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any telegraph line for public service within this state.

(27) "Telegraph line" includes all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telegraph, whether that communication be had with or without the use of transmission wires.

(28) (a) "Telephone corporation" means any corporation or person, and their lessees, trustee, receivers, or trustees appointed by any court, who owns, controls, operates, manages, or resells a public telecommunications service as defined in Section 54-8b-2.

(b) "Telephone corporation" does not mean a corporation, partnership, or firm providing:

(i) intrastate telephone service offered by a provider of cellular, personal communication systems (PCS), or other commercial mobile radio service as defined in 47 U.S.C. Sec. 332 that has been issued a covering license by the Federal Communications Commission;

(ii) Internet service; or

(iii) resold intrastate toll service.

(29) "Telephone line" includes all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by

telephone whether that communication is had with or without the use of transmission wires.

(30) "Transportation of persons" includes every service in connection with or incidental to the safety, comfort, or convenience of the person transported, and the receipt, carriage, and delivery of that person and that person's baggage.

(31) "Transportation of property" includes every service in connection with or incidental to the transportation of property, including in particular its receipt, delivery, elevation, transfer, switching, carriage, ventilation, refrigeration, icing, dunnage, storage, and hauling, and the transmission of credit by express companies.

(32) "Water corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any water system for public service within this state. It does not include private irrigation companies engaged in distributing water only to their stockholders, or towns, cities, counties, water conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

(33) (a) "Water system" includes all reservoirs, tunnels, shafts, dams, dikes, headgates, pipes, flumes, canals, structures, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the diversion, development, storage, supply, distribution, sale, furnishing, carriage, appointment, apportionment, or measurement of water for power, fire protection, irrigation, reclamation, or manufacturing, or for municipal, domestic, or other beneficial use.

(b) "Water system" does not include private irrigation companies engaged in distributing water only to their stockholders.

(34) "Wholesale electrical cooperative" includes every electrical corporation that is:

(a) in the business of the wholesale distribution of electricity it has purchased or generated to its members and the public; and

(b) required to distribute or allocate savings in excess of additions to reserves and surplus to members or patrons on the basis of patronage.

Section 2. Section 54-2-201 is enacted to read:

Part 2. Exemption from Commission Jurisdiction

54-2-201. Independent energy producer --- Exemption from commission jurisdiction.

(1) As used in this section:

(a) "Customer generation system" means the same as that term is defined in Section 54-15-102.

(b) "Net metering program" means the same as that term is defined in Section 54-15-102.

(2) An independent energy producer is exempt from regulation by the commission as a public utility for an independent power production facility

if the independent energy producer produces a commodity or delivers a service:

- (a) solely for the use of a state-owned facility;
- (b) not for sale to the public, without charge, solely for the use of:

- (i) the independent energy producer;
- (ii) an independent energy producer's tenant; or
- (iii) an association of unit owners formed under Title 57, Chapter 8, Condominium Ownership Act;
- (c) for sale solely to an electrical corporation or other wholesale purchaser; or

(d) (i) for use by:

(A) an entity the independent energy producer controls, is controlled by, or is an affiliate of; or

(B) a user located on real property that the independent energy producer manages or controls; and

(ii) for use on real property that is contiguous to, or is separated only by a public road or easement from, real property that the independent energy producer owns or controls.

(3) In addition to the exemptions described in Subsection (2), an independent energy producer that supplies energy, for direct consumption by a customer, via a customer generation system, is exempt from regulation by the commission as a public utility for an independent power production facility if:

(a) the customer is:

(i) a United States governmental entity, including an entity of the United States military;

(ii) a state entity, including a political subdivision of the state;

(iii) a state institution of higher education;

(iv) a school district, charter school, or an entity within the state system of public education;

(v) a federal income tax exempt charitable organization under 26 U.S.C. Sec. 501(c)(3) that can provide proof of the entity's tax-exempt status; or

(vi) a residential customer participating in a net metering program in an area served by an electrical corporation with more than 200,000 retail customers in the state;

(b) the customer generation system is:

(i) for use on the real property where the customer generation system is located; and

(ii) designed to supply a maximum amount of electricity equal to the lesser of:

(A) 90% of the customer's average annual electricity consumption, based on an annualized billing period; or

(B) the maximum amount allowed under a net metering program, as defined in Section 54-15-102;

(c) the independent energy producer notifies the customer, before installing the customer generation system, of:

(i) the total cost a customer is required to pay for the customer generation system, including an interconnection cost; and

(ii) the potential for a change in:

(A) the amount the customer pays for energy from a public utility; and

(B) customer fees associated with net metering and generation;

(d) the independent energy producer enters into an interconnection agreement:

(i) with a public utility that provides retail electric service to the real property on which the customer generation system is located; and

(ii) that is subject to approval by a public utility's governing authority; and

(e) except for a customer described in Subsection (3)(a)(vi), the independent energy producer installs the customer generation system by December 31, 2021.

(4) An independent energy producer that supplies electric service to a customer described in Subsection (3)(a)(vi) via a customer generation system shall provide the electric service under an agreement that includes:

(a) the notification described in Subsection (3)(c);

(b) a description of the incentives, including any renewable energy certificate, generated by the agreement, or by the installation or use of the customer generation system;

(c) a description of an incentive described in Subsection (4)(b) that the customer forfeits or assigns to the independent energy producer under the agreement;

(d) the property, equipment, or liability that the independent energy producer will insure under the agreement, and what property, equipment, or liability that the customer is responsible for insuring; and

(e) the Internet address of a Division of Public Utilities website, if any, that describes considerations for a net metering customer.

(5) An independent energy producer may not provide electric service to a customer described in Subsection (3)(a)(vi) until the commission makes the first determination about a net metering program under which the independent energy producer will provide service required by Subsection 54-15-105.1(2), and the determination becomes final agency action.

(6) A public utility shall serve a customer in the public utility's service area that is partially served by an independent energy producer.

Section 3. Section 54-15-108 is amended to read:

54-15-108. Damages and fines for connecting a customer generation system to more than one customer.

If an independent energy producer [~~defined in Section 54-2-1~~] that is supplying energy to a customer [~~as described in Subsection 54-2-1(19)(d)(iv)~~] described in Subsection 54-2-201(3)(a) violates the [~~limitations set forth in Subsection 54-2-1(19)(d)(iv)(B)~~] limitation described in Subsection 54-2-201(3)(b)(i), the commission may:

(1) award damages to an electrical corporation for actual and consequential damages to the electrical corporation; and

(2) assess a fine against the independent energy producer or person responsible for the violation.

CHAPTER 268**H. B. 249**

Passed March 4, 2016
 Approved March 25, 2016
 Effective May 10, 2016

**GENERAL CONTRACTORS
 LICENSE AMENDMENTS**

Chief Sponsor: Mike Schultz
 Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill amends the requirements for licensure of a general contractor and an architect.

Highlighted Provisions:

This bill:

- ▶ amends the definition of a contractor;
- ▶ amends requirements for licensure as a general contractor; and
- ▶ amends exemptions from licensure as an architect.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 58-3a-304, as enacted by Laws of Utah 1996, Chapter 260
 58-55-102, as last amended by Laws of Utah 2014, Chapter 81
 58-55-302, as last amended by Laws of Utah 2015, Chapter 258

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-3a-304 is amended to read:**58-3a-304. Exemptions from licensure.**

(1) In addition to the exemptions from licensure in Section 58-1-307, the following may engage in the stated limited acts or practices without being licensed under this chapter:

(a) a person offering to render architectural services in this state when not licensed under this chapter if the person:

(i) holds a current and valid architect license issued by a licensing authority recognized by rule by the division in collaboration with the board;

(ii) discloses in writing to the potential client the fact that the architect:

(A) is not licensed in the state;

(B) may not provide architectural services in the state until the architect is licensed in the state; and

(C) that such condition may cause a delay in the ability of the architect to provide architectural services in the state;

(iii) notifies the division in writing of his intent to offer to render architectural services in the state; and

(iv) does not provide architectural services or engage in the practice of architecture in this state until licensed to do so;

(b) a person preparing a plan and specification for [~~a one, two, three, or four family residence not exceeding two stories in height, exclusive of basement~~] one or two-family dwellings, including townhouses;

(c) a person licensed to practice professional engineering under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act, performing engineering or incidental architectural acts or practices that do not exceed the scope of the education and training of the person performing architecture;

(d) unlicensed employees, subordinates, associates, or drafters of a person licensed under this chapter while preparing plans and specifications under the supervision of an architect;

(e) a person preparing a plan or specification for, or supervising the alteration of or repair to, an existing building affecting an area not exceeding 3,000 square feet when structural elements of a building are not changed, such as foundations, beams, columns, and structural slabs, joists, bearing walls, and trusses; and

(f) an organization engaged in the practice of architecture, provided that:

(i) the organization employs a principal; and

(ii) all individuals employed by the organization, who are engaged in the practice of architecture, are licensed or exempt from licensure under this chapter.

(2) Nothing in this section shall be construed to restrict a draftsman from preparing plans for a client under the exemption provided in Subsection (1)(b) or taking those plans to a licensed architect for his review, approval, and subsequent fixing of the architect's seal to that set of plans if they meet the building code standards.

Section 2. Section 58-55-102 is amended to read:**58-55-102. Definitions.**

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) (a) "Alarm business or company" means a person engaged in the sale, installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system, except as provided in Subsection (1)(b).

(b) "Alarm business or company" does not include:

(i) a person engaged in the manufacture or sale of alarm systems unless:

(A) that person is also engaged in the installation, maintenance, alteration, repair, replacement, servicing, or monitoring of alarm systems;

(B) the manufacture or sale occurs at a location other than a place of business established by the person engaged in the manufacture or sale; or

(C) the manufacture or sale involves site visits at the place or intended place of installation of an alarm system; or

(ii) an owner of an alarm system, or an employee of the owner of an alarm system who is engaged in installation, maintenance, alteration, repair, replacement, servicing, or monitoring of the alarm system owned by that owner.

(2) "Alarm company agent":

(a) except as provided in Subsection (2)(b), means any individual employed within this state by an alarm business; and

(b) does not include an individual who:

(i) is not engaged in the sale, installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system; and

(ii) does not, during the normal course of the individual's employment with an alarm business, use or have access to sensitive alarm system information.

(3) "Alarm system" means equipment and devices assembled for the purpose of:

(a) detecting and signaling unauthorized intrusion or entry into or onto certain premises; or

(b) signaling a robbery or attempted robbery on protected premises.

(4) "Apprentice electrician" means a person licensed under this chapter as an apprentice electrician who is learning the electrical trade under the immediate supervision of a master electrician, residential master electrician, a journeyman electrician, or a residential journeyman electrician.

(5) "Apprentice plumber" means a person licensed under this chapter as an apprentice plumber who is learning the plumbing trade under the immediate supervision of a master plumber, residential master plumber, journeyman plumber, or a residential journeyman plumber.

(6) "Approved continuing education" means instruction provided through courses under a program established under Subsection 58-55-302.5(2).

(7) "Board" means the Electrician Licensing Board, Alarm System Security and Licensing Board, or Plumbers Licensing Board created in Section 58-55-201.

(8) "Combustion system" means an assembly consisting of:

(a) piping and components with a means for conveying, either continuously or intermittently, natural gas from the outlet of the natural gas provider's meter to the burner of the appliance;

(b) the electric control and combustion air supply and venting systems, including air ducts; and

(c) components intended to achieve control of quantity, flow, and pressure.

(9) "Commission" means the Construction Services Commission created under Section 58-55-103.

(10) "Construction trade" means any trade or occupation involving:

(a) (i) construction, alteration, remodeling, repairing, wrecking or demolition, addition to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation or other project, development, or improvement to other than personal property; and

(ii) constructing, remodeling, or repairing a manufactured home or mobile home as defined in Section 15A-1-302; or

(b) installation or repair of a residential or commercial natural gas appliance or combustion system.

(11) "Construction trades instructor" means a person licensed under this chapter to teach one or more construction trades in both a classroom and project environment, where a project is intended for sale to or use by the public and is completed under the direction of the instructor, who has no economic interest in the project.

(12) (a) "Contractor" means any person who for compensation other than wages as an employee undertakes any work in the construction, plumbing, or electrical trade for which licensure is required under this chapter and includes:

(i) a person who builds any structure on the person's own property for the purpose of sale or who builds any structure intended for public use on the person's own property;

(ii) any person who represents that the person is a contractor, or will perform a service described in this Subsection (12), by advertising on a website or social media, or any other means;

(iii) any person engaged as a maintenance person, other than an employee, who regularly engages in activities set forth under the definition of "construction trade";

(iv) any person engaged in, or offering to engage in, any construction trade for which licensure is required under this chapter; or

(v) a construction manager [~~who performs~~], construction consultant, construction assistant, or any other person who, for a fee:

(A) performs or offers to perform construction consulting;

(B) performs or offers to perform management of construction subcontractors;

(C) provides or offers to provide a list of subcontractors or suppliers; or

(D) provides or offers to provide management [~~and~~] or counseling services on a construction project [~~for a fee~~].

(b) “Contractor” does not include:

(i) an alarm company or alarm company agent[-];
or

(ii) a material supplier who provides consulting to customers regarding the design and installation of the material supplier’s products.

(13) (a) “Electrical trade” means the performance of any electrical work involved in the installation, construction, alteration, change, repair, removal, or maintenance of facilities, buildings, or appendages or appurtenances.

(b) “Electrical trade” does not include:

(i) transporting or handling electrical materials;
(ii) preparing clearance for raceways for wiring;
or

(iii) work commonly done by unskilled labor on any installations under the exclusive control of electrical utilities.

(c) For purposes of Subsection (13)(b):

(i) no more than one unlicensed person may be so employed unless more than five licensed electricians are employed by the shop; and

(ii) a shop may not employ unlicensed persons in excess of the five-to-one ratio permitted by this Subsection (13)(c).

(14) “Elevator” [has] means the same [meaning as] as that term is defined in Section 34A-7-202, except that for purposes of this chapter it does not mean a stair chair, a vertical platform lift, or an incline platform lift.

(15) “Elevator contractor” means a sole proprietor, firm, or corporation licensed under this chapter that is engaged in the business of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator.

(16) “Elevator mechanic” means an individual who is licensed under this chapter as an elevator mechanic and who is engaged in erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator under the immediate supervision of an elevator contractor.

(17) “Employee” means an individual as defined by the division by rule giving consideration to the definition adopted by the Internal Revenue Service and the Department of Workforce Services.

(18) “Engage in a construction trade” means to:

(a) engage in, represent oneself to be engaged in, or advertise oneself as being engaged in a construction trade; or

(b) use the name “contractor” or “builder” or in any other way lead a reasonable person to believe one is or will act as a contractor.

(19) (a) “Financial responsibility” means a demonstration of a current and expected future condition of financial solvency evidencing a reasonable expectation to the division and the board that an applicant or licensee can successfully

engage in business as a contractor without jeopardy to the public health, safety, and welfare.

(b) Financial responsibility may be determined by an evaluation of the total history concerning the licensee or applicant including past, present, and expected condition and record of financial solvency and business conduct.

(20) “Gas appliance” means any device that uses natural gas to produce light, heat, power, steam, hot water, refrigeration, or air conditioning.

(21) (a) “General building contractor” means a person licensed under this chapter as a general building contractor qualified by education, training, experience, and knowledge to perform or superintend construction of structures for the support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind or any of the components of that construction except plumbing, electrical work, mechanical work, work related to the operating integrity of an elevator, and manufactured housing installation, for which the general building contractor shall employ the services of a contractor licensed in the particular specialty, except that a general building contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical work and hire a licensed plumber or electrician as an employee.

(b) The division may by rule exclude general building contractors from engaging in the performance of other construction specialties in which there is represented a substantial risk to the public health, safety, and welfare, and for which a license is required unless that general building contractor holds a valid license in that specialty classification.

(22) (a) “General engineering contractor” means a person licensed under this chapter as a general engineering contractor qualified by education, training, experience, and knowledge to perform construction of fixed works in any of the following: irrigation, drainage, water, power, water supply, flood control, inland waterways, harbors, railroads, highways, tunnels, airports and runways, sewers and bridges, refineries, pipelines, chemical and industrial plants requiring specialized engineering knowledge and skill, piers, and foundations, or any of the components of those works.

(b) A general engineering contractor may not perform construction of structures built primarily for the support, shelter, and enclosure of persons, animals, and chattels.

(23) “Immediate supervision” means reasonable direction, oversight, inspection, and evaluation of the work of a person:

(a) as the division specifies in rule;

(b) by, as applicable, a qualified electrician or plumber;

(c) as part of a planned program of training; and

(d) to ensure that the end result complies with applicable standards.

(24) "Individual" means a natural person.

(25) "Journeyman electrician" means a person licensed under this chapter as a journeyman electrician having the qualifications, training, experience, and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

(26) "Journeyman plumber" means a person licensed under this chapter as a journeyman plumber having the qualifications, training, experience, and technical knowledge to engage in the plumbing trade.

(27) "Master electrician" means a person licensed under this chapter as a master electrician having the qualifications, training, experience, and knowledge to properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment for light, heat, power, and other purposes.

(28) "Master plumber" means a person licensed under this chapter as a master plumber having the qualifications, training, experience, and knowledge to properly plan and layout projects and supervise persons in the plumbing trade.

(29) "Person" means a natural person, sole proprietorship, joint venture, corporation, limited liability company, association, or organization of any type.

(30) (a) "Plumbing trade" means the performance of any mechanical work pertaining to the installation, alteration, change, repair, removal, maintenance, or use in buildings, or within three feet beyond the outside walls of buildings of pipes, fixtures, and fittings for:

- (i) delivery of the water supply;
- (ii) discharge of liquid and water carried waste; or
- (iii) the building drainage system within the walls of the building.

(b) "Plumbing trade" includes work pertaining to the water supply, distribution pipes, fixtures and fixture traps, soil, waste and vent pipes, and the building drain and roof drains together with their devices, appurtenances, and connections where installed within the outside walls of the building.

(31) (a) "Ratio of apprentices" means, for the purpose of determining compliance with the requirements for planned programs of training and electrician apprentice licensing applications, the shop ratio of apprentice electricians to journeyman or master electricians shall be one journeyman or master electrician to one apprentice on industrial and commercial work, and one journeyman or master electrician to three apprentices on residential work.

(b) On-the-job training shall be under circumstances in which the ratio of apprentices to supervisors is in accordance with a ratio of one-to-one on nonresidential work and up to three apprentices to one supervisor on residential projects.

(32) "Residential and small commercial contractor" means a person licensed under this chapter as a residential and small commercial contractor qualified by education, training, experience, and knowledge to perform or superintend the construction of single-family residences, multifamily residences up to four units, and commercial construction of not more than three stories above ground and not more than 20,000 square feet, or any of the components of that construction except plumbing, electrical work, mechanical work, and manufactured housing installation, for which the residential and small commercial contractor shall employ the services of a contractor licensed in the particular specialty, except that a residential and small commercial contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical work and hire a licensed plumber or electrician as an employee.

(33) "Residential building," as it relates to the license classification of residential journeyman plumber and residential master plumber, means a single or multiple family dwelling of up to four units.

(34) "Residential journeyman electrician" means a person licensed under this chapter as a residential journeyman electrician having the qualifications, training, experience, and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes on buildings using primarily nonmetallic sheath cable.

(35) "Residential journeyman plumber" means a person licensed under this chapter as a residential journeyman plumber having the qualifications, training, experience, and knowledge to engage in the plumbing trade as limited to the plumbing of residential buildings.

(36) "Residential master electrician" means a person licensed under this chapter as a residential master electrician having the qualifications, training, experience, and knowledge to properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment for light, heat, power, and other purposes on residential projects.

(37) "Residential master plumber" means a person licensed under this chapter as a residential master plumber having the qualifications, training, experience, and knowledge to properly plan and layout projects and supervise persons in the plumbing trade as limited to the plumbing of residential buildings.

(38) "Residential project," as it relates to an electrician or electrical contractor, means buildings primarily wired with nonmetallic sheathed cable, in accordance with standard rules and regulations governing this work, including the National Electrical Code, and in which the voltage does not exceed 250 volts line to line and 125 volts to ground.

(39) "Sensitive alarm system information" means:

- (a) a pass code or other code used in the operation of an alarm system;

(b) information on the location of alarm system components at the premises of a customer of the alarm business providing the alarm system;

(c) information that would allow the circumvention, bypass, deactivation, or other compromise of an alarm system of a customer of the alarm business providing the alarm system; and

(d) any other similar information that the division by rule determines to be information that an individual employed by an alarm business should use or have access to only if the individual is licensed as provided in this chapter.

(40) (a) “Specialty contractor” means a person licensed under this chapter under a specialty contractor classification established by rule, who is qualified by education, training, experience, and knowledge to perform those construction trades and crafts requiring specialized skill, the regulation of which are determined by the division to be in the best interest of the public health, safety, and welfare.

(b) A specialty contractor may perform work in crafts or trades other than those in which the specialty contractor is licensed if they are incidental to the performance of the specialty contractor’s licensed craft or trade.

(41) “Unincorporated entity” means an entity that is not:

- (a) an individual;
- (b) a corporation; or
- (c) publicly traded.

(42) “Unlawful conduct” [is as] means the same as that term is defined in Sections 58-1-501 and 58-55-501.

(43) “Unprofessional conduct” [is as] means the same as that term is defined in Sections 58-1-501 and 58-55-502 and as may be further defined by rule.

(44) “Wages” means amounts due to an employee for labor or services whether the amount is fixed or ascertained on a time, task, piece, commission, or other basis for calculating the amount.

Section 3. Section 58-55-302 is amended to read:

58-55-302. Qualifications for licensure.

(1) Each applicant for a license under this chapter shall:

(a) submit an application prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) (i) meet the examination requirements established by rule by the commission with the concurrence of the director, except for the classifications of apprentice plumber and apprentice electrician for whom no examination is required; or

(ii) if required in Section 58-55-304, the individual qualifier must pass the required examination if the applicant is a business entity;

(d) if an apprentice, identify the proposed supervisor of the apprenticeship;

(e) if an applicant for a contractor’s license:

(i) produce satisfactory evidence of financial responsibility, except for a construction trades instructor for whom evidence of financial responsibility is not required;

(ii) produce satisfactory evidence of:

(A) except as provided in Subsection (2)(a), two years full-time paid employment experience in the construction industry, which experience, unless more specifically described in this section, may be related to any contracting classification; and

(B) knowledge of the principles of the conduct of business as a contractor, reasonably necessary for the protection of the public health, safety, and welfare;

(iii) except as otherwise provided by rule by the commission with the concurrence of the director, complete a 20-hour course established by rule by the commission with the concurrence of the director, which course may include:

- (A) construction business practices;
- (B) bookkeeping fundamentals;
- (C) mechanics lien fundamentals; and
- (D) other aspects of business and construction principles considered important by the commission with the concurrence of the director;

(iv) (A) be a licensed master electrician if an applicant for an electrical contractor’s license or a licensed master residential electrician if an applicant for a residential electrical contractor’s license;

(B) be a licensed master plumber if an applicant for a plumbing contractor’s license or a licensed master residential plumber if an applicant for a residential plumbing contractor’s license; or

(C) be a licensed elevator mechanic and produce satisfactory evidence of three years experience as an elevator mechanic if an applicant for an elevator contractor’s license; and

(v) when the applicant is an unincorporated entity, provide a list of the one or more individuals who hold an ownership interest in the applicant as of the day on which the application is filed that includes for each individual:

- (A) the individual’s name, address, birth date, and social security number; and
- (B) whether the individual will engage in a construction trade; and

(f) if an applicant for a construction trades instructor license, satisfy any additional requirements established by rule.

(2) (a) If the applicant for a contractor’s license described in Subsection (1) is a building inspector,

the applicant may satisfy Subsection (1)(e)(ii)(A) by producing satisfactory evidence of two years full-time paid employment experience as a building inspector, which shall include at least one year full-time experience as a licensed combination inspector.

(b) After approval of an applicant for a contractor's license by the applicable board and the division, the applicant shall file the following with the division before the division issues the license:

~~(4a)~~ (i) proof of workers' compensation insurance which covers employees of the applicant in accordance with applicable Utah law;

~~(4b)~~ (ii) proof of public liability insurance in coverage amounts and form established by rule except for a construction trades instructor for whom public liability insurance is not required; and

~~(4c)~~ (iii) proof of registration as required by applicable law with the:

~~(4i)~~ ~~Utah~~ (A) Department of Commerce;

~~(4ii)~~ (B) Division of Corporations and Commercial Code;

~~(4iii)~~ (C) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

~~(4iv)~~ (D) State Tax Commission; and

~~(4v)~~ (E) Internal Revenue Service.

(3) In addition to the general requirements for each applicant in Subsection (1), applicants shall comply with the following requirements to be licensed in the following classifications:

(a) (i) A master plumber shall produce satisfactory evidence that the applicant:

(A) has been a licensed journeyman plumber for at least two years and had two years of supervisory experience as a licensed journeyman plumber in accordance with division rule;

(B) has received at least an associate of applied science degree or similar degree following the completion of a course of study approved by the division and had one year of supervisory experience as a licensed journeyman plumber in accordance with division rule; or

(C) meets the qualifications determined by the division in collaboration with the board to be equivalent to Subsection (3)(a)(i)(A) or (B).

(ii) An individual holding a valid Utah license as a journeyman plumber, based on at least four years of practical experience as a licensed apprentice under the supervision of a licensed journeyman plumber and four years as a licensed journeyman plumber, in effect immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current master plumber license under this chapter, and satisfies the requirements of this Subsection (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303.

(iii) An individual holding a valid plumbing contractor's license or residential plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5, 2008:

(A) considered to hold a current master plumber license under this chapter if licensed as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section 58-55-303; and

(B) considered to hold a current residential master plumber license under this chapter if licensed as a residential plumbing contractor and a residential journeyman plumber, and satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section 58-55-303.

(b) A master residential plumber applicant shall produce satisfactory evidence that the applicant:

(i) has been a licensed residential journeyman plumber for at least two years and had two years of supervisory experience as a licensed residential journeyman plumber in accordance with division rule; or

(ii) meets the qualifications determined by the division in collaboration with the board to be equivalent to Subsection (3)(b)(i).

(c) A journeyman plumber applicant shall produce satisfactory evidence of:

(i) successful completion of the equivalent of at least four years of full-time training and instruction as a licensed apprentice plumber under supervision of a licensed master plumber or journeyman plumber and in accordance with a planned program of training approved by the division;

(ii) at least eight years of full-time experience approved by the division in collaboration with the Plumbers Licensing Board; or

(iii) satisfactory evidence of meeting the qualifications determined by the board to be equivalent to Subsection (3)(c)(i) or (c)(ii).

(d) A residential journeyman plumber shall produce satisfactory evidence of:

(i) completion of the equivalent of at least three years of full-time training and instruction as a licensed apprentice plumber under the supervision of a licensed residential master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in accordance with a planned program of training approved by the division;

(ii) completion of at least six years of full-time experience in a maintenance or repair trade involving substantial plumbing work; or

(iii) meeting the qualifications determined by the board to be equivalent to Subsection (3)(d)(i) or (d)(ii).

(e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be in accordance with the following:

(i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be under the immediate supervision of a licensed master plumber, licensed residential master plumber, licensed journeyman plumber, or a licensed residential journeyman plumber; and

(ii) a licensed apprentice plumber in the fourth through tenth year of training may work without supervision for a period not to exceed eight hours in any 24-hour period, but if the apprentice does not become a licensed journeyman plumber or licensed residential journeyman plumber by the end of the tenth year of apprenticeship, this nonsupervision provision no longer applies.

(f) A master electrician applicant shall produce satisfactory evidence that the applicant:

(i) is a graduate electrical engineer of an accredited college or university approved by the division and has one year of practical electrical experience as a licensed apprentice electrician;

(ii) is a graduate of an electrical trade school, having received an associate of applied sciences degree following successful completion of a course of study approved by the division, and has two years of practical experience as a licensed journeyman electrician;

(iii) has four years of practical experience as a journeyman electrician; or

(iv) meets the qualifications determined by the board to be equivalent to Subsection (3)(f)(i), (ii), or (iii).

(g) A master residential electrician applicant shall produce satisfactory evidence that the applicant:

(i) has at least two years of practical experience as a residential journeyman electrician; or

(ii) meets the qualifications determined by the board to be equivalent to this practical experience.

(h) A journeyman electrician applicant shall produce satisfactory evidence that the applicant:

(i) has successfully completed at least four years of full-time training and instruction as a licensed apprentice electrician under the supervision of a master electrician or journeyman electrician and in accordance with a planned training program approved by the division;

(ii) has at least eight years of full-time experience approved by the division in collaboration with the Electricians Licensing Board; or

(iii) meets the qualifications determined by the board to be equivalent to Subsection (3)(h)(i) or (ii).

(i) A residential journeyman electrician applicant shall produce satisfactory evidence that the applicant:

(i) has successfully completed two years of training in an electrical training program approved by the division;

(ii) has four years of practical experience in wiring, installing, and repairing electrical apparatus and equipment for light, heat, and power under the supervision of a licensed master, journeyman, residential master, or residential journeyman electrician; or

(iii) meets the qualifications determined by the division and applicable board to be equivalent to Subsection (3)(i)(i) or (ii).

(j) The conduct of licensed apprentice electricians and their licensed supervisors shall be in accordance with the following:

(i) A licensed apprentice electrician shall be under the immediate supervision of a licensed master, journeyman, residential master, or residential journeyman electrician. An apprentice in the fourth year of training may work without supervision for a period not to exceed eight hours in any 24-hour period.

(ii) A licensed master, journeyman, residential master, or residential journeyman electrician may have under immediate supervision on a residential project up to three licensed apprentice electricians.

(iii) A licensed master or journeyman electrician may have under immediate supervision on nonresidential projects only one licensed apprentice electrician.

(k) An alarm company applicant shall:

(i) have a qualifying agent who is an officer, director, partner, proprietor, or manager of the applicant who:

(A) demonstrates 6,000 hours of experience in the alarm company business;

(B) demonstrates 2,000 hours of experience as a manager or administrator in the alarm company business or in a construction business; and

(C) passes an examination component established by rule by the commission with the concurrence of the director;

(ii) if a corporation, provide:

(A) the names, addresses, dates of birth, social security numbers, and fingerprint cards of all corporate officers, directors, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state; and

(B) the names, addresses, dates of birth, social security numbers, and fingerprint cards of all shareholders owning 5% or more of the outstanding shares of the corporation, except this shall not be required if the stock is publicly listed and traded;

(iii) if a limited liability company, provide:

(A) the names, addresses, dates of birth, social security numbers, and fingerprint cards of all company officers, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state; and

(B) the names, addresses, dates of birth, social security numbers, and fingerprint cards of all individuals owning 5% or more of the equity of the company;

(iv) if a partnership, provide the names, addresses, dates of birth, social security numbers, and fingerprint cards of all general partners, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;

(v) if a proprietorship, provide the names, addresses, dates of birth, social security numbers, and fingerprint cards of the proprietor, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;

(vi) if a trust, provide the names, addresses, dates of birth, social security numbers, and fingerprint cards of the trustee, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;

(vii) be of good moral character in that officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management personnel have not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that when considered with the duties and responsibilities of an alarm company is considered by the board to indicate that the best interests of the public are served by granting the applicant a license;

(viii) document that none of the applicant's officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management personnel have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(ix) document that none of the applicant's officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel are currently suffering from habitual drunkenness or from drug addiction or dependence;

(x) file and maintain with the division evidence of:

(A) comprehensive general liability insurance in form and in amounts to be established by rule by the commission with the concurrence of the director;

(B) workers' compensation insurance that covers employees of the applicant in accordance with applicable Utah law; and

(C) registration as is required by applicable law with the:

(I) Division of Corporations and Commercial Code;

(II) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

(III) State Tax Commission; and

(IV) Internal Revenue Service; and

(xi) meet with the division and board.

(l) Each applicant for licensure as an alarm company agent shall:

(i) submit an application in a form prescribed by the division accompanied by fingerprint cards;

(ii) pay a fee determined by the department under Section 63J-1-504;

(iii) be of good moral character in that the applicant has not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that when considered with the duties and responsibilities of an alarm company agent is considered by the board to indicate that the best interests of the public are served by granting the applicant a license;

(iv) not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(v) not be currently suffering from habitual drunkenness or from drug addiction or dependence; and

(vi) meet with the division and board if requested by the division or the board.

(m) (i) Each applicant for licensure as an elevator mechanic shall:

(A) provide documentation of experience and education credits of not less than three years work experience in the elevator industry, in construction, maintenance, or service and repair; and

(B) satisfactorily complete a written examination administered by the division established by rule under Section 58-1-203; or

(C) provide certificates of completion of an apprenticeship program for elevator mechanics, having standards substantially equal to those of this chapter and registered with the United States Department of Labor Bureau Apprenticeship and Training or a state apprenticeship council.

(ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator, the contractor may:

(I) notify the division of the unavailability of licensed personnel; and

(II) request the division issue a temporary elevator mechanic license to an individual certified by the contractor as having an acceptable combination of documented experience and education to perform the work described in this Subsection (3)(m)(ii)(A).

(B) (I) The division may issue a temporary elevator mechanic license to an individual certified

under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by the appropriate fee as determined by the department under Section 63J-1-504.

(II) The division shall specify the time period for which the license is valid and may renew the license for an additional time period upon its determination that a shortage of licensed elevator mechanics continues to exist.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing when Federal Bureau of Investigation records shall be checked for applicants as an alarm company or alarm company agent.

(5) To determine if an applicant meets the qualifications of Subsections (3)(k)(vii) and (3)(l)(iii), the division shall provide an appropriate number of copies of fingerprint cards to the Department of Public Safety with the division's request to:

(a) conduct a search of records of the Department of Public Safety for criminal history information relating to each applicant for licensure as an alarm company or alarm company agent and each applicant's officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel; and

(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant requiring a check of records of the Federal Bureau of Investigation for criminal history information under this section.

(6) The Department of Public Safety shall send to the division:

(a) a written record of criminal history, or certification of no criminal history record, as contained in the records of the Department of Public Safety in a timely manner after receipt of a fingerprint card from the division and a request for review of Department of Public Safety records; and

(b) the results of the Federal Bureau of Investigation review concerning an applicant in a timely manner after receipt of information from the Federal Bureau of Investigation.

(7) (a) The division shall charge each applicant for licensure as an alarm company or alarm company agent a fee, in accordance with Section 63J-1-504, equal to the cost of performing the records reviews under this section.

(b) The division shall pay the Department of Public Safety the costs of all records reviews, and the Department of Public Safety shall pay the Federal Bureau of Investigation the costs of records reviews under this section.

(8) Information obtained by the division from the reviews of criminal history records of the Department of Public Safety and the Federal Bureau of Investigation shall be used or disseminated by the division only for the purpose of

determining if an applicant for licensure as an alarm company or alarm company agent is qualified for licensure.

(9) (a) An application for licensure under this chapter shall be denied if:

(i) the applicant has had a previous license, which was issued under this chapter, suspended or revoked within one year prior to the date of the applicant's application;

(ii) (A) the applicant is a partnership, corporation, or limited liability company; and

(B) any corporate officer, director, shareholder holding 25% or more of the stock in the applicant, partner, member, agent acting as a qualifier, or any person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant has served in any similar capacity with any person or entity which has had a previous license, which was issued under this chapter, suspended or revoked within one year prior to the date of the applicant's application;

(iii) (A) the applicant is an individual or sole proprietorship; and

(B) any owner or agent acting as a qualifier has served in any capacity listed in Subsection (9)(a)(ii)(B) in any entity which has had a previous license, which was issued under this chapter, suspended or revoked within one year prior to the date of the applicant's application; or

(iv) (A) the applicant includes an individual who was an owner, director, or officer of an unincorporated entity at the time the entity's license under this chapter was revoked; and

(B) the application for licensure is filed within 60 months after the revocation of the unincorporated entity's license.

(b) An application for licensure under this chapter shall be reviewed by the appropriate licensing board prior to approval if:

(i) the applicant has had a previous license, which was issued under this chapter, suspended or revoked more than one year prior to the date of the applicant's application;

(ii) (A) the applicant is a partnership, corporation, or limited liability company; and

(B) any corporate officer, director, shareholder holding 25% or more of the stock in the applicant, partner, member, agent acting as a qualifier, or any person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant has served in any similar capacity with any person or entity which has had a previous license, which was issued under this chapter, suspended or revoked more than one year prior to the date of the applicant's application; or

(iii) (A) the applicant is an individual or sole proprietorship; and

(B) any owner or agent acting as a qualifier has served in any capacity listed in Subsection (9)(b)(ii)(B) in any entity which has had a previous

license, which was issued under this chapter, suspended or revoked more than one year prior to the date of the applicant's application.

(10) (a) (i) A licensee that is an unincorporated entity shall file an ownership status report with the division every 30 days after the day on which the license is issued if the licensee has more than five owners who are individuals who:

(A) own an interest in the contractor that is an unincorporated entity;

(B) own, directly or indirectly, less than an 8% interest, as defined by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in the unincorporated entity; and

(C) engage, or will engage, in a construction trade in the state as owners of the contractor described in Subsection (10)(a)(i)(A).

(ii) If the licensee has five or fewer owners described in Subsection (10)(a)(i), the licensee shall provide the ownership status report with an application for renewal of licensure.

(b) An ownership status report required under this Subsection (10) shall:

(i) specify each addition or deletion of an owner:

(A) for the first ownership status report, after the day on which the unincorporated entity is licensed under this chapter; and

(B) for a subsequent ownership status report, after the day on which the previous ownership status report is filed;

(ii) be in a format prescribed by the division that includes for each owner, regardless of the owner's percentage ownership in the unincorporated entity, the information described in Subsection(1)(e)(v);

(iii) list the name of:

(A) each officer or manager of the unincorporated entity; and

(B) each other individual involved in the operation, supervision, or management of the unincorporated entity; and

(iv) be accompanied by a fee set by the division in accordance with Section 63J-1-504 if the ownership status report indicates there is a change described in Subsection (10)(b)(i).

(c) The division may, at any time, audit an ownership status report under this Subsection (10):

(i) to determine if financial responsibility has been demonstrated or maintained as required under Section 58-55-306; and

(ii) to determine compliance with Subsection 58-55-501(24), (25), or (27) or Subsection 58-55-502(8) or (9).

(11) (a) An unincorporated entity that provides labor to an entity licensed under this chapter by providing an individual who owns an interest in the

unincorporated entity to engage in a construction trade in Utah shall file with the division:

(i) before the individual who owns an interest in the unincorporated entity engages in a construction trade in Utah, a current list of the one or more individuals who hold an ownership interest in the unincorporated entity that includes for each individual:

(A) the individual's name, address, birth date, and social security number; and

(B) whether the individual will engage in a construction trade; and

(ii) every 30 days after the day on which the unincorporated entity provides the list described in Subsection (11)(a)(i), an ownership status report containing the information that would be required under Subsection (10) if the unincorporated entity were a licensed contractor.

(b) When filing an ownership list described in Subsection (11)(a)(i) or an ownership status report described in Subsection (11)(a)(ii), an unincorporated entity shall pay a fee set by the division in accordance with Section 63J-1-504.

(12) This chapter may not be interpreted to create or support an express or implied independent contractor relationship between an unincorporated entity described in Subsection (10) or (11) and the owners of the unincorporated entity for any purpose, including income tax withholding.

(13) A social security number provided under Subsection (1)(e)(v) is a private record under Subsection 63G-2-302(1)(i).

CHAPTER 269**H. B. 308**

Passed March 9, 2016

Approved March 25, 2016

Effective May 10, 2016

DISEASE PREVENTION AND SUBSTANCE ABUSE REDUCTION AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Brian E. Shiozawa

LONG TITLE**General Description:**

This bill amends the Utah Health Code.

Highlighted Provisions:

This bill:

- ▶ authorizes the operation of syringe exchange programs in the state;
- ▶ specifies the requirements a syringe exchange program must meet;
- ▶ requires the department to report to the Legislature every two years on the activities and outcomes of syringe programs operating in the state; and
- ▶ requires rulemaking by the department.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

26-7-8, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-7-8 is enacted to read:**26-7-8. Syringe exchange and education.**

(1) The following may operate a syringe exchange program in the state to prevent the transmission of disease and reduce morbidity and mortality among individuals who inject drugs, and those individuals' contacts:

- (a) a government entity, including:
 - (i) the department;
 - (ii) a local health department, as defined in Section 26A-1-102;
 - (iii) the Division of Substance Abuse and Mental Health within the Department of Human Services; or
 - (iv) a local substance abuse authority, as defined in Section 62A-15-102;
- (b) a nongovernment entity, including:
 - (i) a nonprofit organization; or
 - (ii) a for-profit organization; or
 - (c) any other entity that complies with Subsections (2) and (3).
- (2) An entity operating a syringe exchange program in the state shall:

(a) facilitate the exchange of an individual's used syringe for one or more new syringes in sealed sterile packages;

(b) ensure that a recipient of a new syringe is given verbal and written instruction on:

(i) methods for preventing the transmission of blood-borne diseases, including hepatitis C and human immunodeficiency virus; and

(ii) options for obtaining:

(A) services for the treatment of a substance use disorder;

(B) testing for a blood-borne disease; and

(C) an opiate antagonist under Chapter 55, Opiate Overdose Response Act; and

(c) report annually to the department the following information about the program's activities:

(i) the number of individuals who have exchanged syringes;

(ii) the number of used syringes exchanged for new syringes; and

(iii) the number of new syringes provided in exchange for used syringes.

(3) No later than October 1, 2017, and every two years thereafter, the department shall report to the Legislature's Health and Human Services Interim Committee on:

(a) the activities and outcomes of syringe programs operating in the state, including:

(i) the number of individuals who have exchanged syringes;

(ii) the number of used syringes exchanged for new syringes;

(iii) the number of new syringes provided in exchange for used syringes;

(iv) the impact of the programs on blood-borne infection rates; and

(v) the impact of the programs on the number of individuals receiving treatment for a substance use disorder;

(b) the potential for additional reductions in the number of syringes contaminated with blood-borne disease if the programs receive additional funding;

(c) the potential for additional reductions in state and local government spending if the programs receive additional funding;

(d) whether the programs promote illicit use of drugs; and

(e) whether the programs should be continued, continued with modifications, or terminated.

(4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how and when an entity operating a syringe exchange program shall make the report required by Subsection (2)(c).

CHAPTER 270**H. B. 323**

Passed March 10, 2016
 Approved March 25, 2016
 Effective May 10, 2016

**CONTINUING CARE RETIREMENT
COMMUNITY AMENDMENTS**

Chief Sponsor: Earl D. Tanner
 Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill enacts provisions related to continuing care providers.

Highlighted Provisions:

This bill:

- ▶ includes a continuing care provider within the jurisdiction of the Insurance Department;
- ▶ authorizes the commissioner to create a continuing care advisory committee;
- ▶ provides operating requirements for a continuing care provider;
- ▶ requires a continuing care provider to register with the Insurance Department;
- ▶ provides form and content requirements for a continuing care contract;
- ▶ requires a continuing care provider to make certain disclosures;
- ▶ provides requirements for a successor to a continuing care provider's assets;
- ▶ grants rulemaking and enforcement authority to the Insurance Department;
- ▶ imposes criminal and civil penalties; and
- ▶ creates a private right of action.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

31A-44-101, Utah Code Annotated 1953
 31A-44-102, Utah Code Annotated 1953
 31A-44-103, Utah Code Annotated 1953
 31A-44-104, Utah Code Annotated 1953
 31A-44-201, Utah Code Annotated 1953
 31A-44-202, Utah Code Annotated 1953
 31A-44-203, Utah Code Annotated 1953
 31A-44-204, Utah Code Annotated 1953
 31A-44-205, Utah Code Annotated 1953
 31A-44-206, Utah Code Annotated 1953
 31A-44-301, Utah Code Annotated 1953
 31A-44-302, Utah Code Annotated 1953
 31A-44-303, Utah Code Annotated 1953
 31A-44-304, Utah Code Annotated 1953
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 31A-44-314, Utah Code Annotated 1953

31A-44-401, Utah Code Annotated 1953
 31A-44-402, Utah Code Annotated 1953
 31A-44-403, Utah Code Annotated 1953
 31A-44-404, Utah Code Annotated 1953
 31A-44-405, Utah Code Annotated 1953
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 31A-44-505, Utah Code Annotated 1953
 31A-44-506, Utah Code Annotated 1953
 31A-44-601, Utah Code Annotated 1953
 31A-44-602, Utah Code Annotated 1953
 31A-44-603, Utah Code Annotated 1953
 31A-44-604, Utah Code Annotated 1953
 31A-44-605, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-44-101 is enacted to read:

**CHAPTER 44. CONTINUING CARE
PROVIDER ACT****31A-44-101. Title.**

This chapter is known as the "Continuing Care Provider Act."

Section 2. Section 31A-44-102 is enacted to read:

31A-44-102. Definitions.

As used in this chapter:

(1) "Continuing care" means the furnishing to an individual, other than by an individual related to the individual by blood, marriage, or adoption, of lodging together with nursing services, medical services, or other related services pursuant to a contract requiring an entrance fee.

(2) "Continuing care contract" means a contract under which a provider provides continuing care to a resident.

(3) (a) "Entrance fee" means an initial or deferred transfer to a provider of a sum of money or property made or promised to be made as full or partial consideration for acceptance of a specified individual as a resident in a facility.

(b) "Entrance fee" includes a monthly fee, assessed at a rate that is greater than the value of the provider's monthly services, that a resident agrees to pay in exchange for acceptance into a facility or a promise of future monthly fees assessed at a rate that is less than the value of the services rendered.

(c) "Entrance fee" does not include an amount less than the sum of the regular period charges for three months of residency in a facility.

(d) "Entrance fee" does not include a deposit of less than \$1,000 made under a reservation agreement.

(4) "Facility" means a place in which a person provides continuing care.

(5) "Living unit" means a room, apartment, cottage, or other area within a facility set aside for

the exclusive use or control of one or more identified individuals.

(6) "Provider" means:

(a) the owner of a facility;

(b) a person, other than a resident, that claims a possessory interest in a facility; or

(c) a person who enters into a continuing care contract with a resident or potential resident.

(7) "Provider disclosure statement" means, for a given provider, the disclosure statement described in Section 31A-44-301.

(8) "Reservation agreement" means an agreement that requires the payment of a deposit to reserve a living unit for a prospective resident.

(9) "Resident" means an individual entitled to receive continuing care in a facility pursuant to a continuing care contract.

Section 3. Section 31A-44-103 is enacted to read:

31A-44-103. Advisory committee.

(1) The commissioner may convene a continuing care advisory committee to advise the department on issues related to the continuing care industry, continuing care facility residents, and the department's duties under this chapter.

(2) The committee described in Subsection (1) shall consist of five members appointed by the department as follows:

(a) a representative from an organization that advocates for the elderly;

(b) a representative of nursing homes;

(c) a representative from the continuing care industry;

(d) a representative from the insurance community; and

(e) a member of the general public who is a resident of a continuing care facility.

(3) (a) Except as required by Subsection (3)(b), the term of a member of the committee shall be four years and expire on July 1.

(b) The commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members are staggered so that approximately half of the committee is appointed every two years.

(4) A member of the committee shall serve until the member's successor is appointed and qualified.

(5) When a vacancy occurs in the committee's membership, the department shall appoint a replacement.

(6) The department may dismiss and replace members of the committee at the department's discretion.

(7) The department may designate a chair of the committee.

(8) The committee shall meet when called by the department.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(10) The department shall staff the committee.

Section 4. Section 31A-44-104 is enacted to read:

31A-44-104. Scope of regulation -- When compliance required.

(1) The regulation of providers under this chapter does not limit or replace regulation by any other governmental entity of continuing care facilities or providers.

(2) The department may not regulate, or in any manner inquire into, the quality of care provided in a facility.

(3) A record that the department receives from a provider that is not required to be part of a disclosure statement under this chapter is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(4) The department shall determine the amount of any fee required under this chapter, in accordance with Section 63J-1-504, and in an amount that covers the department's cost to administer this chapter.

(5) A provider that begins a continuing care facility project on or before May 10, 2016, is not required to comply with this chapter until May 10, 2017.

Section 5. Section 31A-44-201 is enacted to read:

Part 2. Registration

31A-44-201. Registration required.

(1) A person may not provide or offer to provide continuing care unless the person is registered with the department.

(2) A registration expires on December 31 of a given year, unless a provider renews the provider's registration under Section 31A-44-203.

Section 6. Section 31A-44-202 is enacted to read:

31A-44-202. Registration.

(1) To register under this part, a person shall:

(a) pay an original registration fee established by the department in accordance with Section 63J-1-504; and

(b) submit a registration statement, in a form approved by the department, that contains the information described in Subsection (2).

(2) A provider's registration statement shall include:

(a) the provider disclosure described in Section 31A-44-301;

(b) a copy of the continuing care contract that the provider will propose to a prospective facility resident;

(c) evidence that the provider's facility is located or will be located in a zone that a municipality or county has zoned for continuing care facilities; and

(d) information required by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) The department shall accept or deny a registration no later than 180 days after the day on which the provider applies for registration.

Section 7. Section 31A-44-203 is enacted to read:

31A-44-203. Renewal process.

In order to renew a registration under this section, a provider shall:

(1) pay an annual fee established by the department in accordance with Section 63J-1-504;

(2) submit an updated provider disclosure statement that complies with Section 31A-44-301;

(3) submit a copy of the most recent version of the continuing care contract the provider will propose to a prospective facility resident; and

(4) comply with rules made by the department under Subsection 31A-44-202(2).

Section 8. Section 31A-44-204 is enacted to read:

31A-44-204. Actuarial review.

(1) (a) This section applies only to a provider that directly or indirectly offers a future guarantee of continuing care that the department determines develops current actuarial liabilities.

(b) This section does not apply to a provider that offers continuing care under a fee-for-service model with a required entrance fee.

(2) A provider subject to this section shall file, with the department, an actuarial review:

(a) upon being notified of the department's determination; and

(b) on a day designated by the department in the year five years after the day on which the department last received an actuarial review from the provider.

(3) The department may require an actuarial review in addition to the actuarial reviews required by Subsection (2) if the department determines that the provider shows an indication of financial instability.

Section 9. Section 31A-44-205 is enacted to read:

31A-44-205. Suspension or revocation of registration.

The department may suspend or revoke a provider's registration if the provider intentionally violates this chapter.

Section 10. Section 31A-44-206 is enacted to read:

31A-44-206. Management by others.

A provider may not contract for total management of a facility unless the provider notifies the department.

Section 11. Section 31A-44-301 is enacted to read:

Part 3. Provider Disclosure

31A-44-301. Precontractual recording requirements.

(1) A provider shall file with the department a current disclosure statement that meets the requirements of this part.

(2) A provider shall comply with Subsection (1) before the provider:

(a) contracts to provide continuing care to a resident in this state;

(b) extends the term of an existing continuing care contract with a resident in this state that requires a person to pay an entrance fee, regardless of whether the extended continuing care contract requires an entrance fee; or

(c) solicits or offers, or directs another person to solicit or offer, a continuing care contract to a resident of the state.

(3) A provider solicits or offers a contract under Subsection (2)(c), if, after 12 months before the day on which a party to a continuing care contract signs or accepts a continuing care contract, the provider or a person acting on behalf of the provider gives information concerning the facility or the availability of a continuing care contract for the facility:

(a) in a direct communication to an individual in the state; or

(b) in a paid advertisement published in or broadcast from the state, except for a paid advertisement in a publication with more than two-thirds of the publication's circulation outside of the state.

Section 12. Section 31A-44-302 is enacted to read:

31A-44-302. Delivery of disclosure statement.

(1) A provider shall deliver a disclosure statement to an individual before the earlier of the date:

(a) the provider executes a continuing care contract with the individual; or

(b) the individual transfers an entrance fee or a nonrefundable deposit to the provider.

(2) The most recently filed disclosure statement:

(a) is current for the purpose of this chapter; and

(b) is the only disclosure statement that satisfies the requirements described in Subsection (1).

Section 13. Section 31A-44-303 is enacted to read:

31A-44-303. Cover page of disclosure statement.

The cover page of a disclosure statement shall state:

(1) the disclosure statement's date in a prominent location and in type that is boldfaced, capitalized, underlined, or otherwise set out from the surrounding written material so as to be conspicuous;

(2) that the provider is required to deliver a disclosure statement to an individual before the provider executes a continuing care contract with the individual or accepts payment of an entrance fee or a nonrefundable deposit from the individual; and

(3) that the disclosure statement has not been approved by a government agency to ensure the disclosure statement's accuracy.

Section 14. Section 31A-44-304 is enacted to read:

31A-44-304. Disclosure statement -- Contents -- Provider characteristics.

A provider disclosure statement shall contain:

(1) the name and business address of each provider officer, director, trustee, and managing or general partner of the provider;

(2) the name and business address of each person who has at least a 10% interest in the provider and a description of the person's interest in or occupation with the provider;

(3) a statement of whether the continuing care provider is a for-profit or not-for-profit entity, and a statement of the provider's tax-exempt status, if any;

(4) (a) the location and a description of the proposed or existing physical property of the facility; and

(b) if the physical property is proposed:

(i) the property's estimated completion date;

(ii) whether construction has begun; and

(iii) conditions known to the provider under which the property's construction could be deferred;

(5) if the provider intends to contract with a person other than an employee of the provider to manage the operations of the facility:

(a) a description of the person's experience in the operation or management of a continuing care or similar facility;

(b) a description of any entity that controls or is controlled by the person that proposes to provide goods, leases, or services to residents of the facility, of an aggregate value of \$500 or greater in a year;

(c) a description of any goods, leases, or services described in Subsection (5)(b), and a statement of the probable or anticipated cost to the facility, provider, or residents for the goods, leases, or services, or a statement that the provider is unable to estimate the cost; and

(d) a description of any matter in which the person:

(i) has been convicted of a felony;

(ii) is subject to a restrictive court order; or

(iii) has had a state or federal license revoked as a result of a matter related to a continuing care facility or a related health care field; and

(6) (a) any religious, charitable, or nonprofit organization affiliated with the provider;

(b) the extent of the affiliation and the extent to which the organization is responsible for contractual or financial obligations of the provider; and

(c) the organization's tax-exempt status, if any.

Section 15. Section 31A-44-305 is enacted to read:

31A-44-305. Disclosure statement -- Contents -- Contract.

A provider disclosure statement shall include a description of the following provisions contained in the provider's continuing care contract:

(1) a description of the services provided under the provider's proposed continuing care contract, including a description of:

(a) the extent to which the provider will offer or provide medical care to a resident; and

(b) the services the provider includes under the contract, and the services the provider offers at an extra charge;

(2) the fees the provider requires a resident to pay, including any entrance fees or periodic charges;

(3) a description of the conditions, in the provider's continuing care contract, under which:

(a) a provider or a resident may cancel the continuing care contract;

(b) a provider will refund all or part of an entrance fee; or

(c) a provider may adjust a fee the provider charges a resident and any limitations on those adjustments;

(4) any health or financial criteria that a resident is required to meet under the continuing care contract for acceptance to the facility or for the resident to continue living in the facility, including the effect of any change in the health or financial

condition of an individual between the date of the continuing care contract and the date on which the individual initially occupies a living unit;

(5) the provider's policy for the spouse of a resident, regarding:

(a) the conditions under which the spouse is allowed to live in the resident's unit; and

(b) the financial or other consequences to the resident if the spouse does not meet the requirements for admission;

(6) the provider's policy regarding changes in the number of people residing in a living unit because of marriage or other relationships;

(7) the conditions under which a living unit occupied by a resident may be made available by the provider to a different resident other than on the death of the previous resident; and

(8) the number of continuing care contracts terminated, other than by the resident's death, at the provider's facility in the state during the three most recent calendar years.

Section 16. Section 31A-44-306 is enacted to read:

31A-44-306. Disclosure statement -- Contents -- Health care information.

The provider disclosure statement shall include:

(1) a description of the facility as an independent living, assisted living, or nursing care facility, or a combination of facility types;

(2) a general description of medical services provided at the facility in addition to assisted living services and nursing care services;

(3) a statement as to whether the facility accepts Medicare and Medicaid reimbursements; and

(4) notice of the online federal nursing care facility database and the online federal nursing care facility database's Internet address.

Section 17. Section 31A-44-307 is enacted to read:

31A-44-307. Disclosure statement -- Contents -- Financial information.

The provider disclosure statement shall:

(1) describe any provisions the provider made or will make to provide reserve funding or security to enable the provider to fully perform the provider's obligations under a continuing care contract, including:

(a) the establishment of an escrow account, trust, or reserve fund, and the manner in which the provider will invest the account, trust, or reserve funds; and

(b) the name and experience of an individual in the provider's direct employment who will make the investment decisions;

(2) contain a provider financial statement, prepared in accordance with generally accepted

accounting principles, and audited by an independent certified public account, that includes:

(a) a balance sheet as of the end of the most recent fiscal year;

(b) an income statement for each of the three most recent fiscal years; and

(c) a cash flow statement for each of the three most recent fiscal years.

Section 18. Section 31A-44-308 is enacted to read:

31A-44-308. Anticipated source and application of funds.

If a provider's facility is not in operation, the provider disclosure statement shall include a statement of the provider's anticipated source and application of funds to be used in the purchase or construction of the facility, including:

(1) an estimate of the cost of purchasing or constructing and of equipping the facility, including financing expenses, legal expenses, land costs, occupancy development costs, and any other costs that the provider expects to incur or to become obligated to pay before the facility begins operating;

(2) a description of any mortgage loan or other long-term financing arrangement for the facility, including the anticipated terms and costs of the financing;

(3) an estimate of the total entrance fees to be received from, or on behalf of, residents before the facility begins operation; and

(4) an estimate of any funds the provider anticipates are necessary to cover the facility's initial losses.

Section 19. Section 31A-44-309 is enacted to read:

31A-44-309. Standard contract form.

(1) A provider shall attach a copy of the provider's standard contract form to a disclosure statement.

(2) The standard contract form shall specify the refund provisions of Sections 31A-44-312 and 31A-44-313.

Section 20. Section 31A-44-310 is enacted to read:

31A-44-310. Annual disclosure statement revision.

(1) A provider shall file a revised disclosure statement with the department before 120 days after the day on which the provider's fiscal year ends.

(2) The revised disclosure statement shall revise, as of the end of the provider's fiscal year, the information required by this part.

(3) The revised disclosure statement shall describe any material differences between:

(a) the estimated income statements filed under Section 31A-44-307 as a part of the disclosure statement the provider filed after the start of the provider's most recently completed fiscal year; and

(b) the actual result of operations during that fiscal year with the revised estimated income statements filed as a part of the revised disclosure statement.

(4) A provider may revise the provider's disclosure statement and may file a revised disclosure statement at any time if, in the provider's opinion, a revision is necessary to prevent a disclosure statement from containing a material misstatement of fact or omitting a material fact required by this part.

(5) The department:

(a) shall review the disclosure statement for completeness; and

(b) is not required to review the disclosure statement for accuracy.

Section 21. Section 31A-44-311 is enacted to read:

31A-44-311. Advertisement in conflict with disclosures.

A provider may not engage in any type of advertisement for a continuing care contract or facility if the advertisement contains a statement or representation in conflict with the disclosures required under this part.

Section 22. Section 31A-44-312 is enacted to read:

31A-44-312. Rescission of contract -- Required language.

(1) An individual who executes a continuing care contract with a provider may rescind the contract at any time before the later of:

(a) midnight on the day seven days after the day on which the individual executes the continuing care contract; or

(b) a time specified in the continuing care contract that is:

(i) after the day on which the continuing care contract is executed; or

(ii) after the day on which the individual receives a disclosure statement that meets the requirements of this part.

(2) A provider may not require an individual who executes a continuing care contract with the provider to move into a facility before the end of the rescission period described in Subsection (1).

(3) If an individual rescinds a continuing care contract under this section, the provider shall refund any money or property that the individual transferred to the provider, other than periodic charges specified in the contract and applicable only to the period the individual occupied a living unit, before 30 days after the day on which the individual rescinds the contract.

(4) A continuing care contract shall include the following statement, or a substantially equivalent statement, in type that is boldfaced, capitalized,

underlined, or otherwise set out from the surrounding written material so as to be conspicuous:

"You may cancel this contract at any time before midnight on the day seven days after the day on which you sign the contract, or before a later day if specified in the contract that is after the later of the day on which you sign the contract or you receive the facility's disclosure statement. If you elect to cancel the contract, you are required to cancel the contract in writing, and you are entitled to receive a refund of all assets transferred other than periodic charges applicable to the time you occupied your living unit."

(5) In addition to Subsection (4), a continuing care contract shall include the following statement in type that is boldfaced, capitalized, underlined, or otherwise set out from the surrounding written material so as to be conspicuous:

"This document, if executed, constitutes a legal and binding contract between you and _____ (Legal name of the continuing care provider). You may wish to consult a legal or financial advisor before signing, although it is not required that you do so to make this contract binding."

Section 23. Section 31A-44-313 is enacted to read:

31A-44-313. Cancellation of contract -- Death or incapacity before occupancy.

(1) A continuing care contract to provide continuing care in a living unit in a facility is cancelled if the resident:

(a) dies before occupying a living unit in the facility; or

(b) is precluded under the terms of the contract from occupying a living unit in the facility because of illness, injury, or incapacity.

(2) If a continuing care contract is cancelled under this section, the resident or the resident's legal representative is entitled to a refund of all money or property transferred to the provider, minus:

(a) any nonstandard costs specifically incurred by the provider or facility at the request of the resident that are described in the contract or in an addendum to the contract signed by the resident; and

(b) a reasonable service charge, if set out in the contract, that may not exceed the greater of:

(i) \$1,000; or

(ii) 2% of the entrance fee.

Section 24. Section 31A-44-314 is enacted to read:

31A-44-314. Disclosure statement fees.

A provider that files a disclosure statement under this chapter shall pay to the department a fee established by the department in accordance with Section 63J-1-504.

Section 25. Section 31A-44-401 is enacted to read:

Part 4. Operations

31A-44-401. Continuing care contract requirements -- No waiver.

(1) A continuing care contract shall:

(a) provide that the provider shall refund the portion of a resident's entrance fee that the provider has agreed to refund, if any, no later than the earlier of:

(i) 30 days after the day on which the resident's living unit is occupied by a new resident; or

(ii) one year after the day on which the resident ceases to occupy the resident's living unit, unless the provider proves that the provider has made and is making a good faith effort to find another resident for the living unit at the lowest entrance fee that is acceptable to the resident ceasing to occupy the living unit;

(b) provide that the resident may terminate the continuing care contract upon giving notice of termination:

(i) with or without cause; and

(ii) clearly stating what portion of the entrance fee the provider will refund and the date by which the provider will make the refund; and

(c) provide that a continuing care contract is terminated by the resident's death and clearly state:

(i) what portion of the entrance fee the provider will refund in the event of the resident's death;

(ii) the date before which the provider will make the refund; and

(iii) to whom the provider will make the refund.

(2) A continuing care contract may permit involuntary dismissal of a resident from a continuing care facility upon a reasonable determination by the provider that the resident's health and well-being require termination of the continuing care contract.

(3) If a resident is dismissed under Subsection (2) and is in a condition of financial hardship, as defined by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the provider shall refund the resident's entrance fee:

(a) in an amount provided in the continuing care contract; and

(b) before the earlier of:

(i) a time provided in the continuing care contract; and

(ii) 60 days after the day on which the provider dismisses the resident from the facility.

(4) A resident may not waive a provision of this chapter by agreement.

Section 26. Section 31A-44-402 is enacted to read:

31A-44-402. Actuarial reserve -- Department may require.

(1) The department may require a provider that the department determines has actuarial liability under Section 31A-44-204 to create an additional reserve fund to offset the actuarial liability.

(2) The department may require the additional reserve fund described in Subsection (1) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 27. Section 31A-44-403 is enacted to read:

31A-44-403. Resident advisory committee.

(1) A provider shall maintain, beginning no later than two years after the day on which a facility is operational, a resident advisory committee for the facility that meets the requirements of this section.

(2) A resident advisory committee shall:

(a) consist of no fewer than the lesser of five residents or all residents;

(b) meet no less than once per month; and

(c) discuss resident concerns and communications relevant to the provider or the facility.

(3) A provider shall:

(a) meet with the resident advisory committee no fewer than three times per year; and

(b) distribute a provider disclosure statement to the resident advisory committee each time the provider is required to renew the provider disclosure statement under Section 31A-44-301.

Section 28. Section 31A-44-404 is enacted to read:

31A-44-404. Nondisturbance of residents.

(1) A person may not directly or indirectly disturb the rights of a resident or third party beneficiary under a continuing care contract and this chapter if the resident has substantially performed the resident's obligations under the continuing care contract.

(2) If the person to whom a resident owes performance under the continuing care contract is contested, and a court has not issued a temporary or permanent order resolving the contest:

(a) the department may appoint a temporary receiver to receive the performance of the resident; and

(b) a court may appoint a receiver upon petition by the department.

(3) A person that succeeds a provider in the provider's interest in a facility is bound by every continuing care contract concerning the facility, including a continuing care contract that provides for the return of entrance fees.

Section 29. Section 31A-44-405 is enacted to read:

31A-44-405. Continuing care facilities not exempt from property tax.

Notwithstanding any tax-exempt status of a provider or facility, a provider or facility is liable for property tax due under Title 59, Chapter 2, Property Tax Act.

Section 30. Section 31A-44-501 is enacted to read:

Part 5. Rehabilitation and Liquidation

31A-44-501. Application for court order for rehabilitation or liquidation.

(1) The department may request that the attorney general petition a district court in the state, or a federal bankruptcy court that has exercised jurisdiction over a provider's facility, for an order that appoints a trustee to rehabilitate or liquidate the facility if:

(a) the department determines that:

(i) the provider is financially unsound or is unable to meet the income or available cash projections described in the provider's disclosure statement; and

(ii) the provider's ability to fully perform the provider's obligations under a continuing care contract is endangered; or

(b) the provider is bankrupt, insolvent, or has filed for protection from creditors under a federal or state reorganization, bankruptcy, or insolvency law.

(2) A court that evaluates a petition filed under Subsection (1) regarding a provider:

(a) shall evaluate the best interests of a person that has contracted with the provider; and

(b) may require the proceeds of a lien imposed under Section 31A-44-601 to be used to pay an entrance fee to another facility on behalf of a resident of the provider's facility.

Section 31. Section 31A-44-502 is enacted to read:

31A-44-502. Order to rehabilitate.

A court order to rehabilitate a facility under Section 31A-44-501 may direct a trustee to:

(1) take possession of the provider's property in order to conduct the provider's business, including employing any manager or agent that the trustee considers necessary; and

(2) take action as directed by the court to eliminate the causes and conditions that made rehabilitation necessary, which action may include:

(a) selling the facility through bankruptcy or receivership proceedings; and

(b) requiring a purchaser of the facility to honor any continuing care contract for the facility.

Section 32. Section 31A-44-503 is enacted to read:

31A-44-503. Order to liquidate.

(1) If the trustee determines that further efforts to rehabilitate a provider's facility are impractical

or useless, the trustee may petition a court for liquidation of the facility.

(2) A court that issues an order to liquidate a facility under Subsection (1) shall appoint a trustee to collect and liquidate all of the provider's assets located in this state.

(3) An individual may not enter into a continuing care contract at a facility after a court enters an order to liquidate the facility.

Section 33. Section 31A-44-504 is enacted to read:

31A-44-504. Bond.

A court may refuse to make or vacate an order to rehabilitate a provider's facility under this part if the provider posts a bond that is:

(1) in an amount that the court determines is equal to the reserve funding the provider needs to fulfill the provider's obligations under all of the continuing care contracts for the facility;

(2) issued by a recognized surety authorized to do business in the state; and

(3) executed in favor of the state on behalf of any individual entitled to an entrance fee refund or other damages from the provider.

Section 34. Section 31A-44-505 is enacted to read:

31A-44-505. Termination of rehabilitation.

(1) A court may terminate a rehabilitation of a provider's facility and order the return of the facility and the facility's assets to the provider if the court determines:

(a) the objectives of the order to rehabilitate the facility have been accomplished; and

(b) the facility may be returned to the provider without further jeopardy to the facility's residents, creditors, or owners, or the public.

(2) A court may enter an order under this section after the court enters:

(a) a full report and accounting of the conduct of the facility's affairs during the rehabilitation; and

(b) a report on the facility's financial condition.

Section 35. Section 31A-44-506 is enacted to read:

31A-44-506. Payment of trustee.

A trustee's reasonable costs, expenses, and fees are payable from a provider's or facility's assets.

Section 36. Section 31A-44-601 is enacted to read:

Part 6. Enforcement

31A-44-601. Lien held by the commissioner in favor of a resident or a group of residents.

(1) To secure the obligations of the provider to a resident or a group of residents under a continuing care contract, the commissioner holds a lien in favor of the resident or group of residents that attaches on

the day the notice described in Subsection (3) is recorded as provided in Subsection (4).

(2) A lien described in Subsection (1) covers the real and personal property of the provider.

(3) The provider shall prepare, for each county where the provider has an interest in real or personal property, a written notice, sworn to by an officer of the provider, that contains:

(a) the name of the provider;

(b) a legal description of the provider's real or personal property; and

(c) a statement that the real or personal property is subject to this chapter and to the lien imposed by this section.

(4) The provider shall record the notice described in Subsection (3) in the real property records of each county where the provider has real property on or before the date the provider first executes a continuing care contract for the facility.

(5) Except as provided in Subsection (6), the lien described in Subsection (1) is subordinate to a lien on the property of the provider.

(6) The amount of a lien on the provider's property that is superior to a lien described in Subsection (1) is limited to the portion of the funds secured by the lien that the provider uses to:

(a) construct, acquire, replace, or improve a facility;

(b) refinance the portion of a loan used to construct, acquire, replace, or improve a facility;

(c) pay, for a loan related to the facility, a reasonable loan fee, a loan expense, or loan interest; or

(d) pay reasonable operating costs of the facility.

(7) If a lien on the property of the provider is superior to a lien described in Subsection (1), a provider may only use an entrance fee to:

(a) reduce a debt secured by a superior lien;

(b) construct, acquire, replace, or improve a facility;

(c) fund reserves for the provider's actuarial debt under continuing care contracts for a facility;

(d) refund an entrance fee of a resident of a facility;

(e) pay a facility resident's debt to the provider for a recurring fee due under the resident's continuing care contract; or

(f) pay an amount for a purpose approved by the commissioner.

(8) The commissioner may judicially foreclose a lien described in Subsection (1) if property subject to the lien is liquidated or the provider is insolvent or bankrupt.

(9) The commissioner shall use the proceeds from a lien foreclosed under Subsection (8) to satisfy the provider's obligations under any continuing care contract in effect on the day the commissioner forecloses the lien.

Section 37. Section 31A-44-602 is enacted to read:

31A-44-602. Enforcement by department -- Rulemaking.

(1) Subject to the requirements of Title 63G, Chapter 4, Administrative Procedures Act, the department may:

(a) receive and act on a complaint about a provider or a facility;

(b) take action designed to obtain voluntary compliance by the provider with this chapter;

(c) commence administrative or judicial proceedings on the commission's own in order to enforce compliance by a provider with this chapter; or

(d) take action against a provider who fails to:

(i) respond to the department, in writing, before 30 business days after the day on which the provider receives notice from the department of a complaint filed with the department; or

(ii) submit information requested by the department.

(2) The department may:

(a) counsel an individual on the individual's rights or duties under this chapter;

(b) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) restrict or prohibit practices by the provider that are misleading, unfair, or abusive;

(ii) promote or assure fair and full disclosure of the terms and conditions of continuing care contracts, agreements, and communications between a resident and a provider;

(iii) promote or assure the ability of the public to compare continuing care contracts, providers, and facilities; and

(iv) clearly disclose any financial risks related to a provider's facility to the facility's residents;

(c) employ hearing examiners, clerks, and other employees and agents as necessary to perform the department's duties under this chapter; and

(d) appoint a receiver for a provider.

Section 38. Section 31A-44-603 is enacted to read:

31A-44-603. Examinations.

(1) The department may conduct periodic on-site examinations of a provider.

(2) In conducting an examination, the department or the department's staff:

(a) shall have full and free access to all the provider's records; and

(b) may summon and qualify as a witness, under oath, and examine, any director, officer, member, agent, or employee of the provider, and any other person, concerning the condition and affairs of the provider or a facility.

(3) The provider shall pay the reasonable costs of an examination under this section.

(4) The department may conduct an on-site examination in conjunction with an examination performed by a representative of an agency of another state.

(5) (a) The department, in lieu of an on-site examination, may accept the examination report of an agency of another state that has regulatory oversight of the provider, or a report prepared by an independent accounting firm.

(b) A report accepted under Subsection (5)(a) is considered for all purposes an official report of the department.

(6) Upon reasonable cause, the department may conduct an on-site examination of an unlicensed person to determine whether a violation of this chapter has occurred.

Section 39. Section 31A-44-604 is enacted to read:

31A-44-604. Criminal and civil penalties.

(1) A person who knowingly violates this chapter or files materially false information with a registration application or renewal under this chapter is:

(a) guilty of a class B misdemeanor; and

(b) subject to revocation of the person's registration under this chapter.

(2) Subject to Title 63G, Chapter 4, Administrative Procedures Act, if the department determines that a person is engaging in the business of being a continuing care provider in violation of this chapter, the department may:

(a) suspend, revoke, or refuse to renew the person's registration under this chapter;

(b) issue a cease and desist order from committing any further violation;

(c) prohibit the person from continuing to engage in the business of being a continuing care provider;

(d) impose an administrative fine not greater than \$1,000 per violation, except that the aggregate total of fines imposed under this chapter against a person in a calendar year may not exceed \$30,000 for that calendar year; or

(e) take any combination of actions listed under this Subsection (2).

(3) If the department revokes a registration, the department is not required to refund any portion of

the provider's filing or renewal fee for the remainder of the period for which the fee is paid.

Section 40. Section 31A-44-605 is enacted to read:

31A-44-605. Civil liability.

(1) A provider who enters into a continuing care contract with an individual without complying with the disclosure statement requirement described in this chapter, or who makes a continuing care contract with an individual who relies on a disclosure statement that omits a material fact, is liable to the individual for:

(a) actual damages;

(b) repayment of all fees the individual paid to the provider, minus the reasonable value of care and lodging provided to the individual before the violation, misstatement, or omission was discovered or reasonably should have been discovered;

(c) interest at the legal rate for judgments;

(d) court costs; and

(e) reasonable attorney fees.

(2) A provider is liable under this section regardless of whether the provider had actual knowledge of the misstatement or omission.

(3) An individual may not file or maintain an action under this section if:

(a) the individual, before filing the action, receives a written offer from the provider for refund of all amounts paid to the provider or the provider's facility plus reasonable interest from the date of payment, minus the reasonable value of care and lodging provided before the receipt of the offer;

(b) the offer includes a description of the provisions of this section; and

(c) the recipient of the offer fails to accept the offer within 30 days after the date the offer is received.

(4) An individual shall bring an action under this section before the day three years after:

(a) the day on which the individual enters into the continuing care contract; or

(b) the individual discovers, or reasonably should have discovered, the provider's violation, misstatement, or omission.

(5) A person does not have a cause of action under this chapter except as expressly provided by this chapter.

(6) This chapter does not limit the liability that exists under any other statute or common law.

(7) The provisions of this chapter are not exclusive and the remedies provided by this chapter are in addition to any other remedies provided by any other law.

CHAPTER 271**H. B. 325**

Passed March 9, 2016

Approved March 25, 2016

Effective October 1, 2016

(Exception clause in Section 68)

**OFFICE OF REHABILITATION
SERVICES AMENDMENTS**

Chief Sponsor: Norman K Thurston
 Senate Sponsor: Allen M. Christensen
 Cosponsors: Steve Eliason
 Michael S. Kennedy
 Paul Ray
 Robert M. Spendlove

LONG TITLE**General Description:**

This bill modifies the State Office of Rehabilitation Act and related provisions.

Highlighted Provisions:

This bill:

- ▶ moves the Utah State Office of Rehabilitation from the State Board of Education to the Department of Workforce Services;
- ▶ modifies provisions related to the Governor's Committee on Employment of People with Disabilities, including that the governor appoint certain members of the committee;
- ▶ describes duties of the Utah State Office of Rehabilitation that may not be delegated to other state government entities;
- ▶ modifies provisions related to certified interpreters;
- ▶ modifies references to individuals who are hard of hearing;
- ▶ requires the Department of Workforce Services and the Utah State Office of Rehabilitation to create a written transition plan;
- ▶ creates an Office of Rehabilitation Transition Restricted Account; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates:

- ▶ To the Department of Workforce Services -- Utah State Office of Rehabilitation, as an ongoing appropriation:
 - from General Fund Restricted -- Office of Rehabilitation Transition Restricted Account, \$26,385,100;
 - from Federal Funds, \$62,656,000;
 - from Dedicated Credits Revenue, \$985,600.
- ▶ To State Board of Education -- Utah State Office of Rehabilitation, as a one-time appropriation:
 - from General Fund Restricted -- Office of Rehabilitation Transition Restricted Account, \$26,385,100.
- ▶ To General Fund Restricted -- Office of Rehabilitation Transition Restricted Account, as a one-time appropriation:
 - from General Fund, \$21,385,100;
 - from Beginning Nonlapsing Appropriation Balances, \$5,000,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 20A-14-103, as last amended by Laws of Utah 2011, Third Special Session, Chapter 3
- 34A-2-413.5, as enacted by Laws of Utah 2014, Chapter 286
- 35A-1-202, as last amended by Laws of Utah 2012, Chapter 212
- 35A-1-206, as last amended by Laws of Utah 2014, Chapters 371 and 387
- 53A-1-403.5, as last amended by Laws of Utah 2012, Chapter 23
- 53A-1a-501.7, as last amended by Laws of Utah 2008, Chapter 319
- 53A-11-203, as last amended by Laws of Utah 2015, Chapter 126
- 54-8b-10, as last amended by Laws of Utah 2012, Chapter 347
- 55-5-2, as last amended by Laws of Utah 2011, Chapter 297
- 55-5-7, as last amended by Laws of Utah 1997, Chapter 10
- 55-5-8, as last amended by Laws of Utah 1996, Chapter 37
- 55-5a-2, as last amended by Laws of Utah 1996, Chapter 37
- 55-5a-3, as last amended by Laws of Utah 1996, Chapter 37
- 55-5a-4, as last amended by Laws of Utah 1979, Chapter 191
- 55-5a-5, as last amended by Laws of Utah 1979, Chapter 191
- 62A-5a-102, as last amended by Laws of Utah 2002, Fifth Special Session, Chapter 8
- 62A-5a-103, as last amended by Laws of Utah 2010, Chapter 286
- 62A-5a-105, as last amended by Laws of Utah 1996, Chapter 179
- 63B-19-201, as enacted by Laws of Utah 2010, Chapter 100
- 63G-6a-805, as last amended by Laws of Utah 2013, Chapter 445
- 63I-2-253, as last amended by Laws of Utah 2015, Chapters 258, 418, and 456
- 63J-1-601, as last amended by Laws of Utah 2015, Chapter 239
- 63J-1-602.3, as last amended by Laws of Utah 2014, Chapters 189 and 304
- 78B-1-203, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78B-1-206, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78B-1-208, as renumbered and amended by Laws of Utah 2008, Chapter 3

ENACTS:

- 35A-13-201, Utah Code Annotated 1953
- 35A-13-301, Utah Code Annotated 1953
- 35A-13-401, Utah Code Annotated 1953
- 35A-13-402, Utah Code Annotated 1953
- 35A-13-501, Utah Code Annotated 1953
- 35A-13-502, Utah Code Annotated 1953
- 53A-24-601, Utah Code Annotated 1953
- 53A-24-602, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

35A-13-101, (Renumbered from 53A-24-101, as repealed and reenacted by Laws of Utah 1988, Chapter 83)

35A-13-102, (Renumbered from 53A-24-102, as last amended by Laws of Utah 2001, First Special Session, Chapter 5)

35A-13-103, (Renumbered from 53A-24-103, as last amended by Laws of Utah 2001, First Special Session, Chapter 5)

35A-13-104, (Renumbered from 53A-24-104, as repealed and reenacted by Laws of Utah 1988, Chapter 83)

35A-13-105, (Renumbered from 53A-24-106, as repealed and reenacted by Laws of Utah 1988, Chapter 83)

35A-13-106, (Renumbered from 53A-24-107, as repealed and reenacted by Laws of Utah 1988, Chapter 83)

35A-13-107, (Renumbered from 53A-24-108, as repealed and reenacted by Laws of Utah 1988, Chapter 83)

35A-13-108, (Renumbered from 53A-24-109, as last amended by Laws of Utah 1996, Chapter 37)

35A-13-109, (Renumbered from 53A-24-110, as last amended by Laws of Utah 1996, Chapter 37)

35A-13-202, (Renumbered from 53A-24-105, as last amended by Laws of Utah 2011, Chapter 303)

35A-13-203, (Renumbered from 53A-24-106.5, as enacted by Laws of Utah 2011, Chapter 169)

35A-13-302, (Renumbered from 53A-24-114, as last amended by Laws of Utah 2008, Chapter 382)

35A-13-303, (Renumbered from 53A-24-205, as last amended by Laws of Utah 1996, Chapter 37)

35A-13-403, (Renumbered from 53A-24-304, as last amended by Laws of Utah 1996, Chapter 37)

35A-13-404, (Renumbered from 53A-24-305, as last amended by Laws of Utah 1996, Chapter 37)

35A-13-503, (Renumbered from 53A-24-404, as last amended by Laws of Utah 1990, Chapter 78)

35A-13-504, (Renumbered from 53A-24-405, as last amended by Laws of Utah 1990, Chapter 78)

35A-13-601, (Renumbered from 53A-26a-101, as enacted by Laws of Utah 1994, Chapter 306)

35A-13-602, (Renumbered from 53A-26a-102, as last amended by Laws of Utah 2013, Chapter 385)

35A-13-603, (Renumbered from 53A-26a-201, as enacted by Laws of Utah 1994, Chapter 306)

35A-13-604, (Renumbered from 53A-26a-202, as enacted by Laws of Utah 1994, Chapter 306)

35A-13-605, (Renumbered from 53A-26a-301, as last amended by Laws of Utah 2013, Chapter 385)

35A-13-606, (Renumbered from 53A-26a-302, as

last amended by Laws of Utah 2009, Chapter 183)

35A-13-607, (Renumbered from 53A-26a-303, as enacted by Laws of Utah 1994, Chapter 306)

35A-13-608, (Renumbered from 53A-26a-304, as enacted by Laws of Utah 1994, Chapter 306)

35A-13-609, (Renumbered from 53A-26a-305, as last amended by Laws of Utah 2013, Chapter 385)

35A-13-610, (Renumbered from 53A-26a-401, as enacted by Laws of Utah 1994, Chapter 306)

35A-13-611, (Renumbered from 53A-26a-501, as enacted by Laws of Utah 1994, Chapter 306)

35A-13-612, (Renumbered from 53A-26a-502, as enacted by Laws of Utah 1994, Chapter 306)

35A-13-613, (Renumbered from 53A-26a-503, as enacted by Laws of Utah 1994, Chapter 306)

REPEALS:

53A-15-205, as last amended by Laws of Utah 2013, Chapter 167

53A-24-110.5, as last amended by Laws of Utah 1998, Chapter 403

53A-24-110.7, as last amended by Laws of Utah 2001, Chapter 328

53A-24-201, as enacted by Laws of Utah 1988, Chapter 83

53A-24-202, as enacted by Laws of Utah 1988, Chapter 83

53A-24-203, as enacted by Laws of Utah 1988, Chapter 83

53A-24-204, as last amended by Laws of Utah 1996, Chapter 37

53A-24-301, as last amended by Laws of Utah 1996, Chapter 37

53A-24-302, as last amended by Laws of Utah 1996, Chapter 37

53A-24-303, as last amended by Laws of Utah 1996, Chapter 37

53A-24-401, as enacted by Laws of Utah 1988, Chapter 83

53A-24-402, as last amended by Laws of Utah 1990, Chapter 78

53A-24-403, as last amended by Laws of Utah 1990, Chapter 78

53A-24-501, as enacted by Laws of Utah 1988, Chapter 83

53A-24-502, as last amended by Laws of Utah 1993, Chapter 4

53A-24-503, as last amended by Laws of Utah 1993, Chapter 4

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-14-103 is amended to read:

20A-14-103. State Board of Education members -- When elected -- Qualifications -- Avoiding conflicts of interest.

(1) (a) Unless otherwise provided by law, each State Board of Education member elected from a

State Board of Education District at the 2010 general election shall:

(i) serve out the term of office for which that member was elected; and

(ii) represent the realigned district if the member resides in that district.

(b) At the general election to be held in 2012, a State Board of Education member elected from State Board of Education Districts 4, 7, 8, 10, 11, 12, 13, and 15 shall be elected to serve a term of office of four years.

(c) In order to ensure that the terms of approximately half of the State Board of Education members expire every two years:

(i) at the general election to be held in 2012, the State Board of Education member elected from State Board of Education District 1 shall be elected to serve a term of office of two years; and

(ii) at the general election to be held in 2014, the State Board of Education member elected from State Board of Education District 1 shall be elected to serve a term of office of four years.

(2) (a) A person seeking election to the State Board of Education shall have been a resident of the State Board of Education district in which the person is seeking election for at least one year as of the date of the election.

(b) A person who has resided within the State Board of Education district, as the boundaries of the district exist on the date of the election, for one year immediately preceding the date of the election shall be considered to have met the requirements of this Subsection (2).

(3) A State Board of Education member shall:

(a) be and remain a registered voter in the State Board of Education district from which the member was elected or appointed; and

(b) maintain the member's primary residence within the State Board of Education district from which the member was elected or appointed during the member's term of office.

(4) A State Board of Education member may not, during the member's term of office, also serve as an employee of:

(a) the State Board of Education; or

(b) the Utah State Office of Education~~[-or-]~~.

~~[(c) the Utah State Office of Rehabilitation.]~~

Section 2. Section 34A-2-413.5 is amended to read:

34A-2-413.5. Injured worker reemployment.

(1) As used in this section:

(a) (i) "Gainful employment" means employment that:

(A) is reasonably attainable in view of an industrial injury or occupational disease; and

(B) offers to an injured worker, as reasonably feasible, an opportunity for earnings.

(ii) Factors considered in determining gainful employment include an injured worker's:

(A) education;

(B) experience; and

(C) physical and mental impairment and condition.

(b) "Initial written report" means a report described in Subsection (5).

(c) "Injured worker" means an employee who sustains an industrial injury or occupational disease for which benefits are provided under this chapter or Chapter 3, Utah Occupational Disease Act.

(d) "Injured worker with a disability" means an injured worker who:

(i) because of the injury or disease that is the basis of the employee being an injured worker:

(A) is or will be unable to return to work in the injured worker's usual and customary occupation; or

(B) is unable to perform work for which the injured worker has previous training and experience; and

(ii) reasonably can be expected to attain gainful employment after an evaluation provided for in accordance with this section.

(e) "Parties" means:

(i) an injured worker with a disability;

(ii) the employer of the injured worker with a disability;

(iii) the employer's workers' compensation insurance carrier; and

(iv) a rehabilitation or reemployment professional for the employer or the employer's workers' compensation insurance carrier.

(f) "Reemployment plan" means a written:

(i) description or rationale for the manner and means by which it is proposed an injured worker with a disability may return to gainful employment; and

(ii) definition of the voluntary responsibilities of:

(A) the injured worker with a disability;

(B) the employer; and

(C) one or more other parties involved with the implementation of the reemployment plan.

(2) (a) This section applies only to an industrial injury or occupational disease that occurs on or after July 1, 1990.

(b) This section is intended to promote and monitor the state's and the employer's capacity to assist the injured worker in returning to the workforce by evaluating the effectiveness of the voluntary efforts of employers under this section.

(3) This section does not affect the duties of the Utah State Office of Rehabilitation created in Section 35A-1-202.

(4) The commission may provide for the administration of this section by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) An employer or the employer's workers' compensation insurance carrier may voluntarily prepare an initial written report assessing an injured worker's need or lack of need for vocational assistance in reemployment if:

(a) it appears that the injured worker is or will be an injured worker with a disability; or

(b) the period of the injured worker's temporary total disability compensation period exceeds 90 days.

(6) (a) Subject to Subsection (6)(b), an employer or the employer's workers' compensation insurance carrier may serve the initial written report, if one has been prepared, on the injured worker.

(b) If an employer or the employer's workers' compensation insurance carrier serves an initial written report on an injured worker, the employer or the employer's workers' compensation insurance carrier shall comply with Subsection (6)(a) by no later than 30 days after the earlier of the day on which:

(i) it appears that the injured worker is or will be an injured worker with a disability; or

(ii) the 90-day period described in Subsection (5)(b) ends.

(7) With the initial written report, if one is prepared and used in the determination process, an employer or the employer's workers' compensation insurance carrier shall provide an injured worker information regarding reemployment.

(8) Subject to the other provisions of this section, if an injured worker is an injured worker with a disability, the employer or the employer's workers' compensation insurance carrier may, within 10 days after the day on which the employer or workers' compensation insurance carrier serves the initial written report on the injured worker, refer the injured worker with a disability to:

(a) the Utah State Office of Rehabilitation; or

(b) at the employer's or workers' compensation insurance carrier's option, a private rehabilitation or reemployment service.

(9) An employer or the employer's workers' compensation insurance carrier shall make the referral required by Subsection (8) for the purpose of:

(a) providing an evaluation; and

(b) developing a reemployment plan.

(10) The objective of reemployment is to return an injured worker with a disability to gainful

employment in the following order of employment priority:

(a) same job, same employer;

(b) modified job, same employer;

(c) same job, new employer;

(d) modified job, new employer;

(e) new job, new employer; or

(f) retraining in a new occupation.

(11) Nothing in this section or its application is intended to:

(a) modify or in any way affect an existing employee-employer relationship; or

(b) provide an employee with a guarantee or right to employment or continued employment with an employer.

(12) A rehabilitation counselor to whom a referral is made under Subsection (8) shall have the same or comparable qualifications as those established by the Utah State Office of Rehabilitation for personnel assigned to rehabilitation and evaluation duties.

Section 3. Section 35A-1-202 is amended to read:

35A-1-202. Divisions -- Creation -- Duties -- Workforce Appeals Board, councils, Child Care Advisory Committee, and economic service areas.

(1) There is created within the department the following divisions:

(a) the Employment Development Division to administer the development and implementation of employment assistance programs that are:

(i) related to the operations of the department; and

(ii) consistent with federal and state law;

(b) to administer those services that are not delivered through the economic service areas:

(i) the Workforce Development and Information Division; and

(ii) the Unemployment Insurance Division;

(c) the Division of Adjudication to adjudicate claims or actions in accordance with this title; ~~and~~

(d) the Housing and Community Development Division, which is described in Sections 35A-8-201 and 35A-8-202~~[-];~~ and

(e) the Utah State Office of Rehabilitation, which is described in Section 35A-13-103.

(2) In addition to the divisions created under Subsection (1), within the department are the following:

(a) the Workforce Appeals Board created in Section 35A-1-205;

(b) the State Council on Workforce Services created in Section 35A-1-206;

(c) the Employment Advisory Council created in Section 35A-4-502;

(d) the Child Care Advisory Committee created in Section 35A-3-205; and

(e) the economic service areas created in accordance with Chapter 2, Economic Service Areas.

Section 4. Section 35A-1-206 is amended to read:

35A-1-206. State Council on Workforce Services -- Appointment -- Membership -- Terms of members -- Compensation.

(1) There is created a State Council on Workforce Services that shall:

(a) perform the activities described in Subsection (8);

(b) advise on issues requested by the department and the Legislature; and

(c) make recommendations to the department regarding:

(i) the implementation of Chapter 2, Economic Service Areas, Chapter 3, Employment Support Act, and Chapter 5, Training and Workforce Improvement Act; and

(ii) the coordination of apprenticeship training.

(2) (a) The council shall consist of the following voting members:

(i) a private sector representative from each economic service area as designated by the economic service area director;

(ii) the superintendent of public instruction or the superintendent's designee;

(iii) the commissioner of higher education or the commissioner's designee; and

(iv) the following members appointed by the governor in consultation with the executive director:

(A) four representatives of small employers as defined by rule by the department;

(B) four representatives of large employers as defined by rule by the department;

(C) four representatives of employees or employee organizations, including at least one representative from nominees suggested by public employees organizations;

(D) two representatives of the clients served under this title including community-based organizations;

(E) a representative of veterans in the state;

(F) the [executive] director of the Utah State Office of Rehabilitation; and

(G) the Applied Technology College president.

(b) The following shall serve as nonvoting ex officio members of the council:

(i) the executive director or the executive director's designee;

(ii) a legislator appointed by the governor from nominations of the speaker of the House of Representatives and president of the Senate;

(iii) the executive director of the Department of Human Services;

(iv) the director of the Governor's Office of Economic Development or the director's designee; and

(v) the executive director of the Department of Health.

(3) (a) The governor shall appoint one nongovernmental member from the council as the chair of the council.

(b) The chair shall serve at the pleasure of the governor.

(4) (a) A member appointed by the governor shall serve a term of four years and may be reappointed to one additional term.

(b) A member shall continue to serve until the member's successor has been appointed and qualified.

(c) Except as provided in Subsection (4)(d), as terms of council members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(d) Notwithstanding the requirements of Subsection (4)(c), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately one-half of the council is appointed every two years.

(e) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) A majority of the voting members constitutes a quorum for the transaction of business.

(6) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(7) The department shall provide staff and administrative support to the council at the direction of the executive director.

(8) The council shall:

(a) develop a state workforce services plan in accordance with Section 35A-1-207;

(b) review economic service area plans to certify consistency with state policy guidelines;

(c) improve the understanding and visibility of state workforce services efforts through external and internal marketing strategies;

(d) include in the annual written report described in Section 35A-1-109, information and accomplishments related to the activities of the department;

(e) issue other studies, reports, or documents the council considers advisable that are not required under Subsection (8)(d);

(f) coordinate the planning and delivery of workforce development services with public education, higher education, vocational rehabilitation, and human services; and

(g) perform other responsibilities within the scope of workforce services as requested by:

(i) the Legislature;

(ii) the governor; or

(iii) the executive director.

Section 5. Section 35A-13-101, which is renumbered from Section 53A-24-101 is renumbered and amended to read:

CHAPTER 13. UTAH STATE OFFICE OF REHABILITATION ACT

Part 1. General Provisions

[53A-24-101]. 35A-13-101. Title.

(1) This chapter is known as the "Utah State Office of Rehabilitation Act."

(2) This part is known as "General Provisions."

Section 6. Section 35A-13-102, which is renumbered from Section 53A-24-102 is renumbered and amended to read:

[53A-24-102]. 35A-13-102. Definitions.

As used in this chapter:

(1) "Board" means the State Board of Education.
(2) "DDDS" means the Division of Disability Determination Services. (3)

(1) "Blind" means an individual:

(a) whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses; or

(b) whose visual acuity is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends to an angle of no greater than 20 degrees.

(2) "Deaf" means an individual with a diagnosed auditory deficit that renders the individual unable to comprehend spoken language through audition only, even with medical intervention or amplification, and that results in functional limitations in one or more areas of daily living.

(3) "Director" means the director of the Utah State Office of Rehabilitation.

(4) "Disability" means a physical or mental condition which materially limits, contributes to limiting, or, if not corrected, will probably result in materially limiting an individual's activities or functioning.

~~[(4) "DRS" means the Division of Rehabilitation Services. (5) "DSBVI" means the Division of Services for the Blind and Visually Impaired. (6) "DSDHH" means the Division of Services to the Deaf and Hard of Hearing. (7)]~~

(5) "Eligible individual" means an individual determined to be eligible to receive services under laws or rules governing eligibility for the program in question.

~~[(8) "Executive director" means the executive director of the Utah State Office of Rehabilitation.]~~

(6) "Hard of hearing" means an individual with a diagnosed auditory deficit ranging from mild to profound that results in functional limitations in one or more areas of daily living.

~~[(9)] (7) "Independent living rehabilitation services" means goods and services reasonably necessary to enable an individual with a severe disability to maintain or increase functional independence.~~

(8) "Office" means the Utah State Office of Rehabilitation created in Section 35A-1-202.

(9) "Visually impaired" means an individual with a diagnosed impairment of visual function that if not corrected constitutes a material limitation to normal activities or functioning.

~~[(10) "Office" means the Utah State Office of Rehabilitation.]~~

~~[(11)] (10) "Vocational rehabilitation services" means goods and services reasonably necessary to enable an individual with a disability to obtain and retain employment.~~

Section 7. Section 35A-13-103, which is renumbered from Section 53A-24-103 is renumbered and amended to read:

[53A-24-103]. 35A-13-103. Office authority.

(1) ~~[There is created the Utah State Office of Rehabilitation] The Utah State Office of Rehabilitation created in Section 35A-1-202 is under the [policy] direction of the [State Board of Education] department and under the direction and general supervision of the [superintendent of public instruction] executive director.~~

(2) The ~~[board]~~ department is the sole state agency designated to administer the state plans for vocational rehabilitation and independent living rehabilitation programs.

(3) The office is the sole state unit designated to carry out the state plans and other duties assigned by law or the ~~[board-]~~ department, including the following:

(a) determining eligibility for vocational rehabilitation services;

(b) providing vocational rehabilitation services to eligible individuals;

(c) determining the types and scope of vocational rehabilitation services provided by the office;

(d) determining employment outcomes related to vocational rehabilitation services if required; and

(e) determining the appropriate uses of federal rehabilitation funding.

(4) The office may not delegate the duties described in Subsection (3) to any other state government entity.

Section 8. Section 35A-13-104, which is renumbered from Section 53A-24-104 is renumbered and amended to read:

[53A-24-104]. 35A-13-104. Appointment of director -- Administration of the office.

(1) The executive [officer of the board] director of the department shall appoint the [executive] director of the [office with the approval of the board] office.

(2) The [executive] director shall administer the office in accordance with the direction of the executive [officer of the board, policies of the board,] director and applicable state and federal laws and regulations.

Section 9. Section 35A-13-105, which is renumbered from Section 53A-24-106 is renumbered and amended to read:

[53A-24-106]. 35A-13-105. Public funding of vocational rehabilitation and independent living rehabilitation services.

(1) Public funding of vocational rehabilitation and independent living rehabilitation services provided under this chapter may only be provided to eligible individuals [who are found to require financial assistance with respect to those services].

(2) The [executive] director [may] shall establish priorities for use in determining services to be provided to eligible individuals under this chapter if the demand for services exceeds available funds.

(3) Rights established under this chapter are not transferable or assignable.

Section 10. Section 35A-13-106, which is renumbered from Section 53A-24-107 is renumbered and amended to read:

[53A-24-107]. 35A-13-106. Personally identifiable information -- Nondisclosure -- Penalty.

(1) Personally identifiable information obtained by the office, its employees, or agents concerning individuals applying for or receiving services under this chapter may not be disclosed without the prior written consent of the individual or the individual's legal representative, except as required for administration of programs or services under this chapter, or as otherwise authorized by law.

(2) Unauthorized disclosure of personally identifiable information obtained under this

chapter, or use of such information for unauthorized purposes, is a class B misdemeanor.

Section 11. Section 35A-13-107, which is renumbered from Section 53A-24-108 is renumbered and amended to read:

[53A-24-108]. 35A-13-107. Acceptance and use of gifts -- Not subject to appropriation.

(1) The [executive] director may, with the approval of the [board] executive director, accept and use [gifts] a gift to the office made unconditionally by will or otherwise for carrying out the purposes of this chapter.

(2) [Gifts] A gift to the office made under conditions that the [board] executive director finds to be consistent with this chapter may be accepted and used in accordance with the conditions of the gift.

(3) [Gifts are] A gift to the office as described in this section is not subject to appropriation by the Legislature.

Section 12. Section 35A-13-108, which is renumbered from Section 53A-24-109 is renumbered and amended to read:

[53A-24-109]. 35A-13-108. Delegation of duties and responsibilities of the office.

The [executive] director may, in accordance with applicable law and regulations and with the consent of the executive [officer of the board,] director, organize the office and [delegate] assign duties and responsibilities [of the office to one or more of its divisions] to the office's employees to enable the office to better serve [individuals'] individuals with disabilities and to increase the efficiency and effectiveness of operations.

Section 13. Section 35A-13-109, which is renumbered from Section 53A-24-110 is renumbered and amended to read:

[53A-24-110]. 35A-13-109. Office duties to individuals with disabilities.

In administering this chapter, the office:

(1) [It is the intent of the Legislature that all activities of the office and its subordinate components be conducted in such a manner] shall ensure that [persons] individuals with disabilities [will be] are assisted, so far as reasonably possible, to take their rightful place in open society as independent and self-supporting individuals[-]; and

(2) [Neither the office nor any of its parts may] may not assist or support any activity that [will result] results in unnecessary continuation of a dependent or isolated state or unnecessarily [separate persons] separates individuals with disabilities from open society.

Section 14. Section 35A-13-201 is enacted to read:

Part 2. Office Responsibilities

35A-13-201. Title.

This part is known as "Office Responsibilities."

Section 15. Section 35A-13-202, which is renumbered from Section 53A-24-105 is renumbered and amended to read:

[53A-24-105]. 35A-13-202. Functions of the office.

The office may:

(1) apply for, receive, administer, and distribute funds made available through programs of federal [or], state, or local governments;

(2) cooperate with federal [or], state, or local governmental entities to administer programs and program funds;

(3) contract or cooperate with public or private entities or individuals;

(4) [if] as designated by the responsible authority, and with the approval of the [board] department, perform any functions or services for the federal or state government that relate to individuals with disabilities;

(5) establish subordinate administrative units necessary to increase efficiency and improve the delivery of services to individuals with disabilities;

(6) establish and operate community service centers, rehabilitation facilities, and workshops, and make grants to public and nonprofit organizations for those purposes;

(7) determine eligibility for, and the nature and scope of, services to be provided under the state plan for vocational rehabilitation or other programs administered by the office;

(8) assist individuals with severe disabilities to establish and operate vending machine services and other small businesses, and perform services authorized under Title 55, Chapter 5, Blind Persons Operating Vending Stands - Food Services, and Title 55, Chapter 5a, Blind Products Sales;

(9) furnish materials, tools, equipment, initial stocks and supplies, and occupational licenses needed by rehabilitation facilities, workshops, and small businesses established under this chapter, and develop and execute marketing plans for materials produced by those operations;

(10) place money received by the office [~~or a subordinate unit~~] through sale of products or services as authorized under this chapter into a fund managed by the office and used to support additional training, production, and sales activities;

(11) conduct studies and investigations, give demonstrations and make reports, and provide training and instruction related to the work of the office;

(12) establish and maintain research fellowships and traineeships, including necessary stipends and allowances for those receiving training and instruction;

(13) institute and supervise programs to encourage the conservation of sight and hearing

and assist in overcoming and preventing disabling conditions;

(14) provide diagnostic, placement, vocational rehabilitation, training, adjustment, and independent living services; and

(15) do all other things necessary to carry out assignments made by law or the [board] department in assisting and rehabilitating [persons] individuals with disabilities.

Section 16. Section 35A-13-203, which is renumbered from Section 53A-24-106.5 is renumbered and amended to read:

[53A-24-106.5]. 35A-13-203. Employment first emphasis on the provision of services.

(1) When providing services to [a person] an individual with a disability under this chapter, the office shall, within funds appropriated by the Legislature and in accordance with the requirements of federal and state law, give priority to providing services that assist the [person] individual in obtaining and retaining meaningful and gainful employment that enables the [person] individual to:

(a) purchase goods and services;

(b) establish self-sufficiency; and

(c) exercise economic control of the [person's] individual's life.

(2) The office shall develop a written plan to implement the policy described in Subsection (1) that includes:

(a) assessing the strengths and needs of [a person] an individual with a disability;

(b) customizing strength-based approaches to obtaining employment;

(c) setting expectations, providing appropriate services toward, and recognizing success in:

(i) integrated employment in the workplace at competitive wages and benefits; and

(ii) self-employment;

(d) developing partnerships with potential employers;

(e) providing appropriate employment training opportunities;

(f) coordinating services with other government agencies and community resources [~~included in the Workforce Investment System~~];

(g) to the extent possible, eliminating practices and policies that interfere with the policy described in Subsection (1); and

(h) arranging for alternative work experience leading to competitive, integrated employment, including work-based training, volunteer work, and internships.

(3) The office shall, on an annual basis:

(a) set goals to implement the policy described in Subsection (1) and the plan described in Subsection (2);

(b) determine whether the goals for the previous year have been met; and

(c) modify the plan described in Subsection (2) as needed.

Section 17. Section 35A-13-301 is enacted to read:

Part 3. Governor's Committee on Employment of People with Disabilities

35A-13-301. Title.

This part is known as the "Governor's Committee on Employment of People with Disabilities."

Section 18. Section 35A-13-302, which is renumbered from Section 53A-24-114 is renumbered and amended to read:

[53A-24-114]. 35A-13-302. Governor's Committee on Employment of People with Disabilities.

~~[(1) There is created the Governor's Committee on Employment of People with Disabilities.]~~

~~[(2) (a) The State Board of Education shall appoint at least 12 members to the committee.]~~

~~[(b) The State Board of Education shall ensure that the committee includes members from the public and private sectors who represent:]~~

~~[(i) business and industry;]~~

~~[(ii) individuals with disabilities and their advocates;]~~

~~[(iii) job training and placement;]~~

~~[(iv) administrative subunits of the state, such as the Department of Human Resource Management, the Department of Workforce Services, Public Education, Higher Education, and the Department of Human Services;]~~

~~[(v) labor;]~~

~~[(vi) veterans;]~~

~~[(vii) medical;]~~

~~[(viii) health;]~~

~~[(ix) insurance;]~~

~~[(x) media; and]~~

~~[(xi) the general public.]~~

(1) There is created the Governor's Committee on Employment of People with Disabilities, composed of the following 15 members:

(a) the director of the office;

(b) the state superintendent of public instruction or the superintendent's designee;

(c) the commissioner of higher education or the commissioner's designee;

(d) the executive director of the Department of Human Resource Management or the executive director's designee;

(e) the executive director of the Department of Human Services or the executive director's designee;

(f) the executive director of the Department of Health or the executive director's designee; and

(g) the following nine members appointed by the governor:

(i) a representative of individuals who are blind or visually impaired;

(ii) a representative of individuals who are deaf or hard of hearing;

(iii) a representative of individuals who have disabilities;

(iv) three representatives of business or industry;

(v) a representative experienced in job training and placement;

(vi) a representative of veterans; and

(vii) a representative experienced in medical, health, or insurance professions.

~~[(e)] (2) (a) (i) Except as provided in Subsection (2)(e)(a)(ii), the [State Board of Education] governor shall appoint the committee members described in Subsection (1)(g) to serve four-year terms.~~

~~(ii) In making the initial appointments to the committee, the [State Board of Education] governor shall appoint approximately [1/2] one-half of the members to two-year terms and [1/2] one-half of the members to four-year terms.~~

~~[(d)] (b) Committee members shall serve until their successors are appointed and qualified.~~

~~[(e)] (c) The [State Board of Education] governor shall fill any vacancy that occurs on the committee for any reason by appointing a person according to the procedures of this section for the unexpired term of the vacated member.~~

~~[(f)] The State Board of Education shall select a chair from the membership.]~~

(d) The director of the office shall select a chair of the committee from the membership.

~~[(g) Seven] (e) Eight members of the committee are a quorum for the transaction of business.~~

(3) (a) The committee shall:

(i) promote employment opportunities for individuals with disabilities;

(ii) serve as the designated state liaison to the President's Committee on Employment of People with Disabilities;

(iii) provide training and technical assistance to employers in implementing the Americans with Disabilities Act;

(iv) develop and disseminate appropriate information through workshops, meetings, and other requests in response to needs to employers and others regarding employment of individuals with disabilities;

(v) establish contacts with various community representatives to identify and resolve barriers to full participation in employment and community life;

(vi) formally recognize exemplary contributions in the areas of employment, job placement, training, rehabilitation, support services, medicine, media or public relations, and personal achievements made by individuals with disabilities;

(vii) advise, encourage, and motivate individuals with disabilities who are preparing for or seeking employment to reach their full potential as qualified employees;

(viii) advocate for policies and practices that promote full and equal rights for individuals with disabilities;

(ix) advise the ~~[State Board of Education]~~ office, the department, and the governor on issues that affect employment and other requests for information on disability issues; and

(x) prepare an annual report on the progress, accomplishments, and future goals of the committee and present the report to the ~~[State Board of Education and the governor; and]~~ department for inclusion in the department's annual report described in Section 35A-1-109.

~~[(xi) establish and maintain a cooperative liaison between the governor's office, the executive director of the committee, and the executive director of the Utah State Office of Rehabilitation to fulfill the committee's purpose.]~~

(b) The committee may, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, receive and accept federal funds, and may receive and accept state funds, private gifts, donations, and funds from any source to carry out its purposes.

(4) The ~~[director of the State Office of Rehabilitation shall appoint a person to]~~ office shall staff the committee.

Section 19. Section 35A-13-303, which is renumbered from Section 53A-24-205 is renumbered and amended to read:

~~[53A-24-205]. 35A-13-303. State rehabilitation council.~~

(1) The ~~[board]~~ executive director shall appoint ~~[an advisory council]~~ a state rehabilitation advisory council to advise the ~~[office, DRS, and, as appropriate, the board]~~ office and the department concerning the ~~[need]~~ needs of individuals with disabilities and the ~~[activities of DRS regarding]~~ provision of vocational rehabilitation services.

(2) A majority of the membership of the advisory council shall consist of individuals with disabilities.

~~[(3) Members may be reimbursed for authorized actual and necessary expenses incurred by them in the performance of their official duties.]~~

(3) A member of the council may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

Section 20. Section 35A-13-401 is enacted to read:

Part 4. Services for the Blind and Visually Impaired

35A-13-401. General Provisions.

(1) This part is known as "Services for the Blind and Visually Impaired."

(2) For the purposes of this part:

(a) "Assistant director" means the assistant director of the division.

(b) "Division" means the program called the Division of Services for the Blind and Visually Impaired created in Section 35A-13-402.

Section 21. Section 35A-13-402 is enacted to read:

35A-13-402. The Division of Services for the Blind and Visually Impaired.

(1) There is created as a program within the office the Division of Services for the Blind and Visually Impaired.

(2) The director, with the approval of the executive director and after consultation with members of the community to be served by the division, shall appoint an assistant director to administer the services provided by the division.

(3) The assistant director shall administer the division in accordance with:

(a) the direction of the director and the executive director; and

(b) applicable state and federal laws and regulations.

Section 22. Section 35A-13-403, which is renumbered from Section 53A-24-304 is renumbered and amended to read:

~~[53A-24-304]. 35A-13-403. Services provided by the division.~~

~~[DSBVI may:]~~ The division may:

(1) provide:

(a) a business enterprise program;

(b) ~~[sheltered]~~ workshops, employment, and training; and

(c) vocational rehabilitation, training and adjustment, sight conservation, prevention of blindness, low vision ~~[lens]~~ lenses, and recreational services ~~[for individuals who are blind or have visual impairments];~~

(2) assist public education officials in the discharge of their duties towards children who are blind or have visual impairments, and perform services related to vision screening under Section 53A-11-203;

(3) maintain a register of individuals who are blind or have visual impairments, including such facts as the ~~board~~ office considers necessary for proper planning, administration, and operations, but protecting against unwarranted invasions of privacy;

(4) establish and operate community service centers, rehabilitation facilities, and workshops; and

(5) perform other duties assigned by the director or the executive director ~~or the board~~.

Section 23. Section 35A-13-404, which is renumbered from Section 53A-24-305 is renumbered and amended to read:

[53A-24-305]. 35A-13-404. Appointment of advisory council.

(1) The ~~board~~ executive director shall appoint an advisory council to advise and assist the ~~office, DSBVI, and, as appropriate, the board~~ division, the office, and the department in matters relating to the needs of and provision of services to individuals who are blind or have visual impairments ~~and the activities of DSBVI~~.

(2) At least ~~one-third~~ one-half of the members of the council shall be individuals who are blind or have visual impairments.

~~[(3) Members may be reimbursed for authorized actual and necessary expenses incurred by them in the performance of their official duties.]~~

(3) A member of the council may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

Section 24. Section 35A-13-501 is enacted to read:

Part 5. Services for the Deaf and Hard of Hearing

35A-13-501. General provisions.

(1) This part is known as "Services for the Deaf and Hard of Hearing."

(2) For the purposes of this part:

(a) "Assistant director" means the assistant director of the division.

(b) "Division" means the program called the Division of Services for the Deaf and Hard of Hearing created in Section 35A-13-502.

Section 25. Section 35A-13-502 is enacted to read:

35A-13-502. The Division of Services for the Deaf and Hard of Hearing.

(1) There is created as a program within the office the Division of Services for the Deaf and Hard of Hearing.

(2) The director, with the approval of the executive director and after consultation with members of the community to be served by the division, shall appoint an assistant director to administer the services provided by the division.

(3) The assistant director shall administer the division in accordance with:

(a) the direction of the director and the executive director; and

(b) applicable state and federal laws and regulations.

Section 26. Section 35A-13-503, which is renumbered from Section 53A-24-404 is renumbered and amended to read:

[53A-24-404]. 35A-13-503. Services provided by the division.

~~[DSDHH]~~ The division may:

(1) provide training and adjustment services for adults ~~[with hearing impairments]~~ who are deaf or hard of hearing;

(2) assist public education officials in the discharge of their duties towards children ~~[with hearing impairments]~~ who are deaf or hard of hearing;

(3) maintain a register of qualified interpreters;

(4) provide training in the use of telecommunication devices for the deaf, and install and maintain those devices;

(5) operate community centers for individuals ~~[with hearing impairments]~~ who are deaf or hard of hearing; and

(6) perform other duties assigned by the director or the executive director ~~or the board~~.

Section 27. Section 35A-13-504, which is renumbered from Section 53A-24-405 is renumbered and amended to read:

[53A-24-405]. 35A-13-504. Appointment of advisory council.

(1) The ~~board~~ executive director shall appoint an advisory council to advise and assist the ~~office, DSDHH, and, as appropriate, the board~~ division, the office, and the department in matters relating to the needs of and provision of services to individuals ~~[with hearing impairments and the activities of DSDHH]~~ who are deaf or hard of hearing.

(2) At least ~~one-third~~ one-half of the members of the council shall be individuals ~~[with hearing impairments]~~ who are deaf or hard of hearing.

~~[(3) Members may be reimbursed for authorized actual and necessary expenses incurred by them in the performance of their official duties.]~~

(3) A member of the council may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

Section 28. Section 35A-13-601, which is renumbered from Section 53A-26a-101 is renumbered and amended to read:

Part 6. Interpreter Services for the Deaf and Hard of Hearing Act

[53A-26a-101]. 35A-13-601. Title.

(1) This [chapter] part is known as the "Interpreter Services for the [Hearing Impaired Act] Deaf and Hard of Hearing Act."

(2) All rules made under this part shall be made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 29. Section 35A-13-602, which is renumbered from Section 53A-26a-102 is renumbered and amended to read:

[53A-26a-102]. 35A-13-602. Definitions.

As used in this [chapter] part:

(1) "Advisory board" or "board" means the Interpreters Certification Board created in Section [53A-26a-201] 35A-13-603.

(2) "Assistant director" means the assistant director who administers the program called the Division of Services for the Deaf and Hard of Hearing created in Section 35A-13-502.

[2] (3) "Certified interpreter" means [a person] an individual who is certified as meeting the certification requirements of this [chapter] part.

[3] "Hearing impaired" means a hearing loss which:

[a] ~~necessitates the visual acquisition of language; or~~

[b] ~~adversely affects the acquisition of language but which does not preclude the auditory acquisition of language.~~

(4) "Interpreter services" means services that facilitate effective communication between a hearing [person and a person] individual and an individual who is [hearing impaired as defined by Subsection (3),] deaf or hard of hearing through American Sign Language or a language system or code that is modeled after American Sign Language, in whole or in part, or is in any way derived from American Sign Language.

Section 30. Section 35A-13-603, which is renumbered from Section 53A-26a-201 is renumbered and amended to read:

[53A-26a-201]. 35A-13-603. Board.

(1) There is created to assist the [State Board of Education] director of the office the Interpreters Certification Board consisting of the following 11 members:

(a) a designee of the assistant director [of the Division of Services to the Deaf and Hard of Hearing (DSDHH) in the Utah State Office of Rehabilitation];

(b) a designee of the State Board of Regents;

(c) a designee of the State Board of Education;

(d) four professional interpreters, recommended by the assistant director [of DSDHH]; and

(e) four [persons who are hearing impaired] individuals who are deaf or hard of hearing, recommended by the assistant director [of DSDHH].

(2) (a) The [State Board of Education] director shall make all appointments to the board.

(b) In making [its] appointments under Subsections (1)(d) and (e), the [State Board of Education] director shall give consideration to recommendations by certified interpreters [for the hearing impaired] and members of the [hearing impaired] deaf and hard of hearing community.

(3) (a) Board members shall serve three-year terms, except that for the initial terms of board members, three shall serve one-year terms, four shall serve two-year terms, and four shall serve three-year terms.

(b) [A person] An individual may not serve more than two three-year consecutive terms.

(c) If a vacancy occurs on the board for [any other] a reason other than the expiration of a term, the [State Board of Education] director shall appoint a replacement for the remainder of the term [pursuant to] in accordance with Subsections (1) and (2).

(4) The [State Board of Education] director may remove [any] a board member for cause, which [shall] may include misconduct, incompetence, or neglect of duty.

(5) The board shall [elect] annually elect a chair and vice chair from among its members.

(6) The board shall meet as often as necessary to accomplish the purposes of this [chapter] part, but not less than quarterly.

[7] Board members shall receive compensation for actual and necessary expenses in connection with their service on the board, but shall not receive a per diem.]

(7) A member of the board may not receive compensation or benefits for the member's service, but may receive travel expenses in accordance with:

(a) Section 63A-3-107; and

(b) rules made by the Division of Finance in accordance with Section 63A-3-107.

Section 31. Section 35A-13-604, which is renumbered from Section 53A-26a-202 is renumbered and amended to read:

[53A-26a-202]. 35A-13-604. Powers and duties of the board.

(1) The board shall function as an advisory board to the ~~[State Board of Education]~~ director and under the director's direction ~~[of the State Board of Education]~~ shall perform the following duties concerning the certification of interpreters:

~~[(a) recommend to the state board]~~

(a) make recommendations to the director regarding:

(i) appropriate rules;

~~[(b) recommend to the state board]~~

(ii) policy and budgetary matters;

~~[(c) recommend to the state board a]~~

(iii) the appropriate passing score for applicant examinations; and

(iv) standards of supervision for individuals in training to become certified interpreters;

~~[(d)]~~ (b) screen applicants for certification and ~~[recommend]~~ make written recommendations to the director regarding certification, renewal, reinstatement, and recertification actions ~~[to the state board in writing]; and~~

~~[(e) recommend standards of supervision for persons in training to become certified interpreters; and]~~

~~[(f)]~~ (c) act as the presiding officer in conducting hearings associated with adjudicative proceedings and in issuing recommended orders ~~[when so]~~ as designated by the ~~[State Board of Education]~~ director.

(2) The ~~[State Board of Education]~~ director, with the collaboration and assistance of the advisory board, shall:

(a) prescribe certification qualifications;

(b) prescribe rules governing applications for certification;

(c) provide for a fair and impartial method ~~[of]~~ for the examination of applicants;

(d) define unprofessional conduct, by rule, to supplement the definition under this ~~[chapter]~~ part; and

(e) establish conditions for reinstatement and renewal of certification.

(3) (a) The advisory board shall designate one of its members on a permanent or rotating basis to:

(i) assist the ~~[state board]~~ director in reviewing complaints involving the unlawful or unprofessional conduct of a certified interpreter; and

(ii) advise the ~~[state board in its investigation of these]~~ director when investigating complaints.

(b) An advisory board member who has, under Subsection (3)(a), reviewed or investigated a complaint ~~[or advised in its investigation]~~ is disqualified from participating with the advisory

board ~~[when it]~~ if the board serves as a presiding officer of an administrative proceeding concerning the complaint.

Section 32. Section 35A-13-605, which is renumbered from Section 53A-26a-301 is renumbered and amended to read:

~~[53A-26a-301]. 35A-13-605. Certification required -- Classes of certification.~~

(1) Except as specifically provided in Section ~~[53A-26a-305]~~ 35A-13-609, an individual is required to be certified as a certified interpreter if that individual provides interpreter services and a state or federal law requires the interpreter to be certified or qualified.

(2) The ~~[State Board of Education]~~ director shall issue a certification to ~~[any person]~~ an individual who qualifies under this chapter in classifications determined by the ~~[board]~~ director based upon recommendations from the advisory board.

Section 33. Section 35A-13-606, which is renumbered from Section 53A-26a-302 is renumbered and amended to read:

~~[53A-26a-302]. 35A-13-606. Qualifications for certification.~~

Each applicant for certification under this ~~[chapter]~~ part shall:

(1) submit an application in a form prescribed by the ~~[State Board of Education]~~ director;

(2) pay a fee determined by the ~~[State Board of Education]~~ director under Section 63J-1-504 to help offset the costs of implementing this ~~[chapter]~~ part for the administration of examinations for certification and for the issuance of certificates;

(3) be of good moral character; and

(4) comply with any other qualifications for certification established by the ~~[State Board of Education]~~ director pursuant to Subsection 53A-26a-202(2)] director in accordance with Subsection 35A-13-604(2).

Section 34. Section 35A-13-607, which is renumbered from Section 53A-26a-303 is renumbered and amended to read:

~~[53A-26a-303]. 35A-13-607. Certification term -- Expiration -- Renewal.~~

(1) (a) The ~~[State Board of Education]~~ director shall issue each certificate under this ~~[chapter]~~ part in accordance with a three-year renewal cycle established by rule.

(b) The ~~[State Board of Education]~~ director may by rule extend or shorten a renewal cycle by as much as one year to stagger the renewal cycles it administers.

(2) At the time of renewal, the certified interpreter must show satisfactory evidence of compliance with renewal conditions established by the ~~[State Board of Education]~~ director pursuant to Subsection 53A-26a-202(2)] director in accordance with Subsection 35A-13-604(2).

(3) Each certificate automatically expires on the expiration date shown on the certificate unless the certified interpreter renews it in accordance with the conditions prescribed by the ~~[State Board of Education for renewal]~~ director.

Section 35. Section 35A-13-608, which is renumbered from Section 53A-26a-304 is renumbered and amended to read:

[53A-26a-304]. 35A-13-608. Continuing education.

(1) (a) As a condition for renewal of certification, each certified interpreter shall, during each three-year certification cycle or other cycle defined by rule, complete a number of hours of qualified continuing professional education in accordance with standards defined by rule.

(b) The ~~[State Board of Education]~~ director shall determine the number of hours based upon recommendations from the advisory board.

(2) If the renewal cycle is extended or shortened under Section ~~[53A-26a-303]~~ 35A-13-607, the continuing education hours determined for renewal under Subsection (1) shall be increased or decreased proportionately.

Section 36. Section 35A-13-609, which is renumbered from Section 53A-26a-305 is renumbered and amended to read:

[53A-26a-305]. 35A-13-609. Exemptions from certification -- Temporary or restricted certification.

(1) The following individuals may engage in the practice of a certified interpreter, subject to the stated circumstances and limitations, without being certified under this chapter:

(a) an individual serving in or employed by the Armed Forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or other federal ~~[agencies while]~~ agency and who is engaged in activities regulated under this ~~[chapter]~~ part as a part of the individual's service or employment with that federal agency, if the ~~[person]~~ individual holds a valid certificate or license to provide interpreter services issued by ~~[any other]~~ another state or jurisdiction recognized by the ~~[State Board of Education]~~ director;

(b) a student engaged in providing interpreter services while in training in a recognized school approved by the ~~[State Board of Education]~~ director to the extent the student's activities are supervised by qualified faculty, staff, or a designee, and the services are a defined part of the training program;

(c) an individual engaged in an internship, residency, apprenticeship, or on-the-job training program approved by the ~~[State Board of Education]~~ director while under the supervision of a qualified ~~[persons]~~ individual;

(d) an individual residing in another state and certified or licensed to provide interpreter services in that state, who is called in for a consultation by an individual certified to provide interpreter services in this state, and the services provided are limited to that consultation;

(e) an individual who is invited by a recognized school, association, or other body approved by the ~~[State Board of Education]~~ director to conduct a lecture, clinic, or demonstration on interpreter services, if the individual does not establish a place of business or regularly engage in the practice of providing interpreter services in this state;

(f) an individual licensed in another state or country who is in this state temporarily to attend to the needs of an athletic team or group, except that the individual may only attend to the needs of the team or group, ~~[including all]~~ and individuals who travel with the team or group, ~~[except as a spectator]~~ not including spectators; or

(g) an individual who is providing interpreter services for a religious entity, to the extent that the religious entity is specifically exempted from liability under federal law.

(2) (a) An individual temporarily in this state who is exempted from certification under Subsection (1) shall comply with each requirement of the jurisdiction from which the individual derives authority to ~~[practice]~~ provide interpreter services.

(b) Violation of any limitation imposed by this section is grounds for removal of exempt status, denial of certification, or another disciplinary proceeding.

(3) (a) Upon the declaration of a national, state, or local emergency, the ~~[State Board of Education]~~ director, in collaboration with the advisory board, may suspend the requirements for permanent or temporary certification of ~~[persons]~~ individuals who are certified or licensed in another state.

(b) Individuals exempt under Subsection (3)(a) shall be exempt from certification for the duration of the emergency while engaged in providing interpreter services for which they are certified or licensed in the other state.

(4) The ~~[State Board of Education]~~ director, after consulting with the advisory board, may adopt rules for the issuance of temporary or restricted certifications if their issuance is necessary to or justified by:

(a) a lack of necessary available interpretive services in any area or community of the state, if the lack of services might be reasonably considered to materially jeopardize compliance with state or federal law; or

(b) a need to first observe an applicant for certification in a monitored or supervised practice of providing interpretive services before a decision is made by the board either to grant or deny the applicant a regular certification.

Section 37. Section 35A-13-610, which is renumbered from Section 53A-26a-401 is renumbered and amended to read:

[53A-26a-401]. 35A-13-610. Grounds for denial of certification -- Disciplinary proceedings.

(1) The [State Board of Education] director shall refuse to issue a certificate to an applicant and shall refuse to renew or shall revoke, suspend, restrict, place on probation, or otherwise act upon the certificate of a certified interpreter who does not meet the qualifications for certification under this [chapter] part.

(2) The [State Board of Education] director may refuse to issue a certificate to an applicant, refuse to renew a certificate, revoke, suspend, restrict, or place on probation the certificate of a certified interpreter, issue a public or private reprimand to a certified interpreter, and issue a cease and desist order in any of the following [eases] circumstances:

(a) the applicant or certified interpreter has engaged in unprofessional conduct as defined in this [chapter] part or by rule under this [chapter] part;

(b) the applicant or certified interpreter has engaged in unlawful conduct as defined in this [chapter] part;

(c) the applicant or certified interpreter has been determined to be mentally incompetent for any reason by a court of competent jurisdiction; or

(d) the applicant or certified interpreter is unable to provide interpretive services with reasonable skill and safety because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material, or as a result of any other mental or physical condition, when the individual's condition demonstrates a threat or potential threat to [the] public health, safety, or welfare.

(3) An individual whose certificate has been suspended, revoked, or restricted under Subsection (1) may apply for reinstatement at reasonable intervals and upon compliance with conditions imposed by the [State Board of Education] director.

(4) The [State Board of Education] director may issue cease and desist orders:

(a) to a certified interpreter or applicant who [may be disciplined] is subject to discipline under Subsection (1);

(b) to [any person] an individual who engages or represents [himself to be] that the individual is engaged in the profession of a certified interpreter; and

(c) to [any person] an individual who otherwise violates this [chapter or any rules adopted under this chapter] part or rules adopted under this part.

Section 38. Section 35A-13-611, which is renumbered from Section 53A-26a-501 is renumbered and amended to read:

[53A-26a-501]. 35A-13-611. Unlawful conduct.

"Unlawful conduct" means conduct by [any person] an individual that is defined as unlawful under this part and includes:

(1) practicing or engaging in, representing oneself to be practicing or engaging in, or attempting to practice or engage in the profession of a certified interpreter if the [person] individual is:

(a) not certified to do so [or] and is not exempted from certification under this chapter; or

(b) restricted from doing so by a restricted, suspended, revoked, temporary, probationary, or inactive certification;

(2) impersonating another certified interpreter or practicing as a certified interpreter under a false or assumed name, except as permitted by law;

(3) knowingly employing [any other person] an individual to practice or engage in or attempt to practice or engage in the profession of a certified interpreter, if the employee is not certified to do so under this chapter;

(4) knowingly permitting the [person's] individual's authority to engage in the profession of a certified interpreter to be used by another individual, except as permitted by law; or

(5) applying for [or] certification under this part, obtaining certification under this part, or otherwise dealing with the [State Board of Education] director through the use of fraud, forgery, or intentional deception, misrepresentation, misstatement, or omission.

Section 39. Section 35A-13-612, which is renumbered from Section 53A-26a-502 is renumbered and amended to read:

[53A-26a-502]. 35A-13-612. Unprofessional conduct.

"Unprofessional conduct" means conduct by a certified interpreter that is defined as unprofessional conduct under this [chapter] part or under any rules adopted under this [chapter] part and includes:

(1) violating, or aiding or abetting [any other person to violate] an individual in violating, any provision of this [chapter or rule] part, rule adopted under this part, or order regulating certified interpreters;

(2) violating, or aiding or abetting [any other person to violate] an individual in violating, any generally accepted professional or ethical standard applicable to the profession of a certified interpreter; or

(3) physically, mentally, or sexually abusing or exploiting [any person] an individual through conduct connected with a certified interpreter's practice under this [chapter] part.

Section 40. Section 35A-13-613, which is renumbered from Section 53A-26a-503 is renumbered and amended to read:

[53A-26a-503]. 35A-13-613. Penalty for unlawful conduct.

[Any person] An individual who violates Section [53A-26a-501] 35A-13-611 is guilty of a class B misdemeanor.

Section 41. Section 53A-1-403.5 is amended to read:

53A-1-403.5. Education of persons in custody of the Utah Department of Corrections -- Contracting for services -- Recidivism reduction plan -- Collaboration among state agencies.

(1) The State Board of Education and the Utah Department of Corrections, subject to legislative appropriation, are responsible for the education of persons in the custody of the Utah Department of Corrections.

(2) (a) To fulfill the responsibility under Subsection (1), the State Board of Education and the Utah Department of Corrections shall, where feasible, contract with appropriate private or public agencies to provide educational and related administrative services. Contracts for postsecondary education and training shall be under Subsection (2)(b).

(b) (i) The contract under Subsection (2)(a) to provide postsecondary education and training shall be with a community college if the correctional facility is located within the service region of a community college, except under Subsection (2)(b)(ii).

(ii) If the community college under Subsection (2)(b)(i) declines to provide the education and training or cannot meet reasonable contractual terms for providing the education and training as specified by the Utah Department of Corrections, postsecondary education and training under Subsection (2)(a) may be procured through other appropriate private or public agencies.

(3) (a) As its corrections education program, the State Board of Education and the Utah Department of Corrections shall develop and implement a recidivism reduction plan, including the following components:

- (i) inmate assessment;
- (ii) cognitive problem-solving skills;
- (iii) basic literacy skills;
- (iv) career skills;
- (v) job placement;
- (vi) postrelease tracking and support;
- (vii) research and evaluation;
- (viii) family involvement and support; and
- (ix) multiagency collaboration.

(b) The plan shall be developed and implemented through the State Office of Education and the Utah Department of Corrections in collaboration with the following entities:

- (i) the State Board of Regents;
- (ii) the Utah College of Applied Technology Board of Trustees;
- (iii) local boards of education;
- (iv) the Department of Workforce Services;
- (v) the Department of Human Services;
- (vi) the Board of Pardons and Parole;
- (vii) the Utah State Office of Rehabilitation; and
- (viii) the Governor's Office.

(4) By July 1, 2014, and every three years thereafter, the Utah Department of Corrections shall make a report to the Education Interim Committee and the Judiciary, Law Enforcement, and Criminal Justice Interim Committee evaluating the impact of corrections education programs on recidivism.

Section 42. Section 53A-1a-501.7 is amended to read:

53A-1a-501.7. State Charter School Board -- Staff director -- Facilities.

(1) (a) The State Charter School Board, with the consent of the superintendent of public instruction, shall appoint a staff director for the State Charter School Board.

(b) The State Charter School Board shall have authority to remove the staff director with the consent of the superintendent of public instruction.

(c) The position of staff director is exempt from the career service provisions of Title 67, Chapter 19, Utah State Personnel Management Act.

(2) The superintendent of public instruction shall provide space for staff of the State Charter School Board in facilities occupied by the Utah State Office of Education, with costs charged for the facilities equal to those charged other sections and divisions within the Utah State Office of Education [~~and Utah State Office of Rehabilitation~~].

Section 43. Section 53A-11-203 is amended to read:

53A-11-203. Vision screening.

(1) As used in this section:

(a) [~~“Division”~~] “Office” means the [~~Division of Services for the Blind and Visually Impaired created under Section 53A-24-302~~] Utah State Office of Rehabilitation created in Section 35A-1-202.

(b) “Qualifying child” means a child who is at least 3-1/2 years old, but is less than nine years old.

(2) A child under nine years old entering school for the first time in this state must present the following to the school:

(a) a certificate signed by a licensed physician, optometrist, or other licensed health professional

approved by the [division] office, stating that the child has received vision screening to determine the presence of amblyopia or other visual defects; or

(b) a written statement signed by at least one parent or legal guardian of the child that the screening violates the personal beliefs of the parent or legal guardian.

(3) (a) The [division] office:

(i) shall provide vision screening report forms to a person approved by the [division] office to conduct a free vision screening for a qualifying child;

(ii) may work with health care professionals, teachers, and vision screeners to develop protocols that may be used by a parent, teacher, or vision screener to help identify a child who may have conditions that are not detected in a vision screening, such as problems with eye focusing, eye tracking, visual perceptual skills, visual motor integration, and convergence insufficiency; and

(iii) shall, once protocols are established under Subsection (3)(a)(ii), develop language regarding the vision problems identified in Subsection (3)(a)(ii) to be included in the notice required by Subsection (3)(b).

(b) The report forms shall include the following information for a parent or guardian: "vision screening is not a substitute for a complete eye exam and vision evaluation by an eye doctor."

(4) A school district or charter school may conduct free vision screening clinics for a qualifying child.

(5) (a) The [division] office shall maintain a central register of qualifying children who fail vision screening and who are referred for follow-up treatment.

(b) The register described in Subsection (5)(a) shall include the name of the child, age or birthdate, address, cause for referral, and follow-up results.

(c) A school district or charter school shall report to the [division] office referral follow-up results for a qualifying child.

(6) (a) A school district or charter school shall ensure that a volunteer who serves as a vision screener for a free vision screening clinic for a qualifying child:

(i) is a school nurse;

(ii) holds a certificate issued by the [division] office under Subsection (6)(b)(ii); or

(iii) is directly supervised by an individual described in Subsection (6)(a)(i) or (ii).

(b) The [division] office shall:

(i) provide vision screening training to a volunteer seeking a certificate described in Subsection (6)(b)(ii), using curriculum established by the [division] office; and

(ii) issue a certificate to a volunteer who successfully completes the vision screening training described in Subsection (6)(b)(i).

(c) An individual described in Subsection (6)(a) is not liable for damages that result from acts or omissions related to the vision screening, unless the acts or omissions are willful or grossly negligent.

(7) (a) Except as provided in Subsection (7)(b), a licensed health professional providing vision care to private patients may not participate as a screener in a free vision screening program provided by a school district.

(b) A school district or charter school may:

(i) allow a licensed health professional who provides vision care to private patients to participate as a screener in a free vision screening program for a child 3-1/2 years old or older;

(ii) establish guidelines to administer a free vision screening program described in Subsection (7)(b)(i); and

(iii) establish penalties for a violation of the requirements of Subsection (7)(c).

(c) A licensed health professional or other person who participates as a screener in a free vision screening program described in Subsection (7)(b):

(i) may not market, advertise, or promote the licensed health professional's business in connection with providing the free screening at the school; and

(ii) shall provide the child's results of the free vision screening on a form produced by the school or school district, which:

(A) may not include contact information other than the name of the licensed health professional; and

(B) shall include a statement: "vision screening is not a substitute for a complete eye exam and vision evaluation by an eye doctor."

(d) A school district or charter school may provide information to a parent or guardian of the availability of follow up vision services for a student.

(8) The Department of Health shall:

(a) by rule, set standards and procedures for vision screening required by this chapter, which shall include a process for notifying the parent or guardian of a child who fails a vision screening or is identified as needing follow-up care; and

(b) provide the [division] office with copies of rules, standards, instructions, and test charts necessary for conducting vision screening.

(9) The [division] office shall supervise screening, referral, and follow-up required by this chapter.

Section 44. Section 53A-24-601 is enacted to read:

Part 6. Transition Plan for the Utah State Office of Rehabilitation

53A-24-601. Transition plan.

(1) On or before June 1, 2016, the Department of Workforce Services and the Utah State Office of Rehabilitation shall develop a written transition

plan for moving the Utah State Office of Rehabilitation from the State Board of Education to the Department of Workforce Services on October 1, 2016, that describes:

(a) the tasks that need to be completed before the move on October 1, 2016, including a description of:

(i) which employees, by job title and classification, will transition to the Utah State Office of Rehabilitation under the Department of Workforce Services from the State Board of Education and the expected transition dates;

(ii) office space and infrastructure requirements related to the transition;

(iii) any work site location changes for transitioning employees;

(iv) the transition of service delivery sites;

(v) amendments needed to existing contracts;

(vi) the provision of directions and information to Utah State Office of Rehabilitation clients regarding where services will be provided and the hours services will be provided;

(vii) procedures for the transfer and reconciliation of budgeting and funding of the Utah State Office of Rehabilitation as the office transitions from the State Board of Education to the Department of Workforce Services; and

(viii) the transition of technology services to the Utah State Office of Rehabilitation;

(b) the tasks that need to be completed during the year after the move on October 1, 2016; and

(c) how the transition to the Department of Workforce Services will be funded, including details of:

(i) how expenses associated with the transition will be managed;

(ii) how funding for services provided by the Utah State Office of Rehabilitation will be managed between the State Board of Education and the Department of Workforce Services to ensure services will be provided by the Utah State Office of Rehabilitation without interruption; and

(iii) how federal funds will be used by or transferred between the State Board of Education and the Department of Workforce Services to ensure services will be provided by the Utah State Office of Rehabilitation without interruption.

(2) The written transition plan shall:

(a) contain a timeline for the completion of the tasks described in Subsection (1)(a);

(b) be updated at least every two weeks until the transition is complete;

(c) describe how information will be provided to Utah Office of Rehabilitation clients regarding any changes to where services will be provided and the hours services will be provided;

(d) be provided to the:

(i) State Board of Education and the superintendent of public instruction;

(ii) Division of Finance;

(iii) Utah State Office of Rehabilitation; and

(iv) Department of Technology Services; and

(e) be made available to transitioning or potentially transitioning employees.

(3) The Department of Workforce Services and the Utah State Office of Rehabilitation shall publish information on their websites for Utah State Office of Rehabilitation clients and employees that provides a full overview of the written transition plan and how the move will affect client services offered by the Utah State Office of Rehabilitation, including regularly updated:

(a) information regarding the location where services are provided and the hours services are provided; and

(b) contact information so that clients can contact transitioning employees and obtain information regarding client services.

(4) The Department of Workforce Services and the State Board of Education may enter into a memorandum of understanding of how costs and responsibilities will be shared to:

(a) ensure that services provided under agreements with the federal government are fulfilled;

(b) ensure that commitments made by the State Board of Education with respect to the Utah State Office of Rehabilitation are met;

(c) provide ongoing or shared services as needed, including the provision of payments to the State Board of Education from the Department of Workforce Services; and

(d) ensure that money from the Office of Rehabilitation Transition Restricted Account, created in Section 53A-24-602, is used appropriately by the Department of Workforce Services and the State Board of Education.

(5) The Department of Workforce Services may not expend federal funds received from the United States Rehabilitation Services Administration before October 1, 2016.

(6) In implementing the written transition plan described in this section, the Department of Workforce Services and the Utah State Office of Rehabilitation shall:

(a) protect existing services, programs, and access to services provided by the Utah State Office of Rehabilitation; and

(b) preserve the existing organizational structure and personnel assignments within the Utah State Office of Rehabilitation.

Section 45. Section 53A-24-602 is enacted to read:

53A-24-602. Office of Rehabilitation Transition Restricted Account.

(1) There is created a restricted account within the General Fund known as the "Office of Rehabilitation Transition Restricted Account."

(2) The restricted account shall consist of appropriations made by the Legislature.

(3) Subject to appropriation, the Utah State Office of Rehabilitation, the Department of Workforce Services, and the State Board of Education may spend money from the restricted account to pay for commitments related to and services provided by the Utah State Office of Rehabilitation, including expenses related to moving the Utah State Office of Rehabilitation from the State Board of Education to the Department of Workforce Services.

Section 46. Section 54-8b-10 is amended to read:

54-8b-10. Imposing a surcharge to provide hearing and speech impaired persons with telecommunication devices -- Definitions -- Procedures for establishing program -- Surcharge -- Administration and disposition of surcharge money.

(1) As used in this section:

(a) "Certified deaf or severely hearing or speech impaired person" means any state resident who:

(i) is so certified by:

(A) a licensed physician;

(B) an otolaryngologist;

(C) a speech language pathologist;

(D) an audiologist; or

(E) a qualified state agency; and

(ii) qualifies for assistance under any low income public assistance program administered by a state agency.

(b) "Certified interpreter" means a person who is a certified interpreter under Title ~~53A, Chapter 26a, Interpreter Services for the Hearing Impaired Act~~ 35A, Chapter 13, Part 6, Interpreter Services for the Deaf and Hard of Hearing Act.

(c) (i) "Telecommunication device" means any mechanical adaptation device that enables a deaf or severely hearing or speech impaired person to use the telephone.

(ii) "Telecommunication device" includes:

(A) telecommunication devices for the deaf (TDD);

(B) telephone amplifiers;

(C) telephone signal devices;

(D) artificial larynxes; and

(E) adaptive equipment for TDD keyboard access.

(2) The commission shall hold hearings to establish a program whereby a certified deaf or severely hearing or speech impaired customer of a

telecommunications corporation that provides service through a local exchange or of a wireless telecommunications provider may obtain a telecommunication device capable of serving the customer at no charge to the customer beyond the rate for basic service.

(3) (a) The program described in Subsection (2) shall provide a dual party relay system using third party intervention to connect a certified deaf or severely hearing or speech impaired person with a normal hearing person by way of telecommunication devices designed for that purpose.

(b) The commission may, by rule, establish the type of telecommunications device to be provided to ensure functional equivalence.

(4) (a) The commission shall impose a surcharge on each residential and business access line of each customer of local-exchange telephone service in this state, and each residential and business telephone number of each customer of mobile telephone service in this state, not including a telephone number used exclusively to transfer data to and from a mobile device, which shall be collected by the telecommunications corporation providing public telecommunications service to the customer, to cover the costs of:

(i) the program described in Subsection (2); and

(ii) payments made under Subsection (5).

(b) The commission shall establish by rule the amount to be charged under this section, provided that:

(i) the surcharge does not exceed 20 cents per month for each residential and business access line for local-exchange telephone service, and for each residential and business telephone number for mobile telephone service, not including a telephone number used exclusively to transfer data to and from a mobile device; and

(ii) if the surcharge is related to a mobile telecommunications service, the surcharge may be imposed, billed, and collected only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

(c) The telecommunications corporation shall collect the surcharge from its customers and transfer the money collected to the commission under rules adopted by the commission.

(d) The surcharge shall be separately identified on each bill to a customer.

(5) (a) Money collected from the surcharge imposed under Subsection (4) shall be deposited in the state treasury as dedicated credits to be administered as determined by the commission.

(b) These dedicated credits may be used only:

(i) for the purchase, maintenance, repair, and distribution of telecommunication devices;

(ii) for the acquisition, operation, maintenance, and repair of a dual party relay system;

(iii) to reimburse telephone corporations for the expenses incurred in collecting and transferring to

the commission the surcharge imposed by the commission;

(iv) for the general administration of the program;

(v) to train persons in the use of telecommunications devices; and

(vi) by the commission to contract, in compliance with Title 63G, Chapter 6a, Utah Procurement Code, with:

(A) an institution within the state system of higher education listed in Section 53B-1-102 for a program approved by the Board of Regents that trains persons to qualify as certified interpreters; or

(B) the ~~[Division of Services to the Deaf and Hard of Hearing]~~ Utah State Office of Rehabilitation created in Section 35A-1-202 for a program that trains persons to qualify as certified interpreters.

(c) (i) The commission shall make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the administration of money under Subsection (5)(b)(vi).

(ii) In the initial rulemaking to determine the administration of money under Subsection (5)(b)(vi), the commission shall give notice and hold a public hearing.

(d) Money received by the commission under Subsection (4) is nonlapsing.

(6) (a) The telephone surcharge need not be collected by a telecommunications corporation if the amount collected would be less than the actual administrative costs of the collection.

(b) If Subsection (6)(a) applies, the telecommunications corporation shall submit to the commission, in lieu of the revenue from the surcharge collection, a breakdown of the anticipated costs and the expected revenue from the collection, showing that the costs exceed the revenue.

(7) The commission shall solicit the advice, counsel, and physical assistance of severely hearing or speech impaired persons and the organizations serving them in the design and implementation of the program.

Section 47. Section 55-5-2 is amended to read:

55-5-2. Licensing agency -- Duties of the Utah State Office of Rehabilitation.

(1) The ~~[Division of Services for the Blind and Visually Impaired,]~~ Utah State Office of Rehabilitation created in Section 35A-1-202 is designated as the licensing agency for the purpose of carrying out this chapter.

(2) The ~~[Division of Services for the Blind and Visually Impaired,]~~ Utah State Office of Rehabilitation shall:

(a) take necessary steps to carry out the provisions of this chapter;

(b) with the approval of the custodian having charge of the building, park or other property in which the vending stand or other enterprise is to be located, select a location for such stand or enterprise and the type of equipment to be provided;

(c) construct and equip stands where blind persons may be trained under the supervision of the ~~[Division of Services for the Blind and Visually Impaired]~~ Utah State Office of Rehabilitation to carry on a business as a vending stand operator;

(d) provide adequate supervision of each person licensed to operate vending stands or other enterprises to ensure efficient and orderly management; and

(e) make rules necessary for the proper operation of vending stands or other enterprises.

Section 48. Section 55-5-7 is amended to read:

55-5-7. Agencies to negotiate for food service with the Utah State Office of Rehabilitation -- Existing contracts.

(1) A governmental agency ~~[which]~~ that proposes to operate or continue a food service in a public office building shall first attempt in good faith to make an agreement with the ~~[Division of Services for the Blind and Visually Impaired]~~ Utah State Office of Rehabilitation created in Section 35A-1-202 to operate the food service without payment of rent.

(2) The governmental agency may not offer or grant to any other party a contract or concession to operate the food service unless the governmental agency determines in good faith that the ~~[Division of Services for the Blind and Visually Impaired]~~ Utah State Office of Rehabilitation is not willing to or cannot satisfactorily provide the food service.

(3) This act may not impair any valid contract existing on the effective date of this act, and does not preclude renegotiation of a valid contract on the same terms and with the same parties.

Section 49. Section 55-5-8 is amended to read:

55-5-8. Food service in exempt buildings.

With respect to all state, county, and municipal buildings ~~[which]~~ that are not subject to Section 55-5-7, the governmental agency in charge of the building shall consider allowing the ~~[Division of Services for the Blind and Visually Impaired]~~ Utah State Office of Rehabilitation created in Section 35A-1-202 to operate any existing or proposed food service in the building, and shall discuss the operation with the division under Section ~~[53A-24-304]~~ 35A-13-402 upon its request.

Section 50. Section 55-5a-2 is amended to read:

55-5a-2. Definitions.

As used in this ~~[act]~~ chapter:

(1) "Blind" means an individual, or class of individuals, whose central acuity does not exceed 20/200 in the better eye with correcting lenses or

whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

~~[(2) "Division" means the Division of Services for the Blind and Visually Impaired.]~~

~~[(3)] (2) "Direct labor" means work required for preparation, processing[,] and packing, other than supervision, administration, inspection [and], or shipping.~~

~~(3) "Office" means the Utah State Office of Rehabilitation created in Section 35A-1-202.~~

Section 51. Section 55-5a-3 is amended to read:

55-5a-3. Permit required to sell blind-made products or services or to make sales to help the blind and visually impaired.

(1) A person, group of persons, or organization may not~~[,]~~ by any means, sell, transfer, or otherwise dispose of goods, articles, or products to the public in this state ~~[which]~~ that are labeled as made by the blind or sold as products of the blind without first securing a permit in writing from the office for each person selling or soliciting the sale of those goods, articles, or products ~~[from the Division of Services for the Blind and Visually Impaired].~~

(2) A person, group of persons, or organization may not conduct or engage in any business ~~[whatsoever]~~ in this state, if the word "blind" is used to designate its product's origin or manufacture or if it is used in such a manner as to indicate the services, goods, articles, or products that it provides are blind-made or provide help for the blind or visually impaired, unless a written permit is obtained from the ~~[division]~~ office to do so.

(3) A person, group of persons, or organization may not conduct any of the activities designated in this section using a name, trade name, logo, or other identifying mark or name ~~[which]~~ that implies that the person, group of persons, or organization using the name is affiliated with or sponsored by the state or any of its agencies or subdivisions, when the person, group of persons, or organization is not sponsored or supported by the state or one of its agencies or subdivisions.

Section 52. Section 55-5a-4 is amended to read:

55-5a-4. Issuance of permits -- Eligibility -- Fee -- Local license or permit.

(1) The ~~[division]~~ office may adopt rules and regulations, prescribe procedures, adopt forms and applications, review applications for permits, and issue permits as required by Section 55-5a-3 subject to the following:

(a) A product shall be considered "blind-made" if 75% or more of the direct labor hours required for its manufacture are provided by the blind.

(b) A person or organization shall be considered to be selling blind-made products if 60% or more of the

wholesale cost of the seller's average inventory of products is blind-made and the seller clearly differentiates by the use of labels or other markings between blind-made products and other products.

(c) Individuals or businesses are conducting sales by the blind if 75% or more of the direct labor hours in packaging, marketing, soliciting and making sales are provided by the blind.

(d) Upon receipt of appropriate documentation indicating qualification of a person or organization seeking a license under this act, the ~~[division]~~ office shall issue permits for any one~~[,]~~ or ~~[a]~~ combination of the following:

(i) sale of products manufactured by the blind~~[,]~~;

(ii) sale of blind-made products by the blind~~[,]~~ and~~[,]~~ or

(iii) sale by the blind of products not made by the blind.

(e) No permit shall be issued by the ~~[division]~~ office if the business name, trade name, or logo of the organization seeking the permit is similar to the name of or in any way implies an affiliation with or support of the state or one of its agencies or subdivisions if the organization is not so affiliated.

(2) A fee of not more than \$5 shall be charged for the issuance and renewal of each permit ~~[which]~~ that shall be valid for a period of one year unless earlier revoked for good cause shown.

(3) No political subdivision of this state shall issue ~~[any]~~ a license or permit ~~[whatsoever]~~ to sell blind-made goods, articles, or products unless the person applying for that license or permit has first obtained a valid permit issued by the ~~[division]~~ office.

Section 53. Section 55-5a-5 is amended to read:

55-5a-5. Application for permit -- Investigation -- Exception -- Appeal of denial.

(1) The ~~[division]~~ office shall investigate each application for a permit to ~~[assure]~~ ensure that the person, group of persons, or organization is actually engaged in the manufacture or distribution of goods, articles, or products made by blind persons within the meaning of this act. ~~[The division]~~

(2) Notwithstanding Subsection (1), the office may issue permits without investigation~~[,]~~ however~~[,]~~ to nonresident persons, groups of persons, or organizations upon proof that they are recognized and approved by the state in which they reside as authorized to sell such goods, articles, or products pursuant to a law of that state imposing requirements substantially similar to those prescribed ~~[pursuant to]~~ by this act.

(3) Anyone denied a permit may appeal the decision of the ~~[division to the state superintendent of public instruction or his]~~ office to the executive director of the Department of Workforce Services or the executive director's designated agent.

Section 54. Section 62A-5a-102 is amended to read:

62A-5a-102. Definitions.

As used in this chapter:

(1) "Council" means the Coordinating Council for Persons with Disabilities.

(2) "State agencies" means:

(a) the Division of Services for People with Disabilities and the Division of Substance Abuse and Mental Health, within the Department of Human Services;

(b) the Division of Health Care Financing within the Department of Health;

(c) family health services programs established under Title 26, Chapter 10, Family Health Services, operated by the Department of Health;

(d) the Utah State Office of Rehabilitation created in Section 35A-1-202; and

(e) special education programs operated by the State Office of Education and local school districts under Title 53A, Chapter 15, Part 3, Education of Children with Disabilities.

Section 55. Section 62A-5a-103 is amended to read:

62A-5a-103. Coordinating Council for Persons with Disabilities -- Creation -- Membership -- Expenses.

(1) There is created the Coordinating Council for Persons with Disabilities.

(2) The council shall consist of:

(a) the director of the Division of Services for People with Disabilities within the Department of Human Services, or [his] the director's designee;

(b) the director of family health services programs, appointed under Section 26-10-3, or [his] the director's designee;

(c) the [executive] director of the Utah State Office of Rehabilitation created in Section 35A-1-202, or [his] the director's designee;

(d) the state director of special education, or [his] the director's designee;

(e) the director of the Division of Health Care Financing within the Department of Health, or [his] the director's designee;

(f) the director of the Division of Substance Abuse and Mental Health within the Department of Human Services, or [his] the director's designee;

(g) the superintendent of Schools for the Deaf and the Blind, or [his] the superintendent's designee; and

(h) a person with a disability, a family member of a person with a disability, or an advocate for persons with disabilities, appointed by the members listed in Subsections (2)(a) through (g).

(3) (a) The council shall annually elect a chair from its membership.

(b) Five members of the council are a quorum.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 56. Section 62A-5a-105 is amended to read:

62A-5a-105. Coordination of services for school-age children.

(1) Within appropriations authorized by the Legislature, the state director of special education, the [executive] director of the Utah State Office of Rehabilitation created in Section 35A-1-202, the executive director of the Department of Human Services, and the family health services director within the Department of Health, or their designees, and the affected local school district shall cooperatively develop a single coordinated education program, treatment services, and individual and family supports for students entitled to a free appropriate education under Title 53A, Chapter 15, Part 3, Education of Children with Disabilities, who also require services from the Department of Human Services, the Department of Health, or the Utah State Office of Rehabilitation.

(2) Distribution of costs for services and supports described in Subsection (1) shall be determined through a process established by the State Board of Education, the Department of Human Services, and the Department of Health.

Section 57. Section 63B-19-201 is amended to read:

63B-19-201. Authorizations to design and construct capital facilities using institutional or agency funds.

(1) The Legislature intends that:

(a) Southern Utah University may, subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management, use \$10,000,000 in donations and the revenue bond authorized in Subsection 63B-19-102(6) to plan, design, and construct a Southern Utah Museum of Arts, with 28,000 new square feet;

(b) no state funds be used for any portion of this project; and

(c) the university may not request state funds for operation and maintenance costs or capital improvements.

(2) The Legislature intends that:

(a) the University of Utah may, subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management, use \$17,878,000 in donations, federal funds, and institutional funds to plan, design, and construct an addition to the Henry Eyring Building, with 40,915 new square feet;

(b) no state funds be used for any portion of this project; and

(c) the university may not request state funds for operation and maintenance costs or capital improvements.

(3) The Legislature intends that:

(a) Utah State University may, subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management, use \$3,000,000 in donations to plan, design, and construct a Botanical Center classroom building, with 7,900 new square feet;

(b) no state funds be used for any portion of this project; and

(c) the university may not request state funds for operation and maintenance costs or capital improvements.

(4) The Legislature intends that:

(a) ~~[the Division of Services for the Blind and Visually Impaired in]~~ the Utah State Office of Rehabilitation created in Section 35A-1-202 may, subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management, use \$1,497,000 in federal grants to plan, design, and construct a residential facility for the blind, with 8,000 new square feet;

(b) no state funds be used for any portion of this project; and

(c) the division may not request state funds for operation and maintenance costs or capital improvements.

(5) The Legislature intends that:

(a) the Department of Public Safety may, subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management, use \$3,294,000 of nonlapsing balances within the driver license line item in the Department of Public Safety budget in fiscal year 2010 to plan, design, and construct an Ogden driver license building with 10,500 new square feet;

(b) no state funds be used for any portion of this project; and

(c) the department may not request state funds for operation and maintenance costs or capital improvements.

(6) The Legislature intends that:

(a) the University of Utah may use donations to prepare preliminary plans for a dental school building;

(b) no state funds be used for any portion of the planning; and

(c) the University of Utah may not design or construct a dental school building unless and until the Legislature authorizes:

(i) the design and construction of a dental school building;

(ii) the University to pursue the establishment of a dental school program; and

(iii) the appropriation of funds at a level sufficient to fund a dental school program at the University of Utah.

Section 58. Section 63G-6a-805 is amended to read:

63G-6a-805. Purchase from community rehabilitation programs.

(1) As used in this section:

(a) "Advisory board" means the Purchasing from Persons with Disabilities Advisory Board created under this section.

(b) "Central not-for-profit association" means a group of experts designated by the advisory board to do the following, under guidelines established by the advisory board:

(i) assist the advisory board with its functions; and

(ii) facilitate the implementation of advisory board policies.

(c) (i) "Community rehabilitation program" means a program that is operated primarily for the purpose of the employment and training of persons with a disability by a government agency or qualified nonprofit organization which is an income tax exempt organization under 26 U.S.C. Sec. 501(c)(3) of the Internal Revenue Code.

(ii) A community rehabilitation program:

(A) maintains an employment ratio of at least 75% of the program employees under the procurement contract in question have severe disabilities;

(B) (I) complies with any applicable occupational health and safety standards prescribed by the United States Department of Labor; or

(II) is a supported employment program approved by the Utah State Office of Rehabilitation created in Section 35A-1-202;

(C) has its principal place of business in Utah;

(D) produces any good provided under this section in Utah; and

(E) provides any service that is provided by individuals with a majority of whom domiciled in Utah.

(d) "Person with a disability" means a person with any disability as defined by and covered under the Americans with Disabilities Act of 1990, 42 U.S.C. 12102.

(2) There is created within the division the Purchasing from Persons with Disabilities Advisory Board.

(3) The advisory board shall consist of three members, as follows:

(a) the director of the division or the director's designee;

(b) the ~~[executive]~~ director of the Utah State Office of Rehabilitation~~[- created under Section 53A-24-103,]~~ or the ~~[executive]~~ director's designee; and

(c) a representative of the private business community who shall be appointed to a three-year term by the governor with the advice and consent of the Senate.

(4) The advisory board shall meet, as needed, to facilitate the procurement of goods and services from community rehabilitation programs by a procurement unit under this chapter by:

(a) identifying goods and services that are available from community rehabilitation programs in accordance with the requirements of Subsection (7);

(b) approving prices in accordance with Subsection (7)(c) for goods and services that are identified under Subsection (4)(a);

(c) developing, maintaining, and approving a preferred procurement contract list of goods and services identified and priced under Subsections (4)(a) and (b);

(d) reviewing bids received by a community rehabilitation program; and

(e) awarding and renewing specified contracts for set contract times, without competitive bidding, for the purchase of goods and services under Subsection (7).

(5) The provisions of Subsections (4) and (7)(a) are an exception to the procurement provisions under this chapter.

(6) (a) The advisory board may designate a central not-for-profit association, appoint its members, and establish guidelines for its duties.

(b) The designated central not-for-profit association serves at the pleasure of the advisory board. The central not-for-profit association or its individual members may be removed by the advisory board at any time by a majority vote of the advisory board.

(c) Subject to the advisory board guidelines and discretion, a designated central not-for-profit association may be assigned to perform the following duties:

(i) identify qualified community rehabilitation programs and the goods and services that they provide or have the potential to provide;

(ii) help ensure that goods and services are provided at reasonable quality and delivery levels;

(iii) recommend pricing for goods and services;

(iv) review bids and recommend the award of contracts under the advisory board's direction;

(v) collect and report program data to the advisory board and to the division; and

(vi) other duties specified by the advisory board.

(7) Except as provided under Subsection (9), notwithstanding any provision of this chapter to the contrary, each procurement unit shall purchase goods and services produced by a community rehabilitation program using the preferred procurement contract list approved under Subsection (4)(c) if:

(a) the good or service offered for sale by a community rehabilitation program reasonably conforms to the needs and specifications of the procurement unit;

(b) the community rehabilitation program can supply the good or service within a reasonable time; and

(c) the price of the good or service is reasonably competitive with the cost of procuring the good or service from another source.

(8) Each community rehabilitation program:

(a) may submit a bid to the advisory board at any time and not necessarily in response to an invitation for bids; and

(b) shall certify on any bid it submits to the advisory board or to a procurement unit under this section that it is claiming a preference under this section.

(9) During a fiscal year, the requirement for a procurement unit to purchase goods and services produced by a community rehabilitation program under the preferred procurement list under Subsection (7) does not apply if the division determines that the total amount of procurement contracts with community rehabilitation programs has reached \$5 million for that fiscal year.

(10) In the case of conflict between a purchase under this section and a purchase under Section 63G-6a-804, this section prevails.

Section 59. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53, 53A, and 53B.

(1) Section 53A-1-403.5 is repealed July 1, 2017.

(2) Subsection 53A-1-410(5) is repealed July 1, 2015.

(3) Section 53A-1-411 is repealed July 1, 2017.

(4) Section 53A-1a-513.5 is repealed July 1, 2017.

(5) Title 53A, Chapter 1a, Part 10, UPSTART, is repealed July 1, 2019.

(6) Title 53A, Chapter 8a, Part 8, Peer Assistance and Review Pilot Program, is repealed July 1, 2017.

(7) Sections 53A-24-601 and 53A-24-602 are repealed January 1, 2018.

Section 60. Section 63J-1-601 is amended to read:

63J-1-601. End of fiscal year -- Unexpended balances -- Funds not to be closed out -- Pending claims -- Transfer of amounts from item of appropriation -- Nonlapsing accounts and funds -- Institutions of higher education to report unexpended balances.

(1) As used in this section, "transaction control number" means the unique numerical identifier established by the Department of Health to track each medical claim and indicates the date on which the claim is entered.

(2) On or before August 31 of each fiscal year, the director of the Division of Finance shall close out to the proper fund or account all remaining unexpended and unencumbered balances of appropriations made by the Legislature, except:

(a) those funds classified under Title 51, Chapter 5, Funds Consolidation Act, as:

- (i) enterprise funds;
- (ii) internal service funds;
- (iii) trust and agency funds;
- (iv) capital projects funds;
- (v) discrete component unit funds;
- (vi) debt service funds; and
- (vii) permanent funds;

(b) those revenue collections, appropriations from a fund or account, or appropriations to a program that are designated as nonlapsing under Sections 63J-1-602.1 through 63J-1-602.5;

(c) expendable special revenue funds, unless specifically directed to close out the fund in the fund's enabling legislation;

(d) acquisition and development funds appropriated to the Division of Parks and Recreation;

(e) funds encumbered to pay purchase orders issued prior to May 1 for capital equipment if delivery is expected before June 30; and

(f) unexpended and unencumbered balances of appropriations that meet the requirements of Section 63J-1-603.

(3) (a) Liabilities and related expenses for goods and services received on or before June 30 shall be recognized as expenses due and payable from appropriations made prior to June 30.

(b) The liability and related expense shall be recognized within time periods established by the Division of Finance but shall be recognized not later than August 31.

(c) Liabilities and expenses not so recognized may be paid from regular departmental appropriations for the subsequent fiscal year, if these claims do not exceed unexpended and unencumbered balances of

appropriations for the years in which the obligation was incurred.

(d) No amounts may be transferred from an item of appropriation of any department, institution, or agency into the Capital Projects Fund or any other fund without the prior express approval of the Legislature.

(4) (a) For purposes of this chapter, a claim processed under the authority of Title 26, Chapter 18, Medical Assistance Act:

(i) is not a liability or an expense to the state for budgetary purposes, unless the Division of Health Care Financing receives the claim within the time periods established by the Division of Finance under Subsection (3)(b); and

(ii) is not subject to Subsection (3)(c).

(b) The transaction control number that the Division of Health Care Financing records on each claim invoice is the date of receipt.

(5) (a) For purposes of this chapter, a claim processed in accordance with Title [53A] 35A, Chapter [24] 13, Utah State Office of Rehabilitation Act:

(i) is not a liability or an expense to the state for budgetary purposes, unless the Utah State Office of Rehabilitation receives the claim within the time periods established by the Division of Finance under Subsection (3)(b); and

(ii) is not subject to Subsection (3)(c).

(b) (i) The Utah State Office of Rehabilitation shall mark each claim invoice with the date on which the Utah State Office of Rehabilitation receives the claim invoice.

(ii) The date described in Subsection (5)(b)(i) is the date of receipt for purposes of this section.

(6) Any balance from an appropriation to a state institution of higher education that remains unexpended at the end of the fiscal year shall be reported to the Division of Finance by the September 1 following the close of the fiscal year.

Section 61. Section 63J-1-602.3 is amended to read:

63J-1-602.3. List of nonlapsing funds and accounts -- Title 46 through Title 60.

(1) Funding for the Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(2) Appropriations made to the Division of Emergency Management from the State Disaster Recovery Restricted Account, as provided in Section 53-2a-603.

(3) Appropriations made to the Department of Public Safety from the Department of Public Safety Restricted Account, as provided in Section 53-3-106.

(4) Appropriations to the Motorcycle Rider Education Program, as provided in Section 53-3-905.

(5) Appropriations from the Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(6) Appropriations from the DNA Specimen Restricted Account created in Section 53-10-407.

(7) The Canine Body Armor Restricted Account created in Section 53-16-201.

(8) The School Readiness Restricted Account created in Section 53A-1b-104.

(9) Appropriations to the State Board of Education, as provided in Section 53A-17a-105.

(10) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section ~~53A-24-105~~ 35A-13-202.

(11) Certain funds appropriated from the General Fund to the State Board of Regents for teacher preparation programs, as provided in Section 53B-6-104.

(12) Funding for the Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.

(13) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

(14) Certain surcharges on residential and business telephone numbers imposed by the Public Service Commission, as provided in Section 54-8b-10.

(15) Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

(16) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

(17) Appropriations from the Relative Value Study Restricted Account created in Section 59-9-105.

(18) The Cigarette Tax Restricted Account created in Section 59-14-204.

Section 62. Section 78B-1-203 is amended to read:

78B-1-203. Effectiveness of interpreter determined.

(1) Before appointing an interpreter, the appointing authority shall make a preliminary determination, on the basis of the proficiency level

established by the Utah ~~[division of rehabilitation services]~~ State Office of Rehabilitation created in Section 35A-1-202 and on the basis of the hearing-impaired person's testimony, that the interpreter is able to accurately communicate with and translate information to and from the hearing-impaired person involved.

(2) If the interpreter is not able to provide effective communication with the hearing-impaired person, the appointing authority shall appoint another qualified interpreter.

Section 63. Section 78B-1-206 is amended to read:

78B-1-206. List of qualified interpreters -- Use -- Appointment of another.

(1) The Utah ~~[division of rehabilitation services]~~ State Office of Rehabilitation created in Section 35A-1-202 shall establish, maintain, update, and distribute a list of qualified interpreters.

(2) (a) When an interpreter is required under this part, the appointing authority shall use one of the interpreters on the list provided by the Utah ~~[division of rehabilitation services]~~ State Office of Rehabilitation.

(b) If none of the listed interpreters are available or are able to provide effective interpreting with the particular hearing-impaired person, then the appointing authority shall appoint another qualified interpreter who is able to accurately and simultaneously communicate with and translate information to and from the particular hearing-impaired person involved.

Section 64. Section 78B-1-208 is amended to read:

78B-1-208. Compensation of interpreter.

(1) An interpreter appointed under this part is entitled to a reasonable fee for his or her services, including waiting time and reimbursement for necessary travel and subsistence expenses.

(2) The fee shall be based on a fee schedule for interpreters recommended by the ~~[division of rehabilitation services]~~ Utah State Office of Rehabilitation created in Section 35A-1-202 or on prevailing market rates.

(3) Reimbursement for necessary travel and subsistence expenses shall be at rates provided by law for state employees generally.

(4) Compensation for interpreter services shall be paid by the appointing authority if the interpreter is not otherwise compensated for those services.

Section 65. Repealer.

This bill repeals:

Section 53A-15-205, Disability Determination Services Advisory Council

-- Membership -- Duties -- Requirements for DDDS.

Section 53A-24-110.5, Assistive Technology Advisory Council -- Membership -- Duties.

Section 53A-24-110.7, Appropriation for assistive technology devices and services.

Section 53A-24-201, Definition.

Section 53A-24-202, Creation.

Section 53A-24-203, Appointment of division director -- Administration.

Section 53A-24-204, Division responsibilities.

Section 53A-24-301, Definitions.

Section 53A-24-302, Creation.

Section 53A-24-303, Appointment of division director -- Administration.

Section 53A-24-401, Definitions.

Section 53A-24-402, Creation.

Section 53A-24-403, Appointment of administrator for the division.

Section 53A-24-501, Creation.

Section 53A-24-502, Appointment of administrator for the division.

Section 53A-24-503, Division responsibilities.

Section 66. Appropriation -- Operating and capital budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to amounts previously appropriated for fiscal year 2017.

Item 1: To Department of Workforce Services -- Utah State Office of Rehabilitation	
From General Fund	\$21,385,100
From General Fund, one-time	(\$21,385,100)
From General Fund Restricted — Office of Rehabilitation Transition Restricted Account	\$26,385,100
From Federal Funds	\$62,656,000
From Dedicated Credits Revenue	\$985,600
Schedule of Programs:	
Executive Director	\$2,965,300
Blind and Visually Impaired	\$6,109,700
Rehabilitation Services	\$46,461,800
Disability Determination	\$15,655,600
Deaf and Hard of Hearing	\$2,988,600
Aspire Grant	\$10,845,700

The Legislature intends that the Department of Workforce Services may spend up to the amount appropriated in this item from the General Fund Restricted -- Office of Rehabilitation Transition Restricted Account for fiscal year 2017, but that expenditures from the account in this item of appropriation plus expenditures from the account at the State Board of Education may not exceed the total amount available in the account.

Item 2: To State Board of Education -- Utah State Office of Rehabilitation

From General Fund	(\$273,700)
From Education Fund	(\$21,111,400)
From General Fund Restricted — Office of Rehabilitation Transition Restricted Account	\$26,385,100

Schedule of Programs:

Vocational Rehabilitation	\$5,000,000
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The Legislature intends that the State Board of Education may spend up to the amount appropriated in this item from the General Fund Restricted -- Office of Rehabilitation Transition Restricted Account for fiscal year 2017, but that expenditures from the account in this item of appropriation plus expenditures from the account at the Department of Workforce Services may not exceed the total amount available in the account.

Section 67. Appropriation -- Restricted fund and account transfers.

The Legislature authorizes the Division of Finance to transfer the following amounts among the following funds or accounts as indicated. Expenditures and outlays from the recipient funds must be authorized elsewhere in an appropriations act.

Item 3: To General Fund Restricted -- Office of Rehabilitation Transition Restricted Account

From General Fund, one-time	\$21,385,100
From Beginning Nonlapsing Appropriation Balances	\$5,000,000

Schedule of Programs:

General Fund Restricted — Office of Rehabilitation Transition Restricted Account	\$26,385,100
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The Legislature intends that the fiscal year 2016 ending balances at the Utah State Office of Rehabilitation within the State Board of Education not lapse and the Division of Finance transfer those balances into the General Fund Restricted -- Office of Rehabilitation Transition Restricted Account at the close of fiscal year 2016.

Section 68. Effective date.

(1) Except as provided in Subsections (2) and (3), this bill takes effect on October 1, 2016.

(2) If approved by two-thirds of all the members elected to each house, amendments to Section 53A-24-601 and Section 53A-24-602 in this bill take effect upon approval by the governor, or the

day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(3) Uncodified Section 66, Appropriation -- Operating and capital budgets, and Section 67, Appropriation -- Restricted fund and account transfers, in this bill take effect on July 1, 2016.

CHAPTER 272**H. B. 329**

Passed March 10, 2016
 Approved March 25, 2016
 Effective May 10, 2016

**FEDERAL FUNDS
 PROCEDURES ACT AMENDMENTS**

Chief Sponsor: Justin L. Fawson
 Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill modifies the Federal Funds Procedures Act by amending provisions relating to federal funds review and approval requirements.

Highlighted Provisions:

This bill:

- ▶ provides and amends definitions;
- ▶ provides that the State Board of Education is subject to the review and approval requirements for federal funds;
- ▶ provides that a federal funds request summary includes certain documentation awarding an agency a grant of federal funds;
- ▶ provides that if certain documentation is not included in a federal funds request summary, it shall be submitted before expending a federal funds grant;
- ▶ specifies procedures for the State Board of Education to approve certain new federal funds requests; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63J-5-102, as last amended by Laws of Utah 2015, Chapter 190

63J-5-202, as last amended by Laws of Utah 2013, Chapter 310

63J-5-203, as renumbered and amended by Laws of Utah 2008, Chapter 382

63J-5-204, as last amended by Laws of Utah 2011, Chapter 326

ENACTS:

63J-5-203.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63J-5-102 is amended to read:**63J-5-102. Definitions.**

(1) As used in this chapter:

(a) (i) "Agency" means a department, division, committee, commission, council, court, or other administrative subunit of the state.

(ii) "Agency" includes:

(A) executive branch entities ~~and~~;

(B) judicial branch entities; and

(C) the State Board of Education.

(iii) "Agency" does not mean higher education institutions or political subdivisions.

(b) (i) "Federal funds" means cash or other money received from the United States government or from other individuals or entities for or on behalf of the United States and deposited with the state treasurer or any agency of the state.

(ii) "Federal funds" includes federal assistance and federal assistance programs, however described.

(iii) "Federal funds" does not include money received from the United States government to reimburse the state for money expended by the state.

(c) "Federal funds reauthorization" means:

(i) the formal submission from an agency to the federal government applying for or seeking reauthorization of federal funds which the state is currently receiving;

(ii) the formal submission from an agency to the federal government applying for or seeking reauthorization to participate in a federal program in which the state is currently participating that will result in federal funds being transferred to an agency; or

(iii) that period after the first year of a previously authorized and awarded grant or funding award, during which federal funds are disbursed or are scheduled to be disbursed after the first year because the term of the grant or financial award extends for more than one year.

(d) (i) "Federal funds request summary" means a document detailing:

(~~(i)~~) (A) the amount of money that is being requested or is available to be received by the state from the federal government for each federal funds reauthorization or new federal funds request;

(~~(ii)~~) (B) those federal funds reauthorizations and new federal funds requests that are included as part of the agency's proposed budget for the fiscal year, and the amount of those requests;

(~~(iii)~~) (C) the amount of new state money, if any, that will be required to receive the federal funds or participate in the federal program;

(~~(iv)~~) (D) the number of additional permanent full-time employees, additional permanent part-time employees, or combination of additional permanent full-time employees and additional permanent part-time employees, if any, that the state estimates are needed in order to receive the federal funds or participate in the federal program; and

(~~(v)~~) (E) any requirements that the state must meet as a condition for receiving the federal funds or participating in the federal program.

(ii) "Federal funds request summary" includes, if available:

(A) the letter awarding an agency a grant of federal funds; or

(B) other official documentation awarding an agency a grant of federal funds.

(e) “Federal maintenance of effort requirements” means any matching, level of effort, or earmarking requirements, as defined in Office of Management and Budget [Circular A-133, Compliance Requirement G] requirements, that are imposed on an agency as a condition of receiving federal funds.

(f) “Local education agency” or “LEA” means:

(i) a school district;

(ii) a charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(f) (g) “New federal funds” means:

(i) federal assistance or other federal funds that are available from the federal government that:

(A) the state is not currently receiving; or

(B) exceed the federal funds amount most recently approved by the Legislature by more than 25% for a federal grant or program in which the state is currently participating;

(ii) a federal assistance program or other federal program in which the state is not currently participating; or

(iii) a one-time TANF request.

(g) (h) “New federal funds request” means:

(i) the formal submission from an agency to the federal government:

(A) applying for or otherwise seeking to obtain new federal funds; or

(B) applying for or seeking to participate in a new federal program that will result in federal funds being transferred to an agency; or

(ii) a one-time TANF request.

(h) (i) (i) “New state money” means money, whether specifically appropriated by the Legislature or not, that the federal government requires Utah to expend as a condition for receiving the federal funds or participating in the federal program.

(ii) “New state money” includes money expended to meet federal maintenance of effort requirements.

(i) (j) “One-time TANF request” means a proposed expenditure by the Department of Workforce Services from its reserves of federal Temporary Assistance for Needy Families funds:

(i) for a project or program that will last for a fixed amount of time and is not an ongoing project or program of the Department of Workforce Services; and

(ii) that is greater than \$1,000,000 over the amount most recently approved by the Legislature.

(j) (k) (i) “Pass-through federal funds” means federal funds provided to an agency that are distributed to local governments or private entities without being used by the agency.

(ii) “Pass-through federal funds” does not include federal funds provided to the State Board of Education that are distributed to a local education agency or other subrecipient without being used by the State Board of Education.

(k) (l) “State” means the state of Utah and all of its agencies, and any administrative subunits of those agencies.

(2) When this chapter describes an employee as a “permanent full-time employee” or a “permanent part-time employee,” it is not intended to, and may not be construed to, affect the employee’s status as an at-will employee.

Section 2. Section 63J-5-202 is amended to read:

63J-5-202. Governor to approve certain new federal funds requests.

(1) (a) Before obligating the state to accept or receive new federal funds or to participate in a new federal program, and no later than three months after submitting a new federal funds request, and, where possible, before formally submitting the new federal funds request, an executive branch agency shall submit a federal funds request summary to the governor or the governor’s designee for approval or rejection when:

(i) the state will receive total payments of \$1,000,000 or less per year if the new federal funds request is approved;

(ii) receipt of the new federal funds will require no additional permanent full-time employees, permanent part-time employees, or combination of additional permanent full-time employees and permanent part-time employees; and

(iii) no new state money will be required to match the new federal funds or to implement the new federal program for which the grant is issued.

(b) The Governor’s Office of Management and Budget shall report each new federal funds request that is approved by the governor or the governor’s designee and each new federal funds request granted by the federal government to:

(i) the Legislature’s Executive Appropriations Committee;

(ii) the Office of the Legislative Fiscal Analyst; and

(iii) the Office of Legislative Research and General Counsel.

(2) The governor or the governor’s designee shall approve or reject each new federal funds request submitted under the authority of this section.

(3) (a) If the governor or the governor’s designee approves the new federal funds request, the executive branch agency may accept the new federal funds or participate in the new federal program.

(b) If the governor or the governor's designee rejects the new federal funds request, the executive branch agency may not accept the new federal funds or participate in the new federal program.

(4) If an executive branch agency fails to obtain the governor's or the governor's designee's approval under this section, the governor may require the agency to:

- (a) withdraw the new federal funds request;
- (b) return the federal funds;
- (c) withdraw from the federal program; or
- (d) any combination of Subsections (4)(a), (4)(b), and (4)(c).

(5) If a letter or other official documentation awarding an agency a grant of federal funds is not available to be included in a federal funds request summary submitted to the Governor's Office of Management and Budget under this section, the agency shall submit to the Governor's Office of Management and Budget the letter or other official documentation awarding the agency a grant of federal funds before expending the federal funds granted.

Section 3. Section 63J-5-203 is amended to read:

63J-5-203. Judicial council to approve certain new federal funds requests.

(1) (a) Before obligating the state to accept or receive new federal funds or to participate in a new federal program, and no later than three months after submitting a new federal funds request, and, where possible, before formally submitting the new federal funds request, a judicial branch agency shall submit a federal funds request summary to the Judicial Council for its approval or rejection when:

(i) the state will receive total payments of \$1,000,000 or less per year if the new federal funds request is approved;

(ii) receipt of the new federal funds will require no additional permanent full-time employees, additional permanent part-time employees, or combination of additional permanent full-time employees and permanent part-time employees; and

(iii) no new state money will be required to match the new federal funds or to implement the new federal program for which the grant is issued.

(b) The Judicial Council shall report each new federal funds request that is approved by it and each new federal funds request granted by the federal government to:

(i) the Legislature's Executive Appropriations Committee;

(ii) the Office of the Legislative Fiscal Analyst; and

(iii) the Office of Legislative Research and General Counsel.

(2) The Judicial Council shall approve or reject each new federal funds request submitted to it under the authority of this section.

(3) (a) If the Judicial Council approves the new federal funds request, the judicial branch agency may accept the new federal funds or participate in the new federal program.

(b) If the Judicial Council rejects the new federal funds request, the judicial branch agency may not accept the new federal funds or participate in the new federal program.

(4) If a judicial branch agency fails to obtain the Judicial Council's approval under this section, the Judicial Council may require the agency to:

- (a) withdraw the new federal funds request;
- (b) return the federal funds;
- (c) withdraw from the federal program; or
- (d) any combination of Subsections (4)(a), (4)(b), and (4)(c).

(5) If a letter or other official documentation awarding a judicial branch agency a grant of federal funds is not available to be included in a federal funds request summary submitted to the Judicial Council under this section, the judicial branch agency shall submit to the Judicial Council the letter or other official documentation awarding the judicial branch agency a grant of federal funds before expending the federal funds granted.

Section 4. Section 63J-5-203.5 is enacted to read:

63J-5-203.5. State Board of Education to approve certain new federal funds requests.

(1) (a) Before obligating the state to accept or receive new federal funds or to participate in a new federal program, and no later than three months after submitting a new federal funds request, and, where possible, before formally submitting the new federal funds request, the State Board of Education shall review a federal funds request summary of the State Board of Education when:

(i) the state will receive total payments of \$1,000,000 or less per year if the new federal funds request is approved;

(ii) receipt of the new federal funds will require no additional permanent full-time employees, additional permanent part-time employees, or a combination of additional permanent full-time employees and permanent part-time employees; and

(iii) no new state money will be required to match the new federal funds or to implement the new federal program for which the grant is issued.

(b) The State Board of Education shall approve or reject each new federal funds request reviewed under this section.

(2) The State Board of Education shall report each new federal funds request that is approved by the board and each new federal funds request granted to the board by the federal government to:

(a) the Legislature's Executive Appropriations Committee;

(b) the Office of the Legislative Fiscal Analyst; and

(c) the Office of Legislative Research and General Counsel.

(3) If a letter or other official documentation awarding the State Board of Education a grant of federal funds is not available to be included in the federal funds request summary submitted under this section, the letter or other official documentation awarding the State Board of Education a grant of federal funds shall be submitted to the State Board of Education before expending the federal funds granted.

Section 5. Section 63J-5-204 is amended to read:

63J-5-204. Legislative review and approval of certain federal funds requests.

(1) As used in this section:

(a) "High impact federal funds request" means a new federal funds request that will or could:

(i) result in the state receiving total payments of \$10,000,000 or more per year from the federal government;

(ii) require the state to add 11 or more permanent full-time employees, 11 or more permanent part-time employees, or combination of permanent full-time and permanent part-time employees equal to 11 or more in order to receive the new federal funds or participate in the new federal program; or

(iii) require the state to expend more than \$1,000,000 of new state money in a fiscal year in order to receive or administer the new federal funds or participate in the new federal program.

(b) "Medium impact federal funds request" means a new federal funds request that will or could:

(i) result in the state receiving total payments of more than \$1,000,000 but less than \$10,000,000 per year from the federal government;

(ii) require the state to add more than zero but less than 11 permanent full-time employees, more than zero but less than 11 permanent part-time employees, or a combination of permanent full-time employees and permanent part-time employees equal to more than zero but less than 11 in order to receive or administer the new federal funds or participate in the new federal program; or

(iii) require the state to expend \$1 to \$1,000,000 of new state money in a fiscal year in order to receive or administer the new federal funds or participate in the new federal program.

(2) (a) (i) Before obligating the state to accept or receive new federal funds or to participate in a new federal program under a medium impact federal funds request that was not authorized during a

legislative session as provided in Section 63J-5-201, an agency shall:

(A) submit the federal funds request summary to the governor [øf], the Judicial Council, or the State Board of Education, as appropriate, for approval or rejection; and

(B) if the governor [øf], the Judicial Council, or the State Board of Education approves the new federal funds request, submit the federal funds request summary to the Legislative Executive Appropriations Committee for its review and recommendations.

(i) The procedures required under Subsection (2)(a)(i) shall be performed, if possible, before the date that the medium impact funds request is formally submitted, but not later than three months after the date of formal submission.

(b) The Legislative Executive Appropriations Committee shall review the federal funds request summary and may:

(i) recommend that the agency accept the new federal funds;

(ii) recommend that the agency not accept the new federal funds; or

(iii) recommend to the governor that the governor call a special session of the Legislature to review and approve or reject the acceptance of the new federal funds.

(3) (a) (i) Before obligating the state to accept or receive new federal funds or to participate in a new federal program under a high impact federal funds request that was not authorized during a legislative session as provided in Section 63J-5-201, an agency shall:

(A) submit the federal funds request summary to the governor [øf], the Judicial Council, or the State Board of Education, as appropriate, for approval or rejection; and

(B) if the governor [øf], the Judicial Council, or the State Board of Education approves the new federal funds request, submit the federal funds request summary to the Legislature for its approval or rejection in an annual general session or a special session.

(i) The procedures required under Subsection (3)(a)(i) shall be performed, if possible, before the date that the high impact funds request is formally submitted, but not later than three months after the date of formal submission.

(b) (i) If the Legislature approves the new federal funds request, the agency may accept the new federal funds or participate in the new federal program.

(ii) If the Legislature fails to approve the new federal funds request, the agency may not accept the new federal funds or participate in the new federal program.

(4) If an agency fails to comply with the procedures of this section or fails to obtain the Legislature's approval:

(a) the governor [øø], the Judicial Council, or the State Board of Education, as appropriate, may require the agency to withdraw the new federal funds request or refuse or return the new federal funds;

(b) the Legislature may, if federal law allows, opt out or decline to participate in the new federal program or decline to receive the new federal funds; or

(c) the Legislature may reduce the agency's General Fund appropriation in an amount less than, equal to, or greater than the amount of federal funds received by the agency.

(5) If a letter or other official documentation awarding an agency a grant of federal funds is not available to be included in the agency's federal funds request summary to the governor, the Judicial Council, or the State Board of Education, as appropriate, under this section, the agency shall submit to the governor, the Judicial Council, or the State Board of Education, as appropriate, the letter or other official documentation awarding the agency a grant of federal funds before expending the federal funds granted.

CHAPTER 273**H. B. 347**

Passed March 10, 2016
 Approved March 25, 2016
 Effective May 10, 2016

**LOCAL AND SPECIAL
 SERVICE DISTRICT AMENDMENTS**

Chief Sponsor: Stephen G. Handy
 Senate Sponsor: Jerry W. Stevenson

LONG TITLE**General Description:**

This bill amends provisions related to local and special service districts.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ clarifies when a member of a board of trustees of a local district may complete training;
- ▶ clarifies notice requirements related to the imposition or increase of a fee for service;
- ▶ addresses the applicability of other provisions to a public transit district;
- ▶ removes a provision that prohibits a person from riding a transit vehicle without paying the applicable fare;
- ▶ authorizes an improvement district created to operate a sewage system to acquire, construct, or operate a resource recovery project;
- ▶ establishes powers and duties of an improvement district that owns, acquires, constructs, or operates a resource recovery project;
- ▶ establishes the required provisions of an agreement between an improvement district and a private person or a public agency for the ownership, acquisition, construction, management, or operation of a resource recovery project; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 17B-1-312, as last amended by Laws of Utah 2008, Chapter 360
 17B-2a-403, as renumbered and amended by Laws of Utah 2007, Chapter 329
 17B-1-643, as last amended by Laws of Utah 2015, Chapters 349 and 436
 17B-2a-803, as last amended by Laws of Utah 2009, Chapter 364
 17B-2a-821, as last amended by Laws of Utah 2014, Chapter 377

ENACTS:

19-6-508, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

17B-2a-803, as last amended by Laws of Utah 2009, Chapter 364

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17B-1-312 is amended to read:**17B-1-312. Training for board members.**

(1) (a) Each member of a board of trustees of a local district ~~[, elected or appointed on or after May 3, 1999, should] shall~~ shall, within one year after taking office, complete the training described in Subsection (2).

(b) For the purposes of Subsection (1)(a), a member of a board of trustees of a local district takes office each time the member is elected or appointed to a new term, including an appointment to fill a midterm vacancy in accordance with Subsection 17B-1-303(5) or (6).

(2) In conjunction with the Utah Association of Special Districts, the state auditor shall:

(a) develop a training curriculum for the members of local district boards; and

(b) with the assistance of other state offices and departments the state auditor considers appropriate and at times and locations established by the state auditor, carry out the training of members of local district boards.

(3) (a) A local district board of trustees may compensate each member of the board up to \$100 per day for each day of training described in Subsection (2) that the member completes.

(b) The per diem amount authorized under Subsection (3)(a) is in addition to all other amounts of compensation and expense reimbursement authorized under this chapter.

(c) A board of trustees may not pay compensation under Subsection (3)(a) to any board member more than once per year.

(4) The state auditor shall issue a certificate of completion to each board member that completes the training described in Subsection (2).

Section 2. Section 17B-1-643 is amended to read:**17B-1-643. Imposing or increasing a fee for service provided by local district.**

(1) (a) Before imposing a new fee or increasing an existing fee for a service provided by a local district, each local district board of trustees shall first hold a public hearing at which:

(i) the local district shall demonstrate its need to impose or increase the fee; and (ii) any interested person may speak for or against the proposal to impose a fee or to increase an existing fee.

(b) Each public hearing under Subsection (1)(a) shall be held in the evening beginning no earlier than 6 p.m.

(c) A public hearing required under this Subsection (1) may be combined with a public hearing on a tentative budget required under Section 17B-1-610.

(d) Except to the extent that this section imposes more stringent notice requirements, the local district board shall comply with Title 52, Chapter 4, Open and Public Meetings Act, in holding the public hearing under Subsection (1)(a).

(2) (a) Each local district board shall give notice of a hearing under Subsection (1) as provided in Subsections (2)(b) and (c) or Subsection (2)(d).

(b) The notice required under Subsection (2)(a) shall be published:

(i) on the Utah Public Notice Website established in Section 63F-1-701; and

(ii) (A) in a newspaper or combination of newspapers of general circulation in the local district, if there is a newspaper or combination of newspapers of general circulation in the local district; or

(B) if there is no newspaper or combination of newspapers of general circulation in the local district, the local district board shall post at least one notice per 1,000 population within the local district, at places within the local district that are most likely to provide actual notice to residents within the local district.

(c) (i) The notice described in Subsection (2)(b)(ii)(A):

(A) shall be no less than 1/4 page in size and the type used shall be no smaller than 18 point, and surrounded by a 1/4-inch border;

(B) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear;

(C) whenever possible, shall appear in a newspaper that is published at least one day per week;

(D) shall be in a newspaper or combination of newspapers of general interest and readership in the local district, and not of limited subject matter; and

(E) shall be run once each week for the two weeks preceding the hearing.

(ii) The notice described in Subsection (2)(b) shall state that the local district board intends to impose or increase a fee for a service provided by the local district and will hold a public hearing on a certain day, time, and place fixed in the notice, which shall be not less than seven days after the day the first notice is published, for the purpose of hearing comments regarding the proposed imposition or increase of a fee and to explain the reasons for the proposed imposition or increase.

(d) (i) In lieu of providing notice under Subsection (2)(b), the local district board of trustees may give the notice required under Subsection (2)(a) by mailing the notice to those within the district who:

(A) will be charged the fee for a district service, if the fee is being imposed for the first time; or

(B) are being charged a fee, if the fee is proposed to be increased.

(ii) Each notice under Subsection (2)(d)(i) shall comply with Subsection (2)(c)(ii).

(iii) A notice under Subsection (2)(d)(i) may accompany a district bill for an existing fee.

(e) If the hearing required under this section is combined with the public hearing required under Section 17B-1-610, the notice required under this Subsection (2):

(i) may be combined with the notice required under Section 17B-1-609; and

(ii) shall be published, posted, or mailed in accordance with the notice provisions of ~~Subsection (2)(d)~~ this section.

(f) Proof that notice was given as provided in Subsection (2)(b) or (d) is prima facie evidence that notice was properly given.

(g) If no challenge is made to the notice given of a hearing required by Subsection (1) within 30 days after the date of the hearing, the notice is considered adequate and proper.

(3) After holding a public hearing under Subsection (1), a local district board may:

(a) impose the new fee or increase the existing fee as proposed;

(b) adjust the amount of the proposed new fee or the increase of the existing fee and then impose the new fee or increase the existing fee as adjusted; or

(c) decline to impose the new fee or increase the existing fee.

(4) This section applies to each new fee imposed and each increase of an existing fee that occurs on or after July 1, 1998.

(5) (a) This section does not apply to an impact fee.

(b) The imposition or increase of an impact fee is governed by Title 11, Chapter 36a, Impact Fees Act.

Section 3. Section 17B-2a-403 is amended to read:

17B-2a-403. Additional improvement district powers.

(1) In addition to the powers conferred on an improvement district under Section 17B-1-103, an improvement district may:

(a) acquire through construction, purchase, gift, or condemnation, or any combination of these methods, and ~~may~~ operate all or any part of a system for:

(i) ~~a system for~~ the supply, treatment, and distribution of water;

(ii) ~~a system for~~ the collection, treatment, and disposition of sewage;

(iii) ~~a system for~~ the collection, retention, and disposition of storm and flood waters;

(iv) ~~a system for~~ the generation, distribution, and sale of electricity, subject to Section 17B-2a-406; and

(v) ~~[a system for]~~ the transmission of natural or manufactured gas if ~~[the system is]~~:

(A) ~~the system is connected to a gas plant, as defined in Section 54-2-1, of a gas corporation, as defined in Section 54-2-1, that is regulated under Section 54-4-1; [and]~~

(B) ~~the system is to be used to facilitate gas utility service within the district [if]; and~~

(C) ~~the gas utility service [is] was not available within the district [prior to] before the acquisition [or construction] of the system;~~

(b) ~~issue bonds [as provided] in [and subject to] accordance with Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the improvement district;~~

(c) ~~appropriate or [otherwise] acquire water [and] or water rights inside or outside [its] the improvement district's boundaries;~~

(d) ~~sell water or other services to consumers residing outside [its] the improvement district's boundaries;~~

(e) ~~enter into a contract with a gas corporation that is regulated under Section 54-4-1 to;~~

(i) ~~provide for the operation or maintenance of all or part of a system for the transmission of natural or manufactured gas; or [to]~~

(ii) ~~lease or sell all or a portion of [that] a system described in Subsection (1)(e)(i) to a gas corporation;~~

(f) ~~enter into a contract with a person for:~~

(i) ~~the purchase or sale of water or electricity;~~

(ii) ~~the use of any facility owned by the person; or~~

(iii) ~~the purpose of handling the person's industrial and commercial waste and sewage;~~

(g) ~~require pretreatment of industrial and commercial waste and sewage; and~~

(h) ~~impose a penalty or surcharge against a public entity or other person with which the improvement district has entered into a contract for the construction, acquisition, or operation of all or a part of a system for the collection, treatment, and disposal of sewage, if the public entity or other person fails to comply with the provisions of the contract.~~

(2) ~~The new gas utility service under Subsection (1)(a)(v)(B) shall be provided by a gas corporation regulated under Section 54-4-1 and not by the district.~~

(3) ~~An improvement district may not begin to provide sewer service to an area where sewer service is already provided by an existing sewage collection system operated by a municipality or other political subdivision unless the municipality or other political subdivision gives its written consent.~~

(4) An improvement district authorized to operate all or any part of a system for the collection, treatment, or disposition of sewage may acquire, construct, or operate a resource recovery project in accordance with Section 19-6-508.

Section 4. Section 17B-2a-803 is amended to read:

17B-2a-803. Provisions applicable to public transit districts.

(1) (a) Each public transit district is governed by and has the powers stated in:

(i) this part; and

(ii) except as provided in Subsection (1)(b), Chapter 1, Provisions Applicable to All Local Districts.

(b) (i) Except for Sections 17B-1-301, 17B-1-311, and 17B-1-313, the following provisions do not apply to public transit districts:

(A) Chapter 1, Part 3, Board of Trustees; and

(B) Section 17B-2a-905.

(ii) A public transit district is not subject to Chapter 1, Part 6, Fiscal Procedures for Local Districts.

(2) This part applies only to public transit districts.

(3) A public transit district is not subject to the provisions of any other part of this chapter.

(4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provision in this part governs.

(5) The provisions of Subsection 53-3-202(3)(b) do not apply to a motor vehicle owned in whole or in part by a public transit district.

Section 5. Section 17B-2a-821 is amended to read:

17B-2a-821. Multicounty district may establish and enforce parking ordinance.

~~[(1) A person may not ride a transit vehicle without payment of the applicable fare established by the public transit district that operates the transit vehicle.]~~

~~[(2) The board of trustees of a multicounty district may adopt an ordinance governing parking of vehicles at a transit facility, including the imposition of a fine or civil penalty for a violation of the ordinance.~~

Section 6. Section 19-6-508 is enacted to read:

19-6-508. Resource recovery project operated by an improvement district.

(1) As used in this section, "resource recovery project" means a project that consists of facilities for the handling, treatment and processing through anaerobic digestion, and resource recovery, of solid waste consisting primarily of organic matter.

(2) An improvement district authorized to operate all or any part of a system for the collection, treatment, or disposition of sewage under Section 17B-2a-403 may own, acquire, construct, or operate a resource recovery project in accordance with this section.

(3) An improvement district described in Subsection (2) may:

(a) (i) own, acquire, construct, or operate a resource recovery project independently; or

(ii) subject to Subsection (4), enter into a short- or long-term agreement for the ownership, acquisition, construction, management, or operation of a resource recovery project with:

(A) a public agency, as defined in Section 11-13-103;

(B) a private person; or

(C) a combination of persons listed in Subsections (3)(a)(ii)(A) and (B);

(b) accept and disburse money from a federal or state grant or any other source for the acquisition, construction, operation, maintenance, or improvement of a resource recovery project;

(c) contract for the lease or purchase of land, a facility, or a vehicle for the operation of a resource recovery project;

(d) establish one or more policies for the operation of a resource recovery project, including:

(i) the hours of operation;

(ii) the character and kind of waste accepted by the resource recovery project; and

(iii) any policy necessary to ensure the safety of the resource recovery project personnel;

(e) sell or contract for the sale of usable material, energy, fuel, or heat separated, extracted, recycled, or recovered from solid waste that consists primarily of organic matter in a resource recovery project;

(f) issue a bond in accordance with Title 17B, Chapter 1, Part 11, Local District Bonds;

(g) issue an industrial development revenue bond in accordance with Title 11, Chapter 17, Utah Industrial Facilities and Development Act, to pay the costs of financing a project, as defined in Section 11-17-2, that consists of a resource recovery project;

(h) agree to construct and operate a resource recovery project that manages the solid waste of a public entity or a private person, in accordance with one or more contracts and other arrangements described in a proceeding according to which a bond is issued; and

(i) contract for and accept solid waste that consists primarily of organic matter at a resource recovery project regardless of whether the solid

waste is generated inside or outside the boundaries of the improvement district.

(4) (a) An agreement described in Subsection (3)(a)(ii) shall:

(i) contain provisions that the improvement district's board determines are in the best interests of the improvement district, including provisions that address:

(A) the purposes of the agreement;

(B) the duration of the agreement;

(C) the method of appointing or employing necessary personnel;

(D) the method of financing the resource recovery project, including the apportionment of costs of construction and operation;

(E) the ownership interest of each owner in the resource recovery project and other property used in connection with the resource recovery project;

(F) the procedures for the disposition of property when the agreement expires or is terminated, or when the resource recovery project ceases operation for any reason;

(G) any agreement of the parties prohibiting or restricting the alienation or partition of the undivided interests of an owner in the resource recovery project;

(H) the construction and repair of the resource recovery project, including, if the parties agree, a determination that one of the parties may construct or repair the resource recovery project as agent for all parties to the agreement;

(I) the administration, operation, and maintenance of the resource recovery project, including, if the parties agree, a determination that one of the parties may administer, operate, and maintain the resource recovery project as agent for all parties to the agreement;

(J) the creation of a committee of representatives of the parties to the agreement, including the committee's powers;

(K) if the parties agree, a provision that if any party defaults in the performance or discharge of the party's obligations under the agreement, the other parties may perform or assume, pro rata or otherwise, the obligations of the defaulting party and may, if the defaulting party fails to remedy the default, succeed to or require the disposition of the rights and interests of the defaulting party in the resource recovery project;

(L) provisions for indemnification of construction, operation, and administration agents for completing construction, handling emergencies, and allocating output of the resource recovery project among the parties to the agreement according to the ownership interests of the parties;

(M) methods for amending and terminating the agreement; and

(N) any other matter determined by the parties to the agreement to be necessary; and

(ii) provide for an equitable method of allocating operation, repair, and maintenance costs of the resource recovery project.

(b) A provision under Subsection (4)(a)(i)(G) is not subject to any law restricting covenants against alienation or partition.

(c) An improvement district's ownership interest in a resource recovery project may not be less than the proportion of money or the value of property supplied by the improvement district for the acquisition and construction of the resource recovery project.

CHAPTER 274**H. B. 352**

Passed March 10, 2016
 Approved March 25, 2016
 Effective May 10, 2016

COSMETOLOGY AMENDMENTS

Chief Sponsor: James A. Dunnigan
 Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill modifies the Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ modifies provisions related to approved apprenticeships;
- ▶ requires an apprentice to register with the Division of Occupational and Professional Licensing before beginning an approved apprenticeship;
- ▶ lowers the training hour requirements and modifies other requirements for obtaining certain instructor licenses; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-11a-102, as last amended by Laws of Utah 2013, Chapter 13
 58-11a-301, as last amended by Laws of Utah 2009, Chapter 130
 58-11a-302, as last amended by Laws of Utah 2015, Chapter 258
 58-11a-306, as last amended by Laws of Utah 2009, Chapter 130
 58-11a-501, as last amended by Laws of Utah 2009, Chapter 130
 58-11a-502, as last amended by Laws of Utah 2014, Chapter 100

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-11a-102 is amended to read:**58-11a-102. Definitions.**

As used in this chapter:

(1) "Approved barber or cosmetologist/barber apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(1) for barbers or Subsection 58-11a-306(2) for cosmetologist/barbers and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) "Approved esthetician apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(3) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) "Approved master esthetician apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(4) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) "Approved nail technician apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(5) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) "Barber" means a person who is licensed under this chapter to engage in the practice of barbering.

(6) "Barber instructor" means a barber who is licensed under this chapter to ~~teach barbering at a licensed barber school or in an apprenticeship program as defined in Section 58-11a-306~~ engage in the practice of barbering instruction.

(7) "Board" means the Barber, Cosmetology/Barbering, Esthetics, Electrology, and Nail Technology Licensing Board created in Section 58-11a-201.

(8) "Cosmetic laser procedure" includes a nonablative procedure as defined in Section 58-67-102.

(9) "Cosmetic supervisor" means a supervisor as defined in Section 58-1-505.

(10) "Cosmetologist/barber" means a person who is licensed under this chapter to engage in the practice of cosmetology/barbering.

(11) "Cosmetologist/barber instructor" means a cosmetologist/barber who is licensed under this chapter to ~~teach cosmetology/barbering at a licensed cosmetology/barber school, licensed barber school, licensed nail technology school, or in an apprenticeship program as defined in Subsection 58-11a-306(2)]~~ engage in the practice of cosmetology/barbering instruction.

(12) "Direct supervision" means that the supervisor of an apprentice or the instructor of a student is immediately available for consultation, advice, instruction, and evaluation.

(13) "Electrologist" means a person who is licensed under this chapter to engage in the practice of electrology.

(14) "Electrologist instructor" means an electrologist who is licensed under this chapter to ~~teach electrology at a licensed electrology school~~ engage in the practice of electrology instruction.

(15) "Esthetician" means a person who is licensed under this chapter to engage in the practice of esthetics.

(16) “Esthetician instructor” means a master esthetician who is licensed under this chapter to ~~teach the practice of esthetics and the practice of master-level esthetics at a licensed esthetics school, a licensed cosmetology/barber school, or in an apprenticeship program as defined in Subsection 58-11a-306(3)]~~ engage in the practice of esthetics instruction.

(17) “Fund” means the Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Education and Enforcement Fund created in Section 58-11a-103.

(18) (a) “Hair braiding” means the twisting, weaving, or interweaving of a person’s natural human hair.

(b) “Hair braiding” includes the following methods or styles:

(i) African-style braiding;

(ii) box braids;

(iii) cornrows;

(iv) dreadlocks;

(v) french braids;

(vi) invisible braids;

(vii) micro braids;

(viii) single braids;

(ix) single plaits;

(x) twists;

(xi) visible braids;

(xii) the use of lock braids; and

(xiii) the use of decorative beads, accessories, and nonhair extensions.

(c) “Hair braiding” does not include:

(i) the use of:

(A) wefts;

(B) synthetic tape;

(C) synthetic glue;

(D) keratin bonds;

(E) fusion bonds; or

(F) heat tools;

(ii) the cutting of human hair; or

(iii) the application of heat, dye, a reactive chemical, or other preparation to:

(A) alter the color of the hair; or

(B) straighten, curl, or alter the structure of the hair.

(19) “Licensed barber or cosmetology/barber school” means a barber or cosmetology/barber school licensed under this chapter.

(20) “Licensed electrology school” means an electrology school licensed under this chapter.

(21) “Licensed esthetics school” means an esthetics school licensed under this chapter.

(22) “Licensed nail technology school” means a nail technology school licensed under this chapter.

(23) “Master esthetician” means an individual who is licensed under this chapter to engage in the practice of master-level esthetics.

(24) “Nail technician” means an individual who is licensed under this chapter to engage in the practice of nail technology.

(25) “Nail technician instructor” means a nail technician licensed under this chapter to ~~teach the practice of nail technology in a licensed nail technology school, a licensed cosmetology/barber school, or in an apprenticeship program as defined in Subsection 58-11a-306(5)]~~ engage in the practice of nail technology instruction.

(26) “Practice of barbering” means:

(a) cutting, clipping, or trimming the hair of the head of any person by the use of scissors, shears, clippers, or other appliances;

(b) draping, shampooing, scalp treatments, basic wet styling, and blow drying; and

(c) removing hair from the face or neck of a person by the use of shaving equipment.

(27) “Practice of barbering instruction” means ~~instructing teaching the practice of barbering [in] at a licensed barber school, at a licensed cosmetology/barber school, or [in an apprenticeship program as defined in Subsection 58-11a-306(1)]~~ for an approved barber apprenticeship.

(28) “Practice of basic esthetics” means any one of the following skin care procedures done on the ~~[head, face, neck, arms, hands, legs, feet, eyebrows, or eyelashes]~~ body for cosmetic purposes and not for the treatment of medical, physical, or mental ailments:

(a) cleansing, stimulating, manipulating, exercising, applying oils, antiseptics, clays, or masks, manual extraction, including a comedone extractor, depilatories, waxes, tweezing, the application of eyelash or eyebrow extensions, natural nail manicures or pedicures, or callous removal by buffing or filing;

(b) limited chemical exfoliation as defined by rule;

(c) removing superfluous hair by means other than electrolysis, except that an individual is not required to be licensed as an esthetician to engage in the practice of threading;

(d) other esthetic preparations or procedures with the use of the hands, a high-frequency or galvanic electrical apparatus, or a heat lamp for cosmetic purposes and not for the treatment of medical, physical, or mental ailments;

(e) arching eyebrows, tinting eyebrows or eyelashes, perming eyelashes, or applying eyelash

or eyebrow extensions~~[, or a combination of these procedures]~~; or

(f) except as provided in Subsection (28)(f)(i), cosmetic laser procedures under the direct cosmetic medical procedure supervision of a cosmetic supervisor limited to the following:

(i) superfluous hair removal which shall be under indirect supervision;

(ii) anti-aging resurfacing enhancements;

(iii) photo rejuvenation; or

(iv) tattoo removal.

(29) (a) "Practice of cosmetology/barbering" means:

(i) styling, arranging, dressing, curling, waving, permanent waving, cleansing, singeing, bleaching, dyeing, tinting, coloring, or similarly treating the hair of the head of a person;

(ii) cutting, clipping, or trimming the hair by the use of scissors, shears, clippers, or other appliances;

(iii) arching eyebrows, tinting eyebrows or eyelashes, perming eyelashes, applying eyelash or eyebrow extensions~~[, or a combination of these procedures]~~;

(iv) removing hair from the ~~[face, neck, shoulders, arms, back, torso, feet, bikini line, or legs]~~ body of a person by the use of depilatories, waxing, or shaving equipment;

(v) cutting, curling, styling, fitting, measuring, or forming caps for wigs or hairpieces or both on the human head; or

(vi) practicing hair weaving or hair fusing or servicing previously medically implanted hair.

(b) The term "practice of cosmetology/barbering" includes:

(i) the practice of basic esthetics; and

(ii) the practice of nail technology.

(c) An individual is not required to be licensed as a cosmetologist/barber to engage in the practice of threading.

(30) "Practice of cosmetology/barbering instruction" means ~~[instructing]~~ teaching the practice of cosmetology/barbering ~~[as defined in Subsection (29) in]~~:

(a) at a licensed cosmetology/barber school [or in an apprenticeship program as defined in Subsection 58-11a-306(2)], a licensed barber school, or a licensed nail technology school; or

(b) for an approved cosmetologist/barber apprenticeship.

(31) "Practice of electrology" means:

(a) the removal of superfluous hair from the body of a person by the use of electricity, waxing, shaving, or tweezing; or

(b) cosmetic laser procedures under the supervision of a cosmetic supervisor limited to superfluous hair removal.

(32) "Practice of electrology instruction" means ~~[instructing]~~ teaching the practice of electrology [in] a licensed electrology school.

(33) "Practice of esthetics instruction" means ~~[instructing esthetics in]~~ teaching the practice of basic esthetics or the practice of master-level esthetics:

(a) at a licensed esthetics school[,], or a licensed cosmetology/barber school[;]; or [instructing master-level esthetics in a licensed esthetics school or in an apprenticeship program as defined in Subsections 58-11a-306(2), (3), and (4).]

(b) for an approved esthetician apprenticeship or an approved master esthetician apprenticeship.

(34) (a) "Practice of master-level esthetics" means:

(i) any of the following when done for cosmetic purposes on the ~~[head, face, neck, torso, abdomen, back, arms, hands, legs, feet, eyebrows, or eyelashes]~~ body and not for the treatment of medical, physical, or mental ailments:

(A) body wraps as defined by rule;

(B) hydrotherapy as defined by rule;

(C) chemical exfoliation as defined by rule;

(D) advanced pedicures as defined by rule;

(E) sanding, including microdermabrasion;

(F) advanced extraction;

(G) other esthetic preparations or procedures with the use of:

(I) the hands; or

(II) a mechanical or electrical apparatus which is approved for use by division rule for beautifying or similar work performed on the body for cosmetic purposes and not for the treatment of a medical, physical, or mental ailment; or

(H) cosmetic laser procedures under the supervision of a cosmetic supervisor with a physician's evaluation before the procedure, as needed, unless specifically required under Section 58-1-506, and limited to the following:

(I) superfluous hair removal;

(II) anti-aging resurfacing enhancements;

(III) photo rejuvenation; or

(IV) tattoo removal with a physician's evaluation before the tattoo removal procedure; and

(ii) lymphatic massage by manual or other means as defined by rule.

(b) Notwithstanding the provisions of Subsection (34)(a), a master-level esthetician may perform procedures listed in Subsection (34)(a)(i)(H) if done under the supervision of a cosmetic supervisor acting within the scope of the cosmetic supervisor license.

(c) The term “practice of master-level esthetics” includes the practice of esthetics, but an individual is not required to be licensed as an esthetician or master-level esthetician to engage in the practice of threading.

(35) “Practice of nail technology” means to trim, cut, clean, manicure, shape, massage, or enhance the appearance of the hands, feet, and nails of an individual by the use of hands, mechanical, or electrical preparation, antiseptic, lotions, or creams, including the application and removal of sculptured or artificial nails.

(36) “Practice of nail technology instruction” means ~~[instructing]~~ teaching the practice of nail technology ~~[in]~~ at a licensed nail technician school, at a licensed cosmetology/barber school, or ~~[in an apprenticeship program as defined in Subsection 58-11a-306(5)]~~ for an approved nail technician apprenticeship.

(37) “Recognized barber school” means a barber school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

(38) “Recognized cosmetology/barber school” means a cosmetology/barber school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

(39) “Recognized electrology school” means an electrology school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

(40) “Recognized esthetics school” means an esthetics school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

(41) “Recognized nail technology school” means a nail technology school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

(42) “Salon” means a place, shop, or establishment in which cosmetology/barbering, esthetics, electrology, or nail technology is practiced.

(43) “Unlawful conduct” is as defined in Sections 58-1-501 and 58-11a-502.

(44) “Unprofessional conduct” is as defined in Sections 58-1-501 and 58-11a-501 and as may be further defined by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 2. Section 58-11a-301 is amended to read:

58-11a-301. Licensure required -- License classifications.

(1) Except as specifically provided in Section 58-1-307 or 58-11a-304, a license is required to:

(a) engage in the practice of:

(i) barbering;

(ii) barbering instruction;

~~[(iii) operating a barbering school;]~~

~~[(iv)]~~ (iii) cosmetology/barbering;

~~[(v)]~~ (iv) cosmetology/barbering instruction; ~~[or]~~

~~[(vi)]~~ (v) electrology;

~~[(b) operate a cosmetology/barbering school;]~~

~~[(c) engage in the practice of:]~~

~~[(i)]~~ (vi) electrology instruction;

~~[(ii)]~~ (vii) esthetics;

~~[(iii)]~~ (viii) master-level esthetics;

~~[(iv)]~~ (ix) esthetics instruction;

~~[(v)]~~ (x) nail technology; or

~~[(vi)]~~ (xi) nail technology instruction; or

~~[(d)]~~ (b) operate:

(i) a barbering school;

(ii) a cosmetology/barbering school;

~~[(i)]~~ (iii) an electrology school;

~~[(ii)]~~ (iv) an esthetics school; or

~~[(iii)]~~ (v) a nail technology school.

(2) The division shall issue to a person who qualifies under this chapter a license in the following classifications:

(a) barber;

(b) barber instructor;

(c) barber school;

(d) cosmetologist/barber;

(e) cosmetologist/barber instructor;

(f) cosmetology/barber school;

(g) electrologist;

(h) electrologist instructor;

(i) electrology school;

(j) esthetician;

(k) master esthetician;

(l) esthetician instructor;

(m) esthetics school;

(n) nail technology;

(o) nail technology instructor; and

(p) nail technology school.

(3) A person who participates as an apprentice in an approved apprenticeship under this chapter shall register with the division as described in Section 58-11a-306.

Section 3. Section 58-11a-302 is amended to read:

58-11a-302. Qualifications for licensure.

(1) Each applicant for licensure as a barber shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) provide satisfactory documentation of:

(i) graduation from a licensed or recognized barber school, or a licensed or recognized cosmetology/barber school, whose curriculum consists of a minimum of 1,000 hours of instruction, or the equivalent number of credit hours, over a period of not less than 25 weeks;

(ii) (A) graduation from a recognized barber school located in a state other than Utah whose curriculum consists of less than 1,000 hours of instruction or the equivalent number of credit hours; and

(B) practice as a licensed barber in a state other than Utah for not less than the number of hours required to equal 1,000 total hours when added to the hours of instruction described in Subsection (1)(d)(ii)(A); or

(iii) completion of an approved barber apprenticeship; and

(e) meet the examination requirement established by rule.

(2) Each applicant for licensure as a barber instructor shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a barber;

(d) be of good moral character;

(e) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of [500] 250 hours or the equivalent number of credit hours; ~~or~~

(ii) ~~on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum~~

of 250 hours or the equivalent number of credit hours; or

~~[(ii)]~~ (iii) a minimum of 2,000 hours of experience as a barber; and

(f) meet the examination requirement established by rule.

(3) Each applicant for licensure as a barber school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's physical facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for barber schools, including staff and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (19).

(4) Each applicant for licensure as a cosmetologist/barber shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) provide satisfactory documentation of:

(i) ~~[(A)]~~ graduation from a licensed or recognized cosmetology/barber school whose curriculum consists of a minimum of 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours, ~~if the applicant was not a currently enrolled student of a cosmetology/barber school on January 1, 2013; or~~;

~~[(B)] graduation from a licensed or recognized cosmetology/barber school whose curriculum consists of a minimum of 2,000 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours, if the applicant's hours of instruction commenced before January 1, 2013, and the applicant was a currently enrolled student of a cosmetology/barber school on January 1, 2013;~~

(ii) (A) graduation from a recognized cosmetology/barber school located in a state other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; and

(B) practice as a licensed cosmetologist/barber in a state other than Utah for not less than the number of hours required to equal 1,600 total hours when added to the hours of instruction described in Subsection (4)(d)(ii)(A); or

(iii) completion of an approved cosmetology/barber apprenticeship; and

(e) meet the examination requirement established by rule.

(5) Each applicant for licensure as a cosmetologist/barber instructor shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a cosmetologist/barber;

(d) be of good moral character;

(e) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of [~~1,000~~] 400 hours or the equivalent number of credit hours; [~~or~~]

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 400 hours or the equivalent number of credit hours; or

[~~(iii)~~] (iii) a minimum of 3,000 hours of experience as a cosmetologist/barber; and

(f) meet the examination requirement established by rule.

(6) Each applicant for licensure as a cosmetologist/barber school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's physical facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for cosmetology schools, including staff and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (19).

(7) Each applicant for licensure as an electrologist shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) provide satisfactory documentation of having graduated from a licensed or recognized electrology school after completing a curriculum of 600 hours of instruction or the equivalent number of credit hours; and

(e) meet the examination requirement established by rule.

(8) Each applicant for licensure as an electrologist instructor shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as an electrologist;

(d) be of good moral character;

(e) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of [~~175~~] 150 hours or the equivalent number of credit hours; [~~or~~]

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 150 hours or the equivalent number of credit hours; or

[~~(iii)~~] (iii) a minimum of 1,000 hours of experience as an electrologist; and

(f) meet the examination requirement established by rule.

(9) Each applicant for licensure as an electrologist school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's facilities comply with the requirements established by rule; and

- (iv) that the applicant meets:
- (A) the standards for electrologist schools, including staff, curriculum, and accreditation requirements, established by rule; and
- (B) the requirements for recognition as an institution of postsecondary study as described in Subsection (19).
- (10) Each applicant for licensure as an esthetician shall:
- (a) submit an application in a form prescribed by the division;
- (b) pay a fee determined by the department under Section 63J-1-504;
- (c) be of good moral character;
- (d) provide satisfactory documentation of one of the following:
- (i) graduation from a licensed or recognized esthetic school or a licensed or recognized cosmetology/barber school whose curriculum consists of not less than 15 weeks of esthetic instruction with a minimum of 600 hours or the equivalent number of credit hours;
- (ii) completion of an approved esthetician apprenticeship; or
- (iii) (A) graduation from a recognized cosmetology/barber school located in a state other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; and
- (B) practice as a licensed cosmetologist/barber for not less than the number of hours required to equal 1,600 total hours when added to the hours of instruction described in Subsection (10)(d)(iii)(A); and
- (e) meet the examination requirement established by division rule.
- (11) Each applicant for licensure as a master esthetician shall:
- (a) submit an application in a form prescribed by the division;
- (b) pay a fee determined by the department under Section 63J-1-504;
- (c) be of good moral character;
- (d) provide satisfactory documentation of:
- (i) completion of at least 1,200 hours of training, or the equivalent number of credit hours, at a licensed or recognized esthetics school, except that up to 600 hours toward the 1,200 hours may have been completed:
- (A) at a licensed or recognized cosmetology/barbering school, if the applicant graduated from the school and its curriculum consisted of at least 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; or
- (B) at a licensed or recognized cosmetology/barber school located in a state other than Utah, if the applicant graduated from the school and its curriculum contained full flexibility within its hours of instruction; or
- (ii) completion of an approved master esthetician apprenticeship;
- (e) if the applicant will practice lymphatic massage, provide satisfactory documentation to show completion of 200 hours of training, or the equivalent number of credit hours, in lymphatic massage as defined by division rule; and
- (f) meet the examination requirement established by division rule.
- (12) Each applicant for licensure as an esthetician instructor shall:
- (a) submit an application in a form prescribed by the division;
- (b) pay a fee determined by the department under Section 63J-1-504;
- (c) provide satisfactory documentation that the applicant is currently licensed as a master esthetician;
- (d) be of good moral character;
- (e) provide satisfactory documentation of completion of:
- (i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit hours; ~~or~~
- (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit hours; or
- ~~(iii)~~ (iii) a minimum of 1,000 hours of experience in esthetics; and
- (f) meet the examination requirement established by rule.
- (13) Each applicant for licensure as an esthetics school shall:
- (a) submit an application in a form prescribed by the division;
- (b) pay a fee determined by the department under Section 63J-1-504; and
- (c) provide satisfactory documentation:
- (i) of appropriate registration with the Division of Corporations and Commercial Code;
- (ii) of business licensure from the city, town, or county in which the school is located;
- (iii) that the applicant's physical facilities comply with the requirements established by rule; and
- (iv) that the applicant meets:

(A) the standards for esthetics schools, including staff, curriculum, and accreditation requirements, established by division rule made in collaboration with the board; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (19).

(14) Each applicant for licensure as a nail technician shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) provide satisfactory documentation of:

(i) graduation from a licensed or recognized nail technology school, or a licensed or recognized cosmetology/barber school, whose curriculum consists of not less than 300 hours of instruction, or the equivalent number of credit hours;

(ii) (A) graduation from a recognized nail technology school located in a state other than Utah whose curriculum consists of less than 300 hours of instruction or the equivalent number of credit hours; and

(B) practice as a licensed nail technician in a state other than Utah for not less than the number of hours required to equal 300 total hours when added to the hours of instruction described in Subsection (14)(d)(ii)(A); or

(iii) completion of an approved nail technician apprenticeship; and

(e) meet the examination requirement established by division rule.

(15) Each applicant for licensure as a nail technician instructor shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a nail technician;

(d) be of good moral character;

(e) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of ~~150~~ 75 hours or the equivalent number of credit hours; ~~or~~

(ii) an on-the-job instructor training program conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 75 hours or the equivalent number of credit hours; or

~~(iii)~~ (iii) a minimum of 600 hours of experience in nail technology; and

(f) meet the examination requirement established by rule.

(16) Each applicant for licensure as a nail technology school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for nail technology schools, including staff, curriculum, and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (19).

(17) Each applicant for licensure under this chapter whose education in the field for which a license is sought was completed at a foreign school may satisfy the educational requirement for licensure by demonstrating, to the satisfaction of the division, the educational equivalency of the foreign school education with a licensed school under this chapter.

(18) (a) A licensed or recognized school under this section may accept credit hours towards graduation for any profession listed in this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, the division may make rules governing the acceptance of credit hours under Subsection (18)(a).

(19) A school licensed or applying for licensure under this chapter shall maintain recognition as an institution of postsecondary study by meeting the following conditions:

(a) the school shall admit as a regular student only an individual who has earned a recognized high school diploma or the equivalent of a recognized high school diploma, or who is beyond the age of compulsory high school attendance as prescribed by Title 53A, Chapter 11, Students in Public Schools; and

(b) the school shall be licensed by name, or in the case of an applicant, shall apply for licensure by name, under this chapter to offer one or more training programs beyond the secondary level.

(20) A person seeking to qualify for licensure under this chapter by apprenticing in an approved

apprenticeship shall register with the division as described in Section 58-11a-306.

Section 4. Section 58-11a-306 is amended to read:

58-11a-306. Apprenticeship.

- (1) An approved barber apprenticeship shall:
- (a) consist of not less than 1,250 hours of training in not less than eight months; and
- (b) be conducted by a supervisor who:
- (i) is licensed under this chapter as a barber instructor or a cosmetology/barber instructor; and
- (ii) provides one-on-one direct [~~one-on-one~~] supervision of the barber apprentice during the apprenticeship program.
- (2) An approved cosmetologist/barber apprenticeship shall:
- (a) consist of not less than 2,500 hours of training in not less than 15 months; and
- (b) be conducted by a supervisor who:
- (i) is licensed under this chapter as a cosmetologist/barber instructor; and
- (ii) provides one-on-one direct [~~one-on-one~~] supervision of the cosmetologist/barber apprentice during the apprenticeship program.
- (3) An approved esthetician apprenticeship shall:
- (a) consist of not less than 800 hours of training in not less than five months; and
- (b) be conducted by a supervisor who:
- (i) is licensed under this chapter as an esthetician instructor; and
- (ii) provides one-on-one direct [~~one-on-one~~] supervision of the esthetician apprentice during the apprenticeship program.
- (4) An approved master esthetician apprenticeship shall:
- (a) consist of not less than 1,500 hours of training in not less than 10 months; and
- (b) be conducted by a supervisor who:
- (i) is licensed under this chapter as a master-level esthetician instructor; and
- (ii) provides one-on-one direct [~~one-on-one~~] supervision of the master esthetician apprentice during the apprenticeship program.
- (5) An approved nail technician apprenticeship shall:
- (a) consist of not less than 375 hours of training in not less than three months; and
- (b) be conducted by a supervisor who:
- (i) is licensed under this chapter as a nail technician instructor or a cosmetology/barber instructor; and

(ii) provides one-on-one direct [~~one-on-two~~] supervision of the nail technician apprentice during the apprenticeship program.

(6) A person seeking to qualify for licensure by apprenticing in an approved apprenticeship under this chapter shall:

(a) register with the division before beginning the training requirements by:

(i) submitting a form prescribed by the division, which includes the name of the licensed supervisor; and

(ii) paying a fee determined by the department under Section 63J-1-504;

(b) complete the apprenticeship within five years of the date on which the division approves the registration; and

(c) notify the division within 30 days if the licensed supervisor changes after the registration is approved by the division.

(7) Notwithstanding Subsection (6), if a person seeking to qualify for licensure by apprenticeship in an approved apprenticeship under this chapter registers with the division before January 1, 2017, any training requirements completed by the person as an apprentice in an approved apprenticeship before registration may be applied to successful completion of the approved apprenticeship.

Section 5. Section 58-11a-501 is amended to read:

58-11a-501. Unprofessional conduct.

Unprofessional conduct includes:

- (1) failing as a licensed school to obtain or maintain accreditation as required by rule;
- (2) failing as a licensed school to comply with the standards of accreditation applicable to such schools;
- (3) failing as a licensed school to provide adequate instruction to enrolled students;
- (4) failing as an apprentice supervisor to provide direct supervision to the apprentice;
- (5) failing as an instructor to provide direct supervision to students under their instruction;
- (6) failing as an apprentice supervisor to comply with division rules relating to apprenticeship programs under this chapter;
- (7) keeping a salon or school, its furnishing, tools, utensils, linen, or appliances in an unsanitary condition;
- (8) failing to comply with Title 26, Utah Health Code;
- (9) failing to display licenses or certificates as required under Section 58-11a-305;
- (10) failing to comply with physical facility requirements established by rule;
- (11) failing to maintain mechanical or electrical equipment in safe operating condition;

(12) failing to adequately monitor patrons using steam rooms, dry heat rooms, baths, showers, or saunas;

(13) prescribing or administering prescription drugs;

(14) failing to comply with all applicable state and local health or sanitation laws;

(15) engaging in any act or practice in a professional capacity that is outside the applicable scope of practice;

(16) engaging in any act or practice in a professional capacity which the licensee is not competent to perform through education or training;

(17) in connection with the use of a chemical exfoliant, unless under the supervision of a licensed health care practitioner acting within the scope of his or her license:

(a) using any acid, concentration of an acid, or combination of treatments which violates the standards established by rule;

(b) removing any layer of skin deeper than the stratum corneum of the epidermis; or

(c) using an exfoliant that contains phenol, TCA acid of over 15%, or BCA acid;

(18) in connection with the sanding of the skin, unless under the supervision of a licensed health care practitioner acting within the scope of his or her license, removing any layer of skin deeper than the stratum corneum of the epidermis; ~~or~~

(19) using as a barber, cosmetologist/barber, or nail technician any laser procedure or intense, pulsed light source, except that nothing in this chapter precludes an individual licensed under this chapter from using a nonprescriptive laser device~~[-];~~ or

(20) failing to comply with a judgment order from a court of competent jurisdiction resulting from the failure to pay outstanding tuition or education costs incurred to comply with this chapter.

Section 6. Section 58-11a-502 is amended to read:

58-11a-502. Unlawful conduct.

Unlawful conduct includes:

(1) practicing or engaging in, or attempting to practice or engage in activity for which a license is required under this chapter unless:

(a) the person holds the appropriate license under this chapter; or

(b) an exemption in Section 58-1-307 or 58-11a-304 applies;

(2) ~~[knowingly employing any other]~~ aiding or abetting a person ~~[to engage]~~ engaging in ~~[or practice]~~ the practice of, or ~~[attempt]~~ attempting to engage in ~~[or practice]~~ the practice of, any occupation or profession licensed under this

chapter if the employee is not licensed to do so under this chapter or exempt from licensure;

(3) touching, or applying an instrument or device to the following areas of a client's body:

(a) the genitals or the anus, except in cases where the patron states to a licensee that the patron requests a hair removal procedure and signs a written consent form, which must also include the witnessed signature of a legal guardian if the patron is a minor, authorizing the licensee to perform a hair removal procedure; or

(b) the breast of a female patron, except in cases in which the female patron states to a licensee that the patron requests breast skin procedures and signs a written consent form, which must also include the witnessed signature of a parent or legal guardian if the patron is a minor, authorizing the licensee to perform breast skin procedures;

(4) using or possessing a solution composed of at least 10% methyl methacrylate on a client;

(5) performing an ablative procedure as defined in Section 58-67-102;

(6) when acting as an instructor regarding a service requiring licensure under this chapter, for a class or education program where attendees are not licensed under this chapter, failing to inform each attendee in writing that:

(a) taking the class or program without completing the requirements for licensure under this chapter is insufficient to certify or qualify the attendee to perform a service for compensation that requires licensure under this chapter; and

(b) the attendee is required to obtain licensure under this chapter before performing the service for compensation; or

(7) failing as a salon or school where nail technology is practiced or taught to maintain a source capture system required under Section 15A-3-401, including failing to maintain and clean a source capture system's air filter according to the manufacturer's instructions.

CHAPTER 275**H. B. 375**

Passed March 10, 2016
Approved March 25, 2016
Effective May 10, 2016

**PRESCRIPTION DRUG
ABUSE AMENDMENTS**

Chief Sponsor: LaVar Christensen
Senate Sponsor: Brian E. Shiozawa

LONG TITLE**General Description:**

This bill requires prescribers and dispensers to use the controlled substance database to determine whether a patient may be abusing opioids.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends the Controlled Substances Database Act to promote utilization of the controlled substances database to prevent opioid abuse;
- ▶ requires a dispenser to contact the prescriber if the controlled substance database suggests potential prescription drug abuse;
- ▶ limits liability for prescribers and dispensers who contribute to and use the database; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-37f-701, as enacted by Laws of Utah 2010, Chapter 287

ENACTS:

58-37f-303, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-37f-303 is enacted to read:**Part 3. Access and Utilization****58-37f-303. Database utilization.**

(1) As used in this section:

(a) "Dispenser" means a licensed pharmacist, as described in Section 58-17b-303, or the pharmacist's licensed intern, as described in Section 58-17b-304, who is also licensed to dispense a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.

(b) "Opioid" means those substances listed in Subsection 58-37-4(2)(b)(i) or (2)(b)(ii).

(c) "Outpatient" means a setting in which an individual visits a licensed healthcare facility or a healthcare provider's office for a diagnosis or treatment but is not admitted to a licensed healthcare facility for an overnight stay.

(d) "Prescriber" means an individual authorized to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.

(2) To address the serious public health concern of life-altering and life-threatening opioid abuse and overdose, and to achieve the purposes of this chapter and as described in Section 58-37f-201, which includes identifying and reducing the prescribing and dispensing of opioids in an unprofessional or unlawful manner or in quantities or frequencies inconsistent with generally recognized standards of dosage for an opioid, through utilization of the carefully developed and highly respected database:

(a) a prescriber or dispenser of an opioid for individual outpatient usage shall access and review the database as necessary in the prescriber's or dispenser's professional judgment and to achieve the purpose of this chapter as described in Section 58-37f-201;

(b) a prescriber may assign the access and review required under Subsection (2)(a) to an employee, in accordance with Subsections 58-37f-301(2)(g) and (h).

(3) The division shall, in collaboration with the licensing boards for prescribers and dispensers:

(a) develop a system that gathers and reports to prescribers and dispensers the progress and results of the prescriber's and dispenser's individual access and review of the database, as provided in this section; and

(b) reduce or waive the division's continuing education requirements regarding opioid prescriptions, described in Section 58-37-6.5, including the online tutorial and test relating to the database, for prescribers and dispensers whose individual utilization of the database contribute to the life-saving and public safety purposes of this section and as described in Subsection (2).

(4) If the dispenser's access and review of the database suggest that the individual seeking an opioid may be obtaining opioids in quantities or frequencies inconsistent with generally recognized standards as provided in this section and Section 58-37f-201, the dispenser shall reasonably attempt to contact the prescriber to obtain the prescriber's informed, current, and professional decision regarding whether the prescribed opioid is medically justified, notwithstanding the results of the database search.

Section 2. Section 58-37f-701 is amended to read:**58-37f-701. Immunity from liability.**

(1) An individual who has submitted information to or accessed and reviewed the database in accordance with this [section] chapter may not be held civilly liable [~~for having submitted the information~~], including under Title 78B, Chapter 3, Part 4, Utah Health Care Malpractice Act, for such actions, or a lack of action, which are protected and are not subject to legal discovery, as provided in Section 58-37f-302.

(2) Notwithstanding any other provision of law, any action or lack of action by a prescriber or dispenser to meet the requirements of Section 58-37f-303 may not be used by the division in any action against the prescriber or dispenser.

(3) Nothing in Section 58-37f-303 establishes a minimum standard of care for prescribers and dispensers.

CHAPTER 276**H. B. 386**

Passed March 9, 2016
 Approved March 25, 2016
 Effective March 25, 2016

NURSING CARE FACILITY AMENDMENTS

Chief Sponsor: Francis D. Gibson
 Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill amends the Health Care Facility Licensing and Inspection Act and other provisions of the Utah Health Code.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ amends Medicaid certification provisions for nursing care facilities;
- ▶ amends provisions governing the transfer of a license for a Medicaid bed from a nursing care facility program to another entity;
- ▶ permits a related-party nonnursing-care-facility entity to hold a license for a Medicaid bed for a future nursing care facility program not yet identified;
- ▶ amends licensing requirements for a new nursing care facility;
- ▶ imposes a fine on certain health care facilities with Medicare inpatient revenue that exceeds a specified amount;
- ▶ requires the Department of Health to make rules specifying information a health care facility must submit to the department so that the department can determine whether the facility is subject to the fine;
- ▶ requires that fines be deposited into the Nursing Care Facilities Account;
- ▶ authorizes the use of money in the Nursing Care Facilities Account for Medicaid quality incentive payments made to nursing care facilities; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 26-18-501, as last amended by Laws of Utah 2011, Chapters 297 and 366
 26-18-502, as last amended by Laws of Utah 2013, Chapter 60
 26-18-503, as last amended by Laws of Utah 2013, Chapter 60
 26-18-505, as last amended by Laws of Utah 2011, Chapter 297
 26-21-23, as last amended by Laws of Utah 2013, Chapter 60
 26-35a-106, as last amended by Laws of Utah 2010, Chapter 340

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-18-501 is amended to read:**26-18-501. Definitions.**

As used in this part:

(1) "Certified program" means a nursing care facility program with Medicaid certification.

(2) "Director" means the director of the Division of Health Care Financing.

(3) "Medicaid certification" means the right [~~to Medicaid reimbursement~~] of a nursing care facility, as a provider of a nursing care facility program [~~as established by division rule~~], to receive Medicaid reimbursement for a specified number of beds within the facility.

(4) (a) "Nursing care facility" means the following facilities licensed by the department under Chapter 21, Health Care Facility Licensing and Inspection Act:

(i) skilled nursing [~~homes~~] facilities;

(ii) intermediate care facilities; and

(iii) an intermediate care facility for people with an intellectual disability.

(b) "Nursing care facility" does not mean a critical access hospital that meets the criteria of 42 U.S.C. 1395i-4(c)(2) (1998).

(5) "Nursing care facility program" means the personnel, licenses, services, contracts and all other requirements that shall be met for a nursing care facility to be eligible for Medicaid certification under this part and division rule.

(6) "Physical facility" means the buildings or other physical structures where a nursing care facility program is operated.

(7) "Rural county" means a county with a population of less than 50,000, as determined by:

(a) the most recent official census or census estimate of the United States Census Bureau; or

(b) the most recent population estimate for the county from the Utah Population Estimates Committee, if a population figure for the county is not available under Subsection (7)(a).

[~~(7)~~] (8) "Service area" means the boundaries of the distinct geographic area served by a certified program as determined by the division in accordance with this part and division rule.

(9) "Urban county" means a county that is not a rural county.

Section 2. Section 26-18-502 is amended to read:**26-18-502. Purpose -- Medicaid certification of nursing care facilities.**

(1) The Legislature finds:

(a) that an oversupply of nursing care [~~facility programs~~] facilities in the state adversely affects the state Medicaid program and the health of the people in the state; [~~and~~]

(b) it is in the best interest of the state to prohibit nursing care facilities from receiving Medicaid certification [~~of nursing care facility programs~~], except as [~~authorized~~] provided by this part[-]; and

(c) it is in the best interest of the state to encourage aging nursing care facilities with Medicaid certification to renovate the nursing care facilities' physical facilities so that the quality of life and clinical services for Medicaid residents are preserved.

(2) Medicaid reimbursement of nursing care facility programs is limited to:

(a) the number of nursing care facility programs with Medicaid certification as of May [4, 2004] 9, 2016; and

(b) additional nursing care facility programs approved for Medicaid certification under the provisions of Subsections 26-18-503(5) and (7).

(3) The division may not:

(a) except as authorized by Section 26-18-503:

(i) process initial applications for Medicaid certification or execute provider agreements with nursing care facility programs; or

(ii) reinstate Medicaid certification for a nursing care facility whose certification expired or was terminated by action of the federal or state government; or

(b) execute a Medicaid provider agreement with a certified program that moves [~~its nursing care facility program~~] to a different physical facility, except as authorized by Subsection 26-18-503(3).

Section 3. Section 26-18-503 is amended to read:

26-18-503. Authorization to renew, transfer, or increase Medicaid certified programs -- Reimbursement methodology.

(1) (a) The division may renew Medicaid certification of a certified program if the program, without lapse in service to Medicaid recipients, has its nursing care facility program certified by the division at the same physical facility as long as the licensed and certified bed capacity at the facility has not been expanded, unless the director has approved additional beds in accordance with Subsection (5).

(b) The division may renew Medicaid certification of a nursing care facility program that is not currently certified if:

(i) since the day on which the program last operated with Medicaid certification:

(A) the physical facility where the program operated has functioned solely and continuously as a nursing care facility; and

(B) the owner of the program has not, under this section or Section 26-18-505, transferred to another nursing care facility program the license for any of the Medicaid beds in the program; and

(ii) the number of beds granted renewed Medicaid certification does not exceed the number of beds certified at the time the program last operated with Medicaid certification, excluding a period of time where the program operated with temporary certification under Subsection 26-18-504(4).

(2) (a) The division may issue a Medicaid certification for a new nursing care facility program if a current owner of the Medicaid certified program transfers its ownership of the Medicaid certification to the new nursing care facility program and the new nursing care facility program meets all of the following conditions:

(i) the new nursing care facility program operates at the same physical facility as the previous Medicaid certified program;

(ii) the new nursing care facility program gives a written assurance to the director in accordance with Subsection (4);

(iii) the new nursing care facility program receives the Medicaid certification within one year of the date the previously certified program ceased to provide medical assistance to a Medicaid recipient; and

(iv) the licensed and certified bed capacity at the facility has not been expanded, unless the director has approved additional beds in accordance with Subsection (5).

(b) A nursing care facility program that receives Medicaid certification under the provisions of Subsection (2)(a) does not assume the Medicaid liabilities of the previous nursing care facility program if the new nursing care facility program:

(i) is not owned in whole or in part by the previous nursing care facility program; or

(ii) is not a successor in interest of the previous nursing care facility program.

(3) The division may issue a Medicaid certification to a nursing care facility program that was previously a certified program but now resides in a new or renovated physical facility if the nursing care facility program meets all of the following:

(a) the nursing care facility program met all applicable requirements for Medicaid certification at the time of closure;

(b) the new or renovated physical facility is in the same county or within a five-mile radius of the original physical facility;

(c) the time between which the certified program ceased to operate in the original facility and will begin to operate in the new physical facility is not more than three years;

(d) if Subsection (3)(c) applies, the certified program notifies the department within 90 days after ceasing operations in its original facility, of its intent to retain its Medicaid certification;

(e) the provider gives written assurance to the director in accordance with Subsection (4) that no third party has a legitimate claim to operate a certified program at the previous physical facility; and

(f) the bed capacity in the physical facility has not been expanded unless the director has approved additional beds in accordance with Subsection (5).

(4) (a) The entity requesting Medicaid certification under Subsections (2) and (3) shall give written assurances satisfactory to the director or the director's designee that:

(i) no third party has a legitimate claim to operate the certified program;

(ii) the requesting entity agrees to defend and indemnify the department against any claims by a third party who may assert a right to operate the certified program; and

(iii) if a third party is found, by final agency action of the department after exhaustion of all administrative and judicial appeal rights, to be entitled to operate a certified program at the physical facility the certified program shall voluntarily comply with Subsection (4)(b).

(b) If a finding is made under the provisions of Subsection (4)(a)(iii):

(i) the certified program shall immediately surrender its Medicaid certification and comply with division rules regarding billing for Medicaid and the provision of services to Medicaid patients; and

(ii) the department shall transfer the surrendered Medicaid certification to the third party who prevailed under Subsection (4)(a)(iii).

(5) (a) As provided in Subsection 26-18-502(2)(b), the director ~~shall issue additional Medicaid certification when requested by a~~ may approve additional nursing care facility programs for Medicaid certification, or additional beds for Medicaid certification within an existing nursing care facility program, if a nursing care facility or other interested party ~~[if there is insufficient bed capacity with current certified programs in a service area. A determination of insufficient bed capacity shall be based on the nursing care facility or other interested party providing reasonable evidence of an inadequate number of beds in]~~ requests Medicaid certification for a nursing care facility program or additional beds within an existing nursing care facility program, and the nursing care facility program or other interested party complies with this section.

(b) The nursing care facility or other interested party requesting Medicaid certification for a nursing care facility program or additional beds within an existing nursing care facility program under Subsection (5)(a) shall submit to the director:

(i) proof of the following as reasonable evidence that bed capacity provided by Medicaid certified programs within the county or group of counties impacted by the requested additional Medicaid certification ~~[based on]~~ is insufficient:

~~[(i) current demographics which demonstrate]~~

~~(A) nursing care facility occupancy levels [of at least 90%] for all existing and proposed facilities [within a prospective three-year period] will be at least 90% for the next three years;~~

~~[(ii) (B) current nursing care facility occupancy [levels of 90%] is 90% or more; or~~

~~[(iii) (C) there is no other nursing care facility within a 35-mile radius of the nursing care facility requesting the additional certification[-]; and~~

~~[(b) In addition to the requirements of Subsection (5)(a), a nursing care facility program shall demonstrate by an independent analysis that the nursing care facility can financially support itself at an after tax break-even net income level based on projected occupancy levels.]~~

~~[(c) When making a determination to certify additional beds or an additional nursing care facility program under Subsection (5)(a):]~~

~~[(i) the director shall consider whether the nursing care facility will offer specialized or unique services that are underserved in a service area;]~~

~~[(ii) an independent analysis demonstrating that at projected occupancy rates the nursing care facility's after-tax net income is sufficient for the facility to be financially viable.~~

~~(c) The director shall determine whether to issue additional Medicaid certification by considering:~~

~~(i) whether bed capacity provided by certified programs within the county or group of counties impacted by the requested additional Medicaid certification is insufficient, based on the information submitted to the director under Subsection (5)(b);~~

~~(ii) whether the county or group of counties impacted by the requested additional Medicaid certification is underserved by specialized or unique services that would be provided by the nursing care facility;~~

~~[(ii) the director shall consider] [(iii) whether any Medicaid certified beds are subject to a claim by a previous certified program that may reopen under the provisions of Subsections (2) and (3); and~~

~~[(iii) the director may consider how to add]~~

~~(iv) how additional bed capacity should be added to the long-term care delivery system to best meet the needs of Medicaid recipients, which may include the renovation of aging nursing care facilities, as permitted by Subsection (7).~~

(6) The department shall adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to adjust the Medicaid nursing care facility property reimbursement methodology to:

(a) ~~[beginning July 1, 2008,]~~ only pay that portion of the property component of rates, representing actual bed usage by Medicaid clients as a percentage of the greater of:

(i) actual occupancy; or

(ii) (A) for a nursing care facility other than a facility described in Subsection (6)(a)(ii)(B), 85% of total bed capacity; or

(B) for a rural nursing care facility, 65% of total bed capacity; and

(b) [~~beginning July 1, 2008,~~] not allow for increases in reimbursement for property values without major renovation or replacement projects as defined by the department by rule.

(7) (a) Notwithstanding Subsection 26-18-504(4), if a nursing care facility does not seek Medicaid certification for a bed under [~~the provisions of~~] Subsections (1) through (6), the department shall grant Medicaid certification for [~~a licensed non-Medicaid certified bed~~] additional beds in an existing Medicaid certified nursing care facility that has 90 or fewer licensed beds, including Medicaid certified beds, in the facility if:

(i) the nursing care facility [is licensed under Subsection 26-21-23(2)(b)] program was previously a certified program for all beds but now resides in a new facility or in a facility that underwent major renovations involving major structural changes, and 50% or greater facility square footage design changes, requiring review and approval by the department;

(ii) the nursing care facility meets the quality of care regulations issued by the Center for Medicare and Medicaid Services; and

~~[(iii) the Medicaid certified bed will be used by a patient who:]~~

~~[(A) is a resident of the nursing care facility;]~~

~~[(B) has exhausted the patient's Medicare benefits for skilled nursing services; and]~~

~~[(C) qualifies for Medicaid; and]~~

~~[(iv) (iii) the total number of [licensed] additional beds in the facility [that are] granted Medicaid certification under [the provisions of this Subsection (7)(a)] this section does not exceed 10% of the [total] number of licensed beds in the facility.~~

(b) The department may not revoke the Medicaid certification of a bed under this Subsection (7) as long as the provisions of [~~Subsections~~] Subsection (7)(a)(ii) [and (iii)] are met.

(8) (a) If a nursing care facility or other interested party indicates in its request for additional Medicaid certification under Subsection (5)(a) that the facility will offer specialized or unique services, but the facility does not offer those services after receiving additional Medicaid certification, the director may revoke the additional Medicaid certification.

(b) If a nursing care facility or other interested party obtains Medicaid certification for a nursing care facility program or additional beds within an existing nursing care facility program under Subsection (5), but Medicaid reimbursement is not received for a bed within three years of the date on which Medicaid certification was obtained for the

bed under Subsection (5), Medicaid certification for the bed is revoked.

Section 4. Section 26-18-505 is amended to read:

26-18-505. Authorization to sell or transfer licensed Medicaid beds -- Duties of transferor -- Duties of transferee -- Duties of division.

(1) This section provides a method to transfer or sell the license for a Medicaid bed from [~~one~~] a nursing care facility program to another entity that is in addition to the authorization to transfer under Section 26-18-503.

(2) (a) A nursing care facility program may transfer or sell one or more of its licenses for Medicaid beds in accordance with Subsection (2)(b) if:

(i) at the time of the transfer, and with respect to the license for the Medicaid bed that will be transferred, the nursing care facility program that will transfer the Medicaid license meets all applicable regulations for Medicaid certification;

(ii) 30 days prior to the transfer, the nursing care facility program gives a written assurance to the director and to the transferee in accordance with Subsection 26-18-503(4); [~~and]~~

(iii) 30 days prior to the transfer, the nursing care facility program that will transfer the license for a Medicaid bed notifies the division in writing of:

(A) the number of bed licenses that will be transferred;

(B) the date of the transfer; and

(C) the identity and location of the entity receiving the transferred licenses[-]; and

(iv) if the nursing care facility program for which the license will be transferred or purchased is located in an urban county with a nursing care facility average annual occupancy rate over the previous two years less than or equal to 75%, the nursing care facility program transferring or selling the license demonstrates to the satisfaction of the director that the sale or transfer:

(A) will not result in an excessive number of Medicaid certified beds within the county or group of counties that would be impacted by the transfer or sale; and

(B) best meets the needs of Medicaid recipients.

(b) [A] Except as provided in Subsection (2)(c), a nursing care facility program may transfer or sell one or more of its licenses for Medicaid beds to:

(i) a nursing care facility program that has the same owner or successor in interest of the same owner;

(ii) a nursing care facility program that has a different owner; [~~or~~]

(iii) notwithstanding Section 26-18-502, an entity that intends to establish a nursing care facility program[-]; or

(iv) notwithstanding Section 26-18-502, a related-party nonnursing-care-facility entity that wants to hold one or more of the licenses for a future nursing care facility program not yet identified, as long as:

(A) the licenses are subsequently transferred or sold to a nursing care facility program within three years; and

(B) the nursing care facility program notifies the director of the transfer or sale in accordance with Subsection (2)(a)(iii).

(c) A nursing care facility program may not transfer or sell one or more of its licenses for Medicaid beds to an entity under Subsection (2)(b)(i), (ii), (iii), or (iv) that is located in a rural county unless the entity requests, and the director issues, Medicaid certification for the beds under Subsection 26-18-503(5).

(3) An entity under Subsection (2)(b)(i), (ii), (iii), or (iv) that receives or purchases a license for a Medicaid bed under Subsection (2)(b):

(a) may receive a license for a Medicaid bed from more than one nursing care facility program;

(b) within 14 days of seeking Medicaid certification of beds in the nursing care facility program, give the division notice of the total number of licenses for Medicaid beds that the entity received and who it received the licenses from;

(c) may only seek Medicaid certification for the number of licensed beds in the nursing care facility program equal to the total number of licenses for Medicaid beds received by the entity, ~~multiplied by a conversion factor of .7, and rounded down to the lowest integer;~~

(d) notwithstanding Section 26-18-502, does not have to demonstrate need or seek approval for the Medicaid licensed ~~[beds]~~ bed under Subsection 26-18-503(5), except as provided in Subsections (2)(a)(iv) and (2)(c);

(e) shall meet the standards for Medicaid certification other than those in Subsection 26-18-503(5), including personnel, services, contracts, and licensing of facilities under Chapter 21, Health Care Facility Licensing and Inspection Act; and

(f) shall obtain Medicaid certification for the licensed Medicaid beds within three years of the date of transfer as documented under Subsection (2)(a)(iii)(B).

~~[(4) The conversion formula required by Subsection (3)(e) shall be calculated:]~~

~~[(a) when the nursing care facility program applies to the Department for Medicaid certification of the licensed beds; and]~~

~~[(b) based on the total number of licenses for Medicaid beds transferred to the nursing care facility at the time of the request for Medicaid certification.]~~

~~[(4)] (4) (a) When the division receives notice of a transfer of a license for a Medicaid bed under Subsection (2)(a)(iii)(A), the ~~[division]~~ department shall reduce the number of licenses for Medicaid beds at the transferring nursing care facility:~~

~~(i) equal to the number of licenses transferred; and~~

~~(ii) effective on the date of the transfer as reported under Subsection (2)(a)(iii)(B).~~

(b) For purposes of Section 26-18-502, the division shall approve Medicaid certification for the receiving entity:

(i) in accordance with the formula established in Subsection (3)(c); and

(ii) if:

(A) the nursing care facility seeks Medicaid certification for the transferred licenses within the time limit required by Subsection (3)(f); and

(B) the nursing care facility program meets other requirements for Medicaid certification under Subsection (3)(e).

(c) A license for a Medicaid bed may not be approved for Medicaid certification without meeting the requirements of Sections 26-18-502 and 26-18-503 if:

(i) the license for a Medicaid bed is transferred under this section but the receiving entity does not obtain Medicaid certification for the licensed bed within the time required by Subsection (3)(f); or

(ii) the license for a Medicaid bed is transferred under this section but the license is no longer eligible for Medicaid certification as a result of the conversion factor established in Subsection (3)(c).

Section 5. Section 26-21-23 is amended to read:

26-21-23. Licensing of a new nursing care facility -- Approval for a licensed bed in an existing nursing care facility -- Fine for excess Medicare inpatient revenue.

~~[(1) Notwithstanding the provisions of Section 26-21-2, for purposes of this section "nursing]~~

(1) Notwithstanding Section 26-21-2, as used in this section:

(a) "Medicaid" means the Medicaid program, as that term is defined in Section 26-18-2.

(b) "Medicaid certification" means the same as that term is defined in Section 26-18-501.

(c) "Nursing care facility" and "small health care facility":

~~[(a)] (i) mean the following facilities licensed by the department under this chapter:~~

~~[(i)] (A) a skilled nursing ~~[homes]~~ facility;~~

~~[(ii)] (B) an intermediate care ~~[facilities]~~ facility;~~
or

~~[(iii)] (C) a small health care ~~[facilities]~~ facility with four to 16 beds functioning as a skilled nursing ~~[home]~~ facility; and~~

~~[(b) does] (ii) do not mean:~~

~~[(4)] (A) an intermediate care facility for the [mentally-retarded] intellectually disabled;~~

~~[(4ii)] (B) a critical access hospital that meets the criteria of 42 U.S.C. 1395i-4(c)(2) (1998);~~

~~[(4iii)] (C) a small health care facility that is hospital based; or~~

~~[(4iv)] (D) a small health care facility other than a skilled nursing [home] care facility with no more than 16 beds [or less].~~

~~(d) "Rural county" means the same as that term is defined in Section 26-18-501.~~

~~(2) Except as provided in Subsection ~~[(5)]~~ (6), a new nursing care facility shall be approved for a health facility license only if [the applicant proves to the division that]:~~

~~(a) [the facility will be Medicaid certified] under the provisions of Section 26-18-503 the facility's nursing care facility program has received Medicaid certification or will receive Medicaid certification for each bed in the facility;~~

~~[(b) the facility will have at least 100 beds; or]~~

~~[(c) (i) the facility's projected Medicare inpatient revenues do not exceed 49% of the facility's revenues;]~~

~~[(ii) the facility has identified projected non-Medicare inpatient revenue sources; and]~~

~~[(iii) the non-Medicare inpatient revenue sources identified in this Subsection (2)(c)(iii) will constitute at least 51% of the revenues as demonstrated through an independently certified feasibility study submitted and paid for by the facility and provided to the division.]~~

~~(b) the facility's nursing care facility program has received or will receive approval for Medicaid certification under Subsection 26-18-503(5), if the facility is located in a rural county; or~~

~~(c) (i) the applicant submits to the department the information described in Subsection (3); and~~

~~(ii) based on that information, and in accordance with Subsection (4), the department determines that approval of the license best meets the needs of the current and future patients of nursing care facilities within the area impacted by the new facility.~~

~~(3) A new nursing care facility seeking licensure under Subsection (2) shall submit to the department the following information:~~

~~(a) proof of the following as reasonable evidence that bed capacity provided by nursing care facilities within the county or group of counties that would be impacted by the facility is insufficient:~~

~~(i) nursing care facility occupancy within the county or group of counties:~~

~~(A) has been at least 75% during each of the past two years for all existing facilities combined; and~~

~~(B) is projected to be at least 75% for all nursing care facilities combined that have been approved for licensure but are not yet operational;~~

~~(ii) there is no other nursing care facility within a 35-mile radius of the new nursing care facility seeking licensure under Subsection (2); and~~

~~(b) a feasibility study that:~~

~~(i) shows the facility's annual Medicare inpatient revenue, including Medicare Advantage revenue, will not exceed 49% of the facility's annual total revenue during each of the first three years of operation;~~

~~(ii) shows the facility will be financially viable if the annual occupancy rate is at least 88%;~~

~~(iii) shows the facility will be able to achieve financial viability;~~

~~(iv) shows the facility will not:~~

~~(A) have an adverse impact on existing or proposed nursing care facilities within the county or group of counties that would be impacted by the facility; or~~

~~(B) be within a three-mile radius of an existing nursing care facility or a new nursing care facility that has been approved for licensure but is not yet operational;~~

~~(v) is based on reasonable and verifiable demographic and economic assumptions;~~

~~(vi) is based on data consistent with department or other publicly available data; and~~

~~(vii) is based on existing sources of revenue.~~

~~(4) When determining under Subsection (2)(c) whether approval of a license for a new nursing care facility best meets the needs of the current and future patients of nursing care facilities within the area impacted by the new facility, the department shall consider:~~

~~(a) whether the county or group of counties that would be impacted by the facility is underserved by specialized or unique services that would be provided by the facility; and~~

~~(b) how additional bed capacity should be added to the long-term care delivery system to best meet the needs of current and future nursing care facility patients within the impacted area.~~

~~[(3)] (5) The division may [not] approve the addition of a licensed [beds] bed in an existing nursing care facility [unless the nursing care facility satisfies the criteria established in Subsection (2).] only if:~~

~~(a) each time the facility seeks approval for the addition of a licensed bed, the facility satisfies each requirement for licensure of a new nursing care facility in Subsections (2)(c), (3), and (4); or~~

~~(b) the bed has been approved for Medicaid certification under Section 26-18-503 or 26-18-505.~~

~~[(4) The department may make rules to administer and enforce this part in accordance with~~

~~Title 63G, Chapter 3, Utah Administrative Rulemaking Act.]~~

~~[(5) The provisions of Subsection (2) do]~~

(6) Subsection (2) does not apply to a nursing care facility that:

(a) has[;], by the effective date of this act, submitted to the department schematic drawings, and paid applicable fees, for a particular site or a site within a three-mile radius of that site;

(b) before July 1, 2016:

~~[(a)] (i) filed an application with the department for licensure under this section and paid all [applicable] related fees due to the department [on or before February 28, 2007]; and~~

~~[(b)] (ii) submitted to the department [the working drawings] architectural plans and specifications, as defined by the department by administrative rule, [on or before July 1, 2008.] for the facility;~~

(c) applies for a license within three years of closing for renovation;

(d) replaces a nursing care facility that:

(i) closed within the past three years; or

(ii) is located within five miles of the facility;

(e) is undergoing a change of ownership, even if a government entity designates the facility as a new nursing care facility; or

(f) is a state-owned veterans home, regardless of who operates the home.

(7) (a) For each year the annual Medicare inpatient revenue, including Medicare Advantage revenue, of a nursing care facility approved for a health facility license under Subsection (2)(c) exceeds 49% of the facility's total revenue for the year, the facility shall be subject to a fine of \$50,000, payable to the department.

(b) A nursing care facility approved for a health facility license under Subsection (2)(c) shall submit to the department the information necessary for the department to annually determine whether the facility is subject to the fine in Subsection (7)(a).

(c) The department:

(i) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying the information a nursing care facility shall submit to the department under Subsection (7)(b);

(ii) shall annually determine whether a facility is subject to the fine in Subsection (7)(a);

(iii) may take one or more of the actions in Section 26-21-11 or 26-23-6 against a facility for nonpayment of a fine due under Subsection (7)(a); and

(iv) shall deposit fines paid to the department under Subsection (7)(a) into the Nursing Care Facilities Account, created by Section 26-35a-106.

Section 6. Section 26-35a-106 is amended to read:

26-35a-106. Restricted account -- Creation -- Deposits -- Uses.

(1) (a) There is created a restricted account in the General Fund known as the "Nursing Care Facilities Account" consisting of:

(i) proceeds from the assessment imposed by Section 26-35a-104 which shall be deposited in the restricted account to be used for the purpose described in Subsection (1)(b);

(ii) fines paid by nursing care facilities for excessive Medicare inpatient revenue under Section 26-18-506;

~~[(iii)] (iii) money appropriated or otherwise made available by the Legislature; and~~

~~[(iii)] (iv) any interest earned on the account.~~

(b) (i) Money in the account shall only be used:

(A) to the extent authorized by federal law, to obtain federal financial participation in the Medicaid program;

(B) to provide the increased level of hospice reimbursement resulting from the nursing care facilities assessment imposed under Section 26-35a-104;

(C) for the Medicaid program to make quality incentive payments to nursing care facilities, subject to approval of a Medicaid state plan amendment to do so by the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services; and

~~[(C)] (D) in the manner described in Subsection (1)(b)(ii).~~

(ii) The money appropriated from the restricted account to the department:

(A) shall be used only to increase the rates paid prior to [the effective date of this act] July 1, 2004, to nursing care facilities for providing services pursuant to the Medicaid program and for administrative expenses as described in Subsection (1)(b)(ii)(C);

(B) may not be used to replace existing state expenditures paid to nursing care facilities for providing services pursuant to the Medicaid program, except for increased costs due to hospice reimbursement under Subsection (1)(b)(i)(B); and

(C) may be used for administrative expenses, if the administrative expenses for the fiscal year do not exceed 3% of the money deposited into the restricted account during the fiscal year.

(2) Money shall be appropriated from the restricted account to the department for the purposes described in Subsection (1)(b) in accordance with Title 63J, Chapter 1, Budgetary Procedures Act.

Section 7. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 277**H. B. 405**

Passed March 10, 2016
 Approved March 25, 2016
 Effective May 10, 2016

JUVENILE SENTENCING AMENDMENTS

Chief Sponsor: V. Lowry Snow
 Senate Sponsor: Daniel W. Thatcher

LONG TITLE**General Description:**

This bill prohibits sentencing an individual under 18 years of age to life in prison without parole.

Highlighted Provisions:

This bill:

- ▶ prohibits sentencing an individual under 18 years of age convicted of a capital crime to life in prison without parole;
- ▶ allows sentencing convicted capital offenders under 18 years of age only to an indeterminate prison term of not less than 25 years and that may be for life;
- ▶ provides that the court, rather than a jury, determine the length of prison sentence for an individual younger than 18 years of age;
- ▶ prohibits sentencing an individual under 18 years of age to life in prison without parole if the individual commits certain additional crimes while serving a sentence; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-3-203.6, as last amended by Laws of Utah 2007, Chapter 339
 76-3-206, as last amended by Laws of Utah 2009, Chapter 76
 76-3-207, as last amended by Laws of Utah 2010, Chapter 373
 76-3-207.5, as last amended by Laws of Utah 2001, Chapter 209
 76-3-207.7, as last amended by Laws of Utah 2009, Chapter 76

ENACTS:

76-3-209, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-3-203.6 is amended to read:**76-3-203.6. Enhanced penalty for certain offenses committed by prisoner.**

(1) As used in this section, "serving a sentence" means a prisoner is sentenced and committed to the custody of the Department of Corrections, the sentence has not been terminated or voided, and the prisoner:

- (a) has not been paroled; or

(b) is in custody after arrest for a parole violation.

(2) If the trier of fact finds beyond a reasonable doubt that a prisoner serving a sentence for a capital felony or a first degree felony commits any offense listed in Subsection ~~[(3)]~~ (5), the court shall sentence the defendant to life in prison without parole. ~~[However,]~~

(3) Notwithstanding Subsection (2), the court may sentence the defendant to an indeterminate prison term of not less than 20 years and ~~[which]~~ that may be for life if the court finds that the interests of justice would best be served and states the specific circumstances justifying the disposition on the record.

(4) Subsection (2) does not apply if the prisoner is younger than 18 years of age at the time the offense listed in Subsection (5) is committed and is sentenced on or after May 10, 2016.

~~[(3)]~~ (5) Offenses referred to in Subsection (2) are:

- (a) aggravated assault, ~~[Subsection]~~ Section 76-5-103~~[(2)]~~;
- (b) mayhem, Section 76-5-105;
- (c) attempted murder, Section 76-5-203;
- (d) kidnapping, Section 76-5-301;
- (e) child kidnapping, Section 76-5-301.1;
- (f) aggravated kidnapping, Section 76-5-302;
- (g) rape, Section 76-5-402;
- (h) rape of a child, Section 76-5-402.1;
- (i) object rape, Section 76-5-402.2;
- (j) object rape of a child, Section 76-5-402.3;
- (k) forcible sodomy, Section 76-5-403;
- (l) sodomy on a child, Section 76-5-403.1;
- (m) aggravated sexual abuse of a child, Section 76-5-404.1;
- (n) aggravated sexual assault, Section 76-5-405;
- (o) aggravated arson, Section 76-6-103;
- (p) aggravated burglary, Section 76-6-203; and
- (q) aggravated robbery, Section 76-6-302.

~~[(4)]~~ (6) The sentencing enhancement described in this section does not apply if:

- (a) the offense for which the person is being sentenced is:
 - (i) a grievous sexual offense;
 - (ii) child kidnapping, Section 76-5-301.1; or
 - (iii) aggravated kidnapping, Section 76-5-302; and
- (b) applying the sentencing enhancement provided for in this section would result in a lower maximum penalty than the penalty provided for under the section that describes the offense for which the person is being sentenced.

Section 2. Section 76-3-206 is amended to read:

76-3-206. Capital felony -- Penalties.

(1) A person who has pled guilty to or been convicted of a capital felony shall be sentenced in accordance with this section and Section 76-3-207. ~~[That sentence shall be death, an indeterminate prison term of not less than 25 years and which may be for life, or, on or after April 27, 1992, life in prison without parole.]~~

(2) (a) If the person described in Subsection (1) was 18 years of age or older at the time the offense was committed, the sentence shall be:

(i) death;

(ii) an indeterminate prison term of not less than 25 years and that may be for life; or

(iii) on or after April 27, 1992, life in prison without parole.

(b) Subsections (2)(a)(i) and (2)(a)(iii) do not apply if the person was younger than 18 years of age at the time the offense was committed and was sentenced on or after May 10, 2016.

~~[(2)]~~ (3) (a) The judgment of conviction and sentence of death is subject to automatic review by the Utah State Supreme Court within 60 days after certification by the sentencing court of the entire record unless time is extended an additional period not to exceed 30 days by the Utah State Supreme Court for good cause shown.

(b) The review by the Utah State Supreme Court has priority over all other cases and shall be heard in accordance with rules promulgated by the Utah State Supreme Court.

Section 3. Section 76-3-207 is amended to read:

76-3-207. Capital felony -- Sentencing proceeding.

(1) (a) When a defendant has pled guilty to or been found guilty of a capital felony, there shall be further proceedings before the court or jury on the issue of sentence.

(b) In the case of a plea of guilty to a capital felony, the sentencing proceedings shall be conducted before a jury or, upon request of the defendant and with the approval of the court and the consent of the prosecution, by the court which accepted the plea.

(c) (i) When a defendant has been found guilty of a capital felony, the proceedings shall be conducted before the court or jury which found the defendant guilty, provided the defendant may waive hearing before the jury with the approval of the court and the consent of the prosecution, in which event the hearing shall be before the court.

(ii) If circumstances make it impossible or impractical to reconvene the same jury for the sentencing proceedings, the court may dismiss that jury and convene a new jury for the proceedings.

(d) If a retrial of the sentencing proceedings is necessary as a consequence of a remand from an appellate court, the sentencing authority shall be determined as provided in Subsection (6).

(2) (a) In capital sentencing proceedings, evidence may be presented on:

(i) the nature and circumstances of the crime;

(ii) the defendant's character, background, history, and mental and physical condition;

(iii) the victim and the impact of the crime on the victim's family and community without comparison to other persons or victims; and

(iv) any other facts in aggravation or mitigation of the penalty that the court considers relevant to the sentence.

(b) Any evidence the court considers to have probative force may be received regardless of its admissibility under the exclusionary rules of evidence. The state's attorney and the defendant shall be permitted to present argument for or against the sentence of death.

(3) Aggravating circumstances include those outlined in Section 76-5-202.

(4) Mitigating circumstances include:

(a) the defendant has no significant history of prior criminal activity;

(b) the homicide was committed while the defendant was under the influence of mental or emotional disturbance;

(c) the defendant acted under duress or under the domination of another person;

(d) at the time of the homicide, the capacity of the defendant to appreciate the wrongfulness of his conduct or to conform his conduct to the requirement of law was impaired as a result of a mental condition, intoxication, or influence of drugs, except that "mental condition" under this Subsection (4)(d) does not mean an abnormality manifested primarily by repeated criminal conduct;

(e) the youth of the defendant at the time of the crime;

(f) the defendant was an accomplice in the homicide committed by another person and the defendant's participation was relatively minor; and

(g) any other fact in mitigation of the penalty.

(5) (a) The court or jury, as the case may be, shall retire to consider the penalty. Except as provided in ~~[Subsection]~~ Subsections 76-3-207.5(2) and 76-3-206(2)(b), in all proceedings before a jury, under this section, it shall be instructed as to the punishment to be imposed upon a unanimous decision for death and that the penalty of either an indeterminate prison term of not less than 25 years and which may be for life or life in prison without parole, shall be imposed if a unanimous decision for death is not found.

(b) The death penalty shall only be imposed if, after considering the totality of the aggravating and

mitigating circumstances, the jury is persuaded beyond a reasonable doubt that total aggravation outweighs total mitigation, and is further persuaded, beyond a reasonable doubt, that the imposition of the death penalty is justified and appropriate in the circumstances. If the jury reports unanimous agreement to impose the sentence of death, the court shall discharge the jury and shall impose the sentence of death.

(c) If the jury is unable to reach a unanimous decision imposing the sentence of death, the jury shall then determine whether the penalty of life in prison without parole shall be imposed, except as provided in Subsection 76-3-207.5(2). The penalty of life in prison without parole shall only be imposed if the jury determines that the sentence of life in prison without parole is appropriate. If the jury reports agreement by 10 jurors or more to impose the sentence of life in prison without parole, the court shall discharge the jury and shall impose the sentence of life in prison without parole. If 10 jurors or more do not agree upon a sentence of life in prison without parole, the court shall discharge the jury and impose an indeterminate prison term of not less than 25 years and which may be for life.

(d) If the defendant waives hearing before the jury as to sentencing, with the approval of the court and the consent of the prosecution, the court shall determine the appropriate penalty according to the standards of Subsections (5)(b) and (c).

(e) If the defendant is sentenced to more than one term of life in prison with or without the possibility of parole, or in addition to a sentence of life in prison with or without the possibility of parole the defendant is sentenced for other offenses which result in terms of imprisonment, the judge shall determine whether the terms of imprisonment shall be imposed as concurrent or consecutive sentences in accordance with Section 76-3-401.

(6) Upon any appeal by the defendant where the sentence is of death, the appellate court, if it finds prejudicial error in the sentencing proceeding only, may set aside the sentence of death and remand the case to the trial court for new sentencing proceedings to the extent necessary to correct the error or errors. An error in the sentencing proceedings may not result in the reversal of the conviction of a capital felony. In cases of remand for new sentencing proceedings, all exhibits and a transcript of all testimony and other evidence properly admitted in the prior trial and sentencing proceedings are admissible in the new sentencing proceedings, and if the sentencing proceeding was before a:

(a) jury, a new jury shall be impaneled for the new sentencing proceeding unless the defendant waives the hearing before the jury with the approval of the court and the consent of the prosecution, in which case the proceeding shall be held according to Subsection (6)(b) or (c), as applicable;

(b) judge, the original trial judge shall conduct the new sentencing proceeding; or

(c) judge, and the original trial judge is unable or unavailable to conduct a new sentencing proceeding, then another judge shall be designated to conduct the new sentencing proceeding, and the new proceeding will be before a jury unless the defendant waives the hearing before the jury with the approval of the court and the consent of the prosecution.

(7) If the penalty of death is held to be unconstitutional by the Utah Supreme Court or the United States Supreme Court, the court having jurisdiction over a person previously sentenced to death for a capital felony shall cause the person to be brought before the court, and the court shall sentence the person to life in prison without parole.

(8) (a) If the appellate court's final decision regarding any appeal of a sentence of death precludes the imposition of the death penalty due to mental retardation or subaverage general intellectual functioning under Section 77-15a-101, the court having jurisdiction over a defendant previously sentenced to death for a capital felony shall cause the defendant to be brought before the sentencing court, and the court shall sentence the defendant to life in prison without parole.

(b) If the appellate court precludes the imposition of the death penalty under Subsection (8)(a), but the appellate court finds that sentencing the defendant to life in prison without parole is likely to result in a manifest injustice, it may remand the case to the sentencing court for further sentencing proceedings to determine if the defendant should serve a sentence of life in prison without parole or an indeterminate prison term of not less than 25 years and which may be for life.

Section 4. Section 76-3-207.5 is amended to read:

76-3-207.5. Applicability -- Effect on sentencing -- Options of offenders.

(1) (a) The sentencing option of life without parole provided in Sections 76-3-201 and 76-3-207 applies only to those capital felonies for which the offender is sentenced on or after April 27, 1992.

(b) The sentencing option of life without parole provided in Sections 76-3-201 and 76-3-207 has no effect on sentences imposed in capital cases prior to April 27, 1992.

(2) An offender, who commits a capital felony prior to April 27, 1992, but is sentenced on or after April 27, 1992, shall be given the option, prior to a sentencing hearing pursuant to Section 76-3-207, to proceed either under the law which was in effect at the time the offense was committed or under the additional sentencing option of life in prison without parole provided in Sections 76-3-201 and 76-3-207.

(3) The sentencing option of life without parole has no effect on sentences imposed on an offender who was younger than 18 years of age at the time the offense was committed and was sentenced on or after May 10, 2016.

Section 5. Section 76-3-207.7 is amended to read:

76-3-207.7. First degree felony aggravated murder -- Noncapital felony -- Penalties -- Sentenced by court.

(1) A person who has pled guilty to or been convicted of first degree felony aggravated murder under Section 76-5-202 shall be sentenced by the court.

(2) (a) The sentence under this section shall be:

(i) life in prison without parole; or

(ii) an indeterminate prison term of not less than 25 years and ~~[which]~~ that may be for life.

(b) Subsection (2)(a)(i) does not apply if the person was younger than 18 years of age at the time the offense was committed and was sentenced on or after May 10, 2016.

Section 6. Section 76-3-209 is enacted to read:

76-3-209. Limitation on sentencing for juveniles.

Notwithstanding any provision of law, a person may not be sentenced to life without parole if convicted of a crime punishable by life without parole if, at the time of the commission of the crime, the person was younger than 18 years of age. The maximum punishment that may be imposed on a person described in this section is an indeterminate prison term of not less than 25 years and that may be for life. This section shall only apply prospectively to individuals sentenced on or after May 10, 2016.

CHAPTER 278**H. B. 436**

Passed March 9, 2016
Approved March 25, 2016
Effective May 10, 2016

**HOUSING AND HOMELESS
REFORM INITIATIVE**

Chief Sponsor: Francis D. Gibson
Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies provisions related to housing and community development.

Highlighted Provisions:

This bill:

- ▶ creates a restricted account called the Homeless to Housing Reform Restricted Account;
- ▶ describes the responsibilities of the Homeless Coordinating Committee and the Housing and Community Development Division in awarding grants or contracts using money from the account;
- ▶ adds members to the Homeless Coordinating Committee; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates:

- ▶ to the General Fund Restricted -- Homeless to Housing Reform Restricted Account, as a one-time appropriation:
 - from the General Fund, \$2,500,000; and
 - from Federal Funds, \$2,250,000;
- ▶ to the General Fund Restricted -- Homeless to Housing Reform Restricted Account, as an ongoing appropriation:
 - from the General Fund, \$4,500,000;
- ▶ to the Department of Workforce Services -- Housing and Community Development, as a one-time appropriation:
 - from the General Fund Restricted -- Homeless to Housing Reform Restricted Account, \$4,750,000; and
- ▶ to the Department of Workforce Services -- Housing and Community Development, as an ongoing appropriation:
 - from the General Fund Restricted -- Homeless to Housing Reform Restricted Account, \$4,500,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

35A-8-601, as renumbered and amended by Laws of Utah 2012, Chapter 212

63I-2-235, as enacted by Laws of Utah 2015, Chapters 104 and 460

ENACTS:

35A-8-604, Utah Code Annotated 1953

35A-8-605, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 35A-8-601 is amended to read:

35A-8-601. Creation.

(1) There is created within the division the Homeless Coordinating Committee.

(2) (a) The committee shall consist of the following members:

(i) the lieutenant governor or the lieutenant governor's designee;

(ii) the state planning coordinator or the coordinator's designee;

(iii) the state superintendent of public instruction or the superintendent's designee;

(iv) the chair of the board of trustees of the Utah Housing Corporation or the chair's designee; ~~and~~

(v) the executive ~~[directors]~~ director of the ~~[Department of Human Services, the Department of Corrections, the] Department of Workforce Services[, and the Department of Health, or their designees.]~~ or the executive director's designee;

(vi) the executive director of the Department of Corrections or the executive director's designee;

(vii) the executive director of the Department of Health or the executive director's designee;

(viii) the executive director of the Department of Human Services or the executive director's designee;

(ix) the mayor of Salt Lake City; and

(x) the mayor of Salt Lake County.

(b) (i) The lieutenant governor shall serve as the chair of the committee.

(ii) The lieutenant governor may appoint a vice chair from among committee members, who shall conduct committee meetings in the absence of the lieutenant governor.

(3) The governor may appoint as members of the committee:

(a) representatives of local governments, local housing authorities, local law enforcement agencies[, and of];

(b) representatives of federal and private agencies and organizations concerned with the homeless, persons with a mental illness, the elderly, single-parent families, [substance abusers] persons with a substance use disorder, and persons with a disability[-]; and

(c) a resident of Salt Lake County.

(4) (a) Except as required by Subsection (4)(b), as terms of current committee members appointed under Subsection (3) expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of

terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) A ~~[person]~~ member appointed under ~~[this Subsection (4)]~~ Subsection (3) may not be appointed to serve more than three consecutive terms.

(5) When a vacancy occurs in the membership for any reason, the replacement is appointed for the unexpired term.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 2. Section 35A-8-604 is enacted to read:

35A-8-604. Uses of Homeless to Housing Reform Restricted Account.

(1) With the concurrence of the division and in accordance with this section, the Homeless Coordinating Committee members designated in Subsection 35A-8-601(2) may award ongoing or one-time grants or contracts funded from the Homeless to Housing Reform Restricted Account created in Section 35A-8-605.

(2) Before final approval of a grant or contract awarded under this section, the Homeless Coordinating Committee and the division shall provide information regarding the grant or contract to, and shall consider the recommendations of, the Legislative Management Committee and the Executive Appropriations Committee.

(3) As a condition of receiving money, including any ongoing money, from the Homeless to Housing Reform Restricted Account, an entity awarded a grant or contract under this section shall provide detailed and accurate reporting on at least an annual basis to the division and the Homeless Coordinating Committee that describes:

(a) how money provided from the Homeless to Housing Reform Restricted Account has been spent by the entity; and

(b) the progress towards measurable outcome-based benchmarks agreed to between the entity and the Homeless Coordinating Committee before the awarding of the grant or contract.

(4) In determining the awarding of a grant or contract under this section, the Homeless Coordinating Committee, with the concurrence of the division, shall:

(a) ensure that the services to be provided through the grant or contract will be provided in a cost-effective manner;

(b) consider the advice of committee members designated in Subsection 35A-8-601(3);

(c) give priority to a project or contract that will include significant additional or matching funds from a private organization or local government entity;

(d) ensure that the project or contract will target the distinct housing needs of one or more at-risk or homeless subpopulations, which may include:

(i) families with children;

(ii) transitional-aged youth;

(iii) single men or single women;

(iv) veterans;

(v) victims of domestic violence;

(vi) individuals with behavioral health disorders, including mental health or substance use disorders;

(vii) individuals who are medically frail or terminally ill;

(viii) individuals exiting prison or jail; or

(ix) individuals who are homeless without shelter; and

(e) consider whether the project will address one or more of the following goals:

(i) diverting homeless or imminently homeless individuals and families from emergency shelters by providing better housing-based solutions;

(ii) meeting the basic needs of homeless individuals and families in crisis;

(iii) providing homeless individuals and families with needed stabilization services;

(iv) decreasing the state's homeless rate;

(v) implementing a coordinated entry system with consistent assessment tools to provide appropriate and timely access to services for homeless individuals and families;

(vi) providing access to caseworkers or other individualized support for homeless individuals and families;

(vii) encouraging employment and increased financial stability for individuals and families being diverted from or exiting homelessness;

(viii) creating additional affordable housing for state residents;

(ix) providing services and support to prevent homelessness among at-risk individuals and adults;

(x) providing services and support to prevent homelessness among at-risk children, adolescents, and young adults; and

(xi) preventing the reoccurrence of homelessness among individuals and families exiting homelessness.

(5) In addition to the other provisions of this section, in determining the awarding of a grant or contract under this section to design, build, create, or renovate a facility that will provide shelter or

other resources for the homeless, the Homeless Coordinating Committee, with the concurrence of the division:

- (a) may consider whether the facility will be:
 - (i) located near mass transit services;
 - (ii) located in an area that meets or will meet all zoning regulations before a final dispersal of funds;
 - (iii) safe and welcoming both for individuals using the facility and for members of the surrounding community; and
 - (iv) located in an area with access to employment, job training, and positive activities; and
- (b) may not award a grant or contract under this Subsection (5), unless the grant or contract is endorsed by the county and, if applicable, the municipality where the facility will be located.

(6) (a) As used in this Subsection (6), “homeless shelter” means a facility that:

- (i) is located within a municipality;
- (ii) provides temporary shelter to homeless individuals;
- (iii) has capacity to provide temporary shelter to at least 200 individuals per night;
- (iv) began operation on or before January 1, 2016;
- (v) did not operate more than nine-months per year before January 1, 2016; and
- (vi) currently operates year-round.

(b) In addition to the other provisions of this section, the Homeless Coordinating Committee, with the concurrence of the division, may award a grant or contract:

- (i) to a municipality to improve sidewalks, pathways, or roadways near a homeless shelter to provide greater safety to homeless individuals; and
- (ii) to a municipality to hire a peace officer to provide greater safety to homeless individuals.

(7) The division may expend money from the Homeless to Housing Reform Restricted Account to offset actual division and Homeless Coordinating Committee expenses related to administering this section.

Section 3. Section 35A-8-605 is enacted to read:

35A-8-605. Homeless to Housing Reform Restricted Account.

- (1) There is created a restricted account within the General Fund known as the Homeless to Housing Reform Restricted Account.
- (2) The restricted account shall be administered by the division for the purposes described in Section 35A-8-604.
- (3) The state treasurer shall invest the money in the restricted account according to the procedures and requirements of Title 51, Chapter 7, State

Money Management Act, except that interest and other earnings derived from the restricted account shall be deposited in the restricted account.

- (4) The restricted account shall be funded by:
 - (a) appropriations made to the account by the Legislature; and
 - (b) private donations, grants, gifts, bequests, or money made available from any other source to implement this section and Section 35A-8-604.
 - (5) Subject to appropriation, the director shall use account money as described in Section 35A-8-604.
 - (6) The Homeless Coordinating Committee, in cooperation with the division, shall submit an annual written report to the department that gives a complete accounting of the use of money from the account for inclusion in the annual report described in Section 35A-1-109.

Section 4. Section 63I-2-235 is amended to read:

63I-2-235. Repeal dates -- Title 35A.

- (1) Subsection 35A-8-604(6) is repealed October 1, 2020.
- (2) Title 35A, Chapter 8, Part 11, Methamphetamine Housing Reconstruction and Rehabilitation Account Act, is repealed July 1, 2015.
- (3) Section 35A-12-402 is repealed December 31, 2015.

Section 5. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to amounts previously appropriated for fiscal year 2017.

To Fund and Account Transfers -- General Fund Restricted — Homeless to Housing Reform Restricted Account

From General Fund, one-time	\$2,500,000
From Federal Funds, one-time	\$2,250,000
From General Fund	\$4,500,000

Schedule of Programs:

General Fund Restricted — Homeless to Housing Reform Restricted Account	\$9,250,000
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To Department of Workforce Services -- Housing and Community Development

From General Fund Restricted — Homeless to Housing Reform Restricted Account, one-time	\$4,750,000
From General Fund Restricted — Homeless to Housing Reform Restricted Account	\$4,500,000

Schedule of Programs:

<u>Homeless to Housing Reform Program</u>	<u>\$9,250,000</u>
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The Legislature intends that:

(1) under Section 63J-1-603 appropriations provided under this section not lapse at the close of fiscal year 2017;

(2) the one-time appropriation under this section be used by the Housing and Community Development Division and the Homeless Coordinating Committee to award grants or contracts related to designing, building, creating, or renovating a facility in accordance with Subsection 35A-8-604(5), except that up to \$500,000 of the appropriation may be used to improve sidewalks, pathways, or roadways near a homeless shelter as described in Subsection 35A-8-604(6)(b)(i); and

(3) the ongoing appropriation under this section be used by the Housing and Community Development Division and the Homeless Coordinating Committee to award grants or contracts in accordance with Section 35A-8-604, except that up to \$52,000 of the appropriation may be used to hire a peace officer as described in Subsection 35A-8-604(6)(b)(ii).

CHAPTER 279**H. B. 437**

Passed March 8, 2016

Approved March 25, 2016

Effective May 10, 2016

HEALTH CARE REVISIONS

Chief Sponsor: James A. Dunnigan
 Senate Sponsor: Allen M. Christensen
 Cosponsors: Johnny Anderson
 LaVar Christensen
 Kay J. Christofferson
 Fred C. Cox
 Bruce R. Cutler
 Brad M. Daw
 Brad L. Dee
 Sophia M. DiCaro
 Jack R. Draxler
 Rebecca P. Edwards
 Steve Eliason
 Gage Froerer
 Keith Grover
 Craig Hall
 Stephen G. Handy
 Timothy D. Hawkes
 Gregory H. Hughes
 Eric K. Hutchings
 Don L. Ipson
 Kay L. McIff
 Merrill F. Nelson
 Michael E. Noel
 Derrin Owens
 Lee B. Perry
 Jeremy A. Peterson
 Dixon M. Pitcher
 Kraig Powell
 Paul Ray
 Edward H. Redd
 Douglas V. Sagers
 Scott D. Sandall
 V. Lowry Snow
 Robert M. Spendlove
 Keven J. Stratton
 Earl D. Tanner
 Norman K Thurston
 Raymond P. Ward
 R. Curt Webb
 John R. Westwood

LONG TITLE**General Description:**

This bill implements a health coverage improvement program through Medicaid waiver authority granted to states before the federal Patient Protection and Affordable Care Act, and establishes a funding mechanism for the waiver program.

Highlighted Provisions:

This bill:

- ▶ authorizes a preferred drug list for psychotropic drugs with an override for dispense as written;
- ▶ establishes targets for savings from the preferred drug list;
- ▶ authorizes the Department of Health to apply for waivers from federal law necessary to

- implement a health coverage improvement program in Medicaid;
- ▶ distinguishes the health coverage improvement program from Medicaid expansion under the Affordable Care Act;
- ▶ defines terms;
- ▶ describes the Medicaid waiver request;
- ▶ permits a waiver enrollee to maintain Medicaid coverage for 12 months;
- ▶ provides eligibility criteria;
- ▶ amends the county matching funds for enrollees in the health coverage improvement program;
- ▶ expands Medicaid eligibility for adults with dependent children;
- ▶ requires the Department of Health to apply for a waiver for the existing Medicaid population and the enrollees in the health coverage improvement program to allow substance abuse treatment at facilities with no bed capacity limits;
- ▶ enhances the efficiency of Medicaid enrollment for adults released from incarceration;
- ▶ establishes an inpatient private hospital assessment to fund the Medicaid waiver;
- ▶ establishes a mandatory intergovernmental transfer of funds from the state teaching hospital and certain other government owned hospitals to fund the Medicaid waiver;
- ▶ authorizes the Public Employees' Benefit and Insurance Program to provide services for drugs and devices for certain individuals at the request of a procurement unit; and
- ▶ requires the Department of Health to study methods to increase coverage to uninsured low income adults with children and to maximize the use of employer sponsored coverage.

Monies Appropriated in this Bill:

This bill appropriates \$2,508,500 ongoing General Fund from other programs to the Medicaid Expansion Fund and makes changes to other funds.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 26-18-2.4, as last amended by Laws of Utah 2012, Chapters 242 and 343
- 26-18-18, as last amended by Laws of Utah 2015, Chapter 283
- 49-20-401, as last amended by Laws of Utah 2015, Chapter 155
- 63I-1-226, as last amended by Laws of Utah 2015, Chapters 16, 31, and 258

ENACTS:

- 26-18-411, Utah Code Annotated 1953
- 26-36b-101, Utah Code Annotated 1953
- 26-36b-102, Utah Code Annotated 1953
- 26-36b-103, Utah Code Annotated 1953
- 26-36b-201, Utah Code Annotated 1953
- 26-36b-202, Utah Code Annotated 1953
- 26-36b-203, Utah Code Annotated 1953
- 26-36b-204, Utah Code Annotated 1953
- 26-36b-205, Utah Code Annotated 1953
- 26-36b-206, Utah Code Annotated 1953
- 26-36b-207, Utah Code Annotated 1953
- 26-36b-208, Utah Code Annotated 1953
- 26-36b-209, Utah Code Annotated 1953
- 26-36b-210, Utah Code Annotated 1953
- 26-36b-211, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-18-2.4 is amended to read:

26-18-2.4. Medicaid drug program -- Preferred drug list.

(1) A Medicaid drug program developed by the department under Subsection 26-18-2.3(2)(f):

(a) shall, notwithstanding Subsection 26-18-2.3(1)(b), be based on clinical and cost-related factors which include medical necessity as determined by a provider in accordance with administrative rules established by the Drug Utilization Review Board;

(b) may include therapeutic categories of drugs that may be exempted from the drug program;

(c) may include placing some drugs, except the drugs described in Subsection (2), on a preferred drug list:

(i) to the extent determined appropriate by the department; and

(ii) in the manner described in Subsection (3) for psychotropic drugs;

(d) notwithstanding the requirements of Part 2, Drug Utilization Review Board, and except as provided in Subsection (3), shall immediately implement the prior authorization requirements for a nonpreferred drug that is in the same therapeutic class as a drug that is:

(i) on the preferred drug list on the date that this act takes effect; or

(ii) added to the preferred drug list after this act takes effect; and

(e) except as prohibited by Subsections 58-17b-606(4) and (5), shall establish the prior authorization requirements established under Subsections (1)(c) and (d) which shall permit a health care provider or the health care provider's agent to obtain a prior authorization override of the preferred drug list through the department's pharmacy prior authorization review process, and which shall:

(i) provide either telephone or fax approval or denial of the request within 24 hours of the receipt of a request that is submitted during normal business hours of Monday through Friday from 8 a.m. to 5 p.m.;

(ii) provide for the dispensing of a limited supply of a requested drug as determined appropriate by the department in an emergency situation, if the request for an override is received outside of the department's normal business hours; and

(iii) require the health care provider to provide the department with documentation of the medical need for the preferred drug list override in accordance with criteria established by the department in consultation with the Pharmacy and Therapeutics Committee.

(2) (a) For purposes of this Subsection (2):

(i) "Immunosuppressive drug":

(A) means a drug that is used in immunosuppressive therapy to inhibit or prevent activity of the immune system to aid the body in preventing the rejection of transplanted organs and tissue; and

(B) does not include drugs used for the treatment of autoimmune disease or diseases that are most likely of autoimmune origin.

~~[(ii) "Psychotropic drug" means the following classes of drugs: atypical anti-psychotic, anti-depressants, anti-convulsant/mood stabilizer, anti-anxiety, attention deficit hyperactivity disorder stimulants, or sedative/hypnotics.]~~

~~[(iii)]~~ (ii) "Stabilized" means a health care provider has documented in the patient's medical chart that a patient has achieved a stable or steadfast medical state within the past 90 days using a particular psychotropic drug.

(b) A preferred drug list developed under the provisions of this section may not include ~~[(i) except as provided in Subsection (2)(e), a psychotropic or anti-psychotic drug; or (ii)]~~ an immunosuppressive drug.

(c) The state Medicaid program shall reimburse for a prescription for an immunosuppressive drug as written by the health care provider for a patient who has undergone an organ transplant. For purposes of Subsection 58-17b-606(4), and with respect to patients who have undergone an organ transplant, the prescription for a particular immunosuppressive drug as written by a health care provider meets the criteria of demonstrating to the Department of Health a medical necessity for dispensing the prescribed immunosuppressive drug.

(d) Notwithstanding the requirements of Part 2, Drug Utilization Review Board, the state Medicaid drug program may not require the use of step therapy for immunosuppressive drugs without the written or oral consent of the health care provider and the patient.

(e) The department may include a sedative hypnotic on a preferred drug list in accordance with Subsection (2)(f).

(f) The department shall grant a prior authorization for a sedative hypnotic that is not on the preferred drug list under Subsection (2)(e), if the health care provider has documentation related to one of the following conditions for the Medicaid client:

(i) a trial and failure of at least one preferred agent in the drug class, including the name of the preferred drug that was tried, the length of therapy, and the reason for the discontinuation;

(ii) detailed evidence of a potential drug interaction between current medication and the preferred drug;

(iii) detailed evidence of a condition or contraindication that prevents the use of the preferred drug;

(iv) objective clinical evidence that a patient is at high risk of adverse events due to a therapeutic interchange with a preferred drug;

(v) the patient is a new or previous Medicaid client with an existing diagnosis previously stabilized with a nonpreferred drug; or

(vi) other valid reasons as determined by the department.

(g) A prior authorization granted under Subsection (2)(f) is valid for one year from the date the department grants the prior authorization and shall be renewed in accordance with Subsection (2)(f).

(3) (a) For purposes of this Subsection (3), “psychotropic drug” means the following classes of drugs:

(i) atypical anti-psychotic;

(ii) anti-depressant;

(iii) anti-convulsant/mood stabilizer;

(iv) anti-anxiety; and

(v) attention deficit hyperactivity disorder stimulant.

(b) The department shall develop a preferred drug list for psychotropic drugs. Except as provided in Subsection (3)(d), a preferred drug list for psychotropic drugs developed under this section shall allow a health care provider to override the preferred drug list by writing “dispense as written” on the prescription for the psychotropic drug. A health care provider may not override Section 58-17b-606 by writing “dispense as written” on a prescription.

(c) The department, and a Medicaid accountable care organization that is responsible for providing behavioral health, shall:

(i) establish a system to:

(A) track health care provider prescribing patterns for psychotropic drugs;

(B) educate health care providers who are not complying with the preferred drug list; and

(C) implement peer to peer education for health care providers whose prescribing practices continue to not comply with the preferred drug list; and

(ii) determine whether health care provider compliance with the preferred drug list is at least:

(A) 55% of prescriptions by July 1, 2017;

(B) 65% of prescriptions by July 1, 2018; and

(C) 75% of prescriptions by July 1, 2019.

(d) Beginning October 1, 2019, the department shall eliminate the dispense as written override for the preferred drug list, and shall implement a prior authorization system for psychotropic drugs, in accordance with Subsection (2)(f), if by July 1, 2019, the department has not realized annual savings

from implementing the preferred drug list for psychotropic drugs of at least \$750,000 General Fund savings.

(e) The department shall report to the Health and Human Services Interim Committee and the Social Services Appropriations Subcommittee before November 30, 2016, and before each November 30 thereafter regarding compliance with and savings from implementation of this Subsection (3).

~~[(3)]~~ (4) The department shall report to the Health and Human Services Interim Committee and to the Social Services Appropriations Subcommittee ~~[prior to]~~ before November 1, 2013, regarding the savings to the Medicaid program resulting from the use of the preferred drug list permitted by Subsection (1).

Section 2. Section 26-18-18 is amended to read:

26-18-18. Optional Medicaid expansion.

(1) For purposes of this section ~~[PPACA is as]~~, “PPACA” means the same as that term is defined in Section 31A-1-301.

(2) The department and the governor shall not expand the state’s Medicaid program to the optional population under PPACA unless:

~~[(a) the Health Reform Task Force has completed a thorough analysis of a statewide charity care system;]~~

~~[(b) the department and its contractors have;]~~

~~[(i) completed a thorough analysis of the impact to the state of expanding the state’s Medicaid program to optional populations under PPACA; and]~~

~~[(ii) made the analysis conducted under Subsection (2)(b)(i) available to the public;]~~

~~[(e)]~~ (a) the governor or the governor’s designee has reported the intention to expand the state Medicaid program under PPACA to the Legislature in compliance with the legislative review process in Sections 63N-11-106 and 26-18-3; and

~~[(d)]~~ (b) notwithstanding Subsection 63J-5-103(2), the governor submits the request for expansion of the Medicaid program for optional populations to the Legislature under the high impact federal funds request process required by Section 63J-5-204, Legislative review and approval of certain federal funds request.

(3) The department shall request approval from the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services for waivers from federal statutory and regulatory law necessary to implement the health coverage improvement program under Section 26-18-411. The health coverage improvement program under Section 26-18-411 is not Medicaid expansion for purposes of this section.

Section 3. Section 26-18-411 is enacted to read:

26-18-411. Health coverage improvement program -- Eligibility -- Annual report --

Expansion of eligibility for adults with dependent children.

(1) For purposes of this section:

(a) “Adult in the expansion population” means an individual who:

(i) is described in 42 U.S.C. Sec. 1396a(10)(A)(i)(VIII); and

(ii) is not otherwise eligible for Medicaid as a mandatory categorically needy individual.

(b) “CMS” means the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services.

(c) “Federal poverty level” means the poverty guidelines established by the Secretary of the United States Department of Health and Human Services under 42 U.S.C. Sec. 9909(2).

(d) “Homeless”:

(i) means an individual who is chronically homeless, as determined by the department; and

(ii) includes someone who was chronically homeless and is currently living in supported housing for the chronically homeless.

(e) “Income eligibility ceiling” means the percent of federal poverty level:

(i) established by the state in an appropriations act adopted pursuant to Title 63J, Chapter 1, Budgetary Procedures Act; and

(ii) under which an individual may qualify for Medicaid coverage in accordance with this section.

(2) (a) No later than July 1, 2016, the division shall submit to CMS a request for waivers, or an amendment of existing waivers, from federal statutory and regulatory law necessary for the state to implement the health coverage improvement program in the Medicaid program in accordance with this section.

(b) An adult in the expansion population is eligible for Medicaid if the adult meets the income eligibility and other criteria established under Subsection (3).

(c) An adult who qualifies under Subsection (3) shall receive Medicaid coverage:

(i) through:

(A) the traditional fee for service Medicaid model in counties without Medicaid accountable care organizations or the state’s Medicaid accountable care organization delivery system, where implemented; and

(B) except as provided in Subsection (2)(c)(ii), for behavioral health, through the counties in accordance with Sections 17-43-201 and 17-43-301;

(ii) that integrates behavioral health services and physical health services with Medicaid accountable care organizations in select geographic areas of the state that choose an integrated model; and

(iii) that permits temporary residential treatment for substance abuse in a short term, non-institutional, 24-hour facility, without a bed capacity limit, as approved by CMS, that provides rehabilitation services that are medically necessary and in accordance with an individualized treatment plan.

(d) Medicaid accountable care organizations and counties that elect to integrate care under Subsection (2)(c)(ii) shall collaborate on enrollment, engagement of patients, and coordination of services.

(3) (a) An individual is eligible for the health coverage improvement program under Subsection (2)(b) if:

(i) at the time of enrollment, the individual’s annual income is below the income eligibility ceiling established by the state under Subsection (1)(e); and

(ii) the individual meets the eligibility criteria established by the department under Subsection (3)(b).

(b) Based on available funding and approval from CMS, the department shall select the criteria for an individual to qualify for the Medicaid program under Subsection (3)(a)(ii), based on the following priority:

(i) a chronically homeless individual;

(ii) if funding is available, an individual:

(A) involved in the justice system through probation, parole, or court ordered treatment; and

(B) in need of substance abuse treatment or mental health treatment, as determined by the department; or

(iii) if funding is available, an individual in need of substance abuse treatment or mental health treatment, as determined by the department.

(c) An individual who qualifies for Medicaid coverage under Subsections (3)(a) and (b) may remain on the Medicaid program for a 12-month certification period as defined by the department. Eligibility changes made by the department under Subsection (1)(e) or (3)(b) shall not apply to an individual during the 12-month certification period.

(4) The state may request a modification of the income eligibility ceiling and other eligibility criteria under Subsection (3) each fiscal year based on enrollment in the health coverage improvement program, projected enrollment, costs to the state, and the state budget.

(5) On or before September 30, 2017, and on or before September 30 each year thereafter, the department shall report to the Legislature’s Health and Human Services Interim Committee and to the Legislature’s Executive Appropriations Committee:

(a) the number of individuals who enrolled in Medicaid under Subsection (3);

(b) the state cost of providing Medicaid to individuals enrolled under Subsection (3); and

(c) recommendations for adjusting the income eligibility ceiling under Subsection (4), and other eligibility criteria under Subsection (3), for the upcoming fiscal year.

(6) In addition to the waiver under Subsection (2), beginning July 1, 2016, the department shall amend the state Medicaid plan:

(a) for an individual with a dependent child, to increase the income eligibility ceiling to a percent of the federal poverty level designated by the department, based on appropriations for the program; and

(b) to allow temporary residential treatment for substance abuse, for the traditional Medicaid population, in a short term, non-institutional, 24-hour facility, without a bed capacity limit that provides rehabilitation services that are medically necessary and in accordance with an individualized treatment plan, as approved by CMS and as long as the county makes the required match under Section 17-43-201.

(7) The current Medicaid program and the health coverage improvement program, when implemented, shall coordinate with a state prison or county jail to expedite Medicaid enrollment for an individual who is released from custody and was eligible for or enrolled in Medicaid before incarceration.

(8) Notwithstanding Sections 17-43-201 and 17-43-301, a county does not have to provide matching funds to the state for the cost of providing Medicaid services to newly enrolled individuals who qualify for Medicaid coverage under the health coverage improvement program under Subsection (3).

(9) The department shall:

(a) study, in consultation with health care providers, employers, uninsured families, and community stakeholders:

(i) options to maximize use of employer sponsored coverage for current Medicaid enrollees; and

(ii) strategies to increase participation of currently Medicaid eligible, and uninsured, children; and

(b) report the findings of the study to the Legislature's Health Reform Task Force before November 30, 2016.

Section 4. Section 26-36b-101 is enacted to read:

CHAPTER 36B. INPATIENT HOSPITAL ASSESSMENT ACT

Part 1. General Provisions

26-36b-101. Title.

This chapter is known as "Inpatient Hospital Assessment Act."

Section 5. Section 26-36b-102 is enacted to read:

26-36b-102. Application.

(1) Other than for the imposition of the assessment described in this chapter, nothing in this chapter shall affect the nonprofit or tax exempt status of any nonprofit charitable, religious, or educational health care provider under:

(a) Section 501(c), as amended, of the Internal Revenue Code;

(b) other applicable federal law;

(c) any state law;

(d) any ad valorem property taxes;

(e) any sales or use taxes; or

(f) any other taxes, fees, or assessments, whether imposed or sought to be imposed, by the state or any political subdivision, county, municipality, district, authority, or any agency or department thereof.

(2) All assessments paid under this chapter may be included as an allowable cost of a hospital for purposes of any applicable Medicaid reimbursement formula.

(3) This chapter does not authorize a political subdivision of the state to:

(a) license a hospital for revenue;

(b) impose a tax or assessment upon a hospital; or

(c) impose a tax or assessment measured by the income or earnings of a hospital.

Section 6. Section 26-36b-103 is enacted to read:

26-36b-103. Definitions.

As used in this chapter:

(1) "Assessment" means the inpatient hospital assessment established by this chapter.

(2) "CMS" means the same as that term is defined in Section 26-18-411.

(3) "Discharges" means the number of total hospital discharges reported on:

(a) Worksheet S-3 Part I, column 15, lines 14, 16, and 17 of the 2552-10 Medicare cost report for the applicable assessment year; or

(b) a similar report adopted by the department by administrative rule, if the report under Subsection (3)(a) is no longer available.

(4) "Division" means the Division of Health Care Financing within the department.

(5) "Medicare cost report" means CMS-2552-10, the cost report for electronic filing of hospitals.

(6) "Non-state government hospital":

(a) means a hospital owned by a non-state government entity; and

(b) does not include:

- (i) the Utah State Hospital; or
- (ii) a hospital owned by the federal government, including the Veterans Administration Hospital.
- (7) "Private hospital":
- (a) means:
- (i) a privately owned general acute hospital operating in the state as defined in Section 26-21-2; and
- (ii) a privately owned specialty hospital operating in the state, which shall include a privately owned hospital whose inpatient admissions are predominantly:
- (A) rehabilitation;
- (B) psychiatric;
- (C) chemical dependency; or
- (D) long-term acute care services; and
- (b) does not include a residential care or treatment facility as defined in Section 62A-2-101.
- (8) "State teaching hospital" means a state owned teaching hospital that is part of an institution of higher education.

Section 7. Section 26-36b-201 is enacted to read:

Part 2. Assessment and Collection

26-36b-201. Assessment.

- (1) An assessment is imposed on each private hospital:
- (a) beginning upon the later of CMS approval of:
- (i) the health coverage improvement program waiver under Section 26-18-411; and
- (ii) the assessment under this chapter;
- (b) in the amount designated in Sections 26-36b-204 and 26-36b-205; and
- (c) in accordance with Section 26-36b-202.
- (2) Subject to Section 26-36b-203, the assessment imposed by this chapter is due and payable on a quarterly basis, after payment of the outpatient upper payment limit supplemental payments under Section 26-36b-210 have been paid.
- (3) The first quarterly payment shall not be due until at least three months after the effective date of the coverage provided through the health coverage improvement program waiver under Section 26-18-411.

Section 8. Section 26-36b-202 is enacted to read:

26-36b-202. Collection of assessment -- Deposit of revenue -- Rulemaking.

- (1) The collecting agent for the assessment imposed under Section 26-36b-201 is the department. The department is vested with the administration and enforcement of this chapter,

including the right to adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to:

- (a) implement and enforce the provisions of this chapter;
- (b) audit records of a facility that:
- (i) is subject to the assessment imposed by this chapter; and
- (ii) does not file a Medicare cost report; and
- (c) select a report similar to the Medicare cost report if Medicare no longer uses a Medicare cost report.
- (2) The department shall:
- (a) administer the assessment in this part separate from the assessment in Chapter 36a, Hospital Provider Assessment Act; and
- (b) deposit assessments collected under this chapter into the Medicaid Expansion Fund created by Section 26-36b-208.

Section 9. Section 26-36b-203 is enacted to read:

26-36b-203. Quarterly notice.

Quarterly assessments imposed by this chapter shall be paid to the division within 15 business days after the original invoice date that appears on the invoice issued by the division. The department may, by rule, extend the time for paying the assessment.

Section 10. Section 26-36b-204 is enacted to read:

26-36b-204. Hospital financing of health coverage improvement program Medicaid waiver -- Hospital share.

- (1) For purposes of this section, "hospital share":
- (a) means 45% of the state's net cost of:
- (i) the health coverage improvement program Medicaid waiver under Section 26-18-411;
- (ii) Medicaid coverage for individuals with dependent children up to the federal poverty level designated under Section 26-18-411; and
- (iii) the UPL gap, as that term is defined in Section 26-36b-210;
- (b) for the hospital share of the additional coverage under Section 26-18-411, is capped at no more than \$13,600,000 annually, consisting of:
- (i) an \$11,900,000 cap on the hospital's share for the programs specified in Subsections (1)(a)(i) and (ii); and
- (ii) a \$1,700,000 cap for the program specified in Subsection (1)(a)(iii);
- (c) for the cap specified in Subsection (1)(b), shall be prorated in any year in which the programs specified in Subsection (1)(a) are not in effect for the full fiscal year; and
- (d) if the Medicaid program expands in a manner that is greater than the expansion described in

Section 26-18-411, is capped at 33% of the state's share of the cost of the expansion that is in addition to the program described in Section 26-18-411.

(2) The assessment for the private hospital share under Subsection (1) shall be:

(a) 69% of the portion of the hospital share specified in Subsections (1)(a)(i) and (ii); and

(b) 100% of the portion of the hospital share specified in Subsection (1)(a)(iii).

(3) (a) The department shall, on or before October 15, 2017, and on or before October 15 of each year thereafter, produce a report that calculates the state's net cost of the programs described in Subsections (1)(a)(i) and (ii).

(b) If the assessment collected in the previous fiscal year is above or below the private hospital's share of the state's net cost as specified in Subsection (2), for the previous fiscal year, the underpayment or overpayment of the assessment by the private hospitals shall be applied to the fiscal year in which the report was issued.

(4) A Medicaid accountable care organization shall, on or before October 15 of each year, report to the department the following data from the prior state fiscal year:

(a) for the traditional Medicaid population, for each private hospital, state teaching hospital, and non-state government hospital provider:

- (i) hospital inpatient payments;
- (ii) hospital inpatient discharges;
- (iii) hospital inpatient days; and
- (iv) hospital outpatient payments; and

(b) for the Medicaid population newly eligible under Subsection 26-18-411, for each private hospital, state teaching hospital, and non-state government hospital provider:

- (i) hospital inpatient payments;
- (ii) hospital inpatient discharges;
- (iii) hospital inpatient days; and
- (iv) hospital outpatient payments.

Section 11. Section 26-36b-205 is enacted to read:

26-36b-205. Calculation of assessment.

(1) (a) Except as provided in Subsection (1)(b), an annual assessment is payable on a quarterly basis for each private hospital in an amount calculated at a uniform assessment rate for each hospital discharge, in accordance with this section.

(b) A private teaching hospital with more than 425 beds and 60 residents shall pay an assessment rate 2.50 times the uniform rate established under Subsection (1)(c).

(c) The uniform assessment rate shall be determined using the total number of hospital discharges for assessed private hospitals, the percentages in Subsection 26-36b-204(2), and rule adopted by the department.

(d) Any quarterly changes to the uniform assessment rate shall be applied uniformly to all assessed private hospitals.

(2) (a) For each state fiscal year, discharges shall be determined using the data from each hospital's Medicare cost report contained in the Centers for Medicare and Medicaid Services' Healthcare Cost Report Information System file. The hospital's discharge data will be derived as follows:

(i) for state fiscal year 2017, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2013, and June 30, 2014; and

(ii) for each subsequent state fiscal year, the hospital's cost report data for the hospital's fiscal year that ended in the state fiscal year two years before the assessment fiscal year.

(b) If a hospital's fiscal year Medicare cost report is not contained in the Centers for Medicare and Medicaid Services' Healthcare Cost Report Information System file:

(i) the hospital shall submit to the division a copy of the hospital's Medicare cost report applicable to the assessment year; and

(ii) the division shall determine the hospital's discharges.

(c) If a hospital is not certified by the Medicare program and is not required to file a Medicare cost report:

(i) the hospital shall submit to the division the hospital's applicable fiscal year discharges with supporting documentation;

(ii) the division shall determine the hospital's discharges from the information submitted under Subsection (2)(c)(i); and

(iii) the failure to submit discharge information shall result in an audit of the hospital's records and a penalty equal to 5% of the calculated assessment.

(3) Except as provided in Subsection (4), if a hospital is owned by an organization that owns more than one hospital in the state:

(a) the assessment for each hospital shall be separately calculated by the department; and

(b) each separate hospital shall pay the assessment imposed by this chapter.

(4) Notwithstanding the requirement of Subsection (3), if multiple hospitals use the same Medicaid provider number:

(a) the department shall calculate the assessment in the aggregate for the hospitals using the same Medicaid provider number; and

(b) the hospitals may pay the assessment in the aggregate.

Section 12. Section 26-36b-206 is enacted to read:

26-36b-206. State teaching hospital and non-state government hospital mandatory intergovernmental transfer.

(1) A state teaching hospital and a non-state government hospital shall make an intergovernmental transfer to the Medicaid Expansion Fund created in Section 26-36b-208, in accordance with this section.

(2) The intergovernmental transfer shall be paid beginning on the later of CMS approval of:

(a) the health improvement program waiver under Section 26-18-411;

(b) the assessment for private hospitals in this chapter; and

(c) the intergovernmental transfer in this section.

(3) The intergovernmental transfer shall be paid in an amount divided as follows:

(a) the state teaching hospital is responsible for:

(i) 30% of the portion of the hospital share specified in Subsections 26-36b-204(1)(a)(i) and (ii); and

(ii) 0% of the hospital share specified in Subsection 26-36b-204(1)(a)(iii); and

(b) non-state government hospitals are responsible for:

(i) 1% of the portion of the hospital share specified in Subsections 26-36b-204(1)(a)(i) and (ii); and

(ii) 0% of the hospital share specified in Subsection 26-36b-204(1)(a)(iii).

(4) The department shall, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, designate the method of calculating the percentages designated in Subsection (3) and the schedule for the intergovernmental transfers.

Section 13. Section 26-36b-207 is enacted to read:

26-36b-207. Penalties and interest.

(1) A hospital that fails to pay any assessment, make the mandated intergovernmental transfer, or file a return as required under this chapter, within the time required by this chapter, shall pay penalties, in addition to the assessment or intergovernmental transfer, and interest established by the department.

(2) (a) Consistent with Subsection (2)(b), the department shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish reasonable penalties and interest for the violations described in Subsection (1).

(b) If a hospital fails to timely pay the full amount of a quarterly assessment or the mandated intergovernmental transfer, the department shall

add to the assessment or intergovernmental transfer:

(i) a penalty equal to 5% of the quarterly amount not paid on or before the due date; and

(ii) on the last day of each quarter after the due date until the assessed amount and the penalty imposed under Subsection (2)(b)(i) are paid in full, an additional 5% penalty on:

(A) any unpaid quarterly assessment or intergovernmental transfer; and

(B) any unpaid penalty assessment.

(c) Upon making a record of the division's actions, and upon reasonable cause shown, the division may waive, reduce, or compromise any of the penalties imposed under this chapter.

Section 14. Section 26-36b-208 is enacted to read:

26-36b-208. Medicaid Expansion Fund.

(1) There is created an expendable special revenue fund known as the Medicaid Expansion Fund.

(2) The fund consists of:

(a) assessments collected under this chapter;

(b) intergovernmental transfers under Section 26-36b-206;

(c) savings attributable to the health coverage improvement program under Section 26-18-411 as determined by the department;

(d) savings attributable to the inclusion of psychotropic drugs on the preferred drug list under Subsection 26-18-2.4(3) as determined by the department;

(e) savings attributable to the services provided by the Public Employees' Health Plan under Subsection 49-20-401(1)(u);

(f) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources; and

(g) additional amounts as appropriated by the Legislature.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) A state agency administering the provisions of this chapter may use money from the fund to pay the costs of the health coverage improvement Medicaid waiver under Section 26-18-411, and the outpatient UPL supplemental payments under Section 26-36b-210, not otherwise paid for with federal funds or other revenue sources, except that no funds described in Subsection (2)(b) may be used to pay the cost of outpatient UPL supplemental payments.

(b) Money in the fund may not be used for any other purpose.

Section 15. Section 26-36b-209 is enacted to read:

26-36b-209. Hospital reimbursement.

The department shall, to the extent allowed by law, include in a contract with a Medicaid accountable care organization a requirement that the accountable care organization reimburse hospitals in the accountable care organization's provider network, no less than the Medicaid fee-for-service rate. Nothing in this section prohibits a Medicaid accountable care organization from paying a rate that exceeds Medicaid fee-for-service rates.

Section 16. Section 26-36b-210 is enacted to read:

26-36b-210. Outpatient upper payment limit supplemental payments.

(1) For purposes of this section, "UPL gap" means the difference between the private hospital outpatient upper payment limit and the private hospital Medicaid outpatient payments, as determined in accordance with 42 C.F.R. 447.321.

(2) Beginning on the effective date of the assessment imposed under this chapter, and for each fiscal year thereafter, the department shall implement an outpatient upper payment limit program for private hospitals that shall supplement the reimbursement to private hospitals in accordance with Subsection (3).

(3) The supplemental payment to Utah private hospitals under Subsection (2) shall:

- (a) not exceed the positive UPL gap; and
- (b) be allocated based on the Medicaid state plan.

(4) The outpatient data used to calculate the UPL gap under Subsection (1) shall be the same outpatient data used to allocate the payments under Subsection (3).

(5) The supplemental payments to private hospitals under Subsection (2) shall be payable for outpatient hospital services provided on or after the later of:

- (a) July 1, 2016;
- (b) the effective date of the Medicaid state plan amendment necessary to implement the payments under this section; or

(c) the effective date of the coverage provided through the health coverage improvement program waiver under Section 26-18-411.

Section 17. Section 26-36b-211 is enacted to read:

26-36b-211. Repeal of assessment.

(1) The repeal of the assessment imposed by this chapter shall occur upon the certification by the executive director of the department that the sooner of the following has occurred:

(a) the effective date of any action by Congress that would disqualify the assessment imposed by this chapter from counting toward state Medicaid funds available to be used to determine the federal financial participation;

(b) the effective date of any decision, enactment, or other determination by the Legislature or by any court, officer, department, or agency of the state, or of the federal government, that has the effect of:

(i) disqualifying the assessment from counting toward state Medicaid funds available to be used to determine federal financial participation for Medicaid matching funds; or

(ii) creating for any reason a failure of the state to use the assessments for the Medicaid program as described in this chapter;

(c) the effective date of a change that reduces the aggregate hospital inpatient and outpatient payment rate below the aggregate hospital inpatient and outpatient payment rate for July 1, 2015; and

(d) the sunset of this chapter in accordance with Section 631-1-226.

(2) If the assessment is repealed under Subsection (1), money in the fund that was derived from assessments imposed by this chapter, before the determination made under Subsection (1), shall be disbursed under Section 26-36b-207 to the extent federal matching is not reduced due to the impermissibility of the assessments. Any funds remaining in the special revenue fund shall be refunded to the hospitals in proportion to the amount paid by each hospital.

Section 18. Section 49-20-401 is amended to read:

49-20-401. Program -- Powers and duties.

(1) The program shall:

(a) act as a self-insurer of employee benefit plans and administer those plans;

(b) enter into contracts with private insurers or carriers to underwrite employee benefit plans as considered appropriate by the program;

(c) indemnify employee benefit plans or purchase commercial reinsurance as considered appropriate by the program;

(d) provide descriptions of all employee benefit plans under this chapter in cooperation with covered employers;

(e) process claims for all employee benefit plans under this chapter or enter into contracts, after competitive bids are taken, with other benefit administrators to provide for the administration of the claims process;

(f) obtain an annual actuarial review of all health and dental benefit plans and a periodic review of all other employee benefit plans;

(g) consult with the covered employers to evaluate employee benefit plans and develop recommendations for benefit changes;

(h) annually submit a budget and audited financial statements to the governor and Legislature which includes total projected benefit costs and administrative costs;

(i) maintain reserves sufficient to liquidate the unrevealed claims liability and other liabilities of the employee benefit plans as certified by the program's consulting actuary;

(j) submit, in advance, its recommended benefit adjustments for state employees to:

(i) the Legislature; and

(ii) the executive director of the state Department of Human Resource Management;

(k) determine benefits and rates, upon approval of the board, for multiemployer risk pools, retiree coverage, and conversion coverage;

(l) determine benefits and rates based on the total estimated costs and the employee premium share established by the Legislature, upon approval of the board, for state employees;

(m) administer benefits and rates, upon ratification of the board, for single employer risk pools;

(n) request proposals for provider networks or health and dental benefit plans administered by third party carriers at least once every three years for the purposes of:

(i) stimulating competition for the benefit of covered individuals;

(ii) establishing better geographical distribution of medical care services; and

(iii) providing coverage for both active and retired covered individuals;

(o) offer proposals which meet the criteria specified in a request for proposals and accepted by the program to active and retired state covered individuals and which may be offered to active and retired covered individuals of other covered employers at the option of the covered employer;

(p) perform the same functions established in Subsections (1)(a), (b), (e), and (h) for the Department of Health if the program provides program benefits to children enrolled in the Utah Children's Health Insurance Program created in Title 26, Chapter 40, Utah Children's Health Insurance Act;

(q) establish rules and procedures governing the admission of political subdivisions or educational institutions and their employees to the program;

(r) contract directly with medical providers to provide services for covered individuals;

(s) take additional actions necessary or appropriate to carry out the purposes of this chapter; ~~and~~

(t) (i) require state employees and their dependents to participate in the electronic

exchange of clinical health records in accordance with Section 26-1-37 unless the enrollee opts out of participation; and

(ii) prior to enrolling the state employee, each time the state employee logs onto the program's website, and each time the enrollee receives written enrollment information from the program, provide notice to the enrollee of the enrollee's participation in the electronic exchange of clinical health records and the option to opt out of participation at any time~~[-];~~ and

(u) provide services for drugs or medical devices at the request of a procurement unit, as that term is defined in Section 63G-6a-104, that administers benefits to program recipients who are not covered by Title 26, Utah Health Code.

(2) (a) Funds budgeted and expended shall accrue from rates paid by the covered employers and covered individuals.

(b) Administrative costs shall be approved by the board and reported to the governor and the Legislature.

(3) The Department of Human Resource Management shall include the benefit adjustments described in Subsection (1)(j) in the total compensation plan recommended to the governor required under Subsection 67-19-12(5)(a).

Section 19. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates, Title 26.

(1) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(2) Section 26-10-11 is repealed July 1, 2020.

(3) Section 26-21-23, Licensing of non-Medicaid nursing care facility beds, is repealed July 1, 2018.

(4) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(5) Title 26, Chapter 36a, Hospital Provider Assessment Act, is repealed July 1, 2016.

(6) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2021.

~~[(6)]~~ (7) Section 26-38-2.5 is repealed July 1, 2017.

~~[(7)]~~ (8) Section 26-38-2.6 is repealed July 1, 2017.

~~[(8)]~~ (9) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed July 1, 2016.

Section 20. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or amounts indicated. These sums of money are in addition to amounts previously appropriated for fiscal year 2017.

<u>To Fund and Account Transfers -- State Endowment Fund</u>	
<u>From General Fund Restricted -- Tobacco Settlement Account</u>	(\$1,488,700)
<u>Schedule of Programs:</u>	
<u>State Endowment Fund</u>	\$1,488,700
<u>To Department of Health -- Medicaid Optional Services</u>	
<u>From General Fund</u>	(\$1,488,700)
<u>From General Fund Restricted -- Tobacco Settlement Account</u>	\$1,488,700
<u>To Department of Human Services -- Substance Abuse and Mental Health</u>	
<u>From General Fund</u>	(\$819,800)
<u>From General Fund, one-time</u>	\$419,800
<u>From Federal Funds</u>	\$819,800
<u>From Federal Funds, one-time</u>	(\$419,800)
<u>To Department of Human Services -- Child and Family Services</u>	
<u>From General Fund</u>	(\$200,000)
<u>Schedule of Programs:</u>	
<u>Out-of-home Care</u>	(\$200,000)
<u>To Department of Health -- Medicaid Expansion Fund</u>	
<u>From General Fund</u>	\$2,508,500
<u>From General Fund, one-time</u>	(\$419,800)
<u>Schedule of Programs:</u>	
<u>Medicaid Expansion Fund</u>	\$2,088,700

CHAPTER 280**S. B. 19**

Passed February 10, 2016

Approved March 25, 2016

Effective January 1, 2017

PHASED RETIREMENTChief Sponsor: Todd Weiler
House Sponsor: Kraig Powell**LONG TITLE****General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act by enacting phased retirement provisions.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ allows a participating employer to participate in phased retirement for a retiree who has not completed the one-year employment separation requirement;
- ▶ requires a participating employer that offers phased retirement to establish written policies and enter into a written agreement with the retiree;
- ▶ provides for retiree eligibility for phased retirement and establishes restrictions;
- ▶ provides for participating employer and retiree reporting;
- ▶ provides penalties;
- ▶ allows the Legislature to make changes to the program;
- ▶ allows the Utah State Retirement Board to make related rules;
- ▶ provides for a sunset of the phased retirement provisions; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

49-11-505, as last amended by Laws of Utah 2015, Chapters 243 and 256

ENACTS:

49-11-1201, Utah Code Annotated 1953
49-11-1202, Utah Code Annotated 1953
49-11-1203, Utah Code Annotated 1953
49-11-1204, Utah Code Annotated 1953
49-11-1205, Utah Code Annotated 1953
49-11-1206, Utah Code Annotated 1953
49-11-1207, Utah Code Annotated 1953
49-11-1208, Utah Code Annotated 1953
63I-1-249, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 49-11-505 is amended to read:**49-11-505. Reemployment of a retiree -- Restrictions.**

(1) (a) For purposes of this section, "retiree":

(i) means a person who:

(A) retired from a participating employer; and

(B) begins reemployment on or after July 1, 2010, with a participating employer;

(ii) does not include a person:

(A) who was reemployed by a participating employer before July 1, 2010; and

(B) whose participating employer that reemployed the person under Subsection (1)(a)(ii)(A) was dissolved, consolidated, merged, or structurally changed in accordance with Section 49-11-621 after July 1, 2010; ~~and~~

(iii) does not include a person who is reemployed as an active senior judge or an active senior justice court judge as described by Utah State Court Rules, appointed to hear cases by the Utah Supreme Court in accordance with Article VIII, Section 4, Utah Constitution[-]; and

(iv) does not include a person who is working under a phased retirement agreement in accordance with Section 49-11-1201.

(b) (i) This section does not apply to employment as an elected official if the elected official's position is not full time as certified by the participating employer.

(ii) The provisions of this section apply to an elected official whose elected position is full time as certified by the participating employer.

(c) (i) This section does not apply to employment as a part-time appointed board member who does not receive any remuneration, stipend, or other benefit for the part-time appointed board member's service.

(ii) For purposes of this Subsection (1)(c), remuneration, stipend, or other benefit does not include receipt of per diem and travel expenses up to the amounts established by the Division of Finance in:

(A) Section 63A-3-106;

(B) Section 63A-3-107; and

(C) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(d) (i) For purposes of this Subsection (1)(d), "affiliated emergency services worker" means a person who is employed by a participating employer and who performs emergency services for another participating employer that is a different agency in which the person:

(A) has been trained in techniques and skills required for the service the person provides to the participating employer;

(B) continues to receive regular training required for the service;

(C) is on the rolls as a trained affiliated emergency services worker of the participating employer; and

(D) provides ongoing service for a participating employer, which service may include service as a

volunteer firefighter, reserve law enforcement officer, search and rescue personnel, emergency medical technician, ambulance personnel, park ranger, or public utilities worker.

(ii) A person who performs work or service but does not meet the requirements of Subsection (1)(d)(i) is not an affiliated emergency services worker for purposes of this Subsection (1)(d).

(iii) The office may not cancel the retirement allowance of a retiree who is employed as an affiliated emergency services worker within one year of the retiree's retirement date if the affiliated emergency services worker does not receive any compensation, except for:

(A) a nominal fee, stipend, discount, tax credit, voucher, or other fixed sum of money or cash equivalent payment not tied to productivity and paid periodically for services;

(B) a length-of-service award;

(C) insurance policy premiums paid by the participating employer in the event of death of an affiliated emergency services worker or a line-of-duty accidental death or disability; or

(D) reimbursement of expenses incurred in the performance of duties.

(iv) For purposes of Subsections (1)(d)(iii)(A) and (B), the total amount of any discounts, tax credits, vouchers, and payments to a volunteer may not exceed \$500 per month.

(v) Beginning January 1, 2016, the board shall adjust the amount under Subsection (1)(d)(iv) by the annual change in the Consumer Price Index during the previous calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(vi) The office shall cancel the retirement allowance of a retiree for the remainder of the calendar year if employment as an affiliated emergency services worker with a participating employer exceeds the limitation under Subsection (1)(d)(iv).

(vii) If a retiree is employed as an affiliated emergency services worker under the provisions of Subsection (1)(d), the termination date of the employment as an affiliated emergency services worker, as confirmed in writing by the participating employer, is considered the retiree's retirement date for the purpose of calculating the separation requirement under Subsection (3)(a).

(2) A retiree may not for the same period of reemployment:

(a) (i) earn additional service credit; or

(ii) receive any retirement related contribution from a participating employer; and

(b) receive a retirement allowance.

(3) (a) Except as provided under Subsection (3)(b) or (10), the office shall cancel the retirement allowance of a retiree if the reemployment with a

participating employer begins within one year of the retiree's retirement date.

(b) The office may not cancel the retirement allowance of a retiree who is reemployed with a participating employer within one year of the retiree's retirement date if:

(i) the retiree is not reemployed by a participating employer for a period of at least 60 days from the retiree's retirement date;

(ii) upon reemployment after the break in service under Subsection (3)(b)(i), the retiree does not receive any employer provided benefits, including:

(A) medical benefits;

(B) dental benefits;

(C) other insurance benefits except for workers' compensation as provided under Title 34A, Chapter 2, Workers' Compensation Act, and withholdings required by federal or state law for Social Security, Medicare, and unemployment insurance; or

(D) paid time off, including sick, annual, or other type of leave; and

(iii) (A) the retiree does not earn in any calendar year of reemployment an amount in excess of the lesser of \$15,000 or one-half of the retiree's final average salary upon which the retiree's retirement allowance is based; or

(B) the retiree is reemployed as a judge as defined under Section 78A-11-102.

(c) Beginning January 1, 2013, the board shall adjust the amounts under Subsection (3)(b)(iii)(A) by the annual change in the Consumer Price Index during the previous calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(d) The office shall cancel the retirement allowance of a retiree for the remainder of the calendar year if the reemployment with a participating employer exceeds the limitation under Subsection (3)(b)(iii)(A).

(e) If a retiree is reemployed under the provisions of Subsection (3)(b), the termination date of the reemployment, as confirmed in writing by the participating employer, is considered the retiree's retirement date for the purpose of calculating the separation requirement under Subsection (3)(a).

(f) If a retiree received a retirement allowance in error, due to reemployment in violation of this section:

(i) the office shall cancel the retiree's retirement allowance; and

(ii) if the retiree applies for a future benefit, the office shall recover any overpayment in accordance with the provisions of Section 49-11-607.

(4) If a reemployed retiree has completed the one-year separation from employment with a participating employer required under Subsection (3)(a), the retiree may elect to:

(a) earn additional service credit in accordance with this title and cancel the retiree's retirement allowance; or

(b) continue to receive the retiree's retirement allowance and forfeit any retirement related contribution from the participating employer who reemployed the retiree.

(5) (a) As used in this Subsection (5), "amortization rate" means the amortization rate, as defined in Section 49-11-102, to be applied to the system that would have covered the retiree if the retiree's reemployed position were deemed to be an eligible, full-time position within that system.

(b) A participating employer who reemploys a retiree shall contribute to the office the amortization rate if the reemployed retiree:

(i) has completed the one-year separation from employment with a participating employer required under Subsection (3)(a); and

(ii) makes an election under Subsection (4)(b) to continue to receive a retirement allowance while reemployed.

(6) (a) A participating employer shall immediately notify the office:

(i) if the participating employer reemploys a retiree;

(ii) whether the reemployment is subject to Subsection (3)(b) or (4) of this section; and

(iii) of any election by the retiree under Subsection (4).

(b) A participating employer shall certify to the office whether the position of an elected official is or is not full time.

(c) A participating employer is liable to the office for a payment or failure to make a payment in violation of this section.

(d) If a participating employer fails to notify the office in accordance with this section, the participating employer is immediately subject to a compliance audit by the office.

(7) (a) The office shall immediately cancel the retirement allowance of a retiree in accordance with Subsection (7)(b) if the office receives notice or learns of:

(i) the reemployment of a retiree in violation of Subsection (3); or

(ii) the election of a reemployed retiree under Subsection (4)(a).

(b) If the retiree is eligible for retirement coverage in the reemployed position, the office shall cancel the allowance of a retiree subject to Subsection (7)(a), and reinstate the retiree to active member status on the first day of the month following the date of:

(i) reemployment if the retiree is subject to Subsection (3); or

(ii) an election by an employee under Subsection (4)(a).

(c) If the retiree is not otherwise eligible for retirement coverage in the reemployed position:

(i) the office shall cancel the allowance of a retiree subject to Subsection (7)(a)(i); and

(ii) the participating employer shall pay the amortization rate to the office on behalf of the retiree.

(8) (a) A retiree subject to Subsection (7)(b) who retires within two years from the date of reemployment:

(i) is not entitled to a recalculated retirement benefit; and

(ii) will resume the allowance that was being paid at the time of cancellation.

(b) Subject to Subsection (2), a retiree who is reinstated to active membership under Subsection (7) and who retires two or more years after the date of reinstatement to active membership shall:

(i) resume receiving the allowance that was being paid at the time of cancellation; and

(ii) receive an additional allowance based on the formula in effect at the date of the subsequent retirement for all service credit accrued between the first and subsequent retirement dates.

(9) (a) A retiree subject to this section shall report to the office the status of the reemployment under Subsection (3) or (4).

(b) If the retiree fails to inform the office of an election under Subsection (4), the office shall withhold one month's benefit for each month the retiree fails to inform the office under Subsection (9)(a).

(10) A retiree shall be considered as having completed the one-year separation from employment with a participating employer required under Subsection (3)(a), if the retiree:

(a) before retiring:

(i) was employed with a participating employer as a public safety service employee as defined in Section 49-14-102, 49-15-102, or 49-23-102;

(ii) and during the employment under Subsection (10)(a)(i), suffered a physical injury resulting from external force or violence while performing the duties of the employment, and for which injury the retiree would have been approved for total disability in accordance with the provisions under Title 49, Chapter 21, Public Employees' Long-Term Disability Act, if years of service are not considered;

(iii) had less than 30 years of service credit but had sufficient service credit to retire, with an unreduced allowance making the public safety service employee ineligible for long-term disability payments under Title 49, Chapter 21, Public Employees' Long-Term Disability Act, or a substantially similar long-term disability program; and

(iv) does not receive any long-term disability benefits from any participating employer; and

(b) is reemployed by a different participating employer.

(11) The board may make rules to implement this section.

Section 2. Section 49-11-1201 is enacted to read:

Part 12. Phased Retirement

49-11-1201. Definitions.

As used in this part:

(1) "Amortization rate" means the amortization rate, as defined in Section 49-11-102, to be applied to the system that would have covered the retiree if the retiree's part-time position were considered to be an eligible, full-time position within that system.

(2) "Full-time" means a:

(a) regular full-time employee whose term of employment for a participating employer contemplates continued employment during a fiscal or calendar year and whose employment normally requires an average of 40 hours or more per week and who receives benefits normally provided by the participating employer;

(b) teacher whose term of employment for a participating employer contemplates continued employment during a school year and who teaches full time;

(c) firefighter service employee whose employment normally requires an average of 2,080 hours of regularly scheduled firefighter service per year; and

(d) public safety service employee whose employment normally requires an average of 2,080 hours of regularly scheduled public safety service per year.

(3) "Half-time" means a:

(a) regular employee whose term of employment for a participating employer contemplates continued employment during a fiscal or calendar year and whose employment normally requires an average of 20 hours per week and who receives benefits normally provided by the participating employer;

(b) teacher whose term of employment for a participating employer contemplates continued employment during a school year and who teaches half time;

(c) firefighter service employee whose employment normally requires an average of 1,040 hours of regularly scheduled firefighter service per year; and

(d) public safety service employee whose employment normally requires an average of 1,040 hours of regularly scheduled public safety service per year.

(4) "Phased retirement" means continuing employment on a half-time basis of a retiree with

the same participating employer immediately after the retiree's retirement date while the retiree receives a reduced retirement allowance.

Section 3. Section 49-11-1202 is enacted to read:

49-11-1202. Phased retirement -- Voluntary participation -- Employer duties.

A participating employer may elect to participate in phased retirement for a retiree who has not completed the one-year employment separation requirement under Section 49-11-505 under the conditions established under this part, if the participating employer:

(1) establishes written policies and procedures for phased retirement that shall include provisions for:

(a) granting and denying a request for phased retirement;

(b) needed approvals within the participating employer;

(c) time limits or other restrictions;

(d) identifying positions that may be included or excluded; and

(e) the elements of a written agreement described under Section 49-11-1204;

(2) enters into an agreement described under Section 49-11-1204;

(3) submits an application to the office for phased retirement on behalf of the parties of the agreement described under Section 49-11-1204; and

(4) complies with this part.

Section 4. Section 49-11-1203 is enacted to read:

49-11-1203. Phased retirement -- Eligibility -- Restrictions -- Amortization rate.

(1) A retiree is eligible for employment with only one position for only one participating employer under phased retirement following the retiree's retirement date if:

(a) the retiree:

(i) is eligible to retire and retires in accordance with this title;

(ii) has been employed full time, for not less than four years immediately before the retiree's retirement date;

(iii) completes and submits all required retirement forms to the office; and

(iv) completes and submits any phased retirement forms required by rules established under Section 49-11-1207; and

(b) the retiree and the participating employer enter into an agreement described under Section 49-11-1204.

(2) For the period of the phased retirement:

(a) the retiree receives 50% of the retiree's monthly allowance;

(b) the participating employer employs the retiree on a half-time basis;

(c) a participating employer that employs the retiree shall contribute to the office the amortization rate;

(d) the retiree may not receive an annual cost-of-living adjustment to the retiree's allowance;

(e) any death benefits payable to a surviving spouse or other beneficiary shall be paid based on 100% of the retiree's retirement allowance;

(f) the retiree may not receive any employer provided retirement benefits, service credit accruals, or any retirement related contributions from the participating employer; and

(g) except as specified under this section, a retiree working under phased retirement shall be treated in the same manner as any other part-time employee working a similar position and number of hours with the participating employer, including:

(i) any non-retirement related benefits;

(ii) leave benefits;

(iii) medical benefits; and

(iv) other benefits.

Section 5. Section 49-11-1204 is enacted to read:

49-11-1204. Phased retirement agreements.

(1) The participating employer and a willing and eligible retiree shall enter into a written agreement to participate in phased retirement.

(2) The agreement shall specify the period of the phased retirement and, at the discretion of the agreeing parties, address:

(a) hours of work;

(b) job duties; and

(c) other arrangements related to the employment.

Section 6. Section 49-11-1205 is enacted to read:

49-11-1205. Reporting -- Penalties.

(1) (a) A participating employer shall, within five business days, notify the office if the participating employer enters a phased retirement agreement with a retiree.

(b) A participating employer shall report to the office any change in status of the phased retirement in accordance with rules established under Section 49-11-1207.

(c) If a participating employer fails to notify the office in accordance with this section, the participating employer is immediately subject to a compliance audit by the office.

(2) (a) A retiree who has entered into phased retirement agreement under this section shall report to the office the phased retirement agreement in accordance with rules established under Section 49-11-1207.

(b) If the retiree fails to report to the office as required under this section, the office shall withhold one month's allowance for each month the retiree fails to make the report, in a timely manner, required under Subsection (2)(a).

(3) If a retiree receives a retirement allowance or portion of a retirement allowance in error or in violation of this part:

(a) the office shall cancel the retiree's retirement allowance; and

(b) the office shall recover any overpayment in accordance with Section 49-11-607.

(4) If a retiree or participating employer violates this part, including a failure to report in accordance with this section, the retiree, participating employer, or both that are found to be responsible for the violation are liable to the office for the amount of any allowance overpayment, failure to make a required payment or contribution, or other amount needed to correct an error or incorrect benefit resulting from the violation.

Section 7. Section 49-11-1206 is enacted to read:

49-11-1206. Reset of one year separation.

If a retiree is employed under phased retirement under this section, the termination date of the phased retirement employment, as confirmed in writing by the participating employer, is considered the retiree's retirement date for the purpose of calculating the separation requirement under Subsection 49-11-505(3)(a).

Section 8. Section 49-11-1207 is enacted to read:

49-11-1207. Phased retirement -- Adjustments or termination.

(1) The Legislature may make adjustments to or terminate the phased retirement option created under this part, including:

(a) amending phased retirement eligibility, restrictions, scope, or duration provisions;

(b) closing phased retirement to additional retirees; or

(c) terminating phased retirement for all participating retirees.

(2) A participating employer and retiree enter into a phased retirement agreement subject to the adjustments or termination reserved in this section.

Section 9. Section 49-11-1208 is enacted to read:

49-11-1208. Rulemaking.

The board may make rules to implement this part.

Section 10. Section 63I-1-249 is enacted to read:

63I-1-249. Repeal dates, Title 49.

Title 49, Chapter 11, Part 12, Phased Retirement, is repealed January 1, 2022.

Section 11. Effective date.

This bill takes effect on January 1, 2017.

CHAPTER 281**S. B. 20**

Passed February 10, 2016

Approved March 25, 2016

Effective May 10, 2016

**RETIREMENT SYSTEMS AUDIT
RECOMMENDATIONS AMENDMENTS**Chief Sponsor: Todd Weiler
House Sponsor: Kraig Powell**LONG TITLE****General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending provisions related to public information.

Highlighted Provisions:

This bill:

- ▶ requires the Utah State Retirement Systems (URS) to provide employee compensation information on its website;
- ▶ requires URS to provide advance public notice of administrative board meetings on the Utah Public Notice Website;
- ▶ requires URS to establish policies for time limits to respond to information requests; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

49-11-1101, as enacted by Laws of Utah 2014,
Chapter 185

ENACTS:

49-11-1102, Utah Code Annotated 1953

49-11-1103, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Part 11. Public Information Disclosure**Section 1. Section 49-11-1101 is amended to read:****49-11-1101. Public financial information disclosure on website -- Exclusions.**

(1) The office shall provide the following financial information for the public on its website:

(a) administrative expense transactions from its general ledger accounting system; and

(b) ~~aggregated~~ employee compensation information by ~~department~~ individual employee at least annually.

(2) For purposes of this part, the office is not required to provide other information for public access on its website, if the disclosure of the information would conflict with the fiduciary obligations of the board, including:

(a) revenue transactions; and

(b) member and participant information.

Section 2. Section 49-11-1102 is enacted to read:

49-11-1102. Public notice of administrative board meetings -- Posting on Utah Public Notice Website.

(1) The office shall provide advance public notice of meetings and agendas on the Utah Public Notice Website established in Section 63F-1-701 for administrative board meetings.

(2) The office may post other public materials, as directed by the board, on the Utah Public Notice Website.

Section 3. Section 49-11-1103 is enacted to read:

49-11-1103. Public information requests.

The office shall establish, in policy, time limits to respond to public information requests.

CHAPTER 282**S. B. 28**

Passed February 10, 2016

Approved March 25, 2016

Effective May 10, 2016

WATER SYSTEM CONSERVATION PRICING

Chief Sponsor: Scott K. Jenkins

House Sponsor: Lee B. Perry

LONG TITLE**General Description:**

This bill requires retail water providers to establish an increasing rate structure for culinary water.

Highlighted Provisions:

This bill:

- ▶ requires retail water providers to establish an increasing rate structure for culinary water and provide certain information to customers.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

73-10-32.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 73-10-32.5 is enacted to read:**73-10-32.5. Culinary water pricing structure.**

A retail water provider, as defined in Section 73-10-32, shall:

- (1) establish a culinary water rate structure that:
 - (a) incorporates increasing block units of water used; and
 - (b) provides for an increase in the rate charged for additional block units of water used as usage increases from one block unit to the next;
- (2) provide in customer billing notices, or in a notice that is distributed to customers at least annually, block unit rates and the customer's billing cycle; and
- (3) include individual customer water usage in customer billing notices.

CHAPTER 283**S. B. 34**

Passed February 11, 2016

Approved March 25, 2016

Effective May 10, 2016

SEWER LATERAL DISCLOSURES

Chief Sponsor: Karen Mayne

House Sponsor: Stephen G. Handy

LONG TITLE**General Description:**

This bill enacts provisions relating to sanitary sewer service.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ requires each public owner of sanitary sewer facilities to provide certain disclosures related to liability for the repair or replacement of a sewer lateral.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

11-8-4, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-8-4 is enacted to read:**11-8-4. Sewer lateral disclosure required.**

(1) As used in this section:

(a) “Public owner” means the same as that term is defined in Section 11-8-1.

(b) “Sanitary sewer service” means service provided by a public owner’s sanitary sewer facilities.

(c) “Sewer lateral” means a pipe that connects a property to a public owner’s sanitary sewer main line.

(2) (a) Each calendar year, a public owner shall, in accordance with Subsection (2)(b), distribute a disclosure that:

(i) includes the definition of a sewer lateral; and

(ii) states whether the record owner of the property or the public owner is responsible for repair and replacement of the sewer lateral that serves a property.

(b) A public owner may distribute the disclosure described in Subsection (2)(a) by:

(i) once each calendar year conspicuously placing the disclosure:

(A) on each bill for sanitary sewer service in a particular billing cycle; or

(B) in a newsletter that is circulated within the boundaries of the area served by the public owner;

(ii) conspicuously placing the disclosure on the public owner’s website;

(iii) including the disclosure in a broad based social media campaign; or

(iv) any other means reasonably calculated to make the disclosure available to individuals served by the public owner.

(c) A public owner’s failure to comply with a provision of this Subsection (2) does not result in any liability for the public owner based on the public owner’s failure to comply.

CHAPTER 284**S. B. 39**

Passed March 10, 2016
 Approved March 25, 2016
 Effective May 10, 2016

**MEDICAID COVERAGE FOR
 ADULT DENTAL SERVICES**

Chief Sponsor: Stephen H. Urquhart
 House Sponsor: Paul Ray

LONG TITLE**General Description:**

This bill directs the Department of Health to seek federal waivers authorizing the Medicaid program to provide dental services to blind or disabled adults already eligible for Medicaid.

Highlighted Provisions:

This bill:

- ▶ requires the Department of Health to request waivers from federal law necessary for the Medicaid program to provide dental services to blind or disabled adults already eligible for Medicaid;
- ▶ specifies that within Salt Lake County dental services shall be provided to the extent possible through the University of Utah School of Dentistry;
- ▶ requires the University of Utah School of Dentistry to annually transfer funds to the Medicaid program to cover the non-federal share of the cost of providing dental services through the school;
- ▶ specifies an implementation deadline; and
- ▶ requires indefinite cessation of dental services if the federal share of the cost of providing the services falls below 65%.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

26-18-411, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-18-411 is enacted to read:

26-18-411. Medicaid waiver for delivery of adult dental services.

(1) No later than June 30, 2016, the department shall ask the United States Secretary of Health and Human Services to grant waivers from federal statutory and regulatory law necessary for the Medicaid program to provide dental services in the manner described in Subsection (2).

(2) (a) To the extent funded, services shall be provided to only blind or disabled individuals, as defined in 42 U.S.C. Sec. 1382c(a)(1), who are 18 years of age or older and eligible for the program.

(b) To the extent possible, services within Salt Lake County shall be provided through the University of Utah School of Dentistry.

(c) Each fiscal year, the University of Utah School of Dentistry shall transfer money to the program in an amount equal to the program's non-federal share of the cost of providing services under this section through the school during the fiscal year.

(d) During each general session of the Legislature, the department shall report to the Social Services Appropriations Subcommittee whether the University of Utah School of Dentistry will have sufficient funds to make the transfer required by Subsection (2)(c) for the current fiscal year.

(e) Where possible, services not provided by the University of Utah School of Dentistry shall be provided through managed care or other risk sharing arrangements.

(f) Subject to appropriations by the Legislature, and as determined by the department, the scope, amount, duration, and frequency of services may be limited.

(3) The reporting requirements of Section 26-18-3 apply to the waivers requested under Subsection (1).

(4) If the waivers requested under Subsection (1) are granted, the Medicaid program shall begin providing dental services in the manner described in Subsection (2) no later than May 1, 2017.

(5) If the federal share of the cost of providing dental services under this section will be less than 65% during any portion of the next fiscal year, the Medicaid program shall cease providing dental services under this section indefinitely no later than the end of the current fiscal year.

CHAPTER 285**S. B. 41**

Passed February 17, 2016

Approved March 25, 2016

Effective May 10, 2016

APPOINTMENT OF COUNTY ASSESSORS

Chief Sponsor: Ann Millner
House Sponsor: Jon E. Starnard

LONG TITLE**General Description:**

This bill amends provisions related to the office of county assessor.

Highlighted Provisions:

This bill:

- ▶ authorizes a county to contract with a state-licensed or state-certified appraiser from outside the county if no qualified individual files a declaration of candidacy for the office of county assessor; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**REPEALS AND REENACTS:**

17-17-2, as last amended by Laws of Utah 2011, Chapter 289

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-17-2 is repealed and reenacted to read:**17-17-2. Assessor to be state qualified -- Vacancy -- Filling vacancy.**

(1) As used in this section:

(a) "State-certified appraiser" means a state-certified general appraiser or state-certified residential appraiser as those terms are defined in Section 61-2g-102.

(b) "State-licensed appraiser" means the same as that term is defined in Section 61-2g-102.

(2) An individual elected to the office of county assessor shall:

(a) meet the requirements described in Section 17-16-1; and

(b) (i) except as provided in Subsection (2)(b)(ii), if elected on or after November 1, 1993, become a state-licensed or state-certified appraiser no later than 36 months after the day on which the individual's term of office begins; or

(ii) if elected on or after January 1, 2010, in a county of the first, second, or third class, be a state-licensed or state-certified appraiser before filing a declaration of candidacy for the office of county assessor.

(3) The county assessor's office is vacant if:

(a) an assessor fails to meet the requirements described in Subsection (2); or

(b) no individual who meets the requirements described in Subsection (2) timely files a declaration of candidacy for the office of county assessor.

(4) (a) If a vacancy described in Subsection (3) occurs, the county legislative body shall fill the vacancy in accordance with Sections 17-53-104 and 20A-1-508.

(b) The individual who the county legislative body selects to fill the vacancy shall be a state-licensed or state-certified appraiser before the individual assumes the office of county assessor.

(5) If the county legislative body cannot find an individual who meets the requirements described in Subsection (2) to fill a vacancy described in Subsection (3), the county legislative body may contract with a state-licensed or state-certified appraiser from outside the county to fill the remainder of the county assessor's term of office.

CHAPTER 286**S. B. 44**

Passed March 10, 2016
 Approved March 25, 2016
 Effective May 10, 2016

CONSTRUCTION CODE AMENDMENTS

Chief Sponsor: Margaret Dayton
 House Sponsor: Keith Grover

LONG TITLE**General Description:**

This bill amends provisions related to the State Construction Code.

Highlighted Provisions:

This bill:

- ▶ expands an exemption from permit requirements for structures that are used for certain agricultural purposes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

15A-1-204, as last amended by Laws of Utah 2014, Chapters 178 and 189

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 15A-1-204 is amended to read:**15A-1-204. Adoption of State Construction Code -- Amendments by commission-- Approved codes -- Exemptions.**

(1) (a) The State Construction Code is the construction codes adopted with any modifications in accordance with this section that the state and each political subdivision of the state shall follow.

(b) A person shall comply with the applicable provisions of the State Construction Code when:

- (i) new construction is involved; and
- (ii) the owner of an existing building, or the owner's agent, is voluntarily engaged in:
 - (A) the repair, renovation, remodeling, alteration, enlargement, rehabilitation, conservation, or reconstruction of the building; or

(B) changing the character or use of the building in a manner that increases the occupancy loads, other demands, or safety risks of the building.

(c) On and after July 1, 2010, the State Construction Code is the State Construction Code in effect on July 1, 2010, until in accordance with this section:

- (i) a new State Construction Code is adopted; or
- (ii) one or more provisions of the State Construction Code are amended or repealed in accordance with this section.

(d) A provision of the State Construction Code may be applicable:

- (i) to the entire state; or
- (ii) within a county, city, or town.

(2) (a) The Legislature shall adopt a State Construction Code by enacting legislation that adopts a construction code with any modifications.

(b) Legislation enacted under this Subsection (2) shall state that it takes effect on the July 1 after the day on which the legislation is enacted, unless otherwise stated in the legislation.

(c) Subject to Subsection (5), a State Construction Code adopted by the Legislature is the State Construction Code until, in accordance with this section, the Legislature adopts a new State Construction Code by:

- (i) adopting a new State Construction Code in its entirety; or
- (ii) amending or repealing one or more provisions of the State Construction Code.

(3) (a) The commission shall by no later than November 30 of each year recommend to the Business and Labor Interim Committee whether the Legislature should:

- (i) amend or repeal one or more provisions of a State Construction Code; or
- (ii) in a year of a regularly scheduled update of a nationally recognized code, adopt a construction code with any modifications.

(b) The commission may recommend legislative action related to the State Construction Code:

- (i) on its own initiative;
- (ii) upon the recommendation of the division; or
- (iii) upon the receipt of a request by one of the following that the commission recommend legislative action related to the State Construction Code:
 - (A) a local regulator;
 - (B) a state regulator;
 - (C) a state agency involved with the construction and design of a building;
 - (D) the Construction Services Commission;
 - (E) the Electrician Licensing Board;
 - (F) the Plumbers Licensing Board; or
 - (G) a recognized construction-related association.

(4) If the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, the Business and Labor Interim Committee shall prepare legislation for consideration by the Legislature in the next general session that, if passed by the Legislature, would:

- (a) adopt a new State Construction Code in its entirety; or

(b) amend or repeal one or more provisions of the State Construction Code.

(5) (a) Notwithstanding Subsection (3), the commission may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, amend the State Construction Code if the commission determines that waiting for legislative action in the next general legislative session would:

(i) cause an imminent peril to the public health, safety, or welfare; or

(ii) place a person in violation of federal or other state law.

(b) If the commission amends the State Construction Code in accordance with this Subsection (5), the commission shall file with the division:

(i) the text of the amendment to the State Construction Code; and

(ii) an analysis that includes the specific reasons and justifications for the commission's findings.

(c) If the State Construction Code is amended under this Subsection (5), the division shall:

(i) publish the amendment to the State Construction Code in accordance with Section 15A-1-205; and

(ii) notify the Business and Labor Interim Committee of the amendment to the State Construction Code, including a copy of the commission's analysis described in Subsection (5)(b).

(d) If not formally adopted by the Legislature at its next annual general session, an amendment to the State Construction Code under this Subsection (5) is repealed on the July 1 immediately following the next annual general session that follows the adoption of the amendment.

(6) (a) The division, in consultation with the commission, may approve, without adopting, one or more approved codes, including a specific edition of a construction code, for use by a compliance agency.

(b) If the code adopted by a compliance agency is an approved code described in Subsection (6)(a), the compliance agency may:

(i) adopt an ordinance requiring removal, demolition, or repair of a building;

(ii) adopt, by ordinance or rule, a dangerous building code; or

(iii) adopt, by ordinance or rule, a building rehabilitation code.

(7) (a) Except as provided in Subsection (7)(b), a structure used solely in conjunction with agriculture use, and not for human occupancy, or a structure that is no more than 1,500 square feet and used solely for the type of sales described in Subsection 59-12-104(20), is exempt from the permit requirements of the State Construction Code.

(b) (i) Unless exempted by a provision other than Subsection (7)(a), a plumbing, electrical, and mechanical permit may be required when that work is included in a structure described in Subsection (7)(a).

(ii) Unless located in whole or in part in an agricultural protection area created under Title 17, Chapter 41, Agriculture and Industrial Protection Areas, a structure described in Subsection (7)(a) is not exempt from a permit requirement if the structure is located on land that is:

(A) within the boundaries of a city or town, and less than five contiguous acres; or

(B) within a subdivision for which the county has approved a subdivision plat under Title 17, Chapter 27a, Part 6, Subdivisions, and less than two contiguous acres.

~~[(8) A structure that is no more than 1,000 square feet and is used solely for the type of sales described in Subsection 59-12-104(20) is exempt from the permit requirements described in:]~~

~~[(a) Chapter 2, Adoption of State Construction Code;]~~

~~[(b) Chapter 3, Statewide Amendments Incorporated as Part of State Construction Code; and]~~

~~[(c) Chapter 4, Local Amendments Incorporated as Part of State Construction Code.]~~

CHAPTER 287**S. B. 52**

Passed March 7, 2016
Approved March 25, 2016
Effective May 10, 2016

RATE COMMITTEE MODIFICATIONS

Chief Sponsor: David P. Hinkins
House Sponsor: Mike K. McKell

LONG TITLE**General Description:**

This bill amends language related to a rate committee.

Highlighted Provisions:

This bill:

- ▶ defines the membership of a rate committee;
- ▶ requires a rate committee to:
 - meet at least once each calendar year; and
 - discuss adjustments to service levels received by state agencies; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

- 63A-1-114, as last amended by Laws of Utah 2013, Chapter 310
63F-1-302, as last amended by Laws of Utah 2013, Chapter 310
67-19-11, as last amended by Laws of Utah 2013, Chapter 310

Utah Code Sections Affected by Coordination Clause:

- 67-19-11, as last amended by Laws of Utah 2013, Chapter 310

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-1-114 is amended to read:**63A-1-114. Rate committee -- Membership -- Duties.**

(1) (a) There is created a rate committee, which shall consist of: ~~(i) the executive director of the Governor's Office of Management and Budget, or a designee; (ii) the executive directors of [three] seven state agencies that use services and pay rates to one of the department internal service funds, or their designee, appointed by the governor for a two-year term[;].~~

~~[(iii) the executive director of the Department of Administrative Services, or a designee;]~~

~~[(iv) the director of the Division of Finance, or a designee; and]~~

~~[(v) the chief information officer.]~~

(b) (i) Of the seven state agencies represented on the rate committee under Subsection (1)(a), only

one of the following may be represented on the committee, if at all, at any one time:

(A) the Governor's Office of Management and Budget;

(B) the Division of Finance; or

(C) the Department of Technology Services.

(ii) The department may not have a representative on the rate committee.

~~[(b)] (c) (i) The committee shall elect a chair from its members[; except that the chair may not be from an agency that receives payment of a rate set by the committee].~~

(ii) Members of the committee who are state government employees and who do not receive salary, per diem, or expenses from their agency for their service on the committee shall receive no compensation, benefits, per diem, or expenses for the members' service on the committee.

~~[(e)] (d)~~ (d) The Department of Administrative Services shall provide staff services to the committee.

(2) (a) A division described in Section 63A-1-109 that manages an internal service fund shall submit to the committee a proposed rate and fee schedule for services rendered by the division to an executive branch entity or an entity that subscribes to services rendered by the division.

(b) The committee shall:

(i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings Act;

(ii) meet at least once each calendar year to:

(A) discuss the service performance of each internal service fund;

~~[(iii)] (B) review the proposed rate and fee schedules [and may];~~

(C) at the rate committee's discretion, approve, increase, or decrease the rate and fee[;] schedules described in Subsection (2)(b)(ii)(B); and

(D) discuss any prior or potential adjustments to the service level received by state agencies that pay rates to an internal service fund;

(iii) recommend a proposed rate and fee schedule for each internal service fund to:

(A) the Governor's Office of Management and Budget; and

(B) ~~[the]~~ each legislative appropriations ~~[subcommittees]~~ subcommittee that, in accordance with Section 63J-1-410, ~~[approve]~~ approves the internal service fund agency's rates, fees, and budget; and

(iv) review and approve, increase or decrease an interim rate, fee, or amount when an internal service fund agency begins a new service or introduces a new product between annual general sessions of the Legislature.

(c) The committee may in accordance with Subsection 63J-1-410(4), decrease a rate, fee, or amount that has been approved by the Legislature.

Section 2. Section 63F-1-302 is amended to read:

63F-1-302. Information Technology Rate Committee -- Membership -- Duties.

(1) (a) There is created an Information Technology Rate Committee, which shall consist of: ~~(i) the executive director of the Governor's Office of Management and Budget, or a designee;~~ (ii) the executive directors, or ~~their~~ the executive director's designee, of ~~three~~ seven executive branch agencies that use services and pay rates to one of the department internal service funds, appointed by the governor for a two-year term~~s~~;

~~[(iii) the director of the Division of Finance, or a designee; and]~~

~~[(iv) the chief information officer.]~~

(b) (i) Of the seven executive agencies represented on the rate committee under Subsection (1)(a), only one of the following may be represented on the committee, if at all, at any one time:

(A) the Governor's Office of Management and Budget;

(B) the Division of Finance; or

(C) the Department of Administrative Services.

(ii) The department may not have a representative on the rate committee.

~~[(b) (i) The director of the Division of Finance shall serve as chair of the committee.]~~

(c) (i) The committee shall elect a chair from its members.

(ii) Members of the committee who are state government employees and who do not receive salary, per diem, or expenses from their agency for their service on the committee shall receive no compensation, benefits, per diem, or expenses for the member's service on the committee.

~~[(e)]~~ (d) The department shall provide staff services to the committee.

(2) (a) Any internal service funds managed by the department shall submit to the committee a proposed rate and fee schedule for services rendered by the department to an executive branch agency or an entity that subscribes to services rendered by the department.

(b) The committee shall:

(i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings Act;

(ii) meet at least once each calendar year to:

(A) discuss the service performance of each internal service fund;

~~[(iii)]~~ (B) review the proposed rate and fee ~~[schedule and]~~ schedules;

(C) determine ~~[if the]~~ whether each proposed fee is based on cost recovery as required by Subsection 63F-1-301(2)(b);

~~[(iii) review the proposed rate and fee schedules and may]~~

(D) at the rate committee's discretion, approve, increase, or decrease the rate and fee~~s~~ schedules described in Subsection (2)(b)(ii)(B); and

(E) discuss any prior or potential adjustments to the service level received by state agencies that pay rates to an internal service fund;

~~[(iv)]~~ (iii) recommend a proposed rate and fee schedule for each internal service fund to:

(A) the Governor's Office of Management and Budget; and

(B) the Office of Legislative Fiscal Analyst for review by the Legislature in accordance with Section 63J-1-410, which requires the Legislature to approve the internal service fund agency's rates, fees, and budget in an appropriations act; and

~~[(v)]~~ (iv) in accordance with Section 63J-1-410, review and approve, increase or decrease an interim rate, fee, or amount when an internal service fund agency begins a new service or introduces a new product between annual general sessions of the Legislature, which rate, fee, or amount shall be submitted to the Legislature at the next annual general session.

(c) The committee may, in accordance with Subsection 63J-1-410(4), decrease a rate, fee, or amount that has been approved by the Legislature.

Section 3. Section 67-19-11 is amended to read:

67-19-11. Use of department facilities -- Field office facilities cost allocation -- Rate committee.

(1) (a) All officers and employees of the state and its political subdivisions shall allow the department to use public buildings under their control, and furnish heat, light, and furniture, for any examination, training, hearing, or investigation authorized by this chapter.

(b) The cost of the department's use of facilities shall be paid by the agency housing a field office staff.

(2) The executive director shall:

(a) prepare an annual budget request for the department;

(b) submit the budget request to the governor and the Legislature; and

(c) before charging a fee for services provided by the department's internal service fund to an executive branch agency, the executive director shall:

(i) submit the proposed rates, fees, and cost analysis to the Rate Committee established under Subsection (3); and

(ii) obtain the approval of the Legislature as required under Section 63J-1-410.

(3) (a) There is created a rate committee ~~[which]~~ that shall consist of: ~~(i) the executive director of the~~

Governor's Office of Management and Budget, or a designee; (ii) the executive directors of ~~three~~ seven state agencies that use services and pay rates to one of the department internal service funds, or their designee, appointed by the governor for a two-year term~~];~~]

~~[(iii) the director of the Division of Finance, or a designee;]~~

~~[(iv) the executive director of the Department of Human Resource Management, or a designee; and]~~

~~[(v) the attorney general or designee.]~~

(b) (i) Of the seven executive agencies represented on the rate committee under Subsection (3)(a), only one of the following may be represented on the committee, if at all, at any one time:

(A) the Governor's Office of Management and Budget;

(B) the Division of Finance;

(C) the Department of Administrative Services;
or

(D) the Department of Technology Services.

(ii) The department may not have a representative on the rate committee.

~~[(b)] (c) (i) The rate committee shall elect a chair from [its members, except that the chair may not be from an agency that receives payment of a rate set by the committee] the rate committee's members.~~

(ii) ~~[Members]~~ Each member of the rate committee who ~~[are]~~ is a state government ~~[employees]~~ employee and who ~~[do]~~ does not receive salary, per diem, or expenses from ~~[their]~~ the member's agency for ~~[their]~~ the member's service on the rate committee shall receive no compensation, benefits, per diem, or expenses for the ~~[members']~~ member's service on the rate committee.

~~[(e)] (d) The ~~[Department of Human Resource Management]~~ department shall provide staff services to the rate committee.~~

(4) (a) The department shall submit to the rate committee a proposed rate and fee schedule for:

(i) human resource management services rendered; and

(ii) costs incurred by the Office of the Attorney General in defending the state in a grievance under review by the Career Service Review Office.

(b) The rate committee shall:

(i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings Act;

(ii) meet at least once each calendar year to:

(A) discuss the service performance of each internal service fund;

(B) review the proposed rate and fee schedules ~~[and may];~~

(C) at the rate committee's discretion, approve, increase, or decrease the rate and fee schedules described in Subsection (4)(b)(ii)(B); and

(D) discuss any prior or potential adjustments to the service level received by state agencies that pay rates to an internal service fund;

(iii) recommend a proposed rate and fee schedule for the internal service fund to:

(A) the Governor's Office of Management and Budget; and

(B) ~~[the]~~ each legislative appropriations ~~[subcommittees]~~ subcommittee that, in accordance with Section 63J-1-410, ~~[approve]~~ approves the internal service fund rates, fees, and budget; and

(iv) review and approve, increase or decrease an interim rate, fee, or amount when the department begins a new service or introduces a new product between annual general sessions of the Legislature.

(c) The committee may in accordance with Subsection 63J-1-410(4) decrease a rate, fee, or amount that has been approved by the Legislature.

Section 4. Coordinating S.B. 52 with S.B. 37 -- Superseding technical and substantive amendments.

If this S.B. 52 and S.B. 37, Human Resource Management Rate Committee, both pass and become law, it is the intent of the Legislature that the amendments in Subsections 67-19-11(3) and (4) in this bill supersede the amendments to Subsections 67-19-11(3) and (4) in S.B. 37 when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

CHAPTER 288**S. B. 55**

Passed February 16, 2016

Approved March 25, 2016

Effective May 10, 2016

FINANCIAL INSTITUTIONS AMENDMENTS

Chief Sponsor: Curtis S. Bramble

House Sponsor: Val L. Peterson

LONG TITLE**General Description:**

This bill modifies the Financial Institutions Act.

Highlighted Provisions:

This bill:

- ▶ modifies the definition provisions;
- ▶ addresses persons or institutions subject to the jurisdiction of the department;
- ▶ clarifies extent of regulation of technology service providers;
- ▶ authorizes the commission to share information from certain examination reports with a depository institution receiving services from a technology service provider; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

7-1-103, as last amended by Laws of Utah 2014, Chapter 189

7-1-501, as last amended by Laws of Utah 2008, Chapter 96

7-1-802, as last amended by Laws of Utah 2014, Chapter 189

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 7-1-103 is amended to read:****7-1-103. Definitions.**

As used in this title:

(1) (a) "Bank" means a person authorized under the laws of this state, another state, or the United States to accept deposits from the public.

(b) "Bank" does not include:

(i) a federal savings and loan association or federal savings bank;

(ii) an industrial bank subject to Chapter 8, Industrial Banks;

(iii) a federally chartered credit union; or

(iv) a credit union subject to Chapter 9, Utah Credit Union Act.

(2) "Banking business" means the offering of deposit accounts to the public and the conduct of such other business activities as may be authorized by this title.

(3) (a) "Branch" means a place of business of a financial institution, other than its main office, at which deposits are received and paid.

(b) "Branch" does not include:

(i) an automated teller machine, as defined in Section 7-16a-102;

(ii) a point-of-sale terminal, as defined in Section 7-16a-102; or

(iii) a loan production office under Section 7-1-715.

(4) "Commissioner" means the Commissioner of Financial Institutions.

(5) "Control" means the power, directly or indirectly, to:

(a) direct or exercise a controlling influence over:

(i) the management or policies of a financial institution; or

(ii) the election of a majority of the directors or trustees of an institution;

(b) vote 20% or more of any class of voting securities of a financial institution by an individual; or

(c) vote more than 10% of any class of voting securities of a financial institution by a person other than an individual.

(6) "Credit union" means a cooperative, nonprofit association incorporated under:

(a) Chapter 9, Utah Credit Union Act; or

(b) 12 U.S.C. Sec. 1751 et seq., Federal Credit Union Act, as amended.

(7) "Department" means the Department of Financial Institutions.

(8) "Depository institution" means a bank, savings and loan association, savings bank, industrial bank, credit union, or other institution that:

(a) holds or receives deposits, savings, or share accounts;

(b) issues certificates of deposit; or

(c) provides to its customers other depository accounts that are subject to withdrawal by checks, drafts, or other instruments or by electronic means to effect third party payments.

(9) (a) "Depository institution holding company" means:

(i) a person other than an individual that:

(A) has control over any depository institution; or

(B) becomes a holding company of a depository institution under Section 7-1-703; or

(ii) a person other than an individual that the commissioner finds, after considering the specific circumstances, is exercising or is capable of exercising a controlling influence over a depository institution by means other than those specifically described in this section.

(b) Except as provided in Section 7-1-703, a person is not a depository institution holding company solely because it owns or controls shares acquired in securing or collecting a debt previously contracted in good faith.

(10) "Financial institution" means any institution subject to the jurisdiction of the department because of this title.

(11) (a) "Financial institution holding company" means a person, other than an individual that has control over any financial institution or any person that becomes a financial institution holding company under this chapter, including an out-of-state or foreign depository institution holding company.

(b) Ownership of a service corporation or service organization by a depository institution does not make that institution a financial institution holding company.

(c) A person holding 10% or less of the voting securities of a financial institution is rebuttably presumed not to have control of the institution.

(d) A trust company is not a holding company solely because it owns or holds 20% or more of the voting securities of a financial institution in a fiduciary capacity, unless the trust company exercises a controlling influence over the management or policies of the financial institution.

(12) "Foreign depository institution" means a depository institution chartered or authorized to transact business by a foreign government.

(13) "Foreign depository institution holding company" means the holding company of a foreign depository institution.

(14) "Home state" means:

(a) for a state chartered depository institution, the state that charters the institution;

(b) for a federally chartered depository institution, the state where the institution's main office is located; and

(c) for a depository institution holding company, the state in which the total deposits of all depository institution subsidiaries are the largest.

(15) "Host state" means:

(a) for a depository institution, a state, other than the institution's home state, where the institution maintains or seeks to establish a branch; and

(b) for a depository institution holding company, a state, other than the depository institution holding company's home state, where the depository institution holding company controls or seeks to control a depository institution subsidiary.

(16) "Industrial bank" means a corporation or limited liability company conducting the business of an industrial bank under Chapter 8, Industrial Banks.

(17) "Industrial loan company" ~~is as~~ means the same as that term is defined in Section 7-8-21.

(18) "Insolvent" means the status of a financial institution that is unable to meet its obligations as they mature.

(19) "Institution" means:

(a) a corporation;

(b) a limited liability company;

(c) a partnership;

(d) a trust;

(e) an association;

(f) a joint venture;

(g) a pool;

(h) a syndicate;

(i) an unincorporated organization; or

(j) any form of business entity.

(20) "Institution subject to the jurisdiction of the department" means an institution or other person described in Section 7-1-501.

(21) "Liquidation" means the act or process of winding up the affairs of an institution subject to the jurisdiction of the department by realizing upon assets, paying liabilities, and appropriating profit or loss, as provided in Chapter 2, Possession of Depository Institution by Commissioner, and Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies.

(22) "Liquidator" means a person, agency, or instrumentality of this state or the United States appointed to conduct a liquidation.

(23) (a) "Money services business" includes:

(i) a check casher;

(ii) a deferred deposit lender;

(iii) an issuer or seller of traveler's checks or money orders; and

(iv) a money transmitter.

(b) "Money services business" does not include:

(i) a bank;

(ii) a person registered with, and functionally regulated or examined by the Securities Exchange Commission or the Commodity Futures Trading Commission, or a foreign financial agency that engages in financial activities that, if conducted in the United States, would require the foreign financial agency to be registered with the Securities Exchange Commission or the Commodity Futures Trading Commission; or

(iii) an individual who engages in an activity described in Subsection (23)(a) on an infrequent basis and not for gain or profit.

(24) "Negotiable order of withdrawal" means a draft drawn on a NOW account.

(25) (a) "NOW account" means a savings account from which the owner may make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties.

(b) A “NOW account” is not a demand deposit.

(c) Neither the owner of a NOW account nor any third party holder of an instrument requesting withdrawal from the account has a legal right to make withdrawal on demand.

(26) “Out-of-state” means, in reference to a depository institution or depository institution holding company, an institution or company whose home state is not Utah.

(27) “Person” means:

- (a) an individual;
- (b) a corporation;
- (c) a limited liability company;
- (d) a partnership;
- (e) a trust;
- (f) an association;
- (g) a joint venture;
- (h) a pool;
- (i) a syndicate;
- (j) a sole proprietorship;
- (k) an unincorporated organization; or
- (l) any form of business entity.

(28) “Receiver” means a person, agency, or instrumentality of this state or the United States appointed to administer and manage an institution subject to the jurisdiction of the department in receivership, as provided in Chapter 2, Possession of Depository Institution by Commissioner, and Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies.

(29) “Receivership” means the administration and management of the affairs of an institution subject to the jurisdiction of the department to conserve, preserve, and properly dispose of the assets, liabilities, and revenues of an institution in possession, as provided in Chapter 2, Possession of Depository Institution by Commissioner, and Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies.

(30) “Savings account” means any deposit or other account at a depository institution that is not a transaction account.

(31) “Savings and loan association” means:

- (a) a federal savings and loan association; and
- (b) an out-of-state savings and loan association.

(32) “Service corporation” or “service organization” means a corporation or other business entity owned or controlled by one or more financial institutions that is engaged or proposes to engage in business activities related to the business of financial institutions.

(33) “State” means, unless the context demands otherwise:

- (a) a state;
- (b) the District of Columbia; or
- (c) the territories of the United States.

(34) “Subsidiary” means a business entity under the control of an institution.

(35) “Technology service provider” means a person that provides a data processing service or activity that supports the financial services or Internet related services of a depository institution subject to the jurisdiction of the department, including supporting:

- (a) lending;
- (b) money transfers;
- (c) fiduciary activities;
- (d) trading activities;
- (e) deposit taking;
- (f) web services and electronic bill payments;
- (g) mobile applications;
- (h) system and software development and maintenance; and
- (i) security monitoring.

~~[(35)]~~ (36) (a) “Transaction account” means a deposit, account, or other contractual arrangement in which a depositor, account holder, or other customer is permitted, directly or indirectly, to make withdrawals by:

- (i) check or other negotiable or transferable instrument;
- (ii) payment order of withdrawal;
- (iii) telephone transfer;
- (iv) other electronic means; or
- (v) any other means or device for the purpose of making payments or transfers to third persons.

(b) “Transaction account” includes:

- (i) demand deposits;
- (ii) NOW accounts;
- (iii) savings deposits subject to automatic transfers; and
- (iv) share draft accounts.

~~[(36)]~~ (37) “Trust company” means a person authorized to conduct a trust business, as provided in Chapter 5, Trust Business.

~~[(37)]~~ (38) “Utah depository institution” means a depository institution whose home state is Utah.

~~[(38)]~~ (39) “Utah depository institution holding company” means a depository institution holding company whose home state is Utah.

Section 2. Section 7-1-501 is amended to read:

7-1-501. Institutions and persons subject to jurisdiction of department.

(1) As provided in this title and the rules of the department, the persons and institutions described in Subsection (2) are subject to:

- (a) the jurisdiction of the department; and
- (b) supervision and examination by the department.

(2) Subsection (1) applies to:

(a) ~~[all depository institutions]~~ a depository institution chartered under the laws of this state, including any out-of-state ~~[branches]~~ branch of the depository institution;

(b) ~~[all Utah depository institutions]~~ a Utah depository institution chartered by the federal government, but only to the extent the application of this title is authorized by:

- (i) federal law; or
- (ii) the appropriate federal regulatory agency;
- (c) ~~[all Utah branches of]~~ a Utah branch of an out-of-state depository ~~[institutions]~~ institution chartered under the laws of another state;

(d) ~~[all Utah branches of]~~ a Utah branch of an out-of-state depository ~~[institutions]~~ institution chartered by the federal government, but only to the extent the application of this title is authorized by:

- (i) federal law; or
- (ii) the appropriate federal regulatory agency;
- (e) ~~[all service corporations and service organizations]~~ a service corporation or service organization, including a credit union service ~~[organizations]~~ organization as defined in Section 7-9-3;

- (f) ~~[all]~~ a trust ~~[companies]~~ company;
- (g) ~~[all]~~ an escrow ~~[companies]~~ company;

(h) ~~[all persons or institutions]~~ a person or institution engaged in this state in the business of:

- (i) guaranteeing or insuring deposits, savings accounts, share accounts, or other accounts in depository institutions;
- (ii) operating a loan production office for:
 - (A) a Utah depository institution;
 - (B) an out-of-state depository institution; or
 - (C) a foreign depository institution;

~~[(iii) allowing persons to effect third party payments from loan, charge, or other accounts by checks, drafts, or other instruments or by electronic means; or]~~

~~[(iv)]~~ (iii) a check casher or deferred deposit lender, as defined in Section 7-23-102;

(iv) a title lender, as defined in Section 7-24-102; or

(v) money transmission, as defined in Section 7-25-102;

(i) ~~[all corporations]~~ a corporation or other business ~~[entities]~~ entity owning or controlling an institution subject to the jurisdiction of the department;

(j) subject to Subsection (3), a technology service provider that provides services to a depository institution subject to the jurisdiction of the department;

~~[(j) all subsidiaries and affiliates]~~

(k) a subsidiary or affiliate of an institution subject to the jurisdiction of the department; and

~~[(k)]~~ (l) any person or institution that, with or without authority to do so, transacts business as, or holds itself out as being, a depository institution, trust company, or any other person or institution described in this section as being subject to the jurisdiction of the department.

(3) A technology service provider is subject to regulation and examination by the commissioner to the same extent as if the service or activity of the technology service provider were being performed by the depository institution itself.

Section 3. Section 7-1-802 is amended to read:

7-1-802. Confidentiality of information received by department -- Availability of information.

(1) The commissioner shall receive and place on file in the department's office all reports required by law and shall certify all reports required to be published.

(2) Except as provided in this section, the following are confidential, not public records, and not open to public inspection:

- (a) all reports received or prepared by the department;
- (b) all information obtained from an institution or person under the jurisdiction of the department; and
- (c) all orders and related records of the department.

(3) The following records and information are public and are open to public inspection:

- (a) reports of condition required by Section 7-1-318;
- (b) information that is otherwise generally available to the public; and
- (c) information contained in, and final decisions on, an application filed under Sections 7-1-702, 7-1-703, 7-1-704, 7-1-705, 7-1-706, 7-1-708, 7-1-709, 7-1-712, 7-1-713, or Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, excluding:

(i) proprietary information, business plans, and personal financial information; and

(ii) information for which:

(A) the applicant requests confidentiality; and

(B) the commissioner grants the request for confidentiality.

(4) The department may disclose records and information that are not public to the following:

(a) to an agency or authority:

(i) that regulates:

(A) the subject of the record; or

(B) an affiliate of the subject of the record, as defined by the commissioner by rule; and

(ii) is of:

(A) the federal government;

(B) the state; or

(C) another state;

(b) to a federal deposit insurance agency;

(c) to an official legally authorized to investigate criminal charges in connection with the affairs of the subject of the record, and to any tribunal conducting legal proceedings resulting from such an investigation;

(d) to a person preparing a proposal for merging or acquiring an institution under Chapter 2, Possession of Depository Institution by Commissioner, or Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, but only after the department provides notice of the disclosure to the institution;

(e) to any other person, if the commissioner determines, after notice to the institution or person that is the subject of the record and opportunity for hearing, that the interests favoring disclosure of the information outweigh the interests favoring confidentiality of the information; and

(f) to any court in a proceeding under:

(i) Sections 7-1-304, 7-1-320, 7-1-322; or

(ii) a supervisory action under Chapter 2, Possession of Depository Institution by Commissioner, or Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies.

(5) The commissioner may limit the use and further disclosure of any information disclosed under Subsection (4):

(a) to protect the business confidentiality interest of the subject of the record; and

(b) to protect the public interest, such as to avoid:

(i) a liquidity crisis in a depository institution; or

(ii) undue speculation in securities or currency markets.

(6) The department shall disclose information in the manner and to the extent directed by a court order signed by a judge from a court of competent jurisdiction if:

(a) the disclosure does not violate applicable federal or state law;

(b) the information to be disclosed deals with a matter in controversy over which the court has jurisdiction;

(c) the person requesting the order has provided reasonable prior written notice to the commissioner;

(d) the court has considered the merits of the request for disclosure and has determined that the interests favoring disclosure of the information outweigh the interests favoring confidentiality of the information; and

(e) the court has appropriately limited the use and further disclosure of the information:

(i) to protect the business confidentiality interest of the subject of the record; and

(ii) to protect the public interest, such as to avoid:

(A) a liquidity crisis in a depository institution; or

(B) undue speculation in securities or currency markets.

(7) Notwithstanding the other provisions of this section, the commissioner may provide information from a report of an examination performed by the commissioner of the condition and affairs of a technology service provider to a depository institution serviced by the technology service provider.

CHAPTER 289**S. B. 60**

Passed February 24, 2016

Approved March 25, 2016

Effective May 10, 2016

**LOW-INCOME HOUSING TAX
CREDIT ALLOCATION AMENDMENTS**Chief Sponsor: Todd Weiler
House Sponsor: Rebecca P. Edwards**LONG TITLE****General Description:**

This bill modifies provisions related to the Utah low-income housing tax credit.

Highlighted Provisions:

This bill:

- ▶ extends for an additional 10 years the formula for determining the aggregate annual tax credit that the Utah Housing Corporation may allocate for the Utah low-income housing tax credit.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

59-7-607, as last amended by Laws of Utah 2006, Chapter 223

59-10-1010, as renumbered and amended by Laws of Utah 2006, Chapter 223

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-7-607 is amended to read:**59-7-607. Utah low-income housing tax credit.**

- (1) As used in this section:
 - (a) "Allocation certificate" means:
 - (i) the certificate prescribed by the commission and issued by the Utah Housing Corporation to each taxpayer that specifies the percentage of the annual federal low-income housing tax credit that each taxpayer may take as an annual credit against state income tax; or
 - (ii) a copy of the allocation certificate that the housing sponsor provides to the taxpayer.
 - (b) "Building" means a qualified low-income building as defined in Section 42(c), Internal Revenue Code.
 - (c) "Federal low-income housing tax credit" means the tax credit under Section 42, Internal Revenue Code.

(d) "Housing sponsor" means a corporation in the case of a C corporation, a partnership in the case of a partnership, a corporation in the case of an S corporation, or a limited liability company in the case of a limited liability company.

(e) "Qualified allocation plan" means the qualified allocation plan adopted by the Utah Housing Corporation pursuant to Section 42(m), Internal Revenue Code.

(f) "Special low-income housing tax credit certificate" means a certificate:

- (i) prescribed by the commission;
- (ii) that a housing sponsor issues to a taxpayer for a taxable year; and
- (iii) that specifies the amount of tax credit a taxpayer may claim under this section if the taxpayer meets the requirements of this section.

(g) "Taxpayer" means a person that is allowed a tax credit in accordance with this section which is the corporation in the case of a C corporation, the partners in the case of a partnership, the shareholders in the case of an S corporation, and the members in the case of a limited liability company.

(2) (a) For taxable years beginning on or after January 1, 1995, there is allowed a nonrefundable tax credit against taxes otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax [Aet], for taxpayers issued an allocation certificate.

(b) The tax credit shall be in an amount equal to the greater of the amount of:

(i) federal low-income housing tax credit to which the taxpayer is allowed during that year multiplied by the percentage specified in an allocation certificate issued by the Utah Housing Corporation; or

(ii) tax credit specified in the special low-income housing tax credit certificate that the housing sponsor issues to the taxpayer as provided in Subsection (2)(c).

(c) For purposes of Subsection (2)(b)(ii), the tax credit is equal to the product of:

(i) the total amount of low-income housing tax credit under this section that:

(A) a housing sponsor is allowed for a building; and

(B) all of the taxpayers may claim with respect to the building if the taxpayers meet the requirements of this section; and

(ii) the percentage of tax credit a taxpayer may claim:

(A) under this section if the taxpayer meets the requirements of this section; and

(B) as provided in the agreement between the taxpayer and the housing sponsor.

(d) (i) For the calendar year beginning on January 1, 1995, through the calendar year beginning on January 1, [2015] 2025, the aggregate annual tax credit that the Utah Housing Corporation may allocate for the credit period described in Section 42(f), Internal Revenue Code, pursuant to this

section and Section 59-10-1010 is an amount equal to the product of:

(A) 12.5 cents; and

(B) the population of Utah.

(ii) For purposes of this section, the population of Utah shall be determined in accordance with Section 146(j), Internal Revenue Code.

(3) (a) ~~[By October 1, 1994, the]~~ The Utah Housing Corporation shall determine criteria and procedures for allocating the tax credit under this section and Section 59-10-1010 and incorporate the criteria and procedures into the Utah Housing Corporation's qualified allocation plan.

(b) The Utah Housing Corporation shall create the criteria under Subsection (3)(a) based on:

(i) the number of affordable housing units to be created in Utah for low and moderate income persons in the residential housing development of which the building is a part;

(ii) the level of area median income being served by the development;

(iii) the need for the tax credit for the economic feasibility of the development; and

(iv) the extended period for which the development commits to remain as affordable housing.

(4) (a) The following may apply to the Utah Housing Corporation for a tax credit under this section:

(i) any housing sponsor that has received an allocation of the federal low-income housing tax credit; or

(ii) any applicant for an allocation of the federal low-income housing tax credit.

(b) The Utah Housing Corporation may not require fees for applications of the tax credit under this section in addition to those fees required for applications for the federal low-income housing tax credit.

(5) (a) The Utah Housing Corporation shall determine the amount of the tax credit to allocate to a qualifying housing sponsor in accordance with the qualified allocation plan of the Utah Housing Corporation.

(b) (i) The Utah Housing Corporation shall allocate the tax credit to housing sponsors [by issuing] in the same manner that it allocates federal low-income housing credits and shall issue an allocation certificate to qualifying housing sponsors as evidence of the allocation.

(ii) The allocation certificate under Subsection (5)(b)(i) shall specify the allowed percentage of the federal low-income housing tax credit as determined by the Utah Housing Corporation.

(c) The percentage specified in an allocation certificate may not exceed 100% of the federal low-income housing tax credit.

(6) A housing sponsor shall provide a copy of the allocation certificate to each taxpayer that is issued a special low-income housing tax credit certificate.

(7) (a) A housing sponsor shall provide to the commission a list of:

(i) the taxpayers issued a special low-income housing tax credit certificate; and

(ii) for each taxpayer described in Subsection (7)(a)(i), the amount of tax credit listed on the special low-income housing tax credit certificate.

(b) A housing sponsor shall provide the list required by Subsection (7)(a):

(i) to the commission;

(ii) on a form provided by the commission; and

(iii) with the housing sponsor's tax return for each taxable year for which the housing sponsor issues a special low-income housing tax credit certificate described in this Subsection (7).

(8) (a) All elections made by the taxpayer pursuant to Section 42, Internal Revenue Code, shall apply to this section.

(b) (i) If a taxpayer is required to recapture a portion of any federal low-income housing tax credit, the taxpayer shall also be required to recapture a portion of any state tax credits authorized by this section.

(ii) The state recapture amount shall be equal to the percentage of the state tax credit that equals the proportion the federal recapture amount bears to the original federal low-income housing tax credit amount subject to recapture.

(9) (a) Any tax credits returned to the Utah Housing Corporation in any year may be reallocated within the same time period as provided in Section 42, Internal Revenue Code.

(b) Tax credits that are unallocated by the Utah Housing Corporation in any year may be carried over for allocation in ~~the~~ subsequent ~~year~~ years.

(10) (a) Amounts otherwise qualifying for the tax credit, but not allowable because the tax credit exceeds the tax, may be carried back three years or may be carried forward five years as a credit against the tax.

(b) Carryover tax credits under Subsection (10)(a) shall be applied against the tax:

(i) before the application of the tax credits earned in the current year; and

(ii) on a first-earned first-used basis.

(11) Any tax credit taken in this section may be subject to an annual audit by the commission.

(12) The Utah Housing Corporation shall provide an annual report to the Revenue and Taxation Interim Committee which shall include at least:

(a) the purpose and effectiveness of the tax credits; and

(b) the benefits of the tax credits to the state.

(13) The commission may, in consultation with the Utah Housing Corporation, promulgate rules to implement this section.

Section 2. Section 59-10-1010 is amended to read:

59-10-1010. Utah low-income housing tax credit.

(1) As used in this section:

(a) "Allocation certificate" means:

(i) the certificate prescribed by the commission and issued by the Utah Housing Corporation to each claimant, estate, or trust that specifies the percentage of the annual federal low-income housing credit that each claimant, estate, or trust may take as an annual tax credit against a tax imposed by this chapter; or

(ii) a copy of the allocation certificate that the housing sponsor provides to the claimant, estate, or trust.

(b) "Building" means a qualified low-income building as defined in Section 42(c), Internal Revenue Code.

(c) "Federal low-income housing credit" means the low-income housing credit under Section 42, Internal Revenue Code.

(d) "Housing sponsor" means a corporation in the case of a C corporation, a partnership in the case of a partnership, a corporation in the case of an S corporation, or a limited liability company in the case of a limited liability company.

(e) "Qualified allocation plan" means the qualified allocation plan adopted by the Utah Housing Corporation pursuant to Section 42(m), Internal Revenue Code.

(f) "Special low-income housing tax credit certificate" means a certificate:

(i) prescribed by the commission;

(ii) that a housing sponsor issues to a claimant, estate, or trust for a taxable year; and

(iii) that specifies the amount of a tax credit a claimant, estate, or trust may claim under this section if the claimant, estate, or trust meets the requirements of this section.

(2) (a) For taxable years beginning on or after January 1, 1995, there is allowed a nonrefundable tax credit against taxes otherwise due under this chapter for a claimant, estate, or trust issued an allocation certificate.

(b) The tax credit shall be in an amount equal to the greater of the amount of:

(i) federal low-income housing credit to which the claimant, estate, or trust is allowed during that year multiplied by the percentage specified in an allocation certificate issued by the Utah Housing Corporation; or

(ii) tax credit specified in the special low-income housing tax credit certificate that the housing sponsor issues to the claimant, estate, or trust as provided in Subsection (2)(c).

(c) For purposes of Subsection (2)(b)(ii), the tax credit is equal to the product of:

(i) the total amount of low-income housing tax credit under this section that:

(A) a housing sponsor is allowed for a building; and

(B) all of the claimants, estates, and trusts may claim with respect to the building if the claimants, estates, and trusts meet the requirements of this section; and

(ii) the percentage of tax credit a claimant, estate, or trust may claim:

(A) under this section if the claimant, estate, or trust meets the requirements of this section; and

(B) as provided in the agreement between the claimant, estate, or trust and the housing sponsor.

(d) (i) For the calendar year beginning on January 1, 1995, through the calendar year beginning on January 1, [2015] 2025, the aggregate annual tax credit that the Utah Housing Corporation may allocate for the credit period described in Section 42(f), Internal Revenue Code, pursuant to this section and Section 59-7-607 is an amount equal to the product of:

(A) 12.5 cents; and

(B) the population of Utah.

(ii) For purposes of this section, the population of Utah shall be determined in accordance with Section 146(j), Internal Revenue Code.

(3) (a) [~~By October 1, 1994, the~~] The Utah Housing Corporation shall determine criteria and procedures for allocating the tax credit under this section and Section 59-7-607 and incorporate the criteria and procedures into the Utah Housing Corporation's qualified allocation plan.

(b) The Utah Housing Corporation shall create the criteria under Subsection (3)(a) based on:

(i) the number of affordable housing units to be created in Utah for low and moderate income persons in the residential housing development of which the building is a part;

(ii) the level of area median income being served by the development;

(iii) the need for the tax credit for the economic feasibility of the development; and

(iv) the extended period for which the development commits to remain as affordable housing.

(4) (a) The following may apply to the Utah Housing Corporation for a tax credit under this section:

(i) any housing sponsor that is a claimant, estate, or trust if that housing sponsor has received an

allocation of the federal low-income housing credit; or

(ii) any applicant for an allocation of the federal low-income housing credit if that applicant is a claimant, estate, or trust.

(b) The Utah Housing Corporation may not require fees for applications of the tax credit under this section in addition to those fees required for applications for the federal low-income housing credit.

(5) (a) The Utah Housing Corporation shall determine the amount of the tax credit to allocate to a qualifying housing sponsor in accordance with the qualified allocation plan of the Utah Housing Corporation.

(b) (i) The Utah Housing Corporation shall allocate the tax credit to housing sponsors [by issuing] in the same manner that it allocates federal low-income housing credits and shall issue an allocation certificate to qualifying housing sponsors as evidence of the allocation.

(ii) The allocation certificate under Subsection (5)(b)(i) shall specify the allowed percentage of the federal low-income housing credit as determined by the Utah Housing Corporation.

(c) The percentage specified in an allocation certificate may not exceed 100% of the federal low-income housing credit.

(6) A housing sponsor shall provide a copy of the allocation certificate to each claimant, estate, or trust that is issued a special low-income housing tax credit certificate.

(7) (a) A housing sponsor shall provide to the commission a list of:

(i) the claimants, estates, and trusts issued a special low-income housing tax credit certificate; and

(ii) for each claimant, estate, or trust described in Subsection (7)(a)(i), the amount of tax credit listed on the special low-income housing tax credit certificate.

(b) A housing sponsor shall provide the list required by Subsection (7)(a):

(i) to the commission;

(ii) on a form provided by the commission; and

(iii) with the housing sponsor's tax return for each taxable year for which the housing sponsor issues a special low-income housing tax credit certificate described in this Subsection (7).

(8) (a) All elections made by the claimant, estate, or trust pursuant to Section 42, Internal Revenue Code, shall apply to this section.

(b) (i) If a claimant, estate, or trust is required to recapture a portion of any federal low-income housing credit, the claimant, estate, or trust shall also be required to recapture a portion of any state tax credits authorized by this section.

(ii) The state recapture amount shall be equal to the percentage of the state tax credit that equals the proportion the federal recapture amount bears to the original federal low-income housing credit amount subject to recapture.

(9) (a) Any tax credits returned to the Utah Housing Corporation in any year may be reallocated within the same time period as provided in Section 42, Internal Revenue Code.

(b) Tax credits that are unallocated by the Utah Housing Corporation in any year may be carried over for allocation in ~~the~~ subsequent ~~year~~ years.

(10) (a) Amounts otherwise qualifying for the tax credit, but not allowable because the tax credit exceeds the tax, may be carried back three years or may be carried forward five years as a tax credit.

(b) Carryover tax credits under Subsection (10)(a) shall be applied against the tax:

(i) before the application of the tax credits earned in the current year; and

(ii) on a first-earned first-used basis.

(11) Any tax credit taken in this section may be subject to an annual audit by the commission.

(12) The Utah Housing Corporation shall provide an annual report to the Revenue and Taxation Interim Committee which shall include at least:

(a) the purpose and effectiveness of the tax credits; and

(b) the benefits of the tax credits to the state.

(13) The commission may, in consultation with the Utah Housing Corporation, promulgate rules to implement this section.

CHAPTER 290**S. B. 71**

Passed March 8, 2016
 Approved March 25, 2016
 Effective May 10, 2016

**CHILDREN'S JUSTICE
 CENTER AMENDMENTS**

Chief Sponsor: Ralph Okerlund
 House Sponsor: Francis D. Gibson

LONG TITLE**General Description:**

This bill amends provisions related to the Children's Justice Center Program.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ modifies the attorney general's and Children's Justice Centers' requirements in operating the Children's Justice Center Program;
- ▶ clarifies how appropriations may be spent;
- ▶ modifies membership of a Children's Justice Center's local advisory board;
- ▶ modifies membership of the Advisory Board on Children's Justice; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 67-5b-101, as last amended by Laws of Utah 2011, Chapter 129
 67-5b-102, as last amended by Laws of Utah 2015, Chapter 334
 67-5b-103, as last amended by Laws of Utah 2011, Chapter 129
 67-5b-104, as repealed and reenacted by Laws of Utah 2011, Chapter 129
 67-5b-105, as last amended by Laws of Utah 2011, Chapter 129
 67-5b-106, as last amended by Laws of Utah 2009, Chapter 255

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 67-5b-101 is amended to read:**67-5b-101. Definitions.**

As used in this part:

~~[(1) "Abused child" means a child 17 years of age or younger who is a victim of:]~~

~~[(a) sexual abuse or physical abuse; or]~~

~~[(b) other crimes involving children where the child is a primary victim or a critical witness, such as in drug-related child endangerment cases.]~~

~~[(2)] (1) "Center" means a Children's Justice Center established in accordance with Section 67-5b-102.~~

~~(2) "Child abuse case" means a juvenile, civil, or criminal case involving a child abuse victim.~~

~~(3) "Child abuse victim" means a child 17 years of age or younger who is:~~

~~(a) a victim of:~~

~~(i) sexual abuse; or~~

~~(ii) physical abuse; or~~

~~(b) a victim or a critical witness in any criminal case, such as a child endangerment case described in Section 76-5-112.5.~~

~~[(3)] (4) "Officers and employees" means any person performing services for two or more public agencies as agreed in ~~[memoranda]~~ a memorandum of understanding in accordance with Section 67-5b-104.~~

~~[(4)] (5) "Public agency" means a municipality, a county, the attorney general, the Division of Child and Family Services, the Division of Juvenile Justice Services, the Department of Corrections, the juvenile court, ~~[and]~~ or the Administrative Office of the Courts.~~

~~(6) "Satellite office" means a child-friendly facility supervised by a Children's Justice Center established in accordance with Section 67-5b-102.~~

~~[(5)] (7) (a) "Volunteer" means any ~~[person]~~ individual who donates service without pay or other compensation except expenses actually and reasonably incurred as approved by the supervising agency.~~

~~(b) "Volunteer" does not include ~~[any person]~~ an individual participating in human subjects research ~~[and]~~ or a court-ordered compensatory service ~~[workers]~~ worker as defined in Section 67-20-2.~~

Section 2. Section 67-5b-102 is amended to read:**67-5b-102. Children's Justice Center -- Requirements of center -- Purposes of center.**

~~(1) (a) There is established a program, known as the Children's Justice Center Program, that provides a comprehensive, multidisciplinary, ~~[nonprofit,]~~ intergovernmental response to ~~[sexual abuse of children, physical abuse of children, and other crimes involving children where the child is a primary victim or a critical witness, such as in drug-related child endangerment cases,]~~ child abuse victims in a facility known as a Children's Justice Center.~~

~~(b) The attorney general shall administer the program.~~

~~(c) The attorney general shall:~~

~~(i) allocate the funds appropriated by a line item pursuant to Section 67-5b-103;~~

(ii) administer applications for state and federal grants and subgrants;

(iii) staff the Advisory Board on Children's Justice;

(iv) assist in the development of new centers; ~~and~~

(v) coordinate services between centers[.];

(vi) contract with counties and other entities for the provision of services;

(vii) provide training, technical assistance, and evaluation to centers; and

(viii) provide other services to comply with established minimum practice standards as required to maintain the state's and centers' eligibility for grants and subgrants.

(2) (a) The attorney general shall establish Children's Justice Centers ~~[or]~~, satellite offices, or multidisciplinary teams in Beaver County, Box Elder County, Cache County, Carbon County, Davis County, Duchesne County, Emery County, Grand County, Iron County, Kane County, Salt Lake County, San Juan County, Sanpete County, Sevier County, Summit County, Tooele County, Uintah County, Utah County, Wasatch County, Washington County, and Weber County.

(b) The attorney general may establish other centers, satellites, or multidisciplinary teams within a county and in other counties of the state.

(3) The attorney general and each center shall ~~[fulfill the statewide purpose of each center by]:~~

~~[(a) minimizing the time and duplication of effort required to investigate, prosecute, and initiate treatment for the abused child in the state;]~~

~~[(b) facilitating the investigation of the alleged offense against the abused child;]~~

~~[(c) conducting interviews of abused children and their families in a professional manner;]~~

(a) coordinate the activities of the public agencies involved in the investigation and prosecution of child abuse cases and the delivery of services to child abuse victims and child abuse victims' families;

(b) provide a neutral, child-friendly program, where interviews are conducted and services are provided to facilitate the effective and appropriate disposition of child abuse cases in juvenile, civil, and criminal court proceedings;

(c) facilitate a process for interviews of child abuse victims to be conducted in a professional and neutral manner;

(d) ~~[obtaining]~~ obtain reliable and admissible information ~~[which]~~ that can be used effectively in ~~[criminal and child protection proceedings]~~ child abuse cases in the state;

~~[(e) coordinating and tracking;]~~

~~[(i) the use of limited medical and psychiatric services;]~~

~~(e) maintain a multidisciplinary team that includes representatives of public agencies involved in the investigation and prosecution of child abuse cases and in the delivery of services to child abuse victims and child abuse victims' families;~~

~~(f) hold regularly scheduled case reviews with the multidisciplinary team;~~

~~(g) coordinate and track:~~

~~[(ii) (i) investigation of the alleged offense; and~~

~~[(iii) (ii) preparation of prosecution;~~

~~[(iv) treatment of the abused child and family; and]~~

~~[(v) education and training of persons who provide services to the abused child and its family in the state;]~~

~~[(f) expediting the processing of the case through the courts in the state;]~~

~~[(g) protecting the interest of the abused child and the community in the state;]~~

~~[(h) reducing trauma to the abused child in the state;]~~

~~[(i) enhancing the community understanding of sexual abuse of children, physical abuse of children, and other crimes in the state involving children where the child is a primary victim or a critical witness, such as in drug-related child endangerment cases;]~~

(h) maintain a working protocol that addresses the center's procedures for conducting forensic interviews and case reviews, and for ensuring a child abuse victim's access to medical and mental health services;

(i) maintain a system to track the status of cases and the provision of services to child abuse victims and child abuse victims' families;

(j) provide training for professionals involved in the investigation and prosecution of child abuse cases and in the provision of related treatment and services;

(k) enhance community understanding of child abuse cases; and

~~[(j) providing]~~ (l) provide as many services as possible that are required for the thorough and effective investigation of child abuse cases~~[-and]~~.

~~[(k) enhancing the community understanding of criminal offenses committed against or in the presence of children.]~~

(4) To assist a center in fulfilling the requirements and statewide purposes as provided in Subsection (3), each center may obtain access to any relevant juvenile court legal records and adult court legal records, unless sealed by the court.

~~[(5) The statewide purpose of this chapter is to establish a program that provides a comprehensive, multidisciplinary, nonprofit, intergovernmental response to sexual abuse of children, physical abuse~~

of children, and other crimes involving children where the child is a primary victim or a critical witness, such as drug-related child endangerment cases, in a facility known as a Children's Justice Center.]

Section 3. Section 67-5b-103 is amended to read:

67-5b-103. Appropriation and funding.

(1) Funding for centers under this section is intended to be broad-based, provided by a line item appropriation by the Legislature to the attorney general, and is intended to include federal grant money, local government money, and private donations.

(2) The money appropriated shall be used to contract with ~~[each public agency designated to oversee]~~ the county responsible for the operation and accountability of a center [and to cover administrative costs of coordination of the centers' operations] in accordance with Section 67-5b-102.

(3) The money appropriated may be used by the program to provide resources and contract as needed to support the development of the program and the implementation of evidence-based practices and requirements.

Section 4. Section 67-5b-104 is amended to read:

67-5b-104. Requirements of a memorandum of understanding.

(1) Before a center may be established, a memorandum of understanding regarding participation in operation of the center shall be executed among:

(a) the contracting ~~[public agency]~~ county designated to oversee the operation and accountability of the center, including the budget, costs, personnel, and management pursuant to Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;

(b) the Office of the Attorney General;

(c) at least one representative of a county or municipal law enforcement agency that investigates child abuse in the area to be served by the center;

(d) the division of Child and Family Services;

(e) the county or district attorney who routinely prosecutes child abuse cases in the area to be served by the center; and

(f) at least one representative of any other governmental entity that participates in child abuse investigations or offers services to child abuse victims that desires to participate in the operation of the center.

(2) A memorandum of understanding executed under this section shall include the agreement of each ~~[participating entity]~~ public agency, or its representative, described in Subsection (1) to cooperate in:

(a) developing a comprehensive and cooperative multidisciplinary team approach to investigating child abuse;

(b) reducing, to the greatest extent possible, the number of interviews required of a victim of child abuse to minimize the negative impact of the investigation on the child; and

(c) developing, maintaining, and supporting, through the center, an environment that emphasizes the best interests of children.

Section 5. Section 67-5b-105 is amended to read:

67-5b-105. Local advisory boards -- Membership.

(1) The cooperating public agencies and other persons shall make up each center's local advisory board, which shall be composed of the following people from the county or area:

(a) the local center director or the director's designee;

(b) a district attorney or county attorney having criminal jurisdiction or any designee;

(c) a representative of the attorney general's office, designated by the attorney general;

~~[(d) a county sheriff or a chief of police or their designee;]~~

(d) at least one official from a local law enforcement agency or the local law enforcement agency's designee;

(e) the county executive or the county executive's designee;

(f) a licensed nurse practitioner or physician;

(g) a licensed mental health professional;

(h) a criminal defense attorney;

(i) at least four members of the community at large provided, however, that the ~~[state advisory board]~~ Advisory Board on Children's Justice may authorize fewer members, although not less than two, if the local advisory board so requests;

(j) a guardian ad litem or representative of the Office of Guardian Ad Litem, designated by the director; ~~[and]~~

(k) a representative of the Division of Child and Family Services within the Department of Human Services, designated by the employee of the division who has supervisory responsibility for the county served by the center~~[.];~~

(l) if a center serves more than one county, one representative from each county served, appointed by the county executive; and

(m) additional members appointed as needed by the county executive.

(2) The members on each local advisory board who serve due to public office as provided in Subsections (1)(b) through (e) shall select the remaining members. The members on each local

advisory board shall select a chair of the local advisory board.

(3) The local advisory board may not supersede the authority of the contracting ~~[public agency]~~ county as designated in Section 67-5b-104.

(4) Appointees and designees shall serve a term or terms as designated in the bylaws of the local advisory board.

Section 6. Section 67-5b-106 is amended to read:

67-5b-106. Advisory Board on Children's Justice -- Membership -- Terms -- Duties -- Authority.

(1) The attorney general shall create an Advisory Board on Children's Justice to advise him about the Children's Justice Center Program.

(2) The board shall be composed of:

(a) the director of each Children's Justice Center;

(b) the attorney general or the attorney general's designee;

(c) a representative of the Utah Sheriffs Association, appointed by the attorney general;

(d) a chief of police, appointed by the attorney general;

(e) one juvenile court judge and one district court judge, appointed by the chief justice of the Supreme Court;

(f) one representative of the ~~[guardians ad litem]~~ Office of Guardian Ad Litem and one representative of the Court Appointed Special Advocates, appointed by the chief justice of the Supreme Court;

(g) a designated representative of the Division of Child and Family Services within the Department of Human Services, appointed by the director of that division;

(h) a licensed mental health professional, appointed by the attorney general;

(i) a person experienced in working with children with disabilities, appointed by the attorney general;

(j) one criminal defense attorney, licensed by the Utah State Bar and in good standing, appointed by the Utah Bar Commission;

(k) one criminal prosecutor, licensed by the Utah State Bar and in good standing, appointed by the Utah Prosecution Council;

(l) a member of the governor's staff, appointed by the governor;

(m) a member from the public, appointed by the attorney general, who exhibits sensitivity to the concerns of parents;

(n) a licensed nurse practitioner or physician, appointed by the attorney general; ~~and~~

(o) one senator, appointed by the president of the Senate;

(p) one representative, appointed by the speaker of the House; and

~~[(e)]~~ (q) additional members appointed as needed by the attorney general.

(3) (a) Except as required by Subsection (3)(b), as terms of current board members expire, the appointing authority shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the appointing authority shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(4) The Advisory Board on Children's Justice shall:

(a) coordinate and support the statewide purpose of the program;

(b) recommend statewide guidelines for the administration of the program;

(c) recommend training and improvements in training;

(d) review, evaluate, and make recommendations concerning state investigative, administrative, and judicial handling in ~~[both civil and criminal cases of child abuse, child sexual abuse, neglect, and other crimes involving children where the child is a primary victim or a critical witness, such as in drug-related child endangerment cases]~~ child abuse cases;

(e) recommend programs to improve the prompt and fair resolution of civil and criminal court proceedings; and

(f) recommend changes to state laws and procedures to provide comprehensive protection for children from abuse, child sexual abuse, neglect, and other crimes involving children where the child is a primary victim or a critical witness, such as in drug-related child endangerment cases.

(5) The Advisory Board on Children's Justice may not supersede the authority of contracting ~~[public agencies to oversee]~~ counties regarding operation of the centers, including the budget, costs, personnel, and management pursuant to Section 67-5b-104 and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

CHAPTER 291**S. B. 80**

Passed March 10, 2016
 Approved March 25, 2016
 Effective July 1, 2016

**INFRASTRUCTURE
 FUNDING AMENDMENTS**

Chief Sponsor: J. Stuart Adams
 House Sponsor: Lee B. Perry

LONG TITLE**General Description:**

This bill modifies provisions relating to infrastructure funding.

Highlighted Provisions:

This bill:

- ▶ modifies state sales and use tax earmarks;
- ▶ requires the Division of Finance to annually transfer a certain amount of revenue from the Transportation Fund to the Transportation Investment Fund of 2005; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2016-17:

- ▶ to Transportation - Transportation Investment Fund of 2005, as an ongoing appropriation:
 - from the Transportation Fund, (\$76,633,600).

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

- 59-12-103, as last amended by Laws of Utah 2015, Chapter 283
- 59-12-1201, as last amended by Laws of Utah 2012, Chapter 121
- 63N-2-512, as last amended by Laws of Utah 2015, Chapter 417 and renumbered and amended by Laws of Utah 2015, Chapter 283
- 72-2-106, as last amended by Laws of Utah 2010, Chapter 278
- 72-2-107, as last amended by Laws of Utah 2010, Chapter 391
- 72-2-124, as last amended by Laws of Utah 2015, Chapter 421

Utah Code Sections Affected by Coordination Clause:

- 59-12-103, as last amended by Laws of Utah 2015, Chapter 283

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

- (i) stored;
- (ii) used; or
- (iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

- (i) stored;
- (ii) used; or
- (iii) consumed; and

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition.

(2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70%; and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not

separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(d)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(f) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection (2)(d)(i)(A)(I).

(h) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

- (A) on the first day of a calendar quarter; and
- (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) The following state taxes shall be deposited into the General Fund:

- (i) the tax imposed by Subsection (2)(a)(i)(A);
- (ii) the tax imposed by Subsection (2)(b)(i);
- (iii) the tax imposed by Subsection (2)(c)(i); or
- (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

- (i) the tax imposed by Subsection (2)(a)(ii);
- (ii) the tax imposed by Subsection (2)(b)(ii);
- (iii) the tax imposed by Subsection (2)(c)(ii); and
- (iv) the tax imposed by Subsection (2)(d)(i)(B).

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

- (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
- (B) for the fiscal year; or
- (ii) \$17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund

under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than \$1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) \$17,500,000.

(b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as dedicated credits; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as dedicated credits; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 94% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c) and subject to Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred for employing additional technical staff for the administration of water rights.

(f) At the end of each fiscal year, any unexpended dedicated credits described in Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(6) Notwithstanding Subsection (3)(a), ~~for a fiscal year beginning on or after July 1, 2003,~~ and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited ~~in the Transportation Fund created by Section 72-2-102.~~ as follows:

(a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6) shall be

deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124;

(b) for fiscal year 2017-18 only:

(i) 80% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 20% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(c) for fiscal year 2018-19 only:

(i) 60% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 40% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(d) for fiscal year 2019-20 only:

(i) 40% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 60% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(e) for fiscal year 2020-21 only:

(i) 20% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 80% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103; and

(f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103.

~~[(7) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created in Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable transactions under Subsection (1).]~~

[~~(8)~~ (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection [~~(7)~~ (6), and subject to Subsection [~~(8)~~ (7)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

(A) the tax imposed by Subsection (2)(a)(i)(A);

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections [~~(8)~~ (7)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections [~~(8)~~ (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections [~~(8)~~ (7)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection [~~(8)~~ (7)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections [~~(8)~~ (7)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection [~~(8)~~ (7)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection [~~(8)~~ (7)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections [~~(8)~~ (7)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection [~~(8)~~ (7)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections [~~(8)~~ (7)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections [~~(8)~~ (7)(a)(i)(A) through (D) for the current fiscal year under Subsection [~~(8)~~ (7)(a).

(iii) In all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections [~~(8)~~ (7)(a)(i)(A) through (D) was deposited under Subsection [~~(8)~~ (7)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections [~~(8)~~ (7)(a)(i)(A) through (D) in the current fiscal year under Subsection [~~(8)~~ (7)(a).

[~~(9)~~ (8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under [~~Subsections (7) and (8), for a fiscal year beginning on or after July 1, 2012]~~ Subsections (6) and (7), for the 2016-17 and 2017-18 fiscal years only, the Division of Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the

Transportation Investment Fund of 2005 created by Section 72-2-124.

(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for a fiscal year beginning on or after July 1, 2018, the Division of Finance shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

- (i) the tax imposed by Subsection (2)(a)(i)(A);
- (ii) the tax imposed by Subsection (2)(b)(i);
- (iii) the tax imposed by Subsection (2)(c)(i); and
- (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

[40] (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

[41] (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection [(11)(b), and] (10)(c), in addition to any amounts deposited under Subsections (6), (7), and (8), [and (9), beginning on July 1, 2012] and for the 2016-17 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by a [.025%] .05% tax rate on the transactions described in Subsection (1).

(b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of revenue described as follows:

- (i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);
- (ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);
- (iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);
- (iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1); and
- (v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1).

[4b] (c) For purposes of [Subsection (11)(a)] Subsections (10)(a) and (b), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and

food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(d).

[12] (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a .025% tax rate on the transactions described in Subsection (1) to be expended to address chokepoints in construction management.]

[4b] For purposes of Subsection (12)(a), the Division of Finance may not deposit into the Transportation Fund any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(d).]

[43] (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under [Subsection] Section 63N-2-510[(3)] that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

[44] (12) Notwithstanding Subsections (4) through [(43)] (11), an amount required to be expended or deposited in accordance with Subsections (4) through [(43)] (11) may not include an amount the Division of Finance deposits in accordance with Section 59-12-103.2.

Section 2. Section 59-12-1201 is amended to read:

59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration, collection, and enforcement of tax -- Administrative charge -- Deposits.

(1) (a) Except as provided in Subsection (3), there is imposed a tax of 2.5% on all short-term leases and rentals of motor vehicles not exceeding 30 days.

(b) The tax imposed in this section is in addition to all other state, county, or municipal fees and taxes imposed on rentals of motor vehicles.

(2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax imposed under Subsection (1) shall take effect on the first day of a calendar quarter.

(b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of a tax rate increase imposed under Subsection (1).

(ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(3) A motor vehicle is exempt from the tax imposed under Subsection (1) if:

(a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

(b) the motor vehicle is rented as a personal household goods moving van; or

(c) the lease or rental of the motor vehicle is made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an insurance agreement.

(4) (a) (i) The tax authorized under this section shall be administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under Part 1, Tax Collection; and

(B) Chapter 1, General Taxation Policies.

(ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to Subsections 59-12-103(4) through [(12)] (10) or Section 59-12-107.1 or 59-12-123.

(b) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this part.

(c) Except as provided under Subsection (4)(b), all revenue received by the commission under this section shall be deposited daily with the state treasurer and credited monthly to the Marda Dillree Corridor Preservation Fund under Section 72-2-117.

Section 3. Section 63N-2-512 is amended to read:

63N-2-512. Hotel Impact Mitigation Fund.

(1) As used in this section:

(a) "Affected hotel" means a hotel built in the state before July 1, 2014.

(b) "Direct losses" means affected hotels' losses of hotel guest business attributable to the qualified hotel room supply being added to the market in the state.

(c) "Mitigation fund" means the Hotel Impact Mitigation Fund, created in Subsection (2).

(2) There is created an expendable special revenue fund known as the Hotel Impact Mitigation Fund.

(3) The mitigation fund shall:

(a) be administered by the board;

(b) earn interest; and

(c) be funded by:

(i) payments required to be deposited into the mitigation fund by the Division of Finance under Subsection 59-12-103[(13)](11);

(ii) money required to be deposited into the mitigation fund under Subsection 17-31-9(2) by the county in which a qualified hotel is located; and

(iii) any money deposited into the mitigation fund under Subsection (6).

(4) Interest earned by the mitigation fund shall be deposited into the mitigation fund.

(5) (a) In accordance with office rules, the board shall annually pay up to \$2,100,000 of money in the mitigation fund:

(i) to affected hotels;

(ii) for four consecutive years, beginning 12 months after the date of initial occupancy of the qualified hotel occurs; and

(iii) to mitigate direct losses.

(b) (i) If the amount the board pays under Subsection (5)(a) in any year is less than \$2,100,000, the board shall pay to the Stay Another Day and Bounce Back Fund, created in Section 63N-2-511, the difference between \$2,100,000 and the amount paid under Subsection (5)(a).

(ii) The board shall make any required payment under Subsection (5)(b)(i) within 90 days after the end of the year for which a determination is made of how much the board is required to pay to affected hotels under Subsection (5)(a).

(6) A host local government or qualified hotel owner may make payments to the Division of Finance for deposit into the mitigation fund.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall, in consultation with the Utah Hotel and Lodging Association and the county in which the qualified hotel is located, make rules establishing procedures and criteria governing payments under Subsection (5)(a) to affected hotels.

Section 4. Section 72-2-106 is amended to read:

72-2-106. Appropriation and transfer from Transportation Fund.

(1) On and after July 1, 1981, there is appropriated from the Transportation Fund to the use of the department an amount equal to two-elevenths of the taxes collected from the motor fuel tax and the special fuel tax, exclusive of the formula amount appropriated to the B and C road fund and the collector road fund, to be used for highway rehabilitation.

(2) For a fiscal year beginning on or after July 1, 2016, the Division of Finance shall annually transfer an amount equal to the amount of revenue generated by a tax imposed on motor and special

fuel that is sold, used, or received for sale or used in this state at a rate of 1.8 cents per gallon to the Transportation Investment Fund of 2005 created by Section 72-2-124.

Section 5. Section 72-2-107 is amended to read:

72-2-107. Appropriation from Transportation Fund -- Deposit in class B and class C roads account.

(1) There is appropriated to the department from the Transportation Fund annually an amount equal to 30% of an amount which the director of finance shall compute in the following manner: The total revenue deposited into the Transportation Fund during the fiscal year from state highway-user taxes and fees, minus~~[-(a)]~~ those amounts appropriated or transferred from the Transportation Fund during the same fiscal year to:

~~[(i)]~~ (a) the Department of Public Safety;

~~[(ii)]~~ (b) the State Tax Commission;

~~[(iii)]~~ (c) the Division of Finance;

~~[(iv)]~~ (d) the Utah Travel Council; and

~~[(v)]~~ (e) any other amounts appropriated or transferred for any other state agencies not a part of the department~~[-and]~~.

~~[(b) the amount of sales and use tax revenue deposited in the Transportation Fund in accordance with Section 59-12-103.]~~

(2) (a) Except as provided in Subsection (2)(b), all of this money shall be placed in an account to be known as the class B and class C roads account to be used as provided in this title.

(b) The director of finance shall annually transfer \$500,000 of the amount calculated under Subsection (1) to the department as dedicated credits for the State Park Access Highways Improvement Program created in Section 72-3-207.

(3) Each quarter of every year the director of finance shall make the necessary accounting entries to transfer the money appropriated under this section to the class B and class C roads account.

(4) The funds in the class B and class C roads account shall be expended under the direction of the department as the Legislature shall provide.

Section 6. Section 72-2-124 is amended to read:

72-2-124. Transportation Investment Fund of 2005.

(1) There is created a capital projects fund entitled the Transportation Investment Fund of 2005.

(2) The fund consists of money generated from the following sources:

(a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways;

(b) appropriations made to the fund by the Legislature;

(c) the sales and use tax revenues deposited into the fund in accordance with Section 59-12-103; ~~[and]~~

(d) registration fees designated under Section 41-1a-1201~~[-]; and~~

(e) revenues transferred to the fund in accordance with Section 72-2-106.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) Except as provided in Subsection (4)(b), the executive director may use fund money only to pay:

(i) the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects described in Subsections 63B-18-401(2), (3), and (4);

(iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 minus the costs paid from the County of the First Class Highway Projects Fund in accordance with Subsection 72-2-121(4)(f);

(iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on \$30,000,000 of the revenue bonds issued by Salt Lake County;

(v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 for projects prioritized in accordance with Section 72-2-125;

(vi) all highway general obligation bonds that are intended to be paid from revenues in the Centennial Highway Fund created by Section 72-2-118; and

(vii) for fiscal year 2015-16 only, to transfer \$25,000,000 to the County of the First Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121.

(b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).

(5) (a) Before bonds authorized by Section 63B-18-401 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the department needs to provide funding for the projects identified in Subsections 63B-18-401(2), (3), and (4) for the next fiscal year.

(b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.

(6) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 in the current fiscal year to the appropriate debt service or sinking fund.

(7) (a) The commission shall develop prior to June 30, 2015, a funding plan and identify a highway construction program using the prioritization process for new transportation capacity projects adopted under Section 72-1-304 that meets long-term transportation needs beyond the normal four year programming horizon.

(b) The commission shall report the plan and program established under Subsection (7)(a) to the Transportation Interim Committee of the Legislature by no later than September 30, 2015.

Section 7. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or amounts indicated. These sums of money are in addition to amounts previously appropriated for fiscal year 2017.

To Transportation - Transportation Investment Fund of 2005

From Transportation Fund (\$76,633,600)

The Legislature intends that the Department of Transportation discontinue the practice of transferring the revenue from the 1997 motor fuel tax increase from the Transportation Fund to the Transportation Investment Fund of 2005 on July 1, 2016.

Section 8. Effective date.

This bill takes effect on July 1, 2016.

Section 9. Coordinating S.B. 80 with S.B. 246 -- Substantive amendments.

If this S.B. 80 and S.B. 246, Funding for Infrastructure Revisions, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) repealing the existing language in Subsection 59-12-103(8) in S.B. 80 and enacting Subsection 59-12-103(8) to read:

“(8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(c) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for a fiscal year beginning on or after July 1, 2018, the Division of Finance shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(d)(i)(A)(I).”;
and

(2) providing that the amendments in S.B. 246 to Subsection 59-12-103(9) do not take effect.

CHAPTER 292**S. B. 96**

Passed March 10, 2016
 Approved March 25, 2016
 Effective July 1, 2017

**UNIFORM DEPLOYED PARENTS
 CUSTODY AND PARENT-TIME ACT**

Chief Sponsor: Lyle W. Hillyard
 House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill creates a uniform law governing a deploying parent, child custody, and parent-time requirements.

Highlighted Provisions:

This bill:

- ▶ creates a notification requirement for a deploying parent;
- ▶ specifies a custodial responsibility plan;
- ▶ determines form and modification of agreements for temporary custody;
- ▶ establishes jurisdiction by certain courts; and
- ▶ designates certain content for custody and child support orders.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill has a special effective date.

Utah Code Sections Affected:**ENACTS:**

78B-20-101, Utah Code Annotated 1953
 78B-20-102, Utah Code Annotated 1953
 78B-20-103, Utah Code Annotated 1953
 78B-20-104, Utah Code Annotated 1953
 78B-20-105, Utah Code Annotated 1953
 78B-20-106, Utah Code Annotated 1953
 78B-20-107, Utah Code Annotated 1953
 78B-20-201, Utah Code Annotated 1953
 78B-20-202, Utah Code Annotated 1953
 78B-20-203, Utah Code Annotated 1953
 78B-20-204, Utah Code Annotated 1953
 78B-20-205, Utah Code Annotated 1953
 78B-20-301, Utah Code Annotated 1953
 78B-20-302, Utah Code Annotated 1953
 78B-20-303, Utah Code Annotated 1953
 78B-20-304, Utah Code Annotated 1953
 78B-20-305, Utah Code Annotated 1953
 78B-20-306, Utah Code Annotated 1953
 78B-20-307, Utah Code Annotated 1953
 78B-20-308, Utah Code Annotated 1953
 78B-20-309, Utah Code Annotated 1953
 78B-20-310, Utah Code Annotated 1953
 78B-20-311, Utah Code Annotated 1953
 78B-20-401, Utah Code Annotated 1953
 78B-20-402, Utah Code Annotated 1953
 78B-20-403, Utah Code Annotated 1953
 78B-20-404, Utah Code Annotated 1953
 78B-20-501, Utah Code Annotated 1953
 78B-20-502, Utah Code Annotated 1953
 78B-20-503, Utah Code Annotated 1953

REPEALS:

30-3-40, as last amended by Laws of Utah 2010,
 Chapter 218

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-20-101 is enacted to read:

**CHAPTER 20. UNIFORM DEPLOYED
 PARENTS CUSTODY, PARENT-TIME, AND
 VISITATION ACT**

Part 1. General Provisions**78B-20-101. Title.**

This chapter is known as the "Uniform Deployed Parents Custody, Parent-Time, and Visitation Act."

Section 2. Section 78B-20-102 is enacted to read:

78B-20-102. Definitions.

As used in this chapter:

(1) "Adult" means an individual who has attained 18 years of age or is an emancipated minor.

(2) "Caretaking authority" means the right to live with and care for a child on a day-to-day basis. The term includes physical custody, parent-time, right to access, and visitation.

(3) "Child" means:

(a) an unemancipated individual who has not attained 18 years of age; or

(b) an adult son or daughter by birth or adoption, or under law of this state other than this chapter, who is the subject of a court order concerning custodial responsibility.

(4) "Court" means a tribunal, including an administrative agency, authorized under the law of this state other than this chapter to make, enforce, or modify a decision regarding custodial responsibility.

(5) "Custodial responsibility" includes all powers and duties relating to caretaking authority and decision-making authority for a child. The term includes physical custody, legal custody, parent-time, right to access, visitation, and authority to grant limited contact with a child.

(6) "Decision-making authority" means the power to make important decisions regarding a child, including decisions regarding the child's education, religious training, health care, extracurricular activities, and travel. The term does not include the power to make decisions that necessarily accompany a grant of caretaking authority.

(7) "Deploying parent" means a servicemember who is deployed or has been notified of impending deployment and is:

(a) a parent of a child under the law of this state other than this chapter; or

(b) an individual who has custodial responsibility for a child under the law of this state other than this chapter.

(8) “Deployment” means the movement or mobilization of a servicemember for more than 90 days but less than 18 months pursuant to uniformed service orders that:

- (a) are designated as unaccompanied;
- (b) do not authorize dependent travel; or

(c) otherwise do not permit the movement of family members to the location to which the servicemember is deployed.

(9) “Family member” means a sibling, aunt, uncle, cousin, stepparent, or grandparent of a child, or an individual recognized to be in a familial relationship with a child under the law of this state other than this chapter.

(10) “Limited contact” means the authority of a nonparent to visit a child for a limited time. The term includes authority to take the child to a place other than the residence of the child.

(11) “Nonparent” means an individual other than a deploying parent or other parent.

(12) “Other parent” means an individual who, in common with a deploying parent, is:

(a) a parent of a child under the law of this state other than this chapter; or

(b) an individual who has custodial responsibility for a child under the law of this state other than this chapter.

(13) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(14) “Return from deployment” means the conclusion of a servicemember’s deployment as specified in uniformed service orders.

(15) “Servicemember” means a member of a uniformed service.

(16) “Sign” means, with present intent to authenticate or adopt a record:

- (a) to execute or adopt a tangible symbol; or
- (b) to attach to or logically associate with the record an electronic symbol, sound, or process.

(17) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(18) “Uniformed service” means:

(a) active and reserve components of the United States armed forces;

(b) the United States Merchant Marine;

(c) the commissioned corps of the United States Public Health Service;

(d) the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or

(e) the national guard of a state.

Section 3. Section 78B-20-103 is enacted to read:

78B-20-103. Remedies for noncompliance.

In addition to other remedies under the law of this state other than this chapter, if a court finds that a party to a proceeding under this chapter has acted in bad faith or intentionally failed to comply with this chapter or a court order issued under this chapter, the court may assess reasonable attorney fees and costs against the party and order other appropriate relief.

Section 4. Section 78B-20-104 is enacted to read:

78B-20-104. Jurisdiction.

(1) A court may issue an order regarding custodial responsibility under this chapter only if the court has jurisdiction under Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act.

(2) If a court has issued a temporary order regarding custodial responsibility pursuant to Part 3, Judicial Procedure for Granting Custodial Responsibility During Deployment, the residence of the deploying parent is not changed by reason of the deployment for the purposes of Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act, during the deployment.

(3) If a court has issued a permanent order regarding custodial responsibility before notice of deployment and the parents modify that order temporarily by agreement pursuant to Part 2, Agreement Addressing Custodial Responsibility During Deployment, the residence of the deploying parent is not changed by reason of the deployment for the purposes of Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act.

(4) If a court in another state has issued a temporary order regarding custodial responsibility as a result of impending or current deployment, the residence of the deploying parent is not changed by reason of the deployment for the purposes of Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act.

(5) This section does not prevent a court from exercising temporary emergency jurisdiction under Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act.

Section 5. Section 78B-20-105 is enacted to read:

78B-20-105. Notification required of deploying parent.

(1) Except as otherwise provided in Subsection (4) and subject to Subsection (3), a deploying parent shall in a record notify the other parent of a pending deployment not later than seven days after receiving notice of deployment unless reasonably prevented from doing so by the circumstances of service. If the circumstances of service prevent giving notification within the seven days, the

deploying parent shall give the notification as soon as reasonably possible.

(2) Except as otherwise provided in Subsection (4) and subject to Subsection (3), each parent shall in a record provide the other parent with a plan for fulfilling that parent's share of custodial responsibility during deployment. Each parent shall provide the plan as soon as reasonably possible after notification of deployment is given under Subsection (1).

(3) If a court order currently in effect prohibits disclosure of the address or contact information of the other parent, notification of deployment under Subsection (1), or notification of a plan for custodial responsibility during deployment under Subsection (2), may be made only to the issuing court. If the address of the other parent is available to the issuing court, the court shall forward the notification to the other parent. The court shall keep confidential the address or contact information of the other parent.

(4) Notification in a record under Subsection (1) or (2) is not required if the parents are living in the same residence and both parents have actual notice of the deployment or plan.

(5) In a proceeding regarding custodial responsibility, a court may consider the reasonableness of a parent's efforts to comply with this section.

Section 6. Section 78B-20-106 is enacted to read:

78B-20-106. Duty to notify of change of address.

(1) Except as otherwise provided in Subsection (2), an individual to whom custodial responsibility has been granted during deployment pursuant to Part 2, Agreement Addressing Custodial Responsibility During Deployment, or Part 3, Judicial Procedure for Granting Custodial Responsibility During Deployment, shall notify the deploying parent and any other individual with custodial responsibility of a child of any change of the individual's mailing address or residence until the grant is terminated. The individual shall provide notice to any court that has issued a custody or child support order concerning the child, which is in effect.

(2) If a court order currently in effect prohibits disclosure of the address or contact information of an individual to whom custodial responsibility has been granted, a notification under Subsection (1) may be made only to the court that issued the order. The court shall keep confidential the mailing address or residence of the individual to whom custodial responsibility has been granted.

Section 7. Section 78B-20-107 is enacted to read:

78B-20-107. General consideration in custody proceeding of parent's military service.

In a proceeding for custodial responsibility of a child of a servicemember, a court may not consider a parent's past deployment or possible future deployment in itself in determining the best interest of the child but may consider any significant impact on the best interest of the child of the parent's past or possible future deployment.

Section 8. Section 78B-20-201 is enacted to read:

Part 2. Agreement Addressing Custodial Responsibility During Deployment

78B-20-201. Form of agreement.

(1) The parents of a child may enter into a temporary agreement under this part granting custodial responsibility during deployment.

(2) An agreement under Subsection (1) shall be:

(a) in writing; and

(b) signed by both parents and any nonparent to whom custodial responsibility is granted.

(3) Subject to Subsection (4), an agreement under Subsection (1), if feasible, shall:

(a) identify the destination, duration, and conditions of the deployment that is the basis for the agreement;

(b) specify the allocation of caretaking authority among the deploying parent, the other parent, and any nonparent;

(c) specify any decision-making authority that accompanies a grant of caretaking authority;

(d) specify any grant of limited contact to a nonparent;

(e) if under the agreement custodial responsibility is shared by the other parent and a nonparent, or by other nonparents, provide a process to resolve any dispute that may arise;

(f) specify the frequency, duration, and means, including electronic means, by which the deploying parent will have contact with the child, any role to be played by the other parent in facilitating the contact, and the allocation of any costs of contact;

(g) specify the contact between the deploying parent and child during the time the deploying parent is on leave or is otherwise available;

(h) acknowledge that any party's child-support obligation cannot be modified by the agreement, and that changing the terms of the obligation during deployment requires modification in the appropriate court;

(i) provide that the agreement will terminate according to the procedures under Part 4, Return from Deployment, after the deploying parent returns from deployment; and

(j) if the agreement is required to be filed pursuant to Section 78B-20-205, specify which parent is required to file the agreement.

(4) The omission of any of the items specified in Subsection (3) does not invalidate an agreement under this section.

Section 9. Section 78B-20-202 is enacted to read:

78B-20-202. Nature of authority created by agreement.

(1) An agreement under this part is temporary and terminates pursuant to Part 4, Return from Deployment, after the deploying parent returns from deployment, unless the agreement has been terminated before that time by court order or modification under Section 78B-2-203. The agreement may not create an independent, continuing right to caretaking authority, decision-making authority, or limited contact in an individual to whom custodial responsibility is given.

(2) A nonparent who has caretaking authority, decision-making authority, or limited contact by an agreement under this part has standing to enforce the agreement until it has been terminated by court order, by modification under Section 78B-20-203, or under Part 4, Return from Deployment.

Section 10. Section 78B-20-203 is enacted to read:

78B-20-203. Modification of agreement.

(1) By mutual consent, the parents of a child may modify an agreement regarding custodial responsibility made pursuant to this part.

(2) If an agreement is modified under Subsection (1) before deployment of a deploying parent, the modification shall be in writing and signed by both parents and any nonparent who will exercise custodial responsibility under the modified agreement.

(3) If an agreement is modified under Subsection (1) during deployment of a deployed parent, the modification shall be agreed to in a record by both parents and any nonparent who will exercise custodial responsibility under the modified agreement.

Section 11. Section 78B-20-204 is enacted to read:

78B-20-204. Power of attorney.

A deploying parent, by power of attorney, may delegate all or part of custodial responsibility to an adult nonparent for the period of deployment if no other parent possesses custodial responsibility under the law of this state other than this chapter or if a court order currently in effect prohibits contact between the child and the other parent. The deploying parent may revoke the power of attorney by signing a revocation of the power.

Section 12. Section 78B-20-205 is enacted to read:

78B-20-205. Filing agreement or power of attorney with court.

An agreement or power of attorney under this part shall be filed within a reasonable time with any court that has entered an order on custodial responsibility or child support that is in effect concerning the child who is the subject of the

agreement or power. The case number and heading of the pending case concerning custodial responsibility or child support shall be provided to the court with the agreement or power.

Section 13. Section 78B-20-301 is enacted to read:

Part 3. Judicial Procedure for Granting Custodial Responsibility During Deployment

78B-20-301. Definition.

In this part, "close and substantial relationship" means a relationship in which a significant bond exists between a child and a nonparent.

Section 14. Section 78B-20-302 is enacted to read:

78B-20-302. Proceeding for temporary custody -- Order.

(1) After a deploying parent receives notice of deployment and until the deployment terminates, a court may issue a temporary order granting custodial responsibility unless prohibited by Section 39-7-105 and the Servicemembers Civil Relief Act, 50 U.S.C. Appendix Sections 521 and 522. A court may not issue a permanent order granting custodial responsibility without the consent of the deploying parent.

(2) At any time after a deploying parent receives notice of deployment, either parent may file a motion regarding custodial responsibility of a child during deployment. The motion shall be filed in a pending proceeding for custodial responsibility in a court with jurisdiction under Section 78B-20-104 or, if there is no pending proceeding in a court with jurisdiction under Section 78B-20-104, in a new action for granting custodial responsibility during deployment.

Section 15. Section 78B-20-303 is enacted to read:

78B-20-303. Expedited hearing.

If a motion to grant custodial responsibility is filed under Subsection 78B-20-302(2) before a deploying parent deploys, the court shall conduct an expedited hearing.

Section 16. Section 78B-20-304 is enacted to read:

78B-20-304. Testimony by electronic means.

In a proceeding under this part, a party or witness who is not reasonably available to appear personally may appear, provide testimony, and present evidence by electronic means unless the court finds good cause to require a personal appearance.

Section 17. Section 78B-20-305 is enacted to read:

78B-20-305. Effect of prior judicial order or agreement.

In a proceeding for a grant of custodial responsibility pursuant to this part, the following rules apply:

(1) a prior judicial order designating custodial responsibility in the event of deployment is binding on the court unless the circumstances meet the requirements of the law of this state other than this chapter for modifying a judicial order regarding custodial responsibility; and

(2) the court shall enforce a prior written agreement between the parents for designating custodial responsibility in the event of deployment, including an agreement executed under Part 2, Agreement Addressing Custodial Responsibility During Deployment, unless the court finds that the agreement is contrary to the best interest of the child.

Section 18. Section 78B-20-306 is enacted to read:

78B-20-306. Grant of caretaking or decision-making authority to nonparent.

(1) On motion of a deploying parent and in accordance with the law of this state other than this chapter, if it is in the best interest of the child a court may grant caretaking authority to a nonparent who is an adult family member of the child with whom the child has a close and substantial relationship.

(2) Unless a grant of caretaking authority to a nonparent under Subsection (1) is agreed to by the other parent, the grant is limited to an amount of time not greater than:

(a) the amount of time granted to the deploying parent under a permanent custody order, but the court may add unusual travel time necessary to transport the child; or

(b) in the absence of a permanent custody order that is currently in effect, the amount of time that the deploying parent habitually cared for the child before being notified of deployment, but the court may add unusual travel time necessary to transport the child.

(3) A court may grant part of a deploying parent's decision-making authority, if the deploying parent is unable to exercise that authority, to a nonparent who is an adult family member of the child with whom the child has a close and substantial relationship. If a court grants the authority to a nonparent, the court shall specify the decision-making powers granted, including decisions regarding the child's education, religious training, health care, extracurricular activities, and travel.

Section 19. Section 78B-20-307 is enacted to read:

78B-20-307. Grant of limited contact.

On motion of a deploying parent, and in accordance with the law of this state other than this chapter, unless the court finds that the contact would be contrary to the best interest of the child, a court shall grant limited contact to a nonparent who is a family member of the child or an individual with

whom the child has a close and substantial relationship.

Section 20. Section 78B-20-308 is enacted to read:

78B-20-308. Nature of authority created by temporary custody order.

(1) A grant of authority under this part is temporary and terminates under Part 4, Return from Deployment, after the return from deployment of the deploying parent, unless the grant has been terminated before that time by court order. The grant may not create an independent, continuing right to caretaking authority, decision-making authority, or limited contact in an individual to whom it is granted.

(2) A nonparent granted caretaking authority, decision-making authority, or limited contact under this part has standing to enforce the grant until it is terminated by court order or under Part 4, Return from Deployment.

Section 21. Section 78B-20-309 is enacted to read:

78B-20-309. Content of temporary custody order.

(1) An order granting custodial responsibility under this part shall:

(a) designate the order as temporary; and

(b) identify to the extent feasible the destination, duration, and conditions of the deployment.

(2) If applicable, an order for custodial responsibility under this part shall:

(a) specify the allocation of caretaking authority, decision-making authority, or limited contact among the deploying parent, the other parent, and any nonparent;

(b) if the order divides caretaking or decision-making authority between individuals, or grants caretaking authority to one individual and limited contact to another, provide a process to resolve any dispute that may arise;

(c) provide for liberal communication between the deploying parent and the child during deployment, including through electronic means, unless contrary to the best interest of the child, and allocate any costs of communications;

(d) provide for liberal contact between the deploying parent and the child during the time the deploying parent is on leave or otherwise available, unless contrary to the best interest of the child;

(e) provide for reasonable contact between the deploying parent and the child after return from deployment until the temporary order is terminated, even if the time of contact exceeds the time the deploying parent spent with the child before entry of the temporary order; and

(f) provide that the order will terminate pursuant to Part 4, Return from Deployment, after the deploying parent returns from deployment.

Section 22. Section 78B-20-310 is enacted to read:

78B-20-310. Order for child support.

If a court has issued an order granting caretaking authority under this part, or an agreement granting caretaking authority has been executed under Part 2, Agreement Addressing Custodial Responsibility During Deployment, the court may enter a temporary order for child support consistent with the law of this state other than this chapter if the court has jurisdiction under Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act.

Section 23. Section 78B-20-311 is enacted to read:

78B-20-311. Modifying or terminating grant of custodial responsibility to nonparent.

(1) Except for an order under Section 78B-20-305, except as otherwise provided in Subsection (2), and consistent with Section 39-7-105 and the Servicemembers Civil Relief Act, 50 U.S.C. Appendix Sections 521 and 522, on motion of a deploying parent, other parent, or any nonparent to whom caretaking authority, decision-making authority, or limited contact has been granted, the court may modify or terminate the grant if the modification or termination is consistent with this part and it is in the best interest of the child. A modification is temporary and terminates pursuant to Part 4, Return from Deployment, after the deploying parent returns from deployment, unless the grant has been terminated before that time by court order.

(2) On motion of a deploying parent, the court shall terminate a grant of limited contact.

Section 24. Section 78B-20-401 is enacted to read:

Part 4. Return from Deployment

78B-20-401. Procedure for terminating temporary grant of custodial responsibility established by agreement.

(1) At any time after return from deployment, a temporary agreement granting custodial responsibility under Part 2, Agreement Addressing Custodial Responsibility During Deployment, may be terminated by an agreement to terminate signed by the deploying parent and the other parent.

(2) A temporary agreement under Part 2, Agreement Addressing Custodial Responsibility During Deployment, granting custodial responsibility terminates:

(a) if an agreement to terminate under Subsection (1) specifies a date for termination, on that date; or

(b) if the agreement to terminate does not specify a date, on the date the agreement to terminate is signed by the deploying parent and the other parent.

(3) In the absence of an agreement under Subsection (1) to terminate, a temporary

agreement granting custodial responsibility terminates under Part 2, Agreement Addressing Custodial Responsibility During Deployment, 60 days after the deploying parent gives notice to the other parent that the deploying parent returned from deployment.

(4) If a temporary agreement granting custodial responsibility was filed with a court pursuant to Section 78B-20-205, an agreement to terminate the temporary agreement shall also be filed with that court within a reasonable time after the signing of the agreement. The case number and heading of the case concerning custodial responsibility or child support shall be provided to the court with the agreement to terminate.

Section 25. Section 78B-20-402 is enacted to read:

78B-20-402. Consent procedure for terminating temporary grant of custodial responsibility established by court order.

At any time after a deploying parent returns from deployment, the deploying parent and the other parent may file with the court an agreement to terminate a temporary order for custodial responsibility issued under Part 3, Judicial Procedure for Granting Custodial Responsibility During Deployment. After an agreement has been filed, the court shall issue an order terminating the temporary order effective on the date specified in the agreement. If a date is not specified, the order is effective immediately.

Section 26. Section 78B-20-403 is enacted to read:

78B-20-403. Visitation before termination of temporary grant of custodial responsibility.

After a deploying parent returns from deployment until a temporary agreement or order for custodial responsibility established under Part 2, Agreement Addressing Custodial Responsibility During Deployment, or Part 3, Judicial Procedure for Granting Custodial Responsibility During Deployment, is terminated, the court shall issue a temporary order granting the deploying parent reasonable contact with the child unless it is contrary to the best interest of the child, even if the time of contact exceeds the time the deploying parent spent with the child before deployment.

Section 27. Section 78B-20-404 is enacted to read:

78B-20-404. Termination by operation of law of temporary grant of custodial responsibility established by court order.

(1) If an agreement between the parties to terminate a temporary order for custodial responsibility under Part 3, Judicial Procedure for Granting Custodial Responsibility During Deployment, has not been filed, the order terminates 60 days after the deploying parent gives notice to the other parent and any nonparent granted custodial responsibility that the deploying parent has returned from deployment.

(2) A proceeding seeking to prevent termination of a temporary order for custodial responsibility is governed by the law of this state other than this chapter.

Section 28. Section 78B-20-501 is enacted to read:

Part 5. Miscellaneous Provisions

78B-20-501. Uniformity of application and construction.

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Section 29. Section 78B-20-502 is enacted to read:

78B-20-502. Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

Section 30. Section 78B-20-503 is enacted to read:

78B-20-503. Savings clause.

This chapter does not affect the validity of a temporary court order concerning custodial responsibility during deployment that was entered before May 10, 2016.

Section 31. Repealer.

This bill repeals:

Section 30-3-40, Custody and parent-time when one parent is a servicemember.

Section 32. Effective date.

This bill takes effect July 1, 2017.

CHAPTER 293**S. B. 111**

Passed March 10, 2016
 Approved March 25, 2016
 Effective May 10, 2016

**GUARDIANSHIP -
 RIGHT OF ASSOCIATION**

Chief Sponsor: Todd Weiler
 House Sponsor: Timothy D. Hawkes

LONG TITLE**General Description:**

This bill amends the Utah Uniform Probate Code in relation to association between an adult ward and a relative of the adult ward or certain other individuals.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ places limitations on the power of a guardian to prohibit association between an adult ward and a relative of the adult ward or certain other individuals;
- ▶ provides for proceedings to alter or enforce the limitations described in this bill;
- ▶ provides for the award of attorney fees and sanctions; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

75-5-312, as last amended by Laws of Utah 2014, Chapter 142

ENACTS:

75-5-312.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 75-5-312 is amended to read:

75-5-312. General powers and duties of guardian -- Penalties.

(1) A guardian of an incapacitated person has only the powers, rights, and duties respecting the ward granted in the order of appointment under Section 75-5-304.

(2) ~~[Absent a specific limitation on the guardian's power in the order of appointment, the]~~ Except as provided in Subsection (4), a guardian has the same powers, rights, and duties respecting the ward that a parent has respecting the parent's unemancipated minor child ~~[except that a guardian is not liable to third persons for acts of the ward solely by reason of the parental relationship].~~

(3) In particular, and without qualifying the foregoing, a guardian has the following powers and duties, except as modified by order of the court:

(a) To the extent that it is consistent with the terms of any order by a court of competent jurisdiction relating to detention or commitment of the ward, the guardian is entitled to custody of the person of the ward and may establish the ward's place of abode within or without this state.

(b) If entitled to custody of the ward the guardian shall provide for the care, comfort, and maintenance of the ward and, whenever appropriate, arrange for the ward's training and education. Without regard to custodial rights of the ward's person, the guardian shall take reasonable care of the ward's clothing, furniture, vehicles, and other personal effects and commence protective proceedings if other property of the ward is in need of protection.

(c) A guardian may give any consents or approvals that may be necessary to enable the ward to receive medical or other professional care, counsel, treatment, or service.

(d) A guardian may not unreasonably restrict visitation with the ward by family, relatives, or friends.

~~[(d)]~~ (e) If no conservator for the estate of the ward has been appointed, the guardian may:

(i) institute proceedings to compel any person under a duty to support the ward or to pay sums for the welfare of the ward to perform that duty;

(ii) compel the production of the ward's estate documents, including the ward's will, trust, power of attorney, and any advance health care directive; and

(iii) receive money and tangible property deliverable to the ward and apply the money and property for support, care, and education of the ward; but the guardian may not use funds from the ward's estate for room and board which the guardian, the guardian's spouse, parent, or child have furnished the ward unless a charge for the service is approved by order of the court made upon notice to at least one adult relative in the nearest degree of kinship to the ward in which there is an adult. The guardian shall exercise care to conserve any excess for the ward's needs.

~~[(e)]~~ (f) (i) A guardian is required to report the condition of the ward and of the estate which has been subject to the guardian's possession or control, as required by the court or court rule.

(ii) A guardian is required to immediately notify all interested persons if the guardian reasonably believes that the ward's death is likely to occur within the next 30 days, based on:

(A) the guardian's own observations; or

(B) information from the ward's physician or other medical care providers.

(iii) A guardian is required to immediately notify all interested persons of the ward's death.

(iv) Unless emergency conditions exist, a guardian is required to file with the court a notice of the guardian's intent to move the ward and to serve

the notice on all interested persons at least 10 days before the move. The guardian shall take reasonable steps to notify all interested persons and to file the notice with the court as soon as practicable following the earlier of the move or the date when the guardian's intention to move the ward is made known to the ward, the ward's care giver, or any other third party.

(v) The guardian shall, for all estates in excess of \$50,000, excluding the residence owned by the ward, send a report with a full accounting to the court on an annual basis. For estates less than \$50,000, excluding the residence owned by the ward, the guardian shall fill out an informal annual report and mail the report to the court. The report shall include the following: a statement of assets at the beginning and end of the reporting year, income received during the year, disbursements for the support of the ward, and other expenses incurred by the estate. The guardian shall also report the physical conditions of the ward, the place of residence, and a list of others living in the same household. The court may require additional information. The forms for both the informal report for estates under \$50,000, excluding the residence owned by the ward, and the full accounting report for larger estates shall be approved by the Judicial Council. This annual report shall be examined and approved by the court. If the ward's income is limited to a federal or state program requiring an annual accounting report, a copy of that report may be submitted to the court in lieu of the required annual report.

(vi) Corporate fiduciaries are not required to petition the court, but shall submit their internal report annually to the court. The report shall be examined and approved by the court.

(vii) The guardian shall also render an annual accounting of the status of the person to the court which shall be included in the petition or the informal annual report as required under Subsection ~~[(2)(e)]~~ (3)(f). If a fee is paid for an accounting of an estate, no fee shall be charged for an accounting of the status of a person.

(viii) If a guardian:

(A) makes a substantial misstatement on filings of annual reports;

(B) is guilty of gross impropriety in handling the property of the ward; or

(C) willfully fails to file the report required by this subsection, after receiving written notice from the court of the failure to file and after a grace period of two months has elapsed, the court may impose a penalty in an amount not to exceed \$5,000. The court may also order restitution of funds misappropriated from the estate of a ward. The penalty shall be paid by the guardian and may not be paid by the estate.

(ix) These provisions and penalties governing annual reports do not apply if the guardian is the parent of the ward.

(x) For the purposes of Subsections ~~[(2)(e)]~~ (3)(f)(i), (ii), (iii), and (iv), "interested persons" means those persons required to receive notice in guardianship proceedings as set forth in Section 75-5-309.

~~[(4)]~~ (g) If a conservator has been appointed, all of the ward's estate received by the guardian in excess of those funds expended to meet current expenses for support, care, and education of the ward shall be paid to the conservator for management as provided in this code; and the guardian shall account to the conservator for funds expended.

(4) (a) A court may, in the order of appointment, place specific limitations on the guardian's power.

(b) A guardian may not prohibit or place restrictions on association with a relative or qualified acquaintance of an adult ward, unless permitted by court order under Section 75-5-312.5.

(c) A guardian is not liable to a third person for acts of the guardian's ward solely by reason of the relationship described in Subsection (2).

~~[(3)]~~ (5) Any guardian of one for whom a conservator also has been appointed shall control the custody and care of the ward and is entitled to receive reasonable sums for services and for room and board furnished to the ward as agreed upon between the guardian and the conservator, if the amounts agreed upon are reasonable under the circumstances. The guardian may request the conservator to expend the ward's estate by payment to third persons or institutions for the ward's care and maintenance.

Section 2. Section 75-5-312.5 is enacted to read:

75-5-312.5. Association between an adult ward and a relative of the adult ward.

(1) As used in this section:

(a) "Associate" or "association" means:

(i) visitation of an adult ward by a relative or qualified acquaintance; or

(ii) communication between an adult ward and a relative or qualified acquaintance in any form, including by telephone, mail, or electronic communication.

(b) "Qualified acquaintance" means an individual, other than a relative of the adult ward, who:

(i) has established a significant, mutual friendship with the adult ward; or

(ii) is clergy in the adult ward's religion or religious congregation.

(c) "Relative" means an adult ward's spouse, parent, step-parent, child, step-child, sibling, step-sibling, half-sibling, grandparent, grandchild, uncle, aunt, nephew, niece, or first cousin.

(2) (a) Except as otherwise provided by court order, a guardian may not restrict or prohibit the

right of an adult ward to associate with a relative or qualified acquaintance of the adult ward.

(b) If an adult ward is unable to express consent to visitation by a relative or a qualified acquaintance of the adult ward, the consent of the adult ward is presumed based on evidence of a prior relationship between the adult ward and the relative or qualified acquaintance of the adult ward.

(c) A guardian may not permit a relative or qualified acquaintance of an adult ward to associate with the adult ward:

(i) if a court order prohibits the association;

(ii) in a manner prohibited by court order; or

(iii) if the adult ward expresses a desire to not associate with the relative or qualified acquaintance.

(3) A guardian may, as part of the initial guardianship proceeding, petition the court to issue an order:

(a) prohibiting or placing conditions on association between an adult ward and a relative or qualified acquaintance of the adult ward; or

(b) granting the guardian the authority to prohibit or place conditions on association between an adult ward and a relative or qualified acquaintance of the adult ward.

(4) A guardian may, at any time after the initial guardianship proceeding, petition the court to issue an order described in Subsection (3) or to rescind or modify an order described in Subsection (3).

(5) An adult ward, a relative of an adult ward, or a qualified acquaintance of an adult ward may, at any time after the initial guardianship proceeding, petition the court to rescind or modify an order described in Subsection (3).

(6) If a guardian violates Subsection (2), the adult ward, a relative of the adult ward, or a qualified acquaintance of the adult ward may do one or more of the following, as applicable:

(a) petition the court to issue an order to show cause why the guardian should not be held in contempt of court;

(b) seek an injunction to enforce compliance by the guardian with the law and any applicable court order; or

(c) petition the court to have the guardian removed as guardian of the adult ward.

(7) For a hearing on a petition filed under this section, a court:

(a) may appoint a court visitor to meet with the adult ward to determine the wishes of the adult ward regarding association;

(b) shall give notice and an opportunity to be heard to the guardian, the adult ward, and the relative or qualified acquaintance;

(c) shall preserve the right of the adult ward to be present at the hearing; and

(d) may order supervised visitation by the relative or qualified acquaintance before the hearing.

(8) A court may not enter an order prohibiting or placing restrictions on association between an adult ward and a relative or qualified acquaintance, unless the court finds by a preponderance of the evidence that:

(a) the adult ward desires the prohibition or restriction;

(b) if the adult ward had the capacity to make a knowing and intelligent decision regarding the association, the adult ward would prohibit the association or impose the restriction; or

(c) the prohibition or restriction is the least restrictive means necessary to protect the health or welfare of the adult ward.

(9) In making the determination described in Subsection (8), the court may consider any relevant evidence, including:

(a) the wishes of the adult ward, expressed during or before the guardianship;

(b) the history of the relationship between the adult ward and the relative or qualified acquaintance;

(c) any history of criminal activity, abuse, neglect, or violence by the relative or qualified acquaintance; or

(d) whether a protective order was ever issued against the relative or qualified acquaintance with respect to the adult ward.

(10) Except as provided in Subsection (11), the guardian shall have the burden of proof when:

(a) seeking an order prohibiting association or placing restrictions on association with a relative or qualified acquaintance of the adult ward;

(b) modifying an order to place additional prohibitions or restrictions on association with a relative or qualified acquaintance of the adult ward; or

(c) opposing an action described in Subsection (6)(a) or (b).

(11) The relative or qualified acquaintance shall have the burden of proof if the relative or qualified acquaintance is seeking to modify an order previously entered by a court under this section.

(12) (a) If, in a proceeding under this section, the court finds that the petition was filed frivolously or in bad faith, the court shall award attorney fees to a party opposing the petition.

(b) If, in a proceeding under this section, the court finds that the guardian is in contempt of court or has acted frivolously or in bad faith in prohibiting or restricting association, the court:

(i) may award attorney fees to the prevailing party; and

(ii) may impose a sanction, not to exceed \$1,000, against the guardian.

(c) A court shall prohibit attorney fees awarded under this section from being paid by the adult ward or the adult ward's estate.

CHAPTER 294**S. B. 117**

Passed March 9, 2016
Approved March 25, 2016
Effective May 10, 2016

**COMMERCIAL INTERIOR DESIGN
CERTIFICATION MODIFICATIONS**

Chief Sponsor: Luz Escamilla
House Sponsor: Mike Schultz

LONG TITLE**General Description:**

This bill modifies the Division of Occupational and Professional Licensing Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates a state certification for the practice of commercial interior design;
- ▶ describes the practice of commercial interior design;
- ▶ describes the requirements to obtain state certification as a state certified commercial interior designer; and
- ▶ provides a sunset date.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-258, as last amended by Laws of Utah 2015, Chapters 40, 186, 187, 320, 367, and 432

ENACTS:

58-86-101, Utah Code Annotated 1953
58-86-102, Utah Code Annotated 1953
58-86-103, Utah Code Annotated 1953
58-86-201, Utah Code Annotated 1953
58-86-202, Utah Code Annotated 1953
58-86-203, Utah Code Annotated 1953
58-86-204, Utah Code Annotated 1953
58-86-205, Utah Code Annotated 1953
58-86-206, Utah Code Annotated 1953
58-86-301, Utah Code Annotated 1953
58-86-302, Utah Code Annotated 1953
58-86-401, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-86-101 is enacted to read:**CHAPTER 86. STATE CERTIFICATION OF
COMMERCIAL INTERIOR DESIGNERS ACT****Part 1. General Provisions****58-86-101. Title and scope.**

(1) This chapter is known as the "State Certification of Commercial Interior Designers Act."

(2) Except for those practices specifically described in the definition of practice of commercial interior design in Section 58-86-102, this chapter

does not require that a person obtain state certification as a state certified commercial interior designer to engage in an activity traditionally performed by an interior designer or other design professional.

(3) This chapter does not limit the scope of practice of a person licensed to practice:

(a) architecture under Title 58, Chapter 3a, Architects Licensing Act; or

(b) professional engineering under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

Section 2. Section 58-86-102 is enacted to read:**58-86-102. Definitions.**

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Building" means an enclosed structure, including the structural, mechanical, and electrical systems, utility services, and other facilities required for the structure, that has human occupancy or habitation as its principal purpose and is subject to the State Construction Code or an approved code under Title 15A, State Construction and Fire Codes Act.

(2) "International Building Code" means the edition of the International Building Code, issued by the International Code Council, most recently adopted by the state in Section 15A-2-103.

(3) (a) "Practice of commercial interior design" means, in relation to obtaining a building permit independent of an architect licensed under Title 58, Chapter 3a, Architects Licensing Act, the preparation of a plan or specification for, or the supervision of new construction, alteration, or repair of, an interior space within a newly constructed or existing building when the core and shell structural elements are not going to be changed.

(b) "Practice of commercial interior design" only includes the preparation of a plan or specification for, or the supervision of new construction, alteration, or repair of, a building to be used for the following occupancy groups as described in the International Building Code:

(i) B; and

(ii) M.

(c) "Practice of commercial interior design" does not include:

(i) providing commercial construction documents, independent of a licensed architect, for a space that:

(A) does not already have base building life safety components installed or designed and permitted, including required exit stairs and enclosures, paths of travel, ramps, horizontal exit passageways, disabled access, fire alarm systems, and base building fire suppression systems; or

(B) is undergoing a change of occupancy classification as described in the International Building Code; or

(ii) changes to or the addition of:

(A) foundations, beams, trusses, columns, or other primary structural framing members or seismic systems;

(B) structural concrete slabs, floor and roof framing structures, or bearing and shear walls;

(C) openings in roofs, floors, exterior walls, or bearing and shear walls;

(D) exterior doors, windows, awnings, canopies, sunshades, signage, or similar exterior building elements;

(E) as described in the International Building Code, life safety equipment, including smoke, fire, or carbon dioxide sensors or detectors, or other overhead building elements;

(F) as described in the International Building Code, partial height partitions with mounted or anchored casework, shelving, or equipment;

(G) as described in the International Building Code, bracing for partial height partitions if the top of the partition is more than eight feet above the floor; or

(H) heating, ventilating, or air conditioning equipment or distribution systems, building management systems, high or medium voltage electrical distribution systems, standby or emergency power systems or distribution systems, plumbing or plumbing distribution systems, fire alarm systems, fire sprinklers systems, security or monitoring systems, or related building systems.

(4) “State certification” means a designation granted by the division on behalf of the state to an individual who has met the requirements for state certification related to an occupation or profession described in this chapter.

(5) “State certified” means, when used in conjunction with an occupation or profession described in this chapter, a title that:

(a) may be used by a person who has met the state certification requirements related to that occupation or profession described in this chapter; and

(b) may not be used by a person who has not met the state certification requirements related to that occupation or profession described in this chapter.

(6) “Unlawful conduct” means the same as that term is defined in Sections 58-1-501 and 58-86-301.

Section 3. Section 58-86-103 is enacted to read:

58-86-103. Rulemaking.

When exercising rulemaking authority under this chapter, the division shall comply with the requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 4. Section 58-86-201 is enacted to read:

Part 2. State Certification

58-86-201. State certification required.

(1) State certification is required to engage in the practice of commercial interior design except as specifically provided in Section 58-1-307 or 58-86-206.

(2) The division shall grant state certification to a person who qualifies under this chapter to engage in the practice of commercial interior design as a state certified commercial interior designer.

Section 5. Section 58-86-202 is enacted to read:

58-86-202. Qualifications for state certification.

Each applicant for state certification as a state certified commercial interior designer shall:

(1) submit an application in a form prescribed by the division;

(2) pay a fee determined by the department under Section 63J-1-504; and

(3) provide satisfactory evidence of:

(a) good moral character; and

(b) having qualified to take and having passed the examination of the National Council for Interior Design Qualification, or an equivalent body as determined by division rule.

Section 6. Section 58-86-203 is enacted to read:

58-86-203. Term of state certification -- Expiration -- Renewal.

(1) (a) The division shall grant state certification under this chapter in accordance with a two-year renewal cycle established by rule.

(b) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.

(2) At the time of renewal, an applicant for renewal shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory evidence of having completed the continuing education requirements described in Section 58-86-204.

Section 7. Section 58-86-204 is enacted to read:

58-86-204. Continuing education.

(1) As a condition for the renewal of state certification under this chapter, a state certified commercial interior designer, during each two-year state certification cycle, shall complete 20 hours of continuing education that is offered or approved by the Interior Design Continuing Education Council, or another entity as determined by division rule.

(2) At least 10 of the continuing education hours described in Subsection (1) shall primarily emphasize health and safety.

(3) If a renewal cycle is extended or shortened under Section 58-86-203, the continuing education hours required for renewal under this section shall be increased or decreased proportionally.

Section 8. Section 58-86-205 is enacted to read:

58-86-205. Grounds for denial of state certification -- Disciplinary proceedings.

Grounds for refusing to issue state certification to an applicant, for refusing to renew state certification to an applicant, for revoking, suspending, restricting, or placing on probation the state certification of an individual certified under this chapter, for issuing a public or private reprimand to an individual certified under this chapter, and for issuing a cease and desist order shall be in accordance with Section 58-1-401.

Section 9. Section 58-86-206 is enacted to read:

58-86-206. Exemptions from state certification.

In addition to the exemptions from licensure in Section 58-1-307, the following may engage in the stated acts or practices without being a state certified commercial interior designer under this chapter:

(1) a person licensed to practice architecture under Title 58, Chapter 3a, Architects Licensing Act, practicing architecture or performing architecture acts or interior design;

(2) a person providing permit drawings, if allowed under Section 58-3a-304 or 58-22-305; and

(3) a person providing construction related documents not required for a building permit.

Section 10. Section 58-86-301 is enacted to read:

Part 3. Unlawful Conduct

58-86-301. Unlawful conduct.

“Unlawful conduct” includes:

(1) using the title “state certified commercial interior designer” if the person is not a state certified commercial interior designer in good standing under this chapter; or

(2) engaging in the practice of commercial interior design unless exempted from licensure or state certification under Section 58-1-307 or 58-86-206.

Section 11. Section 58-86-302 is enacted to read:

58-86-302. Penalty for unlawful conduct.

(1) If upon inspection or investigation the division concludes that a person has violated Subsections

58-1-501(1)(a) through (d), Section 58-86-301, or a rule or order issued with respect to Section 58-86-301, and that disciplinary action is appropriate, the director or the director’s designee may:

(a) issue a citation to the person according to this chapter and any pertinent rules;

(b) attempt to negotiate a stipulated settlement; or

(c) notify the person to appear at an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(2) A person who violates Subsections 58-1-501(1)(a) through (d), Section 58-86-301, or a rule or order issued with respect to Section 58-86-301, as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this chapter and may, in addition to or in lieu of the fine, be ordered to cease and desist from violating Subsections 58-1-501(1)(a) through (d), Section 58-86-301, or a rule or order issued with respect to Section 58-86-301.

(3) A citation issued under this chapter shall:

(a) be in writing;

(b) describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;

(c) clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(d) clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.

(4) The division may issue a notice in lieu of a citation.

(5) A citation issued under this section, or a copy of the citation, may be served upon a person upon whom a summons may be served in accordance with the Utah Rules of Civil Procedure and may be made by mail or may be made personally or upon the person’s agent by a division investigator or by a person specially designated by the director.

(6) (a) If within 20 calendar days from the service of the citation the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.

(b) The period to contest a citation may be extended by the division for cause.

(7) The division may refuse to issue or renew or may suspend, revoke, or place on probation the state certification of a state certified commercial

interior designer who fails to comply with a citation after the citation becomes final.

(8) The failure of an applicant for state certification to comply with a citation after the citation becomes final is a ground for denial of state certification.

(9) No citation may be issued under this section after the expiration of six months following the occurrence of a violation.

(10) The director or the director's designee shall assess fines according to the following:

(a) for a first offense handled pursuant to this section, a fine of up to \$1,000;

(b) for a second offense handled pursuant to this section, a fine of up to \$2,000; and

(c) for any subsequent offense handled pursuant to this section, a fine of up to \$2,000 for each day of continued offense.

(11) An action initiated for a first or second offense that has not yet resulted in a final order of the division does not preclude initiation of a subsequent action for a second or subsequent offense during the pendency of a preceding action.

(12) (a) A penalty that is not paid may be collected by the director by either referring the matter to a collection agency or by bringing an action in the district court of the county in which the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect the penalty.

(c) In an action brought to enforce the provisions of this section, reasonable attorney fees and costs shall be awarded to the division.

Section 12. Section 58-86-401 is enacted to read:

Part 4. State Certification Number and Signature

58-86-401. State certification number and signature.

(1) The division shall provide each state certified commercial interior designer with a certificate number.

(2) A final plan or specification for the construction of a commercial interior design within a newly constructed or existing building that is prepared by or under the supervision of a state certified commercial interior designer shall bear the signature and the certificate number of the state certified commercial interior designer when submitted to a client or a building official for the purpose of obtaining a building permit.

(3) A state certified commercial interior designer may only include the designer's signature and certificate number on a final plan or specification that is within the scope of practice of commercial interior design and when the plan or specification:

(a) is personally prepared by the certified interior designer;

(b) is prepared by an employee, subordinate, associate, or drafter under the direct supervision of the state certified commercial interior designer and the state certified commercial interior designer assumes responsibility for the plan or specification; or

(c) is prepared by another state certified commercial interior designer in the state or similarly qualified designer in another state provided that the state certified commercial interior designer attaching the designer's signature and certificate number:

(i) performs a thorough review of all work for compliance with all applicable laws, rules, and standards of the profession; and

(ii) makes any necessary corrections before submitting the final plan or specification:

(A) to a building official for the purpose of obtaining a building permit; or

(B) to a client, when the certified commercial interior designer represents, or can reasonably expect the client to consider, the plan or specification to be complete and final.

Section 13. Section 63I-1-258 is amended to read:

63I-1-258. Repeal dates, Title 58.

(1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2026.

(2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

(3) Title 58, Chapter 20a, Environmental Health Scientist Act, is repealed July 1, 2018 .

(4) Section 58-37-4.3 is repealed July 1, 2016.

(5) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.

(6) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2019.

(7) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2025.

(8) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2023.

(9) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

(10) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1, 2026.

(11) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2017.

(12) Title 58, Chapter 86, State Certification of Commercial Interior Designers Act, is repealed July 1, 2021.

CHAPTER 295**S. B. 138**

Passed March 7, 2016

Approved March 25, 2016

Effective May 10, 2016

**HEALTH INSURANCE COVERAGE
FOR EMERGENCY CARE**

Chief Sponsor: Karen Mayne

House Sponsor: Mike K. McKell

LONG TITLE**General Description:**

This bill amends the Insurance Code related to health insurance coverage for emergency care.

Highlighted Provisions:

This bill:

- ▶ requires a health insurer to, at a minimum, provide coverage for emergency care that is medically necessary to stabilize an emergency medical condition; and
- ▶ authorizes the insurance commissioner to impose fines if an insurer violates the emergency care coverage standards.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

31A-22-627, as last amended by Laws of Utah 2006, Chapter 188

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-22-627 is amended to read:**31A-22-627. Coverage of emergency medical services.**

(1) A health insurance policy or health maintenance organization contract:

(a) shall provide, at a minimum, coverage of emergency services as required in 29 C.F.R. Sec. 2590.715-2719A; and

(b) may not:

~~(a)~~ (i) require any form of preauthorization for treatment of an emergency medical condition until after the insured's condition has been stabilized; or

~~(b)~~ (ii) deny a claim for any covered evaluation, covered diagnostic test, or other covered treatment considered medically necessary to stabilize the emergency medical condition of an insured.

(2) A health insurance policy or health maintenance organization contract may require authorization for the continued treatment of an emergency medical condition after the insured's condition has been stabilized. If such authorization is required, an insurer who does not accept or reject a request for authorization may not deny a claim for any evaluation, diagnostic testing, or other treatment considered medically necessary that

occurred between the time the request was received and the time the insurer rejected the request for authorization.

(3) For purposes of this section:

(a) "emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson, who possesses an average knowledge of medicine and health, would reasonably expect the absence of immediate medical attention at a hospital emergency department to result in:

(i) placing the insured's health, or with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy;

(ii) serious impairment to bodily functions; or

(iii) serious dysfunction of any bodily organ or part; and

(b) "hospital emergency department" means that area of a hospital in which emergency services are provided on a 24-hour-a-day basis.

(4) Nothing in this section may be construed as:

(a) altering the level or type of benefits that are provided under the terms of a contract or policy; or

(b) restricting a policy or contract from providing enhanced benefits for certain emergency medical conditions that are identified in the policy or contract.

(5) Notwithstanding Section 31A-2-308, if the commissioner finds an insurer has violated this section, the commissioner may:

(a) work with the insurer to improve the insurer's compliance with this section; or

(b) impose the following fines:

(i) not more than \$5,000; or

(ii) twice the amount of any profit gained from violations of this section.

CHAPTER 296**S. B. 148**

Passed March 7, 2016
 Approved March 25, 2016
 Effective July 1, 2016

WORKFORCE SERVICES REVISIONS

Chief Sponsor: Todd Weiler
 House Sponsor: Timothy D. Hawkes

LONG TITLE**General Description:**

This bill modifies the Utah Workforce Services Code.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the names of divisions within the Department of Workforce Services;
- ▶ creates the State Workforce Development Board and describes its membership and duties;
- ▶ makes the Department of Workforce Services' Code consistent with the federal Workforce Innovation and Opportunity Act;
- ▶ modifies background check provisions for certain child care providers;
- ▶ modifies the membership of the Utah Intergenerational Welfare Reform Commission; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

35A-1-104, as last amended by Laws of Utah 2008, Chapter 382
 35A-1-202, as last amended by Laws of Utah 2012, Chapter 212
 35A-1-206, as last amended by Laws of Utah 2014, Chapters 371 and 387
 35A-1-207, as last amended by Laws of Utah 2011, Chapter 188
 35A-2-101, as last amended by Laws of Utah 2011, Chapter 188
 35A-2-102, as last amended by Laws of Utah 2011, Chapter 188
 35A-2-201, as last amended by Laws of Utah 2011, Chapter 188
 35A-3-102, as last amended by Laws of Utah 2015, Chapter 221
 35A-3-103, as last amended by Laws of Utah 2015, Chapter 221
 35A-3-310.5, as last amended by Laws of Utah 2015, Chapter 221
 35A-4-312, as last amended by Laws of Utah 2015, Chapter 143
 35A-5-102, as last amended by Laws of Utah 2008, Chapter 382
 35A-5-202, as last amended by Laws of Utah 2012, Chapter 347
 35A-9-301, as enacted by Laws of Utah 2013, Chapter 59

35A-9-302, as enacted by Laws of Utah 2013, Chapter 59
 35A-11-203, as enacted by Laws of Utah 2014, Chapter 127
 53B-12-101, as last amended by Laws of Utah 2008, Chapter 382
 62A-1-111, as last amended by Laws of Utah 2014, Chapter 213
 62A-4a-105, as last amended by Laws of Utah 2014, Chapters 140 and 265
 62A-4a-709, as last amended by Laws of Utah 2005, Chapter 81

REPEALS:

35A-2-103, as last amended by Laws of Utah 2011, Chapter 188
 35A-3-115, as last amended by Laws of Utah 2015, Chapter 221
 35A-5-201, as renumbered and amended by Laws of Utah 1997, Chapter 375

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 35A-1-104 is amended to read:**35A-1-104. Department authority.**

Within all other authority or responsibility granted to it by law, the department may:

- (1) adopt rules when authorized by this title, in accordance with the procedures of Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (2) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;
- (3) conduct adjudicative proceedings in accordance with the procedures of Title 63G, Chapter 4, Administrative Procedures Act;
- (4) establish eligibility standards for its programs, not inconsistent with state or federal law or regulations;
- (5) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who is not eligible;
- (6) administer oaths, certify to official acts, issue subpoenas to compel witnesses and the production of books, accounts, documents, and other records necessary as evidence;
- (7) acquire, manage, and dispose of any real or personal property needed or owned by the department, not inconsistent with state law;
- (8) receive gifts, grants, devises, and donations or their proceeds, crediting the program designated by the donor, and using the gift, grant, devise, or donation for the purposes requested by the donor, as long as the request conforms to state and federal policy;
- (9) accept and employ volunteer labor or services;
- (10) reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;
- (11) carry out the responsibility assigned by the state workforce services plan developed by the

~~[State Council on Workforce Services]~~ State Workforce Development Board;

(12) provide training and educational opportunities for its staff;

(13) examine and audit the expenditures of any public funds provided to a local authority, agency, or organization that contracts with or receives funds from those authorities or agencies;

(14) accept and administer grants from the federal government and from other sources, public or private;

(15) employ and determine the compensation of clerical, legal, technical, investigative, and other employees necessary to carry out its policymaking, regulatory, and enforcement powers, rights, duties, and responsibilities under this title;

(16) establish and conduct free employment agencies, and bring together employers seeking employees and working people seeking employment, and make known the opportunities for employment in this state;

(17) collect, collate, and publish statistical and other information relating to employees, employers, employments, and places of employment, and other statistics as it considers proper;

(18) encourage the expansion and use of apprenticeship programs meeting state or federal standards for apprenticeship programs;

(19) develop processes to ensure that the department responds to the full range of employee and employer clients; and

(20) carry out the responsibilities assigned to it by statute.

Section 2. Section 35A-1-202 is amended to read:

35A-1-202. Divisions -- Creation -- Duties -- Workforce Appeals Board, councils, Child Care Advisory Committee, and economic service areas.

(1) There is created within the department the following divisions:

(a) the ~~[Employment]~~ Workforce Development Division to administer the development and implementation of employment assistance programs ~~[that are: (i) related to the operations of the department; and (ii) consistent with federal and state law; (b) to administer those services that are not delivered through the economic service areas: (i)];~~

(b) the Workforce ~~[Development and Information]~~ Research and Analysis Division; ~~and]~~

~~[(ii)]~~ (c) the Unemployment Insurance Division to administer Chapter 4, Employment Security Act;

(d) the Eligibility Services Division to administer public assistance eligibility;

~~[(e)]~~ (e) the Division of Adjudication to adjudicate claims or actions in accordance with this title; and

~~[(d)]~~ (f) the Housing and Community Development Division, ~~[which is]~~ described in Sections 35A-8-201 and 35A-8-202.

(2) In addition to the divisions created under Subsection (1), within the department are the following:

(a) the Workforce Appeals Board created in Section 35A-1-205;

(b) the State ~~[Council on Workforce Services]~~ Workforce Development Board created in Section 35A-1-206;

(c) the Employment Advisory Council created in Section 35A-4-502;

(d) the Child Care Advisory Committee created in Section 35A-3-205; and

(e) the economic service areas created in accordance with Chapter 2, Economic Service Areas.

Section 3. Section 35A-1-206 is amended to read:

35A-1-206. State Workforce Development Board -- Appointment -- Membership -- Terms of members -- Compensation.

~~[(1) There is created a State Council on Workforce Services that shall:]~~

~~[(a) perform the activities described in Subsection (8);]~~

~~[(b) advise on issues requested by the department and the Legislature; and]~~

~~[(c) make recommendations to the department regarding:]~~

~~[(i) the implementation of Chapter 2, Economic Service Areas, Chapter 3, Employment Support Act, and Chapter 5, Training and Workforce Improvement Act; and]~~

~~[(ii) the coordination of apprenticeship training.]~~

~~[(2) (a) The council shall consist of the following voting members:]~~

~~[(i) a private sector representative from each economic service area as designated by the economic service area director;]~~

~~[(ii) the superintendent of public instruction or the superintendent's designee;]~~

~~[(iii) the commissioner of higher education or the commissioner's designee; and]~~

~~[(iv) the following members appointed by the governor in consultation with the executive director:]~~

~~[(A) four representatives of small employers as defined by rule by the department;]~~

~~[(B) four representatives of large employers as defined by rule by the department;]~~

~~[(C) four representatives of employees or employee organizations, including at least one~~

~~representative from nominees suggested by public employees organizations;]~~

~~[(D) two representatives of the clients served under this title including community-based organizations;]~~

~~[(E) a representative of veterans in the state;]~~

~~[(F) the executive director of the Utah State Office of Rehabilitation; and]~~

~~[(G) the Applied Technology College president.]~~

~~[(b) The following shall serve as nonvoting ex officio members of the council:]~~

~~[(i) the executive director or the executive director's designee;]~~

~~[(ii) a legislator appointed by the governor from nominations of the speaker of the House of Representatives and president of the Senate;]~~

~~[(iii) the executive director of the Department of Human Services;]~~

~~[(iv) the director of the Governor's Office of Economic Development or the director's designee; and]~~

~~[(v) the executive director of the Department of Health.]~~

(1) There is created within the department the State Workforce Development Board in accordance with the provisions of the Workforce Innovation and Opportunity Act, 29 U.S.C. Sec. 3101 et seq.

(2) The board shall consist of the following 39 members:

(a) the governor or the governor's designee;

(b) one member of the Senate, appointed by the president of the Senate;

(c) one representative of the House of Representatives, appointed by the speaker of the House of Representatives;

(d) the executive director or the executive director's designee;

(e) the executive director of the Department of Human Services or the executive director's designee;

(f) the executive director of the Utah State Office of Rehabilitation or the executive director's designee;

(g) the superintendent of the State Board of Education or the superintendent's designee;

(h) the commissioner of higher education or the commissioner's designee;

(i) the president of the Utah College of Applied Technology or the president's designee;

(j) the executive director of the Governor's Office of Economic Development or the executive director's designee;

(k) the executive director of the Department of Veterans' and Military Affairs or the executive director's designee; and

(l) the following members appointed by the governor:

(i) 20 representatives of business in the state, selected among the following:

(A) owners of businesses, chief executive or operating officers of businesses, or other business executives or employers with policymaking or hiring authority;

(B) representatives of businesses, including small businesses, that provide employment opportunities that include high-quality, work-relevant training and development in in-demand industry sectors or occupations in the state; and

(C) representatives of businesses appointed from among individuals nominated by state business organizations or business trade associations;

(ii) six representatives of the workforce within the state, which:

(A) shall include at least two representatives of labor organizations who have been nominated by state labor federations;

(B) shall include at least one representative from a registered apprentice program;

(C) may include one or more representatives from a community-based organization that has demonstrated experience and expertise in addressing the employment, training, or educational needs of individuals with barriers to employment; and

(D) may include one or more representatives from an organization that has demonstrated experience and expertise in addressing the employment, training, or education needs of eligible youth, including organizations that serve out of school youth; and

(iii) two elected officials that represent a city or a county.

(3) (a) The governor shall appoint ~~one nongovernmental member from the council as the chair of the council~~ one of the appointed business representatives as chair of the board.

(b) The chair shall serve at the pleasure of the governor.

(4) (a) The governor shall ensure that members appointed to the board represent diverse geographic areas of the state, including urban, suburban, and rural areas.

~~[(a)] (b) A member appointed by the governor shall serve a term of four years and may be reappointed to one additional term.~~

~~[(b)] (c) A member shall continue to serve until the member's successor has been appointed and qualified.~~

~~[(e)] (d) Except as provided in Subsection (4)[~~(d)~~ (e), as terms of ~~the council~~ board members expire, the~~

governor shall appoint each new member or reappointed member to a four-year term.

~~[(d)]~~ (e) Notwithstanding the requirements of Subsection (4)~~[(e)]~~ (d), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of ~~[council]~~ board members are staggered so that approximately one half of the ~~[council]~~ board is appointed every two years.

~~[(e)]~~ (f) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(g) The executive director shall terminate the term of any governor-appointed member of the board if the member leaves the position that qualified the member for the appointment.

(5) A majority of ~~[the voting]~~ members constitutes a quorum for the transaction of business.

(6) (a) A member of the board who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(7) The department shall provide staff and administrative support to the ~~[council]~~ board at the direction of the executive director.

~~[(8) The council shall:]~~

~~[(a) develop a state workforce services plan in accordance with Section 35A-1-207;]~~

~~[(b) review economic service area plans to certify consistency with state policy guidelines;]~~

~~[(c) improve the understanding and visibility of state workforce services efforts through external and internal marketing strategies;]~~

~~[(d) include in the annual written report described in Section 35A-1-109, information and accomplishments related to the activities of the department;]~~

~~[(e) issue other studies, reports, or documents the council considers advisable that are not required under Subsection (8)(d);]~~

~~[(f) coordinate the planning and delivery of workforce development services with public education, higher education, vocational rehabilitation, and human services; and]~~

(8) The board has the duties, responsibilities, and powers described in 29 U.S.C. Sec. 3111, including:

(a) identifying opportunities to align initiatives in education, training, workforce development, and economic development;

(b) developing and implementing the state workforce services plan described in Section 35A-1-207;

(c) utilizing strategic partners to ensure the needs of industry are met, including the development of expanded strategies for partnerships for in-demand occupations and understanding and adapting to economic changes;

(d) developing strategies for staff training;

(e) developing and improving employment centers; and

~~[(g) perform]~~ (f) performing other responsibilities within the scope of workforce services as requested by:

(i) the Legislature;

(ii) the governor; or

(iii) the executive director.

Section 4. Section 35A-1-207 is amended to read:

35A-1-207. State workforce services plan -- Economic service area plans.

~~[(1)]~~ The State ~~[Council on Workforce Services]~~ Workforce Development Board shall annually ~~[develop]~~ maintain and update a state workforce services plan that ~~[shall include]~~ includes:

(1) a four-year strategy, as described in 29 U.S.C. Sec. 3112, for the following core programs:

(a) youth services;

(b) adult employment and training services;

(c) dislocated worker employment and training services;

(d) adult education and literacy activities;

(e) employment services; and

(f) vocational rehabilitation services;

(2) a strategy for aligning and coordinating the core programs;

(3) a strategy for coordinating the workforce needs of job seekers and employers in the various regions of the state;

(4) planning to ensure that employment centers address the requirements of the special employment needs population, including:

(a) individuals who have special employment needs based on factors such as race, gender, age, disability, economic status, education, language skills, or work history; and

(b) an "individual with a barrier to employment" as that term is defined in 29 U.S.C. Sec. 3102;

~~[(a)]~~ (5) a mechanism for getting consumer and public feedback on department programs ~~[in each economic service area];~~

~~[(b)] (6) projected analysis of the workforce needs of employers and clients;~~

~~[(c) policy standards in programs and process when required by statute or considered necessary by the council that ensure statewide program consistency among economic service areas;]~~

~~[(d)] (7) state outcome-based standards for measuring program performance to ensure equitable service to all clients;~~

~~[(e) state oversight systems to review economic service area compliance with state policies;]~~

~~[(f) elements of economic service area plans that relate to statewide initiatives and programs;]~~

~~[(g)] (8) strategies to ensure program responsiveness, universal access, and unified case management;~~

~~[(h)] (9) strategies to eliminate unnecessary barriers to access services; and~~

~~[(i)] (10) strategies to provide assistance to employees facing employment dislocation and their employers.~~

~~[(2) (a) Economic service area directors shall annually develop an economic service area plan to be followed in administering services.]~~

~~[(b) The plan shall include:]~~

~~[(i) a projected analysis of the economic service area workforce needs of employers and clients;]~~

~~[(ii) assurances that state policy standards will be incorporated into the economic service area design;]~~

~~[(iii) an economic service area budget outlining administration and customer support and services expenditures;]~~

~~[(iv) the location of employment centers and staff levels to deliver services;]~~

~~[(v) the services to be provided including assessment and support services, job training options, job placement, and employer outreach;]~~

~~[(vi) identification of targeted occupations for which training will be approved;]~~

~~[(vii) economic service area outcome-based performance standards that ensure equitable services to all clients;]~~

~~[(viii) economic service area oversight processes that include a process to evaluate program effectiveness and develop plans to improve programs;]~~

~~[(ix) internal and external marketing strategies to improve the understanding and visibility of economic service area efforts;]~~

~~[(x) coordination of apprenticeship training; and]~~

~~[(xi) strategies to provide assistance to employees facing employment dislocation and their employers.]~~

Section 5. Section 35A-2-101 is amended to read:

35A-2-101. Economic service areas -- Creation.

(1) (a) The executive director shall establish economic service areas to furnish the services described in Section 35A-2-201.

(b) In establishing economic service areas, the executive director shall seek input from[:]

~~[(i) state and local government agencies and departments;]~~

~~[(ii) the groups representing public employees;]~~

~~[(iii) employers, business, education, and other entities affected by the structure of the economic service areas; and]~~

~~[(iv) the general public] the State Workforce Development Board.~~

(2) In establishing the economic service areas, the executive director [shall] may consider:

(a) areas comprised of multiple counties;

(b) the alignment of transportation and other infrastructure or services;

(c) the interdependence of the economy within a geographic area;

(d) the ability to develop regional marketing and economic development programs;

(e) the labor market areas;

(f) the population of the area, as established in the most recent estimate by the Utah Population Estimates Committee;

(g) the number of individuals in the previous year receiving:

(i) services under Chapter 3, Employment Support Act; and

(ii) benefits under Chapter 4, Employment Security Act; and

(h) other factors that relate to the management of the programs administered or that relate to the delivery of services provided under this title.

Section 6. Section 35A-2-102 is amended to read:

35A-2-102. Directors of economic service areas -- Appointment.

(1) ~~[The chief officer of each economic service area shall be a director, who serves as the executive and administrative head of the economic service area] The executive director shall appoint a director to oversee each economic service area.~~

(2) A director ~~[:-(a) shall be appointed by the executive director; and (b)] appointed under this section may be removed from that position at the will of the executive director.~~

(3) ~~[An economic service] A director shall be experienced in administration and possess additional qualifications as determined by the executive director, and as provided by law.~~

(4) The director shall report on a regular basis to the ~~[State Council on Workforce Services]~~ State Workforce Development Board on the delivery of services in the economic service area.

Section 7. Section 35A-2-201 is amended to read:

35A-2-201. Services provided in economic service areas.

[4] Economic service areas shall:

[~~(a)~~] (1) through their employment centers, be the primary provider of services and support under Chapter 3, Employment Support Act; and

[~~(b) broker or contract~~] (2) provide access to and assess eligibility for services or training under Chapter 5, Training and Workforce Improvement Act; and].

[~~(c) serve as economic service area clearinghouses of information concerning workforce development and services and support available under this title.~~]

[~~(2) (a) In providing, brokering, or contracting for the services or training described in Subsection (1)(b), the economic service area director, in consultation with the executive director, shall ensure that the economic service area provides, brokers, or contracts for services and training that meet the needs of the special needs population in the economic service area.~~]

[~~(b) For purposes of Subsection (2)(a), "special needs population" means individuals who have special employment needs based on factors including race, gender, age, disability, economic status, education, language skills, and work history.~~]

Section 8. Section 35A-3-102 is amended to read:

35A-3-102. Definitions.

As used in this chapter:

(1) "Adjudicative proceeding" has the same meaning as defined in Section 63G-4-103.

(2) "Administrative order" means an order issued by the department that addresses an overpayment of public assistance.

(3) "Applicant" means a person who requests assistance under this chapter.

(4) "Assignment of support" means the transfer to the state of a recipient's right to receive support from another person that accrues during the period the recipient receives public assistance, including a right to receive support on behalf of any family member for whom the recipient is applying for or receiving assistance.

(5) "Average monthly number of families" means the average number of families who received cash assistance on a monthly basis during the previous federal fiscal year.

(6) "Cash assistance" means the monthly dollar amount a recipient is eligible to receive under the

Family Employment Program under Section 35A-3-302.

(7) "Child care services" means care of a child by a responsible person who is not the child's parent or legal guardian, for a portion of the day that is less than 24 hours in a qualified setting, as defined by rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(8) (a) "Civic organization" means an organization that provides services to its community.

(b) "Civic organization" includes a community service club or organization, a charitable health care or service organization, a fraternal organization, a labor union, a minority or ethnic organization, a commercial or industrial organization, a commerce or business club, a private nonprofit organization, a private nonprofit corporation that provides funding to a community service organization, an organization that advocates or provides for the needs of persons with low incomes, a religious organization, and an organization that fosters strong neighborhoods and communities.

(9) "Core programs" means the following activities as described in 29 U.S.C. Sec. 3102:

(a) youth services;

(b) adult employment and training services;

(c) dislocated worker employment and training services;

(d) adult education and literacy activities;

(e) employment services; and

(f) vocational rehabilitation services.

[~~(9)~~] (10) "Court order" means a judgment or order of a court of this state, another state, or the federal government that addresses an overpayment of public assistance.

[~~(10)~~] (11) "Date of enrollment" means the date on which the applicant was approved as eligible for cash assistance.

[~~(11)~~] (12) "Director" means the director of the division assigned by the department to administer a program.

[~~(12)~~] (13) "Diversion" or "diversion payment" means a one-time cash assistance payment under Section 35A-3-303 to a recipient who is eligible for cash assistance, but does not require extended cash assistance under Part 3, Family Employment Program.

[~~(13)~~] (14) "Education or training" means education or training in accordance with 29 U.S.C. Sec. 3174 and includes:

(a) basic remedial education;

(b) adult education;

(c) high school education;

(d) education to obtain the equivalent of a high school diploma;

(e) education to learn English as a second language;

(f) applied technology training;

(g) employment or occupational skills training; [or]

(h) on-the-job training[-];

(i) incumbent worker training;

(j) programs that combine workplace training with related instruction, which may include cooperative education programs;

(k) training programs operated by the private sector;

(l) skills upgrading and retraining;

(m) entrepreneurial training; or

(n) customized training conducted with a commitment by an employer to employ an individual upon successful completion of the training.

[44] (15) "Full-time education or training" means training on a full-time basis as defined by the educational institution attended by the parent recipient.

[45] (16) "General assistance" means financial assistance provided to a person under Part 4, General Assistance.

[46] (17) "Notice of agency action" means the notice required to commence an adjudicative proceeding as described in Section 63G-4-201.

[47] (18) "Obligor" means an individual:

(a) who is liable to the state under Section 35A-3-603 and applicable federal statutes and regulations; or

(b) against whom an administrative or judicial order determining overpayment has been obtained.

[48] (19) (a) "Overpayment" means money, public assistance, or another item of value provided under a state or federally funded benefit program to a person that is not entitled to receive it or is not entitled to receive it at the level provided.

(b) "Overpayment" includes money paid to a provider under this title in connection with public assistance or another publicly funded assistance program to the extent that the provider receives payment:

(i) for goods or services not provided; or

(ii) in excess of the amount to which the provider is entitled.

[49] (20) "Parent recipient" means a person who enters into an employment plan with the department to qualify for cash assistance under Part 3, Family Employment Program.

[20] (21) "Performance goals" means a target level of performance that will be compared to actual performance.

[21] (22) "Performance indicators" means actual performance information regarding a program or activity.

[22] (23) "Performance monitoring system" means a process to regularly collect and analyze performance information, including performance indicators and performance goals.

[23] (24) "Plan" or "state plan" means the state plan submitted to the Secretary of the United States Department of Health and Human Services to receive funding from the United States through the Temporary Assistance for Needy Families Block Grant in accordance with 42 U.S.C. Sec. 602.

[24] (25) "Recipient" means a person who is qualified to receive, is receiving, or has received assistance under this chapter.

[25] (26) "Single minor parent" means a person under 18 years of age who is not married and has a minor child in the person's care and custody.

[26] (27) "Transitional cash assistance" means assistance provided to a recipient to stabilize employment and reduce the future use of cash assistance provided under Part 3, Family Employment Program.

Section 9. Section 35A-3-103 is amended to read:

35A-3-103. Department responsibilities.

The department shall:

(1) administer public assistance programs assigned by the Legislature and the governor;

(2) determine eligibility for public assistance programs in accordance with the requirements of this chapter;

(3) cooperate with the federal government in the administration of public assistance programs;

(4) administer state employment services [in accordance with Section 35A-3-115];

(5) provide for the compilation of necessary or desirable information, statistics, and reports;

(6) perform other duties and functions required by law;

(7) monitor the application of eligibility policy;

(8) develop personnel training programs for effective and efficient operation of the programs administered by the department;

(9) provide refugee resettlement services in accordance with Section [35A-3-116] 35A-3-701;

(10) provide child care assistance for children in accordance with Part 2, Office of Child Care; and

(11) provide services that enable an applicant or recipient to qualify for affordable housing in cooperation with:

(a) the Utah Housing Corporation;

(b) the Housing and Community Development Division; and

(c) local housing authorities.

Section 10. Section 35A-3-310.5 is amended to read:

35A-3-310.5. Child care providers -- Criminal background checks -- Payment of costs -- Prohibitions -- Department rules.

(1) This section applies to a child care provider who:

(a) (i) is selected by a recipient of a child care assistance payment; or

(ii) is a recipient of a child care assistance payment;

(b) is not required to undergo a criminal background check with the Department of Health, Bureau of Child Care Licensing;

(c) is not a license exempt child care center or program; and

(d) is an eligible child care provider in accordance with department rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) A child care provider identified under Subsection (1) shall submit to the department the name and other identifying information, including a set of fingerprints, of:

(i) existing, new, and proposed individuals who provide or may provide child care; and

(ii) individuals who are at least 18 years of age and reside in the premises where the child care is provided.

~~[(b) The department may waive the fingerprint requirement under Subsection (2)(a) for an individual who has:]~~

~~[(i) resided in Utah for five years prior to the required submission; or]~~

~~[(ii) (A) previously submitted a set of fingerprints under this section for a national criminal history record check; and]~~

~~[(B) resided in Utah continuously since submitting the fingerprints.]~~

~~[(e) (b) The Criminal Investigation and Technical Services Division created within the Department of Public Safety under Section 53-10-103 shall:~~

~~(i) process and conduct background checks on all individuals as requested by the department; and~~

~~(ii) submit required fingerprints to the U.S. Federal Bureau of Investigation for a national criminal history background check of the individual.~~

~~[(d) If the department waives the fingerprint requirement under Subsection (2)(b), the Criminal Investigation and Technical Services Division may~~

~~allow the department or its representative access to the Criminal Investigation and Technical Services Division's database to determine whether the individual has been convicted of a crime.]~~

~~[(e) (c) The child care provider shall pay the cost of the history background check provided under Subsection (2)]~~(e)~~(b).~~

(3) (a) A child care provider identified under Subsection (1) shall submit to the department the name and other identifying information of an individual, age 12 through 17, who resides in the premises where the child care is provided.

(b) The department or its representative shall access juvenile court records to determine whether an individual described in Subsection (2) or (3)(a) has been adjudicated in juvenile court of committing an act which, if committed by an adult, would be a felony or misdemeanor if:

(i) the individual described in Subsection (2) is under the age of 28; or

(ii) the individual described in Subsection (2):

(A) is age 28 or older; and

(B) has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor.

(4) Except as provided in Subsection (5), a child care provider under this section may not permit an individual described under Subsection (3)(b) to:

(a) provide subsidized child care; or

(b) reside at the premises where subsidized child care is provided.

(5) (a) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to exempt the following from the restrictions of Subsection (4):

(i) a specific misdemeanor;

(ii) a specific act adjudicated in juvenile court, which if committed by an adult would be a misdemeanor; and

(iii) background checks of individuals other than the provider who are residing at the premises where subsidized child care is provided if that child care is provided in the child's home.

(b) In accordance with criteria established by department rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the executive director or the director's designee may consider and exempt individual cases, not otherwise exempt under Subsection (5)(a), from the restrictions of Subsection (4).

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to determine:

(a) whether a child care subsidy payment should be made prior to the completion of a background check, particularly in the case of a delay in making or completing the background check; and

(b) if, and how often, a child care provider shall resubmit the information required under Subsections (2) and (3).

Section 11. Section 35A-4-312 is amended to read:

35A-4-312. Records.

(1) (a) An employing unit shall keep true and accurate work records containing information the department may prescribe by rule.

(b) A record shall be open to inspection and subject to being copied by the division or its authorized representatives at a reasonable time and as often as necessary.

(c) An employing unit shall make a record available in the state for three years after the calendar year in which the services are rendered.

(2) The division may require from an employing unit a sworn or unsworn report with respect to a person employed by the employing unit that the division considers necessary for the effective administration of this chapter.

(3) Except as provided in this section or in Sections 35A-4-103 and 35A-4-106, information obtained under this chapter or obtained from an individual may not be published or open to public inspection in a manner revealing the employing unit's or individual's identity.

(4) (a) The information obtained by the division under this section may not be used in court or admitted into evidence in an action or proceeding, except:

(i) in an action or proceeding arising out of this chapter;

(ii) if the Labor Commission enters into a written agreement with the division under Subsection (6)(b), in an action or proceeding by the Labor Commission to enforce:

(A) Title 34, Chapter 23, Employment of Minors;

(B) Title 34, Chapter 28, Payment of Wages;

(C) Title 34, Chapter 40, Utah Minimum Wage Act; or

(D) Title 34A, Utah Labor Code;

(iii) under the terms of a court order obtained under Subsection 63G-2-202(7) and Section 63G-2-207; or

(iv) under the terms of a written agreement between the Office of State Debt Collection and the division as provided in Subsection (5).

(b) The information obtained by the division under this section shall be disclosed to:

(i) a party to an unemployment insurance hearing before an administrative law judge of the department or a review by the Workforce Appeals Board to the extent necessary for the proper presentation of the party's case; or

(ii) an employer, upon request in writing for information concerning a claim for a benefit with respect to a former employee of the employer.

(5) The information obtained by the division under this section may be disclosed to:

(a) an employee of the department in the performance of the employee's duties in administering this chapter or other programs of the department;

(b) an employee of the Labor Commission for the purpose of carrying out the programs administered by the Labor Commission;

(c) an employee of the Department of Commerce for the purpose of carrying out the programs administered by the Department of Commerce;

(d) an employee of the governor's office or another state governmental agency administratively responsible for statewide economic development, to the extent necessary for economic development policy analysis and formulation;

(e) an employee of another governmental agency that is specifically identified and authorized by federal or state law to receive the information for the purposes stated in the law authorizing the employee of the agency to receive the information;

(f) an employee of a governmental agency or workers' compensation insurer to the extent the information will aid in:

(i) the detection or avoidance of duplicate, inconsistent, or fraudulent claims against:

(A) a workers' compensation program; or

(B) public assistance funds; or

(ii) the recovery of overpayments of workers' compensation or public assistance funds;

(g) an employee of a law enforcement agency to the extent the disclosure is necessary to avoid a significant risk to public safety or in aid of a felony criminal investigation;

(h) an employee of the State Tax Commission or the Internal Revenue Service for the purposes of:

(i) audit verification or simplification;

(ii) state or federal tax compliance;

(iii) verification of a code or classification of the:

(A) 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(B) 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(iv) statistics;

(i) an employee or contractor of the department or an educational institution, or other governmental entity engaged in workforce investment and development activities under the [Workforce Investment Act of 1998] Workforce Innovation and Opportunity Act, 29 U.S.C. Sec. 3101 et seq., for the purpose of:

- (i) coordinating services with the department;
- (ii) evaluating the effectiveness of those activities; and
- (iii) measuring performance;
- (j) an employee of the Governor's Office of Economic Development, for the purpose of periodically publishing in the Directory of Business and Industry, the name, address, telephone number, number of employees by range, code or classification of an employer, and type of ownership of Utah employers;

(k) the public for any purpose following a written waiver by all interested parties of their rights to nondisclosure;

(l) an individual whose wage data is submitted to the department by an employer, if no information other than the individual's wage data and the identity of the employer who submitted the information is provided to the individual;

(m) an employee of the Insurance Department for the purpose of administering Title 31A, Chapter 40, Professional Employer Organization Licensing Act;

(n) an employee of the Office of State Debt Collection for the purpose of collecting state accounts receivable as provided in Section 63A-3-502;

(o) a creditor, under a court order, to collect on a judgment as provided in Section 35A-4-314; or

(p) an employee of the Wage and Hour Division of the United States Department of Labor for the purpose of carrying out the programs administered by the Wage and Hour Division as permitted under 20 C.F.R. 603.5(e), if the information is subject to the payment of costs described in 20 C.F.R. 603.8(d) and:

(i) is limited to:

(A) the name and identifying information of an employer found by the department to have misclassified one or more workers under Subsection 35A-4-204(3);

(B) the total number of misclassified workers for that employer; and

(C) the aggregate amount of misclassified wages for that employer;

(ii) an employer is given the opportunity to cure a misclassification of one or more workers, in a manner established by division rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, before the information is disclosed as described in this Subsection (5)(p); and

(iii) an annual report regarding the benefit to the state from disclosure of information under this Subsection (5)(p) is provided to the department for inclusion in the department's annual report described in Section 35A-1-109.

(6) Disclosure of private information under Subsection (4)(a)(ii) or Subsection (5), with the

exception of Subsections (5)(a), (g), and (o), may be made if:

(a) the division determines that the disclosure will not have a negative effect on:

(i) the willingness of employers to report wage and employment information; or

(ii) the willingness of individuals to file claims for unemployment benefits; and

(b) the agency enters into a written agreement with the division in accordance with rules made by the department.

(7) (a) The employees of a division of the department other than the Workforce ~~[Development and Information]~~ Research and Analysis Division and the Unemployment Insurance Division or an agency receiving private information from the division under this chapter are subject to the same requirements of privacy and confidentiality and to the same penalties for misuse or improper disclosure of the information as employees of the division.

(b) Use of private information obtained from the department by a person or for a purpose other than one authorized in Subsection (4) or (5) violates Subsection 76-8-1301(4).

Section 12. Section 35A-5-102 is amended to read:

35A-5-102. Federal grants for retraining.

(1) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the state, through the ~~[Employment Development Division]~~ department, may and is encouraged to apply for retraining, community assistance, or technology transfer funds available through:

(a) the United States Department of Defense;

(b) United States Department of Labor; or

(c) other appropriate federal offices or departments.

(2) In applying for federal funds, the state, through ~~[its Employment Development Division or other appropriate office]~~ the department, may inform the federal government of state matching or enhancement funds if those funds are available under Section 67-1-12.

Section 13. Section 35A-5-202 is amended to read:

35A-5-202. Contracts with providers.

(1) In compliance with Title 63G, Chapter 6a, Utah Procurement Code, the department shall enter into a contract with one or more qualified providers to implement the ~~[workforce improvement plan created under]~~ state workforce services plan described in Section ~~[35A-5-201]~~ 35A-1-207.

(2) A contract entered into under this section ~~[shall be]:~~

(a) shall be performance based; and

(b) may be structured so that the provider receives reimbursement based on:

- (i) job development;
- (ii) participant placement in jobs;
- (iii) wages and benefits provided; and
- (iv) participant retention in jobs over at least a 12-month period.

(3) If the department determines through the procurement process that there are no qualified providers to implement the [~~workforce improvement plan~~] state workforce services plan, the department may implement the plan.

Section 14. Section 35A-9-301 is amended to read:

35A-9-301. Creation of the Utah Intergenerational Welfare Reform Commission.

There is created the Utah Intergenerational Welfare Reform Commission composed of ~~[(4)]~~ the following [~~five voting~~] seven members:

- (1) the lieutenant governor;
- ~~[(a)]~~ (2) the executive director of the Department of Workforce Services or the deputy director if designated by the executive director;
- ~~[(b)]~~ (3) the executive director of the Department of Health or the deputy director if designated by the executive director;
- ~~[(c)]~~ (4) the executive director of the Department of Human Services or the deputy director if designated by the executive director;
- ~~[(d)]~~ (5) the state superintendent of public education or the deputy state superintendent if designated by the superintendent; ~~[and]~~
- ~~[(e)]~~ (6) the state juvenile court administrator; and
- ~~[(2)]~~ (7) the chair of the Intergenerational Poverty Advisory Committee created [~~by~~] in Section 35A-9-304~~[, as a nonvoting member]~~.

Section 15. Section 35A-9-302 is amended to read:

35A-9-302. Chair of commission -- Meetings -- Quorum -- Staff support.

- (1) The lieutenant governor shall serve as chair of the commission.
- ~~[(4)]~~ (2) The executive director of the Department of Workforce Services, or the deputy director of the Department of Workforce Services if designated by the executive director, shall serve as vice chair of the commission.
- ~~[(2)]~~ (3) The chair:
 - (a) is responsible for the call and conduct of meetings;
 - (b) shall call and hold meetings of the commission at least quarterly; ~~[and]~~

(c) shall call additional meetings upon request by a majority of the commission's [~~voting~~] members~~[-];~~ and

(d) may delegate duties to the vice chair.

~~[(3)]~~ (4) A majority of the [~~voting~~] members of the commission constitutes a quorum of the commission at any meeting and the action of the majority of [~~voting~~] members present is the action of the commission.

~~[(4)]~~ (5) The Department of Workforce Services shall provide staff support to the commission.

Section 16. Section 35A-11-203 is amended to read:

35A-11-203. Annual report.

- (1) The commission shall annually prepare and publish a report directed to the:
 - (a) governor;
 - (b) Education Interim Committee;
 - (c) Economic Development and Workforce Services Interim Committee;
 - (d) Executive Appropriations Committee;
 - (e) Legislative Management Committee;
 - (f) Business, Economic Development, and Labor Appropriations Subcommittee; and
 - (g) State [~~Council on Workforce Services~~] Workforce Development Board.

(2) The report described in Subsection (1) shall:

- (a) describe how the commission fulfilled its statutory purposes and duties during the year; and
- (b) contain recommendations on how the state should act to address issues relating to women in the economy.

Section 17. Section 53B-12-101 is amended to read:

53B-12-101. Utah Higher Education Assistance Authority designated -- Powers.

The board is the Utah Higher Education Assistance Authority and, in this capacity, may do the following:

- (1) guarantee 100% of the principal of and interest on a loan to or for the benefit of a person attending or accepted to attend an eligible postsecondary educational institution to assist that person in meeting any educational expenses incurred in an academic year;
- (2) take, hold, and administer real or personal property and money, including interest and income, either absolutely or in trust, for any purpose under this chapter;
- (3) acquire property for the purposes indicated in Subsection (2) by purchase or lease and by the acceptance of gifts, grants, bequests, devises, or loans;
- (4) enter into or contract with an eligible lending institution, or with a public or private

postsecondary educational institution to provide for the administration by the institution of any loan or loan guarantee made by it, including application and repayment provisions;

(5) participate in federal programs guaranteeing, reinsuring, or otherwise supporting loans to eligible borrowers for postsecondary educational purposes and agree to, and comply with, the conditions and regulations applicable to those programs;

(6) adopt, amend, or repeal rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to govern the activities authorized by this chapter;

(7) receive state appropriations for the fund established under Section 53B-12-104 to match deposits and to accept contributions received by it for this purpose;

(8) receive funds from the federal government to assist in implementing federally supported programs administered under this chapter;

(9) engage, appoint, or contract for the services of officers, agents, employees, and private consultants to render and perform professional and technical duties and provide assistance and advice in carrying out the purposes of this chapter, to describe their duties, and to fix the amount and source of their compensation; and

(10) receive employment information from the Workforce ~~[Development and Information]~~ Research and Analysis Division in accordance with Section 35A-4-312 for the purpose of collecting defaulted student loans made under this chapter. The information obtained under this Subsection (10) shall be limited to the employer's name, address, and telephone number for borrowers who have defaulted on a student loan held by the Utah Higher Education Assistance Authority.

Section 18. Section 62A-1-111 is amended to read:

62A-1-111. Department authority.

The department may, in addition to all other authority and responsibility granted to it by law:

(1) adopt rules, not inconsistent with law, as the department may consider necessary or desirable for providing social services to the people of this state;

(2) establish and manage client trust accounts in the department's institutions and community programs, at the request of the client or the client's legal guardian or representative, or in accordance with federal law;

(3) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(4) conduct adjudicative proceedings for clients and providers in accordance with the procedures of Title 63G, Chapter 4, Administrative Procedures Act;

(5) establish eligibility standards for its programs, not inconsistent with state or federal law or regulations;

(6) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who was not eligible;

(7) set and collect fees for its services;

(8) license agencies, facilities, and programs, except as otherwise allowed, prohibited, or limited by law;

(9) acquire, manage, and dispose of any real or personal property needed or owned by the department, not inconsistent with state law;

(10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or the proceeds thereof, may be credited to the program designated by the donor, and may be used for the purposes requested by the donor, as long as the request conforms to state and federal policy; all donated funds shall be considered private, nonlapsing funds and may be invested under guidelines established by the state treasurer;

(11) accept and employ volunteer labor or services; the department is authorized to reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;

(12) carry out the responsibility assigned in the workforce services plan by the State ~~[Council on Workforce Services]~~ Workforce Development Board;

(13) carry out the responsibility assigned by Section 35A-8-602 with respect to coordination of services for the homeless;

(14) carry out the responsibility assigned by Section 62A-5a-105 with respect to coordination of services for students with a disability;

(15) provide training and educational opportunities for its staff;

(16) collect child support payments and any other money due to the department;

(17) apply the provisions of Title 78B, Chapter 12, Utah Child Support Act, to parents whose child lives out of the home in a department licensed or certified setting;

(18) establish policy and procedures, within appropriations authorized by the Legislature, in cases where the department is given custody of a minor by the juvenile court pursuant to Section 78A-6-117 or ordered to prepare an attainment plan for a minor found not competent to proceed pursuant to Section 78A-6-1301; any policy and procedures shall include:

(a) designation of interagency teams for each juvenile court district in the state;

(b) delineation of assessment criteria and procedures;

(c) minimum requirements, and timeframes, for the development and implementation of a

collaborative service plan for each minor placed in department custody; and

(d) provisions for submittal of the plan and periodic progress reports to the court;

(19) carry out the responsibilities assigned to it by statute;

(20) examine and audit the expenditures of any public funds provided to local substance abuse authorities, local mental health authorities, local area agencies on aging, and any person, agency, or organization that contracts with or receives funds from those authorities or agencies. Those local authorities, area agencies, and any person or entity that contracts with or receives funds from those authorities or area agencies, shall provide the department with any information the department considers necessary. The department is further authorized to issue directives resulting from any examination or audit to local authorities, area agencies, and persons or entities that contract with or receive funds from those authorities with regard to any public funds. If the department determines that it is necessary to withhold funds from a local mental health authority or local substance abuse authority based on failure to comply with state or federal law, policy, or contract provisions, it may take steps necessary to ensure continuity of services. For purposes of this Subsection (20) "public funds" means the same as that term is defined in Section 62A-15-102;

(21) pursuant to Subsection 62A-2-106(1)(d), accredit one or more agencies and persons to provide intercountry adoption services; and

(22) within appropriations authorized by the Legislature, promote and develop a system of care, as defined in Section 62A-1-104, within the department and with contractors that provide services to the department or any of the department's divisions.

Section 19. Section 62A-4a-105 is amended to read:

62A-4a-105. Division responsibilities.

(1) The division shall:

(a) administer services to minors and families, including:

(i) child welfare services;

(ii) domestic violence services; and

(iii) all other responsibilities that the Legislature or the executive director may assign to the division;

(b) provide the following services:

(i) financial and other assistance to an individual adopting a child with special needs under Part 9, Adoption Assistance, not to exceed the amount the division would provide for the child as a legal ward of the state;

(ii) non-custodial and in-home services, including:

(A) services designed to prevent family break-up; and

(B) family preservation services;

(iii) reunification services to families whose children are in substitute care in accordance with the requirements of this chapter and Title 78A, Chapter 6, Juvenile Court Act;

(iv) protective supervision of a family, upon court order, in an effort to eliminate abuse or neglect of a child in that family;

(v) shelter care in accordance with the requirements of this chapter and Title 78A, Chapter 6, Juvenile Court Act;

(vi) domestic violence services, in accordance with the requirements of federal law;

(vii) protective services to victims of domestic violence, as defined in Section 77-36-1, and their children, in accordance with the provisions of this chapter and Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings;

(viii) substitute care for dependent, abused, neglected, and delinquent children;

(ix) programs and services for minors who have been placed in the custody of the division for reasons other than abuse or neglect, under Section 62A-4a-250;

(x) services for minors who are victims of human trafficking or human smuggling as described in Sections 76-5-308 through 76-5-310 or who have engaged in prostitution or sexual solicitation as defined in Section 76-10-1302; and

(xi) training for staff and providers involved in the administration and delivery of services offered by the division in accordance with this chapter;

(c) establish standards for all:

(i) contract providers of out-of-home care for minors and families;

(ii) facilities that provide substitute care for dependent, abused, neglected, and delinquent children placed in the custody of the division; and

(iii) direct or contract providers of domestic violence services described in Subsection (1)(b)(vi);

(d) have authority to:

(i) contract with a private, nonprofit organization to recruit and train foster care families and child welfare volunteers in accordance with Section 62A-4a-107.5; and

(ii) approve facilities that meet the standards established under Subsection (1)(c) to provide substitute care for dependent, abused, neglected, and delinquent children placed in the custody of the division;

(e) cooperate with the federal government in the administration of child welfare and domestic violence programs and other human service activities assigned by the department;

(f) in accordance with Subsection (2)(a), promote and enforce state and federal laws enacted for the

protection of abused, neglected, dependent, delinquent, ungovernable, and runaway children, and status offenders, in accordance with the requirements of this chapter, unless administration is expressly vested in another division or department of the state;

(g) cooperate with the [Employment] Workforce Development Division in the Department of Workforce Services in meeting the social and economic needs of an individual who is eligible for public assistance;

(h) compile relevant information, statistics, and reports on child and family service matters in the state;

(i) prepare and submit to the department, the governor, and the Legislature reports of the operation and administration of the division in accordance with the requirements of Sections 62A-4a-117 and 62A-4a-118;

(j) provide social studies and reports for the juvenile court in accordance with Section 78A-6-605;

(k) within appropriations from the Legislature, provide or contract for a variety of domestic violence services and treatment methods;

(l) ensure regular, periodic publication, including electronic publication, regarding the number of children in the custody of the division who:

(i) have a permanency goal of adoption; or

(ii) have a final plan of termination of parental rights, pursuant to Section 78A-6-314, and promote adoption of those children;

(m) subject to Subsection (2)(b), refer an individual receiving services from the division to the local substance abuse authority or other private or public resource for a court-ordered drug screening test; and

(n) perform other duties and functions required by law.

(2) (a) In carrying out the requirements of Subsection (1)(f), the division shall:

(i) cooperate with the juvenile courts, the Division of Juvenile Justice Services, and with all public and private licensed child welfare agencies and institutions, to develop and administer a broad range of services and support;

(ii) take the initiative in all matters involving the protection of abused or neglected children, if adequate provisions have not been made or are not likely to be made; and

(iii) make expenditures necessary for the care and protection of the children described in this Subsection (2)(a), within the division's budget.

(b) When an individual is referred to a local substance abuse authority or other private or public resource for court-ordered drug screening under Subsection (1)(n), the court shall order the individual to pay all costs of the tests unless:

(i) the cost of the drug screening is specifically funded or provided for by other federal or state programs;

(ii) the individual is a participant in a drug court; or

(iii) the court finds that the individual is impecunious.

(3) Except to the extent provided by rule, the division is not responsible for investigating domestic violence in the presence of a child, as described in Section 76-5-109.1.

(4) The division may not require a parent who has a child in the custody of the division to pay for some or all of the cost of any drug testing the parent is required to undergo.

Section 20. Section 62A-4a-709 is amended to read:

62A-4a-709. Medical assistance identification.

(1) As used in this section:

(a) "Adoption assistance" means financial support to adoptive parents provided under the Adoption Assistance and Child Welfare Act of 1980, Titles IV (e) and XIX of the Social Security Act.

(b) "Adoption assistance agreement" means a written agreement between the division and adoptive parents or between any state and adoptive parents, providing for adoption assistance.

(c) "Interstate compact" means an agreement executed by the division with any other state, under the authority granted in Section 62A-4a-907.

(2) The [Employment] Workforce Development Division in the Department of Workforce Services and the Division of Health Care Financing shall cooperate with the division and comply with interstate compacts.

(3) A child who is a resident of this state and is the subject of an interstate compact is entitled to receive medical assistance identification from the [Employment] Workforce Development Division in the Department of Workforce Services and the Division of Health Care Financing by filing a certified copy of his adoption assistance agreement with that office. The adoptive parents shall annually provide that office with evidence, verifying that the adoption assistance agreement is still effective.

(4) The [Employment] Workforce Development Division in the Department of Workforce Services shall consider the holder of medical assistance identification received under this section as it does any other holder of medical assistance identification received under an adoption assistance agreement executed by the division.

(5) The submission of any claim for payment or reimbursement under this section that is known to be false, misleading, or fraudulent is punishable as a third degree felony.

Section 21. Repealer.

This bill repeals:

**Section 35A-2-103, Advisory groups --
Creation.**

**Section 35A-3-115, Public employment
offices -- Agreements with other
authorities -- Federal system accepted --
Appropriation.**

**Section 35A-5-201, Workforce improvement
plan.**

Section 22. Effective date.

This bill takes effect on July 1, 2016.

CHAPTER 297**S. B. 153**

Passed March 10, 2016
 Approved March 25, 2016
 Effective May 10, 2016

**SELF-RELIANCE TRAINING FOR
 PUBLIC ASSISTANCE RECIPIENTS**

Chief Sponsor: Lincoln Fillmore
 House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill modifies provisions of the Utah Workforce Services Code.

Highlighted Provisions:

This bill:

- ▶ defines “approved self-reliance training”;
- ▶ requires that a client receiving certain public assistance complete at least two hours of approved self-reliance training within 90 days of receiving assistance;
- ▶ requires the Department of Workforce Services to seek a waiver, if federal law or regulation prohibits requiring self-reliance training;
- ▶ describes what entities may offer approved self-reliance training; and
- ▶ describes the reporting requirements of the department.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

35A-3-102, as last amended by Laws of Utah 2015, Chapter 221

ENACTS:

35A-3-116, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 35A-3-102 is amended to read:

35A-3-102. Definitions.

As used in this chapter:

- (1) “Adjudicative proceeding” has the same meaning as defined in Section 63G-4-103.
- (2) “Administrative order” means an order issued by the department that addresses an overpayment of public assistance.
- (3) “Applicant” means a person who requests assistance under this chapter.
- (4) “Approved self-reliance training” means an educational class, training session, or counseling session:

- (a) approved by the department;
- (b) described in Section 35A-3-116; and
- (c) provided at no cost to a client.

[4] (5) “Assignment of support” means the transfer to the state of a recipient’s right to receive support from another person that accrues during the period the recipient receives public assistance, including a right to receive support on behalf of any family member for whom the recipient is applying for or receiving assistance.

[45] (6) “Average monthly number of families” means the average number of families who received cash assistance on a monthly basis during the previous federal fiscal year.

[46] (7) “Cash assistance” means the monthly dollar amount a recipient is eligible to receive under the Family Employment Program under Section 35A-3-302.

[47] (8) “Child care services” means care of a child by a responsible person who is not the child’s parent or legal guardian, for a portion of the day that is less than 24 hours in a qualified setting, as defined by rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[48] (9) (a) “Civic organization” means an organization that provides services to its community.

(b) “Civic organization” includes a community service club or organization, a charitable health care or service organization, a fraternal organization, a labor union, a minority or ethnic organization, a commercial or industrial organization, a commerce or business club, a private nonprofit organization, a private nonprofit corporation that provides funding to a community service organization, an organization that advocates or provides for the needs of persons with low incomes, a religious organization, and an organization that fosters strong neighborhoods and communities.

[49] (10) “Court order” means a judgment or order of a court of this state, another state, or the federal government that addresses an overpayment of public assistance.

[410] (11) “Date of enrollment” means the date on which the applicant was approved as eligible for cash assistance.

[411] (12) “Director” means the director of the division assigned by the department to administer a program.

[412] (13) “Diversion” or “diversion payment” means a one-time cash assistance payment under Section 35A-3-303 to a recipient who is eligible for cash assistance, but does not require extended cash assistance under Part 3, Family Employment Program.

[413] (14) “Education or training” means:

- (a) basic remedial education;
- (b) adult education;
- (c) high school education;
- (d) education to obtain the equivalent of a high school diploma;

(e) education to learn English as a second language;

(f) applied technology training;

(g) employment skills training; or

(h) on-the-job training.

[44] (15) "Full-time education or training" means training on a full-time basis as defined by the educational institution attended by the parent recipient.

[45] (16) "General assistance" means financial assistance provided to a person under Part 4, General Assistance.

[46] (17) "Notice of agency action" means the notice required to commence an adjudicative proceeding as described in Section 63G-4-201.

[47] (18) "Obligor" means an individual:

(a) who is liable to the state under Section 35A-3-603 and applicable federal statutes and regulations; or

(b) against whom an administrative or judicial order determining overpayment has been obtained.

[48] (19) (a) "Overpayment" means money, public assistance, or another item of value provided under a state or federally funded benefit program to a person that is not entitled to receive it or is not entitled to receive it at the level provided.

(b) "Overpayment" includes money paid to a provider under this title in connection with public assistance or another publicly funded assistance program to the extent that the provider receives payment:

(i) for goods or services not provided; or

(ii) in excess of the amount to which the provider is entitled.

[49] (20) "Parent recipient" means a person who enters into an employment plan with the department to qualify for cash assistance under Part 3, Family Employment Program.

[20] (21) "Performance goals" means a target level of performance that will be compared to actual performance.

[21] (22) "Performance indicators" means actual performance information regarding a program or activity.

[22] (23) "Performance monitoring system" means a process to regularly collect and analyze performance information, including performance indicators and performance goals.

[23] (24) "Plan" or "state plan" means the state plan submitted to the Secretary of the United States Department of Health and Human Services to receive funding from the United States through the Temporary Assistance for Needy Families Block Grant in accordance with 42 U.S.C. Sec. 602.

[24] (25) "Recipient" means a person who is qualified to receive, is receiving, or has received assistance under this chapter.

[25] (26) "Single minor parent" means a person under 18 years of age who is not married and has a minor child in the person's care and custody.

[26] (27) "Transitional cash assistance" means assistance provided to a recipient to stabilize employment and reduce the future use of cash assistance provided under Part 3, Family Employment Program.

Section 2. Section 35A-3-116 is enacted to read:

35A-3-116. Self-reliance training.

(1) If the department determines that it is not prohibited under federal law or regulation, a client who is at least 21 years old, but who is younger than 65 years old, and who is receiving public assistance under this chapter, shall complete at least two hours of approved self-reliance training within 90 days of the first day of receiving public assistance.

(2) If the department determines that federal law or regulation regarding a specific service or benefit under this chapter prohibits requiring a client to complete at least two hours of self-reliance training within 90 days of first receiving public assistance, the department shall:

(a) seek a waiver from the appropriate federal agency to allow requiring the training; and

(b) inform the client about the option of completing self-reliance training.

(3) The department shall ensure that approved self-reliance training:

(a) is designed to help clients learn to become financially stable and less dependent on government assistance;

(b) teaches skills and knowledge that will assist clients in becoming self-reliant;

(c) is available at sufficient times and places to enable clients to reasonably complete the training;

(d) is offered at no cost to clients;

(e) includes an option for online training; and

(f) is provided and taught in a manner that is sensitive to the specific needs and challenges of clients, including:

(i) employment situations and work schedules;

(ii) health or disability related employment issues;

(iii) family care responsibilities and schedules; and

(iv) transportation issues.

(4) Approved self-reliance training may be offered by the department or any of the following if approved by the department:

(a) a civic organization as defined in Section 35A-3-102;

(b) a for-profit entity;

(c) an educational institution; or

(d) any state or local entity.

(5) The director may contract with a civic organization to provide approved self-reliance training, if the director follows the procedures for contracting with a civic organization for the provision of social capital as described in Section 35A-3-507.

(6) As part of the annual written report described in Section 35A-1-109, the department shall:

(a) describe what entities are providing approved self-reliance training;

(b) provide the number of clients who have completed at least two hours of approved self-reliance training;

(c) describe any services or benefits under this chapter that may not be conditioned on the completion of self-reliance training because of federal law or regulation; and

(d) describe the response to any waiver request described in Subsection (2)(a).

(7) A client's completion of the approved self-reliance training described in Subsection (1) is not a condition of the client continuing to receive public assistance.

CHAPTER 298**S. B. 156**

Passed March 7, 2016
 Approved March 25, 2016
 Effective May 10, 2016

STATE FACILITIES AMENDMENTS

Chief Sponsor: Wayne A. Harper
 House Sponsor: Gage Froerer

LONG TITLE**General Description:**

This bill amends provisions of the Utah Administrative Services Code related to state facilities.

Highlighted Provisions:

This bill:

- ▶ amends the definition of “agency”;
- ▶ grants rulemaking authority to the State Building Board relating to budgeting for and determining operations and maintenance expenses for a state facility;
- ▶ establishes requirements relating to compliance with rules made by the State Building Board under this bill;
- ▶ amends provisions relating to the capital development and capital improvement process;
- ▶ requires the Division of Facilities and Construction Management to present a regular report on state land or buildings that are no longer needed by the state;
- ▶ requires the State Board of Regents to conduct a study; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63A-1-103, as last amended by Laws of Utah 2014, Chapter 292
 63A-1-111, as renumbered and amended by Laws of Utah 1993, Chapter 212
 63A-3-104, as renumbered and amended by Laws of Utah 1993, Chapter 212
 63A-3-106, as last amended by Laws of Utah 2014, Chapter 387
 63A-3-201, as last amended by Laws of Utah 2015, Chapter 43
 63A-3-203, as last amended by Laws of Utah 2010, Chapter 324
 63A-3-302, as enacted by Laws of Utah 1993, Chapter 212
 63A-3-501, as last amended by Laws of Utah 2014, Chapter 286
 63A-5-103, as last amended by Laws of Utah 2015, Chapter 297
 63A-5-104, as last amended by Laws of Utah 2015, Chapter 297
 63A-5-204, as last amended by Laws of Utah 2009, Chapters 183 and 344
 63A-5-206, as last amended by Laws of Utah 2011, Chapter 14

63A-5-215, as renumbered and amended by Laws of Utah 1993, Chapter 212

63J-1-201, as last amended by Laws of Utah 2015, Chapters 175 and 407

ENACTS:

63A-5-226, Utah Code Annotated 1953

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-1-103 is amended to read:**63A-1-103. Definitions.**

As used in this title:

(1) “Agency” means a board, commission, institution, department, division, officer, council, office, committee, bureau, or other administrative unit of the state, including the agency head, agency employees, or other persons acting on behalf of or under the authority of the agency head, the Legislature, the courts, or the governor, but does not mean a political subdivision of the state, or any administrative unit of a political subdivision of the state.

(2) “Department” means the Department of Administrative Services.

(3) “Executive director” means the executive director of the Department of Administrative Services.

Section 2. Section 63A-1-111 is amended to read:**63A-1-111. Service plans established by each division -- Contents -- Distribution.**

(1) Each division of the department shall formulate and establish service plans for each fiscal year.

(2) The service plans shall describe:

- (a) the services to be rendered to state agencies;
- (b) the methods of providing those services;
- (c) the standards of performance; and
- (d) the performance measures used to gauge compliance with those standards.

(3) Before the beginning of each fiscal year, the service plans shall be distributed to each state agency [~~and institution~~] that uses the services provided by that division.

Section 3. Section 63A-3-104 is amended to read:**63A-3-104. Appropriation for contingency purposes -- Procedure for allotment -- Legislative intent.**

(1) (a) The Legislature shall determine the amount to be appropriated for contingency purposes, as well as the limits on the amount of any one allotment or total allotments to any one [~~department or~~] agency.

(b) In advance of making any such allotment, the governor shall notify the Legislature through the Office of the Legislative Fiscal Analyst, of his or her intent to do so, of the amount to be allotted, and the justification for the allotment.

(2) It is the intent of the Legislature that such transfers be made only for unforeseeable emergencies, and allotments shall not be made to correct poor budgetary practices or for purposes having no existing appropriation or authorization.

Section 4. Section 63A-3-106 is amended to read:

63A-3-106. Per diem rates for board members.

(1) As used in this section and Section 63A-3-107:

(a) "Board" means a board, commission, council, committee, task force, or similar body established to perform a governmental function.

(b) "Board member" means a person appointed or designated by statute to serve on a board.

(c) "Executive branch" means [~~a department, division, agency, board, or office~~] an agency within the executive branch of state government.

(d) "Governmental entity" has the same meaning as provided under Section 63G-2-103.

(e) "Higher education" means a state institution of higher education, as defined under Section 53B-1-102.

(f) "Officer" means a person who is elected or appointed to an office or position within a governmental entity.

(g) "Official meeting" means a meeting of a board that is called in accordance with statute.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and subject to approval by the executive director, the director of the Division of Finance shall make rules establishing per diem rates to defray subsistence costs for a board member's attendance at an official meeting.

(3) Unless otherwise provided by statute, a per diem rate established under Subsection (2) is applicable to a board member who serves:

(a) within the executive branch, except as provided under Subsection (3)(b);

(b) within higher education, unless higher education pays the costs of the per diem;

(c) on a board that is:

(i) not included under Subsection (3)(a) or (b); and

(ii) created by a statute that adopts the per diem rates by reference to:

(A) this section; and

(B) the rule authorized by this section; and

(d) within a government entity that is not included under Subsection (3)(a), if the government entity adopts the per diem rates by reference to:

(i) this section; or

(ii) the rule establishing the per diem rates.

(4) (a) Unless otherwise provided by statute, a board member who is not a legislator may receive per diem under this section and travel expenses under Section 63A-3-107 if the per diem and travel expenses are incurred by the board member for attendance at an official meeting.

(b) Notwithstanding Subsection (4)(a), a board member may not receive per diem or travel expenses under this Subsection (4) if the board member is being paid by a governmental entity while performing the board member's service on the board.

(5) A board member may decline to receive per diem for the board member's service.

(6) Compensation and expenses of a board member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 5. Section 63A-3-201 is amended to read:

63A-3-201. Appointment of accounting and other officers and employees by director of the Division of Finance -- Delegation of powers and duties by director -- Background checks.

(1) With the approval of the executive director, the director of the Division of Finance shall appoint an accounting officer and other administrative officers that are necessary to efficiently and economically perform the functions of the Division of Finance.

(2) The director of the Division of Finance may:

(a) organize the division and employ other assistants to discharge the functions of the division;

(b) delegate to assistants, officers, and employees any of the powers and duties of the office subject to his or her control and subject to any conditions he may prescribe; and

(c) delegate the powers and duties of the office only by written order filed with the lieutenant governor.

(3) (a) As used in this Subsection (3):

(i) "Public employee" means a person employed by a state agency.

(ii) "Public funds" means money, funds, and accounts, regardless of the source from which the money, funds, and accounts are derived, that are owned, held, or administered by a state agency.

(iii) "Public funds position" means employment with a state agency that requires:

(A) physical or electronic access to public funds;

(B) performing internal control functions or accounting;

(C) creating reports on public funds; or

(D) using, operating, or accessing state systems that account for or help account for public funds.

(iv) "State agency" means ~~[an executive branch]~~:

~~[(A) department;]~~

~~[(B)]~~ (A) an executive branch agency; or

~~[(C) board;]~~

~~[(D) commission;]~~

~~[(E) division;]~~

~~[(F) office; or]~~

~~[(G)]~~ (B) a state educational institution with the exception of an institution defined in Subsection 53B-1-102(1).

(b) The Division of Finance may require that a public employee who applies for or holds a public funds position:

(i) submit a fingerprint card in a form acceptable to the division;

(ii) consent to a criminal background check by:

(A) the Federal Bureau of Investigation;

(B) the Utah Bureau of Criminal Identification; or

(C) another agency of any state that performs criminal background checks; or

(iii) consent to a credit history report, subject to the requirements of the Fair Credit Reporting Act, 15 U.S.C. Sec. 1681 et seq.

(c) The Division of Finance may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules to implement this section.

Section 6. Section 63A-3-203 is amended to read:

63A-3-203. Accounting control over state departments and agencies -- Prescription and approval of financial forms, accounting systems, and fees.

(1) The director of the Division of Finance shall:

(a) exercise accounting control over all state departments and agencies except institutions of higher education; and

(b) prescribe the manner and method of certifying that funds are available and adequate to meet all contracts and obligations.

(2) The director shall audit all claims against the state for which an appropriation has been made.

(3) (a) The director shall:

(i) prescribe all forms of requisitions, receipts, vouchers, bills, or claims to be used by all state departments and agencies;

(ii) prescribe the forms, procedures, and records to be maintained by all departmental, institutional, or agency store rooms;

(iii) exercise inventory control over the store rooms; and

(iv) prescribe all forms to be used by the division.

(b) Before approving the forms in Subsection (3)(a), the director shall obtain approval from the state auditor that the forms will adequately facilitate the post-audit of public accounts.

(4) Before implementation by any state ~~[department or]~~ agency, the director of the Division of Finance shall review and approve:

(a) any accounting system developed by a state ~~[department or]~~ agency; and

(b) any fees established by any state ~~[department or]~~ agency to recover the costs of operations.

Section 7. Section 63A-3-302 is amended to read:

63A-3-302. Unpaid account receivable due the state.

If any account receivable has been unpaid for more than 90 days, any agency~~[- department, division, commission, committee, board, council, institution, or any]~~ or other authority of state government responsible for collection of the account may proceed under this part to collect the delinquent amount.

Section 8. Section 63A-3-501 is amended to read:

63A-3-501. Definitions.

As used in this part:

(1) (a) "Accounts receivable" or "receivables" means any amount due to a state agency from an entity for which payment has not been received by the state agency that is servicing the debt.

(b) "Accounts receivable" includes unpaid fees, licenses, taxes, loans, overpayments, fines, forfeitures, surcharges, costs, contracts, interest, penalties, restitution to victims, third-party claims, sale of goods, sale of services, claims, and damages.

(2) "Administrative offset" means:

(a) a reduction of an individual's tax refund or other payments due to the individual to reduce or eliminate accounts receivable that the individual owes to a state agency; and

(b) a reduction of an entity's tax refund or other payments due to the entity to reduce or eliminate accounts receivable that the entity owes to a state agency.

(3) "Entity" means an individual, a corporation, partnership, or other organization that pays taxes to or does business with the state.

(4) "Office" means the Office of State Debt Collection established by this part.

(5) "Past due" means any accounts receivable that the state has not received by the payment due date.

(6) "Restitution to victims" means restitution ordered by a court to be paid to a victim of an offense in a criminal or juvenile proceeding.

(7) (a) "State agency" includes:

(i) ~~[any department, division, commission, council, board, bureau, committee, office, or other administrative subunit of Utah state government]~~ an executive branch agency;

(ii) the legislative branch of state government; and

(iii) the judicial branches of state government, including justice courts.

(b) "State agency" does not include:

(i) any institution of higher education;

(ii) except in Subsection 63A-3-502(7)(g), the State Tax Commission; or

(iii) the administrator of the Uninsured Employers' Fund appointed by the Labor Commissioner under Section 34A-2-704, solely for the purposes of collecting money required to be deposited into the Uninsured Employers' Fund under:

(A) Section 34A-1-405;

(B) Title 34A, Chapter 2, Workers' Compensation Act; or

(C) Title 34A, Chapter 3, Utah Occupational Disease Act.

(8) "Writing-off" means the removal of an accounts receivable from an agency's accounts receivable records but does not necessarily eliminate further collection efforts.

Section 9. Section 63A-5-103 is amended to read:

63A-5-103. Board -- Powers.

(1) The State Building Board shall:

(a) in cooperation with ~~[state institutions, departments, commissions, and]~~ agencies, prepare a master plan of structures built or contemplated;

(b) submit to the governor and the Legislature a comprehensive five-year building plan for the state containing the information required by Subsection (2);

(c) amend and keep current the five-year building program for submission to the governor and subsequent legislatures;

(d) as a part of the long-range plan, recommend to the governor and Legislature any changes in the law that are necessary to ~~[insure]~~ ensure an effective, well-coordinated building program for all ~~[state institutions]~~ agencies;

(e) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules:

(i) that are necessary to discharge its duties and the duties of the Division of Facilities Construction and Management;

(ii) to establish standards and requirements for life cycle cost-effectiveness of state facility projects;

(iii) to govern the disposition of real property by the division and establish factors, including appraised value and historical significance, in evaluating the disposition;

(iv) to establish standards and requirements for a capital development project request, including a requirement for a feasibility study; and

(v) ~~[to establish standards and requirements for reporting]~~ for operations and maintenance expenditures for state-owned facilities ~~[, including standards and requirements relating to]~~ that require, and establish standards for:

(A) reporting;

(B) utility metering;

(C) creating operations and maintenance programs within all agency institutional line items;

(D) reviewing and adjusting for inflationary costs of goods and services on an annual basis; and

(E) determining the actual cost for operations and management requests for a new facility;

(f) with support from the Division of Facilities Construction and Management, establish design criteria, standards, and procedures for planning, design, and construction of new state facilities and for improvements to existing state facilities, including life-cycle costing, cost-effectiveness studies, and other methods and procedures that address:

(i) the need for the building or facility;

(ii) the effectiveness of its design;

(iii) the efficiency of energy use; and

(iv) the usefulness of the building or facility over its lifetime;

(g) prepare and submit a yearly request to the governor and the Legislature for a designated amount of square footage by type of space to be leased by the Division of Facilities Construction and Management in that fiscal year;

(h) assure the efficient use of all building space; and

(i) conduct ongoing facilities maintenance audits for state-owned facilities.

(2) (a) An agency shall comply with the rules described in Subsection (1)(e)(v)(E) for new facility requests submitted to the Legislature for the 2017 General Session or any session of the Legislature after the 2017 General Session.

(b) On or before September 1, 2016, each agency shall revise the agency's budget to comply with the rules described in Subsection (1)(e)(v)(C).

(c) Beginning on December 1, 2016, the Office of the Legislative Fiscal Analyst and the Governor's Office of Management and Budget shall, for each agency with operating and maintenance expenses, ensure that each required budget for that agency is

adjusted in accordance with the rules described in Subsection (1)(e)(v)(D).

(2) (3) In order to provide adequate information upon which the State Building Board may make [its] a recommendation [under] described in Subsection (1), any state agency requesting new full-time employees for the next fiscal year shall report those anticipated requests to the building board at least 90 days before the annual general session in which the request is made.

(3) (4) (a) The State Building Board shall ensure that the five-year building plan required by Subsection (1)(c) includes:

(i) a list that prioritizes construction of new buildings for all structures built or contemplated based upon each agency's[~~department's, commission's, and institution's~~] present and future needs;

(ii) information, and space use data for all state-owned and leased facilities;

(iii) substantiating data to support the adequacy of any projected plans;

(iv) a summary of all statewide contingency reserve and project reserve balances as of the end of the most recent fiscal year;

(v) a list of buildings that have completed a comprehensive facility evaluation by an architect/engineer or are scheduled to have an evaluation;

(vi) for those buildings that have completed the evaluation, the estimated costs of needed improvements; and

(vii) for projects recommended in the first two years of the five-year building plan:

(A) detailed estimates of the cost of each project;

(B) the estimated cost to operate and maintain the building or facility on an annual basis;

(C) the cost of capital improvements to the building or facility, estimated at 1.1% of the replacement cost of the building or facility, on an annual basis;

(D) the estimated number of new agency full-time employees expected to be housed in the building or facility;

(E) the estimated cost of new or expanded programs and personnel expected to be housed in the building or facility;

(F) the estimated lifespan of the building with associated costs for major component replacement over the life of the building; and

(G) the estimated cost of any required support facilities.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Building Board may make rules prescribing the format for

submitting the information required by this Subsection [(3)] (4).

(4) (5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Building Board may make rules establishing circumstances under which bids may be modified when all bids for a construction project exceed available funds as certified by the director.

(b) In making those rules, the State Building Board shall provide for the fair and equitable treatment of bidders.

(5) (6) (a) A person who violates a rule adopted by the board under Subsection (1)(e) is subject to a civil penalty not to exceed \$2,500 for each violation plus the amount of any actual damages, expenses, and costs related to the violation of the rule that are incurred by the state.

(b) The board may take any other action allowed by law.

(c) If any violation of a rule adopted by the board is also an offense under Title 76, Utah Criminal Code, the violation is subject to the civil penalty, damages, expenses, and costs allowed under Subsection (1)(e) in addition to any criminal prosecution.

Section 10. Section 63A-5-104 is amended to read:

63A-5-104. Definitions -- Capital development and capital improvement process -- Approval requirements -- Limitations on new projects -- Emergencies.

(1) As used in this section:

(a) (i) "Capital developments" means a:

(i) (A) remodeling, site, or utility project with a total cost of [~~\$2,500,000~~] \$3,500,000 or more;

(ii) (B) new facility with a construction cost of \$500,000 or more; or

(iii) (C) purchase of real property where an appropriation is requested to fund the purchase.

(ii) "Capital developments" does not include a project described in Subsection (1)(b)(iii).

(b) "Capital improvements" means [a]:

(i) a remodeling, alteration, replacement, or repair project with a total cost of less than [~~\$2,500,000~~] \$3,500,000;

(ii) a site [and] or utility improvement with a total cost of less than [~~\$2,500,000; or~~] \$3,500,000;

(iii) a utility infrastructure improvement project that:

(A) has a total cost of less than \$7,000,000;

(B) consists of two or more projects that, if done separately, would each cost less than \$3,500,000; and

(C) the State Building Board determines is more cost effective or feasible to be completed as a single project; or

~~(iii)~~ (iv) a new facility with a total construction cost of less than \$500,000.

(c) (i) "New facility" means the construction of a new building on state property regardless of funding source.

(ii) "New facility" includes:

(A) an addition to an existing building; and

(B) the enclosure of space that was not previously enclosed.

(iii) "New facility" does not ~~mean~~ include:

(A) the replacement of state-owned space that is demolished or that is otherwise removed from state use, if the total construction cost of the replacement space is less than ~~[\$2,500,000]~~ \$3,500,000; or

(B) the construction of facilities that do not fully enclose a space.

(d) "Replacement cost of existing state facilities and infrastructure" means the replacement cost, as determined by the Division of Risk Management, of state facilities, excluding auxiliary facilities as defined by the State Building Board and the replacement cost of infrastructure as defined by the State Building Board.

(e) "State funds" means public money appropriated by the Legislature.

(2) (a) The State Building Board, on behalf of all state agencies, ~~[commissions, departments, and institutions]~~ shall submit its capital development recommendations and priorities to the Legislature for approval and prioritization.

(b) In developing the State Building Board's capital development recommendations and priorities, the State Building Board shall:

(i) require each state agency~~[, commission, department, or institution]~~ requesting an appropriation for a capital development project to complete a study that demonstrates the feasibility of the capital development project, including:

(A) the need for the capital development project;

(B) the appropriateness of the scope of the capital development project;

(C) any private funding for the capital development project; and

(D) the economic and community impacts of the capital development project; ~~and~~

(ii) verify the completion and accuracy of the feasibility study described in Subsection (2)(b)(i)~~[-];~~

(iii) require that an institution described in Section 53B-1-102 that submits a request for a capital development project address whether and how, as a result of the project, the institution will:

(A) offer courses or other resources that will help meet demand for jobs, training, and employment in the current market and the projected market for the next five years;

(B) respond to individual skilled and technical job demand over the next 3, 5, and 10 years;

(C) respond to industry demands for trained workers;

(D) help meet commitments made by the Governor's Office of Economic Development, including relating to training and incentives;

(E) respond to changing needs in the economy; and

(F) based on demographics, respond to demands for on-line or in-class instruction; and

(iv) only when determining the order of prioritization among requests submitted by the State Board of Regents, give more weight, in the State Building Board's scoring process, to a request that is designated as a higher priority by the State Board of Regents than a request that is designated as a lower priority by the State Board of Regents.

(c) An agency may not modify a capital development project request after the deadline for submitting the request, except to the extent that a modification of the scope of the project, or the amount of funds requested, is necessary due to increased construction costs or other factors outside of the agency's control.

(3) (a) Except as provided in Subsections (3)(b), (d), and (e), a capital development project may not be constructed on state property without legislative approval.

(b) Legislative approval is not required for a capital development project that consists of the design or construction of a new facility if:

(i) the State Building Board determines that~~[-(i)]~~ the requesting state agency~~[, commission, department, or institution]~~ has provided adequate assurance that~~[-(A)]~~ state funds will not be used for the design or construction of the facility; ~~and~~

~~(B)~~ (ii) the state agency~~[, commission, department, or institution has a plan for funding in place that will not require increased state funding]~~ provides to the State Building Board a written document, signed by the head of the state agency:

(A) stating that funding or a revenue stream is in place, or will be in place before the project is completed, to ensure that increased state funding will not be required to cover the cost of operations and maintenance to~~[, or state funding for,]~~ the resulting facility for immediate or future capital improvements ~~[to the resulting facility];~~ and

(B) detailing the source of the funding that will be used for the cost of operations and maintenance for immediate and future capital improvements to the resulting facility; and

~~(iii)~~ (iii) the State Building Board determines that the use of the state property is:

(A) appropriate and consistent with the master plan for the property; and

(B) will not create an adverse impact on the state.

(c) (i) The Division of Facilities Construction and Management shall maintain a record of facilities constructed under the exemption provided in Subsection (3)(b).

(ii) For facilities constructed under the exemption provided in Subsection (3)(b), a state agency ~~[, commission, department, or institution]~~ may not request:

(A) increased state funds for operations and maintenance; or

(B) state capital improvement funding.

(d) Legislative approval is not required for:

(i) the renovation, remodeling, or retrofitting of an existing facility with nonstate funds that has been approved by the State Building Board;

(ii) a facility to be built with nonstate funds and owned by nonstate entities within research park areas at the University of Utah and Utah State University;

(iii) a facility to be built at This is the Place State Park by This is the Place Foundation with funds of the foundation, including grant money from the state, or with donated services or materials;

(iv) a capital project that:

(A) is funded by:

(I) the Uintah Basin Revitalization Fund; or

(II) the Navajo Revitalization Fund; and

(B) does not provide a new facility for a state agency or higher education institution; or

(v) a capital project on school and institutional trust lands that is funded by the School and Institutional Trust Lands Administration from the Land Grant Management Fund and that does not fund construction of a new facility for a state agency or higher education institution.

(e) (i) Legislative approval is not required for capital development projects to be built for the Department of Transportation:

(A) as a result of an exchange of real property under Section 72-5-111; or

(B) as a result of a sale or exchange of real property from a maintenance facility if the real property is exchanged for, or the proceeds from the sale of the real property are used for, another maintenance facility, including improvements for a maintenance facility and real property.

(ii) When the Department of Transportation approves a sale or exchange under Subsection (3)(e), it shall notify the president of the Senate, the speaker of the House, and the cochairs of the Infrastructure and General Government Appropriations Subcommittee of the Legislature's Joint Appropriation Committee about any new facilities to be built or improved under this exemption.

(4) (a) (i) The State Building Board, on behalf of all state agencies, commissions, departments, and institutions shall by January 15 of each year, submit a list of anticipated capital improvement requirements to the Legislature for review and approval.

(ii) The list shall identify:

(A) a single project that costs more than \$1,000,000;

(B) multiple projects within a single building or facility that collectively cost more than \$1,000,000;

(C) a single project that will be constructed over multiple years with a yearly cost of \$1,000,000 or more and an aggregate cost of more than [~~\$2,500,000~~] \$3,500,000;

(D) multiple projects within a single building or facility with a yearly cost of \$1,000,000 or more and an aggregate cost of more than [~~\$2,500,000~~] \$3,500,000;

(E) a single project previously reported to the Legislature as a capital improvement project under \$1,000,000 that, because of an increase in costs or scope of work, will now cost more than \$1,000,000; ~~and~~

(F) multiple projects within a single building or facility previously reported to the Legislature as a capital improvement project under \$1,000,000 that, because of an increase in costs or scope of work, will now cost more than \$1,000,000~~[-]; and~~

(G) projects approved under Subsection (1)(b)(iii).

(b) Unless otherwise directed by the Legislature, the State Building Board shall prioritize capital improvements from the list submitted to the Legislature up to the level of appropriation made by the Legislature.

(c) In prioritizing capital improvements, the State Building Board shall consider the results of facility evaluations completed by an architect/engineer as stipulated by the building board's facilities maintenance standards.

(d) Beginning on July 1, 2013, in prioritizing capital improvements, the State Building Board shall allocate at least 80% of the funds that the Legislature appropriates for capital improvements to:

(i) projects that address:

(A) a structural issue;

(B) fire safety;

(C) a code violation; or

(D) any issue that impacts health and safety;

(ii) projects that upgrade:

(A) an HVAC system;

(B) an electrical system;

(C) essential equipment;

(D) an essential building component; or

(E) infrastructure, including a utility tunnel, water line, gas line, sewer line, roof, parking lot, or road; or

(iii) projects that demolish and replace an existing building that is in extensive disrepair and cannot be fixed by repair or maintenance.

(e) Beginning on July 1, 2013, in prioritizing capital improvements, the State Building Board shall allocate no more than 20% of the funds that the Legislature appropriates for capital improvements to:

(i) remodeling and aesthetic upgrades to meet state programmatic needs; or

(ii) construct an addition to an existing building or facility.

(f) The State Building Board may require an entity that benefits from a capital improvement project to repay the capital improvement funds from savings that result from the project.

(g) The State Building Board may provide capital improvement funding to a single project, or to multiple projects within a single building or facility, even if the total cost of the project or multiple projects is [~~\$2,500,000~~] \$3,500,000 or more, if:

(i) the capital improvement project [~~or multiple projects require more than one year to complete~~] is a project described in Subsection (1)(b)(iii); and

(ii) the Legislature has [~~affirmatively authorized the capital improvement project or multiple projects to be funded in phases~~] not refused to fund the project with capital improvement funds.

(h) In prioritizing and allocating capital improvement funding, the State Building Board shall comply with the requirement in Subsection 63B-23-101(2)(f).

(5) The Legislature may authorize:

(a) the total square feet to be occupied by each state agency; and

(b) the total square feet and total cost of lease space for each agency.

(6) If construction of a new building or facility [~~will be paid for by nonstate funds, but~~] will require an immediate or future increase in state funding for operations and maintenance or for capital improvements, the Legislature may not authorize the new building or facility until the Legislature appropriates funds for:

(a) the portion of operations and maintenance, if any, that will require an immediate or future increase in state funding; and

(b) the portion of capital improvements, if any, that will require an immediate or future increase in state funding.

(7) (a) Except as provided in Subsection (7)(b) [~~or (e)~~], the Legislature may not fund the design or construction of any new capital development projects, except to complete the funding of projects

for which partial funding has been previously provided, until the Legislature has appropriated 1.1% of the replacement cost of existing state facilities and infrastructure to capital improvements.

(b) (i) As used in this Subsection (7)(b):

(A) "Education Fund budget deficit" is as defined in Section 63J-1-312; and

(B) "General Fund budget deficit" is as defined in Section 63J-1-312.

(ii) If the Legislature determines that an Education Fund budget deficit or a General Fund budget deficit exists, the Legislature may, in eliminating the deficit, reduce the amount appropriated to capital improvements to 0.9% of the replacement cost of state buildings and infrastructure.

~~[(e) (i) The requirements under Subsections (6)(a) and (b) do not apply to the 2008-09, 2009-10, 2010-11, 2011-12, and 2012-13 fiscal years.]~~

~~[(ii) For the 2013-14 fiscal year, the amount appropriated to capital improvements shall be reduced to 0.9% of the replacement cost of state facilities.]~~

(8) It is the policy of the Legislature that a new building or facility be approved and funded for construction in a single budget action, therefore the Legislature may not fund the programming, design, and construction of a new building or facility in phases over more than one year unless the Legislature has approved each phase of the funding for the construction of the new building or facility by the affirmative vote of two-thirds of all the members elected to each house.

(9) (a) If, after approval of capital development and capital improvement priorities by the Legislature under this section, emergencies arise that create unforeseen critical capital improvement projects, the State Building Board may, notwithstanding the requirements of Title 63J, Chapter 1, Budgetary Procedures Act, reallocate capital improvement funds to address those projects.

(b) The State Building Board shall report any changes it makes in capital improvement allocations approved by the Legislature to:

(i) the Office of Legislative Fiscal Analyst within 30 days of the reallocation; and

(ii) the Legislature at its next annual general session.

(10) (a) The State Building Board may adopt a rule allocating to institutions and agencies their proportionate share of capital improvement funding.

(b) The State Building Board shall ensure that the rule:

(i) reserves funds for the Division of Facilities Construction and Management for emergency projects; and

(ii) allows the delegation of projects to some institutions and agencies with the requirement that a report of expenditures will be filed annually with the Division of Facilities Construction and Management and appropriate governing bodies.

(11) It is the intent of the Legislature that in funding capital improvement requirements under this section the General Fund be considered as a funding source for at least half of those costs.

(12) (a) Subject to Subsection (12)(b), at least 80% of the state funds appropriated for capital improvements shall be used for maintenance or repair of the existing building or facility.

(b) The State Building Board may modify the requirement described in Subsection (12)(a) if the State Building Board determines that a different allocation of capital improvements funds is in the best interest of the state.

Section 11. Section 63A-5-204 is amended to read:

63A-5-204. Specific powers and duties of director.

(1) As used in this section, "capitol hill facilities" and "capitol hill grounds" have the same meaning as provided in Section 63C-9-102.

(2) (a) The director shall:

(i) recommend rules to the executive director for the use and management of facilities and grounds owned or occupied by the state for the use of its departments and agencies;

(ii) supervise and control the allocation of space, in accordance with legislative directive through annual appropriations acts or other specific legislation, to the various departments, commissions, institutions, and agencies in all buildings or space owned, leased, or rented by or to the state, except capitol hill facilities and capitol hill grounds and except as otherwise provided by law;

(iii) comply with the procedures and requirements of Title 63A, Chapter 5, Part 3, Division of Facilities Construction and Management Leasing;

(iv) except as provided in Subsection (2)(b), acquire, as authorized by the Legislature through the appropriations act or other specific legislation, and hold title to, in the name of the division, all real property, buildings, fixtures, or appurtenances owned by the state or any of its agencies;

(v) adopt and use a common seal, of a form and design determined by the director, and of which courts shall take judicial notice;

(vi) file a description and impression of the seal with the Division of Archives;

(vii) collect and maintain all deeds, abstracts of title, and all other documents evidencing title to or interest in property belonging to the state or any of its departments, except institutions of higher

education and the School and Institutional Trust Lands Administration;

(viii) report all properties acquired by the state, except those acquired by institutions of higher education, to the director of the Division of Finance for inclusion in the state's financial records;

(ix) before charging a rate, fee, or other amount for services provided by the division's internal service fund to an executive branch agency, or to a subscriber of services other than an executive branch agency:

(A) submit the proposed rates, fees, and cost analysis to the Rate Committee established in Section 63A-1-114; and

(B) obtain the approval of the Legislature as required by Section 63J-1-410;

(x) conduct a market analysis by July 1, 2005, and periodically thereafter, of proposed rates and fees, which analysis shall include a comparison of the division's rates and fees with the fees of other public or private sector providers where comparable services and rates are reasonably available;

(xi) implement the State Building Energy Efficiency Program under Section 63A-5-701; and

(xii) take all other action necessary for carrying out the purposes of this chapter.

(b) Legislative approval is not required for acquisitions by the division that cost less than \$250,000.

(3) (a) The director shall direct or delegate maintenance and operations, preventive maintenance, and facilities inspection programs and activities for any [~~department, commission, institution, or~~] agency, except:

(i) the State Capitol Preservation Board; and

(ii) state institutions of higher education.

(b) The director may choose to delegate responsibility for these functions only when the director determines that:

(i) the [~~department or~~] agency has requested the responsibility;

(ii) the [~~department or~~] agency has the necessary resources and skills to comply with facility maintenance standards approved by the State Building Board; and

(iii) the delegation would result in net cost savings to the state as a whole.

(c) The State Capitol Preservation Board and state institutions of higher education are exempt from Division of Facilities Construction and Management oversight.

(d) Each state institution of higher education shall comply with the facility maintenance standards approved by the State Building Board.

(e) Except for the State Capitol Preservation Board, agencies and institutions that are exempt from division oversight shall annually report their

compliance with the facility maintenance standards to the division in the format required by the division.

(f) The division shall:

(i) prescribe a standard format for reporting compliance with the facility maintenance standards;

(ii) report agency [~~and institution~~] compliance or noncompliance with the standards to the Legislature; and

(iii) conduct periodic audits of exempt agencies and institutions to ensure that they are complying with the standards.

(4) (a) In making any allocations of space under Subsection (2), the director shall:

(i) conduct studies to determine the actual needs of each [~~department, commission, institution, or~~] agency; and

(ii) comply with the restrictions contained in this Subsection (4).

(b) The supervision and control of the legislative area is reserved to the Legislature.

(c) The supervision and control of the judicial area is reserved to the judiciary for trial courts only.

(d) The director may not supervise or control the allocation of space for entities in the public and higher education systems.

(e) The supervision and control of capitol hill facilities and capitol hill grounds is reserved to the State Capitol Preservation Board.

(5) The director may:

(a) hire or otherwise procure assistance and services, professional, skilled, or otherwise, that are necessary to carry out the director's responsibilities, and may expend funds provided for that purpose either through annual operating budget appropriations or from nonlapsing project funds;

(b) sue and be sued in the name of the division; and

(c) hold, buy, lease, and acquire by exchange or otherwise, as authorized by the Legislature, whatever real or personal property that is necessary for the discharge of the director's duties.

(6) Notwithstanding the provisions of Subsection (2)(a)(iv), the following entities may hold title to any real property, buildings, fixtures, and appurtenances held by them for purposes other than administration that are under their control and management:

(a) the Office of Trust Administrator;

(b) the Department of Transportation;

(c) the Division of Forestry, Fire, and State Lands;

(d) the Department of Natural Resources;

(e) the Utah National Guard;

(f) any area vocational center or other institution administered by the State Board of Education;

(g) any institution of higher education; and

(h) the Utah Science Technology and Research Governing Authority.

(7) The director shall ensure that any firm performing testing and inspection work governed by the American Society for Testing Materials Standard E-329 on public buildings under the director's supervision shall:

(a) fully comply with the American Society for Testing Materials standard specifications for agencies engaged in the testing and inspection of materials known as ASTM E-329; and

(b) carry a minimum of \$1,000,000 of errors and omissions insurance.

(8) Notwithstanding Subsections (2)(a)(iii) and (iv), the School and Institutional Trust Lands Administration may hold title to any real property, buildings, fixtures, and appurtenances held by it that are under its control.

Section 12. Section 63A-5-206 is amended to read:

63A-5-206. Construction, alteration, and repair of state facilities -- Powers of director -- Exceptions -- Expenditure of appropriations -- Notification to local governments for construction or modification of certain facilities.

(1) As used in this section:

(a) "Capital developments" and "capital improvements" have the same meaning as provided in Section 63A-5-104.

(b) "Compliance agency" has the same meaning as provided in Section 15A-1-202.

(c) (i) "Facility" means any building, structure, or other improvement that is constructed on property owned by the state, its departments, commissions, institutions, or agencies.

(ii) "Facility" does not mean an unoccupied structure that is a component of the state highway system.

(d) "Life cycle cost-effective" means, as provided for in rules adopted by the State Building Board, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the most prudent cost of owning and operating a facility, including the initial cost, energy costs, operation and maintenance costs, repair costs, and the costs of energy conservation and renewable energy systems.

(e) "Local government" means the county, municipality, or local school district that would have jurisdiction to act as the compliance agency if the property on which the project is being constructed were not owned by the state.

(f) "Renewable energy system" means a system designed to use solar, wind, geothermal power,

wood, or other replenishable energy source to heat, cool, or provide electricity to a building.

(2) (a) (i) Except as provided in Subsections (3) and (4), the director shall exercise direct supervision over the design and construction of all new facilities, and all alterations, repairs, and improvements to existing facilities if the total project construction cost, regardless of the funding source, is greater than \$100,000, unless there is memorandum of understanding between the director and an institution of higher education that permits the institution of higher education to exercise direct supervision for a project with a total project construction cost of not greater than \$250,000.

(ii) A state entity may exercise direct supervision over the design and construction of all new facilities, and all alterations, repairs, and improvements to existing facilities if:

(A) the total project construction cost, regardless of the funding sources, is \$100,000 or less; and

(B) the state entity assures compliance with the division's forms and contracts and the division's design, construction, alteration, repair, improvements, and code inspection standards.

(b) The director shall prepare or have prepared by private firms or individuals designs, plans, and specifications for the projects administered by the division.

(c) Before proceeding with construction, the director and the officials charged with the administration of the affairs of the particular [~~department, commission, institution, or~~] agency shall approve the location, design, plans, and specifications.

(3) Projects for the construction of new facilities and alterations, repairs, and improvements to existing facilities are not subject to Subsection (2) if the project:

(a) occurs on property under the jurisdiction of the State Capitol Preservation Board;

(b) is within a designated research park at the University of Utah or Utah State University;

(c) occurs within the boundaries of This is the Place State Park and is administered by This is the Place Foundation except that This is the Place Foundation may request the director to administer the design and construction; or

(d) is for the creation and installation of art under Title 9, Chapter 6, Part 4, Utah Percent-for-Art Act.

(4) (a) (i) The State Building Board may authorize the delegation of control over design, construction, and all other aspects of any project to entities of state government on a project-by-project basis or for projects within a particular dollar range and a particular project type.

(ii) The state entity to whom control is delegated shall assume fiduciary control over project finances, shall assume all responsibility for project budgets

and expenditures, and shall receive all funds appropriated for the project, including any contingency funds contained in the appropriated project budget.

(iii) Delegation of project control does not exempt the state entity from complying with the codes and guidelines for design and construction adopted by the division and the State Building Board.

(iv) State entities that receive a delegated project may not access, for the delegated project, the division's statewide contingency reserve and project reserve authorized in Section 63A-5-209.

(b) For facilities that will be owned, operated, maintained, and repaired by an entity that is not a state agency [~~or institution~~] and that are located on state property, the State Building Board may authorize the owner to administer the design and construction of the project instead of the division.

(5) Notwithstanding any other provision of this section, if a donor donates land to an eligible institution of higher education and commits to build a building or buildings on that land, and the institution agrees to provide funds for the operations and maintenance costs from sources other than state funds, and agrees that the building or buildings will not be eligible for state capital improvement funding, the higher education institution may:

(a) oversee and manage the construction without involvement, oversight, or management from the division; or

(b) arrange for management of the project by the division.

(6) (a) The role of compliance agency as provided in Title 15A, State Construction and Fire Codes Act, shall be provided by:

(i) the director, for projects administered by the division;

(ii) the entity designated by the State Capitol Preservation Board, for projects under Subsection (3)(a);

(iii) the local government, for projects exempt from the division's administration under Subsection (3)(b) or administered by This is the Place Foundation under Subsection (3)(c);

(iv) the state entity or local government designated by the State Building Board, for projects under Subsection (4); or

(v) the institution, for projects exempt from the division's administration under Subsection (5)(a).

(b) For the installation of art under Subsection (3)(d), the role of compliance agency shall be provided by the entity that is acting in this capacity for the balance of the project as provided in Subsection (6)(a).

(c) The local government acting as the compliance agency under Subsection (6)(a)(iii) may:

(i) only review plans and inspect construction to enforce the State Construction Code or an approved

code under Title 15A, State Construction and Fire Codes Act; and

(ii) charge a building permit fee of no more than the amount it could have charged if the land upon which the improvements are located were not owned by the state.

(d) (i) The use of state property and any improvements constructed on state property, including improvements constructed by nonstate entities, is not subject to the zoning authority of local governments as provided in Sections 10-9a-304 and 17-27a-304.

(ii) The state entity controlling the use of the state property shall consider any input received from the local government in determining how the property shall be used.

(7) Before construction may begin, the director shall review the design of projects exempted from the division's administration under Subsection (4) to determine if the design:

(a) complies with any restrictions placed on the project by the State Building Board; and

(b) is appropriate for the purpose and setting of the project.

(8) The director shall ensure that state-owned facilities, except for facilities under the control of the State Capitol Preservation Board, are life cycle cost-effective.

(9) The director may expend appropriations for statewide projects from funds provided by the Legislature for those specific purposes and within guidelines established by the State Building Board.

(10) (a) The director, with the approval of the Office of Legislative Fiscal Analyst, shall develop standard forms to present capital development and capital improvement cost summary data.

(b) The director shall:

(i) within 30 days after the completion of each capital development project, submit cost summary data for the project on the standard form to the Office of Legislative Fiscal Analyst; and

(ii) upon request, submit cost summary data for a capital improvement project to the Office of Legislative Fiscal Analyst on the standard form.

(11) Notwithstanding the requirements of Title 63J, Chapter 1, Budgetary Procedures Act, the director may:

(a) accelerate the design of projects funded by any appropriation act passed by the Legislature in its annual general session;

(b) use any unencumbered existing account balances to fund that design work; and

(c) reimburse those account balances from the amount funded for those projects when the appropriation act funding the project becomes effective.

(12) (a) The director, the director's designee, or the state entity to whom control has been designated under Subsection (4), shall notify in writing the elected representatives of local government entities directly and substantively affected by any diagnostic, treatment, parole, probation, or other secured facility project exceeding \$250,000, if:

(i) the nature of the project has been significantly altered since prior notification;

(ii) the project would significantly change the nature of the functions presently conducted at the location; or

(iii) the project is new construction.

(b) At the request of either the state entity or the local government entity, representatives from the state entity and the affected local entity shall conduct or participate in a local public hearing or hearings to discuss these issues.

(13) (a) (i) Before beginning the construction of student housing on property owned by the state or a public institution of higher education, the director shall provide written notice of the proposed construction, as provided in Subsection (13)(a)(ii), if any of the proposed student housing buildings is within 300 feet of privately owned residential property.

(ii) Each notice under Subsection (13)(a)(i) shall be provided to the legislative body and, if applicable, the mayor of:

(A) the county in whose unincorporated area the privately owned residential property is located; or

(B) the municipality in whose boundaries the privately owned residential property is located.

(b) (i) Within 21 days after receiving the notice required by Subsection (13)(a)(i), a county or municipality entitled to the notice may submit a written request to the director for a public hearing on the proposed student housing construction.

(ii) If a county or municipality requests a hearing under Subsection (13)(b)(i), the director and the county or municipality shall jointly hold a public hearing to provide information to the public and to allow the director and the county or municipality to receive input from the public about the proposed student housing construction.

Section 13. Section 63A-5-215 is amended to read:

63A-5-215. Disposition of proceeds received by division from sale of property.

(1) The money received by the division from the sale or other disposition of property shall be paid into the state treasury and becomes a part of the funds provided by law for carrying out the building program of the state, and are appropriated for that purpose.

(2) The proceeds from sales of property belonging to or used by a particular state ~~institution or~~ agency shall, to the extent practicable, be expended for the construction of buildings or in the

performance of other work for the benefit of that [institution or] agency.

Section 14. Section 63A-5-226 is enacted to read:

63A-5-226. Report to Infrastructure and General Government Appropriations Subcommittee.

The division shall, beginning in 2016, and in every even-numbered year after 2016, on or before the third Wednesday in November, present a written report to the Infrastructure and General Government Appropriations Subcommittee that identifies state land and buildings that are no longer needed and can be sold by the state.

Section 15. Section 63J-1-201 is amended to read:

63J-1-201. Governor's proposed budget to Legislature -- Contents -- Preparation -- Appropriations based on current tax laws and not to exceed estimated revenues.

(1) The governor shall deliver, not later than 30 days before the date the Legislature convenes in the annual general session, a confidential draft copy of the governor's proposed budget recommendations to the Office of the Legislative Fiscal Analyst according to the requirements of this section.

(2) (a) When submitting a proposed budget, the governor shall, within the first three days of the annual general session of the Legislature, submit to the presiding officer of each house of the Legislature:

(i) a proposed budget for the ensuing fiscal year;

(ii) a schedule for all of the proposed changes to appropriations in the proposed budget, with each change clearly itemized and classified; and

(iii) as applicable, a document showing proposed changes in estimated revenues that are based on changes in state tax laws or rates.

(b) The proposed budget shall include:

(i) a projection of:

(A) estimated revenues by major tax type;

(B) 15-year trends for each major tax type;

(C) estimated receipts of federal funds; and

(D) appropriations for the next fiscal year;

(ii) the source of changes to all direct, indirect, and in-kind matching funds for all federal grants or assistance programs included in the budget;

(iii) changes to debt service;

(iv) a plan of proposed changes to appropriations and estimated revenues for the next fiscal year that is based upon the current fiscal year state tax laws and rates and considers projected changes in federal grants or assistance programs included in the budget;

(v) an itemized estimate of the proposed changes to appropriations for:

(A) the Legislative Department as certified to the governor by the president of the Senate and the speaker of the House;

(B) the Executive Department;

(C) the Judicial Department as certified to the governor by the state court administrator;

(D) changes to salaries payable by the state under the Utah Constitution or under law for lease agreements planned for the next fiscal year; and

(E) all other changes to ongoing or one-time appropriations, including dedicated credits, restricted funds, nonlapsing balances, grants, and federal funds;

(vi) for each line item, the average annual dollar amount of staff funding associated with all positions that were vacant during the last fiscal year;

(vii) deficits or anticipated deficits;

(viii) the recommendations for each state agency for new full-time employees for the next fiscal year, which shall also be provided to the State Building Board as required by Subsection 63A-5-103[~~(2)~~](3);

(ix) a written description and itemized report submitted by a state agency to the Governor's Office of Management and Budget under Section 63J-1-220, including:

(A) a written description and an itemized report provided at least annually detailing the expenditure of the state money, or the intended expenditure of any state money that has not been spent; and

(B) a final written itemized report when all the state money is spent;

(x) any explanation that the governor may desire to make as to the important features of the budget and any suggestion as to methods for the reduction of expenditures or increase of the state's revenue; and

(xi) information detailing certain fee increases as required by Section 63J-1-504.

(3) For the purpose of preparing and reporting the proposed budget:

(a) The governor shall require the proper state officials, including all public and higher education officials, all heads of executive and administrative departments and state institutions, bureaus, boards, commissions, and agencies expending or supervising the expenditure of the state money, and all institutions applying for state money and appropriations, to provide itemized estimates of changes in revenues and appropriations.

(b) The governor may require the persons and entities subject to Subsection (3)(a) to provide other information under these guidelines and at times as the governor may direct, which may include a requirement for program productivity and performance measures, where appropriate, with emphasis on outcome indicators.

(c) The governor may require representatives of public and higher education, state departments and

institutions, and other institutions or individuals applying for state appropriations to attend budget meetings.

(4) (a) The Governor's Office of Management and Budget shall provide to the Office of Legislative Fiscal Analyst, as soon as practicable, but no later than 30 days before the date the Legislature convenes in the annual general session, data, analysis, or requests used in preparing the governor's budget recommendations, notwithstanding the restrictions imposed on such recommendations by available revenue.

(b) The information under Subsection (4)(a) shall include:

(i) actual revenues and expenditures for the fiscal year ending the previous June 30;

(ii) estimated or authorized revenues and expenditures for the current fiscal year;

(iii) requested revenues and expenditures for the next fiscal year;

(iv) detailed explanations of any differences between the amounts appropriated by the Legislature in the current fiscal year and the amounts reported under Subsections (4)(b)(ii) and (iii);

(v) a statement of agency and program objectives, effectiveness measures, and program size indicators; and

(vi) other budgetary information required by the Legislature in statute.

(c) The budget information under Subsection (4)(a) shall cover:

(i) all items of appropriation, funds, and accounts included in appropriations acts for the current and previous fiscal years; and

(ii) any new appropriation, fund, or account items requested for the next fiscal year.

(d) The information provided under Subsection (4)(a) may be provided as a shared record under Section 63G-2-206 as considered necessary by the Governor's Office of Management and Budget.

(5) (a) In submitting the budget for the Department of Public Safety, the governor shall include a separate recommendation in the governor's budget for maintaining a sufficient number of alcohol-related law enforcement officers to maintain the enforcement ratio equal to or below the number specified in Subsection 32B-1-201(2).

(b) If the governor does not include in the governor's budget an amount sufficient to maintain the number of alcohol-related law enforcement officers described in Subsection (5)(a), the governor shall include a message to the Legislature regarding the governor's reason for not including that amount.

(6) (a) The governor may revise all estimates, except those relating to the Legislative Department, the Judicial Department, and those providing for the payment of principal and interest

to the state debt and for the salaries and expenditures specified by the Utah Constitution or under the laws of the state.

(b) The estimate for the Judicial Department, as certified by the state court administrator, shall also be included in the budget without revision, but the governor may make separate recommendations on the estimate.

(7) The total appropriations requested for expenditures authorized by the budget may not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing fiscal year.

(8) If any item of the budget as enacted is held invalid upon any ground, the invalidity does not affect the budget itself or any other item in it.

Section 16. Study by State Board of Regents.

(1) The State Board of Regents shall:

(a) before November 16, 2016, conduct a study to identify the best method to determine the amount or percentage of money received from research and development activities that should be spent on operations and maintenance costs;

(b) consult with stakeholders to make the identification described in Subsection (1)(a); and

(c) on or before November 16, 2016, present a written report of the study and the method identified to the Infrastructure and General Government Appropriations Subcommittee.

(2) This section is repealed on January 1, 2017.

CHAPTER 299**S. B. 161**

Passed March 9, 2016
 Approved March 25, 2016
 Effective May 10, 2016

HIGHWAY SIGNAGE AMENDMENTS

Chief Sponsor: J. Stuart Adams
 House Sponsor: Mike Schultz

LONG TITLE**General Description:**

This bill modifies the Transportation Code by amending provisions related to outdoor advertising.

Highlighted Provisions:

This bill:

- ▶ provides and amends definitions;
- ▶ amends requirements for advertising within a certain distance of a public highway;
- ▶ clarifies restrictions and requirements for on-premise advertising;
- ▶ specifies circumstances when certain on-premise signs are being used for unlawful outdoor advertising;
- ▶ specifies enforcement procedures and requirements for certain unlawful outdoor advertising; and
- ▶ makes conforming and technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 72-7-502, as last amended by Laws of Utah 2011, Chapter 346
 72-7-503, as renumbered and amended by Laws of Utah 1998, Chapter 270
 72-7-504, as last amended by Laws of Utah 2015, Chapter 402
 72-7-508, as last amended by Laws of Utah 2011, Chapter 346

ENACTS:

72-7-504.6, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 72-7-502 is amended to read:**72-7-502. Definitions.**

As used in this part:

(1) "Clearly visible" means capable of being read without obstruction by an occupant of a vehicle traveling on the main traveled way of a street or highway within the visibility area.

(2) "Commercial or industrial activities" means those activities generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following are commercial or industrial activities:

(a) agricultural, forestry, grazing, farming, and related activities, including wayside fresh produce stands;

(b) transient or temporary activities;

(c) activities not visible from the main-traveled way;

(d) activities conducted in a building principally used as a residence; and

(e) railroad tracks and minor sidings.

(3) (a) "Commercial or industrial zone" means only:

(i) those areas within the boundaries of cities or towns that are used or reserved for business, commerce, or trade, or zoned as a highway service zone, under enabling state legislation or comprehensive local zoning ordinances or regulations;

(ii) those areas within the boundaries of urbanized counties that are used or reserved for business, commerce, or trade, or zoned as a highway service zone, under enabling state legislation or comprehensive local zoning ordinances or regulations;

(iii) those areas outside the boundaries of urbanized counties and outside the boundaries of cities and towns that:

(A) are used or reserved for business, commerce, or trade, or zoned as a highway service zone, under comprehensive local zoning ordinances or regulations or enabling state legislation; and

(B) are within 8420 feet of an interstate highway exit, off-ramp, or turnoff as measured from the nearest point of the beginning or ending of the pavement widening at the exit from or entrance to the main-traveled way; or

(iv) those areas outside the boundaries of urbanized counties and outside the boundaries of cities and towns and not within 8420 feet of an interstate highway exit, off-ramp, or turnoff as measured from the nearest point of the beginning or ending of the pavement widening at the exit from or entrance to the main-traveled way that are reserved for business, commerce, or trade under enabling state legislation or comprehensive local zoning ordinances or regulations, and are actually used for commercial or industrial purposes.

(b) "Commercial or industrial zone" does not mean areas zoned for the sole purpose of allowing outdoor advertising.

(4) "Comprehensive local zoning ordinances or regulations" means a municipality's comprehensive plan required by Section 10-9a-401, the municipal zoning plan authorized by Section 10-9a-501, and the county master plan authorized by Sections 17-27a-401 and 17-27a-501. Property that is rezoned by comprehensive local zoning ordinances or regulations is rebuttably presumed to have not been zoned for the sole purpose of allowing outdoor advertising.

(5) “Contiguous” means that a portion of one parcel of land is situated immediately adjacent to, and shares a common boundary with, a portion of another parcel of land.

(6) “Controlled route” means any route where outdoor advertising control is mandated by state or federal law, including under this part and under the Utah-Federal Agreements described in Section 72-7-501.

(7) “Directional signs” means signs containing information about public places owned or operated by federal, state, or local governments or their agencies, publicly or privately owned natural phenomena, historic, cultural, scientific, educational, or religious sites, and areas of natural scenic beauty or naturally suited for outdoor recreation, that the department considers to be in the interest of the traveling public.

(8) (a) “Erect” means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being.

(b) “Erect” does not include any activities defined in Subsection (8)(a) if they are performed incident to the change of an advertising message or customary maintenance of a sign.

(9) “Highway service zone” means a highway service area where the primary use of the land is used or reserved for commercial and roadside services other than outdoor advertising to serve the traveling public.

(10) “Information center” means an area or site established and maintained at rest areas for the purpose of informing the public of:

(a) places of interest within the state; or

(b) any other information that the department considers desirable.

(11) “Interchange or intersection” means those areas and their approaches where traffic is channeled off or onto an interstate route, excluding the deceleration lanes, acceleration lanes, or feeder systems, from or to another federal, state, county, city, or other route.

(12) “Maintain” means to allow to exist, subject to the provisions of this chapter.

(13) “Maintenance” means to repair, refurbish, repaint, or otherwise keep an existing sign structure safe and in a state suitable for use, including signs destroyed by vandalism or an act of God.

(14) “Main-traveled way” means the through traffic lanes, including auxiliary lanes, acceleration lanes, deceleration lanes, and feeder systems, exclusive of frontage roads and ramps. For a divided highway, there is a separate main-traveled way for the traffic in each direction.

(15) “Major sponsor” means a sponsor of a public assembly facility or of a team or event held at the facility where the amount paid by the sponsor to

the owner of the facility, to the team, or for the event is at least \$100,000 per year.

(16) “Official signs and notices” means signs and notices erected and maintained by public agencies within their territorial or zoning jurisdictions for the purpose of carrying out official duties or responsibilities in accordance with direction or authorization contained in federal, state, or local law.

[(15) “Off-premise signs” means signs]

(17) “Off-premise sign” means a sign located in an area zoned industrial, commercial, or H-1 and in an area determined by the department to be unzoned industrial or commercial that advertises an activity, service, event, person, or product located on premises other than the premises on which the advertising sign is located.

[(16) “On-premise signs” means signs]

(18) “On-premise sign” means a sign used to advertise the sale or lease of, or activities conducted on, the property on which the sign is located.

(19) “Outdoor advertising” means any outdoor advertising structure or outdoor structure used in combination with an outdoor advertising sign or outdoor sign within the outdoor advertising corridor which is visible from a place on the main-traveled way of a controlled route.

(20) “Outdoor advertising corridor” means a strip of land 660 feet wide, measured perpendicular from the edge of a controlled highway right-of-way.

(21) “Outdoor advertising structure” or “outdoor structure” means any sign structure, including any necessary devices, supports, appurtenances, and lighting that is part of or supports an outdoor sign.

(22) “Point of widening” means the point of the gore or the point where the intersecting lane begins to parallel the other lanes of traffic, but the point of widening may never be greater than 2,640 feet from the center line of the intersecting highway of the interchange or intersection at grade.

(23) “Public assembly facility” means a convention facility as defined under Section 59-12-602 and that:

(a) includes all contiguous interests in land, improvements, and utilities acquired, constructed, and used in connection with the operation of the public assembly facility, whether the interests are owned or held in fee title or a lease or easement for a term of at least 40 years, and regardless of whether the interests are owned or operated by separate governmental authorities or districts;

(b) is wholly or partially funded by public money;

(c) requires a person attending an event at the public assembly facility to purchase a ticket or that otherwise charges for the use of the public assembly facility as part of its regular operation; and

(d) has a minimum and permanent seating capacity of at least 10,000 people.

~~[(22)]~~ (24) "Public assembly facility sign" means a sign located on a public assembly facility that only advertises the public assembly facility, major sponsors, events, the sponsors of events held or teams playing at the facility, and products sold or services conducted at the facility.

~~[(23)]~~ (25) "Relocation" includes the removal of a sign from one situs together with the erection of a new sign upon another situs in a commercial or industrial zoned area as a substitute.

~~[(24)]~~ (26) "Relocation and replacement" means allowing all outdoor advertising signs or permits the right to maintain outdoor advertising along the interstate, federal aid primary highway existing as of June 1, 1991, and national highway system highways to be maintained in a commercial or industrial zoned area to accommodate the displacement, remodeling, or widening of the highway systems.

~~[(25)]~~ (27) "Remodel" means the upgrading, changing, alteration, refurbishment, modification, or complete substitution of a new outdoor advertising structure for one permitted pursuant to this part and that is located in a commercial or industrial area.

~~[(26)]~~ (28) "Rest area" means an area or site established and maintained within or adjacent to the right-of-way by or under public supervision or control for the convenience of the traveling public.

~~[(27)]~~ (29) "Scenic or natural area" means an area determined by the department to have aesthetic value.

~~[(28)]~~ (30) "Traveled way" means that portion of the roadway used for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

~~[(29)]~~ (31) (a) "Unzoned commercial or industrial area" means:

(i) those areas not zoned by state law or local law, regulation, or ordinance that are occupied by one or more industrial or commercial activities other than outdoor advertising signs;

(ii) the lands along the highway for a distance of 600 feet immediately adjacent to those activities; and

(iii) lands covering the same dimensions that are directly opposite those activities on the other side of the highway, if the department determines that those lands on the opposite side of the highway do not have scenic or aesthetic value.

(b) In measuring the scope of the unzoned commercial or industrial area, all measurements shall be made from the outer edge of the regularly used buildings, parking lots, storage, or processing areas of the activities and shall be along or parallel to the edge of pavement of the highway.

(c) All signs located within an unzoned commercial or industrial area become nonconforming if the commercial or industrial

activity used in defining the area ceases for a continuous period of 12 months.

~~[(30)]~~ (32) "Urbanized county" means a county with a population of at least 125,000 persons.

~~[(31)]~~ (33) "Visibility area" means the area on a street or highway that is:

(a) defined at one end by a line extending from the base of the billboard across all lanes of traffic of the street or highway in a plane that is perpendicular to the street or highway; and

(b) defined on the other end by a line extending across all lanes of traffic of the street or highway in a plane that is:

(i) perpendicular to the street or highway; and

(ii) 500 feet from the base of the billboard.

Section 2. Section 72-7-503 is amended to read:

72-7-503. Advertising -- Permit required -- Penalty for violation.

(1) It is unlawful for any person to place any form of advertising upon any part of the public domain, or within ~~[300]~~ 660 feet of a public highway, except within the corporate limits of a city or town, and except upon land in private ownership situated along the highway, without first receiving a permit from the department, if a state highway, or from the county executive, if a county road.

(2) Any person who violates this section is guilty of a class B misdemeanor.

Section 3. Section 72-7-504 is amended to read:

72-7-504. Advertising prohibited near interstate or primary system -- Exceptions -- Logo advertising -- Department rules.

(1) As used in this section, "specific service trailblazer sign" means a guide sign that provides users with business identification or directional information for services and eligible activities that are advertised on a logo advertising sign authorized under Subsection (3)(a)(i).

(2) Outdoor advertising that is capable of being read or comprehended from any place on the main-traveled way of an interstate or primary system may not be erected or maintained, except:

(a) directional and other official signs and notices authorized or required by law, including signs and notices pertaining to natural wonders and scenic and historic attractions, informational or directional signs regarding utility service, emergency telephone signs, buried or underground utility markers, and above ground utility closure signs;

(b) on-premise signs advertising the sale or lease of property upon which ~~they~~ the on-premise signs are located;

(c) on-premise signs advertising major activities conducted on the property where ~~they~~ the on-premise signs are located~~], including signs on~~

the premises of a public assembly facility as provided in Section 72-7-504.5];

(d) public assembly facility signs;

(e) on-premise signs within a unified commercial development as described in Section 72-7-504.6;

~~(d)~~ (f) signs located in a commercial or industrial zone;

~~(e)~~ (g) signs located in unzoned industrial or commercial areas as determined from actual land uses; and

~~(f)~~ (h) logo advertising under Subsection (3).

(3) (a) The department may itself or by contract erect, administer, and maintain informational signs:

(i) on the main-traveled way of an interstate or primary system, as it existed on June 1, 1991, specific service signs for the display of logo advertising and information of interest, excluding specific service trailblazer signs as defined in rules adopted in accordance with Section 41-6a-301, to the traveling public if:

(A) the department complies with Title 63G, Chapter 6a, Utah Procurement Code, in the lease or other contract agreement with a private party for the sign or sign space; and

(B) the private party for the lease of the sign or sign space pays an amount set by the department to be paid to the department or the party under contract with the department under this Subsection (3); and

(ii) only on rural conventional roads as defined in rules adopted in accordance with Section 41-6a-301 in a county of the fourth, fifth, or sixth class for tourist-oriented directional signs that display logo advertising and information of interest to the traveling public if:

(A) the department complies with Title 63G, Chapter 6a, Utah Procurement Code, in the lease or other contract agreement with a private party for the tourist-oriented directional sign or sign space; and

(B) the private party for the lease of the sign or sign space pays an amount set by the department to be paid to the department or the party under contract with the department under this Subsection (3).

(b) The amount shall be sufficient to cover the costs of erecting, administering, and maintaining the signs or sign spaces.

(c) (i) Any sign erected pursuant to this Subsection (3) which was existing as of March 1, 2015, shall be permitted as if it were in compliance with this Subsection (3).

(ii) A noncompliant sign shall only be permitted for the contract period of the advertising contract.

(iii) A new advertising contract may not be issued for a noncompliant sign.

(d) The department may consult the Governor's Office of Economic Development in carrying out this Subsection (3).

(4) (a) Revenue generated under Subsection (3) shall be:

(i) applied first to cover department costs under Subsection (3); and

(ii) deposited in the Transportation Fund.

(b) Revenue in excess of costs under Subsection (3)(a) shall be deposited in the General Fund as a dedicated credit for use by the Governor's Office of Economic Development no later than the following fiscal year.

(5) Outdoor advertising under Subsections (2)(a), ~~(d), (e), and~~ (f), (g), and (h) shall conform to the rules made by the department under Sections 72-7-506 and 72-7-507.

Section 4. Section 72-7-504.6 is enacted to read:

72-7-504.6. Unified commercial development.

(1) As used in this section:

(a) (i) "Contiguous" includes parcels that are otherwise contiguous, as defined in Section 72-7-502, that are considered to be contiguous notwithstanding a survey error or discrepancy in a legal boundary description or the presence of any of the following intervening features, including land reasonably related to those features:

(A) a road, other than a controlled route;

(B) a railway right-of-way of a public transit district that provides, or may provide, access to the development;

(C) a utility line; or

(D) land that is undevelopable.

(ii) "Contiguous" does not include a parcel of land that is only physically connected to another parcel of land by a long, narrow strip.

(b) "Property," for purposes of the definition of "on-premise sign," includes all property within a unified commercial development.

(c) "Unified commercial development" means a development that:

(i) is used primarily for commercial or industrial activities;

(ii) is developed by a single developer, including successors, under a common development plan;

(iii) may include phased development;

(iv) consists solely of land that is contiguous;

(v) holds itself out to the public as a common development through signs or other marketing efforts;

(vi) includes one or more retail outlet stores;

(vii) includes a railway right-of-way of a public transit district that provides, or may provide, access to the development;

(viii) is located wholly or partially within a planned community or similar zone;

(ix) includes a hotel;

(x) is located in a county other than a county of the first class;

(xi) received planning approval from the local land use authority for some or all of the development prior to December 31, 2012; and

(xii) is located in a city that, at the time of approval under Subsection (1)(c)(xi), included a resort community zone.

(2) An on-premise sign within a unified commercial development may advertise:

(a) the sale or lease of land within the unified commercial development where the sign is located;

(b) activities conducted at venues or stores within the unified commercial development where the sign is located;

(c) the name of identifiable venues or stores within the unified commercial development; and

(d) products for sale or services provided at venues or stores within the unified commercial development.

Section 5. Section 72-7-508 is amended to read:

72-7-508. Unlawful outdoor advertising -- Adjudicative proceedings -- Judicial review -- Costs of removal -- Civil and criminal liability for damaging regulated signs -- Immunity for Department of Transportation.

(1) Outdoor advertising is unlawful when:

(a) erected after May 9, 1967, contrary to the provisions of this chapter;

(b) a permit is not obtained as required by this part;

(c) a false or misleading statement has been made in the application for a permit that was material to obtaining the permit; ~~or~~

(d) the sign for which a permit was issued is not in a reasonable state of repair, is unsafe, or is otherwise in violation of this part~~[-]; or~~

(e) a sign in the outdoor advertising corridor is permitted by the local zoning authority as an on-premise sign and the sign, from time to time or continuously, advertises an activity, service, event, person, or product located on property other than the property on which the sign is located.

(2) The establishment, operation, repair, maintenance, or alteration of any sign contrary to this chapter is also a public nuisance.

(3) Except as provided in ~~[Subsection]~~ Subsections (4) and (10), in its enforcement of this section, the department shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

(4) (a) The district courts shall have jurisdiction to review by trial de novo all final orders of the department under this part resulting from formal and informal adjudicative proceedings.

(b) Venue for judicial review of final orders of the department shall be in the county in which the sign is located.

(5) If the department is granted a judgment in an action brought under Subsection (4), the department is entitled to have any nuisance abated and recover from the responsible person, firm, or corporation, jointly and severally:

(a) the costs and expenses incurred in removing the sign; and

(b) (i) \$500 for each day the sign was maintained following the expiration of 10 days after notice of agency action was filed and served under Section 63G-4-201;

(ii) \$750 for each day the sign was maintained following the expiration of 40 days after notice of agency action was filed and served under Section 63G-4-201;

(iii) \$1,000 for each day the sign was maintained following the expiration of 70 days after notice of agency action was filed and served under Section 63G-4-201; and

(iv) \$1,500 for each day the sign was maintained following the expiration of 100 days after notice of agency action was filed and served under Section 63G-4-201.

(6) (a) Any person, partnership, firm, or corporation who vandalizes, damages, defaces, destroys, or uses any sign controlled under this chapter without the owner's permission is liable to the owner of the sign for treble the amount of damage sustained and all costs of court, including a reasonable attorney's fee, and is guilty of a class C misdemeanor.

(b) This Subsection (6) does not apply to the department, its agents, or employees if acting to enforce this part.

(7) The following criteria shall be used for determining whether an existing sign within an interstate outdoor advertising corridor has as its purpose unlawful off-premise outdoor advertising:

(a) whether the sign complies with this part;

(b) whether the premise includes an area:

(i) from which the general public is serviced according to normal industry practices for organizations of that type; or

(ii) that is directly connected to or is involved in carrying out the activities and normal industry practices of the advertised activities, services, events, persons, or products;

(c) whether the sign generates revenue:

(i) arising from the advertisement of activities, services, events, or products not available on the premise according to normal industry practices for organizations of that type;

(ii) arising from the advertisement of activities, services, events, persons, or products that are incidental to the principal activities, services, events, or products available on the premise; and

(iii) including the following:

- (A) money;
- (B) securities;
- (C) real property interest;
- (D) personal property interest;
- (E) barter of goods or services;
- (F) promise of future payment or compensation;

or

(G) forbearance of debt;

(d) whether the purveyor of the activities, services, events, persons, or products being advertised:

(i) carries on hours of operation on the premise comparable to the normal industry practice for a business, service, or operation of that type, or posts the hours of operation on the premise in public view;

(ii) has available utilities comparable to the normal industry practice for an entity of that type; and

(iii) has a current valid business license or permit under applicable local ordinances, state law, and federal law to conduct business on the premise upon which the sign is located;

(e) whether the advertisement is located on the site of any auxiliary facility that is not essential to, or customarily used in, the ordinary course of business for the activities, services, events, persons, or products being advertised; or

(f) whether the sign or advertisement is located on property that is not contiguous to a property that is essential and customarily used for conducting the business of the activities, services, events, persons, or products being advertised.

(8) The following do not qualify as a business under Subsection (7):

- (a) public or private utility corridors or easements;
- (b) railroad tracks;
- (c) outdoor advertising signs or structures;
- (d) vacant lots;
- (e) transient or temporary activities; or
- (f) storage of accessory products.

(9) The sign owner has the burden of proving, by a preponderance of the evidence, that the advertised activity is conducted on the premise.

(10) (a) If the department has issued two or more notices of violation of Subsection (1)(e) for an existing sign within the last three years, the department may bring an action to enforce in any state court of competent jurisdiction against a

person, firm, or corporation that satisfies one or more of the following prerequisites:

(i) has a present ownership interest in the sign;

(ii) had an ownership interest in the sign on one or more of the days the sign was in violation of Subsection (1)(e);

(iii) has a present ownership interest in the property upon which the sign is located, or in contiguous property as defined in Subsection 72-7-504.6(1);

(iv) had an ownership interest in the property upon which the sign is located, or in contiguous property as defined in Subsection 72-7-504.6(1), on one or more of the days the sign was in violation of Subsection (1)(e);

(v) received or became entitled to receive compensation in any form for the unlawful outdoor advertising; or

(vi) solicited the advertising.

(b) In an action under Subsection (10)(a):

(i) except as provided in Subsection (10)(c), the provisions of Subsections (7) and (8) apply; and

(ii) the defendants have the burden of proving, by a preponderance of the evidence, that the advertising in question is lawful under this part.

(c) In an action under Subsection (10)(a), for an on-premise sign within a unified commercial development Section 72-7-504.6 applies.

(d) If the department is granted judgment in an action under this Subsection (10), the department is entitled to recover from the defendants, jointly and severally, \$1,500 for each day on which the sign was used for unlawful off-premises outdoor advertising.

CHAPTER 300**S. B. 172**

Passed March 8, 2016
 Approved March 25, 2016
 Effective May 10, 2016

**UTAH STATE DEVELOPMENTAL
 CENTER AMENDMENTS**

Chief Sponsor: Margaret Dayton
 House Sponsor: Michael S. Kennedy

LONG TITLE**General Description:**

This bill enacts and amends provisions related to the Utah State Developmental Center.

Highlighted Provisions:

This bill:

- ▶ creates a Utah State Developmental Center Board;
- ▶ directs the Utah State Developmental Center Board to:
 - administer the Utah State Developmental Center Miscellaneous Donation Fund;
 - administer the Utah State Developmental Center Land Fund; and
 - approve the sale, lease, or other disposition of real property or water rights associated with the Utah State Developmental Center; and
- ▶ moves the Utah State Developmental Center Land Fund from the Division of Facilities Construction and Management to the Utah State Developmental Center Board.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-13-105, as last amended by Laws of Utah 2014, Chapter 366
 62A-1-105, as last amended by Laws of Utah 2009, Chapter 75
 62A-1-107, as last amended by Laws of Utah 2010, Chapter 286
 62A-5-101, as last amended by Laws of Utah 2011, Chapter 366
 62A-5-206, as last amended by Laws of Utah 2013, Chapter 21
 62A-5-206.5, as last amended by Laws of Utah 2015, Chapter 121
 63A-5-204, as last amended by Laws of Utah 2009, Chapters 183 and 344

ENACTS:

62A-5-202.5, Utah Code Annotated 1953
 62A-5-206.6, Utah Code Annotated 1953

REPEALS:

63A-5-220, as last amended by Laws of Utah 2013, Chapter 21

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-13-105 is amended to read:**53-13-105. Special function officer.**

(1) (a) "Special function officer" means a sworn and certified peace officer performing specialized investigations, service of legal process, security functions, or specialized ordinance, rule, or regulatory functions.

(b) "Special function officer" includes:

- (i) state military police;
- (ii) constables;
- (iii) port-of-entry agents as defined in Section 72-1-102;
- (iv) authorized employees or agents of the Department of Transportation assigned to administer and enforce the provisions of Title 72, Chapter 9, Motor Carrier Safety Act;
- (v) school district security officers;
- (vi) Utah State Hospital security officers designated pursuant to Section 62A-15-603;
- (vii) Utah State Developmental Center security officers designated pursuant to Subsection 62A-5-206~~(9)~~(8);
- (viii) fire arson investigators for any political subdivision of the state;
- (ix) ordinance enforcement officers employed by municipalities or counties may be special function officers;
- (x) employees of the Department of Natural Resources who have been designated to conduct supplemental enforcement functions as a collateral duty;
- (xi) railroad special agents deputized by a county sheriff under Section 17-30-2 or 17-30a-104, or appointed pursuant to Section 56-1-21.5;
- (xii) auxiliary officers, as described by Section 53-13-112;
- (xiii) special agents, process servers, and investigators employed by city attorneys;
- (xiv) criminal tax investigators designated under Section 59-1-206; and
- (xv) all other persons designated by statute as having special function officer authority or limited peace officer authority.

(2) (a) A special function officer may exercise that spectrum of peace officer authority that has been designated by statute to the employing agency, and only while on duty, and not for the purpose of general law enforcement.

(b) If the special function officer is charged with security functions respecting facilities or property, the powers may be exercised only in connection with acts occurring on the property where the officer is employed or when required for the protection of the employer's interest, property, or employees.

(c) A special function officer may carry firearms only while on duty, and only if authorized and under conditions specified by the officer's employer or chief administrator.

(3) (a) A special function officer may not exercise the authority of a peace officer until:

(i) the officer has satisfactorily completed an approved basic training program for special function officers as provided under Subsection (4); and

(ii) the chief law enforcement officer or administrator has certified this fact to the director of the division.

(b) City and county constables and their deputies shall certify their completion of training to the legislative governing body of the city or county they serve.

(4) (a) The agency that the special function officer serves may establish and maintain a basic special function course and in-service training programs as approved by the director of the division with the advice and consent of the council.

(b) The in-service training shall consist of no fewer than 40 hours per year and may be conducted by the agency's own staff or by other agencies.

Section 2. Section 62A-1-105 is amended to read:

62A-1-105. Creation of boards, divisions, and offices.

(1) The following policymaking boards are created within the Department of Human Services:

- (a) the Board of Aging and Adult Services; ~~and~~
- (b) the Board of Juvenile Justice Services~~;~~; and
- (c) the Utah State Developmental Center Board.

(2) The following divisions are created within the Department of Human Services:

- (a) the Division of Aging and Adult Services;
- (b) the Division of Child and Family Services;
- (c) the Division of Services for People with Disabilities;
- (d) the Division of Substance Abuse and Mental Health; and
- (e) the Division of Juvenile Justice Services.

(3) The following offices are created within the Department of Human Services:

- (a) the Office of Licensing;
- (b) the Office of Public Guardian; and
- (c) the Office of Recovery Services.

Section 3. Section 62A-1-107 is amended to read:

62A-1-107. Boards within department -- Members, appointment, terms, vacancies,

chairperson, compensation, meetings, quorum.

(1) (a) This section applies only to the Board of Aging and Adult Services and the Board of Juvenile Justice Services described in Subsections 62A-1-105(1)(a) and (b).

~~[(4)]~~ (b) Each board ~~[described in Section 62A-1-105]~~ shall have seven members who are appointed by the governor with the consent of the Senate.

(2) (a) Except as required by Subsection (2)(b), each member shall be appointed for a term of four years, and is eligible for one reappointment.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) Board members shall continue in office until the expiration of their terms and until their successors are appointed, which may not exceed 90 days after the formal expiration of a term.

(d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(3) No more than four members of any board may be from the same political party. Each board shall have diversity of gender, ethnicity, and culture; and members shall be chosen on the basis of their active interest, experience, and demonstrated ability to deal with issues related to their specific boards.

(4) Each board shall annually elect a chairperson from its membership. Each board shall hold meetings at least once every three months. Within budgetary constraints, meetings may be held from time to time on the call of the chairperson or of the majority of the members of any board. Four members of a board are necessary to constitute a quorum at any meeting, and, if a quorum exists, the action of the majority of members present shall be the action of the board.

(5) A member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) Each board shall adopt bylaws governing its activities. Bylaws shall include procedures for removal of a board member who is unable or unwilling to fulfill the requirements of his appointment.

(7) The board has program policymaking authority for the division over which it presides.

Section 4. Section 62A-5-101 is amended to read:

62A-5-101. Definitions.

As used in this chapter:

(1) "Approved provider" means a person approved by the division to provide home-based services.

(2) "Board" means the Utah State Developmental Center Board created under Section 62A-5-202.5.

[42] (3) (a) "Brain injury" means an acquired injury to the brain that is neurological in nature, including a cerebral vascular accident.

(b) "Brain injury" does not include a deteriorating disease.

[43] (4) "Designated intellectual disability professional" means:

(a) a psychologist licensed under Title 58, Chapter 61, Psychologist Licensing Act, who:

(i) (A) has at least one year of specialized training in working with persons with an intellectual disability; or

(B) has at least one year of clinical experience with persons with an intellectual disability; and

(ii) is designated by the division as specially qualified, by training and experience, in the treatment of an intellectual disability; or

(b) a clinical social worker, certified social worker, marriage and family therapist, or professional counselor, licensed under Title 58, Chapter 60, Mental Health Professional Practice Act, who:

(i) has at least two years of clinical experience with persons with an intellectual disability; and

(ii) is designated by the division as specially qualified, by training and experience, in the treatment of an intellectual disability.

[44] (5) "Deteriorating disease" includes:

- (a) multiple sclerosis;
- (b) muscular dystrophy;
- (c) Huntington's chorea;
- (d) Alzheimer's disease;
- (e) ataxia; or
- (f) cancer.

[45] (6) "Developmental center" means the Utah State Developmental Center, established in accordance with Part 2, Utah State Developmental Center.

[46] (7) "Direct service worker" means a person who provides services to a person with a disability:

(a) when the services are rendered in:

(i) the physical presence of the person with a disability; or

(ii) a location where the person rendering the services has access to the physical presence of the person with a disability; and

(b) (i) under a contract with the division;

(ii) under a grant agreement with the division; or

(iii) as an employee of the division.

[47] (8) "Director" means the director of the Division of Services for People with Disabilities.

[48] (9) (a) "Disability" means a severe, chronic disability that:

(i) is attributable to:

(A) an intellectual disability;

(B) a condition that qualifies a person as a person with a related condition, as defined in 42 C.F.R. 435.1009;

(C) a physical disability; or

(D) a brain injury;

(ii) is likely to continue indefinitely;

(iii) (A) for a condition described in Subsection [48] (9)(a)(i)(A), (B), or (C), results in a substantial functional limitation in three or more of the following areas of major life activity:

(I) self-care;

(II) receptive and expressive language;

(III) learning;

(IV) mobility;

(V) self-direction;

(VI) capacity for independent living; or

(VII) economic self-sufficiency; or

(B) for a condition described in Subsection [48] (9)(a)(i)(D), results in a substantial limitation in three or more of the following areas:

(I) memory or cognition;

(II) activities of daily life;

(III) judgment and self-protection;

(IV) control of emotions;

(V) communication;

(VI) physical health; or

(VII) employment; and

(iv) requires a combination or sequence of special interdisciplinary or generic care, treatment, or other services that:

(A) may continue throughout life; and

(B) must be individually planned and coordinated.

(b) "Disability" does not include a condition due solely to:

(i) mental illness;

(ii) personality disorder;

(iii) hearing impairment;

(iv) visual impairment;

(v) learning disability;

- (vi) behavior disorder;
- (vii) substance abuse; or
- (viii) the aging process.

[49] (10) "Division" means the Division of Services for People with Disabilities.

[10] (11) "Eligible to receive division services" or "eligibility" means qualification, based on criteria established by the division in accordance with Subsection 62A-5-102(4), to receive services that are administered by the division.

[11] (12) "Endorsed program" means a facility or program that:

- (a) is operated:
 - (i) by the division; or
 - (ii) under contract with the division; or

(b) provides services to a person committed to the division under Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability.

[12] (13) "Licensed physician" means:

(a) an individual licensed to practice medicine under:

(i) Title 58, Chapter 67, Utah Medical Practice Act; or

(ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(b) a medical officer of the United States Government while in this state in the performance of official duties.

[13] (14) "Physical disability" means a medically determinable physical impairment that has resulted in the functional loss of two or more of a person's limbs.

[14] (15) "Public funds" means state or federal funds that are disbursed by the division.

[15] (16) "Resident" means an individual under observation, care, or treatment in an intermediate care facility for people with an intellectual disability.

Section 5. Section 62A-5-202.5 is enacted to read:

62A-5-202.5. Utah State Developmental Center Board -- Creation -- Membership -- Duties -- Powers.

(1) There is created the Utah State Developmental Center Board within the Department of Human Services.

(2) The board is composed of nine members as follows:

(a) the director of the division or the director's designee;

(b) the superintendent of the developmental center or the superintendent's designee;

(c) the executive director of the Department of Human Services or the executive director's designee;

(d) a resident of the developmental center selected by the superintendent; and

(e) five members appointed by the governor with the advice and consent of the Senate as follows:

(i) three members of the general public; and

(ii) two members who are parents or guardians of individuals who receive services at the developmental center.

(3) In making appointments to the board, the governor shall ensure that:

(a) no more than three members have immediate family residing at the developmental center; and

(b) members represent a variety of geographic areas and economic interests of the state.

(4) (a) The governor shall appoint each member described in Subsection (2)(e) for a term of four years.

(b) An appointed member may not serve more than two full consecutive terms unless the governor determines that an additional term is in the best interest of the state.

(c) Notwithstanding the requirements of Subsections (4)(a) and (b), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of appointed members are staggered so that approximately half of the appointed members are appointed every two years.

(d) Appointed members shall continue in office until the expiration of their terms and until their successors are appointed, which may not exceed 120 days after the formal expiration of a term.

(e) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) (a) The director shall serve as the chair.

(b) The board shall appoint a member to serve as vice chair.

(c) The board shall hold meetings quarterly or as needed.

(d) Five members are necessary to constitute a quorum at any meeting, and, if a quorum exists, the action of the majority of members present shall be the action of the board.

(e) The chair shall be a non-voting member except that the chair may vote to break a tie vote between the voting members.

(6) An appointed member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) (a) The board shall adopt bylaws governing the board's activities.

(b) Bylaws shall include procedures for removal of a member who is unable or unwilling to fulfill the requirements of the member's appointment.

(8) The board shall:

(a) act for the benefit of the developmental center and the division;

(b) advise and assist the division with the division's functions, operations, and duties related to the developmental center, described in Sections 62A-5-102, 62A-5-103, 62A-5-201, 62A-5-203, and 62A-5-206;

(c) administer the Utah State Developmental Center Miscellaneous Donation Fund, as described in Section 62A-5-206.5;

(d) administer the Utah State Developmental Center Land Fund, as described in Section 62A-5-206.6; and

(e) approve the sale, lease, or other disposition of real property or water rights associated with the developmental center, as described in Subsection 62A-5-206.6(5).

Section 6. Section 62A-5-206 is amended to read:

62A-5-206. Powers and duties of division.

The powers and duties of the division, with respect to the developmental center are as follows:

(1) to establish rules, not inconsistent with law, for the government of the developmental center;

~~[(2) to receive, take, and hold property, both real and personal, in trust for the state for the use and benefit of the developmental center;]~~

[(3)] (2) to establish rules governing the admission and discharge of persons with an intellectual disability in accordance with state law;

[(4)] (3) to employ necessary medical and other professional personnel to assist in establishing rules relating to the developmental center and to the treatment and training of persons with an intellectual disability at the center;

[(5)] (4) to transfer a person who has been committed to the developmental center under Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability, to any other facility or program operated by or under contract with the division, after careful evaluation of the treatment needs of that person, if the facilities or programs available meet the needs indicated, and if transfer would be in the best interest of that person. A person transferred shall remain under the jurisdiction of the division;

[(6)] (5) the developmental center may receive a person who meets the requirements of Subsection 62A-5-201(3) from any other facility or program

operated by or under contract with the division, after careful evaluation of the treatment needs of that person, if the facility or programs of the developmental center meet those needs, and if transfer would be in the best interest of that person. A person so received by the developmental center remains under the jurisdiction of the division;

~~[(7)] (6) to manage funds for a person residing in the developmental center, upon request by that person's parent or guardian, or upon administrative or court order;~~

~~[(8)] (7) to charge and collect a fair and equitable fee from developmental center residents, parents who have the ability to pay, or guardians where funds for that purpose are available; and~~

[(9)] (8) supervision and administration of security responsibilities for the developmental center is vested in the division. The executive director may designate, as special function officers, individuals to perform special security functions for the developmental center that require peace officer authority. Those special function officers may not become or be designated as members of the Public Safety Retirement System~~[-and]~~.

~~[(10) administration of the Utah State Developmental Center Miscellaneous Donation Fund, as established by Section 62A-5-206.5.]~~

Section 7. Section 62A-5-206.5 is amended to read:

62A-5-206.5. Utah State Developmental Center Miscellaneous Donation Fund -- Use.

(1) There is created an expendable special revenue fund known as the "Utah State Developmental Center Miscellaneous Donation Fund."

(2) The ~~[division]~~ board shall deposit donations made to the Utah State Developmental Center under Section 62A-1-111 into the expendable special revenue fund described in Subsection (1).

~~[(3) Except as provided in Subsection (5), no expenditure or appropriation may be made from the Utah State Developmental Center Miscellaneous Donation Fund.]~~

[(4)] (3) The state treasurer shall invest the money in the fund described in Subsection (1) according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, and the ~~[interest]~~ revenue received from the investment shall remain with the fund described in Subsection (1).

(4) (a) Except as provided in Subsection (5), the money or revenue in the fund described in Subsection (1) may not be diverted, appropriated, expended, or committed to be expended for a purpose that is not listed in this section.

(b) Notwithstanding Section 63J-1-211, the Legislature may not appropriate money or revenue from the fund described in Subsection (1) to eliminate or otherwise reduce an operating deficit if the money or revenue appropriated from the fund is

expended or committed to be expended for a purpose other than one listed in this section.

(c) The Legislature may not amend the purposes for which money or revenue in the fund described in Subsection (1) may be expended or committed to be expended except by the affirmative vote of two-thirds of all the members elected to each house.

~~[(5) (a) Subject to the requirements of Subsection (6),]~~

(5) (a) The board shall approve expenditures of money and revenue in the fund described in Subsection (1).

(b) The board may expend money and [interest] revenue in the fund described in Subsection (1) [may] only [be spent]:

- (i) as designated by the donor; or
- (ii) for the benefit of [clients]:

(A) residents of the [Utah State Developmental Center,] developmental center; or

(B) individuals with disabilities who receive services and support from the Utah State Developmental Center, as described in Subsection 62A-5-201(2)(b).

~~[(b)] (c) Money and [interest] revenue in the fund described in Subsection (1) may not be used for items normally paid for by operating revenues or for items related to personnel costs without specific legislative authorization.~~

~~[(6) (a) Single expenditures from the fund described in Subsection (1) in amounts of \$5,000 or less shall be approved by the superintendent.]~~

~~[(b) Single expenditures exceeding \$5,000 must be preapproved by the superintendent and the division director.]~~

~~[(c) Expenditures described in this Subsection (6) shall be used for the benefit of patients at the Utah State Developmental Center.]~~

Section 8. Section 62A-5-206.6 is enacted to read:

62A-5-206.6. Utah State Developmental Center Land Fund -- Use of fund.

(1) As used in this section, "long-term lease" means:

- (a) a lease with a term of five years or more; or
- (b) a lease with a term of less than five years that may be unilaterally renewed by the lessee.

(2) Notwithstanding Section 63A-5-215, any money received by the board from the sale, lease, except any lease existing on May 1, 1995, or other disposition of real property associated with the developmental center shall be deposited in the expendable special revenue fund created in Subsection (3).

(3) (a) There is created an expendable special revenue fund known as the "Utah State Developmental Center Land Fund."

(b) The Division of Finance shall deposit the following money into the expendable special revenue fund:

(i) money from the sale, long-term lease, except any lease existing on May 1, 1995, or other disposition of real property associated with the developmental center; and

(ii) money from the sale, long-term lease, or other disposition of water rights associated with the developmental center.

(c) The state treasurer shall invest money in the fund described in Subsection (3) according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, and the revenue from the investment shall remain with the expendable special revenue fund, except as provided in Subsection (4).

(d) (i) Except as provided in Subsection (4), the money or revenue in the fund may not be diverted, appropriated, expended, or committed to be expended for a purpose that is not listed in this section.

(ii) Notwithstanding Section 63J-1-211, the Legislature may not appropriate money or revenue from the fund to eliminate or otherwise reduce an operating deficit if the money or revenue appropriated from the fund is expended or committed to be expended for a purpose other than one listed in this section.

(iii) The Legislature may not amend the purposes for which money or revenue in the fund may be expended or committed to be expended except by the affirmative vote of two-thirds of all the members elected to each house.

(4) The board may expend money or revenue from the Utah State Developmental Center Land Fund to:

(a) fulfill the functions of the Utah State Developmental Center as described in Sections 62A-5-201 and 62A-5-203; and

(b) assist the division in the division's administration of services and supports, as described in Sections 62A-5-102 and 62A-5-103.

(5) (a) Notwithstanding Section 65A-4-1, any sale, long-term lease, or other disposition of real property or water rights associated with the developmental center shall be conducted as provided in this Subsection (5).

(b) The board shall:

(i) approve the sale, long-term lease, or other disposition of real property or water rights associated with the developmental center;

(ii) secure the approval of the Legislature before offering the real property or water rights for sale, long-term lease, or other disposition; and

(iii) if the Legislature's approval is secured, as described in Subsection (5)(b)(ii), direct the Division of Facilities Construction and Management to convey, lease, or dispose of the real property or water rights associated with the developmental center according to the board's determination.

Section 9. Section 63A-5-204 is amended to read:

63A-5-204. Specific powers and duties of director.

(1) As used in this section, "capitol hill facilities" and "capitol hill grounds" have the same meaning as provided in Section 63C-9-102.

(2) (a) The director shall:

(i) recommend rules to the executive director for the use and management of facilities and grounds owned or occupied by the state for the use of its departments and agencies;

(ii) supervise and control the allocation of space, in accordance with legislative directive through annual appropriations acts or other specific legislation, to the various departments, commissions, institutions, and agencies in all buildings or space owned, leased, or rented by or to the state, except capitol hill facilities and capitol hill grounds and except as otherwise provided by law;

(iii) comply with the procedures and requirements of Title 63A, Chapter 5, Part 3, Division of Facilities Construction and Management Leasing;

(iv) except as provided in Subsection (2)(b), acquire, as authorized by the Legislature through the appropriations act or other specific legislation, and hold title to, in the name of the division, all real property, buildings, fixtures, or appurtenances owned by the state or any of its agencies;

(v) adopt and use a common seal, of a form and design determined by the director, and of which courts shall take judicial notice;

(vi) file a description and impression of the seal with the Division of Archives;

(vii) collect and maintain all deeds, abstracts of title, and all other documents evidencing title to or interest in property belonging to the state or any of its departments, except institutions of higher education and the School and Institutional Trust Lands Administration;

(viii) report all properties acquired by the state, except those acquired by institutions of higher education, to the director of the Division of Finance for inclusion in the state's financial records;

(ix) before charging a rate, fee, or other amount for services provided by the division's internal service fund to an executive branch agency, or to a subscriber of services other than an executive branch agency:

(A) submit the proposed rates, fees, and cost analysis to the Rate Committee established in Section 63A-1-114; and

(B) obtain the approval of the Legislature as required by Section 63J-1-410;

(x) conduct a market analysis by July 1, 2005, and periodically thereafter, of proposed rates and fees, which analysis shall include a comparison of the division's rates and fees with the fees of other public

or private sector providers where comparable services and rates are reasonably available;

(xi) implement the State Building Energy Efficiency Program under Section 63A-5-701; ~~and~~

(xii) convey, lease, or dispose of the real property or water rights associated with the Utah State Developmental Center according to the Utah State Developmental Center Board's determination, as described in Subsection 62A-5-206.6(5); and

~~(xii)~~ (xiii) take all other action necessary for carrying out the purposes of this chapter.

(b) Legislative approval is not required for acquisitions by the division that cost less than \$250,000.

(3) (a) The director shall direct or delegate maintenance and operations, preventive maintenance, and facilities inspection programs and activities for any department, commission, institution, or agency, except:

(i) the State Capitol Preservation Board; and

(ii) state institutions of higher education.

(b) The director may choose to delegate responsibility for these functions only when the director determines that:

(i) the department or agency has requested the responsibility;

(ii) the department or agency has the necessary resources and skills to comply with facility maintenance standards approved by the State Building Board; and

(iii) the delegation would result in net cost savings to the state as a whole.

(c) The State Capitol Preservation Board and state institutions of higher education are exempt from Division of Facilities Construction and Management oversight.

(d) Each state institution of higher education shall comply with the facility maintenance standards approved by the State Building Board.

(e) Except for the State Capitol Preservation Board, agencies and institutions that are exempt from division oversight shall annually report their compliance with the facility maintenance standards to the division in the format required by the division.

(f) The division shall:

(i) prescribe a standard format for reporting compliance with the facility maintenance standards;

(ii) report agency and institution compliance or noncompliance with the standards to the Legislature; and

(iii) conduct periodic audits of exempt agencies and institutions to ensure that they are complying with the standards.

(4) (a) In making any allocations of space under Subsection (2), the director shall:

(i) conduct studies to determine the actual needs of each department, commission, institution, or agency; and

(ii) comply with the restrictions contained in this Subsection (4).

(b) The supervision and control of the legislative area is reserved to the Legislature.

(c) The supervision and control of the judicial area is reserved to the judiciary for trial courts only.

(d) The director may not supervise or control the allocation of space for entities in the public and higher education systems.

(e) The supervision and control of capitol hill facilities and capitol hill grounds is reserved to the State Capitol Preservation Board.

(5) The director may:

(a) hire or otherwise procure assistance and services, professional, skilled, or otherwise, that are necessary to carry out the director's responsibilities, and may expend funds provided for that purpose either through annual operating budget appropriations or from nonlapsing project funds;

(b) sue and be sued in the name of the division; and

(c) hold, buy, lease, and acquire by exchange or otherwise, as authorized by the Legislature, whatever real or personal property that is necessary for the discharge of the director's duties.

(6) Notwithstanding the provisions of Subsection (2)(a)(iv), the following entities may hold title to any real property, buildings, fixtures, and appurtenances held by them for purposes other than administration that are under their control and management:

(a) the Office of Trust Administrator;

(b) the Department of Transportation;

(c) the Division of Forestry, Fire, and State Lands;

(d) the Department of Natural Resources;

(e) the Utah National Guard;

(f) any area vocational center or other institution administered by the State Board of Education;

(g) any institution of higher education; and

(h) the Utah Science Technology and Research Governing Authority.

(7) The director shall ensure that any firm performing testing and inspection work governed by the American Society for Testing Materials Standard E-329 on public buildings under the director's supervision shall:

(a) fully comply with the American Society for Testing Materials standard specifications for agencies engaged in the testing and inspection of materials known as ASTM E-329; and

(b) carry a minimum of \$1,000,000 of errors and omissions insurance.

(8) Notwithstanding Subsections (2)(a)(iii) and (iv), the School and Institutional Trust Lands Administration may hold title to any real property, buildings, fixtures, and appurtenances held by it that are under its control.

Section 10. Repealer.

This bill repeals:

Section 63A-5-220, Definitions -- Creation of Utah State Developmental Center Land Fund -- Use of fund.

CHAPTER 301
S. B. 173

Passed March 10, 2016
Approved March 25, 2016
Effective May 10, 2016

STATE FAIR PARK REVISIONS

Chief Sponsor: Kevin T. Van Tassell
House Sponsor: Mike K. McKell

LONG TITLE

General Description:

This bill amends provisions related to the Utah State Fair Corporation.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends the powers and duties of the Utah State Fair Corporation;
- ▶ modifies the membership of the board of directors of the Utah State Fair Corporation;
- ▶ allows the board of directors of the Utah State Fair Corporation to create one or more subcommittees;
- ▶ creates the State Fair Park Committee;
- ▶ provides that the Utah State Fair Corporation shall operate and maintain the state fair park;
- ▶ provides that a person who executes a development agreement with the Utah State Fair Corporation shall pay a tax equivalent payment;
- ▶ authorizes the Utah State Fair Corporation to issue revenue bonds;
- ▶ repeals provisions related to the leasing of the state fair park; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2017:

- ▶ to the Legislature - Senate, as an ongoing appropriation:
 - from the General Fund, \$10,000;
- ▶ to the Legislature - House of Representatives, as an ongoing appropriation:
 - from the General Fund, \$10,000;
- ▶ to the Legislature - Office of Legislative Research and General Counsel, as an ongoing appropriation:
 - from the General Fund, \$35,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 63B-18-302, as enacted by Laws of Utah 2009, Chapter 134
- 63H-6-101, as renumbered and amended by Laws of Utah 2011, Chapter 370
- 63H-6-102, as renumbered and amended by Laws of Utah 2011, Chapter 370
- 63H-6-103, as last amended by Laws of Utah 2012, Chapters 20 and 347
- 63H-6-104, as last amended by Laws of Utah 2014, Chapter 139

63H-6-107, as renumbered and amended by Laws of Utah 2011, Chapter 370

ENACTS:

- 63H-6-104.5, Utah Code Annotated 1953
- 63H-6-108, Utah Code Annotated 1953
- 63H-6-109, Utah Code Annotated 1953
- 63H-6-201, Utah Code Annotated 1953
- 63H-6-202, Utah Code Annotated 1953
- 63H-6-203, Utah Code Annotated 1953
- 63H-6-204, Utah Code Annotated 1953
- 63H-6-205, Utah Code Annotated 1953

REPEALS:

63A-5-306, as last amended by Laws of Utah 2011, Chapter 370

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63B-18-302 is amended to read:

63B-18-302. Authorizations to dispose of property.

~~[(1) The Legislature intends that:]~~

~~[(a) the Division of Facilities Construction and Management, acting in coordination with the Utah State Fair Corporation, may negotiate with the Utah Transit Authority for a long-term lease of land, or a license for long-term use of land, to the Utah Transit Authority at the State Fairpark; and]~~

~~[(b) before entering into a contract with the Utah Transit Authority, the division shall:]~~

~~[(i) obtain the approval of the State Building Board; and]~~

~~[(ii) the State Building Board may approve the agreement only if the division demonstrates that the contract terms agree with Section 63A-5-306 and will be a benefit to the state.]~~

~~[(2) The Legislature intends that:~~

~~[(a) (1) the Department of Workforce Services may, in coordination with the Division of Facilities Construction and Management, sell a Temporary Placement Office in Salt Lake City, Utah, and three vacated buildings in Logan, Utah; and~~

~~[(b) (2) sales [shall] be at fair market value.~~

Section 2. Section 63H-6-101 is amended to read:

Part 1. Creation and Authority of the Utah State Fair Corporation

63H-6-101. Title.

(1) This chapter is known as the "Utah State Fair Corporation Act."

(2) This part is known as "Creation and Authority of the Utah State Fair Corporation."

Section 3. Section 63H-6-102 is amended to read:

63H-6-102. Definitions.

As used in this chapter:

(1) "Board" means the board of directors of the corporation.

(2) “Business related experience” means at least three years of professional experience in business administration, marketing, advertising, economic development, or a related field.

(3) “Capital developments” means the same as that term is defined in Section 63A-5-104.

(4) “Capital improvements” means the same as that term is defined in Section 63A-5-104.

~~[(2)]~~ (5) “Corporation” means the Utah State Fair Corporation created by this chapter.

(6) “Corporation bond” means a bond issued by the corporation in accordance with Part 2, Bonding Authority.

(7) “Division” means the Division of Facilities Construction and Management created in Section 63A-5-201.

(8) “Executive director” means the executive director hired by the board in accordance with Section 63H-6-105.

~~[(3)]~~ (9) (a) “State fair park” means the property owned by the state located at:

(i) 155 North 1000 West, Salt Lake City, Utah~~[-]~~, consisting of approximately 50 acres;

(ii) 1139 West North Temple, Salt Lake City, Utah, consisting of approximately 10.5 acres; and

(iii) 1220 West North Temple, Salt Lake City, Utah, consisting of approximately two acres.

(b) “State fair park” includes each building and each improvement on the property described in Subsection (8)(a) that is owned by the state.

Section 4. Section 63H-6-103 is amended to read:

63H-6-103. Utah State Fair Corporation -- Legal status -- Powers.

(1) There is created an independent public nonprofit corporation known as the “Utah State Fair Corporation.”

(2) The board shall file articles of incorporation for the corporation with the Division of Corporations and Commercial Code.

(3) The corporation, subject to this chapter, has all powers and authority permitted nonprofit corporations by law.

(4) The corporation shall~~[-, subject to approval of the board]~~:

(a) ~~[have general management, supervision, and control over]~~ manage, supervise, and control:

(i) all activities relating to the ~~[state fair]~~ annual exhibition described in Subsection (4)(j); and ~~[have charge of]~~

(ii) except as otherwise provided by statute, all state expositions ~~[except as otherwise provided by statute]~~, including setting the time, place, and purpose of any state exposition;

(b) for public entertainment, displays, and exhibits or similar events:

(i) provide, sponsor, or arrange the events;

(ii) publicize and promote the events; and

(iii) secure funds to cover the cost of the exhibits from:

(A) private contributions;

(B) public appropriations;

(C) admission charges; and

(D) other lawful means;

~~[(e) establish the time, place, and purpose of state expositions; and]~~

~~[(4)]~~ (c) acquire and designate exposition sites~~[-]~~;

~~[(5) (a) The corporation shall:]~~

~~[(4)]~~ (d) use generally accepted accounting principles in accounting for ~~[its]~~ the corporation's assets, liabilities, and operations;

~~[(iii)]~~ (e) seek corporate sponsorships for the state fair park ~~[and]~~ or for individual buildings or facilities within the fair park;

~~[(iii)]~~ (f) work with county and municipal governments, the Salt Lake Convention and Visitor's Bureau, the Utah Travel Council, and other entities to develop and promote expositions and the use of the state fair park;

~~[(iv)]~~ (g) develop and maintain a marketing program to promote expositions and the use of the state fair park;

~~[(v) in cooperation with the Division of Facilities Construction and Management,]~~

(h) in accordance with provisions of this part, operate and maintain the state fair park, including the physical appearance and structural integrity of the state fair park and the buildings located at the state fair park;

(i) prepare an economic development plan for the state fair park;

~~[(vi)]~~ (j) hold an annual exhibition that:

~~[(A)]~~ (i) is called the state fair or a similar name;

(ii) promotes and highlights agriculture throughout the state;

~~[(B)]~~ (iii) includes expositions of livestock, poultry, agricultural, domestic science, horticultural, floricultural, mineral~~[-]~~ and industrial products, manufactured articles, and domestic animals that, in the corporation's opinion will best stimulate agricultural, industrial, artistic, and educational pursuits and the sharing of talents among the people of Utah;

~~[(C)]~~ (iv) includes the award of premiums for the best specimens of the exhibited articles and animals;

~~[(D)]~~ (v) permits competition by livestock exhibited by citizens of other states and territories of the United States; and

~~[(E)]~~ (vi) is arranged according to plans approved by the board;

~~[(vii)]~~ (k) fix the conditions of entry to the [exposition] annual exhibition described in Subsection ~~[(5)(a)(vi)]~~ (4)(j); and

~~[(viii)]~~ (l) publish a list of premiums that will be awarded at the annual exhibition described in Subsection ~~[(5)(a)(vi)]~~ (4)(j) for the best specimens of exhibited articles and animals.

~~[(b)]~~ (5) In addition to the [state fair to be held in accordance with Subsection (5)(a)(vi)] annual exhibition described in Subsection (4)(j), the corporation may hold other exhibitions of livestock, poultry, agricultural, domestic science, horticultural, floricultural, mineral~~[,]~~ and industrial products, manufactured articles, and domestic animals that, in [its] the corporation's opinion, will best stimulate agricultural, industrial, artistic, and educational pursuits and the sharing of talents among the people of Utah.

(6) The corporation may:

(a) employ advisers, consultants, and agents, including financial experts and independent legal counsel, and fix their compensation;

(b) (i) participate in the state's Risk Management Fund created under Section 63A-4-201; or

(ii) procure insurance against any loss in connection with [its] the corporation's property and other assets, including mortgage loans;

(c) receive and accept aid or contributions of money, property, labor, or other things of value from any source, including any grants or appropriations from any department, agency, or instrumentality of the United States or Utah;

(d) hold, use, loan, grant, and apply that aid and those contributions to carry out the purposes of the corporation, subject to the conditions, if any, upon which the aid and contributions were made;

(e) enter into management agreements with any person or entity for the performance of [its] the corporation's functions or powers;

(f) establish whatever accounts and procedures as necessary to budget, receive, and disburse, account for, and audit all funds received, appropriated, or generated;

(g) [enter into agreements for the leasing of] subject to Subsection (8), lease any of the facilities at the state fair park~~[-, if approved by the board; and]~~;

(h) sponsor events as approved by the board~~[-]; and~~

(i) enter into one or more agreements to develop the state fair park.

(7) (a) Except as provided in Subsection (7)(c), as an independent agency of Utah, the corporation is exempt from:

(i) Title 51, Chapter 5, Funds Consolidation Act;

(ii) Title 51, Chapter 7, State Money Management Act;

(iii) Title 63A, Utah Administrative Services Code;

(iv) Title 63G, Chapter 6a, Utah Procurement Code;

(v) Title 63J, Chapter 1, Budgetary Procedures Act; and

(vi) Title 67, Chapter 19, Utah State Personnel Management Act.

(b) The board shall adopt policies parallel to and consistent with:

(i) Title 51, Chapter 5, Funds Consolidation Act;

(ii) Title 51, Chapter 7, State Money Management Act;

(iii) Title 63A, Utah Administrative Services Code;

(iv) Title 63G, Chapter 6a, Utah Procurement Code; and

(v) Title 63J, Chapter 1, Budgetary Procedures Act.

(c) The corporation shall comply with the legislative approval requirements for new facilities established in Subsection 63A-5-104(3).

(8) (a) Before the corporation executes a lease described in Subsection (6)(g) with a term of 10 or more years, the corporation shall:

(i) submit the proposed lease to the State Building Board for the State Building Board's approval or rejection; and

(ii) if the State Building Board approves the proposed lease, submit the proposed lease to the Executive Appropriations Committee for the Executive Appropriation Committee's review and recommendation in accordance with Subsection (8)(b).

(b) The Executive Appropriations Committee shall review a proposed lease submitted in accordance with Subsection (8)(a) and recommend to the corporation that the corporation:

(i) execute the proposed sublease; or

(ii) reject the proposed sublease.

Section 5. Section 63H-6-104 is amended to read:

63H-6-104. Board of directors -- Membership -- Term -- Quorum -- Vacancies -- Duties.

(1) The corporation is governed by a board of directors.

(2) The board is composed of ~~[13]~~ members as follows:

(a) the director of the Division of Facilities Construction and Management or the director's designee;

(b) the commissioner of agriculture and food or the commissioner's designee; ~~[and]~~

(c) two members, appointed by the president of the Senate, who have business related experience and are not legislators;

(d) two members, appointed by the speaker of the House, who have business related experience and are not legislators;

[~~(e)—11~~] (e) four members appointed by the governor with the consent of the Senate as follows:

[(i) two members of the board who are residents of Salt Lake County in which the state fair is held;]

[(ii) seven members of the board who are not residents of Salt Lake County and are each a resident of a different county than any other member under this Subsection (2)(e)(i); and]

[(iii) (i) two members [of the board] who represent agricultural interests[.]; and]

(ii) two members who have business related experience;

(f) one member, appointed by the mayor of Salt Lake City with the consent of the Senate, who is a resident of the neighborhood located adjacent to the state fair park;

(g) a representative of Salt Lake County, if Salt Lake County is party to an executed lease agreement with the corporation; and

(h) a representative of the Days of '47 Rodeo, if the Days of '47 Rodeo is party to an executed lease agreement with the corporation.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), [~~the governor shall appoint board members to serve terms that expire~~] a board member appointed under Subsection (2)(c), (d), (e), or (f) shall serve a term that expires on the December 1 four years after the year that the board member was appointed.

(ii) In making appointments to the board, the president of the Senate, the speaker of the House, the governor, and the mayor of Salt Lake City shall ensure that the terms of approximately 1/4 of the appointed board members expire each year.

(b) Except as provided in Subsection (3)(c), appointed board members serve until their successors are appointed and qualified.

(c) (i) If an appointed board member is absent from three consecutive board meetings without excuse, that member's appointment is terminated, the position is vacant, and the [~~governor~~] individual who appointed the board member shall appoint a replacement.

(ii) The president of the Senate, the speaker of the House, the governor, or the mayor of Salt Lake City, as applicable, may remove an appointed member of the board at will.

(d) The president of the Senate, the speaker of the House, the governor, or the mayor of Salt Lake City, as appropriate, shall fill any vacancy that occurs on the board for any reason by appointing [~~a person according to~~] an individual in accordance with the

procedures [of] described in this section for the unexpired term of the vacated member.

(4) The governor shall select the board's chair.

(5) [~~Seven~~] A majority of the members of the board [~~are~~] is a quorum for the transaction of business.

(6) The board may elect a vice chair and any other board offices.

(7) The board may create one or more subcommittees to advise the board on any issue related to the state fair park.

(8) In carrying out the board's duties under this chapter, the board shall cooperate with and, upon request, appear before the State Fair Park Committee.

(9) No later than November 30 of each year, the board shall provide the following to the State Fair Park Committee:

(a) a report on the general state of the financial and business affairs of the corporation;

(b) a report on that year's annual exhibition described in Subsection 63H-6-103(4)(j), including the exhibition's attendance, operations, and revenue;

(c) any appropriation request that the board plans to submit to the Legislature; and

(d) any other report that the State Fair Park Committee requests.

Section 6. Section 63H-6-104.5 is enacted to read:

63H-6-104.5. State Fair Park Committee -- Creation -- Duties.

(1) To assist the board in the execution of the board's duties under this chapter, there is created the State Fair Park Committee consisting of the following six members:

(a) three members of the Senate appointed by the president of the Senate, no more than two of whom are from the same political party; and

(b) three members from the House of Representatives appointed by the speaker of the House, no more than two of whom are from the same political party.

(2) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (1)(a) as cochair of the committee.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (1)(b) as cochair of the committee.

(3) (a) A majority of the members of the advisory committee constitutes a quorum.

(b) The action of a majority of a quorum constitutes the action of the committee.

(4) The committee shall meet as necessary, as determined by the cochairs of the committee.

(5) Salaries and expenses of the members of the committee shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(6) The Office of Legislative Research and General Counsel shall provide staff support to the committee.

(7) The committee may consult with and make recommendations to the board regarding the board's duties under this chapter.

(8) A recommendation of the committee is not binding upon the board.

Section 7. Section 63H-6-107 is amended to read:

63H-6-107. Enterprise fund -- Creation -- Revenue -- Uses.

(1) (a) There is created an enterprise fund entitled the Utah State Fair Fund.

(b) The executive director shall administer the fund under the direction of the board.

(2) The fund consists of money generated from the following revenue sources:

(a) lease payments from person or entities leasing the state fair park or any other facilities owned by the corporation;

(b) [revenues] revenue received from any expositions or other events wholly or partially sponsored by the corporation;

(c) aid or contributions of money, property, labor, or other things of value from any source, including any grants or appropriations from any department, agency, or instrumentality of the United States or Utah;

(d) appropriations made to the fund by the Legislature; [and]

(e) revenue received under an agreement described in Subsection 63H-6-109(2); and

(f) [and] any other income obtained by the corporation.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) The executive director may use fund money to operate, maintain, and support the Utah state fair, the state fair park, and other expositions sponsored by the corporation.

Section 8. Section 63H-6-108 is enacted to read:

63H-6-108. Operation of the state fair park.

(1) The corporation shall:

(a) operate and maintain the state fair park in accordance with the facility maintenance standards approved by the State Building Board;

(b) pay for all costs associated with operating and maintaining the state fair park;

(c) obtain approval from the division before the corporation commences capital developments on the state fair park that involve:

(i) a construction project that costs more than \$250,000; or

(ii) the construction of a new building that costs more than \$1,000,000;

(d) obtain a building permit from the division before commencing an activity that requires a building permit;

(e) ensure that:

(i) any design plan related to the state fair park satisfies any applicable design standards established by the division or the State Building Board; and

(ii) construction performed on the state fair park satisfies any applicable construction standards established by the division or the State Building Board;

(f) for any new construction project on the state fair park that costs \$250,000 or more:

(i) notify the division before commencing the new construction project; and

(ii) coordinate with the division regarding review of design plans and construction management;

(g) obtain approval from the division before the corporation makes any alteration or addition to the water system, heating system, plumbing system, air conditioning system, or electrical system;

(h) obtain approval from the State Building Board before the corporation demolishes a building or facility on the state fair park;

(i) keep the state fair park fully insured to protect against loss or damage by fire, vandalism, or malicious mischief;

(j) in accordance with Subsection (3), at the corporation's expense, and for the mutual benefit of the division, maintain general public liability insurance in an amount equal to at least \$1,000,000 through one or more companies that are:

(i) licensed to do business in the state;

(ii) selected by the corporation; and

(iii) approved by the division and the Division of Risk Management;

(k) ensure that the division is an additional insured with primary coverage on each insurance policy that the corporation obtains in accordance with this section;

(l) give the division notice at least 30 days before the day on which the corporation cancels any insurance policy that the corporation obtains in accordance with this section; and

(m) if any lien is recorded or filed against the state fair park as a result of an act or omission of the corporation, cause the lien to be satisfied or cancelled within 10 days after the day on which the corporation receives notice of the lien.

(2) The State Building Board shall notify the State Historic Preservation Office of any State Building Board meeting at which the State Building Board will consider approval to demolish a facility on the state fair park.

(3) The general public liability insurance described in Subsection (1)(j) shall:

(a) insure against any claim for personal injury, death, or property damage that occurs at the state fair park; and

(b) be a blanket policy that covers all activities of the corporation.

(4) The division shall administer any capital improvements on the state fair park that cost more than \$250,000.

(5) Upon 24 hours notice to the corporation, the division may enter the state fair park to inspect the state fair park and make any repairs that the division determines necessary.

(6) If the corporation no longer operates as an independent public nonprofit corporation as described in this chapter, the state shall assume the responsibilities of the corporation under any contract that is:

(a) in effect as of the day on which the status of the corporation changes; and

(b) for the lease, construction, or development of a building or facility on the state fair park.

(7) (a) A debt or obligation contracted by the corporation is a debt or obligation of the corporation.

(b) The state is not liable and assumes no responsibility for any debt or obligation described in Subsection (7)(a), unless the Legislature expressly:

(i) authorizes the corporation to contract for the debt or obligation; and

(ii) accepts liability or assumes responsibility for the debt or obligation.

(8) The provisions of this section apply notwithstanding any contrary provision in Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management.

Section 9. Section 63H-6-109 is enacted to read:

63H-6-109. Tax -- Exemption -- Tax equivalent payment.

(1) The possession or beneficial use of property within the state fair park is exempt from taxation under Title 59, Chapter 4, Privilege Tax.

(2) (a) Any agreement between the corporation and a person to develop property within the state fair park shall provide that the person shall, in accordance with Title 59, Chapter 3, Tax Equivalent Property Act, make a tax equivalent payment as defined in Section 59-3-102 to the corporation each year.

(b) The corporation shall deposit all revenue collected under Subsection (2)(a) into the Utah State Fair Fund created in Section 63H-6-107.

Section 10. Section 63H-6-201 is enacted to read:

Part 2. Bonding Authority 63H-6-201. Title.

This part is known as "Bonding Authority."

Section 11. Section 63H-6-202 is enacted to read:

63H-6-202. Resolution authorizing issuance of corporation bond -- Presentation to Executive Appropriations Committee -- Characteristics of bond.

(1) (a) The corporation may:

(i) issue bonds on which the principal and interest are payable:

(A) exclusively from the income, purchase or lease payments, and revenues of the corporation; or

(B) from the corporation's revenues generally; or

(ii) issue refunding bonds for the purpose of paying or retiring bonds previously issued by the corporation.

(b) The corporation may not issue a corporation bond, unless before the issuance of the bond:

(i) (A) the corporation presents to the Executive Appropriations Committee a proposed resolution authorizing the issuance of the corporation bond; and

(B) the Executive Appropriations Committee makes a recommendation in accordance with Subsection (1)(c); and

(ii) the board adopts a resolution authorizing the issuance of the corporation bond.

(c) Following a presentation described in Subsection (1)(b), the Executive Appropriations Committee shall vote whether the Executive Appropriations Committee recommends the corporation adopt, amend, or reject the proposed resolution authorizing the issuance of the corporation bond.

(2) (a) If provided in a resolution authorizing the issuance of a corporation bond or in the trust indenture under which the corporation bond is issued, a corporation bond may be:

(i) issued in one or more series; and

(ii) sold:

(A) at a public or private sale; and

(B) in the manner provided in the resolution or indenture.

(b) A corporation bond shall:

(i) bear the date provided in the resolution authorizing the issuance of the corporation bond or the trust indenture under which the corporation bond is issued;

(ii) be payable at the time provided in the resolution authorizing the issuance of the

corporation bond or the trust indenture under which the corporation bond is issued;

(iii) bear interest at the rate provided in the resolution authorizing the issuance of the corporation bond or the trust indenture under which the corporation bond is issued;

(iv) be in the denomination and in the form provided in the resolution authorizing the issuance of the corporation bond or the trust indenture under which the corporation bond is issued;

(v) carry the conversion or registration privileges provided in the resolution authorizing the issuance of the corporation bond or the trust indenture under which the corporation bond is issued;

(vi) have the rank or priority described in the resolution authorizing the issuance of the corporation bond or the trust indenture under which the corporation bond is issued;

(vii) be executed in the manner described in the resolution authorizing the issuance of the corporation bond or the trust indenture under which the corporation bond is issued;

(viii) be subject to the terms of redemption or tender, with or without premium, as described in the resolution authorizing the issuance of the corporation bond or the trust indenture under which the corporation bond is issued;

(ix) be payable in the medium of payment and at the place described in the resolution authorizing the issuance of the corporation bond or the trust indenture under which the corporation bond is issued; and

(x) have any other characteristics described in the resolution authorizing the issuance of the corporation bond or the trust indenture under which the corporation bond is issued.

Section 12. Section 63H-6-203 is enacted to read:

63H-6-203. Sources from which a corporation bond may be made payable -- Corporation powers regarding corporation bond.

(1) The principal and interest on a corporation bond may be made payable from the income and revenues of the corporation.

(2) In connection with the issuance of a corporation bond, the corporation may:

(a) pledge all or any part of the corporation's gross or net revenues to which the corporation:

(i) has a right that exists at issuance of the corporation bond; or

(ii) may have a right that comes into existence after issuance of the corporation bond; and

(b) make any covenant or perform any act calculated to make the bond more marketable.

(3) A member of the board or other person executing a corporation bond is not liable personally on the corporation bond.

(4) (a) A corporation bond:

(i) is not a general obligation or liability of the state or any of the state's political subdivisions; and

(ii) does not constitute a charge against the general credit or taxing powers of the state or any of the state's political subdivisions.

(b) A corporation bond is not payable out of money or properties other than those of the corporation pledged for the payment of the bond.

(c) A community, the state, or a political subdivision of the state may not be liable on a corporation bond.

(d) A corporation bond does not constitute indebtedness within the meaning of a constitutional or statutory debt limitation.

(5) A corporation bond is fully negotiable.

(6) A corporation bond is:

(a) issued for an essential public and governmental purpose; and

(b) together with interest on the corporation bond and income from the corporation bond, exempt from state taxes except the corporate franchise tax.

(7) Nothing in this section may be construed to limit the right of an obligee to pursue a remedy for the enforcement of a pledge or lien given under this part by the corporation on the corporation's rents, fees, grants, properties, or revenues.

Section 13. Section 63H-6-204 is enacted to read:

63H-6-204. Purchaser of a corporation bond.

(1) The following may purchase a corporation bond with funds owned or controlled by the purchaser:

(a) a person;

(b) a political subdivision of the state;

(c) another entity; or

(d) a public or private officer.

(2) Nothing in this part may be construed to relieve a purchaser of a corporation bond of a duty to exercise reasonable care in selecting securities.

(3) The corporation may purchase the corporation's own corporation bond at a price that the board determines.

Section 14. Section 63H-6-205 is enacted to read:

63H-6-205. Obligor rights.

In addition to a right that is conferred on an obligor of a corporation bond and subject to contractual restrictions binding on the obligor, an obligor may:

(1) by mandamus, suit, action, or other proceeding;

(a) compel the corporation and the corporation's board, officers, agents, or employees to perform every term, provision, and covenant contained in a contract of the corporation with or for the benefit of the obligee; and

(b) require the corporation to carry out the covenants and agreements of the corporation and to fulfill the duties imposed on the corporation by this part; and

(2) by suit, action, or proceeding in equity enjoin an act that is unlawful or violates the rights of the obligee.

Section 15. Repealer.

This bill repeals:

Section 63A-5-306, Leasing of state fair park -- Lease -- Terms -- Demolition of facilities -- Limits on debt or obligations.

Section 16. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or amounts indicated. These sums of money are in addition to amounts previously appropriated for fiscal year 2017.

To Legislature - Senate

From General Fund \$10,000

Schedule of Programs:

Administration \$10,000

To Legislature - House of Representatives

From General Fund \$10,000

Schedule of Programs:

Administration \$10,000

To Legislature - Office of Legislative Research and General Counsel

From General Fund \$35,000

Schedule of Programs:

Administration \$35,000

CHAPTER 302**S. B. 183**

Passed March 10, 2016
 Approved March 25, 2016
 Effective May 10, 2016

**DEPARTMENT OF PUBLIC
 SAFETY AMENDMENTS**

Chief Sponsor: Curtis S. Bramble

House Sponsor: Don L. Ipson

LONG TITLE**General Description:**

This bill amends provisions of the Public Safety Code regarding the Department of Public Safety.

Highlighted Provisions:

This bill:

- ▶ authorizes the State Bureau of Investigation to provide a state cybercrime unit to investigate various computer and network intrusion matters;
- ▶ requires that the State Bureau of Investigation provide assistance to the divisions of the Department of Public Safety;
- ▶ provides that the State Bureau of Investigation investigate alleged crimes or public corruption, at the request of a governmental entity or when the offense is reported to the Peace Officers Standards and Training Division, when the allegations concern criminal violations or public corruption regarding an individual who is or has been elected, appointed, or employed by a governmental entity;
- ▶ provides that the members of the Motor Vehicle Safety Inspection Advisory Council shall be appointed by the commissioner of public safety;
- ▶ provides that the commissioner of public safety may authorize the off-duty use of emergency vehicles;
- ▶ repeals an obsolete section regarding the admissibility of Utah State Crime Laboratory documents of drug analysis; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-1-108, as last amended by Laws of Utah 2013, Chapter 295
 53-1-204, as enacted by Laws of Utah 1993, Chapter 234
 53-8-203, as last amended by Laws of Utah 2010, Chapter 286
 53-10-302, as last amended by Laws of Utah 2000, Chapter 316

REPEALS:

58-37-21, as last amended by Laws of Utah 2008, Chapter 382

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-1-108 is amended to read:**53-1-108. Commissioner's powers and duties.**

(1) In addition to the responsibilities contained in this title, the commissioner shall:

(a) administer and enforce this title and Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

(b) appoint deputies, inspectors, examiners, clerical workers, and other employees as required to properly discharge the duties of the department;

(c) make rules:

(i) governing emergency use of signal lights on private vehicles; and

(ii) allowing privately owned vehicles to be designated for part-time emergency use, as provided in Section 41-6a-310;

(d) set standards for safety belt systems, as required by Section 41-6a-1803;

(e) serve as the cochair of the Emergency Management Administration Council, as required by Section 53-2a-105;

(f) designate vehicles as "authorized emergency vehicles," as required by Section 41-6a-102; and

(g) on or before January 1, 2003, adopt a written policy that prohibits the stopping, detention, or search of any person when the action is solely motivated by considerations of race, color, ethnicity, age, or gender.

(2) The commissioner may:

(a) subject to the approval of the governor, establish division headquarters at various places in the state;

(b) issue to a special agent a certificate of authority to act as a peace officer and revoke that authority for cause, as authorized in Section 56-1-21.5;

(c) create specialized units within the commissioner's office for conducting internal affairs and aircraft operations as necessary to protect the public safety;

(d) cooperate with any recognized agency in the education of the public in safety and crime prevention and participate in public or private partnerships, subject to Subsection (3);

(e) cooperate in applying for and distributing highway safety program funds; ~~and~~

(f) receive and distribute federal funding to further the objectives of highway safety in compliance with Title 63J, Chapter 5, Federal Funds Procedures Act~~[-]~~; and

(g) authorize off-duty personal use of Department of Public Safety emergency vehicles.

(3) (a) Money may not be expended under Subsection (2)(d) for public safety education unless

it is specifically appropriated by the Legislature for that purpose.

(b) Any recognized agency receiving state money for public safety shall file with the auditor of the state an itemized statement of all its receipts and expenditures.

Section 2. Section 53-1-204 is amended to read:

53-1-204. Division duties.

The division shall:

(1) provide administrative and staff support to the commissioner;

(2) ensure that all departmental administrative processes are in compliance with state law, rules, and procedures;

~~[(3) administer all human resource related matters throughout the department;]~~

[(4)] (3) make deposits, pay all claims and obligations of the department, and conduct all treasury transactions;

[(5)] (4) prepare the department budget, review department expenditures, prepare financial reports, and offer general assistance with financial matters to the department;

[(6)] (5) coordinate and review department purchases and monitor department purchasing practices to ensure compliance with state procurement rules;

[(7)] (6) coordinate the purchase, operation, maintenance, records, and final disposal of the department's vehicle fleet;

[(8)] (7) make capital facility plans for the department, maintain a capital equipment inventory system, coordinate risk management records, and organize waste paper recycling; and

[(9)] (8) make rules for the department authorized by this title.

Section 3. Section 53-8-203 is amended to read:

53-8-203. Council created -- Members -- Term -- Meetings -- Duties.

(1) There is created within the division the Motor Vehicle Safety Inspection Advisory Council.

(2) (a) The council shall be composed of seven members.

(b) The governor commissioner shall appoint:

(i) one member from the general public with experience or interest in product safety or consumer advocacy;

(ii) two representatives from motor vehicle mechanics and motor vehicle repair business owners;

(iii) one member of the motoring public with no former or current affiliation with the motor vehicle sales, repair, or fuel industry or its regulation;

(iv) one peace officer with experience in motor vehicle law enforcement;

(v) one representative of the commercial trucking industry; and

(vi) one representative of the staff of the attorney general who shall serve without voting privileges.

(3) Each member of the council shall:

(a) be selected on a nonpartisan basis;

(b) be appointed by the governor commissioner; and

(c) have been a legal resident of the state for at least one year immediately preceding the date of appointment.

(4) (a) Except as required by Subsection (4)(b), as terms of current council members expire, the governor commissioner shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

(c) Members serve from the date of appointment until a replacement is appointed.

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(6) The council shall elect its own chair and vice-chair at its first regular meeting each calendar year.

(7) All meetings of the council shall be called by the superintendent of the highway patrol as needed.

(8) Any three voting members constitute a quorum for the transaction of business that comes before the council.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(10) The council shall:

(a) hear appeals of administrative actions regarding the suspension or revocation of safety inspection station permits and safety inspector certificates;

(b) advise the division on interpretation, adoption, and implementation of motor vehicle safety inspection standards; and

(c) advise the division on other motor vehicle safety inspection issues as requested by the superintendent.

(11) In conducting appeal hearings on the suspension or revocation of any safety inspection station permit or safety inspector certificate the council may:

(a) compel the attendance of witnesses by subpoena;

(b) require the production of any records or documents determined by it to be pertinent to the subject matter of the hearing; and

(c) apply to the district court of the county where the hearing is held for an order citing any applicant or witness for contempt and for failure to attend, testify, or produce required documents.

Section 4. Section 53-10-302 is amended to read:

53-10-302. Bureau duties.

The bureau shall:

(1) provide assistance and investigative resources to divisions within the Department of Public Safety;

~~[(1)]~~ (2) upon request, provide assistance and specialized law enforcement services to local law enforcement agencies;

~~[(2)]~~ (3) conduct financial investigations regarding suspicious cash transactions, fraud, and money laundering;

~~[(3)]~~ (4) investigate criminal activity of organized crime networks, gangs, extremist groups, and others promoting violence;

~~[(4)]~~ (5) investigate criminal activity of terrorist groups;

~~[(5)]~~ (6) enforce the Utah Criminal Code;

~~[(6)]~~ (7) cooperate and exchange information with other state agencies and with other law enforcement agencies of government, both within and outside of this state, through a statewide information and intelligence center to obtain information that may achieve more effective results in the prevention, detection, and control of crime and apprehension of criminals;

~~[(7)]~~ (8) create and maintain a statewide criminal intelligence system;

~~[(8)]~~ (9) provide specialized case support and investigate illegal drug production, cultivation, and sales;

~~[(9)]~~ (10) investigate, follow-up, and assist in highway drug interdiction cases;

~~[(10)]~~ (11) make rules to implement this chapter;
~~[and]~~

~~[(11)]~~ (12) perform the functions specified in Part 2, Bureau of Criminal Identification[-];

(13) provide a state cybercrime unit to investigate computer and network intrusion matters involving

state-owned computer equipment and computer networks as reported under Section 76-6-705;

(14) investigate violations of Section 76-6-703 and other computer related crimes including:

(a) computer network intrusions;

(b) denial of services attacks;

(c) computer related theft or fraud;

(d) intellectual property violations; and

(e) electronic threats; and

(15) upon request, investigate the following offenses when alleged to have been committed by an individual who is currently or has been previously elected, appointed, or employed by a governmental entity:

(a) criminal offenses; and

(b) matters of public corruption.

(16) (a) The bureau is not prohibited from investigating crimes not specifically referred to in this section; and

(b) other agencies are not prohibited from investigating crimes referred to in this section.

Section 5. Repealer.

This bill repeals:

Section 58-37-21, Admissibility of Utah State Crime Laboratory documents -- Drug analysis in criminal pretrial proceedings.

CHAPTER 303**S. B. 187**

Passed March 10, 2016
 Approved March 25, 2016
 Effective May 10, 2016

RECLASSIFICATION OF MISDEMEANORS

Chief Sponsor: Daniel W. Thatcher
 House Sponsor: Brian S. King

LONG TITLE**General Description:**

This bill modifies criminal penalties in the Utah Code.

Highlighted Provisions:

This bill:

- ▶ reduces the penalty for listed sections of the Utah Code from a misdemeanor to an infraction, except that the penalty for one section under the State Boating Act is increased from an infraction to a class C misdemeanor.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

4-31-104, as renumbered and amended by Laws of Utah 2012, Chapter 331
 10-9a-611, as renumbered and amended by Laws of Utah 2005, Chapter 254
 10-9a-802, as last amended by Laws of Utah 2015, Chapter 327
 13-32-106, as enacted by Laws of Utah 1999, Chapter 68
 17-23-15, as last amended by Laws of Utah 2001, Chapter 241
 17-23-17, as last amended by Laws of Utah 2015, Chapter 352
 20A-1-604, as last amended by Laws of Utah 2008, Chapter 276
 26-15-13, as last amended by Laws of Utah 2012, Chapter 409
 41-1a-401, as last amended by Laws of Utah 2015, Chapter 412
 41-1a-702, as last amended by Laws of Utah 2015, Chapter 412
 41-1a-1206, as last amended by Laws of Utah 2015, Chapter 412
 41-6a-601, as last amended by Laws of Utah 2015, Chapter 412
 41-6a-609, as renumbered and amended by Laws of Utah 2005, Chapter 2
 41-6a-904, as last amended by Laws of Utah 2015, Chapter 412
 41-6a-1626, as last amended by Laws of Utah 2015, Chapters 15 and 412
 41-6a-1630, as last amended by Laws of Utah 2015, Chapter 412
 41-6a-1631, as last amended by Laws of Utah 2015, Chapter 412
 41-12a-303.2, as last amended by Laws of Utah 2015, Chapter 412
 53-1-116, as last amended by Laws of Utah 1997, Chapter 51

53-3-305, as enacted by Laws of Utah 2008, Chapter 88
 53-3-412, as last amended by Laws of Utah 2015, Chapter 412
 53-8-209, as renumbered and amended by Laws of Utah 1993, Chapters 26 and 234
 53B-3-107, as last amended by Laws of Utah 2015, Chapter 412
 72-7-403, as last amended by Laws of Utah 2015, Chapter 412
 72-7-404, as last amended by Laws of Utah 2015, Chapter 412
 72-7-405, as last amended by Laws of Utah 2015, Chapter 412
 72-7-406, as last amended by Laws of Utah 2015, Chapter 412
 72-7-407, as last amended by Laws of Utah 2015, Chapter 412
 72-7-408, as last amended by Laws of Utah 2015, Chapter 412
 72-7-409, as last amended by Laws of Utah 2015, Chapter 412
 73-18-6, as last amended by Laws of Utah 2015, Chapter 412
 73-18-7, as last amended by Laws of Utah 2015, Chapter 412
 73-18-8, as last amended by Laws of Utah 2015, Chapters 113 and 412
 73-18-8.1, as last amended by Laws of Utah 2015, Chapter 412
 73-18-15.1, as last amended by Laws of Utah 2015, Chapter 412
 73-18-15.2, as last amended by Laws of Utah 2015, Chapter 412
 73-18-15.3, as last amended by Laws of Utah 2015, Chapter 412
 73-18-16, as last amended by Laws of Utah 2015, Chapter 412
 76-9-702.3, as enacted by Laws of Utah 2012, Chapter 303
 76-9-706, as last amended by Laws of Utah 2008, Chapter 186
 78B-1-115, as renumbered and amended by Laws of Utah 2008, Chapter 3
 78B-8-304, as renumbered and amended by Laws of Utah 2008, Chapter 3

REPEALS:

4-31-112, as enacted by Laws of Utah 2012, Chapter 331

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-31-104 is amended to read:**4-31-104. Penalty.**

A person who violates Section 4-31-102 or 4-31-103 is guilty of [a class C misdemeanor] an infraction.

Section 2. Section 10-9a-611 is amended to read:**10-9a-611. Prohibited acts.**

(1) (a) (i) An owner of any land located in a subdivision who transfers or sells any land in that subdivision before a plat of the subdivision has been approved and recorded violates this part for each lot or parcel transferred or sold.

(ii) A violation of Subsection (1)(a)(i) is an infraction.

(b) The description by metes and bounds in an instrument of transfer or other documents used in the process of selling or transferring does not exempt the transaction from being a violation of Subsection (1)(a) or from the penalties or remedies provided in this chapter.

(c) Notwithstanding any other provision of this Subsection (1), the recording of an instrument of transfer or other document used in the process of selling or transferring real property that violates this part:

(i) does not affect the validity of the instrument or other document; and

(ii) does not affect whether the property that is the subject of the instrument or other document complies with applicable municipal ordinances on land use and development.

(2) (a) A municipality may bring an action against an owner to require the property to conform to the provisions of this part or an ordinance enacted under the authority of this part.

(b) An action under this Subsection (2) may include an injunction, abatement, merger of title, or any other appropriate action or proceeding to prevent, enjoin, or abate the violation.

(c) A municipality need only establish the violation to obtain the injunction.

Section 3. Section 10-9a-802 is amended to read:

10-9a-802. Enforcement.

(1) (a) A municipality or any adversely affected owner of real estate within the municipality in which violations of this chapter or ordinances enacted under the authority of this chapter occur or are about to occur may, in addition to other remedies provided by law, institute:

(i) injunctions, mandamus, abatement, or any other appropriate actions; or

(ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.

(b) A municipality need only establish the violation to obtain the injunction.

(2) (a) A municipality may enforce the municipality's ordinance by withholding a building permit.

(b) It is ~~unlawful~~ an infraction to erect, construct, reconstruct, alter, or change the use of any building or other structure within a municipality without approval of a building permit.

(c) A municipality may not issue a building permit unless the plans of and for the proposed erection, construction, reconstruction, alteration, or use fully conform to all regulations then in effect.

(d) A municipality may not deny an applicant a building permit because the applicant has not completed an infrastructure improvement:

(i) that is not essential to meet the requirements for the issuance of a building permit under the building code and fire code; and

(ii) for which the municipality has accepted an infrastructure improvement assurance for infrastructure improvements for the development.

Section 4. Section 13-32-106 is amended to read:

13-32-106. Penalties.

A person who violates this chapter is guilty of [~~class C misdemeanor~~] an infraction.

Section 5. Section 17-23-15 is amended to read:

17-23-15. Removal, destruction, or defacement of monuments or corners as infraction -- Costs.

(1) [~~No~~] A person [~~shall~~] may not willfully or negligently remove, destroy, or deface any government survey monument, corner, or witness corner.

(2) Any person who violates this section is guilty of [~~a class C misdemeanor~~] an infraction and is additionally responsible for:

(a) the costs of any necessary legal action; and

(b) the costs of reestablishing the survey monument, corner, or witness corner.

Section 6. Section 17-23-17 is amended to read:

17-23-17. Map of boundary survey -- Procedure for filing -- Contents -- Marking of monuments -- Record of corner changes -- Penalties.

(1) As used in this section:

(a) "Land surveyor" means a surveyor who is licensed to practice land surveying in this state in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

(b) (i) "Township" means a term used in the context of identifying a geographic area in common surveyor practice.

(ii) "Township" does not mean a metro township as that term is defined in Section 10-2a-403.

(2) (a) (i) Each land surveyor making a boundary survey of lands within this state to establish or reestablish a boundary line or to obtain data for constructing a map or plat showing a boundary line shall file a map of the survey that meets the requirements of this section with the county surveyor or designated office within 90 days of the establishment or reestablishment of a boundary.

(ii) A land surveyor who fails to file a map of the survey as required by Subsection (2)(a)(i) is guilty of [~~a class C misdemeanor~~] an infraction.

(iii) Each failure to file a map of the survey as required by Subsection (2)(a)(i) is a separate violation.

(b) The county surveyor or designated office shall file and index the map of the survey.

(c) The map shall be a public record in the office of the county surveyor or designated office.

(3) This type of map shall show:

(a) the location of survey by quarter section and township and range;

(b) the date of survey;

(c) the scale of drawing and north point;

(d) the distance and course of all lines traced or established, giving the basis of bearing and the distance and course to two or more section corners or quarter corners, including township and range, or to identified monuments within a recorded subdivision;

(e) all measured bearings, angles, and distances separately indicated from those of record;

(f) a written boundary description of property surveyed;

(g) all monuments set and their relation to older monuments found;

(h) a detailed description of monuments found and monuments set, indicated separately;

(i) the surveyor's seal or stamp; and

(j) the surveyor's business name and address.

(4) (a) The map shall contain a written narrative that explains and identifies:

(i) the purpose of the survey;

(ii) the basis on which the lines were established; and

(iii) the found monuments and deed elements that controlled the established or reestablished lines.

(b) If the narrative is a separate document, it shall contain:

(i) the location of the survey by quarter section and by township and range;

(ii) the date of the survey;

(iii) the surveyor's stamp or seal; and

(iv) the surveyor's business name and address.

(c) The map and narrative shall be referenced to each other if they are separate documents.

(5) The map and narrative shall be created on material of a permanent nature on stable base reproducible material in the sizes required by the county surveyor.

(6) (a) Any monument set by a licensed professional land surveyor to mark or reference a point on a property or land line shall be durably and

visibly marked or tagged with the registered business name or the letters "L.S." followed by the registration number of the surveyor in charge.

(b) If the monument is set by a licensed land surveyor who is a public officer, it shall be marked with the official title of the office.

(7) (a) If, in the performance of a survey, a surveyor finds or makes any changes to the section corner or quarter-section corner, or their accessories, the surveyor shall complete and submit to the county surveyor or designated office a record of the changes made.

(b) The record shall be submitted within 45 days of the corner visits and shall include the surveyor's seal, business name, and address.

(8) The Utah State Board of Engineers and Land Surveyors Examiners may revoke the license of any land surveyor who fails to comply with the requirements of this section, according to the procedures set forth in Title 58, Chapter 1, Division of Occupational and Professional Licensing Act.

(9) Each federal or state agency, board, or commission, local district, special service district, or municipal corporation that makes a boundary survey of lands within this state shall comply with this section.

Section 7. Section 20A-1-604 is amended to read:

20A-1-604. Destroying instruction cards, sample ballots, or election paraphernalia -- Penalties.

(1) A person may not:

(a) willfully deface or destroy any list of candidates posted in accordance with the provisions of this title;

(b) willfully deface, tear down, remove or destroy any card of instruction or sample ballot, printed or posted for the instruction of voters during an election;

(c) willfully remove or destroy any of the supplies or conveniences furnished to enable a voter to prepare the voter's ballot during an election; or

(d) willfully hinder the voting of others.

(2) In addition to the penalties established in Section 20A-1-609, a person who commits an offense under Subsection (1) is guilty of [~~a class C misdemeanor~~] an infraction.

Section 8. Section 26-15-13 is amended to read:

26-15-13. Regulation of tanning facilities.

(1) For purposes of this section:

(a) "Minor" means a person under 18 years of age.

(b) "Phototherapy device" means equipment that emits ultraviolet radiation used by a health care professional in the treatment of disease.

(c) (i) "Tanning device" means equipment to which a tanning facility provides access that emits

electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers used for tanning of the skin, including:

- (A) a sunlamp; and
 - (B) a tanning booth or bed.
- (ii) "Tanning device" does not include a phototherapy device.
- (d) "Tanning facility" means a commercial location, place, area, structure, or business that provides access to a tanning device.
- (2) A tanning facility shall:
- (a) annually obtain a permit to do business as a tanning facility from the local health department with jurisdiction over the location in which the facility is located; and
 - (b) in accordance with Subsection (3) post a warning sign in a conspicuous location that is readily visible to a person about to use a tanning device.
- (3) The posted warning and written consent required by Subsections (2) and (5) shall be developed by the department through administrative rules and shall include:
- (a) that there are health risks associated with the use of a tanning device;
 - (b) that the facility may not allow a minor to use a tanning device unless the minor:
 - (i) has a written order from a physician; or
 - (ii) at each time of use is accompanied at the tanning facility by a parent or legal guardian who provides written consent authorizing the minor to use the tanning device.
- (4) It is unlawful for any operator of a tanning facility to allow a minor to use a tanning device unless:
- (a) the minor has a written order from a physician as defined in Section 58-67-102, to use a tanning device as a medical treatment; or
 - (b) (i) the minor's parent or legal guardian appears in person at the tanning facility each time that the minor uses a tanning device, except that the minor's parent or legal guardian is not required to remain at the facility for the duration of the use; and
 - (ii) the minor's parent or legal guardian signs the consent form required in Subsection (5).
- (5) The written consent required by Subsection (4) shall be signed and dated each time the minor uses a tanning device at the facility, and shall include at least:
- (a) information concerning the health risks associated with the use of a tanning device; and
 - (b) a statement that:
 - (i) the parent or legal guardian of the minor has read and understood the warnings given by the

tanning facility, and consents to the minor's use of a tanning device; and

(ii) the parent or legal guardian agrees that the minor will use protective eye wear.

(6) The department shall adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying:

(a) minimum requirements a tanning facility shall satisfy to obtain a permit under Subsection (2);

(b) the written information concerning health risks a facility should include in the posted signs required by Subsection (3) and in the consent form required by Subsection (5);

(c) procedures a tanning facility shall implement to ensure a minor and the minor's parent or legal guardian comply with Subsections (4) and (5), including use of a statewide uniform form:

(i) for a parent or legal guardian to certify and give consent under Subsection (5); and

(ii) that clearly identifies the department's seal or other means to indicate that the form is an official form of the department; and

(d) the size, placement, and content of the sign a tanning facility must post under Subsection (2).

(7) (a) A violation of this section:

(i) is [~~a class C misdemeanor~~] an infraction; and

(ii) may result in the revocation of a permit to do business as a tanning facility.

(b) If a person misrepresents to a tanning facility that the person is 18 years of age or older, the person is guilty of [~~a class C misdemeanor~~] an infraction.

(8) This section supercedes any ordinance enacted by the governing body of a political subdivision that:

(a) imposes restrictions on access to a tanning device by a person younger than age 18 that is not essentially identical to the provisions of this section; or

(b) that require the posting of warning signs at the tanning facility that are not essentially identical to the provisions of this section.

Section 9. Section 41-1a-401 is amended to read:

41-1a-401. License plates -- Number of plates -- Reflectorization -- Indicia of registration in lieu of or used with plates.

(1) (a) The division upon registering a vehicle shall issue to the owner:

(i) one license plate for a motorcycle, trailer, or semitrailer;

(ii) one decal for a park model recreational vehicle, in lieu of a license plate, which shall be attached in plain sight to the rear of the park model recreational vehicle;

(iii) one decal for a camper, in lieu of a license plate, which shall be attached in plain sight to the rear of the camper; and

(iv) two identical license plates for every other vehicle.

(b) The license plate or decal issued under Subsection (1)(a) is for the particular vehicle registered and may not be removed during the term for which the license plate or decal is issued or used upon any other vehicle than the registered vehicle.

(2) The division may receive applications for registration renewal, renew registration, and issue new license plates or decals at any time prior to the expiration of registration.

(3) (a) All license plates to be manufactured and issued by the division shall be treated with a fully reflective material on the plate face that provides effective and dependable reflective brightness during the service period of the license plate.

(b) The division shall prescribe all license plate material specifications and establish and implement procedures for conforming to the specifications.

(c) The specifications for the materials used such as the aluminum plate substrate, the reflective sheeting, and glue shall be drawn in a manner so that at least two manufacturers may qualify as suppliers.

(d) The granting of contracts for the materials shall be by public bid.

(4) (a) The commission may issue, adopt, and require the use of indicia of registration it considers advisable in lieu of or in conjunction with license plates as provided in this part.

(b) All provisions of this part relative to license plates apply to these indicia of registration, so far as the provisions are applicable.

(5) A violation of this section is an infraction[, except that a violation of Subsection (1)(b) is a class C misdemeanor].

Section 10. Section 41-1a-702 is amended to read:

41-1a-702. Endorsement of assignment and warranty of title -- Co-owners.

(1) (a) To transfer a vehicle, vessel, or outboard motor the owner shall endorse the certificate of title issued for the vehicle, vessel, or outboard motor in the space for assignment and warranty of title.

(b) The endorsement and assignment shall include a statement of all liens or encumbrances on the vehicle, vessel, or outboard motor.

(c) Upon the endorsement and assignment of a certificate of title, the same certificate of title may not be reendorsed and reassigned to a new owner except as provided in Section 41-1a-705.

(2) (a) If a title certificate reflects the names of two or more people as co-owners in the alternative

by use of the word "or" or "and/or," each co-owner is considered to have granted the other co-owners the absolute right to endorse and deliver title and to dispose of the vehicle, vessel, or outboard motor.

(b) If the title certificate reflects the names of two or more people as co-owners in the conjunctive by use of the word "and," or the title does not reflect any alternative or conjunctive word, the endorsement of each co-owner is required to transfer title to the vehicle, vessel, or outboard motor.

(3) The owner shall deliver the certificate of title containing the odometer disclosure statement required under Section 41-1a-902 and the certificate of registration to the purchaser or transferee at the time of, or within 48 hours after delivering the vehicle, vessel, or outboard motor, as applicable, except as provided for under Sections 41-3-301, 41-1a-519, and 41-1a-709.

(4) A violation of this section is an infraction[, except that a violation of Subsection (3) is a class C misdemeanor].

Section 11. Section 41-1a-1206 is amended to read:

41-1a-1206. Registration fees -- Fees by gross laden weight.

(1) Except as provided in Subsections (2) and (3), at the time application is made for registration or renewal of registration of a vehicle or combination of vehicles under this chapter, a registration fee shall be paid to the division as follows:

(a) \$44.50 for each motorcycle;

(b) \$43 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles;

(c) unless the semitrailer or trailer is exempt from registration under Section 41-1a-202 or is registered under Section 41-1a-301:

(i) \$31 for each trailer or semitrailer over 750 pounds gross unladen weight; or

(ii) \$28.50 for each commercial trailer or commercial semitrailer of 750 pounds or less gross unladen weight;

(d) (i) \$53 for each farm truck over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) \$9 for each 2,000 pounds over 14,000 pounds gross laden weight;

(e) (i) \$69.50 for each motor vehicle or combination of motor vehicles, excluding farm trucks, over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) \$19 for each 2,000 pounds over 14,000 pounds gross laden weight;

(f) (i) \$69.50 for each park model recreational vehicle over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) \$19 for each 2,000 pounds over 14,000 pounds gross laden weight; and

(g) \$45 for each vintage vehicle that is less than 40 years old.

(2) At the time application is made for registration or renewal of registration of a vehicle under this chapter for a six-month registration period under Section 41-1a-215.5, a registration fee shall be paid to the division as follows:

(a) \$33.50 for each motorcycle; and

(b) \$32.50 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles.

(3) (a) The initial registration fee for a vintage vehicle that is 40 years old or older is \$40.

(b) A vintage vehicle that is 40 years old or older is exempt from the renewal of registration fees under Subsection (1).

(c) A vehicle with a Purple Heart special group license plate issued in accordance with Section 41-1a-421 is exempt from the registration fees under Subsection (1).

(d) A camper is exempt from the registration fees under Subsection (1).

(4) If a motor vehicle is operated in combination with a semitrailer or trailer, each motor vehicle shall register for the total gross laden weight of all units of the combination if the total gross laden weight of the combination exceeds 12,000 pounds.

(5) (a) Registration fee categories under this section are based on the gross laden weight declared in the licensee's application for registration.

(b) Gross laden weight shall be computed in units of 2,000 pounds. A fractional part of 2,000 pounds is a full unit.

(6) The owner of a commercial trailer or commercial semitrailer may, as an alternative to registering under Subsection (1)(c), apply for and obtain a special registration and license plate for a fee of \$130.

(7) Except as provided in Section 41-6a-1642, a truck may not be registered as a farm truck unless:

(a) the truck meets the definition of a farm truck under Section 41-1a-102; and

(b) (i) the truck has a gross vehicle weight rating of more than 12,000 pounds; or

(ii) the truck has a gross vehicle weight rating of 12,000 pounds or less and the owner submits to the division a certificate of emissions inspection or a waiver in compliance with Section 41-6a-1642.

(8) A violation of Subsection (7) is [~~a class-C misdemeanor~~] an infraction that shall be punished by a fine of not less than \$200.

(9) Trucks used exclusively to pump cement, bore wells, or perform crane services with a crane lift capacity of five or more tons, are exempt from 50% of the amount of the fees required for those vehicles under this section.

Section 12. Section 41-6a-601 is amended to read:

41-6a-601. Speed regulations -- Safe and appropriate speeds at certain locations -- Prima facie speed limits -- Emergency power of the governor.

(1) A person may not operate a vehicle at a speed greater than is reasonable and prudent under the existing conditions, giving regard to the actual and potential hazards then existing, including when:

(a) approaching and crossing an intersection or railroad grade crossing;

(b) approaching and going around a curve;

(c) approaching a hill crest;

(d) traveling upon any narrow or winding roadway; and

(e) approaching other hazards that exist due to pedestrians, other traffic, weather, or highway conditions.

(2) Subject to Subsections (1) and (4) and Sections 41-6a-602 and 41-6a-603, the following speeds are lawful:

(a) 20 miles per hour in a reduced speed school zone as defined in Section 41-6a-303;

(b) 25 miles per hour in any urban district; and

(c) 55 miles per hour in other locations.

(3) Except as provided in Section 41-6a-604, any speed in excess of the limits provided in this section or established under Sections 41-6a-602 and 41-6a-603 is prima facie evidence that the speed is not reasonable or prudent and that it is unlawful.

(4) A violation of Subsection (1) is [~~a class-C misdemeanor~~] an infraction.

(5) The governor by proclamation in time of war or emergency may change the speed limits on the highways of the state.

Section 13. Section 41-6a-609 is amended to read:

41-6a-609. Radar jamming devices and jamming radar prohibited -- Defense -- Exceptions -- Penalties.

(1) As used in this section, "radar jamming device" means any instrument or mechanism designed or intended to interfere with the radar or any laser that is used by law enforcement personnel to measure the speed of a motor vehicle on a highway.

(2) (a) A person may not operate a motor vehicle on a highway with a radar jamming device in the motor vehicle.

(b) A person may not knowingly use a radar jamming device to interfere with the radar signals or lasers used by law enforcement personnel to measure the speed of a motor vehicle on a highway.

(3) It is an affirmative defense to a charge under Subsection (2)(a) that the radar jamming device was in an inoperative condition or could not be readily used at the time of the arrest or citation.

(4) This section does not apply to law enforcement personnel acting in their official capacity.

(5) A person who violates this section is guilty of [~~a class C misdemeanor~~] an infraction.

Section 14. Section 41-6a-904 is amended to read:

41-6a-904. Approaching emergency vehicle -- Necessary signals -- Stationary emergency vehicle -- Duties of respective operators.

(1) Except when otherwise directed by a peace officer, the operator of a vehicle, upon the immediate approach of an authorized emergency vehicle using audible or visual signals under Section 41-6a-212 or 41-6a-1625, shall:

(a) yield the right-of-way and immediately move to a position parallel to, and as close as possible to, the right-hand edge or curb of the highway, clear of any intersection; and

(b) then stop and remain stopped until the authorized emergency vehicle has passed.

(2) The operator of a vehicle, upon approaching a stationary authorized emergency vehicle that is displaying alternately flashing red, red and white, or red and blue lights, shall:

(a) reduce the speed of the vehicle;

(b) provide as much space as practical to the stationary authorized emergency vehicle; and

(c) if traveling in a lane adjacent to the stationary authorized emergency vehicle and if practical, with due regard to safety and traffic conditions, make a lane change into a lane not adjacent to the authorized emergency vehicle.

(3) The operator of a vehicle, upon approaching a stationary tow truck or highway maintenance vehicle that is displaying flashing amber lights, shall:

(a) reduce the speed of the vehicle; and

(b) provide as much space as practical to the stationary tow truck or highway maintenance vehicle.

(4) This section does not relieve the operator of an authorized emergency vehicle, tow truck, or highway maintenance vehicle from the duty to drive with regard for the safety of all persons using the highway.

(5) (a) (i) In addition to the penalties prescribed under Subsection (7), a person who violates this section shall attend a four hour live classroom defensive driving course approved by:

(A) the Driver License Division; or

(B) a court in this state.

(ii) Upon completion of the four hour live classroom course under Subsection (5)(a)(i), the person shall provide to the Driver License Division a certificate of attendance of the classroom course.

(b) The Driver License Division shall suspend a person's driver license for a period of 90 days if the person:

(i) violates a provision of Subsections (1) through (3); and

(ii) fails to meet the requirements of Subsection (5)(a)(i) within 90 days of sentencing for or pleading guilty to a violation of this section.

(c) Notwithstanding the provisions of Subsection (5)(b), the Driver License Division shall shorten the 90-day suspension period imposed under Subsection (5)(b) effective immediately upon receiving a certificate of attendance of the four hour live classroom course required under Subsection (5)(a)(i) if the certificate of attendance is received prior to completion of the suspension period.

(d) A person whose license is suspended under Subsection (5)(b) is required to pay the license reinstatement fees under Subsection 53-3-105(23), including a person whose suspension is shortened as described under Subsection (5)(c).

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Driver License Division shall make rules to implement the provisions of this part.

(7) A violation of Subsection (1), (2), or (3) is [~~a class C misdemeanor~~] an infraction.

Section 15. Section 41-6a-1626 is amended to read:

41-6a-1626. Mufflers -- Prevention of noise, smoke, and fumes -- Air pollution control devices.

(1) (a) A vehicle shall be equipped, maintained, and operated to prevent excessive or unusual noise.

(b) A motor vehicle shall be equipped with a muffler or other effective noise suppressing system in good working order and in constant operation.

(c) A person may not use a muffler cut-out, bypass, or similar device on a vehicle.

(2) (a) Except while the engine is being warmed to the recommended operating temperature, the engine and power mechanism of a gasoline-powered motor vehicle may not emit visible contaminants during operation.

(b) (i) As used in this Subsection (2)(b), "heavy tow" means a tow that exceeds the vehicle's maximum tow weight.

(ii) A diesel engine manufactured on or after January 1, 2008, may not emit visible contaminants during operation:

(A) except while the engine is being warmed to the recommended operating temperature or under a heavy tow; or

(B) unless the diesel engine is in a vehicle with a manufacturer's gross vehicle weight rating in excess of 26,000 pounds.

(iii) A diesel engine manufactured before January 1, 2008, may not emit visible contaminants

of a shade or density that obscures a contrasting background by more than 20%, for more than five consecutive seconds:

(A) except while the engine is being warmed to the recommended operating temperature or under a heavy tow; or

(B) unless the diesel engine is in a vehicle with a manufacturer's gross vehicle weight rating in excess of 26,000 pounds.

(c) A person who violates the provisions of Subsection (2)(a) is guilty of an infraction and shall be fined:

(i) not less than \$50 for a violation; or

(ii) not less than \$100 for a second or subsequent violation within three years of a previous violation of this section.

(3) (a) If a motor vehicle is equipped by a manufacturer with air pollution control devices, the devices shall be maintained in good working order and in constant operation.

(b) For purposes of the first sale of a vehicle at retail, an air pollution control device may be substituted for the manufacturer's original device if the substituted device is at least as effective in the reduction of emissions from the vehicle motor as the air pollution control device furnished by the manufacturer of the vehicle as standard equipment for the same vehicle class.

(c) A person who renders inoperable an air pollution control device on a motor vehicle is guilty of ~~[a class C misdemeanor]~~ an infraction.

(4) Subsection (3) does not apply to a motor vehicle altered and modified to use clean fuel, as defined under Section 59-13-102, when the emissions from the modified or altered motor vehicle are at levels that comply with existing state or federal standards for the emission of pollutants from a motor vehicle of the same class.

(5) A violation of ~~[this section]~~ Subsection (1), (2), or (3) is an infraction~~[, except that a violation of Subsection (3) is a class C misdemeanor].~~

Section 16. Section 41-6a-1630 is amended to read:

41-6a-1630. Standards applicable to vehicles.

(1) The following standards apply to vehicles under Sections 41-6a-1629 through 41-6a-1633:

(a) A replacement part and equipment used in a mechanical alteration shall be:

(i) designed and capable of performing the function for which they are intended; and

(ii) equal to or greater in strength and durability than the original parts provided by the original manufacturer.

(b) Except for original equipment, a person may not use spacers to increase wheel track width of a vehicle.

(c) A person may not use axle blocks to alter the suspension on the front axle of a vehicle.

(d) A person may not stack two or more axle blocks of a vehicle.

(2) (a) In doubtful or unusual cases, or to meet specific industrial requirements, personnel of the Utah Highway Patrol shall inspect the vehicle to determine:

(i) the road worthiness and safe condition of the vehicle; and

(ii) whether it complies with Sections 41-6a-1629 through 41-6a-1633.

(b) If the vehicle complies, the Utah Highway Patrol shall issue a permit of approval that shall be carried in the vehicle.

(3) (a) Upon notice to the party to whom the motor vehicle is registered, the department shall suspend the registration of any motor vehicle equipped, altered, or modified in violation of Sections 41-6a-1629 through 41-6a-1633.

(b) The Motor Vehicle Division shall, under Subsection 41-1a-109(1)(e) or (2), refuse to register any motor vehicle it has reason to believe is equipped, altered, or modified in violation of Sections 41-6a-1629 through 41-6a-1633.

(4) A violation of this section is ~~[a class C misdemeanor]~~ an infraction.

Section 17. Section 41-6a-1631 is amended to read:

41-6a-1631. Prohibitions.

(1) A person may not operate on a highway a motor vehicle that is mechanically altered or changed:

(a) in any way that may under normal operation:

(i) cause the motor vehicle body or chassis to come in contact with the roadway;

(ii) expose the fuel tank to damage from collision; or

(iii) cause the wheels to come in contact with the body;

(b) in any manner that may impair the safe operation of the vehicle;

(c) so that any part of the vehicle other than tires, rims, and mudguards are less than three inches above the ground;

(d) to a frame height of more than 24 inches for a motor vehicle with a gross vehicle weight rating of less than 4,500 pounds;

(e) to a frame height of more than 26 inches for a motor vehicle with a gross vehicle weight rating of at least 4,500 pounds and less than 7,500 pounds;

(f) to a frame height of more than 28 inches for a motor vehicle with a gross vehicle weight rating of at least 7,500 pounds;

(g) by stacking or attaching vehicle frames (one from on top of or beneath another frame); or

(h) so that the lowest portion of the body floor is raised more than three inches above the top of the frame.

(2) If the wheel track is increased beyond the O.E.M. specification, the top 50% of the tires shall be covered by the original fenders, by rubber, or other flexible fender extenders under any loading condition.

(3) A violation of this section is [~~a class C misdemeanor~~] an infraction.

Section 18. Section 41-12a-303.2 is amended to read:

41-12a-303.2. Evidence of owner's or operator's security to be carried when operating motor vehicle -- Defense -- Penalties.

(1) As used in this section:

(a) "Division" means the Motor Vehicle Division of the State Tax Commission.

(b) "Registration materials" means the evidences of motor vehicle registration, including all registration cards, license plates, temporary permits, and nonresident temporary permits.

(2) (a) (i) A person operating a motor vehicle shall:

(A) have in the person's immediate possession evidence of owner's or operator's security for the motor vehicle the person is operating; and

(B) display it upon demand of a peace officer.

(ii) A person is exempt from the requirements of Subsection (2)(a)(i) if the person is operating:

(A) a government-owned or leased motor vehicle; or

(B) an employer-owned or leased motor vehicle and is driving it with the employer's permission.

(b) Evidence of owner's or operator's security includes any one of the following:

(i) a copy of the operator's valid:

(A) insurance policy;

(B) insurance policy declaration page;

(C) binder notice;

(D) renewal notice; or

(E) card issued by an insurance company as evidence of insurance;

(ii) a certificate of insurance issued under Section 41-12a-402;

(iii) a certified copy of a surety bond issued under Section 41-12a-405;

(iv) a certificate of the state treasurer issued under Section 41-12a-406;

(v) a certificate of self-funded coverage issued under Section 41-12a-407; or

(vi) information that the vehicle or driver is insured from the Uninsured Motorist Identification

Database Program created under Title 41, Chapter 12a, Part 8, Uninsured Motorist Identification Database Program.

(c) A card issued by an insurance company as evidence of owner's or operator's security under Subsection (2)(b)(i)(E) on or after July 1, 2014, may not display the owner's or operator's address on the card.

(d) (i) A person may provide to a peace officer evidence of owner's or operator's security described in this Subsection (2) in:

(A) a hard copy format; or

(B) an electronic format using a mobile electronic device.

(ii) If a person provides evidence of owner's or operator's security in an electronic format using a mobile electronic device under this Subsection (2)(d), the peace officer viewing the owner's or operator's security on the mobile electronic device may not view any other content on the mobile electronic device.

(iii) Notwithstanding any other provision under this section, a peace officer is not subject to civil liability or criminal penalties under this section if the peace officer inadvertently views content other than the evidence of owner's or operator's security on the mobile electronic device.

(e) (i) Evidence of owner's or operator's security from the Uninsured Motorist Identification Database Program described under Subsection (2)(b)(vi) supercedes any evidence of owner's or operator's security described under Subsection (2)(b)(i)(D) or (E).

(ii) A peace officer may not cite or arrest a person for a violation of Subsection (2)(a) if the Uninsured Motorist Identification Database Program created under Title 41, Chapter 12a, Part 8, Uninsured Motorist Identification Database Program, information indicates that the vehicle or driver is insured.

(3) It is an affirmative defense to a charge under this section that the person had owner's or operator's security in effect for the vehicle the person was operating at the time of the person's citation or arrest.

(4) (a) Evidence of owner's or operator's security as defined under Subsection (2)(b) or a written statement from an insurance producer or company verifying that the person had the required motor vehicle insurance coverage on the date specified is considered proof of owner's or operator's security for purposes of Subsection (3) and Section 41-12a-804.

(b) The court considering a citation issued under this section shall allow the evidence or a written statement under Subsection (4)(a) and a copy of the citation to be faxed or mailed to the clerk of the court to satisfy Subsection (3).

(c) The notice under Section 41-12a-804 shall specify that the written statement under Subsection (4)(a) and a copy of the notice shall be faxed or mailed to the designated agent to satisfy

the proof of owner's or operator's security required under Section 41-12a-804.

(5) A violation of this section is [~~a class C misdemeanor~~] an infraction, and the fine shall be not less than:

(a) \$400 for a first offense; and

(b) \$1,000 for a second and subsequent offense within three years of a previous conviction or bail forfeiture.

(6) Upon receiving notification from a court of a conviction for a violation of this section, the department:

(a) shall suspend the person's driver license; and

(b) may not renew the person's driver license or issue a driver license to the person until the person gives the department proof of owner's or operator's security.

(i) This proof of owner's or operator's security shall be given by any of the ways required under Section 41-12a-401.

(ii) This proof of owner's or operator's security shall be maintained with the department for a three-year period.

(iii) An insurer that provides a certificate of insurance as provided under Section 41-12a-402 or 41-12a-403 may not terminate the insurance policy unless notice of termination is filed with the department no later than 10 days after termination as required under Section 41-12a-404.

(iv) If a person who has canceled the certificate of insurance applies for a license within three years from the date proof of owner's or operator's security was originally required, the department shall refuse the application unless the person reestablishes proof of owner's or operator's security and maintains the proof for the remainder of the three-year period.

Section 19. Section 53-1-116 is amended to read:

53-1-116. Violations.

A violation of this title, except for a violation under Chapter 3, Part 2, Driver Licensing Act, is [~~a class C misdemeanor~~] an infraction, unless otherwise provided.

Section 20. Section 53-3-305 is amended to read:

53-3-305. Notification of impaired person to the division -- Confidentiality of notification -- Rulemaking -- Penalty.

(1) A person who is aware of a physical, mental, or emotional impairment of another person that appears to present an imminent threat to driving safety may notify the division of the impairment.

(2) If the division determines that the notification made under Subsection (1) was made in good faith, the division may require the person who is the subject of the notification to submit to:

(a) one or more medical reports under Subsection 53-3-304(1);

(b) a physical and mental fitness test under Section 53-3-206;

(c) the knowledge test required by the division; or

(d) the skills test approved by the division.

(3) (a) A person making a notification under Subsection (1) may request that the notification be confidential.

(b) If requested by the person notifying the division, the notification provided under this section relating to a physical, mental, or emotional impairment is classified as a protected record under Title 63G, Chapter 2, Government Records Access and Management Act, and the identity of the person notifying the division may not be disclosed by the division.

(c) The division may not accept an anonymous notification under this section.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing procedures for making a protected notification under this section to ensure that the notification is made in good faith.

(5) A person who makes a notification with the intent to annoy, intimidate, or harass the person that is the subject of the notification is guilty of [~~a class C misdemeanor~~] an infraction.

Section 21. Section 53-3-412 is amended to read:

53-3-412. CDL classifications, endorsements, and restrictions.

(1) A CDL may be granted with the following classifications, endorsements, and restrictions:

(a) Classifications:

(i) Class A: any combination of vehicles with a GVWR of 26,001 pounds or more, if the GVWR of the one or more vehicles being towed is in excess of 10,000 pounds;

(ii) Class B: any single motor vehicle with a GVWR of 26,001 pounds or more, including that motor vehicle when towing a vehicle with a GVWR of 10,000 pounds or less; and

(iii) Class C: any single motor vehicle with a GVWR of less than 26,001 pounds or that motor vehicle when towing a vehicle with a GVWR of 10,000 pounds or less when the vehicle is designed:

(A) to carry 16 or more passengers, including the driver;

(B) as a school bus, and weighing less than 26,001 pounds GVWR; or

(C) to transport hazardous materials that requires the vehicle to be placarded under 49 C.F.R. Part 172, Subpart F.

(b) Endorsements:

(i) "H" authorizes the driver to drive a commercial motor vehicle transporting hazardous materials as defined in 49 C.F.R. Sec. 383.5.

(ii) "N" authorizes the driver to drive a tank vehicle.

(iii) "P" authorizes the driver to drive a motor vehicle designed to carry 16 or more passengers including the driver.

(iv) "S" authorizes the driver to transport preprimary, primary, or secondary school students from home to school, school to home, or to and from school-sponsored events.

(v) "T" authorizes the driver to drive a commercial motor vehicle with a double or triple trailer.

(vi) "X" authorizes the driver to drive a tank vehicle and transport hazardous materials.

(c) Restrictions:

(i) "E" restricts the driver from driving a commercial motor vehicle with a manual transmission.

(ii) "K" restricts the driver to driving intrastate only any commercial motor vehicle as defined by 49 C.F.R. Parts 383 and 390.

(iii) "L" restricts the driver to driving a commercial motor vehicle not equipped with air brakes.

(iv) "J" provides for other CDL restrictions.

(v) "M" restricts a driver from transporting passengers using a class A bus.

(vi) "N" restricts a driver from transporting passengers using a class A or class B bus.

(vii) "O" restricts a driver from driving a commercial motor vehicle equipped with a tractor trailer.

(viii) (A) "V" indicates that the driver has been issued a variance by the Federal Motor Carrier Safety Administration in reference to the driver's medical certification status.

(B) A driver with a "V" restriction shall have the letter outlining the specifications for the variance in the driver's possession along with the driver's commercial driver license when operating a commercial motor vehicle.

(ix) "Z" restricts a driver from driving a commercial motor vehicle with non-fully equipped air brakes.

(2) A commercial driver instruction permit may be granted with the following classifications, endorsements, and restrictions:

(a) Classifications:

(i) Class A: any combination of vehicles with a GVWR of 26,001 pounds or more, if the GVWR of the one or more vehicles being towed is in excess of 10,000 pounds;

(ii) Class B: any single motor vehicle with a GVWR of 26,001 pounds or more, including that motor vehicle when towing a vehicle with a GVWR of 10,000 pounds or less; and

(iii) Class C: any single motor vehicle with a GVWR of less than 26,001 pounds or that motor vehicle when towing a vehicle with a GVWR of 10,000 pounds or less when the vehicle is designed:

(A) to carry 16 or more passengers, including the driver;

(B) as a school bus, and weighing less than 26,001 pounds GVWR; or

(C) to transport hazardous material that requires the vehicle to be placarded under 49 C.F.R. Part 172, Subpart F.

(b) Endorsements:

(i) "N" authorizes the driver to drive a tank vehicle. An "N" endorsement may only be issued with an "X" restriction.

(ii) "P" authorizes the driver to drive a motor vehicle designed to carry 16 or more passengers including the driver. A "P" endorsement may only be issued with a "P" restriction.

(iii) "S" authorizes the driver to transport preprimary, primary, or secondary school students from home to school, school to home, or to and from school-sponsored events. An "S" endorsement may only be issued with a "P" restriction.

(c) Restrictions:

(i) "K" restricts the driver to driving intrastate only any commercial motor vehicle as defined by 49 C.F.R. Parts 383 and 390.

(ii) "L" restricts the driver to driving a commercial motor vehicle not equipped with air brakes.

(iii) "M" restricts a driver from transporting passengers using a class A bus.

(iv) "N" restricts a driver from transporting passengers using a class A or class B bus.

(v) "P" restricts a driver from having one or more passengers in the vehicle while driving a commercial motor vehicle bus unless the passenger is:

(A) a federal or state auditor or inspector;

(B) a test examiner;

(C) another trainee; or

(D) the CDL holder accompanying the CDIP holder as required in 49 C.F.R. Sec. 383.25.

(vi) (A) "V" indicates that the driver has been issued a variance by the Federal Motor Carrier Safety Administration in reference to the driver's medical certification status.

(B) A driver with a "V" restriction shall have the letter outlining the specifications for the variance in the driver's possession along with the driver's commercial driver license when operating a commercial motor vehicle.

(vii) "X" restricts a driver from having cargo in a commercial motor vehicle tank vehicle.

(3) A violation of this section is [~~a class C misdemeanor~~] an infraction.

Section 22. Section 53-8-209 is amended to read:

53-8-209. Inspection by officers -- Certificate of inspection.

(1) A peace officer may stop, inspect, and test a vehicle at any time upon reasonable cause to believe that:

(a) a vehicle is unsafe or not equipped as required by law; or

(b) that its equipment is not in proper adjustment or repair.

(2) (a) (i) If a vehicle is found to be in unsafe condition or any required part or equipment is not present or is not in proper repair and adjustment, the officer shall give a written notice to the driver and shall send a copy to the division.

(ii) The notice shall:

(A) require that the vehicle be placed in safe condition and its equipment in proper repair and adjustment;

(B) specify the repairs and adjustments needed; and

(C) require that a safety inspection certificate be obtained within five days.

(b) If a vehicle is, in the reasonable judgment of the peace officer, hazardous to operate, the peace officer may require that the vehicle:

(i) not be operated under its own power; or

(ii) be driven to the nearest garage or other place of safety.

(c) (i) If the owner or driver does not comply with the notice requirements and secure a safety inspection certificate within five days, the vehicle may not be operated on the highways of this state.

(ii) A violation of Subsection (2)(c)(i) is an infraction.

Section 23. Section 53B-3-107 is amended to read:

53B-3-107. Traffic violations -- Notice of rule or regulation.

(1) It is a violation of this section for any person to operate or park a vehicle upon any property owned or controlled by a state institution of higher education contrary to posted signs authorized by the published rules and regulations of the institution or to block or impede traffic through or on any of these properties.

(2) A violation of Subsection (1) is [~~a class C misdemeanor~~] an infraction.

(3) Notice of a rule or regulation to all persons is sufficient if the rule or regulation is published in one issue of a newspaper of general circulation in

the county or counties in which the institution and the campus or facility is located.

Section 24. Section 72-7-403 is amended to read:

72-7-403. Towing requirements and limitations on towing.

(1) (a) The draw-bar or other connection between any two vehicles, one of which is towing or drawing the other on a highway, may not exceed 15 feet in length from one vehicle to the other except:

(i) in the case of a connection between any two vehicles transporting poles, pipe, machinery, or structural material that cannot be dismembered when transported upon a pole trailer as defined in Section 41-6a-102; or

(ii) when operated under a permit under Section 72-7-406.

(b) When the connection between the two vehicles is a chain, rope, or cable, a red flag or other signal or cloth not less than 12 inches both in length and width shall be displayed on or near the midpoint of the connection.

(2) A person may not operate a combination of vehicles when any trailer, semitrailer, or other vehicle being towed:

(a) whips or swerves from side to side dangerously or unreasonably; or

(b) fails to follow substantially in the path of the towing vehicle.

(3) A person who violates this section is guilty of [~~a class C misdemeanor~~] an infraction.

Section 25. Section 72-7-404 is amended to read:

72-7-404. Maximum gross weight limitation for vehicles -- Bridge formula for weight limitations -- Minimum mandatory fines.

(1) (a) As used in this section:

(i) "Axle load" means the total load on all wheels whose centers may be included between two parallel transverse vertical planes 40 inches apart.

(ii) "Tandem axle" means two or more axles spaced not less than 40 inches nor more than 96 inches apart and having at least one common point of weight suspension.

(b) The tire load rating shall be marked on the tire sidewall. A tire, wheel, or axle may not carry a greater weight than the manufacturer's rating.

(2) (a) A vehicle may not be operated or moved on any highway in the state with:

(i) a gross weight in excess of 10,500 pounds on one wheel;

(ii) a single axle load in excess of 20,000 pounds; or

(iii) a tandem axle load in excess of 34,000 pounds.

(b) Subject to the limitations of Subsection (3), the gross vehicle weight of any vehicle or combination of vehicles may not exceed 80,000 pounds.

(3) (a) Subject to the limitations in Subsection (2), no group of two or more consecutive axles between the first and last axle of a vehicle or combination of vehicles and no vehicle or combination of vehicles may carry a gross weight in excess of the weight provided by the following bridge formula, except as provided in Subsection (3)(b):

$$W = 500 \{LN/(N-1) + 12N+36\}$$

(i) W = overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds.

(ii) L = distance in feet between the extreme of any group of two or more consecutive axles. When the distance in feet includes a fraction of a foot of one inch or more the next larger number of feet shall be used.

(iii) N = number of axles in the group under consideration.

(b) Two consecutive sets of tandem axles may carry a gross weight of 34,000 pounds each if the overall distance between the first and last axles of the consecutive sets of tandem axles is 36 feet or more.

(4) Any exception to this section must be authorized by an overweight permit as provided in Section 72-7-406.

(5) (a) Any person who violates this section is guilty of ~~[a class C misdemeanor]~~ an infraction except that, notwithstanding Sections 76-3-301 and 76-3-302, the violator shall pay the largest minimum mandatory fine of either:

(i) \$50 plus the sum of the overweight axle fines calculated under Subsection (5)(b); or

(ii) \$50 plus the gross vehicle weight fine calculated under Subsection (5)(b).

(b) The fine for each axle and a gross vehicle weight violation shall be calculated according to the following schedule:

Number of Pounds Overweight	Axle Fine (Cents per Pound for Each Overweight Axle)	Gross Vehicle Weight Fine (Cents per Pound)
1 - 2,000	0	0
2,001 - 5,000	4	5
5,001 - 8,000	5	5
8,001 - 12,000	6	5
12,001 - 16,000	7	5
16,001 - 20,000	9	5
20,001 - 25,000	11	5
25,001 or more	13	5

Section 26. Section 72-7-405 is amended to read:

72-7-405. Measuring vehicles for size and weight compliance -- Summary powers of peace officers -- Penalty for violations.

(1) Any peace officer having reason to believe that the height, width, length, or weight of a vehicle and load is unlawful may require the operator to stop the vehicle and submit to a measurement or weighing of the vehicle and load.

(2) A peace officer may require that the vehicle be driven to the nearest scales or port-of-entry if the scales or port-of-entry is within three miles.

(3) (a) A peace officer, special function officer, or port-of-entry agent may measure or weigh a vehicle and vehicle load for compliance with this chapter.

(b) If, upon measuring or weighing a vehicle and load, it is determined that the height, width, length, or weight is unlawful, the measuring or weighing peace officer, special function officer, or port-of-entry agent may require the operator to park the vehicle in a suitable place. The vehicle shall remain parked until the vehicle or its load is adjusted or a portion of the load is removed to conform to legal limits. All materials unloaded shall be cared for by the owner or operator of the vehicle at his risk.

(4) An operator who fails or refuses to stop and submit the vehicle and load to a measurement or weighing, or who fails or refuses when directed by a peace officer, special function officer, or port-of-entry agent to comply with this section is guilty of ~~[a class C misdemeanor]~~ an infraction.

~~[(5) Any driver or owner of a vehicle who violates Section 72-7-404 or 72-7-406 is guilty of a class C misdemeanor.]~~

Section 27. Section 72-7-406 is amended to read:

72-7-406. Oversize permits and oversize and overweight permits for vehicles of excessive size or weight -- Applications -- Restrictions -- Fees -- Rulemaking provisions -- Penalty.

(1) (a) The department may, upon receipt of an application and good cause shown, issue in writing an oversize permit or an oversize and overweight permit. The oversize permit or oversize and overweight permit may authorize the applicant to operate or move upon a highway:

(i) a vehicle or combination of vehicles, unladen or with a load weighing more than the maximum weight specified in Section 72-7-404 for any wheel, axle, group of axles, or total gross weight; or

(ii) a vehicle or combination of vehicles that exceeds the vehicle width, height, or length provisions under Section 72-7-402 or draw-bar length restriction under Subsection 72-7-403(1)(a).

(b) Except as provided under Subsection (8), an oversize and overweight permit may not be issued under this section to allow the transportation of a load that is reasonably divisible.

(c) The maximum size or weight authorized by a permit under this section shall be within limits that

do not impair the state's ability to qualify for federal-aid highway funds.

(d) The department may deny or issue a permit under this section to protect the safety of the traveling public and to protect highway foundation, surfaces, or structures from undue damage by one or more of the following:

(i) limiting the number of trips the vehicle may make;

(ii) establishing seasonal or other time limits within which the vehicle may operate or move on the highway indicated;

(iii) requiring security in addition to the permit to compensate for any potential damage by the vehicle to any highway; and

(iv) otherwise limiting the conditions of operation or movement of the vehicle.

(e) Prior to granting a permit under this section, the department shall approve the route of any vehicle or combination of vehicles.

(2) An application for a permit under this section shall state:

(a) the proposed maximum wheel loads, maximum axle loads, all axle spacings of each vehicle or combination of vehicles;

(b) the proposed maximum load size and maximum size of each vehicle or combination of vehicles;

(c) the specific roads requested to be used under authority of the permit; and

(d) if the permit is requested for a single trip or if other seasonal limits or time limits apply.

(3) Each oversize permit or oversize and overweight permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be available for inspection by any peace officer, special function officer, port of entry agent, or other personnel authorized by the department.

(4) A permit under this section may not be issued or is not valid unless the vehicle or combination of vehicles is:

(a) properly registered for the weight authorized by the permit; or

(b) registered for a gross laden weight of 78,001 pounds or over, if the gross laden weight authorized by the permit exceeds 80,000 pounds.

(5) (a) (i) An oversize permit may be issued under this section for a vehicle or combination of vehicles that exceeds one or more of the maximum width, height, or length provisions under Section 72-7-402.

(ii) Except for an annual oversize permit for an implement of husbandry under Section 72-7-407 or for an annual oversize permit issued under Subsection (5)(a)(iii), only a single trip oversize permit may be issued for a vehicle or combination of

vehicles that is more than 14 feet 6 inches wide, 14 feet high, or 105 feet long.

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for the issuance of an annual oversize permit for a vehicle or combination of vehicles that is more than 14 feet 6 inches wide, 14 feet high, or 105 feet long if the department determines that the permit is needed to accommodate highway transportation needs for multiple trips on a specified route.

(b) The fee is \$30 for a single trip oversize permit under this Subsection (5). This permit is valid for not more than 96 continuous hours.

(c) The fee is \$75 for a semiannual oversize permit under this Subsection (5). This permit is valid for not more than 180 continuous days.

(d) The fee is \$90 for an annual oversize permit under this Subsection (5). This permit is valid for not more than 365 continuous days.

(6) (a) An oversize and overweight permit may be issued under this section for a vehicle or combination of vehicles carrying a nondivisible load that exceeds one or more of the maximum weight provisions of Section 72-7-404 up to a gross weight of 125,000 pounds.

(b) The fee is \$60 for a single trip oversize and overweight permit under this Subsection (6). This permit is valid for not more than 96 continuous hours.

(c) A semiannual oversize and overweight permit under this Subsection (6) is valid for not more than 180 continuous days. The fee for this permit is:

(i) \$180 for a vehicle or combination of vehicles with gross vehicle weight of more than 80,000 pounds, but not exceeding 84,000 pounds;

(ii) \$320 for a vehicle or combination of vehicles with gross vehicle weight of more than 84,000 pounds, but not exceeding 112,000 pounds; and

(iii) \$420 for a vehicle or combination of vehicles with gross vehicle weight of more than 112,000 pounds, but not exceeding 125,000 pounds.

(d) An annual oversize and overweight permit under this Subsection (6) is valid for not more than 365 continuous days. The fee for this permit is:

(i) \$240 for a vehicle or combination of vehicles with gross vehicle weight of more than 80,000 pounds, but not exceeding 84,000 pounds;

(ii) \$480 for a vehicle or combination of vehicles with gross vehicle weight of more than 84,000 pounds, but not exceeding 112,000 pounds; and

(iii) \$540 for a vehicle or combination of vehicles with gross vehicle weight of more than 112,000 pounds, but not exceeding 125,000 pounds.

(7) (a) A single trip oversize and overweight permit may be issued under this section for a vehicle or combination of vehicles carrying a nondivisible load that exceeds:

(i) one or more of the maximum weight provisions of Section 72-7-404; or

(ii) a gross weight of 125,000 pounds.

(b) (i) The fee for a single trip oversize and overweight permit under this Subsection (7), which is valid for not more than 96 continuous hours, is \$.012 per mile for each 1,000 pounds above 80,000 pounds subject to the rounding described in Subsection (7)(c).

(ii) The minimum fee that may be charged under this Subsection (7) is \$80.

(iii) The maximum fee that may be charged under this Subsection (7) is \$540.

(c) (i) The miles used to calculate the fee under this Subsection (7) shall be rounded up to the nearest 50 mile increment.

(ii) The pounds used to calculate the fee under this Subsection (7) shall be rounded up to the nearest 25,000 pound increment.

(iii) The dollar amount used to calculate the fee under this Subsection (7) shall be rounded to the nearest \$10 increment.

(8) (a) An oversize and overweight permit may be issued under this section for a vehicle or combination of vehicles carrying a divisible load if:

(i) the bridge formula under Subsection 72-7-404(3) is not exceeded; and

(ii) the length of the vehicle or combination of vehicles is:

(A) more than the limitations specified under Subsections 72-7-402(4)(c) and (d) or Subsection 72-7-403(1)(a) but not exceeding 81 feet in cargo carrying length and the application is for a single trip, semiannual trip, or annual trip permit; or

(B) more than 81 feet in cargo carrying length but not exceeding 95 feet in cargo carrying length and the application is for an annual trip permit.

(b) The fee is \$60 for a single trip oversize and overweight permit under this Subsection (8). The permit is valid for not more than 96 continuous hours.

(c) The fee for a semiannual oversize and overweight permit under this Subsection (8), which permit is valid for not more than 180 continuous days is:

(i) \$180 for a vehicle or combination of vehicles with gross vehicle weight of more than 80,000 pounds, but not exceeding 84,000 pounds;

(ii) \$320 for a vehicle or combination of vehicles with gross vehicle weight of more than 84,000 pounds, but not exceeding 112,000 pounds; and

(iii) \$420 for a vehicle or combination of vehicles with gross vehicle weight of more than 112,000 pounds, but not exceeding 129,000 pounds.

(d) The fee for an annual oversize and overweight permit under this Subsection (8), which permit is valid for not more than 365 continuous days is:

(i) \$240 for a vehicle or combination of vehicles with gross vehicle weight of more than 80,000 pounds, but not exceeding 84,000 pounds;

(ii) \$480 for a vehicle or combination of vehicles with gross vehicle weight of more than 84,000 pounds, but not exceeding 112,000 pounds; and

(iii) \$540 for a vehicle or combination of vehicles with gross vehicle weight of more than 112,000 pounds, but not exceeding 129,000 pounds.

(9) Permit fees collected under this section shall be credited monthly to the Transportation Fund.

(10) The department shall prepare maps, drawings, and instructions as guidance when issuing permits under this section.

(11) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules governing the issuance and revocation of all permits under this section and Section 72-7-407.

(12) Any person who violates any of the terms or conditions of a permit issued under this section:

(a) may have the person's permit revoked; and

(b) is guilty of [~~a class C misdemeanor~~] an infraction, except that a violation of any rule made under Subsection (11) is not subject to a criminal penalty.

Section 28. Section 72-7-407 is amended to read:

72-7-407. Implements of husbandry -- Escort vehicle requirements -- Oversize permit -- Penalty.

(1) As used in this section, "escort vehicle" means a motor vehicle, as defined under Section 41-1a-102, that has its emergency warning lights operating, and that is being used to warn approaching motorists by either preceding or following a slow or oversized vehicle, object, or implement of husbandry being moved on the highway.

(2) An implement of husbandry being moved on a highway shall be accompanied by:

(a) front and rear escort vehicles when the implement of husbandry is 16 feet in width or greater unless the implement of husbandry is moved by a farmer or rancher or the farmer or rancher's employees in connection with an agricultural operation; or

(b) one or more escort vehicles when the implement of husbandry is traveling on a highway where special hazards exist related to weather, pedestrians, other traffic, or highway conditions.

(3) In addition to the requirements of Subsection (2), a person may not move an implement of husbandry on a highway during hours of darkness without lights and reflectors as required under Section 41-6a-1608 or 41-6a-1609.

(4) (a) Except for an implement of husbandry moved by a farmer or rancher or the farmer's or rancher's employees in connection with an

agricultural operation, a person may not move an implement of husbandry on the highway without:

(i) an oversize permit obtained under Section 72-7-406 if required;

(ii) trained escort vehicle drivers and approved escort vehicles when required under Subsection (2); and

(iii) compliance with the vehicle weight requirements of Section 72-7-404.

(b) (i) The department shall issue an annual oversize permit for the purpose of allowing the movement of implements of husbandry on the highways in accordance with this chapter.

(ii) The permit shall require the applicant to obtain verbal permission from the department for each trip involving the movement of an implement of husbandry 16 feet or greater in width.

(5) Any person who violates this section is guilty of ~~a class C misdemeanor~~ an infraction.

Section 29. Section 72-7-408 is amended to read:

72-7-408. Highway authority -- Restrictions on highway use -- Erection and maintenance of signs designating restrictions -- Penalty.

(1) (a) Subject to Subsection (1)(b), a highway authority may by rule or ordinance prescribe procedures and criteria which prohibit the operation of any vehicle or impose restrictions on the weight of a vehicle upon any highway under its jurisdiction.

(b) A highway authority may impose restrictions for a highway under Subsection (1)(a) if an engineering inspection concludes that, due to deterioration caused by climatic conditions, a highway will be seriously damaged or destroyed unless certain vehicles are prohibited or vehicle weights are restricted.

(2) The highway authority imposing restrictions under this section shall erect signs citing the provisions of the rule or ordinance at each end of that portion of any highway affected. The restriction is effective only when the signs are erected and maintained.

(3) Any person who violates any restriction imposed under the authority of this section is guilty of ~~a class C misdemeanor~~ an infraction.

Section 30. Section 72-7-409 is amended to read:

72-7-409. Loads on vehicles -- Limitations -- Confining, securing, and fastening load required -- Penalty.

(1) As used in this section:

(a) "Agricultural product" means any raw product which is derived from agriculture, including silage, hay, straw, grain, manure, and other similar product.

(b) "Vehicle" has the same meaning set forth in Section 41-1a-102.

(2) A vehicle may not be operated or moved on any highway unless the vehicle is constructed or loaded to prevent its contents from dropping, sifting, leaking, or otherwise escaping.

(3) (a) In addition to the requirements under Subsection (2), a vehicle carrying dirt, sand, gravel, rock fragments, pebbles, crushed base, aggregate, any other similar material, or scrap metal shall have a covering over the entire load unless:

(i) the highest point of the load does not extend above the top of any exterior wall or sideboard of the cargo compartment of the vehicle; and

(ii) the outer edges of the load are at least six inches below the top inside edges of the exterior walls or sideboards of the cargo compartment of the vehicle.

(b) In addition to the requirements under Subsection (2), a vehicle carrying trash or garbage shall have a covering over the entire load.

(c) The following material is exempt from the provisions of Subsection (3)(a):

(i) hot mix asphalt;

(ii) construction debris or scrap metal if the debris or scrap metal is a size and in a form not susceptible to being blown out of the vehicle;

(iii) material being transported across a highway between two parcels of property that would be contiguous but for the highway that is being crossed; and

(iv) material listed under Subsection (3)(a) that is enclosed on all sides by containers, bags, or packaging.

(d) A chemical substance capable of coating or bonding a load so that the load is confined on a vehicle, may be considered a covering for purposes of Subsection (3)(a) so long as the chemical substance remains effective at confining the load.

(4) Subsections (2) and (3) do not apply to a vehicle or implement of husbandry carrying an agricultural product, if the agricultural product is:

(a) being transported in a manner which is not a hazard or a potential hazard to the safe operation of the vehicle or to other highway users; and

(b) loaded in a manner that only allows minimal spillage.

(5) (a) An authorized vehicle performing snow removal services on a highway is exempt from the requirements of this section.

(b) This section does not prohibit the necessary spreading of any substance connected with highway maintenance, construction, securing traction, or snow removal.

(6) A person may not operate a vehicle with a load on any highway unless the load and any load covering is fastened, secured, and confined to prevent the covering or load from becoming loose,

detached, or in any manner a hazard to the safe operation of the vehicle, or to other highway users.

(7) Before entering a highway, the operator of a vehicle carrying any material listed under Subsection (3), shall remove all loose material on any portion of the vehicle not designed to carry the material.

(8) (a) Any person who violates this section is guilty of [~~a class C misdemeanor~~] an infraction.

(b) A person who violates a provision of this section shall be fined not less than:

(i) \$200 for a violation; or

(ii) \$500 for a second or subsequent violation within three years of a previous violation of this section.

(c) A person who violates a provision of this section while operating a commercial vehicle as defined in Section 72-9-102 shall be fined:

(i) not less than \$500 for a violation; or

(ii) \$1,000 for a second or subsequent violation within three years of a previous violation of this section.

Section 31. Section 73-18-6 is amended to read:

73-18-6. Numbering of motorboats and sailboats required -- Exception.

(1) Every motorboat and sailboat on the waters of this state shall be numbered. No person shall operate or give permission for the operation of any motorboat or sailboat on the waters of this state unless the motorboat or sailboat is numbered in accordance with:

(a) this chapter;

(b) applicable federal law; or

(c) a federally-approved numbering system of another state, if the owner is a resident of that state and his motorboat or sailboat has not been in this state in excess of 60 days for the calendar year.

(2) The number assigned to a motorboat or sailboat in accordance with this chapter, applicable federal law, or a federally-approved numbering system of another state shall be displayed on each side of the bow of the motorboat or sailboat, except this requirement does not apply to any vessel which has a valid marine document issued by the United States Coast Guard.

(3) A violation of this section is [~~a class C misdemeanor~~] an infraction.

Section 32. Section 73-18-7 is amended to read:

73-18-7. Registration requirements -- Exemptions -- Fee -- Agents -- Records -- Period of registration and renewal -- Expiration -- Notice of transfer of interest or change of address -- Duplicate registration card -- Invalid registration -- Powers of board.

(1) (a) Except as provided by Section 73-18-9, the owner of each motorboat and sailboat on the waters of this state shall register it with the division as provided in this chapter.

(b) A person may not place, give permission for the placement of, operate, or give permission for the operation of a motorboat or sailboat on the waters of this state, unless the motorboat or sailboat is registered as provided in this chapter.

(2) (a) The owner of a motorboat or sailboat required to be registered shall file an application for registration with the division on forms approved by the division.

(b) The owner of the motorboat or sailboat shall sign the application and pay the fee set by the board in accordance with Section 63J-1-504.

(c) Before receiving a registration card and registration decals, the applicant shall provide the division with a certificate from the county assessor of the county in which the motorboat or sailboat has situs for taxation, stating that:

(i) the property tax on the motorboat or sailboat for the current year has been paid;

(ii) in the county assessor's opinion, the property tax is a lien on real property sufficient to secure the payment of the property tax; or

(iii) the motorboat or sailboat is exempt by law from payment of property tax for the current year.

(d) If the board modifies the fee under Subsection (2)(b), the modification shall take effect on the first day of the calendar quarter after 90 days from the day on which the board provides the State Tax Commission:

(i) notice from the board stating that the board will modify the fee; and

(ii) a copy of the fee modification.

(3) (a) Upon receipt of the application in the approved form, the division shall record the receipt and issue to the applicant registration decals and a registration card that state the number assigned to the motorboat or sailboat and the name and address of the owner.

(b) The registration card shall be available for inspection on the motorboat or sailboat for which it was issued, whenever that motorboat or sailboat is in operation.

(4) The assigned number shall:

(a) be painted or permanently attached to each side of the forward half of the motorboat or sailboat;

(b) consist of plain vertical block characters not less than three inches in height;

(c) contrast with the color of the background and be distinctly visible and legible;

(d) have spaces or hyphens equal to the width of a letter between the letter and numeral groupings; and

(e) read from left to right.

(5) A motorboat or sailboat with a valid marine document issued by the United States Coast Guard is exempt from the number display requirements of Subsection (4).

(6) The nonresident owner of any motorboat or sailboat already covered by a valid number that has been assigned to it according to federal law or a federally approved numbering system of the owner's resident state is exempt from registration while operating the motorboat or sailboat on the waters of this state unless the owner is operating in excess of the reciprocity period provided for in Subsection 73-18-9(1).

(7) (a) If the ownership of a motorboat or sailboat changes, the new owner shall file a new application form and fee with the division, and the division shall issue a new registration card and registration decals in the same manner as provided for in Subsections (2) and (3).

(b) The division shall reassign the current number assigned to the motorboat or sailboat to the new owner to display on the motorboat or sailboat.

(8) If the United States Coast Guard has in force an overall system of identification numbering for motorboats or sailboats within the United States, the numbering system employed under this chapter by the board shall conform with that system.

(9) (a) The division may authorize any person to act as its agent for the registration of motorboats and sailboats.

(b) A number assigned, a registration card, and registration decals issued by an agent of the division in conformity with this chapter and rules of the board are valid.

(10) (a) The Motor Vehicle Division shall classify all records of the division made or kept according to this section in the same manner that motor vehicle records are classified under Section 41-1a-116.

(b) Division records are available for inspection in the same manner as motor vehicle records pursuant to Section 41-1a-116.

(11) (a) (i) Each registration, registration card, and decal issued under this chapter shall continue in effect for 12 months, beginning with the first day of the calendar month of registration.

(ii) A registration may be renewed by the owner in the same manner provided for in the initial application.

(iii) The division shall reassign the current number assigned to the motorboat or sailboat when the registration is renewed.

(b) Each registration, registration card, and registration decal expires the last day of the month in the year following the calendar month of registration.

(c) If the last day of the registration period falls on a day in which the appropriate state or county offices are not open for business, the registration of

the motorboat or sailboat is extended to 12 midnight of the next business day.

(d) The division may receive applications for registration renewal and issue new registration cards at any time before the expiration of the registration, subject to the availability of renewal materials.

(e) The new registration shall retain the same expiration month as recorded on the original registration even if the registration has expired.

(f) The year of registration shall be changed to reflect the renewed registration period.

(g) If the registration renewal application is an application generated by the division through its automated system, the owner is not required to surrender the last registration card or duplicate.

(12) (a) An owner shall notify the division of:

(i) the transfer of all or any part of the owner's interest, other than creation of a security interest, in a motorboat or sailboat registered in this state under Subsections (2) and (3); and

(ii) the destruction or abandonment of the owner's motorboat or sailboat.

(b) Notification must take place within 15 days of the transfer, destruction, or abandonment.

(c) (i) The transfer, destruction, or abandonment of a motorboat or sailboat terminates its registration.

(ii) Notwithstanding Subsection (12)(c)(i), a transfer of a part interest that does not affect the owner's right to operate a motorboat or sailboat does not terminate the registration.

(13) (a) A registered owner shall notify the division within 15 days if the owner's address changes from the address appearing on the registration card and shall, as a part of this notification, furnish the division with the owner's new address.

(b) The board may provide in its rules for:

(i) the surrender of the registration card bearing the former address; and

(ii) (A) the replacement of the card with a new registration card bearing the new address; or

(B) the alteration of an existing registration card to show the owner's new address.

(14) (a) If a registration card is lost or stolen, the division may collect a fee of \$4 for the issuance of a duplicate card.

(b) If a registration decal is lost or stolen, the division may collect a fee of \$3 for the issuance of a duplicate decal.

(15) A number other than the number assigned to a motorboat or sailboat or a number for a motorboat or sailboat granted reciprocity under this chapter may not be painted, attached, or otherwise displayed on either side of the bow of a motorboat or sailboat.

(16) A motorboat or sailboat registration and number are invalid if obtained by knowingly falsifying an application for registration.

(17) The board may designate the suffix to assigned numbers, and by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for:

- (a) the display of registration decals;
- (b) the issuance and display of dealer numbers and registrations; and
- (c) the issuance and display of temporary registrations.

(18) A violation of this section is [~~a class C misdemeanor~~] an infraction.

Section 33. Section 73-18-8 is amended to read:

73-18-8. Safety equipment required to be on board vessels -- Penalties.

(1) (a) Except as provided in Subsection (1)(c), each vessel shall have, for each person on board, one wearable personal flotation device that is approved for the type of use by the commandant of the United States Coast Guard.

(b) Each personal flotation device shall be:

- (i) in serviceable condition;
- (ii) legally marked with the United States Coast Guard approval number; and
- (iii) of an appropriate size for the person for whom it is intended.

(c) (i) Sailboards and racing shells are exempt from the provisions of Subsections (1)(a) and (e).

(ii) The board may exempt certain types of vessels from the provisions of Subsection (1)(a) under certain conditions or upon certain waters.

(d) The board may require by rule for personal flotation devices to be worn:

- (i) while a person is on board a certain type of vessel;
- (ii) by a person under a certain age; or
- (iii) on certain waters of the state.

(e) For vessels 16 feet or more in length, there shall also be on board one throwable personal flotation device which is approved for this use by the commandant of the United States Coast Guard.

(2) The operator of a vessel operated between sunset and sunrise shall display lighted navigation lights approved by the division.

(3) If a vessel is not entirely open and it carries or uses any flammable or toxic fluid in any enclosure for any purpose, the vessel shall be equipped with an efficient natural or mechanical ventilation system that is capable of removing resulting gases before and during the time the vessel is occupied by any person.

(4) Each vessel shall have fire extinguishing equipment on board.

(5) Any inboard gasoline engine shall be equipped with a carburetor backfire flame control device.

(6) The board may:

- (a) require additional safety equipment by rule; and
- (b) adopt rules conforming with the requirements of this section which govern specifications for and the use of safety equipment.

(7) A person may not operate or give permission for the operation of a vessel that is not equipped as required by this section or rules promulgated under this section.

(8) A violation of this section is [~~a class C misdemeanor~~] an infraction.

Section 34. Section 73-18-8.1 is amended to read:

73-18-8.1. Capacity and certification label.

(1) Each vessel manufactured after November 1, 1972, which is less than 20 feet in length, except a sailboat, canoe, kayak, inflatable vessel, or homemade motor boat must have a United States Coast Guard capacity and certification label permanently affixed to the vessel and clearly visible to the operator when boarding or operating the vessel. The capacity and certification information may be combined together and displayed on one label.

(2) No person shall operate, or give permission for the operation of, any vessel on the waters of this state if it is loaded or powered in excess of the maximum capacity information on the United States Coast Guard capacity label.

(3) No person shall alter, deface, or remove any United States Coast Guard capacity or certification information label affixed to a vessel.

(4) No person shall operate, or give permission for the operation of, a vessel on the waters of this state if the required United States Coast Guard capacity or certification information label has been altered, defaced, or removed.

(5) A violation of this section is [~~a class C misdemeanor~~] an infraction.

Section 35. Section 73-18-15.1 is amended to read:

73-18-15.1. Vessel navigation and steering laws.

(1) The operator of a vessel shall maintain a proper lookout by sight and hearing at all times to avoid the risk of collision.

(2) When the operators of two motorboats approach each other where there is risk of collision, each operator shall alter course to the right and pass on the left side of the other.

(3) When the operators of two motorboats are crossing paths and are at risk of a collision, the operator of the vessel that has the other vessel on its

right side shall keep out of the way and yield right-of-way if necessary.

(4) The operator of any vessel overtaking any other vessel shall keep out of the way of the vessel being overtaken.

(5) The operator of a vessel underway shall keep out of the way of a:

- (a) vessel not under command;
- (b) vessel restricted in its ability to maneuver;
- (c) vessel engaged in fishing; and
- (d) sailing vessel.

(6) If the operator of one of two vessels is to keep out of the way, the other vessel operator shall maintain his course and speed unless it becomes apparent the other vessel is not taking the appropriate action.

(7) In narrow channels an operator of a vessel underway shall keep to the right of the middle of the channel.

(8) The operator of a vessel shall proceed at a safe speed at all times so that the operator can take proper and effective action to avoid collision and be stopped within a distance appropriate to the prevailing circumstances or conditions.

(9) (a) When the operators of two sailboats are approaching one another so as to involve risk of collision, one of the operators shall keep out of the way of the other as follows:

(i) when each has the wind on a different side, the operator of the vessel that has the wind on the left side shall keep out of the way of the other;

(ii) when both have the wind on the same side, the operator of the vessel that is to the windward shall keep out of the way of the vessel that is to leeward; and

(iii) if the operator of a vessel with the wind on the left side sees a vessel to windward and cannot determine with certainty whether the other vessel has the wind on the left or on the right side, the operator shall keep out of way of the other vessel.

(b) For purposes of this Subsection (9), the windward side shall be the side opposite that on which the mainsail is carried.

(10) The operator of any vessel may not exceed a wakeless speed when within 150 feet of:

- (a) another vessel;
- (b) a person in or floating on the water;
- (c) a water skier being towed by another boat;

(d) a water skier that had been towed behind the operator's vessel unless the skier is still surfing or riding in an upright stance on the wake created by the vessel;

(e) a water skier that had been towed behind another vessel and the skier is still surfing or riding

in an upright stance on the wake created by the other vessel;

- (f) a shore fisherman;
- (g) a launching ramp;
- (h) a dock; or
- (i) a designated swimming area.

(11) The operator of a motorboat is responsible for any damage or injury caused by the wake produced by the operator's motorboat.

(12) (a) Except as provided in Subsection (12)(b), the operator of a motorboat that is less than 65 feet in length may not exceed a wakeless speed while any person is riding upon the bow decking, gunwales, transom, seatbacks, or motor cover.

(b) Subsection (12)(a) does not apply if the motorboat is:

- (i) between 16 feet and 65 feet in length; and
- (ii) the motorboat is equipped with adequate rails or other safeguards to prevent a person from falling overboard.

(13) If a person is riding upon the bow decking of a motorboat that does not have designed seating for passengers, the person shall straddle one of the upright supports of the bow rail and may not block the vision of the operator.

(14) The operator of a vessel may not tow a water skier or a person on another device:

- (a) unless an onboard observer, who is at least eight years of age, is designated by the operator to watch the person being towed; or
- (b) between sunset and sunrise.

(15) A person who violates this section is guilty of ~~[an infraction]~~ a class C misdemeanor.

Section 36. Section 73-18-15.2 is amended to read:

73-18-15.2. Minimum age of operators -- Boating safety course for youth to operate personal watercraft.

(1) (a) A person under 16 years of age may not operate a motorboat on the waters of this state unless the person is under the on-board and direct supervision of a person who is at least 18 years of age.

(b) A person under 16 years of age may operate a sailboat, if the person is under the direct supervision of a person who is at least 18 years of age.

(2) A person who is at least 12 years of age or older but under 16 years of age may operate a personal watercraft provided he:

- (a) is under the direct supervision of a person who is at least 18 years of age;
- (b) completes a boating safety course approved by the division; and
- (c) has in his possession a boating safety certificate issued by the boating safety course provider.

(3) A person who is at least 16 years of age but under 18 years of age may operate a personal watercraft, if the person:

(a) completes a boating safety course approved by the division; and

(b) has in his possession a boating safety certificate issued by the boating safety course provider.

(4) A person required to attend a boating safety course under Subsection (3)(a) need not be accompanied by a parent or legal guardian while completing a boating safety course.

(5) A person may not give permission to another person to operate a vessel in violation of this section.

(6) As used in this section, "direct supervision" means oversight at a distance within which visual contact is maintained.

(7) (a) The division may collect fees set by the board in accordance with Section 63J-1-504 from each person who takes the division's boating safety course to help defray the cost of the boating safety course.

(b) Money collected from the fees collected under Subsection (7)(a) shall be deposited in the Boating Account.

(8) A violation of this section is [~~a class C misdemeanor~~] an infraction.

Section 37. Section 73-18-15.3 is amended to read:

73-18-15.3. Personal watercraft -- Prohibition on operation between sunset and sunrise.

(1) A person may not operate a personal watercraft on the waters of this state between sunset and sunrise.

(2) A violation of this section is [~~a class C misdemeanor~~] an infraction.

Section 38. Section 73-18-16 is amended to read:

73-18-16. Regattas, races, exhibitions -- Rules.

(1) The division may authorize the holding of regattas, motorboat or other boat races, marine parades, tournaments, or exhibitions on any waters of this state.

(2) The board may adopt rules concerning the safety of vessels and persons, either as observers or participants, that do not conflict with the provisions of Subsections (3) and (4).

(3) A person may elect, at the person's own risk, to wear a non-Coast Guard approved personal floatation device if the person is on an American Water Ski Association regulation tournament slalom course and is:

(a) engaged in barefoot water skiing;

(b) water skiing in an American Water Ski Association regulation competition;

(c) a performer participating in a professional exhibition or other tournament; or

(d) practicing for an event described in Subsection (3)(b) or (c).

(4) If a person is water skiing in an American Water Ski Association regulation tournament slalom course, an observer and flag are not required if the vessel is:

(a) equipped with a wide angle mirror with a viewing surface of at least 48 square inches; and

(b) operated by a person who is at least 18 years of age.

(5) A violation of this section is [~~a class C misdemeanor~~] an infraction.

Section 39. Section 76-9-702.3 is amended to read:

76-9-702.3. Public urination.

(1) A person is guilty of public urination if the person urinates or defecates:

(a) in a public place, other than a public rest room; and

(b) under circumstances which the person should know will likely cause affront or alarm to another.

(2) Public urination is [~~a class C misdemeanor~~] an infraction.

Section 40. Section 76-9-706 is amended to read:

76-9-706. False representation of military award -- False wearing or use of medal, name, title, insignia, ritual, or ceremony of a military related organization.

(1) As used in this section:

(a) "Military related organization" means a public or private society, order, or organization that:

(i) only accepts as a member, a person, or the relative of a person, who is:

(A) a member of the military; or

(B) an honorably discharged member of the military; and

(ii) is organized for the purpose of:

(A) recognizing or honoring a person for military service;

(B) assisting a person described in Subsection (1)(a)(i) to lawfully associate with, or provide service with, other people described in Subsection (1)(a)(i); or

(C) provide support for, or assistance to, a person described in Subsection (1)(a)(i).

(b) "Service medal" means:

(i) a congressional medal of honor, as defined in 18 U.S.C. 704(c)(2);

(ii) a distinguished service cross, as defined in 10 U.S.C 3742;

(iii) a Navy cross, as defined in 10 U.S.C. 6242;

(iv) an Air Force cross, as defined in 10 U.S.C. 8742;

(v) a silver star, as defined in 10 U.S.C. 3746, 6244, or 8746;

(vi) a bronze star, as defined in 10 U.S.C. 1133;

(vii) a purple heart, as defined in 10 U.S.C. 1129;

(viii) any decoration or medal authorized by the Congress of the United States for the armed forces of the United States;

(ix) any service medal or badge awarded to members of the armed forces of the United States;

(x) any of the following Utah National Guard medals or ribbons:

(A) medal of valor;

(B) Utah cross;

(C) joint medal of merit;

(D) Utah medal of merit;

(E) joint commendation medal;

(F) commendation medal;

(G) achievement ribbon;

(H) joint staff service ribbon;

(I) state partnership service ribbon;

(J) service ribbon;

(K) military funeral honors service ribbon;

(L) emergency service ribbon; or

(M) recruiting ribbon;

(xi) any ribbon, button, or rosette for a decoration, medal, or badge described in Subsections (1)(b)(i) through (x); or

(xii) an imitation of a decoration, medal, badge, ribbon, button, or rosette described in Subsections (1)(b)(i) through (xi).

(2) Any person who intentionally makes a false representation, verbally or in writing, that the person has been awarded a service medal is guilty of ~~[a class C misdemeanor]~~ an infraction.

(3) Any person who wears, purchases, attempts to purchase, solicits for purchase, mails, ships, imports, exports, produces blank certificates of receipt for, manufactures, sells, attempts to sell, advertises for sale, trades, barter, or exchanges for anything of value a service medal, or any colorable imitation thereof, except when authorized by federal law, or under regulations made pursuant to federal law, with the intent to defraud, or with the intent to falsely represent that the person or another person has been awarded a service medal, is guilty of ~~[a class C misdemeanor]~~ an infraction.

(4) A person is guilty of ~~[a class C misdemeanor]~~ an infraction if the person wears or uses a medal of a military related organization:

(a) that the person is not entitled to wear or use; and

(b) with the intent to defraud or with the intent to falsely represent that the person or another person has been awarded the medal.

(5) A person is guilty of ~~[a class C misdemeanor]~~ an infraction if the person uses the name, an officer title, an insignia, a ritual, or a ceremony of a military related organization:

(a) that the person is not entitled to use; and

(b) with the intent to defraud, or with the intent to falsely represent that the person or another person was or is a member, representative, or officer of the military related organization.

Section 41. Section 78B-1-115 is amended to read:

78B-1-115. Jurors -- Penalties.

(1) A person who fails to respond timely to questions regarding qualification for jury service shall be in contempt of court and subject to penalties under Title 78B, Chapter 6, Part 3, Contempt.

(2) A person summoned for jury service who fails to appear or to complete jury service as directed shall be in contempt of court and subject to penalties under Title 78B, Chapter 6, Part 3, Contempt.

(3) Any person who willfully misrepresents a material fact regarding qualification for, excuse from, or postponement of jury service is guilty of ~~[a class C misdemeanor]~~ an infraction.

Section 42. Section 78B-8-304 is amended to read:

78B-8-304. Violations of service of process authority.

(1) It is a class A misdemeanor for a person serving process to falsify a return of service.

(2) It is ~~[a class C misdemeanor]~~ an infraction for a person to bill falsely for process service.

Section 43. Repealer.

This bill repeals:

Section 4-31-112, Feeding garbage or plate waste to swine prohibited.

CHAPTER 304**S. B. 208**

Passed March 9, 2016

Approved March 25, 2016

Effective March 25, 2016

(Exception clause in Section 5)

RETIREMENT AMENDMENTSChief Sponsor: Todd Weiler
House Sponsor: Kraig Powell**LONG TITLE****General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending certain retirement provisions.

Highlighted Provisions:

This bill:

- ▶ requires the Utah State Retirement Board to increase certified employer contribution rates to reflect any increased costs from retirement benefit enhancements enacted during a general session or special session under specified conditions;
- ▶ amends the definition of “regular full-time employee” to exclude from retirement participation certain classified school employees who work on a contract for the purposes of vocational rehabilitation and the employment and training of people with significant disabilities; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 49-11-301, as last amended by Laws of Utah 2004, Chapter 322
- 49-12-102, as last amended by Laws of Utah 2015, Chapter 243
- 49-13-102, as last amended by Laws of Utah 2014, Chapter 15
- 49-22-102, as last amended by Laws of Utah 2013, Chapters 109 and 127

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 49-11-301 is amended to read:**49-11-301. Creation -- Board to act as trustees of the fund -- Commingling and pooling of funds -- Interest earnings -- Funded ratio.**

(1) There is created a common trust fund known as the “Utah State Retirement Investment Fund” for the purpose of enlarging the investment base and simplifying investment procedures and functions.

(2) (a) The board shall act as trustees of the Utah State Retirement Investment Fund and, through the executive director, may commingle and pool the funds and investments of any system, plan, or

program into the Utah State Retirement Investment Fund, if the principal amounts of the participating funds do not lose their individual identity and are maintained as separate trust funds on the books of the office.

(b) (i) In combining the investments of any fund, each of the participating funds shall be credited initially with its share of the total assets transferred to the Utah State Retirement Investment Fund.

(ii) The value of the transferred assets shall be calculated in accordance with generally accepted accounting principles.

(c) Subsequent transfers of additional capital from participating funds shall be credited similarly to its respective trust account.

(d) The income or principal or equity credit belonging to one participating fund may not be transferred to another, except for the purpose of:

(i) actuarially recommended transfers in order to adjust employer contribution rates for an employer that participates in both contributory and noncontributory systems; or

(ii) transfers which reflect the value of service credit accrued in different systems during a member’s career.

(3) The assets of the funds are for the exclusive benefit of the members, participants, and covered individuals and may not be diverted or appropriated for any purpose other than that permitted by this title.

(4) (a) Interest and other earnings shall be credited to each participating fund on a pro rata equity position basis.

(b) (i) A portion of the interest and other earnings of the common trust fund may be credited to a reserve account within the Utah State Retirement Investment Fund to meet adverse experiences arising from investments or other contingencies.

(ii) Each participating fund shall retain its proportionate equity in the reserve account.

(5) (a) The actuarial funded ratio of the systems may reach and be maintained at 110%, as determined by the board’s actuary using assumptions adopted by the board, before the board is required to certify a decrease in contribution rates.

(b) [The] Except as provided in Subsection (6), the board may not increase contribution rates to attain an actuarial funded ratio greater than 100%.

(6) (a) The cost of any amendment to this title shall be included in the final contribution rates adopted and certified by the board in accordance with Subsections 49-11-102(14) and 49-11-203(1)(l).

(b) If a preliminary certified contribution rate approved by the board prior to an annual general session or special session of the Legislature was maintained at a previous year’s level that is higher than the contribution rate calculated by the board’s

actuary for that year in accordance with Subsection (5)(a), the board's final certified contribution rate shall be the sum of the actuarially determined costs from any amendment to this title during the general session or special session and the preliminary certified contribution rate.

Section 2. Section 49-12-102 is amended to read:

49-12-102. Definitions.

As used in this chapter:

(1) "Benefits normally provided":

(a) means a benefit offered by an employer, including:

(i) a leave benefit of any kind;

(ii) insurance coverage of any kind if the employer pays some or all of the premium for the coverage;

(iii) employer contributions to a health savings account, health reimbursement account, health reimbursement arrangement, or medical expense reimbursement plan; and

(iv) a retirement benefit of any kind if the employer pays some or all of the cost of the benefit; and

(b) does not include:

(i) a payment for social security;

(ii) workers' compensation insurance;

(iii) unemployment insurance;

(iv) a payment for Medicare;

(v) a payment or insurance required by federal or state law that is similar to a payment or insurance listed in Subsection (1)(b)(i), (ii), (iii), or (iv);

(vi) any other benefit that state or federal law requires an employer to provide an employee who would not otherwise be eligible to receive the benefit; or

(vii) any benefit that an employer provides an employee in order to avoid a penalty or tax under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal regulations, including a penalty imposed by Internal Revenue Code, Section 4980H.

(2) (a) "Compensation" means, except as provided in Subsection (2)(c), the total amount of payments made by a participating employer to a member of this system for services rendered to the participating employer, including:

(i) bonuses;

(ii) cost-of-living adjustments;

(iii) other payments currently includable in gross income and that are subject to social security deductions, including any payments in excess of the maximum amount subject to deduction under social security law;

(iv) amounts that the member authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law; and

(v) member contributions.

(b) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code, Section 401(a)(17).

(c) "Compensation" does not include:

(i) the monetary value of remuneration paid in kind, including a residence or use of equipment;

(ii) the cost of any employment benefits paid for by the participating employer;

(iii) compensation paid to a temporary employee, an exempt employee, or an employee otherwise ineligible for service credit;

(iv) any payments upon termination, including accumulated vacation, sick leave payments, severance payments, compensatory time payments, or any other special payments; or

(v) any allowances or payments to a member for costs or expenses paid by the participating employer, including automobile costs, uniform costs, travel costs, tuition costs, housing costs, insurance costs, equipment costs, and dependent care costs.

(d) The executive director may determine if a payment not listed under this Subsection (2) falls within the definition of compensation.

(3) "Final average salary" means the amount computed by averaging the highest five years of annual compensation preceding retirement subject to Subsections (3)(a), (b), (c), and (d).

(a) Except as provided in Subsection (3)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(b) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection (3)(a) may be exceeded if:

(i) the member has transferred from another agency; or

(ii) the member has been promoted to a new position.

(c) If the member retires more than six months from the date of termination of employment, the member is considered to have been in service at the member's last rate of pay from the date of the termination of employment to the effective date of retirement for purposes of computing the member's final average salary only.

(d) If the member has less than five years of service credit in this system, final average salary means the average annual compensation paid to the member during the full period of service credit.

(4) "Participating employer" means an employer which meets the participation requirements of Sections 49-12-201 and 49-12-202.

(5) (a) "Regular full-time employee" means an employee whose term of employment for a participating employer contemplates continued employment during a fiscal or calendar year and whose employment normally requires an average of 20 hours or more per week, except as modified by the board, and who receives benefits normally provided by the participating employer.

(b) "Regular full-time employee" includes:

(i) a teacher whose term of employment for a participating employer contemplates continued employment during a school year and who teaches half-time or more;

(ii) a classified school employee:

(A) who is hired before July 1, 2013; and

(B) whose employment normally requires an average of 20 hours per week or more for a participating employer, regardless of benefits provided;

(iii) an officer, elective or appointive, who earns \$500 or more per month, indexed as of January 1, 1990, as provided in Section 49-12-407;

(iv) a faculty member or employee of an institution of higher education who is considered full-time by that institution of higher education; and

(v) an individual who otherwise meets the definition of this Subsection (5) who performs services for a participating employer through a professional employer organization or similar arrangement.

(c) "Regular full-time employee" does not include a classified school employee:

(i) (A) who is hired on or after July 1, 2013; and

(B) who does not receive benefits normally provided by the participating employer even if the employment normally requires an average of 20 hours per week or more for a participating employer; [øø]

(ii) (A) who is hired before July 1, 2013;

(B) who did not qualify as a regular full-time employee before July 1, 2013;

(C) who does not receive benefits normally provided by the participating employer; and

(D) whose employment hours are increased on or after July 1, 2013, to require an average of 20 hours per week or more for a participating employer[-]; or

(iii) who is a person working on a contract:

(A) for the purposes of vocational rehabilitation and the employment and training of people with significant disabilities; and

(B) that has been set aside from procurement requirements by the state pursuant to Section

63G-6a-805 or the federal government pursuant to 41 U.S.C. Sec. 8501 et seq.

(6) "System" means the Public Employees' Contributory Retirement System created under this chapter.

(7) "Years of service credit" means:

(a) a period consisting of 12 full months as determined by the board;

(b) a period determined by the board, whether consecutive or not, during which a regular full-time employee performed services for a participating employer, including any time the regular full-time employee was absent on a paid leave of absence granted by a participating employer or was absent in the service of the United States government on military duty as provided by this chapter; or

(c) the regular school year consisting of not less than eight months of full-time service for a regular full-time employee of an educational institution.

Section 3. Section 49-13-102 is amended to read:

49-13-102. Definitions.

As used in this chapter:

(1) "Benefits normally provided" has the same meaning as defined in Section 49-12-102.

(2) (a) Except as provided in Subsection (2)(c), "compensation" means the total amount of payments made by a participating employer to a member of this system for services rendered to the participating employer, including:

(i) bonuses;

(ii) cost-of-living adjustments;

(iii) other payments currently includable in gross income and that are subject to social security deductions, including any payments in excess of the maximum amount subject to deduction under social security law; and

(iv) amounts that the member authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law.

(b) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code, Section 401(a)(17).

(c) "Compensation" does not include:

(i) the monetary value of remuneration paid in kind, including a residence or use of equipment;

(ii) the cost of any employment benefits paid for by the participating employer;

(iii) compensation paid to a temporary employee, an exempt employee, or an employee otherwise ineligible for service credit;

(iv) any payments upon termination, including accumulated vacation, sick leave payments, severance payments, compensatory time payments, or any other special payments; or

(v) any allowances or payments to a member for costs or expenses paid by the participating

employer, including automobile costs, uniform costs, travel costs, tuition costs, housing costs, insurance costs, equipment costs, and dependent care costs.

(d) The executive director may determine if a payment not listed under this Subsection (2) falls within the definition of compensation.

(3) "Final average salary" means the amount computed by averaging the highest three years of annual compensation preceding retirement subject to the following:

(a) Except as provided in Subsection (3)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(b) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection (3)(a) may be exceeded if:

(i) the member has transferred from another agency; or

(ii) the member has been promoted to a new position.

(c) If the member retires more than six months from the date of termination of employment and for purposes of computing the member's final average salary only, the member is considered to have been in service at the member's last rate of pay from the date of the termination of employment to the effective date of retirement.

(4) "Participating employer" means an employer which meets the participation requirements of Sections 49-13-201 and 49-13-202.

(5) (a) "Regular full-time employee" means an employee whose term of employment for a participating employer contemplates continued employment during a fiscal or calendar year and whose employment normally requires an average of 20 hours or more per week, except as modified by the board, and who receives benefits normally provided by the participating employer.

(b) "Regular full-time employee" includes:

(i) a teacher whose term of employment for a participating employer contemplates continued employment during a school year and who teaches half time or more;

(ii) a classified school employee:

(A) who is hired before July 1, 2013; and

(B) whose employment normally requires an average of 20 hours per week or more for a participating employer, regardless of benefits provided;

(iii) an officer, elective or appointive, who earns \$500 or more per month, indexed as of January 1, 1990, as provided in Section 49-13-407;

(iv) a faculty member or employee of an institution of higher education who is considered full time by that institution of higher education; and

(v) an individual who otherwise meets the definition of this Subsection (5) who performs services for a participating employer through a professional employer organization or similar arrangement.

(c) "Regular full-time employee" does not include a classified school employee:

(i) (A) who is hired on or after July 1, 2013; and

(B) who does not receive benefits normally provided by the participating employer even if the employment normally requires an average of 20 hours per week or more for a participating employer; [ø]

(ii) (A) who is hired before July 1, 2013;

(B) who did not qualify as a regular full-time employee before July 1, 2013;

(C) who does not receive benefits normally provided by the participating employer; and

(D) whose employment hours are increased on or after July 1, 2013, to require an average of 20 hours per week or more for a participating employer[-]; or

(iii) who is a person working on a contract:

(A) for the purposes of vocational rehabilitation and the employment and training of people with significant disabilities; and

(B) that has been set aside from procurement requirements by the state pursuant to Section 63G-6a-805 or the federal government pursuant to 41 U.S.C. Sec. 8501 et seq.

(6) "System" means the Public Employees' Noncontributory Retirement System.

(7) "Years of service credit" means:

(a) a period consisting of 12 full months as determined by the board;

(b) a period determined by the board, whether consecutive or not, during which a regular full-time employee performed services for a participating employer, including any time the regular full-time employee was absent on a paid leave of absence granted by a participating employer or was absent in the service of the United States government on military duty as provided by this chapter; or

(c) the regular school year consisting of not less than eight months of full-time service for a regular full-time employee of an educational institution.

Section 4. Section 49-22-102 is amended to read:

49-22-102. Definitions.

As used in this chapter:

(1) "Benefits normally provided" has the same meaning as defined in Section 49-12-102.

(2) (a) "Compensation" means, except as provided in Subsection (2)(c), the total amount of payments made by a participating employer to a member of this system for services rendered to the participating employer, including:

- (i) bonuses;
- (ii) cost-of-living adjustments;

(iii) other payments currently includable in gross income and that are subject to social security deductions, including any payments in excess of the maximum amount subject to deduction under social security law;

(iv) amounts that the member authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law; and

- (v) member contributions.

(b) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code, Section 401(a)(17).

(c) "Compensation" does not include:

(i) the monetary value of remuneration paid in kind, including a residence or use of equipment;

(ii) the cost of any employment benefits paid for by the participating employer;

(iii) compensation paid to a temporary employee or an employee otherwise ineligible for service credit;

(iv) any payments upon termination, including accumulated vacation, sick leave payments, severance payments, compensatory time payments, or any other special payments; or

(v) any allowances or payments to a member for costs or expenses paid by the participating employer, including automobile costs, uniform costs, travel costs, tuition costs, housing costs, insurance costs, equipment costs, and dependent care costs.

(d) The executive director may determine if a payment not listed under this Subsection (2) falls within the definition of compensation.

(3) "Corresponding Tier I system" means the system or plan that would have covered the member if the member had initially entered employment before July 1, 2011.

(4) "Final average salary" means the amount computed by averaging the highest five years of annual compensation preceding retirement subject to Subsections (4)(a), (b), (c), and (d).

(a) Except as provided in Subsection (4)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(b) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection (4)(a) may be exceeded if:

- (i) the member has transferred from another agency; or
- (ii) the member has been promoted to a new position.

(c) If the member retires more than six months from the date of termination of employment, the member is considered to have been in service at the member's last rate of pay from the date of the termination of employment to the effective date of retirement for purposes of computing the member's final average salary only.

(d) If the member has less than five years of service credit in this system, final average salary means the average annual compensation paid to the member during the full period of service credit.

(5) "Participating employer" means an employer which meets the participation requirements of:

- (a) Sections 49-12-201 and 49-12-202;
- (b) Sections 49-13-201 and 49-13-202;
- (c) Section 49-19-201; or
- (d) Section 49-22-201 or 49-22-202.

(6) (a) "Regular full-time employee" means an employee whose term of employment for a participating employer contemplates continued employment during a fiscal or calendar year and whose employment normally requires an average of 20 hours or more per week, except as modified by the board, and who receives benefits normally provided by the participating employer.

(b) "Regular full-time employee" includes:

(i) a teacher whose term of employment for a participating employer contemplates continued employment during a school year and who teaches half time or more;

(ii) a classified school employee:

(A) who is hired before July 1, 2013; and

(B) whose employment normally requires an average of 20 hours per week or more for a participating employer, regardless of benefits provided;

(iii) an appointive officer whose appointed position is full time as certified by the participating employer;

(iv) the governor, the lieutenant governor, the state auditor, the state treasurer, the attorney general, and a state legislator;

(v) an elected official not included under Subsection (6)(b)(iv) whose elected position is full time as certified by the participating employer;

(vi) a faculty member or employee of an institution of higher education who is considered full time by that institution of higher education; and

(vii) an individual who otherwise meets the definition of this Subsection (6) who performs

services for a participating employer through a professional employer organization or similar arrangement.

(c) "Regular full-time employee" does not include:

(i) a firefighter service employee as defined in Section 49-23-102;

(ii) a public safety service employee as defined in Section 49-23-102;

(iii) a classified school employee:

(A) who is hired on or after July 1, 2013; and

(B) who does not receive benefits normally provided by the participating employer even if the employment normally requires an average of 20 hours per week or more for a participating employer; [øø]

(iv) a classified school employee:

(A) who is hired before July 1, 2013;

(B) who did not qualify as a regular full-time employee before July 1, 2013;

(C) who does not receive benefits normally provided by the participating employer; and

(D) whose employment hours are increased on or after July 1, 2013, to require an average of 20 hours per week or more for a participating employer[-]; or

(E) who is a person working on a contract:

(I) for the purposes of vocational rehabilitation and the employment and training of people with significant disabilities; and

(II) that has been set aside from procurement requirements by the state pursuant to Section 63G-6a-805 or the federal government pursuant to 41 U.S.C. Sec. 8501 et seq.

(7) "System" means the New Public Employees' Tier II Contributory Retirement System created under this chapter.

(8) "Years of service credit" means:

(a) a period consisting of 12 full months as determined by the board;

(b) a period determined by the board, whether consecutive or not, during which a regular full-time employee performed services for a participating employer, including any time the regular full-time employee was absent on a paid leave of absence granted by a participating employer or was absent in the service of the United States government on military duty as provided by this chapter; or

(c) the regular school year consisting of not less than eight months of full-time service for a regular full-time employee of an educational institution.

Section 5. Effective date.

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional

time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) The amendments to Section 49-11-301 in this bill take effect on July 1, 2016.

CHAPTER 305**S. B. 220**

Passed March 10, 2016
 Approved March 25, 2016
 Effective May 10, 2016

**NON-JUDICIAL
 FORECLOSURE AMENDMENTS**

Chief Sponsor: Wayne A. Harper
 House Sponsor: R. Curt Webb

LONG TITLE**General Description:**

This bill amends, enacts, and repeals provisions related to non-judicial foreclosure.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to the appointment or resignation of a trustee;
- ▶ enacts provisions related to joinder of a trustee in a legal action against a beneficiary that does not involve the obligations of the trustee under the law or the trust deed;
- ▶ amends provisions related to notice of default;
- ▶ provides that a trustee in a trustee's sale may require a successful bidder to make a deposit;
- ▶ provides that a successful bidder in a trustee's sale who fails to pay the bid amount forfeits the bidder's deposit;
- ▶ provides that a trustee shall provide an unrecorded copy of a signed trustee's deed to a purchaser upon the purchaser's request;
- ▶ amends a provision limiting the time within which a person may bring a non-judicial foreclosure action;
- ▶ amends a provision related to notice of a foreclosure proceeding on a reverse mortgage; and
- ▶ repeals a provision related to notice to a trustor of intent not to defer notice of sale.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 57-1-22, as last amended by Laws of Utah 2013, Chapter 395
 57-1-26, as last amended by Laws of Utah 2002, Chapter 209
 57-1-27, as last amended by Laws of Utah 2001, Chapter 236
 57-1-28, as last amended by Laws of Utah 2010, Chapter 381
 57-1-34, as enacted by Laws of Utah 1961, Chapter 181
 57-28-304, as enacted by Laws of Utah 2015, Chapter 290

ENACTS:

57-1-22.1, Utah Code Annotated 1953

REPEALS:

57-1-24.5, as enacted by Laws of Utah 2011, Chapter 228

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 57-1-22 is amended to read:

57-1-22. Successor trustees -- Appointment by beneficiary -- Effect -- Substitution of trustee -- Recording -- Form.

(1) (a) The beneficiary may appoint a successor trustee at any time by filing an appointment of trustee or a substitution of trustee for record in the office of the county recorder of each county in which the trust property or ~~some~~ a part of the trust property is ~~situated, a substitution of trustee~~ located.

(b) The ~~new~~ trustee ~~shall succeed to all the~~ appointed under Subsection (1)(a) has the power, duties, authority, and title ~~of the trustee named~~ described in the deed of trust ~~and of any successor trustee~~.

(c) The beneficiary may, by express provision in the appointment of trustee or substitution of trustee, ratify and confirm an action taken on the beneficiary's behalf by the new trustee prior to the recording of the substitution of trustee.

(2) ~~[A]~~ An appointment of trustee or a substitution of trustee shall:

- (a) identify the trust deed by stating:
 - (i) the names of the original parties to the trust deed;
 - (ii) the date of recordation; and
 - (iii) (A) the book and page where the trust deed is recorded; or
 - (B) the entry number;
- (b) include the legal description of the trust property;
- (c) state the name and address of the new trustee; and

(d) be executed and acknowledged by all of the beneficiaries under the trust deed or their successors in interest.

(3) (a) If not previously recorded at the time of recording a notice of default, the successor trustee shall file for record, in the office of the county recorder of each county in which the trust property or some part of it is situated, the appointment of trustee or substitution of trustee.

(b) A copy of the appointment of trustee or the substitution of trustee shall be sent in the manner provided in Subsection 57-1-26(2) to any:

- (i) person who requests a copy of any notice of default or notice of sale under Subsection 57-1-26(1)(a); and
- (ii) person who is a party to the trust deed to whom a copy of a notice of default would be required to be mailed by Subsection 57-1-26(3).

(4) ~~[A]~~ An appointment of trustee or a substitution of trustee shall be in substantially the following form:

[Substitution of Trustee]
 [(insert name and address of new trustee)]
 "Appointment or Substitution of Trustee"
 _____ (name and address of
 appointed or substituted trustee)

is hereby appointed [successor] trustee under the trust deed executed by ___ as trustor, in which ___ is named beneficiary and ___ as trustee, and filed for record _____ (month\day\year), and recorded in Book ____, Page ____, Records of ____ County, (Utah or filed for record _____ (month\day\year), with recorder's entry No. ____, ____, County), Utah.

(Insert legal description)

Signature _____
 (Certificate of Acknowledgment)"

(5) (a) A trustee of a trust deed may, in accordance with this Subsection (5), resign as trustee by filing for record in the office of the recorder of each county in which the trust property is located, a resignation of trustee.

(b) A trustee's resignation under this Subsection (5) takes effect upon the recording of a resignation of trustee.

(c) A resignation of trustee shall be in substantially the following form:

"Resignation of Trustee

_____ ((Insert) insert name and address of resigned trustee) hereby resigns as trustee under the trust deed executed by (insert name of trustor) as trustor, in which (insert name of the beneficiary) is named beneficiary and (insert name of trustee) as trustee, and filed for record (insert the month, day, and year the trust deed was recorded), and recorded in Book ____, Page ____, Records of _____ County, [(Utah or with recorder's entry no. ____, _____ County)], Utah.

(Insert legal description)

Signature _____
 (Certificate of acknowledgment)"

(d) (i) Within three days after the day on which a trustee resigns under this Subsection (5), the trustee shall [deliver] provide written notice of the trustee's resignation to each party in any legal action pending against the trustee that is related to or arises from the trustee's performance of a duty of a trustee.

(ii) Except as provided in Subsection (5)(d)(iv), within 10 days after the day on which a party [receives] is provided a notice described in Subsection (5)(d)(i), the party may move the court to substitute the beneficiary of the trust deed as defendant in the action in the place of the trustee until a successor trustee is appointed. [~~When a successor trustee is appointed, the successor trustee shall be substituted as defendant in place of the beneficiary.~~]

(iii) Except as provided in Subsection (5)(d)(iv), if, after the expiration of the time described in Subsection (5)(d)(ii), a party does not move the court to substitute the beneficiary or the successor

trustee in place of the trustee as defendant, the court shall dismiss with prejudice all claims against the withdrawn trustee.

(iv) Subsection (5)(d)(ii) and (5)(d)(iii) do not apply to a cause of action against a trustee that alleges negligent or intentional misconduct by the withdrawn trustee.

(e) (i) The withdrawal of a trustee of a trust deed under this section does not affect the validity or the priority of the trust deed.

(ii) After a trustee withdraws under this part, only a qualified successor trustee appointed by the beneficiary under Section 57-1-22 may exercise trustee powers, including the power of sale.

Section 2. Section 57-1-22.1 is enacted to read:

57-1-22.1. Effect on trustee of a legal action involving a trust.

(1) A party in a legal action that involves a trust deed is not required to join the trustee as a party in the action unless the legal action pertains to a breach of the trustee's obligations under this chapter or under the trust deed.

(2) A trustee of a trust deed is required to act pursuant to a court order against the trust deed beneficiary to the extent the order requires an action that the trustee is authorized to take under this chapter or under the trust deed.

(3) If a party in a legal action that involves a trust deed joins the trustee in an action that does not pertain to the trustee's obligations under this chapter or under the trust deed, the court shall dismiss the action against the trustee and award the trustee reasonable attorney fees arising from the trustee being joined in the legal action.

Section 3. Section 57-1-26 is amended to read:

57-1-26. Requests for copies of notice of default and notice of sale -- Mailing by trustee or beneficiary -- Publication of notice of default -- Notice to parties of trust deed.

(1) (a) Any person desiring a copy of any notice of default and of any notice of sale under any trust deed shall file for record a duly acknowledged request for a copy of any notice of default and notice of sale:

(i) in the office of the county recorder of any county in which the trust property or any part of the trust property is situated; and

(ii) at any time:

(A) subsequent to the filing for record of the trust deed; and

(B) prior to the filing for record of a notice of default.

(b) Except as provided in Subsection (3), the request described in Subsection (1)(a) may not be included in any other recorded instrument.

(c) The request described in Subsection (1)(a) shall:

(i) set forth the name and address of the one or more persons requesting copies of the notice of default and the notice of sale; and

(ii) identify the trust deed by stating:

(A) the names of the original parties to the trust deed;

(B) the date of filing for record of the trust deed;

(C) (I) the book and page where the trust deed is recorded; or

(II) the recorder's entry number; and

(D) the legal description of the trust property.

(d) The request described in Subsection (1)(a) shall be in substantially the following form:

"REQUEST FOR NOTICE

The undersigned requests that a copy of any notice of default and a copy of notice of sale under the trust deed filed for record _____(month\day\year), and recorded in Book ____, Page ____, Records of ____ County, (or filed for record _____(month\day\year), with recorder's entry number ____, ____ County), Utah, executed by ____ and _____ as trustors, in which ____ is named as beneficiary and ____ as trustee, be mailed to ____ (insert name) ____ at ____ (insert address) _____.

(Insert legal description)

Signature _____

(Certificate of Acknowledgement)"

(e) If a request for a copy of a notice of default and notice of sale is filed for record under this section, the recorder shall index the request in:

(i) the mortgagor's index;

(ii) mortgagee's index; and

(iii) abstract record.

(f) Except as provided in Subsection (3), the trustee under any deed of trust is not required to send notice of default or notice of sale to any person not filing a request for notice as described in this Subsection (1).

(2) (a) Not later than 10 days after [recording of] the day on which a notice of default is recorded, the trustee or beneficiary shall mail a signed copy of the notice of default:

(i) by certified or registered mail, return receipt requested, with postage prepaid;

(ii) with the recording date shown;

(iii) addressed to each person whose name and address are set forth in a request that has been recorded prior to the filing for record of the notice of default; and

(iv) directed to the address designated in the request.

(b) At least 20 days before the date of sale, the trustee shall mail a signed copy of the notice of the time and place of sale:

(i) by certified or registered mail, return receipt requested, with postage prepaid;

(ii) addressed to each person whose name and address are set forth in a request that has been recorded prior to the filing for record of the notice of default; and

(iii) directed to the address designated in the request.

(3) (a) Any trust deed may contain a request that a copy of any notice of default and a copy of any notice of sale under the trust deed be mailed to any person who is a party to the trust deed at the address of the person set forth in the trust deed.

(b) A copy of any notice of default and of any notice of sale shall be mailed to any person requesting the notice who is a party to the trust deed at the same time and in the same manner required in Subsection (2) as though a separate request had been filed by each person as provided in Subsection (1) except that a trustee shall include with a signed copy of a notice of default and the signed copy of a notice of sale the following information current as of the time the notice of default and the notice of sale is provided:

(i) the name of the trustee;

(ii) the mailing address of the trustee;

(iii) if the trustee maintains a bona fide office in the state meeting the requirements of Subsection 57-1-21(1)(b), the address of a bona fide office of the trustee meeting the requirements of Subsection 57-1-21(1)(b);

(iv) the hours during which the trustee can be contacted regarding the notice of default and notice of sale, which hours shall include the period during regular business hours in a regular business day; and

(v) a telephone number that the person may use to contact the trustee during the hours described in Subsection (3)(b)(iv).

(4) If no address of the trustor is set forth in the trust deed and if no request for notice by the trustor has been recorded as provided in this section, no later than 15 days after the filing for record of the notice of default, a copy of the notice of default shall be:

(a) mailed to the address of the property described in the notice of default; or

(b) posted on the property.

(5) The following shall not affect the title to trust property or be considered notice to any person that any person requesting copies of notice of default or of notice of sale has or claims any right, title or interest in, or lien or claim upon, the trust property:

(a) a request for a copy of any notice filed for record under Subsection (1) or (3);

(b) any statement or allegation in any request described in Subsection (5)(a); or

(c) any record of a request described in Subsection (5)(a).

Section 4. Section 57-1-27 is amended to read:

57-1-27. Sale of trust property by public auction -- Postponement of sale.

(1) (a) On the date and at the time and place designated in the notice of sale, the trustee or the attorney for the trustee shall sell the property at public auction to the highest bidder.

(b) The trustee, or the attorney for the trustee, ~~may~~ shall conduct the sale and act as the auctioneer.

(c) The trustor, or the trustor's successor in interest, if present at the sale, may direct the order in which the trust property shall be sold, if the property consists of several known lots or parcels which can be sold separately.

(d) The trustee or attorney for the trustee shall follow ~~these~~ the trustor's directions described in Subsection (1)(c).

(e) Any person, including the beneficiary or trustee, may bid at the sale.

(f) The trustee may bid for the beneficiary. ~~Each~~

(g) A bid is considered an irrevocable offer.

(h) The trustee may, in the trustee's discretion, require a successful bidder to make a deposit in an amount set forth in the notice of trustee's sale described in Section 57-1-25.

(i) If the highest bidder refuses to pay the amount bid by the highest bidder for the property, the trustee, or the attorney for the trustee, shall either:

(1) renounce the sale in the same manner as notice of the original sale is required to be given; or

(2) sell the property to the next highest bidder.

~~(b) A bidder refusing~~ (j) If a bidder refuses to pay the bid price:

(i) the bidder is liable for any loss occasioned by the refusal, including interest, costs, and trustee's and reasonable ~~attorneys' fees. The~~ attorney fees;

(ii) the trustee or the attorney for the trustee may ~~thereafter~~, after the bidder's refusal, reject any other bid of that person for the property~~[-];~~

(iii) the bidder forfeits the bidder's deposit; and

(iv) the bidder's deposit is treated as additional sale proceeds applied in accordance with Section 57-1-29.

(2) (a) The person conducting the sale may, for any cause ~~he~~ that the person considers expedient, postpone the sale.

(b) The person conducting the sale shall give notice of each postponement by public declaration~~[-]~~, by ~~written notice or oral postponement~~, at the time and place last appointed for the sale.

(c) No ~~other~~ notice of the postponed sale in addition to the notice described in Subsection (2)(b) is required, unless the postponement ~~exceeds 45~~

~~days. In that event,~~ is for longer than 45 days after the date designated in the original notice of sale.

(d) If the person conducting the sale postpones a sale for longer than the time period described in Subsection (2)(c), the person conducting the sale shall ~~be renounced~~ renounce the sale in the same manner ~~[as]~~ required for the original notice of sale ~~[is required to be given]~~.

Section 5. Section 57-1-28 is amended to read:

57-1-28. Sale of trust property by trustee -- Payment of bid -- Trustee's deed delivered to purchaser -- Recitals -- Effect.

(1) (a) The purchaser at the sale shall pay the price bid as directed by the trustee.

(b) The beneficiary shall receive a credit on the beneficiary's bid in an amount not to exceed the amount representing:

(i) the unpaid principal owed;

(ii) accrued interest as of the date of the sale;

(iii) advances for the payment of:

(A) taxes;

(B) insurance; and

(C) maintenance and protection of the trust property;

(iv) the beneficiary's lien on the trust property; and

(v) costs of sale, including reasonable trustee's and attorney's fees.

(2) (a) (i) Within ~~three~~ five business days of the day the trustee receives payment of the price bid, the trustee shall ~~make the trustee's deed available to the purchaser~~;

(A) execute and submit the trustee's deed to the county recorder for recording; and

(B) upon the purchaser's request, provide an unrecorded copy of the signed trustee's deed to the purchaser.

(ii) If the trustee does not comply with this Subsection (2)(a), the trustee is liable for any loss incurred by the purchaser because of the trustee's failure to comply with this Subsection (2)(a).

(b) The trustee's deed may contain recitals of compliance with the requirements of Sections 57-1-19 through 57-1-36 relating to the exercise of the power of sale and sale of the property described in the trustee's deed, including recitals concerning:

(i) any mailing, personal delivery, and publication of the notice of default;

(ii) any mailing and the publication and posting of the notice of sale; and

(iii) the conduct of sale.

(c) The recitals described in Subsection (2)(b):

(i) constitute prima facie evidence of compliance with Sections 57-1-19 through 57-1-36; and

(ii) are conclusive evidence in favor of bona fide purchasers and encumbrancers for value and without notice.

(3) The trustee's deed shall operate to convey to the purchaser, without right of redemption, the trustee's title and all right, title, interest, and claim of the trustor and the trustor's successors in interest and of all persons claiming by, through, or under them, in and to the property sold, including all right, title, interest, and claim in and to the property acquired by the trustor or the trustor's successors in interest subsequent to the execution of the trust deed, which trustee's deed shall be considered effective and relate back to the time of the sale.

(4) In accordance with Section 57-3-106, an interest of a purchaser in a trustee's deed that is recorded with the county recorder may not be divested if a person records an affidavit or other document purporting to rescind or cancel the trustee's deed.

Section 6. Section 57-1-34 is amended to read:

57-1-34. Sale of trust property by trustee -- Foreclosure of trust deed -- Limitation of actions.

~~[The trustee's sale of property under a trust deed shall be made, or an action to foreclose a trust deed as provided by law for the foreclosure of mortgages on real property shall be commenced,] A person shall, within the period prescribed by law for the commencement of an action on [the] an obligation secured by [the] a trust deed[.];~~

(1) commence an action to foreclose the trust deed; or

(2) file for record a notice of default under Section 57-1-24.

Section 7. Section 57-28-304 is amended to read:

57-28-304. Foreclosure.

Before a person initiates foreclosure proceedings on a reverse mortgage, the person shall:

(1) [give] send the borrower, by certified mail, return receipt requested, written notice that states the grounds for default and foreclosure; and

(2) provide the borrower at least 30 days after the day on which the ~~[borrower receives]~~ person sends the notice described in Subsection (1) to cure the borrower's default.

Section 8. Repealer.

This bill repeals:

Section 57-1-24.5, Notice to trustor of intent not to defer notice of sale.

CHAPTER 306**S. B. 225**

Passed March 10, 2016
 Approved March 25, 2016
 Effective May 10, 2016

**NOTICE OF PENDENCY
OF ACTION AMENDMENTS**

Chief Sponsor: Todd Weiler
 House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill modifies provisions relating to the filing of a notice of pendency of action against real property.

Highlighted Provisions:

This bill:

- ▶ adds additional filing requirements;
- ▶ affirmatively prohibits filing a notice of pendency of action until the underlying action has been filed;
- ▶ adds additional standards for release of the notice when the underlying action is for specific performance;
- ▶ revises requirements relating to the contents of the notice;
- ▶ adds specific civil liability and damage provisions when a notice of pendency is improperly filed; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78B-6-1303, as enacted by Laws of Utah 2008, Chapter 3

78B-6-1304, as enacted by Laws of Utah 2008, Chapter 3

ENACTS:

78B-6-1304.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-6-1303 is amended to read:**78B-6-1303. Lis pendens -- Notice.**

(1) ~~Either~~ (a) Any party to an action ~~affected~~ filed in the United States District Court for the District of Utah, the United States Bankruptcy Court for the District of Utah, or a Utah district court that affects the title to, or the right of possession of, real property may file a notice of [the] pendency of [the] action [with the county recorder in the county where the property or any portion of the property is located].

(b) A party that chooses to file a notice of pendency of action shall:

(i) first, file the notice with the court that has jurisdiction of the action; and

(ii) second, record a copy of the notice filed with the court with the county recorder in the county where the property or any portion of the property is located.

(c) A person may not file a notice of pendency of action unless a case has been filed and is pending in a United States or Utah district court.

(2) The notice shall contain:

(a) the caption of the case, with the names of the parties and the case number;

(b) the object of the action or defense; and

(c) [a] the specific legal description of only the property affected [in that county].

(3) From the time of filing the notice, a purchaser [or], an encumbrancer of the property [who], or any other party in interest that may be affected by the action is considered to have constructive notice of [the] pendency of [the] action.

Section 2. Section 78B-6-1304 is amended to read:**78B-6-1304. Motions related to a notice of pendency of an action.**

(1) Any time after a notice has been [recorded] filed pursuant to Section 78B-6-1303, any of the following may make a motion to the court in which the action is pending to release the notice:

(a) a party to the action; or

(b) a person with an interest in the real property affected by the notice, including a prospective purchaser with an executed purchase contract.

(2) A court shall order [a] notice of pendency of action released if:

(a) the court receives a motion to release under Subsection (1); and

(b) after a notice and hearing if determined to be necessary by the court, the court finds that the claimant has not established by a preponderance of the evidence the [probable] validity of the real property claim that is the subject of the notice.

(3) In deciding a motion under Subsection (2), if the underlying action for which a notice of pendency of action is filed is an action for specific performance, a court shall order a notice released if:

(a) the court finds that the party filing the action has failed to satisfy the statute of frauds for the transaction under which the claim is asserted relating to the real property; or

(b) the court finds that the elements necessary to require specific performance have not been established by a preponderance of the evidence.

~~(3)~~ (4) If a court releases a claimant's notice pursuant to this section, [the] that claimant may not record another notice with respect to the same property without [approval of] an order from the court in which the action is pending that authorizes the recording of a new notice of pendency.

~~(4)~~ (5) Upon a motion by any person with an interest in the real property that is the subject of a

notice of pendency, a court may, at anytime after the notice has been recorded, require, as a condition of maintaining the notice, that the claimant ~~[to give]~~ provide security to the moving party ~~[a guarantee as a condition of maintaining the notice: (a) any time after a notice has been recorded; and (b)]~~ in the amount and form directed by the court, regardless of whether the court has received an application to release under Subsection (1).

~~[(5)]~~ (6) A person who receives ~~[a guarantee]~~ security under Subsection ~~[(4)]~~ (5) may recover from the surety an amount not to exceed the amount of the ~~[guarantee]~~ security upon a showing that:

(a) the claimant did not prevail on the real property claim; and

(b) the person ~~[seeking the guarantee]~~ receiving the security suffered damages as a result of the maintenance of the notice.

(7) The amount of security required by the court under Subsection (5) does not establish or limit the amount of damages or reasonable attorney fees and costs that may be awarded to a party who is found to have been damaged by a wrongfully filed notice of pendency.

~~[(6)]~~ (8) A court shall award costs and attorney fees to a prevailing party on any motion under this section unless the court finds that:

(a) the nonprevailing party acted with substantial justification; or

(b) other circumstances make the imposition of attorney fees and costs unjust.

Section 3. Section 78B-6-1304.5 is enacted to read:

78B-6-1304.5. Civil liability for recording wrongful notice of pendency -- Damages.

A person is liable to the record owner of real property, or to a person with a leasehold interest in the real property that is damaged by the maintenance of a notice of pendency, for \$10,000 or for treble actual damages, whichever is greater, and for reasonable attorney fees and costs, if the person records or causes to be recorded a notice of pendency against the real property, knowing or having reason to know that:

(1) legal action against the property has not been filed as required by Section 78B-6-1303;

(2) the notice is groundless;

(3) the notice fails to comply with the notice requirements of Subsection 78B-6-1303(2); or

(4) the notice contains an intentional material misstatement or false claim.

CHAPTER 307**S. B. 228**

Passed March 10, 2016
 Approved March 25, 2016
 Effective May 10, 2016

MULTICOUNTY ASSESSING AND COLLECTING LEVY AMENDMENTS

Chief Sponsor: Howard A. Stephenson
 House Sponsor: John Knotwell

LONG TITLE**General Description:**

This bill adds an authorized use for revenue generated from the multicounty assessing and collecting levy.

Highlighted Provisions:

This bill:

- ▶ provides for an additional authorized use of the revenue generated from the multicounty assessing and collecting levy that is allocated to the Multicounty Appraisal Trust.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

59-2-1606, as last amended by Laws of Utah 2014, Chapter 270

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-1606 is amended to read:**59-2-1606. CAMA system funding for counties -- Disbursements to the Multicounty Appraisal Trust -- Use of funds.**

(1) As used in this section, "CAMA" means computer assisted mass appraisal.

(2) (a) The funds deposited into the Multicounty Appraisal Trust in accordance with Section 59-2-1602 shall be used to provide funding for a statewide CAMA system that will promote:

- (i) the accurate valuation of property;
- (ii) the establishment and maintenance of uniform assessment levels among counties within the state; ~~and~~
- (iii) efficient administration of the property tax system, including the costs of assessment, collection, and distribution of property taxes~~;~~; and
- (iv) the uniform filing of a signed statement a county assessor requests under Section 59-2-306, including implementation of a statewide electronic filing system.

(b) The trustee of the Multicounty Appraisal Trust shall:

- (i) determine which projects [shall be funded] to fund; and

- (ii) oversee the administration of a statewide CAMA system.

CHAPTER 308**S. B. 245**

Passed March 9, 2016

Approved March 25, 2016

Effective January 1, 2017

PERSONAL PROPERTY AMENDMENTS

Chief Sponsor: Deidre M. Henderson

House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill amends the Property Tax Act.

Highlighted Provisions:

This bill:

- ▶ amends the description of personal property to include a pipe laid in or affixed to land where ownership of the pipe is separate from the ownership of the underlying land; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

59-2-102, as last amended by Laws of Utah 2015, Chapters 133, 198, and 287

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 59-2-102 is amended to read:****59-2-102. Definitions.**

As used in this chapter and title:

(1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness certificate from the Federal Aviation Administration certifying the aircraft or rotorcraft's use for agricultural and pest control purposes.

(2) "Air charter service" means an air carrier operation ~~which~~ that requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

(3) "Air contract service" means an air carrier operation available only to customers ~~who~~ that engage the services of the carrier through a contractual agreement and excess capacity on any trip and is not available to the public at large.

(4) "Aircraft" ~~is as~~ means the same as that term is defined in Section 72-10-102.

(5) (a) Except as provided in Subsection (5)(b), "airline" means an air carrier that:

- (i) operates:
 - (A) on an interstate route; and
 - (B) on a scheduled basis; and

(ii) offers to fly one or more passengers or cargo on the basis of available capacity on a regularly scheduled route.

(b) "Airline" does not include an:

- (i) air charter service; or
- (ii) air contract service.

(6) "Assessment roll" means a permanent record of the assessment of property as assessed by the county assessor and the commission and may be maintained manually or as a computerized file as a consolidated record or as multiple records by type, classification, or categories.

(7) (a) "Certified revenue levy" means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:

(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a school minimum basic tax rate, as specified in Section 53A-17a-135, or multicounty assessing and collecting levy, as specified in Section 59-2-1602; and

(ii) the product of:

(A) new growth, as defined in ~~[-(F)]~~ Section 59-2-924 ~~[-and (H)]~~ and rules of the commission; and

(B) the school minimum basic tax rate or multicounty assessing and collecting levy certified by the commission for the previous year.

(b) For purposes of this Subsection (7), "ad valorem property tax revenue" does not include property tax revenue received by a taxing entity from personal property that is:

(i) assessed by a county assessor in accordance with Part 3, County Assessment; and

(ii) semiconductor manufacturing equipment.

(c) For purposes of calculating the certified revenue levy described in this Subsection (7), the commission shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

(ii) the taxable value of real and personal property assessed by the commission; and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.

(8) "County-assessed commercial vehicle" means:

(a) any commercial vehicle, trailer, or semitrailer ~~which~~ that is not apportioned under Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise;

(b) any passenger vehicle owned by a business and used by its employees for transportation as a company car or vanpool vehicle; and

(c) vehicles that are:

(i) especially constructed for towing or wrecking, and that are not otherwise used to transport goods, merchandise, or people for compensation;

(ii) used or licensed as taxicabs or limousines;

(iii) used as rental passenger cars, travel trailers, or motor homes;

(iv) used or licensed in this state for use as ambulances or hearses;

(v) especially designed and used for garbage and rubbish collection; or

(vi) used exclusively to transport students or their instructors to or from any private, public, or religious school or school activities.

(9) (a) Except as provided in Subsection (9)(b), for purposes of Section 59-2-801, “designated tax area” means a tax area created by the overlapping boundaries of only the following taxing entities:

(i) a county; and

(ii) a school district.

(b) ~~[Notwithstanding Subsection (9)(a), “designated”]~~ “Designated tax area” includes a tax area created by the overlapping boundaries of the taxing entities described in Subsection (9)(a) and:

~~[(i) the taxing entities described in Subsection (9)(a); and]~~

~~[(ii)-(A)]~~ (i) a city or town if the boundaries of the school district under Subsection (9)(a) and the boundaries of the city or town are identical; or

~~[(B)]~~ (ii) a special service district if the boundaries of the school district under Subsection (9)(a) are located entirely within the special service district.

(10) “Eligible judgment” means a final and unappealable judgment or order under Section 59-2-1330:

(a) that became a final and unappealable judgment or order no more than 14 months ~~[prior to]~~ before the day on which the notice ~~[required by]~~ described in Section 59-2-919.1 is required to be mailed; and

(b) for which a taxing entity’s share of the final and unappealable judgment or order is greater than or equal to the lesser of:

(i) \$5,000; or

(ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year.

(11) (a) “Escaped property” means any property, whether personal, land, or any improvements to the property, that is subject to taxation and is:

(i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed to the wrong taxpayer by the assessing authority;

(ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to comply with the reporting requirements of this chapter; or

(iii) undervalued because of errors made by the assessing authority based upon incomplete or erroneous information furnished by the taxpayer.

(b) ~~[Property]~~ “Escaped property” does not include property that is undervalued because of the use of a different valuation methodology or because of a different application of the same valuation methodology ~~[is not “escaped property.”]~~

(12) “Fair market value” means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. For purposes of taxation, “fair market value” shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.

(13) (a) “Farm machinery and equipment,” for purposes of the exemption provided under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and cubers, and any other machinery or equipment used primarily for agricultural purposes~~;~~ ~~but~~.

(b) “Farm machinery and equipment” does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other equipment used for business purposes other than farming.

(14) “Geothermal fluid” means water in any form at temperatures greater than 120 degrees centigrade naturally present in a geothermal system.

(15) “Geothermal resource” means:

(a) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and

(b) the energy, in whatever form, including pressure, present in, resulting from, created by, or which may be extracted from that natural heat, directly or through a material medium.

(16) (a) “Goodwill” means:

(i) acquired goodwill that is reported as goodwill on the books and records~~;~~ that a taxpayer maintains for financial reporting purposes; or

~~[(A) of a taxpayer; and]~~

~~[(B) that are maintained for financial reporting purposes; or]~~

(ii) the ability of a business to:

(A) generate income~~;~~ ~~[(B)]~~ that exceeds a normal rate of return on assets~~;~~ and ~~[(C) resulting]~~ and that results from a factor described in Subsection (16)(b); or

(B) obtain an economic or competitive advantage resulting from a factor described in Subsection (16)(b).

(b) The following factors apply to Subsection (16)(a)(ii):

- (i) superior management skills;
- (ii) reputation;
- (iii) customer relationships;
- (iv) patronage; or
- (v) a factor similar to Subsections (16)(b)(i) through (iv).

(c) "Goodwill" does not include:

(i) the intangible property described in Subsection (20)(a) or (b);

(ii) locational attributes of real property, including:

- (A) zoning;
- (B) location;
- (C) view;
- (D) a geographic feature;
- (E) an easement;
- (F) a covenant;
- (G) proximity to raw materials;
- (H) the condition of surrounding property; or
- (I) proximity to markets;

(iii) value attributable to the identification of an improvement to real property, including:

(A) reputation of the designer, builder, or architect of the improvement;

(B) a name given to, or associated with, the improvement; or

(C) the historic significance of an improvement; or

(iv) the enhancement or assemblage value specifically attributable to the interrelation of the existing tangible property in place working together as a unit.

(17) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, the local district's board of trustees;

(c) for a school district, the local board of education; or

(d) for a special service district under Title 17D, Chapter 1, Special Service District Act:

(i) the legislative body of the county or municipality that created the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board established under Section 17D-1-301; or

(ii) the administrative control board, to the extent that the county or municipal legislative body has delegated authority to an administrative control board established under Section 17D-1-301.

(18) (a) For purposes of Section 59-2-103:

(i) "household" means the association of ~~persons~~ individuals who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses; and

(ii) "household" includes married individuals, who are not legally separated, that have established domiciles at separate locations within the state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "domicile."

(19) (a) Except as provided in Subsection (19)(c), "improvement" means a building, structure, fixture, fence, or other item that is permanently attached to land, regardless of whether the title has been acquired to the land, if:

(i) (A) attachment to land is essential to the operation or use of the item; and

(B) the manner of attachment to land suggests that the item will remain attached to the land in the same place over the useful life of the item; or

(ii) removal of the item would:

(A) cause substantial damage to the item; or

(B) require substantial alteration or repair of a structure to which the item is attached.

(b) "Improvement" includes:

(i) an accessory to an item described in Subsection (19)(a) if the accessory is:

(A) essential to the operation of the item described in Subsection (19)(a); and

(B) installed solely to serve the operation of the item described in Subsection (19)(a); and

(ii) an item described in Subsection (19)(a) that ~~is~~ ~~(A)~~ is temporarily detached from the land for repairs ~~and (B)~~ and remains located on the land.

(c) ~~Notwithstanding Subsections (19)(a) and (b), "improvement"~~ "Improvement" does not include:

(i) an item considered to be personal property pursuant to rules made in accordance with Section 59-2-107;

(ii) a moveable item that is attached to land ~~(A)~~ for stability only ~~(B)~~ or for an obvious temporary purpose;

(iii) (A) manufacturing equipment and machinery; or

(B) essential accessories to manufacturing equipment and machinery;

(iv) an item attached to the land in a manner that facilitates removal without substantial damage to ~~(A)~~ the land ~~(B)~~ or the item; or

(v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that transportable factory-built housing unit is considered to be personal property under Section 59-2-1503.

(20) "Intangible property" means:

(a) property that is capable of private ownership separate from tangible property, including:

- (i) money;
 - (ii) credits;
 - (iii) bonds;
 - (iv) stocks;
 - (v) representative property;
 - (vi) franchises;
 - (vii) licenses;
 - (viii) trade names;
 - (ix) copyrights; and
 - (x) patents;
- (b) a low-income housing tax credit;
- (c) goodwill; or

(d) a renewable energy tax credit or incentive, including:

(i) a federal renewable energy production tax credit under Section 45, Internal Revenue Code;

(ii) a federal energy credit for qualified renewable electricity production facilities under Section 48, Internal Revenue Code;

(iii) a federal grant for a renewable energy property under American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and

(iv) a tax credit under Subsection 59-7-614(5).

(21) "Livestock" means:

- (a) a domestic animal;
- (b) a fish;
- (c) a fur-bearing animal;
- (d) a honeybee; or
- (e) poultry.

(22) "Low-income housing tax credit" means:

(a) a federal low-income housing tax credit under Section 42, Internal Revenue Code; or

(b) a low-income housing tax credit under ~~[(i)]~~ Section 59-7-607~~;~~ ~~or~~ ~~(ii)]~~ or Section 59-10-1010.

(23) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

(24) "Mine" means a natural deposit of either metalliferous or nonmetalliferous valuable mineral.

(25) "Mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a mine.

(26) (a) "Mobile flight equipment" means tangible personal property that ~~[is: (i)]~~ is owned or operated by an~~[-(A)]~~ air charter service~~[-(B)]~~, air contract service~~[-(C)]~~, or ~~[(C)]~~ airline~~[-(D)]~~ and:

~~[(ii) (A)]~~ (i) is capable of flight~~[-(B)]~~ or is attached to an aircraft that is capable of flight; or

~~[(C)]~~ (ii) is contained in an aircraft that is capable of flight if the tangible personal property is intended to be used:

~~[(D)]~~ (A) during multiple flights;

~~[(D)]~~ (B) during a takeoff, flight, or landing; and

~~[(D)]~~ (C) as a service provided by an air charter service, air contract service, or airline.

(b) (i) "Mobile flight equipment" does not include a spare part other than a spare engine that is rotated~~[-(A)]~~ at regular intervals~~[-(B)]~~ with an engine that is attached to the aircraft.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "regular intervals."

(27) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts, sand, rock, gravel, and all carboniferous materials.

(28) "Part-year residential property" means property that is not residential property on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.

(29) "Personal property" includes:

(a) every class of property as defined in Subsection (30) that is the subject of ownership and ~~[not included within the meaning of the terms "real estate" and "improvements";]~~ is not real estate or an improvement;

~~[(b) gas and water mains and pipes laid in roads, streets, or alleys;]~~

(b) any pipe laid in or affixed to land whether or not the ownership of the pipe is separate from the ownership of the underlying land, even if the pipe meets the definition of an improvement;

(c) bridges and ferries;

(d) livestock; and

(e) outdoor advertising structures as defined in Section 72-7-502.

(30) (a) "Property" means property that is subject to assessment and taxation according to its value.

(b) "Property" does not include intangible property as defined in this section.

(31) "Public utility~~[-(A)]~~" means:

(a) for purposes of this chapter, [means] the operating property of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation,

telephone corporation, sewerage corporation, or heat corporation where the company performs the service for, or delivers the commodity to, the public generally or companies serving the public generally, or in the case of a gas corporation or an electrical corporation, where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use[. ~~Public utility also means~~]; and

(b) the operating property of any entity or person defined under Section 54-2-1 except water corporations.

(32) (a) Subject to Subsection (32)(b), “qualifying exempt primary residential rental personal property” means household furnishings, furniture, and equipment that:

(i) are used exclusively within a dwelling unit that is the primary residence of a tenant;

(ii) are owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(iii) after applying the residential exemption described in Section 59-2-103, are exempt from taxation under this chapter in accordance with Subsection 59-2-1115(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “dwelling unit” for purposes of this Subsection (32) and Subsection (35).

(33) “Real estate” or “real property” includes:

(a) the possession of, claim to, ownership of, or right to the possession of land;

(b) all mines, minerals, and quarries in and under the land, all timber belonging to individuals or corporations growing or being on the lands of this state or the United States, and all rights and privileges appertaining to these; and

(c) improvements.

(34) (a) “Relationship with an owner of the property’s land surface rights” means a relationship described in Subsection 267(b), Internal Revenue Code[;], except that the term 25% shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code.

~~[(a) except that notwithstanding Subsection 267(b), Internal Revenue Code, the term 25% shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code; and]~~

~~[(b) using the ownership rules of Subsection 267(e), Internal Revenue Code, for determining the ownership of stock.]~~

(b) For purposes of determining if a relationship described in Subsection 267(b), Internal Revenue Code, exists, the ownership of stock shall be determined using the ownership rules in Subsection 267(c), Internal Revenue Code.

(35) (a) Subject to Subsection (35)(b), “residential property,” for [the] purposes of the reductions and

adjustments under this chapter, means any property used for residential purposes as a primary residence.

(b) Subject to Subsection (35)(c), “residential property”:

(i) except as provided in Subsection (35)(b)(ii), includes household furnishings, furniture, and equipment if the household furnishings, furniture, and equipment are:

(A) used exclusively within a dwelling unit that is the primary residence of a tenant; and

(B) owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(ii) does not include property used for transient residential use.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “dwelling unit” for purposes of Subsection (32) and this Subsection (35).

(36) “Split estate mineral rights owner” means a person [who] that:

(a) has a legal right to extract a mineral from property;

(b) does not hold more than a 25% interest in:

(i) the land surface rights of the property where the wellhead is located; or

(ii) an entity with an ownership interest in the land surface rights of the property where the wellhead is located;

(c) is not an entity in which the owner of the land surface rights of the property where the wellhead is located holds more than a 25% interest; and

(d) does not have a relationship with an owner of the land surface rights of the property where the wellhead is located.

(37) (a) “State-assessed commercial vehicle” means:

(i) any commercial vehicle, trailer, or semitrailer [which] that operates interstate or intrastate to transport passengers, freight, merchandise, or other property for hire; or

(ii) any commercial vehicle, trailer, or semitrailer [which] that operates interstate and transports the vehicle owner’s goods or property in furtherance of the owner’s commercial enterprise.

(b) “State-assessed commercial vehicle” does not include vehicles used for hire [which] that are specified in Subsection (8)(c) as county-assessed commercial vehicles.

(38) “Taxable value” means fair market value less any applicable reduction allowed for residential property under Section 59-2-103.

(39) “Tax area” means a geographic area created by the overlapping boundaries of one or more taxing entities.

(40) “Taxing entity” means any county, city, town, school district, special taxing district, local

district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or other political subdivision of the state with the authority to levy a tax on property.

(41) (a) “Tax roll” means a permanent record of the taxes charged on property, as extended on the assessment roll, and may be maintained on the same record or records as the assessment roll or may be maintained on a separate record properly indexed to the assessment roll. [~~I~~]

(b) “Tax roll” includes tax books, tax lists, and other similar materials.

Section 2. Effective date.

This bill takes effect on January 1, 2017.

CHAPTER 309**S. B. 251**

Passed March 10, 2016
 Approved March 25, 2016
 Effective May 10, 2016

**WATER INFRASTRUCTURE
 FUNDING AMENDMENTS**

Chief Sponsor: J. Stuart Adams
 House Sponsor: Timothy D. Hawkes

LONG TITLE**General Description:**

This bill modifies the duties of the Board of Water Resources, the Division of Water Resources, and the State Water Development Commission.

Highlighted Provisions:

This bill:

- ▶ requires the Board of Water Resources and the Division of Water Resources, in conjunction with the State Water Development Commission, when making rules regarding the funding of a water infrastructure project, to:
 - establish criteria for better water data and data reporting;
 - establish new conservation targets;
 - institute a process for the independent verification of water data and a proposed project;
 - invite public involvement; and
 - set appropriate financing and repayment terms;
- ▶ requires a report, no later than October 30, 2016, to the Natural Resources, Agriculture, and Environment Interim Committee and the Legislative Management Committee;
- ▶ modifies the membership of the State Water Development Commission; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2016-2017:

- ▶ to the Division of Water Resources, as a one-time appropriation:
 - from the Water Infrastructure Restricted Account, \$1,000,000, to fulfill the duties described in Section 73-10g-105.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

73-10g-104, as enacted by Laws of Utah 2015, Chapter 458
 73-10g-105, as enacted by Laws of Utah 2015, Chapter 458
 73-27-102, as last amended by Laws of Utah 2014, Chapter 387
 73-27-103, as enacted by Laws of Utah 2000, Chapter 124

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 73-10g-104 is amended to read:**73-10g-104. Authorized use of the Water Infrastructure Restricted Account.**

Money in the restricted account is to be used for:

(1) the development of the state's undeveloped share of the Bear and Colorado [~~Rivers~~] rivers, pursuant to existing interstate compacts governing both rivers as described in [~~Title 73,~~] Chapter 26, Bear River Development Act, and Chapter 28, Lake Powell Pipeline Development Act; [~~and~~]

(2) repair, replacement, or improvement of federal water projects for local sponsors in the state of Utah when federal funds are not available[.]; and

(3) study and development of rules, criteria, targets, processes, and plans, as described in Subsection 73-10g-105(3).

Section 2. Section 73-10g-105 is amended to read:**73-10g-105. Loans -- Rulemaking.**

(1) (a) The division and the board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in preparation to make loans from available funds to repair, replace, or improve underfunded federal water infrastructure projects.

(b) Subject to Chapter 26, Bear River Development Act, and Chapter 28, Lake Powell Pipeline Development Act, the division and the board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in preparation to make loans from available funds to develop the state's undeveloped share of the Bear and Colorado rivers.

(2) The rules described in Subsection (1) shall:

(a) specify the amount of money that may be loaned;

(b) specify the criteria the division and the board shall consider in prioritizing and awarding loans;

(c) specify the minimum qualifications for an individual who, or entity that, receives a loan, including the amount of cost-sharing to be the responsibility of the individual or entity applying for a loan;

(d) specify the terms of the loan, including the terms of repayment; and

(e) require all applicants for a loan to apply on forms provided by the division and in a manner required by the division.

(3) The division and the board shall, in making the rules described in Subsection (1) and in consultation with the State Water Development Commission created in Section 73-27-102:

(a) establish criteria for better water data and data reporting;

(b) establish new conservation targets based on the data described in Subsection (3)(a);

(c) institute a process for the independent verification of the data described in Subsection (3)(a);

(d) establish a plan for an independent review of:

(i) the proposed construction plan for an applicant's qualifying water infrastructure project; and

(ii) the applicant's plan to repay the loan for the construction of the proposed water infrastructure project;

(e) invite and recommend public involvement; and

(f) set appropriate financing and repayment terms.

(4) (a) The division, board, and State Water Development Commission shall, no later than October 30, 2016, report to the Natural Resources, Agriculture, and Environment Interim Committee and Legislative Management Committee on the rules established pursuant to Subsections (1) and (3).

(b) After October 30, 2016, the division and the board shall provide regular updates to the Legislative Management Committee on the progress made under this section, including whether the division and board intend to issue a request for proposals.

Section 3. Section 73-27-102 is amended to read:

73-27-102. State Water Development Commission created.

(1) The State Water Development Commission is created to determine the state's role in the protection, conservation, and development of the state's water resources.

(2) The commission membership shall include:

(a) five members of the Senate, appointed by the president of the Senate, no more than four of whom may be from the same political party;

(b) eight members of the House of Representatives, appointed by the speaker of the House of Representatives, no more than six of whom may be from the same political party; ~~and~~

(c) the state treasurer, who shall be a nonvoting member; and

~~[(e)]~~ (d) the following nonvoting members, appointed by the governor:

(i) ~~[a representative]~~ two representatives of the Office of the Governor, including one representative from the Governor's Office of Management and Budget;

(ii) a representative of the Green River District;

(iii) a representative of the Upper Colorado River District;

(iv) a representative of the Lower Colorado River District;

(v) a representative of the Lower Sevier River District;

(vi) a representative of the Upper Sevier River District;

(vii) a representative of the Provo River District;

(viii) a representative of the Salt Lake District;

(ix) a representative of the Weber River District;

(x) a representative of the Bear River District;

(xi) the executive director of the Department of Natural Resources;

(xii) the executive director of the Department of Environmental Quality;

(xiii) the commissioner of agriculture and food;

(xiv) a member of the Board of Water Resources;

(xv) a representative of an organized environmental group; ~~and~~

(xvi) a representative of agricultural production~~[-]; and~~

(xvii) a representative with experience in finance and economics.

(3) (a) Except as required by Subsection (3)(b), the members appointed by the governor under Subsection (2)~~[(e)]~~(d) shall be appointed or reappointed to a four-year term.

(b) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the nonvoting members of the commission are appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement for the unexpired term.

(4) The president of the Senate and the speaker of the House of Representatives shall, to the extent possible, appoint members under Subsections (2)(a) and (b) that represent both rural and urban areas of the state.

(5) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a) as a cochair of the commission.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)(b) as a cochair of the commission.

(6) Attendance by at least 50% of one legislative house and more than 50% of the other legislative house constitutes a quorum.

(7) (a) Compensation and expenses of a member of the commission who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(b) Commission members who are employees of the state shall receive no additional compensation.

(c) Other commission members shall receive no compensation or expenses for their service on the commission.

(8) The Office of Legislative Research and General Counsel shall provide staff support to the commission.

Section 4. Section 73-27-103 is amended to read:

73-27-103. Duties of commission.

(1) The commission shall consider and make recommendations to the Legislature and governor on the following issues:

(1) (a) how the water needs of the state's growing municipal and industrial sectors will be met;

(2) (b) what the impact of federal regulations and legislation will be on the ability of the state to manage and develop its compacted water rights;

(3) (c) how the state will fund water projects;

(4) (d) whether the state should become an owner and operator of water projects;

(5) (e) how the state will encourage the implementation of water conservation programs; and

(6) (f) other water issues of statewide importance.

(2) The commission shall:

(a) consult with the Division of Water Resources and the Board of Water Resources regarding:

(i) recommendations for rules, criteria, targets, processes, and plans described in Subsection 73-10g-105(3); and

(ii) the scope of any request for proposals that may be issued by the Division of Water Resources and Board of Water Resources to assist in creating the rules, criteria, targets, processes, and plans described in Subsection 73-10g-105(3); and

(b) report the recommendations described in Subsection (2)(a) to the Natural Resources, Agriculture, and Environment Interim Committee and the Legislative Management Committee by October 30, 2016.

(3) The commission may form one or more working groups from the membership of the commission to consider and study the issues described in this section.

Section 5. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or amounts indicated. These sums of money are in addition to amounts previously appropriated for fiscal year 2017.

To Department of Natural Resources - Division of Water Resources

From Water Infrastructure Restricted Account, one-time \$1,000,000

Schedule of Programs:

Administration \$1,000,000

The Legislature intends that the appropriation of \$1,000,000 to the Division of Water Resources be used by the division, in cooperation and consultation with the Board of Water Resources and the State Water Development Commission, in fulfilling the division's responsibilities under Section 73-10g-105, including the possibility of issuing a request for proposals, in accordance with Title 63G, Chapter 6a, Utah Procurement Code. The Legislature intends that, before the division issues a request for proposals, the division shall consult with and seek the input of the Legislative Management Committee. Under the terms of Subsection 63J-1-603(3)(a), the Legislature intends that the appropriation provided in this bill not lapse at the close of fiscal year 2017. The use of any nonlapsing funds is limited to fulfilling the duties described in Section 73-10g-105, with the Division of Water Resources and the Board of Water Resources providing the Legislative Management Committee with regular updates on how the money is being spent.

CHAPTER 310**H. B. 51**

Passed March 9, 2016
 Approved March 28, 2016
 Effective May 10, 2016

RECODIFICATION OF POSTRETIREMENT REEMPLOYMENT PROVISIONS

Chief Sponsor: Kraig Powell
 Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending postretirement reemployment provisions.

Highlighted Provisions:

This bill:

- ▶ recodifies postretirement employment provisions;
- ▶ clarifies amortization rate payments for certain reemployed retirees; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

49-11-102, as last amended by Laws of Utah 2014, Chapter 15
 49-11-405, as last amended by Laws of Utah 2010, Chapter 264
 49-11-504, as last amended by Laws of Utah 2013, Chapter 316
 49-12-401, as last amended by Laws of Utah 2015, Chapter 256
 49-12-701, as last amended by Laws of Utah 2010, Chapter 264
 49-13-401, as last amended by Laws of Utah 2015, Chapter 256
 49-13-701, as last amended by Laws of Utah 2010, Chapter 264
 49-14-401, as last amended by Laws of Utah 2015, Chapter 256
 49-15-401, as last amended by Laws of Utah 2015, Chapter 256
 49-16-203, as last amended by Laws of Utah 2010, Chapter 264
 49-16-401, as last amended by Laws of Utah 2015, Chapter 256
 49-22-304, as last amended by Laws of Utah 2015, Chapter 256
 49-23-303, as last amended by Laws of Utah 2015, Chapter 256
 67-19-43, as last amended by Laws of Utah 2015, Chapter 248

ENACTS:

49-11-1201, Utah Code Annotated 1953
 49-11-1202, Utah Code Annotated 1953
 49-11-1203, Utah Code Annotated 1953
 49-11-1204, Utah Code Annotated 1953
 49-11-1205, Utah Code Annotated 1953
 49-11-1206, Utah Code Annotated 1953

49-11-1207, Utah Code Annotated 1953
 49-11-1208, Utah Code Annotated 1953

REPEALS:

49-11-505, as last amended by Laws of Utah 2015, Chapters 243 and 256

Utah Code Sections Affected by Coordination Clause:

49-11-1202, Utah Code Annotated 1953
 49-11-1206, Utah Code Annotated 1953
 49-11-1302, Utah Code Annotated 1953
 49-11-1306, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 49-11-102 is amended to read:**49-11-102. Definitions.**

As used in this title:

- (1) (a) "Active member" means a member who:
 - (i) is employed by a participating employer and accruing service credit; or
 - (ii) within the previous 120 days:
 - (A) has been employed by a participating employer; and
 - (B) accrued service credit.
- (b) "Active member" does not include a retiree.
- (2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of mortality tables as recommended by the actuary and adopted by the executive director, including regular interest.
- (3) "Actuarial interest rate" means the interest rate as recommended by the actuary and adopted by the board upon which the funding of system costs and benefits are computed.
- (4) (a) "Agency" means:
 - (i) a department, division, agency, office, authority, commission, board, institution, or hospital of the state;
 - (ii) a county, municipality, school district, local district, or special service district;
 - (iii) a state college or university; or
 - (iv) any other participating employer.
- (b) "Agency" does not include an entity listed under Subsection (4)(a)(i) that is a subdivision of another entity listed under Subsection (4)(a).
- (5) "Allowance" or "retirement allowance" means the pension plus the annuity, including any cost of living or other authorized adjustments to the pension and annuity.
- (6) "Alternate payee" means a member's former spouse or family member eligible to receive payments under a Domestic Relations Order in compliance with Section 49-11-612.
- (7) "Amortization rate" means the board certified percent of salary required to amortize the unfunded actuarial accrued liability in accordance with

policies established by the board upon the advice of the actuary.

(8) “Annuity” means monthly payments derived from member contributions.

(9) “Appointive officer” means an employee appointed to a position for a definite and fixed term of office by official and duly recorded action of a participating employer whose appointed position is designated in the participating employer’s charter, creation document, or similar document, and:

(a) who earns \$500 or more per month, indexed as of January 1, 1990, as provided in Section 49-12-407 for a Tier I appointive officer; and

(b) whose appointive position is full-time as certified by the participating employer for a Tier II appointive officer.

(10) (a) “At-will employee” means a person who is employed by a participating employer and:

(i) who is not entitled to merit or civil service protection and is generally considered exempt from a participating employer’s merit or career service personnel systems;

(ii) whose on-going employment status is entirely at the discretion of the person’s employer; or

(iii) who may be terminated without cause by a designated supervisor, manager, or director.

(b) “At-will employee” does not include a career employee who has obtained a reasonable expectation of continued employment based on inclusion in a participating employer’s merit system, civil service protection system, or career service personnel systems, policies, or plans.

(11) “Beneficiary” means any person entitled to receive a payment under this title through a relationship with or designated by a member, participant, covered individual, or alternate payee of a defined contribution plan.

(12) “Board” means the Utah State Retirement Board established under Section 49-11-202.

(13) “Board member” means a person serving on the Utah State Retirement Board as established under Section 49-11-202.

(14) “Certified contribution rate” means the board certified percent of salary paid on behalf of an active member to the office to maintain the system on a financially and actuarially sound basis.

(15) “Contributions” means the total amount paid by the participating employer and the member into a system or to the Utah Governors’ and Legislators’ Retirement Plan under Chapter 19, Utah Governors’ and Legislators’ Retirement Act.

(16) “Council member” means a person serving on the Membership Council established under Section 49-11-202.

(17) “Covered individual” means any individual covered under Chapter 20, Public Employees’ Benefit and Insurance Program Act.

(18) “Current service” means covered service under:

(a) Chapter 12, Public Employees’ Contributory Retirement Act;

(b) Chapter 13, Public Employees’ Noncontributory Retirement Act;

(c) Chapter 14, Public Safety Contributory Retirement Act;

(d) Chapter 15, Public Safety Noncontributory Retirement Act;

(e) Chapter 16, Firefighters’ Retirement Act;

(f) Chapter 17, Judges’ Contributory Retirement Act;

(g) Chapter 18, Judges’ Noncontributory Retirement Act;

(h) Chapter 19, Utah Governors’ and Legislators’ Retirement Act;

(i) Chapter 22, New Public Employees’ Tier II Contributory Retirement Act; or

(j) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act.

(19) “Defined benefit” or “defined benefit plan” or “defined benefit system” means a system or plan offered under this title to provide a specified allowance to a retiree or a retiree’s spouse after retirement that is based on a set formula involving one or more of the following factors:

(a) years of service;

(b) final average monthly salary; or

(c) a retirement multiplier.

(20) “Defined contribution” or “defined contribution plan” means any defined contribution plan or deferred compensation plan authorized under the Internal Revenue Code and administered by the board.

(21) “Educational institution” means a political subdivision or instrumentality of the state or a combination thereof primarily engaged in educational activities or the administration or servicing of educational activities, including:

(a) the State Board of Education and its instrumentalities;

(b) any institution of higher education and its branches;

(c) any school district and its instrumentalities;

(d) any vocational and technical school; and

(e) any entity arising out of a consolidation agreement between entities described under this Subsection (21).

(22) “Elected official”:

(a) means a person elected to a state office, county office, municipal office, school board or school district office, local district office, or special service district office;

(b) includes a person who is appointed to serve an unexpired term of office described under Subsection (22)(a); and

(c) does not include a judge or justice who is subject to a retention election under Section 20A-12-201.

(23) (a) "Employer" means any department, educational institution, or political subdivision of the state eligible to participate in a government-sponsored retirement system under federal law.

(b) "Employer" may also include an agency financed in whole or in part by public funds.

(24) "Exempt employee" means an employee working for a participating employer:

(a) who is not eligible for service credit under Section 49-12-203, 49-13-203, 49-14-203, 49-15-203, or 49-16-203; and

(b) for whom a participating employer is not required to pay contributions or nonelective contributions.

(25) "Final average monthly salary" means the amount computed by dividing the compensation received during the final average salary period under each system by the number of months in the final average salary period.

(26) "Fund" means any fund created under this title for the purpose of paying benefits or costs of administering a system, plan, or program.

(27) (a) "Inactive member" means a member who has not been employed by a participating employer for a period of at least 120 days.

(b) "Inactive member" does not include retirees.

(28) (a) "Initially entering" means hired, appointed, or elected for the first time, in current service as a member with any participating employer.

(b) "Initially entering" does not include a person who has any prior service credit on file with the office.

(c) "Initially entering" includes an employee of a participating employer, except for an employee that is not eligible under a system or plan under this title, who:

(i) does not have any prior service credit on file with the office;

(ii) is covered by a retirement plan other than a retirement plan created under this title; and

(iii) moves to a position with a participating employer that is covered by this title.

(29) "Institution of higher education" means an institution described in Section 53B-1-102.

(30) (a) "Member" means a person, except a retiree, with contributions on deposit with a system, the Utah Governors' and Legislators' Retirement Plan under Chapter 19, Utah Governors' and Legislators' Retirement Act, or with a terminated system.

(b) "Member" also includes leased employees within the meaning of Section 414(n)(2) of the Internal Revenue Code, if the employees have contributions on deposit with the office. If leased employees constitute less than 20% of the participating employer's work force that is not highly compensated within the meaning of Section 414(n)(5)(c)(ii), Internal Revenue Code, "member" does not include leased employees covered by a plan described in Section 414(n)(5) of the federal Internal Revenue Code.

(31) "Member contributions" means the sum of the contributions paid to a system or the Utah Governors' and Legislators' Retirement Plan, including refund interest if allowed by a system, and which are made by:

(a) the member; and

(b) the participating employer on the member's behalf under Section 414(h) of the Internal Revenue Code.

(32) "Nonelective contribution" means an amount contributed by a participating employer into a participant's defined contribution account.

(33) "Normal cost rate":

(a) means the percent of salary that is necessary for a retirement system that is fully funded to maintain its fully funded status; and

(b) is determined by the actuary based on the assumed rate of return established by the board.

(34) "Office" means the Utah State Retirement Office.

(35) "Participant" means an individual with voluntary deferrals or nonelective contributions on deposit with the defined contribution plans administered under this title.

(36) "Participating employer" means a participating employer, as defined by Chapter 12, Public Employees' Contributory Retirement Act, Chapter 13, Public Employees' Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act, Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters' Retirement Act, Chapter 17, Judges' Contributory Retirement Act, and Chapter 18, Judges' Noncontributory Retirement Act, or an agency financed in whole or in part by public funds which is participating in a system or plan as of January 1, 2002.

(37) "Part-time appointed board member" means a person:

(a) who is appointed to serve as a member of a board, commission, council, committee, or panel of a participating employer; and

(b) whose service as a part-time appointed board member does not qualify as a regular full-time

employee as defined under Section 49-12-102, 49-13-102, or 49-22-102.

(38) "Pension" means monthly payments derived from participating employer contributions.

(39) "Plan" means the Utah Governors' and Legislators' Retirement Plan created by Chapter 19, Utah Governors' and Legislators' Retirement Act, the New Public Employees' Tier II Defined Contribution Plan created by Chapter 22, Part 4, Tier II Defined Contribution Plan, the New Public Safety and Firefighter Tier II Defined Contribution Plan created by Chapter 23, Part 4, Tier II Defined Contribution Plan, or the defined contribution plans created under Section 49-11-801.

(40) (a) "Political subdivision" means any local government entity, including cities, towns, counties, and school districts, but only if the subdivision is a juristic entity that is legally separate and distinct from the state and only if its employees are not by virtue of their relationship to the entity employees of the state.

(b) "Political subdivision" includes local districts, special service districts, or authorities created by the Legislature or by local governments, including the office.

(c) "Political subdivision" does not include a project entity created under Title 11, Chapter 13, Interlocal Cooperation Act, that was formed prior to July 1, 1987.

(41) "Program" means the Public Employees' Insurance Program created under Chapter 20, Public Employees' Benefit and Insurance Program Act, or the Public Employees' Long-Term Disability program created under Chapter 21, Public Employees' Long-Term Disability Act.

(42) "Public funds" means those funds derived, either directly or indirectly, from public taxes or public revenue, dues or contributions paid or donated by the membership of the organization, used to finance an activity whose objective is to improve, on a nonprofit basis, the governmental, educational, and social programs and systems of the state or its political subdivisions.

(43) "Qualified defined contribution plan" means a defined contribution plan that meets the requirements of Section 401(k) or Section 403(b) of the Internal Revenue Code.

~~[(44) (a) "Reemployed," "reemploy," or "reemployment" means work or service performed for a participating employer after retirement, in exchange for compensation.]~~

~~[(b) Reemployment includes work or service performed on a contract for a participating employer if the retiree is:]~~

~~[(i) listed as the contractor; or]~~

~~[(ii) an owner, partner, or principal of the contractor.]~~

[(45)] (44) "Refund interest" means the amount accrued on member contributions at a rate adopted by the board.

[(46)] (45) "Retiree" means an individual who has qualified for an allowance under this title.

[(47)] (46) "Retirement" means the status of an individual who has become eligible, applies for, and is entitled to receive an allowance under this title.

[(48)] (47) "Retirement date" means the date selected by the member on which the member's retirement becomes effective with the office.

[(49)] (48) "Retirement related contribution":

(a) means any employer payment to any type of retirement plan or program made on behalf of an employee; and

(b) does not include Social Security payments or Social Security substitute payments made on behalf of an employee.

[(50)] (49) "Service credit" means:

(a) the period during which an employee is employed and compensated by a participating employer and meets the eligibility requirements for membership in a system or the Utah Governors' and Legislators' Retirement Plan, provided that any required contributions are paid to the office; and

(b) periods of time otherwise purchasable under this title.

[(51)] (50) "System" means the individual retirement systems created by Chapter 12, Public Employees' Contributory Retirement Act, Chapter 13, Public Employees' Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act, Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters' Retirement Act, Chapter 17, Judges' Contributory Retirement Act, Chapter 18, Judges' Noncontributory Retirement Act, and Chapter 19, Utah Governors' and Legislators' Retirement Act, the defined benefit portion of the Tier II Hybrid Retirement System under Chapter 22, Part 3, Tier II Hybrid Retirement System, and the defined benefit portion of the Tier II Hybrid Retirement System under Chapter 23, Part 3, Tier II Hybrid Retirement System.

[(52)] (51) "Tier I" means a system or plan under this title for which:

(a) an employee is eligible to participate if the employee initially enters regular full-time employment before July 1, 2011; or

(b) a governor or legislator who initially enters office before July 1, 2011.

[(53)] (52) (a) "Tier II" means a system or plan under this title provided in lieu of a Tier I system or plan for an employee, governor, legislator, or full-time elected official who does not have Tier I service credit in a system or plan under this title:

(i) if the employee initially enters regular full-time employment on or after July 1, 2011; or

(ii) if the governor, legislator, or full-time elected official initially enters office on or after July 1, 2011.

(b) "Tier II" includes:

(i) the Tier II hybrid system established under:

(A) Chapter 22, Part 3, Tier II Hybrid Retirement System; or

(B) Chapter 23, Part 3, Tier II Hybrid Retirement System; and

(ii) the Tier II Defined Contribution Plan (Tier II DC Plan) established under:

(A) Chapter 22, Part 4, Tier II Defined Contribution Plan; or

(B) Chapter 23, Part 4, Tier II Defined Contribution Plan.

[~~54~~] (53) "Unfunded actuarial accrued liability" or "UAAL":

(a) is determined by the system's actuary; and

(b) means the excess, if any, of the accrued liability of a retirement system over the actuarial value of its assets.

[~~55~~] (54) "Voluntary deferrals" means an amount contributed by a participant into that participant's defined contribution account.

Section 2. Section 49-11-405 is amended to read:

49-11-405. Service credit from different systems or plans -- Eligibility and calculation of service credit.

(1) (a) A member who has service credit from two or more systems or one or more systems and the Utah Governors' and Legislators' Retirement Plan may combine service credit for purposes of determining eligibility for retirement.

(b) The provisions of Subsection (1)(a) do not apply to concurrent service.

(2) To be eligible for the calculation under Subsection (3), the member's service credit earned under the different systems or the Utah Governors' and Legislators' Retirement Plan shall at least equal the minimum amount of service credit required to retire from the system which most recently covered the member.

(3) If a member meets the requirements of Subsection (2), the office shall calculate the member's allowance using all service credit earned from any system or the Utah Governors' and Legislators' Retirement Plan, with no actuarial reduction applied to the allowance, except the service credit used to calculate the benefit shall be increased or decreased to reflect the value of the assets transferred.

(4) The office shall establish the standards used for calculating any increase or decrease in the service credit.

(5) This section does not apply to a retiree who is subject to [Sections] Section 49-11-504 and [49-11-505] Chapter 11, Part 12, Postretirement Reemployment Restrictions Act.

Section 3. Section 49-11-504 is amended to read:

49-11-504. Reemployment of a retiree -- Restrictions.

(1) As used in this section[,]:

(a) "full-time" means:

[~~(a)~~] (i) employment requiring 20 or more hours of work per week; or

[~~(b)~~] (ii) at least a half-time teaching contract.

(b) "Reemployed," "reemploy," or "reemployment" means the same as those terms are defined in Section 49-11-1202.

(2) (a) Except for the provisions of Subsection (3), the provisions of this section do not apply to a person who is subject to the provisions of [Section 49-11-505] Chapter 11, Part 12, Postretirement Reemployment Restrictions Act.

(b) This section does not apply to employment as an elected official.

(3) A person who is not a retiree under this title is not subject to any postretirement restrictions under this title.

(4) A retiree of an agency who is reemployed may not earn additional service credit, if the retiree is reemployed by:

(a) a different agency; or

(b) the same agency after six months from the retirement date.

(5) A retiree of an agency who is reemployed on a full-time basis by the same agency within six months of the date of retirement is subject to the following:

(a) the agency shall immediately notify the office;

(b) the office shall cancel the retiree's allowance and reinstate the retiree to active member status;

(c) the allowance cancellation and reinstatement to active member status is effective on the first day of the month following the date of reemployment;

(d) the reinstated retiree may not retire again with a recalculated benefit for a two-year period from the date of cancellation of the original allowance, and if the retiree retires again within the two-year period, the original allowance shall be resumed; and

(e) a reinstated retiree retiring after the two-year period shall be credited with the service credit in the retiree's account at the time of the first retirement and from that time shall be treated as a member of a system, including the accrual of additional service credit, but subject to recalculation of the allowance under Subsection (9).

(6) A retiree of an agency who is reemployed by the same agency within six months of retirement on a less than full-time basis by the same agency is subject to the following:

(a) the retiree may earn, without penalty, compensation from that position which is not in

excess of the exempt earnings permitted by Social Security;

(b) if a retiree receives compensation in a calendar year in excess of the Social Security limitation, 25% of the allowance shall be suspended for the remainder of the six-month period;

(c) the effective date of a suspension and reinstatement of an allowance shall be set by the office; and

(d) any suspension of a retiree's allowance under this Subsection (6) shall be applied on a calendar year basis.

(7) For six months immediately following retirement, the retiree and participating employer who are subject to Subsection (6) shall:

(a) maintain an accurate record of gross earnings in employment;

(b) report the gross earnings at least monthly to the office;

(c) immediately notify the office in writing of any postretirement earnings under Subsection (6); and

(d) immediately notify the office in writing whether postretirement earnings equal or exceed the exempt earnings under Subsection (6).

(8) (a) If a participating employer hires a retiree, the participating employer may not make a retirement related contribution in an amount that exceeds the normal cost rate as defined under Section 49-11-102 on behalf of the retiree under Subsections (8)(b) and (c).

(b) The contributions under Subsection (8)(a) are not required, but if paid, shall be paid to a retiree-designated:

(i) qualified defined contribution plan administered by the board, if the participating employer participates in a qualified defined contribution plan administered by the board; or

(ii) qualified defined contribution plan offered by the participating employer if the participating employer does not participate in a qualified defined contribution plan administered by the board.

(c) Notwithstanding the provisions of Subsection (8)(b), if an employer is not participating in a qualified defined contribution plan administered by the board, the employer may elect to pay the contributions under Subsection (8)(a) to a deferred compensation plan administered by the board.

(9) A retiree who has returned to work, accrued additional service credit, and again retires shall have the retiree's allowance recalculated using:

(a) the formula in effect at the date of the retiree's original retirement for all service credit accrued prior to that date; and

(b) the formula in effect at the date of the subsequent retirement for all service credit accrued between the first and subsequent retirement dates.

(10) The board may make rules to implement this section.

Section 4. Section 49-11-1201 is enacted to read:

Part 12. Postretirement Reemployment Restrictions Act

49-11-1201. Title.

This part is known as the "Postretirement Reemployment Restrictions Act."

Section 5. Section 49-11-1202 is enacted to read:

49-11-1202. Definitions.

As used in this part:

(1) (a) "Affiliated emergency services worker" means a person who:

(i) is employed by a participating employer;

(ii) performs emergency services for another participating employer that is a different agency;

(iii) is trained in techniques and skills required for the emergency service;

(iv) continues to receive regular training required for the service;

(v) is on the rolls as a trained affiliated emergency services worker of the participating employer; and

(vi) provides ongoing service for a participating employer, which service may include service as a volunteer firefighter, reserve law enforcement officer, search and rescue worker, emergency medical technician, ambulance worker, park ranger, or public utilities worker.

(b) "Affiliated emergency services worker" does not include a person who performs work or service but does not meet the requirements of Subsection (1)(a).

(2) "Amortization rate" means the amortization rate, as defined in Section 49-11-102, to be applied to the system that would have covered the retiree if the retiree's reemployed position were deemed to be an eligible, full-time position within that system.

(3) (a) "Reemployed," "reemploy," or "reemployment" means work or service performed for a participating employer after retirement, in exchange for compensation.

(b) Reemployment includes work or service performed on a contract for a participating employer if the retiree is:

(i) listed as the contractor; or

(ii) an owner, partner, or principal of the contractor.

(4) "Retiree":

(a) means a person who:

(i) retired from a participating employer; and

(ii) begins reemployment on or after July 1, 2010, with a participating employer; and

(b) does not include a person:

(i) who was reemployed by a participating employer before July 1, 2010; and

(ii) whose participating employer that reemployed the person under Subsection (4)(b)(i) was dissolved, consolidated, merged, or structurally changed in accordance with Section 49-11-621 on or after July 1, 2010.

Section 6. Section 49-11-1203 is enacted to read:

49-11-1203. Applicability.

(1) (a) This part does not apply to employment as an elected official if the elected official's position is not full time as certified by the participating employer.

(b) The provisions of this part apply to an elected official whose elected position is full time as certified by the participating employer.

(2) (a) This part does not apply to employment as a part-time appointed board member who does not receive any remuneration, stipend, or other benefit for the part-time appointed board member's service.

(b) For purposes of this Subsection (2), remuneration, stipend, or other benefit does not include receipt of per diem and travel expenses up to the amounts established by the Division of Finance in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(3) This part does not apply to a person who is reemployed as an active senior judge or an active senior justice court judge as described by Utah State Court Rules, appointed to hear cases by the Utah Supreme Court in accordance with Article VIII, Section 4, Utah Constitution.

Section 7. Section 49-11-1204 is enacted to read:

49-11-1204. General Restrictions -- Election following one-year separation -- Amortization rate.

(1) A retiree may not for the same period of reemployment:

(a) (i) earn additional service credit; or

(ii) receive any retirement related contribution from a participating employer; and

(b) receive a retirement allowance.

(2) Except as provided under Section 49-11-1205, the office shall cancel the retirement allowance of a retiree if the reemployment with a participating employer begins within one year of the retiree's retirement date.

(3) If a reemployed retiree has completed the one-year separation from employment with a participating employer required under Subsection (2), the retiree may elect to:

(a) cancel the retiree's retirement allowance and instead earn additional service credit in accordance with this title; or

(b) continue to receive the retiree's retirement allowance, forfeit earning additional service credit, and forfeit any retirement-related contribution from the participating employer that reemployed the retiree.

(4) (a) If the office receives notice of the election of a reemployed retiree under Subsection (3)(a), the office shall immediately cancel the retiree's retirement allowance.

(b) (i) If the retiree under Subsection (4)(a) is eligible for retirement coverage in the reemployed position, the office shall reinstate the retiree to active member status on the first day of the month following the date of the employee's election.

(ii) Except as provided under Subsection (4)(c), if the retiree is not otherwise eligible for retirement coverage in the reemployed position, the participating employer that reemploys the retiree shall contribute the amortization rate to the office on behalf of the retiree.

(c) A participating employer that reemploys a retiree in accordance with Subsection 49-11-1205(1) is not required to contribute the amortization rate to the office.

(5) (a) For a retiree under Subsection (4)(b) who retires within two years from the date of reemployment, the office:

(i) may not recalculate a retirement benefit for the retiree; and

(ii) shall resume the allowance that was being paid to the retiree at the time of the cancellation.

(b) Subject to Subsection (1), for a retiree who is reinstated to active membership under Subsection (4)(b) and retires two or more years after the date of reinstatement to active membership, the office shall:

(i) resume the allowance that was being paid at the time of cancellation; and

(ii) calculate an additional allowance for the retiree based on the formula in effect at the date of the subsequent retirement for all service credit accrued between the first and subsequent retirement dates.

Section 8. Section 49-11-1205 is enacted to read:

49-11-1205. Postretirement reemployment restriction exceptions.

(1) (a) The office may not cancel the retirement allowance of a retiree who is reemployed with a participating employer within one year of the retiree's retirement date if:

(i) the retiree is not reemployed by a participating employer for a period of at least 60 days from the retiree's retirement date;

(ii) upon reemployment after the break in service under Subsection (1)(a)(i), the retiree does not receive any employer paid benefits, including:

(A) retirement service credit or retirement-related contributions;

(B) medical benefits;

(C) dental benefits;

(D) other insurance benefits except for workers' compensation as provided under Title 34A, Chapter 2, Workers' Compensation Act, Title 34A, Chapter 3, Utah Occupational Disease Act, and withholdings required by federal or state law for social security, Medicare, and unemployment insurance; or

(E) paid time off, including sick, annual, or other type of leave; and

(iii) the retiree does not earn in any calendar year of reemployment an amount in excess of the lesser of \$15,000 or one-half of the retiree's final average salary upon which the retiree's retirement allowance is based.

(b) Beginning January 1, 2013, the board shall adjust the amounts under Subsection (1)(a)(iii) by the annual change in the Consumer Price Index during the previous calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(2) A retiree shall be considered as having completed the one-year separation from employment with a participating employer required under Section 49-11-1204, if the retiree:

(a) before retiring:

(i) was employed with a participating employer as a public safety service employee as defined in Section 49-14-102, 49-15-102, or 49-23-102;

(ii) and during the employment under Subsection (2)(a)(i), suffered a physical injury resulting from external force or violence while performing the duties of the employment, and for which injury the retiree would have been approved for total disability in accordance with the provisions under Chapter 21, Public Employees' Long-Term Disability Act, if years of service are not considered;

(iii) had less than 30 years of service credit but had sufficient service credit to retire, with an unreduced allowance making the public safety service employee ineligible for long-term disability payments under Chapter 21, Public Employees' Long-Term Disability Act, or a substantially similar long-term disability program; and

(iv) does not receive any long-term disability benefits from any participating employer; and

(b) is reemployed by a different participating employer.

(3) (a) The office may not cancel the retirement allowance of a retiree who is employed as an affiliated emergency services worker within one year of the retiree's retirement date if the affiliated emergency services worker does not receive any compensation, except for:

(i) a nominal fee, stipend, discount, tax credit, voucher, or other fixed sum of money or cash equivalent payment not tied to productivity and paid periodically for services;

(ii) a length-of-service award;

(iii) insurance policy premiums paid by the participating employer in the event of death of an affiliated emergency services worker or a line-of-duty accidental death or disability; or

(iv) reimbursement of expenses incurred in the performance of duties.

(b) For purposes of Subsections (3)(a)(i) and (ii), the total amount of any discounts, tax credits, vouchers, and payments to an affiliated emergency services worker may not exceed \$500 per month.

(c) Beginning January 1, 2016, the board shall adjust the amount under Subsection (3)(b) by the annual change in the Consumer Price Index during the previous calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(4) (a) If a retiree is reemployed under the provisions of Subsection (1) or (3), the termination date of the reemployment, as confirmed in writing by the participating employer, is considered the retiree's retirement date for the purpose of calculating the separation requirement under Section 49-11-1204.

(b) The office shall cancel the retirement allowance of a retiree for the remainder of the calendar year if the reemployment with a participating employer exceeds the limitation under Subsection (1)(a)(iii) or (3)(b).

Section 9. Section 49-11-1206 is enacted to read:

49-11-1206. Notice of postretirement reemployment.

(1) A participating employer shall immediately notify the office:

(a) if the participating employer reemploys a retiree;

(b) whether the reemployment is subject to Section 49-11-1204 or Subsection 49-11-1205(1), (2), or (3); and

(c) of any election by the retiree under Section 49-11-1204.

(2) A participating employer shall certify to the office whether the position of an elected official is or is not full time.

(3) A retiree subject to this part shall report to the office the status of the reemployment under Section 49-11-1204 or 49-11-1205.

Section 10. Section 49-11-1207 is enacted to read:

49-11-1207. Postretirement reemployment -- Violations -- Penalties.

(1) (a) If the office receives notice or learns of the reemployment of a retiree in violation of Section 49-11-1204 or 49-11-1205, the office shall:

(i) immediately cancel the retiree's retirement allowance;

(ii) keep the retiree's retirement allowance cancelled for the remainder of the calendar year if the reemployment with a participating employer exceeded the limitation under Subsection 49-11-1205(1)(a)(iii) or (3)(b); and

(iii) recover any overpayment resulting from the violation in accordance with the provisions of Section 49-11-607 before the allowance may be reinstated.

(b) Reinstatement of an allowance following cancellation for a violation under this section is subject to the procedures and provisions under Section 49-11-1204.

(2) If a retiree or participating employer failed to report reemployment in violation of Section 49-11-1206, the retiree, participating employer, or both, who are found to be responsible for the failure to report, are liable to the office for the amount of any overpayment resulting from the violation.

(3) A participating employer is liable to the office for a payment or failure to make a payment in violation of this part.

(4) If a participating employer fails to notify the office in accordance with Section 49-11-1206, the participating employer is immediately subject to a compliance audit by the office.

Section 11. Section 49-11-1208 is enacted to read:

49-11-1208. Rulemaking.

The board may make rules to implement this part.

Section 12. Section 49-12-401 is amended to read:

49-12-401. Eligibility for an allowance -- Date of retirement -- Qualifications.

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least four years of service credit and has attained an age of 65 years;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 62 years;

(iii) the member has accrued at least 20 years of service credit and has attained an age of 60 years; or

(iv) the member has accrued at least 30 years of service credit.

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the member;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

(c) A member who is employed by a participating employer, who is also an affiliated emergency services worker as defined in [Subsection 49-11-505(1)(d)] Section 49-11-1202 for a different agency, is not required to cease service as an affiliated emergency services worker to be qualified to receive an allowance under Subsection (1).

Section 13. Section 49-12-701 is amended to read:

49-12-701. Early retirement incentive -- Eligibility -- Calculation of benefit -- Payment of costs -- Savings to be appropriated by Legislature -- Restrictions on reemployment.

(1) Any member of this system may retire and receive the allowance allowed under Subsection (2) if the member meets the following requirements as of the member's retirement date:

(a) the member is eligible for retirement under Section 49-12-401, or has 25 years of service credit;

(b) the member elects to forfeit any stipend for retirement offered by the participating employer; and

(c) the member elects to retire from this system by applying for retirement by the date established under Subsection (3)(a) or (3)(b).

(2) (a) A member who retires under Subsection (1) shall receive 2% of that member's final average salary for all years of service credit.

(b) An actuarial reduction may not be applied to the allowance granted under this section.

(3) In order to receive the allowance allowed by this section, a member shall submit an application to the office as follows:

(a) (i) For state and school employees under Level A, the application shall be filed by May 31, 1987. The member's retirement date shall then be set by the member on the 1st or 16th day of July, August, or September, 1987.

(ii) If a Level A member elects to retire, the executive director or participating employer may request the member to delay the retirement date until a later date, but no later than June 30, 1988.

(iii) If the member agrees to delay the retirement date, the retirement date shall be delayed, but service credit may not be accrued after the member's original retirement date elected by the member, and compensation earned after the member's original retirement date may not be used in the calculation of the final average salary for determining the retirement allowance.

(b) (i) For political subdivision employees under Level B, the application shall be filed by September 30, 1987.

(ii) The retirement date shall then be set by the member on the 1st or 16th day of July, August, September, October, November, or December, 1987.

(4) (a) The cost of providing the allowance under this section shall be funded in fiscal year 1987-88 by a supplemental appropriation in the 1988 General Session based on the retirement contribution rate increase established by the consulting actuary and approved by the board.

(b) The cost of providing the allowance under this section shall be funded beginning July 1, 1988, by means of an increase in the retirement contribution rate established by the consulting actuary and approved by the board.

(c) The rate increase under Subsections (4)(a) and (b) shall be funded:

(i) for state employees, by an appropriation from the account established by the Division of Finance under Subsection (4)(d), which is funded by savings derived from this early retirement incentive and a work force reduction;

(ii) for school employees, by direct contributions from the employing unit, which may not be funded through an increase in the retirement contribution amount established in Title 53A, Chapter 17a, Minimum School Program Act; and

(iii) for political subdivisions under Level B, by direct contributions by the participating employer.

(d) (i) Each year, any excess savings derived from this early retirement incentive which are above the costs of funding the increase and the costs of paying insurance, sick leave, compensatory leave, and vacation leave under Subsections (4)(c)(i) and (c)(ii) shall be reported to the Legislature and shall be appropriated as provided by law.

(ii) In the case of Subsection (4)(c)(i), the Division of Finance shall establish an account into which all savings derived from this early retirement incentive shall be deposited as the savings are realized.

(iii) In the case of Subsection (4)(c)(ii), the State Office of Education shall certify the amount of savings derived from this early retirement incentive.

(iv) The State Office of Education and the participating employer may not spend the savings until appropriated by the Legislature as provided by law.

(5) A member who retires under this section is subject to ~~Sections~~ Section 49-11-504 and ~~[49-11-505]~~ Chapter 11, Part 12, Postretirement Reemployment Restrictions Act.

(6) The board may adopt rules to administer this section.

(7) The Legislative Auditor General shall perform an audit to ensure compliance with this section.

Section 14. Section 49-13-401 is amended to read:

49-13-401. Eligibility for an allowance -- Date of retirement -- Qualifications.

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least four years of service credit and has attained an age of 65 years;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 62 years;

(iii) the member has accrued at least 20 years of service credit and has attained an age of 60 years;

(iv) the member has accrued at least 30 years of service credit; or

(v) the member has accrued at least 25 years of service credit, in which case the member shall be subject to the reduction under Subsection 49-13-402(2)(b).

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the member;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

(c) A member who is employed by a participating employer, who is also an affiliated emergency services worker as defined in ~~Subsection 49-11-505(1)(d)~~ Section 49-11-1202 for a different agency, is not required to cease service as an affiliated emergency services worker to be qualified to receive an allowance under Subsection (1).

Section 15. Section 49-13-701 is amended to read:

49-13-701. Early retirement incentive -- Eligibility -- Calculation of benefit -- Payment of costs -- Savings to be appropriated by Legislature -- Restrictions on reemployment.

(1) Any member of this system may retire and receive the allowance allowed under Subsection (2) if the member meets the following requirements as of the member's retirement:

(a) the member is eligible for retirement under Section 49-13-401, or has 25 years of service credit;

(b) the member elects to forfeit any stipend for retirement offered by the participating employer; and

(c) the member elects to retire from this system by applying for retirement by the date established under Subsection (3)(a) or (3)(b).

(2) (a) A member who retires under Subsection (1) shall receive 2% of that member's final average salary for all years of service credit.

(b) No actuarial reduction may be applied to the allowance granted under this section.

(3) In order to receive the allowance allowed by this section, a member shall submit an application to the office as follows:

(a) (i) For state and school employees under Level A, the application shall be filed by May 31, 1987. The member's retirement date shall then be set by the member on the 1st or 16th day of July, August, or September, 1987.

(ii) If a Level A member elects to retire, the executive director or participating employer may request the member to delay the retirement date until a later date, but no later than June 30, 1988.

(iii) If the member agrees to delay the retirement date, the retirement date shall be delayed, but service credit may not be accrued after the member's original retirement date elected by the member, and compensation earned after the member's original retirement date may not be used in the calculation of the final average salary for determining the retirement allowance.

(b) (i) For political subdivision employees under Level B, the application shall be filed by September 30, 1987.

(ii) The member's retirement date shall then be set by the member on the 1st or 16th day of July, August, September, October, November, or December, 1987.

(4) (a) The cost of providing the allowance under this section shall be funded in fiscal year 1987-88 by a supplemental appropriation in the 1988 General Session based on the retirement contribution rate increase established by the consulting actuary and approved by the board.

(b) The cost of providing the allowance under this section shall be funded beginning July 1, 1988, by means of an increase in the retirement contribution rate established by the consulting actuary and approved by the board.

(c) The rate increase under Subsections (4)(a) and (b) shall be funded:

(i) for state employees, by an appropriation from the account established by the Division of Finance under Subsection (4)(d), which is funded by savings derived from this early retirement incentive and a work force reduction;

(ii) for school employees, by direct contributions from the employing unit, which may not be funded through an increase in the retirement contribution amount established in Title 53A, Chapter 17a, Minimum School Program Act; and

(iii) for political subdivisions under Level B, by direct contributions by the participating employer.

(d) (i) Each year, any excess savings derived from this early retirement incentive which are above the costs of funding the increase and the costs of paying insurance, sick leave, compensatory leave, and vacation leave under Subsections (4)(c)(i) and (c)(ii) shall be reported to the Legislature and shall be appropriated as provided by law.

(ii) In the case of Subsection (4)(c)(i), the Division of Finance shall establish an account into which all savings derived from this early retirement incentive shall be deposited as the savings are realized.

(iii) In the case of Subsection (4)(c)(ii), the State Office of Education shall certify the amount of savings derived from this early retirement incentive.

(iv) The State Office of Education and the participating employer may not spend the savings until appropriated by the Legislature as provided by law.

(5) A member who retires under this section is subject to ~~[Sections]~~ Section 49-11-504 and ~~[49-11-505]~~ Chapter 11, Part 12, Postretirement Reemployment Restrictions Act.

(6) The board may make rules to administer this section.

(7) The Legislative Auditor General shall perform an audit to ensure compliance with this section.

Section 16. Section 49-14-401 is amended to read:

49-14-401. Eligibility for service retirement -- Date of retirement -- Qualifications.

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least 20 years of service credit;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 60 years; or

(iii) the member has accrued at least four years of service credit and has attained an age of 65 years.

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the member;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under

Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

(c) A member who is employed by a participating employer, who is also an affiliated emergency services worker as defined in ~~[Subsection 49-11-505(4)(d)]~~ Section 49-11-1202 for a different agency, is not required to cease service as an affiliated emergency services worker to be qualified to receive an allowance under Subsection (1).

Section 17. Section 49-15-401 is amended to read:

49-15-401. Eligibility for service retirement -- Date of retirement -- Qualifications.

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least 20 years of service credit;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 60 years; or

(iii) the member has accrued at least four years of service and has attained an age of 65 years.

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the member;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member is not required to cease service as a

part-time appointed board member to be qualified to receive an allowance under Subsection (1).

(c) A member who is employed by a participating employer, who is also an affiliated emergency services worker as defined in ~~[Subsection 49-11-505(1)(d)]~~ Section 49-11-1202 for a different agency, is not required to cease service as an affiliated emergency services worker to be qualified to receive an allowance under Subsection (1).

Section 18. Section 49-16-203 is amended to read:

49-16-203. Exemption of certain employees from coverage -- Exception.

(1) A firefighter service employee serving as the chief of any fire department or district is excluded from coverage under this system if that firefighter service employee files a formal written request seeking exemption.

(2) The chief of any fire department or district who retires from that position shall comply with the provisions of ~~[Sections]~~ Section 49-11-504 and ~~[49-11-505]~~ Chapter 11, Part 12, Postretirement Reemployment Restrictions Act, upon reemployment by the participating employer.

Section 19. Section 49-16-401 is amended to read:

49-16-401. Eligibility for service retirement -- Date of retirement -- Qualifications.

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least 20 years of service credit;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 60 years; or

(iii) the member has accrued at least four years of service credit and has attained an age of 65 years.

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the firefighter service employee;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter

on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

(c) A member who is employed by a participating employer, who is also an affiliated emergency services worker as defined in ~~[Subsection 49-11-505(1)(d)]~~ Section 49-11-1202 for a different agency, is not required to cease service as an affiliated emergency services worker to be qualified to receive an allowance under Subsection (1).

Section 20. Section 49-22-304 is amended to read:

49-22-304. Defined benefit eligibility for an allowance -- Date of retirement -- Qualifications.

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least four years of service credit and has attained an age of 65 years;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 62 years;

(iii) the member has accrued at least 20 years of service credit and has attained an age of 60 years; or

(iv) the member has accrued at least 35 years of service credit.

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the member;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

(c) A member who is employed by a participating employer, who is also an affiliated emergency services worker as defined in ~~[Subsection 49-11-505(1)(d)]~~ Section 49-11-1202 for a different agency, is not required to cease service as an affiliated emergency services worker to be qualified to receive an allowance under Subsection (1).

Section 21. Section 49-23-303 is amended to read:

49-23-303. Defined benefit eligibility for an allowance -- Date of retirement -- Qualifications.

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least four years of service credit and has attained an age of 65 years;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 62 years;

(iii) the member has accrued at least 20 years of service credit and has attained an age of 60 years; or

(iv) the member has accrued at least 25 years of service credit.

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the member;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected

official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

(c) A member who is employed by a participating employer, who is also an affiliated emergency services worker as defined in ~~[Subsection 49-11-505(1)(d)]~~ Section 49-11-1202 for a different agency, is not required to cease service as an affiliated emergency services worker to be qualified to receive an allowance under Subsection (1).

Section 22. Section 67-19-43 is amended to read:

67-19-43. State employee matching supplemental defined contribution benefit.

(1) As used in this section:

(a) "Qualifying account" means:

(i) a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code, which is sponsored by the Utah State Retirement Board; or

(ii) a deemed Individual Retirement Account authorized under the Internal Revenue Code, which is sponsored by the Utah State Retirement Board; or

(iii) a similar savings plan or account authorized under the Internal Revenue Code, which is sponsored by the Utah State Retirement Board.

(b) "Qualifying employee" means an employee who is:

(i) in a position that is:

(A) receiving retirement benefits under Title 49, Utah State Retirement and Insurance Benefit Act; and

(B) accruing paid leave benefits that can be used in the current and future calendar years; and

(ii) not an employee who is reemployed as that term is:

(A) defined in Section ~~[49-11-102-]~~ 49-11-1202; or

(B) used in Section 49-11-504.

(2) Subject to the requirements of Subsection (3) and beginning on or after January 4, 2014, an employer shall make a biweekly matching contribution to every qualifying employee's defined contribution plan qualified under Section 401(k) of the Internal Revenue Code, subject to federal requirements and limitations, which is sponsored by the Utah State Retirement Board.

(3) (a) In accordance with the requirements of this Subsection (3), each qualifying employee shall be eligible to receive the same dollar amount for the contribution under Subsection (2).

(b) A qualifying employee:

(i) shall receive the contribution amount determined under Subsection (3)(c) if the qualifying employee makes a voluntary personal contribution to one or more qualifying accounts in an amount equal to or greater than the employer's contribution amount determined in Subsection (3)(c);

(ii) shall receive a partial contribution amount that is equal to the qualifying employee's personal contribution amount if the employee makes a voluntary personal contribution to one or more qualifying accounts in an amount less than the employer's contribution amount determined in Subsection (3)(c); or

(iii) may not receive a contribution under Subsection (2) if the qualifying employee does not make a voluntary personal contribution to a qualifying account.

(c) (i) Subject to the maximum limit under Subsection (3)(c)(iii), the Legislature shall annually determine the contribution amount that an employer shall provide to each qualifying employee under Subsection (2).

(ii) The department shall make recommendations annually to the Legislature on the contribution amount required under Subsection (2), in consultation with the Governor's Office of Management and Budget and the Division of Finance.

(iii) The biweekly matching contribution amount required under Subsection (2) may not exceed \$26 for each qualifying employee.

(4) A qualifying employee is eligible to receive the biweekly contribution under this section for any pay period in which the employee is in a paid status or other status protected by federal or state law.

(5) The employer and employee contributions made and related earnings under this section vest immediately upon deposit and can be withdrawn by the employee at any time, subject to Internal Revenue Code regulations on the withdrawals.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the executive director shall make rules establishing procedures to implement the provisions of this section.

Section 23. Repealer.

This bill repeals:

Section 49-11-505, Reemployment of a retiree -- Restrictions.

Section 24. Coordinating H.B. 51 with S.B. 19 -- Technical renumbering and substantive amendments.

If this H.B. 51 and S.B. 19, Phased Retirement, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) renumbering Part 12, Phased Retirement, enacted by S.B. 19 to Part 13, Phased Retirement,

and renumber and change all references from Part 12 to Part 13 accordingly;

(2) changing the reference to "Section 49-11-505" in Section 49-11-1202 enacted in S.B. 19, which will be technically renumbered to Section 49-11-1302, to "Section 49-11-1204";

(3) changing the reference to "Subsection 49-11-505(3)(a)" in Section 49-11-1206 enacted in S.B. 19, which will be technically renumbered to Section 49-11-1306, to "Subsection 49-11-1204(2)"; and

(4) modifying Subsection 49-11-1202(4)(b) enacted by H.B. 51 to read:

"(b) does not include a person:

(i) (A) who was reemployed by a participating employer before July 1, 2010; and

(B) whose participating employer that reemployed the person under Subsection (4)(b)(i)(A) was dissolved, consolidated, merged, or structurally changed in accordance with Section 49-11-621 on or after July 1, 2010; or

(ii) does not include a person who is working under a phased retirement agreement in accordance with Title 49, Chapter 11, Part 13, Phased Retirement."

CHAPTER 311**H. B. 61**

Passed March 8, 2016

Approved March 28, 2016

Effective May 10, 2016

(Retrospective operation to January 1, 2016)

**CORPORATE FRANCHISE
AND INCOME TAX CHANGES**Chief Sponsor: John Knotwell
Senate Sponsor: Curtis S. Bramble**LONG TITLE****General Description:**

This bill addresses corporate franchise and income taxes.

Highlighted Provisions:

This bill:

- ▶ addresses the apportionment of business income to the state for purposes of corporate franchise and income taxes; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:**AMENDS:**

- 59-7-110, as last amended by Laws of Utah 2010, Chapter 155
- 59-7-302, as last amended by Laws of Utah 2014, Chapters 65 and 398
- 59-7-311, as last amended by Laws of Utah 2010, Chapter 155

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-7-110 is amended to read:**59-7-110. Utah net losses -- Carryforwards and carrybacks -- Deduction.**

(1) The amount of Utah net loss that shall be carried back or forward to offset income of another taxable year is determined as provided in this section.

(2) (a) Subject to the other provisions of this section, a Utah net loss from a taxable year beginning before January 1, 1994, shall be carried back three taxable years preceding the taxable year of the loss and any remaining loss shall be carried forward five taxable years following the taxable year of the loss.

(b) (i) Subject to the other provisions of this section, a Utah net loss from a taxable year beginning on or after January 1, 1994, may be carried back three taxable years preceding the taxable year of the loss and carried forward 15 taxable years following the taxable year of the loss.

(ii) If an election is made to forego the federal net operating loss carryback, a Utah net loss is not eligible to be carried back unless an election is made for state purposes.

(3) A Utah net loss shall be carried to the earliest eligible year for which the Utah taxable income before net loss deduction, minus Utah net losses from previous years that were applied or required to be applied to offset income, is not less than zero.

(4) (a) Except as provided in Subsection (4)(b), the amount of Utah net loss that shall be carried to the year identified in Subsection (3) is the lesser of:

(i) the remaining Utah net loss after deduction of any amounts of the Utah net loss that were carried to previous years; or

(ii) the remaining Utah taxable income before net loss deduction of the year identified in Subsection (3) after deduction of Utah net losses from previous years that were carried or required to be carried to the year identified in Subsection (3).

(b) (i) The amount of Utah net loss carried back from a taxable year may not exceed \$1,000,000 in Utah taxable income for each return filed under this chapter in a taxable year.

(ii) A Utah net loss in excess of \$1,000,000 may be carried forward.

(iii) A remaining Utah net loss shall be available to be carried to one or more taxable years in accordance with this section.

(5) (a) (i) Subject to Subsection (5)(a)(ii), a corporation acquiring the assets or stock of another corporation may not deduct any net loss incurred by the acquired corporation prior to the date of acquisition.

(ii) Subsection (5)(a)(i) does not apply if the only change in the corporation is that of the state of incorporation.

(b) An acquired corporation may deduct the acquired corporation's net losses incurred before the date of acquisition against the acquired corporation's separate income as calculated under Subsections (6) and (7) if the acquired corporation has continued to carry on a trade or business substantially the same as that conducted before the acquisition.

(6) For purposes of Subsection (5)(b), the amount of net loss an acquired corporation that is acquired by a unitary group may deduct is calculated by:

(a) subject to Subsection (7):

(i) except as provided in Subsection (6)(a)(ii), calculating the sum of:

(A) an amount determined by dividing the average value of the acquired corporation's real and tangible personal property owned or rented and used in this state during the taxable year by the average value of all of the unitary group's real and tangible personal property owned or rented and used during the taxable year;

(B) an amount determined by dividing the total amount paid in this state during the taxable year by the acquired corporation for compensation by the total compensation paid everywhere by the unitary group during the taxable year; and

(C) an amount determined by:

(I) dividing the total sales of the acquired corporation in this state during the taxable year by the total sales of the unitary group everywhere during the taxable year; and

(II) ~~[(Aa)]~~ if the unitary group elects to calculate the fraction for apportioning business income to this state using the method described in Subsection 59-7-311(2)~~[(d)]~~(b), multiplying the amount calculated under Subsection (6)(a)(i)(C)(I) by two; or

~~[(Bb)] if the unitary group is required to calculate the fraction for apportioning business income to this state using the method described in Subsection 59-7-311(3)(a), multiplying the amount calculated under Subsection (6)(a)(i)(C)(I) by four; or]~~

~~[(Cc)] if the unitary group is required to calculate the fraction for apportioning business income to this state using the method described in Subsection 59-7-311(3)(b), multiplying the amount calculated under Subsection (6)(a)(i)(C)(I) by 10; or]~~

(ii) if the unitary group is required or elects to calculate the fraction for apportioning business income to this state using the method described in Subsection 59-7-311(3)(e), calculating an amount determined by dividing the total sales of the acquired corporation in this state during the taxable year by the total sales of the unitary group everywhere during the taxable year;

(b) dividing the amount calculated under Subsection (6)(a) by the same denominator of the fraction the unitary group uses to apportion business income to this state:

- (i) for that taxable year; and
- (ii) in accordance with Section 59-7-311;

(c) multiplying the amount calculated under Subsection (6)(b) by the business income of the unitary group for the taxable year that is subject to apportionment under Section 59-7-311; and

(d) calculating the sum of:

(i) the amount calculated under Subsection (6)(c); and

(ii) the following amounts allocable to the acquired corporation for the taxable year:

- (A) nonbusiness income allocable to this state; or
- (B) nonbusiness loss allocable to this state.

(7) The amounts calculated under Subsection (6)(a) shall be derived in the same manner as those amounts are derived for purposes of apportioning the unitary group's business income before deducting the net loss, including a modification made in accordance with Section 59-7-320.

Section 2. Section 59-7-302 is amended to read:

59-7-302. Definitions.

(1) As used in this part, unless the context otherwise requires:

(a) "Aircraft type" means a particular model of aircraft as designated by the manufacturer of the aircraft.

(b) "Airline" ~~[is as]~~ means the same as that term is defined in Section 59-2-102.

(c) "Airline revenue ton miles" means, for an airline, the total revenue ton miles during the airline's tax period.

(d) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitutes integral parts of the taxpayer's regular trade or business operations.

(e) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(f) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services.

(g) (i) Except as provided in Subsection (1)(g)(ii), "mobile flight equipment" is as defined in Section 59-2-102.

(ii) "Mobile flight equipment" does not include:

(A) a spare engine; or

(B) tangible personal property described in Subsection 59-2-102(26) owned by an:

(I) air charter service; or

(II) air contract service.

(h) "Nonbusiness income" means all income other than business income.

(i) "Optional sales factor weighted taxpayer" means:

(i) for a taxpayer that is not a unitary group, regardless of the number of economic activities the taxpayer performs, a taxpayer having greater than 50% of the taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if the economic activities are classified in a NAICS code within NAICS Subsector 334 of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; or

(ii) for a taxpayer that is a unitary group, a taxpayer having greater than 50% of the taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if the economic activities are classified in a NAICS code within NAICS Subsector 334 of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget.

(j) (i) "Revenue ton miles" is determined in accordance with 14 C.F.R. Part 241.

(j) (k) "Sales" means all gross receipts of the taxpayer not allocated under Sections 59-7-306 through 59-7-310.

~~[(k)]~~ (l) Subject to Subsection (2), “sales factor weighted taxpayer” means:

(i) for a taxpayer that is not a unitary group, regardless of the number of economic activities the taxpayer performs, a taxpayer having greater than 50% of the taxpayer’s total sales everywhere generated by economic activities performed by the taxpayer if the economic activities are classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, except for:

(A) a NAICS code within NAICS Sector 21, Mining;

(B) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;

(C) a NAICS code within NAICS Sector 31-33, Manufacturing;

(D) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;

(E) a NAICS code within NAICS Sector 51, Information, except for NAICS Subsector 519, Other Information Services; or

(F) a NAICS code within NAICS Sector 52, Finance and Insurance; or

(ii) for a taxpayer that is a unitary group, a taxpayer having greater than 50% of the taxpayer’s total sales everywhere generated by economic activities performed by the taxpayer if the economic activities are classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, except for ~~[(i)]~~ a NAICS code under Subsections (1)(i)(A) through (F).

~~[(A) a NAICS code within NAICS Sector 21, Mining;]~~

~~[(B) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;]~~

~~[(C) a NAICS code within NAICS Sector 31-33, Manufacturing;]~~

~~[(D) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;]~~

~~[(E) a NAICS code within NAICS Sector 51, Information, except for NAICS Subsector 519, Other Information Services; or]~~

~~[(F) a NAICS code within NAICS Sector 52, Finance and Insurance.]~~

(4) (m) “State” means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

~~[(m)]~~ (n) “Transportation revenue” means revenue an airline earns from:

(i) transporting a passenger or cargo; or

(ii) from miscellaneous sales of merchandise as part of providing transportation services.

~~[(m)]~~ (o) “Utah revenue ton miles” means, for an airline, the total revenue ton miles within the borders of this state:

(i) during the airline’s tax period; and

(ii) from flight stages that originate or terminate in this state.

(2) The following apply to Subsection (1)~~[(k)]~~(l):

(a) (i) Subject to the other provisions of this Subsection (2), a taxpayer shall for each taxable year determine whether the taxpayer is a sales factor weighted taxpayer.

(ii) A taxpayer shall make the determination required by Subsection (2)(a)(i) before the due date for filing the taxpayer’s return under this chapter for the taxable year, including extensions.

(iii) For purposes of making the determination required by Subsection (2)(a)(i), total sales everywhere include only the total sales everywhere:

(A) as determined in accordance with this part; and

(B) made during the taxable year for which a taxpayer makes the determination required by Subsection (2)(a)(i).

(b) A taxpayer that files a return as a unitary group for a taxable year is considered to be a unitary group for that taxable year.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may define the term “economic activity” consistent with the use of the term “activity” in the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget.

Section 3. Section 59-7-311 is amended to read:

59-7-311. Method of apportionment of business income.

(1) For a taxable year, all business income shall be apportioned to this state by multiplying the business income by a fraction calculated as provided in this section.

~~[(2) (a) Subject to the other provisions of this part, for the taxable year that begins on or after January 1, 2010, but begins on or before December 31, 2010, a taxpayer, including a sales factor weighted taxpayer, shall elect to calculate the fraction for apportioning business income to this state under this section using:]~~

~~[(i) the method described in Subsection (2)(c); or]~~

~~[(ii) the method described in Subsection (2)(d).]~~

~~[(b) Subject to the other provisions of this part, for a taxable year that begins on or after January 1, 2011, a taxpayer, except for a sales factor weighted taxpayer, shall elect to calculate the fraction for apportioning business income to this state under this section using:]~~

~~[(i) the method described in Subsection (2)(c); or]~~

~~[(ii) the method described in Subsection (2)(d).]~~

~~[(c) For purposes of Subsection (2)(a) or (b), a taxpayer described in Subsection (2)(a) or (b) may elect to calculate the fraction for apportioning business income as follows:]~~

~~[(i) the numerator of the fraction is the sum of:]~~

~~[(A) the property factor as calculated under Section 59-7-312;]~~

~~[(B) the payroll factor as calculated under Section 59-7-315; and]~~

~~[(C) the sales factor as calculated under Section 59-7-317; and]~~

~~[(ii) the denominator of the fraction is three.]~~

~~[(d) For purposes of Subsection (2)(a) or (b), a taxpayer described in Subsection (2)(a) or (b) may elect to calculate the fraction for apportioning business income as follows:]~~

~~[(i) the numerator of the fraction is the sum of:]~~

~~[(A) the property factor as calculated under Section 59-7-312;]~~

~~[(B) the payroll factor as calculated under Section 59-7-315; and]~~

~~[(C) the product of:]~~

~~[(I) the sales factor as calculated under Section 59-7-317; and]~~

~~[(II) two; and]~~

~~[(ii) the denominator of the fraction is four.]~~

~~[(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for a taxpayer described in Subsection (2)(a) or (b) to make the election required by this Subsection (2).]~~

~~[(3) (a) Subject to the other provisions of this part, for the taxable year that begins on or after January 1, 2011, but begins on or before December 31, 2011, a sales factor weighted taxpayer shall calculate the fraction for apportioning business income to this state as follows:]~~

~~[(i) the numerator of the fraction is the sum of:]~~

~~[(A) the property factor as calculated under Section 59-7-312;]~~

~~[(B) the payroll factor as calculated under Section 59-7-315; and]~~

~~[(C) the product of:]~~

~~[(I) the sales factor as calculated under Section 59-7-317; and]~~

~~[(II) four; and]~~

~~[(ii) the denominator of the fraction is six.]~~

~~[(b) Subject to the other provisions of this part, for the taxable year that begins on or after January 1, 2012, but begins on or before December 31, 2012, a~~

~~sales factor weighted taxpayer shall calculate the fraction for apportioning business income to this state as follows:]~~

~~[(i) the numerator of the fraction is the sum of:]~~

~~[(A) the property factor as calculated under Section 59-7-312;]~~

~~[(B) the payroll factor as calculated under Section 59-7-315; and]~~

~~[(C) the product of:]~~

~~[(I) the sales factor as calculated under Section 59-7-317; and]~~

~~[(II) 10; and]~~

~~[(ii) the denominator of the fraction is 12.]~~

~~[(c) Subject to the other provisions of this part, for a taxable year that begins on or after January 1, 2013, a sales factor weighted taxpayer shall calculate the fraction for apportioning business income to this state as follows:]~~

~~[(i) the numerator of the fraction is the sales factor as calculated under Section 59-7-317; and]~~

~~[(ii) the denominator of the fraction is one.]~~

~~[(4) If a taxpayer calculates the fraction for apportioning business income to this state using a method described in this section:]~~

~~(2) Subject to the other provisions of this part, a taxpayer, except for a sales factor weighted taxpayer and an optional sales factor weighted taxpayer, shall calculate the fraction for apportioning business income to this state using one of the following fractions:~~

~~(a) a fraction where:~~

~~(i) the numerator of the fraction is the sum of:~~

~~(A) the property factor as calculated under Section 59-7-312;~~

~~(B) the payroll factor as calculated under Section 59-7-315; and~~

~~(C) the sales factor as calculated under Section 59-7-317; and~~

~~(ii) the denominator of the fraction is three; or~~

~~(b) a fraction where:~~

~~(i) the numerator of the fraction is the sum of:~~

~~(A) the property factor as calculated under Section 59-7-312;~~

~~(B) the payroll factor as calculated under Section 59-7-315; and~~

~~(C) the sales factor as calculated under Section 59-7-317 multiplied by two; and~~

~~(ii) the denominator of the fraction is four.~~

~~(3) Subject to the other provisions of this part, a sales factor weighted taxpayer shall calculate the fraction for apportioning business income to this state using a fraction where:~~

(a) the numerator of the fraction is the sales factor as calculated under Section 59-7-317; and

(b) the denominator of the fraction is one.

(4) Subject to the other provisions of this part, an optional sales factor weighted taxpayer shall calculate the fraction for apportioning business income to this state using a method described in Subsection (2)(a), (2)(b), or (3).

(5) (a) The taxpayer shall determine the method for calculating the fraction for apportioning business income to this state under this section on or before the due date for filing the taxpayer's return under this chapter for the taxable year, including extensions[; and].

(b) The method described in Subsection [(4)] (5)(a) is in effect for the [time period:] taxable year.

[(i) beginning on the first day of the taxpayer's taxable year for which the taxpayer makes the determination described in Subsection (4)(a); and]

[(ii) ends on the last day of the taxable year described in Subsection (4)(b)(i).]

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for a taxpayer to make the election required by Subsections (2) and (4).

Section 4. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2016.

CHAPTER 312**H. B. 118**

Passed February 29, 2016

Approved March 28, 2016

Effective May 10, 2016

**PUBLIC ACCESS OF
ADMINISTRATIVE ACTION AMENDMENTS**Chief Sponsor: Brian M. Greene
Senate Sponsor: Curtis S. Bramble**LONG TITLE****General Description:**

This bill modifies the Administrative Procedures Act to address public access to administrative actions.

Highlighted Provisions:

This bill:

- ▶ addresses access of information on public state-controlled websites;
- ▶ addresses application of the Government Records Access and Management Act; and
- ▶ addresses the Open and Public Meetings Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

63G-4-106, Utah Code Annotated 1953

63G-4-107, Utah Code Annotated 1953

63G-4-108, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-4-106 is enacted to read:**63G-4-106. Access to information on state-controlled websites.**

(1) As used in this section and Sections 63G-4-107 and 63G-4-108:

(a) "Administrative disciplinary action" means, subject to the limitations described in Section 63G-4-102, state agency action against the interest of an individual that affects a legal right, duty, privilege, immunity, or other legal interest of an individual, including agency action to deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license.

(b) "Record of administrative disciplinary action" means a notice, request, complaint, report, order, or other information related to an administrative disciplinary action.

(c) "State-controlled website" means a website:

(i) operated by:

(A) an agency; or

(B) a third party pursuant to a contract with an agency under which the agency controls the data available to the public; and

(ii) that includes personally identifiable information.

(2) Unless otherwise required by federal law, if an agency maintains, on a state-controlled website available to the public, a record of administrative disciplinary action, the agency shall remove the record of administrative disciplinary action from public access on the state-controlled website by no later than 10 years from the date:

(a) a final order related to the administrative disciplinary action was issued; or

(b) the administrative disciplinary action was commenced, if no final order was issued related to the administrative disciplinary action.

(3) Notwithstanding Subsection (2):

(a) a record of administrative disciplinary action issued in accordance with this chapter shall maintain its record classification pursuant to Subsection 63G-2-301(2)(c) or (3)(t); and

(b) a person may make a request for the record of administrative disciplinary action in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

Section 2. Section 63G-4-107 is enacted to read:**63G-4-107. Petition to remove agency action from public access.**

(1) An individual may petition the agency that maintains, on a state-controlled website available to the public, a record of administrative disciplinary action, to remove the record of administrative disciplinary action from public access on the state-controlled website, if:

(a) (i) five years have passed since:

(A) the date the final order was issued; or

(B) if no final order was issued, the date the administrative disciplinary action was commenced; or

(ii) the individual has obtained a criminal expungement order under Title 77, Chapter 40, Utah Expungement Act, for the individual's criminal records related to the same incident or conviction upon which the administrative disciplinary action was based;

(b) the individual has successfully completed all action required by the agency relating to the administrative disciplinary action within the time frame set forth in the final order, or if no time frame is specified in the final order, within the time frame set forth in Title 63G, Chapter 4, Administrative Procedures Act;

(c) from the time that the original administrative disciplinary action was filed, the individual has not violated the same statutory provisions or administrative rules related to those statutory provisions that resulted in the original administrative disciplinary action; and

(d) the individual pays an application fee determined by the agency in accordance with Section 63J-1-504.

(2) The individual petitioning the agency under Subsection (1) shall provide the agency with a written request containing the following information:

(a) the petitioner's full name, address, telephone number, and date of birth;

(b) the information the petitioner seeks to remove from public access; and

(c) an affidavit certifying that the petitioner is in compliance with the provisions of Subsection (1).

(3) Within 30 days of receiving the documents and information described in Subsection (2):

(a) the agency shall review the petition and all documents submitted with the petition to determine whether the petitioner has met the requirements of Subsections (1) and (2); and

(b) if the agency determines that the petitioner has met the requirements of Subsections (1) and (2), the agency shall immediately remove the record of administrative disciplinary action from public access on the state-controlled website.

(4) Notwithstanding the provisions of Subsection (3), an agency is not required to remove a recording, written minutes, or other electronic information from the Utah Public Notice Website, created under Section 63F-1-701, if the recording, written minutes, or other electronic information is required to be available to the public on the Utah Public Notice Website under the provisions of Title 52, Chapter 4, Open and Public Meetings Act.

Section 3. Section 63G-4-108 is enacted to read:

63G-4-108. Impact on duty to disclose an administrative action.

The removal of a record of an administrative disciplinary action from a state-controlled website in accordance with Section 63G-4-106 or 63G-4-107 does not affect any separate legal duty or requirement that the subject of the administrative disciplinary action may have to disclose the action.

CHAPTER 313**H. B. 155**

Passed February 26, 2016

Approved March 28, 2016

Effective May 10, 2016

REPORTING OF CHILD PORNOGRAPHY

Chief Sponsor: Craig Hall
 Senate Sponsor: Todd Weiler
 Cosponsor: Marie H. Poulson

LONG TITLE**General Description:**

This bill modifies the law regarding child pornography.

Highlighted Provisions:

This bill:

- ▶ requires that a computer technician who finds child pornography in the course of the technician's work shall report the finding to law enforcement or the federal Cyber Tip Line for child pornography;
- ▶ provides that an employer may establish a procedure for the computer technician employee to report to a designated employee who will report the child pornography;
- ▶ provides that the willful failure to report the child pornography is a class B misdemeanor;
- ▶ provides immunity for a computer technician who reports in good faith or acting in good faith does not make a report; and
- ▶ specifies that Internet service providers, including hosting services, are not liable under this section if the provider reports child pornography in compliance with specified federal law.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

76-10-1204.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-10-1204.5 is enacted to read:**76-10-1204.5. Reporting of child pornography by a computer technician.**

(1) As used in this section:

(a) "Child pornography" means the same as that term is defined in Section 76-5b-103.

(b) "Computer technician" or "technician" means an individual who in the course and scope of the individual's employment for compensation installs, maintains, troubleshoots, upgrades, or repairs computer hardware, software, personal computer networks, or peripheral equipment.

(c) "Image" means an image of child pornography or an image that a computer technician reasonably believes is child pornography.

(2) (a) A computer technician who in the course of employment for compensation views an image on a computer or other electronic device that is or appears to be child pornography shall immediately report the finding of the image to:

(i) a state or local law enforcement agency, or the Cyber Tip Line at the National Center for Missing and Exploited Children; or

(ii) an employee designated by the employer of the computer technician in accordance with Subsection (3).

(b) A computer technician who willfully does not report an image as required under Subsection (2)(a) is guilty of a class B misdemeanor.

(c) The identity of the computer technician who reports an image shall be confidential, except as necessary for the criminal investigation and the judicial process.

(d) (i) If the computer technician makes or does not make a report under this section in good faith, the technician is immune from any criminal or civil liability related to reporting or not reporting the image.

(ii) In this Subsection (2)(d), good faith may be presumed from an employee's or employer's previous course of conduct when the employee or employer has made appropriate reports.

(e) It is a defense to prosecution under this section that the computer technician did not report the image because the technician reasonably believed the image did not depict a person younger than 18 years of age.

(3) (a) An employer of a computer technician may implement a procedure that requires:

(i) the computer technician report an image as is required under Subsection (2)(a) to an employee designated by the employer to receive the report of the image; and

(ii) the designated employee to immediately forward the report provided by the computer technician to an agency under Subsection (2)(a)(i).

(b) Compliance by the computer technician and the designated employee with the reporting process under Subsection (3)(a) is compliance with the reporting requirement of this section and establishes immunity under Subsection (2)(d).

(4) This section does not apply to an Internet service provider or interactive computer service, as defined in 47 U.S.C. Sec. 230(f)(2), a provider of an electronic communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service, or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if the provider reports the image in compliance with 18 U.S.C. 2258A or a successor federal statute that requires reporting by a provider of an image of child pornography.

CHAPTER 314**H. B. 163**

Passed February 25, 2016

Approved March 28, 2016

Effective May 10, 2016

TITLE INSURANCE AMENDMENTS

Chief Sponsor: R. Curt Webb
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies the Insurance Code to address title insurance.

Highlighted Provisions:

This bill:

- ▶ addresses closing or settlement protection;
- ▶ addresses the liability of title insurers and title insurance producers under certain circumstances; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

31A-4-117, as enacted by Laws of Utah 2013, Chapter 319

31A-23a-407, as last amended by Laws of Utah 2013, Chapter 319

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-4-117 is amended to read:**31A-4-117. Closing or settlement protection.**

(1) A title insurer may issue closing or settlement protection in the form of a closing protection letter filed with the department to a person who is a party to a transaction in which a title insurance policy is issued.

(2) Closing or settlement protection may indemnify a person who is a party to a transaction referred to in Subsection (1) against loss that the title insurer approves for the closing or settlement protection, under the terms and conditions of the closing protection letter issued by the title insurer, because of one or more of the following acts of a title insurance policy issuing individual title insurance producer or agency title insurance producer or other settlement service provider:

(a) theft or misappropriation of settlement funds in connection with a transaction in which one or more title insurance policies are issued by or on behalf of the title insurer issuing the closing or settlement protection, but only to the extent that the theft or misappropriation relates to the status of the title to that interest in land or to the validity, enforceability, and priority of the lien of the mortgage on that interest in land; or

(b) failure to comply with the written closing instructions when agreed to by the settlement agent, title agent, or employee of the title insurer, but only to the extent that the failure to follow the written closing instructions relates to the status of the title to that interest in land or the validity, enforceability, and priority of the lien of the mortgage on that interest in land.

(3) A title insurer may not make the fee charged by a title insurer for each party receiving closing or settlement protection coverage subject to any agreement requiring a division of fees or premiums collected on behalf of the title insurer. The fee charged for a closing or settlement coverage protection letter will be filed by the title insurer with the department 30 days before use.

(4) A title insurer may not provide any other protection that purports to contractually indemnify against improper acts or omissions of a person who is a party to a transaction referred to in Subsection (1) with regard to settlement or closing services.

(5) Subject to Section 31A-23a-407, a title insurer that is represented by an individual title insurance producer or an agency title insurance producer is liable for the acts or omissions of the individual title insurance producer or agency title insurance producer for closing or settlement only to the extent of the liability undertaken in the closing protection letter according to terms and provisions in the closing protection letter issued pursuant to this section. The liability to the title insurer, if any, of the individual title insurance producer or agency title insurance producer that issues the title insurance policy for acts or omissions of the individual title insurance producer or agency title insurance producer may not be limited or modified because the title insurer has provided closing protection to one or more parties to a real property transaction, escrow, settlement, or closing.

Section 2. Section 31A-23a-407 is amended to read:**31A-23a-407. Liability for acts of title insurance producers.**

[Any title company, represented by one or more]

(1) Subject to the other provisions in this section, a title insurer that appoints an individual title insurance [producers appointed by an insurer] producer or an agency title insurance [producers, is directly and primarily] producer is liable to [others dealing with the individual title insurance producers or agency title insurance producers] a buyer, seller, borrower, lender, or third party that deposits money with the individual title insurance producer or agency title insurance producer for the receipt and disbursement of [funds] money deposited [in escrows] with the individual title insurance [producers appointed by an insurer] producer or agency title insurance [producers in all those transactions where] producer for a transaction when a commitment [or binder] for [or] a policy [or contract] of title insurance of that title insurer [has been] is ordered, [or a preliminary report of the title insurer has been] issued, or distributed[-. This] or a title insurance policy of that

title insurer is issued, except that once a title insurer is named in an issued commitment only that title insurer is liable as a title insurer under this section.

(2) The liability of a title insurer under Subsection (1) and the liability of an individual title insurance producer or agency title insurance producer for the receipt and disbursement of money deposited with the individual title insurance producer or agency title insurance producer is limited to the amount of money received and disbursed, not to exceed the amount of proposed insurance set forth in the commitment or title insurance policy described in Subsection (1) plus 10% of the amount of the proposed insurance.

(3) The liability described in Subsection (1) does not modify, mitigate, impair, or affect the contractual obligations between [the] an individual title insurance [producers] producer or agency title insurance [producers] producer and the title insurer.

(4) The liability of a title insurer with respect to the condition of title to the real property that is the subject of a title insurance policy or a title insurance commitment for a title insurance policy is limited to the terms, conditions, and stipulations contained in the title insurance policy or title commitment.

CHAPTER 315**H. B. 266**

Passed February 25, 2016

Approved March 28, 2016

Effective May 10, 2016

**UNCLAIMED CAPITAL
CREDITS AMENDMENTS**Chief Sponsor: Michael E. Noel
Senate Sponsor: Ralph Okerlund**LONG TITLE****General Description:**

This bill amends provisions related to a distribution electrical cooperative's or telephone cooperative's unclaimed capital credits.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ provides that a distribution electrical cooperative or a telephone cooperative may use the proceeds of unclaimed capital credits to provide financial assistance to a school, non-profit organization, or community organization in the area where the cooperative provides service.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

54-2-1, as last amended by Laws of Utah 2014, Chapters 20, 381, and 388

54-3-26, as enacted by Laws of Utah 1995, Chapter 198

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 54-2-1 is amended to read:**54-2-1. Definitions.**

As used in this title:

(1) "Avoided costs" means the incremental costs to an electrical corporation of electric energy or capacity or both that, due to the purchase of electric energy or capacity or both from small power production or cogeneration facilities, the electrical corporation would not have to generate itself or purchase from another electrical corporation.

(2) "Cogeneration facility":

(a) means a facility that produces:

(i) electric energy; and

(ii) steam or forms of useful energy, including heat, that are used for industrial, commercial, heating, or cooling purposes; and

(b) is a qualifying cogeneration facility under federal law.

(3) "Commission" means the Public Service Commission of Utah.

(4) "Commissioner" means a member of the commission.

(5) (a) "Corporation" includes an association and a joint stock company having any powers or privileges not possessed by individuals or partnerships.

(b) "Corporation" does not include towns, cities, counties, conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

(6) "Distribution electrical cooperative" includes an electrical corporation that:

(a) is a cooperative;

(b) conducts a business that includes the retail distribution of electricity the cooperative purchases or generates for the cooperative's members; and

(c) is required to allocate or distribute savings in excess of additions to reserves and surplus on the basis of patronage to the cooperative's:

(i) members; or

(ii) patrons.

(7) (a) "Electrical corporation" includes every corporation, cooperative association, and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any electric plant, or in any way furnishing electric power for public service or to its consumers or members for domestic, commercial, or industrial use, within this state.

(b) "Electrical corporation" does not include:

(i) an independent energy producer;

(ii) where electricity is generated on or distributed by the producer solely for the producer's own use, or the use of the producer's tenants, or the use of members of an association of unit owners formed under Title 57, Chapter 8, Condominium Ownership Act, and not for sale to the public generally;

(iii) an eligible customer who provides electricity for the eligible customer's own use or the use of the eligible customer's tenant or affiliate; or

(iv) a nonutility energy supplier who sells or provides electricity to:

(A) an eligible customer who has transferred the eligible customer's service to the nonutility energy supplier in accordance with Section 54-3-32; or

(B) the eligible customer's tenant or affiliate.

(c) "Electrical corporation" does not include an entity that sells electric vehicle battery charging services, unless the entity conducts another activity in the state that subjects the entity to the jurisdiction and regulation of the commission as an electrical corporation.

(8) "Electric plant" includes all real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to

facilitate the production, generation, transmission, delivery, or furnishing of electricity for light, heat, or power, and all conduits, ducts, or other devices, materials, apparatus, or property for containing, holding, or carrying conductors used or to be used for the transmission of electricity for light, heat, or power.

(9) “Eligible customer” means a person who:

(a) on December 31, 2013:

(i) was a customer of a public utility that, on December 31, 2013, had more than 200,000 retail customers in this state; and

(ii) owned an electric plant that is an electric generation plant that, on December 31, 2013, had a generation name plate capacity of greater than 150 megawatts; and

(b) produces electricity:

(i) from a qualifying power production facility for sale to a public utility in this state;

(ii) primarily for the eligible customer’s own use; or

(iii) for the use of the eligible customer’s tenant or affiliate.

(10) “Eligible customer’s tenant or affiliate” means one or more tenants or affiliates:

(a) of an eligible customer; and

(b) who are primarily engaged in an activity:

(i) related to the eligible customer’s core mining or industrial businesses; and

(ii) performed on real property that is:

(A) within a 25-mile radius of the electric plant described in Subsection (9)(a)(ii); and

(B) owned by, controlled by, or under common control with, the eligible customer.

(11) “Gas corporation” includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any gas plant for public service within this state or for the selling or furnishing of natural gas to any consumer or consumers within the state for domestic, commercial, or industrial use, except in the situation that:

(a) gas is made or produced on, and distributed by the maker or producer through, private property:

(i) solely for the maker’s or producer’s own use or the use of the maker’s or producer’s tenants; and

(ii) not for sale to others;

(b) gas is compressed on private property solely for the owner’s own use or the use of the owner’s employees as a motor vehicle fuel; or

(c) gas is compressed by a retailer of motor vehicle fuel on the retailer’s property solely for sale as a motor vehicle fuel.

(12) “Gas plant” includes all real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of gas, natural or manufactured, for light, heat, or power.

(13) “Heat corporation” includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any heating plant for public service within this state.

(14) (a) “Heating plant” includes all real estate, fixtures, machinery, appliances, and personal property controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of artificial heat.

(b) “Heating plant” does not include either small power production facilities or cogeneration facilities.

(15) “Independent energy producer” means every electrical corporation, person, corporation, or government entity, their lessees, trustees, or receivers, that own, operate, control, or manage an independent power production or cogeneration facility.

(16) “Independent power production facility” means a facility that:

(a) produces electric energy solely by the use, as a primary energy source, of biomass, waste, a renewable resource, a geothermal resource, or any combination of the preceding sources; or

(b) is a qualifying power production facility.

(17) “Nonutility energy supplier” means a person that:

(a) has received market-based rate authority from the Federal Energy Regulatory Commission in accordance with 16 U.S.C. Sec. 824d, 18 C.F.R. Part 35, Filing of Rate Schedules and Tariffs, or applicable Federal Energy Regulatory Commission orders; or

(b) owns, leases, operates, or manages an electric plant that is an electric generation plant that:

(i) has a capacity of greater than 100 megawatts; and

(ii) is hosted on the site of an eligible customer that consumes the output of the electric plant, in whole or in part, for the eligible customer’s own use or the use of the eligible customer’s tenant or affiliate.

(18) “Private telecommunications system” includes all facilities for the transmission of signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, lightwaves, or other electromagnetic means, excluding mobile radio facilities, that are owned, controlled, operated, or managed by a corporation or person, including their lessees, trustees, receivers, or trustees appointed by any court, for the use of that corporation or person and not for the

shared use with or resale to any other corporation or person on a regular basis.

(19) (a) "Public utility" includes every railroad corporation, gas corporation, electrical corporation, distribution electrical cooperative, wholesale electrical cooperative, telephone corporation, telegraph corporation, water corporation, sewerage corporation, heat corporation, and independent energy producer not described in Subsection (19)(d), where the service is performed for, or the commodity delivered to, the public generally, or in the case of a gas corporation or electrical corporation where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use.

(b) (i) If any railroad corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewerage corporation, heat corporation, or independent energy producer not described in Subsection (19)(d), performs a service for or delivers a commodity to the public, it is considered to be a public utility, subject to the jurisdiction and regulation of the commission and this title.

(ii) If a gas corporation, independent energy producer not described in Subsection (19)(d), or electrical corporation sells or furnishes gas or electricity to any member or consumers within the state, for domestic, commercial, or industrial use, for which any compensation or payment is received, it is considered to be a public utility, subject to the jurisdiction and regulation of the commission and this title.

(c) Any corporation or person not engaged in business exclusively as a public utility as defined in this section is governed by this title in respect only to the public utility owned, controlled, operated, or managed by the corporation or person, and not in respect to any other business or pursuit.

(d) An independent energy producer is exempt from the jurisdiction and regulations of the commission with respect to an independent power production facility if it meets the requirements of Subsection (19)(d)(i), (ii), (iii), or (iv), or any combination of these:

(i) the commodity or service is produced or delivered, or both, by an independent energy producer solely for a use described in Subsections (7)(b)(ii) through (iv) or for the use of state-owned facilities;

(ii) the commodity or service is sold by an independent energy producer solely to an electrical corporation or other wholesale purchaser;

(iii) (A) the commodity or service produced or delivered by the independent energy producer is delivered to an entity that controls, is controlled by, or affiliated with the independent energy producer or to a user located on real property managed or controlled by the independent energy producer; and

(B) the real property on which the service or commodity is used is contiguous to real property that is owned or controlled by the independent

energy producer or is separated only by a public road or an easement for a public road; or

(iv) the independent energy producer:

(A) supplies energy for direct consumption by a customer that is:

(I) a United States governmental entity, including an entity of the United States military, or a county, municipality, city, town, other political subdivision, local district, special service district, state institution of higher education, school district, charter school, or any entity within the state system of public education; or

(II) an entity qualifying as a charitable organization under 26 U.S.C. Sec. 501(c)(3) operated for religious, charitable, or educational purposes that is exempt from federal income tax and able to demonstrate its tax-exempt status;

(B) supplies energy to the customer through use of a customer generation system, as defined in Section 54-15-102, for use on the real property where the customer generation system is located;

(C) supplies energy using a customer generation system designed to supply the lesser of:

(I) no more than 90% of the average annual consumption of electricity by the customer at that site, based on an annualized billing period; or

(II) the maximum size allowable under net metering provisions, defined in Section 54-15-102;

(D) notifies the customer before installing the customer generation system of:

(I) all costs the customer is required to pay for the customer generation system, including any interconnection costs; and

(II) the potential for future changes in amounts paid by the customer for energy received from the public utility and the possibility of changes to the customer fees or charges to the customer associated with net metering and generation;

(E) enters into and performs in accordance with an interconnection agreement with a public utility providing retail electric service where the real property on which the customer generation system is located, with the rates, terms, and conditions of the retail service and interconnection agreement subject to approval by the governing authority of the public utility, as defined in Subsection 54-15-102(8); and

(F) installs the relevant customer generation system by December 31, 2021.

(e) Any person or corporation defined as an electrical corporation or public utility under this section may continue to serve its existing customers subject to any order or future determination of the commission in reference to the right to serve those customers.

(f) (i) "Public utility" does not include any person that is otherwise considered a public utility under this Subsection (19) solely because of that person's ownership of an interest in an electric plant,

cogeneration facility, or small power production facility in this state if all of the following conditions are met:

(A) the ownership interest in the electric plant, cogeneration facility, or small power production facility is leased to:

(I) a public utility, and that lease has been approved by the commission;

(II) a person or government entity that is exempt from commission regulation as a public utility; or

(III) a combination of Subsections (19)(f)(i)(A)(I) and (II);

(B) the lessor of the ownership interest identified in Subsection (19)(f)(i)(A) is:

(I) primarily engaged in a business other than the business of a public utility; or

(II) a person whose total equity or beneficial ownership is held directly or indirectly by another person engaged in a business other than the business of a public utility; and

(C) the rent reserved under the lease does not include any amount based on or determined by revenues or income of the lessee.

(ii) Any person that is exempt from classification as a public utility under Subsection (19)(f)(i) shall continue to be so exempt from classification following termination of the lessee's right to possession or use of the electric plant for so long as the former lessor does not operate the electric plant or sell electricity from the electric plant. If the former lessor operates the electric plant or sells electricity, the former lessor shall continue to be so exempt for a period of 90 days following termination, or for a longer period that is ordered by the commission. This period may not exceed one year. A change in rates that would otherwise require commission approval may not be effective during the 90-day or extended period without commission approval.

(g) "Public utility" does not include any person that provides financing for, but has no ownership interest in an electric plant, small power production facility, or cogeneration facility. In the event of a foreclosure in which an ownership interest in an electric plant, small power production facility, or cogeneration facility is transferred to a third-party financier of an electric plant, small power production facility, or cogeneration facility, then that third-party financier is exempt from classification as a public utility for 90 days following the foreclosure, or for a longer period that is ordered by the commission. This period may not exceed one year.

(h) (i) The distribution or transportation of natural gas for use as a motor vehicle fuel does not cause the distributor or transporter to be a "public utility," unless the commission, after notice and a public hearing, determines by rule that it is in the public interest to regulate the distributors or transporters, but the retail sale alone of compressed

natural gas as a motor vehicle fuel may not cause the seller to be a "public utility."

(ii) In determining whether it is in the public interest to regulate the distributors or transporters, the commission shall consider, among other things, the impact of the regulation on the availability and price of natural gas for use as a motor fuel.

(i) "Public utility" does not include:

(i) an eligible customer who provides electricity for the eligible customer's own use or the use of the eligible customer's tenant or affiliate; or

(ii) a nonutility energy supplier that sells or provides electricity to:

(A) an eligible customer who has transferred the eligible customer's service to the nonutility energy supplier in accordance with Section 54-3-32; or

(B) the eligible customer's tenant or affiliate.

(j) "Public utility" does not include an entity that sells electric vehicle battery charging services, unless the entity conducts another activity in the state that subjects the entity to the jurisdiction and regulation of the commission as a public utility.

(20) "Purchasing utility" means any electrical corporation that is required to purchase electricity from small power production or cogeneration facilities pursuant to the Public Utility Regulatory Policies Act, 16 U.S.C. [Section] Sec. 824a-3.

(21) "Qualifying power producer" means a corporation, cooperative association, or person, or the lessee, trustee, and receiver of the corporation, cooperative association, or person, who owns, controls, operates, or manages any qualifying power production facility or cogeneration facility.

(22) "Qualifying power production facility" means a facility that:

(a) produces electrical energy solely by the use, as a primary energy source, of biomass, waste, a renewable resource, a geothermal resource, or any combination of the preceding sources;

(b) has a power production capacity that, together with any other facilities located at the same site, is no greater than 80 megawatts; and

(c) is a qualifying small power production facility under federal law.

(23) "Railroad" includes every commercial, interurban, and other railway, other than a street railway, and each branch or extension of a railway, by any power operated, together with all tracks, bridges, trestles, rights-of-way, subways, tunnels, stations, depots, union depots, yards, grounds, terminals, terminal facilities, structures, and equipment, and all other real estate, fixtures, and personal property of every kind used in connection with a railway owned, controlled, operated, or managed for public service in the transportation of persons or property.

(24) "Railroad corporation" includes every corporation and person, their lessees, trustees, and

receivers, owning, controlling, operating, or managing any railroad for public service within this state.

(25) (a) "Sewerage corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any sewerage system for public service within this state.

(b) "Sewerage corporation" does not include private sewerage companies engaged in disposing of sewage only for their stockholders, or towns, cities, counties, conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

(26) "Telegraph corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any telegraph line for public service within this state.

(27) "Telegraph line" includes all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telegraph, whether that communication be had with or without the use of transmission wires.

(28) "Telephone cooperative" means a telephone corporation that:

(a) is a cooperative; and

(b) is organized for the purpose of providing telecommunications service to the telephone corporation's members and the public at cost plus a reasonable rate of return.

~~[(29)]~~ (29) (a) "Telephone corporation" means any corporation or person, and their lessees, trustee, receivers, or trustees appointed by any court, who owns, controls, operates, manages, or resells a public telecommunications service as defined in Section 54-8b-2.

(b) "Telephone corporation" does not mean a corporation, partnership, or firm providing:

(i) intrastate telephone service offered by a provider of cellular, personal communication systems (PCS), or other commercial mobile radio service as defined in 47 U.S.C. Sec. 332 that has been issued a covering license by the Federal Communications Commission;

(ii) Internet service; or

(iii) resold intrastate toll service.

~~[(29)]~~ (30) "Telephone line" includes all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telephone whether that communication is had with or without the use of transmission wires.

~~[(30)]~~ (31) "Transportation of persons" includes every service in connection with or incidental to the safety, comfort, or convenience of the person transported, and the receipt, carriage, and delivery of that person and that person's baggage.

~~[(31)]~~ (32) "Transportation of property" includes every service in connection with or incidental to the transportation of property, including in particular its receipt, delivery, elevation, transfer, switching, carriage, ventilation, refrigeration, icing, dunnage, storage, and hauling, and the transmission of credit by express companies.

~~[(32)]~~ (33) "Water corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any water system for public service within this state. It does not include private irrigation companies engaged in distributing water only to their stockholders, or towns, cities, counties, water conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

~~[(33)]~~ (34) (a) "Water system" includes all reservoirs, tunnels, shafts, dams, dikes, headgates, pipes, flumes, canals, structures, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the diversion, development, storage, supply, distribution, sale, furnishing, carriage, appointment, apportionment, or measurement of water for power, fire protection, irrigation, reclamation, or manufacturing, or for municipal, domestic, or other beneficial use.

(b) "Water system" does not include private irrigation companies engaged in distributing water only to their stockholders.

~~[(34)]~~ (35) "Wholesale electrical cooperative" includes every electrical corporation that is:

(a) in the business of the wholesale distribution of electricity it has purchased or generated to its members and the public; and

(b) required to distribute or allocate savings in excess of additions to reserves and surplus to members or patrons on the basis of patronage.

Section 2. Section 54-3-26 is amended to read:

54-3-26. Retention of unclaimed capital credits by electric and telephone cooperatives -- Use of retained money -- Reporting requirements.

~~[Each electric and telephone cooperative shall: (1) retain capital credits given to customers of electric and telephone cooperatives in this state that remain unclaimed for a period of three years after the end the year in which the credit is given; (2) use the money retained solely to:]~~

(1) As used in this section:

(a) "Cooperative" means a:

(i) distribution electrical cooperative, as defined in Section 54-2-1, that is incorporated in the state; or

(ii) telephone cooperative, as defined in Section 54-2-1, that is incorporated in the state.

(b) "Unclaimed capital credit" means a capital credit issued by a cooperative to the cooperative's customer that is unclaimed on the last day of the year three years after the year in which the credit was issued.

(2) A cooperative shall retain an unclaimed capital credit.

(3) A cooperative shall use the proceeds of a retained unclaimed capital credit to:

(a) ~~assist low-income persons to~~ pay ~~[their]~~ all or a portion of a low-income individual's utility bills; ~~and]~~

(b) provide ~~[scholarships]~~ scholarships to ~~[local]~~ graduating high school seniors in the area where the cooperative provides service; ~~or~~

(c) provide financial assistance to, in the area where the cooperative provides service:

(i) a school;

(ii) a non-profit organization; or

(iii) a community organization.

~~[(3)]~~ (4) A cooperative shall establish ~~[guidelines based on factors such as income or special needs to determine persons who qualify; and]~~ criteria for recipients of the financial assistance described in this section that are based on:

(a) a recipient's financial or other needs; and

(b) the recipient community's interests.

~~[(4)]~~ (5) A cooperative shall submit ~~[copies annually]~~ a report, before November 1 of each year, to the Public Service Commission ~~[of: (a) the cooperative's guidelines; and (b) amounts and disposition of retained capital credits by individual recipients.]~~ that describes:

(a) the amount of unclaimed capital credits retained by the cooperative;

(b) the amount and recipients of financial assistance disbursed under this section; and

(c) the criteria used by the cooperative to determine the recipients and amount of financial assistance disbursed under this section.

CHAPTER 316**H. B. 269**

Passed March 9, 2016

Approved March 28, 2016

Effective May 10, 2016

RECYCLING OF COPPER WIRE

Chief Sponsor: Fred C. Cox
Senate Sponsor: Scott K. Jenkins

LONG TITLE**General Description:**

This bill modifies penalties associated with violations of Title 76, Chapter 6, Part 14, Regulation of Metal Dealers.

Highlighted Provisions:

This bill:

- ▶ states that a dealer or seller who is convicted of a misdemeanor under Title 76, Chapter 6, Part 14, Regulation of Metal Dealers, is also subject to a mandatory fine; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-6-1407, as renumbered and amended by Laws of Utah 2013, Chapter 187

76-6-1408, as renumbered and amended by Laws of Utah 2013, Chapter 187

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-6-1407 is amended to read:**76-6-1407. Violation by dealer -- Penalty -- Local regulation not less stringent.**

(1) (a) (i) Any dealer who violates any of the provisions of this part is guilty of a class C misdemeanor.

(ii) Any dealer who is convicted of a class C misdemeanor under this section is subject to a mandatory fine of no less than \$750.

(b) (i) A violation of Subsection (1)(a) that occurs after the defendant has been convicted of a violation of Subsection (1)(a) is a class A misdemeanor.

(ii) Any dealer who is convicted of a class A misdemeanor under this section is subject to a mandatory fine of no less than \$2,500.

(2) This section does not impair the authority of a county or municipality in this state to license, tax, and regulate any junk dealer or metal dealer, except that local regulations may not be any less stringent than the provisions in this part.

(3) This section does not impair the authority of a county or municipality to revoke or deny any business license or permit required by that county or municipality regulating the authority to sell, purchase, or possess metal, including the

revocation or denial of a business license or permit based on a violation of this part.

(4) This section does not prohibit the charging of a seller or dealer with any other criminal offense related to the obtaining, possession, or selling of stolen regulated metals.

Section 2. Section 76-6-1408 is amended to read:**76-6-1408. Falsification of seller's statement to dealer.**

(1) (a) Any seller who, in providing any information as required by this part in selling, offering, or attempting to sell regulated metal willfully makes a false statement or provides any untrue information, is guilty of a class B misdemeanor.

(b) Any seller who is convicted of a class B misdemeanor under this section is subject to a mandatory fine of no less than \$1,000.

(2) (a) A violation of Subsection (1) that occurs after the defendant has been convicted of a violation of Subsection (1) is a class A misdemeanor.

(b) Any seller who is convicted of a class A misdemeanor under this section is subject to a mandatory fine of no less than \$2,500.

CHAPTER 317**H. B. 276**

Passed March 10, 2016
 Approved March 28, 2016
 Effective May 10, 2016

UTAH PUBLIC LAND MANAGEMENT ACT

Chief Sponsor: Michael E. Noel
 Senate Sponsor: David P. Hinkins
 Cosponsors: Jacob L. Anderegg
 Stewart Barlow
 Melvin R. Brown
 Scott H. Chew
 LaVar Christensen
 Kay J. Christofferson
 Kim Coleman
 Fred C. Cox
 Rich Cunningham
 Brad M. Daw
 Brad L. Dee
 Jack R. Draxler
 Rebecca P. Edwards
 Steve Eliason
 Gage Froerer
 Francis D. Gibson
 Brian M. Greene
 Keith Grover
 Stephen G. Handy
 Gregory H. Hughes
 Don L. Ipson
 Ken Ivory
 Michael S. Kennedy
 Bradley G. Last
 David E. Lifferth
 Kay L. McIff
 Mike K. McKell
 Merrill F. Nelson
 Curtis Oda
 Derrin Owens
 Lee B. Perry
 Jeremy A. Peterson
 Val L. Peterson
 Dixon M. Pitcher
 Paul Ray
 Marc K. Roberts
 Douglas V. Sagers
 Scott D. Sandall
 Mike Schultz
 V. Lowry Snow
 Jon E. Stanard
 Keven J. Stratton
 Norman K. Thurston
 Raymond P. Ward
 R. Curt Webb
 John R. Westwood
 Brad R. Wilson

LONG TITLE**General Description:**

This bill enacts the Utah Public Land Management Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ makes findings;

- ▶ requires the director of the Division of Oil, Gas, and Mining to make a report to the Commission for the Stewardship of Public Lands;
- ▶ establishes duties for the director of the Department of Natural Resources and the commissioner of the Department of Agriculture and Food;
- ▶ authorizes fees;
- ▶ establishes the:
 - Public Land Protection Fund;
 - Public Land Management Fund;
 - Timber Fund; and
 - Grazing Land Fund;
- ▶ establishes a procedure to issue a right-of-way or use authorization on public land;
- ▶ creates the Division of Land Management within the Department of Natural Resources;
- ▶ creates the Public Land Management Advisory Board;
- ▶ requires reports to the Legislature; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

40-6-16, as last amended by Laws of Utah 1993, Chapter 227

79-2-201, as last amended by Laws of Utah 2013, Chapter 413

ENACTS:

63L-8-101, Utah Code Annotated 1953
 63L-8-102, Utah Code Annotated 1953
 63L-8-103, Utah Code Annotated 1953
 63L-8-104, Utah Code Annotated 1953
 63L-8-105, Utah Code Annotated 1953
 63L-8-201, Utah Code Annotated 1953
 63L-8-202, Utah Code Annotated 1953
 63L-8-203, Utah Code Annotated 1953
 63L-8-301, Utah Code Annotated 1953
 63L-8-302, Utah Code Annotated 1953
 63L-8-303, Utah Code Annotated 1953
 63L-8-304, Utah Code Annotated 1953
 63L-8-305, Utah Code Annotated 1953
 63L-8-306, Utah Code Annotated 1953
 63L-8-307, Utah Code Annotated 1953
 63L-8-308, Utah Code Annotated 1953
 63L-8-309, Utah Code Annotated 1953
 63L-8-310, Utah Code Annotated 1953
 63L-8-311, Utah Code Annotated 1953
 63L-8-312, Utah Code Annotated 1953
 63L-8-401, Utah Code Annotated 1953
 63L-8-402, Utah Code Annotated 1953
 63L-8-403, Utah Code Annotated 1953
 63L-8-501, Utah Code Annotated 1953
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 63L-8-510, Utah Code Annotated 1953
 63L-8-511, Utah Code Annotated 1953

63L-8-601, Utah Code Annotated 1953
 63L-8-602, Utah Code Annotated 1953
 79-6-101, Utah Code Annotated 1953
 79-6-102, Utah Code Annotated 1953
 79-6-103, Utah Code Annotated 1953
 79-6-104, Utah Code Annotated 1953
 79-6-105, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 40-6-16 is amended to read:

40-6-16. Duties of division.

(1) In addition to the duties assigned by the board, the division shall:

(1) (a) develop and implement an inspection program that will include but not be limited to production data, pre-drilling checks, and site security reviews;

(2) (b) publish a monthly production report;

(3) (c) publish a monthly gas processing plant report;

(4) (d) review and evaluate, prior to a hearing, evidence submitted with the petition to be presented to the board;

(5) (e) require adequate assurance of approved water rights in accordance with rules and orders enacted under Section 40-6-5; and

(6) (f) notify the county executive of the county in which the drilling will take place in writing of the issuance of a drilling permit.

(2) The director shall, by October 30, 2016, report to the Commission for the Stewardship of Public Lands regarding the division's recommendations for how the state shall deal with oil, gas, and mining issues in the Utah Public Land Management Act.

Section 2. Section 63L-8-101 is enacted to read:

CHAPTER 8. UTAH PUBLIC LAND MANAGEMENT ACT

Part 1. General Provisions

63L-8-101. Title.

(1) This chapter is known as the "Utah Public Land Management Act."

(2) This part is known as "General Provisions."

Section 3. Section 63L-8-102 is enacted to read:

63L-8-102. Definitions.

As used in this chapter:

(1) "Board" means the board created in Section 79-6-104.

(2) "Commissioner" means the commissioner of the Department of Agriculture and Food, or the commissioner's designee.

(3) "DAF" means the Department of Agriculture and Food.

(4) "Director" means the director of the Division of Land Management or the director's designee.

(5) "DLM" means the Division of Land Management, a division created within the Department of Natural Resources in Section 79-6-102.

(6) "Grazing permit" means a document, issued by the Division of Land Management, authorizing use of public land for the purpose of grazing domestic livestock.

(7) "Land use authorization" means an easement, lease, permit, or license to occupy, use, or traverse public land granted for a particular purpose.

(8) "Minerals" means all classes of inorganic material upon, within, or beneath the surface of public land, including silver, gold, copper, lead, zinc, uranium, gemstones, potash, gypsum, clay, salts, sand, rock, gravel, oil, oil shale, oil sands, gas, coal, and all carboniferous materials.

(9) "Multiple use" means:

(a) the management of the public land and the public land's various resource values so resources are best utilized in the combination that will meet the present and future needs of the citizens of Utah;

(b) making the most judicious use of land for some or all of the resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions;

(c) a combination of balanced and diverse resource uses that take into account the long-term needs of future generations for renewable and non-renewable resources, including recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific, and historic values; and

(d) harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources.

(10) "Public land" means any land or land interest acquired by the state from the federal government pursuant to Section 63L-6-103, except:

(a) areas subsequently designated as a protected wilderness area, as described in Title 63L, Chapter 7, Utah Wilderness Act; and

(b) lands managed by the School and Institutional Trust Lands Administration pursuant to Title 53C, School and Institutional Trust Lands Management Act.

(11) "Rangeland" means open public land used for grazing domestic livestock.

(12) "Sustained yield" means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the public land consistent with multiple use.

(13) "Wilderness" means the same as that term is defined in Section 63L-7-103.

Section 4. Section 63L-8-103 is enacted to read:

63L-8-103. Principal or major use.

Each parcel of public land in this state shall be managed, as much as possible, to promote the following principal or major uses of the land, consistent with the principles of multiple use and sustained yield:

- (1) domestic livestock grazing;
- (2) fish and wildlife development and utilization;
- (3) mineral exploration and production;
- (4) rights-of-way;
- (5) outdoor recreation;
- (6) timber production; and
- (7) wilderness conservation.

Section 5. Section 63L-8-104 is enacted to read:

63L-8-104. Declaration of policy.

(1) The Legislature declares that it is the policy of the state that:

(a) public land be retained in state ownership consistent with the provisions of this chapter;

(b) public land may not be sold, except:

(i) as consistent with this chapter;

(ii) as consistent with local land use plans;

(iii) with the approval of the director and the board;

(iv) after sufficient opportunity for public comment; and

(v) for an important public interest;

(c) goals and objectives be established by law as guidelines for public land use planning, and that management be on the basis of multiple use and sustained yield, unless otherwise provided by statute; and

(d) the public land be managed in a manner that will:

(i) recognize the state's need for domestic sources of minerals, food, timber, and fiber;

(ii) protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values;

(iii) where appropriate, preserve and protect certain public land in its natural condition;

(iv) provide food and habitat for fish, wildlife, and domestic animals; and

(v) provide for outdoor recreation, human occupancy, and other human use.

(2) All rules made to effectuate the purposes of this chapter shall be made in accordance with Title

63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 6. Section 63L-8-105 is enacted to read:

63L-8-105. Interdepartmental cooperation.

(1) The director, subject to periodic review of the Legislature, may establish programs to conduct projects, planning, permitting, leasing, contracting and other activities on public land.

(2) (a) The director shall provide management policies and programs for all uses of public land, including the principal or major uses described in Section 63L-8-103.

(b) The director shall consult with the commissioner, who may make recommendations to the director on rangeland management issues on public land, including:

(i) determining the number of domestic animals that may be sustained on a tract of land while maintaining that land for wildlife and fish use and future grazing use; and

(ii) issuing grazing permits.

(c) The director shall consult with other state agencies having management responsibility over natural resources that may be impacted by management decisions and actions on public land.

Section 7. Section 63L-8-201 is enacted to read:

Part 2. Identification and Land Use Planning

63L-8-201. Title.

This part is known as "Identification and Land Use Planning."

Section 8. Section 63L-8-202 is enacted to read:

63L-8-202. Land use planning.

(1) The director, in consultation with the board, the commissioner, and other state agencies with management authority over other state owned land and resources affected by land use planning shall, with public involvement, develop, maintain, and revise land use plans that address the use and conservation of public land in the state.

(2) In the development and revision of land use plans, the director shall:

(a) use and observe the principles of multiple use and sustained yield;

(b) develop rules describing the degree of planning necessary for each category of activity upon, or conservation of, public land;

(c) provide for compliance with applicable pollution control laws;

(d) make determinations concerning the management, protection, and conservation of plant species officially designated as endangered or threatened under the federal Endangered Species Act of 1973, as amended, on public land; and

(e) to the extent consistent with the laws governing the administration of the public land:

(i) coordinate the land use inventory, planning, and management activities for public land with the land use planning and management programs of the county government within which the public land is located; and

(ii) involve the public and local county officials in the development of land use programs, land use rules, and land use decisions for public land, including early public notice of proposed decisions, programs, or regulations that may have a significant impact on non-public land.

(3) The director shall, to the maximum extent possible and consistent with this chapter, implement land use plans that provide for consistent results with local land use plans.

(4) (a) Management decisions shall remain subject to reconsideration, modification, and termination through revision by the director, subject to contractual rights granted by any land use authorization issued by the division.

(b) The director shall report to the speaker of the House of Representatives and the president of the Senate on a management program or policy decision that eliminates, for two or more years, one or more of the principal or major uses of a tract of public land of 1,000 acres or more.

(5) The director shall:

(a) allow an opportunity for public involvement; and

(b) establish rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to give governments and the public adequate notice and opportunity to comment upon and participate in the formulation of plans, programs, and policies relating to the management of the public land.

Section 9. Section 63L-8-203 is enacted to read:

63L-8-203. Honoring pre-existing claims and rights.

(1) Upon receiving title to a tract of federal public land, the state shall honor all pre-existing rights that run appurtenant to that tract of federal public land.

(2) The state shall develop an adjudicative process to deal with competing claims to rights that run appurtenant to a tract of federal public land.

Section 10. Section 63L-8-301 is enacted to read:

Part 3. Administration of the Utah Public Land Management Act

63L-8-301. Title.

This part is known as "Administration of the Utah Public Land Management Act."

Section 11. Section 63L-8-302 is enacted to read:

63L-8-302. Division of Land Management.

Except as otherwise provided by law, the Division of Land Management, created in Section 79-6-102, shall provide necessary staff support for the implementation of this chapter.

Section 12. Section 63L-8-303 is enacted to read:

63L-8-303. Management of use, occupancy, and development of public land.

(1) As used in this section, "casual" means activity that:

(a) occurs irregularly; and

(b) is non-commercial.

(2) (a) Except as provided in Subsection (2)(b), the director shall manage the public land under principles of multiple use and sustained yield, in accordance with land use plans developed by the DLM.

(b) Where a tract of public land has been dedicated to a specific use according to a provision of law, legal encumbrance, or contractual obligation, it shall be managed in accordance with those provisions.

(3) (a) The director shall, subject to Subsection (3)(b) and other applicable law, authorize use of the public land through land use authorizations.

(b) The director may permit state departments, agencies, and local governments to use, occupy, and develop public land through rights-of-way or other cooperative agreements.

(c) The director may authorize use of the land through specific programs, such as:

(i) the collection of firewood, nuts, or the casual gathering of other organic products;

(ii) camping or other casual use;

(iii) rockhounding, building stone, or the gathering of other rock products; or

(iv) other casual uses.

(d) The programs described in Subsection (3)(c) may require the issuance of a permit and collection of a reasonable fee, if necessary.

(e) Nothing in this chapter shall be construed as:

(i) authorizing the director to:

(A) require permits to hunt and fish on public land and adjacent water beyond those approved by the Wildlife Board pursuant to Title 23, Wildlife Resources Code of Utah; or

(B) to close public land or areas of public land to hunting, fishing, or trapping, except as provided in Subsection (3)(f); or

(ii) enlarging or diminishing the responsibility and authority of the Wildlife Board or Division of Wildlife Resources for management of fish and resident wildlife on public land pursuant to Title 23, Wildlife Resources Code of Utah.

(f) The director may designate areas of public land where, and establish periods when, no hunting

will be permitted on public land for reasons of public safety, administration, or compliance with provisions of applicable law.

(4) Subject to Subsection (5), the director shall insert in any land use authorization providing for the use, occupancy, or development of the public land, a provision authorizing revocation or suspension, after notice and hearing, of the authorization upon a final administrative finding of a violation of any term or condition of the authorization.

(5) (a) The director may immediately revoke or suspend a land use authorization if, after notice and administrative hearing, there is an administrative finding that the holder violated a term or condition of the authorization.

(b) If a holder of an authorization rectifies the violation that formed the basis of the director's suspension under Subsection (5)(a), the director may terminate the suspension.

(6) The director may order an immediate temporary suspension before a hearing or final administrative finding if the director determines that a suspension is necessary to protect:

- (a) health or safety; or
- (b) the environment.

(7) Use of public land pursuant to a general authorization under this section shall be limited to areas where the use is consistent with the applicable land use plans prepared pursuant to Section 63L-8-202.

(8) A general authorization for the use of public land shall be subject to:

(a) a requirement that the using party shall be responsible for any necessary cleanup and decontamination of the land used; and

(b) terms and conditions, including restrictions on use of off-road or all-terrain vehicles, as the director deems appropriate.

(9) A general authorization issued pursuant to this section:

(a) may not be for a term exceeding five years; and

(b) shall be revoked in whole or in part, as the director finds necessary, upon a determination by the director that:

(i) there has been a failure to comply with its terms and conditions; or

(ii) activities permitted by the authorization have had, or might have, a significant adverse impact on the resources or values of the affected lands.

(10) Each specific use of a particular area of public land pursuant to a general authorization under this section is subject to:

- (a) specific authorization by the director; and
- (b) appropriate terms and conditions, as described in this section.

(11) An authorization under this section may not authorize the construction of permanent structures or facilities on the public land.

(12) No one may use or occupy public land without appropriate authorization.

Section 13. Section 63L-8-304 is enacted to read:

63L-8-304. Enforcement authority.

(1) The director shall issue rules as necessary to implement the provisions of this chapter with respect to the management, use, and protection of the public land and property located on the public land.

(2) At the request of the director, the attorney general may institute a civil action in a district court for an injunction or other appropriate remedy to prevent any person from utilizing public land in violation of this chapter or rules issued by the director under this chapter.

(3) The use, occupancy, or development of any portion of the public land contrary to any rule issued by the DLM in accordance with this chapter, and without proper authorization, is unlawful and prohibited.

(4) (a) Except as provided in Subsections (4)(b) and (c), the local county sheriff is the primary law enforcement authority with jurisdiction on public land to enforce this chapter and rules issued by the director pursuant to Subsection (1).

(b) The director may employ and utilize within the DLM certified peace officers that, if and when deployed, will be the primary law enforcement authority with jurisdiction on public land to enforce this chapter and rules issued pursuant to Subsection (1).

(c) Conservation officers employed by the Division of Wildlife Resources are the primary law enforcement authority with jurisdiction on public land to enforce the laws and regulations under Title 23, Wildlife Resources Code of Utah, for the sake of protected wildlife.

(d) Nothing herein shall be construed as enlarging or diminishing the responsibility or authority of a state certified peace officer in performing the officer's duties on public land.

Section 14. Section 63L-8-305 is enacted to read:

63L-8-305. Fees, charges, and commissions.

(1) The director may establish reasonable filing and service fees with respect to applications and other documents relating to the public land, in accordance with Section 63J-1-504.

(2) The director is authorized to require a deposit of any payments intended to reimburse the state for reasonable costs with respect to applications and other documents relating to such land.

(3) The money received under this subsection shall be:

(a) deposited in the Public Land Management Fund created in Section 63L-8-308; and

(b) authorized to be appropriated and made available until expended.

(4) (a) As used in this section "reasonable costs" include:

(i) the costs of special studies;

(ii) environmental reviews;

(iii) monitoring construction, operation, maintenance, and termination of any authorized facility; or

(iv) other special activities.

(b) In determining whether costs are reasonable, the director may take into consideration:

(i) actual costs, exclusive of management overhead;

(ii) the monetary value of the rights or privileges sought by the applicant;

(iii) the efficiency of the government processing involved;

(iv) that portion of the cost incurred for the benefit of the general public interest rather than for the exclusive benefit of the applicant;

(v) the public service provided; and

(vi) other factors relevant to determining the reasonableness of the costs.

Section 15. Section 63L-8-306 is enacted to read:

63L-8-306. Availability of excess fees.

All fees authorized by this chapter, excluding mining claim fees, not otherwise dedicated by law for a specific distribution shall:

(1) be deposited in the Public Land Management Fund created in Section 63L-8-308; and

(2) remain available until expended.

Section 16. Section 63L-8-307 is enacted to read:

63L-8-307. Public Land Protection Fund -- Forfeitures and deposits.

(1) There is created an expendable special revenue fund known as the "Public Land Protection Fund."

(2) The fund shall consist of:

(a) money appropriated by the Legislature;

(b) money received by the state as a result of:

(i) the forfeiture of a bond or other security by a resource developer or purchaser or permittee who does not fulfill the requirements of a contract or permit or does not comply with rules issued under this chapter; or

(ii) a compromise or settlement of any claim involving present or potential damage to the public land;

(c) money voluntarily donated or contributed to the fund; and

(d) interest earned on money in the fund.

(3) The DLM may expend money in the fund to cover the cost of any improvement, protection, or rehabilitation work on public land, which is rendered necessary by the action that led to a forfeiture, compromise, or settlement.

(4) If the director finds that any portion of a deposit or amount forfeited under this chapter is in excess of the cost of doing the work authorized under this chapter, the director may issue a refund of the amount in excess to be made from applicable funds.

Section 17. Section 63L-8-308 is enacted to read:

63L-8-308. Public Land Management Fund.

(1) There is created an expendable special revenue fund known as the "Public Land Management Fund."

(2) The fund shall consist of:

(a) fees collected by the DLM under this chapter;

(b) money appropriated to the fund by the Legislature;

(c) money collected under Section 63L-8-505;

(d) money voluntarily donated or contributed to the fund; and

(e) interest earned on the fund.

(3) The DLM may expend money in the fund on:

(a) administration costs;

(b) project planning;

(c) a payment authorized by this chapter; and

(d) other duties required under this chapter.

(4) The DLM shall annually expend money in the fund to pay a county in lieu of taxes the county cannot levy on public land owned by the state:

(a) in an amount no less than the highest amount ever fully authorized by Congress for payment to the county under the federal Payments in Lieu of Taxes and Secure Rural Schools programs, according to the most recent federal formulas before the effective date of this chapter, as described in Section 63L-8-602; and

(b) as funding allows.

Section 18. Section 63L-8-309 is enacted to read:

63L-8-309. Timber Fund.

(1) There is created an expendable special revenue fund known as the "Timber Fund."

(2) The fund described in Subsection (1) shall consist of:

(a) money received from the disposal of timber prepared for sale from public lands;

(b) money voluntarily donated or contributed to the fund; and

(c) interest earned on the fund.

(3) The DLM may expend money in the fund for the purposes of:

(a) planning and preparing timber for disposal;

(b) the administration of timber sales;

(c) site preparation and reforestation;

(d) wildfire suppression and rehabilitation on forested public land; and

(e) overhead and direct costs associated with timber management.

Section 19. Section 63L-8-310 is enacted to read:

63L-8-310. Grazing Land Fund.

(1) There is created an expendable special revenue fund known as the "Grazing Land Fund."

(2) The fund shall consist of:

(a) money received from grazing fees, as described in Section 63L-8-402;

(b) money voluntarily donated or contributed to the fund; and

(c) interest earned on the fund.

(3) The DLM may expend money in the fund for:

(a) on-the-ground range rehabilitation, protection, and improvements on public land that is grazed;

(b) seeding and reseeding;

(c) fence construction;

(d) weed control;

(e) water development;

(f) fish and wildlife habitat enhancement;

(g) wildfire suppression; and

(h) overhead and direct costs associated with rangeland and grazing management.

Section 20. Section 63L-8-311 is enacted to read:

63L-8-311. Implementation provisions.

(1) (a) The director may conduct investigations, studies, and experiments involving the management, protection, development, acquisition, and transfer of public land.

(b) The director may work with other departments, agencies, or political subdivisions in conducting an investigation, study, or experiment, as described in Subsection (1)(a).

(c) (i) Where an investigation, study, or experiment described in Subsection (1)(a) finds that the transfer of a tract of public land in excess of 200 acres would promote economic land management or serve an important public interest, including the expansion of communities and economic development, the director shall recommend the transfer to the Natural Resources, Agriculture, and Environment Interim Committee and include the basis for the recommendation.

(ii) No transfer of a tract of public land in excess of 200 acres may be authorized until approved by the Legislature and the governor.

(2) The director may enter into contracts and cooperative agreements involving the management, protection, and development of public land.

(3) (a) The director may accept voluntary contributions or donations of money, services, and real or personal property for:

(i) the management, protection, and development of public land, including the acquisition of rights-of-way;

(ii) any purpose described in Sections 63L-8-307, 63L-8-308, 63L-8-309, and 63L-8-310; or

(iii) cadastral surveying performed on public land and intermingled land.

(b) The director shall deposit any money donated or contributed under this section in the account designated by the donor or, if not specified, in the Public Land Management Fund created in Section 63L-8-308.

Section 21. Section 63L-8-312 is enacted to read:

63L-8-312. Annual reports.

(1) The director shall:

(a) prepare a report on the public land in accordance with Subsection (2); and

(b) submit the report to the Natural Resources, Agriculture, and Environment Interim Committee no later than October 31 annually.

(2) A list of programs and specific information to be included in the report described in Subsection (1) shall be developed by the Natural Resources, Agriculture, and Environment Interim Committee before the end of each fiscal year.

Section 22. Section 63L-8-401 is enacted to read:

Part 4. Range Management

63L-8-401. Title.

This part is known as "Range Management."

Section 23. Section 63L-8-402 is enacted to read:

63L-8-402. Grazing fees -- Feasibility study -- Contents -- Submission of report -- Annual distribution and use of range betterment funds -- Nature of distributions.

(1) The Legislature finds that, as of 2016, a substantial amount of the rangelands on the public land is deteriorating in quality due to federal mismanagement, and that installation of additional range improvements could arrest much of the continuing deterioration and lead to substantial betterment of forage conditions with resulting benefits to wildlife, watershed protection, and livestock production.

(2) The director, in consultation with the commissioner, shall:

(a) conduct a study to determine necessary range improvements on public land; and

(b) establish a fee, in accordance with Section 63J-1-504, to be charged for domestic livestock grazing on public land that is equitable to the:

(i) state and the state's citizens; and

(ii) holders of grazing permits and leases on rangeland.

(3) The director shall report the result of the study described in Subsection (2)(a) to the Natural Resources, Agriculture, and Environment Interim Committee, together with recommendations to implement a reasonable grazing fee schedule.

(4) (a) Fifty percent of all money received by the state as fees for grazing domestic livestock on public land shall be deposited into the Grazing Land Fund created in Section 63L-8-310.

(b) Fifty percent of money received by the state as fees for grazing domestic livestock on the public land shall be deposited into the Public Land Management Fund created in Section 63L-8-308.

Section 24. Section 63L-8-403 is enacted to read:

63L-8-403. Grazing permits and leases.

(1) (a) Except as provided in Subsection (2), permits and leases for domestic livestock grazing on public land issued by the director may not exceed a term of five years, subject to terms and conditions the director determines to be appropriate and consistent with this chapter.

(b) The director shall have authority to cancel, suspend, or modify a grazing permit or lease, in whole or in part:

(i) pursuant to the terms and conditions of the permit or lease;

(ii) for any violation of:

(A) this chapter or a grazing rule implemented under this chapter; or

(B) any term or condition of the grazing permit or lease; or

(iii) to protect rangeland health from overutilization pursuant to Subsection (7).

(2) The holder of an expiring permit or lease shall be given first priority for receipt of the new permit or lease, provided:

(a) the land for which the permit or lease is issued remains available for domestic livestock grazing in accordance with a land use plan prepared pursuant to Section 63L-8-202;

(b) the permittee or lessee is in compliance with:

(i) the provisions of this chapter and the grazing rules issued by the DLM, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(ii) the terms and conditions in the permit or lease specified by the director;

(c) the permittee or lessee accepts the terms and conditions included by the director in the new permit or lease; and

(d) range conditions on the tract of public land are sufficient to support continued livestock grazing, as determined by the director pursuant to Subsection (7).

(3) All permits and leases for domestic livestock grazing issued under this part may be incorporated in an allotment management plan developed by the director.

(4) (a) If the director elects to develop an allotment management plan for a given area, the director shall do so in consultation, cooperation, and coordination with:

(i) the lessees, permittees, and landowners involved;

(ii) the commissioner;

(iii) the State Grazing Advisory Board established under Section 4-20-1.5; and

(iv) the political subdivision having land within the area covered by the proposed allotment management plan.

(b) An allotment management plan shall be:

(i) tailored to the specific range condition of the area covered by the plan; and

(ii) reviewed on a periodic basis to determine:

(A) the efficacy of the plan in improving range conditions on the involved land; and

(B) whether the land can be better managed.

(5) The director may revise or terminate plans, or develop new plans, after review and consideration, consultation, cooperation, and coordination with the parties listed in Subsection (4)(a).

(6) (a) In all cases where the director has not completed an allotment management plan or determines that an allotment management plan is not necessary for management of livestock operations, the director shall incorporate in grazing permits and leases all necessary terms and conditions for the appropriate management of the permitted or leased land.

(b) The director, in consultation with the commissioner:

(i) shall specify the number of animals to be grazed and the seasons of use; and

(ii) may reexamine the condition of the range and forage utilization at any time.

(7) If the director finds that the condition of the range requires adjustment in the amount or other aspect of grazing use, the permittee or lessee shall adjust the permittee or lessee's use to the extent required by the director.

(8) An allotment management plan may not refer to livestock operations or range improvements on non-public land, except where the non-public land is intermingled with public land and the consent of the owner of the non-public land and the permittee or lessee involved with the plan is obtained.

(9) (a) Whenever a permit or lease for grazing domestic livestock on public land is canceled, in whole or in part, in order to devote the land covered by the permit or lease to another public purpose, the permittee or lessee shall receive from the state reasonable compensation for the adjusted value, to be determined by the director, of the permittee's or lessee's interest in authorized permanent improvements placed or constructed by the permittee or lessee on lands covered by such permit or lease.

(b) The compensation described in Subsection (9)(a) may not exceed the fair market value of the terminated portion of the permittee's or lessee's interest.

(10) Except in cases of emergency, no permit or lease shall be canceled under this subsection without one year's notification.

Section 25. Section 63L-8-501 is enacted to read:

Part 5. Rights-of-Way Authorization

63L-8-501. Title.

This part is known as "Rights-of-Way Authorization."

Section 26. Section 63L-8-502 is enacted to read:

63L-8-502. Rights-of-way for roads or facilities.

(1) If the state receives title to public land from the federal government, the director shall, subject to Subsection (2), honor all:

(a) pre-existing rights-of-way granted to individuals, corporations, or political subdivisions, subject to Subsection (2); and

(b) rights-of-way asserted in quiet title lawsuits filed by the state or a county in federal court prior to taking ownership of the subject property.

(2) If the director determines it is in the best interest of the state, the director may modify the fees, if any, charged to the holder of a right-of-way.

Section 27. Section 63L-8-503 is enacted to read:

63L-8-503. Grant, issue, or renewal of land use authorizations on public lands.

(1) The director is authorized to grant, issue, or renew land use authorizations over, upon, under, or through public land for:

(a) a reservoir, canal, ditch, flume, lateral, pipe, pipeline, tunnel, or other facility or system for the impoundment, storage, transportation, or distribution of water;

(b) a pipeline or other system for the transportation or distribution of:

(i) liquid and gas other than water;

(ii) natural gas, synthetic liquid, or gaseous fuels; or

(iii) a refined product produced from natural gas, synthetic liquid, or gaseous fuels;

(c) a storage or terminal facility in connection with the pipeline and other system described in Subsection (1)(b);

(d) a pipeline, slurry and emulsion system, conveyor belt for transportation and distribution of solid materials, or facility for the storage of solid materials in connection with a pipeline, slurry and emulsion system, or conveyor belt;

(e) a system for generation, transmission, and distribution of electric energy, if the applicant is in compliance with relevant state and federal requirements;

(f) a system for transmission or reception of radio, television, telephone, telegraph, Internet, or other electronic signal used in communication;

(g) a road, trail, highway, railroad, canal, tunnel, tramway, airway, livestock driveway, or other means of transportation, except where facilities are constructed and maintained in connection with commercial recreation facilities on lands in the state park system; or

(h) other necessary transportation systems or facilities that are in the public interest and that require rights-of-way over, upon, under, or through public land.

(2) The director shall require, before granting, issuing, or renewing a right-of-way, that the applicant submit and disclose plans, contracts, agreements, or other information reasonably related to the use, or intended use, of the right-of-way, that the director considers necessary for a determination on:

(a) whether a right-of-way shall be granted, issued, or renewed; and

(b) the terms and conditions that should be included in the right-of-way.

(3) After the state receives title to public land, any alteration to the substantive terms of a right-of-way, lease, or other authorization granted before the transfer of the land shall require issuance of a new authorization.

(4) (a) Except as otherwise provided in this part, the director may, in accordance with Section 63L-8-509, terminate or suspend a right-of-way, easement, or authorization issued under this

section, except for the road rights-of-way granted pursuant to Subsection (1)(b).

(b) An easement issued under this section may be terminated by the DLM without cause if the water system for which the easement was issued is used for any purpose other than agricultural irrigation, livestock watering, industrial use, or private or public culinary use.

(5) For purposes of this chapter, non-use for a continuous five-year period of a water system developed for agricultural irrigation, livestock watering, or private or public culinary purposes shall constitute a rebuttable presumption of abandonment of the easement and the facilities comprising the water system.

(6) Except as provided in Title 73, Water and Irrigation, nothing in this part shall confer on the director or other state official any power or authority to regulate or control the appropriation, diversion, or use of water for any purpose, or to require the conveyance or transfer to the state of any right or claim to the appropriation, diversion, or use of water.

(7) If a right-of-way issued under this section deteriorates to the point of threatening a person or property, and the holder of the right-of-way, after consultation with the director, refuses to perform the repair and maintenance necessary to remove the threat, the director may:

(a) (i) undertake such repair and maintenance on the right-of-way; and

(ii) assess the holder for the costs of the repair and maintenance; or

(b) suspend or terminate the right-of-way pursuant to Section 63L-8-509.

Section 28. Section 63L-8-504 is enacted to read:

63L-8-504. Roads.

(1) The director, with respect to public land, is authorized to provide for the authorization, construction, and maintenance of new and necessary roads within the public land that will permit utilization of the natural resources on such land, including the seven principal or major uses described in Section 63L-8-103.

(2) The roads described in Subsection (1) shall be constructed to standards sufficient to provide for the safety of the authorized users of the road, and to protect the environment to the best available management standards applicable.

(3) Financing of the roads described in Subsection (1) may be accomplished by:

(a) the director utilizing appropriated funds;

(b) requirements on authorized users of the natural resources and other products from the public land, including provisions for amortization of road costs in contracts;

(c) cooperative financing with other public agencies and with private agencies or persons; or

(d) a combination of these methods, provided that:

(i) where roads of a higher standard than that needed for harvesting or removing natural resources and other products from public land covered by a particular sale are to be constructed, the authorized user may not be required to bear that part of the costs necessary to meet such higher standard; or

(ii) when natural resource products are offered with the condition that the purchaser build a road or roads in accordance with standards specified in the offer, the authorized user is responsible for paying the full costs of road construction.

Section 29. Section 63L-8-505 is enacted to read:

63L-8-505. Maintenance of facilities.

(1) (a) The director may require a user of a road, trail, land, or other facility administered by the DLM, or authorized by a DLM issued land use authorization, to:

(i) maintain facilities in a satisfactory condition commensurate with the particular use requirements of each; or

(ii) reconstruct the facility when the reconstruction is determined necessary to accommodate use.

(b) If maintenance or reconstruction cannot be provided, or if the director determines that maintenance or reconstruction by a user would not be practical, the director may require that sufficient funds be deposited by the user to provide the user's portion of the total maintenance or reconstruction.

(2) Whenever the director obtains money for use on, or in connection with, a new or existing road or the right to use such roads, the money shall be placed in the Public Land Management Fund created in Section 63L-8-308.

Section 30. Section 63L-8-506 is enacted to read:

63L-8-506. Right-of-way corridors -- Criteria and procedures applicable for designation.

(1) Utilization of a right-of-way in common is suggested to the extent practical in order to minimize adverse environmental impacts and the proliferation of separate rights-of-way.

(2) In designating a right-of-way corridor, the director shall take into consideration:

(a) national, state, and local land use policies;

(b) environmental quality;

(c) economic efficiency;

(d) national security;

(e) safety;

(f) good engineering and technological practices; and

(g) wildlife and wildlife habitat impacts.

(3) The director shall issue rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, containing the criteria and procedures the DLM shall use in designating such a corridor.

(4) An existing transportation or utility corridor may be designated as a transportation or utility corridor without further review.

Section 31. Section 63L-8-507 is enacted to read:

63L-8-507. General requirements.

(1) (a) Each land use authorization granted, issued, or renewed shall be limited to a reasonable term in light of all circumstances concerning the project, not exceeding 5 years.

(b) In determining the duration of a land use authorization, the director shall:

(i) take into consideration the cost of the facility, the facility's useful life, and any public purpose the facility serves; and

(ii) specify whether the land use authorization is or is not renewable and the terms and conditions applicable to the renewal.

(2) A land use authorization shall be granted, issued, or renewed:

(a) pursuant to this chapter;

(b) consistent with rules issued by the DLM in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(c) subject to such terms and conditions as the director prescribes regarding extent, duration, survey, location, construction, maintenance, transfer or assignment, and termination.

(3) Before granting or issuing a land use authorization pursuant to this part for a new project that may have a significant impact on the environment, the director shall require the applicant to submit a plan of construction, operation, mitigation, and rehabilitation for the land use authorization.

(4) The director shall issue rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with respect to the terms and conditions that will be included in a land use authorization.

(5) The director shall provide for cost-sharing agreements for the construction and maintenance of land use authorization facilities, pursuant to rules for such arrangements issued by the DLM.

(6) Money received for reimbursement of reasonable costs shall be:

(a) deposited into the Public Land Management Fund created in Section 63L-8-308; and

(b) authorized to be appropriated and made available until expended.

(7) (a) The director shall promulgate rules, in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, specifying the extent to which a holder of a right-of-way may be liable to the state for damage or injury incurred by the state caused by the use and occupancy of the land use authorization.

(b) The rules described in Subsection (7)(a) shall also specify the extent to which a holder of a right-of-way shall indemnify or hold harmless the state for liabilities, damages, or claims caused by the use and occupancy of the right-of-way.

(8) The director may require a holder of a land use authorization to furnish a bond or other security to secure all or any of the obligations imposed by the terms and conditions of the right-of-way.

(9) The director may grant, issue, or renew a land use authorization under this part if the director is satisfied that the applicant has the technical and financial capability to construct the project for which the right-of-way is requested.

Section 32. Section 63L-8-508 is enacted to read:

63L-8-508. Terms and conditions.

Each land use authorization shall contain terms and conditions that:

(1) carry out the purposes of this chapter and rules issued under this chapter in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(2) minimize damage to scenic and esthetic values, fish and wildlife habitat, and otherwise protect the environment;

(3) require compliance with applicable air and water quality standards established by applicable federal or state law;

(4) require compliance with state standards for public health and safety, environmental protection, siting, construction, operation, and maintenance of or for rights-of-way for similar purposes if those standards are more stringent than applicable federal standards; and

(5) are necessary to:

(a) protect state property and economic interests;

(b) efficiently manage the land that is subject to the land use authorization; and

(c) protect the other lawful users of the lands adjacent to or traversed by the land that is subject to the land use authorization.

Section 33. Section 63L-8-509 is enacted to read:

63L-8-509. Suspension or termination -- Grounds -- Procedures applicable.

(1) The following are grounds for suspension or termination of a land use authorization:

(a) abandonment; or

(b) noncompliance with:

(i) a provision of this chapter;

(ii) an applicable rule established by the DLM in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iii) a term or condition of the land use authorization.

(2) The director may terminate or suspend a land use authorization by providing notice to the land use authorization holder and, if required, an administrative proceeding, upon finding that:

(a) a condition described in Subsection (1) has been met; and

(b) the suspension or termination serves the best interest of:

(i) the citizens of the state; or

(ii) a land use plan established pursuant to Section 63L-8-202.

(3) The administrative proceeding described in Subsection (2):

(a) shall be conducted according to rules established by the DLM, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) shall comply with Title 63G, Chapter 4, Administrative Procedures Act; and

(c) is not required if the land use authorization, by its terms, terminates on the occurrence of a fixed or agreed-upon condition, event, or time.

(4) If the director determines that an immediate temporary suspension of activities within a land use authorization for violation of its terms and conditions is necessary to protect public health or safety or the environment, the director may abate the activities before an administrative proceeding.

(5) Before commencing a proceeding to suspend or terminate a land use authorization, the director shall give written notice to the holder of the grounds for suspension or termination.

(6) (a) Except as provided in Subsection (6)(b), failure of the land use authorization holder to use the right-of-way for the purpose for which it was granted, issued, or renewed, for any continuous five-year period, shall constitute a rebuttable presumption of abandonment of the right-of-way.

(b) Where the failure of the holder to use the land use authorization for the purpose for which it was granted, issued, or renewed for any continuous five-year period is due to circumstances beyond the holder's control, the director is not required to commence proceedings to suspend or terminate the right-of-way.

Section 34. Section 63L-8-510 is enacted to read:

63L-8-510. Rights-of-way for state departments and agencies.

The director may issue a land use authorization upon or under public land to a department or agency

of the state, subject to such terms and conditions as the director imposes.

Section 35. Section 63L-8-511 is enacted to read:

63L-8-511. Applicability.

(1) No land use authorization shall be granted, issued, or renewed over, upon, under, or through public land, except as described in this part.

(2) Nothing in this part shall be construed to preclude the use of public land covered by this section for a highway purpose.

Section 36. Section 63L-8-601 is enacted to read:

Part 6. Contingent Effective Date

63L-8-601. Title.

This part is known as "Contingent Effective Date."

Section 37. Section 63L-8-602 is enacted to read:

63L-8-602. Effective date.

This chapter becomes effective upon the day the state receives title to at least 100,000 acres of public land from the federal government pursuant to Section 63L-6-103.

Section 38. Section 79-2-201 is amended to read:

79-2-201. Department of Natural Resources created.

(1) There is created the Department of Natural Resources.

(2) The department comprises the following:

(a) Board of Water Resources, created in Section 73-10-1.5;

(b) Board of Oil, Gas, and Mining, created in Section 40-6-4;

(c) Board of Parks and Recreation, created in Section 79-4-301;

(d) Wildlife Board, created in Section 23-14-2;

(e) Board of the Utah Geological Survey, created in Section 79-3-301;

(f) Water Development Coordinating Council, created in Section 73-10c-3;

(g) Division of Water Rights, created in Section 73-2-1.1;

(h) Division of Water Resources, created in Section 73-10-18;

(i) Division of Forestry, Fire, and State Lands, created in Section 65A-1-4;

(j) Division of Oil, Gas, and Mining, created in Section 40-6-15;

(k) Division of Parks and Recreation, created in Section 79-4-201;

(l) Division of Wildlife Resources, created in Section 23-14-1;

(m) Division of Land Management, created in Section 79-6-102;

[(m)] (n) Utah Geological Survey, created in Section 79-3-201;

[(n)] (o) Heritage Trees Advisory Committee, created in Section 65A-8-306;

[(o)] (p) Recreational Trails Advisory Council, authorized by Section 79-5-201;

[(p)] (q) Boating Advisory Council, authorized by Section 73-18-3.5;

[(q)] (r) Wildlife Board Nominating Committee, created in Section 23-14-2.5; and

[(r)] (s) Wildlife Regional Advisory Councils, created in Section 23-14-2.6.

Section 39. Section 79-6-101 is enacted to read:

CHAPTER 6. DIVISION OF LAND MANAGEMENT

79-6-101. Title.

This chapter is known as the "Division of Land Management."

Section 40. Section 79-6-102 is enacted to read:

79-6-102. Creation of the Division of Land Management.

(1) There is created a Division of Land Management within the Department of Natural Resources, created in Section 79-2-201.

(2) The division shall be staffed:

(a) upon the state receiving title to at least 100,000 acres of public land from the federal government pursuant to Section 63L-6-103;

(b) as funding is appropriated by the Legislature and allows; and

(c) as determined by the director of the Department of Natural Resources.

(3) The division may sue and be sued as required to carry out the purposes of this chapter and Title 63L, Chapter 8, Utah Public Land Management Act.

Section 41. Section 79-6-103 is enacted to read:

79-6-103. Director.

(1) Upon the requirements described in Subsection 79-6-102(2) being fulfilled, the executive director of the Department of Natural Resources shall appoint a director of the Division of Land Management, and thereafter hire personnel to staff the division.

(2) The director shall:

(a) be the executive and administrative head of the Division of Land Management;

(b) have demonstrated ability and experience in the administration and management of state or federal lands; and

(c) not hold any other public office or be involved in a political party or organization.

(3) The director of the Division of Land Management, under administrative direction of the executive director, shall have:

(a) executive authority and control of the Division of Land Management; and

(b) authority over all personnel matters.

Section 42. Section 79-6-104 is enacted to read:

79-6-104. Public Land Management Advisory Board.

(1) There is created the Public Land Management Advisory Board.

(2) The board consists of the following 11 members:

(a) the lieutenant governor, or the lieutenant governor's designee;

(b) one representative, appointed by the governor, who represents the interests of oil, gas, and mining;

(c) one representative, appointed by the governor, who represents the interests of agriculture;

(d) one representative, appointed by the governor, who represents the interests of outdoor recreation;

(e) one representative, appointed by the governor, who represents the interests of environmental groups;

(f) three representatives, appointed by the governor, who represent the interests of county commissioners;

(g) one representative, appointed by the governor, who represents the interests of rural transportation;

(h) one representative, appointed by the governor, who represents the interests of wildlife management; and

(i) one representative, appointed by the governor, who represents the interests of forest management.

(3) (a) Members shall be appointed for a term of four years.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms of the members described in Subsections (2)(b) through (i) to ensure that the terms of board members are staggered so that half of the appointed board is appointed every two years.

(4) A member may serve more than one term.

(5) A member shall hold office until the expiration of the member's term and until the member's

successor is appointed, but not more than 90 days after the expiration of the member's term.

(6) When a vacancy occurs in the membership for any reason, a replacement shall be appointed for the unexpired term.

(7) The board shall elect annually a chair and a vice chair from the board's members.

(8) (a) The board shall meet at least quarterly.

(b) Special meetings may be called by the chair upon the chair's own initiative, upon the request of the director, or upon the request of three members of the board.

(c) Three days' notice shall be given to each member of the board before a meeting.

(9) Six members constitute a quorum at a meeting, and the action of a majority of members present is the action of the board.

(10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 43. Section 79-6-105 is enacted to read:

79-6-105. Division of Land Management duties.

Under the direct supervision of the executive director and in consultation with the board, the division shall manage and administer all public land, as defined in Section 63L-8-102, consistent with the procedures, policies, and directives in Title 63L, Chapter 8, Utah Public Land Management Act.

CHAPTER 318**H. B. 277**

Passed March 9, 2016

Approved March 28, 2016

Effective May 10, 2016

(Sections referred to as Affected by Coordination Clause are not in bill)

PERSONALIZED LEARNING AND TEACHING AMENDMENTSChief Sponsor: John Knotwell
Senate Sponsor: J. Stuart Adams**LONG TITLE****General Description:**

This bill creates the Digital Teaching and Learning Grant Program.

Highlighted Provisions:

This bill:

- ▶ enacts Title 53A, Chapter 1, Part 14, Digital Teaching and Learning Grant Program, including provisions related to the following:
 - definitions;
 - the digital teaching and learning master plan;
 - readiness assessments;
 - State Board of Education duties and LEA plan requirements;
 - implementation assessments and board interventions; and
 - procurement;
- ▶ sunsets the Smart School Technology Program;
- ▶ repeals language related to a whole-school one-to-one mobile device technology deployment plan; and
- ▶ makes technical and conforming corrections.

Monies Appropriated in this Bill:

This bill appropriates:

- ▶ to the State Board of Education -- Minimum School Program -- Related to Basic School Program -- Digital Teaching and Learning Program, as a one-time appropriation:
 - from the Education Fund, \$220,000;
- ▶ to the State Board of Education -- Minimum School Program -- Related to Basic School Program -- Digital Teaching and Learning Program, as an ongoing appropriation:
 - from the Education Fund, \$9,840,000;
- ▶ to the State Board of Education -- Minimum School Program -- Related to Basic School Program -- Digital Teaching and Learning Program, as a one-time appropriation:
 - from the Education Fund, \$3,780,000;
- ▶ to the Utah Education and Telehealth Network -- Digital Teaching and Learning Program, as an ongoing appropriation:
 - from the Education Fund, \$160,000; and
- ▶ to the Utah Education and Telehealth Network -- Digital Teaching and Learning Program, as a one-time appropriation:
 - from the Education Fund, \$1,000,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-2-253, as last amended by Laws of Utah 2015, Chapters 258, 418, and 456

63I-2-263, as last amended by Laws of Utah 2015, Chapters 182, 258, 283, 292, and 297

ENACTS:

53A-1-1401, Utah Code Annotated 1953

53A-1-1402, Utah Code Annotated 1953

53A-1-1404, Utah Code Annotated 1953

53A-1-1405, Utah Code Annotated 1953

53A-1-1406, Utah Code Annotated 1953

53A-1-1407, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

53A-1-1403, (Renumbered from 53A-1-710, as enacted by Laws of Utah 2015, Chapter 446)

Utah Code Sections Affected by Coordination Clause:

53A-1-1402, Utah Code Annotated 1953

53A-1-1403, Utah Code Annotated 1953

53A-1-1405, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-1-1401 is enacted to read:**Part 14. Digital Teaching and Learning Grant Program****53A-1-1401. Title.**

This part is known as "Digital Teaching and Learning Grant Program."

Section 2. Section 53A-1-1402 is enacted to read:**53A-1-1402. Definitions.**

As used in this part:

(1) "Advisory committee" means the committee established by the board under Section 53A-1-1406.

(2) "Board" means the State Board of Education.

(3) "Digital readiness assessment" means an assessment provided by the board that:

(a) is completed by an LEA analyzing an LEA's readiness to incorporate comprehensive digital teaching and learning; and

(b) informs the preparation of an LEA's plan for incorporating comprehensive digital teaching and learning.

(4) "High quality professional learning" means the professional learning standards described in Section 53A-3-701.

(5) "Implementation assessment" means an assessment that analyzes an LEA's implementation of an LEA plan, including identifying areas for improvement, obstacles to implementation, progress toward the achievement of stated goals, and recommendations going forward.

(6) "LEA plan" means an LEA's plan to implement a digital teaching and learning program that meets the requirements of this section and requirements set forth by the board and the advisory committee.

(7) “Local education agency” or “LEA” means:

- (a) a school district;
- (b) a charter school; or
- (c) the Utah Schools for the Deaf and the Blind.

(8) “Program” means the Digital Teaching and Learning Grant Program established in this part and as described in a proposal adopted by the digital teaching and learning task force in accordance with Section 53A-1-1403.

(9) “Utah Education and Telehealth Network” or “UETN” means the Utah Education and Telehealth Network created in Section 53B-17-105.

Section 3. Section 53A-1-1403, which is renumbered from Section 53A-1-710 is renumbered and amended to read:

[53A-1-710]. 53A-1-1403. Digital teaching and learning program task force -- Funding proposal for a program -- Master plan -- Reporting requirements.

[~~(1) As used in this section:~~]

[~~(a) “Board” means the State Board of Education.~~]

[~~(b) “Core subject areas” means the following subject areas:~~]

- [~~(i) English language arts;~~]
- [~~(ii) mathematics;~~]
- [~~(iii) science; and~~]
- [~~(iv) social studies.~~]

[~~(c) “High quality professional learning” means the professional learning standards described in Section 53A-3-701.~~]

[~~(d) “LEA plan” means an LEA’s plan to implement a digital teaching and learning program that meets requirements set by the board.~~]

[~~(e) “Local education agency” or “LEA” means:~~]

- [~~(i) a school district;~~]
- [~~(ii) a charter school; or~~]
- [~~(iii) the Utah Schools for the Deaf and the Blind.~~]

[~~(f) “Statewide assessment” means a test of student achievement in English language arts, mathematics, or science, including a test administered in a computer adaptive format, which is administered statewide under Part 6, Achievement Tests.~~]

[~~(g) “Utah Education and Telehealth Network” or “UETN” means the Utah Education and Telehealth Network created in Section 53B-17-105.~~]

[~~(2) (1) (a) The board shall establish a digital teaching and learning task force to develop a funding proposal to present to the Legislature for digital teaching and learning in elementary and secondary schools.~~

(b) The digital teaching and learning task force shall include representatives of:

- (i) the board;
- (ii) UETN;
- (iii) LEAs; and
- (iv) the Governor’s Education Excellence Commission.

[~~(3) (2) (a) The board, in consultation with the digital teaching and learning task force created in Subsection [(2)] (1), shall create a funding proposal for a statewide digital teaching and learning program designed to:~~

(i) improve student outcomes through the use of digital teaching and learning technology; and

(ii) provide high quality professional learning for educators to improve student outcomes through the use of digital teaching and learning technology.

(b) The board shall:

(i) identify outcome based metrics to measure student achievement related to a digital teaching and learning program; and

(ii) develop minimum benchmark standards for student achievement and school level outcomes to measure successful implementation of a digital teaching and learning program.

[~~(4) (3) As funding allows, the board shall develop a master plan for a statewide digital teaching and learning program, including the following:~~

(a) a statement of purpose that describes the objectives or goals the board will accomplish by implementing a digital teaching and learning program;

(b) a forecast for fundamental components needed to implement a digital teaching and learning program, including a forecast for:

- (i) student and teacher devices;
- (ii) Wi-Fi and wireless compatible technology;
- (iii) curriculum software;
- (iv) assessment solutions;
- (v) technical support;
- (vi) change management of LEAs;
- (vii) high quality professional learning;
- (viii) Internet delivery and capacity; and
- (ix) security and privacy of users;

(c) a determination of the requirements for:

- (i) statewide technology infrastructure; and
- (ii) local LEA technology infrastructure;

(d) standards for high quality professional learning related to implementing and maintaining a digital teaching and learning program;

(e) a statewide technical support plan that will guide the implementation and maintenance of a digital teaching and learning program, including standards and competency requirements for technical support personnel;

- (f) (i) a grant program for LEAs; or
- (ii) a distribution formula to fund LEA digital teaching and learning programs;
- (g) in consultation with UETN, an inventory of the state public education system's current technology resources and other items and a plan to integrate those resources into a digital teaching and learning program;
- (h) an ongoing evaluation process that is overseen by the board;
- (i) proposed rules that incorporate the principles of the master plan into the state's public education system as a whole; and
- (j) a plan to ensure long-term sustainability that:
 - (i) accounts for the financial impacts of a digital teaching and learning program; and
 - (ii) facilitates the redirection of LEA savings that arise from implementing a digital teaching and learning program.

[~~(5)~~] (4) UETN shall:

- (a) in consultation with the board, conduct an inventory of the state public education system's current technology resources and other items as determined by UETN, including software;
- (b) perform an engineering study to determine the technology infrastructure needs of the public education system to implement a digital teaching and learning program, including the infrastructure needed for the board, UETN, and LEAs; and
- (c) as funding allows, provide infrastructure and technology support for school districts and charter schools.

[~~(6)~~] (5) On or before December 1, 2015, the board and UETN shall present the funding proposal for a statewide digital teaching and learning program described in Subsection [~~(3)~~] (2) to the Education Interim Committee and the Executive Appropriations Committee, including:

- (a) the board's progress on the development of a master plan described in Subsection [~~(4)~~] (3); and
- (b) the progress of UETN on the inventory and study described in Subsection [~~(5)~~] (4).

Section 4. Section 53A-1-1404 is enacted to read:

53A-1-1404. Readiness assessments.

Beginning July 1, 2016, and ending July 1, 2021, each LEA, including each school within an LEA, shall annually complete a digital readiness assessment.

Section 5. Section 53A-1-1405 is enacted to read:

53A-1-1405. Digital Teaching and Learning Grant Program -- Board duties -- Advisory committee -- LEA plan requirements.

(1) There is created the Digital Teaching and Learning Grant Program to improve educational outcomes in public schools by effectively incorporating comprehensive digital teaching and learning technology.

(2) The board shall:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules for the administration of the program, including rules requiring:

(i) an LEA plan to include measures to ensure that the LEA monitors and implements technology with best practices, including the recommended use for effectiveness;

(ii) an LEA plan to include robust goals for learning outcomes and appropriate measurements of goal achievement;

(iii) an LEA to demonstrate that the LEA plan can be fully funded by grant funds or a combination of grant and local funds; and

(iv) an LEA to report on funds from expenses previous to the implementation of the LEA plan that the LEA has redirected after implementation;

(b) establish an advisory committee to make recommendations on the program and LEA plan requirements and report to the board; and

(c) in accordance with this part, approve LEA plans and award grants.

(3) (a) The board shall, subject to legislative appropriations, award a grant to an LEA:

(i) that submits an LEA plan that meets the requirements described in Subsection (4); and

(ii) for which the LEA's leadership and management members have completed a digital teaching and learning leadership and implementation training as provided in Subsection (3)(b).

(b) The board or its designee shall provide the training described in Subsection (3)(a)(ii).

(4) The board shall establish requirements of an LEA plan that shall include:

(a) the results of the LEA's digital readiness assessment and a proposal to remedy an obstacle to implementation or other issues identified in the assessment;

(b) a proposal to provide high quality professional learning for educators in the use of digital teaching and learning technology;

(c) a proposal for leadership training and management restructuring, if necessary, for successful implementation;

(d) clearly identified targets for improved student achievement, student learning, and college readiness through digital teaching and learning; and

(e) any other requirement established by the board in rule in accordance with Title 63G, Chapter

3, Utah Administrative Rulemaking Act, including an application process and metrics to analyze the quality of a proposed LEA plan.

(5) The board or the board's designee shall establish an interactive dashboard available to each LEA that is awarded a grant for the LEA to track and report the LEA's long-term, intermediate, and direct outcomes in realtime and for the LEA to use to create customized reports.

(6) (a) There is no federal funding, federal requirement, federal education agreement, or national program included or related to this state adopted program.

(b) Any inclusion of federal funding, federal requirement, federal education agreement, or national program shall require separate express approval as provided in Title 53A, Chapter 1, Part 9, Implementing Federal or National Education Program Act.

Section 6. Section 53A-1-1406 is enacted to read:

53A-1-1406. Implementation assessment -- Board intervention.

(1) (a) An LEA that receives a grant as provided in Section 53A-1-1405 shall:

(i) subject to Subsection (1)(b), complete an implementation assessment for each year that the LEA is expending grant money; and

(ii) (A) report the findings of the implementation assessment to the board; and

(B) submit to the board a plan to resolve issues raised in the implementation assessment.

(b) Each school within the LEA shall:

(i) complete an implementation assessment; and

(ii) submit a compilation report that meets the requirements described in Subsections (1)(a)(ii)(A) and (B).

(2) The board or the board's designee shall review an implementation assessment and review each participating LEA's progress from the previous year, as applicable.

(3) The board shall establish interventions for an LEA that does not make progress on implementation of the LEA's implementation plan, including:

(a) nonrenewal of, or time period extensions for, the LEA's grant;

(b) reduction of funds; or

(c) other interventions to assist the LEA.

Section 7. Section 53A-1-1407 is enacted to read:

53A-1-1407. Procurement -- Independent evaluator.

(1) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the board shall contract with an independent evaluator to:

(a) annually evaluate statewide direct and intermediate outcomes beginning the first year that grants are awarded, including baseline data collection for long-term outcomes;

(b) in the fourth year after a grant is awarded, and each year thereafter, evaluate statewide long-term outcomes; and

(c) report on the information described in Subsections (1)(a) and (b) to the board.

(2) (a) To implement an LEA plan, a contract, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, or other agreement with one or more providers of technology powered learning solutions and one or more providers of wireless networking solutions may be entered into by:

(i) UETN, in cooperation with or on behalf of, as applicable, the board, the board's designee, or an LEA; or

(ii) an LEA.

(b) A contract or agreement entered into under Subsection (2)(a) may be a contract or agreement which:

(i) UETN enters into with a provider and payment for services is directly appropriated by the Legislature, as funds are available, to UETN;

(ii) UETN enters into with a provider and pays for the provider's services and is reimbursed for payments by an LEA that benefits from the services;

(iii) UETN negotiates the terms of on behalf of an LEA that enters into the contract or agreement directly with the provider and the LEA pays directly for the provider's services; or

(iv) an LEA enters into directly, pays a provider, and receives preapproved reimbursement from a UETN fund established for this purpose.

(c) If an LEA does not reimburse UETN in a reasonable time for services received under a contract or agreement described in Subsection (2)(b), the board shall pay the balance due to UETN from the LEA's funds received under Chapter 17a, Part 1, Minimum School Program.

(d) If UETN negotiates or enters into an agreement as described in Subsection (2)(b)(ii) or (2)(b)(iii), and UETN enters into an additional agreement with an LEA that is associated with the agreement described in Subsection (2)(b)(ii) or (2)(b)(iii), the associated agreement may be treated by UETN and the LEA as a cooperative procurement, as that term is defined in Section 63G-6a-103, regardless of whether the associated agreement satisfies the requirements of Section 63G-6a-2105.

Section 8. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53, 53A, and 53B.

(1) Section 53A-1-403.5 is repealed July 1, 2017.

(2) Subsection 53A-1-410(5) is repealed July 1, 2015.

- (3) Section 53A-1-411 is repealed July 1, 2017.
- (4) Section 53A-1a-513.5 is repealed July 1, 2017.
- (5) Section 53A-1-709 is repealed July 1, 2020.
- [~~5~~](6) Title 53A, Chapter 1a, Part 10, UPSTART, is repealed July 1, 2019.
- [~~6~~](7) Title 53A, Chapter 8a, Part 8, Peer Assistance and Review Pilot Program, is repealed July 1, 2017.

Section 9. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates, Title 63A to Title 63N.

- (1) Section 63A-5-104.1 is repealed on January 1, 2016.
- (2) Section 63C-9-501.1 is repealed on July 1, 2015.
- (3) Title 63C, Chapter 15, Prison Relocation Commission, is repealed on January 1, 2016.
- (4) Subsection 63N-3-103(1)(d) is repealed on July 1, 2015.
- (5) Subsection 63N-3-109(2)(f)(i)(B) is repealed July 1, 2020.
- (6) Section 63N-3-110 is repealed July 1, 2020.
- [~~5~~](7) Subsection 63N-12-208(3) is repealed on January 1, 2016.

Section 10. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or amounts indicated. These sums of money are in addition to amounts previously appropriated for fiscal year 2016.

To State Board of Education -- Minimum School Program -- Related to Basic School Program -- Digital Teaching and Learning Program

From Education Fund, One-time	<u>\$220,000</u>
<u>Schedule of Programs:</u>	
Digital Teaching and Learning Program	<u>\$220,000</u>

The Legislature intends that:

(1) the State Board of Education use \$220,000 of the appropriation under this section to administer and evaluate the program, provide professional development and other assistance to LEAs, and contract with third party providers to assist with the administration of the program as described in Title 53A, Chapter 1, Part 14, Digital Teaching and Learning Grant Program; and

(2) under Section 63J-1-603, the appropriations described in this section not lapse at the close of fiscal year 2016.

Section 11. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or amounts indicated. These sums of money are in addition to amounts previously appropriated for fiscal year 2017.

Item 1 To State Board of Education -- Minimum School Program -- Related to Basic School Program -- Digital Teaching and Learning Program

From Education Fund	<u>\$9,840,000</u>
From Education Fund, One-time	<u>\$3,780,000</u>

Schedule of Programs:

Digital Teaching and Learning Program	<u>\$13,620,000</u>
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Item 2 To Utah Education and Telehealth Network -- Digital Teaching and Learning Program

From Education Fund	<u>\$160,000</u>
From Education Fund, One-time	<u>\$1,000,000</u>

Schedule of Programs:

Digital Teaching and Learning Program	<u>\$1,160,000</u>
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The Legislature intends that:

(1) except as provided in Subsection (2) or (3), the State Board of Education use the appropriation to the State Board of Education under this section to distribute money to LEAs as part of the grant program described in Title 53A, Chapter 1, Part 14, Digital Teaching and Learning Grant Program;

(2) the State Board of Education may use up to \$187,600 of the ongoing appropriation to the State Board of Education to administer and evaluate the program, and provide other assistance to LEAs;

(3) the State Board of Education may use up to \$780,000 of the one-time appropriation to the State Board of Education to administer and evaluate the program, provide professional development, and contract with third party providers to assist with the administration of the program as described in Title 53A, Chapter 1, Part 14, Digital Teaching and Learning Grant Program;

(4) the Utah Education and Telehealth Network may use up to \$160,000 of the ongoing appropriation to the Utah Education and Telehealth Network to administer the program;

(5) the Utah Education and Telehealth Network use the \$1,000,000 one-time appropriation to the Utah Education and Telehealth Network for infrastructure and other technology for LEAs; and

(6) under Section 63J-1-603, the appropriations described in this section:

- (a) not lapse at the close of fiscal year 2017; and
- (b) may be used in fiscal year 2018, 2019, or 2020.

CHAPTER 319**H. B. 311**

Passed March 10, 2016
 Approved March 28, 2016
 Effective May 10, 2016

**WHITE COLLAR CRIME
 REGISTRY AMENDMENTS**

Chief Sponsor: Mike K. McKell
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends the provisions of the Utah White Collar Crime Offender Registry.

Highlighted Provisions:

This bill:

- ▶ authorizes the disclosure of certain driver license information to the attorney general to be posted to the Utah White Collar Crime Offender Registry;
- ▶ specifies the situations when a driver license photograph may be posted;
- ▶ authorizes the attorney general to obtain specified offender information from court records, prison or jail booking records, driver license records, and other sources;
- ▶ provides that an offender who fails to register as required is considered to have consented to the release of specified information; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

77-42-102, as enacted by Laws of Utah 2015, Chapter 131
 77-42-103, as enacted by Laws of Utah 2015, Chapter 131
 77-42-104, as enacted by Laws of Utah 2015, Chapter 131
 77-42-105, as enacted by Laws of Utah 2015, Chapter 131

ENACTS:

53-3-221.7, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-3-221.7 is enacted to read:

53-3-221.7. Disclosure of license information for the Utah White Collar Crime Offender Registry.

(1) The division shall disclose to the attorney general, if requested, the following information for use in connection with the Utah White Collar Crime Offender Registry established by Title 77, Chapter 42, Utah White Collar Crime Offender Registry:

(a) all names and aliases under which an offender has obtained a driver license, but not including any online or Internet identifiers;

(b) a physical description of an offender, including the offender's:

- (i) date of birth;
- (ii) height;
- (iii) weight;
- (iv) eye color; and
- (v) hair color;

(c) the most current driver license photograph of an offender, as allowed in Subsection (2)(a)(ii); and

(d) the last known address of an offender.

(2) (a) The information in Subsections (1)(a) and (c) may be publicly posted on the Utah White Collar Crime Offender Registry, pursuant to Subsection 77-42-104(4), in order to assist the public in the accurate identification of offenders.

(b) The driver license photograph under Subsection (1)(c) may be publicly posted on the registry only if:

(i) the offender has not registered as required under Section 77-42-106;

(ii) the attorney general has attempted to contact the offender at the last known address listed in the division's records regarding the failure to register; and

(iii) 30 or more days have passed since the most recent attempt to contact the offender.

(c) The information in Subsection (1)(d) may only be used by the attorney general to assist in locating and communicating with an offender, and may not be publicly posted on the Utah White Collar Crime Offender Registry.

Section 2. Section 77-42-102 is amended to read:**77-42-102. Definitions.**

As used in this chapter:

(1) "Attorney general" means the Utah attorney general or a deputy attorney general.

(2) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in Section 53-10-201.

(3) "Business day" means a day on which state offices are open for regular business.

(4) "Certificate of eligibility" means a document issued by the Bureau of Criminal Identification stating that the offender has met the requirements of Section 77-42-108.

(5) "Conviction" means the same as that term is defined in Section 76-3-201.

[5] (6) "Offender" means an individual required to register as provided in Section 77-42-105.

[46] (7) "Register" means to comply with the requirements of this chapter and rules of the Office of the Attorney General made under this chapter.

Section 3. Section 77-42-103 is amended to read:**77-42-103. Duties.**

(1) The attorney general shall:

(a) develop and operate a system to collect, analyze, maintain, and disseminate information on offenders; and

(b) make information listed in Section 77-42-104 available to the public.

(2) Any attorney general, county attorney, or district attorney shall, in the manner prescribed by the attorney general, inform the attorney general of a person who is convicted of any of the offenses listed in Section 77-42-105 within 45 business days.

(3) The attorney general shall:

(a) provide the following additional information when available:

(i) the crimes for which the offender has been convicted, ~~noting cases in which the offender is still awaiting sentencing or has appealed the conviction~~;

(ii) a description of the offender's targets; and

(iii) any other relevant identifying information as determined by the attorney general;

(b) maintain the Utah White Collar Crime Offender Registry website; and

(c) ensure that information is entered into the offender registry in a timely manner.

Section 4. Section 77-42-104 is amended to read:

77-42-104. Utah White Collar Crime Offender Registry -- Attorney general to maintain.

(1) The attorney general shall maintain the Utah White Collar Crime Offender Registry website on the Internet, which shall contain a disclaimer informing the public that:

(a) the information contained on the website is obtained from ~~[public] government records [and] where feasible, however, the attorney general does not guarantee the website's accuracy or completeness;~~

(b) members of the public are not allowed to use the information to harass or threaten offenders or members of their families; and

(c) harassment, stalking, or making threats against offenders or their families is prohibited and may violate Utah criminal laws.

(2) The Utah White Collar Crime Offender Registry website shall be indexed by the surname of the offender.

(3) The attorney general shall construct the Utah White Collar Crime Offender Registry website so that before accessing registry information, users must indicate that they have read and understand the disclaimer and agree to comply with the disclaimer's terms.

(4) Except as provided in Subsection (6), the Utah White Collar Crime Offender Registry website shall include the following registry information, which may be obtained from court records, prison or jail booking records, driver license records, or other sources lawfully and appropriately obtained by and available to the attorney general:

(a) all names and aliases by which the offender is or has been known, but not including any online or Internet identifiers;

(b) a physical description, including the offender's date of birth, height, weight, and eye and hair color;

(c) a recent photograph of the offender; and

(d) the crimes listed in Section 77-42-105 of which the offender has been convicted.

(5) The Office of the Attorney General and any individual or entity acting at the request or upon the direction of the attorney general are immune from civil liability for damages and will be presumed to have acted in good faith by reporting information.

(6) The attorney general shall redact the names, addresses, phone numbers, Social Security numbers, and other information that, if disclosed, specifically identifies individual victims.

(7) An offender is considered to have consented to the public posting of the images or records specified in Subsection (4) if the offender:

(a) fails to register as required by Subsection 77-42-106(2) within 30 days of conviction of a registerable offense, as specified in Section 77-42-105; or

(b) fails to appear at the request of the Office of the Attorney General to have a current photograph taken.

Section 5. Section 77-42-105 is amended to read:

77-42-105. Registerable offenses.

A person shall be required to register with the Office of the Attorney General for a conviction of any of the following offenses as a second degree felony:

(1) Section 61-1-1 or Section 61-1-2, securities fraud;

(2) Section 76-6-405, theft by deception;

(3) Section 76-6-513, unlawful dealing of property by fiduciary;

(4) Section 76-6-521, fraudulent insurance;

(5) Section 76-6-1203, mortgage fraud;

(6) Section 76-10-1801, communications fraud; ~~and~~

(7) Section 76-10-1903, money laundering[-]; and

(8) Section 76-10-1603, pattern of unlawful activity, if at least one of the unlawful activities

used to establish the pattern of unlawful activity is an offense listed in Subsections (1) through (7).

CHAPTER 320**H. B. 443**

Passed March 10, 2016
 Approved March 28, 2016
 Effective May 10, 2016

**SCHOOL DROPOUT
 PREVENTION AND RECOVERY**

Chief Sponsor: Francis D. Gibson
 Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill amends and enacts provisions regarding a school's responsibility to provide dropout prevention and recovery services.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ amends, repeals, and enacts provisions regarding a school's responsibility to provide dropout prevention and recovery services, including provisions regarding:
 - enrollment options;
 - funding; and
 - reporting.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53A-15-1701, Utah Code Annotated 1953
 53A-15-1702, Utah Code Annotated 1953
 53A-15-1703, Utah Code Annotated 1953

REPEALS:

53A-17a-172, as enacted by Laws of Utah 2015,
 Chapter 472

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-15-1701 is enacted to read:**Part 17. Dropout Prevention and Recovery****53A-15-1701. Title.**

This part is known as "Dropout Prevention and Recovery."

Section 2. Section 53A-15-1702 is enacted to read:**53A-15-1702. Definitions.**

As used in this part:

- (1) "Attainment goal" means earning:
 - (a) a high school diploma;
 - (b) a Utah High School Completion Diploma, as defined in State Board of Education rule;
 - (c) an Adult Education Secondary Diploma, as defined in State Board of Education rule; or

(d) an employer-recognized, industry-based certificate that is:

(i) likely to result in job placement; and

(ii) included in the State Board of Education's approved career and technical education industry certification list.

(2) "Cohort" means a group of students, defined by the year in which the group enters grade 9.

(3) "Designated student" means a student:

(a) (i) who has withdrawn from an LEA before earning a diploma;

(ii) who has been dropped from average daily membership; and

(iii) whose cohort has not yet graduated; or

(b) who is at risk of meeting the criteria described in Subsection (3)(a), as determined by the student's LEA, using risk factors defined in rules made by the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) "Graduation rate" means:

(a) for a school district or a charter school that includes grade 12, the graduation rate calculated by the State Board of Education for federal accountability and reporting purposes; or

(b) for a charter school that does not include grade 12, a proxy graduation rate defined in rules made by the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) "Local education agency" or "LEA" means a school district or charter school that serves students in grade 9, 10, 11, or 12.

(6) "Nontraditional program" means a program, as defined in rules made by the State Board of Education under Subsection 53A-1-402(1)(e), in which a student receives instruction through:

(a) distance learning;

(b) online learning;

(c) blended learning; or

(d) competency-based learning.

(7) "Statewide graduation rate" means:

(a) for a school district or a charter school that includes grade 12, the statewide graduation rate, as annually calculated by the State Board of Education; or

(b) for a charter school that does not include grade 12, the average graduation rate for all charter schools that do not include grade 12.

(8) "Third party" means:

(a) a private provider; or

(b) an LEA that does not meet the criteria described in Subsection 53A-15-1703(3).

Section 3. Section 53A-15-1703 is enacted to read:

53A-15-1703. Dropout prevention and recovery -- Flexible enrollment options -- Contracting -- Reporting.

(1) (a) Subject to Subsection (1)(b), an LEA shall provide dropout prevention and recovery services to a designated student, including:

(i) engaging with or attempting to recover a designated student;

(ii) developing a learning plan, in consultation with a designated student, to identify:

(A) barriers to regular school attendance and achievement;

(B) an attainment goal; and

(C) a means for achieving the attainment goal through enrollment in one or more of the programs described in Subsection (2);

(iii) monitoring a designated student's progress toward reaching the designated student's attainment goal; and

(iv) providing tiered interventions for a designated student who is not making progress toward reaching the student's attainment goal.

(b) An LEA shall provide the dropout prevention and recovery services described in Subsection (1)(a):

(i) throughout the calendar year; and

(ii) except as provided in Subsection (1)(c)(i), for each designated student who becomes a designated student while enrolled in the LEA.

(c) (i) A designated student's school district of residence shall provide dropout recovery services if the designated student:

(A) was enrolled in a charter school that does not include grade 12; and

(B) becomes a designated student in the summer after the student completes academic instruction at the charter school through the maximum grade level the charter school is eligible to serve under the charter school's charter agreement as described in Section 53A-1a-508.

(ii) In accordance with Subsection (1)(c)(iii), a charter school that does not include grade 12 shall notify each of the charter school's student's district of residence, as determined under Section 53A-2-201, when the student completes academic instruction at the charter school as described in Subsection (1)(c)(i)(B).

(iii) The notification described in Subsection (1)(c)(ii) shall include the student's name, contact information, and student identification number.

(2) (a) An LEA shall provide flexible enrollment options for a designated student that:

(i) are tailored to the designated student's learning plan developed under Subsection (1)(a)(ii); and

(ii) include two or more of the following:

(A) enrollment in the LEA in a traditional program;

(B) enrollment in the LEA in a nontraditional program;

(C) enrollment in a program offered by a private provider that has entered into a contract with the LEA to provide educational services; or

(D) enrollment in a program offered by another LEA.

(b) A designated student may enroll in:

(i) a program offered by the LEA under Subsection (2)(a), in accordance with this Title 53A, State System of Public Education, rules established by the State Board of Education, and policies established by the LEA;

(ii) the Electronic High School, in accordance with Part 10, Electronic High School Act; or

(iii) the Statewide Online Education Program, in accordance with Part 12, Statewide Online Education Program Act.

(c) An LEA shall make the LEA's best effort to accommodate a designated student's choice of enrollment under Subsection (2)(b).

(3) Beginning with the 2017-18 school year and except as provided in Subsection (4), an LEA shall enter into a contract with a third party to provide the dropout prevention and recovery services described in Subsection (1)(a) for any school year in which the LEA meets the following criteria:

(a) the LEA's graduation rate is lower than the statewide graduation rate; and

(b) (i) the LEA's graduation rate has not increased by at least 1% on average over the previous three school years; or

(ii) during the previous calendar year, at least 10% of the LEA's designated students have not:

(A) reached the students' attainment goals; or

(B) made a year's worth of progress toward the students' attainment goals.

(4) An LEA that is in the LEA's first three years of operation is not subject to the requirement described in Subsection (3).

(5) An LEA described in Subsection (3) shall ensure that:

(a) a third party with whom the LEA enters into a contract under Subsection (3) has a demonstrated record of effectiveness engaging with and recovering designated students; and

(b) a contract with a third party requires the third party to:

(i) provide the services described in Subsection (1)(a); and

(ii) regularly report progress to the LEA.

(6) An LEA shall annually submit a report to the State Board of Education on dropout prevention and recovery services provided under this section, including:

(a) the methods the LEA or third party uses to engage with or attempt to recover designated students under Subsection (1)(a)(i);

(b) the number of designated students who enroll in a program described in Subsection (2) as a result of the efforts described in Subsection (6)(a);

(c) the number of designated students who reach the designated students' attainment goals identified under Subsection (1)(a)(ii)(B); and

(d) funding allocated to provide dropout prevention and recovery services.

(7) The State Board of Education shall:

(a) ensure that an LEA described in Subsection (3) contracts with a third party to provide dropout prevention and recovery services in accordance with Subsections (3) and (5); and

(b) on or before October 30, 2017, and each year thereafter, report to the Education Interim Committee on the provisions of this section, including a summary of the reports submitted under Subsection (6).

Section 4. Repealer.

This bill repeals:

Section 53A-17a-172, Use of minimum school program funds for dropout recovery services.

CHAPTER 321**S. B. 12**

Passed February 10, 2016

Approved March 28, 2016

Effective May 10, 2016

PASSENGER CARRIER REQUIREMENTS

Chief Sponsor: Karen Mayne

House Sponsor: Paul Ray

LONG TITLE**General Description:**

This bill modifies the Uniform Driver License Act by amending provisions relating to class D motor vehicles.

Highlighted Provisions:

This bill:

- ▶ defines “private passenger carrier”;
- ▶ prohibits a person from driving a motor vehicle as a private passenger carrier unless the person has a valid taxicab endorsement or a commercial driver license; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

19-2-202, as enacted by Laws of Utah 2014, Chapter 295

53-3-102, as last amended by Laws of Utah 2015, Chapters 52, 461 and last amended by Coordination Clause, Laws of Utah 2015, Chapter 52

53-3-202, as last amended by Laws of Utah 2015, Chapters 331 and 412

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 19-2-202 is amended to read:**19-2-202. Definitions.**

As used in this part:

- (1) “Board” means the Air Quality Board.
- (2) “Certified” means certified by the United States Environmental Protection Agency or the California Air Resources Board to meet appropriate emission standards.
- (3) “Cost” means the total reasonable cost of a project eligible for a grant under the fund, including the cost of labor.
- (4) “Director” means the director of the Division of Air Quality.
- (5) “Division” means the Division of Air Quality, created in Subsection 19-1-105(1)(a).
- (6) “Eligible equipment” means equipment with engines, including stationary generators and pumps, operated and, if applicable, permitted in Utah.

(7) “Eligible vehicle” means a vehicle operated and, if applicable, registered in Utah that is:

- (a) a medium-duty or heavy-duty transit bus;
- (b) a school bus as defined in ~~[Subsection]~~ Section 53-3-102~~(33)~~;
- (c) a medium-duty or heavy-duty truck with a gross vehicle weight rating of at least 16,001 GVWR;
- (d) a locomotive; or
- (e) another type of vehicle identified by the board in rule as being a significant potential source of air pollution, as defined in ~~[Subsection]~~ Section 19-2-102~~(3)~~.

(8) “Verified” means verified by the United States Environmental Protection Agency or the California Air Resources Board to reduce air emissions and meet durability requirements.

Section 2. Section 53-3-102 is amended to read:**53-3-102. Definitions.**

As used in this chapter:

(1) “Cancellation” means the termination by the division of a license issued through error or fraud or for which consent under Section 53-3-211 has been withdrawn.

(2) “Class D license” means the class of license issued to drive motor vehicles not defined as commercial motor vehicles or motorcycles under this chapter.

(3) “Commercial driver instruction permit” or “CDIP” means a commercial learner permit:

(a) issued under Section 53-3-408; or

(b) issued by a state or other jurisdiction of domicile in compliance with the standards contained in 49 C.F.R. Part 383.

(4) “Commercial driver license” or “CDL” means a license:

(a) issued substantially in accordance with the requirements of Title XII, Pub. L. No. 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle; and

(b) that was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-410(1)(i).

(5) (a) “Commercial driver license motor vehicle record” or “CDL MVR” means a driving record that:

(i) applies to a person who holds or is required to hold a commercial driver instruction permit or a CDL license; and

(ii) contains the following:

(A) information contained in the driver history, including convictions, pleas held in abeyance, disqualifications, and other licensing actions for

violations of any state or local law relating to motor vehicle traffic control, committed in any type of vehicle;

(B) driver self-certification status information under Section 53-3-410.1; and

(C) information from medical certification record keeping in accordance with 49 C.F.R. Sec. 383.73(o).

(b) "Commercial driver license motor vehicle record" or "CDL MVR" does not mean a motor vehicle record described in Subsection [53-3-102](28).

(6) (a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles designed or used to transport passengers or property if the motor vehicle:

(i) has a gross vehicle weight rating of 26,001 or more pounds or a lesser rating as determined by federal regulation;

(ii) is designed to transport 16 or more passengers, including the driver; or

(iii) is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. Part 172, Subpart F.

(b) The following vehicles are not considered a commercial motor vehicle for purposes of Part 4, Uniform Commercial Driver License Act:

(i) equipment owned and operated by the United States Department of Defense when driven by any active duty military personnel and members of the reserves and national guard on active duty including personnel on full-time national guard duty, personnel on part-time training, and national guard military technicians and civilians who are required to wear military uniforms and are subject to the code of military justice;

(ii) vehicles controlled and driven by a farmer to transport agricultural products, farm machinery, or farm supplies to or from a farm within 150 miles of his farm but not in operation as a motor carrier for hire;

(iii) firefighting and emergency vehicles;

(iv) recreational vehicles that are not used in commerce and are driven solely as family or personal conveyances for recreational purposes; and

(v) vehicles used to provide transportation network services, as defined in Section 13-51-102.

(7) "Conviction" means any of the following:

(a) an unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an administrative proceeding;

(b) an unvacated forfeiture of bail or collateral deposited to secure a person's appearance in court;

(c) a plea of guilty or nolo contendere accepted by the court;

(d) the payment of a fine or court costs; or

(e) violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended, or probated.

(8) "Denial" or "denied" means the withdrawal of a driving privilege by the division to which the provisions of Title 41, Chapter 12a, Part 4, Proof of Owner's or Operator's Security, do not apply.

(9) "Director" means the division director appointed under Section 53-3-103.

(10) "Disqualification" means either:

(a) the suspension, revocation, cancellation, denial, or any other withdrawal by a state of a person's privileges to drive a commercial motor vehicle;

(b) a determination by the Federal Highway Administration, under 49 C.F.R. Part 386, that a person is no longer qualified to drive a commercial motor vehicle under 49 C.F.R. Part 391; or

(c) the loss of qualification that automatically follows conviction of an offense listed in 49 C.F.R. Part 383.51.

(11) "Division" means the Driver License Division of the department created in Section 53-3-103.

(12) "Downgrade" means to obtain a lower license class than what was originally issued during an existing license cycle.

(13) "Drive" means:

(a) to operate or be in physical control of a motor vehicle upon a highway; and

(b) in Subsections 53-3-414(1) through (3), Subsection 53-3-414(5), and Sections 53-3-417 and 53-3-418, the operation or physical control of a motor vehicle at any place within the state.

(14) (a) "Driver" means any person who drives, or is in actual physical control of a motor vehicle in any location open to the general public for purposes of vehicular traffic.

(b) In Part 4, Uniform Commercial Driver License Act, "driver" includes any person who is required to hold a CDL under Part 4, Uniform Commercial Driver License Act, or federal law.

(15) "Driving privilege card" means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle to a person whose privilege was obtained without providing evidence of lawful presence in the United States.

(16) "Extension" means a renewal completed in a manner specified by the division.

(17) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(18) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public, as a matter of right, for traffic.

(19) "Identification card" means a card issued under Part 8, Identification Card Act, to a person for identification purposes.

(20) "Indigent" means that a person's income falls below the federal poverty guideline issued annually by the U.S. Department of Health and Human Services in the Federal Register.

(21) "License" means the privilege to drive a motor vehicle.

(22) (a) "License certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle.

(b) "License certificate" evidence includes a:

- (i) regular license certificate;
- (ii) limited-term license certificate;
- (iii) driving privilege card;
- (iv) CDL license certificate;
- (v) limited-term CDL license certificate;
- (vi) temporary regular license certificate; and
- (vii) temporary limited-term license certificate.

(23) "Limited-term commercial driver license" or "limited-term CDL" means a license:

(a) issued substantially in accordance with the requirements of Title XII, Pub. L. No. 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle; and

(b) that was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-410(1)(i)(ii).

(24) "Limited-term identification card" means an identification card issued under this chapter to a person whose card was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-804(2)(i)(ii).

(25) "Limited-term license certificate" means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle to a person whose privilege was obtained providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(B).

(26) "Motorboat" ~~[has the same meaning as provided under]~~ means the same as that term is defined in Section 73-18-2.

(27) "Motorcycle" means every motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground.

(28) "Motor vehicle record" or "MVR" means a driving record under Subsection 53-3-109(6)(a).

(29) "Office of Recovery Services" means the Office of Recovery Services, created in Section 62A-11-102.

(30) (a) "Owner" means a person other than a lien holder having an interest in the property or title to a vehicle.

(b) "Owner" includes a person entitled to the use and possession of a vehicle subject to a security interest in another person but excludes a lessee under a lease not intended as security.

(31) (a) "Private passenger carrier" means any motor vehicle for hire that is:

(i) designed to transport 15 or fewer passengers, including the driver; and

(ii) operated to transport an employee of the person that hires the motor vehicle.

(b) "Private passenger carrier" does not include a motor vehicle driven:

(i) by a transportation network driver as defined in Section 13-51-102;

(ii) for transportation network services as defined in Section 13-51-102; and

(iii) for a transportation network company as defined in Section 13-51-102 and registered with the Division of Consumer Protection as described in Section 13-51-104.

~~[(31)]~~ (32) "Regular identification card" means an identification card issued under this chapter to a person whose card was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-804(2)(i)(i).

~~[(32)]~~ (33) "Regular license certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle whose privilege was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(A).

~~[(33)]~~ (34) "Renewal" means to validate a license certificate so that it expires at a later date.

~~[(34)]~~ (35) "Reportable violation" means an offense required to be reported to the division as determined by the division and includes those offenses against which points are assessed under Section 53-3-221.

~~[(35)]~~ (36) (a) "Resident" means an individual who:

(i) has established a domicile in this state, as defined in Section 41-1a-202, or regardless of domicile, remains in this state for an aggregate period of six months or more during any calendar year;

(ii) engages in a trade, profession, or occupation in this state, or who accepts employment in other than seasonal work in this state, and who does not commute into the state;

(iii) declares himself to be a resident of this state by obtaining a valid Utah driver license certificate or motor vehicle registration; or

(iv) declares himself a resident of this state to obtain privileges not ordinarily extended to

nonresidents, including going to school, or placing children in school without paying nonresident tuition or fees.

(b) "Resident" does not include any of the following:

(i) a member of the military, temporarily stationed in this state;

(ii) an out-of-state student, as classified by an institution of higher education, regardless of whether the student engages in any type of employment in this state;

(iii) a person domiciled in another state or country, who is temporarily assigned in this state, assigned by or representing an employer, religious or private organization, or a governmental entity; or

(iv) an immediate family member who resides with or a household member of a person listed in Subsections ~~[(35)]~~ (36)(b)(i) through (iii).

~~[(36)]~~ (37) "Revocation" means the termination by action of the division of a licensee's privilege to drive a motor vehicle.

~~[(37)]~~ (38) (a) "School bus" means a commercial motor vehicle used to transport pre-primary, primary, or secondary school students to and from home and school, or to and from school sponsored events.

(b) "School bus" does not include a bus used as a common carrier as defined in Section 59-12-102.

~~[(38)]~~ (39) "Suspension" means the temporary withdrawal by action of the division of a licensee's privilege to drive a motor vehicle.

~~[(39)]~~ (40) "Taxicab" means any class D motor vehicle transporting any number of passengers for hire and that is subject to state or federal regulation as a taxi.

Section 3. Section 53-3-202 is amended to read:

53-3-202. Drivers must be licensed -- Taxicab endorsement -- Violation.

(1) A person may not drive a motor vehicle on a highway in this state unless the person is:

(a) granted the privilege to operate a motor vehicle by being licensed as a driver by the division under this chapter;

(b) driving an official United States Government class D motor vehicle with a valid United States Government driver permit or license for that type of vehicle;

(c) (i) driving a road roller, road machinery, or any farm tractor or implement of husbandry temporarily drawn, moved, or propelled on the highways; and

(ii) driving the vehicle described in Subsection (1)(c)(i) in conjunction with a construction or agricultural activity;

(d) a nonresident who is at least 16 years of age and younger than 18 years of age who has in the nonresident's immediate possession a valid license certificate issued to the nonresident in the nonresident's home state or country and is driving in the class or classes identified on the home state license certificate, except those persons referred to in Part 6, Drivers' License Compact, of this chapter;

(e) a nonresident who is at least 18 years of age and who has in the nonresident's immediate possession a valid license certificate issued to the nonresident in the nonresident's home state or country if driving in the class or classes identified on the home state license certificate, except those persons referred to in Part 6, Drivers' License Compact, of this chapter;

(f) driving under a learner permit in accordance with Section 53-3-210.5;

(g) driving with a temporary license certificate issued in accordance with Section 53-3-207; or

(h) exempt under Title 41, Chapter 22, Off-Highway Vehicles.

(2) A person may not drive or, while within the passenger compartment of a motor vehicle, exercise any degree or form of physical control of a motor vehicle being towed by a motor vehicle upon a highway unless the person:

(a) holds a valid license issued under this chapter for the type or class of motor vehicle being towed; or

(b) is exempted under either Subsection (1)(b) or (1)(c).

(3) (a) A person may not drive a motor vehicle as a taxicab on a highway of this state unless the person has a taxicab endorsement issued by the division on ~~[his]~~ the person's license certificate.

(b) A person may not drive a motor vehicle as a private passenger carrier on a highway of this state unless the person has:

(i) a taxicab endorsement issued by the division on the person's license certificate; or

(ii) a commercial driver license with:

(A) a taxicab endorsement;

(B) a passenger endorsement; or

(C) a school bus endorsement.

(c) Nothing in Subsection (3)(b) is intended to exempt a person driving a motor vehicle as a private passenger carrier from regulation under other statutory and regulatory schemes, including:

(i) 49 C.F.R. Parts 350-399, Federal Motor Carrier Safety Regulations;

(ii) Title 34, Chapter 36, Transportation of Workers, and rules adopted by the Labor Commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) Title 72, Chapter 9, Motor Carrier Safety Act, and rules adopted by the Motor Carrier Division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) (a) Except as provided in Subsections (4)(b) and (c), a person may not operate:

(i) a motorcycle unless the person has a valid class D driver license and a motorcycle endorsement issued under this chapter;

(ii) a street legal all-terrain vehicle unless the person has a valid class D driver license; or

(iii) a motor-driven cycle unless the person has a valid class D driver license and a motorcycle endorsement issued under this chapter.

(b) A person operating a moped, as defined in Section 41-6a-102, or an electric assisted bicycle, as defined in Section 41-6a-102, is not required to have a motorcycle endorsement issued under this chapter.

(c) A person is not required to have a valid class D driver license if the person is:

(i) operating a motor assisted scooter, as defined in Section 41-6a-102, in accordance with Section 41-6a-1115; or

(ii) operating an electric personal assistive mobility device, as defined in Section 41-6a-102, in accordance with Section 41-6a-1116.

(5) A person who violates this section is guilty of an infraction.

CHAPTER 322**S. B. 13**

Passed February 3, 2016
 Approved March 28, 2016
 Effective May 10, 2016

**STATE FACILITY ENERGY
 EFFICIENCY FUND AMENDMENTS**

Chief Sponsor: Scott K. Jenkins
 House Sponsor: Jack R. Draxler

LONG TITLE**General Description:**

This bill modifies provisions relating to the State Facility Energy Efficiency Fund.

Highlighted Provisions:

This bill:

- ▶ requires the state building board to make rules establishing a method of monitoring actual savings resulting from energy efficiency measures implemented using loan money from the State Facility Energy Efficiency Fund;
- ▶ requires the Division of Facilities Construction and Management to report annually to the Government Operations Interim Committee on those actual savings; and
- ▶ extends the repeal date of the State Facility Energy Efficiency Fund.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63A-5-603, as enacted by Laws of Utah 2008, Chapter 334
 63I-1-263, as last amended by Laws of Utah 2015, Chapters 182, 226, 278, 283, 409, and 424

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-5-603 is amended to read:

63A-5-603. State Facility Energy Efficiency Fund -- Contents -- Use of fund money.

- (1) As used in this section:
- (a) "Board" means the State Building Board.
 - (b) "Division" means the Division of Facilities Construction and Management.
 - (c) "Fund" means the State Facility Energy Efficiency Fund created by this section.
- (2) There is created a revolving loan fund known as the "State Facility Energy Efficiency Fund."
- (3) To capitalize the fund, the Division of Finance shall, at the end of fiscal year 2007-08, transfer \$3,650,000 from the Stripper Well-Petroleum Violation Escrow Fund to the fund.
- (4) The fund shall consist of:
- (a) money transferred under Subsection (3);

- (b) money appropriated by the Legislature;
 - (c) money received for the repayment of loans made from the fund; and
 - (d) interest earned on the fund.
- (5) The board shall make a loan from the fund to a state agency to, wholly or in part, finance energy efficiency measures.
- (6) (a) (i) A state agency requesting a loan shall submit an application to the board in the form and containing the information that the board requires, including plans and specifications for the proposed energy efficiency measures.
- (ii) A state agency may request a loan to fund all or part of the cost of energy efficiency measures.
 - (b) If the board rejects the application, the board shall notify the applicant stating the reasons for the rejection.
- (7) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules establishing:
- (i) criteria to determine:
 - ~~(i)~~ (A) loan eligibility;
 - ~~(ii)~~ (B) energy efficiency measures priority; and
 - ~~(iii)~~ (C) ways to measure energy savings that take into account fluctuations in energy costs and temperature[-]; and
 - (ii) a method of monitoring actual savings resulting from energy efficiency measures implemented using loan money from the fund, using objective and verifiable post-construction measures, if available.
 - (b) In making rules that establish prioritization criteria for energy efficiency measures, the board may consider:
 - (i) possible additional sources of revenue;
 - (ii) the feasibility and practicality of the energy efficiency measures;
 - (iii) the energy savings attributable to eligible energy efficiency measures;
 - (iv) the annual energy savings;
 - (v) the projected energy cost payback of eligible energy efficiency measures;
 - (vi) other benefits to the state attributable to eligible energy efficiency measures;
 - (vii) the availability of federal funds for the energy efficiency measures; and
 - (viii) whether to require a state agency to provide matching funds for the energy efficiency measures.
- (8) (a) In reviewing energy efficiency measures for possible funding, the board shall:
- (i) review the loan application and the plans and specifications for the energy efficiency measures;
 - (ii) determine whether to grant the loan by applying the loan eligibility criteria; and

(iii) if the loan is granted, prioritize funding of the energy efficiency measures by applying the prioritization criteria.

(b) The board may condition approval of a loan application and the availability of funds on assurances from the state agency that the board considers necessary to ensure that the state agency:

(i) uses the proceeds to pay the cost of the energy efficiency measures; and

(ii) implements the energy efficiency measures.

(9) The division shall annually report to the Government Operations Interim Committee of the Legislature the actual savings resulting from energy efficiency measures implemented using loan money from the fund, as monitored pursuant to rules adopted under Subsection (7)(a)(ii).

[~~9~~] (10) The State Building Energy Efficiency Program shall provide staff support when the board performs the duties established in this section.

Section 2. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63M.

(1) Section 63A-4-204, authorizing the Risk Management Fund to provide coverage to any public school district which chooses to participate, is repealed July 1, 2016.

(2) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.

(3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, ~~2016~~ 2023.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2018.

(5) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(6) Subsection 63G-6a-1402(7) authorizing certain transportation agencies to award a contract for a design-build transportation project in certain circumstances, is repealed July 1, 2015.

(7) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(8) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2016.

(9) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states “the Resource Development Coordinating Committee,” is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read “(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.”;

(c) in Subsection 23-14-21(3), the language that states “and the Resource Development Coordinating Committee” is repealed;

(d) in Subsection 23-21-2.3(1), the language that states “the Resource Development Coordinating Committee created in Section 63J-4-501 and” is repealed;

(e) in Subsection 23-21-2.3(2), the language that states “the Resource Development Coordinating Committee and” is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word “and” is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

(10) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2017.

(11) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2017.

(12) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2018.

(13) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection (13)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections (13)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the

expenditure is made on or before December 31, 2020.

(14) Section 63N-2-512 is repealed on July 1, 2021.

(15) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (15)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(16) Title 63N, Chapter 12, Part 3, Utah Broadband Outreach Center, is repealed July 1, 2018.

CHAPTER 323**S. B. 15**

Passed February 3, 2016

Approved March 28, 2016

Effective May 10, 2016

(Retrospective operation to January 1, 2016)

**APPORTIONMENT OF BUSINESS
INCOME AMENDMENTS**

Chief Sponsor: Deidre M. Henderson

House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill addresses the apportionment of business income for purposes of corporate franchise and income taxes.

Highlighted Provisions:

This bill:

- ▶ addresses the apportionment of business income for purposes of corporate franchise and income taxes;
- ▶ repeals obsolete language; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:**AMENDS:**

59-7-110, as last amended by Laws of Utah 2010, Chapter 155

59-7-311, as last amended by Laws of Utah 2010, Chapter 155

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-7-110 is amended to read:**59-7-110. Utah net losses -- Carryforwards and carrybacks -- Deduction.**

(1) The amount of Utah net loss that shall be carried back or forward to offset income of another taxable year is determined as provided in this section.

(2) (a) Subject to the other provisions of this section, a Utah net loss from a taxable year beginning before January 1, 1994, shall be carried back three taxable years preceding the taxable year of the loss and any remaining loss shall be carried forward five taxable years following the taxable year of the loss.

(b) (i) Subject to the other provisions of this section, a Utah net loss from a taxable year beginning on or after January 1, 1994, may be carried back three taxable years preceding the taxable year of the loss and carried forward 15 taxable years following the taxable year of the loss.

(ii) If an election is made to forego the federal net operating loss carryback, a Utah net loss is not eligible to be carried back unless an election is made for state purposes.

(3) A Utah net loss shall be carried to the earliest eligible year for which the Utah taxable income before net loss deduction, minus Utah net losses from previous years that were applied or required to be applied to offset income, is not less than zero.

(4) (a) Except as provided in Subsection (4)(b), the amount of Utah net loss that shall be carried to the year identified in Subsection (3) is the lesser of:

(i) the remaining Utah net loss after deduction of any amounts of the Utah net loss that were carried to previous years; or

(ii) the remaining Utah taxable income before net loss deduction of the year identified in Subsection (3) after deduction of Utah net losses from previous years that were carried or required to be carried to the year identified in Subsection (3).

(b) (i) The amount of Utah net loss carried back from a taxable year may not exceed \$1,000,000 in Utah taxable income for each return filed under this chapter in a taxable year.

(ii) A Utah net loss in excess of \$1,000,000 may be carried forward.

(iii) A remaining Utah net loss shall be available to be carried to one or more taxable years in accordance with this section.

(5) (a) (i) Subject to Subsection (5)(a)(ii), a corporation acquiring the assets or stock of another corporation may not deduct any net loss incurred by the acquired corporation prior to the date of acquisition.

(ii) Subsection (5)(a)(i) does not apply if the only change in the corporation is that of the state of incorporation.

(b) An acquired corporation may deduct the acquired corporation's net losses incurred before the date of acquisition against the acquired corporation's separate income as calculated under Subsections (6) and (7) if the acquired corporation has continued to carry on a trade or business substantially the same as that conducted before the acquisition.

(6) For purposes of Subsection (5)(b), the amount of net loss an acquired corporation that is acquired by a unitary group may deduct is calculated by:

(a) subject to Subsection (7):

(i) except as provided in Subsection (6)(a)(ii), calculating the sum of:

(A) an amount determined by dividing the average value of the acquired corporation's real and tangible personal property owned or rented and used in this state during the taxable year by the average value of all of the unitary group's real and tangible personal property owned or rented and used during the taxable year;

(B) an amount determined by dividing the total amount paid in this state during the taxable year by the acquired corporation for compensation by the total compensation paid everywhere by the unitary group during the taxable year; and

(C) an amount determined by:

(I) dividing the total sales of the acquired corporation in this state during the taxable year by the total sales of the unitary group everywhere during the taxable year; and

(II) ~~[(Aa) if the unitary group elects to calculate the fraction for apportioning business income to this state using the method described in Subsection 59-7-311(2)(d)](b), multiplying the amount calculated under Subsection (6)(a)(i)(C)(I) by two; or~~

~~[(Bb) if the unitary group is required to calculate the fraction for apportioning business income to this state using the method described in Subsection 59-7-311(3)(a), multiplying the amount calculated under Subsection (6)(a)(i)(C)(I) by four; or]~~

~~[(Ce) if the unitary group is required to calculate the fraction for apportioning business income to this state using the method described in Subsection 59-7-311(3)(b), multiplying the amount calculated under Subsection (6)(a)(i)(C)(I) by 10; or]~~

(ii) if the unitary group is required to calculate the fraction for apportioning business income to this state using the method described in Subsection 59-7-311(3)(e)], calculating an amount determined by dividing the total sales of the acquired corporation in this state during the taxable year by the total sales of the unitary group everywhere during the taxable year;

(b) dividing the amount calculated under Subsection (6)(a) by the same denominator of the fraction the unitary group uses to apportion business income to this state:

(i) for that taxable year; and

(ii) in accordance with Section 59-7-311;

(c) multiplying the amount calculated under Subsection (6)(b) by the business income of the unitary group for the taxable year that is subject to apportionment under Section 59-7-311; and

(d) calculating the sum of:

(i) the amount calculated under Subsection (6)(c); and

(ii) the following amounts allocable to the acquired corporation for the taxable year:

(A) nonbusiness income allocable to this state; or

(B) nonbusiness loss allocable to this state.

(7) The amounts calculated under Subsection (6)(a) shall be derived in the same manner as those amounts are derived for purposes of apportioning the unitary group's business income before deducting the net loss, including a modification made in accordance with Section 59-7-320.

Section 2. Section 59-7-311 is amended to read:

59-7-311. Method of apportionment of business income.

(1) For a taxable year, all business income shall be apportioned to this state by multiplying the

business income by a fraction calculated as provided in this section.

~~[(2) (a) Subject to the other provisions of this part, for the taxable year that begins on or after January 1, 2010, but begins on or before December 31, 2010, a taxpayer, including a sales factor weighted taxpayer, shall elect to calculate the fraction for apportioning business income to this state under this section using:]~~

~~[(i) the method described in Subsection (2)(c); or]~~

~~[(ii) the method described in Subsection (2)(d).]~~

~~[(b) Subject to the other provisions of this part, for a taxable year that begins on or after January 1, 2011, a taxpayer, except for a sales factor weighted taxpayer, shall elect to calculate the fraction for apportioning business income to this state under this section using:]~~

~~[(i) the method described in Subsection (2)(c); or]~~

~~[(ii) the method described in Subsection (2)(d).]~~

~~[(c) For purposes of Subsection (2)(a) or (b), a taxpayer described in Subsection (2)(a) or (b) may elect to calculate the fraction for apportioning business income as follows:]~~

~~[(i) the numerator of the fraction is the sum of:]~~

~~[(A) the property factor as calculated under Section 59-7-312;]~~

~~[(B) the payroll factor as calculated under Section 59-7-315; and]~~

~~[(C) the sales factor as calculated under Section 59-7-317; and]~~

~~[(ii) the denominator of the fraction is three.]~~

~~[(d) For purposes of Subsection (2)(a) or (b), a taxpayer described in Subsection (2)(a) or (b) may elect to calculate the fraction for apportioning business income as follows:]~~

~~[(i) the numerator of the fraction is the sum of:]~~

~~[(A) the property factor as calculated under Section 59-7-312;]~~

~~[(B) the payroll factor as calculated under Section 59-7-315; and]~~

~~[(C) the product of:]~~

~~[(I) the sales factor as calculated under Section 59-7-317; and]~~

~~[(II) two; and]~~

~~[(ii) the denominator of the fraction is four.]~~

~~[(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for a taxpayer described in Subsection (2)(a) or (b) to make the election required by this Subsection (2).]~~

~~[(3) (a) Subject to the other provisions of this part, for the taxable year that begins on or after January 1, 2011, but begins on or before December 31, 2011, a sales factor weighted taxpayer shall calculate the~~

fraction for apportioning business income to this state as follows:]

~~[(i) the numerator of the fraction is the sum of:]~~

~~[(A) the property factor as calculated under Section 59-7-312;~~

~~[(B) the payroll factor as calculated under Section 59-7-315; and]~~

~~[(C) the product of:]~~

~~[(I) the sales factor as calculated under Section 59-7-317; and]~~

~~[(II) four; and]~~

~~[(ii) the denominator of the fraction is six.]~~

~~[(b) Subject to the other provisions of this part, for the taxable year that begins on or after January 1, 2012, but begins on or before December 31, 2012, a sales factor weighted taxpayer shall calculate the fraction for apportioning business income to this state as follows:]~~

~~[(i) the numerator of the fraction is the sum of:]~~

~~[(A) the property factor as calculated under Section 59-7-312;~~

~~[(B) the payroll factor as calculated under Section 59-7-315; and]~~

~~[(C) the product of:]~~

~~[(I) the sales factor as calculated under Section 59-7-317; and]~~

~~[(II) 10; and]~~

~~[(ii) the denominator of the fraction is 12.]~~

(2) Subject to the other provisions of this part, a taxpayer, except for a sales factor weighted taxpayer, shall calculate the fraction for apportioning business income to this state using one of the following fractions:

(a) a fraction where:

(i) the numerator of the fraction is the sum of:

(A) the property factor as calculated under Section 59-7-312;

(B) the payroll factor as calculated under Section 59-7-315; and

(C) the sales factor as calculated under Section 59-7-317; and

(ii) the denominator of the fraction is three; or

(b) a fraction where:

(i) the numerator of the fraction is the sum of:

(A) the property factor as calculated under Section 59-7-312;

(B) the payroll factor as calculated under Section 59-7-315; and

(C) the sales factor as calculated under Section 59-7-317 multiplied by two; and

(ii) the denominator of the fraction is four.

~~[(e)] (3) Subject to the other provisions of this part, ~~[for a taxable year that begins on or after January 1, 2013,]~~ a sales factor weighted taxpayer shall calculate the fraction for apportioning business income to this state as follows:~~

~~[(4)] (a) the numerator of the fraction is the sales factor as calculated under Section 59-7-317; and~~

~~[(4)] (b) the denominator of the fraction is one.~~

~~(4) If a taxpayer calculates the fraction for apportioning business income to this state using a method described in this section:~~

~~(a) the taxpayer shall determine the method for calculating the fraction for apportioning business income to this state under this section on or before the due date for filing the taxpayer's return under this chapter for the taxable year, including extensions; and~~

~~(b) the method described in Subsection (4)(a) is in effect for the time period:~~

~~(i) beginning on the first day of the taxpayer's taxable year for which the taxpayer makes the determination described in Subsection (4)(a); and~~

~~(ii) ends on the last day of the taxable year described in Subsection (4)(b)(i).~~

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for a taxpayer to make the election required by Subsection (2).

Section 3. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2016.

CHAPTER 324**S. B. 17**

Passed March 8, 2016

Approved March 28, 2016

Effective March 28, 2016

(Retrospective operation to January 1, 2015)

REVENUE AND TAXATION AMENDMENTS

Chief Sponsor: Kevin T. Van Tassell

House Sponsor: Scott H. Chew

LONG TITLE**General Description:**

This bill amends certain oil and gas severance tax statutes.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ clarifies the formula for calculating the oil and gas severance tax; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:**AMENDS:**

59-5-102, as last amended by Laws of Utah 2013, Chapter 310

59-5-103.1, as enacted by Laws of Utah 2004, Chapter 244

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-5-102 is amended to read:**59-5-102. Definitions -- Severance tax -- Computation -- Rate -- Annual exemption -- Tax credit -- Tax rate reduction.**

(1) ~~[(a) Subject to]~~ As used in this section:

(a) "Royalty rate" means the percentage of the interests described in Subsection (2)(b)(i) as defined by a contract between the United States, the state, an Indian, or an Indian tribe and the oil or gas producer.

(b) "Taxable value" means the total value of the oil or gas minus:

(i) any royalties paid to, or the value of oil or gas taken in kind by, the interest holders described in Subsection (2)(b)(i); and

(ii) the total value of oil or gas exempt from severance tax under Subsection (2)(b)(ii).

(c) "Taxable volume" means:

(i) for oil, the total volume of barrels minus:

(A) for an interest described in Subsection (2)(b)(i), the product of the royalty rate and the total volume of barrels; and

(B) the number of barrels that are exempt under Subsection (2)(b)(ii); and

(ii) for natural gas, the total volume of MCFs minus:

(A) for an interest described in Subsection (2)(b)(i), the product of the royalty rate and the total volume of MCFs; and

(B) the number of MCFs that are exempt under Subsection (2)(b)(ii).

(d) "Total value" means the value, as determined by Section 59-5-103.1, of all oil or gas that is:

(i) produced; and

(ii) (A) saved;

(B) sold; or

(C) transported from the field where the oil or gas was produced.

(e) "Total volume" means:

(i) for oil, the number of barrels:

(A) produced; and

(B) (I) saved;

(II) sold; or

(III) transported from the field where the oil was produced; and

(ii) for natural gas, the number of MCFs:

(A) produced; and

(B) (I) saved;

(II) sold; or

(III) transported from the field where the natural gas was produced.

(f) "Value of oil or gas taken in kind" means the volume of oil or gas taken in kind multiplied by the market price for oil or gas at the location where the oil or gas was produced on the date the oil or gas was taken in kind.

(2) (a) Except as provided in Subsection [(1)] (2)(b), a person owning an interest in oil or gas produced from a well in the state, including a working interest, royalty interest, payment out of production, or any other interest, or in the proceeds of the production of oil or gas, shall pay to the state a severance tax on [the basis of the value determined under Section 59-5-103.1] the owner's interest in the taxable value of the oil or gas:

(i) produced; and

(ii) (A) saved;

(B) sold; or

(C) transported from the field where the substance was produced.

(b) [This section applies to an interest in oil or gas produced from a well in the state or in the proceeds of the production of oil or gas produced from a well in the state except for:] The severance tax imposed by Subsection (2)(a) does not apply to:

(i) an interest of:

(A) the United States in oil or gas or in the proceeds of the production of oil or gas;

~~[(ii) an interest of]~~ (B) the state or a political subdivision of the state in oil or gas or in the proceeds of the production of oil or gas; ~~or]~~ and

~~[(iii) an interest of]~~ (C) an Indian or Indian tribe as defined in Section 9-9-101 in oil or gas or in the proceeds of the production of oil or gas produced from land under the jurisdiction of the United States~~[-(2)(a) Subject to Subsection (2)(d), the]; and~~

(ii) the value of:

(A) oil or gas produced from stripper wells, unless the exemption prevents the severance tax from being treated as a deduction for federal tax purposes;

(B) oil or gas produced in the first 12 months of production for wildcat wells started after January 1, 1990; and

(C) oil or gas produced in the first six months of production for development wells started after January 1, 1990.

(3) (a) The severance tax on oil shall be calculated as follows:

(i) dividing the taxable value by the taxable volume;

(ii) (A) multiplying the rate described in Subsection (4)(a)(i) by the portion of the figure calculated in Subsection (3)(a)(i) that is subject to the rate described in Subsection (4)(a)(i); and

(B) multiplying the rate described in Subsection (4)(a)(ii) by the portion of the figure calculated in Subsection (3)(a)(i) that is subject to the rate described in Subsection (4)(a)(ii);

(iii) adding together the figures calculated in Subsections (3)(a)(ii)(A) and (B); and

(iv) multiplying the figure calculated in Subsection (3)(a)(iii) by the taxable volume.

(b) The severance tax on natural gas shall be calculated as follows:

(i) dividing the taxable value by the taxable volume;

(ii) (A) multiplying the rate described in Subsection (4)(b)(i) by the portion of the figure calculated in Subsection (3)(b)(i) that is subject to the rate described in Subsection (4)(b)(i); and

(B) multiplying the rate described in Subsection (4)(b)(ii) by the portion of the figure calculated in Subsection (3)(b)(i) that is subject to the rate described in Subsection (4)(b)(ii);

(iii) adding together the figures calculated in Subsections (3)(b)(ii)(A) and (B); and

(iv) multiplying the figure calculated in Subsection (3)(b)(iii) by the taxable volume.

(c) The severance tax on natural gas liquids shall be calculated by multiplying the taxable value of the natural gas liquids by the severance tax rate in Subsection (4)(c).

(4) Subject to Subsection (8):

(a) the severance tax rate for oil is as follows:

(i) 3% of the taxable value of the oil up to and including the first \$13 per barrel for oil; and

(ii) 5% of the taxable value of the oil from \$13.01 and above per barrel for oil~~[-];~~

(b) ~~[Subject to Subsection (2)(d),]~~ the severance tax rate for natural gas is as follows:

(i) 3% of the taxable value of the natural gas up to and including the first \$1.50 per MCF for gas; and

(ii) 5% of the taxable value of the natural gas from \$1.51 and above per MCF for gas~~[-]; and~~

(c) ~~[Subject to Subsection (2)(d),]~~ the severance tax rate for natural gas liquids is 4% of the taxable value of the natural gas liquids.

~~[(d) (i) On or before December 15, 2004, the Office of the Legislative Fiscal Analyst and the Governor's Office of Management and Budget shall prepare a revenue forecast estimating the amount of revenues that:]~~

~~[(A) would be generated by the taxes imposed by this part for the calendar year beginning on January 1, 2004 had 2004 General Session S.B. 191 not taken effect; and]~~

~~[(B) will be generated by the taxes imposed by this part for the calendar year beginning on January 1, 2004.]~~

~~[(ii) Effective on January 1, 2005, the tax rates described in Subsections (2)(a) through (c) shall be:]~~

~~[(A) increased as provided in Subsection (2)(d)(iii) if the amount of revenues estimated under Subsection (2)(d)(i)(B) is less than the amount of revenues estimated under Subsection (2)(d)(i)(A); or]~~

~~[(B) decreased as provided in Subsection (2)(d)(iii) if the amount of revenues estimated under Subsection (2)(d)(i)(B) is greater than the amount of revenues estimated under Subsection (2)(d)(i)(A).]~~

~~[(iii) For purposes of Subsection (2)(d)(ii):]~~

~~[(A) subject to Subsection (2)(d)(iv)(B):]~~

~~[(I) if an increase is required under Subsection (2)(d)(ii)(A), the total increase in the tax rates shall be by the amount necessary to generate for the calendar year beginning on January 1, 2005 revenues equal to the amount by which the revenues estimated under Subsection (2)(d)(i)(A) exceed the revenues estimated under Subsection (2)(d)(i)(B); or]~~

~~[(II) if a decrease is required under Subsection (2)(d)(ii)(B), the total decrease in the tax rates shall be by the amount necessary to reduce for the calendar year beginning on January 1, 2005 revenues equal to the amount by which the~~

~~revenues estimated under Subsection (2)(d)(i)(B) exceed the revenues estimated under Subsection (2)(d)(i)(A); and]~~

~~[(B) an increase or decrease in each tax rate under Subsection (2)(d)(ii) shall be in proportion to the amount of revenues generated by each tax rate under this part for the calendar year beginning on January 1, 2003.]~~

~~[(iv) (A) The commission shall calculate any tax rate increase or decrease required by Subsection (2)(d)(ii) using the best information available to the commission.]~~

~~[(B) If the tax rates described in Subsections (2)(a) through (c) are increased or decreased as provided in this Subsection (2)(d), the commission shall mail a notice to each person required to file a return under this part stating the tax rate in effect on January 1, 2005 as a result of the increase or decrease.]~~

~~[(3) (5) If oil or gas is shipped outside the state:~~

~~(a) the shipment constitutes a sale; and~~

~~(b) the oil or gas is subject to the tax imposed by this section.~~

~~[(4) (6) (a) Except as provided in Subsection [(4) (6)(b), if the oil or gas is stockpiled, the tax is not imposed until the oil or gas is:~~

~~(i) sold;~~

~~(ii) transported; or~~

~~(iii) delivered.~~

~~(b) [Notwithstanding Subsection (4)(a), if] If oil or gas is stockpiled for more than two years, the oil or gas is subject to the tax imposed by this section.~~

~~[(5) A tax is not imposed under this section upon:]~~

~~[(a) stripper wells, unless the exemption prevents the severance tax from being treated as a deduction for federal tax purposes;]~~

~~[(b) the first 12 months of production for wildcat wells started after January 1, 1990; or]~~

~~[(c) the first six months of production for development wells started after January 1, 1990.]~~

~~[(6) (7) (a) Subject to Subsections [(6) (7)(b) and (c), a [working interest owner] taxpayer who pays for all or part of the expenses of a recompletion or workover may claim a nonrefundable tax credit equal to 20% of the amount paid.~~

~~(b) The tax credit under Subsection [(6) (7)(a) for each recompletion or workover may not exceed \$30,000 per well during each calendar year.~~

~~[(c) If any amount of tax credit a taxpayer is allowed under this Subsection (6) exceeds the taxpayer's tax liability under this part for the calendar year for which the taxpayer claims the tax credit, the amount of tax credit exceeding the taxpayer's tax liability for the calendar year may be carried forward for the next three calendar years.]~~

(c) A taxpayer may carry forward a tax credit allowed under this Subsection (7) for the next three calendar years if the tax credit exceeds the taxpayer's tax liability under this part for the calendar year in which the taxpayer claims the tax credit.

[(7) (8) A 50% reduction in the tax rate is imposed upon the incremental production achieved from an enhanced recovery project.

[(8) (9) The taxes imposed by this section are:

(a) in addition to all other taxes provided by law; and

(b) delinquent, unless otherwise deferred, on June 1 [next succeeding] following the calendar year when the oil or gas is:

(i) produced; and

(ii) (A) saved;

(B) sold; or

(C) transported from the field.

[(9) (10) With respect to the tax imposed by this section on each owner of an interest in the production of oil or gas or in the proceeds of the production of [those substances produced] oil or gas in the state, each owner is liable for the tax in proportion to the owner's interest in the production or in the proceeds of the production.

[(10) (11) The tax imposed by this section shall be reported and paid by each producer that takes oil or gas in kind pursuant to an agreement on behalf of the producer and on behalf of each owner entitled to participate in the oil or gas sold by the producer or transported by the producer from the field where the oil or gas is produced.

[(11) (12) Each producer shall deduct the tax imposed by this section from the amounts due to other owners for the production or the proceeds of the production.

[(12) (a) The Revenue and Taxation Interim Committee shall review the applicability of the tax provided for in this chapter to coal-to-liquids, oil shale, and tar sands technology on or before the October 2011 interim meeting.]

[(b) The Revenue and Taxation Interim Committee shall address in its review the cost and benefit of not applying the tax provided for in this chapter to coal-to-liquids, oil shale, and tar sands technology.]

[(c) The Revenue and Taxation Interim Committee shall report its findings and recommendations under this Subsection (12) to the Legislative Management Committee on or before the November 2011 interim meeting.]

Section 2. Section 59-5-103.1 is amended to read:

59-5-103.1. Valuation of oil or gas -- Deductions.

(1) (a) For purposes of the tax imposed under Section 59-5-102 and subject to Subsection (2), the

value of oil or gas shall be determined at the first point closest to the well at which the fair market value for the oil or gas may be determined by:

- (i) a sale pursuant to an arm's-length contract; or
- (ii) for a sale other than a sale described in Subsection (1)(a)(i), comparison to other sales of oil or gas.

(b) For purposes of determining the fair market value of oil or gas under this Subsection (1), a person subject to a tax under Section 59-5-102 may deduct:

(i) all processing costs from the value of oil or gas, including processing costs attributable to the value of oil and gas that is exempt from taxation under Section 59-5-102; and

~~[(A) oil; or]~~

~~[(B) gas; and]~~

(ii) ~~[(A)]~~ except as provided in Subsection (1)~~[(b)(ii)(B)]~~(c), all transportation costs from the value of oil or gas, including transportation costs attributable to the value of oil and gas that is exempt from taxation under Section 59-5-102.

~~[(I) oil; and]~~

~~[(II) gas; and]~~

~~[(B) notwithstanding Subsection (1)(b)(ii)(A), the]~~

(c) The deduction for transportation costs may not exceed 50% of the value of the oil or gas.

~~[(I) oil; or]~~

~~[(II) gas.]~~

(2) Subsection (1)(a)(ii) applies to a sale of oil or gas between:

- (a) a parent company and a subsidiary company;
- (b) companies wholly owned or partially owned by a common parent company; or
- (c) companies otherwise affiliated.

Section 3. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 4. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2015, and applies to an oil and gas severance tax for any taxable year, including a taxable year beginning before January 1, 2015, that is the subject of an appeal that was filed or pending on or after January 1, 2016.

CHAPTER 325**S. B. 22**

Passed February 11, 2016

Approved March 28, 2016

Effective May 10, 2016

**FORECLOSURE OF RESIDENTIAL
RENTAL PROPERTY**

Chief Sponsor: Wayne A. Harper

House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill enacts and amends provisions related to foreclosure of residential rental property.

Highlighted Provisions:

This bill:

- ▶ under certain circumstances, allows a preexisting tenant to continue to occupy, for a limited amount of time, a residential rental property after a forced sale at public auction;
- ▶ repeals a sunset provision;
- ▶ eliminates a sunset repeal date; and
- ▶ provides a repeal date for certain sections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

57-1-25, as last amended by Laws of Utah 2011, Chapter 228

63I-1-257, as last amended by Laws of Utah 2015, Chapter 233

63I-1-278, as last amended by Laws of Utah 2014, Chapters 247 and 267

78B-6-802, as last amended by Laws of Utah 2010, Chapter 66

78B-6-901.5, as enacted by Laws of Utah 2010, Chapter 66

ENACTS:

57-1-25.5, Utah Code Annotated 1953

78B-6-802.7, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 57-1-25 is amended to read:**57-1-25. Notice of trustee's sale --
Description of property -- Time and place
of sale.**

(1) The trustee shall give written notice of the time and place of sale particularly describing the property to be sold:

(a) by publication of the notice:

(i) (A) at least three times;

(B) at least once a week for three consecutive weeks;

(C) the last publication to be at least 10 days but not more than 30 days before the date the sale is scheduled; and

(D) in a newspaper having a general circulation in each county in which the property to be sold, or some part of the property to be sold, is situated; and

(ii) in accordance with Section 45-1-101 for 30 days before the date the sale is scheduled;

(b) by posting the notice:

(i) at least 20 days before the date the sale is scheduled; and

(ii) (A) in some conspicuous place on the property to be sold; and

(B) at the office of the county recorder of each county in which the trust property, or some part of it, is located; and

(c) if the stated purpose of the obligation for which the trust deed was given as security is to finance residential rental property:

(i) by posting the notice, including the statement required under Subsection (3)(b):

(A) on the primary door of each dwelling unit on the property to be sold, if the property to be sold has fewer than nine dwelling units; or

(B) in at least ~~two~~ three conspicuous places on the property to be sold, in addition to the posting required under Subsection (1)(b)(ii)(A), if the property to be sold has nine or more dwelling units; or

(ii) by mailing the notice, including the statement required under Subsection (3)(b), to the occupant of each dwelling unit on the property to be sold.

(2) (a) The sale shall be held at the time and place designated in the notice of sale.

(b) The time of sale shall be between the hours of 8 a.m. and 5 p.m.

(c) The place of sale shall be clearly identified in the notice of sale under Subsection (1) and shall be at a courthouse serving the county in which the property to be sold, or some part of the property to be sold, is located.

(3) (a) The notice of sale shall be in substantially the following form:

Notice of Trustee's Sale

The following described property will be sold at public auction to the highest bidder, payable in lawful money of the United States at the time of sale, at (insert location of sale) _____ on _____ (month \ day \ year), at ____m. of said day, for the purpose of foreclosing a trust deed originally executed by ____ (and ____, his wife,) as trustors, in favor of ____, covering real property located at ____, and more particularly described as:

(Insert legal description)

The current beneficiary of the trust deed is _____ and the record owners of the property as of the recording of the notice of default are _____ and _____.

Dated _____ (month \ day \ year).

Trustee

(b) If the stated purpose of the obligation for which the trust deed was given as security is to finance residential rental property, the notice required under Subsection (1)(c) shall include a statement, in at least 14-point font, substantially as follows:

“Notice to Tenant

As stated in the accompanying Notice of Trustee’s Sale, this property is scheduled to be sold at public auction to the highest bidder unless the default in the obligation secured by this property is cured. If the property is sold, you may be allowed under ~~[federal law]~~ Utah Code Section 57-1-25.5 to continue to occupy your rental unit until your rental agreement expires, or until [90] 45 days after the date you are served with a notice to vacate, whichever is later. If your rental or lease agreement expires after the [90] 45-day period, you may need to provide a copy of your rental or lease agreement to the new owner to prove your right to remain on the property longer than [90] 45 days after the sale of the property.

You must continue to pay your rent and comply with other requirements of your rental or lease agreement or you will be subject to eviction for violating your rental or lease agreement.

The new owner or the new owner’s representative will probably contact you after the property is sold with directions about where to pay rent.

The new owner of the property may or may not want to offer to enter into a new rental or lease agreement with you at the expiration of the period described above.”

(4) The failure to provide notice as required under Subsections (1)(c) and (3)(b) or a defect in that notice may not be the basis for challenging or invalidating a trustee’s sale.

(5) A trustee qualified under Subsection 57-1-21(1)(a)(i) or (iv) who exercises a power of sale has a duty to the trustor not to defraud, or conspire or scheme to defraud, the trustor.

Section 2. Section 57-1-25.5 is enacted to read:

57-1-25.5. Foreclosure of residential rental property -- Effect on tenancy.

(1) As used in this section:

(a) “Bona fide residential rental agreement” means an agreement, for a property secured by a trust deed:

(i) that was the result of an arm’s-length transaction;

(ii) established before:

(A) the trustee records a notice of default for the property under Section 57-1-24; or

(B) the trustee or beneficiary files an action to foreclose the trust property under Title 78B, Chapter 6, Part 9, Mortgage Foreclosure;

(iii) that provides an individual the right to exclusive use and occupancy of the residential property:

(A) on an at-will basis; or

(B) for a period specified by the agreement that is no longer than twelve months; and

(iv) that requires the individual to pay rent in an amount that:

(A) is not substantially less than fair market rent for the property; or

(B) is less than fair market rent due to a federal, state, or local subsidy.

(b) “Bona fide tenant” means an individual who:

(i) has the right to occupy a residential property under a bona fide residential rental agreement;

(ii) is not the trustor; and

(iii) is not the trustor’s child, spouse, or parent.

(c) “Foreclosed rental property” means a property that:

(i) is the subject of a bona fide residential rental agreement; and

(ii) (A) is the subject of a trustee’s sale as provided in this chapter; or

(B) is foreclosed under Title 78B, Chapter 6, Part 9, Mortgage Foreclosure.

(d) “New owner” means the immediate successor in interest of a foreclosed rental property following a foreclosure or trustee’s sale of the property.

(2) (a) Except as provided in Subsection (2)(b), a new owner assumes ownership of a foreclosed rental property subject to a bona fide tenant’s right to occupy the foreclosed rental property:

(i) according to the terms of a bona fide residential rental agreement; and

(ii) until the end of the term of the bona fide residential rental agreement.

(b) Subject to Subsection (3), a new owner who intends to occupy a foreclosed rental property as the new owner’s primary residence may terminate:

(i) the bona fide residential rental agreement; and

(ii) the bona fide tenant’s occupancy of the foreclosed rental property.

(3) (a) A new owner who terminates a bona fide tenant’s occupancy of a foreclosed rental property shall serve, to the bona fide tenant, a notice to vacate:

(i) at least 45 days before the day on which the new owner requires the bona fide tenant to vacate the foreclosed rental property; and

(ii) as provided in Section 57-1-25.

(b) A notice to vacate under Subsection (3)(a) shall:

- (i) be in at least 14-point font;
 - (ii) state the new owner's name, address, and contact information;
 - (iii) explain the reason the new owner requires the bona fide tenant to vacate the rental property;
 - (iv) state the date on which the bona fide tenant is required to vacate the rental property; and
 - (v) refer to this section as the law under which the notice to vacate is provided.
- (4) This section does not modify the requirements for termination of a federally subsidized tenancy.

Section 3. Section 63I-1-257 is amended to read:

63I-1-257. Repeal dates, Title 57.

[~~(1) Subsections 57-1-25(1)(e), (3)(b), and (4) are repealed December 31, 2016.~~]

- (1) Section 57-1-25.5 is repealed on July 1, 2018.
- (2) Subsection 57-16-4(12), on July 1, 2017, is modified to read as follows:

“(12) The mobile home park shall have a copy of this chapter posted at all times in a conspicuous place in a common area of the mobile home park.”

(3) Title 57, Chapter 16a, Mobile Home Park Helpline, is repealed July 1, 2017.

Section 4. Section 63I-1-278 is amended to read:

63I-1-278. Repeal dates, Title 78A and Title 78B.

- (1) The Office of the Court Administrator, created in Section 78A-2-105, is repealed July 1, 2018.
- (2) Section 78B-3-421, regarding medical malpractice arbitration agreements, is repealed July 1, 2019.
- (3) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act is repealed July 1, 2016.
- (4) Section 78B-6-802.7 is repealed on July 1, 2018.

Section 5. Section 78B-6-802 is amended to read:

78B-6-802. Unlawful detainer by tenant for a term less than life.

(1) A tenant holding real property for a term less than life, is guilty of an unlawful detainer if the tenant:

- (a) except as provided in Subsection (1)(i), continues in possession, in person or by subtenant, of the property or any part of it, after the expiration of the specified term or period for which it is let to him, which specified term or period, whether established by express or implied contract, or whether written or parol, shall be terminated

without notice at the expiration of the specified term or period;

(b) having leased real property for an indefinite time with monthly or other periodic rent reserved and except as provided in Subsection (1)(i):

(i) continues in possession of it in person or by subtenant after the end of any month or period, in cases where the owner, the owner's designated agent, or any successor in estate of the owner, 15 calendar days or more prior to the end of that month or period, has served notice requiring the tenant to quit the premises at the expiration of that month or period; or

(ii) in cases of tenancies at will, remains in possession of the premises after the expiration of a notice of not less than five calendar days;

(c) continues in possession, in person or by subtenant, after default in the payment of any rent or other amounts due and after a notice in writing requiring in the alternative the payment of the rent and other amounts due or the surrender of the detained premises, has remained uncomplied with for a period of three calendar days after service, which notice may be served at any time after the rent becomes due;

(d) assigns or sublets the leased premises contrary to the covenants of the lease, or commits or permits waste on the premises after service of a three calendar days' notice to quit;

(e) sets up or carries on any unlawful business on or in the premises after service of a three calendar days' notice to quit;

(f) suffers, permits, or maintains on or about the premises any nuisance, including nuisance as defined in Section 78B-6-1107 after service of a three calendar days' notice to quit;

(g) commits a criminal act on the premises and remains in possession after service of a three calendar days' notice to quit;

(h) continues in possession, in person or by subtenant, after a neglect or failure to perform any condition or covenant of the lease or agreement under which the property is held, other than those previously mentioned, and after notice in writing requiring in the alternative the performance of the conditions or covenant or the surrender of the property, served upon the tenant and upon any subtenant in actual occupation of the premises remains uncomplied with for three calendar days after service; or

(i) (i) is a bona fide tenant [~~under a bona fide tenancy as provided in Section 702 of the Protecting Tenants at Foreclosure Act of 2009, Pub. L. 111-22] of a foreclosed rental property, as defined in Section 57-1-25.5 or Section 78B-6-802.7; and~~

(ii) continues in possession after the effective date of a notice to vacate given in accordance with [~~Section 702 of the Protecting Tenants at Foreclosure Act of 2009, Pub. L. 111-22] Subsection 57-1-25.5(3) or Subsection 78B-6-802.7(3).~~

(2) Within three calendar days after the service of the notice, the tenant, any subtenant in actual

occupation of the premises, any mortgagee of the term, or other person interested in its continuance may perform the condition or covenant and thereby save the lease from forfeiture, except that if the covenants and conditions of the lease violated by the lessee cannot afterwards be performed, or the violation cannot be brought into compliance, the notice provided for in Subsections (1)(d) through (g) may be given.

(3) Unlawful detainer by an owner resident of a mobile home is determined under Title 57, Chapter 16, Mobile Home Park Residency Act.

(4) The notice provisions for nuisance in Subsections (1)(d) through (g) do not apply to nuisance actions provided in Sections 78B-6-1107 through 78B-6-1114.

Section 6. Section 78B-6-802.7 is enacted to read:

78B-6-802.7. Foreclosure of residential rental property -- Effect on tenancy.

(1) As used in this section:

(a) “Bona fide residential rental agreement” means an agreement, for a property secured by a mortgage:

(i) that was the result of an arm’s-length transaction;

(ii) established before the filing of an action to foreclose the mortgage under Part 9, Mortgage Foreclosure;

(iii) that provides an individual the right to exclusive use and occupancy of the residential property:

(A) on an at-will basis; or

(B) for a period specified by the agreement that is no longer than twelve months; and

(iv) that requires the individual to pay rent in an amount that:

(A) is not substantially less than fair market rent for the property; or

(B) is less than fair market rent due to a federal, state, or local subsidy.

(b) “Bona fide tenant” means an individual who:

(i) has the right to occupy a residential property under a bona fide residential rental agreement;

(ii) is not the mortgagor; and

(iii) is not the mortgagor’s child, spouse, or parent.

(c) “Foreclosed rental property” means a property that:

(i) is the subject of a bona fide residential rental agreement; and

(ii) is foreclosed under Part 9, Mortgage Foreclosure.

(d) “New owner” means the immediate successor in interest of a foreclosed rental property following foreclosure of the property.

(2) (a) Except as provided in Subsection (2)(b), a new owner assumes ownership of a foreclosed rental property subject to a bona fide tenant’s right to occupy the foreclosed rental property:

(i) according to the terms of a bona fide residential rental agreement; and

(ii) until the end of the term of the bona fide residential rental agreement.

(b) Subject to Subsection (3), a new owner who intends to occupy a foreclosed rental property as the new owner’s primary residence may terminate:

(i) the bona fide residential rental agreement; and

(ii) the bona fide tenant’s occupancy of the foreclosed rental property.

(3) (a) A new owner who terminates a bona fide tenant’s occupancy of a foreclosed rental property shall serve, to the bona fide tenant, a notice to vacate:

(i) at least 45 days before the day on which the new owner requires the bona fide tenant to vacate the foreclosed rental property; and

(ii) as provided in Section 78B-6-805.

(b) A notice to vacate under Subsection (3)(a) shall:

(i) be in at least 14-point font;

(ii) state the new owner’s name, address, and contact information;

(iii) explain the reason the new owner requires the bona fide tenant to vacate the rental property;

(iv) state the date on which the bona fide tenant is required to vacate the rental property; and

(v) refer to this section as the law under which the notice to vacate is provided.

(4) This section does not modify the requirements for termination of a federally subsidized tenancy.

Section 7. Section 78B-6-901.5 is amended to read:

78B-6-901.5. Notice to tenant on residential property to be foreclosed.

(1) As used in this section, “residential rental property” means property on which a mortgage was given to secure an obligation the stated purpose of which is to finance residential rental property.

(2) Within 20 days after filing an action under this part to foreclose property that includes or constitutes residential rental property, the plaintiff in the action shall:

(a) post a notice:

(i) on the primary door of each dwelling unit on the property that is the subject of the foreclosure action, if the property has fewer than nine dwelling units; or

(ii) in at least three conspicuous places on the property that is the subject of the foreclosure action, if the property to be sold has nine or more dwelling units; or

(b) mail a notice to the occupant of each dwelling unit on the property that is the subject of the foreclosure action.

(3) The notice required under Subsection (2) shall:

(a) be in at least 14-point font;

(b) include the name and address of:

(i) the owner of the property;

(ii) the trustor or mortgagor, as the case may be, on the instrument creating a security interest in the property;

(iii) the trustee or mortgagee, as the case may be, on the instrument; and

(iv) the beneficiary, if the instrument is a trust deed;

(c) contain the legal description and address of the property; and

(d) include a statement in substantially the following form:

“Notice to Tenant

An action to foreclose the property described in this notice has been filed. If the foreclosure action is pursued to its conclusion, the described property will be sold at public auction to the highest bidder unless the default in the obligation secured by this property is cured.

If the property is sold, you may be allowed under ~~[federal law]~~ Utah Code Section 78B-6-802.7 to continue to occupy your rental unit until your rental agreement expires, or until [90] 45 days after the sale of the property at auction, whichever is later. If your rental or lease agreement expires after the ~~[90-day]~~ 45-day period, you may need to provide a copy of your rental or lease agreement to the new owner to prove your right to remain on the property longer than [90] 45 days after the sale of the property.

You must continue to pay your rent and comply with other requirements of your rental or lease agreement or you will be subject to eviction for violating your rental or lease agreement.

The new owner or the new owner’s representative will probably contact you after the property is sold with directions about where to pay rent.

The new owner of the property may or may not want to offer to enter into a new rental or lease agreement with you at the expiration of the period described above.”

(4) The failure to provide notice as required under this section or a defect in that notice may not be the basis for challenging or defending a foreclosure action or for invalidating a sale of the property pursuant to a foreclosure action.

CHAPTER 326**S. B. 31**

Passed March 8, 2016
Approved March 28, 2016
Effective January 1, 2017

TAX COMMISSION LEVY PROCESS

Chief Sponsor: Wayne A. Harper
House Sponsor: Mike K. McKell

LONG TITLE**General Description:**

This bill enacts a State Tax Commission levy process using a depository institution data match system to collect certain amounts owed by a delinquent taxpayer.

Highlighted Provisions:

This bill:

- ▶ defines terms and modifies definitions;
- ▶ enacts the Depository Institution Data Match System and Levy Act;
- ▶ provides procedures and requirements for the depository institution data match system and levy process, including:
 - requiring the State Tax Commission to develop and operate the database in coordination with depository institutions;
 - addressing agreements between the State Tax Commission and depository institutions;
 - requiring a depository institution to provide the State Tax Commission with certain information;
 - establishing a levy process for collecting a liability from a delinquent taxpayer using the depository institution data match system;
 - addressing duties of a depository institution and the State Tax Commission in relation to the depository institution data match system and levy process;
 - addressing payments by the State Tax Commission to a depository institution;
 - addressing an amount levied or released in error;
 - addressing the confidentiality and disclosure of information;
 - addressing limits on a depository institution's liability; and
 - granting rulemaking authority to the State Tax Commission; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

7-1-1004, as last amended by Laws of Utah 2009, Chapter 381
59-1-1402, as last amended by Laws of Utah 2012, Chapter 357

ENACTS:

59-1-1701, Utah Code Annotated 1953
59-1-1702, Utah Code Annotated 1953

59-1-1703, Utah Code Annotated 1953
59-1-1704, Utah Code Annotated 1953
59-1-1705, Utah Code Annotated 1953
59-1-1706, Utah Code Annotated 1953
59-1-1707, Utah Code Annotated 1953
59-1-1708, Utah Code Annotated 1953
59-1-1709, Utah Code Annotated 1953
59-1-1710, Utah Code Annotated 1953
59-1-1711, Utah Code Annotated 1953
59-1-1712, Utah Code Annotated 1953
59-1-1713, Utah Code Annotated 1953
59-1-1714, Utah Code Annotated 1953
59-1-1715, Utah Code Annotated 1953
59-1-1716, Utah Code Annotated 1953
59-1-1717, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 7-1-1004 is amended to read:**7-1-1004. Reimbursement of financial institution for costs of obtaining information.**

(1) [A] Except as provided in Subsection (2), a financial institution is entitled to reimbursement by a governmental entity seeking information, for costs reasonably and directly incurred in searching for, reproducing, or transporting a record required to be produced if the financial institution produces the record:

(a) pursuant to written permission by all account holders of the account referenced in the record in accordance with:

- (i) Subsection 7-1-1001(2)(a); or
- (ii) Subsection 7-1-1006(2)(b)(iii);

(b) in compliance with an order obtained under this part; or

(c) in compliance with an order of a court or administrative body of competent jurisdiction.

(2) A depository institution is not allowed reimbursement under this section by the State Tax Commission for information the depository institution provides or action the depository institution takes in accordance with Title 59, Chapter 1, Part 17, Depository Institution Data Match System and Levy Act.

[~~(2)~~] (3) The commissioner shall by rule establish the rates and conditions under which a governmental entity shall reimburse a financial institution.

Section 2. Section 59-1-1402 is amended to read:**59-1-1402. Definitions.**

As used in this part:

(1) "Administrative cost" means a fee imposed to cover:

- (a) the cost of filing;
- (b) the cost of administering a garnishment; [or]

(c) the amount the commission pays to a depository institution in accordance with Title 59,

Chapter 1, Part 17, Depository Institution Data Match System and Levy Act; or

[~~(e)~~] (d) a cost similar to [~~Subsection (1)(a) or (b)~~] Subsections (1)(a) through (c) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) "Books and records" means the following made available in printed or electronic format:

- (a) an account;
- (b) a book;
- (c) an invoice;
- (d) a memorandum;
- (e) a paper;
- (f) a record; or

(g) an item similar to Subsections (2)(a) through (f) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) "Deficiency" means:

(a) the amount by which a tax, fee, or charge exceeds the difference between:

(i) the sum of:

(A) the amount shown as the tax, fee, or charge by a person on the person's return; and

(B) any amount previously assessed, or collected without assessment, as a deficiency; and

(ii) any amount previously abated, credited, refunded, or otherwise repaid with respect to that tax, fee, or charge; or

(b) if a person does not show an amount as a tax, fee, or charge on the person's return, or if a person does not make a return, the amount by which the tax, fee, or charge exceeds:

(i) the amount previously assessed, or collected without assessment, as a deficiency; and

(ii) any amount previously abated, credited, refunded, or otherwise repaid with respect to that tax, fee, or charge.

(4) "Garnishment" means any legal or equitable procedure through which one or more of the following are required to be withheld for payment of an amount a person owes:

(a) an asset of the person held by another person; or

(b) the earnings of the person.

(5) "Liability" means the following that a person is required to remit to the commission:

- (a) a tax, fee, or charge;
- (b) an addition to a tax, fee, or charge;
- (c) an administrative cost;

(d) interest that accrues in accordance with Section 59-1-402; or

(e) a penalty that accrues in accordance with Section 59-1-401.

(6) (a) Subject to Subsection (6)(b), "mathematical error" is as defined in Section 6213(g)(2), Internal Revenue Code.

(b) The reference to Section 6213(g)(2), Internal Revenue Code, in Subsection (6)(a) means:

(i) the reference to Section 6213(g)(2), Internal Revenue Code, in effect for the taxable year; or

(ii) a corresponding or comparable provision of the Internal Revenue Code as amended, redesignated, or reenacted.

(7) (a) Except as provided in Subsection (7)(b), "tax, fee, or charge" means:

(i) a tax, fee, or charge the commission administers under:

(A) this title;

(B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(D) Section 19-6-410.5;

(E) Section 19-6-714;

(F) Section 19-6-805;

(G) Section 32B-2-304;

(H) Section 34A-2-202;

(I) Section 40-6-14;

(J) Section 69-2-5;

(K) Section 69-2-5.5; or

(L) Section 69-2-5.6; or

(ii) another amount that by statute is administered by the commission.

(b) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:

(i) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;

(ii) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

(iii) Chapter 2, Property Tax Act;

(iv) Chapter 3, Tax Equivalent Property Act;

(v) Chapter 4, Privilege Tax; or

(vi) Chapter 13, Part 5, Interstate Agreements.

(8) "Transferee" means:

(a) a devisee;

(b) a distributee;

(c) a donee;

(d) an heir;

(e) a legatee; or

(f) a person similar to Subsections (8)(a) through (e) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 3. Section 59-1-1701 is enacted to read:

Part 17. Depository Institution Data Match System and Levy Act

59-1-1701. Title.

This part is known as the “Depository Institution Data Match System and Levy Act.”

Section 4. Section 59-1-1702 is enacted to read:

59-1-1702. Definitions.

As used in this part:

(1) “Agreement” means an agreement described in Section 59-1-1704 between a depository institution and the commission.

(2) “Delinquent taxpayer” means a person against whom the commission is considered to have obtained a judgment for a liability under Section 59-1-1414.

(3) “Depository institution” is a depository institution described in Section 7-1-103 that holds or receives deposits, savings, or share accounts.

(4) “Depository institution data match system” means the database that the commission develops, maintains, and operates in accordance with Section 59-1-1703.

(5) “Identifying information” means:

(a) the name of the account holder;

(b) the social security number of the account holder; or

(c) other identifying information.

(6) “Liability” means the same as that term is defined in Section 59-1-1402.

(7) “Satisfy a liability” means to pay in full a liability that is the subject of a levy under this part.

Section 5. Section 59-1-1703 is enacted to read:

59-1-1703. Depository institution data match system.

(1) The commission shall develop, maintain, and operate a database as provided in this section.

(2) The database described in Subsection (1):

(a) shall use automated data exchanges;

(b) shall identify a delinquent taxpayer by identifying information;

(c) may be accessed only by the commission or a depository institution;

(d) shall be used to determine whether a delinquent taxpayer identified in the database has

the same identifying information as that of an account holder at a depository institution; and

(e) shall be updated by the commission on at least a quarterly basis.

Section 6. Section 59-1-1704 is enacted to read:

59-1-1704. Election to enter into an agreement.

(1) A depository institution that does business in this state may elect to use the depository institution data match system to respond to judicial process against a delinquent taxpayer.

(2) A depository institution may not make an election under Subsection (1) unless the commission approves the election.

(3) A depository institution that elects to use the depository institution data match system shall enter into an agreement with the commission.

(4) An agreement under this section shall:

(a) address the operation of the depository institution data match system;

(b) require the depository institution to comply with this part;

(c) address reimbursement to the depository institution for complying with this part; and

(d) provide for the security and confidentiality of data contained in the depository institution data match system.

(5) An election under this section does not preclude the commission from requiring a depository institution to respond to judicial process against a delinquent taxpayer:

(a) by means other than the depository institution data match system; and

(b) as provided by law.

Section 7. Section 59-1-1705 is enacted to read:

59-1-1705. Requirement to access depository institution data match system.

(1) A depository institution that enters into an agreement with the commission in accordance with Section 59-1-1704 shall access the depository institution data match system on or before the 15th day of each calendar quarter.

(2) A depository institution that accesses the depository institution data match system shall determine whether a delinquent taxpayer identified in the depository institution data match system has the same identifying information as that of an account holder at the depository institution.

Section 8. Section 59-1-1706 is enacted to read:

59-1-1706. Requirement for a depository institution to provide information to the commission.

A depository institution that determines under Section 59-1-1705 that a delinquent taxpayer identified in the depository institution data match system has the same identifying information as that of an account holder at the depository institution shall provide the commission, within five days after the day on which the depository institution accesses the depository institution data match system:

- (1) the name of the account holder;
- (2) the address of the account holder;
- (3) the account number of the account holder;
- (4) the account balance of the account holder on the day that the depository institution provides the commission the information required by this section;
- (5) the type of account of the account holder;
- (6) the social security number of the account holder;
- (7) other information that identifies the account holder; and
- (8) the name of, and contact information for, other account holders that have access to the account.

Section 9. Section 59-1-1707 is enacted to read:

59-1-1707. Commission requirement to provide notice of levy to depository institution -- Duration of levy.

(1) The commission shall provide, within three business days after a depository institution provides the commission information described in Section 59-1-1706, a notice of levy to the depository institution by electronic means:

- (a) stating that the commission levies an amount equal to the liability of a delinquent taxpayer that is an account holder at the depository institution; and
- (b) identifying the account subject to levy.

(2) A levy described in Subsection (1) is valid until the earlier of:

- (a) the day on which the commission releases the levy;
- (b) the day on which the delinquent taxpayer satisfies the liability; or
- (c) the day on which the depository institution releases, in accordance with Section 59-1-1711, the amounts deposited into the account of the delinquent taxpayer.

(3) The commission shall provide notice to a depository institution by electronic means:

- (a) if the commission releases a levy, no later than one business day after the day on which the commission releases the levy; or
- (b) if a delinquent taxpayer satisfies the liability, no later than one business day after the day on which the delinquent taxpayer satisfies the liability.

Section 10. Section 59-1-1708 is enacted to read:

59-1-1708. Depository institution requirement to secure amount subject to levy in account holder's account.

(1) Subject to Subsection (2), before the later of two business days after the day on which, or 48 hours after the time at which, a depository institution receives a notice of levy described in Section 59-1-1707 from the commission, the depository institution shall secure the amount subject to levy in a delinquent taxpayer's account by prohibiting:

- (a) any person that has access to the delinquent taxpayer's account from accessing the amount; or
- (b) the transfer or other disposition of the amount.

(2) For purposes of Subsection (1), a depository institution shall secure an amount subject to levy regardless of whether a person other than the delinquent taxpayer has access to the account or is an account holder.

Section 11. Section 59-1-1709 is enacted to read:

59-1-1709. Commission to send notice to delinquent taxpayer.

(1) The commission shall, within three business days after the day on which the commission provides a notice of levy described in Section 59-1-1707 to a depository institution, notify a delinquent taxpayer that the commission has issued the notice of levy to the depository institution.

(2) The notice described in Subsection (1) shall:

- (a) state the amount subject to levy as stated in the notice of levy described in Section 59-1-1707;
- (b) notify the delinquent taxpayer that the depository institution is required to secure the amount subject to levy in accordance with Section 59-1-1708;
- (c) identify each account subject to levy at the depository institution; and
- (d) describe the actions a delinquent taxpayer may take to:
 - (i) satisfy the liability; or
 - (ii) resolve an issue as to whether the commission has the authority to receive from a depository institution the amount subject to levy at the depository institution.

Section 12. Section 59-1-1710 is enacted to read:

59-1-1710. Commission to determine portion of an amount subject to levy -- Process for resolution of dispute -- Extension of certain time periods -- District court action -- Rulemaking authority.

(1) In accordance with this section, the commission, in consultation with the depository

institution, shall determine the portion of the amount subject to a levy under this part.

(2) The time period for making the determination required by Subsection (1):

(a) begins on the day on which the commission provides a notice of levy described in Section 59-1-1707 to a depository institution; and

(b) ends on the first business day after a 21-day period beginning on the day described in Subsection (2)(a).

(3) The commission shall provide notice to a depository institution, no later than the last day of the time period described in Subsection (2), of the portion of the amount subject to a levy under this part.

(4) The portion of an amount subject to levy under this part that the commission may receive from a depository institution may not exceed the lesser of:

(a) the amount of the liability that is subject to the levy;

(b) the amount the commission would have been able to receive had the commission obtained a writ of garnishment; or

(c) the balance of the delinquent taxpayer's account that a depository institution has secured or will secure in accordance with Section 59-1-1708 minus any amounts that the depository institution holds as a security interest.

(5) As part of the determination required by Subsection (1), the commission shall allow a delinquent taxpayer to communicate with and provide information to the commission.

(6) The commission shall order a conference between the commission and the delinquent taxpayer in accordance with Section 63G-4-102 if:

(a) the commission finds that there is a dispute as to an issue related to the determination required by Subsection (1); or

(b) a delinquent taxpayer requests the conference to address a dispute as to an issue related to the determination required by Subsection (1).

(7) The time period beginning on the day on which the commission orders a conference in accordance with Subsection (6) and ending on the day on which the conference adjourns may not be included in calculating a time period:

(a) during which a levy is valid;

(b) during which a depository institution is required to secure an amount in accordance with Section 59-1-1708;

(c) for making the determination required by Subsection (1); or

(d) for requiring a depository institution to release a portion of an amount to the commission in accordance with Section 59-1-1711.

(8) If a conference described in Subsection (6) does not result in the resolution of the issues related to the determination required by Subsection (1), a delinquent taxpayer may file an action in district court:

(a) within 14 days after the day on which a conference described in Subsection (6) adjourns; and

(b) in the district court located in the county of residence or principal place of business of the delinquent taxpayer.

(9) (a) Subject to Subsection (9)(b), the time period beginning on the day on which a delinquent taxpayer files an action in accordance with Subsection (8) and ending on the day on which the action becomes final may not be included in calculating a time period:

(i) during which a levy is valid;

(ii) during which a depository institution is required to secure an amount in accordance with Section 59-1-1708;

(iii) for making the determination required by Subsection (1); or

(iv) for requiring a depository institution to release a portion of an amount to the commission in accordance with Section 59-1-1711.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for determining when an action under this section becomes final.

Section 13. Section 59-1-1711 is enacted to read:

59-1-1711. Depository institution to release portion of amount subject to levy.

(1) Subject to the other provisions of this section, a depository institution shall release the portion of the amount subject to a levy under this part that the commission may receive in accordance with Section 59-1-1710 from the depository institution.

(2) On the first business day after the day on which the commission provides the notice described in Subsection 59-1-1710(3) to the depository institution, the depository institution shall release the lesser of the following:

(a) the portion of the amount the commission may receive in accordance with Section 59-1-1710 from the depository institution; or

(b) the balance of the delinquent taxpayer's account on the first business day after the day on which the commission provides the notice described in Subsection 59-1-1710(3) to the depository institution minus:

(i) the \$10 reimbursement to the depository institution described in Section 59-1-1713; and

(ii) the fees that an account holder agreed to pay the depository institution to process a writ of garnishment in a deposit agreement.

Section 14. Section 59-1-1712 is enacted to read:

59-1-1712. Limitations on commission authority to levy.

(1) During the time period that a levy the commission imposes on the account of a delinquent taxpayer is valid, the commission may not impose another levy on that account.

(2) The commission may impose a levy in accordance with the procedures and requirements of this part on an account subject to a previous levy under this part if that previous levy is no longer valid.

Section 15. Section 59-1-1713 is enacted to read:

59-1-1713. Commission payment to depository institution to secure amount subject to levy.

In addition to any compensation that the commission pays to the depository institution in accordance with an agreement, the commission shall pay the depository institution \$10 if the depository institution secures an amount subject to levy under Section 59-1-1708.

Section 16. Section 59-1-1714 is enacted to read:

59-1-1714. Amount levied or released in error -- Rulemaking authority.

(1) If the commission levies an amount in error, the commission shall:

(a) pay the cost of a depository institution charge incurred as a result of the levy; or

(b) if a person other than the commission pays the depository institution charge, reimburse the person for the depository institution charge incurred as a result of the levy.

(2) If a depository institution releases an amount in an account holder's account to the commission in error, the commission shall return the amount to the depository institution by electronic means for deposit into the account holder's account.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing:

(a) what constitutes levying or releasing an amount in error; and

(b) the depository institution charges the commission shall pay.

Section 17. Section 59-1-1715 is enacted to read:

59-1-1715. Limits on a depository institution's authority to disclose or provide notice -- Depository institution authority to provide information.

(1) Before a depository institution secures an amount subject to levy in a delinquent taxpayer's account in accordance with Section 59-1-1708 and except as provided in Subsection (2), a depository institution may not disclose or provide notice to an account holder at the depository institution that the depository institution:

(a) provided information to the commission or the commission provided information to the depository institution in relation to the account holder or the account holder's account in accordance with this part; or

(b) took an action in relation to the account holder or the account holder's account in accordance with this part.

(2) A depository institution may provide information to an account holder describing the depository institution's duties under this part if the information the depository institution provides does not identify that the depository institution:

(a) provides or has provided information to the commission in relation to a particular account holder or account holder's account in accordance with this part; or

(b) takes or has taken an action in relation to a particular account holder or account holder's account in accordance with this part.

Section 18. Section 59-1-1716 is enacted to read:

59-1-1716. Limits on depository institution liability.

A depository institution is not liable to a person for the following if the depository institution acts in good faith:

(1) providing or failing to provide information; or

(2) taking or failing to take an action.

Section 19. Section 59-1-1717 is enacted to read:

59-1-1717. Confidentiality of information.

Except for the exchange of information between the commission and a depository institution that is necessary to meet the requirements of this part, information the commission obtains from a depository institution is subject to Section 59-1-403 as if the information had been gained from a return filed with the commission.

Section 20. Effective date.

This bill takes effect on January 1, 2017.

CHAPTER 327**S. B. 32**

Passed February 10, 2016

Approved March 28, 2016

Effective May 10, 2016

**REAUTHORIZATION OF HOSPITAL
PROVIDER ASSESSMENT ACT**Chief Sponsor: Brian E. Shiozawa
House Sponsor: James A. Dunnigan**LONG TITLE****General Description:**

This bill reauthorizes the Hospital Provider Assessment Act.

Highlighted Provisions:

This bill:

- ▶ amends the repeal of the assessment;
- ▶ extends the sunset of the assessment; and
- ▶ makes technical amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-36a-203, as last amended by Laws of Utah 2013, Chapter 32

26-36a-208, as last amended by Laws of Utah 2013, Chapter 32

63I-1-226, as last amended by Laws of Utah 2015, Chapters 16, 31, and 258

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-36a-203 is amended to read:**26-36a-203. Calculation of assessment.**

(1) (a) An annual assessment is payable on a quarterly basis for each hospital in an amount calculated at a uniform assessment rate for each hospital discharge, in accordance with this section.

(b) The uniform assessment rate shall be determined using the total number of hospital discharges for assessed hospitals divided into the total non-federal portion in an amount consistent with Section 26-36a-205 that is needed to support capitated rates for accountable care organizations for purposes of hospital services provided to Medicaid enrollees.

(c) Any quarterly changes to the uniform assessment rate shall be applied uniformly to all assessed hospitals.

(d) The annual uniform assessment rate may not generate more than:

(i) \$1,000,000 to offset Medicaid mandatory expenditures; and

(ii) the non-federal share to seed amounts needed to support capitated rates for accountable care organizations as provided for in Subsection (1)(b).

(2) (a) For each state fiscal year, discharges shall be determined using the data from each hospital's Medicare Cost Report contained in the Centers for Medicare and Medicaid Services' Healthcare Cost Report Information System file. The hospital's discharge data will be derived as follows:

(i) for state fiscal year 2013, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2009, and June 30, 2010;

(ii) for state fiscal year 2014, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2010, and June 30, 2011;

(iii) for state fiscal year 2015, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2011, and June 30, 2012; ~~and~~

(iv) for state fiscal year 2016, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2012, and June 30, 2013[-]; and

(v) for each subsequent state fiscal year, the hospital's cost report data for the hospital's fiscal year that ended in the state fiscal year two years prior to the assessment fiscal year.

(b) If a hospital's fiscal year Medicare Cost Report is not contained in the Centers for Medicare and Medicaid Services' Healthcare Cost Report Information System file:

(i) the hospital shall submit to the division a copy of the hospital's Medicare Cost Report applicable to the assessment year; and

(ii) the division shall determine the hospital's discharges.

(c) If a hospital is not certified by the Medicare program and is not required to file a Medicare Cost Report:

(i) the hospital shall submit to the division its applicable fiscal year discharges with supporting documentation;

(ii) the division shall determine the hospital's discharges from the information submitted under Subsection (2)(c)(i); and

(iii) the failure to submit discharge information shall result in an audit of the hospital's records and a penalty equal to 5% of the calculated assessment.

(3) Except as provided in Subsection (4), if a hospital is owned by an organization that owns more than one hospital in the state:

(a) the assessment for each hospital shall be separately calculated by the department; and

(b) each separate hospital shall pay the assessment imposed by this chapter.

(4) Notwithstanding the requirement of Subsection (3), if multiple hospitals use the same Medicaid provider number:

(a) the department shall calculate the assessment in the aggregate for the hospitals using the same Medicaid provider number; and

(b) the hospitals may pay the assessment in the aggregate.

Section 2. Section 26-36a-208 is amended to read:

26-36a-208. Repeal of assessment.

(1) The repeal of the assessment imposed by this chapter shall occur upon the certification by the executive director of the department that the sooner of the following has occurred:

(a) the effective date of any action by Congress that would disqualify the assessment imposed by this chapter from counting towards state Medicaid funds available to be used to determine the federal financial participation;

(b) the effective date of any decision, enactment, or other determination by the Legislature or by any court, officer, department, or agency of the state, or of the federal government that has the effect of:

(i) disqualifying the assessment from counting towards state Medicaid funds available to be used to determine federal financial participation for Medicaid matching funds; or

(ii) creating for any reason a failure of the state to use the assessments for the Medicaid program as described in this chapter;

(c) the effective date of:

(i) an appropriation for any state fiscal year from the General Fund for hospital payments under the state Medicaid program that is less than the amount appropriated for state fiscal year 2012;

(ii) the annual revenues of the state General Fund budget return to the level that was appropriated for fiscal year 2008;

~~[(iii) approval of any change in the state Medicaid plan that requires a greater percentage of Medicaid patients to enroll in Medicaid-managed care plans than what is required;]~~

~~[(A) to implement accountable care organizations in the state plan; and]~~

~~[(B) by other managed care enrollment requirements in effect on or before January 1, 2012;]~~

~~[(iv)] (iii) a division change in rules that reduces any of the following below July 1, 2011 payments:~~

(A) aggregate hospital inpatient payments;

(B) adjustment payment rates; or

(C) any cost settlement protocol; or

~~[(v)] (iv) a division change in rules that reduces the aggregate outpatient payments below July 1, 2011 payments; and]~~

(d) the sunset of this chapter in accordance with Section 63I-1-226.

(2) If the assessment is repealed under Subsection (1), money in the fund that was derived from assessments imposed by this chapter, before the determination made under Subsection (1), shall be disbursed under Section 26-36a-205 to the extent federal matching is not reduced due to the

impermissibility of the assessments. Any funds remaining in the special revenue fund shall be refunded to the hospitals in proportion to the amount paid by each hospital.

Section 3. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates, Title 26.

(1) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(2) Section 26-10-11 is repealed July 1, 2020.

(3) Section 26-21-23, Licensing of non-Medicaid nursing care facility beds, is repealed July 1, 2018.

(4) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(5) Title 26, Chapter 36a, Hospital Provider Assessment Act, is repealed July 1, ~~2016~~ 2019.

(6) Section 26-38-2.5 is repealed July 1, 2017.

(7) Section 26-38-2.6 is repealed July 1, 2017.

(8) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed July 1, 2016.

CHAPTER 328**S. B. 51**

Passed February 19, 2016

Approved March 28, 2016

Effective May 10, 2016

TEACHER LEADER ROLE

Chief Sponsor: Ann Millner
House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill enacts provisions related to teacher leaders.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the role of a teacher leader; and
- ▶ enacts provisions related to the role of a teacher leader.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53A-6-114, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-6-114 is enacted to read:**53A-6-114. Teacher leaders.**

(1) As used in this section, "teacher" means an educator who has an assignment to teach in a classroom.

(2) There is created the role of a teacher leader to:

(a) work with a student teacher and a teacher who supervises a student teacher;

(b) assist with the training of a recently hired teacher; and

(c) support school-based professional learning.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board:

(a) shall make rules that:

(i) define the role of a teacher leader, including the functions described in Subsection (2); and

(ii) establish the minimum criteria for a teacher to qualify as a teacher leader; and

(b) may make rules that create an endorsement for a teacher leader.

(4) A school district or charter school may assign a teacher to a teacher leader position without a teacher leader endorsement.

(5) (a) The board shall solicit recommendations from school districts and educators regarding:

(i) appropriate resources to provide a teacher leader; and

(ii) appropriate ways to compensate a teacher leader.

(b) The board shall report the board's findings and recommendations described in Subsection (5)(a) to the Education Interim Committee on or before the committee's November 2016 interim meeting.

CHAPTER 329**S. B. 57**

Passed February 25, 2016

Approved March 28, 2016

Effective May 10, 2016

**PUBLIC SAFETY EMERGENCY
MANAGEMENT AMENDMENTS**

Chief Sponsor: Karen Mayne

House Sponsor: Lee B. Perry

LONG TITLE**General Description:**

This bill modifies the Public Safety Code regarding emergency assistance during a declared disaster.

Highlighted Provisions:

This bill:

- ▶ authorizes the Division of Emergency Management to conduct a feasibility study regarding establishing a contract with the United States Postal Service to help with emergency response services during a declared disaster; and
- ▶ requires the Division of Emergency Management to report to the Business and Labor Interim Committee and the Law Enforcement and Criminal Justice Interim Committee by November 30, 2016, regarding the feasibility study.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-2a-204, as last amended by Laws of Utah 2015, Chapter 258

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-2a-204 is amended to read:**53-2a-204. Authority of governor -- Federal assistance -- Fraud or willful misstatement in application for financial assistance -- Penalty.**

(1) In addition to any other authorities conferred upon the governor, if the governor issues an executive order declaring a state of emergency, the governor may:

- (a) utilize all available resources of state government as reasonably necessary to cope with a state of emergency;
- (b) employ measures and give direction to state and local officers and agencies that are reasonable and necessary for the purpose of securing compliance with the provisions of this part and with orders, rules, and regulations made pursuant to this part;
- (c) recommend and advise the evacuation of all or part of the population from any stricken or threatened area within the state if necessary for the preservation of life;

(d) recommend routes, modes of transportation, and destination in connection with evacuation;

(e) in connection with evacuation, suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles, not to include the lawful bearing of arms;

(f) control ingress and egress to and from a disaster area, the movement of persons within the area, and recommend the occupancy or evacuation of premises in a disaster area;

(g) clear or remove from publicly or privately owned land or water debris or wreckage that is an immediate threat to public health, public safety, or private property, including allowing an employee of a state department or agency designated by the governor to enter upon private land or waters and perform any tasks necessary for the removal or clearance operation if the political subdivision, corporation, organization, or individual that is affected by the removal of the debris or wreckage:

(i) presents an unconditional authorization for removal of the debris or wreckage from private property; and

(ii) agrees to indemnify the state against any claim arising from the removal of the debris or wreckage;

(h) enter into agreement with any agency of the United States:

(i) for temporary housing units to be occupied by victims of a state of emergency or persons who assist victims of a state of emergency; and

(ii) to make the housing units described in Subsection (1)(h)(i) available to a political subdivision of this state;

(i) assist any political subdivision of this state to acquire sites and utilities necessary for temporary housing units described in Subsection (1)(h)(i) by passing through any funds made available to the governor by an agency of the United States for this purpose;

(j) subject to Sections 53-2a-209 and 53-2a-214, temporarily suspend or modify by executive order, during the state of emergency, any public health, safety, zoning, transportation, or other requirement of a statute or administrative rule within this state if such action is essential to provide temporary housing described in Subsection (1)(h)(i);

(k) upon determination that a political subdivision of the state will suffer a substantial loss of tax and other revenues because of a state of emergency and the political subdivision so affected has demonstrated a need for financial assistance to perform its governmental functions, in accordance with Utah Constitution, Article XIV, Sections 3 and 4, and Section 10-8-6:

(i) apply to the federal government for a loan on behalf of the political subdivision if the amount of the loan that the governor applies for does not exceed 25% of the annual operating budget of the political subdivision for the fiscal year in which the state of emergency occurs; and

(ii) receive and disburse the amount of the loan to the political subdivision;

(l) accept funds from the federal government and make grants to any political subdivision for the purpose of removing debris or wreckage from publicly owned land or water;

(m) upon determination that financial assistance is essential to meet expenses related to a state of emergency of individuals or families adversely affected by the state of emergency that cannot be sufficiently met from other means of assistance, apply for, accept, and expend a grant by the federal government to fund the financial assistance, subject to the terms and conditions imposed upon the grant;

(n) recommend to the Legislature other actions the governor considers to be necessary to address a state of emergency; or

(o) authorize the use of all water sources as necessary for fire suppression.

(2) A person who fraudulently or willfully makes a misstatement of fact in connection with an application for financial assistance under this section shall, upon conviction of each offense, be subject to a fine of not more than \$5,000 or imprisonment for not more than one year, or both.

(3) The division shall conduct a feasibility study regarding the establishment of an agreement with the United States Postal Service regarding the use of employees, resources, and assets within the Postal Service Network to provide the following services:

(a) identify residential or commercial structures that have been damaged;

(b) identify persons who reside in a damaged area and the emergent medical or physical needs of those persons;

(c) help assess the damage to neighborhoods or communities; and

(d) any other activity that the division determines to be necessary to assist in responding to a declared disaster.

(4) The division shall provide a report to the Business and Labor Interim Committee and the Law Enforcement and Criminal Justice Interim Committee regarding the feasibility study conducted under Subsection (3) no later than November 30, 2016.

CHAPTER 330**S. B. 59**

Passed February 29, 2016

Approved March 28, 2016

Effective May 10, 2016

**ANTIDISCRIMINATION AND WORKPLACE
ACCOMMODATIONS REVISIONS**Chief Sponsor: Todd Weiler
House Sponsor: Rebecca P. Edwards**LONG TITLE****General Description:**

This bill modifies provisions related to accommodations at the workplace.

Highlighted Provisions:

This bill:

- ▶ addresses a public employer accommodation for breastfeeding;
- ▶ amends the definition provision;
- ▶ provides for reasonable accommodations for an employee under certain circumstances related to pregnancy, childbirth, breastfeeding, or related conditions; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

34-49-202, as enacted by Laws of Utah 2015, Chapter 156

34A-5-102, as last amended by Laws of Utah 2015, Chapters 13 and 23

34A-5-106, as last amended by Laws of Utah 2015, Chapter 13

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34-49-202 is amended to read:**34-49-202. Reasonable breaks and private room required.**

(1) (a) A public employer shall:

(i) provide for at least one year after the birth of a public employee's child reasonable breaks for each time the public employee needs to breast feed or express milk; and

(ii) consult with the public employee to determine the frequency and duration of the breaks.

(b) A break required under Subsection (1)(a) shall, to the extent possible, run concurrent with any other break period otherwise provided to the public employee.

(2) (a) A public employer shall provide for a public employee a room or other location in close proximity to the public employee's work area.

(b) The room described in Subsection (2)(a):

(i) may not be a bathroom or toilet stall; and

(ii) shall:

(A) be maintained in a clean and sanitary condition;

(B) provide privacy shielded from the view of and intrusion from coworkers or the public;

(C) be available at the times and for a duration required by the public employee as determined in consultation with the public employee under Subsection (1)(a)(ii); and

(D) have an electrical outlet.

(c) (i) Notwithstanding Subsection (2)(a), an employer is not required to comply with the requirements of Subsections (2)(a) and (b) if compliance would create an undue hardship on the operations of the employer.

(ii) For purposes of Subsection (2)(c)(i), an undue hardship is a requirement that would cause the employer significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the employer's operations.

(3) (a) A public employer shall provide access to a clean and well-maintained refrigerator or freezer for the temporary storage of the public employee's breast milk.

(b) Notwithstanding Subsection (3)(a), a public employer with a public employee not working in an office building may, in the alternative, provide a nonelectric insulated container for storage of the public employee's breast milk.

Section 2. Section 34A-5-102 is amended to read:**34A-5-102. Definitions -- Unincorporated entities.**

(1) As used in this chapter:

(a) "Affiliate" means the same as that term is defined in Section 16-6a-102.

(b) "Apprenticeship" means a program for the training of apprentices including a program providing the training of those persons defined as apprentices by Section 35A-6-102.

(c) "Bona fide occupational qualification" means a characteristic applying to an employee that:

(i) is necessary to the operation; or

(ii) is the essence of the employee's employer's business.

(d) "Court" means:

(i) the district court in the judicial district of the state in which the asserted unfair employment practice occurs; or

(ii) if the district court is not in session at that time, a judge of the court described in Subsection (1)(d)(i).

(e) "Director" means the director of the division.

(f) “Disability” means a physical or mental disability as defined and covered by the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102.

(g) “Division” means the Division of Antidiscrimination and Labor.

(h) “Employee” means a person applying with or employed by an employer.

(i) (i) “Employer” means:

(A) the state;

(B) a political subdivision;

(C) a board, commission, department, institution, school district, trust, or agent of the state or a political subdivision of the state; or

(D) a person employing 15 or more employees within the state for each working day in each of 20 calendar weeks or more in the current or preceding calendar year.

(ii) “Employer” does not include:

(A) a religious organization, a religious corporation sole, a religious association, a religious society, a religious educational institution, or a religious leader, when that individual is acting in the capacity of a religious leader;

(B) any corporation or association constituting an affiliate, a wholly owned subsidiary, or an agency of any religious organization, religious corporation sole, religious association, or religious society; or

(C) the Boy Scouts of America or its councils, chapters, or subsidiaries.

(j) “Employment agency” means a person:

(i) undertaking to procure employees or opportunities to work for any other person; or

(ii) holding the person out to be equipped to take an action described in Subsection (1)(j)(i).

(k) “Gender identity” has the meaning provided in the Diagnostic and Statistical Manual (DSM-5). A person’s gender identity can be shown by providing evidence, including, but not limited to, medical history, care or treatment of the gender identity, consistent and uniform assertion of the gender identity, or other evidence that the gender identity is sincerely held, part of a person’s core identity, and not being asserted for an improper purpose.

(l) “Joint apprenticeship committee” means an association of representatives of a labor organization and an employer providing, coordinating, or controlling an apprentice training program.

(m) “Labor organization” means an organization that exists for the purpose in whole or in part of:

(i) collective bargaining;

(ii) dealing with employers concerning grievances, terms or conditions of employment; or

(iii) other mutual aid or protection in connection with employment.

(n) “National origin” means the place of birth, domicile, or residence of an individual or of an individual’s ancestors.

(o) “On-the-job-training” means a program designed to instruct a person who, while learning the particular job for which the person is receiving instruction:

(i) is also employed at that job; or

(ii) may be employed by the employer conducting the program during the course of the program, or when the program is completed.

(p) “Person” means:

(i) one or more individuals, partnerships, associations, corporations, legal representatives, trusts or trustees, or receivers;

(ii) the state; and

(iii) a political subdivision of the state.

(q) “Pregnancy, childbirth, or pregnancy-related conditions” includes breastfeeding or medical conditions related to breastfeeding.

(r) “Presiding officer” means the same as that term is defined in Section 63G-4-103.

(s) “Prohibited employment practice” means a practice specified as discriminatory, and therefore unlawful, in Section 34A-5-106.

(t) “Religious leader” means an individual who is associated with, and is an authorized representative of, a religious organization or association or a religious corporation sole, including a member of clergy, a minister, a pastor, a priest, a rabbi, an imam, or a spiritual advisor.

(u) “Retaliate” means the taking of adverse action by an employer, employment agency, labor organization, apprenticeship program, on-the-job training program, or vocational school against one of its employees, applicants, or members because the employee, applicant, or member:

(i) opposes an employment practice prohibited under this chapter; or

(ii) files charges, testifies, assists, or participates in any way in a proceeding, investigation, or hearing under this chapter.

(v) “Sexual orientation” means an individual’s actual or perceived orientation as heterosexual, homosexual, or bisexual.

(w) “Undue hardship” means an action that requires significant difficulty or expense when considered in relation to factors such as the size of the entity, the entity’s financial resources, and the nature and structure of the entity’s operation.

~~[(4w)]~~ (x) “Unincorporated entity” means an entity organized or doing business in the state that is not:

(i) an individual;

(ii) a corporation; or

(iii) publicly traded.

[~~(x)~~] (y) “Vocational school” means a school or institution conducting a course of instruction, training, or retraining to prepare individuals to follow an occupation or trade, or to pursue a manual, technical, industrial, business, commercial, office, personal services, or other nonprofessional occupations.

(2) (a) For purposes of this chapter, an unincorporated entity that is required to be licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, is presumed to be the employer of each individual who, directly or indirectly, holds an ownership interest in the unincorporated entity.

(b) Pursuant to rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, an unincorporated entity may rebut the presumption under Subsection (2)(a) for an individual by establishing by clear and convincing evidence that the individual:

(i) is an active manager of the unincorporated entity;

(ii) directly or indirectly holds at least an 8% ownership interest in the unincorporated entity; or

(iii) is not subject to supervision or control in the performance of work by:

(A) the unincorporated entity; or

(B) a person with whom the unincorporated entity contracts.

(c) As part of the rules made under Subsection (2)(b), the commission may define:

(i) “active manager”;

(ii) “directly or indirectly holds at least an 8% ownership interest”; and

(iii) “subject to supervision or control in the performance of work.”

Section 3. Section 34A-5-106 is amended to read:

34A-5-106. Discriminatory or prohibited employment practices -- Permitted practices.

(1) It is a discriminatory or prohibited employment practice to take an action described in Subsections (1)(a) through [~~(f)~~] (g).

(a) (i) An employer may not refuse to hire, promote, discharge, demote, or terminate a person, or to retaliate against, harass, or discriminate in matters of compensation or in terms, privileges, and conditions of employment against a person otherwise qualified, because of:

(A) race;

(B) color;

(C) sex;

(D) pregnancy, childbirth, or pregnancy-related conditions;

(E) age, if the individual is 40 years of age or older;

(F) religion;

(G) national origin;

(H) disability;

(I) sexual orientation; or

(J) gender identity.

(ii) A person may not be considered “otherwise qualified,” unless that person possesses the following required by an employer for any particular job, job classification, or position:

(A) education;

(B) training;

(C) ability, with or without reasonable accommodation;

(D) moral character;

(E) integrity;

(F) disposition to work;

(G) adherence to reasonable rules and regulations; and

(H) other job related qualifications required by an employer.

(iii) (A) As used in this chapter, “to discriminate in matters of compensation” means the payment of differing wages or salaries to employees having substantially equal experience, responsibilities, and skill for the particular job.

(B) Notwithstanding Subsection (1)(a)(iii)(A):

(I) nothing in this chapter prevents an increase in pay as a result of longevity with the employer, if the salary increase is uniformly applied and available to all employees on a substantially proportional basis; and

(II) nothing in this section prohibits an employer and employee from agreeing to a rate of pay or work schedule designed to protect the employee from loss of Social Security payment or benefits if the employee is eligible for those payments.

(b) An employment agency may not:

(i) refuse to list and properly classify for employment, or refuse to refer an individual for employment, in a known available job for which the individual is otherwise qualified, because of:

(A) race;

(B) color;

(C) sex;

(D) pregnancy, childbirth, or pregnancy-related conditions;

(E) religion;

(F) national origin;

(G) age, if the individual is 40 years of age or older;

(H) disability;

(I) sexual orientation; or

(J) gender identity; or

(ii) comply with a request from an employer for referral of an applicant for employment if the request indicates either directly or indirectly that the employer discriminates in employment on account of:

(A) race;

(B) color;

(C) sex;

(D) pregnancy, childbirth, or pregnancy-related conditions;

(E) religion;

(F) national origin;

(G) age, if the individual is 40 years of age or older;

(H) disability;

(I) sexual orientation; or

(J) gender identity.

(c) (i) A labor organization may not for a reason listed in Subsection (1)(c)(ii):

(A) exclude an individual otherwise qualified from full membership rights in the labor organization;

(B) expel the individual from membership in the labor organization; or

(C) otherwise discriminate against or harass a member of the labor organization in full employment of work opportunity, or representation.

(ii) A labor organization may not take an action listed in this Subsection (1)(c) because of:

(A) race;

(B) sex;

(C) pregnancy, childbirth, or pregnancy-related conditions;

(D) religion;

(E) national origin;

(F) age, if the individual is 40 years of age or older;

(G) disability;

(H) sexual orientation; or

(I) gender identity.

(d) (i) Unless based upon a bona fide occupational qualification, or required by and given to an agency of government for a security reason, an employer, employment agency, or labor organization may not do the following if the statement, advertisement,

publication, form, or inquiry violates Subsection (1)(d)(ii):

(A) print, circulate, or cause to be printed or circulated a statement, advertisement, or publication;

(B) use a form of application for employment or membership; or

(C) make any inquiry in connection with prospective employment or membership.

(ii) This Subsection (1)(d) applies to a statement, advertisement, publication, form, or inquiry that directly expresses a limitation, specification, or discrimination as to:

(A) race;

(B) color;

(C) religion;

(D) sex;

(E) pregnancy, childbirth, or pregnancy-related conditions;

(F) national origin;

(G) age, if the individual is 40 years of age or older;

(H) disability;

(I) sexual orientation; or

(J) gender identity.

(e) A person, whether or not an employer, an employment agency, a labor organization, or an employee or member of an employer, employment agency, or labor organization, may not:

(i) aid, incite, compel, or coerce the doing of an act defined in this section to be a discriminatory or prohibited employment practice;

(ii) obstruct or prevent a person from complying with this chapter, or any order issued under this chapter; or

(iii) attempt, either directly or indirectly, to commit an act prohibited in this section.

(f) (i) An employer, labor organization, joint apprenticeship committee, or vocational school providing, coordinating, or controlling an apprenticeship program or providing, coordinating, or controlling an on-the-job-training program, instruction, training, or retraining program may not:

(A) deny to, or withhold from, any qualified person the right to be admitted to or participate in an apprenticeship training program, on-the-job-training program, or other occupational instruction, training, or retraining program because of:

(I) race;

(II) color;

(III) sex;

(IV) pregnancy, childbirth, or pregnancy-related conditions;

(V) religion;

(VI) national origin;

(VII) age, if the individual is 40 years of age or older;

(VIII) disability;

(IX) sexual orientation; or

(X) gender identity;

(B) discriminate against or harass a qualified person in that person's pursuit of a program described in Subsection (1)(f)(i)(A) because of:

(I) race;

(II) color;

(III) sex;

(IV) pregnancy, childbirth, or pregnancy-related conditions;

(V) religion;

(VI) national origin;

(VII) age, if the individual is 40 years of age or older;

(VIII) disability;

(IX) sexual orientation; or

(X) gender identity;

(C) discriminate against a qualified person in the terms, conditions, or privileges of a program described in Subsection (1)(f)(i)(A), because of:

(I) race;

(II) color;

(III) sex;

(IV) pregnancy, childbirth, or pregnancy-related conditions;

(V) religion;

(VI) national origin;

(VII) age, if the individual is 40 years of age or older;

(VIII) disability;

(IX) sexual orientation; or

(X) gender identity; or

(D) except as provided in Subsection (1)(f)(ii), print, publish, or cause to be printed or published, a notice or advertisement relating to employment by the employer, or membership in or a classification or referral for employment by a labor organization, or relating to a classification or referral for employment by an employment agency, indicating a preference, limitation, specification, or discrimination based on:

- (I) race;
- (II) color;

(III) sex;

(IV) pregnancy, childbirth, or pregnancy-related conditions;

(V) religion;

(VI) national origin;

(VII) age, if the individual is 40 years of age or older;

(VIII) disability;

(IX) sexual orientation; or

(X) gender identity.

(ii) Notwithstanding Subsection (1)(f)(i)(D), if the following is a bona fide occupational qualification for employment, a notice or advertisement described in Subsection (1)(f)(i)(D) may indicate a preference, limitation, specification, or discrimination based on:

- (A) race;
- (B) color;
- (C) religion;
- (D) sex;
- (E) pregnancy, childbirth, or pregnancy-related conditions;
- (F) age;
- (G) national origin;
- (H) disability;
- (I) sexual orientation; or
- (J) gender identity.

(g) Subject to Subsection (7), an employer may not:

(i) refuse to provide reasonable accommodations for an employee related to pregnancy, childbirth, breastfeeding, or related conditions:

(A) if the employee requests a reasonable accommodation; and

(B) unless the employer demonstrates that the accommodation would create an undue hardship on the operations of the employer;

(ii) require an employee to terminate employment if another reasonable accommodation can be provided for the employee's pregnancy, childbirth, breastfeeding, or related conditions unless the employer demonstrates that the accommodation would create an undue hardship on the operations of the employer; or

(iii) deny employment opportunities to an employee, if the denial is based on the need of the employer to make reasonable accommodations related to the pregnancy, childbirth, breastfeeding, or related conditions of an employee unless the employer demonstrates that the accommodation would create an undue hardship on the operations of the employer.

(2) Subsections (1)(a) through (1)(~~f~~)(g) may not be construed to prevent:

(a) the termination of employment of an individual who, with or without reasonable accommodation, is physically, mentally, or emotionally unable to perform the duties required by that individual's employment;

(b) the variance of insurance premiums or coverage on account of age; or

(c) a restriction on the activities of a person licensed in accordance with Title 32B, Alcoholic Beverage Control Act, with respect to an individual who is under 21 years of age.

(3) (a) It is not a discriminatory or prohibited employment practice:

(i) for an employer to hire and employ an employee, for an employment agency to classify or refer for employment an individual, for a labor organization to classify its membership or to classify or refer for employment an individual, or for an employer, labor organization, or joint labor-management committee controlling an apprenticeship or other training or retraining program to admit or employ an individual in the program on the basis of religion, sex, pregnancy, childbirth, or pregnancy-related conditions, age, national origin, disability, sexual orientation, or gender identity in those certain instances when religion, sex, pregnancy, childbirth, or pregnancy-related conditions, age, if the individual is 40 years of age or older, national origin, disability, sexual orientation, or gender identity is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise;

(ii) for a school, college, university, or other educational institution to hire and employ an employee of a particular religion if:

(A) the school, college, university, or other educational institution is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religious corporation, association, or society; or

(B) the curriculum of the school, college, university, or other educational institution is directed toward the propagation of a particular religion;

(iii) for an employer to give preference in employment to:

(A) the employer's:

(I) spouse;

(II) child; or

(III) son-in-law or daughter-in-law;

(B) a person for whom the employer is or would be liable to furnish financial support if the person were unemployed;

(C) a person to whom the employer during the preceding six months furnishes more than one-half of total financial support regardless of whether or

not the employer was or is legally obligated to furnish support; or

(D) a person whose education or training is substantially financed by the employer for a period of two years or more.

(b) Nothing in this chapter applies to a business or enterprise on or near an Indian reservation with respect to a publicly announced employment practice of the business or enterprise under which preferential treatment is given to an individual because that individual is a native American Indian living on or near an Indian reservation.

(c) Nothing in this chapter may be interpreted to require an employer, employment agency, labor organization, vocational school, joint labor-management committee, or apprenticeship program subject to this chapter to grant preferential treatment to an individual or to a group because of the race, color, religion, sex, age, national origin, disability, sexual orientation, or gender identity of the individual or group on account of an imbalance that may exist with respect to the total number or percentage of persons of a race, color, religion, sex, age, national origin, disability, sexual orientation, or gender identity employed by an employer, referred or classified for employment by an employment agency or labor organization, admitted to membership or classified by a labor organization, or admitted to or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of that race, color, religion, sex, age, national origin, disability, sexual orientation, or gender identity in any community or county or in the available work force in any community or county.

(4) It is not a discriminatory or prohibited practice with respect to age to observe the terms of a bona fide seniority system or any bona fide employment benefit plan such as a retirement, pension, or insurance plan that is not a subterfuge to evade the purposes of this chapter, except that an employee benefit plan may not excuse the failure to hire an individual.

(5) Notwithstanding Subsection (4), or another statute to the contrary, a person may not be subject to involuntary termination or retirement from employment on the basis of age alone, if the individual is 40 years of age or older, except:

(a) under Subsection (6); and

(b) when age is a bona fide occupational qualification.

(6) Nothing in this section prohibits compulsory retirement of an employee who has attained at least 65 years of age, and who, for the two-year period immediately before retirement, is employed in a bona fide executive or a high policymaking position, if:

(a) that employee is entitled to an immediate nonforfeitable annual retirement benefit from the employee's employer's pension, profit-sharing, savings, or deferred compensation plan, or any combination of those plans; and

(b) the benefit described in Subsection (6)(a) equals, in the aggregate, at least \$44,000.

(7) (a) For purposes of Subsection (1)(g), an employer may require an employee to provide a certification from the employee's health care provider concerning the medical advisability of a reasonable accommodation.

(b) A certification under Subsection (7)(a) shall include:

(i) the date the reasonable accommodation becomes medically advisable;

(ii) the probable duration of the reasonable accommodation; and

(iii) an explanatory statement as to the medical advisability of the reasonable accommodation.

(c) Notwithstanding Subsections (1)(g) and (7)(a), an employer may not require an employee to obtain a certification from the employee's health care provider for more frequent restroom, food, or water breaks.

(d) An employer is not required under Subsection (1)(g) or this Subsection (7) to permit an employee to have the employee's child at the workplace for purposes of accommodating pregnancy, childbirth, breastfeeding, or related conditions.

(e) An employer shall include in an employee handbook, or post in a conspicuous place in the employer's place of business, written notice concerning an employee's rights to reasonable accommodations for pregnancy, childbirth, breastfeeding, or related conditions.

CHAPTER 331**S. B. 67**

Passed March 9, 2016
 Approved March 28, 2016
 Effective May 10, 2016

PARTNERSHIPS FOR STUDENT SUCCESS

Chief Sponsor: Ann Millner
 House Sponsor: Rebecca P. Edwards

LONG TITLE**General Description:**

This bill amends and enacts provisions regarding partnerships focused on student success.

Highlighted Provisions:

This bill:

- ▶ creates the Partnerships for Student Success Grant Program (program);
- ▶ provides requirements for the program, including requiring the State Board of Education to administer the program; and
- ▶ coordinates the program with existing programs.

Monies Appropriated in this Bill:

This bill appropriates:

- ▶ to the State Board of Education - State Office of Education - Initiative Programs, as an ongoing appropriation:
 - from the Education Fund, \$2,000,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-1-1209, as enacted by Laws of Utah 2015, Chapter 449

ENACTS:

53A-1-1211, Utah Code Annotated 1953
 53A-4-301, Utah Code Annotated 1953
 53A-4-302, Utah Code Annotated 1953
 53A-4-303, Utah Code Annotated 1953
 53A-4-304, Utah Code Annotated 1953
 53A-4-305, Utah Code Annotated 1953
 53A-4-306, Utah Code Annotated 1953
 53A-4-307, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-1-1209 is amended to read:**53A-1-1209. School Leadership Development Program.**

(1) As used in this section, "school leader" means a school principal or assistant principal.

(2) There is created the School Leadership Development Program to increase the number of highly effective school leaders capable of:

(a) initiating, achieving, and sustaining school improvement efforts[.]; and

(b) forming and sustaining community partnerships as described in Section 53A-4-303.

(3) The board shall identify one or more providers, through a request for proposals process, to develop or provide leadership development training for school leaders that:

(a) may provide in-depth training in proven strategies to turn around low performing schools;

(b) may emphasize hands-on and job-embedded learning;

(c) aligns with the state's leadership standards established by board rule;

(d) reflects the needs of a school district or charter school where a school leader serves;

(e) may include training on using student achievement data to drive decisions;

(f) may develop skills in implementing and evaluating evidence-based instructional practices; [and]

(g) may develop skills in leading collaborative school improvement structures, including professional learning communities[.]; and

(h) includes instruction on forming and sustaining community partnerships as described in Section 53A-4-303.

(4) Subject to legislative appropriations, the State Board of Education shall provide incentive pay to a school leader who:

(a) completes leadership development training under this section; and

(b) agrees to work, for at least five years, in a school that received an "F" grade or "D" grade under the school grading system in the school year previous to the first year the school leader:

(i) completes leadership development training; and

(ii) begins to work, or continues to work, in a school described in this Subsection (4)(b).

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules specifying:

(a) eligibility criteria for a school leader to participate in the School Leadership Development Program;

(b) application procedures for the School Leadership Development Program;

(c) criteria for selecting school leaders from the application pool; and

(d) procedures for awarding incentive pay under Subsection (4).

Section 2. Section 53A-1-1211 is enacted to read:**53A-1-1211. Coordination with the Partnerships for Student Success Grant Program.**

If a low performing school is a member of a partnership that receives a grant under Chapter 4,

Part 3, Partnerships for Student Success Grant Program, the school turnaround committee shall:

- (1) coordinate the school turnaround committee's efforts with the efforts of the partnership; and
- (2) ensure that the goals and outcomes of the partnership are aligned with the school turnaround plan described in this part.

Section 3. Section 53A-4-301 is enacted to read:

Part 3. Partnerships for Student Success Grant Program

53A-4-301. Title.

This part is known as "Partnerships for Student Success Grant Program."

Section 4. Section 53A-4-302 is enacted to read:

53A-4-302. Definitions.

As used in this part:

- (1) "Board" means the State Board of Education.
- (2) "Eligible elementary school" or "eligible junior high school" means a district school or charter school that has at least 50% of the school's students with a family income at or below 185% of the federal poverty level.
- (3) "Eligible partnership" means a partnership that:
 - (a) includes at least:
 - (i) a local education agency that has designated an eligible school feeder pattern;
 - (ii) a local nonprofit organization;
 - (iii) a private business;
 - (iv) a municipality or county in which the eligible school feeder pattern is located;
 - (v) an institution of higher education within the state;
 - (vi) a state or local government agency that provides services to students attending schools within the eligible school feeder pattern;
 - (vii) a local philanthropic organization; and
 - (viii) a local health care organization; and
 - (b) has designated a local education agency or local nonprofit organization to act as lead applicant for a grant described in this part.
- (4) "Eligible school feeder pattern" means the succession of schools that a student enrolls in as the student progresses from kindergarten through grade 12 that includes, as designated by a local education agency:
 - (a) a high school;
 - (b) an eligible junior high school that:
 - (i) is a district school within the geographic boundary of the high school described in Subsection (4)(a); or
 - (ii) is a charter school that sends at least 50% of the charter school's students to the high school described in Subsection (4)(a); and
 - (c) an eligible elementary school that:
 - (i) is a district school within the geographic boundary of the high school described in Subsection (4)(a); or
 - (ii) is a charter school that sends at least 50% of the charter school's students to the junior high school described in Subsection (4)(b).
- (5) "Local education agency" means a school district or charter school.

Section 5. Section 53A-4-303 is enacted to read:

53A-4-303. Partnerships for Student Success Grant Program established.

(1) There is created the Partnerships for Student Success Grant Program to improve educational outcomes for low income students through the formation of cross sector partnerships that use data to align and improve efforts focused on student success.

(2) Subject to legislative appropriations, the board shall award grants to eligible partnerships that enter into a memorandum of understanding between the members of the eligible partnership to plan or implement a partnership that:

(a) establishes shared goals, outcomes, and measurement practices based on unique community needs and interests that:

(i) are aligned with the recommendations of the five- and ten-year plan to address intergenerational poverty described in Section 35A-9-303; and

(ii) address, for students attending a school within an eligible school feeder pattern:

(A) kindergarten readiness;

(B) grade 3 mathematics and reading proficiency;

(C) grade 8 mathematics and reading proficiency;

(D) high school graduation;

(E) postsecondary education attainment;

(F) physical and mental health; and

(G) development of career skills and readiness;

(b) coordinates and aligns services to:

(i) students attending schools within an eligible school feeder pattern; and

(ii) the families and communities of the students within an eligible school feeder pattern;

(c) implements a system for:

(i) sharing data to monitor and evaluate shared goals and outcomes, in accordance with state and federal law; and

(ii) accountability for shared goals and outcomes; and

(d) commits to providing matching funds as described in Section 53A-4-304.

(3) In making grant award determinations, the board shall prioritize funding for an eligible partnership that:

(a) includes a low performing school as determined by the board; or

(b) addresses parent and community engagement.

(4) In awarding grants under this part, the board:

(a) shall distribute funds to the lead applicant designated by the eligible partnership as described in Section 53A-4-302; and

(b) may not award more than \$500,000 per fiscal year to an eligible partnership.

Section 6. Section 53A-4-304 is enacted to read:

53A-4-304. Matching funds -- Grantee requirements.

(1) (a) The board may not award a grant to an eligible partnership unless the eligible partnership provides matching funds equal to two times the amount of the grant.

(b) The board shall ensure that at least half of the matching funds provided under Subsection (1)(a) are provided by a local education agency.

(c) Matching funds may include cash or an in-kind contribution.

(2) A partnership that receives a grant under this part shall:

(a) select and contract with a technical assistance provider identified by the board as described in Section 53A-4-305;

(b) continually assess progress toward reaching shared goals and outcomes;

(c) publish results of the continual assessment described in Subsection (2)(b) on an annual basis;

(d) regularly report to the board in accordance with rules established by the board under Section 53A-4-307; and

(e) as requested, share information and data with the third party evaluator described in Section 53A-4-306, in accordance with state and federal law.

(3) A partnership that receives a grant under this part may use grant funds only for the following purposes:

(a) to contract with a technical assistance provider identified by the board as described in Section 53A-4-305; and

(b) to plan or implement a partnership, including:

(i) for project management;

(ii) for planning and adaptation of services and strategies;

(iii) to coordinate services;

(iv) to establish and implement shared measurement practices;

(v) to produce communication materials and conduct outreach activities to build public support;

(vi) to establish data privacy and sharing agreements, in accordance with state and federal law;

(vii) to purchase infrastructure, hardware, and software to collect and store data; or

(viii) to analyze data.

(4) (a) The board shall establish interventions for a partnership that:

(i) fails to comply with the requirements described in this section; or

(ii) is not making progress toward reaching the shared goals and outcomes established by the partnership as described in Section 53A-4-303.

(b) An intervention under Subsection (4)(a) may include discontinuing or reducing funding.

Section 7. Section 53A-4-305 is enacted to read:

53A-4-305. Technical assistance.

(1) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the board shall identify two or more technical assistance providers that a partnership may select from to assist the partnership in:

(a) establishing shared goals, outcomes, and measurement practices;

(b) creating the capabilities to achieve shared goals and outcomes that may include providing leadership development training to members of the partnership; and

(c) using data to align and improve efforts focused on student success.

(2) In identifying technical assistance providers under this section the board shall identify providers that have a credible track record of providing technical assistance as described in Subsection (1).

Section 8. Section 53A-4-306 is enacted to read:

53A-4-306. Independent evaluation -- Reporting.

(1) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the board shall contract with an independent evaluator to annually evaluate a partnership that receives a grant under this part.

(2) The evaluation described in Subsection (1) shall:

(a) assess implementation of a partnership, including the extent to which members of a partnership:

(i) share data to align and improve efforts focused on student success; and

(ii) meet regularly and communicate authentically; and

(b) assess the impact of a partnership on student outcomes using appropriate statistical evaluation methods.

(3) In identifying an independent evaluator under Subsection (1), the board shall identify an evaluator that:

(a) has a credible track record of conducting evaluations as described in Subsection (2); and

(b) is independent of any member of the partnership and does not otherwise have a vested interest in the outcome of the evaluation.

(4) Beginning in the 2017-18 school year, the board shall ensure that the independent evaluator:

(a) prepares an annual written report of an evaluation conducted under this section; and

(b) annually submits the report to the Education Interim Committee.

Section 9. Section 53A-4-307 is enacted to read:

53A-4-307. Rules.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to administer the Partnerships for Student Success Grant Program in accordance with this part.

Section 10. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or amounts indicated. These sums of money are in addition to amounts previously appropriated for fiscal year 2017.

To State Board of Education - State Office of Education - Initiative Programs

<u>From Education Fund</u>	<u>\$2,000,000</u>
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Schedule of Programs:

<u>Contracts and Grants - Partnerships for Student Success</u>	<u>\$2,000,000</u>
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The Legislature intends that:

(1) under Section 63J-1-603, appropriations under this section not lapse at the close of fiscal year 2017; and

(2) the State Board of Education may use up to \$80,000 of the appropriation under this section for administration of the Partnerships for Student Success Grant Program.

CHAPTER 332**S. B. 68**

Passed March 3, 2016
 Approved March 28, 2016
 Effective January 1, 2017

PROPERTY TAX AMENDMENTS

Chief Sponsor: Wayne A. Harper
 House Sponsor: Ken Ivory

LONG TITLE**General Description:**

This bill amends provisions related to property taxes.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ provides for a property tax exemption for property that is leased to certain government entities.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**ENACTS:**

59-2-1116, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-1116 is enacted to read:

59-2-1116. Definitions -- Exemption for property leased to government entities -- Application process -- Rulemaking authority.

(1) (a) (i) As used in this section, "claimant" means the owner of the eligible personal property that is leased to an entity described in Subsection (2).

(ii) "Claimant" includes an agent of the owner under Subsection (1)(a)(i).

(b) "Eligible personal property" means machinery and equipment with an economic life of three or more years.

(c) "Long-term lease" means a lease with a term of one year or more.

(2) Subject to the other provisions of this part, eligible personal property is exempt from taxation when it is leased to the following entities through a long-term lease:

- (a) the state;
- (b) a school district or charter school;
- (c) a public library;
- (d) a county;
- (e) a city;
- (f) a town;
- (g) a local district;

(h) a special service district; or

(i) any other political subdivision of the state.

(3) If the eligible personal property that is leased under Subsection (2) is not leased to an entity described in Subsection (2) for an entire calendar year, the claimant shall pay a proportional tax based upon the number of days during the calendar year the eligible personal property did not qualify for an exemption under this section.

(4) A claimant shall apply annually for the exemption under this section unless the application requirement is waived by the county board of equalization.

(5) (a) Except as provided in Subsection (5)(b), a claimant applying for an exemption under this section shall file an application with the county board of equalization on or before April 1 of the year in which the claimant is applying for the exemption.

(b) For a long-term lease entered into on or after March 1 of the year in which the claimant is applying for the exemption, the claimant shall file an application with the county board of equalization within 30 days of entering into the long-term lease.

(6) The claimant shall submit the following information with the application described in Subsection (5):

(a) a copy of the lease agreement; and

(b) other evidence that the personal property is eligible for the exemption under this section as required by rules established by:

(i) the commission under Subsection (8); or

(ii) the county to which the claimant is submitting the application.

(7) If, after the claimant submits an application under Subsection (5), the length of the term of the lease changes, the claimant shall, within 30 days of the change, submit an amended application, including a copy of the new lease agreement, to the county board of equalization.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to administer this section and provide for uniform implementation.

Section 2. Contingent effective date.

This bill takes effect on January 1, 2017, if the amendment to the Utah Constitution proposed by S.J.R. 3, Proposal to Amend Utah Constitution - Property Tax Exemptions, 2016 General Session, passes the Legislature and is approved by a majority of those voting on it at the next regular general election.

CHAPTER 333**S. B. 74**

Passed March 10, 2016
 Approved March 28, 2016
 Effective May 10, 2016

AVIATION AMENDMENTS

Chief Sponsor: Wayne A. Harper
 House Sponsor: Kay J. Christofferson

LONG TITLE**General Description:**

This bill modifies the Aeronautics Act by amending provisions relating to aircraft registration.

Highlighted Provisions:

This bill:

- ▶ specifies when an aircraft registration is due;
- ▶ requires the Operations Division of the Department of Transportation to conduct compliance audits and inspections as needed to enforce state laws relating to the registration of aircraft;
- ▶ requires the Operations Division to coordinate with airport operators to determine and verify accurate reporting of aircraft that are based within the state for the purpose of administering and enforcing state aircraft registration laws;
- ▶ specifies additional penalties for operating an aircraft that is not registered;
- ▶ grants the Operations Division rulemaking authority to establish procedures for the administration and enforcement of state aircraft registration laws; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

72-10-110, as last amended by Laws of Utah 2015, Chapter 35

72-10-112, as renumbered and amended by Laws of Utah 1998, Chapter 270

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 72-10-110 is amended to read:**72-10-110. Aircraft registration information requirements -- Registration fee -- Administration -- Partial year registration.**

(1) All applications for aircraft registration shall contain:

- (a) a description of the aircraft, including:
 - (i) the manufacturer or builder;
 - (ii) the aircraft registration number, type, year of manufacture, or if an experimental aircraft, the year the aircraft was completed and certified for air worthiness by an inspector of the Federal Aviation Administration; and

(iii) gross weight;

(b) the name and address of the owner of the aircraft; and

(c) where the aircraft is located, or the address where the aircraft is usually used or based.

(2) (a) Except as provided in Subsection (3), at the time application is made for registration or renewal of registration of an aircraft under this chapter, an annual registration fee of 0.4% of the average wholesale value of the aircraft shall be paid.

(b) For purposes of calculating the value of the aircraft under Subsection (2)(a) or (3)(d), the Tax Commission shall use the average wholesale value as stated in the Aircraft Bluebook Price Digest.

(3) (a) An annual registration fee of \$100 is imposed on the following aircraft:

- (i) an aircraft not listed in the Aircraft Bluebook Price Digest;
- (ii) an experimental aircraft; or
- (iii) an aircraft that is used:
 - (A) exclusively by an entity that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code, and exempt from property taxation under Title 59, Chapter 2, Property Tax Act; and
 - (B) for the emergency transportation of medical patients for at least 95% of its flight time.

(b) An annual registration fee is imposed on an aircraft 50 years or older equal to the lesser of:

(i) \$100; or

(ii) the annual registration fee provided for under Subsection (2)(a).

(c) An aircraft that does not have a valid airworthiness certificate for a period of six months or more:

(i) may not apply for a certificate of registration required under Section 72-10-109; and

(ii) is exempt from an annual registration fee until the aircraft has a valid airworthiness certificate.

(d) An annual registration fee of .25% of the average wholesale value of the aircraft is imposed on an aircraft if the aircraft is:

(i) used by an air charter service for air charter; and

(ii) owned by a person other than the air charter service.

(e) The annual registration fee required in this section is due on December 31 of each year.

(4) (a) The Tax Commission shall provide a registration card to an owner of an aircraft if:

(i) the owner complies with the registration requirements of this section; and

(ii) the owner of the aircraft states that the aircraft has a valid airworthiness certificate.

(b) An owner of an aircraft shall carry the registration card in the registered aircraft.

(5) The registration fees assessed under this chapter shall be collected by the Tax Commission to be distributed as provided in Subsection (6).

(6) After deducting the costs of administering all aircraft registrations under this chapter, the Tax Commission shall deposit all remaining aircraft registration fees in the Aeronautics Restricted Account created by Section 72-2-126.

(7) Aircraft which are registered under this chapter for less than a full calendar year shall be charged a registration fee which is reduced in proportion to the fraction of the calendar year during which the aircraft is registered in this state.

(8) (a) The Utah Division of Aeronautics shall maintain a statewide database of all aircraft based within the state.

(b) On or before October 1 of each year, the Utah Division of Aeronautics shall provide the Tax Commission with the data the Tax Commission requires from the database described in Subsection (8)(a).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the contents of the database described in Subsection (8)(a).

(d) The Tax Commission shall annually provide the Utah Division of Aeronautics a list of all aircraft registered in this state.

(9) The Tax Commission may suspend or revoke a registration if it determines that the required fee has not been paid and the fee is not paid upon reasonable notice and demand.

Section 2. Section 72-10-112 is amended to read:

72-10-112. Failure to register -- Penalty -- Compliance audits and inspections -- Rulemaking.

(1) Failure to register any aircraft required to be registered with the state in the county in which the aircraft is located subjects the owners of the aircraft to the same penalties provided for motor vehicles under Sections 41-1a-1101, 41-1a-1301, and 41-1a-1307.

(2) (a) The division shall conduct compliance audits and inspections as needed to enforce state laws related to the registration of aircraft.

(b) The division shall coordinate with airport operators to determine and verify accurate reporting of aircraft that are based within the state for the purpose of administering and enforcing state aircraft registration laws.

(3) (a) In addition to the penalties described in Subsection (1), the division may impose a fine of 10% of the registration fee for the first month and 5% of the registration fee for each subsequent month an aircraft is operated in violation of Section 72-10-109.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing procedures for the enforcement of state aircraft registration laws and the administration of penalties described in this section.

(c) The division shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in all adjudicative proceedings conducted for the enforcement of penalties under this section.

CHAPTER 334**S. B. 86**

Passed March 10, 2016
 Approved March 28, 2016
 Effective May 10, 2016

SCHOOL BUILDING COORDINATION

Chief Sponsor: Alvin B. Jackson
 House Sponsor: Johnny Anderson

LONG TITLE**General Description:**

This bill requires a school district or charter school to notify certain entities before acquiring a school site or constructing a school.

Highlighted Provisions:

This bill:

- ▶ requires a school district or charter school, before acquiring a school site or constructing a school, to notify:
 - the Department of Transportation; and
 - certain utility providers;
- ▶ requires a school district or charter school to submit a child access routing plan to the Department of Transportation; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-20-108, as last amended by Laws of Utah 2015, Chapter 92

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-20-108 is amended to read:

53A-20-108. Notification to affected entities of intent to acquire school site or construction of school building -- Local government -- Negotiation of fees -- Confidentiality.

(1) (a) A school district or charter school shall notify ~~[the affected local governmental entity]~~ the following without delay prior to the acquisition of a school site or construction of a school building of the school district's or charter school's intent to acquire or construct[-]:

- (i) an affected local governmental entity;
- (ii) the Department of Transportation; and
- (iii) as defined in Section 54-2-1, an electrical corporation, gas corporation, or telephone corporation that provides service or maintains infrastructure within the immediate area of the proposed site.

(b) (i) Representatives of the local governmental entity ~~[and]~~, Department of Transportation, and the school district or charter school shall meet as

soon as possible after the notification under Subsection (1)(a) takes place in order to:

(A) subject to Subsection (1)(b)(ii), review information provided by the school district or charter school about the proposed acquisition;

(B) discuss concerns that each may have, including potential community impacts and site safety;

(C) assess the availability of infrastructure for the site; and

(D) discuss any fees that might be charged by the local governmental entity in connection with a building project.

(ii) The school district or charter school shall provide for review under Subsection (1)(b)(i) the following information, if available, regarding the proposed acquisition:

(A) potential community impacts;

(B) approximate lot size;

(C) approximate building size and use;

(D) estimated student enrollment;

(E) proposals for ingress and egress, parking, and fire lane location; and

(F) building footprint and location.

(2) (a) After the purchase or an acquisition, but before construction begins:

(i) representatives of the local governmental entity and the school district or charter school shall meet as soon as possible to review a rough proposed site plan provided by the school district or charter school, review the information listed in Subsection (1)(b)(ii), and negotiate any fees that might be charged by the local governmental entity in connection with a building project;

(ii) (A) the school district or charter school shall submit the rough proposed site plan to the local governmental entity's design review committee for comments; and

(B) subject to the priority requirement of Subsection 10-9a-305(7)(b), the local governmental entity's design review committee shall provide comments on the rough proposed site plan to the school district or charter school no later than 30 days after the day that the plan is submitted to the design review committee in accordance with this Subsection (2)(a)(ii); and

(iii) the local governmental entity may require that the school district or charter school provide a traffic study by an independent third party qualified to perform the study if the local governmental entity determines that traffic flow, congestion, or other traffic concerns may require the study if otherwise permitted under Subsection 10-9a-305(3)(b).

(b) A review conducted by or comment provided by a local governmental entity design review committee under Subsection (2)(a) may not be interpreted as an action that completes a land use

application for the purpose of entitling the school district or charter school to a substantive land use review of a land use application under Section 10-9a-509 or 17-27a-508.

(3) A local governmental entity may not increase a previously agreed-upon fee after the district or charter school has signed contracts to begin construction.

(4) Prior to the filing of a formal application by the affected school district or charter school, a local governmental entity may not disclose information obtained from a school district or charter school regarding the district's or charter school's consideration of, or intent to, acquire a school site or construct a school building, without first obtaining the consent of the district or charter school.

(5) Prior to beginning construction on a school site, a school district or charter school shall submit to the Department of Transportation a child access routing plan as described in Section 53A-3-402.

CHAPTER 335**S. B. 93**

Passed March 9, 2016
 Approved March 28, 2016
 Effective March 28, 2016

**COMPUTER SCIENCE INITIATIVE
FOR PUBLIC SCHOOLS**

Chief Sponsor: Howard A. Stephenson
 House Sponsor: Bradley G. Last

LONG TITLE**General Description:**

This bill enacts provisions regarding computer science instruction in public schools.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the computer science initiative;
- ▶ requires the STEM Action Center Board and the State Board of Education to collaborate to develop and implement the initiative; and
- ▶ requires the STEM Action Center Board to include information on the initiative in the board's annual report to the Education Interim Committee.

Monies Appropriated in this Bill:

This bill appropriates:

- ▶ to the State Board of Education - State Office of Education - Initiative Programs, as a one-time appropriation:
 - from the Education Fund, \$400,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**ENACTS:**

63N-12-213, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63N-12-213 is enacted to read:**63N-12-213. Computer science initiative for public schools.**(1) As used in this section:

(a) "Computational thinking" means the set of problem-solving skills and techniques that software engineers use to write programs that underlie computer applications, including decomposition, pattern recognition, pattern generalization, and algorithm design.

(b) "Computer coding" means the process of writing script for a computer program or mobile device.

(c) "Educator" means the same as that term is defined in Section 53A-6-103.

(d) "Endorsement" means a stipulation, authorized by the State Board of Education and appended to a license, that specifies the areas of practice to which the license applies.

(e) (i) "Institution of higher education" means the same as that term is defined in Section 53B-3-102.

(ii) "Institution of higher education" includes the Utah College of Applied Technology.

(f) "Employer" means a private employer, public employer, industry association, union, or the military.

(g) "License" means the same as that term is defined in Section 53A-6-103.

(2) Subject to legislative appropriations, on behalf of the board, the staff of the board and the staff of the State Board of Education shall collaborate to develop and implement a computer science initiative for public schools by:

(a) creating an online repository that:

(i) is available for school districts and charter schools to use as a resource; and

(ii) includes high quality computer science instructional resources that are designed to teach students in all grade levels:

(A) computational thinking skills; and(B) computer coding skills;

(b) providing for professional development on teaching computer science by:

(i) including resources for educators related to teaching computational thinking and computer coding in the STEM education high quality professional development application described in Section 63N-12-210; and

(ii) providing statewide or regional professional development institutes; and

(c) awarding grants to a school district or charter school, on a competitive basis, that may be used to provide incentives for an educator to earn a computer science endorsement.

(3) A school district or charter school may enter into an agreement with one or more of the following entities to jointly apply for a grant under Subsection (2)(c):

(a) a school district;(b) a charter school;(c) an employer;(d) an institution of higher education; or(e) a non-profit organization.

(4) To apply for a grant described in Subsection (2)(c), a school district or charter school shall submit a plan to the State Board of Education for the use of the grant, including a statement of purpose that describes the methods the school district or charter school proposes to use to incentivize an educator to earn a computer science endorsement.

(5) The board and the State Board of Education shall encourage schools to independently pursue computer science and coding initiatives, subject to local school board or charter school governing board approval, based on the unique needs of the school's students.

(6) The board shall include information on the status of the computer science initiative in the annual report described in Section 63N-12-208.

Section 2. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or amounts indicated. These sums of money are in addition to amounts previously appropriated for fiscal year 2017.

To State Board of Education -- State Office of Education -- Initiative Programs

<u>From Education Fund, one-time</u>	<u>\$400,000</u>
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Schedule of Programs:

<u>Computer Science Initiative</u>	<u>\$400,000</u>
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The Legislature intends that the State Board of Education use:

1) at least \$390,000 of the appropriation provided in this section for grants described in Subsection 63N-12-213(2)(c); and

(2) up to \$10,000 of the appropriation provided in this section for administration of the initiative described in Section 63N-12-213.

Section 3. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 336**S. B. 101**

Passed March 9, 2016
 Approved March 28, 2016
 Effective May 10, 2016

**HIGH QUALITY SCHOOL
 READINESS PROGRAM EXPANSION**

Chief Sponsor: Ann Millner
 House Sponsor: Bradley G. Last

LONG TITLE**General Description:**

This bill expands access to high quality school readiness programs for eligible students.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Department of Workforce Services to determine eligibility for an Intergenerational Poverty Scholarship;
- ▶ creates the Student Access to High Quality School Readiness Programs Grant Program to expand access to high quality school readiness programs for eligible students;
- ▶ provides for the State Board of Education to administer a home-based technology school readiness program for eligible students;
- ▶ creates the Intergenerational Poverty School Readiness Scholarship Program;
- ▶ establishes early childhood education training;
- ▶ requires the State Board of Education to contract with an independent evaluator to conduct an ongoing evaluation of the effectiveness of high quality school readiness programs; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates:

- ▶ to the State Board of Education - State Office of Education - Teaching and Learning, as an ongoing appropriation:
 - from the Education Fund, \$120,000;
- ▶ to the State Board of Education - State Office of Education - Teaching and Learning, as a one-time appropriation:
 - from Revenue Transfer - Temporary Assistance for Needy Families, \$9,000,000;
- ▶ to the Department of Workforce Services - Office of Child Care, as an ongoing appropriation:
 - from the General Fund, \$75,000; and
- ▶ to the Department of Workforce Services - Office of Child Care, as a one-time appropriation:
 - from the General Fund, \$500,000; and
 - from Federal Funds, \$2,000,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-1b-105, as enacted by Laws of Utah 2014, Chapter 304

ENACTS:

35A-9-401, Utah Code Annotated 1953
 53A-1b-201, Utah Code Annotated 1953
 53A-1b-202, Utah Code Annotated 1953
 53A-1b-203, Utah Code Annotated 1953
 53A-1b-204, Utah Code Annotated 1953
 53A-1b-205, Utah Code Annotated 1953
 53A-1b-206, Utah Code Annotated 1953
 53A-1b-207, Utah Code Annotated 1953
 53A-1b-208, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 35A-9-401 is enacted to read:

Part 4. Intergenerational Poverty School Readiness Scholarship Eligibility

35A-9-401. Eligibility determination -- Awarding of scholarship.

(1) As used in this section:

(a) "Eligible child" means an individual who:

(i) is experiencing intergenerational poverty;

(ii) will be four years of age on or before September 2 of the school year in which the individual intends to enroll in a school readiness program; and

(iii) has not enrolled in kindergarten, as reported by the individual's parent or legal guardian.

(b) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.

(c) "Intergenerational poverty scholarship" or "IGP scholarship" means the same as that term is defined in Section 53A-1b-202.

(2) The department shall determine if an applicant for an IGP scholarship is eligible for the Intergenerational Poverty School Readiness Scholarship Program, created in Section 53A-1b-206.

(3) An individual may apply to the department annually to qualify for a scholarship for an eligible child to attend a high quality school readiness program.

(4) (a) The department shall create an application form that requires an applicant to provide the information necessary for the department to make the eligibility determination described in Subsection (5).

(b) The department may:

(i) require an applicant to submit supporting documentation; and

(ii) create a deadline for an applicant to apply for an IGP scholarship.

(5) The department shall determine if:

(a) the information contained in an application submitted under Subsection (3) is accurate and complete; and

(b) the child for whom the applicant is applying for an IGP scholarship is an eligible child.

(6) (a) Except as provided in Subsection (6)(b), and subject to legislative appropriations, the department shall:

(i) award an IGP scholarship for an individual who is determined to be an eligible child under Subsection (5); and

(ii) with input from the State Board of Education, determine the value of an IGP scholarship.

(b) If the department receives an appropriation for IGP scholarships that is not sufficient to award a scholarship to each eligible child, the department shall prioritize awarding IGP scholarships to eligible children who are at the highest risk as determined by the department.

(7) The department shall coordinate with the State Board of Education, as necessary, to enroll a recipient of an IGP scholarship in a high quality school readiness program of the recipient's parent's choice, space permitting, as described in Section 53A-1b-206.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to administer this section.

Section 2. Section 53A-1b-105 is amended to read:

53A-1b-105. Elements of a high quality school readiness program.

(1) A high quality school readiness program run by an eligible LEA or eligible private provider shall include the following components:

(a) an evidence-based curriculum that is aligned with all of the developmental domains and academic content areas defined in the Utah Early Childhood Standards adopted by the State Board of Education, and incorporates intentional and differentiated instruction in whole group, small group, and child-directed learning, including the following academic content areas:

- (i) oral language and listening comprehension;
- (ii) phonological awareness and prereading;
- (iii) alphabet and word knowledge;
- (iv) prewriting;
- (v) book knowledge and print awareness;
- (vi) numeracy;
- (vii) creative arts;
- (viii) science and technology; and
- (ix) social studies, health, and safety;

(b) ongoing, focused, and intensive professional development for staff of the school readiness program;

(c) ongoing assessment of a student's educational growth and developmental progress to inform instruction;

(d) a pre- and post-assessment^[,] of each student whose parent or legal guardian consents to the assessment that, for a school readiness program receiving funding under this part, is selected by the board in accordance with Section 53A-1b-110^[,] of each student[]];

(e) for a preschool program run by an eligible LEA, a class size that does not exceed 20 students, with one adult for every 10 students in the class;

(f) ongoing program evaluation and data collection to monitor program goal achievement and implementation of required program components;

(g) family engagement, including ongoing communication between home and school, and parent education opportunities based on each family's circumstances;

(h) for a preschool program run by an eligible LEA, each teacher having at least obtained:

(i) the minimum standard of a child development associate certification; or

(ii) an associate or bachelor's degree in an early childhood education related field; and

(i) for a preschool program run by an eligible private provider, by a teacher's second year, each teacher having at least obtained:

(i) the minimum standard of a child development associate certification; or

(ii) an associate or bachelor's degree in an early childhood education related field.

(2) A high quality school readiness program run by a home-based educational technology provider shall:

(a) be an evidence-based and age appropriate individualized interactive instruction assessment and feedback technology program that teaches eligible students early learning skills needed to be successful upon entry into kindergarten;

(b) require regular parental engagement with the student in the student's use of the home-based educational technology program;

(c) be aligned with the Utah early childhood core standards;

(d) require the administration of ~~[the]~~ a pre- and post-assessment^[,] of each student whose parent or legal guardian consents to the assessment that, for a home-based technology program that receives funding under this part, is designated by the board in accordance with Section 53A-1b-110^[,] of each eligible student[]]; and

(e) require technology providers to ensure successful implementation and utilization of the technology program.

Section 3. Section 53A-1b-201 is enacted to read:

Part 2. Expanded Access to High Quality School Readiness Programs Act

53A-1b-201. Title.

This part is known as the "Expanded Access to High Quality School Readiness Programs Act."

Section 4. Section 53A-1b-202 is enacted to read:

53A-1b-202. Definitions.

As used in this part:

(1) "Board" means the State Board of Education.

(2) "Child Development Associate Credential" means a credential in early childhood education that is:

(a) based on a core set of competency standards; and

(b) nationally recognized.

(3) "Department" means the Department of Workforce Services.

(4) "Economically disadvantaged child" means a child who:

(a) is in a family that is eligible for assistance through TANF; or

(b) is eligible for free or reduced lunch.

(5) "Eligible home-based technology provider" means a provider that offers a home-based educational technology program to develop the school readiness skills of an eligible student.

(6) "Eligible private provider" means the same as that term is defined in Section 53A-1b-102.

(7) "Eligible student" means an individual who:

(a) will be four years of age on or before September 2 of the school year in which the individual intends to participate in a school readiness program;

(b) has not entered kindergarten; and

(c) (i) is experiencing intergenerational poverty, as determined by the department; or

(ii) (A) is an economically disadvantaged child; and

(B) is at risk for not meeting grade 3 core standards for Utah public schools, established by the State Board of Education under Section 53A-1-402.6, by the end of the individual's grade 3 year, as determined by an assessment.

(8) "High quality school readiness program" means a school readiness program that:

(a) is provided by an LEA, eligible private provider, or eligible home-based technology provider; and

(b) meets the elements of a high quality school readiness program described in Section

53A-1b-105 as determined by the board or the department under Section 53A-1b-204, 53A-1b-205, or 53A-1b-206.

(9) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.

(10) "Intergenerational poverty scholarship" or "IGP scholarship" means a scholarship to attend a high quality school readiness program for an eligible student who is experiencing intergenerational poverty.

(11) "Local education agency" or "LEA" means a:

(a) school district; or

(b) charter school.

(12) "TANF" means Temporary Assistance for Needy Families, described in 42 U.S.C. Sec. 601 et seq.

Section 5. Section 53A-1b-203 is enacted to read:

53A-1b-203. Administration of programs.

(1) The State Board of Education, in collaboration with the department, shall:

(a) administer the grant program described in Section 53A-1b-204 for LEAs;

(b) administer the grant program for eligible home-based technology providers described in Section 53A-1b-205; and

(c) oversee the evaluation described in Section 53A-1b-208.

(2) The department, in collaboration with the board, shall administer:

(a) the grant program described in Section 53A-1b-204 for eligible private providers;

(b) the Intergenerational Poverty School Readiness Scholarship Program described in Section 53A-1b-206; and

(c) early childhood teacher training described in Section 53A-1b-207.

Section 6. Section 53A-1b-204 is enacted to read:

53A-1b-204. Student Access to High Quality School Readiness Programs Grant Program -- Determination of high quality school readiness program-- Reporting requirement -- Fees.

(1) There is created the Student Access to High Quality School Readiness Programs Grant Program to expand access to high quality school readiness programs for eligible students through:

(a) grants for LEAs administered by the board; and

(b) grants for eligible private providers administered by the department.

(2) The board, in coordination with the department, shall develop a tool to determine whether a school readiness program is a high quality school readiness program.

(3) (a) The board shall solicit proposals from LEAs to fund increases in the number of eligible students high quality school readiness programs can serve.

(b) The department shall solicit proposals from eligible private providers to fund increases in the number of eligible students high quality school readiness programs can serve.

(4) (a) Except as provided in Subsection (4)(c), a respondent shall submit a proposal that includes the information described in Subsection (4)(b):

(i) to the board, for a respondent that is an LEA; or

(ii) to the department, for a respondent that is an eligible private provider.

(b) A respondent's proposal for the grant solicitation described in Subsection (3) shall include:

(i) the respondent's existing and proposed school readiness program, including:

(A) the number of students served by the respondent's school readiness program;

(B) the respondent's policies and procedures for admitting students into the school readiness program;

(C) the estimated cost per student; and

(D) any fees the respondent charges to a parent or legal guardian for the school readiness program;

(ii) the respondent's plan to use funding sources, in addition to a grant described in this section, including:

(A) federal funding; or

(B) private grants or donations;

(iii) existing or planned partnerships between the respondent and an LEA, eligible private provider, or eligible home-based technology provider to increase access to high quality school readiness programs for eligible students;

(iv) how the respondent would use a grant to:

(A) expand the number of eligible students served by the respondent's school readiness program; and

(B) target the funding toward the highest risk students, including addressing the particular needs of children at risk of experiencing intergenerational poverty;

(v) how the respondent's school readiness program is a high quality school readiness program; and

(vi) the results of any evaluations of the respondent's school readiness program.

(c) In addition to the requirements described in Subsection (4)(b), a respondent that is an LEA shall describe in the respondent's proposal the percentage of the respondent's kindergarten through grade 12 students who are economically disadvantaged children.

(5) (a) For each LEA proposal received in response to the solicitation described in Subsection (3)(a), the board shall determine if the LEA school readiness program is a high quality school readiness program by:

(i) applying the tool described in Subsection (2); and

(ii) conducting at least one site visit to the program.

(b) For each eligible private provider proposal received in response to the solicitation described in Subsection (3)(b), the department shall determine if the school readiness program is a high quality school readiness program by:

(i) applying the tool described in Subsection (2); and

(ii) conducting at least one site visit to the program.

(6) (a) Subject to legislative appropriations and Subsection (6)(b), the board shall award grants, on a competitive basis, to respondents that are LEAs.

(b) The board may only award a grant to an LEA if:

(i) the LEA submits a proposal that includes the information required under Subsection (4);

(ii) the board determines that the LEA's program is a high quality school readiness program as described in Subsection (5); and

(iii) the LEA agrees to the evaluation requirements described in Section 53A-1b-208.

(7) (a) Subject to legislative appropriations and Subsection (7)(b), the department shall award grants, on a competitive basis, to respondents that are eligible private providers.

(b) The department may only award a grant to a respondent if:

(i) the respondent submits a proposal that includes the information required under Subsection (4);

(ii) the department determines that the respondent's school readiness program is a high quality school readiness program as described in Subsection (5); and

(iii) the respondent agrees to the evaluation requirements described in Section 53A-1b-208.

(8) In evaluating a proposal received in response to the solicitation described in Subsection (3), the board and the department shall consider:

(a) the number and percent of students in the respondent's high quality school readiness program that are eligible students at the highest risk;

(b) geographic diversity, including whether the respondent is urban or rural;

(c) the extent to which the respondent intends to participate in a partnership with an LEA, eligible private provider, or eligible home-based technology provider; and

(d) the respondent's level of administrative support and leadership to effectively implement, monitor, and evaluate the program.

(9) (a) The board shall ensure that an LEA that receives a grant under this section funded by TANF funds uses the grant to provide a high quality school readiness program for eligible students who are eligible to receive assistance through TANF.

(b) The department shall ensure that a private provider that receives a grant under this section funded by TANF funds uses the grant to provide a high quality school readiness program for eligible students who are eligible to receive assistance through TANF.

(10) A respondent that receives a grant under this section shall:

(a) use the grant to expand access for eligible students to high quality school readiness programs by enrolling eligible students in a high quality school readiness program;

(b) report to the board annually regarding:

(i) how the respondent used the grant awarded under Subsection (6) or (7);

(ii) participation in any partnerships between an LEA, eligible private provider, or eligible home-based technology provider; and

(iii) the results of any evaluations;

(c) allow classroom or other visits by an independent evaluator selected by the board under Section 53A-1b-208; and

(d) for a respondent that is an LEA, notify a parent or legal guardian who expresses interest in enrolling the parent or legal guardian's child in the LEA's high quality school readiness program of each state-funded high quality school readiness program operating within the LEA's geographic boundaries.

(11) An LEA that receives a grant under this section may charge a student fee to participate in an LEA's school readiness program if:

(a) the LEA's local school board or charter school governing board approves the fee;

(b) the fee for a student does not exceed the actual cost of providing the high quality school readiness program to the student; and

(c) the fee structure for the program is designed on a sliding scale, based on household income.

(12) (a) The board shall establish interventions for a grantee that is an LEA that fails to comply with the requirements described in this section.

(b) The department shall establish interventions for a grantee that is an eligible private provider that fails to comply with the requirements described in this section.

(c) An intervention under this Subsection (12) may include discontinuing or reducing funding.

(13) Subject to legislative appropriations, the board and the department shall give first priority in awarding grants to a respondent that has previously received a grant under this section if the respondent:

(a) makes the annual report described in Subsection (9)(b);

(b) participates in the annual evaluation described in Section 53A-1b-208; and

(c) continues to offer a high quality school readiness program as determined during an annual site visit by:

(i) the board, for an LEA; or

(ii) the department, for an eligible private provider.

(14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) the board shall make rules to:

(i) implement the tool described in Subsection (2); and

(ii) administer the grant program for LEAs described in this section; and

(b) the department shall make rules to administer the grant program for eligible private providers described in this section.

Section 7. Section 53A-1b-205 is enacted to read:

53A-1b-205. Home-based technology high quality school readiness program.

(1) (a) The board shall offer a home-based technology high quality school readiness program to eligible students by awarding contracts to one or more home-based technology providers, as described in this section.

(b) The board shall solicit proposals from eligible home-based technology providers to provide high quality school readiness programs for eligible students to participate in:

(i) at home;

(ii) as part of a school readiness program offered by an LEA or private provider; or

(iii) in any other setting where Internet access is available, such as a library.

(c) The home-based technology high quality school readiness program described in this section is established in the public education system.

(2) An eligible home-based technology provider that responds to the solicitation described in Subsection (1) shall submit a proposal describing:

(a) how the home-based technology provider's school readiness program meets the elements of a high quality school readiness program described in Subsection 53A-1b-105(2);

(b) how the home-based technology provider intends to target the home-based technology provider's school readiness program to eligible

students who are at the highest risk, as determined by the board;

(c) the cost of the program per student;

(d) the cost of a statewide license;

(e) existing or planned partnerships between the home-based technology provider and an LEA or eligible private provider; and

(f) the results of all evaluations of the home-based technology provider's school readiness program.

(3) For each proposal received under Subsection (2), the board shall:

(a) determine if the program is a high quality school readiness program using the tool described in Subsection 53A-1b-204(2); and

(b) receive a demonstration of the home-based technology.

(4) (a) Subject to legislative appropriations, and in accordance with Title 63G, Chapter 6a, Utah Procurement Code, the board shall award contracts to one or more home-based technology providers to provide home-based school readiness programs.

(b) The board may only award a contract to a home-based technology provider if the home-based technology provider:

(i) submits a proposal that includes the information described in Subsection (2);

(ii) offers a high quality school readiness program; and

(iii) agrees to the evaluation requirements described in Section 53A-1b-208.

(5) In evaluating a proposal received under Subsection (2), the board shall consider:

(a) the number and percent of eligible students that the respondent intends to serve;

(b) the extent to which the respondent intends to participate in a partnership with an LEA or eligible private provider;

(c) the extent to which the respondent is able to reach students who do not have access to other high quality school readiness programs; and

(d) the cost per student.

(6) A home-based technology provider that receives a contract under this section:

(a) shall use the funding to provide a high quality school readiness program to eligible students; and

(b) may use the funding for the installation of computer or Internet access in homes of eligible students whose families cannot afford the equipment or services.

(7) The board shall ensure that a home-based technology provider that receives a grant under this section funded by TANF funds uses the grant to provide a home-based high quality school readiness

program to eligible students who are eligible to receive TANF funded assistance.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to implement this section.

Section 8. Section 53A-1b-206 is enacted to read:

53A-1b-206. Intergenerational Poverty School Readiness Scholarship Program.

(1) There is created the Intergenerational Poverty School Readiness Scholarship Program to provide an eligible student experiencing intergenerational poverty access to a high quality school readiness program.

(2) The department shall, in accordance with Section 35A-9-401:

(a) determine if an individual is eligible for an IGP scholarship; and

(b) award an IGP scholarship.

(3) (a) (i) An LEA or home-based technology provider may apply to the board to receive a designation as a high quality school readiness program.

(ii) The board shall determine if an LEA or home-based technology provider offers a high quality school readiness program using the tool described in Subsection 53A-1b-204(2).

(b) (i) An eligible private provider may apply to the department to receive a designation as a high quality school readiness program.

(ii) The department shall determine if an eligible private provider offers a high quality school readiness program using the tool described in Subsection 53A-1b-204(2).

(4) (a) The department and the board shall coordinate to assist a parent or legal guardian of a recipient of an IGP scholarship to enroll the IGP scholarship recipient in a high quality school readiness program:

(i) offered by an LEA, eligible private provider, or eligible home-based technology provider; and

(ii) of the parent or legal guardian's choice.

(b) The department shall pay the scholarship amount directly to a high quality school readiness program in which an IGP scholarship recipient enrolls.

(5) (a) Except as provided in Subsection (5)(b), the department may not provide an individual's IGP scholarship to an LEA, eligible private provider, or eligible home-based technology provider unless the LEA, eligible private provider, or eligible home-based technology provider offers a high quality school readiness program, as determined by the board or the department under Subsection (3).

(b) An LEA, eligible private provider, or eligible home-based technology provider that receives a determination as a high quality school readiness

program under Section 53A-1b-204 or 53A-1b-206 may enroll an IGP scholarship recipient.

Section 9. Section 53A-1b-207 is enacted to read:

53A-1b-207. Early childhood teacher training.

(1) Subject to legislative appropriations, the department shall provide training to early childhood teachers by providing:

(a) a scholarship for individuals who intend to receive a Child Development Associate Credential; and

(b) consulting services to assist individuals to complete a Child Development Associate Credential.

(2) The department shall conduct an annual needs assessment to determine the number of scholarships to award each year.

(3) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

Section 10. Section 53A-1b-208 is enacted to read:

53A-1b-208. Evaluation -- Reporting requirements.

(1) In accordance with this section, the board, in coordination with the department, shall oversee the ongoing review and evaluation by an independent evaluator for each school year of:

(a) the Student Access to High Quality School Readiness Programs Grant Program described in Section 53A-1b-204;

(b) the home-based technology high quality school readiness program described in Section 53A-1b-205;

(c) the Intergenerational Poverty School Readiness Scholarship Program described in Section 53A-1b-206; and

(d) early childhood teacher training described in Section 53A-16-207.

(2) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the board shall enter into a contract with an independent evaluator to assist the board in the evaluation process.

(b) In selecting an independent evaluator, the board shall select an evaluator that:

(i) has the capacity to meet the requirements described in Subsection (3);

(ii) has a background in designing and conducting rigorous evaluations;

(iii) has a demonstrated ability to monitor and evaluate a program over an extended period of time;

(iv) is independent from agencies or providers implementing high quality school readiness programs funded under this part; and

(v) has experience in early childhood education or early childhood education evaluation.

(c) The board may not enter into a contract with an independent evaluator without obtaining approval from the department.

(3) Under the direction of the board, with input from the department, the independent evaluator selected under Subsection (2) shall:

(a) design an evaluation methodology that:

(i) assesses the effects of a high quality school readiness program on an eligible student's:

(A) readiness for kindergarten, using a uniform assessment methodology that includes a pre- and post-test chosen in coordination with the board;

(B) ability, as determined by following the student longitudinally, to meet grade 3 core standards for Utah public schools, established by the board under Section 53A-1-402.6, by the end of the student's grade 3 year; and

(C) attainment of a high school diploma or other completion certificate, as determined by following the student longitudinally; and

(ii) allows for comparisons between students with similar demographic characteristics who complete a high quality school readiness program and students who do not; and

(b) conduct an annual evaluation of the programs described in Subsection (1).

(4) To assist the independent evaluator selected under Subsection (2) in completing the evaluation required under Subsection (3):

(a) an LEA that receives a grant under Section 53A-1b-204, or enrolls an IGP scholarship recipient under Section 53A-1b-206, shall assign a statewide unique student identifier to each student who participates in the LEA's school readiness program;

(b) an eligible private provider that receives a grant described in Section 53A-1b-204 or an eligible home-based technology provider that receives a contract described in Section 53A-1b-205 shall work in conjunction with the board to assign a statewide unique student identifier to each student who is enrolled in the provider's school readiness program in the student's last year before kindergarten; and

(c) an eligible private provider or eligible home-based technology provider that receives an IGP scholarship under Section 53A-1b-206 shall work in conjunction with the board to assign a statewide unique student identifier to each student who is funded by an IGP scholarship.

(5) The board and the department shall report annually, on or before November 1, to the Education Interim Committee on the results of an evaluation conducted under this section.

Section 11. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or amounts indicated. These sums of money are in addition to amounts previously appropriated for fiscal year 2017.

To State Board of Education -- State Office of Education -- Teaching and Learning

From Education Fund	\$120,000
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To State Board of Education -- State Office of Education -- Teaching and Learning

From Revenue Transfer -- Temporary Assistance for Needy Families, One-time	\$9,000,000
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Schedule of Programs:

Student Access to High Quality School Readiness Programs Grant Program	\$9,120,000
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To Department of Workforce Services -- Office of Child Care

From General Fund	\$75,000
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Schedule of Programs:

Student Access to High Quality School Readiness Programs Grant Program	\$75,000
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To Department of Workforce Services -- Office of Child Care

From General Fund, One-time	\$500,000
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Schedule of Programs:

Early Childhood Teacher Training	\$500,000
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To Department of Workforce Services -- Office of Child Care

From Federal Funds	\$2,000,000
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Schedule of Programs:

Student Access to High Quality School Readiness Programs Grant Program	\$1,000,000
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Intergenerational Poverty School Readiness Scholarship Program	\$1,000,000
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The Legislature intends that:

(1) for each fiscal year 2017, 2018, and 2019, the Department of Workforce Services shall allocate up to \$11,000,000 of Temporary Assistance for Needy Families funding to fund programs described in Title 53A, Chapter 1b, Part 2, Expanded Access to High Quality School Readiness Programs Act;

(2) the State Board of Education shall use funds appropriated from Revenue Transfer - Temporary Assistance for Need Families consistent with federal requirements for those funds;

(3) the State Board of Education may:

(a) use up to \$140,000 of the appropriation to the State Board of Education to contract with an independent evaluator to conduct an evaluation, as required by Section 53A-1b-208;

(b) use up to \$2,000,000 of the appropriation to the State Board of Education to provide grants for home-based technology school readiness programs, as described in Section 53A-1b-205; and (c) use the ongoing appropriation to the State Board of Education from the Education Fund for administrative costs;

(4) the Department of Workforce Services may use the ongoing appropriation to the Department of Workforce Services for administrative costs; and (5) the appropriations provided in this section be nonlapsing.

CHAPTER 337**S. B. 102**

Passed March 10, 2016
 Approved March 28, 2016
 Effective March 28, 2016
 (Sections referred to in
 Effective Date are not in bill)

**HIGH COST INFRASTRUCTURE
 TAX CREDIT AMENDMENTS**

Chief Sponsor: Ralph Okerlund
 House Sponsor: Francis D. Gibson

LONG TITLE**General Description:**

This bill modifies provisions related to tax credits for infrastructure development.

Highlighted Provisions:

This bill:

- ▶ modifies the composition of the Utah Energy Infrastructure Authority Board; and
- ▶ authorizes the Office of Energy Development to make rules to implement the high cost infrastructure tax credit program and to establish criteria for an infrastructure cost-burdened entity to qualify for a tax credit.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

63H-2-202, as last amended by Laws of Utah 2012, Chapter 37

ENACTS:

63M-4-606, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63H-2-202 is amended to read:

63H-2-202. Authority board.

(1) There is created the Utah Energy Infrastructure Authority Board that consists of nine members, appointed by the governor as follows:

(a) the energy advisor^[,] or the executive director of the Office of Energy Development, who shall serve as chair of the board;

(b) one member from the Governor's Office of Economic Development;

(c) ~~[three members]~~ one member from a public utility or electric interlocal entity that operates electric transmission facilities within the state ~~[as follows:]~~;

~~[(i) one member selected by the governor from recommendations from an investor-owned electric corporation that operates in this state;]~~

~~[(ii) one member selected by the governor from recommendations from a wholesale electrical~~

cooperative, as defined in Section 54-2-1, in the state; and]

~~[(iii) one member selected by the governor from recommendations from an electric interlocal entity;]~~

(d) two members representing the economic development interests of rural communities as follows:

(i) one member currently serving as county commissioner of a county of the third, fourth, fifth, or sixth class, as described in Section 17-50-501; and

(ii) one member of a rural community with work experience in the energy industry;

(e) two members of the general public with relevant industry or community experience;

~~[(d)]~~ (f) the director of the School and Institutional Trust Lands Administration created in Section 53C-1-201; and

~~[(e) two representatives of business entities that produce energy; and]~~

~~[(f)]~~ (g) one member of the general public who has experience with public finance and bonding.

(2) (a) The term of a board member is four years.

(b) Notwithstanding Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) The governor may remove a member of the board for cause.

(d) The governor shall fill a vacancy in the board in the same manner under this section as the appointment of the member whose vacancy is being filled.

(e) An individual appointed to fill a vacancy shall serve the remaining unexpired term of the member whose vacancy the individual is filling.

(f) A board member shall serve until a successor is appointed and qualified.

(3) (a) Five members of the board constitute a quorum for conducting board business.

(b) A majority vote of the quorum present is required for an action to be taken by the board.

(4) (a) ~~[The board shall meet at least quarterly on a date the board sets. (b) The chair of the board or any two members of the board may call additional meetings.]~~ Except as provided in Subsections (4)(b) and (4)(c), the board shall meet once each month, on a day determined by the board, to review an application referred to the board by the Office of Energy Development under Title 63M, Chapter 4, Part 6, High Cost Infrastructure Development Tax Credit Act.

(b) Subject to Subsection (4)(c), the board may cancel the board's meeting for a given month if there

are no applications described in Subsection (4)(a) pending board approval.

(c) The board shall meet no less frequently than once each quarter, on a day determined by the board.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 2. Section 63M-4-606 is enacted to read:

63M-4-606. Administrative rules.

The office may establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements and procedures for the implementation of this part.

Section 3. Effective date.

(1) Except as provided in Subsection (2), if approved by two-thirds of all members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) The actions affecting the following sections take effect for a taxable year beginning on or after January 1, 2017:

(a) Section 59-7-619; and

(b) Section 59-10-1034.

CHAPTER 338**S. B. 103**

Passed March 9, 2016
Approved March 28, 2016
Effective May 10, 2016

STRATEGIC WORKFORCE INVESTMENTS

Chief Sponsor: Ann Millner
House Sponsor: Val L. Peterson

LONG TITLE**General Description:**

This bill provides for strategic workforce investments.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ establishes a process for investing strategically in workforce development through the development of stackable credentials.

Monies Appropriated in this Bill:

This bill appropriates:

- ▶ to the Department of Administrative Services - Division of Finance Mandated - Strategic Workforce Investments, as an ongoing appropriation:
 - from the Education Fund, \$1,500,000.

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53B-26-101, Utah Code Annotated 1953
53B-26-102, Utah Code Annotated 1953
53B-26-103, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-26-101 is enacted to read:**CHAPTER 26. STRATEGIC WORKFORCE INVESTMENT****53B-26-101. Title.**

This chapter is known as "Strategic Workforce Investment."

Section 2. Section 53B-26-102 is enacted to read:**53B-26-102. Definitions.**

As used in this chapter:

- (1) "College of applied technology" means:
 - (a) a college described in Section 53B-2a-105;
 - (b) the School of Applied Technology at Salt Lake Community College established under Section 53B-16-209;
 - (c) Utah State University Eastern established under Section 53B-18-1201; or
 - (d) the Snow College Richfield campus established under Section 53B-16-205.

(2) "CTE" means career and technical education.

(3) "CTE Region" means an economic service area created in Section 35A-2-101.

(4) "Eligible partnership" means a partnership:

(a) between at least two of the following:

- (i) a college of applied technology;
 - (ii) a school district or charter school; or
 - (iii) an institution of higher education; and
- (b) that provides educational services within the same CTE region.

(5) "Employer" means a private employer, public employer, industry association, the military, or a union.

(6) "Industry advisory group" means:

(a) a group of at least five employers that represent the strategic industry cluster that a proposal submitted under Section 53B-26-103 is responsive to; and

(b) a representative of the Governor's Office of Economic Development, appointed by the executive director of the Governor's Office of Economic Development.

(7) "Institution of higher education" means the University of Utah, Utah State University, Southern Utah University, Weber State University, Snow College, Dixie State University, Utah Valley University, and Salt Lake Community College.

(8) "Stackable sequence of credentials" means a sequence of credentials that:

- (a) an individual can build upon to access an advanced job or higher wage;
- (b) is part of a career pathway system;
- (c) provides a pathway culminating in the equivalent of an associate's or bachelor's degree;
- (d) facilitates multiple exit and entry points; and
- (e) recognizes sub-goals or momentum points.

Section 3. Section 53B-26-103 is enacted to read:**53B-26-103. GOED reporting requirement -- Proposals -- Funding.**

(1) The Governor's Office of Economic Development shall publish, on a biannual basis, a report detailing the high demand technical jobs projected to support economic growth in high need strategic industry clusters, including:

- (a) aerospace and defense;
- (b) energy and natural resources;
- (c) financial services;
- (d) life sciences;
- (e) outdoor products;
- (f) software development and information technology; or

(g) any other strategic industry cluster designated by the Governor's Office of Economic Development.

(2) To receive funding under this section, an eligible partnership shall submit a proposal containing the elements described in Subsection (3) to the Legislature:

(a) on or before July 1, 2016, for fiscal year 2017; or

(b) on or before January 5 for fiscal year 2018 and any succeeding fiscal year.

(3) The proposal shall include:

(a) a program of study that:

(i) is responsive to the workforce needs of the CTE region in a high need strategic industry cluster as identified by the Governor's Office of Economic Development under Subsection (1);

(ii) leads to the attainment of a stackable sequence of credentials; and

(iii) includes a non-duplicative progression of courses that include both academic and CTE content;

(b) expected student enrollment, attainment rates, and job placement rates;

(c) evidence of input and support for the proposal from an industry advisory group;

(d) evidence of an official action in support of the proposal from:

(i) the Utah College of Applied Technology Board of Trustees, if the eligible partnership includes a college described in Section 53B-2a-105; or

(ii) the Board of Regents, if the eligible partnership includes:

(A) an institution of higher education; or

(B) a college described in Subsection 53B-26-102(1)(b), (c), or (d); and

(e) a funding request, including justification for the request.

(4) The Legislature shall:

(a) review a proposal submitted under this section using the following criteria:

(i) the proposal contains the elements described in Subsection (3);

(ii) support for the proposal is widespread within the CTE region; and

(iii) the proposal expands the capacity to meet regional workforce needs;

(b) determine the extent to which to fund the proposal; and

(c) fund the proposal through the appropriations process.

Section 4. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or amounts indicated. These sums of money are in addition to amounts previously appropriated for fiscal year 2017.

Item 1 To the Department of Administrative Services - Division of Finance Mandated - Strategic Workforce Investments

<u>From Education Fund</u>	<u>\$1,500,000</u>
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Schedule of Programs:

<u>Strategic Workforce Investments</u>	<u>\$1,500,000</u>
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The Legislature intends that appropriations under Item 1:

(1) be reallocated in a future appropriations act to eligible partnerships that submit a proposal that meets the criteria described in Subsection 53B-26-103(4); and

(2) under Section 63J-1-603, not lapse at the close of fiscal year 2017.

CHAPTER 339**S. B. 106**

Passed March 9, 2016
 Approved March 28, 2016
 Effective May 10, 2016

ASSAULT OFFENSE AMENDMENTS

Chief Sponsor: Brian E. Shiozawa
 House Sponsor: Paul Ray

LONG TITLE**General Description:**

This bill modifies penalties for assault against health care providers.

Highlighted Provisions:

This bill:

- ▶ increases the penalty for assault against health care providers or emergency medical workers when the assault causes substantial bodily injury; and
- ▶ clarifies the culpable mental state required for the offense.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-5-102.7, as last amended by Laws of Utah 2015, Chapter 386

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-5-102.7 is amended to read:**76-5-102.7. Assault against health care provider and emergency medical service worker -- Penalty.**

(1) A person who assaults a health care provider or emergency medical service worker is guilty of a class A misdemeanor if:

(a) the person is not a prisoner or a person detained under Section 77-7-15;

(b) the person knew that the victim was a health care provider or emergency medical service worker; and

(c) the health care provider or emergency medical service worker was performing emergency or life saving duties within the scope of his or her authority at the time of the assault.

(2) A person who violates Subsection (1) is guilty of a third degree felony if the person:

(a) causes substantial bodily injury, as defined in Section 76-1-601; and

(b) acts intentionally or knowingly.

~~(2)~~ (3) As used in this section:

(a) "Emergency medical service worker" means a person certified under Section 26-8a-302.

(b) "Health care provider" means the same as that term is defined in Section 78B-3-403.

CHAPTER 340**S. B. 110**

Passed March 8, 2016
Approved March 28, 2016
Effective May 10, 2016

WATER QUALITY AMENDMENTS

Chief Sponsor: David P. Hinkins
House Sponsor: Mike K. McKell

LONG TITLE**General Description:**

This bill modifies provisions of the Water Quality Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ establishes an independent peer review process for challenges made to proposals from the Division of Water Quality; and
- ▶ establishes the requirements, including selecting the panel of independent experts, for an independent peer review.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

19-5-105.3, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 19-5-105.3 is enacted to read:**19-5-105.3. Independent peer review of a proposal.**

(1) As used in this section:

(a) "Challenging party" means a person who has or is seeking a permit in accordance with this chapter and chooses to use the independent peer review process described in this section to challenge a proposal.

(b) "Independent peer review" is a review conducted:

- (i) in accordance with this section;
- (ii) by experts having technical expertise in the proposal being reviewed; and
- (iii) by individuals who are not:

(A) currently conducting research funded by the division or the challenging party;

(B) employed by an entity that is regulated under this chapter;

(C) a spouse or family member of someone who is employed by the division or the challenging party; or

(D) an active, participatory member of a non-profit organization that advocates positions with the division or the Legislature.

(c) "Proposal" means any science-based initiative proposed by the division on or after January 1, 2016, that would financially impact a challenging party and that would:

- (i) change water quality standards;
- (ii) develop or modify total maximum daily load requirements;
- (iii) modify wasteloads or other regulatory requirements for permits; or

(iv) change rules or other regulatory guidance.

(d) "Study" means a written analysis conducted by or otherwise relied upon by the division in support of a proposal.

(e) "Technology based nutrient effluent limits" are maximum nutrient limitations based on the availability of technology to achieve the limitations, rather than on a water quality standard or a total maximum daily load standard.

(2) The director shall initiate an independent peer review when the following conditions are met:

(a) a challenging party challenges in writing a study or the technical or scientific data upon which a proposal is based and requests an independent peer review;

(b) if the independent peer review is related to examining a technology based nutrient effluent limit, the challenging party provides written notice to the division requesting an independent peer review before the technology based nutrient effluent limit is adopted into a permit issued by the division;

(c) if the independent peer review is not related to examining a technology based nutrient effluent limit, the challenging party provides written notice to the division requesting an independent peer review related to a proposal before the proposal has been adopted by the division or the board;

(d) the challenging party agrees to provide the funding to pay for the independent peer review; and

(e) the challenging party would be substantially impacted by the adoption of the proposal.

(3) The director shall ensure that the independent peer review is completed within one year from the date the peer review panel described in Subsection (5) is selected.

(4) (a) If there is more than one challenging party challenging a study or the technical or scientific data upon which a proposal is based, the challenges will be consolidated into one independent peer review.

(b) If challenges are consolidated into one independent peer review, the challenging parties will be responsible for allocating the costs of the independent peer review among the challenging parties.

(5) (a) When an independent peer review is conducted, there shall be appointed to a peer review panel a minimum of three independent experts who are mutually agreeable to both the division and the challenging party.

(b) Any additional independent experts appointed to the panel shall be mutually agreeable to both the division and the challenging party.

(c) If an independent peer review panel has not been appointed within 60 days of the day on which the director receives a written request for an independent peer review, a three-person panel shall be selected as follows:

(i) one independent expert selected by the division;

(ii) one independent expert selected by the challenging party or, if more than one challenge has been consolidated as described in Subsection (4), one independent expert selected and mutually agreed to by the challenging parties; and

(iii) one independent expert mutually agreeable to the independent experts described in Subsections (5)(c)(i) and (ii).

(6) (a) An independent peer review panel shall conduct its review in general accordance with the guidance contained in the United States Environmental Protection Agency's Peer Review Handbook.

(b) As part of an independent peer review, the independent peer review panel shall allow for written public comment on the proposal being reviewed prior to issuing a written report.

(7) An independent peer review panel shall prepare a final written report that:

(a) includes the findings of each member of the panel;

(b) is supported by the majority of the panel;

(c) includes an analysis of the panel's confidence, certainty, and major data gaps, if any, related to the scientific basis behind the proposal; and

(d) includes one of the following findings:

(i) the proposal is scientifically defensible;

(ii) the proposal is not scientifically defensible; or

(iii) the proposal is scientifically defensible with conditions developed by the panel.

(8) In addition to the requirements described in Subsection (7), if an independent peer review panel is examining a technology based nutrient effluent limit for a specified downstream water body or a series of hydrologically connected water bodies, the panel's written report shall find one of the following:

(a) the technology based nutrient effluent limit is scientifically necessary to protect the designated beneficial uses of the specified downstream water body or the series of hydrologically connected water bodies; or

(b) the technology based nutrient effluent limit is not scientifically necessary to protect the

designated beneficial uses of the specified downstream water body or the series of hydrologically connected water bodies.

(9) The findings and any conditions of an independent peer review panel shall be incorporated into a proposal as needed to ensure the scientific accuracy of the proposal.

(10) A proposal reviewed by an independent peer review panel that is found scientifically defensible or scientifically defensible with conditions may be forwarded to the board or to the director for further consideration and action as applicable.

(11) If technology based nutrient effluent limits in a proposal are found by an independent peer review to not be scientifically necessary to protect a specified downstream water body or series of hydrologically connected water bodies, the challenging party shall be granted a variance by the division exempting compliance with the technology based effluent limitation.

CHAPTER 341**S. B. 120**

Passed March 10, 2016

Approved March 28, 2016

Effective May 10, 2016

(Retrospective operation to January 1, 2016)

PROPERTY TAX NOTICE AMENDMENTS

Chief Sponsor: Howard A. Stephenson

House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill amends provisions related to property tax notices.

Highlighted Provisions:

This bill:

- ▶ defines last year's property tax budgeted revenue for purposes of the advertisement used to provide notice of a proposed property tax increase.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:**AMENDS:**

59-2-919, as last amended by Laws of Utah 2014, Chapter 256 and further amended by Revisor Instructions, Laws of Utah 2014, Chapter 256

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-919 is amended to read:**59-2-919. Notice and public hearing requirements for certain tax increases -- Exceptions.**

(1) As used in this section:

~~[(a) "Ad valorem tax revenue" means ad valorem property tax revenue not including revenue from new growth as defined in Section 59-2-924.]~~

~~[(b)] (a) "Additional ad valorem tax revenue" means ad valorem property tax revenue generated by the portion of the tax rate that exceeds the taxing entity's certified tax rate.~~

~~(b) "Ad valorem tax revenue" means ad valorem property tax revenue not including revenue from new growth as defined in Section 59-2-924.~~

(c) "Calendar year taxing entity" means a taxing entity that operates under a fiscal year that begins on January 1 and ends on December 31.

(d) "County executive calendar year taxing entity" means a calendar year taxing entity that operates under the county executive-council form of government described in Section 17-52-504.

(e) "Current calendar year" means the calendar year immediately preceding the calendar year for

which a calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate.

(f) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that begins on July 1 and ends on June 30.

(g) "Last year's property tax budgeted revenue" does not include revenue received by a taxing entity from a debt service levy voted on by the public.

(2) A taxing entity may not levy a tax rate that exceeds the taxing entity's certified tax rate unless the taxing entity meets:

(a) the requirements of this section that apply to the taxing entity; and

(b) all other requirements as may be required by law.

(3) (a) Subject to Subsection (3)(b) and except as provided in Subsection (5), a calendar year taxing entity may levy a tax rate that exceeds the calendar year taxing entity's certified tax rate if the calendar year taxing entity:

(i) 14 or more days before the date of the regular general election or municipal general election held in the current calendar year, states at a public meeting:

(A) that the calendar year taxing entity intends to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate;

(B) the dollar amount of and purpose for additional ad valorem tax revenue that would be generated by the proposed increase in the certified tax rate; and

(C) the approximate percentage increase in ad valorem tax revenue for the taxing entity based on the proposed increase described in Subsection (3)(a)(i)(B);

(ii) provides notice for the public meeting described in Subsection (3)(a)(i) in accordance with Title 52, Chapter 4, Open and Public Meetings Act, including providing a separate item on the meeting agenda that notifies the public that the calendar year taxing entity intends to make the statement described in Subsection (3)(a)(i);

(iii) meets the advertisement requirements of Subsections (6) and (7) before the calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v);

(iv) provides notice by mail:

(A) seven or more days before the regular general election or municipal general election held in the current calendar year; and

(B) as provided in Subsection (3)(c); and

(v) conducts a public hearing that is held:

(A) in accordance with Subsections (8) and (9); and

(B) in conjunction with the public hearing required by Section 17-36-13 or 17B-1-610.

(b) (i) For a county executive calendar year taxing entity, the statement described in Subsection (3)(a)(i) shall be made by the:

- (A) county council;
- (B) county executive; or
- (C) both the county council and county executive.

(ii) If the county council makes the statement described in Subsection (3)(a)(i) or the county council states a dollar amount of additional ad valorem tax revenue that is greater than the amount of additional ad valorem tax revenue previously stated by the county executive in accordance with Subsection (3)(a)(i), the county executive calendar year taxing entity shall:

(A) make the statement described in Subsection (3)(a)(i) 14 or more days before the county executive calendar year taxing entity conducts the public hearing under Subsection (3)(a)(v); and

(B) provide the notice required by Subsection (3)(a)(iv) 14 or more days before the county executive calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v).

(c) The notice described in Subsection (3)(a)(iv):

(i) shall be mailed to each owner of property:

- (A) within the calendar year taxing entity; and
- (B) listed on the assessment roll;

(ii) shall be printed on a separate form that:

(A) is developed by the commission;

(B) states at the top of the form, in bold upper-case type no smaller than 18 point "NOTICE OF PROPOSED TAX INCREASE"; and

(C) may be mailed with the notice required by Section 59-2-1317;

(iii) shall contain for each property described in Subsection (3)(c)(i):

(A) the value of the property for the current calendar year;

(B) the tax on the property for the current calendar year; and

(C) subject to Subsection (3)(d), for the calendar year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate, the estimated tax on the property;

(iv) shall contain the following statement:

"[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar year]. This notice contains estimates of the tax on your property and the proposed tax increase on your property as a result of this tax increase. These estimates are calculated on the basis of [insert previous applicable calendar year] data. The actual tax on your property and proposed tax increase on your property may vary from this estimate.";

(v) shall state the date, time, and place of the public hearing described in Subsection (3)(a)(v); and

(vi) may contain other property tax information approved by the commission.

(d) For purposes of Subsection (3)(c)(iii)(C), a calendar year taxing entity shall calculate the estimated tax on property on the basis of:

(i) data for the current calendar year; and

(ii) the amount of additional ad valorem tax revenue stated in accordance with this section.

(4) Except as provided in Subsection (5), a fiscal year taxing entity may levy a tax rate that exceeds the fiscal year taxing entity's certified tax rate if the fiscal year taxing entity:

(a) provides notice by meeting the advertisement requirements of Subsections (6) and (7) before the fiscal year taxing entity conducts the public meeting at which the fiscal year taxing entity's annual budget is adopted; and

(b) conducts a public hearing in accordance with Subsections (8) and (9) before the fiscal year taxing entity's annual budget is adopted.

(5) (a) A taxing entity is not required to meet the notice or public hearing requirements of Subsection (3) or (4) if the taxing entity is expressly exempted by law from complying with the requirements of this section.

(b) A taxing entity is not required to meet the notice requirements of Subsection (3) or (4) if:

(i) Section 53A-17a-133 allows the taxing entity to levy a tax rate that exceeds that certified tax rate without having to comply with the notice provisions of this section; or

(ii) the taxing entity:

(A) budgeted less than \$20,000 in ad valorem tax revenues for the previous fiscal year; and

(B) sets a budget during the current fiscal year of less than \$20,000 of ad valorem tax revenues.

(6) (a) Subject to Subsections (6)(d) and (7)(b), the advertisement described in this section shall be published:

(i) subject to Section 45-1-101, in a newspaper or combination of newspapers of general circulation in the taxing entity;

(ii) electronically in accordance with Section 45-1-101; and

(iii) on the Utah Public Notice Website created in Section 63F-1-701.

(b) The advertisement described in Subsection (6)(a)(i) shall:

(i) be no less than 1/4 page in size;

(ii) use type no smaller than 18 point; and

(iii) be surrounded by a 1/4-inch border.

(c) The advertisement described in Subsection (6)(a)(i) may not be placed in that portion of the

newspaper where legal notices and classified advertisements appear.

(d) It is the intent of the Legislature that:

(i) whenever possible, the advertisement described in Subsection (6)(a)(i) appear in a newspaper that is published at least one day per week; and

(ii) the newspaper or combination of newspapers selected:

(A) be of general interest and readership in the taxing entity; and

(B) not be of limited subject matter.

(e) (i) The advertisement described in Subsection (6)(a)(i) shall:

(A) except as provided in Subsection (6)(f), be run once each week for the two weeks before a taxing entity conducts a public hearing described under Subsection (3)(a)(v) or (4)(b); and

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.

(ii) The advertisement described in Subsection (6)(a)(ii) shall:

(A) be published two weeks before a taxing entity conducts a public hearing described in Subsection (3)(a)(v) or (4)(b); and

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.

(f) If a fiscal year taxing entity's public hearing information is published by the county auditor in accordance with Section 59-2-919.2, the fiscal year taxing entity is not subject to the requirement to run the advertisement twice, as required by Subsection (6)(e)(i), but shall run the advertisement once during the week before the fiscal year taxing entity conducts a public hearing at which the taxing entity's annual budget is discussed.

(g) For purposes of Subsection (3)(a)(iii) or (4)(a), the form and content of an advertisement shall be substantially as follows:

“NOTICE OF PROPOSED TAX INCREASE
(NAME OF TAXING ENTITY)

The (name of the taxing entity) is proposing to increase its property tax revenue.

The (name of the taxing entity) tax on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence would increase from \$ _____ to \$ _____, which is \$ _____ per year.

The (name of the taxing entity) tax on a (insert the value of a business having the same value as the average value of a residence in the taxing entity) business would increase from \$ _____ to \$ _____, which is \$ _____ per year.

If the proposed budget is approved, (name of the taxing entity) would increase its property tax budgeted revenue by ___% above last year's property tax budgeted revenue excluding new growth.

All concerned citizens are invited to a public hearing on the tax increase.

PUBLIC HEARING

Date/Time: (date) (time)

Location: (name of meeting place and address of meeting place)

To obtain more information regarding the tax increase, citizens may contact the (name of the taxing entity) at (phone number of taxing entity).”

(7) The commission:

(a) shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the joint use of one advertisement described in Subsection (6) by two or more taxing entities; and

(b) subject to Section 45-1-101, may authorize:

(i) the use of a weekly newspaper:

(A) in a county having both daily and weekly newspapers if the weekly newspaper would provide equal or greater notice to the taxpayer; and

(B) if the county petitions the commission for the use of the weekly newspaper; or

(ii) the use by a taxing entity of a commission approved direct notice to each taxpayer if:

(A) the cost of the advertisement would cause undue hardship;

(B) the direct notice is different and separate from that provided for in Section 59-2-919.1; and

(C) the taxing entity petitions the commission for the use of a commission approved direct notice.

(8) (a) (i) (A) A fiscal year taxing entity shall, on or before March 1, notify the county legislative body in which the fiscal year taxing entity is located of the date, time, and place of the first public hearing at which the fiscal year taxing entity's annual budget will be discussed.

(B) A county that receives notice from a fiscal year taxing entity under Subsection (8)(a)(i)(A) shall include on the notice required by Section 59-2-919.1 the date, time, and place of the public hearing described in Subsection (8)(a)(i)(A).

(ii) A calendar year taxing entity shall, on or before October 1 of the current calendar year, notify the county legislative body in which the calendar year taxing entity is located of the date, time, and place of the first public hearing at which the calendar year taxing entity's annual budget will be discussed.

(b) (i) A public hearing described in Subsection (3)(a)(v) or (4)(b) shall be open to the public.

(ii) The governing body of a taxing entity conducting a public hearing described in Subsection (3)(a)(v) or (4)(b) shall provide an interested party desiring to be heard an opportunity to present oral testimony within reasonable time limits.

(c) (i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a public hearing described in Subsection (3)(a)(v) or (4)(b) at the same time as the public hearing of another overlapping taxing entity in the same county.

(ii) The taxing entities in which the power to set tax levies is vested in the same governing board or authority may consolidate the public hearings described in Subsection (3)(a)(v) or (4)(b) into one public hearing.

(d) A county legislative body shall resolve any conflict in public hearing dates and times after consultation with each affected taxing entity.

(e) A taxing entity shall hold a public hearing described in Subsection (3)(a)(v) or (4)(b) beginning at or after 6 p.m.

(9) (a) If a taxing entity does not make a final decision on budgeting additional ad valorem tax revenue at a public hearing described in Subsection (3)(a)(v) or (4)(b), the taxing entity shall announce at that public hearing the scheduled time and place of the next public meeting at which the taxing entity will consider budgeting the additional ad valorem tax revenue.

(b) A calendar year taxing entity may not adopt a final budget that budgets an amount of additional ad valorem tax revenue that exceeds the largest amount of additional ad valorem tax revenue stated at a public meeting under Subsection (3)(a)(i).

(c) A public hearing on levying a tax rate that exceeds a fiscal year taxing entity's certified tax rate may coincide with a public hearing on the fiscal year taxing entity's proposed annual budget.

Section 2. Retrospective operation.

This bill has retrospective operation to January 1, 2016.

CHAPTER 342**S. B. 123**

Passed March 3, 2016
 Approved March 28, 2016
 Effective May 10, 2016

OFFICE OF LICENSING AMENDMENTS

Chief Sponsor: Karen Mayne
 House Sponsor: Eric K. Hutchings

LONG TITLE**General Description:**

This bill modifies the Utah Human Services Code by enacting provisions related to licensing.

Highlighted Provisions:

This bill:

- ▶ permits a local government to request that the Office of Licensing, Department of Human Services, notify the local government of new human services program license applications for human services programs located within the local government's jurisdiction.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

62A-2-101, as last amended by Laws of Utah 2015, Chapters 67 and 255
 62A-2-106, as last amended by Laws of Utah 2013, Chapter 442

ENACTS:

62A-2-108.4, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 62A-2-101 is amended to read:**62A-2-101. Definitions.**

As used in this chapter:

(1) "Adult day care" means nonresidential care and supervision:

(a) for three or more adults for at least four but less than 24 hours a day; and

(b) that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

(2) "Applicant" means:

(a) a person who applies for an initial license or a license renewal under this chapter;

(b) an individual who:

(i) is associated with the licensee; and

(ii) has direct access to a child or a vulnerable adult;

(c) an individual who is 12 years of age or older, other than the child or vulnerable adult who is

receiving the service, who resides in a residence with the child or vulnerable adult who is receiving services from the person described in Subsection (2)(a) or (b), if the child or vulnerable adult is not receiving services in the child's or vulnerable adult's own residence; or

(d) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion.

(3) (a) "Associated with the licensee" means that an individual is:

(i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent, provider of care, or volunteer; or

(ii) applying to become affiliated with a licensee in a capacity described in Subsection (3)(a)(i).

(b) "Associated with the licensee" does not include:

(i) service on the following bodies, unless that service includes direct access to a child or a vulnerable adult:

(A) a local mental health authority described in Section 17-43-301;

(B) a local substance abuse authority described in Section 17-43-201; or

(C) a board of an organization operating under a contract to provide mental health or substance abuse programs, or services for the local mental health authority or substance abuse authority; or

(ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised by the licensee at all times.

(4) (a) "Boarding school" means a private school that:

(i) uses a regionally accredited education program;

(ii) provides a residence to the school's students:

(A) for the purpose of enabling the school's students to attend classes at the school; and

(B) as an ancillary service to educating the students at the school;

(iii) has the primary purpose of providing the school's students with an education, as defined in Subsection (4)(b)(i); and

(iv) (A) does not provide the treatment or services described in Subsection (28)(a); or

(B) provides the treatment or services described in Subsection (28)(a) on a limited basis, as described in Subsection (4)(b)(ii).

(b) (i) For purposes of Subsection (4)(a)(iii), "education" means a course of study for one or more of grades kindergarten through 12th grade.

(ii) For purposes of Subsection (4)(a)(iv)(B), a private school provides the treatment or services described in Subsection (28)(a) on a limited basis if:

(A) the treatment or services described in Subsection (28)(a) are provided only as an incidental service to a student; and

- (B) the school does not:
- (I) specifically solicit a student for the purpose of providing the treatment or services described in Subsection (28)(a); or
- (II) have a primary purpose of providing the treatment or services described in Subsection (28)(a).
- (c) “Boarding school” does not include a therapeutic school.
- (5) “Child” means a person under 18 years of age.
- (6) “Child placing” means receiving, accepting, or providing custody or care for any child, temporarily or permanently, for the purpose of:
- (a) finding a person to adopt the child;
- (b) placing the child in a home for adoption; or
- (c) foster home placement.
- (7) “Client” means an individual who receives or has received services from a licensee.
- (8) “Day treatment” means specialized treatment that is provided to:
- (a) a client less than 24 hours a day; and
- (b) four or more persons who:
- (i) are unrelated to the owner or provider; and
- (ii) have emotional, psychological, developmental, physical, or behavioral dysfunctions, impairments, or chemical dependencies.
- (9) “Department” means the Department of Human Services.
- (10) “Direct access” means that an individual has, or likely will have:
- (a) contact with or access to a child or vulnerable adult that provides the individual with an opportunity for personal communication or touch; or
- (b) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child’s parents or legal guardians, or the vulnerable adult.
- (11) “Directly supervised” means that an individual is being supervised under the uninterrupted visual and auditory surveillance of another individual.
- (12) “Director” means the director of the Office of Licensing.
- (13) “Domestic violence” means the same as that term is defined in Section 77-36-1.
- (14) “Domestic violence treatment program” means a nonresidential program designed to provide psychological treatment and educational services to perpetrators and victims of domestic violence.
- (15) “Elder adult” means a person 65 years of age or older.
- (16) “Executive director” means the executive director of the department.
- (17) “Foster home” means a temporary residential living environment for the care of:
- (a) (i) fewer than five foster children in the home of a licensed foster parent; or
- (ii) five or more foster children in the home of a licensed foster parent if there are no foster children or if there is one foster child in the home at the time of the placement of a sibling group; or
- (b) (i) fewer than four foster children in the home of a certified foster parent; or
- (ii) four or more foster children in the home of a certified foster parent if there are no foster children or if there is one foster child in the home at the time of the placement of a sibling group.
- (18) (a) “Human services program” means a:
- (i) foster home;
- (ii) therapeutic school;
- (iii) youth program;
- (iv) resource family home;
- (v) recovery residence; or
- (vi) facility or program that provides:
- (A) secure treatment;
- (B) inpatient treatment;
- (C) residential treatment;
- (D) residential support;
- (E) adult day care;
- (F) day treatment;
- (G) outpatient treatment;
- (H) domestic violence treatment;
- (I) child placing services;
- (J) social detoxification; or
- (K) any other human services that are required by contract with the department to be licensed with the department.
- (b) “Human services program” does not include a boarding school.
- (19) “Licensee” means an individual or a human services program licensed by the office.
- (20) “Local government” means a[:(a) city; or (b)] city, town, metro township, or county.
- (21) “Minor” has the same meaning as “child.”
- (22) “Office” means the Office of Licensing within the Department of Human Services.
- (23) “Outpatient treatment” means individual, family, or group therapy or counseling designed to improve and enhance social or psychological functioning for those whose physical and emotional status allows them to continue functioning in their usual living environment.

(24) "Recovery residence" means a home or facility, other than a residential treatment or residential support program, that meets at least two of the following requirements:

(a) provides a supervised living environment for individuals recovering from a substance abuse disorder;

(b) requires more than half of the individuals in the residence to be recovering from a substance abuse disorder;

(c) provides or arranges for residents to receive services related to their recovery from a substance abuse disorder, either on or off site;

(d) holds the home or facility out as being a recovery residence; or

(e) (i) receives public funding; or

(ii) runs the home or facility as a commercial venture for financial gain.

(25) "Regular business hours" means:

(a) the hours during which services of any kind are provided to a client; or

(b) the hours during which a client is present at the facility of a licensee.

(26) (a) "Residential support" means arranging for or providing the necessities of life as a protective service to individuals or families who have a disability or who are experiencing a dislocation or emergency that prevents them from providing these services for themselves or their families.

(b) "Residential support" includes providing a supervised living environment for persons with dysfunctions or impairments that are:

(i) emotional;

(ii) psychological;

(iii) developmental; or

(iv) behavioral.

(c) Treatment is not a necessary component of residential support.

(d) "Residential support" does not include:

(i) a recovery residence; or

(ii) residential services that are performed:

(A) exclusively under contract with the Division of Services for People with Disabilities; or

(B) in a facility that serves fewer than four individuals.

(27) (a) "Residential treatment" means a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation services for persons with emotional, psychological,

developmental, or behavioral dysfunctions, impairments, or chemical dependencies.

(b) "Residential treatment" does not include a:

(i) boarding school;

(ii) foster home; or

(iii) recovery residence.

(28) "Residential treatment program" means a human services program that provides:

(a) residential treatment; or

(b) secure treatment.

(29) (a) "Secure treatment" means 24-hour specialized residential treatment or care for persons whose current functioning is such that they cannot live independently or in a less restrictive environment.

(b) "Secure treatment" differs from residential treatment to the extent that it requires intensive supervision, locked doors, and other security measures that are imposed on residents with neither their consent nor control.

(30) "Social detoxification" means short-term residential services for persons who are experiencing or have recently experienced drug or alcohol intoxication, that are provided outside of a health care facility licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and that include:

(a) room and board for persons who are unrelated to the owner or manager of the facility;

(b) specialized rehabilitation to acquire sobriety; and

(c) aftercare services.

(31) "Substance abuse treatment program" means a program:

(a) designed to provide:

(i) specialized drug or alcohol treatment;

(ii) rehabilitation; or

(iii) habilitation services; and

(b) that provides the treatment or services described in Subsection (31)(a) to persons with:

(i) a diagnosed substance abuse disorder; or

(ii) chemical dependency disorder.

(32) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals that are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to:

(I) a disability;

(II) emotional development;

(III) behavioral development;

(IV) familial development; or

(V) social development.

(33) "Unrelated persons" means persons other than parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts.

(34) "Vulnerable adult" means an elder adult or an adult who has a temporary or permanent mental or physical impairment that substantially affects the person's ability to:

(a) provide personal protection;

(b) provide necessities such as food, shelter, clothing, or mental or other health care;

(c) obtain services necessary for health, safety, or welfare;

(d) carry out the activities of daily living;

(e) manage the adult's own resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

(35) (a) "Youth program" means a nonresidential program designed to provide behavioral, substance abuse, or mental health services to minors that:

(i) serves adjudicated or nonadjudicated youth;

(ii) charges a fee for its services;

(iii) may or may not provide host homes or other arrangements for overnight accommodation of the youth;

(iv) may or may not provide all or part of its services in the outdoors;

(v) may or may not limit or censor access to parents or guardians; and

(vi) prohibits or restricts a minor's ability to leave the program at any time of the minor's own free will.

(b) "Youth program" does not include recreational programs such as Boy Scouts, Girl Scouts, 4-H, and other such organizations.

Section 2. Section 62A-2-106 is amended to read:
62A-2-106. Office responsibilities.

(1) Subject to the requirements of federal and state law, the office shall:

(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(i) except as provided in Subsection (1)(a)(ii), basic health and safety standards for licensees, that shall be limited to:

(A) fire safety;

(B) food safety;

(C) sanitation;

(D) infectious disease control;

(E) safety of the:

(I) physical facility and grounds; and

(II) area and community surrounding the physical facility;

(F) transportation safety;

(G) emergency preparedness and response;

(H) the administration of medical standards and procedures, consistent with the related provisions of this title;

(I) staff and client safety and protection;

(J) the administration and maintenance of client and service records;

(K) staff qualifications and training, including standards for permitting experience to be substituted for education, unless prohibited by law;

(L) staff to client ratios; and

(M) access to firearms;

(ii) basic health and safety standards for therapeutic schools, that shall be limited to:

(A) fire safety, except that the standards are limited to those required by law or rule under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks Act;

(B) food safety;

(C) sanitation;

(D) infectious disease control, except that the standards are limited to:

(I) those required by law or rule under Title 26, Utah Health Code, or Title 26A, Local Health Authorities; and

(II) requiring a separate room for clients who are sick;

(E) safety of the physical facility and grounds, except that the standards are limited to those required by law or rule under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks Act;

(F) transportation safety;

(G) emergency preparedness and response;

(H) access to appropriate medical care, including:

(I) subject to the requirements of law, designation of a person who is authorized to dispense medication; and

(II) storing, tracking, and securing medication;

(I) staff and client safety and protection that permits the school to provide for the direct supervision of clients at all times;

(J) the administration and maintenance of client and service records;

(K) staff qualifications and training, including standards for permitting experience to be substituted for education, unless prohibited by law;

(L) staff to client ratios; and

(M) access to firearms;

(iii) procedures and standards for permitting a licensee to:

(A) provide in the same facility and under the same conditions as children, residential treatment services to a person 18 years old or older who:

(I) begins to reside at the licensee's residential treatment facility before the person's 18th birthday;

(II) has resided at the licensee's residential treatment facility continuously since the time described in Subsection (1)(a)(iii)(A)(I);

(III) has not completed the course of treatment for which the person began residing at the licensee's residential treatment facility; and

(IV) voluntarily consents to complete the course of treatment described in Subsection (1)(a)(iii)(A)(III); or

(B) (I) provide residential treatment services to a child who is:

(Aa) 12 years old or older; and

(Bb) under the custody of the Division of Juvenile Justice Services; and

(II) provide, in the same facility as a child described in Subsection (1)(a)(iii)(B)(I), residential treatment services to a person who is:

(Aa) at least 18 years old, but younger than 21 years old; and

(Bb) under the custody of the Division of Juvenile Justice Services;

(iv) minimum administration and financial requirements for licensees;

(v) guidelines for variances from rules established under this Subsection (1); and

(vi) minimum ethical responsibilities of an adoption agency licensed under this chapter, including prohibiting an adoption agency or its employee from misrepresenting facts or information;

(b) enforce rules relating to the office;

(c) issue licenses in accordance with this chapter;

(d) if the United States Department of State executes an agreement with the office that designates the office to act as an accrediting entity in accordance with the Intercountry Adoption Act of 2000, Pub. L. No. 106-279, accredit one or more agencies and persons to provide intercountry adoption services pursuant to:

(i) the Intercountry Adoption Act of 2000, Pub. L. No. 106-279; and

(ii) the implementing regulations for the Intercountry Adoption Act of 2000, Pub. L. No. 106-279;

(e) make rules to implement the provisions of Subsection (1)(d);

(f) conduct surveys and inspections of licensees and facilities in accordance with Section 62A-2-118;

(g) collect licensure fees;

(h) notify licensees of the name of a person within the department to contact when filing a complaint;

(i) investigate complaints regarding any licensee or human services program;

(j) have access to all records, correspondence, and financial data required to be maintained by a licensee;

(k) have authority to interview any client, family member of a client, employee, or officer of a licensee; ~~and~~

(l) have authority to deny, condition, revoke, suspend, or extend any license issued by the department under this chapter by following the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act[.]; and

(m) upon receiving a local government's request under Section 62A-2-108.4, notify the local government of new human services program license applications, except for foster homes, for human services programs located within the local government's jurisdiction.

(2) In establishing rules under Subsection (1)(a)(ii)(G), the office shall require a licensee to establish and comply with an emergency response plan that requires clients and staff to:

(a) immediately report to law enforcement any significant criminal activity, as defined by rule, committed:

(i) on the premises where the licensee operates its human services program;

(ii) by or against its clients; or

(iii) by or against a staff member while the staff member is on duty;

(b) immediately report to emergency medical services any medical emergency, as defined by rule:

(i) on the premises where the licensee operates its human services program;

(ii) involving its clients; or

(iii) involving a staff member while the staff member is on duty; and

(c) immediately report other emergencies that occur on the premises where the licensee operates its human services program to the appropriate emergency services agency.

Section 3. Section 62A-2-108.4 is enacted to read:

62A-2-108.4. Request by local government.

(1) A local government may request that the office notify the local government of new human services program license applications for human services programs located within the local government's jurisdiction.

(2) Subsection (1) does not apply to foster homes.

CHAPTER 343**S. B. 125**

Passed March 10, 2016

Approved March 28, 2016

Effective May 10, 2016

**AFTER-SCHOOL
PROGRAMS AMENDMENTS**

Chief Sponsor: Luz Escamilla

House Sponsor: Sophia M. DiCaro

LONG TITLE**General Description:**

This bill enacts provisions related to programs for elementary and secondary students offered outside of the regular school day.

Highlighted Provisions:

This bill:

- ▶ requires the State Board of Education, in consultation with the Department of Workforce Services, to make rules that describe high quality standards for programs for elementary and secondary students that operate outside of the regular school day.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53A-15-107, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-15-107 is enacted to read:**53A-15-107. Rulemaking -- Standards for high quality programs operating outside of the regular school day.**

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with the Department of Workforce Services, the State Board of Education shall make rules that describe the standards for a high quality program operating outside of the regular school day:

(a) for elementary or secondary students; and

(b) offered by a:

(i) school district;

(ii) charter school;

(iii) private provider, including a non-profit provider; or

(iv) municipality.

(2) The standards described in Subsection (1) shall specify that a high quality program operating outside of the regular school day:

(a) provides a safe, healthy, and nurturing environment for all participants;

(b) develops and maintains positive relationships among staff, participants, families, schools, and communities;

(c) encourages participants to learn new skills; and

(d) is effectively administered.

CHAPTER 344**S. B. 137**

Passed March 10, 2016
Approved March 28, 2016
Effective January 1, 2017

**COUNTY OPTION FUNDING FOR
BOTANICAL, CULTURAL, RECREATIONAL,
AND ZOOLOGICAL ORGANIZATIONS
AND FACILITIES**

Chief Sponsor: Brian E. Shiozawa
House Sponsor: Eric K. Hutchings

LONG TITLE**General Description:**

This bill modifies provisions related to funding for botanical, cultural, recreational, and zoological organizations and facilities.

Highlighted Provisions:

This bill:

- ▶ amends a definition provision;
- ▶ modifies the circumstances when an opinion question is required;
- ▶ amends how money is distributed; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

59-12-702, as last amended by Laws of Utah 2011, Chapter 416
59-12-703, as last amended by Laws of Utah 2012, Chapter 254
59-12-704, as last amended by Laws of Utah 2011, Chapters 309 and 416

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-12-702 is amended to read:**59-12-702. Definitions.**

As used in this part:

(1) "Administrative unit" means a division of a private nonprofit organization or institution that:

(a) would, if it were a separate entity, be a botanical organization or cultural organization; and

(b) consistently maintains books and records separate from those of its parent organization.

(2) "Aquarium" means a park or building where a collection of water animals and plants is kept for study, conservation, and public exhibition.

(3) "Aviary" means a park or building where a collection of birds is kept for study, conservation, and public exhibition.

[(2)] (4) "Botanical organization" means:

(a) a private nonprofit organization or institution having as its primary purpose the advancement and preservation of plant science through horticultural display, botanical research, and community education; or

(b) an administrative unit.

[(3)] (5) "Cultural facility" [is-as] means the same as that term is defined in Section 59-12-602.

[(4)] (6) (a) "Cultural organization":

(i) means:

(A) a private nonprofit organization or institution having as its primary purpose the advancement and preservation of:

(I) natural history;

(II) art;

(III) music;

(IV) theater;

(V) dance; or

(VI) cultural arts, including literature, a motion picture, or storytelling;

(B) an administrative unit; and

(ii) includes, for purposes of Subsections 59-12-704(1)(d) and (6) only:

(A) a private nonprofit organization or institution having as its primary purpose the advancement and preservation of history; or

(B) a municipal or county cultural council having as its primary purpose the advancement and preservation of:

(I) history;

(II) natural history;

(III) art;

(IV) music;

(V) theater; or

(VI) dance.

(b) "Cultural organization" does not include:

(i) an agency of the state;

(ii) except as provided in Subsection [(4)] (6)(a)(ii)(B), a political subdivision of the state;

(iii) an educational institution whose annual revenues are directly derived more than 50% from state funds; or

(iv) in a county of the first or second class, a radio or television broadcasting network or station, cable communications system, newspaper, or magazine.

[(5)] (7) "Institution" means an institution listed in Subsections 53B-1-102(1)(b) through (k).

[(6)] (8) "Recreational facility" means a publicly owned or operated park, campground, marina, dock, golf course, playground, athletic field, gymnasium, swimming pool, trail system, or other facility used for recreational purposes.

[47] (9) "Rural radio station" means a nonprofit radio station based in a county of the third, fourth, fifth, or sixth class.

[48] (10) In a county of the first class, "zoological facility" means a public, public-private partnership, or private nonprofit building, exhibit, utility and infrastructure, walkway, pathway, roadway, office, administration facility, public service facility, educational facility, enclosure, public viewing area, animal barrier, animal housing, animal care facility, and veterinary and hospital facility related to the advancement, exhibition, or preservation of a mammal, bird, reptile, fish, or an amphibian.

[49] (11) (a) (i) Except as provided in Subsection [49] (11)(a)(ii), "zoological organization" means a public, public-private partnership, or private nonprofit organization having as its primary purpose the advancement and preservation of zoology.

(ii) In a county of the first class, "zoological organization" means a nonprofit organization having as its primary purpose the advancement and exhibition of a mammal, bird, reptile, fish, or an amphibian to an audience of 75,000 or more persons annually.

(b) "Zoological organization" does not include an agency of the state, educational institution, radio or television broadcasting network or station, cable communications system, newspaper, or magazine.

(12) "Zoological park" means a park or garden where a collection of wild animals is kept for study, conservation, and public exhibition.

Section 2. Section 59-12-703 is amended to read:

**59-12-703. Opinion question election --
Base -- Rate -- Imposition of tax --
Expenditure of revenues --
Administration -- Enactment or repeal of
tax -- Effective date -- Notice
requirements.**

(1) (a) Subject to the other provisions of this section, a county legislative body may submit an opinion question to the residents of that county, by majority vote of all members of the legislative body, so that each resident of the county, except residents in municipalities that have already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, has an opportunity to express the resident's opinion on the imposition of a local sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the county, to:

(i) fund cultural facilities, recreational facilities, and zoological facilities, botanical organizations, cultural organizations, and zoological organizations, and rural radio stations, in that county; or

(ii) provide funding for a botanical organization, cultural organization, or zoological organization to pay for use of a bus or facility rental if that use of the

bus or facility rental is in furtherance of the botanical organization's, cultural organization's, or zoological organization's primary purpose.

(b) The opinion question required by this section shall state:

"Shall (insert the name of the county), Utah, be authorized to impose a .1% sales and use tax for (list the purposes for which the revenues collected from the sales and use tax shall be expended)?"

(c) Notwithstanding Subsection (1)(a), a county legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104;

(ii) sales and uses within municipalities that have already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; and

(iii) except as provided in Subsection (1)(e), amounts paid or charged for food and food ingredients.

(d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(e) A county legislative body imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(f) The election shall follow the procedures outlined in Title 11, Chapter 14, Local Government Bonding Act.

(2) (a) If the county legislative body determines that a majority of the county's registered voters voting on the imposition of the tax have voted in favor of the imposition of the tax as prescribed in Subsection (1), the county legislative body may impose the tax by a majority vote of all members of the legislative body on the transactions:

(i) described in Subsection (1); and

(ii) within the county, including the cities and towns located in the county, except those cities and towns that have already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities.

(b) A county legislative body may revise county ordinances to reflect statutory changes to the distribution formula or eligible recipients of revenues generated from a tax imposed under Subsection (2)(a) without submitting an opinion question to residents of the county.

~~(i) after the county legislative body submits an opinion question to residents of the county in accordance with Subsection (1) giving them the~~

~~opportunity to express their opinion on the proposed revisions to county ordinances; and]~~

~~[(ii) if the county legislative body determines that a majority of those voting on the opinion question have voted in favor of the revisions.]~~

(3) Subject to Section 59-12-704, revenues collected from a tax imposed under Subsection (2) shall be expended:

(a) to fund cultural facilities, recreational facilities, and zoological facilities located within the county or a city or town located in the county, except a city or town that has already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities;

(b) to fund ongoing operating expenses of:

(i) recreational facilities described in Subsection (3)(a);

(ii) botanical organizations, cultural organizations, and zoological organizations within the county; and

(iii) rural radio stations within the county; and

(c) as stated in the opinion question described in Subsection (1).

(4) (a) A tax authorized under this part shall be:

(i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year period in accordance with this section.

(b) A tax under this part is not subject to Subsections 59-12-205(2) through (6).

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2, County Annexation.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a county enacts or repeals a tax under this part, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the county.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

(c) (i) The enactment of a tax takes effect on the first day of the first billing period:

(A) that begins on or after the effective date of the enactment of the tax; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under this section.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax imposed under this section.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (5)(e)(ii)(A).

(f) (i) The enactment of a tax takes effect on the first day of the first billing period:

(A) that begins on or after the effective date of the enactment of the tax; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under this section.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax imposed under this section.

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 3. Section 59-12-704 is amended to read:

59-12-704. Distribution of revenues -- Advisory board creation -- Determining operating expenses -- Administrative charge.

(1) Except as provided in Subsections (3)(b) and (5), and subject to the requirements of this section, any revenues collected by a county of the first class under this part shall be distributed annually by the county legislative body to support cultural facilities, recreational facilities, and zoological facilities and botanical organizations, cultural organizations, and zoological organizations within that first class county as follows:

(a) 30% of the revenue collected by the county under this section shall be distributed by the county legislative body to support cultural facilities and recreational facilities located within the county;

(b) (i) subject to Subsection (1)(b)(ii) and except as provided in Subsection (1)(b)(iii), ~~12-1/8%~~ 16% of the revenue collected by the county under this section shall be distributed by the county legislative body to support no more than three zoological facilities and zoological organizations located within the county, ~~[with 94.5% of that revenue being distributed to zoological facilities and zoological organizations with average annual operating expenses of \$2,000,000 or more and 5.5% of that revenue being distributed to zoological facilities and zoological organizations with average annual operating expenses of less than \$2,000,000;]~~ having average annual operating expenses of \$1,500,000 or more as determined under Subsection (3), with:

(A) 63.5% of that revenue being distributed to support a zoological organization having as its primary purpose the operation of a zoological park, or a zoological facility that is part of or integrated with a zoological park;

(B) 28.25% of that revenue being distributed to support a zoological organization having as its primary purpose the operation of an aquarium, or a zoological facility that is part of or integrated with an aquarium; and

(C) 8.25% of that revenue being distributed to support a zoological organization having as its primary purpose the operation of an aviary, or a zoological facility that is part of or integrated with an aviary;

(ii) ~~[except as provided in Subsection (1)(b)(iii), if more than one zoological organization or zoological facility qualifies to receive the money described in Subsection (1)(b)(i)(A), (B), or (C), the county legislative body shall distribute the money described in [Subsection (1)(b)(i) among the zoological facilities and zoological organizations in proportion to their average annual operating expenses as determined under Subsection (3); and (iii) if a zoological facility or zoological organization is created or relocated within the county after June 1, 2003, the county legislative body shall distribute the money described in Subsection (1)(b)(i) as it determines appropriate;]~~ the subsection for which more than one zoological organization or zoological facility qualifies to whichever zoological organization or zoological facility the county legislative body determines is most appropriate, except that a zoological organization or zoological facility may not receive money under more than one subsection under Subsection (1)(b)(i); and

(iii) if no zoological organization or zoological facility qualifies to receive money described in Subsection (1)(b)(i)(A), (B), or (C), the county legislative body shall distribute the money described in the subsection for which no zoological organization or zoological facility qualifies among the zoological organizations or zoological facilities qualifying for and receiving money under the other subsections in proportion to the zoological organizations' or zoological facilities' average annual operating expenses as determined under Subsection (3);

(c) (i) ~~[48-7/8%]~~ 45% of the revenue collected by the county under this section shall be distributed to no more than ~~[23]~~ 22 botanical organizations and cultural organizations with average annual operating expenses of more than \$250,000 as determined under Subsection (3);

(ii) subject to Subsection (1)(c)(iii), the county legislative body shall distribute the money described in Subsection (1)(c)(i) among the botanical organizations and cultural organizations in proportion to their average annual operating expenses as determined under Subsection (3); and

(iii) the amount distributed to any botanical organization or cultural organization described in Subsection (1)(c)(i) may not exceed 35% of the botanical organization's or cultural organization's operating budget; and

(d) (i) 9% of the revenue collected by the county under this section shall be distributed to botanical organizations and cultural organizations that do not receive revenue under Subsection (1)(c)(i); and

(ii) the county legislative body shall determine how the money shall be distributed among the botanical organizations and cultural organizations described in Subsection (1)(d)(i).

(2) (a) The county legislative body of each county shall create an advisory board to advise the county legislative body on disbursement of funds to botanical organizations and cultural organizations under Subsection (1)(c)(i).

(b) (i) The advisory board under Subsection (2)(a) shall consist of seven members appointed by the county legislative body.

(ii) In a county of the first class, two of the seven members of the advisory board under Subsection (2)(a) shall be appointed from the Utah Arts Council.

(3) (a) Except as provided in Subsection (3)(b), to be eligible to receive money collected by the county under this part, a botanical organization, cultural organization, ~~and~~ zoological organization, and zoological facility located within a county of the first class shall, every ~~three years~~ year:

(i) calculate ~~their~~ its average annual operating expenses based upon audited operating expenses for three preceding fiscal years; and

(ii) submit to the appropriate county legislative body:

(A) a verified audit of annual operating expenses for each of those three preceding fiscal years; and

(B) the average annual operating expenses as calculated under Subsection (3)(a)(i).

(b) The county legislative body may waive the operating expenses reporting requirements under Subsection (3)(a) for organizations described in Subsection (1)(d)(i).

(4) When calculating average annual operating expenses as described in Subsection (3), each botanical organization, cultural organization, and zoological organization shall use the same three-year fiscal period as determined by the county legislative body.

(5) (a) By July 1 of each year, the county legislative body of a first class county may index the threshold amount in Subsections (1)(c) and (d).

(b) Any change under Subsection (5)(a) shall be rounded off to the nearest \$100.

(6) (a) In a county except for a county of the first class, the county legislative body shall by ordinance provide for the distribution of the entire amount of the revenues generated by the tax imposed by this section:

(i) as provided in this Subsection (6); and

(ii) as stated in the opinion question described in Subsection 59-12-703(1).

(b) Pursuant to an interlocal agreement established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, a county described in Subsection (6)(a) may distribute to a city, town, or

political subdivision within the county revenues generated by a tax under this part.

(c) The revenues distributed under Subsection (6)(a) or (b) shall be used for one or more organizations or facilities defined in Section 59-12-702 regardless of whether the revenues are distributed:

(i) directly by the county described in Subsection (6)(a) to be used for an organization or facility defined in Section 59-12-702; or

(ii) in accordance with an interlocal agreement described in Subsection (6)(b).

(7) A county legislative body may retain up to 1.5% of the proceeds from a tax under this part for the cost of administering this part.

(8) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this part.

Section 4. Effective date.

This bill takes effect on January 1, 2017.

CHAPTER 345**S. B. 140**

Passed March 7, 2016

Approved March 28, 2016

Effective May 10, 2016

HOME AND COMMUNITY-BASED SERVICES AMENDMENTS

Chief Sponsor: Jani Iwamoto

House Sponsor: Stewart Barlow

LONG TITLE**General Description:**

This bill directs the Department of Health to study the benefits and risks of pursuing several federal grants and programs.

Highlighted Provisions:

This bill:

- ▶ directs the Department of Health to study the benefits and risks of pursuing several federal grants and programs related to serving individuals in home and community-based settings; and
- ▶ requires the department to report the study findings to legislative committees.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-2-226, as last amended by Laws of Utah 2009, Chapter 334

ENACTS:

26-18-411, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-18-411 is enacted to read:**26-18-411. Home and community-based services.**

The department shall:

(1) study the benefits and risks of:

(a) applying for the Money Follows the Person demonstration project, authorized under the Deficit Reduction Act and extended through the Affordable Care Act;

(b) implementing the Community First Choice Option, under Section 1915(k) of the Social Security Act, in the state Medicaid plan;

(c) applying for the Balancing Incentive Program, authorized by the Affordable Care Act;

(d) modifying or expanding current Home and Community-Based Services Waivers under Section 1915(c) of the Social Security Act;

(e) applying for new Home and Community-Based Services Waivers under Section 1915(c) of the Social Security Act; and

(f) implementing Home and Community-Based Services, under Section 1915(i) of the Social Security Act, in the state Medicaid plan; and

(2) report the study findings to the Social Services Appropriations Subcommittee and the Health and Human Services Interim Committee no later than June 1, 2016.

Section 2. Section 63I-2-226 is amended to read:**63I-2-226. Repeal dates -- Title 26.**

(1) Title 26, Chapter 46, Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2017.

(2) Section 26-18-411 is repealed December 31, 2016.

CHAPTER 346**S. B. 142**

Passed March 9, 2016

Approved March 28, 2016

Effective May 10, 2016

IMPROVEMENT DISTRICT AMENDMENTS

Chief Sponsor: Todd Weiler
House Sponsor: Rebecca P. Edwards

LONG TITLE**General Description:**

This bill allows certain improvement districts to operate a resource recovery project.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ authorizes an improvement district created to operate a sewage system to acquire, construct, or operate a resource recovery project;
- ▶ establishes powers and duties of an improvement district that owns, acquires, constructs, or operates a resource recovery project;
- ▶ establishes the required provisions of an agreement between an improvement district and a private person or a public agency for the ownership, acquisition, construction, management, or operation of a resource recovery project; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17B-2a-403, as renumbered and amended by Laws of Utah 2007, Chapter 329

ENACTS:

19-6-508, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17B-2a-403 is amended to read:**17B-2a-403. Additional improvement district powers.**

(1) In addition to the powers conferred on an improvement district under Section 17B-1-103, an improvement district may:

(a) acquire through construction, purchase, gift, or condemnation, or any combination of these methods, and ~~may~~ operate all or any part of a system for:

(i) ~~a system for~~ the supply, treatment, and distribution of water;

(ii) ~~a system for~~ the collection, treatment, and disposition of sewage;

(iii) ~~a system for~~ the collection, retention, and disposition of storm and flood waters;

(iv) ~~a system for~~ the generation, distribution, and sale of electricity, subject to Section 17B-2a-406; and

(v) ~~a system for~~ the transmission of natural or manufactured gas if ~~the system is~~:

(A) the system is connected to a gas plant, as defined in Section 54-2-1, of a gas corporation, as defined in Section 54-2-1, that is regulated under Section 54-4-1; ~~and~~

(B) the system is to be used to facilitate gas utility service within the district ~~if~~; and

(C) the gas utility service ~~is~~ was not available within the district ~~prior to~~ before the acquisition ~~or construction~~ of the system;

(b) issue bonds ~~as provided~~ in ~~and subject to~~ accordance with Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the improvement district;

(c) appropriate or ~~otherwise~~ acquire water ~~and~~ or water rights inside or outside ~~its~~ the improvement district's boundaries;

(d) sell water or other services to consumers residing outside ~~its~~ the improvement district's boundaries;

(e) enter into a contract with a gas corporation that is regulated under Section 54-4-1 to:

(i) provide for the operation or maintenance of all or part of a system for the transmission of natural or manufactured gas; or ~~to~~

(ii) lease or sell all or a portion of ~~that~~ a system described in Subsection (1)(e)(i) to a gas corporation;

(f) enter into a contract with a person for:

(i) the purchase or sale of water or electricity;

(ii) the use of any facility owned by the person; or

(iii) the purpose of handling the person's industrial and commercial waste and sewage;

(g) require pretreatment of industrial and commercial waste and sewage; and

(h) impose a penalty or surcharge against a public entity or other person with which the improvement district has entered into a contract for the construction, acquisition, or operation of all or a part of a system for the collection, treatment, and disposal of sewage, if the public entity or other person fails to comply with the provisions of the contract.

(2) The new gas utility service under Subsection (1)(a)(v)(B) shall be provided by a gas corporation regulated under Section 54-4-1 and not by the district.

(3) An improvement district may not begin to provide sewer service to an area where sewer service is already provided by an existing sewer collection system operated by a municipality or other political subdivision unless the municipality or other political subdivision gives its written consent.

(4) An improvement district authorized to operate all or any part of a system for the collection, treatment, or disposition of sewage may acquire, construct, or operate a resource recovery project in accordance with Section 19-6-508.

Section 2. Section 19-6-508 is enacted to read:

19-6-508. Resource recovery project operated by an improvement district.

(1) As used in this section, "resource recovery project" means a project that consists of facilities for the handling, treatment and processing through anaerobic digestion, and resource recovery, of solid waste consisting primarily of organic matter.

(2) An improvement district authorized to operate all or any part of a system for the collection, treatment, or disposition of sewage under Section 17B-2a-403 may own, acquire, construct, or operate a resource recovery project in accordance with this section.

(3) An improvement district described in Subsection (2) may:

(a) (i) own, acquire, construct, or operate a resource recovery project independently; or

(ii) subject to Subsection (4), enter into a short- or long-term agreement for the ownership, acquisition, construction, management, or operation of a resource recovery project with:

(A) a public agency, as defined in Section 11-13-103;

(B) a private person; or

(C) a combination of persons listed in Subsections (3)(a)(ii)(A) and (B);

(b) accept and disburse money from a federal or state grant or any other source for the acquisition, construction, operation, maintenance, or improvement of a resource recovery project;

(c) contract for the lease or purchase of land, a facility, or a vehicle for the operation of a resource recovery project;

(d) establish one or more policies for the operation of a resource recovery project, including:

(i) the hours of operation;

(ii) the character and kind of waste accepted by the resource recovery project; and

(iii) any policy necessary to ensure the safety of the resource recovery project personnel;

(e) sell or contract for the sale of usable material, energy, fuel, or heat separated, extracted, recycled, or recovered from solid waste that consists primarily of organic matter in a resource recovery project;

(f) issue a bond in accordance with Title 17B, Chapter 1, Part 11, Local District Bonds;

(g) issue an industrial development revenue bond in accordance with Title 11, Chapter 17, Utah

Industrial Facilities and Development Act, to pay the costs of financing a project, as defined in Section 11-17-2, that consists of a resource recovery project;

(h) agree to construct and operate a resource recovery project that manages the solid waste of a public entity or a private person, in accordance with one or more contracts and other arrangements described in a proceeding according to which a bond is issued; and

(i) contract for and accept solid waste that consists primarily of organic matter at a resource recovery project regardless of whether the solid waste is generated inside or outside the boundaries of the improvement district.

(4) (a) An agreement described in Subsection (3)(a)(ii) shall:

(i) contain provisions that the improvement district's board determines are in the best interests of the improvement district, including provisions that address:

(A) the purposes of the agreement;

(B) the duration of the agreement;

(C) the method of appointing or employing necessary personnel;

(D) the method of financing the resource recovery project, including the apportionment of costs of construction and operation;

(E) the ownership interest of each owner in the resource recovery project and other property used in connection with the resource recovery project;

(F) the procedures for the disposition of property when the agreement expires or is terminated, or when the resource recovery project ceases operation for any reason;

(G) any agreement of the parties prohibiting or restricting the alienation or partition of the undivided interests of an owner in the resource recovery project;

(H) the construction and repair of the resource recovery project, including, if the parties agree, a determination that one of the parties may construct or repair the resource recovery project as agent for all parties to the agreement;

(I) the administration, operation, and maintenance of the resource recovery project, including, if the parties agree, a determination that one of the parties may administer, operate, and maintain the resource recovery project as agent for all parties to the agreement;

(J) the creation of a committee of representatives of the parties to the agreement, including the committee's powers;

(K) if the parties agree, a provision that if any party defaults in the performance or discharge of the party's obligations under the agreement, the other parties may perform or assume, pro rata or otherwise, the obligations of the defaulting party and may, if the defaulting party fails to remedy the

default, succeed to or require the disposition of the rights and interests of the defaulting party in the resource recovery project;

(L) provisions for indemnification of construction, operation, and administration agents for completing construction, handling emergencies, and allocating output of the resource recovery project among the parties to the agreement according to the ownership interests of the parties;

(M) methods for amending and terminating the agreement; and

(N) any other matter determined by the parties to the agreement to be necessary; and

(ii) provide for an equitable method of allocating operation, repair, and maintenance costs of the resource recovery project.

(b) A provision under Subsection (4)(a)(i)(G) is not subject to any law restricting covenants against alienation or partition.

(c) An improvement district's ownership interest in a resource recovery project may not be less than the proportion of money or the value of property supplied by the improvement district for the acquisition and construction of the resource recovery project.

CHAPTER 347**S. B. 143**

Passed March 8, 2016
Approved March 28, 2016
Effective May 10, 2016

**COMPETENCY-BASED
LEARNING AMENDMENTS**

Chief Sponsor: Howard A. Stephenson
House Sponsor: Kim Coleman

LONG TITLE**General Description:**

This bill establishes the Competency-Based Education Grants Program.

Highlighted Provisions:

This bill:

- ▶ amends existing competency-based education provisions;
- ▶ enacts Title 53A, Chapter 15, Part 17, Competency-Based Education Grants Program, including:
 - enacts definitions;
 - enacts provisions related to the State Board of Education (board) duties;
 - enacts provisions related to planning grants;
 - enacts provisions related to implementation grants;
 - enacts provisions related to expansion grants;
 - enacts provisions related to waivers from board rule; and
 - enacts provisions related to institutions of higher education and prohibitions on penalizing students in a competency-based education program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-1-409, as last amended by Laws of Utah 2015, Chapter 415

ENACTS:

53A-15-1701, Utah Code Annotated 1953
53A-15-1702, Utah Code Annotated 1953
53A-15-1703, Utah Code Annotated 1953
53A-15-1704, Utah Code Annotated 1953
53A-15-1705, Utah Code Annotated 1953
53A-15-1706, Utah Code Annotated 1953
53A-15-1707, Utah Code Annotated 1953
53A-15-1708, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-1-409 is amended to read:**53A-1-409. Competency-based education -- Recommendations -- Coordination.**

~~[(1) As used in this section:]~~

~~[(a) "Competency" means a demonstrable acquisition of a specified knowledge, skill, or ability that has been organized into a hierarchical arrangement leading to higher levels of knowledge, skill, or ability.]~~

~~[(b) "Competency-based education" means an education approach that requires a student to acquire a competency and includes a classroom structure and operation that aid and facilitate the acquisition of specified competencies on an individual basis wherein a student is allowed to master and demonstrate competencies as fast as the student is able.]~~

~~[(c) "Gain score" means the measured difference of a student's score at the beginning and end of a time period that may be aggregated at the class, grade, school, and school-district levels.]~~

~~[(2) The State Board of Education shall:]~~

~~[(a) provide expertise to and consult with local school boards, school districts, and charter schools relating to competency-based education and progress-based assessments;]~~

~~[(b) before the beginning of the 2014 General Session of the Legislature, make recommendations to the Public Education Appropriations Subcommittee, including the amount and allocation of public education money, based upon both new public education money and the reallocation of money required to develop and implement:]~~

~~[(i) competency-based education and progress-based assessments;]~~

~~[(ii) (A) a weighted competency unit that distributes public education money based on student achievement resulting from competency-based program objectives, strategies, and standards; and]~~

~~[(B) a course-level funding formula that distributes funds to school districts and charter schools that establish competency-based education;]~~

~~[(iii) a plan to assist students, teachers, schools, and districts that need remediation based upon Subsections (2)(b)(i) and (ii);]~~

~~[(iv) the reallocation of teaching resources from noncore electives into grades 1-3, 7-12 math, and 7-12 English; and]~~

~~[(v) a teacher development program focused on achieving progress in basic academic subjects, including instruction in explicit, systematic, and intensive phonics for teachers in grades kindergarten through 3;]~~

~~[(c) assist school districts and charter schools to develop and implement:]~~

~~[(i) competency-based education; and]~~

~~[(ii) the use of gain scores; and]~~

~~[(d) develop and use monetary and nonmonetary incentives, tools, and rewards to encourage school~~

~~districts and charter schools to accomplish the items described under this section.]~~

~~[(3) A funding formula described in Subsection (2)(b)(i)(B) shall:]~~

~~[(a) base the funding for a competency-based course on a proportionate amount of the weighted pupil unit;]~~

~~[(b) partially distribute funds based on initial enrollment;]~~

~~[(c) distribute remaining funds based on a student's successful completion of a course through demonstrated competency and subject mastery; and]~~

~~[(d) not be dependent on the amount of time a student is instructed in the course or the age of the student.]~~

(1) As used in this section, "competency-based education" means the same as that term is defined in Section 53A-15-1702.

[(4)] (2) A local school board or a charter school governing board may establish a competency-based education program.

[(5)] (3) A local school board or charter school governing board that establishes a competency-based education program shall:

(a) establish assessments to accurately measure competency;

(b) provide the assessments to an enrolled student at no cost to the student;

(c) award credit to a student who demonstrates competency and subject mastery;

(d) submit the competency-based standards to the State Board of Education for review; and

(e) publish the competency-based standards on its website or by other electronic means readily accessible to the public.

[(6)] (4) A local school board or charter school governing board may:

(a) on a random lottery-based basis, limit enrollment to courses that have been designated as competency-based courses;

(b) waive or adapt traditional attendance requirements;

(c) adjust class sizes to maximize the value of course instructors or course mentors;

(d) enroll students from any geographic location within the state; and

(e) provide proctored online competency-based assessments.

Section 2. Section 53A-15-1701 is enacted to read:

Part 17. Competency-Based Education Grants Program

53A-15-1701. Title.

This part is known as "Competency-Based Education Grants Program."

Section 3. Section 53A-15-1702 is enacted to read:

53A-15-1702. Definitions.

As used in this part:

(1) "Blended learning" means a formal education program in which a student learns:

(a) at least in part, through online learning with some element of student control over time, place, path, and pace;

(b) at least in part, in a supervised brick-and-mortar location away from home; and

(c) in a program in which the modalities along each student's learning path within a course or subject are connected to provide an integrated learning experience.

(2) "Board" means the State Board of Education.

(3) "Competency-Based education" means a system where a student advances to higher levels of learning when the student demonstrates competency of concepts and skills regardless of time, place, or pace.

(4) "Extended learning" means learning opportunities outside of a traditional school structure, including:

(a) online learning available anywhere, anytime;

(b) career-based experiences, including internships and job shadowing;

(c) community-based projects; and

(d) off-site postsecondary learning.

(5) "Grant program" means the Competency-Based Education Grants Program created in this part.

(6) "Institution of higher education" means an institution listed in Section 53B-1-102.

(7) "Local education agency" or "LEA" means:

(a) a school district;

(b) a charter school; or

(c) the Utah Schools for the Deaf and the Blind.

(8) "Review committee" means the committee established under Section 53A-15-1703.

(9) "STEM" means science, technology, engineering, and mathematics.

Section 4. Section 53A-15-1703 is enacted to read:

53A-15-1703. Competency-Based Education Grants Program -- Board duties -- Review committee -- Technical assistance training.

(1) There is created the Competency-Based Education Grants Program consisting of the grants created in this part to improve educational outcomes in public schools by advancing student

mastery of concepts and skills through the following core principles:

(a) student advancement upon mastery of a concept or skill;

(b) competencies that include explicit, measurable, and transferable learning objectives that empower a student;

(c) assessment that is meaningful and provides a positive learning experience for a student;

(d) timely, differentiated support based on a student's individual learning needs; and

(e) learning outcomes that emphasize competencies that include application and creation of knowledge along with the development of important skills and dispositions.

(2) The grant program shall incentivize an LEA to establish competency-based education within the LEA through the use of:

(a) personalized learning;

(b) blended learning;

(c) extended learning;

(d) educator professional learning in competency-based education; or

(e) any other method that emphasizes the core principles described in Subsection (1).

(3) The board shall:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules:

(i) for the administration of the grant program and awarding of grants; and

(ii) to define outcome-based measures appropriate to the type of grant for an LEA that is awarded a grant under this part to use to measure the performance of the LEA's plan or program;

(b) establish a grant application process;

(c) in accordance with Subsection (4), establish a review committee to make recommendations to the board for:

(i) metrics to analyze the quality of a grant application; and

(ii) approval of a grant application; and

(d) with input from the review committee, adopt metrics to analyze the quality of a grant application.

(4) (a) The review committee shall consist of STEM and blended learning experts, current and former school administrators, current and former teachers, and at least one former school district superintendent, in addition to other staff designated by the board.

(b) The review committee shall:

(i) review a grant application submitted by an LEA;

(ii) make recommendations to the LEA to modify the application, if necessary; and

(iii) make recommendations to the board regarding the final disposition of an application.

(5) (a) The board shall provide technical assistance training to assist an LEA with a grant application under this part.

(b) An LEA may not apply for a grant under this part unless:

(i) a representative of the LEA attends the technical assistance training before the LEA submits a grant application; and

(ii) the representative is a superintendent, principal, or a person in a leadership position within the LEA.

(c) The technical assistance training shall include:

(i) instructions on completing a grant application, including grant application requirements;

(ii) information on the scoring metrics used to review a grant application; and

(iii) information on competency-based education.

(6) The board may use up to 5% of an appropriation provided to fund this part for administration of the grant program.

Section 5. Section 53A-15-1704 is enacted to read:

53A-15-1704. Planning grants -- Requirements.

(1) (a) The board shall, subject to legislative appropriations, award a planning grant to, subject to Subsection (1)(c), an LEA:

(i) that submits a planning grant application that meets the requirements established by the board, subject to Subsection (2);

(ii) if an LEA designee has attended the technical assistance training described in Section 53A-15-1703; and

(iii) if the LEA planning grant application has been recommended by the review committee.

(b) An LEA that receives a grant under Subsection (1)(a) shall expend the grant funds no later than one calendar year after receiving the funds.

(c) The board may not select more than three LEAs to award planning grants to under this section.

(2) (a) A planning grant application shall include evidence that the LEA:

(i) can provide a general description of the program the LEA would like to plan;

(ii) is intending to plan for:

(A) schoolwide implementation; or

(B) if the LEA intends to implement initially with a population smaller than schoolwide, phasing the

plan in schoolwide or districtwide over a specified period of time;

(iii) can describe the types of partners that will help with the plan and, eventually, implement the program;

(iv) planning activities and program will focus on:

(A) implementation of the core principles described in Section 53A-15-1703;

(B) use of the methods, as applicable, described in Section 53A-15-1703; and

(C) the outcome-based measures adopted by the board under Section 53A-15-1703;

(v) has:

(A) the capacity, qualifications, local governing body support, and time to successfully plan the program; and

(B) an intentional and feasible planning process;

(vi) will align the LEA's budget as necessary with the planning process; and

(vii) will communicate and promote the plan with parents, teachers, and members of the community.

(b) The board may adopt other requirements in addition to the requirements in Subsection (2)(a).

Section 6. Section 53A-15-1705 is enacted to read:

53A-15-1705. Implementation grants -- Requirements.

(1) (a) The board shall, subject to legislative appropriations, award an implementation grant to, subject to Subsection (1)(c), an LEA:

(i) that submits an implementation grant application that meets the requirements established by the board, subject to Subsection (2);

(ii) if an LEA designee has attended the technical assistance training described in Section 53A-15-1703; and

(iii) if the LEA implementation grant application has been recommended by the review committee.

(b) An LEA that receives a grant under Subsection (1)(a) shall expend the grant funds no later than two calendar years after receiving the funds.

(c) An LEA is not eligible to receive an implementation grant under this section unless the board has previously awarded the LEA a planning grant under Section 53A-15-1704.

(2) (a) An implementation grant application shall include evidence that the LEA:

(i) can logically articulate the proposed program's mission, theory of change, and the program's intended goals and outcomes;

(ii) (A) program will have schoolwide implementation; or

(B) if the LEA intends to implement initially with a population smaller than schoolwide, program includes steps to phase the program in schoolwide or districtwide over a specified period of time;

(iii) has an understanding of similar programs and can use this knowledge to strengthen the LEA's program implementation;

(iv) program will focus on:

(A) direct alignment with the core principles described in Section 53A-15-1703;

(B) use of the methods, as applicable, described in Section 53A-15-1703; and

(C) the outcome based measures adopted by the board under Section 53A-15-1703;

(v) program will address a need, determined by data, in the LEA or community;

(vi) has a strong evaluation plan that will clearly measure the success of the LEA's program against the stated goals and objectives;

(vii) has a list of signatures of key stakeholders and partners who are committed to implementing the program;

(viii) has the capacity, qualifications, local governing body support, and time to successfully implement this program;

(ix) has an intentional and feasible scope of work to implement the program;

(x) will align the LEA's budget as necessary with the planning process; and

(xi) will communicate and promote the plan with parents, teachers, and members of the community.

(b) The board may adopt other requirements in addition to the requirements in Subsection (2)(a).

(3) A program under this section may include:

(a) a waiver, subject to Section 53A-15-1707, of required school hours attended or traditional school calendar scheduling; and

(b) an adjustment of educator compensation to reflect the implementation of a waiver under Subsection (3)(a).

Section 7. Section 53A-15-1706 is enacted to read:

53A-15-1706. Expansion grants -- Requirements.

(1) (a) The board shall, subject to legislative appropriations and to expand an existing LEA program schoolwide or districtwide, award a grant to, subject to Subsection (1)(c), an LEA:

(i) that submits an expansion grant application that meets the requirements established by the board, subject to Subsection (2);

(ii) if an LEA designee has attended the technical assistance training described in Section 53A-15-1703; and

(iii) if the LEA expansion grant application has been recommended by the review committee.

(b) An LEA that receives a grant under Subsection (1)(a) shall expend the grant funds no later than two calendar years after receiving the funds.

(c) An LEA is not eligible to receive an expansion grant under this section unless the board has previously awarded the LEA an implementation grant under Section 53A-15-1705.

(2) (a) An expansion grant application shall include evidence that the LEA:

(i) has an established program that:

(A) has successfully met previous goals;

(B) has shown outcomes that are in alignment with the core principles described in Section 53A-15-1703 and used methods, as applicable, described in Section 53A-15-1703;

(C) is supported by LEA management and leadership;

(D) is suitable for expansion schoolwide or districtwide; and

(E) is the program, with any necessary modifications, that the LEA plans to expand if awarded the expansion grant;

(ii) can logically articulate the LEA's program mission, theory of change, and the program's intended goals and outcomes;

(iii) program as proposed for expansion is focused on:

(A) direct alignment with the core principles identified in Section 53A-15-1703;

(B) use of the methods, as applicable, described in Section 53A-15-1703; and

(C) the outcome based measures adopted by the board under Section 53A-15-1703;

(iv) that the program will directly address a need, determined by data, in the LEA or community;

(v) has clearly articulated core components that ensure, when expanded, the program will yield positive outcomes;

(vi) has a strong evaluation plan that will clearly measure the success of the LEA's program against the stated goals and objectives;

(vii) has a list of signatures of key stakeholders and partners who are committed to expanding the program;

(viii) has the capacity, qualifications, local governing body support, and time to successfully expand the program;

(ix) has an intentional and feasible scope of work to expand the program;

(x) has a strategic budget that is aligned with the LEA's scope of work; and

(xi) will communicate and promote the plan with parents, teachers, and members of the community.

(b) The board may adopt other requirements in addition to the requirements in Subsection (2)(a).

(3) A program under this section may include:

(a) a waiver, subject to Section 53A-15-1707, of required school hours attended or traditional school calendar scheduling; and

(b) an adjustment of educator compensation to reflect the implementation of a waiver under Subsection (3)(a).

Section 8. Section 53A-15-1707 is enacted to read:

53A-15-1707. Waiver from board rule -- Board recommended statutory changes.

(1) An LEA may apply to the board in a grant application submitted under this part for a waiver of a board rule that inhibits or hinders the LEA from accomplishing its goals set out in its grant application.

(2) The board may grant the waiver, unless:

(a) the waiver would cause the LEA to be in violation of state or federal law; or

(b) the waiver would threaten the health, safety, or welfare of students in the LEA.

(3) If the board denies the waiver, the board shall provide in writing the reason for the denial to the waiver applicant.

(4) (a) The board shall request from each LEA that receives a grant under this part for each year the LEA receives funds:

(i) information on a state statute that hinders an LEA from fully implementing the LEA's program; and

(ii) suggested changes to the statute.

(b) The board shall, in a written report, provide any information received from an LEA under Subsection (4)(a) and the board's recommendations to the Legislature no later than November 30 of each year.

Section 9. Section 53A-15-1708 is enacted to read:

53A-15-1708. Cooperation of institutions of higher education -- Transferring students not to be penalized.

(1) An institution of higher education:

(a) shall recognize and accept on equal footing as a traditional high school diploma a high school diploma awarded to a student who successfully completes an educational program that uses, in whole or in part, competency-based education; and

(b) cooperate with an LEA:

(i) as applicable, to facilitate the advancement of a student who attends a competency-based education program; and

(ii) as requested, in the development of an LEA plan or program under this part.

(2) If a student attending an LEA that establishes competency-based education within the LEA

transfers to another school within the LEA or to another LEA entirely that does not have a competency-based education program, the student may not be penalized by being required to repeat course work that the student has successfully completed, changing the student's grade, or receive any other penalty related to the student's previous attendance in the competency-based education program.

CHAPTER 348**S. B. 147**

Passed March 3, 2016
 Approved March 28, 2016
 Effective May 10, 2016

**REVISOR'S TECHNICAL
CORRECTIONS TO UTAH CODE**

Chief Sponsor: Ralph Okerlund
 House Sponsor: James A. Dunnigan

LONG TITLE**General Description:**

This bill modifies parts of the Utah Code to make technical corrections, including eliminating references to repealed provisions, making minor wording changes, updating cross-references, and correcting numbering.

Highlighted Provisions:

This bill:

- ▶ modifies parts of the Utah Code to make technical corrections, including eliminating references to repealed provisions, making minor wording changes, updating cross-references, correcting numbering, and fixing errors that were created from the previous year's session.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

4-11-5, as last amended by Laws of Utah 2010, Chapter 73
 9-6-507, as renumbered and amended by Laws of Utah 1992, Chapter 241
 9-8-302, as last amended by Laws of Utah 2007, Chapter 231
 9-8-404, as last amended by Laws of Utah 2006, Chapter 292
 10-1-114, as last amended by Laws of Utah 2015, Chapter 352
 10-3c-203, as enacted by Laws of Utah 2015, Chapter 352
 10-6-135, as last amended by Laws of Utah 2014, Chapter 377
 10-8-15, as last amended by Laws of Utah 2010, Chapter 378
 11-51-102, as last amended by Laws of Utah 2014, Chapter 296
 13-14-204, as last amended by Laws of Utah 2010, Chapter 33
 13-49-201, as last amended by Laws of Utah 2015, Chapter 236
 13-49-203, as enacted by Laws of Utah 2012, Chapter 375
 17B-1-502, as last amended by Laws of Utah 2015, Chapter 352
 19-1-301.5, as last amended by Laws of Utah 2015, Chapters 379, 441 and last amended by Coordination Clause, Laws of Utah 2015, Chapter 451
 20A-1-306, as last amended by Laws of Utah 2014, Chapter 189

20A-7-702, as last amended by Laws of Utah 2013, Chapter 320
 26-37a-102, as enacted by Laws of Utah 2015, Chapter 440
 31A-22-619.6, as enacted by Laws of Utah 2013, Chapter 417
 31A-33-106, as last amended by Laws of Utah 2015, Chapter 427
 31A-37-301, as last amended by Laws of Utah 2015, Chapter 244
 31A-37-502, as last amended by Laws of Utah 2015, Chapter 244
 32B-1-102, as last amended by Laws of Utah 2013, Chapter 349
 32B-4-415, as enacted by Laws of Utah 2010, Chapter 276
 32B-6-404, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2
 34-19-5, as last amended by Laws of Utah 2007, Chapter 306
 34-20-3, as last amended by Laws of Utah 2011, Chapter 297
 34-20-8, as last amended by Laws of Utah 2011, Chapter 297
 34-30-13, as enacted by Laws of Utah 1971, Chapter 74
 34-38-2, as last amended by Laws of Utah 2010, Chapter 284
 34-41-102, as enacted by Laws of Utah 1994, Chapter 18
 34-45-107, as enacted by Laws of Utah 2009, Chapter 379
 34A-2-213, as enacted by Laws of Utah 2013, Chapter 417
 35A-3-103, as last amended by Laws of Utah 2015, Chapter 221
 35A-8-1705, as renumbered and amended by Laws of Utah 2012, Chapter 212
 41-6a-1616, as last amended by Laws of Utah 2015, Chapters 270, 405, and 412
 46-4-503, as last amended by Laws of Utah 2014, Chapter 63
 53-8-210, as renumbered and amended by Laws of Utah 1993, Chapters 26 and 234
 53A-1-301, as last amended by Laws of Utah 2015, Chapter 415
 53A-15-1504, as enacted by Laws of Utah 2015, Chapter 389
 53A-15-1508, as enacted by Laws of Utah 2015, Chapter 389
 53A-15-1509, as enacted by Laws of Utah 2015, Chapter 389
 57-8-8.1, as enacted by Laws of Utah 2015, Chapter 22
 57-16a-202, as enacted by Laws of Utah 2015, Chapter 233
 58-37-8, as last amended by Laws of Utah 2015, Chapters 165 and 412
 58-69-801, as last amended by Laws of Utah 2015, Chapter 343
 58-85-104, as enacted by Laws of Utah 2015, Chapter 110
 59-12-103, as last amended by Laws of Utah 2015, Chapter 283
 59-12-2218, as last amended by Laws of Utah 2014, Chapter 271

59-22-202, as last amended by Laws of Utah 2004, Chapter 53

62A-2-121, as last amended by Laws of Utah 2015, Chapters 255 and 258

62A-2-122, as last amended by Laws of Utah 2015, Chapter 255

63A-5-208, as last amended by Laws of Utah 2012, Chapters 91, 347 and last amended by Coordination Clause, Laws of Utah 2012, Chapter 347

63A-13-204, as last amended by Laws of Utah 2015, Chapter 135

63E-1-203, as last amended by Laws of Utah 2015, Chapter 226

63G-2-202, as last amended by Laws of Utah 2015, Chapter 258

63G-6a-408, as last amended by Laws of Utah 2015, Chapter 218

63G-6a-2105, as last amended by Laws of Utah 2014, Chapter 196

63H-7a-603, as enacted by Laws of Utah 2015, Chapter 411

63I-1-220, as last amended by Laws of Utah 2014, Chapter 231

63I-2-217, as and further amended by Revisor Instructions, Laws of Utah 2015, Chapter 465 and last amended by Laws of Utah 2015, Chapter 465

63I-2-220, as last amended by Laws of Utah 2014, Chapter 3

63I-2-277, as last amended by Laws of Utah 2014, Chapter 189

63M-4-602, as enacted by Laws of Utah 2015, Chapter 356

67-1a-14, as enacted by Laws of Utah 2012, Chapter 35

67-19-13.5, as last amended by Laws of Utah 2015, Chapter 393

70A-2-311, as enacted by Laws of Utah 1965, Chapter 154

73-2-22, as last amended by Laws of Utah 2015, Chapter 258

73-22-3, as last amended by Laws of Utah 2015, Chapter 258

78B-14-613, as last amended by Laws of Utah 2015, Chapter 45

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-11-5 is amended to read:

4-11-5. County bee inspector -- Appointment -- Termination -- Compensation.

(1) The county executive upon the petition of five or more persons who raise bees within the respective county shall, with the approval of the commissioner, appoint a qualified person to act as a bee inspector within the county.

(2) A county bee inspector shall be employed at the pleasure of the county executive and the commissioner, and is subject to termination of employment, with or without cause, at the instance of either.

(3) Compensation for the county bee inspector shall be fixed by the county legislative body.

(4) To be appointed a county bee inspector, a person shall demonstrate adequate training and knowledge related to this chapter, bee diseases, and pests.

(5) A record concerning bee inspection shall be kept by the county executive or commissioner.

(6) The county executive and the commissioner shall investigate a formal, written complaint against a county bee inspector.

(7) The department may authorize an inspection if:

(a) a county bee inspector is not appointed; ~~and~~ or

(b) a conflict of interest arises with a county bee inspector.

Section 2. Section 9-6-507 is amended to read:

9-6-507. Spending restrictions -- Return of endowment.

(1) A qualifying organization, once it has received its endowment money from the state fund, may not expend any of ~~those~~ that money or the required matching money in its endowment fund, but may expend only the interest income earned on the money in its endowment fund.

(2) If the board determines that a qualifying organization has expended any amount of the endowment money received from the state fund or any amount of the required matching money, the qualifying organization shall return the amount it received from the state fund. The board shall reallocate any such returned money to qualifying organizations in the manner as provided in Section 9-6-506.

Section 3. Section 9-8-302 is amended to read:

9-8-302. Definitions.

As used in this part and Part 4, Historic Sites:

(1) "Agency" means a department, division, office, bureau, board, commission, or other administrative unit of the state.

(2) "Ancient human remains" means all or part of the following that are historic or prehistoric:

(a) a physical individual; and

(b) any object on or attached to the physical individual that is placed on or attached to the physical individual as part of the death rite or ceremony of a culture.

(3) "Antiquities Section" means the Antiquities Section of the Division of State History created in Section 9-8-304.

(4) "Archaeological resources" means all material remains and their associations, recoverable or discoverable through excavation or survey, that provide information pertaining to the historic or prehistoric peoples of the state.

(5) "Collection" means a specimen and the associated records documenting the specimen and its recovery.

(6) "Curation" means management and care of collections according to standard professional museum practice, which may include inventorying, accessioning, labeling, cataloging, identifying, evaluating, documenting, storing, maintaining, periodically inspecting, cleaning, stabilizing, conserving, exhibiting, exchanging, or otherwise disposing of original collections or reproductions, and providing access to and facilities for studying collections.

(7) "Curation facility" [~~is defined as provided~~] means the same as that term is defined in Section 53B-17-603.

(8) "Division" means the Division of State History created in Section 9-8-201.

(9) "Excavate" means the recovery of archaeological resources.

(10) "Historic property" means any prehistoric or historic district, site, building, structure, or specimen included in, or eligible for inclusion in, the National Register of Historic Places or the State Register.

(11) "Indian tribe" means a tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(12) "Museum" means the Utah Museum of Natural History.

(13) (a) "Nonfederal land" means land in the state that is not owned, controlled, or held in trust by the federal government.

(b) "Nonfederal land" includes:

(i) land owned or controlled by:

(A) the state;

(B) a county, city, or town;

(C) an Indian tribe, if the land is not held in trust by the United States for the Indian tribe or the Indian tribe's members; or

(D) a person other than the federal government; or

(ii) school and institutional trust lands.

(14) "Principal investigator" means the individual with overall administrative responsibility for the survey or excavation project authorized by the permit.

(15) "Repository" [~~is defined as provided~~] means the same as that term is defined in Section 53B-17-603.

(16) "School and institutional trust lands" are those properties defined in Section 53C-1-103.

(17) "Site" means any petroglyphs, pictographs, structural remains, or geographic location that is the source of archaeological resources or specimens.

(18) "Specimen" means all man-made artifacts and remains of an archaeological or anthropological nature found on or below the surface of the earth, excluding structural remains.

(19) "State historic preservation officer" means that position mentioned in [~~16 U.S.C. Sec. 470a~~] 54 U.S.C. Sec. 302303, as amended.

(20) (a) "State land" means land owned by the state including the state's:

(i) legislative and judicial branches;

(ii) departments, divisions, agencies, boards, commissions, councils, and committees; and

(iii) institutions of higher education as defined under Section 53B-3-102.

(b) "State land" does not include:

(i) land owned by a political subdivision of the state;

(ii) land owned by a school district;

(iii) private land; or

(iv) school and institutional trust lands.

(21) "Survey" means a surface investigation for archaeological resources that may include:

(a) insubstantial surface collection of archaeological resources; and

(b) limited subsurface testing that disturbs no more of a site than is necessary to determine the nature and extent of the archaeological resources or whether the site is a historic property.

Section 4. Section 9-8-404 is amended to read:

9-8-404. Agency responsibilities -- State historic preservation officer to comment on undertaking -- Public Lands Policy Coordinating Office may require joint analysis.

(1) (a) Before expending any state funds or approving any undertaking, each agency shall:

(i) take into account the effect of the expenditure or undertaking on any historic property; and

(ii) unless exempted by agreement between the agency and the state historic preservation officer, provide the state historic preservation officer with a written evaluation of the expenditure's or undertaking's effect on the historic property.

(b) Once per month, the state historic preservation officer shall provide the Public Lands Policy Coordinating Office with a list of undertakings on which an agency or federal agency has requested the state historic preservation officer's or the Antiquities Section's advice or consultation.

(c) The Public Lands Policy Coordinating Office may request the joint analysis described in

Subsections (2)(c) and (d) of any proposed undertaking on which the state historic preservation officer or Antiquities Section is providing advice or consultation.

(2) (a) If the state historic preservation officer does not concur with the agency's written evaluation required by Subsection (1)(a)(ii), the state historic preservation officer shall inform the Public Lands Policy Coordinating Office of any objections.

(b) The Public Lands Policy Coordinating Office shall review the state historic preservation officer's objections and determine whether or not to initiate the joint analysis established in Subsections (2)(c) and (d).

(c) If the Public Lands Policy Coordinating Office determines further analysis is necessary, the Public Lands Policy Coordinating Office shall, jointly with the agency and the state historic preservation officer, analyze:

(i) the cost of the undertaking, excluding costs attributable to the identification, potential recovery, or excavation of historic properties;

(ii) the ownership of the land involved;

(iii) the likelihood of the presence and the nature and type of historical properties that may be affected by the expenditure or undertaking; and

(iv) clear and distinct alternatives for the identification, recovery, or excavation of historic properties, including ways to maximize the amount of information recovered and report that information at current standards of scientific rigor.

(d) The Public Lands Policy Coordinating Office, the agency, and the state historic preservation officer shall also consider as part of the joint analysis:

(i) the estimated costs of the alternatives in Subsection (2)(c)(iv) in total and as a percentage of the total cost of the undertaking; and

(ii) at least one plan for the identification, recovery, or excavation of historic properties that does not substantially increase the cost of the proposed undertaking.

(3) (a) (i) If the state historic preservation officer concurs with the agency's evaluation or if the Public Lands Policy Coordinating Office determines that the joint analysis is unnecessary, the state historic preservation officer shall, no later than 30 calendar days after receiving the agency's evaluation, provide formal comments on the agency's evaluation.

(ii) If a joint analysis is conducted, the state historic preservation officer shall provide formal comments on the agency's evaluation no later than 30 calendar days after the conclusion of the joint analysis.

(b) The state historic preservation officer shall ensure that the comments include the results of any joint analysis conducted under Subsection (2).

(c) If a joint analysis is not conducted, the state historic preservation officer's comments may include advice about ways to maximize the amount of historic, scientific, archaeological, anthropological, and educational information recovered, in addition to the physical recovery of specimens and the reporting of archaeological information at current standards of scientific rigor.

(4) (a) Once per month, the state historic preservation officer shall provide the Public Lands Policy Coordinating Office with a list of comments the state historic preservation officer intends to make or has made as required or authorized by the National Historic Preservation Act, [16 U.S.C. Sec. 470] 54 U.S.C. Sec. 300101 et seq.

(b) At the request of the Public Lands Policy Coordinating Office, the state historic preservation officer shall discuss the comments with the Public Lands Policy Coordinating Office.

Section 5. Section 10-1-114 is amended to read:

10-1-114. Repealer.

Title 10, Chapter 1, General Provisions; Chapter 2, ~~Incorporation, Classification, Boundaries, Consolidation, and Dissolution of Municipalities~~; Chapter 3, Municipal Government; Chapter 5, Uniform Town Fiscal Procedures Act [~~for Utah Towns~~]; and Chapter 6, Uniform Fiscal Procedures Act [~~for Utah Cities~~], are repealed, except as provided in Section 10-1-115.

Section 6. Section 10-3c-203 is amended to read:

10-3c-203. Administrative and operational services -- Staff provided by county or municipal services district.

(1) (a) The following officials elected or appointed, or persons employed by, the county in which a [~~municipality~~] metro township is located shall, for the purposes of interpreting and complying with applicable law, fulfill the responsibilities and hold the following metro township offices or positions:

(i) the county treasurer shall fulfill the duties and hold the powers of treasurer for the metro township;

(ii) the county clerk shall fulfill the duties and hold the powers of recorder and clerk for the metro township;

(iii) the county surveyor shall fulfill, on behalf of the metro township, all surveyor duties imposed by law;

(iv) the county engineer shall fulfill the duties and hold the powers of engineer for the metro township;

(v) the district attorney shall provide legal counsel to the metro township; and

(vi) subject to Subsection (1)(b), the county auditor shall fulfill the duties and hold the powers of auditor for the metro township.

(b) (i) The county auditor shall fulfill the duties and hold the powers of auditor for the metro township to the extent that the county auditor's

powers and duties are described in and delegated to the county auditor in accordance with Title 17, Chapter 19a, County Auditor, and a municipal auditor's powers and duties described in this title are the same.

(ii) Notwithstanding Subsection (1)(b), in a metro township, services described in Sections 17-19a-203, 17-19a-204, and 17-19a-205, and services other than those described in Subsection (1)(b)(i) that are provided by a municipal auditor in accordance with this title that are required by law, shall be performed by county staff other than the county auditor.

(2) (a) Nothing in Subsection (1) may be construed to relieve an official described in Subsections (1)(a)(i) through (iv) of a duty to either the county or metro township or a duty to fulfill that official's position as required by law.

(b) Notwithstanding Subsection (2)(a), an official or the official's deputy or other person described in Subsections (1)(a)(i) through (iv):

(i) is elected, appointed, or otherwise employed, in accordance with the provisions of Title 17, Counties, as applicable to that official's or person's county office;

(ii) is paid a salary and benefits and subject to employment discipline in accordance with the provisions of Title 17, Counties, as applicable to that official's or person's county office;

(iii) is not subject to:

(A) Chapter 3, Part 11, Personnel Rules and Benefits; or

(B) Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act; and

(iv) is not required to provide a bond for the applicable municipal office if a bond for the office is required by this title.

(3) The metro township may establish a planning commission in accordance with Section 10-9a-301 and an appeal authority in accordance with Section 10-9a-701.

(4) A municipal services district established in accordance with Title 17B, Chapter 2a, Part 11, Municipal Services District Act, and of which the metro township is a part, may provide staff to the metro township planning commission and appeal authority.

(5) (a) This section applies only to a metro township in which:

(i) the electors at an election under Section 10-2a-404 chose a metro township that is included in a municipal services district and has limited municipal powers; or

(ii) the metro township subsequently joins a municipal services district.

(b) This section does not apply to a metro township described in Subsection (5)(a) if the municipal services district is dissolved.

Section 7. Section 10-6-135 is amended to read:

10-6-135. Operating and capital budgets.

(1) (a) As used in this section, "operating and capital budget" means a plan of financial operation for an enterprise fund or other required special fund that includes estimates of operating resources, expenses, and other outlays for a fiscal period.

(b) Except as otherwise expressly provided, any reference to "budget" or "budgets" and the procedures and controls relating to them in other sections of this chapter do not apply or refer to the operating and capital budgets described in this section.

(2) At or before the time the governing body adopts budgets for the funds described in Section 10-6-109, the governing body shall adopt:

(a) an operating and capital budget for each enterprise fund for the ensuing fiscal period; and

(b) the type of budget for other special funds as required by the Uniform Accounting Manual for Utah Cities.

(3) (a) The governing body shall adopt and administer an operating and capital budget in accordance with this Subsection (3).

(b) A governing body may spend or transfer money deposited in an enterprise fund for a good, service, project, venture, or other purpose that is not directly related to the goods or services provided by the enterprise for which the enterprise fund was created, if the governing body:

(i) transfers the money from the enterprise fund to another fund; and

(ii) complies with the hearing and notice requirements of Subsections (3)(f)(i), (ii), and (iii).

(c) At or before the first regularly scheduled meeting of the governing body in the last May of the current fiscal period, the budget officer shall:

(i) prepare for the ensuing fiscal period and file with the governing body a tentative operating and capital budget for:

(A) each enterprise fund; and

(B) other required special funds;

(ii) include with the tentative operating and capital budget described in Subsection (3)(c) specific work programs as submitted by each department head; and

(iii) include any other supporting data required by the governing body.

(d) Each city of the first or second class shall, and each city of the third, fourth, or fifth class may, submit a supplementary estimate of all capital projects which a department head believes should be undertaken within the three next succeeding fiscal periods.

(e) (i) Subject to Subsection (3)(e)(ii), the budget officer shall prepare all estimates after review and consultation with each department head described in Subsection (3)(d).

(ii) After complying with Subsection (3)(e)(i), the budget officer may revise any departmental estimate before it is filed with the governing body.

(f) (i) Except as provided in Subsection (3)(f)(iv), if the governing body includes in a tentative budget or an amendment to a budget allocations or transfers from an enterprise fund to another fund or a good, service, project, venture, or purpose other than reasonable allocations of costs between the enterprise fund and the other fund, the governing body shall:

(A) hold a public hearing;

(B) prepare a written notice of the date, time, place, and purpose of the hearing, as described in Subsection (3)(f)(ii); and

(C) subject to Subsection (3)(f)(iii), mail the written notice to each enterprise fund customer at least seven days before the day of the hearing.

(ii) The purpose portion of the written notice required under Subsection (3)(f)(i)(B) shall identify:

(A) the enterprise fund from which money is being transferred;

(B) the amount being transferred; and

(C) the fund to which the money is being transferred.

(iii) The governing body:

(A) may print the written notice required under Subsection (3)(f)(i) on the enterprise fund customer's bill; and

(B) shall include the written notice required under Subsection (3)(f)(i) as a separate notification mailed or transmitted with the enterprise fund customer's bill.

(iv) A governing body is not required to repeat the notice and hearing requirements in this Subsection (3)(f) if the funds to be allocated or transferred for the current year were previously approved by the governing body during the current year and at a public hearing that complies with the notice and hearing requirements of this Subsection (3)(f).

(4) (a) Each tentative budget, amendment to a budget, or budget shall be reviewed and considered by the governing body at any regular meeting or special meeting called for that purpose.

(b) The governing body may make changes in the tentative budgets.

(5) Budgets for enterprise or other required special funds shall comply with the public hearing requirements established in Sections 10-6-113 and 10-6-114.

(6) (a) Before the last June 30 of each fiscal period, or, in the case of a property tax increase under Sections 59-2-919 through 59-2-923, before August 31 of the year for which a property tax increase is proposed, the governing body shall adopt an operating and capital budget for each applicable fund for the ensuing fiscal period.

(b) A copy of the budget as finally adopted for each fund shall be:

(i) certified by the budget officer;

(ii) filed by the budget officer in the office of the city auditor or city recorder;

(iii) available to the public during regular business hours; and

(iv) filed with the state auditor within 30 days after the day on which the budget is adopted.

(7) (a) Upon final adoption, the operating and capital budget is in effect for the budget period, subject to later amendment.

(b) During the budget period the governing body may, in any regular meeting or special meeting called for that purpose, review any one or more of the operating and capital budgets for the purpose of determining if the total of any of them should be increased.

(c) If the governing body decides that the budget total of one or more of the funds should be increased under Subsection (7)(b), the governing body shall follow the procedures set forth in Section 10-6-136.

(8) Expenditures from operating and capital budgets shall conform to the requirements relating to budgets specified in Sections 10-6-121 through 10-6-126.

Section 8. Section 10-8-15 is amended to read:

10-8-15. Waterworks -- Construction -- Extraterritorial jurisdiction.

They may construct or authorize the construction of waterworks within or without the city limits, and for the purpose of maintaining and protecting the same from injury and the water from pollution their jurisdiction shall extend over the territory occupied by such works, and over all reservoirs, streams, canals, ditches, pipes and drains used in and necessary for the construction, maintenance and operation of the same, and over the stream or source from which the water is taken, for 15 miles above the point from which it is taken and for a distance of 300 feet on each side of such stream and over highways along such stream or watercourse within said 15 miles and said 300 feet; provided, that the jurisdiction of cities of the first class shall be over the entire watershed, except that livestock shall be permitted to graze beyond ~~one thousand~~ 1,000 feet from any such stream or source; and provided further, that each city of the first class shall provide a highway in and through its corporate limits, and so far as its jurisdiction extends, which may not be closed to cattle, horses, sheep or hogs driven through any such city, or through any territory adjacent thereto over which such city has jurisdiction, but the board of commissioners of such city may enact ordinances placing under police regulations the manner of driving such cattle, sheep, horses and hogs through such city, or any territory adjacent thereto over which it has jurisdiction. They may enact all ordinances and regulations necessary to carry the power herein conferred into effect, and are authorized and

empowered to enact ordinances preventing pollution or contamination of the streams or watercourses from which the inhabitants of cities derive their water supply, in whole or in part, for domestic and culinary purposes, and may enact ordinances prohibiting or regulating the construction or maintenance of any closet, privy, outhouse or urinal within the area over which the city has jurisdiction, and provide for permits for the construction and maintenance of the same. In granting such permits they may annex thereto such reasonable conditions and requirements for the protection of the public health as they deem proper, and may, if deemed advisable, require that all closets, privies and urinals along such streams shall be provided with effective septic tanks or other germ-destroying instrumentalities.

Section 9. Section 11-51-102 is amended to read:

11-51-102. Definitions.

As used in this chapter:

(1) "Chief executive officer" means:

(a) for a municipality:

(i) the mayor, if the municipality is operating under a form of municipal government other than the council-manager form of government; or

(ii) the city manager, if the municipality is operating under the council-manager form of government; or

(b) for a county:

(i) the chair of the county commission, if the county is operating under the county commission or expanded county commission form of government;

(ii) the county executive officer, if the county is operating under the county-executive council form of government; or

(iii) the county manager, if the county is operating under the council-manager form of government.

(2) "County sheriff" means an individual elected to the office of county sheriff in the state who meets the qualifications described in Section 17-22-1.5.

(3) "Federal agency" means the United States Bureau of Land Management, the United States Forest Service, the United States Fish and Wildlife Service, or the National Park Service.

(4) "Federally managed land" means land that is managed by the United States Bureau of Land Management, the United States Forest Service, or the National Park Service.

(5) "National monument" means a national monument designated or declared in accordance with the Antiquities Act of 1906, [16 U.S.C. Sec. 431] 54 U.S.C. Sec. 320301 et seq.

(6) "National recreation area" means a recreation area designated by an act of Congress.

(7) "Political subdivision" means a municipality or county.

Section 10. Section 13-14-204 is amended to read:

13-14-204. Franchisor's obligations related to service -- Franchisor audits -- Time limits.

(1) Each franchisor shall specify in writing to each of its franchisees licensed as a new motor vehicle dealer in this state:

(a) the franchisee's obligations for new motor vehicle preparation, delivery, and warranty service on its products;

(b) the schedule of compensation to be paid to the franchisee for parts, work, and service; and

(c) the time allowance for the performance of work and service.

(2) (a) The schedule of compensation described in Subsection (1) shall include reasonable compensation for diagnostic work, as well as repair service, parts, and labor.

(b) Time allowances described in Subsection (1) for the diagnosis and performance of warranty work and service shall be reasonable and adequate for the work to be performed.

(3) (a) In the determination of what constitutes reasonable compensation under this section, the principal factor to be considered is the prevailing wage rates being paid by franchisees in the relevant market area in which the franchisee is doing business.

(b) Compensation of the franchisee for warranty service work may not be less than the amount charged by the franchisee for like parts and service to retail or fleet customers, if the amounts are reasonable. In the case of a recreational vehicle franchisee, reimbursement for parts used in the performance of warranty repairs, including those parts separately warranted directly to the consumer by a recreational vehicle parts supplier, may not be less than the franchisee's cost plus 20%. For purposes of this Subsection (3)(b), the term "cost" shall be that same price paid by a franchisee to a franchisor or supplier for the part when the part is purchased for a nonwarranty repair.

(4) A franchisor may not fail to:

(a) perform any warranty obligation;

(b) include in written notices of franchisor's recalls to new motor vehicle owners and franchisees the expected date by which necessary parts and equipment will be available to franchisees for the correction of the defects; or

(c) compensate any of the franchisees for repairs effected by the recall.

(5) If a franchisor disallows a franchisee's claim for a defective part, alleging that the part is not defective, the franchisor at its option shall:

(a) return the part to the franchisee at the franchisor's expense; or

(b) pay the franchisee the cost of the part.

(6) (a) A claim made by a franchisee pursuant to this section for labor and parts shall be paid within 30 days after its approval.

(b) A claim shall be either approved or disapproved by the franchisor within 30 days after receipt of the claim on a form generally used by the franchisor and containing the generally required information. Any claim not specifically disapproved of in writing within 30 days after the receipt of the form is considered to be approved and payment shall be made within 30 days.

(7) Warranty service audits of franchisee records may be conducted by the franchisor on a reasonable basis.

(8) A franchisee's claim for warranty compensation may be denied only if:

(a) the franchisee's claim is based on a nonwarranty repair;

(b) the franchisee lacks material documentation for the claim;

(c) the franchisee fails to comply materially with specific substantive terms and conditions of the franchisor's warranty compensation program; or

(d) the franchisor has a bona fide belief based on competent evidence that the franchisee's claim is intentionally false, fraudulent, or misrepresented.

(9) (a) Any charge backs for warranty parts or service compensation and service incentives shall only be enforceable for the six-month period immediately following the date the payment for warranty reimbursement was made by the franchisor.

(b) Except as provided in Subsection ~~[(9)(e)]~~ (9)(e), all charge backs levied by a franchisor for sales compensation or sales incentives arising out of the sale or lease of a motor vehicle sold or leased by a franchisee shall be compensable only if written notice of the charge back is received by the franchisee within six months immediately following the sooner of:

(i) the date when the sales incentive program terminates; or

(ii) the date when payment for the sales compensation or sales incentive was made by the franchisor to the franchisee.

(c) (i) Upon an audit, the franchisor shall provide the franchisee automated or written notice explaining the amount of and reason for a charge back.

(ii) A franchisee may respond in writing within 30 days after the notice under Subsection (9)(c)(i) to:

(A) explain a deficiency; or

(B) provide materials or information to correct and cure compliance with a provision that is a basis for a charge back.

(d) A charge back:

(i) may not be based on a nonmaterial error that is clerical in nature; and

(ii) (A) shall be based on one or more specific instances of material noncompliance with the franchisor's warranty compensation program or sales incentive program; and

(B) may not be extrapolated from a sampling of warranty claims or sales incentive claims.

(e) The time limitations of this Subsection (9) do not preclude charge backs for any fraudulent claim that was previously paid.

Section 11. Section 13-49-201 is amended to read:

13-49-201. Requirement to be registered as an immigration consultant -- Exemptions.

(1) (a) Except as provided in Subsection (1)(b), an individual may not engage in an activity of an immigration consultant for compensation unless the individual is registered under this chapter.

(b) Except for Subsections 13-49-303(3) and (4), this chapter does not apply to an individual authorized:

(i) to practice law in this state; or

(ii) by federal law to represent ~~[persons]~~ an individual before the Board of Immigration Appeals or the United States Citizenship and Immigration Services.

(2) An immigration consultant may only offer nonlegal assistance or advice in an immigration matter.

Section 12. Section 13-49-203 is amended to read:

13-49-203. Requirement to submit to criminal background check.

(1) The division shall require an applicant for registration as an immigration consultant to:

(a) submit a fingerprint card in a form acceptable to the division; and

(b) consent to a fingerprint criminal background check by the Utah Bureau of Criminal Identification.

(2) (a) The division shall obtain information from a criminal history record maintained by the Utah Bureau of Criminal Identification pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

(b) The information obtained under Subsection (2)~~[(b)]~~(a) may only be used by the division to determine whether an applicant for registration as an immigration consultant meets the requirements of Subsection 13-49-202(1)(c).

Section 13. Section 17B-1-502 is amended to read:

17B-1-502. Withdrawal of area from local district -- Automatic withdrawal in certain circumstances.

(1) (a) An area within the boundaries of a local district may be withdrawn from the local district

only as provided in this part or, if applicable, as provided in Chapter 2a, Part 11, Municipal Services District Act.

(b) Except as provided in Subsections (2) and (3), the inclusion of an area of a local district within a municipality because of a municipal incorporation under Title 10, Chapter 2a, Municipal Incorporation, or a municipal annexation or boundary adjustment under Title 10, Chapter 2, Part 4, Annexation, does not affect the requirements under this part for the process of withdrawing that area from the local district.

(2) (a) An area within the boundaries of a local district is automatically withdrawn from the local district by the annexation of the area to a municipality or the adding of the area to a municipality by boundary adjustment under Title 10, Chapter 2, Part 4, Annexation, if:

(i) the local district provides:

(A) fire protection, paramedic, and emergency services; or

(B) law enforcement service;

(ii) an election for the creation of the local district was not required because of Subsection 17B-1-214(3)(d); and

(iii) before annexation or boundary adjustment, the boundaries of the local district do not include any of the annexing municipality.

(b) The effective date of a withdrawal under this Subsection (2) is governed by Subsection 17B-1-512(2)(b).

(3) (a) Except as provided in Subsection (3)(c) or (d), an area within the boundaries of a local district located in a county of the first class is automatically withdrawn from the local district by the incorporation of a municipality whose boundaries include the area if:

(i) the local district provides:

(A) fire protection, paramedic, and emergency services;

(B) law enforcement service; or

(C) municipal services, as defined in Section 17B-2a-1102;

(ii) an election for the creation of the local district was not required because of Subsection 17B-1-214(3)(d) or (g); and

(iii) the legislative body of the newly incorporated municipality:

(A) for a city or town incorporated under Title 10, Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015, complies with the feasibility study requirements of Section 17B-2a-1110;

(B) adopts a resolution no later than 180 days after the effective date of incorporation approving

the withdrawal that includes the legal description of the area to be withdrawn; and

(C) delivers a copy of the resolution to the board of trustees of the local district.

(b) The effective date of a withdrawal under this Subsection (3) is governed by Subsection 17B-1-512(2)(a).

(c) Section 17B-1-505 shall govern the withdrawal of an incorporated area within a county of the first class after the expiration of the 180-day period described in Subsection (3)(a)(iii)(B) if:

(i) the local district from which the area is withdrawn provides:

(A) fire protection, paramedic, and emergency services;

(B) law enforcement service; or

(C) municipal services, as defined in Section 17B-2a-1102; and

(ii) an election for the creation of the local district was not required under Subsection 17B-1-214(3)(d) or (g).

(d) An area within the boundaries of a local district that is incorporated as a metro township and for which the residents of the metro township at an election to incorporate chose to be included in a municipal services district is not subject to the provisions of this Subsection (3).

Section 14. Section 19-1-301.5 is amended to read:

19-1-301.5. Permit review adjudicative proceedings.

(1) As used in this section:

(a) "Dispositive action" means a final agency action that:

(i) the executive director takes as part of a special adjudicative proceeding; and

(ii) is subject to judicial review, in accordance with Subsection (15).

(b) "Dispositive motion" means a motion that is equivalent to:

(i) a motion to dismiss under Utah Rules of Civil Procedure, Rule 12(b)(6);

(ii) a motion for judgment on the pleadings under Utah Rules of Civil Procedure, Rule 12(c); or

(iii) a motion for summary judgment under Utah Rules of Civil Procedure, Rule 56.

(c) "Financial assurance determination" means a decision on whether a facility, site, plan, party, broker, owner, operator, generator, or permittee has met financial assurance or financial responsibility requirements as determined by the director of the Division of Waste Management and Radiation Control.

(d) "Party" means:

(i) the director who issued the permit order or financial assurance determination that is being

challenged in the special adjudicative proceeding under this section;

(ii) the permittee;

(iii) the person who applied for the permit, if the permit was denied;

(iv) the person who is subject to a financial assurance determination; or

(v) a person granted intervention by the administrative law judge.

(e) "Permit" means any of the following issued under this title:

(i) a permit;

(ii) a plan;

(iii) a license;

(iv) an approval order; or

(v) another administrative authorization made by a director.

(f) (i) "Permit order" means an order issued by a director that:

(A) approves a permit;

(B) renews a permit;

(C) denies a permit;

(D) modifies or amends a permit; or

(E) revokes and reissues a permit.

(ii) "Permit order" does not include an order terminating a permit.

(g) "Special adjudicative proceeding" means a proceeding under this section to resolve a challenge to a:

(i) permit order; or

(ii) financial assurance determination.

(2) This section governs [permit] special adjudicative proceedings.

(3) Except as expressly provided in this section, the provisions of Title 63G, Chapter 4, Administrative Procedures Act, do not apply to a special adjudicative proceeding under this section.

(4) If a public comment period was provided during the permit application process or the financial assurance determination process, a person who challenges an order, application, or determination may only raise an issue or argument during the special adjudicative proceeding that:

(a) the person raised during the public comment period; and

(b) was supported with information or documentation that is cited with reasonable specificity and sufficiently enables the director to fully consider the substance and significance of the issue.

(5) (a) Upon request by a party, the executive director shall issue a notice of appointment appointing an administrative law judge, in accordance with Subsections 19-1-301(5) and (6), to conduct a special adjudicative proceeding under this section.

(b) The executive director shall issue a notice of appointment within 30 days after the day on which a party files a request.

(c) A notice of appointment shall include:

(i) the agency's file number or other reference number assigned to the special adjudicative proceeding;

(ii) the name of the special adjudicative proceeding; and

(iii) the administrative law judge's name, title, mailing address, email address, and telephone number.

(6) (a) Only the following may file a petition for review of a permit order or financial assurance determination:

(i) a party; or

(ii) a person who is seeking to intervene under Subsection (7).

(b) A person who files a petition for review of a permit order or a financial assurance determination shall file the petition for review within 30 days after the day on which the permit order or the financial assurance determination is issued.

(c) The department may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules allowing the extension of the filing deadline described in Subsection (6)(b).

(d) A petition for review shall:

(i) be served in accordance with department rule;

(ii) include the name and address of each person to whom a copy of the petition for review is sent;

(iii) if known, include the agency's file number or other reference number assigned to the special adjudicative proceeding;

(iv) state the date on which the petition for review is served;

(v) include a statement of the petitioner's position, including, as applicable:

(A) the legal authority under which the petition for review is requested;

(B) the legal authority under which the agency has jurisdiction to review the petition for review;

(C) each of the petitioner's arguments in support of the petitioner's requested relief;

(D) an explanation of how each argument described in Subsection (6)(d)(v)(C) was preserved;

(E) a detailed description of any permit condition to which the petitioner is objecting;

(F) any modification or addition to a permit that the petitioner is requesting;

(G) a demonstration that the agency's permit decision is based on a finding of fact or conclusion of law that is clearly erroneous;

(H) if the agency director addressed a finding of fact or conclusion of law described in Subsection (6)(d)(v)(G) in a response to public comment, a citation to the comment and response that relates to the finding of fact or conclusion of law and an explanation of why the director's response was clearly erroneous or otherwise warrants review; and

(I) a claim for relief.

(e) A person may not raise an issue or argument in a petition for review unless the issue or argument:

(i) was preserved in accordance with Subsection (4); or

(ii) was not reasonably ascertainable before or during the public comment period.

(f) To demonstrate that an issue or argument was preserved in accordance with Subsection (4), a petitioner shall include the following in the petitioner's petition for review:

(i) a citation to where the petitioner raised the issue or argument during the public comment period; and

(ii) for each document upon which the petitioner relies in support of an issue or argument, a description that:

(A) states why the document is part of the administrative record; and

(B) demonstrates that the petitioner cited the document with reasonable specificity in accordance with Subsection (4)(b).

(7) (a) A person who is not a party may not participate in a special adjudicative proceeding under this section unless the person is granted the right to intervene under this Subsection (7).

(b) A person who seeks to intervene in a special adjudicative proceeding under this section shall, within 30 days after the day on which the permit order or the financial assurance determination being challenged was issued, file:

(i) a petition to intervene that:

(A) meets the requirements of Subsection 63G-4-207(1); and

(B) demonstrates that the person is entitled to intervention under Subsection (7)(d)(ii); and

(ii) a timely petition for review.

(c) In a special adjudicative proceeding to review a permit order, the permittee is a party to the special adjudicative proceeding regardless of who files the petition for review and does not need to file a petition to intervene under Subsection (7)(b).

(d) An administrative law judge shall grant a petition to intervene in a special adjudicative proceeding, if:

(i) the petition to intervene is timely filed; and

(ii) the petitioner:

(A) demonstrates that the petitioner's legal interests may be substantially affected by the special adjudicative proceeding;

(B) demonstrates that the interests of justice and the orderly and prompt conduct of the special adjudicative proceeding will not be materially impaired by allowing the intervention; and

(C) in the petitioner's petition for review, raises issues or arguments that are preserved in accordance with Subsection (4).

(e) An administrative law judge:

(i) shall issue an order granting or denying a petition to intervene in accordance with Subsection 63G-4-207(3)(a); and

(ii) may impose conditions on intervenors as described in Subsections 63G-4-207(3)(b) and (c).

(f) The department may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules allowing the extension of the filing deadline described in Subsection (7)(b).

(8) (a) Unless the parties otherwise agree, the schedule for a special adjudicative proceeding is as follows:

(i) the director shall file and serve the administrative record within 40 days after the day on which the executive director issues a notice of appointment, unless otherwise ordered by the administrative law judge;

(ii) any dispositive motion shall be filed and served within 15 days after the day on which the administrative record is filed and served;

(iii) the petitioner shall file and serve an opening brief of no more than 30 pages:

(A) within 30 days after the day on which the director files and serves the administrative record; or

(B) if a party files and serves a dispositive motion, within 30 days after the day on which the administrative law judge issues a decision on the dispositive motion, including a decision to defer the motion;

(iv) each party shall file and serve a response brief of no more than 15 pages within 15 days after the day on which the petitioner files and serves the opening brief;

(v) the petitioner may file and serve a reply brief of not more than 15 pages within 15 days after the day on which the response brief is filed and served; and

(vi) if the petitioner files and serves a reply brief, each party may file and serve a surreply brief of no more than five pages within five business days after

the day on which the petitioner files and serves the reply brief.

(b) (i) A reply brief may not raise an issue that was not raised in the response brief.

(ii) A surreply brief may not raise an issue that was not raised in the reply brief.

(9) (a) An administrative law judge shall conduct a special adjudicative proceeding based only on the administrative record and not as a trial de novo.

(b) To the extent relative to the issues and arguments raised in the petition for review, the administrative record consists of the following items, if they exist:

(i) (A) for review of a permit order, the permit application, draft permit, and final permit; or

(B) for review of a financial assurance determination, the proposed financial assurance determination from the owner or operator of the facility, the draft financial assurance determination, and the final financial assurance determination;

(ii) each statement of basis, fact sheet, engineering review, or other substantive explanation designated by the director as part of the basis for the decision relating to the permit order or the financial assurance determination;

(iii) the notice and record of each public comment period;

(iv) the notice and record of each public hearing, including oral comments made during the public hearing;

(v) written comments submitted during the public comment period;

(vi) responses to comments that are designated by the director as part of the basis for the decision relating to the permit order or the financial assurance determination;

(vii) any information that is:

(A) requested by and submitted to the director; and

(B) designated by the director as part of the basis for the decision relating to the permit order or the financial assurance determination;

(viii) any additional information specified by rule;

(ix) any additional documents agreed to by the parties; and

(x) information supplementing the record under Subsection (9)(c).

(c) (i) There is a rebuttable presumption against supplementing the record.

(ii) A party may move to supplement the record described in Subsection (9)(b) with technical or factual information.

(iii) The administrative law judge may grant a motion to supplement the record described in

Subsection (9)(b) with technical or factual information if the moving party proves that:

(A) good cause exists for supplementing the record;

(B) supplementing the record is in the interest of justice; and

(C) supplementing the record is necessary for resolution of the issues.

(iv) The department may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules permitting further supplementation of the record.

(10) (a) Except as otherwise provided by this section, the administrative law judge shall review and respond to a petition for review in accordance with Subsections 63G-4-201(3)(d) and (e), following the relevant procedures for formal adjudicative proceedings.

(b) The administrative law judge shall require the parties to file responsive briefs in accordance with Subsection (8).

(c) If an administrative law judge enters an order of default against a party, the administrative law judge shall enter the order of default in accordance with Section 63G-4-209.

(d) The administrative law judge, in conducting a special adjudicative proceeding:

(i) may not participate in an ex parte communication with a party to the special adjudicative proceeding regarding the merits of the special adjudicative proceeding unless notice and an opportunity to be heard are afforded to all parties; and

(ii) shall, upon receiving an ex parte communication, place the communication in the public record of the proceeding and afford all parties an opportunity to comment on the information.

(e) In conducting a special adjudicative proceeding, the administrative law judge may take judicial notice of matters not in the administrative record, in accordance with Utah Rules of Evidence, Rule 201.

(f) An administrative law judge may take any action in a special adjudicative proceeding that is not a dispositive action.

(11) (a) A person who files a petition for review has the burden of demonstrating that an issue or argument raised in the petition for review has been preserved in accordance with Subsection (4).

(b) The administrative law judge shall dismiss, with prejudice, any issue or argument raised in a petition for review that has not been preserved in accordance with Subsection (4).

(12) In response to a dispositive motion, within 45 days after the day on which oral argument takes place, or, if there is no oral argument, within 45 days after the day on which the reply brief on the dispositive motion is due, the administrative law judge shall:

(a) submit a proposed dispositive action to the executive director recommending full or partial resolution of the special adjudicative proceeding, that includes:

- (i) written findings of fact;
- (ii) written conclusions of law; and
- (iii) a recommended order; or

(b) if the administrative law judge determines that a full or partial resolution of the special adjudicative proceeding is not appropriate, issue an order that explains the basis for the administrative law judge's determination.

(13) For each issue or argument that is not dismissed or otherwise resolved under Subsection (11)(b) or (12), the administrative law judge shall:

(a) provide the parties an opportunity for briefing and oral argument in accordance with this section;

(b) conduct a review of the director's order or determination, based on the record described in Subsections (9)(b), (9)(c), and (10)(e); and

(c) within 60 days after the day on which the reply brief on the dispositive motion is due, submit to the executive director a proposed dispositive action, that includes:

- (i) written findings of fact;
- (ii) written conclusions of law; and
- (iii) a recommended order.

(14) (a) When the administrative law judge submits a proposed dispositive action to the executive director, the executive director may:

(i) adopt, adopt with modifications, or reject the proposed dispositive action; or

(ii) return the proposed dispositive action to the administrative law judge for further action as directed.

(b) On review of a proposed dispositive action, the executive director shall uphold all factual, technical, and scientific agency determinations that are not clearly erroneous based on the petitioner's marshaling of the evidence.

(c) In reviewing a proposed dispositive action during a special adjudicative proceeding, the executive director may take judicial notice of matters not in the record, in accordance with Utah Rules of Evidence, Rule 201.

(d) The executive director may use the executive director's technical expertise in making a determination.

(15) (a) A party may seek judicial review in the Utah Court of Appeals of a dispositive action in a special adjudicative proceeding, in accordance with Sections 63G-4-401, 63G-4-403, and 63G-4-405.

(b) An appellate court shall limit its review of a dispositive action of a special adjudicative proceeding under this section to:

(i) the record described in Subsections (9)(b), (9)(c), (10)(e), and (14)(c); and

(ii) the record made by the administrative law judge and the executive director during the special adjudicative proceeding.

(c) During judicial review of a dispositive action, the appellate court shall:

(i) review all agency determinations in accordance with Subsection 63G-4-403(4), recognizing that the agency has been granted substantial discretion to interpret its governing statutes and rules; and

(ii) uphold all factual, technical, and scientific agency determinations that are not clearly erroneous based upon the petitioner's marshaling of the evidence.

(16) (a) The filing of a petition for review does not:

(i) stay a permit order or a financial assurance determination; or

(ii) delay the effective date of a permit order or a portion of a financial assurance determination.

(b) A permit order or a financial assurance determination may not be stayed or delayed unless a stay is granted under this Subsection (16).

(c) The administrative law judge shall:

(i) consider a party's motion to stay a permit order or a financial assurance determination during a special adjudicative proceeding; and

(ii) within 45 days after the day on which the reply brief on the motion to stay is due, submit a proposed determination on the stay to the executive director.

(d) The administrative law judge may not recommend to the executive director a stay of a permit order or a financial assurance determination, or a portion of a permit order or a portion of a financial assurance determination, unless:

(i) all parties agree to the stay; or

(ii) the party seeking the stay demonstrates that:

(A) the party seeking the stay will suffer irreparable harm unless the stay is issued;

(B) the threatened injury to the party seeking the stay outweighs whatever damage the proposed stay is likely to cause the party restrained or enjoined;

(C) the stay, if issued, would not be adverse to the public interest; and

(D) there is a substantial likelihood that the party seeking the stay will prevail on the merits of the underlying claim, or the case presents serious issues on the merits, which should be the subject of further adjudication.

(e) A party may appeal the executive director's decision regarding a stay of a permit order or a financial assurance determination to the Utah Court of Appeals, in accordance with Section 78A-4-103.

(17) (a) Subject to Subsection (17)(c), the administrative law judge shall issue a written response to a non-dispositive motion within 45 days after the day on which the reply brief on the non-dispositive motion is due or, if the administrative law judge grants oral argument on the non-dispositive motion, within 45 days after the day on which oral argument takes place.

(b) If the administrative law judge determines that the administrative law judge needs more time to issue a response to a non-dispositive motion, the administrative law judge may issue a response after the deadline described in Subsection (17)(a) if, before the deadline expires, the administrative law judge gives notice to the parties that includes:

(i) the amount of additional time that the administrative law judge requires; and

(ii) the reason the administrative law judge needs the additional time.

(c) If the administrative law judge grants oral argument on a non-dispositive motion, the administrative law judge shall hold the oral argument within 30 days after the day on which the reply brief on the non-dispositive motion is due.

Section 15. Section 20A-1-306 is amended to read:

20A-1-306. Electronic signatures prohibited.

Notwithstanding Title 46, Chapter 4, Uniform Electronic Transactions Act, and Subsections 68-3-12(1)(e) and 68-3-12.5[(26)](27) and [(35)](38), an electronic signature may not be used to sign a petition to:

(1) qualify a ballot proposition for the ballot under Chapter 7, Issues Submitted to the Voters;

(2) organize and register a political party under Chapter 8, Political Party Formation and Procedures; or

(3) qualify a candidate for the ballot under Chapter 9, Candidate Qualifications and Nominating Procedures.

Section 16. Section 20A-7-702 is amended to read:

20A-7-702. Voter information pamphlet -- Form -- Contents -- Distribution.

(1) The lieutenant governor shall ensure that all information submitted for publication in the voter information pamphlet is:

(a) printed and bound in a single pamphlet;

(b) printed in clear readable type, no less than 10 point, except that the text of any measure may be set forth in eight-point type; and

(c) printed on a quality and weight of paper that best serves the voters.

(2) The voter information pamphlet shall contain the following items in this order:

(a) a cover title page;

(b) an introduction to the pamphlet by the lieutenant governor;

(c) a table of contents;

(d) a list of all candidates for constitutional offices;

(e) a list of candidates for each legislative district;

(f) a 100-word statement of qualifications for each candidate for the office of governor, lieutenant governor, attorney general, state auditor, or state treasurer, if submitted by the candidate to the lieutenant governor's office before 5 p.m. on the date that falls 105 days before the date of the election;

(g) information pertaining to all measures to be submitted to the voters, beginning a new page for each measure and containing, in the following order for each measure:

(i) a copy of the number and ballot title of the measure;

(ii) the final vote cast by the Legislature on the measure if it is a measure submitted by the Legislature or by referendum;

(iii) the impartial analysis of the measure prepared by the Office of Legislative Research and General Counsel;

(iv) the arguments in favor of the measure, the rebuttal to the arguments in favor of the measure, the arguments against the measure, and the rebuttal to the arguments against the measure, with the name and title of the authors at the end of each argument or rebuttal;

(v) for each constitutional amendment, a complete copy of the text of the constitutional amendment, with all new language underlined, and all deleted language placed within brackets;

(vi) for each initiative qualified for the ballot, a copy of the measure as certified by the lieutenant governor and a copy of the fiscal impact estimate prepared according to Section 20A-7-202.5; and

(vii) for each referendum qualified for the ballot, a complete copy of the text of the law being submitted to the voters for their approval or rejection, with all new language underlined and all deleted language placed within brackets, as applicable;

(h) a description provided by the Judicial Performance Evaluation Commission of the selection and retention process for judges, including, in the following order:

(i) a description of the judicial selection process;

(ii) a description of the judicial performance evaluation process;

(iii) a description of the judicial retention election process;

(iv) a list of the criteria of the judicial performance evaluation and the minimum performance standards;

(v) the names of the judges standing for retention election; and

(vi) for each judge:

(A) a list of the counties in which the judge is subject to retention election;

(B) a short biography of professional qualifications and a recent photograph;

(C) a narrative concerning the judge's performance;

(D) for each standard of performance, a statement identifying whether or not the judge met the standard and, if not, the manner in which the judge failed to meet the standard;

(E) a statement identifying whether or not the Judicial Performance Evaluation Commission recommends the judge be retained or declines to make a recommendation and the number of votes for and against the commission's recommendation;

(F) any statement provided by a judge who is not recommended for retention by the Judicial Performance Evaluation Commission under Section 78A-12-203;

(G) in a bar graph, the average of responses to each survey category, displayed with an identification of the minimum acceptable score as set by Section 78A-12-205 and the average score of all judges of the same court level; and

(H) a website address that contains the Judicial Performance Evaluation Commission's report on the judge's performance evaluation;

(i) for each judge, a statement provided by the Utah Supreme Court identifying the cumulative number of informal reprimands, when consented to by the judge in accordance with Title 78A, Chapter 11, Judicial Conduct Commission, formal reprimands, and all orders of censure and suspension issued by the Utah Supreme Court under Utah Constitution, Article VIII, Section 13, during the judge's current term and the immediately preceding term, and a detailed summary of the supporting reasons for each violation of the Code of Judicial Conduct that the judge has received;

(j) an explanation of ballot marking procedures prepared by the lieutenant governor, indicating the ballot marking procedure used by each county and explaining how to mark the ballot for each procedure;

(k) voter registration information, including information on how to obtain an absentee ballot;

(l) a list of all county clerks' offices and phone numbers; and

(m) on the back cover page, a printed copy of the following statement signed by the lieutenant governor:

"I, _____ (print name), Lieutenant Governor of Utah, certify that the measures contained in this pamphlet will be submitted to the voters of Utah at the election to be held throughout

the state on ____ (date of election), and that this pamphlet is complete and correct according to law.

SEAL

Witness my hand and the Great Seal of the State, at Salt Lake City, Utah this ____ day of ____ (month), ____ (year)

(signed) _____
Lieutenant Governor"

(3) No earlier than 75 days, and no later than 15 days, before the day on which voting commences, the lieutenant governor shall:

(a) (i) distribute one copy of the voter information pamphlet to each household within the state;

(ii) distribute to each household within the state a notice:

(A) printed on a postage prepaid, preaddressed return form that a person may use to request delivery of a voter information pamphlet by mail;

(B) that states the address of the Statewide Electronic Voter Information Website authorized by Section 20A-7-801; and

(C) that states the phone number a voter may call to request delivery of a voter information pamphlet by mail; or

(iii) ensure that one copy of the voter information pamphlet is placed in one issue of every newspaper of general circulation in the state;

(b) ensure that a sufficient number of printed voter information pamphlets are available for distribution as required by this section;

(c) provide voter information pamphlets to each county clerk for free distribution upon request and for placement at polling places; and

(d) ensure that the distribution of the voter information pamphlets is completed 15 days before the election.

(4) The lieutenant governor may distribute a voter information pamphlet at a location frequented by a person who cannot easily access the Statewide Electronic Voter Information Website authorized by Section 20A-7-801.

~~[(5) The lieutenant governor shall:]~~

~~[(a) conduct a study to evaluate the effectiveness of the notice authorized by this section; and]~~

~~[(b) provide the results of a study described in Subsection (5)(a) to the Government Operations Interim Committee by October 1, 2013.]~~

Section 17. Section 26-37a-102 is amended to read:

26-37a-102. Definitions.

As used in this chapter:

(1) "Ambulance service provider" means:

(a) an ambulance provider as defined in Section 26-8a-102; or

(b) a non-911 service provider as defined in Section 26-8a-102.

(2) "Assessment" means the Medicaid ambulance service provider assessment established by this chapter.

(3) "Division" means the Division of Health Care Financing within the department.

(4) "Non-federal portion" means the non-federal share the division needs to seed amounts that will support fee-for-service ambulance service provider rates, as described in Section 26-37a-105.

(5) "Total transports" means the number of total ambulance transports applicable to a given fiscal year, as determined under Subsection 26-37a-104(5).

Section 18. Section 31A-22-619.6 is amended to read:

31A-22-619.6. Coordination of benefits with workers' compensation claim -- Health insurer's duty to pay.

(1) As used in this section:

(a) "Employee" means an employee, worker, or operative as defined in Section 34A-2-104.

(b) "Employer" is as enumerated and defined in Section 34A-2-103.

(c) "Health benefit plan":

(i) means the same as that term is [as] defined in Section 31A-1-301;

(ii) includes:

(A) a health maintenance organization;

(B) a third party administrator that offers, sells, manages, or administers a health benefit plan; and

(C) the Public Employees' Benefit and Insurance Program created in Section 49-20-103; and

(iii) excludes a health benefit plan offered by an insurer that has a market share in the state's fully insured market that is less than 2%, as determined in the department's annual Market Share Report published by the department.

(d) "Workers' compensation carrier" means any of the entities an employer may use to provide workers' compensation benefits for its employees under Section 34A-2-201.

(e) "Workers' compensation claim" means a claim for compensation for medical benefits under Title 34A, Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act.

(2) (a) For medical claims incurred on or after July 1, 2014, an employee's health benefit plan may not delay or deny payment of benefits due to the employee under the terms of a health benefit plan by claiming that treatment for the employee's injury or disease is the responsibility of the employer's workers' compensation carrier if:

(i) the employee or a health care provider on behalf of an employee files an application for

hearing regarding the workers' compensation claim with the Division of Adjudication under Section 34A-2-801; and

(ii) the health benefit plan received a notice from the Labor Commission that an application for hearing was filed in accordance with Subsection (2)(a)(i).

(b) The Labor Commission shall provide the notice required by Subsection (2)(a)(ii) in accordance with Subsection 34A-2-213(2).

(3) A health benefit plan that receives a medical claim from the employee or a health care provider and a notice from the Labor Commission in accordance with Subsection (2):

(a) shall pay the medical claim directly to the health care provider in the dollar amount paid under the limits, terms, and conditions of the employee's health benefit plan; and

(b) may send a notice to the Labor Commission or the attorney for the injured worker informing the parties that the health benefit plan paid a claim under the provisions of this section.

(4) If the claims for medical services paid pursuant to Subsection (3) are determined to be compensable by the workers' compensation carrier in a final order under Section 34A-2-801 or under the terms of a settlement agreement under Section [34A-2-801] 34A-2-420, the workers' compensation carrier shall pay the health benefit plan and employee in accordance with Subsection 34A-2-213(3)(b).

(5) (a) A health care provider who receives payment for a medical claim from a health benefit plan under the provisions of Subsection (3) may not request additional payment for the medical claim from the workers' compensation carrier if the final order under Section 34A-2-801 or terms of the settlement agreement under Section [34A-2-801] 34A-2-420 determine that the medical claim was compensable by the workers' compensation carrier.

(b) A health benefit plan that is reimbursed under the provisions of Subsection 34A-2-213(3) for a medical claim may not seek reimbursement or autorecovery from the health care provider for any difference between the amount of the claim paid by the health benefit plan and the reimbursement to the health benefit plan by the workers' compensation carrier under Subsection 34A-2-213(3).

(c) If a final order of the Labor Commission under Section 34A-2-801 or the terms of a settlement agreement under Section [34A-2-801] 34A-2-420 determines that a medical claim is compensable by the workers' compensation carrier, the workers' compensation carrier may not seek reimbursement or autorecovery from a health care provider for any part of the medical claim that is the responsibility of the workers' compensation carrier under the order or settlement agreement.

(6) This section sunsets in accordance with Section 63I-1-231.

Section 19. Section 31A-33-106 is amended to read:

31A-33-106. Board of directors -- Status of the fund in relationship to the state.

(1) There is created a board of directors of the Workers' Compensation Fund.

(2) The board shall consist of seven directors.

(3) One director shall be the chief executive officer of the fund.

(4) (a) In accordance with a plan that meets the requirements of this section and the fund's articles of incorporation and bylaws, the board shall nominate and the policyholders shall elect six public directors as follows:

(i) four directors who are owners, officers, or employees of policyholders, each of whom is an owner, officer, or employee of a policyholder that has been insured by the Workers' Compensation Fund for at least one year before the election of the director representing the policyholder; and

(ii) two directors from the public in general.

(b) The plan described in Subsection (4)(a) shall comply with Section 31A-5-409 to the extent that Section 31A-5-409 does not conflict with this section.

(5) No two directors may represent or be employed by the same policyholder.

(6) At least five directors elected by the policyholders shall have had previous experience in:

- (a) the actuarial profession;
- (b) accounting;
- (c) investments;
- (d) risk management;
- (e) occupational safety;
- (f) casualty insurance; or
- (g) the legal profession.

(7) A director who represents a policyholder that fails to maintain workers' compensation insurance through the Workers' Compensation Fund shall immediately resign from the board.

(8) A person may not be a director if that person:

(a) has any interest as a stockholder, employee, attorney, or contractor of a competing insurance carrier providing workers' compensation insurance in Utah;

(b) fails to meet or comply with the conflict of interest policies established by the board; or

(c) is not bondable.

(9) After notice and a hearing, the board may remove any director for cause which includes:

- (a) neglect of duty; or
- (b) malfeasance.

(10) (a) Except as required by Subsection (10)(b), the term of office of the directors elected by the policyholders shall be four years, beginning July 1 of the year of [appointment] election.

(b) Notwithstanding the requirements of Subsection (10)(a), the board shall, at the time of election or reelection, adjust the length of terms to ensure that no more than two terms expire in a calendar year.

(11) A director shall hold office until the director's successor is selected and qualified.

(12) When a vacancy occurs in the membership of the board for any reason, the replacement shall be appointed by a majority of the board for the unexpired term, after which time the replacement shall stand for policyholder election as described in the fund's articles of incorporation and bylaws.

(13) The board shall annually elect a chair and other officers as needed from its membership.

(14) (a) The board shall meet at least quarterly at a time and place designated by the chair.

(b) The chair:

(i) may call board meetings more frequently than quarterly; and

(ii) shall call additional board meetings if requested to do so by a majority of the board.

(15) Four directors are a quorum for the purpose of transacting all business of the board.

(16) Each decision of the board requires the affirmative vote of at least four directors for approval.

(17) (a) (i) A director may receive compensation and be reimbursed for reasonable expenses incurred in the performance of the director's official duties:

(A) as determined by the board of directors; and

(B) if the aggregate of compensation paid to all directors of the Workers' Compensation Fund in a calendar year is less than or equal to the amount described in Subsection (17)(a)(ii).

(ii) (A) For the period beginning January 1, 2016, and ending December 31, 2016, the amount described in Subsection (17)(a)(i)(B) is \$150,000.

(B) For calendar years beginning on or after January 1, 2017, the amount described in Subsection (17)(a)(i)(B) is the sum of the amount under this Subsection (17)(a) for the previous year and an amount equal to the greater of:

(I) an amount calculated by multiplying the amount under this Subsection (17)(a) for the previous year by the actual percent change during the previous calendar year in the consumer price index; and

(II) 0.

(C) For purposes of this Subsection (17), the consumer price index shall be calculated as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(b) Directors may decline to receive compensation and expenses for their service.

(c) The Worker's Compensation Fund shall pay compensation to and reimburse reasonable expenses of directors as permitted by this section:

(i) from the Injury Fund; and

(ii) upon vouchers drawn in the same manner as the Workers' Compensation Fund pays its normal operating expenses.

(d) The chief executive officer of the Workers' Compensation Fund shall serve on the board without payment of compensation, but may be reimbursed for reasonable expenses in accordance with Subsection (17)(a).

(e) The Workers' Compensation Fund shall annually report to the commissioner compensation and expenses paid to the directors on the board.

(18) The placement of this chapter in this title does not:

(a) remove from the board of directors the managerial, financial, or operational control of the Workers' Compensation Fund;

(b) give to the state or the governor managerial, financial, or operational control of the Workers' Compensation Fund;

(c) consistent with Section 31A-33-105, cause the state to be liable for any:

(i) obligation of the Workers' Compensation Fund; or

(ii) expense, liability, or debt described in Section 31A-33-105;

(d) alter the legal status of the Workers' Compensation Fund as:

(i) a nonprofit, self-supporting, quasi-public corporation; and

(ii) an insurer:

(A) regulated under this title;

(B) that is structured to operate in perpetuity; and

(C) domiciled in the state; or

(e) alter the requirement that the Workers' Compensation Fund provide workers' compensation:

(i) for the purposes set forth in Section 31A-33-102;

(ii) consistent with Section 34A-2-201; and

(iii) as provided in Section 31A-22-1001.

Section 20. Section 31A-37-301 is amended to read:

31A-37-301. Incorporation -- Organization.

(1) A pure captive insurance company or a sponsored captive insurance company shall be incorporated as a stock insurer with the capital of

the pure captive insurance company or sponsored captive insurance company:

(a) divided into shares; and

(b) held by the stockholders of the pure captive insurance company or sponsored captive insurance company.

(2) A pure captive insurance company or a sponsored captive insurance company formed as a limited liability company shall be organized as a members' interest insurer with the capital of the pure captive insurance company or sponsored captive insurance company:

(a) divided into interests; and

(b) held by the members of the pure captive insurance company or sponsored captive insurance company.

(3) An association captive insurance company or an industrial insured captive insurance company may be:

(a) incorporated as a stock insurer with the capital of the association captive insurance company or industrial insured captive insurance company:

(i) divided into shares; and

(ii) held by the stockholders of the association captive insurance company or industrial insured captive insurance company;

(b) incorporated as a mutual insurer without capital stock, with a governing body elected by the member organizations of the association captive insurance company or industrial insured captive insurance company; or

(c) organized as a reciprocal.

(4) A captive insurance company formed as a corporation may not have fewer than three incorporators of whom one shall be a resident of this state.

(5) A captive insurance company formed as a limited liability company may not have fewer than three organizers of whom one shall be a resident of this state.

(6) (a) Before a captive insurance company formed as a corporation files the corporation's articles of incorporation with the Division of Corporations and Commercial Code, the incorporators shall obtain from the commissioner a certificate finding that the establishment and maintenance of the proposed corporation will promote the general good of the state.

(b) In considering a request for a certificate under Subsection (6)(a), the commissioner shall consider:

(i) the character, reputation, financial standing, and purposes of the incorporators;

(ii) the character, reputation, financial responsibility, insurance experience, and business qualifications of the officers and directors;

(iii) any information in:

- (A) the application for a certificate of authority; or
 - (B) the department's files; and
- (iv) other aspects that the commissioner considers advisable.

(7) (a) Before a captive insurance company formed as a limited liability company files the limited liability company's [articles] certificate of organization with the Division of Corporations and Commercial Code, the limited liability company shall obtain from the commissioner a certificate finding that the establishment and maintenance of the proposed limited liability company will promote the general good of the state.

(b) In considering a request for a certificate under Subsection (7)(a), the commissioner shall consider:

(i) the character, reputation, financial standing, and purposes of the organizers;

(ii) the character, reputation, financial responsibility, insurance experience, and business qualifications of the managers;

(iii) any information in:

(A) the application for a certificate of authority; or

(B) the department's files; and

(iv) other aspects that the commissioner considers advisable.

(8) (a) A captive insurance company formed as a corporation shall file with the Division of Corporations and Commercial Code:

(i) the captive insurance company's articles of incorporation;

(ii) the certificate issued pursuant to Subsection (6); and

(iii) the fees required by the Division of Corporations and Commercial Code.

(b) The Division of Corporations and Commercial Code shall file both the articles of incorporation and the certificate described in Subsection (6) for a captive insurance company that complies with this section.

(9) (a) A captive insurance company formed as a limited liability company shall file with the Division of Corporations and Commercial Code:

(i) the captive insurance company's certificate of organization;

(ii) the certificate issued pursuant to Subsection (7); and

(iii) the fees required by the Division of Corporations and Commercial Code.

(b) The Division of Corporations and Commercial Code shall file both the certificate of organization and the certificate described in Subsection (7) for a captive insurance company that complies with this section.

(10) (a) The organizers of a captive insurance company formed as a reciprocal insurer shall obtain

from the commissioner a certificate finding that the establishment and maintenance of the proposed association will promote the general good of the state.

(b) In considering a request for a certificate under Subsection (10)(a), the commissioner shall consider:

(i) the character, reputation, financial standing, and purposes of the incorporators;

(ii) the character, reputation, financial responsibility, insurance experience, and business qualifications of the officers and directors;

(iii) any information in:

(A) the application for a certificate of authority; or

(B) the department's files; and

(iv) other aspects that the commissioner considers advisable.

(11) (a) An alien captive insurance company that has received a certificate of authority to act as a branch captive insurance company shall obtain from the commissioner a certificate finding that:

(i) the home state of the alien captive insurance company imposes statutory or regulatory standards in a form acceptable to the commissioner on companies transacting the business of insurance in that state; and

(ii) after considering the character, reputation, financial responsibility, insurance experience, and business qualifications of the officers and directors of the alien captive insurance company, and other relevant information, the establishment and maintenance of the branch operations will promote the general good of the state.

(b) After the commissioner issues a certificate under Subsection (11)(a) to an alien captive insurance company, the alien captive insurance company may register to do business in this state.

(12) At least one of the members of the board of directors of a captive insurance company formed as a corporation shall be a resident of this state.

(13) At least one of the managers of a limited liability company shall be a resident of this state.

(14) At least one of the members of the subscribers' advisory committee of a captive insurance company formed as a reciprocal insurer shall be a resident of this state.

(15) (a) A captive insurance company formed as a corporation under this chapter has the privileges and is subject to the provisions of the general corporation law as well as the applicable provisions contained in this chapter.

(b) If a conflict exists between a provision of the general corporation law and a provision of this chapter, this chapter shall control.

(c) Except as provided in Subsection (15)(d), the provisions of this title pertaining to a merger, consolidation, conversion, mutualization, and redomestication apply in determining the

procedures to be followed by a captive insurance company in carrying out any of the transactions described in those provisions.

(d) Notwithstanding Subsection (15)(c), the commissioner may waive or modify the requirements for public notice and hearing in accordance with rules adopted under Section 31A-37-106.

(e) If a notice of public hearing is required, but no one requests a hearing, the commissioner may cancel the public hearing.

(16) (a) A captive insurance company formed as a limited liability company under this chapter has the privileges and is subject to Title 48, Chapter 2c, Utah Revised Limited Liability Company Act, or Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant to Section 48-3a-1405, as well as the applicable provisions in this chapter.

(b) If a conflict exists between a provision of the limited liability company law and a provision of this chapter, this chapter controls.

(c) The provisions of this title pertaining to a merger, consolidation, conversion, mutualization, and redomestication apply in determining the procedures to be followed by a captive insurance company in carrying out any of the transactions described in those provisions.

(d) Notwithstanding Subsection (16)(c), the commissioner may waive or modify the requirements for public notice and hearing in accordance with rules adopted under Section 31A-37-106.

(e) If a notice of public hearing is required, but no one requests a hearing, the commissioner may cancel the public hearing.

(17) (a) A captive insurance company formed as a reciprocal insurer under this chapter has the powers set forth in Section 31A-4-114 in addition to the applicable provisions of this chapter.

(b) If a conflict exists between the provisions of Section 31A-4-114 and the provisions of this chapter with respect to a captive insurance company, this chapter shall control.

(c) To the extent a reciprocal insurer is made subject to other provisions of this title pursuant to Section 31A-14-208, the provisions are not applicable to a reciprocal insurer formed under this chapter unless the provisions are expressly made applicable to a captive insurance company under this chapter.

(d) In addition to the provisions of this Subsection (17), a captive insurance company organized as a reciprocal insurer that is an industrial insured group has the privileges of Section 31A-4-114 in addition to applicable provisions of this title.

(18) (a) The articles of incorporation or bylaws of a captive insurance company formed as a corporation may not authorize a quorum of a board of directors to consist of fewer than one-third of the fixed or

prescribed number of directors as provided in Section 16-10a-824.

(b) The certificate of organization of a captive insurance company formed as a limited liability company may not authorize a quorum of a board of managers to consist of fewer than one-third of the fixed or prescribed number of directors required in Section 16-10a-824.

Section 21. Section 31A-37-502 is amended to read:

31A-37-502. Examination.

(1) (a) As provided in this section, the commissioner, or a person appointed by the commissioner, shall examine each captive insurance company in each five-year period.

(b) The five-year period described in Subsection (1)(a) shall be determined on the basis of five full annual accounting periods of operation.

(c) The examination is to be made as of:

(i) December 31 of the full [~~three~~] five-year period; or

(ii) the last day of the month of an annual accounting period authorized for a captive insurance company under this section.

(d) In addition to an examination required under this Subsection (1), the commissioner, or a person appointed by the commissioner may examine a captive insurance company whenever the commissioner determines it to be prudent.

(2) During an examination under this section the commissioner, or a person appointed by the commissioner, shall thoroughly inspect and examine the affairs of the captive insurance company to ascertain:

(a) the financial condition of the captive insurance company;

(b) the ability of the captive insurance company to fulfill the obligations of the captive insurance company; and

(c) whether the captive insurance company has complied with this chapter.

(3) The commissioner may accept a comprehensive annual independent audit in lieu of an examination:

(a) of a scope satisfactory to the commissioner; and

(b) performed by an independent auditor approved by the commissioner.

(4) A captive insurance company that is inspected and examined under this section shall pay, as provided in Subsection 31A-37-202(6)(b), the expenses and charges of an inspection and examination.

Section 22. Section 32B-1-102 is amended to read:

32B-1-102. Definitions.

As used in this title:

- (1) "Airport lounge" means a business location:
- (a) at which an alcoholic product is sold at retail for consumption on the premises; and
 - (b) that is located at an international airport with a United States Customs office on the premises of the international airport.
- (2) "Airport lounge license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 5, Airport Lounge License.
- (3) "Alcoholic beverage" means the following:
- (a) beer; or
 - (b) liquor.
- (4) (a) "Alcoholic product" means a product that:
- (i) contains at least .5% of alcohol by volume; and
 - (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol in an amount equal to or greater than .5% of alcohol by volume.
- (b) "Alcoholic product" includes an alcoholic beverage.
- (c) "Alcoholic product" does not include any of the following common items that otherwise come within the definition of an alcoholic product:
- (i) except as provided in Subsection (4)(d), an extract;
 - (ii) vinegar;
 - (iii) cider;
 - (iv) essence;
 - (v) tincture;
 - (vi) food preparation; or
 - (vii) an over-the-counter medicine.
- (d) "Alcoholic product" includes an extract containing alcohol obtained by distillation when it is used as a flavoring in the manufacturing of an alcoholic product.
- (5) "Alcohol training and education seminar" means a seminar that is:
- (a) required by Chapter 5, Part 4, Alcohol Training and Education Act; and
 - (b) described in Section 62A-15-401.
- (6) "Banquet" means an event:
- (a) that is held at one or more designated locations approved by the commission in or on the premises of a:
 - (i) hotel;
 - (ii) resort facility;
 - (iii) sports center; or
 - (iv) convention center;
 - (b) for which there is a contract:
 - (i) between a person operating a facility listed in Subsection (6)(a) and another person; and
 - (ii) under which the person operating a facility listed in Subsection (6)(a) is required to provide an alcoholic product at the event; and
 - (c) at which food and alcoholic products may be sold, offered for sale, or furnished.
- (7) (a) "Bar" means a surface or structure:
- (i) at which an alcoholic product is:
 - (A) stored; or
 - (B) dispensed; or
 - (ii) from which an alcoholic product is served.
- (b) "Bar structure" means a surface or structure on a licensed premises if on or at any place of the surface or structure an alcoholic product is:
- (i) stored; or
 - (ii) dispensed.
- (8) (a) Subject to Subsection (8)(d), "beer" means a product that:
- (i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by volume or 3.2% by weight; and
 - (ii) is obtained by fermentation, infusion, or decoction of malted grain.
- (b) "Beer" may or may not contain hops or other vegetable products.
- (c) "Beer" includes a product that:
- (i) contains alcohol in the percentages described in Subsection (8)(a); and
 - (ii) is referred to as:
 - (A) beer;
 - (B) ale;
 - (C) porter;
 - (D) stout;
 - (E) lager; or
 - (F) a malt or malted beverage.
- (d) "Beer" does not include a flavored malt beverage.
- (9) "Beer-only restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.
- (10) "Beer retailer" means a business:
- (a) that is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for consumption on or off the business premises; and
 - (b) to whom a license is issued:
 - (i) for an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority; or
 - (ii) for an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License.

- (11) "Beer wholesaling license" means a license:
- (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and
 - (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more retail licensees or off-premise beer retailers.
- (12) "Billboard" means a public display used to advertise, including:
- (a) a light device;
 - (b) a painting;
 - (c) a drawing;
 - (d) a poster;
 - (e) a sign;
 - (f) a signboard; or
 - (g) a scoreboard.
- (13) "Brewer" means a person engaged in manufacturing:
- (a) beer;
 - (b) heavy beer; or
 - (c) a flavored malt beverage.
- (14) "Brewery manufacturing license" means a license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License.
- (15) "Certificate of approval" means a certificate of approval obtained from the department under Section 32B-11-201.
- (16) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by a bus company to a group of persons pursuant to a common purpose:
- (a) under a single contract;
 - (b) at a fixed charge in accordance with the bus company's tariff; and
 - (c) to give the group of persons the exclusive use of the passenger bus, coach, or other motor vehicle, and a driver to travel together to one or more specified destinations.
- (17) "Church" means a building:
- (a) set apart for worship;
 - (b) in which religious services are held;
 - (c) with which clergy is associated; and
 - (d) that is tax exempt under the laws of this state.
- (18) (a) "Club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License.
- (b) "Club license" includes:
 - (i) a dining club license;
 - (ii) an equity club license;
 - (iii) a fraternal club license; or
 - (iv) a social club license.
- (19) "Commission" means the Alcoholic Beverage Control Commission created in Section 32B-2-201.
- (20) "Commissioner" means a member of the commission.
- (21) "Community location" means:
- (a) a public or private school;
 - (b) a church;
 - (c) a public library;
 - (d) a public playground; or
 - (e) a public park.
- (22) "Community location governing authority" means:
- (a) the governing body of the community location; or
 - (b) if the commission does not know who is the governing body of a community location, a person who appears to the commission to have been given on behalf of the community location the authority to prohibit an activity at the community location.
- (23) "Container" means a receptacle that contains an alcoholic product, including:
- (a) a bottle;
 - (b) a vessel; or
 - (c) a similar item.
- (24) "Convention center" means a facility that is:
- (a) in total at least 30,000 square feet; and
 - (b) otherwise defined as a "convention center" by the commission by rule.
- (25) (a) Subject to Subsection (25)(b), "counter" means a surface or structure in a dining area of a licensed premises where seating is provided to a patron for service of food.
- (b) "Counter" does not include a surface or structure if on or at any point of the surface or structure an alcoholic product is:
 - (i) stored; or
 - (ii) dispensed.
- (26) "Department" means the Department of Alcoholic Beverage Control created in Section 32B-2-203.
- (27) "Department compliance officer" means an individual who is:
- (a) an auditor or inspector; and
 - (b) employed by the department.
- (28) "Department sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling.
- (29) "Dining club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License, that is

designated by the commission as a dining club license.

(30) “Director,” unless the context requires otherwise, means the director of the department.

(31) “Disciplinary proceeding” means an adjudicative proceeding permitted under this title:

(a) against a person subject to administrative action; and

(b) that is brought on the basis of a violation of this title.

(32) (a) Subject to Subsection (32)(b), “dispense” means:

(i) drawing of an alcoholic product:

(A) from an area where it is stored; or

(B) as provided in Subsection 32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii), 32B-6-805(15)(b)(ii), or 32B-6-905(12)(b)(ii); and

(ii) using the alcoholic product described in Subsection (32)(a)(i) on the premises of the licensed premises to mix or prepare an alcoholic product to be furnished to a patron of the retail licensee.

(b) The definition of “dispense” in this Subsection (32) applies only to:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a reception center license; and

(iv) a beer-only restaurant license.

(33) “Distillery manufacturing license” means a license issued in accordance with Chapter 11, Part 4, Distillery Manufacturing License.

(34) “Distressed merchandise” means an alcoholic product in the possession of the department that is saleable, but for some reason is unappealing to the public.

(35) “Educational facility” includes:

(a) a nursery school;

(b) an infant day care center; and

(c) a trade and technical school.

(36) “Equity club license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as an equity club license.

(37) “Event permit” means:

(a) a single event permit; or

(b) a temporary beer event permit.

(38) “Exempt license” means a license exempt under Section 32B-1-201 from being considered in determining the total number of [a] retail [license] licenses that the commission may issue at any time.

(39) (a) “Flavored malt beverage” means a beverage:

(i) that contains at least .5% alcohol by volume;

(ii) that is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of a beer as described in 27 C.F.R. Sec. 25.55;

(iii) to which is added a flavor or other ingredient containing alcohol, except for a hop extract; and

(iv) (A) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or

(B) that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.

(b) “Flavored malt beverage” is considered liquor for purposes of this title.

(40) “Fraternal club license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a fraternal club license.

(41) “Full-service restaurant license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

(42) (a) “Furnish” means by any means to provide with, supply, or give an individual an alcoholic product, by sale or otherwise.

(b) “Furnish” includes to:

(i) serve;

(ii) deliver; or

(iii) otherwise make available.

(43) “Guest” means an individual who meets the requirements of Subsection 32B-6-407(9).

(44) “Health care practitioner” means:

(a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

(c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act;

(e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy Practice Act;

(g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act;

(h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;

(i) a mental health professional licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;

(j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; and

(m) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.

(45) (a) "Heavy beer" means a product that:

(i) contains more than 4% alcohol by volume; and
(ii) is obtained by fermentation, infusion, or decoction of malted grain.

(b) "Heavy beer" is considered liquor for the purposes of this title.

(46) "Hotel" is as defined by the commission by rule.

(47) "Identification card" means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.

(48) "Industry representative" means an individual who is compensated by salary, commission, or other means for representing and selling an alcoholic product of a manufacturer, supplier, or importer of liquor.

(49) "Industry representative sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling by a local industry representative on the premises of the department to educate the local industry representative of the quality and characteristics of the product.

(50) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing of an alcoholic product is prohibited by:

- (a) law; or
- (b) court order.

(51) "Intoxicated" means that a person:

(a) is significantly impaired as to the person's mental or physical functions as a result of the use of:

(i) an alcoholic product;
(ii) a controlled substance;
(iii) a substance having the property of releasing toxic vapors; or

(iv) a combination of Subsections (51)(a)(i) through (iii); and

(b) exhibits plain and easily observed outward manifestations of behavior or physical signs produced by the overconsumption of an alcoholic product.

(52) "Investigator" means an individual who is:

- (a) a department compliance officer; or
- (b) a nondepartment enforcement officer.

(53) "Invitee" means the same as that term is [as] defined in Section 32B-8-102.

(54) "License" means:

- (a) a retail license;
- (b) a license issued in accordance with Chapter 11, Manufacturing and Related Licenses Act;
- (c) a license issued in accordance with Chapter 12, Liquor Warehousing License Act; or
- (d) a license issued in accordance with Chapter 13, Beer Wholesaling License Act.

(55) "Licensee" means a person who holds a license.

(56) "Limited-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

(57) "Limousine" means a motor vehicle licensed by the state or a local authority, other than a bus or taxicab:

- (a) in which the driver and a passenger are separated by a partition, glass, or other barrier;
- (b) that is provided by a business entity to one or more individuals at a fixed charge in accordance with the business entity's tariff; and
- (c) to give the one or more individuals the exclusive use of the limousine and a driver to travel to one or more specified destinations.

(58) (a) (i) "Liquor" means a liquid that:

(A) is:

- (I) alcohol;
- (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;
- (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or
- (IV) other drink or drinkable liquid; and

(B) (I) contains at least .5% alcohol by volume; and

(II) is suitable to use for beverage purposes.

(ii) "Liquor" includes:

- (A) heavy beer;
- (B) wine; and
- (C) a flavored malt beverage.

(b) "Liquor" does not include beer.

(59) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.

(60) "Liquor warehousing license" means a license that is issued:

- (a) in accordance with Chapter 12, Liquor Warehousing License Act; and
- (b) to a person, other than a licensed manufacturer, who engages in the importation for

storage, sale, or distribution of liquor regardless of amount.

(61) "Local authority" means:

(a) for premises that are located in an unincorporated area of a county, the governing body of a county; or

(b) for premises that are located in an incorporated city or a town, the governing body of the city or town.

(62) "Lounge or bar area" is as defined by rule made by the commission.

(63) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to others.

(64) "Member" means an individual who, after paying regular dues, has full privileges in an equity club licensee or fraternal club licensee.

(65) (a) "Military installation" means a base, air field, camp, post, station, yard, center, or homeport facility for a ship:

(i) (A) under the control of the United States Department of Defense; or

(B) of the National Guard;

(ii) that is located within the state; and

(iii) including a leased facility.

(b) "Military installation" does not include a facility used primarily for:

(i) civil works;

(ii) a rivers and harbors project; or

(iii) a flood control project.

(66) "Minor" means an individual under the age of 21 years.

(67) "Nondepartment enforcement agency" means an agency that:

(a) (i) is a state agency other than the department; or

(ii) is an agency of a county, city, or town; and

(b) has a responsibility to enforce one or more provisions of this title.

(68) "Nondepartment enforcement officer" means an individual who is:

(a) a peace officer, examiner, or investigator; and

(b) employed by a nondepartment enforcement agency.

(69) (a) "Off-premise beer retailer" means a beer retailer who is:

(i) licensed in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority; and

(ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's premises.

(b) "Off-premise beer retailer" does not include an on-premise beer retailer.

(70) "On-premise banquet license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

(71) "On-premise beer retailer" means a beer retailer who is:

(a) authorized to sell, offer for sale, or furnish beer under a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) engaged in the sale of beer to a patron for consumption on the beer retailer's premises:

(i) regardless of whether the beer retailer sells beer for consumption off the licensed premises; and

(ii) on and after March 1, 2012, operating:

(A) as a tavern; or

(B) in a manner that meets the requirements of Subsection 32B-6-703(2)(e)(i).

(72) "Opaque" means impenetrable to sight.

(73) "Package agency" means a retail liquor location operated:

(a) under an agreement with the department; and

(b) by a person:

(i) other than the state; and

(ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package Agency, to sell packaged liquor for consumption off the premises of the package agency.

(74) "Package agent" means a person who holds a package agency.

(75) "Patron" means an individual to whom food, beverages, or services are sold, offered for sale, or furnished, or who consumes an alcoholic product including:

(a) a customer;

(b) a member;

(c) a guest;

(d) an attendee of a banquet or event;

(e) an individual who receives room service;

(f) a resident of a resort;

(g) a public customer under a resort spa sublicense, as defined in Section 32B-8-102; or

(h) an invitee.

(76) "Permittee" means a person issued a permit under:

(a) Chapter 9, Event Permit Act; or

(b) Chapter 10, Special Use Permit Act.

(77) "Person subject to administrative action" means:

- (a) a licensee;
- (b) a permittee;
- (c) a manufacturer;
- (d) a supplier;
- (e) an importer;
- (f) one of the following holding a certificate of approval:

- (i) an out-of-state brewer;
- (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or
- (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or

(g) staff of:

- (i) a person listed in Subsections (77)(a) through (f); or
- (ii) a package agent.

(78) "Premises" means a building, enclosure, or room used in connection with the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product, unless otherwise defined in this title or rules made by the commission.

(79) "Prescription" means an order issued by a health care practitioner when:

- (a) the health care practitioner is licensed under Title 58, Occupations and Professions, to prescribe a controlled substance, other drug, or device for medicinal purposes;
- (b) the order is made in the course of that health care practitioner's professional practice; and
- (c) the order is made for obtaining an alcoholic product for medicinal purposes only.

(80) (a) "Private event" means a specific social, business, or recreational event:

- (i) for which an entire room, area, or hall is leased or rented in advance by an identified group; and
- (ii) that is limited in attendance to people who are specifically designated and their guests.

(b) "Private event" does not include an event to which the general public is invited, whether for an admission fee or not.

(81) (a) "Proof of age" means:

- (i) an identification card;
- (ii) an identification that:
 - (A) is substantially similar to an identification card;
 - (B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;

(C) includes date of birth; and

(D) has a picture affixed;

(iii) a valid driver license certificate that:

- (A) includes date of birth;
- (B) has a picture affixed; and
- (C) is issued:

(I) under Title 53, Chapter 3, Uniform Driver License Act; or

(II) in accordance with the laws of the state in which it is issued;

(iv) a military identification card that:

- (A) includes date of birth; and
- (B) has a picture affixed; or
- (v) a valid passport.

(b) "Proof of age" does not include a driving privilege card issued in accordance with Section 53-3-207.

(82) (a) "Public building" means a building or permanent structure that is:

(i) owned or leased by:

- (A) the state; or
- (B) a local government entity; and

(ii) used for:

- (A) public education;
- (B) transacting public business; or
- (C) regularly conducting government activities.

(b) "Public building" does not include a building owned by the state or a local government entity when the building is used by a person, in whole or in part, for a proprietary function.

(83) "Public conveyance" means a conveyance [to which] that the public or a portion of the public has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance.

(84) "Reception center" means a business that:

(a) operates facilities that are at least 5,000 square feet; and

(b) has as its primary purpose the leasing of the facilities described in Subsection (84)(a) to a third party for the third party's event.

(85) "Reception center license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

(86) (a) "Record" means information that is:

- (i) inscribed on a tangible medium; or
- (ii) stored in an electronic or other medium and is retrievable in a perceivable form.

(b) "Record" includes:

- (i) a book;
- (ii) a book of account;

- (iii) a paper;
- (iv) a contract;
- (v) an agreement;
- (vi) a document; or
- (vii) a recording in any medium.

(87) "Residence" means a person's principal place of abode within Utah.

(88) "Resident," in relation to a resort, means the same as that term is [as] defined in Section 32B-8-102.

(89) "Resort" means the same as that term is [as] defined in Section 32B-8-102.

(90) "Resort facility" is as defined by the commission by rule.

(91) "Resort license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8, Resort License Act.

(92) "Restaurant" means a business location:

- (a) at which a variety of foods are prepared;
- (b) at which complete meals are served to the general public; and
- (c) that is engaged primarily in serving meals to the general public.

(93) "Retail license" means one of the following licenses issued under this title:

- (a) a full-service restaurant license;
- (b) a master full-service restaurant license;
- (c) a limited-service restaurant license;
- (d) a master limited-service restaurant license;
- (e) a club license;
- (f) an airport lounge license;
- (g) an on-premise banquet license;
- (h) an on-premise beer license;
- (i) a reception center license; or
- (j) a beer-only restaurant license.

(94) "Room service" means furnishing an alcoholic product to a person in a guest room of a:

- (a) hotel; or
- (b) resort facility.

[~~(96)~~ (95) (a) "School" means a building used primarily for the general education of minors.

(b) "School" does not include an educational facility.

[~~(97)~~ (96) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether done by a person

as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules made by the commission.

[~~(95)~~ (97) "Serve" means to place an alcoholic product before an individual.

(98) "Sexually oriented entertainer" means a person who while in a state of seminudity appears at or performs:

- (a) for the entertainment of one or more patrons;
- (b) on the premises of:
 - (i) a social club licensee; or
 - (ii) a tavern;
- (c) on behalf of or at the request of the licensee described in Subsection (98)(b);
- (d) on a contractual or voluntary basis; and
- (e) whether or not the person is designated as:
 - (i) an employee;
 - (ii) an independent contractor;
 - (iii) an agent of the licensee; or
 - (iv) a different type of classification.

(99) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3, Single Event Permit.

(100) "Small brewer" means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt beverages per year.

(101) "Social club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a social club license.

(102) "Special use permit" means a permit issued in accordance with Chapter 10, Special Use Permit Act.

(103) (a) "Spirituous liquor" means liquor that is distilled.

(b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

(104) "Sports center" is as defined by the commission by rule.

(105) (a) "Staff" means an individual who engages in activity governed by this title:

- (i) on behalf of a business, including a package agent, licensee, permittee, or certificate holder;
 - (ii) at the request of the business, including a package agent, licensee, permittee, or certificate holder; or
 - (iii) under the authority of the business, including a package agent, licensee, permittee, or certificate holder.
- (b) "Staff" includes:

- (i) an officer;
 - (ii) a director;
 - (iii) an employee;
 - (iv) personnel management;
 - (v) an agent of the licensee, including a managing agent;
 - (vi) an operator; or
 - (vii) a representative.
- (106) "State of nudity" means:
- (a) the appearance of:
 - (i) the nipple or areola of a female human breast;
 - (ii) a human genital;
 - (iii) a human pubic area; or
 - (iv) a human anus; or
 - (b) a state of dress that fails to opaquely cover:
 - (i) the nipple or areola of a female human breast;
 - (ii) a human genital;
 - (iii) a human pubic area; or
 - (iv) a human anus.
- (107) "State of seminudity" means a state of dress in which opaque clothing covers no more than:
- (a) the nipple and areola of the female human breast in a shape and color other than the natural shape and color of the nipple and areola; and
 - (b) the human genitals, pubic area, and anus:
 - (i) with no less than the following at its widest point:
 - (A) four inches coverage width in the front of the human body; and
 - (B) five inches coverage width in the back of the human body; and
 - (ii) with coverage that does not taper to less than one inch wide at the narrowest point.
- (108) (a) "State store" means a facility for the sale of packaged liquor:
- (i) located on premises owned or leased by the state; and
 - (ii) operated by a state employee.
- (b) "State store" does not include:
- (i) a package agency;
 - (ii) a licensee; or
 - (iii) a permittee.
- (109) (a) "Storage area" means an area on licensed premises where the licensee stores an alcoholic product.
- (b) "Store" means to place or maintain in a location an alcoholic product from which a person draws to prepare an alcoholic product to be

furnished to a patron, except as provided in Subsection 32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii), 32B-6-805(15)(b)(ii), or 32B-6-905(12)(b)(ii).

(110) "Sublicense" means the same as that term is [as] defined in Section 32B-8-102.

(111) "Supplier" means a person who sells an alcoholic product to the department.

(112) "Tavern" means an on-premise beer retailer who is:

(a) issued a license by the commission in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) designated by the commission as a tavern in accordance with Chapter 6, Part 7, On-Premise Beer Retailer License.

(113) "Temporary beer event permit" means a permit issued in accordance with Chapter 9, Part 4, Temporary Beer Event Permit.

(114) "Temporary domicile" means the principal place of abode within Utah of a person who does not have a present intention to continue residency within Utah permanently or indefinitely.

(115) "Translucent" means a substance that allows light to pass through, but does not allow an object or person to be seen through the substance.

(116) "Unsaleable liquor merchandise" means a container that:

(a) is unsaleable because the container is:

(i) unlabeled;

(ii) leaky;

(iii) damaged;

(iv) difficult to open; or

(v) partly filled;

(b) (i) has faded labels or defective caps or corks;

(ii) has contents that are:

(A) cloudy;

(B) spoiled; or

(C) chemically determined to be impure; or

(iii) contains:

(A) sediment; or

(B) a foreign substance; or

(c) is otherwise considered by the department as unfit for sale.

(117) (a) "Wine" means an alcoholic product obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not another ingredient is added.

(b) "Wine" is considered liquor for purposes of this title, except as otherwise provided in this title.

(118) “Winery manufacturing license” means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

Section 23. Section 32B-4-415 is amended to read:

32B-4-415. Unlawful bringing onto premises for consumption.

(1) Except as provided in Subsection (4), a person may not bring an alcoholic product for on-premise consumption onto the premises of:

(a) a retail licensee or person required to be licensed under this title as a retail licensee;

(b) an establishment that conducts a business similar to a retail licensee;

(c) an event where an alcoholic product is sold, offered for sale, or furnished under a single event permit or temporary beer event permit issued under this title; or

(d) an establishment open to the general public.

(2) Except as provided in Subsection (4), the following may not allow a person to bring onto its premises an alcoholic product for on-premise consumption or allow consumption of an alcoholic product brought onto its premises in violation of this section:

(a) a retail licensee or a person required to be licensed under this title as a retail licensee;

(b) an establishment that conducts a business similar to a retail licensee;

(c) a single event permittee or temporary beer event permittee;

(d) an establishment open to the general public; or

(e) staff of a person listed in Subsections (2)(a) through (d).

(3) Except as provided in Subsection (4)(c)(i)(A), a person may not consume an alcoholic product in a limousine or chartered bus if the limousine or chartered bus drops off a passenger at a location from which the passenger departs in a private vehicle.

(4) (a) A person may bring bottled wine onto the premises of the following and consume the wine pursuant to Section 32B-5-307:

(i) a full-service restaurant licensee;

(ii) a limited restaurant licensee;

(iii) a club licensee; or

(iv) a person operating under a resort spa sublicense.

(b) A passenger of a limousine may bring onto, possess, and consume an alcoholic product ~~in~~ in the limousine if:

(i) the travel of the limousine begins and ends at:

(A) the residence of the passenger;

(B) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

(C) the temporary domicile of the passenger; and

(ii) the driver of the limousine is separated from the passengers by partition or other means approved by the department.

(c) A passenger of a chartered bus may bring onto, possess, and consume an alcoholic product on the chartered bus:

(i) (A) but may consume only during travel to a specified destination of the chartered bus and not during travel back to the place where the travel begins; or

(B) if the travel of the chartered bus begins and ends at:

(I) the residence of the passenger;

(II) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

(III) the temporary domicile of the passenger; and

(ii) if the chartered bus has a nondrinking designee other than the driver traveling on the chartered bus to monitor consumption.

(5) A person may bring onto any premises, possess, and consume an alcoholic product at a private event.

(6) The restrictions of Subsections (2) and (3) apply to a resort licensee or person operating under a sublicense in relationship to:

(a) the boundary of a resort building; or

(b) a sublicense premises.

Section 24. Section 32B-6-404 is amended to read:

32B-6-404. Types of club license.

(1) To obtain an equity club license, in addition to meeting the other requirements of this part, a person shall:

(a) whether incorporated or unincorporated:

(i) be organized and operated solely for a social, recreational, patriotic, or fraternal purpose;

(ii) have members;

(iii) limit access to its licensed premises to a member or a guest of the member; and

(iv) desire to maintain premises upon which an alcoholic product may be stored, sold to, offered for sale to, furnished to, and consumed by a member or a guest of a member;

(b) own, maintain, or operate a substantial recreational facility in conjunction with a club house such as:

(i) a golf course; or

(ii) a tennis facility;

(c) have at least 50% of the total membership having:

- (i) full voting rights; and
 - (ii) an equal share of the equity of the club; and
- (d) if there is more than one class of membership, have at least one class of membership that entitles each member in that class to:

- (i) full voting rights; and
- (ii) an equal share of the equity of the club.

(2) To obtain a fraternal club license, in addition to meeting the other requirements of this part, a person shall:

- (a) whether incorporated or unincorporated:

- (i) be organized and operated solely for a social, recreational, patriotic, or fraternal purpose;

- (ii) have members;

- (iii) limit access to its licensed premises to a member or a guest of the member; and

- (iv) desire to maintain premises upon which an alcoholic product may be stored, sold to, offered for sale to, furnished to, and consumed by a member or a guest of a member;

- (b) have no capital stock;

- (c) exist solely for:

- (i) the benefit of its members and their beneficiaries; and

- (ii) a lawful social, intellectual, educational, charitable, benevolent, moral, fraternal, patriotic, or religious purpose for the benefit of its members or the public, carried on through voluntary activity of its members in their local lodges;

- (d) have a representative form of government;

- (e) have a lodge system in which:

- (i) there is a supreme governing body;

- (ii) subordinate to the supreme governing body are local lodges, however designated, into which individuals are admitted as members in accordance with the laws of the fraternal;

- (iii) the local lodges are required by the laws of the fraternal to hold regular meetings at least monthly; and

- (iv) the local lodges regularly engage in one or more programs involving member participation to implement the purposes of Subsection (2)(c); and

- (f) own or lease a building or space in a building used for lodge activities.

(3) To obtain a dining club license, in addition to meeting the other requirements of this part, a person shall:

- (a) maintain at least the following percentages of its total club business from the sale of food, not including mix for alcoholic products, or service charges:

- (i) for a dining club license that is issued as an original license on or after July 1, 2011, 60%; and

- (ii) for a dining club license that is issued on or before June 30, 2011:

- (A) 50% on or before June 30, 2012; and

- (B) 60% on and after July 1, 2012; and

- (b) obtain a determination by the commission that the person will operate as a dining club licensee, as part of which the commission may consider:

- (i) the square footage and seating capacity of the premises;

- (ii) what portion of the square footage and seating capacity will be used for a dining area in comparison to the portion that will be used as a lounge or bar area;

- (iii) whether full meals including appetizers, main courses, and desserts are served;

- (iv) whether the person will maintain adequate on-premise culinary facilities to prepare full meals, except a person who is located on the premise of a hotel or resort facility may use the culinary facilities of the hotel or resort facility;

- (v) whether the entertainment provided at the club is suitable for minors; and

- (vi) the club management's ability to manage and operate a dining club license including:

- (A) management experience;

- (B) past dining club licensee or restaurant management experience; and

- (C) the type of management scheme used by the dining club license.

(4) To obtain a social club license, a person is required to meet the requirements of this part except those listed in Subsection (1), (2), or (3).

(5) (a) At the time that the commission issues a club license, the commission shall designate the type of club license for which the person qualifies.

(b) If requested by a club licensee, the commission may approve a change in the type of club license in accordance with rules made by the commission.

(6) To the extent not prohibited by law, this part does not prevent a dining club licensee or social club licensee from restricting access to the club's licensed premises on the basis of an individual:

- (a) paying a fee; or

- (b) agreeing to being on a list of individuals who have access to the club's licensed premises.

Section 25. Section 34-19-5 is amended to read:

34-19-5. Injunctive relief -- When available -- Necessary findings -- Procedure.

(1) No court, nor any judge or judges of a court, shall have jurisdiction to issue a temporary or permanent injunction in any case involving or growing out of a labor dispute, as defined in Section 34-19-11, except after hearing the testimony of witnesses in open court, with opportunity for

cross-examination, in support of the allegations of a complaint made under oath and testimony in opposition to it, if offered, and except after findings of all of the facts described in Subsection (2) by the court, or a judge or judges.

(2) The findings required by Subsection (1) are all of the following:

(a) that unlawful acts have been threatened or committed and will be executed or continued unless restrained;

(b) that substantial and irreparable injury to property or property rights of the complainant will follow unless the relief requested is granted;

(c) that as to each item of relief granted greater injury will be inflicted upon complainant by the denial of it than will be inflicted upon defendants by the granting of it;

(d) that no item of relief granted is relief that a court or judge of it has no jurisdiction to restrain or enjoin under Section 34-19-2;

(e) that the complainant has no adequate remedy at law; and

(f) that the public officers charged with the duty to protect complainant's property have failed or are unable to furnish adequate protection.

(3) Subject to Subsection (4), the hearing required by Subsection (1) shall be held after due and personal notice of it has been given, in such manner as the court shall direct, to all known persons against whom relief is sought, and also to those public officers charged with the duty to protect complainant's property.

(4) (a) If a complainant shall also allege that unless a temporary restraining order shall be issued before a hearing may be had, a substantial and irreparable injury to complainant's property will be unavoidable, a temporary restraining order may be granted upon the expiration of such reasonable notice of application for the restraining order as the court may direct by order to show cause, but in no less than 48 hours. This order to show cause shall be served upon such party or parties as are sought to be restrained and as shall be specified in the order, and the restraining order shall issue only upon testimony, or in the discretion of the court, upon affidavits, sufficient, if sustained, to justify the court in issuing a temporary injunction upon a hearing as provided for in this section.

(b) Such a temporary restraining order shall be effective for no longer than five days, and at the expiration of said five days shall become void and not subject to renewal or extension, except that if the hearing for a temporary injunction shall have been begun before the expiration of the five days, the restraining order may in the court's discretion be continued until a decision is reached upon the issuance of the temporary injunction.

(5) No temporary restraining order or temporary injunction shall be issued except on condition that the complainant shall first file an undertaking with

adequate security sufficient to recompense those enjoined for any loss, expense, or damage caused by the improvident or erroneous issuance of such order or injunction, including all reasonable costs, together with reasonable attorney fees, and expense against the order or against the granting of any injunctive relief sought in the same proceeding and subsequently denied by the court. This undertaking shall be understood to signify an agreement entered into by the complainant and the surety upon which a decree may be rendered in the same suit or proceeding against such complainant and surety, the complainant and the surety submitting themselves to the jurisdiction of the court for that purpose, except that nothing in this Subsection (5) shall deprive any party having a claim or cause of action under or upon such undertaking from electing to pursue the party's ordinary remedy by suit at law or in equity.

Section 26. Section 34-20-3 is amended to read:

34-20-3. Labor relations board.

(1) (a) There is created the Labor Relations Board consisting of the following:

(i) the commissioner of the Labor Commission;

(ii) two members appointed by the governor with the consent of the Senate consisting of:

(A) a representative of employers, [~~in making this appointment~~] in the appointment of whom the governor shall consider nominations from employer organizations; and

(B) a representative of employees, [~~in making this appointment~~] in the appointment of whom the governor shall consider nominations from employee organizations.

(b) (i) Except as provided in Subsection (1)(b)(ii), as terms of members appointed under Subsection (1)(a)(ii) expire, the governor shall appoint each new member or reappointed member to a four-year term.

(ii) Notwithstanding the requirements of Subsection (1)(b)(i), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members appointed under Subsection (1)(a)(ii) are staggered so one member is appointed every two years.

(c) The commissioner shall serve as chair of the board.

(d) A vacancy occurring on the board for any cause of the members appointed under Subsection (1)(a)(ii) shall be filled by the governor with the consent of the Senate pursuant to this section for the unexpired term of the vacating member.

(e) The governor may at any time remove a member appointed under Subsection (1)(a)(ii) but only for inefficiency, neglect of duty, malfeasance or malfeasance in office, or for cause upon a hearing.

(f) A member of the board appointed under Subsection (1)(a)(ii) may not hold any other office in the government of the United States, this state or

any other state, or of any county government or municipal corporation within a state.

(g) A member appointed under Subsection (1)(a)(ii) may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(2) A meeting of the board may be called:

(a) by the chair; or

(b) jointly by the members appointed under Subsection (1)(a)(ii).

(3) The chair may provide staff and administrative support as necessary from the Labor Commission.

(4) A vacancy in the board does not impair the right of the remaining members to exercise all the powers of the board, and two members of the board shall at all times constitute a quorum.

(5) The board shall have an official seal which shall be judicially noticed.

Section 27. Section 34-20-8 is amended to read:

34-20-8. Unfair labor practices.

(1) It shall be an unfair labor practice for an employer, individually or in concert with others:

(a) To interfere with, restrain or coerce employees in the exercise of the rights guaranteed in Section 34-20-7.

(b) To dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it; provided, that subject to rules and regulations made and published by the board pursuant to Section 34-20-6, an employer is not prohibited from permitting employees to confer with the employer during working hours without loss of time or pay.

(c) By discrimination in regard to hire or tenure of employment or any term [of] or condition of employment to encourage or discourage membership in any labor organization; provided, that nothing in this act shall preclude an employer from making an agreement with a labor organization (not established, maintained or assisted by any action defined in this act as an unfair labor practice) to require as a condition of employment, membership therein, if such labor organization is the representative of the employees as provided in Subsection 34-20-9(1) in the appropriate collective bargaining unit covered by such agreement when made.

(d) To refuse to bargain collectively with the representative of a majority of the employer's employees in any collective bargaining unit; provided, that, when two or more labor

organizations claim to represent a majority of the employees in the bargaining unit, the employer shall be free to file with the board a petition for investigation of certification of representatives and during the pendency of the proceedings the employer may not be considered to have refused to bargain.

(e) To bargain collectively with the representatives of less than a majority of the employer's employees in a collective bargaining unit.

(f) To discharge or otherwise discriminate against an employee because the employee has filed charges or given testimony under this chapter.

(2) It shall be an unfair labor practice for an employee individually or in concert with others:

(a) To coerce or intimidate an employee in the enjoyment of the employee's legal rights, including those guaranteed in Section 34-20-7, or to intimidate the employee's family, picket the employee's domicile, or injure the person or property of the employee or the employee's family.

(b) To coerce, intimidate or induce an employer to interfere with any of the employer's employees in the enjoyment of their legal rights, including those guaranteed in Section 34-20-7, or to engage in any practice with regard to the employer's employees which would constitute an unfair labor practice if undertaken by the employer on the employer's own initiative.

(c) To co-operate in engaging in, promoting, or inducing picketing (not constituting an exercise of constitutionally guaranteed free speech), boycotting or any other overt concomitant of a strike unless a majority in a collective bargaining unit of the employees of an employer against whom such acts are primarily directed have voted by secret ballot to call a strike.

(d) To hinder or prevent, by mass picketing, threats, intimidation, force, or coercion of any kind the pursuit of any lawful work or employment, or to obstruct or interfere with entrance to or egress from any place of employment, or to obstruct or interfere with free and uninterrupted use of public roads, streets, highways, railways, airports, or other ways of travel or conveyance.

(e) To engage in a secondary boycott; or to hinder or prevent, by threats, intimidation, force, coercion, or sabotage, the obtaining, use or disposition of materials, equipment, or services; or to combine or conspire to hinder or prevent the obtaining, use or disposition of materials, equipment or services, provided, however, that nothing herein shall prevent sympathetic strikes in support of those in similar occupations working for other employers in the same craft.

(f) To take unauthorized possession of property of the employer.

(3) It shall be an unfair labor practice for any person to do or cause to be done on behalf of or in the interest of employers or employees, or in connection with or to influence the outcome of any controversy

as to employment relations, any act prohibited by Subsections (1) and (2) of this section.

Section 28. Section 34-30-13 is amended to read:

34-30-13. Compliance with federal requirements.

Notwithstanding any other provision in this chapter to the contrary, the governor of the state of Utah may, in [his] the governor's discretion, elect to suspend the provisions of this chapter in whole or in part if it becomes necessary to do so in order to comply with requirements imposed by the government of the United States, in order for the state of Utah to remain eligible for participation in programs which are financed in whole or in part by the United States government.

Section 29. Section 34-38-2 is amended to read:

34-38-2. Definitions.

For purposes of this chapter:

(1) "Alcohol" means ethyl alcohol or ethanol.

(2) "Drugs" means a substance recognized as a drug in the United States Pharmacopoeia, the National Formulary, the Homeopathic Pharmacopoeia, or other drug compendia, or supplement to any of those compendia.

[4] (3) "Employee" means an individual in the service of an employer for compensation.

[3] (4) (a) "Employer" means a person, including a public utility or transit district, that has one or more workers or operators employed in the same business, or in or about the same establishment, under any contract of hire, express or implied, oral or written.

(b) "Employer" does not include the federal or state government, or other local political subdivisions.

(5) "Failed test" means a confirmed drug or alcohol test that indicates that the sample tested is:

- (a) positive;
- (b) adulterated; or
- (c) substituted.

(6) "Inaccurate test result" means a test result that is treated as a positive test result, when the sample should not have resulted in a positive test result.

(7) "Licensed physician" means an individual who is licensed:

- (a) as a doctor of medicine under Title 58, Chapter 67, Utah Medical Practice Act, or similar law of another state; or
- (b) as an osteopathic physician or surgeon under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or similar law of another state.

(8) "Prospective employee" means an individual who applies to an employer, either in writing or orally, to become the employer's employee.

(9) "Sample" means urine, blood, breath, saliva, or hair.

Section 30. Section 34-41-102 is amended to read:

34-41-102. Governmental drug-free workplace policies.

(1) Any local governmental entity or state institution of higher education may establish workplace policies and procedures designed to:

- (a) educate, counsel, and increase awareness of the dangers of drugs; and
- (b) prohibit and discourage the detrimental use of drugs among its various classes of employees and volunteers.

(2) A local governmental entity or state institution of higher education may test employees, volunteers, prospective employees, and prospective volunteers for the presence of drugs or their metabolites, in accordance with the provisions of this chapter, as a condition of hiring, continued employment, and voluntary services.

(3) A drug-free workplace policy may include, but does not require, drug testing under the following circumstances:

- (a) preemployment hiring or volunteer selection procedures;
- (b) postaccident investigations;
- (c) reasonable suspicion situations;
- (d) preannounced periodic testing;
- (e) rehabilitation programs;
- (f) random testing in safety sensitive positions; or
- (g) to comply with the federal Drug Free Workplace Act of 1988, 41 U.S.C. [701 through 707] Sec. 8101 et seq., or other federally required drug policies.

(4) This section may not be construed to prohibit local governmental entities or state institutions of higher education from establishing policies regarding other hazardous or intoxicating substances.

Section 31. Section 34-45-107 is amended to read:

34-45-107. Exemptions -- Limitations on chapter -- School premises -- Government entities -- Religious organizations -- Single family detached residential units.

(1) (a) School premises, as defined in Subsection 76-3-203.2(1), are exempt from the provisions of this chapter.

(b) Possession of a firearm on or about school premises is subject to the provisions of Section 76-10-505.5.

(2) Government entities, including a local authority or state entity, are subject to the

requirements of Title 53, Chapter 5a, Firearm Laws, but are otherwise exempt from the provisions of this chapter.

(3) Religious organizations, including religious organizations acting as an employer, are exempt from, and are not subject to the provisions of this chapter.

(4) Owner-occupied single family detached residential units and tenant-occupied single family detached residential units are exempt from the provisions of this chapter.

(5) A person who is subject to federal law that specifically forbids the presence of a firearm ~~from~~ on property designated for motor vehicle parking, or a person who is subject to Section 550 of the United States Department of Homeland Security Appropriations Act of 2007, Pub. L. No. 109-295 or regulations enacted in accordance with that section, is exempt from Section 34-45-103 if:

(a) providing alternative parking or a storage location under Subsection 34-45-103(2)(a) would pose an undue burden on the person; and

(b) the person files a statement with the attorney general citing the federal law that forbids the presence of a firearm and detailing the reasons why providing alternative parking or a storage location poses an undue burden.

(6) A person who is subject to Section 550 of the United States Department of Homeland Security Appropriations Act of 2007, Pub. L. No. 109-295 or regulations enacted in accordance with that section is exempt from this chapter if:

(a) the person has attempted to provide alternative parking or a storage location in accordance with Subsection 34-45-103(2)(a);

(b) the secretary of the federal Department of Homeland Security notifies the person that the provision of alternative parking or a storage location causes the person to be out of compliance with Section 550 of the United States Department of Homeland Security Appropriations Act of 2007, Pub. L. No. 109-295 or regulations enacted in accordance with that section and the person may be subject to punitive measures; and

(c) the person files a detailed statement with the attorney general notifying the attorney general of the facts under Subsections (6)(a) and (b).

Section 32. Section 34A-2-213 is amended to read:

34A-2-213. Coordination of benefits with health benefit plan -- Timely payment of claims.

(1) (a) This section applies if:

(i) a health benefit plan paid medical claims under Section 31A-22-619.6; and

(ii) the Labor Commission under 34A-2-801 issued an order or approved the terms of a settlement agreement under Section [34A-2-801] 34A-2-420, which:

(A) found that the medical claims are compensable under Title 34A, Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act; and

(B) is final under Section 34A-2-801.

(b) For purposes of this section, "workers' compensation carrier" means any of the entities an employer may use to provide workers' compensation benefits for its employees under Section 34A-2-201.

(2) (a) The Labor Commission shall provide a health benefit plan with notice that an application for hearing has been filed in accordance with Subsection 31A-22-619.6(2)(a)(i) if either the employee or a health care provider requests that the commission send the notice.

(b) The Labor Commission shall prepare and provide notice to an injured employee of the employee's right to payment by the employee's health benefit plan under Section 31A-22-619.6. The notice provided under this Subsection (2) shall include the process the employee shall follow to obtain payment from a health benefit plan for a medical claim that is the subject of an application for hearing under Section 34A-2-801.

(3) (a) The Labor Commission shall, within three business days after the date on which the order under Section 34A-2-801 or approval of the terms of a settlement agreement under Section 34A-2-420 is signed by the administrative law judge ~~under Section 34A-2-801~~, send a copy of the order or terms of the settlement agreement to:

(i) a health benefit plan that made payments under Section 31A-22-619.6;

(ii) the workers' compensation carrier; and

(iii) the injured worker.

(b) The workers' compensation carrier shall, within 15 business days after the day on which the Labor Commission's order under Section 34A-2-801 or settlement agreement under Section 34A-2-420 is final ~~under the provisions of Section 34A-2-801~~, pay:

(i) the health benefit plan, in the amount the plan paid to the health care provider for medical claims that are compensable under the order or the terms of the settlement agreement, plus interest accrued at the rate of 8% per annum from the date the health benefit plan paid the medical claims until the date the workers' compensation carrier reimburses the health benefit plan, unless, in settlement negotiations, the health benefit plan agreed to waive, in whole or in part, reimbursement for medical claims paid, interest accrued, or both; and

(ii) the employee, in the amount of:

(A) any co-payments, coinsurance, deductibles, or other out-of-pocket expenses paid or incurred by the employee; and

(B) interest accrued at the rate of 8% per annum from the date the employee paid the expenses described in Subsection (3)(b)(ii)(A) until the date

the workers' compensation carrier reimburses the employee.

(4) If the Labor Commission determines that a workers' compensation carrier did not make the payment required by Subsection (3) within the time period required in Subsection (3), the commissioner shall:

(a) assess and collect a penalty from the workers' compensation carrier in:

(i) the amount of \$500 for failure to pay the amount required by Subsections (3)(b)(i) and (ii) within the period of time required by Subsections (3)(b)(i) and (ii); and

(ii) an additional amount of \$500 for each calendar month:

(A) that accrues after the penalty is assessed under Subsection (4)(a)(i); and

(B) for which the amount required by Subsections (3)(b)(i) and (ii) are not paid;

(b) deposit any penalties collected under this Subsection (4) into the Uninsured Employers' Fund created in Section 34A-2-704; and

(c) notify the Utah Insurance Department of the workers' compensation carrier's failure to pay the health benefit plan or the employee in accordance with this section.

(5) The penalty imposed by Subsection (4) is in addition to any action taken or penalty imposed by the Utah Insurance Department under Title 31A, Insurance Code.

(6) The commission may adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) establish procedures for:

(i) assessing and collecting penalties under Subsection (4); and

(ii) providing notice as required by this section; and

(b) enforce the provisions of this section.

(7) This section sunsets in accordance with Section 63I-1-234.

Section 33. Section 35A-3-103 is amended to read:

35A-3-103. Department responsibilities.

The department shall:

(1) administer public assistance programs assigned by the Legislature and the governor;

(2) determine eligibility for public assistance programs in accordance with the requirements of this chapter;

(3) cooperate with the federal government in the administration of public assistance programs;

(4) administer state employment services in accordance with Section 35A-3-115;

(5) provide for the compilation of necessary or desirable information, statistics, and reports;

(6) perform other duties and functions required by law;

(7) monitor the application of eligibility policy;

(8) develop personnel training programs for effective and efficient operation of the programs administered by the department;

(9) provide refugee resettlement services in accordance with Section ~~[35A-3-116]~~ 35A-3-701;

(10) provide child care assistance for children in accordance with Part 2, Office of Child Care; and

(11) provide services that enable an applicant or recipient to qualify for affordable housing in cooperation with:

(a) the Utah Housing Corporation;

(b) the Housing and Community Development Division; and

(c) local housing authorities.

Section 34. Section 35A-8-1705 is amended to read:

35A-8-1705. Navajo Revitalization Fund Board.

(1) There is created within the division the Navajo Revitalization Fund Board composed of five members as follows:

(a) the governor or the governor's designee;

(b) the two members of the San Juan County commission whose districts include portions of the Navajo Reservation;

(c) the chair of the Navajo Utah Commission or a member of the commission designated by the chair of the Navajo Utah Commission; and

(d) beginning July 1, 2008, a president of a Utah Navajo Chapter or an individual designated by the president under an annual rotation system of Utah Navajo Chapters as follows:

(i) the president of a Utah Navajo Chapter shall serve for one year;

(ii) the Utah Navajo Chapter is rotated in alphabetical order as provided in Subsection 35A-8-1702(7), except that the rotation will begin on July 1, 2008, with the Dennehotso Chapter;

(iii) if the president of a Utah Navajo Chapter under Subsection (1)(d)(ii) is the same individual as the individual listed in Subsection (1)(c):

(A) that Utah Navajo Chapter is skipped as part of that rotation; and

(B) the president of the next Utah Navajo Chapter in the alphabetical rotation shall serve on the board.

(2) The term of office for a member of the board described in Subsections (1)(a) through (c) runs concurrently with the term of office for the governor, county commissioner, or member of the Navajo Utah Commission.

(3) (a) The governor, or the governor's designee, is the chair of the board.

(b) The chair shall call necessary meetings.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) The per diem and travel expenses permitted under Subsection (4) may be included as costs of administration of the revitalization fund.

(6) Four board members are a quorum.

(7) An affirmative vote of each member of the board present at a meeting when a quorum is present is required for a board decision related to money in or disbursed from the revitalization fund.

Section 35. Section 41-6a-1616 is amended to read:

41-6a-1616. High intensity beams -- Red or blue lights -- Flashing lights -- Color of rear lights and reflectors.

(1) (a) Except as provided under Subsection (1)(b), under the conditions specified under Subsection 41-6a-1603(1)(a), a lighted lamp or illuminating device on a vehicle, which projects a beam of light of an intensity greater than 300 candlepower, shall be directed so that no part of the high intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than 75 feet from the vehicle.

(b) The provisions of Subsection (1)(a) do not apply to head lamps, spot lamps, auxiliary lamps, flashing turn signals, hazard warning lamps, and school bus warning lamps.

(c) A motor vehicle on a highway may not have more than a total of four lamps lighted on the front of the vehicle including head lamps, auxiliary lamps, spot lamps, or any other lamp if the lamp projects a beam of an intensity greater than 300 candlepower.

(2) (a) Except for an authorized emergency vehicle described in Section 41-6a-1601, a school bus described in Section 41-6a-1302, or a media production vehicle used in accordance with Section 41-6a-1718, a person may not operate or move any vehicle or equipment on a highway with a lamp or device capable of displaying a red light that is visible from directly in front of the center of the vehicle.

(b) Except for a law enforcement vehicle, or a media production vehicle used in accordance with Section 41-6a-1718, a person may not operate or move any vehicle or equipment on a highway with a lamp or device capable of displaying a blue light that is visible from directly in front of the center of the vehicle.

(3) A person may not use flashing lights on a vehicle except for:

(a) taillights of bicycles described in Section 41-6a-1114;

(b) authorized emergency vehicles described in Section 41-6a-1601;

(c) turn signals described in Section 41-6a-1604;

(d) hazard warning lights described in Sections 41-6a-1608 and 41-6a-1611;

(e) school bus flashing lights described in Section 41-6a-1302;

(f) vehicles engaged in highway construction or maintenance described in Section 41-6a-1617;

(g) a media production vehicle used in accordance with Section 41-6a-1718; and

(h) a continuously flashing light system under Section 41-6a-1604.

(4) Except for an authorized emergency vehicle described in Section 41-6a-1601, or a media production vehicle used in accordance with Section [41-7a-1718] 41-6a-1718, a person may not use a rotating light on any vehicle.

(5) A violation of this section is an infraction.

Section 36. Section 46-4-503 is amended to read:

46-4-503. Government products and services provided electronically.

(1) Notwithstanding Section 46-4-501, a state governmental agency that administers one or more of the following transactions shall allow those transactions to be conducted electronically:

(a) an application for or renewal of a professional or occupational license issued under Title 58, Occupations and Professions;

(b) the renewal of a drivers license;

(c) an application for a hunting or fishing license;

(d) the filing of:

(i) a return under Title 59, Chapter 10, Individual Income Tax Act, or Title 59, Chapter 12, Sales and Use Tax Act;

(ii) a court document, as defined by the Judicial Council; or

(iii) a document under Title 70A, Uniform Commercial Code;

(e) a registration for:

(i) a product; or

(ii) a brand;

(f) a renewal of a registration of a motor vehicle;

(g) a registration under:

(i) Title 16, Corporations;

(ii) Title 42, Names; or

(iii) Title 48, Partnership - Unincorporated Business [Entity Act] Entities; or

- (h) submission of an application for benefits:
- (i) under Title 35A, Chapter 3, Employment Support Act;
 - (ii) under Title 35A, Chapter 4, Employment Security Act; or
 - (iii) related to accident and health insurance.
- (2) The state system of public education, in coordination with the Utah Education and Telehealth Network, shall make reasonable progress toward making the following services available electronically:
- (a) secure access by parents and students to student grades and progress reports;
 - (b) email communications with:
 - (i) teachers;
 - (ii) parent-teacher associations; and
 - (iii) school administrators;
 - (c) access to school calendars and schedules; and
 - (d) teaching resources that may include:
 - (i) teaching plans;
 - (ii) curriculum guides; and
 - (iii) media resources.
- (3) A state governmental agency shall:
- (a) in carrying out the requirements of this section, take reasonable steps to ensure the security and privacy of records that are private or controlled as defined by Title 63G, Chapter 2, Government Records Access and Management Act;
 - (b) in addition to those transactions listed in Subsections (1) and (2), determine any additional services that may be made available to the public through electronic means; and
 - (c) as part of the agency's information technology plan required by Section 63F-1-204, report on the progress of compliance with Subsections (1) through (3).
- (4) Notwithstanding the other provisions of this part, a state governmental agency is not required by this part to conduct a transaction electronically if:
- (a) conducting the transaction electronically is not required by federal law; and
 - (b) conducting the transaction electronically is:
 - (i) impractical;
 - (ii) unreasonable; or
 - (iii) not permitted by laws pertaining to privacy or security.
- (5) (a) For purposes of this Subsection (5), "one-stop shop" means the consolidation of access to diverse services and agencies at one location including virtual colocation.
- (b) State agencies that provide services or offer direct assistance to the business community shall

participate in the establishment, maintenance, and enhancement of an integrated Utah business web portal known as Business.utah.gov. The purpose of the business web portal is to provide "one-stop shop" assistance to businesses.

- (c) State agencies shall partner with other governmental and nonprofit agencies whose primary mission is to provide services or offer direct assistance to the business community in Utah in fulfilling the requirements of this section.
- (d) The following state entities shall comply with the provisions of this Subsection (5):
 - (i) Governor's Office of Economic Development, which shall serve as the managing partner for the website;
 - (ii) Department of Workforce Services;
 - (iii) Department of Commerce;
 - (iv) Tax Commission;
 - (v) Department of Administrative Services - Division of Purchasing and General Services, including other state agencies operating under a grant of authority from the division to procure goods and services in excess of \$5,000;
 - (vi) Department of Agriculture;
 - (vii) Department of Natural Resources; and
 - (viii) other state agencies that provide services or offer direct assistance to the business sector.
- (e) The business services available on the business web portal may include:
 - (i) business life cycle information;
 - (ii) business searches;
 - (iii) employment needs and opportunities;
 - (iv) motor vehicle registration;
 - (v) permit applications and renewal;
 - (vi) tax information;
 - (vii) government procurement bid notifications;
 - (viii) general business information;
 - (ix) business directories; and
 - (x) business news.

Section 37. Section 53-8-210 is amended to read:

53-8-210. Enforcement of inspection requirements.

- (1) A person operating a vehicle shall submit the vehicle to a safety inspection when required to do so by a peace officer.
- (2) (a) An owner or driver, upon receiving a notice as provided in Section 53-8-209, shall within five days secure a safety inspection certificate, which shall be issued in duplicate, one copy to be retained by the owner or driver and the other copy to be forwarded to the division.
- (b) In lieu of compliance with this subsection, the vehicle may not be operated, except as provided in Subsection (3).

(3) (a) A person may not operate any vehicle after receiving a notice from a peace officer that the vehicle is in need of repair or adjustment, except that a peace officer may allow the vehicle to be driven to the residence or place of business of the owner or driver or to the nearest garage where repairs are available if driving the vehicle is not excessively dangerous.

(b) The vehicle may not be operated again on the highways until its equipment has been placed in proper repair and adjustment and otherwise conforms to the requirements of this part and Title 41, Chapter ~~[6, Traffic Rules and Regulations]~~ 6a, Traffic Code, and a safety inspection certificate is obtained as promptly as possible.

(4) If repair or adjustment of any vehicle or its equipment is necessary, the owner of the vehicle may obtain repair or adjustment at any place he may choose.

Section 38. Section 53A-1-301 is amended to read:

53A-1-301. Appointment -- Qualifications -- Duties.

(1) (a) The State Board of Education shall appoint a superintendent of public instruction, hereinafter called the state superintendent, who is the executive officer of the board and serves at the pleasure of the board.

(b) The board shall appoint the state superintendent on the basis of outstanding professional qualifications.

(c) The state superintendent shall administer all programs assigned to the State Board of Education in accordance with the policies and the standards established by the board.

(2) The State Board of Education shall, with the appointed superintendent, develop a statewide education strategy focusing on core academics, including the development of:

(a) core standards for Utah public schools and graduation requirements;

(b) a process to select model instructional materials that best correlate to the core standards for Utah public schools and graduation requirements that are supported by generally accepted scientific standards of evidence;

(c) professional development programs for teachers, superintendents, and principals;

(d) model remediation programs;

(e) a model method for creating individual student learning targets, and a method of measuring an individual student's performance toward those targets;

(f) progress-based assessments for ongoing performance evaluations of districts and schools;

(g) incentives to achieve the desired outcome of individual student progress in core academics, and which do not create disincentives for setting high goals for the students;

(h) an annual report card for school and district performance, measuring learning and reporting progress-based assessments;

(i) a systematic method to encourage innovation in schools and school districts as they strive to achieve improvement in their performance; and

(j) a method for identifying and sharing best demonstrated practices across districts and schools.

(3) The superintendent shall perform duties assigned by the board, including the following:

(a) investigating all matters pertaining to the public schools;

(b) adopting and keeping an official seal to authenticate the superintendent's official acts;

(c) holding and conducting meetings, seminars, and conferences on educational topics;

(d) presenting to the governor and the Legislature each December a report of the public school system for the preceding year to include:

(i) data on the general condition of the schools with recommendations considered desirable for specific programs;

(ii) a complete statement of fund balances;

(iii) a complete statement of revenues by fund and source;

(iv) a complete statement of adjusted expenditures by fund, the status of bonded indebtedness, the cost of new school plants, and school levies;

(v) a complete statement of state funds allocated to each school district and charter school by source, including supplemental appropriations, and a complete statement of expenditures by each school district and charter school, including supplemental appropriations, by function and object as outlined in the [U.S.] United States Department of Education publication "Financial Accounting for Local and State School Systems";

(vi) a complete statement, by school district and charter school, of the amount of and percentage increase or decrease in expenditures from the previous year attributed to:

(A) wage increases, with expenditure data for base salary adjustments identified separately from step and lane expenditures;

(B) medical and dental premium cost adjustments; and

(C) adjustments in the number of teachers and other staff;

(vii) a statement that includes data on:

(A) fall enrollments;

(B) average membership;

(C) high school graduates;

(D) licensed and classified employees, including data reported by school districts on educator

ratings pursuant to Section [53A-8a-405] 53A-8a-410;

(E) pupil-teacher ratios;

(F) average class sizes calculated in accordance with State Board of Education rules adopted under Subsection 53A-3-602.5(4);

(G) average salaries;

(H) applicable private school data; and

(I) data from standardized norm-referenced tests in grades 5, 8, and 11 on each school and district;

(viii) statistical information regarding incidents of delinquent activity in the schools or at school-related activities with separate categories for:

(A) alcohol and drug abuse;

(B) weapon possession;

(C) assaults; and

(D) arson;

(ix) information about:

(A) the development and implementation of the strategy of focusing on core academics;

(B) the development and implementation of competency-based education and progress-based assessments; and

(C) the results being achieved under Subsections (3)(d)(ix)(A) and (B), as measured by individual progress-based assessments and a comparison of Utah students' progress with the progress of students in other states using standardized norm-referenced tests as benchmarks; and

(x) other statistical and financial information about the school system which the state superintendent considers pertinent;

(e) collecting and organizing education data into an automated decision support system to facilitate school district and school improvement planning, accountability reporting, performance recognition, and the evaluation of educational policy and program effectiveness to include:

(i) data that are:

(A) comparable across schools and school districts;

(B) appropriate for use in longitudinal studies; and

(C) comprehensive with regard to the data elements required under applicable state or federal law or state board rule;

(ii) features that enable users, most particularly school administrators, teachers, and parents, to:

(A) retrieve school and school district level data electronically;

(B) interpret the data visually; and

(C) draw conclusions that are statistically valid; and

(iii) procedures for the collection and management of education data that:

(A) require the state superintendent of public instruction to:

(I) collaborate with school districts in designing and implementing uniform data standards and definitions;

(II) undertake or sponsor research to implement improved methods for analyzing education data;

(III) provide for data security to prevent unauthorized access to or contamination of the data; and

(IV) protect the confidentiality of data under state and federal privacy laws; and

(B) require all school districts and schools to comply with the data collection and management procedures established under Subsection (3)(e);

(f) administering and implementing federal educational programs in accordance with Title 53A, Chapter 1, Part 9, Implementing Federal or National Education Programs Act; and

(g) with the approval of the board, preparing and submitting to the governor a budget for the board to be included in the budget that the governor submits to the Legislature.

(4) The state superintendent shall distribute funds deposited in the Autism Awareness Restricted Account created in Section 53A-1-304 in accordance with the requirements of Section 53A-1-304.

(5) Upon leaving office, the state superintendent shall deliver to the state superintendent's successor all books, records, documents, maps, reports, papers, and other articles pertaining to the state superintendent's office.

(6) (a) For the purpose of Subsection (3)(d)(vii):

(i) the pupil-teacher ratio for a school shall be calculated by dividing the number of students enrolled in a school by the number of full-time equivalent teachers assigned to the school, including regular classroom teachers, school-based specialists, and special education teachers;

(ii) the pupil-teacher ratio for a school district shall be the median pupil-teacher ratio of the schools within a school district;

(iii) the pupil-teacher ratio for charter schools aggregated shall be the median pupil-teacher ratio of charter schools in the state; and

(iv) the pupil-teacher ratio for the state's public schools aggregated shall be the median pupil-teacher ratio of public schools in the state.

(b) The printed copy of the report required by Subsection (3)(d) shall:

(i) include the pupil-teacher ratio for:

(A) each school district;

- (B) the charter schools aggregated; and
- (C) the state's public schools aggregated; and
- (ii) indicate the Internet website where pupil-teacher ratios for each school in the state may be accessed.

Section 39. Section 53A-15-1504 is amended to read:

53A-15-1504. Background checks for licensed educators.

The State Board of Education shall:

- (1) require a license applicant to submit to a criminal background check and ongoing monitoring as a condition for licensing;
- (2) collect the following from an applicant:
 - (a) personal identifying information;
 - (b) a fee described in Subsection 53-10-108(15); and
 - (c) consent, on a form specified by the State Board of Education, for:
 - (i) an initial background check upon submission of the application;
 - (ii) retention of personal identifying information for ongoing monitoring through registration with the systems described in Section 53A-15-1505; and
 - (iii) disclosure of any criminal history information to the individual's employing LEA or qualifying private school;
- (3) submit an applicant's personal identifying information, including fingerprints, to the bureau for:
 - (a) an initial background check; and
 - (b) ongoing monitoring through registration with the systems described in Section 53A-15-1505 if the results of the initial background check do not contain disqualifying criminal history information as determined by the State Board of Education in accordance with Section 53A-15-1506;
 - (4) identify the appropriate privacy risk mitigation strategy that will be used to ensure that the [board] State Board of Education only receives notifications for individuals with whom the State Board of Education maintains an authorizing relationship;
 - (5) notify the employing LEA or qualifying private school upon receipt of any criminal history information reported on a licensed educator employed by the LEA or qualifying private school; and
 - (6) (a) collect the information described in Subsection (2) from individuals who were licensed prior to July 1, 2015, by the individual's next license renewal date; and
 - (b) submit the information to the bureau for ongoing monitoring through registration with the systems described in Section 53A-15-1505.

Section 40. Section 53A-15-1508 is amended to read:

53A-15-1508. Update criminal background check rules and policies.

On or before September 1, 2015:

(1) the [board] State Board of Education shall update the [boards] State Board of Education's criminal background check rules consistent with this part; and

(2) an LEA shall update the LEA's criminal background check policies consistent with this part.

Section 41. Section 53A-15-1509 is amended to read:

53A-15-1509. Training provided to authorized entities.

The [board] State Board of Education shall collaborate with the bureau to provide training to authorized entities on the provisions of this part.

Section 42. Section 57-8-8.1 is amended to read:

57-8-8.1. Equal treatment by rules required -- Limits on rules.

(1) (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated unit owners similarly.

(b) Notwithstanding Subsection (1)(a), a rule may:

(i) vary according to the level and type of service that the association of unit owners provides to unit owners; and

(ii) differ between residential and nonresidential uses.

(2) (a) If a unit owner owns a rental unit and is in compliance with the association of unit owners' governing documents and any rule that the association of unit owners adopts under Subsection (4), a rule may not treat the unit owner differently because the unit owner owns a rental unit.

(b) Notwithstanding Subsection (2)(a), a rule may:

(i) limit or prohibit a rental unit owner from using the common areas for purposes other than attending an association meeting or managing the rental unit;

(ii) if the rental unit owner retains the right to use the association of unit owners' common areas, even occasionally, charge a rental unit owner a fee to use the common areas; or

(iii) include a provision in the association of unit owners' governing documents that:

(A) requires each tenant of a rental unit to abide by the terms of the governing documents; and

(B) holds the tenant and the rental unit owner jointly and severally liable for a violation of a provision of the governing documents.

(3) (a) A rule may not interfere with the freedom of a unit owner to determine the composition of the unit owner's household.

(b) Notwithstanding Subsection (3)(a), an association of unit owners may:

(i) require that all occupants of a dwelling be members of a single housekeeping unit; or

(ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:

(A) size and facilities; and

(B) fair use of the common areas.

(4) Unless contrary to a declaration, a rule may require a minimum lease term.

(5) Unless otherwise provided in the declaration, an association of unit owners may by rule:

(a) regulate the use, maintenance, repair, replacement, and modification of common areas;

(b) impose and receive any payment, fee, or charge for:

(i) the use, rental, or operation of the common areas, except limited common areas; and

(ii) a service provided to a unit owner;

(c) impose a charge for a late payment of an assessment; or

(d) provide for the indemnification of the association of unit owners' officers and ~~board~~ management committee consistent with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(6) A rule shall be reasonable.

(7) A declaration, or an amendment to a declaration, may vary any of the requirements of Subsections (1) through (5), except Subsection (1)(b)(ii).

(8) This section applies to an association of unit owners regardless of when the association of unit owners is created.

Section 43. Section 57-16a-202 is amended to read:

57-16a-202. Helpline administration.

(1) A helpline is created to assist a resident, a mobile home owner, or a park owner with disputes related to the act.

(2) The University of Utah S.J. Quinney College of Law shall administer the helpline in accordance with the provisions of this chapter.

(3) In administering the helpline, the S.J. Quinney College of Law shall:

(a) establish a phone number for the ~~hotline~~ helpline; and

(b) create a law clinic that consists of:

(i) a helpline administrator who is employed by the S.J. Quinney College of Law and is an active member of the Utah State Bar;

(ii) one or more supervised students; and

(iii) if necessary, one or more assisting attorneys.

(4) The helpline administrator, a supervised student, or an assisting attorney shall:

(a) receive and respond to calls made through the helpline;

(b) inform a helpline caller of the rights, responsibilities, and remedies described in the act;

(c) receive complaints from a helpline caller that allege a violation of the act;

(d) create a record of each call that includes:

(i) whether the caller is a resident, a mobile home owner, or a park owner;

(ii) the subject of the call, including whether the call alleges a violation of the act;

(iii) if the call alleges a violation of the act, information regarding whether the respondent was contacted;

(iv) the services provided to the caller, if any; and

(v) the outcome of the dispute, if known; and

(e) maintain a record described in Subsection (4)(d) for at least one year after the day on which the record is created.

(5) The helpline administrator shall, beginning in 2016, on or before November 30 of each year, submit to the Political Subdivisions Interim Committee a report that, for the 12 months before the day on which the helpline administrator submits the report, states:

(a) the number of calls that the helpline administrator, a supervised student, or an assisting attorney received through the helpline;

(b) a brief summary of each call, including:

(i) whether a resident, a mobile home owner, or a park owner made the call;

(ii) the subject of the call;

(iii) the nature of any service provided to the caller; and

(iv) the outcome of the matter, if known; and

(c) any recommendations regarding changes to the helpline or the act.

Section 44. Section 58-37-8 is amended to read:

58-37-8. Prohibited acts -- Penalties.

(1) Prohibited acts A -- Penalties:

(a) Except as authorized by this chapter, it is unlawful for any person to knowingly and intentionally:

(i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;

(ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;

(iii) possess a controlled or counterfeit substance with intent to distribute; or

(iv) engage in a continuing criminal enterprise where:

(A) the person participates, directs, or engages in conduct [which] that results in any violation of any provision of Title 58, Chapters 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b, Imitation Controlled Substances Act, 37c, Utah Controlled Substance Precursor Act, or 37d, Clandestine Drug Lab Act, that is a felony; and

(B) the violation is a part of a continuing series of two or more violations of Title 58, Chapters 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b, Imitation Controlled Substances Act, 37c, Utah Controlled Substance Precursor Act, or 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.

(b) Any person convicted of violating Subsection (1)(a) with respect to:

(i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony, punishable by imprisonment for not more than 15 years, and upon a second or subsequent conviction is guilty of a first degree felony;

(ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or

(iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.

(c) Any person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on his person or in his immediate possession during the commission or in furtherance of the offense, the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently.

(d) Any person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than seven years and which may be for life. Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(2) Prohibited acts B -- Penalties:

(a) It is unlawful:

(i) for any person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the person's professional practice, or as otherwise authorized by this chapter;

(ii) for any owner, tenant, licensee, or person in control of any building, room, tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied by persons unlawfully possessing, using, or distributing controlled substances in any of those locations; or

(iii) for any person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.

(b) Any person convicted of violating Subsection (2)(a)(i) with respect to:

(i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony; or

(ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty of a class A misdemeanor on a first or second conviction, and on a third or subsequent conviction is guilty of a third degree felony.

(c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than provided in this Subsection (2).

(d) Any person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section 58-37-4.2, or marijuana, is guilty of a class B misdemeanor. Upon a third conviction the person is guilty of a class A misdemeanor, and upon a fourth or subsequent conviction the person is guilty of a third degree felony.

(e) Any person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of property occupied by any correctional facility as defined in Section 64-13-1 or any public jail or other place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as listed in:

(i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and:

(A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted to a term of six months to run consecutively and not concurrently.

(f) Any person convicted of violating Subsection (2)(a)(ii) or (iii) is:

(i) on a first conviction, guilty of a class B misdemeanor;

(ii) on a second conviction, guilty of a class A misdemeanor; and

(iii) on a third or subsequent conviction, guilty of a third degree felony.

(g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not amounting to a violation of Section 76-5-207:

(i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's body any measurable amount of a controlled substance; and

(ii) operates a motor vehicle as defined in Section 76-5-207 in a negligent manner, causing serious bodily injury as defined in Section 76-1-601 or the death of another.

(h) A person who violates Subsection (2)(g) by having in the person's body:

(i) a controlled substance classified under Schedule I, other than those described in Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second degree felony;

(ii) marijuana, tetrahydrocannabinols, or equivalents described in Subsection 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in Section 58-37-4.2 is guilty of a third degree felony; or

(iii) any controlled substance classified under Schedules III, IV, or V is guilty of a class A misdemeanor.

(i) A person is guilty of a separate offense for each victim suffering serious bodily injury or death as a result of the person's negligent driving in violation of Subsection 58-37-8(2)(g) whether or not the injuries arise from the same episode of driving.

(3) Prohibited acts C -- Penalties:

(a) It is unlawful for any person knowingly and intentionally:

(i) to use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person;

(ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to

obtain a prescription for, to prescribe or dispense to any person known to be attempting to acquire or obtain possession of, or to procure the administration of any controlled substance by misrepresentation or failure by the person to disclose receiving any controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a prescription or written order for a controlled substance, or the use of a false name or address;

(iii) to make any false or forged prescription or written order for a controlled substance, or to utter the same, or to alter any prescription or written order issued or written under the terms of this chapter; or

(iv) to make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render any drug a counterfeit controlled substance.

(b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A misdemeanor.

(ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third degree felony.

(c) A violation of Subsection (3)(a)(iv) is a third degree felony.

(4) Prohibited acts D -- Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act that is unlawful under Subsection (1)(a), Section 58-37a-5, or Section 58-37b-4 is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools during the hours of 6 a.m. through 10 p.m.;

(ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

(iii) in or on the grounds of a preschool or child-care facility during the preschool's or facility's hours of operation;

(iv) in a public park, amusement park, arcade, or recreation center when the public or amusement park, arcade, or recreation center is open to the public;

(v) in or on the grounds of a house of worship as defined in Section 76-10-501;

(vi) in or on the grounds of a library when the library is open to the public;

(vii) within any area that is within 100 feet of any structure, facility, or grounds included in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);

(viii) in the presence of a person younger than 18 years of age, regardless of where the act occurs; or

(ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of any correctional facility as defined in Section 76-8-311.3.

(b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this Subsection (4) would have been a first degree felony.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

(d) (i) If the violation is of Subsection (4)(a)(ix):

(A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) the penalties under this Subsection (4)(d) apply also to any person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(ix).

(e) It is not a defense to a prosecution under this Subsection (4) that the actor mistakenly believed the individual to be 18 years of age or older at the time of the offense or was unaware of the individual's true age; nor that the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).

(5) Any violation of this chapter for which no penalty is specified is a class B misdemeanor.

(6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of guilty or no contest to a violation or attempted violation of this section or a plea [which] that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a conviction that is:

(i) from a separate criminal episode than the current charge; and

(ii) from a conviction that is separate from any other conviction used to enhance the current charge.

(7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.

(8) (a) Any penalty imposed for violation of this section is in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law.

(b) Where violation of this chapter violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

(9) In any prosecution for a violation of this chapter, evidence or proof [which] that shows a person or persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.

(10) This section does not prohibit a veterinarian, in good faith and in the course of the veterinarian's professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances or from causing the substances to be administered by an assistant or orderly under the veterinarian's direction and supervision.

(11) Civil or criminal liability may not be imposed under this section on:

(a) any person registered under this chapter who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research; or

(b) any law enforcement officer acting in the course and legitimate scope of the officer's employment.

(12) (a) Civil or criminal liability may not be imposed under this section on any Indian, as defined in Subsection 58-37-2(1)(v), who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion as defined in Subsection 58-37-2(1)(w).

(b) In a prosecution alleging violation of this section regarding peyote as defined in Subsection 58-37-4(2)(a)(iii)(V), it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.

(c) (i) The defendant shall provide written notice of intent to claim an affirmative defense under this Subsection (12) as soon as practicable, but not later than 10 days prior to trial.

(ii) The notice shall include the specific claims of the affirmative defense.

(iii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

(d) The defendant shall establish the affirmative defense under this Subsection (12) by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.

(13) (a) It is an affirmative defense that the person produced, possessed, or administered a controlled substance listed in Section 58-37-4.2 if the person:

(i) was engaged in medical research; and

(ii) was a holder of a valid license to possess controlled substances under Section 58-37-6.

(b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a controlled substance listed in Section 58-37-4.2.

(14) It is an affirmative defense that the person possessed, in the person's body, a controlled substance listed in Section 58-37-4.2 if:

(a) the person was the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(b) the substance was administered to the person by the medical researcher.

(15) The application of any increase in penalty under this section to a violation of Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This Subsection (15) takes precedence over any conflicting provision of this section.

(16) (a) It is an affirmative defense to an allegation of the commission of an offense listed in Subsection (16)(b) that the person:

(i) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(ii) reports in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this Subsection (16);

(iii) provides in the report under Subsection (16)(a)(ii) a functional description of the actual location of the overdose event that facilitates responding to the person experiencing the overdose event;

(iv) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

(v) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

(vi) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

(b) The offenses referred to in Subsection (16)(a) are:

(i) the possession or use of less than 16 ounces of marijuana;

(ii) the possession or use of a scheduled or listed controlled substance other than marijuana; and

(iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act.

(c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not include seeking medical assistance under this section during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

(17) If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

(18) A legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of this chapter.

(19) (a) If a minor who is under 18 years of age is found by a court to have violated this section and the violation is the minor's first violation of this section, the court may:

(i) order the minor to complete a screening as defined in Section 41-6a-501;

(ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(iii) order the minor to complete an educational series as defined in Section 41-6a-501 or substance abuse treatment as indicated by an assessment.

(b) If a minor who is under 18 years of age is found by a court to have violated this section and the violation is the minor's second or subsequent violation of this section, the court shall:

(i) order the minor to complete a screening as defined in Section 41-6a-501;

(ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(iii) order the minor to complete an educational series as defined in Section 41-6a-501 or substance abuse treatment as indicated by an assessment.

Section 45. Section 58-69-801 is amended to read:

58-69-801. Dental hygienist -- Limitations on practice.

A dental hygienist licensed under this chapter may only practice dental hygiene:

(1) in an accredited dental or dental hygienist school to teach and demonstrate the practice of dental hygiene;

(2) for a public health agency;

(3) under the supervision of a dentist, for an employee leasing company or temporary personnel service company providing employees to a dentist or other person lawfully providing dental services:

(a) under the indirect supervision of a dentist licensed under this chapter at any time the dental hygienist is administering an anesthetic or analgesia as permitted under this chapter or division rules made under this chapter;

(b) under the general supervision of a dentist licensed under this chapter within the office of the supervising dentist and upon patients of record of the supervising dentist; and

(c) under the general supervision of a dentist licensed under this chapter, and the practice is conducted outside of the office of the supervising dentist, if:

(i) the dental hygiene work performed is authorized by the supervising dentist as a part of and in accordance with the supervising dentist's current treatment plan for the patient;

(ii) no anesthetic or analgesia is used;

(iii) the supervising dentist has determined the patient's general health and oral health are so that the dental hygiene work can be performed under general supervision and with an acceptable level of risk or injury as determined by the supervising dentist;

(iv) the supervising dentist accepts responsibility for the dental hygiene work performed under general supervision; and

(v) (A) the dental hygienist's work is performed on a patient who is homebound or within a hospital, nursing home, or public health agency or institution; and

(B) the patient is the supervising dentist's patient of record and the dentist has examined the patient within six months prior to the patient's receiving treatment from a dental hygienist under this Subsection (3); ~~and~~ or

(4) under a written agreement with a dentist who is licensed under this chapter and who is a Utah resident if:

(a) the dental hygienist practices in a public health setting;

(b) the dentist is available in person, by phone, or by electronic communication;

(c) the agreement provides that the dental hygienist shall refer a patient with a dental need beyond the dental hygienist's scope of practice to a licensed dentist; and

(d) the dental hygienist obtains from each patient an informed consent form that provides that treatment by a dental hygienist is not a substitute for a dental examination by a dentist.

Section 46. Section 58-85-104 is amended to read:

58-85-104. Standard of care -- Medical practitioners not liable -- No private right of action.

(1) It is not a breach of the applicable standard of care for a physician, other licensed health care provider, or hospital to treat an eligible patient with an investigational drug or investigational device under this chapter.

(2) A physician, other licensed health care provider, or hospital that treats an eligible patient with an investigational drug or investigational device under this chapter may not, for any harm done to the eligible patient by the investigational drug or device, be subject to:

(a) civil liability;

(b) criminal liability; or

(c) licensure sanctions under:

(i) for a physician:

(A) Title 58, Chapter 67, Utah Medical Practice Act; or

(B) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(ii) for the other licensed health care provider, the act governing the other licensed health care provider's license; or

(iii) for the hospital, Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(3) This chapter does not:

(a) require a manufacturer of an investigational drug or investigational device to agree to make an investigational drug or investigational device available to an eligible patient or an eligible patient's physician;

(b) require a physician to agree to:

(i) administer an investigational drug to an eligible patient under this chapter; or

(ii) treat an eligible patient with an investigational device under this chapter; or

(c) create a private right of action for an eligible patient:

(i) against a physician or hospital, for the physician's or hospital's refusal to:

(A) administer an investigational drug to an eligible patient under this chapter; or

(B) treat an eligible patient with an investigational device under this chapter; or

(ii) against a manufacturer, for the manufacturer's refusal to provide an eligible patient with an investigational drug or an investigational device under this chapter.

Section 47. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; and

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

- (ii) regardless of whether the sale provides:
 - (A) a right of permanent use of the product; or
 - (B) a right to use the product that is less than a permanent use, including a right:
 - (I) for a definite or specified length of time; and
 - (II) that terminates upon the occurrence of a condition.

(2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70%; and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(d)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(f) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

- (i) Subsection (2)(a)(i)(A);
- (ii) Subsection (2)(b)(i);
- (iii) Subsection (2)(c)(i); or
- (iv) Subsection (2)(d)(i)(A)(I).

(h) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

- (A) on the first day of a calendar quarter; and
- (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) The following state taxes shall be deposited into the General Fund:

- (i) the tax imposed by Subsection (2)(a)(i)(A);

- (ii) the tax imposed by Subsection (2)(b)(i);
- (iii) the tax imposed by Subsection (2)(c)(i); or
- (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

- (i) the tax imposed by Subsection (2)(a)(ii);
- (ii) the tax imposed by Subsection (2)(b)(ii);
- (iii) the tax imposed by Subsection (2)(c)(ii); and
- (iv) the tax imposed by Subsection (2)(d)(i)(B).

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) \$17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited [in] into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities[,] for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited [in] into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited [in] into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than \$1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) \$17,500,000.

(b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as dedicated credits; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as dedicated credits; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 94% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized

by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c) and subject to Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred for employing additional technical staff for the administration of water rights.

(f) At the end of each fiscal year, any unexpended dedicated credits described in Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited [in] into the Transportation Fund created by Section 72-2-102.

(7) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created in Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable transactions under Subsection (1).

(8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (7), and subject to Subsection (8)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

(A) the tax imposed by Subsection (2)(a)(i)(A);

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (8)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use

taxes deposited under Subsection (8)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (8)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (8)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (8)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) for the current fiscal year under Subsection (8)(a).

(iii) In all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) was deposited under Subsection (8)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year under Subsection (8)(a).

(9) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (7) and (8), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(11) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b), and in addition to any amounts deposited under Subsections (7), (8), and (9), beginning on July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .025% tax rate on the transactions described in Subsection (1).

(b) For purposes of Subsection (11)(a), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal

property other than food and food ingredients described in Subsection (2)(d).

(12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a .025% tax rate on the transactions described in Subsection (1) to be expended to address chokepoints in construction management.

(b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into the Transportation Fund any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(d).

(13) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under Subsection 63N-2-510[(3)](2) that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(14) Notwithstanding Subsections (4) through (13), an amount required to be expended or deposited in accordance with Subsections (4) through (13) may not include an amount the Division of Finance deposits in accordance with Section 59-12-103.2.

Section 48. Section 59-12-2218 is amended to read:

59-12-2218. County, city, or town option sales and use tax for airports, highways, and systems for public transit -- Base -- Rate -- Administration of sales and use tax -- Voter approval exception.

(1) Subject to the other provisions of this part, the following may impose a sales and use tax under this section:

(a) if, on April 1, 2009, a county legislative body of a county of the second class imposes a sales and use tax under this section, the county legislative body of the county of the second class may impose the sales and use tax on the transactions:

(i) described in Subsection 59-12-103(1); and

(ii) within the county, including the cities and towns within the county; or

(b) if, on April 1, 2009, a county legislative body of a county of the second class does not impose a sales and use tax under this section:

(i) a city legislative body of a city within the county of the second class may impose a sales and use tax under this section on the transactions described in Subsection 59-12-103(1) within that city;

(ii) a town legislative body of a town within the county of the second class may impose a sales and use tax under this section on the transactions described in Subsection 59-12-103(1) within that town; and

(iii) the county legislative body of the county of the second class may impose a sales and use tax on the transactions described in Subsection 59-12-103(1):

(A) within the county, including the cities and towns within the county, if on the date the county legislative body provides the notice described in Section 59-12-2209 to the commission stating that the county will enact a sales and use tax under this section, no city or town within that county imposes a sales and use tax under this section or has provided the notice described in Section 59-12-2209 to the commission stating that the city or town will enact a sales and use tax under this section; or

(B) within the county, except for within a city or town within that county, if, on the date the county legislative body provides the notice described in Section 59-12-2209 to the commission stating that the county will enact a sales and use tax under this section, that city or town imposes a sales and use tax under this section or has provided the notice described in Section 59-12-2209 to the commission stating that the city or town will enact a sales and use tax under this section.

(2) For purposes of Subsection (1) and subject to the other provisions of this section, a county, city, or town legislative body that imposes a sales and use tax under this section may impose the tax at a rate of:

- (a) .10%; or
- (b) .25%.

(3) A sales and use tax imposed at a rate described in Subsection (2)(a) shall be expended as determined by the county, city, or town legislative body as follows:

(a) deposited as provided in Subsection (9)(b) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2;

(b) expended for a project or service relating to an airport facility for the portion of the project or service that is performed within the county, city, or town within which the tax is imposed:

(i) for a county legislative body that imposes the sales and use tax, if that airport facility is part of the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or

(ii) for a city or town legislative body that imposes the sales and use tax, if:

(A) that city or town owns or operates the airport facility; and

(B) an airline is headquartered in that city or town; or

(c) deposited or expended for a combination of Subsections (3)(a) and (b).

(4) Subject to Subsections (5) through (7), a sales and use tax imposed at a rate described in Subsection (2)(b) shall be expended as determined by the county, city, or town legislative body as follows:

(a) deposited as provided in Subsection (9)(b) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2;

(b) expended for:

(i) a state highway designated under Title 72, Chapter 4, Part 1, State Highways;

(ii) a local highway that is a principal arterial highway, minor arterial highway, major collector highway, or minor collector road; or

(iii) a combination of Subsections (4)(b)(i) and (ii);

(c) expended for a project or service relating to a system for public transit for the portion of the project or service that is performed within the county, city, or town within which the sales and use tax is imposed;

(d) expended for a project or service relating to an airport facility for the portion of the project or service that is performed within the county, city, or town within which the sales and use tax is imposed:

(i) for a county legislative body that imposes the sales and use tax, if that airport facility is part of the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or

(ii) for a city or town legislative body that imposes the sales and use tax, if:

(A) that city or town owns or operates the airport facility; and

(B) an airline is headquartered in that city or town;

(e) expended for:

(i) a class B road, as defined in Section 72-3-103;

(ii) a class C road, as defined in Section 72-3-104; or

(iii) a combination of Subsections (4)(e)(i) and (ii);

(f) expended for traffic and pedestrian safety, including:

(i) for a class B road, as defined in Section 72-3-103, or class C road, as defined in Section 72-3-104, for:

(A) a sidewalk;

(B) curb and gutter;

(C) a safety feature;

(D) a traffic sign;

(E) a traffic signal;

(F) street lighting; or

(G) a combination of Subsections (4)(f)(i)(A) through (F);

(ii) the construction of an active transportation facility that:

(A) is for nonmotorized vehicles and multimodal transportation; and

(B) connects an origin with a destination; or

(iii) a combination of Subsections (4)(f)(i) and (ii); or

(g) deposited or expended for a combination of Subsections (4)(a) through (f).

(5) A county, city, or town legislative body may not expend revenue collected within a county, city, or town from a tax under this [part] section for a purpose described in Subsections (4)(b) through (f) unless the purpose is recommended by:

(a) for a county that is part of a metropolitan planning organization, the metropolitan planning organization of which the county is a part; or

(b) for a county that is not part of a metropolitan planning organization, the council of governments of which the county is a part.

(6) (a) (i) Except as provided in Subsection (6)(b), a county, city, or town that imposes a tax described in Subsection (2)(b) shall deposit the revenue collected from a tax rate of .05% as provided in Subsection (9)(b)(i) into the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5.

(ii) Revenue deposited in accordance with Subsection (6)(a)(i) shall be expended and distributed in accordance with Section 72-2-117.5.

(b) A county, city, or town is not required to make the deposit required by Subsection (6)(a)(i) if the county, city, or town:

(i) imposed a tax described in Subsection (2)(b) on July 1, 2010; or

(ii) has continuously imposed a tax described in Subsection (2)(b):

(A) beginning after July 1, 2010; and

(B) for a five-year period.

(7) (a) Subject to the other provisions of this Subsection (7), a city or town within which a sales and use tax is imposed at the tax rate described in Subsection (2)(b) may:

(i) expend the revenues in accordance with Subsection (4); or

(ii) expend the revenues in accordance with Subsections (7)(b) through (d) if:

(A) that city or town owns or operates an airport facility; and

(B) an airline is headquartered in that city or town.

(b) (i) A city or town legislative body of a city or town within which a sales and use tax is imposed at the tax rate described in Subsection (2)(b) may expend the revenues collected from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of .25% for a purpose described in Subsection (7)(b)(ii) if:

(A) that city or town owns or operates an airport facility; and

(B) an airline is headquartered in that city or town.

(ii) A city or town described in Subsection (7)(b)(i) may expend the revenues collected from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of .25% for:

(A) a project or service relating to the airport facility; and

(B) the portion of the project or service that is performed within the city or town imposing the sales and use tax.

(c) If a city or town legislative body described in Subsection (7)(b)(i) determines to expend the revenues collected from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of .25% for a project or service relating to an airport facility as allowed by Subsection (7)(b), any remaining revenue that is collected from the sales and use tax imposed at the tax rate described in Subsection (2)(b) that is not expended for the project or service relating to an airport facility as allowed by Subsection (7)(b) shall be expended as follows:

(i) 75% of the remaining revenues shall be deposited as provided in Subsection (9)(c) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2; and

(ii) 25% of the remaining revenues shall be deposited as provided in Subsection (9)(c) into the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5 and expended and distributed in accordance with Section 72-2-117.5.

(d) A city or town legislative body that expends the revenues collected from a sales and use tax imposed at the tax rate described in Subsection (2)(b) in accordance with Subsections (7)(b) and (c):

(i) shall, on or before the date the city or town legislative body provides the notice described in Section 59-12-2209 to the commission stating that the city or town will enact a sales and use tax under this section:

(A) determine the tax rate, the percentage of which is greater than .10% but does not exceed .25%, the collections from which the city or town legislative body will expend for a project or service relating to an airport facility as allowed by Subsection (7)(b); and

(B) notify the commission in writing of the tax rate the city or town legislative body determines in accordance with Subsection (7)(d)(i)(A);

(ii) shall, on or before the April 1 immediately following the date the city or town legislative body

provides the notice described in Subsection (7)(d)(i) to the commission:

(A) determine the tax rate, the percentage of which is greater than .10% but does not exceed .25%, the collections from which the city or town legislative body will expend for a project or service relating to an airport facility as allowed by Subsection (7)(b); and

(B) notify the commission in writing of the tax rate the city or town legislative body determines in accordance with Subsection (7)(d)(ii)(A);

(iii) shall, on or before April 1 of each year after the April 1 described in Subsection (7)(d)(ii):

(A) determine the tax rate, the percentage of which is greater than .10% but does not exceed .25%, the collections from which the city or town legislative body will expend for a project or service relating to an airport facility as allowed by Subsection (7)(b); and

(B) notify the commission in writing of the tax rate the city or town legislative body determines in accordance with Subsection (7)(d)(iii)(A); and

(iv) may not change the tax rate the city or town legislative body determines in accordance with Subsections (7)(d)(i) through (iii) more frequently than as prescribed by Subsections (7)(d)(i) through (iii).

(8) Before a city or town legislative body may impose a sales and use tax under this section, the city or town legislative body shall provide a copy of the notice described in Section 59-12-2209 that the city or town legislative body provides to the commission:

(a) to the county legislative body within which the city or town is located; and

(b) at the same time as the city or town legislative body provides the notice to the commission.

(9) (a) Subject to Subsections (9)(b) through (e) and Section 59-12-2207, the commission shall transmit revenues collected within a county, city, or town from a tax under this part that will be expended for a purpose described in Subsection (3)(b) or Subsections (4)(b) through (f) to the county, city, or town legislative body in accordance with Section 59-12-2206.

(b) Except as provided in Subsection (9)(c) and subject to Section 59-12-2207, the commission shall deposit revenues collected within a county, city, or town from a sales and use tax under this section that:

(i) are required to be expended for a purpose described in Subsection (6)(a) into the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; or

(ii) a county, city, or town legislative body determines to expend for a purpose described in Subsection (3)(a) or (4)(a) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 if the county, city, or town

legislative body provides written notice to the commission requesting the deposit.

(c) Subject to Subsection (9)(d) or (e), if a city or town legislative body provides notice to the commission in accordance with Subsection (7)(d), the commission shall:

(i) transmit the revenues collected from the tax rate stated on the notice to the city or town legislative body monthly by electronic funds transfer; and

(ii) deposit any remaining revenues described in Subsection (7)(c) in accordance with Subsection (7)(c).

(d) (i) If a city or town legislative body provides the notice described in Subsection (7)(d)(i) to the commission, the commission shall transmit or deposit the revenues collected from the sales and use tax:

(A) in accordance with Subsection (9)(c);

(B) beginning on the date the city or town legislative body enacts the sales and use tax; and

(C) ending on the earlier of the June 30 immediately following the date the city or town legislative body provides the notice described in Subsection (7)(d)(ii) to the commission or the date the city or town legislative body repeals the sales and use tax.

(ii) If a city or town legislative body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission, the commission shall transmit or deposit the revenues collected from the sales and use tax:

(A) in accordance with Subsection (9)(c);

(B) beginning on the July 1 immediately following the date the city or town legislative body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission; and

(C) ending on the earlier of the June 30 of the year after the date the city or town legislative body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission or the date the city or town legislative body repeals the sales and use tax.

(e) (i) If a city or town legislative body that is required to provide the notice described in Subsection (7)(d)(i) does not provide the notice described in Subsection (7)(d)(i) to the commission on or before the date required by Subsection (7)(d) for providing the notice, the commission shall transmit, transfer, or deposit the revenues collected from the sales and use tax within the city or town in accordance with Subsections (9)(a) and (b).

(ii) If a city or town legislative body that is required to provide the notice described in Subsection (7)(d)(ii) or (iii) does not provide the notice described in Subsection (7)(d)(ii) or (iii) to the commission on or before the date required by Subsection (7)(d) for providing the notice, the commission shall transmit or deposit the revenues collected from the sales and use tax within the city or town in accordance with:

(A) Subsection (9)(c); and

(B) the most recent notice the commission received from the city or town legislative body under Subsection (7)(d).

Section 49. Section 59-22-202 is amended to read:

59-22-202. Definitions.

As used in this part:

(1) "Adjusted for inflation" means increased in accordance with the formula for inflation adjustment set forth in Exhibit C to the Master Settlement Agreement.

(2) "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms "owns," "is owned" and "ownership" mean ownership of an equity interest, or the equivalent thereof, of 10% or more, and the term "person" means an individual, partnership, committee, association, corporation, or any other organization or group of persons.

(3) "Allocable share" means Allocable Share as that term is defined in the Master Settlement Agreement.

(4) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

(a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

(b) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or

(c) any roll of tobacco wrapped in any substance containing tobacco [which] that, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in clause (a) of this definition. The term "cigarette" includes "roll-your-own" (i.e., any tobacco [which] that, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes). For purposes of this definition of "cigarette," 0.09 ounces of "roll-your-own" tobacco shall constitute one individual "cigarette."

(5) "Master Settlement Agreement" means the settlement agreement (and related documents) entered into on November 23, 1998, by the State and leading United States tobacco product manufacturers.

(6) "Qualified escrow fund" means an escrow arrangement with a federally or State chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least \$1,000,000,000 where such arrangement requires that such financial institution hold the

escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing, or directing the use of the funds' principal except as consistent with Subsection 59-22-203(2).

(7) "Released claims" means Released Claims as that term is defined in the Master Settlement Agreement.

(8) "Releasing parties" means Releasing Parties as that term is defined in the Master Settlement Agreement.

(9) (a) "Tobacco product manufacturer" means an entity that after the date of enactment of this Act directly (and not exclusively through any affiliate):

(i) manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except where such importer is an original participating manufacturer (as that term is defined in the Master Settlement Agreement) that will be responsible for the payments under the Master Settlement Agreement with respect to such cigarettes as a result of the provisions of Subsection II(mm) of the Master Settlement Agreement and that pays the taxes specified in Subsection II(z) of the Master Settlement Agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States);

(ii) is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

(iii) becomes a successor of an entity described in Subsection (9)(a)(i) or (ii).

(b) "Tobacco product manufacturer" shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any Subsection (9)(a)(i) through (iii).

(10) "Units sold" means the number of individual cigarettes sold in the State by the applicable tobacco product manufacturer (whether directly or through a distributor, retailer or similar intermediary or intermediaries) during the year in question, as measured by excise taxes collected by the State on packs (or "roll-your-own" tobacco containers). The State Tax Commission shall promulgate such regulations as are necessary to ascertain the amount of State excise tax paid on the cigarettes of such tobacco product manufacturer for each year.

Section 50. Section 62A-2-121 is amended to read:

62A-2-121. Access to abuse and neglect information.

(1) For purposes of this section:

(a) "Direct service worker" means the same as that term is defined in Section 62A-5-101.

(b) "Personal care attendant" means the same as that term is defined in Section 62A-3-101.

(2) With respect to a licensee, ~~[a certified local inspector applicant,]~~ a direct service worker, or a personal care attendant, the department may access only the Licensing Information System of the Division of Child and Family Services created by Section 62A-4a-1006 and juvenile court records under Subsection 78A-6-323(6), for the purpose of:

(a) (i) determining whether a person associated with a licensee, with direct access to children:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78A-6-323(1) and (2); and

(ii) informing a licensee that a person associated with the licensee:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78A-6-323(1) and (2);

~~[(b) (i) determining whether a certified local inspector applicant:]~~

~~[(A) is listed in the Licensing Information System; or]~~

~~[(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78A-6-323(1) and (2); and]~~

~~[(ii) informing a local government that a certified local inspector applicant:]~~

~~[(A) is listed in the Licensing Information System; or]~~

~~[(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78A-6-323(1) and (2);]~~

~~[(e)]~~ (b) (i) determining whether a direct service worker:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78A-6-323(1) and (2); and

(ii) informing a direct service worker or the direct service worker's employer that the direct service worker:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78A-6-323(1) and (2); or

~~[(d)]~~ (c) (i) determining whether a personal care attendant:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78A-6-323(1) and (2); and

(ii) informing a person described in Subsections 62A-3-101(9)(a)(i) through (iv) that a personal care attendant:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78A-6-323(1) and (2).

(3) Notwithstanding Subsection (2), the department may access the Division of Child and Family Services' Management Information System under Section 62A-4a-1003:

(a) for the purpose of licensing and monitoring foster parents;

(b) for the purposes described in Subsection 62A-4a-1003(1)(d); and

(c) for the purpose described in Section 62A-1-118.

(4) The department shall receive and process personal identifying information under Subsection 62A-2-120(1) for the purposes described in Subsection (2).

(5) The department shall adopt rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with this chapter, defining the circumstances under which a person may have direct access or provide services to children when:

(a) the person is listed in the Licensing Information System of the Division of Child and Family Services created by Section 62A-4a-1006; or

(b) juvenile court records show that a court made a substantiated finding under Section 78A-6-323, that the person committed a severe type of child abuse or neglect.

Section 51. Section 62A-2-122 is amended to read:

62A-2-122. Access to vulnerable adult abuse and neglect information.

(1) For purposes of this section:

(a) "Direct service worker" means the same as that term is defined in Section 62A-5-101.

(b) "Personal care attendant" means the same as that term is defined in Section 62A-3-101.

(2) With respect to a licensee, ~~[a certified local inspector applicant,]~~ a direct service worker, or a personal care attendant, the department may access the database created by Section 62A-3-311.1 for the purpose of:

(a) (i) determining whether a person associated with a licensee, with direct access to vulnerable adults, has a supported or substantiated finding of:

(A) abuse;

(B) neglect; or

- (C) exploitation; and
- (ii) informing a licensee that a person associated with the licensee has a supported or substantiated finding of:
- (A) abuse;
- (B) neglect; or
- (C) exploitation;
- ~~[(b) (i) determining whether a certified local inspector applicant has a supported or substantiated finding of:]~~
- ~~[(A) abuse;]~~
- ~~[(B) neglect; or]~~
- ~~[(C) exploitation; and]~~
- ~~[(ii) informing a local government that a certified local inspector applicant has a supported or substantiated finding of:]~~
- ~~[(A) abuse;]~~
- ~~[(B) neglect; or]~~
- ~~[(C) exploitation;]~~
- ~~[(e) (b) (i) determining whether a direct service worker has a supported or substantiated finding of:]~~
- (A) abuse;
- (B) neglect; or
- (C) exploitation; and
- (ii) informing a direct service worker or the direct service worker's employer that the direct service worker has a supported or substantiated finding of:
- (A) abuse;
- (B) neglect; or
- (C) exploitation; or
- ~~[(d) (c) (i) determining whether a personal care attendant has a supported or substantiated finding of:]~~
- (A) abuse;
- (B) neglect; or
- (C) exploitation; and
- (ii) informing a person described in Subsections 62A-3-101(9)(a)(i) through (iv) that a personal care attendant has a supported or substantiated finding of:
- (A) abuse;
- (B) neglect; or
- (C) exploitation.
- (3) The department shall receive and process personal identifying information under Subsection 62A-2-120(1) for the purposes described in Subsection (2).
- (4) The department shall adopt rules under Title 63G, Chapter 3, Utah Administrative Rulemaking

Act, consistent with this chapter and Title 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation of a Vulnerable Adult, defining the circumstances under which a person may have direct access or provide services to vulnerable adults when the person is listed in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1 as having a supported or substantiated finding of abuse, neglect, or exploitation.

Section 52. Section 63A-5-208 is amended to read:

63A-5-208. Definitions -- Certain public construction bids to list subcontractors -- Changing subcontractors -- Bidders as subcontractors -- Dispute resolution process -- Penalties.

(1) As used in this section:

(a) "First-tier subcontractor" means a subcontractor who contracts directly with the prime contractor.

(b) (i) "Subcontractor" means any person or entity under contract with a contractor or another subcontractor to provide services or labor for the construction, installation, or repair of an improvement to real property.

~~[(e) (ii) "Subcontractor" includes a trade contractor or specialty contractor.~~

~~[(d) (iii) "Subcontractor" does not include suppliers who provide only materials, equipment, or supplies to a contractor or subcontractor.~~

(2) The director shall apply the provisions of this section to achieve fair and competitive bidding and to discourage bid-shopping by contractors.

(3) (a) (i) (A) On each public construction project, the director shall require the apparent lowest three bidders to submit a list of their first-tier subcontractors indicating each subcontractor's name, bid amount, and other information required by rule.

(B) Other bidders who are not one of the apparent lowest three bidders may also submit a list of their first-tier subcontractors containing the information required by this Subsection (3).

(C) The director may not consider any bid submitted by a bidder if the bidder fails to submit a subcontractor list meeting the requirements of this section.

(ii) On projects where the contractor's total bid is less than \$500,000, subcontractors whose bid is less than \$20,000 need not be listed.

(iii) On projects where the contractor's total bid is \$500,000 or more, subcontractors whose bid is less than \$35,000 need not be listed.

(b) (i) The bidders shall submit this list within 24 hours after the bid opening time, not including Saturdays, Sundays, and state holidays.

(ii) This list does not limit the director's right to authorize a change in the listing of any subcontractor.

(c) The bidders shall verify that all subcontractors listed as part of their bids are licensed as required by state law.

(d) Twenty-four hours after the bid opening, the contractor may change the contractor's subcontractors only after:

- (i) receiving permission from the director; and
- (ii) establishing that:

(A) the change is in the best interest of the state; and

(B) the contractor establishes reasons for the change that meet the standards established by the State Building Board.

(e) If the director approves any changes in subcontractors that result in a net lower contract price for subcontracted work, the total of the prime contract may be reduced to reflect the changes.

(4) (a) A bidder may list himself as a subcontractor when the bidder is currently licensed to perform the portion of the work for which the bidder lists himself as a subcontractor and:

(i) the bidder intends to perform the work of a subcontractor himself; or

(ii) the bidder intends to obtain a subcontractor to perform the work at a later date because the bidder was unable to:

(A) obtain a bid from a qualified subcontractor; or

(B) obtain a bid from a qualified subcontractor at a cost that the bidder considers to be reasonable.

(b) (i) When the bidder intends to perform the work of a subcontractor himself, the director may, by written request, require that the bidder provide the director with information indicating the bidder's:

(A) previous experience in the type of work to be performed; and

(B) qualifications for performing the work.

(ii) The bidder must respond in writing within five business days of receiving the director's written request.

(iii) If the bidder's submitted information causes the director to reasonably believe that self-performance of the portion of the work by the bidder is likely to yield a substandard finished product, the director shall:

(A) require the bidder to use a subcontractor for the portion of the work in question and obtain the subcontractor bid under the supervision of the director; or

(B) reject the bidder's bid.

(c) (i) When the bidder intends to obtain a subcontractor to perform the work at a later date, the bidder shall provide documentation with the subcontractor list describing:

(A) the bidder's efforts to obtain a bid of a qualified subcontractor at a reasonable cost; and

(B) why the bidder was unable to obtain a qualified subcontractor bid.

(ii) If the bidder who intends to obtain a subcontractor to perform the work at a later date is awarded a contract, the director shall supervise the bidder's efforts to obtain a qualified subcontractor bid.

(iii) The director may not adjust the amount of the contract awarded in order to reflect the actual amount of the subcontractor's bid.

(5) The division may not disclose any subcontractor bid amounts obtained under this section until the division has awarded the project to a contractor.

(6) (a) The director shall, in consultation with the State Building Board, prepare draft rules establishing a process for resolving disputes involved with contracts under the division's procurement authority.

~~(b) The draft rules shall be presented to the Government Operations Interim Committee for review, comment, and recommendations before August 31, 2004.~~

~~(c)~~ (b) The director shall consider, and the rules may include:

(i) requirements regarding preliminary resolution efforts between the parties directly involved with the dispute;

(ii) requirements for the filing of claims, including notification, timeframes, and documentation;

(iii) identification of the types of costs eligible for allocation and a method for allocating costs among the parties to the dispute;

(iv) required time periods, not to exceed 60 days, for the resolution of the claim;

(v) provision for an independent hearing officer, panel, or arbitrator to extend the time period for resolution of the claim by not to exceed 60 additional days for good cause;

(vi) provision for the extension of required time periods if the claimant agrees;

(vii) requirements that decisions be issued in writing;

(viii) provisions for administrative appeals of the decision;

(ix) provisions for the timely payment of claims after resolution of the dispute, including any appeals;

(x) a requirement that the final determination resulting from the dispute resolution process provided for in the rules is a final agency action subject to judicial review as provided in Sections 63G-4-401 and 63G-4-402;

(xi) a requirement that a claim or dispute that does not include a monetary claim against the

division or its agents is not limited to the dispute resolution process provided for in this Subsection (6);

(xii) requirements for claims and disputes to be eligible for this dispute resolution process;

(xiii) the use of an independent hearing officer, panel, arbitration, or mediation; and

(xiv) the circumstances under which a subcontractor may file a claim directly with the division.

~~[(4)]~~ (c) Persons pursuing claims under the process required by this Subsection (6):

(i) are bound by the decision reached under this process unless the decision is properly appealed; and

(ii) may not pursue claims or disputes under the dispute resolution process established in Title 63G, Chapter 6a, Utah Procurement Code.

(7) In addition to all other reasons allowed by law or rule, the director may reject all bids if none of the bidders whose bid is within the budget of the project submit a subcontractor list that meets the requirements of this section.

(8) Any violation of this section, or any fraudulent misrepresentation by a contractor, subcontractor, or supplier, may be grounds for:

(a) the contractor, subcontractor, or supplier to be suspended or debarred by the director; or

(b) the contractor or subcontractor to be disciplined by the Division of Professional and Occupational Licensing.

Section 53. Section 63A-13-204 is amended to read:

63A-13-204. Selection and review of claims.

(1) (a) The office shall periodically select and review a representative sample of claims submitted for reimbursement under the state Medicaid program to determine whether fraud, waste, or abuse occurred.

(b) The office shall limit its review for waste and abuse under Subsection (1)(a) to 36 months prior to the date of the inception of the investigation or 72 months if there is a credible allegation of fraud. In the event the office or the fraud unit determines that there is fraud as defined in Section 63A-13-102, then the statute of limitations defined in Subsection 26-20-15(1) shall apply.

(2) The office may directly contact the recipient of record for a Medicaid reimbursed service to determine whether the service for which reimbursement was claimed was actually provided to the recipient of record.

(3) The office shall:

(a) generate statistics from the sample described in Subsection (1) to determine the type of fraud, waste, or abuse that is most advantageous to focus on in future audits or investigations;

(b) ensure that the office, or any entity that contracts with the office to conduct audits:

(i) has on staff or contracts with a medical or dental professional who is experienced in the treatment, billing, and coding procedures used by the type of provider being audited; and

(ii) uses the services of the appropriate professional described in Subsection (3)(b)(i) if the provider ~~[who]~~ that is the subject of the audit disputes the findings of the audit;

(c) ensure that a finding of overpayment or underpayment to a provider is not based on extrapolation, unless:

(i) there is a determination that the level of payment error involving the provider exceeds a 10% error rate:

(A) for a sample of claims for a particular service code; and

(B) over a three year period of time;

(ii) documented education intervention has failed to correct the level of payment error; and

(iii) the value of the claims for the provider, in aggregate, exceeds \$200,000 in reimbursement for a particular service code on an annual basis; and

(d) require that any entity with which the office contracts, for the purpose of conducting an audit of a service provider, shall be paid on a flat fee basis for identifying both overpayments and underpayments.

(4) (a) If the office, or a contractor on behalf of the department:

(i) intends to implement the use of extrapolation as a method of auditing claims, the department shall, prior to adopting the extrapolation method of auditing, report its intent to use extrapolation to:

(A) the Social Services Appropriations Subcommittee; and

(B) the Executive Appropriations Committee pursuant to Section 63A-13-502; and

(ii) determines Subsections ~~[(2)]~~ (3)(c)(i) through (iii) are applicable to a provider, the office or the contractor may use extrapolation only for the service code associated with the findings under Subsections ~~[(2)]~~ (3)(c)(i) through (iii).

(b) (i) If extrapolation is used under this section, a provider may, at the provider's option, appeal the results of the audit based on:

(A) each individual claim; or

(B) the extrapolation sample.

(ii) Nothing in this section limits a provider's right to appeal the audit under ~~[Title 63G, Administrative Code,]~~ Title 63G, Chapter 4, Administrative Procedures Act, the Medicaid program and its manual or rules, or other laws or rules that may provide remedies to providers.

Section 54. Section 63E-1-203 is amended to read:

63E-1-203. Exemptions from committee activities.

Notwithstanding the other provisions of this Part 2, Retirement and Independent Entities Committee, and Subsection 63E-1-102(4), the following independent entities are exempt from the study by the committee under Section 63E-1-202:

(1) the Workers' Compensation Fund created in Title 31A, Chapter 33, Workers' Compensation Fund; and

(2) the Utah Housing Corporation created in Section 63H-8-201.

Section 55. Section 63G-2-202 is amended to read:

63G-2-202. Access to private, controlled, and protected documents.

(1) Upon request, and except as provided in Subsection (11)(a), a governmental entity shall disclose a private record to:

(a) the subject of the record;

(b) the parent or legal guardian of an unemancipated minor who is the subject of the record;

(c) the legal guardian of a legally incapacitated individual who is the subject of the record;

(d) any other individual who:

(i) has a power of attorney from the subject of the record;

(ii) submits a notarized release from the subject of the record or the individual's legal representative dated no more than 90 days before the date the request is made; or

(iii) if the record is a medical record described in Subsection 63G-2-302(1)(b), is a health care provider, as defined in Section 26-33a-102, if releasing the record or information in the record is consistent with normal professional practice and medical ethics; or

(e) any person to whom the record must be provided pursuant to:

(i) court order as provided in Subsection (7); or

(ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers.

(2) (a) Upon request, a governmental entity shall disclose a controlled record to:

(i) a physician, psychologist, certified social worker, insurance provider or producer, or a government public health agency upon submission of:

(A) a release from the subject of the record that is dated no more than 90 days prior to the date the request is made; and

(B) a signed acknowledgment of the terms of disclosure of controlled information as provided by Subsection (2)(b); and

(ii) any person to whom the record must be disclosed pursuant to:

(A) a court order as provided in Subsection (7); or

(B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers.

(b) A person who receives a record from a governmental entity in accordance with Subsection (2)(a)(i) may not disclose controlled information from that record to any person, including the subject of the record.

(3) If there is more than one subject of a private or controlled record, the portion of the record that pertains to another subject shall be segregated from the portion that the requester is entitled to inspect.

(4) Upon request, and except as provided in Subsection (10) or (11)(b), a governmental entity shall disclose a protected record to:

(a) the person ~~who~~ that submitted the record;

(b) any other individual who:

(i) has a power of attorney from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification; or

(ii) submits a notarized release from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification or from their legal representatives dated no more than 90 days prior to the date the request is made;

(c) any person to whom the record must be provided pursuant to:

(i) a court order as provided in Subsection (7); or

(ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers; or

(d) the owner of a mobile home park, subject to the conditions of Subsection 41-1a-116(5).

(5) A governmental entity may disclose a private, controlled, or protected record to another governmental entity, political subdivision, ~~another~~ state, the United States, or a foreign government only as provided by Section 63G-2-206.

(6) Before releasing a private, controlled, or protected record, the governmental entity shall obtain evidence of the requester's identity.

(7) A governmental entity shall disclose a record pursuant to the terms of a court order signed by a judge from a court of competent jurisdiction, provided that:

(a) the record deals with a matter in controversy over which the court has jurisdiction;

(b) the court has considered the merits of the request for access to the record;

(c) the court has considered and, where appropriate, limited the requester's use and further disclosure of the record in order to protect:

(i) privacy interests in the case of private or controlled records;

(ii) business confidentiality interests in the case of records protected under Subsection 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and

(iii) privacy interests or the public interest in the case of other protected records;

(d) to the extent the record is properly classified private, controlled, or protected, the interests favoring access, considering limitations thereon, are greater than or equal to the interests favoring restriction of access; and

(e) where access is restricted by a rule, statute, or regulation referred to in Subsection 63G-2-201(3)(b), the court has authority independent of this chapter to order disclosure.

(8) (a) Except as provided in Subsection (8)(d), a governmental entity may disclose or authorize disclosure of private or controlled records for research purposes if the governmental entity:

(i) determines that the research purpose cannot reasonably be accomplished without use or disclosure of the information to the researcher in individually identifiable form;

(ii) determines that:

(A) the proposed research is bona fide; and

(B) the value of the research is greater than or equal to the infringement upon personal privacy;

(iii) (A) requires the researcher to assure the integrity, confidentiality, and security of the records; and

(B) requires the removal or destruction of the individual identifiers associated with the records as soon as the purpose of the research project has been accomplished;

(iv) prohibits the researcher from:

(A) disclosing the record in individually identifiable form, except as provided in Subsection (8)(b); or

(B) using the record for purposes other than the research approved by the governmental entity; and

(v) secures from the researcher a written statement of the researcher's understanding of and agreement to the conditions of this Subsection (8) and the researcher's understanding that violation of the terms of this Subsection (8) may subject the researcher to criminal prosecution under Section 63G-2-801.

(b) A researcher may disclose a record in individually identifiable form if the record is disclosed for the purpose of auditing or evaluating the research program and no subsequent use or disclosure of the record in individually identifiable form will be made by the auditor or evaluator except as provided by this section.

(c) A governmental entity may require indemnification as a condition of permitting research under this Subsection (8).

(d) A governmental entity may not disclose or authorize disclosure of a private record for research purposes as described in this Subsection (8) if the

private record is a record described in Subsection 63G-2-302(1)(u).

(9) (a) Under Subsections 63G-2-201(5)(b) and 63G-2-401(6), a governmental entity may disclose to persons other than those specified in this section records that are:

(i) private under Section 63G-2-302; or

(ii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.

(b) Under Subsection 63G-2-403(11)(b), the records committee may require the disclosure to persons other than those specified in this section of records that are:

(i) private under Section 63G-2-302;

(ii) controlled under Section 63G-2-304; or

(iii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.

(c) Under Subsection 63G-2-404~~(8)~~(7), the court may require the disclosure of records that are private under Section 63G-2-302, controlled under Section 63G-2-304, or protected under Section 63G-2-305 to persons other than those specified in this section.

(10) A record contained in the Management Information System, created in Section 62A-4a-1003, that is found to be unsubstantiated, unsupported, or without merit may not be disclosed to any person except the person who is alleged in the report to be a perpetrator of abuse, neglect, or dependency.

(11) (a) A private record described in Subsection 63G-2-302(2)(f) may only be disclosed as provided in Subsection (1)(e).

(b) A protected record described in Subsection 63G-2-305(43) may only be disclosed as provided in Subsection (4)(c) or Section 62A-3-312.

(12) (a) A private, protected, or controlled record described in Section 62A-16-301 shall be disclosed as required under:

(i) Subsections 62A-16-301(1)(b), (2), and (4)(c); and

(ii) Subsections 62A-16-302(1) and (6).

(b) A record disclosed under Subsection (12)(a) shall retain its character as private, protected, or controlled.

Section 56. Section 63G-6a-408 is amended to read:

63G-6a-408. Small purchases.

(1) As used in this section:

(a) "Annual cumulative threshold" means the maximum total annual amount, established by the applicable rulemaking authority under Subsection

(2)(~~(a)~~)(b)(i)(A), that a procurement unit may expend to obtain procurement items from the same source under this section.

(b) "Individual procurement threshold" means the maximum amount, established by the applicable rulemaking authority under Subsection (2)(~~(a)~~)(ii)(b)(i)(B), for which a procurement unit may purchase a procurement item under this section.

(c) "Single procurement aggregate threshold" means the maximum total amount, established by the applicable rulemaking authority under Subsection (2)(~~(a)~~)(iii)(b)(i)(C), that a procurement unit may expend to obtain multiple procurement items from one source at one time under this section.

(2) (a) The applicable rulemaking authority may make rules governing small purchases of any procurement item, including construction, job order contracting, design professional services, other professional services, information technology, and goods.

(b) Rules under Subsection (2)(a) may include provisions:

(i) establishing expenditure thresholds, including:

- (A) an annual cumulative threshold;
- (B) an individual procurement threshold; and
- (C) a single procurement aggregate threshold;

(ii) establishing procurement requirements relating to the thresholds described in Subsection (2)(b)(i); and

(iii) providing for the use of electronic, telephone, or written quotes.

(3) Expenditures made under this section by a procurement unit may not exceed a threshold established by the applicable rulemaking authority, unless the chief procurement officer or the head of a procurement unit with independent procurement authority gives written authorization to exceed the threshold that includes the reasons for exceeding the threshold.

(4) Except as provided in Subsection (5), an executive branch procurement unit may not obtain a procurement item through a small purchase standard procurement process if the procurement item may be obtained through a state cooperative contract or a contract awarded by the chief procurement officer under Subsection 63G-6a-2105(1).

(5) Subsection (4) does not apply if:

(a) the procurement item is obtained for an unanticipated, urgent or unanticipated, emergency condition, including:

(i) an item needed to avoid stopping a public construction project;

(ii) an immediate repair to a facility or equipment; or

(iii) another emergency condition; or

(b) the chief procurement officer or the head of a procurement unit that is an executive branch procurement unit with independent procurement authority:

(i) determines in writing that it is in the best interest of the procurement unit to obtain an individual procurement item outside of the state contract, comparing:

(A) the contract terms and conditions applicable to the procurement item under the state contract with the contract terms and conditions applicable to the procurement item if the procurement item is obtained outside of the state contract;

(B) the maintenance and service applicable to the procurement item under the state contract with the maintenance and service applicable to the procurement item if the procurement item is obtained outside of the state contract;

(C) the warranties applicable to the procurement item under the state contract with the warranties applicable to the procurement item if the procurement item is obtained outside of the state contract;

(D) the quality of the procurement item under the state contract with the quality of the procurement item if the procurement item is obtained outside of the state contract; and

(E) the cost of the procurement item under the state contract with the cost of the procurement item if the procurement item is obtained outside of the state contract;

(ii) for a procurement item that, if defective in its manufacture, installation, or performance, may result in serious physical injury, death, or substantial property damage, determines in writing that the terms and conditions, relating to liability for injury, death, or property damage, available from the source other than the contractor who holds the state contract, are similar to, or better than, the terms and conditions available under the state contract; and

(iii) grants an exception, in writing, to the requirement described in Subsection (4).

(6) Except as otherwise expressly provided in this section, a procurement unit:

(a) may not use the small purchase standard procurement process described in this section for ongoing, continuous, and regularly scheduled procurements that exceed the annual cumulative threshold; and

(b) shall make its ongoing, continuous, and regularly scheduled procurements that exceed the annual cumulative threshold through a contract awarded through another standard procurement process described in this chapter or an applicable exception to another standard procurement process, described in Part 8, Exceptions to Procurement Requirements.

(7) This section does not prohibit regularly scheduled payments for a procurement item obtained under another provision of this chapter.

(8) (a) It is unlawful for a person to intentionally or knowingly divide a procurement into one or more smaller procurements with the intent to make a procurement:

(i) qualify as a small purchase, if, before dividing the procurement, it would not have qualified as a small purchase; or

(ii) meet a threshold established by rule made by the applicable rulemaking authority, if, before dividing the procurement, it would not have met the threshold.

(b) A person who engages in the conduct made unlawful under Subsection (8)(a) is guilty of:

(i) a second degree felony, if the value of the procurement before being divided is \$1,000,000 or more;

(ii) a third degree felony, if the value of the procurement before being divided is \$250,000 or more but less than \$1,000,000;

(iii) a class A misdemeanor, if the value of the procurement before being divided is \$100,000 or more but less than \$250,000; or

(iv) a class B misdemeanor, if the value of the procurement before being divided is less than \$100,000.

(9) A division of a procurement that is prohibited under Subsection (8) includes doing any of the following with the intent or knowledge described in Subsection (8):

(a) making two or more separate purchases;

(b) dividing an invoice or purchase order into two or more invoices or purchase orders; or

(c) making smaller purchases over a period of time.

(10) A person who violates Subsection (8) is subject to the criminal penalties described in Section 63G-6a-2405.

(11) The Division of Finance within the Department of Administrative Services may conduct an audit of an executive branch procurement unit to verify compliance with the requirements of this section.

(12) An executive branch procurement unit may not make a small purchase after January 1, 2014, unless the chief procurement officer certifies that the person responsible for procurements in the procurement unit has satisfactorily completed training on this section and the rules made under this section.

Section 57. Section 63G-6a-2105 is amended to read:

63G-6a-2105. Cooperative procurements -- Contracts with federal government -- Regional solicitations.

(1) The chief procurement officer may, in accordance with the requirements of this chapter, enter into a cooperative procurement, and a

contract that is awarded as a result of a cooperative procurement, with:

(a) another state;

(b) a cooperative purchasing organization; or

(c) a public entity inside or outside the state.

(2) A public entity, nonprofit organization, or, as permitted under federal law, an agency of the federal government, may obtain a procurement item from a state cooperative contract or a contract awarded by the chief procurement officer under Subsection (1), without signing a participating addendum if the solicitation issued by the chief procurement officer to obtain the contract includes a statement indicating that the resulting contract will be issued for the benefit of public entities and, as applicable, nonprofit organizations and agencies of the federal government.

(3) Except as provided in Section 63G-6a-408, or as otherwise provided in this chapter, an executive branch procurement unit may not obtain a procurement item from a source other than a state cooperative contract or a contract awarded by the chief procurement officer under Subsection (1), if the procurement item is available under a state cooperative contract or a contract awarded by the chief procurement officer under Subsection (1).

(4) A Utah procurement unit may:

(a) contract with the federal government without going through a standard procurement process or an exception to a standard procurement process, described in Part 8, Exceptions to Procurement Requirements, if the procurement item obtained under the contract is provided:

(i) directly by the federal government and not by a person contracting with the federal government; or

(ii) by a person under contract with the federal government that obtained the contract in a manner that substantially complies with the provisions of this chapter;

(b) participate in, sponsor, conduct, or administer a cooperative procurement with another Utah procurement unit or another public entity in Utah, if:

(i) each party unit involved in the cooperative procurement enters into an agreement describing the rights and duties of each party;

(ii) the procurement is conducted, and the contract awarded, in accordance with the requirements of this chapter;

(iii) the solicitation:

(A) clearly indicates that the procurement is a cooperative procurement; and

(B) identifies each party that may purchase under the resulting contract; and

(iv) each party involved in the cooperative procurement signs a participating addendum describing its rights and obligations in relation to the resulting contract; or

(c) purchase under, or otherwise participate in, an agreement or contract of a cooperative purchasing organization, if:

(i) each party involved in the cooperative procurement enters into an agreement describing the rights and duties of each party;

(ii) the procurement was conducted in accordance with the requirements of this chapter;

(iii) the solicitation:

(A) clearly indicates that the procurement is a cooperative procurement; and

(B) identifies each party that may purchase under the resulting contract; and

(iv) each party involved in the cooperative procurement signs a participating addendum describing its rights and obligations in relation to the resulting contract.

(5) A procurement unit may not obtain a procurement item under a contract that results from a cooperative procurement described in Subsection (4), if the procurement unit:

(a) is not identified under Subsection (4)(b)(iii)(B) or (4)(c)(iii)(B); or

(b) does not sign a participating addendum to the contract as required by this section.

(6) A procurement unit, other than a legislative procurement unit or a judicial procurement unit, may not obtain a procurement item under a contract held by the United States General Services Administration, unless, based upon documentation provided by the procurement unit, the director of the state Division of Purchasing and General Services determines in writing that the United States General Services Administration procured the contract in a manner that substantially complies with the provisions of this chapter.

(7) (a) As used in this Subsection (7), “regional solicitation” means a solicitation issued by the chief procurement officer for the procurement of a procurement item within a specified geographical region of the state.

(b) In addition to any other duty or authority under this section, the chief procurement officer shall:

(i) after considering board recommendations, develop a plan for issuing regional solicitations; and

~~[(ii) present the plan to the Government Operations Interim Committee by September 1, 2014; and]~~

~~[(iii)]~~ (ii) after developing a plan, issue regional solicitations for procurement items in accordance with the plan and this chapter.

(c) A plan under Subsection (7)(b) shall:

(i) define the proposed regional boundaries for regional solicitations;

(ii) specify the types of procurement items for which a regional solicitation may be issued; and

(iii) identify the regional solicitations that the chief procurement officer plans to issue.

(d) A regional solicitation shall require that a person responding to the solicitation offer similar warranties and submit to similar obligations as are standard under other state cooperative contracts.

(e) A procurement item that is available under a state cooperative contract may not be provided under a contract pursuant to a regional solicitation until after the expiration of the state cooperative contract.

Section 58. Section 63H-7a-603 is amended to read:

63H-7a-603. Financial officer -- Duties.

(1) The executive director shall appoint a financial officer for the Administrative Services Division with the approval of the board. The financial officer shall be responsible for accounting for the authority, including:

(a) safekeeping and investment of public funds of the authority, including the funds expended from the restricted accounts created in Sections 69-2-5.5, 69-2-5.6, 69-2-5.7, and 69-2-5.8;

(b) the proper collection, deposit, disbursement, and management of the public funds of the authority in accordance with Title 51, Chapter 7, State Money Management Act;

(c) ~~[have]~~ having authority to sign all bills payable, notes, checks, drafts, warrants, or other negotiable instruments in the absence of the executive director and the executive director’s designated employee;

(d) ~~[provide]~~ providing to the board and the executive director a statement of the condition of the finances of the authority, at least annually and at such other times as shall be requested by the board; and

(e) ~~[perform]~~ performing all other duties incident to the financial officer.

(2) The financial officer shall:

(a) be bonded in an amount established by the State Money Management Council; and

(b) file written reports with the State Money Management Council pursuant to Section 51-7-15.

Section 59. Section 63I-1-220 is amended to read:

63I-1-220. Repeal dates, Title 20A.

On January 1, 2017:

(1) Subsection 20A-1-102(54) is repealed.

(2) Subsection 20A-2-102.5(1) the language that states “20A-4-108, or” is repealed.

(3) Subsection 20A-2-201(3) the language that states “Except as provided in Subsection 20A-4-108(5),” is repealed.

(4) Subsection 20A-2-202(3)(a) the language that states "Except as provided in Subsection 20A-4-108(6)," is repealed.

(5) Subsection 20A-2-204(5)(a) the language that states "Except as provided in Subsection 20A-4-108(7)," is repealed.

(6) Subsection 20A-2-205(7)(a) the language that states "Except as provided in Subsection 20A-4-108(8)," is repealed.

(7) Subsection 20A-2-206(8)(b)(c) the language that states "Except as provided in Subsection 20A-4-108(9)," is repealed.

(8) Subsection 20A-2-307(2)(a) is repealed.

(9) Subsection 20A-4-107(2)(b) the language that states "Except as provided in Subsection 20A-4-108(10)," is repealed.

(10) Subsection 20A-4-107(3) the language that states "or if the voter is, in accordance with the pilot project, registered to vote under Subsection 20A-4-108(10)," is repealed.

(11) Subsection 20A-4-107(4) the language that states "Except as provided in Subsection 20A-4-108(12)," is repealed.

(12) Section 20A-4-108 is repealed.

Section 60. Section 63I-2-217 is amended to read:

63I-2-217. Repeal dates -- Title 17.

~~[(1) Subsection 17-8-7(2), the language that states "Sections 17-19-1 to 17-19-28 and" and "as applicable," is repealed January 1, 2015.]~~

~~[(2) Section 17-15-30 is repealed July 1, 2015.]~~

~~[(3) Title 17, Chapter 19, County Auditor, is repealed January 1, 2015.]~~

~~[(4) Subsection 17-24-1(4)(b), the language that states "as applicable, Sections 17-19-1, 17-19-3, and 17-19-5 or" is repealed January 1, 2015.]~~

~~[(5) Subsection 17-24-4(2), the language that states "as applicable, Subsection 17-19-3(3)(b) or" is repealed January 1, 2015.]~~

[(6)] (1) Subsection 17-27a-102(1)(b), the language that states "or a designated mountainous planning district" is repealed June 1, 2016.

[(7)] (2) (a) Subsection 17-27a-103(15)(b) is repealed June 1, 2016.

(b) Subsection 17-27a-103(34) is repealed June 1, 2016.

[(8)] (3) Subsection 17-27a-210(2)(a), the language that states "or the mountainous planning district area" is repealed June 1, 2016.

[(9)] (4) (a) Subsection 17-27a-301(1)(b)(iii) is repealed June 1, 2016.

(b) Subsection 17-27a-301(1)(c) is repealed June 1, 2016.

(c) Subsection 17-27a-301(2)(a), the language that states "described in Subsection (1)(a) or (c)" is repealed June 1, 2016.

[(10)] (5) Subsection 17-27a-302(1), the language that states "or mountainous planning district" and "or the mountainous planning district," is repealed June 1, 2016.

[(11)] (6) Subsection 17-27a-305(1)(a), the language that states "a mountainous planning district or" and "as applicable" is repealed June 1, 2016.

[(12)] (7) (a) Subsection 17-27a-401(1)(b)(ii) is repealed June 1, 2016.

(b) Subsection 17-27a-401(6) is repealed June 1, 2016.

[(13)] (8) (a) Subsection 17-27a-403(1)(b)(ii) is repealed June 1, 2016.

(b) Subsection 17-27a-403(1)(c)(iii) is repealed June 1, 2016.

(c) Subsection (2)(a)(iii), the language that states "or the mountainous planning district" is repealed June 1, 2016.

(d) Subsection 17-27a-403(2)(c)(i), the language that states "or mountainous planning district" is repealed June 1, 2016.

[(14)] (9) Subsection 17-27a-502(1)(d)(i)(B) is repealed June 1, 2016.

[(15)] (10) Subsection 17-27a-505.5(2)(a)(iii) is repealed June 1, 2016.

[(16)] (11) Subsection 17-27a-602(1)(b), the language that states "or, in the case of a mountainous planning district, the mountainous planning district" is repealed June 1, 2016.

[(17)] (12) Subsection 17-27a-604(1)(b)(i)(B) is repealed June 1, 2016.

[(18)] (13) Subsection 17-27a-605(1), the language that states "or mountainous planning district land" is repealed June 1, 2016.

[(19)] (14) Title 17, Chapter 27a, Part 9, Mountainous Planning District, is repealed June 1, 2016.

~~[(20) (a) Subsection 17-36-3(5)(a), the language that states "for a county of the second, third, fourth, fifth, or sixth class, the county auditor, county clerk, or county executive as provided in Subsection 17-19-19(1); or" is repealed January 1, 2015.]~~

~~[(b) Subsection 17-36-3(5)(b), the language that states "for a county of the first class," is repealed January 1, 2015.]~~

~~[(c) Subsection 17-36-3(7), the language that states "17-19-3," and "or 17-24-4, as applicable" is repealed January 1, 2015.]~~

~~[(21) Subsection 17-36-9(1)(a)(iii), the language that states "17-36-10.1, as applicable, or" is repealed January 1, 2015.]~~

~~[(22) Subsection 17-36-10(1), the language that states the following is repealed January 1, 2015:]~~

~~[(2)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and]~~

~~[(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.".]~~

~~[(23) Section 17-36-10.1 is repealed January 1, 2015.]~~

~~[(24) Subsection 17-36-11(1), the language that states the following is repealed January 1, 2015:]~~

~~[(2)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and]~~

~~[(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.".]~~

~~[(25) Section 17-36-11.1 is repealed January 1, 2015.]~~

~~[(26) Subsection 17-36-15(1), the language that states the following is repealed January 1, 2015:]~~

~~[(2)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and]~~

~~[(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.".]~~

~~[(27) Section 17-36-15.1 is repealed January 1, 2015.]~~

~~[(28) Subsection 17-36-20(1), the language that states the following is repealed January 1, 2015:]~~

~~[(2)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and]~~

~~[(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.".]~~

~~[(29) Section 17-36-20.1 is repealed January 1, 2015.]~~

~~[(30) Subsection 17-36-32(4), the language that states "or 17-36-20.1, as applicable, and" is repealed January 1, 2015.]~~

~~[(31) Subsection 17-36-43(1), the language that states the following is repealed January 1, 2015:]~~

~~[(2)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and]~~

~~[(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.".]~~

~~[(32) Section 17-36-43.1 is repealed January 1, 2015.]~~

~~[(33) Section 17-36-44, the language that states "or 17-36-43.1, as applicable" is repealed January 1, 2015.]~~

~~[(34) Subsection 17-50-401(1), the language that states the following is repealed January 1, 2015:]~~

~~[(2)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and]~~

~~[(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.".]~~

~~[(35) Section 17-50-401.1 is repealed January 1, 2015.]~~

~~[(36) Subsection 17-52-101(2), the language that states "or 17-52-401.1, as applicable" is repealed January 1, 2015.]~~

~~[(37) Subsection 17-52-401(1), the language that states the following is repealed January 1, 2015:]~~

~~[(2)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and]~~

~~[(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.".]~~

~~[(38) Section 17-52-401.1 is repealed January 1, 2015.]~~

~~[(39) Subsection 17-52-403(1)(a), the language that states "or 17-52-401.1(2)(e), as applicable" is repealed January 1, 2015.]~~

~~[(40) On January 1, 2015, when making the changes in this section, the Office of Legislative Research and General Counsel shall:]~~

~~[(a) in addition to its authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent; and]~~

~~[(b) identify the text of the affected sections and subsections based upon the section and subsection numbers used in Laws of Utah 2012, Chapter 17.]~~

~~[(41) (15) On June 1, 2016, when making the changes in this section, the Office of Legislative Research and General Counsel shall:~~

~~(a) in addition to its authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent; and~~

~~(b) identify the text of the affected sections and subsections based upon the section and subsection numbers used in Laws of Utah 2015, Chapter 465.~~

Section 61. Section 63I-2-220 is amended to read:

63I-2-220. Repeal dates, Title 20A.

~~[(1) Section 20A-3-704 is repealed January 1, 2016.]~~

~~[(2) Section 20A-5-410 is repealed January 1, 2016.]~~

~~[(3) (a) Subsection 20A-7-101(1)(a)(i), the language that states “of the first class” and “; or” is repealed January 1, 2015.]~~

~~[(b) Subsection 20A-7-101(1)(a)(ii), the language that states “for a county not described in Subsection (1)(a)(i), a person designated as budget officer in Section 17-19-19” is repealed January 1, 2015.]~~

~~[(4) Section 20A-9-403.1 is repealed on January 1, 2015.]~~

Section 62. Section 63I-2-277 is amended to read:

63I-2-277. Repeal dates, Title 77.

~~[Subsection 77-32-304.5(2)(d)(i), the language that states “or 17-50-401.1, as applicable” is repealed January 1, 2015.]~~

Section 63. Section 63M-4-602 is amended to read:

63M-4-602. Definitions.

As used in this part:

(1) “Applicant” means a person that conducts business in the state and that applies for a tax credit under this part.

(2) “Fuel standard compliance project” means a project designed to retrofit a fuel refinery in order to make the refinery capable of producing fuel that complies with the United States Environmental Protection Agency’s Tier 3 gasoline sulfur standard described in 40 C.F.R. Sec. 79.54.

(3) “High cost infrastructure project” means a project:

(a) (i) ~~[a project]~~ that expands or creates new industrial, mining, manufacturing, or agriculture activity in the state, not including a retail business; or

(ii) that involves new investment of at least \$50,000,000 in an existing industrial, mining, manufacturing, or agriculture entity, by the entity;

(b) that requires or is directly facilitated by infrastructure construction; and

(c) for which the cost of infrastructure construction to the entity creating the project is greater than:

(i) 10% of the total cost of the project; or

(ii) \$10,000,000.

(4) “Infrastructure” means:

(a) an energy delivery project as defined in Section 63H-2-102;

(b) a railroad as defined in Section 54-2-1;

(c) a fuel standard compliance project;

(d) a road improvement project;

(e) a water self-supply project;

(f) a water removal system project; or

(g) a project that is designed to:

(i) increase the capacity for water delivery to a water user in the state; or

(ii) increase the capability of an existing water delivery system or related facility to deliver water to a water user in the state.

(5) (a) “Infrastructure cost-burdened entity” means an applicant that enters into an agreement with the office that qualifies the applicant to receive a tax credit as provided in this part.

(b) “Infrastructure cost-burdened entity” includes a pass-through entity taxpayer, as defined in Section 59-10-1402, of a person described in Subsection (5)(a).

(6) “Infrastructure-related revenue” means an amount of tax revenue, for an entity creating a high cost infrastructure project, in a taxable year, that is directly attributable to a high cost infrastructure project, under:

(a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(b) Title 59, Chapter 10, Individual Income Tax Act; and

(c) Title 59, Chapter 12, Sales and Use Tax Act.

(7) “Office” means the Office of Energy Development created in Section 63M-4-401.

(8) “Tax credit” means a tax credit under Section 59-7-619 or 59-10-1034.

(9) “Tax credit certificate” means a certificate issued by the office to an infrastructure cost-burdened entity that:

(a) lists the name of the infrastructure cost-burdened entity;

(b) lists the infrastructure cost-burdened entity’s taxpayer identification number;

(c) lists, for a taxable year, the amount of the tax credit authorized for the infrastructure cost-burdened entity under this part; and

(d) includes other information as determined by the office.

Section 64. Section 67-1a-14 is amended to read:

67-1a-14. Study of signing a petition online -- Report.

(1) As used in this section, “petition” means a petition to:

(a) qualify a ballot proposition for the ballot under Title 20A, Chapter 7, Issues Submitted to the Voters;

(b) organize and register a political party under Title 20A, Chapter 8, Political Party Formation and Procedures; or

(c) qualify a candidate for the ballot under Title 20A, Chapter 9, Candidate Qualifications and Nominating Procedures.

(2) The lieutenant governor, in consultation with a county clerk and municipal clerk, shall study a

way that a registered voter may sign a petition on the Internet and receive information about the petition on the Internet.

(3) The study shall evaluate:

(a) how to sign a petition on the Internet using a holographic signature that is in an electronic format maintained by a government agency;

(b) the security, development, ownership, management, format, and content of a secure Internet portal or website on which a registered voter may sign a petition;

(c) the security measures necessary to:

(i) verify the identity of a registered voter who signs a petition on the Internet; and

(ii) insure the integrity of a signature;

(d) changes to the process of collecting, verifying, and certifying a signature, if the signature is collected on the Internet;

(e) whether verification is necessary for signatures collected on the Internet;

(f) which election official should be responsible for the certification of signatures collected on the Internet;

(g) whether signatures on a petition should be public information;

(h) the removal process of a signature collected on the Internet;

(i) what percentage of signatures should be collected on the Internet or in person, statewide or by Senate district;

(j) what information regarding the petition should be available on the secure Internet portal or website, including who may submit the information and by what deadline information should be submitted;

(k) the time the lieutenant governor, county clerk, or municipal clerk may spend certifying a petition if a registered voter is allowed to sign a petition on the Internet;

(l) the processes, if any, that exists in other states to allow a registered voter to sign a petition on the Internet; and

(m) any other issue related to allowing a registered voter to sign a petition on the Internet.

~~[(4) The lieutenant governor shall submit a copy of the study and recommendations, if any, that result from the study to the Government Operations Interim Committee on or before September 18, 2013.]~~

Section 65. Section 67-19-13.5 is amended to read:

67-19-13.5. Department provides payroll services to executive branch agencies -- Report.

(1) As used in this section:

(a) (i) "Executive branch entity" means a department, division, agency, board, or office within the executive branch of state government that employs a person who is paid through the central payroll system developed by the Division of Finance as of December 31, 2011.

(ii) "Executive branch entity" does not include:

(A) the Office of the Attorney General;

(B) the Office of the State Treasurer;

(C) the Office of the State Auditor;

(D) the Department of Transportation;

(E) the Department of Technology Services;

(F) the Department of Public Safety;

(G) the Department of Natural Resources; or

(H) the Utah Schools for the Deaf and the Blind.

(b) (i) "Payroll services" means using the central payroll system as directed by the Division of Finance to:

(A) enter and validate payroll reimbursements, which include reimbursements for mileage, a service award, and other wage types;

(B) calculate, process, and validate a retirement;

(C) enter a leave adjustment; and

(D) certify payroll by ensuring an entry complies with a rule or policy adopted by the department or the Division of Finance.

(ii) "Payroll services" does not mean:

(A) a function related to payroll that is performed by an employee of the Division of Finance;

(B) a function related to payroll that is performed by an executive branch agency on behalf of a person who is not an employee of the executive branch agency;

(C) the entry of time worked by an executive branch agency employee into the central payroll system; or

(D) approval or verification by a supervisor or designee of the entry of time worked.

(2) The department shall provide payroll services to all executive branch entities.

(3) After September 19, 2012, an executive branch entity, other than the department or the Division of Finance, may not create a full-time equivalent position or part-time position, or request an appropriation to fund a full-time equivalent position or part-time position for the purpose of providing payroll services to the entity.

~~[(4) The Department of Transportation, the Department of Technology Services, and the Department of Natural Resources shall report on the inability to transfer payroll services to the department or the progress of transferring payroll services to the department.]~~

~~[(a) to the Government Operations Interim Committee before October 30, 2012; and]~~

~~[(b) to the Infrastructure and General Government Appropriations Subcommittee on or before February 11, 2013.]~~

Section 66. Section 70A-2-311 is amended to read:

70A-2-311. Options and cooperation respecting performance.

(1) An agreement for sale which is otherwise sufficiently definite (Subsection (3) of Section 70A-2-204) to be a contract is not made invalid by the fact that it leaves particulars of performance to be specified by one of the parties. Any such specification must be made in good faith and within limits set by commercial reasonableness.

(2) Unless otherwise agreed, specifications relating to assortment of the goods are at the buyer's option, and except as otherwise provided in Subsections ~~70A-2-319(1)(c) and (3) [of Section 70A-2-319]~~, specifications or arrangements relating to shipment are at the seller's option.

(3) Where such specification would materially affect the other party's performance but is not seasonably made or where one party's cooperation is necessary to the agreed performance of the other but is not seasonably forthcoming, the other party in addition to all other remedies:

(a) is excused for any resulting delay in his own performance; and

(b) may also either proceed to perform in any reasonable manner or after the time for a material part of his own performance treat the failure to specify or to cooperate as a breach by failure to deliver or accept the goods.

Section 67. Section 73-2-22 is amended to read:

73-2-22. Emergency flood powers -- Action to enforce orders -- Access rights to private and public property -- Injunctive relief against state engineer's decisions -- Judicial review provisions not applicable.

(1) Whenever the state engineer, with approval of the chair of the Emergency Management Administration Council created in Section 53-2a-105, makes a written finding that any reservoir or stream has reached or will reach during the current water year a level far enough above average and in excess of capacity that public safety is or is likely to be endangered or that substantial property damage is occurring or is likely to occur, ~~[he]~~ the state engineer shall have emergency powers until the danger to the public and property is abated.

(2) Emergency powers shall consist of the authority to control stream flow and reservoir storage or release.

(3) The state engineer must protect existing water rights to the maximum extent possible when exercising emergency powers.

(4) Any action taken by the state engineer under this section shall be by written order.

(5) If any person refuses or neglects to comply with any order of the state engineer issued pursuant to his emergency powers, the state engineer may bring action in the name of the state in the district court to enforce them.

(6) In carrying out ~~[his]~~ the state engineer's emergency powers, the state engineer shall have rights of access to private and public property.

(7) Any person affected by a decision of the state engineer made under ~~[his]~~ the state engineer's emergency powers shall have the right to seek injunctive relief, including temporary restraining orders and temporary injunctions in any district court of the county where that person resides.

(8) No order of the state engineer shall be enjoined or set aside unless shown by clear and convincing evidence that an emergency does not in fact exist or that the order of the state engineer is arbitrary or capricious.

(9) The provisions of Sections 73-3-14 and 73-3-15 shall not be applicable to any order of the state engineer issued pursuant to this section.

Section 68. Section 73-22-3 is amended to read:

73-22-3. Definitions.

As used in this chapter:

(1) "Correlative rights" mean the rights of each geothermal owner in a geothermal area to produce without waste his just and equitable share of the geothermal resource underlying the geothermal area.

(2) "Division" means the Division of Water Rights, Department of Natural Resources.

(3) "Geothermal area" means the general land area which is underlain or reasonably appears to be underlain by geothermal resources.

(4) "Geothermal fluid" means water and steam at temperatures greater than 120 degrees centigrade naturally present in a geothermal system.

(5) (a) "Geothermal resource" means:

(i) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and

(ii) the energy, in whatever form, including pressure, present in, resulting from, created by, or which may be extracted from that natural heat, directly or through a material medium.

(b) "Geothermal resource" does not include geothermal fluids.

(6) "Geothermal system" means any strata, pool, reservoir, or other geologic formation containing geothermal resources.

(7) "Material medium" means geothermal fluids, or water and other substances artificially introduced into a geothermal system to serve as a heat transfer medium.

(8) "Operator" means any person drilling, maintaining, operating, producing, or in control of any well.

(9) "Owner" means a person who has the right to drill into, produce, and make use of the geothermal resource.

(10) "Person" means any individual, business entity (corporate or otherwise), or political subdivision of this or any other state.

(11) (a) "Waste" means any inefficient, excessive, or improper production, use, or dissipation of geothermal resources.

(b) Wasteful practices include~~[-but are not limited to]:~~

~~[(a)]~~ (i) transporting or storage methods that cause or tend to cause unnecessary surface loss of geothermal resources; or

~~[(b)]~~ (ii) locating, spacing, constructing, equipping, operating, producing, or venting of any well in a manner that results or tends to result in unnecessary surface loss or in reducing the ultimate economic recovery of geothermal resources.

(12) "Well" means any well drilled, converted, or reactivated for the discovery, testing, production, or subsurface injection of geothermal resources.

Section 69. Section 78B-14-613 is amended to read:

78B-14-613. Jurisdiction to modify child support order of another state when individual parties reside in this state.

(1) If all of the parties who are individuals reside in this state and the child does not reside in the issuing state, a tribunal of this state has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order.

(2) A tribunal of this state exercising jurisdiction under this section shall apply the provisions of ~~[Parts]~~ this part, Part 1, General Provisions, and Part 2, Jurisdiction, ~~[this part,]~~ and the procedural and substantive law of this state to the proceeding for enforcement or modification. ~~[Parts]~~ Part 3, Civil Provisions of General Application, Part 4, Establishment of Support Order or Determination of Parentage, Part 5, Enforcement of Support Order Without Registration, Part 7, Support Proceedings Under Convention, and Part 8, Rendition, do not apply.

CHAPTER 349**S. B. 149**

Passed March 10, 2016
Approved March 28, 2016
Effective May 10, 2016

SCHOOL GRADING MODIFICATIONS

Chief Sponsor: Ann Millner
House Sponsor: Bradley G. Last

LONG TITLE**General Description:**

This bill amends provisions related to assigning a letter grade to a school based on the proficiency, learning gains, or college and career readiness of the school's students.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to the letter grade that is assigned to the percentage of points earned under school grading.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-1-1110, as last amended by Laws of Utah 2014, Chapter 403

REPEALS:

53A-1-1114, as last amended by Laws of Utah 2015, Chapter 452

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-1-1110 is amended to read:**53A-1-1110. Letter grade based on percentage of maximum points earned.**

(1) ~~Except as provided in Subsections (2) and (3),~~ a school shall receive a letter grade based on the percentage of the maximum number of points the school may earn as calculated under Section 53A-1-1109 as follows:

~~[(a) A, 100%–80%;]~~

~~[(b) B, 79%–70%;]~~

~~[(c) C, 69%–60%;]~~

~~[(d) D, 59%–50%; and]~~

~~[(e) F, 49% or less.]~~

(a) for a school that is not a high school:

(i) A, 100%-64%;

(ii) B, 63%-51%;

(iii) C, 50%-39%;

(iv) D, 38%-30%; and

(v) F, 29% or less; and

(b) for a high school:

(i) A, 100%-64%;

(ii) B, 63%-51%;

(iii) C, 50%-43%;

(iv) D, 42%-40%; and

(v) F, 39% or less.

~~[(2) When 85% of schools receive an A or B, the State Board of Education shall increase the endpoints of the ranges listed in Subsections (1)(a) through (1)(e) by five percentage points, except the lower endpoint of the A range may not be greater than 90%.]~~

(2) Notwithstanding Subsection (1), and subject to Subsection (3), for a school year in which at least 65% of schools described in Subsection (1)(a) or (b) receive an A or a B, the board shall increase an endpoint of a range described in Subsection (1)(a) or (b) by five percentage points over the previous school year.

(3) (a) Subsection (2) applies until the:

(i) lower endpoint of the:

(A) A range equals 90%;

(B) B range equals 80%;

(C) C range equals 70%;

(D) D range equals 60%; and

(ii) upper endpoint of the F range equals 59%.

(b) The board may increase an endpoint of a range described in Subsection (1)(a) or (b) by less than five percentage points over the previous school year if increasing the endpoint by five percentage points would increase the endpoint above the applicable percentage described in Subsection (3)(a).

(c) If the board increases an endpoint of a range as described in this section, the board shall publish, on the board's website, each letter grade that is assigned to the percentage of points earned.

~~[(3) The]~~ (4) Notwithstanding Subsection (1), the board shall lower a school's grade by one letter grade if:

(a) student participation in a statewide assessment is fewer than 95%; or

(b) the participation of nonproficient students as determined by prior year test scores is fewer than 95%.

Section 2. Repealer.

This bill repeals:

Section 53A-1-1114, Exceptions applicable to determining school grades for the 2014-15 school year.

CHAPTER 350**S. B. 151**

Passed March 10, 2016
 Approved March 28, 2016
 Effective May 10, 2016

COMMUNITY DEVELOPMENT AND RENEWAL AGENCIES ACT REVISIONS

Chief Sponsor: Wayne A. Harper
 House Sponsor: Stephen G. Handy

LONG TITLE**General Description:**

This bill amends provisions related to community development and renewal agencies.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ beginning May 10, 2016:
 - provides a process for a community to create a community reinvestment agency;
 - allows an agency to create a community reinvestment project area; and
 - prohibits an agency from creating an urban renewal project area, an economic development project area, or a community development project area;
- ▶ amends the required contents of an agency's annual report;
- ▶ for an agency that creates a community reinvestment project area:
 - provides for the agency to fund a community reinvestment project area with tax increment or sales and use tax revenue that is subject to an interlocal agreement;
 - requires the agency to conduct a blight study, make a blight determination, and create a taxing entity committee if the agency plans to acquire property within a community reinvestment project area by eminent domain;
 - requires the agency to allocate a percentage of project area funds for housing;
 - prohibits an agency from adopting a proposed community reinvestment project area plan if 51% of the property owners within the proposed community reinvestment project area object to the plan; and
 - requires the agency to adopt a community reinvestment project area budget;
- ▶ authorizes, under certain circumstances, an agency to acquire by eminent domain property that the property owner fails to develop in accordance with a project area plan;
- ▶ provides the option for an agency to give the agency's housing allocation to a county housing authority;
- ▶ provides a process by which an agency may dissolve a project area;
- ▶ clarifies how a project area's incremental value is factored into the new growth calculation; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

- 10-1-203, as last amended by Laws of Utah 2014, Chapter 189
- 10-3-1303, as last amended by Laws of Utah 2011, Chapter 40
- 10-9a-508, as last amended by Laws of Utah 2013, Chapter 309
- 11-25-2, as last amended by Laws of Utah 2006, Chapter 359
- 11-25-3, as last amended by Laws of Utah 2010, Chapter 279
- 11-27-2, as last amended by Laws of Utah 2010, Chapter 279
- 11-31-2, as last amended by Laws of Utah 2010, Chapter 378
- 11-32-2, as last amended by Laws of Utah 2008, Chapter 360
- 11-34-1, as last amended by Laws of Utah 2010, Chapter 378
- 11-49-102, as enacted by Laws of Utah 2012, Chapter 202
- 11-50-102, as enacted by Laws of Utah 2013, Chapter 367
- 11-52-102, as enacted by Laws of Utah 2013, Chapter 347
- 14-1-18, as last amended by Laws of Utah 2012, Chapter 347
- 15-7-2, as last amended by Laws of Utah 2007, Chapter 329
- 17C-1-101, as last amended by Laws of Utah 2010, Chapter 279
- 17C-1-102, as last amended by Laws of Utah 2015, Chapter 397
- 17C-1-103, as renumbered and amended by Laws of Utah 2006, Chapter 359
- 17C-1-202, as renumbered and amended by Laws of Utah 2006, Chapter 359
- 17C-1-203, as last amended by Laws of Utah 2008, Chapter 125
- 17C-1-204, as last amended by Laws of Utah 2012, Chapter 212
- 17C-1-205, as renumbered and amended by Laws of Utah 2006, Chapter 359
- 17C-1-207, as last amended by Laws of Utah 2012, Chapter 235
- 17C-1-208, as renumbered and amended by Laws of Utah 2006, Chapter 359
- 17C-1-302, as renumbered and amended by Laws of Utah 2006, Chapter 359
- 17C-1-402, as last amended by Laws of Utah 2013, Chapter 80
- 17C-1-403, as last amended by Laws of Utah 2013, Chapter 80
- 17C-1-404, as renumbered and amended by Laws of Utah 2006, Chapter 359
- 17C-1-405, as last amended by Laws of Utah 2009, Chapter 387
- 17C-1-406, as enacted by Laws of Utah 2006, Chapter 359
- 17C-1-407, as last amended by Laws of Utah 2013, Chapter 80
- 17C-1-408, as last amended by Laws of Utah 2008, Chapters 61, 231, and 236

17C-1-409, as last amended by Laws of Utah 2011, Chapter 43	17C-3-107, as last amended by Laws of Utah 2010, Chapter 279
17C-1-410, as last amended by Laws of Utah 2007, Chapter 364	17C-3-108, as enacted by Laws of Utah 2006, Chapter 359
17C-1-411, as last amended by Laws of Utah 2009, Chapter 387	17C-3-109, as last amended by Laws of Utah 2010, Chapter 279
17C-1-412, as last amended by Laws of Utah 2012, Chapter 212	17C-3-201, as last amended by Laws of Utah 2013, Chapter 80
17C-1-413, as renumbered and amended by Laws of Utah 2006, Chapter 359	17C-3-203, as last amended by Laws of Utah 2009, Chapter 387
17C-1-502, as renumbered and amended by Laws of Utah 2006, Chapter 359	17C-3-205, as last amended by Laws of Utah 2011, Chapter 43
17C-1-504, as renumbered and amended by Laws of Utah 2006, Chapter 359	17C-3-206, as enacted by Laws of Utah 2011, Chapter 43
17C-1-505, as renumbered and amended by Laws of Utah 2006, Chapter 359	17C-4-102, as enacted by Laws of Utah 2006, Chapter 359
17C-1-506, as renumbered and amended by Laws of Utah 2006, Chapter 359	17C-4-103, as enacted by Laws of Utah 2006, Chapter 359
17C-1-507, as renumbered and amended by Laws of Utah 2006, Chapter 359	17C-4-104, as enacted by Laws of Utah 2006, Chapter 359
17C-1-508, as renumbered and amended by Laws of Utah 2006, Chapter 359	17C-4-106, as last amended by Laws of Utah 2009, Chapter 388
17C-1-602, as renumbered and amended by Laws of Utah 2006, Chapter 359	17C-4-107, as enacted by Laws of Utah 2006, Chapter 359
17C-1-603, as last amended by Laws of Utah 2011, Chapter 43	17C-4-108, as last amended by Laws of Utah 2015, Chapter 302
17C-1-605, as renumbered and amended by Laws of Utah 2006, Chapter 359	17C-4-109, as enacted by Laws of Utah 2015, Chapter 302
17C-1-606, as renumbered and amended by Laws of Utah 2006, Chapter 359	17C-4-201, as last amended by Laws of Utah 2010, Chapter 279
17C-1-607, as enacted by Laws of Utah 2006, Chapter 359	17C-4-202, as last amended by Laws of Utah 2014, Chapter 189
17C-2-102, as last amended by Laws of Utah 2008, Chapter 125	17C-4-203, as last amended by Laws of Utah 2009, Chapter 387
17C-2-103, as last amended by Laws of Utah 2006, Chapters 254, 292 and renumbered and amended by Laws of Utah 2006, Chapter 359	17C-4-204, as last amended by Laws of Utah 2011, Chapter 43
17C-2-105, as renumbered and amended by Laws of Utah 2006, Chapter 359	20A-7-613, as last amended by Laws of Utah 2015, Chapter 258
17C-2-106, as last amended by Laws of Utah 2007, Chapter 364	35A-8-504, as last amended by Laws of Utah 2012, Chapter 347 and renumbered and amended by Laws of Utah 2012, Chapter 212
17C-2-108, as last amended by Laws of Utah 2010, Chapter 279	38-1b-102, as enacted by Laws of Utah 2012, Chapter 278
17C-2-109, as renumbered and amended by Laws of Utah 2006, Chapter 359	53-3-207, as last amended by Laws of Utah 2015, Chapter 412
17C-2-110, as last amended by Laws of Utah 2010, Chapter 279	53A-16-106, as last amended by Laws of Utah 2008, Chapters 61, 231, and 236
17C-2-201, as last amended by Laws of Utah 2013, Chapter 80	53A-16-113, as last amended by Laws of Utah 2013, Chapter 287
17C-2-203, as renumbered and amended by Laws of Utah 2006, Chapter 359	53A-17a-133, as last amended by Laws of Utah 2015, Chapter 287
17C-2-204, as renumbered and amended by Laws of Utah 2006, Chapter 359	53A-17a-164, as last amended by Laws of Utah 2013, Chapters 178 and 313
17C-2-206, as last amended by Laws of Utah 2011, Chapter 43	53A-19-105, as last amended by Laws of Utah 2009, Chapter 204
17C-2-207, as enacted by Laws of Utah 2011, Chapter 43	59-2-913, as last amended by Laws of Utah 2014, Chapter 279
17C-2-303, as last amended by Laws of Utah 2011, Chapter 43	59-2-924, as last amended by Laws of Utah 2014, Chapter 270
17C-3-102, as enacted by Laws of Utah 2006, Chapter 359	59-2-924.2, as last amended by Laws of Utah 2015, Chapter 224
17C-3-103, as enacted by Laws of Utah 2006, Chapter 359	59-2-924.3, as last amended by Laws of Utah 2011, Chapter 371
17C-3-105, as enacted by Laws of Utah 2006, Chapter 359	59-7-614.2, as last amended by Laws of Utah 2015, Chapter 283

59-12-603, as last amended by Laws of Utah 2011, Chapter 309

63G-7-102, as renumbered and amended by Laws of Utah 2008, Chapter 382

63G-9-201, as renumbered and amended by Laws of Utah 2008, Chapter 382

63I-1-259, as last amended by Laws of Utah 2015, Chapters 224, 275, and 467

63N-2-103, as last amended by Laws of Utah 2015, Chapter 344 and renumbered and amended by Laws of Utah 2015, Chapter 283 and last amended by Coordination Clause, Laws of Utah 2015, Chapter 344

63N-2-104, as last amended by Laws of Utah 2015, Chapter 344 and renumbered and amended by Laws of Utah 2015, Chapter 283

63N-2-105, as last amended by Laws of Utah 2015, Chapter 344 and renumbered and amended by Laws of Utah 2015, Chapter 283

63N-2-107, as last amended by Laws of Utah 2015, Chapter 344 and renumbered and amended by Laws of Utah 2015, Chapter 283

63N-2-108, as renumbered and amended by Laws of Utah 2015, Chapter 283

63N-2-502, as last amended by Laws of Utah 2015, Chapter 417 and renumbered and amended by Laws of Utah 2015, Chapter 283

63N-2-505, as last amended by Laws of Utah 2015, Chapter 417 and renumbered and amended by Laws of Utah 2015, Chapter 283

63N-2-507, as last amended by Laws of Utah 2015, Chapter 417 and renumbered and amended by Laws of Utah 2015, Chapter 283

63N-2-508, as last amended by Laws of Utah 2015, Chapter 417 and renumbered and amended by Laws of Utah 2015, Chapter 283

67-1a-6.5, as last amended by Laws of Utah 2013, Chapters 42 and 371

72-1-208, as last amended by Laws of Utah 2010, Chapter 279

ENACTS:

17C-1-102.5, Utah Code Annotated 1953

17C-1-201.1, Utah Code Annotated 1953

17C-1-209, Utah Code Annotated 1953

17C-1-301.1, Utah Code Annotated 1953

17C-1-401.1, Utah Code Annotated 1953

17C-1-501.1, Utah Code Annotated 1953

17C-1-601.1, Utah Code Annotated 1953

17C-1-701.1, Utah Code Annotated 1953

17C-1-702, Utah Code Annotated 1953

17C-1-801, Utah Code Annotated 1953

17C-1-901, Utah Code Annotated 1953

17C-2-101.1, Utah Code Annotated 1953

17C-2-101.2, Utah Code Annotated 1953

17C-3-101.1, Utah Code Annotated 1953

17C-3-101.2, Utah Code Annotated 1953

17C-4-101.1, Utah Code Annotated 1953

17C-4-101.2, Utah Code Annotated 1953

17C-5-101, Utah Code Annotated 1953

17C-5-102, Utah Code Annotated 1953

17C-5-103, Utah Code Annotated 1953

17C-5-104, Utah Code Annotated 1953

17C-5-105, Utah Code Annotated 1953

17C-5-106, Utah Code Annotated 1953

17C-5-107, Utah Code Annotated 1953

17C-5-108, Utah Code Annotated 1953

17C-5-109, Utah Code Annotated 1953

17C-5-110, Utah Code Annotated 1953

17C-5-111, Utah Code Annotated 1953

17C-5-112, Utah Code Annotated 1953

17C-5-113, Utah Code Annotated 1953

17C-5-201, Utah Code Annotated 1953

17C-5-202, Utah Code Annotated 1953

17C-5-203, Utah Code Annotated 1953

17C-5-204, Utah Code Annotated 1953

17C-5-205, Utah Code Annotated 1953

17C-5-206, Utah Code Annotated 1953

17C-5-301, Utah Code Annotated 1953

17C-5-302, Utah Code Annotated 1953

17C-5-303, Utah Code Annotated 1953

17C-5-304, Utah Code Annotated 1953

17C-5-305, Utah Code Annotated 1953

17C-5-306, Utah Code Annotated 1953

17C-5-307, Utah Code Annotated 1953

17C-5-401, Utah Code Annotated 1953

17C-5-402, Utah Code Annotated 1953

17C-5-403, Utah Code Annotated 1953

17C-5-404, Utah Code Annotated 1953

17C-5-405, Utah Code Annotated 1953

17C-5-406, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

17C-1-201.5, (Renumbered from 17C-1-201, as last amended by Laws of Utah 2012, Chapter 235)

17C-1-301.5, (Renumbered from 17C-1-301, as renumbered and amended by Laws of Utah 2006, Chapter 359)

17C-1-401.5, (Renumbered from 17C-1-401, as last amended by Laws of Utah 2012, Chapter 235)

17C-1-501.5, (Renumbered from 17C-1-501, as renumbered and amended by Laws of Utah 2006, Chapter 359)

17C-1-601.5, (Renumbered from 17C-1-601, as last amended by Laws of Utah 2010, Chapter 90)

17C-1-701.5, (Renumbered from 17C-1-701, as last amended by Laws of Utah 2009, Chapter 350)

17C-1-802, (Renumbered from 17C-2-401, as renumbered and amended by Laws of Utah 2006, Chapter 359)

17C-1-803, (Renumbered from 17C-2-402, as renumbered and amended by Laws of Utah 2006, Chapter 359)

17C-1-804, (Renumbered from 17C-2-403, as last amended by Laws of Utah 2010, Chapter 90)

17C-1-805, (Renumbered from 17C-2-501, as renumbered and amended by Laws of Utah 2006, Chapter 359)

17C-1-806, (Renumbered from 17C-2-502, as last amended by Laws of Utah 2010, Chapter 279)

17C-1-807, (Renumbered from 17C-2-503, as last amended by Laws of Utah 2007, Chapter 379)

- 17C-1-808, (Renumbered from 17C-2-504, as renumbered and amended by Laws of Utah 2006, Chapter 359)
- 17C-1-809, (Renumbered from 17C-2-505, as renumbered and amended by Laws of Utah 2006, Chapter 359)
- 17C-1-902, (Renumbered from 17C-1-206, as last amended by Laws of Utah 2007, Chapter 379)
- 17C-1-903, (Renumbered from 17C-2-602, as last amended by Laws of Utah 2008, Chapter 382)
- 17C-1-904, (Renumbered from 17C-2-601, as last amended by Laws of Utah 2012, Chapter 235)
- 17C-1-905, (Renumbered from 17C-2-603, as enacted by Laws of Utah 2007, Chapter 379)
- 17C-2-101.5, (Renumbered from 17C-2-101, as renumbered and amended by Laws of Utah 2006, Chapter 359)
- 17C-3-101.5, (Renumbered from 17C-3-101, as enacted by Laws of Utah 2006, Chapter 359)
- 17C-4-101.5, (Renumbered from 17C-4-101, as enacted by Laws of Utah 2006, Chapter 359)

REPEALS:

- 17C-1-303, as last amended by Laws of Utah 2010, Chapter 279
- 17C-3-301, as enacted by Laws of Utah 2006, Chapter 359
- 17C-3-302, as enacted by Laws of Utah 2006, Chapter 359
- 17C-3-303, as last amended by Laws of Utah 2009, Chapter 388
- 17C-3-401, as enacted by Laws of Utah 2006, Chapter 359
- 17C-3-402, as last amended by Laws of Utah 2010, Chapter 279
- 17C-3-403, as enacted by Laws of Utah 2006, Chapter 359
- 17C-3-404, as enacted by Laws of Utah 2006, Chapter 359
- 17C-4-301, as enacted by Laws of Utah 2006, Chapter 359
- 17C-4-302, as last amended by Laws of Utah 2010, Chapter 90
- 17C-4-401, as enacted by Laws of Utah 2006, Chapter 359
- 17C-4-402, as last amended by Laws of Utah 2010, Chapter 279

Utah Code Sections Affected by Coordination Clause:

- 59-2-924, as last amended by Laws of Utah 2014, Chapter 270

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-1-203 is amended to read:**10-1-203. License fees and taxes -- Application information to be transmitted to the county assessor.**

- (1) As used in this section:

(a) "Business" means any enterprise carried on for the purpose of gain or economic profit, except that the acts of employees rendering services to employers are not included in this definition.

(b) "Telecommunications provider" [~~is as~~] means the same as that term is defined in Section 10-1-402.

(c) "Telecommunications tax or fee" [~~is as~~] means the same as that term is defined in Section 10-1-402.

(2) Except as provided in Subsections (3) through (5), the legislative body of a municipality may license for the purpose of regulation and revenue any business within the limits of the municipality and may regulate that business by ordinance.

(3) (a) The legislative body of a municipality may raise revenue by levying and collecting a municipal energy sales or use tax as provided in Part 3, Municipal Energy Sales and Use Tax Act, except a municipality may not levy or collect a franchise tax or fee on an energy supplier other than the municipal energy sales and use tax provided in Part 3, Municipal Energy Sales and Use Tax Act.

(b) (i) Subsection (3)(a) does not affect the validity of a franchise agreement as defined in Subsection 10-1-303(6), that is in effect on July 1, 1997, or a future franchise.

(ii) A franchise agreement as defined in Subsection 10-1-303(6) in effect on January 1, 1997, or a future franchise shall remain in full force and effect.

(c) A municipality that collects a contractual franchise fee pursuant to a franchise agreement as defined in Subsection 10-1-303(6) with an energy supplier that is in effect on July 1, 1997, may continue to collect that fee as provided in Subsection 10-1-310(2).

(d) (i) Subject to the requirements of Subsection (3)(d)(ii), a franchise agreement as defined in Subsection 10-1-303(6) between a municipality and an energy supplier may contain a provision that:

(A) requires the energy supplier by agreement to pay a contractual franchise fee that is otherwise prohibited under Part 3, Municipal Energy Sales and Use Tax Act; and

(B) imposes the contractual franchise fee on or after the day on which Part 3, Municipal Energy Sales and Use Tax Act is:

(I) repealed, invalidated, or the maximum allowable rate provided in Section 10-1-305 is reduced; and

(II) is not superseded by a law imposing a substantially equivalent tax.

(ii) A municipality may not charge a contractual franchise fee under the provisions permitted by Subsection (3)(b)(i) unless the municipality charges an equal contractual franchise fee or a tax on all energy suppliers.

(4) (a) Subject to Subsection (4)(b), beginning July 1, 2004, the legislative body of a municipality may raise revenue by levying and providing for the collection of a municipal telecommunications license tax as provided in Part 4, Municipal Telecommunications License Tax Act.

(b) A municipality may not levy or collect a telecommunications tax or fee on a telecommunications provider except as provided in Part 4, Municipal Telecommunications License Tax Act.

(5) (a) (i) The legislative body of a municipality may by ordinance raise revenue by levying and collecting a license fee or tax on:

(A) a parking service business in an amount that is less than or equal to:

(I) \$1 per vehicle that parks at the parking service business; or

(II) 2% of the gross receipts of the parking service business;

(B) a public assembly or other related facility in an amount that is less than or equal to \$5 per ticket purchased from the public assembly or other related facility; and

(C) subject to the limitations of Subsections (5)(c) and (d):

(I) a business that causes disproportionate costs of municipal services; or

(II) a purchaser from a business for which the municipality provides an enhanced level of municipal services.

(ii) Nothing in this Subsection (5)(a) may be construed to authorize a municipality to levy or collect a license fee or tax on a public assembly or other related facility owned and operated by another political subdivision other than a community ~~[development and renewal]~~ reinvestment agency without the written consent of the other political subdivision.

(b) As used in this Subsection (5):

(i) "Municipal services" includes:

(A) public utilities; and

(B) services for:

(I) police;

(II) fire;

(III) storm water runoff;

(IV) traffic control;

(V) parking;

(VI) transportation;

(VII) beautification; or

(VIII) snow removal.

(ii) "Parking service business" means a business:

(A) that primarily provides off-street parking services for a public facility that is wholly or partially funded by public money;

(B) that provides parking for one or more vehicles; and

(C) that charges a fee for parking.

(iii) "Public assembly or other related facility" means an assembly facility that:

(A) is wholly or partially funded by public money;

(B) is operated by a business; and

(C) requires a person attending an event at the assembly facility to purchase a ticket.

(c) (i) Before the legislative body of a municipality imposes a license fee on a business that causes disproportionate costs of municipal services under Subsection (5)(a)(i)(C)(I), the legislative body of the municipality shall adopt an ordinance defining for purposes of the tax under Subsection (5)(a)(i)(C)(I):

(A) the costs that constitute disproportionate costs; and

(B) the amounts that are reasonably related to the costs of the municipal services provided by the municipality.

(ii) The amount of a fee under Subsection (5)(a)(i)(C)(I) shall be reasonably related to the costs of the municipal services provided by the municipality.

(d) (i) Before the legislative body of a municipality imposes a license fee on a purchaser from a business for which it provides an enhanced level of municipal services under Subsection (5)(a)(i)(C)(II), the legislative body of the municipality shall adopt an ordinance defining for purposes of the fee under Subsection (5)(a)(i)(C)(II):

(A) the level of municipal services that constitutes the basic level of municipal services in the municipality; and

(B) the amounts that are reasonably related to the costs of providing an enhanced level of municipal services in the municipality.

(ii) The amount of a fee under Subsection (5)(a)(i)(C)(II) shall be reasonably related to the costs of providing an enhanced level of the municipal services.

(6) All license fees and taxes shall be uniform in respect to the class upon which they are imposed.

(7) The municipality shall transmit the information from each approved business license application to the county assessor within 60 days following the approval of the application.

(8) If challenged in court, an ordinance enacted by a municipality before January 1, 1994, imposing a business license fee on rental dwellings under this section shall be upheld unless the business license fee is found to impose an unreasonable burden on the fee payer.

Section 2. Section 10-3-1303 is amended to read:

10-3-1303. Definitions.

As used in this part:

(1) “Appointed officer” means any person appointed to any statutory office or position or any other person appointed to any position of employment with a city or with a community [~~development and renewal~~] reinvestment agency under Title 17C, Limited Purpose Local Government Entities - Community [~~Development and Renewal Agencies~~] Reinvestment Agency Act. Appointed officers include, but are not limited to, persons serving on special, regular, or full-time committees, agencies, or boards whether or not such persons are compensated for their services. The use of the word “officer” in this part is not intended to make appointed persons or employees “officers” of the municipality.

(2) “Assist” means to act, or offer or agree to act, in such a way as to help, represent, aid, advise, furnish information to, or otherwise provide assistance to a person or business entity, believing that such action is of help, aid, advice, or assistance to such person or business entity and with the intent to assist such person or business entity.

(3) “Business entity” means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.

(4) “Compensation” means anything of economic value, however designated, which is paid, loaned, granted, given, donated, or transferred to any person or business entity by anyone other than the governmental employer for or in consideration of personal services, materials, property, or any other thing whatsoever.

(5) “Elected officer” means a person:

(a) elected or appointed to the office of mayor, commissioner, or council member; or

(b) who is considered to be elected to the office of mayor, commissioner, or council member by a municipal legislative body in accordance with Section 20A-1-206.

(6) “Improper disclosure” means disclosure of private, controlled, or protected information to any person who does not have both the right and the need to receive the information.

(7) “Municipal employee” means a person who is not an elected or appointed officer who is employed on a full- or part-time basis by a municipality or by a community [~~development and renewal~~] reinvestment agency under Title 17C, Limited Purpose Local Government Entities - Community [~~Development and Renewal Agencies~~] Reinvestment Agency Act.

(8) “Private, controlled, or protected information” means information classified as private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act, or other applicable provision of law.

(9) “Substantial interest” means the ownership, either legally or equitably, by an individual, the individual’s spouse, or the individual’s minor children, of at least 10% of the outstanding shares of a corporation or 10% interest in any other business entity.

Section 3. Section 10-9a-508 is amended to read:

10-9a-508. Exactions -- Exaction for water interest -- Requirement to offer to original owner property acquired by exaction.

(1) A municipality may impose an exaction or exactions on development proposed in a land use application, including, subject to Subsection (3), an exaction for a water interest, if:

(a) an essential link exists between a legitimate governmental interest and each exaction; and

(b) each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development.

(2) If a land use authority imposes an exaction for another governmental entity:

(a) the governmental entity shall request the exaction; and

(b) the land use authority shall transfer the exaction to the governmental entity for which it was exacted.

(3) (a) (i) A municipality shall base any exaction for a water interest on the culinary water authority’s established calculations of projected water interest requirements.

(ii) Upon an applicant’s request, the culinary water authority shall provide the applicant with the basis for the culinary water authority’s calculations under Subsection (3)(a)(i) on which an exaction for a water interest is based.

(b) A municipality may not impose an exaction for a water interest if the culinary water authority’s existing available water interests exceed the water interests needed to meet the reasonable future water requirement of the public, as determined under Subsection 73-1-4(2)(f).

(4) (a) If a municipality plans to dispose of surplus real property that was acquired under this section and has been owned by the municipality for less than 15 years, the municipality shall first offer to reconvey the property, without receiving additional consideration, to the person who granted the property to the municipality.

(b) A person to whom a municipality offers to reconvey property under Subsection (4)(a) has 90 days to accept or reject the municipality’s offer.

(c) If a person to whom a municipality offers to reconvey property declines the offer, the municipality may offer the property for sale.

(d) Subsection (4)(a) does not apply to the disposal of property acquired by exaction by a community [~~development and renewal~~] reinvestment agency.

Section 4. Section 11-25-2 is amended to read:

11-25-2. Legislative findings -- Liberal construction.

The Legislature finds and declares that it is necessary for the welfare of the state and its inhabitants that community [~~development and renewal~~] reinvestment agencies be authorized within cities, towns or counties, or cities or towns and counties to make long-term, low-interest loans to finance residential rehabilitation in selected residential areas in order to encourage the upgrading of property in those areas. Unless such agencies provide some form of assistance to finance residential rehabilitation, many residential areas will deteriorate at an accelerated pace. This act shall be liberally construed to effect its purposes.

Section 5. Section 11-25-3 is amended to read:

11-25-3. Definitions.

As used in this chapter:

[~~(4)~~] (1) "Agency" means a community [~~development and renewal~~] reinvestment agency functioning pursuant to Title 17C, Limited Purpose Local Government Entities - Community [~~Development and Renewal Agencies~~] Reinvestment Agency Act.

[~~(1)~~] (2) "Bonds" mean any bonds, notes, interim certificates, debentures, or other obligations issued by an agency pursuant to this part and which are payable exclusively from the revenues, as defined in Subsection [~~(9)~~] (10), and from any other funds specified in this part upon which the bonds may be made a charge and from which they are payable.

[~~(2)~~] (3) (a) "Citizen participation" means action by the agency to provide persons who will be affected by residential rehabilitation financed under the provisions of this part with opportunities to be involved in planning and carrying out the residential rehabilitation program. "Citizen participation" shall include, but not be limited to, all of the following:

(i) Holding a public meeting prior to considering selection of the area for designation.

(ii) Consultation with representatives of owners of property in, and residents of, a residential rehabilitation area, in developing plans for public improvements and implementation of the residential rehabilitation program.

(iii) Dissemination of information relating to the time and location of meetings, boundaries of the proposed residential rehabilitation area, and a general description of the proposed residential rehabilitation program.

(b) (i) Public meetings and consultations described in Subsection [~~(2)~~] (3)(a) shall be conducted by an official designated by the agency.

(ii) Public meetings shall be held at times and places convenient to residents and property owners.

[~~(3)~~] (4) "Financing" means the lending of money or any other thing of value for the purpose of residential rehabilitation.

(5) "Participating party" means any person, company, corporation, partnership, firm, agency, political subdivision of the state, or other entity or group of entities requiring financing for residential rehabilitation pursuant to the provisions of this part. No elective officer of the state or any of its political subdivisions shall be eligible to be a participating party under the provision of this part.

[~~(8)~~] (6) "Rehabilitation standards" mean the applicable local or state standards for the rehabilitation of buildings located in residential rehabilitation areas, including any higher standards adopted by the agency as part of its residential rehabilitation financing program.

(7) "Residence" means a residential structure in residential rehabilitation areas. It also means a commercial structure which, in the judgment of the agency, is an integral part of a residential neighborhood.

[~~(6)~~] (8) "Residential rehabilitation" means the construction, reconstruction, renovation, replacement, extension, repair, betterment, equipping, developing, embellishing, or otherwise improving residences consistent with standards of strength, effectiveness, fire resistance, durability, and safety, so that the structures are satisfactory and safe to occupy for residential purposes and are not conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime because of any one or more of the following factors:

(a) defective design and character of physical construction;

(b) faulty interior arrangement and exterior spacing;

(c) high density of population and overcrowding;

(d) inadequate provision for ventilation, light, sanitation, open spaces, and recreation facilities;

(e) age, obsolescence, deterioration, dilapidation, mixed character, or shifting of uses; and

(f) economic dislocation, deterioration, or disuse, resulting from faulty planning.

[~~(10)~~] (9) "Residential rehabilitation area" means the geographical area designated by the agency as one for inclusion in a comprehensive residential rehabilitation financing program pursuant to the provisions of this chapter.

[~~(9)~~] (10) "Revenues" mean all amounts received as repayment of principal, interest, and all other charges received for, and all other income and receipts derived by, the agency from the financing of residential rehabilitation, including money deposited in a sinking, redemption, or reserve fund or other fund to secure the bonds or to provide for the payment of the principal of, or interest on, the bonds and such other money as the legislative body may, in its discretion, make available therefor.

Section 6. Section 11-27-2 is amended to read:

11-27-2. Definitions.

As used in this chapter:

(1) "Advance refunding bonds" means refunding bonds issued for the purpose of refunding outstanding bonds in advance of their maturity.

(2) "Assessments" means a special tax levied against property within a special improvement district to pay all or a portion of the costs of making improvements in the district.

(3) "Bond" means any revenue bond, general obligation bond, tax increment bond, special improvement bond, local building authority bond, or refunding bond.

(4) "General obligation bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of a public body payable in whole or in part from revenues derived from ad valorem taxes and that constitutes an indebtedness within the meaning of any applicable constitutional or statutory debt limitation.

(5) "Governing body" means the council, commission, county legislative body, board of directors, board of trustees, board of education, board of regents, or other legislative body of a public body designated in this chapter that is vested with the legislative powers of the public body, and, with respect to the state, the State Bonding Commission created by Section 63B-1-201.

(6) "Government obligations" means:

(a) direct obligations of the United States of America, or other securities, the principal of and interest on which are unconditionally guaranteed by the United States of America; or

(b) obligations of any state, territory, or possession of the United States, or of any of the political subdivisions of any state, territory, or possession of the United States, or of the District of Columbia described in Section 103(a), Internal Revenue Code of 1986.

(7) "Issuer" means the public body issuing any bond or bonds.

(8) "Public body" means the state or any agency, authority, instrumentality, or institution of the state, or any municipal or quasi-municipal corporation, political subdivision, agency, school district, local district, special service district, or other governmental entity now or hereafter existing under the laws of the state.

(9) "Refunding bonds" means bonds issued under the authority of this chapter for the purpose of refunding outstanding bonds.

(10) "Resolution" means a resolution of the governing body of a public body taking formal action under this chapter.

(11) "Revenue bond" means any bond, note, warrant, certificate of indebtedness, or other obligation for the payment of money issued by a public body or any predecessor of any public body and that is payable from designated revenues not derived from ad valorem taxes or from a special

fund composed of revenues not derived from ad valorem taxes, but excluding all of the following:

(a) any obligation constituting an indebtedness within the meaning of any applicable constitutional or statutory debt limitation;

(b) any obligation issued in anticipation of the collection of taxes, where the entire issue matures not later than one year from the date of the issue; and

(c) any special improvement bond.

(12) "Special improvement bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of a public body or any predecessor of any public body that is payable from assessments levied on benefitted property and from any special improvement guaranty fund.

(13) "Special improvement guaranty fund" means any special improvement guaranty fund established under Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities; Title 11, Chapter 42, Assessment Area Act; or any predecessor or similar statute.

(14) "Tax increment bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of a public body issued under authority of Title 17C, Limited Purpose Local Government Entities - Community [Development and Renewal Agencies] Reinvestment Agency Act.

Section 7. Section 11-31-2 is amended to read:

11-31-2. Definitions.

As used in this chapter:

(1) "Bonds" means any evidence or contract of indebtedness that is issued or authorized by a public body, including, without limitation, bonds, refunding bonds, advance refunding bonds, bond anticipation notes, tax anticipation notes, notes, certificates of indebtedness, warrants, commercial paper, contracts, and leases, whether they are general obligations of the issuing public body or are payable solely from a specified source, including annual appropriations by the public body.

(2) "Legislative body" means, with respect to any action to be taken by a public body with respect to bonds, the board, commission, council, agency, or other similar body authorized by law to take legislative action on behalf of the public body, and in the case of the state, the Legislature, the state treasurer, the commission created under Section 63B-1-201, and any other entities the Legislature designates.

(3) "Public body" means the state and any public department, public agency, or other public entity existing under the laws of the state, including, without limitation, any agency, authority, instrumentality, or institution of the state, and any county, city, town, municipal corporation, quasi-municipal corporation, state university or college, school district, special service district, local district, separate legal or administrative entity created under the Interlocal Cooperation Act or

other joint agreement entity, community [development and renewal] reinvestment agency, and any other political subdivision, public authority, public agency, or public trust existing under the laws of the state.

Section 8. Section 11-32-2 is amended to read:

11-32-2. Definitions.

As used in this chapter:

(1) "Assignment agreement" means the agreement, security agreement, indenture, or other documentation by which the county transfers the delinquent tax receivables to the authority in consideration of the amounts paid by the authority under the assignment agreement, as provided in this chapter.

(2) "Bonds" means any bonds, notes, or other evidence of indebtedness of the financing authority issued under this chapter.

(3) "Delinquent tax receivables" means those ad valorem tangible property taxes levied within any county, for any year, which remain unpaid and owing the participant members within the county, as of January 15 of the following year, plus any interest and penalties accruing or assessed to them.

(4) "Financing authority" or "authority" means a nonprofit corporation organized under this chapter by a county on behalf of the participant members within the county as the financing authority for the participant members solely for the purpose of financing the assignment of the delinquent tax receivables of the participant members for which it was created.

(5) "Governing body" means the council, commission, county legislative body, board of education, board of trustees, or any other governing entity of a public body in which the legislative powers of the public body are vested.

(6) "Participant members" means those public bodies, including the county, the governing bodies of which approve the creation of an authority as provided in Section 11-32-3 and on whose behalf the authority acts.

(7) "Public body" means any city, town, county, school district, special service district, local district, community [development and renewal] reinvestment agency, or any other entity entitled to receive ad valorem property taxes, existing under the laws of the state.

Section 9. Section 11-34-1 is amended to read:

11-34-1. Definitions.

As used in this chapter:

(1) "Bonds" means any evidence or contract of indebtedness that is issued or authorized by a public body, including, without limitation, bonds, refunding bonds, advance refunding bonds, bond anticipation notes, tax anticipation notes, notes, certificates of indebtedness, warrants, commercial

paper, contracts, and leases, whether they are general obligations of the issuing public body or are payable solely from a specified source, including annual appropriations by the public body.

(2) "Public body" means the state and any public department, public agency, or other public entity existing under the laws of the state, including, without limitation, any agency, authority, instrumentality, or institution of the state, and any county, city, town, municipal corporation, quasi-municipal corporation, state university or college, school district, special service district, local district, separate legal or administrative entity created under the Interlocal Cooperation Act or other joint agreement entity, community [development and renewal] reinvestment agency, and any other political subdivision, public authority, public agency, or public trust existing under the laws of this state.

Section 10. Section 11-49-102 is amended to read:

11-49-102. Definitions.

(1) "Commission" means the Political Subdivisions Ethics Review Commission established in Section 11-49-201.

(2) "Complainant" means a person who files a complaint in accordance with Section 11-49-501.

(3) "Ethics violation" means a violation of:

(a) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

(b) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

(c) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(4) "Local political subdivision ethics commission" means an ethics commission established by a political subdivision within the political subdivision or with another political subdivision by interlocal agreement in accordance with Section 11-49-103.

(5) "Political subdivision" means a county, municipality, school district, community [development and renewal] reinvestment agency, local district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, a local building authority, or any other governmental subdivision or public corporation.

(6) (a) "Political subdivision employee" means a person who is:

(i) (A) in a municipality, employed as a city manager or non-elected chief executive on a full or part-time basis; or

(B) employed as the non-elected chief executive by a political subdivision other than a municipality on a full or part-time basis; and

(ii) subject to:

(A) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

(B) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

(C) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(b) "Political subdivision employee" does not include:

(i) a person who is a political subdivision officer;

(ii) an employee of a state entity; or

(iii) a legislative employee as defined in Section 67-16-3.

(7) "Political subdivision governing body" means:

(a) for a county, the county legislative body as defined in Section 68-3-12.5;

(b) for a municipality, the council of the city or town;

(c) for a school district, the local board of education described in Section 53A-3-101;

(d) for a community [~~development and renewal~~] reinvestment agency, the agency board described in Section 17C-1-203;

(e) for a local district, the board of trustees described in Section 17B-1-301;

(f) for a special service district:

(i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301;

(g) for an entity created by an interlocal agreement, the governing body of an interlocal entity, as defined in Section 11-13-103;

(h) for a local building authority, the governing body, as defined in Section 17D-2-102, that creates the local building authority; or

(i) for any other governmental subdivision or public corporation, the board or other body authorized to make executive and management decisions for the subdivision or public corporation.

(8) (a) "Political subdivision officer" means a person elected in a political subdivision who is subject to:

(i) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

(ii) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

(iii) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(b) "Political subdivision officer" does not include:

(i) a person elected or appointed to a state entity;

(ii) the governor;

(iii) the lieutenant governor;

(iv) a member or member-elect of either house of the Legislature; or

(v) a member of Utah's congressional delegation.

(9) "Respondent" means a person who files a response in accordance with Section 11-49-604.

Section 11. Section 11-50-102 is amended to read:

11-50-102. Definitions.

As used in this chapter:

(1) "Annual financial report" means a comprehensive annual financial report or similar financial report required by Section 51-2a-201.

(2) "Chief administrative officer" means the chief administrative officer designated in accordance with Section 11-50-202.

(3) "Chief financial officer" means the chief financial officer designated in accordance with Section 11-50-202.

(4) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a local district, the board of trustees of the local district;

(c) for a school district, the local board of education; or

(d) for a special service district under Title 17D, Chapter 1, Special Service District Act:

(i) the governing body of the county or municipality that created the special service district, if no administrative control board has been established under Section 17D-1-301; or

(ii) the administrative control board, if one has been established under Section 17D-1-301.

(5) (a) "Political subdivision" means any county, city, town, school district, community [~~development and renewal~~] reinvestment agency, special improvement or taxing district, local district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.

(b) Notwithstanding Subsection (5)(a), "political subdivision" does not mean a project entity, as defined in Section 11-13-103.

Section 12. Section 11-52-102 is amended to read:

11-52-102. Definitions.

As used in this chapter:

(1) "Federal receipts" means the federal financial assistance, as defined in 31 U.S.C. Sec. 7501, that is reported as part of a single audit.

(2) "Political subdivision" means:

(a) a county, as defined in Section 17-50-101;

(b) a municipality, as defined in Section 10-1-104;

(c) a local district, as defined in Section 17B-1-102;

(d) a special service district, as defined in Section 17D-1-102;

(e) an interlocal entity, as defined in Section 11-13-103;

(f) a community ~~[development and renewal]~~ reinvestment agency created under Title 17C, Limited Purpose Local Government Entities - Community ~~[Development and Renewal Agencies]~~ Reinvestment Agency Act;

(g) a local building authority, as defined in Section 17D-2-102; or

(h) a conservation district, as defined in Section 17D-3-102.

(3) "Single audit" has the same meaning as defined in 31 U.S.C. Sec. 7501.

Section 13. Section 14-1-18 is amended to read:

14-1-18. Definitions -- Application of Procurement Code to payment and performance bonds.

(1) (a) For purposes of this chapter, "political subdivision" means any county, city, town, school district, local district, special service district, community ~~[development and renewal]~~ reinvestment agency, public corporation, ~~institution of higher education of the state,~~ public agency of any political subdivision, and, to the extent provided by law, any other entity which expends public funds for construction.

(b) For purposes of applying Section 63G-6a-1103 to a political subdivision, "state" includes "political subdivision."

(2) Notwithstanding any provision of Title 63G, Chapter 6a, Utah Procurement Code, to the contrary, Section 63G-6a-1103 applies to all contracts for the construction, alteration, or repair of any public building or public work of the state or a political subdivision of the state.

Section 14. Section 15-7-2 is amended to read:

15-7-2. Definitions.

As used in this chapter:

(1) "Authorized officer" means any individual required or permitted by any law or by the issuing public entity to execute on behalf of the public entity, a certificated registered public obligation or a writing relating to an uncertificated registered public obligation.

(2) "Certificated registered public obligation" means a registered public obligation which is represented by an instrument.

(3) "Code" means the Internal Revenue Code of 1954.

(4) "Facsimile seal" means the reproduction by engraving, imprinting, stamping, or other means of the seal of the issuer, official, or official body.

(5) "Facsimile signature" means the reproduction by engraving, imprinting, stamping, or other means of a manual signature.

(6) "Financial intermediary" means a bank, broker, clearing corporation or other person, or the nominee of any of them, which in the ordinary course of its business maintains registered public obligation accounts for its customers.

(7) "Issuer" means a public entity which issues an obligation.

(8) "Obligation" means an agreement by a public entity to pay principal and any interest on the obligation, whether in the form of a contract to repay borrowed money, a lease, an installment purchase agreement, or otherwise, and includes a share, participation, or other interest in any such agreement.

~~[(10)]~~ (9) "Official" or "official body" means the person or group of persons that is empowered to provide for the original issuance of an obligation of the issuer, by defining the obligation and its terms, conditions, and other incidents, or to perform duties with respect to a registered public obligation and any successor of such person or group of persons.

~~[(9)]~~ (10) "Official actions" means the actions by statute, order, ordinance, resolution, contract, or other authorized means by which the issuer provides for issuance of a registered public obligation.

(11) "Public entity" means any entity, department, or agency which is empowered under the laws of one or more states, territories, possessions of the United States or the District of Columbia, including this state, to issue obligations any interest with respect to which may, under any provision of law, be provided an exemption from the income tax referred to in the Code. The term "public entity" includes, without limitation, this state, an entity deriving powers from and acting pursuant to a state constitution or legislative act, a county, city, town, a municipal corporation, a quasi-municipal corporation, a state university or college, a school district, a special service district, a local district, a separate legal or administrative entity created under the Interlocal Cooperation Act or other joint agreement entity, a community ~~[development and renewal]~~ reinvestment agency, any other political subdivision, a public authority or public agency, a public trust, a nonprofit corporation, or other organizations.

(12) "Registered public obligation" means an obligation issued by a public entity which is issued pursuant to a system of registration.

(13) "System of registration" and its variants means a plan that provides:

(a) with respect to a certificated registered public obligation, that:

(i) the certificated registered public obligation specifies a person entitled to the registered public obligation and the rights it represents; and

(ii) transfer of the certificated registered public obligation and the rights it represents may be registered upon books maintained for that purpose by or on behalf of the issuer; and

(b) with respect to an uncertificated registered public obligation, that:

(i) books maintained by or on behalf of the issuer for the purpose of registration of the transfer of a registered public obligation specify a person entitled to the registered public obligation and the rights evidenced by it; and

(ii) transfer of the uncertificated registered public obligation and the rights evidenced by it be registered upon such books.

(14) "Uncertificated registered public obligation" means a registered public obligation which is not represented by an instrument.

Section 15. Section 17C-1-101 is amended to read:

TITLE 17C. LIMITED PURPOSE LOCAL GOVERNMENT ENTITIES - COMMUNITY REINVESTMENT AGENCY ACT

CHAPTER 1. AGENCY OPERATIONS

Part 1. General Provisions

17C-1-101. Title.

(1) This title is known as the "Limited Purpose Local Government Entities - Community [Development and Renewal Agencies] Reinvestment Agency Act."

(2) This chapter is known as "Agency Operations."

(3) This part is known as "General Provisions."

Section 16. Section 17C-1-102 is amended to read:

17C-1-102. Definitions.

As used in this title:

(1) "Active project area" means a project area that has not been dissolved in accordance with Section 17C-1-702.

[4] (2) "Adjusted tax increment" means the percentage of tax increment, if less than 100%, that an agency is authorized to receive:

[a] for tax increment under a pre-July 1, 1993, project area plan, tax increment under Section 17C-1-403, excluding tax increment under Subsection 17C-1-403(3); and]

[b] for tax increment under a post-June 30, 1993, project area plan, tax increment under Section 17C-1-404, excluding tax increment under Section 17C-1-406.]

(a) for a pre-July 1, 1993, project area plan, under Section 17C-1-403, excluding tax increment under Subsection 17C-1-403(3);

(b) for a post-June 30, 1993, project area plan, under Section 17C-1-404, excluding tax increment under Section 17C-1-406;

(c) under a project area budget approved by a taxing entity committee; or

(d) under an interlocal agreement that authorizes the agency to receive a taxing entity's tax increment.

[2] (3) "Affordable housing" means housing [to be] owned or occupied by [persons and families of low or moderate income] a low or moderate income family, as determined by resolution of the agency.

[3] (4) "Agency" or "community [development and renewal] reinvestment agency" means a separate body corporate and politic, created under Section [17C-1-201] 17C-1-201.5 or as a redevelopment agency or community development and renewal agency under previous law[;]:

(a) that is a political subdivision of the state[;];

(b) that is created to undertake or promote [urban renewal, economic development, or community development, or any combination of them,] project area development as provided in this title[;]; and

(c) whose geographic boundaries are coterminous with:

[a] (i) for an agency created by a county, the unincorporated area of the county; and

[b] (ii) for an agency created by a [city or town] municipality, the boundaries of the [city or town] municipality.

(5) "Agency funds" means money that an agency collects or receives for the purposes of agency operations or implementing a project area plan, including:

(a) project area funds;

(b) income, proceeds, revenue, or property derived from or held in connection with the agency's undertaking and implementation of project area development; or

(c) a contribution, loan, grant, or other financial assistance from any public or private source.

[4] (6) "Annual income" [has the meaning as] means the same as that term is defined [under] in regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Sec. 5.609, as amended or as superseded by replacement regulations.

[5] (7) "Assessment roll" [has the meaning as] means the same as that term is defined in Section 59-2-102.

[6] (8) "Base taxable value" means[;], unless otherwise adjusted in accordance with provisions of this title, a property's taxable value as shown upon the assessment roll last equalized during the base year.

~~[(a) unless otherwise designated by the taxing entity committee in accordance with Subsection 17C-1-402(4)(b)(ix), for an urban renewal or economic development project area, the taxable value of the property within a project area from which tax increment will be collected, as shown upon the assessment roll last equalized before;]~~

~~[(i) for a pre-July 1, 1993, project area plan, the effective date of the project area plan;]~~

~~[(ii) for a post-June 30, 1993, project area plan;]~~

~~[(A) the date of the taxing entity committee's approval of the first project area budget; or]~~

~~[(B) if no taxing entity committee approval is required for the project area budget, the later of:]~~

~~[(I) the date the project area plan is adopted by the community legislative body; and]~~

~~[(II) the date the agency adopts the first project area budget;]~~

~~[(iii) for a project on an inactive industrial site, a year after the date on which the inactive industrial site is sold for remediation and development; or]~~

~~[(iv) for a project on an inactive airport site, a year after the later of:]~~

~~[(A) the date on which the inactive airport site is sold for remediation and development; and]~~

~~[(B) the date on which the airport that had been operated on the inactive airport site ceased operations; and]~~

~~[(b) for a community development project area, the agreed value specified in a resolution or interlocal agreement under Subsection 17C-4-201(2).]~~

(9) "Base year" means, except as provided in Subsection 17C-1-402(4)(c), the year during which the assessment roll is last equalized:

(a) for a pre-July 1, 1993, urban renewal or economic development project area plan, before the project area plan's effective date;

(b) for a post-June 30, 1993, urban renewal or economic development project area plan, or a community reinvestment project area plan that is subject to a taxing entity committee:

(i) before the date on which the taxing entity committee approves the project area budget; or

(ii) if taxing entity committee approval is not required for the project area budget, before the date on which the community legislative body adopts the project area plan;

(c) for a project on an inactive airport site, after the later of:

(i) the date on which the inactive airport site is sold for remediation and development; or

(ii) the date on which the airport that operated on the inactive airport site ceased operations; or

(d) for a community development project area plan or a community reinvestment project area plan that is subject to an interlocal agreement, as described in the interlocal agreement.

~~[(7)]~~ (10) "Basic levy" means the portion of a school district's tax levy constituting the minimum basic levy under Section 59-2-902.

~~[(8)]~~ (11) "Blight" or "blighted" means the condition of an area that meets the requirements ~~[of]~~ described in Subsection 17C-2-303(1) for an urban renewal project area or Section 17C-5-405 for a community reinvestment project area.

~~[(9)]~~ (12) "Blight hearing" means a public hearing regarding whether blight exists within a proposed:

(a) urban renewal project area under Subsection 17C-2-102(1)(a)(i)(C) and Section 17C-2-302; or ~~[regarding the existence or nonexistence of blight within the proposed urban renewal project area.]~~

(b) community reinvestment project area under Section 17C-5-405.

~~[(10)]~~ (13) "Blight study" means a study to determine ~~[the existence or nonexistence of blight]~~ whether blight exists within a survey area as ~~[provided]~~ described in Section 17C-2-301 for an urban renewal project area or Section 17C-5-403 for a community reinvestment project area.

~~[(11)]~~ (14) "Board" means the governing body of an agency, as ~~[provided]~~ described in Section 17C-1-203.

~~[(12)]~~ (15) "Budget hearing" means the public hearing on a ~~[draft]~~ proposed project area budget required under Subsection 17C-2-201(2)(d) for an urban renewal project area budget ~~[or]~~, Subsection 17C-3-201(2)(d) for an economic development project area budget, or Subsection 17C-5-302(2)(e) for a community reinvestment project area budget.

~~[(13)]~~ (16) "Closed military base" means land within a former military base that the Defense Base Closure and Realignment Commission has voted to close or realign when that action has been sustained by the president of the United States and Congress.

~~[(14)]~~ (17) "Combined incremental value" means the combined total of all incremental values from all ~~[urban renewal]~~ project areas, except project areas that contain some or all of a military installation or inactive industrial site, within the agency's boundaries under ~~[adopted]~~ project area plans and ~~[adopted]~~ project area budgets at the time that a project area budget for a new ~~[urban renewal]~~ project area is being considered.

~~[(15)]~~ (18) "Community" means a county~~[-city, or town]~~ or municipality.

~~[(16)]~~ "Community development" means development activities within a community, including the encouragement, promotion, or provision of development.]

(19) "Community development project area plan" means a project area plan adopted under Chapter 4, Part 1, Community Development Project Area Plan.

(20) “Community legislative body” means the legislative body of the community that created the agency.

(21) “Community reinvestment project area plan” means a project area plan adopted under Chapter 5, Part 1, Community Reinvestment Project Area Plan.

[17] (22) “Contest” means to file a written complaint in the district court of the county in which [the person filing the complaint resides] the agency is located.

[18] “Economic development” means to promote the creation or retention of public or private jobs within the state through:

[a] ~~planning, design, development, construction, rehabilitation, business relocation, or any combination of these, within a community; and~~

[b] ~~the provision of office, industrial, manufacturing, warehousing, distribution, parking, public, or other facilities, or other improvements that benefit the state or a community.~~

(23) “Economic development project area plan” means a project area plan adopted under Chapter 3, Part 1, Economic Development Project Area Plan.

[19] (24) “Fair share ratio” means the ratio derived by:

(a) for a [city or town] municipality, comparing the percentage of all housing units within the [city or town] municipality that are publicly subsidized income targeted housing units to the percentage of all housing units within the [whole] county in which the municipality is located that are publicly subsidized income targeted housing units; or

(b) for the unincorporated part of a county, comparing the percentage of all housing units within the unincorporated county that are publicly subsidized income targeted housing units to the percentage of all housing units within the whole county that are publicly subsidized income targeted housing units.

[20] (25) “Family” [has the meaning as] means the same as that term is defined [under] in regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Section 5.403, as amended or as superseded by replacement regulations.

[21] (26) “Greenfield” means land not developed beyond agricultural, range, or forestry use.

[22] (27) “Hazardous waste” means any substance defined, regulated, or listed as a hazardous substance, hazardous material, hazardous waste, toxic waste, pollutant, contaminant, or toxic substance, or identified as hazardous to human health or the environment, under state or federal law or regulation.

[23] “Housing funds” means the funds allocated in an urban renewal project area budget under

Section 17C-2-203 for the purposes provided in Subsection 17C-1-412(1).

(28) “Housing allocation” means tax increment allocated for housing under Section 17C-2-203, 17C-3-202, or 17C-5-307 for the purposes described in Section 17C-1-412.

(29) “Housing fund” means a fund created by an agency for purposes described in Section 17C-1-411 or 17C-1-412 that is comprised of:

(a) project area funds allocated for the purposes described in Section 17C-1-411; or

(b) an agency’s housing allocation.

[24] (30) (a) “Inactive airport site” means land that:

(i) consists of at least 100 acres;

(ii) is occupied by an airport:

(A) (I) that is no longer in operation as an airport; or

(II) (Aa) that is scheduled to be decommissioned; and

(Bb) for which a replacement commercial service airport is under construction; and

(B) that is owned or was formerly owned and operated by a public entity; and

(iii) requires remediation because:

(A) of the presence of hazardous waste or solid waste; or

(B) the site lacks sufficient public infrastructure and facilities, including public roads, electric service, water system, and sewer system, needed to support development of the site.

(b) “Inactive airport site” includes a perimeter of up to 2,500 feet around the land described in Subsection [24] (30)(a).

[25] (31) (a) “Inactive industrial site” means land that:

(i) consists of at least 1,000 acres;

(ii) is occupied by an inactive or abandoned factory, smelter, or other heavy industrial facility; and

(iii) requires remediation because of the presence of hazardous waste or solid waste.

(b) “Inactive industrial site” includes a perimeter of up to 1,500 feet around the land described in Subsection [25] (31)(a).

[26] (32) “Income targeted housing” means housing [to be] that is owned or occupied by a family whose annual income is at or below 80% of the median annual income for a family within the county in which the housing is located.

[27] (33) “Incremental value” means a figure derived by multiplying the marginal value of the property located within [an urban renewal] a project area on which tax increment is collected by a

number that represents the ~~[percentage of]~~ adjusted tax increment from that project area that is paid to the agency.

~~[(28)]~~ (34) “Loan fund board” means the Olene Walker Housing Loan Fund Board, established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

~~[(31)]~~ (35) (a) “[~~Municipal~~] Local government building” means a building owned and operated by a ~~[municipality]~~ community for the primary purpose of providing one or more primary ~~[municipal]~~ community functions, including:

- (i) a fire station;
- (ii) a police station;
- (iii) a city hall; or
- (iv) a court or other judicial building.

(b) “[~~Municipal~~] Local government building” does not include a building the primary purpose of which is cultural or recreational in nature.

~~[(29)]~~ (36) “Marginal value” means the difference between actual taxable value and base taxable value.

~~[(30)]~~ (37) “Military installation project area” means a project area or a portion of a project area located within a federal military installation ordered closed by the federal Defense Base Realignment and Closure Commission.

(38) “Municipality” means a city, town, or metro township as defined in Section 10-2a-403.

(39) “Participant” means one or more persons that enter into a participation agreement with an agency.

(40) “Participation agreement” means a written agreement between a person and an agency that:

- (a) includes a description of:
 - (i) the project area development that the person will undertake;
 - (ii) the amount of project area funds the person may receive; and
 - (iii) the terms and conditions under which the person may receive project area funds; and
- (b) is approved by resolution of the board.

~~[(32)]~~ (41) “Plan hearing” means the public hearing on a ~~[draft]~~ proposed project area plan required under Subsection 17C-2-102(1)(a)(vi) for an urban renewal project area plan, Subsection 17C-3-102(1)(d) for an economic development project area plan, ~~[and]~~ Subsection 17C-4-102(1)(d) for a community development project area plan, or Subsection 17C-5-104(3)(e) for a community reinvestment project area plan.

~~[(33)]~~ (42) “Post-June 30, 1993, project area plan” means a project area plan adopted on or after July 1, 1993, and before May 10, 2016, whether or not amended subsequent to ~~[its]~~ the project area plan’s adoption.

~~[(34)]~~ (43) “Pre-July 1, 1993, project area plan” means a project area plan adopted before July 1, 1993, whether or not amended subsequent to ~~[its]~~ the project area plan’s adoption.

~~[(35)]~~ (44) “Private,” with respect to real property, means:

- (a) not owned by ~~[the United States or any agency of the federal government,]~~ a public entity~~[,]~~ or any other governmental entity; and
- (b) not dedicated to public use.

~~[(36)]~~ (45) “Project area” means the geographic area described in a project area plan ~~[or draft project area plan where the urban renewal, economic development, or community development, as the case may be, set forth in the project area plan or draft project area plan takes place or is proposed to take place]~~ within which the project area development described in the project area plan takes place or is proposed to take place.

~~[(37)]~~ (46) “Project area budget” means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a ~~[urban renewal or economic development]~~ project area prepared in accordance with:

- (a) for an urban renewal project area, Section 17C-2-202;
- (b) for an economic development project area, Section 17C-3-202;
- (c) for a community development project area, Section 17C-4-204; or
- (d) for a community reinvestment project area, Section 17C-5-302. ~~[that includes:]~~

~~[(a) the base taxable value of property in the project area;]~~

~~[(b) the projected tax increment expected to be generated within the project area;]~~

~~[(c) the amount of tax increment expected to be shared with other taxing entities;]~~

~~[(d) the amount of tax increment expected to be used to implement the project area plan, including the estimated amount of tax increment to be used for land acquisition, public improvements, infrastructure improvements, and loans, grants, or other incentives to private and public entities;]~~

~~[(e) the tax increment expected to be used to cover the cost of administering the project area plan;]~~

~~[(f) if the area from which tax increment is to be collected is less than the entire project area;]~~

~~[(g) the tax identification numbers of the parcels from which tax increment will be collected; or]~~

~~[(h) a legal description of the portion of the project area from which tax increment will be collected;]~~

~~[(i) for property that the agency owns and expects to sell, the expected total cost of the property to the agency and the expected selling price; and]~~

~~[(h) (i) for an urban renewal project area, the information required under Subsection 17C-2-201(1)(b); and]~~

~~[(ii) for an economic development project area, the information required under Subsection 17C-3-201(1)(b).]~~

(47) “Project area development” means activity within a project area that, as determined by the board, encourages, promotes, or provides development or redevelopment for the purpose of implementing a project area plan, including:

(a) promoting, creating, or retaining public or private jobs within the state or a community;

(b) providing office, manufacturing, warehousing, distribution, parking, or other facilities or improvements;

(c) planning, designing, demolishing, clearing, constructing, rehabilitating, or remediating environmental issues;

(d) providing residential, commercial, industrial, public, or other structures or spaces, including recreational and other facilities incidental or appurtenant to the structures or spaces;

(e) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating existing structures;

(f) providing open space, including streets or other public grounds or space around buildings;

(g) providing public or private buildings, infrastructure, structures, or improvements;

(h) relocating a business;

(i) improving public or private recreation areas or other public grounds;

(j) eliminating blight or the causes of blight;

(k) redevelopment as defined under the law in effect before May 1, 2006; or

(l) any activity described in Subsections (47)(a) through (k) outside of a project area that the board determines to be a benefit to the project area.

(48) “Project area funds” means tax increment or sales and use tax revenue that an agency receives under a project area budget adopted by a taxing entity committee or an interlocal agreement.

(49) “Project area funds collection period” means the period of time that:

(a) begins the day on which the first payment of project area funds is distributed to an agency under a project area budget adopted by a taxing entity committee or an interlocal agreement; and

(b) ends the day on which the last payment of project area funds is distributed to an agency under a project area budget adopted by a taxing entity committee or an interlocal agreement.

~~[(38)] (50) “Project area plan” means [a written plan under Chapter 2, Part 1, Urban Renewal Project Area Plan, Chapter 3, Part 1, Economic Development Project Area Plan, or Chapter 4, Part 1, Community Development Project Area Plan, as the case may be,] an urban renewal project area~~

plan, an economic development project area plan, a community development project area plan, or a community reinvestment project area plan that, after [its] the project area plan’s effective date, guides and controls the [urban renewal, economic development, or community development activities within a project area] project area development.

~~[(39)] (51) (a) “Property tax” [includes privilege tax and each levy on an ad valorem basis on tangible or intangible personal or real property.] means each levy on an ad valorem basis on tangible or intangible personal or real property.~~

(b) “Property tax” includes a privilege tax imposed under Title 59, Chapter 4, Privilege Tax.

~~[(40)] (52) “Public entity” means:~~

(a) the United States, including an agency of the United States;

~~[(a)] (b) the state, including any of [its] the state’s departments or agencies; or~~

~~[(b)] (c) a political subdivision of the state, including a county, [city, town,] municipality, school district, local district, special service district, or interlocal cooperation entity.~~

~~[(41)] (53) “Publicly owned infrastructure and improvements” means water, sewer, storm drainage, electrical, [and] natural gas, telecommunication, or other similar systems and lines, streets, roads, curb, gutter, sidewalk, walkways, parking facilities, public transportation facilities, [and] or other facilities, infrastructure, and improvements benefiting the public and to be publicly owned or publicly maintained or operated.~~

~~[(42)] (54) “Record property owner” or “record owner of property” means [the owner of real property as shown on the records of the recorder of the county in which the property is located and includes a purchaser under a real estate contract if the contract is recorded in the office of the recorder of the county in which the property is located or the purchaser gives written notice of the real estate contract to the agency.] the owner of real property, as shown on the records of the county in which the property is located, to whom the property’s tax notice is sent.~~

(55) “Sales and use tax revenue” means revenue that is:

(a) generated from a tax imposed under Title 59, Chapter 12, Sales and Use Tax Act; and

(b) distributed to a taxing entity in accordance with Sections 59-12-204 and 59-12-205.

~~[(43)] (56) “Superfund site”:~~

(a) means an area included in the National Priorities List under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec. 9605; and

(b) includes an area formerly included in the National Priorities List, as described in Subsection [(43)] (56)(a), but removed from the list following remediation that leaves on site the waste that

caused the area to be included in the National Priorities List.

[44] (57) "Survey area" means ~~[aa]~~ a geographic area designated for study by a survey area resolution ~~[for study]~~ to determine whether one or more ~~[urban renewal projects]~~ project areas within the survey area are feasible.

[45] (58) "Survey area resolution" means a resolution adopted by ~~[the agency]~~ a board under Subsection ~~[17C-2-101(1)(a)]~~ 17C-2-101.5(1) or 17C-5-103(1) designating a survey area.

[46] (59) "Taxable value" means ~~[the value of property as shown on the last equalized assessment roll as certified by the county assessor.]:~~

(a) the taxable value of all real property a county assessor assesses in accordance with Title 59, Chapter 2, Part 3, County Assessment, for the current year;

(b) the taxable value of all real and personal property the commission assesses in accordance with Title 59, Chapter 2, Part 2, Assessment of Property, for the current year; and

(c) the year end taxable value of all personal property a county assessor assesses in accordance with Title 59, Chapter 2, Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

[47] (a) ~~Except as provided in Subsection (47)(b),]~~

(60) (a) "Tax increment" means the difference between:

(i) the amount of property tax ~~[revenues]~~ revenue generated each tax year by ~~[all]~~ a taxing ~~[entities]~~ entity from the area within a project area designated in the project area plan as the area from which tax increment is to be collected~~[-(A)]~~, using the current assessed value of the property; and

~~[(B) that are paid to the agency from funds from all of the tax levies used in establishing the certified tax rate in accordance with Section 59-2-924 of the taxing entity within which the agency is located, including funds that are restricted for a particular use by statute to the extent bond covenants are not impaired; and]~~

(ii) the amount of property tax ~~[revenues]~~ revenue that would be generated from that same area using the base taxable value of the property.

(b) "Tax increment" does not include taxes levied and collected under Section 59-2-1602 on or after January 1, 1994, upon the taxable property in the project area unless:

(i) the project area plan was adopted before May 4, 1993, whether or not the project area plan was subsequently amended; and

(ii) the taxes were pledged to support bond indebtedness or other contractual obligations of the agency.

[48] (61) "Taxing entity" means a public entity that:

(a) levies a tax on ~~[a parcel or parcels of]~~ property located within a ~~[community.]~~ project area; or

(b) imposes a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

[49] (62) "Taxing entity committee" means a committee representing the interests of taxing entities, created ~~[as provided]~~ in accordance with Section 17C-1-402.

[50] (63) "Unincorporated" means not within a ~~[city or town]~~ municipality.

[51] (a) "Urban renewal" means the development activities under a project area plan within an urban renewal project area, including:]

(i) ~~planning, design, development, demolition, clearance, construction, rehabilitation, environmental remediation, or any combination of these, of part or all of a project area;]~~

(ii) ~~the provision of residential, commercial, industrial, public, or other structures or spaces, including recreational and other facilities incidental or appurtenant to them;]~~

(iii) ~~altering, improving, modernizing, demolishing, reconstructing, or rehabilitating, or any combination of these, existing structures in a project area;]~~

(iv) ~~providing open space, including streets and other public grounds and space around buildings;]~~

(v) ~~providing public or private buildings, infrastructure, structures, and improvements; and]~~

(vi) ~~providing improvements of public or private recreation areas and other public grounds.]~~

(b) "Urban renewal" means "redevelopment," as defined under the law in effect before May 1, 2006, if the context requires.]

(64) "Urban renewal project area plan" means a project area plan adopted under Chapter 2, Part 1, Urban Renewal Project Area Plan.

Section 17. Section 17C-1-102.5 is enacted to read:

17C-1-102.5. Project area created on or after May 10, 2016.

Beginning on May 10, 2016, an agency:

(1) may create a community reinvestment project area under Chapter 5, Community Reinvestment;

(2) except as provided in Subsection (3), may not create:

(a) an urban renewal project area under Chapter 2, Urban Renewal;

(b) an economic development project area under Chapter 3, Economic Development; or

(c) a community development project area under Chapter 4, Community Development; and

(3) may create an urban renewal project area, an economic development project area, or a community development project area if:

(a) before April 1, 2016, the agency adopts a resolution in accordance with:

(i) Section 17C-2-101.5 for an urban renewal project area;

(ii) Section 17C-3-101.5 for an economic development project area; or

(iii) Section 17C-4-101.5 for a community development project area; and

(b) the urban renewal project area, economic development project area, or community development project area is effective before September 1, 2016.

Section 18. Section 17C-1-103 is amended to read:

17C-1-103. Limitations on applicability of title -- Amendment of previously adopted project area plan.

(1) ~~[Nothing]~~ Except where expressly provided, nothing in this title may be construed to:

(a) impose a requirement or obligation on an agency, with respect to a project area plan adopted or an agency action taken, that was not imposed by the law in effect at the time the project area plan was adopted or the action taken;

(b) prohibit an agency from taking an action that:

(i) was allowed by the law in effect immediately before an applicable amendment to this title;

(ii) is permitted or required under the project area plan adopted before the amendment; and

(iii) is not explicitly prohibited under this title;

(c) revive any right to challenge any action of the agency that had already expired; or

(d) require a project area plan to contain a provision that was not required by the law in effect at the time the project area plan was adopted.

(2) (a) A project area plan adopted before an amendment to this title becomes effective may be amended as provided in this title.

(b) Unless explicitly prohibited by this title, an amendment under Subsection (2)(a) may include a provision that is allowed under this title but that was not required or allowed by the law in effect before the applicable amendment.

Section 19. Section 17C-1-201.1 is enacted to read:

**Part 2. Agency Creation, Powers, and Board
17C-1-201.1. Title.**

This part is known as "Agency Creation, Powers, and Board."

Section 20. Section 17C-1-201.5, which is renumbered from Section 17C-1-201 is renumbered and amended to read:

[17C-1-201]. 17C-1-201.5. Creation of agency -- Name change.

(1) A community ~~[may, by ordinance adopted by its legislative body, approve the creation of a community development and renewal agency.]~~ legislative body may, by ordinance, create a community reinvestment agency.

(2) (a) The community legislative body shall:

(i) after adopting an ordinance under Subsection (1), file with the lieutenant governor a copy of a notice, subject to Subsection (2)(b), of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) upon the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5, submit to the recorder of the county in which the agency is located:

(A) the original notice of an impending boundary action;

(B) the original certificate of creation; and

(C) a certified copy of the ordinance approving the creation of the community ~~[development and renewal]~~ reinvestment agency.

(b) The notice required under Subsection (2)(a)(i) shall state that the agency's boundaries are, and shall always be, coterminous with the boundaries of the community that created the agency.

(c) Upon the lieutenant governor's issuance of the certificate of creation under Section 67-1a-6.5, the agency is created and incorporated.

(d) Until the documents listed in Subsection (2)(a)(ii) are recorded in the office of the recorder of the county in which the ~~[property]~~ agency is located, an agency may not receive or spend ~~[tax increment]~~ agency funds.

(3) (a) An agency may ~~[approve a]~~ change ~~[in its] the agency's name[, whether to indicate it is a community development and renewal agency or otherwise,]~~ by:

(i) adopting a resolution approving a name change; and

(ii) filing with the lieutenant governor a copy of a notice of an impending name change, as defined in Section 67-1a-6.7, that meets the requirements of Subsection 67-1a-6.7(3).

(b) (i) Upon the lieutenant governor's issuance of a certificate of name change under Section 67-1a-6.7, the agency shall file with the recorder of the county in which the agency is located:

(A) the original notice of an impending name change;

(B) the original certificate of name change; and

(C) a certified copy of the resolution approving a name change.

(ii) Until the documents listed in Subsection (3)(b)(i) are recorded in the office of the county recorder, the agency may not operate under the new name.

Section 21. Section 17C-1-202 is amended to read:**17C-1-202. Agency powers.**

(1) ~~[A community development and renewal] An~~ agency may:

- (a) sue and be sued;
- (b) enter into contracts generally;
- (c) buy, obtain an option upon, or otherwise acquire any interest in real or personal property;
- (d) sell, convey, grant, ~~[dispose of by]~~ gift, or otherwise dispose of any interest in real or personal property;
- (e) enter into a lease agreement on real or personal property, either as lessee or lessor;

(f) provide for ~~[urban renewal, economic development, and community]~~ project area development as provided in this title;

(g) receive ~~[tax increment]~~ and use agency funds as provided in this title;

(h) if disposing of or leasing land, retain controls or establish restrictions and covenants running with the land consistent with the project area plan;

(i) accept financial or other assistance from any public or private source for the agency's activities, powers, and duties, and expend any funds ~~[so received for any of the purposes of]~~ the agency receives for any purpose described in this title;

(j) borrow money or accept financial or other assistance from ~~[the federal government,]~~ a public entity~~],~~ or any other source for any of the purposes of this title and comply with any conditions of ~~[the]~~ any loan or assistance;

(k) issue bonds to finance the undertaking of any ~~[urban renewal, economic development, or community]~~ project area development or for any of the agency's other purposes, including:

(i) reimbursing an advance made by the agency or by a public entity ~~[or the federal government]~~ to the agency;

(ii) refunding bonds to pay or retire bonds previously issued by the agency; and

(iii) refunding bonds to pay or retire bonds previously issued by the community that created the agency for expenses associated with ~~[an urban renewal, economic development, or community development project; and]~~ project area development;

(l) pay an impact fee, exaction, or other fee imposed by a community in connection with land development; or

~~[(4)]~~ (m) transact other business and exercise all other powers ~~[provided for]~~ described in this title.

(2) The establishment of controls or restrictions and covenants under Subsection (1)(h) is a public purpose.

Section 22. Section 17C-1-203 is amended to read:**17C-1-203. Agency board -- Quorum.**

(1) The governing body of an agency is a board consisting of the current members of the community legislative body ~~[of the community that created the agency].~~

(2) A majority of board members constitutes a quorum for the transaction of agency business.

(3) ~~[An agency]~~ A board may not adopt a resolution, pass a motion, or take any other official board action without the concurrence of at least a majority of the board members present at a meeting at which a quorum is present.

(4) (a) The mayor or the mayor's designee of a municipality operating under a council-mayor form of government, as defined in Section 10-3b-102:

~~[(a)]~~ (i) serves as the executive director of an agency created by the municipality; and

~~[(b)]~~ (ii) exercises the ~~[executive powers of the agency]~~ agency's executive powers.

(b) The county executive or the county executive's designee of a county operating under a county executive-council form of government, as described in Section 17-52-504:

(i) serves as the executive director of an agency created by the county; and

(ii) exercises the agency's executive powers.

Section 23. Section 17C-1-204 is amended to read:**17C-1-204. Project area development by an adjoining agency -- Requirements.**

~~[(1) An agency or community may, by resolution of its board or legislative body, respectively, authorize an agency to conduct urban renewal, economic development, or community development activities in a project area that includes an area within the authorizing agency's boundaries or within the boundaries of the authorizing community if the project area or community is contiguous to the boundaries of the other agency.]~~

~~[(2) If an agency board or community legislative body adopts a resolution under Subsection (1) authorizing another agency to undertake urban renewal, economic development, or community development activities in the authorizing agency's project area or within the boundaries of the authorizing community:]~~

(1) (a) A community that has not created an agency may enter into an interlocal agreement with an agency located in the same or an abutting county that authorizes the agency to exercise all the powers granted to an agency under this title within the community.

(b) The agency and the community shall adopt an interlocal agreement described in Subsection (1)(a) by resolution.

(2) If an agency and a community enter into an interlocal agreement under Subsection (1):

(a) the ~~other~~ agency may act in all respects as if ~~the~~ a project area ~~were~~ within the community ~~were~~ within ~~its own~~ the agency's boundaries;

(b) the board ~~of the other agency~~ has all the rights, powers, and privileges with respect to ~~the~~ a project area ~~within the community~~ as if ~~it were~~ the project area ~~were~~ within ~~its own~~ the agency's boundaries; ~~and~~

(c) the ~~other~~ agency may be paid ~~tax increment~~ project area funds to the same extent as if ~~the~~ a project area ~~were~~ within the community ~~were~~ within ~~its own~~ the agency's boundaries~~[-]~~; and

(d) the community legislative body shall adopt, by ordinance, each project area plan within the community approved by the agency.

~~[(3) Each project area plan approved by the other agency for the project area that is the subject of a resolution under Subsection (1) shall be adopted by ordinance of the legislative body of the community in which the project area is located.]~~

(3) If an agency's project area abuts another agency's project area, the agencies may coordinate with each other in order to assist and cooperate in the planning, undertaking, construction, or operation of project area development located within each agency's project area.

(4) (a) As used in this Subsection (4):

(i) "County agency" means an agency that ~~was~~ is created by a county.

(ii) "Industrial property" means private real property:

(A) over half of which is located within the boundary of a town, as defined in Section 10-1-104; and

(B) comprises some or all of an inactive industrial site.

(iii) "Perimeter portion" means the portion of an inactive industrial site that is:

(A) part of the inactive industrial site because ~~it~~ the site lies within the perimeter described in ~~Subsection~~ Section 17C-1-102~~(24)(b)~~; and

(B) located within the boundary of a city, as defined in Section 10-1-104.

(b) (i) Subject to Subsection (4)(b)(ii), a county agency may undertake ~~urban renewal, economic development, or community~~ project area development on industrial property if the record property owner of the industrial property submits a written request to the county agency to do so.

(ii) A county agency may not include a perimeter portion within a project area without the approval of the city in which the perimeter portion is located.

(c) If a county agency undertakes ~~urban renewal, economic development, or community~~ project area development on industrial property:

(i) the county agency may act in all respects as if the project area that includes the industrial property ~~were~~ within the county agency's boundary;

(ii) the board of the county agency has each right, power, and privilege with respect to the project area as if the project area ~~were~~ within the county agency's boundary; and

(iii) the county agency may be paid ~~tax increment~~ project area funds to the same extent as if the project area ~~were~~ within the county agency's boundary.

(d) A project area plan for a project on industrial property that is approved by the county agency shall be adopted by ordinance of the legislative body of the county in which the project area is located.

Section 24. Section 17C-1-205 is amended to read:

17C-1-205. Transfer of project area from one community to another.

(1) ~~For purposes of~~ As used in this section:

(a) "New agency" means the agency created by the new community.

(b) "New community" means the community in which the relocated project area is located after the change in community boundaries takes place.

(c) "Original agency" means the agency created by the original community.

(d) "Original community" means the community that adopted the project area plan that created the project area that has been relocated.

(e) "Relocated" means that a project area under a project area plan adopted by the original community has ceased to be located within that community and has become part of a new community because of a change in community boundaries through:

(i) a county or municipal annexation;

(ii) the creation of a new county;

(iii) a municipal incorporation, consolidation, dissolution, or boundary adjustment; or

(iv) any other action resulting in a change in community boundaries.

(2) ~~[If a] A relocated project area [under a project area plan adopted by a community becomes relocated, the project area] shall, for purposes of this title, be considered to remain in the original community until: (a) the new community has created an agency; (b) the original agency has transferred or assigned~~ the original agency and the new agency enter into an interlocal agreement, adopted by resolution of the original agency's and the new agency's board, that authorizes the original agency to transfer or assign to the new agency the original agency's real property, rights, indebtedness, obligations, tax increment, ~~and~~ or other assets and liabilities ~~related to~~ resulting from the relocated project area~~[-]~~.

~~[(c) the new agency by resolution approves the original agency's project area plan as the project area plan of the new agency; and]~~

~~[(d) the new community by ordinance adopts the project area plan that was approved by the new agency.]~~

Section 25. Section 17C-1-207 is amended to read:

17C-1-207. Public entities may assist with project area development.

(1) In order to assist and cooperate in the planning, undertaking, construction, or operation of ~~[urban renewal, economic development, or community]~~ project area development within ~~[the]~~ an area in which ~~[it]~~ the public entity is authorized to act, a public entity may:

(a) (i) provide or cause to be furnished:

(A) parks, playgrounds, or other recreational facilities;

(B) community, educational, water, sewer, or drainage facilities; or

(C) any other works which the public entity is otherwise empowered to undertake;

(ii) provide, furnish, dedicate, close, vacate, pave, install, grade, regrade, plan, or replan streets, roads, roadways, alleys, sidewalks, or other places;

(iii) in any part of the project area:

(A) (I) plan or replan any property within the project area;

(II) plat or replat any property within the project area;

(III) vacate a plat;

(IV) amend a plat; or

(V) zone or rezone any property within the project area; and

(B) make any legal exceptions from building regulations and ordinances;

(iv) purchase or legally invest in any of the bonds of an agency and exercise all of the rights of any holder of the bonds;

(v) enter into an agreement with another public entity concerning action to be taken pursuant to any of the powers granted in this title;

(vi) do ~~[any and all things]~~ anything necessary to aid or cooperate in the planning or ~~[carrying out]~~ implementation of the ~~[urban renewal, economic development, or community]~~ project area development;

(vii) in connection with the project area plan, become obligated to the extent authorized and funds have been made available to make required improvements or construct required structures; and

(viii) lend, grant, or contribute funds to an agency for ~~[an urban renewal, economic development, or~~

~~community development project] project area development or proposed project area development, including assigning revenue or taxes in support of an agency bond or obligation; and~~

(b) 15 days after posting public notice:

(i) purchase or otherwise acquire property or lease property from ~~[an]~~ the agency; or

(ii) sell, grant, convey, or otherwise dispose of the public entity's property or lease the public entity's property to ~~[an]~~ the agency.

(2) Notwithstanding any law to the contrary, an agreement under Subsection (1)(a)(v) may extend over any period.

(3) A grant or contribution of funds from a public entity to an agency, or from an agency under a project area plan or project area budget, is not subject to the requirements of Section 10-8-2.

Section 26. Section 17C-1-208 is amended to read:

17C-1-208. Agency funds.

(1) Agency funds shall be accounted for separately from the funds of the community that created the agency.

(2) An agency may accumulate retained earnings or fund balances, as appropriate, in any fund.

Section 27. Section 17C-1-209 is enacted to read:

17C-1-209. Agency records.

An agency shall maintain the agency's minutes, resolutions, and other records separate from those of the community that created the agency.

Section 28. Section 17C-1-301.1 is enacted to read:

Part 3. Agency Property

17C-1-301.1. Title.

This part is known as "Agency Property."

Section 29. Section 17C-1-301.5, which is renumbered from Section 17C-1-301 is renumbered and amended to read:

~~[17C-1-301]. 17C-1-301.5. Agency property exempt from taxation -- Exemption.~~

(1) Agency property acquired or held for purposes of this title is ~~[declared to be]~~ public property used for essential public and governmental purposes and, subject to Subsection (2), is exempt from ~~[all taxes of a public]~~ taxation by a taxing entity.

(2) The exemption in Subsection (1) does not apply to property that the agency leases to a lessee ~~[that is not]~~ unless the lessee is entitled to a tax exemption with respect to the property.

Section 30. Section 17C-1-302 is amended to read:

17C-1-302. Agency property exempt from levy and execution sale -- Judgment against community or agency.

(1) (a) (i) All agency property, including funds the agency owns or holds for purposes of this title, is

exempt from levy and execution sale, and no execution or judicial process may issue against ~~[agency]~~ the property.

(ii) A judgment against an agency may not be a charge or lien upon agency property.

(b) Subsection (1)(a) does not apply to or limit the right of ~~[obligees]~~ an obligee to pursue any ~~[remedies]~~ remedy for the enforcement of any pledge or lien given by an agency on ~~[its]~~ the agency's funds or revenues.

(2) A judgment against the community that created the agency may not be a charge or lien upon agency property.

(3) A judgment against an agency may not be a charge or lien upon property of the community that created the agency.

Section 31. Section 17C-1-401.1 is enacted to read:

Part 4. Project Area Funds

17C-1-401.1. Title.

This part is known as "Project Area Funds."

Section 32. Section 17C-1-401.5, which is renumbered from Section 17C-1-401 is renumbered and amended to read:

[17C-1-401]. 17C-1-401.5. Agency receipt and use of project area funds -- Distribution of project area funds.

(1) An agency may receive and use ~~[tax increment and sales tax, as provided in this part]~~ project area funds in accordance with this title.

(2) (a) A county that collects property tax on property located within a project area shall, in accordance with Section 59-12-1365, distribute to an agency any tax increment that the agency is authorized to receive.

(b) Tax increment distributed to an agency in accordance with Subsection (2)(a) is not revenue of the taxing entity.

~~[(2)]~~ (3) (a) The ~~[applicable length of time or number of years for which an agency is to be paid tax increment or sales tax under this part]~~ project area funds collection period shall be measured:

(i) for a pre-July 1, 1993, project area plan, from the first tax year regarding which the agency accepts tax increment from the project area;

(ii) for a post-June 30, 1993, urban renewal or economic development project area plan:

(A) with respect to tax increment, from the first tax year for which the agency receives tax increment under the project area budget; or

(B) with respect to sales and use tax revenue, as indicated in the interlocal agreement between the agency and the taxing entity that ~~[established the agency's right to receive sales tax, or]~~ authorizes the agency to receive the taxing entity's sales and use tax revenue;

(iii) for a community development project area plan, as indicated in the resolution or interlocal agreement of a taxing entity that ~~[establishes the agency's right to receive tax increment or sales tax,]~~ authorizes the agency to receive the taxing entity's project area funds;

(iv) for a community reinvestment project area plan that is subject to a taxing entity committee:

(A) with respect to tax increment, from the first tax year for which the agency receives tax increment under the project area budget; or

(B) with respect to sales and use tax revenue, in accordance with the interlocal agreement between the agency and the taxing entity that authorizes the agency to receive the taxing entity's sales and use tax revenue; or

(v) for a community reinvestment project area plan that is subject to an interlocal agreement, in accordance with the interlocal agreement between the agency and the taxing entity that authorizes the agency to receive the taxing entity's project area funds.

(b) Unless otherwise provided in a project area budget that is approved by a taxing entity committee, or in an interlocal agreement ~~[or resolution]~~ adopted by a taxing entity, tax increment may not be paid to an agency for a tax year ~~[prior to]~~ before the tax year following:

(i) for an urban renewal ~~[or]~~ project area plan, an economic development project area plan, or a community reinvestment project area plan that is subject to a taxing entity committee, the effective date of the project area plan; and

(ii) for a community development project area plan or a community reinvestment project area plan that is subject to an interlocal agreement, the effective date of the interlocal agreement that ~~[establishes the agency's right]~~ authorizes the agency to receive tax increment.

~~[(3)]~~ (4) With respect to a community development project area plan or a community reinvestment project area plan that is subject to an interlocal agreement:

(a) a taxing entity ~~[or public entity]~~ may, ~~[by resolution or]~~ through interlocal agreement, authorize an agency to be paid any or all of ~~[that taxing entity or public entity's tax increment or sales tax]~~ the taxing entity's project area funds for any period of time; and

(b) the ~~[resolution or]~~ interlocal agreement authorizing the agency to be paid ~~[tax increment or sales tax]~~ project area funds shall specify:

(i) the base taxable value of the project area; and

(ii) the method of calculating the amount of ~~[tax increment or sales tax]~~ project area funds to be paid to the agency.

~~[(4)]~~ (5) (a) (i) The boundaries of one project area may overlap and include the boundaries of an existing project area.

(ii) If a taxing entity committee is required to approve the project area budget of an overlapping project area described in Subsection [(4)] (5)(a)(i), the agency shall, before the first meeting of the taxing entity committee at which the project area budget will be considered, inform each taxing entity of the location of the overlapping boundaries.

(b) (i) Before an agency may ~~collect~~ receive tax increment from the newly created overlapping portion of a project area, the agency shall inform the county auditor regarding the respective amount of tax increment that the agency is authorized to receive from the overlapping portion of each of the project areas.

(ii) The combined amount of tax increment described in Subsection [(4)] (5)(b)(i) may not exceed 100% of the tax increment generated from a property located within the overlapping boundaries.

(c) Nothing in this Subsection [(4) shall give] (5) gives an agency a right to ~~collect or~~ receive ~~[tax increment or sales tax] project area funds that [an] the agency is not otherwise [entitled to collect] authorized to receive under this title.~~

(d) The collection of ~~[tax increment or sales tax] project area funds from an overlapping project area described in Subsection [(4)] (5)(a) does not affect [in any way] an agency's use of [tax increment or sales tax] project area funds within the other overlapping project area.~~

[(5)] (6) With the written consent of a taxing entity, an agency may be paid tax increment, from ~~[that] the taxing entity's property tax [revenues] revenue only, in a higher percentage or for a longer period of time, or both, than otherwise authorized under this title.~~

[(6)-(a)] (7) Subject to Section 17C-1-407, an agency is ~~[entitled]~~ authorized to receive tax increment as ~~[authorized by]~~ described in:

[(4)] (a) for a pre-July 1, 1993, project area plan, Section 17C-1-403;

[(4)(b)] (b) for a post-June 30, 1993, project area plan:

[(A)] (i) Section 17C-1-404 under a project area budget adopted by the agency in accordance with this title;

[(B)] (ii) a project area budget approved by the taxing entity committee and adopted by the agency in accordance with this title; or

[(C)] (iii) Section 17C-1-406; ~~[or]~~

[(4)(c)] (c) a resolution or interlocal agreement entered into under Section 17C-2-207, 17C-3-206, 17C-4-201, or 17C-4-202[-];

(d) for a community reinvestment project area plan that is subject to a taxing entity committee, a project area budget approved by the taxing entity committee and adopted by the agency in accordance with this title; or

(e) for a community reinvestment project area plan that is subject to an interlocal agreement, an interlocal agreement entered into under Section 17C-5-204.

~~[(b)] A county that collects property tax on property located within a project area shall pay and distribute any tax increment:~~

~~[(i)] to an agency that the agency is entitled to collect; and~~

~~[(ii)] in accordance with Section 59-2-1365.]~~

Section 33. Section 17C-1-402 is amended to read:

17C-1-402. Taxing entity committee.

~~[(1) Each agency that adopts or proposes to adopt a post-June 30, 1993, urban renewal or economic development project area plan shall, and any other agency may, cause a taxing entity committee to be created.]~~

(1) The provisions of this section apply to a taxing entity committee that is created by an agency for:

(a) a post-June 30, 1993, urban renewal project area plan or economic development project area plan;

(b) any other project area plan adopted before May 10, 2016, for which the agency created a taxing entity committee; and

(c) a community reinvestment project area plan that is subject to a taxing entity committee.

(2) (a) (i) Each taxing entity committee shall be composed of:

(A) two school district representatives appointed ~~[as provided in]~~ in accordance with Subsection (2)(a)(ii);

(B) (I) in a county of the second, third, fourth, fifth, or sixth class, two representatives appointed by resolution of the legislative body of the county in which the agency is located; or

(II) in a county of the first class, one representative appointed by the county executive and one representative appointed by the legislative body of the county in which the agency is located;

(C) if the agency ~~[was]~~ is created by a ~~[city or town] municipality~~, two representatives appointed by resolution of the legislative body of ~~[that city or town] the municipality~~;

(D) one representative appointed by the State Board of Education; and

(E) one representative selected by majority vote of the legislative bodies or governing boards of all other taxing entities that levy a tax on property within the agency's boundaries, to represent the interests of those taxing entities on the taxing entity committee.

(ii) (A) If the agency boundaries include only one school district, that school district shall appoint the two school district representatives under Subsection (2)(a)(i)(A).

(B) If the agency boundaries include more than one school district, those school districts shall jointly appoint the two school district representatives under Subsection (2)(a)(i)(A).

(b) (i) Each taxing entity committee representative ~~[under]~~ described in Subsection (2)(a) shall be appointed within 30 days after the day on which the agency provides notice of the creation of the taxing entity committee.

(ii) If a representative is not appointed within the time required under Subsection (2)(b)(i), the ~~[agency]~~ board may appoint ~~[a person]~~ an individual to serve on the taxing entity committee in the place of the missing representative until that representative is appointed.

(c) (i) A taxing entity committee representative may be appointed for a set term or period of time, as determined by the appointing authority under Subsection (2)(a)(i).

(ii) Each taxing entity committee representative shall serve until a successor is appointed and qualified.

(d) (i) Upon the appointment of each representative under Subsection (2)(a)(i), whether an initial appointment or an appointment to replace an already serving representative, the appointing authority shall:

(A) notify the agency in writing of the name and address of the newly appointed representative; and

(B) provide the agency a copy of the resolution making the appointment or, if the appointment is not made by resolution, other evidence of the appointment.

(ii) Each appointing authority of a taxing entity committee representative under Subsection (2)(a)(i) shall notify the agency in writing of any change of address of a representative appointed by that appointing authority.

(3) At ~~[its]~~ a taxing entity committee's first meeting, ~~[a]~~ the taxing entity committee shall adopt an organizing resolution that:

(a) ~~[designating]~~ designates a chair and a secretary of the taxing entity committee; and

(b) if the taxing entity committee considers it appropriate, ~~[governing]~~ governs the use of electronic meetings under Section 52-4-207.

(4) (a) A taxing entity committee represents all taxing entities regarding:

(i) an urban renewal project area plan; ~~[or]~~

(ii) an economic development project area~~[-]~~ plan; or

(iii) a community reinvestment project area plan that is subject to a taxing entity committee.

(b) A taxing entity committee may:

(i) cast votes that ~~[will be]~~ are binding on all taxing entities;

(ii) negotiate with the agency concerning a ~~[draft]~~ proposed project area plan;

(iii) approve or disapprove:

(A) an urban renewal project area budget as ~~[provided]~~ described in Section 17C-2-204; ~~[or]~~

(B) an economic development project area budget as ~~[provided]~~ described in Section 17C-3-203; or

(C) for a community reinvestment project area plan that is subject to a taxing entity committee, a community reinvestment project area budget as described in Section 17C-5-302;

(iv) approve or disapprove ~~[amendments]~~ an amendment to a project area budget as ~~[provided in:]~~ described in Section 17C-2-206, 17C-3-205, or 17C-5-306;

~~[(A) Section 17C-2-206 for an urban renewal project area budget; or]~~

~~[(B) Section 17C-3-205 for an economic development project area budget;]~~

(v) approve ~~[exceptions]~~ an exception to the limits on the value and size of a project area imposed under this title;

(vi) approve:

(A) ~~[exceptions]~~ an exception to the percentage of tax increment to be paid to the agency;

(B) ~~[the period of time that tax increment is to be paid to the agency]~~ except for a project area funds collection period that is approved by an interlocal agreement, each project area funds collection period; and

(C) ~~[exceptions]~~ an exception to the requirement for an urban renewal ~~[or]~~ project area budget, an economic development project area budget, or a community reinvestment project area budget to include a maximum cumulative dollar amount of tax increment that the agency may receive;

(vii) approve the use of tax increment for publicly owned infrastructure and improvements outside of ~~[an urban renewal or economic development]~~ a project area that the agency and community legislative body determine to be of benefit to the ~~[urban renewal or economic development]~~ project area, as ~~[provided]~~ described in Subsection 17C-1-409(1)(a)(iii)(D);

(viii) waive the restrictions ~~[imposed by]~~ described in Subsection 17C-2-202(1);

(ix) subject to Subsection (4)(c), designate ~~[in an approved urban renewal or economic development project area budget]~~ the base taxable value for ~~[that]~~ a project area budget; and

(x) give other taxing entity committee approval or consent required or allowed under this title.

~~[(e) The base year used for calculation of the base taxable value in Subsection (4)(b)(ix) may not be a year that is earlier than]~~

~~[the year during which the project area plan became effective.]~~

(c) (i) Except as provided in Subsection (4)(c)(ii), the base year may not be a year that is earlier than five years before the beginning of a project area funds collection period.

(ii) The taxing entity committee may approve a base year that is earlier than the year described in Subsection (4)(c)(i).

(5) A quorum of a taxing entity committee consists of:

(a) if the project area is located within a ~~[city or town]~~ municipality, five members; or

(b) if the project area is not located within a ~~[city or town]~~ municipality, four members.

(6) Taxing entity committee approval, consent, or other action requires:

(a) the affirmative vote of a majority of all members present at a taxing entity committee meeting:

(i) at which a quorum is present; and

(ii) considering an action relating to a project area budget for, or approval of a finding of blight within, a project area or proposed project area that contains:

(A) an inactive industrial site;

(B) an inactive airport site; or

(C) a closed military base; or

(b) for any other action not described in Subsection (6)(a)(ii), the affirmative vote of two-thirds of all members present at a taxing entity committee meeting at which a quorum is present.

(7) (a) An agency may call a meeting of the taxing entity committee by sending written notice to the members of the taxing entity committee at least 10 days before the date of the meeting.

(b) Each notice under Subsection (7)(a) shall be accompanied by:

(i) the proposed agenda for the taxing entity committee meeting; and

(ii) if not previously provided and if ~~[they]~~ the documents exist and are to be considered at the meeting:

(A) the project area plan or proposed project area plan;

(B) the project area budget or proposed project area budget;

(C) the analysis required under Subsection 17C-2-103(2) ~~[or]~~ 17C-3-103(2), or 17C-5-105(2);

(D) the blight study;

(E) the agency's resolution making a finding of blight under Subsection 17C-2-102(1)(a)(ii)(B) or Subsection 17C-5-402(1)(c)(ii); and

(F) other documents to be considered by the taxing entity committee at the meeting.

(c) (i) An agency may not schedule a taxing entity committee meeting ~~[to meet]~~ on a day on which the Legislature is in session.

(ii) Notwithstanding Subsection (7)(c)(i), ~~[the]~~ a taxing entity committee may, by unanimous consent, waive the scheduling restriction described in Subsection (7)(c)(i).

(8) (a) A taxing entity committee may not vote on a proposed project area budget or proposed amendment to a project area budget at the first meeting at which the proposed project area budget or amendment is considered unless all members of the taxing entity committee present at the meeting consent.

(b) A second taxing entity committee meeting to consider a proposed project area budget or a proposed amendment to a project area budget may not be held within 14 days after the first meeting unless all members of the taxing entity committee present at the first meeting consent.

(9) (a) Except as provided in Subsection (9)(b), each taxing entity committee shall meet at least annually during ~~[the time that the agency receives tax increment]~~ a project area funds collection period under an urban renewal ~~[or]~~, an economic development, or a community reinvestment project area budget ~~[in order]~~ to review the status of the project area.

(b) A taxing entity committee is not required ~~[under Subsection (9)(a)]~~ to meet in accordance with Subsection (9)(a) if the agency ~~[submits]~~ prepares and distributes on or before November 1 of each year ~~[to the county auditor, the State Tax Commission, the State Board of Education, and each taxing entity that levies a tax on property from which the agency collects tax increment, a report containing the following:]~~ a report as described in Section 17C-1-603.

~~[(i) an assessment of growth of incremental values for each active project area, including:]~~

~~[(A) the base year assessed value;]~~

~~[(B) the prior year's assessed value;]~~

~~[(C) the estimated current year assessed value for the project area; and]~~

~~[(D) a narrative description of the relative growth in assessed value within the project area;]~~

~~[(ii) a description of the amount of tax increment received by the agency and passed through to other taxing entities from each active project area, including:]~~

~~[(A) a comparison of the original forecasted amount of tax increment to actual receipts;]~~

~~[(B) a narrative discussion regarding the use of tax increment; and]~~

~~[(C) a description of the benefits derived by the taxing entities;]~~

~~[(iii) a description of activity within each active project area, including:]~~

~~[(A) a narrative of any significant development activity, including infrastructure development, site development, and vertical construction within the project area; and]~~

~~[(B) a narrative discussion regarding the status of any agreements for development within the project area;]~~

~~[(iv) a revised multi-year tax increment budget related to each active project area, including:]~~

~~[(A) the prior year's tax increment receipts;]~~

~~[(B) the base year value and adjusted base year value, as applicable;]~~

~~[(C) the applicable tax rates within the project area; and]~~

~~[(D) a description of private and public investment within the project area;]~~

~~[(v) an estimate of the tax increment to be paid to the agency for the calendar years ending December 31 and beginning the next January 1; and]~~

~~[(vi) any other project highlights included by the agency;]~~

(10) Each taxing entity committee shall be governed by Title 52, Chapter 4, Open and Public Meetings Act.

(11) A taxing entity committee's records shall be:

(a) considered the records of the agency that created the taxing entity committee; and

(b) maintained by the agency in accordance with Section 17C-1-209.

~~[(11)] (12) Each time a school district representative or a representative of the State Board of Education votes as a member of a taxing entity committee to allow an agency to [be paid] receive tax increment [or], to increase the amount [or length of time that an agency may be paid tax increment] of tax increment the agency receives, or to extend a project area funds collection period, that representative shall, within 45 days after the vote, provide to the representative's respective school board an explanation in writing of the representative's vote and the reasons for the vote.~~

~~[(12)] (13) (a) The auditor of each county in which [the] an agency is located shall provide a written report to the taxing entity committee stating, with respect to property within each [urban renewal and economic development] project area:~~

(i) the base taxable value, as adjusted by any adjustments under Section 17C-1-408; and

(ii) the assessed value.

(b) With respect to the information required under Subsection ~~[(12)]~~ (13)(a), the auditor shall provide:

(i) actual amounts for each year from the adoption of the project area plan to the time of the report; and

(ii) estimated amounts for each year beginning the year after the time of the report and ending the time that ~~[the agency expects no longer to be paid tax increment from property within the urban renewal and economic development project area]~~ each project area funds collection period ends.

(c) The auditor of the county in which the agency is located shall provide a report under this Subsection ~~[(12)]~~ (13):

(i) at least annually; and

(ii) upon request of the taxing entity committee, before a taxing entity committee meeting at which the committee ~~[will consider]~~ considers whether to allow the agency to ~~[be paid]~~ receive tax increment [or], to increase the amount of tax increment that the agency ~~[may be paid or the length of time that the agency may be paid tax increment]~~ receives, or to extend a project area funds collection period.

~~[(13)]~~ (14) This section does not apply to:

(a) a community development project area plan~~[-];~~ or

(b) a community reinvestment project area plan that is subject to an interlocal agreement.

~~[(14)]~~ (15) (a) A taxing entity committee resolution~~[-, whether adopted before, on, or after May 10, 2011;]~~ approving a blight finding, approving a project area budget, or approving an amendment to a project area budget:

~~[(a)]~~ (i) is final; and

~~[(b)]~~ (ii) is not subject to repeal, amendment, or reconsideration unless the agency first consents by resolution to the proposed repeal, amendment, or reconsideration.

(b) The provisions of Subsection (15)(a) apply regardless of when the resolution is adopted.

Section 34. Section 17C-1-403 is amended to read:

17C-1-403. Tax increment under a pre-July 1, 1993, project area plan.

(1) Notwithstanding any other provision of law, this section applies retroactively to tax increment under all pre-July 1, 1993, project area plans, regardless of when the applicable project area was created or the applicable project area plan was adopted.

(2) (a) Beginning with the first tax year after April 1, 1983, for which an agency accepts tax increment, an agency is ~~[entitled to be paid]~~ authorized to receive:

(i) (A) for the first through the fifth tax years, 100% of tax increment;

(B) for the sixth through the tenth tax years, 80% of tax increment;

(C) for the eleventh through the fifteenth tax years, 75% of tax increment;

(D) for the sixteenth through the twentieth tax years, 70% of tax increment; and

(E) for the twenty-first through the twenty-fifth tax years, 60% of tax increment; or

(ii) for an agency that has caused a taxing entity committee to be created under Subsection 17C-1-402(1)(a), any percentage of tax increment up to 100% and for any length of time that the taxing entity committee approves.

(b) Notwithstanding any other provision of this section:

(i) an agency is ~~entitled to be paid~~ authorized to receive 100% of tax increment from a project area for 32 years after April 1, 1983, to pay principal and interest on agency indebtedness incurred before April 1, 1983, even though the size of the project area from which tax increment is paid to the agency exceeds 100 acres of privately owned property under a project area plan adopted on or before April 1, 1983; and

(ii) for up to 32 years after April 1, 1983, an agency debt incurred before April 1, 1983, may be refinanced and paid from 100% of tax increment if the principal amount of the debt is not increased in the refinancing.

(3) (a) For purposes of this Subsection (3), "additional tax increment" means the difference between 100% of tax increment for a tax year and the amount of tax increment an agency is paid for that tax year under the percentages and time periods specified in Subsection (2)(a).

(b) Notwithstanding the tax increment percentages and time periods in Subsection (2)(a), an agency is ~~entitled to be paid~~ authorized to receive additional tax increment for a period ending 32 years after the first tax year after April 1, 1983, for which the agency receives tax increment from the project area if:

(i) (A) the additional tax increment is used solely to pay all or part of the value of the land for and the cost of the installation and construction of a publicly or privately owned convention center or sports complex or any building, facility, structure, or other improvement related to the convention center or sports complex, including parking and infrastructure improvements;

(B) construction of the convention center or sports complex or related building, facility, structure, or other improvement is commenced on or before June 30, 2002;

(C) the additional tax increment is pledged to pay all or part of the value of the land for and the cost of the installation and construction of the convention center or sports complex or related building, facility, structure, or other improvement; and

(D) the ~~agency~~ board and the community legislative body have determined by resolution that the convention center or sports complex is:

(I) within and a benefit to a project area;

(II) not within but still a benefit to a project area; or

(III) within a project area in which substantially all of the land is publicly owned and a benefit to the community; or

(ii) (A) the additional tax increment is used to pay some or all of the cost of the land for and installation and construction of a recreational facility, as defined in Section 59-12-702, or a cultural facility, including parking and infrastructure improvements related to the recreational or cultural facility, whether or not the facility is located within a project area;

(B) construction of the recreational or cultural facility is commenced on or before December 31, 2005; and

(C) the additional tax increment is pledged on or before July 1, 2005, to pay all or part of the cost of the land for and the installation and construction of the recreational or cultural facility, including parking and infrastructure improvements related to the recreational or cultural facility.

(c) Notwithstanding Subsection (3)(b)(ii), a school district may not, without ~~its~~ the school district's consent, be paid less tax increment because of application of Subsection (3)(b)(ii) than it would have been paid without that subsection.

(4) Notwithstanding any other provision of this section, an agency may use tax increment received under Subsection (2) for any of the uses indicated in Subsection (3).

Section 35. Section 17C-1-404 is amended to read:

17C-1-404. Tax increment under a post-June 30, 1993, project area plan.

(1) This section applies to tax increment under a post-June 30, 1993, project area plan adopted before May 1, 2006, only.

(2) ~~An agency~~ A board may provide in the project area budget for the agency to be paid:

(a) if 20% of the project area budget is allocated for housing under Section 17C-2-203:

(i) 100% of annual tax increment for 15 years;

(ii) 75% of annual tax increment for 24 years; or

(iii) if approved by the taxing entity committee, any percentage of tax increment up to 100%, or any specified dollar amount, for any period of time; or

(b) if 20% of the project area budget is not allocated for housing under Section 17C-2-203:

(i) 100% of annual tax increment for 12 years;

(ii) 75% of annual tax increment for 20 years; or

(iii) if approved by the taxing entity committee, any percentage of tax increment up to 100%, or any specified dollar amount, for any period of time.

Section 36. Section 17C-1-405 is amended to read:

17C-1-405. Tax increment under a project area plan adopted on or after May 1, 2006.

(1) This section applies to tax increment under a project area plan adopted on or after May 1, 2006, and before May 10, 2016.

(2) Subject to the approval of the taxing entity committee, ~~[an agency]~~ a board may provide in the urban renewal or economic development project area budget for the agency to be paid:

(a) for an urban renewal project area plan that proposes development of an inactive industrial site or inactive airport site, at least 60% of tax increment for at least 20 years; or

(b) for each other project, any percentage of tax increment up to 100% or any specified dollar amount of tax increment for any period of time.

(3) A resolution or interlocal agreement relating to an agency's use of tax increment for a community development project area plan may provide for the agency to be paid any percentage of tax increment up to 100% or any specified dollar amount of tax increment for any period of time.

Section 37. Section 17C-1-406 is amended to read:

17C-1-406. Additional tax increment under certain post-June 30, 1993, project area plans.

(1) This section applies to a post-June 30, 1993, project area plan adopted before May 1, 2006.

(2) An agency may, without the approval of the taxing entity committee, elect to be paid 100% of annual tax increment for each year beyond the periods specified in Subsection 17C-1-404(2) to a maximum of 25 years, including the years the agency is paid tax increment under Subsection 17C-1-404(2), if:

(a) for an agency in a city in which is located all or a portion of an interchange on I-15 or that would directly benefit from an interchange on I-15:

(i) the tax increment paid to the agency during the additional years is used to pay some or all of the cost of the installation, construction, or reconstruction of:

(A) an interchange on I-15, whether or not the interchange is located within a project area; or

(B) frontage and other roads connecting to the interchange, as determined by the Department of Transportation created under Section 72-1-201 and the Transportation Commission created under Section 72-1-301, whether or not the frontage or other road is located within a project area; and

(ii) the installation, construction, or reconstruction of the interchange or frontage and other roads has begun on or before June 30, 2002; or

(b) for an agency in a city of the first or second class:

(i) the tax increment paid to the agency during the additional years is used to pay some or all of the cost of the land for and installation and construction of a recreational facility, as defined in Section 59-12-702, or a cultural facility, including parking

and infrastructure improvements related to the recreational or cultural facility, whether or not the facility is located within a project area; and

(ii) the installation or construction of the recreational or cultural facility has begun on or before June 30, 2002.

(3) Notwithstanding any other provision of this section, an agency may use tax increment received under Subsection 17C-1-404(2) for any of the uses indicated in this section.

(4) Notwithstanding Subsection (2), a school district may not, without ~~[its]~~ the school district's consent, receive less tax increment because of application of Subsection (2) than it would have received without that subsection.

Section 38. Section 17C-1-407 is amended to read:

17C-1-407. Limitations on tax increment.

(1) (a) If the development of retail sales of goods is the primary objective of an urban renewal project area, tax increment from the urban renewal project area may not be paid to or used by an agency unless a finding of blight is made under Chapter 2, Part 3, Blight Determination in Urban Renewal Project Areas.

(b) Development of retail sales of goods does not disqualify an agency from receiving tax increment.

(c) After July 1, 2005, an agency may not ~~[be paid]~~ receive or use tax increment generated from the value of property within an economic development project area that is attributable to the development of retail sales of goods, unless the tax increment was previously pledged to pay for bonds or other contractual obligations of the agency.

(2) (a) An agency may not be paid any portion of a taxing entity's taxes resulting from an increase in the taxing entity's tax rate that occurs after the taxing entity committee approves the project area budget unless, at the time the taxing entity committee approves the project area budget, the taxing entity committee approves payment of those increased taxes to the agency.

(b) If the taxing entity committee does not approve ~~[of]~~ payment of the increased taxes to the agency under Subsection (2)(a), the county shall distribute to the taxing entity the taxes attributable to the tax rate increase in the same manner as other property taxes.

(c) Notwithstanding any other provision of this section, if, ~~[prior to]~~ before tax year 2013, increased taxes are paid to an agency without the approval of the taxing entity committee, and notwithstanding the law at the time that the tax was collected or increased:

(i) the State Tax Commission, the county as the collector of the taxes, a taxing entity, or any other person or entity may not recover, directly or indirectly, the increased taxes from the agency by adjustment of a tax rate used to calculate tax increment or otherwise;

(ii) the county is not liable to a taxing entity or any other person or entity for the increased taxes that were paid to the agency; and

(iii) tax increment, including the increased taxes, shall continue to be paid to the agency subject to the same number of tax years, percentage of tax increment, and cumulative dollar amount of tax increment as approved in the project area budget and previously paid to the agency.

(3) Except as the taxing entity committee otherwise agrees, an agency may not receive tax increment under an urban renewal or economic development project area budget adopted on or after March 30, 2009:

(a) that exceeds the percentage of tax increment or cumulative dollar amount of tax increment specified in the project area budget; or

(b) for more tax years than specified in the project area budget.

Section 39. Section 17C-1-408 is amended to read:

17C-1-408. Base taxable value to be adjusted to reflect other changes.

(1) (a) (i) As used in this Subsection (1), "qualifying decrease" means:

(A) a decrease of more than 20% from the previous tax year's levy; or

(B) a cumulative decrease over a consecutive five-year period of more than 100% from the levy in effect at the beginning of the five-year period.

(ii) The year in which a qualifying decrease under Subsection (1)(a)(i)(B) occurs is the fifth year of the five-year period.

(b) If there is a qualifying decrease in the minimum basic school levy under Section 59-2-902 that would result in a reduction of the amount of tax increment to be paid to an agency:

(i) the base taxable value ~~[of taxable property within the project area]~~ shall be reduced in the year of the qualifying decrease to the extent necessary, even if below zero, to provide the agency with approximately the same amount of tax increment that would have been paid to the agency each year had the qualifying decrease not occurred; and

(ii) the amount of tax increment paid to the agency each year for the payment of bonds and indebtedness may not be less than what would have been paid to the agency if there had been no qualifying decrease.

(2) (a) The ~~[amount of the]~~ base taxable value to be used in determining tax increment shall be:

(i) increased or decreased by the amount of an increase or decrease that results from:

(A) a statute enacted by the Legislature or by the people through an initiative;

(B) a judicial decision;

(C) an order from the State Tax Commission to a county to adjust or factor ~~[its]~~ the county's assessment rate under Subsection 59-2-704(2);

(D) a change in exemption provided in Utah Constitution Article XIII, Section 2, or Section 59-2-103; or

(E) an increase or decrease in the percentage of fair market value, as defined under Section 59-2-102; and

(ii) reduced for any year to the extent necessary, even if below zero, to provide an agency with approximately the same amount of money the agency would have received without a reduction in the county's certified tax rate if:

(A) in that year there is a decrease in the county's certified tax rate under Subsection 59-2-924.2(2) or (3)(a);

(B) the amount of the decrease is more than 20% of the county's certified tax rate of the previous year; and

(C) the decrease would result in a reduction of the amount of tax increment to be paid to the agency.

(b) Notwithstanding an increase or decrease under Subsection (2)(a), the amount of tax increment paid to an agency each year for payment of bonds or other indebtedness may not be less than would have been paid to the agency each year if there had been no increase or decrease under Subsection (2)(a).

Section 40. Section 17C-1-409 is amended to read:

17C-1-409. Allowable uses of agency funds.

(1) (a) An agency may use ~~[tax increment and sales tax proceeds received from a taxing entity]~~ agency funds:

(i) for any ~~[of the purposes for which the use of tax increment is]~~ purpose authorized under this title;

(ii) for administrative, overhead, legal, ~~[and]~~ or other operating expenses of the agency, including consultant fees and expenses under Subsection 17C-2-102(1)(b)(ii)(B) or funding for a business resource center;

(iii) to pay for, including financing or refinancing, all or part of:

(A) ~~[urban renewal activities]~~ project area development in [the] a project area [from which the tax increment funds are collected], including environmental remediation activities occurring before or after adoption of the project area plan;

~~[(B) economic development or community development activities, including environmental remediation activities occurring before or after adoption of the project area plan, in the project area from which the tax increment funds are collected;]~~

~~[(C) housing]~~ (B) housing-related expenditures, projects, or programs as [provided] described in Section 17C-1-411 or 17C-1-412;

(C) an incentive or other consideration paid to a participant under a participation agreement;

(D) subject to Subsections (1)(c) and ~~[(6)]~~ (4), the value of the land for and the cost of the installation

and construction of any publicly owned building, facility, structure, landscaping, or other improvement within the project area from which the ~~[tax increment] project area funds [were] are~~ collected; ~~[and] or~~

(E) ~~[subject to Subsection (1)(d),]~~ the cost of the installation of publicly owned infrastructure and improvements outside the project area from which the ~~[tax increment] project area funds [were] are~~ collected if the ~~[agency] board and the community legislative body determine by resolution that the publicly owned infrastructure and improvements [are of] benefit [to] the project area; or~~

(iv) in an urban renewal project area that includes some or all of an inactive industrial site and subject to Subsection (1)(~~[(f)](e)~~), to reimburse the Department of Transportation created under Section 72-1-201, or a public transit district created under Title 17B, Chapter 2a, Part 8, Public Transit District Act, for the cost of:

(A) construction of a public road, bridge, or overpass;

(B) relocation of a railroad track within the urban renewal project area; or

(C) relocation of a railroad facility within the urban renewal project area.

(b) The determination of the ~~[agency] board and the community legislative body under Subsection (1)(a)(iii)(E) regarding benefit to the project area shall be final and conclusive.~~

(c) An agency may not use ~~[tax increment or sales tax proceeds] project area funds received from a taxing entity for the purposes stated in Subsection (1)(a)(iii)(D) under an urban renewal [or] project area plan, an economic development project area plan, or a community reinvestment project area plan without [the consent of] the community legislative [body] body's consent.~~

~~[(d) An agency may not use tax increment or sales tax proceeds received from a taxing entity for the purposes stated in Subsection (1)(a)(iii)(E) under an urban renewal or economic development project area plan without the consent of the community legislative body and the taxing entity committee.]~~

~~[(e) (d) (i) Subject to Subsection (1)(~~[(e)](d)~~(ii), an agency may loan [tax increment or sales tax proceeds, or a combination of tax increment and sales tax proceeds,] project area funds from a project area fund to another project area fund if:~~

(A) the ~~[agency's] board approves; and~~

(B) the ~~community legislative body [of each community that created the agency] approves.~~

(ii) An agency may not loan ~~[tax increment or sales tax proceeds, or a combination of tax increment and sales tax proceeds,] project area funds under Subsection (1)(~~[(e)](d)~~(i) unless the projections for [the future tax increment or sales tax proceeds of the borrowing project area] agency funds are sufficient to repay the loan amount [prior to when the tax increment or sales tax proceeds are~~

intended for use under the loaning project area's plan].

~~[(iii) If a borrowing project area's funds are not sufficient to repay a loan made under Subsection (1)(e)(i) prior to when the tax increment or sales tax proceeds are intended for use under the loaning project area's plan, the community that created the agency shall repay the loan to the loaning project area's fund prior to when the tax increment or sales tax proceeds are intended for use under the loaning project area's plan, unless the taxing entity committee adopts a resolution to waive this requirement.]~~

(iii) A loan described in Subsection (1)(d) is not subject to Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, or Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts.

~~[(f) (e) Before an agency may pay any tax increment or sales tax revenue under Subsection (1)(a)(iv), the agency shall enter into an interlocal agreement defining the terms of the reimbursement with:~~

(i) the Department of Transportation; or

(ii) a public transit district.

(2) ~~[Sales tax proceeds] (a) Sales and use tax revenue that an agency receives from [another public entity are] a taxing entity is not subject to the prohibition or limitations of Title 11, Chapter 41, Prohibition on Sales and Use Tax Incentive Payments Act.~~

~~[(3) (b) An agency may use [sales tax proceeds it] sales and use tax revenue that the agency receives under [a resolution or] an interlocal agreement under Section 17C-4-201 or 17C-5-204 for the uses authorized in the [resolution or] interlocal agreement.~~

~~[(4) (3) (a) An agency may contract with the community that created the agency or another public entity to use [tax increment] agency funds to reimburse the cost of items authorized by this title to be paid by the agency that [have been or will be] are paid by the community or other public entity.~~

(b) If land ~~[has been or will be] is~~ acquired or the cost of an improvement ~~[has been or will be] is~~ paid by another public entity and the land or improvement ~~[has been or will be] is~~ leased to the community, an agency may contract with and make reimbursement from ~~[tax increment] agency funds~~ to the community.

~~[(5) An agency created by a city of the first or second class may use tax increment from one project area in another project area to pay all or part of the value of the land for and the cost of the installation and construction of a publicly or privately owned convention center or sports complex or any building, facility, structure, or other improvement related to the convention center or sports complex, including parking and infrastructure improvements, if:]~~

~~[(a) construction of the convention center or sports complex or related building, facility, structure, or other improvement is commenced on or before December 31, 2012; and]~~

~~[(b) the tax increment is pledged to pay all or part of the value of the land for and the cost of the installation and construction of the convention center or sports complex or related building, facility, structure, or other improvement.]~~

~~[(6) Notwithstanding any other provision of this title, an agency may not use tax increment to construct municipal buildings unless the taxing entity committee adopts a resolution to waive this requirement.]~~

~~[(7) Notwithstanding any other provision of this title, an agency may not use tax increment under an urban renewal or economic development project area plan, to pay any of the cost of the land, infrastructure, or construction of a stadium or arena constructed after March 1, 2005, unless the tax increment has been pledged for that purpose before February 15, 2005.]~~

~~[(8) (a) An agency may not use tax increment to pay the debt service of or any other amount related to a bond issued or other obligation incurred if the bond was issued or the obligation was incurred:]~~

~~[(i) by an interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act;]~~

~~[(ii) on or after March 30, 2009; and]~~

~~[(iii) to finance a telecommunication facility.]~~

~~[(b) Subsection (8)(a) may not be construed to prohibit the refinancing, restatement, or refunding of a bond issued before March 30, 2009.]~~

~~(4) Notwithstanding any other provision of this title, an agency may not use project area funds to construct a local government building unless the taxing entity committee or each taxing entity party to an interlocal agreement with the agency consents.~~

Section 41. Section 17C-1-410 is amended to read:

17C-1-410. Agency may make payments to other taxing entities.

(1) Subject to Subsection (3), an agency may grant ~~[tax increment or other]~~ agency funds to a taxing entity to offset some or all of the tax ~~[revenues]~~ revenue that the taxing entity did not receive because of tax increment paid to the agency.

(2) (a) Subject to Subsection (3), an agency may use ~~[tax increment or other]~~ agency funds to pay to a school district an amount of money that the agency determines to be appropriate to alleviate a financial burden or detriment borne by the school district because of the ~~[urban renewal, economic development, or community]~~ project area development.

(b) Each agency that agrees to pay money to a school district under ~~[the authority of]~~ Subsection

(2)(a) shall provide a copy of ~~[that]~~ the agreement to the State Board of Education.

(3) (a) If an agency intends to pay agency funds to one or more taxing entities under Subsection (1) or (2) but does not intend to pay funds to all taxing entities in proportionally equal amounts, the agency shall provide written notice to each taxing entity of ~~[its]~~ the agency's intent.

(b) (i) A taxing entity ~~[receiving]~~ that receives notice under Subsection (3)(a) may elect not to have ~~[its]~~ the taxing entity's tax increment collected and used to pay funds to other taxing entities under this section.

(ii) Each election under Subsection (3)(b)(i) shall be:

(A) in writing; and

(B) delivered to the agency within 30 days after the taxing entity's receipt of the notice under Subsection (3)(a).

(c) If a taxing entity makes an election under Subsection (3)(b), the portion of ~~[that]~~ the taxing entity's tax increment that would have been used by the agency to pay funds under this section to one or more other taxing entities may not be collected by the agency.

Section 42. Section 17C-1-411 is amended to read:

17C-1-411. Use of project area funds for housing-related improvements and for relocating mobile home park residents -- Funds to be held in separate accounts.

(1) An agency may use project area funds:

(a) ~~[use tax increment from a project area]~~ to pay all or part of the value of the land for and the cost of installation, construction, ~~[and]~~ or rehabilitation of any ~~housing-related~~ building, facility, structure, or other ~~housing~~ improvement, including infrastructure improvements related to housing, located in any project area within the agency's boundaries; ~~[and]~~

(b) ~~[use up to 20% of tax increment: (i)]~~ outside of ~~[project areas]~~ a project area for the purpose of:

~~[(A)]~~ (i) replacing housing units lost by ~~[urban renewal, economic development, or community]~~ project area development; or

~~[(B)]~~ (ii) increasing, improving, ~~[and]~~ or preserving ~~[generally]~~ the affordable housing supply within the boundary of the agency; or

~~[(iii)]~~ (c) for relocating mobile home park residents displaced by project area development, whether inside or outside a project area.

(2) (a) Each agency shall create a housing fund and separately account for ~~[funds]~~ project area funds allocated under this section.

(b) Interest earned by the housing fund described in Subsection (2)(a), and any payments or repayments made to the agency for loans, advances, or grants of any kind from the ~~housing fund~~, shall accrue to the housing fund.

(c) ~~[Each]~~ An agency [designating] that designates a housing fund under this section shall use the housing fund for ~~(i) the purposes set forth in this section;~~ or Section 17C-1-412.

~~[(ii) the purposes set forth in this title relating to the urban renewal, economic development, or community development project area from which the funds originated.]~~

(3) An agency may lend, grant, or contribute funds from the housing fund to a person, public entity, housing authority, private entity or business, or nonprofit corporation for affordable housing or homeless assistance.

Section 43. Section 17C-1-412 is amended to read:

17C-1-412. Use of housing allocation -- Separate accounting required -- Issuance of bonds for housing -- Action to compel agency to provide housing allocation.

(1) (a) ~~[Each]~~ An agency shall use [all funds allocated for housing under Section 17C-2-203 or 17C-3-202] the agency's housing allocation, if applicable, to:

(i) pay part or all of the cost of land or construction of income targeted housing within the boundary of the agency, if practicable in a mixed income development or area;

(ii) pay part or all of the cost of rehabilitation of income targeted housing within the boundary of the agency;

(iii) lend, grant, or contribute money to a person, public entity, housing authority, private entity or business, or nonprofit corporation for income targeted housing within the boundary of the agency;

(iv) plan or otherwise promote income targeted housing within the boundary of the agency;

(v) pay part or all of the cost of land or installation, construction, or rehabilitation of any building, facility, structure, or other housing improvement, including infrastructure improvements, related to housing located in a project area where blight has been found to exist;

(vi) replace housing units lost as a result of the ~~[urban renewal, economic development, or community] project area development;~~

(vii) make payments on or establish a reserve fund for bonds:

(A) issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and

(B) all or part of the proceeds of which are used within the community for the purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);

(viii) if the community's fair share ratio at the time of the first adoption of the project area budget is at least 1.1 to 1.0, make payments on bonds:

(A) that were previously issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and

(B) all or part of the proceeds of which were used within the community for the purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi); or

(ix) relocate mobile home park residents displaced by ~~[an urban renewal, economic development, or community development project] project area development.~~

(b) As an alternative to the requirements of Subsection (1)(a), an agency may pay all or any portion of the agency's housing ~~[funds] allocation to:~~

(i) the community for use as ~~[provided under] described in~~ Subsection (1)(a);

(ii) ~~[the] a~~ housing authority that provides income targeted housing within the community for use in providing income targeted housing within the community; ~~[or]~~

(iii) a housing authority established by the county in which the agency is located for providing:

(A) income targeted housing within the county;

(B) permanent housing, permanent supportive housing, or a transitional facility, as defined in Section 35A-5-302, within the county; or

(C) homeless assistance within the county; or

~~[(iii)] (iv)~~ the Olene Walker Housing Loan Fund, established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund, for use in providing income targeted housing within the community.

(2) The agency ~~[or community]~~ shall create a housing fund and separately account for the agency's housing ~~[funds] allocation, together with all interest earned by the housing [funds] allocation and all payments or repayments for loans, advances, or grants from the housing [funds] allocation.~~

(3) An agency may:

(a) issue bonds ~~[from time to time] to finance a [housing undertaking] housing-related project under this section, including the payment of principal and interest upon advances for surveys and plans or preliminary loans; and~~

(b) issue refunding bonds for the payment or retirement of bonds under Subsection (3)(a) previously issued by the agency.

~~[(4) An agency:]~~

(4) (a) Except as provided in Subsection (4)(b), an agency shall allocate ~~[housing funds] money to the housing fund each year in which the agency receives sufficient tax increment to make a housing allocation required by the project area budget;~~ and,

(b) ~~[is relieved, to the extent tax increment is insufficient in a year, of an obligation to allocate housing funds for the year]~~ Subsection (4)(a) does

not apply in a year in which tax increment is insufficient.

(5) (a) Except as provided in Subsection (4)(b), if an agency fails to provide a housing [funds] allocation in accordance with the project area budget and, if applicable, the housing plan adopted under Subsection 17C-2-204(2), the loan fund board may bring legal action to compel the agency to provide the housing [funds] allocation.

(b) In an action under Subsection (5)(a), the court:

(i) shall award the loan fund board reasonable attorney fees, unless the court finds that the action was frivolous; and

(ii) may not award the agency [its] the agency's attorney fees, unless the court finds that the action was frivolous.

Section 44. Section 17C-1-413 is amended to read:

17C-1-413. Base taxable value for new tax.

For purposes of calculating tax increment with respect to a tax that a taxing entity levies for the first time after the effective date of [the] a project area plan, the base taxable value shall be used, subject to any adjustments under Section 17C-1-408.

Section 45. Section 17C-1-501.1 is enacted to read:

Part 5. Agency Bonds

17C-1-501.1. Title.

This part is known as "Agency Bonds."

Section 46. Section 17C-1-501.5, which is renumbered from Section 17C-1-501 is renumbered and amended to read:

[17C-1-501]. 17C-1-501.5. Resolution authorizing issuance of agency bonds -- Characteristics of bonds.

(1) An agency may not issue [bonds] a bond under this part unless the [agency] board first adopts a resolution authorizing [their] the bond issuance.

(2) (a) As provided in the agency resolution authorizing the issuance of [bonds] a bond under this part or the trust indenture under which the [bonds are] bond is issued, [bonds] a bond issued under this part may be issued in one or more series and may be sold at public or private sale and in the manner provided in the resolution or indenture.

(b) [Bonds] A bond issued by an agency under this part shall bear the date, be payable at the time, bear interest at the rate, be in the denomination and in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be subject to the terms of redemption or tender, with or without premium, be payable in the medium of payment and at the place, and have other characteristics as provided in the agency resolution authorizing [their] the bond issuance or the trust indenture under which [they are] the bond is issued.

Section 47. Section 17C-1-502 is amended to read:

17C-1-502. Sources from which bonds may be made payable -- Agency powers regarding bonds.

(1) The principal and interest on [bonds] a bond issued by an agency may be [made payable] paid from:

(a) the income and revenues of the [projects] project area development financed with the proceeds of the [bonds] bond;

(b) the income and [revenues] revenue of certain designated [projects whether or not they were] project area development regardless of whether the project area development is financed in whole or in part with the proceeds of the [bonds] bond;

(c) the income, proceeds, [revenues] revenue, property, [and funds of the] or agency funds derived from or held in connection with [its] the agency's undertaking and [carrying out urban renewal, economic development, or community] implementation of project area development;

(d) [tax increment] project area funds;

(e) agency revenues generally;

(f) a contribution, loan, grant, or other financial assistance from [the federal government or] a public entity in aid of [urban renewal, economic development, or community] project area development, including the assignment of revenue or taxes in support of an agency bond; or

(g) funds derived from any combination of the methods listed in Subsections (1)(a) through (f).

(2) In connection with the issuance of [agency bonds] an agency bond, an agency may:

(a) pledge all or any part of [its] the agency's gross or net rents, fees, or revenues to which [its] the agency's right then exists or may thereafter come into existence;

(b) encumber by mortgage, deed of trust, or otherwise all or any part of [its] the agency's real or personal property, then owned or thereafter acquired; and

(c) make the covenants and take the action that:

(i) may be necessary, convenient, or desirable to secure [its bonds, or,] the bond; or

(ii) except as otherwise provided in this chapter, [that] will tend to make the [bonds] bond more marketable, even though such covenants or actions are not specifically enumerated in this chapter.

Section 48. Section 17C-1-504 is amended to read:

17C-1-504. Contesting the legality of resolution authorizing bonds -- Time limit -- Presumption.

(1) Any person may contest the legality of the resolution authorizing issuance of the [bonds] bond or any provisions for the security and payment of the [bonds] bond for a period of 30 days after:

(a) publication of the resolution authorizing the ~~[bonds] bond~~; or

(b) publication of a notice of ~~[bonds] bond~~ containing substantially the items required under Subsection 11-14-316(2).

(2) After the 30-day period ~~[under]~~ described in Subsection (1), no person may bring a lawsuit or other proceeding ~~[may be brought]~~ contesting the regularity, formality, or legality of the ~~[bonds] bond~~ for any reason.

(3) In a lawsuit or other proceeding involving the question of whether a bond issued under this part is valid or enforceable or involving the security for a bond, if a bond recites that the agency issued the bond in connection with ~~[an urban renewal, economic development, or community development project] project area development~~:

(a) the bond shall be conclusively presumed to have been issued for that purpose; and

(b) the project area plan and project area shall be conclusively presumed to have been properly formed, adopted, planned, located, and ~~[carried out]~~ implemented in accordance with this title.

Section 49. Section 17C-1-505 is amended to read:

17C-1-505. Authority to purchase agency bonds.

(1) Any person, firm, corporation, association, political subdivision of the state, or other entity or public or private officer may purchase ~~[bonds] a~~ bond issued by an agency under this part with funds owned or controlled by the purchaser.

(2) Nothing in this section may be construed to relieve a purchaser of ~~[agency bonds] an agency bond~~ of any duty to exercise reasonable care in selecting securities.

Section 50. Section 17C-1-506 is amended to read:

17C-1-506. Those executing bonds not personally liable -- Limitation of obligations under bonds -- Negotiability.

(1) A member of ~~[an agency] a~~ board or other person executing an agency bond is not liable personally on the bond.

(2) (a) A bond issued by an agency is not a general obligation or liability of the community, the state, or any of ~~[its] the state's~~ political subdivisions and does not constitute a charge against their general credit or taxing powers.

(b) A bond issued by an agency is not payable out of any funds or properties other than those of the agency.

(c) The community, the state, and ~~[its] the state's~~ political subdivisions may not be liable on a bond issued by an agency.

(d) A bond issued by an agency does not constitute indebtedness within the meaning of any constitutional or statutory debt limitation.

(3) A bond issued by an agency under this part is fully negotiable.

Section 51. Section 17C-1-507 is amended to read:

17C-1-507. Obligee rights -- Board may confer other rights.

(1) In addition to all other rights that are conferred on an obligee of a bond issued by an agency under this part and subject to contractual restrictions binding on the obligee, an obligee may:

(a) by mandamus, suit, action, or other proceeding, compel an agency and ~~[its] the~~ agency's board, officers, agents, or employees to perform every term, provision, and covenant contained in any contract of the agency with or for the benefit of the obligee, and require the agency to carry out the covenants and agreements of the agency and to fulfill all duties imposed on the agency by this part; and

(b) by suit, action, or other proceeding ~~[in equity]~~, enjoin any acts or things that may be unlawful or violate the rights of the obligee.

(2) (a) In a board resolution authorizing the issuance of ~~[bonds] a bond~~ or in a trust indenture, mortgage, lease, or other contract, ~~[an agency] a~~ board may confer upon an obligee holding or representing a specified amount in bonds, the rights described in Subsection (2)(b), to accrue upon the happening of an event or default prescribed in the resolution, indenture, mortgage, lease, or other contract, and to be exercised by suit, action, or proceeding in any court of competent jurisdiction.

(b) (i) The rights that the board may confer under Subsection (2)(a) are the rights to:

(A) cause possession of all or part of ~~[an urban renewal, economic development, or community development project] the project area development~~ to be surrendered to an obligee;

(B) obtain the appointment of a receiver of all or part of an agency's ~~[urban renewal, economic development, or community development project] project area development~~ and of the rents and profits from ~~[it] the~~ project area development; and

(C) require the agency and ~~[its] the~~ board and employees to account as if the agency and the board and employees were the trustees of an express trust.

(ii) If a receiver is appointed through the exercise of a right granted under Subsection (2)(b)(i)(B), the receiver:

(A) may enter and take possession of the ~~[urban renewal, economic development, or community development project] project area development~~ or any part of ~~[it] the~~ project area development, operate and maintain ~~[it] the~~ project area development, and collect and receive all fees, rents, revenues, or other charges arising from ~~[it] the~~

project area development after the receiver's appointment; and

(B) shall keep money collected as receiver for the agency in ~~[separate accounts]~~ a separate account and apply ~~[it]~~ the money pursuant to the agency obligations as the court directs.

Section 52. Section 17C-1-508 is amended to read:

17C-1-508. Bonds exempt from taxes -- Agency may purchase an agency's own bonds.

(1) A bond issued by an agency under this part is issued for an essential public and governmental purpose and is, together with interest on the bond and income from it, exempt from all state taxes except the corporate franchise tax.

(2) An agency may purchase ~~[its]~~ the agency's own bonds at a price that ~~[its]~~ the board determines.

(3) Nothing in this section may be construed to limit the right of an obligee to pursue a remedy for the enforcement of a pledge or lien given under this part by an agency on ~~[its]~~ the agency's rents, fees, grants, properties, or revenues.

Section 53. Section 17C-1-601.1 is enacted to read:

Part 6. Agency Annual Report, Budget, and Audit Requirements

17C-1-601.1. Title.

This part is known as "Agency Annual Report, Budget, and Audit Requirements."

Section 54. Section 17C-1-601.5, which is renumbered from Section 17C-1-601 is renumbered and amended to read:

~~[17C-1-601]. 17C-1-601.5. Annual agency budget -- Fiscal year -- Public hearing required -- Auditor forms -- Requirement to file form.~~

(1) Each agency shall prepare ~~[and its board adopt]~~ an annual budget of the agency's revenues and expenditures [for the agency] for each fiscal year.

(2) ~~[Each annual agency budget shall be adopted]~~ The board shall adopt each agency budget:

(a) for an agency created by a ~~[city or town]~~ municipality, before June 22; or

(b) for an agency created by a county, before December 15.

(3) The agency's fiscal year shall be the same as the fiscal year of the community that created the agency.

(4) (a) Before adopting an annual budget, each ~~[agency]~~ board shall hold a public hearing on the annual budget.

(b) Each agency shall provide notice of the public hearing on the annual budget by:

(i) (A) publishing at least one notice in a newspaper of general circulation within the agency boundaries, one week before the public hearing; or

(B) if there is no newspaper of general circulation within the agency boundaries, posting a notice of the public hearing in at least three public places within the agency boundaries; and

(ii) publishing notice on the Utah Public Notice Website created in Section 63F-1-701, at least one week before the public hearing.

(c) Each agency shall make the annual budget available for public inspection at least three days before the date of the public hearing.

(5) The state auditor shall prescribe the budget forms and the categories to be contained in each ~~[agency]~~ annual budget, including:

(a) revenues and expenditures for the budget year;

(b) legal fees; and

(c) administrative costs, including rent, supplies, and other materials, and salaries of agency personnel.

(6) (a) Within 90 days after adopting an annual budget, each ~~[agency]~~ board shall file a copy of the annual budget with the auditor of the county in which the agency is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity ~~[that levies a tax on property]~~ from which the agency [collects tax increment] receives project area funds.

(b) The requirement of Subsection (6)(a) to file a copy of the annual budget with the state as a taxing entity is met if the agency files a copy with the State Tax Commission and the state auditor.

Section 55. Section 17C-1-602 is amended to read:

17C-1-602. Amending the agency annual budget.

(1) ~~[An agency]~~ A board may by resolution amend an annual ~~[agency]~~ budget.

(2) An amendment ~~[of the]~~ to an annual [agency] budget that would increase the total expenditures may be made only after a public hearing ~~[by notice published as required for initial adoption of the annual budget]~~ is held in accordance with Subsection 17C-1-601.5(4).

(3) An agency may not make expenditures in excess of the total expenditures established in the annual budget as ~~[it]~~ the annual budget is adopted or amended.

Section 56. Section 17C-1-603 is amended to read:

17C-1-603. Annual report.

~~[(1) (a) Unless an agency submits a report to the county auditor, the State Tax Commission, the State Board of Education, and each taxing entity that levies a tax on property from which the agency collects tax increment as provided under~~

~~Subsection 17C-1-402(9)(b), on or before November 1 of each year, each agency shall prepare and file a report with the county auditor, the State Tax Commission, the State Board of Education, and each taxing entity that levies a tax on property from which the agency collects tax increment.;~~

~~[(b) The requirement of Subsection (1)(a) to file a copy of the report with the state as a taxing entity is met if the agency files a copy with the State Tax Commission and the state auditor.;~~

~~[(2) Each report under Subsection (1) shall contain:]~~

~~[(a) an estimate of the tax increment to be paid to the agency for the calendar year ending December 31;]~~

~~[(b) an estimate of the tax increment to be paid to the agency for the calendar year beginning the next January 1;]~~

~~[(c) a narrative description of each active project area within the agency's boundaries;]~~

~~[(d) a narrative description of any significant activity related to each active project area that occurred during the immediately preceding fiscal year;]~~

~~[(e) a summary description of the overall project timeline for each active project area;]~~

~~[(f) any other information specifically requested by the taxing entity committee or required by the project area plan or budget; and]~~

~~[(g) any other information included by the agency.;~~

~~(1) Beginning in 2016, on or before November 1 of each year, an agency shall:~~

~~(a) prepare an annual report as described in Subsection (2); and~~

~~(b) submit the annual report electronically to the county auditor, the State Tax Commission, the State Board of Education, and each taxing entity from which the agency receives project area funds.~~

~~(2) The annual report shall, for each active project area whose project area funds collection period has not expired, contain the following information:~~

~~(a) an assessment of the change in marginal value, including:~~

~~(i) the base taxable value;~~

~~(ii) the prior year's assessed value;~~

~~(iii) the estimated current assessed value; and~~

~~(iv) a narrative description of the relative growth in assessed value;~~

~~(b) the amount of project area funds the agency received, including:~~

~~(i) a comparison of the actual project area funds received for the previous year to the amount of project area funds forecasted when the project area was created, if available;~~

~~(ii) (A) the agency's historical receipts of project area funds, including the tax year for which the agency first received project area funds from the project area; or~~

~~(B) if the agency has not yet received project area funds from the project area, the year in which the agency expects each project area funds collection period to begin;~~

~~(iii) a list of each taxing entity that levies or imposes a tax within the project area and a description of the benefits that each taxing entity receives from the project area; and~~

~~(iv) the amount paid to other taxing entities under Section 17C-1-410, if applicable;~~

~~(c) a description of current and anticipated project area development, including:~~

~~(i) a narrative of any significant project area development, including infrastructure development, site development, participation agreements, or vertical construction; and~~

~~(ii) other details of development within the project area, including total developed acreage and total undeveloped acreage;~~

~~(d) the project area budget, if applicable, or other project area funds analysis, including:~~

~~(i) each project area funds collection period;~~

~~(ii) the number of years remaining in each project area funds collection period;~~

~~(iii) the total amount of project area funds the agency is authorized to receive from the project area cumulatively and from each taxing entity; and~~

~~(iv) the remaining amount of project area funds the agency is authorized to receive from the project area cumulatively and from each taxing entity;~~

~~(e) the estimated amount of project area funds that the agency is authorized to receive from the project area for the current calendar year;~~

~~(f) the estimated amount of project area funds to be paid to the agency for the next calendar year;~~

~~(g) a map of the project area; and~~

~~(h) any other relevant information the agency elects to provide.~~

~~(3) A report prepared in accordance with this section:~~

~~(a) is for informational purposes only; and~~

~~(b) does not alter the amount of [tax increment] project area funds that an agency is [entitled to collect] authorized to receive from a project area.~~

~~(4) The provisions of this section apply regardless of when the agency or project area is created.~~

Section 57. Section 17C-1-605 is amended to read:

17C-1-605. Audit report.

(1) Each agency required to be audited under Section 17C-1-604 shall, within 180 days after the

end of the agency's fiscal year, file a copy of the audit report with the county auditor, the State Tax Commission, the State Board of Education, and each taxing entity ~~[that levies a tax on property]~~ from which the agency ~~[collects]~~ receives tax increment.

(2) Each audit report under Subsection (1) shall include:

(a) the tax increment collected by the agency for each project area;

(b) the amount of tax increment paid to each taxing entity under Section 17C-1-410;

(c) the outstanding principal amount of bonds issued or other loans incurred to finance the costs associated with the agency's project areas; and

(d) the actual amount expended for:

(i) acquisition of property;

(ii) site improvements or site preparation costs;

(iii) installation of public utilities or other public improvements; and

(iv) administrative costs of the agency.

Section 58. Section 17C-1-606 is amended to read:

17C-1-606. County auditor report on project areas.

(1) (a) On or before March 31 of each year, the auditor of each county in which an agency is located shall prepare a report on the project areas within each agency.

(b) The county auditor shall send a copy of each report under Subsection (1)(a) to the agency that is the subject of the report, the State Tax Commission, the State Board of Education, and each taxing entity ~~[that levies a tax on property]~~ from which the agency ~~[collects]~~ receives tax increment.

(2) Each report under Subsection (1)(a) shall report:

(a) the total assessed property value within each project area for the previous tax year;

(b) the base taxable value of ~~[property within]~~ each project area for the previous tax year;

(c) the tax increment available to be paid to the agency for the previous tax year;

(d) the tax increment requested by the agency for the previous tax year; and

(e) the tax increment paid to the agency for the previous tax year.

(3) Within 30 days after a request by an agency, the State Tax Commission, the State Board of Education, or any taxing entity ~~[that levies a tax on property]~~ from which the agency receives tax increment, the county auditor or the county assessor shall provide access to:

(a) the county auditor's method and calculations used to make adjustments under Section 17C-1-408;

(b) the unequalized assessed valuation of an existing or proposed project area, or any parcel or parcels within an existing or proposed project area, if the equalized assessed valuation has not yet been determined for that year;

(c) the most recent equalized assessed valuation of an existing or proposed project area or any parcel or parcels within an existing or proposed project area; and

(d) the tax rate of each taxing entity adopted as of November 1 for the previous tax year.

(4) Each report described in Subsection (1)(a) shall include:

(a) sufficient detail regarding the calculations performed by a county auditor so that an agency or other interested party could repeat and verify the calculations; and

(b) a detailed explanation of any adjustments made to the base taxable value of each project area.

Section 59. Section 17C-1-607 is amended to read:

17C-1-607. State Tax Commission and county assessor required to account for new growth.

Upon the expiration of a project area funds collection period, the State Tax Commission and the assessor of each county in which ~~[an urban renewal, economic development, or community development]~~ a project area is located shall count as new growth the assessed value of property with respect to which the taxing entity is receiving taxes or increased taxes for the first time.

Section 60. Section 17C-1-701.1 is enacted to read:

Part 7. Agency and Project Area Dissolution
17C-1-701.1. Title.

This part is known as "Agency and Project Area Dissolution."

Section 61. Section 17C-1-701.5, which is renumbered from Section 17C-1-701 is renumbered and amended to read:

[17C-1-701]. 17C-1-701.5. Agency dissolution -- Restrictions -- Notice -- Recording requirements -- Agency records -- Dissolution expenses.

(1) (a) Subject to Subsection (1)(b), the community legislative body ~~[of the community that created an agency]~~ may, by ordinance, ~~[approve the deactivation and dissolution of the]~~ dissolve an agency.

(b) ~~[An]~~ A community legislative body may adopt an ordinance ~~[under]~~ described in Subsection (1)(a) ~~[approving the deactivation and dissolution of an agency may not be adopted unless]~~ only if the agency has no outstanding bonded indebtedness, other unpaid loans, indebtedness, or advances, and

no legally binding contractual obligations with ~~[persons or entities]~~ a person other than the community.

(2) (a) The community legislative body shall:

(i) within 10 days after adopting an ordinance ~~[under]~~ described in Subsection (1), file with the lieutenant governor a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) upon the lieutenant governor's issuance of a certificate of dissolution under Section 67-1a-6.5, submit to the recorder of the county in which the agency is located:

(A) the original notice of an impending boundary action;

(B) the original certificate of dissolution; and

(C) a certified copy of the ordinance ~~[approving the deactivation and dissolution of]~~ that dissolves the agency.

(b) Upon the lieutenant governor's issuance of the certificate of dissolution under Section 67-1a-6.5, the agency is dissolved.

(c) Within 10 days after receiving the certificate of dissolution from the lieutenant governor under Section 67-1a-6.5, the community legislative body shall send a copy of the certificate of dissolution and the ordinance adopted under Subsection (1) to the State Board of Education, and each taxing entity.

(d) The community legislative body shall publish a notice of dissolution in a newspaper of general circulation in the county in which the dissolved agency is located.

(3) The books, documents, records, papers, and seal of each dissolved agency shall be deposited for safekeeping and reference with the recorder of the community that dissolved the agency.

(4) The agency shall pay all expenses of the ~~[deactivation and]~~ dissolution.

Section 62. Section 17C-1-702 is enacted to read:

17C-1-702. Project area dissolution.

(1) Regardless of when a project area funds collection period ends, the project area remains in existence until:

(a) the agency adopts a resolution dissolving the project area; and

(b) the community legislative body adopts an ordinance dissolving the project area.

(2) The ordinance described in Subsection (1)(b) shall include:

(a) the name of the project area; and

(b) a project area map or boundary description.

(3) Within 30 days after the day on which the community legislative body adopts an ordinance

described in Subsection (1)(b), the community legislative body shall:

(a) submit a copy of the ordinance to the county recorder of the county in which the dissolved project area is located; and

(b) mail or electronically submit a copy of the ordinance to the county auditor, the State Tax Commission, the State Board of Education, and each taxing entity that levies or imposes a tax on property within the dissolved project area.

Section 63. Section 17C-1-801 is enacted to read:

Part 8. Hearing and Notice Requirements

17C-1-801. Title.

This part is known as "Hearing and Notice Requirements."

Section 64. Section 17C-1-802, which is renumbered from Section 17C-2-401 is renumbered and amended to read:

[17C-2-401]. 17C-1-802. Combining hearings.

A board may combine any combination of a blight hearing, a plan hearing, and a budget hearing.

Section 65. Section 17C-1-803, which is renumbered from Section 17C-2-402 is renumbered and amended to read:

[17C-2-402]. 17C-1-803. Continuing a hearing.

Subject to Section ~~[17C-2-403]~~ 17C-1-804, the board may continue ~~[from time to time a]~~:

(1) a blight hearing;

(2) a plan hearing;

(3) a budget hearing; or

(4) a combined hearing under Section ~~[17C-2-401]~~ 17C-1-802.

Section 66. Section 17C-1-804, which is renumbered from Section 17C-2-403 is renumbered and amended to read:

[17C-2-403]. 17C-1-804. Notice required for continued hearing.

The board shall give notice of a hearing continued under Section ~~[17C-2-402]~~ 17C-1-802 by announcing at the hearing:

(1) the date, time, and place the hearing will be resumed; or

(2) (a) that ~~[it]~~ the hearing is being continued to a later time; and ~~[causing]~~

(b) that the board will cause a notice of the continued hearing to be ~~:(a) (i) published once in a newspaper of general circulation within the agency boundaries at least seven days before the hearing is scheduled to resume; or (ii) if there is no newspaper of general circulation, posted in at least three conspicuous places within the boundaries of the agency in which the project area or proposed project area is located; and (b) published on the Utah~~

Public Notice Website created in Section 63F-1-701, at least seven days before the day on which the hearing is ~~[schedule]~~ scheduled to resume.

Section 67. Section 17C-1-805, which is renumbered from Section 17C-2-501 is renumbered and amended to read:

[17C-2-501]. 17C-1-805. Agency to provide notice of hearings.

(1) Each agency shall provide notice, ~~[as provided]~~ in accordance with this part, of each:

- (a) blight hearing;
- (b) plan hearing; ~~[and]~~ or
- (c) budget hearing.

(2) The notice required under Subsection (1) ~~[for any of the hearings listed in that subsection]~~ may be combined with the notice required for any of the other hearings if the hearings are combined under Section ~~[17C-2-401]~~ 17C-1-802.

Section 68. Section 17C-1-806, which is renumbered from Section 17C-2-502 is renumbered and amended to read:

[17C-2-502]. 17C-1-806. Requirements for notice provided by agency.

(1) The notice required by Section ~~[17C-2-501]~~ 17C-1-805 shall be given by:

(a) (i) publishing one notice, excluding the map referred to in Subsection (3)(b), in a newspaper of general circulation within the county in which the project area or proposed project area is located, at least 14 days before the hearing;

(ii) if there is no newspaper of general circulation, posting notice at least 14 days before the day of the hearing in at least three conspicuous places within the county in which the project area or proposed project area is located; or

(iii) posting notice, excluding the map described in Subsection (3)(b), at least 14 days before the day on which the hearing is held on:

(A) the Utah Public Notice Website described in Section 63F-1-701; and

(B) the public website of a community located within the boundaries of the project area; and

(b) at least 30 days before the hearing, mailing notice to:

(i) ~~[mailing notice to]~~ each record owner of property located within the project area or proposed project area; ~~[and]~~

~~[(ii) mailing notice to:]~~

~~[(A)]~~ (ii) the State Tax Commission;

~~[(B)]~~ (iii) the assessor and auditor of the county in which the project area or proposed project area is located; and

~~[(C)-(D)]~~ (iv) (A) each member of the taxing entity committee, if applicable; or

~~[(H)]~~ (B) if a taxing entity committee has not ~~[yet]~~ been formed, the State Board of Education and the legislative body or governing board of each taxing entity.

(2) The mailing of the notice to record property owners required under Subsection (1)(b)(i) shall be conclusively considered to have been properly completed if:

(a) the agency mails the notice to the property owners as shown in the records, including an electronic database, of the county recorder's office and at the addresses shown in those records; and

(b) the county recorder's office records used by the agency in identifying owners to whom the notice is mailed and their addresses were obtained or accessed from the county recorder's office no earlier than 30 days before the mailing.

(3) The agency shall include in each notice required under Section ~~[17C-2-501]~~ 17C-1-805:

(a) (i) a ~~[specific description of the boundaries]~~ boundary description of the project area or proposed project area; or

(ii) (A) a mailing address or telephone number where a person may request that a copy of the boundary description be sent at no cost to the person by mail, email, or facsimile transmission; and

(B) if the agency or community has an Internet website, an Internet address where a person may gain access to an electronic, printable copy of the boundary description and other related information;

(b) a map of the boundaries of the project area or proposed project area;

(c) an explanation of the purpose of the hearing; and

(d) a statement of the date, time, and location of the hearing.

(4) The agency shall include in each notice under Subsection (1)(b)~~[(ii)]~~:

(a) a statement that property tax revenues resulting from an increase in valuation of property within the project area or proposed project area will be paid to the agency for ~~[urban renewal purposes]~~ project area development rather than to the taxing entity to which the tax revenues would otherwise have been paid if:

(i) the taxing entity committee consents to the project area budget; and

(ii) the project area plan provides for the agency to receive tax increment; and

(b) an invitation to the recipient of the notice to submit to the agency comments concerning the subject matter of the hearing before the date of the hearing.

(5) An agency may include in a notice under Subsection (1) any other information the agency considers necessary or advisable, including the public purpose ~~[served]~~ achieved by the project area

development and any future tax benefits expected to result from the project area development.

Section 69. Section 17C-1-807, which is renumbered from Section 17C-2-503 is renumbered and amended to read:

[17C-2-503]. 17C-1-807. Additional requirements for notice of a blight hearing.

Each notice under Section [17C-2-502] 17C-1-806 for a blight hearing shall also include:

- (1) a statement that:
 - (a) ~~[an urban renewal]~~ a project area is being proposed;
 - (b) the proposed ~~[urban renewal]~~ project area may be declared to have blight;
 - (c) the record owner of property within the proposed project area has the right to present evidence at the blight hearing contesting the existence of blight;
 - (d) except for a hearing continued under Section [17C-2-402] 17C-1-803, the agency will notify the record owner of property [owners] referred to in Subsection [17C-2-502] 17C-1-806(1)(b)(i) of each additional public hearing held by the agency concerning the ~~[urban renewal project prior to]~~ proposed project area before the adoption of the ~~[urban renewal]~~ project area plan; and

(e) ~~[persons]~~ a person contesting the existence of blight in the proposed ~~[urban renewal]~~ project area may appear before the ~~[agency]~~ board and show cause why the proposed ~~[urban renewal]~~ project area should not be designated as ~~[an urban renewal]~~ a project area; and

(2) if the agency anticipates acquiring property in an urban renewal project area or a community reinvestment project area by eminent domain, a clear and plain statement that:

- (a) the project area plan may require the agency to use eminent domain; and
- (b) the proposed use of eminent domain will be discussed at the blight hearing.

Section 70. Section 17C-1-808, which is renumbered from Section 17C-2-504 is renumbered and amended to read:

[17C-2-504]. 17C-1-808. Additional requirements for notice of a plan hearing.

Each notice under Section [17C-2-502] 17C-1-806 of a plan hearing shall also include:

- (1) a statement that any person objecting to the ~~[draft]~~ proposed project area plan or contesting the regularity of any of the proceedings to adopt ~~[it]~~ the proposed project area plan may appear before the ~~[agency]~~ board at the hearing to show cause why the ~~[draft]~~ proposed project area plan should not be adopted; and
- (2) a statement that the proposed project area plan is available for inspection at the agency offices.

Section 71. Section 17C-1-809, which is renumbered from Section 17C-2-505 is renumbered and amended to read:

[17C-2-505]. 17C-1-809. Additional requirements for notice of a budget hearing.

Each notice under Section [17C-2-502] 17C-1-806 of a budget hearing shall contain:

- (1) the following statement:

"The (name of agency) has requested \$ _____ in property tax revenues that will be generated by development within the (name of project area) to fund a portion of project costs within the (name of project area). These property tax revenues will be used for the following: (list major budget categories and amounts). These property taxes will be taxes levied by the following governmental entities, and, assuming current tax rates, the taxes paid to the agency for this project area from each taxing entity will be as follows: (list each taxing entity levying taxes and the amount of total taxes that would be paid from each taxing entity). All of the property taxes to be paid to the agency for the development in the project area are taxes that will be generated only if the project area is developed.

All concerned citizens are invited to attend the project area budget hearing scheduled for (date, time, and place of hearing). A copy of the (name of project area) project area budget is available at the offices of (name of agency and office address)."; and

- (2) other information that the agency considers appropriate.

Section 72. Section 17C-1-901 is enacted to read:

Part 9. Eminent Domain

17C-1-901. Title.

This part is known as "Eminent Domain."

Section 73. Section 17C-1-902, which is renumbered from Section 17C-1-206 is renumbered and amended to read:

[17C-1-206]. 17C-1-902. Use of eminent domain -- Conditions.

(1) Except as provided in Subsection (2), an agency may not use eminent domain to acquire property.

(2) ~~[An]~~ Subject to the provisions of this part, an agency may, in accordance with Title 78B, Chapter 6, Part 5, Eminent Domain, use eminent domain to acquire an interest in property:

(a) ~~[any interest in property]~~ within an urban renewal project area~~], subject to Chapter 2, Part 6, Eminent Domain in an Urban Renewal Project Area; and] if:~~

- (i) the board makes a finding of blight under Chapter 2, Part 3, Blight Determination in Urban Renewal Project Areas; and
- (ii) the urban renewal project area plan provides for the use of eminent domain;

(b) ~~[any interest in property]~~ that is owned by an agency board member or officer and located within a

project area, if the board member or officer consents[-];

(c) within a community reinvestment project area if:

(i) the board makes a finding of blight under Section 17C-5-405;

(ii) the community reinvestment project area plan provides for the use of eminent domain; and

(iii) the agency creates a taxing entity committee in accordance with Section 17C-1-402;

(d) that:

(i) is owned by a participant or a property owner that is entitled to receive tax increment or other assistance from the agency;

(ii) is within a project area, regardless of when the project area is created, for which the agency made a finding of blight under Section 17C-2-102 or 17C-5-405; and

(iii) (A) the participant or property owner described in Subsection (2)(d)(i) fails to develop or improve in accordance with the participation agreement or the project area plan; or

(B) for a period of 36 months does not generate the amount of tax increment that the agency projected to receive under the project area budget; or

(e) if a property owner requests in writing that the agency exercise eminent domain to acquire the property owner's property within a project area.

(3) An agency shall, in accordance with the provisions of this part, commence the acquisition of property described in Subsections (2)(a) through (c) by eminent domain within five years after the day on which the project area plan is effective.

Section 74. Section 17C-1-903, which is renumbered from Section 17C-2-602 is renumbered and amended to read:

[17C-2-602]. 17C-1-903. Prerequisites to the acquisition of property by eminent domain -- Civil action authorized -- Record of good faith negotiations to be retained.

(1) Before an agency may [acquire] initiate an action in district court to acquire property by eminent domain, the agency shall:

(a) negotiate in good faith with the affected record property owner;

(b) provide to each affected record property owner a written declaration that includes:

(i) an explanation of the eminent domain process and the reasons for using it, including:

(A) the need for the agency to obtain an independent appraisal that indicates the fair market value of the property and how the fair market value was determined;

(B) a statement that the agency may adopt a resolution authorizing the agency to make an offer

to the record property owner to purchase the property for the fair market value amount determined by the appraiser and that, if the offer is rejected, the agency has the right to acquire the property through an eminent domain proceeding; and

(C) a statement that the agency will prepare an offer that will include the price the agency is offering for the property, an explanation of how the agency determined the price being offered, the legal description of the property, conditions of the offer, and the time at which the offer will expire;

(ii) an explanation of the record property owner's relocation rights under Title 57, Chapter 12, Utah Relocation Assistance Act, and how to receive relocation assistance; and

(iii) a statement that the owner has the right to receive just compensation and an explanation of how to obtain it; and

(c) provide to the affected record property owner or the owner's designated representative a notice that is printed in a type size of at least ten-point type that contains:

(i) a description of the property to be acquired;

(ii) the name of the agency acquiring the property and the agency's contact person and telephone number; and

(iii) a copy of Title 57, Chapter 12, Utah Relocation Assistance Act.

(2) A person may bring a civil action against an agency for a violation of Subsection (1)(b) that results in damage to that person.

(3) Each agency shall keep a record and evidence of the good faith negotiations required under Subsection (1)(a) and retain the record and evidence as provided in:

(a) Title 63G, Chapter 2, Government Records Access and Management Act; or

(b) an ordinance or policy that the agency had adopted under Section 63G-2-701.

(4) A record property owner whose property is being taken by an agency through the exercise of eminent domain may elect to receive for the real property being taken:

(a) fair market value; or

(b) replacement property under Section 57-12-7.

Section 75. Section 17C-1-904, which is renumbered from Section 17C-2-601 is renumbered and amended to read:

[17C-2-601]. 17C-1-904. Acquiring single family owner occupied residential property or commercial property -- Acquiring property already devoted to a public use -- Relocation assistance requirement.

[1] Subject to Section 17C-2-602, an agency may use eminent domain to acquire property:

[(a) within an urban renewal project area if:]

~~[(i) the agency board makes a finding of blight under Part 3, Blight Determination in Urban Renewal Project Areas;]~~

~~[(ii) the urban renewal project area plan provides for the use of eminent domain; and]~~

~~[(iii) the agency commences the acquisition of the property within five years after the effective date of the urban renewal project area plan; or]~~

~~[(b) within a project area established after December 31, 2001 but before April 30, 2007 if:]~~

~~[(i) the agency board made a finding of blight with respect to the project area as provided under the law in effect at the time of the finding;]~~

~~[(ii) the project area plan provides for the use of eminent domain; and]~~

~~[(iii) the agency commences the acquisition of the property before January 1, 2010.]~~

~~[(2) (a) As used in this Subsection (2):]~~

~~[(i) "Commercial property" means a property used, in whole or in part, by the owner or possessor of the property for a commercial, industrial, retail, or other business purpose, regardless of the identity of the property owner;]~~

~~[(ii) "Owner occupied property" means private real property;]~~

~~[(A) whose use is single-family residential or commercial; and]~~

~~[(B) that is occupied by the owner of the property;]~~

~~[(iii) "Relevant area" means:]~~

~~[(A) except as provided in Subsection (2)(a)(iii)(B), the project area; or]~~

~~[(B) the area included within a phase of a project under a project area plan if the phase and the area included within the phase are described in the project area plan.]~~

~~[(b) For purposes of each provision of this Subsection (2) relating to the submission of a petition by the owners of property, a parcel of real property is included in the calculation of the applicable percentage if the petition is signed by:]~~

~~[(i) except as provided in Subsection (2)(b)(ii), owners representing a majority ownership interest in that parcel; or]~~

~~[(ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number of owners of that parcel.]~~

~~[(c) An agency may not acquire by eminent domain single-family residential owner-occupied property unless:]~~

~~[(i) the owner consents; or]~~

~~[(ii) (A) a written petition requesting the agency to use eminent domain to acquire the property is submitted by the owners of at least 80% of the owner occupied property within the relevant area~~

~~representing at least 70% of the value of owner occupied property within the relevant area; and]~~

~~[(B) 2/3 of all agency board members vote in favor of using eminent domain to acquire the property.]~~

~~[(d) An agency may not acquire commercial property by eminent domain unless:]~~

~~[(i) the owner consents; or]~~

~~[(ii) (A) a written petition requesting the agency to use eminent domain to acquire the property is submitted by the owners of at least 75% of the commercial property within the relevant area representing at least 60% of the value of commercial property within the relevant area; and]~~

~~[(B) 2/3 of all agency board members vote in favor of using eminent domain to acquire the property.]~~

~~[(3) An agency may not acquire any real property on which an existing building is to be continued on its present site and in its present form and use unless:]~~

~~[(a) the owner consents; or]~~

~~[(b) (i) the building requires structural alteration, improvement, modernization, or rehabilitation;]~~

~~[(ii) the site or lot on which the building is situated requires modification in size, shape, or use; or]~~

~~[(iii) (A) it is necessary to impose upon the property any of the standards, restrictions, and controls of the project area plan; and]~~

~~[(B) the owner fails or refuses to agree to participate in the project area plan.]~~

~~[(4) (a) Subject to Subsection (4)(b), an agency may acquire by eminent domain property that is already devoted to a public use and located in:]~~

~~[(i) an urban renewal project area; or]~~

~~[(ii) a project area described in Subsection (1)(b).]~~

~~[(b) An agency may not acquire property of a public entity under Subsection (4)(a) without the public entity's consent.]~~

~~(1) As used in this section:~~

~~(a) "Commercial property" means real property used, in whole or in part, by the owner or possessor of the property for a commercial, industrial, retail, or other business purpose, regardless of the identity of the property owner.~~

~~(b) "Owner occupied property" means private real property that is:~~

~~(i) used for a single-family residential or commercial purpose; and~~

~~(ii) occupied by the owner of the property.~~

~~(c) "Relevant area" means:~~

~~(i) except as provided in Subsection (1)(c)(ii), the project area; or~~

~~(ii) the area included within a phase of a project under a project area plan if the phase and the area~~

included within the phase are described in the project area plan.

(2) An agency may not initiate an action in district court to acquire by eminent domain a residential owner occupied property unless:

(a) (i) a written petition requesting the agency to use eminent domain to acquire the property is submitted by the owners of at least 80% of the residential owner occupied property within the relevant area representing at least 70% of the value of residential owner occupied property within the relevant area; or

(ii) a written petition of 90% of the owners of real property, including property owned by the agency or a public entity within the project area, is submitted to the agency, requesting the use of eminent domain to acquire the property; and

(b) at least two-thirds of all board members vote in favor of using eminent domain to acquire the property.

(3) An agency may not initiate an action in district court to acquire commercial owner occupied property by eminent domain unless:

(a) a written petition requesting the agency to use eminent domain to acquire the property is submitted by the owners of at least 75% of the commercial property within the relevant area representing at least 60% of the value of commercial property within the relevant area; and

(b) at least two-thirds of all board members vote in favor of using eminent domain to acquire the property.

(4) For purposes of this section an owner is considered to have signed a petition if:

(a) owners representing a majority ownership interest in the property sign the petition; or

(b) if the property is owned by joint tenants or tenants by the entirety, 50% of the number of owners of the property sign the petition.

(5) An agency may not acquire by eminent domain any real property on which an existing building is to be continued on the building's present site and in the building's present form and use unless:

(a) the building requires structural alteration, improvement, modernization, or rehabilitation;

(b) the site or lot on which the building is situated requires modification in size, shape, or use; or

(c) (i) it is necessary to impose upon the property a standard, restriction, or control of the project area plan; and

(ii) the owner fails or refuses to agree to participate in the project area plan.

(6) An agency may not acquire by eminent domain property that is owned by a public entity.

~~(4) Each~~ (7) An agency that acquires property by eminent domain shall comply with Title 57, Chapter 12, Utah Relocation Assistance Act.

Section 76. Section 17C-1-905, which is renumbered from Section 17C-2-603 is renumbered and amended to read:

[17C-2-603]. 17C-1-905. Court award for court costs and attorney fees, relocation expenses, and damage to fixtures or personal property.

~~[If a property owner brings an action in district court contesting an agency's exercise of]~~ In an eminent domain ~~[against that owner's property]~~ action under this part, the court may award:

(1) ~~[award court]~~ costs and [a] reasonable attorney ~~[fee, as determined by the court, to the owner,]~~ fees to the condemnee if the amount of the court or jury award for the property exceeds the amount offered by the agency;

(2) [award] a reasonable sum, as determined by the court or jury, as compensation for any costs ~~[and]~~ or expenses ~~[of]~~ relating to relocating:

(a) an owner who occupied the acquired property~~;~~;

(b) a party conducting a business on the acquired property~~;~~; or

(c) a person displaced from the property, as permitted by Title 57, Chapter 12, Utah Relocation Assistance Act; and

(3) [award] an amount~~;~~ ~~[as determined by the court or jury,]~~ to compensate for any fixtures or personal property that is:

(a) owned by the owner of the acquired property or by a person conducting a business on the acquired property; and

(b) damaged as a result of the acquisition or relocation.

Section 77. Section 17C-2-101.1 is enacted to read:

CHAPTER 2. URBAN RENEWAL

17C-2-101.1. Title.

This chapter is known as "Urban Renewal."

Section 78. Section 17C-2-101.2 is enacted to read:

17C-2-101.2. Applicability of chapter.

This chapter applies to an urban renewal project area that is effective:

(1) before May 10, 2016; or

(2) before September 1, 2016, if an agency adopted a resolution in accordance with Section 17C-2-101.5 before April 1, 2016.

Section 79. Section 17C-2-101.5, which is renumbered from Section 17C-2-101 is renumbered and amended to read:

[17C-2-101]. 17C-2-101.5. Resolution designating survey area -- Request to adopt resolution.

(1) ~~[An agency]~~ A board may begin the process of adopting an urban renewal project area plan by adopting a resolution that:

(a) designates an area located within the agency's boundaries as a survey area;

(b) contains a statement that the survey area requires study to determine whether:

(i) one or more urban renewal ~~[projects]~~ project areas within the survey area are feasible; and

(ii) blight exists within the survey area; and

(c) contains a boundary description or map ~~[of the boundaries]~~ of the survey area.

(2) (a) Any person or any group, association, corporation, or other entity may submit a written request to the board to adopt a resolution under Subsection (1).

(b) A request under Subsection (2)(a) may include plans showing the ~~[urban renewal]~~ project area development proposed for an area within the agency's boundaries.

(c) The board may, in ~~[its]~~ the board's sole discretion, grant or deny a request under Subsection (2)(a).

Section 80. Section 17C-2-102 is amended to read:

17C-2-102. Process for adopting urban renewal project area plan -- Prerequisites -- Restrictions.

(1) (a) In order to adopt an urban renewal project area plan, after adopting a resolution under Subsection ~~[17C-2-101]~~ 17C-2-101.5(1) the agency shall:

(i) unless a finding of blight is based on a finding made under Subsection 17C-2-303(1)(b) relating to an inactive industrial site or inactive airport site:

(A) cause a blight study to be conducted within the survey area as provided in Section 17C-2-301;

(B) provide notice of a blight hearing as required under ~~[Part 5, Urban Renewal]~~ Chapter 1, Part 8, Hearing and Notice Requirements; and

(C) hold a blight hearing as ~~[provided]~~ described in Section 17C-2-302;

(ii) after the blight hearing has been held or, if no blight hearing is required under Subsection (1)(a)(i), after adopting a resolution under Subsection ~~[17C-2-101]~~ 17C-2-101.5(1), hold a board meeting at which the board shall:

(A) consider:

(I) the issue of blight and the evidence and information relating to the existence or nonexistence of blight; and

(II) whether adoption of one or more urban renewal project area plans should be pursued; and

(B) by resolution:

(I) make a finding regarding the existence of blight in the proposed urban renewal project area;

(II) select one or more project areas comprising part or all of the survey area; and

(III) authorize the preparation of a ~~[draft]~~ proposed project area plan for each project area;

(iii) prepare a ~~[draft of a]~~ proposed project area plan and conduct any examination, investigation, and negotiation regarding the project area plan that the agency considers appropriate;

(iv) make the ~~[draft]~~ proposed project area plan available to the public at the agency's offices during normal business hours;

(v) provide notice of the plan hearing ~~[as provided]~~ in accordance with Sections ~~[17C-2-502 and 17C-2-504]~~ 17C-1-806 and 17C-1-808;

(vi) hold a ~~[public]~~ plan hearing on the ~~[draft]~~ proposed project area plan and, at ~~[that public]~~ the plan hearing:

(A) allow public comment on:

(I) the ~~[draft]~~ proposed project area plan; and

(II) whether the ~~[draft]~~ proposed project area plan should be revised, approved, or rejected; and

(B) receive all written and hear all oral objections to the ~~[draft]~~ proposed project area plan;

(vii) before holding the plan hearing, provide an opportunity for the State Board of Education and each taxing entity that levies a tax on property within the proposed project area to consult with the agency regarding the ~~[draft]~~ proposed project area plan;

(viii) if applicable, hold the election required under Subsection 17C-2-105(3);

(ix) after holding the plan hearing, at the same meeting or at a subsequent meeting consider:

(A) the oral and written objections to the ~~[draft]~~ proposed project area plan and evidence and testimony for and against adoption of the ~~[draft]~~ proposed project area plan; and

(B) whether to revise, approve, or reject the ~~[draft]~~ proposed project area plan;

(x) approve the ~~[draft]~~ proposed project area plan, with or without revisions, as the project area plan by a resolution that complies with Section 17C-2-106; and

(xi) submit the project area plan to the community legislative body for adoption.

(b) (i) If an agency makes a finding under Subsection (1)(a)(ii)(B) that blight exists in the proposed urban renewal project area, the agency may not adopt the project area plan until the taxing entity committee approves the finding of blight.

(ii) (A) A taxing entity committee may not disapprove an agency's finding of blight unless the committee demonstrates that the conditions the agency found to exist in the urban renewal project

area that support the agency's finding of blight under Section 17C-2-303:

- (I) do not exist; or
- (II) do not constitute blight.

(B) (I) If the taxing entity committee questions or disputes the existence of some or all of the blight conditions that the agency found to exist in the urban renewal project area or that those conditions constitute blight, the taxing entity committee may hire a consultant, mutually agreed upon by the taxing entity committee and the agency, with the necessary expertise to assist the taxing entity committee to make a determination as to the existence of the questioned or disputed blight conditions.

(II) The agency shall pay the fees and expenses of each consultant hired under Subsection (1)(b)(ii)(B)(I).

(III) The findings of a consultant under this Subsection (1)(b)(ii)(B) shall be binding on the taxing entity committee and the agency.

(2) An agency may not propose a project area plan under Subsection (1) unless the community in which the proposed project area is located:

- (a) has a planning commission; and
- (b) has adopted a general plan under:
 - (i) if the community is a ~~[city or town]~~ municipality, Title 10, Chapter 9a, Part 4, General Plan; or

(ii) if the community is a county, Title 17, Chapter 27a, Part 4, General Plan.

(3) (a) Subject to Subsection (3)(b), ~~[an agency]~~ a board may not approve a project area plan more than one year after adoption of a resolution making a finding of blight under Subsection (1)(a)(ii)(B).

(b) If a project area plan is submitted to an election under Subsection 17C-2-105(3), the time between the plan hearing and the date of the election does not count for purposes of calculating the year period under Subsection (3)(a).

(4) (a) Except as provided in Subsection (4)(b), a ~~[draft]~~ proposed project area plan may not be modified to add real property to the proposed project area unless the board holds a plan hearing to consider the addition and gives notice of the plan hearing as required under Sections ~~[17C-2-502 and 17C-2-504]~~ 17C-1-806 and 17C-1-808.

(b) The notice and hearing requirements under Subsection (4)(a) do not apply to a ~~[draft]~~ proposed project area plan being modified to add real property to the proposed project area if:

- (i) the property is contiguous to the property already included in the proposed project area under the ~~[draft]~~ proposed project area plan;
- (ii) the record owner of the property consents to adding the real property to the proposed project area; and

(iii) the property is located within the survey area.

Section 81. Section 17C-2-103 is amended to read:

17C-2-103. Urban renewal project area plan requirements.

(1) Each urban renewal project area plan and ~~[draft]~~ proposed project area plan shall:

(a) describe the boundaries of the project area, subject to Section 17C-1-414, if applicable;

(b) contain a general statement of the land uses, layout of principal streets, population densities, and building intensities of the project area and how they will be affected by the ~~[urban renewal]~~ project area development;

(c) state the standards that will guide the ~~[urban renewal]~~ project area development;

(d) show how the purposes of this title will be attained by the ~~[urban renewal]~~ project area development;

(e) be consistent with the general plan of the community in which the project area is located and show that the ~~[urban renewal]~~ project area development will conform to the community's general plan;

(f) describe how the ~~[urban renewal]~~ project area development will reduce or eliminate blight in the project area;

(g) describe any specific project or projects that are the object of the proposed ~~[urban renewal]~~ project area development;

(h) identify how ~~[private developers, if any]~~ a participant will be selected to undertake the ~~[urban renewal]~~ project area development and identify each ~~[private developer]~~ participant currently involved in the ~~[urban renewal process]~~ project area development;

(i) state the reasons for the selection of the project area;

(j) describe the physical, social, and economic conditions existing in the project area;

(k) describe any tax incentives offered private entities for facilities located in the project area;

(l) include the analysis described in Subsection (2);

(m) if any of the existing buildings or uses in the project area are included in or eligible for inclusion in the National Register of Historic Places or the State Register, state that the agency shall comply with Section 9-8-404 as though the agency were a state agency; and

(n) include other information that the agency determines to be necessary or advisable.

(2) Each analysis under Subsection (1)(l) shall consider:

(a) the benefit of any financial assistance or other public subsidy proposed to be provided by the agency, including:

(i) an evaluation of the reasonableness of the costs of the [urban renewal] project area development;

(ii) efforts the agency or [developer] participant has made or will make to maximize private investment;

(iii) the rationale for use of tax increment, including an analysis of whether the proposed project area development might reasonably be expected to occur in the foreseeable future solely through private investment; and

(iv) an estimate of the total amount of tax increment that will be expended in undertaking [urban renewal] project area development and the [length of time for which it will be expended] project area funds collection period; and

(b) the anticipated public benefit to be derived from the [urban renewal] project area development, including:

(i) the beneficial influences upon the tax base of the community;

(ii) the associated business and economic activity likely to be stimulated; and

(iii) whether adoption of the project area plan is necessary and appropriate to reduce or eliminate blight.

Section 82. Section 17C-2-105 is amended to read:

17C-2-105. Objections to urban renewal project area plan -- Owners' alternative project area plan -- Election if 40% of property owners object.

(1) At any time before the plan hearing, any person may file with the agency a written statement of objections to the [draft] proposed urban renewal project area plan.

(2) If the record owners of property of a majority of the private real property included within the proposed urban renewal project area file a written petition before or at the plan hearing, proposing an alternative project area plan, the agency shall consider that proposed plan in conjunction with the project area plan proposed by the agency.

(3) (a) If the record property owners of at least 40% of the private land area within the most recently proposed urban renewal project area object in writing to the [draft] proposed project area plan before or at the plan hearing, or object orally at the plan hearing, and do not withdraw their objections, an agency may not approve the project area plan until approved by voters within the boundaries of the agency in which the proposed project area is located at an election as provided in Subsection (3)(b).

(b) (i) Except as provided in this section, each election required under Subsection (3)(a) shall comply with Title 20A, Election Code.

(ii) An election under Subsection (3)(a) may be held on the same day and with the same election

officials as an election held by the community in which the proposed project area is located.

(iii) If a majority of those voting on the proposed project area plan vote in favor of it, the project area plan shall be considered approved and the agency shall confirm the approval by resolution.

(4) If the record property owners of 2/3 of the private land area within the proposed project area object in writing to the [draft] proposed project area plan before or at the plan hearing and do not withdraw their objections, the project area plan may not be adopted and the agency may not reconsider the project area plan for three years.

Section 83. Section 17C-2-106 is amended to read:

17C-2-106. Board resolution approving urban renewal project area plan -- Requirements.

Each board resolution approving a [draft] proposed urban renewal project area plan as the project area plan under Subsection 17C-2-102(1)(a)(x) shall contain:

(1) a [legal] boundary description of the boundaries of the project area that is the subject of the project area plan;

(2) the agency's purposes and intent with respect to the project area;

(3) the project area plan incorporated by reference;

(4) a statement that the board previously made a finding of blight within the project area and the date of the board's finding of blight; and

(5) the board findings and determinations that:

(a) there is a need to effectuate a public purpose;

(b) there is a public benefit under the analysis described in Subsection 17C-2-103(2);

(c) it is economically sound and feasible to adopt and carry out the project area plan;

(d) the project area plan conforms to the community's general plan; and

(e) carrying out the project area plan will promote the public peace, health, safety, and welfare of the community in which the project area is located.

Section 84. Section 17C-2-108 is amended to read:

17C-2-108. Notice of urban renewal project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.

(1) (a) Upon the community legislative body's adoption of an urban renewal project area plan, or an amendment to a project area plan under Section 17C-2-110, the community legislative body shall provide notice as provided in Subsection (1)(b) by:

(i) (A) publishing or causing to be published a notice in a newspaper of general circulation within the agency's boundaries; or

(B) if there is no newspaper of general circulation within the agency's boundaries, causing a notice to be posted in at least three public places within the agency's boundaries; and

(ii) posting a notice on the Utah Public Notice Website described in Section 63F-1-701.

(b) Each notice under Subsection (1)(a) shall:

(i) set forth the community legislative body's ordinance adopting the project area plan or a summary of the ordinance; and

(ii) include a statement that the project area plan is available for general public inspection and the hours for inspection.

(2) The project area plan shall become effective on the date of:

(a) if notice was published under Subsection (1)(a), publication of the notice; or

(b) if notice was posted under Subsection (1)(a), posting of the notice.

(3) (a) For a period of 30 days after the effective date of the project area plan under Subsection (2), any person ~~(in interest)~~ may contest the project area plan or the procedure used to adopt the project area plan if the plan or procedure fails to comply with applicable statutory requirements.

(b) After the 30-day period under Subsection (3)(a) expires, ~~no~~ a person may not contest the project area plan or procedure used to adopt the project area plan for any cause.

(4) Upon adoption of the project area plan by the ~~community's~~ community legislative body, the agency may carry out the project area plan.

(5) Each agency shall make the ~~adopted~~ project area plan available to the general public at ~~its offices~~ the agency's office during normal business hours.

Section 85. Section 17C-2-109 is amended to read:

17C-2-109. Agency required to transmit and record documents after adoption of an urban renewal project area plan.

Within 30 days after the community legislative body adopts, under Section 17C-2-107, an urban renewal project area plan, the agency shall:

(1) record with the recorder of the county in which the project area is located a document containing:

(a) a description of the land within the project area;

(b) a statement that the project area plan for the project area has been adopted; and

(c) the date of adoption;

(2) transmit a copy of the description of the land within the project area and an accurate map or plat indicating the boundaries of the project area to the

Automated Geographic Reference Center created under Section 63F-1-506; and

(3) for a project area plan that provides for ~~the payment of tax increment to~~ the agency to receive tax increment, transmit a copy of the description of the land within the project area, a copy of the community legislative body ordinance adopting the project area plan, and a map or plat indicating the boundaries of the project area to:

(a) the auditor, recorder, attorney, surveyor, and assessor of each county in which any part of the project area is located;

(b) the officer or officers performing the function of auditor or assessor for each taxing entity that does not use the county assessment roll or collect ~~its~~ the taxing entity's taxes through the county;

(c) the legislative body or governing board of each taxing entity;

(d) the State Tax Commission; and

(e) the State Board of Education.

Section 86. Section 17C-2-110 is amended to read:

17C-2-110. Amending an urban renewal project area plan.

(1) An ~~adopted~~ urban renewal project area plan may be amended as provided in this section.

(2) If an agency proposes to amend ~~an adopted~~ an urban renewal project area plan to enlarge the project area:

(a) subject to Subsection (2)(e), the requirements under this part that apply to adopting a project area plan apply equally to the proposed amendment as if it were a proposed project area plan;

(b) for a pre-July 1, 1993 project area plan, the base year ~~taxable value~~ for the new area added to the project area shall be determined under Subsection 17C-1-102~~(4)~~(9)(a)(i) using the effective date of the amended project area plan;

(c) for a post-June 30, 1993 project area plan:

(i) the base year ~~taxable value~~ for the new area added to the project area shall be determined under Subsection 17C-1-102~~(4)~~(9)(a)(ii) using the date of the taxing entity committee's consent referred to in Subsection (2)(c)(ii); and

(ii) the agency shall obtain the consent of the taxing entity committee before the agency may collect tax increment from the area added to the project area by the amendment;

(d) the agency shall make a finding regarding the existence of blight in the area proposed to be added to the project area by following the procedure set forth in Subsections 17C-2-102(1)(a)(i) and (ii); and

(e) the agency need not make a finding regarding the existence of blight in the project area as described in the original project area plan, if the agency made a finding of the existence of blight regarding that project area in connection with adoption of the original project area plan.

(3) If a proposed amendment does not propose to enlarge an urban renewal project area, ~~[an agency]~~ a board may adopt a resolution approving an amendment to ~~[an adopted]~~ a project area plan after:

(a) the agency gives notice, as provided in Section ~~[17C-2-502]~~ 17C-1-806, of the proposed amendment and of the public hearing required by Subsection (3)(b);

(b) the ~~[agency]~~ board holds a public hearing on the proposed amendment that meets the requirements of a plan hearing;

(c) the agency obtains the taxing entity committee's consent to the amendment, if the amendment proposes:

(i) to enlarge the area within the project area from which tax increment is collected;

(ii) to permit the agency to receive a greater percentage of tax increment or to ~~[receive tax increment for a longer period of time]~~ extend the project area funds collection period, or both, than allowed under the adopted project area plan; or

(iii) for an amendment to a project area plan that was adopted before April 1, 1983, to expand the area from which tax increment is collected to exceed 100 acres of private property; and

(d) the agency obtains the consent of the legislative body or governing board of each taxing entity affected, if the amendment proposes to permit the agency to receive, from less than all taxing entities, a greater percentage of tax increment or to ~~[receive tax increment for a longer period of time]~~ extend the project area funds collection period, or both, than allowed under the adopted project area plan.

(4) (a) An ~~[adopted]~~ urban renewal project area plan may be amended without complying with the notice and public hearing requirements of Subsections (2)(a) and (3)(a) and (b) and without obtaining taxing entity committee approval under Subsection (3)(c) if the amendment:

(i) makes a minor adjustment in the ~~[legal]~~ boundary description of a project area boundary requested by a county assessor or county auditor to avoid inconsistent property boundary lines; or

(ii) subject to Subsection (4)(b), removes a parcel ~~[of real property]~~ from a project area because the agency determines that the parcel is:

~~[(A) the parcel is no longer blighted; or]~~

~~[(B) inclusion of the parcel is no longer necessary or desirable to the project area.]~~

(A) tax exempt;

(B) no longer blighted; or

(C) no longer necessary or desirable to the project area.

(b) An amendment removing a parcel ~~[of real property]~~ from a project area under Subsection

(4)(a)(ii) may ~~[not]~~ be made without the consent of the record property owner of the parcel being removed.

(5) (a) An amendment approved by board resolution under this section may not take effect until adopted by ordinance of the legislative body of the community in which the project area that is the subject of the project area plan being amended is located.

(b) Upon a community legislative body passing an ordinance adopting an amendment to a project area plan, the agency whose project area plan was amended shall comply with the requirements of Sections 17C-2-108 and 17C-2-109 to the same extent as if the amendment were a project area plan.

(6) (a) Within 30 days after the day on which an amendment to a project area plan becomes effective, a person may contest the amendment to the project area plan or the procedure used to adopt the amendment to the project area plan if the amendment or procedure fails to comply with a provision of this title.

(b) After the 30-day period described in Subsection (6)(a) expires, a person may not contest the amendment to the project area plan or procedure used to adopt the amendment to the project area plan for any cause.

Section 87. Section 17C-2-201 is amended to read:

17C-2-201. Project area budget -- Requirements for adopting -- Contesting the budget or procedure -- Time limit.

(1) (a) If an agency anticipates funding all or a portion of a post-June 30, 1993 urban renewal project area plan with tax increment, the agency shall, subject to Section 17C-2-202, adopt a project area budget as provided in this part.

(b) An urban renewal project area budget adopted on or after March 30, 2009 shall specify:

(i) for a project area budget adopted on or after March 30, 2009:

(A) the ~~[number of tax years for which the agency will be allowed to receive tax increment from the project area]~~ project area funds collection period; and

(B) the percentage of tax increment the agency is ~~[entitled]~~ authorized to receive from the project area under the project area budget; and

(ii) for a project area budget adopted on or after March 30, 2013, unless approval is obtained under Subsection 17C-1-402(4)(b)(vi)(C), the maximum cumulative dollar amount of tax increment that the agency may receive from the project area under the project area budget.

(2) To adopt an urban renewal project area budget, the agency shall:

(a) prepare a ~~[draft of a]~~ proposed project area budget;

(b) make a copy of the ~~[draft]~~ proposed project area budget available to the public at the agency's offices during normal business hours;

(c) provide notice of the budget hearing as required by ~~[Part 5, Urban Renewal Notice Requirements]~~ Chapter 1, Part 8, Hearing and Notice Requirements;

(d) hold a public hearing on the ~~[draft]~~ proposed project area budget and, at that public hearing, allow public comment on:

(i) the ~~[draft]~~ proposed project area budget; and

(ii) whether the ~~[draft]~~ proposed project area budget should be revised, adopted, or rejected;

(e) (i) if required under Subsection 17C-2-204(1), obtain the approval of the taxing entity committee on the ~~[draft]~~ proposed project area budget or a revised version of the ~~[draft]~~ proposed project area budget; or

(ii) if applicable, comply with the requirements of Subsection 17C-2-204(2);

(f) if approval of the taxing entity committee is required under Subsection (2)(e)(i), obtain a written certification, signed by an attorney licensed to practice law in this state, stating that the taxing entity committee followed the appropriate procedures to approve the project area budget; and

(g) after the budget hearing, hold a board meeting in the same meeting as the public hearing or in a subsequent meeting to:

(i) consider comments made and information presented at the public hearing relating to the ~~[draft]~~ proposed project area budget; and

(ii) adopt by resolution the ~~[draft]~~ proposed project area budget, with any revisions, as the project area budget.

(3) (a) For a period of 30 days after the agency's adoption of the project area budget under Subsection (2)(g), any person ~~[in interest]~~ may contest the project area budget or the procedure used to adopt the project area budget if the budget or procedure fails to comply with applicable statutory requirements.

(b) After the 30-day period under Subsection (3)(a) expires, a person, ~~[for any cause,]~~ may not contest:

(i) the project area budget or procedure used by either the taxing entity committee or the agency to approve and adopt the project area budget;

(ii) a ~~[payment]~~ distribution of tax increment to the agency under the project area budget; or

(iii) the agency's use of tax increment under the project area budget.

Section 88. Section 17C-2-203 is amended to read:

17C-2-203. Part of tax increment funds in urban renewal project area budget to be used for housing -- Waiver of requirement.

(1) (a) Except as provided in ~~[Subsection]~~ Subsections (1)(b) and (c), each urban renewal project area budget adopted on or after May 1, 2000, that provides for more than \$100,000 of annual tax increment to be paid to the agency shall allocate at least 20% of the tax increment for housing as provided in Section 17C-1-412.

(b) The 20% requirement of Subsection (1)(a) may be waived in part or whole by the ~~[mutual consent of the loan fund board and the]~~ taxing entity committee if ~~[they determine]~~ the taxing entity committee determines that 20% of tax increment is more than is needed to address the community's need for income targeted housing.

(c) An agency is not subject to the 20% requirement described in Subsection (1)(a) if:

(i) an inactive industrial site is located within an urban renewal project area; and

(ii) the inactive industrial site's remediation costs are estimated to exceed 20% of the project area funds under the urban renewal project area budget.

(2) An urban renewal project area budget not required under Subsection (1)(a) to allocate tax increment for housing may allocate 20% of tax increment ~~[payable to]~~ received by the agency over the life of the project area for housing as provided in Section 17C-1-412 if the project area budget is under a project area plan that is adopted on or after July 1, 1998.

Section 89. Section 17C-2-204 is amended to read:

17C-2-204. Consent of taxing entity committee required for urban renewal project area budget -- Exception.

(1) (a) Except as provided in Subsection (1)(b) and subject to Subsection (2), each agency shall obtain the consent of the taxing entity committee for each urban renewal project area budget under a post-June 30, 1993 project area plan before the agency may ~~[collect]~~ receive any tax increment from the urban renewal project area.

(b) For an urban renewal project area budget adopted from July 1, 1998 through May 1, 2000 that allocates 20% or more of the tax increment for housing as provided in Section 17C-1-412, an agency:

(i) need not obtain the consent of the taxing entity committee for the project area budget; and

(ii) may not ~~[collect]~~ receive any tax increment from all or part of the project area until after:

(A) the loan fund board has certified the project area budget as complying with the requirements of Section 17C-1-412; and

(B) the ~~[agency]~~ board has approved and adopted the project area budget by a two-thirds vote.

(2) (a) Before a taxing entity committee may consent to an urban renewal project area budget adopted on or after May 1, 2000 that is required under Subsection 17C-2-203(1)(a) to allocate 20% of tax increment for housing, the agency shall:

(i) adopt a housing plan showing the uses for the housing funds; and

(ii) provide a copy of the housing plan to the taxing entity committee and the loan fund board.

(b) If an agency amends a housing plan prepared under Subsection (2)(a), the agency shall provide a copy of the amendment to the taxing entity committee and the loan fund board.

Section 90. Section 17C-2-206 is amended to read:

17C-2-206. Amending an urban renewal project area budget.

(1) An agency may by resolution amend an urban renewal project area budget as provided in this section.

(2) To amend an adopted urban renewal project area budget, the agency shall:

(a) advertise and hold one public hearing on the proposed amendment as provided in Subsection (3);

(b) if approval of the taxing entity committee was required for adoption of the original project area budget, obtain the approval of the taxing entity committee to the same extent that the agency was required to obtain the consent of the taxing entity committee for the project area budget as originally adopted;

(c) if approval of the taxing entity committee is required under Subsection (2)(b), obtain a written certification, signed by an attorney licensed to practice law in this state, stating that the taxing entity committee followed the appropriate procedures to approve the project area budget; and

(d) adopt a resolution amending the project area budget.

(3) The public hearing required under Subsection (2)(a) shall be conducted according to the procedures and requirements of Subsections 17C-2-201(2)(c) and (d), except that if the amended project area budget proposes that the agency be paid a greater proportion of tax increment from a project area than was to be paid under the previous project area budget, the notice shall state the percentage paid under the previous project area budget and the percentage proposed under the amended project area budget.

(4) If the removal of a parcel under Subsection 17C-2-110(4)(a)(ii) reduces the base taxable value of the project area, an agency may amend the project area budget to conform with the new base taxable value without:

(a) complying with Subsections (2)(a) and (3); and

(b) if applicable, obtaining taxing entity committee approval described in Subsection (2)(b).

[44] (5) If a proposed amendment is not adopted, the agency shall continue to operate under the previously adopted project area budget without the proposed amendment.

[45] (6) (a) A person may contest the agency's adoption of a budget amendment within 30 days after the day on which the agency adopts the amendment.

(b) A person who fails to contest a budget amendment under Subsection [45] (6)(a):

(i) forfeits any claim against an agency's adoption of the amendment; and

(ii) may not contest:

(A) a payment distribution of tax increment to the agency under the budget amendment; or

(B) an agency's use of a tax increment under the budget amendment.

Section 91. Section 17C-2-207 is amended to read:

17C-2-207. Extending collection of tax increment in an urban renewal project area budget.

(1) An amendment or extension approved by a taxing entity or taxing entity committee before May 10, 2011, is not subject to this section.

(2) (a) An agency's collection of tax increment under an adopted urban renewal project area budget may be extended by:

(i) following the project area budget amendment procedures outlined in Section 17C-2-206; or

(ii) following the procedures outlined in this section.

(b) The base taxable value for an urban renewal project area budget may not be altered as a result of an extension under this section unless otherwise expressly provided for in an interlocal agreement adopted in accordance with Subsection (3)(a).

(3) To extend under this section the agency's collection of tax increment from a taxing entity project area funds collection period under a previously approved project area budget, the agency shall:

(a) obtain the approval of the taxing entity through an interlocal agreement;

(b) (i) hold a public hearing on the proposed extension in accordance with Subsection 17C-2-201(2)(d) in the same manner as required for a draft proposed project area budget; and

(ii) provide notice of the hearing:

(A) as required by Part 5, Urban Renewal Chapter 1, Part 8, Hearing and Notice Requirements; and

(B) including the proposed period of extension of the project area budget project area budget's extension period; and

(c) after obtaining the approval of the taxing entity taxing entity's approval in accordance with

Subsection (3)(a), at or after the public hearing, adopt a resolution approving the extension.

(4) After the ~~[expiration of a project area budget]~~ project area funds collection period expires, an agency may continue to receive ~~[tax increment]~~ project area funds from those taxing entities that ~~[have agreed]~~ agree to an extension through an interlocal agreement in accordance with Subsection (3)(a).

(5) (a) A person may contest the agency's adoption of ~~[a budget]~~ an extension within 30 days after the day on which the agency adopts the resolution providing for the extension.

(b) A person who fails to contest ~~[a budget]~~ an extension under Subsection (5)(a):

(i) shall forfeit any claim against the agency's adoption of the extension; and

(ii) may not contest:

(A) a ~~[payment]~~ distribution of tax increment to the agency under the budget, as extended; or

(B) an agency's use of tax increment under the budget, as extended.

Section 92. Section 17C-2-303 is amended to read:

17C-2-303. Conditions on board determination of blight -- Conditions of blight caused by the participant.

(1) ~~[An agency]~~ A board may not make a finding of blight in a resolution under Subsection 17C-2-102(1)(a)(ii)(B) unless the board finds that:

(a) (i) the proposed project area consists predominantly of nongreenfield parcels;

(ii) the proposed project area is currently zoned for urban purposes and generally served by utilities;

(iii) at least 50% of the parcels within the proposed project area contain nonagricultural or nonaccessory buildings or improvements used or intended for residential, commercial, industrial, or other urban purposes, or any combination of those uses;

(iv) the present condition or use of the proposed project area substantially impairs the sound growth of the municipality, retards the provision of housing accommodations, or constitutes an economic liability or is detrimental to the public health, safety, or welfare, as shown by the existence within the proposed project area of at least four of the following factors:

(A) one of the following, although sometimes interspersed with well maintained buildings and infrastructure:

(I) substantial physical dilapidation, deterioration, or defective construction of buildings or infrastructure; or

(II) significant noncompliance with current building code, safety code, health code, or fire code requirements or local ordinances;

(B) unsanitary or unsafe conditions in the proposed project area that threaten the health, safety, or welfare of the community;

(C) environmental hazards, as defined in state or federal law, that require remediation as a condition for current or future use and development;

(D) excessive vacancy, abandoned buildings, or vacant lots within an area zoned for urban use and served by utilities;

(E) abandoned or outdated facilities that pose a threat to public health, safety, or welfare;

(F) criminal activity in the project area, higher than that of comparable nonblighted areas in the municipality or county; and

(G) defective or unusual conditions of title rendering the title nonmarketable; and

(v) (A) at least 50% of the privately-owned parcels within the proposed project area are affected by at least one of the factors, but not necessarily the same factor, listed in Subsection (1)(a)(iv); and

(B) the affected parcels comprise at least 66% of the privately-owned acreage of the proposed project area; or

(b) the proposed project area includes some or all of a superfund site, inactive industrial site, or inactive airport site.

(2) No single parcel comprising 10% or more of the acreage of the proposed project area may be counted as satisfying Subsection (1)(a)(iii) or (iv) unless at least 50% of the area of that parcel is occupied by buildings or improvements.

(3) (a) For purposes of Subsection (1), if a ~~[developer]~~ participant involved in the ~~[urban renewal]~~ project area development has caused a condition listed in Subsection (1)(a)(iv) within the proposed project area, that condition may not be used in the determination of blight.

(b) Subsection (3)(a) does not apply to a condition that was caused by an owner or tenant who becomes a ~~[developer]~~ participant.

Section 93. Section 17C-3-101.1 is enacted to read:

CHAPTER 3. ECONOMIC DEVELOPMENT

17C-3-101.1. Title.

This chapter is known as "Economic Development."

Section 94. Section 17C-3-101.2 is enacted to read:

17C-3-101.2. Applicability of chapter.

This chapter applies to an economic development project area that is effective:

(1) before May 10, 2016; or

(2) before September 1, 2016, if an agency adopted a resolution in accordance with Section 17C-3-101.5 before April 1, 2016.

Section 95. Section 17C-3-101.5, which is renumbered from Section 17C-3-101 is renumbered and amended to read:

[17C-3-101]. 17C-3-101.5. Resolution authorizing the preparation of a proposed economic development project area plan -- Request to adopt resolution.

(1) ~~[An agency]~~ A board may begin the process of adopting an economic development project area plan by adopting a resolution that authorizes the preparation of a ~~[draft]~~ proposed project area plan.

(2) (a) Any person or any group, association, corporation, or other entity may submit a written request to the board to adopt a resolution under Subsection (1).

(b) A request under Subsection (2)(a) may include plans showing the ~~[economic]~~ project area development proposed for an area within the agency's boundaries.

(c) The board may, in ~~[its]~~ the board's sole discretion, grant or deny a request under Subsection (2)(a).

Section 96. Section 17C-3-102 is amended to read:

17C-3-102. Process for adopting an economic development project area plan -- Prerequisites -- Restrictions.

(1) In order to adopt an economic development project area plan, after adopting a resolution under Subsection ~~[17C-3-101]~~ 17C-3-101.5(1) the agency shall:

(a) prepare a ~~[draft of an]~~ proposed economic development project area plan and conduct any examination, investigation, and negotiation regarding the project area plan that the agency considers appropriate;

(b) make the ~~[draft]~~ proposed project area plan available to the public at the agency's offices during normal business hours;

(c) provide notice of the plan hearing as provided in ~~[Part 4, Economic Development Notice Requirements]~~ Chapter 1, Part 8, Hearing and Notice Requirements;

(d) hold a public hearing on the ~~[draft]~~ proposed project area plan and, at that public hearing:

(i) allow public comment on:

(A) the ~~[draft]~~ proposed project area plan; and

(B) whether the ~~[draft]~~ proposed project area plan should be revised, approved, or rejected; and

(ii) receive all written and hear all oral objections to the ~~[draft]~~ proposed project area plan;

(e) before holding the plan hearing, provide an opportunity for the State Board of Education and each taxing entity ~~[that levies a tax on property]~~ within the proposed project area to consult with the agency regarding the ~~[draft]~~ proposed project area plan;

(f) after holding the plan hearing, at the same meeting or at a subsequent meeting consider:

(i) the oral and written objections to the ~~[draft]~~ proposed project area plan and evidence and testimony for or against adoption of the ~~[draft]~~ proposed project area plan; and

(ii) whether to revise, approve, or reject the ~~[draft]~~ proposed project area plan;

(g) approve the ~~[draft]~~ proposed project area plan, with or without revisions, as the project area plan by a resolution that complies with Section 17C-3-105; and

(h) submit the project area plan to the community legislative body for adoption.

(2) An agency may not propose a project area plan under Subsection (1) unless the community in which the proposed project area is located:

(a) has a planning commission; and

(b) has adopted a general plan under:

(i) if the community is a ~~[city or town]~~ municipality, Title 10, Chapter 9a, Part 4, General Plan; or

(ii) if the community is a county, Title 17, Chapter 27a, Part 4, General Plan.

(3) ~~[An agency]~~ A board may not approve a project area plan more than one year after the date of the plan hearing.

(4) (a) Except as provided in Subsection (4)(b), a ~~[draft]~~ proposed project area plan may not be modified to add ~~[real property]~~ one or more parcels to the proposed project area unless the board holds a plan hearing to consider the addition and gives notice of the plan hearing as required under ~~[Part 4, Economic Development]~~ Chapter 1, Part 8, Hearing and Notice Requirements.

(b) The notice and hearing requirements under Subsection (4)(a) do not apply to a ~~[draft]~~ proposed project area plan being modified to add ~~[real property]~~ one or more parcels to the proposed project area if:

(i) the ~~[property]~~ parcel is contiguous to the ~~[property]~~ parcels already included in the proposed project area under the ~~[draft]~~ proposed project area plan; and

(ii) the record owner of the property consents to adding the ~~[real property]~~ parcel to the proposed project area.

Section 97. Section 17C-3-103 is amended to read:

17C-3-103. Economic development project area plan requirements.

(1) Each economic development project area plan and ~~(draft)~~ proposed project area plan shall:

(a) describe the boundaries of the project area, subject to Section 17C-1-414, if applicable;

(b) contain a general statement of the land uses, layout of principal streets, population densities, and building intensities of the project area and how they will be affected by the ~~(economic)~~ project area development;

(c) state the standards that will guide the ~~(economic)~~ project area development;

(d) show how the purposes of this title will be attained by the ~~(economic)~~ project area development;

(e) be consistent with the general plan of the community in which the project area is located and show that the ~~(economic)~~ project area development will conform to the community's general plan;

(f) describe how the ~~(economic)~~ project area development will create additional jobs;

(g) describe any specific project or projects that are the object of the proposed ~~(economic)~~ project area development;

(h) identify how ~~(private developers, if any)~~ a participant will be selected to undertake the ~~(economic)~~ project area development and identify each ~~(private developer)~~ participant currently involved in the ~~(economic)~~ project area development ~~(process)~~;

(i) state the reasons for the selection of the project area;

(j) describe the physical, social, and economic conditions existing in the project area;

(k) describe any tax incentives offered private entities for facilities located in the project area;

(l) include an analysis, as provided in Subsection (2), of whether adoption of the project area plan is beneficial under a benefit analysis;

(m) if any of the existing buildings or uses in the project area are included in or eligible for inclusion in the National Register of Historic Places or the State Register, state that the agency shall comply with Subsection 9-8-404(1) as though the agency were a state agency; and

(n) include other information that the agency determines to be necessary or advisable.

(2) Each analysis under Subsection (1)(l) shall consider:

(a) the benefit of any financial assistance or other public subsidy proposed to be provided by the agency, including:

(i) an evaluation of the reasonableness of the costs of ~~(economic)~~ project area development;

(ii) efforts the agency or ~~(developer)~~ participant has made or will make to maximize private investment;

(iii) the rationale for use of tax increment, including an analysis of whether the proposed project area development might reasonably be expected to occur in the foreseeable future solely through private investment; and

(iv) an estimate of the total amount of tax increment that will be expended in undertaking ~~(economic)~~ project area development and the length of time for which it will be expended; and

(b) the anticipated public benefit to be derived from the ~~(economic)~~ project area development, including:

(i) the beneficial influences upon the tax base of the community;

(ii) the associated business and economic activity likely to be stimulated; and

(iii) the number of jobs or employment anticipated to be generated or preserved.

Section 98. Section 17C-3-105 is amended to read:

17C-3-105. Board resolution approving an economic development project area plan -- Requirements.

Each board resolution approving a ~~(draft)~~ proposed economic development project area plan as the project area plan under Subsection 17C-3-102(1)(g) shall contain:

(1) a ~~(legal)~~ boundary description of the boundaries of the project area that is the subject of the project area plan;

(2) the agency's purposes and intent with respect to the project area;

(3) the project area plan incorporated by reference; and

(4) the board findings and determinations that:

(a) there is a need to effectuate a public purpose;

(b) there is a public benefit under the analysis described in Subsection 17C-3-103(2);

(c) it is economically sound and feasible to adopt and carry out the project area plan;

(d) the project area plan conforms to the community's general plan; and

(e) carrying out the project area plan will promote the public peace, health, safety, and welfare of the community in which the project area is located.

Section 99. Section 17C-3-107 is amended to read:

17C-3-107. Notice of economic development project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.

(1) (a) Upon the community legislative body's adoption of an economic development project area plan, or an amendment to the project area plan under Section 17C-3-109 that requires notice, the legislative body shall provide notice as provided in Subsection (1)(b) by:

(i) publishing or causing to be published a notice:

(A) in a newspaper of general circulation within the agency's boundaries; or

(B) if there is no newspaper of general circulation within the agency's boundaries, causing a notice to be posted in at least three public places within the agency's boundaries; and

(ii) on the Utah Public Notice Website described in Section 63F-1-701.

(b) Each notice under Subsection (1)(a) shall:

(i) set forth the community legislative body's ordinance adopting the project area plan or a summary of the ordinance; and

(ii) include a statement that the project area plan is available for ~~[general]~~ public inspection and the hours for inspection.

(2) The project area plan shall become effective on the date of:

(a) if notice was published under Subsection (1)(a), publication of the notice; or

(b) if notice was posted under Subsection (1)(a), posting of the notice.

(3) (a) For a period of 30 days after the effective date of the project area plan under Subsection (2), any person ~~[in interest]~~ may contest the project area plan or the procedure used to adopt the project area plan if the plan or procedure fails to comply with applicable statutory requirements.

(b) After the 30-day period under Subsection (3)(a) expires, ~~[no]~~ a person may not contest the project area plan or procedure used to adopt the project area plan for any cause.

(4) Upon adoption of the economic development project area plan by the ~~[community's]~~ community legislative body, the agency may ~~[carry out]~~ implement the project area plan.

(5) Each agency shall make the ~~[adopted]~~ economic development project area plan available to the general public at ~~[its offices]~~ the agency's office during normal business hours.

Section 100. Section 17C-3-108 is amended to read:

17C-3-108. Agency required to transmit and record documents after adoption of economic development project area plan.

Within 30 days after the community legislative body adopts, under Section 17C-3-106, an economic development project area plan, the agency shall:

(1) record with the recorder of the county in which the economic development project area is located a document containing:

(a) a description of the land within the project area;

(b) a statement that the project area plan for the project area has been adopted; and

(c) the date of adoption;

(2) transmit a copy of the description of the land within the project area and an accurate map or plat indicating the boundaries of the project area to the Automated Geographic Reference Center created under Section 63F-1-506; and

(3) for a project area plan that provides for ~~[the payment of tax increment to]~~ the agency to receive tax increment, transmit a copy of the description of the land within the project area, a copy of the community legislative body ordinance adopting the project area plan, and a map or plat indicating the boundaries of the project area to:

(a) the auditor, recorder, attorney, surveyor, and assessor of each county in which any part of the project area is located;

(b) the officer or officers performing the function of auditor or assessor for each taxing entity that does not use the county assessment roll or collect ~~[its]~~ the taxing entity's taxes through the county;

(c) the legislative body or governing board of each taxing entity;

(d) the State Tax Commission; and

(e) the State Board of Education.

Section 101. Section 17C-3-109 is amended to read:

17C-3-109. Amending an economic development project area plan.

(1) An ~~[adopted]~~ economic development project area plan may be amended as provided in this section.

(2) If an agency proposes to amend an ~~[adopted]~~ economic development project area plan to enlarge the project area:

(a) the requirements under this part that apply to adopting a project area plan apply equally to the proposed amendment as if it were a proposed project area plan;

(b) the base year ~~[taxable value]~~ for the new area added to the project area shall be determined under Subsection 17C-1-102~~(6)~~(9)(a)(ii) using the date of the taxing entity committee's consent referred to in Subsection (2)(c); and

(c) the agency shall obtain the consent of the taxing entity committee before the agency may collect tax increment from the area added to the project area by the amendment.

(3) If a proposed amendment does not propose to enlarge an economic development project area, ~~[an agency]~~ a board may adopt a resolution approving an amendment to an ~~[adopted]~~ economic development project area plan after:

(a) the agency gives notice, as provided in ~~[Section 17C-3-402]~~ Chapter 1, Part 8, Hearing and Notice Requirements, of the proposed amendment and of the public hearing required by Subsection (3)(b);

(b) the ~~[agency]~~ board holds a public hearing on the proposed amendment that meets the requirements of a plan hearing;

(c) the agency obtains the taxing entity committee's consent to the amendment, if the amendment proposes:

(i) to enlarge the area within the project area from which tax increment is ~~collected~~ received; or

(ii) to permit the agency to receive a greater percentage of tax increment or to ~~receive tax increment for a longer period of time than allowed~~ extend the project area funds collection period under the ~~adopted~~ economic development project area plan; and

(d) the agency obtains the consent of the legislative body or governing board of each taxing entity affected, if the amendment proposes to permit the agency to receive, from less than all taxing entities, a greater percentage of tax increment or to ~~receive tax increment for a longer period of time~~ extend the project area funds collection period, or both, than allowed under the ~~adopted~~ economic development project area plan.

(4) (a) An ~~adopted~~ economic development project area plan may be amended without complying with the notice and public hearing requirements of Subsections (2)(a) and (3)(a) and (b) and without obtaining taxing entity committee approval under Subsection (3)(c) if the amendment:

(i) makes a minor adjustment in the ~~legal~~ boundary description of a project area boundary requested by a county assessor or county auditor to avoid inconsistent property boundary lines; or

(ii) subject to Subsection (4)(b), removes a parcel ~~of real property~~ from a project area because the agency determines that ~~inclusion of the parcel is no longer necessary or desirable to the project area~~ the parcel is:

(A) tax exempt; or

(B) no longer necessary or desirable to the project area.

(b) An amendment removing a parcel ~~of real property~~ from a project area under Subsection (4)(a) may ~~not~~ be made without the consent of the record property owner of the parcel being removed.

(5) (a) An amendment approved by board resolution under this section may not take effect until adopted by ordinance of the legislative body of the community in which the project area that is the subject of the project area plan being amended is located.

(b) Upon a community legislative body passing an ordinance adopting an amendment to a project area plan, the agency whose project area plan was amended shall comply with the requirements of Sections 17C-3-107 and 17C-3-108 to the same extent as if the amendment were a project area plan.

(6) (a) Within 30 days after the day on which an amendment to a project area plan becomes effective, a person may contest the amendment to the project area plan or the procedure used to adopt the amendment to the project area plan if the

amendment or procedure fails to comply with a provision of this title.

(b) After the 30-day period described in Subsection (6)(a) expires, a person may not contest the amendment to the project area plan or procedure used to adopt the amendment to the project area plan for any cause.

Section 102. Section 17C-3-201 is amended to read:

17C-3-201. Economic development project area budget -- Requirements for adopting -- Contesting the budget or procedure -- Time limit.

(1) (a) If an agency anticipates funding all or a portion of a post-June 30, 1993 economic development project area plan with tax increment, the agency shall, subject to Section 17C-3-202, adopt a project area budget as provided in this part.

(b) An economic development project area budget adopted on or after March 30, 2009 shall specify:

(i) for a project area budget adopted on or after March 30, 2009:

(A) the ~~number of tax years for which the agency will be allowed to receive tax increment from the project area~~ project area funds collection period; and

(B) the percentage of tax increment the agency is ~~entitled~~ authorized to receive from the project area under the project area budget; and

(ii) for a project area budget adopted on or after March 30, 2013, unless approval is obtained under Subsection 17C-1-402(4)(b)(vi)(C), the maximum cumulative dollar amount of tax increment that the agency may receive from the project area under the project area budget.

(2) To adopt an economic development project area budget, the agency shall:

(a) prepare a ~~draft of an~~ proposed economic development project area budget;

(b) make a copy of the ~~draft~~ proposed project area budget available to the public at the agency's offices during normal business hours;

(c) provide notice of the budget hearing as required by ~~[Part 4, Economic Development] Chapter 1, Part 8, Hearing and Notice Requirements;~~

(d) hold a public hearing on the ~~draft~~ proposed project area budget and, at that public hearing, allow public comment on:

(i) the ~~draft~~ proposed project area budget; and

(ii) whether the ~~draft~~ proposed project area budget should be revised, adopted, or rejected;

(e) (i) if required under Subsection 17C-3-203(1), obtain the approval of the taxing entity committee on the ~~draft~~ proposed project area budget or a revised version of the ~~draft~~ proposed project area budget; or

(ii) if applicable, comply with the requirements of Subsection 17C-3-203(2);

(f) if approval of the taxing entity committee is required under Subsection (2)(e)(i), obtain a written certification, signed by an attorney licensed to practice law in this state, stating that the taxing entity committee followed the appropriate procedures to approve the project area budget; and

(g) after the budget hearing, hold a board meeting in the same meeting as the public hearing or in a subsequent meeting to:

(i) consider comments made and information presented at the public hearing relating to the ~~[draft]~~ proposed project area budget; and

(ii) adopt by resolution the ~~[draft]~~ proposed project area budget, with any revisions, as the project area budget.

(3) (a) For a period of 30 days after the agency's adoption of the project area budget under Subsection (2)(g), any person ~~[in interest]~~ may contest the project area budget or the procedure used to adopt the project area budget if the budget or procedure fails to comply with applicable statutory requirements.

(b) After the 30-day period under Subsection (3)(a) expires, a person ~~[, for any cause,]~~ may not contest:

(i) the project area budget or procedure used by either the taxing entity committee or the agency to approve and adopt the project area budget;

(ii) a ~~[payment]~~ distribution of tax increment to the agency under the project area budget; or

(iii) the agency's use of tax increment under the project area budget.

Section 103. Section 17C-3-203 is amended to read:

17C-3-203. Consent of taxing entity committee required for economic development project area budget -- Exception.

(1) (a) Except as provided in Subsection (1)(b) and subject to Subsection (2), each agency shall obtain the consent of the taxing entity committee for each economic development project area budget under a post-June 30, 1993 economic development project area plan before the agency may collect any tax increment from the project area.

(b) For an economic development project area budget adopted from July 1, 1998 through May 1, 2000 that allocates 20% or more of the tax increment for housing as provided in Section 17C-1-412, an agency:

(i) need not obtain the consent of the taxing entity committee for the project area budget; and

(ii) may not ~~[collect]~~ receive any tax increment from all or part of the project area until after:

(A) the loan fund board has certified the project area budget as complying with the requirements of Section 17C-1-412; and

(B) the ~~[agency]~~ board has approved and adopted the project area budget by a two-thirds vote.

(2) (a) Before a taxing entity committee may consent to an economic development project area budget adopted on or after May 1, 2000 that allocates 20% of tax increment for housing under Subsection 17C-3-202(2)(a) or (3), the agency shall:

(i) adopt a housing plan showing the uses for the housing funds; and

(ii) provide a copy of the housing plan to the taxing entity committee and the loan fund board.

(b) If an agency amends a housing plan prepared under Subsection (2)(a), the agency shall provide a copy of the amendment to the taxing entity committee and the loan fund board.

Section 104. Section 17C-3-205 is amended to read:

17C-3-205. Amending an economic development project area budget.

(1) An agency may by resolution amend an economic development project area budget as provided in this section.

(2) To amend an adopted economic development project area budget, the agency shall:

(a) advertise and hold one public hearing on the proposed amendment as provided in Subsection (3);

(b) if approval of the taxing entity committee was required for adoption of the original project area budget, obtain the approval of the taxing entity committee to the same extent that the agency was required to obtain the consent of the taxing entity committee for the project area budget as originally adopted;

(c) if approval of the taxing entity committee is required under Subsection (2)(b), obtain a written certification, signed by an attorney licensed to practice law in this state, stating that the taxing entity committee followed the appropriate procedures to approve the project area budget; and

(d) adopt a resolution amending the project area budget.

(3) The public hearing required under Subsection (2)(a) shall be conducted according to the procedures and requirements of Section 17C-3-201, except that if the amended project area budget proposes that the agency be paid a greater proportion of tax increment from a project area than was to be paid under the previous project area budget, the notice shall state the percentage paid under the previous project area budget and the percentage proposed under the amended project area budget.

(4) If the removal of a parcel under Subsection 17C-3-109(4)(a)(ii) reduces the base taxable value of the project area, an agency may amend the project area budget to conform with the new base taxable value without:

(a) complying with Subsections (2)(a) and (3); and

(b) if applicable, obtaining taxing entity committee approval described in Subsection (2)(b).

[4] (5) If a proposed amendment is not adopted, the agency shall continue to operate under the previously adopted economic development project area budget without the proposed amendment.

[5] (6) (a) A person may contest the agency's adoption of a budget amendment within 30 days after the day on which the agency adopts the amendment.

(b) A person who fails to contest a budget amendment under Subsection [(5)] (6)(a):

(i) forfeits any claim against an agency's adoption of the amendment; and

(ii) may not contest:

(A) a [payment] distribution of tax increment to the agency under the budget amendment; or

(B) an agency's use of a tax increment under a budget amendment.

Section 105. Section 17C-3-206 is amended to read:

17C-3-206. Extending collection of tax increment under an economic development project area budget.

(1) An amendment or extension approved by a taxing entity or taxing entity committee before May 10, 2011, is not subject to this section.

(2) (a) An agency's collection of tax increment under an adopted economic development project area budget may be extended by:

(i) following the project area budget amendment procedures outlined in Section 17C-3-205; or

(ii) following the procedures outlined in this section.

(b) The base taxable value for an urban renewal project area budget may not be altered as a result of an extension under this section unless otherwise expressly provided for in an interlocal agreement adopted in accordance with Subsection (3)(a).

(3) To extend under this section the agency's collection of tax increment from a taxing entity under a previously approved project area budget, the agency shall:

(a) obtain the approval of the taxing entity through an interlocal agreement;

(b) (i) hold a public hearing on the proposed extension in accordance with Subsection 17C-2-201(2)(d) in the same manner as required for a [draft] proposed project area budget; and

(ii) provide notice of the hearing:

(A) as required by [Part 4, Economic Development] Chapter 1, Part 8, Hearing and Notice Requirements; and

(B) including the proposed period of extension of the project area budget; and

(c) after obtaining the approval of the taxing entity in accordance with Subsection (3)(a), at or after the public hearing, adopt a resolution approving the extension.

(4) After the expiration of a project area budget, an agency may continue to receive tax increment from those taxing entities that have agreed to an extension through an interlocal agreement in accordance with Subsection (3)(a).

(5) (a) A person may contest the agency's adoption of a budget extension within 30 days after the day on which the agency adopts the resolution providing for the extension.

(b) A person who fails to contest a budget extension under Subsection (5)(a):

(i) shall forfeit any claim against the agency's adoption of the extension; and

(ii) may not contest:

(A) a [payment] distribution of tax increment to the agency under the budget, as extended; or

(B) an agency's use of tax increment under the budget, as extended.

Section 106. Section 17C-4-101.1 is enacted to read:

CHAPTER 4. COMMUNITY DEVELOPMENT

17C-4-101.1. Title.

This chapter is known as "Community Development."

Section 107. Section 17C-4-101.2 is enacted to read:

17C-4-101.2. Applicability of chapter.

This chapter applies to a community development project area that is effective:

(1) before May 10, 2016; or

(2) before September 1, 2016, if an agency adopted a resolution in accordance with Section 17C-4-101.5 before April 1, 2016.

Section 108. Section 17C-4-101.5, which is renumbered from Section 17C-4-101 is renumbered and amended to read:

[17C-4-101]. 17C-4-101.5. Resolution authorizing the preparation of a community development proposed project area plan -- Request to adopt resolution.

(1) [An agency] A board may begin the process of adopting a community development project area plan by adopting a resolution that authorizes the preparation of a [draft] proposed community development project area plan.

(2) (a) Any person or any group, association, corporation, or other entity may submit a written request to the board to adopt a resolution under Subsection (1).

(b) A request under Subsection (2)(a) may include plans showing the [community] project area

development proposed for an area within the agency's boundaries.

(c) The board may, in [its] the board's sole discretion, grant or deny a request under Subsection (2)(a).

Section 109. Section 17C-4-102 is amended to read:

17C-4-102. Process for adopting a community development project area plan -- Prerequisites -- Restrictions.

(1) In order to adopt a community development project area plan, after adopting a resolution under Subsection [17C-4-101] 17C-4-101.5(1) the agency shall:

(a) prepare a [~~draft of a~~] proposed community development project area plan and conduct any examination, investigation, and negotiation regarding the project area plan that the agency considers appropriate;

(b) make the [~~draft~~] proposed project area plan available to the public at the agency's offices during normal business hours;

(c) provide notice of the plan hearing as [~~provided in Section 17C-4-402~~] described in Chapter 1, Part 8, Hearing and Notice Requirements;

(d) hold a public hearing on the [~~draft~~] proposed project area plan and, at that public hearing:

(i) allow public comment on:

(A) the [~~draft~~] proposed project area plan; and

(B) whether the [~~draft~~] proposed project area plan should be revised, approved, or rejected; and

(ii) receive all written and hear all oral objections to the [~~draft~~] proposed project area plan;

(e) after holding the plan hearing, at the same meeting or at one or more subsequent meetings consider:

(i) the oral and written objections to the [~~draft~~] proposed project area plan and evidence and testimony for or against adoption of the [~~draft~~] proposed project area plan; and

(ii) whether to revise, approve, or reject the [~~draft~~] proposed project area plan;

(f) approve the [~~draft~~] proposed project area plan, with or without revisions, as the project area plan by a resolution that complies with Section 17C-4-104; and

(g) submit the project area plan to the community legislative body for adoption.

(2) An agency may not propose a community development project area plan under Subsection (1) unless the community in which the proposed project area is located:

(a) has a planning commission; and

(b) has adopted a general plan under:

(i) if the community is a [~~city or town~~] municipality, Title 10, Chapter 9a, Part 4, General Plan; or

(ii) if the community is a county, Title 17, Chapter 27a, Part 4, General Plan.

(3) (a) Except as provided in Subsection (3)(b), a [~~draft~~] proposed project area plan may not be modified to add [~~real property~~] a parcel to the proposed project area unless the board holds a plan hearing to consider the addition and gives notice of the plan hearing as required under [~~Section 17C-4-402~~] Chapter 1, Part 8, Hearing and Notice Requirements.

(b) The notice and hearing requirements under Subsection (3)(a) do not apply to a [~~draft~~] proposed project area plan being modified to add [~~real property~~] a parcel to the proposed project area if:

(i) the [~~property~~] parcel is contiguous to [~~the property~~] one or more parcels already included in the proposed project area under the [~~draft~~] proposed project area plan; and

(ii) the record owner of the property consents to adding the [~~real property~~] parcel to the proposed project area.

Section 110. Section 17C-4-103 is amended to read:

17C-4-103. Community development project area plan requirements.

Each community development project area plan and [~~draft~~] proposed project area plan shall:

(1) describe the boundaries of the project area, subject to Section 17C-1-414, if applicable;

(2) contain a general statement of the land uses, layout of principal streets, population densities, and building intensities of the project area and how they will be affected by the community development;

(3) state the standards that will guide the [~~community~~] project area development;

(4) show how the purposes of this title will be attained by the [~~community~~] project area development;

(5) be consistent with the general plan of the community in which the project area is located and show that the [~~community~~] project area development will conform to the community's general plan;

(6) describe any specific project or projects that are the object of the proposed [~~community~~] project area development;

(7) identify how [~~private developers, if any,~~] a participant will be selected to undertake the [~~community~~] project area development and identify each [~~private developer~~] participant currently involved in the [~~community~~] project area development [~~process~~];

(8) state the reasons for the selection of the project area;

(9) describe the physical, social, and economic conditions existing in the project area;

(10) describe any tax incentives offered private entities for facilities located in the project area;

(11) include an analysis or description of the anticipated public benefit to be derived from the [community] project area development, including:

(a) the beneficial influences upon the tax base of the community; and

(b) the associated business and economic activity likely to be stimulated; and

(12) include other information that the agency determines to be necessary or advisable.

Section 111. Section 17C-4-104 is amended to read:

17C-4-104. Board resolution approving a community development project area plan -- Requirements.

Each board resolution approving a [draft] proposed community development project area plan as the project area plan under Subsection 17C-4-102(1)(f) shall contain:

(1) a [legal] boundary description of the boundaries of the project area that is the subject of the project area plan;

(2) the agency's purposes and intent with respect to the project area;

(3) the project area plan incorporated by reference; and

(4) the board findings and determinations that adoption of the community development project area plan will:

(a) satisfy a public purpose;

(b) provide a public benefit as shown by the analysis described in Subsection 17C-4-103(11);

(c) be economically sound and feasible;

(d) conform to the community's general plan; and

(e) promote the public peace, health, safety, and welfare of the community in which the project area is located.

Section 112. Section 17C-4-106 is amended to read:

17C-4-106. Notice of community development project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.

(1) (a) Upon the community legislative body's adoption of a community development project area plan, the community legislative body shall provide notice as provided in Subsection (1)(b) by:

(i) (A) publishing or causing to be published a notice in a newspaper of general circulation within the agency's boundaries; or

(B) if there is no newspaper of general circulation within the agency's boundaries, causing a notice to

be posted in at least three public places within the agency's boundaries; and

(ii) publishing or causing to be published in accordance with Section 45-1-101.

(b) Each notice under Subsection (1)(a) shall:

(i) set forth the community legislative body's ordinance adopting the community development project area plan or a summary of the ordinance; and

(ii) include a statement that the project area plan is available for general public inspection and the hours for inspection.

(2) The community development project area plan shall become effective on the date of:

(a) if notice was published under Subsection (1)(a), publication of the notice; or

(b) if notice was posted under Subsection (1)(a), posting of the notice.

(3) (a) For a period of 30 days after the effective date of the community development project area plan under Subsection (2), any person [in interest] may contest the project area plan or the procedure used to adopt the project area plan if the plan or procedure fails to comply with applicable statutory requirements.

(b) After the 30-day period under Subsection (3)(a) expires, [no] a person may not contest the community development project area plan or procedure used to adopt the project area plan for any cause.

(4) Upon adoption of the community development project area plan by the [community's] community legislative body, the agency may carry out the project area plan.

(5) Each agency shall make the adopted project area plan available to the [general] public at [its offices] the agency's office during normal business hours.

Section 113. Section 17C-4-107 is amended to read:

17C-4-107. Agency required to transmit and record documents after adoption of community development project area plan.

Within 30 days after the community legislative body adopts, under Section 17C-4-105, a community development project area plan, the agency shall:

(1) record with the recorder of the county in which the project area is located a document containing:

(a) a description of the land within the project area;

(b) a statement that the project area plan for the project area has been adopted; and

(c) the date of adoption;

(2) transmit a copy of the description of the land within the project area and an accurate map or plot indicating the boundaries of the project area to the

Automated Geographic Reference Center created under Section 63F-1-506; and

(3) for a project area plan that provides for ~~the payment of tax increment to~~ the agency to receive tax increment, transmit a copy of the description of the land within the project area, a copy of the community legislative body ordinance adopting the project area plan, and a map or plat indicating the boundaries of the project area to:

(a) the auditor, recorder, attorney, surveyor, and assessor of each county in which any part of the project area is located;

(b) the officer or officers performing the function of auditor or assessor for each taxing entity that does not use the county assessment roll or collect ~~its~~ the taxing entity's taxes through the county;

(c) the legislative body or governing board of each taxing entity;

(d) the State Tax Commission; and

(e) the State Board of Education.

Section 114. Section 17C-4-108 is amended to read:

17C-4-108. Amending a community development project area plan.

(1) Except as provided in Subsection (2) and Section 17C-4-109, the requirements under this part that apply to adopting a community development project area plan apply equally to a proposed amendment of a community development project area plan as though the amendment were a proposed project area plan.

(2) (a) Notwithstanding Subsection (1), ~~an adopted~~ a community development project area plan may be amended without complying with the ~~notice and public hearing~~ requirements of ~~this part~~ Chapter 1, Part 8, Hearing and Notice Requirements, if the proposed amendment:

(i) makes a minor adjustment in the ~~legal~~ boundary description of a project area boundary requested by a county assessor or county auditor to avoid inconsistent property boundary lines; or

(ii) subject to Subsection (2)(b), removes a parcel ~~of real property~~ from a project area because the agency determines that ~~inclusion of the parcel is no longer necessary or desirable to the project area.~~ the parcel is:

(A) tax exempt; or

(B) no longer necessary or desirable to the project area.

(b) An amendment removing a parcel ~~of real property~~ from a community development project area under Subsection (2)(a)(ii) may ~~not~~ be made without the consent of the record property owner of the parcel being removed.

(3) (a) An amendment approved by board resolution under this section may not take effect until adopted by ordinance of the legislative body of

the community in which the project area that is the subject of the project area plan being amended is located.

(b) Upon a community legislative body passing an ordinance adopting an amendment to a community development project area plan, the agency whose project area plan was amended shall comply with the requirements of Sections 17C-4-106 and 17C-4-107 to the same extent as if the amendment were a project area plan.

(4) (a) Within 30 days after the day on which an amendment to a project area plan becomes effective, a person may contest the amendment to the project area plan or the procedure used to adopt the amendment to the project area plan if the amendment or procedure fails to comply with a provision of this title.

(b) After the 30-day period described in Subsection (4)(a) expires, a person may not contest the amendment to the project area plan or procedure used to adopt the amendment to the project area plan for any cause.

Section 115. Section 17C-4-109 is amended to read:

17C-4-109. Expedited community development project area plan.

(1) As used in this section, "tax increment incentive" means the portion of tax increment awarded to an industry or business.

(2) A community development project area plan may be adopted or amended without complying with the notice and public hearing requirements of this part and ~~Section 17C-4-402~~ Chapter 1, Part 8, Hearing and Notice Requirements, if the following requirements are met:

(a) the agency determines by resolution adopted in an open and public meeting the need to create or amend a project area plan on an expedited basis, which resolution shall include a description of why expedited action is needed;

(b) a public hearing on the amendment or adoption of the project area plan is held by the agency;

(c) notice of the public hearing is published at least 14 days before the public hearing on:

(i) the website of the community that created the agency; and

(ii) the Utah Public Notice Website created in Section 63F-1-701;

(d) written consent to the amendment or adoption of the project area plan is given by all record property owners within the existing or proposed project area;

(e) each taxing entity ~~and public entity~~ that will be affected by the tax increment incentive ~~enter~~ enters into or ~~amend~~ amends an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, and Sections 17C-4-201, 17C-4-203, and 17C-4-204;

(f) the primary market for the goods or services that will be created by the industry or business entity that will receive a tax increment incentive from the amendment or adoption of the project area plan is outside of the state;

(g) the industry or business entity that will receive a tax increment incentive from the amendment or adoption of the project area plan is not primarily engaged in retail trade; and

(h) a tax increment incentive is only provided to an industry or business entity:

(i) on a postperformance basis as described in Subsection (3); and

(ii) on an annual basis after the tax increment is received by the agency.

(3) An industry or business entity may only receive a tax increment incentive under this section after entering into an agreement with the agency that sets postperformance targets that shall be met before the industry or business entity may receive the tax increment incentive, including annual targets for:

(a) capital investment in the project area;

(b) the increase in the taxable value of the project area;

(c) the number of new jobs created in the project area;

(d) the average wages of the jobs created, which shall be at least 110% of the prevailing wage of the county where the project area is located; and

(e) the amount of local vendor opportunity generated by the industry or business entity.

Section 116. Section 17C-4-201 is amended to read:

17C-4-201. Consent of a taxing entity to an agency receiving tax increment or sales tax funds for community development project.

(1) An agency may negotiate with a taxing entity ~~and public entity~~ for the taxing entity's ~~or public entity's~~ consent to the agency receiving the taxing entity's ~~or public entity's tax increment or sales tax revenues, or both,~~ project area funds for the purpose of providing ~~funds~~ money to carry out a proposed or adopted community development project area plan.

(2) The consent of a taxing entity ~~or public entity~~ under Subsection (1) may be expressed in:

(a) a resolution adopted by the taxing entity ~~or public entity~~; or

(b) an interlocal agreement, under Title 11, Chapter 13, Interlocal Cooperation Act, between the taxing entity ~~or public entity~~ and the agency.

(3) Before an agency may use ~~tax increment or sales tax revenues collected~~ project area funds received under a resolution or interlocal agreement adopted for the purpose of providing ~~funds~~ money

to ~~carry out~~ implement a proposed or adopted community development project area plan, the agency shall:

(a) obtain a written certification, signed by an attorney licensed to practice law in this state, stating that the agency and the taxing entity have each followed all legal requirements relating to the adoption of the resolution or interlocal agreement, respectively; and

(b) provide a signed copy of the certification described in Subsection (3)(a) to the appropriate taxing entity.

(4) A resolution adopted or interlocal agreement entered under Subsection (2) on or after March 30, 2009 shall specify:

(a) if the resolution or interlocal agreement provides for the agency to be paid tax increment:

(i) the method of calculating the amount of the taxing entity's tax increment from the project area that will be paid to the agency, including the agreed base year and agreed base taxable value;

(ii) the ~~number of tax years that the agency will be paid the taxing entity's tax increment from the project area~~ project area funds collection period; and

(iii) the percentage of the taxing entity's tax increment or maximum cumulative dollar amount of the taxing entity's tax increment that the agency will be paid; and

(b) if the resolution or interlocal agreement provides for the agency to be paid a ~~public~~ taxing entity's sales and use tax revenue:

(i) the method of calculating the amount of the ~~public~~ taxing entity's sales and use tax revenue that the agency will be paid;

(ii) ~~the number of tax years that the agency will be paid the sales tax revenue~~ the project area funds collection period; and

(iii) the percentage of sales and use tax revenue or the maximum cumulative dollar amount of sales and use tax revenue that the agency will be paid.

(5) (a) Unless the taxing entity otherwise agrees, an agency may not be paid a taxing entity's tax increment:

(i) that exceeds the percentage or maximum cumulative dollar amount of tax increment specified in the resolution or interlocal agreement under Subsection (2); or

(ii) for more tax years than specified in the resolution or interlocal agreement under Subsection (2).

(b) Unless the ~~public~~ taxing entity otherwise agrees, an agency may not be paid a ~~public~~ taxing entity's sales and use tax revenue:

(i) that exceeds the percentage or maximum cumulative dollar amount of sales and use tax revenue specified in the resolution or interlocal agreement under Subsection (2); or

(ii) for more tax years than specified in the resolution or interlocal agreement under Subsection (2).

(6) A school district may consent to an agency receiving tax increment from the school district's basic levy only to the extent that the school district also consents to the agency receiving tax increment from the school district's local levy.

(7) (a) A resolution or interlocal agreement under this section may be amended from time to time.

(b) Each amendment of a resolution or interlocal agreement shall be subject to and receive the benefits of the provisions of this part to the same extent as if the amendment were an original resolution or interlocal agreement.

(8) A taxing entity's ~~or public entity's~~ consent to an agency receiving funds under this section is not subject to the requirements of Section 10-8-2.

(9) (a) For purposes of this Subsection (9), "successor taxing entity" means any taxing entity that:

(i) is created after the date of adoption of a resolution or execution of an interlocal agreement under this section; and

(ii) levies a tax on any parcel of property located within the project area that is the subject of the resolution or the interlocal agreement described in Subsection (9)(a)(i).

(b) A resolution or interlocal agreement executed by a taxing entity under this section may be enforced by or against any successor taxing entity.

Section 117. Section 17C-4-202 is amended to read:

17C-4-202. Resolution or interlocal agreement to provide project area funds for the community development project area plan -- Notice -- Effective date of resolution or interlocal agreement -- Time to contest resolution or interlocal agreement -- Availability of resolution or interlocal agreement.

(1) The approval and adoption of each resolution or interlocal agreement under Subsection 17C-4-201(2) shall be in an open and public meeting.

(2) (a) Upon the adoption of a resolution or interlocal agreement under Section 17C-4-201, the agency shall provide notice as provided in Subsection (2)(b) by:

(i) (A) publishing or causing to be published a notice in a newspaper of general circulation within the agency's boundaries; or

(B) if there is no newspaper of general circulation within the agency's boundaries, causing a notice to be posted in at least three public places within the agency's boundaries; and

(ii) publishing or causing to be published a notice on the Utah Public Notice Website created in Section 63F-1-701.

(b) Each notice under Subsection (2)(a) shall:

(i) set forth a summary of the resolution or interlocal agreement; and

(ii) include a statement that the resolution or interlocal agreement is available for ~~general~~ public inspection and the hours of inspection.

(3) The resolution or interlocal agreement shall become effective on the date of:

(a) if notice was published under Subsection (2)(a)(i)(A) or (2)(a)(ii), publication of the notice; or

(b) if notice was posted under Subsection (2)(a)(i)(B), posting of the notice.

(4) (a) For a period of 30 days after the effective date of the resolution or interlocal agreement under Subsection (3), any person ~~in interest~~ may contest the resolution or interlocal agreement or the procedure used to adopt the resolution or interlocal agreement if the resolution or interlocal agreement or procedure fails to comply with applicable statutory requirements.

(b) After the 30-day period under Subsection (4)(a) expires, a person may not ~~for any cause~~ contest:

(i) the resolution or interlocal agreement;

(ii) a ~~payment~~ distribution of tax increment to the agency under the resolution or interlocal agreement; or

(iii) the agency's use of ~~tax increment~~ project area funds under the resolution or interlocal agreement.

(5) Each agency that is to receive project area funds under a resolution or interlocal agreement under Section 17C-4-201 and each taxing entity ~~or public entity~~ that approves a resolution or enters into an interlocal agreement under Section 17C-4-201 shall make the resolution or interlocal agreement, as the case may be, available at its the taxing entity's offices to the ~~general~~ public for inspection and copying during normal business hours.

Section 118. Section 17C-4-203 is amended to read:

17C-4-203. Requirement to file a copy of the resolution or interlocal agreement -- County payment of tax increment to the agency.

(1) Each agency that is to receive funds under a resolution or interlocal agreement under Section 17C-4-201 shall, within 30 days after the effective date of the resolution or interlocal agreement, file a copy of it with:

(a) the State Tax Commission, the State Board of Education, and the state auditor; and

(b) the auditor of the county in which the project area is located, if the resolution or interlocal agreement provides for the agency to receive tax increment from the taxing entity ~~or public entity~~ that adopted the resolution or entered into the interlocal agreement.

(2) Each county that collects property tax on property within a community development project area shall, in the manner and at the time provided in Section 59-2-1365, pay and distribute to the agency the tax increment that the agency is [entitled] authorized to receive under a resolution approved or an interlocal agreement adopted under Section 17C-4-201.

Section 119. Section 17C-4-204 is amended to read:

17C-4-204. Adoption of a budget for a community development project area plan -- Amendment.

(1) An agency may prepare and, by resolution adopted at a regular or special meeting of the [agency] board, adopt a community development project area budget setting forth:

(a) the anticipated costs, including administrative costs, of implementing the community development project area plan; and

(b) the tax increment, sales and use tax revenue, and other revenue the agency anticipates receiving to fund the project.

(2) An agency may, by resolution adopted at a regular or special meeting of the [agency] board, amend a budget adopted under Subsection (1).

(3) Each resolution to adopt or amend a budget under this section shall appear as an item on the agenda for the regular or special [agency] board meeting at which the resolution is adopted without additional required notice.

(4) An agency is not required to obtain [approval of the] taxing entity or taxing entity committee [for] approval to adopt or amend a community development project area budget.

Section 120. Section 17C-5-101 is enacted to read:

CHAPTER 5. COMMUNITY REINVESTMENT

Part 1. Community Reinvestment Project Area Plan

17C-5-101. Title.

(1) This chapter is known as "Community Reinvestment."

(2) This part is known as "Community Reinvestment Project Area Plan."

Section 121. Section 17C-5-102 is enacted to read:

17C-5-102. Applicability of chapter.

This chapter applies to a community reinvestment project area created on or after May 10, 2016.

Section 122. Section 17C-5-103 is enacted to read:

17C-5-103. Initiating a community reinvestment project area plan.

(1) A board shall initiate the process of adopting a community reinvestment project area plan by adopting a survey area resolution that:

(a) designates a geographic area located within the agency's boundaries as a survey area;

(b) contains a description or map of the boundaries of the survey area;

(c) contains a statement that the survey area requires study to determine whether project area development is feasible within one or more proposed community reinvestment project areas within the survey area; and

(d) authorizes the agency to:

(i) prepare a proposed community reinvestment project area plan for each proposed community reinvestment project area; and

(ii) conduct any examination, investigation, or negotiation regarding the proposed community reinvestment project area that the agency considers appropriate.

(2) If an agency anticipates an activity described in Subsection 17C-5-402(1) within the survey area, the resolution described in Subsection (1) shall include:

(a) a statement that the survey area requires study to determine whether blight exists within the survey area; and

(b) authorization for the agency to conduct a blight study in accordance with Section 17C-5-403.

Section 123. Section 17C-5-104 is enacted to read:

17C-5-104. Process for adopting a community reinvestment project area plan -- Prerequisites -- Restrictions.

(1) An agency may not propose a community reinvestment project area plan unless the community in which the proposed community reinvestment project area plan is located:

(a) has a planning commission; and

(b) has adopted a general plan under:

(i) if the community is a municipality, Title 10, Chapter 9a, Part 4, General Plan; or

(ii) if the community is a county, Title 17, Chapter 27a, Part 4, General Plan.

(2) (a) Before an agency may adopt a proposed community reinvestment project area plan, the agency shall make a blight determination in accordance with Section 17C-5-402 if the agency anticipates an activity described in Subsection 17C-5-402(1) for which a blight determination is required.

(b) If applicable, an agency may not approve a community reinvestment project area plan more than one year after the adoption of a resolution making a finding of blight under Section 17C-5-402.

(3) To adopt a community reinvestment project area plan, an agency shall:

(a) prepare a proposed community reinvestment project area plan in accordance with Section 17C-5-105;

(b) make the proposed community reinvestment project area plan available to the public at the agency's office during normal business hours for at least 30 days before the plan hearing described in Subsection (3)(e);

(c) before holding the plan hearing described in Subsection (3)(e), provide an opportunity for the State Board of Education and each taxing entity that levies or imposes a tax within the proposed community reinvestment project area to consult with the agency regarding the proposed community reinvestment project area plan;

(d) provide notice of the plan hearing in accordance with Chapter 1, Part 8, Hearing and Notice Requirements;

(e) hold a plan hearing on the proposed community reinvestment project area plan and, at the plan hearing:

(i) allow public comment on:

(A) the proposed community reinvestment project area plan; and

(B) whether the agency should revise, approve, or reject the proposed community reinvestment project area plan; and

(ii) receive all written and oral objections to the proposed community reinvestment project area plan; and

(f) following the plan hearing described in Subsection (3)(e), or at a subsequent agency meeting:

(i) consider:

(A) the oral and written objections to the proposed community reinvestment project area plan and evidence and testimony for and against adoption of the proposed community reinvestment project area plan; and

(B) whether to revise, approve, or reject the proposed community reinvestment project area plan;

(ii) adopt a resolution in accordance with Section 17C-5-108 that approves the proposed community reinvestment project area plan, with or without revisions, as the community reinvestment project area plan; and

(iii) submit the community reinvestment project area plan to the community legislative body for adoption.

(4) (a) Except as provided in Subsection (4)(b), an agency may not modify a proposed community reinvestment project area plan to add a parcel to the proposed community reinvestment project area unless the agency holds a plan hearing to consider the addition and gives notice of the plan hearing in

accordance with Chapter 1, Part 8, Hearing and Notice Requirements.

(b) The notice and hearing requirements described in Subsection (4)(a) do not apply to a proposed community reinvestment project area plan being modified to add a parcel to the proposed community reinvestment project area if:

(i) the parcel is contiguous to one or more parcels already included in the proposed community reinvestment project area under the proposed community reinvestment project area plan;

(ii) the record owner of the parcel consents to adding the parcel to the proposed community reinvestment project area; and

(iii) the parcel is located within the survey area.

Section 124. Section 17C-5-105 is enacted to read:

17C-5-105. Community reinvestment project area plan requirements.

(1) Each community reinvestment project area plan and proposed community reinvestment project area plan shall:

(a) subject to Section 17C-1-414, if applicable, include a boundary description and a map of the community reinvestment project area;

(b) contain a general statement of the existing land uses, layout of principal streets, population densities, and building intensities of the community reinvestment project area and how each will be affected by the project area development;

(c) state the standards that will guide the project area development;

(d) show how the project area development will further purposes of this title;

(e) be consistent with the general plan of the community in which the community reinvestment project area is located and show that the project area development will conform to the community's general plan;

(f) if applicable, describe how project area development will eliminate or reduce blight in the community reinvestment project area;

(g) describe any specific project area development that is the object of the community reinvestment project area plan;

(h) if applicable, explain how the agency plans to select a participant;

(i) state each reason the agency selected the community reinvestment project area;

(j) describe the physical, social, and economic conditions that exist in the community reinvestment project area;

(k) describe each type of financial assistance that the agency anticipates offering a participant;

(l) report the results of the public benefit analysis described in Subsection (2);

(m) if applicable, state that the agency shall comply with Section 9-8-404 as required under Section 17C-5-106;

(n) state whether the community reinvestment project area plan or proposed community reinvestment project area plan is subject to a taxing entity committee or an interlocal agreement; and

(o) include other information that the agency determines to be necessary or advisable.

(2) (a) An agency shall conduct an analysis in accordance with Subsection (2)(b) to determine whether the proposed community reinvestment project area plan will provide a public benefit.

(b) The analysis described in Subsection (2)(a) shall consider:

(i) the benefit of any financial assistance or other public subsidy proposed to be provided by the agency, including:

(A) an evaluation of the reasonableness of the costs of the proposed project area development;

(B) efforts that have been, or will be made, to maximize private investment;

(C) the rationale for use of project area funds, including an analysis of whether the proposed project area development might reasonably be expected to occur in the foreseeable future solely through private investment; and

(D) an estimate of the total amount of project area funds that the agency intends to spend on project area development and the length of time over which the project area funds will be spent; and

(ii) the anticipated public benefit derived from the proposed project area development, including:

(A) the beneficial influences on the community's tax base;

(B) the associated business and economic activity the proposed project area development will likely stimulate; and

(C) whether adoption of the proposed community reinvestment project area plan is necessary and appropriate to undertake the proposed project area development.

Section 125. Section 17C-5-106 is enacted to read:

17C-5-106. Existing and historic buildings and uses in a community reinvestment project area.

An agency shall comply with Section 9-8-404 as though the agency is a state agency if:

(1) any of the existing buildings or uses in a community reinvestment project area are included in, or eligible for inclusion in, the National Register of Historic Places or the State Register; and

(2) the agency spends agency funds on the demolition or rehabilitation of existing buildings described in Subsection (1).

Section 126. Section 17C-5-107 is enacted to read:

17C-5-107. Objections to a community reinvestment project area plan.

(1) A person may object to a proposed community reinvestment project area plan:

(a) in writing at any time before or during a plan hearing; or

(b) orally during a plan hearing.

(2) An agency may not approve a proposed community reinvestment project area plan if, after receiving public comment at a plan hearing in accordance with Subsection 17C-5-104(3)(e)(i), the record property owners of at least 51% of the private land area within the most recently proposed community reinvestment project area object to the proposed community reinvestment project area plan.

Section 127. Section 17C-5-108 is enacted to read:

17C-5-108. Board resolution approving a community reinvestment project area plan -- Requirements.

A board resolution approving a proposed community reinvestment area plan as the community reinvestment project area plan under Section 17C-5-104 shall contain:

(1) a boundary description of the community reinvestment project area that is the subject of the community reinvestment project area plan;

(2) the agency's purposes and intent with respect to the community reinvestment project area;

(3) the proposed community reinvestment project area plan incorporated by reference;

(4) the board findings and determinations that the proposed community reinvestment project area plan:

(a) serves a public purpose;

(b) produces a public benefit as demonstrated by the analysis described in Subsection 17C-5-105(2);

(c) is economically sound and feasible;

(d) conforms to the community's general plan; and

(e) promotes the public peace, health, safety, and welfare of the community in which the proposed community reinvestment project area is located; and

(5) if the board made a finding of blight under Section 17C-5-402, a statement that the board made a finding of blight within the proposed community reinvestment project area and the date on which the board made the finding of blight.

Section 128. Section 17C-5-109 is enacted to read:

17C-5-109. Community reinvestment project area plan to be adopted by community legislative body.

(1) A proposed community reinvestment project area plan approved by board resolution under Section 17C-5-104 may not take effect until the community legislative body:

(a) by ordinance, adopts the proposed community reinvestment project area plan; and

(b) provides notice in accordance with Section 17C-5-110.

(2) An ordinance described in Subsection (1)(a) shall designate the community reinvestment project area plan as the official plan of the community reinvestment project area.

Section 129. Section 17C-5-110 is enacted to read:

17C-5-110. Notice of community reinvestment project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.

(1) (a) Upon a community legislative body's adoption of a community reinvestment project area plan in accordance with Section 17C-5-109, or an amendment to a community reinvestment project area plan in accordance with Section 17C-5-112, the community legislative body shall provide notice of the adoption or amendment in accordance with Subsection (1)(b) by:

(i) (A) causing a notice to be published in a newspaper of general circulation within the community; or

(B) if there is no newspaper of general circulation within the community, causing a notice to be posted in at least three public places within the community; and

(ii) posting a notice on the Utah Public Notice Website described in Section 63F-1-701.

(b) A notice described in Subsection (1)(a) shall include:

(i) a copy of the community legislative body's ordinance, or a summary of the ordinance, that adopts the community reinvestment project area plan; and

(ii) a statement that the community reinvestment project area plan is available for public inspection and the hours for inspection.

(2) A community reinvestment project area plan is effective on the day on which notice of adoption is published or posted in accordance with Subsection (1)(a).

(3) A community reinvestment project area is considered created the day on which the community reinvestment project area plan becomes effective as described in Subsection (2).

(4) (a) Within 30 days after the day on which a community reinvestment project area plan is effective, a person may contest the community reinvestment project area plan or the procedure used to adopt the community reinvestment project area plan if the community reinvestment project

area plan or the procedure fails to comply with a provision of this title.

(b) After the 30-day period described in Subsection (4)(a) expires, a person may not contest the community reinvestment project area plan or the procedure used to adopt the community reinvestment project area plan.

(5) Upon adoption of a community reinvestment project area plan by the community legislative body, the agency may implement the community reinvestment project area plan.

(6) The agency shall make the community reinvestment project area plan available to the public at the agency's office during normal business hours.

Section 130. Section 17C-5-111 is enacted to read:

17C-5-111. Agency required to transmit and record documentation after adoption of community reinvestment project area plan.

Within 30 days after the day on which a community legislative body adopts a community reinvestment project area plan under Section 17C-5-109, the agency shall:

(1) record with the recorder of the county in which the community reinvestment project area is located a document containing:

(a) the name of the community reinvestment project area;

(b) a boundary description of the community reinvestment project area; and

(c) (i) a statement that the community legislative body adopted the community reinvestment project area plan; and

(ii) the day on which the community legislative body adopted the community reinvestment project area plan;

(2) transmit a copy of a description of the land within the community reinvestment project area and an accurate map or plat indicating the boundaries of the community reinvestment project area to the Automated Geographic Reference Center created in Section 63F-1-506; and

(3) for a community reinvestment project area plan that provides for the agency to receive tax increment, transmit a copy of a description of the land within the community reinvestment project area, a copy of the community legislative body ordinance adopting the community reinvestment project area plan, and an accurate map or plat indicating the boundaries of the community reinvestment project area to:

(a) the auditor, recorder, county or district attorney, surveyor, and assessor of each county in which any part of the community reinvestment project area is located;

(b) the officer or officers performing the function of auditor or assessor for each taxing entity that

does not use the county assessment roll or collect the taxing entity's taxes through the county;

(c) the legislative body or governing board of each taxing entity;

(d) the State Tax Commission; and

(e) the State Board of Education.

Section 131. Section 17C-5-112 is enacted to read:

17C-5-112. Amending a community reinvestment project area plan.

(1) An agency may amend a community reinvestment project area plan in accordance with this section.

(2) (a) If an amendment proposes to enlarge a community reinvestment project area's geographic area, the agency shall:

(i) comply with this part as though the agency were creating a community reinvestment project area;

(ii) if the agency anticipates receiving project area funds from the area proposed to be added to the community reinvestment project area, before the agency may collect project area funds:

(A) for a community reinvestment project area plan that is subject to a taxing entity committee, obtain approval to receive tax increment from the taxing entity committee; or

(B) for a community reinvestment project area plan that is subject to an interlocal agreement, obtain the approval of the taxing entity that is a party to the interlocal agreement; and

(iii) if the agency anticipates activity within the area proposed to be added to the community reinvestment project area that requires a finding of blight under Subsection 17C-5-402(1), follow the procedures described in Section 17C-5-402.

(b) The base year for the area proposed to be added to the community reinvestment project area shall be determined using the date of:

(i) the taxing entity committee's consent as described in Subsection (2)(a)(ii)(A); or

(ii) the taxing entity's consent as described in Subsection (2)(a)(ii)(B).

(3) If an amendment does not propose to enlarge a community reinvestment project area's geographic area, the board may adopt a resolution approving the amendment after the agency:

(a) if the amendment does not propose to allow the agency to receive a greater amount of project area funds or to extend a project area funds collection period:

(i) gives notice in accordance with Section 17C-1-806; and

(ii) holds a public hearing on the proposed amendment that meets the requirements described in Subsection 17C-5-104(2); or

(b) if the amendment proposes to also allow the agency to receive a greater amount of project area funds or to extend a project area funds collection period:

(i) complies with Subsection (3)(a)(i) and (ii); and

(ii) (A) for a community reinvestment project area plan that is subject to a taxing entity committee, obtains approval from the taxing entity committee; or

(B) for a community reinvestment project area plan that is subject to an interlocal agreement, obtains approval to receive project area funds from the taxing entity that is a party to the interlocal agreement.

(4) An agency may amend a community reinvestment project area plan without obtaining the consent of a taxing entity or a taxing entity committee and without providing notice or holding a public hearing if the amendment:

(a) makes a minor adjustment in the community reinvestment project area boundary that is requested by a county assessor or county auditor to avoid inconsistent property boundary lines; or

(b) removes a parcel from a community reinvestment project area because the agency determines that the parcel is:

(i) tax exempt;

(ii) no longer blighted; or

(iii) no longer necessary or desirable to the project area.

(5) (a) An amendment approved by board resolution under this section may not take effect until the community legislative body adopts an ordinance approving the amendment.

(b) Upon the community legislative body adopting an ordinance approving an amendment under Subsection (5)(a), the agency shall comply with the requirements described in Sections 17C-5-110 and 17C-5-111 as if the amendment were a community reinvestment project area plan.

(6) (a) Within 30 days after the day on which an amendment to a project area plan becomes effective, a person may contest the amendment to the project area plan or the procedure used to adopt the amendment to the project area plan if the amendment or procedure fails to comply with a provision of this title.

(b) After the 30-day period described in Subsection (6)(a) expires, a person may not contest the amendment to the project area plan or procedure used to adopt the amendment to the project area plan for any cause.

Section 132. Section 17C-5-113 is enacted to read:

17C-5-113. Expedited community reinvestment project area plan.

(1) As used in this section:

(a) "Qualified business entity" means a business entity that:

(i) has a primary market for the qualified business entity's goods or services outside of the state; and

(ii) is not primarily engaged in retail sales.

(b) "Tax increment incentive" means the portion of an agency's tax increment that is paid to a qualified business entity for the purpose of implementing a community reinvestment project area plan.

(2) An agency and a qualified business entity may, in accordance with Subsection (3), enter into an agreement that allows the qualified business entity to receive a tax increment incentive.

(3) An agreement described in Subsection (2) shall set annual postperformance targets for:

(a) capital investment within the community reinvestment project area;

(b) the number of new jobs created within the community reinvestment project area;

(c) the average wage of the jobs described in Subsection (3)(b) that is at least 110% of the prevailing wage of the county within which the community reinvestment project area is located; and

(d) the amount of local vendor opportunity generated by the qualified business entity.

(4) A qualified business entity may only receive a tax increment incentive:

(a) if the qualified business entity complies with the agreement described in Subsection (3);

(b) on a postperformance basis; and

(c) on an annual basis after the agency receives tax increment from a taxing entity.

(5) An agency may create or amend a community reinvestment project area plan for the purpose of providing a tax increment incentive without complying with the requirements described in Chapter 1, Part 8, Hearing and Notice Requirements, if:

(a) the agency:

(i) holds a public hearing to consider the need to create or amend a community reinvestment project area plan on an expedited basis;

(ii) posts notice at least 14 days before the day on which the public hearing described in Subsection (5)(a)(i) is held on:

(A) the community's website; and

(B) the Utah Public Notice Website as described in Section 63F-1-701; and

(iii) at the hearing described in Subsection (5)(a)(i), adopts a resolution to create or amend the community reinvestment project area plan on an expedited basis;

(b) all record property owners within the existing or proposed community reinvestment project area plan give written consent; and

(c) each taxing entity affected by the tax increment incentive consents and enters into an interlocal agreement with the agency authorizing the agency to pay a tax increment incentive to the qualified business entity.

Section 133. Section 17C-5-201 is enacted to read:

Part 2. Community Reinvestment Project Area Funds

17C-5-201. Title.

This part is known as "Community Reinvestment Project Area Funds."

Section 134. Section 17C-5-202 is enacted to read:

17C-5-202. Community reinvestment project area funding options.

(1) (a) Except as provided in Subsection (1)(b), for the purpose of receiving project area funds for use within a community reinvestment project area, an agency shall negotiate and enter into an interlocal agreement with a taxing entity in accordance with Section 17C-5-204 to receive all or a portion of the taxing entity's tax increment or sales and use tax revenue in accordance with the interlocal agreement.

(b) If an agency plans to use eminent domain to acquire property within a community reinvestment project area, the agency shall create a taxing entity committee as described in Section 17C-1-402 and receive tax increment in accordance with Section 17C-5-203.

(2) An agency shall comply with Chapter 5, Part 3, Community Reinvestment Project Area Budget, regardless of whether an agency enters into an interlocal agreement under Subsection (1)(a) or creates a taxing entity committee under Subsection (1)(b).

Section 135. Section 17C-5-203 is enacted to read:

17C-5-203. Community reinvestment project area subject to taxing entity committee -- Tax increment.

(1) This section applies to a community reinvestment project area that is subject to a taxing entity committee under Subsection 17C-5-202(1)(b).

(2) Subject to the taxing entity committee's approval of a community reinvestment project area budget under Section 17C-5-304, and for the purpose of implementing a community reinvestment project area plan, an agency may receive up to 100% of a taxing entity's tax increment, or any specified dollar amount of tax increment, for any period of time.

(3) Notwithstanding Subsection (2), an agency that adopts a community reinvestment project area plan that is subject to a taxing entity committee

may negotiate and enter into an interlocal agreement with a taxing entity and receive all or a portion of the taxing entity's sales and use tax revenue for any period of time.

Section 136. Section 17C-5-204 is enacted to read:

17C-5-204. Community reinvestment

project area subject to interlocal agreement -- Consent of a taxing entity to an agency receiving project area funds.

(1) As used in this section, "successor taxing entity" means a taxing entity that:

(a) is created after the day on which an interlocal agreement is executed to allow an agency to receive a taxing entity's project area funds; and

(b) levies or imposes a tax within the community reinvestment project area.

(2) This section applies to a community reinvestment project area that is subject to an interlocal agreement under Subsection 17C-5-202(1)(a).

(3) For the purpose of implementing a community reinvestment project area plan, an agency may negotiate with a taxing entity for all or a portion of the taxing entity's project area funds.

(4) A taxing entity may agree to allow an agency to receive the taxing entity's project area funds by executing an interlocal agreement with the agency in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

(5) Before an agency may use project area funds received under an interlocal agreement described in Subsection (4), the agency shall:

(a) obtain a written certification, signed by an attorney licensed to practice law in the state, stating that the agency and the taxing entity have each followed all legal requirements relating to the adoption of the interlocal agreement; and

(b) provide a signed copy of the certification described in Subsection (5)(a) to the taxing entity.

(6) An interlocal agreement described in Subsection (4) shall:

(a) if the interlocal agreement provides for the agency to receive tax increment, state:

(i) the method of calculating the amount of the taxing entity's tax increment from the community reinvestment project area that the agency receives, including the base year and base taxable value;

(ii) the project area funds collection period; and

(iii) the percentage of the taxing entity's tax increment or the maximum cumulative dollar amount of the taxing entity's tax increment that the agency receives;

(b) if the interlocal agreement provides for the agency to receive the taxing entity's sales and use tax revenue, state:

(i) the method of calculating the amount of the taxing entity's sales and use tax revenue that the agency receives;

(ii) the project area funds collection period; and

(iii) the percentage of sales and use tax revenue or the maximum cumulative dollar amount of sales and use tax revenue that the agency receives; and

(c) include a copy of the community reinvestment project area budget.

(7) A school district may consent to allow an agency to receive tax increment from the school district's basic levy only to the extent that the school district also consents to allow the agency to receive tax increment from the school district's local levy.

(8) The parties may amend an interlocal agreement under this section by mutual consent.

(9) A taxing entity's consent to allow an agency to receive project area funds under this section is not subject to the requirements of Section 10-8-2.

(10) An interlocal agreement executed by a taxing entity under this section may be enforced by or against any successor taxing entity.

Section 137. Section 17C-5-205 is enacted to read:

17C-5-205. Interlocal agreement to provide project area funds for the community reinvestment project area subject to interlocal agreement -- Notice -- Effective date of interlocal agreement -- Time to contest interlocal agreement -- Availability of interlocal agreement.

(1) The agency shall approve and adopt an interlocal agreement described in Section 17C-5-204 at an open and public meeting.

(2) (a) Upon the execution of an interlocal agreement described in Section 17C-5-204, the agency shall provide notice of the execution by:

(i) (A) publishing or causing to be published a notice in a newspaper of general circulation within the agency's boundaries; or

(B) if there is no newspaper of general circulation within the agency's boundaries, causing the notice to be posted in at least three public places within the agency's boundaries; and

(ii) publishing or causing the notice to be published on the Utah Public Notice Website created in Section 63F-1-701.

(b) A notice described in Subsection (2)(a) shall include:

(i) a summary of the interlocal agreement; and

(ii) a statement that the interlocal agreement is available for public inspection and the hours for inspection.

(3) An interlocal agreement described in Section 17C-5-204 is effective the day on which the notice described in Subsection (2) is published or posted in accordance with Subsection (2)(a).

(4) (a) Within 30 days after the day on which the interlocal agreement is effective, a person may contest the interlocal agreement or the procedure used to adopt the interlocal agreement if the interlocal agreement or procedure fails to comply with a provision of this title.

(b) After the 30-day period described in Subsection (4)(a) expires, a person may not contest:

(i) the interlocal agreement;

(ii) a distribution of tax increment to the agency under the interlocal agreement; or

(iii) the agency's use of project area funds under the interlocal agreement.

(5) A taxing entity that enters into an interlocal agreement under Section 17C-5-204 shall make a copy of the interlocal agreement available to the public at the taxing entity's office for inspection and copying during normal business hours.

Section 138. Section 17C-5-206 is enacted to read:

17C-5-206. Requirement to file a copy of the interlocal agreement -- County payment of tax increment.

(1) An agency that receives project area funds under an interlocal agreement shall, within 30 days after the day on which the interlocal agreement is effective, file a copy of the interlocal agreement with:

(a) the State Tax Commission, the State Board of Education, and the state auditor; and

(b) the auditor of the county in which the community reinvestment project area is located, if the interlocal agreement authorizes the agency to receive tax increment.

(2) A county that collects property tax on property within a community reinvestment project area that is subject to an interlocal agreement shall, in accordance with Section 59-2-1365, pay and distribute to the agency the tax increment that the agency is authorized to receive under the interlocal agreement.

Section 139. Section 17C-5-301 is enacted to read:

Part 3. Community Reinvestment Project Area Budget

17C-5-301. Title.

This part is known as "Community Reinvestment Project Area Budget."

Section 140. Section 17C-5-302 is enacted to read:

17C-5-302. Procedure for adopting a community reinvestment project area budget -- Contesting the budget -- Time limit.

(1) An agency shall adopt a community reinvestment project area budget in accordance with this part.

(2) To adopt a community reinvestment project area budget, an agency shall:

(a) prepare a proposed community reinvestment project area budget in accordance with Section 17C-5-303;

(b) obtain the consent of the taxing entity committee or taxing entity in accordance with Section 17C-5-304;

(c) make a copy of the proposed community reinvestment project area budget available to the public at the agency's office during normal business hours for at least 30 days before the budget hearing described in Subsection (2)(e);

(d) provide notice of the budget hearing in accordance with Chapter 1, Part 8, Hearing and Notice Requirements;

(e) hold a budget hearing on the proposed community reinvestment project area budget and, at the budget hearing, allow public comment on:

(i) the proposed community reinvestment project area budget; and

(ii) whether the agency should revise, adopt, or reject the proposed community reinvestment project area budget; and

(f) after the budget hearing described in Subsection (2)(e), or at a subsequent meeting:

(i) consider the comments and information from the budget hearing relating to the proposed community reinvestment project area budget; and

(ii) reject or adopt by resolution the proposed community reinvestment project area budget, with any revisions, as the community reinvestment project area budget.

(3) (a) Within 30 days after the day on which the agency adopts a community reinvestment project area budget, a person may contest the community reinvestment project area budget or the procedure used to adopt the community reinvestment project area budget if the community reinvestment project area budget or procedure fails to comply with a provision of this title.

(b) After the 30-day period described in Subsection (3)(a) expires, a person may not contest:

(i) the community reinvestment project area budget or the procedure used by the taxing entity, the taxing entity committee, or the agency to adopt the community reinvestment project area budget;

(ii) a payment to the agency under the community reinvestment project area budget; or

(iii) the agency's use of project area funds under the community reinvestment project area budget.

Section 141. Section 17C-5-303 is enacted to read:

17C-5-303. Community reinvestment project area budget -- Requirements.

A community reinvestment project area budget shall include:

(1) if the agency receives tax increment:

(a) the base taxable value;

(b) the projected amount of tax increment to be generated within the community reinvestment project area;

(c) each project area funds collection period;

(d) if applicable, the projected amount of tax increment to be paid to other taxing entities in accordance with Section 17C-1-410;

(e) if the area from which tax increment is collected is less than the entire community reinvestment project area:

(i) a boundary description of the portion or portions of the community reinvestment project area from which the agency receives tax increment; and

(ii) for each portion described in Subsection (1)(e)(i), the period of time during which tax increment is collected;

(f) the percentage of tax increment the agency is authorized to receive from the community reinvestment project area; and

(g) the maximum cumulative dollar amount of tax increment the agency is authorized to receive from the community reinvestment project area;

(2) if the agency receives sales and use tax revenue:

(a) the percentage and total amount of sales and use tax revenue to be paid to the agency; and

(b) each project area funds collection period;

(3) the amount of project area funds the agency will use to implement the community reinvestment project area plan, including the estimated amount of project area funds that will be used for land acquisition, public improvements, infrastructure improvements, or any loans, grants, or other incentives to private or public entities;

(4) the agency's combined incremental value;

(5) the amount of project area funds that will be used to cover the cost of administering the community reinvestment project area plan; and

(6) for property that the agency owns and expects to sell, the expected total cost of the property to the agency and the expected sale price.

Section 142. Section 17C-5-304 is enacted to read:

17C-5-304. Consent of each taxing entity or taxing entity committee required for community reinvestment project area budget.

Before an agency may collect any project area funds from a community reinvestment project area, the agency shall obtain consent for each community reinvestment project area budget from:

(1) for a community reinvestment project area that is subject to an interlocal agreement, each taxing entity that is a party to an interlocal agreement; or

(2) for a community reinvestment project area that is subject to a taxing entity committee, the taxing entity committee.

Section 143. Section 17C-5-305 is enacted to read:

17C-5-305. Filing a copy of the community reinvestment project area budget.

Within 30 days after the day on which an agency adopts a community reinvestment project area budget, the agency shall file a copy of the community reinvestment project area budget with:

(1) the State Tax Commission;

(2) the State Board of Education;

(3) the state auditor;

(4) the auditor of the county in which the community reinvestment project area is located; and

(5) each taxing entity affected by the agency's collection of project area funds under the community reinvestment project area budget.

Section 144. Section 17C-5-306 is enacted to read:

17C-5-306. Amending a community reinvestment project area budget.

(1) Before a project area funds collection period ends, an agency may amend a community reinvestment project area budget in accordance with this section.

(2) To amend a community reinvestment project area budget, an agency shall:

(a) provide notice and hold a public hearing on the proposed amendment in accordance with Chapter 1, Part 8, Hearing and Notice Requirements;

(b) (i) if the community reinvestment project area budget required approval from a taxing entity committee, obtain the taxing entity committee's approval; or

(ii) if the community reinvestment project area budget required an interlocal agreement with a taxing entity, obtain approval from the taxing entity that is a party to the interlocal agreement; and

(c) at the public hearing described in Subsection (2)(a) or at a subsequent board meeting, by resolution, adopt the community reinvestment project area budget amendment.

(3) If an agency proposes a community reinvestment project area budget amendment under which the agency is paid a greater proportion of tax increment from the community reinvestment project area than provided under the community reinvestment project area budget, the notice described in Subsection (2)(a) shall state:

(a) the percentage of tax increment paid under the community reinvestment project area budget; and

(b) the proposed percentage of tax increment paid under the community reinvestment project area budget amendment.

(4) (a) If an agency proposes a community reinvestment project area budget amendment that extends a project area funds collection period, before a taxing entity committee or taxing entity may provide the taxing entity committee's or taxing entity's approval described in Subsection (2)(b), the agency shall provide to the taxing entity committee or taxing entity:

(i) the reasons why the extension is required;

(ii) a description of the project area development for which project area funds received by the agency under the extension will be used;

(iii) a statement of whether the project area funds received by the agency under the extension will be used within an active project area or a proposed project area; and

(iv) a revised community reinvestment project area budget that includes:

(A) the annual and total amounts of project area funds that the agency receives under the extension; and

(B) the number of years that are added to each project area funds collection period under the extension.

(b) With respect to an amendment described in Subsection (4)(a), a taxing entity committee or taxing entity may consent to:

(i) allow an agency to use project area funds received under an extension within a different project area from which the project area funds are generated; or

(ii) alter the base taxable value in connection with a community reinvestment project area budget extension.

(5) If an agency proposes a community reinvestment project area budget amendment that reduces the base taxable value of the project area due to the removal of a parcel under Subsection 17C-5-112(4)(b), an agency may amend a project area budget without:

(a) complying with Subsection (2)(a); and

(b) obtaining taxing entity committee or taxing entity approval described in Subsection (2)(b).

(6) (a) A person may contest an agency's adoption of a community reinvestment project area budget amendment within 30 days after the day on which the agency adopts the community reinvestment project area budget amendment.

(b) After the 30-day period described in Subsection (6)(a), a person may not contest:

(i) the agency's adoption of the community reinvestment project area budget amendment;

(ii) a payment to the agency under the community reinvestment project area budget amendment; or

(iii) the agency's use of project area funds received under the community reinvestment project area budget amendment.

Section 145. Section 17C-5-307 is enacted to read:

17C-5-307. Allocating project area funds for housing.

(1) (a) For a community reinvestment project area that is subject to a taxing entity committee, an agency shall allocate at least 20% of the agency's annual tax increment for housing in accordance with Section 17C-1-412 if the community reinvestment project area budget provides for more than \$100,000 of annual tax increment to be distributed to the agency.

(b) The taxing entity committee may waive a portion of the allocation described in Subsection (1)(a) if:

(i) the taxing entity committee determines that 20% of the agency's annual tax increment is more than is needed to address the community's need for income targeted housing or homeless assistance; and

(ii) after the waiver, the agency's housing allocation is equal to at least 10% of the agency's annual tax increment.

(2) For a community reinvestment project area that is subject to an interlocal agreement, an agency shall allocate at least 10% of the project area funds for housing in accordance with Section 17C-1-412 if the community reinvestment project area budget provides for more than \$100,000 of annual project area funds to be distributed to the agency.

Section 146. Section 17C-5-401 is enacted to read:

Part 4. Blight Determination in a Community Reinvestment Project Area

17C-5-401. Title.

This part is known as "Blight Determination in a Community Reinvestment Project Area."

Section 147. Section 17C-5-402 is enacted to read:

17C-5-402. Blight determination in a community reinvestment project area -- Prerequisites -- Restrictions.

(1) An agency shall comply with the provisions of this section before the agency may use eminent domain to acquire property under Chapter 1, Part 9, Eminent Domain.

(2) An agency shall, after adopting a survey area resolution as described in Section 17C-5-103:

(a) cause a blight study to be conducted within the survey area in accordance with Section 17C-5-403;

(b) provide notice and hold a blight hearing in accordance with Chapter 1, Part 8, Hearing and Notice Requirements; and

(c) after the blight hearing, at the same or at a subsequent meeting:

(i) consider:

(A) the issue of blight and the evidence and information relating to the existence or nonexistence of blight; and

(B) whether the agency should pursue adoption of one or more community reinvestment project area plans; and

(ii) by resolution, make a finding regarding whether blight exists in the proposed community reinvestment project area.

(3) (a) If an agency makes a finding of blight under Subsection (2), the agency may not adopt the community reinvestment project area plan until the taxing entity committee approves the finding of blight.

(b) (i) A taxing entity committee shall approve an agency's finding of blight unless the taxing entity committee demonstrates that the conditions the agency found to exist in the community reinvestment project area that support the agency's finding of blight:

(A) do not exist; or

(B) do not constitute blight under Section 17C-5-405.

(ii) (A) If the taxing entity committee questions or disputes the existence of some or all of the blight conditions that the agency found to exist in the proposed community reinvestment project area, the taxing entity committee may hire a consultant, mutually agreed upon by the taxing entity committee and the agency, with the necessary expertise to assist the taxing entity committee in making a determination as to the existence of the questioned or disputed blight conditions.

(B) The agency shall pay the fees and expenses of each consultant hired under Subsection (3)(b)(ii)(A).

(C) The findings of a consultant hired under Subsection (3)(b)(ii)(A) are binding on the taxing entity committee and the agency.

Section 148. Section 17C-5-403 is enacted to read:

17C-5-403. Blight study -- Requirements -- Deadline.

(1) A blight study shall:

(a) undertake a parcel by parcel survey of the survey area;

(b) provide data so the board and taxing entity committee may determine:

(i) whether the conditions described in Subsection 17C-5-405:

(A) exist in part or all of the survey area; and

(B) meet the qualifications for a finding of blight in all or part of the survey area; and

(ii) whether the survey area contains all or part of a superfund site;

(c) include a written report that states:

(i) the conclusions reached;

(ii) any area within the survey area that meets the statutory criteria of blight under Section 17C-5-405; and

(iii) any other information requested by the agency to determine whether blight exists within the survey area; and

(d) be completed within one year after the day on which the survey area resolution is adopted.

(2) (a) If a blight study is not completed within the time described in Subsection (1)(d), the agency may not approve a community reinvestment project area plan based on a blight study unless the agency first adopts a new resolution under Subsection 17C-5-103(1).

(b) A new resolution described in Subsection (2)(a) shall in all respects be considered to be a resolution under Subsection 17C-5-103(1) adopted for the first time, except that any actions taken toward completing a blight study under the resolution that the new resolution replaces shall be considered to have been taken under the new resolution.

(3) (a) For the purpose of making a blight determination under Subsection 17C-5-402(2)(c)(ii), a blight study is valid for one year from the day on which the blight study is completed.

(b) (i) Except as provided in Subsection (3)(b)(ii), an agency that makes a blight determination under a valid blight study and subsequently adopts a community reinvestment project area plan in accordance with Section 17C-5-104 may amend the community reinvestment project area plan without conducting a new blight study.

(ii) An agency shall conduct a supplemental blight study for the area proposed to be added to the community reinvestment project area if the agency proposes an amendment to a community reinvestment project area plan that:

(A) increases the community reinvestment project area's geographic boundary and the area proposed to be added was not included in the original blight study; and

(B) provides for the use of eminent domain within the area proposed to be added to the community reinvestment project area.

Section 149. Section 17C-5-404 is enacted to read:

17C-5-404. Blight hearing -- Owners may review evidence of blight.

(1) In a hearing required under Subsection 17C-5-402(2)(b), an agency shall:

(a) permit all evidence of the existence or nonexistence of blight within the survey area to be presented; and

(b) permit each record owner of property located within the survey area or the record property owner's representative the opportunity to:

(i) examine and cross-examine each witness that provides evidence of the existence or nonexistence of blight; and

(ii) present evidence and testimony, including expert testimony, concerning the existence or nonexistence of blight.

(2) An agency shall allow each record owner of property located within a survey area the opportunity, for at least 30 days before the day on which the hearing takes place, to review the evidence of blight compiled by the agency or by the person or firm conducting the blight study for the agency, including any expert report.

Section 150. Section 17C-5-405 is enacted to read:

17C-5-405. Conditions on board determination of blight -- Conditions of blight caused by a participant.

(1) A board may not make a finding of blight in a resolution under Subsection 17C-5-402(2)(c)(ii) unless the board finds that:

(a) (i) the survey area consists predominantly of nongreenfield parcels;

(ii) the survey area is currently zoned for urban purposes and generally served by utilities;

(iii) at least 50% of the parcels within the survey area contain nonagricultural or nonaccessory buildings or improvements used or intended for residential, commercial, industrial, or other urban purposes;

(iv) the present condition or use of the survey area substantially impairs the sound growth of the community, delays the provision of housing accommodations, constitutes an economic liability, or is detrimental to the public health, safety, or welfare, as shown by the existence within the survey area of at least four of the following factors:

(A) although sometimes interspersed with well maintained buildings and infrastructure, substantial physical dilapidation, deterioration, or defective construction of buildings or infrastructure, or significant noncompliance with current building code, safety code, health code, or fire code requirements or local ordinances;

(B) unsanitary or unsafe conditions in the survey area that threaten the health, safety, or welfare of the community;

(C) environmental hazards, as defined in state or federal law, which require remediation as a condition for current or future use and development;

(D) excessive vacancy, abandoned buildings, or vacant lots within an area zoned for urban use and served by utilities;

(E) abandoned or outdated facilities that pose a threat to public health, safety, or welfare;

(F) criminal activity in the survey area, higher than that of comparable nonblighted areas in the municipality or county; and

(G) defective or unusual conditions of title rendering the title nonmarketable; and

(v) (A) at least 50% of the privately owned parcels within the survey area are affected by at least one of the factors, but not necessarily the same factor, listed in Subsection (1)(a)(iv); and

(B) the affected parcels comprise at least 66% of the privately owned acreage within the survey area; or

(b) the survey area includes some or all of a superfund site, inactive industrial site, or inactive airport site.

(2) A single parcel comprising 10% or more of the acreage within the survey area may not be counted as satisfying the requirement described in Subsection (1)(a)(iii) or (iv) unless at least 50% of the area of the parcel is occupied by buildings or improvements.

(3) (a) Except as provided in Subsection (3)(b), for purposes of Subsection (1), if a participant or proposed participant involved in the project area development has caused a condition listed in Subsection (1)(a)(iv) within the survey area, that condition may not be used in the determination of blight.

(b) Subsection (3)(a) does not apply to a condition that was caused by an owner or tenant who later becomes a participant.

Section 151. Section 17C-5-406 is enacted to read:

17C-5-406. Challenging a finding of blight -- Time limit -- Standards governing court review.

(1) If a board makes a finding of blight under Subsection 17C-5-402(2)(c)(ii) and the finding is approved by resolution adopted by the taxing entity committee, a record owner of property located within the survey area may challenge the finding by filing an action in the district court in the county in which the property is located.

(2) A person shall file an action under Subsection (1) no later than 30 days after the day on which the taxing entity committee approves the board's finding of blight.

(3) In an action under this section:

(a) the agency shall transmit to the district court the record of the agency's proceedings, including any minutes, findings, orders, or transcripts of the agency's proceedings;

(b) the district court shall review the finding of blight under the standards of review provided in Subsection 10-9a-801(3); and

(c) (i) if there is a record:

(A) the district court's review is limited to the record provided by the agency; and

(B) the district court may not accept or consider any evidence outside the record of the agency, unless the evidence was offered to the agency and the district court determines that the agency improperly excluded the evidence; or

(ii) if there is no record, the district court may call witnesses and take evidence.

Section 152. Section 20A-7-613 is amended to read:

20A-7-613. Property tax referendum petition.

(1) As used in this section:

(a) "Certified tax rate" ~~[is as]~~ means the same as that term is defined in Subsection 59-2-924(3)(5)(a).

(b) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that begins on July 1 and ends on June 30.

(2) Except as provided in this section, the requirements of this part apply to a referendum petition challenging a fiscal year taxing entity's legislative body's vote to impose a tax rate that exceeds the certified tax rate.

(3) Notwithstanding Subsection 20A-7-604(5), the local clerk shall number each of the referendum packets and return them to the sponsors within two working days.

(4) Notwithstanding Subsection 20A-7-606(1), the sponsors shall deliver each signed and verified referendum packet to the county clerk of the county in which the packet was circulated no later than 40 days after the day on which the local clerk complies with Subsection (3).

(5) Notwithstanding Subsections 20A-7-606(2) and (3), the county clerk shall take the actions required in Subsections 20A-7-606(2) and (3) within 10 working days after the day on which the county clerk receives the signed and verified referendum packet as described in Subsection (4).

(6) The local clerk shall take the actions required by Section 20A-7-607 within two working days after the day on which the local clerk receives the referendum packets from the county clerk.

(7) Notwithstanding Subsection 20A-7-608(2), the local attorney shall prepare the ballot title within two working days after the day on which the referendum petition is declared sufficient for submission to a vote of the people.

(8) Notwithstanding Subsection 20A-7-609(2)(c), a referendum that qualifies for the ballot under this section shall appear on the ballot for the earlier of the next regular general election or the next municipal general election unless a special election is called.

(9) Notwithstanding the requirements related to absentee ballots under this title:

(a) the election officer shall prepare absentee ballots for those voters who have requested an absentee ballot as soon as possible after the ballot title is prepared as described in Subsection (7); and

(b) the election officer shall mail absentee ballots on a referendum under this section the later of:

(i) the time provided in Section 20A-3-305 or 20A-16-403; or

(ii) the time that absentee ballots are prepared for mailing under this section.

(10) Section 20A-7-402 does not apply to a referendum described in this section.

(11) (a) If a majority of voters does not vote against imposing the tax at a rate calculated to generate the increased revenue budgeted, adopted, and approved by the fiscal year taxing entity's legislative body:

(i) the certified tax rate for the fiscal year during which the referendum petition is filed is its most recent certified tax rate; and

(ii) the proposed increased revenues for purposes of establishing the certified tax rate for the fiscal year after the fiscal year described in Subsection (11)(a)(i) are the proposed increased revenues budgeted, adopted, and approved by the fiscal year taxing entity's legislative body before the filing of the referendum petition.

(b) If a majority of voters votes against imposing a tax at the rate established by the vote of the fiscal year taxing entity's legislative body, the certified tax rate for the fiscal year taxing entity is its most recent certified tax rate.

(c) If the tax rate is set in accordance with Subsection (11)(a)(ii), a fiscal year taxing entity is not required to comply with the notice and public hearing requirements of Section 59-2-919 if the fiscal year taxing entity complies with those notice and public hearing requirements before the referendum petition is filed.

(12) The ballot title shall, at a minimum, include in substantially this form the following: "Shall the [name of the taxing entity] be authorized to levy a tax rate in the amount sufficient to generate an increased property tax revenue of [amount] for fiscal year [year] as budgeted, adopted, and approved by the [name of the taxing entity]".

(13) A fiscal year taxing entity shall pay the county the costs incurred by the county that are directly related to meeting the requirements of this section and that the county would not have incurred but for compliance with this section.

(14) (a) An election officer shall include on a ballot a referendum that has not yet qualified for placement on the ballot, if:

(i) sponsors file an application for a referendum described in this section;

(ii) the ballot will be used for the election for which the sponsors are attempting to qualify the referendum; and

(iii) the deadline for qualifying the referendum for placement on the ballot occurs after the day on which the ballot will be printed.

(b) If an election officer includes on a ballot a referendum described in Subsection (14)(a), the ballot title shall comply with Subsection (12).

(c) If an election officer includes on a ballot a referendum described in Subsection (14)(a) that does not qualify for placement on the ballot, the election officer shall inform the voters by any practicable method that the referendum has not qualified for the ballot and that votes cast in relation to the referendum will not be counted.

Section 153. Section 35A-8-504 is amended to read:

35A-8-504. Distribution of fund money.

(1) The executive director shall:

(a) make grants and loans from the fund for any of the activities authorized by Section 35A-8-505, as directed by the board;

(b) establish the criteria with the approval of the board by which loans and grants will be made; and

(c) determine with the approval of the board the order in which projects will be funded.

(2) The executive director shall distribute, as directed by the board, any federal money contained in the fund according to the procedures, conditions, and restrictions placed upon the use of the money by the federal government.

(3) (a) The executive director shall distribute, as directed by the board, any funds received under Section 17C-1-412 to pay the costs of providing income targeted housing within the community that created the community ~~[development and renewal]~~ reinvestment agency under Title 17C, Limited Purpose Local Government Entities - Community ~~[Development and Renewal Agencies]~~ Reinvestment Agency Act.

(b) As used in Subsection (3)(a):

(i) "Community" ~~[has the meaning as]~~ means the same as that term is defined in Section 17C-1-102.

(ii) "Income targeted housing" ~~[has the meaning as]~~ means the same as that term is defined in Section 17C-1-102.

(4) Except for federal money and money received under Section 17C-1-412, the executive director shall distribute, as directed by the board, money from the fund according to the following requirements:

(a) Not less than 30% of all fund money shall be distributed to rural areas of the state.

(b) At least 50% of the money in the fund shall be distributed as loans to be repaid to the fund by the entity receiving them.

(i) (A) Of the fund money distributed as loans, at least 50% shall be distributed to benefit persons

whose annual income is at or below 50% of the median family income for the state.

(B) The remaining loan money shall be distributed to benefit persons whose annual income is at or below 80% of the median family income for the state.

(ii) The executive director or the executive director's designee shall lend money in accordance with this Subsection (4) at a rate based upon the borrower's ability to pay.

(c) Any fund money not distributed as loans shall be distributed as grants.

(i) At least 90% of the fund money distributed as grants shall be distributed to benefit persons whose annual income is at or below 50% of the median family income for the state.

(ii) The remaining fund money distributed as grants may be used by the executive director to obtain federal matching funds or for other uses consistent with the intent of this part, including the payment of reasonable loan servicing costs, but no more than 3% of the revenues of the fund may be used to offset other department or board administrative expenses.

(5) The executive director may with the approval of the board:

(a) enact rules to establish procedures for the grant and loan process by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) service or contract, under Title 63G, Chapter 6a, Utah Procurement Code, for the servicing of loans made by the fund.

Section 154. Section 38-1b-102 is amended to read:

38-1b-102. Definitions.

As used in this chapter:

(1) "Alternate means" ~~[has the same meaning as]~~ means the same as that term is defined in Section 38-1a-102.

(2) "Construction project" ~~[has the same meaning as]~~ means the same as that term is defined in Section 38-1a-102.

(3) "Construction work" ~~[has the same meaning as]~~ means the same as that term is defined in Section 38-1a-102.

(4) "Designated agent" ~~[has the same meaning as]~~ means the same as that term is defined in Section 38-1a-102.

(5) "Division" means the Division of Occupational and Professional Licensing created in Section 58-1-103.

(6) "Government project" means a construction project undertaken by or for:

(a) the state, including a department, division, or other agency of the state; or

(b) a county, city, town, school district, local district, special service district, community

[development and renewal] reinvestment agency, or other political subdivision of the state.

(7) “Government project-identifying information” means:

(a) the lot or parcel number of each lot included in the project property that has a lot or parcel number; or

(b) the unique project number assigned by the designated agent.

(8) “Original contractor” ~~[has the same meaning as]~~ means the same as that term is defined in Section 38-1a-102.

(9) “Owner” ~~[has the same meaning as]~~ means the same as that term is defined in Section 38-1a-102.

(10) “Owner-builder” ~~[has the same meaning as]~~ means the same as that term is defined in Section 38-1a-102.

(11) “Private project” means a construction project that is not a government project.

(12) “Project property” ~~[has the same meaning as]~~ means the same as that term is defined in Section 38-1a-102.

(13) “Registry” ~~[has the same meaning as]~~ means the same as that term is defined in Section 38-1a-102.

Section 155. Section 53-3-207 is amended to read:

53-3-207. License certificates or driving privilege cards issued to drivers by class of motor vehicle -- Contents -- Release of anatomical gift information -- Temporary licenses or driving privilege cards -- Minors' licenses, cards, and permits -- Violation.

(1) As used in this section:

(a) “Driving privilege” means the privilege granted under this chapter to drive a motor vehicle.

(b) “Governmental entity” means the state and its political subdivisions as defined in this Subsection (1).

(c) “Political subdivision” means any county, city, town, school district, public transit district, community ~~[development and renewal]~~ reinvestment agency, special improvement or taxing district, local district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.

(d) “State” means this state, and includes any office, department, agency, authority, commission, board, institution, hospital, college, university, children's justice center, or other instrumentality of the state.

(2) (a) The division shall issue to every person privileged to drive a motor vehicle, a regular license certificate, a limited-term license certificate, or a

driving privilege card indicating the type or class of motor vehicle the person may drive.

(b) A person may not drive a class of motor vehicle unless granted the privilege in that class.

(3) (a) Every regular license certificate, limited-term license certificate, or driving privilege card shall bear:

(i) the distinguishing number assigned to the person by the division;

(ii) the name, birth date, and Utah residence address of the person;

(iii) a brief description of the person for the purpose of identification;

(iv) any restrictions imposed on the license under Section 53-3-208;

(v) a photograph of the person;

(vi) a photograph or other facsimile of the person's signature;

(vii) an indication whether the person intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act, unless the driving privilege is extended under Subsection 53-3-214(3); and

(viii) except as provided in Subsection (3)(b), if the person states that the person is a veteran of the United States military on the application for a driver license in accordance with Section 53-3-205 and provides verification that the person was granted an honorable or general discharge from the United States Armed Forces, an indication that the person is a United States military veteran for a regular license certificate or limited-term license certificate issued on or after July 1, 2011.

(b) A regular license certificate or limited-term license certificate issued to any person younger than 21 years on a portrait-style format as required in Subsection (5)(b)(i) is not required to include an indication that the person is a United States military veteran under Subsection (3)(a)(viii).

(c) A new license certificate issued by the division may not bear the person's Social Security number.

(d) (i) The regular license certificate, limited-term license certificate, or driving privilege card shall be of an impervious material, resistant to wear, damage, and alteration.

(ii) Except as provided under Subsection (4)(b), the size, form, and color of the regular license certificate, limited-term license certificate, or driving privilege card shall be as prescribed by the commissioner.

(iii) The commissioner may also prescribe the issuance of a special type of limited regular license certificate, limited-term license certificate, or driving privilege card under Subsection 53-3-220(4).

(4) (a) (i) The division, upon determining after an examination that an applicant is mentally and physically qualified to be granted a driving privilege, may issue to an applicant a receipt for the

fee if the applicant is eligible for a regular license certificate or limited-term license certificate.

(ii) (A) The division shall issue a temporary regular license certificate or temporary limited-term license certificate allowing the person to drive a motor vehicle while the division is completing its investigation to determine whether the person is entitled to be granted a driving privilege.

(B) A temporary regular license certificate or a temporary limited-term license certificate issued under this Subsection (4) shall be recognized and have the same rights and privileges as a regular license certificate or a limited-term license certificate.

(b) The temporary regular license certificate or temporary limited-term license certificate shall be in the person's immediate possession while driving a motor vehicle, and it is invalid when the person's regular license certificate or limited-term license certificate has been issued or when, for good cause, the privilege has been refused.

(c) The division shall indicate on the temporary regular license certificate or temporary limited-term license certificate a date after which it is not valid as a temporary license.

(d) (i) Except as provided in Subsection (4)(d)(ii), the division may not issue a temporary driving privilege card or other temporary permit to an applicant for a driving privilege card.

(ii) The division may issue a learner permit issued in accordance with Section 53-3-210.5 to an applicant for a driving privilege card.

(5) (a) The division shall distinguish learner permits, temporary permits, regular license certificates, limited-term license certificates, and driving privilege cards issued to any person younger than 21 years of age by use of plainly printed information or the use of a color or other means not used for other regular license certificates, limited-term license certificates, or driving privilege cards.

(b) The division shall distinguish a regular license certificate, limited-term license certificate, or driving privilege card issued to any person:

(i) younger than 21 years of age by use of a portrait-style format not used for other regular license certificates, limited-term license certificates, or driving privilege cards and by plainly printing the date the regular license certificate, limited-term license certificate, or driving privilege card holder is 21 years of age, which is the legal age for purchasing an alcoholic beverage or alcoholic product under Section 32B-4-403; and

(ii) younger than 19 years of age, by plainly printing the date the regular license certificate, limited-term license certificate, or driving privilege card holder is 19 years of age, which is the legal age for purchasing tobacco products under Section 76-10-104.

(6) The division shall distinguish a limited-term license certificate by clearly indicating on the document:

- (a) that it is temporary; and
- (b) its expiration date.

(7) (a) The division shall only issue a driving privilege card to a person whose privilege was obtained without providing evidence of lawful presence in the United States as required under Subsection 53-3-205(8).

(b) The division shall distinguish a driving privilege card from a license certificate by:

- (i) use of a format, color, font, or other means; and
- (ii) clearly displaying on the front of the driving privilege card a phrase substantially similar to "FOR DRIVING PRIVILEGES ONLY -- NOT VALID FOR IDENTIFICATION".

(8) The provisions of Subsection (5)(b) do not apply to a learner permit, temporary permit, temporary regular license certificate, temporary limited-term license certificate, or any other temporary permit.

(9) The division shall issue temporary license certificates of the same nature, except as to duration, as the license certificates that they temporarily replace, as are necessary to implement applicable provisions of this section and Section 53-3-223.

(10) (a) A governmental entity may not accept a driving privilege card as proof of personal identification.

(b) A driving privilege card may not be used as a document providing proof of a person's age for any government required purpose.

(11) A person who violates Subsection (2)(b) is guilty of an infraction.

(12) Unless otherwise provided, the provisions, requirements, classes, endorsements, fees, restrictions, and sanctions under this code apply to a:

(a) driving privilege in the same way as a license or limited-term license issued under this chapter; and

(b) limited-term license certificate or driving privilege card in the same way as a regular license certificate issued under this chapter.

Section 156. Section 53A-16-106 is amended to read:

53A-16-106. Annual certification of tax rate proposed by local school board -- Inclusion of school district budget -- Modified filing date.

(1) Prior to June 22 of each year, each local school board shall certify to the county legislative body in which the district is located, on forms prescribed by the State Tax Commission, the proposed tax rate approved by the local school board.

(2) A copy of the district's budget, including items under Section 53A-19-101, and a certified copy of

the local school board's resolution which approved the budget and set the tax rate for the subsequent school year beginning July 1 shall accompany the tax rate.

(3) If the tax rate approved by the board is in excess of the "certified tax rate" as defined under Subsection 59-2-924~~(3)~~(5)(a), the date for filing the tax rate and budget adopted by the board shall be that established under Section 59-2-919.

Section 157. Section 53A-16-113 is amended to read:

53A-16-113. Capital local levy -- First class county required levy -- Allowable uses of collected revenue.

(1) (a) Subject to the other requirements of this section, a local school board may levy a tax to fund the school district's capital projects.

(b) A tax rate imposed by a school district pursuant to this section may not exceed .0030 per dollar of taxable value in any calendar year.

(2) A school district that imposes a capital local levy in the calendar year beginning on January 1, 2012, is exempt from the public notice and hearing requirements of Section 59-2-919 if the school district budgets an amount of ad valorem property tax revenue equal to or less than the sum of the following amounts:

(a) the amount of revenue generated during the calendar year beginning on January 1, 2011, from the sum of the following levies of a school district:

(i) a capital outlay levy imposed under Section 53A-16-107; and

(ii) the portion of the 10% of basic levy described in Section 53A-17a-145 that is budgeted for debt service or capital outlay; and

(b) revenue from new growth as defined in Subsection 59-2-924~~(4)~~(e)(1).

(3) Beginning January 1, 2012, in order to qualify for receipt of the state contribution toward the minimum school program described in Section 53A-17a-103, a local school board in a county of the first class shall impose a capital local levy of at least .0006 per dollar of taxable value.

(4) (a) The county treasurer of a county of the first class shall distribute revenues generated by the .0006 portion of the capital local levy required in Subsection (2) to school districts within the county in accordance with Section 53A-16-114.

(b) If a school district in a county of the first class imposes a capital local levy pursuant to this section that exceeds .0006 per dollar of taxable value, the county treasurer shall distribute revenues generated by the portion of the capital local levy that exceeds .0006 to the school district imposing the levy.

(5) (a) Subject to Subsections (5)(b), (c), and (d), for fiscal year 2013-14, a local school board may utilize the proceeds of a maximum of .0024 per dollar of taxable value of the local school board's

annual capital local levy for general fund purposes if the proceeds are not committed or dedicated to pay debt service or bond payments.

(b) If a local school board uses the proceeds described in Subsection (5)(a) for general fund purposes, the local school board shall notify the public of the local school board's use of the capital local levy proceeds for general fund purposes:

(i) prior to the local school board's budget hearing in accordance with the notification requirements described in Section 53A-19-102; and

(ii) at a budget hearing required in Section 53A-19-102.

(c) A local school board may not use the proceeds described in Subsection (5)(a) to fund the following accounting function classifications as provided in the Financial Accounting for Local and State School Systems guidelines developed by the National Center for Education Statistics:

(i) 2300 Support Services - General District Administration; or

(ii) 2500 Support Services - Central Services.

(d) A local school board may not use the proceeds from a distribution described in Subsection (4) for general fund purposes.

Section 158. Section 53A-17a-133 is amended to read:

53A-17a-133. State-supported voted local levy authorized -- Election requirements -- State guarantee -- Reconsideration of the program.

(1) As used in this section, "voted and board local levy funding balance" means the difference between:

(a) the amount appropriated for the voted and board local levy program in a fiscal year; and

(b) the amount necessary to provide the state guarantee per weighted pupil unit as determined under this section and Section 53A-17a-164 in the same fiscal year.

(2) An election to consider adoption or modification of a voted local levy is required if initiative petitions signed by 10% of the number of electors who voted at the last preceding general election are presented to the local school board or by action of the board.

(3) (a) (i) To impose a voted local levy, a majority of the electors of a district voting at an election in the manner set forth in Subsections (9) and (10) must vote in favor of a special tax.

(ii) The tax rate may not exceed .002 per dollar of taxable value.

(b) Except as provided in Subsection (3)(c), in order to receive state support the first year, a district must receive voter approval no later than December 1 of the year prior to implementation.

(c) Beginning on or after January 1, 2012, a school district may receive state support in accordance

with Subsection (4) without complying with the requirements of Subsection (3)(b) if the local school board imposed a tax in accordance with this section during the taxable year beginning on January 1, 2011, and ending on December 31, 2011.

(4) (a) In addition to the revenue a school district collects from the imposition of a levy pursuant to this section, the state shall contribute an amount sufficient to guarantee \$33.27 per weighted pupil unit for each .0001 of the first .0016 per dollar of taxable value.

(b) The same dollar amount guarantee per weighted pupil unit for the .0016 per dollar of taxable value under Subsection (4)(a) shall apply to the portion of the board local levy authorized in Section 53A-17a-164, so that the guarantee shall apply up to a total of .002 per dollar of taxable value if a school district levies a tax rate under both programs.

(c) (i) Beginning July 1, 2015, the \$33.27 guarantee under Subsections (4)(a) and (b) shall be indexed each year to the value of the weighted pupil unit for the grades 1 through 12 program by making the value of the guarantee equal to .011194 times the value of the prior year's weighted pupil unit for the grades 1 through 12 program.

(ii) The guarantee shall increase by .0005 times the value of the prior year's weighted pupil unit for the grades 1 through 12 program for each succeeding year subject to the Legislature appropriating funds for an increase in the guarantee.

(d) (i) The amount of state guarantee money to which a school district would otherwise be entitled to receive under this Subsection (4) may not be reduced for the sole reason that the district's levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 pursuant to changes in property valuation.

(ii) Subsection (4)(d)(i) applies for a period of five years following any such change in the certified tax rate.

(e) The guarantee provided under this section does not apply to the portion of a voted local levy rate that exceeds the voted local levy rate that was in effect for the previous fiscal year, unless an increase in the voted local levy rate was authorized in an election conducted on or after July 1 of the previous fiscal year and before December 2 of the previous fiscal year.

(f) (i) If a voted and board local levy funding balance exists for the prior fiscal year, the State Board of Education shall:

(A) use the voted and board local levy funding balance to increase the value of the state guarantee per weighted pupil unit described in Subsection (4)(c) in the current fiscal year; and

(B) distribute the state contribution to the voted and board local levy programs to school districts based on the increased value of the state guarantee

per weighted pupil unit described in Subsection (4)(f)(i)(A).

(ii) The State Board of Education shall report action taken under this Subsection (4)(f) to the Office of the Legislative Fiscal Analyst and the Governor's Office of Planning and Budget.

(5) (a) An election to modify an existing voted local levy is not a reconsideration of the existing authority unless the proposition submitted to the electors expressly so states.

(b) A majority vote opposing a modification does not deprive the district of authority to continue the levy.

(c) If adoption of a voted local levy is contingent upon an offset reducing other local school board levies, the board must allow the electors, in an election, to consider modifying or discontinuing the imposition of the levy prior to a subsequent increase in other levies that would increase the total local school board levy.

(d) Nothing contained in this section terminates, without an election, the authority of a school district to continue imposing an existing voted local levy previously authorized by the voters as a voted leeway program.

(6) Notwithstanding Section 59-2-919, a school district may budget an increased amount of ad valorem property tax revenue derived from a voted local levy imposed under this section in addition to revenue from new growth as defined in Subsection 59-2-924~~(4)~~(1), without having to comply with the notice requirements of Section 59-2-919, if:

(a) the voted local levy is approved:

(i) in accordance with Subsections (9) and (10) on or after January 1, 2003; and

(ii) within the four-year period immediately preceding the year in which the school district seeks to budget an increased amount of ad valorem property tax revenue derived from the voted local levy; and

(b) for a voted local levy approved or modified in accordance with this section on or after January 1, 2009, the school district complies with the requirements of Subsection (8).

(7) Notwithstanding Section 59-2-919, a school district may levy a tax rate under this section that exceeds the certified tax rate without having to comply with the notice requirements of Section 59-2-919 if:

(a) the levy exceeds the certified tax rate as the result of a school district budgeting an increased amount of ad valorem property tax revenue derived from a voted local levy imposed under this section;

(b) the voted local levy was approved:

(i) in accordance with Subsections (9) and (10) on or after January 1, 2003; and

(ii) within the four-year period immediately preceding the year in which the school district seeks

to budget an increased amount of ad valorem property tax revenue derived from the voted local levy; and

(c) for a voted local levy approved or modified in accordance with this section on or after January 1, 2009, the school district complies with requirements of Subsection (8).

(8) For purposes of Subsection (6)(b) or (7)(c), the proposition submitted to the electors regarding the adoption or modification of a voted local levy shall contain the following statement:

“A vote in favor of this tax means that (name of the school district) may increase revenue from this property tax without advertising the increase for the next five years.”

(9) (a) Before imposing a property tax levy pursuant to this section, a school district shall submit an opinion question to the school district’s registered voters voting on the imposition of the tax rate so that each registered voter has the opportunity to express the registered voter’s opinion on whether the tax rate should be imposed.

(b) The election required by this Subsection (9) shall be held:

(i) at a regular general election conducted in accordance with the procedures and requirements of Title 20A, Election Code, governing regular elections;

(ii) at a municipal general election conducted in accordance with the procedures and requirements of Section 20A-1-202; or

(iii) at a local special election conducted in accordance with the procedures and requirements of Section 20A-1-203.

(c) Notwithstanding the requirements of Subsections (9)(a) and (b), beginning on or after January 1, 2012, a school district may levy a tax rate in accordance with this section without complying with the requirements of Subsections (9)(a) and (b) if the school district imposed a tax in accordance with this section at any time during the taxable year beginning on January 1, 2011, and ending on December 31, 2011.

(10) If a school district determines that a majority of the school district’s registered voters voting on the imposition of the tax rate have voted in favor of the imposition of the tax rate in accordance with Subsection (9), the school district may impose the tax rate.

Section 159. Section 53A-17a-164 is amended to read:

53A-17a-164. Board local levy -- State guarantee.

(1) Subject to the other requirements of this section, for a calendar year beginning on or after January 1, 2012, a local school board may levy a tax to fund the school district’s general fund.

(2) (a) Except as provided in Subsection (2)(b), a tax rate imposed by a school district pursuant to this section may not exceed .0018 per dollar of taxable value in any calendar year.

(b) A tax rate imposed by a school district pursuant to this section may not exceed .0025 per dollar of taxable value in any calendar year if, during the calendar year beginning on January 1, 2011, the school district’s combined tax rate for the following levies was greater than .0018 per dollar of taxable value:

(i) a recreation levy imposed under Section 11-2-7;

(ii) a transportation levy imposed under Section 53A-17a-127;

(iii) a board-authorized levy imposed under Section 53A-17a-134;

(iv) an impact aid levy imposed under Section 53A-17a-143;

(v) the portion of a 10% of basic levy imposed under Section 53A-17a-145 that is budgeted for purposes other than capital outlay or debt service;

(vi) a reading levy imposed under Section 53A-17a-151; and

(vii) a tort liability levy imposed under Section 63G-7-704.

(3) (a) In addition to the revenue a school district collects from the imposition of a levy pursuant to this section, the state shall contribute an amount sufficient to guarantee that each .0001 of the first .0004 per dollar of taxable value generates an amount equal to the state guarantee per weighted pupil unit described in Subsection 53A-17a-133(4).

(b) (i) The amount of state guarantee money to which a school district would otherwise be entitled to under this Subsection (3) may not be reduced for the sole reason that the district’s levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 pursuant to changes in property valuation.

(ii) Subsection (3)(b)(i) applies for a period of five years following any changes in the certified tax rate.

(4) A school district that imposes a board local levy in the calendar year beginning on January 1, 2012, is exempt from the public notice and hearing requirements of Section 59-2-919 if the school district budgets an amount of ad valorem property tax revenue equal to or less than the sum of the following amounts:

(a) the amount of revenue generated during the calendar year beginning on January 1, 2011, from the sum of the following levies of a school district:

(i) a recreation levy imposed under Section 11-2-7;

(ii) a transportation levy imposed under Section 53A-17a-127;

(iii) a board-authorized levy imposed under Section 53A-17a-134;

(iv) an impact aid levy imposed under Section 53A-17a-143;

(v) the portion of a 10% of basic levy imposed under Section 53A-17a-145 that is budgeted for purposes other than capital outlay or debt service;

(vi) a reading levy imposed under Section 53A-17a-151; and

(vii) a tort liability levy imposed under Section 63G-7-704; and

(b) revenue from new growth as defined in Subsection 59-2-924(4)(e)(1).

Section 160. Section 53A-19-105 is amended to read:

53A-19-105. School district interfund transfers.

(1) A school district shall spend revenues only within the fund for which they were originally authorized, levied, collected, or appropriated.

(2) Except as otherwise provided in this section, school district interfund transfers of residual equity are prohibited.

(3) The State Board of Education may authorize school district interfund transfers of residual equity when a district states its intent to create a new fund or expand, contract, or liquidate an existing fund.

(4) The State Board of Education may also authorize school district interfund transfers of residual equity for a financially distressed district if the board determines the following:

(a) the district has a significant deficit in its maintenance and operations fund caused by circumstances not subject to the administrative decisions of the district;

(b) the deficit cannot be reasonably reduced under Section 53A-19-104; and

(c) without the transfer, the school district will not be capable of meeting statewide educational standards adopted by the State Board of Education.

(5) The board shall develop standards for defining and aiding financially distressed school districts under this section in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) (a) All debt service levies not subject to certified tax rate hearings shall be recorded and reported in the debt service fund.

(b) Debt service levies under Subsection 59-2-924(3)(5)(e)(iii) that are not subject to the public hearing provisions of Section 59-2-919 may not be used for any purpose other than retiring general obligation debt.

(c) Amounts from these levies remaining in the debt service fund at the end of a fiscal year shall be used in subsequent years for general obligation debt retirement.

(d) Any amounts left in the debt service fund after all general obligation debt has been retired may be

transferred to the capital projects fund upon completion of the budgetary hearing process required under Section 53A-19-102.

Section 161. Section 59-2-913 is amended to read:

59-2-913. Definitions -- Statement of amount and purpose of levy -- Contents of statement -- Filing with county auditor -- Transmittal to commission -- Calculations for establishing tax levies -- Format of statement.

(1) As used in this section, "budgeted property tax revenues" does not include property tax revenue received by a taxing entity from personal property that is:

(a) assessed by a county assessor in accordance with Part 3, County Assessment; and

(b) semiconductor manufacturing equipment.

(2) (a) The legislative body of each taxing entity shall file a statement as provided in this section with the county auditor of the county in which the taxing entity is located.

(b) The auditor shall annually transmit the statement to the commission:

(i) before June 22; or

(ii) with the approval of the commission, on a subsequent date prior to the date required by Section 59-2-1317 for the county treasurer to provide the notice under Section 59-2-1317.

(c) The statement shall contain the amount and purpose of each levy fixed by the legislative body of the taxing entity.

(3) For purposes of establishing the levy set for each of a taxing entity's applicable funds, the legislative body of the taxing entity shall calculate an amount determined by dividing the budgeted property tax revenues, specified in a budget [which] that has been adopted and approved prior to setting the levy, by the amount calculated under Subsections 59-2-924(3)(5)(c)(ii)(A) through (C).

(4) The format of the statement under this section shall:

(a) be determined by the commission; and

(b) cite any applicable statutory provisions that:

(i) require a specific levy; or

(ii) limit the property tax levy for any taxing entity.

(5) The commission may require certification that the information submitted on a statement under this section is true and correct.

Section 162. Section 59-2-924 is amended to read:

59-2-924. Report of valuation of property to county auditor and commission -- Transmittal by auditor to governing bodies -- Certified tax rate -- Calculation

of certified tax rate -- Rulemaking authority -- Adoption of tentative budget.

(1) (a) Subject to Subsection (2), “new growth” means:

(i) the difference between the taxable value of the following property of the taxing entity from the previous calendar year to the current year:

(A) real property assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) property assessed by the commission under Section 59-2-201; plus

(ii) the difference between the taxable year end value of personal property of the taxing entity for:

(A) the calendar year immediately preceding the previous calendar year; and

(B) the previous calendar year; minus

(iii) the amount of an increase in taxable value described in Subsection (2)(b).

(b) Except as provided in Subsection (1)(c), new growth shall equal the greater of:

(i) the amount calculated under Subsection (1)(a); or

(ii) zero.

(c) (i) When a project area funds collection period as defined in Section 17C-1-102 ends, the project area’s incremental value as defined in Section 17C-1-102 shall be:

(A) considered new growth; and

(B) added to the amount described in Subsection (1)(b).

(ii) The amount calculated in Subsection (1)(c)(i)(B) shall not equal less than zero.

(2) (a) For purposes of Subsection (1)(a)(ii), taxable value of personal property of the taxing entity does not include the taxable value of personal property that is:

(i) contained on the tax rolls of the taxing entity if that property is assessed by a county assessor in accordance with Part 3, County Assessment; and

(ii) semiconductor manufacturing equipment.

(b) Subsection (1)(a)(iii) applies to the following increases in taxable value:

(i) the amount of increase to locally assessed real property taxable values resulting from factoring, reappraisal, or any other adjustments; or

(ii) the amount of an increase in the taxable value of property assessed by the commission under Section 59-2-201 resulting from a change in the method of apportioning the taxable value prescribed by:

(A) the Legislature;

(B) a court;

(C) the commission in an administrative rule; or

(D) the commission in an administrative order.

[(1)] (3) Before June 1 of each year, the county assessor of each county shall deliver to the county auditor and the commission the following statements:

(a) a statement containing the aggregate valuation of all taxable real property assessed by a county assessor in accordance with Part 3, County Assessment, for each taxing entity; and

(b) a statement containing the taxable value of all personal property assessed by a county assessor in accordance with Part 3, County Assessment, from the prior year end values.

[(2)] (4) The county auditor shall, on or before June 8, transmit to the governing body of each taxing entity:

(a) the statements described in Subsections [(1)] (3)(a) and (b);

(b) an estimate of the revenue from personal property;

(c) the certified tax rate; and

(d) all forms necessary to submit a tax levy request.

[(3)] (5) (a) The “certified tax rate” means a tax rate that will provide the same ad valorem property tax revenues for a taxing entity as were budgeted by that taxing entity for the prior year.

(b) For purposes of this Subsection [(3)] (5):

(i) “Ad valorem property tax revenues” do not include:

(A) interest;

(B) penalties; and

(C) revenue received by a taxing entity from personal property that is:

(I) assessed by a county assessor in accordance with Part 3, County Assessment; and

(II) semiconductor manufacturing equipment.

(ii) “Aggregate taxable value of all property taxed” means:

(A) the aggregate taxable value of all real property assessed by a county assessor in accordance with Part 3, County Assessment, for the current year;

(B) the aggregate taxable year end value of all personal property assessed by a county assessor in accordance with Part 3, County Assessment, for the prior year; and

(C) the aggregate taxable value of all real and personal property assessed by the commission in accordance with Part 2, Assessment of Property, for the current year.

(c) (i) Except as otherwise provided in this section, the certified tax rate shall be calculated by dividing the ad valorem property tax revenues budgeted for the prior year by the taxing entity by the amount calculated under Subsection [(3)] (5)(c)(ii).

(ii) For purposes of Subsection [§] (5)(c)(i), the legislative body of a taxing entity shall calculate an amount as follows:

(A) calculate for the taxing entity the difference between:

(I) the aggregate taxable value of all property taxed; and

(II) any redevelopment adjustments for the current calendar year;

(B) after making the calculation required by Subsection [§] (5)(c)(ii)(A), calculate an amount determined by increasing or decreasing the amount calculated under Subsection [§] (5)(c)(ii)(A) by the average of the percentage net change in the value of taxable property for the equalization period for the three calendar years immediately preceding the current calendar year;

(C) after making the calculation required by Subsection [§] (5)(c)(ii)(B), calculate the product of:

(I) the amount calculated under Subsection [§] (5)(c)(ii)(B); and

(II) the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year; and

(D) after making the calculation required by Subsection [§] (5)(c)(ii)(C), calculate an amount determined by subtracting from the amount calculated under Subsection [§] (5)(c)(ii)(C) any new growth as defined in this section:

(I) within the taxing entity; and

(II) for the following calendar year:

(Aa) for new growth from real property assessed by a county assessor in accordance with Part 3, County Assessment and all property assessed by the commission in accordance with Section 59-2-201, the current calendar year; and

(Bb) for new growth from personal property assessed by a county assessor in accordance with Part 3, County Assessment, the prior calendar year.

(iii) For purposes of Subsection [§] (5)(c)(ii)(A), the aggregate taxable value of all property taxed:

(A) except as provided in Subsection [§] (5)(c)(iii)(B) or [§] (5)(c)(ii)(C), is as defined in Subsection [§] (5)(b)(ii);

(B) does not include the total taxable value of personal property contained on the tax rolls of the taxing entity that is:

(I) assessed by a county assessor in accordance with Part 3, County Assessment; and

(II) semiconductor manufacturing equipment; and

(C) for personal property assessed by a county assessor in accordance with Part 3, County Assessment, the taxable value of personal property is the year end value of the personal property contained on the prior year's tax rolls of the entity.

(iv) For purposes of Subsection [§] (5)(c)(ii)(B), for calendar years beginning on or after January 1, 2007, the value of taxable property does not include the value of personal property that is:

(A) within the taxing entity assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) semiconductor manufacturing equipment.

(v) For purposes of Subsection [§] (5)(c)(ii)(C)(II), for calendar years beginning on or after January 1, 2007, the percentage of property taxes collected does not include property taxes collected from personal property that is:

(A) within the taxing entity assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) semiconductor manufacturing equipment.

(vi) For purposes of Subsection [§] (5)(c)(ii)(B), for calendar years beginning on or after January 1, 2009, the value of taxable property does not include the value of personal property that is within the taxing entity assessed by a county assessor in accordance with Part 3, County Assessment.

(vii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may prescribe rules for calculating redevelopment adjustments for a calendar year.

(viii) (A) Except as provided in Subsections [§] (5)(c)(ix) and (x), for purposes of Subsection [§] (5)(c)(i), a taxing entity's ad valorem property tax revenues budgeted for the prior year shall be decreased by an amount of revenue equal to the five-year average of the most recent prior five years of redemptions adjusted by the five-year average redemption calculated for the prior year as reported on the county treasurer's final annual settlement required under Subsection 59-2-1365(2).

(B) A decrease under Subsection [§] (5)(c)(viii)(A) does not apply to the multicounty assessing and collecting levy authorized in Subsection 59-2-1602(2)(a), the certified revenue levy, or the minimum basic tax rate established in Section 53A-17a-135.

(ix) As used in Subsection [§] (5)(c)(x):

(A) "One-fourth of qualifying redemptions excess amount" means a qualifying redemptions excess amount divided by four.

(B) "Qualifying redemptions" means that, for a calendar year, a taxing entity's total amount of redemptions is greater than three times the five-year average of the most recent prior five years of redemptions calculated for the prior year under Subsection [§] (5)(c)(viii)(A).

(C) "Qualifying redemptions base amount" means an amount equal to three times the five-year average of the most recent prior five years of redemptions for a taxing entity, as reported on the county treasurer's final annual settlement required under Subsection 59-2-1365(2).

(D) "Qualifying redemptions excess amount" means the amount by which a taxing entity's

qualifying redemptions for a calendar year exceed the qualifying redemptions base amount for that calendar year.

(x) (A) If, for a calendar year, a taxing entity has qualifying redemptions, the redemption amount for purposes of calculating the five-year redemption average required by Subsection [(3)] (5)(c)(viii)(A) is as provided in Subsections [(3)] (5)(c)(x)(B) and (C).

(B) For the initial calendar year a taxing entity has qualifying redemptions, the taxing entity's redemption amount for that calendar year is the qualifying redemptions base amount.

(C) For each of the four calendar years after the calendar year described in Subsection [(3)] (5)(c)(x)(B), one-fourth of the qualifying redemptions excess amount shall be added to the redemption amount.

(d) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules determining the calculation of ad valorem property tax revenues budgeted by a taxing entity.

(ii) For purposes of Subsection [(3)] (5)(d)(i), ad valorem property tax revenues budgeted by a taxing entity shall be calculated in the same manner as budgeted property tax revenues are calculated for purposes of Section 59-2-913.

(e) The certified tax rates for the taxing entities described in this Subsection [(3)] (5)(e) shall be calculated as follows:

(i) except as provided in Subsection [(3)] (5)(e)(ii), for new taxing entities the certified tax rate is zero;

(ii) for each municipality incorporated on or after July 1, 1996, the certified tax rate is:

(A) in a county of the first, second, or third class, the levy imposed for municipal-type services under Sections 17-34-1 and 17-36-9; and

(B) in a county of the fourth, fifth, or sixth class, the levy imposed for general county purposes and such other levies imposed solely for the municipal-type services identified in Section 17-34-1 and Subsection 17-36-3(22); and

(iii) for debt service voted on by the public, the certified tax rate shall be the actual levy imposed by that section, except that the certified tax rates for the following levies shall be calculated in accordance with Section 59-2-913 and this section:

(A) school levies provided for under Sections 53A-16-113, 53A-17a-133, and 53A-17a-164; and

(B) levies to pay for the costs of state legislative mandates or judicial or administrative orders under Section 59-2-1602.

(f) (i) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 shall be established at that rate which is sufficient to generate only the revenue required to satisfy one or more eligible judgments, as defined in Section 59-2-102.

(ii) The ad valorem property tax revenue generated by the judgment levy shall not be considered in establishing the taxing entity's aggregate certified tax rate.

(g) The ad valorem property tax revenue generated by the capital local levy described in Section 53A-16-113 within a taxing entity in a county of the first class:

(i) may not be considered in establishing the school district's aggregate certified tax rate; and

(ii) shall be included by the commission in establishing a certified tax rate for that capital outlay levy determined in accordance with the calculation described in Subsection 59-2-913(3).

[(4)] (6) (a) For the purpose of calculating the certified tax rate, the county auditor shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

(ii) the taxable value of real and personal property assessed by the commission; and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.

(b) For purposes of Subsection [(4)] (6)(a)(i), the taxable value of real property on the assessment roll does not include new growth as defined in Subsection [(4)(e)] (1).

[(e) "New growth" means:]

[(i) the difference between the increase in taxable value of the following property of the taxing entity from the previous calendar year to the current year:]

[(A) real property assessed by a county assessor in accordance with Part 3, County Assessment; and]

[(B) property assessed by the commission under Section 59-2-201; plus]

[(ii) the difference between the increase in taxable year end value of personal property of the taxing entity from the year prior to the previous calendar year to the previous calendar year; minus]

[(iii) the amount of an increase in taxable value described in Subsection (4)(e).]

[(d) For purposes of Subsection (4)(c)(ii), the taxable value of personal property of the taxing entity does not include the taxable value of personal property that is:]

[(i) contained on the tax rolls of the taxing entity if that property is assessed by a county assessor in accordance with Part 3, County Assessment; and]

[(ii) semiconductor manufacturing equipment.]

[(e) Subsection (4)(c)(iii) applies to the following increases in taxable value:]

[(i) the amount of increase to locally assessed real property taxable values resulting from factoring, reappraisal, or any other adjustments; or]

[(ii) the amount of an increase in the taxable value of property assessed by the commission under

~~Section 59-2-201 resulting from a change in the method of apportioning the taxable value prescribed by:~~

~~[(A) the Legislature;]~~

~~[(B) a court;]~~

~~[(C) the commission in an administrative rule; or]~~

~~[(D) the commission in an administrative order.]~~

~~[(F)] (c) For purposes of Subsection [(4)] (6)(a)(ii), the taxable year end value of personal property on the prior year's assessment roll does not include:~~

~~(i) new growth as defined in Subsection [(4)(e)] (1); or~~

~~(ii) the total taxable year end value of personal property contained on the prior year's tax rolls of the taxing entity that is:~~

~~(A) assessed by a county assessor in accordance with Part 3, County Assessment; and~~

~~(B) semiconductor manufacturing equipment.~~

~~[(5)] (7) (a) On or before June 22, each taxing entity shall annually adopt a tentative budget.~~

~~(b) If the taxing entity intends to exceed the certified tax rate, it shall notify the county auditor of:~~

~~(i) its intent to exceed the certified tax rate; and~~

~~(ii) the amount by which it proposes to exceed the certified tax rate.~~

~~(c) The county auditor shall notify property owners of any intent to levy a tax rate that exceeds the certified tax rate in accordance with Sections 59-2-919 and 59-2-919.1.~~

Section 163. Section 59-2-924.2 is amended to read:

59-2-924.2. Adjustments to the calculation of a taxing entity's certified tax rate.

(1) For purposes of this section, "certified tax rate" means a certified tax rate calculated in accordance with Section 59-2-924.

(2) Beginning January 1, 1997, if a taxing entity receives increased revenues from uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1, 59-2-405.2, or 59-2-405.3 as a result of any county imposing a sales and use tax under Chapter 12, Part 11, County Option Sales and Use Tax, the taxing entity shall decrease its certified tax rate to offset the increased revenues.

(3) (a) Beginning July 1, 1997, if a county has imposed a sales and use tax under Chapter 12, Part 11, County Option Sales and Use Tax, the county's certified tax rate shall be:

(i) decreased on a one-time basis by the amount of the estimated sales and use tax revenue to be distributed to the county under Subsection 59-12-1102(3); and

(ii) increased by the amount necessary to offset the county's reduction in revenue from uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1, 59-2-405.2, or 59-2-405.3 as a result of the decrease in the certified tax rate under Subsection (3)(a)(i).

(b) The commission shall determine estimates of sales and use tax distributions for purposes of Subsection (3)(a).

(4) Beginning January 1, 1998, if a municipality has imposed an additional resort communities sales and use tax under Section 59-12-402, the municipality's certified tax rate shall be decreased on a one-time basis by the amount necessary to offset the first 12 months of estimated revenue from the additional resort communities sales and use tax imposed under Section 59-12-402.

(5) (a) This Subsection (5) applies to each county that:

(i) establishes a countywide special service district under Title 17D, Chapter 1, Special Service District Act, to provide jail service, as provided in Subsection 17D-1-201(10); and

(ii) levies a property tax on behalf of the special service district under Section 17D-1-105.

(b) (i) The certified tax rate of each county to which this Subsection (5) applies shall be decreased by the amount necessary to reduce county revenues by the same amount of revenues that will be generated by the property tax imposed on behalf of the special service district.

(ii) Each decrease under Subsection (5)(b)(i) shall occur contemporaneously with the levy on behalf of the special service district under Section 17D-1-105.

(6) (a) As used in this Subsection (6):

(i) "Annexing county" means a county whose unincorporated area is included within a public safety district by annexation.

(ii) "Annexing municipality" means a municipality whose area is included within a public safety district by annexation.

(iii) "Equalized public safety protection tax rate" means the tax rate that results from:

(A) calculating, for each participating county and each participating municipality, the property tax revenue necessary:

(I) in the case of a fire district, to cover all of the costs associated with providing fire protection, paramedic, and emergency services:

(Aa) for a participating county, in the unincorporated area of the county; and

(Bb) for a participating municipality, in the municipality; or

(II) in the case of a police district, to cover all the costs:

(Aa) associated with providing law enforcement service:

(Ii) for a participating county, in the unincorporated area of the county; and

(IIIii) for a participating municipality, in the municipality; and

(Bb) that the police district board designates as the costs to be funded by a property tax; and

(B) adding all the amounts calculated under Subsection (6)(a)(iii)(A) for all participating counties and all participating municipalities and then dividing that sum by the aggregate taxable value of the property, as adjusted in accordance with Section 59-2-913:

(I) for participating counties, in the unincorporated area of all participating counties; and

(II) for participating municipalities, in all the participating municipalities.

(iv) "Fire district" means a service area under Title 17B, Chapter 2a, Part 9, Service Area Act:

(A) created to provide fire protection, paramedic, and emergency services; and

(B) in the creation of which an election was not required under Subsection 17B-1-214(3)(c).

(v) "Participating county" means a county whose unincorporated area is included within a public safety district at the time of the creation of the public safety district.

(vi) "Participating municipality" means a municipality whose area is included within a public safety district at the time of the creation of the public safety district.

(vii) "Police district" means a service area under Title 17B, Chapter 2a, Part 9, Service Area Act, within a county of the first class:

(A) created to provide law enforcement service; and

(B) in the creation of which an election was not required under Subsection 17B-1-214(3)(c).

(viii) "Public safety district" means a fire district or a police district.

(ix) "Public safety service" means:

(A) in the case of a public safety district that is a fire district, fire protection, paramedic, and emergency services; and

(B) in the case of a public safety district that is a police district, law enforcement service.

(b) In the first year following creation of a public safety district, the certified tax rate of each participating county and each participating municipality shall be decreased by the amount of the equalized public safety tax rate.

(c) In the first budget year following annexation to a public safety district, the certified tax rate of each annexing county and each annexing municipality shall be decreased by an amount equal

to the amount of revenue budgeted by the annexing county or annexing municipality:

(i) for public safety service; and

(ii) in:

(A) for a taxing entity operating under a January 1 through December 31 fiscal year, the prior calendar year; or

(B) for a taxing entity operating under a July 1 through June 30 fiscal year, the prior fiscal year.

(d) Each tax levied under this section by a public safety district shall be considered to be levied by:

(i) each participating county and each annexing county for purposes of the county's tax limitation under Section 59-2-908; and

(ii) each participating municipality and each annexing municipality for purposes of the municipality's tax limitation under Section 10-5-112, for a town, or Section 10-6-133, for a city.

(e) The calculation of a public safety district's certified tax rate for the year of annexation shall be adjusted to include an amount of revenue equal to one half of the amount of revenue budgeted by the annexing entity for public safety service in the annexing entity's prior fiscal year if:

(i) the public safety district operates on a January 1 through December 31 fiscal year;

(ii) the public safety district approves an annexation of an entity operating on a July 1 through June 30 fiscal year; and

(iii) the annexation described in Subsection (6)(e)(ii) takes effect on July 1.

(7) (a) The base taxable value under [~~Subsection~~ Section 17C-1-102(6)] shall be reduced for any year to the extent necessary to provide a community [~~development and renewal~~] reinvestment agency established under Title 17C, Limited Purpose Local Government Entities - Community [~~Development and Renewal Agencies~~] Reinvestment Agency Act, with approximately the same amount of money the agency would have received without a reduction in the county's certified tax rate, calculated in accordance with Section 59-2-924, if:

(i) in that year there is a decrease in the certified tax rate under Subsection (2) or (3)(a);

(ii) the amount of the decrease is more than 20% of the county's certified tax rate of the previous year; and

(iii) the decrease results in a reduction of the amount to be paid to the agency under Section 17C-1-403 or 17C-1-404.

(b) The base taxable value under [~~Subsection~~ Section 17C-1-102(6)] shall be increased in any year to the extent necessary to provide a community [~~development and renewal~~] reinvestment agency with approximately the same amount of money as the agency would have received without an increase in the certified tax rate that year if:

(i) in that year the base taxable value under ~~Subsection~~ Section 17C-1-102~~(6)~~ is reduced due to a decrease in the certified tax rate under Subsection (2) or (3)(a); and

(ii) the certified tax rate of a city, school district, local district, or special service district increases independent of the adjustment to the taxable value of the base year.

(c) Notwithstanding a decrease in the certified tax rate under Subsection (2) or (3)(a), the amount of money allocated and, when collected, paid each year to a community ~~development and renewal~~ reinvestment agency established under Title 17C, Limited Purpose Local Government Entities - Community ~~Development and Renewal Agencies~~ Reinvestment Agency Act, for the payment of bonds or other contract indebtedness, but not for administrative costs, may not be less than that amount would have been without a decrease in the certified tax rate under Subsection (2) or (3)(a).

(8) (a) For the calendar year beginning on January 1, 2014, the calculation of a county assessing and collecting levy shall be adjusted by the amount necessary to offset:

(i) any change in the certified tax rate that may result from amendments to Part 16, Multicounty Assessing and Collecting Levy, in Laws of Utah 2014, Chapter 270, Section 3; and

(ii) the difference in the amount of revenue a taxing entity receives from or contributes to the Property Tax Valuation Agency Fund, created in Section 59-2-1602, that may result from amendments to Part 16, Multicounty Assessing and Collecting Levy, in Laws of Utah 2014, Chapter 270, Section 3.

(b) A taxing entity is not required to comply with the notice and public hearing requirements in Section 59-2-919 for an adjustment to the county assessing and collecting levy described in Subsection (8)(a).

(9) (a) For the calendar year beginning on January 1, 2017, the commission shall increase or decrease a school district's certified tax rate to offset a change in revenues from the calendar year beginning on January 1, 2016, to the calendar year beginning on January 1, 2017, as follows:

(i) the commission shall increase a school district's certified tax rate by the amount necessary to offset a decrease in revenues that may result from the repeal of Section 59-2-924.3 on December 31, 2016; and

(ii) the commission shall decrease a school district's certified tax rate by the amount necessary to offset an increase in revenues that may result from the repeal of Section 59-2-924.3 on December 31, 2016.

(b) (i) A school district is not required to comply with the notice and public hearing requirements of Section 59-2-919 for an offset to the certified tax rate described in Subsection (9)(a).

(ii) If a school district's certified tax rate is increased in accordance with Subsection (9)(a)(i), the school district shall:

(A) on or before June 15, 2017, publish the statement provided in Subsection (9)(c) one or more times in a newspaper or combination of newspapers of general circulation in the taxing entity, in a portion of the newspaper where legal notices and classified advertisements do not appear;

(B) on or before June 30, 2017, read the statement provided in Subsection (9)(c) at a public meeting of the school district; and

(C) if the school district maintains a database containing electronic mail addresses of one or more persons who reside within the school district boundaries, send the statement provided in Subsection (9)(c) to those electronic mail addresses.

(c) For purposes of Subsection (9)(b)(ii), the statement is: "For calendar year 2017, the State Tax Commission is required to increase a property tax rate of this school district to offset a loss in revenue due to the repeal of a statute to equalize certain school district property taxes. This offset may result in an increase in your property taxes."

Section 164. Section 59-2-924.3 is amended to read:

59-2-924.3. Adjustment of the calculation of the certified tax rate for a school district imposing a capital local levy in a county of the first class.

(1) As used in this section:

(a) "Capital local levy increment" means the amount of revenue equal to the difference between:

(i) the amount of revenue generated by a levy of .0006 per dollar of taxable value within a school district during a fiscal year; and

(ii) the amount of revenue the school district received during the same fiscal year from the distribution described in Section 53A-16-114.

(b) "Contributing school district" means a school district in a county of the first class that in a fiscal year receives less revenue from the distribution described in Section 53A-16-114 than it would have received during the same fiscal year from a levy imposed within the school district of .0006 per dollar of taxable value.

(c) "Receiving school district" means a school district in a county of the first class that in a fiscal year receives more revenue from the distribution described in Section 53A-16-114 than it would have received during the same fiscal year from a levy imposed within the school district of .0006 per dollar of taxable value.

(2) A receiving school district shall decrease its capital local levy certified tax rate under Subsection 59-2-924~~(3)~~~~(5)~~(g)(ii) by the amount required to offset the receiving school district's estimated capital local levy increment for the prior fiscal year.

(3) A contributing school district is exempt from the notice and public hearing provisions of Section

59-2-919 for the school district's capital local levy certified tax rate calculated pursuant to Subsection 59-2-924~~(3)~~~~(5)~~(g)(ii) if:

(a) the contributing school district budgets an increased amount of ad valorem property tax revenue exclusive of new growth as defined in Subsection 59-2-924~~(4)~~(1) for the capital local levy described in Section 53A-16-113; and

(b) the increased amount of ad valorem property tax revenue described in Subsection (3)(a) is less than or equal to the difference between:

(i) the amount of revenue generated by a levy of .0006 per dollar of taxable value imposed within the contributing school district during the current taxable year; and

(ii) the amount of revenue generated by a levy of .0006 per dollar of taxable value imposed within the contributing school district during the prior taxable year.

(4) Regardless of the amount a school district receives from the revenue collected from the .0006 portion of the capital local levy required in Section 53A-16-113, the revenue generated within the school district from the .0006 portion of the capital local levy required in Section 53A-16-113 shall be considered to be budgeted ad valorem property tax revenues of the school district that levies the .0006 portion of the capital local levy for purposes of calculating the school district's certified tax rate in accordance with Subsection 59-2-924~~(3)~~~~(5)~~(g)(ii).

Section 165. Section 59-7-614.2 is amended to read:

59-7-614.2. Refundable economic development tax credit.

(1) As used in this section:

(a) "Business entity" means a taxpayer that meets the definition of "business entity" as defined in Section 63N-2-103.

(b) "Community ~~[development and renewal] reinvestment agency~~" is as defined in Section 17C-1-102.

(c) "Local government entity" is as defined in Section 63N-2-103.

(d) "Office" means the Governor's Office of Economic Development.

(2) Subject to the other provisions of this section, a business entity, local government entity, or community ~~[development and renewal] reinvestment agency~~ may claim a refundable tax credit for economic development.

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity, local government entity, or community ~~[development and renewal] reinvestment agency~~ for the taxable year.

(4) A community ~~[development and renewal] reinvestment agency~~ may claim a tax credit under this section only if a local government entity assigns

the tax credit to the community ~~[development and renewal] reinvestment agency~~ in accordance with Section 63N-2-104.

(5) (a) In accordance with any rules prescribed by the commission under Subsection (5)(b), the commission shall make a refund to the following that claim a tax credit under this section:

(i) a local government entity;

(ii) a community ~~[development and renewal] reinvestment agency~~; or

(iii) a business entity if the amount of the tax credit exceeds the business entity's tax liability for a taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a business entity, local government entity, or community ~~[development and renewal] reinvestment agency~~ as required by Subsection (5)(a).

(6) (a) On or before October 1, 2013, and every five years after October 1, 2013, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (6), the office shall provide the following information to the Revenue and Taxation Interim Committee:

(i) the amount of tax credit that the office grants to each business entity, local government entity, or community ~~[development and renewal] reinvestment agency~~ for each calendar year;

(ii) the criteria that the office uses in granting a tax credit;

(iii) (A) for a business entity, the new state revenues generated by the business entity for the calendar year; or

(B) for a local government entity, regardless of whether the local government entity assigns the tax credit in accordance with Section 63N-2-104, the new state revenues generated as a result of a new commercial project within the local government entity for each calendar year;

(iv) the information contained in the office's latest report to the Legislature under Section 63N-2-106; and

(v) any other information that the Revenue and Taxation Interim Committee requests.

(c) The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (6)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 166. Section 59-12-603 is amended to read:

59-12-603. County tax -- Bases -- Rates -- Use of revenues -- Adoption of ordinance required -- Advisory board -- Administration -- Collection -- Administrative charge -- Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.

(1) (a) In addition to any other taxes, a county legislative body may, as provided in this part, impose a tax as follows:

(i) (A) a county legislative body of any county may impose a tax of not to exceed 3% on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement; and

(B) beginning on or after January 1, 1999, a county legislative body of any county imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement;

(ii) a county legislative body of any county may impose a tax of not to exceed 1% of all sales of the following that are sold by a restaurant:

- (A) alcoholic beverages;
- (B) food and food ingredients; or
- (C) prepared food; and

(iii) a county legislative body of a county of the first class may impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i).

(b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section 17-31-5.5.

(2) (a) Subject to Subsection (2)(b), revenue from the imposition of the taxes provided for in Subsections (1)(a)(i) through (iii) may be used for:

- (i) financing tourism promotion; and
- (ii) the development, operation, and maintenance of:
 - (A) an airport facility;
 - (B) a convention facility;
 - (C) a cultural facility;
 - (D) a recreation facility; or
 - (E) a tourist facility.

(b) A county of the first class shall expend at least \$450,000 each year of the revenues from the imposition of a tax authorized by Subsection (1)(a)(iii) within the county to fund a marketing and ticketing system designed to:

- (i) promote tourism in ski areas within the county by persons that do not reside within the state; and
- (ii) combine the sale of:
 - (A) ski lift tickets; and
 - (B) accommodations and services described in Subsection 59-12-103(1)(i).

(3) A tax imposed under this part may be pledged as security for bonds, notes, or other evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local Government Bonding Act, or a community [development and renewal] reinvestment agency under Title 17C, Chapter 1, Part 5, Agency Bonds, to finance:

- (a) an airport facility;
- (b) a convention facility;
- (c) a cultural facility;
- (d) a recreation facility; or
- (e) a tourist facility.

(4) (a) In order to impose the tax under Subsection (1), each county legislative body shall adopt an ordinance imposing the tax.

(b) The ordinance under Subsection (4)(a) shall include provisions substantially the same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on those items and sales described in Subsection (1).

(c) The name of the county as the taxing agency shall be substituted for that of the state where necessary, and an additional license is not required if one has been or is issued under Section 59-12-106.

(5) In order to maintain in effect its tax ordinance adopted under this part, each county legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1, Tax Collection, adopt amendments to its tax ordinance to conform with the applicable amendments to Part 1, Tax Collection.

(6) (a) Regardless of whether a county of the first class creates a tourism tax advisory board in accordance with Section 17-31-8, the county legislative body of the county of the first class shall create a tax advisory board in accordance with this Subsection (6).

(b) The tax advisory board shall be composed of nine members appointed as follows:

- (i) four members shall be appointed by the county legislative body of the county of the first class as follows:
 - (A) one member shall be a resident of the unincorporated area of the county;
 - (B) two members shall be residents of the incorporated area of the county; and

(C) one member shall be a resident of the unincorporated or incorporated area of the county; and

(ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or towns within the county of the first class appointed by an organization representing all mayors of cities and towns within the county of the first class.

(c) Five members of the tax advisory board constitute a quorum.

(d) The county legislative body of the county of the first class shall determine:

(i) terms of the members of the tax advisory board;

(ii) procedures and requirements for removing a member of the tax advisory board;

(iii) voting requirements, except that action of the tax advisory board shall be by at least a majority vote of a quorum of the tax advisory board;

(iv) chairs or other officers of the tax advisory board;

(v) how meetings are to be called and the frequency of meetings; and

(vi) the compensation, if any, of members of the tax advisory board.

(e) The tax advisory board under this Subsection (6) shall advise the county legislative body of the county of the first class on the expenditure of revenues collected within the county of the first class from the taxes described in Subsection (1)(a).

(7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies.

(ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (6).

(b) Except as provided in Subsection (7)(c):

(i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenues to the county imposing the tax; and

(ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenues according to the distribution formula provided in Subsection (8).

(c) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this part.

(8) The commission shall distribute the revenues generated by the tax under Subsection (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the following formula:

(a) the commission shall distribute 70% of the revenues based on the percentages generated by dividing the revenues collected by each county under Subsection (1)(a)(i)(B) by the total revenues collected by all counties under Subsection (1)(a)(i)(B); and

(b) the commission shall distribute 30% of the revenues based on the percentages generated by dividing the population of each county collecting a tax under Subsection (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

(9) (a) For purposes of this Subsection (9):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2, County Annexation.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)(b)(ii) from the county.

(ii) The notice described in Subsection (9)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(b)(ii)(A), the rate of the tax.

(c) (i) The enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1).

(ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(d) (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (9)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (9)(d)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(d)(ii)(A), the rate of the tax.

(e) (i) The enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1).

(ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

Section 167. Section 63G-7-102 is amended to read:

63G-7-102. Definitions.

As used in this chapter:

(1) "Claim" means any asserted demand for or cause of action for money or damages, whether arising under the common law, under state constitutional provisions, or under state statutes, against a governmental entity or against an employee in the employee's personal capacity.

(2) (a) "Employee" includes:

(i) a governmental entity's officers, employees, servants, trustees, or commissioners;

(ii) members of a governing body;

(iii) members of a government entity board;

(iv) members of a government entity commission;

(v) members of an advisory body, officers, and employees of a Children's Justice Center created in accordance with Section 67-5b-104;

(vi) student teachers holding a letter of authorization in accordance with Sections 53A-6-103 and 53A-6-104;

(vii) educational aides;

(viii) students engaged in providing services to members of the public in the course of an approved medical, nursing, or other professional health care clinical training program;

(ix) volunteers as defined by Subsection 67-20-2(3); and

(x) tutors.

(b) "Employee" includes all of the positions identified in Subsection (2)(a), whether or not the individual holding that position receives compensation.

(c) "Employee" does not include an independent contractor.

(3) "Governmental entity" means the state and its political subdivisions as both are defined in this section.

(4) (a) "Governmental function" means each activity, undertaking, or operation of a governmental entity.

(b) "Governmental function" includes each activity, undertaking, or operation performed by a department, agency, employee, agent, or officer of a governmental entity.

(c) "Governmental function" includes a governmental entity's failure to act.

(5) "Injury" means death, injury to a person, damage to or loss of property, or any other injury that a person may suffer to the person or estate, that would be actionable if inflicted by a private person or the private person's agent.

(6) "Personal injury" means an injury of any kind other than property damage.

(7) "Political subdivision" means any county, city, town, school district, community [development and renewal] reinvestment agency, special improvement or taxing district, local district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.

(8) "Property damage" means injury to, or loss of, any right, title, estate, or interest in real or personal property.

(9) "State" means the state of Utah, and includes each office, department, division, agency, authority, commission, board, institution, hospital, college, university, Children's Justice Center, or other instrumentality of the state.

(10) "Willful misconduct" means the intentional doing of a wrongful act, or the wrongful failure to

act, without just cause or excuse, where the actor is aware that the actor's conduct will probably result in injury.

Section 168. Section 63G-9-201 is amended to read:

63G-9-201. Members -- Functions.

(1) As used in this chapter:

(a) "Political subdivision" means any county, city, town, school district, community [~~development and renewal~~] reinvestment agency, special improvement or taxing district, local district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.

(b) "State" means the state of Utah, and includes each office, department, division, agency, authority, commission, board, institution, college, university, Children's Justice Center, or other instrumentality of the state.

(2) The governor, the state auditor, and the attorney general shall constitute a Board of Examiners, with power to examine all claims against the state or a political subdivision, for the payment of which funds appropriated by the Legislature or derived from any other source are not available.

(3) No claim against the state or a political subdivision, for the payment of which specifically designated funds are required to be appropriated by the Legislature shall be passed upon by the Legislature without having been considered and acted upon by the Board of Examiners.

(4) The governor shall be the president, and the state auditor shall be the secretary of the board, and in the absence of either an officer pro tempore may be elected from among the members of the board.

Section 169. Section 63I-1-259 is amended to read:

63I-1-259. Repeal dates, Title 59.

(1) Subsection 59-2-924[(3)](5)(g) is repealed on December 31, 2016.

(2) Subsection 59-2-924.2(9) is repealed on December 31, 2017.

(3) Section 59-2-924.3 is repealed on December 31, 2016.

(4) Section 59-7-618 is repealed July 1, 2020.

(5) Section 59-9-102.5 is repealed December 31, 2020.

(6) Section 59-10-1033 is repealed July 1, 2020.

(7) Subsection 59-12-2219(10) is repealed on June 30, 2020.

Section 170. Section 63N-2-103 is amended to read:

63N-2-103. Definitions.

As used in this part:

(1) "Business entity" means a person that enters into an agreement with the office to initiate a new commercial project in Utah that will qualify the person to receive a tax credit under Section 59-7-614.2 or 59-10-1107.

(2) "Community [~~development and renewal~~] reinvestment agency" has the same meaning as that term is defined in Section 17C-1-102.

(3) "Development zone" means an economic development zone created under Section 63N-2-104.

(4) "High paying jobs" means:

(a) with respect to a business entity, the aggregate average annual gross wages, not including healthcare or other paid or unpaid benefits, of newly created full-time employment positions in a business entity that are at least 110% of the average wage of a community in which the employment positions will exist;

(b) with respect to a county, the aggregate average annual gross wages, not including healthcare or other paid or unpaid benefits, of newly created full-time employment positions in a new commercial project within the county that are at least 110% of the average wage of the county in which the employment positions will exist; or

(c) with respect to a city or town, the aggregate average annual gross wages, not including healthcare or other paid or unpaid benefits of newly created full-time employment positions in a new commercial project within the city or town that are at least 110% of the average wages of the city or town in which the employment positions will exist.

(5) "Local government entity" means a county, city, or town that enters into an agreement with the office to have a new commercial project that:

(a) is initiated within the county's, city's, or town's boundaries; and

(b) qualifies the county, city, or town to receive a tax credit under Section 59-7-614.2.

(6) (a) "New commercial project" means an economic development opportunity that involves new or expanded industrial, manufacturing, distribution, or business services in Utah.

(b) "New commercial project" does not include retail business.

(7) (a) "New incremental jobs" means full-time employment positions that are filled by employees who work at least 30 hours per week and that are:

(i) with respect to a business entity, created in addition to the baseline count of employment positions that existed within the business entity before the new commercial project;

(ii) with respect to a county, created as a result of a new commercial project with respect to which the county or a community development and renewal agency seeks to claim a tax credit under Section 59-7-614.2; or

(iii) with respect to a city or town, created as a result of a new commercial project with respect to

which the city, town, or a community development and renewal agency seeks to claim a tax credit under Section 59-7-614.2.

(b) "New incremental jobs" may include full-time equivalent positions that are filled by more than one employee, if each employee who works less than 30 hours per week is provided benefits comparable to a full-time employee.

(c) "New incremental jobs" does not include jobs that are shifted from one jurisdiction in the state to another jurisdiction in the state.

(8) "New state revenues" means:

(a) with respect to a business entity:

(i) incremental new state sales and use tax revenues that a business entity pays under Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development zone;

(ii) incremental new state tax revenues that a business entity pays as a result of a new commercial project in a development zone under:

(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;

(C) Title 59, Chapter 10, Part 2, Trusts and Estates;

(D) Title 59, Chapter 10, Part 4, Withholding of Tax; or

(E) a combination of Subsections (8)(a)(ii)(A) through (D);

(iii) incremental new state tax revenues paid as individual income taxes under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by employees of a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project as evidenced by payroll records that indicate the amount of employee income taxes withheld and transmitted to the State Tax Commission by the new or expanded industrial, manufacturing, distribution, or business service within the new commercial project; or

(iv) a combination of Subsections (8)(a)(i) through (iii); or

(b) with respect to a local government entity:

(i) incremental new state sales and use tax revenues that are collected under Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development zone;

(ii) incremental new state tax revenues that are collected as a result of a new commercial project in a development zone under:

(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;

(C) Title 59, Chapter 10, Part 2, Trusts and Estates;

(D) Title 59, Chapter 10, Part 4, Withholding of Tax; or

(E) a combination of Subsections (8)(b)(ii)(A) through (D);

(iii) incremental new state tax revenues paid as individual income taxes under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by employees of a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project as evidenced by payroll records that indicate the amount of employee income taxes withheld and transmitted to the State Tax Commission by the new or expanded industrial, manufacturing, distribution, or business service within the new commercial project; or

(iv) a combination of Subsections (8)(b)(i) through (iii).

(9) "Significant capital investment" means an amount of at least \$10,000,000 to purchase capital or fixed assets, which may include real property, personal property, and other fixtures related to a new commercial project:

(a) that represents an expansion of existing operations in the state; or

(b) that maintains or increases the business entity's existing work force in the state.

(10) "Tax credit" means an economic development tax credit created by Section 59-7-614.2 or 59-10-1107.

(11) "Tax credit amount" means the amount the office lists as a tax credit on a tax credit certificate for a taxable year.

(12) "Tax credit certificate" means a certificate issued by the office that:

(a) lists the name of the business entity, local government entity, or community development and renewal agency to which the office authorizes a tax credit;

(b) lists the business entity's, local government entity's, or community development and renewal agency's taxpayer identification number;

(c) lists the amount of tax credit that the office authorizes the business entity, local government entity, or community development and renewal agency for the taxable year; and

(d) may include other information as determined by the office.

Section 171. Section 63N-2-104 is amended to read:

63N-2-104. Creation of economic development zones -- Tax credits -- Assignment of tax credit.

(1) The office, with advice from the board, may create an economic development zone in the state if the following requirements are satisfied:

(a) the area is zoned commercial, industrial, manufacturing, business park, research park, or other appropriate business related use in a community-approved master plan;

(b) the request to create a development zone has first been approved by an appropriate local government entity; and

(c) local incentives have been or will be committed to be provided within the area.

(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules establishing the requirements for a business entity or local government entity to qualify for a tax credit for a new commercial project in a development zone under this part.

(b) The office shall ensure that the requirements described in Subsection (2)(a) include the following:

(i) the new commercial project is within the development zone;

(ii) the new commercial project includes direct investment within the geographic boundaries of the development zone;

(iii) the new commercial project brings new incremental jobs to Utah;

(iv) the new commercial project includes the creation of high paying jobs in the state, significant capital investment in the state, or significant purchases from vendors and providers in the state, or a combination of these three economic factors;

(v) the new commercial project generates new state revenues; and

(vi) a business entity, a local government entity, or a community ~~[development and renewal]~~ reinvestment agency to which a local government entity assigns a tax credit under this section meets the requirements of Section 63N-2-105.

(3) (a) The office, after consultation with the board, may enter into a written agreement with a business entity or local government entity authorizing a tax credit to the business entity or local government entity if the business entity or local government entity meets the requirements described in this section.

(b) (i) With respect to a new commercial project, the office may authorize a tax credit to a business entity or a local government entity, but not both.

(ii) In determining whether to authorize a tax credit with respect to a new commercial project to a business entity or a local government entity, the office shall authorize the tax credit in a manner that the office determines will result in providing the most effective incentive for the new commercial project.

(c) (i) Except as provided in Subsection (3)(c)(ii), the office may not authorize or commit to authorize a tax credit that exceeds:

(A) 50% of the new state revenues from the new commercial project in any given year; or

(B) 30% of the new state revenues from the new commercial project over the lesser of the life of a new commercial project or 20 years.

(ii) If the eligible business entity makes capital expenditures in the state of \$1,500,000,000 or more associated with a new commercial project, the office may:

(A) authorize or commit to authorize a tax credit not exceeding 60% of new state revenues over the lesser of the life of the project or 20 years, if the other requirements of this part are met;

(B) establish the year that state revenues and incremental jobs baseline data are measured for purposes of an incentive under this Subsection (3)(c)(ii); and

(C) offer an incentive under this Subsection (3)(c)(ii) or modify an existing incentive previously granted under Subsection (3)(c)(i) that is based on the baseline measurements described in Subsection (3)(c)(ii)(B), except that the incentive may not authorize or commit to authorize a tax credit of more than 60% of new state revenues in any one year.

(d) (i) A local government entity may by resolution assign a tax credit authorized by the office to a community ~~[development and renewal]~~ reinvestment agency.

(ii) The local government entity shall provide a copy of the resolution described in Subsection (3)(d)(i) to the office.

(iii) If a local government entity assigns a tax credit to a community ~~[development and renewal]~~ reinvestment agency, the written agreement described in Subsection (3)(a) shall:

(A) be between the office, the local government entity, and the community ~~[development and renewal]~~ reinvestment agency;

(B) establish the obligations of the local government entity and the community ~~[development and renewal]~~ reinvestment agency; and

(C) establish the extent to which any of the local government entity's obligations are transferred to the community ~~[development and renewal]~~ reinvestment agency.

(iv) If a local government entity assigns a tax credit to a community ~~[development and renewal]~~ reinvestment agency:

(A) the community ~~[development and renewal]~~ reinvestment agency shall retain records as described in Subsection (4)(d); and

(B) a tax credit certificate issued in accordance with Section 63N-2-106 shall list the community ~~[development and renewal]~~ reinvestment agency as the named applicant.

(4) The office shall ensure that the written agreement described in Subsection (3):

(a) specifies the requirements that the business entity or local government entity shall meet to qualify for a tax credit under this part;

(b) specifies the maximum amount of tax credit that the business entity or local government entity may be authorized for a taxable year and over the life of the new commercial project;

(c) establishes the length of time the business entity or local government entity may claim a tax credit;

(d) requires the business entity or local government entity to retain records supporting a claim for a tax credit for at least four years after the business entity or local government entity claims a tax credit under this part; and

(e) requires the business entity or local government entity to submit to audits for verification of the tax credit claimed.

Section 172. Section 63N-2-105 is amended to read:

63N-2-105. Qualifications for tax credit -- Procedure.

(1) The office shall certify a business entity's or local government entity's eligibility for a tax credit as provided in this part.

(2) A business entity or local government entity seeking to receive a tax credit as provided in this part shall provide the office with:

(a) an application for a tax credit certificate, including a certification, by an officer of the business entity, of any signature on the application;

(b) (i) for a business entity, documentation of the new state revenues from the business entity's new commercial project that were paid during the preceding calendar year; or

(ii) for a local government entity, documentation of the new state revenues from the new commercial project within the area of the local government entity that were paid during the preceding calendar year;

(c) known or expected detriments to the state or existing businesses in the state;

(d) if a local government entity seeks to assign the tax credit to a community ~~[development and renewal]~~ reinvestment agency as described in Section 63N-2-104, a statement providing the name and taxpayer identification number of the community ~~[development and renewal]~~ reinvestment agency to which the local government entity seeks to assign the tax credit;

(e) (i) with respect to a business entity, a document that expressly directs and authorizes the State Tax Commission to disclose to the office the business entity's returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;

(ii) with respect to a local government entity that seeks to claim the tax credit:

(A) a document that expressly directs and authorizes the State Tax Commission to disclose to the office the local government entity's returns and

other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and

(B) if the new state revenues collected as a result of a new commercial project are attributable in whole or in part to a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project within the area of the local government entity, a document signed by an authorized representative of the new or expanded industrial, manufacturing, distribution, or business service that:

(I) expressly directs and authorizes the State Tax Commission to disclose to the office the returns of the new or expanded industrial, manufacturing, distribution, or business service and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and

(II) lists the taxpayer identification number of the new or expanded industrial, manufacturing, distribution, or business service; or

(iii) with respect to a local government entity that seeks to assign the tax credit to a community ~~[development and renewal]~~ reinvestment agency:

(A) a document signed by the members of the governing body of the community ~~[development and renewal]~~ reinvestment agency that expressly directs and authorizes the State Tax Commission to disclose to the office the returns of the community ~~[development and renewal]~~ reinvestment agency and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and

(B) if the new state revenues collected as a result of a new commercial project are attributable in whole or in part to a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project within the community ~~[development and renewal]~~ reinvestment agency, a document signed by an authorized representative of the new or expanded industrial, manufacturing, distribution, or business service that:

(I) expressly directs and authorizes the State Tax Commission to disclose to the office the returns of the new or expanded industrial, manufacturing, distribution, or business service and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and

(II) lists the taxpayer identification number of the new or expanded industrial, manufacturing, distribution, or business service; and

(f) for a business entity only, documentation that the business entity has satisfied the performance benchmarks outlined in the written agreement described in Subsection 63N-2-104(3)(a), including:

(i) the creation of new incremental jobs that are also high paying jobs;

(ii) significant capital investment;

(iii) significant purchases from Utah vendors and providers; or

(iv) a combination of these benchmarks.

(3) (a) The office shall submit the documents described in Subsection (2)(e) to the State Tax Commission.

(b) Upon receipt of a document described in Subsection (2)(e), the State Tax Commission shall provide the office with the returns and other information requested by the office that the State Tax Commission is directed or authorized to provide to the office in accordance with Subsection (2)(e).

(4) If, after review of the returns and other information provided by the State Tax Commission, or after review of the ongoing performance of the business entity or local government entity, the office determines that the returns and other information are inadequate to provide a reasonable justification for authorizing or continuing a tax credit, the office shall:

(a) (i) deny the tax credit; or

(ii) terminate the agreement described in Subsection 63N-2-104(3)(a) for failure to meet the performance standards established in the agreement; or

(b) inform the business entity or local government entity that the returns or other information were inadequate and ask the business entity or local government entity to submit new documentation.

(5) If after review of the returns and other information provided by the State Tax Commission, the office determines that the returns and other information provided by the business entity or local government entity provide reasonable justification for authorizing a tax credit, the office shall, based upon the returns and other information:

(a) determine the amount of the tax credit to be granted to the business entity, local government entity, or if the local government entity assigns the tax credit as described in Section 63N-2-104, to the community [~~development and renewal~~] reinvestment agency to which the local government entity assigns the tax credit;

(b) issue a tax credit certificate to the business entity, local government entity, or if the local government entity assigns the tax credit as described in Section 63N-2-104, to the community [~~development and renewal~~] reinvestment agency to which the local government entity assigns the tax credit; and

(c) provide a duplicate copy of the tax credit certificate to the State Tax Commission.

(6) A business entity, local government entity, or community [~~development and renewal~~] reinvestment agency may not claim a tax credit unless the business entity, local government entity, or community [~~development and renewal~~]

reinvestment agency has a tax credit certificate issued by the office.

(7) (a) A business entity, local government entity, or community [~~development and renewal~~] reinvestment agency may claim a tax credit in the amount listed on the tax credit certificate on its tax return.

(b) A business entity, local government entity, or community [~~development and renewal~~] reinvestment agency that claims a tax credit under this section shall retain the tax credit certificate in accordance with Section 59-7-614.2 or 59-10-1107.

Section 173. Section 63N-2-107 is amended to read:

63N-2-107. Reports of new state revenues, partial rebates, and tax credits.

(1) Before October 1 of each year, the office shall submit a report to the Governor's Office of Management and Budget, the Office of Legislative Fiscal Analyst, and the Division of Finance identifying:

(a) (i) the total estimated amount of new state revenues created from new commercial projects in development zones;

(ii) the estimated amount of new state revenues from new commercial projects in development zones that will be generated from:

(A) sales tax;

(B) income tax; and

(C) corporate franchise and income tax; and

(iii) the minimum number of new incremental jobs and high paying jobs that will be created before any tax credit is awarded; and

(b) the total estimated amount of tax credits that the office projects that business entities, local government entities, or community [~~development and renewal~~] reinvestment agencies will qualify to claim under this part.

(2) By the first business day of each month, the office shall submit a report to the Governor's Office of Management and Budget, the Office of Legislative Fiscal Analyst, and the Division of Finance identifying:

(a) each new agreement entered into by the office since the last report;

(b) the estimated amount of new state revenues that will be generated under each agreement;

(c) the estimated maximum amount of tax credits that a business entity, local government entity, or community [~~development and renewal~~] reinvestment agency could qualify for under each agreement; and

(d) the minimum number of new incremental jobs and high paying jobs that will be created before any tax credit is awarded.

(3) At the reasonable request of the Governor's Office of Management and Budget, the Office of

Legislative Fiscal Analyst, or the Division of Finance, the office shall provide additional information about the tax credit, new incremental jobs and high paying jobs, costs, and economic benefits related to this part, if the information is part of a public record as defined in Section 63G-2-103.

Section 174. Section 63N-2-108 is amended to read:

63N-2-108. Expenditure of amounts received by a local government entity or community reinvestment agency as a tax credit -- Commingling of tax credit amounts with certain other amounts.

(1) Subject to Subsections (2) and (3), a local government entity or community [~~development and renewal~~] reinvestment agency may expend amounts the local government entity or community [~~development and renewal~~] reinvestment agency receives as a tax credit under Section 59-7-614.2:

(a) for infrastructure, including real property or personal property, if that infrastructure is related to the new commercial project with respect to which the local government entity or community [~~development and renewal~~] reinvestment agency claims the tax credit under Section 59-7-614.2; or

(b) for another economic development purpose related to the new commercial project with respect to which the local government entity or community [~~development and renewal~~] reinvestment agency claims the tax credit under Section 59-7-614.2.

(2) A local government entity may:

(a) commingle amounts the local government entity receives as a tax credit under Section 59-7-614.2 with amounts the local government entity receives under Title 63N, Chapter 3, Part 1, Industrial Assistance Account; and

(b) expend the commingled amounts described in Subsection (2)(a) for a purpose described in Title 63N, Chapter 3, Part 1, Industrial Assistance Account, if that purpose is related to the new commercial project with respect to which the local government entity claims the tax credit under Section 59-7-614.2.

(3) A community [~~development and renewal~~] reinvestment agency may:

(a) commingle amounts the community [~~development and renewal~~] reinvestment agency receives as a tax credit under Section 59-7-614.2 with amounts the community [~~development and renewal~~] reinvestment agency receives under Title 17C, Chapter 1, Part 4, [~~Tax Increment and Sales Tax~~] Project Area Funds; and

(b) expend the commingled amounts described in Subsection (3)(a) for a purpose described in Title 17C, Chapter 1, Part 4, [~~Tax Increment and Sales Tax~~] Project Area Funds, if that purpose is related to the new commercial project with respect to which the community [~~development and renewal~~] reinvestment agency claims the tax credit under Section 59-7-614.2.

Section 175. Section 63N-2-502 is amended to read:

63N-2-502. Definitions.

As used in this part:

(1) "Agreement" means an agreement described in Section 63N-2-503.

(2) "Base taxable value" means the value of hotel property before the construction on a qualified hotel begins, as that value is established by the county in which the hotel property is located, using a reasonable valuation method that may include the value of the hotel property on the county assessment rolls the year before the year during which construction on the qualified hotel begins.

(3) "Certified claim" means a claim that the office has approved and certified as provided in Section 63N-2-505.

(4) "Claim" means a written document submitted by a qualified hotel owner or host local government to request a convention incentive.

(5) "Claimant" means the qualified hotel owner or host local government that submits a claim under Subsection 63N-2-505(1)(a) for a convention incentive.

(6) "Commission" means the Utah State Tax Commission.

(7) "Community [~~development and renewal~~] reinvestment agency" means the same as that term is defined in Section 17C-1-102.

(8) "Construction revenue" means revenue generated from state taxes and local taxes imposed on transactions occurring during the eligibility period as a result of the construction of the hotel property, including purchases made by a qualified hotel owner and its subcontractors.

(9) "Convention incentive" means an incentive for the development of a qualified hotel, in the form of payment from the incentive fund as provided in this part, as authorized in an agreement.

(10) "Eligibility period" means:

(a) the period that:

(i) begins the date construction of a qualified hotel begins; and

(ii) ends:

(A) for purposes of the state portion, 20 years after the date of initial occupancy of that qualified hotel; or

(B) for purposes of the local portion and incremental property tax revenue, 25 years after the date of initial occupancy of that hotel; or

(b) as provided in an agreement between the office and a qualified hotel owner or host local government, a period that:

(i) begins no earlier than the date construction of a qualified hotel begins; and

(ii) is shorter than the period described in Subsection (10)(a).

- (11) "Endorsement letter" means a letter:
- (a) from the county in which a qualified hotel is located or is proposed to be located;
 - (b) signed by the county executive; and
 - (c) expressing the county's endorsement of a developer of a qualified hotel as meeting all the county's criteria for receiving the county's endorsement.
- (12) "Host agency" means the community ~~[development and renewal]~~ reinvestment agency of the host local government.
- (13) "Host local government" means:
- (a) a county that enters into an agreement with the office for the construction of a qualified hotel within the unincorporated area of the county; or
 - (b) a city or town that enters into an agreement with the office for the construction of a qualified hotel within the boundary of the city or town.
- (14) "Hotel property" means a qualified hotel and any property that is included in the same development as the qualified hotel, including convention, exhibit, and meeting space, retail shops, restaurants, parking, and other ancillary facilities and amenities.
- (15) "Incentive fund" means the Convention Incentive Fund created in Section 63N-2-503.5.
- (16) "Incremental property tax revenue" means the amount of property tax revenue generated from hotel property that equals the difference between:
- (a) the amount of property tax revenue generated in any tax year by all taxing entities from hotel property, using the current assessed value of the hotel property; and
 - (b) the amount of property tax revenue that would be generated that tax year by all taxing entities from hotel property, using the hotel property's base taxable value.
- (17) "Local portion" means the portion of new tax revenue that is generated by local taxes.
- (18) "Local taxes" means a tax imposed under:
- (a) Section 59-12-204;
 - (b) Section 59-12-301;
 - (c) Sections 59-12-352 and 59-12-353;
 - (d) Subsection 59-12-603(1)(a)(i)(A);
 - (e) Subsection 59-12-603(1)(a)(i)(B);
 - (f) Subsection 59-12-603(1)(a)(ii);
 - (g) Subsection 59-12-603(1)(a)(iii); or
 - (h) Section 59-12-1102.
- (19) "New tax revenue" means construction revenue, offsite revenue, and onsite revenue.
- (20) "Offsite revenue" means revenue generated from state taxes and local taxes imposed on transactions by a third-party seller occurring other

than on hotel property during the eligibility period, if:

(a) the transaction is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act; and

(b) the third-party seller voluntarily consents to the disclosure of information to the office, as provided in Subsection 63N-2-505(2)(b)(i)(E).

(21) "Onsite revenue" means revenue generated from state taxes and local taxes imposed on transactions occurring on hotel property during the eligibility period.

(22) "Public infrastructure" means:

(a) water, sewer, storm drainage, electrical, telecommunications, and other similar systems and lines;

(b) streets, roads, curbs, gutters, sidewalks, walkways, parking facilities, and public transportation facilities; and

(c) other buildings, facilities, infrastructure, and improvements that benefit the public.

(23) "Qualified hotel" means a full-service hotel development constructed in the state on or after July 1, 2014 that:

(a) requires a significant capital investment;

(b) includes at least 85 square feet of convention, exhibit, and meeting space per guest room; and

(c) is located within 1,000 feet of a convention center that contains at least 500,000 square feet of convention, exhibit, and meeting space.

(24) "Qualified hotel owner" means a person who owns a qualified hotel.

(25) "Review committee" means the independent review committee established under Section 63N-2-504.

(26) "Significant capital investment" means an amount of at least \$200,000,000.

(27) "State portion" means the portion of new tax revenue that is generated by state taxes.

(28) "State taxes" means a tax imposed under Subsection 59-12-103(2)(a)(i), (2)(b)(i), (2)(c)(i), or (2)(d)(i)(A).

(29) "Third-party seller" means a person who is a seller in a transaction:

(a) occurring other than on hotel property;

(b) that is:

(i) the sale, rental, or lease of a room or of convention or exhibit space or other facilities on hotel property; or

(ii) the sale of tangible personal property or a service that is part of a bundled transaction, as defined in Section 59-12-102, with a sale, rental, or lease described in Subsection (29)(b)(i); and

(c) that is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act.

Section 176. Section 63N-2-505 is amended to read:

63N-2-505. Submission of written claim for convention incentive -- Disclosure of tax

**returns and other information --
Determination of claim.**

(1) The office may not pay any money from the incentive fund to a qualified hotel owner or host local government unless:

(a) the qualified hotel owner or host local government submits a claim and other required documentation, as provided in this section; and

(b) the office approves and certifies the claim, as provided in this section.

(2) A qualified hotel owner or host local government that desires to qualify for a convention incentive shall submit to the office:

(a) a written claim for a convention incentive;

(b) (i) for a claim submitted by a qualified hotel owner:

(A) a certification by the individual signing the claim that the individual is duly authorized to sign the claim on behalf of the qualified hotel owner;

(B) documentation of the new tax revenue previously generated, itemized by construction revenue, offsite revenue, onsite revenue, type of sales or use tax, and the location of the transaction generating the new tax revenue as determined under Sections 59-12-211, 59-12-211.1, 59-12-212, 59-12-213, 59-12-214, and 59-12-215;

(C) the identity of sellers collecting onsite revenue and the date the sellers will begin collecting onsite revenue;

(D) a document in which the qualified hotel owner expressly directs and authorizes the commission to disclose to the office the qualified hotel owner's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;

(E) a document in which the qualified hotel's direct vendors, lessees, or subcontractors, as applicable, expressly direct and authorize the commission to disclose to the office the tax returns and other information of those vendors, lessees, or subcontractors that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;

(F) a document in which a third-party seller expressly and voluntarily directs and authorizes the commission to disclose to the office the third-party seller's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;

(G) documentation verifying that the qualified hotel owner is in compliance with the terms of the agreement; and

(H) any other documentation that the agreement or office requires; and

(ii) for an application submitted by a host local government, documentation of the new tax revenue generated during the preceding year;

(c) if the host local government intends to assign the convention incentive to a community [~~development and renewal~~] reinvestment agency, a document signed by the governing body members of the community [~~development and renewal~~] reinvestment agency that expressly directs and authorizes the commission to disclose to the office the agency's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and

(d) an audit level attestation, or other level of review approved by the office, from an independent certified public accountant, hired by the claimant, attesting to the accuracy and validity of the amount of the state portion and the local portion being claimed by the claimant.

(3) (a) The office shall submit to the commission the documents described in Subsections (2)(b)(i)(C), (D), and (E) and (2)(c) authorizing disclosure of the tax returns and other information.

(b) Upon receipt of the documents described in Subsection (3)(a), the commission shall provide to the office the tax returns and other information described in those documents.

(4) If the office determines that the tax returns and other information are inadequate to enable the office to approve and certify a claim, the office shall inform the claimant that the tax returns and other information were inadequate and request the tax credit applicant to submit additional documentation to validate the claim.

(5) If the office determines that the returns and other information, including any additional documentation provided under Subsection (4), comply with applicable requirements and provide reasonable justification to approve and certify the claim, the office shall:

(a) approve and certify the claim;

(b) determine the amount of the certified claim; and

(c) disburse money from the incentive fund to pay the certified claim as provided in Subsection (6).

(6) The office shall pay claims from available money in the incentive fund at least annually.

(7) For each certified claim, the office shall provide the commission:

(a) for onsite revenue:

(i) the identity of sellers operating upon the hotel property;

(ii) the date that the commission is to begin depositing or transferring onsite revenue under Section 63N-2-503.5 for each seller operating upon the hotel property;

(iii) the date that the commission is to stop depositing or transferring onsite revenue to the

incentive fund under Section 63N-2-503.5 for each seller operating upon the hotel property; and

(iv) the type of sales or use tax subject to the commission's deposit or transfer to the incentive fund under Section 63N-2-503.5;

(b) for construction revenue and offsite revenue:

(i) the amount of new tax revenue authorized under the agreement constituting construction revenue or offsite revenue;

(ii) the location of the transactions generating the construction revenue and offsite revenue, as determined under Sections 59-12-211, 59-12-211.1, 59-12-212, 59-12-213, 59-12-214, and 59-12-215; and

(iii) the type of sales or use tax that constitutes the construction revenue of offsite revenue described in Subsection (7)(b)(ii); and

(c) any other information the commission requires.

Section 177. Section 63N-2-507 is amended to read:

63N-2-507. Assigning convention incentive.

(1) A host local government that enters into an agreement with the office may, by resolution, assign a convention incentive to a community [~~development and renewal~~] reinvestment agency, in accordance with rules adopted by the office.

(2) A host local government that adopts a resolution assigning a convention incentive under Subsection (1) shall provide a copy of the resolution to the office.

Section 178. Section 63N-2-508 is amended to read:

63N-2-508. Payment of incremental property tax revenue.

(1) As used in this section:

(a) "Displaced tax increment" means the amount of tax increment that a county would have paid to the host agency, except for Subsection (2)(b), from tax increment revenue generated from the project area in which the hotel property is located.

(b) "Secured obligations" means bonds or other obligations of a host agency for the payment of which the host agency has, before March 13, 2015, pledged tax increment generated from the project area in which the hotel property is located.

(c) "Tax increment" means the same as that term is defined in Section 17C-1-102.

(d) "Tax increment shortfall" means the amount of displaced tax increment a host agency needs to receive, in addition to any other tax increment the host agency receives from the project area in which the hotel property is located, to provide the host agency sufficient tax increment funds to be able to pay the debt service on its secured obligations.

(2) (a) In accordance with rules adopted by the office and subject to Subsection (5), a county in

which a qualified hotel is located shall retain incremental property tax revenue during the eligibility period.

(b) The amount of incremental property tax revenue that a county retains under Subsection (2)(a) for a taxable year reduces by that amount any tax increment that the county would otherwise have paid to the host agency for that year, subject to Subsection (5).

(c) For any taxable year in which a reduction of tax increment occurs as provided in Subsection (2)(b), the county shall provide the host agency a notice that:

(i) states the amount of displaced tax increment for that year;

(ii) states the number of years remaining in the eligibility period;

(iii) provides a detailed accounting of how the displaced tax increment was used; and

(iv) explains how the displaced tax increment will be used in the following taxable year.

(3) Incremental property tax revenue may be used only for:

(a) the purchase of or payment for, or reimbursement of a previous purchase of or payment for:

(i) tangible personal property used in the construction of convention, exhibit, or meeting space on hotel property;

(ii) tangible personal property that, upon the construction of hotel property, becomes affixed to hotel property as real property; or

(iii) any labor and overhead costs associated with the construction described in Subsections (3)(a)(i) and (ii); and

(b) public infrastructure.

(4) (a) Incremental property tax:

(i) is not tax increment; and

(ii) is not subject to:

(A) Title 17C, Limited Purpose Local Government Entities - Community [~~Development and Renewal Agencies~~] Reinvestment Agency Act; or

(B) any other law governing tax increment, except as provided in Subsection (4)(c).

(b) The payment and use of incremental property tax, as provided in this part, is not subject to the approval of any taxing entity, as defined in Section 17C-1-102.

(c) Revenue from an increase in the taxable value of hotel property is considered to be a redevelopment adjustment for purposes of calculating the certified tax rate under Section 59-2-924.

(5) (a) Subject to Subsection (5)(b), a county may not spend the portion of incremental property tax

revenue that is displaced tax increment until after 30 days after the county provides the notice required under Subsection (2)(c).

(b) If, within 30 days after the county provides the notice required under Subsection (2)(c), a host agency provides written notice to the county that the host agency will experience a tax increment shortfall, the county shall, unless the host agency agrees otherwise, pay to the host agency displaced tax increment in the amount of the tax increment shortfall.

Section 179. Section 67-1a-6.5 is amended to read:

67-1a-6.5. Certification of local entity boundary actions -- Definitions -- Notice requirements -- Electronic copies -- Filing.

(1) As used in this section:

(a) "Applicable certificate" means:

(i) for the impending incorporation of a city, town, local district, conservation district, or incorporation of a local district from a reorganized special service district, a certificate of incorporation;

(ii) for the impending creation of a county, school district, special service district, community [development and renewal] reinvestment agency, or interlocal entity, a certificate of creation;

(iii) for the impending annexation of territory to an existing local entity, a certificate of annexation;

(iv) for the impending withdrawal or disconnection of territory from an existing local entity, a certificate of withdrawal or disconnection, respectively;

(v) for the impending consolidation of multiple local entities, a certificate of consolidation;

(vi) for the impending division of a local entity into multiple local entities, a certificate of division;

(vii) for the impending adjustment of a common boundary between local entities, a certificate of boundary adjustment; and

(viii) for the impending dissolution of a local entity, a certificate of dissolution.

(b) "Approved final local entity plat" means a final local entity plat, as defined in Section 17-23-20, that has been approved under Section 17-23-20 as a final local entity plat by the county surveyor.

(c) "Approving authority" has the same meaning as defined in Section 17-23-20.

(d) "Boundary action" has the same meaning as defined in Section 17-23-20.

(e) "Center" means the Automated Geographic Reference Center created under Section 63F-1-506.

(f) "Community [development and renewal] reinvestment agency" has the same meaning as defined in Section 17C-1-102.

(g) "Conservation district" has the same meaning as defined in Section 17D-3-102.

(h) "Interlocal entity" has the same meaning as defined in Section 11-13-103.

(i) "Local district" has the same meaning as defined in Section 17B-1-102.

(j) "Local entity" means a county, city, town, school district, local district, community [development and renewal] reinvestment agency, special service district, conservation district, or interlocal entity.

(k) "Notice of an impending boundary action" means a written notice, as described in Subsection (3), that provides notice of an impending boundary action.

(1) "Special service district" has the same meaning as defined in Section 17D-1-102.

(2) Within 10 days after receiving a notice of an impending boundary action, the lieutenant governor shall:

(a) (i) issue the applicable certificate, if:

(A) the lieutenant governor determines that the notice of an impending boundary action meets the requirements of Subsection (3); and

(B) except in the case of an impending local entity dissolution, the notice of an impending boundary action is accompanied by an approved final local entity plat;

(ii) send the applicable certificate to the local entity's approving authority;

(iii) return the original of the approved final local entity plat to the local entity's approving authority;

(iv) send a copy of the applicable certificate and approved final local entity plat to:

(A) the State Tax Commission;

(B) the center; and

(C) the county assessor, county surveyor, county auditor, and county attorney of each county in which the property depicted on the approved final local entity plat is located; and

(v) send a copy of the applicable certificate to the state auditor, if the boundary action that is the subject of the applicable certificate is:

(A) the incorporation or creation of a new local entity;

(B) the consolidation of multiple local entities;

(C) the division of a local entity into multiple local entities; or

(D) the dissolution of a local entity; or

(b) (i) send written notification to the approving authority that the lieutenant governor is unable to issue the applicable certificate, if:

(A) the lieutenant governor determines that the notice of an impending boundary action does not meet the requirements of Subsection (3); or

(B) the notice of an impending boundary action is:

(I) not accompanied by an approved final local entity plat; or

(II) accompanied by a plat or final local entity plat that has not been approved as a final local entity plat by the county surveyor under Section 17-23-20; and

(ii) explain in the notification under Subsection (2)(b)(i) why the lieutenant governor is unable to issue the applicable certificate.

(3) Each notice of an impending boundary action shall:

(a) be directed to the lieutenant governor;

(b) contain the name of the local entity or, in the case of an incorporation or creation, future local entity, whose boundary is affected or established by the boundary action;

(c) describe the type of boundary action for which an applicable certificate is sought;

(d) be accompanied by a letter from the Utah State Retirement Office, created under Section 49-11-201, to the approving authority that identifies the potential provisions under Title 49, Utah State Retirement and Insurance Benefit Act, that the local entity shall comply with, related to the boundary action, if the boundary action is an impending incorporation or creation of a local entity that may result in the employment of personnel; and

(e) (i) contain a statement, signed and verified by the approving authority, certifying that all requirements applicable to the boundary action have been met; or

(ii) in the case of the dissolution of a municipality, be accompanied by a certified copy of the court order approving the dissolution of the municipality.

(4) The lieutenant governor may require the approving authority to submit a paper or electronic copy of a notice of an impending boundary action and approved final local entity plat in conjunction with the filing of the original of those documents.

(5) (a) The lieutenant governor shall:

(i) keep, index, maintain, and make available to the public each notice of an impending boundary action, approved final local entity plat, applicable certificate, and other document that the lieutenant governor receives or generates under this section;

(ii) make a copy of each document listed in Subsection (5)(a)(i) available on the Internet for 12 months after the lieutenant governor receives or generates the document;

(iii) furnish a paper copy of any of the documents listed in Subsection (5)(a)(i) to any person who requests a paper copy; and

(iv) furnish a certified copy of any of the documents listed in Subsection (5)(a)(i) to any person who requests a certified copy.

(b) The lieutenant governor may charge a reasonable fee for a paper copy or certified copy of a document that the lieutenant governor provides under this Subsection (5).

Section 180. Section 72-1-208 is amended to read:

72-1-208. Cooperation with counties, cities, towns, the federal government, and all state departments -- Inspection of work done by a public transit district.

(1) The department shall cooperate with the counties, cities, towns, and community [~~development and renewal~~] reinvestment agencies in the construction, maintenance, and use of the highways and in all related matters, and may provide services to the counties, cities, towns, and community [~~development and renewal~~] reinvestment agencies on terms mutually agreed upon.

(2) The department, with the approval of the governor, shall cooperate with the federal government in all federal-aid projects and with all state departments in all matters in connection with the use of the highways.

(3) The department:

(a) shall inspect all work done by a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act, relating to safety appliances and procedures; and

(b) may make further additions or changes necessary for the purpose of safety to employees and the general public.

Section 181. Repealer.

This bill repeals:

Section 17C-1-303, Summary of sale or other disposition of agency property -- Publication of summary.

Section 17C-3-301, Combining hearings.

Section 17C-3-302, Continuing a hearing.

Section 17C-3-303, Notice required for continued hearing.

Section 17C-3-401, Agency to provide notice of hearings.

Section 17C-3-402, Requirements for notice provided by agency.

Section 17C-3-403, Additional requirements for notice of a plan hearing.

Section 17C-3-404, Additional requirements for notice of a budget hearing.

Section 17C-4-301, Continuing a plan hearing.

Section 17C-4-302, Notice required for continued hearing.

Section 17C-4-401, Agency required to provide notice of plan hearing.

Section 17C-4-402, Requirements for notice provided by agency.

**Section 182. Coordinating S.B. 151 with
H.B. 25 -- Superseding technical and
substantive amendments.**

If this S.B. 151 and H.B. 25, Property Tax Changes, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication as follows:

(1) the amendments to Section 59-2-924 in H.B. 25 supersede the amendments to Section 59-2-924 in this bill; and

(2) modify Subsection 59-2-924(1)(g) to read:

“(g) “Incremental value” means the same as that term is defined in Section 17C-1-102.”

CHAPTER 351**S. B. 158**

Passed March 10, 2016
 Approved March 28, 2016
 Effective May 10, 2016

**JUVENILE COURT AND
CHILD ABUSE AMENDMENTS**

Chief Sponsor: Wayne A. Harper
 House Sponsor: Paul Ray

LONG TITLE**General Description:**

This bill amends a definition in the Juvenile Court Act.

Highlighted Provisions:

This bill:

- ▶ amends the definition of “sexual abuse” in the Juvenile Court Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78A-6-105, as last amended by Laws of Utah 2015, Chapter 274

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78A-6-105 is amended to read:**78A-6-105. Definitions.**

As used in this chapter:

- (1) (a) “Abuse” means:
 - (i) nonaccidental harm of a child;
 - (ii) threatened harm of a child;
 - (iii) sexual exploitation; or
 - (iv) sexual abuse.
 - (v) that a child’s natural parent:
 - (A) intentionally, knowingly, or recklessly causes the death of another parent of the child;
 - (B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or
 - (C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.
- (b) “Abuse” does not include:
 - (i) reasonable discipline or management of a child, including withholding privileges;
 - (ii) conduct described in Section 76-2-401; or
 - (iii) the use of reasonable and necessary physical restraint or force on a child;

- (A) in self-defense;
 - (B) in defense of others;
 - (C) to protect the child; or
 - (D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).
- (2) “Abused child” means a child who has been subjected to abuse.
- (3) “Adjudication” means a finding by the court, incorporated in a decree, that the facts alleged in the petition have been proved. A finding of not competent to proceed pursuant to Section 78A-6-1302 is not an adjudication.
- (4) “Adult” means a person 18 years of age or over, except that a person 18 years or over under the continuing jurisdiction of the juvenile court pursuant to Section 78A-6-120 shall be referred to as a minor.
- (5) “Board” means the Board of Juvenile Court Judges.
- (6) “Child” means a person under 18 years of age.
- (7) “Child placement agency” means:
- (a) a private agency licensed to receive a child for placement or adoption under this code; or
 - (b) a private agency that receives a child for placement or adoption in another state, which agency is licensed or approved where such license or approval is required by law.
- (8) “Clandestine laboratory operation” means the same as that term is defined in Section 58-37d-3.
- (9) “Commit” means, unless specified otherwise:
- (a) with respect to a child, to transfer legal custody; and
 - (b) with respect to a minor who is at least 18 years of age, to transfer custody.
- (10) “Court” means the juvenile court.
- (11) “Dependent child” includes a child who is homeless or without proper care through no fault of the child’s parent, guardian, or custodian.
- (12) “Deprivation of custody” means transfer of legal custody by the court from a parent or the parents or a previous legal custodian to another person, agency, or institution.
- (13) “Detention” means home detention and secure detention as defined in Section 62A-7-101 for the temporary care of a minor who requires secure custody in a physically restricting facility:
- (a) pending court disposition or transfer to another jurisdiction; or
 - (b) while under the continuing jurisdiction of the court.
- (14) “Division” means the Division of Child and Family Services.
- (15) “Formal referral” means a written report from a peace officer or other person informing the

court that a minor is or appears to be within the court's jurisdiction and that a petition may be filed.

(16) "Group rehabilitation therapy" means psychological and social counseling of one or more persons in the group, depending upon the recommendation of the therapist.

(17) "Guardianship of the person" includes the authority to consent to:

- (a) marriage;
- (b) enlistment in the armed forces;
- (c) major medical, surgical, or psychiatric treatment; or
- (d) legal custody, if legal custody is not vested in another person, agency, or institution.

(18) "Habitual truant" means the same as that term is defined in Section 53A-11-101.

(19) "Harm" means:

- (a) physical or developmental injury or damage;
- (b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;
- (c) sexual abuse; or
- (d) sexual exploitation.

(20) (a) "Incest" means engaging in sexual intercourse with a person whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) The relationships described in Subsection (20)(a) include:

- (i) blood relationships of the whole or half blood, without regard to legitimacy;
- (ii) relationships of parent and child by adoption; and
- (iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(21) "Intellectual disability" means:

- (a) significantly subaverage intellectual functioning, an IQ of approximately 70 or below on an individually administered IQ test, for infants, a clinical judgment of significantly subaverage intellectual functioning;
- (b) concurrent deficits or impairments in present adaptive functioning, the person's effectiveness in meeting the standards expected for his or her age by the person's cultural group, in at least two of the following areas: communication, self-care, home living, social/interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health, and safety; and

(c) the onset is before the person reaches the age of 18 years.

(22) "Legal custody" means a relationship embodying the following rights and duties:

- (a) the right to physical custody of the minor;
- (b) the right and duty to protect, train, and discipline the minor;
- (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;
- (d) the right to determine where and with whom the minor shall live; and
- (e) the right, in an emergency, to authorize surgery or other extraordinary care.

(23) "Mental disorder" means a serious emotional and mental disturbance that severely limits a minor's development and welfare over a significant period of time.

(24) "Minor" means:

- (a) a child; or
- (b) a person who is:
 - (i) at least 18 years of age and younger than 21 years of age; and
 - (ii) under the jurisdiction of the juvenile court.

(25) "Molestation" means that a person, with the intent to arouse or gratify the sexual desire of any person:

- (a) touches the anus or any part of the genitals of a child;
- (b) takes indecent liberties with a child; or
- (c) causes a child to take indecent liberties with the perpetrator or another.

(26) "Natural parent" means a minor's biological or adoptive parent, and includes the minor's noncustodial parent.

(27) (a) "Neglect" means action or inaction causing:

- (i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child;
- (ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;
- (iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence, education, or medical care, or any other care necessary for the child's health, safety, morals, or well-being; or
- (iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused.

(b) The aspect of neglect relating to education, described in Subsection (27)(a)(iii), means that, after receiving a notice of compulsory education violation under Section 53A-11-101.5, or notice that a parent or guardian has failed to cooperate with school authorities in a reasonable manner as

required under Subsection 53A-11-101.7(5)(a), the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

(c) A parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child, is not guilty of neglect.

(d) (i) Notwithstanding Subsection (27)(a), a health care decision made for a child by the child's parent or guardian does not constitute neglect unless the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

(ii) Nothing in Subsection (27)(d)(i) may prohibit a parent or guardian from exercising the right to obtain a second health care opinion and from pursuing care and treatment pursuant to the second health care opinion, as described in Section 78A-6-301.5.

(28) "Neglected child" means a child who has been subjected to neglect.

(29) "Nonjudicial adjustment" means closure of the case by the assigned probation officer without judicial determination upon the consent in writing of:

(a) the assigned probation officer; and

(b) (i) the minor; or

(ii) the minor and the minor's parent, legal guardian, or custodian.

(30) "Not competent to proceed" means that a minor, due to a mental disorder, intellectual disability, or related condition as defined, lacks the ability to:

(a) understand the nature of the proceedings against them or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against them with a reasonable degree of rational understanding.

(31) "Physical abuse" means abuse that results in physical injury or damage to a child.

(32) "Probation" means a legal status created by court order following an adjudication on the ground of a violation of law or under Section 78A-6-103, whereby the minor is permitted to remain in the minor's home under prescribed conditions and under supervision by the probation department or other agency designated by the court, subject to return to the court for violation of any of the conditions prescribed.

(33) "Protective supervision" means a legal status created by court order following an adjudication on the ground of abuse, neglect, or dependency, whereby the minor is permitted to remain in the minor's home, and supervision and assistance to correct the abuse, neglect, or dependency is provided by the probation department or other agency designated by the court.

(34) "Related condition" means a condition closely related to intellectual disability in accordance with 42 C.F.R. Part 435.1010 and further defined in Rule R539-1-3, Utah Administrative Code.

(35) (a) "Residual parental rights and duties" means those rights and duties remaining with the parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child's religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, "residual parental rights and duties" also include the right to consent to:

(i) marriage;

(ii) enlistment; and

(iii) major medical, surgical, or psychiatric treatment.

(36) "Secure facility" means any facility operated by or under contract with the Division of Juvenile Justice Services, that provides 24-hour supervision and confinement for youth offenders committed to the division for custody and rehabilitation.

(37) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

(38) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

(39) "Sexual abuse" means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child; ~~or~~

(b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

(i) there is an indication of force or coercion;

(ii) the children are related, as defined in Subsections (20)(a) and (20)(b);

(iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years of age or older; or

(iv) there is a disparity in chronological age of four or more years between the two children; or

~~(c)~~ (c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the person who engages in the conduct is actually charged with, or convicted of, the offense:

(i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;

- (ii) child bigamy, Section 76-7-101.5;
- (iii) incest, Section 76-7-102;
- (iv) lewdness, Section 76-9-702;
- (v) sexual battery, Section 76-9-702.1;
- (vi) lewdness involving a child, Section 76-9-702.5; or
- (vii) voyeurism, Section 76-9-702.7.

(40) "Sexual exploitation" means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any person; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any person; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, regardless of whether the person who engages in the conduct is actually charged with, or convicted of, the offense.

(41) "Shelter" means the temporary care of a child in a physically unrestricted facility pending court disposition or transfer to another jurisdiction.

(42) "State supervision" means a disposition that provides a more intensive level of intervention than standard probation but is less intensive or restrictive than a community placement with the Division of Juvenile Justice Services.

(43) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.

(44) "Substantiated" means the same as that term is defined in Section 62A-4a-101.

(45) "Supported" means the same as that term is defined in Section 62A-4a-101.

(46) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

(47) "Therapist" means:

(a) a person employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in its custody; or

(b) any other person licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

(48) "Unsubstantiated" means the same as that term is defined in Section 62A-4a-101.

(49) "Without merit" means the same as that term is defined in Section 62A-4a-101.

CHAPTER 352**S. B. 159**

Passed March 10, 2016
Approved March 28, 2016
Effective May 10, 2016

SEVERANCE TAX EXEMPTION EXTENSION

Chief Sponsor: Kevin T. Van Tassell
House Sponsor: Scott H. Chew

LONG TITLE**General Description:**

This bill modifies the state severance tax on oil and gas.

Highlighted Provisions:

This bill:

- ▶ extends for 10 years the exemption from the state severance tax on oil and gas for oil and gas produced from coal-to-liquids technology, oil shale, or oil sands.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

59-5-120, as enacted by Laws of Utah 2006,
Chapter 346

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-5-120 is amended to read:**59-5-120. Exemption.**

Beginning on January 1, 2006, and ending on June 30, [2016] 2026, no severance tax required by this chapter is imposed on oil and gas produced, saved, sold, or transported if the oil or gas produced, saved, sold, or transported is derived from:

- (1) coal-to-liquids technology;
- (2) oil shale; or
- (3) [~~tar~~] oil sands.

CHAPTER 353**S. B. 164**

Passed March 10, 2016
 Approved March 28, 2016
 Effective May 10, 2016
 (Retrospective operation to January 1, 2016)

LOCAL GOVERNMENT MODIFICATIONS

Chief Sponsor: Deidre M. Henderson
 House Sponsor: R. Curt Webb

LONG TITLE**General Description:**

This bill modifies provisions relating to local governments.

Highlighted Provisions:

This bill:

- ▶ removes the requirement for the Office of the State Auditor to provide certain budget forms;
- ▶ requires a town, city, county, interlocal entity, or local district to appropriate a percentage of fund revenue toward deficit fund balances;
- ▶ requires a town to prepare certain financial reports;
- ▶ clarifies the due date for budget adoption for a city undergoing truth in taxation;
- ▶ removes obsolete language related to city auditor bookkeeping duties;
- ▶ repeals the requirement for an independent audit of a county's transient room tax and tourism, recreation, cultural, convention, and airport facilities tax;
- ▶ modifies the contents of a property tax notice;
- ▶ provides that a taxpayer who pays less than the full amount of the items listed on the taxpayer's property tax notice may direct how the county treasurer allocates the partial payment between the amounts due; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:**AMENDS:**

- 10-5-107, as last amended by Laws of Utah 2014, Chapter 377
 10-5-114, as last amended by Laws of Utah 2010, Chapter 378
 10-5-129, as last amended by Laws of Utah 2009, Chapter 323
 10-6-111, as last amended by Laws of Utah 2015, Chapter 352
 10-6-117, as last amended by Laws of Utah 2014, Chapter 176
 10-6-135, as last amended by Laws of Utah 2014, Chapter 377
 10-6-139, as last amended by Laws of Utah 2003, Chapter 292
 11-13-513, as enacted by Laws of Utah 2015, Chapter 265
 11-42-401, as last amended by Laws of Utah 2015, Chapters 349 and 396

- 17-31-5.5, as last amended by Laws of Utah 2008, Chapter 286
 17B-1-613, as renumbered and amended by Laws of Utah 2007, Chapter 329
 17B-1-902, as last amended by Laws of Utah 2015, Chapter 349
 59-2-1317, as last amended by Laws of Utah 2015, Chapter 349

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-5-107 is amended to read:**10-5-107. Tentative budgets required for public inspection -- Contents -- Adoption of tentative budget.**

(1) (a) On or before the first regularly scheduled town council meeting of May, the mayor shall:

(i) in accordance with Subsection (1)(b), prepare for the ensuing year [~~on forms provided by the state auditor;~~] a tentative budget for each fund for which a budget is required;

(ii) make the tentative budget available for public inspection; and

(iii) submit the tentative budget to the town council.

(b) The tentative budget [of] for each fund shall set forth in tabular form:

(i) actual revenues and expenditures in the last completed fiscal year;

(ii) estimated total revenues and expenditures for the current fiscal year; and

(iii) the mayor's estimates of revenues and expenditures for the budget year.

(2) (a) The mayor shall:

(i) estimate the amount of revenue available to serve the needs of each fund;

(ii) estimate the portion to be derived from all sources other than general property taxes; and

(iii) estimate the portion that shall be derived from general property taxes.

(b) From the estimates required by Subsection (2)(a), the mayor shall compute and disclose in the budget the lowest rate of property tax levy that will raise the required amount of revenue, calculating the levy on the latest taxable value.

(3) A governing body may spend or transfer money deposited in an enterprise fund for a good, service, project, venture, or other purpose that is not directly related to the goods or services provided by the enterprise for which the enterprise fund was created, if the governing body:

(a) transfers the money from the enterprise fund to another fund; and

(b) complies with the hearing and notice requirements of Subsections (5)(a), (b), and (c).

(4) (a) Before the public hearing required under Section 10-5-108, the town council:

(i) shall review, consider, and tentatively adopt the tentative budget in any regular meeting or special meeting called for that purpose; and

(ii) may amend or revise the tentative budget.

(b) At the meeting at which the town council adopts the tentative budget, the council shall establish the time and place of the public hearing required under Section 10-5-108.

(5) (a) Except as provided in Subsection (5)(d), if a town council includes in a tentative budget, or an amendment to a budget, allocations or transfers from an enterprise fund to another fund for a good, service, project, venture, or purpose other than reasonable allocations of costs between the enterprise fund and the other fund, the governing body shall:

(i) hold a public hearing;

(ii) prepare a written notice of the date, time, place, and purpose of the hearing as described in Subsection (5)(b); and

(iii) subject to Subsection (5)(c), mail the notice to each enterprise fund customer at least seven days before the day of the hearing.

(b) The purpose portion of the written notice shall identify:

(i) the enterprise fund from which money is being allocated or transferred;

(ii) the amount being allocated or transferred; and

(iii) the fund to which the money is being allocated or transferred.

(c) The town council:

(i) may print the written notice required under Subsection (5)(a)(ii) on the enterprise fund customer's bill; and

(ii) shall include the written notice required under Subsection (5)(a)(ii) as separate notification mailed or transmitted with the enterprise fund customer's bill.

(d) A governing body is not required to repeat the notice and hearing requirements in this Subsection (5) if the funds to be allocated or transferred for the current year were previously approved by the governing body during the current year and at a public hearing that complies with the notice and hearing requirements of this Subsection (5).

Section 2. Section 10-5-114 is amended to read:

10-5-114. Appropriations limited to estimated revenue.

(1) The council may not make any appropriation in the final budget of any fund in excess of the estimated expendable revenue for the budget year of such fund.

(2) If there is a deficit fund balance in a fund at the close of the last completed fiscal year, the council

shall include an item of appropriation for the deficit in the current budget of the fund equal to:

(a) at least 5% of the total revenue of the fund in the last completed fiscal year; or

(b) if the deficit is equal to less than 5% of the total revenue of the fund in the last completed fiscal year, the entire amount of the deficit.

Section 3. Section 10-5-129 is amended to read:

10-5-129. Annual financial report.

(1) ~~Within~~ The town clerk or other designated person shall prepare and present to the council:

(a) (i) a quarterly financial report; or

(ii) upon request by the council, a financial report more frequently than each quarter; and

(b) an annual financial report within 180 days after the close of each fiscal year ~~[the town clerk or other delegated person shall present to the council an annual financial report].~~

(2) The requirement ~~[under]~~ described in Subsection (1)(b) ~~[to present an annual financial report]~~ may be satisfied by an audit report or annual financial report of an independent auditor.

Section 4. Section 10-6-111 is amended to read:

10-6-111. Tentative budget to be prepared -- Contents -- Estimate of expenditures -- Budget message -- Review by governing body.

(1) (a) On or before the first regularly scheduled meeting of the governing body in the last May of the current period, the budget officer shall, in accordance with Subsection (1)(b), prepare for the ensuing fiscal period, ~~[on forms provided by the state auditor,]~~ and file with the governing body, a tentative budget for each fund for which a budget is required.

(b) The tentative budget of each fund shall set forth in tabular form:

(i) the actual revenues and expenditures in the last completed fiscal period;

~~[(ii) the budget estimates for the current fiscal period;]~~

~~[(iii) the actual revenues and expenditures for a period of 6 to 21 months, as appropriate, of the current fiscal period;]~~

~~[(iv)]~~ (ii) the estimated total revenues and expenditures for the current fiscal period;

~~[(v)]~~ (iii) the budget officer's estimates of revenues and expenditures for the budget period, computed as provided in Subsection (1)(c); and

~~[(vi)]~~ (iv) if the governing body elects, the actual performance experience to the extent established by Section 10-6-154 and available in work units, unit costs, man hours, or man years for each budgeted fund on an actual basis for the last completed fiscal period, and estimated for the

current fiscal period and for the ensuing budget period.

(c) (i) In making estimates of revenues and expenditures under Subsection (1)(b)(~~(v)~~)(iii), the budget officer shall estimate:

(A) on the basis of demonstrated need, the expenditures for the budget period, after:

(I) hearing each department head; and

(II) reviewing the budget requests and estimates of the department heads; and

(B) (I) the amount of revenue available to serve the needs of each fund;

(II) the portion of revenue to be derived from all sources other than general property taxes; and

(III) the portion of revenue that shall be derived from general property taxes.

(ii) The budget officer may revise any department's estimate under Subsection (1)(c)(i)(A)(II) that the officer considers advisable for the purpose of presenting the budget to the governing body.

(iii) From the estimate made under Subsection (1)(c)(i)(B)(III), the budget officer shall compute and disclose in the budget the lowest rate of property tax levy that will raise the required amount of revenue, calculating the levy upon the latest taxable value.

(2) (a) (i) Each tentative budget, when filed by the budget officer with the governing body, shall contain the estimates of expenditures submitted by department heads, together with specific work programs and such other supporting data as this chapter requires or the governing body may request.

(ii) Each city of the first or second class shall, and a city of the third, fourth, or fifth class may, submit a supplementary estimate of all capital projects which each department head believes should be undertaken within the next three succeeding years.

(b) Each tentative budget submitted by the budget officer to the governing body shall be accompanied by a budget message~~[-which shall explain] that:~~

(i) explains the budget~~[-contain];~~

(ii) contains an outline of the proposed financial policies of the city for the budget period~~[-and shall describe];~~

(iii) describes the important features of the budgetary plan~~[-It shall set forth];~~

(iv) provides the reasons for salient changes from the previous fiscal period in appropriation and revenue items [and shall explain]; and

(v) explains any major changes in financial policy.

~~[(3) Each tentative budget shall be reviewed, considered, and tentatively adopted by the governing body in any regular meeting or special meeting called for the purpose and may be amended~~

~~or revised in such manner as is considered advisable prior to public hearings, except that no]~~

(3) (a) Subject to Subsection (3)(b), a governing body in any regular public hearing or special public hearing:

(i) shall review, consider, and tentatively adopt each tentative budget; and

(ii) may, before the public hearing described in Section 10-6-114, amend or revise each tentative budget.

(b) A governing body may not reduce an appropriation required for debt retirement and interest or reduction of any existing deficits ~~[pursuant to]~~ in accordance with Section 10-6-117, or otherwise required by law or ordinance, ~~[may be reduced]~~ below the required minimums ~~[so required].~~

(4) (a) If the municipality is acting ~~[pursuant to]~~ in accordance with Section 10-2a-218, the tentative budget shall:

(i) be submitted to the governing body-elect as soon as practicable; and

(ii) cover each fund for which a budget is required from the date of incorporation to the end of the fiscal year.

(b) The governing body shall substantially comply with all other provisions of this chapter, and the budget shall be passed upon incorporation.

Section 5. Section 10-6-117 is amended to read:

10-6-117. Appropriations not to exceed estimated expendable revenue -- Appropriations for existing deficits.

(1) The governing body of any city may not make any appropriation in the final budget of any fund in excess of the estimated expendable revenue for the budget period of the fund.

~~[(2) In determining the estimated expendable revenue of the city general fund for the budget period, there shall be included therein as an appropriation from the fund balance that portion of the fund balance at the close of the last completed fiscal period, not previously included in the budget of the current period, that exceeds the amount permitted in Section 10-6-116.]~~

~~[(3) (a) There shall be included as an item of appropriation in each fund for any budget period any existing deficit as of the close of the last completed fiscal period, not previously included in the budget of the current period, to the extent of at least 5% of the total revenue of the fund in its last completed fiscal period.]~~

~~[(b) If the total amount of the deficit is less than 5% of the total revenue in the last completed fiscal period, the entire amount of the deficit shall be included.]~~

(2) If there is a deficit fund balance in a fund at the close of the last completed fiscal year, the governing body of a city shall include an item of appropriation

for the deficit in the current budget of the fund equal to:

(a) at least 5% of the total revenue of the fund in the last completed fiscal year; or

(b) if the deficit is equal to less than 5% of the total revenue of the fund in the last completed fiscal year, the entire amount of the deficit.

Section 6. Section 10-6-135 is amended to read:

10-6-135. Operating and capital budgets.

(1) (a) As used in this section, “operating and capital budget” means a plan of financial operation for an enterprise fund or other required special fund that includes estimates of operating resources, expenses, and other outlays for a fiscal period.

(b) Except as otherwise expressly provided, any reference to “budget” or “budgets” and the procedures and controls relating to ~~them~~ a budget or budgets in other sections of this chapter do not apply or refer to the operating and capital budgets described in this section.

(2) At or before the time the governing body adopts budgets for the funds described in Section 10-6-109, the governing body shall adopt:

(a) an operating and capital budget for each enterprise fund for the ensuing fiscal period; and

(b) the type of budget for other special funds as required by the Uniform Accounting Manual for Utah Cities.

(3) (a) The governing body shall adopt and administer an operating and capital budget in accordance with this Subsection (3).

(b) A governing body may spend or transfer money deposited in an enterprise fund for a good, service, project, venture, or other purpose that is not directly related to the goods or services provided by the enterprise for which the enterprise fund was created, if the governing body:

(i) transfers the money from the enterprise fund to another fund; and

(ii) complies with the hearing and notice requirements of Subsections (3)(f)(i), (ii), and (iii).

(c) At or before the first regularly scheduled meeting of the governing body in the last May of the current fiscal period, the budget officer shall:

(i) prepare for the ensuing fiscal period and file with the governing body a tentative operating and capital budget for:

(A) each enterprise fund; and

(B) other required special funds;

(ii) include with the tentative operating and capital budget described in Subsection (3)(d)(i) specific work programs as submitted by each department head; and

(iii) include any other supporting data required by the governing body.

(d) Each city of the first or second class shall, and each city of the third, fourth, or fifth class may, submit a supplementary estimate of all capital projects which a department head believes should be undertaken within the three next succeeding fiscal periods.

(e) (i) Subject to Subsection (3)(e)(ii), the budget officer shall prepare all estimates after review and consultation with each department head described in Subsection (3)(d).

(ii) After complying with Subsection (3)(e)(i), the budget officer may revise any departmental estimate before it is filed with the governing body.

(f) (i) Except as provided in Subsection (3)(f)(iv), if the governing body includes in a tentative budget or an amendment to a budget allocations or transfers from an enterprise fund to another fund or a good, service, project, venture, or purpose other than reasonable allocations of costs between the enterprise fund and the other fund, the governing body shall:

(A) hold a public hearing;

(B) prepare a written notice of the date, time, place, and purpose of the hearing, as described in Subsection (3)(f)(ii); and

(C) subject to Subsection (3)(f)(iii), mail the written notice to each enterprise fund customer at least seven days before the day of the hearing.

(ii) The purpose portion of the written notice required under Subsection (3)(f)(i)(B) shall identify:

(A) the enterprise fund from which money is being transferred;

(B) the amount being transferred; and

(C) the fund to which the money is being transferred.

(iii) The governing body:

(A) may print the written notice required under Subsection (3)(f)(i) on the enterprise fund customer's bill; and

(B) shall include the written notice required under Subsection (3)(f)(i) as a separate notification mailed or transmitted with the enterprise fund customer's bill.

(iv) A governing body is not required to repeat the notice and hearing requirements in this Subsection (3)(f) if the funds to be allocated or transferred for the current year were previously approved by the governing body during the current year and at a public hearing that complies with the notice and hearing requirements of this Subsection (3)(f).

(4) (a) Each tentative budget, amendment to a budget, or budget shall be reviewed and considered by the governing body at any regular meeting or special meeting called for that purpose.

(b) The governing body may make changes in the tentative budgets.

(5) Budgets for enterprise or other required special funds shall comply with the public hearing requirements established in Sections 10-6-113 and 10-6-114.

(6) (a) Before the last June 30 of each fiscal period, or, in the case of a property tax increase under Sections 59-2-919 through 59-2-923, before August [31] 17 of the year for which a property tax increase is proposed, the governing body shall adopt an operating and capital budget for each applicable fund for the ensuing fiscal period.

(b) A copy of the budget as finally adopted for each fund shall be:

- (i) certified by the budget officer;
- (ii) filed by the budget officer in the office of the city auditor or city recorder;
- (iii) available to the public during regular business hours; and
- (iv) filed with the state auditor within 30 days after the day on which the budget is adopted.

(7) (a) Upon final adoption, the operating and capital budget is in effect for the budget period, subject to later amendment.

(b) During the budget period the governing body may, in any regular meeting or special meeting called for that purpose, review any one or more of the operating and capital budgets for the purpose of determining if the total of any of them should be increased.

(c) If the governing body decides that the budget total of one or more of the funds should be increased under Subsection (7)(b), the governing body shall follow the procedures set forth in Section 10-6-136.

(8) Expenditures from operating and capital budgets shall conform to the requirements relating to budgets specified in Sections 10-6-121 through 10-6-126.

Section 7. Section 10-6-139 is amended to read:
10-6-139. City auditor or recorder -- Bookkeeping duties -- Duties with respect to payment of claims.

(1) The city auditor in each city of the first and second class, and the city recorder in each city of the third, fourth, or fifth class shall maintain the general books for each fund of the city and all subsidiary records relating thereto, including a list of the outstanding bonds, their purpose, amount, terms, date, and place payable.

(2) (a) The city auditor or city recorder~~[, as appropriate,]~~ shall:

- (i) keep accounts with all receiving and disbursing officers of the city~~[, shall];~~
- (ii) preaudit all claims and demands against the city before [they] the claims or demands are allowed~~[, and shall]; and~~
- (iii) prepare the necessary checks in payment.

~~[(b) Those checks shall include an appropriate certification pursuant to Section 11-1-1, examples of which shall be presented in the Uniform Accounting Manual for Utah Cities.]~~

~~[(e) (b) The city auditor or city recorder shall [also certify on the voucher or check copy, as appropriate,] verify that:~~

- (i) ~~[the] a~~ claim has been preaudited and documented;
- (ii) ~~[the] a~~ claim has been approved in one of the following ways:
 - (A) purchase order directly approved by the mayor in the council-mayor optional form of government, or the governing body or [its] the governing body's delegate in other cities;
 - (B) claim directly approved by the governing body; or
 - (C) claim approved by the financial officer;
- (iii) ~~[the] a~~ claim is within the lawful debt limit of the city; and
- (iv) ~~[the] a~~ claim does not overexpend the appropriate departmental budget established by the governing body.

Section 8. Section 11-13-513 is amended to read:
11-13-513. Appropriations not to exceed estimated expendable revenue -- Appropriations for existing deficits.

(1) The governing board of an interlocal entity may not make an appropriation in the final budget of a fund in excess of the estimated expendable revenue for the budget year of the fund.

~~[(2) An interlocal entity determining the estimated expendable revenue of the interlocal entity general fund for the budget year shall include as an appropriation from the fund balance that portion of the fund balance at the close of the last completed fiscal year, not previously included in the budget of the current year, that exceeds the amount permitted in Section 11-13-512.]~~

~~[(3) (a) An interlocal entity shall include in a fund budget an appropriation for an existing deficit created in accordance with Section 11-13-521 as of the close of the current year and not previously included in the current year budget, to the extent of at least 5% of the total revenue in the current year.]~~

~~[(b) If the total amount of the deficit created in accordance with Section 11-13-521 is less than 5% of the total revenue in the current year, the interlocal entity shall include in the fund budget an appropriation for the entire amount of the deficit.]~~

~~[(c) An interlocal entity shall include in a fund budget appropriation for the entire amount of a deficit in the current year resulting from expenditures other than the expenditures allowed in Section 11-13-521 to the extent that the deficit had not been included in the current year budget.]~~

(2) If there is a deficit fund balance in a fund at the close of the last completed fiscal year, the governing

body of an interlocal entity shall include an item of appropriation for the deficit in the current budget of the fund equal to:

(a) at least 5% of the total revenue of the fund in the last completed fiscal year; or

(b) if the deficit is equal to less than 5% of the total revenue of the fund in the last completed fiscal year, the entire amount of the deficit.

Section 9. Section 11-42-401 is amended to read:

11-42-401. Levying an assessment -- Prerequisites -- Assessment list -- Partial payment allocation.

(1) (a) If a local entity has designated an assessment area in accordance with Part 2, Designating an Assessment Area, the local entity may levy an assessment against property within that assessment area as provided in this part.

(b) If a local entity that is a municipality or county designates an assessment area in accordance with this chapter, the municipality or county may levy an assessment and collect the assessment in accordance with Subsection 11-42-202(1)(h)(i) or (ii).

(c) An assessment billed by a municipality or county in the same manner as a property tax and included on a property tax notice in accordance with Subsection 11-42-202(1)(h)(ii) is enforced in accordance with, constitutes a lien in accordance with, and is subject to other penalty provisions in accordance with this chapter.

(d) If a local entity includes an assessment on a property tax notice, the county treasurer shall on the property tax notice:

(i) clearly state that the assessment is for the improvement, operation and maintenance, or economic promotion activities provided by the local entity; and

(ii) itemize the assessment separate from any other tax, fee, charge, interest, or penalty that is included on the property tax notice in accordance with Section 59-2-1317[; and].

~~[(iii) state that if less than the full amount of the property tax and assessments included on the property tax notice are paid, the payment will be applied proportionately to the balances due for property taxes and assessments and other permitted charges described in this section unless otherwise specified by the taxpayer and the taxpayer demonstrates that the unpaid fees are being challenged by the taxpayer.]~~

(2) Before a governing body may adopt a resolution or ordinance levying an assessment against property within an assessment area:

(a) the governing body shall:

(i) subject to Subsection (3), prepare an assessment list designating:

(A) each parcel of property proposed to be assessed; and

(B) the amount of the assessment to be levied against the property;

(ii) appoint a board of equalization as provided in Section 11-42-403; and

(iii) give notice as provided in Section 11-42-402; and

(b) the board of equalization, appointed under Section 11-42-403, shall:

(i) hold hearings;

(ii) determine if the assessment for each benefitted property meets the requirements of Section 11-42-409;

(iii) make necessary corrections so that assessed properties are not assessed for benefits conferred exclusively outside of the assessment area;

(iv) make necessary corrections so that the benefitted properties are not charged for an increase in size or capacity of an improvement where the increased size or capacity is to serve property outside of the assessment area;

(v) make any corrections it considers appropriate to an assessment; and

(vi) report its findings to the governing body as provided in Section 11-42-403.

(3) (a) The governing body of a local entity shall prepare the assessment list described in Subsection (2)(a)(i) at any time after:

(i) the governing body has determined the estimated or actual operation and maintenance costs, if the assessment is to pay operation and maintenance costs;

(ii) the governing body has determined the estimated or actual economic promotion costs described in Section 11-42-206, if the assessment is to pay for economic promotion activities; or

(iii) for any other assessment, the governing body has determined:

(A) the estimated or actual acquisition and construction costs of all proposed improvements within the assessment area, including overhead costs actually incurred and authorized reasonable contingencies;

(B) the estimated or actual property price for all property to be acquired to provide the proposed improvements; and

(C) the estimated reasonable cost of any work to be performed by the local entity.

(b) In addition to the requirements of Subsection (3)(a), the governing body of a local entity shall prepare the assessment list described in Subsection (2)(a)(i) before:

(i) the light service has commenced, if the assessment is to pay for light service; or

(ii) the park maintenance has commenced, if the assessment is to pay for park maintenance.

(4) A local entity may levy an assessment for some or all of the cost of improvements within an assessment area, including payment of:

(a) operation and maintenance costs of improvements constructed within the assessment area only to the extent the improvements provide benefits to the properties within the assessment area and in accordance with Section 11-42-409;

(b) (i) if an outside entity furnishes utility services or maintains utility improvements, the actual cost that the local entity pays for utility services or for maintenance of improvements; or

(ii) if the local entity itself furnishes utility service or maintains improvements, for the actual costs that are reasonable, including reasonable administrative costs or reasonable costs for reimbursement of actual costs incurred by the local entity, for supplying the utility service or maintenance;

(c) the actual costs that are reasonable to supply labor, materials, or equipment in connection with improvements; and

(d) (i) the actual costs that are reasonable for valid connection fees; or

(ii) the reasonable and generally applicable costs of locally provided utilities.

(5) A local entity may not levy an assessment for an amount donated or contributed for an improvement or part of an improvement or for anything other than the costs actually and reasonably incurred by the local entity in order to provide an improvement or conduct operation and maintenance or economic promotion activities.

(6) The validity of an otherwise valid assessment is not affected because the actual and reasonable cost of improvements exceeds the estimated cost.

(7) (a) Subject to Subsection (7)(b), an assessment levied to pay for operation and maintenance costs may not be levied over a period of time exceeding five years beginning on the day on which the local entity adopts the assessment ordinance or assessment resolution for the operation and maintenance costs assessment.

(b) A local entity may levy an additional assessment described in Subsection (7)(a) in the assessment area designated for the assessment described in Subsection (7)(a) if, after the five-year period expires, the local entity:

(i) gives notice in accordance with Section 11-42-402 of the new five-year term of the assessment; and

(ii) complies with the applicable levy provisions of this part.

Section 10. Section 17-31-5.5 is amended to read:

17-31-5.5. Report to county legislative body -- Content.

(1) The legislative body of each county [~~imposing the~~] that imposes a transient room tax [~~provided for~~] under Section 59-12-301 [~~shall annually engage an independent auditor to perform an audit to~~

~~verify that transient room tax funds are used only as authorized by this chapter and to report the findings of the audit to the county legislative body]~~ or a tourism, recreation, cultural, convention, and airport facilities tax under Section 59-12-603 shall annually prepare a report in accordance with Subsection (2).

~~[(2) Subsection (1) applies to the tourism, recreation, cultural, convention, and airport facilities tax provided for in Section 59-12-603, except that the audit verification required under this Subsection (2) shall be for the uses authorized under Section 59-12-603.]~~

~~[(3) (2) The report [required under] described in Subsection (1) shall include a breakdown of expenditures into the following categories:~~

(a) for the transient room tax, identification of expenditures for:

(i) establishing and promoting:

(A) recreation;

(B) tourism;

(C) film production; and

(D) conventions;

(ii) acquiring, leasing, constructing, furnishing, or operating:

(A) convention meeting rooms;

(B) exhibit halls;

(C) visitor information centers;

(D) museums; and

(E) related facilities;

(iii) acquiring or leasing land required for or related to the purposes listed in Subsection ~~[(3)]~~ (2)(a)(ii);

(iv) mitigation costs as identified in Subsection 17-31-2(1)(d); and

(v) making the annual payment of principal, interest, premiums, and necessary reserves for any or the aggregate of bonds issued to pay for costs referred to in Subsections 17-31-2(2)(c) and (3)(a); and

(b) for the tourism, recreation, cultural, convention, and airport facilities tax, identification of expenditures for:

(i) financing tourism promotion, which means an activity to develop, encourage, solicit, or market tourism that attracts transient guests to the county, including planning, product development, and advertising;

(ii) the development, operation, and maintenance of the following facilities as defined in Section 59-12-602:

(A) an airport facility;

(B) a convention facility;

(C) a cultural facility;

- (D) a recreation facility; and
- (E) a tourist facility; and
- (iii) a pledge as security for evidences of indebtedness under Subsection 59-12-603(3).

[4(4)] (3) A county legislative body shall provide a copy of [a] the report [it receives under this section] described in Subsection (1) to:

- (a) the Governor's Office of Economic Development;
- (b) its tourism tax advisory board; and
- (c) the Office of the Legislative Fiscal Analyst.

Section 11. Section 17B-1-613 is amended to read:

17B-1-613. Appropriations not to exceed estimated expendable revenue -- Appropriations for existing deficits.

(1) The board of trustees of a local district may not make any appropriation in the final budget of any fund in excess of the estimated expendable revenue for the budget year of the fund.

[2] ~~In determining the estimated expendable revenue of the general fund for the budget year there is included as an appropriation from the fund balance that portion of the fund balance at the close of the last completed fiscal year, not previously included in the budget of the current year, that exceeds the amount permitted in Section 17B-1-612.]~~

[3] (a) ~~There is included as an item of appropriation in each fund for any budget year any existing deficit created in accordance with Section 17B-1-623 as of the close of the last completed fiscal year, not previously included in the budget of the current year, to the extent of at least 5% of the total revenue of the fund in its last completed fiscal year.]~~

[b] ~~If the total amount of the deficit is less than 5% of the total revenue in the last completed fiscal year, the entire amount of the deficit shall be included.]~~

[c] ~~The entire amount of any deficit which results from activities other than those described in Section 17B-1-623 shall be included as an item of appropriation in each fund for any budget year not previously included in the budget of the current year.]~~

(2) If there is a deficit fund balance in a fund at the close of the last completed fiscal year, the board of trustees of a local district shall include an item of appropriation for the deficit in the current budget of the fund equal to:

- (a) at least 5% of the total revenue of the fund in the last completed fiscal year; or
- (b) if the deficit is equal to less than 5% of the total revenue of the fund in the last completed fiscal year, the entire amount of the deficit.

(3) The provisions of this section do not require a local district to add revenue to a fund that is used for debt service of a limited obligation, unless the revenue is pledged toward the limited obligation.

Section 12. Section 17B-1-902 is amended to read:

17B-1-902. Lien for past due service fees -- Partial payment allocation.

(1) (a) A local district may file a lien on a customer's property for past due fees for commodities, services, or facilities that the district has provided to the customer's property by certifying, subject to Subsection (2), to the treasurer of the county in which the customer's property is located the past due fees, including, subject to Section 17B-1-902.1, applicable interest and administrative costs.

(b) Upon certification under Subsection (1)(a), the past due fees, and if applicable, interest and administrative costs, become a lien on the customer's property to which the commodities, services, or facilities were provided.

(c) A lien filed in accordance with this section has the same priority as, but is separate and distinct from, a property tax lien.

(2) (a) If a local district certifies past due fees under Subsection (1)(a), the county treasurer shall include on a property tax notice issued in accordance with Section 59-2-1317 an unpaid fee, administrative cost, or interest described in Subsection (1)(a).

(b) If an unpaid fee, administrative cost, or interest is included on a property tax notice in accordance with Subsection (2)(a), the county treasurer shall on the property tax notice:

(i) clearly state that the unpaid fee, administrative cost, or interest is for a service provided by the local district; and

(ii) itemize the unpaid fee, administrative cost, or interest separate from any other tax, fee, interest, or penalty that is included on the property tax notice in accordance with Section 59-2-1317; and].

[iii] ~~state that if less than the full amount of the property tax and local district fees included on the property tax notice are paid, the payment will be applied proportionately to the balances due for property taxes and local district fees, which shall include all fees and other permitted charges described in this section unless otherwise specified by the taxpayer and the taxpayer demonstrates that the unpaid fees are being challenged by the taxpayer.]~~

(3) A lien under Subsection (1) is not valid if certification under Subsection (1) is made after the filing for record of a document conveying title of the customer's property to a new owner.

(4) Nothing in this section may be construed to:

(a) waive or release the customer's obligation to pay fees that the district has imposed;

(b) preclude the certification of a lien under Subsection (1) with respect to past due fees for

commodities, services, or facilities provided after the date that title to the property is transferred to a new owner; or

(c) nullify or terminate a valid lien.

(5) After all amounts owing under a lien established as provided in this section have been paid, the local district shall file for record in the county recorder's office a release of the lien.

Section 13. Section 59-2-1317 is amended to read:

59-2-1317. Tax notice -- Contents of notice -- Procedures and requirements for providing notice.

(1) Subject to the other provisions of this section, the county treasurer shall:

(a) collect the taxes; and

(b) provide a notice to each taxpayer that contains the following:

(i) the kind and value of property assessed to the taxpayer;

(ii) the street address of the property, if available to the county;

(iii) that the property may be subject to a detailed review in the next year under Section 59-2-303.1;

(iv) the amount of taxes levied;

(v) a separate statement of the taxes levied only on a certain kind or class of property for a special purpose;

(vi) property tax information pertaining to taxpayer relief, options for payment of taxes, and collection procedures;

(vii) if applicable, the amount of an assessment assessed in accordance with Section 11-42-401;

(viii) if applicable, an unpaid fee, administrative cost, or interest for a local district in accordance with Section 17B-1-902;

(ix) the date the taxes are due;

(x) the street address at which the taxes may be paid;

(xi) the date on which the taxes are delinquent;

(xii) the penalty imposed on delinquent taxes;

(xiii) a statement that explains the taxpayer's right to direct allocation of a partial payment in accordance with Subsection (7);

~~[(xiii)]~~ (xiv) other information specifically authorized to be included on the notice under this chapter; and

~~[(xiv)]~~ (xv) other property tax information approved by the commission.

(2) For any property for which property taxes are delinquent, the notice described in Subsection (1) shall state, "Prior taxes are delinquent on this parcel."

(3) Except as provided in Subsection (4), the county treasurer shall:

(a) mail the notice required by this section, postage prepaid; or

(b) leave the notice required by this section at the taxpayer's residence or usual place of business, if known.

(4) (a) Subject to the other provisions of this Subsection (4), a county treasurer may, at the county treasurer's discretion, provide the notice required by this section by electronic mail if a taxpayer makes an election, according to procedures determined by the county treasurer, to receive the notice by electronic mail.

(b) A taxpayer may revoke an election to receive the notice required by this section by electronic mail if the taxpayer provides written notice to the treasurer on or before October 1.

(c) A revocation of an election under this section does not relieve a taxpayer of the duty to pay a tax due under this chapter on or before the due date for paying the tax.

(d) A county treasurer shall provide the notice required by this section using a method described in Subsection (3), until a taxpayer makes a new election in accordance with this Subsection (4), if:

(i) the taxpayer revokes an election in accordance with Subsection (4)(b) to receive the notice required by this section by electronic mail; or

(ii) the county treasurer finds that the taxpayer's electronic mail address is invalid.

(e) A person is considered to be a taxpayer for purposes of this Subsection (4) regardless of whether the property that is the subject of the notice required by this section is exempt from taxation.

(5) (a) The county treasurer shall provide the notice required by this section to a taxpayer on or before November 1.

(b) The county treasurer shall keep on file in the county treasurer's office the information set forth in the notice.

(c) The county treasurer is not required to mail a tax receipt acknowledging payment.

(6) This section does not apply to property taxed under Section 59-2-1302 or 59-2-1307.

(7) (a) A taxpayer who pays less than the full amount due on the taxpayer's property tax notice may, on a form provided by the county treasurer, direct how the county treasurer allocates the partial payment between:

(i) the total amount due for property tax;

(ii) the amount due for assessments;

(iii) the amount due for past due local district fees; and

(iv) any other amounts due on the property tax notice.

(b) The county treasurer shall comply with a direction submitted to the county treasurer in accordance with Subsection (7)(a).

(c) The provisions of this Subsection (7) do not:

(i) affect the right or ability of a local entity to pursue any available remedy for non-payment of any item listed on a taxpayer's property tax notice; or

(ii) toll or otherwise change any time period related to a remedy described in Subsection (7)(c)(i).

Section 14. Retrospective operation.

The amendments to Sections 11-42-401, 17B-1-902, and 59-2-1317 in this bill have retrospective operation to January 1, 2016.

CHAPTER 354**S. B. 171**

Passed March 10, 2016

Approved March 28, 2016

Effective May 10, 2016

(Retrospective operation to January 1, 2016)

**ECONOMIC DEVELOPMENT
TAX CREDITS AMENDMENTS**Chief Sponsor: Curtis S. Bramble
House Sponsor: Robert M. Spendlove**LONG TITLE****General Description:**

This bill addresses economic development tax credits.

Highlighted Provisions:

This bill:

- ▶ repeals refundable corporate and individual income tax credits for certain business entities generating state tax revenue increases;
- ▶ provides that the Governor's Office of Economic Development may issue additional income tax credit certificates for investment in certain life science establishments;
- ▶ changes the criteria for tax credits; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:**AMENDS:**

59-10-1025, as last amended by Laws of Utah 2015, Chapter 283
63N-2-802, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-2-803, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-2-806, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-2-808, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-2-810, as renumbered and amended by Laws of Utah 2015, Chapter 283

REPEALS:

59-7-614.6, as last amended by Laws of Utah 2015, Chapter 283
59-10-1109, as last amended by Laws of Utah 2015, Chapter 283

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-10-1025 is amended to read:**59-10-1025. Nonrefundable tax credit for investment in certain life science establishments.**

(1) As used in this section:

(a) "Commercial domicile" means the principal place from which the trade or business of a Utah small business corporation is directed or managed.

(b) "Eligible claimant, estate, or trust" [is-as] means the same as that term is defined in Section 63N-2-802.

~~[(e) "Life science establishment" means an establishment described in one of the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:]~~

~~[(i) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;]~~

~~[(ii) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or]~~

~~[(iii) NAICS Code 334517, Irradiation Apparatus Manufacturing.]~~

(c) "Life science establishment" means an establishment primarily engaged in the development or manufacture of products in one or more of the following categories:

- (i) biotechnologies;
- (ii) medical devices;
- (iii) medical diagnostics; and
- (iv) pharmaceuticals.

(d) "Office" means the Governor's Office of Economic Development.

(e) "Pass-through entity" [is-as] means the same as that term is defined in Section 59-10-1402.

(f) "Pass-through entity taxpayer" [is-as] means the same as that term is defined in Section 59-10-1402.

(g) "Qualifying ownership interest" means an ownership interest that is:

- (i) (A) common stock;
- (B) preferred stock; or
- (C) an ownership interest in a pass-through entity;

(ii) originally issued to:

(A) an eligible claimant, estate, or trust; or

(B) a pass-through entity if the eligible claimant, estate, or trust that claims a tax credit under this section was a pass-through entity taxpayer of the pass-through entity on the day on which the qualifying ownership interest was issued and remains a pass-through entity taxpayer of the pass-through entity until the last day of the taxable year for which the eligible claimant, estate, or trust claims a tax credit under this section; and

(iii) issued:

(A) by a Utah small business corporation;

(B) on or after January 1, 2011; and

(C) for money or other property, except for stock or securities.

(h) (i) Except as provided in Subsection (1)(h)(ii), "Utah small business corporation" [is-as] means the same as that term is defined in Section 59-10-1022.

(i) For purposes of this section, a corporation under Section 1244(c)(3)(A), Internal Revenue Code, is considered to include a pass-through entity.

(2) Subject to the other provisions of this section, for a taxable year beginning on or after January 1, 2011, an eligible claimant, estate, or trust that holds a tax credit certificate issued to the eligible claimant, estate, or trust in accordance with Section 63N-2-808 for that taxable year may claim a nonrefundable tax credit in an amount up to 35% of the purchase price of a qualifying ownership interest in a Utah small business corporation by the claimant, estate, or trust if:

(a) the qualifying ownership interest is issued by a Utah small business corporation that is a life science establishment;

(b) the qualifying ownership interest in the Utah small business corporation is purchased for at least \$25,000;

(c) the eligible claimant, estate, or trust owned less than 30% of the qualifying ownership interest of the Utah small business corporation at the time of the purchase of the qualifying ownership interest; and

(d) on each day of the taxable year ~~[of]~~ in which the purchase of the qualifying ownership interest was made, the Utah small business corporation described in Subsection (2)(a) has at least 50% of its employees in the state.

(3) Subject to Subsection (4), the tax credit under Subsection (2):

(a) may only be claimed by ~~[the]~~ an eligible claimant, estate, or trust:

(i) for a taxable year for which the eligible claimant, estate, or trust holds a tax credit certificate issued in accordance with Section 63N-2-808; and

(ii) subject to obtaining a tax credit certificate for each taxable year as required by Subsection (3)(a)(i), for a period of three taxable years as follows:

(A) the tax credit in the taxable year ~~[of]~~ in which the purchase of the qualifying ownership interest was made may not exceed 10% of the purchase price of the qualifying ownership interest;

(B) the tax credit in the taxable year after the taxable year described in Subsection (3)(a)(ii)(A) may not exceed 10% of the purchase price of the qualifying ownership interest; and

(C) the tax credit in the taxable year two years after the taxable year described in Subsection (3)(a)(ii)(A) may not exceed 15% of the purchase price of the qualifying ownership interest; and

(b) may not exceed the lesser of:

(i) the amount listed on the tax credit certificate issued in accordance with Section 63N-2-808; or

(ii) \$350,000 in a taxable year.

(4) An eligible claimant, estate, or trust may not claim a tax credit under this section for a taxable year if the eligible claimant, estate, or trust:

(a) has sold any of the qualifying ownership interest during the taxable year; or

(b) does not hold a tax credit certificate for that taxable year that is issued to the eligible claimant, estate, or trust by the office in accordance with Section 63N-2-808.

(5) If a Utah small business corporation in which an eligible claimant, estate, or trust purchases a qualifying ownership interest fails, dissolves, or otherwise goes out of business, the eligible claimant, estate, or trust may not claim both the tax credit provided in this section and a capital loss on the qualifying ownership interest.

(6) If an eligible claimant is a pass-through entity taxpayer that files a return under Chapter 7, Corporate Franchise and Income Taxes, the eligible claimant may claim the tax credit under this section on the return filed under Chapter 7, Corporate Franchise and Income Taxes.

(7) A claimant, estate, or trust may not carry forward or carry back a tax credit under this section.

Section 2. Section 63N-2-802 is amended to read:

63N-2-802. Definitions.

As used in this part:

(1) "Claimant" ~~[has the same meaning as]~~ means the same as that term is defined in Section 59-10-1002.

~~[(2) "Eligible business entity" means a person that:]~~

~~[(a) enters into an agreement with the office in accordance with this part to receive a tax credit certificate for a tax credit under Section 59-7-614.6 or 59-10-1109;]~~

~~[(b) is:]~~

~~[(i) a life science establishment; or]~~

~~[(ii) described in NAICS Code 334413, Semiconductor and Related Device Manufacturing, of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;]~~

~~[(c) has at least 50% of its employees in the state for each day of a taxable year the eligible business entity claims a tax credit under Section 59-7-614.6 or 59-10-1109; and]~~

~~[(d) receives a tax credit certificate from the office in accordance with this part.]~~

~~[(3)]~~ (2) "Eligible claimant, estate, or trust" means a claimant, estate, or trust that:

(a) enters into an agreement with the office in accordance with this part to receive a tax credit certificate for a tax credit under Section 59-10-1025; and

(b) receives a tax credit certificate from the office in accordance with this part.

~~[(4) “Eligible new state tax revenues” means an increased amount of tax revenues generated as a result of an eligible product or project by an eligible business entity or a new incremental job within the state under the following:]~~

~~[(a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;]~~

~~[(b) Title 59, Chapter 10, Individual Income Tax Act; and]~~

~~[(c) Title 59, Chapter 12, Sales and Use Tax Act.]~~

~~[(5) “Eligible product or project” means any product or project produced by an eligible business entity that was not produced prior to the date of an agreement with the office under Section 63N-2-808:]~~

~~[(a) by the eligible business entity; and]~~

~~[(b) within the state.]~~

~~[(6) (3) “Life science establishment” [has the same meaning as] means the same as that term is defined in Section 59-10-1025.~~

~~[(7) “New incremental job within the state” means, with respect to an eligible business entity, an employment position that:]~~

~~[(a) did not exist within the state before:]~~

~~[(i) the eligible business entity entered into an agreement with the office in accordance with this part; and]~~

~~[(ii) the eligible product was produced or the eligible project began;]~~

~~[(b) is not shifted from one location in the state to another location in the state; and]~~

~~[(c) is established to the satisfaction of the office, including by amounts paid or withheld by the eligible business entity under Title 59, Chapter 10, Individual Income Tax Act.]~~

~~[(8) (4) “Tax credit” means a tax credit under:]~~
Section 59-10-1025.

~~[(a) Section 59-7-614.6;]~~

~~[(b) Section 59-10-1025; or]~~

~~[(c) Section 59-10-1109.]~~

~~[(9) (5) “Tax credit applicant” means a person that applies to the office to receive a tax credit certificate under this part.~~

~~[(10) (6) “Tax credit certificate” means a certificate issued by the office that:~~

~~(a) lists the name of the tax credit certificate recipient;~~

~~(b) lists the tax credit certificate recipient’s taxpayer identification number;~~

~~(c) lists the amount of the tax credit certificate recipient’s tax credits authorized under this part for a taxable year; and~~

(d) includes other information as determined by the office.

~~[(11) (7) “Tax credit certificate recipient” means:]~~
~~(a) an eligible business entity that receives a tax credit certificate in accordance with this part for a tax credit under Section 59-7-614.6 or 59-10-1109; or~~
~~(b) an eligible claimant, estate, or trust that receives a tax credit certificate in accordance with this part for a tax credit under Section 59-10-1025.~~

Section 3. Section 63N-2-803 is amended to read:

63N-2-803. Tax credits issued by office.

(1) ~~[(a)]~~ The office may issue tax credit certificates under this part only to the extent that the Legislature, by statute, expressly authorizes the office to issue the tax credit certificates under this part for a fiscal year.

~~[(b) The Legislature intends that a statutory authorization under Subsection (1)(a) specify:]~~

~~[(i) the total allocation to the tax credits under Sections 59-7-614.6 and 59-10-1109; and]~~

~~[(ii) the allocation to the tax credit under Section 59-10-1025.]~~

(2) (a) For fiscal year 2011-12 only, the office may issue a total of \$1,300,000 in tax credit certificates in accordance with this part.

(b) For fiscal year 2016-17 only, the office may issue a total of \$150,000 in tax credit certificates in accordance with this part.

(c) For fiscal year 2017-18 only, the office may issue a total of \$150,000 in tax credit certificates in accordance with this part.

(3) ~~[(a)]~~ If the total amount of tax credit certificates the office issues in a fiscal year is less than the amount of tax credit certificates the office may issue under this part in a fiscal year, the office may issue the remaining amount of tax credit certificates in a fiscal year after the fiscal year for which there is a remaining amount of tax credit certificates.

~~[(b) Except as provided in Subsection (3)(c), if the total amount of tax credit certificates the office issues in a quarter of a fiscal year is less than the amount of tax credit certificates the office may issue under this part in that quarter, the office may issue the remaining amount of tax credit certificates in a quarter after the quarter for which there is a remaining amount of tax credit certificates.]~~

~~[(c) For fiscal year 2011-12 only, if the total amount of tax credit certificates the office issues in fiscal year 2011-12 is less than the amount of tax credit certificates the office may issue in tax credit certificates under Subsection (2), the office:]~~

~~[(i) may issue the remaining amount of tax credit certificates in a fiscal year after fiscal year 2011-12; and]~~

~~[(ii) is not required to allocate the tax credit certificates to any particular quarter.]~~

Section 4. Section 63N-2-806 is amended to read:

63N-2-806. Criteria for tax credits.

(1) A tax credit applicant shall establish as part of the application required by Section 63N-2-805 that the tax credit applicant:

(a) meets all of the criteria to receive the tax credit for which the tax credit applicant applies, except for the requirement to obtain a tax credit certificate; and

(b) will provide a long-term economic benefit to the state.

(2) The office may not issue a tax credit certificate to a tax credit applicant ~~[that]~~ if:

(a) the tax credit applicant fails to meet the requirements of Subsection (1)(a)~~[-]~~; and

(b) the life science establishment does not enter into an agreement described in Section 63N-2-808 with the office.

Section 5. Section 63N-2-808 is amended to read:

63N-2-808. Agreements between office and tax credit applicant and life science establishment -- Tax credit certificate.

~~[(1) (a) Except as provided in Subsection 63N-2-803(3)(b), for each quarter of a fiscal year after fiscal year 2011-12, the office shall allocate:]~~

~~[(i) 25% of the total amounts made available for allocation in accordance with Section 63N-2-803 for the tax credits under Sections 59-7-614.6 and 59-10-1109; and]~~

~~[(ii) 25% of the amounts made available for allocation in accordance with Section 63N-2-803 for the tax credit under Section 59-10-1025.]~~

~~[(b) Subject to the other provisions of this part, the office, with advice from the board, shall determine quarterly:]~~

~~[(i) the tax credit applicant or applicants to which a tax credit certificate may be provided; and]~~

~~[(ii) the amount of tax credit a tax credit applicant may receive.]~~

~~[(2)] (1) (a) The office, with advice from the board, may enter into an agreement to grant a tax credit certificate to a tax credit applicant selected in accordance with this part, if the tax credit applicant meets the conditions established in the agreement and under this part.~~

~~[(3)] (b) The agreement described in Subsection ~~[(2)]~~ (1)(a) shall:~~

~~[(a)] (i) detail the requirements that the tax credit applicant shall meet prior to receiving a tax credit certificate;~~

~~[(b)] (ii) require the tax credit certificate recipient to retain records supporting a claim for a tax credit for at least four years after the tax credit certificate recipient claims a tax credit under this part; and~~

~~[(e)] (iii) require the tax credit certificate recipient to submit to audits for verification of the~~

tax credit claimed, including audits by the office and by the State Tax Commission.

(2) (a) The office, with advice from the board, shall enter into an agreement with the life science establishment in which the tax credit applicant invested for purposes of claiming a tax credit.

(b) The agreement described in Subsection (2)(a):

(i) shall provide the office with a document that expressly and directly authorizes the State Tax Commission to disclose to the office the life science establishment's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;

(ii) shall authorize the Department of Workforce Services to disclose to the office the employment data that the life science establishment submits to the Department of Workforce Services;

(iii) shall require the life science establishment to provide the office with the life science establishment's current capitalization tables; and

(iv) may require the life science establishment to provide the office with other data that:

(A) ensure compliance with the requirements of this chapter; and

(B) demonstrate the economic impact of the tax credit applicant's investment in the life science establishment.

Section 6. Section 63N-2-810 is amended to read:

63N-2-810. Reports on tax credit certificates -- Study by legislative committees.

(1) The office shall include the following information in the annual written report described in Section 63N-1-301:

(a) the total amount listed on tax credit certificates the office issues under this part;

(b) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax credit applicants under this part; and

(c) the economic impact on the state related to providing tax credits under this part.

(2) (a) On or before November 1, 2016, and every five years after November 1, 2016, the Revenue and Taxation Interim Committee shall:

(i) study the tax ~~[redits]~~ credit allowed under ~~[Sections 59-7-614.6,] Section 59-10-1025[, and 59-10-1109]; and~~

(ii) make recommendations concerning whether the tax ~~[redits]~~ credit should be continued, modified, or repealed.

(b) The study under Subsection (2)(a) shall include an evaluation of:

(i) the cost of the tax ~~[redits]~~ credit under ~~[Sections 59-7-614.6,] Section 59-10-1025[, and 59-10-1109];~~

(ii) the purposes and effectiveness of the tax [~~credits~~] credit; and

(iii) the extent to which the state benefits from the tax [~~credits~~] credit.

Section 7. Repealer.

This bill repeals:

Section 59-7-614.6, Refundable tax credit for certain business entities generating state tax revenue increases.

Section 59-10-1109, Refundable tax credit for certain business entities generating state tax revenue increases.

Section 8. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2016.

CHAPTER 355**S. B. 184**

Passed March 10, 2016
 Approved March 28, 2016
 Effective March 28, 2016

PROCUREMENT CODE MODIFICATIONS

Chief Sponsor: Scott K. Jenkins
 House Sponsor: Gage Froerer

LONG TITLE**General Description:**

This bill modifies provisions relating to the Utah Procurement Code.

Highlighted Provisions:

This bill:

- ▶ modifies and adds definitions;
- ▶ rearranges some procurement provisions;
- ▶ modifies provisions relating to the head of a procurement unit with independent procurement authority;
- ▶ modifies exemptions from the procurement code;
- ▶ rewrites provisions relating to requests for statement of qualifications and approved vendor lists;
- ▶ authorizes a procurement unit to establish price based on specified established terms;
- ▶ modifies provisions relating to correcting immaterial errors in a solicitation response and clarifying information in a solicitation response;
- ▶ modifies duties and responsibilities of the chief procurement officer;
- ▶ modifies provisions relating to a request for information;
- ▶ modifies provisions relating to standard procurement processes;
- ▶ modifies provisions relating to the evaluation process;
- ▶ modifies best and final offer provisions;
- ▶ modifies provisions relating to awarding and canceling a contract and the disqualification of offerors;
- ▶ modifies provisions relating to exceptions to standard procurement processes;
- ▶ modifies provisions relating to procurement protests;
- ▶ modifies a provision relating to reporting unlawful conduct; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

- 17B-2a-818.5, as last amended by Laws of Utah 2014, Chapter 425
 19-1-206, as last amended by Laws of Utah 2014, Chapter 425
 53A-1a-511, as last amended by Laws of Utah 2015, Chapters 138, 150, and 232
 63A-5-205, as last amended by Laws of Utah 2014, Chapter 425

- 63C-9-403, as last amended by Laws of Utah 2014, Chapter 425
 63F-1-205, as last amended by Laws of Utah 2015, Chapters 114 and 283
 63G-6a-103, as last amended by Laws of Utah 2015, Chapters 218 and 464
 63G-6a-105, as last amended by Laws of Utah 2015, Chapters 218 and 464
 63G-6a-106, as last amended by Laws of Utah 2015, Chapters 218 and 362
 63G-6a-107, as last amended by Laws of Utah 2015, Chapters 218, 306, and 464
 63G-6a-109, as last amended by Laws of Utah 2015, Chapter 464
 63G-6a-203, as last amended by Laws of Utah 2013, Chapters 278 and 445
 63G-6a-401, as enacted by Laws of Utah 2012, Chapter 347
 63G-6a-501, as enacted by Laws of Utah 2012, Chapter 347
 63G-6a-603, as last amended by Laws of Utah 2014, Chapter 196
 63G-6a-604, as last amended by Laws of Utah 2013, Chapter 445
 63G-6a-606, as last amended by Laws of Utah 2015, Chapter 97
 63G-6a-609, as last amended by Laws of Utah 2015, Chapter 218
 63G-6a-611, as last amended by Laws of Utah 2014, Chapter 196
 63G-6a-703, as last amended by Laws of Utah 2014, Chapter 196
 63G-6a-707, as last amended by Laws of Utah 2015, Chapters 97 and 218
 63G-6a-707.5, as renumbered and amended by Laws of Utah 2014, Chapter 196
 63G-6a-708, as last amended by Laws of Utah 2014, Chapter 196
 63G-6a-709, as last amended by Laws of Utah 2014, Chapter 196
 63G-6a-802, as last amended by Laws of Utah 2014, Chapter 196
 63G-6a-803, as enacted by Laws of Utah 2012, Chapter 347
 63G-6a-806, as enacted by Laws of Utah 2013, Chapter 445
 63G-6a-1206, as last amended by Laws of Utah 2014, Chapter 196
 63G-6a-1206.5, as enacted by Laws of Utah 2015, Chapter 218
 63G-6a-1502, as last amended by Laws of Utah 2015, Chapter 218
 63G-6a-1503.5, as enacted by Laws of Utah 2015, Chapter 218
 63G-6a-1601, as enacted by Laws of Utah 2012, Chapter 347
 63G-6a-1602, as last amended by Laws of Utah 2014, Chapter 196
 63G-6a-1603, as last amended by Laws of Utah 2015, Chapter 218
 63G-6a-1702, as last amended by Laws of Utah 2015, Chapters 218, 258, and 464
 63G-6a-1703, as last amended by Laws of Utah 2015, Chapter 218
 63G-6a-1903, as last amended by Laws of Utah 2015, Chapter 218

63G-6a-2002, as last amended by Laws of Utah 2013, Chapter 445
 63G-6a-2003, as last amended by Laws of Utah 2013, Chapter 445
 63G-6a-2105, as last amended by Laws of Utah 2014, Chapter 196
 63G-6a-2407, as enacted by Laws of Utah 2014, Chapter 196
 63G-10-403, as last amended by Laws of Utah 2015, Chapter 258
 72-6-107.5, as last amended by Laws of Utah 2014, Chapter 425
 79-2-404, as last amended by Laws of Utah 2014, Chapter 425

ENACTS:

63G-6a-106.5, Utah Code Annotated 1953
 63G-6a-113, Utah Code Annotated 1953
 63G-6a-114, Utah Code Annotated 1953
 63G-6a-115, Utah Code Annotated 1953
 63G-6a-410, Utah Code Annotated 1953
 63G-6a-507, Utah Code Annotated 1953
 63G-6a-802.3, Utah Code Annotated 1953
 63G-6a-802.7, Utah Code Annotated 1953
 63G-6a-1206.3, Utah Code Annotated 1953
 63G-6a-1601.5, Utah Code Annotated 1953

REPEALS AND REENACTS:

63G-6a-303, as last amended by Laws of Utah 2015, Chapters 218, 258, and 283
 63G-6a-605, as last amended by Laws of Utah 2013, Chapter 445
 63G-6a-706, as enacted by Laws of Utah 2012, Chapter 347

RENUMBERS AND AMENDS:

63G-6a-110, (Renumbered from 63G-6a-402, as last amended by Laws of Utah 2015, Chapter 218)
 63G-6a-111, (Renumbered from 63G-6a-407, as last amended by Laws of Utah 2013, Chapter 445)
 63G-6a-112, (Renumbered from 63G-6a-406, as last amended by Laws of Utah 2014, Chapter 196)
 63G-6a-409, (Renumbered from 63G-6a-502, as enacted by Laws of Utah 2012, Chapter 347)
 63G-6a-506, (Renumbered from 63G-6a-408, as last amended by Laws of Utah 2015, Chapter 218)

REPEALS:

63G-6a-104, as last amended by Laws of Utah 2015, Chapter 218
 63G-6a-403, as last amended by Laws of Utah 2015, Chapter 97
 63G-6a-404, as last amended by Laws of Utah 2014, Chapter 196
 63G-6a-503, as last amended by Laws of Utah 2013, Chapter 445
 63G-6a-504, as enacted by Laws of Utah 2012, Chapter 347
 63G-6a-505, as enacted by Laws of Utah 2013, Chapter 445

Utah Code Sections Affected by Coordination Clause:

63G-6a-103, as last amended by Laws of Utah 2015, Chapters 218 and 464
 63G-6a-116, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17B-2a-818.5 is amended to read:**17B-2a-818.5. Contracting powers of public transit districts -- Health insurance coverage.**

(1) For purposes of this section:

(a) "Employee" means an "employee," "worker," or "operative" as defined in Section 34A-2-104 who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance which may not exceed the first day of the calendar month following 60 days from the date of hire.

(b) "Health benefit plan" has the same meaning as provided in Section 31A-1-301.

(c) "Qualified health insurance coverage" is as defined in Section 26-40-115.

(d) "Subcontractor" has the same meaning provided for in Section 63A-5-208.

(2) (a) Except as provided in Subsection (3), this section applies to a design or construction contract entered into by the public transit district on or after July 1, 2009, and to a prime contractor or to a subcontractor in accordance with Subsection (2)(b).

(b) (i) A prime contractor is subject to this section if the prime contract is in the amount of \$1,500,000 or greater.

(ii) A subcontractor is subject to this section if a subcontract is in the amount of \$750,000 or greater.

(3) This section does not apply if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) (a) This section does not apply to a change order as defined in Section 63G-6a-103, or a modification to a contract, when the contract does not meet the initial threshold required by Subsection (2).

(b) A person who intentionally uses change orders or contract modifications to circumvent the requirements of Subsection (2) is guilty of an infraction.

(5) (a) A contractor subject to Subsection (2) shall demonstrate to the public transit district that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and the employee's dependents during the duration of the contract.

(b) If a subcontractor of the contractor is subject to Subsection (2)(b), the contractor shall demonstrate to the public transit district that the subcontractor has and will maintain an offer of qualified health insurance coverage for the

subcontractor's employees and the employee's dependents during the duration of the contract.

(c) (i) (A) A contractor who fails to meet the requirements of Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with an ordinance adopted by the public transit district under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to meet the requirements of Subsection (5)(b).

(ii) (A) A subcontractor who fails to meet the requirements of Subsection (5)(b) during the duration of the contract is subject to penalties in accordance with an ordinance adopted by the public transit district under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to meet the requirements of Subsection (5)(a).

(6) The public transit district shall adopt ordinances:

(a) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the State Building Board in accordance with Section 63A-5-205;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403; and

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(b) which establish:

(i) the requirements and procedures a contractor shall follow to demonstrate to the public transit district compliance with this section which shall include:

(A) that a contractor will not have to demonstrate compliance with Subsection (5)(a) or (b) more than twice in any 12-month period; and

(B) that the actuarially equivalent determination required for the qualified health insurance coverage in Subsection (1) is met by the contractor if the contractor provides the department or division with a written statement of actuarial equivalency from either:

(I) the Utah Insurance Department;

(II) an actuary selected by the contractor or the contractor's insurer; or

(III) an underwriter who is responsible for developing the employer group's premium rates;

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts

with the public transit district upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the public transit district upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for employees and dependents of employees of the contractor or subcontractor who were not offered qualified health insurance coverage during the duration of the contract; and

(iii) a website on which the district shall post the benchmark for the qualified health insurance coverage identified in Subsection (1)(c).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(b)(ii), a contractor or subcontractor who intentionally violates the provisions of this section shall be liable to the employee for health care costs that would have been covered by qualified health insurance coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement of actuarial equivalency provided by an:

(I) actuary; or

(II) underwriter who is responsible for developing the employer group's premium rates; or

(B) a department or division determines that compliance with this section is not required under the provisions of Subsection (3) or (4).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Section [63G-6a-1603] 63G-6a-1602 or any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

Section 2. Section 19-1-206 is amended to read:

19-1-206. Contracting powers of department -- Health insurance coverage.

(1) For purposes of this section:

(a) "Employee" means an "employee," "worker," or "operative" as defined in Section 34A-2-104 who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance which may not exceed the first day of the calendar month following 60 days from the date of hire.

(b) "Health benefit plan" has the same meaning as provided in Section 31A-1-301.

(c) "Qualified health insurance coverage" is as defined in Section 26-40-115.

(d) "Subcontractor" has the same meaning provided for in Section 63A-5-208.

(2) (a) Except as provided in Subsection (3), this section applies to a design or construction contract entered into by or delegated to the department or a division or board of the department on or after July 1, 2009, and to a prime contractor or subcontractor in accordance with Subsection (2)(b).

(b) (i) A prime contractor is subject to this section if the prime contract is in the amount of \$1,500,000 or greater.

(ii) A subcontractor is subject to this section if a subcontract is in the amount of \$750,000 or greater.

(3) This section does not apply to contracts entered into by the department or a division or board of the department if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract or agreement is between:

(i) the department or a division or board of the department; and

(ii) (A) another agency of the state;

(B) the federal government;

(C) another state;

(D) an interstate agency;

(E) a political subdivision of this state; or

(F) a political subdivision of another state;

(c) the executive director determines that applying the requirements of this section to a particular contract interferes with the effective response to an immediate health and safety threat from the environment; or

(d) the contract is:

(i) a sole source contract; or

(ii) an emergency procurement.

(4) (a) This section does not apply to a change order as defined in Section 63G-6a-103, or a modification to a contract, when the contract does not meet the initial threshold required by Subsection (2).

(b) A person who intentionally uses change orders or contract modifications to circumvent the requirements of Subsection (2) is guilty of an infraction.

(5) (a) A contractor subject to Subsection (2) shall demonstrate to the executive director that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and the employees' dependents during the duration of the contract.

(b) If a subcontractor of the contractor is subject to Subsection (2), the contractor shall demonstrate to the executive director that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the contract.

(c) (i) (A) A contractor who fails to comply with Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to meet the requirements of Subsection (5)(b).

(ii) (A) A subcontractor who fails to meet the requirements of Subsection (5)(b) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to meet the requirements of Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) a public transit district in accordance with Section 17B-2a-818.5;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the State Building Board in accordance with Section 63A-5-205;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review Committee; and

(c) which establish:

(i) the requirements and procedures a contractor shall follow to demonstrate to the public transit district compliance with this section that shall include:

(A) that a contractor will not have to demonstrate compliance with Subsection (5)(a) or (b) more than twice in any 12-month period; and

(B) that the actuarially equivalent determination required for the qualified health insurance coverage in Subsection (1) is met by the contractor if the contractor provides the department or division with a written statement of actuarial equivalency from either:

- (I) the Utah Insurance Department;
 - (II) an actuary selected by the contractor or the contractor's insurer; or
 - (III) an underwriter who is responsible for developing the employer group's premium rates;
- (ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) notwithstanding Section 19-1-303, monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for an employee and the dependents of an employee of the contractor or subcontractor who was not offered qualified health insurance coverage during the duration of the contract; and

(iii) a website on which the department shall post the benchmark for the qualified health insurance coverage identified in Subsection (1)(c).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c), a contractor or subcontractor who intentionally violates the provisions of this section shall be liable to the employee for health care costs that would have been covered by qualified health insurance coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement of actuarial equivalency provided by:

- (I) an actuary; or
- (II) an underwriter who is responsible for developing the employer group's premium rates; or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3) or (4).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Section ~~[63G-6a-1603]~~ 63G-6a-1602 or any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

Section 3. Section 53A-1a-511 is amended to read:

53A-1a-511. Waivers from state board rules -- Application of statutes and rules to charter schools.

(1) A charter school shall operate in accordance with its charter and is subject to Title 53A, State System of Public Education, and other state laws applicable to public schools, except as otherwise provided in this part.

(2) (a) A charter school or any other public school or school district may apply to the State Board of Education for a waiver of any state board rule that inhibits or hinders the school or the school district from accomplishing its mission or educational goals set out in its strategic plan or charter.

(b) The state board may grant the waiver, unless:

- (i) the waiver would cause the school district or the school to be in violation of state or federal law; or
- (ii) the waiver would threaten the health, safety, or welfare of students in the district or at the school.

(c) If the State Board of Education denies the waiver, the reason for the denial shall be provided in writing to the waiver applicant.

(3) (a) Except as provided in Subsection (3)(b), State Board of Education rules governing the following do not apply to a charter school:

- (i) school libraries;
- (ii) required school administrative and supervisory services; and
- (iii) required expenditures for instructional supplies.

(b) A charter school shall comply with rules implementing statutes that prescribe how state appropriations may be spent.

(4) The following provisions of Title 53A, State System of Public Education, and rules adopted under those provisions, do not apply to a charter school:

- (a) Sections 53A-1a-108 and 53A-1a-108.5, requiring the establishment of a school community council and school improvement plan;
- (b) Section 53A-3-420, requiring the use of activity disclosure statements;
- (c) Section 53A-12-207, requiring notification of intent to dispose of textbooks;

(d) Section 53A-13-107, requiring annual presentations on adoption;

(e) Chapter 19, Part 1, Fiscal Procedures, pertaining to fiscal procedures of school districts and local school boards; and

(f) Section 53A-14-107, requiring an independent evaluation of instructional materials.

(5) For the purposes of Title 63G, Chapter 6a, Utah Procurement Code, a charter school is considered an educational procurement unit as defined in [~~Subsection 63G-6a-104(7)~~] Section 63G-6a-103.

(6) Each charter school shall be subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 2, Government Records Access and Management Act.

(7) A charter school is exempt from Section 51-2a-201.5, requiring accounting reports of certain nonprofit corporations. A charter school is subject to the requirements of Section 53A-1a-507.

(8) (a) The State Charter School Board shall, in concert with the charter schools, study existing state law and administrative rules for the purpose of determining from which laws and rules charter schools should be exempt.

(b) (i) The State Charter School Board shall present recommendations for exemption to the State Board of Education for consideration.

(ii) The State Board of Education shall consider the recommendations of the State Charter School Board and respond within 60 days.

Section 4. Section 63A-5-205 is amended to read:

63A-5-205. Contracting powers of director -- Retainage -- Health insurance coverage.

(1) As used in this section:

(a) "Capital developments" has the same meaning as provided in Section 63A-5-104.

(b) "Capital improvements" has the same meaning as provided in Section 63A-5-104.

(c) "Employee" means an "employee," "worker," or "operative" as defined in Section 34A-2-104 who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance which may not exceed the first day of the calendar month following 60 days from the date of hire.

(d) "Health benefit plan" has the same meaning as provided in Section 31A-1-301.

(e) "Qualified health insurance coverage" is as defined in Section 26-40-115.

(f) "Subcontractor" has the same meaning provided for in Section 63A-5-208.

(2) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the director may:

(a) subject to Subsection (3), enter into contracts for any work or professional services which the division or the State Building Board may do or have done; and

(b) as a condition of any contract for architectural or engineering services, prohibit the architect or engineer from retaining a sales or agent engineer for the necessary design work.

(3) (a) Except as provided in Subsection (3)(b), this Subsection (3) applies to all design or construction contracts entered into by the division or the State Building Board on or after July 1, 2009, and:

(i) applies to a prime contractor if the prime contract is in the amount of \$1,500,000 or greater; and

(ii) applies to a subcontractor if the subcontract is in the amount of \$750,000 or greater.

(b) This Subsection (3) does not apply:

(i) if the application of this Subsection (3) jeopardizes the receipt of federal funds;

(ii) if the contract is a sole source contract;

(iii) if the contract is an emergency procurement; or

(iv) to a change order as defined in Section 63G-6a-103, or a modification to a contract, when the contract does not meet the threshold required by Subsection (3)(a).

(c) A person who intentionally uses change orders or contract modifications to circumvent the requirements of Subsection (3)(a) is guilty of an infraction.

(d) (i) A contractor subject to Subsection (3)(a) shall demonstrate to the director that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and the employees' dependents.

(ii) If a subcontractor of the contractor is subject to Subsection (3)(a), the contractor shall demonstrate to the director that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents.

(e) (i) (A) A contractor who fails to meet the requirements of Subsection (3)(d)(i) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the division under Subsection (3)(f).

(B) A contractor is not subject to penalties for the failure of a subcontractor to meet the requirements of Subsection (3)(d)(ii).

(ii) (A) A subcontractor who fails to meet the requirements of Subsection (3)(d)(ii) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the division under Subsection (3)(f).

(B) A subcontractor is not subject to penalties for the failure of a contractor to meet the requirements of Subsection (3)(d)(i).

(f) The division shall adopt administrative rules:

(i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(ii) in coordination with:

(A) the Department of Environmental Quality in accordance with Section 19-1-206;

(B) the Department of Natural Resources in accordance with Section 79-2-404;

(C) a public transit district in accordance with Section 17B-2a-818.5;

(D) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(E) the Department of Transportation in accordance with Section 72-6-107.5; and

(F) the Legislature's Administrative Rules Review Committee; and

(iii) which establish:

(A) the requirements and procedures a contractor must follow to demonstrate to the director compliance with this Subsection (3) which shall include:

(I) that a contractor will not have to demonstrate compliance with Subsection (3)(d)(i) or (ii) more than twice in any 12-month period; and

(II) that the actuarially equivalent determination required for the qualified health insurance coverage in Subsection (1) is met by the contractor if the contractor provides the department or division with a written statement of actuarial equivalency from either:

(Aa) the Utah Insurance Department;

(Bb) an actuary selected by the contractor or the contractor's insurer; or

(Cc) an underwriter who is responsible for developing the employer group's premium rates;

(B) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this Subsection (3), which may include:

(I) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(II) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(III) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(IV) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for an employee and the

dependents of an employee of the contractor or subcontractor who was not offered qualified health insurance coverage during the duration of the contract; and

(C) a website on which the department shall post the benchmark for the qualified health insurance coverage identified in Subsection (1)(e).

(g) (i) In addition to the penalties imposed under Subsection (3)(f)(iii), a contractor or subcontractor who intentionally violates the provisions of this section shall be liable to the employee for health care costs that would have been covered by qualified health insurance coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (3)(g)(i) if:

(A) the employer relied in good faith on a written statement of actuarial equivalency provided by:

(I) an actuary; or

(II) an underwriter who is responsible for developing the employer group's premium rates; or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3)(b).

(iii) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (3)(g).

(h) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created by Section 26-18-402.

(i) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:

(i) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Section ~~63G-6a-1603~~ 63G-6a-1602 or any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(ii) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(4) The judgment of the director as to the responsibility and qualifications of a bidder is conclusive, except in case of fraud or bad faith.

(5) The division shall make all payments to the contractor for completed work in accordance with the contract and pay the interest specified in the contract on any payments that are late.

(6) If any payment on a contract with a private contractor to do work for the division or the State Building Board is retained or withheld, it shall be retained or withheld and released as provided in Section 13-8-5.

Section 5. Section 63C-9-403 is amended to read:

63C-9-403. Contracting power of executive director -- Health insurance coverage.

(1) For purposes of this section:

(a) "Employee" means an "employee," "worker," or "operative" as defined in Section 34A-2-104 who:

- (i) works at least 30 hours per calendar week; and
- (ii) meets employer eligibility waiting requirements for health care insurance which may not exceed the first of the calendar month following 60 days from the date of hire.

(b) "Health benefit plan" has the same meaning as provided in Section 31A-1-301.

(c) "Qualified health insurance coverage" is as defined in Section 26-40-115.

(d) "Subcontractor" has the same meaning provided for in Section 63A-5-208.

(2) (a) Except as provided in Subsection (3), this section applies to a design or construction contract entered into by the board or on behalf of the board on or after July 1, 2009, and to a prime contractor or a subcontractor in accordance with Subsection (2)(b).

(b) (i) A prime contractor is subject to this section if the prime contract is in the amount of \$1,500,000 or greater.

(ii) A subcontractor is subject to this section if a subcontract is in the amount of \$750,000 or greater.

(3) This section does not apply if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) (a) This section does not apply to a change order as defined in Section 63G-6a-103, or a modification to a contract, when the contract does not meet the initial threshold required by Subsection (2).

(b) A person who intentionally uses change orders or contract modifications to circumvent the requirements of Subsection (2) is guilty of an infraction.

(5) (a) A contractor subject to Subsection (2) shall demonstrate to the executive director that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and the employees' dependents during the duration of the contract.

(b) If a subcontractor of the contractor is subject to Subsection (2)(b), the contractor shall demonstrate to the executive director that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the contract.

(c) (i) (A) A contractor who fails to meet the requirements of Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the division under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to meet the requirements of Subsection (5)(b).

(ii) (A) A subcontractor who fails to meet the requirements of Subsection (5)(b) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to meet the requirements of Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the State Building Board in accordance with Section 63A-5-205;

(iv) a public transit district in accordance with Section 17B-2a-818.5;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review Committee; and

(c) which establish:

(i) the requirements and procedures a contractor must follow to demonstrate to the executive director compliance with this section which shall include:

(A) that a contractor will not have to demonstrate compliance with Subsection (5)(a) or (b) more than twice in any 12-month period; and

(B) that the actuarially equivalent determination required for the qualified health insurance coverage in Subsection (1) is met by the contractor if the contractor provides the department or division with a written statement of actuarial equivalency from either:

(I) the Utah Insurance Department;

(II) an actuary selected by the contractor or the contractor's insurer; or

(III) an underwriter who is responsible for developing the employer group's premium rates;

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for employees and dependents of employees of the contractor or subcontractor who were not offered qualified health insurance coverage during the duration of the contract; and

(iii) a website on which the department shall post the benchmark for the qualified health insurance coverage identified in Subsection (1)(c).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c), a contractor or subcontractor who intentionally violates the provisions of this section shall be liable to the employee for health care costs that would have been covered by qualified health insurance coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement of actuarial equivalency provided by:

(I) an actuary; or

(II) an underwriter who is responsible for developing the employer group's premium rates; or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3) or (4).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Section ~~[63G-6a-1603]~~ 63G-6a-1602 or any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

Section 6. Section 63F-1-205 is amended to read:

63F-1-205. Approval of acquisitions of information technology.

(1) (a) Except as provided in Title 63N, Chapter 13, Part 2, Government Procurement Private Proposal Program, in accordance with Subsection (2), the chief information officer shall approve the acquisition by an executive branch agency of:

(i) information technology equipment;

(ii) telecommunications equipment;

(iii) software;

(iv) services related to the items listed in Subsections (1)(a)(i) through (iii); and

(v) data acquisition.

(b) The chief information officer may negotiate the purchase, lease, or rental of private or public information technology or telecommunication services or facilities in accordance with this section.

(c) Where practical, efficient, and economically beneficial, the chief information officer shall use existing private and public information technology or telecommunication resources.

(d) Notwithstanding another provision of this section, an acquisition authorized by this section shall comply with rules made by the applicable rulemaking authority under Title 63G, Chapter 6a, Utah Procurement Code.

(2) Before negotiating a purchase, lease, or rental under Subsection (1) for an amount that exceeds the value established by the chief information officer by rule in accordance with Section 63F-1-206, the chief information officer shall:

(a) conduct an analysis of the needs of executive branch agencies and subscribers of services and the ability of the proposed information technology or telecommunications services or supplies to meet those needs; and

(b) for purchases, leases, or rentals not covered by an existing statewide contract, ~~provide~~ certify in writing to the chief procurement officer in the Division of Purchasing and General Services that:

(i) the analysis required in Subsection (2)(a) was completed; and

(ii) based on the analysis, the proposed purchase, lease, rental, or master contract of services, products, or supplies is practical, efficient, and economically beneficial to the state and the executive branch agency or subscriber of services.

(3) In approving an acquisition described in Subsections (1) and (2), the chief information officer shall:

(a) establish by administrative rule, in accordance with Section 63F-1-206, standards under which an agency must obtain approval from the chief information officer before acquiring the items listed in Subsections (1) and (2);

(b) for those acquisitions requiring approval, determine whether the acquisition is in compliance with:

(i) the executive branch strategic plan;

(ii) the applicable agency information technology plan;

(iii) the budget for the executive branch agency or department as adopted by the Legislature;

(iv) Title 63G, Chapter 6a, Utah Procurement Code; and

(v) the information technology accessibility standards described in Section 63F-1-210; and

(c) in accordance with Section 63F-1-207, require coordination of acquisitions between two or more executive branch agencies if it is in the best interests of the state.

(4) (a) Each executive branch agency shall provide the chief information officer with complete access to all information technology records, documents, and reports:

(i) at the request of the chief information officer; and

(ii) related to the executive branch agency's acquisition of any item listed in Subsection (1).

(b) Beginning July 1, 2006 and in accordance with administrative rules established by the department under Section 63F-1-206, no new technology projects may be initiated by an executive branch agency or the department unless the technology project is described in a formal project plan and the business case analysis has been approved by the chief information officer and agency head. The project plan and business case analysis required by this Subsection (4) shall be in the form required by the chief information officer, and shall include:

(i) a statement of work to be done and existing work to be modified or displaced;

(ii) total cost of system development and conversion effort, including system analysis and programming costs, establishment of master files, testing, documentation, special equipment cost and all other costs, including overhead;

(iii) savings or added operating costs that will result after conversion;

(iv) other advantages or reasons that justify the work;

(v) source of funding of the work, including ongoing costs;

(vi) consistency with budget submissions and planning components of budgets; and

(vii) whether the work is within the scope of projects or initiatives envisioned when the current fiscal year budget was approved.

(5) ~~[(a)]~~ The chief information officer and the Division of Purchasing and General Services shall work cooperatively to establish procedures under which the chief information officer shall monitor and approve acquisitions as provided in this section.

~~[(b) The procedures established under this section shall include at least the written certification required by Subsection 63G-6a-303(1)(e).]~~

Section 7. Section 63G-6a-103 is amended to read:

63G-6a-103. Definitions.

As used in this chapter:

(1) "Applicable rulemaking authority" means:

(a) for a legislative procurement unit, the Legislative Management Committee;

(b) for a judicial procurement unit, the Judicial Council;

(c) (i) only to the extent of the procurement authority expressly granted to the procurement unit by statute:

(A) for the building board or the Division of Facilities Construction and Management, created in Section 63A-5-201, the building board;

(B) for the Office of the Attorney General, the attorney general; and

(C) for the Department of Transportation created in Section 72-1-201, the executive director of the Department of Transportation; and

(ii) for each other executive branch procurement unit, the board;

(d) for a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) an individual or body designated by the legislative body of the local government procurement unit;

(e) for a school district or a public school, the board, except to the extent of a school district's own nonadministrative rules that do not conflict with the provisions of this chapter;

(f) for a state institution of higher education, the State Board of Regents;

(g) for a public transit district, the chief executive of the public transit district;

(h) for a local district other than a public transit district or for a special service district:

(i) before January 1, 2015, the board of trustees of the local district or the governing body of the special service district; or

(ii) on or after January 1, 2015, the board, except to the extent that the board of trustees of the local district or the governing body of the special service district makes its own rules:

(A) with respect to a subject addressed by board rules; or

(B) that are in addition to board rules; or

(i) for any other procurement unit, the board.

(2) "Approved vendor" means a vendor who has been approved through the approved vendor list process.

(3) "Approved vendor list" means a list of approved vendors established under Section 63G-6a-507.

(4) “Approved vendor list process” means the procurement process described in Section 63G-6a-507.

~~[(4)]~~ (5) “Bidder” means a person who [responds] submits a bid or price quote in response to an invitation for bids.

(6) “Bidding process” means the procurement process described in Part 6, Bidding.

(7) “Board” means the Utah State Procurement Policy Board, created in Section 63G-6a-202.

(8) “Building board” means the State Building Board, created in Section 63A-5-101.

~~[(2)]~~ (9) “Change directive” means a written order signed by the procurement officer that directs the contractor to suspend work or make changes, as authorized by contract, without the consent of the contractor.

~~[(3)]~~ (10) “Change order” means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.

~~[(4)]~~ (11) “Chief procurement officer” means the chief procurement officer appointed under Subsection 63G-6a-302(1).

~~[(5)]~~ (12) “Conducting procurement unit” means a procurement unit that conducts all aspects of a procurement:

(a) except:

(i) reviewing a solicitation to verify that it is in proper form; and

(ii) causing the publication of a notice of a solicitation; and

(b) including:

(i) preparing any solicitation document;

(ii) appointing an evaluation committee;

(iii) conducting the evaluation process, except as provided in Subsection 63G-6a-707~~[(5)]~~~~(6)~~(b) relating to scores calculated for costs of proposals;

(iv) selecting and recommending the person to be awarded a contract;

(v) negotiating the terms and conditions of a contract, subject to the issuing procurement unit’s approval; and

(vi) ~~[administering a]~~ contract administration.

(13) “Conservation district” means the same as that term is defined in Section 17D-3-102.

~~[(6) (a)]~~ “Construction” means the process of building, renovating, altering, improving, or repairing a public building or public work.

~~[(b)]~~ “Construction” does not include the routine operation, routine repair, or routine maintenance of an existing structure, building, or real property.

(14) “Construction”:

(a) means services, including work, and supplies for a project for the construction, renovation, alteration, improvement, or repair of a public facility on real property; and

(b) does not include services and supplies for the routine, day-to-day operation, repair, or maintenance of an existing public facility.

~~[(7) -(a)]~~ (15) “Construction manager/general contractor”:

(a) means a contractor who enters into a contract:

(i) for the management of a construction project ~~[when the contract];~~ and

(ii) that allows the contractor to subcontract for additional labor and materials that are not included in the contractor’s cost proposal submitted at the time of the procurement of the contractor’s services~~[-];~~ and

(b) ~~[-“Construction manager/general contractor”]~~ does not include a contractor whose only subcontract work not included in the contractor’s cost proposal submitted as part of the procurement of the contractor’s services is to meet subcontracted portions of change orders approved within the scope of the project.

~~[(8)]~~ (16) “Contract” means an agreement for ~~[the] a procurement [or disposal of a procurement item].~~

(17) “Contract administration” means all functions, duties, and responsibilities associated with managing, overseeing, and carrying out a contract between a procurement unit and a contractor, including:

(a) implementing the contract;

(b) ensuring compliance with the contract terms and conditions by the conducting procurement unit and the contractor;

(c) executing change orders;

(d) processing contract amendments;

(e) resolving, to the extent practicable, contract disputes;

(f) curing contract errors and deficiencies;

(g) terminating a contract;

(h) measuring or evaluating completed work and contractor performance;

(i) computing payments under the contract; and

(j) closing out a contract.

~~[(9)]~~ (18) “Contractor” means a person who is awarded a contract with a procurement unit.

~~[(10)]~~ (19) “Cooperative procurement” means procurement conducted by, or on behalf of:

(a) more than one procurement unit; or

(b) a procurement unit and a cooperative purchasing organization.

(20) “Cooperative purchasing organization” means an organization, association, or alliance of

purchasers established to combine purchasing power in order to obtain the best value for the purchasers by engaging in procurements in accordance with Section 63G-6a-2105.

[(11)] (21) “Cost-plus-a-percentage-of-cost contract” means a contract [where] under which the contractor is paid a percentage [over and above] of the total actual expenses or costs in addition to the contractor’s actual expenses or costs.

[(12)] (22) “Cost-reimbursement contract” means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

[(13)] (23) “Days” means calendar days, unless expressly provided otherwise.

[(14)] (24) “Definite quantity contract” means a fixed price contract that provides for [the supply of] a specified amount of [goods] supplies over a specified period, with deliveries scheduled according to a specified schedule.

[(15)] (25) “Design-build” means the procurement of design professional services and construction by the use of a single contract [with the design-build provider].

[(16)] (26) “Design professional” means:

(a) an individual licensed as an architect under Title 58, Chapter 3a, Architects Licensing Act; or

(b) an individual licensed as a professional engineer or professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

[(27)] (27) “Design professional procurement process” means the procurement process described in Part 15, Design Professional Services.

[(17)] (28) “Design professional services” means:

(a) professional services within the scope of the practice of architecture as defined in Section 58-3a-102;

(b) professional engineering as defined in Section 58-22-102; or

(c) master planning and programming services.

[(18)] (29) “Directed procurement” means a procurement of a procurement item in which the source of the funds used to procure the procurement item:

[(a)] (a) directs from whom the procurement item is to be procured; or

[(b)] (b) imposes requirements on how the procurement is to be administered.

[(19)] (29) “Director” means the director of the division.

(30) “Division” means the Division of Purchasing and General Services, created in Section 63A-2-101.

(31) “Educational procurement unit” means:

(a) a school district;

(b) a public school, including a local school board and a charter school;

(c) the Utah Schools for the Deaf and Blind;

(d) the Utah Education and Telehealth Network; or

(e) an institution of higher education of the state.

[(20)] (32) “Established catalogue price” means the price included in a catalogue, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is [either] published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

(33) “Executive branch procurement unit” means a department, division, office, bureau, agency, or other organization within the state executive branch.

[(21)] (34) “Fixed price contract” means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except to the extent that:

(a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is not based on cost to the contractor; or

(b) an adjustment is required by law.

[(22)] (35) “Fixed price contract with price adjustment” means a fixed price contract that provides for an upward or downward revision of price, precisely described in the contract, that:

(a) is based on the consumer price index or another commercially acceptable index, source, or formula; and

(b) is not based on a percentage of the cost to the contractor.

[(23)] (36) “Grant” means an expenditure of public funds or other assistance, or an agreement to expend public funds or other assistance, for a public purpose authorized by law, without acquiring a procurement item in exchange.

[(24)] (37) “Head of a procurement unit” means:

(a) [as it relates to] for a legislative procurement unit, any person designated by rule made by the applicable rulemaking authority;

(b) [as it relates to] for an executive branch procurement unit:

(i) the director of [a] the division; or

(ii) any other person designated by the board, by rule;

(c) [as it relates to] for a judicial procurement unit:

- (i) the Judicial Council; or
- (ii) any other person designated by the Judicial Council, by rule;
- (d) ~~[as it relates to]~~ for a local government procurement unit:
- (i) the legislative body of the local government procurement unit; or
- (ii) any other person designated by the local government procurement unit;
- (e) ~~[as it relates to]~~ for a local district other than a public transit district, the board of trustees of the local district or a designee of the board of trustees;
- (f) ~~[as it relates to]~~ for a special service district, the governing body of the special service district or a designee of the governing body;
- (g) ~~[as it relates to]~~ for a local building authority, the board of directors of the local building authority or a designee of the board of directors;
- (h) ~~[as it relates to]~~ for a conservation district, the board of supervisors of the conservation district or a designee of the board of supervisors;
- (i) ~~[as it relates to]~~ for a public corporation, the board of directors of the public corporation or a designee of the board of directors;
- (j) ~~[as it relates to]~~ for a school district or any school or entity within a school district, the board of the school district, or the board's designee;
- (k) ~~[as it relates to]~~ for a charter school, the individual or body with executive authority over the charter school, or the individual's or body's designee;
- (l) ~~[as it relates to]~~ for an institution of higher education of the state, the president of the institution of higher education, or the president's designee; or
- (m) ~~[as it relates to]~~ for a public transit district, the board of trustees or a designee of the board of trustees.
- (38) "Immaterial error":
- (a) means an irregularity or abnormality that is:
- (i) a matter of form that does not affect substance; or
- (ii) an inconsequential variation from a requirement of a solicitation that has no, little, or a trivial effect on the procurement process and that is not prejudicial to other vendors; and
- (b) includes:
- (i) a missing signature, missing acknowledgment of an addendum, or missing copy of a professional license, bond, or insurance certificate;
- (ii) a typographical error;
- (iii) an error resulting from an inaccuracy or omission in the solicitation; and

(iv) any other error that the chief procurement officer or the head of a procurement unit with independent procurement authority reasonably considers to be immaterial.

~~[(25)]~~ (39) "Indefinite quantity contract" means a fixed price contract that:

(a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit; and

(b) (i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

~~[(26)]~~ (40) "Independent procurement authority" means authority granted to a procurement unit under Subsection 63G-6a-106(4)(a).

~~[(27)]~~ (41) "Invitation for bids" ~~[includes all documents, including documents that are attached or incorporated by reference, used for soliciting];~~

(a) means a document used to solicit:

(i) bids to provide a procurement item to a procurement unit; or

(ii) quotes for a price of a procurement item to be provided to a procurement unit; and

(b) includes all documents attached to or incorporated by reference in a document described in Subsection (41)(a).

~~[(28)]~~ (42) "Issuing procurement unit" means a procurement unit that:

(a) reviews a solicitation to verify that it is in proper form;

(b) causes the notice of a solicitation to be published; and

(c) negotiates and approves the terms and conditions of a contract.

(43) "Judicial procurement unit" means:

(a) the Utah Supreme Court;

(b) the Utah Court of Appeals;

(c) the Judicial Council;

(d) a state judicial district; or

(e) an office, committee, subcommittee, or other organization within the state judicial branch.

~~[(29)]~~ (44) "Labor hour contract" is a contract ~~[where]~~ under which:

(a) the supplies and materials are not provided by, or through, the contractor; and

(b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified number of labor hours or days.

(45) "Legislative procurement unit" means:

(a) the Legislature;

(b) the Senate;

(c) the House of Representatives;

(d) a staff office of the Legislature, the Senate, or the House of Representatives; or

(e) an office, committee, subcommittee, commission, or other organization within the state legislative branch.

(46) “Local building authority” means the same as that term is defined in Section 17D-2-102.

(47) “Local district” means the same as that term is defined in Section 17B-1-102.

(48) “Local government procurement unit” means:

(a) a county or municipality, and each office or agency of the county or municipality, unless the county or municipality adopts its own procurement code by ordinance;

(b) a county or municipality that has adopted this entire chapter by ordinance, and each office or agency of that county or municipality; or

(c) a county or municipality that has adopted a portion of this chapter by ordinance, to the extent that a term in the ordinance is used in the adopted portion of this chapter, and each office or agency of that county or municipality.

[30] (49) “Multiple award contracts” means the award of a contract for an indefinite quantity of a procurement item to more than one bidder or offeror.

[31] (50) “Multiyear contract” means a contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.

[32] (51) “Municipality” means a city or a town.

(52) “Nonadopting local government procurement unit” means:

(a) a county or municipality that has not adopted Part 16, Protests, Part 17, Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19, General Provisions Related to Protest or Appeal; and

(b) each office or agency of a county or municipality described in Subsection (52)(a).

[33] (53) “Offeror” means a person who ~~responds~~ submits a proposal in response to a request for proposals.

(54) “Person” means the same as that term is defined in Section 68-3-12.5, excluding a political subdivision and a government office, department, division, bureau, or other body of government.

[34] (55) “Preferred bidder” means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

[35] (56) “Procure” means to acquire a procurement item through a procurement.

[36] (57) “Procurement”:

(a) means a procurement unit’s acquisition of a procurement item through an expenditure of public funds, or an agreement to expend public funds, ~~in exchange for a procurement item~~;

(b) includes all functions that pertain to the acquisition of a procurement item, including:

~~(i) the description of requirements;~~

~~(ii) the selection process;~~

~~(iii) solicitation of sources;~~

~~(iv) the preparation for soliciting a procurement item; and~~

~~(v) the award of a contract; and~~

(i) preparing and issuing a solicitation; and

(ii) (A) conducting a standard procurement process; or

(B) conducting a procurement process that is an exception to a standard procurement process under Part 8, Exceptions to Standard Procurement Process; and

(c) does not include a grant.

~~[37] “Procurement item” means a supply, a service, construction, or technology.~~

(58) “Procurement item” means a supply, a service, or construction.

~~[38] (59) “Procurement officer” means:~~

(a) ~~[as it relates to]~~ for a procurement unit with independent procurement authority:

(i) the head of the procurement unit;

(ii) a designee of the head of the procurement unit; or

(iii) a person designated by rule made by the applicable rulemaking authority; or

(b) ~~[as it relates to]~~ for the division or a procurement unit without independent procurement authority, the chief procurement officer.

(60) “Procurement unit”:

(a) means:

(i) a legislative procurement unit;

(ii) an executive branch procurement unit;

(iii) a judicial procurement unit;

(iv) an educational procurement unit;

(v) a local government procurement unit;

(vi) a local district;

(vii) a special service district;

(viii) a local building authority;

(ix) a conservation district;

(x) a public corporation; or

(xi) a public transit district; and

(b) does not include a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

~~[(39) “Professional service” means a service that requires a high degree of specialized knowledge and discretion in the performance of the service, including:]~~

~~[(a) legal services;]~~

~~[(b) consultation services;]~~

~~[(c) architectural services;]~~

~~[(d) engineering;]~~

~~[(e) design;]~~

~~[(f) underwriting;]~~

~~[(g) bond counsel;]~~

~~[(h) financial advice;]~~

~~[(i) construction management;]~~

~~[(j) medical services;]~~

~~[(k) psychiatric services; or]~~

~~[(l) counseling services.]~~

(61) “Professional service” means labor, effort, or work that requires an elevated degree of specialized knowledge and discretion, including labor, effort, or work in the field of:

(a) accounting;

(b) architecture;

(c) construction design and management;

(d) engineering;

(e) financial services;

(f) information technology;

(g) the law;

(h) medicine;

(i) psychiatry; or

(j) underwriting.

~~[(40)]~~ (62) “Protest officer” means:

(a) ~~[as it relates to]~~ for the division or a procurement unit with independent procurement authority:

(i) the head of the procurement unit;

(ii) a designee of the head of the procurement unit; or

(iii) a person designated by rule made by the applicable rulemaking authority; or

(b) ~~[as it relates to]~~ for a procurement unit without independent procurement authority, the chief procurement officer or the chief procurement officer’s designee.

(63) “Public corporation” means the same as that term is defined in Section 63E-1-102.

(64) “Public entity” means any government entity of the state or political subdivision of the state, including:

(a) a procurement unit;

(b) a municipality or county, regardless of whether the municipality or county has adopted this chapter or any part of this chapter; and

(c) any other government entity located in the state that expends public funds.

(65) “Public facility” means a building, structure, infrastructure, improvement, or other facility of a public entity.

(66) “Public funds” means money, regardless of its source, including from the federal government, that is owned or held by a procurement unit.

(67) “Public transit district” means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(68) “Qualified vendor” means a vendor who:

(a) is responsible; and

(b) submits a responsive statement of qualifications under Section 63G-6a-410 that meets the minimum mandatory requirements, evaluation criteria, and any applicable score thresholds set forth in the request for statement of qualifications.

(69) “Real property” means land and any building, fixture, improvement, appurtenance, structure, or other development that is permanently affixed to land.

~~[(41)]~~ (70) “Request for information” means a nonbinding process ~~[where]~~ through which a procurement unit requests information relating to a procurement item.

~~[(42)]~~ (71) “Request for proposals” ~~[includes all documents, including documents that are attached or incorporated by reference, used for soliciting]~~ means a document used to solicit proposals to provide a procurement item to a procurement unit, including all other documents that are attached to that document or incorporated in that document by reference.

(72) “Request for proposals process” means the procurement process described in Part 7, Request for Proposals.

~~[(43)]~~ (73) “Request for statement of qualifications” means ~~[all documents]~~ a document used to solicit information about the qualifications of ~~[the]~~ a person interested in responding to a potential procurement, including all other documents attached to that document or incorporated in that document by reference.

~~[(44)]~~ (74) “Requirements contract” means a contract:

(a) ~~[where]~~ under which a contractor agrees to provide a procurement unit’s entire requirements for certain procurement items at prices specified in the contract during the contract period; and

- (b) that:
- (i) does not require a minimum purchase amount;
or
- (ii) provides a maximum purchase limit.

[445] (75) “Responsible” means being capable, in all respects, of:

(a) meeting all the requirements of a solicitation; and

(b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.

[446] (76) “Responsive” means conforming in all material respects to the ~~[invitation for bids or request for proposals]~~ requirements of a solicitation.

[447] (77) “Sealed” means manually or electronically ~~[sealed and submitted bids or proposals]~~ secured to prevent disclosure.

[448] (a) “Services” means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than a report that is incidental to the required performance.]

[b] “Services” does not include an employment agreement or a collective bargaining agreement.]

(78) “Service”:

(a) means labor, effort, or work to produce a result that is beneficial to a procurement unit;

(b) includes a professional service; and

(c) does not include labor, effort, or work provided under an employment agreement or a collective bargaining agreement.

(79) “Small purchase process” means the procurement process described in Section 63G-6a-506.

[449] (80) “Sole source contract” means a contract resulting from a sole source procurement.

[450] (81) “Sole source procurement” means a procurement without competition pursuant to a determination under Subsection 63G-6a-802~~(2)~~(1)(a) that there is only one source for the procurement item.

[451] (82) “Solicitation” means an invitation for bids, request for proposals, ~~[notice of a sole source procurement,]~~ request for statement of qualifications, or request for information~~[, or any document used to obtain bids, proposals, pricing, qualifications, or information for the purpose of entering into a procurement contract].~~

(83) “Solicitation response” means:

(a) a bid submitted in response to an invitation for bids;

(b) a proposal submitted in response to a request for proposals; or

(c) a statement of qualifications submitted in response to a request for statement of qualifications.

(84) “Special service district” means the same as that term is defined in Section 17D-1-102.

[452] (85) “Specification” means any description of the physical or functional characteristics~~[,]~~ or of the nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

(a) a requirement for inspecting or testing a procurement item; or

(b) preparing a procurement item for delivery.

[453] (86) “Standard procurement process” means ~~[one of the following methods of obtaining a procurement item]:~~

(a) the bidding~~[, as described in Part 6, Bidding]~~ process;

(b) the request for proposals~~[, as described in Part 7, Request for Proposals]~~ process; ~~[or]~~

~~[(c) small purchases, in accordance with the requirements established under Section 63G-6a-408.]~~

(c) the approved vendor list process;

(d) the small purchase process; or

(e) the design professional procurement process.

[454] (87) “State cooperative contract” means a contract awarded by the division for and in behalf of all public entities.

[455] (88) “Statement of qualifications” means a written statement submitted to a procurement unit in response to a request for statement of qualifications.

[456] (a) (89) “Subcontractor”:

(a) means a person under contract with a contractor or another subcontractor to provide services or labor for design or construction~~[,];~~

(b) ~~[-“Subcontractor”]~~ includes a trade contractor or specialty contractor~~[,];~~ and

(c) ~~[-“Subcontractor”]~~ does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor.

~~[(57) “Supplies” means all property, including equipment, materials, and printing.]~~

(90) “Supply” means a good, material, technology, piece of equipment, or any other item of personal property.

[458] (91) “Tie bid” means that the lowest responsive ~~[and]~~ bids of responsible ~~[bids]~~ bidders are identical in price.

[459] (92) “Time and materials contract” means a contract ~~[where]~~ under which the contractor is paid:

(a) the actual cost of direct labor at specified hourly rates;

(b) the actual cost of materials and equipment usage; and

(c) an additional amount, expressly described in the contract, to cover overhead and profit, that is not based on a percentage of the cost to the contractor.

(93) "Transitional costs":

(a) means the costs of changing:

(i) from an existing provider of a procurement item to another provider of that procurement item; or

(ii) from an existing type of procurement item to another type;

(b) includes:

(i) training costs;

(ii) conversion costs;

(iii) compatibility costs;

(iv) costs associated with system downtime;

(v) disruption of service costs;

(vi) staff time necessary to implement the change;

(vii) installation costs; and

(viii) ancillary software, hardware, equipment, or construction costs; and

(c) does not include:

(i) the costs of preparing for or engaging in a procurement process; or

(ii) contract negotiation or drafting costs.

(94) "Trial use contract" means a contract for a procurement item that the procurement unit acquires for a trial use or testing to determine whether the procurement item will benefit the procurement unit.

(95) "Vendor":

(a) means a person who is seeking to enter into a contract with a procurement unit to provide a procurement item; and

(b) includes:

(i) a bidder;

(ii) an offeror;

(iii) an approved vendor; and

(iv) a design professional.

Section 8. Section 63G-6a-105 is amended to read:

63G-6a-105. Application of chapter -- Ordinances or resolutions relating to procurement of design professional services -- Rules.

~~(1) The provisions of this chapter that are enacted on May 1, 2013, apply only to a procurement advertised, or begun on or after May 1, 2013, unless the parties agree to have the~~

~~provisions apply with respect to a procurement that was advertised or begun before May 1, 2013, but is not completed before May 1, 2013.]~~

~~[(2)-(a)] (1) Except as provided in Section 63G-6a-107, this chapter [shall apply to every expenditure of public funds irrespective of the source of the funds, including federal assistance, by any procurement unit, under any contract] applies to every procurement.~~

~~[(b) The provisions of this chapter do]~~

(2) This chapter does not apply to a public entity that is not a procurement unit.

(3) The following procurement units shall adopt ordinances or resolutions relating to the procurement of design professional services not inconsistent with the provisions of Part 15, Design Professional Services:

(a) an educational procurement unit;

(b) a conservation district;

(c) a local building authority;

(d) a local district;

(e) a public corporation; or

(f) a special service district.

(4) Any section of this chapter, or its implementing regulations, may be adopted by:

(a) a county;

(b) a municipality; or

(c) the Utah Housing Corporation.

(5) Rules adopted under this chapter shall be consistent with the provisions of this chapter.

(6) An applicable rulemaking authority or a procurement unit may not adopt rules, policies, or regulations that are inconsistent with this chapter.

(7) Unless otherwise provided by statute, this chapter does not apply to ~~[procurement]~~ the acquisition or disposal of real property or an interest in real property.

(8) Notwithstanding any provision of this chapter, a procurement unit may administer a ~~[direct]~~ procurement in accordance with the requirements imposed by the source of the funds used to procure the procurement item.

Section 9. Section 63G-6a-106 is amended to read:

63G-6a-106. Procurement units with specific statutory procurement authority -- Independent procurement authority -- Authority of head of a procurement unit with independent procurement authority.

(1) A procurement unit with procurement authority under the following provisions has independent procurement authority to the extent of the applicable provisions and for the procurement items specified in the applicable provisions:

(a) Title 53B, State System of Higher Education;

(b) Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management;

(c) Title 67, Chapter 5, Attorney General;

(d) Title 72, Transportation Code; and

(e) Title 78A, Chapter 5, District Court.

(2) Except as otherwise provided in Sections 63G-6a-105 and 63G-6a-107, a procurement unit shall conduct a procurement in accordance with this chapter.

(3) (a) The Department of Transportation may make rules governing the procurement of highway construction or improvement.

(b) The applicable rulemaking authority for a public transit district may make rules governing the procurement of a transit construction project or a transit improvement project.

~~[(c) This Subsection (3) supersedes Subsections (1) and (2).]~~

(4) (a) A procurement unit listed in Subsection (4)(b) may, without the supervision, interference, oversight, control, or involvement of the division or the chief procurement officer, but in accordance with the requirements of this chapter:

(i) engage in a standard procurement process;

(ii) procure an item under an exception, as provided in this chapter, to the requirement to use a standard procurement process; or

(iii) otherwise engage in an act authorized or required by this chapter.

(b) The procurement units to which Subsection (4)(a) applies are:

(i) a legislative procurement unit;

(ii) a judicial procurement unit;

(iii) an educational procurement unit;

(iv) a local government procurement unit;

(v) a conservation district;

(vi) a local building authority;

(vii) a local district;

(viii) a public corporation;

(ix) a special service district;

(x) a public transit district; and

(xi) a procurement unit referred to in Subsection (1), to the extent authorized in Subsection (1).

(c) A procurement unit with independent procurement authority shall comply with the requirements of this chapter.

(d) Notwithstanding Subsection (4)(a), a procurement unit with independent procurement authority may agree in writing with the division to extend the authority of the division or the chief

procurement officer to the procurement unit, as provided in the agreement.

~~[(e) At any stage of the procurement process, a head of a procurement unit with independent procurement authority who determines that a procurement over which the procurement unit has authority is out of compliance with this chapter or applicable rules may:]~~

~~[(i) correct or amend the procurement to bring it into compliance; or]~~

~~[(ii) cancel the procurement, if the head of the procurement unit determines that it is:]~~

~~[(A) not feasible to bring the procurement into compliance; or]~~

~~[(B) in the best interest of the procurement unit to cancel the procurement.]~~

(e) With respect to a procurement or contract over which the head of a procurement unit with independent procurement authority has authority, the head of the procurement unit with independent procurement authority may:

(i) manage and supervise the procurement to ensure to the extent practicable that taxpayers receive the best value;

(ii) prepare and issue standard specifications for procurement items;

(iii) review contracts, coordinate contract compliance, conduct contract audits, and approve change orders;

(iv) delegate duties and authority to an employee of the procurement unit, as the head of the procurement unit with independent procurement authority considers appropriate;

(v) for the head of an executive branch procurement unit with independent procurement authority, coordinate with the Department of Technology Services, created in Section 63F-1-103, with respect to the procurement unit's procurement of information technology services;

(vi) correct, amend, or cancel a procurement at any stage of the procurement process if the procurement is out of compliance with this chapter or a rule adopted by the applicable rulemaking authority;

(vii) after consultation with, as applicable, the attorney general's office or the procurement unit's legal counsel, correct, amend, or cancel a contract at any time during the term of the contract if:

(A) the contract is out of compliance with this chapter or a board rule; and

(B) the head of the procurement unit with independent procurement authority determines that correcting, amending, or canceling the contract is in the best interest of the procurement unit; and

(viii) attempt to resolve a contract dispute in coordination with the legal counsel of the procurement unit with independent procurement authority.

(f) The head of a procurement unit with independent procurement authority serves as the protest officer for a protest involving the procurement unit.

~~[(4)]~~ (g) If, at any time during the term of a contract awarded by a procurement unit with independent procurement authority, the head of the procurement unit determines that the contract is out of compliance with this chapter or applicable rules, the head of the procurement unit may correct or amend the contract to bring it into compliance or cancel the contract:

(i) if the head of the procurement unit determines that correcting, amending, or canceling the contract is in the best interest of the procurement unit; and

(ii) after consulting with legal counsel.

(5) (a) The attorney general may, in accordance with the provisions of this chapter, but without involvement by the division or the chief procurement officer:

(i) retain outside counsel, subject to Section 67-5-33 if the attorney general retains outside counsel under a contingent fee contract, as defined in that section; or

(ii) procure litigation support services, including retaining an expert witness.

(b) A procurement unit with independent procurement authority that is not represented by the attorney general's office may, in accordance with the provisions of this chapter, but without involvement by the division or the chief procurement officer:

(i) retain outside counsel; or

(ii) procure litigation support services, including retaining an expert witness.

(6) The state auditor's office may, in accordance with the provisions of this chapter, but without involvement by the division or the chief procurement officer, procure audit services.

(7) The state treasurer may, in accordance with the provisions of this chapter, but without involvement by the division or the chief procurement officer, procure:

(a) deposit services; and

(b) services related to issuing bonds.

Section 10. Section 63G-6a-106.5 is enacted to read:

63G-6a-106.5. Policy for legislative procurement units.

The Legislative Management Committee shall adopt a policy establishing requirements applicable to a legislative procurement unit.

Section 11. Section 63G-6a-107 is amended to read:

63G-6a-107. Exemptions from chapter -- Compliance with other provisions.

(1) Except for Part 24, Unlawful Conduct and Penalties, ~~[the provisions of] this chapter [do] does~~ not apply to:

(a) funds administered under the Percent-for-Art Program of the Utah Percent-for-Art Act;

(b) a grant;

(c) a contract between procurement units;

(d) medical supplies or medical equipment, including service agreements for medical equipment, obtained ~~[through a purchasing consortium by the Utah State Hospital, the Utah State Developmental Center,] by the University of Utah Hospital, or any other hospital owned by the state or a political subdivision of the state,] through a purchasing consortium if:~~

(i) the consortium uses a competitive procurement process; and

(ii) the chief administrative officer of the hospital makes a written finding that the prices for purchasing medical supplies and medical equipment through the consortium are competitive with market prices;

(e) the purchase of firefighting supplies or equipment by the Division of Forestry, Fire, and State Lands, created in Section 65A-1-4, through the federal General Services Administration or the National Fire Cache system;

(f) ~~[goods]~~ supplies purchased for resale to the public; or

(g) activities related to the management of investments by a public entity granted investment authority by law.

~~[(2) This chapter does not prevent a procurement unit from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.]~~

~~[(3)]~~ (2) Notwithstanding any conflicting provision of this chapter, ~~[when] if~~ a procurement involves the expenditure of federal or state assistance, federal contract funds, local matching funds, or federal financial participation funds, the procurement unit shall comply with mandatory applicable federal or state law and regulations not reflected in this chapter.

~~[(4)]~~ (3) This chapter does not supersede the requirements for retention or withholding of construction proceeds and release of construction proceeds as provided in Section 13-8-5.

(4) This chapter does not apply to a procurement unit's hiring a mediator, arbitrator, or arbitration panel member to participate in the procurement unit's dispute resolution efforts.

Section 12. Section 63G-6a-109 is amended to read:

63G-6a-109. Issuing procurement unit and conducting procurement unit.

(1) ~~[(a) Except as provided in Subsection (1)(b), with] With~~ respect to a procurement by an executive branch procurement unit:

~~[(4)]~~ (a) the division is the issuing procurement unit; and

~~[(ii)]~~ (b) the executive branch procurement unit is the conducting procurement unit and is responsible to ensure that the procurement is conducted in compliance with this chapter.

~~[(b) An executive branch procurement unit administering a directed procurement is both the issuing procurement unit and the conducting procurement unit.]~~

(2) With respect to a procurement by any other procurement unit, the procurement unit is both the issuing procurement unit and the conducting procurement unit.

(3) A conducting procurement unit is responsible for contract administration.

Section 13. Section 63G-6a-110, which is renumbered from Section 63G-6a-402 is renumbered and amended to read:

[63G-6a-402]. 63G-6a-110. Procurement unit required to comply with Utah Procurement Code and applicable rules -- Rulemaking authority -- Reporting.

(1) Except as otherwise provided in Section 63G-6a-107, ~~[Section 63G-6a-403, Part 8, Exceptions to Procurement Requirements, or elsewhere in this chapter,]~~ a procurement unit may not obtain a procurement item, unless:

(a) if the procurement unit is the division or a procurement unit with independent procurement authority, the procurement unit:

(i) uses:

(A) a standard procurement process; or

(B) an exception to a standard procurement process, described in Part 8, Exceptions to Procurement Requirements; and

(ii) complies with:

(A) the requirements of this chapter; and

(B) the rules made pursuant to this chapter by the applicable rulemaking authority;

(b) if the procurement unit is a county, a municipality, or the Utah Housing Corporation, the procurement unit complies with:

(i) the requirements of this chapter that are adopted by the procurement unit; and

(ii) all other procurement requirements that the procurement unit is required to comply with; or

(c) if the procurement unit is not a procurement unit described in Subsection (1)(a) or (b), the procurement unit:

(i) obtains the procurement item under the direction and approval of the division, unless otherwise provided by a rule made by the board;

(ii) uses a standard procurement process; and

(iii) complies with:

(A) the requirements of this chapter; and

(B) the rules made pursuant to this chapter by the applicable rulemaking authority.

(2) Subject to Subsection (3), the applicable rulemaking authority shall make rules relating to the management and control of procurements and procurement procedures by a procurement unit.

~~[(3) (a) Rules made under Subsection (2) shall ensure compliance with the federal contract prohibition provisions of the Sudan Accountability and Divestment Act of 2007 (Pub. L. No. 110-174) that prohibit contracting with a person doing business in Sudan.]~~

~~[(b) The State Building Board]~~

(3) Building board rules governing procurement of construction, design professional services, and leases apply to the procurement of construction, design professional services, and leases of real property by the Division of Facilities Construction and Management.

~~[(4) An applicable rulemaking authority that is subject to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall make the rules described in this chapter in accordance with the provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.]~~

(4) An individual or body that makes rules as required or authorized in this chapter shall make the rules:

(a) in accordance with Chapter 3, Utah Administrative Rulemaking Act, if the individual or body is subject to Chapter 3, Utah Administrative Rulemaking Act; or

(b) in accordance with the established process for making rules or their equivalent, if the individual or body is not subject to Chapter 3, Utah Administrative Rulemaking Act.

(5) The ~~[State Building Board]~~ building board shall make a report on or before July 1 of each year to a legislative interim committee, designated by the Legislative Management Committee created under Section 36-12-6, on the establishment, implementation, and enforcement of the rules made by the ~~[State Building Board]~~ building board under this chapter.

(6) The rules of the applicable rulemaking authority for the executive branch procurement unit shall require, for each contract and request for proposals, the inclusion of a clause that requires the issuing procurement unit, for the duration of the contract, to make available contact information of the winning contractor to the Department of Workforce Services in accordance with Section 35A-2-203. This requirement does not preclude a contractor from advertising job openings in other forums throughout the state.

Section 14. Section 63G-6a-111, which is renumbered from Section 63G-6a-407 is renumbered and amended to read:

[63G-6a-407]. 63G-6a-111. Purpose of specifications.

(1) All specifications shall seek to promote the overall economy and best use for the purposes intended and encourage competition in satisfying the needs of the procurement unit, and may not be unduly restrictive.

(2) The requirements of this part regarding the purposes and nonrestrictiveness of specifications shall apply to all specifications, including those prepared by architects, engineers, designers, and draftsmen for public contracts.

Section 15. Section 63G-6a-112, which is renumbered from Section 63G-6a-406 is renumbered and amended to read:

[63G-6a-406]. 63G-6a-112. Required public notice.

(1) The division or a procurement unit with independent procurement authority that issues a solicitation required to be published in accordance with this section, shall provide public notice that includes:

- (a) the name of the conducting procurement unit;
- (b) the name of the procurement unit acquiring the procurement item;
- (c) information on how to contact the issuing procurement unit;
- (d) the date of the opening and closing of the solicitation;
- (e) information on how to obtain a copy of the procurement documents;
- (f) a general description of the procurement items that will be obtained through the standard procurement process or ~~[sole source]~~ procurement under Section 63G-6a-802; and
- (g) for a notice of a ~~[sole source]~~ procurement under Section 63G-6a-802:
 - (i) contact information and other information relating to contesting or obtaining additional information relating to the ~~[sole source]~~ procurement; and
 - (ii) the earliest date that the procurement unit may make the ~~[sole source]~~ procurement.

(2) Except as provided in Subsection (4), the issuing procurement unit shall publish the notice described in Subsection (1):

- (a) at least seven days before the day of the deadline for submission of a bid or other response; and
 - (b) (i) in a newspaper of general circulation in the state;
 - (ii) in a newspaper of local circulation in the area:
 - (A) directly impacted by the procurement; or

(B) over which the procurement unit has jurisdiction;

(iii) on the main website for the issuing procurement unit or the procurement unit acquiring the procurement item; or

(iv) on a state website that is owned, managed by, or provided under contract with, the division for posting a public procurement notice.

(3) Except as provided in Subsection (4), for a ~~[sole source]~~ procurement under Section 63G-6a-802 for which notice is required to be published in accordance with this section, the issuing procurement unit shall publish the notice described in Subsection (1):

- (a) at least seven days before the acquisition of the ~~[sole source]~~ procurement item; and
 - (b) (i) in a newspaper of general circulation in the state;
 - (ii) in a newspaper of local circulation in the area:
 - (A) directly impacted by the procurement; or
 - (B) over which the procurement unit has jurisdiction;

(iii) on the main website for the procurement unit acquiring the procurement item; or

(iv) on a state website that is owned by, managed by, or provided under contract with, the division for posting a procurement notice.

(4) An issuing procurement unit may reduce the seven-day period described in Subsection (2) or (3), if the procurement officer or the procurement officer's designee signs a written statement that:

- (a) states that a shorter time is needed; and
- (b) determines that competition from multiple sources may be obtained within the shorter period of time.

(5) (a) An issuing procurement unit shall make a copy of the solicitation documents available for public inspection at the main office of the issuing procurement unit or on the website described in Subsection (2)(b) until the award of the contract or the cancellation of the procurement.

(b) A procurement unit issuing a ~~[sole source]~~ procurement under Section 63G-6a-802 shall make a copy of information related to the ~~[sole source]~~ procurement available for public inspection at the main office of the procurement unit or on the website described in Subsection (3)(b) until the award of the contract or the cancellation of the procurement.

(c) A procurement unit shall maintain all records in accordance with Part 20, Records.

(6) A procurement unit that issues a request for statement of qualifications as part of an approved vendor list process that results in the establishment of an open-ended vendor list, as defined in Section 63G-6a-507, shall keep the request for statement of qualifications posted on a website described in Subsection (2)(b)(iii) or (iv) during the entire period of the open-ended vendor list.

Section 16. Section 63G-6a-113 is enacted to read:

63G-6a-113. Price based on established terms.

A procurement unit acquiring a procurement item may establish the price of the procurement item based on:

- (1) a price list, rate schedule, or price catalog:
 - (a) submitted by a vendor and accepted by the procurement unit; or
 - (b) mandated by the procurement unit or a federal agency; or
- (2) a federal regulation for a health and human services program.

Section 17. Section 63G-6a-114 is enacted to read:

63G-6a-114. Correcting an immaterial error in a solicitation response.

(1) The chief procurement officer or the head of a procurement unit with independent procurement authority:

(a) may allow a vendor to correct an immaterial error in a responsive solicitation response as provided in this section; and

(b) may not allow a vendor to:

(i) correct a deficiency, inaccuracy, or mistake in a responsive solicitation response that is not an immaterial error;

(ii) correct an incomplete submission of documents that the solicitation required to be submitted with the solicitation response;

(iii) correct a failure to submit a timely solicitation response;

(iv) substitute or alter a required form or other document specified in the solicitation;

(v) remedy a cause for a vendor being considered to be not responsible or a solicitation response not responsive; or

(vi) correct a defect or inadequacy resulting in a determination that a vendor's solicitation response does not meet the mandatory minimum requirements, evaluation criteria, or applicable score thresholds established in the solicitation.

(2) (a) The chief procurement officer or the head of a procurement unit with independent procurement authority shall establish a deadline by which a vendor is required to submit a correction under this section.

(b) The chief procurement officer or the head of a procurement unit with independent procurement authority may not allow a vendor to correct an immaterial error in a solicitation response if the vendor submits the correction after the deadline established under Subsection (2)(a).

(3) If the chief procurement officer or the head of a procurement unit with independent procurement

authority allows a vendor to correct an immaterial error in a solicitation response, the chief procurement officer or head shall prepare and sign a written document supporting the reason for allowing the correction.

Section 18. Section 63G-6a-115 is enacted to read:

63G-6a-115. Clarifying information in a solicitation response.

(1) A procurement unit may at any time make a written request to a vendor to clarify information contained in a responsive solicitation response.

(2) A procurement unit may allow a vendor to respond to a request under Subsection (1):

(a) in writing; or

(b) by submitting a printed document.

(3) (a) A procurement unit that requests a vendor to clarify information contained in a responsive solicitation response under this section shall establish a deadline by which the vendor is required to submit the clarifying information.

(b) A procurement unit may not allow a vendor to submit clarifying information after the deadline established under Subsection (3)(a).

(4) A vendor's response to a request under this section:

(a) may only explain, illustrate, or interpret the contents of the vendor's original solicitation response;

(b) may not be used to address criteria or specifications not contained in the vendor's original solicitation response; and

(c) may not be used to:

(i) correct a deficiency, inaccuracy, or mistake in a solicitation response that is not an immaterial error;

(ii) correct an incomplete submission of documents that the solicitation required to be submitted with the solicitation response;

(iii) correct a failure to submit a timely solicitation response;

(iv) substitute or alter a required form or other document specified in the solicitation;

(v) remedy a cause for a vendor being considered to be not responsible or a solicitation response not responsive; or

(vi) correct a defect or inadequacy resulting in a determination that a vendor does not meet the mandatory minimum requirements, evaluation criteria, or applicable score thresholds established in the solicitation.

Section 19. Section 63G-6a-203 is amended to read:

63G-6a-203. Powers and duties of board.

(1) In addition to making rules in accordance with Section [63G-6a-402] 63G-6a-110 and the other

provisions of this chapter, the board shall consider and decide matters of policy within the provisions of this chapter, including those referred to it by the chief procurement officer.

(2) (a) The board may:

(i) audit and monitor the implementation of its rules and the requirements of this chapter;

(ii) upon the request of a procurement unit with an applicable rulemaking authority other than the board, review the procurement unit's proposed rules to ensure that they are not inconsistent with the provisions of this chapter or rules made by the board; and

(iii) approve the use of innovative procurement processes.

(b) Except as provided in Section 63G-6a-1702, the board may not exercise authority over:

(i) the award or administration of any particular contract; or

(ii) any dispute, claim, or litigation pertaining to any particular contract.

(3) Except as otherwise expressly provided in this chapter, the board does not have authority over a matter involving a procurement unit with independent procurement authority.

Section 20. Section 63G-6a-303 is repealed and reenacted to read:

63G-6a-303. Duties and authority of chief procurement officer.

(1) The chief procurement officer:

(a) is the director of the division;

(b) serves as the central procurement officer of the state;

(c) serves as a voting member of the board; and

(d) serves as the protest officer for a protest relating to a procurement of an executive branch procurement unit without independent procurement authority or a state cooperative contract procurement, unless the chief procurement officer designates another to serve as protest officer, as authorized in this chapter.

(2) Except as otherwise provided in this chapter, the chief procurement officer shall:

(a) develop procurement policies and procedures supporting ethical procurement practices, fair and open competition among vendors, and transparency within the state's procurement process;

(b) administer the state's cooperative purchasing program, including state cooperative contracts and associated administrative fees;

(c) enter into an agreement with a public entity for services provided by the division, if the agreement is in the best interest of the state;

(d) ensure the division's compliance with any applicable law, rule, or policy, including a law, rule, or policy applicable to the division's role as an issuing procurement unit or conducting procurement unit, or as the state's central procurement organization;

(e) manage the division's electronic procurement system;

(f) oversee the recruitment, training, career development, certification requirements, and performance evaluation of the division's procurement personnel;

(g) make procurement training available to procurement units and persons who do business with procurement units;

(h) provide exemplary customer service and continually improve the division's procurement operations; and

(i) exercise all other authority, fulfill all other duties and responsibilities, and perform all other functions authorized under this chapter.

(3) With respect to a procurement or contract over which the chief procurement officer has authority under this chapter, the chief procurement officer, except as otherwise provided in this chapter:

(a) shall:

(i) manage and supervise a procurement to ensure to the extent practicable that taxpayers receive the best value;

(ii) prepare and issue standard specifications for procurement items;

(iii) review contracts, coordinate contract compliance, conduct contract audits, and approve change orders;

(iv) in accordance with Section 63F-1-205, coordinate with the Department of Technology Services, created in Section 63F-1-103, with respect to the procurement of information technology services by an executive branch procurement unit;

(v) correct, amend, or cancel a procurement at any stage of the procurement process if the procurement is out of compliance with this chapter or a board rule;

(vi) after consultation with the attorney general's office, correct, amend, or cancel a contract at any time during the term of the contract if:

(A) the contract is out of compliance with this chapter or a board rule; and

(B) the chief procurement officer determines that correcting, amending, or canceling the contract is in the best interest of the state; and

(vii) make a reasonable attempt to resolve a contract dispute, in coordination with the attorney general's office; and

(b) may:

(i) delegate limited purchasing authority to a state agency, with appropriate oversight and control to ensure compliance with this chapter;

(ii) delegate duties and authority to an employee of the division, as the chief procurement officer considers appropriate;

(iii) negotiate and settle contract overcharges, undercharges, and claims, in accordance with the law and after consultation with the attorney general's office;

(iv) authorize a procurement unit to make a procurement pursuant to a regional solicitation, as defined in Subsection 63G-6a-2105(2), even if the procurement item is also offered under a state cooperative contract, if the chief procurement officer determines that the procurement pursuant to a regional solicitation is in the best interest of the acquiring procurement unit; and

(v) remove an individual from the procurement process or contract administration for:

(A) having a conflict of interest or the appearance of a conflict of interest with a person responding to a solicitation or with a contractor;

(B) having a bias or the appearance of bias for or against a person responding to a solicitation or for or against a contractor;

(C) making an inconsistent or unexplainable score for a solicitation response;

(D) having inappropriate contact or communication with a person responding to a solicitation;

(E) socializing inappropriately with a person responding to a solicitation or with a contractor;

(F) engaging in any other action or having any other association that causes the chief procurement officer to conclude that the individual cannot fairly evaluate a solicitation response or administer a contract; or

(G) any other violation of a law, rule, or policy.

(4) The chief procurement officer may not delegate to an individual outside the division the chief procurement officer's authority over a procurement described in Subsection (3)(a)(iv).

(5) The chief procurement officer has final authority to determine whether an executive branch procurement unit's anticipated expenditure of public funds, anticipated agreement to expend public funds, or provision of a benefit constitutes a procurement that is subject to this chapter.

(6) Except as otherwise provided in this chapter, the chief procurement officer shall review, monitor, and audit the procurement activities and delegated procurement authority of an executive branch procurement unit without independent procurement authority to ensure compliance with this chapter, rules made by the applicable rulemaking authority, and division policies.

Section 21. Section 63G-6a-401 is amended to read:

Part 4. Supplemental Procurement Procedures

63G-6a-401. Title.

This part is known as [~~“General Procurement Provisions.”~~] “Supplemental Procurement Procedures.”

Section 22. Section 63G-6a-409, which is renumbered from Section 63G-6a-502 is renumbered and amended to read:

[~~63G-6a-502~~]. 63G-6a-409. Request for information.

(1) The purpose of a request for information is to:

(a) obtain information, comments, or suggestions from potential bidders or offerors before issuing an invitation for bids or request for proposals;

(b) determine whether to issue an invitation for bids or a request for proposals; and

(c) generate interest in a potential invitation for bids or [a] request for proposals.

(2) A request for information may be useful in order to:

(a) prepare to issue an invitation for bids or request for proposals for an unfamiliar or complex procurement;

(b) determine the market availability of a procurement item; or

(c) determine best practices, industry standards, performance standards, product specifications, and innovations relating to a procurement item.

(3) (a) A request for information is not a procurement process and may not be used to:

(i) solicit cost, pricing, or rate information;

(ii) negotiate fees;

(iii) make a purchase; or

(iv) enter into a contract.

(b) To make a purchase or enter into a contract, a procurement unit is required to:

(i) use a standard procurement process; or

(ii) comply with an exception to the requirement to use a standard procurement process, as described in Part 8, Exceptions to Standard Procurement Process.

(4) A response to a request for information is not an offer and may not be accepted to form a binding contract.

(5) A request for information may seek a wide range of information, including:

(a) availability of a procurement item;

(b) delivery schedules;

(c) industry standards and practices;

(d) product specifications;

- (e) training;
- (f) new technologies;
- (g) capabilities of potential providers of a procurement item; and

(h) alternate solutions.

(6) A record containing information submitted to or by a governmental entity in response to a request for information is a protected record under Section 63G-2-305.

Section 23. Section 63G-6a-410 is enacted to read:

63G-6a-410. Request for statement of qualifications -- Process.

(1) (a) A procurement unit may use the process described in this section:

(i) as one of the stages of a multiple-stage:

(A) bidding process;

(B) request for proposals process; or

(C) design professional procurement process; and

(ii) to identify qualified vendors to participate in other stages of the multiple-stage procurement process.

(b) A procurement unit shall use the process described in this section as part of the approved vendor list process, if the procurement unit intends to establish an approved vendor list.

(2) A procurement unit may not:

(a) award a contract based solely on the process described in this section; or

(b) solicit costs, pricing, or rates or negotiate fees through the process described in this section.

(3) The process of identifying qualified vendors in a multiple-stage procurement process or of establishing an approved vendor list under Section 63G-6a-507 is initiated by a procurement unit issuing a request for statement of qualifications.

(4) A request for statement of qualifications in a multiple-stage procurement process shall include:

(a) a statement indicating that participation in other stages of the multiple-stage procurement process will be limited to qualified vendors;

(b) the minimum mandatory requirements, evaluation criteria, and applicable score thresholds that will be used to identify qualified vendors, including, as applicable:

(i) experience and work history;

(ii) management and staff requirements or standards;

(iii) licenses, certifications, and other qualifications;

(iv) performance ratings or references;

(v) financial stability; and

(vi) other information pertaining to vendor qualifications that the chief procurement officer or the head of a procurement unit with independent procurement authority considers relevant or important; and

(c) the deadline by which a vendor is required to submit a statement of qualifications.

(5) A request for statement of qualifications in an approved vendor list process under Section 63G-6a-507 shall include:

(a) a general description of, as applicable:

(i) the procurement item that the procurement unit seeks to acquire;

(ii) the type of project or scope or category of work that will be the subject of a procurement by the procurement unit;

(iii) the procurement process the procurement unit will use to acquire the procurement item; and

(iv) the type of vendor the procurement unit seeks to provide the procurement item;

(b) the minimum mandatory requirements, evaluation criteria, and applicable score thresholds that vendors are required to meet to be included on the approved vendor list;

(c) a statement indicating that the approved vendor list will include only responsible vendors that:

(i) submit a responsive statement of qualifications; and

(ii) meet the minimum mandatory requirements, evaluation criteria, and applicable score thresholds described in the request for statement of qualifications;

(d) a statement indicating that only vendors on the approved vendor list will be able to participate in the procurements identified in the request for statement of qualifications;

(e) a statement indicating whether the procurement unit will use a performance rating system for evaluating the performance of vendors on the approved vendor list, including whether a vendor on the approved vendor list may be disqualified and removed from the list;

(f) (i) a statement indicating whether the procurement unit uses a closed-ended approved vendor list, as defined in Section 63G-6a-507, or an open-ended approved vendor list, as defined in Section 63G-6a-507; and

(ii) (A) if the procurement unit uses a closed-ended approved vendor list, the deadline by which a vendor is required to submit a statement of qualifications and a specified period of time after which the approved vendor list will expire; or

(B) if the procurement unit uses an open-ended approved vendor list, the deadline by which a vendor is required to submit a statement of qualifications to be considered for the initial approved vendor list, a schedule indicating when a vendor not on the initial approved vendor list may

submit a statement of qualifications to be considered to be added to the approved vendor list, and the specified period of time after which a vendor is required to submit a new statement of qualifications for evaluation before the vendor's status as an approved vendor on the approved vendor list may be renewed; and

(g) a description of any other criteria or requirements specific to the procurement item or scope of work that is the subject of the procurement.

(6) A procurement unit issuing a request for statement of qualifications shall publish the request as provided in Section 63G-6a-112.

(7) After the deadline for submitting a statement of qualifications, the chief procurement officer or the head of a procurement unit with independent procurement authority may allow a vendor to correct an immaterial error in a statement of qualifications, as provided in Section 63G-6a-114.

(8) (a) A conducting procurement unit may reject a statement of qualifications if the conducting procurement unit determines that:

(i) the vendor who submitted the statement of qualifications:

(A) is not responsible;

(B) is in violation of a provision of this chapter;

(C) has engaged in unethical conduct; or

(D) receives a performance rating below the satisfactory performance threshold specified in the request for statement of qualifications;

(ii) there has been a change in the vendor's circumstances after the vendor submits a statement of qualifications that, if the change had been known at the time the statement of qualifications was evaluated, would have caused the statement of qualifications not to have received a qualifying score; or

(iii) the statement of qualifications:

(A) is not responsive; or

(B) does not meet the mandatory minimum requirements, evaluation criteria, or applicable score thresholds stated in the request for statement of qualifications.

(b) A procurement unit that rejects a statement of qualifications under Subsection (8)(a) shall:

(i) make a written finding, stating the reasons for the rejection; and

(ii) provide a copy of the written finding to the vendor that submitted the rejected statement of qualifications.

(9) (a) (i) After the issuance of a request for statement of qualifications, the conducting procurement unit shall appoint an evaluation committee consisting of at least three individuals with at least a general familiarity with or basic understanding of:

(A) the technical requirements relating to the type of procurement item that is the subject of the request for statement of qualifications; or

(B) the need that the procurement item is intended to address.

(ii) The conducting procurement unit shall ensure that each member of the evaluation committee and each individual participating in the evaluation committee process:

(A) does not have a conflict of interest with any vendor that submits a statement of qualifications;

(B) can fairly evaluate each statement of qualifications;

(C) does not contact or communicate with a vendor concerning the evaluation process or procurement outside the official evaluation committee process; and

(D) conducts or participates in the evaluation in a manner that ensures a fair and competitive process and avoids the appearance of impropriety.

(b) A conducting procurement unit may authorize an evaluation committee to receive assistance:

(i) from an expert or consultant who:

(A) is not a member of the evaluation committee; and

(B) does not participate in the evaluation scoring; and

(ii) to better understand a technical issue involved in the procurement.

(c) An evaluation committee appointed under this Subsection (9):

(i) shall evaluate and score statements of qualifications submitted in response to a request for statement of qualifications using the minimum mandatory requirements, evaluation criteria, and applicable score thresholds set forth in the request for statement of qualifications;

(ii) may not evaluate or score a statement of qualifications using criteria not included in the request for statement of qualifications; and

(iii) may, with the approval of the head of the conducting procurement unit, enter into discussions or conduct interviews with or attend presentations by vendors, for the purpose of clarifying information contained in statements of qualifications.

(d) In a discussion, interview, or presentation under Subsection (9)(c)(iii), a vendor:

(i) may only explain, illustrate, or interpret the contents of the vendor's original statement of qualifications; and

(ii) may not:

(A) address criteria or specifications not contained in the vendor's original statement of qualifications;

(B) correct a deficiency, inaccuracy, or mistake in a statement of qualifications that is not an immaterial error;

(C) correct an incomplete submission of documents that the request for statement of qualifications required to be submitted with the statement of qualifications;

(D) correct a failure to submit a timely statement of qualifications;

(E) substitute or alter a required form or other document specified in the statement of qualifications;

(F) remedy a cause for a vendor being considered to be not responsible or a statement of qualifications not responsive; or

(G) correct a defect or inadequacy resulting in a determination that a vendor does not meet the mandatory minimum requirements, evaluation criteria, or applicable score thresholds established in the statement of qualifications.

(e) After the evaluation committee completes its evaluation and scoring of the statements of qualifications, the evaluation committee shall submit the statements of qualifications and evaluation scores to the head of the procurement unit for review and final determination of:

(i) qualified vendors, if the request for statement of qualifications process is used as one of the stages of a multiple-stage process; or

(ii) vendors to be included on an approved vendor list, if the request for statement of qualifications process is used as part of the approved vendor list process.

(f) The issuing procurement unit shall review the evaluation committee's scores and correct any errors, scoring inconsistencies, and reported noncompliance with this chapter.

(g) (i) The deliberations of an evaluation committee under this Subsection (9) may be held in private.

(ii) If the evaluation committee is a public body, as defined in Section 52-4-103, the evaluation committee shall comply with Section 52-4-205 in closing a meeting for its deliberations.

(10) A procurement unit may at any time request a vendor to clarify information contained in a statement of qualifications, as provided in Section 63G-6a-115.

(11) A vendor may voluntarily withdraw a statement of qualifications at any time before a contract is awarded with respect to which the statement of qualifications was submitted.

(12) If only one vendor meets the minimum qualifications, evaluation criteria, and applicable score thresholds set forth in the request for statement of qualifications that the procurement unit is using as part of an approved vendor list process, the conducting procurement unit:

(a) shall cancel the request for statement of qualifications; and

(b) may not establish an approved vendor list based on the canceled request for statement of qualifications or on statements of qualifications submitted in response to the request for statement of qualifications.

(13) If a conducting procurement unit cancels a request for statement of qualifications, the conducting procurement unit shall make available for public inspection a written justification for the cancellation.

(14) After receiving and reviewing the statements of qualifications and evaluation scores submitted by the evaluation committee under Subsection (9)(d), the head of the procurement unit using the request for statement of qualifications process under this section as one of the stages of a multiple-stage procurement process shall identify those vendors meeting the minimum mandatory requirements, evaluation criteria, and applicable score thresholds as qualified vendors who are allowed to participate in the remaining stages of the multiple-stage procurement process.

(15) The applicable rulemaking authority may make rules pertaining to the request for statement of qualifications and the process described in this section.

Section 24. Section 63G-6a-501 is amended to read:

Part 5. Other Standard Procurement Processes

63G-6a-501. Title.

This part is known as ["~~Request for Information.~~"] "Other Standard Procurement Processes."

Section 25. Section 63G-6a-506, which is renumbered from Section 63G-6a-408 is renumbered and amended to read:

[~~63G-6a-408~~]. 63G-6a-506. Small purchases.

(1) As used in this section:

(a) "Annual cumulative threshold" means the maximum total annual amount, established by the applicable rulemaking authority under Subsection (2)(~~(a)(i)~~), that a procurement unit may expend to obtain procurement items from the same source under this section.

(b) "Individual procurement threshold" means the maximum amount, established by the applicable rulemaking authority under Subsection (2)(~~(a)(ii)~~), for which a procurement unit may purchase a procurement item under this section.

(c) "Single procurement aggregate threshold" means the maximum total amount, established by the applicable rulemaking authority under Subsection (2)(~~(a)(iii)~~), that a procurement unit may expend to obtain multiple procurement items from one source at one time under this section.

(2) (a) The applicable rulemaking authority may make rules governing small purchases of any procurement item, including construction, job order contracting, design professional services, other

professional services, information technology, and goods.

(b) Rules under Subsection (2)(a) may include provisions:

(i) establishing expenditure thresholds, including:

- (A) an annual cumulative threshold;
- (B) an individual procurement threshold; and
- (C) a single procurement aggregate threshold;

(ii) establishing procurement requirements relating to the thresholds described in Subsection (2)(b)(i); and

(iii) providing for the use of electronic, telephone, or written quotes.

(3) Expenditures made under this section by a procurement unit may not exceed a threshold established by the applicable rulemaking authority, unless the chief procurement officer or the head of a procurement unit with independent procurement authority gives written authorization to exceed the threshold that includes the reasons for exceeding the threshold.

(4) Except as provided in Subsection (5), an executive branch procurement unit may not obtain a procurement item through a small purchase standard procurement process if the procurement item may be obtained through a state cooperative contract or a contract awarded by the chief procurement officer under Subsection 63G-6a-2105(1).

(5) Subsection (4) does not apply if:

(a) the procurement item is obtained for an unanticipated, urgent [~~or unanticipated~~], or emergency condition, including:

(i) an item needed to avoid stopping a public construction project;

(ii) an immediate repair to a facility or equipment; or

(iii) another emergency condition; or

(b) the chief procurement officer or the head of a procurement unit that is an executive branch procurement unit with independent procurement authority:

(i) determines in writing that it is in the best interest of the procurement unit to obtain an individual procurement item outside of the state contract, comparing:

(A) the contract terms and conditions applicable to the procurement item under the state contract with the contract terms and conditions applicable to the procurement item if the procurement item is obtained outside of the state contract;

(B) the maintenance and service applicable to the procurement item under the state contract with the maintenance and service applicable to the procurement item if the procurement item is obtained outside of the state contract;

(C) the warranties applicable to the procurement item under the state contract with the warranties applicable to the procurement item if the procurement item is obtained outside of the state contract;

(D) the quality of the procurement item under the state contract with the quality of the procurement item if the procurement item is obtained outside of the state contract; and

(E) the cost of the procurement item under the state contract with the cost of the procurement item if the procurement item is obtained outside of the state contract;

(ii) for a procurement item that, if defective in its manufacture, installation, or performance, may result in serious physical injury, death, or substantial property damage, determines in writing that the terms and conditions, relating to liability for injury, death, or property damage, available from the source other than the contractor who holds the state contract, are similar to, or better than, the terms and conditions available under the state contract; and

(iii) grants an exception, in writing, to the requirement described in Subsection (4).

(6) Except as otherwise expressly provided in this section, a procurement unit:

(a) may not use the small purchase standard procurement process described in this section for ongoing, continuous, and regularly scheduled procurements that exceed the annual cumulative threshold; and

(b) shall make its ongoing, continuous, and regularly scheduled procurements that exceed the annual cumulative threshold through a contract awarded through another standard procurement process described in this chapter or an applicable exception to another standard procurement process, described in Part 8, Exceptions to Standard Procurement [Requirements] Process.

(7) This section does not prohibit regularly scheduled payments for a procurement item obtained under another provision of this chapter.

(8) (a) It is unlawful for a person to intentionally or knowingly divide a procurement into [~~one or more~~] smaller procurements with the intent to make a procurement:

(i) qualify as a small purchase, if, before dividing the procurement, it would not have qualified as a small purchase; or

(ii) meet a threshold established by rule made by the applicable rulemaking authority, if, before dividing the procurement, it would not have met the threshold.

(b) A person who engages in the conduct made unlawful under Subsection (8)(a) is guilty of:

(i) a second degree felony, if the value of the procurement before being divided is \$1,000,000 or more;

(ii) a third degree felony, if the value of the procurement before being divided is \$250,000 or more but less than \$1,000,000;

(iii) a class A misdemeanor, if the value of the procurement before being divided is \$100,000 or more but less than \$250,000; or

(iv) a class B misdemeanor, if the value of the procurement before being divided is less than \$100,000.

(9) A division of a procurement that is prohibited under Subsection (8) includes doing any of the following with the intent or knowledge described in Subsection (8):

- (a) making two or more separate purchases;
- (b) dividing an invoice or purchase order into two or more invoices or purchase orders; or
- (c) making smaller purchases over a period of time.

~~[(10) A person who violates Subsection (8) is subject to the criminal penalties described in Section 63G-6a-2405.]~~

~~[(41)]~~ (10) The Division of Finance within the Department of Administrative Services may conduct an audit of an executive branch procurement unit to verify compliance with the requirements of this section.

~~[(42)]~~ (11) An executive branch procurement unit may not make a small purchase after January 1, 2014, unless the chief procurement officer certifies that the person responsible for procurements in the procurement unit has satisfactorily completed training on this section and the rules made under this section.

Section 26. Section 63G-6a-507 is enacted to read:

63G-6a-507. Approved vendor list procurement process.

(1) As used in this section:

(a) “Closed-ended approved vendor list” means an approved vendor list that is subject to:

(i) a short period of time, specified by the procurement unit, during which vendors may be added to the list; and

(ii) a specified period of time after which the list will expire.

(b) “Open-ended approved vendor list” means an approved vendor list that is subject to:

(i) an indeterminate period of time during which vendors may be added to the list;

(ii) the addition of vendors to the list throughout the term of the list; and

(iii) a specified period of time after which a vendor on the list is required to submit the vendor’s qualifications for evaluation before the vendor may be renewed as an approved vendor.

(2) A procurement unit may not establish an approved vendor list unless the procurement unit has first completed the statement of qualifications process described in Section 63G-6a-410.

(3) (a) A procurement unit may establish an approved vendor list for:

(i) a specific, fully defined procurement item; or

(ii) a future procurement item that is not specifically and fully defined, if the request for statement of qualifications contains a general description of:

(A) the procurement item; and

(B) the type of vendor that the procurement unit seeks to provide the procurement item.

(b) A procurement unit may not award a contract to a vendor on an approved vendor list for a procurement item that is outside the scope of the general description of the procurement item contained in the request for statement of qualifications.

(4) After receiving the statements of qualifications and evaluation scores submitted by the evaluation committee under Subsection 63G-6a-410(9)(d), the head of the conducting procurement unit using the request for statement of qualifications process under Section 63G-6a-410 as part of an approved vendor list process shall:

(a) include on an approved vendor list those vendors meeting the minimum mandatory requirements, evaluation criteria, and applicable score thresholds; and

(b) reject any vendor not meeting the minimum mandatory requirements, evaluation criteria, and applicable score thresholds as ineligible for inclusion on the approved vendor list.

(5) (a) A procurement unit shall include approved vendors on a closed-ended approved vendor list or an open-ended approved vendor list.

(b) (i) A closed-ended approved vendor list shall expire no later than 18 months after the publication of the closed-ended approved vendor list.

(ii) A procurement unit shall require a vendor on an open-ended approved vendor list, in order to remain on the approved vendor list, to submit an updated statement of qualifications for evaluation no later than 18 months after the vendor was added to the list as an approved vendor.

(6) A procurement unit may:

(a) (i) using a bidding process, request for proposals process, small purchase process, or design professional procurement process, award a contract to a vendor on an approved vendor list for any procurement item or type of procurement item specified by the procurement unit in the request for statement of qualifications, including procurement items that the procurement unit intends to acquire in a series of future procurements described in the request for statement of qualifications; and

(ii) limit participation in a bidding process, request for proposals process, small purchase process, or design professional procurement process to vendors on an approved vendor list; or

(b) award a contract to a vendor on an approved vendor list at a price established as provided in Section 63G-6a-113.

(7) After establishing an approved vendor list as provided in this section, the conducting procurement unit shall, before using the approved vendor list, submit the approved vendor list to the issuing procurement unit for publication by the issuing procurement unit.

(8) A conducting procurement unit administering an open-ended approved vendor list shall:

(a) require a vendor seeking inclusion on the approved vendor list to submit a statement of qualifications that complies with all requirements applicable at the time of the initial request for statement of qualifications;

(b) if modifying the requirements for inclusion on the approved vendor list, apply any new or additional requirement to all vendors equally, whether a vendor is seeking inclusion on the approved vendor list for the first time or is already included on the approved vendor list; and

(c) keep the request for statement of qualifications posted on a website as required under Subsection 63G-6a-112(6).

(9) The applicable rulemaking authority shall make rules pertaining to an approved vendor list process, including:

(a) procedures to ensure that all vendors on an approved vendor list have a fair and equitable opportunity to compete for a contract for a procurement item; and

(b) requirements for using an approved vendor list with the small purchase process.

Section 27. Section 63G-6a-603 is amended to read:

63G-6a-603. Invitation for bids -- Requirements -- Publication.

(1) The bidding standard procurement process begins when the issuing procurement unit issues an invitation for bids.

(2) An invitation for bids shall:

(a) state the period of time during which bids will be accepted;

(b) describe the manner in which a bid shall be submitted;

(c) state the place where a bid shall be submitted; and

(d) include, or incorporate by reference:

(i) a description of the procurement items sought;

(ii) the objective criteria that will be used to evaluate the bids; and

(iii) the required contractual terms and conditions.

(3) An issuing procurement unit shall publish an invitation for bids in accordance with the requirements of Section [63G-6a-406] 63G-6a-112.

Section 28. Section 63G-6a-604 is amended to read:

63G-6a-604. Bid opening and acceptance.

(1) Bids shall be opened:

(a) publicly, except as provided in Section 63G-6a-611;

(b) in the presence of one or more witnesses, unless an electronic bid opening process is used where bidders may see the opening of the bid electronically; and

(c) at the time and place indicated in the invitation for bids.

(2) Bids shall be accepted unconditionally, without alteration or correction, except as otherwise authorized by this chapter.

(3) (a) The procurement officer shall reject a bid [that] if the bid is not responsive or the bid is submitted by a bidder who is not responsible.

(b) A bid that is not responsive includes a bid that:

(i) is conditional;

(ii) attempts to modify the bid requirements;

(iii) contains additional terms or conditions; or

(iv) fails to conform with the requirements or specifications of the invitation for bids.

(c) A bid that is submitted by a bidder who is not responsible includes a bid where the procurement officer reasonably concludes that the bidder or an employee, agent, or subcontractor of the bidder, at any tier, is unable to satisfactorily fulfill the bid requirements.

(4) An issuing procurement unit may not accept a bid after the time for submission of a bid has expired.

(5) The procurement officer shall:

(a) record the name of each bidder and the amount of each bid; and

(b) after the bid is awarded, make the information described in Subsection (5)(a) available for public disclosure.

Section 29. Section 63G-6a-605 is repealed and reenacted to read:

63G-6a-605. Correction or clarification of bids.

(1) The chief procurement officer or the head of a procurement unit with independent procurement authority may:

(a) allow a vendor to correct an immaterial error in a bid, as provided in Section 63G-6a-114; and

(b) request a vendor to clarify information contained in a bid, as provided in Section 63G-6a-115.

(2) (a) Notwithstanding Subsection (1), a vendor may not change the total bid price after the bid opening and before a contract is awarded.

(b) Subsection (2)(a) does not apply to a change in the contract price during contract administration, as allowed under this chapter.

Section 30. Section 63G-6a-606 is amended to read:

63G-6a-606. Evaluation of bids -- Award -- Cancellation -- Rejecting a bid.

(1) A procurement unit that conducts a procurement using a bidding standard procurement process shall evaluate each bid using the objective criteria described in the invitation for bids, which may include:

- (a) experience;
- (b) performance ratings;
- (c) inspection;
- (d) testing;
- (e) quality;
- (f) workmanship;
- (g) time and manner of delivery;
- (h) references;
- (i) financial stability;
- (j) cost;
- (k) suitability for a particular purpose;

(1) the contractor's work site safety program, including any requirement that the contractor imposes on subcontractors for a work site safety program; or

(m) other objective criteria specified in the invitation for bids.

(2) Criteria not described in the invitation for bids may not be used to evaluate a bid.

(3) The conducting procurement unit shall:

(a) award the contract as soon as practicable to:

- (i) the ~~lowest responsive and~~ responsible bidder who submits the lowest responsive bid that meets the objective criteria described in the invitation for bids; or

- (ii) if, in accordance with Subsection (4), the procurement officer or the head of the conducting procurement unit ~~disqualifies the bidder~~ rejects a bid described in Subsection (3)(a)(i), the ~~next lowest responsive and~~ responsible bidder who submits the next lowest responsive bid that meets the objective criteria described in the invitation for bids; or

(b) cancel the invitation for bids without awarding a contract.

(4) In accordance with Subsection (5), the procurement officer or the head of the conducting procurement unit may ~~disqualify a bidder~~ reject a bid for:

(a) a violation of this chapter by the bidder who submitted the bid;

(b) a violation of a requirement of the invitation for bids;

(c) unlawful or unethical conduct by the bidder who submitted the bid; or

(d) a change in a bidder's circumstance that, had the change been known at the time the bid was submitted, would have caused the ~~bidder to not be the lowest responsive and responsible bidder who meets the objective criteria described in the invitation for bids~~ bid to be rejected.

(5) A procurement officer or head of a conducting procurement unit who ~~disqualifies a bidder~~ rejects a bid under Subsection (4) shall:

(a) make a written finding, stating the reasons for ~~disqualification~~ the rejection; and

(b) provide a copy of the written finding to the ~~disqualified~~ bidder who submitted the rejected bid.

(6) If a conducting procurement unit cancels an invitation for bids without awarding a contract, the conducting procurement unit shall make available for public inspection a written justification for the cancellation.

Section 31. Section 63G-6a-609 is amended to read:

63G-6a-609. Multiple stage bidding process.

(1) The invitation for bids for a multiple stage bidding process shall:

(a) describe the requirements for, and purpose of, each stage of the process;

(b) indicate whether the procurement unit intends to award:

(i) a single contract; or

(ii) multiple contracts for a series of upcoming procurements; and

(c) state that:

(i) the first stage is for prequalification only;

(ii) a bidder may not submit any pricing information in the first stage of the process; and

(iii) bids in the second stage will only be accepted from a person who prequalifies in the first stage.

(2) During the first stage, the conducting procurement unit:

(a) shall prequalify bidders to participate in subsequent stages, in accordance with Section ~~63G-6a-403~~ 63G-6a-410;

(b) shall prohibit the submission of pricing information until the final stage; and

(c) may, before beginning the second stage, request additional information to clarify the qualifications of the bidders who submit timely responses.

(3) Contracts may only be awarded for a procurement item described in stage one of the invitation for bids.

(4) The conducting procurement unit may use as many stages as it determines to be appropriate.

(5) Except as otherwise expressly provided in this section, a procurement unit conducting a multiple stage bidding process under this section shall ensure compliance with this part.

(6) The applicable rulemaking authority may make rules governing the use of a multiple stage process described in this section.

Section 32. Section 63G-6a-611 is amended to read:

63G-6a-611. Invitation for bids for reverse auction -- Requirements -- Publication of invitation.

(1) The reverse auction bidding process begins when the issuing procurement unit issues an invitation for bids to prequalify bidders to participate in the reverse auction.

(2) The invitation for bids shall:

(a) state the period of time during which bids will be accepted;

(b) state that the bid will be conducted by reverse auction;

(c) describe the procurement items sought;

(d) describe the minimum requirements to become prequalified;

(e) state the required contractual terms and conditions; and

(f) describe the procedure that the conducting procurement unit will follow in the reverse auction.

(3) In order to participate in a reverse auction, a bidder shall agree to:

(a) the specifications, and contractual terms and conditions, of the procurement; and

(b) be trained in, and abide by, the procedure that the division or the procurement unit with independent procurement authority will follow in conducting the reverse auction.

(4) The division or a procurement unit with independent procurement authority shall publish an invitation for bids for a reverse auction in accordance with the requirements of Section ~~[63G-6a-406]~~ 63G-6a-112.

Section 33. Section 63G-6a-703 is amended to read:

63G-6a-703. Request for proposals -- Requirements -- Publication of request.

(1) The request for proposals standard procurement process begins when the division or a procurement unit with independent procurement authority issues a request for proposals.

(2) A request for proposals shall:

(a) state the period of time during which a proposal will be accepted;

(b) describe the manner in which a proposal shall be submitted;

(c) state the place where a proposal shall be submitted;

(d) include, or incorporate by reference:

(i) a description of the procurement items sought;

(ii) a description of the subjective and objective criteria that will be used to evaluate the proposal; and

(iii) the standard contractual terms and conditions required by the authorized purchasing entity;

(e) state the relative weight that will be given to each score for the criteria described in Subsection (2)(d)(ii), including cost;

(f) state the formula that will be used to determine the score awarded for the cost of each proposal;

(g) if the request for proposals will be conducted in multiple stages, as described in Section 63G-6a-710, include a description of the stages and the criteria and scoring that will be used to screen offerors at each stage; and

~~[(h) state that discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award, followed by an opportunity to make best and final offers, but that proposals may be accepted without discussions.]~~

(h) state that best and final offers may be allowed, as provided in Section 63G-6a-707.5, from responsible offerors who submit responsive proposals that meet minimum qualifications, evaluation criteria, or applicable score thresholds identified in the request for proposals.

(3) The division or a procurement unit with independent procurement authority shall publish a request for proposals in accordance with the requirements of Section ~~[63G-6a-406]~~ 63G-6a-112.

Section 34. Section 63G-6a-706 is repealed and reenacted to read:

63G-6a-706. Correction or clarification of proposal.

(1) The chief procurement officer or the head of a procurement unit with independent procurement authority may:

(a) allow a vendor to correct an immaterial error in a proposal, as provided in Section 63G-6a-114; and

(b) request a vendor to clarify information contained in a proposal, as provided in Section 63G-6a-115.

(2) (a) Notwithstanding Subsection (1) and except as provided in Section 63G-6a-707.5, after the deadline for submitting a cost proposal and before a contract is awarded, a vendor may not change the total amount of a cost proposal.

(b) Subsection (2)(a) does not apply to a change in the contract price during contract administration, as allowed under this chapter.

Section 35. Section 63G-6a-707 is amended to read:

63G-6a-707. Evaluation of proposals -- Evaluation committee.

(1) To determine which proposal provides the best value to the procurement unit, the evaluation committee shall evaluate each responsive and responsible proposal that has not been disqualified from consideration under the provisions of this chapter, using the criteria described in the request for proposals, which may include:

- (a) experience;
- (b) performance ratings;
- (c) inspection;
- (d) testing;
- (e) quality;
- (f) workmanship;
- (g) time, manner, or schedule of delivery;
- (h) references;
- (i) financial solvency;
- (j) suitability for a particular purpose;
- (k) management plans;

(1) the presence and quality of a work site safety program, including any requirement that the offeror imposes on subcontractors for a work site safety program;

(m) cost; or

(n) other subjective or objective criteria specified in the request for proposals.

(2) Criteria not described in the request for proposals may not be used to evaluate a proposal.

(3) The conducting procurement unit shall:

(a) appoint an evaluation committee consisting of at least three individuals with at least a general familiarity with or basic understanding of:

(i) the technical requirements relating to the type of procurement item that is the subject of the procurement; or

(ii) the need that the procurement item is intended to address; and

(b) ensure that the evaluation committee and each ~~[member of the evaluation committee]~~ individual participating in the evaluation committee process:

(i) does not have a conflict of interest with any of the offerors;

(ii) can fairly evaluate each proposal;

(iii) does not contact or communicate with an offeror concerning the procurement outside the official evaluation committee process; and

(iv) conducts or participates in the evaluation in a manner that ensures a fair and competitive process and avoids the appearance of impropriety.

(4) A conducting procurement unit may authorize an evaluation committee to receive assistance:

(a) from an expert or consultant who:

(i) is not a member of the evaluation committee; and

(ii) does not participate in the evaluation scoring; and

(b) to better understand a technical issue involved in the procurement.

~~[(4) The]~~ (5) (a) An evaluation committee may, with the approval of the head of the conducting procurement unit, enter into discussions or conduct interviews with, or attend presentations by, the offerors, for the purpose of clarifying information contained in proposals.

(b) In a discussion, interview, or presentation under Subsection (5)(a), an offeror:

(i) may only explain, illustrate, or interpret the contents of the offeror's original proposal; and

(ii) may not:

(A) address criteria or specifications not contained in the offeror's original proposal;

(B) correct a deficiency, inaccuracy, or mistake in a proposal that is not an immaterial error;

(C) correct an incomplete submission of documents that the solicitation required to be submitted with the proposal;

(D) correct a failure to submit a timely proposal;

(E) substitute or alter a required form or other document specified in the solicitation;

(F) remedy a cause for an offeror being considered to be not responsible or a proposal not responsive; or

(G) correct a defect or inadequacy resulting in a determination that an offeror does not meet the mandatory minimum requirements, evaluation criteria, or applicable score thresholds established in the solicitation.

~~[(5)(b) and (8)]~~ (6) (a) Except as provided in ~~[Subsections (5)(b) and (8)]~~ Subsection (7)(b) relating to access to management fee information, and except as provided in Subsection (9), each member of the evaluation committee is prohibited from knowing, or having access to, any information relating to the cost, or the scoring of the cost, of a proposal until after the evaluation committee submits its final recommended scores on all other criteria to the issuing procurement unit.

(b) The issuing procurement unit shall:

(i) if applicable, assign an individual who is not a member of the evaluation committee to calculate scores for cost based on the applicable scoring formula, weighting, and other scoring procedures contained in the request for proposals;

(ii) review the evaluation committee's scores and correct any errors, scoring inconsistencies, and reported noncompliance with this chapter;

(iii) add the scores calculated for cost, if applicable, to the evaluation committee's final recommended scores on criteria other than cost to derive the total combined score for each responsive and responsible proposal; and

(iv) provide to the evaluation committee the total combined score calculated for each responsive and responsible proposal, including any applicable cost formula, weighting, and scoring procedures used to calculate the total combined scores.

(c) The evaluation committee may not:

(i) change its final recommended scores described in Subsection ~~[(5)]~~ (6)(a) after the evaluation committee has submitted those scores to the issuing procurement unit; or

(ii) change cost scores calculated by the issuing procurement unit.

~~[(6)]~~ (7) (a) As used in this Subsection ~~[(6)]~~ (7), "management fee" includes only the following fees of the construction manager/general contractor:

(i) preconstruction phase services;

(ii) monthly supervision fees for the construction phase; and

(iii) overhead and profit for the construction phase.

(b) When selecting a construction manager/general contractor for a construction project, the evaluation committee:

(i) may score a construction manager/general contractor based upon criteria contained in the solicitation, including qualifications, performance ratings, references, management plan, certifications, and other project specific criteria described in the solicitation;

(ii) may, as described in the solicitation, weight and score the management fee as a fixed rate or as a fixed percentage of the estimated contract value;

(iii) may, at any time after the opening of the responses to the request for proposals, have access to, and consider, the management fee proposed by the offerors; and

(iv) except as provided in Subsection ~~[(8)]~~ (9), may not know or have access to any other information relating to the cost of construction submitted by the offerors, until after the evaluation committee submits its final recommended scores on all other criteria to the issuing procurement unit.

~~[(7)]~~ (8) (a) The deliberations of an evaluation committee may be held in private.

(b) If the evaluation committee is a public body, as defined in Section 52-4-103, the evaluation committee shall comply with Section 52-4-205 in closing a meeting for its deliberations.

~~[(8)]~~ (9) An issuing procurement unit is not required to comply with Subsection ~~[(5)]~~ (6) or (7)(b)(iv), as applicable, if the head of the issuing procurement unit or a person designated by rule made by the applicable rulemaking authority:

(a) signs a written statement:

(i) indicating that, due to the nature of the proposal or other circumstances, it is in the best interest of the procurement unit to waive compliance with Subsection ~~[(5)]~~ (6) or (7)(b)(iv), as the case may be; and

(ii) describing the nature of the proposal and the other circumstances relied upon to waive compliance with Subsection ~~[(5)]~~ (6) or (7)(b)(iv); and

(b) makes the written statement available to the public, upon request.

Section 36. Section 63G-6a-707.5 is amended to read:

63G-6a-707.5. Best and final offers.

(1) At any time during the evaluation process, the evaluation committee, with the approval of the director or the head of the issuing procurement unit, may:

(a) request best and final offers from responsible ~~[and] offerors who have submitted responsive [offerors] proposals that meet the minimum qualifications, evaluation criteria, or applicable score thresholds identified in the request for proposals, if:~~

(i) no single proposal addresses all the specifications stated in the request for proposals;

(ii) all or a significant number of the proposals are ambiguous on a material point and the evaluation committee requires further clarification in order to conduct a fair evaluation of proposals;

(iii) the evaluation committee needs additional information from all offerors to complete the evaluation of proposals;

(iv) the differences between proposals in one or more material aspects are too slight to allow the evaluation committee to distinguish between proposals;

(v) all cost proposals are too high or over budget; or

(vi) another reason exists supporting a request for best and final offers, as provided in rules established by the applicable rulemaking authority; and

(b) evaluate those best and final offers.

(2) In requesting and evaluating best and final offers under Subsection (1), the evaluation committee shall:

(a) ensure that each offeror receives fair and equal treatment with respect to the other offerors;

(b) establish a schedule and procedures for conducting discussions;

(c) ensure that information in each proposal and information gathered during discussions is not shared with other offerors until the contract is awarded;

(d) ensure that auction tactics are not used in the discussion process, including discussing and comparing the costs and features of other proposals; and

(e) set a common date and time for the submission of best and final offers.

(3) In a best and final offer, an offeror:

(a) may address only the issues described in the request for best and final offers; and

(b) may not correct a material error or deficiency in the offeror's proposal or address any other issue not described in the request for best and final offers.

~~(3)~~ (4) If an offeror chooses not to participate in a discussion or does not make a timely best and final offer, the offer submitted by the offeror before the conduct of discussions shall be treated as the offeror's best and final offer.

(5) An applicable rulemaking authority shall make rules governing best and final offers under this section.

Section 37. Section 63G-6a-708 is amended to read:

63G-6a-708. Justification statement -- Cost-benefit analysis.

(1) (a) In determining which proposal provides the best value to the procurement unit, the evaluation committee and the conducting procurement unit shall prepare a written justification statement that:

(i) explains the score assigned to each evaluation category;

(ii) explains how the proposal with the highest total combined score provides the best value to the procurement unit in comparison to the other proposals;

(iii) if applicable, includes the cost-benefit analysis described in Subsection (2) and how the cost-benefit analysis relates to the best value to the procurement unit; and

(iv) if applicable, includes the written determination described in Subsection (5).

(b) An explanation under Subsection (1)(a)(i) need not address each criterion within each category.

(2) If, in determining the best value to the procurement unit, the evaluation committee awards the highest score, including the score for cost, to a proposal other than the lowest cost proposal, and the difference between the cost of the highest scored proposal and the lowest cost proposal exceeds the greater of \$10,000 or 5% of the lowest cost proposal, the evaluation committee and

the conducting procurement unit shall prepare an informal written cost-benefit analysis that:

(a) explains, in general terms, the advantage to the procurement unit of awarding the contract to the higher cost offeror; and

(b) except as provided in Subsection (5):

(i) includes the estimated added financial value to the procurement unit of each criterion that justifies awarding the contract to the higher cost offeror; and

(ii) demonstrates that the value of the advantage to the procurement unit of awarding the contract to the higher cost offeror exceeds the value of the difference between the cost of the higher cost proposal and the cost of the lower cost proposals.

(3) If the informal cost-benefit analysis described in Subsection (2) does not justify awarding the contract to the offeror that received the highest score, the issuing procurement unit:

(a) may not award the contract to the offeror that received the highest score; and

(b) may award the contract to the offeror that received the next highest score, unless:

(i) an informal cost-benefit analysis is required, because the difference between the cost proposed by the offeror that received the next highest score and the lowest cost proposal exceeds the greater of \$10,000 or 5% of the lowest cost proposal; and

(ii) the informal cost-benefit analysis does not justify award of the contract to the offeror that received the next highest score.

(4) If the informal cost-benefit analysis described in Subsection (2) does not justify award of the contract to the offeror, described in Subsection (3), that received the next highest score, the issuing procurement unit:

(a) may not award the contract to the offeror that received the next highest score; and

(b) shall continue with the process described in Subsection (3) for each offeror that received the next highest score, until the issuing procurement unit:

(i) awards the contract in accordance with the provisions of this section; or

(ii) cancels the request for proposals.

(5) (a) The evaluation committee, with the issuing procurement unit's approval, may waive, in whole or in part, a requirement under Subsection (2)(b) if the evaluation committee determines in writing that assigning a financial value to a particular procurement item or evaluation criterion is not practicable.

(b) A written determination under Subsection (5)(a):

(i) shall explain:

(A) why it is not practicable to assign a financial value to the procurement item or evaluation criterion; and

(B) in nonfinancial terms, why awarding the contract to the higher cost offeror provides the best value to the procurement unit; and

(ii) may be included as part of the justification statement.

(6) (a) An issuing procurement unit is not required to make the cost-benefit analysis described in this section for a contract with a construction manager/general contractor if the contract is awarded based solely on the qualifications of the construction manager/general contractor and the management fee described in Subsection 63G-6a-707~~(6)~~(7).

(b) The applicable rulemaking authority shall make rules that establish procedures and criteria for awarding a contract described in Subsection 63G-6a-709(a) to ensure that:

(i) a competitive process is maintained; and

(ii) the contract awarded is in the best interest of the procurement unit.

Section 38. Section 63G-6a-709 is amended to read:

63G-6a-709. Award of contract -- Cancellation -- Rejection of proposal.

(1) After the completion of the evaluation and scoring of proposals and the justification statement, including any required cost-benefit analysis, the evaluation committee shall submit the proposals, evaluation scores, and justification statement to the head of the procurement unit or designee for review and final determination of a contract award.

(2) After reviewing the proposals, evaluation scores, and justification statement, including any required cost-benefit analysis, the head of the issuing procurement unit ~~or designee~~ shall:

(a) (i) award the contract as soon as practicable to ~~(i)~~ the ~~responsive and~~ responsible offeror with the responsive proposal receiving the highest total score; or

~~(ii) if, in accordance with Subsection (3), the procurement officer or the head of the issuing procurement unit disqualifies the offeror described in Subsection (2)(a)(i), the responsive and responsible offeror with the next highest total score; or~~

(ii) (A) if the head of the issuing procurement unit disqualifies an offeror under Subsection (3) who would otherwise have been awarded a contract, award the contract to the responsible offeror with the responsive proposal receiving the next highest total score; and

(B) if the head of the issuing procurement unit disqualifies an offeror under Subsection (3) who would otherwise have been awarded a contract under Subsection (2)(a)(ii)(A), repeat the process described in Subsection (2)(a)(ii)(A) as many times as necessary until a contract is awarded to a responsible offeror who is not disqualified; or

(b) cancel the request for proposals without awarding a contract.

~~(3) In accordance with Subsection (4), the procurement officer or the head of the issuing procurement unit may disqualify an offeror for:~~

~~[(a) a violation of this chapter;]~~

~~[(b) not being responsive or responsible;]~~

~~[(c) a violation of a requirement of the request for proposals;]~~

~~[(d) unlawful or unethical conduct; or]~~

~~[(e) a change in circumstance that, had the change been known at the time the proposal was submitted, would have caused the proposal to not have the highest score.]~~

(3) The head of an issuing procurement unit may reject a proposal if:

(a) the offeror who submitted the proposal:

(i) is not responsible;

(ii) is in violation of a provision of this chapter;

(iii) has engaged in unethical conduct; or

(iv) fails to sign a contract within:

(A) 90 days after the contract award, if no time is specified in the solicitation; or

(B) a time authorized in writing by the head of the issuing procurement unit;

(b) there is a change in the offeror's circumstances that, if the change had been known at the time the offeror's proposal was evaluated, would have caused the proposal not to have received the highest score; or

(c) the proposal:

(i) is not responsive; or

(ii) does not meet the mandatory minimum requirements, evaluation criteria, or applicable score thresholds stated in the solicitation.

(4) A ~~procurement officer or~~ head of an issuing procurement unit who ~~disqualifies an offeror~~ rejects a proposal under Subsection (3) shall:

(a) make a written finding, stating the reasons for ~~disqualification~~ the rejection; and

(b) provide a copy of the written finding to the ~~disqualified~~ offeror whose proposal is rejected.

(5) If an issuing procurement unit cancels a request for proposals without awarding a contract, the issuing procurement unit shall make available for public inspection a written justification for the cancellation.

Section 39. Section 63G-6a-802 is amended to read:

Part 8. Exceptions to Standard Procurement Process

63G-6a-802. Award of contract without engaging in a standard procurement process -- Notice -- Duty to negotiate

contract terms in best interest of procurement unit.

~~[(1) As used in this section:]~~

~~[(a) “Transitional costs” mean the costs of changing from an existing provider of, or type of, a procurement item to another provider of, or type of, procurement item.]~~

~~[(b) “Transitional costs” include:]~~

~~[(i) training costs;]~~

~~[(ii) conversion costs;]~~

~~[(iii) compatibility costs;]~~

~~[(iv) system downtime;]~~

~~[(v) disruption of service;]~~

~~[(vi) staff time necessary to put the transition into effect;]~~

~~[(vii) installation costs; and]~~

~~[(viii) ancillary software, hardware, equipment, or construction costs.]~~

~~[(c) “Transitional costs” do not include:]~~

~~[(i) the costs of preparing for or engaging in a procurement process; or]~~

~~[(ii) contract negotiation or contract drafting costs.]~~

~~[(d) “Trial use contract” means a contract between a procurement unit and a vendor for a procurement item that the procurement unit acquires for trial use or testing to determine whether the procurement item will benefit the procurement unit.]~~

~~[(2) The division or] (1) The chief procurement officer or the head of a procurement unit with independent procurement authority may award a contract for a procurement item without [competition] engaging in a standard procurement process if the chief procurement officer[, or the head of the procurement unit[, or a designee of either who is senior to the procurement officer or the head of the procurement unit,] with independent procurement authority determines in writing that:~~

~~(a) there is only one source for the procurement item;~~

~~[(b) the award to a specific supplier, service provider, or contractor is a condition of a donation that will fund the full cost of the supply, service, or construction item; or]~~

~~[(c) the procurement item is needed for trial use or testing to determine whether the procurement item will benefit the procurement unit.]~~

~~[(3) Circumstances under which there is only one source for a procurement item may include:]~~

~~[(a) where the most important consideration in obtaining a procurement item is the compatibility of equipment, technology, software, accessories, replacement parts, or services;]~~

~~[(b) where transitional costs are unreasonable or cost prohibitive; or]~~

~~[(c) procurement of public utility services.]~~

~~(b) (i) transitional costs are a significant consideration in selecting a procurement item; and~~

~~(ii) the results of a cost-benefit analysis demonstrate that transitional costs are unreasonable or cost-prohibitive, and that the award of a contract without engaging in a standard procurement process is in the best interest of the procurement unit; or~~

~~(c) the award of a contract is under circumstances, described in rules adopted by the applicable rulemaking authority, that make awarding the contract through a standard procurement process impractical and not in the best interest of the procurement unit.~~

~~(2) Transitional costs associated with a trial use or testing of a procurement item under a trial use contract may not be included in a consideration of transitional costs under Subsection (1)(b).~~

~~[(4)] (3) (a) Subject to Subsection [(4)] (3)(b), the applicable rulemaking authority shall make rules regarding the publication of notice for a [sole source] procurement under this section that, at a minimum, require publication of notice of [a-sole source] the procurement, in accordance with Section [63G-6a-406] 63G-6a-112, if the cost of the procurement exceeds \$50,000.~~

~~(b) Publication of notice under Section [63G-6a-406] 63G-6a-112 is not required for:~~

~~(i) the procurement of public utility services pursuant to a sole source contract; or~~

~~(ii) other [sole source procurements provided by rule] procurements under this section for which an applicable rule provides that notice is not required.~~

~~[(5) The division or] (4) The chief procurement officer or the head of a procurement unit with independent procurement authority who awards a [sole source contract on behalf of another procurement unit] contract under this section shall negotiate with the contractor to ensure that the terms of the contract, including price and delivery, are in the best interest of the procurement unit.~~

~~[(6) (a) The period of trial use or testing of a procurement item under a trial use contract may not exceed 18 months, unless the procurement officer provides a written exception documenting the reason for a longer period.]~~

~~[(b) A trial use contract shall:]~~

~~[(i) state that the purpose of the contract is strictly for the purpose of the trial use or testing of a procurement item;]~~

~~[(ii) state that the contract terminates upon completion of the trial use or testing period;]~~

~~[(iii) state that, after the trial use or testing period, the procurement unit is not obligated to purchase or enter into a contract for the procurement item, regardless of the trial use or testing result;]~~

~~[(iv) state that any purchase of the procurement item beyond the terms of the trial use contract will be made in accordance with this chapter; and]~~

~~[(v) include, as applicable:]~~

~~[(A) test schedules;]~~

~~[(B) deadlines and a termination date;]~~

~~[(C) measures that will be used to evaluate the performance of the procurement item;]~~

~~[(D) any fees and associated expenses or an explanation of the circumstances warranting a waiver of those fees and expenses;]~~

~~[(E) the obligations of the procurement unit and vendor;]~~

~~[(F) provisions regarding the ownership of the procurement item during and after the trial use or testing period;]~~

~~[(G) an explanation of the grounds upon which the contract may be terminated;]~~

~~[(H) a limitation of liability;]~~

~~[(I) a consequential damage waiver provision;]~~

~~[(J) a statement regarding the confidentiality or nondisclosure of information;]~~

~~[(K) a provision relating to any required bond or security deposit; and]~~

~~[(L) other requirements unique to the procurement item for trial use or testing;]~~

~~[(e) Publication of notice under Section 63G-6a-406 is not required for a procurement pursuant to a trial use contract;]~~

~~[(7) The division or a procurement unit with independent procurement authority may extend a contract for a reasonable period of time without engaging in a standard procurement process, if:]~~

~~[(a) the award of a new contract for the procurement item is delayed due to a protest or appeal;]~~

~~[(b) the standard procurement process is delayed due to unintentional error;]~~

~~[(c) changes in industry standards require significant changes to specifications for the procurement item;]~~

~~[(d) the extension is necessary to prevent the loss of federal funds;]~~

~~[(e) the extension is necessary to address a circumstance where the appropriation of state or federal funds has been delayed;]~~

~~[(f) the extension covers the period of time during which contract negotiations with a new provider are being conducted; or]~~

~~[(g) the extension is necessary to avoid a lapse in critical governmental services that may negatively impact public health, safety, or welfare;]~~

Section 40. Section 63G-6a-802.3 is enacted to read:

63G-6a-802.3. Trial use contracts.

(1) A procurement unit may award a trial use contract without engaging in a standard procurement process if the contract is:

(a) awarded for a procurement item that is not already available to the procurement unit under an existing contract;

(b) restricted to the procurement of a procurement item in the minimum quantity and for the minimum period of time necessary to test the procurement item;

(c) the only trial use contract for that procurement unit for the same procurement item; and

(d) not used to circumvent the purposes and policies of this chapter as set forth in Section 63G-6a-102.

(2) The period of trial use or testing of a procurement item under a trial use contract may not exceed 18 months, unless the procurement officer provides a written exception documenting the reason for a longer period.

(3) A trial use contract shall:

(a) state that the contract is strictly for the trial use or testing of a procurement item;

(b) state that the contract terminates upon completion of the trial use or testing period;

(c) state that the procurement unit is not obligated to purchase or enter into a contract for the procurement item, regardless of the trial use or testing result;

(d) state that any purchase of the procurement item that is the subject of the trial use contract will be made in accordance with this chapter; and

(e) include, as applicable:

(i) test schedules;

(ii) deadlines and a termination date;

(iii) measures that will be used to evaluate the performance of the procurement item;

(iv) any fees and associated expenses or an explanation of the circumstances warranting a waiver of those fees and expenses;

(v) the obligations of the procurement unit and vendor;

(vi) provisions regarding the ownership of the procurement item during and after the trial use or testing period;

(vii) an explanation of the grounds upon which the contract may be terminated;

(viii) a provision relating to any required bond or security deposit; and

(ix) other requirements unique to the procurement item for trial use or testing.

(4) Publication of notice under Section 63G-6a-112 is not required for a trial use contract.

(5) The applicable rulemaking authority may make rules pertaining to a trial use contract.

Section 41. Section 63G-6a-802.7 is enacted to read:

63G-6a-802.7. Extension of a contract without engaging in a standard procurement process.

The chief procurement officer or the head of a procurement unit with independent procurement authority may extend an existing contract without engaging in a standard procurement process:

(1) for a period of time not to exceed 120 days, if:

(a) an extension of the contract is necessary to:

(i) avoid a lapse in a critical government service;
or

(ii) to mitigate a circumstance that is likely to have a negative impact on public health, safety, welfare, or property; and

(b) (i) (A) the procurement unit is engaged in a standard procurement process for a procurement item that is the subject of the contract being extended; and

(B) the standard procurement process is delayed due to an unintentional error;

(ii) a change in an industry standard requires one or more significant changes to specifications for the procurement item; or

(iii) an extension is necessary:

(A) to prevent the loss of federal funds;

(B) to mitigate the effects of a delay of a state or federal appropriation;

(C) to enable the procurement unit to continue to receive a procurement item during a delay in the implementation of a contract awarded pursuant to a procurement that has already been conducted; or

(D) to enable the procurement unit to continue to receive a procurement item during a period of time during which negotiations with a vendor under a new contract for the procurement item are being conducted;

(2) for the period of a protest, appeal, or court action, if the protest, appeal, or court action is the reason for delaying the award of a new contract; or

(3) for a period of time exceeding 120 days, if the attorney general or the procurement unit's attorney determines in writing that the contract extension does not violate state or federal antitrust laws and is consistent with the purpose of ensuring the fair and equitable treatment of all persons who deal with the procurement system.

Section 42. Section 63G-6a-803 is amended to read:

63G-6a-803. Emergency procurement.

(1) Notwithstanding any other provision of this chapter, [a] the chief procurement officer or the [procurement officer's designee may authorize] head of a procurement unit with independent procurement authority may authorize a procurement unit to engage in an emergency procurement without using a standard procurement process [when an emergency condition exists] if the procurement is necessary to:

(a) avoid a lapse in a critical government service;

(b) mitigate a circumstance that is likely to have a negative impact on public health, safety, welfare, or property; or

(c) protect the legal interests of a public entity.

(2) A procurement [officer who authorizes] unit conducting an emergency procurement under Subsection (1) shall:

[(a) make the authorization in writing, stating the emergency condition upon which the emergency procurement is made; and]

[(b)] (a) ensure that the procurement is made with as much competition as reasonably practicable while:

(i) avoiding a lapse in a critical government service;

(ii) avoiding harm, or a risk of harm, to the public health, safety, welfare, or property[-]; or

(iii) protecting the legal interests of a public entity; and

(b) after the emergency has abated, prepare a written document explaining the emergency condition that necessitated the emergency procurement under Subsection (1).

Section 43. Section 63G-6a-806 is amended to read:

63G-6a-806. Exception for public transit district contracting with a county or municipality.

A public transit district, organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act, may, without going through a standard procurement process or [an] another exception to a standard procurement process described in [Part 8, Exception to Procurement Requirements] this part:

(1) contract with a county or municipality to receive money from the county or municipality; and

(2) use the money described in Subsection (1) to fund a transportation project or a transit-related program in accordance with rules made by the applicable rulemaking authority.

Section 44. Section 63G-6a-1206 is amended to read:

63G-6a-1206. Rules and regulations to determine allowable incurred costs -- Required information.

(1) (a) The applicable rulemaking authority may, by rule, establish the cost principles to be included in a cost-reimbursement contract to determine

incurred costs for the purpose of calculating a reimbursement.

(b) The cost principles established by rule under Subsection (1)(a) may be modified, by contract, if the procurement officer or the head of the issuing procurement unit approves the modification.

(2) Except as provided in Subsection (5), a person who seeks to be, or is, a party in a cost-based contract with a procurement unit shall:

(a) submit cost or pricing data relating to determining the cost or pricing amount; and

(b) certify that, to the best of the contractor's knowledge and belief, the cost or pricing data submitted is accurate and complete as of the date specified by the procurement unit.

(3) The procurement officer shall ensure that the date specified under Subsection (2)(b) is before:

(a) the pricing of any contract awarded by a standard procurement process or pursuant to a sole source procurement, if the total contract price is expected to exceed an amount established by rule made by the applicable rulemaking authority; or

(b) the pricing of any change order that is expected to exceed an amount established by rule made by the applicable rulemaking authority.

(4) A contract or change order that requires a certification described in Subsection (2) shall include a provision that the price to the procurement unit, including profit or fee, shall be adjusted to exclude any significant sums by which the procurement unit finds that the price was increased because the contractor provided cost or pricing data that was inaccurate, incomplete, or not current as of the date specified by the procurement officer.

(5) A procurement unit is not required to comply with Subsection (2) if:

(a) the contract price is based on adequate price competition;

(b) the contract price is based on established catalogue prices or market prices;

(c) the contract price is set by law or rule; or

(d) the procurement states, in writing:

(i) that, in accordance with rules made by the applicable rulemaking authority, the requirements of Subsection (2) may be waived; and

(ii) the reasons for the waiver.

~~[(6) The procurement officer or audit entity under contract with the procurement unit may, at reasonable times and places, only to the extent that the books and records relate to the applicable cost or pricing data, audit the books and records of:]~~

~~[(a) a person who has submitted cost or pricing data pursuant to this section; or]~~

~~[(b) a contractor or subcontractor under a contract or subcontract other than a firm fixed price contract;]~~

~~[(7) Unless a shorter time is provided for by contract:]~~

~~[(a) a person described in Subsection (6)(a) shall maintain the books and records described in Subsection (6) for three years after the day on which the fiscal year in which final payment is made under the contract ends;]~~

~~[(b) a contractor shall maintain the books and records described in Subsection (6) for three years after the day on which the fiscal year in which final payment under the prime contract ends; and]~~

~~[(c) a subcontractor shall maintain the books and records described in Subsection (6) for three years after the day on which the fiscal year in which final payment is made under the subcontract ends.]~~

Section 45. Section 63G-6a-1206.3 is enacted to read:

63G-6a-1206.3. Auditing of books of contractor or subcontractor.

(1) A procurement officer or an audit entity under contract with the procurement unit may audit the books and records of a contractor or subcontractor.

(2) An audit under Subsection (1):

(a) is limited to the books and records that relate to the applicable contract or subcontract; and

(b) may occur only at a reasonable time and place.

(3) A contractor shall maintain all books and records relating to a contract for six years after the day on which the contractor receives the final payment under the contract, or until all audits initiated under this section within the six-year period have been completed, whichever is later.

(4) A subcontractor shall maintain all books and records relating to a subcontract for six years after the day on which the subcontractor receives the final payment under the subcontract, or until all audits initiated under this section within the six-year period have been completed, whichever is later.

Section 46. Section 63G-6a-1206.5 is amended to read:

63G-6a-1206.5. Change in contract price.

A contractor may:

(1) increase the contract price only in accordance with the terms of the contract~~[-];~~ and

(2) lower the contract price at any time during the time a contract is in effect.

Section 47. Section 63G-6a-1502 is amended to read:

63G-6a-1502. Requirements regarding procurement of design professional services.

(1) A procurement unit seeking to procure design professional services shall:

(a) publicly announce all requirements for those services through a request for statement of qualifications, as provided in this part; and

(b) negotiate contracts for design professional services:

(i) on the basis of demonstrated competence and qualification for the type of services required; and

(ii) at fair and reasonable prices.

(2) A procurement unit shall procure design professional services as provided in this part, except as otherwise provided in Sections ~~63G-6a-403, 63G-6a-404, 63G-6a-408,~~ 63G-6a-506, 63G-6a-802, and 63G-6a-803.

(3) This part does not affect the authority of, and does not apply to procedures undertaken by, a procurement unit to obtain the services of architects or engineers in the capacity of employees of the procurement unit.

Section 48. Section 63G-6a-1503.5 is amended to read:

63G-6a-1503.5. Evaluation of statements of qualifications.

(1) An evaluation committee appointed under Section 63G-6a-1503 shall evaluate and score each responsive ~~[and responsible]~~ statement of qualifications that has not been ~~[disqualified]~~ eliminated from consideration under this chapter, using the criteria described in the request for statement of qualifications.

(2) Criteria not described in the request for statement of qualifications may not be used to evaluate a statement of qualifications.

(3) An evaluation committee may enter into discussions or conduct interviews with, or attend presentations by, the design professionals whose statements of qualifications are under consideration.

(4) An evaluation committee shall rank the top three highest scoring design professionals, in order of their scores, for the purpose of entering into fee negotiations as provided in Section 63G-6a-1505.

(5) If fewer than three responsible design professionals submit statements of qualifications ~~[or]~~ that are determined to be responsive ~~[and responsible]~~, the chief procurement officer or head of a procurement unit with independent procurement authority shall issue a written determination explaining why it is in the best interest of the procurement unit to continue the fee negotiation and the contracting process with less than three design professionals.

(6) (a) The deliberations of an evaluation committee may be held in private.

(b) If the evaluation committee is a public body, as defined in Section 52-4-103, the evaluation committee shall comply with Section 52-4-205 in closing a meeting for its deliberations.

Section 49. Section 63G-6a-1601 is amended to read:

Part 16. Protests

63G-6a-1601. Title.

This part is known as “[~~Controversies and~~] Protests.”

Section 50. Section 63G-6a-1601.5 is enacted to read:

63G-6a-1601.5. Definitions.

As used in this part:

(1) “Constructive knowledge”:

(a) means knowledge or information that a protestor would have if the protestor had exercised reasonable care or diligence, regardless of whether the protestor actually has the knowledge or information; and

(b) includes knowledge of:

(i) applicable provisions of this chapter and other law and administrative rule;

(ii) instructions, criteria, deadlines, and requirements contained in the solicitation or in other documents made available to persons interested in the solicitation or provided in a mandatory pre-solicitation meeting;

(iii) relevant facts and evidence supporting the protest or leading the protestor to contend that the protestor has been aggrieved in connection with a procurement;

(iv) communications or actions, pertaining to the procurement, of all persons within the protestor’s organization or under the supervision of the protestor; and

(v) any other applicable information discoverable by the exercise of reasonable care or diligence.

(2) “Protestor” means a person who files a protest under this part.

(3) “Standing” means to have suffered an injury or harm or to be about to suffer imminent injury or harm, if:

(a) the cause of the injury or harm is:

(i) an infringement of the protestor’s own right and not the right of another person who is not a party to the procurement;

(ii) reasonably connected to the procurement unit’s conduct; and

(iii) the sole reason the protestor is not considered, or is no longer considered, for an award of a contract under the procurement that is the subject of the protest;

(b) a decision on the protest in favor of the protestor:

(i) is likely to redress the injury or harm; and

(ii) would give the protestor a reasonable likelihood of being awarded a contract; and

(c) the protestor has the legal authority to file the protest on behalf of the actual or prospective bidder

or offeror or prospective contractor involved in the procurement that is the subject of the protest.

Section 51. Section 63G-6a-1602 is amended to read:

63G-6a-1602. Protest -- Time for filing -- Basis of protest -- Authority to resolve protest.

(1) ~~[(a)]~~ A protest may be filed with the protest officer by ~~[- (i) an actual or prospective bidder or offeror]~~ a person who:

(a) has standing; and

(b) is aggrieved in connection with a procurement~~;~~ or an award of a contract.

~~[(ii) a prospective contractor who]~~

~~[is aggrieved in connection with an award of a contract.]~~

~~[(b) (i) A protest under Subsection (1)(a) relating to an invitation for bids or a request for proposals shall be filed:]~~

~~[(A) before the opening of bids or the closing date for proposals; or]~~

~~[(B) if the person filing the protest did not know and should not have known of the facts giving rise to the protest before the bid opening or the closing date for proposals, within seven days after the day on which the person knows or should have known of the facts giving rise to the protest.]~~

~~[(ii) A protest under Subsection (1)(a) relating to a form of procurement not described in Subsection (1)(b)(i) but involving a deadline established for the submission of a price or response shall be filed:]~~

~~[(A) before the deadline for the submission of a price or response; or]~~

~~[(B) if the person filing the protest did not know and reasonably should not have known of the facts giving rise to the protest before the deadline for the submission of a price or response, within seven days after the day on which the person knows or reasonably should have known of the facts giving rise to the protest.]~~

~~[(iii) A protest under Subsection (1)(a) relating to a form of procurement not described in Subsection (1)(b)(i) or (ii) shall be filed within seven days after the day on which the person filing the protest knows or should have known of the facts giving rise to the protest.]~~

~~[(2) A person who files a protest under this section shall include in the filing document:]~~

(2) A protest may not be filed after:

(a) (i) (A) the opening of bids, for a protest relating to a procurement under a bidding process; or

(B) the deadline for submitting responses to the solicitation, for a protest relating to another standard procurement process; or

(ii) the closing of the procurement stage that is the subject of the protest:

(A) if the protest relates to a multiple-stage procurement; and

(B) notwithstanding Subsections (2)(a)(i)(A) and (B); or

(b) the day that is seven days after the day on which the person knows or first has constructive knowledge of the facts giving rise to the protest, if:

(i) the protestor did not know and did not have constructive knowledge of the facts giving rise to the protest before:

(A) the opening of bids, for a protest relating to a procurement under a bidding process;

(B) the deadline for submitting responses to the solicitation, for a protest relating to another standard procurement process; or

(C) the closing of the procurement stage that is the subject of the protest, if the protest relates to a multiple-stage procurement; or

(ii) the protest relates to a procurement process not described in Subsection (2)(a).

(3) (a) A protestor shall include in a protest:

~~[(a)]~~ (i) the ~~[person's]~~ protestor's mailing address ~~[of record]~~ and email address ~~[of record]~~; and

~~[(b)]~~ (ii) a concise statement of the ~~[grounds upon which the protest is made.]~~ facts and evidence:

(A) leading the protestor to claim that the protestor has been aggrieved in connection with a procurement and providing the grounds for the protestor's protest; and

(B) supporting the protestor's claim of standing.

(b) A protest may not be considered unless it contains facts and evidence that, if true, would establish:

(i) a violation of this chapter or other applicable law or rule;

(ii) the procurement unit's failure to follow a provision of a solicitation;

(iii) an error made by an evaluation committee or conducting procurement unit;

(iv) a bias exercised by an evaluation committee or an individual committee member, excluding a bias that is a preference arising during the evaluation process because of how well a solicitation response meets criteria in the solicitation;

(v) a failure to correctly apply or calculate a scoring criterion; or

(vi) that specifications in a solicitation are unduly restrictive or unduly anticompetitive.

(4) A protest may not be based on:

(a) the rejection of a solicitation response due to a protestor's failure to attend or participate in a mandatory conference, meeting, or site visit held before the deadline for submitting a solicitation response; or

(b) a vague or unsubstantiated allegation.

(5) A protest may not include a request for:

(a) an explanation of the rationale or scoring of evaluation committee members;

(b) the disclosure of a protected record or protected information in addition to the information provided under the disclosure provisions of this chapter; or

(c) other information, documents, or explanations not explicitly provided for in this chapter.

~~[(3)]~~ (6) A person ~~[described in Subsection (1)]~~ who fails to file a protest within the time prescribed in Subsection ~~[(1)(b)]~~ (2) may not:

(a) protest to the protest officer a solicitation or award of a contract; or

(b) file an action or appeal challenging a solicitation or award of a contract before an appeals panel, a court, or any other forum.

~~[(4)]~~ (7) Subject to the applicable requirements of Section 63G-10-403, a protest officer or the head of a procurement unit may enter into a settlement agreement to resolve a protest.

Section 52. Section 63G-6a-1603 is amended to read:

63G-6a-1603. Protest officer responsibilities and authority -- Proceedings on protest -- Effect of decision.

(1) After a protest is filed, the protest officer shall determine whether the protest is timely filed and complies fully with the requirements of Section 63G-6a-1602.

(2) If the protest officer determines that the protest is not timely filed or that the protest does not fully comply with Section 63G-6a-1602, the protest officer shall dismiss the protest.

(3) If the protest officer determines that the protest is timely filed and complies fully with Section 63G-6a-1602, the protest officer shall:

(a) dismiss the protest if the protest officer determines that the protest alleges facts that, if true, do not provide an adequate basis for the protest;

(b) uphold the protest without holding a hearing if the protest officer determines that the undisputed facts of the protest indicate that the protest should be upheld; or

(c) hold a hearing on the protest if there is a genuine issue of material fact that needs to be resolved in order to determine whether the protest should be upheld.

(4) (a) If a hearing is held on a protest, the protest officer may:

(i) subpoena witnesses and compel their attendance at the protest hearing;

(ii) subpoena documents for production at the protest hearing;

(iii) obtain additional factual information; and

(iv) obtain testimony from experts, the person filing the protest, representatives of the procurement unit, or others to assist the protest officer to make a decision on the protest.

(b) The Rules of Evidence do not apply to a protest hearing.

(c) The applicable rulemaking authority shall make rules relating to intervention in a protest, including designating:

(i) who may intervene; and

(ii) the time and manner of intervention.

(d) A protest officer shall:

(i) record each hearing held on a protest under this section;

(ii) regardless of whether a hearing on a protest is held under this section, preserve all records and other evidence relied upon in reaching the protest officer's written decision until the decision, and any appeal of the decision, becomes final; and

(iii) submit to the procurement policy board chair a copy of the protest officer's written decision and all records and other evidence relied upon in reaching the decision, within seven days after receiving:

(A) notice that an appeal of the protest officer's decision has been filed under Section 63G-6a-1702; or

(B) a request from the chair of the procurement policy board.

(e) A protest officer's holding a hearing, considering a protest, or issuing a written decision under this section does not affect a person's right to later question or challenge the protest officer's jurisdiction to hold the hearing, consider the protest, or issue the decision.

(5) (a) The deliberations of a protest officer may be held in private.

(b) If the protest officer is a public body, as defined in Section 52-4-103, the protest officer shall comply with Section 52-4-205 in closing a meeting for its deliberations.

(6) (a) A protest officer, or the protest officer's designee, shall promptly issue a written decision regarding any protest, unless the protest is settled by mutual agreement.

(b) The decision shall:

(i) state the reasons for the action taken;

(ii) inform the protestor of the right to judicial or administrative review as provided in this chapter; and

(iii) indicate the amount of the security deposit or bond required under Section 63G-6a-1703.

(c) A person who issues a decision under Subsection (6)(a) shall mail, email, or otherwise

immediately furnish a copy of the decision to the protestor.

(7) A decision described in this section is effective until stayed or reversed on appeal, except to the extent provided in Section 63G-6a-1903.

(8) (a) A decision described in Subsection (6)(a) that is issued in relation to a procurement unit other than a legislative procurement unit, a judicial procurement unit, a nonadopting local government procurement unit, or a public transit district is final and conclusive unless the protestor files an appeal under Section 63G-6a-1702.

(b) A decision described in Subsection (6)(a) that is issued in relation to a legislative procurement unit, a judicial procurement unit, a nonadopting local government procurement unit, or a public transit district is final and conclusive unless the protestor files an appeal under Section 63G-6a-1802.

(9) If the protest officer does not issue the written decision regarding a protest [~~or a contract controversy~~] within 30 calendar days after the day on which [~~a written request for a final decision is~~] the protest was filed with the protest officer, or within a longer period as may be agreed upon by the parties, the protestor [~~, prospective contractor, or contractor~~] may proceed as if an adverse decision had been received.

(10) A determination under this section by the protest officer regarding an issue of fact may not be overturned on appeal unless the decision is arbitrary and capricious or clearly erroneous.

Section 53. Section 63G-6a-1702 is amended to read:

63G-6a-1702. Appeal to Utah State Procurement Policy Board -- Appointment of procurement appeals panel -- Proceedings.

(1) This part applies to all procurement units other than:

- (a) a legislative procurement unit;
- (b) a judicial procurement unit;
- (c) a nonadopting local government procurement unit; or
- (d) a public transit district.

(2) (a) Subject to Section 63G-6a-1703, a party to a protest involving a procurement unit other than a procurement unit listed in Subsection (1)(a), (b), (c), or (d) may appeal the protest decision to the board by filing a written notice of appeal with the chair of the board within seven days after:

(i) the day on which the written decision described in Section 63G-6a-1603 is:

(A) personally served on the party or the party's representative; or

(B) emailed or mailed to the address or email address [~~of record~~] provided by the party under Subsection 63G-6a-1602~~(2)~~(3); or

(ii) the day on which the 30-day period described in Subsection 63G-6a-1603(9) ends, if a written decision is not issued before the end of the 30-day period.

(b) A person appealing a debarment or suspension of a procurement unit other than a procurement unit listed in Subsection (1)(a), (b), (c), or (d) shall file a written notice of appeal with the chair of the board no later than seven days after the debarment or suspension.

(c) A notice of appeal under Subsection (2)(a) or (b) shall:

(i) include the address of record and email address of record of the party filing the notice of appeal; and

(ii) be accompanied by a copy of any written protest decision or debarment or suspension order.

(3) A person may not base an appeal of a protest under this section on a ground not specified in the person's protest under Section 63G-6a-1602.

(4) A person may not appeal from a protest described in Section 63G-6a-1602, unless:

- (a) a decision on the protest has been issued; or
- (b) a decision is not issued and the 30-day period described in Subsection 63G-6a-1603(9), or a longer period agreed to by the parties, has passed.

(5) The chair of the board or a designee of the chair who is not employed by the procurement unit responsible for the solicitation, contract award, or other action complained of:

(a) shall, within seven days after the day on which the chair receives a timely written notice of appeal under Subsection (2), and if all the requirements of Subsection (2) and Section 63G-6a-1703 have been met, appoint:

(i) a procurement appeals panel to hear and decide the appeal, consisting of at least three individuals, each of whom is:

- (A) a member of the board; or
- (B) a designee of a member appointed under Subsection (5)(a)(i)(A), if the designee is approved by the chair; and

(ii) one of the members of the procurement appeals panel to be the chair of the panel;

(b) may:

(i) appoint the same procurement appeals panel to hear more than one appeal; or

(ii) appoint a separate procurement appeals panel for each appeal;

(c) may not appoint a person to a procurement appeals panel if the person is employed by the procurement unit responsible for the solicitation, contract award, or other action complained of; and

(d) shall, at the time the procurement appeals panel is appointed, provide appeals panel members with a copy of the protest officer's written decision and all other records and other evidence that the protest officer relied on in reaching the decision.

(6) A procurement appeals panel described in Subsection (5) shall:

(a) consist of an odd number of members;

(b) conduct an informal proceeding on the appeal within 60 days after the day on which the procurement appeals panel is appointed:

(i) unless all parties stipulate to a later date; and

(ii) subject to Subsection (8);

(c) at least seven days before the proceeding, mail, email, or hand-deliver a written notice of the proceeding to the parties to the appeal; and

(d) within seven days after the day on which the proceeding ends:

(i) issue a written decision on the appeal; and

(ii) mail, email, or hand-deliver the written decision on the appeal to the parties to the appeal and to the protest officer.

(7) (a) The deliberations of a procurement appeals panel may be held in private.

(b) If the procurement appeals panel is a public body, as defined in Section 52-4-103, the procurement appeals panel shall comply with Section 52-4-205 in closing a meeting for its deliberations.

(8) A procurement appeals panel may continue a procurement appeals proceeding beyond the 60-day period described in Subsection (6)(b) if the procurement appeals panel determines that the continuance is in the interests of justice.

(9) A procurement appeals panel:

(a) shall, subject to Subsection (9)(c), consider the appeal based solely on:

(i) the protest decision;

(ii) the record considered by the person who issued the protest decision; and

(iii) if a protest hearing was held, the record of the protest hearing;

(b) may not take additional evidence;

(c) notwithstanding Subsection (9)(b), may, during an informal hearing, ask questions and receive responses regarding the appeal, the protest decision, or the record in order to assist the panel to understand the appeal, the protest decision, and the record; and

(d) shall uphold the decision of the protest officer, unless the decision is arbitrary and capricious or clearly erroneous.

(10) If a procurement appeals panel determines that the decision of the protest officer is arbitrary and capricious or clearly erroneous, the procurement appeals panel:

(a) shall remand the matter to the protest officer, to cure the problem or render a new decision;

(b) may recommend action that the protest officer should take; and

(c) may not order that:

(i) a contract be awarded to a certain person;

(ii) a contract or solicitation be cancelled; or

(iii) any other action be taken other than the action described in Subsection (10)(a).

(11) The board shall make rules relating to the conduct of an appeals proceeding, including rules that provide for:

(a) expedited proceedings; and

(b) electronic participation in the proceedings by panel members and participants.

(12) The Rules of Evidence do not apply to an appeals proceeding.

Section 54. Section 63G-6a-1703 is amended to read:

63G-6a-1703. Requirement to pay a security deposit or post a bond -- Exceptions -- Amount -- Forfeiture of security deposit or bond.

(1) ~~[Except as provided by rule made under Subsection (2)(a), a]~~ A person who files a notice of appeal under Section 63G-6a-1702 shall, before the expiration of the time provided under Subsection 63G-6a-1702(2) for filing a notice of appeal, pay a security deposit or post a bond with the office of the protest officer.

(2) The amount of a security deposit or bond required under Subsection (1) is:

(a) for an appeal relating to an invitation for bids or request for proposals and except as provided in Subsection (2)(b)(ii):

(i) \$20,000, if the total contract value is under \$500,000;

(ii) \$25,000, if the total contract value is \$500,000 or more but less than \$1,000,000;

(iii) \$50,000, if the total contract value is \$1,000,000 or more but less than \$2,000,000;

(iv) \$95,000, if the total contract value is \$2,000,000 or more but less than \$4,000,000;

(v) \$180,000, if the total contract value is \$4,000,000 or more but less than \$8,000,000;

(vi) \$320,000, if the total contract value is \$8,000,000 or more but less than \$16,000,000;

(vii) \$600,000, if the total contract value is \$16,000,000 or more but less than \$32,000,000;

(viii) \$1,100,000, if the total contract value is \$32,000,000 or more but less than \$64,000,000;

(ix) \$1,900,000, if the total contract value is \$64,000,000 or more but less than \$128,000,000;

(x) \$3,500,000, if the total contract value is \$128,000,000 or more but less than \$256,000,000;

(xi) \$6,400,000, if the total contract value is \$256,000,000 or more but less than \$512,000,000; and

(xii) \$10,200,000, if the total contract value is \$512,000,000 or more; or

(b) \$20,000, for an appeal:

(i) relating to any type of procurement process other than an invitation for bids or request for proposals;

(ii) relating to an invitation for bids or request for proposals, if the estimated total contract value cannot be determined; or

(iii) of a debarment or suspension.

(3) (a) For an appeal relating to an invitation for bids, the estimated total contract value shall be based on:

(i) the lowest responsible and responsive bid amount for the entire term of the contract, excluding any renewal period, if the bid opening has occurred;

(ii) the total budget for the procurement item for the entire term of the contract, excluding any renewal period, if bids are based on unit or rate pricing; or

(iii) if the contract is being rebid, the historical usage and amount spent on the contract over the life of the contract.

(b) For an appeal relating to a request for proposals, the estimated total contract value shall be based on:

(i) the lowest cost proposed in a response to a request for proposals, considering the entire term of the contract, excluding any renewal period, if the opening of proposals has occurred;

(ii) the total budget for the procurement item over the entire term of the contract, excluding any renewal period, if opened cost proposals are based on unit or rate pricing; or

(iii) if the contract is being reissued, the historical usage and amount spent on the contract over the life of the contract that is being reissued.

(4) The protest officer shall:

(a) retain the security deposit or bond until the protest and any appeal of the protest decision is final;

(b) as it relates to a security deposit:

(i) deposit the security deposit into an interest-bearing account; and

(ii) after any appeal of the protest decision becomes final, return the security deposit and the interest it accrues to the person who paid the security deposit, unless the security deposit is forfeited to the general fund of the procurement unit under Subsection (5); and

(c) as it relates to a bond:

(i) retain the bond until the protest and any appeal of the protest decision becomes final; and

(ii) after the protest and any appeal of the protest decision becomes final, return the bond to the person who posted the bond, unless the bond is forfeited to the general fund of the procurement unit under Subsection (5).

(5) A security deposit that is paid, or a bond that is posted, under this section shall forfeit to the general fund of the procurement unit if:

(a) the person who paid the security deposit or posted the bond fails to ultimately prevail on appeal; and

(b) the procurement appeals panel finds that the protest or appeal is frivolous or that its primary purpose is to harass or cause a delay.

Section 55. Section 63G-6a-1903 is amended to read:

63G-6a-1903. Effect of timely protest or appeal.

A procurement unit, other than a legislative procurement unit, a judicial procurement unit, a nonadopting local government procurement unit, or a public transit district, may not proceed further with a solicitation or with the award of a contract:

(1) during the pendency of a timely:

(a) protest under ~~[Subsection]~~ Section 63G-6a-1602~~[(1)]~~;

(b) appeal of a protest under Section 63G-6a-1702; or

(c) appeal of a procurement appeals panel decision under Section 63G-6a-1802; and

(2) until:

(a) all administrative and judicial remedies are exhausted;

(b) for a protest under Section 63G-6a-1602 or an appeal under Section 63G-6a-1702:

(i) the chief procurement officer, after consultation with the attorney general's office and the head of the using agency, makes a written determination that award of the contract without delay is in the best interest of the procurement unit or the state;

(ii) the head of a procurement unit with independent procurement authority, after consultation with the procurement unit's attorney, makes a written determination that award of the contract without delay is in the best interest of the procurement unit or the state; or

(iii) for a procurement unit that is not represented by the attorney general's office, the procurement unit, after consulting with the attorney for the procurement unit, makes a written determination that award of the contract without delay is in the best interest of the procurement unit or the state; or

(c) for an appeal under Section 63G-6a-1802, or an appeal to a higher court than district court:

(i) the chief procurement officer, after consultation with the attorney general's office and the head of the using agency, makes a written determination that award of the contract without delay is in the best interest of the procurement unit or the state;

(ii) the head of a procurement unit with independent procurement authority, after consultation with the procurement unit's attorney, makes a written determination that award of the contract without delay is in the best interest of the procurement unit or the state; or

(iii) for a procurement unit that is not represented by the attorney general's office, the procurement unit, after consulting with the attorney for the procurement unit, makes a written determination that award of the contract without delay is necessary to protect the best interest of the procurement unit or the state.

Section 56. Section 63G-6a-2002 is amended to read:

63G-6a-2002. Records -- Retention.

(1) All procurement records shall be retained and disposed of in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(2) Written determinations required by this chapter shall be retained in the appropriate official contract file of:

- (a) the division;
- (b) the procurement unit with independent procurement authority; or

(c) for a legislative procurement unit or a judicial procurement unit, the person designated by rule made by the applicable rulemaking authority.

(3) A procurement unit shall keep, and make available to the public, upon request, written records of procurements for which an expenditure of \$50 or more is made, for the longer of:

- (a) ~~four~~ six years;
- (b) the time otherwise required by law; or

(c) the time period provided by rule made by the applicable rulemaking authority.

(4) The written record described in Subsection (3) shall include:

- (a) the name of the provider from whom the procurement was made;
- (b) a description of the procurement item;
- (c) the date of the procurement; and
- (d) the expenditure made for the procurement.

Section 57. Section 63G-6a-2003 is amended to read:

63G-6a-2003. Record of contracts made.

The chief procurement officer, the procurement officer, or the head of a procurement unit with independent procurement authority shall maintain

a record of all contracts made under Section ~~[63G-6a-408]~~ 63G-6a-506, 63G-6a-802, or 63G-6a-803, in accordance with Title 63G, Chapter 2, Government Records Access and Management Act. The record shall contain each contractor's name, the amount and type of each contract, and a listing of the procurement items to which the contract relates.

Section 58. Section 63G-6a-2105 is amended to read:

63G-6a-2105. Cooperative procurements -- Contracts with federal government -- Regional solicitations.

(1) The chief procurement officer may, in accordance with the requirements of this chapter, enter into a cooperative procurement, and a contract that is awarded as a result of a cooperative procurement, with:

- (a) another state;
- (b) a cooperative purchasing organization; or
- (c) a public entity inside or outside the state.

(2) A public entity, nonprofit organization, or, as permitted under federal law, an agency of the federal government, may obtain a procurement item from a state cooperative contract or a contract awarded by the chief procurement officer under Subsection (1), without signing a participating addendum if the solicitation issued by the chief procurement officer to obtain the contract includes a statement indicating that the resulting contract will be issued for the benefit of public entities and, as applicable, nonprofit organizations and agencies of the federal government.

(3) Except as provided in Section ~~[63G-6a-408]~~ 63G-6a-506, or as otherwise provided in this chapter, an executive branch procurement unit may not obtain a procurement item from a source other than a state cooperative contract or a contract awarded by the chief procurement officer under Subsection (1), if the procurement item is available under a state cooperative contract or a contract awarded by the chief procurement officer under Subsection (1).

(4) A Utah procurement unit may:

(a) contract with the federal government without going through a standard procurement process or an exception to a standard procurement process, described in Part 8, Exceptions to Procurement Requirements, if the procurement item obtained under the contract is provided:

- (i) directly by the federal government and not by a person contracting with the federal government; or
- (ii) by a person under contract with the federal government that obtained the contract in a manner that substantially complies with the provisions of this chapter;

(b) participate in, sponsor, conduct, or administer a cooperative procurement with another Utah procurement unit or another public entity in Utah, if:

(i) each party unit involved in the cooperative procurement enters into an agreement describing the rights and duties of each party;

(ii) the procurement is conducted, and the contract awarded, in accordance with the requirements of this chapter;

(iii) the solicitation:

(A) clearly indicates that the procurement is a cooperative procurement; and

(B) identifies each party that may purchase under the resulting contract; and

(iv) each party involved in the cooperative procurement signs a participating addendum describing its rights and obligations in relation to the resulting contract; or

(c) purchase under, or otherwise participate in, an agreement or contract of a cooperative purchasing organization, if:

(i) each party involved in the cooperative procurement enters into an agreement describing the rights and duties of each party;

(ii) the procurement was conducted in accordance with the requirements of this chapter;

(iii) the solicitation:

(A) clearly indicates that the procurement is a cooperative procurement; and

(B) identifies each party that may purchase under the resulting contract; and

(iv) each party involved in the cooperative procurement signs a participating addendum describing its rights and obligations in relation to the resulting contract.

(5) A procurement unit may not obtain a procurement item under a contract that results from a cooperative procurement described in Subsection (4), ~~if~~ unless the procurement unit:

(a) is ~~not~~ identified under Subsection (4)(b)(iii)(B) or (4)(c)(iii)(B); ~~or~~ and

(b) ~~does not sign~~ signs a participating addendum to the contract as required by this section.

(6) A procurement unit, other than a legislative procurement unit or a judicial procurement unit, may not obtain a procurement item under a contract held by the United States General Services Administration, unless, based upon documentation provided by the procurement unit, the Director of the State Division of Purchasing and General Services determines in writing that the United States General Services Administration procured the contract in a manner that substantially complies with the provisions of this chapter.

(7) (a) As used in this Subsection (7), "regional solicitation" means a solicitation issued by the chief procurement officer for the procurement of a procurement item within a specified geographical region of the state.

(b) In addition to any other duty or authority under this section, the chief procurement officer shall:

(i) after considering board recommendations, develop a plan for issuing regional solicitations;

(ii) present the plan to the Government Operations Interim Committee by September 1, 2014; and

(iii) after developing a plan, issue regional solicitations for procurement items in accordance with the plan and this chapter.

(c) A plan under Subsection (7)(b) shall:

(i) define the proposed regional boundaries for regional solicitations;

(ii) specify the types of procurement items for which a regional solicitation may be issued; and

(iii) identify the regional solicitations that the chief procurement officer plans to issue.

(d) A regional solicitation shall require that a person responding to the solicitation offer similar warranties and submit to similar obligations as are standard under other state cooperative contracts.

(e) [A] Except as authorized by the chief procurement officer, a procurement item that is available under a state cooperative contract may not be provided under a contract pursuant to a regional solicitation until after the expiration of the state cooperative contract.

Section 59. Section 63G-6a-2407 is amended to read:

63G-6a-2407. Duty to report unlawful conduct.

~~[(1) A procurement professional shall notify the attorney general or other appropriate prosecuting attorney if the procurement professional has actual knowledge that a person has engaged in:]~~

(1) As used in this section, "unlawful conduct" means:

(a) conduct made unlawful under this part; or

(b) conduct, including bid rigging, improperly steering a contract to a favored vendor, exercising undue influence on an individual involved in the procurement process, or participating in collusion or other anticompetitive practices, made unlawful under other applicable law.

(2) (a) A procurement professional with actual knowledge that a person has engaged in unlawful conduct shall report the person's unlawful conduct to:

(i) the state auditor; or

(ii) the attorney general or other appropriate prosecuting attorney.

(b) An individual not subject to the requirement of Subsection (2)(a) who has actual knowledge that a person has engaged in unlawful conduct may report the person's unlawful conduct to:

(i) the state auditor; or

(ii) the attorney general or other appropriate prosecuting attorney.

~~[(2)]~~ (3) A procurement professional who fails to comply with the requirement of Subsection ~~[(1)]~~ (2)(a) is subject to any applicable disciplinary action or civil penalty identified in Subsection 63G-6a-2404(5).

Section 60. Section 63G-10-403 is amended to read:

63G-10-403. Department of Transportation bid or request for proposals protest settlement agreement approval and review.

(1) As used in this section:

(a) "Department" means the Department of Transportation created in Section 72-1-201.

(b) "Settlement agreement" includes stipulations, consent decrees, settlement agreements, or other legally binding documents or representations resolving a dispute between the department and another party when the department is required to pay money or required to take legally binding action.

(2) The department shall obtain the approval of the Transportation Commission or the governor or review by the Legislative Management Committee of a settlement agreement that involves a bid or request for proposal protest in accordance with this section.

(3) A settlement agreement that is being settled by the department as part of a bid or request for proposal protest, in accordance with Subsection 63G-6a-1602~~[(4)]~~(7), that might cost government entities more than \$100,000 to implement shall be presented to the Transportation Commission for approval or rejection.

(4) A settlement agreement that is being settled by the department as part of a bid or request for proposal protest, in accordance with Subsection 63G-6a-1602~~[(4)]~~(7), that might cost government entities more than \$500,000 to implement shall be presented:

(a) to the Transportation Commission for approval or rejection; and

(b) to the governor for approval or rejection.

(5) (a) A settlement agreement that is being settled by the department as part of a bid or request for proposal protest, in accordance with Subsection 63G-6a-1602~~[(4)]~~(7), that might cost government entities more than \$1,000,000 to implement shall be presented:

(i) to the Transportation Commission for approval or rejection;

(ii) to the governor for approval or rejection; and

(iii) if the settlement agreement is approved by the Transportation Commission and the governor, to the Legislative Management Committee.

(b) The Legislative Management Committee may recommend approval or rejection of the settlement agreement.

(6) (a) The department may not enter into a settlement agreement that resolves a bid or request for proposal protest, in accordance with Subsection 63G-6a-1602~~[(4)]~~(7), that might cost government entities more than \$100,000 to implement until the Transportation Commission has approved the agreement.

(b) The department may not enter into a settlement agreement that resolves a bid or request for proposal protest, in accordance with Subsection 63G-6a-1602~~[(4)]~~(7), that might cost government entities more than \$500,000 to implement until the Transportation Commission and the governor have approved the agreement.

(c) The department may not enter into a settlement agreement that resolves a bid or request for proposal protest, in accordance with Subsection 63G-6a-1602~~[(4)]~~(7), that might cost government entities more than \$1,000,000 to implement until:

(i) the Transportation Commission has approved the agreement;

(ii) the governor has approved the agreement; and

(iii) the Legislative Management Committee has reviewed the agreement.

Section 61. Section 72-6-107.5 is amended to read:

72-6-107.5. Construction of improvements of highway -- Contracts -- Health insurance coverage.

(1) For purposes of this section:

(a) "Employee" means an "employee," "worker," or "operative" as defined in Section 34A-2-104 who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance which may not exceed the first day of the calendar month following 60 days from the date of hire.

(b) "Health benefit plan" has the same meaning as provided in Section 31A-1-301.

(c) "Qualified health insurance coverage" is as defined in Section 26-40-115.

(d) "Subcontractor" has the same meaning provided for in Section 63A-5-208.

(2) (a) Except as provided in Subsection (3), this section applies to contracts entered into by the department on or after July 1, 2009, for construction or design of highways and to a prime contractor or to a subcontractor in accordance with Subsection (2)(b).

(b) (i) A prime contractor is subject to this section if the prime contract is in the amount of \$1,500,000 or greater.

(ii) A subcontractor is subject to this section if a subcontract is in the amount of \$750,000 or greater.

- (3) This section does not apply if:
- (a) the application of this section jeopardizes the receipt of federal funds;
 - (b) the contract is a sole source contract; or
 - (c) the contract is an emergency procurement.
- (4) (a) This section does not apply to a change order as defined in Section 63G-6a-103, or a modification to a contract, when the contract does not meet the initial threshold required by Subsection (2).
- (b) A person who intentionally uses change orders or contract modifications to circumvent the requirements of Subsection (2) is guilty of an infraction.
- (5) (a) A contractor subject to Subsection (2) shall demonstrate to the department that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and the employees' dependents during the duration of the contract.
- (b) If a subcontractor of the contractor is subject to Subsection (2), the contractor shall demonstrate to the department that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the contract.
- (c) (i) (A) A contractor who fails to meet the requirements of Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).
- (B) A contractor is not subject to penalties for the failure of a subcontractor to meet the requirements of Subsection (5)(b).
- (ii) (A) A subcontractor who fails to meet the requirements of Subsection (5)(b) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).
- (B) A subcontractor is not subject to penalties for the failure of a contractor to meet the requirements of Subsection (5)(a).
- (6) The department shall adopt administrative rules:
- (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
 - (b) in coordination with:
 - (i) the Department of Environmental Quality in accordance with Section 19-1-206;
 - (ii) the Department of Natural Resources in accordance with Section 79-2-404;
 - (iii) the State Building Board in accordance with Section 63A-5-205;
 - (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

- (v) a public transit district in accordance with Section 17B-2a-818.5; and
- (vi) the Legislature's Administrative Rules Review Committee; and
- (c) which establish:
 - (i) the requirements and procedures a contractor must follow to demonstrate to the department compliance with this section which shall include:
 - (A) that a contractor will not have to demonstrate compliance with Subsection (5)(a) or (b) more than twice in any 12-month period; and
 - (B) that the actuarially equivalent determination required for qualified health insurance coverage in Subsection (1) is met by the contractor if the contractor provides the department or division with a written statement of actuarial equivalency from either:
 - (I) the Utah Insurance Department;
 - (II) an actuary selected by the contractor or the contractor's insurer; or
 - (III) an underwriter who is responsible for developing the employer group's premium rates;
 - (ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:
 - (A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;
 - (B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;
 - (C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and
 - (D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for an employee and a dependent of the employee of the contractor or subcontractor who was not offered qualified health insurance coverage during the duration of the contract; and
 - (iii) a website on which the department shall post the benchmark for the qualified health insurance coverage identified in Subsection (1)(c).

(7) (a) (i) In addition to the penalties imposed under Subsection (6), a contractor or subcontractor who intentionally violates the provisions of this section shall be liable to the employee for health care costs that would have been covered by qualified health insurance coverage.

 - (ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:
 - (A) the employer relied in good faith on a written statement of actuarial equivalency provided by:
 - (I) an actuary; or
 - (II) an underwriter who is responsible for developing the employer group's premium rates; or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3) or (4).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Section [63G-6a-1603] 63G-6a-1602 or any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

Section 62. Section 79-2-404 is amended to read:

79-2-404. Contracting powers of department -- Health insurance coverage.

(1) For purposes of this section:

(a) "Employee" means an "employee," "worker," or "operative" as defined in Section 34A-2-104 who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance which may not exceed the first day of the calendar month following 60 days from the date of hire.

(b) "Health benefit plan" has the same meaning as provided in Section 31A-1-301.

(c) "Qualified health insurance coverage" is as defined in Section 26-40-115.

(d) "Subcontractor" has the same meaning provided for in Section 63A-5-208.

(2) (a) Except as provided in Subsection (3), this section applies a design or construction contract entered into by, or delegated to, the department or a division, board, or council of the department on or after July 1, 2009, and to a prime contractor or to a subcontractor in accordance with Subsection (2)(b).

(b) (i) A prime contractor is subject to this section if the prime contract is in the amount of \$1,500,000 or greater.

(ii) A subcontractor is subject to this section if a subcontract is in the amount of \$750,000 or greater.

(3) This section does not apply to contracts entered into by the department or a division, board, or council of the department if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract or agreement is between:

(i) the department or a division, board, or council of the department; and

(ii) (A) another agency of the state;

(B) the federal government;

(C) another state;

(D) an interstate agency;

(E) a political subdivision of this state; or

(F) a political subdivision of another state; or

(c) the contract or agreement is:

(i) for the purpose of disbursing grants or loans authorized by statute;

(ii) a sole source contract; or

(iii) an emergency procurement.

(4) (a) This section does not apply to a change order as defined in Section 63G-6a-103, or a modification to a contract, when the contract does not meet the initial threshold required by Subsection (2).

(b) A person who intentionally uses change orders or contract modifications to circumvent the requirements of Subsection (2) is guilty of an infraction.

(5) (a) A contractor subject to Subsection (2)(b)(i) shall demonstrate to the department that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and the employees' dependents during the duration of the contract.

(b) If a subcontractor of the contractor is subject to Subsection (2)(b)(ii), the contractor shall demonstrate to the department that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the contract.

(c) (i) (A) A contractor who fails to meet the requirements of Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to meet the requirements of Subsection (5)(b).

(ii) (A) A subcontractor who fails to meet the requirements of Subsection (5)(b) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to meet the requirements of Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) a public transit district in accordance with Section 17B-2a-818.5;

(iii) the State Building Board in accordance with Section 63A-5-205;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review Committee; and

(c) which establish:

(i) the requirements and procedures a contractor must follow to demonstrate compliance with this section to the department which shall include:

(A) that a contractor will not have to demonstrate compliance with Subsection (5)(a) or (b) more than twice in any 12-month period; and

(B) that the actuarially equivalent determination required for qualified health insurance coverage in Subsection (1) is met by the contractor if the contractor provides the department or division with a written statement of actuarial equivalency from either:

(I) the Utah Insurance Department;

(II) an actuary selected by the contractor or the contractor's insurer; or

(III) an underwriter who is responsible for developing the employer group's premium rates;

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for an employee and a dependent of an employee of the contractor or subcontractor who was not offered qualified health insurance coverage during the duration of the contract; and

(iii) a website on which the department shall post the benchmark for the qualified health insurance coverage identified in Subsection (1)(c).

(7) (a) (i) In addition to the penalties imposed under Subsection (6), a contractor or subcontractor who intentionally violates the provisions of this

section shall be liable to the employee for health care costs that would have been covered by qualified health insurance coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement of actuarial equivalency provided by:

(I) an actuary; or

(II) an underwriter who is responsible for developing the employer group's premium rates; or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3) or (4).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Section ~~[63G-6a-1603]~~ 63G-6a-1602 or any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

Section 63. Repealer.

This bill repeals:

Section 63G-6a-104, Definitions relating to governmental bodies.

Section 63G-6a-403, Prequalification of potential vendors.

Section 63G-6a-404, Approved vendor list.

Section 63G-6a-503, Request for information and response nonbinding.

Section 63G-6a-504, Contents of request for information.

Section 63G-6a-505, Protected information.

Section 64. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 65. Coordinating S.B. 184 with S.B. 135 -- Merging technical and substantive amendments.

If this S.B. 184 and S.B. 135, Administrative Law Judge Amendments, both pass and become law, it is

the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by:

(1) modifying Subsection 63G-6a-103(2), as enacted in S.B. 135, to read:

“(2) “Administrative law judge service” means service provided by an administrative law judge.”;

(2) modifying Subsection 63G-6a-103(41)(m), as enacted in S.B. 135, to read:

“(m) administrative law judge service.”;

(3) inserting a newly enacted Section 63G-6a-116 to read:

“63G-6a-116. Procurement of administrative law judge service.”

(1) A procurement unit shall use a standard procurement process under this chapter for the procurement of administrative law judge service.

(2) Within 30 days after the day on which a conducting procurement unit awards a contract for administrative law judge service, the conducting procurement unit shall give written notice to the Department of Human Resource Management that states:

(a) that the conducting procurement unit awarded a contract for administrative law judge service;

(b) the name of the conducting procurement unit; and

(c) the expected term of the contract.”;

(4) modifying language in Subsection 63G-6a-408(2)(c), as enacted in S.B. 135, by replacing the word “services” in the two places it appears with the word “service” and replacing “Section 63G-6a-409” with “Subsection 63G-6a-707(3)(a)”;

(5) not enacting Section 63G-6a-409 from S.B. 135;

(6) modifying Subsection 63G-6a-410(9)(a), as enacted in this bill, to read:

“(9) (a) (i) After the issuance of a request for statement of qualifications, the conducting procurement unit shall appoint an evaluation committee consisting of membership as provided in Subsection (9)(a)(ii) or (iii), as applicable.

(ii) An evaluation committee for a procurement of administrative law judge service shall consist of:

(A) the head of the conducting procurement unit, or the head’s designee;

(B) the head of an executive branch procurement unit other than the conducting procurement unit, appointed by the executive director of the Department of Human Resource Management, or the head’s designee; and

(C) the executive director of the Department of Human Resource Management, or the executive director’s designee.

(iii) An evaluation committee for each other procurement shall consist of at least three individuals with at least a general familiarity with or basic understanding of:

(A) the technical requirements relating to the type of procurement item that is the subject of the request for statement of qualifications; or

(B) the need that the procurement item is intended to address.

(iv) The conducting procurement unit shall ensure that each member of the evaluation committee under Subsection (9)(a)(iii) and each individual participating in the evaluation committee process:

(A) does not have a conflict of interest with any vendor that submits a statement of qualifications;

(B) can fairly evaluate each statement of qualifications;

(C) does not contact or communicate with a vendor concerning the evaluation process or procurement outside the official evaluation committee process; and

(D) conducts or participates in the evaluation in a manner that ensures a fair and competitive process and avoids the appearance of impropriety.”; and

(7) modifying Subsection 63G-6a-707(3) to read:

“(3) [The] (a) For a procurement of administrative law judge service, an evaluation committee shall consist of:

(i) the head of the conducting procurement unit, or the head’s designee;

(ii) the head of an executive branch procurement unit other than the conducting procurement unit, appointed by the executive director of the Department of Human Resource Management, or the head’s designee; and

(iii) the executive director of the Department of Human Resource Management, or the executive director’s designee.

(b) For every other procurement requiring an evaluation by an evaluation committee, the conducting procurement unit shall:

[~~(a)~~] (i) appoint an evaluation committee consisting of at least three individuals with at least a general familiarity with or basic understanding of:

(A) the technical requirements relating to the type of procurement item that is the subject of the procurement; or

(B) the need that the procurement item is intended to address; and

[~~(b)~~] (ii) ensure that the evaluation committee and each [member of the evaluation committee] individual participating in the evaluation committee process:

~~(i)~~ (A) does not have a conflict of interest with any of the offerors;

~~(ii)~~ (B) can fairly evaluate each proposal;

~~(iii)~~ (C) does not contact or communicate with an offeror concerning the procurement outside the official evaluation committee process; and

~~(iv)~~ (D) conducts or participates in the evaluation in a manner that ensures a fair and competitive process and avoids the appearance of impropriety.”.

CHAPTER 356**S. B. 194**

Passed March 10, 2016
 Approved March 28, 2016
 Effective May 10, 2016

**VEHICLE REGISTRATION
 AND INSURANCE AMENDMENTS**

Chief Sponsor: Curtis S. Bramble
 House Sponsor: Don L. Ipson

LONG TITLE**General Description:**

This bill amends provisions related to vehicle registration and insurance.

Highlighted Provisions:

This bill:

- ▶ provides that a person operating a vehicle owned by a rental company may have in the person's possession, or display, as proof of vehicle registration or insurance, the vehicle's rental agreement; and
- ▶ provides requirements to maintain owner's or operator's security for a school bus under certain conditions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 41-1a-214, as last amended by Laws of Utah 2015, Chapter 412
 41-12a-301, as last amended by Laws of Utah 2008, Chapter 36
 41-12a-303.2, as last amended by Laws of Utah 2015, Chapter 412

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-1a-214 is amended to read:**41-1a-214. Registration card to be signed, carried, and exhibited.**

(1) A registration card shall be signed by the owner in ink in the space provided.

(2) A registration card shall be carried at all times in the vehicle to which it was issued.

(3) The person driving or in control of a vehicle shall display the registration card upon demand of a peace officer or any officer or employee of the division.

(4) For a vehicle owned by a rental company, as defined in Section 31A-22-311, a person driving or in control of the vehicle may display the vehicle's rental agreement, as defined in Section 31A-22-311, in place of a registration card for compliance with Subsection (3).

[4] (5) A violation of this section is an infraction.

Section 2. Section 41-12a-301 is amended to read:**41-12a-301. Definition -- Requirement of owner's or operator's security -- Exceptions.**

(1) As used in this section:

(a) "highway" has the same meaning as provided in Section 41-1a-102; and

(b) "quasi-public road or parking area" has the same meaning as provided in Section 41-6a-214.

(2) Except as provided in Subsection (5):

(a) every resident owner of a motor vehicle shall maintain owner's or operator's security in effect at any time that the motor vehicle is operated on a highway or on a quasi-public road or parking area within the state; and

(b) every nonresident owner of a motor vehicle that has been physically present in this state for:

(i) 90 or fewer days during the preceding 365 days shall maintain the type and amount of owner's or operator's security required in his place of residence, in effect continuously throughout the period the motor vehicle remains within Utah; or

(ii) more than 90 days during the preceding 365 days shall thereafter maintain owner's or operator's security in effect continuously throughout the period the motor vehicle remains within Utah.

(3) (a) Except as provided in Subsection (5), the state and all of its political subdivisions and their respective departments, institutions, or agencies shall maintain owner's or operator's security in effect continuously for their motor vehicles.

(b) Any other state is considered a nonresident owner of its motor vehicles and is subject to Subsection (2)(b).

(4) The United States, any political subdivision of it, or any of its agencies may maintain owner's or operator's security in effect for their motor vehicles.

(5) Owner's or operator's security is not required for any of the following:

(a) off-highway vehicles registered under Section 41-22-3 when operated either:

(i) on a highway designated as open for off-highway vehicle use; or

(ii) in the manner prescribed by Subsections 41-22-10.3(1) through (3);

(b) off-highway implements of husbandry operated in the manner prescribed by Subsections 41-22-5.5(3) through (5);

(c) electric assisted bicycles as defined under Section 41-6a-102;

(d) motor assisted scooters as defined under Section 41-6a-102; [or]

(e) electric personal assistive mobility devices as defined under Section 41-6a-102[-]; or

(f) a school district, for a school bus that the school district authorizes a state entity or political subdivision of the state to use.

(6) If a school district authorizes a state entity or political subdivision of the state to use a school bus:

(a) the state entity or political subdivision shall maintain owner's or operator's security during the term of the school bus use in an amount that is greater than or equal to any governmental immunity liability limit;

(b) the state entity or the political subdivision shall indemnify and defend the school district for any claim that arises from the school bus use including a claim directed at the school district, unless the claim arises from the sole negligence of the school district; and

(c) if the school district maintains owner's or operator's security for the school bus during the term of school bus use, the owner's and operator's security maintained by the state entity or political subdivision of the state is primary to the owner's and operator's security maintained by the school district.

Section 3. Section 41-12a-303.2 is amended to read:

41-12a-303.2. Evidence of owner's or operator's security to be carried when operating motor vehicle -- Defense -- Penalties.

(1) As used in this section:

(a) "Division" means the Motor Vehicle Division of the State Tax Commission.

(b) "Registration materials" means the evidences of motor vehicle registration, including all registration cards, license plates, temporary permits, and nonresident temporary permits.

(2) (a) (i) A person operating a motor vehicle shall:

(A) have in the person's immediate possession evidence of owner's or operator's security for the motor vehicle the person is operating; and

(B) display it upon demand of a peace officer.

(ii) A person is exempt from the requirements of Subsection (2)(a)(i) if the person is operating:

(A) a government-owned or leased motor vehicle; or

(B) an employer-owned or leased motor vehicle and is driving it with the employer's permission.

(iii) A person operating a vehicle that is owned by a rental company, as defined in Section 31A-22-311, may comply with Subsection (2)(a)(i) by having in the person's immediate possession, or displaying, the rental vehicle's rental agreement, as defined in Section 31A-22-311.

(b) Evidence of owner's or operator's security includes any one of the following:

(i) a copy of the operator's valid:

(A) insurance policy;

(B) insurance policy declaration page;

(C) binder notice;

(D) renewal notice; or

(E) card issued by an insurance company as evidence of insurance;

(ii) a certificate of insurance issued under Section 41-12a-402;

(iii) a certified copy of a surety bond issued under Section 41-12a-405;

(iv) a certificate of the state treasurer issued under Section 41-12a-406;

(v) a certificate of self-funded coverage issued under Section 41-12a-407; or

(vi) information that the vehicle or driver is insured from the Uninsured Motorist Identification Database Program created under Title 41, Chapter 12a, Part 8, Uninsured Motorist Identification Database Program.

(c) A card issued by an insurance company as evidence of owner's or operator's security under Subsection (2)(b)(i)(E) on or after July 1, 2014, may not display the owner's or operator's address on the card.

(d) (i) A person may provide to a peace officer evidence of owner's or operator's security described in this Subsection (2) in:

(A) a hard copy format; or

(B) an electronic format using a mobile electronic device.

(ii) If a person provides evidence of owner's or operator's security in an electronic format using a mobile electronic device under this Subsection (2)(d), the peace officer viewing the owner's or operator's security on the mobile electronic device may not view any other content on the mobile electronic device.

(iii) Notwithstanding any other provision under this section, a peace officer is not subject to civil liability or criminal penalties under this section if the peace officer inadvertently views content other than the evidence of owner's or operator's security on the mobile electronic device.

(e) (i) Evidence of owner's or operator's security from the Uninsured Motorist Identification Database Program described under Subsection (2)(b)(vi) supercedes any evidence of owner's or operator's security described under Subsection (2)(b)(i)(D) or (E).

(ii) A peace officer may not cite or arrest a person for a violation of Subsection (2)(a) if the Uninsured Motorist Identification Database Program created under Title 41, Chapter 12a, Part 8, Uninsured Motorist Identification Database Program, information indicates that the vehicle or driver is insured.

(3) It is an affirmative defense to a charge under this section that the person had owner's or

operator's security in effect for the vehicle the person was operating at the time of the person's citation or arrest.

(4) (a) Evidence of owner's or operator's security as defined under Subsection (2)(b) or a written statement from an insurance producer or company verifying that the person had the required motor vehicle insurance coverage on the date specified is considered proof of owner's or operator's security for purposes of Subsection (3) and Section 41-12a-804.

(b) The court considering a citation issued under this section shall allow the evidence or a written statement under Subsection (4)(a) and a copy of the citation to be faxed or mailed to the clerk of the court to satisfy Subsection (3).

(c) The notice under Section 41-12a-804 shall specify that the written statement under Subsection (4)(a) and a copy of the notice shall be faxed or mailed to the designated agent to satisfy the proof of owner's or operator's security required under Section 41-12a-804.

(5) A violation of this section is a class C misdemeanor, and the fine shall be not less than:

(a) \$400 for a first offense; and

(b) \$1,000 for a second and subsequent offense within three years of a previous conviction or bail forfeiture.

(6) Upon receiving notification from a court of a conviction for a violation of this section, the department:

(a) shall suspend the person's driver license; and

(b) may not renew the person's driver license or issue a driver license to the person until the person gives the department proof of owner's or operator's security.

(i) This proof of owner's or operator's security shall be given by any of the ways required under Section 41-12a-401.

(ii) This proof of owner's or operator's security shall be maintained with the department for a three-year period.

(iii) An insurer that provides a certificate of insurance as provided under Section 41-12a-402 or 41-12a-403 may not terminate the insurance policy unless notice of termination is filed with the department no later than 10 days after termination as required under Section 41-12a-404.

(iv) If a person who has canceled the certificate of insurance applies for a license within three years from the date proof of owner's or operator's security was originally required, the department shall refuse the application unless the person reestablishes proof of owner's or operator's security and maintains the proof for the remainder of the three-year period.

CHAPTER 357**S. B. 199**

Passed March 9, 2016
Approved March 28, 2016
Effective May 10, 2016

**SKILLED NURSING
FACILITY AMENDMENTS**

Chief Sponsor: Brian E. Shiozawa
House Sponsor: Michael S. Kennedy
Cosponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill permits a small health care facility to operate a skilled nursing facility under certain circumstances.

Highlighted Provisions:

This bill:

- ▶ creates a pilot program for a small health care facility to operate up to 16 skilled nursing facility beds without obtaining Medicaid bed certification;
- ▶ describes the purposes of the pilot program;
- ▶ requires the facility that participates in the pilot program to report health outcomes to the Legislature's Health and Human Services Interim Committee; and
- ▶ establishes requirements for a facility to participate in the pilot program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-21-23, as last amended by Laws of Utah 2013, Chapter 60

ENACTS:

26-21-28, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-21-23 is amended to read:**26-21-23. Licensing of non-Medicaid nursing care facility beds.**

(1) Notwithstanding the provisions of Section 26-21-2, for purposes of this section "nursing care facility" and "small health care facility":

(a) mean the following facilities licensed by the department under this chapter:

- (i) skilled nursing homes;
- (ii) intermediate care facilities; or
- (iii) small health care facilities with four to 16 beds functioning as a skilled nursing home; and

(b) does not mean:

(i) an intermediate care facility for the mentally retarded;

(ii) a critical access hospital that meets the criteria of 42 U.S.C. 1395i-4(c)(2) (1998);

(iii) a small health care facility that is hospital based; or

(iv) a small health care facility other than a skilled nursing home with 16 beds or less.

(2) Except as provided in Subsection (5) and Section 26-21-28, a new nursing care facility shall be approved for a health facility license only if the applicant proves to the division that:

(a) the facility will be Medicaid certified under the provisions of Section 26-18-503;

(b) the facility will have at least 100 beds; or

(c) (i) the facility's projected Medicare inpatient revenues do not exceed 49% of the facility's revenues;

(ii) the facility has identified projected non-Medicare inpatient revenue sources; and

(iii) the non-Medicare inpatient revenue sources identified in this Subsection (2)(c)(iii) will constitute at least 51% of the revenues as demonstrated through an independently certified feasibility study submitted and paid for by the facility and provided to the division.

(3) The division may not approve the addition of licensed beds in an existing nursing care facility unless the nursing care facility satisfies the criteria established in Subsection (2).

(4) The department may make rules to administer and enforce this part in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) The provisions of Subsection (2) do not apply to a nursing care facility that has:

(a) filed an application with the department and paid all applicable fees to the department on or before February 28, 2007; and

(b) submitted to the department the working drawings, as defined by the department by administrative rule, on or before July 1, 2008.

Section 2. Section 26-21-28 is enacted to read:**26-21-28. Pilot program for managed care model with a small health care facility operating as a skilled nursing facility.**

(1) Notwithstanding the requirement for Medicaid certification under Chapter 18, Part 5, Long Term Care Facility - Medicaid Certification, and Section 26-21-23, a small health care facility with four to 16 beds, functioning as a skilled nursing facility, may be approved for licensing by the department as a pilot program in accordance with this section, and without obtaining Medicaid certification for the beds in the facility.

(2) (a) The department shall establish one pilot program with a facility that meets the qualifications under Subsection (3). The purpose of the pilot program is to study the impact of an

integrated managed care model on cost and quality of care involving pre- and post-surgical services offered by a small health care facility operating as a skilled nursing facility.

(b) The small health care facility that is operating as a skilled nursing facility and is participating in the pilot program, shall, on or before November 30, 2020, issue a report to the Legislative Health and Human Services Interim Committee on patient outcomes and cost of care associated with the pilot program.

(3) A small health care facility with four to 16 beds that functions as a skilled nursing facility may apply for a license under the pilot program if the facility will:

(a) be located in:

(i) a county of the second class that has at least 1,800 square miles within the county; and

(ii) a city of the fifth class; and

(b) limit a patient's stay in the facility to no more than 10 days.

CHAPTER 358**S. B. 200**

Passed March 10, 2016
 Approved March 28, 2016
 Effective May 10, 2016

COMPENSATORY MITIGATION PROGRAM FOR SAGE GROUSE

Chief Sponsor: Kevin T. Van Tassell
 House Sponsor: Scott D. Sandall

LONG TITLE**General Description:**

This bill enacts provisions related to the protection of sage grouse.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Sage Grouse Compensatory Mitigation Program;
- ▶ provides for the scope and administration of the program;
- ▶ provides requirements for the Department of Natural Resources; and
- ▶ grants rulemaking authority to the Department of Natural Resources.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

79-2-501, Utah Code Annotated 1953
 79-2-502, Utah Code Annotated 1953
 79-2-503, Utah Code Annotated 1953
 79-2-504, Utah Code Annotated 1953
 79-2-505, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 79-2-501 is enacted to read:**Part 5. Sage Grouse Management and Protection****79-2-501. Title.**

This part is known as "Sage Grouse Management and Protection."

Section 2. Section 79-2-502 is enacted to read:**79-2-502. Definitions.**

As used in this part:

(1) "Compensatory mitigation" means avoiding, minimizing, rectifying, reducing, or eliminating impacts on sage grouse habitat by providing substitute sage grouse habitat through conservation projects or conservation banks.

(2) "Conservation plan" means the current version of the "Conservation Plan for Greater Sage-grouse in Utah" developed by the state and approved by the governor.

(3) "Permanently disturb" means an action that disrupts the common activities of sage grouse for a period of more than five years and includes all areas where the effects of the action could be expected to disrupt the common activities of sage grouse for a period of more than five years.

(4) "Person" means:

- (a) an individual;
- (b) a corporation;
- (c) a limited liability company;
- (d) a partnership;
- (e) an association;
- (f) a trust; or
- (g) a voluntary organization.

(5) "Program" means the Sage Grouse Compensatory Mitigation Program created under Section 79-2-504.

(6) "Sage grouse" means the greater sage-grouse, or the species *centrocercus urophasianus*.

Section 3. Section 79-2-503 is enacted to read:**79-2-503. Scope.**

Nothing in this part requires a person, whether public or private, to participate in the program.

Section 4. Section 79-2-504 is enacted to read:**79-2-504. Program creation -- Administration.**

(1) There is created the Sage Grouse Compensatory Mitigation Program to mitigate the impacts of development or disturbance of sage grouse habitat by:

(a) creating and preserving habitat for the long-term conservation of sage grouse in the state in a manner that minimizes impacts to economic growth;

(b) establishing a mechanism by which conservation banks may operate in Utah to achieve compensatory mitigation; and

(c) establishing a mechanism by which a person or a governmental entity may voluntarily complete compensatory mitigation.

(2) (a) The department shall administer the program and may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the program in accordance with the provisions of this part.

(b) A rule made under Subsection (2)(a) shall be consistent with:

(i) the requirements of Section 79-2-505;

(ii) the goals and objectives described in the conservation plan, including avoiding and minimizing habitat disturbances and mitigation impacts to sage grouse habitat; and

(iii) to the greatest extent possible, any local programs for the conservation of sage grouse habitat.

(c) Before making any rules under this chapter, the department shall:

(i) create a plan by which the requirements of this chapter will be met; and

(ii) before November 1, 2016, present the plan to the Natural Resources, Agriculture, and Environment Interim Committee.

Section 5. Section 79-2-505 is enacted to read:

79-2-505. Department duties.

(1) In administering the program created in Section 79-2-504, the department shall:

(a) create a system through which:

(i) a person may:

(A) generate a mitigation credit from the department if the person creates a conservation bank by enhancing and dedicating land for sage grouse habitat and conservation; and

(B) sell a mitigation credit generated under Subsection (1)(a)(i)(A) to another person that permanently disturbs sage grouse habitat;

(ii) the state may generate a mitigation credit by enhancing and dedicating land for sage grouse habitat and conservation;

(iii) a person may purchase a mitigation credit generated by the state under Subsection (1)(a)(ii) for no less than the state's total cost of enhancing and dedicating the land; and

(iv) a person may use a mitigation credit to permanently disturb sage grouse habitat to the extent that the person possesses sufficient mitigation credits;

(b) create a system for tracking mitigation credits that are created, purchased, sold, or used under Subsection (1);

(c) establish procedures and criteria to identify and approve land that a person or a governmental entity may use for compensatory mitigation; and

(d) consistent with this chapter, integrate and coordinate the program with other state, local, private, and non-profit plans to protect and manage sage grouse habitat.

(2) The state's total cost described under Subsection (1)(a)(iii) may include costs associated with the department's administration of the program.

CHAPTER 359**S. B. 201**

Passed March 10, 2016
 Approved March 28, 2016
 Effective May 10, 2016

**TRANSPORTATION NETWORK
 COMPANY AMENDMENTS**

Chief Sponsor: Curtis S. Bramble
 House Sponsor: James A. Dunnigan

LONG TITLE**General Description:**

This bill amends provisions related to a transportation network company.

Highlighted Provisions:

This bill:

- ▶ repeals a requirement that a transportation network company or transportation network driver maintain comprehensive and collision coverage for a vehicle used by a transportation network driver to provide transportation network services;
- ▶ creates the Transportation Network Vehicle Recovery Fund;
- ▶ requires a transportation network company to pay into the fund:
 - an initial assessment; and
 - a payment per each prearranged ride;
- ▶ provides a repeal date;
- ▶ allows a person who holds a lien on a vehicle that a transportation network driver uses to provide transportation network services to make a claim to the Division of Consumer Protection for payment from the fund for physical damage to the vehicle;
- ▶ provides that a transportation network driver is an independent contractor of a transportation network company; and
- ▶ provides criteria under which the Division of Consumer Protection may grant a claim.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

13-51-103, as enacted by Laws of Utah 2015, Chapter 461
 13-51-108, as enacted by Laws of Utah 2015, Chapter 244 and last amended by Coordination Clause, Laws of Utah 2015, Chapter 244
 63I-1-213, as last amended by Laws of Utah 2015, Chapter 258

ENACTS:

13-51-201, Utah Code Annotated 1953
 13-51-202, Utah Code Annotated 1953
 13-51-203, Utah Code Annotated 1953
 13-51-204, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-51-103 is amended to read:

13-51-103. Exemptions -- Transportation network company and transportation network driver.

(1) A transportation network company or a transportation network driver is not subject to the requirements applicable to:

~~(1)~~ (a) a motor carrier, under Title 72, Chapter 9, Motor Carrier Safety Act;

~~(2)~~ (b) a common carrier, under Title 59, Chapter 12, Sales and Use Tax Act; or

~~(3)~~ (c) a taxicab, under Title 53, Chapter 3, Uniform Driver License Act.

(2) A transportation network driver is:

(a) an independent contractor of a transportation network company; and

(b) not an employee of a transportation network company.

Section 2. Section 13-51-108 is amended to read:

13-51-108. Insurance.

(1) A transportation network company or a transportation network driver shall maintain insurance that covers, on a primary basis, a transportation network driver's use of a vehicle during a prearranged ride and that includes:

(a) an acknowledgment that the transportation network driver is using the vehicle in connection with a transportation network company during a prearranged ride or that the transportation network driver is otherwise using the vehicle for a commercial purpose;

(b) liability coverage for a minimum amount of \$1,000,000 per occurrence;

(c) personal injury protection to the extent required under Sections 31A-22-306 through 31A-22-309;

(d) uninsured motorist coverage where required by Section 31A-22-305; and

(e) underinsured motorist coverage where required by Section 31A-22-305.3.

(2) A transportation network company or a transportation network driver shall maintain insurance that covers, on a primary basis, a transportation network driver's use of a vehicle during a waiting period and that includes:

(a) an acknowledgment that the transportation network driver is using the vehicle in connection with a transportation network company during a waiting period or that the transportation network driver is otherwise using the vehicle for a commercial purpose;

(b) liability coverage in a minimum amount, per occurrence, of:

(i) \$50,000 to any one individual;

- (ii) \$100,000 to all individuals; and
- (iii) \$30,000 for property damage;
- (c) personal injury protection to the extent required under Sections 31A-22-306 through 31A-22-309;
- (d) uninsured motorist coverage where required by Section 31A-22-305; and
- (e) underinsured motorist coverage where required by Section 31A-22-305.3.

~~[(3) A transportation network company or a transportation network driver shall maintain comprehensive and collision insurance that covers, on a primary or contingent basis, a transportation network driver's use of a vehicle while providing transportation network services, and that includes:]~~

~~[(a) an acknowledgment that the transportation network driver is using the vehicle in connection with a transportation network company during a prearranged ride or waiting period, or that the transportation network driver is otherwise using the vehicle for a commercial purpose; and]~~

~~[(b) coverage limits that are at least equal to such coverage limits, if any, for the personal automobile insurance maintained by the vehicle's owner and reported to the transportation network company.]~~

~~[(4)] (3) A transportation network company and a transportation network driver may satisfy the requirements of Subsections (1)[, (2),] and [(3)] (2) by:~~

- (a) the transportation network driver purchasing coverage that complies with Subsections (1)[, (2),] and [(3)] (2);
- (b) the transportation network company purchasing, on the transportation network driver's behalf, coverage that complies with Subsections (1)[, (2),] and [(3)] (2); or
- (c) a combination of Subsections [(4)] (3)(a) and (b).

~~[(5)] (4) An insurer may offer to a transportation network driver a personal automobile liability insurance policy, or an amendment or endorsement to a personal automobile liability policy, that:~~

- (a) covers a private passenger motor vehicle while used to provide transportation network services; and
- (b) satisfies the coverage requirements described in Subsection (1)[, (2),] or [(3)] (2).

~~[(6)] (5) Nothing in this section requires a personal automobile insurance policy to provide coverage while a driver is providing transportation network services.~~

~~[(7)] (6) If a transportation network company does not purchase a policy that complies with Subsections (1)[, (2),] and [(3)] (2) on behalf of a transportation network driver, the transportation network company shall verify that the driver has~~

purchased a policy that complies with Subsections (1)[, (2),] and [(3)] (2).

~~[(8)] (7) An insurance policy that a transportation network company or a transportation network driver maintains under Subsection (1) or (2):~~

- (a) satisfies the security requirements of Section 41-12a-301; and
- (b) may~~[, along with insurance maintained under Subsection (3),]~~ be placed with:
 - (i) an insurer that is certified under Section 31A-4-103; or
 - (ii) a surplus lines insurer licensed under Section 31A-23a-104.

~~[(9)] (8) An insurer that provides coverage for a transportation network driver explicitly for the transportation network driver's transportation network services under Subsection (1) or (2) shall have the duty to defend a liability claim arising from an occurrence while the transportation network driver is providing transportation network services.~~

~~[(10)-(a)] (9) If insurance a transportation network driver maintains under Subsection (1)[, (2),] or [(3)] (2) lapses or ceases to exist, a transportation network company shall provide coverage complying with Subsection (1)[, (2),] or [(3)] (2) beginning with the first dollar of a claim.~~

~~[(b) Subsection (10)(a) does not apply to comprehensive or collision insurance otherwise required under Subsection (3) if, at the time of a claim for damage to a vehicle being used to provide transportation network services, there is no outstanding lien on the vehicle.]~~

~~[(11)] (10) (a) An insurance policy that a transportation network company or transportation network driver maintains under Subsection (1) or (2) may not provide that coverage is dependent on a transportation network driver's personal automobile insurance policy first denying a claim.~~

~~(b) Subsection [(11)] (10)(a) does not apply to coverage a transportation network company provides under Subsection (9) in the event a transportation network driver's coverage under Subsection (1) or (2) lapses or ceases to exist.~~

~~[(12)] (11) A personal automobile insurer:~~

- (a) notwithstanding Section 31A-22-302, may offer a personal automobile liability policy that excludes coverage for a loss that arises from the use of the insured vehicle to provide transportation network services; and
- (b) does not have the duty to defend or indemnify a loss if an exclusion described in Subsection (12)(a) excludes coverage according to the policy's terms.

Section 3. Section 13-51-201 is enacted to read:

Part 2. Transportation Network Vehicle Recovery Fund

13-51-201. Transportation Network Vehicle Recovery Fund -- Creation -- Report to the Legislature.

(1) As used in this part, “fund” means the Transportation Network Vehicle Recovery Fund created in Subsection (2).

(2) There is created an expendable special revenue fund called the “Transportation Network Vehicle Recovery Fund.”

(3) The fund consists of:

(a) the amount collected by the division under Subsection 13-51-202(1); and

(b) interest earned on the money in the fund.

(4) The division shall deposit the money collected for the fund in an account with the state treasurer and record the money in the fund.

(5) The division may hire employees and allocate resources necessary to administer the fund.

(6) The division shall use money from the fund to cover the division’s cost to administer this part.

(7) The fund is not insurance as defined in Section 31A-1-301.

Section 4. Section 13-51-202 is enacted to read:

13-51-202. Per-ride payment -- Initial assessment -- Assessment for shortfall.

(1) Subject to Subsection (2), the division shall collect, from each transportation network company licensed under this chapter:

(a) a one-time assessment in the amount of \$15,000; and

(b) on the first day of each quarter, a payment of 10 cents for each prearranged ride provided by a transportation network driver in affiliation with the transportation network company during the quarter.

(2) If, on the first day of a given quarter, the amount of money in the fund is greater than or equal to \$50,000, the division may not collect the payment for each prearranged ride described in Subsection (1)(b) for that quarter.

(3) If the division does not collect a payment under Subsection (2) in a given quarter, the division shall resume collecting the prearranged ride payment described in Subsection (1)(b) on the first day of the next quarter on which the amount of money in the fund is less than \$50,000.

(4) If the division grants a claim under Section 13-51-203 in an amount that is greater than the amount of money in the fund, the division shall assess each transportation network company licensed under this chapter an amount equal to the difference between the claim and the amount of money in the fund, divided by the number of transportation network companies licensed under this chapter.

Section 5. Section 13-51-203 is enacted to read:

13-51-203. Payment of a claim from the fund.

(1) A person that holds a lien on a vehicle used by a transportation network driver to provide transportation network services may submit a claim to the division for payment from the fund for physical damage to the vehicle.

(2) The division shall pay a claim for payment from the fund to a person that holds a lien on a vehicle described in Subsection (1) for physical damage to the vehicle if:

(a) the physical damage to the vehicle occurred during a waiting period or a prearranged ride;

(b) the lien complies with Section 41-1a-601;

(c) the person required the transportation network driver, by contract, to maintain insurance coverage for physical damage to the vehicle;

(d) the insurance coverage described in Subsection (2)(c):

(i) names the person as the loss payee;

(ii) was in effect at the time the physical damage occurred; and

(iii) denied coverage to the person as the loss payee on the sole basis that the transportation network driver used the vehicle to provide transportation network services in the state; and

(e) the division determines, no earlier than 10 days after the day on which the person makes the claim, that:

(i) no other insurance is available from the relevant transportation network company; and

(ii) the fund has enough money to cover the cost of the claim.

(3) If the division grants a claim to a person for a lien on a transportation network driver’s vehicle under Subsection (2), the fund shall pay the person the lesser of, as estimated by the division:

(a) the cost to repair the vehicle; or

(b) the actual cash value of the vehicle less any salvage costs.

Section 6. Section 13-51-204 is enacted to read:

13-51-204. State not liable.

The state, a state agency, or a political subdivision is not liable for:

(1) the granting or denial of a claim under Section 13-51-203;

(2) a claim made against the fund; or

(3) a failure of the fund to pay an amount that the division orders paid from the fund.

Section 7. Section 63I-1-213 is amended to read:

63I-1-213. Repeal dates, Title 13.

Title 13, Chapter 51, Part 2, Transportation Network Vehicle Recovery Fund, is repealed on July 1, 2018.

CHAPTER 360**S. B. 205**

Passed March 10, 2016
Approved March 28, 2016
Effective May 10, 2016

ETHICS REVISIONS

Chief Sponsor: Ralph Okerlund
House Sponsor: Kay L. McIff

LONG TITLE**General Description:**

This bill clarifies the scope of the Utah Public Officers' and Employees' Ethics Act.

Highlighted Provisions:

This bill:

- ▶ clarifies that the Utah Public Officers' and Employees' Ethics Act does not apply to a conflict of interest that exists solely due to the fact that one individual holds more than one government position.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

67-16-11, as last amended by Laws of Utah 1998,
Chapter 92

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 67-16-11 is amended to read:**67-16-11. Applicability of provisions.**

(1) As used in this section, "government position" means the position of a legislator, public officer, or public employee.

(2) The provisions of this chapter:

(a) apply to all public officers and public employees[-]; and

(b) do not apply to a conflict of interest that exists between two or more government positions held by the same individual, unless the conflict of interest is also due to a personal interest of the individual that is not shared by the general public.

CHAPTER 361**S. B. 215**

Passed March 10, 2016
 Approved March 28, 2016
 Effective May 10, 2016

**MOTOR VEHICLE
 INSURANCE AMENDMENTS**

Chief Sponsor: Stephen H. Urquhart
 House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill amends motor vehicle insurance provisions relating to subrogation.

Highlighted Provisions:

This bill:

- ▶ modifies the rights of subrogation on the part of an underinsured motorist carrier; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

31A-22-305.3, as last amended by Laws of Utah 2014, Chapters 290 and 300 and further amended by Revisor Instructions, Laws of Utah 2014, Chapters 290 and 300

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-22-305.3 is amended to read:

31A-22-305.3. Underinsured motorist coverage.

(1) As used in this section:

(a) "Covered person" has the same meaning as defined in Section 31A-22-305.

(b) (i) "Underinsured motor vehicle" includes a motor vehicle, the operation, maintenance, or use of which is covered under a liability policy at the time of an injury-causing occurrence, but which has insufficient liability coverage to compensate fully the injured party for all special and general damages.

(ii) The term "underinsured motor vehicle" does not include:

(A) a motor vehicle that is covered under the liability coverage of the same policy that also contains the underinsured motorist coverage;

(B) an uninsured motor vehicle as defined in Subsection 31A-22-305(2); or

(C) a motor vehicle owned or leased by:

(I) a named insured;

(II) a named insured's spouse; or

(III) a dependent of a named insured.

(2) (a) Underinsured motorist coverage under Subsection 31A-22-302(1)(c) provides coverage for a covered person who is legally entitled to recover damages from an owner or operator of an underinsured motor vehicle because of bodily injury, sickness, disease, or death.

(b) A covered person occupying or using a motor vehicle owned, leased, or furnished to the covered person, the covered person's spouse, or covered person's resident relative may recover underinsured benefits only if the motor vehicle is:

(i) described in the policy under which a claim is made; or

(ii) a newly acquired or replacement motor vehicle covered under the terms of the policy.

(3) (a) For purposes of this Subsection (3), "new policy" means:

(i) any policy that is issued that does not include a renewal or reinstatement of an existing policy; or

(ii) a change to an existing policy that results in:

(A) a named insured being added to or deleted from the policy; or

(B) a change in the limits of the named insured's motor vehicle liability coverage.

~~[(a)]~~ (b) For new policies written on or after January 1, 2001, the limits of underinsured motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy, unless a named insured rejects or purchases coverage in a lesser amount by signing an acknowledgment form that:

(i) is filed with the department;

(ii) is provided by the insurer;

(iii) waives the higher coverage;

(iv) need only state in this or similar language that "underinsured motorist coverage provides benefits or protection to you and other covered persons for bodily injury resulting from an accident caused by the fault of another party where the other party has insufficient liability insurance"; and

(v) discloses the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

~~[(b)]~~ (c) Any selection or rejection under Subsection (3)~~[(a)]~~(b) continues for that issuer of the liability coverage until the insured requests, in writing, a change of underinsured motorist coverage from that liability insurer.

~~[(e)]~~ (d) (i) Subsections (3)~~[(a)]~~(b) and ~~[(b)]~~ (c) apply retroactively to any claim arising on or after January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for

arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsections (3)(~~(a)~~)(b) and (~~(b)~~) (c) clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

~~[(d) For purposes of this Subsection (3), “new policy” means:]~~

~~[(i) any policy that is issued which does not include a renewal or reinstatement of an existing policy; or]~~

~~[(ii) a change to an existing policy that results in:]~~

~~[(A) a named insured being added to or deleted from the policy; or]~~

~~[(B) a change in the limits of the named insured’s motor vehicle liability coverage.]~~

(e) (i) As used in this Subsection (3)(e), “additional motor vehicle” means a change that increases the total number of vehicles insured by the policy, and does not include replacement, substitute, or temporary vehicles.

(ii) The adding of an additional motor vehicle to an existing personal lines or commercial lines policy does not constitute a new policy for purposes of Subsection (3)(~~(d)~~)(a).

(iii) If an additional motor vehicle is added to a personal lines policy where underinsured motorist coverage has been rejected, or where underinsured motorist limits are lower than the named insured’s motor vehicle liability limits, the insurer shall provide a notice to a named insured within 30 days that:

(A) in the same manner described in Subsection (3)(~~(a)~~)(b)(iv), explains the purpose of underinsured motorist coverage; and

(B) encourages the named insured to contact the insurance company or insurance producer for quotes as to the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured’s motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured’s motor vehicle policy.

(f) A change in policy number resulting from any policy change not identified under Subsection (3)(~~(d)~~)(a)(ii) does not constitute a new policy.

(g) (i) Subsection (3)(~~(d)~~)(a) applies retroactively to any claim arising on or after January 1, 2001 for which, as of May 1, 2012, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsection (3)(~~(d)~~)(a):

(A) does not enlarge, eliminate, or destroy vested rights; and

(B) clarifies legislative intent.

(h) A self-insured, including a governmental entity, may elect to provide underinsured motorist coverage in an amount that is less than its maximum self-insured retention under Subsections (3)(~~(a)~~)(b) and (l) by issuing a declaratory memorandum or policy statement from the chief financial officer or chief risk officer that declares the:

(i) self-insured entity’s coverage level; and

(ii) process for filing an underinsured motorist claim.

(i) Underinsured motorist coverage may not be sold with limits that are less than:

(i) \$10,000 for one person in any one accident; and

(ii) at least \$20,000 for two or more persons in any one accident.

(j) An acknowledgment under Subsection (3)(~~(a)~~)(b) continues for that issuer of the underinsured motorist coverage until the named insured, in writing, requests different underinsured motorist coverage from the insurer.

(k) (i) The named insured’s underinsured motorist coverage, as described in Subsection (2), is secondary to the liability coverage of an owner or operator of an underinsured motor vehicle, as described in Subsection (1).

(ii) Underinsured motorist coverage may not be set off against the liability coverage of the owner or operator of an underinsured motor vehicle, but shall be added to, combined with, or stacked upon the liability coverage of the owner or operator of the underinsured motor vehicle to determine the limit of coverage available to the injured person.

(l) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for policies existing on that date, the insurer shall disclose in the same medium as the premium renewal notice, an explanation of:

(A) the purpose of underinsured motorist coverage in the same manner as described in Subsection (3)(~~(a)~~)(b)(iv); and

(B) a disclosure of the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured’s motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured’s motor vehicle policy.

(ii) The disclosure required under this Subsection (3)(l) shall be sent to all named insureds that carry underinsured motorist coverage limits in an amount less than the named insured’s motor vehicle liability policy limits or the maximum underinsured motorist coverage limits available by the insurer under the named insured’s motor vehicle policy.

(m) For purposes of this Subsection (3), a notice or disclosure sent to a named insured in a household constitutes notice or disclosure to all insureds within the household.

(4) (a) (i) Except as provided in this Subsection (4), a covered person injured in a motor vehicle described in a policy that includes underinsured motorist benefits may not elect to collect underinsured motorist coverage benefits from another motor vehicle insurance policy.

(ii) The limit of liability for underinsured motorist coverage for two or more motor vehicles may not be added together, combined, or stacked to determine the limit of insurance coverage available to an injured person for any one accident.

(iii) Subsection (4)(a)(ii) applies to all persons except a covered person described under Subsections (4)(b)(i) and (ii).

(b) (i) Except as provided in Subsection (4)(b)(ii), a covered person injured while occupying, using, or maintaining a motor vehicle that is not owned, leased, or furnished to the covered person, the covered person's spouse, or the covered person's resident parent or resident sibling, may also recover benefits under any one other policy under which the covered person is also a covered person.

(ii) (A) A covered person may recover benefits from no more than two additional policies, one additional policy from each parent's household if the covered person is:

(I) a dependent minor of parents who reside in separate households; and

(II) injured while occupying or using a motor vehicle that is not owned, leased, or furnished to the covered person, the covered person's resident parent, or the covered person's resident sibling.

(B) Each parent's policy under this Subsection (4)(b)(ii) is liable only for the percentage of the damages that the limit of liability of each parent's policy of underinsured motorist coverage bears to the total of both parents' underinsured coverage applicable to the accident.

(iii) A covered person's recovery under any available policies may not exceed the full amount of damages.

(iv) Underinsured coverage on a motor vehicle occupied at the time of an accident is primary coverage, and the coverage elected by a person described under Subsections 31A-22-305(1)(a), (b), and (c) is secondary coverage.

(v) The primary and the secondary coverage may not be set off against the other.

(vi) A covered person as described under Subsection (4)(b)(i) is entitled to the highest limits of underinsured motorist coverage under only one additional policy per household applicable to that covered person as a named insured, spouse, or relative.

(vii) A covered injured person is not barred against making subsequent elections if recovery is unavailable under previous elections.

(viii) (A) As used in this section, "interpolicy stacking" means recovering benefits for a single

incident of loss under more than one insurance policy.

(B) Except to the extent permitted by this Subsection (4), interpolicy stacking is prohibited for underinsured motorist coverage.

(c) Underinsured motorist coverage:

(i) is secondary to the benefits provided by Title 34A, Chapter 2, Workers' Compensation Act;

(ii) may not be subrogated by a workers' compensation insurance carrier;

(iii) may not be reduced by benefits provided by workers' compensation insurance;

(iv) may be reduced by health insurance subrogation only after the covered person is made whole;

(v) may not be collected for bodily injury or death sustained by a person:

(A) while committing a violation of Section 41-1a-1314;

(B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated in violation of Section 41-1a-1314; or

(C) while committing a felony; and

(vi) notwithstanding Subsection (4)(c)(v), may be recovered:

(A) for a person under 18 years of age who is injured within the scope of Subsection (4)(c)(v), but is limited to medical and funeral expenses; or

(B) by a law enforcement officer as defined in Section 53-13-103, who is injured within the course and scope of the law enforcement officer's duties.

(5) The inception of the loss under Subsection 31A-21-313(1) for underinsured motorist claims occurs upon the date of the last liability policy payment.

(6) (a) ~~Within~~ Except as provided in Subsection (6)(d), within five business days after notification that all liability insurers have tendered ~~their liability~~ the liability insurers' policy limits, the underinsured carrier shall either:

(i) waive any subrogation claim the underinsured carrier may have against the person liable for the injuries caused in the accident; or

(ii) pay the insured an amount equal to the policy limits tendered by the liability carrier.

(b) If neither option is exercised under Subsection (6)(a), the subrogation claim is considered to be waived by the underinsured carrier.

(c) The notification under Subsection (6)(a) shall include:

(i) the name, address, and phone number for all liability insurers;

(ii) the liability insurers' liability policy limits; and

(iii) the claim number associated with each liability insurer.

(d) (i) A claimant may demand payment of policy limits from all liability insurers by sending notice to all applicable underinsured motorist insurers demanding payment.

(ii) The notice under Subsection (6)(d)(i) shall include the name, address, and claim number of all liability insurers from which the claimant has demanded policy limits.

(iii) The claimant shall send a copy of the notice to all liability insurers from which the claimant has demanded policy limits.

(e) Upon the liability insurer tendering limits to a claimant, the liability insurer shall provide notice of the tender to all underinsured motorist insurers for which the liability insurer received notice under Subsection (6)(d).

(f) If a claimant accepts the policy limits tender of each liability insurer, the liability insurer shall pay the claimant the accepted policy limits.

(g) (i) The subrogation rights of an underinsured motorist insurer are waived, unless:

(A) within five days of delivery of the notice of tender from the liability insurer, the underinsured motorist insurer affirmatively asserts the underinsured motorist insurer's rights to subrogation by delivering notice to the liability insurer of the underinsured motorist insurer's rights to subrogate; and

(B) the underinsured motorist insurer reimburses the liability insurer for the policy limits paid to the claimant.

(ii) If the subrogation rights of an underinsured motorist insurer are not waived under Subsection (6)(g)(i), any liability release signed by the claimant or the claimant's representative is rescinded.

(iii) A claimant's underinsured motorist coverage is preserved if the claimant provides notice to the underinsured motorist insurer as described in Subsection (6)(d).

(h) A person providing a notice required in this Subsection (6) shall deliver the notice by a service that provides proof of delivery.

(7) Except as otherwise provided in this section, a covered person may seek, subject to the terms and conditions of the policy, additional coverage under any policy:

(a) that provides coverage for damages resulting from motor vehicle accidents; and

(b) that is not required to conform to Section 31A-22-302.

(8) (a) When a claim is brought by a named insured or a person described in Subsection 31A-22-305(1) and is asserted against the covered person's underinsured motorist carrier, the claimant may elect to resolve the claim:

(i) by submitting the claim to binding arbitration; or

(ii) through litigation.

(b) Unless otherwise provided in the policy under which underinsured benefits are claimed, the election provided in Subsection (8)(a) is available to the claimant only, except that if the policy under which insured benefits are claimed provides that either an insured or the insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to arbitrate shall stay the litigation of the claim under Subsection (8)(a)(ii).

(c) Once a claimant elects to commence litigation under Subsection (8)(a)(ii), the claimant may not elect to resolve the claim through binding arbitration under this section without the written consent of the underinsured motorist coverage carrier.

(d) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to binding arbitration under Subsection (8)(a)(i) shall be resolved by a single arbitrator.

(ii) All parties shall agree on the single arbitrator selected under Subsection (8)(d)(i).

(iii) If the parties are unable to agree on a single arbitrator as required under Subsection (8)(d)(ii), the parties shall select a panel of three arbitrators.

(e) If the parties select a panel of three arbitrators under Subsection (8)(d)(iii):

(i) each side shall select one arbitrator; and

(ii) the arbitrators appointed under Subsection (8)(e)(i) shall select one additional arbitrator to be included in the panel.

(f) Unless otherwise agreed to in writing:

(i) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (8)(d)(i); or

(ii) if an arbitration panel is selected under Subsection (8)(d)(iii):

(A) each party shall pay the fees and costs of the arbitrator selected by that party; and

(B) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (8)(e)(ii).

(g) Except as otherwise provided in this section or unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted under this section is governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(h) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of Subsections (9)(a) through (c) are satisfied.

(ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure shall be determined based on the claimant's specific monetary amount in the written demand for payment of uninsured motorist coverage benefits as required in Subsection (9)(a)(i)(A).

(iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to arbitration claims under this part.

(i) An issue of discovery shall be resolved by the arbitrator or the arbitration panel.

(j) A written decision by a single arbitrator or by a majority of the arbitration panel constitutes a final decision.

(k) (i) Except as provided in Subsection (9), the amount of an arbitration award may not exceed the underinsured motorist policy limits of all applicable underinsured motorist policies, including applicable underinsured motorist umbrella policies.

(ii) If the initial arbitration award exceeds the underinsured motorist policy limits of all applicable underinsured motorist policies, the arbitration award shall be reduced to an amount equal to the combined underinsured motorist policy limits of all applicable underinsured motorist policies.

(l) The arbitrator or arbitration panel may not decide an issue of coverage or extra-contractual damages, including:

(i) whether the claimant is a covered person;

(ii) whether the policy extends coverage to the loss; or

(iii) an allegation or claim asserting consequential damages or bad faith liability.

(m) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or class-representative basis.

(n) If the arbitrator or arbitration panel finds that the arbitration is not brought, pursued, or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees and costs against the party that failed to bring, pursue, or defend the arbitration in good faith.

(o) An arbitration award issued under this section shall be the final resolution of all claims not excluded by Subsection (8)(l) between the parties unless:

(i) the award is procured by corruption, fraud, or other undue means;

(ii) either party, within 20 days after service of the arbitration award:

(A) files a complaint requesting a trial de novo in the district court; and

(B) serves the nonmoving party with a copy of the complaint requesting a trial de novo under Subsection (8)(o)(ii)(A).

(p) (i) Upon filing a complaint for a trial de novo under Subsection (8)(o), a claim shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules of Evidence in the district court.

(ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request a jury trial with a complaint requesting a trial de novo under Subsection (8)(o)(ii)(A).

(q) (i) If the claimant, as the moving party in a trial de novo requested under Subsection (8)(o), does not obtain a verdict that is at least \$5,000 and is at least 20% greater than the arbitration award, the claimant is responsible for all of the nonmoving party's costs.

(ii) If the underinsured motorist carrier, as the moving party in a trial de novo requested under Subsection (8)(o), does not obtain a verdict that is at least 20% less than the arbitration award, the underinsured motorist carrier is responsible for all of the nonmoving party's costs.

(iii) Except as provided in Subsection (8)(q)(iv), the costs under this Subsection (8)(q) shall include:

(A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(B) the costs of expert witnesses and depositions.

(iv) An award of costs under this Subsection (8)(q) may not exceed \$2,500 unless Subsection (9)(h)(iii) applies.

(r) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsection (8)(q), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:

(i) was not fully disclosed in writing prior to the arbitration proceeding; or

(ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

(s) If a district court determines, upon a motion of the nonmoving party, that a moving party's use of the trial de novo process is filed in bad faith in accordance with Section 78B-5-825, the district court may award reasonable attorney fees to the nonmoving party.

(t) Nothing in this section is intended to limit a claim under another portion of an applicable insurance policy.

(u) If there are multiple underinsured motorist policies, as set forth in Subsection (4), the claimant may elect to arbitrate in one hearing the claims against all the underinsured motorist carriers.

(9) (a) Within 30 days after a covered person elects to submit a claim for underinsured motorist benefits to binding arbitration or files litigation, the covered person shall provide to the underinsured motorist carrier:

(i) a written demand for payment of underinsured motorist coverage benefits, setting forth:

(A) subject to Subsection (9)(l), the specific monetary amount of the demand, including a computation of the covered person's claimed past medical expenses, claimed past lost wages, and all other claimed past economic damages; and

(B) the factual and legal basis and any supporting documentation for the demand;

(ii) a written statement under oath disclosing:

(A) (I) the names and last known addresses of all health care providers who have rendered health

care services to the covered person that are material to the claims for which the underinsured motorist benefits are sought for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health care providers who have rendered health care services to the covered person, which the covered person claims are immaterial to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised that have not been disclosed under Subsection (9)(a)(ii)(A)(I);

(B) (I) the names and last known addresses of all health insurers or other entities to whom the covered person has submitted claims for health care services or benefits material to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health insurers or other entities to whom the covered person has submitted claims for health care services or benefits, which the covered person claims are immaterial to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation have not been disclosed;

(C) if lost wages, diminished earning capacity, or similar damages are claimed, all employers of the covered person for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised;

(D) other documents to reasonably support the claims being asserted; and

(E) all state and federal statutory lienholders including a statement as to whether the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act, or if the claim is subject to any other state or federal statutory liens; and

(iii) signed authorizations to allow the underinsured motorist carrier to only obtain records and billings from the individuals or entities disclosed under Subsections (9)(a)(ii)(A)(I), (B)(I), and (C).

(b) (i) If the underinsured motorist carrier determines that the disclosure of undisclosed health care providers or health care insurers under

Subsection (9)(a)(ii) is reasonably necessary, the underinsured motorist carrier may:

(A) make a request for the disclosure of the identity of the health care providers or health care insurers; and

(B) make a request for authorizations to allow the underinsured motorist carrier to only obtain records and billings from the individuals or entities not disclosed.

(ii) If the covered person does not provide the requested information within 10 days:

(A) the covered person shall disclose, in writing, the legal or factual basis for the failure to disclose the health care providers or health care insurers; and

(B) either the covered person or the underinsured motorist carrier may request the arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be provided if the covered person has elected arbitration.

(iii) The time periods imposed by Subsection (9)(c)(i) are tolled pending resolution of the dispute concerning the disclosure and production of records of the health care providers or health care insurers.

(c) (i) An underinsured motorist carrier that receives an election for arbitration or a notice of filing litigation and the demand for payment of underinsured motorist benefits under Subsection (9)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and receipt of the items specified in Subsections (9)(a)(i) through (iii), to:

(A) provide a written response to the written demand for payment provided for in Subsection (9)(a)(i);

(B) except as provided in Subsection (9)(c)(i)(C), tender the amount, if any, of the underinsured motorist carrier's determination of the amount owed to the covered person; and

(C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act, or if the claim is subject to any other state or federal statutory liens, tender the amount, if any, of the underinsured motorist carrier's determination of the amount owed to the covered person less:

(I) if the amount of the state or federal statutory lien is established, the amount of the lien; or

(II) if the amount of the state or federal statutory lien is not established, two times the amount of the medical expenses subject to the state or federal statutory lien until such time as the amount of the state or federal statutory lien is established.

(ii) If the amount tendered by the underinsured motorist carrier under Subsection (9)(c)(i) is the total amount of the underinsured motorist policy limits, the tendered amount shall be accepted by the covered person.

(d) A covered person who receives a written response from an underinsured motorist carrier as provided for in Subsection (9)(c)(i), may:

(i) elect to accept the amount tendered in Subsection (9)(c)(i) as payment in full of all underinsured motorist claims; or

(ii) elect to:

(A) accept the amount tendered in Subsection (9)(c)(i) as partial payment of all underinsured motorist claims; and

(B) continue to litigate or arbitrate the remaining claim in accordance with the election made under Subsections (8)(a), (b), and (c).

(e) If a covered person elects to accept the amount tendered under Subsection (9)(c)(i) as partial payment of all underinsured motorist claims, the final award obtained through arbitration, litigation, or later settlement shall be reduced by any payment made by the underinsured motorist carrier under Subsection (9)(c)(i).

(f) In an arbitration proceeding on the remaining underinsured claims:

(i) the parties may not disclose to the arbitrator or arbitration panel the amount paid under Subsection (9)(c)(i) until after the arbitration award has been rendered; and

(ii) the parties may not disclose the amount of the limits of underinsured motorist benefits provided by the policy.

(g) If the final award obtained through arbitration or litigation is greater than the average of the covered person's initial written demand for payment provided for in Subsection (9)(a)(i) and the underinsured motorist carrier's initial written response provided for in Subsection (9)(c)(i), the underinsured motorist carrier shall pay:

(i) the final award obtained through arbitration or litigation, except that if the award exceeds the policy limits of the subject underinsured motorist policy by more than \$15,000, the amount shall be reduced to an amount equal to the policy limits plus \$15,000; and

(ii) any of the following applicable costs:

(A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

(B) the arbitrator or arbitration panel's fee; and

(C) the reasonable costs of expert witnesses and depositions used in the presentation of evidence during arbitration or litigation.

(h) (i) The covered person shall provide an affidavit of costs within five days of an arbitration award.

(ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to which the underinsured motorist carrier objects.

(B) The objection shall be resolved by the arbitrator or arbitration panel.

(iii) The award of costs by the arbitrator or arbitration panel under Subsection (9)(g)(ii) may not exceed \$5,000.

(i) (i) A covered person shall disclose all material information, other than rebuttal evidence, within 30 days after a covered person elects to submit a claim for underinsured motorist coverage benefits to binding arbitration or files litigation as specified in Subsection (9)(a).

(ii) If the information under Subsection (9)(i)(i) is not disclosed, the covered person may not recover costs or any amounts in excess of the policy under Subsection (9)(g).

(j) This Subsection (9) does not limit any other cause of action that arose or may arise against the underinsured motorist carrier from the same dispute.

(k) The provisions of this Subsection (9) only apply to motor vehicle accidents that occur on or after March 30, 2010.

(l) (i) The written demand requirement in Subsection (9)(a)(i)(A) does not affect the covered person's requirement to provide a computation of any other economic damages claimed, and the one or more respondents shall have a reasonable time after the receipt of the computation of any other economic damages claimed to conduct fact and expert discovery as to any additional damages claimed. The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter 300, Section 11, to this Subsection (9)(l) and Subsection (9)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(ii) The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter 300, Section 11, under Subsections (9)(a)(ii)(A)(II) and (B)(II) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

CHAPTER 362**S. B. 234**

Passed March 10, 2016
 Approved March 28, 2016
 Effective May 10, 2016

PROTECTING UNBORN CHILDREN AMENDMENTS

Chief Sponsor: Curtis S. Bramble
 House Sponsor: Keven J. Stratton

LONG TITLE**General Description:**

This bill modifies sections of the Utah Criminal Code related to abortion.

Highlighted Provisions:

This bill:

- ▶ amends informed consent requirements for abortion;
- ▶ amends provisions related to the Department of Health's requirements for publishing printed materials; and
- ▶ requires a physician who performs an abortion of an unborn child who is at least 20 weeks gestational age to administer an anesthetic or analgesic to eliminate or alleviate organic pain to the unborn child.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-7-305, as last amended by Laws of Utah 2015, Chapter 258

76-7-305.5, as last amended by Laws of Utah 2013, Chapter 278

76-7-308.5, as enacted by Laws of Utah 2009, Chapter 57

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-7-305 is amended to read:**76-7-305. Informed consent requirements for abortion -- 72-hour wait mandatory -- Exceptions.**

(1) A person may not perform an abortion, unless, before performing the abortion, the physician who will perform the abortion obtains a voluntary and informed written consent from the woman on whom the abortion is performed, that is consistent with:

(a) Section 8.08 of the American Medical Association's Code of Medical Ethics, Current Opinions; and

(b) the provisions of this section.

(2) Except as provided in Subsection (9), consent to an abortion is voluntary and informed only if:

(a) at least 72 hours before the abortion, the physician who is to perform the abortion, the referring physician, a physician, a registered nurse, nurse practitioner, advanced practice registered

nurse, certified nurse midwife, genetic counselor, or physician's assistant, in a face-to-face consultation in any location in the state, orally informs the woman:

(i) consistent with Subsection (3)(a), of:

(A) the nature of the proposed abortion procedure;

(B) specifically how the procedure described in Subsection (2)(a)(i)(A) will affect the fetus; and

(C) the risks and alternatives to an abortion procedure or treatment;

(ii) of the probable gestational age and a description of the development of the unborn child at the time the abortion would be performed;

(iii) of the medical risks associated with carrying her child to term; and

(iv) if the abortion is to be performed on an unborn child who is at least 20 weeks gestational age:

~~[(A) that, upon the woman's request, an anesthetic or analgesic will be administered to the unborn child, through the woman, to eliminate or alleviate organic pain to the unborn child that may be caused by the particular method of abortion to be employed; and]~~

~~[(B) of any medical risks to the woman that are associated with administering the anesthetic or analgesic described in Subsection (2)(a)(iv)(A);]~~

(A) that substantial medical evidence from studies concludes that an unborn child who is at least 20 weeks gestational age may be capable of experiencing pain during an abortion procedure; and

(B) the measures that shall be taken in accordance with Section 76-7-308.5;

(b) at least 72 hours prior to the abortion the physician who is to perform the abortion, the referring physician, or, as specifically delegated by either of those physicians, a physician, a registered nurse, licensed practical nurse, certified nurse-midwife, advanced practice registered nurse, clinical laboratory technologist, psychologist, marriage and family therapist, clinical social worker, genetic counselor, or certified social worker orally, in a face-to-face consultation in any location in the state, informs the pregnant woman that:

(i) the Department of Health, in accordance with Section 76-7-305.5, publishes printed material and an informational video that:

(A) provides medically accurate information regarding all abortion procedures that may be used;

(B) describes the gestational stages of an unborn child; and

(C) includes information regarding public and private services and agencies available to assist her through pregnancy, at childbirth, and while the child is dependent, including private and agency adoption alternatives;

(ii) the printed material and a viewing of or a copy of the informational video shall be made available to her, free of charge, on the Department of Health's website;

(iii) medical assistance benefits may be available for prenatal care, childbirth, and neonatal care, and that more detailed information on the availability of that assistance is contained in the printed materials and the informational video published by the Department of Health;

(iv) except as provided in Subsection (3)(b):

(A) the father of the unborn child is legally required to assist in the support of her child, even if he has offered to pay for the abortion; and

(B) the Office of Recovery Services within the Department of Human Services will assist her in collecting child support; and

(v) she has the right to view an ultrasound of the unborn child, at no expense to her, upon her request;

(c) the information required to be provided to the pregnant woman under Subsection (2)(a) is also provided by the physician who is to perform the abortion, in a face-to-face consultation, prior to performance of the abortion, unless the attending or referring physician is the individual who provides the information required under Subsection (2)(a);

(d) a copy of the printed materials published by the Department of Health has been provided to the pregnant woman;

(e) the informational video, published by the Department of Health, has been provided to the pregnant woman in accordance with Subsection (4); and

(f) the pregnant woman has certified in writing, prior to the abortion, that the information required to be provided under Subsections (2)(a) through (e) was provided, in accordance with the requirements of those subsections.

(3) (a) The alternatives required to be provided under Subsection (2)(a)(i) include:

(i) a description of adoption services, including private and agency adoption methods; and

(ii) a statement that it is legal for adoptive parents to financially assist in pregnancy and birth expenses.

(b) The information described in Subsection (2)(b)(iv) may be omitted from the information required to be provided to a pregnant woman under this section if the woman is pregnant as the result of rape.

(c) Nothing in this section shall be construed to prohibit a person described in Subsection (2)(a) from, when providing the information described in Subsection (2)(a)(iv), informing a woman of the person's own opinion regarding[~~(4)~~] the capacity of an unborn child to experience pain[~~3~~].

~~[(ii) the advisability of administering an anesthetic or analgesic to an unborn child; or]~~

~~[(iii) any other matter related to fetal pain.]~~

(4) When the informational video described in Section 76-7-305.5 is provided to a pregnant woman, the person providing the information shall:

(a) request that the woman view the video at that time or at another specifically designated time and location; or

(b) if the woman chooses not to view the video at a time described in Subsection (4)(a), inform the woman that she can access the video on the Department of Health's website.

(5) When a serious medical emergency compels the performance of an abortion, the physician shall inform the woman prior to the abortion, if possible, of the medical indications supporting the physician's judgment that an abortion is necessary.

(6) If an ultrasound is performed on a woman before an abortion is performed, the person who performs the ultrasound, or another qualified person, shall:

(a) inform the woman that the ultrasound images will be simultaneously displayed in a manner to permit her to:

(i) view the images, if she chooses to view the images; or

(ii) not view the images, if she chooses not to view the images;

(b) simultaneously display the ultrasound images in order to permit the woman to:

(i) view the images, if she chooses to view the images; or

(ii) not view the images, if she chooses not to view the images;

(c) inform the woman that, if she desires, the person performing the ultrasound, or another qualified person shall provide a detailed description of the ultrasound images, including:

(i) the dimensions of the unborn child;

(ii) the presence of cardiac activity in the unborn child, if present and viewable; and

(iii) the presence of external body parts or internal organs, if present and viewable; and

(d) provide the detailed description described in Subsection (6)(c), if the woman requests it.

(7) The information described in Subsections (2), (3), (4), and (6) is not required to be provided to a pregnant woman under this section if the abortion is performed for a reason described in:

(a) Subsection 76-7-302(3)(b)(i), if the treating physician and one other physician concur, in writing, that the abortion is necessary to avert:

(i) the death of the woman on whom the abortion is performed; or

(ii) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed; or

(b) Subsection 76-7-302(3)(b)(ii).

(8) In addition to the criminal penalties described in this part, a physician who violates the provisions of this section:

(a) is guilty of unprofessional conduct as defined in Section 58-67-102 or 58-68-102; and

(b) shall be subject to:

(i) suspension or revocation of the physician's license for the practice of medicine and surgery in accordance with Section 58-67-401 or 58-68-401; and

(ii) administrative penalties in accordance with Section 58-67-402 or 58-68-402.

(9) A physician is not guilty of violating this section for failure to furnish any of the information described in Subsection (2), or for failing to comply with Subsection (6), if:

(a) the physician can demonstrate by a preponderance of the evidence that the physician reasonably believed that furnishing the information would have resulted in a severely adverse effect on the physical or mental health of the pregnant woman;

(b) in the physician's professional judgment, the abortion was necessary to avert:

(i) the death of the woman on whom the abortion is performed; or

(ii) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed;

(c) the pregnancy was the result of rape or rape of a child, as defined in Sections 76-5-402 and 76-5-402.1;

(d) the pregnancy was the result of incest, as defined in Subsection 76-5-406(10) and Section 76-7-102; or

(e) at the time of the abortion, the pregnant woman was 14 years of age or younger.

(10) A physician who complies with the provisions of this section and Section 76-7-304.5 may not be held civilly liable to the physician's patient for failure to obtain informed consent under Section 78B-3-406.

(11) (a) The Department of Health shall provide an ultrasound, in accordance with the provisions of Subsection (2)(b), at no expense to the pregnant woman.

(b) A local health department shall refer a person who requests an ultrasound described in Subsection (11)(a) to the Department of Health.

(12) A physician is not guilty of violating this section if:

(a) the physician provides the information described in Subsection (2) less than 72 hours before performing the abortion; and

(b) in the physician's professional judgment, the abortion was necessary in a case where:

(i) a ruptured membrane, documented by the attending or referring physician, will cause a serious infection; or

(ii) a serious infection, documented by the attending or referring physician, will cause a ruptured membrane.

Section 2. Section 76-7-305.5 is amended to read:

76-7-305.5. Requirements for printed materials and informational video.

(1) In order to ensure that a woman's consent to an abortion is truly an informed consent, the Department of Health shall, in accordance with the requirements of this section:

(a) publish printed materials; and

(b) produce an informational video.

(2) The printed materials and the informational video described in Subsection (1) shall:

(a) be scientifically accurate, comprehensible, and presented in a truthful, nonmisleading manner;

(b) present adoption as a preferred and positive choice and alternative to abortion;

(c) be printed and produced in a manner that conveys the state's preference for childbirth over abortion;

(d) state that the state prefers childbirth over abortion;

(e) state that it is unlawful for any person to coerce a woman to undergo an abortion;

(f) state that any physician who performs an abortion without obtaining the woman's informed consent or without providing her a private medical consultation in accordance with the requirements of this section, may be liable to her for damages in a civil action at law;

(g) provide information on resources and public and private services available to assist a pregnant woman, financially or otherwise, during pregnancy, at childbirth, and while the child is dependent, including:

(i) medical assistance benefits for prenatal care, childbirth, and neonatal care;

(ii) services and supports available under Section 35A-3-308;

(iii) other financial aid that may be available during an adoption; and

(iv) services available from public adoption agencies, private adoption agencies, and private attorneys whose practice includes adoption;

(h) describe the adoption-related expenses that may be paid under Section 76-7-203;

(i) describe the persons who may pay the adoption related expenses described in Subsection (2)(h);

(j) describe the legal responsibility of the father of a child to assist in child support, even if the father has agreed to pay for an abortion;

(k) describe the services available through the Office of Recovery Services, within the Department of Human Services, to establish and collect the support described in Subsection (2)(j);

(l) state that private adoption is legal;

(m) in accordance with Subsection (3), describe the probable anatomical and physiological characteristics of an unborn child at two-week gestational increments from fertilization to full term, including:

(i) brain and heart function; and

(ii) the presence and development of external members and internal organs;

(n) describe abortion procedures used in current medical practice at the various stages of growth of the unborn child, including:

(i) the medical risks associated with each procedure;

(ii) the risk related to subsequent childbearing that are associated with each procedure; and

(iii) the consequences of each procedure to the unborn child at various stages of fetal development;

(o) describe the possible detrimental psychological effects of abortion;

(p) describe the medical risks associated with carrying a child to term; and

(q) include relevant information on the possibility of an unborn child's survival at the two-week gestational increments described in Subsection (2)(m).

(3) The information described in Subsection (2)(m) shall be accompanied by the following for each gestational increment described in Subsection (2)(m):

(a) pictures or video segments that accurately represent the normal development of an unborn child at that stage of development; and

(b) the dimensions of the fetus at that stage of development.

(4) The printed material and video described in Subsection (1) may include a toll-free 24-hour telephone number that may be called in order to obtain, orally, a list and description of services, agencies, and adoption attorneys in the locality of the caller.

(5) In addition to the requirements described in Subsection (2), the printed material described in Subsection (1)(a) shall:

(a) be printed in a typeface large enough to be clearly legible;

(b) in accordance with Subsection (6), include a geographically indexed list of public and private services and agencies available to assist a woman, financially or otherwise, through pregnancy, at childbirth, and while the child is dependent; and

(c) except as provided in Subsection (7), include a separate brochure that contains truthful, nonmisleading information regarding:

~~(i) the ability of an unborn child to experience pain during an abortion procedure;~~

~~(ii) the measures that may be taken, including the administration of an anesthetic or analgesic to an unborn child, to alleviate or eliminate pain to an unborn child during an abortion procedure;~~

~~(iii) the effectiveness and advisability of taking the measures described in Subsection (5)(c)(ii); and~~

~~(iv) potential medical risks to a pregnant woman that are associated with the administration of an anesthetic or analgesic to an unborn child during an abortion procedure.]~~

(i) substantial medical evidence from studies concluding that an unborn child who is at least 20 weeks gestational age may be capable of experiencing pain during an abortion procedure; and

(ii) the measures that shall be taken in accordance with Section 76-7-308.5.

(6) The list described in Subsection (5)(b) shall include:

(a) private attorneys whose practice includes adoption; and

(b) the names, addresses, and telephone numbers of each person listed under Subsection (5)(b) or (6)(a).

(7) A person or facility is not required to provide the information described in Subsection (5)(c) to a patient or potential patient, if the abortion is to be performed:

(a) on an unborn child who is less than 20 weeks gestational age at the time of the abortion; or

(b) on an unborn child who is at least 20 weeks gestational age at the time of the abortion, if:

(i) the abortion is being performed for a reason described in Subsection 76-7-302(3)(b)(i) or (ii); and

(ii) due to a serious medical emergency, time does not permit compliance with the requirement to provide the information described in Subsection (5)(c).

(8) In addition to the requirements described in Subsection (2), the video described in Subsection (1)(b) shall:

(a) make reference to the list described in Subsection (5)(b); and

(b) show an ultrasound of the heartbeat of an unborn child at:

- (i) four weeks from conception;
- (ii) six to eight weeks from conception; and
- (iii) each month after 10 weeks gestational age, up to 14 weeks gestational age.

Section 3. Section 76-7-308.5 is amended to read:

76-7-308.5. Administration of anesthetic or analgesic to an unborn child.

A physician who performs an abortion of an unborn child who is at least 20 weeks gestational age shall administer an anesthetic or analgesic to eliminate or alleviate organic pain to the unborn child ~~[that may be]~~ caused by the particular method of abortion to be employed, ~~[if the woman having the abortion consents to the administration of an anesthetic or analgesic to the unborn child,]~~ unless:

~~(1) [the physician is prevented from administering the anesthetic or analgesic by a medical emergency.]~~ the abortion is necessary to avert:

(a) the death of the woman on whom the abortion is performed; or

(b) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed;

(2) the abortion is performed because the fetus has a defect that is uniformly diagnosable and uniformly lethal, based on the written concurrence of two physicians who practice maternal fetal medicine; or

(3) the treating physician and one other physician concur, in writing, that the administration of an anesthetic or analgesic would:

(a) cause the death of the woman on whom the abortion is performed; or

(b) create a serious risk of substantial or irreversible impairment of a major bodily function of the woman on whom the abortion is performed.

CHAPTER 363**S. B. 239**

Passed March 10, 2016
 Approved March 28, 2016
 Effective May 10, 2016

SCHOOL GOVERNANCE AMENDMENTS

Chief Sponsor: Howard A. Stephenson
 House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill amends provisions related to the governance of school districts and charter schools.

Highlighted Provisions:

This bill:

- ▶ requires a charter school authorizer to make certain reports regarding the school improvement process;
- ▶ enacts language related to a school district or charter school budget and budget procedures;
- ▶ amends provisions authorizing a governing board to make an appropriation;
- ▶ amends provisions governing a warrant drawn by a school budget officer;
- ▶ amends provisions related to monthly budget reports; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 53A-1a-509.5, as enacted by Laws of Utah 2015, Chapter 299
- 53A-1a-511, as last amended by Laws of Utah 2015, Chapters 138, 150, and 232
- 53A-19-101, as enacted by Laws of Utah 1988, Chapter 2
- 53A-19-102, as last amended by Laws of Utah 2010, Chapters 84, 135, and 160
- 53A-19-104, as last amended by Laws of Utah 2009, Chapter 388
- 53A-19-106, as enacted by Laws of Utah 1988, Chapter 2
- 53A-19-108, as enacted by Laws of Utah 1988, Chapter 2

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-1a-509.5 is amended to read:**53A-1a-509.5. Voluntary school improvement process.**

(1) As used in this section, "high performing charter school" means a charter school that:

(a) satisfies all requirements of state law and State Board of Education rules;

(b) has operated for at least three years meeting the terms of the school's charter agreement; and

(c) has students performing at or above the academic performance standard in the school's charter agreement.

(2) (a) Subject to Subsection (2)(b), a governing board may voluntarily request the charter school's authorizer to place the school in a school improvement process.

(b) A governing board shall provide notice and a hearing on the governing board's intent to make a request under Subsection (2)(a) to parents and guardians of students enrolled in the charter school.

(3) An authorizer may grant a governing board's request to be placed in a school improvement process if the governing board has provided notice and a hearing under Subsection (2)(b).

(4) An authorizer that has entered into a school improvement process with a governing board shall:

(a) enter into a contract with the governing board on the terms of the school improvement process;

(b) notify the State Board of Education that the authorizer has entered into a school improvement process with the governing board; ~~and~~

(c) make a report to a committee of the State Board of Education regarding the school improvement process; and

~~[(e)]~~ (d) notify the Utah Charter School Finance Authority that the authorizer has entered into a school improvement process with the governing board if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program.

(5) Upon notification under Subsection (4)(b), and after the report described in Subsection (4)(c), the State Board of Education shall notify charter schools and the school district in which the charter school is located that the governing board has entered into a school improvement process with the charter school's authorizer.

(6) A high performing charter school or the school district in which the charter school is located may apply to the governing board to assume operation and control of the charter school that has been placed in a school improvement process.

(7) A governing board that has entered into a school improvement process shall review applications submitted under Subsection (6) and submit a proposal to the charter school's authorizer to:

(a) terminate the school's charter, notwithstanding the requirements of Section 53A-1a-510; and

(b) transfer operation and control of the charter school to:

(i) the school district in which the charter school is located; or

(ii) a high performing charter school.

(8) Except as provided in Subsection (9) and subject to Subsection (10), an authorizer may:

(a) approve a governing board's proposal under Subsection (7); or

(b) (i) deny a governing board's proposal under Subsection (7); and

(ii) (A) terminate the school's charter in accordance with Section 53A-1a-510;

(B) allow the governing board to submit a revised proposal; or

(C) take no action.

(9) An authorizer may not take an action under Subsection (8) for a qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program, without mutual agreement of the Utah Charter School Finance Authority and the authorizer.

(10) (a) An authorizer that intends to transfer operation and control of a charter school as described in Subsection (7)(b) shall request approval from the State Board of Education.

(b) (i) The State Board of Education shall consider an authorizer's request under Subsection (10)(a) within 30 days of receiving the request.

(ii) If the State Board of Education denies an authorizer's request under Subsection (10)(a), the authorizer may not transfer operation and control of the charter school as described in Subsection (7)(b).

(iii) If the State Board of Education does not take action on an authorizer's request under Subsection (10)(a) within 30 days of receiving the request, an authorizer may proceed to transfer operation and control of the charter school as described in Subsection (7)(b).

Section 2. Section 53A-1a-511 is amended to read:

53A-1a-511. Waivers from state board rules -- Application of statutes and rules to charter schools.

(1) A charter school shall operate in accordance with its charter and is subject to Title 53A, State System of Public Education, and other state laws applicable to public schools, except as otherwise provided in this part.

(2) (a) A charter school or any other public school or school district may apply to the State Board of Education for a waiver of any state board rule that inhibits or hinders the school or the school district from accomplishing its mission or educational goals set out in its strategic plan or charter.

(b) The state board may grant the waiver, unless:

(i) the waiver would cause the school district or the school to be in violation of state or federal law; or

(ii) the waiver would threaten the health, safety, or welfare of students in the district or at the school.

(c) If the State Board of Education denies the waiver, the reason for the denial shall be provided in writing to the waiver applicant.

(3) (a) Except as provided in Subsection (3)(b), State Board of Education rules governing the following do not apply to a charter school:

(i) school libraries;

(ii) required school administrative and supervisory services; and

(iii) required expenditures for instructional supplies.

(b) A charter school shall comply with rules implementing statutes that prescribe how state appropriations may be spent.

(4) The following provisions of Title 53A, State System of Public Education, and rules adopted under those provisions, do not apply to a charter school:

(a) Sections 53A-1a-108 and 53A-1a-108.5, requiring the establishment of a school community council and school improvement plan;

(b) Section 53A-3-420, requiring the use of activity disclosure statements;

(c) Section 53A-12-207, requiring notification of intent to dispose of textbooks;

(d) Section 53A-13-107, requiring annual presentations on adoption;

(e) [~~Chapter 19, Part 1, Fiscal Procedures,~~] Sections 53A-19-103 and 53A-19-105 pertaining to fiscal procedures of school districts and local school boards; and

(f) Section 53A-14-107, requiring an independent evaluation of instructional materials.

(5) For the purposes of Title 63G, Chapter 6a, Utah Procurement Code, a charter school is considered an educational procurement unit as defined in Subsection 63G-6a-104(7).

(6) Each charter school shall be subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 2, Government Records Access and Management Act.

(7) A charter school is exempt from Section 51-2a-201.5, requiring accounting reports of certain nonprofit corporations. A charter school is subject to the requirements of Section 53A-1a-507.

(8) (a) The State Charter School Board shall, in concert with the charter schools, study existing state law and administrative rules for the purpose of determining from which laws and rules charter schools should be exempt.

(b) (i) The State Charter School Board shall present recommendations for exemption to the State Board of Education for consideration.

(ii) The State Board of Education shall consider the recommendations of the State Charter School Board and respond within 60 days.

Section 3. Section 53A-19-101 is amended to read:

53A-19-101. School district and charter school budgets.

~~[(1) The superintendent of each school district is the budget officer of the district.]~~

(1) As used in this section:

(a) "Budget officer" means:

(i) for a school district, the school district's superintendent; or

(ii) for a charter school, an individual selected by the charter school governing board.

(b) "Governing board" means:

(i) for a school district, the local school board; or

(ii) for a charter school, the charter school governing board.

~~(2) [Prior to] Before June 1 of each year, the [superintendent] budget officer shall prepare [and file with the local school board] a tentative budget[-], with supporting documentation, to be submitted to the budget officer's governing board.~~

~~(3) The tentative budget and supporting documents shall include the following items:~~

~~(a) the revenues and expenditures of the preceding fiscal year;~~

~~(b) the estimated revenues and expenditures of the current fiscal year;~~

~~(c) for a school district, an estimate of the revenues for the succeeding fiscal year based upon the lowest tax levy that will raise the required revenue, using the current year's taxable value as the basis for this calculation;~~

~~(d) a detailed estimate of the essential expenditures for all purposes for the next succeeding fiscal year; and~~

~~(e) the estimated financial condition of the school district or charter school by funds at the close of the current fiscal year.~~

~~[(3)] (4) The tentative budget shall be filed with the district business administrator or charter school executive director for public inspection at least 15 days [prior to] before the date of [its] the tentative budget's proposed adoption by the [local school] governing board.~~

Section 4. Section 53A-19-102 is amended to read:

53A-19-102. Local governing board budget procedures.

(1) As used in this section:

(a) "Budget officer" means:

(i) for a school district, the school district's superintendent; or

(ii) for a charter school, an individual selected by the charter school governing board.

(b) "Governing board" means:

(i) for a school district, the local school board; or

(ii) for a charter school, the charter school governing board.

~~[(1)] (2) (a) [Prior to] For a school district, before June 22 of each year, a local school board shall adopt a budget and make appropriations for the next fiscal year.~~

~~(b) [If] For a school district, if the tax rate in the school district's proposed budget exceeds the certified tax rate defined in Section 59-2-924, the local school board shall comply with Section 59-2-919 in adopting the budget, except as provided by Section 53A-17a-133.~~

~~[(2)] (3) (a) [Prior to] For a school district, before the adoption or amendment of a budget, a local school board shall hold a public hearing, as defined in Section 10-9a-103, on the proposed budget or budget amendment.~~

~~(b) In addition to complying with Title 52, Chapter 4, Open and Public Meetings Act, in regards to the public hearing described in Subsection [(2)] (3)(a), at least 10 days prior to the public hearing, a local school board shall:~~

~~(i) publish a notice of the public hearing in a newspaper or combination of newspapers of general circulation in the school district, except as provided in Section 45-1-101;~~

~~(ii) publish a notice of the public hearing electronically in accordance with Section 45-1-101;~~

~~(iii) file a copy of the proposed budget with the local school board's business administrator for public inspection; and~~

~~(iv) post the proposed budget on the school district's Internet website.~~

~~(c) A notice of a public hearing on a school district's proposed budget shall include information on how the public may access the proposed budget as provided in Subsections [(2)] (3)(b)(iii) and [(2)(b)] (iv).~~

~~(4) For a charter school, before June 22 of each year, a charter school governing board shall adopt a budget for the next fiscal year.~~

~~[(3)] A local school] (5) Within 30 days of adopting a budget, a governing board shall file a copy of the adopted budget with the state auditor and the State Board of Education.~~

Section 5. Section 53A-19-104 is amended to read:

53A-19-104. Limits on appropriations -- Estimated expendable revenue.

(1) As used in this section:

(a) "Budget officer" means:

(i) for a school district, the school district's superintendent; or

(ii) for a charter school, an individual selected by the charter school governing board.

(b) "Governing board" means:

(i) for a school district, the local school board; or

(ii) for a charter school, the charter school governing board.

~~[(1)]~~ (2) A local school governing board may not make ~~[any]~~ an appropriation in excess of its estimated expendable revenue, including undistributed reserves, for the following fiscal year.

(3) A governing board may reduce a budget appropriation at the governing board's regular meeting if notice of the proposed action is given to all governing board members and to the district superintendent or charter school executive director, as applicable, at least one week before the meeting.

~~[(2) Ia]~~ (4) For a school district, in determining the estimated expendable revenue, any existing deficits arising through excessive expenditures from former years are deducted from the estimated revenue for the ensuing year to the extent of at least 10% of the entire tax revenue of the district for the previous year.

~~[(3) Ia]~~ (5) For a school district, in the event of financial hardships, the local school board may deduct from the estimated expendable revenue for the ensuing year, by fund, at least 25% of the deficit amount.

~~[(4) All]~~ (6) For a school district, all estimated balances available for appropriations at the end of the fiscal year shall revert to the funds from which they were appropriated and shall be fund balances available for appropriation in the budget of the following year.

~~[(5) A local school board may reduce a budget appropriation at its regular meeting if notice of the proposed action is given to all board members and the district superintendent at least one week prior to the meeting.]~~

~~[(6) Aa]~~ (7) For a school district, an increase in an appropriation may not be made by the local school board unless the following steps are taken:

(a) the local school board receives a written request from the district superintendent that sets forth the reasons for the proposed increase;

(b) notice of the request is published:

(i) in a newspaper of general circulation within the school district at least one week ~~[prior to]~~ before the local school board meeting at which the request will be considered; and

(ii) in accordance with Section 45-1-101, at least one week ~~[prior to]~~ before the local school board meeting at which the request will be considered; and

(c) the local school board holds a public hearing on the request ~~[prior to]~~ before the local school board's acting on the request.

Section 6. Section 53A-19-106 is amended to read:

53A-19-106. Warrants drawn by budget officer.

(1) As used in this section:

(a) "Budget officer" means:

(i) for a school district, the school district's superintendent; or

(ii) for a charter school, an individual selected by the charter school governing board.

(b) "Governing board" means:

(i) for a school district, the local school board; or

(ii) for a charter school, the charter school governing board.

(2) The ~~[business administrator]~~ budget officer of a ~~[local school]~~ governing board may not draw warrants on school district or charter school funds except in accordance with and within the limits of the budget passed by the ~~[local school]~~ governing board.

Section 7. Section 53A-19-108 is amended to read:

53A-19-108. Monthly budget reports.

(1) As used in this section:

(a) "Budget officer" means:

(i) for a school district, the school district's superintendent; or

(ii) for a charter school, an individual selected by the charter school governing board.

(b) "Governing board" means:

(i) for a school district, the local school board; or

(ii) for a charter school, the charter school governing board.

~~[(1)]~~ (2) The business administrator or budget officer of ~~[each local school]~~ a governing board shall provide each board member with a report, on a monthly basis, that includes the following information:

(a) the amounts of all budget appropriations;

(b) the disbursements from the appropriations as of the date of the report; and

(c) the percentage of the disbursements as of the date of the report.

~~[(2)—A]~~ (3) Within five days of providing the monthly report described in Subsection (2) to a governing board, the business administrator or budget officer shall make a copy of the report ~~[shall be]~~ available for public review.

CHAPTER 364**S. B. 258**

Passed March 9, 2016
 Approved March 28, 2016
 Effective May 10, 2016

**DISTRIBUTION OF LOCAL
 SALES TAX REVENUE**

Chief Sponsor: Ralph Okerlund
 House Sponsor: Michael E. Noel

LONG TITLE**General Description:**

This bill addresses the distribution of local sales and use tax revenue.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides for a minimum distribution of certain local sales and use tax revenue for an eligible county, city, or town; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 59-12-205, as last amended by Laws of Utah 2012, Chapter 9
- 59-12-302, as last amended by Laws of Utah 2011, Chapters 288, 309 and last amended by Coordination Clause, Laws of Utah 2011, Chapter 309
- 59-12-354, as last amended by Laws of Utah 2011, Chapters 288 and 309
- 59-12-403, as last amended by Laws of Utah 2015, Chapter 182
- 59-12-603, as last amended by Laws of Utah 2011, Chapter 309
- 59-12-703, as last amended by Laws of Utah 2012, Chapter 254
- 59-12-802, as last amended by Laws of Utah 2014, Chapter 50
- 59-12-804, as last amended by Laws of Utah 2014, Chapter 50
- 59-12-1102, as last amended by Laws of Utah 2012, Chapters 212 and 254
- 59-12-1302, as last amended by Laws of Utah 2012, Chapter 254
- 59-12-1402, as last amended by Laws of Utah 2012, Chapter 254
- 59-12-2103, as last amended by Laws of Utah 2015, Chapter 365
- 59-12-2206, as last amended by Laws of Utah 2015, Chapter 275

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-12-205 is amended to read:

59-12-205. Ordinances to conform with statutory amendments -- Distribution of

tax revenue -- Determination of population.

(1) A county, city, or town, in order to maintain in effect sales and use tax ordinances adopted pursuant to Section 59-12-204, shall, within 30 days of an amendment to an applicable provision of Part 1, Tax Collection, adopt amendments to the county's, city's, or town's sales and use tax ordinances as required to conform to the amendments to Part 1, Tax Collection.

(2) Except as provided in Subsections (3) through ~~(5)~~ (6) and subject to Subsection ~~(6)~~ (7):

(a) 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the percentage that the population of the county, city, or town bears to the total population of all counties, cities, and towns in the state; and

(b) (i) except as provided in Subsection (2)(b)(ii), 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215; and

(ii) 50% of each dollar collected from the sales and use tax authorized by this part within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, shall be distributed to the military installation development authority created in Section 63H-1-201.

(3) (a) Beginning on July 1, 2011, and ending on June 30, 2016, the commission shall each year distribute to a county, city, or town the distribution required by this Subsection (3) if:

(i) the county, city, or town is a:

(A) county of the third, fourth, fifth, or sixth class;

(B) city of the fifth class; or

(C) town;

(ii) the county, city, or town received a distribution under this section for the calendar year beginning on January 1, 2008, that was less than the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007;

(iii) (A) for a county described in Subsection (3)(a)(i)(A), the county had located within the unincorporated area of the county for one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; or

(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), the city or town had located within the city or town for one or more days during the calendar year

beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(iv) (A) for a county described in Subsection (3)(a)(i)(A), at least one establishment described in Subsection (3)(a)(iii)(A) located within the unincorporated area of the county for one more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1; or

(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), at least one establishment described in Subsection (3)(a)(iii)(B) located within a city or town for one or more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1.

(b) The commission shall make the distribution required by this Subsection (3) to a county, city, or town described in Subsection (3)(a):

(i) from the distribution required by Subsection (2)(a); and

(ii) before making any other distribution required by this section.

(c) (i) For purposes of this Subsection (3), the distribution is the amount calculated by multiplying the fraction calculated under Subsection (3)(c)(ii) by \$333,583.

(ii) For purposes of Subsection (3)(c)(i):

(A) the numerator of the fraction is the difference calculated by subtracting the distribution a county, city, or town described in Subsection (3)(a) received under this section for the calendar year beginning on January 1, 2008, from the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007; and

(B) the denominator of the fraction is \$333,583.

(d) A distribution required by this Subsection (3) is in addition to any other distribution required by this section.

(4) (a) For fiscal years beginning with fiscal year 1983-84 and ending with fiscal year 2005-06, a county, city, or town may not receive a tax revenue distribution less than .75% of the taxable sales within the boundaries of the county, city, or town.

(b) The commission shall proportionally reduce monthly distributions to any county, city, or town that, but for the reduction, would receive a distribution in excess of 1% of the sales and use tax revenue collected within the boundaries of the county, city, or town.

(5) (a) As used in this Subsection (5):

(i) "Eligible county, city, or town" means a county, city, or town that receives \$2,000 or more in tax

revenue distributions in accordance with Subsection (4) for each of the following fiscal years:

(A) fiscal year 2002-03;

(B) fiscal year 2003-04; and

(C) fiscal year 2004-05.

(ii) "Minimum tax revenue distribution" means the greater of:

(A) the total amount of tax revenue distributions an eligible county, city, or town receives from a tax imposed in accordance with this part for fiscal year 2000-01; or

(B) the total amount of tax revenue distributions an eligible county, city, or town receives from a tax imposed in accordance with this part for fiscal year 2004-05.

(b) (i) Except as provided in Subsection (5)(b)(ii), beginning with fiscal year 2006-07 and ending with fiscal year 2012-13, an eligible county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this part equal to the greater of:

(A) the payment required by Subsection (2); or

(B) the minimum tax revenue distribution.

(ii) If the tax revenue distribution required by Subsection (5)(b)(i) for an eligible county, city, or town is equal to the amount described in Subsection (5)(b)(i)(A) for three consecutive fiscal years, for fiscal years beginning with the fiscal year immediately following that three consecutive fiscal year period, the eligible county, city, or town shall receive the tax revenue distribution equal to the payment required by Subsection (2).

(c) For a fiscal year beginning with fiscal year 2013-14 and ending with fiscal year 2015-16, an eligible county, city, or town shall receive the minimum tax revenue distribution for that fiscal year if for fiscal year 2012-13 the payment required by Subsection (2) to that eligible county, city, or town is less than or equal to the product of:

(i) the minimum tax revenue distribution; and

(ii) .90.

(6) (a) As used in this Subsection (6):

(i) "Eligible county, city, or town" means a county, city, or town that:

(A) receives, in accordance with Subsection (4), \$2,000 or more in tax revenue distributions for fiscal year 2002-03;

(B) receives, in accordance with Subsection (4), \$2,000 or more in tax revenue distributions for fiscal year 2003-04;

(C) receives, in accordance with Subsection (4), \$2,000 or more in tax revenue distributions for fiscal year 2004-05;

(D) for a fiscal year beginning with fiscal year 2012-13 and ending with fiscal year 2015-16, does not receive a tax revenue distribution described in Subsection (5) equal to the amount described in

Subsection (5)(b)(i)(A) for three consecutive fiscal years; and

(E) does not impose a sales and use tax under Section 59-12-2103 on or before July 1, 2016.

(ii) “Minimum tax revenue distribution” means the total amount of tax revenue distributions an eligible county, city, or town receives from a tax imposed in accordance with this part for fiscal year 2004-05.

(b) Beginning with fiscal year 2016-17 and ending with fiscal year 2020-21, an eligible county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this part equal to the greater of:

(i) the payment required by Subsection (2); or

(ii) the minimum tax revenue distribution.

[(6)] (7) (a) Population figures for purposes of this section shall be based on the most recent official census or census estimate of the United States Census Bureau.

(b) If a needed population estimate is not available from the United States Census Bureau, population figures shall be derived from the estimate from the Utah Population Estimates Committee created by executive order of the governor.

(c) The population of a county for purposes of this section shall be determined only from the unincorporated area of the county.

Section 2. Section 59-12-302 is amended to read:

59-12-302. Collection of tax -- Administrative charge.

(1) Except as provided in Subsection (2) or (3), the tax authorized under this part shall be administered, collected, and enforced in accordance with:

(a) the same procedures used to administer, collect, and enforce the tax under:

(i) Part 1, Tax Collection; or

(ii) Part 2, Local Sales and Use Tax Act; and

(b) Chapter 1, General Taxation Policies.

(2) The location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(3) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through [(6)] (7).

(4) The commission:

(a) shall distribute the [revenues] revenue collected from the tax to the county within which the [revenues were] revenue was collected; and

(b) shall retain and deposit an administrative charge in accordance with Section 59-1-306 from [revenues] revenue the commission collects from a tax under this part.

Section 3. Section 59-12-354 is amended to read:

59-12-354. Collection of tax -- Administrative charge.

(1) Except as provided in Subsections (2) and (3), the tax authorized under this part shall be administered, collected, and enforced in accordance with:

(a) the same procedures used to administer, collect, and enforce the tax under:

(i) Part 1, Tax Collection; or

(ii) Part 2, Local Sales and Use Tax Act; and

(b) Chapter 1, General Taxation Policies.

(2) (a) The location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(b) The commission:

(i) except as provided in Subsection (2)(b)(ii), shall distribute the [revenues] revenue collected from the tax to the municipality within which the [revenues were] revenue was collected; and

(ii) shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the [revenues] revenue the commission collects from a tax under this part.

(3) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through [(6)] (7).

Section 4. Section 59-12-403 is amended to read:

59-12-403. Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) For purposes of this section:

(a) “Annexation” means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.

(b) “Annexing area” means an area that is annexed into a city or town.

(2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after April 1, 2008, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the city or town.

(b) The notice described in Subsection (2)(a)(ii) shall state:

(i) that the city or town will enact or repeal a tax or change the rate of a tax under this part;

(ii) the statutory authority for the tax described in Subsection (2)(b)(i);

(iii) the effective date of the tax described in Subsection (2)(b)(i); and

(iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (2)(b)(i), the rate of the tax.

(c) (i) ~~[The] If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Section 59-12-401, 59-12-402, or 59-12-402.1, the enactment of [a] the tax or [a] the tax rate increase takes effect on the first day of the first billing period[-(A)] that begins on or after the effective date of the enactment of the tax or the tax rate increase[; and].~~

~~[(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Section 59-12-401, 59-12-402, or 59-12-402.1.]~~

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is ~~[rendered]~~ produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Section 59-12-401, 59-12-402, or 59-12-402.1.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (2)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (2)(a).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the city or town that annexes the annexing area.

(b) The notice described in Subsection (3)(a)(ii) shall state:

(i) that the annexation described in Subsection (3)(a) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(ii) the statutory authority for the tax described in Subsection (3)(b)(i);

(iii) the effective date of the tax described in Subsection (3)(b)(i); and

(iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (3)(b)(i), the rate of the tax.

(c) (i) ~~[The] If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Section 59-12-401, 59-12-402, or 59-12-402.1, the enactment of [a] the tax or [a] the tax rate increase takes effect on the first day of the first billing period[-(A)] that begins on or after the effective date of the enactment of the tax or the tax rate increase[; and].~~

~~[(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Section 59-12-401, 59-12-402, or 59-12-402.1.]~~

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is ~~[rendered]~~ produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Section 59-12-401, 59-12-402, or 59-12-402.1.

(d) (i) ~~[Notwithstanding Subsection (3)(a), if]~~ If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (3)(a).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(b) ~~[Notwithstanding Subsection (4)(a), a]~~ A tax under this part is not subject to Subsections 59-12-205(2) through ~~[(6)]~~ (7).

(5) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the ~~[revenues]~~ revenue the commission collects from a tax under this part.

Section 5. Section 59-12-603 is amended to read:

59-12-603. County tax -- Bases -- Rates -- Use of revenue -- Adoption of ordinance required -- Advisory board -- Administration -- Collection -- Administrative charge -- Distribution -- Enactment or repeal of tax or tax rate

change -- Effective date -- Notice requirements.

(1) (a) In addition to any other taxes, a county legislative body may, as provided in this part, impose a tax as follows:

(i) (A) a county legislative body of any county may impose a tax of not to exceed 3% on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement; and

(B) beginning on or after January 1, 1999, a county legislative body of any county imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement;

(ii) a county legislative body of any county may impose a tax of not to exceed 1% of all sales of the following that are sold by a restaurant:

- (A) alcoholic beverages;
- (B) food and food ingredients; or
- (C) prepared food; and

(iii) a county legislative body of a county of the first class may impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i).

(b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section 17-31-5.5.

(2) (a) Subject to Subsection (2)(b), revenue from the imposition of the taxes provided for in Subsections (1)(a)(i) through (iii) may be used for:

- (i) financing tourism promotion; and
- (ii) the development, operation, and maintenance of:
 - (A) an airport facility;
 - (B) a convention facility;
 - (C) a cultural facility;
 - (D) a recreation facility; or
 - (E) a tourist facility.

(b) A county of the first class shall expend at least \$450,000 each year of the [revenues] revenue from the imposition of a tax authorized by Subsection (1)(a)(iii) within the county to fund a marketing and ticketing system designed to:

- (i) promote tourism in ski areas within the county by persons that do not reside within the state; and
- (ii) combine the sale of:

(A) ski lift tickets; and

(B) accommodations and services described in Subsection 59-12-103(1)(i).

(3) A tax imposed under this part may be pledged as security for bonds, notes, or other evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local Government Bonding Act, or a community development and renewal agency under Title 17C, Chapter 1, Part 5, Agency Bonds, to finance:

- (a) an airport facility;
- (b) a convention facility;
- (c) a cultural facility;
- (d) a recreation facility; or
- (e) a tourist facility.

(4) (a) ~~[In order to]~~ To impose the tax under Subsection (1), each county legislative body shall adopt an ordinance imposing the tax.

(b) The ordinance under Subsection (4)(a) shall include provisions substantially the same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on those items and sales described in Subsection (1).

(c) The name of the county as the taxing agency shall be substituted for that of the state where necessary, and an additional license is not required if one has been or is issued under Section 59-12-106.

(5) ~~[In order to]~~ To maintain in effect its tax ordinance adopted under this part, each county legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1, Tax Collection, adopt amendments to its tax ordinance to conform with the applicable amendments to Part 1, Tax Collection.

(6) (a) Regardless of whether a county of the first class creates a tourism tax advisory board in accordance with Section 17-31-8, the county legislative body of the county of the first class shall create a tax advisory board in accordance with this Subsection (6).

(b) The tax advisory board shall be composed of nine members appointed as follows:

(i) four members shall be appointed by the county legislative body of the county of the first class as follows:

(A) one member shall be a resident of the unincorporated area of the county;

(B) two members shall be residents of the incorporated area of the county; and

(C) one member shall be a resident of the unincorporated or incorporated area of the county; and

(ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or towns within the county of the first class appointed by an organization representing all mayors of cities and towns within the county of the first class.

(c) Five members of the tax advisory board constitute a quorum.

(d) The county legislative body of the county of the first class shall determine:

(i) terms of the members of the tax advisory board;

(ii) procedures and requirements for removing a member of the tax advisory board;

(iii) voting requirements, except that action of the tax advisory board shall be by at least a majority vote of a quorum of the tax advisory board;

(iv) chairs or other officers of the tax advisory board;

(v) how meetings are to be called and the frequency of meetings; and

(vi) the compensation, if any, of members of the tax advisory board.

(e) The tax advisory board under this Subsection (6) shall advise the county legislative body of the county of the first class on the expenditure of [revenues] revenue collected within the county of the first class from the taxes described in Subsection (1)(a).

(7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies.

(ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through ~~[(6)]~~ (7).

(b) Except as provided in Subsection (7)(c):

(i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the commission shall distribute the [revenues] revenue to the county imposing the tax; and

(ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the [revenues] revenue according to the distribution formula provided in Subsection (8).

(c) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the [revenues] revenue the commission collects from a tax under this part.

(8) The commission shall distribute the [revenues] revenue generated by the tax under Subsection (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the following formula:

(a) the commission shall distribute 70% of the [revenues] revenue based on the percentages

generated by dividing the [revenues] revenue collected by each county under Subsection (1)(a)(i)(B) by the total [revenues] revenue collected by all counties under Subsection ~~(1)(a)(i)(B)~~; and

(b) the commission shall distribute 30% of the [revenues] revenue based on the percentages generated by dividing the population of each county collecting a tax under Subsection (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

(9) (a) For purposes of this Subsection (9):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2, County Annexation.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)(b)(ii) from the county.

(ii) The notice described in Subsection (9)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(b)(ii)(A), the rate of the tax.

(c) (i) ~~[The] If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of [a] the tax or [a] the tax rate increase shall take effect on the first day of the first billing period[-(A)] that begins after the effective date of the enactment of the tax or the tax rate increase[-and].~~

~~[(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1).]~~

(ii) ~~[The] If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of [a] the tax or [a] the tax rate decrease shall take effect on the first day of the last billing period[-(A)] that began before the effective date of the repeal of the tax or the tax rate decrease[-and].~~

~~[(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).]~~

(d) (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (9)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (9)(d)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(d)(ii)(A), the rate of the tax.

(e) (i) ~~[The] If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of [a] the tax or [a] the tax rate increase shall take effect on the first day of the first billing period[;-(A)] that begins after the effective date of the enactment of the tax or the tax rate increase[; and].~~

~~[(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1).]~~

(ii) ~~[The] If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of [a] the tax or [a] the tax rate decrease shall take effect on the first day of the last billing period[;-(A)] that began before the effective date of the repeal of the tax or the tax rate decrease[; and].~~

~~[(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).]~~

Section 6. Section 59-12-703 is amended to read:

59-12-703. Opinion question election -- Base -- Rate -- Imposition of tax -- Expenditure of revenue -- Administration -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) Subject to the other provisions of this section, a county legislative body may submit an opinion question to the residents of that county, by majority vote of all members of the legislative body,

so that each resident of the county, except residents in municipalities that have already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, has an opportunity to express the resident's opinion on the imposition of a local sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the county, to:

(i) fund cultural facilities, recreational facilities, and zoological facilities, botanical organizations, cultural organizations, and zoological organizations, and rural radio stations, in that county; or

(ii) provide funding for a botanical organization, cultural organization, or zoological organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in furtherance of the botanical organization's, cultural organization's, or zoological organization's primary purpose.

(b) The opinion question required by this section shall state:

"Shall (insert the name of the county), Utah, be authorized to impose a .1% sales and use tax for (list the purposes for which the ~~revenues~~ revenue collected from the sales and use tax shall be expended)?"

(c) ~~[Notwithstanding Subsection (1)(a), a] A county legislative body may not impose a tax under this section on:~~

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104;

(ii) sales and uses within ~~[municipalities that have]~~ a municipality that has already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; and

(iii) except as provided in Subsection (1)(e), amounts paid or charged for food and food ingredients.

(d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(e) A county legislative body imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(f) The election shall follow the procedures outlined in Title 11, Chapter 14, Local Government Bonding Act.

(2) (a) If the county legislative body determines that a majority of the county's registered voters voting on the imposition of the tax have voted in favor of the imposition of the tax as prescribed in Subsection (1), the county legislative body may

impose the tax by a majority vote of all members of the legislative body on the transactions:

- (i) described in Subsection (1); and
 - (ii) within the county, including the cities and towns located in the county, except those cities and towns that have already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities.
- (b) A county legislative body may revise county ordinances to reflect statutory changes to the distribution formula or eligible recipients of ~~[revenues]~~ revenue generated from a tax imposed under Subsection (2)(a):
- (i) after the county legislative body submits an opinion question to residents of the county in accordance with Subsection (1) giving them the opportunity to express their opinion on the proposed revisions to county ordinances; and
 - (ii) if the county legislative body determines that a majority of those voting on the opinion question have voted in favor of the revisions.
- (3) Subject to Section 59-12-704, ~~[revenues]~~ revenue collected from a tax imposed under Subsection (2) shall be expended:
- (a) to fund cultural facilities, recreational facilities, and zoological facilities located within the county or a city or town located in the county, except a city or town that has already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities;
 - (b) to fund ongoing operating expenses of:
 - (i) recreational facilities described in Subsection (3)(a);
 - (ii) botanical organizations, cultural organizations, and zoological organizations within the county; and
 - (iii) rural radio stations within the county; and
 - (c) as stated in the opinion question described in Subsection (1).
 - (4) (a) A tax authorized under this part shall be:
 - (i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:
 - (A) the same procedures used to administer, collect, and enforce the tax under:
 - (I) Part 1, Tax Collection; or
 - (II) Part 2, Local Sales and Use Tax Act; and
 - (B) Chapter 1, General Taxation Policies; and
 - (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year period in accordance with this section.
 - (b) A tax under this part is not subject to Subsections 59-12-205(2) through ~~[(6)]~~ (7).

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2, County Annexation.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a county enacts or repeals a tax under this part, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the county.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

(c) (i) ~~[The]~~ If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of [a] the tax takes effect on the first day of the first billing period~~[-(A)]~~ that begins on or after the effective date of the enactment of the tax~~[-and]~~.

~~[(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under this section.]~~

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is ~~[rendered]~~ produced on or after the effective date of the repeal of the tax imposed under this section.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the

requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (5)(e)(ii)(A).

(f) (i) ~~[The] If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of [a] the tax takes effect on the first day of the first billing period[;-(A)] that begins on or after the effective date of the enactment of the tax[; and].~~

~~[(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under this section.]~~

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax imposed under this section.

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 7. Section 59-12-802 is amended to read:

59-12-802. Imposition of rural county health care facilities tax -- Expenditure of tax revenue -- Base -- Rate -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) (a) A county legislative body of a county of the third, fourth, fifth, or sixth class may impose a sales and use tax of up to 1% on the transactions described in Subsection 59-12-103(1) located within the county.

(b) Subject to Subsection (3), the money collected from a tax under this section may be used to fund:

(i) for a county of the third or fourth class, rural county health care facilities in that county; or

(ii) for a county of the fifth or sixth class:

(A) rural emergency medical services in that county;

(B) federally qualified health centers in that county;

(C) freestanding urgent care centers in that county;

(D) rural county health care facilities in that county;

(E) rural health clinics in that county; or

(F) a combination of Subsections (1)(b)(ii)(A) through (E).

(c) Notwithstanding Subsection (1)(a), a county legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104;

(ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in a city that imposes a tax under Section 59-12-804; and

(iii) except as provided in Subsection (1)(e), amounts paid or charged for food and food ingredients.

(d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(e) A county legislative body imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) Before imposing a tax under Subsection (1), a county legislative body shall obtain approval to impose the tax from a majority of the:

(i) members of the county's legislative body; and

(ii) county's registered voters voting on the imposition of the tax.

(b) The county legislative body shall conduct the election according to the procedures and requirements of Title 11, Chapter 14, Local Government Bonding Act.

(3) (a) The money collected from a tax imposed under Subsection (1) by a county legislative body of a county of the third or fourth class may only be used for the financing of:

(i) ongoing operating expenses of a rural county health care facility within that county;

(ii) the acquisition of land for a rural county health care facility within that county; or

(iii) the design, construction, equipping, or furnishing of a rural county health care facility within that county.

(b) The money collected from a tax imposed under Subsection (1) by a county of the fifth or sixth class may only be used to fund:

(i) ongoing operating expenses of a center, clinic, or facility described in Subsection (1)(b)(ii) within that county;

(ii) the acquisition of land for a center, clinic, or facility described in Subsection (1)(b)(ii) within that county;

(iii) the design, construction, equipping, or furnishing of a center, clinic, or facility described in Subsection (1)(b)(ii) within that county; or

(iv) rural emergency medical services within that county.

(4) (a) A tax under this section shall be:

(i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year period by the county legislative body as provided in Subsection (1).

(b) ~~[Notwithstanding Subsection (4)(a)(i), a]~~ A tax under this section is not subject to Subsections 59-12-205(2) through ~~[(6)]~~ (7).

(c) A county legislative body shall distribute money collected from a tax under this section quarterly.

(5) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the ~~[revenues]~~ revenue the commission collects from a tax under this section.

Section 8. Section 59-12-804 is amended to read:

59-12-804. Imposition of rural city hospital tax -- Base -- Rate -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) (a) A city legislative body may impose a sales and use tax of up to 1%:

(i) on the transactions described in Subsection 59-12-103(1) located within the city; and

(ii) to fund rural city hospitals in that city.

(b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(ii) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients.

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(d) A city legislative body imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) Before imposing a tax under Subsection (1)(a), a city legislative body shall obtain approval to impose the tax from a majority of the:

(i) members of the city legislative body; and

(ii) city's registered voters voting on the imposition of the tax.

(b) The city legislative body shall conduct the election according to the procedures and requirements of Title 11, Chapter 14, Local Government Bonding Act.

(3) The money collected from a tax imposed under Subsection (1) may only be used to fund:

(a) ongoing operating expenses of a rural city hospital;

(b) the acquisition of land for a rural city hospital; or

(c) the design, construction, equipping, or furnishing of a rural city hospital.

(4) (a) A tax under this section shall be:

(i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year period by the city legislative body as provided in Subsection (1).

(b) ~~[Notwithstanding Subsection (4)(a)(i), a]~~ A tax under this section is not subject to Subsections 59-12-205(2) through ~~[(6)]~~ (7).

(5) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the ~~[revenues]~~ revenue the commission collects from a tax under this section.

Section 9. Section 59-12-1102 is amended to read:

59-12-1102. Base -- Rate -- Imposition of tax -- Distribution of revenue -- Administration -- Administrative charge -- Commission requirement to retain an amount to be deposited into the Qualified

**Emergency Food Agencies Fund --
Enactment or repeal of tax -- Effective
date -- Notice requirements.**

(1) (a) (i) Subject to Subsections (2) through (6), and in addition to any other tax authorized by this chapter, a county may impose by ordinance a county option sales and use tax of .25% upon the transactions described in Subsection 59-12-103(1).

(ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.

(b) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(c) The county option sales and use tax under this section shall be imposed:

(i) upon transactions that are located within the county, including transactions that are located within municipalities in the county; and

(ii) except as provided in Subsection (1)(d) or (5), beginning on the first day of January:

(A) of the next calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted on or before May 25; or

(B) of the second calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted after May 25.

(d) ~~Notwithstanding Subsection (1)(c)(ii), the~~ The county option sales and use tax under this section shall be imposed:

(i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before September 4, 1997; or

(ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997 but after September 4, 1997.

(2) (a) Before imposing a county option sales and use tax under Subsection (1), a county shall hold two public hearings on separate days in geographically diverse locations in the county.

(b) (i) At least one of the hearings required by Subsection (2)(a) shall have a starting time of no earlier than 6 p.m.

(ii) The earlier of the hearings required by Subsection (2)(a) shall be no less than seven days after the day the first advertisement required by Subsection (2)(c) is published.

(c) (i) Before holding the public hearings required by Subsection (2)(a), the county shall advertise:

(A) its intent to adopt a county option sales and use tax;

(B) the date, time, and location of each public hearing; and

(C) a statement that the purpose of each public hearing is to obtain public comments regarding the proposed tax.

(ii) The advertisement shall be published:

(A) in a newspaper of general circulation in the county once each week for the two weeks preceding the earlier of the two public hearings; and

(B) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks preceding the earlier of the two public hearings.

(iii) The advertisement described in Subsection (2)(c)(ii)(A) shall be no less than 1/8 page in size, and the type used shall be no smaller than 18 point and surrounded by a 1/4-inch border.

(iv) The advertisement described in Subsection (2)(c)(ii)(A) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(v) In accordance with Subsection (2)(c)(ii)(A), whenever possible:

(A) the advertisement shall appear in a newspaper that is published at least five days a week, unless the only newspaper in the county is published less than five days a week; and

(B) the newspaper selected shall be one of general interest and readership in the community, and not one of limited subject matter.

(d) The adoption of an ordinance imposing a county option sales and use tax is subject to a local referendum election and shall be conducted as provided in Title 20A, Chapter 7, Part 6, Local Referenda - Procedures.

(3) (a) Subject to Subsection (5), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is less than 75% of the state population, the tax levied under Subsection (1) shall be distributed to the county in which the tax was collected.

(b) Subject to Subsection (5), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is greater than or equal to 75% of the state population:

(i) 50% of the tax collected under Subsection (1) in each county shall be distributed to the county in which the tax was collected; and

(ii) except as provided in Subsection (3)(c), 50% of the tax collected under Subsection (1) in each county shall be distributed proportionately among all counties imposing the tax, based on the total population of each county.

(c) Except as provided in Subsection (5), the amount to be distributed annually to a county under Subsection (3)(b)(ii), when combined with the amount distributed to the county under Subsection (3)(b)(i), does not equal at least \$75,000, then:

(i) the amount to be distributed annually to that county under Subsection (3)(b)(ii) shall be increased so that, when combined with the amount distributed to the county under Subsection (3)(b)(i),

the amount distributed annually to the county is \$75,000; and

(ii) the amount to be distributed annually to all other counties under Subsection (3)(b)(ii) shall be reduced proportionately to offset the additional amount distributed under Subsection (3)(c)(i).

(d) The commission shall establish rules to implement the distribution of the tax under Subsections (3)(a), (b), and (c).

(4) (a) Except as provided in Subsection (4)(b) or (c), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(b) ~~Notwithstanding Subsection (4)(a), a~~ A tax under this part is not subject to Subsections 59-12-205(2) through ~~(6)~~ (7).

(c) (i) Subject to Subsection (4)(c)(ii), the commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the ~~revenues~~ revenue the commission collects from a tax under this part.

(ii) Notwithstanding Section 59-1-306, the administrative charge described in Subsection (4)(c)(i) shall be calculated by taking a percentage described in Section 59-1-306 of the distribution amounts resulting after:

(A) the applicable distribution calculations under Subsection (3) have been made; and

(B) the commission retains the amount required by Subsection (5).

(5) (a) Beginning on July 1, 2009, the commission shall calculate and retain a portion of the sales and use tax collected under this part as provided in this Subsection (5).

(b) For a county that imposes a tax under this part, the commission shall calculate a percentage each month by dividing the sales and use tax collected under this part for that month within the boundaries of that county by the total sales and use tax collected under this part for that month within the boundaries of all of the counties that impose a tax under this part.

(c) For a county that imposes a tax under this part, the commission shall retain each month an amount equal to the product of:

(i) the percentage the commission determines for the month under Subsection (5)(b) for the county; and

(ii) \$6,354.

(d) The commission shall deposit an amount the commission retains in accordance with this

Subsection (5) into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009.

(e) An amount the commission deposits into the Qualified Emergency Food Agencies Fund shall be expended as provided in Section 35A-8-1009.

(6) (a) For purposes of this Subsection (6):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, County Consolidations and Annexations.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (6)(c) or (d), if, on or after July 1, 2004, a county enacts or repeals a tax under this part:

(A) (I) the enactment shall take effect as provided in Subsection (1)(c); or

(II) the repeal shall take effect on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (6)(b)(ii) from the county.

(ii) The notice described in Subsection (6)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and

(D) if the county enacts the tax described in Subsection (6)(b)(ii)(A), the rate of the tax.

(c) (i) ~~[The] If the billing period for a transaction begins before the effective date of the enactment of the tax under Subsection (1), the enactment of [a] the tax takes effect on the first day of the first billing period[-(A)] that begins on or after the effective date of the enactment of the tax[-; and].~~

~~[(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under Subsection (1).]~~

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is ~~rendered~~ produced on or after the effective date of the repeal of the tax imposed under Subsection (1).

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (6)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (6)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (6)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (6)(e)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (6)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (6)(e)(i) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (6)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (6)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (6)(e)(ii)(A).

(f) (i) ~~[The] If the billing period for a transaction begins before the effective date of the enactment of the tax under Subsection (1), the enactment of [a] the tax takes effect on the first day of the first billing period[;-(A)] that begins on or after the effective date of the enactment of the tax[; and].~~

~~[(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under Subsection (1).]~~

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is ~~[rendered]~~ produced on or after the effective date of the repeal of the tax imposed under Subsection (1).

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (6)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (6)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 10. Section 59-12-1302 is amended to read:

59-12-1302. Imposition of tax -- Base -- Rate -- Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) Beginning on or after January 1, 1998, the governing body of a town may impose a tax as provided in this part in an amount that does not exceed 1%.

(2) A town may impose a tax as provided in this part if the town imposed a license fee or tax on businesses based on gross receipts under Section 10-1-203 on or before January 1, 1996.

(3) A town imposing a tax under this section shall:

(a) except as provided in Subsection (4), impose the tax on the transactions described in Subsection 59-12-103(1) located within the town; and

(b) provide an effective date for the tax as provided in Subsection (5).

(4) (a) ~~[Notwithstanding Subsection (3)(a), a] A town may not impose a tax under this section on:~~

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(ii) except as provided in Subsection (4)(c), amounts paid or charged for food and food ingredients.

(b) For purposes of this Subsection (4), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(c) A town imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a town under Title 10, Chapter 2, Part 4, Annexation.

(ii) "Annexing area" means an area that is annexed into a town.

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the town.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the town will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the town enacts the tax or changes the rate of the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

(c) (i) ~~[The] If the billing period for the transaction begins before the effective date of the enactment of~~

the tax or the tax rate increase imposed under Subsection (1), the enactment of ~~[a] the tax or [a] the tax rate increase~~ takes effect on the first day of the first billing period~~[-(A)]~~ that begins on or after the effective date of the enactment of the tax or the tax rate increase~~[-and]~~.

~~[(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1).]~~

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is ~~[repealed]~~ produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (5)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (5)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the town that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

(D) if the town enacts the tax or changes the rate of the tax described in Subsection (5)(e)(ii)(A), the rate of the tax.

(f) (i) ~~[The] If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of [a] the tax or [a] the tax rate increase takes effect on the first day of the first billing period[-(A)] that begins on or after the~~

effective date of the enactment of the tax or the tax rate increase~~[-and]~~.

~~[(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1).]~~

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is ~~[repealed]~~ produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (5)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (5)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(6) The commission shall:

(a) distribute the ~~[revenues]~~ revenue generated by the tax under this section to the town imposing the tax; and

(b) except as provided in Subsection (8), administer, collect, and enforce the tax authorized under this section in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(7) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the ~~[revenues]~~ revenue the commission collects from a tax under this part.

(8) ~~[Notwithstanding Subsection (6)(b), a]~~ A tax under this section is not subject to Subsections 59-12-205(2) through ~~[(6)]~~ (7).

Section 11. Section 59-12-1402 is amended to read:

59-12-1402. Opinion question election -- Base -- Rate -- Imposition of tax -- Expenditure of revenue -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) Subject to the other provisions of this section, a city or town legislative body subject to this part may submit an opinion question to the residents of that city or town, by majority vote of all members of the legislative body, so that each resident of the city or town has an opportunity to express the resident's opinion on the imposition of a local sales and use tax of .1% on the transactions

described in Subsection 59-12-103(1) located within the city or town, to:

(i) fund cultural facilities, recreational facilities, and zoological facilities and botanical organizations, cultural organizations, and zoological organizations in that city or town; or

(ii) provide funding for a botanical organization, cultural organization, or zoological organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in furtherance of the botanical organization's, cultural organization's, or zoological organization's primary purpose.

(b) The opinion question required by this section shall state:

"Shall (insert the name of the city or town), Utah, be authorized to impose a .1% sales and use tax for (list the purposes for which the ~~revenues~~ revenue collected from the sales and use tax shall be expended)?"

(c) ~~[Notwithstanding Subsection (1)(a), a]~~ A city or town legislative body may not impose a tax under this section:

(i) if the county in which the city or town is located imposes a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities;

(ii) on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(iii) except as provided in Subsection (1)(e), on amounts paid or charged for food and food ingredients.

(d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(e) A city or town legislative body imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(f) Except as provided in Subsection (6), the election shall be held at a regular general election or a municipal general election, as those terms are defined in Section 20A-1-102, and shall follow the procedures outlined in Title 11, Chapter 14, Local Government Bonding Act.

(2) If the city or town legislative body determines that a majority of the city's or town's registered voters voting on the imposition of the tax have voted in favor of the imposition of the tax as prescribed in Subsection (1), the city or town legislative body may impose the tax by a majority vote of all members of the legislative body.

(3) Subject to Section 59-12-1403, ~~revenues~~ revenue collected from a tax imposed under Subsection (2) shall be expended:

(a) to finance cultural facilities, recreational facilities, and zoological facilities within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for cultural facilities, recreational facilities, or zoological facilities;

(b) to finance ongoing operating expenses of:

(i) recreational facilities described in Subsection (3)(a) within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for recreational facilities; or

(ii) botanical organizations, cultural organizations, and zoological organizations within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for the support of botanical organizations, cultural organizations, or zoological organizations; and

(c) as stated in the opinion question described in Subsection (1).

(4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be:

(i) administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) (A) levied for a period of eight years; and

(B) may be reauthorized at the end of the eight-year period in accordance with this section.

(b) (i) If a tax under this part is imposed for the first time on or after July 1, 2011, the tax shall be levied for a period of 10 years.

(ii) If a tax under this part is reauthorized in accordance with Subsection (4)(a) on or after July 1, 2011, the tax shall be reauthorized for a ten-year period.

(c) A tax under this section is not subject to Subsections 59-12-205(2) through ~~[(6)]~~ (7).

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.

(ii) "Annexing area" means an area that is annexed into a city or town.

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the city or town.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the city or town will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

~~(c) (i) [The] If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of [a] the tax takes effect on the first day of the first billing period[-(A)] that begins on or after the effective date of the enactment of the tax[-and].~~

~~[(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under this section.]~~

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is [rendered] produced on or after the effective date of the repeal of the tax imposed under this section.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “catalogue sale.”

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or repeal a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (5)(e)(ii)(A).

~~(f) (i) [The] If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of [a] the tax takes effect on the first day of the first billing period[-(A)] that begins on or after the effective date of the enactment of the tax[-and].~~

~~[(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under this section.]~~

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is [rendered] produced on or after the effective date of the repeal of the tax imposed under this section.

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “catalogue sale.”

(6) (a) Before a city or town legislative body submits an opinion question to the residents of the city or town under Subsection (1), the city or town legislative body shall:

(i) submit to the county legislative body in which the city or town is located a written notice of the intent to submit the opinion question to the residents of the city or town; and

(ii) receive from the county legislative body:

(A) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

(B) a written statement that in accordance with Subsection (6)(b) the results of a county opinion question submitted to the residents of the county under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city or town legislative body to submit the opinion question to the residents of the city or town in accordance with this part.

(b) (i) Within 60 days after the day the county legislative body receives from a city or town legislative body described in Subsection (6)(a) the notice of the intent to submit an opinion question to the residents of the city or town, the county legislative body shall provide the city or town legislative body:

(A) the written resolution described in Subsection (6)(a)(ii)(A); or

(B) written notice that the county legislative body will submit an opinion question to the residents of the county under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under that part.

(ii) If the county legislative body provides the city or town legislative body the written notice that the county legislative body will submit an opinion question as provided in Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no later than, from the date the county legislative body sends the written notice, the later of:

- (A) a 12-month period;
- (B) the next regular primary election; or
- (C) the next regular general election.

(iii) Within 30 days of the date of the canvass of the election at which the opinion question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the city or town legislative body described in Subsection (6)(a) written results of the opinion question submitted by the county legislative body under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

(A) (I) the city or town legislative body may not impose a tax under this part because a majority of the county's registered voters voted in favor of the county imposing the tax and the county legislative body by a majority vote approved the imposition of the tax; or

(II) for at least 12 months from the date the written results are submitted to the city or town legislative body, the city or town legislative body may not submit to the county legislative body a written notice of the intent to submit an opinion question under this part because a majority of the county's registered voters voted against the county imposing the tax and the majority of the registered voters who are residents of the city or town described in Subsection (6)(a) voted against the imposition of the county tax; or

(B) the city or town legislative body may submit the opinion question to the residents of the city or town in accordance with this part because although a majority of the county's registered voters voted against the county imposing the tax, the majority of the registered voters who are residents of the city or town voted for the imposition of the county tax.

(c) Notwithstanding Subsection (6)(b), at any time a county legislative body may provide a city or town legislative body described in Subsection (6)(a) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, which permits the city or town legislative body to submit under Subsection (1) an opinion question to the city's or town's residents.

Section 12. Section 59-12-2103 is amended to read:

59-12-2103. Imposition of tax -- Base -- Rate -- Expenditure of revenue collected from the tax -- Administration, collection, and enforcement of tax by commission -- Administrative charge -- Enactment or repeal of tax -- Annexation -- Notice.

(1) (a) Subject to the other provisions of this section and except as provided in Subsection (2) or (3), beginning on January 1, 2009 and ending on June 30, 2016, if a city or town receives a distribution for the 12 consecutive months of fiscal year 2005-06 because the city or town would have received a tax revenue distribution of less than .75% of the taxable sales within the boundaries of the city or town but for Subsection 59-12-205(4)(a), the city or town legislative body may impose a sales and use tax of up to .20% on the transactions:

- (i) described in Subsection 59-12-103(1); and
- (ii) within the city or town.

(b) A city or town legislative body that imposes a tax under Subsection (1)(a) shall expend the [revenues] revenue collected from the tax for the same purposes for which the city or town may expend the city's or town's general fund [revenues] revenue.

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(2) (a) A city or town legislative body may not impose a tax under this section on:

- (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and
- (ii) except as provided in Subsection (2)(b), amounts paid or charged for food and food ingredients.

(b) A city or town legislative body imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(3) (a) Beginning on January 1, 2009, and ending on June 30, 2016, to impose a tax under this part, a city or town legislative body shall obtain approval from a majority of the members of the city or town legislative body.

(b) If, on June 30, 2016, a city or town is not imposing a tax under this part, the city or town legislative body may not impose a tax under this part beginning on or after July 1, 2016.

(c) (i) If, on June 30, 2016, a city or town imposes a tax under this part, the city or town shall repeal the tax on July 1, 2016, unless, on or after July 1, 2012, but on or before March 31, 2016, the city or town legislative body obtains approval from a majority

vote of the members of the city or town legislative body to continue to impose the tax.

(ii) If a city or town obtains approval under Subsection (3)(c)(i) from a majority vote of the members of the city or town legislative body to continue to impose a tax under this part on or after July 1, 2016, the city or town may impose the tax until no later than June 30, 2030.

(4) The commission shall transmit [revenues] revenue collected within a city or town from a tax under this part:

- (a) to the city or town legislative body;
- (b) monthly; and
- (c) by electronic funds transfer.

(5) (a) Except as provided in Subsection (5)(b), the commission shall administer, collect, and enforce a tax under this part in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

- (A) Part 1, Tax Collection; or
- (B) Part 2, Local Sales and Use Tax Act; and
- (ii) Chapter 1, General Taxation Policies.

(b) A tax under this part is not subject to Subsections 59-12-205(2) through [(6)] (7).

(6) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the [revenues] revenue the commission collects from a tax under this part.

(7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

- (A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (7)(a)(i) from the city or town.

(ii) The notice described in Subsection (7)(a)(i)(B) shall state:

(A) that the city or town will enact or repeal a tax or change the rate of the tax under this part;

(B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);

(C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and

(D) if the city or town enacts the tax or changes the rate of the tax described in Subsection (7)(a)(ii)(A), the rate of the tax.

(b) (i) If the billing period for a transaction begins before the enactment of the tax or the tax rate increase under Subsection (1), the enactment of [a] the tax or [a] the tax rate increase takes effect on the first day of the first billing period that begins on or

after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of [a] the tax or [a] the tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease.

(c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (7)(a)(i) takes effect:

- (A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (7)(a)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

- (A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (7)(d)(ii) from the city or town that annexes the annexing area.

(ii) The notice described in Subsection (7)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (7)(d)(i)(B) will result in the enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and

(D) if the city or town enacts the tax or changes the rate of the tax described in Subsection (7)(d)(ii)(A), the rate of the tax.

(e) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of [a] the tax or [a] the tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the

effective date of the repeal of the tax or the tax rate decrease.

(f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (7)(d)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change under Subsection (7)(d)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 13. Section 59-12-2206 is amended to read:

59-12-2206. Administration, collection, and enforcement of a sales and use tax under this part -- Transmission of revenue monthly by electronic funds transfer -- Transfer of revenue to a public transit district or eligible political subdivision.

(1) Except as provided in Subsection (2), the commission shall administer, collect, and enforce a sales and use tax imposed under this part.

(2) The commission shall administer, collect, and enforce a sales and use tax imposed under this part in accordance with:

(a) the same procedures used to administer, collect, and enforce a tax under:

(i) Part 1, Tax Collection; or

(ii) Part 2, Local Sales and Use Tax Act; and

(b) Chapter 1, General Taxation Policies.

(3) A sales and use tax under this part is not subject to Subsections 59-12-205(2) through [(6)] (7).

(4) Subject to Section 59-12-2207 and except as provided in Subsection (5) or another provision of this part, the state treasurer shall transmit [~~revenues~~] revenue collected within a county, city, or town from a sales and use tax under this part to the county, city, or town legislative body monthly by electronic funds transfer.

(5) Subject to Section 59-12-2207, the state treasurer shall transfer [~~revenues~~] revenue collected within a county, city, or town from a sales and use tax under this part directly to a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act, or an eligible political subdivision as defined in Section 59-12-2219, if the county, city, or town legislative body:

(a) provides written notice to the state treasurer requesting the transfer; and

(b) designates the public transit district or eligible political subdivision to which the county, city, or town legislative body requests the state treasurer to transfer the [~~revenues~~] revenue.

CHAPTER 365**H. B. 10**

Passed March 10, 2016
 Approved March 29, 2016
 Effective May 10, 2016

INITIATIVE AND REFERENDUM AMENDMENTS

Chief Sponsor: Brian M. Greene
 Senate Sponsor: Alvin B. Jackson

LONG TITLE**General Description:**

This bill amends provisions of the Election Code relating to initiatives and referenda.

Highlighted Provisions:

This bill:

- ▶ modifies the definitions of a local law and a local tax law;
- ▶ removes a criminal penalty relating to the statement on an initiative or referendum petition that a person signing the petition has read and understands the law to which the initiative or referendum relates;
- ▶ establishes and modifies deadlines relating to the local initiative and referendum process;
- ▶ modifies provisions relating to property tax referenda; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-1-609, as last amended by Laws of Utah 2011, Chapter 395
 20A-7-101, as last amended by Laws of Utah 2014, Chapters 364 and 396
 20A-7-504, as last amended by Laws of Utah 2000, Chapter 3
 20A-7-601, as last amended by Laws of Utah 2014, Chapter 242
 20A-7-602, as last amended by Laws of Utah 2000, Chapter 3
 20A-7-603, as last amended by Laws of Utah 2014, Chapter 329
 20A-7-604, as enacted by Laws of Utah 1994, Chapter 272
 20A-7-606, as last amended by Laws of Utah 2014, Chapter 396
 20A-7-613, as last amended by Laws of Utah 2015, Chapter 258

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-1-609 is amended to read:**20A-1-609. Omnibus penalties.**

~~[(1) Unless another penalty is specifically provided, any]~~

(1) (a) Except as provided in Subsection (1)(b), a person who violates any provision of this title is guilty of a class B misdemeanor.

(b) Subsection (1)(a) does not apply to:

(i) a provision of this title for which another penalty is expressly stated; or

(ii) Subsection 20A-7-203(2)(h), 20A-7-303(2)(h), 20A-7-503(2)(i), or 20A-7-603(2)(h).

(2) Except as provided by Section 20A-2-101.3 or 20A-2-101.5, a person convicted of any offense under this title may not:

(a) file a declaration of candidacy for any office or appear on the ballot as a candidate for any office during the election cycle in which the violation occurred;

(b) take or hold the office to which he was elected; and

(c) receive the emoluments of the office to which he was elected.

(3) (a) Any person convicted of any offense under this title forfeits the right to vote at any election unless the right to vote is restored as provided in Section 20A-2-101.3 or 20A-2-101.5.

(b) Any person may challenge the right to vote of a person described in Subsection (3)(a) by following the procedures and requirements of Section 20A-3-202.

Section 2. Section 20A-7-101 is amended to read:**20A-7-101. Definitions.**

As used in this chapter:

(1) "Budget officer" means:

(a) for a county, the person designated as budget officer in Section 17-19a-203;

(b) for a city, the person designated as budget officer in Subsection 10-6-106(5); or

(c) for a town, the town council.

(2) "Certified" means that the county clerk has acknowledged a signature as being the signature of a registered voter.

(3) "Circulation" means the process of submitting an initiative or referendum petition to legal voters for their signature.

(4) "Final fiscal impact statement" means a financial statement prepared after voters approve an initiative that contains the information required by Subsection 20A-7-202.5(2) or 20A-7-502.5(2).

(5) "Initial fiscal impact estimate" means:

(a) a financial statement prepared under Section 20A-7-202.5 after the filing of an application for an initiative petition; or

(b) a financial and legal statement prepared under Section 20A-7-502.5 or 20A-7-602.5 for an initiative or referendum petition.

(6) “Initiative” means a new law proposed for adoption by the public as provided in this chapter.

(7) “Initiative packet” means a copy of the initiative petition, a copy of the proposed law, and the signature sheets, all of which have been bound together as a unit.

(8) “Legal signatures” means the number of signatures of legal voters that:

(a) meet the numerical requirements of this chapter; and

(b) have been certified and verified as provided in this chapter.

(9) “Legal voter” means a person who:

(a) is registered to vote; or

(b) becomes registered to vote before the county clerk certifies the signatures on an initiative or referendum petition.

(10) “Local attorney” means the county attorney, city attorney, or town attorney in whose jurisdiction a local initiative or referendum petition is circulated.

(11) “Local clerk” means the county clerk, city recorder, or town clerk in whose jurisdiction a local initiative or referendum petition is circulated.

(12) (a) “Local law” includes:

(i) an ordinance[;];

(ii) a resolution[;];

(iii) a master plan[~~, and any~~];

(iv) a comprehensive zoning regulation adopted by ordinance or resolution[-]; or

(v) other legislative action of a local legislative body.

(b) “Local law” does not include an individual property zoning decision.

(13) “Local legislative body” means the legislative body of a county, city, or town.

(14) “Local obligation law” means a local law passed by the local legislative body regarding a bond that was approved by a majority of qualified voters in an election.

(15) “Local tax law” means a [local] law, passed by a political subdivision with an annual or biannual calendar fiscal year, that increases a tax or imposes a new tax.

(16) “Measure” means a proposed constitutional amendment, an initiative, or referendum.

(17) “Referendum” means a process by which a law passed by the Legislature or by a local legislative body is submitted or referred to the voters for their approval or rejection.

(18) “Referendum packet” means a copy of the referendum petition, a copy of the law being submitted or referred to the voters for their

approval or rejection, and the signature sheets, all of which have been bound together as a unit.

(19) (a) “Signature” means a holographic signature.

(b) “Signature” does not mean an electronic signature.

(20) “Signature sheets” means sheets in the form required by this chapter that are used to collect signatures in support of an initiative or referendum.

(21) “Sponsors” means the legal voters who support the initiative or referendum and who sign the application for petition copies.

(22) “Sufficient” means that the signatures submitted in support of an initiative or referendum petition have been certified and verified as required by this chapter.

(23) “Verified” means acknowledged by the person circulating the petition as required in Sections 20A-7-205 and 20A-7-305.

Section 3. Section 20A-7-504 is amended to read:

**20A-7-504. Circulation requirements --
Local clerk to provide sponsors with materials.**

(1) In order to obtain the necessary number of signatures required by this part, the sponsors shall circulate initiative packets that meet the form requirements of this part.

(2) [The] Within five days after the day on which a local clerk receives an application that complies with the requirements of Section 20A-7-502, the local clerk shall furnish to the sponsors:

(a) one copy of the initiative petition; and

(b) one signature sheet.

(3) The sponsors of the petition shall:

(a) arrange and pay for the printing of all additional copies of the petition and signature sheets; and

(b) ensure that the copies of the petition and signature sheets meet the form requirements of this section.

(4) (a) The sponsors may prepare the initiative for circulation by creating multiple initiative packets.

(b) The sponsors shall create those packets by binding a copy of the initiative petition, a copy of the proposed law, and no more than 50 signature sheets together at the top in such a way that the packets may be conveniently opened for signing.

(c) The sponsors need not attach a uniform number of signature sheets to each initiative packet.

(5) (a) After the sponsors have prepared sufficient initiative packets, they shall return them to the local clerk.

(b) The local clerk shall:

(i) number each of the initiative packets and return them to the sponsors within five working days; and

(ii) keep a record of the numbers assigned to each packet.

Section 4. Section 20A-7-601 is amended to read:

20A-7-601. Referenda -- General signature requirements -- Signature requirements for land use laws and subjurisdictional laws -- Time requirements.

(1) Except as provided in Subsection (2) or (3), a person seeking to have a local law passed by the local legislative body submitted to a vote of the people shall obtain legal signatures equal to:

(a) 10% of all the votes cast in the county, city, or town for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes exceeds 25,000;

(b) 12-1/2% of all the votes cast in the county, city, or town for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 25,000 but is more than 10,000;

(c) 15% of all the votes cast in the county, city, or town for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 10,000 but is more than 2,500;

(d) 20% of all the votes cast in the county, city, or town for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 2,500 but is more than 500;

(e) 25% of all the votes cast in the county, city, or town for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 500 but is more than 250; and

(f) 30% of all the votes cast in the county, city, or town for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 250.

(2) (a) As used in this Subsection (2), "land use law" includes a land use development code, an annexation ordinance, and comprehensive zoning ordinances.

(b) Except as provided in Subsection (3), a person seeking to have a land use law or local obligation law passed by the local legislative body submitted to a vote of the people shall obtain legal signatures equal to:

(i) in a county or in a city of the first or second class, 20% of all votes cast in the county or city for all candidates for president of the United States at the last election at which a president of the United States was elected; and

(ii) in a city of the third, fourth, or fifth class or a town, 35% of all the votes cast in the city or town for all candidates for president of the United States at the last election at which a president of the United States was elected.

(3) (a) As used in this Subsection (3):

(i) "Subjurisdiction" means an area comprised of all precincts and subprecincts in the jurisdiction of a county, city, or town that are subject to a subjurisdictional law.

(ii) "Subjurisdictional law" means a local law or local obligation law passed by a local legislative body that imposes a tax or other payment obligation on property in an area that does not include all precincts and subprecincts under the jurisdiction of the county, city, or town.

(b) A person seeking to have a subjurisdictional law passed by the local legislative body submitted to a vote of the people shall obtain legal signatures of the residents in the subjurisdiction equal to:

(i) 10% of the total votes cast in the subjurisdiction for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes exceeds 25,000;

(ii) 12-1/2% of all the votes cast in the subjurisdiction for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 25,000 but is more than 10,000;

(iii) 15% of all the votes cast in the subjurisdiction for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 10,000 but is more than 2,500;

(iv) 20% of all the votes cast in the subjurisdiction for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 2,500 but is more than 500;

(v) 25% of all the votes cast in the subjurisdiction for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 500 but is more than 250; and

(vi) 30% of all the votes cast in the subjurisdiction for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 250.

(4) (a) Sponsors of any referendum petition challenging, under Subsection (1), (2), or (3) any local law passed by a local legislative body shall file the application within five days after the passage of the local law.

(b) Except as provided in Subsection (4)(c), when a referendum petition has been declared sufficient, the local law that is the subject of the petition does not take effect unless and until the local law is approved by a vote of the people.

(c) When a referendum petition challenging a subjurisdictional law has been declared sufficient, the subjurisdictional law that is the subject of the petition does not take effect unless and until the subjurisdictional law is approved by a vote of the people who reside in the subjurisdiction.

(5) If the referendum passes, the local law that was challenged by the referendum is repealed as of the date of the election.

(6) Nothing in this section authorizes a local legislative body to impose a tax or other payment obligation on a subjurisdiction in order to benefit an area outside of the subjurisdiction.

Section 5. Section 20A-7-602 is amended to read:

20A-7-602. Local referendum process -- Application procedures.

(1) Persons wishing to circulate a referendum petition shall file an application with the local clerk.

(2) The application shall contain:

(a) the name and residence address of at least five sponsors of the referendum petition;

(b) a certification indicating that each of the sponsors:

(i) is a resident of Utah; and

(ii) (A) if the referendum challenges a county ~~ordinance~~ local law, has voted in a regular general election in Utah within the last three years; or

(B) if the referendum challenges a municipal ~~ordinance~~ local law, has voted in a regular municipal election in Utah within the last three years;

(c) the signature of each of the sponsors, attested to by a notary public; and

(d) (i) if the referendum challenges an ordinance or resolution, one copy of the law[-]; or

(ii) if the referendum challenges a local law that is not an ordinance or resolution, a written description of the local law, including the result of the vote on the local law.

Section 6. Section 20A-7-603 is amended to read:

20A-7-603. Form of referendum petition and signature sheets.

(1) (a) Each proposed referendum petition shall be printed in substantially the following form:

“REFERENDUM PETITION To the Honorable _____, County Clerk/City Recorder/Town Clerk:

We, the undersigned citizens of Utah, respectfully order that [~~Ordinance No. _____, entitled (title of ordinance, and, if the petition is against less than the whole ordinance, set forth here the part or parts on which the referendum is sought)~~] (description of local law or portion of local law being challenged), passed by the _____ be referred to the voters for their approval or rejection

at the regular/municipal general election to be held on _____ (month \day \year);

Each signer says:

I have personally signed this petition;

I am registered to vote in Utah or intend to become registered to vote in Utah before the certification of the petition names by the county clerk; and

My residence and post office address are written correctly after my name.”

(b) The sponsors of a referendum shall attach a copy of the law that is the subject of the referendum to each referendum petition.

(2) Each signature sheet shall:

(a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line three-fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) contain the title of the referendum printed below the horizontal line;

(d) contain the word “Warning” printed or typed at the top of each signature sheet under the title of the referendum;

(e) contain, to the right of the word “Warning,” the following statement printed or typed in not less than eight-point, single-leaded type:

“It is a class A misdemeanor for [~~anyone~~] an individual to sign [~~any~~] a referendum petition with any other name than [~~his~~] the individual’s own name, or to knowingly [~~to~~] sign [~~his~~] the individual’s name more than once for the same measure, or to sign a referendum petition when [~~he~~] the individual knows [~~he~~] that the individual is not a registered voter and knows that [~~he~~] the individual does not intend to become registered to vote before the certification of the petition names by the county clerk.”;

(f) contain horizontally ruled lines three-eighths inch apart under the “Warning” statement required by this section;

(g) be vertically divided into columns as follows:

(i) the first column shall appear at the extreme left of the sheet, be five-eighths inch wide, be headed with “For Office Use Only,” and be subdivided with a light vertical line down the middle;

(ii) the next column shall be 2-1/2 inches wide, headed “Registered Voter’s Printed Name (must be legible to be counted);”

(iii) the next column shall be 2-1/2 inches wide, headed “Signature of Registered Voter”;

(iv) the next column shall be one inch wide, headed “Birth Date or Age (Optional);” and

(v) the final column shall be 4-3/8 inches wide, headed “Street Address, City, Zip Code”;

(h) spanning the sheet horizontally beneath each row on which a registered voter may submit the

information described in Subsection (2)(g), contain the following statement printed or typed in not less than eight-point, single-leaded type: "By signing this petition, you are stating that you have read and understand the law this petition seeks to overturn."; and

(i) at the bottom of the sheet, contain the following statement: "Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records."

(3) The final page of each referendum packet shall contain the following printed or typed statement:

"Verification

State of Utah, County of ____

I, _____, of ____, hereby state that:

I am a resident of Utah and am at least 18 years old;

All the names that appear in this referendum packet were signed by persons who professed to be the persons whose names appear in it, and each of them signed his name on it in my presence;

I believe that each has printed and signed his name and written his post office address and residence correctly, and that each signer is registered to vote in Utah or intends to become registered to vote before the certification of the petition names by the county clerk.

"

(4) The forms prescribed in this section are not mandatory, and, if substantially followed, the referendum petitions are sufficient, notwithstanding clerical and merely technical errors.

Section 7. Section 20A-7-604 is amended to read:

20A-7-604. Circulation requirements -- Local clerk to provide sponsors with materials.

(1) In order to obtain the necessary number of signatures required by this part, the sponsors shall circulate referendum packets that meet the form requirements of this part.

(2) [The] Within five days after the day on which a local clerk receives an application that complies with the requirements of Section 20A-7-602, the local clerk shall furnish to the sponsors:

- (a) five copies of the referendum petition; and
- (b) five signature sheets.
- (3) The sponsors of the petition shall:

(a) arrange and pay for the printing of all additional copies of the petition and signature sheets; and

(b) ensure that the copies of the petition and signature sheets meet the form requirements of this section.

(4) (a) The sponsors may prepare the referendum for circulation by creating multiple referendum packets.

(b) The sponsors shall create those packets by binding a copy of the referendum petition, a copy of the law that is the subject of the referendum, and no more than 50 signature sheets together at the top in such a way that the packets may be conveniently opened for signing.

(c) The sponsors need not attach a uniform number of signature sheets to each referendum packet.

(5) (a) After the sponsors have prepared sufficient referendum packets, they shall return them to the local clerk.

(b) The local clerk shall:

(i) number each of the referendum packets and return them to the sponsors within five working days; and

(ii) keep a record of the numbers assigned to each packet.

Section 8. Section 20A-7-606 is amended to read:

20A-7-606. Submitting the referendum petition -- Certification of signatures by the county clerks -- Transfer to local clerk.

(1) (a) The sponsors shall deliver each signed and verified referendum packet to the county clerk of the county in which the packet was circulated no later than 45 days after the day on which the ~~local law is passed~~ sponsors receive the items described in Subsection ~~20A-7-604(2)~~ from the local clerk.

(b) A sponsor may not submit a referendum packet after the deadline established in this Subsection (1).

(2) (a) No later than 15 days after the day on which a county clerk receives a referendum packet under Subsection (1)(a), the county clerk shall:

(i) check the names of all persons completing the verification on the last page of each referendum packet to determine whether those persons are Utah residents and are at least 18 years old; and

(ii) submit the name of each of those persons who is not a Utah resident or who is not at least 18 years old to the attorney general and county attorney.

(b) The county clerk may not certify a signature under Subsection (3) on a referendum packet that is not verified in accordance with Section 20A-7-605.

(3) No later than 30 days after the day on which a county clerk receives a referendum packet under Subsection (1)(a), the county clerk shall:

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-606.3;

(b) certify on the referendum petition whether each name is that of a registered voter; and

(c) deliver all of the verified referendum packets to the local clerk.

Section 9. Section 20A-7-613 is amended to read:

20A-7-613. Property tax referendum petition.

(1) As used in this section [~~is~~ ~~as~~] ~~“Certified”~~, “certified tax rate” [~~is as~~] means the same as that term is defined in Subsection 59-2-924(3)(a).

~~[(b) “Fiscal year taxing entity” means a taxing entity that operates under a fiscal year that begins on July 1 and ends on June 30.]~~

(2) Except as provided in this section, the requirements of this part apply to a referendum petition challenging a [fiscal year] taxing entity’s legislative body’s vote to impose a tax rate that exceeds the certified tax rate.

(3) Notwithstanding Subsection 20A-7-604(5), the local clerk shall number each of the referendum packets and return them to the sponsors within two working days.

(4) Notwithstanding Subsection 20A-7-606(1), the sponsors shall deliver each signed and verified referendum packet to the county clerk of the county in which the packet was circulated no later than 40 days after the day on which the local clerk complies with Subsection (3).

(5) Notwithstanding Subsections 20A-7-606(2) and (3), the county clerk shall take the actions required in Subsections 20A-7-606(2) and (3) within 10 working days after the day on which the county clerk receives the signed and verified referendum packet as described in Subsection (4).

(6) The local clerk shall take the actions required by Section 20A-7-607 within two working days after the day on which the local clerk receives the referendum packets from the county clerk.

(7) Notwithstanding Subsection 20A-7-608(2), the local attorney shall prepare the ballot title within two working days after the day on which the referendum petition is declared sufficient for submission to a vote of the people.

(8) Notwithstanding Subsection 20A-7-609(2)(c), a referendum that qualifies for the ballot under this section shall appear on the ballot for the earlier of the next regular general election or the next municipal general election unless a special election is called.

(9) Notwithstanding the requirements related to absentee ballots under this title:

(a) the election officer shall prepare absentee ballots for those voters who have requested an absentee ballot as soon as possible after the ballot title is prepared as described in Subsection (7); and

(b) the election officer shall mail absentee ballots on a referendum under this section the later of:

(i) the time provided in Section 20A-3-305 or 20A-16-403; or

(ii) the time that absentee ballots are prepared for mailing under this section.

(10) Section 20A-7-402 does not apply to a referendum described in this section.

(11) (a) If a majority of voters does not vote against imposing the tax at a rate calculated to generate the increased revenue budgeted, adopted, and approved by the [fiscal year] taxing entity’s legislative body:

(i) the certified tax rate for the fiscal year during which the referendum petition is filed is its most recent certified tax rate; and

(ii) the proposed increased revenues for purposes of establishing the certified tax rate for the fiscal year after the fiscal year described in Subsection (11)(a)(i) are the proposed increased revenues budgeted, adopted, and approved by the [fiscal year] taxing entity’s legislative body before the filing of the referendum petition.

(b) If a majority of voters votes against imposing a tax at the rate established by the vote of the [fiscal year] taxing entity’s legislative body, the certified tax rate for the [fiscal year] taxing entity is [its] the taxing entity’s most recent certified tax rate.

(c) If the tax rate is set in accordance with Subsection (11)(a)(ii), a [fiscal year] taxing entity is not required to comply with the notice and public hearing requirements of Section 59-2-919 if the [fiscal year] taxing entity complies with those notice and public hearing requirements before the referendum petition is filed.

(12) The ballot title shall, at a minimum, include in substantially this form the following: “Shall the [name of the taxing entity] be authorized to levy a tax rate in the amount sufficient to generate an increased property tax revenue of [amount] for fiscal year [year] as budgeted, adopted, and approved by the [name of the taxing entity]?”.

(13) A [fiscal year] taxing entity shall pay the county the costs incurred by the county that are directly related to meeting the requirements of this section and that the county would not have incurred but for compliance with this section.

(14) (a) An election officer shall include on a ballot a referendum that has not yet qualified for placement on the ballot, if:

(i) sponsors file an application for a referendum described in this section;

(ii) the ballot will be used for the election for which the sponsors are attempting to qualify the referendum; and

(iii) the deadline for qualifying the referendum for placement on the ballot occurs after the day on which the ballot will be printed.

(b) If an election officer includes on a ballot a referendum described in Subsection (14)(a), the ballot title shall comply with Subsection (12).

(c) If an election officer includes on a ballot a referendum described in Subsection (14)(a) that does not qualify for placement on the ballot, the election officer shall inform the voters by any practicable method that the referendum has not qualified for the ballot and that votes cast in relation to the referendum will not be counted.

CHAPTER 366**H. B. 23**

Passed February 29, 2016

Approved March 29, 2016

Effective May 10, 2016

(Retrospective operation to January 1, 2015)

PRIVILEGE TAX AMENDMENTSChief Sponsor: Jon E. Starnard
Senate Sponsor: Curtis S. Bramble**LONG TITLE****General Description:**

This bill modifies the privilege tax statute.

Highlighted Provisions:

This bill:

- ▶ describes exclusive possession as it relates to a privilege tax; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides for retrospective operation.

Utah Code Sections Affected:**AMENDS:**

59-4-101, as last amended by Laws of Utah 2015, Chapter 199

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 59-4-101 is amended to read:****59-4-101. Tax basis -- Exceptions -- Assessment and collection.**

(1) (a) Except as provided in Subsections (1)(b) ~~and~~, (1)(c), and (3), a tax is imposed on the possession or other beneficial use enjoyed by any person of any real or personal property ~~which~~ that is exempt for any reason ~~is exempt~~ from taxation, if that property is used in connection with a business conducted for profit.

(b) Any interest remaining in the state in state lands after subtracting amounts paid or due in part payment of the purchase price as provided in Subsection 59-2-1103(2)(b)(i) under a contract of sale is subject to taxation under this chapter regardless of whether the property is used in connection with a business conducted for profit.

(c) The tax imposed under Subsection (1)(a) does not apply to property exempt from taxation under Section 59-2-1114.

(2) (a) The tax imposed under this chapter is the same amount that the ad valorem property tax would be if the possessor or user were the owner of the property.

(b) The amount of any payments ~~which~~ that are made in lieu of taxes is credited against the tax imposed on the beneficial use of property owned by the federal government.

(3) A tax is not imposed under this chapter on the following:

(a) the use of property ~~which~~ that is a concession in, or relative to, the use of a public airport, park, fairground, or similar property ~~which~~ that is available as a matter of right to the use of the general public;

(b) the use or possession of property by a religious, educational, or charitable organization;

(c) the use or possession of property if the revenue generated by the possessor or user of the property through its possession or use of the property inures only to the benefit of a religious, educational, or charitable organization and not to the benefit of any other person;

(d) the possession or other beneficial use of public land occupied under the terms of an agricultural lease or permit issued by the United States or this state;

(e) the use or possession of any lease, permit, or easement unless the lease, permit, or easement entitles the lessee or permittee to exclusive possession of the premises to which the lease, permit, or easement relates ~~Every lessee, permittee, or other holder of a right to remove or extract the mineral covered by the holder's lease, right, permit, or easement except from brines of the Great Salt Lake, is considered to be in possession of the premises, notwithstanding the fact that other parties may have a similar right to remove or extract another mineral from the same lands or estates~~;

(f) the use or possession of property by a public agency, as defined in Section 11-13-103, to the extent that the ownership interest of the public agency in that property is subject to a fee in lieu of ad valorem property tax under Section 11-13-302; or

(g) the possession or beneficial use of public property as a tollway by a private entity through a tollway development agreement as defined in Section 72-6-202.

(4) For purposes of Subsection (3)(e):

(a) every lessee, permittee, or other holder of a right to remove or extract the mineral covered by the holder's lease, right, permit, or easement, except from brines of the Great Salt Lake, is considered to be in possession of the premises, regardless of whether another party has a similar right to remove or extract another mineral from the same property; and

(b) a lessee, permittee, or holder of an easement still has exclusive possession of the premises if the owner has the right to enter the premises, approve leasehold improvements, or inspect the premises.

~~(4)~~ (5) A tax imposed under this chapter is assessed to the possessors or users of the property on the same forms, and collected and distributed at the same time and in the same manner, as taxes assessed owners, possessors, or other claimants of property ~~which~~ that is subject to ad valorem property taxation. The tax is not a lien against the property, and no tax-exempt property may be attached, encumbered, sold, or otherwise affected for the collection of the tax.

~~[(5)]~~ (6) Sections 59-2-301.1 through 59-2-301.7 apply for purposes of assessing a tax under this chapter.

Section 2. Retrospective operation.

This bill has retrospective operation to January 1, 2015.

CHAPTER 367**H. B. 25**

Passed February 29, 2016

Approved March 29, 2016

Effective January 1, 2017

PROPERTY TAX CHANGES

Chief Sponsor: Daniel McCay
Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill amends provisions related to property tax.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the calculation of certain property tax rates;
- ▶ repeals obsolete language; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 20A-7-613, as last amended by Laws of Utah 2015, Chapter 258
- 53A-16-106, as last amended by Laws of Utah 2008, Chapters 61, 231, and 236
- 53A-16-113, as last amended by Laws of Utah 2013, Chapter 287
- 53A-17a-103, as last amended by Laws of Utah 2015, Chapter 287
- 53A-17a-133, as last amended by Laws of Utah 2015, Chapter 287
- 53A-17a-164, as last amended by Laws of Utah 2013, Chapters 178 and 313
- 53A-19-105, as last amended by Laws of Utah 2009, Chapter 204
- 59-2-102, as last amended by Laws of Utah 2015, Chapters 133, 198, and 287
- 59-2-913, as last amended by Laws of Utah 2014, Chapter 279
- 59-2-919, as and further amended by Revisor Instructions, Laws of Utah 2014, Chapter 256 and last amended by Laws of Utah 2014, Chapter 256
- 59-2-924, as last amended by Laws of Utah 2014, Chapter 270
- 59-2-924.3, as last amended by Laws of Utah 2011, Chapter 371
- 59-2-926, as last amended by Laws of Utah 2009, Chapter 388
- 63I-1-259, as last amended by Laws of Utah 2015, Chapters 224, 275, and 467

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-7-613 is amended to read:**20A-7-613. Property tax referendum petition.**

- (1) As used in this section:

(a) "Certified tax rate" [is as] means the same as that term is defined in [Subsection] Section 59-2-924[(3)(a)].

(b) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that begins on July 1 and ends on June 30.

(2) Except as provided in this section, the requirements of this part apply to a referendum petition challenging a fiscal year taxing entity's legislative body's vote to impose a tax rate that exceeds the certified tax rate.

(3) Notwithstanding Subsection 20A-7-604(5), the local clerk shall number each of the referendum packets and return them to the sponsors within two working days.

(4) Notwithstanding Subsection 20A-7-606(1), the sponsors shall deliver each signed and verified referendum packet to the county clerk of the county in which the packet was circulated no later than 40 days after the day on which the local clerk complies with Subsection (3).

(5) Notwithstanding Subsections 20A-7-606(2) and (3), the county clerk shall take the actions required in Subsections 20A-7-606(2) and (3) within 10 working days after the day on which the county clerk receives the signed and verified referendum packet as described in Subsection (4).

(6) The local clerk shall take the actions required by Section 20A-7-607 within twoworking days after the day on which the local clerk receives the referendum packets from the county clerk.

(7) Notwithstanding Subsection 20A-7-608(2), the local attorney shall prepare the ballot title within two working days after the day on which the referendum petition is declared sufficient for submission to a vote of the people.

(8) Notwithstanding Subsection 20A-7-609(2)(c), a referendum that qualifies for the ballot under this section shall appear on the ballot for the earlier of the next regular general election or the next municipal general election unless a special election is called.

(9) Notwithstanding the requirements related to absentee ballots under this title:

(a) the election officer shall prepare absentee ballots for those voters who have requested an absentee ballot as soon as possible after the ballot title is prepared as described in Subsection (7); and

(b) the election officer shall mail absentee ballots on a referendum under this section the later of:

(i) the time provided in Section 20A-3-305 or 20A-16-403; or

(ii) the time that absentee ballots are prepared for mailing under this section.

(10) Section 20A-7-402 does not apply to a referendum described in this section.

(11) (a) If a majority of voters does not vote against imposing the tax at a rate calculated to generate the increased revenue budgeted, adopted,

and approved by the fiscal year taxing entity's legislative body:

(i) the certified tax rate for the fiscal year during which the referendum petition is filed is its most recent certified tax rate; and

(ii) the proposed increased revenues for purposes of establishing the certified tax rate for the fiscal year after the fiscal year described in Subsection (11)(a)(i) are the proposed increased revenues budgeted, adopted, and approved by the fiscal year taxing entity's legislative body before the filing of the referendum petition.

(b) If a majority of voters votes against imposing a tax at the rate established by the vote of the fiscal year taxing entity's legislative body, the certified tax rate for the fiscal year taxing entity is its most recent certified tax rate.

(c) If the tax rate is set in accordance with Subsection (11)(a)(ii), a fiscal year taxing entity is not required to comply with the notice and public hearing requirements of Section 59-2-919 if the fiscal year taxing entity complies with those notice and public hearing requirements before the referendum petition is filed.

(12) The ballot title shall, at a minimum, include in substantially this form the following: "Shall the [name of the taxing entity] be authorized to levy a tax rate in the amount sufficient to generate an increased property tax revenue of [amount] for fiscal year [year] as budgeted, adopted, and approved by the [name of the taxing entity]".

(13) A fiscal year taxing entity shall pay the county the costs incurred by the county that are directly related to meeting the requirements of this section and that the county would not have incurred but for compliance with this section.

(14) (a) An election officer shall include on a ballot a referendum that has not yet qualified for placement on the ballot, if:

(i) sponsors file an application for a referendum described in this section;

(ii) the ballot will be used for the election for which the sponsors are attempting to qualify the referendum; and

(iii) the deadline for qualifying the referendum for placement on the ballot occurs after the day on which the ballot will be printed.

(b) If an election officer includes on a ballot a referendum described in Subsection (14)(a), the ballot title shall comply with Subsection (12).

(c) If an election officer includes on a ballot a referendum described in Subsection (14)(a) that does not qualify for placement on the ballot, the election officer shall inform the voters by any practicable method that the referendum has not qualified for the ballot and that votes cast in relation to the referendum will not be counted.

Section 2. Section 53A-16-106 is amended to read:

53A-16-106. Annual certification of tax rate proposed by local school board -- Inclusion of school district budget -- Modified filing date.

(1) Prior to June 22 of each year, each local school board shall certify to the county legislative body in which the district is located, on forms prescribed by the State Tax Commission, the proposed tax rate approved by the local school board.

(2) A copy of the district's budget, including items under Section 53A-19-101, and a certified copy of the local school board's resolution which approved the budget and set the tax rate for the subsequent school year beginning July 1 shall accompany the tax rate.

(3) If the tax rate approved by the board is in excess of the ~~the~~^[2]certified tax rate^[2], as defined ~~[under Subsection]~~ in Section 59-2-924~~[(3)(a)]~~, the date for filing the tax rate and budget adopted by the board shall be that established under Section 59-2-919.

Section 3. Section 53A-16-113 is amended to read:

53A-16-113. Capital local levy -- First class county required levy -- Allowable uses of collected revenue.

(1) (a) Subject to the other requirements of this section, a local school board may levy a tax to fund the school district's capital projects.

(b) A tax rate imposed by a school district pursuant to this section may not exceed .0030 per dollar of taxable value in any calendar year.

(2) A school district that imposes a capital local levy in the calendar year beginning on January 1, 2012, is exempt from the public notice and hearing requirements of Section 59-2-919 if the school district budgets an amount of ad valorem property tax revenue equal to or less than the sum of the following amounts:

(a) the amount of revenue generated during the calendar year beginning on January 1, 2011, from the sum of the following levies of a school district:

(i) a capital outlay levy imposed under Section 53A-16-107; and

(ii) the portion of the 10% of basic levy described in Section 53A-17a-145 that is budgeted for debt service or capital outlay; and

(b) revenue from eligible new growth as defined in ~~[Subsection]~~ Section 59-2-924~~[(4)(e)]~~.

(3) Beginning January 1, 2012, in order to qualify for receipt of the state contribution toward the minimum school program described in Section 53A-17a-103, a local school board in a county of the first class shall impose a capital local levy of at least .0006 per dollar of taxable value.

(4) (a) The county treasurer of a county of the first class shall distribute revenues generated by the .0006 portion of the capital local levy required in

Subsection (2) to school districts within the county in accordance with Section 53A-16-114.

(b) If a school district in a county of the first class imposes a capital local levy pursuant to this section that exceeds .0006 per dollar of taxable value, the county treasurer shall distribute revenues generated by the portion of the capital local levy that exceeds .0006 to the school district imposing the levy.

(5) (a) Subject to Subsections (5)(b), (c), and (d), for fiscal year 2013-14, a local school board may utilize the proceeds of a maximum of .0024 per dollar of taxable value of the local school board's annual capital local levy for general fund purposes if the proceeds are not committed or dedicated to pay debt service or bond payments.

(b) If a local school board uses the proceeds described in Subsection (5)(a) for general fund purposes, the local school board shall notify the public of the local school board's use of the capital local levy proceeds for general fund purposes:

(i) prior to the local school board's budget hearing in accordance with the notification requirements described in Section 53A-19-102; and

(ii) at a budget hearing required in Section 53A-19-102.

(c) A local school board may not use the proceeds described in Subsection (5)(a) to fund the following accounting function classifications as provided in the Financial Accounting for Local and State School Systems guidelines developed by the National Center for Education Statistics:

(i) 2300 Support Services - General District Administration; or

(ii) 2500 Support Services - Central Services.

(d) A local school board may not use the proceeds from a distribution described in Subsection (4) for general fund purposes.

Section 4. Section 53A-17a-103 is amended to read:

53A-17a-103. Definitions.

As used in this chapter:

(1) "Basic state-supported school program" or "basic program" means public education programs for kindergarten, elementary, and secondary school students that are operated and maintained for the amount derived by multiplying the number of weighted pupil units for each school district or charter school by the value established each year in statute, except as otherwise provided in this chapter.

(2) (a) "Certified revenue levy" means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:

(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a minimum basic tax rate, as specified in Section 53A-17a-135; and

(ii) the product of:

(A) eligible new growth, as defined in ~~[(4)]~~ Section 59-2-924~~[3]~~ and ~~[(11)]~~ rules of the State Tax Commission; and

(B) the minimum basic tax rate certified by the State Tax Commission for the previous year.

(b) For purposes of this Subsection (2), "ad valorem property tax revenue" does not include property tax revenue received statewide from personal property that is:

(i) assessed by a county assessor in accordance with Title 59, Chapter 2, Part 3, County Assessment; and

(ii) semiconductor manufacturing equipment.

(c) For purposes of calculating the certified revenue levy described in this Subsection (2), the State Tax Commission shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

(ii) the taxable value of real and personal property assessed by the State Tax Commission; and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.

(3) "Pupil in average daily membership (ADM)" means a full-day equivalent pupil.

(4) (a) "State-supported minimum school program" or "Minimum School Program" means public school programs for kindergarten, elementary, and secondary schools as described in this Subsection (4).

(b) The minimum school program established in school districts and charter schools shall include the equivalent of a school term of nine months as determined by the State Board of Education.

(c) (i) The board shall establish the number of days or equivalent instructional hours that school is held for an academic school year.

(ii) Education, enhanced by utilization of technologically enriched delivery systems, when approved by local school boards or charter school governing boards, shall receive full support by the State Board of Education as it pertains to fulfilling the attendance requirements, excluding time spent viewing commercial advertising.

(d) (i) A local school board or charter school governing board may reallocate up to 32 instructional hours or [4] four school days established under Subsection ~~(4)~~(c) for teacher preparation time or teacher professional development.

(ii) A reallocation of instructional hours or school days under Subsection (4)(d)(i) is subject to the approval of two-thirds of the members of a local school board or charter school governing board voting in a regularly scheduled meeting:

(A) at which a quorum of the local school board or charter school governing board is present; and

(B) held in compliance with Title 52, Chapter 4, Open and Public Meetings Act.

(iii) If a local school board or charter school governing board reallocates instructional hours or school days as provided by this Subsection (4)(d), the school district or charter school shall notify students' parents and guardians of the school calendar at least 90 days before the beginning of the school year.

(iv) Instructional hours or school days reallocated for teacher preparation time or teacher professional development pursuant to this Subsection (4)(d) is considered part of a school term referred to in Subsection (4)(b).

(e) The Minimum School Program includes a program or allocation funded by a line item appropriation or other appropriation designated as follows:

- (i) Basic School Program;
- (ii) Related to Basic Programs;
- (iii) Voted and Board Levy Programs; or
- (iv) Minimum School Program.

(5) "Weighted pupil unit or units or WPU or WPU's" means the unit of measure of factors that is computed in accordance with this chapter for the purpose of determining the costs of a program on a uniform basis for each district.

Section 5. Section 53A-17a-133 is amended to read:

53A-17a-133. State-supported voted local levy authorized -- Election requirements -- State guarantee -- Reconsideration of the program.

(1) As used in this section, "voted and board local levy funding balance" means the difference between:

- (a) the amount appropriated for the voted and board local levy program in a fiscal year; and
- (b) the amount necessary to provide the state guarantee per weighted pupil unit as determined under this section and Section 53A-17a-164 in the same fiscal year.

(2) An election to consider adoption or modification of a voted local levy is required if initiative petitions signed by 10% of the number of electors who voted at the last preceding general election are presented to the local school board or by action of the board.

(3) (a) (i) To impose a voted local levy, a majority of the electors of a district voting at an election in the manner set forth in Subsections (9) and (10) must vote in favor of a special tax.

(ii) The tax rate may not exceed .002 per dollar of taxable value.

(b) Except as provided in Subsection (3)(c), in order to receive state support the first year, a

district must receive voter approval no later than December 1 of the year prior to implementation.

(c) Beginning on or after January 1, 2012, a school district may receive state support in accordance with Subsection (4) without complying with the requirements of Subsection (3)(b) if the local school board imposed a tax in accordance with this section during the taxable year beginning on January 1, 2011 and ending on December 31, 2011.

(4) (a) In addition to the revenue a school district collects from the imposition of a levy pursuant to this section, the state shall contribute an amount sufficient to guarantee \$33.27 per weighted pupil unit for each .0001 of the first .0016 per dollar of taxable value.

(b) The same dollar amount guarantee per weighted pupil unit for the .0016 per dollar of taxable value under Subsection (4)(a) shall apply to the portion of the board local levy authorized in Section 53A-17a-164, so that the guarantee shall apply up to a total of .002 per dollar of taxable value if a school district levies a tax rate under both programs.

(c) (i) Beginning July 1, 2015, the \$33.27 guarantee under Subsections (4)(a) and (b) shall be indexed each year to the value of the weighted pupil unit for the grades 1 through 12 program by making the value of the guarantee equal to .011194 times the value of the prior year's weighted pupil unit for the grades 1 through 12 program.

(ii) The guarantee shall increase by .0005 times the value of the prior year's weighted pupil unit for the grades 1 through 12 program for each succeeding year subject to the Legislature appropriating funds for an increase in the guarantee.

(d) (i) The amount of state guarantee money to which a school district would otherwise be entitled to receive under this Subsection (4) may not be reduced for the sole reason that the district's levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 pursuant to changes in property valuation.

(ii) Subsection (4)(d)(i) applies for a period of five years following any such change in the certified tax rate.

(e) The guarantee provided under this section does not apply to the portion of a voted local levy rate that exceeds the voted local levy rate that was in effect for the previous fiscal year, unless an increase in the voted local levy rate was authorized in an election conducted on or after July 1 of the previous fiscal year and before December 2 of the previous fiscal year.

(f) (i) If a voted and board local levy funding balance exists for the prior fiscal year, the State Board of Education shall:

(A) use the voted and board local levy funding balance to increase the value of the state guarantee per weighted pupil unit described in Subsection (4)(c) in the current fiscal year; and

(B) distribute the state contribution to the voted and board local levy programs to school districts

based on the increased value of the state guarantee per weighted pupil unit described in Subsection (4)(f)(i)(A).

(ii) The State Board of Education shall report action taken under this Subsection (4)(f) to the Office of the Legislative Fiscal Analyst and the Governor's Office of Planning and Budget.

(5) (a) An election to modify an existing voted local levy is not a reconsideration of the existing authority unless the proposition submitted to the electors expressly so states.

(b) A majority vote opposing a modification does not deprive the district of authority to continue the levy.

(c) If adoption of a voted local levy is contingent upon an offset reducing other local school board levies, the board must allow the electors, in an election, to consider modifying or discontinuing the imposition of the levy prior to a subsequent increase in other levies that would increase the total local school board levy.

(d) Nothing contained in this section terminates, without an election, the authority of a school district to continue imposing an existing voted local levy previously authorized by the voters as a voted leeway program.

(6) Notwithstanding Section 59-2-919, a school district may budget an increased amount of ad valorem property tax revenue derived from a voted local levy imposed under this section in addition to revenue from eligible new growth as defined in [Subsection] Section 59-2-924[(4)], without having to comply with the notice requirements of Section 59-2-919, if:

(a) the voted local levy is approved:

(i) in accordance with Subsections (9) and (10) on or after January 1, 2003; and

(ii) within the four-year period immediately preceding the year in which the school district seeks to budget an increased amount of ad valorem property tax revenue derived from the voted local levy; and

(b) for a voted local levy approved or modified in accordance with this section on or after January 1, 2009, the school district complies with the requirements of Subsection (8).

(7) Notwithstanding Section 59-2-919, a school district may levy a tax rate under this section that exceeds the certified tax rate without having to comply with the notice requirements of Section 59-2-919 if:

(a) the levy exceeds the certified tax rate as the result of a school district budgeting an increased amount of ad valorem property tax revenue derived from a voted local levy imposed under this section;

(b) the voted local levy was approved:

(i) in accordance with Subsections (9) and (10) on or after January 1, 2003; and

(ii) within the four-year period immediately preceding the year in which the school district seeks to budget an increased amount of ad valorem property tax revenue derived from the voted local levy; and

(c) for a voted local levy approved or modified in accordance with this section on or after January 1, 2009, the school district complies with requirements of Subsection (8).

(8) For purposes of Subsection (6)(b) or (7)(c), the proposition submitted to the electors regarding the adoption or modification of a voted local levy shall contain the following statement:

"A vote in favor of this tax means that (name of the school district) may increase revenue from this property tax without advertising the increase for the next five years."

(9) (a) Before imposing a property tax levy pursuant to this section, a school district shall submit an opinion question to the school district's registered voters voting on the imposition of the tax rate so that each registered voter has the opportunity to express the registered voter's opinion on whether the tax rate should be imposed.

(b) The election required by this Subsection (9) shall be held:

(i) at a regular general election conducted in accordance with the procedures and requirements of Title 20A, Election Code, governing regular elections;

(ii) at a municipal general election conducted in accordance with the procedures and requirements of Section 20A-1-202; or

(iii) at a local special election conducted in accordance with the procedures and requirements of Section 20A-1-203.

(c) Notwithstanding the requirements of Subsections (9)(a) and (b), beginning on or after January 1, 2012, a school district may levy a tax rate in accordance with this section without complying with the requirements of Subsections (9)(a) and (b) if the school district imposed a tax in accordance with this section at any time during the taxable year beginning on January 1, 2011, and ending on December 31, 2011.

(10) If a school district determines that a majority of the school district's registered voters voting on the imposition of the tax rate have voted in favor of the imposition of the tax rate in accordance with Subsection (9), the school district may impose the tax rate.

Section 6. Section 53A-17a-164 is amended to read:

53A-17a-164. Board local levy -- State guarantee.

(1) Subject to the other requirements of this section, for a calendar year beginning on or after January 1, 2012, a local school board may levy a tax to fund the school district's general fund.

(2) (a) Except as provided in Subsection (2)(b), a tax rate imposed by a school district pursuant to

this section may not exceed .0018 per dollar of taxable value in any calendar year.

(b) A tax rate imposed by a school district pursuant to this section may not exceed .0025 per dollar of taxable value in any calendar year if, during the calendar year beginning on January 1, 2011, the school district's combined tax rate for the following levies was greater than .0018 per dollar of taxable value:

(i) a recreation levy imposed under Section 11-2-7;

(ii) a transportation levy imposed under Section 53A-17a-127;

(iii) a board-authorized levy imposed under Section 53A-17a-134;

(iv) an impact aid levy imposed under Section 53A-17a-143;

(v) the portion of a 10% of basic levy imposed under Section 53A-17a-145 that is budgeted for purposes other than capital outlay or debt service;

(vi) a reading levy imposed under Section 53A-17a-151; and

(vii) a tort liability levy imposed under Section 63G-7-704.

(3) (a) In addition to the revenue a school district collects from the imposition of a levy pursuant to this section, the state shall contribute an amount sufficient to guarantee that each .0001 of the first .0004 per dollar of taxable value generates an amount equal to the state guarantee per weighted pupil unit described in Subsection 53A-17a-133(4).

(b) (i) The amount of state guarantee money to which a school district would otherwise be entitled to under this Subsection (3) may not be reduced for the sole reason that the district's levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 pursuant to changes in property valuation.

(ii) Subsection (3)(b)(i) applies for a period of five years following any changes in the certified tax rate.

~~[(4) A school district that imposes a board local levy in the calendar year beginning on January 1, 2012, is exempt from the public notice and hearing requirements of Section 59-2-919 if the school district budgets an amount of ad valorem property tax revenue equal to or less than the sum of the following amounts:]~~

~~[(a) the amount of revenue generated during the calendar year beginning on January 1, 2011, from the sum of the following levies of a school district:]~~

~~[(i) a recreation levy imposed under Section 11-2-7;]~~

~~[(ii) a transportation levy imposed under Section 53A-17a-127;]~~

~~[(iii) a board-authorized levy imposed under Section 53A-17a-134;]~~

~~[(iv) an impact aid levy imposed under Section 53A-17a-143;]~~

~~[(v) the portion of a 10% of basic levy imposed under Section 53A-17a-145 that is budgeted for purposes other than capital outlay or debt service;]~~

~~[(vi) a reading levy imposed under Section 53A-17a-151; and]~~

~~[(vii) a tort liability levy imposed under Section 63G-7-704; and]~~

~~[(b) revenue from new growth as defined in Subsection 59-2-924(4)(c).]~~

Section 7. Section 53A-19-105 is amended to read:

53A-19-105. School district interfund transfers.

(1) A school district shall spend revenues only within the fund for which they were originally authorized, levied, collected, or appropriated.

(2) Except as otherwise provided in this section, school district interfund transfers of residual equity are prohibited.

(3) The State Board of Education may authorize school district interfund transfers of residual equity when a district states its intent to create a new fund or expand, contract, or liquidate an existing fund.

(4) The State Board of Education may also authorize school district interfund transfers of residual equity for a financially distressed district if the board determines the following:

(a) the district has a significant deficit in its maintenance and operations fund caused by circumstances not subject to the administrative decisions of the district;

(b) the deficit cannot be reasonably reduced under Section 53A-19-104; and

(c) without the transfer, the school district will not be capable of meeting statewide educational standards adopted by the State Board of Education.

(5) The board shall develop standards for defining and aiding financially distressed school districts under this section in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) (a) All debt service levies not subject to certified tax rate hearings shall be recorded and reported in the debt service fund.

(b) Debt service levies under Subsection 59-2-924~~[(3)(e)(iii)]~~ (5)(c) that are not subject to the public hearing provisions of Section 59-2-919 may not be used for any purpose other than retiring general obligation debt.

(c) Amounts from these levies remaining in the debt service fund at the end of a fiscal year shall be used in subsequent years for general obligation debt retirement.

(d) Any amounts left in the debt service fund after all general obligation debt has been retired may be transferred to the capital projects fund upon completion of the budgetary hearing process required under Section 53A-19-102.

Section 8. Section 59-2-102 is amended to read:

59-2-102. Definitions.

As used in this chapter and title:

(1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness certificate from the Federal Aviation Administration certifying the aircraft or rotorcraft's use for agricultural and pest control purposes.

(2) "Air charter service" means an air carrier operation which requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

(3) "Air contract service" means an air carrier operation available only to customers who engage the services of the carrier through a contractual agreement and excess capacity on any trip and is not available to the public at large.

(4) "Aircraft" is as defined in Section 72-10-102.

(5) (a) Except as provided in Subsection (5)(b), "airline" means an air carrier that:

(i) operates:

(A) on an interstate route; and

(B) on a scheduled basis; and

(ii) offers to fly one or more passengers or cargo on the basis of available capacity on a regularly scheduled route.

(b) "Airline" does not include an:

(i) air charter service; or

(ii) air contract service.

(6) "Assessment roll" means a permanent record of the assessment of property as assessed by the county assessor and the commission and may be maintained manually or as a computerized file as a consolidated record or as multiple records by type, classification, or categories.

(7) (a) "Certified revenue levy" means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:

(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a school minimum basic tax rate, as specified in Section 53A-17a-135, or multicounty assessing and collecting levy, as specified in Section 59-2-1602; and

(ii) the product of:

(A) eligible new growth, as defined in ~~Section~~ 59-2-924; and

~~[(H) rules of the commission; and]~~

(B) the school minimum basic tax rate or multicounty assessing and collecting levy certified by the commission for the previous year.

(b) For purposes of this Subsection (7), "ad valorem property tax revenue" does not include property tax revenue received by a taxing entity from personal property that is:

(i) assessed by a county assessor in accordance with Part 3, County Assessment; and

(ii) semiconductor manufacturing equipment.

(c) For purposes of calculating the certified revenue levy described in this Subsection (7), the commission shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

(ii) the taxable value of real and personal property assessed by the commission; and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.

(8) "County-assessed commercial vehicle" means:

(a) any commercial vehicle, trailer, or semitrailer which is not apportioned under Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise;

(b) any passenger vehicle owned by a business and used by its employees for transportation as a company car or vanpool vehicle; and

(c) vehicles that are:

(i) especially constructed for towing or wrecking, and that are not otherwise used to transport goods, merchandise, or people for compensation;

(ii) used or licensed as taxicabs or limousines;

(iii) used as rental passenger cars, travel trailers, or motor homes;

(iv) used or licensed in this state for use as ambulances or hearses;

(v) especially designed and used for garbage and rubbish collection; or

(vi) used exclusively to transport students or their instructors to or from any private, public, or religious school or school activities.

(9) (a) Except as provided in Subsection (9)(b), for purposes of Section 59-2-801, "designated tax area" means a tax area created by the overlapping boundaries of only the following taxing entities:

(i) a county; and

(ii) a school district.

(b) Notwithstanding Subsection (9)(a), "designated tax area" includes a tax area created by the overlapping boundaries of:

(i) the taxing entities described in Subsection (9)(a); and

(ii) (A) a city or town if the boundaries of the school district under Subsection (9)(a) and the boundaries of the city or town are identical; or

(B) a special service district if the boundaries of the school district under Subsection (9)(a) are located entirely within the special service district.

(10) “Eligible judgment” means a final and unappealable judgment or order under Section 59-2-1330:

(a) that became a final and unappealable judgment or order no more than 14 months prior to the day on which the notice required by Section 59-2-919.1 is required to be mailed; and

(b) for which a taxing entity’s share of the final and unappealable judgment or order is greater than or equal to the lesser of:

(i) \$5,000; or

(ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year.

(11) (a) “Escaped property” means any property, whether personal, land, or any improvements to the property, subject to taxation and is:

(i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed to the wrong taxpayer by the assessing authority;

(ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to comply with the reporting requirements of this chapter; or

(iii) undervalued because of errors made by the assessing authority based upon incomplete or erroneous information furnished by the taxpayer.

(b) Property that is undervalued because of the use of a different valuation methodology or because of a different application of the same valuation methodology is not “escaped property.”

(12) “Fair market value” means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. For purposes of taxation, “fair market value” shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.

(13) “Farm machinery and equipment,” for purposes of the exemption provided under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and cubers, and any other machinery or equipment used primarily for agricultural purposes; but does not include vehicles required to be registered with the Motor Vehicle

Division or vehicles or other equipment used for business purposes other than farming.

(14) “Geothermal fluid” means water in any form at temperatures greater than 120 degrees centigrade naturally present in a geothermal system.

(15) “Geothermal resource” means:

(a) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and

(b) the energy, in whatever form, including pressure, present in, resulting from, created by, or which may be extracted from that natural heat, directly or through a material medium.

(16) (a) “Goodwill” means:

(i) acquired goodwill that is reported as goodwill on the books and records:

(A) of a taxpayer; and

(B) that are maintained for financial reporting purposes; or

(ii) the ability of a business to:

(A) generate income:

(I) that exceeds a normal rate of return on assets; and

(II) resulting from a factor described in Subsection (16)(b); or

(B) obtain an economic or competitive advantage resulting from a factor described in Subsection (16)(b).

(b) The following factors apply to Subsection (16)(a)(ii):

(i) superior management skills;

(ii) reputation;

(iii) customer relationships;

(iv) patronage; or

(v) a factor similar to Subsections (16)(b)(i) through (iv).

(c) “Goodwill” does not include:

(i) the intangible property described in Subsection (20)(a) or (b);

(ii) locational attributes of real property, including:

(A) zoning;

(B) location;

(C) view;

(D) a geographic feature;

(E) an easement;

(F) a covenant;

(G) proximity to raw materials;

(H) the condition of surrounding property; or

(I) proximity to markets;

(iii) value attributable to the identification of an improvement to real property, including:

(A) reputation of the designer, builder, or architect of the improvement;

(B) a name given to, or associated with, the improvement; or

(C) the historic significance of an improvement; or

(iv) the enhancement or assemblage value specifically attributable to the interrelation of the existing tangible property in place working together as a unit.

(17) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, the local district's board of trustees;

(c) for a school district, the local board of education; or

(d) for a special service district under Title 17D, Chapter 1, Special Service District Act:

(i) the legislative body of the county or municipality that created the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board established under Section 17D-1-301; or

(ii) the administrative control board, to the extent that the county or municipal legislative body has delegated authority to an administrative control board established under Section 17D-1-301.

(18) (a) For purposes of Section 59-2-103:

(i) "household" means the association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses; and

(ii) "household" includes married individuals, who are not legally separated, that have established domiciles at separate locations within the state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "domicile."

(19) (a) Except as provided in Subsection (19)(c), "improvement" means a building, structure, fixture, fence, or other item that is permanently attached to land, regardless of whether the title has been acquired to the land, if:

(i) (A) attachment to land is essential to the operation or use of the item; and

(B) the manner of attachment to land suggests that the item will remain attached to the land in the same place over the useful life of the item; or

(ii) removal of the item would:

(A) cause substantial damage to the item; or

(B) require substantial alteration or repair of a structure to which the item is attached.

(b) "Improvement" includes:

(i) an accessory to an item described in Subsection (19)(a) if the accessory is:

(A) essential to the operation of the item described in Subsection (19)(a); and

(B) installed solely to serve the operation of the item described in Subsection (19)(a); and

(ii) an item described in Subsection (19)(a) that:

(A) is temporarily detached from the land for repairs; and

(B) remains located on the land.

(c) Notwithstanding Subsections (19)(a) and (b), "improvement" does not include:

(i) an item considered to be personal property pursuant to rules made in accordance with Section 59-2-107;

(ii) a moveable item that is attached to land:

(A) for stability only; or

(B) for an obvious temporary purpose;

(iii) (A) manufacturing equipment and machinery; or

(B) essential accessories to manufacturing equipment and machinery;

(iv) an item attached to the land in a manner that facilitates removal without substantial damage to:

(A) the land; or

(B) the item; or

(v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that transportable factory-built housing unit is considered to be personal property under Section 59-2-1503.

(20) "Intangible property" means:

(a) property that is capable of private ownership separate from tangible property, including:

(i) money;

(ii) credits;

(iii) bonds;

(iv) stocks;

(v) representative property;

(vi) franchises;

(vii) licenses;

(viii) trade names;

(ix) copyrights; and

(x) patents;

(b) a low-income housing tax credit;

(c) goodwill; or

(d) a renewable energy tax credit or incentive, including:

(i) a federal renewable energy production tax credit under Section 45, Internal Revenue Code;

(ii) a federal energy credit for qualified renewable electricity production facilities under Section 48, Internal Revenue Code;

(iii) a federal grant for a renewable energy property under American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and

(iv) a tax credit under Subsection 59-7-614(5).

(21) "Livestock" means:

(a) a domestic animal;

(b) a fish;

(c) a fur-bearing animal;

(d) a honeybee; or

(e) poultry.

(22) "Low-income housing tax credit" means:

(a) a federal low-income housing tax credit under Section 42, Internal Revenue Code; or

(b) a low-income housing tax credit under:

(i) Section 59-7-607; or

(ii) Section 59-10-1010.

(23) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

(24) "Mine" means a natural deposit of either metalliferous or nonmetalliferous valuable mineral.

(25) "Mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a mine.

(26) (a) "Mobile flight equipment" means tangible personal property that is:

(i) owned or operated by an:

(A) air charter service;

(B) air contract service; or

(C) airline; and

(ii) (A) capable of flight;

(B) attached to an aircraft that is capable of flight; or

(C) contained in an aircraft that is capable of flight if the tangible personal property is intended to be used:

(I) during multiple flights;

(II) during a takeoff, flight, or landing; and

(III) as a service provided by an air charter service, air contract service, or airline.

(b) (i) "Mobile flight equipment" does not include a spare part other than a spare engine that is rotated:

(A) at regular intervals; and

(B) with an engine that is attached to the aircraft.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "regular intervals."

(27) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts, sand, rock, gravel, and all carboniferous materials.

(28) "Part-year residential property" means property that is not residential property on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.

(29) "Personal property" includes:

(a) every class of property as defined in Subsection (30) that is the subject of ownership and not included within the meaning of the terms "real estate" and "improvements";

(b) gas and water mains and pipes laid in roads, streets, or alleys;

(c) bridges and ferries;

(d) livestock; and

(e) outdoor advertising structures as defined in Section 72-7-502.

(30) (a) "Property" means property that is subject to assessment and taxation according to its value.

(b) "Property" does not include intangible property as defined in this section.

(31) "Public utility," for purposes of this chapter, means the operating property of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation, telephone corporation, sewerage corporation, or heat corporation where the company performs the service for, or delivers the commodity to, the public generally or companies serving the public generally, or in the case of a gas corporation or an electrical corporation, where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use. Public utility also means the operating property of any entity or person defined under Section 54-2-1 except water corporations.

(32) (a) Subject to Subsection (32)(b), "qualifying exempt primary residential rental personal property" means household furnishings, furniture, and equipment that:

(i) are used exclusively within a dwelling unit that is the primary residence of a tenant;

(ii) are owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(iii) after applying the residential exemption described in Section 59-2-103, are exempt from

taxation under this chapter in accordance with Subsection 59-2-1115(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “dwelling unit” for purposes of this Subsection (32) and Subsection (35).

(33) “Real estate” or “real property” includes:

(a) the possession of, claim to, ownership of, or right to the possession of land;

(b) all mines, minerals, and quarries in and under the land, all timber belonging to individuals or corporations growing or being on the lands of this state or the United States, and all rights and privileges appertaining to these; and

(c) improvements.

(34) “Relationship with an owner of the property’s land surface rights” means a relationship described in Subsection 267(b), Internal Revenue Code:

(a) except that notwithstanding Subsection 267(b), Internal Revenue Code, the term 25% shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code; and

(b) using the ownership rules of Subsection 267(c), Internal Revenue Code, for determining the ownership of stock.

(35) (a) Subject to Subsection (35)(b), “residential property,” for the purposes of the reductions and adjustments under this chapter, means any property used for residential purposes as a primary residence.

(b) Subject to Subsection (35)(c), “residential property”:

(i) except as provided in Subsection (35)(b)(ii), includes household furnishings, furniture, and equipment if the household furnishings, furniture, and equipment are:

(A) used exclusively within a dwelling unit that is the primary residence of a tenant; and

(B) owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(ii) does not include property used for transient residential use.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “dwelling unit” for purposes of Subsection (32) and this Subsection (35).

(36) “Split estate mineral rights owner” means a person who:

(a) has a legal right to extract a mineral from property;

(b) does not hold more than a 25% interest in:

(i) the land surface rights of the property where the wellhead is located; or

(ii) an entity with an ownership interest in the land surface rights of the property where the wellhead is located;

(c) is not an entity in which the owner of the land surface rights of the property where the wellhead is located holds more than a 25% interest; and

(d) does not have a relationship with an owner of the land surface rights of the property where the wellhead is located.

(37) (a) “State-assessed commercial vehicle” means:

(i) any commercial vehicle, trailer, or semitrailer which operates interstate or intrastate to transport passengers, freight, merchandise, or other property for hire; or

(ii) any commercial vehicle, trailer, or semitrailer which operates interstate and transports the vehicle owner’s goods or property in furtherance of the owner’s commercial enterprise.

(b) “State-assessed commercial vehicle” does not include vehicles used for hire which are specified in Subsection (8)(c) as county-assessed commercial vehicles.

(38) “Taxable value” means fair market value less any applicable reduction allowed for residential property under Section 59-2-103.

(39) “Tax area” means a geographic area created by the overlapping boundaries of one or more taxing entities.

(40) “Taxing entity” means any county, city, town, school district, special taxing district, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or other political subdivision of the state with the authority to levy a tax on property.

(41) “Tax roll” means a permanent record of the taxes charged on property, as extended on the assessment roll and may be maintained on the same record or records as the assessment roll or may be maintained on a separate record properly indexed to the assessment roll. It includes tax books, tax lists, and other similar materials.

Section 9. Section 59-2-913 is amended to read:

59-2-913. Definitions -- Statement of amount and purpose of levy -- Contents of statement -- Filing with county auditor -- Transmittal to commission -- Calculations for establishing tax levies -- Format of statement.

(1) As used in this section, “budgeted property tax revenues” does not include property tax revenue received by a taxing entity from personal property that is:

(a) assessed by a county assessor in accordance with Part 3, County Assessment; and

(b) semiconductor manufacturing equipment.

(2) (a) The legislative body of each taxing entity shall file a statement as provided in this section

with the county auditor of the county in which the taxing entity is located.

(b) The auditor shall annually transmit the statement to the commission:

(i) before June 22; or

(ii) with the approval of the commission, on a subsequent date prior to the date required by Section 59-2-1317 for the county treasurer to provide the notice under Section 59-2-1317.

(c) The statement shall contain the amount and purpose of each levy fixed by the legislative body of the taxing entity.

(3) For purposes of establishing the levy set for each of a taxing entity's applicable funds, the legislative body of the taxing entity shall calculate an amount determined by dividing the budgeted property tax revenues, specified in a budget which has been adopted and approved prior to setting the levy, by the amount calculated under Subsections 59-2-924(3)(c)(ii)(A) through (C)] (4)(b)(i) through (iii).

(4) The format of the statement under this section shall:

(a) be determined by the commission; and

(b) cite any applicable statutory provisions that:

(i) require a specific levy; or

(ii) limit the property tax levy for any taxing entity.

(5) The commission may require certification that the information submitted on a statement under this section is true and correct.

Section 10. Section 59-2-919 is amended to read:

59-2-919. Notice and public hearing requirements for certain tax increases -- Exceptions.

(1) As used in this section:

(a) "Ad valorem tax revenue" means ad valorem property tax revenue not including revenue from:

(i) eligible new growth as defined in Section 59-2-924; or

(ii) personal property that is:

(A) assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) semiconductor manufacturing equipment.

(b) "Additional ad valorem tax revenue" means ad valorem property tax revenue generated by the portion of the tax rate that exceeds the taxing entity's certified tax rate.

(c) "Calendar year taxing entity" means a taxing entity that operates under a fiscal year that begins on January 1 and ends on December 31.

(d) "County executive calendar year taxing entity" means a calendar year taxing entity that

operates under the county executive-council form of government described in Section 17-52-504.

(e) "Current calendar year" means the calendar year immediately preceding the calendar year for which a calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate.

(f) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that begins on July 1 and ends on June 30.

(2) A taxing entity may not levy a tax rate that exceeds the taxing entity's certified tax rate unless the taxing entity meets:

(a) the requirements of this section that apply to the taxing entity; and

(b) all other requirements as may be required by law.

(3) (a) Subject to Subsection (3)(b) and except as provided in Subsection (5), a calendar year taxing entity may levy a tax rate that exceeds the calendar year taxing entity's certified tax rate if the calendar year taxing entity:

(i) 14 or more days before the date of the regular general election or municipal general election held in the current calendar year, states at a public meeting:

(A) that the calendar year taxing entity intends to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate;

(B) the dollar amount of and purpose for additional ad valorem tax revenue that would be generated by the proposed increase in the certified tax rate; and

(C) the approximate percentage increase in ad valorem tax revenue for the taxing entity based on the proposed increase described in Subsection (3)(a)(i)(B);

(ii) provides notice for the public meeting described in Subsection (3)(a)(i) in accordance with Title 52, Chapter 4, Open and Public Meetings Act, including providing a separate item on the meeting agenda that notifies the public that the calendar year taxing entity intends to make the statement described in Subsection (3)(a)(i);

(iii) meets the advertisement requirements of Subsections (6) and (7) before the calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v);

(iv) provides notice by mail:

(A) seven or more days before the regular general election or municipal general election held in the current calendar year; and

(B) as provided in Subsection (3)(c); and

(v) conducts a public hearing that is held:

(A) in accordance with Subsections (8) and (9); and

(B) in conjunction with the public hearing required by Section 17-36-13 or 17B-1-610.

(b) (i) For a county executive calendar year taxing entity, the statement described in Subsection (3)(a)(i) shall be made by the:

- (A) county council;
- (B) county executive; or
- (C) both the county council and county executive.

(ii) If the county council makes the statement described in Subsection (3)(a)(i) or the county council states a dollar amount of additional ad valorem tax revenue that is greater than the amount of additional ad valorem tax revenue previously stated by the county executive in accordance with Subsection (3)(a)(i), the county executive calendar year taxing entity shall:

(A) make the statement described in Subsection (3)(a)(i) 14 or more days before the county executive calendar year taxing entity conducts the public hearing under Subsection (3)(a)(v); and

(B) provide the notice required by Subsection (3)(a)(iv) 14 or more days before the county executive calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v).

(c) The notice described in Subsection (3)(a)(iv):

(i) shall be mailed to each owner of property:

- (A) within the calendar year taxing entity; and
- (B) listed on the assessment roll;

(ii) shall be printed on a separate form that:

(A) is developed by the commission;

(B) states at the top of the form, in bold upper-case type no smaller than 18 point "NOTICE OF PROPOSED TAX INCREASE"; and

(C) may be mailed with the notice required by Section 59-2-1317;

(iii) shall contain for each property described in Subsection (3)(c)(i):

(A) the value of the property for the current calendar year;

(B) the tax on the property for the current calendar year; and

(C) subject to Subsection (3)(d), for the calendar year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate, the estimated tax on the property;

(iv) shall contain the following statement:

"[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar year]. This notice contains estimates of the tax on your property and the proposed tax increase on your property as a result of this tax increase. These estimates are calculated on the basis of [insert previous applicable calendar year] data. The actual tax on your property and proposed tax increase on your property may vary from this estimate.";

(v) shall state the date, time, and place of the public hearing described in Subsection (3)(a)(v); and

(vi) may contain other property tax information approved by the commission.

(d) For purposes of Subsection (3)(c)(iii)(C), a calendar year taxing entity shall calculate the estimated tax on property on the basis of:

(i) data for the current calendar year; and

(ii) the amount of additional ad valorem tax revenue stated in accordance with this section.

(4) Except as provided in Subsection (5), a fiscal year taxing entity may levy a tax rate that exceeds the fiscal year taxing entity's certified tax rate if the fiscal year taxing entity:

(a) provides notice by meeting the advertisement requirements of Subsections (6) and (7) before the fiscal year taxing entity conducts the public meeting at which the fiscal year taxing entity's annual budget is adopted; and

(b) conducts a public hearing in accordance with Subsections (8) and (9) before the fiscal year taxing entity's annual budget is adopted.

(5) (a) A taxing entity is not required to meet the notice or public hearing requirements of Subsection (3) or (4) if the taxing entity is expressly exempted by law from complying with the requirements of this section.

(b) A taxing entity is not required to meet the notice requirements of Subsection (3) or (4) if:

(i) Section 53A-17a-133 allows the taxing entity to levy a tax rate that exceeds that certified tax rate without having to comply with the notice provisions of this section; or

(ii) the taxing entity:

(A) budgeted less than \$20,000 in ad valorem tax revenues for the previous fiscal year; and

(B) sets a budget during the current fiscal year of less than \$20,000 of ad valorem tax revenues.

(6) (a) Subject to Subsections (6)(d) and (7)(b), the advertisement described in this section shall be published:

(i) subject to Section 45-1-101, in a newspaper or combination of newspapers of general circulation in the taxing entity;

(ii) electronically in accordance with Section 45-1-101; and

(iii) on the Utah Public Notice Website created in Section 63F-1-701.

(b) The advertisement described in Subsection (6)(a)(i) shall:

(i) be no less than 1/4 page in size;

(ii) use type no smaller than 18 point; and

(iii) be surrounded by a 1/4-inch border.

(c) The advertisement described in Subsection (6)(a)(i) may not be placed in that portion of the

newspaper where legal notices and classified advertisements appear.

(d) It is the intent of the Legislature that:

(i) whenever possible, the advertisement described in Subsection (6)(a)(i) appear in a newspaper that is published at least one day per week; and

(ii) the newspaper or combination of newspapers selected:

(A) be of general interest and readership in the taxing entity; and

(B) not be of limited subject matter.

(e) (i) The advertisement described in Subsection (6)(a)(i) shall:

(A) except as provided in Subsection (6)(f), be run once each week for the two weeks before a taxing entity conducts a public hearing described under Subsection (3)(a)(v) or (4)(b); and

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.

(ii) The advertisement described in Subsection (6)(a)(ii) shall:

(A) be published two weeks before a taxing entity conducts a public hearing described in Subsection (3)(a)(v) or (4)(b); and

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.

(f) If a fiscal year taxing entity's public hearing information is published by the county auditor in accordance with Section 59-2-919.2, the fiscal year taxing entity is not subject to the requirement to run the advertisement twice, as required by Subsection (6)(e)(i), but shall run the advertisement once during the week before the fiscal year taxing entity conducts a public hearing at which the taxing entity's annual budget is discussed.

(g) For purposes of Subsection (3)(a)(iii) or (4)(a), the form and content of an advertisement shall be substantially as follows:

“NOTICE OF PROPOSED TAX INCREASE
(NAME OF TAXING ENTITY)

The (name of the taxing entity) is proposing to increase its property tax revenue.

The (name of the taxing entity) tax on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence would increase from \$ _____ to \$ _____, which is \$ _____ per year.

The (name of the taxing entity) tax on a (insert the value of a business having the same value as the average value of a residence in the taxing entity) business would increase from \$ _____ to \$ _____, which is \$ _____ per year.

If the proposed budget is approved, (name of the taxing entity) would increase its property tax budgeted revenue by ___% above last year's property tax budgeted revenue excluding eligible new growth.

All concerned citizens are invited to a public hearing on the tax increase.

PUBLIC HEARING

Date/Time: (date) (time)

Location: (name of meeting place and address of meeting place)

To obtain more information regarding the tax increase, citizens may contact the (name of the taxing entity) at (phone number of taxing entity).”

(7) The commission:

(a) shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the joint use of one advertisement described in Subsection (6) by two or more taxing entities; and

(b) subject to Section 45-1-101, may authorize:

(i) the use of a weekly newspaper:

(A) in a county having both daily and weekly newspapers if the weekly newspaper would provide equal or greater notice to the taxpayer; and

(B) if the county petitions the commission for the use of the weekly newspaper; or

(ii) the use by a taxing entity of a commission approved direct notice to each taxpayer if:

(A) the cost of the advertisement would cause undue hardship;

(B) the direct notice is different and separate from that provided for in Section 59-2-919.1; and

(C) the taxing entity petitions the commission for the use of a commission approved direct notice.

(8) (a) (i) (A) A fiscal year taxing entity shall, on or before March 1, notify the county legislative body in which the fiscal year taxing entity is located of the date, time, and place of the first public hearing at which the fiscal year taxing entity's annual budget will be discussed.

(B) A county that receives notice from a fiscal year taxing entity under Subsection (8)(a)(i)(A) shall include on the notice required by Section 59-2-919.1 the date, time, and place of the public hearing described in Subsection (8)(a)(i)(A).

(ii) A calendar year taxing entity shall, on or before October 1 of the current calendar year, notify the county legislative body in which the calendar year taxing entity is located of the date, time, and place of the first public hearing at which the calendar year taxing entity's annual budget will be discussed.

(b) (i) A public hearing described in Subsection (3)(a)(v) or (4)(b) shall be open to the public.

(ii) The governing body of a taxing entity conducting a public hearing described in Subsection (3)(a)(v) or (4)(b) shall provide an interested party desiring to be heard an opportunity to present oral testimony within reasonable time limits.

(c) (i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a public hearing described in Subsection (3)(a)(v) or (4)(b) at the same time as the public hearing of another overlapping taxing entity in the same county.

(ii) The taxing entities in which the power to set tax levies is vested in the same governing board or authority may consolidate the public hearings described in Subsection (3)(a)(v) or (4)(b) into one public hearing.

(d) A county legislative body shall resolve any conflict in public hearing dates and times after consultation with each affected taxing entity.

(e) A taxing entity shall hold a public hearing described in Subsection (3)(a)(v) or (4)(b) beginning at or after 6 p.m.

(9) (a) If a taxing entity does not make a final decision on budgeting additional ad valorem tax revenue at a public hearing described in Subsection (3)(a)(v) or (4)(b), the taxing entity shall announce at that public hearing the scheduled time and place of the next public meeting at which the taxing entity will consider budgeting the additional ad valorem tax revenue.

(b) A calendar year taxing entity may not adopt a final budget that budgets an amount of additional ad valorem tax revenue that exceeds the largest amount of additional ad valorem tax revenue stated at a public meeting under Subsection (3)(a)(i).

(c) A public hearing on levying a tax rate that exceeds a fiscal year taxing entity's certified tax rate may coincide with a public hearing on the fiscal year taxing entity's proposed annual budget.

Section 11. Section 59-2-924 is amended to read:

59-2-924. Definitions -- Report of valuation of property to county auditor and commission -- Transmittal by auditor to governing bodies -- Calculation of certified tax rate -- Rulemaking authority -- Adoption of tentative budget -- Notice provided by the commission.

(1) As used in this section:

(a) (i) "Ad valorem property tax revenue" means revenue collected in accordance with this chapter.

(ii) "Ad valorem property tax revenue" does not include:

(A) interest;

(B) penalties;

(C) collections from redemptions; or

(D) revenue received by a taxing entity from personal property that is semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment.

(b) (i) "Aggregate taxable value of all property taxed" means:

(A) the aggregate taxable value of all real property a county assessor assesses in accordance with Part 3, County Assessment, for the current year;

(B) the aggregate taxable value of all real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year; and

(C) the aggregate year end taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(ii) "Aggregate taxable value of all property taxed" does not include the aggregate year end taxable value of personal property that is:

(A) semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) contained on the prior year's tax rolls of the taxing entity.

(c) "Centrally assessed benchmark value" means an amount equal to the highest year end taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for a previous calendar year that begins on or after January 1, 2015, adjusted for taxable value attributable to:

(i) an annexation to a taxing entity; or

(ii) an incorrect allocation of taxable value of real or personal property the commission assesses in accordance with Part 2, Assessment of Property.

(d) (i) "Centrally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the centrally assessed benchmark value adjusted for prior year end incremental value from the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value.

(ii) "Centrally assessed new growth" does not include a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(e) "Certified tax rate" means a tax rate that will provide the same ad valorem property tax revenue for a taxing entity as was budgeted by that taxing entity for the prior year.

(f) "Eligible new growth" means the greater of:

(i) zero; or

(ii) the sum of:

(A) locally assessed new growth;

(B) centrally assessed new growth; and

(C) project area new growth.

(g) "Incremental value" means the same as that term is defined in Section 17C-1-102 except that incremental value applies to property located within a project area, regardless of the type of project area.

(h) (i) "Locally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the year end taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the previous year, adjusted for prior year end incremental value from the taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the current year, adjusted for current year incremental value.

(ii) "Locally assessed new growth" does not include a change in:

(A) value as a result of factoring in accordance with Section 59-2-704, reappraisal, or another adjustment; or

(B) assessed value based on whether a property is allowed a residential exemption for a primary residence under Section 59-2-103.

(i) "Project area" means the same as that term is defined in Section 17C-1-102.

(j) "Project area new growth" means an amount equal to the incremental value that is no longer provided to an agency as tax increment.

~~[(1)]~~ (2) Before June 1 of each year, the county assessor of each county shall deliver to the county auditor and the commission the following statements:

(a) a statement containing the aggregate valuation of all taxable real property ~~[assessed by]~~ a county assessor assesses in accordance with Part 3, County Assessment, for each taxing entity; and

(b) a statement containing the taxable value of all personal property ~~[assessed by]~~ a county assessor assesses in accordance with Part 3, County Assessment, from the prior year end values.

~~[(2)]~~ (3) The county auditor shall, on or before June 8, transmit to the governing body of each taxing entity:

(a) the statements described in Subsections ~~[(1)]~~ (2)(a) and (b);

(b) an estimate of the revenue from personal property;

(c) the certified tax rate; and

(d) all forms necessary to submit a tax levy request.

~~[(3) (a) The "certified tax rate" means a tax rate that will provide the same ad valorem property tax revenues for a taxing entity as were budgeted by that taxing entity for the prior year.]~~

~~[(b) For purposes of this Subsection (3):]~~

~~[(i) "Ad valorem property tax revenues" do not include:]~~

~~[(A) interest;]~~

~~[(B) penalties; and]~~

~~[(C) revenue received by a taxing entity from personal property that is:]~~

~~[(I) assessed by a county assessor in accordance with Part 3, County Assessment; and]~~

~~[(II) semiconductor manufacturing equipment.]~~

~~[(ii) "Aggregate taxable value of all property taxed" means:]~~

~~[(A) the aggregate taxable value of all real property assessed by a county assessor in accordance with Part 3, County Assessment, for the current year;]~~

~~[(B) the aggregate taxable year end value of all personal property assessed by a county assessor in accordance with Part 3, County Assessment, for the prior year; and]~~

~~[(C) the aggregate taxable value of all real and personal property assessed by the commission in accordance with Part 2, Assessment of Property, for the current year.]~~

~~[(e)-(i)]~~ (4) (a) Except as otherwise provided in this section, the certified tax rate shall be calculated by dividing the ad valorem property tax ~~[revenues]~~ revenue that a taxing entity budgeted for the prior year ~~[by the taxing entity]~~ by the amount calculated under Subsection ~~[(3)(e)(ii)]~~ (4)(b).

~~[(ii)]~~ (b) For purposes of Subsection ~~[(3)(e)(i)]~~ (4)(a), the legislative body of a taxing entity shall calculate an amount as follows:

~~[(A)]~~ (i) calculate for the taxing entity the difference between:

~~[(1)]~~ (A) the aggregate taxable value of all property taxed; and

~~[(II)]~~ (B) any ~~[redevelopment]~~ adjustments for ~~[the]~~ current ~~[calendar]~~ year incremental value;

~~[(B)]~~ (ii) after making the calculation required by Subsection ~~[(3)(e)(ii)(A)]~~ (4)(b)(i), calculate an amount determined by increasing or decreasing the amount calculated under Subsection ~~[(3)(e)(ii)(A)]~~ (4)(b)(i) by the average of the percentage net change in the value of taxable property for the equalization period for the three calendar years immediately preceding the current calendar year;

~~[(C)]~~ (iii) after making the calculation required by Subsection ~~[(3)(e)(ii)(B)]~~ (4)(b)(ii), calculate the product of:

~~[(F)] (A) the amount calculated under Subsection [(3)(e)(ii)(B)] (4)(b)(ii); and~~

~~[(II)] (B) the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year; and~~

~~[(D)] (iv) after making the calculation required by Subsection [(3)(e)(ii)(C)] (4)(b)(iii), calculate an amount determined by subtracting eligible new growth from the amount calculated under [Subsection (3)(e)(ii)(C) any new growth as defined in this section:] Subsection (4)(b)(iii).~~

~~[(I) within the taxing entity; and]~~

~~[(II) for the following calendar year:]~~

~~[(Aa) for new growth from real property assessed by a county assessor in accordance with Part 3, County Assessment and all property assessed by the commission in accordance with Section 59-2-201, the current calendar year; and]~~

~~[(Bb) for new growth from personal property assessed by a county assessor in accordance with Part 3, County Assessment, the prior calendar year.]~~

~~[(iii) For purposes of Subsection (3)(e)(ii)(A), the aggregate taxable value of all property taxed:]~~

~~[(A) except as provided in Subsection (3)(e)(iii)(B) or (3)(e)(ii)(C), is as defined in Subsection (3)(b)(ii);]~~

~~[(B) does not include the total taxable value of personal property contained on the tax rolls of the taxing entity that is:]~~

~~[(I) assessed by a county assessor in accordance with Part 3, County Assessment; and]~~

~~[(II) semiconductor manufacturing equipment; and]~~

~~[(C) for personal property assessed by a county assessor in accordance with Part 3, County Assessment, the taxable value of personal property is the year end value of the personal property contained on the prior year's tax rolls of the entity.]~~

~~[(iv) For purposes of Subsection (3)(e)(ii)(B), for calendar years beginning on or after January 1, 2007, the value of taxable property does not include the value of personal property that is:]~~

~~[(A) within the taxing entity assessed by a county assessor in accordance with Part 3, County Assessment; and]~~

~~[(B) semiconductor manufacturing equipment.]~~

~~[(v) For purposes of Subsection (3)(e)(ii)(C)(II), for calendar years beginning on or after January 1, 2007, the percentage of property taxes collected does not include property taxes collected from personal property that is:]~~

~~[(A) within the taxing entity assessed by a county assessor in accordance with Part 3, County Assessment; and]~~

~~[(B) semiconductor manufacturing equipment.]~~

~~[(vi) For purposes of Subsection (3)(e)(ii)(B), for calendar years beginning on or after January 1, 2009, the value of taxable property does not include the value of personal property that is within the taxing entity assessed by a county assessor in accordance with Part 3, County Assessment.]~~

~~[(vii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may prescribe rules for calculating redevelopment adjustments for a calendar year.]~~

~~[(viii) (A) Except as provided in Subsections (3)(e)(ix) and (x), for purposes of Subsection (3)(e)(i), a taxing entity's ad valorem property tax revenues budgeted for the prior year shall be decreased by an amount of revenue equal to the five-year average of the most recent prior five years of redemptions adjusted by the five-year average redemption calculated for the prior year as reported on the county treasurer's final annual settlement required under Subsection 59-2-1365(2).]~~

~~[(B) A decrease under Subsection (3)(e)(viii)(A) does not apply to the multicounty assessing and collecting levy authorized in Subsection 59-2-1602(2)(a), the certified revenue levy, or the minimum basic tax rate established in Section 53A-17a-135.]~~

~~[(ix) As used in Subsection (3)(e)(x):]~~

~~[(A) "One-fourth of qualifying redemptions excess amount" means a qualifying redemptions excess amount divided by four.]~~

~~[(B) "Qualifying redemptions" means that, for a calendar year, a taxing entity's total amount of redemptions is greater than three times the five-year average of the most recent prior five years of redemptions calculated for the prior year under Subsection (3)(e)(viii)(A).]~~

~~[(C) "Qualifying redemptions base amount" means an amount equal to three times the five-year average of the most recent prior five years of redemptions for a taxing entity, as reported on the county treasurer's final annual settlement required under Subsection 59-2-1365(2).]~~

~~[(D) "Qualifying redemptions excess amount" means the amount by which a taxing entity's qualifying redemptions for a calendar year exceed the qualifying redemptions base amount for that calendar year.]~~

~~[(x) (A) If, for a calendar year, a taxing entity has qualifying redemptions, the redemption amount for purposes of calculating the five-year redemption average required by Subsection (3)(e)(viii)(A) is as provided in Subsections (3)(e)(x)(B) and (C).]~~

~~[(B) For the initial calendar year a taxing entity has qualifying redemptions, the taxing entity's redemption amount for that calendar year is the qualifying redemptions base amount.]~~

~~[(C) For each of the four calendar years after the calendar year described in Subsection (3)(e)(x)(B), one-fourth of the qualifying redemptions excess amount shall be added to the redemption amount.]~~

~~[(d) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the~~

~~commission shall make rules determining the calculation of ad valorem property tax revenues budgeted by a taxing entity.]~~

~~[(ii) For purposes of Subsection (3)(d)(i), ad valorem property tax revenues budgeted by a taxing entity shall be calculated in the same manner as budgeted property tax revenues are calculated for purposes of Section 59-2-913.]~~

~~[(e) The certified tax rates for the taxing entities]~~

~~(5) A certified tax rate for a taxing entity described in this Subsection [(3)(e)] (5) shall be calculated as follows:~~

~~[(i)] (a) except as provided in Subsection [(3)(e)(ii)] (5)(b), for a new taxing [entities] entity, the certified tax rate is zero;~~

~~[(ii)] (b) for [each] a municipality incorporated on or after July 1, 1996, the certified tax rate is:~~

~~[(A)] (i) in a county of the first, second, or third class, the levy imposed for municipal-type services under Sections 17-34-1 and 17-36-9; and~~

~~[(B)] (ii) in a county of the fourth, fifth, or sixth class, the levy imposed for general county purposes and such other levies imposed solely for the municipal-type services identified in Section 17-34-1 and Subsection 17-36-3(22); and~~

~~[(iii)] (c) for debt service voted on by the public, the certified tax rate [shall be] is the actual levy imposed by that section, except that [the] a certified tax [rates] rate for the following levies shall be calculated in accordance with Section 59-2-913 and this section:~~

~~[(A) school levies] (i) a school levy provided for under [Sections] Section 53A-16-113, 53A-17a-133, [and] or 53A-17a-164; and~~

~~[(B) levies] (ii) a levy to pay for the costs of state legislative mandates or judicial or administrative orders under Section 59-2-1602.~~

~~[(f)] (i) (6) (a) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 [shall be established at that rate which] may be imposed at a rate that is sufficient to generate only the revenue required to satisfy one or more eligible judgments[, as defined in Section 59-2-102].~~

~~[(ii)] (b) The ad valorem property tax revenue generated by [the] a judgment levy [shall] described in Subsection (6)(a) may not be considered in establishing [the] a taxing entity's aggregate certified tax rate.~~

~~[(g)] (7) The ad valorem property tax revenue generated by the capital local levy described in Section 53A-16-113 within a taxing entity in a county of the first class:~~

~~[(i)] (a) may not be considered in establishing the school district's aggregate certified tax rate; and~~

~~[(ii)] (b) shall be included by the commission in establishing a certified tax rate for that capital [outlay] local levy determined in accordance with~~

the calculation described in Subsection 59-2-913(3).

~~[(4)] (8) (a) For the purpose of calculating the certified tax rate, the county auditor shall use:~~

~~(i) the taxable value of real property [assessed by a county assessor contained on the assessment roll];~~

~~(A) the county assessor assesses in accordance with Part 3, County Assessment; and~~

~~(B) contained on the assessment roll;~~

~~(ii) the year end taxable value of personal property:~~

~~(A) a county assessor assesses in accordance with Part 3, County Assessment; and~~

~~(B) contained on the prior year's assessment roll; and~~

~~[(ii)] (iii) the taxable value of real and personal property [assessed by] the commission[; and] assesses in accordance with Part 2, Assessment of Property.~~

~~[(iii)] the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.]~~

~~(b) For purposes of Subsection [(4)(a)(i), the] (8)(a), taxable value [of real property on the assessment roll] does not include eligible new growth [as defined in Subsection (4)(e)].~~

~~[(e) "New growth" means:]~~

~~[(i) the difference between the increase in taxable value of the following property of the taxing entity from the previous calendar year to the current year:]~~

~~[(A) real property assessed by a county assessor in accordance with Part 3, County Assessment; and]~~

~~[(B) property assessed by the commission under Section 59-2-201; plus]~~

~~[(ii) the difference between the increase in taxable year end value of personal property of the taxing entity from the year prior to the previous calendar year to the previous calendar year; minus]~~

~~[(iii) the amount of an increase in taxable value described in Subsection (4)(e).]~~

~~[(d) For purposes of Subsection (4)(e)(ii), the taxable value of personal property of the taxing entity does not include the taxable value of personal property that is:]~~

~~[(i) contained on the tax rolls of the taxing entity if that property is assessed by a county assessor in accordance with Part 3, County Assessment; and]~~

~~[(ii) semiconductor manufacturing equipment.]~~

~~[(e) Subsection (4)(e)(iii) applies to the following increases in taxable value:]~~

~~[(i) the amount of increase to locally assessed real property taxable values resulting from factoring, reappraisal, or any other adjustments; or]~~

~~(ii) the amount of an increase in the taxable value of property assessed by the commission under Section 59-2-201 resulting from a change in the method of apportioning the taxable value prescribed by:~~

~~[(A) the Legislature;]~~

~~[(B) a court;]~~

~~[(C) the commission in an administrative rule; or]~~

~~[(D) the commission in an administrative order.]~~

~~[(f) For purposes of Subsection (4)(a)(ii), the taxable year end value of personal property on the prior year's assessment roll does not include:]~~

~~[(i) new growth as defined in Subsection (4)(e); or]~~

~~[(ii) the total taxable year end value of personal property contained on the prior year's tax rolls of the taxing entity that is:]~~

~~[(A) assessed by a county assessor in accordance with Part 3, County Assessment; and]~~

~~[(B) semiconductor manufacturing equipment.]~~

~~[(5)] (9) (a) On or before June 22, [each] a taxing entity shall annually adopt a tentative budget.~~

~~(b) If [the] a taxing entity intends to exceed the certified tax rate, [it] the taxing entity shall notify the county auditor of:~~

~~(i) [its] the taxing entity's intent to exceed the certified tax rate; and~~

~~(ii) the amount by which [it] the taxing entity proposes to exceed the certified tax rate.~~

~~(c) The county auditor shall notify property owners of any intent to levy a tax rate that exceeds the certified tax rate in accordance with Sections 59-2-919 and 59-2-919.1.~~

~~(10) (a) Subject to Subsection (10)(d), the commission shall provide notice, through electronic means on or before July 31, to a taxing entity and the Revenue and Taxation Interim Committee if:~~

~~(i) the amount calculated under Subsection (10)(b) is 10% or more of the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value; and~~

~~(ii) the amount calculated under Subsection (10)(c) is 50% or more of the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.~~

~~(b) For purposes of Subsection (10)(a)(i), the commission shall calculate an amount by subtracting the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value, from the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for~~

~~the previous year, adjusted for prior year end incremental value.~~

~~(c) For purposes of Subsection (10)(a)(ii), the commission shall calculate an amount by subtracting the total taxable value of real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the current year, from the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.~~

~~(d) The notification under Subsection (10)(a) shall include a list of taxpayers that meet the requirement under Subsection (10)(a)(ii).~~

Section 12. Section 59-2-924.3 is amended to read:

59-2-924.3. Adjustment of the calculation of the certified tax rate for a school district imposing a capital local levy in a county of the first class.

(1) As used in this section:

(a) "Capital local levy increment" means the amount of revenue equal to the difference between:

(i) the amount of revenue generated by a levy of .0006 per dollar of taxable value within a school district during a fiscal year; and

(ii) the amount of revenue the school district received during the same fiscal year from the distribution described in Section 53A-16-114.

(b) "Contributing school district" means a school district in a county of the first class that in a fiscal year receives less revenue from the distribution described in Section 53A-16-114 than it would have received during the same fiscal year from a levy imposed within the school district of .0006 per dollar of taxable value.

(c) "Receiving school district" means a school district in a county of the first class that in a fiscal year receives more revenue from the distribution described in Section 53A-16-114 than it would have received during the same fiscal year from a levy imposed within the school district of .0006 per dollar of taxable value.

(2) A receiving school district shall decrease its capital local levy certified tax rate under Subsection 59-2-924[(3)(g)(ii)] (7)(b) by the amount required to offset the receiving school district's estimated capital local levy increment for the prior fiscal year.

(3) A contributing school district is exempt from the notice and public hearing provisions of Section 59-2-919 for the school district's capital local levy certified tax rate calculated pursuant to Subsection 59-2-924[(3)(g)(ii)] (7)(b) if:

(a) the contributing school district budgets an increased amount of ad valorem property tax revenue exclusive of eligible new growth as defined in [Subsection] Section 59-2-924(4) for the capital local levy described in Section 53A-16-113; and

(b) the increased amount of ad valorem property tax revenue described in Subsection (3)(a) is less than or equal to the difference between:

(i) the amount of revenue generated by a levy of .0006 per dollar of taxable value imposed within the contributing school district during the current taxable year; and

(ii) the amount of revenue generated by a levy of .0006 per dollar of taxable value imposed within the contributing school district during the prior taxable year.

(4) Regardless of the amount a school district receives from the revenue collected from the .0006 portion of the capital local levy required in Section 53A-16-113, the revenue generated within the school district from the .0006 portion of the capital local levy required in Section 53A-16-113 shall be considered to be budgeted ad valorem property tax revenues of the school district that levies the .0006 portion of the capital local levy for purposes of calculating the school district's certified tax rate in accordance with Subsection 59-2-924[(3)(g)(ii)] (7)(b).

Section 13. Section 59-2-926 is amended to read:

59-2-926. Proposed tax increase by state -- Notice -- Contents -- Dates.

If the state authorizes a levy pursuant to Section 53A-17a-135 that exceeds the certified revenue levy as defined in Section 53A-17a-103 or authorizes a levy pursuant to Section 59-2-1602 that exceeds the certified revenue levy as defined in Section 59-2-102, the state shall publish a notice no later than 10 days after the last day of the annual legislative general session that meets the following requirements:

(1) (a) The Office of the Legislative Fiscal Analyst shall advertise that the state authorized a levy that generates revenue in excess of the previous year's ad valorem tax revenue, plus eligible new growth as defined in Section 59-2-924, but exclusive of revenue from collections from redemptions, interest, and penalties:

(i) in a newspaper of general circulation in the state; and

(ii) as required in Section 45-1-101.

(b) Except an advertisement published on a website, the advertisement described in Subsection (1)(a):

(i) shall be no less than 1/4 page in size and the type used shall be no smaller than 18 point, and surrounded by a 1/4-inch border:

(ii) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear; and

(iii) shall be run once.

(2) The form and content of the notice shall be substantially as follows:

“NOTICE OF TAX INCREASE

The state has budgeted an increase in its property tax revenue from \$_____ to \$_____ or ____%. The increase in property tax revenues will

come from the following sources (include all of the following provisions):

(a) \$_____ of the increase will come from (provide an explanation of the cause of adjustment or increased revenues, such as reappraisals or factoring orders);

(b) \$_____ of the increase will come from natural increases in the value of the tax base due to (explain cause of eligible new growth, such as new building activity, annexation, etc.);

(c) a home valued at \$100,000 in the state of Utah which based on last year's (levy for the basic state-supported school program, levy for the Property Tax Valuation Agency Fund, or both) paid \$_____ in property taxes would pay the following:

(i) \$_____ if the state of Utah did not budget an increase in property tax revenue exclusive of eligible new growth; and

(ii) \$_____ under the increased property tax revenues exclusive of eligible new growth budgeted by the state of Utah.”

Section 14. Section 63I-1-259 is amended to read:

63I-1-259. Repeal dates, Title 59.

(1) Subsection 59-2-924[(3)(g)] (7) is repealed on December 31, 2016.

(2) Subsection 59-2-924.2(9) is repealed on December 31, 2017.

(3) Section 59-2-924.3 is repealed on December 31, 2016.

(4) Section 59-7-618 is repealed July 1, 2020.

(5) Section 59-9-102.5 is repealed December 31, 2020.

(6) Section 59-10-1033 is repealed July 1, 2020.

(7) Subsection 59-12-2219(10) is repealed on June 30, 2020.

Section 15. Effective date.

This bill takes effect on January 1, 2017.

CHAPTER 368**H. B. 32**

Passed February 11, 2016

Approved March 29, 2016

Effective May 10, 2016

**SUBDIVISION BASE
PARCEL TAX AMENDMENTS**Chief Sponsor: R. Curt Webb
Senate Sponsor: Daniel W. Thatcher**LONG TITLE****General Description:**

This bill modifies provisions of the Property Tax Act relating to subdivided lots.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ addresses the payment of property tax on a base parcel that is subdivided into one or more parcels;
- ▶ modifies the requirements for a notice of property tax delinquency;
- ▶ describes the procedure by which an owner of a portion of a base parcel whose property tax is delinquent may redeem the owner's portion of the base parcel; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

59-2-102, as last amended by Laws of Utah 2015, Chapters 133, 198, and 287

59-2-1332.5, as last amended by Laws of Utah 2015, Chapter 201

59-2-1346, as last amended by Laws of Utah 1995, Chapter 181

59-7-302, as last amended by Laws of Utah 2014, Chapters 65 and 398

ENACTS:

59-2-1331.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-102 is amended to read:**59-2-102. Definitions.**

As used in this chapter and title:

(1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness certificate from the Federal Aviation Administration certifying the aircraft or rotorcraft's use for agricultural and pest control purposes.

(2) "Air charter service" means an air carrier operation which requires the customer to hire an

entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

(3) "Air contract service" means an air carrier operation available only to customers who engage the services of the carrier through a contractual agreement and excess capacity on any trip and is not available to the public at large.

(4) "Aircraft" is as defined in Section 72-10-102.

(5) (a) Except as provided in Subsection (5)(b), "airline" means an air carrier that:

(i) operates:

(A) on an interstate route; and

(B) on a scheduled basis; and

(ii) offers to fly one or more passengers or cargo on the basis of available capacity on a regularly scheduled route.

(b) "Airline" does not include an:

(i) air charter service; or

(ii) air contract service.

(6) "Assessment roll" means a permanent record of the assessment of property as assessed by the county assessor and the commission and may be maintained manually or as a computerized file as a consolidated record or as multiple records by type, classification, or categories.

(7) "Base parcel" means a parcel of property that was legally:

(a) subdivided into two or more lots, parcels, or other divisions of land; or

(b) (i) combined with one or more other parcels of property; and

(ii) subdivided into two or more lots, parcels, or other divisions of land.

[~~(7)~~] (8) (a) "Certified revenue levy" means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:

(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a school minimum basic tax rate, as specified in Section 53A-17a-135, or multicounty assessing and collecting levy, as specified in Section 59-2-1602; and

(ii) the product of:

(A) new growth, as defined in:

(I) Section 59-2-924; and

(II) rules of the commission; and

(B) the school minimum basic tax rate or multicounty assessing and collecting levy certified by the commission for the previous year.

(b) For purposes of this Subsection [~~(7)~~] (8), "ad valorem property tax revenue" does not include property tax revenue received by a taxing entity from personal property that is:

(i) assessed by a county assessor in accordance with Part 3, County Assessment; and

(ii) semiconductor manufacturing equipment.

(c) For purposes of calculating the certified revenue levy described in this Subsection ~~[(7)]~~ (8), the commission shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

(ii) the taxable value of real and personal property assessed by the commission; and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.

~~[(8)]~~ (9) "County-assessed commercial vehicle" means:

(a) any commercial vehicle, trailer, or semitrailer which is not apportioned under Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise;

(b) any passenger vehicle owned by a business and used by its employees for transportation as a company car or vanpool vehicle; and

(c) vehicles that are:

(i) especially constructed for towing or wrecking, and that are not otherwise used to transport goods, merchandise, or people for compensation;

(ii) used or licensed as taxicabs or limousines;

(iii) used as rental passenger cars, travel trailers, or motor homes;

(iv) used or licensed in this state for use as ambulances or hearses;

(v) especially designed and used for garbage and rubbish collection; or

(vi) used exclusively to transport students or their instructors to or from any private, public, or religious school or school activities.

~~[(9)]~~ (10) (a) Except as provided in Subsection ~~[(9)]~~ (10)(b), for purposes of Section 59-2-801, "designated tax area" means a tax area created by the overlapping boundaries of only the following taxing entities:

(i) a county; and

(ii) a school district.

(b) Notwithstanding Subsection ~~[(9)]~~ (10)(a), "designated tax area" includes a tax area created by the overlapping boundaries of:

(i) the taxing entities described in Subsection ~~[(9)]~~ (10)(a); and

(ii) (A) a city or town if the boundaries of the school district under Subsection (9)(a) and the boundaries of the city or town are identical; or

(B) a special service district if the boundaries of the school district under Subsection ~~[(9)]~~ (10)(a) are located entirely within the special service district.

~~[(10)]~~ (11) "Eligible judgment" means a final and unappealable judgment or order under Section 59-2-1330:

(a) that became a final and unappealable judgment or order no more than 14 months prior to the day on which the notice required by Section 59-2-919.1 is required to be mailed; and

(b) for which a taxing entity's share of the final and unappealable judgment or order is greater than or equal to the lesser of:

(i) \$5,000; or

(ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year.

~~[(11)]~~ (12) (a) "Escaped property" means any property, whether personal, land, or any improvements to the property, subject to taxation and is:

(i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed to the wrong taxpayer by the assessing authority;

(ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to comply with the reporting requirements of this chapter; or

(iii) undervalued because of errors made by the assessing authority based upon incomplete or erroneous information furnished by the taxpayer.

(b) Property that is undervalued because of the use of a different valuation methodology or because of a different application of the same valuation methodology is not "escaped property."

~~[(12)]~~ (13) "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair market value" shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.

~~[(13)]~~ (14) "Farm machinery and equipment," for purposes of the exemption provided under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and cubers, and any other machinery or equipment used primarily for agricultural purposes; but does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other equipment used for business purposes other than farming.

~~[(14)]~~ (15) "Geothermal fluid" means water in any form at temperatures greater than 120 degrees centigrade naturally present in a geothermal system.

~~[(15)]~~ (16) "Geothermal resource" means:

(a) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and

(b) the energy, in whatever form, including pressure, present in, resulting from, created by, or which may be extracted from that natural heat, directly or through a material medium.

[~~46~~] (17) (a) “Goodwill” means:

(i) acquired goodwill that is reported as goodwill on the books and records:

(A) of a taxpayer; and

(B) that are maintained for financial reporting purposes; or

(ii) the ability of a business to:

(A) generate income:

(I) that exceeds a normal rate of return on assets; and

(II) resulting from a factor described in Subsection [~~46~~] (17)(b); or

(B) obtain an economic or competitive advantage resulting from a factor described in Subsection [~~46~~] (17)(b).

(b) The following factors apply to Subsection [~~46~~] (17)(a)(ii):

(i) superior management skills;

(ii) reputation;

(iii) customer relationships;

(iv) patronage; or

(v) a factor similar to Subsections [~~46~~] (17)(b)(i) through (iv).

(c) “Goodwill” does not include:

(i) the intangible property described in Subsection [~~29~~] (21)(a) or (b);

(ii) locational attributes of real property, including:

(A) zoning;

(B) location;

(C) view;

(D) a geographic feature;

(E) an easement;

(F) a covenant;

(G) proximity to raw materials;

(H) the condition of surrounding property; or

(I) proximity to markets;

(iii) value attributable to the identification of an improvement to real property, including:

(A) reputation of the designer, builder, or architect of the improvement;

(B) a name given to, or associated with, the improvement; or

(C) the historic significance of an improvement; or

(iv) the enhancement or assemblage value specifically attributable to the interrelation of the existing tangible property in place working together as a unit.

[~~17~~] (18) “Governing body” means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, the local district’s board of trustees;

(c) for a school district, the local board of education; or

(d) for a special service district under Title 17D, Chapter 1, Special Service District Act:

(i) the legislative body of the county or municipality that created the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board established under Section 17D-1-301; or

(ii) the administrative control board, to the extent that the county or municipal legislative body has delegated authority to an administrative control board established under Section 17D-1-301.

[~~18~~] (19) (a) For purposes of Section 59-2-103:

(i) “household” means the association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses; and

(ii) “household” includes married individuals, who are not legally separated, that have established domiciles at separate locations within the state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term “domicile.”

[~~19~~] (20) (a) Except as provided in Subsection [~~19~~] (20)(c), “improvement” means a building, structure, fixture, fence, or other item that is permanently attached to land, regardless of whether the title has been acquired to the land, if:

(i) (A) attachment to land is essential to the operation or use of the item; and

(B) the manner of attachment to land suggests that the item will remain attached to the land in the same place over the useful life of the item; or

(ii) removal of the item would:

(A) cause substantial damage to the item; or

(B) require substantial alteration or repair of a structure to which the item is attached.

(b) “Improvement” includes:

(i) an accessory to an item described in Subsection [~~19~~] (20)(a) if the accessory is:

(A) essential to the operation of the item described in Subsection [~~19~~] (20)(a); and

(B) installed solely to serve the operation of the item described in Subsection [(19)] (20)(a); and

(ii) an item described in Subsection [(19)] (20)(a) that:

(A) is temporarily detached from the land for repairs; and

(B) remains located on the land.

(c) Notwithstanding Subsections [(19)] (20)(a) and (b), "improvement" does not include:

(i) an item considered to be personal property pursuant to rules made in accordance with Section 59-2-107;

(ii) a moveable item that is attached to land:

(A) for stability only; or

(B) for an obvious temporary purpose;

(iii) (A) manufacturing equipment and machinery; or

(B) essential accessories to manufacturing equipment and machinery;

(iv) an item attached to the land in a manner that facilitates removal without substantial damage to:

(A) the land; or

(B) the item; or

(v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that transportable factory-built housing unit is considered to be personal property under Section 59-2-1503.

[(20)] (21) "Intangible property" means:

(a) property that is capable of private ownership separate from tangible property, including:

(i) money;

(ii) credits;

(iii) bonds;

(iv) stocks;

(v) representative property;

(vi) franchises;

(vii) licenses;

(viii) trade names;

(ix) copyrights; and

(x) patents;

(b) a low-income housing tax credit;

(c) goodwill; or

(d) a renewable energy tax credit or incentive, including:

(i) a federal renewable energy production tax credit under Section 45, Internal Revenue Code;

(ii) a federal energy credit for qualified renewable electricity production facilities under Section 48, Internal Revenue Code;

(iii) a federal grant for a renewable energy property under American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and

(iv) a tax credit under Subsection 59-7-614(5).

[(21)] (22) "Livestock" means:

(a) a domestic animal;

(b) a fish;

(c) a fur-bearing animal;

(d) a honeybee; or

(e) poultry.

[(22)] (23) "Low-income housing tax credit" means:

(a) a federal low-income housing tax credit under Section 42, Internal Revenue Code; or

(b) a low-income housing tax credit under:

(i) Section 59-7-607; or

(ii) Section 59-10-1010.

[(23)] (24) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

[(24)] (25) "Mine" means a natural deposit of either metalliferous or nonmetalliferous valuable mineral.

[(25)] (26) "Mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a mine.

[(26)] (27) (a) "Mobile flight equipment" means tangible personal property that is:

(i) owned or operated by an:

(A) air charter service;

(B) air contract service; or

(C) airline; and

(ii) (A) capable of flight;

(B) attached to an aircraft that is capable of flight; or

(C) contained in an aircraft that is capable of flight if the tangible personal property is intended to be used:

(I) during multiple flights;

(II) during a takeoff, flight, or landing; and

(III) as a service provided by an air charter service, air contract service, or airline.

(b) (i) "Mobile flight equipment" does not include a spare part other than a spare engine that is rotated:

(A) at regular intervals; and

(B) with an engine that is attached to the aircraft.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "regular intervals."

~~[(27)]~~ (28) “Nonmetalliferous minerals” includes, but is not limited to, oil, gas, coal, salts, sand, rock, gravel, and all carboniferous materials.

~~[(28)]~~ (29) “Part-year residential property” means property that is not residential property on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.

~~[(29)]~~ (30) “Personal property” includes:

(a) every class of property as defined in Subsection ~~[(30)]~~ (31) that is the subject of ownership and not included within the meaning of the terms “real estate” and “improvements”;

(b) gas and water mains and pipes laid in roads, streets, or alleys;

(c) bridges and ferries;

(d) livestock; and

(e) outdoor advertising structures as defined in Section 72-7-502.

~~[(30)]~~ (31) (a) “Property” means property that is subject to assessment and taxation according to its value.

(b) “Property” does not include intangible property as defined in this section.

~~[(31)]~~ (32) “Public utility,” for purposes of this chapter, means the operating property of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation, telephone corporation, sewerage corporation, or heat corporation where the company performs the service for, or delivers the commodity to, the public generally or companies serving the public generally, or in the case of a gas corporation or an electrical corporation, where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use. Public utility also means the operating property of any entity or person defined under Section 54-2-1 except water corporations.

~~[(32)]~~ (33) (a) Subject to Subsection ~~[(32)]~~ (33)(b), “qualifying exempt primary residential rental personal property” means household furnishings, furniture, and equipment that:

(i) are used exclusively within a dwelling unit that is the primary residence of a tenant;

(ii) are owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(iii) after applying the residential exemption described in Section 59-2-103, are exempt from taxation under this chapter in accordance with Subsection 59-2-1115(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “dwelling unit” for purposes of this Subsection ~~[(32)]~~ (33) and Subsection ~~[(35)]~~ (36).

~~[(33)]~~ (34) “Real estate” or “real property” includes:

(a) the possession of, claim to, ownership of, or right to the possession of land;

(b) all mines, minerals, and quarries in and under the land, all timber belonging to individuals or corporations growing or being on the lands of this state or the United States, and all rights and privileges appertaining to these; and

(c) improvements.

~~[(34)]~~ (35) “Relationship with an owner of the property’s land surface rights” means a relationship described in Subsection 267(b), Internal Revenue Code:

(a) except that notwithstanding Subsection 267(b), Internal Revenue Code, the term 25% shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code; and

(b) using the ownership rules of Subsection 267(c), Internal Revenue Code, for determining the ownership of stock.

~~[(35)]~~ (36) (a) Subject to Subsection ~~[(35)]~~ (36)(b), “residential property,” for the purposes of the reductions and adjustments under this chapter, means any property used for residential purposes as a primary residence.

(b) Subject to Subsection ~~[(35)]~~ (36)(c), “residential property”:

(i) except as provided in Subsection ~~[(35)]~~ (36)(b)(ii), includes household furnishings, furniture, and equipment if the household furnishings, furniture, and equipment are:

(A) used exclusively within a dwelling unit that is the primary residence of a tenant; and

(B) owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(ii) does not include property used for transient residential use.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “dwelling unit” for purposes of Subsection ~~[(32)]~~ (33) and this Subsection ~~[(35)]~~ (36).

~~[(36)]~~ (37) “Split estate mineral rights owner” means a person who:

(a) has a legal right to extract a mineral from property;

(b) does not hold more than a 25% interest in:

(i) the land surface rights of the property where the wellhead is located; or

(ii) an entity with an ownership interest in the land surface rights of the property where the wellhead is located;

(c) is not an entity in which the owner of the land surface rights of the property where the wellhead is located holds more than a 25% interest; and

(d) does not have a relationship with an owner of the land surface rights of the property where the wellhead is located.

[~~37~~] (38) (a) "State-assessed commercial vehicle" means:

(i) any commercial vehicle, trailer, or semitrailer which operates interstate or intrastate to transport passengers, freight, merchandise, or other property for hire; or

(ii) any commercial vehicle, trailer, or semitrailer which operates interstate and transports the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

(b) "State-assessed commercial vehicle" does not include vehicles used for hire which are specified in Subsection [~~8~~] (9)(c) as county-assessed commercial vehicles.

(39) "Subdivided lot" means a lot, parcel, or other division of land, that is a division of a base parcel.

[~~38~~] (40) "Taxable value" means fair market value less any applicable reduction allowed for residential property under Section 59-2-103.

[~~39~~] (41) "Tax area" means a geographic area created by the overlapping boundaries of one or more taxing entities.

[~~40~~] (42) "Taxing entity" means any county, city, town, school district, special taxing district, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or other political subdivision of the state with the authority to levy a tax on property.

[~~41~~] (43) "Tax roll" means a permanent record of the taxes charged on property, as extended on the assessment roll and may be maintained on the same record or records as the assessment roll or may be maintained on a separate record properly indexed to the assessment roll. It includes tax books, tax lists, and other similar materials.

Section 2. Section 59-2-1331.5 is enacted to read:

59-2-1331.5. Partial payment of property tax on a base parcel.

(1) (a) Subject to Subsection (1)(b), a person may make a payment toward a subdivided lot's proportional share of the property tax on the base parcel before the date on which the property tax is due.

(b) A person may make a payment under Subsection (1)(a) only if the record owner of the subdivided lot is a bona fide purchaser.

(2) (a) Upon request, the county treasurer shall provide a person:

(i) the amount of a subdivided lot's proportional share of the property tax on the base parcel for the current year; or

(ii) if the amount described in Subsection (2)(a)(i) is unavailable, a reasonable estimate of a

subdivided lot's proportional share of the property tax on the base parcel for the current year.

(b) The county treasurer shall calculate a subdivided lot's proportional share of the property tax on the base parcel by comparing:

(i) the amount of the value of the base parcel as described in Subsection (2)(b)(ii) that is attributable to the property that comprises the subdivided lot as the property existed on January 1 of the current year; and

(ii) the value of the base parcel as it existed on January 1 of the current year.

(3) (a) The county treasurer shall send a written notice described in Subsection (3)(b) to the record owner of a subdivided lot if:

(i) a person makes a payment under Subsection (1) toward the subdivided lot's proportional share of the property tax on the base parcel; and

(ii) as of November 30, there is an outstanding balance on the subdivided lot's proportional share of the property tax on the base parcel.

(b) A written notice described in Subsection (3)(a) shall state:

(i) the remaining balance owed on the subdivided lot's proportional share of the property tax on the base parcel;

(ii) a date, not less than 30 days after the day on which the notice is sent, by which the remaining balance is due; and

(iii) that any amount of the balance that is not paid or postmarked by the date described in Subsection (3)(b)(ii) is delinquent and subject to the penalties, interest, and administrative costs described in this chapter.

(4) If a person timely pays a subdivided lot's proportional share of the property tax on the base parcel, and the property tax on the base parcel subsequently becomes delinquent, the subdivided lot is not subject to:

(a) a lien for the payment of the delinquent property tax on the base parcel; or

(b) any penalties, interest, or administrative costs associated with the delinquent property tax on the base parcel.

Section 3. Section 59-2-1332.5 is amended to read:

59-2-1332.5. Mailing notice of delinquency or publication of delinquent list -- Contents -- Notice -- Definitions.

(1) The county treasurer shall provide notice of delinquency in the payment of property taxes:

(a) except as provided in Subsection (4), on or before December 31 of each calendar year; and

(b) in a manner described in Subsection (2).

(2) A notice of delinquency in the payment of property taxes shall be provided by:

(a) (i) mailing a written notice that includes the information described in Subsection (3)(a), postage prepaid, to:

(A) ~~to~~ each delinquent taxpayer; and

(B) ~~[that includes the information required by Subsection (3)(a)]~~ if the delinquent property taxes are assessed on a base parcel, the record owner of each subdivided lot; and

(ii) making available to the public a list of delinquencies in the payment of property taxes:

(A) by electronic means; and

(B) that includes the information required by Subsection (3)(b); or

(b) publishing a list of delinquencies in the payment of property taxes:

(i) in one issue of a newspaper having general circulation in the county;

(ii) that lists each delinquency in alphabetical order by:

(A) the last name of the delinquent taxpayer; or

(B) if the delinquent taxpayer is a business entity, the name of the business entity; and

(iii) that includes the information ~~[required by]~~ described in Subsection (3)(b).

(3) (a) A written notice of delinquency in the payment of property taxes described in Subsection (2)(a)(i) shall include:

(i) a statement that delinquent taxes are due;

(ii) the amount of delinquent taxes due, not including any penalties imposed in accordance with this chapter;

(iii) (A) the name of the delinquent taxpayer; or

(B) if the delinquent taxpayer is a business entity, the name of the business entity;

(iv) (A) a description of the delinquent property; or

(B) the property identification number of the delinquent property;

(v) a statement that a penalty shall be imposed in accordance with this chapter; and

(vi) a statement that interest accrues as of January 1 following the date of the delinquency unless on or before January 31 the following are paid:

(A) the delinquent taxes; and

(B) the penalty.

(b) The list of delinquencies described in Subsection (2)(a)(ii) or (2)(b) shall include:

(i) the amount of delinquent taxes due, not including any penalties imposed in accordance with this chapter;

(ii) (A) the name of the delinquent taxpayer; or

(B) if the delinquent taxpayer is a business entity, the name of the business entity;

(iii) (A) a description of the delinquent property; or

(B) the property identification number of the delinquent property;

(iv) a statement that a penalty shall be imposed in accordance with this chapter; and

(v) a statement that interest accrues as of January 1 following the date of the delinquency unless on or before January 31 the following are paid:

(A) the delinquent taxes; and

(B) the penalty.

(4) Notwithstanding Subsection (1)(a), if the county legislative body extends the property tax due date under Subsection 59-2-1332(1), the notice of delinquency in the payment of property taxes shall be provided on or before January 10.

(5) (a) In addition to the notice of delinquency in the payment of property taxes required by Subsection (1), a county treasurer may in accordance with this Subsection (5) mail a notice that property taxes are delinquent:

(i) to:

(A) a delinquent taxpayer;

(B) an owner of record of the delinquent property;

(C) any other interested party that requests notice; or

(D) a combination of Subsections (5)(a)(i)(A) through (C); and

(ii) at any time that the county treasurer considers appropriate.

(b) A notice mailed in accordance with this Subsection (5):

(i) shall include the information required by Subsection (3)(a); and

(ii) may include any information that the county treasurer finds is useful to the owner of record of the delinquent property in determining:

(A) the status of taxes owed on the delinquent property;

(B) any penalty that is owed on the delinquent property;

(C) any interest charged under Section 59-2-1331 on the delinquent property; or

(D) any related matters concerning the delinquent property.

(6) As used in this section, "business entity" means:

(a) an association;

(b) a corporation;

(c) a limited liability company;

(d) a partnership;

(e) a trust; or

(f) a business entity similar to Subsections (6)(a) through (e).

Section 4. Section 59-2-1346 is amended to read:

59-2-1346. Redemption -- Time allowed.

(1) ~~[(a)]~~ Property may be redeemed on behalf of the record owner by any person at any time ~~[prior to]~~ before the tax sale which shall be held in May or June as provided in Section 59-2-1351 following the lapse of four years from the date the property tax became delinquent.

~~[(b)]~~ (2) A person may redeem property by paying to the county ~~[treasury]~~ treasurer all delinquent taxes, interest, penalties, and administrative costs that have accrued on the property.

(3) (a) Subject to Subsection (3)(d), a person may redeem a subdivided lot by paying the county treasurer the subdivided lot's proportional share of the delinquent taxes, interest, penalties, and administrative costs accrued on the base parcel, calculated in accordance with Subsection (3)(b).

(b) The county treasurer shall calculate the amount described in Subsection (3)(a) by comparing:

(i) the amount of the value of the base parcel as described in Subsection (3)(b)(ii) that is attributable to the property that comprises the subdivided lot as the property existed on January 1 of the year in which the delinquent property taxes on the base parcel were assessed; and

(ii) the value of the base parcel as it existed on January 1 of the year in which the delinquent property taxes on the base parcel were assessed.

(c) If the county treasurer does not have sufficient information to calculate the amount described in Subsection (3)(a)(i), upon request from the county treasurer, the county assessor shall provide the county treasurer any information necessary to calculate the amount described in Subsection (3)(a)(i).

(d) A person may redeem a subdivided lot under this Subsection (3) only if the record owner of the subdivided lot is a bona fide purchaser.

~~[(2)]~~ (4) At any time ~~[prior to]~~ before the expiration of the period of redemption the county treasurer shall accept and credit on account for the redemption of property, payments in amounts of not less than \$10, except for the final payment, which may be in any amount. For the purpose of computing the amount required for redemption and for the purpose of distributing the payments received on account, all payments shall be applied in the following order:

(a) against the interest and administrative costs accrued on the delinquent tax for the last year included in the delinquent account at the time of payment;

(b) against the penalty charged on the delinquent tax for the last year included in the delinquent account at the time of payment;

(c) against the delinquent tax for the last year included in the delinquent account at the time of payment;

(d) against the interest and administrative costs accrued on the delinquent tax for the next to last year included in the delinquent account at the time of payment;

(e) and so on until the full amount of the delinquent taxes, penalties, administrative costs, and interest on the unpaid balances are paid within the period of redemption.

Section 5. Section 59-7-302 is amended to read:

59-7-302. Definitions -- Determination of when a taxpayer is considered to be a sales factor weighted taxpayer.

(1) As used in this part, unless the context otherwise requires:

(a) "Aircraft type" means a particular model of aircraft as designated by the manufacturer of the aircraft.

(b) "Airline" ~~[is as]~~ means the same as that term is defined in Section 59-2-102.

(c) "Airline revenue ton miles" means, for an airline, the total revenue ton miles during the airline's tax period.

(d) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitutes integral parts of the taxpayer's regular trade or business operations.

(e) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(f) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services.

(g) (i) Except as provided in Subsection (1)(g)(ii), "mobile flight equipment" is as defined in Section 59-2-102.

(ii) "Mobile flight equipment" does not include:

(A) a spare engine; or

(B) tangible personal property described in Subsection 59-2-102~~[(26)]~~ (27) owned by an:

(I) air charter service; or

(II) air contract service.

(h) "Nonbusiness income" means all income other than business income.

(i) "Revenue ton miles" is determined in accordance with 14 C.F.R. Part 241.

(j) "Sales" means all gross receipts of the taxpayer not allocated under Sections 59-7-306 through 59-7-310.

(k) Subject to Subsection (2), “sales factor weighted taxpayer” means:

(i) for a taxpayer that is not a unitary group, regardless of the number of economic activities the taxpayer performs, a taxpayer having greater than 50% of the taxpayer’s total sales everywhere generated by economic activities performed by the taxpayer if the economic activities are classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, except for:

(A) a NAICS code within NAICS Sector 21, Mining;

(B) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;

(C) a NAICS code within NAICS Sector 31-33, Manufacturing;

(D) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;

(E) a NAICS code within NAICS Sector 51, Information, except for NAICS Subsector 519, Other Information Services; or

(F) a NAICS code within NAICS Sector 52, Finance and Insurance; or

(ii) for a taxpayer that is a unitary group, a taxpayer having greater than 50% of the taxpayer’s total sales everywhere generated by economic activities performed by the taxpayer if the economic activities are classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, except for:

(A) a NAICS code within NAICS Sector 21, Mining;

(B) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;

(C) a NAICS code within NAICS Sector 31-33, Manufacturing;

(D) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;

(E) a NAICS code within NAICS Sector 51, Information, except for NAICS Subsector 519, Other Information Services; or

(F) a NAICS code within NAICS Sector 52, Finance and Insurance.

(l) “State” means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(m) “Transportation revenue” means revenue an airline earns from:

(i) transporting a passenger or cargo; or

(ii) from miscellaneous sales of merchandise as part of providing transportation services.

(n) “Utah revenue ton miles” means, for an airline, the total revenue ton miles within the borders of this state:

(i) during the airline’s tax period; and

(ii) from flight stages that originate or terminate in this state.

(2) The following apply to Subsection (1)(k):

(a) (i) Subject to the other provisions of this Subsection (2), a taxpayer shall for each taxable year determine whether the taxpayer is a sales factor weighted taxpayer.

(ii) A taxpayer shall make the determination required by Subsection (2)(a)(i) before the due date for filing the taxpayer’s return under this chapter for the taxable year, including extensions.

(iii) For purposes of making the determination required by Subsection (2)(a)(i), total sales everywhere include only the total sales everywhere:

(A) as determined in accordance with this part; and

(B) made during the taxable year for which a taxpayer makes the determination required by Subsection (2)(a)(i).

(b) A taxpayer that files a return as a unitary group for a taxable year is considered to be a unitary group for that taxable year.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may define the term “economic activity” consistent with the use of the term “activity” in the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget.

CHAPTER 369**H. B. 87**

Passed March 10, 2016
 Approved March 29, 2016
 Effective May 10, 2016
 (Exception clause in Section 10)

**CLEAN FUEL
 CONVERSION AMENDMENTS**

Chief Sponsor: Stephen G. Handy
 Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill amends the Conversion to Alternative Fuel Grant Program.

Highlighted Provisions:

This bill:

- ▶ creates the Conversion to Alternative Fuel Grant Program Fund;
- ▶ authorizes the Department of Environmental Quality to make grants from the Conversion to Alternative Fuel Grant Program Fund to a person who installs conversion equipment on an eligible vehicle;
- ▶ repeals tax credits for conversion equipment for vehicles; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates:

- ▶ to the Conversion to Alternative Fuel Grant Program Fund, as a one-time appropriation:
 - from the General Fund, \$150,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

19-1-403, as last amended by Laws of Utah 2015, Chapter 381
 19-2-302, as enacted by Laws of Utah 2015, Chapter 381
 19-2-303, as enacted by Laws of Utah 2015, Chapter 381
 19-2-304, as enacted by Laws of Utah 2015, Chapter 381
 59-7-605, as last amended by Laws of Utah 2015, Chapters 381 and 439
 59-10-1009, as last amended by Laws of Utah 2015, Chapters 381 and 439
 63I-2-219, as last amended by Laws of Utah 2015, Chapter 258

ENACTS:

19-1-403.3, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 19-1-403 is amended to read:

19-1-403. Clean Fuels and Vehicle Technology Fund -- Contents -- Loans or grants made with fund money.

(1) (a) There is created a revolving fund known as the Clean Fuels and Vehicle Technology Fund.

- (b) The fund consists of:
- (i) appropriations to the fund;
 - (ii) other public and private contributions made under Subsection (1)(c);
 - (iii) interest earnings on cash balances; and
 - (iv) all money collected for loan repayments and interest on loans.
- (c) The department may accept contributions from other public and private sources for deposit into the fund.

(2) (a) The department may make a loan or a grant with money available in the fund for:

(i) ~~for~~ the conversion of a private sector business vehicle or a government vehicle to use a clean fuel, if certified by the Air Quality Board under Subsection 19-1-405(1)(a); or

(ii) ~~for~~ the purchase of an OEM vehicle for use as a private sector business vehicle or government vehicle~~;~~~~or~~.

~~[(iii) to a person who installs conversion equipment on an eligible vehicle, as described in Sections 19-2-301 through 19-2-304.]~~

(b) The amount of a loan for any vehicle under Subsection (2)(a) may not exceed:

- (i) the actual cost of the vehicle conversion;
- (ii) the incremental cost of purchasing the OEM vehicle; or
- (iii) the cost of purchasing the OEM vehicle if there is no documented incremental cost.

(c) The amount of a grant for any vehicle under Subsection (2)(a) may not exceed:

- (i) 50% of the actual cost of the vehicle conversion minus the amount of any tax credit claimed under Section 59-7-605 or 59-10-1009 for the vehicle for which a grant is requested; or
- (ii) 50% of the incremental cost of purchasing an OEM vehicle minus the amount of any tax credit claimed under Section 59-7-605 or 59-10-1009 for the vehicle for which a grant is requested.

(d) (i) Subject to the availability of money in the fund, the department may make a loan or grant for the purchase of vehicle refueling equipment for a private sector business vehicle or a government vehicle.

(ii) The maximum amount loaned or granted per installation of refueling equipment may not exceed the actual cost of the refueling equipment.

(3) The department may:

(a) establish an application fee for a loan or grant from the fund by following the procedures and requirements of Section 63J-1-504; and

(b) reimburse itself for the costs incurred in administering the fund from:

- (i) the fund; or
- (ii) application fees established under Subsection (3)(a).

(4) (a) The fund balance may not exceed \$10,000,000.

(b) Interest on cash balances and repayment of loans in excess of the amount necessary to maintain the fund balance at \$10,000,000 shall be deposited in the General Fund.

(5) (a) Loans made from money in the fund shall be supported by loan documents evidencing the intent of the borrower to repay the loan.

(b) The original loan documents shall be filed with the Division of Finance and a copy shall be filed with the department.

Section 2. Section 19-1-403.3 is enacted to read:

19-1-403.3. Conversion to Alternative Fuel Grant Program Fund -- Contents -- Grants made with fund money.

(1) (a) There is created an expendable special revenue fund known as the Conversion to Alternative Fuel Grant Program Fund.

(b) The fund consists of:

(i) appropriations to the fund;

(ii) other public and private contributions made under Subsection (1)(c);

(iii) fees established by the department, as described in Subsection (3)(a), and deposited into the fund; and

(iv) interest earnings on cash balances.

(c) The department may accept contributions from other public and private sources for deposit into the fund.

(2) The department may make a grant with money available in the fund to a person who installs conversion equipment on an eligible vehicle, as described in Sections 19-2-301 through 19-2-304.

(3) The department may:

(a) establish an application fee for a grant from the fund by following the procedures and requirements of Section 63J-1-504; and

(b) reimburse itself for the costs incurred in administering the fund from:

(i) the fund; or

(ii) application fees established under Subsection (3)(a).

(4) (a) The fund balance may not exceed \$10,000,000.

(b) Interest on cash balances in excess of the amount necessary to maintain the fund balance at \$10,000,000 shall be deposited into the General Fund.

Section 3. Section 19-2-302 is amended to read:

19-2-302. Definitions.

As used in this part:

(1) "Air quality standards" means vehicle emission standards equal to or greater than the standards established in bin 4 in Table S04-1 of 40 C.F.R. 86.1811-04(c)(6).

(2) "Alternative fuel" means:

(a) propane, natural gas, or electricity; or

(b) other fuel that the board determines, by rule, to be:

(i) at least as effective in reducing air pollution as the fuels listed in Subsection (2)(a); or

(ii) substantially more effective in reducing air pollution as the fuel for which the engine was originally designed.

(3) "Board" means the Air Quality Board.

(4) "Clean fuel grant" means a grant awarded under ~~[Title 19, Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act,]~~ this part from the Conversion to Alternative Fuel Grant Program Fund created in Section 19-1-403.3 for reimbursement for a portion of the incremental cost of an OEM vehicle or the cost of conversion equipment.

(5) "Conversion equipment" means equipment designed to:

(a) allow an eligible vehicle to operate on an alternative fuel; and

(b) reduce an eligible vehicle's emissions of regulated pollutants, as demonstrated by:

(i) certification of the conversion equipment by the Environmental Protection Agency or by a state or country that has certification standards that are recognized, by rule, by the board;

(ii) testing the eligible vehicle, before and after the installation of the equipment, in accordance with 40 C.F.R. Part 86, Control of Emissions from New and In-Use Highway Vehicles and Engines, using all fuel the motor vehicle is capable of using;

(iii) for a retrofit natural gas vehicle that is retrofit in accordance with Section 19-1-406, satisfying the emission standards described in Section 19-1-406; or

(iv) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) "Cost" means the total reasonable cost of a conversion kit and the paid labor, if any, required to install it.

(7) "Director" means the director of the Division of Air Quality.

(8) "Division" means the Division of Air Quality, created in Subsection 19-1-105(1)(a).

(9) "Eligible vehicle" means a:

(a) commercial vehicle, as defined in Section 41-1a-102;

(b) farm tractor, as defined in Section 41-1a-102; or

(c) motor vehicle, as defined in Section 41-1a-102.

Section 4. Section 19-2-303 is amended to read:

19-2-303. Grants and programs -- Conditions.

(1) The director may make grants from the Conversion to Alternative Fuel Grant Program Fund created in Section 19-1-403.3 to a person who installs conversion equipment on an eligible vehicle as described in this part.

(2) A person who installs conversion equipment on an eligible vehicle:

(a) may apply to the division for a grant to offset the cost of installation; and

(b) shall pass along any savings on the cost of conversion equipment to the owner of the eligible vehicle being converted in the amount of grant money received.

(3) As a condition for receiving the grant, a person who installs conversion equipment shall agree to:

(a) provide information to the division about the eligible vehicle to be converted with the grant proceeds;

(b) allow inspections by the division to ensure compliance with the terms of the grant; and

(c) comply with the conditions for the grant.

(4) A grant issued under this section may not exceed the lesser of 50% of the cost of the conversion system and associated labor, or \$2,500, per converted eligible vehicle.

Section 5. Section 19-2-304 is amended to read:

19-2-304. Duties and authorities -- Rulemaking.

(1) The board may, by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules:

(a) specifying the amount of money to be dedicated annually for grants under this part;

(b) specifying criteria the director shall consider in prioritizing and awarding grants, including a limitation on the types of vehicles that are eligible for funds;

(c) specifying the minimum qualifications of a person who:

(i) installs conversion equipment on an eligible vehicle; and

(ii) receives a grant from the division;

(d) specifying the terms of a grant; and

(e) requiring all grant applicants to apply on forms provided by the division.

(2) The division shall:

(a) administer [funds] the Conversion to Alternative Fuel Grant Program Fund to encourage eligible vehicle owners to reduce emissions from eligible vehicles; and

(b) provide information about which conversion technology meets the requirements of this part.

(3) The division may inspect vehicles for which a grant was made to ensure compliance with the terms of the grant.

Section 6. Section 59-7-605 is amended to read:

59-7-605. Definitions -- Tax credits related to energy efficient vehicles.

(1) As used in this section:

(a) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than the standards established in bin 4 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

(b) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.

~~[(c) "Certified by the board" means that:]~~

~~[(i) a motor vehicle on which conversion equipment has been installed meets the following criteria:]~~

~~[(A) before the installation of conversion equipment, the vehicle does not exceed the emission cut points for a transient test driving cycle, as specified in 40 C.F.R. Part 51, Appendix E to Subpart S, or an equivalent test for the make, model, and year of the vehicle; and]~~

~~[(B) as a result of the installation of conversion equipment on the motor vehicle, the motor vehicle has reduced emissions; or]~~

~~[(ii) special mobile equipment on which conversion equipment has been installed has reduced emissions.]~~

~~[(d) "Clean fuel grant" means a grant awarded:]~~

~~[(i) under Title 19, Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act, for reimbursement of a portion of the incremental cost of an OEM vehicle or the cost of conversion equipment; or]~~

~~[(ii) under Title 19, Chapter 2, Part 3, Conversion to Alternative Fuel Grant Program.]~~

~~[(e) "Conversion equipment" means equipment described in Subsection (2)(d) or (e).]~~

~~[(f) (c) "OEM vehicle" [has] means the same [meaning] as that term is defined in Section 19-1-402.~~

~~[(g) (d) "Original purchase" means the purchase of a vehicle that has never been titled or registered and has been driven less than 7,500 miles.~~

~~[(h) (e) "Qualifying electric motorcycle" means a vehicle that:~~

(i) has a seat or saddle for the use of the rider;

(ii) is designed to travel with not more than three wheels in contact with the ground;

(iii) may lawfully be operated on a freeway, as defined in Section 41-6a-102;

(iv) is not fueled by natural gas;

(v) is fueled by electricity only; and

(vi) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection (1)(~~(h)~~)(e)(v).

[~~(4)~~] (f) "Qualifying electric vehicle" means a vehicle that:

(i) meets air quality standards;

(ii) is not fueled by natural gas;

(iii) [~~is fueled by electricity only~~] draws propulsion energy from a battery with at least 10 kilowatt hours of capacity; and

(iv) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection (1)(~~(h)~~)(f)(iii).

[~~(4)~~] (g) "Qualifying plug-in hybrid vehicle" means a vehicle that:

(i) meets air quality standards;

(ii) is not fueled by natural gas or propane;

(iii) has a battery capacity that meets or exceeds the battery capacity described in Section 30D(b)(3), Internal Revenue Code; and

(iv) is fueled by a combination of electricity and:

(A) diesel fuel;

(B) gasoline; or

(C) a mixture of gasoline and ethanol.

[~~(k) "Reduced emissions" means:~~]

[~~(i) for purposes of a motor vehicle on which conversion equipment has been installed, that the motor vehicle's emissions of regulated pollutants, when operating on a fuel listed in Subsection (2)(e)(i) or (ii), is less than the emissions were before the installation of the conversion equipment, as demonstrated by:~~]

[~~(A) certification of the conversion equipment by the federal Environmental Protection Agency or by a state that has certification standards recognized by the board;~~]

[~~(B) testing the motor vehicle, before and after installation of the conversion equipment, in accordance with 40 C.F.R. Part 86, Control of Emissions from New and In-use Highway Vehicles and Engines, using all fuel the motor vehicle is capable of using;~~]

[~~(C) for a retrofit natural gas vehicle that is retrofit in accordance with Section 19-1-406, testing that as a result of the retrofit, the retrofit natural gas vehicle satisfies the emission standards applicable under Section 19-1-406; or]~~

[~~(D) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or]~~

[~~(ii) for purposes of special mobile equipment on which conversion equipment has been installed, that the special mobile equipment's emissions of regulated pollutants, when operating on a fuel listed in Subsection (2)(e)(i) or (ii), is less than the emissions were before the installation of conversion equipment, as demonstrated by:]~~

[~~(A) certification of the conversion equipment by the federal Environmental Protection Agency or by a state that has certification standards recognized by the board; or]~~

[~~(B) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.]~~

[~~(4) "Special mobile equipment":]~~

[~~(i) means any mobile equipment or vehicle that is not designed or used primarily for the transportation of persons or property; and]~~

[~~(ii) includes construction or maintenance equipment.]~~

(2) For the taxable years beginning on or after January 1, 2015, but beginning on or before December 31, 2016, a taxpayer may claim a tax credit against tax otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in an amount equal to:

(a) (i) for the original purchase of a new qualifying electric vehicle that is registered in this state, the lesser of:

(A) \$1,500; or

(B) 35% of the purchase price of the vehicle; or

(ii) for the original purchase of a new qualifying plug-in hybrid vehicle that is registered in this state, \$1,000;

(b) for the original purchase of a new vehicle fueled by natural gas or propane that is registered in this state, the lesser of:

(i) \$1,500; or

(ii) 35% of the purchase price of the vehicle;

(c) for the original purchase of a new qualifying electric motorcycle that is registered in this state, the lesser of:

(i) \$750; or

(ii) 35% of the purchase price of the vehicle; and

[~~(d) 50% of the cost of equipment for conversion, if certified by the board, of a motor vehicle registered in this state minus the amount of any clean fuel grant received, up to a maximum tax credit of \$1,500 per motor vehicle, if the motor vehicle is to:]~~

[~~(i) be fueled by propane, natural gas, or electricity;]~~

[~~(ii) be fueled by other fuel the board determines annually on or before July 1 to be at least as~~

~~effective in reducing air pollution as fuels under Subsection (2)(d)(i); or]~~

~~[(iii) — meet the federal clean fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.;~~

~~[(c) 50% of the cost of equipment for conversion, if certified by the board, of a special mobile equipment engine minus the amount of any clean fuel grant received, up to a maximum tax credit of \$1,000 per special mobile equipment engine, if the special mobile equipment is to be fueled by:]~~

~~[(i) propane, natural gas, or electricity; or]~~

~~[(ii) other fuel the board determines annually on or before July 1 to be:]~~

~~[(A) at least as effective in reducing air pollution as the fuels under Subsection (2)(e)(i); or]~~

~~[(B) substantially more effective in reducing air pollution than the fuel for which the engine was originally designed; and]~~

~~[(F)] (d) for a lease of a vehicle described in Subsection (2)(a), (b), or (c), an amount equal to the product of:~~

~~(i) the amount of tax credit the taxpayer would otherwise qualify to claim under Subsection (2)(a), (b), or (c) had the taxpayer purchased the vehicle, except that the purchase price described in Subsection (2)(a)(i)(B), (2)(b)(ii), or (2)(c)(ii) is considered to be the value of the vehicle at the beginning of the lease; and~~

~~(ii) a percentage calculated by:~~

~~(A) determining the difference between the value of the vehicle at the beginning of the lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as stated in the lease agreement; and~~

~~(B) dividing the difference determined under Subsection (2)(F)(d)(ii)(A) by the value of the vehicle at the beginning of the lease, as stated in the lease agreement.~~

~~(3) (a) The board shall:~~

~~(i) determine the amount of tax credit a taxpayer is allowed under this section; and~~

~~(ii) provide the taxpayer with a written certification of the amount of tax credit the taxpayer is allowed under this section.~~

~~(b) A taxpayer shall provide proof of the purchase or lease of an item for which a tax credit is allowed under this section by:~~

~~(i) providing proof to the board in the form the board requires by rule;~~

~~(ii) receiving a written statement from the board acknowledging receipt of the proof; and~~

~~(iii) retaining the written statement described in Subsection (3)(b)(ii).~~

~~(c) A taxpayer shall retain the written certification described in Subsection (3)(a)(ii).~~

(4) Except as provided by Subsection (5), the tax credit under this section is allowed only:

(a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year by the taxpayer;

(b) for the taxable year in which a vehicle described in Subsection (2)(a), (b), or (c) is purchased[,] or a vehicle described in Subsection (2)(f) is leased[, or conversion equipment described in Subsection (2)(d) or (e) is installed]; and

(c) once per vehicle.

(5) A taxpayer may not assign a tax credit under this section to another person.

(6) If the amount of a tax credit claimed by a taxpayer under this section exceeds the taxpayer's tax liability under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for a taxable year, the amount of the tax credit exceeding the tax liability may be carried forward for a period that does not exceed the next five taxable years.

(7) In accordance with any rules prescribed by the commission under Subsection (8), the commission shall transfer at least annually from the General Fund into the Education Fund the amount by which the amount of tax credit claimed under this section for a taxable year exceeds \$500,000.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Education Fund as required by Subsection (7).

Section 7. Section 59-10-1009 is amended to read:

59-10-1009. Definitions -- Tax credits related to energy efficient vehicles.

(1) As used in this section:

(a) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than the standards established in bin 4 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

(b) "Board" means the Air Quality Board created in Title 19, Chapter 2, Air Conservation Act.

~~[(e) "Certified by the board" means that:]~~

~~[(i) — a motor vehicle on which conversion equipment has been installed meets the following criteria:]~~

~~[(A) — before the installation of conversion equipment, the vehicle does not exceed the emission cut points for a transient test driving cycle, as specified in 40 C.F.R. Part 51, Appendix E to Subpart S, or an equivalent test for the make, model, and year of the vehicle; and]~~

~~[(B) — as a result of the installation of conversion equipment on the motor vehicle, the motor vehicle has reduced emissions; or]~~

~~[(ii) — special mobile equipment on which conversion equipment has been installed has reduced emissions.]~~

~~[(d) “Clean fuel grant” means a grant a claimant, estate, or trust receives under Title 19, Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act or Title 19, Chapter 2, Part 3, Conversion to Alternative Fuel Grant Program, for reimbursement of a portion of the incremental cost of the OEM vehicle or the cost of conversion equipment.]~~

~~[(e) “Conversion equipment” means equipment described in Subsection (2)(d) or (e).]~~

~~[(f) (c) “OEM vehicle” [has] means the same [meaning] as that term is defined in Section 19-1-402.~~

~~[(g) (d) “Original purchase” means the purchase of a vehicle that has never been titled or registered and has been driven less than 7,500 miles.~~

~~[(h) (e) “Qualifying electric motorcycle” means a vehicle that:~~

- ~~(i) has a seat or saddle for the use of the rider;~~
- ~~(ii) is designed to travel with not more than three wheels in contact with the ground;~~
- ~~(iii) may lawfully be operated on a freeway, as defined in Section 41-6a-102;~~
- ~~(iv) is not fueled by natural gas;~~
- ~~(v) is fueled by electricity only; and~~

~~(vi) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection 1)(h)(e)(v).~~

~~[(i) (f) “Qualifying electric vehicle” means a vehicle that:~~

- ~~(i) meets air quality standards;~~
- ~~(ii) is not fueled by natural gas;~~
- ~~(iii) [is fueled by electricity only] draws propulsion energy from a battery with at least 10 kilowatt hours of capacity; and~~

~~(iv) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection 1)(i)(f)(iii).~~

~~[(j) (g) “Qualifying plug-in hybrid vehicle” means a vehicle that:~~

- ~~(i) meets air quality standards;~~
- ~~(ii) is not fueled by natural gas or propane;~~
- ~~(iii) has a battery capacity that meets or exceeds the battery capacity described in Section 30D(b)(3), Internal Revenue Code; and~~
- ~~(iv) is fueled by a combination of electricity and:~~
 - ~~(A) diesel fuel;~~
 - ~~(B) gasoline; or~~
 - ~~(C) a mixture of gasoline and ethanol.~~

~~[(k) “Reduced emissions” means:]~~

~~[(i) for purposes of a motor vehicle on which conversion equipment has been installed, that the~~

~~motor vehicle’s emissions of regulated pollutants, when operating on a fuel listed in Subsection (2)(e)(i) or (ii), is less than the emissions were before the installation of the conversion equipment, as demonstrated by:]~~

~~[(A) certification of the conversion equipment by the federal Environmental Protection Agency or by a state that has certification standards recognized by the board;]~~

~~[(B) testing the motor vehicle, before and after installation of the conversion equipment, in accordance with 40 C.F.R. Part 86, Control of Emissions from New and In-use Highway Vehicles and Engines, using all fuel the motor vehicle is capable of using;]~~

~~[(C) for a retrofit natural gas vehicle that is retrofit in accordance with Section 19-1-406, testing that as a result of the retrofit, the retrofit natural gas vehicle satisfies the emission standards applicable under Section 19-1-406; or]~~

~~[(D) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or]~~

~~[(ii) for purposes of special mobile equipment on which conversion equipment has been installed, that the special mobile equipment’s emissions of regulated pollutants, when operating on a fuel listed in Subsection (2)(e)(i) or (ii), is less than the emissions were before the installation of conversion equipment, as demonstrated by:]~~

~~[(A) certification of the conversion equipment by the federal Environmental Protection Agency or by a state that has certification standards recognized by the board; or]~~

~~[(B) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.]~~

~~[(4) “Special mobile equipment”:]~~

~~[(i) means any mobile equipment or vehicle not designed or used primarily for the transportation of persons or property; and]~~

~~[(ii) includes construction or maintenance equipment.]~~

~~(2) For the taxable years beginning on or after January 1, 2015, but beginning on or before December 31, 2016, a claimant, estate, or trust may claim a nonrefundable tax credit against tax otherwise due under this chapter in an amount equal to:~~

~~(a) (i) for the original purchase of a new qualifying electric vehicle that is registered in this state, the lesser of:~~

- ~~(A) \$1,500; or~~
- ~~(B) 35% of the purchase price of the vehicle; or~~

~~(ii) for the original purchase of a new qualifying plug-in hybrid vehicle that is registered in this state, \$1,000;~~

(b) for the original purchase of a new vehicle fueled by natural gas or propane that is registered in this state, the lesser of:

- (i) \$1,500; or
- (ii) 35% of the purchase price of the vehicle;

(c) for the original purchase of a new qualifying electric motorcycle that is registered in this state, the lesser of:

- (i) \$750; or
- (ii) 35% of the purchase price of the vehicle; and

~~[(d) 50% of the cost of equipment for conversion, if certified by the board, of a motor vehicle registered in this state minus the amount of any clean fuel grant received, up to a maximum tax credit of \$1,500 per vehicle, if the motor vehicle;]~~

~~[(i) is to be fueled by propane, natural gas, or electricity;]~~

~~[(ii) is to be fueled by other fuel the board determines annually on or before July 1 to be at least as effective in reducing air pollution as fuels under Subsection (2)(d)(i); or]~~

~~[(iii) will meet the federal clean fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.;~~

~~[(e) 50% of the cost of equipment for conversion, if certified by the board, of a special mobile equipment engine minus the amount of any clean fuel grant received, up to a maximum tax credit of \$1,000 per special mobile equipment engine, if the special mobile equipment is to be fueled by:]~~

~~[(i) propane, natural gas, or electricity; or]~~

~~[(ii) other fuel the board determines annually on or before July 1 to be:]~~

~~[(A) at least as effective in reducing air pollution as the fuels under Subsection (2)(e)(i); or]~~

~~[(B) substantially more effective in reducing air pollution than the fuel for which the engine was originally designed; and]~~

~~[(F)] (d) for a lease of a vehicle described in Subsection (2)(a), (b), or (c), an amount equal to the product of:~~

(i) the amount of tax credit the claimant, estate, or trust would otherwise qualify to claim under Subsection (2)(a), (b), or (c) had the claimant, estate, or trust purchased the vehicle, except that the purchase price described in Subsection (2)(a)(i)(B), (2)(b)(ii), or (2)(c)(ii) is considered to be the value of the vehicle at the beginning of the lease; and

(ii) a percentage calculated by:

(A) determining the difference between the value of the vehicle at the beginning of the lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as stated in the lease agreement; and

(B) dividing the difference determined under Subsection (2)(~~(F)~~)(d)(ii)(A) by the value of the

vehicle at the beginning of the lease, as stated in the lease agreement.

(3) (a) The board shall:

(i) determine the amount of tax credit a claimant, estate, or trust is allowed under this section; and

(ii) provide the claimant, estate, or trust with a written certification of the amount of tax credit the claimant, estate, or trust is allowed under this section.

(b) A claimant, estate, or trust shall provide proof of the purchase or lease of an item for which a tax credit is allowed under this section by:

(i) providing proof to the board in the form the board requires by rule;

(ii) receiving a written statement from the board acknowledging receipt of the proof; and

(iii) retaining the written statement described in Subsection (3)(b)(ii).

(c) A claimant, estate, or trust shall retain the written certification described in Subsection (3)(a)(ii).

(4) Except as provided by Subsection (5), the tax credit under this section is allowed only:

(a) against a tax owed under this chapter in the taxable year by the claimant, estate, or trust;

(b) for the taxable year in which a vehicle described in Subsection (2)(a), (b), or (c) is purchased[, or a vehicle described in Subsection (2)(f) is leased[, or conversion equipment described in Subsection (2)(d) or (e) is installed]; and

(c) once per vehicle.

(5) A claimant, estate, or trust may not assign a tax credit under this section to another person.

(6) If the amount of a tax credit claimed by a claimant, estate, or trust under this section exceeds the claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability may be carried forward for a period that does not exceed the next five taxable years.

(7) In accordance with any rules prescribed by the commission under Subsection (8), the commission shall transfer at least annually from the General Fund into the Education Fund the amount by which the amount of tax credit claimed under this section for a taxable year exceeds \$500,000.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Education Fund as required by Subsection (7).

Section 8. Section 63I-2-219 is amended to read:

63I-2-219. Repeal dates -- Title 19.

(1) Subsection 19-1-403(2)(c)(i), the language that states "minus the amount of any tax credit claimed under Section 59-7-605 or 59-10-1009" is repealed on January 1, 2017.

(2) Subsection 19-1-403(2)(c)(ii), the language that states “minus the amount of any tax credit claimed under Section 59-7-605 or 59-10-1009” is repealed on January 1, 2017.

Section 9. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or amounts indicated. These sums of money are in addition to amounts previously appropriated for fiscal year 2017.

To the Department of Environmental Quality,
Conversion to Alternative Fuel Grant Program
Fund

From General Fund, One-time	\$150,000
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Schedule of Programs:

Conversion to Alternative Fuel Grant Program Fund	\$150,000
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The Legislature intends that the appropriation under this section be used by the Division of Air Quality to provide grants to an individual who installs conversion equipment on an eligible vehicle, as described by Title 19, Chapter 2, Part 3, Conversion to Alternative Fuel Grant Program. The Legislature intends that, under Section 63J-1-603, appropriations under this section not lapse at the close of fiscal year 2017.

Section 10. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 10, 2016.

(2) The amendments to Sections 59-7-605 and 59-10-1009 take effect for a taxable year beginning on or after January 1, 2017.

CHAPTER 370**H. B. 116**

Passed March 4, 2016

Approved March 29, 2016

Effective May 10, 2016

**DETERMINATION OF EMPLOYER
STATUS AMENDMENTS**Chief Sponsor: Brian M. Greene
Senate Sponsor: Jerry W. Stevenson**LONG TITLE****General Description:**

This bill modifies provisions related to insurance, labor, and employment security to address the determination of who is an employer.

Highlighted Provisions:

This bill:

- ▶ amends definition provisions;
- ▶ addresses when a franchisor is considered an employer;
- ▶ addresses federal executive branch rulings in determining whether two or more persons are joint employers; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 31A-40-102, as enacted by Laws of Utah 2008, Chapter 318
 34-20-2, as last amended by Laws of Utah 1997, Chapter 375
 34-28-2, as last amended by Laws of Utah 2011, Chapter 413
 34-40-102, as last amended by Laws of Utah 2003, Chapter 151
 34A-2-103, as last amended by Laws of Utah 2014, Chapter 303
 34A-5-102, as last amended by Laws of Utah 2015, Chapters 13 and 23
 34A-6-103, as last amended by Laws of Utah 2013, Chapter 413
 35A-4-203, as last amended by Laws of Utah 2003, Chapter 17

ENACTS:

- 31A-40-212, Utah Code Annotated 1953
 34-20-14, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-40-102 is amended to read:**31A-40-102. Definitions.**

As used in this chapter:

(1) (a) Except as provided in Subsection (1)(b), “administrative fee” means a fee charged to a client by a professional employer organization for a professional employer service.

(b) “Administrative fee” does not include an amount or a fee received by a professional employer organization that is:

- (i) compensation of a covered employee;
- (ii) a benefit for a covered employee;
- (iii) a payroll-related tax;
- (iv) an unemployment insurance contribution;
- (v) withholding of compensation for a covered employee;
- (vi) a workers’ compensation premium; or
- (vii) another assessment paid by a professional employer organization to or on behalf of a covered employee under a professional employer agreement.

(2) “Assurance organization” means a person designated as an assurance organization in accordance with Section 31A-40-303.

(3) “Client” means a person who enters into a professional employer agreement with a professional employer organization.

(4) “Coemployer” means:

- (a) a client; or
- (b) a professional employer organization.

(5) “Coemployment relationship” means a relationship:

- (a) that is intended to be ongoing rather than a temporary or project specific relationship; and
- (b) wherein the rights and obligations of an employer that arise out of an employment relationship are allocated between coemployers pursuant to:

- (i) a professional employer agreement; or
- (ii) this chapter.

(6) Notwithstanding Section 31A-1-301, “controlling person” means a person who, individually or acting in concert with one or more persons, owns, directly or indirectly, 10% or more of the equity interest in a professional employer organization.

(7) “Covered employee” means an individual who has a coemployment relationship with a client and a professional employer organization if the conditions of Section 31A-40-203 are met.

(8) ~~[(A)]~~ “Employment related economic incentive” means:

~~(A)~~ (i) ~~[(A)]~~ a credit against or exemption from taxes due the state or a political subdivision of the state; or

~~(B)~~ (ii) an economic inducement, including a loan or a grant; and

~~(iii)~~ (b) if the credit, exemption, or economic inducement described in Subsection (8)(a)~~[(i)]~~:

~~[(A)]~~ (i) is offered by the state or a political subdivision of the state; and

~~(4B)~~ (ii) has an eligibility requirement that relates in whole or in part to employment including:

~~(4)~~ (A) the number of employees; or

~~(4H)~~ (B) the nature of the employment.

(9) “Federal executive agency” means an executive agency, as defined in 5 U.S.C. Sec.105, of the federal government.

(10) “Franchise” means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(11) “Franchisee” means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(12) “Franchisor” means the same as that term is defined in 16 C.F.R. Sec. 436.1.

~~(9)~~ (13) “Guarantee” means to assume an obligation of another person if that person fails to meet the obligation.

~~(40)~~ (14) “Licensee” means a person licensed under this chapter.

~~(41)~~ (15) “Professional employer agreement” means a written contract by and between a client and a professional employer organization that provides for:

(a) the coemployment of a covered employee;

(b) with respect to a covered employee, the allocation of a right or obligation of an employer between:

(i) the client; and

(ii) the professional employer organization; and

(c) the assumption of the obligations imposed by this chapter by:

(i) the client; or

(ii) the professional employer organization.

~~(42)~~ (16) (a) Subject to Subsection ~~(42)~~ (16)(b), “professional employer organization” means a person engaged in the business of providing a professional employer service.

(b) “Professional employer organization” does not include:

(i) a person that:

(A) does not:

(I) have as a principal business activity the entering into of a professional employer arrangement; or

(II) hold the person out as a professional employer organization; and

(B) shares an employee with a commonly owned company within the meaning of Sections 414(b) and (c), Internal Revenue Code;

(ii) an independent contractor arrangement by which a person:

(A) assumes responsibility for the product produced or service performed by the person or the person’s agent; and

(B) retains and exercises primary direction and control over the work performed by an individual whose service is supplied under the independent contractor arrangement; or

(iii) a person providing temporary help service.

~~(43)~~ (17) “Professional employer organization group” means two or more professional employer organizations that are majority owned or commonly controlled or directed by the same one or more persons.

~~(44)~~ (18) “Professional employer service” means the service of entering into a coemployment relationship under this chapter under which all or a majority of the employees who provide a service to a client, or a division or work unit of a client, are covered employees.

~~(45)~~ (19) “Qualified actuary” means an individual who:

(a) is a member in good standing of a professional actuarial accreditation organization designated by the department by rule;

(b) is qualified to sign a statement of actuarial opinion or annual statement for a professional employer organization in accordance with the qualification standards for an actuary signing an opinion or annual statement as provided by the professional actuarial accreditation organization designated under Subsection ~~(45)~~ (19)(a);

(c) is familiar with the valuation requirements applicable to a professional employer organization;

(d) has not been found by the commissioner, or if so found has subsequently been reinstated as a qualified actuary, following appropriate notice and hearing to have:

(i) violated a provision of, or an obligation imposed by, statute or other law in the course of the actuary’s dealings as a qualified actuary;

(ii) been found guilty of a fraudulent or dishonest practice;

(iii) demonstrated the actuary’s incompetency, lack of cooperation, or untrustworthiness to act as a qualified actuary;

(iv) submitted to the commissioner during the past five years, pursuant to this rule, an actuarial opinion or memorandum that the commissioner rejected because it did not meet the provisions of rule; or

(v) resigned or been removed as an actuary within the past five years as a result of an act or omission indicated in an adverse report on examination or as a result of failure to adhere to a generally acceptable actuarial standard; and

(e) has not failed to notify the commissioner of an action taken by any commissioner of another state similar to that under Subsection ~~(45)~~ (19)(d).

~~(46)~~ (20) “Temporary help service” means a service consisting of a person:

(a) recruiting and hiring the person's own employee;

(b) finding another person that wants the services of that employee;

(c) assigning the employee to:

(i) perform services at or for the other person to support or supplement the other person's employees;

(ii) provide assistance in a special work situation such as:

(A) an employee absence;

(B) a skill shortage; or

(C) a seasonal workload; or

(iii) perform a special assignment or project; and

(d) customarily reassigning the employee to another organization when the employee finishes an assignment.

[47] (21) "Working capital" means the current assets minus the current liabilities of a professional employer organization determined in accordance with generally accepted accounting principles.

Section 2. Section 31A-40-212 is enacted to read:

31A-40-212. Determination of joint employers -- Franchisors excluded.

(1) (a) For purposes of determining whether two or more persons are considered joint employers under this chapter, an administrative ruling of a federal executive agency may not be considered a generally applicable law unless that administrative ruling is determined to be generally applicable by a court of law, or adopted by statute or rule.

(b) Nothing in this Subsection (1) prohibits the commissioner, in making policy decisions and taking enforcement action, from applying an administrative ruling or opinion issued by the United States Department of Labor that decides or opines on whether an employee welfare benefit plan is established and maintained for a single employer, multiple employer, or co-employer under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.

(2) (a) For purposes of this chapter, a franchisor is not considered to be an employer of:

(i) a franchisee; or

(ii) a franchisee's employee.

(b) With respect to a specific claim for relief under this chapter made by a franchisee or a franchisee's employee, this Subsection (2) does not apply to a franchisor under a franchise that exercises a type or degree of control over the franchisee or the franchisee's employee not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks and brand.

Section 3. Section 34-20-2 is amended to read:

34-20-2. Definitions.

As used in this chapter:

(1) "Affecting commerce" means in commerce, or burdening or obstructing commerce or the free flow of commerce, or having led or tending to lead to a labor dispute burdening or obstructing commerce or the free flow of commerce within the state.

(2) "Commerce" means trade, traffic, commerce, transportation, or communication within the state.

(3) "Election" means a proceeding in which the employees in a collective bargaining unit cast a secret ballot for collective bargaining representatives or for any other purpose specified in this chapter and includes elections conducted by the board or by any tribunal having competent jurisdiction or whose jurisdiction was accepted by the parties.

(4) (a) "Employee" includes any employee unless this chapter explicitly states otherwise, and includes an individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice, and who has not obtained any other regular and substantially equivalent employment.

(b) "Employee" does not include an individual employed as an agricultural laborer, or in the domestic service of a family or person at his home, or an individual employed by his parent or spouse.

(5) "Employer" includes a person acting in the interest of an employer, directly or indirectly, but does not include:

(a) the United States;

(b) a state or political subdivision of a state;

(c) a person subject to the federal Railway Labor Act;

(d) a labor organization, other than when acting as an employer;

(e) a corporation or association operating a hospital if no part of the net earnings inures to the benefit of any private shareholder or individual; or

(f) anyone acting in the capacity of officer or agent of a labor organization.

(6) "Federal executive agency" means an executive agency, as defined in 5 U.S.C. Sec.105, of the federal government.

(7) "Franchise" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(8) "Franchisee" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(9) "Franchisor" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

[6] (10) "Labor dispute" means any controversy between an employer and the majority of [his] the employer's employees in a collective bargaining unit concerning the right or process or details of

collective bargaining or the designation of representatives.

[47] (11) "Labor organization" means an organization of any kind or any agency or employee representation committee or plan in which employees participate that exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

[48] (12) "Labor relations board" or "board" means the board created in Section 34-20-3.

[49] (13) "Person" includes an individual, partnership, association, corporation, legal representative, trustee, trustee in bankruptcy, or receiver.

[10] (14) "Representative" includes an individual or labor organization.

[11] (15) "Secondary boycott" includes combining or conspiring to cause or threaten to cause injury to one with whom no labor dispute exists, whether by:

(a) withholding patronage, labor, or other beneficial business intercourse;

(b) picketing;

(c) refusing to handle, install, use, or work on particular materials, equipment, or supplies; or

(d) by any other unlawful means, in order to bring him against his will into a concerted plan to coerce or inflict damage upon another.

[12] (16) "Unfair labor practice" means any unfair labor practice listed in Section 34-20-8.

Section 4. Section 34-20-14 is enacted to read:

34-20-14. Determining joint employment status -- Franchisors excluded.

(1) For purposes of determining whether two or more persons are considered joint employers under this chapter, an administrative ruling of a federal executive agency may not be considered a generally applicable law unless that administrative ruling is determined to be generally applicable by a court of law, or adopted by statute or rule.

(2) (a) For purposes of this chapter, a franchisor is not considered to be an employer of:

(i) a franchisee; or

(ii) a franchisee's employee.

(b) With respect to a specific claim for relief under this chapter made by a franchisee or a franchisee's employee, this Subsection (2) does not apply to a franchisor under a franchise that exercises a type or degree of control over the franchisee or the franchisee's employee not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks and brand.

Section 5. Section 34-28-2 is amended to read:

34-28-2. Definitions -- Unincorporated entities -- Joint employers -- Franchisors.

(1) As used in this chapter:

(a) "Commission" means the Labor Commission.

(b) "Division" means the Division of Antidiscrimination and Labor.

(c) "Employer" includes every person, firm, partnership, association, corporation, receiver or other officer of a court of this state, and any agent or officer of any of the above-mentioned classes, employing any person in this state.

(d) "Federal executive agency" means an executive agency, as defined in 5 U.S.C. Sec. 105, of the federal government.

(e) "Franchise" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(f) "Franchisee" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(g) "Franchisor" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(h) "Unincorporated entity" means an entity organized or doing business in the state that is not:

(i) an individual;

(ii) a corporation; or

(iii) publicly traded.

(i) "Wages" means the amounts due the employee for labor or services, whether the amount is fixed or ascertained on a time, task, piece, commission basis or other method of calculating such amount.

(2) (a) For purposes of this chapter, an unincorporated entity that is required to be licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, is presumed to be the employer of each individual who, directly or indirectly, holds an ownership interest in the unincorporated entity.

(b) Pursuant to rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, an unincorporated entity may rebut the presumption under Subsection (2)(a) for an individual by establishing by clear and convincing evidence that the individual:

(i) is an active manager of the unincorporated entity;

(ii) directly or indirectly holds at least an 8% ownership interest in the unincorporated entity; or

(iii) is not subject to supervision or control in the performance of work by:

(A) the unincorporated entity; or

(B) a person with whom the unincorporated entity contracts.

(c) As part of the rules made under Subsection (2)(b), the commission may define:

- (i) “active manager”;
- (ii) “directly or indirectly holds at least an 8% ownership interest”; and
- (iii) “subject to supervision or control in the performance of work.”

(d) The commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may establish a procedure, consistent with Section 34-28-7, under which an unincorporated entity may seek approval of a mutual agreement to pay wages on non-regular paydays.

(3) For purposes of determining whether two or more persons are considered joint employers under this chapter, an administrative ruling of a federal executive agency may not be considered a generally applicable law unless that administrative ruling is determined to be generally applicable by a court of law, or adopted by statute or rule.

(4) (a) For purposes of this chapter, a franchisor is not considered to be an employer of:

- (i) a franchisee; or
- (ii) a franchisee’s employee.

(b) With respect to a specific claim for relief under this chapter made by a franchisee or a franchisee’s employee, this Subsection (4) does not apply to a franchisor under a franchise that exercises a type or degree of control over the franchisee or the franchisee’s employee not customarily exercised by a franchisor for the purpose of protecting the franchisor’s trademarks and brand.

Section 6. Section 34-40-102 is amended to read:

34-40-102. Definitions -- Joint employees -- Franchisors.

(1) [This] Subject to Subsection (3), this chapter and the terms used in it, including the computation of wages, shall be interpreted consistently with [29 U.S.C. Sec. 201 et seq.,] the Fair Labor Standards Act of 1938, 29 U.S.C. Sec. 201 et seq., as amended, to the extent that act relates to the payment of a minimum wage.

(2) As used in this chapter:

(a) “Cash wage obligation” means an hourly wage that an employer pays a tipped employee regardless of the tips or gratuities a tipped employee receives.

(b) “Commission” means the Labor Commission.

(c) “Division” means the Division of Antidiscrimination and Labor in the commission.

(d) “Federal executive agency” means an executive agency, as defined in 5 U.S.C. Sec. 105, of the federal government.

(e) “Franchise” means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(f) “Franchisee” means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(g) “Franchisor” means the same as that term is defined in 16 C.F.R. Sec. 436.1.

~~(d)~~ (h) “Minimum wage” means the state minimum hourly wage for adult employees as established under this chapter, unless the context clearly indicates otherwise.

~~(e)~~ (i) “Tipped employee” means an employee who customarily and regularly receives tips or gratuities.

(3) Notwithstanding Subsection (1), for purposes of determining whether two or more persons are considered joint employers under this chapter, an administrative ruling of a federal executive agency may not be considered a generally applicable law unless that administrative ruling is determined to be generally applicable by a court of law, or adopted by statute or rule.

(4) (a) For purposes of this chapter, a franchisor is not considered to be an employer of:

- (i) a franchisee; or
- (ii) a franchisee’s employee.

(b) With respect to a specific claim for relief under this chapter made by a franchisee or a franchisee’s employee, this Subsection (4) does not apply to a franchisor under a franchise that exercises a type or degree of control over the franchisee or the franchisee’s employee not customarily exercised by a franchisor for the purpose of protecting the franchisor’s trademarks and brand.

Section 7. Section 34A-2-103 is amended to read:

34A-2-103. Employers enumerated and defined -- Regularly employed -- Statutory employers -- Exceptions.

(1) (a) The state, and each county, city, town, and school district in the state are considered employers under this chapter and Chapter 3, Utah Occupational Disease Act.

(b) For the purposes of the exclusive remedy in this chapter and Chapter 3, Utah Occupational Disease Act, prescribed in Sections 34A-2-105 and 34A-3-102, the state is considered to be a single employer and includes any office, department, agency, authority, commission, board, institution, hospital, college, university, or other instrumentality of the state.

(2) (a) Except as provided in Subsection (4), each person, including each public utility and each independent contractor, who regularly employs one or more workers or operatives in the same business, or in or about the same establishment, under any contract of hire, express or implied, oral or written, is considered an employer under this chapter and Chapter 3, Utah Occupational Disease Act.

(b) As used in this Subsection (2):

(i) “Independent contractor” means any person engaged in the performance of any work for another who, while so engaged, is:

(A) independent of the employer in all that pertains to the execution of the work;

(B) not subject to the routine rule or control of the employer;

(C) engaged only in the performance of a definite job or piece of work; and

(D) subordinate to the employer only in effecting a result in accordance with the employer's design.

(ii) "Regularly" includes all employments in the usual course of the trade, business, profession, or occupation of the employer, whether continuous throughout the year or for only a portion of the year.

(3) (a) The client under a professional employer organization agreement regulated under Title 31A, Chapter 40, Professional Employer Organization Licensing Act:

(i) is considered the employer of a covered employee; and

(ii) subject to Section 31A-40-209, shall secure workers' compensation benefits for a covered employee by complying with Subsection 34A-2-201(1) or (2) and commission rules.

(b) The division shall promptly inform the Insurance Department if the division has reason to believe that a professional employer organization is not in compliance with Subsection 34A-2-201(1) or (2) and commission rules.

(4) A domestic employer who does not employ one employee or more than one employee at least 40 hours per week is not considered an employer under this chapter and Chapter 3, Utah Occupational Disease Act.

(5) (a) As used in this Subsection (5):

(i) (A) "agricultural employer" means a person who employs agricultural labor as defined in Subsections 35A-4-206(1) and (2) and does not include employment as provided in Subsection 35A-4-206(3); and

(B) notwithstanding Subsection (5)(a)(i)(A), only for purposes of determining who is a member of the employer's immediate family under Subsection (5)(a)(ii), if the agricultural employer is a corporation, partnership, or other business entity, "agricultural employer" means an officer, director, or partner of the business entity;

(ii) "employer's immediate family" means:

(A) an agricultural employer's:

(I) spouse;

(II) grandparent;

(III) parent;

(IV) sibling;

(V) child;

(VI) grandchild;

(VII) nephew; or

(VIII) niece;

(B) a spouse of any person provided in Subsections (5)(a)(ii)(A)(II) through (VIII); or

(C) an individual who is similar to those listed in Subsection (5)(a)(ii)(A) or (B) as defined by rules of the commission; and

(iii) "nonimmediate family" means a person who is not a member of the employer's immediate family.

(b) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an agricultural employer is not considered an employer of a member of the employer's immediate family.

(c) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an agricultural employer is not considered an employer of a nonimmediate family employee if:

(i) for the previous calendar year the agricultural employer's total annual payroll for all nonimmediate family employees was less than \$8,000; or

(ii) (A) for the previous calendar year the agricultural employer's total annual payroll for all nonimmediate family employees was equal to or greater than \$8,000 but less than \$50,000; and

(B) the agricultural employer maintains insurance that covers job-related injuries of the employer's nonimmediate family employees in at least the following amounts:

(I) \$300,000 liability insurance, as defined in Section 31A-1-301; and

(II) \$5,000 for health care benefits similar to benefits under health care insurance as defined in Section 31A-1-301.

(d) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an agricultural employer is considered an employer of a nonimmediate family employee if:

(i) for the previous calendar year the agricultural employer's total annual payroll for all nonimmediate family employees is equal to or greater than \$50,000; or

(ii) (A) for the previous year the agricultural employer's total payroll for nonimmediate family employees was equal to or exceeds \$8,000 but is less than \$50,000; and

(B) the agricultural employer fails to maintain the insurance required under Subsection (5)(c)(ii)(B).

(6) An employer of agricultural laborers or domestic servants who is not considered an employer under this chapter and Chapter 3, Utah Occupational Disease Act, may come under this chapter and Chapter 3, Utah Occupational Disease Act, by complying with:

(a) this chapter and Chapter 3, Utah Occupational Disease Act; and

(b) the rules of the commission.

(7) (a) (i) As used in this Subsection (7)(a), "employer" includes any of the following persons

that procures work to be done by a contractor notwithstanding whether or not the person directly employs a person:

- (A) a sole proprietorship;
- (B) a corporation;
- (C) a partnership;
- (D) a limited liability company; or

(E) a person similar to one described in Subsections (7)(a)(i)(A) through (D).

(i) If an employer procures any work to be done wholly or in part for the employer by a contractor over whose work the employer retains supervision or control, and this work is a part or process in the trade or business of the employer, the contractor, all persons employed by the contractor, all subcontractors under the contractor, and all persons employed by any of these subcontractors, are considered employees of the original employer for the purposes of this chapter and Chapter 3, Utah Occupational Disease Act.

(b) Any person who is engaged in constructing, improving, repairing, or remodeling a residence that the person owns or is in the process of acquiring as the person's personal residence may not be considered an employee or employer solely by operation of Subsection (7)(a).

(c) A partner in a partnership or an owner of a sole proprietorship is not considered an employee under Subsection (7)(a) if the employer who procures work to be done by the partnership or sole proprietorship obtains and relies on either:

(i) a valid certification of the partnership's or sole proprietorship's compliance with Section 34A-2-201 indicating that the partnership or sole proprietorship secured the payment of workers' compensation benefits pursuant to Section 34A-2-201; or

(ii) if a partnership or sole proprietorship with no employees other than a partner of the partnership or owner of the sole proprietorship, a workers' compensation coverage waiver issued pursuant to Part 10, Workers' Compensation Coverage Waivers Act, stating that:

(A) the partnership or sole proprietorship is customarily engaged in an independently established trade, occupation, profession, or business; and

(B) the partner or owner personally waives the partner's or owner's entitlement to the benefits of this chapter and Chapter 3, Utah Occupational Disease Act, in the operation of the partnership or sole proprietorship.

(d) A director or officer of a corporation is not considered an employee under Subsection (7)(a) if the director or officer is excluded from coverage under Subsection 34A-2-104(4).

(e) A contractor or subcontractor is not an employee of the employer under Subsection (7)(a), if

the employer who procures work to be done by the contractor or subcontractor obtains and relies on either:

(i) a valid certification of the contractor's or subcontractor's compliance with Section 34A-2-201; or

(ii) if a partnership, corporation, or sole proprietorship with no employees other than a partner of the partnership, officer of the corporation, or owner of the sole proprietorship, a workers' compensation coverage waiver issued pursuant to Part 10, Workers' Compensation Coverage Waivers Act, stating that:

(A) the partnership, corporation, or sole proprietorship is customarily engaged in an independently established trade, occupation, profession, or business; and

(B) the partner, corporate officer, or owner personally waives the partner's, corporate officer's, or owner's entitlement to the benefits of this chapter and Chapter 3, Utah Occupational Disease Act, in the operation of the partnership's, corporation's, or sole proprietorship's enterprise under a contract of hire for services.

(f) (i) For purposes of this Subsection (7)(f), "eligible employer" means a person who:

(A) is an employer; and

(B) procures work to be done wholly or in part for the employer by a contractor, including:

(I) all persons employed by the contractor;

(II) all subcontractors under the contractor; and

(III) all persons employed by any of these subcontractors.

(ii) Notwithstanding the other provisions in this Subsection (7), if the conditions of Subsection (7)(f)(iii) are met, an eligible employer is considered an employer for purposes of Section 34A-2-105 of the contractor, subcontractor, and all persons employed by the contractor or subcontractor described in Subsection (7)(f)(i)(B).

(iii) Subsection (7)(f)(ii) applies if the eligible employer:

(A) under Subsection (7)(a) is liable for and pays workers' compensation benefits as an original employer under Subsection (7)(a) because the contractor or subcontractor fails to comply with Section 34A-2-201;

(B) (I) secures the payment of workers' compensation benefits for the contractor or subcontractor pursuant to Section 34A-2-201;

(II) procures work to be done that is part or process of the trade or business of the eligible employer; and

(III) does the following with regard to a written workplace accident and injury reduction program that meets the requirements of Subsection 34A-2-111(3)(d):

(Aa) adopts the workplace accident and injury reduction program;

(Bb) posts the workplace accident and injury reduction program at the work site at which the eligible employer procures work; and

(Cc) enforces the workplace accident and injury reduction program according to the terms of the workplace accident and injury reduction program; or

(C) (I) obtains and relies on:

(Aa) a valid certification described in Subsection (7)(c)(i) or (7)(e)(i);

(Bb) a workers' compensation coverage waiver described in Subsection (7)(c)(ii) or (7)(e)(ii); or

(Cc) proof that a director or officer is excluded from coverage under Subsection 34A-2-104(4);

(II) is liable under Subsection (7)(a) for the payment of workers' compensation benefits if the contractor or subcontractor fails to comply with Section 34A-2-201;

(III) procures work to be done that is part or process in the trade or business of the eligible employer; and

(IV) does the following with regard to a written workplace accident and injury reduction program that meets the requirements of Subsection 34A-2-111(3)(d):

(Aa) adopts the workplace accident and injury reduction program;

(Bb) posts the workplace accident and injury reduction program at the work site at which the eligible employer procures work; and

(Cc) enforces the workplace accident and injury reduction program according to the terms of the workplace accident and injury reduction program.

(8) (a) For purposes of this Subsection (8), "unincorporated entity" means an entity organized or doing business in the state that is not:

- (i) an individual;
- (ii) a corporation; or
- (iii) publicly traded.

(b) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an unincorporated entity that is required to be licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, is presumed to be the employer of each individual who holds, directly or indirectly, an ownership interest in the unincorporated entity. Notwithstanding Subsection (7)(c) and Subsection 34A-2-104(3), the unincorporated entity shall provide the individual who holds the ownership interest workers' compensation coverage under this chapter and Chapter 3, Utah Occupational Disease Act, unless the presumption is rebutted under Subsection (8)(c).

(c) Pursuant to rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, an

unincorporated entity may rebut the presumption under Subsection (8)(b) for an individual by establishing by clear and convincing evidence that the individual:

(i) is an active manager of the unincorporated entity;

(ii) directly or indirectly holds at least an 8% ownership interest in the unincorporated entity; or

(iii) is not subject to supervision or control in the performance of work by:

(A) the unincorporated entity; or

(B) a person with whom the unincorporated entity contracts.

(d) As part of the rules made under Subsection (8)(c), the commission may define:

(i) "active manager";

(ii) "directly or indirectly holds at least an 8% ownership interest"; and

(iii) "subject to supervision or control in the performance of work."

(9) (a) As used in this Subsection (9), "home and community based services" means one or more of the following services provided to an individual with a disability or to the individual's family that helps prevent the individual with a disability from being placed in a more restrictive setting:

(i) respite care;

(ii) skilled nursing;

(iii) nursing assistant services;

(iv) home health aide services;

(v) personal care and attendant services;

(vi) other in-home care, such as support for the daily activities of the individual with a disability;

(vii) specialized in-home training for the individual with a disability or a family member of the individual with a disability;

(viii) specialized in-home support, coordination, and other supported living services; and

(ix) other home and community based services unique to the individual with a disability or the family of the individual with a disability that help prevent the individual with a disability from being placed in a more restrictive setting.

(b) Notwithstanding Subsection (4) and subject to Subsection (9)(c), an individual with a disability or designated representative of the individual with a disability is considered an employer under this chapter and Chapter 3, Utah Occupational Disease Act, of an individual who provides home and community based services if the individual with a disability or designated representative of the individual with a disability:

(i) employs the individual to provide home and community based services for seven hours per week or more; and

(ii) pays the individual providing the home and community based services from state or federal money received by the individual with a disability or designated representative of the individual with a disability to fund home and community based services, including through a person designated by the Secretary of the Treasury in accordance with Section 3504, Internal Revenue Code, as a fiduciary, agent, or other person who has the control, receipt, custody, or disposal of, or pays the wages of, the individual providing the home and community based services.

(c) The state and federal money received by an individual with a disability or designated representative of an individual with a disability shall include the cost of the workers' compensation coverage required by this Subsection (9) in addition to the money necessary to fund the home and community based services that the individual with a disability or family of the individual with a disability is eligible to receive so that the home and community based services are not reduced in order to pay for the workers' compensation coverage required by this Subsection (9).

(10) (a) For purposes of this Subsection (10), "federal executive agency" means an executive agency, as defined in 5 U.S.C. Sec. 105, of the federal government.

(b) For purposes of determining whether two or more persons are considered joint employers under this chapter or Chapter 3, Utah Occupational Disease Act, an administrative ruling of a federal executive agency may not be considered a generally applicable law unless that administrative ruling is determined to be generally applicable by a court of law, or adopted by statute or rule.

(11) (a) As used in this Subsection (11):

(i) "Franchise" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(ii) "Franchisee" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(iii) "Franchisor" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(b) For purposes of this chapter, a franchisor is not considered to be an employer of:

(i) a franchisee; or

(ii) a franchisee's employee.

(c) With respect to a specific claim for relief under this chapter made by a franchisee or a franchisee's employee, this Subsection (11) does not apply to a franchisor under a franchise that exercises a type or degree of control over the franchisee or the franchisee's employee not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks and brand.

Section 8. Section 34A-5-102 is amended to read:

34A-5-102. Definitions -- Unincorporated entities -- Joint employers -- Franchisors.

(1) As used in this chapter:

(a) "Affiliate" means the same as that term is defined in Section 16-6a-102.

(b) "Apprenticeship" means a program for the training of apprentices including a program providing the training of those persons defined as apprentices by Section 35A-6-102.

(c) "Bona fide occupational qualification" means a characteristic applying to an employee that:

(i) is necessary to the operation; or

(ii) is the essence of the employee's employer's business.

(d) "Court" means:

(i) the district court in the judicial district of the state in which the asserted unfair employment practice occurs; or

(ii) if the district court is not in session at that time, a judge of the court described in Subsection (1)(d)(i).

(e) "Director" means the director of the division.

(f) "Disability" means a physical or mental disability as defined and covered by the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102.

(g) "Division" means the Division of Antidiscrimination and Labor.

(h) "Employee" means a person applying with or employed by an employer.

(i) "Employer" means:

(A) the state;

(B) a political subdivision;

(C) a board, commission, department, institution, school district, trust, or agent of the state or a political subdivision of the state; or

(D) a person employing 15 or more employees within the state for each working day in each of 20 calendar weeks or more in the current or preceding calendar year.

(ii) "Employer" does not include:

(A) a religious organization, a religious corporation sole, a religious association, a religious society, a religious educational institution, or a religious leader, when that individual is acting in the capacity of a religious leader;

(B) any corporation or association constituting an affiliate, a wholly owned subsidiary, or an agency of any religious organization, religious corporation sole, religious association, or religious society; or

(C) the Boy Scouts of America or its councils, chapters, or subsidiaries.

(j) "Employment agency" means a person:

(i) undertaking to procure employees or opportunities to work for any other person; or

(ii) holding the person out to be equipped to take an action described in Subsection (1)(j)(i).

(k) “Federal executive agency” means an executive agency, as defined in 5 U.S.C. Sec. 105, of the federal government.

(l) “Franchise” means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(m) “Franchisee” means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(n) “Franchisor” means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(o) “Gender identity” has the meaning provided in the Diagnostic and Statistical Manual (DSM-5). A person’s gender identity can be shown by providing evidence, including, but not limited to, medical history, care or treatment of the gender identity, consistent and uniform assertion of the gender identity, or other evidence that the gender identity is sincerely held, part of a person’s core identity, and not being asserted for an improper purpose.

(p) “Joint apprenticeship committee” means an association of representatives of a labor organization and an employer providing, coordinating, or controlling an apprentice training program.

(q) “Labor organization” means an organization that exists for the purpose in whole or in part of:

- (i) collective bargaining;
- (ii) dealing with employers concerning grievances, terms or conditions of employment; or
- (iii) other mutual aid or protection in connection with employment.

(r) “National origin” means the place of birth, domicile, or residence of an individual or of an individual’s ancestors.

(s) “On-the-job-training” means a program designed to instruct a person who, while learning the particular job for which the person is receiving instruction:

- (i) is also employed at that job; or
- (ii) may be employed by the employer conducting the program during the course of the program, or when the program is completed.

(t) “Person” means:

- (i) one or more individuals, partnerships, associations, corporations, legal representatives, trusts or trustees, or receivers;
- (ii) the state; and
- (iii) a political subdivision of the state.

(u) “Pregnancy, childbirth, or pregnancy-related conditions” includes breastfeeding or medical conditions related to breastfeeding.

(v) “Presiding officer” means the same as that term is defined in Section 63G-4-103.

(w) “Prohibited employment practice” means a practice specified as discriminatory, and therefore unlawful, in Section 34A-5-106.

(x) “Religious leader” means an individual who is associated with, and is an authorized representative of, a religious organization or association or a religious corporation sole, including a member of clergy, a minister, a pastor, a priest, a rabbi, an imam, or a spiritual advisor.

(y) “Retaliate” means the taking of adverse action by an employer, employment agency, labor organization, apprenticeship program, on-the-job training program, or vocational school against one of its employees, applicants, or members because the employee, applicant, or member:

- (i) opposes an employment practice prohibited under this chapter; or
- (ii) files charges, testifies, assists, or participates in any way in a proceeding, investigation, or hearing under this chapter.

(z) “Sexual orientation” means an individual’s actual or perceived orientation as heterosexual, homosexual, or bisexual.

(aa) “Unincorporated entity” means an entity organized or doing business in the state that is not:

- (i) an individual;
- (ii) a corporation; or
- (iii) publicly traded.

(bb) “Vocational school” means a school or institution conducting a course of instruction, training, or retraining to prepare individuals to follow an occupation or trade, or to pursue a manual, technical, industrial, business, commercial, office, personal services, or other nonprofessional occupations.

(2) (a) For purposes of this chapter, an unincorporated entity that is required to be licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, is presumed to be the employer of each individual who, directly or indirectly, holds an ownership interest in the unincorporated entity.

(b) Pursuant to rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, an unincorporated entity may rebut the presumption under Subsection (2)(a) for an individual by establishing by clear and convincing evidence that the individual:

- (i) is an active manager of the unincorporated entity;
- (ii) directly or indirectly holds at least an 8% ownership interest in the unincorporated entity; or
- (iii) is not subject to supervision or control in the performance of work by:
 - (A) the unincorporated entity; or
 - (B) a person with whom the unincorporated entity contracts.

(c) As part of the rules made under Subsection (2)(b), the commission may define:

- (i) “active manager”;
- (ii) “directly or indirectly holds at least an 8% ownership interest”; and
- (iii) “subject to supervision or control in the performance of work.”

(3) For purposes of determining whether two or more persons are considered joint employers under this chapter, an administrative ruling of a federal executive agency may not be considered a generally applicable law unless that administrative ruling is determined to be generally applicable by a court of law, or adopted by statute or rule.

(4) (a) For purposes of this chapter, a franchisor is not considered to be an employer of:

- (i) a franchisee; or
- (ii) a franchisee’s employee.

(b) With respect to a specific claim for relief under this chapter made by a franchisee or a franchisee’s employee, this Subsection (4) does not apply to a franchisor under a franchise that exercises a type or degree of control over the franchisee or the franchisee’s employee not customarily exercised by a franchisor for the purpose of protecting the franchisor’s trademarks and brand.

Section 9. Section 34A-6-103 is amended to read:

34A-6-103. Definitions -- Unincorporated entities -- Joint employers -- Franchisors.

- (1) As used in this chapter:
- (a) “Administrator” means the director of the Division of Occupational Safety and Health.
 - (b) “Amendment” means such modification or change in a code, standard, rule, or order intended for universal or general application.
 - (c) “Commission” means the Labor Commission.
 - (d) “Division” means the Division of Occupational Safety and Health.
 - (e) “Employee” includes any person suffered or permitted to work by an employer.
 - (f) “Employer” means:
 - (i) the state;
 - (ii) a county, city, town, and school district in the state; and
 - (iii) a person, including a public utility, having one or more workers or operatives regularly employed in the same business, or in or about the same establishment, under any contract of hire.
 - (g) “Federal executive agency” means an executive agency, as defined in 5 U.S.C. Sec. 105, of the federal government.
 - (h) “Franchise” means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(i) “Franchisee” means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(j) “Franchisor” means the same as that term is defined in 16 C.F.R. Sec. 436.1.

~~[(g)]~~ (k) “Hearing” means a proceeding conducted by the commission.

~~[(h)]~~ (l) “Imminent danger” means a danger exists which reasonably could be expected to cause an occupational disease, death, or serious physical harm immediately, or before the danger could be eliminated through enforcement procedures under this chapter.

~~[(i)]~~ (m) “National consensus standard” means any occupational safety and health standard or modification:

- (i) adopted by a nationally recognized standards-producing organization under procedures where it can be determined by the administrator and division that persons interested and affected by the standard have reached substantial agreement on its adoption;
- (ii) formulated in a manner which affords an opportunity for diverse views to be considered; and
- (iii) designated as such a standard by the secretary of the United States Department of Labor.

~~[(j)]~~ (n) “Person” means the general public, one or more individuals, partnerships, associations, corporations, legal representatives, trustees, receivers, and the state and its political subdivisions.

~~[(k)]~~ (o) “Publish” means publication in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~[(l)]~~ (p) “Secretary” means the secretary of the United States Department of Labor.

~~[(m)]~~ (q) “Standard” means an occupational health and safety standard or group of standards which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary to provide safety and healthful employment and places of employment.

~~[(n)]~~ (r) “Unincorporated entity” means an entity organized or doing business in the state that is not:

- (i) an individual;
- (ii) a corporation; or
- (iii) publicly traded.

~~[(o)]~~ (s) “Variance” means a special, limited modification or change in the code or standard applicable to the particular establishment of the employer or person petitioning for the modification or change.

~~[(p)]~~ (t) “Workplace” means any place of employment.

(2) (a) For purposes of this chapter, an unincorporated entity that is required to be licensed

under Title 58, Chapter 55, Utah Construction Trades Licensing Act, is presumed to be the employer of each individual who, directly or indirectly, holds an ownership interest in the unincorporated entity.

(b) Pursuant to rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, an unincorporated entity may rebut the presumption under Subsection (2)(a) for an individual by establishing by clear and convincing evidence that the individual:

(i) is an active manager of the unincorporated entity;

(ii) directly or indirectly holds at least an 8% ownership interest in the unincorporated entity; or

(iii) is not subject to supervision or control in the performance of work by:

(A) the unincorporated entity; or

(B) a person with whom the unincorporated entity contracts.

(c) As part of the rules made under Subsection (2)(b), the commission may define:

(i) "active manager";

(ii) "directly or indirectly holds at least an 8% ownership interest"; and

(iii) "subject to supervision or control in the performance of work."

(3) For purposes of determining whether two or more persons are considered joint employers under this chapter, an administrative ruling of a federal executive agency may not be considered a generally applicable law unless that administrative ruling is determined to be generally applicable by a court of law, or adopted by statute or rule.

(4) (a) For purposes of this chapter, a franchisor is not considered to be an employer of:

(i) a franchisee; or

(ii) a franchisee's employee.

(b) With respect to a specific claim for relief under this chapter made by a franchisee or a franchisee's employee, this Subsection (4) does not apply to a franchisor under a franchise that exercises a type or degree of control over the franchisee or the franchisee's employee not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks and brand.

Section 10. Section 35A-4-203 is amended to read:

35A-4-203. Definition of employer -- Joint employers -- Franchisors.

(1) As used in this chapter "employer" means:

[(1)] (a) an individual or employing unit which employs one or more individuals for some portion of a day during a calendar year, or that, as a condition for approval of this chapter for full tax credit

against the tax imposed by the Federal Unemployment Tax Act, is required, under the act, to be an employer;

[(2)] (b) an employing unit that, having become an employer under Subsection (1)(a), has not, under Sections 35A-4-303 and 35A-4-310, ceased to be an employer subject to this chapter; or

[(3)] (c) for the effective period of its election under Subsection 35A-4-310(3), an employing unit that has elected to become fully subject to this chapter.

(2) (a) For purposes of this Subsection (2), "federal executive agency" means an executive agency, as defined in 5 U.S.C. Sec. 105, of the federal government.

(b) For purposes of determining whether two or more persons are considered joint employers under this chapter, an administrative ruling of a federal executive agency may not be considered a generally applicable law unless that administrative ruling is determined to be generally applicable by a court of law, or adopted by statute or rule.

(3) (a) As used in this Subsection (3):

(i) "Franchise" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(ii) "Franchisee" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(iii) "Franchisor" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(b) For purposes of this chapter, a franchisor is not considered to be an employer of:

(i) a franchisee; or

(ii) a franchisee's employee.

(c) With respect to a specific claim for relief under this chapter made by a franchisee or a franchisee's employee, this Subsection (3) does not apply to a franchisor under a franchise that exercises a type or degree of control over the franchisee or the franchisee's employee not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks and brand.

CHAPTER 371**H. B. 130**

Passed March 10, 2016
 Approved March 29, 2016
 Effective May 10, 2016

**ELECTRIC VEHICLE
 INFRASTRUCTURE AMENDMENTS**

Chief Sponsor: Patrice M. Arent
 Senate Sponsor: Kevin T. Van Tassell

LONG TITLE**General Description:**

This bill enacts provisions related to an assessment for electric vehicle charging infrastructure.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ authorizes an interlocal entity to issue a bond for electric vehicle charging infrastructure;
- ▶ requires that an assessment area for electric vehicle charging infrastructure be a voluntary assessment area;
- ▶ authorizes a county to provide electric vehicle charging infrastructure;
- ▶ authorizes a local district to provide electric vehicle charging infrastructure;
- ▶ authorizes a special service district to provide electric vehicle charging infrastructure;
- ▶ authorizes a military installation development authority to provide electric vehicle charging infrastructure; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 11-13-218, as last amended by Laws of Utah 2015, Chapter 265
- 11-42-102, as last amended by Laws of Utah 2015, Chapter 396
- 11-42-103, as last amended by Laws of Utah 2015, Chapter 396
- 11-42-202, as last amended by Laws of Utah 2015, Chapters 349 and 396
- 11-42-209, as enacted by Laws of Utah 2013, Chapter 246
- 11-42-301, as last amended by Laws of Utah 2013, Chapter 246
- 11-42-408, as last amended by Laws of Utah 2013, Chapter 246
- 11-42-411, as last amended by Laws of Utah 2013, Chapter 246
- 17-50-335, as enacted by Laws of Utah 2013, Chapter 246
- 17B-1-202, as last amended by Laws of Utah 2014, Chapter 377
- 17D-1-201, as last amended by Laws of Utah 2013, Chapters 246 and 448
- 63H-1-201, as last amended by Laws of Utah 2015, Chapter 377

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-13-218 is amended to read:

11-13-218. Authority of public agencies or interlocal entities to issue bonds -- Applicable provisions.

(1) A public agency may, in the same manner as it may issue bonds for its individual acquisition of a facility or improvement or for constructing, improving, or extending a facility or improvement, issue bonds to:

(a) acquire an interest in a jointly owned facility or improvement, a combination of a jointly owned facility or improvement, or any other facility or improvement; or

(b) pay all or part of the cost of constructing, improving, or extending a jointly owned facility or improvement, a combination of a jointly owned facility or improvement, or any other facility or improvement.

(2) (a) An interlocal entity may issue bonds or notes under a resolution, trust indenture, or other security instrument for the purpose of:

(i) financing its facilities or improvements; or

(ii) providing for or financing an energy efficiency upgrade [ø], a renewable energy system, or electric vehicle charging infrastructure in accordance with Title 11, Chapter 42, Assessment Area Act.

(b) The bonds or notes may be sold at public or private sale, mature at such times and bear interest at such rates, and have such other terms and security as the entity determines.

(c) The bonds or notes described in this Subsection (2) are not a debt of any public agency that is a party to the agreement.

(3) The governing board may, by resolution, delegate to one or more officers of the interlocal entity or to a committee of designated members of the governing board the authority to:

(a) in accordance with and within the parameters set forth in the resolution, approve the final interest rate, price, principal amount, maturity, redemption features, or other terms of a bond or note; and

(b) approve and execute all documents relating to the issuance of the bond or note.

(4) Bonds and notes issued under this chapter are declared to be negotiable instruments and their form and substance need not comply with the Uniform Commercial Code.

(5) (a) An interlocal entity shall issue bonds in accordance with, as applicable:

(i) Chapter 14, Local Government Bonding Act;

(ii) Chapter 27, Utah Refunding Bond Act;

(iii) this chapter; or

(iv) any other provision of state law that authorizes issuance of bonds by a public body.

(b) An interlocal entity is a public body as defined in Section 11-30-2.

Section 2. Section 11-42-102 is amended to read:

11-42-102. Definitions.

(1) "Adequate protests" means timely filed, written protests under Section 11-42-203 that represent at least 40% of the frontage, area, taxable value, fair market value, lots, number of connections, or equivalent residential units of the property proposed to be assessed, according to the same assessment method by which the assessment is proposed to be levied, after eliminating:

(a) protests relating to:

(i) property that has been deleted from a proposed assessment area; or

(ii) an improvement that has been deleted from the proposed improvements to be provided to property within the proposed assessment area; and

(b) protests that have been withdrawn under Subsection 11-42-203(3).

(2) "Assessment area" means an area, or, if more than one area is designated, the aggregate of all areas within a local entity's jurisdictional boundaries that is designated by a local entity under Part 2, Designating an Assessment Area, for the purpose of financing the costs of improvements, operation and maintenance, or economic promotion activities that benefit property within the area.

(3) "Assessment bonds" means bonds that are:

(a) issued under Section 11-42-605; and

(b) payable in part or in whole from assessments levied in an assessment area, improvement revenues, and a guaranty fund or reserve fund.

(4) "Assessment fund" means a special fund that a local entity establishes under Section 11-42-412.

(5) "Assessment lien" means a lien on property within an assessment area that arises from the levy of an assessment, as provided in Section 11-42-501.

(6) "Assessment method" means the method:

(a) by which an assessment is levied against benefitted property, whether by frontage, area, taxable value, fair market value, lot, parcel, number of connections, equivalent residential unit, any combination of these methods, or any other method; and

(b) that, when applied to a benefitted property, accounts for an assessment that meets the requirements of Section 11-42-409.

(7) "Assessment ordinance" means an ordinance adopted by a local entity under Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

(8) "Assessment resolution" means a resolution adopted by a local entity under Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

(9) "Benefitted property" means property within an assessment area that directly or indirectly benefits from improvements, operation and maintenance, or economic promotion activities.

(10) "Bond anticipation notes" means notes issued under Section 11-42-602 in anticipation of the issuance of assessment bonds.

(11) "Bonds" means assessment bonds and refunding assessment bonds.

(12) "Commercial area" means an area in which at least 75% of the property is devoted to the interchange of goods or commodities.

(13) (a) "Commercial or industrial real property" means real property used directly or indirectly or held for one of the following purposes or activities, regardless of whether the purpose or activity is for profit:

(i) commercial;

(ii) mining;

(iii) industrial;

(iv) manufacturing;

(v) governmental;

(vi) trade;

(vii) professional;

(viii) a private or public club;

(ix) a lodge;

(x) a business; or

(xi) a similar purpose.

(b) "Commercial or industrial real property" includes real property that:

(i) is used as or held for dwelling purposes; and

(ii) contains more than four rental units.

(14) "Connection fee" means a fee charged by a local entity to pay for the costs of connecting property to a publicly owned sewer, storm drainage, water, gas, communications, or electrical system, whether or not improvements are installed on the property.

(15) "Contract price" means:

(a) the cost of acquiring an improvement, if the improvement is acquired; or

(b) the amount payable to one or more contractors for the design, engineering, inspection, and construction of an improvement.

(16) "Designation ordinance" means an ordinance adopted by a local entity under Section 11-42-206 designating an assessment area.

(17) "Designation resolution" means a resolution adopted by a local entity under Section 11-42-206 designating an assessment area.

(18) "Economic promotion activities" means activities that promote economic growth in a commercial area of a local entity, including:

- (a) sponsoring festivals and markets;
- (b) promoting business investment or activities;
- (c) helping to coordinate public and private actions; and
- (d) developing and issuing publications designed to improve the economic well-being of the commercial area.

(19) "Electric vehicle charging infrastructure" means equipment that is:

(a) permanently affixed to commercial or industrial real property; and

(b) designed to deliver electric energy to a qualifying electric vehicle or a qualifying plug-in hybrid vehicle as those terms are defined in Subsection 59-7-605(1).

~~[(19)]~~ (20) "Energy efficiency upgrade" means an improvement that is permanently affixed to commercial or industrial real property that is designed to reduce energy consumption, including:

- (a) insulation in:
 - (i) a wall, roof, floor, or foundation; or
 - (ii) a heating and cooling distribution system;
- (b) a window or door, including:
 - (i) a storm window or door;
 - (ii) a multiglazed window or door;
 - (iii) a heat-absorbing window or door;
 - (iv) a heat-reflective glazed and coated window or door;
- (v) additional window or door glazing;
- (vi) a window or door with reduced glass area; or
- (vii) other window or door modifications;
- (c) an automatic energy control system;
- (d) in a building or a central plant, a heating, ventilation, or air conditioning and distribution system;
- (e) caulk or weatherstripping;
- (f) a light fixture that does not increase the overall illumination of a building unless an increase is necessary to conform with the applicable building code;
- (g) an energy recovery system;
- (h) a daylighting system;
- (i) measures to reduce the consumption of water, through conservation or more efficient use of water, including:
 - (i) installation of low-flow toilets and showerheads;
 - (ii) installation of timer or timing systems for a hot water heater; or
 - (iii) installation of rain catchment systems; or

(j) a modified, installed, or remodeled fixture that is approved as a utility cost-saving measure by the governing body of a local entity.

~~[(20)]~~ (21) "Environmental remediation activity" means a surface or subsurface enhancement, effort, cost, initial or ongoing maintenance expense, facility, installation, system, earth movement, or change to grade or elevation which improves the use, function, aesthetics, or environmental condition of publically or privately owned property.

~~[(21)]~~ (22) "Equivalent residential unit" means a dwelling, unit, or development that is equal to a single-family residence in terms of the nature of its use or impact on an improvement to be provided in the assessment area.

~~[(22)]~~ (23) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a local district, the board of trustees of the local district;

(c) for a special service district:

(i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301; and

(d) for the military installation development authority created in Section 63H-1-201, the authority board, as defined in Section 63H-1-102.

~~[(23)]~~ (24) "Guaranty fund" means the fund established by a local entity under Section 11-42-701.

~~[(24)]~~ (25) "Improved property" means property upon which a residential, commercial, or other building has been built.

~~[(25)]~~ (26) "Improvement":

(a) (i) means a publicly owned infrastructure, system, or other facility, a publicly or privately owned energy efficiency upgrade, a publicly or privately owned renewable energy system, or publicly or privately owned environmental remediation activity that:

(A) a local entity is authorized to provide;

(B) the governing body of a local entity determines is necessary or convenient to enable the local entity to provide a service that the local entity is authorized to provide; or

(C) a local entity is requested to provide through an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act; and

(ii) includes facilities in an assessment area, including a private driveway, an irrigation ditch, and a water turnout, that:

(A) can be conveniently installed at the same time as an infrastructure, system, or other facility described in Subsection ~~[(25)]~~ (26)(a)(i); and

(B) are requested by a property owner on whose property or for whose benefit the infrastructure, system, or other facility is being installed; or

(b) for a local district created to assess groundwater rights in accordance with Section 17B-1-202, means a system or plan to regulate groundwater withdrawals within a specific groundwater basin in accordance with Sections 17B-1-202 and 73-5-15.

~~[(26)]~~ (27) "Improvement revenues":

(a) means charges, fees, impact fees, or other revenues that a local entity receives from improvements; and

(b) does not include revenue from assessments.

~~[(27)]~~ (28) "Incidental refunding costs" means any costs of issuing refunding assessment bonds and calling, retiring, or paying prior bonds, including:

(a) legal and accounting fees;

(b) charges of financial advisors, escrow agents, certified public accountant verification entities, and trustees;

(c) underwriting discount costs, printing costs, the costs of giving notice;

(d) any premium necessary in the calling or retiring of prior bonds;

(e) fees to be paid to the local entity to issue the refunding assessment bonds and to refund the outstanding prior bonds;

(f) any other costs that the governing body determines are necessary and proper to incur in connection with the issuance of refunding assessment bonds; and

(g) any interest on the prior bonds that is required to be paid in connection with the issuance of the refunding assessment bonds.

~~[(28)]~~ (29) "Installment payment date" means the date on which an installment payment of an assessment is payable.

~~[(29)]~~ (30) "Interim warrant" means a warrant issued by a local entity under Section 11-42-601.

~~[(30)]~~ (31) "Jurisdictional boundaries" means:

(a) for a county, the boundaries of the unincorporated area of the county; and

(b) for each other local entity, the boundaries of the local entity.

~~[(31)]~~ (32) "Local district" means a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts.

~~[(32)]~~ (33) "Local entity" means a county, city, town, special service district, local district, an interlocal entity as defined in Section 11-13-103, a military installation development authority created in Section 63H-1-201, or other political subdivision of the state.

~~[(33)]~~ (34) "Local entity obligations" means assessment bonds, refunding assessment bonds, interim warrants, and bond anticipation notes issued by a local entity.

~~[(34)]~~ (35) "Mailing address" means:

(a) a property owner's last-known address using the name and address appearing on the last completed real property assessment roll of the county in which the property is located; and

(b) if the property is improved property:

(i) the property's street number; or

(ii) the post office box, rural route number, or other mailing address of the property, if a street number has not been assigned.

~~[(35)]~~ (36) "Net improvement revenues" means all improvement revenues that a local entity has received since the last installment payment date, less all amounts payable by the local entity from those improvement revenues for operation and maintenance costs.

~~[(36)]~~ (37) "Operation and maintenance costs":

(a) means the costs that a local entity incurs in operating and maintaining improvements in an assessment area, whether or not those improvements have been financed under this chapter; and

(b) includes service charges, administrative costs, ongoing maintenance charges, and tariffs or other charges for electrical, water, gas, or other utility usage.

~~[(37)]~~ (38) "Overhead costs" means the actual costs incurred or the estimated costs to be incurred by a local entity in connection with an assessment area for appraisals, legal fees, filing fees, financial advisory charges, underwriting fees, placement fees, escrow, trustee, and paying agent fees, publishing and mailing costs, costs of levying an assessment, recording costs, and all other incidental costs.

~~[(38)]~~ (39) "Prior assessment ordinance" means the ordinance levying the assessments from which the prior bonds are payable.

~~[(39)]~~ (40) "Prior assessment resolution" means the resolution levying the assessments from which the prior bonds are payable.

~~[(40)]~~ (41) "Prior bonds" means the assessment bonds that are refunded in part or in whole by refunding assessment bonds.

~~[(41)]~~ (42) "Project engineer" means the surveyor or engineer employed by or the private consulting engineer engaged by a local entity to perform the necessary engineering services for and to supervise the construction or installation of the improvements.

~~[(42)]~~ (43) "Property" includes real property and any interest in real property, including water rights and leasehold rights.

~~[(43)]~~ (44) "Property price" means the price at which a local entity purchases or acquires by

eminent domain property to make improvements in an assessment area.

[44] (45) "Provide" or "providing," with reference to an improvement, includes the acquisition, construction, reconstruction, renovation, maintenance, repair, operation, and expansion of an improvement.

[45] (46) "Public agency" means:

(a) the state or any agency, department, or division of the state; and

(b) a political subdivision of the state.

[46] (47) "Reduced payment obligation" means the full obligation of an owner of property within an assessment area to pay an assessment levied on the property after the assessment has been reduced because of the issuance of refunding assessment bonds, as provided in Section 11-42-608.

[47] (48) "Refunding assessment bonds" means assessment bonds that a local entity issues under Section 11-42-607 to refund, in part or in whole, assessment bonds.

[48] (49) "Renewable energy system" means a product, a system, a device, or an interacting group of devices that ~~is~~ permanently affixed to commercial or industrial real property~~;~~ and:

[49] (a) produces energy from renewable resources, including:

(i) a photovoltaic system;

(ii) a solar thermal system;

(iii) a wind system;

(iv) a geothermal system, including:

(A) a generation system;

(B) a direct-use system; or

(C) a ground source heat pump system;

(v) a microhydro system; or

(vi) any other renewable ~~sources~~ source system approved by the governing body of a local entity~~;~~ or

(b) stores energy, including:

(i) a battery storage system; or

(ii) any other energy storing system approved by the governing body of a local entity.

[49] (50) "Reserve fund" means a fund established by a local entity under Section 11-42-702.

[50] (51) "Service" means:

(a) water, sewer, storm drainage, garbage collection, library, recreation, communications, or electric service;

(b) economic promotion activities; or

(c) any other service that a local entity is required or authorized to provide.

[51] (52) "Special service district" ~~has the same meaning as~~ means the same as that term is defined in Section 17D-1-102.

[52] (53) "Unassessed benefitted government property" means property that a local entity may not assess in accordance with Section 11-42-408 but is benefitted by an improvement, operation and maintenance, or economic promotion activities.

[53] (54) "Unimproved property" means property upon which no residential, commercial, or other building has been built.

[54] (55) "Voluntary assessment area" means an assessment area that contains only property whose owners have voluntarily consented to an assessment.

Section 3. Section 11-42-103 is amended to read:

11-42-103. Limit on effect of this chapter.

(1) Nothing in this chapter may be construed to authorize a local entity to provide an improvement or service that the local entity is not otherwise authorized to provide.

(2) Notwithstanding Subsection (1), a local entity may provide a renewable energy system, an energy efficiency upgrade, electric vehicle charging infrastructure, or an environmental remediation activity that the local entity finds or determines to be in the public interest.

Section 4. Section 11-42-202 is amended to read:

11-42-202. Requirements applicable to a notice of a proposed assessment area designation.

(1) Each notice required under Subsection 11-42-201(2)(a) shall:

(a) state that the local entity proposes to:

(i) designate one or more areas within the local entity's jurisdictional boundaries as an assessment area;

(ii) provide an improvement to property within the proposed assessment area; and

(iii) finance some or all of the cost of improvements by an assessment on benefitted property within the assessment area;

(b) describe the proposed assessment area by any reasonable method that allows an owner of property in the proposed assessment area to determine that the owner's property is within the proposed assessment area;

(c) describe, in a general and reasonably accurate way, the improvements to be provided to the assessment area, including:

(i) the nature of the improvements; and

(ii) the location of the improvements, by reference to streets or portions or extensions of streets or by any other means that the governing body chooses that reasonably describes the general location of the improvements;

(d) state the estimated cost of the improvements as determined by a project engineer;

(e) for the version of notice mailed in accordance with Subsection (4)(b), state the estimated total assessment specific to the benefitted property for which the notice is mailed;

(f) state that the local entity proposes to levy an assessment on benefitted property within the assessment area to pay some or all of the cost of the improvements according to the estimated benefits to the property from the improvements;

(g) if applicable, state that an unassessed benefitted government property will receive improvements for which the cost will be allocated proportionately to the remaining benefitted properties within the proposed assessment area and that a description of each unassessed benefitted government property is available for public review at the location or website described in Subsection (6);

(h) state the assessment method by which the governing body proposes to levy the assessment, including, if the local entity is a municipality or county, whether the assessment will be collected:

(i) by directly billing a property owner; or

(ii) by inclusion on a property tax notice issued in accordance with Section 59-2-1317 and in compliance with Section 11-42-401;

(i) state:

(i) the date described in Section 11-42-203 and the location at which protests against designation of the proposed assessment area or of the proposed improvements are required to be filed;

(ii) the method by which the governing body will determine the number of protests required to defeat the designation of the proposed assessment area or acquisition or construction of the proposed improvements; and

(iii) in large, boldface, and conspicuous type that a property owner must protest the designation of the assessment area in writing if the owner objects to the area designation or being assessed for the proposed improvements, operation and maintenance costs, or economic promotion activities;

(j) state the date, time, and place of the public hearing required in Section 11-42-204;

(k) if the governing body elects to create and fund a reserve fund under Section 11-42-702, include a description of:

(i) how the reserve fund will be funded and replenished; and

(ii) how remaining money in the reserve fund is to be disbursed upon full payment of the bonds;

(l) if the governing body intends to designate a voluntary assessment area, include a property owner consent form that:

(i) estimates the total assessment to be levied against the particular parcel of property;

(ii) describes any additional benefits that the governing body expects the assessed property to receive from the improvements; and

(iii) designates the date and time by which the fully executed consent form is required to be submitted to the governing body;

(m) if the local entity intends to levy an assessment to pay operation and maintenance costs or for economic promotion activities, include:

(i) a description of the operation and maintenance costs or economic promotion activities to be paid by assessments and the initial estimated annual assessment to be levied;

(ii) a description of how the estimated assessment will be determined;

(iii) a description of how and when the governing body will adjust the assessment to reflect the costs of:

(A) in accordance with Section 11-42-406, current economic promotion activities; or

(B) current operation and maintenance costs;

(iv) a description of the method of assessment if different from the method of assessment to be used for financing any improvement; and

(v) a statement of the maximum number of years over which the assessment will be levied for:

(A) operation and maintenance costs; or

(B) economic promotion activities;

(n) if the governing body intends to divide the proposed assessment area into classifications under Subsection 11-42-201(1)(b), include a description of the proposed classifications;

(o) if applicable, state the portion and value of the improvement that will be increased in size or capacity to serve property outside of the assessment area and how the increases will be financed; and

(p) state whether the improvements will be financed with a bond and, if so, the currently estimated interest rate and term of financing, subject to Subsection (2), for which the benefitted properties within the assessment area may be obligated.

(2) The estimated interest rate and term of financing in Subsection (1)(p) may not be interpreted as a limitation to the actual interest rate incurred or the actual term of financing as subject to the market rate at the time of the issuance of the bond.

(3) A notice required under Subsection 11-42-201(2)(a) may contain other information that the governing body considers to be appropriate, including:

(a) the amount or proportion of the cost of the improvement to be paid by the local entity or from sources other than an assessment;

(b) the estimated total amount of each type of assessment for the various improvements to be financed according to the method of assessment that the governing body chooses; and

(c) provisions for any improvements described in Subsection 11-42-102[(25)](26)(a)(ii).

(4) Each notice required under Subsection 11-42-201(2)(a) shall:

(a) (i) (A) be published in a newspaper of general circulation within the local entity's jurisdictional boundaries, once a week for four consecutive weeks, with the last publication at least five but not more than 20 days before the day of the hearing required in Section 11-42-204; or

(B) if there is no newspaper of general circulation within the local entity's jurisdictional boundaries, be posted in at least three public places within the local entity's jurisdictional boundaries at least 20 but not more than 35 days before the day of the hearing required in Section 11-42-204; and

(ii) be published on the Utah Public Notice Website described in Section 63F-1-701 for four weeks before the deadline for filing protests specified in the notice under Subsection (1)(i); and

(b) be mailed, postage prepaid, within 10 days after the first publication or posting of the notice under Subsection (4)(a) to each owner of property to be assessed within the proposed assessment area at the property owner's mailing address.

(5) (a) The local entity may record the version of the notice that is published or posted in accordance with Subsection (4)(a) with the office of the county recorder, by legal description and tax identification number as identified in county records, against the property proposed to be assessed.

(b) The notice recorded under Subsection (5)(a) expires and is no longer valid one year after the day on which the local entity records the notice if the local entity has failed to adopt the designation ordinance or resolution under Section 11-42-201 designating the assessment area for which the notice was recorded.

(6) A local entity shall make available on the local entity's website, or, if no website is available, at the local entity's place of business, the address and type of use of each unassessed benefitted government property described in Subsection (1)(g).

(7) If a governing body fails to provide actual or constructive notice under this section, the local entity may not assess a levy against a benefitted property omitted from the notice unless:

(a) the property owner gives written consent;

(b) the property owner received notice under Subsection 11-42-401(2)(a)(iii) and did not object to the levy of the assessment before the final hearing of the board of equalization; or

(c) the benefitted property is conveyed to a subsequent purchaser and, before the date of conveyance, the requirements of Subsections

11-42-206(3)(a)(i) and (ii), or, if applicable, Subsection 11-42-207(1)(d)(i) are met.

Section 5. Section 11-42-209 is amended to read:

11-42-209. Designation of assessment area for an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure -- Requirements.

(1) A governing body may not adopt a designation ordinance or resolution to designate an assessment area for an energy efficiency upgrade [ø], a renewable energy system, or electric vehicle charging infrastructure unless the assessment area is a voluntary assessment area.

(2) A local entity may not include property in a voluntary assessment area described in Subsection (1) unless an owner of property located in the assessment area provides to the local entity:

(a) the written consent of each person or institution holding a lien on the property; and

(b) evidence:

(i) that there are no delinquent taxes, special assessments, or water or sewer charges on the property;

(ii) that the property is not subject to a trust deed or other lien on which there is a recorded notice of default, foreclosure, or delinquency that has not been cured; and

(iii) that there are no involuntary liens, including a lien on real property, or on the proceeds of a contract relating to real property, for services, labor, or materials furnished in connection with the construction or improvement of the property.

Section 6. Section 11-42-301 is amended to read:

11-42-301. Improvements made only under contract let to lowest responsive, responsible bidder -- Publishing notice -- Sealed bids -- Procedure -- Exceptions to contract requirement.

(1) Except as otherwise provided in this section, a local entity may make improvements in an assessment area only under contract let to the lowest responsive, responsible bidder for the kind of service, material, or form of construction that the local entity's governing body determines in compliance with any applicable local entity ordinances.

(2) A local entity may:

(a) divide improvements into parts;

(b) (i) let separate contracts for each part; or
(ii) combine multiple parts into the same contract; and

(c) let a contract on a unit basis.

(3) (a) A local entity may not let a contract until after publishing notice as provided in Subsection (3)(b):

(i) at least one time in a newspaper of general circulation within the boundaries of the local entity at least 15 days before the date specified for receipt of bids; and

(ii) in accordance with Section 45-1-101, at least 15 days before the date specified for receipt of bids.

(b) Each notice under Subsection (3)(a) shall notify contractors that the local entity will receive sealed bids at a specified time and place for the construction of the improvements.

(c) Notwithstanding a local entity's failure, through inadvertence or oversight, to publish the notice or to publish the notice within 15 days before the date specified for receipt of bids, the governing body may proceed to let a contract for the improvements if the local entity receives at least three sealed and bona fide bids from contractors by the time specified for the receipt of bids.

(d) A local entity may publish a notice required under this Subsection (3) at the same time as a notice under Section 11-42-202.

(4) (a) A local entity may accept as a sealed bid a bid that is:

(i) manually sealed and submitted; or

(ii) electronically sealed and submitted.

(b) The governing body or project engineer shall, at the time specified in the notice under Subsection (3), open and examine the bids.

(c) In open session, the governing body:

(i) shall declare the bids; and

(ii) may reject any or all bids if the governing body considers the rejection to be for the public good.

(d) The local entity may award the contract to the lowest responsive, responsible bidder even if the price bid by that bidder exceeds the estimated costs as determined by the project engineer.

(e) A local entity may in any case:

(i) refuse to award a contract;

(ii) obtain new bids after giving a new notice under Subsection (3);

(iii) determine to abandon the assessment area; or

(iv) not make some of the improvements proposed to be made.

(5) A local entity is not required to let a contract as provided in this section for:

(a) an improvement or part of an improvement the cost of which or the making of which is donated or contributed;

(b) an improvement that consists of furnishing utility service or maintaining improvements;

(c) labor, materials, or equipment supplied by the local entity;

(d) the local entity's acquisition of completed or partially completed improvements in an assessment area;

(e) design, engineering, and inspection costs incurred with respect to the construction of improvements in an assessment area; or

(f) additional work performed in accordance with the terms of a contract duly let to the lowest responsive, responsible bidder.

(6) A local entity may itself furnish utility service and maintain improvements within an assessment area.

(7) (a) A local entity may acquire completed or partially completed improvements in an assessment area, but may not pay an amount for those improvements that exceeds their fair market value.

(b) Upon the local entity's payment for completed or partially completed improvements, title to the improvements shall be conveyed to the local entity or another public agency.

(8) The provisions of Title 11, Chapter 39, Building Improvements and Public Works Projects, and Section 72-6-108 do not apply to improvements to be constructed in an assessment area.

(9) (a) Except as provided in Subsection (9)(b), this section does not apply to a voluntary assessment area designated for the purpose of levying an assessment for an energy efficiency upgrade [ø], a renewable energy system, or electric vehicle charging infrastructure.

(b) (i) A local entity that designates a voluntary assessment area described in Subsection (9)(a) shall provide to each owner of property to be assessed a list of service providers authorized by the local entity to provide the energy efficiency upgrade [ø], renewable energy system, or electric vehicle charging infrastructure.

(ii) A property owner described in Subsection (9)(b)(i) shall select a service provider from the list to provide the energy efficiency upgrade [ø], renewable energy system, or electric vehicle charging infrastructure for the owner's property.

Section 7. Section 11-42-408 is amended to read:

11-42-408. Assessment against government land prohibited -- Exception.

(1) (a) Except as provided in Subsection (2), a local entity may not levy an assessment against property owned by the federal government or a public agency, even if the property benefits from the improvement.

(b) Notwithstanding Subsection (1)(a), a public agency may contract with a local entity:

(i) for the local entity to provide an improvement to property owned by the public agency; and

(ii) to pay for the improvement provided by the local entity.

(c) Nothing in this section may be construed to prevent a local entity from imposing on and collecting from a public agency, or a public agency from paying, a reasonable charge for a service rendered or material supplied by the local entity to the public agency, including a charge for water, sewer, or lighting service.

(2) Notwithstanding Subsection (1):

(a) a local entity may continue to levy and enforce an assessment against property acquired by a public agency within an assessment area if the acquisition occurred after the assessment area was designated;

(b) property that is subject to an assessment lien at the time it is acquired by a public agency continues to be subject to the lien and to enforcement of the lien if the assessment and interest on the assessment are not paid when due; and

(c) a local entity may levy an assessment against property owned by the federal government or a public agency if the federal government or public agency voluntarily enters into a voluntary assessment area for the purpose of financing an energy efficiency upgrade [øø], a renewable energy system, or electric vehicle charging infrastructure.

Section 8. Section 11-42-411 is amended to read:

11-42-411. Installment payment of assessments.

(1) (a) In an assessment resolution or ordinance, the governing body may, subject to Subsection (1)(b) and except as provided in Subsection (2)(c), provide that some or all of the assessment be paid in installments over a period not to exceed 20 years from the effective date of the resolution or ordinance.

(b) If an assessment resolution or ordinance provides that some or all of the assessment be paid in installments for a period exceeding 10 years from the effective date of the resolution or ordinance, the governing body:

(i) shall make a determination that:

(A) the improvement for which the assessment is made has a reasonable useful life for the full period during which installments are to be paid; or

(B) it would be in the best interests of the local entity and the property owners for installments to be paid for more than 10 years; and

(ii) may provide in the resolution or ordinance that no assessment is payable during some or all of the period ending three years after the effective date of the resolution or ordinance.

(2) An assessment resolution or ordinance that provides for the assessment to be paid in installments may provide that the unpaid balance be paid over the period of time that installments are payable:

(a) in substantially equal installments of principal;

(b) in substantially equal installments of principal and interest; or

(c) for an assessment levied for an energy efficiency upgrade [øø], a renewable energy system, or electric vehicle charging infrastructure:

(i) in accordance with the assessment resolution or ordinance[-]; and

(ii) over a period not to exceed 30 years from the effective date of the resolution or ordinance.

(3) (a) Each assessment resolution or ordinance that provides for the assessment to be paid in installments shall, subject to Subsections (3)(b) and (c), provide that the unpaid balance of the assessment bear interest at a fixed rate, variable rate, or a combination of fixed and variable rates, as determined by the governing body, from the effective date of the resolution or ordinance or another date specified in the resolution or ordinance.

(b) If the assessment is for operation and maintenance costs or for the costs of economic promotion activities:

(i) a local entity may charge interest only from the date each installment is due; and

(ii) the first installment of an assessment shall be due 15 days after the effective date of the assessment resolution or ordinance.

(c) If an assessment resolution or ordinance provides for the unpaid balance of the assessment to bear interest at a variable rate, the assessment resolution or ordinance shall specify:

(i) the basis upon which the rate is to be determined from time to time;

(ii) the manner in which and schedule upon which the rate is to be adjusted; and

(iii) a maximum rate that the assessment may bear.

(4) Interest payable on assessments may include:

(a) interest on assessment bonds;

(b) ongoing local entity costs incurred for administration of the assessment area; and

(c) any costs incurred with respect to:

(i) securing a letter of credit or other instrument to secure payment or repurchase of bonds; or

(ii) retaining a marketing agent or an indexing agent.

(5) Interest imposed in an assessment resolution or ordinance shall be paid in addition to the amount of each installment annually or at more frequent intervals as provided in the assessment resolution or ordinance.

(6) (a) Except for an assessment for operation and maintenance costs or for the costs of economic promotion activities, a property owner may pay

some or all of the entire assessment without interest if paid within 25 days after the assessment resolution or ordinance takes effect.

(b) After the 25-day period stated in Subsection (6)(a), a property owner may at any time prepay some or all of the assessment levied against the owner's property.

(c) A local entity may require a prepayment of an installment to include:

(i) an amount equal to the interest that would accrue on the assessment to the next date on which interest is payable on bonds issued in anticipation of the collection of the assessment; and

(ii) the amount necessary, in the governing body's opinion or the opinion of the officer designated by the governing body, to assure the availability of money to pay:

(A) interest that becomes due and payable on those bonds; and

(B) any premiums that become payable on bonds that are called in order to use the money from the prepaid assessment installment.

Section 9. Section 17-50-335 is amended to read:

17-50-335. Energy efficiency upgrade, renewable energy system, or electric vehicle charging infrastructure.

A county may provide or finance an energy efficiency upgrade [ø], a renewable energy system, or electric vehicle charging infrastructure as defined in Section 11-42-102, in a designated voluntary assessment area in accordance with Title 11, Chapter 42, Assessment Area Act.

Section 10. Section 17B-1-202 is amended to read:

17B-1-202. Local district may be created -- Services that may be provided -- Limitations.

(1) (a) A local district may be created as provided in this part to provide within its boundaries service consisting of:

(i) the operation of an airport;

(ii) the operation of a cemetery;

(iii) fire protection, paramedic, and emergency services, including consolidated 911 and emergency dispatch services;

(iv) garbage collection and disposal;

(v) health care, including health department or hospital service;

(vi) the operation of a library;

(vii) abatement or control of mosquitos and other insects;

(viii) the operation of parks or recreation facilities or services;

(ix) the operation of a sewage system;

(x) the construction and maintenance of a right-of-way, including:

(A) a curb;

(B) a gutter;

(C) a sidewalk;

(D) a street;

(E) a road;

(F) a water line;

(G) a sewage line;

(H) a storm drain;

(I) an electricity line;

(J) a communications line;

(K) a natural gas line; or

(L) street lighting;

(xi) transportation, including public transit and providing streets and roads;

(xii) the operation of a system, or one or more components of a system, for the collection, storage, retention, control, conservation, treatment, supplying, distribution, or reclamation of water, including storm, flood, sewage, irrigation, and culinary water, whether the system is operated on a wholesale or retail level or both;

(xiii) in accordance with Subsection (1)(c), the acquisition or assessment of a groundwater right for the development and execution of a groundwater management plan in cooperation with and approved by the state engineer in accordance with Section 73-5-15;

(xiv) law enforcement service;

(xv) subject to Subsection (1)(b), the underground installation of an electric utility line or the conversion to underground of an existing electric utility line;

(xvi) the control or abatement of earth movement or a landslide;

(xvii) the operation of animal control services and facilities; or

(xviii) an energy efficiency upgrade [ø], a renewable energy system, or electric vehicle charging infrastructure as defined in Section 11-42-102, in accordance with Title 11, Chapter 42, Assessment Area Act.

(b) Each local district that provides the service of the underground installation of an electric utility line or the conversion to underground of an existing electric utility line shall, in installing or converting the line, provide advance notice to and coordinate with the utility that owns the line.

(c) A groundwater management plan described in Subsection (1)(a)(xiii) may include the banking of groundwater rights by a local district in a critical management area as defined in Section 73-5-15 following the adoption of a groundwater management plan by the state engineer under Section 73-5-15.

(i) A local district may manage the groundwater rights it acquires under Subsection 17B-1-103(2)(a) or (b) consistent with the provisions of a groundwater management plan described in this Subsection (1)(c).

(ii) A groundwater right held by a local district to satisfy the provisions of a groundwater management plan is not subject to the forfeiture provisions of Section 73-1-4.

(iii) (A) A local district may divest itself of a groundwater right subject to a determination that the groundwater right is not required to facilitate the groundwater management plan described in this Subsection (1)(c).

(B) The groundwater right described in Subsection (1)(c)(iii)(A) is subject to Section 73-1-4 beginning on the date of divestiture.

(iv) Upon a determination by the state engineer that an area is no longer a critical management area as defined in Section 73-5-15, a groundwater right held by the local district is subject to Section 73-1-4.

(v) A local district created in accordance with Subsection (1)(a)(xiii) to develop and execute a groundwater management plan may hold or acquire a right to surface waters that are naturally tributary to the groundwater basin subject to the groundwater management plan if the surface waters are appropriated in accordance with Title 73, Water and Irrigation, and used in accordance with Title 73, Chapter 3b, Groundwater Recharge and Recovery Act.

(2) For purposes of this section:

(a) "Operation" means all activities involved in providing the indicated service including acquisition and ownership of property reasonably necessary to provide the indicated service and acquisition, construction, and maintenance of facilities and equipment reasonably necessary to provide the indicated service.

(b) "System" means the aggregate of interrelated components that combine together to provide the indicated service including, for a sewage system, collection and treatment.

(3) (a) A local district may not be created to provide and may not after its creation provide more than four of the services listed in Subsection (1).

(b) Subsection (3)(a) may not be construed to prohibit a local district from providing more than four services if, before April 30, 2007, the local district was authorized to provide those services.

(4) (a) Except as provided in Subsection (4)(b), a local district may not be created to provide and may not after its creation provide to an area the same service that may already be provided to that area by another political subdivision, unless the other political subdivision gives its written consent.

(b) For purposes of Subsection (4)(a), a local district does not provide the same service as another political subdivision if it operates a

component of a system that is different from a component operated by another political subdivision but within the same:

- (i) sewage system; or
- (ii) water system.

(5) (a) Except for a local district in the creation of which an election is not required under Subsection 17B-1-214(3)(d), the area of a local district may include all or part of the unincorporated area of one or more counties and all or part of one or more municipalities.

(b) The area of a local district need not be contiguous.

(6) For a local district created before May 5, 2008, the authority to provide fire protection service also includes the authority to provide:

- (a) paramedic service; and
- (b) emergency service, including hazardous materials response service.

(7) A local district created before May 11, 2010, authorized to provide the construction and maintenance of curb, gutter, or sidewalk may provide a service described in Subsection (1)(a)(x) on or after May 11, 2010.

(8) A local district created before May 10, 2011, authorized to provide culinary, irrigation, sewage, or storm water services may provide a service described in Subsection (1)(a)(xii) on or after May 10, 2011.

(9) A local district may not be created under this chapter for two years after the date on which a local district is dissolved as provided in Section 17B-1-217 if the local district proposed for creation:

- (a) provides the same or a substantially similar service as the dissolved local district; and
- (b) is located in substantially the same area as the dissolved local district.

Section 11. Section 17D-1-201 is amended to read:

17D-1-201. Services that a special service district may be created to provide.

As provided in this part, a county or municipality may create a special service district to provide any combination of the following services:

- (1) water;
- (2) sewerage;
- (3) drainage;
- (4) flood control;
- (5) garbage collection and disposal;
- (6) health care;

(7) transportation, including the receipt of federal secure rural school funds under Section 51-9-603 for the purposes of constructing, improving, repairing, or maintaining public roads;

- (8) recreation;
- (9) fire protection, including:
 - (a) emergency medical services, ambulance services, and search and rescue services, if fire protection service is also provided;
 - (b) Firewise Communities programs and the development of community wildfire protection plans; and
 - (c) the receipt of federal secure rural school funds as provided under Section 51-9-603 for the purposes of carrying out Firewise Communities programs, developing community wildfire protection plans, and performing emergency services, including firefighting on federal land and other services authorized under this Subsection (9);
- (10) providing, operating, and maintaining correctional and rehabilitative facilities and programs for municipal, state, and other detainees and prisoners;
- (11) street lighting;
- (12) consolidated 911 and emergency dispatch;
- (13) animal shelter and control;
- (14) receiving federal mineral lease funds under Title 59, Chapter 21, Mineral Lease Funds, and expending those funds to provide construction and maintenance of public facilities, traditional governmental services, and planning, as a means for mitigating impacts from extractive mineral industries;
- (15) in a county of the first class, extended police protection;
- (16) control or abatement of earth movement or a landslide;
- (17) an energy efficiency upgrade [øf], a renewable energy system, or electric vehicle charging infrastructure as defined in Section 11-42-102, in accordance with Title 11, Chapter 42, Assessment Area Act; or
- (18) cemetery.

Section 12. Section 63H-1-201 is amended to read:

63H-1-201. Creation of military installation development authority -- Status and powers of authority -- Limitation.

- (1) There is created a military installation development authority.
- (2) The authority is:
 - (a) an independent, nonprofit, separate body corporate and politic, with perpetual succession and statewide jurisdiction, whose purpose is to facilitate the development of military land in a project area;
 - (b) a political subdivision of the state; and
 - (c) a public corporation, as defined in Section 63E-1-102.

- (3) The authority may:
 - (a) as provided in this chapter, facilitate the development of land within one or more project areas, including the ongoing operation of facilities within a project area;
 - (b) sue and be sued;
 - (c) enter into contracts generally;
 - (d) buy, obtain an option upon, or otherwise acquire any interest in real or personal property:
 - (i) in a project area; or
 - (ii) outside a project area for publicly owned infrastructure and improvements, if the board considers the purchase, option, or other interest acquisition to be necessary for fulfilling the authority's development objectives;
 - (e) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property;
 - (f) enter into a lease agreement on real or personal property, either as lessee or lessor:
 - (i) in a project area; or
 - (ii) outside a project area, if the board considers the lease to be necessary for fulfilling the authority's development objectives;
 - (g) provide for the development of land within a project area under one or more contracts;
 - (h) exercise powers and perform functions under a contract, as authorized in the contract;
 - (i) exercise exclusive police power within a project area to the same extent as though the authority were a municipality, including the collection of regulatory fees;
 - (j) receive the property tax allocation and other taxes and fees as provided in this chapter;
 - (k) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;
 - (l) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;
 - (m) issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;
 - (n) hire employees, including contract employees;
 - (o) transact other business and exercise all other powers provided for in this chapter;
 - (p) enter into a development agreement with a developer of land within a project area;
 - (q) enter into an agreement with a political subdivision of the state under which the political

subdivision provides one or more municipal services within a project area;

(r) enter into an agreement with a private contractor to provide one or more municipal services within a project area;

(s) provide for or finance an energy efficiency upgrade [ø], a renewable energy system, or electric vehicle charging infrastructure as defined in Section 11-42-102, in accordance with Title 11, Chapter 42, Assessment Area Act;

(t) exercise powers and perform functions that the authority is authorized by statute to exercise or perform; and

(u) enter into an agreement with the federal government or an agency of the federal government under which the federal government or agency:

(i) provides law enforcement services only to military land within a project area; and

(ii) may enter into a mutual aid or other cooperative agreement with a law enforcement agency of the state or a political subdivision of the state.

(4) The authority may not itself provide law enforcement service or fire protection service within a project area but may enter into an agreement for one or both of those services, as provided in Subsection (3)(q).

CHAPTER 372**H. B. 179**

Passed March 10, 2016
 Approved March 29, 2016
 Effective May 10, 2016

**CONSENSUAL SEXUAL
ACTIVITY OF A MINOR**

Chief Sponsor: Merrill F. Nelson
 Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill modifies the Utah Criminal Code regarding abuse of a minor.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of sexual abuse of a minor regarding the age differential between the offender and the victim;
- ▶ modifies offender registration requirements regarding a first offense of sexual abuse of a minor; and
- ▶ provides a cross reference regarding the current code provision that a misdemeanor offense of unlawful sexual activity with a minor is not subject to the offender registry.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-5-401, as repealed and reenacted by Laws of Utah 1998, Chapter 82
 76-5-401.1, as last amended by Laws of Utah 2014, Chapter 135
 77-41-102, as last amended by Laws of Utah 2015, Chapter 210

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-5-401 is amended to read:**76-5-401. Unlawful sexual activity with a minor -- Elements -- Penalties -- Evidence of age raised by defendant.**

(1) For purposes of this section "minor" is a person who is 14 years of age or older, but younger than 16 years of age, at the time the sexual activity described in this section occurred.

(2) A person commits unlawful sexual activity with a minor if, under circumstances not amounting to rape, in violation of Section 76-5-402, object rape, in violation of Section 76-5-402.2, forcible sodomy, in violation of Section 76-5-403, or aggravated sexual assault, in violation of Section 76-5-405, the actor:

- (a) has sexual intercourse with the minor;
- (b) engages in any sexual act with the minor involving the genitals of one person and the mouth

or anus of another person, regardless of the sex of either participant; or

(c) causes the penetration, however slight, of the genital or anal opening of the minor by any foreign object, substance, instrument, or device, including a part of the human body, with the intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person, regardless of the sex of any participant.

(3) [A] (a) Except under Subsection (3)(b), a violation of Subsection (2) is a third degree felony ~~[unless]~~.

(b) If the defendant establishes by a preponderance of the evidence the mitigating factor that the defendant is less than four years older than the minor at the time the sexual activity occurred, ~~[in which case it]~~ the offense is a class B misdemeanor. An offense under this Subsection (3)(b) is not subject to registration under Subsection 77-41-102(17)(a)(iii).

Section 2. Section 76-5-401.1 is amended to read:**76-5-401.1. Sexual abuse of a minor.**

(1) For purposes of this section "minor" is a person who is 14 years of age or older, but younger than 16 years of age, at the time the sexual activity described in this section occurred.

(2) A person commits sexual abuse of a minor if the person is ~~[seven]~~ four years or more older than the minor or holds a relationship of special trust as an adult teacher, employee, or volunteer, as described in Subsection 76-5-404.1(1)(c)(xix) and, under circumstances not amounting to rape, in violation of Section 76-5-402, object rape, in violation of Section 76-5-402.2, forcible sodomy, in violation of Section 76-5-403, aggravated sexual assault, in violation of Section 76-5-405, unlawful sexual activity with a minor, in violation of Section 76-5-401, or an attempt to commit any of those offenses, the person touches the anus, buttocks, or any part of the genitals of the minor, or touches the breast of a female minor, or otherwise takes indecent liberties with the minor, or causes a minor to take indecent liberties with the actor or another person, with the intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person regardless of the sex of any participant.

(3) (a) [A] Except under Subsection (3)(b), a violation of this section is a class A misdemeanor~~[, except under Subsection (3)(b)]~~ and is not subject to registration under Subsection 77-41-102(17)(a)(iv) on a first offense if the offender was younger than 21 years of age at the time of the offense.

(b) A violation of this section is a third degree felony if the actor at the time of the commission of the offense:

- (i) is 18 years of age or older;
- (ii) held a position of special trust as a teacher or a volunteer at a school, as that position is defined in Subsection 76-5-404.1(1)(c)(xix); and

(iii) committed the offense against an individual who at the time of the offense was enrolled as a student at the school where the actor was employed or was acting as a volunteer.

Section 3. Section 77-41-102 is amended to read:

77-41-102. Definitions.

As used in this chapter:

(1) "Bureau" means the bureau of Criminal Identification of the Department of Public Safety established in section 53-10-201.

(2) "Business day" means a day on which state offices are open for regular business.

(3) "Certificate of eligibility" means a document issued by the Bureau of Criminal Identification showing that the offender has met the requirements of Section 77-41-112.

(4) "Department" means the Department of Corrections.

(5) "Division" means the Division of Juvenile Justice Services.

(6) "Employed" or "carries on a vocation" includes employment that is full time or part time, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

(7) "Indian Country" means:

(a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, regardless of the issuance of any patent, and includes rights-of-way running through the reservation;

(b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory, and whether or not within the limits of a state; and

(c) all Indian allotments, including the Indian allotments to which the Indian titles have not been extinguished, including rights-of-way running through the allotments.

(8) "Jurisdiction" means any state, Indian Country, United States Territory, or any property under the jurisdiction of the United States military, Canada, the United Kingdom, Australia, or New Zealand.

(9) "Kidnap offender" means any person other than a natural parent of the victim who:

(a) has been convicted in this state of a violation of:

(i) Subsection 76-5-301(1)(c) or (d), kidnapping;

(ii) Section 76-5-301.1, child kidnapping;

(iii) Section 76-5-302, aggravated kidnapping;

(iv) Section 76-5-310, aggravated human trafficking, on or after May 10, 2011; or

(v) attempting, soliciting, or conspiring to commit any felony offense listed in Subsections (9)(a)(i) through (iv);

(b) has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection (9)(a) and who is:

(i) a Utah resident; or

(ii) not a Utah resident, but who, in any 12 month period, is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(c) (i) is required to register as a kidnap offender in any other jurisdiction of original conviction, who is required to register as a kidnap offender by any state, federal, or military court, or who would be required to register as a kidnap offender if residing in the jurisdiction of the conviction regardless of the date of the conviction or any previous registration requirements; and

(ii) in any 12 month period, is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(d) is a nonresident regularly employed or working in this state, or who is a student in this state, and was convicted of one or more offenses listed in Subsection (9), or any substantially equivalent offense in another jurisdiction, or as a result of the conviction, is required to register in the person's state of residence;

(e) is found not guilty by reason of insanity in this state or in any other jurisdiction of one or more offenses listed in Subsection (9); or

(f) is adjudicated delinquent based on one or more offenses listed in Subsection (9)(a) and who has been committed to the division for secure confinement for that offense and remains in the division's custody 30 days prior to the person's 21st birthday.

(10) "Natural parent" means a minor's biological or adoptive parent, and includes the minor's noncustodial parent.

(11) "Offender" means a kidnap offender as defined in Subsection (9) or a sex offender as defined in Subsection (17).

(12) "Online identifier" or "Internet identifier":

(a) means any electronic mail, chat, instant messenger, social networking, or similar name used for Internet communication; and

(b) does not include date of birth, Social Security number, PIN number, or Internet passwords.

(13) "Primary residence" means the location where the offender regularly resides, even if the offender intends to move to another location or return to another location at any future date.

(14) "Register" means to comply with the requirements of this chapter and administrative rules of the department made under this chapter.

(15) "Registration website" means the Sex and Kidnap Offender Notification and Registration website described in Section 77-41-110 and the information on the website.

(16) "Secondary residence" means any real property that the offender owns or has a financial interest in, or any location where, in any 12 month period, the offender stays overnight a total of 10 or more nights when not staying at the offender's primary residence.

(17) "Sex offender" means any person:

(a) convicted in this state of:

(i) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor;

(ii) Section 76-5b-202, sexual exploitation of a vulnerable adult, on or after May 10, 2011;

(iii) a felony violation of Section 76-5-401, unlawful sexual activity with a minor;

(iv) Section 76-5-401.1, sexual abuse of a minor, except under Subsection 76-5-401.1(3)(a);

(v) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;

(vi) Section 76-5-402, rape;

(vii) Section 76-5-402.1, rape of a child;

(viii) Section 76-5-402.2, object rape;

(ix) Section 76-5-402.3, object rape of a child;

(x) a felony violation of Section 76-5-403, forcible sodomy;

(xi) Section 76-5-403.1, sodomy on a child;

(xii) Section 76-5-404, forcible sexual abuse;

(xiii) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child;

(xiv) Section 76-5-405, aggravated sexual assault;

(xv) Section 76-5-412, custodial sexual relations, when the person in custody is younger than 18 years of age, if the offense is committed on or after May 10, 2011;

(xvi) Section 76-5b-201, sexual exploitation of a minor;

(xvii) Section 76-7-102, incest;

(xviii) Section 76-9-702, lewdness, if the person has been convicted of the offense four or more times;

(xix) Section 76-9-702.1, sexual battery, if the person has been convicted of the offense four or more times;

(xx) any combination of convictions of Section 76-9-702, lewdness, and of Section 76-9-702.1, sexual battery, that total four or more convictions;

(xxi) Section 76-9-702.5, lewdness involving a child;

(xxii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;

(xxiii) Section 76-10-1306, aggravated exploitation of prostitution; or

(xxiv) attempting, soliciting, or conspiring to commit any felony offense listed in Subsection (17)(a);

(b) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection (17)(a) and who is:

(i) a Utah resident; or

(ii) not a Utah resident, but who, in any 12 month period, is in this state for a total of 10 or more days, regardless of whether the offender intends to permanently reside in this state;

(c) (i) who is required to register as a sex offender in any other jurisdiction of original conviction, who is required to register as a sex offender by any state, federal, or military court, or who would be required to register as a sex offender if residing in the jurisdiction of the original conviction regardless of the date of the conviction or any previous registration requirements; and

(ii) who, in any 12 month period, is in the state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(d) who is a nonresident regularly employed or working in this state or who is a student in this state and was convicted of one or more offenses listed in Subsection (17)(a), or any substantially equivalent offense in any jurisdiction, or as a result of the conviction, is required to register in the person's jurisdiction of residence;

(e) who is found not guilty by reason of insanity in this state, or in any other jurisdiction of one or more offenses listed in Subsection (17)(a); or

(f) who is adjudicated delinquent based on one or more offenses listed in Subsection (17)(a) and who has been committed to the division for secure confinement for that offense and remains in the division's custody 30 days prior to the person's 21st birthday.

(18) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(19) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in any jurisdiction.

CHAPTER 373**H. B. 183**

Passed March 3, 2016
 Approved March 29, 2016
 Effective May 10, 2016

**COUNTY OPTION SALES AND USE
 TAX FOR HIGHWAYS AND PUBLIC
 TRANSIT AMENDMENTS**

Chief Sponsor: Jack R. Draxler
 Senate Sponsor: Kevin T. Van Tassell

LONG TITLE**General Description:**

This bill modifies the Sales and Use Tax Act by amending provisions relating to the county option sales and use tax for highways and public transit.

Highlighted Provisions:

This bill:

- ▶ amends the distribution of revenue collected from the local option sales and use tax for highways and public transit; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

51-2a-202, as last amended by Laws of Utah 2015, Chapter 275
 59-12-2219, as enacted by Laws of Utah 2015, Chapter 275
 63I-1-259, as last amended by Laws of Utah 2015, Chapters 224, 275, and 467

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 51-2a-202 is amended to read:

51-2a-202. Reporting requirements.

(1) The governing board of each entity required to have an audit, review, compilation, or fiscal report shall ensure that the audit, review, compilation, or fiscal report is:

- (a) made at least annually; and
- (b) filed with the state auditor within six months of the close of the fiscal year of the entity.

(2) If the political subdivision, interlocal organization, or other local entity receives federal funding, the audit, review, or compilation shall be performed in accordance with both federal and state auditing requirements.

(3) If a political subdivision receives revenue from a sales and use tax imposed under Section 59-12-2219, the political subdivision shall identify the amount of revenue the political subdivision budgets for transportation and verify compliance with Subsection 59-12-2219~~(10)~~(13) in the audit, review, compilation, or fiscal report.

Section 2. Section 59-12-2219 is amended to read:

59-12-2219. County option sales and use tax for highways and public transit -- Base -- Rate -- Distribution and expenditure of revenue -- Revenue may not supplant existing budgeted transportation revenue.

(1) As used in this section:

- (a) "Class B road" means the same as that term is defined in Section 72-3-103.
- (b) "Class C road" means the same as that term is defined in Section 72-3-104.
- (c) "Eligible political subdivision" means a political subdivision that:

(i) (A) on May 12, 2015, provides public transit services; or

(B) after May 12, 2015, provides written notice to the commission in accordance with Subsection (10)(b) that it intends to provide public transit service within a county;

(ii) is not a public transit district; and

(iii) is not annexed into a public transit district.

(d) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(2) Subject to the other provisions of this part, a county legislative body may impose a sales and use tax of .25% on the transactions described in Subsection 59-12-103(1) within the county, including the cities and towns within the county.

(3) The commission shall distribute sales and use tax revenue collected under this section as provided in Subsections (4) through ~~(7)~~ (10).

(4) If the entire boundary of a county that imposes a sales and use tax under this section is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) .10% shall be transferred to the public transit district in accordance with Section 59-12-2206;

(b) .10% shall be distributed as provided in Subsection ~~[(6)]~~ (8); and

(c) .05% shall be distributed to the county legislative body.

~~(5) If the entire boundary of a [county that imposes a sales and use tax under this section is not annexed into a single public transit district, or if there is not a public transit district within the county,] county that imposes a sales and use tax under this section is not annexed into a single public transit district, but a city or town within the county is annexed into a single public transit district that also has a county of the first class annexed into the same public transit district, the commission shall distribute the sales and use tax revenue collected within the county as follows:~~

(a) for a city or town within the county that is annexed into a single public transit district, the

commission shall distribute the sales and use tax revenue collected within that city or town as follows:

(i) .10% shall be transferred to the public transit district in accordance with Section 59-12-2206;

(ii) .10% shall be distributed as provided in Subsection ~~[(6)]~~ (8); and

(iii) .05% shall be distributed to the county legislative body;

(b) for an eligible political subdivision within the county, the commission shall distribute the sales and use tax revenue collected within that eligible political subdivision as follows:

(i) .10% shall be transferred to the eligible political subdivision in accordance with Section 59-12-2206;

(ii) .10% shall be distributed as provided in Subsection ~~[(6)]~~ (8); and

(iii) .05% shall be distributed to the county legislative body; and

(c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections (5)(a) and (b), as follows:

(i) .10% shall be distributed as provided in Subsection ~~[(6)]~~ (8); and

(ii) .15% shall be distributed to the county legislative body.

(6) For a county not described in Subsection (4) or (5), if the entire boundary of a county of the first or second class that imposes a sales and use tax under this section is not annexed into a single public transit district, or if there is not a public transit district within the county, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) for a city or town within the county that is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within that city or town as follows:

(i) .10% shall be transferred to the public transit district in accordance with Section 59-12-2206;

(ii) .10% shall be distributed as provided in Subsection (8); and

(iii) .05% shall be distributed to the county legislative body;

(b) for an eligible political subdivision within the county, the commission shall distribute the sales and use tax revenue collected within that eligible political subdivision as follows:

(i) .10% shall be transferred to the eligible political subdivision in accordance with Section 59-12-2206;

(ii) .10% shall be distributed as provided in Subsection (8); and

(iii) .05% shall be distributed to the county legislative body; and

(c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections (6)(a) and (b), as follows:

(i) .10% shall be distributed as provided in Subsection (8); and

(ii) .15% shall be distributed to the county legislative body.

(7) For a county not described in Subsection (4) or (5), if the entire boundary of a county of the third, fourth, fifth, or sixth class that imposes a sales and use tax under this section is not annexed into a single public transit district, or if there is not a public transit district within the county, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) for a city or town within the county that is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within that city or town as follows:

(i) .10% shall be distributed as provided in Subsection (8);

(ii) .10% shall be distributed as provided in Subsection (9); and

(iii) .05% shall be distributed to the county legislative body;

(b) for an eligible political subdivision within the county, the commission shall distribute the sales and use tax revenue collected within that eligible political subdivision as follows:

(i) .10% shall be distributed as provided in Subsection (8);

(ii) .10% shall be distributed as provided in Subsection (9); and

(iii) .05% shall be distributed to the county legislative body; and

(c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections (7)(a) and (b), as follows:

(i) .10% shall be distributed as provided in Subsection (8); and

(ii) .15% shall be distributed to the county legislative body.

~~[(6)]~~ (8) (a) Subject to Subsection ~~[(6)]~~ (8)(b), the commission shall make the distributions required by Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), ~~and~~ (5)(c)(i), (6)(a)(ii), (6)(b)(ii), (6)(c)(i), (7)(a)(i), (7)(b)(i), (7)(c)(i), and (9)(d)(ii)(A) as follows:

(i) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), ~~and~~ (5)(c)(i), (6)(a)(ii), (6)(b)(ii), (6)(c)(i), (7)(a)(i), (7)(b)(i), (7)(c)(i), and (9)(d)(ii)(A) within the counties that impose a tax under this section shall be distributed to the unincorporated areas, cities, and towns

within those counties on the basis of the percentage that the population of each unincorporated area, city, or town bears to the total population of all of the counties that impose a tax under this section; and

(ii) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), ~~and~~ (5)(c)(i), (6)(a)(ii), (6)(b)(ii), (6)(c)(i), (7)(a)(i), (7)(b)(i), (7)(c)(i), and (9)(d)(ii)(A) within the counties that impose a tax under this section shall be distributed to the unincorporated areas, cities, and towns within those counties on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215.

(b) (i) Population for purposes of this Subsection ~~(6)~~ (8) shall be determined on the basis of the most recent official census or census estimate of the United States Census Bureau.

(ii) If a needed population estimate is not available from the United States Census Bureau, population figures shall be derived from an estimate from the Utah Population Estimates Committee created by executive order of the governor.

(9) (a) (i) Subject to the requirements in Subsections (9)(b) and (c), a county legislative body:

(A) for a county that obtained approval from a majority of the county's registered voters voting on the imposition of a sales and use tax under this section prior to May 10, 2016, may, in consultation with any cities, towns, or eligible political subdivisions within the county, and in compliance with the requirements for changing an allocation under Subsection (9)(e), allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) by adopting a resolution specifying the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision; or

(B) for a county that obtains approval from a majority of the county's registered voters voting on the imposition of a sales and use tax under this section on or after May 10, 2016, shall, in consultation with any cities, towns, or eligible political subdivisions within the county, allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) by adopting a resolution specifying the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision.

(ii) If a county described in Subsection (9)(a)(i)(A) does not allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) in accordance with Subsection (9)(a)(i)(A), the commission shall distribute 100% of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) to:

(A) a public transit district for a city or town within the county that is annexed into a single public transit district; or

(B) an eligible political subdivision within the county.

(b) If a county legislative body allocates the revenue as described in Subsection (9)(a)(i), the county legislative body shall allocate not less than 25% of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) to:

(i) a public transit district for a city or town within the county that is annexed into a single public transit district; or

(ii) an eligible political subdivision within the county.

(c) Notwithstanding Section 59-12-2208, the opinion question required by Section 59-12-2208 shall state the allocations the county legislative body makes in accordance with this Subsection (9).

(d) The commission shall make the distributions required by Subsection (7)(a)(ii) or (7)(b)(ii) as follows:

(i) the percentage specified by a county legislative body shall be distributed in accordance with a resolution adopted by a county legislative body under Subsection (9)(a) to an eligible political subdivision or a public transit district within the county; and

(ii) except as provided in Subsection (9)(a)(ii), if a county legislative body allocates less than 100% of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) to a public transit district or an eligible political subdivision, the remainder of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) not allocated by a county legislative body through a resolution under Subsection (9)(a) shall be distributed as follows:

(A) 50% of the revenue as provided in Subsection (8); and

(B) 50% of the revenue to the county legislative body.

(e) If a county legislative body seeks to change an allocation specified in a resolution under Subsection (9)(a), the county legislative body may change the allocation by:

(i) adopting a resolution in accordance with Subsection (9)(a) specifying the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision;

(ii) obtaining approval to change the allocation of the sales and use tax by a majority of all the members of the county legislative body; and

(iii) subject to Subsection (9)(f):

(A) in accordance with Section 59-12-2208, submitting an opinion question to the county's registered voters voting on changing the allocation so that each registered voter has the opportunity to express the registered voter's opinion on whether the allocation should be changed; and

(B) in accordance with Section 59-12-2208, obtaining approval to change the allocation from a majority of the county's registered voters voting on changing the allocation.

(f) Notwithstanding Section 59-12-2208, the opinion question required by Subsection

(9)(e)(iii)(A) shall state the allocations specified in the resolution adopted in accordance with Subsection (9)(e) and approved by the county legislative body in accordance with Subsection (9)(e)(ii).

(g) (i) If a county makes an allocation by adopting a resolution under Subsection (9)(a) or changes an allocation by adopting a resolution under Subsection (9)(e), the allocation shall take effect on the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice meeting the requirements of Subsection (9)(g)(ii) from the county.

(ii) The notice described in Subsection (9)(g)(i) shall state:

(A) that the county will make or change the percentage of an allocation under Subsection (9)(a) or (e); and

(B) the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision.

[(7)] (10) (a) If a public transit district is organized after the date a county legislative body first imposes a tax under this section, a change in a distribution required by this section may not take effect until the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice from the public transit district of the organization of the public transit district.

(b) If an eligible political subdivision intends to provide public transit service within a county after the date a county legislative body first imposes a tax under this section, a change in a distribution required by this section may not take effect until the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice from the eligible political subdivision stating that the eligible political subdivision intends to provide public transit service within the county.

[(8)] (11) A county, city, or town may expend revenue collected from a tax under this section, except for revenue the commission distributes in accordance with Subsection (4)(a), (5)(a)(i), ~~or~~ (5)(b)(i), or (9)(d)(i) for:

(a) a class B road;

(b) a class C road;

(c) traffic and pedestrian safety, including for a class B road or class C road, for:

(i) a sidewalk;

(ii) curb and gutter;

(iii) a safety feature;

(iv) a traffic sign;

(v) a traffic signal;

(vi) street lighting; or

(vii) a combination of Subsections ~~[(8)]~~ (11)(c)(i) through (vi);

(d) the construction, maintenance, or operation of an active transportation facility that is for nonmotorized vehicles and multimodal transportation and connects an origin with a destination;

(e) public transit system services; or

(f) a combination of Subsections ~~[(8)]~~ (11)(a) through (e).

[(9)] (12) A public transit district or an eligible political subdivision may expend revenue the commission distributes in accordance with Subsection (4)(a), (5)(a)(i), ~~or~~ (5)(b)(i), or (9)(d)(i) for capital expenses and service delivery expenses of the public transit district or eligible political subdivision.

[(10)] (13) (a) Revenue collected from a sales and use tax under this section may not be used to supplant existing general fund appropriations that a county, city, or town has budgeted for transportation as of the date the tax becomes effective for a county, city, or town.

(b) The limitation under Subsection ~~[(10)]~~ (13)(a) does not apply to a designated transportation capital or reserve account a county, city, or town may have established prior to the date the tax becomes effective.

Section 3. Section 63I-1-259 is amended to read:

63I-1-259. Repeal dates, Title 59.

(1) Subsection 59-2-924(3)(g) is repealed on December 31, 2016.

(2) Subsection 59-2-924.2(9) is repealed on December 31, 2017.

(3) Section 59-2-924.3 is repealed on December 31, 2016.

(4) Section 59-7-618 is repealed July 1, 2020.

(5) Section 59-9-102.5 is repealed December 31, 2020.

(6) Section 59-10-1033 is repealed July 1, 2020.

(7) Subsection 59-12-2219~~[(40)]~~(13) is repealed on June 30, 2020.

CHAPTER 374**H. B. 190**

Passed March 9, 2016

Approved March 29, 2016

Effective May 10, 2016

**TAXATION OF FOREIGN
INCOME AMENDMENTS**

Chief Sponsor: Brad R. Wilson

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill addresses adjustments to adjusted gross income.

Highlighted Provisions:

This bill:

- ▶ addresses adjustments to adjusted gross income for certain manufacturing entities that pay an income tax to a foreign country.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

59-10-115, as last amended by Laws of Utah 2008, Chapters 382 and 389

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-10-115 is amended to read:**59-10-115. Adjustments to adjusted gross income.**

(1) As used in this section:

(a) "Net foreign source taxable income" means:

(i) the amount calculated on line 17 of Internal Revenue Code Form 1116, Foreign Tax Credit; or

(ii) if, for purposes of federal individual income taxes, the amount calculated on line 17 of Form 1116 is reported on a line other than line 17 of Form 1116, the amount on a line of a federal individual income tax form designated by the commission as being substantially similar to line 17 of the 2015 version of Form 1116.

(b) "Pass-through entity taxpayer" means the same as that term is defined in Section 59-10-1402.

~~[(4)]~~ (2) The commission shall allow an adjustment to adjusted gross income of a resident or nonresident individual if the resident or nonresident individual would otherwise:

- (a) receive a double tax benefit under this part; or
- (b) suffer a double tax detriment under this part.

(3) (a) For a pass-through entity taxpayer generating taxable income primarily from establishments classified in Code Section 33242, Metal Tank (Heavy Gauge) Manufacturing, of the 2002 or 2007 North American Industry

Classification System of the federal Executive Office of the President, Office of Management and Budget, an adjustment described in Subsection (2) includes net foreign source taxable income generated from Metal Tank (Heavy Gauge) Manufacturing establishments.

(b) The adjustment described in Subsection (3)(a) applies to a taxable year beginning on or after January 1, 2017.

~~[(2)]~~ (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules ~~[to allow]~~:

(a) making the designation described in Subsection (1)(a)(ii), if necessary; and

(b) allowing for the adjustment to adjusted gross income required by Subsection ~~[(4)]~~ (2).

CHAPTER 375**H. B. 208**

Passed February 19, 2016

Approved March 29, 2016

Effective July 1, 2016

TAX ISSUES AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill addresses tax issues.

Highlighted Provisions:

This bill:

- ▶ clarifies from which fund payments for certain tax credits should be paid;
- ▶ addresses the circumstances for which a transfer is made from the General Fund into the Education Fund for tax credits related to energy efficient vehicles;
- ▶ addresses payment transfers for various tax credits and refunds; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 59-2-1208, as last amended by Laws of Utah 2009, Chapter 302
- 59-2-1209, as last amended by Laws of Utah 2009, Chapter 302
- 59-7-605, as last amended by Laws of Utah 2015, Chapters 381 and 439
- 59-7-614.1, as last amended by Laws of Utah 2008, Chapter 382
- 59-7-618, as enacted by Laws of Utah 2015, Chapter 467
- 59-10-1005, as last amended by Laws of Utah 2007, Chapter 122
- 59-10-1009, as last amended by Laws of Utah 2015, Chapters 381 and 439
- 59-10-1033, as enacted by Laws of Utah 2015, Chapter 467
- 59-10-1105, as last amended by Laws of Utah 2008, Chapter 382
- 59-13-202, as last amended by Laws of Utah 2006, Chapter 223

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-1208 is amended to read:

59-2-1208. Amount of homeowner's credit -- Cost-of-living adjustment -- Limitation -- General Fund as source of credit.

(1) (a) Subject to [Subsections] Subsection (2) [and (4)], for a calendar [years] year beginning on or after January 1, 2007, a claimant may claim a homeowner's credit that does not exceed the following amounts:

If household income is	Homeowner's credit
\$0 -- \$9,159	\$798
\$9,160 -- \$12,214	\$696
\$12,215 -- \$15,266	\$597
\$15,267 -- \$18,319	\$447
\$18,320 -- \$21,374	\$348
\$21,375 -- \$24,246	\$199
\$24,247 -- \$26,941	\$98

(b) (i) For a calendar [years] year beginning on or after January 1, 2008, the commission shall increase or decrease the household income eligibility amounts and the credits under Subsection (1)(a) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2006.

(ii) For purposes of Subsection (1)(b)(i), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(2) An individual who is claimed as a personal exemption on another individual's individual income tax return during any portion of a calendar year for which the individual seeks to claim a homeowner's credit under this section may not receive the homeowner's credit.

(3) [The] A payment for a homeowner's credit allowed by this section, and provided for in Section 59-2-1204, shall be [derived] paid from the General Fund [and appropriate transfers made to effectuate this credit].

[4] (a) ~~Subject to Subsection (4)(b), for purposes of calculating a claimant's household income to determine the amount of the claimant's homeowner's credit under Subsection (1), for the taxable year that begins on January 1, 2009 and ends on December 31, 2009, a claimant's household income shall be decreased by \$1,000 for a dependent with respect to whom a claimant is eligible to make a deduction as allowed as a personal exemption deduction on the claimant's federal individual income tax return for the taxable year for which the household income is calculated.]~~

[4] (b) ~~For purposes of Subsection (4)(a):~~

[i] ~~the maximum amount a claimant's household income may be decreased is \$1,000; and~~

[ii] ~~"dependent" does not include the claimant or the claimant's spouse.]~~

Section 2. Section 59-2-1209 is amended to read:

59-2-1209. Amount of renter's credit -- Cost-of-living adjustment -- Renter's credit may be claimed only for rent that does not constitute a rental assistance payment -- Limitation -- General Fund as source of credit -- Maximum credit.

(1) (a) Subject to Subsections (2)[,] and (3), [and (6),] for a calendar [years] year beginning on or after

January 1, 2007, a claimant may claim a renter’s credit for the previous calendar year that does not exceed the following amounts:

If household income is	Percentage of rent allowed as a credit
\$0 -- \$9,159	9.5%
\$9,160 -- \$12,214	8.5%
\$12,215 -- \$15,266	7.0%
\$15,267 -- \$18,319	5.5%
\$18,320 -- \$21,374	4.0%
\$21,375 -- \$24,246	3.0%
\$24,247 -- \$26,941	2.5%

(b) (i) For a calendar [years] year beginning on or after January 1, 2008, the commission shall increase or decrease the household income eligibility amounts under Subsection (1)(a) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2006.

(ii) For purposes of Subsection (1)(b)(i), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(2) A claimant may claim a renter’s credit under this part only for rent that does not constitute a rental assistance payment.

(3) An individual who is claimed as a personal exemption on another individual’s individual income tax return during any portion of a calendar year for which the individual seeks to claim a renter’s credit under this section may not receive a renter’s credit.

(4) ~~[The] A payment for a renter’s credit allowed by this section, and provided for in Section 59-2-1204, shall be [derived] paid from the General Fund [and appropriate transfers made to effectuate this credit].~~

(5) For calendar years beginning on or after January 1, 2007, a credit under this section may not exceed the maximum amount allowed as a homeowner’s credit for each income bracket under Subsection 59-2-1208(1)(a).

~~[(6) (a) Subject to Subsection (6)(b), for purposes of calculating a claimant’s household income to determine the amount of the claimant’s renter’s credit under Subsection (1), for the taxable year that begins on January 1, 2009 and ends on December 31, 2009, a claimant’s household income shall be decreased by \$1,000 for a dependent with respect to whom a claimant is eligible to make a deduction as allowed as a personal exemption deduction on the claimant’s federal individual income tax return for the taxable year for which the household income is calculated.]~~

~~[(b) For purposes of Subsection (6)(a):]~~

~~[(i) the maximum amount a claimant’s household income may be decreased is \$1,000; and]~~

~~[(ii) “dependent” does not include the claimant or the claimant’s spouse.]~~

Section 3. Section 59-7-605 is amended to read:

59-7-605. Definitions -- Tax credits related to energy efficient vehicles.

(1) As used in this section:

(a) “Air quality standards” means that a vehicle’s emissions are equal to or cleaner than the standards established in bin 4 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

(b) “Board” means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.

(c) “Certified by the board” means that:

(i) a motor vehicle on which conversion equipment has been installed meets the following criteria:

(A) before the installation of conversion equipment, the vehicle does not exceed the emission cut points for a transient test driving cycle, as specified in 40 C.F.R. Part 51, Appendix E to Subpart S, or an equivalent test for the make, model, and year of the vehicle; and

(B) as a result of the installation of conversion equipment on the motor vehicle, the motor vehicle has reduced emissions; or

(ii) special mobile equipment on which conversion equipment has been installed has reduced emissions.

(d) “Clean fuel grant” means a grant awarded:

(i) under Title 19, Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act, for reimbursement of a portion of the incremental cost of an OEM vehicle or the cost of conversion equipment; or

(ii) under Title 19, Chapter 2, Part 3, Conversion to Alternative Fuel Grant Program.

(e) “Conversion equipment” means equipment described in Subsection (2)(d) or (e).

(f) “OEM vehicle” [has] means the same [meaning] as that term is defined in Section 19-1-402.

(g) “Original purchase” means the purchase of a vehicle that has never been titled or registered and has been driven less than 7,500 miles.

(h) “Qualifying electric motorcycle” means a vehicle that:

(i) has a seat or saddle for the use of the rider;

(ii) is designed to travel with not more than three wheels in contact with the ground;

(iii) may lawfully be operated on a freeway, as defined in Section 41-6a-102;

(iv) is not fueled by natural gas;

(v) is fueled by electricity only; and

(vi) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection (1)(h)(v).

(i) "Qualifying electric vehicle" means a vehicle that:

- (i) meets air quality standards;
- (ii) is not fueled by natural gas;
- (iii) is fueled by electricity only; and

(iv) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection (1)(i)(iii).

(j) "Qualifying plug-in hybrid vehicle" means a vehicle that:

- (i) meets air quality standards;
- (ii) is not fueled by natural gas or propane;
- (iii) has a battery capacity that meets or exceeds the battery capacity described in Section 30D(b)(3), Internal Revenue Code; and

(iv) is fueled by a combination of electricity and:

- (A) diesel fuel;
- (B) gasoline; or
- (C) a mixture of gasoline and ethanol.

(k) "Reduced emissions" means:

(i) for purposes of a motor vehicle on which conversion equipment has been installed, that the motor vehicle's emissions of regulated pollutants, when operating on a fuel listed in Subsection (2)(e)(i) or (ii), is less than the emissions were before the installation of the conversion equipment, as demonstrated by:

(A) certification of the conversion equipment by the federal Environmental Protection Agency or by a state that has certification standards recognized by the board;

(B) testing the motor vehicle, before and after installation of the conversion equipment, in accordance with 40 C.F.R. Part 86, Control of Emissions from New and In-use Highway Vehicles and Engines, using all fuel the motor vehicle is capable of using;

(C) for a retrofit natural gas vehicle that is retrofit in accordance with Section 19-1-406, testing that as a result of the retrofit, the retrofit natural gas vehicle satisfies the emission standards applicable under Section 19-1-406; or

(D) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(ii) for purposes of special mobile equipment on which conversion equipment has been installed, that the special mobile equipment's emissions of regulated pollutants, when operating on a fuel listed in Subsection (2)(e)(i) or (ii), is less than the emissions were before the installation of conversion equipment, as demonstrated by:

(A) certification of the conversion equipment by the federal Environmental Protection Agency or by

a state that has certification standards recognized by the board; or

(B) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(l) "Special mobile equipment":

(i) means any mobile equipment or vehicle that is not designed or used primarily for the transportation of persons or property; and

(ii) includes construction or maintenance equipment.

(2) For [the] a taxable [years] year beginning on or after January 1, 2015, but beginning on or before December 31, 2016, a taxpayer may claim a tax credit against tax otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in an amount equal to:

(a) (i) for the original purchase of a new qualifying electric vehicle that is registered in this state, the lesser of:

(A) \$1,500; or

(B) 35% of the purchase price of the vehicle; or

(ii) for the original purchase of a new qualifying plug-in hybrid vehicle that is registered in this state, \$1,000;

(b) for the original purchase of a new vehicle fueled by natural gas or propane that is registered in this state, the lesser of:

(i) \$1,500; or

(ii) 35% of the purchase price of the vehicle;

(c) for the original purchase of a new qualifying electric motorcycle that is registered in this state, the lesser of:

(i) \$750; or

(ii) 35% of the purchase price of the vehicle;

(d) 50% of the cost of equipment for conversion, if certified by the board, of a motor vehicle registered in this state minus the amount of any clean fuel grant received, up to a maximum tax credit of \$1,500 per motor vehicle, if the motor vehicle is to:

(i) be fueled by propane, natural gas, or electricity;

(ii) be fueled by other fuel the board determines annually on or before July 1 to be at least as effective in reducing air pollution as fuels under Subsection (2)(d)(i); or

(iii) meet the federal clean-fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.;

(e) 50% of the cost of equipment for conversion, if certified by the board, of a special mobile equipment engine minus the amount of any clean fuel grant received, up to a maximum tax credit of \$1,000 per special mobile equipment engine, if the special mobile equipment is to be fueled by:

(i) propane, natural gas, or electricity; or

(ii) other fuel the board determines annually on or before July 1 to be:

(A) at least as effective in reducing air pollution as the fuels under Subsection (2)(e)(i); or

(B) substantially more effective in reducing air pollution than the fuel for which the engine was originally designed; and

(f) for a lease of a vehicle described in Subsection (2)(a), (b), or (c), an amount equal to the product of:

(i) the amount of tax credit the taxpayer would otherwise qualify to claim under Subsection (2)(a), (b), or (c) had the taxpayer purchased the vehicle, except that the purchase price described in Subsection (2)(a)(i)(B), (2)(b)(ii), or (2)(c)(ii) is considered to be the value of the vehicle at the beginning of the lease; and

(ii) a percentage calculated by:

(A) determining the difference between the value of the vehicle at the beginning of the lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as stated in the lease agreement; and

(B) dividing the difference determined under Subsection (2)(f)(ii)(A) by the value of the vehicle at the beginning of the lease, as stated in the lease agreement.

(3) (a) The board shall:

(i) determine the amount of tax credit a taxpayer is allowed under this section; and

(ii) provide the taxpayer with a written certification of the amount of tax credit the taxpayer is allowed under this section.

(b) A taxpayer shall provide proof of the purchase or lease of an item for which a tax credit is allowed under this section by:

(i) providing proof to the board in the form the board requires by rule;

(ii) receiving a written statement from the board acknowledging receipt of the proof; and

(iii) retaining the written statement described in Subsection (3)(b)(ii).

(c) A taxpayer shall retain the written certification described in Subsection (3)(a)(ii).

(4) Except as provided by Subsection (5), the tax credit under this section is allowed only:

(a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year by the taxpayer;

(b) for the taxable year in which a vehicle described in Subsection (2)(a), (b), or (c) is purchased, a vehicle described in Subsection (2)(f) is leased, or conversion equipment described in Subsection (2)(d) or (e) is installed; and

(c) once per vehicle.

(5) A taxpayer may not assign a tax credit under this section to another person.

(6) If the amount of a tax credit claimed by a taxpayer under this section exceeds the taxpayer's tax liability under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for a taxable year, the amount of the tax credit exceeding the tax liability may be carried forward for a period that does not exceed the next five taxable years.

(7) In accordance with any rules prescribed by the commission under Subsection (8), the ~~commission~~ Division of Finance shall transfer at least annually from the General Fund into the Education Fund the amount by which the amount of tax credit claimed under this section for a ~~taxable~~ fiscal year exceeds \$500,000.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Education Fund as required by Subsection (7).

Section 4. Section 59-7-614.1 is amended to read:

59-7-614.1. Refundable tax credit for hand tools used in farming operations -- Procedures for refund -- Transfers from General Fund to Education Fund -- Rulemaking authority.

(1) For a taxable ~~years~~ year beginning on or after January 1, 2004, a taxpayer may claim a refundable tax credit:

(a) as provided in this section;

(b) against taxes otherwise due under this chapter; and

(c) in an amount equal to the amount of tax the taxpayer pays:

(i) on a purchase of a hand tool:

(A) if the purchase is made on or after July 1, 2004;

(B) if the hand tool is used or consumed primarily and directly in a farming operation in the state; and

(C) if the unit purchase price of the hand tool is more than \$250; and

(ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection (1)(c)(i).

(2) A taxpayer:

(a) shall retain the following to establish the amount of tax the resident or nonresident individual paid under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection (1)(c)(i):

(i) a receipt;

(ii) an invoice; or

(iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and

(b) may not carry forward or carry back a tax credit under this section.

(3) (a) In accordance with any rules prescribed by the commission under Subsection (3)(b)¹;

(i) the commission shall~~[-(i)]~~ make a refund to a taxpayer that claims a tax credit under this section if the amount of the tax credit exceeds the taxpayer's tax liability under this chapter; and

(ii) the Division of Finance shall transfer at least annually from the General Fund into the Education Fund an amount equal to the amount of tax credit claimed under this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making:

(i) a refund to a taxpayer as required by Subsection (3)(a)(i); or

(ii) transfers from the General Fund into the Education Fund as required by Subsection (3)(a)(ii).

Section 5. Section 59-7-618 is amended to read:

59-7-618. Tax credit related to natural gas heavy duty vehicles.

(1) As used in this section:

(a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.

(b) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according to vehicle classifications established by the Federal Highway Administration.

(c) "Natural gas" includes compressed natural gas and liquified natural gas.

(d) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

(i) has never been titled or registered and has been driven less than 7,500 miles; and

(ii) is fueled by natural gas.

(e) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

(f) "Qualified taxpayer" means a taxpayer who:

(i) purchases a qualified heavy duty vehicle; and

(ii) receives a tax credit certificate from the board.

(g) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and owned by a single taxpayer.

(h) "Tax credit certificate" means a certificate issued by the board certifying that a taxpayer is entitled to a tax credit as provided in this section and stating the amount of the tax credit.

(2) For a taxable year beginning on or after January 1, 2015, a qualified taxpayer may claim a tax credit against tax otherwise due under this chapter or Chapter 8, Gross Receipts Tax on

Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act:

(a) in an amount equal to:

(i) \$25,000, if the qualified purchase occurs during calendar year 2015, calendar year 2016, or calendar year 2017;

(ii) \$20,000, if the qualified purchase occurs during calendar year 2018;

(iii) \$18,000, if the qualified purchase occurs during calendar year 2019; and

(iv) \$15,000, if the qualified purchase occurs during calendar year 2020; and

(b) if the taxpayer certifies under oath that over 50% of the miles that the heavy duty vehicle that is the subject of the qualified purchase will travel annually will be within the state.

(3) (a) Except as provided in Subsection (3)(b), a taxpayer may not submit an application for, and the board may not issue to the taxpayer, a tax credit certificate under this section in any taxable year for a qualifying purchase if the board has already issued tax credit certificates to the taxpayer for 10 qualifying purchases in the same taxable year.

(b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of tax credits under Subsection (5) has not been claimed, a taxpayer may submit an application for, and the board may issue to the taxpayer, one or more tax credit certificates for up to eight additional qualifying purchases, even if the board has already issued to that taxpayer tax credit certificates for the maximum number of qualifying purchases allowed under Subsection (3)(a).

(4) (a) Subject to Subsection (4)(b), the board shall reserve 25% of all tax credits available under this section for taxpayers with a small fleet.

(b) Subsection (4)(a) does not prevent a taxpayer from submitting an application for, or the board from issuing, a tax credit certificate if the amount reserved under Subsection (4)(a) for taxpayers with a small fleet has not been claimed by a date that is 90 days before the end of the year.

(5) (a) The aggregate annual total amount of tax credits represented by tax credit certificates that the board issues under this section, when combined with the aggregate annual total amount of tax credits represented by tax credit certificates that the board issues under Section 59-10-1033, may not exceed \$500,000.

(b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish a process whereby a taxpayer may reserve a potential tax credit under this section for a limited time to allow the taxpayer to make a qualifying purchase with the assurance that the aggregate limit under Subsection (5)(a) will not be met before the taxpayer is able to submit an application for a tax credit certificate.

(6) (a) (i) A taxpayer wishing to claim a tax credit under this section shall, using forms the board requires by rule:

(A) submit to the board an application for a tax credit;

(B) provide the board proof of a qualifying purchase; and

(C) submit to the board the certification under oath required under Subsection (2)(b).

(ii) Upon receiving the application, proof, and certification required under Subsection (6)(a)(i), the board shall provide the taxpayer a written statement from the board acknowledging receipt of the proof.

(b) If the board determines that a taxpayer qualifies for a tax credit under this section, the board shall:

(i) determine the amount of tax credit the taxpayer is allowed under this section; and

(ii) provide the qualifying taxpayer with a written tax credit certificate:

(A) stating that the taxpayer has qualified for a tax credit; and

(B) showing the amount of tax credit for which the taxpayer has qualified under this section.

(c) A taxpayer shall retain the tax credit certificate.

(d) The board shall at least annually submit to the commission a list of all taxpayers to whom the board has issued a tax credit certificate and the amount of each tax credit represented by the tax credit certificates.

(7) The tax credit under this section is allowed only:

(a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year by the qualified taxpayer;

(b) for the taxable year in which the qualifying purchase occurs; and

(c) once per vehicle.

(8) A qualifying taxpayer may not assign a tax credit or a tax credit certificate under this section to another person.

(9) If the amount of a tax credit claimed by a qualifying taxpayer under this section exceeds the qualifying taxpayer's tax liability under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for a taxable year, the amount of the tax credit exceeding the tax liability may be carried forward for a period that does not exceed the next five taxable years.

(10) (a) In accordance with any rules prescribed by the commission under Subsection (10)(b), the ~~commission~~ Division of Finance shall transfer at least annually from the General Fund into the Education Fund the aggregate amount of all tax credits claimed under this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Education Fund as required by Subsection (10)(a).

Section 6. Section 59-10-1005 is amended to read:

59-10-1005. Tax credit for at-home parent.

(1) As used in this section:

(a) "At-home parent" means a parent:

(i) who provides full-time care at the parent's residence for one or more of the parent's own qualifying children;

(ii) who claims the qualifying child as a dependent on the parent's individual income tax return for the taxable year for which the parent claims the credit; and

(iii) if the sum of the following amounts are \$3,000 or less for the taxable year for which the parent claims the credit:

(A) the total wages, tips, and other compensation listed on all of the parent's federal Forms W-2; and

(B) the gross income listed on the parent's federal Form 1040 Schedule C, Profit or Loss From Business.

(b) "Parent" means an individual who:

(i) is the biological mother or father of a qualifying child;

(ii) is the stepfather or stepmother of a qualifying child;

(iii) (A) legally adopts a qualifying child; or

(B) has a qualifying child placed in the individual's home:

(I) by a child placing agency as defined in Section 62A-4a-601; and

(II) for the purpose of legally adopting the child;

(iv) is a foster parent of a qualifying child; or

(v) is a legal guardian of a qualifying child.

(c) "Qualifying child" means a child who is no more than 12 months of age on the last day of the taxable year for which the tax credit is claimed.

(2) For a taxable [years] year beginning on or after January 1, 2000, a claimant may claim on the claimant's individual income tax return a nonrefundable tax credit of \$100 for each qualifying child if:

(a) the claimant or another claimant filing a joint individual income tax return with the claimant is an at-home parent; and

(b) the adjusted gross income of all of the claimants filing the individual income tax return is less than or equal to \$50,000.

(3) A claimant may not carry forward or carry back a tax credit authorized by this section.

~~[(4) It is the intent of the Legislature that for fiscal years beginning on or after fiscal year 2000-01, the Legislature appropriate from the General Fund a sufficient amount to replace Education Fund revenues expended to provide for the tax credit under this section.]~~

~~(4) (a) In accordance with any rules prescribed by the commission under Subsection (4)(b), the Division of Finance shall transfer at least annually from the General Fund into the Education Fund the aggregate amount of all tax credits claimed under this section.~~

~~(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Education Fund as required by Subsection (4)(a).~~

Section 7. Section 59-10-1009 is amended to read:

59-10-1009. Definitions -- Tax credits related to energy efficient vehicles.

(1) As used in this section:

(a) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than the standards established in bin 4 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

(b) "Board" means the Air Quality Board created in Title 19, Chapter 2, Air Conservation Act.

(c) "Certified by the board" means that:

(i) a motor vehicle on which conversion equipment has been installed meets the following criteria:

(A) before the installation of conversion equipment, the vehicle does not exceed the emission cut points for a transient test driving cycle, as specified in 40 C.F.R. Part 51, Appendix E to Subpart S, or an equivalent test for the make, model, and year of the vehicle; and

(B) as a result of the installation of conversion equipment on the motor vehicle, the motor vehicle has reduced emissions; or

(ii) special mobile equipment on which conversion equipment has been installed has reduced emissions.

(d) "Clean fuel grant" means a grant a claimant, estate, or trust receives under Title 19, Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act or Title 19, Chapter 2, Part 3, Conversion to Alternative Fuel Grant Program, for reimbursement of a portion of the incremental cost of the OEM vehicle or the cost of conversion equipment.

(e) "Conversion equipment" means equipment described in Subsection (2)(d) or (e).

(f) "OEM vehicle" ~~[has]~~ means the same ~~[meaning]~~ as that term is defined in Section 19-1-402.

(g) "Original purchase" means the purchase of a vehicle that has never been titled or registered and has been driven less than 7,500 miles.

(h) "Qualifying electric motorcycle" means a vehicle that:

(i) has a seat or saddle for the use of the rider;

(ii) is designed to travel with not more than three wheels in contact with the ground;

(iii) may lawfully be operated on a freeway, as defined in Section 41-6a-102;

(iv) is not fueled by natural gas;

(v) is fueled by electricity only; and

(vi) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection (1)(h)(v).

(i) "Qualifying electric vehicle" means a vehicle that:

(i) meets air quality standards;

(ii) is not fueled by natural gas;

(iii) is fueled by electricity only; and

(iv) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection (1)(i)(iii).

(j) "Qualifying plug-in hybrid vehicle" means a vehicle that:

(i) meets air quality standards;

(ii) is not fueled by natural gas or propane;

(iii) has a battery capacity that meets or exceeds the battery capacity described in Section 30D(b)(3), Internal Revenue Code; and

(iv) is fueled by a combination of electricity and:

(A) diesel fuel;

(B) gasoline; or

(C) a mixture of gasoline and ethanol.

(k) "Reduced emissions" means:

(i) for purposes of a motor vehicle on which conversion equipment has been installed, that the motor vehicle's emissions of regulated pollutants, when operating on a fuel listed in Subsection (2)(e)(i) or (ii), is less than the emissions were before the installation of the conversion equipment, as demonstrated by:

(A) certification of the conversion equipment by the federal Environmental Protection Agency or by a state that has certification standards recognized by the board;

(B) testing the motor vehicle, before and after installation of the conversion equipment, in accordance with 40 C.F.R. Part 86, Control of Emissions from New and In-use Highway Vehicles and Engines, using all fuel the motor vehicle is capable of using;

(C) for a retrofit natural gas vehicle that is retrofit in accordance with Section 19-1-406, testing that as a result of the retrofit, the retrofit

natural gas vehicle satisfies the emission standards applicable under Section 19-1-406; or

(D) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(ii) for purposes of special mobile equipment on which conversion equipment has been installed, that the special mobile equipment's emissions of regulated pollutants, when operating on a fuel listed in Subsection (2)(e)(i) or (ii), is less than the emissions were before the installation of conversion equipment, as demonstrated by:

(A) certification of the conversion equipment by the federal Environmental Protection Agency or by a state that has certification standards recognized by the board; or

(B) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(l) "Special mobile equipment":

(i) means any mobile equipment or vehicle not designed or used primarily for the transportation of persons or property; and

(ii) includes construction or maintenance equipment.

(2) For [the] a taxable [years] year beginning on or after January 1, 2015, but beginning on or before December 31, 2016, a claimant, estate, or trust may claim a nonrefundable tax credit against tax otherwise due under this chapter in an amount equal to:

(a) (i) for the original purchase of a new qualifying electric vehicle that is registered in this state, the lesser of:

(A) \$1,500; or

(B) 35% of the purchase price of the vehicle; or

(ii) for the original purchase of a new qualifying plug-in hybrid vehicle that is registered in this state, \$1,000;

(b) for the original purchase of a new vehicle fueled by natural gas or propane that is registered in this state, the lesser of:

(i) \$1,500; or

(ii) 35% of the purchase price of the vehicle;

(c) for the original purchase of a new qualifying electric motorcycle that is registered in this state, the lesser of:

(i) \$750; or

(ii) 35% of the purchase price of the vehicle;

(d) 50% of the cost of equipment for conversion, if certified by the board, of a motor vehicle registered in this state minus the amount of any clean fuel grant received, up to a maximum tax credit of \$1,500 per vehicle, if the motor vehicle:

(i) is to be fueled by propane, natural gas, or electricity;

(ii) is to be fueled by other fuel the board determines annually on or before July 1 to be at least as effective in reducing air pollution as fuels under Subsection (2)(d)(i); or

(iii) will meet the federal clean fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.;

(e) 50% of the cost of equipment for conversion, if certified by the board, of a special mobile equipment engine minus the amount of any clean fuel grant received, up to a maximum tax credit of \$1,000 per special mobile equipment engine, if the special mobile equipment is to be fueled by:

(i) propane, natural gas, or electricity; or

(ii) other fuel the board determines annually on or before July 1 to be:

(A) at least as effective in reducing air pollution as the fuels under Subsection (2)(e)(i); or

(B) substantially more effective in reducing air pollution than the fuel for which the engine was originally designed; and

(f) for a lease of a vehicle described in Subsection (2)(a), (b), or (c), an amount equal to the product of:

(i) the amount of tax credit the claimant, estate, or trust would otherwise qualify to claim under Subsection (2)(a), (b), or (c) had the claimant, estate, or trust purchased the vehicle, except that the purchase price described in Subsection (2)(a)(i)(B), (2)(b)(ii), or (2)(c)(ii) is considered to be the value of the vehicle at the beginning of the lease; and

(ii) a percentage calculated by:

(A) determining the difference between the value of the vehicle at the beginning of the lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as stated in the lease agreement; and

(B) dividing the difference determined under Subsection (2)(f)(ii)(A) by the value of the vehicle at the beginning of the lease, as stated in the lease agreement.

(3) (a) The board shall:

(i) determine the amount of tax credit a claimant, estate, or trust is allowed under this section; and

(ii) provide the claimant, estate, or trust with a written certification of the amount of tax credit the claimant, estate, or trust is allowed under this section.

(b) A claimant, estate, or trust shall provide proof of the purchase or lease of an item for which a tax credit is allowed under this section by:

(i) providing proof to the board in the form the board requires by rule;

(ii) receiving a written statement from the board acknowledging receipt of the proof; and

(iii) retaining the written statement described in Subsection (3)(b)(ii).

(c) A claimant, estate, or trust shall retain the written certification described in Subsection (3)(a)(ii).

(4) Except as provided by Subsection (5), the tax credit under this section is allowed only:

(a) against a tax owed under this chapter in the taxable year by the claimant, estate, or trust;

(b) for the taxable year in which a vehicle described in Subsection (2)(a), (b), or (c) is purchased, a vehicle described in Subsection (2)(f) is leased, or conversion equipment described in Subsection (2)(d) or (e) is installed; and

(c) once per vehicle.

(5) A claimant, estate, or trust may not assign a tax credit under this section to another person.

(6) If the amount of a tax credit claimed by a claimant, estate, or trust under this section exceeds the claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability may be carried forward for a period that does not exceed the next five taxable years.

(7) In accordance with any rules prescribed by the commission under Subsection (8), the ~~commission~~ Division of Finance shall transfer at least annually from the General Fund into the Education Fund the amount by which the amount of tax credit claimed under this section for a ~~taxable~~ fiscal year exceeds \$500,000.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Education Fund as required by Subsection (7).

Section 8. Section 59-10-1033 is amended to read:

59-10-1033. Tax credit related to natural gas heavy duty vehicles.

(1) As used in this section:

(a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.

(b) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according to vehicle classifications established by the Federal Highway Administration.

(c) "Natural gas" includes compressed natural gas and liquified natural gas.

(d) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

(i) has never been titled or registered and has been driven less than 7,500 miles;

(ii) is fueled by natural gas; and

(iii) meets air quality standards.

(e) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

(f) "Qualified taxpayer" means a claimant, estate, or trust that:

(i) purchases a qualified heavy duty vehicle; and

(ii) receives a tax credit certificate from the board.

(g) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and owned by a single claimant, estate, or trust.

(h) "Tax credit certificate" means a certificate issued by the board certifying that a claimant, estate, or trust is entitled to a tax credit as provided in this section and stating the amount of the tax credit.

(2) For a taxable year beginning on or after January 1, 2015, a qualified taxpayer may claim a nonrefundable tax credit against tax otherwise due under this chapter:

(a) in an amount equal to:

(i) \$25,000, if the qualified purchase occurs during calendar year 2015, calendar year 2016, or calendar year 2017;

(ii) \$20,000, if the qualified purchase occurs during calendar year 2018;

(iii) \$18,000, if the qualified purchase occurs during calendar year 2019; and

(iv) \$15,000, if the qualified purchase occurs during calendar year 2020; and

(b) if the claimant, estate, or trust certifies under oath that over 50% of the miles that the heavy duty vehicle that is the subject of the qualified purchase or qualified conversion will travel annually will be within the state.

(3) (a) Except as provided in Subsection (3)(b), a claimant, estate, or trust may not submit an application for, and the board may not issue to the claimant, estate, or trust, a tax credit certificate under this section in any taxable year for a qualifying purchase if the board has already issued to the claimant, estate, or trust 10 tax credits for qualifying purchases in the same taxable year.

(b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of tax credits under Subsection (5) has not been claimed, a claimant, estate, or trust may submit an application for, and the board may issue to the claimant, estate, or trust, one or more tax credit certificates for up to eight additional qualifying purchases, even if the board has already issued to that claimant, estate, or trust tax credit certificates for the maximum number of qualifying purchases allowed under Subsection (3)(a).

(4) (a) Subject to Subsection (4)(b), the board shall reserve 25% of all tax credits available under this section for claimants, estates, or trusts with a small fleet.

(b) Subsection (4)(a) does not prevent a claimant, estate, or trust from submitting an application for, or the board from issuing, a tax credit certificate if

the amount reserved under Subsection (4)(a) for claimants, estates, or trusts with a small fleet has not been claimed by a date that is 90 days before the end of the year.

(5) (a) The aggregate annual total amount of tax credits represented by tax credit certificates that the board issues under this section, when combined with the aggregate annual total amount of tax credits represented by tax credit certificates that the board issues under Section 59-7-618, may not exceed \$500,000.

(b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish a process whereby a taxpayer may reserve a potential tax credit under this section for a limited time to allow the taxpayer to make a qualifying purchase with the assurance that the aggregate limit under Subsection (5)(a) will not be met before the taxpayer is able to submit an application for a tax credit certificate.

(6) (a) (i) A claimant, estate, or trust wishing to claim a tax credit under this section shall, using forms the board requires by rule:

(A) submit to the board an application for a tax credit;

(B) provide the board proof of a qualifying purchase or qualifying conversion; and

(C) submit to the board the certification under oath required under Subsection (2)(b).

(ii) Upon receiving the application, proof, and certification required under Subsection (6)(a)(i), the board shall provide the claimant, estate, or trust a written statement from the board acknowledging receipt of the proof.

(b) If the board determines that a claimant, estate, or trust qualifies for a tax credit under this section, the board shall:

(i) determine the amount of tax credit the claimant, estate, or trust is allowed under this section; and

(ii) provide the qualifying taxpayer with a written tax credit certificate:

(A) stating that the claimant, estate, or trust has qualified for a tax credit; and

(B) showing the amount of tax credit for which the claimant, estate, or trust has qualified under this section.

(c) A claimant, estate, or trust shall retain the tax credit certificate.

(d) The board shall at least annually submit to the commission a list of all claimants, estates, and trusts to which the board has issued a tax credit certificate and the amount of each tax credit represented by the tax credit certificates.

(7) The tax credit under this section is allowed only:

(a) against a tax owed under this chapter in the taxable year by the qualified taxpayer;

(b) for the taxable year in which the qualifying purchase occurs; and

(c) once per vehicle.

(8) A qualifying taxpayer may not assign a tax credit or a tax credit certificate under this section to another person.

(9) If the amount of a tax credit claimed by a qualifying taxpayer under this section exceeds the qualifying taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability may be carried forward for a period that does not exceed the next five taxable years.

(10) (a) In accordance with any rules prescribed by the commission under Subsection (10)(b), the ~~commission~~ Division of Finance shall transfer at least annually from the General Fund into the Education Fund the aggregate amount of all tax credits claimed under this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Education Fund as required by Subsection (10)(a).

Section 9. Section 59-10-1105 is amended to read:

59-10-1105. Tax credit for hand tools used in farming operations -- Procedures for refund -- Transfers from General Fund to Education Fund -- Rulemaking authority.

(1) For a taxable [years] year beginning on or after January 1, 2004, a claimant, estate, or trust may claim a refundable tax credit:

(a) as provided in this section;

(b) against taxes otherwise due under this chapter; and

(c) in an amount equal to the amount of tax the claimant, estate, or trust pays:

(i) on a purchase of a hand tool:

(A) if the purchase is made on or after July 1, 2004;

(B) if the hand tool is used or consumed primarily and directly in a farming operation in the state; and

(C) if the unit purchase price of the hand tool is more than \$250; and

(ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection (1)(c)(i).

(2) A claimant, estate, or trust:

(a) shall retain the following to establish the amount of tax the claimant, estate, or trust paid under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection (1)(c)(i):

(i) a receipt;

(ii) an invoice; or

(iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and

(b) may not carry forward or carry back a tax credit under this section.

(3) (a) In accordance with any rules prescribed by the commission under Subsection (3)(b)[,];

(i) the commission shall[-(i)] make a refund to a claimant, estate, or trust that claims a tax credit under this section if the amount of the tax credit exceeds the claimant's, estate's, or trust's tax liability under this chapter; and

(ii) the Division of Finance shall transfer at least annually from the General Fund into the Education Fund an amount equal to the aggregate amount of all tax [credit] credits claimed under this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making:

(i) a refund to a claimant, estate, or trust as required by Subsection (3)(a)(i); or

(ii) transfers from the General Fund into the Education Fund as required by Subsection (3)(a)(ii).

Section 10. Section 59-13-202 is amended to read:

59-13-202. Refund of tax for agricultural uses on individual income and corporate franchise and income tax returns -- Application for permit for refund -- Division of Finance to pay claims -- Rules permitted to enforce part -- Penalties.

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), "claimant" means a resident or nonresident person.

(ii) "Claimant" does not include an estate or trust.

(b) "Estate" means a nonresident estate or a resident estate.

(c) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or trust may claim:

(i) as provided by statute; and

(ii) regardless of whether, for the taxable year for which the claimant, estate, or trust claims the tax credit, the claimant, estate, or trust has a tax liability under:

(A) Chapter 7, Corporate Franchise and Income Taxes; or

(B) Chapter 10, Individual Income Tax Act.

(d) "Trust" means a nonresident trust or a resident trust.

(2) Any claimant, estate, or trust that purchases and uses any motor fuel within the state for the purpose of operating or propelling stationary farm engines and self-propelled farm machinery used for nonhighway agricultural uses, and that has paid

the tax on the motor fuel as provided by this part, is entitled to a refund of the tax subject to the conditions and limitations provided under this part.

(3) (a) A claimant, estate, or trust desiring a nonhighway agricultural use refund under this part shall claim the refund as a refundable tax credit on the tax return the claimant, estate, or trust files under:

(i) Chapter 7, Corporate Franchise and Income Taxes; or

(ii) Chapter 10, Individual Income Tax Act.

(b) A claimant, estate, or trust not subject to filing a tax return described in Subsection (3)(a) shall obtain a permit and file claims on a calendar year basis.

(c) Any claimant, estate, or trust claiming a refundable tax credit under this section is required to furnish any or all of the information outlined in this section upon request of the commission.

(d) A refundable tax credit under this section is allowed only on purchases on which tax is paid during the taxable year covered by the tax return.

(4) In order to obtain a permit for a refund of motor fuel tax paid, an application shall be filed containing:

(a) the name of the claimant, estate, or trust;

(b) the claimant's, estate's, or trust's address;

(c) location and number of acres owned and operated, location and number of acres rented and operated, the latter of which shall be verified by a signed statement from the legal owner;

(d) number of acres planted to each crop, type of soil, and whether irrigated or dry; and

(e) make, size, and type of fuel used[,]; and power rating of each piece of equipment using fuel. If the claimant, estate, or trust is an operator of self-propelled or tractor-pulled farm machinery with which the claimant, estate, or trust works for hire doing custom jobs for other farmers, the application shall include information the commission requires and shall all be contained in, and be considered part of, the original application. The claimant, estate, or trust shall also file with the application a certificate from the county assessor showing each piece of equipment using fuel. This original application and all information contained in it constitutes a permanent file with the commission in the name of the claimant, estate, or trust.

(5) [Any] A claimant, estate, or trust claiming the right to a refund of motor fuel tax paid shall file a claim with the commission by April 15 of each year for the refund for the previous calendar year. The claim shall state the name and address of the claimant, estate, or trust, the number of gallons of motor fuel purchased for nonhighway agricultural uses, and the amount paid for the motor fuel. The claimant, estate, or trust shall retain the original invoice to support the claim. No more than one claim for a tax refund may be filed annually by each

user of motor fuel purchased for nonhighway agricultural uses.

(6) Upon commission approval of the claim for a refund, the Division of Finance shall pay the amount found due to the claimant, estate, or trust. The total amount of claims for refunds shall be paid from motor fuel taxes.

(7) The commission ~~[may promulgate rules to enforce this part, and]~~ may refuse to accept as evidence of purchase or payment any instruments ~~[which]~~ that show alteration or ~~[which]~~ that fail to indicate the quantity of the purchase, the price of the motor fuel, a statement that ~~[it]~~ the motor fuel is purchased for purposes other than transportation, and the date of purchase and delivery. If the commission is not satisfied with the evidence submitted in connection with the claim, ~~[it]~~ the commission may reject the claim or require additional evidence.

(8) ~~[Any]~~ A claimant, estate, or trust aggrieved by the decision of the commission with respect to a refundable tax credit or refund may file a request for agency action, requesting a hearing before the commission.

(9) ~~[Any]~~ A claimant, estate, or trust that makes any false claim, report, or statement, as claimant, estate, trust, agent, or creditor, with intent to defraud or secure a refund to which the claimant, estate, or trust is not entitled, is subject to the criminal penalties provided under Section 59-1-401, and the commission shall initiate the filing of a complaint for alleged violations of this part. In addition to these penalties, the claimant, estate, or trust may not receive any refund as a claimant, estate, or trust or as a creditor of a claimant, estate, or trust for refund for a period of five years.

~~[(10) Refunds to which a claimant, estate, or trust is entitled under this part shall be paid from the Transportation Fund.]~~

(10) (a) In accordance with any rules prescribed by the commission under Subsection (10)(b), the Division of Finance shall transfer at least annually from the Transportation Fund into the Education Fund an amount equal to the amount of the refund claimed under this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for:

(i) making a refund to a claimant, estate, or trust as required by Subsection (3)(a)(i);

(ii) making a transfer from the Transportation Fund into the Education Fund as required by Subsection (10)(a); or

(iii) enforcing this part.

Section 11. Effective date.

This bill takes effect on July 1, 2016.

CHAPTER 376**H. B. 242**

Passed March 9, 2016

Approved March 29, 2016

Effective July 1, 2016

**ALTERNATIVE ENERGY
DEVELOPMENT TAX AMENDMENTS**

Chief Sponsor: Stephen G. Handy

Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill modifies an exemption from sales and use tax related to alternative energy.

Highlighted Provisions:

This bill:

- ▶ modifies an exemption from state tax paid on sales or uses of electricity, if the sales or uses are made under a tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

59-12-104, as last amended by Laws of Utah 2015, Chapters 11, 294, and 353

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-12-104 is amended to read:**59-12-104. Exemptions.**

Exemptions from the taxes imposed by this chapter are as follows:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution, Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section

11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed \$1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts and equipment:

(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(II) for:

(Aa) installation in an aircraft, including services relating to the installation of parts or equipment in the aircraft;

(Bb) renovation of an aircraft; or

(Cc) repair of an aircraft; or

(B) for installation in an aircraft operated by a common carrier in interstate or foreign commerce; or

(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce; and

(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before September 30, 2011;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if the vehicle is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii) (A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) "syringe"; or

(B) "stoma supply";

(11) purchases or leases exempt under Section 19-12-201;

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

(A) a church; or

(B) a charitable institution;

(ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or

(b) sales of an item described in Subsection (12)(c) provided for a patient by:

(i) a medical facility; or

(ii) a nursing facility; and

(c) Subsections (12)(a) and (b) apply to:

(i) food and food ingredients;

(ii) prepared food; or

(iii) alcoholic beverages;

(13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:

(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and

(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(b) this Subsection (13) does not apply if:

(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in

the business of selling that type of tangible personal property or product transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) (a) amounts paid or charged for a purchase or lease:

(i) by a manufacturing facility located in the state; and

(ii) of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts have an economic life of three or more years and are used:

(A) in the manufacturing process to manufacture an item sold as tangible personal property; or

(B) for a scrap recycler, to process an item sold as tangible personal property;

(b) amounts paid or charged for a purchase or lease:

(i) by an establishment:

(A) described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except

Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(B) located in the state; and

(ii) of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts have an economic life of three or more years and are used in:

(A) the production process to produce an item sold as tangible personal property;

(B) research and development;

(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;

(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or

(E) preventing, controlling, or reducing dust or other pollutants from mining;

(c) amounts paid or charged for a purchase or lease:

(i) by an establishment:

(A) described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(B) located in the state; and

(ii) of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts:

(A) are used in the operation of the web search portal; and

(B) have an economic life of three or more years;

(d) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission:

(i) shall by rule define the term "establishment"; and

(ii) may by rule define what constitutes:

(A) processing an item sold as tangible personal property;

(B) the production process, to produce an item sold as tangible personal property; or

(C) research and development; and

(e) on or before October 1, 2016, and every five years after October 1, 2016, the commission shall:

(i) review the exemptions described in this Subsection (14) and make recommendations to the Revenue and Taxation Interim Committee concerning whether the exemptions should be continued, modified, or repealed; and

(ii) include in its report:

(A) an estimate of the cost of the exemptions;
 (B) the purpose and effectiveness of the exemptions; and

(C) the benefits of the exemptions to the state;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a:

(I) farmer;

(II) contractor; or

(III) subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is incidental to farming:

(I) machinery;

(II) equipment;

(III) materials; or

(IV) supplies; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

(19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are,

seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(23) a product stored in the state for resale;

(24) (a) purchases of a product if:

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state:

(I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

(II) by a nonresident person who is not living or working in this state at the time of the purchase;

(C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

(D) not used in conducting business in this state; and

(ii) for:

(A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;

(B) a boat, the boat is registered outside of this state; or

(C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (24)(a) does not apply to:

(i) a lease or rental of a product; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(25) a product purchased for resale in this state, in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

(26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

(31) sales of aircraft manufactured in Utah;

(32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

(33) sales, leases, or uses of the following:

(a) a vehicle by an authorized carrier; or
 (b) tangible personal property that is installed on a vehicle:

(i) sold or leased to or used by an authorized carrier; and

(ii) before the vehicle is placed in service for the first time;

(34) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

(a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission ~~of Utah~~ only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission ~~of Utah; and~~;

(b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that

exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

- (a) pipe;
- (b) conduit;
- (c) ditch; or
- (d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

- (i) ingot;
- (ii) bar;
- (iii) medallion; or
- (iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

- (a) for use on or in a human; and
- (b) (i) for which a prescription is required; or
- (ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

- (i) a motion picture;
- (ii) a television program;
- (iii) a movie made for television;
- (iv) a music video;
- (v) a commercial;
- (vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

- (i) a live musical performance;
- (ii) a live news program; or
- (iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

- (i) NAICS Code 512110; or
- (ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

- (A) "commercial distribution";
- (B) "live musical performance";
- (C) "live news program"; or
- (D) "live sporting event";

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

- (A) a wind turbine;
- (B) generating equipment;
- (C) a control and monitoring system;
- (D) a power line;
- (E) substation equipment;
- (F) lighting;
- (G) fencing;
- (H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the

state and incorporated pursuant to contract into and becomes a part of real property located outside of this state;

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter; and

(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by this Subsection (58) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before June 30, 2011;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

(a) clearly identified;

(b) segregated; and

(c) installed or converted to real property;

- (74) amounts paid or charged for:
- (a) a purchase or lease of machinery and equipment that:
- (i) are used in performing qualified research:
- (A) as defined in Section 41(d), Internal Revenue Code; and
- (B) in the state; and
- (ii) have an economic life of three or more years; and
- (b) normal operating repair or replacement parts:
- (i) for the machinery and equipment described in Subsection (74)(a); and
- (ii) that have an economic life of three or more years;
- (75) a sale or lease of tangible personal property used in the preparation of prepared food if:
- (a) for a sale:
- (i) the ownership of the seller and the ownership of the purchaser are identical; and
- (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or
- (b) for a lease:
- (i) the ownership of the lessor and the ownership of the lessee are identical; and
- (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;
- (76) (a) purchases of machinery or equipment if:
- (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;
- (ii) the machinery or equipment:
- (A) has an economic life of three or more years; and
- (B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
- (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- (A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and
- (B) subject to taxation under this chapter;
- (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:
- (i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and
- (ii) subject to taxation under this chapter; and
- (c) on or before the November 2018 interim meeting, and every five years after the November 2018 interim meeting, the commission shall review the exemption provided in this Subsection (76) and report to the Revenue and Taxation Interim Committee on:
- (i) the revenue lost to the state and local taxing jurisdictions as a result of the exemption;
- (ii) the purpose and effectiveness of the exemption; and
- (iii) whether the exemption benefits the state;
- (77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);
- (78) amounts paid or charged to access a database:
- (a) if the primary purpose for accessing the database is to view or retrieve information from the database; and
- (b) not including amounts paid or charged for a:
- (i) digital audiowork;
- (ii) digital audio-visual work; or
- (iii) digital book;
- (79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:
- (a) machinery and equipment that:
- (i) are used in the operation of the electronic financial payment service; and
- (ii) have an economic life of three or more years; and
- (b) normal operating repair or replacement parts that:
- (i) are used in the operation of the electronic financial payment service; and
- (ii) have an economic life of three or more years;
- (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;
- (81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:
- (a) is stored, used, or consumed in the state; and
- (b) is temporarily brought into the state from another state:
- (i) during a disaster period as defined in Section 53-2a-1202;
- (ii) by an out-of-state business as defined in Section 53-2a-1202;

(iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

(iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

(82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and Recreation Program;

(83) amounts paid or charged for a purchase or lease of molten magnesium; and

(84) (a) except as provided in Subsection (84)(b), amounts paid or charged for a purchase or lease made by a drilling equipment manufacturer of machinery, equipment, materials, or normal operating repair or replacement parts:

(i) that are used or consumed exclusively in the drilling equipment manufacturer's manufacturing process; and

(ii) except for office:

(A) equipment; or

(B) supplies; and

(b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an exemption described in Subsection (84)(a) only by filing for a refund:

(i) of 50% of the tax paid on the amounts paid or charged; and

(ii) in accordance with Section 59-1-1410.

Section 2. Effective date.

This bill takes effect on July 1, 2016.

CHAPTER 377**H. B. 267**

Passed February 25, 2016

Approved March 29, 2016

Effective May 10, 2016

**CHARITABLE SOLICITATION
ACT AMENDMENTS**

Chief Sponsor: Patrice M. Arent

Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill amends provisions related to charitable solicitation.

Highlighted Provisions:

This bill:

- ▶ exempts a person from registration with the Division of Consumer Protection for an application the person submits for a grant offered by a state agency;
- ▶ amends the expiration date for:
 - a professional fund raiser's permit; and
 - a professional fund raising counsel's or consultant's permit; and
- ▶ modifies an exemption from registration with the Division of Consumer Protection for a solicitation by an organization authorized by a school and affiliated with a central organization.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

13-22-8, as last amended by Laws of Utah 2015, Chapter 120

13-22-11, as last amended by Laws of Utah 1996, Chapter 187

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-22-8 is amended to read:**13-22-8. Exemptions.**

(1) Section 13-22-5 does not apply to:

(a) a solicitation that an organization conducts among the organization's own established and bona fide membership exclusively through the voluntarily donated efforts of other members or officers of the organization;

(b) a bona fide religious, ecclesiastical, or denominational organization if:

(i) the solicitation is made for a church, missionary, religious, or humanitarian purpose; and

(ii) the organization is either:

(A) a lawfully organized corporation, institution, society, church, or established physical place of worship, at which nonprofit religious services and activities are regularly conducted and carried on;

(B) a bona fide religious group:

(I) that does not maintain specific places of worship;

(II) that is not subject to federal income tax; and

(III) not required to file an IRS Form 990 under any circumstance; or

(C) a separate group or corporation that is an integral part of an institution that is an income tax exempt organization under 26 U.S.C. Sec. 501(c)(3) and is not primarily supported by funds solicited outside the group's or corporation's own membership or congregation;

(c) a solicitation by a broadcast media owned or operated by an educational institution or governmental entity, or any entity organized solely for the support of that broadcast media;

(d) except as provided in Subsection 13-22-21(1), a solicitation for the relief of any person sustaining a life-threatening illness or injury specified by name at the time of solicitation if the entire amount collected without any deduction is turned over to the named person;

(e) a political party authorized to transact the political party's affairs within this state and any candidate and campaign worker of the political party if the content and manner of any solicitation make clear that the solicitation is for the benefit of the political party or candidate;

(f) a political action committee or group soliciting funds relating to issues or candidates on the ballot if the committee or group is required to file financial information with a federal or state election commission;

~~[(g) any school accredited by the state, any accredited institution of higher learning, or club or parent, teacher, or student organization within and authorized by the school in support of the operations or extracurricular activities of the school;]~~

(g) (i) a public school;

(ii) a public institution of higher learning;

(iii) a school accredited by an accreditation body recognized within the state or the United States;

(iv) an institution of higher learning accredited by an accreditation body recognized within the state or the United States;

(v) an organization within, and authorized by, an entity described in Subsections (1)(g)(i) through (iv); or

(vi) a parent organization, teacher organization, or student organization authorized by an entity described in Subsection (1)(g)(i) or (iii) if:

(A) the parent organization, teacher organization, or student organization is a branch of, or is affiliated with, a central organization;

(B) the parent organization, teacher organization, or student organization is subject to the central organization's general control and supervision;

(C) the central organization holds a United States Internal Revenue Service group tax exemption that covers the parent organization, teacher organization, or student organization; and

(D) the central organization is registered with the division under this chapter;

(h) a public or higher education foundation established under Title 53A, State System of Public Education, or Title 53B, State System of Higher Education;

(i) a television station, radio station, or newspaper of general circulation that donates air time or print space for no consideration as part of a cooperative solicitation effort on behalf of a charitable organization, whether or not that organization is required to register under this chapter;

(j) a volunteer fire department, rescue squad, or local civil defense organization whose financial oversight is under the control of a local governmental entity;

(k) any governmental unit of any state or the United States; ~~and~~

(l) any corporation:

(i) established by an act of the United States Congress; and

(ii) that is required by federal law to submit an annual report:

(A) on the activities of the corporation, including an itemized report of all receipts and expenditures of the corporation; and

(B) to the United States Secretary of Defense to be:

(I) audited; and

(II) submitted to the United States Congress; and

(m) a solicitation by an applicant for a grant offered by a state agency if:

(i) the terms of the grant provide that the state agency monitors a grant recipient to ensure that grant funds are used in accordance with the grant's purpose; and

(ii) the sum of the amount available to the applicant under grants offered by a state agency that the applicant applies for in a calendar year is less than or equal to \$1,500.

(2) Any organization claiming an exemption under this section bears the burden of proving its eligibility for, or the applicability of, the exemption claimed.

(3) Each organization exempt from registration pursuant to this section that makes a material change in the organization's legal status, officers, address, or similar changes shall file a report informing the division of the organization's current legal status, business address, business phone, officers, and primary contact person within 30 days of the change.

(4) The division may by rule:

(a) require an organization that is exempt from registration under this section to:

(i) file a notice of claim of exemption; and

(ii) file a renewal of a notice of claim of exemption;

(b) prescribe the contents of a notice of claim of exemption and a renewal of a notice of claim of exemption; and

(c) require a filing fee for a notice of claim of exemption and a renewal of a notice of claim of exemption as determined under Section 63J-1-504.

Section 2. Section 13-22-11 is amended to read:

13-22-11. Expiration of registration and permits.

(1) Each charitable organization registration issued under this chapter expires annually on the earlier of January 1, April 1, July 1, or October 1 following the completion of 12 months after the date of initial issuance.

(2) Each professional fund raiser's permit issued under this chapter expires ~~[the earlier of: (a)]~~ annually on the date of issuance~~;~~ ~~or (b) when the professional fund raiser ceases affiliation with the charitable organization named in the application for permit].~~

(3) Each professional fund raising counsel's or consultant's permit issued under this chapter expires ~~[the earlier of: (a)]~~ annually on the date of issuance~~;~~ ~~or (b) when the professional fundraising counsel or consultant ceases affiliation with the charitable organization named in the application for permit].~~

(4) A registration or permit may be renewed only by complying with the requirements for obtaining the original registration or permit.

CHAPTER 378**H. B. 270**

Passed March 8, 2016
 Approved March 29, 2016
 Effective May 10, 2016

**CONSTITUTIONAL DEFENSE
 RESTRICTED ACCOUNT AMENDMENTS**

Chief Sponsor: Michael E. Noel
 Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill amends provisions relating to the Constitutional Defense Restricted Account.

Highlighted Provisions:

This bill:

- ▶ provides that money appropriated to the Constitutional Defense Restricted Account may be approved for use by the Office of the Attorney General or any other state or local government entity to bring an action to establish the right of a state or local government officer or employee to enter onto federal land or use a federal road or an R.S. 2477 road.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63C-4a-402, as renumbered and amended by Laws of Utah 2013, Chapter 101

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63C-4a-402 is amended to read:

63C-4a-402. Creation of Constitutional Defense Restricted Account -- Sources of funds -- Uses of funds -- Reports.

(1) There is created a restricted account within the General Fund known as the Constitutional Defense Restricted Account.

(2) The account consists of money from the following revenue sources:

- (a) money deposited to the account as required by Section 53C-3-203;
- (b) voluntary contributions;
- (c) money received by the council from other state agencies; and
- (d) appropriations made by the Legislature.

(3) The Legislature may annually appropriate money from the Constitutional Defense Restricted Account to one or more of the following:

- (a) the commission, to fund the commission and for the commission's duties;
- (b) the council, to fund the council and for the council's duties;

(c) the Public Lands Policy Coordinating Office to carry out its duties in Section 63J-4-603;

(d) the Office of the Governor, to be used only for the purpose of asserting, defending, or litigating:

(i) an issue arising with another state regarding the use or ownership of water; or

(ii) state and local government rights under R.S. 2477, in accordance with a plan developed and approved as provided in Section 63C-4a-403;

(e) a county or association of counties to assist counties, consistent with the purposes of the council, in pursuing issues affecting the counties;

(f) the Office of the Attorney General, to be used only:

(i) for public lands counsel and assistance and litigation to the state or local governments including asserting, defending, or litigating state and local government rights under R.S. 2477 in accordance with a plan developed and approved as provided in Section 63C-4a-403;

(ii) for an action filed in accordance with Section 67-5-29;

(iii) to advise the council; or

(iv) for asserting, defending, or litigating an issue arising with another state regarding the use or ownership of water; ~~or~~

(g) the Office of the Attorney General or any other state or local government entity to bring an action to establish the right of a state or local government officer or employee to enter onto federal land or use a federal road or an R.S. 2477 road, in the officer's or employee's official capacity, to protect the health, safety, or welfare of a citizen of the state; or

~~(g)~~ (h) the Office of Legislative Research and General Counsel, to provide staff support to the commission.

(4) (a) The council shall require that any entity, other than the commission, that receives money from the account provide financial reports and litigation reports to the council.

(b) Nothing in this Subsection (4) prohibits the commission or the council from closing a meeting under Title 52, Chapter 4, Open and Public Meetings Act, or prohibits the commission or the council from complying with Title 63G, Chapter 2, Government Records Access and Management Act.

CHAPTER 379**H. B. 279**

Passed March 10, 2016

Approved March 29, 2016

Effective May 10, 2016

**STATUTE OF LIMITATIONS
REFORM AMENDMENTS**

Chief Sponsor: Ken Ivory
 Senate Sponsor: J. Stuart Adams
 Cosponsors: Rebecca Chavez-Houck
 Susan Duckworth
 Angela Romero

LONG TITLE**General Description:**

This bill provides a window for the revival of civil claims against perpetrators of sexual abuse of a child.

Highlighted Provisions:

This bill:

- ▶ allows child sexual abuse victims to bring a civil action against an alleged perpetrator even though the statute of limitations has run;
- ▶ provides a window of 35 years after attaining 18 years of age to commence an action; and
- ▶ specifies limitations.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78B-2-308, as last amended by Laws of Utah 2015, Chapter 82

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-2-308 is amended to read:**78B-2-308. Legislative findings -- Civil actions for sexual abuse of a child -- Window for revival of time barred claims.**

(1) The Legislature finds that:

(a) child sexual abuse is a crime that hurts the most vulnerable in our society and destroys lives;

(b) research over the last 30 years has shown that it takes decades for children and adults to pull their lives back together and find the strength to face what happened to them;

(c) often the abuse is compounded by the fact that the perpetrator is a member of the victim's family and when such abuse comes out, the victim is further stymied by the family's wish to avoid public embarrassment;

(d) even when the abuse is not committed by a family member, the perpetrator is rarely a stranger and, if in a position of authority, often brings pressure to bear on the victim to insure silence;

(e) in 1992, when the Legislature enacted the statute of limitations requiring victims to sue within four years of majority, society did not understand the long-lasting effects of abuse on the victim and that it takes decades for the healing necessary for a victim to seek redress;

(f) the Legislature, as the policy-maker for the state, may take into consideration advances in medical science and understanding in revisiting policies and laws shown to be harmful to the citizens of this state rather than beneficial; and

(g) the Legislature has the authority to change old laws in the face of new information, and set new policies within the limits of due process, fairness, and justice.

~~[(1)]~~ (2) As used in this section:

(a) "Child" means a person under 18 years of age.

(b) "Discovery" means when a person knows or reasonably should know that the injury or illness was caused by the intentional or negligent sexual abuse.

(c) "Injury or illness" means either a physical injury or illness or a psychological injury or illness. A psychological injury or illness need not be accompanied by physical injury or illness.

(d) "Molestation" means ~~[touching]~~ that a person, with the intent to arouse or gratify the sexual desire of any person:

(i) touches the anus, buttocks, or genitalia of any child, or the breast of a female child ~~[younger than 14 years of age, or otherwise taking];~~

(ii) takes indecent liberties with a child~~;~~ or ~~[causing]~~

(iii) causes a child to take indecent liberties with the perpetrator or another~~;~~ ~~[with the intent to arouse or gratify the sexual desire of any]~~ person.

(e) "Negligently" means a failure to act to prevent the child sexual abuse from further occurring or to report the child sexual abuse to law enforcement when the adult who could act knows or reasonably should know of the child sexual abuse and is the victim's parent, stepparent, adoptive parent, foster parent, legal guardian, ancestor, descendant, brother, sister, uncle, aunt, first cousin, nephew, niece, grandparent, stepgrandparent, or any person cohabiting in the child's home.

~~[(g)]~~ (f) "Perpetrator" means an individual who has committed an act of sexual abuse.

~~[(h)]~~ (g) "Sexual abuse" means acts or attempted acts of sexual intercourse, sodomy, or molestation by an adult directed towards a child.

~~[(f)]~~ (h) "[Person] Victim" means an individual who was intentionally or negligently sexually abused. It does not include individuals whose claims are derived through another individual who was sexually abused.

~~[(2)]~~ (3) (a) A ~~[person]~~ victim may file a civil action against a perpetrator for intentional or negligent sexual abuse suffered as a child at any time.

(b) A person victim may file a civil action against a non-perpetrator for intentional or negligent sexual abuse suffered as a child:

(i) within four years after the person attains the age of 18 years; or

(ii) if a person victim discovers sexual abuse only after attaining the age of 18 years, that person may bring a civil action for such sexual abuse within four years after discovery of the sexual abuse, whichever period expires later.

~~[(3)]~~ (4) The victim need not establish which act in a series of continuing sexual abuse incidents caused the injury complained of, but may compute the date of discovery from the date of discovery of the last act by the same perpetrator which is part of a common scheme or plan of sexual abuse.

~~[(4)]~~ (5) The knowledge of a custodial parent or guardian may not be imputed to a person under the age of 18 years.

~~[(5)]~~ (6) A civil action may be brought only against a living person who:

(a) intentionally perpetrated the sexual abuse;

(b) would be criminally responsible for the sexual abuse in accordance with Section 76-2-202; or

(c) negligently permitted the sexual abuse to occur.

(7) A civil action against a person listed in Subsection (6)(a) or (b) for sexual abuse that was time barred as of July 1, 2016, may be brought within 35 years of the victim's 18th birthday, or within three years of the effective date of this Subsection (7), whichever is longer.

(8) A civil action may not be brought as provided in Subsection (7) for:

(a) any claim that has been litigated to finality on the merits in a court of competent jurisdiction prior to July 1, 2016, however termination of a prior civil action on the basis of the expiration of the statute of limitations does not constitute a claim that has been litigated to finality on the merits; and

(b) any claim where a written settlement agreement was entered into between a victim and a defendant or perpetrator, unless the settlement agreement was the result of fraud, duress, or unconscionability. There is a rebuttable presumption that a settlement agreement signed by the victim when the victim was not represented by an attorney admitted to practice law in this state at the time of the settlement was the result of fraud, duress, or unconscionability.

CHAPTER 380**H. B. 288**

Passed March 7, 2016

Approved March 29, 2016

Effective May 10, 2016

**EDUCATIONAL RECORDS
PROTECTION AMENDMENTS**Chief Sponsor: Craig Hall
Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill amends provisions related to the disclosure of education records.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to the disclosure of education records as defined under federal law; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-2-107, as renumbered and amended by Laws of Utah 2008, Chapter 382

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-2-107 is amended to read:**63G-2-107. Disclosure of records subject to federal law.**

(1) Notwithstanding [~~the provisions of Subsections 63G-2-201(6)(a) and (b)~~] Subsection 63G-2-201(6), this chapter does not apply to a record containing protected health information as defined in 45 C.F.R., Part 164, Standards for Privacy of Individually Identifiable Health Information, if the record is:

[~~(1)~~] (a) controlled or maintained by a governmental entity; and

[~~(2)~~] (b) governed by 45 C.F.R., Parts 160 and 164, Standards for Privacy of Individually Identifiable Health Information.

(2) The disclosure of an education record as defined in the Family Educational Rights and Privacy Act, 34 C.F.R. Part 99, that is controlled or maintained by a governmental entity shall be governed by the Family Educational Rights and Privacy Act, 34 C.F.R. Part 99.

CHAPTER 381**H. B. 321**

Passed March 8, 2016
 Approved March 29, 2016
 Effective May 10, 2016

**REAL ESTATE
 TRANSACTION AMENDMENTS**

Chief Sponsor: Brian M. Greene
 Senate Sponsor: Lincoln Fillmore

LONG TITLE**General Description:**

This bill modifies provisions relating to the sale or offer of an undivided fractionalized long-term estate.

Highlighted Provisions:

This bill:

- ▶ enacts the Undivided Fractionalized Long-Term Estate Sales Practices Act;
- ▶ defines terms;
- ▶ provides licensing and disclosure requirements for the sale or offer of an undivided fractionalized long-term estate;
- ▶ addresses the Division of Real Estate's rulemaking, investigatory, and enforcement powers;
- ▶ provides procedures to enforce compliance with the provisions of this bill;
- ▶ repeals certain disclosure requirements and rulemaking authority relating to the sale or offer of an undivided fractionalized long-term estate; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 61-1-13, as last amended by Laws of Utah 2011, Chapters 317, 319, and 354
 61-2-201, as last amended by Laws of Utah 2011, Chapter 289
 61-2f-102, as last amended by Laws of Utah 2012, Chapter 166
 61-2f-103, as last amended by Laws of Utah 2014, Chapter 350

ENACTS:

- 57-29-101, Utah Code Annotated 1953
 57-29-102, Utah Code Annotated 1953
 57-29-103, Utah Code Annotated 1953
 57-29-201, Utah Code Annotated 1953
 57-29-202, Utah Code Annotated 1953
 57-29-203, Utah Code Annotated 1953
 57-29-301, Utah Code Annotated 1953
 57-29-302, Utah Code Annotated 1953
 57-29-303, Utah Code Annotated 1953
 57-29-304, Utah Code Annotated 1953
 57-29-305, Utah Code Annotated 1953

REPEALS:

61-2f-307, as renumbered and amended by Laws of Utah 2010, Chapter 379

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 57-29-101 is enacted to read:

**CHAPTER 29. UNDIVIDED
 FRACTIONALIZED LONG-TERM
 ESTATE SALES PRACTICES ACT**

Part 1. General Provisions**57-29-101. Title.**

(1) This chapter is known as the "Undivided Fractionalized Long-Term Estate Sales Practices Act."

(2) This part is known as "General Provisions."

Section 2. Section 57-29-102 is enacted to read:

57-29-102. Definitions.

As used in this chapter:

(1) "Commission" means the Real Estate Commission created in Section 61-2f-103.

(2) "Director" means the director of the Division of Real Estate.

(3) "Division" means the Division of Real Estate created in Section 61-2-201.

(4) "Management agreement" means an agreement between a person and each owner of an undivided fractionalized long-term estate in a piece of real property under which the person agrees to manage the leasing or operations of the real property.

(5) "Master lease" means an agreement under which a person is granted a leasehold interest in real property and may sublease all or a portion of the real property to one or more persons.

(6) "Master lease tenant" means the lessee in a master lease.

(7) "Sponsor" means a person who is the original seller of an undivided fractionalized long-term estate.

(8) (a) "Undivided fractionalized long-term estate" means an ownership interest in real property by two or more persons that is:

(i) a tenancy in common; or

(ii) a fee estate.

(b) "Undivided fractionalized long-term estate" does not include a joint tenancy.

Section 3. Section 57-29-103 is enacted to read:

57-29-103. Applicability.

This chapter does not apply to property that is subject to Title 57, Chapter 19, Timeshare and Camp Resort Act.

Section 4. Section 57-29-201 is enacted to read:

Part 2. License and Disclosure Requirements

57-29-201. Title.

This part is known as "License and Disclosure Requirements."

Section 5. Section 57-29-202 is enacted to read:

57-29-202. License required.

Except as provided by Section 61-2f-202, a person may not offer, sell, or otherwise dispose of an undivided fractionalized long-term estate unless the person is licensed by the division under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, as a principal broker, associate broker, or sales agent.

Section 6. Section 57-29-203 is enacted to read:

57-29-203. Required disclosures.

(1) A sponsor or licensee who sells or offers to sell an undivided fractionalized long-term estate shall provide each prospective purchaser a written disclosure, related to the real property in which the undivided fractionalized long-term estate is offered, that:

(a) if applicable:

(i) includes a copy of any master lease agreement; and

(ii) states whether the sponsor is the master lease tenant or an affiliate of the master lease tenant;

(b) includes any material information that relates to a current lease or sublease that affects the real property in which the undivided fractionalized long-term estate is offered;

(c) includes a copy of:

(i) a tenants in common agreement; or

(ii) an agreement that forms the substance of the undivided fractionalized long-term estate and includes a definition of the undivided fractionalized interest;

(d) describes any improvements to the real property in which the undivided fractionalized long-term estate is offered;

(e) includes a copy of any management agreement;

(f) describes the relationship, if any, between each property manager and the sponsor; and

(g) includes any additional information that an ordinarily prudent purchaser would consider material to deciding whether to purchase the undivided fractionalized long-term estate, as determined by the commission, with concurrence by the division, by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) A sponsor or licensee who sells or offers to sell an undivided fractionalized long-term estate shall provide the written disclosure described in Subsection (1) to the prospective purchaser before the prospective purchaser purchases the undivided fractionalized long-term estate.

Section 7. Section 57-29-301 is enacted to read:

Part 3. Investigation and Enforcement

57-29-301. Title.

This part is known as "Investigation and Enforcement."

Section 8. Section 57-29-302 is enacted to read:

57-29-302. Rulemaking.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this chapter, the commission, with concurrence by the division, may make rules governing:

(1) the form of the disclosures required under this chapter; and

(2) enforcement of the provisions of this chapter.

Section 9. Section 57-29-303 is enacted to read:

57-29-303. Investigatory powers and proceedings of division.

(1) The division may:

(a) conduct a public or private investigation to determine whether a person has violated or is about to violate a provision of this chapter; and

(b) require or allow a person to file a written statement with the division that relates to the facts and circumstances concerning a matter to be investigated.

(2) For the purpose of an investigation or proceeding under this chapter, the division may:

(a) administer oaths or affirmations; and

(b) upon the division's own initiative or upon the request of any party:

(i) subpoena a witness;

(ii) compel a witness's attendance;

(iii) take evidence; or

(iv) require the production, within 10 business days, of any information or item that is relevant to the investigation, including:

(A) the existence, description, nature, custody, condition, and location of any books, electronic records, documents, or other tangible records;

(B) the identity and location of any person who has knowledge of relevant facts; or

(C) any other information or item that is reasonably calculated to lead to the discovery of material evidence.

(3) If a person fails to obey a subpoena or other request made in accordance with this section, the division may file an action in district court for an order compelling compliance.

Section 10. Section 57-29-304 is enacted to read:

57-29-304. Enforcement.

(1) (a) If the director believes that a person has been or is engaging in conduct that violates this chapter, the director:

(i) shall issue and serve upon the person a cease and desist order; and

(ii) may order the person to take any action necessary to carry out the purposes of this chapter.

(b) (i) A person served with an order under Subsection (1)(a) may request a hearing within 10 days after the day on which the person is served.

(ii) (A) If a person requests a hearing in accordance with Subsection (1)(b)(i), the director shall schedule a hearing to take place no more than 30 days after the day on which the director receives the request.

(B) The cease and desist order remains in effect pending the hearing.

(iii) If the director fails to schedule a hearing in accordance with Subsection (1)(b)(ii)(A), the cease and desist order is vacated.

(c) The division shall conduct a hearing described in Subsection (1)(b) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(2) After a hearing described in Subsection (1)(b):

(a) if the director finds that the person violated this chapter, the director may issue a final order making the cease and desist order permanent; or

(b) if the director finds that the person did not violate this chapter, the director shall vacate the cease and desist order.

(3) If a person served with an order under Subsection (1)(a) does not request a hearing and the person fails to comply with the director's order, the director may file suit in district court in the name of the Department of Commerce and the Division of Real Estate to enjoin the person from violating this chapter.

(4) The remedies and action provided in this section are not exclusive but are in addition to any other remedies or actions available under Section 57-29-305.

Section 11. Section 57-29-305 is enacted to read:

57-29-305. Voidable agreements.

(1) (a) If a sponsor violates a provision of this chapter in entering into an agreement to purchase an undivided fractionalized long-term estate, the purchaser may rescind the agreement.

(b) A purchaser may rescind an agreement under this Subsection (1) at any time before the closing.

(2) A purchaser who rescinds an agreement in accordance with Subsection (1) is entitled to all the consideration that the purchaser gave under the rescinded agreement.

(3) In an action to enforce a purchaser's right of rescission under Subsection (1), the court shall award costs and reasonable attorney fees to the prevailing party.

Section 12. Section 61-1-13 is amended to read:

61-1-13. Definitions.

(1) As used in this chapter:

(a) "Affiliate" means a person that, directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with a person specified.

(b) (i) "Agent" means an individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities.

(ii) "Agent" does not include an individual who represents:

(A) an issuer, who receives no commission or other remuneration, directly or indirectly, for effecting or attempting to effect purchases or sales of securities in this state, and who effects transactions:

(I) in securities exempted by Subsection 61-1-14(1)(a), (b), (c), or (g);

(II) exempted by Subsection 61-1-14(2);

(III) in a covered security as described in Sections 18(b)(3) and 18(b)(4)(D) of the Securities Act of 1933; or

(IV) with existing employees, partners, officers, or directors of the issuer; or

(B) a broker-dealer in effecting transactions in this state limited to those transactions described in Section 15(h)(2) of the Securities Exchange Act of 1934.

(iii) A partner, officer, or director of a broker-dealer or issuer, or a person occupying a similar status or performing similar functions, is an agent only if the partner, officer, director, or person otherwise comes within the definition of "agent."

(iv) "Agent" does not include a person described in Subsection (3).

(c) (i) "Broker-dealer" means a person engaged in the business of effecting transactions in securities for the account of others or for the person's own account.

(ii) "Broker-dealer" does not include:

(A) an agent;

(B) an issuer;

(C) a depository institution or trust company;

(D) a person who has no place of business in this state if:

(I) the person effects transactions in this state exclusively with or through:

(Aa) the issuers of the securities involved in the transactions;

(Bb) other broker-dealers;

(Cc) a depository institution, whether acting for itself or as a trustee;

(Dd) a trust company, whether acting for itself or as a trustee;

(Ee) an insurance company, whether acting for itself or as a trustee;

(Ff) an investment company, as defined in the Investment Company Act of 1940, whether acting for itself or as a trustee;

(Gg) a pension or profit-sharing trust, whether acting for itself or as a trustee; or

(Hh) another financial institution or institutional buyer, whether acting for itself or as a trustee; or

(II) during any period of 12 consecutive months the person does not direct more than 15 offers to sell or buy into this state in any manner to persons other than those specified in Subsection (1)(c)(ii)(D)(I), whether or not the offeror or an offeree is then present in this state;

(E) a general partner who organizes and effects transactions in securities of three or fewer limited partnerships, of which the person is the general partner, in any period of 12 consecutive months;

(F) a person whose participation in transactions in securities is confined to those transactions made by or through a broker-dealer licensed in this state;

(G) a person who is a principal broker or associate broker licensed in this state and who effects transactions in a bond or other evidence of indebtedness secured by a real or chattel mortgage or deed of trust, or by an agreement for the sale of real estate or chattels, if the entire mortgage, deed of trust, or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a unit;

(H) a person effecting transactions in commodity contracts or commodity options;

(I) a person described in Subsection (3); or

(J) other persons as the division, by rule or order, may designate, consistent with the public interest and protection of investors, as not within the intent of this Subsection (1)(c).

(d) "Buy" or "purchase" means a contract for purchase of, contract to buy, or acquisition of a security or interest in a security for value.

(e) "Commission" means the Securities Commission created in Section 61-1-18.5.

(f) "Commodity" means, except as otherwise specified by the division by rule:

(i) an agricultural, grain, or livestock product or byproduct, except real property or a timber, agricultural, or livestock product grown or raised on real property and offered or sold by the owner or lessee of the real property;

(ii) a metal or mineral, including a precious metal, except a numismatic coin whose fair market value is at least 15% greater than the value of the metal it contains;

(iii) a gem or gemstone, whether characterized as precious, semi-precious, or otherwise;

(iv) a fuel, whether liquid, gaseous, or otherwise;

(v) a foreign currency; and

(vi) all other goods, articles, products, or items of any kind, except a work of art offered or sold by art dealers, at public auction or offered or sold through a private sale by the owner of the work.

(g) (i) "Commodity contract" means an account, agreement, or contract for the purchase or sale, primarily for speculation or investment purposes and not for use or consumption by the offeree or purchaser, of one or more commodities, whether for immediate or subsequent delivery or whether delivery is intended by the parties, and whether characterized as a cash contract, deferred shipment or deferred delivery contract, forward contract, futures contract, installment or margin contract, leverage contract, or otherwise.

(ii) A commodity contract offered or sold shall, in the absence of evidence to the contrary, be presumed to be offered or sold for speculation or investment purposes.

(iii) (A) A commodity contract may not include a contract or agreement that requires, and under which the purchaser receives, within 28 calendar days from the payment in good funds any portion of the purchase price, physical delivery of the total amount of each commodity to be purchased under the contract or agreement.

(B) A purchaser is not considered to have received physical delivery of the total amount of each commodity to be purchased under the contract or agreement when the commodity or commodities are held as collateral for a loan or are subject to a lien of any person when the loan or lien arises in connection with the purchase of each commodity or commodities.

(h) (i) "Commodity option" means an account, agreement, or contract giving a party to the option the right but not the obligation to purchase or sell one or more commodities or one or more commodity contracts, or both whether characterized as an option, privilege, indemnity, bid, offer, put, call, advance guaranty, decline guaranty, or otherwise.

(ii) "Commodity option" does not include an option traded on a national securities exchange registered:

(A) with the Securities and Exchange Commission; or

(B) on a board of trade designated as a contract market by the Commodity Futures Trading Commission.

(i) “Depository institution” [is-as] means the same as that term is defined in Section 7-1-103.

(j) “Director” means the director of the division appointed in accordance with Section 61-1-18.

(k) “Division” means the Division of Securities established by Section 61-1-18.

(l) “Executive director” means the executive director of the Department of Commerce.

(m) “Federal covered adviser” means a person who:

(i) is registered under Section 203 of the Investment Advisers Act of 1940; or

(ii) is excluded from the definition of “investment adviser” under Section 202(a)(11) of the Investment Advisers Act of 1940.

(n) “Federal covered security” means a security that is a covered security under Section 18(b) of the Securities Act of 1933 or rules or regulations promulgated under Section 18(b) of the Securities Act of 1933.

(o) “Fraud,” “deceit,” and “defraud” are not limited to their common-law meanings.

(p) “Guaranteed” means guaranteed as to payment of principal or interest as to debt securities, or dividends as to equity securities.

(q) (i) “Investment adviser” means a person who:

(A) for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities; or

(B) for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities.

(ii) “Investment adviser” includes a financial planner or other person who:

(A) as an integral component of other financially related services, provides the investment advisory services described in Subsection (1)(q)(i) to others for compensation and as part of a business; or

(B) holds the person out as providing the investment advisory services described in Subsection (1)(q)(i) to others for compensation.

(iii) “Investment adviser” does not include:

(A) an investment adviser representative;

(B) a depository institution or trust company;

(C) a lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of the profession;

(D) a broker-dealer or its agent whose performance of these services is solely incidental to the conduct of its business as a broker-dealer and who receives no special compensation for the services;

(E) a publisher of a bona fide newspaper, news column, news letter, news magazine, or business or financial publication or service, of general, regular, and paid circulation, whether communicated in hard copy form, or by electronic means, or otherwise, that does not consist of the rendering of advice on the basis of the specific investment situation of each client;

(F) a person who is a federal covered adviser;

(G) a person described in Subsection (3); or

(H) such other persons not within the intent of this Subsection (1)(q) as the division may by rule or order designate.

(r) (i) “Investment adviser representative” means a partner, officer, director of, or a person occupying a similar status or performing similar functions, or other individual, except clerical or ministerial personnel, who:

(A) (I) is employed by or associated with an investment adviser who is licensed or required to be licensed under this chapter; or

(II) has a place of business located in this state and is employed by or associated with a federal covered adviser; and

(B) does any of the following:

(I) makes a recommendation or otherwise renders advice regarding securities;

(II) manages accounts or portfolios of clients;

(III) determines which recommendation or advice regarding securities should be given;

(IV) solicits, offers, or negotiates for the sale of or sells investment advisory services; or

(V) supervises employees who perform any of the acts described in this Subsection (1)(r)(i)(B).

(ii) “Investment adviser representative” does not include a person described in Subsection (3).

(s) “Investment contract” includes:

(i) an investment in a common enterprise with the expectation of profit to be derived through the essential managerial efforts of someone other than the investor; or

(ii) an investment by which:

(A) an offeree furnishes initial value to an offerer;

(B) a portion of the initial value is subjected to the risks of the enterprise;

(C) the furnishing of the initial value is induced by the offerer’s promises or representations that give rise to a reasonable understanding that a valuable benefit of some kind over and above the initial value will accrue to the offeree as a result of the operation of the enterprise; and

(D) the offeree does not receive the right to exercise practical and actual control over the managerial decisions of the enterprise.

(t) “Isolated transaction” means not more than a total of two transactions that occur anywhere during six consecutive months.

(u) (i) “Issuer” means a person who issues or proposes to issue a security or has outstanding a security that it has issued.

(ii) With respect to a preorganization certificate or subscription, “issuer” means the one or more promoters of the person to be organized.

(iii) “Issuer” means the one or more persons performing the acts and assuming duties of a depositor or manager under the provisions of the trust or other agreement or instrument under which the security is issued with respect to:

(A) interests in trusts, including collateral trust certificates, voting trust certificates, and certificates of deposit for securities; or

(B) shares in an investment company without a board of directors.

(iv) With respect to an equipment trust certificate, a conditional sales contract, or similar securities serving the same purpose, “issuer” means the person by whom the equipment or property is to be used.

(v) With respect to interests in partnerships, general or limited, “issuer” means the partnership itself and not the general partner or partners.

(vi) With respect to certificates of interest or participation in oil, gas, or mining titles or leases or in payment out of production under the titles or leases, “issuer” means the owner of the title or lease or right of production, whether whole or fractional, who creates fractional interests therein for the purpose of sale.

(v) (i) “Life settlement interest” means the entire interest or a fractional interest in any of the following that is the subject of a life settlement:

(A) a policy; or

(B) the death benefit under a policy.

(ii) “Life settlement interest” does not include the initial purchase from the owner by a life settlement provider.

(w) “Nonissuer” means not directly or indirectly for the benefit of the issuer.

(x) “Person” means:

(i) an individual;

(ii) a corporation;

(iii) a partnership;

(iv) a limited liability company;

(v) an association;

(vi) a joint-stock company;

(vii) a joint venture;

(viii) a trust where the interests of the beneficiaries are evidenced by a security;

(ix) an unincorporated organization;

(x) a government; or

(xi) a political subdivision of a government.

(y) “Precious metal” means the following, whether in coin, bullion, or other form:

(i) silver;

(ii) gold;

(iii) platinum;

(iv) palladium;

(v) copper; and

(vi) such other substances as the division may specify by rule.

(z) “Promoter” means a person who, acting alone or in concert with one or more persons, takes initiative in founding or organizing the business or enterprise of a person.

(aa) (i) Except as provided in Subsection (1)(aa)(ii), “record” means information that is:

(A) inscribed in a tangible medium; or

(B) (I) stored in an electronic or other medium; and

(II) retrievable in perceivable form.

(ii) This Subsection (1)(aa) does not apply when the context requires otherwise, including when “record” is used in the following phrases:

(A) “of record”;

(B) “official record”; or

(C) “public record.”

(bb) (i) “Sale” or “sell” includes a contract for sale of, contract to sell, or disposition of, a security or interest in a security for value.

(ii) “Offer” or “offer to sell” includes an attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value.

(iii) The following are examples of the definitions in Subsection (1)(bb)(i) or (ii):

(A) a security given or delivered with or as a bonus on account of a purchase of a security or any other thing, is part of the subject of the purchase, and is offered and sold for value;

(B) a purported gift of assessable stock is an offer or sale as is each assessment levied on the stock;

(C) an offer or sale of a security that is convertible into, or entitles its holder to acquire or subscribe to another security of the same or another issuer is an offer or sale of that security, and also an offer of the other security, whether the right to convert or acquire is exercisable immediately or in the future;

(D) a conversion or exchange of one security for another constitutes an offer or sale of the security received in a conversion or exchange, and the offer to buy or the purchase of the security converted or exchanged;

(E) securities distributed as a dividend wherein the person receiving the dividend surrenders the right, or the alternative right, to receive a cash or property dividend is an offer or sale;

(F) a dividend of a security of another issuer is an offer or sale; or

(G) the issuance of a security under a merger, consolidation, reorganization, recapitalization, reclassification, or acquisition of assets constitutes the offer or sale of the security issued as well as the offer to buy or the purchase of a security surrendered in connection therewith, unless the sole purpose of the transaction is to change the issuer's domicile.

(iv) The terms defined in Subsections (1)(bb)(i) and (ii) do not include:

(A) a good faith gift;

(B) a transfer by death;

(C) a transfer by termination of a trust or of a beneficial interest in a trust;

(D) a security dividend not within Subsection (1)(bb)(iii)(E) or (F); or

(E) a securities split or reverse split.

(cc) "Securities Act of 1933," "Securities Exchange Act of 1934," and "Investment Company Act of 1940" mean the federal statutes of those names as amended before or after the effective date of this chapter.

(dd) "Securities Exchange Commission" means the United States Securities Exchange Commission created by the Securities Exchange Act of 1934.

(ee) (i) "Security" means a:

(A) note;

(B) stock;

(C) treasury stock;

(D) bond;

(E) debenture;

(F) evidence of indebtedness;

(G) certificate of interest or participation in a profit-sharing agreement;

(H) collateral-trust certificate;

(I) preorganization certificate or subscription;

(J) transferable share;

(K) investment contract;

(L) burial certificate or burial contract;

(M) voting-trust certificate;

(N) certificate of deposit for a security;

(O) certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease;

(P) commodity contract or commodity option;

(Q) interest in a limited liability company;

(R) life settlement interest; or

(S) in general, an interest or instrument commonly known as a "security," or a certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase an item listed in Subsections (1)(ee)(i)(A) through (R).

(ii) "Security" does not include:

(A) an insurance or endowment policy or annuity contract under which an insurance company promises to pay money in a lump sum or periodically for life or some other specified period;

(B) an interest in a limited liability company in which the limited liability company is formed as part of an estate plan where all of the members are related by blood or marriage, or the person claiming this exception can prove that all of the members are actively engaged in the management of the limited liability company; or

(C) (I) a whole long-term estate in real property;

(II) an undivided fractionalized long-term estate in real property that consists of 10 or fewer owners; or

(III) an undivided fractionalized long-term estate in real property that consists of more than 10 owners if, when the real property estate is subject to a management agreement:

(Aa) the management agreement permits a simple majority of owners of the real property estate to not renew or to terminate the management agreement at the earlier of the end of the management agreement's current term, or 180 days after the day on which the owners give notice of termination to the manager; and

(Bb) the management agreement prohibits, directly or indirectly, the lending of the proceeds earned from the real property estate or the use or pledge of its assets to a person or entity affiliated with or under common control of the manager; and

~~[(Cc) the management agreement complies with any other requirement imposed by rule by the Real Estate Commission under Section 61-2f-103.]~~

(iii) For purposes of Subsection (1)(ee)(ii)(B), evidence that members vote or have the right to vote, or the right to information concerning the business and affairs of the limited liability company, or the right to participate in management, may not establish, without more, that all members are actively engaged in the management of the limited liability company.

(ff) "State" means a state, territory, or possession of the United States, the District of Columbia, and Puerto Rico.

(gg) (i) "Undivided fractionalized long-term estate" means ~~[an ownership interest in real property by two or more persons that is:]~~ the same as that term is defined in Section 57-29-102.

~~[(A) a tenancy in common; or]~~

~~[(B) a fee estate.]~~

(ii) "Undivided fractionalized long-term estate" does not include a joint tenancy.

(hh) "Undue influence" means that a person uses a relationship or position of authority, trust, or confidence:

(i) that is unrelated to a relationship created:

(A) in the ordinary course of making investments regulated under this chapter; or

(B) by a licensee providing services under this chapter;

(ii) that results in:

(A) an investor perceiving the person as having heightened credibility, personal trustworthiness, or dependability; or

(B) the person having special access to or control of an investor's financial resources, information, or circumstances; and

(iii) to:

(A) exploit the trust, dependence, or fear of the investor;

(B) knowingly assist or cause another to exploit the trust, dependence, or fear of the investor; or

(C) gain control deceptively over the decision making of the investor.

(ii) "Vulnerable adult" means an individual whose age or mental or physical impairment substantially affects that individual's ability to:

(i) manage the individual's resources; or

(ii) comprehend the nature and consequences of making an investment decision.

(jj) "Whole long-term estate" means a person owns or persons through joint tenancy own real property through a fee estate.

(kk) "Working days" means 8 a.m. to 5 p.m., Monday through Friday, exclusive of legal holidays listed in Section 63G-1-301.

(2) A term not defined in this section shall have the meaning as established by division rule. The meaning of a term neither defined in this section nor by rule of the division shall be the meaning commonly accepted in the business community.

(3) (a) This Subsection (3) applies to the offer or sale of a real property estate exempted from the definition of security under Subsection (1)(ee)(ii)(C).

(b) A person who, directly or indirectly receives compensation in connection with the offer or sale as provided in this Subsection (3) of a real property estate is not an agent, broker-dealer, investment adviser, or investment adviser representative under this chapter if that person is licensed under Chapter 2f, Real Estate Licensing and Practices Act, as:

(i) a principal broker;

(ii) an associate broker; or

(iii) a sales agent.

Section 13. Section 61-2-201 is amended to read:

61-2-201. Division of Real Estate created -- Director appointed -- Personnel.

(1) There is created within the department a Division of Real Estate. The division is responsible for the administration and enforcement of:

(a) this chapter;

(b) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;

(c) Title 57, Chapter 19, Timeshare and Camp Resort Act;

(d) Title 57, Chapter 23, Real Estate Cooperative Marketing Act;

(e) Title 57, Chapter 29, Undivided Fractionalized Long-Term Estate Sales Practices Act;

~~(e)~~ (f) Chapter 2c, Utah Residential Mortgage Practices and Licensing Act;

~~(f)~~ (g) Chapter 2e, Appraisal Management Company Registration and Regulation Act;

~~(g)~~ (h) Chapter 2f, Real Estate Licensing and Practices Act; and

~~(h)~~ (i) Chapter 2g, Real Estate Appraiser Licensing and Certification Act.

(2) The division is under the direction and control of a director appointed by the executive director of the department with the approval of the governor. The director holds the office of director at the pleasure of the governor.

(3) The director, with the approval of the executive director, may employ personnel necessary to discharge the duties of the division at salaries to be fixed by the director according to standards established by the Department of Administrative Services.

Section 14. Section 61-2f-102 is amended to read:

61-2f-102. Definitions.

As used in this chapter:

(1) "Associate broker" means an individual who is:

(a) employed or engaged as an independent contractor by or on behalf of a principal broker to perform an act set out in Subsection (18) for valuable consideration; and

(b) licensed under this chapter as an associate broker.

(2) "Branch office" means a principal broker's real estate brokerage office that is not the principal broker's main office.

(3) "Business day" means a day other than:

(a) a Saturday;

- (b) a Sunday; or
- (c) a federal or state holiday.
- (4) "Business opportunity" means the sale, lease, or exchange of any business that includes an interest in real estate.
- (5) "Commission" means the Real Estate Commission established under this chapter.
- (6) "Concurrence" means the entities given a concurring role must jointly agree for action to be taken.
- [~~(8)~~] (7) "Condominium homeowners' association" means the condominium unit owners acting as a group in accordance with declarations and bylaws.
- [~~(9)~~] (8) (a) "Condominium hotel" means one or more condominium units that are operated as a hotel.
- (b) "Condominium hotel" does not mean a hotel consisting of condominium units, all of which are owned by a single entity.
- [~~(7)~~] (9) "Condominium unit" [~~is as~~] means the same as that term is defined in Section 57-8-3.
- (10) "Director" means the director of the Division of Real Estate.
- (11) "Division" means the Division of Real Estate.
- (12) "Entity" means:
- (a) a corporation;
- (b) a partnership;
- (c) a limited liability company;
- (d) a company;
- (e) an association;
- (f) a joint venture;
- (g) a business trust;
- (h) a trust; or
- (i) any organization similar to an entity described in Subsections (12)(a) through (h).
- (13) "Executive director" means the director of the Department of Commerce.
- (14) "Foreclosure rescue" means, for compensation or with the expectation of receiving valuable consideration, to:
- (a) engage, or offer to engage, in an act that:
- (i) the person represents will assist a borrower in preventing a foreclosure; and
- (ii) relates to a transaction involving the transfer of title to residential real property; or
- (b) as an employee or agent of another person:
- (i) solicit, or offer that the other person will engage in an act described in Subsection (14)(a); or
- (ii) negotiate terms in relationship to an act described in Subsection (14)(a).

- (15) "Loan modification assistance" means, for compensation or with the expectation of receiving valuable consideration, to:
- (a) act, or offer to act, on behalf of a person to:
- (i) obtain a loan term of a residential mortgage loan that is different from an existing loan term, including:
- (A) an increase or decrease in an interest rate;
- (B) a change to the type of interest rate;
- (C) an increase or decrease in the principal amount of the residential mortgage loan;
- (D) a change in the number of required period payments;
- (E) an addition of collateral;
- (F) a change to, or addition of, a prepayment penalty;
- (G) an addition of a cosigner; or
- (H) a change in persons obligated under the existing residential mortgage loan; or
- (ii) substitute a new residential mortgage loan for an existing residential mortgage loan; or
- (b) as an employee or agent of another person:
- (i) solicit, or offer that the other person will engage in an act described in Subsection (15)(a); or
- (ii) negotiate terms in relationship to an act described in Subsection (15)(a).
- (16) "Main office" means the address which a principal broker designates with the division as the principal broker's primary brokerage office.
- (17) "Person" means an individual or entity.
- (18) "Principal broker" means an individual who is licensed as a principal broker under this chapter and who:
- (a) (i) sells or lists for sale real estate, including real estate being sold as part of a foreclosure rescue, or a business opportunity with the expectation of receiving valuable consideration;
- (ii) buys, exchanges, or auctions real estate, an option on real estate, a business opportunity, or an improvement on real estate with the expectation of receiving valuable consideration; or
- (iii) advertises, offers, attempts, or otherwise holds the individual out to be engaged in the business described in Subsection (18)(a)(i) or (ii);
- (b) is employed by or on behalf of the owner of real estate or by a prospective purchaser of real estate and performs an act described in Subsection (18)(a), whether the individual's compensation is at a stated salary, a commission basis, upon a salary and commission basis, or otherwise;
- (c) (i) with the expectation of receiving valuable consideration, manages property owned by another person; or
- (ii) advertises or otherwise holds the individual out to be engaged in property management;

(d) with the expectation of receiving valuable consideration, assists or directs in the procurement of prospects for or the negotiation of a transaction listed in Subsections (18)(a) and (c);

(e) except for a mortgage lender, title insurance producer, or an employee of a mortgage lender or title insurance producer, assists or directs in the closing of a real estate transaction with the expectation of receiving valuable consideration; or

(f) (i) engages in foreclosure rescue; or

(ii) advertises, offers, attempts, or otherwise holds the person out as being engaged in foreclosure rescue.

(19) (a) "Property management" means engaging in, with the expectation of receiving valuable consideration, the management of real estate owned by another person or advertising or otherwise claiming to be engaged in property management by:

(i) advertising for, arranging, negotiating, offering, or otherwise attempting or participating in a transaction calculated to secure the rental or leasing of real estate;

(ii) collecting, agreeing, offering, or otherwise attempting to collect rent for the real estate and accounting for and disbursing the money collected; or

(iii) authorizing expenditures for repairs to the real estate.

(b) "Property management" does not include:

(i) hotel or motel management;

(ii) rental of tourist accommodations, including hotels, motels, tourist homes, condominiums, condominium hotels, mobile home park accommodations, campgrounds, or similar public accommodations for a period of less than 30 consecutive days, and the management activities associated with these rentals; or

(iii) the leasing or management of surface or subsurface minerals or oil and gas interests, if the leasing or management is separate from a sale or lease of the surface estate.

(20) "Real estate" includes leaseholds and business opportunities involving real property.

(21) (a) "Regular salaried employee" means an individual who performs a service for wages or other remuneration, whose employer withholds federal employment taxes under a contract of hire, written or oral, express or implied.

(b) "Regular salaried employee" does not include an individual who performs services on a project-by-project basis or on a commission basis.

(22) "Reinstatement" means restoring a license that has expired or has been suspended.

(23) "Reissuance" means the process by which a licensee may obtain a license following revocation of the license.

(24) "Renewal" means extending a license for an additional licensing period on or before the date the license expires.

(25) "Sales agent" means an individual who is:

(a) affiliated with a principal broker, either as an independent contractor or an employee as provided in Section 61-2f-303, to perform for valuable consideration an act described in Subsection (18); and

(b) licensed under this chapter as a sales agent.

~~[(26) (a) "Undivided fractionalized long-term estate" means an ownership interest in real property by two or more persons that is:]~~

~~[(i) a tenancy in common; or]~~

~~[(ii) any other legal form of undivided estate in real property including:]~~

~~[(A) a fee estate;]~~

~~[(B) a life estate; or]~~

~~[(C) other long-term estate.]~~

~~[(b) "Undivided fractionalized long-term estate" does not include a joint tenancy.]~~

Section 15. Section 61-2f-103 is amended to read:

61-2f-103. Real Estate Commission.

(1) There is created within the division a Real Estate Commission. The commission shall:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for the administration of this chapter that are not inconsistent with this chapter, including:

(i) licensing of:

(A) a principal broker;

(B) an associate broker; and

(C) a sales agent;

(ii) registration of:

(A) an entity; and

(B) a branch office;

(iii) prelicensing and postlicensing education curricula;

(iv) examination procedures;

(v) the certification and conduct of:

(A) a real estate school;

(B) a course provider; or

(C) an instructor;

(vi) proper handling of money received by a licensee under this chapter;

(vii) brokerage office procedures and recordkeeping requirements;

(viii) property management;

(ix) standards of conduct for a licensee under this chapter; and

~~[(x) a rule made under Section 61-2f-307 regarding an undivided fractionalized long-term estate; and]~~

~~[(xi)]~~ (x) if the commission determines necessary, a rule as provided in Subsection 61-2f-306(3) regarding a legal form;

(b) establish, with the concurrence of the division, a fee provided for in this chapter, except a fee imposed under Part 5, Real Estate Education, Research, and Recovery Fund Act;

(c) conduct an administrative hearing not delegated by the commission to an administrative law judge or the division relating to the:

(i) licensing of an applicant;

(ii) conduct of a licensee;

(iii) the certification or conduct of a real estate school, course provider, or instructor regulated under this chapter; or

(iv) violation of this chapter by any person;

(d) with the concurrence of the director, impose a sanction as provided in Section 61-2f-404;

(e) advise the director on the administration and enforcement of a matter affecting the division and the real estate sales and property management industries;

(f) advise the director on matters affecting the division budget;

(g) advise and assist the director in conducting real estate seminars; and

(h) perform other duties as provided by this chapter.

(2) (a) Except as provided in Subsection (2)(b), a state entity may not, without the concurrence of the commission, make a rule that changes the rights, duties, or obligations of buyers, sellers, or persons licensed under this chapter in relation to a real estate transaction between private parties.

(b) Subsection (2)(a) does not apply to a rule made:

(i) under Title 31A, Insurance Code, or Title 7, Financial Institutions Act; or

(ii) by the Department of Commerce or any division or other rulemaking body within the Department of Commerce.

(3) (a) The commission shall be comprised of five members appointed by the governor and approved by the Senate.

(b) Four of the commission members shall:

(i) have at least five years' experience in the real estate business; and

(ii) hold an active principal broker, associate broker, or sales agent license.

(c) One commission member shall be a member of the general public.

(d) The governor may not appoint a commission member described in Subsection (3)(b) who, at the time of appointment, resides in the same county in the state as another commission member.

(e) At least one commission member described in Subsection (3)(b) shall at the time of an appointment reside in a county that is not a county of the first or second class.

(4) (a) Except as required by Subsection (4)(b), as terms of current commission members expire, the governor shall appoint each new member or reappointed member to a four-year term ending June 30.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(c) Upon the expiration of the term of a member of the commission, the member of the commission shall continue to hold office until a successor is appointed and qualified.

(d) A commission member may not serve more than two consecutive terms.

(e) Members of the commission shall annually select one member to serve as chair.

(5) When a vacancy occurs in the membership for any reason, the governor, with the consent of the Senate, shall appoint a replacement for the unexpired term.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) (a) The commission shall meet at least monthly.

(b) The director may call additional meetings:

(i) at the director's discretion;

(ii) upon the request of the chair; or

(iii) upon the written request of three or more commission members.

(8) Three members of the commission constitute a quorum for the transaction of business.

Section 16. Repealer.

This bill repeals:

Section 61-2f-307, Rulemaking required for offer or sale of an undivided fractionalized long-term estate -- Disclosures -- Management agreement.

CHAPTER 382**H. B. 341**

Passed March 10, 2016
 Approved March 29, 2016
 Effective May 10, 2016

**INTERLOCAL COOPERATION
ACT AMENDMENTS**

Chief Sponsor: Merrill F. Nelson
 Senate Sponsor: Ralph Okerlund

LONG TITLE**General Description:**

This bill modifies and enacts provisions of the Interlocal Cooperation Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ authorizes a taxed interlocal entity to establish one or more segments that are treated as separate interlocal entities and may have separate rights, powers, privileges, or duties;
- ▶ provides for a limitation on the liabilities of a segment;
- ▶ addresses the members of a segment, the liabilities of directors and officers of a taxed interlocal entity or of a segment, and the termination of a segment; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 11-13-103, as last amended by Laws of Utah 2015, Chapter 265
 11-13-202.5, as last amended by Laws of Utah 2015, Chapter 265
 11-13-301, as last amended by Laws of Utah 2012, Chapter 345
 11-13-304, as last amended by Laws of Utah 2012, Chapter 345
 11-13-401, as enacted by Laws of Utah 2015, Chapter 265
 11-13-502, as enacted by Laws of Utah 2015, Chapter 265
 63A-3-401, as last amended by Laws of Utah 2015, Chapter 38

ENACTS:

- 11-13-601, Utah Code Annotated 1953
 11-13-602, Utah Code Annotated 1953
 11-13-604, Utah Code Annotated 1953
 11-13-605, Utah Code Annotated 1953
 11-13-606, Utah Code Annotated 1953
 11-13-607, Utah Code Annotated 1953
 11-13-608, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

- 11-13-603, (Renumbered from 11-13-315, as last amended by Laws of Utah 2015, Chapters 265 and 308)

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-13-103 is amended to read:**11-13-103. Definitions.**

As used in this chapter:

(1) (a) "Additional project capacity" means electric generating capacity provided by a generating unit that first produces electricity on or after May 6, 2002, and that is constructed or installed at or adjacent to the site of a project that first produced electricity before May 6, 2002, regardless of whether:

(i) the owners of the new generating unit are the same as or different from the owner of the project; and

(ii) the purchasers of electricity from the new generating unit are the same as or different from the purchasers of electricity from the project.

(b) "Additional project capacity" does not mean or include replacement project capacity.

(2) "Board" means the Permanent Community Impact Fund Board created by Section 35A-8-304, and its successors.

(3) "Candidate" means one or more of:

(a) the state;

(b) a county, municipality, school district, local district, special service district, or other political subdivision of the state; and

(c) a prosecution district.

(4) "Commercial project entity" means a project entity, defined in Subsection [(47)] (18), that:

(a) has no taxing authority; and

(b) is not supported in whole or in part by and does not expend or disburse tax revenues.

(5) "Direct impacts" means an increase in the need for public facilities or services that is attributable to the project or facilities providing additional project capacity, except impacts resulting from the construction or operation of a facility that is:

(a) owned by an owner other than the owner of the project or of the facilities providing additional project capacity; and

(b) used to furnish fuel, construction, or operation materials for use in the project.

(6) "Electric interlocal entity" means an interlocal entity described in Subsection 11-13-203(3).

(7) "Energy services interlocal entity" means an interlocal entity that is described in Subsection 11-13-203(4).

(8) (a) "Estimated electric requirements," when used with respect to a qualified energy services interlocal entity, includes any of the following that meets the requirements of Subsection (8)(b):

(i) generation capacity;

(ii) generation output; or

(iii) an electric energy production facility.

(b) An item listed in Subsection (8)(a) is included in “estimated electric requirements” if it is needed by the qualified energy services interlocal entity to perform the qualified energy services interlocal entity’s contractual or legal obligations to any of its members.

(9) (a) “Facilities providing replacement project capacity” means facilities that have been, are being, or are proposed to be constructed, reconstructed, converted, repowered, acquired, leased, used, or installed to provide replacement project capacity.

(b) “Facilities providing replacement project capacity” includes facilities that have been, are being, or are proposed to be constructed, reconstructed, converted, repowered, acquired, leased, used, or installed:

(i) to support and facilitate the construction, reconstruction, conversion, repowering, installation, financing, operation, management, or use of replacement project capacity; or

(ii) for the distribution of power generated from existing capacity or replacement project capacity to facilities located on real property in which the project entity that owns the project has an ownership, leasehold, right-of-way, or permitted interest.

[~~9~~] (10) “Governing authority” means a governing board or joint administrator.

[~~10~~] (11) (a) “Governing board” means the body established in reliance on the authority provided under Subsection 11-13-206(1)(b) to govern an interlocal entity.

(b) “Governing board” includes a board of directors described in an agreement, as amended, that creates a project entity.

[~~11~~] (c) “Governing board” does not include a board as defined in Subsection (2).

[~~11~~] (12) “Interlocal entity” means:

(a) a Utah interlocal entity, an electric interlocal entity, or an energy services interlocal entity; or

(b) a separate legal or administrative entity created under Section 11-13-205.

[~~12~~] (13) “Joint administrator” means an administrator or joint board described in Section 11-13-207 to administer a joint or cooperative undertaking.

[~~13~~] (14) “Joint or cooperative undertaking” means an undertaking described in Section 11-13-207 that is not conducted by an interlocal entity.

[~~14~~] (15) “Member” means a public agency that, with another public agency, creates an interlocal entity under Section 11-13-203.

[~~15~~] (16) “Out-of-state public agency” means a public agency as defined in Subsection [~~18~~] (19)(c), (d), or (e).

[~~16~~] (17) (a) “Project”:

(i) means an electric generation and transmission facility owned by a Utah interlocal entity or an electric interlocal entity; and

(ii) includes fuel or fuel transportation facilities and water facilities owned by that Utah interlocal entity or electric interlocal entity and required for the generation and transmission facility.

(b) “Project” includes a project entity’s ownership interest in:

(i) facilities that provide additional project capacity;

(ii) facilities [~~that provide~~] providing replacement project capacity; and

(iii) additional generating, transmission, fuel, fuel transportation, water, or other facilities added to a project.

[~~17~~] (18) “Project entity” means a Utah interlocal entity or an electric interlocal entity that owns a project as defined in this section.

[~~18~~] (19) “Public agency” means:

(a) a city, town, county, school district, local district, special service district, an interlocal entity, or other political subdivision of the state;

(b) the state or any department, division, or agency of the state;

(c) any agency of the United States;

(d) any political subdivision or agency of another state or the District of Columbia including any interlocal cooperation or joint powers agency formed under the authority of the law of the other state or the District of Columbia; or

(e) any Indian tribe, band, nation, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

[~~19~~] (20) “Qualified energy services interlocal entity” means an energy services interlocal entity that at the time that the energy services interlocal entity acquires its interest in facilities providing additional project capacity has at least five members that are Utah public agencies.

[~~20~~] (21) “Replacement project capacity” means electric generating capacity or transmission capacity that:

(a) replaces all or a portion of the existing electric generating or transmission capacity of a project; and

(b) is provided by a facility that is [~~constructed, reconstructed, converted, repowered, or installed in a location~~] on, adjacent to [~~or~~], in proximity to, or interconnected with the site of a project, regardless of whether:

(i) the capacity replacing existing capacity is less than or exceeds the generating or transmission capacity of the project [~~prior to~~] existing before installation of the capacity replacing existing capacity[.];

(ii) the capacity replacing existing capacity is owned by the project entity that is the owner of the project, a segment established by the project entity, or a person with whom the project entity or a segment established by the project entity has contracted; or

(iii) the facility that provides the capacity replacing existing capacity is constructed, reconstructed, converted, repowered, acquired, leased, used, or installed before or after any actual or anticipated reduction or modification to existing capacity of the project.

~~[(21)]~~ (22) "Utah interlocal entity":

(a) means an interlocal entity described in Subsection 11-13-203(2); and

(b) includes a separate legal or administrative entity created under Laws of Utah 1977, Chapter 47, Section 3, as amended.

~~[(22)]~~ (23) "Utah public agency" means a public agency under Subsection ~~[(18)]~~ (19)(a) or (b).

Section 2. Section 11-13-202.5 is amended to read:

11-13-202.5. Approval of certain agreements -- Review by attorney.

(1) Each agreement under Section 11-13-202 and each agreement under Section 11-13-212 shall be approved by:

(a) except as provided in Subsections (1)(b) and (c), the commission, board, council, or other body or officer vested with the executive power of the public agency;

(b) the legislative body of the public agency if the agreement:

(i) requires the public agency to adjust its budget for a current or future fiscal year;

(ii) includes an out-of-state public agency as a party;

(iii) provides for the public agency to acquire or construct:

(A) a facility; or

(B) an improvement to real property;

(iv) provides for the public agency to acquire or transfer title to real property;

(v) provides for the public agency to issue bonds;

(vi) creates an interlocal entity; or

(vii) provides for the public agency to share taxes or other revenues; or

(c) if the public agency is a public agency under Subsection 11-13-103~~(18)~~(19)(b), the director or

other head of the applicable state department, division, or agency.

(2) If an agreement is required under Subsection (1) to be approved by the public agency's legislative body, the resolution or ordinance approving the agreement shall:

(a) specify the effective date of the agreement; and

(b) if the agreement creates an interlocal entity:

(i) declare that it is the legislative body's intent to create an interlocal entity;

(ii) describe the public purposes for which the interlocal entity is created; and

(iii) describe the powers, duties, and functions of the interlocal entity.

(3) The officer or body required under Subsection (1) to approve an agreement shall, before the agreement may take effect, submit the agreement to the attorney authorized to represent the public agency for review as to proper form and compliance with applicable law.

Section 3. Section 11-13-301 is amended to read:

11-13-301. Project entity and generation output requirements.

(1) Each project entity:

(a) shall:

(i) except for construction of facilities [~~to provide~~] providing replacement project capacity, before undertaking the construction of a project and before undertaking the construction of facilities to provide additional project capacity, offer to sell or make available at least 50% of the generation output of or electric energy produced by the project or additional project capacity, respectively;

(ii) establish rules and procedures for an offer under Subsection (1)(a)(i) that provide at least 60 days for a prospective power purchaser to accept the offer before the offer is considered rejected; and

(iii) make each offer under Subsection (1)(a)(i):

(A) under a long-term arrangement that may be an undivided ownership interest, a participation interest, a power sales agreement, or otherwise; and

(B) to one or more power purchasers in the state that supply electric energy at wholesale or retail; and

(b) may undertake construction of facilities [~~to provide~~] providing replacement project capacity for its project.

(2) (a) The generation output or electric energy production available to power purchasers in the state from a project shall be at least 5% of the total generation output or electric energy production of the project.

(b) (i) Subject to Subsection (2)(b)(ii)(B), at least a majority of the generation capacity, generation

output, or electric energy production facilities providing additional project capacity shall be:

(A) made available as needed to meet the estimated electric requirements of entities or consumers within the state; and

(B) owned, purchased, or consumed by entities or consumers within the state.

(ii) (A) As used in this Subsection (2)(b)(ii), “default provision” means a provision authorizing a nondefaulting party to succeed to or require the disposition of the rights and interests of a defaulting party.

(B) The requirements of Subsection (2)(b)(i) do not apply to the extent that those requirements are not met due to the operation of a default provision in an agreement providing for ownership or other interests in facilities providing additional project capacity.

Section 4. Section 11-13-304 is amended to read:

11-13-304. Certificate of public convenience and necessity required -- Exceptions.

(1) Before proceeding with the construction of any electrical generating plant or transmission line, each interlocal entity and each out-of-state public agency shall first obtain from the public service commission a certificate, after hearing, that public convenience and necessity requires such construction and in addition that such construction will in no way impair the public convenience and necessity of electrical consumers of the state of Utah at the present time or in the future.

(2) The requirement to obtain a certificate of public convenience and necessity applies to each project initiated after the section’s effective date but does not apply to:

(a) a project for which a feasibility study was initiated prior to the effective date;

(b) any facilities providing additional project capacity;

(c) any facilities providing replacement project capacity; or

(d) transmission lines required for the delivery of electricity from a project described in Subsection (2)(a), or facilities providing additional project capacity, or facilities providing replacement project capacity within the corridor of a transmission line, with reasonable deviation, of a project producing as of April 21, 1987.

Section 5. Section 11-13-401 is amended to read:

11-13-401. Application.

(1) Except as provided in Subsection (2), and notwithstanding any other provision of law, this part applies to a governing authority created under this chapter.

(2) This part does not apply to:

(a) a taxed interlocal entity, as defined in Section ~~[11-13-315]~~ 11-13-602; or

(b) a project entity.

Section 6. Section 11-13-502 is amended to read:

11-13-502. Application -- Conflicts with federal law -- Other applicable law.

(1) This part does not apply to a taxed interlocal entity as defined in Section ~~[11-13-315]~~ 11-13-602.

(2) Except as provided in Subsection (1), and notwithstanding any other provision of law, this part governs an interlocal entity’s fiscal procedures but only to the extent that the provision does not conflict with or cause an interlocal entity to be noncompliant with federal law.

(3) An interlocal entity is subject to Title 51, Chapter 7, State Money Management Act.

Section 7. Section 11-13-601 is enacted to read:

Part 6. Taxed Interlocal Entities

11-13-601. Title.

This part is known as “Taxed Interlocal Entities.”

Section 8. Section 11-13-602 is enacted to read:

11-13-602. Definitions.

As used in this part:

(1) “Asset” means funds, money, an account, real or personal property, or personnel.

(2) (a) “Associated entity” means a taxed interlocal entity that adopts a segment’s organizing resolution.

(b) “Associated entity” does not include any other segment.

(3) “Fiduciary duty” means a duty expressly designated as a fiduciary duty of:

(a) a director or an officer of a taxed interlocal entity in:

(i) the organization agreement of the taxed interlocal entity; or

(ii) an agreement executed by the director or the officer and the taxed interlocal entity; or

(b) a director or an officer of a segment in:

(i) the organizing resolution of the segment; or

(ii) an agreement executed by the director or the officer and the segment.

(4) “Governing body” means the body established in an organizing resolution to govern a segment.

(5) “Governmental law” means:

(a) Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;

(b) Title 63A, Chapter 3, Division of Finance;

(c) Title 63G, Chapter 6a, Utah Procurement Code;

(d) a law imposing an obligation on a taxed interlocal entity similar to an obligation imposed by a law described in Subsection (5)(a), (b), or (c);

(e) an amendment to or replacement or renumbering of a law described in Subsection (5)(a), (b), (c), or (d); or

(f) a law superseding a law described in Subsection (5)(a), (b), (c), or (d).

(6) “Indexed office” means the address identified under Subsection 63G-7-401(5)(a)(i) by a segment’s associated entity in the associated entity’s statement described in Subsection 63G-7-401(5).

(7) “Organization agreement” means an agreement, as amended, that creates a taxed interlocal entity.

(8) “Organizing resolution” means a resolution described in Subsection 11-13-604(1) that creates a segment.

(9) “Principal county” means the county in which the indexed office of a segment’s associated entity is located.

(10) “Project” means:

(a) the same as that term is defined in Section 11-13-103; or

(b) facilities, improvements, or contracts undertaken by a taxed interlocal entity in accordance with Subsection 11-13-204(2).

(11) “Public asset” means:

(a) an asset used by a public entity;

(b) tax revenue;

(c) state funds; or

(d) public funds.

(12) “Segment” means a segment created in accordance with Section 11-13-604.

(13) “Taxed interlocal entity” means:

(a) a project entity that:

(i) is not exempt from a tax or fee in lieu of taxes imposed in accordance with Part 3, Project Entity Provisions;

(ii) does not receive a payment of funds from a federal agency or office, state agency or office, political subdivision, or other public agency or office other than a payment that does not materially exceed the greater of the fair market value and the cost of a service provided or property conveyed by the project entity; and

(iii) does not receive, expend, or have the authority to compel payment from tax revenue; or

(b) an interlocal entity that:

(i) was created before 1981 for the purpose of providing power supply at wholesale to its members;

(ii) does not receive a payment of funds from a federal agency or office, state agency or office, political subdivision, or other public agency or office other than a payment that does not materially exceed the greater of the fair market value and the cost of a service provided or property conveyed by the interlocal entity; and

(iii) does not receive, expend, or have the authority to compel payment from tax revenue.

(14) (a) “Use” means to use, own, manage, hold, keep safe, maintain, invest, deposit, administer, receive, expend, appropriate, disburse, or have custody.

(b) “Use” includes, when constituting a noun, the corresponding nominal form of each term in Subsection (13)(a), individually.

Section 9. Section 11-13-603, which is renumbered from Section 11-13-315 is renumbered and amended to read:

[11-13-315]. 11-13-603. Taxed interlocal entity.

[1] ~~As used in this section:~~

[a] ~~“Asset” means funds, money, an account, real or personal property, or personnel.~~

[b] ~~“Governmental law” means:~~

[i] ~~Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;~~

[ii] ~~Title 63A, Chapter 3, Division of Finance;~~

[iii] ~~Title 63G, Chapter 6a, Utah Procurement Code;~~

[iv] ~~a law imposing an obligation on a taxed interlocal entity similar to an obligation imposed by a law described in Subsection (1)(b)(i), (ii), or (iii);~~

[v] ~~an amendment to or replacement or renumbering of a law described in Subsection (1)(b)(i), (ii), (iii), or (iv); or~~

[vi] ~~a law superseding a law described in Subsection (1)(b)(i), (ii), (iii), or (iv).~~

[c] ~~“Public asset” means:~~

[i] ~~an asset used by a public entity;~~

[ii] ~~tax revenue;~~

[iii] ~~state funds; or~~

[iv] ~~public funds.~~

[d] (i) ~~“Taxed interlocal entity” means a project entity that:~~

[A] ~~is not exempt from a tax or fee in lieu of taxes imposed in accordance with Part 3, Project Entity Provisions;~~

[B] ~~does not receive a payment of funds from a federal agency or office, state agency or office, political subdivision, or other public agency or office other than a payment that does not materially exceed the greater of the fair market value and the~~

cost of a service provided or property conveyed by the project entity; and]

~~[(C) does not receive, expend, or have the authority to compel payment from tax revenue.]~~

~~[(ii) "Taxed interlocal entity" includes an interlocal entity that:]~~

~~[(A) was created before 1981 for the purpose of providing power supply at wholesale to its members;]~~

~~[(B) does not receive a payment of funds from a federal agency or office, state agency or office, political subdivision, or other public agency or office other than a payment that does not materially exceed the greater of the fair market value and the cost of a service provided or property conveyed by the interlocal entity; and]~~

~~[(C) does not receive, expend, or have the authority to compel payment from tax revenue.]~~

~~[(e) (i) "Use" means to use, own, manage, hold, keep safe, maintain, invest, deposit, administer, receive, expend, appropriate, disburse, or have custody.]~~

~~[(ii) "Use" includes, when constituting a noun, the corresponding nominal form of each term in Subsection (1)(e)(i), individually.]~~

~~[(2)] (1) Notwithstanding any other provision of law[,];~~

~~(a) the use of an asset by a taxed interlocal entity does not constitute the use of a public asset[-];~~

~~[(3) Notwithstanding any other provision of law,]~~

~~(b) a taxed interlocal entity's use of an asset that was a public asset [prior to] before the taxed interlocal entity's use of the asset does not constitute a taxed interlocal entity's use of a public asset[-];~~

~~[(4) Notwithstanding any other provision of law,]~~

~~(c) an official of a project entity is not a public treasurer[-]; and~~

~~[(5) Notwithstanding any other provision of law,]~~

~~(d) a taxed interlocal entity's governing [body, as described in Section 11-13-206,] board shall determine and direct the use of an asset by the taxed interlocal entity.~~

~~[(6)] (2) A taxed interlocal entity is not subject to the provisions of Title 63G, Chapter 6a, Utah Procurement Code.~~

~~[(7)-(a)] (3) (a) A taxed interlocal entity is not a participating local entity as defined in Section 63A-3-401.~~

~~(b) For each fiscal year of a taxed interlocal entity, the taxed interlocal entity shall provide:~~

~~(i) the taxed interlocal entity's financial statements for and as of the end of the fiscal year and the prior fiscal year, including:~~

~~(A) the taxed interlocal entity's [balance sheet] statement of net position as of the end of the fiscal year and the prior fiscal year, and the related statements of revenues and expenses and of cash flows for the fiscal year; [and] or~~

~~(B) financial statements that are equivalent to the financial statements described in Subsection (3)(b)(i)(A) and, at the time the financial statements were created, were in compliance with generally accepted accounting principles that are applicable to taxed interlocal entities; and~~

~~(ii) the accompanying auditor's report and management's discussion and analysis with respect to the taxed interlocal entity's financial statements for and as of the end of the fiscal year.~~

~~(c) The taxed interlocal entity shall provide the information described in [Subsections (7)(b)(i) and(ii)] Subsection (3)(b):~~

~~(i) in a manner described in Subsection 63A-3-405(3); and~~

~~(ii) within a reasonable time after the taxed interlocal entity's independent auditor delivers to the taxed interlocal entity's governing [body] board the auditor's report with respect to the financial statements for and as of the end of the fiscal year.~~

~~(d) Notwithstanding Subsections [(7)] (3)(b) and (c) or a taxed interlocal entity's compliance with one or more of the requirements of Title 63A, Chapter 3, Division of Finance:~~

~~(i) the taxed interlocal entity is not subject to Title 63A, Chapter 3, Division of Finance; and~~

~~(ii) the information described in Subsection [(7)] (3)(b)(i) or (ii) does not constitute public financial information as defined in Section 63A-3-401.~~

~~[(8)] (4) (a) A taxed interlocal entity's governing [body] board is not a governing board as defined in Section 51-2a-102.~~

~~(b) A taxed interlocal entity is not subject to the provisions of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.~~

~~[(9)-(a)] (5) Notwithstanding any other provision of law, a taxed interlocal entity is not subject to the following provisions:~~

~~[(i)] (a) Part 4, Governance;~~

~~[(ii)] (b) Part 5, Fiscal Procedures for Interlocal Entities;~~

~~[(iii)] (c) Subsection 11-13-204(1)(a)(i) or (ii)(J);~~

~~[(iv)] (d) Subsection 11-13-206(1)(f);~~

~~[(v)] (e) Subsection 11-13-218(5)(a);~~

~~[(vi)] (f) Section 11-13-225;~~

~~[(vii)] (g) Section 11-13-226; or~~

~~[(viii)] (h) Section 53-2a-605.~~

~~[(b)] (6) (a) In addition to having the powers [provided] described in Subsection 11-13-204(1)(a)(ii), a taxed interlocal entity may,~~

for the regulation of the entity's affairs and conduct of its business, adopt, amend, or repeal bylaws, policies, or procedures.

(e) (b) Nothing in Part 4, Governance, or Part 5, Fiscal Procedures for Interlocal Entities, may be construed to limit the power or authority of a taxed interlocal entity.

(40) (7) (a) A governmental law enacted after May 12, 2015, is not applicable to, is not binding upon, and does not have effect on a taxed interlocal entity unless the governmental law expressly states the section of governmental law to be applicable to and binding upon the taxed interlocal entity with the following words: "[Applicable section or subsection number] constitutes an exception to Subsection 11-13-315(10) and is applicable to and binding upon a taxed interlocal entity."

(b) Sections 11-13-601 through 11-13-608 constitute an exception to Subsection (7)(a) and are applicable to and binding upon a taxed interlocal entity.

Section 10. Section 11-13-604 is enacted to read:

11-13-604. Segments authorized.

(1) (a) To the extent authorized in a taxed interlocal entity's organization agreement or by a majority of the public entities that are parties to a taxed interlocal entity's organization agreement, the governing board of a taxed interlocal entity may by resolution establish or provide for the establishment of one or more segments that have separate rights, powers, privileges, authority or by a majority of the public entities that are parties to a taxed interlocal entity's organization agreement, or duties with respect to, as specified in the segment's organizing resolution, the taxed interlocal entity's:

- (i) property;
- (ii) assets;
- (iii) projects;
- (iv) undertakings;
- (v) opportunities;
- (vi) actions;
- (vii) debts;
- (viii) liabilities;
- (ix) obligations; or

(x) any combination of the items listed in Subsections (1)(a)(i) through (viii).

(b) To the extent provided in the organization agreement of a segment's associated entity, a segment may have a separate purpose from the associated entity.

(c) The name of a segment shall:

(i) contain the name of the segment's associated entity; and

(ii) be distinguishable from the name of any other segment established by the associated entity.

(2) Notwithstanding any other provision of law, the debts, liabilities, and obligations incurred, contracted for, arising out of the conduct of or otherwise existing with respect to a particular segment are only enforceable or chargeable against the assets of that segment, and not against the assets of the segment's associated entity generally or any other segment established by the segment's associated entity if:

(a) the segment is established by or in accordance with an organizing resolution;

(b) separate records are maintained for the segment to the extent necessary to avoid the segment's records constituting a fraud upon the segment's creditors;

(c) the assets associated with the segment are held and accounted for separately from the assets of any other segment established by the associated entity to the extent necessary to avoid the segment's accounting for the segment's assets constituting a fraud upon the segment's creditors;

(d) the segment's organizing resolution provides for a limitation on liabilities of the segment; and

(e) a notice of limitation on liabilities of the segment is recorded in accordance with Section 11-13-605.

(3) Except as otherwise provided in the segment's organizing resolution, a segment that satisfies the conditions described in Subsections (2)(a) through (e):

(a) is treated as a separate interlocal entity; and

(b) may:

(i) in its own name, contract, hold title to property, grant liens and security interests, and sue and be sued;

(ii) exercise all or any part of the powers, privileges, rights, authority, and capacity of the segment's associated entity; and

(iii) engage in any action in which the segment's associated entity may engage.

(4) Except as otherwise provided in the organization agreement of the segment's associated entity or in the segment's organizing resolution, a segment is governed by the organization agreement of the segment's associated entity.

(5) Subject to Subsection (4), a segment's organizing resolution:

(a) may address any matter relating to the segment, including the segment's governance or operation, to the extent that the organization agreement of a segment's associated entity does not address the matter; and

(b) to the extent not addressed in the organization agreement of the segment's associated entity, shall address the following matters:

(i) the powers delegated to the segment;

(ii) the manner in which the segment is to be governed, including whether the segment's governing body is the same as the governing board of the segment's associated entity;

(iii) subject to Subsection (6), if the segment's governing body is different from the governing board of the segment's associated entity, the manner in which the members of the segment's governing body are appointed or selected;

(iv) the segment's purpose;

(v) the manner of financing the segment's actions;

(vi) how the segment will establish and maintain a budget;

(vii) how to partially or completely terminate the segment and, upon a partial or complete termination, how to dispose of the segment's property;

(viii) the process, conditions, and terms for withdrawal of a participating public agency from the segment; and

(ix) voting rights, including whether voting is weighted, and, if so, the basis upon which the vote weight is determined.

(6) An organizing resolution shall provide that if a segment's governing body is different from the governing board of the segment's associated entity, the Utah public agencies that are parties to the organization agreement of the segment's associated entity may appoint or select members of the segment's governing body with a majority of the voting power.

(7) A segment may not:

(a) transfer the segment's property or other assets to the segment's associated entity or to another segment established by the segment's associated entity if the transfer impairs the ability of the segment to pay the segment's debts that exist at the time of the transfer, unless the segment's associated entity or the other segment gives fair value for the property or asset; or

(b) assign a tax or other liability imposed against the segment to the segment's associated entity or to another segment established by the segment's associated entity if the assignment impairs a creditor's ability to collect the amount due when owed.

(8) If a segment and a segment's associated entity or another segment established by the segment's associated entity are involved in a joint action or have a common interest in a facility, the segment's or the segment's associated entity's maintenance of records and accounts related to the joint action or common interest does not constitute a violation of Subsection (2)(b) or (c).

(9) Except as otherwise provided in this part or where clearly not applicable, the provisions of law that apply to a segment's associated entity also apply to the segment, including Subsection

11-13-205(5), as if the segment were a separate legal or administrative entity.

(10) (a) To the extent an associated entity is a taxpayer as defined in Section 59-8-103, the associated entity shall pay tax on the associated entity's gross receipts at the rate of tax that would apply if all gross receipts of the associated entity and the associated entity's segments, in the aggregate, were the gross receipts of a single taxpayer.

(b) Each segment of an associated entity that is a taxpayer as defined in Section 59-8-103 shall pay tax on the segment's gross receipts each period described in Subsection 59-8-105(1) at the same rate of tax as the rate of tax paid by the segment's associated entity for the same period.

(c) Notwithstanding Subsections (10)(a) and (b):

(i) an associated entity is not liable for the tax imposed on a segment; and

(ii) a segment of an associated entity is not liable for the tax imposed on the segment's associated entity or on another segment of the segment's associated entity.

Section 11. Section 11-13-605 is enacted to read:

11-13-605. Notice of limitation on liabilities of segments.

(1) (a) A notice of limitation on liabilities of a segment described in Subsection 11-13-604(2)(e) shall:

(i) state:

(A) the name of the segment's associated entity;

(B) the associated entity's indexed office;

(C) the associated entity's principal county; and

(D) that the liabilities of each segment established by the associated entity, regardless of when the segment is created, are limited in accordance with the provisions of this part; and

(ii) be acknowledged by a director or an officer of the associated entity.

(b) A notice of limitation on liabilities of a segment is not required to refer to a particular segment.

(2) (a) The requirements described in Section 57-3-105 do not apply to a notice of limitation on liabilities of a segment.

(b) A county recorder shall record a notice of limitation on liabilities of a segment that:

(i) is submitted to the county recorder for recording; and

(ii) satisfies the requirements described in Subsection (1)(a).

(3) A recorded notice of limitation on liabilities of a segment does not create any interest in or otherwise encumber the property described in the notice.

(4) Title 38, Chapter 9, Wrongful Lien Act, and Title 38, Chapter 9a, Wrongful Lien Injunctions, do not apply to a notice of limitation on liabilities of a segment.

(5) A notice of limitation on liabilities of a segment that is recorded in accordance with this part in the principal county of the segment's associated entity constitutes notice for all purposes of the limitation on liabilities of the segment, regardless of whether the segment is established at the time the notice is recorded.

Section 12. Section 11-13-606 is enacted to read:

11-13-606. Members of a segment.

(1) Except as otherwise provided by a segment's organizing resolution in accordance with Subsection (2), a segment's associated entity is the sole member of the segment.

(2) A segment's organizing resolution may provide that a segment's membership includes a public agency other than the segment's associated entity only if the organizing resolution provides:

(a) the relative rights, powers, and duties of the segment's members;

(b) whether the members exercise the members' rights and powers and discharge the members' duties in one or more classes or groups;

(c) the method by which a member's membership in the segment is terminated;

(d) the effect of a member's termination; and

(e) the effect of the termination of the last member's membership in the segment, including the effect on the existence of the segment.

Section 13. Section 11-13-607 is enacted to read:

11-13-607. Limitations of liability for directors and officers.

(1) A director or an officer of a taxed interlocal entity or a segment is not liable to the taxed interlocal entity, the segment, a member of the taxed interlocal entity, a member of the segment, a conservator, receiver, or successor-in-interest of the taxed interlocal entity, or a conservator, receiver, or successor-in-interest of the segment for any action or failure to act as a director or an officer, unless:

(a) the director or the officer breaches a fiduciary duty that the director or the officer owes to the taxed interlocal entity, the segment, a member of the taxed interlocal entity, or a member of the segment; and

(b) the breach described in Subsection (1)(a) constitutes gross negligence, willful misconduct, or intentional infliction of harm on the taxed interlocal entity, the segment, a member of the taxed interlocal entity, or a member of the segment.

(2) (a) Except as provided in Subsection (2)(b), a taxed interlocal entity or a segment may limit or eliminate the liability of a director or an officer described in Subsection (1) for monetary damages.

(b) A taxed interlocal entity or a segment may not limit or eliminate liability of a director or an officer in accordance with Subsection (2)(a) for monetary damages arising out of:

(i) a breach of a fiduciary duty;

(ii) an intentional infliction of harm on the taxed interlocal entity, the segment, a member of the taxed interlocal entity, or a member of the segment;

(iii) improper financial benefit; or

(iv) willful misconduct that constitutes an intentional violation of criminal law.

(3) The provisions of this section do not affect the liability of a director or an officer for an act or omission that occurred before May 10, 2016.

(4) (a) The duties owed by a director or an officer of a taxed interlocal entity or a segment consist of the following:

(i) any fiduciary duty;

(ii) any other duty specified in:

(A) the organization agreement or bylaws of the taxed interlocal entity;

(B) the organizing resolution or bylaws of the segment; or

(C) any contract between the director or the officer and the taxed interlocal entity or the segment; and

(iii) each duty that applies to a taxed interlocal entity under Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(b) Each fiduciary duty of a director or an officer of a segment shall be consistent with the fiduciary duties of a director or an officer of the segment's associated entity.

(5) (a) Nothing in this section nor any action taken by a taxed interlocal entity, a segment, a director or an officer of a taxed interlocal entity, or a director or an officer of a segment constitutes a waiver of any immunity or defense available under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(b) Subsections (1)(a) and (b) and (2)(b) apply only to the extent that the taxed interlocal entity, the segment, the director or the officer of the taxed interlocal entity, or the director or the officer of the segment is subject to liability under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

Section 14. Section 11-13-608 is enacted to read:

11-13-608. Termination of associated entity or segment.

(1) The termination of a segment does not affect the segment's or the segment's associated entity's limitation on liabilities under this part.

(2) A segment is terminated upon the termination of the segment's associated entity.

(3) (a) Subject to Subsection (3)(b), the termination of a segment's associated entity or a segment may not affect the liability of the governing board, the governing body, a member of the governing board, a member of the governing body, an officer, an official, a contractor, or an employee for an action authorized:

(i) before the termination of the associated entity or the segment by the governing board of the terminated associated entity or by the governing body of the terminated segment; or

(ii) after the termination of the associated entity or the segment by:

(A) a majority of individuals serving as members of the governing board of the terminated associated entity at the time the associated entity is terminated; or

(B) a majority of the individuals serving as members of the governing body of the terminated segment at the time the segment is terminated.

(b) Subsection (3)(a) applies to each action to:

(i) provide for the claims, debts, obligations, or liabilities of the terminated associated entity or the terminated segment; or

(ii) otherwise wind up the affairs of the terminated associated entity or the terminated segment.

Section 15. Section 63A-3-401 is amended to read:

63A-3-401. Definitions.

As used in this part:

(1) "Board" means the Utah Transparency Advisory Board created under Section 63A-3-403.

(2) "Division" means the Division of Finance of the Department of Administrative Services.

(3) (a) "Independent entity," except as provided in Subsection (3)(c), means the same as that term is defined in Section 63E-1-102.

(b) "Independent entity" includes an entity that is part of an independent entity described in this Subsection (3), if the entity is considered a component unit of the independent entity under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(c) "Independent entity" does not include:

(i) the Workers' Compensation Fund created in Section 31A-33-102; or

(ii) the Utah State Retirement Office created in Section 49-11-201.

(4) "Participating local entity" means each of the following local entities, if the entity meets the size or budget thresholds established by the board under Subsection 63A-3-403(3)(e):

(a) a county;

(b) a municipality;

(c) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts;

(d) a special service district under Title 17D, Chapter 1, Special Service District Act;

(e) a school district;

(f) a charter school;

(g) except for a taxed interlocal entity [described] as defined in Section [11-13-315] 11-13-602, an interlocal entity as defined in Section 11-13-103; and

(h) except for a taxed interlocal entity [described] as defined in Section [11-13-315] 11-13-602, an entity that is part of an entity described in Subsections (4)(a) through (g), if the entity is considered a component unit of the entity described in Subsections (4)(a) through (g) under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(5) (a) "Participating state entity" means the state of Utah, including its executive, legislative, and judicial branches, its departments, divisions, agencies, boards, commissions, councils, committees, and institutions.

(b) "Participating state entity" includes an entity that is part of an entity described in Subsection (5)(a), if the entity is considered a component unit of the entity described in Subsection (5)(a) under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(6) "Public financial information" means records that are required to be made available on the Utah Public Finance Website, a participating local entity's website, or an independent entity's website as required by this part, and as the term "public financial information" is defined by rule under Section 63A-3-404.

CHAPTER 383**H. B. 391**

Passed March 9, 2016

Approved March 29, 2016

Effective May 10, 2016

LAW ENFORCEMENT REVISIONS

Chief Sponsor: Michael E. Noel
Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill enacts provisions relating to law enforcement on public land and on land to which the federal government has obtained right or title.

Highlighted Provisions:

This bill:

- ▶ provides for the chief executive officer of a political subdivision or a county sheriff to determine whether:
 - the Bureau of Land Management or the United States Department of the Interior is complying with certain provisions of federal law relating to agreements for local law enforcement to enforce federal law and regulations on public lands; or
 - a federal law enforcement official is exceeding the law enforcement official's jurisdiction in relation to certain land; and
- ▶ addresses legal action to enforce the provisions of the bill.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53-13-106.11, Utah Code Annotated 1953

53-13-106.12, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-13-106.11 is enacted to read:**53-13-106.11. Agreement for local law enforcement to enforce federal law -- Legal recourse to enforce.**

(1) As used in this section:

(a) "Bureau" means the Bureau of Land Management, within the department.

(b) "Department" means the United States Department of the Interior.

(2) The chief executive officer of a political subdivision or a county sheriff may, in accordance with Subsection (3), determine that the bureau's failure to enter into an agreement described in Subsection 53-13-106.9(3) violates the political subdivision's rights under 43 U.S.C. Sec. 1733(c)(1).

(3) In evaluating whether a violation of 43 U.S.C. Sec. 1733(c)(1) has occurred, the chief executive

officer of a political subdivision or a county sheriff may consider:

(a) whether the bureau or the department has, by the words or actions of an employee or agent of the bureau or department, effectively determined that assistance is necessary in enforcing federal laws and regulations relating to public lands or the resources of public lands;

(b) whether the bureau or the department has:

(i) offered to contract with appropriate officials of the political subdivision that have law enforcement authority in the political subdivision's jurisdiction; and

(ii) made an offer described in Subsection (3)(b)(i) with the view of achieving maximum feasible reliance upon local law enforcement officials in enforcing federal laws and regulations relating to public lands or the resources of public lands;

(c) whether the bureau or the department has negotiated on reasonable terms with local officials who have authority to enter into a contract described in Subsection (3)(b);

(d) whether the contract described in Subsection (3)(b) authorizes the local law enforcement officials and the local law enforcement officials' agents to:

(i) carry firearms;

(ii) execute and serve any warrant or other process issued by a court or officer of competent jurisdiction;

(iii) make arrests without a warrant or process for:

(A) a misdemeanor that a local law enforcement official or an agent of the local law enforcement official has reasonable grounds to believe is being committed in the local law enforcement official's or agent's presence or view; or

(B) a felony if a local law enforcement official or an agent of the local law enforcement official has reasonable grounds to believe that the person to be arrested has committed or is committing a felony;

(iv) search without a warrant or process any person, place, or conveyance, in accordance with federal law or rule of law; and

(v) seize without a warrant or process any evidentiary item as provided by federal law;

(e) whether the bureau or department has provided law enforcement training as the bureau or department determines is necessary in order to carry out the contracted responsibilities; and

(f) whether the local law enforcement officials and their agents will be guaranteed, under the contract, all immunities of federal law enforcement officials while exercising the powers and authorities granted in the contract.

(4) If, after consulting with the attorney general, the chief executive officer of a political subdivision or a county sheriff makes the determination described in Subsection (2), the chief executive officer or county sheriff shall:

(a) in accordance with Subsection (5), serve notice of the determination on the bureau personally or by certified mail; and

(b) provide a copy of the notice described in Subsection (4)(a) to the governor, the attorney general, the state's congressional delegation, and the head of the department.

(5) The notice described in Subsection (4) shall include:

(a) a detailed explanation of the basis for determining that the bureau has violated 43 U.S.C. Sec. 1733(c)(1);

(b) a demand that the bureau and the department cease the violation and comply with 43 U.S.C. Sec. 1733(c)(1); and

(c) a specific date, no less than 30 days after the day on which the notice is served, by which time the bureau and the department shall:

(i) cease the violation and comply with 43 U.S.C. Sec. 1733(c)(1); or

(ii) provide the chief executive officer or county sheriff described in Subsection (4) with a plan for ceasing the violation and complying with 43 U.S.C. Sec. 1733(c)(1) that is reasonably acceptable to the political subdivision.

(6) The chief executive officer of a political subdivision or a county sheriff may agree to a plan described in Subsection (5)(c)(ii).

(7) (a) If, after the notice described in Subsections (4) and (5) is served, the bureau or the department does not respond by the date described in Subsection (5)(c) or otherwise indicate that the bureau or the department is unwilling to take action to cease the violation of 43 U.S.C. Sec. 1733(c)(1), the chief executive officer or county sheriff may, after consultation with the county attorney and the attorney general, pursue all available legal remedies.

(b) In seeking any emergency injunction for a violation of 43 U.S.C. Sec. 1733(c)(1), a chief executive officer of a political subdivision or a county sheriff shall attempt, to the extent possible, to coordinate with the state, the bureau, and the department.

Section 2. Section 53-13-106.12 is enacted to read:

53-13-106.12. Law enforcement actions exceeding jurisdiction over federal land -- Procedure for determination and legal recourse.

(1) As used in this section:

(a) "Bureau" means the Bureau of Land Management, within the department.

(b) "Department" means the United States Department of the Interior.

(c) "Jurisdictional authorization" means a federal law, or a rule or regulation adopted by the department or the bureau, that:

(i) relates to federal land administered by the bureau; and

(ii) has a logical nexus with a designated purpose of the federal land in question.

(2) The chief executive officer of a political subdivision or a county sheriff may, in accordance with Subsection (3), determine that action of a law enforcement official of the bureau exceeds the bureau's jurisdictional authorization.

(3) In evaluating whether the action described in Subsection (2) exceeds the bureau's jurisdictional authorization, the chief executive officer of a political subdivision or a county sheriff may consider:

(a) the nature and seriousness of the action of the bureau's law enforcement official;

(b) the nature of the bureau's jurisdictional authorization;

(c) the policies, plans, and positions of the political subdivision and county sheriff in the affected county that are relevant to action taken by a law enforcement official of the bureau; and

(d) the extent and nature of any communications between the bureau, the political subdivision, and the county sheriff regarding:

(i) the actions of the bureau's law enforcement official;

(ii) the political subdivision's and county sheriff's policies, plans, and positions; or

(iii) the terms and conditions of an agreement entered into and described in Section 53-13-106.9.

(4) If, after consulting with the governor and the attorney general, the chief executive officer of a political subdivision or a county sheriff makes the determination described in Subsection (2), the chief executive officer or county sheriff shall:

(a) in accordance with Subsection (5), serve notice of the determination on the bureau personally or by certified mail; and

(b) provide a copy of the notice described in Subsection (4)(a) to the governor, the attorney general, the state's congressional delegation, and the head of the department.

(5) The notice described in Subsection (4) shall include:

(a) a detailed explanation of the basis for determining that the actions of a law enforcement official of the bureau exceed the bureau's jurisdictional authority;

(b) a demand that the bureau and the department cease repetition of the law enforcement official's actions, and conform the official's future actions to the bureau's jurisdictional authority; and

(c) a specific date, no less than 30 days after the day on which the notice is served, by which time the bureau and the department shall:

(i) ensure that the bureau's law enforcement official keeps the law enforcement official's actions

within the limits of the bureau's jurisdictional authority; or

(ii) provide the chief executive officer or county sheriff described in Subsection (4) with a plan for ensuring that the bureau's law enforcement official's actions will be kept within the limits of the bureau's jurisdictional authority.

(6) The chief executive officer of a political subdivision or a county sheriff may agree to a plan described in Subsection (5)(c)(ii).

(7) (a) If, after the notice described in Subsections (4) and (5) is served, the bureau or the department does not respond by the date described in Subsection (5)(c) or otherwise indicates that the bureau or department is unwilling to comply with the demands described in Subsections (5)(b) and (c), the chief executive officer or county sheriff may, after consultation with the county attorney, the governor, and the attorney general, pursue all available legal remedies.

(b) In seeking any emergency injunction against the actions of a law enforcement official of the bureau that exceed the bureau's jurisdictional authority, a chief executive officer of a political subdivision or a county sheriff shall attempt, to the extent possible, to coordinate with the governor, the attorney general, and the department.

CHAPTER 384**H. B. 402**

Passed March 9, 2016

Approved March 29, 2016

Effective May 10, 2016

REAL ESTATE AMENDMENTS

Chief Sponsor: Gage Froerer
Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions relating to real estate.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends provisions relating to:
 - property tax equalization;
 - powers of the Division of Real Estate;
 - licensing and practices of a real estate professional, including a principal broker, an associate broker, and a sales agent;
 - registration and practices of a real estate entity;
 - licensing and practices of a residential mortgage professional and entities;
 - licensing and certification of a real estate appraiser; and
 - registration and regulation of an appraisal management company;
- ▶ amends provisions relating to who and under what circumstances a person may, in a property tax appeal, provide an opinion of value, present evidence, or provide tax information;
- ▶ adds enforcement provisions, including citation authority, penalties, and procedures;
- ▶ modifies provisions regarding a prohibition of a mortgage loan professional from accepting anything of value in exchange for a referral of mortgage loan business;
- ▶ prohibits signing or initialing a document on behalf of another person, except in circumstances established by rule;
- ▶ modifies provisions regarding a subpoena;
- ▶ modifies provisions regarding a former licensee's liability for acts committed while previously licensed;
- ▶ modifies provisions regarding the license of a licensee for whom payment is made from the Residential Mortgage Loan Education, Research, and Recovery Fund;
- ▶ modifies provisions regarding customary and reasonable compensation for an appraisal;
- ▶ modifies the list of prohibited acts of an appraisal management company;
- ▶ modifies provisions regarding grounds for disciplinary action;
- ▶ modifies provisions regarding under what circumstances a person may accept a fixed fee or a contingent fee for services related to establishing the value of property; and
- ▶ amends a prescribed notice form, regarding the return of a residential tenant's rental deposit, such that the notice form conforms with the requirements for notice for return of a tenant's rental deposit.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 57-17-3, as last amended by Laws of Utah 2015, Chapter 258
- 59-2-1017, as last amended by Laws of Utah 2015, Chapter 258
- 61-2-203, as renumbered and amended by Laws of Utah 2010, Chapter 379
- 61-2c-102, as last amended by Laws of Utah 2015, Chapter 262
- 61-2c-301, as last amended by Laws of Utah 2015, Chapters 262 and 290
- 61-2c-401, as last amended by Laws of Utah 2010, Chapters 379 and 391
- 61-2c-402, as last amended by Laws of Utah 2012, Chapter 369
- 61-2c-507, as last amended by Laws of Utah 2011, Chapter 289
- 61-2e-204, as last amended by Laws of Utah 2015, Chapter 262
- 61-2e-301, as last amended by Laws of Utah 2011, Chapter 289
- 61-2e-304, as enacted by Laws of Utah 2009, Chapter 269
- 61-2e-306, as enacted by Laws of Utah 2009, Chapter 269
- 61-2e-307, as last amended by Laws of Utah 2012, Chapter 166
- 61-2e-401, as last amended by Laws of Utah 2012, Chapter 166
- 61-2f-102, as last amended by Laws of Utah 2012, Chapter 166
- 61-2f-202, as last amended by Laws of Utah 2015, Chapter 262
- 61-2f-307, as renumbered and amended by Laws of Utah 2010, Chapter 379
- 61-2f-401, as last amended by Laws of Utah 2015, Chapter 262
- 61-2f-402, as last amended by Laws of Utah 2014, Chapter 350
- 61-2f-404, as last amended by Laws of Utah 2012, Chapter 369
- 61-2g-301, as last amended by Laws of Utah 2013, Chapter 180
- 61-2g-406, as last amended by Laws of Utah 2013, Chapter 180
- 61-2g-501, as last amended by Laws of Utah 2014, Chapter 350
- 61-2g-502, as last amended by Laws of Utah 2012, Chapters 166 and 369

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 57-17-3 is amended to read:**57-17-3. Deductions from deposit -- Written itemization -- Time for return.**

(1) Upon termination of a tenancy, the owner or the owner's agent may apply property or money held as a deposit toward the payment of rent, damages to the premises beyond reasonable wear and tear, other costs and fees provided for in the contract, or cleaning of the unit.

(2) No later than 30 days after the day on which a renter vacates and returns possession of a rental property to the owner or the owner's agent, the owner or the owner's agent shall deliver to the renter at the renter's last known address:

- (a) the balance of any deposit;
(b) the balance of any prepaid rent; and
(c) if the owner or the owner's agent made any deductions from the deposit or prepaid rent, a written notice that itemizes and explains the reason for each deduction.

(3) If an owner or the owner's agent fails to comply with the requirements described in Subsection (2), the renter may serve the owner or the owner's agent, in accordance with Subsection (4), a notice that:

- (a) states:
(i) the names of the parties to the rental agreement;
(ii) the day on which the renter vacated the rental property;
(iii) that the owner or the owner's agent has failed to comply with the requirements described in Subsection (2); and
(iv) the address where the owner or the owner's agent may send the items described in Subsection (2); and

(b) is substantially in the following form:

TENANT'S NOTICE TO PROVIDE DEPOSIT DISPOSITION

TO: (insert owner or owner's agent's name)

RE: (insert address of rental property)

NOTICE IS HEREBY GIVEN THAT WITHIN FIVE (5) CALENDAR DAYS pursuant to Utah Code Sections 57-17-3 et seq., the owner or the owner's agent must provide the tenant, at the address below, a refund of the balance of any security deposit, the balance of any prepaid rent, and a notice of any deductions from the security deposit or prepaid rent as allowed by law.

NOTICE IS FURTHER GIVEN that the tenant vacated the property on the ___ day of ___, 20__.

NOTICE IS FURTHER GIVEN that failure to comply with this notice will require the owner to refund the entire security deposit, the full amount of any prepaid rent, and a penalty of \$100. If the entire security deposit, the full amount of any prepaid rent, and the penalty of \$100 is not tendered to the tenant, and the tenant is required to initiate litigation to enforce the provisions of the statute, the owner may be liable for the tenant's court costs and attorney fees.

Tenant's Name(s): _____
Mailing Address _____ City _____
State _____ Zip _____

This is a legal document. Please read and comply with the document's terms.

Dated this ___ day of ___, 20__.

Return of Service

On this ___ day of ___, 20__, I swear and attest that I served this notice in compliance with Utah Code Section 57-17-3 by:

___ Delivering a copy to the owner or the owner's agent personally at the address provided in the lease agreement;

___ Leaving a copy with a person of suitable age and discretion at the address provided in the lease agreement because the owner or the owner's agent was absent from the address provided in the lease agreement;

___ Affixing a copy in a conspicuous place at the address provided in the lease agreement because a person of suitable age or discretion could not be found at the address provided in the lease agreement; or

___ Sending a copy through registered or certified mail to the owner or the owner's agent at the address provided in the lease agreement.

The owner's address to which the service was effected is:

Address _____
City _____ State _____ Zip _____
_____ (server's signature)

Self-Authentication Declaration

Pursuant to Utah Code Section 78B-5-705, I declare under criminal penalty of the State of Utah that the foregoing is true and correct.

Executed this ___ day of ___, 20__.
_____ (server's signature)

(4) A notice described in Subsection (3) shall be served:

(a) (i) by delivering a copy to the owner or the owner's agent personally at the address provided in the lease agreement;

(ii) if the owner or the owner's agent is absent from the address provided in the lease agreement, by leaving a copy with a person of suitable age and discretion at the address provided in the lease agreement; or

(iii) if a person of suitable age or discretion cannot be found at the address provided in the lease agreement, by affixing a copy in a conspicuous place at the address provided in the lease agreement; or

(b) by sending a copy through registered or certified mail to the owner or the owner's agent at the address provided in the lease agreement.

(5) Within five business days after the day on which the notice described in Subsection (3) is served, the owner or the owner's agent shall comply with the requirements described in Subsection (2).

Section 2. Section 59-2-1017 is amended to read:

59-2-1017. Property tax appeal assistance.

(1) As used in this section:

(a) "Certified appraiser" means an appraiser certified in accordance with:

(i) Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act; or

(ii) the law of a jurisdiction in the United States.

~~[(a)]~~ (b) “Licensed appraiser” means an appraiser licensed in accordance with:

(i) Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act[-]; or

(ii) the law of a jurisdiction in the United States.

~~[(b)]~~ (c) “Opinion of value” means an estimate of fair market value that:

(i) is made by a licensed appraiser or a certified appraiser; and

(ii) except as provided in Subsections (5) and (6), complies with the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board as described in 12 U.S.C. Sec. 3339.

~~[(c)]~~ (d) “Present evidence” means to present information:

(i) to a county board of equalization or the commission; and

(ii) related to a property tax appeal made in accordance with this part.

~~[(d)]~~ (e) “Price estimate” means an estimate:

(i) of the price that property would sell for; and

(ii) that is not an opinion of value.

~~[(e)]~~ (f) “Provide property tax information” means to provide information related to a property tax appeal made in accordance with this part to another person.

(2) Subject to the other provisions of this section, a person may:

(a) present evidence in a property tax appeal on behalf of another person after obtaining permission from that other person; or

(b) provide property tax information to another person.

(3) For purposes of Subsection (2):

(a) only ~~[a person who is]~~ a licensed appraiser or a certified appraiser may present or provide an opinion of value; and

(b) ~~[only a person who is not]~~ a licensed appraiser or a certified appraiser may not present or provide a price estimate.

(4) A licensed appraiser or a certified appraiser may, in accordance with Subsection (2), provide services regarding a property tax appeal as follows:

(a) present or provide an opinion of value; or

(b) provide consultation services, including presenting evidence or providing property tax information.

~~[(4)]~~ (5) (a) A licensed appraiser or a certified appraiser who presents or provides an opinion of

value in accordance with Subsection (2) shall comply with all applicable laws and regulations, including Sections 61-2g-304, 61-2g-403, 61-2g-406, and 61-2g-407.

(b) A licensed appraiser or a certified appraiser who does not present or provide an opinion of value but who provides consultation services by presenting evidence or ~~[provides]~~ providing property tax information in accordance with Subsection (2) ~~[is subject to]~~ shall comply with all applicable laws and regulations, including Sections 61-2g-304, 61-2g-403, 61-2g-406, and 61-2g-407, except that the licensed appraiser or the certified appraiser may advocate for the client in a property tax appeal.

~~[(b)]~~ (c) A person who is not a licensed appraiser~~]~~ and not a certified appraiser who presents evidence or provides property tax information in accordance with Subsection (2):

(i) is subject to Section 61-2g-407; and

(ii) if the person charges a contingent fee, is subject to Section 61-2g-406.

(6) A licensed appraiser or a certified appraiser may provide an opinion of value, present evidence, or provide tax information in a property tax appeal of the personal residence of the licensed appraiser or certified appraiser despite any personal bias.

~~[(5)]~~ (7) A county board of equalization or the commission may evaluate the reliability or accuracy of evidence presented or property tax information provided in accordance with ~~[Subsection (2)]~~ this section.

Section 3. Section 61-2-203 is amended to read:

61-2-203. Adjudicative proceedings -- Citation authority.

(1) The division shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in an adjudicative proceeding under a chapter the division administers.

(2) The division may initiate an adjudicative proceeding through:

(a) a citation, pursuant to Subsection (3);

(b) a notice of agency action; or

(c) a notice of formal or informal proceeding.

(3) In addition to any other statutory penalty for a violation related to an occupation or profession regulated under this title, the division may issue a citation to a person who, upon inspection or investigation, the division concludes to have violated:

(a) Subsection 61-2c-201(1), which requires licensure;

(b) Subsection 61-2c-201(4), which requires entity licensure;

(c) Subsection 61-2c-205(3), which requires notification of a change in specified information regarding a licensee;

(d) Subsection 61-2c-205(4), which requires notification of specified legal actions;

(e) Subsection 61-2c-301(1)(g), which prohibits failing to respond to the division within the required time period;

(f) Subsection 61-2c-301(1)(h), which prohibits making a false representation to the division;

(g) Subsection 61-2c-301(1)(i), which prohibits taking a dual role in a transaction;

(h) Subsection 61-2c-301(1)(l), which prohibits engaging in false or misleading advertising;

(i) Subsection 61-2c-301(1)(t), which prohibits advertising the ability to do licensed work if unlicensed;

(j) Subsection 61-2e-201(1), which requires registration;

(k) Subsection 61-2e-203(4), which requires a notification of a change in ownership;

(l) Subsection 61-2e-307(1)(c), which prohibits use of an unregistered fictitious name;

(m) Subsection 61-2e-401(1)(b), which prohibits failure to respond to a request by the division;

(n) Subsection 61-2f-201(1), which requires licensure;

(o) Subsection 61-2f-206(1), which requires entity registration;

(p) Subsection 61-2f-301(1), which requires notification of a specified legal action;

(q) Subsection 61-2f-401(1)(a), which prohibits making a substantial misrepresentation;

(r) Subsection 61-2f-401(3), which prohibits undertaking real estate while not affiliated with a principal broker;

(s) Subsection 61-2f-401(9), which prohibits failing to keep specified records for inspection by the division;

(t) Subsection 61-2f-401(13), which prohibits false, misleading, or deceptive advertising;

(u) Subsection 61-2f-401(20), which prohibits failing to respond to a division request;

(v) Subsection 61-2g-301(1), which requires licensure;

(w) Subsection 61-2g-405(3), which requires making records required to be maintained available to the division;

(x) Subsection 61-2g-502(2)(f), which prohibits using a nonregistered fictitious name;

(y) a rule made pursuant to any Subsection listed in this Subsection (3);

(z) an order of the division; or

(aa) an order of the commission or board that oversees the person's profession.

(4) (a) In accordance with Subsection (9), the division may assess a fine against a person for a violation of a provision listed in Subsection (3), as evidenced by:

(i) an uncontested citation;

(ii) a stipulated settlement; or

(iii) a finding of a violation in an adjudicative proceeding.

(b) The division may, in addition to or in lieu of a fine under Subsection (4)(a), order the person to cease and desist from an activity that violates a provision listed in Subsection (3).

(5) Except as provided in Subsection (7)(d), the division may not use a citation to effect a license:

(a) denial;

(b) probation;

(c) suspension; or

(d) revocation.

(6) (a) A citation issued by the division shall:

(i) be in writing;

(ii) describe with particularity the nature of the violation, including a reference to the provision of the statute, rule, or order alleged to have been violated;

(iii) clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(iv) clearly explain the consequences of failure to timely contest the citation or to make payment of a fine assessed by the citation within the time period specified in the citation.

(b) The division may issue a notice in lieu of a citation.

(7) (a) A citation becomes final:

(i) if within 20 calendar days from the service of the citation, the person to whom the citation was issued fails to request a hearing to contest the citation; or

(ii) if the director or the director's designee conducts a hearing pursuant to a timely request for a hearing and issues an order finding that a violation has occurred.

(b) The 20-day period to contest a citation may be extended by the division for cause.

(c) A citation that becomes the final order of the division due to a person's failure to timely request a hearing is not subject to further agency review.

(d) (i) The division may refuse to issue, refuse to renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after the citation becomes final.

(ii) The failure of a license applicant to comply with a citation after the citation becomes final is a ground for denial of the license application.

(8) (a) The division may not issue a citation under this section after the expiration of six months following the occurrence of a violation.

(b) The division may issue a notice to address a violation that is outside of the six-month citation period.

(9) The director or the director's designee shall assess a fine with a citation in an amount that is no more than:

(a) for a first offense, \$1,000;

(b) for a second offense, \$2,000; and

(c) for each offense subsequent to a second offense, \$2,000 for each day of continued offense.

(10) (a) An action for a first or second offense for which the division has not issued final order does not preclude the division from initiating a subsequent action for a second or subsequent offense while the preceding action is pending.

(b) The final order on a subsequent action is considered a second or subsequent offense, respectively, provided the preceding action resulted in a first or second offense, respectively.

(11) (a) If a person does not pay a penalty, the director may collect the unpaid penalty by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county:

(A) where the person resides; or

(B) where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal services to the director in an action to collect the penalty.

(c) A court may award reasonable attorney fees and costs to the division in an action brought by the division to enforce the provisions of this section.

Section 4. Section 61-2c-102 is amended to read:

61-2c-102. Definitions.

(1) As used in this chapter:

(a) "Affiliation" means that a mortgage loan originator is associated with a principal lending manager in accordance with Section 61-2c-209.

(b) "Applicant" means a person applying for a license under this chapter.

(c) "Approved examination provider" means a person approved by the nationwide database or by the division as an approved test provider.

(d) "Associate lending manager" means an individual who:

(i) qualifies under this chapter as a principal lending manager; and

(ii) works by or on behalf of another principal lending manager in transacting the business of residential mortgage loans.

(e) "Branch lending manager" means an individual who is:

(i) licensed as a lending manager; and

(ii) designated in the nationwide database by the individual's sponsoring entity as being responsible to work from a branch office and to supervise the business of residential mortgage loans that is conducted at the branch office.

(f) "Branch office" means a licensed entity's office:

(i) for the transaction of the business of residential mortgage loans regulated under this chapter;

(ii) other than the main office of the licensed entity; and

(iii) that operates under:

(A) the same business name as the licensed entity; or

(B) another trade name that is registered with the division under the entity license.

(g) "Business day" means a day other than:

(i) a Saturday;

(ii) a Sunday; or

(iii) a federal or state holiday.

(h) (i) "Business of residential mortgage loans" means for compensation or in the expectation of compensation to:

(A) engage in an act that makes an individual a mortgage loan originator;

(B) make or originate a residential mortgage loan;

(C) directly or indirectly solicit a residential mortgage loan for another;

(D) unless excluded under Subsection (1)(h)(ii), render services related to the origination of a residential mortgage loan including:

(I) preparing a loan package;

(II) communicating with the borrower or lender;

(III) advising on a loan term;

(IV) acting as a loan processor or loan underwriter without being employed by a licensed entity; or

(V) except as provided in Subsection (1)(h)(ii)(B) or (C), acting as a loan underwriter; or

(E) engage in loan modification assistance.

(ii) "Business of residential mortgage loans" does not include:

(A) if working as an employee under the direction of and subject to the supervision and instruction of a person licensed under this chapter, the performance of a clerical or support duty, including:

(I) the receipt, collection, or distribution of information common for the processing or underwriting of a loan in the mortgage industry other than taking an application;

(II) communicating with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan;

(III) word processing;

(IV) sending correspondence;

(V) assembling files; or

(VI) acting as a loan processor or loan underwriter;

(B) acting as a loan underwriter under the direction and control of an employer licensed under this chapter;

(C) acting as a loan underwriter, as an employee of a depository institution, exclusively in the capacity of the depository institution's employee;

(D) ownership of an entity that engages in the business of residential mortgage loans if the owner does not personally perform the acts listed in Subsection (1)(h)(i);

(E) except if an individual will engage in an activity as a mortgage loan originator, acting in one or more of the following capacities:

(I) a loan wholesaler;

(II) an account executive for a loan wholesaler;

(III) a loan underwriter;

(IV) a loan closer; or

(V) funding a loan; or

(F) if employed by a person who owns or services an existing residential mortgage loan, the direct negotiation with the borrower for the purpose of loan modification.

(i) "Certified education provider" means a person who is certified under Section 61-2c-204.1 to provide one or more of the following:

(i) Utah-specific preclicensing education; or

(ii) Utah-specific continuing education.

(j) "Closed-end" means a loan:

(i) with a fixed amount borrowed; and

(ii) that does not permit additional borrowing secured by the same collateral.

(k) "Commission" means the Residential Mortgage Regulatory Commission created in Section 61-2c-104.

(l) "Community development financial institution" means the same as that term is defined in 12 U.S.C. Sec. 4702.

(m) "Compensation" means anything of economic value that is paid, loaned, granted, given, donated, or transferred to an individual or entity for or in consideration of:

(i) services;

(ii) personal or real property; or

(iii) another thing of value.

(n) "Concurrence" means that entities given a concurring role must jointly agree for the action to be taken.

(o) "Continuing education" means education taken by an individual licensed under this chapter in order to meet the education requirements imposed by Sections 61-2c-204.1 and 61-2c-205 to renew a license under this chapter.

(p) "Control," as used in Subsection 61-2c-105(2)(f), means the power to directly or indirectly:

(i) direct or exercise a controlling interest over:

(A) the management or policies of an entity; or

(B) the election of a majority of the directors, officers, managers, or managing partners of an entity;

(ii) vote 20% or more of a class of voting securities of an entity by an individual; or

(iii) vote more than 5% of a class of voting securities of an entity by another entity.

(q) (i) "Control person" means an individual identified by an entity registered with the nationwide database as being an individual directing the management or policies of the entity.

(ii) "Control person" may include one of the following who is identified as provided in Subsection (1)(q)(i):

(A) a manager;

(B) a managing partner;

(C) a director;

(D) an executive officer; or

(E) an individual who performs a function similar to an individual listed in this Subsection (1)(q)(ii).

(r) "Depository institution" means the same as that term is defined in Section 7-1-103.

(s) "Director" means the director of the division.

(t) "Division" means the Division of Real Estate.

(u) "Dwelling" means a residential structure attached to real property that contains one to four family units including any of the following if used as a residence:

(i) a condominium unit;

(ii) a cooperative unit;

(iii) a manufactured home; or

(iv) a house.

(v) "Employee":

(i) means an individual:

(A) whose manner and means of work performance are subject to the right of control of, or are controlled by, another person; and

(B) whose compensation for federal income tax purposes is reported, or is required to be reported, on a W-2 form issued by the controlling person; and

(ii) does not include an independent contractor who performs duties other than at the direction of, and subject to the supervision and instruction of, another person.

(w) "Entity" means:

- (i) a corporation;
- (ii) a limited liability company;
- (iii) a partnership;
- (iv) a company;
- (v) an association;
- (vi) a joint venture;
- (vii) a business trust;
- (viii) a trust; or
- (ix) another organization.

(x) "Executive director" means the executive director of the Department of Commerce.

(y) "Federal licensing requirements" means Secure and Fair Enforcement for Mortgage Licensing, 12 U.S.C. Sec. 5101 et seq.

(z) "Foreclosure rescue" means, for compensation or with the expectation of receiving valuable consideration, to:

(i) engage, or offer to engage, in an act that:

(A) the person represents will assist a borrower in preventing a foreclosure; and

(B) relates to a transaction involving the transfer of title to residential real property; or

(ii) as an employee or agent of another person:

(A) solicit, or offer that the other person will engage in an act described in Subsection (1)(z)(i); or

(B) negotiate terms in relationship to an act described in Subsection (1)(z)(i).

(aa) "Inactive status" means a dormant status into which an unexpired license is placed when the holder of the license is not currently engaging in the business of residential mortgage loans.

(bb) "Lending manager" means an individual licensed as a lending manager under Section 61-2c-206 to transact the business of residential mortgage loans.

(cc) "Licensee" means a person licensed with the division under this chapter.

(dd) "Licensing examination" means the examination required by Section 61-2c-204.1 or 61-2c-206 for an individual to obtain a license under this chapter.

(ee) "Loan modification assistance" means, for compensation or with the expectation of receiving valuable consideration, to:

(i) act, or offer to act, on behalf of a person to:

(A) obtain a loan term of a residential mortgage loan that is different from an existing loan term including:

(I) an increase or decrease in an interest rate;

(II) a change to the type of interest rate;

(III) an increase or decrease in the principal amount of the residential mortgage loan;

(IV) a change in the number of required period payments;

(V) an addition of collateral;

(VI) a change to, or addition of, a prepayment penalty;

(VII) an addition of a cosigner; or

(VIII) a change in persons obligated under the existing residential mortgage loan; or

(B) substitute a new residential mortgage loan for an existing residential mortgage loan; or

(ii) as an employee or agent of another person:

(A) solicit, or offer that the other person will engage in an act described in Subsection (1)(ee)(i); or

(B) negotiate terms in relationship to an act described in Subsection (1)(ee)(i).

(ff) (i) ~~Except as provided in Subsection (1)(ff)(ii),~~ "mortgage" "Mortgage loan originator" means an individual who, for compensation or in expectation of compensation:

(A) (I) takes a residential mortgage loan application; ~~or~~

(II) offers or negotiates terms of a residential mortgage loan for the purpose of:

(Aa) a purchase;

(Bb) a refinance;

(Cc) a loan modification assistance; or

(Dd) a foreclosure rescue; ~~and~~ or

(III) directly or indirectly solicits a residential mortgage loan for another person; and

(B) is licensed as a mortgage loan originator in accordance with this chapter.

(ii) "Mortgage loan originator" does not include a person who:

(A) is described in Subsection (1)(ff)(i), but who performs exclusively administrative or clerical tasks as described in Subsection (1)(h)(ii)(A);

(B) (I) is licensed under Chapter 2f, Real Estate Licensing and Practices Act;

(II) performs only real estate brokerage activities; and

(III) receives no compensation from:

(Aa) a lender;

(Bb) a lending manager; or

(Cc) an agent of a lender or lending manager; or

(C) is solely involved in extension of credit relating to a timeshare plan, as defined in 11 U.S.C. Sec. 101(53D).

(gg) "Nationwide database" means the Nationwide Mortgage Licensing System and Registry, authorized under federal licensing requirements.

(hh) "Nontraditional mortgage product" means a mortgage product other than a 30-year fixed rate mortgage.

(ii) "Person" means an individual or entity.

(jj) "Prelicensing education" means education taken by an individual seeking to be licensed under this chapter in order to meet the education requirements imposed by Section 61-2c-204.1 or 61-2c-206 for an individual to obtain a license under this chapter.

(kk) "Principal lending manager" means an individual:

(i) licensed as a lending manager under Section 61-2c-206; and

(ii) identified in the nationwide database by the individual's sponsoring entity as the entity's principal lending manager.

(ll) "Prospective borrower" means a person applying for a mortgage from a person who is required to be licensed under this chapter.

(mm) "Record" means information that is:

(i) prepared, owned, received, or retained by a person; and

(ii) (A) inscribed on a tangible medium; or

(B) (I) stored in an electronic or other medium; and

(II) in a perceivable and reproducible form.

(nn) "Referral fee":

(i) means any fee, kickback, other compensation, or thing of value tendered for a referral of business or a service incident to or part of a residential mortgage loan transaction; and

(ii) does not include:

(A) a payment made by a licensed entity to an individual employed by the entity under a contractual incentive program according to rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) a payment made for reasonable promotional and educational activities that is not conditioned on the referral of business and is not used to pay expenses that a person in a position to refer settlement services or business related to the settlement services would otherwise incur.

(oo) "Residential mortgage loan" means an extension of credit, if:

(i) the loan or extension of credit is secured by a:

(A) mortgage;

(B) deed of trust; or

(C) consensual security interest; and

(ii) the mortgage, deed of trust, or consensual security interest described in Subsection (1)(oo)(i):

(A) is on a dwelling located in the state; and

(B) is created with the consent of the owner of the residential real property[~~;~~and].

~~[(iii) solely for the purposes of defining "mortgage loan originator," the extension of credit is primarily for personal, family, or household use.]~~

(pp) "Settlement" means the time at which each of the following is complete:

(i) the borrower and, if applicable, the seller sign and deliver to each other or to the escrow or closing office each document required by:

(A) the real estate purchase contract;

(B) the lender;

(C) the title insurance company;

(D) the escrow or closing office;

(E) the written escrow instructions; or

(F) applicable law;

(ii) the borrower delivers to the seller, if applicable, or to the escrow or closing office any money, except for the proceeds of any new loan, that the borrower is required to pay; and

(iii) if applicable, the seller delivers to the buyer or to the escrow or closing office any money that the seller is required to pay.

(qq) "Settlement services" means a service provided in connection with a real estate settlement, including a title search, a title examination, the provision of a title certificate, services related to title insurance, services rendered by an attorney, preparing documents, a property survey, rendering a credit report or appraisal, a pest or fungus inspection, services rendered by a real estate agent or broker, the origination of a federally related mortgage loan, and the processing of a federally related mortgage.

(rr) "Sponsorship" means an association in accordance with Section 61-2c-209 between an individual licensed under this chapter and an entity licensed under this chapter.

(ss) "State" means:

(i) a state, territory, or possession of the United States;

(ii) the District of Columbia; or

(iii) the Commonwealth of Puerto Rico.

(tt) "Unique identifier" means the same as that term is defined in 12 U.S.C. Sec. 5102.

(uu) "Utah-specific" means an educational or examination requirement under this chapter that relates specifically to Utah.

(2) (a) If a term not defined in this section is defined by rule, the term shall have the meaning established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) If a term not defined in this section is not defined by rule, the term shall have the meaning commonly accepted in the business community.

Section 5. Section 61-2c-301 is amended to read:

61-2c-301. Prohibited conduct -- Violations of the chapter.

(1) A person transacting the business of residential mortgage loans in this state may not:

(a) give or receive a referral fee~~[,]—other compensation, or anything of value in exchange for a referral of residential mortgage loan business];~~

(b) charge a fee in connection with a residential mortgage loan transaction:

(i) that is excessive; or

(ii) without providing to the loan applicant a written statement signed by the loan applicant:

(A) stating whether or not the fee or deposit is refundable; and

(B) describing the conditions, if any, under which all or a portion of the fee or deposit will be refunded to the loan applicant;

~~[(c) give or receive compensation or anything of value in exchange for a referral of settlement or loan closing services related to a residential mortgage loan transaction;]~~

(c) act incompetently in the transaction of the business of residential mortgage loans such that the person fails to:

(i) safeguard the interests of the public; or

(ii) conform to acceptable standards of the residential mortgage loan industry;

(d) do any of the following as part of a residential mortgage loan transaction, regardless of whether the residential mortgage loan closes:

(i) make a false statement or representation;

(ii) cause false documents to be generated; or

(iii) knowingly permit false information to be submitted by any party;

(e) give or receive compensation or anything of value, or withhold or threaten to withhold payment of an appraiser fee, to influence the independent judgment of an appraiser in reaching a value conclusion in a residential mortgage loan transaction, except that it is not a violation of this section for a licensee to withhold payment because of a bona fide dispute regarding a failure of the

appraiser to comply with the licensing law or the Uniform Standards of Professional Appraisal Practice;

(f) violate or not comply with:

(i) this chapter;

(ii) an order of the commission or division; or

(iii) a rule made by the division;

(g) fail to respond within the required time period to:

(i) a notice or complaint of the division; or

(ii) a request for information from the division;

(h) make false representations to the division, including in a licensure statement;

(i) for a residential mortgage loan transaction beginning on or after January 1, 2004, engage in the business of residential mortgage loans with respect to the transaction if the person also acts in any of the following capacities with respect to the same residential mortgage loan transaction:

(i) appraiser;

(ii) escrow agent;

(iii) real estate agent;

(iv) general contractor; or

(v) title insurance producer;

(j) engage in unprofessional conduct as defined by rule;

(k) engage in an act or omission in transacting the business of residential mortgage loans that constitutes dishonesty, fraud, or misrepresentation;

(l) engage in false or misleading advertising;

(m) (i) fail to account for money received in connection with a residential mortgage loan;

(ii) use money for a different purpose from the purpose for which the money is received; or

(iii) except as provided in Subsection (4), retain money paid for services if the services are not performed;

(n) fail to provide a prospective borrower a copy of each appraisal and any other written valuation developed in connection with an application for credit that is to be secured by a first lien on a dwelling in accordance with Subsection (5);

(o) engage in an act that is performed to:

(i) evade this chapter; or

(ii) assist another person to evade this chapter;

(p) recommend or encourage default, delinquency, or continuation of an existing default or delinquency, by a mortgage applicant on an existing indebtedness before the closing of a residential mortgage loan that will refinance all or part of the indebtedness;

(q) in the case of the lending manager of an entity or a branch office of an entity, fail to exercise reasonable supervision over the activities of:

- (i) unlicensed staff; or
- (ii) a mortgage loan originator who is affiliated with the lending manager;
- (r) pay or offer to pay an individual who does not hold a license under this chapter for work that requires the individual to hold a license under this chapter;
- (s) in the case of a dual licensed title licensee as defined in Section 31A-2-402:
 - (i) provide a title insurance product or service without the approval required by Section 31A-2-405; or
 - (ii) knowingly provide false or misleading information in the statement required by Subsection 31A-2-405(2);
 - (t) represent to the public that the person can or will perform any act of a mortgage loan originator if that person is not licensed under this chapter because the person is exempt under Subsection 61-2c-102(1)(h)(ii)(A), including through:
 - (i) advertising;
 - (ii) a business card;
 - (iii) stationery;
 - (iv) a brochure;
 - (v) a sign;
 - (vi) a rate list; or
 - (vii) other promotional item;

(u) (i) engage in an act of loan modification assistance without being licensed under this chapter;

(ii) engage in an act of foreclosure rescue that requires licensure as a real estate agent or real estate broker under Chapter 2, Division of Real Estate, without being licensed under that chapter;

(iii) engage in an act of loan modification assistance without entering into a written agreement specifying which one or more acts of loan modification assistance will be completed;

(iv) request or require a person to pay a fee before obtaining:

(A) a written offer for a loan modification from the person's lender or servicer; and

(B) the person's written acceptance of the offer from the lender or servicer;

(v) induce a person seeking a loan modification to hire the licensee to engage in an act of loan modification assistance by:

(A) suggesting to the person that the licensee has a special relationship with the person's lender or loan servicer; or

(B) falsely representing or advertising that the licensee is acting on behalf of:

- (I) a government agency;
- (II) the person's lender or loan servicer; or
- (III) a nonprofit or charitable institution;

(vi) recommend or participate in a loan modification that requires a person to:

(A) transfer title to real property to the licensee or to a third-party with whom the licensee has a business relationship or financial interest;

(B) make a mortgage payment to a person other than the person's loan servicer; or

(C) refrain from contacting the person's:

- (I) lender;
- (II) loan servicer;
- (III) attorney;
- (IV) credit counselor; or
- (V) housing counselor; or

(vii) for an agreement for loan modification assistance entered into on or after May 11, 2010, engage in an act of loan modification assistance without offering in writing to the person entering into the agreement for loan modification assistance a right to cancel the agreement within three business days after the day on which the person enters the agreement; ~~[or]~~

(v) sign or initial a document on behalf of another person, except for in a circumstance allowed by the division by rule, with the concurrence of the commission, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

~~[(v)]~~ (w) violate or fail to comply with a provision of Title 57, Chapter 28, Utah Reverse Mortgage Act.

(2) Whether or not the crime is related to the business of residential mortgage loans, it is a violation of this chapter for a licensee or a person who is a certified education provider to do any of the following with respect to a criminal offense that involves moral turpitude:

- (a) be convicted;
- (b) plead guilty or nolo contendere;
- (c) enter a plea in abeyance; or

(d) be subjected to a criminal disposition similar to the ones described in Subsections (2)(a) through (c).

(3) A lending manager does not violate Subsection (1)(q) if:

(a) in contravention of the lending manager's written policies and instructions, an affiliated licensee of the lending manager violates:

- (i) this chapter; or
- (ii) rules made by the division under this chapter;

(b) the lending manager established and followed reasonable procedures to ensure that affiliated licensees receive adequate supervision;

(c) upon learning of a violation by an affiliated licensee, the lending manager attempted to prevent or mitigate the damage;

(d) the lending manager did not participate in or ratify the violation by an affiliated licensee; and

(e) the lending manager did not attempt to avoid learning of the violation.

(4) Notwithstanding Subsection (1)(m)(iii), a licensee may, upon compliance with Section 70D-2-305, charge a reasonable cancellation fee for work done originating a mortgage if the mortgage is not closed.

(5) (a) Except as provided in Subsection (5)(b), a person transacting the business of residential mortgage loans in this state shall provide a prospective borrower a copy of each appraisal and any other written valuation developed in connection with an application for credit that is to be secured by a first lien on a dwelling on or before the earlier of:

(i) as soon as reasonably possible after the appraisal or other valuation is complete; or

(ii) three business days before the day of the settlement.

(b) Subject to Subsection (5)(c), unless otherwise prohibited by law, a prospective borrower may waive the timing requirement described in Subsection (5)(a) and agree to receive each appraisal and any other written valuation:

(i) less than three business days before the day of the settlement; or

(ii) at the settlement.

(c) (i) Except as provided in Subsection (5)(c)(ii), a prospective borrower shall submit a waiver described in Subsection (5)(b) at least three business days before the day of the settlement.

(ii) Subsection (5)(b) does not apply if the waiver only pertains to a copy of an appraisal or other written valuation that contains only clerical changes from a previous version of the appraisal or other written valuation and the prospective borrower received a copy of the original appraisal or other written valuation at least three business days before the day of the settlement.

(d) If a prospective borrower submits a waiver described in Subsection (5)(b) and the transaction never completes, the person transacting the business of residential mortgage loans shall provide a copy of each appraisal or any other written valuation to the applicant no later than 30 days after the day on which the person knows the transaction will not complete.

Section 6. Section 61-2c-401 is amended to read:

61-2c-401. Investigations.

(1) The division may investigate or cause to be investigated the actions of:

(a) (i) a licensee;

(ii) a person required to be licensed under this chapter; or

(iii) the following with respect to an entity that is a licensee or an entity required to be licensed under this chapter:

(A) a manager;

(B) a managing partner;

(C) a director;

(D) an executive officer; or

(E) an individual who performs a function similar to an individual listed in this Subsection (1)(a)(iii);

(b) (i) an applicant for licensure or renewal of licensure under this chapter; or

(ii) the following with respect to an entity that has applied for a license or renewal of licensure under this chapter:

(A) a manager;

(B) a managing partner;

(C) a director;

(D) an executive officer; or

(E) an individual who performs a function similar to an individual listed in this Subsection (1)(b)(ii); or

(c) a person who transacts the business of residential mortgage loans within this state.

(2) In conducting investigations, records inspections, and adjudicative proceedings, the division may:

(a) administer an oath or affirmation;

~~(b) subpoena witnesses and evidence;~~

(b) issue a subpoena that requires:

(i) the attendance and testimony of a witness; or

(ii) the production of evidence;

(c) take evidence;

(d) require the production of a record or information relevant to an investigation; and

(e) serve a subpoena by certified mail.

(3) (a) A court of competent jurisdiction shall enforce, according to the practice and procedure of the court, a subpoena issued by the division.

(b) The division shall pay any witness fee, travel expense, mileage, or any other fee required by the service statutes of the state where the witness or evidence is located.

~~(3)~~ (4) A failure to respond to a request by the division in an investigation authorized under this chapter is considered as a separate violation of this chapter, including:

(a) failing to respond to a subpoena;

(b) withholding evidence; or

(c) failing to produce a record.

~~(4)~~ (5) The division may inspect and copy a record related to the business of residential

mortgage loans by a licensee under this chapter, regardless of whether the record is maintained at a business location in Utah, in conducting:

- (a) investigations of complaints; or
- (b) inspections of the record required to be maintained under:
 - (i) this chapter; or
 - (ii) rules adopted by the division under this chapter.

~~[(5)]~~ (6) (a) If a licensee maintains a record required by this chapter and the rules adopted by the division under this chapter outside Utah, the licensee is responsible for all reasonable costs, including reasonable travel costs, incurred by the division in inspecting the record.

(b) Upon receipt of notification from the division that a record maintained outside Utah is to be examined in connection with an investigation or an examination, the licensee shall deposit with the division a deposit of \$500 to cover the division's expenses in connection with the examination of the record.

(c) If the deposit described in Subsection ~~[(5)]~~ (6)(b) is insufficient to meet the estimated costs and expenses of examination of the record, the licensee shall make an additional deposit to cover the estimated costs and expenses of the division.

(d) (i) A deposit under this Subsection ~~[(5)]~~ (6) shall be deposited in the General Fund as a dedicated credit to be used by the division under Subsection ~~[(5)]~~ (6)(a).

(ii) The division, with the concurrence of the executive director, may use a deposit as a dedicated credit for the records inspection costs under Subsection ~~[(5)]~~ (6)(a).

(iii) A deposit under this Subsection ~~[(5)]~~ (6) shall be refunded to the licensee to the extent it is not used, together with an itemized statement from the division of all amounts it has used.

~~[(6)]~~ (7) Failure to deposit with the division a deposit required to cover the costs of examination of a record that is maintained outside Utah shall result in automatic suspension of a license until the deposit is made.

~~[(7)]~~ (8) (a) If a person is found to have violated this chapter or a rule made under this chapter, the person shall pay the costs incurred by the division to copy a record required under this chapter, including the costs incurred to copy an electronic record in a universally readable format.

(b) If a person fails to pay the costs described in Subsection ~~[(7)]~~ (8)(a) when due, the person's license or certification is automatically suspended:

- (i) beginning the day on which the payment of costs is due; and
- (ii) ending the day on which the costs are paid.

Section 7. Section 61-2c-402 is amended to read:

61-2c-402. Disciplinary action.

(1) Subject to the requirements of Section 61-2c-402.1, the commission, with the concurrence of the division, may impose a sanction described in Subsection (2) against a person if the person:

(a) (i) is a licensee, a person previously licensed under this chapter for an act the person committed while licensed, or a person required to be licensed under this chapter; and

(ii) violates this chapter; or

(b) (i) is a certified education provider or person required to be certified to provide prelicensing or continuing education under this chapter; and

(ii) violates this chapter.

(2) The commission, with the concurrence of the director, may against a person described in Subsection (1):

(a) impose an educational requirement;

(b) impose a civil penalty against the individual or entity in an amount not to exceed the greater of:

(i) \$5,000 for each violation; or

(ii) the amount equal to any gain or economic benefit derived from each violation;

(c) deny an application for an original license;

(d) do any of the following to a license under this chapter:

(i) suspend;

(ii) revoke;

(iii) place on probation;

(iv) reduce a lending manager license to a loan originator license;

~~[(iv)]~~ (v) deny renewal;

~~[(v)]~~ (vi) deny reinstatement; or

~~[(vi)]~~ (vii) in the case of a denial of a license or a suspension that extends to the expiration date of a license, set a waiting period for a person to apply for a license under this chapter;

(e) issue a cease and desist order;

(f) require the reimbursement of the division of costs incurred by the division related to the recovery, storage, or destruction of a record that the person disposes of in a manner that violates this chapter or a rule made under this chapter;

(g) modify a sanction described in Subsections (2)(a) through (f) if the commission finds that the person complies with court ordered restitution; or

(h) impose any combination of sanctions described in this Subsection (2).

(3) (a) If the commission, with the concurrence of the division, issues an order that orders a fine or educational requirements as part of a disciplinary action against a person, including a stipulation and

order, the commission shall state in the order the deadline by which the person shall comply with the fine or educational requirements.

(b) If a person fails to comply with a stated deadline:

(i) the person's license or certificate is automatically suspended:

(A) beginning the day specified in the order as the deadline for compliance; and

(B) ending the day on which the person complies in full with the order; and

(ii) if the person fails to pay a fine required by an order, the division may begin a collection process:

(A) established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(B) subject to Title 63A, Chapter 3, Part 5, Office of State Debt Collection.

(4) (a) A person whose license was revoked under this chapter before May 11, 2010, may request that the revocation be converted to a suspension under this Subsection (4):

(i) if the revocation was not as a result of a felony conviction involving fraud, misrepresentation, deceit, dishonesty, breach of trust, or money laundering; and

(ii) by filing a written request with the division.

(b) Upon receipt of a request to convert a revocation under this Subsection (4), the commission, with the concurrence of the director, shall determine whether to convert the revocation.

(c) The commission may delegate to the division the authority to make a decision on whether to convert a revocation.

(d) If the division, acting under Subsection (4)(c), denies a request to convert a revocation, the person who requests the conversion may appeal the decision in a hearing conducted by the commission:

(i) after the division denies the request to convert the revocation; and

(ii) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(e) The commission may delegate to the division or an administrative law judge the authority to conduct a hearing described in Subsection (4)(d).

Section 8. Section 61-2c-507 is amended to read:

61-2c-507. Division subrogated -- Authority to suspend license.

(1) If the division pays a person from the fund in accordance with this part:

(a) the division is subrogated to the rights of that person for the amounts paid out of the fund; and

(b) any amount and interest recovered by the division shall be deposited in the fund.

(2) (a) Subject to Subsection (2)(b), the license of a licensee for whom payment from the fund is made under this part is automatically ~~revoked~~ suspended as of the earlier of the day on which:

(i) the division is ordered by a court to pay from the fund; or

(ii) the division pays from the fund.

(b) (i) A person whose license is ~~revoked~~ suspended under Subsection (2)(a) may appeal the ~~revocation~~ suspension in a de novo hearing conducted by the commission:

(A) after the ~~revocation~~ suspension; and

(B) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(ii) The commission may delegate:

(A) to the division or an administrative law judge the authority to conduct a hearing described in Subsection (2)(b)(i); or

(B) to the division the authority to make a decision on whether relief from a ~~revocation~~ suspension should be granted.

(3) Unless the ~~revocation~~ suspension is not upheld after a hearing described in Subsection (2)(b), a licensee whose license is ~~revoked~~ suspended pursuant to Subsection (2) may not apply to renew a license nor apply for a new license until the licensee:

(a) pays into the fund:

~~[(a)]~~ (i) the amount paid out of the fund on behalf of the licensee; and

~~[(b)]~~ (ii) interest at a rate determined by the division with the concurrence of the commission~~[-];~~ and

(b) participates in a hearing before the commission and is approved by the commission, with the concurrence of the director, for licensure or activation of the suspended license.

Section 9. Section 61-2e-204 is amended to read:

61-2e-204. Renewal of a registration.

(1) (a) A registration under this chapter expires two years from the day on which the registration is approved.

(b) Notwithstanding Subsection (1)(a), the time period of a registration may be extended or shortened by as much as one year to maintain or change a renewal cycle established by rule by the division.

(2) To renew a registration under this chapter, before the day on which the registration expires, an appraisal management company shall:

(a) file with the division a renewal registration application on a form prescribed by the division;

(b) pay to the division a fee determined in accordance with Section 63J-1-504; and

(c) file with the division a certificate evidencing that the appraisal management company has

secured and will maintain a surety bond with one or more corporate sureties authorized to do business in the state in the amount of at least \$25,000, as the division provides by rule.

(3) (a) An appraisal management company's registration is immediately and automatically suspended if:

(i) the appraisal management company's surety bond lapses or is cancelled during the time period described in Subsection (1); and

(ii) the appraisal management company fails to obtain or reinstate a surety bond within 30 days after the day on which the surety bond lapses or is cancelled.

(b) To reinstate a registration suspended under Subsection (3)(a), the appraisal management company shall provide evidence to the division that the appraisal management company is in compliance with the surety bond requirement described in this section.

(4) A renewal registration application shall include substantially similar information to the information required under Section 61-2e-202, except that for an individual described in Subsection 61-2e-202(2)(e) or (g), the entity is required to report whether the individual has had:

(a) (i) a conviction of a criminal offense;

(ii) the entry of a plea in abeyance to a criminal offense; or

(iii) the potential resolution of a criminal case by:

(A) a diversion agreement; or

(B) another agreement under which a criminal charge is held in suspense for a period of time;

(b) a filing of personal bankruptcy or bankruptcy of a business that transacts the appraisal management services;

(c) the suspension, revocation, surrender, cancellation, or denial of a professional license or certification, whether the license or registration is issued by this state or another jurisdiction; or

(d) the entry of a cease and desist order or a temporary or permanent injunction:

(i) against the individual by a court or government agency; and

(ii) on the basis of:

(A) conduct or a practice involving the business of appraisal management services; or

(B) conduct involving fraud, misrepresentation, or deceit.

(5) A registration expires if it is not renewed on or before its expiration date, except that for a period of one year after the expiration date, the registration may be reinstated upon compliance with this section, including payment of a renewal fee and a late fee determined by the division and the board.

(6) Notwithstanding Subsection (5), the division may extend the term of a license that would expire under Subsection (5) except for the extension if:

(a) (i) the person complies with the requirements of this section to renew the registration; and

(ii) the renewal application remains pending at the time of the extension; or

(b) at the time of the extension, there is pending under this chapter a disciplinary action.

Section 10. Section 61-2e-301 is amended to read:

61-2e-301. Use of licensed or certified appraisers.

(1) An appraisal management company required to be registered under this chapter may not enter into an agreement with an appraiser for the performance of a real estate appraisal activity unless the appraiser is licensed or certified in good standing pursuant to Chapter 2g, Real Estate Appraiser Licensing and Certification Act.

(2) (a) An appraisal management company required to be registered under this chapter shall have a system to verify that an individual added to the appraiser panel of the appraisal management company holds a license or certificate in good standing in this state pursuant to Chapter 2g, Real Estate Appraiser Licensing and Certification Act.

(b) As part of the registration process under Part 2, Registration, an appraisal management company shall biennially provide an explanation of the system described in Subsection (2)(a) in the form prescribed by the division.

(3) The board, with the concurrence of the division, may establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements regarding when use of a licensed appraiser or certified appraiser is appropriate, including how an assignment is offered to an appraiser.

Section 11. Section 61-2e-304 is amended to read:

61-2e-304. Required disclosure -- Customary and reasonable compensation.

(1) Before an appraisal management company may receive money from a client for a real estate appraisal activity requested by the client, the appraisal management company shall disclose to the client the total compensation that the appraisal management company pays to the appraiser who performs the real estate appraisal activity.

(2) An appraisal management company shall compensate an appraiser for an appraisal at a rate that is:

(a) customary and reasonable for an appraisal in the geographic market area of the property being appraised; and

(b) consistent with a presumption of compliance under the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, and implementing federal regulations.

~~[(2)] (3)~~ The board may, with the concurrence of the division, define by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

~~[(a) what constitutes the total compensation that an appraisal management company pays to an appraiser who performs a real estate appraisal activity, except that the rules shall provide for disclosing this amount;]~~

~~[(i) as a dollar amount; or]~~

~~[(ii) as a percentage of the total amount charged to a client by an appraisal management company;]~~

~~[(b) the method an appraisal management company is required to use in calculating the figures described in Subsection (2)(a); and]~~

(a) the disclosures required to be made by the appraisal management company to the appraiser;

(b) the disclosures required to be made by the appraiser in the appraisal report;

(c) the form and content of the disclosure required by Subsection (1)(c); and

(d) the customary and reasonable compensation required to be paid to appraisers by appraisal management companies.

Section 12. Section 61-2e-306 is amended to read:

61-2e-306. Removal of appraiser from appraisal panel.

(1) Except within the first 30 days after the day on which an appraiser is first added to the appraiser panel of an appraisal management company, an appraisal management company may not remove the appraiser from its appraiser panel, or otherwise refuse to assign a request for a real estate appraisal activity to ~~[an]~~ the appraiser without:

[(4)] (a) notifying the appraiser in writing of:

~~[(a)] (i)~~ (i) the reason why the appraiser is being removed from the appraiser panel of the appraisal management company; and

~~[(b)] (ii)~~ (ii) the nature of the alleged conduct or violation if the appraiser is being removed from the appraiser panel for:

[(i)] (A) illegal conduct; or

[(ii)] (B) a violation of the applicable appraisal standards; and

~~[(2)] (b)~~ (b) providing an opportunity for the appraiser to respond to the notification [of the appraisal management company] under Subsection (1)(a).

(2) The board, with the concurrence of the division, may establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements consistent with this section regarding the removal of an appraiser from an appraisal panel.

Section 13. Section 61-2e-307 is amended to read:

61-2e-307. Prohibited acts -- Exclusions.

(1) An appraisal management company required to be registered under this chapter and a controlling person, employee, or agent of the appraisal management company may not:

(a) engage in an act of coercion, extortion, intimidation, or bribery for any purpose related to an appraisal;

(b) compensate an appraiser in a manner that the person should reasonably know would result in the appraiser not conducting a real estate appraisal activity in a manner consistent with applicable appraisal standards;

(c) engage in the business of an appraisal management company under an assumed or fictitious name not properly registered in the state;

(d) accept a contingent fee for performing an appraisal management service if the fee is contingent on:

(i) the appraisal report having a predetermined analysis, opinion, or conclusion;

(ii) the analysis, opinion, conclusion, or valuation reached in an appraisal report; or

(iii) the consequences resulting from the appraisal assignment;

(e) require an appraiser to indemnify the appraisal management company against liability except liability for errors and omissions by the appraiser; or

(f) alter, modify, or otherwise change a completed appraisal report submitted by an appraiser.

(2) An appraisal management company required to be registered under this chapter, or a controlling person, employee, or agent of the appraisal management company may not influence or attempt to influence the development, reporting, or review of an appraisal through:

(a) coercion;

(b) extortion;

(c) collusion;

(d) compensation;

(e) instruction;

(f) inducement;

(g) intimidation;

(h) bribery; or

(i) any other manner that would constitute undue influence.

(3) A violation of Subsection (2) includes doing one or more of the following for a purpose listed in Subsection (2):

(a) withholding or threatening to withhold timely payment for an appraisal;

(b) withholding or threatening to withhold future business for an appraiser;

(c) taking adverse action or threatening to take adverse action against an appraiser regarding use of the appraiser for a real estate appraisal activity;

(d) expressly or by implication promising future business or increased compensation for an appraiser;

(e) conditioning one or more of the following on the opinion, conclusion, or valuation to be reached, or on a preliminary estimate or opinion requested from an appraiser:

- (i) a request for a real estate appraisal activity; or
- (ii) the payment of consideration;

(f) requesting that an appraiser provide at any time before the appraiser's completion of a real estate appraisal activity:

(i) an estimated, predetermined, or desired valuation in an appraisal report; or

- (ii) an estimated value or comparable sale;

(g) except for a copy of a sales contract for a purchase transaction, providing to an appraiser:

(i) an anticipated, estimated, encouraged, or desired value for a subject property; or

(ii) a proposed or target amount to be loaned to the borrower;

(h) providing to an appraiser, or an individual related to the appraiser, stock or other financial or non-financial benefits;

(i) allowing the removal of an appraiser from an appraiser panel, without prior written notice to the appraiser as required by Section 61-2e-306;

(j) obtaining, using, or paying for a subsequent appraisal or ordering an automated valuation model in connection with a mortgage financing transaction unless:

(i) (A) there is a reasonable basis to believe that the initial appraisal does not meet applicable appraisal standards; and

(B) the reasonable basis is noted in the loan file; or

(ii) the subsequent appraisal or automated valuation model is done pursuant to a pre- or post-funding appraisal review or quality control process in accordance with applicable appraisal standards; ~~or~~

(k) removing or threatening to remove an appraiser from the appraiser panel if an appraiser requires a reasonable extension of the completion date for an appraisal assignment in order to complete a credible appraisal report; or

~~(l)~~ (l) engaging in any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity, or impartiality.

(4) This section may not be construed to prohibit an appraisal management company from requesting that an appraiser:

(a) provide additional information about the basis for a valuation; or

(b) correct an objective factual error in an appraisal report.

Section 14. Section 61-2e-401 is amended to read:

61-2e-401. Division authority -- Immunity.

(1) (a) In addition to a power or duty expressly provided in this chapter, the division may:

(i) receive and act on a complaint including:

(A) taking action designed to obtain voluntary compliance with this chapter, including the issuance of a cease and desist order if the person against whom the order is issued is given the right to petition the board for review of the order; or

(B) commencing an administrative or judicial proceeding on the division's own initiative;

(ii) investigate an entity required to be registered under this chapter, regardless of whether the entity is located in Utah; ~~and~~

(iii) employ one or more investigators, clerks, or other employees or agents if:

(A) approved by the executive director; and

(B) within the budget of the division~~[-]; and~~

(iv) issue a subpoena that requires:

(A) the attendance and testimony of a witness; or

(B) the production of evidence.

(b) (i) A court of competent jurisdiction shall enforce, according to the practice and procedure of the court, a subpoena issued by the division.

(ii) The division shall pay any witness fee, travel expense, mileage, or any other fee required by the service statutes of the state where the witness or evidence is located.

~~(c)~~ (c) A failure to respond to a request by the division in an investigation under this chapter is considered to be a separate violation of this chapter, including:

(i) failing to respond to a subpoena;

(ii) withholding evidence; or

(iii) failing to produce a document or record.

(2) (a) If a person is found to have violated this chapter or a rule made under this chapter, the person shall pay the costs incurred by the division to copy a book, paper, contract, document, or record required under this chapter, including the costs incurred to copy an electronic book, paper, contract, document, or record in a universally readable format.

(b) If a person fails to pay the costs described in Subsection (2)(a) when due, the person's registration is automatically suspended:

(i) beginning the day on which the payment of costs is due; and

(ii) ending the day on which the costs are paid.

(3) The division is immune from a civil action or criminal prosecution for initiating or assisting in a lawful investigation of an act or participating in a disciplinary proceeding under this chapter if the division takes the action:

(a) without malicious intent; and

(b) in the reasonable belief that the action is taken pursuant to the powers and duties vested in the division under this chapter.

Section 15. Section 61-2f-102 is amended to read:

61-2f-102. Definitions.

As used in this chapter:

(1) "Associate broker" means an individual who is:

(a) employed or engaged as an independent contractor by or on behalf of a principal broker to perform an act set out in Subsection (18) for valuable consideration; and

(b) licensed under this chapter as an associate broker.

(2) "Branch office" means a principal broker's real estate brokerage office that is not the principal broker's main office.

(3) "Business day" means a day other than:

(a) a Saturday;

(b) a Sunday; or

(c) a federal or state holiday.

(4) "Business opportunity" means the sale, lease, or exchange of any business that includes an interest in real estate.

(5) "Commission" means the Real Estate Commission established under this chapter.

(6) "Concurrence" means the entities given a concurring role must jointly agree for action to be taken.

~~[(8)]~~ (7) "Condominium homeowners' association" means the condominium unit owners acting as a group in accordance with declarations and bylaws.

~~[(9)]~~ (8) (a) "Condominium hotel" means one or more condominium units that are operated as a hotel.

(b) "Condominium hotel" does not mean a hotel consisting of condominium units, all of which are owned by a single entity.

~~[(7)]~~ (9) "Condominium unit" ~~[is as]~~ means the same as that term is defined in Section 57-8-3.

(10) "Director" means the director of the Division of Real Estate.

(11) "Division" means the Division of Real Estate.

(12) "Entity" means:

(a) a corporation;

(b) a partnership;

(c) a limited liability company;

(d) a company;

(e) an association;

(f) a joint venture;

(g) a business trust;

(h) a trust; or

(i) any organization similar to an entity described in Subsections (12)(a) through (h).

(13) "Executive director" means the director of the Department of Commerce.

(14) "Foreclosure rescue" means, for compensation or with the expectation of receiving valuable consideration, to:

(a) engage, or offer to engage, in an act that:

(i) the person represents will assist a borrower in preventing a foreclosure; and

(ii) relates to a transaction involving the transfer of title to residential real property; or

(b) as an employee or agent of another person:

(i) solicit, or offer that the other person will engage in an act described in Subsection (14)(a); or

(ii) negotiate terms in relationship to an act described in Subsection (14)(a).

(15) "Loan modification assistance" means, for compensation or with the expectation of receiving valuable consideration, to:

(a) act, or offer to act, on behalf of a person to:

(i) obtain a loan term of a residential mortgage loan that is different from an existing loan term including:

(A) an increase or decrease in an interest rate;

(B) a change to the type of interest rate;

(C) an increase or decrease in the principal amount of the residential mortgage loan;

(D) a change in the number of required period payments;

(E) an addition of collateral;

(F) a change to, or addition of, a prepayment penalty;

(G) an addition of a cosigner; or

(H) a change in persons obligated under the existing residential mortgage loan; or

(ii) substitute a new residential mortgage loan for an existing residential mortgage loan; or

(b) as an employee or agent of another person:

(i) solicit, or offer that the other person will engage in an act described in Subsection (15)(a); or

(ii) negotiate terms in relationship to an act described in Subsection (15)(a).

(16) "Main office" means the address which a principal broker designates with the division as the principal broker's primary brokerage office.

(17) "Person" means an individual or entity.

(18) "Principal broker" means an individual who is licensed or required to be licensed as a principal broker under this chapter ~~and~~ who:

(a) ~~(i)~~ sells or lists for sale real estate, including real estate being sold as part of a foreclosure rescue, or a business opportunity with the expectation of receiving valuable consideration;

~~(ii)~~ (b) buys, exchanges, or auctions real estate, an option on real estate, a business opportunity, or an improvement on real estate with the expectation of receiving valuable consideration; ~~(c)~~

~~(iii)~~ (c) advertises, offers, attempts, or otherwise holds the individual out to be engaged in the business described in Subsection (18)(a)~~(i)~~ or ~~(ii)~~ (b);

~~(iv)~~ (d) is employed by or on behalf of the owner of real estate or by a prospective purchaser of real estate and performs an act described in Subsection (18)(a), whether the individual's compensation is at a stated salary, a commission basis, upon a salary and commission basis, or otherwise;

~~(v)~~ ~~(i)~~ (e) with the expectation of receiving valuable consideration, manages property owned by another person; ~~(f)~~

~~(ii)~~ (f) advertises or otherwise holds the individual out to be engaged in property management;

~~(iv)~~ (g) with the expectation of receiving valuable consideration, assists or directs in the procurement of prospects for or the negotiation of a transaction listed in Subsections (18)~~(a) and (e)~~(a) and (e);

~~(v)~~ (h) except for a mortgage lender, title insurance producer, or an employee of a mortgage lender or title insurance producer, assists or directs in the closing of a real estate transaction with the expectation of receiving valuable consideration; ~~(f)~~

~~(iv)~~ (i) engages in foreclosure rescue; or

~~(ii)~~ (j) advertises, offers, attempts, or otherwise holds the person out as being engaged in foreclosure rescue.

(19) (a) "Property management" means engaging in, with the expectation of receiving valuable consideration, the management of real estate owned by another person or advertising or otherwise claiming to be engaged in property management by:

(i) advertising for, arranging, negotiating, offering, or otherwise attempting or participating

in a transaction calculated to secure the rental or leasing of real estate;

(ii) collecting, agreeing, offering, or otherwise attempting to collect rent for the real estate and accounting for and disbursing the money collected; or

(iii) authorizing expenditures for repairs to the real estate.

(b) "Property management" does not include:

(i) hotel or motel management;

(ii) rental of tourist accommodations, including hotels, motels, tourist homes, condominiums, condominium hotels, mobile home park accommodations, campgrounds, or similar public accommodations for a period of less than 30 consecutive days, and the management activities associated with these rentals; or

(iii) the leasing or management of surface or subsurface minerals or oil and gas interests, if the leasing or management is separate from a sale or lease of the surface estate.

(20) "Real estate" includes leaseholds and business opportunities involving real property.

(21) (a) "Regular salaried employee" means an individual who performs a service for wages or other remuneration, whose employer withholds federal employment taxes under a contract of hire, written or oral, express or implied.

(b) "Regular salaried employee" does not include an individual who performs services on a project-by-project basis or on a commission basis.

(22) "Reinstatement" means restoring a license that has expired or has been suspended.

(23) "Reissuance" means the process by which a licensee may obtain a license following revocation of the license.

(24) "Renewal" means extending a license for an additional licensing period on or before the date the license expires.

(25) "Sales agent" means an individual who is:

(a) affiliated with a principal broker, either as an independent contractor or an employee as provided in Section 61-2f-303, to perform for valuable consideration an act described in Subsection (18); and

(b) licensed under this chapter as a sales agent.

(26) (a) "Undivided fractionalized long-term estate" means an ownership interest in real property by two or more persons that is:

(i) a tenancy in common; or

(ii) any other legal form of undivided estate in real property including:

(A) a fee estate;

(B) a life estate; or

(C) other long-term estate.

(b) "Undivided fractionalized long-term estate" does not include a joint tenancy.

Section 16. Section 61-2f-202 is amended to read:

61-2f-202. Exempt persons and transactions.

(1) (a) Except as provided in Subsection (1)(b), a license under this chapter is not required for:

(i) an individual who as owner or lessor performs an act described in Subsection 61-2f-102(18) with reference to real estate owned or leased by that individual;

(ii) a regular salaried employee of the owner or lessor of real estate who, with reference to nonresidential real estate owned or leased by the employer, performs an act described in Subsection 61-2f-102(18)(a) or (b) or (c);

(iii) a regular salaried employee of the owner of real estate who performs property management services with reference to real estate owned by the employer, except that the employee may only manage real estate for one employer;

(iv) an individual who performs property management services for the apartments at which that individual resides in exchange for free or reduced rent on that individual's apartment;

(v) a regular salaried employee of a condominium homeowners' association who manages real estate subject to the declaration of condominium that established the condominium homeowners' association, except that the employee may only manage real estate for one condominium homeowners' association; and

(vi) a regular salaried employee of a licensed property management company or real estate brokerage who performs support services, as prescribed by rule, for the property management company or real estate brokerage.

(b) Subsection (1)(a) does not exempt from licensing:

(i) an employee engaged in the sale of real estate regulated under:

(A) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act; or

(B) Title 57, Chapter 19, Timeshare and Camp Resort Act;

(ii) an employee engaged in the sale of cooperative interests regulated under Title 57, Chapter 23, Real Estate Cooperative Marketing Act; or

(iii) an individual whose interest as an owner or lessor is obtained by that individual or transferred to that individual for the purpose of evading the application of this chapter, and not for another legitimate business reason.

(2) A license under this chapter is not required for:

(a) an isolated transaction or service by an individual holding [a] an unsolicited, duly executed power of attorney from a property owner;

(b) services rendered by an attorney admitted to practice law in this state in performing the attorney's duties as an attorney;

(c) a receiver, trustee in bankruptcy, administrator, executor, or an individual acting under order of a court;

(d) a trustee or employee of a trustee under a deed of trust or a will;

(e) a public utility, officer of a public utility, or regular salaried employee of a public utility, unless performance of an act described in Subsection 61-2f-102(18) is in connection with the sale, purchase, lease, or other disposition of real estate or investment in real estate unrelated to the principal business activity of that public utility;

(f) a regular salaried employee or authorized agent working under the oversight of the Department of Transportation when performing an act on behalf of the Department of Transportation in connection with one or more of the following:

(i) the acquisition of real estate pursuant to Section 72-5-103;

(ii) the disposal of real estate pursuant to Section 72-5-111;

(iii) services that constitute property management; or

(iv) the leasing of real estate; and

(g) a regular salaried employee of a county, city, or town when performing an act on behalf of the county, city, or town:

(i) in accordance with:

(A) if a regular salaried employee of a city or town:

(I) Title 10, Utah Municipal Code; or

(II) Title 11, Cities, Counties, and Local Taxing Units; and

(B) if a regular salaried employee of a county:

(I) Title 11, Cities, Counties, and Local Taxing Units; and

(II) Title 17, Counties; and

(ii) in connection with one or more of the following:

(A) the acquisition of real estate, including by eminent domain;

(B) the disposal of real estate;

(C) services that constitute property management; or

(D) the leasing of real estate.

(3) A license under this chapter is not required for an individual registered to act as a broker-dealer, agent, or investment adviser under the Utah and federal securities laws in the sale or the offer for sale of real estate if:

(a) (i) the real estate is a necessary element of a “security” as that term is defined by the Securities Act of 1933 and the Securities Exchange Act of 1934; and

(ii) the security is registered for sale in accordance with:

(A) the Securities Act of 1933; or

(B) Title 61, Chapter 1, Utah Uniform Securities Act; or

(b) (i) it is a transaction in a security for which a Form D, described in 17 C.F.R. Sec. 239.500, has been filed with the Securities and Exchange Commission pursuant to Regulation D, Rule 506, 17 C.F.R. Sec. 230.506; and

(ii) the selling agent and the purchaser are not residents of this state.

(4) As used in this section, “owner” does not include:

(a) a person who holds an option to purchase real property;

(b) a mortgagee;

(c) a beneficiary under a deed of trust;

(d) a trustee under a deed of trust; or

(e) a person who owns or holds a claim that encumbers any real property or an improvement to the real property.

Section 17. Section 61-2f-307 is amended to read:

61-2f-307. Rulemaking required for offer or sale of an undivided fractionalized long-term estate -- Disclosures -- Management agreement.

(1) (a) A licensee or certificate holder under this chapter who sells or offers to sell an undivided fractionalized long-term estate shall comply with the disclosure requirements imposed by rules made by the commission under this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules as to the timing, form, and substance of disclosures required to be made by a licensee or certificate holder under this section.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules imposing requirements for a management agreement related to an undivided fractionalized long-term estate that [makes] treats the offer or sale of the undivided fractionalized long-term estate [treated] as a real estate transaction and not [treated] as an offer or sale of a security under Chapter 1, Utah Uniform Securities Act.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing:

(a) the disclosures required in the sale or offer of an undivided fractionalized long-term estate that is subject to a master lease;

(b) requirements for the management of a master lease on an undivided fractionalized long-term estate; and

(c) the requirements on the structure of a master lease on an undivided fractionalized long-term estate.

Section 18. Section 61-2f-401 is amended to read:

61-2f-401. Grounds for disciplinary action.

The following acts are unlawful for a person licensed or required to be licensed under this chapter:

(1) (a) making a substantial misrepresentation, including in a licensure statement;

(b) making an intentional misrepresentation;

(c) pursuing a continued and flagrant course of misrepresentation;

(d) making a false representation or promise through an agent, sales agent, advertising, or otherwise; or

(e) making a false representation or promise of a character likely to influence, persuade, or induce;

(2) acting for more than one party in a transaction without the informed consent of the parties;

(3) (a) acting as an associate broker or sales agent while not affiliated with a principal broker;

(b) representing or attempting to represent a principal broker other than the principal broker with whom the person is affiliated; or

(c) representing as sales agent or having a contractual relationship similar to that of sales agent with a person other than a principal broker;

(4) (a) failing, within a reasonable time, to account for or to remit money that belongs to another and comes into the person’s possession;

(b) commingling money described in Subsection (4)(a) with the person’s own money; or

(c) diverting money described in Subsection (4)(a) from the purpose for which the money is received;

(5) paying or offering to pay valuable consideration, as defined by the commission, to a person not licensed under this chapter, except that valuable consideration may be shared:

(a) with a principal broker of another jurisdiction; or

(b) as provided under:

(i) Title 16, Chapter 10a, Utah Revised Business Corporation Act;

(ii) Title 16, Chapter 11, Professional Corporation Act; or

(iii) ~~Title 48, Chapter 2e, Utah Revised Limited Liability Company Act, or~~ Title 48, Chapter 3a,

Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant to Section 48-3a-1405;

(6) for a principal broker, paying or offering to pay a sales agent or associate broker who is not affiliated with the principal broker at the time the sales agent or associate broker earned the compensation;

(7) being incompetent to act as a principal broker, associate broker, or sales agent in such manner as to safeguard the interests of the public;

(8) failing to voluntarily furnish a copy of a document to the parties before and after the execution of a document;

(9) failing to keep and make available for inspection by the division a record of each transaction, including:

(a) the names of buyers and sellers or lessees and lessors;

(b) the identification of real estate;

(c) the sale or rental price;

(d) money received in trust;

(e) agreements or instructions from buyers and sellers or lessees and lessors; and

(f) any other information required by rule;

(10) failing to disclose, in writing, in the purchase, sale, or rental of real estate, whether the purchase, sale, or rental is made for that person or for an undisclosed principal;

(11) being convicted, within five years of the most recent application for licensure, of a criminal offense involving moral turpitude ~~[within five years of the most recent application: (a)]~~ regardless of whether:

(a) the criminal offense is related to real estate; ~~[and] or~~

~~[(b) including:]~~

~~[(i) a conviction based upon a plea of nolo contendere; or]~~

~~[(ii) a plea held in abeyance to a criminal offense involving moral turpitude;]~~

(b) the conviction is based upon a plea of nolo contendere;

(12) having, within five years of the most recent application for a license under this chapter, entered any of the following related to a criminal offense involving moral turpitude:

(a) a plea in abeyance agreement;

(b) a diversion agreement;

(c) a withheld judgment; or

(d) an agreement in which a charge was held in suspense during a period of time when the licensee was on probation or was obligated to comply with conditions outlined by a court;

~~[(12)]~~ (13) advertising the availability of real estate or the services of a licensee in a false, misleading, or deceptive manner;

~~[(13)]~~ (14) in the case of a principal broker or a licensee who is a branch manager, failing to exercise reasonable supervision over the activities of the principal broker's or branch manager's licensed or unlicensed staff;

~~[(14)]~~ (15) violating or disregarding:

(a) this chapter;

(b) an order of the commission; or

(c) the rules adopted by the commission and the division;

~~[(15)]~~ (16) breaching a fiduciary duty owed by a licensee to the licensee's principal in a real estate transaction;

~~[(16)]~~ (17) any other conduct which constitutes dishonest dealing;

~~[(17)]~~ (18) unprofessional conduct as defined by statute or rule;

~~[(18)]~~ (19) having one of the following suspended, revoked, surrendered, or cancelled on the basis of misconduct in a professional capacity that relates to character, honesty, integrity, or truthfulness:

(a) a real estate license, registration, or certificate issued by another jurisdiction; or

(b) another license, registration, or certificate to engage in an occupation or profession issued by this state or another jurisdiction;

~~[(19)]~~ (20) failing to respond to a request by the division in an investigation authorized under this chapter, including:

(a) failing to respond to a subpoena;

(b) withholding evidence; or

(c) failing to produce documents or records;

~~[(20)]~~ (21) in the case of a dual licensed title licensee as defined in Section 31A-2-402:

(a) providing a title insurance product or service without the approval required by Section 31A-2-405; or

(b) knowingly providing false or misleading information in the statement required by Subsection 31A-2-405(2);

~~[(21)]~~ (22) violating an independent contractor agreement between a principal broker and a sales agent or associate broker as evidenced by a final judgment of a court;

~~[(22)]~~ (23) (a) engaging in an act of loan modification assistance that requires licensure as a mortgage officer under Chapter 2c, Utah Residential Mortgage Practices and Licensing Act, without being licensed under that chapter;

(b) engaging in an act of foreclosure rescue without entering into a written agreement specifying what one or more acts of foreclosure rescue will be completed;

(c) inducing a person who is at risk of foreclosure to hire the licensee to engage in an act of foreclosure rescue by:

(i) suggesting to the person that the licensee has a special relationship with the person's lender or loan servicer; or

(ii) falsely representing or advertising that the licensee is acting on behalf of:

(A) a government agency;

(B) the person's lender or loan servicer; or

(C) a nonprofit or charitable institution; or

(d) recommending or participating in a foreclosure rescue that requires a person to:

(i) transfer title to real estate to the licensee or to a third-party with whom the licensee has a business relationship or financial interest;

(ii) make a mortgage payment to a person other than the person's loan servicer; or

(iii) refrain from contacting the person's:

(A) lender;

(B) loan servicer;

(C) attorney;

(D) credit counselor; or

(E) housing counselor;

~~[(23)]~~ (24) as a principal broker, placing a lien on real property, unless authorized by law; or

~~[(24)]~~ (25) as a sales agent or associate broker, placing a lien on real property for an unpaid commission or other compensation related to real estate brokerage services.

Section 19. Section 61-2f-402 is amended to read:

61-2f-402. Investigations.

(1) The division may make an investigation within or outside of this state as the division considers necessary to determine whether a person has violated, is violating, or is about to violate this chapter or any rule or order under this chapter.

(2) To aid in the enforcement of this chapter or in the prescribing of rules and forms under this chapter, the division may require or permit a person to file a statement in writing, under oath or otherwise as to the facts and circumstances concerning the matter to be investigated.

(3) For the purpose of the investigation described in Subsection (1), the division or an employee designated by the division may:

(a) administer an oath or affirmation;

~~[(b) subpoena witnesses and evidence;]~~

(b) issue a subpoena that requires:

(i) the attendance and testimony of a witness; or

(ii) the production of evidence;

(c) take evidence;

(d) require the production of a book, paper, contract, record, other document, or information relevant to the investigation; and

(e) serve a subpoena by certified mail.

(4) (a) A court of competent jurisdiction shall enforce, according to the practice and procedure of the court, a subpoena issued by the division.

(b) The division shall pay any witness fee, travel expense, mileage, or any other fee required by the service statutes of the state where the witness or evidence is located.

~~[(4)]~~ (5) (a) If a person is found to have violated this chapter or a rule made under this chapter, the person shall pay the costs incurred by the division to copy a book, paper, contract, document, or record required under this chapter, including the costs incurred to copy an electronic book, paper, contract, document, or record in a universally readable format.

(b) If a person fails to pay the costs described in Subsection ~~[(4)]~~ (5)(a) when due, the person's license, certification, or registration is automatically suspended:

(i) beginning the day on which the payment of costs is due; and

(ii) ending the day on which the costs are paid.

~~[(5)]~~ (6) (a) Except as provided in Subsection ~~[(5)]~~ (6)(b), the division shall commence a disciplinary action under this chapter no later than the earlier of the following:

(i) four years after the day on which the violation is reported to the division; or

(ii) 10 years after the day on which the violation occurred.

(b) The division may commence a disciplinary action under this chapter after the time period described in Subsection ~~[(5)]~~ (6)(a) expires if:

(i) (A) the disciplinary action is in response to a civil or criminal judgment or settlement; and

(B) the division initiates the disciplinary action no later than one year after the day on which the judgment is issued or the settlement is final; or

(ii) the division and the person subject to a disciplinary action enter into a written stipulation to extend the time period described in Subsection ~~[(5)]~~ (6)(a).

Section 20. Section 61-2f-404 is amended to read:

61-2f-404. Disciplinary action -- Judicial review.

(1) (a) On the basis of a violation of this chapter, the commission with the concurrence of the director, may issue an order:

(i) imposing an educational requirement;

(ii) imposing a civil penalty not to exceed the greater of:

- (A) \$5,000 for each violation; or
- (B) the amount of any gain or economic benefit derived from each violation;
- (iii) taking any of the following actions related to a license, registration, or certificate:
- (A) revoking;
- (B) suspending;
- (C) placing on probation;
- (D) denying the renewal, reinstatement, or application for an original license, registration, or certificate; or
- (E) in the case of denial or revocation of a license, registration, or certificate, setting a waiting period for an applicant to apply for a license, registration, or certificate under this title;
- (iv) issuing a cease and desist order;
- (v) modifying an action described in Subsections (1)(a)(i) through (iv) if the commission finds that the person complies with court ordered restitution; or
- (vi) doing any combination of Subsections (1)(a)(i) through (v).
- (b) (i) If the commission with the concurrence of the director issues an order that orders a fine or educational requirements as part of a disciplinary action against a person, including a stipulation and order, the commission shall state in the order the deadline by which the person shall comply with the fine or educational requirements.
- (ii) If a person fails to comply by the stated deadline:
- (A) the person's license, registration, or certificate is automatically suspended:
- (I) beginning the day specified in the order as the deadline for compliance; and
- (II) ending the day on which the person complies in full with the order; and
- (B) if the person fails to pay a fine required by an order, the division may begin a collection process:
- (I) established by the division, with the concurrence of the commission, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
- (II) subject to Title 63A, Chapter 3, Part 5, Office of State Debt Collection.
- (c) If a licensee is an active sales agent or active associate broker, the division shall inform the principal broker with whom the licensee is affiliated of the charge and of the time and place of any hearing.
- (d) A person previously licensed under this chapter remains responsible for, and is subject to disciplinary action for, an act the person committed while the person was licensed in violation of this chapter or an administrative rule in effect at the

time the person committed the act, regardless of whether the person is currently licensed.

(2) (a) An applicant, certificate holder, licensee, registrant, or person aggrieved, including the complainant, may obtain agency review by the executive director and judicial review of any adverse ruling, order, or decision of the division.

(b) If an applicant, certificate holder, registrant, or licensee prevails in the appeal and the court finds that the state action was undertaken without substantial justification, the court may award reasonable litigation expenses to the applicant, certificate holder, registrant, or licensee as provided under Title 78B, Chapter 8, Part 5, Small Business Equal Access to Justice Act.

(c) (i) An order, ruling, or decision of the division shall take effect and become operative 30 days after the service of the order, ruling, or decision unless otherwise provided in the order.

(ii) If an appeal is taken by a licensee, registrant, or certificate holder, the division may stay enforcement of an order, ruling, or decision in accordance with Section 63G-4-405.

(iii) An appeal is governed by the Utah Rules of Appellate Procedure.

(3) The commission and the director shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in an adjudicative proceeding.

Section 21. Section 61-2g-301 is amended to read:

61-2g-301. License or certification required.

(1) Except as provided in Subsection (2), it is unlawful for a person to prepare, for valuable consideration, an appraisal, an appraisal report, a certified appraisal report, or perform a consultation service relating to real estate or real property in this state without first being licensed or certified in accordance with this chapter.

(2) This section does not apply to:

(a) a principal broker, associate broker, or sales agent as defined by Section 61-2f-102 licensed by this state who, in the ordinary course of the broker's or sales agent's business, gives an opinion~~ing~~ regarding the value of real estate[~~ing~~];

[~~(ii)~~] (i) to a potential seller or third-party recommending a listing price of real estate; or

[~~(iii)~~] (ii) to a potential buyer or third-party recommending a purchase price of real estate;

(b) an employee of a company who states an opinion of value or prepares a report containing value conclusions relating to real estate or real property solely for the company's use;

(c) an official or employee of a government agency while acting solely within the scope of the official's or employee's duties, unless otherwise required by Utah law;

(d) an auditor or accountant who states an opinion of value or prepares a report containing

value conclusions relating to real estate or real property while performing an audit;

(e) an individual, except an individual who is required to be licensed or certified under this chapter, who states an opinion about the value of property in which the [person] individual has an ownership interest;

(f) an individual who states an opinion of value if no consideration is paid or agreed to be paid for the opinion and no other party is reasonably expected to rely on the individual's appraisal expertise;

(g) an individual, such as a researcher or a secretary, who does not render significant professional assistance, as defined by the board, in arriving at a real estate appraisal analysis, opinion, or conclusion;

(h) an attorney authorized to practice law in any state who, in the course of the attorney's practice or tax appeal services, uses an appraisal report governed by this chapter or who states an opinion of the value of real estate; or

(i) [~~a person~~] an individual who is not an appraiser who presents or provides a price estimate, evidence, or property tax information solely for a property tax appeal in accordance with Section 59-2-1017.

(3) An opinion of value or report containing value conclusions exempt under Subsection (2) may not be referred to as an appraisal.

(4) Except as provided in Subsection (2), to prepare or cause to be prepared in this state an appraisal, an appraisal report, or a certified appraisal report, an individual shall:

(a) apply in writing for licensure or certification as provided in this chapter in the form the division may prescribe; and

(b) become licensed or certified under this chapter.

Section 22. Section 61-2g-406 is amended to read:

61-2g-406. Contingent fees.

(1) A person licensed or certified under this chapter who enters into an agreement to perform an appraisal may not accept a contingent fee.

(2) A person [~~who~~] may accept payment of a fixed fee or a contingent fee when the person:

(a) if the person is not licensed or certified under this chapter, presents or provides a price estimate or property tax information in accordance with Section 59-2-1017[~~, or a~~]; or

(b) if the person [~~who~~] is licensed or certified under this chapter [~~who~~], enters into an agreement to provide consultation services[~~, may be paid a fixed fee or a contingent fee~~].

[~~(3) (a) If a person who presents or provides a price estimate or property tax information in accordance with Section 59-2-1017, or a person who is licensed or certified under this chapter,~~

~~enters into an agreement to perform consultation services for a contingent fee, this fact shall be clearly stated in each oral statement.]~~

[~~(b) In addition to the requirements of Subsection (3)(a), if a person who presents or provides a price estimate or property tax information in accordance with Section 59-2-1017, or a person who is licensed or certified under this chapter, prepares a~~

(3) A person that accepts payment of a fee under Subsection (2) shall:

(a) clearly state in each oral statement the fact that the person is accepting payment of a fee under a contingent fee arrangement and whether the person is licensed or certified under this chapter; and

(b) clearly state in any written consultation report or summary, letter of transmittal, [or] certification statement [for a contingent fee, the person shall clearly state in the], price estimate, or property tax information[~~, report, summary, letter of transmittal, or certification statement~~] that the [report] document is prepared under a contingent fee arrangement and whether the person is licensed or certified under this chapter.

Section 23. Section 61-2g-501 is amended to read:

61-2g-501. Enforcement -- Investigation -- Orders -- Hearings.

(1) (a) The division may investigate the actions of:

(i) a person registered, licensed, or certified under this chapter;

(ii) an applicant for registration, licensure, or certification;

(iii) an applicant for renewal of registration, licensure, or certification; or

(iv) a person required to be registered, licensed, or certified under this chapter.

(b) The division may initiate an agency action against a person described in Subsection (1)(a) in accordance with Title 63G, Chapter 4, Administrative Procedures Act, to:

(i) impose disciplinary action;

(ii) deny issuance to an applicant of:

(A) an original registration, license, or certification; or

(B) a renewal of a registration, license, or certification; or

(iii) issue a cease and desist order as provided in Subsection (3).

(2) (a) The division may:

(i) administer an oath or affirmation;

[~~(ii) subpoena a witness or evidence;~~]

(ii) issue a subpoena that requires:

(A) the attendance and testimony of a witness; or

(B) the production of evidence;

(iii) take evidence; and

(iv) require the production of a book, paper, contract, record, document, information, or evidence relevant to the investigation described in Subsection (1).

(b) The division may serve a subpoena by certified mail.

(c) A failure to respond to a request by the division in an investigation authorized under this chapter is considered to be a separate violation of this chapter, including:

(i) failing to respond to a subpoena as a witness;

(ii) withholding evidence; or

(iii) failing to produce a book, paper, contract, document, information, or record.

(d) (i) A court of competent jurisdiction shall enforce, according to the practice and procedure of the court, a subpoena issued by the division.

(ii) The division shall pay any witness fee, travel expense, mileage, or any other fee required by the service statutes of the state where the witness or evidence is located.

~~(d)~~ (e) (i) If a person is found to have violated this chapter or a rule made under this chapter, the person shall pay the costs incurred by the division to copy a book, paper, contract, document, information, or record required under this chapter, including the costs incurred to copy an electronic book, paper, contract, document, information, or record in a universally readable format.

(ii) If a person fails to pay the costs described in Subsection (2)~~(d)~~(e)(i) when due, the person's license, certification, or registration is automatically suspended:

(A) beginning the day on which the payment of costs is due; and

(B) ending the day on which the costs are paid.

(3) (a) The director shall issue and serve upon a person an order directing that person to cease and desist from an act if:

(i) the director has reason to believe that the person has been engaging, is about to engage, or is engaging in the act constituting a violation of this chapter; and

(ii) it appears to the director that it would be in the public interest to stop the act.

(b) Within 10 days after receiving the order, the person upon whom the order is served may request a hearing.

(c) Pending a hearing requested under Subsection (3)(b), a cease and desist order shall remain in effect.

(d) If a request for hearing is made, the division shall follow the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

(4) (a) After a hearing requested under Subsection (3), if the board and division concur that an act of the person violates this chapter, the board, with the concurrence of the division:

(i) shall issue an order making the cease and desist order permanent; and

(ii) may impose another disciplinary action under Section 61-2g-502.

(b) The director shall commence an action in the name of the Department of Commerce and Division of Real Estate, in the district court in the county in which an act described in Subsection (3) occurs or where the ~~person~~ individual resides or carries on business, to enjoin and restrain the ~~person~~ individual from violating this chapter if:

(i) (A) a hearing is not requested under Subsection (3); and

(B) the ~~person~~ individual fails to cease the act described in Subsection (3); or

(ii) after discontinuing the act described in Subsection (3), the ~~person~~ individual again commences the act.

(5) A remedy or action provided in this section does not limit, interfere with, or prevent the prosecution of another remedy or action, including a criminal proceeding.

(6) (a) Except as provided in Subsection (6)(b), the division shall commence a disciplinary action under this chapter no later than the earlier of the following:

(i) four years after the day on which the violation is reported to the division; or

(ii) 10 years after the day on which the violation occurred.

(b) The division may commence a disciplinary action under this chapter after the time period described in Subsection (6)(a) expires if:

(i) (A) the disciplinary action is in response to a civil or criminal judgment or settlement; and

(B) the division initiates the disciplinary action no later than one year after the day on which the judgment is issued or the settlement is final; or

(ii) the division and the ~~person~~ individual subject to a disciplinary action enter into a written stipulation to extend the time period described in Subsection (6)(a).

Section 24. Section 61-2g-502 is amended to read:

61-2g-502. Disciplinary action -- Grounds.

(1) (a) The board may order disciplinary action, with the concurrence of the division, against a person:

(i) registered, licensed, or certified under this chapter; or

(ii) required to be registered, licensed, or certified under this chapter.

(b) On the basis of a ground listed in Subsection (2) for disciplinary action, board action may include:

(i) revoking, suspending, or placing a person's registration, license, or certification on probation;

(ii) denying a person's original registration, license, or certification;

(iii) denying a person's renewal license, certification, or registration;

(iv) in the case of denial or revocation of a registration, license, or certification, setting a waiting period for an applicant to apply for a registration, license, or certification under this chapter;

(v) ordering remedial education;

(vi) imposing a civil penalty upon a person not to exceed the greater of:

(A) \$5,000 for each violation; or

(B) the amount of any gain or economic benefit from a violation;

(vii) issuing a cease and desist order;

(viii) modifying an action described in Subsections (1)(b)(i) through (vii) if the board, with the concurrence of the division, finds that the person complies with court ordered restitution; or

(ix) doing any combination of Subsections (1)(b)(i) through (viii).

(c) (i) If the board or division issues an order that orders a fine or educational requirements as part of the disciplinary action against a person, including a stipulation and order, the board or division shall state in the order the deadline by which the person shall comply with the fine or educational requirements.

(ii) If a person fails to comply with a stated deadline:

(A) the person's license, certificate, or registration is automatically suspended:

(I) beginning on the day specified in the order as the deadline for compliance; and

(II) ending the day on which the person complies in full with the order; and

(B) if the person fails to pay a fine required by an order, the division may begin a collection process:

(I) established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(II) subject to Title 63A, Chapter 3, Part 5, Office of State Debt Collection.

(2) The following are grounds for disciplinary action under this section:

(a) procuring or attempting to procure a registration, license, or certification under this chapter:

(i) by fraud; or

(ii) by making a false statement, submitting false information, or making a material misrepresentation in an application filed with the division;

(b) paying money or attempting to pay money other than a fee provided for by this chapter to a member or employee of the division to procure a registration, license, or certification under this chapter;

(c) an act or omission in the practice of real estate appraising that constitutes dishonesty, fraud, or misrepresentation;

(d) entry of a judgment against a registrant, licensee, or certificate holder on grounds of fraud, misrepresentation, or deceit in the making of an appraisal of real estate;

(e) a guilty plea to a criminal offense involving moral turpitude that is held in abeyance, or a conviction, including a conviction based upon a plea of guilty or nolo contendere, of a criminal offense involving moral turpitude;

(f) engaging in the business of real estate appraising under an assumed or fictitious name not properly registered in this state;

(g) paying a finder's fee or a referral fee to a person not licensed or certified under this chapter in connection with an appraisal of real estate or real property in this state;

(h) making a false or misleading statement in:

(i) that portion of a written appraisal report that deals with professional qualifications; or

(ii) testimony concerning professional qualifications;

(i) violating or disregarding:

(i) this chapter;

(ii) an order of:

(A) the board; or

(B) the division, in a case when the board delegates to the division the authority to make a decision on behalf of the board; or

(iii) a rule issued under this chapter;

(j) violating the confidential nature of governmental records to which a person registered, licensed, or certified under this chapter gained access through employment or engagement as an appraiser by a governmental agency;

(k) accepting a contingent fee for performing an appraisal if in fact the fee is or was contingent upon:

(i) the appraiser reporting a predetermined analysis, opinion, or conclusion;

(ii) the analysis, opinion, conclusion, or valuation reached; or

(iii) the consequences resulting from the appraisal assignment;

(l) unprofessional conduct as defined by statute or rule;

(m) in the case of a dual licensed title licensee as defined in Section 31A-2-402:

(i) providing a title insurance product or service without the approval required by Section 31A-2-405; or

(ii) knowingly providing false or misleading information in the statement required by Subsection 31A-2-405(2); or

(n) other conduct that constitutes dishonest dealing.

(3) A person previously licensed, certified, or registered under this chapter remains responsible for, and is subject to disciplinary action for, an act that the person committed, while the person was licensed, certified, or registered, in violation of this chapter or an administrative rule in effect at the time that the person committed the act, regardless of whether the person is currently licensed, certified, or registered.

CHAPTER 385**H. B. 403**

Passed March 10, 2016
Approved March 29, 2016
Effective May 10, 2016

**ASBESTOS LITIGATION
TRANSPARENCY ACT**

Chief Sponsor: Brad R. Wilson
Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill enacts transparency requirements with respect to asbestos bankruptcy trust claims in civil asbestos actions.

Highlighted Provisions:

This bill:

- ▶ requires asbestos plaintiffs to investigate and file all asbestos bankruptcy trust claims and provide parties with all trust claims materials after commencement of an asbestos-related lawsuit.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

78B-6-2001, Utah Code Annotated 1953
78B-6-2002, Utah Code Annotated 1953
78B-6-2003, Utah Code Annotated 1953
78B-6-2004, Utah Code Annotated 1953
78B-6-2005, Utah Code Annotated 1953
78B-6-2006, Utah Code Annotated 1953
78B-6-2007, Utah Code Annotated 1953
78B-6-2008, Utah Code Annotated 1953
78B-6-2009, Utah Code Annotated 1953
78B-6-2010, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-6-2001 is enacted to read:**Part 20. Asbestos Bankruptcy Trust Claims
Transparency Act****78B-6-2001. Title.**

This part is referred to as the “Asbestos Bankruptcy Trust Claims Transparency Act.”

Section 2. Section 78B-6-2002 is enacted to read:**78B-6-2002. Legislative findings -- Purpose.**

(1) The Legislature finds that:

(a) approximately 100 employers have declared bankruptcy at least partially due to asbestos-related liability;

(b) these bankruptcies have resulted in a search for more solvent companies by claimants, resulting in over 10,000 companies being named as asbestos defendants, including many small- and

medium-sized companies, in industries that cover 85% of the United States economy;

(c) scores of trusts have been established in asbestos-related bankruptcy proceedings to form a multi-billion dollar asbestos bankruptcy trust compensation system outside of the tort system, and new asbestos trusts continue to be formed;

(d) asbestos claimants often seek compensation from solvent defendants in civil actions and trusts or claims facilities formed in asbestos-related bankruptcy proceedings;

(e) there is limited coordination and transparency between these two paths to recovery, which has resulted in the suppression of evidence in asbestos actions and potential fraud; and

(f) justice is promoted by transparency with respect to asbestos bankruptcy trust claims in civil asbestos actions.

(2) This part is enacted to:

(a) provide transparency with respect to asbestos bankruptcy trust claims in civil asbestos actions; and

(b) reduce the opportunity for fraud or suppression of evidence in asbestos actions.

Section 3. Section 78B-6-2003 is enacted to read:**78B-6-2003. Definitions.**

As used in this part:

(1) “Asbestos” means chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, actinolite asbestos, asbestiform winchite, asbestiform richterite, asbestiform amphibole minerals, and any of these minerals that have been chemically treated or altered, including all minerals defined as asbestos in 29 C.F.R. Sec. 1910 at the time the asbestos action is filed.

(2) (a) “Asbestos action” means a claim for damages or other civil or equitable relief presented in a civil action resulting from, based on, or related to:

(i) the health effects of exposure to asbestos, including:

(A) loss of consortium;

(B) wrongful death;

(C) mental or emotional injury;

(D) risk or fear of disease or other injury; and

(E) costs of medical monitoring or surveillance; and

(ii) any other derivative claim made by or on behalf of a person exposed to asbestos or a representative, spouse, parent, child, or other relative of that person.

(b) “Asbestos action” does not include a claim for workers’ compensation or veterans’ benefits.

(3) “Asbestos trust” means a:

(a) government-approved or court-approved trust that is intended to provide compensation to

claimants arising out of, based on, or related to the health effects of exposure to asbestos or asbestos-containing products;

(b) qualified settlement fund that is intended to provide compensation to claimants arising out of, based on, or related to the health effects of exposure to asbestos or asbestos-containing products;

(c) compensation fund or claims facility created as a result of an administrative or legal action that is intended to provide compensation to claimants arising out of, based on, or related to the health effects of exposure to asbestos or asbestos-containing products;

(d) court-approved bankruptcy that is intended to provide compensation to claimants arising out of, based on, or related to the health effects of exposure to asbestos or asbestos-containing products; or

(e) plan of reorganization or trust pursuant to 11 U.S.C. Sec. 524(g) or 11 U.S.C. Sec. 1121(a) or other applicable provision of law that is intended to provide compensation to claimants arising out of, based on, or related to the health effects of exposure to asbestos or asbestos-containing products.

(4) "Plaintiff" means:

(a) the person bringing the asbestos action, including a personal representative if the asbestos action is brought by an estate; or

(b) a conservator or next friend if the asbestos action is brought on behalf of a minor or legally incapacitated individual.

(5) "Trust claims materials" means a final executed proof of claim and all other documents and information related to a claim against an asbestos trust, including:

(a) claims forms and supplementary materials;

(b) affidavits;

(c) depositions and trial testimony;

(d) work history;

(e) medical and health records;

(f) documents reflecting the status of a claim against an asbestos trust; and

(g) all documents relating to the settlement of the trust claim if the trust claim has settled.

(6) "Trust governance documents" means all documents that relate to eligibility and payment levels, including:

(a) claims payment matrices; and

(b) trust distribution procedures or plans for reorganization for an asbestos trust.

(7) "Veterans' benefits" means a program for benefits in connection with military service administered by the Veterans Administration under United States Code, Title 38, Veterans Benefits.

(8) (a) "Workers' compensation" means a program administered by the United States or a state to provide benefits, funded by a responsible employer or the employer's insurance carrier, for occupational diseases or injuries or for disability or death caused by occupational diseases or injuries.

(b) "Workers' compensation" includes the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. Sec. 901 et seq., and Federal Employees' Compensation Act, 5 U.S.C. Sec. 8101 et seq.

(c) "Workers' compensation" does not include the Federal Employers' Liability Act, 45 U.S.C. Sec. 51 et seq.

Section 4. Section 78B-6-2004 is enacted to read:

78B-6-2004. Required disclosures by plaintiff.

(1) For each asbestos action filed in this state, the plaintiff shall provide all parties with a sworn statement identifying all asbestos trust claims that have been filed by the plaintiff or by anyone on the plaintiff's behalf, including claims with respect to asbestos-related conditions other than those that are the basis for the asbestos action or that potentially could be filed by the plaintiff against an asbestos trust.

(a) The sworn statement shall be provided no later than 120 days prior to the date set for trial for the asbestos action.

(b) For each asbestos trust claim or potential asbestos trust claim identified in the sworn statement, the statement shall include the name, address and contact information for the asbestos trust, the amount claimed or to be claimed by the plaintiff, the date the plaintiff filed the claim, the disposition of the claim and whether there has been a request to defer, delay, suspend, or toll the claim.

(c) The sworn statement shall include an attestation from the plaintiff, under penalties of perjury, that the sworn statement is complete and based on a good faith investigation of all potential claims against asbestos trusts.

(2) The plaintiff shall make available to all parties all trust claims materials for each asbestos trust claim that has been filed by the plaintiff or by anyone on the plaintiff's behalf against an asbestos trust, including any asbestos-related disease.

(3) The plaintiff shall supplement the information and materials provided pursuant to this section within 90 days after the plaintiff files an additional asbestos trust claim, supplements an existing asbestos trust claim or receives additional information or materials related to any claim or potential claim against an asbestos trust.

(4) Failure by the plaintiff to make available to all parties all trust claims materials as required by this part shall constitute grounds for the court to extend the trial date in an asbestos action.

Section 5. Section 78B-6-2005 is enacted to read:

78B-6-2005. Discovery -- Use of materials.

(1) Trust claims materials and trust governance documents are presumed to be relevant and authentic and are admissible in evidence. Claims of privilege may not apply to any trust claims materials or trust governance documents.

(2) A defendant in an asbestos action may seek discovery from an asbestos trust. The plaintiff may not claim privilege or confidentiality to bar discovery and shall provide consent or other expression of permission that may be required by the asbestos trust to release information and materials sought by a defendant.

Section 6. Section 78B-6-2006 is enacted to read:

78B-6-2006. Scheduling trial -- Stay of action.

(1) A court shall stay an asbestos action if the court finds that the plaintiff has failed to make the disclosures required under Section 78B-6-2004 within 120 days prior to the trial date.

(2) If, in the disclosures required by Section 78B-6-2004, a plaintiff identifies a potential asbestos trust claim, the judge may stay the asbestos action until the plaintiff files the asbestos trust claim and provides all parties with all trust claims materials for the claim. The plaintiff shall also state whether there has been a request to defer, delay, suspend, or toll the claim against the asbestos trust.

Section 7. Section 78B-6-2007 is enacted to read:

78B-6-2007. Identification of additional or alternative asbestos trusts by defendant.

(1) Not less than 90 days before trial, if a defendant identifies an asbestos trust claim not previously identified by the plaintiff that the defendant reasonably believes the plaintiff can file, the defendant shall meet and confer with plaintiff to discuss why defendant believes plaintiff has an additional asbestos trust claim. The defendant may move the court for an order to require the plaintiff to file the asbestos trust claim after the meeting. The defendant shall produce or describe the documentation it possesses or is aware of in support of the motion.

(2) Within 10 days of receiving the defendant's motion under Subsection (1), the plaintiff shall, for each asbestos trust claim identified by the defendant, do one of the following:

- (a) file the asbestos trust claim;
- (b) file a written response with the court setting forth the reasons why there is insufficient evidence for the plaintiff to file the asbestos trust claim; or
- (c) file a written response with the court requesting a determination that the plaintiff's expenses or attorney's fees and expenses to prepare and file the asbestos trust claim identified in the defendant's motion exceed the plaintiff's reasonably anticipated recovery from the trust.

(3) (a) If the court determines that there is a sufficient basis for the plaintiff to file the asbestos trust claim identified by the defendant, the court shall order the plaintiff to file the asbestos trust claim and shall stay the asbestos action until the plaintiff files the asbestos trust claim and provides all parties with all trust claims materials no later than 30 days before trial.

(b) If the court determines that the plaintiff's expenses or attorney's fees and expenses to prepare and file the asbestos trust claim identified in the defendant's motion exceed the plaintiff's reasonably anticipated recovery from the asbestos trust, the court shall stay the asbestos action until the plaintiff files with the court and provides all parties with a verified statement of the plaintiff's history of exposure, usage or other connection to asbestos covered by the asbestos trust.

Section 8. Section 78B-6-2008 is enacted to read:

78B-6-2008. Valuation of asbestos trust claims.

If a plaintiff proceeds to trial in an asbestos action before an asbestos trust claim is resolved, the filing of the asbestos trust claim may be considered as relevant and admissible evidence.

Section 9. Section 78B-6-2009 is enacted to read:

78B-6-2009. Failure to provide information -- Sanctions.

A plaintiff who fails to provide all of the information required under this part is subject to sanctions as provided in the Utah Rules of Civil Procedure and any other relief for the defendants that the court considers just and proper.

Section 10. Section 78B-6-2010 is enacted to read:

78B-6-2010. Application.

This part applies to asbestos actions filed on or after May 10, 2016.

CHAPTER 386**H. B. 428**

Passed March 10, 2016

Approved March 29, 2016

Effective May 10, 2016

**LOCAL GOVERNMENT
BONDING AMENDMENTS**

Chief Sponsor: Douglas V. Sagers

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies provisions relating to local political subdivision bonding authorizations.

Highlighted Provisions:

This bill:

- ▶ authorizes a local political subdivision to issue negotiable bonds to pay claims, judgments, or settlements in certain circumstances;
- ▶ specifies a maximum maturity date for bonds issued to pay certain claims, judgments, or settlements;
- ▶ provides that a political subdivision that imposes a property tax levy for certain purposes shall comply with certain notice and public hearing requirements;
- ▶ provides a sunset of the authorization of a local political subdivision to issue negotiable bonds to pay claims, judgments, or settlements in certain circumstances; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

11-14-103, as last amended by Laws of Utah 2015, Chapter 258

63G-7-702, as renumbered and amended by Laws of Utah 2008, Chapter 382

63G-7-704, as last amended by Laws of Utah 2011, Chapter 371

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-14-103 is amended to read:**11-14-103. Bond issues authorized -- Purposes -- Use of bond proceeds.**

(1) Any local political subdivision may, in the manner and subject to the limitations and restrictions contained in this chapter, issue its negotiable bonds for the purpose of paying all or part of the cost of:

(a) acquiring, improving, or extending any one or more improvements, facilities, or property that the local political subdivision is authorized by law to acquire, improve, or extend;

(b) acquiring, or acquiring an interest in, any one or more or any combination of the following types of improvements, facilities, or property to be owned by

the local political subdivision, either alone or jointly with one or more other local political subdivisions, or for the improvement or extension of any of those wholly or jointly owned improvements, facilities, or properties:

(i) public buildings of every nature, including without limitation, offices, courthouses, jails, fire, police and sheriff's stations, detention homes, and any other buildings to accommodate or house lawful activities of a local political subdivision;

(ii) waterworks, irrigation systems, water systems, dams, reservoirs, water treatment plants, and any other improvements, facilities, or property used in connection with the acquisition, storage, transportation, and supplying of water for domestic, industrial, irrigation, recreational, and other purposes and preventing pollution of water;

(iii) sewer systems, sewage treatment plants, incinerators, and other improvements, facilities, or property used in connection with the collection, treatment, and disposal of sewage, garbage, or other refuse;

(iv) drainage and flood control systems, storm sewers, and any other improvements, facilities, or property used in connection with the collection, transportation, or disposal of water;

(v) recreational facilities of every kind, including without limitation, athletic and play facilities, playgrounds, athletic fields, gymnasiums, public baths, swimming pools, camps, parks, picnic grounds, fairgrounds, golf courses, zoos, boating facilities, tennis courts, auditoriums, stadiums, arenas, and theaters;

(vi) convention centers, sports arenas, auditoriums, theaters, and other facilities for the holding of public assemblies, conventions, and other meetings;

(vii) roads, bridges, viaducts, tunnels, sidewalks, curbs, gutters, and parking buildings, lots, and facilities;

(viii) airports, landing fields, landing strips, and air navigation facilities;

(ix) educational facilities, including without limitation, schools, gymnasiums, auditoriums, theaters, museums, art galleries, libraries, stadiums, arenas, and fairgrounds;

(x) hospitals, convalescent homes, and homes for the aged or indigent; and

(xi) electric light works, electric generating systems, and any other improvements, facilities, or property used in connection with the generation and acquisition of electricity for these local political subdivisions and transmission facilities and substations if they do not duplicate transmission facilities and substations of other entities operating in the state prepared to provide the proposed service unless these transmission facilities and substations proposed to be constructed will be more economical to these local political subdivisions; [øø]

(c) new construction, renovation, or improvement to a state highway within the boundaries of the local

political subdivision or an environmental study for a state highway within the boundaries of the local political subdivision[-]; or

(d) except as provided in Subsection (5), the portion of any claim, settlement, or judgment that exceeds \$3,000,000.

(2) Except as provided in Subsection (1)(c), any improvement, facility, or property under Subsection (1) need not lie within the limits of the local political subdivision.

(3) A cost under Subsection (1) may include:

(a) the cost of equipment and furnishings for such improvements, facilities, or property;

(b) all costs incident to the authorization and issuance of bonds, including engineering, legal, and fiscal advisers' fees;

(c) costs incident to the issuance of bond anticipation notes, including interest to accrue on bond anticipation notes;

(d) interest estimated to accrue on the bonds during the period to be covered by the construction of the improvement, facility, or property and for 12 months after that period; and

(e) other amounts which the governing body finds necessary to establish bond reserve funds and to provide working capital related to the improvement, facility, or property.

(4) ~~[The]~~ (a) Except as provided in Subsection (4)(b), the proceeds from bonds issued on or after May 14, 2013, may not be used:

~~[(a)]~~ (i) for operation and maintenance expenses for more than one year after the date any of the proceeds are first used for those expenses; or

~~[(b)]~~ (ii) for capitalization of interest more than five years after the bonds are issued.

(b) The restrictions on the use of bond proceeds under Subsection (4)(a) do not apply to bonds issued to pay all or part of the costs of a claim, settlement, or judgment under Subsection (1)(d).

(5) Beginning on or after July 1, 2021, a local political subdivision may not issue its negotiable bonds for a purpose described in Subsection (1)(d).

Section 2. Section 63G-7-702 is amended to read:

63G-7-702. Payment of claim or judgment against political subdivision -- Procedure by governing body -- Payment options.

(1) (a) Each claim approved by a political subdivision or any final judgment obtained against a political subdivision shall be submitted to the governing body of the political subdivision.

(b) The governing body shall pay the claim immediately from the general funds of the political subdivision unless:

(i) the funds are appropriated to some other use or restricted by law or contract for other purposes; ~~or~~

(ii) the political subdivision opts to pay the claim or award in installments under Subsection (2)[-]; or

(iii) the political subdivision elects to bond for the portion of the claim, judgment, or settlement that exceeds \$3,000,000 in accordance with Subsection 11-14-103(1)(d).

(2) ~~[(f)]~~ Except as provided in Subsection (3), if the subdivision is unable to pay the claim or award during the current fiscal year, it may pay the claim or award in not more than 10 ensuing annual installments of equal size or in whatever other installments that are agreeable to the claimant.

(3) If a political subdivision elects to bond for the portion of a claim, judgment, or settlement that exceeds \$3,000,000 in accordance with Subsection 11-14-103(1)(d), the political subdivision may issue bonds with a maturity date not to exceed 21 years.

Section 3. Section 63G-7-704 is amended to read:

63G-7-704. Tax levy by political subdivisions for payment of claims, judgments, or insurance premiums.

(1) Notwithstanding any provision of law to the contrary, a political subdivision may levy an annual property tax sufficient to pay:

(a) any claim, settlement, or judgment, including interest payments and issuance costs for bonds issued under Subsection 11-14-103(1)(d) to pay the portion of any claim, settlement, or judgment that exceeds \$3,000,000;

(b) the costs to defend against any claim, settlement, or judgment; or

(c) for the establishment and maintenance of a reserve fund for the payment of claims, settlements, or judgments that may be reasonably anticipated.

(2) (a) The payments authorized to pay for punitive damages or to pay the premium for authorized insurance is money spent for a public purpose within the meaning of this section and Article XIII, Sec. 5, Utah Constitution, even though, as a result of the levy, the maximum levy as otherwise restricted by law is exceeded.

(b) ~~[(N)]~~ (i) Except as provided in Subsection (2)(b)(ii), a levy under this section may not exceed .0001 per dollar of taxable value of taxable property.

(ii) A levy under Subsection (1)(a) to pay the portion of any claim, settlement, or judgment that exceeds \$3,000,000 may not exceed .001 per dollar of taxable value of taxable property.

(c) The revenues derived from this levy may not be used for any purpose other than those specified in this section.

(3) Beginning January 1, 2012, a local school board may not levy a tax in accordance with this section.

(4) A political subdivision that levies an annual property tax under Subsection (1)(a) to pay the portion of any claim, settlement, or judgment that exceeds \$3,000,000:

(a) shall comply with the notice and public hearing requirements under Section 59-2-919; and

(b) may levy the annual property tax until the bonds' maturity dates expire.

CHAPTER 387**H. B. 431**

Passed March 10, 2016
 Approved March 29, 2016
 Effective May 10, 2016

AFFORDABLE HOUSING REVISIONS

Chief Sponsor: Rebecca P. Edwards
 Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies provisions related to the Public Transit District Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires public transit districts to adopt transit-oriented development policies that include affordable housing; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17B-2a-802, as last amended by Laws of Utah 2011, Chapter 146

17B-2a-804, as last amended by Laws of Utah 2014, Chapter 377

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17B-2a-802 is amended to read:**17B-2a-802. Definitions.**

As used in this part:

(1) "Affordable housing" means housing occupied or reserved for occupancy by households that meet certain gross household income requirements based on the area median income for households of the same size.

(a) "Affordable housing" may include housing occupied or reserved for occupancy by households that meet specific area median income targets or ranges of area median income targets.

(b) "Affordable housing" does not include housing occupied or reserved for occupancy by households with gross household incomes that are more than 60% of the area median income for households of the same size.

(1) (2) "Appointing entity" means the person, county, unincorporated area of a county, or municipality appointing a member to a public transit district board of trustees.

(2) (3) (a) "Chief executive officer" means a person appointed by the board of trustees to serve as chief executive officer.

(b) "Chief executive officer" shall enjoy all the rights, duties, and responsibilities defined in Sections 17B-2a-810 and 17B-2a-811 and includes all rights, duties, and responsibilities assigned to the general manager but prescribed by the board of trustees to be fulfilled by the chief executive officer.

(3) (4) "Department" means the Department of Transportation created in Section 72-1-201.

(4) (5) (a) "General manager" means a person appointed by the board of trustees to serve as general manager.

(b) "General manager" shall enjoy all the rights, duties, and responsibilities defined in Sections 17B-2a-810 and 17B-2a-811 prescribed by the board of trustees.

(5) (6) (a) "Locally elected public official" means a person who holds an elected position with a county or municipality.

(b) "Locally elected public official" does not include a person who holds an elected position if the elected position is not with a county or municipality.

(7) "Metropolitan planning organization" means the same as that term is defined in Section 72-1-208.5.

(6) (8) "Multicounty district" means a public transit district located in more than one county.

(7) (9) "Operator" means a public entity or other person engaged in the transportation of passengers for hire.

(8) (10) "Public transit" means the transportation of passengers only and their incidental baggage by means other than:

- (a) chartered bus;
- (b) sightseeing bus; or
- (c) taxi.

(9) (11) "Transit facility" means a transit vehicle, transit station, depot, passenger loading or unloading zone, parking lot, or other facility:

(a) leased by or operated by or on behalf of a public transit district; and

(b) related to the public transit services provided by the district, including:

- (i) railway or other right-of-way;
- (ii) railway line; and

(iii) a reasonable area immediately adjacent to a designated stop on a route traveled by a transit vehicle.

(10) "~~Transit-oriented development" means a mixed-use residential or commercial area that is designed to maximize access to public transit.~~"

(12) "Transit-oriented development" means a mixed use residential or commercial area that is designed to maximize access to public transit and includes the development of land owned by a public transit district that serves a county of the first class.

(13) “Transit-supportive development” means a mixed use residential or commercial area that is designed to maximize access to public transit and does not include the development of land owned by a public transit district.

~~[(11)]~~ (14) “Transit vehicle” means a passenger bus, coach, railcar, van, or other vehicle operated as public transportation by a public transit district.

Section 2. Section 17B-2a-804 is amended to read:

17B-2a-804. Additional public transit district powers.

(1) In addition to the powers conferred on a public transit district under Section 17B-1-103, a public transit district may:

(a) provide a public transit system for the transportation of passengers and their incidental baggage;

(b) notwithstanding Subsection 17B-1-103(2)(g) and subject to Section 17B-2a-817, levy and collect property taxes only for the purpose of paying:

(i) principal and interest of bonded indebtedness of the public transit district; or

(ii) a final judgment against the public transit district if:

(A) the amount of the judgment exceeds the amount of any collectable insurance or indemnity policy; and

(B) the district is required by a final court order to levy a tax to pay the judgment;

(c) insure against:

(i) loss of revenues from damage to or destruction of some or all of a public transit system from any cause;

(ii) public liability;

(iii) property damage; or

(iv) any other type of event, act, or omission;

(d) acquire, contract for, lease, construct, own, operate, control, or use:

(i) a right-of-way, rail line, monorail, bus line, station, platform, switchyard, terminal, parking lot, or any other facility necessary or convenient for public transit service; or

(ii) any structure necessary for access by persons and vehicles;

(e) (i) hire, lease, or contract for the supplying or management of a facility, operation, equipment, service, employee, or management staff of an operator; and

(ii) provide for a sublease or subcontract by the operator upon terms that are in the public interest;

(f) operate feeder bus lines and other feeder or ridesharing services as necessary;

(g) accept a grant, contribution, or loan, directly through the sale of securities or equipment trust certificates or otherwise, from the United States, or from a department, instrumentality, or agency of the United States;

(h) study and plan transit facilities in accordance with any legislation passed by Congress;

(i) cooperate with and enter into an agreement with the state or an agency of the state or otherwise contract to finance to establish transit facilities and equipment or to study or plan transit facilities;

(j) issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district;

(k) from bond proceeds or any other available funds, reimburse the state or an agency of the state for an advance or contribution from the state or state agency;

(l) do anything necessary to avail itself of any aid, assistance, or cooperation available under federal law, including complying with labor standards and making arrangements for employees required by the United States or a department, instrumentality, or agency of the United States;

(m) sell or lease property;

(n) assist in or operate transit-oriented or transit-supportive developments;

(o) establish, finance, participate as a limited partner or member in a development with limited liabilities in accordance with Subsection (1)(p), construct, improve, maintain, or operate transit facilities, equipment, and transit-oriented developments or transit-supportive developments; and

(p) subject to the restriction in Subsection (2), assist in a transit-oriented development or a transit-supportive development in connection with economic development or community development as defined in Section 17C-1-102 by:

(i) investing in a project as a limited partner or a member, with limited liabilities; or

(ii) subordinating an ownership interest in real property owned by the public transit district.

(2) (a) A public transit district may only assist in the ~~economic~~ development of areas under Subsection (1)(p):

(i) in the manner described in Subsection (1)(p)(i) or (ii); and

(ii) on no more than eight transit-oriented developments or transit-supportive developments selected by the board of trustees.

(b) A public transit district may not invest in a transit-oriented development or transit-supportive development as a limited partner or other limited liability entity under the provisions of Subsection (1)(p)(i), unless the partners, developer, or other investor in the entity, makes an equity contribution equal to no less than 25% of the appraised value of the property to be contributed by the public transit district.

(c) (i) For transit-oriented development projects, a public transit district shall adopt transit-oriented development policies and guidelines that include provisions on affordable housing.

(ii) For transit-supportive development projects, a public transit district shall work with the metropolitan planning organization and city and county governments where the project is located to collaboratively seek to create joint plans for the areas within one-half mile of transit stations, including plans for affordable housing.

[~~e~~] (d) A current board member of a public transit district to which the board member is appointed may not have any interest in the transactions engaged in by the public transit district pursuant to Subsection (1)(p)(i) or (ii), except as may be required by the board member's fiduciary duty as a board member.

(3) A public transit district may be funded from any combination of federal, state, local, or private funds.

(4) A public transit district may not acquire property by eminent domain.

CHAPTER 388**S. B. 49**

Passed February 24, 2016

Approved March 29, 2016

Effective May 10, 2016

STATUTE OF LIMITATIONS ON ENVIRONMENTAL CODE VIOLATIONS

Chief Sponsor: Luz Escamilla

House Sponsor: Rebecca Chavez-Houck

LONG TITLE**General Description:**

This bill extends the statute of limitations for a violation of Title 19, Environmental Quality Code.

Highlighted Provisions:

This bill:

- ▶ states that the statute of limitations for a violation of the Environmental Quality Code is two years; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78B-2-302, as last amended by Laws of Utah 2010, Chapter 89

ENACTS:

78B-2-307.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-2-302 is amended to read:**78B-2-302. Within one year.**

An action may be brought within one year:

- (1) for liability created by the statutes of a foreign state;
- (2) upon a statute for a penalty or forfeiture where the action is given to an individual, or to an individual and the state, except when the statute imposing it prescribes a different limitation;
- (3) except as provided in Section 78B-2-307.5, upon a statute, or upon an undertaking in a criminal action, for a forfeiture or penalty to the state;
- (4) for libel, slander, false imprisonment, or seduction;
- (5) against a sheriff or other officer for the escape of a prisoner arrested or imprisoned upon either civil or criminal process;
- (6) against a municipal corporation for damages or injuries to property caused by a mob or riot;
- (7) except as otherwise expressly provided by statute, against a county legislative body or a county executive to challenge a decision of the county legislative body or county executive, respectively; or

(8) on a claim for relief or a cause of action under Title 63L, Chapter 5, Utah Religious Land Use Act.

Section 2. Section 78B-2-307.5 is enacted to read:**78B-2-307.5. Within two years.**

An action may be brought within two years upon a statute in Title 19, Environmental Quality Code, for a forfeiture or penalty to the state, if the violation occurred on or after May 10, 2016.

CHAPTER 389**S. B. 72**

Passed February 26, 2016

Approved March 29, 2016

Effective May 10, 2016

**SCHOOL AND INSTITUTIONAL TRUST
LANDS MANAGEMENT ACT AMENDMENTS**

Chief Sponsor: Margaret Dayton

House Sponsor: Mike K. McKell

LONG TITLE**General Description:**

This bill modifies Title 53C, School and Institutional Trust Lands Management Act, by changing procedures related to the withdrawal of lands, mineral lease applications, and reporting.

Highlighted Provisions:

This bill:

- ▶ amends the circumstances in which the director of the School and Institutional Trust Lands Administration may withdraw land;
- ▶ clarifies that mineral lease applications may be submitted and processed online;
- ▶ states that the School and Institutional Trust Lands Administration and School and Institutional Trust Fund Office shall enter into a memorandum of understanding regarding the sources of money received; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 53C-2-105, as last amended by Laws of Utah 2011, Chapter 247
- 53C-2-301, as last amended by Laws of Utah 2011, Chapter 247
- 53C-2-407, as last amended by Laws of Utah 2011, Chapter 247
- 53C-3-102, as last amended by Laws of Utah 2014, Chapter 426

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53C-2-105 is amended to read:**53C-2-105. Withdrawal of trust lands from leasing, disposition, or use.**

(1) The director may at any time withdraw trust lands from:

(1) (a) applications for leasing, permitting, sale, or other disposition of any nature upon a finding that the interests of the trust would best be served through withdrawal; or

(2) (b) surface occupancy or [use] one or more specific uses upon a finding that continued occupancy or use would cause:

- (i) resource degradation[-];

(ii) interference with the activities of the administration or the administration's authorized lessees or permittees; or

(iii) a threat to public safety.

(2) The director may, by rule and subject to Subsection (3), withdraw trust lands from public target shooting.

(3) Before board review of a rule, as described in Subsection 53C-1-303(1)(c), that withdraws land from public target shooting, the director shall consult with:

(a) the sheriff of the county where the proposed withdrawal will occur; and

(b) representatives from leading sports shooting organizations.

Section 2. Section 53C-2-301 is amended to read:**53C-2-301. Trespassing on trust lands -- Penalties.**

(1) A person is liable for the civil damages prescribed in Subsection (2) and, unless a greater penalty is prescribed in another part of the law, is guilty of a class B misdemeanor if the person, without written authorization from the director:

(a) removes, extracts, uses, consumes, or destroys any mineral resource, gravel, sand, soil, vegetation, water resource, or improvement on trust lands;

(b) grazes livestock on trust lands;

(c) uses, occupies, or constructs improvements or structures on trust lands;

(d) uses or occupies trust lands for more than 30 days after the cancellation or expiration of written authorization;

(e) knowingly and willfully uses trust lands for commercial gain;

(f) appropriates, alters, injures, or destroys any improvement or any historical, prehistorical, archaeological, or paleontological resource on trust lands;

(g) trespasses upon, uses, commits waste, dumps refuse, or occupies trust land;

(h) interferes with the activities of an employee or agent of the administration on trust lands; or

(i) interferes with activities of a lessee or other person ~~[which]~~ that have been authorized by the administration, whether or not the trust land has been withdrawn from occupancy or use pursuant to Subsection 53C-2-105(1)(b).

(2) A person who commits any act described in Subsection (1) is liable for damages in the amount of whichever of the following is greatest:

(a) three times the value at the point of sale of the mineral or other resource removed, destroyed, or extracted;

(b) three times the amount of damage committed;

(c) three times the cost to cure the damage;

(d) three times the value of any losses suffered as a result of interference with authorized activities; or

(e) three times the consideration which would have been charged by the director for use of the land during the period of trespass.

(3) In addition to the damages described in Subsection (2), a person found guilty of a criminal act under Subsection (1) is subject to the penalties provided in Title 76, Chapter 3, Punishments.

(4) The director shall deposit money collected under this section in the fund in which like revenues from that land would be deposited.

(5) The director may award a portion of any of the damages collected under this section in excess of actual damages to the general fund of the county in which the trespass occurred as a reward for county assistance in the apprehension and prosecution of the trespassing party.

Section 3. Section 53C-2-407 is amended to read:

53C-2-407. Mineral lease application procedures.

(1) Lands that are not encumbered by a current mineral lease for the same resource, a withdrawal order, or other rule of the director prohibiting the lease of the lands, may be offered for lease as provided in this section or may, with board approval, be committed to another contractual arrangement under Subsection 53C-2-401(1)(d).

(2) (a) A notice of the land available for leasing shall be posted in the administration's office or on the administration's website.

(b) The notice shall:

(i) describe the land;

(ii) indicate what mineral interest in each tract is available for leasing; and

(iii) state the last date, which shall be no less than 15 days after the notice is posted, on which bids may be received.

(3) (a) Applications for the lease of lands filed in the administration's office or online before the closing date stated in the notice shall be considered to be filed simultaneously.

(b) The applications shall be:

(i) submitted in sealed envelopes or as required by the online bidding process; and

(ii) [opened] disclosed in the administration's office at 10 a.m. of the first business day following the last day on which bids may be received.

(c) Leases shall be awarded to the highest responsible, qualified bidder, in terms of the bonus paid in addition to the first year's rental, who submitted a bid in the manner required.

(d) In cases of identical bids of successful bidders:

(i) the right to lease shall be determined by drawing or oral auction;

(ii) the determination of whether to award the lease by drawing or oral auction shall be made at the sole discretion of the director; and

(iii) the drawing or oral auction shall be held in public at the administration's office in a manner calculated to optimize the return to the trust land beneficiary.

(4) (a) At the discretion of the director, mineral leases may be offered at an oral public auction.

(b) The director may set a minimum bid for a public auction.

(5) The director may award a mineral lease without following the competitive bidding procedures specified in Subsections (3) and (4) or conducting an oral public auction, if the mineral lessee waives or relinquishes to the trust a prior mining claim, mineral lease, or other right which in the opinion of the director might otherwise:

(a) defeat or encumber the selection of newly acquired land, either for indemnity or other purposes, or the acquisition by the trust of any land; or

(b) cloud the title to any of those lands.

(6) Following the awarding of a lease to a successful bidder, deposits, except filing fees, made by unsuccessful bidders shall be returned to those bidders.

(7) (a) Subject to Section 53C-2-104, lands acquired through exchange or indemnity selection from the federal government shall be subject to the vested rights of unpatented mining claimants under the Mining Law of 1872, as amended, and other federal vested rights, both surface and minerals.

(b) Subsection (7)(a) does not prevent the director from negotiating the accommodation of vested rights through any method acceptable to the parties.

(8) The director may lease lands ~~[in the order in]~~ for which applications are filed or submitted online if:

(a) the director offers trust lands for lease for mineral purposes according to the procedures in Subsections (3) through (6) and the lands are not leased; or

(b) a period of time of not less than one year but less than three years has elapsed following:

(i) a revocation of a withdrawal; or

(ii) the date an existing mineral lease is canceled, relinquished, surrendered, or terminated.

Section 4. Section 53C-3-102 is amended to read:

53C-3-102. Deposit and allocation of money received.

(1) (a) The director shall pay to the School and Institutional Trust Fund Office, created in Section

53D-1-201, all money received, accompanied by a statement showing the respective sources of this money.

~~(b) Each source shall be classified as to sales, rentals, royalties, interest, fees, penalties, and forfeitures.]~~

(b) The administration and the School and Institutional Trust Fund Office shall enter into a memorandum of understanding detailing:

(i) the classification of sources of money; and

(ii) other relevant information, as determined by the administration and the School and Institutional Trust Fund Office.

(2) All money received from the sale of lands granted by Section 6 of the Utah Enabling Act for the support of the common schools, all money received from the sale of lands selected in lieu of those lands, all money received from the United States under Section 9 of the Utah Enabling Act, all money received from the sale of lands or other securities acquired by the state from the investment of those funds, all sums paid for fees, all forfeitures, and all penalties paid in connection with these sales shall be deposited in the Permanent State School Fund.

(3) All money received from the sale or other disposition of institutional trust lands granted to the state by the United States under Section 7, 8, or 12 of the Utah Enabling Act, and all sums paid for fees, forfeitures, and penalties received in connection with these sales or dispositions shall go to the respective permanent funds established for the benefit of those institutions under the Utah Enabling Act and the Utah Constitution.

(4) (a) All lands acquired by the state through foreclosure of mortgages securing school or institutional trust funds or through deeds from mortgagors or owners of those lands shall become a part of the respective school or institutional trust lands.

(b) All money received from these lands shall be treated as money received from school or institutional trust lands.

(5) All money received from the sale of lands acquired by the state through foreclosure of mortgages securing trust funds or through deeds from mortgagors or owners of such lands, whether a profit is realized or a loss sustained on the principal invested, shall be regarded as principal and shall go into the principal or permanent fund from which it was originally taken in reimbursement of that fund, with profits being used to offset losses.

(6) (a) All money received by the director as a first or down payment on applications to purchase, permit, or lease trust lands or minerals shall be paid to the state treasurer and held in suspense pending final action on those applications.

(b) After final action the payments received under Subsection (6)(a) shall either be credited to the appropriate fund or account, or refunded to the applicant in accordance with the action taken.

CHAPTER 390**S. B. 76**

Passed February 26, 2016

Approved March 29, 2016

Effective May 10, 2016

**WORKERS' COMPENSATION
FOR VOLUNTEERS**Chief Sponsor: Karen Mayne
House Sponsor: Val L. Peterson**LONG TITLE****General Description:**

This bill modifies the Workers' Compensation Act to address volunteers.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that volunteers are not employees for purposes of workers' compensation unless the nongovernment entity for which the volunteer provides services elects to cover the volunteer with workers' compensation coverage;
- ▶ clarifies the application of the exclusive remedy;
- ▶ provides how disability compensation is to be determined;
- ▶ addresses how premiums are calculated;
- ▶ addresses affect of the failure or refusal of a nongovernment entity to elect workers' compensation coverage for volunteers;
- ▶ addresses insurance obtained by a volunteer; and
- ▶ addresses notice to volunteers.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

34A-2-104.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34A-2-104.5 is enacted to read:**34A-2-104.5. Nongovernment entity volunteers.**

(1) As used in this section:

(a) (i) "Intern" means a student or trainee who works without pay at a trade or occupation in order to gain work experience.

(ii) Notwithstanding Subsection (1)(a)(i), "intern" does not include an intern described in Section 53A-29-103 or 53B-16-403.

(b) "Nongovernment entity" means an entity or individual that:

(i) is an employer as provided in Section 34A-2-103; and

(ii) is not a government entity.

(c) "Utah minimum wage" means the highest wage designated as Utah's minimum wage under Title 34, Chapter 40, Utah Minimum Wage Act.

(d) (i) "Volunteer" means an individual who donates service without pay or other compensation except expenses actually and reasonably incurred as approved by the supervising nongovernment entity.

(ii) "Volunteer" includes an intern of a nongovernment entity.

(iii) "Volunteer" does not include an individual participating in human subjects research to the extent that the participation is governed by federal law or regulation inconsistent with this chapter.

(2) A volunteer for a nongovernment entity is not an employee of the nongovernment entity for purposes of this chapter and Chapter 3, Utah Occupational Disease Act, unless the nongovernment entity elects in accordance with this section to provide coverage under this chapter and Chapter 3, Utah Occupational Disease Act.

(3) (a) A nongovernment entity may elect to secure coverage for all of the nongovernment entity's volunteers by obtaining coverage for the volunteers in accordance with Section 34A-2-201 under the same policy it uses to cover the nongovernment entity's employees.

(b) If a nongovernment entity obtains coverage under Section 34A-2-201 for the nongovernment entity's volunteers, for purposes of receiving benefits under this chapter and Chapter 3, Utah Occupational Disease Act:

(i) a volunteer is considered an employee of the nongovernment entity; and

(ii) these benefits are the exclusive remedy of the volunteer in accordance with Section 34A-2-105 for an industrial injury or disease covered by this chapter and Chapter 3, Utah Occupational Disease Act.

(4) A nongovernment entity shall keep sufficient records of the nongovernment entity's volunteers and the volunteers' duties to determine compliance with this section.

(5) To compute the disability compensation benefits under Subsection (3), the disability compensation shall be calculated in accordance with Part 4, Compensation and Benefits, with the average weekly wage of the nongovernment volunteer assumed to be the Utah minimum wage at the time of the industrial accident or occupational disease that is the basis for the volunteer's workers' compensation claim.

(6) A workers' compensation insurer shall calculate the premium for a nongovernment entity's volunteer on the basis of the Utah minimum wage on the actual hours the volunteer provides service to the nongovernment entity, except that a workers' compensation insurer may assume 30 hours worked per week if the nongovernment entity does not provide a record of actual hours worked. The imputed wages shall be assigned to the class code on the policy that best describes the volunteer's duties.

(7) The failure or refusal of a nongovernment entity to make an election under this section in regard to volunteers does not alter, have an effect on, or give rise to any implication or presumption regarding:

(a) the nongovernment entity's duties or liabilities with respect to volunteers; or

(b) the rights of volunteers.

(8) Subject to Subsection (3)(b)(ii), nothing in this section affects a volunteer's right to seek remedies available to the volunteer through a personal insurance policy that the volunteer obtains for the volunteer in addition to any workers' compensation benefits obtained under this section.

(9) A nongovernment entity shall notify a volunteer of an election under Subsection (3)(a) by posting:

(a) printed notices where volunteers are likely to see the notices in conspicuous places about the nongovernment entity's place of business; and

(b) notices on a website that the nongovernment entity uses to recruit or provide information to volunteers.

CHAPTER 391**S. B. 88**

Passed March 10, 2016
Approved March 29, 2016
Effective May 10, 2016

**REAUTHORIZATION OF
ADMINISTRATIVE RULES**

Chief Sponsor: Howard A. Stephenson
House Sponsor: Curtis Oda

LONG TITLE**General Description:**

This bill provides legislative action regarding administrative rules.

Highlighted Provisions:

This bill:

- ▶ reauthorizes all state agency administrative rules except for rules specifically listed in the bill.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. Rules reauthorized.

All rules of Utah state agencies are reauthorized except for R307-230, Environmental Quality, Air Quality, NOx Emission Limits for Natural Gas-Fired Water Heaters.

CHAPTER 392**S. B. 112**

Passed March 8, 2016

Approved March 29, 2016

Effective May 10, 2016

(Retrospective operation to January 1, 2016)

**PROPERTY TAX ASSESSMENT
AMOUNT AMENDMENTS**

Chief Sponsor: Howard A. Stephenson

House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill modifies the Property Tax Act to address assessments.

Highlighted Provisions:

This bill:

- ▶ addresses the burden of proof in appeals of property tax assessments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:**ENACTS:**

59-2-109, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-109 is enacted to read:**59-2-109. Burden of proof.**

(1) As used in this section, "assessing authority" means:

(a) the commission for property assessed under Part 2, Assessment of Property; and

(b) a county assessor for property assessed under Part 3, County Assessment.

(2) Notwithstanding Section 59-1-604, in an action appealing the value of property assessed by an assessing authority, the assessing authority has the burden of proof before a board of equalization, the commission, or a court of competent jurisdiction, if the assessing authority presents evidence or otherwise asserts that the fair market value of the assessed property is greater than the value originally assessed by the assessing authority for that calendar year.

Section 2. Retrospective operation.

This bill has retrospective operation to January 1, 2016.

CHAPTER 393**S. B. 115**

Passed March 10, 2016
 Approved March 29, 2016
 Effective May 10, 2016

**SUSTAINABLE TRANSPORTATION
 AND ENERGY PLAN ACT**

Chief Sponsor: J. Stuart Adams
 House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill amends provisions related to a public utility providing electrical service.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ allows the Public Service Commission to authorize a large-scale electric utility to implement tariffs to provide funding for a sustainable transportation and energy pilot program;
- ▶ allows an electrical corporation to recover 100% of the electrical corporation's prudently incurred costs in an energy balancing account;
- ▶ allows a large-scale electric utility to establish innovative electric efficiency technology programs;
- ▶ allows a large-scale electric utility to provide an incentive for:
 - a generation facility to curtail electricity generation to improve air quality; and
 - creation of an electric vehicle infrastructure;
- ▶ provides that the commission may authorize a large-scale electric utility to implement:
 - a clean coal program; and
 - other utility programs;
- ▶ provides a repeal date;
- ▶ enacts a provision related to withdrawal of notice to transfer electric service; and
- ▶ allows the commission to implement a conservation, efficiency, or technology program if the program is cost-effective and in the public interest.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 54-2-1, as last amended by Laws of Utah 2014, Chapters 20, 381, and 388
 54-7-12.8, as last amended by Laws of Utah 2009, Chapter 237
 54-7-13.5, as enacted by Laws of Utah 2009, Chapter 319
 54-17-801, as last amended by Laws of Utah 2014, Chapter 34
 63I-1-254, as last amended by Laws of Utah 2013, Chapter 311

ENACTS:

- 54-3-33, Utah Code Annotated 1953
 54-17-806, Utah Code Annotated 1953

- 54-20-101, Utah Code Annotated 1953
 54-20-102, Utah Code Annotated 1953
 54-20-103, Utah Code Annotated 1953
 54-20-104, Utah Code Annotated 1953
 54-20-105, Utah Code Annotated 1953
 54-20-106, Utah Code Annotated 1953
 54-20-107, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 54-2-1 is amended to read:**54-2-1. Definitions.**

As used in this title:

(1) "Avoided costs" means the incremental costs to an electrical corporation of electric energy or capacity or both that, due to the purchase of electric energy or capacity or both from small power production or cogeneration facilities, the electrical corporation would not have to generate itself or purchase from another electrical corporation.

(2) "Clean coal technology" means a technology that may be researched, developed, or used for reducing emissions or the rate of emissions from a thermal electric generation plant that uses coal as a fuel source.

~~(2)~~ (3) "Cogeneration facility":

(a) means a facility that produces:

- (i) electric energy; and
 - (ii) steam or forms of useful energy, including heat, that are used for industrial, commercial, heating, or cooling purposes; and
- (b) is a qualifying cogeneration facility under federal law.

~~(3)~~ (4) "Commission" means the Public Service Commission ~~of Utah~~.

(4) (5) "Commissioner" means a member of the commission.

(5) (6) (a) "Corporation" includes an association and a joint stock company having any powers or privileges not possessed by individuals or partnerships.

(b) "Corporation" does not include towns, cities, counties, conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

~~(6)~~ (7) "Distribution electrical cooperative" includes an electrical corporation that:

- (a) is a cooperative;
- (b) conducts a business that includes the retail distribution of electricity the cooperative purchases or generates for the cooperative's members; and
- (c) is required to allocate or distribute savings in excess of additions to reserves and surplus on the basis of patronage to the cooperative's:

- (i) members; or
- (ii) patrons.

~~[(7)]~~ (8) (a) “Electrical corporation” includes every corporation, cooperative association, and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any electric plant, or in any way furnishing electric power for public service or to its consumers or members for domestic, commercial, or industrial use, within this state.

(b) “Electrical corporation” does not include:

(i) an independent energy producer;

(ii) where electricity is generated on or distributed by the producer solely for the producer’s own use, or the use of the producer’s tenants, or the use of members of an association of unit owners formed under Title 57, Chapter 8, Condominium Ownership Act, and not for sale to the public generally;

(iii) an eligible customer who provides electricity for the eligible customer’s own use or the use of the eligible customer’s tenant or affiliate; or

(iv) a nonutility energy supplier who sells or provides electricity to:

(A) an eligible customer who has transferred the eligible customer’s service to the nonutility energy supplier in accordance with Section 54-3-32; or

(B) the eligible customer’s tenant or affiliate.

(c) “Electrical corporation” does not include an entity that sells electric vehicle battery charging services, unless the entity conducts another activity in the state that subjects the entity to the jurisdiction and regulation of the commission as an electrical corporation.

~~[(8)]~~ (9) “Electric plant” includes all real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of electricity for light, heat, or power, and all conduits, ducts, or other devices, materials, apparatus, or property for containing, holding, or carrying conductors used or to be used for the transmission of electricity for light, heat, or power.

~~[(9)]~~ (10) “Eligible customer” means a person who:

(a) on December 31, 2013:

(i) was a customer of a public utility that, on December 31, 2013, had more than 200,000 retail customers in this state; and

(ii) owned an electric plant that is an electric generation plant that, on December 31, 2013, had a generation name plate capacity of greater than 150 megawatts; and

(b) produces electricity:

(i) from a qualifying power production facility for sale to a public utility in this state;

(ii) primarily for the eligible customer’s own use; or

(iii) for the use of the eligible customer’s tenant or affiliate.

~~[(10)]~~ (11) “Eligible customer’s tenant or affiliate” means one or more tenants or affiliates:

(a) of an eligible customer; and

(b) who are primarily engaged in an activity:

(i) related to the eligible customer’s core mining or industrial businesses; and

(ii) performed on real property that is:

(A) within a 25-mile radius of the electric plant described in Subsection ~~[(9)]~~ (10)(a)(ii); and

(B) owned by, controlled by, or under common control with, the eligible customer.

~~[(11)]~~ (12) “Gas corporation” includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any gas plant for public service within this state or for the selling or furnishing of natural gas to any consumer or consumers within the state for domestic, commercial, or industrial use, except in the situation that:

(a) gas is made or produced on, and distributed by the maker or producer through, private property:

(i) solely for the maker’s or producer’s own use or the use of the maker’s or producer’s tenants; and

(ii) not for sale to others;

(b) gas is compressed on private property solely for the owner’s own use or the use of the owner’s employees as a motor vehicle fuel; or

(c) gas is compressed by a retailer of motor vehicle fuel on the retailer’s property solely for sale as a motor vehicle fuel.

~~[(12)]~~ (13) “Gas plant” includes all real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of gas, natural or manufactured, for light, heat, or power.

~~[(13)]~~ (14) “Heat corporation” includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any heating plant for public service within this state.

~~[(14)]~~ (15) (a) “Heating plant” includes all real estate, fixtures, machinery, appliances, and personal property controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of artificial heat.

(b) “Heating plant” does not include either small power production facilities or cogeneration facilities.

~~[(15)]~~ (16) “Independent energy producer” means every electrical corporation, person, corporation, or government entity, their lessees, trustees, or receivers, that own, operate, control, or manage an independent power production or cogeneration facility.

~~[(16)]~~ (17) “Independent power production facility” means a facility that:

(a) produces electric energy solely by the use, as a primary energy source, of biomass, waste, a renewable resource, a geothermal resource, or any combination of the preceding sources; or

(b) is a qualifying power production facility.

(18) “Large-scale electric utility” means a public utility that provides retail electric service to more than 200,000 retail customers in the state.

~~[(17)]~~ (19) “Nonutility energy supplier” means a person that:

(a) has received market-based rate authority from the Federal Energy Regulatory Commission in accordance with 16 U.S.C. Sec. 824d, 18 C.F.R. Part 35, Filing of Rate Schedules and Tariffs, or applicable Federal Energy Regulatory Commission orders; or

(b) owns, leases, operates, or manages an electric plant that is an electric generation plant that:

(i) has a capacity of greater than 100 megawatts; and

(ii) is hosted on the site of an eligible customer that consumes the output of the electric plant, in whole or in part, for the eligible customer’s own use or the use of the eligible customer’s tenant or affiliate.

[(18)] (20) “Private telecommunications system” includes all facilities for the transmission of signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, lightwaves, or other electromagnetic means, excluding mobile radio facilities, that are owned, controlled, operated, or managed by a corporation or person, including their lessees, trustees, receivers, or trustees appointed by any court, for the use of that corporation or person and not for the shared use with or resale to any other corporation or person on a regular basis.

~~[(19)]~~ (21) (a) “Public utility” includes every railroad corporation, gas corporation, electrical corporation, distribution electrical cooperative, wholesale electrical cooperative, telephone corporation, telegraph corporation, water corporation, sewerage corporation, heat corporation, and independent energy producer not described in Subsection ~~[(19)]~~ (21)(d), where the service is performed for, or the commodity delivered to, the public generally, or in the case of a gas corporation or electrical corporation where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use.

(b) (i) If any railroad corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewerage corporation, heat corporation, or independent energy producer not described in Subsection ~~[(19)]~~ (21)(d), performs a service for or delivers a commodity to the public, it is considered to be a

public utility, subject to the jurisdiction and regulation of the commission and this title.

(ii) If a gas corporation, independent energy producer not described in Subsection ~~[(19)]~~ (21)(d), or electrical corporation sells or furnishes gas or electricity to any member or consumers within the state, for domestic, commercial, or industrial use, for which any compensation or payment is received, it is considered to be a public utility, subject to the jurisdiction and regulation of the commission and this title.

(c) Any corporation or person not engaged in business exclusively as a public utility as defined in this section is governed by this title in respect only to the public utility owned, controlled, operated, or managed by the corporation or person, and not in respect to any other business or pursuit.

(d) An independent energy producer is exempt from the jurisdiction and regulations of the commission with respect to an independent power production facility if it meets the requirements of Subsection ~~[(19)]~~ (21)(d)(i), (ii), (iii), or (iv), or any combination of these:

(i) the commodity or service is produced or delivered, or both, by an independent energy producer solely for a use described in Subsections ~~[(7)]~~ (8)(b)(ii) through (iv) or for the use of state-owned facilities;

(ii) the commodity or service is sold by an independent energy producer solely to an electrical corporation or other wholesale purchaser;

(iii) (A) the commodity or service produced or delivered by the independent energy producer is delivered to an entity that controls, is controlled by, or affiliated with the independent energy producer or to a user located on real property managed or controlled by the independent energy producer; and

(B) the real property on which the service or commodity is used is contiguous to real property that is owned or controlled by the independent energy producer or is separated only by a public road or an easement for a public road; or

(iv) the independent energy producer:

(A) supplies energy for direct consumption by a customer that is:

(I) a United States governmental entity, including an entity of the United States military, or a county, municipality, city, town, other political subdivision, local district, special service district, state institution of higher education, school district, charter school, or any entity within the state system of public education; or

(II) an entity qualifying as a charitable organization under 26 U.S.C. Sec. 501(c)(3) operated for religious, charitable, or educational purposes that is exempt from federal income tax and able to demonstrate its tax-exempt status;

(B) supplies energy to the customer through use of a customer generation system, as defined in Section 54-15-102, for use on the real property where the customer generation system is located;

(C) supplies energy using a customer generation system designed to supply the lesser of:

(I) no more than 90% of the average annual consumption of electricity by the customer at that site, based on an annualized billing period; or

(II) the maximum size allowable under net metering provisions, defined in Section 54-15-102;

(D) notifies the customer before installing the customer generation system of:

(I) all costs the customer is required to pay for the customer generation system, including any interconnection costs; and

(II) the potential for future changes in amounts paid by the customer for energy received from the public utility and the possibility of changes to the customer fees or charges to the customer associated with net metering and generation;

(E) enters into and performs in accordance with an interconnection agreement with a public utility providing retail electric service where the real property on which the customer generation system is located, with the rates, terms, and conditions of the retail service and interconnection agreement subject to approval by the governing authority of the public utility, as defined in Subsection 54-15-102(8); and

(F) installs the relevant customer generation system by December 31, 2021.

(e) Any person or corporation defined as an electrical corporation or public utility under this section may continue to serve its existing customers subject to any order or future determination of the commission in reference to the right to serve those customers.

(f) (i) "Public utility" does not include any person that is otherwise considered a public utility under this Subsection [(19)] (21) solely because of that person's ownership of an interest in an electric plant, cogeneration facility, or small power production facility in this state if all of the following conditions are met:

(A) the ownership interest in the electric plant, cogeneration facility, or small power production facility is leased to:

(I) a public utility, and that lease has been approved by the commission;

(II) a person or government entity that is exempt from commission regulation as a public utility; or

(III) a combination of Subsections [(19)] (21)(f)(i)(A)(I) and (II);

(B) the lessor of the ownership interest identified in Subsection [(19)] (21)(f)(i)(A) is:

(I) primarily engaged in a business other than the business of a public utility; or

(II) a person whose total equity or beneficial ownership is held directly or indirectly by another person engaged in a business other than the business of a public utility; and

(C) the rent reserved under the lease does not include any amount based on or determined by revenues or income of the lessee.

(ii) Any person that is exempt from classification as a public utility under Subsection [(19)] (21)(f)(i) shall continue to be [se] exempt from classification following termination of the lessee's right to possession or use of the electric plant for so long as the former lessor does not operate the electric plant or sell electricity from the electric plant. If the former lessor operates the electric plant or sells electricity, the former lessor shall continue to be so exempt for a period of 90 days following termination, or for a longer period that is ordered by the commission. This period may not exceed one year. A change in rates that would otherwise require commission approval may not be effective during the 90-day or extended period without commission approval.

(g) "Public utility" does not include any person that provides financing for, but has no ownership interest in an electric plant, small power production facility, or cogeneration facility. In the event of a foreclosure in which an ownership interest in an electric plant, small power production facility, or cogeneration facility is transferred to a third-party financier of an electric plant, small power production facility, or cogeneration facility, then that third-party financier is exempt from classification as a public utility for 90 days following the foreclosure, or for a longer period that is ordered by the commission. This period may not exceed one year.

(h) (i) The distribution or transportation of natural gas for use as a motor vehicle fuel does not cause the distributor or transporter to be a "public utility," unless the commission, after notice and a public hearing, determines by rule that it is in the public interest to regulate the distributors or transporters, but the retail sale alone of compressed natural gas as a motor vehicle fuel may not cause the seller to be a "public utility."

(ii) In determining whether it is in the public interest to regulate the distributors or transporters, the commission shall consider, among other things, the impact of the regulation on the availability and price of natural gas for use as a motor fuel.

(i) "Public utility" does not include:

(i) an eligible customer who provides electricity for the eligible customer's own use or the use of the eligible customer's tenant or affiliate; or

(ii) a nonutility energy supplier that sells or provides electricity to:

(A) an eligible customer who has transferred the eligible customer's service to the nonutility energy supplier in accordance with Section 54-3-32; or

(B) the eligible customer's tenant or affiliate.

(j) "Public utility" does not include an entity that sells electric vehicle battery charging services, unless the entity conducts another activity in the state that subjects the entity to the jurisdiction and regulation of the commission as a public utility.

~~[(20)]~~ (22) “Purchasing utility” means any electrical corporation that is required to purchase electricity from small power production or cogeneration facilities pursuant to the Public Utility Regulatory Policies Act, 16 U.S.C. Section 824a-3.

~~[(21)]~~ (23) “Qualifying power producer” means a corporation, cooperative association, or person, or the lessee, trustee, and receiver of the corporation, cooperative association, or person, who owns, controls, operates, or manages any qualifying power production facility or cogeneration facility.

~~[(22)]~~ (24) “Qualifying power production facility” means a facility that:

(a) produces electrical energy solely by the use, as a primary energy source, of biomass, waste, a renewable resource, a geothermal resource, or any combination of the preceding sources;

(b) has a power production capacity that, together with any other facilities located at the same site, is no greater than 80 megawatts; and

(c) is a qualifying small power production facility under federal law.

~~[(23)]~~ (25) “Railroad” includes every commercial, interurban, and other railway, other than a street railway, and each branch or extension of a railway, by any power operated, together with all tracks, bridges, trestles, rights-of-way, subways, tunnels, stations, depots, union depots, yards, grounds, terminals, terminal facilities, structures, and equipment, and all other real estate, fixtures, and personal property of every kind used in connection with a railway owned, controlled, operated, or managed for public service in the transportation of persons or property.

~~[(24)]~~ (26) “Railroad corporation” includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any railroad for public service within this state.

~~[(25)]~~ (27) (a) “Sewerage corporation” includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any sewerage system for public service within this state.

(b) “Sewerage corporation” does not include private sewerage companies engaged in disposing of sewage only for their stockholders, or towns, cities, counties, conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

~~[(26)]~~ (28) “Telegraph corporation” includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any telegraph line for public service within this state.

~~[(27)]~~ (29) “Telegraph line” includes all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or

managed in connection with or to facilitate communication by telegraph, whether that communication be had with or without the use of transmission wires.

~~[(28)]~~ (30) (a) “Telephone corporation” means any corporation or person, and their lessees, trustee, receivers, or trustees appointed by any court, who owns, controls, operates, manages, or resells a public telecommunications service as defined in Section 54-8b-2.

(b) “Telephone corporation” does not mean a corporation, partnership, or firm providing:

(i) intrastate telephone service offered by a provider of cellular, personal communication systems (PCS), or other commercial mobile radio service as defined in 47 U.S.C. Sec. 332 that has been issued a covering license by the Federal Communications Commission;

(ii) Internet service; or

(iii) resold intrastate toll service.

~~[(29)]~~ (31) “Telephone line” includes all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telephone whether that communication is had with or without the use of transmission wires.

~~[(30)]~~ (32) “Transportation of persons” includes every service in connection with or incidental to the safety, comfort, or convenience of the person transported, and the receipt, carriage, and delivery of that person and that person’s baggage.

~~[(31)]~~ (33) “Transportation of property” includes every service in connection with or incidental to the transportation of property, including in particular its receipt, delivery, elevation, transfer, switching, carriage, ventilation, refrigeration, icing, dunnage, storage, and hauling, and the transmission of credit by express companies.

~~[(32)]~~ (34) “Water corporation” includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any water system for public service within this state. It does not include private irrigation companies engaged in distributing water only to their stockholders, or towns, cities, counties, water conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

~~[(33)]~~ (35) (a) “Water system” includes all reservoirs, tunnels, shafts, dams, dikes, headgates, pipes, flumes, canals, structures, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the diversion, development, storage, supply, distribution, sale, furnishing, carriage, appointment, apportionment, or measurement of water for power, fire protection, irrigation, reclamation, or manufacturing, or for municipal, domestic, or other beneficial use.

(b) “Water system” does not include private irrigation companies engaged in distributing water only to their stockholders.

~~[(34)] (36)~~ “Wholesale electrical cooperative” includes every electrical corporation that is:

(a) in the business of the wholesale distribution of electricity it has purchased or generated to its members and the public; and

(b) required to distribute or allocate savings in excess of additions to reserves and surplus to members or patrons on the basis of patronage.

Section 2. Section 54-3-33 is enacted to read:

54-3-33. Eligible customer energy supply contract.

(1) The commission may approve a contract between a large-scale electric utility and a customer of a large-scale electric utility that is eligible to transfer electric service to a non-utility energy supplier under Section 54-3-32.

(2) The commission shall exempt a customer that enters into a contract described in Subsection (1) from paying the costs recovered under Subsection 54-7-12.8(3), except the costs of the Utah solar incentive program included in Subsection 54-7-12.8(3)(b).

(3) If an eligible customer that enters into a contract described in Subsection (1) has provided notice to the commission under Subsection 54-3-32(3), the notice is not considered withdrawn under Subsection 54-3-32(4)(c) by the customer entering into the contract.

(4) Notwithstanding Subsection 54-3-32(4)(c), if the commission approves a contract under this section for an eligible customer that states a contract termination date that is after December 31, 2020, the notice described in Subsection 54-3-32(3)(a) is not considered to be withdrawn unless a transfer of service under Section 54-3-32 does not occur before the later of:

(a) the day three years after the termination date stated in the contract; or

(b) 18 months after the intended date of transfer of service described in Subsection 54-3-32(3)(a)(ii).

Section 3. Section 54-7-12.8 is amended to read:

54-7-12.8. Electric energy efficiency, sustainable transportation and energy, and conservation tariff.

(1) As used in this section[, “demand”]:

(a) “Demand side management” means ~~activities or programs that promote~~ an activity or program that promotes electric energy efficiency or conservation or more efficient management of electric energy loads.

(b) “Pilot program period” means a period of five years, beginning on January 1, 2017, during which the sustainable transportation and energy plan is effective.

(c) “Sustainable transportation and energy plan” means the same as that term is defined in Section 54-20-102.

(d) “Utah solar incentive program” means the eligible utility rooftop solar pilot program established by commission order in 2012.

(2) (a) As provided in this section, the commission may approve a tariff under which an electrical corporation includes a line item charge on ~~its~~ the electrical corporation’s customers’ bills to recover costs incurred by the electrical corporation for demand side management.

(b) The commission shall authorize a large-scale electric utility that is allowed to charge a customer for demand side management under Subsection (2)(a) to:

(i) if requested by the large-scale electric utility, capitalize the annual costs incurred for demand side management provided in Subsection (2)(a);

(ii) amortize the annual cost for demand side management over a period of 10 years;

(iii) apply a carrying charge to the unamortized balance that is equal to the large-scale electric utility’s pretax weighted average cost of capital approved by the commission in the large-scale electric utility’s most recent general rate proceeding; and

(iv) recover the amortization cost described in Subsection (2)(b)(ii) and the carrying charge described in Subsection (2)(b)(iii) in customer rates.

(3) The commission shall, before January 1, 2017, authorize a large-scale electric utility to implement a combined line item charge on the large-scale electric utility’s customers’ bills to recover the cost to the large-scale electric utility of:

(a) demand side management, including the cost of amortizing a deferred balance;

(b) the sustainable transportation and energy plan; and

(c) the additional expense described in Subsection (5)(a)(i).

(4) On December 31, 2016, the commission shall end the Utah solar incentive program and surcharge tariff and the large-scale electric utility shall stop accepting new applications for solar incentive program incentives.

(5) (a) The commission may authorize a large-scale electric utility that capitalizes demand side management costs under Subsection (2)(b) to:

(i) recognize the difference between the annual revenues the large-scale electric utility collects for demand side management and the annual amount of the large-scale electric utility’s demand side management cost amortization expense as an additional expense;

(ii) establish and fund, via the additional expense described in Subsection (5)(a)(i), a regulatory liability; and

(iii) use the regulatory liability described in Subsection (5)(a)(ii) to depreciate thermal generation plant.

(b) (i) The commission may authorize the large-scale electric utility to use the regulatory liability described in Subsection (5)(a)(ii) to depreciate thermal generation plant for which the commission determines depreciation is in the public interest for compliance with an environmental regulation or another purpose.

(ii) The commission may not consider the existence of the regulatory liability described in Subsection (5)(a)(ii) in a determination to accelerate depreciation under Subsection (5)(b)(i).

(c) The commission shall allow the large-scale electric utility to apply a carrying charge to the regulatory liability described in Subsection (5)(a)(ii) in an amount equal to the large-scale electric utility's pretax average weighted cost of capital approved by the commission in the large-scale electric utility's most recent general rate proceeding.

(d) The commission may allow a large-scale electric utility to use the regulatory liability carrying charge described in Subsection (5)(c) to offset the carrying charge described in Subsection (2)(b)(iii).

(e) The large-scale electric utility shall apply the carrying charge described in Subsection (5)(c) to funds that a large-scale electric utility is authorized to use to depreciate thermal generation plant under Subsection (5)(a) until the reduction in the large-scale electric utility's rate base associated with the thermal generation plant depreciation for which the funds are used is reflected in the large-scale electric utility's customers' rates.

(f) If the commission determines that funds established in the regulatory liability under Subsection (5)(a) are no longer needed for the purpose of depreciating thermal generation plant, the large-scale electric utility shall use the balance of the funds in the regulatory liability to offset the capitalized demand side management costs described in Subsection (2)(b)(i).

(6) (a) During the pilot program period, of the funds a large-scale electric utility collects via the line item charge described in Subsection (3), the commission shall authorize the large-scale electric utility to allocate on an annual basis:

(i) \$10,000,000 to the sustainable transportation and energy plan; and

(ii) the funds not allocated to the sustainable transportation and energy plan to demand side management.

(b) The commission shall authorize a large-scale electric utility to spend up to:

(i) \$2,000,000 annually for the electric vehicle incentive program described in Section 54-20-103; and

(ii) an annual average of:

(A) \$1,000,000 for the clean coal technology program described in Section 54-20-104; and

(B) \$3,400,000 for the innovative utility programs described in Section 54-20-105.

(c) The commission shall authorize a large-scale electric utility to recoup the large-scale electric utility's unrecovered costs paid through the Utah solar incentive program from the funds allocated under Subsection (6)(a)(i).

(d) The commission may authorize a large-scale electric utility to allocate funds the large-scale electric utility collects via the line item charge described in Subsection (3) not spent under Subsection (6) to a conservation, efficiency, or new technology program if the conservation, efficiency, or new technology program is cost-effective and in the public interest.

(7) A large-scale electric utility shall establish a balancing account that includes:

(a) funds allocated under Subsection (6)(a)(i);

(b) the program expenditures described in Subsection (6)(b);

(c) the unrecovered Utah solar incentive program costs described in Subsection (6)(c); and

(d) a carrying charge in an amount determined by the commission.

(8) A customer that is paying a contract rate under an agreement with a large-scale electric utility as of January 1, 2016, is exempt from the costs recovered under Subsection (3), except for costs created by or arising from the Utah solar incentive program included in Subsection 54-7-12.8(3)(b).

(9) (a) In any proceeding commenced under Section 54-3-32, the commission may not consider or assess to an eligible customer an expenditure, cost, amortization, charge, or liability of any kind that is created by or arises in whole or in part from:

(i) any program created under Title 54, Chapter 20, Sustainable Transportation and Energy Plan Act; or

(ii) this section, except for costs created by or arising from the Utah solar incentive program included in Subsection 54-7-12.8(3)(b).

(b) Except as provided in Subsection (9)(a) and in Section 54-3-33, this section and Title 54, Chapter 20, Sustainable Transportation and Energy Plan Act, do not:

(i) amend or repeal any provision of Section 54-3-32; or

(ii) affect any right, defense, or credit available to an eligible customer under Section 54-3-32.

[3] (10) Each electrical corporation proposing a tariff under this section shall, before submitting the tariff to the commission for approval, seek [and receive] input from:

(a) the Division of Public Utilities;

(b) the Office of Consumer Services [created in Section 54-10a-201]; and

~~[(c) other interested parties.]~~

(c) a person that files a request for notice with the commission.

~~[(4)]~~ (11) Before approving a tariff under this section, the commission shall hold a hearing if:

(a) requested in writing by the electrical corporation, a customer of the electrical corporation, or any other interested party within 15 days after the tariff filing; or

(b) the commission determines that a hearing is appropriate.

~~[(5)]~~ (12) The commission may approve a demand side management tariff under this section either with or without a provision allowing an end-use customer to receive a credit against the charges imposed under the tariff for electric energy efficiency measures that:

(a) the customer implements or has implemented at the customer's expense; and

(b) qualify for the credit under criteria established by the ~~[Utah Public Service Commission]~~ commission.

~~[(6)]~~ (13) In approving a tariff under this section, the commission may impose whatever conditions or limits it considers appropriate, including a maximum annual cost.

~~[(7)]~~ (14) Unless otherwise ordered by the commission, each tariff under this section approved by the commission shall take effect no sooner than 30 days after the electrical corporation files the tariff with the commission.

Section 4. Section 54-7-13.5 is amended to read:

54-7-13.5. Energy balancing accounts.

(1) As used in this section:

(a) "Base rates" ~~[is as]~~ means the same as that term is defined in Subsection 54-7-12(1).

(b) "Energy balancing account" means an electrical corporation account for some or all components of the electrical corporation's incurred actual power costs, including:

- (i) (A) fuel;
- (B) purchased power; and
- (C) wheeling expenses; and

(ii) the sum of the power costs described in Subsection (1)(b)(i) less wholesale revenues.

(c) "Gas balancing account" means a gas corporation account to recover on a dollar-for-dollar basis, purchased gas costs, and gas cost-related expenses.

(2) (a) The commission may authorize an electrical corporation to establish an energy balancing account.

(b) An energy balancing account shall become effective upon a commission finding that the energy balancing account is:

- (i) in the public interest;
- (ii) for prudently-incurred costs; and
- (iii) implemented at the conclusion of a general rate case.

(c) An electrical corporation:

(i) may, with approval from the commission, recover costs under this section through:

- (A) base rates;
- (B) contract rates;
- (C) surcredits; or
- (D) surcharges; and

(ii) shall file a reconciliation of the energy balancing account with the commission at least annually with actual costs and revenues incurred by the electrical corporation.

(d) Beginning June 1, 2016, for an electrical corporation with an energy balancing account established before January 1, 2016, the commission shall allow an electrical corporation to recover 100% of the electrical corporation's prudently incurred costs as determined and approved by the commission under this section.

~~[(4)]~~ (e) An energy balancing account may not alter:

- (i) the standard for cost recovery; or
- (ii) the electrical corporation's burden of proof.

~~[(e)]~~ (f) The collection method described in Subsection (2)(c)(i) shall:

- (i) apply to the appropriate billing components in base rates; and
- (ii) be incorporated into base rates in an appropriate commission proceeding.

~~[(f)]~~ (g) The collection of costs related to an energy balancing account from customers paying contract rates shall be governed by the terms of the contract.

~~[(g)]~~ (h) Revenues collected in excess of prudently incurred actual costs shall:

- (i) be refunded as a bill surcredit to an electrical corporation's customers over a period specified by the commission; and
- (ii) include a carrying charge.

~~[(h)]~~ (i) Prudently incurred actual costs in excess of revenues collected shall:

- (i) be recovered as a bill surcharge over a period to be specified by the commission; and
- (ii) include a carrying charge.

~~[(i)]~~ (j) The carrying charge applied to the balance in an energy balancing account shall be:

- (i) determined by the commission; and

(ii) symmetrical for over or under collections.

(3) (a) The commission may:

(i) establish a gas balancing account for a gas corporation; and

(ii) set forth procedures for a gas corporation's gas balancing account in the gas corporation's commission-approved tariff.

(b) A gas balancing account may not alter:

(i) the standard of cost recovery; or

(ii) the gas corporation's burden of proof.

(4) (a) All allowed costs and revenues associated with an energy balancing account or gas balancing account shall remain in the respective balancing account until charged or refunded to customers.

(b) The balance of an energy balancing account or gas balancing account may not be:

(i) transferred by the electrical corporation or gas corporation; or

(ii) used by the commission to impute earnings or losses to the electrical corporation or gas corporation.

(c) An energy balancing account or gas balancing account that is formed and maintained in accordance with this section does not constitute impermissible retroactive ratemaking or single-issue ratemaking.

(5) This section does not create a presumption for or against approval of an energy balancing account.

(6) The commission shall report to the Public Utilities and Technology Interim Committee before December 1 in 2017 and 2018 regarding whether allowing an electrical corporation to continue to recover costs under Subsection (2)(d) is reasonable and in the public interest.

Section 5. Section 54-17-801 is amended to read:

54-17-801. Definitions.

As used in this part:

(1) "Contract customer" means a person who executes or will execute a renewable energy contract with a qualified utility.

(2) "Qualified utility" means an electric corporation that serves more than 200,000 retail customers in the state.

(3) "Renewable energy contract" means a contract under this part for the delivery of electricity from one or more renewable energy facilities to a contract customer requiring the use of a qualified utility's transmission or distribution system to deliver the electricity from a renewable energy facility to the contract customer.

(4) "Renewable energy facility":

(a) except as provided in Subsection (4)(b), means a renewable energy source defined in Section 54-17-601 that is located in the state; and

(b) does not include an electric generating facility whose costs have been included in a qualified utility's rates as a facility providing electric service to the qualified utility's system.

(5) "Renewable energy tariff" means a tariff offered by a qualified utility that allows the qualified utility to procure renewable generation on behalf of and to serve its customers.

Section 6. Section 54-17-806 is enacted to read:

54-17-806. Qualified utility renewable energy tariff.

(1) The commission may authorize a qualified utility to implement a renewable energy tariff in accordance with this section if the commission determines the tariff that the qualified utility proposes is reasonable and in the public interest.

(2) If a tariff is authorized under Subsection (1), a qualified utility customer with an aggregated electrical load of at least five megawatts and who agrees to service that is subject to the renewable energy tariff shall pay:

(a) the customer's normal tariff rate;

(b) an incremental charge in an amount equal to the difference between the cost to the qualified utility to supply renewable generation to the renewable energy tariff customer and the qualified utility's avoided costs as defined in Subsection 54-2-1(1), or a different methodology recommended by the qualified utility; and

(c) an administrative fee in an amount approved by the commission.

(3) The commission shall allow a qualified utility to recover the qualified utility's prudently incurred cost of renewable generation procured pursuant to the tariff established in this section that is not otherwise recovered from the proceeds of the tariff paid by customers agreeing to service that is subject to the renewable energy tariff.

Section 7. Section 54-20-101 is enacted to read:

**CHAPTER 20. SUSTAINABLE
TRANSPORTATION AND ENERGY PLAN
ACT**

54-20-101. Title.

This chapter is known as the "Sustainable Transportation and Energy Plan Act."

Section 8. Section 54-20-102 is enacted to read:

54-20-102. Definitions.

As used in this chapter:

(1) "Demand side management" means the same as that term is defined in Section 54-7-12.8.

(2) “Pilot program period” means a period of 5 years, beginning on January 1, 2017, during which the sustainable transportation and energy plan is effective.

(3) “Sustainable transportation and energy plan” means the programs approved by the commission and undertaken by a large-scale electric utility during the pilot program period, including:

(a) the electric vehicle incentive program described in Section 54-20-103;

(b) the clean coal technology program described in Section 54-20-104; and

(c) the innovative technology programs described in Section 54-20-105.

Section 9. Section 54-20-103 is enacted to read:

54-20-103. Electric vehicle incentive program.

(1) The commission shall, before July 1, 2017, authorize a large-scale electric utility to establish a program that promotes customer choice in electric vehicle charging equipment and service that includes:

(a) an incentive to a large-scale electric utility customer to install or provide electric vehicle infrastructure;

(b) time of use pricing for electric vehicle charging;

(c) any measure that the commission determines is in the public interest that incentivizes the competitive deployment of electric vehicle charging infrastructure.

(2) The commission may review the expenditures made by a large-scale electric utility for the program described in Subsection (1) in order to determine if the large-scale electric utility made the expenditures prudently in accordance with the purposes of the program.

(3) A large-scale electric utility proposing a program for approval by the commission under this section shall, before submitting the program to the commission for approval, seek input from:

(a) the Division of Public Utilities;

(b) the Office of Consumer Services;

(c) the Division of Air Quality; and

(d) any person that files a request for notice with the commission.

Section 10. Section 54-20-104 is enacted to read:

54-20-104. Clean coal technology program.

(1) Subject to Subsection (2), the commission shall authorize, before July 1, 2017, and, subject to funding, approve a program that authorizes a large-scale electric utility to investigate, analyze, and research clean coal technology.

(2) The commission may review the expenditures made by a large-scale electric utility for a program described in Subsection (1) in order to determine if the large-scale electric utility made the expenditures prudently in accordance with the purposes of the program.

Section 11. Section 54-20-105 is enacted to read:

54-20-105. Innovative utility programs.

(1) The commission may authorize, subject to funding available under Subsection 54-7-12.8(6)(b)(ii)(B), a large-scale electric utility to implement programs that the commission determines are in the interest of large-scale electric utility customers to provide for the investigation, analysis, and implementation of:

(a) an economic development incentive rate;

(b) a solar generation incentive;

(c) a battery storage or electric grid related project;

(d) a commercial line extension pilot program;

(e) a program to curtail emissions from thermal generation plant in the Salt Lake non-attainment area during a non-attainment event as defined by the Division of Air Quality;

(f) an additional electric vehicle incentive program incremental to the program described in Section 54-20-103;

(g) an additional clean coal program incremental to the program described in Section 54-20-104; and

(h) any other technology program.

(2) The commission may review the expenditures made by a large-scale electric utility for a program described in Subsection (1) in order to determine if the large-scale electric utility made the expenditures prudently in accordance with the purposes of the program.

(3) The commission may authorize and establish funding for a conservation, efficiency, or new technology program in addition to the programs described in this chapter if the conservation, efficiency, or new technology program is cost-effective and in the public interest.

Section 12. Section 54-20-106 is enacted to read:

54-20-106. Extension of pilot program.

Before the first day of the legislative session in the final year of the pilot program period, the commission shall submit a report and recommendation to the Legislature regarding whether, in the discretion of the commission, the Legislature should, for the sustainable transportation and energy plan:

(1) extend the plan or a portion of the plan as a ratepayer funded program;

(2) implement the plan or a portion of the plan as a state funded program; or

(3) discontinue the plan or a portion of the plan.

Section 13. Section 54-20-107 is enacted to read:

54-20-107. Other programs.

The commission may authorize a large-scale electric utility to establish a program in addition to the programs described in this chapter if the commission determines that the program is cost-effective and in the public interest.

Section 14. Section 63I-1-254 is amended to read:

63I-1-254. Repeal dates -- Title 54.

(1) The language of Subsection 54-4-13.4(1)(a)(ii) after "do not exceed \$5,000,000 in any calendar year" is repealed July 1, 2018.

(2) Subsection 54-7-13.5(2)(d) is repealed on December 31, 2019.

CHAPTER 394**S. B. 154**

Passed March 10, 2016
 Approved March 29, 2016
 Effective May 10, 2016

MEDICAID ACCOUNTABLE CARE ORGANIZATIONS

Chief Sponsor: J. Stuart Adams
 House Sponsor: Brad R. Wilson

LONG TITLE**General Description:**

This bill amends the Medical Assistance Programs of the Utah Health Code.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ includes the cost of a mandated Medicaid program change in the Medicaid base budget for accountable care organizations for a certain period of time.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-18-405, as enacted by Laws of Utah 2011, Chapter 211

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-18-405 is amended to read:**26-18-405. Waivers to maximize replacement of fee-for-service delivery model -- Cost of mandated program changes.**

(1) The department shall develop a ~~[proposal to amend the state plan for]~~ waiver program in the Medicaid program ~~[in a way that maximizes replacement of]~~ to replace the fee-for-service delivery model with one or more risk-based delivery models.

(2) The ~~[proposal]~~ waiver program shall:

(a) restructure the program's provider payment provisions to reward health care providers for delivering the most appropriate services at the lowest cost and in ways that, compared to services delivered before implementation of the ~~[proposal]~~ waiver program, maintain or improve recipient health status;

(b) restructure the program's cost sharing provisions and other incentives to reward recipients for personal efforts to:

- (i) maintain or improve their health status; and
- (ii) use providers that deliver the most appropriate services at the lowest cost;

(c) identify the evidence-based practices and measures, risk adjustment methodologies, payment systems, funding sources, and other mechanisms necessary to reward providers for delivering the most appropriate services at the lowest cost, including mechanisms that:

(i) pay providers for packages of services delivered over entire episodes of illness rather than for individual services delivered during each patient encounter; and

(ii) reward providers for delivering services that make the most positive contribution to a recipient's health status;

(d) limit total annual per-patient-per-month expenditures for services delivered through fee-for-service arrangements to total annual per-patient-per-month expenditures for services delivered through risk-based arrangements covering similar recipient populations and services; and

(e) except as provided in Subsection (4), limit the rate of growth in per-patient-per-month General Fund expenditures for the program to the rate of growth in General Fund expenditures for all other programs, when the rate of growth in the General Fund expenditures for all other programs is greater than zero.

(3) To the extent possible, the department shall ~~[develop the proposal]~~ operate the waiver program with the input of stakeholder groups representing those who will be affected by the ~~[proposal]~~ waiver program.

~~[(4) No later than June 1, 2011, the department shall submit a written report on the development of the proposal to the Legislature's Executive Appropriations Committee, Social Services Appropriations Subcommittee, and Health and Human Services Interim Committee.]~~

~~[(5) No later than July 1, 2011, the department shall submit to the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services a request for waivers from federal statutory and regulatory law necessary to implement the proposal.]~~

~~[(6) After the request for waivers has been made, and prior to its implementation, the department shall report to the Legislature in accordance with Section 26-18-3 on any modifications to the request proposed by the department or made by the Centers for Medicare and Medicaid Services.]~~

~~[(7) The department shall implement the proposal in the fiscal year that follows the fiscal year in which the United States Secretary of Health and Human Services approves the request for waivers.]~~

(4) (a) For purposes of this Subsection (4), "mandated program change" shall be determined by the department in consultation with the Medicaid accountable care organizations, and may include a change to the state Medicaid program that is required by state or federal law, state or federal guidance, policy, or the state Medicaid plan.

(b) A mandated program change shall be included in the base budget for the Medicaid program for the fiscal year in which the Medicaid program adopted the mandated program change.

(c) The mandated program change is not subject to the limit on the rate of growth in per-patient-per-month General Fund expenditures for the program established in Subsection (2)(e), until the fiscal year following the fiscal year in which the Medicaid program adopted the mandated program change.

CHAPTER 395

H. B. 2

Passed March 8, 2016
 Approved March 30, 2016
 Effective July 1, 2016
 (Line Item 111 vetoed)

**NEW FISCAL YEAR SUPPLEMENTAL
 APPROPRIATIONS ACT**

Chief Sponsor: Dean Sanpei
 Senate Sponsor: Lyle W. Hillyard

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the use and operation of state government for the fiscal year beginning July 1, 2016 and ending June 30, 2017.

Highlighted Provisions:

This bill:

- ▶ provides budget increases and decreases for the use and support of certain state agencies;
- ▶ provides budget increases and decreases for the use and support of certain institutions of higher education;
- ▶ provides budget increases and decreases for other purposes as described;
- ▶ authorizes capital outlay amounts for certain internal service funds;
- ▶ authorizes full time employment levels for certain internal service funds; and
- ▶ provides intent language.

Money Appropriated in this Bill:

This bill appropriates \$540,382,500 in operating and capital budgets for fiscal year 2017, including:

- ▶ \$65,102,300 from the General Fund;
- ▶ \$184,067,300 from the Education Fund;
- ▶ \$291,212,900 from various sources as detailed in this bill.

This bill appropriates \$1,182,700 in expendable funds and accounts for fiscal year 2017, including:

- ▶ \$500,000 from the General Fund;
- ▶ \$682,700 from various sources as detailed in this bill.

This bill appropriates \$631,000 in business-like activities for fiscal year 2017.

This bill appropriates \$6,150,000 in restricted fund and account transfers for fiscal year 2017, including:

- ▶ \$6,300,000 from the General Fund;
- ▶ (\$150,000) from various sources as detailed in this bill.

This bill appropriates \$6,960,000 in transfers to unrestricted funds for fiscal year 2017.

This bill appropriates \$6,225,000 in capital project funds for fiscal year 2017.

Other Special Clauses:

This bill takes effect on July 1, 2016.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2017 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2016 and ending June 30, 2017. These are additions to amounts previously appropriated for fiscal year 2017.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

**EXECUTIVE OFFICES AND
 CRIMINAL JUSTICE**

GOVERNOR'S OFFICE

Item 1

To Governor's Office
 From General Fund, One-Time 275,000
 From Federal Funds, One-Time 1,300
 From Dedicated Credits Revenue,
 One-Time 9,000
 Schedule of Programs:
 Lt. Governor's Office 276,300
 Literacy Projects 9,000

Item 2

To Governor's Office - Governor's
 Office of Management and Budget
 From General Fund 120,000
 From General Fund, One-Time 540,000
 Schedule of Programs:
 Planning and Budget Analysis 120,000
 State and Local Planning 340,000
 Prison Relocation 200,000

Item 3

To Governor's Office - Commission on
 Criminal and Juvenile Justice
 From General Fund, One-Time 2,000,000
 Schedule of Programs:
 Justice Data Sharing 2,000,000

Item 4

To Governor's Office - CCJJ Jail Reimbursement
 From General Fund 1,000,000
 From General Fund, One-Time 1,000,000
 Schedule of Programs:
 Jail Reimbursement 2,000,000

OFFICE OF THE STATE AUDITOR

Item 5

To Office of the State Auditor - State Auditor
 The Legislature intends that the Multicounty Appraisal Trust use up to \$150,000 for the one-time acquisition or development of a statewide system for management of business and personal property tax filings, in which all counties will participate and which will be acquired and/or developed in accordance with state procurement standards.

STATE TREASURER

Item 6

To State Treasurer

From Unclaimed Property Trust 350,000
 Schedule of Programs:
 Unclaimed Property 350,000

ATTORNEY GENERAL

Item 7

To Attorney General
 From General Fund 1,710,300
 From Dedicated Credits Revenue 150,000
 From Dedicated Credits Revenue,
 One-Time 686,000
 Schedule of Programs:
 Criminal Prosecution 1,710,300
 Civil 836,000

Item 8

To Attorney General - Prosecution Council
 From Dedicated Credits Revenue 6,200
 Schedule of Programs:
 Prosecution Council 6,200

UTAH DEPARTMENT OF CORRECTIONS

Item 9

To Utah Department of Corrections -
 Programs and Operations
 From General Fund 3,119,900
 From General Fund, One-Time 650,000
 Schedule of Programs:
 Adult Probation and Parole
 Administration 1,400,000
 Adult Probation and Parole
 Programs 1,000,000
 Institutional Operations Draper
 Facility 1,369,900

The Legislature intends that, if the Department of Corrections is able to reallocate resources internally to fund additional Adult Probation and Parole agents, for every two agents hired, the Legislature grants authority to purchase one vehicle with Department funds.

The Legislature grants authority to the Department of Corrections, Division of Institutional Operations, to purchase one vehicle for the Inmate Placement Program and one vehicle for the Utah State Prison at Draper with Department funds.

The Legislature grants authority to the Department of Corrections, Law Enforcement Bureau, to purchase one vehicle with Department funds.

Item 10

To Utah Department of Corrections -
 Jail Contracting
 From General Fund 114,000
 From General Fund, One-Time 1,410,000
 Schedule of Programs:
 Jail Contracting 1,524,000

Under Section 64-13e-105 the Legislature intends that the final state daily incarceration rate be set at \$71.23 for FY 2017.

BOARD OF PARDONS AND PAROLE

Item 11

To Board of Pardons and Parole
 From General Fund 173,600
 From General Fund, One-Time 75,000
 Schedule of Programs:
 Board of Pardons and Parole 248,600

**DEPARTMENT OF HUMAN SERVICES -
 DIVISION OF JUVENILE JUSTICE
 SERVICES**

Item 12

To Department of Human Services - Division of
 Juvenile Justice Services - Programs and
 Operations
 From Federal Funds (28,600)
 Schedule of Programs:
 Community Programs (28,600)

**JUDICIAL COUNCIL/STATE
 COURT ADMINISTRATOR**

Item 14

To Judicial Council/State Court Administrator -
 Guardian ad Litem
 From General Fund 1,036,400
 Schedule of Programs:
 Guardian ad Litem 1,036,400

DEPARTMENT OF PUBLIC SAFETY

Item 15

To Department of Public Safety -
 Programs & Operations
 From General Fund 1,000,000
 From General Fund, One-Time 624,800
 From General Fund Restricted -
 Fire Academy Support 405,500
 From General Fund Restricted -
 Fire Academy Support, One-Time 111,300
 From Department of Public Safety
 Restricted Account 50,000
 Schedule of Programs:
 Department Commissioner's Office 50,000
 CITS State Crime Labs 374,800
 Highway Patrol - Field Operations .. 1,000,000
 Highway Patrol - Technology
 Services 250,000
 Fire Marshall - Fire Operations 111,300
 Fire Marshall - Fire Fighter
 Training 405,500

In accordance with Utah Code Ann. 24-3-103 the Department of Public Safety is requesting authority to transfer all firearms received from court adjudications (Criminal Evidence) to the department for its use. These firearms will be transferred to the State Crime Laboratory and department training section for official use only. In addition all ammunition received by the department with these firearms will be used by the State Crime Laboratory and Training Section for official use only. All other evidentiary property of value that has been adjudicated and received by the department will be transferred to State surplus for auction.

The Department of Public Safety is authorized to increase its fleet by the same

number of new officers authorized and funded by the legislature for FY 2017.

It is the intent of the Utah State Legislature to utilize existing restricted funds from the Fire Academy Support Account for land acquisition establishing a future home for the Utah Fire and Rescue Academy on property which is contiguous with existing property owned by Utah Valley University in Vineyard, Utah.

Item 16

To Department of Public Safety - Peace Officers' Standards and Training
 From Uninsured Motorist Identification Restricted Account, One-Time 500,000
 Schedule of Programs:
 Basic Training 500,000

UTAH COMMUNICATIONS AUTHORITY

Item 17

To Utah Communications Authority - Administrative Services Division
 From General Fund Restricted - Statewide Unified E-911
 Emergency Account 2,990,600
 From General Fund Restricted - Computer Aided Dispatch Account .. 2,573,500
 Schedule of Programs:
 911 Division 5,564,100

INFRASTRUCTURE AND GENERAL GOVERNMENT

TRANSPORTATION

Item 18

To Transportation - Support Services
 From Transportation Fund 792,300
 From Transportation Fund, One-Time .. 355,000
 Schedule of Programs:
 Administrative Services 52,000
 Human Resources Management 640,300
 Data Processing 355,000
 Community Relations 100,000

Item 19

To Transportation - Engineering Services
 From Transportation Fund 930,700
 Schedule of Programs:
 Program Development (52,000)
 Environmental 1,074,800
 Right-of-Way 100,000
 Construction Management (97,000)
 Engineer Development Pool (95,100)

Item 20

To Transportation - Operations/
 Maintenance Management
 From Transportation Fund (616,300)
 From Transportation Fund,
 One-Time 6,000,000
 Schedule of Programs:
 Maintenance Administration 74,000
 Region 2 5,900,000
 Region 3 (72,800)
 Field Crews (69,300)
 Maintenance Planning (448,200)

The Legislature intends that upon the completion of the FY 2016 winter maintenance, unused fund in the Maintenance Line Item may be used by the Department to meet unmet equipment needs.

The Legislature intends that the Department of Transportation use maintenance funds previously used on state highways that now qualify for Transportation Investment Funds of 2005 to address maintenance and preservation issues on other state highways.

Item 21

To Transportation - Construction Management
 From Transportation Fund 52,593,000
 From Transportation Fund,
 One-Time (355,000)
 Schedule of Programs:
 Federal Construction - New 52,238,000

There is appropriated to the Department of Transportation from the Transportation Fund, not otherwise appropriated, a sum sufficient but not more than the surplus of the Transportation Fund, to be used by the Department for the construction, rehabilitation and preservation of State highways in Utah. The Legislature intends that the appropriation fund first, a maximum participation with the federal government for the construction of federally designated highways, as provided by law, and last the construction of State highways, as funding permits. No portion of the money appropriated by this item shall be used either directly or indirectly to enhance the appropriation otherwise made by this act to the Department of Transportation for other purposes.

Item 22

To Transportation - Region Management
 From Transportation Fund (932,700)
 Schedule of Programs:
 Region 1 (273,100)
 Region 2 (249,900)
 Region 3 (136,500)
 Region 4 (273,200)

Item 23

To Transportation - Aeronautics
 The Legislature intends that the Division of Aeronautics use funds from the Aeronautics Restricted Account to conduct an audit of the Utah Based Aircraft Database and Aircraft Registration program to evaluate the existing process for collecting aircraft data, accuracy of information, and to make recommendations for improvement.

Item 24

To Transportation - B and C Roads
 From Transportation Fund 22,614,400
 Schedule of Programs:
 B and C Roads 22,614,400

Item 25

To Transportation - Safe Sidewalk Construction
 The Legislature intends that the funds appropriated from the Transportation Fund

for pedestrian safety projects be used specifically to correct pedestrian hazards on State highways. The Legislature also intends that local authorities be encouraged to participate in the construction of pedestrian safety devices. The appropriated funds are to be used according to the criteria set forth in Section 72-8-104, Utah Code Annotated, 1953. The funds appropriated for sidewalk construction shall not lapse. If local governments cannot use their allocation of Sidewalk Safety Funds in two years, these funds will be available for other governmental entities which are prepared to use the resources. The Legislature intends that local participation in the Sidewalk Construction Program be on a 75% state and 25% local match basis.

Item 26

To Transportation - Mineral Lease

The Legislature intends that the funds appropriated from the Federal Mineral Lease Account shall be used for improvement or reconstruction of highways that have been heavily impacted by energy development. The Legislature further intends that if private industries engaged in developing the State's natural resources are willing to participate in the cost of the construction of highways leading to their facilities, that local governments consider that highway as a higher priority as they prioritize the use of Mineral Lease Funds received through 59-21-1(4)(C)(i). The funds appropriated for improvement or reconstruction of energy impacted highways are nonlapsing.

Item 27

To Transportation - Transportation Investment Fund Capacity Program
 From Transportation Investment Fund of 2005 37,530,000
 Schedule of Programs:
 Transportation Investment Fund Capacity Program 37,530,000

There is appropriated to the Department of Transportation from the Transportation Investment Fund of 2005, not otherwise appropriated, a sum sufficient, but not more than the surplus of the Transportation Investment Fund of 2005, to be used by the Department for the construction, rehabilitation, and preservation of State and Federal highways in Utah. No portion of the money appropriated by this item shall be used either directly or indirectly to enhance or increase the appropriations otherwise made by this act to the Department of Transportation for other purposes.

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 28

To Department of Administrative Services - Executive Director

From Dedicated Credits Revenue,
 One-Time 10,500
 Schedule of Programs:
 Executive Director 10,500

Item 29

To Department of Administrative Services - Inspector General of Medicaid Services

The Legislature intends that the Inspector General of Medicaid Services retain up to an additional \$60,000 of the states share of Medicaid collections during FY2017 to pay the Attorney General's Office for the state costs of the one attorney FTE that the Office of the Inspector General is using.

Item 30

To Department of Administrative Services - State Archives
 From General Fund 23,400
 From General Fund, One-Time (23,400)

Item 31

To Department of Administrative Services - Finance Administration
 From General Fund 81,800
 From General Fund, One-Time 500,000
 From Dedicated Credits Revenue 90,000
 Schedule of Programs:
 Finance Director's Office 31,800
 Financial Information Systems 640,000

The Legislature intends that the Finance Internal Service Fund Consolidated Budget & Accounting Program may add up to two FTE if new customers or tasks come on line. Any added FTE will be reviewed and may be approved by the Legislature in the next legislative session.

Item 32

To Department of Administrative Services - Finance - Mandated
 From General Fund (31,800)
 From General Fund Restricted - Statewide Unified E-911
 Emergency Account (2,990,600)
 From General Fund Restricted - Computer Aided Dispatch Account . (2,573,500)
 Schedule of Programs:
 Employee Health Benefits (31,800)
 Computer Aided Dispatch (2,573,500)
 E-911 Emergency Services (2,990,600)

The Legislature intends that, if revenues deposited in the Land Exchange Distribution Account exceed appropriations from the account, the Division of Finance distribute the excess deposits according to the formula provided in UCA 53C-3-203(4).

DEPARTMENT OF TECHNOLOGY SERVICES

Item 33

To Department of Technology Services - Integrated Technology Division
 From Federal Funds 187,700
 Schedule of Programs:
 Automated Geographic Reference Center 187,700

CAPITAL BUDGET

Item 34

To Capital Budget - Capital Development Fund

The Legislature intends that no General or Education Fund appropriations made by the Legislature for state-funded capital developments approved during the 2016 General Session may be expended by the Division of Facilities Construction and Management until the State Building Board has certified that: (1) the board has received credible evidence that any other funding sources for a building as presented to the State Building Board and the Legislature during their prioritization processes are actually available, and (2) until the State Building Board votes to certify such funds are available.

The Legislature intends that the Dixie Applied Technology College (DXATC) use no agency/institutional funds for the construction, planning, or design of the DXATC Permanent Campus project prior to March 1, 2017 or until 90 percent of the state funds have been exhausted for the purpose of planning, design, and construction of this project.

Item 35

To Capital Budget - Capital Development - Higher Education

From General Fund, One-Time	.....	20,000,000
From Education Fund	.....	20,000,000
From Education Fund, One-Time	....	71,901,600
Schedule of Programs:		
Snow College Science Building	.....	4,724,600
SLCC Career and Technology Education Center at Westpointe	..	42,590,500
OWATC Business Depot Ogden Bay 2 Improvement Project	.....	6,586,500
SUU New Business Building and Repurposed Existing Building	....	8,000,000
USU Biological Sciences Building	..	28,000,000
UVU Performing Arts Building	....	22,000,000

The Legislature intends that \$10,000,000 ongoing appropriated from the Education Fund in this item for the Utah State University Biological Sciences Building be shifted to a one-time appropriation in the FY 2018 base budget, for a total between the two years of \$38,000,000 for the Utah State University Biological Sciences Building. The Legislature further intends that the aforementioned FY 2018 base budget shift be offset by (\$10,000,000) one-time and \$10,000,000 ongoing from the Education Fund for Capital Developments generally in FY 2018.

The Legislature intends that \$10,000,000 ongoing appropriated from the Education Fund in this item for the Utah Valley University Performing Arts Building be shifted to a one-time appropriation in the FY 2018 base budget, for a total between the two years of \$32,000,000 for Utah Valley University Performing Arts Building. The

Legislature further intends that the aforementioned FY 2018 base budget shift be offset by (\$10,000,000) one-time and \$10,000,000 ongoing from the Education Fund for Capital Developments generally in FY 2018.

Item 36

To Capital Budget - Capital Development - Other State Government

From General Fund, One-Time	.....	5,183,300
Schedule of Programs:		
DJJS Weber Valley Multi-use Youth Center	.....	1,000,000
Archives Storage Vault Expansion	...	4,183,300

Item 37

To Capital Budget - Capital Improvements

From General Fund	.....	10,214,300
From Education Fund	.....	(3,943,100)
From Education Fund, One-Time	....	1,200,000
Schedule of Programs:		
Capital Improvements	.....	6,271,200
USU Botanical Center	.....	1,200,000

Item 38

To Capital Budget - Pass-Through

From General Fund, One-Time	.....	1,607,000
Schedule of Programs:		
Jordan River Last Bridge Project	....	1,207,000
Restoration of Historic Enola Gay Hangar at Wendover Airfield	.....	400,000

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF HERITAGE AND ARTS

Item 39

To Department of Heritage and Arts - Administration

From General Fund Restricted - Humanitarian Service Rest. Acct	.....	2,000
From General Fund Restricted - Martin Luther King Jr Civil Rights Support Restricted Account	.....	7,500
Schedule of Programs:		
Executive Director's Office	.....	2,000
Utah Multicultural Affairs Office	.....	7,500

Item 40

To Department of Heritage and Arts - Division of Arts and Museums

From General Fund	.....	100,000
Schedule of Programs:		
Grants to Non-profits	.....	100,000

Item 41

To Department of Heritage and Arts - State Library

From Dedicated Credits Revenue	.....	75,000
Schedule of Programs:		
Blind and Disabled	.....	75,000

Item 42

To Department of Heritage and Arts - Pass-Through

From General Fund	.....	35,000
From General Fund, One-Time	.....	1,165,000
Schedule of Programs:		
Pass-Through	.....	1,200,000

**GOVERNOR'S OFFICE OF
ECONOMIC DEVELOPMENT**

Item 43

To Governor's Office of Economic
Development - STEM Action Center
From General Fund 3,000,000
Schedule of Programs:
STEM Action Center 3,000,000

Item 44

To Governor's Office of Economic
Development - Office of Tourism
From General Fund Restricted - Tourism
Marketing Performance,
One-Time 6,000,000
Schedule of Programs:
Marketing and Advertising 6,000,000

Item 45

To Governor's Office of Economic
Development - Business Development
From General Fund 375,000
From General Fund, One-Time 250,000
Schedule of Programs:
Outreach and International Trade 125,000
Corporate Recruitment and
Business Services 500,000

Item 46

To Governor's Office of Economic
Development - Pass-Through
From General Fund, One-Time 2,125,000
Schedule of Programs:
Pass-Through 2,125,000

UTAH STATE TAX COMMISSION

Item 47

To Utah State Tax Commission -
Tax Administration
From General Fund Restricted -
Electronic Payment Fee Rest. Acct 750,000
Schedule of Programs:
Motor Vehicles 750,000

Item 48

To Utah State Tax Commission -
License Plates Production
From Dedicated Credits Revenue 275,800
Schedule of Programs:
License Plates Production 275,800

Item 49

To Utah State Tax Commission -
Liquor Profit Distribution
From General Fund Restricted-Alcoholic
Beverage Enforcement & Treatment 14,500
Schedule of Programs:
Liquor Profit Distribution 14,500

**UTAH SCIENCE TECHNOLOGY AND
RESEARCH GOVERNING AUTHORITY**

Item 50

To Utah Science Technology and Research
Governing Authority - Technology Outreach and
Innovation
From Dedicated Credits Revenue 435,900
Schedule of Programs:

Salt Lake SBIR-STTR Resource
Center 4,800
Projects 431,100

**DEPARTMENT OF ALCOHOLIC
BEVERAGE CONTROL**

Item 51

To Department of Alcoholic Beverage
Control - DABC Operations
From Liquor Control Fund 1,557,400
From Liquor Control Fund, One-Time ... 247,300
Schedule of Programs:
Warehouse and Distribution 40,000
Stores and Agencies 1,764,700

LABOR COMMISSION

Item 52

To Labor Commission
From General Fund Restricted -
Industrial Accident Rest. Account 280,000
From General Fund Restricted -
Industrial Accident Rest.
Account, One-Time 450,000
Schedule of Programs:
Industrial Accidents 600,000
Adjudication 130,000

FINANCIAL INSTITUTIONS

Item 53

To Financial Institutions - Financial
Institutions Administration
From General Fund Restricted -
Financial Institutions, One-Time 416,700
Schedule of Programs:
Administration 416,700

INSURANCE DEPARTMENT

Item 54

To Insurance Department - Insurance Department
Administration
From General Fund Restricted -
Insurance Department Account (265,000)
Schedule of Programs:
Administration (265,000)

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 55

To Department of Health - Executive
Director's Operations
From Dedicated Credits Revenue,
One-Time 121,000
From Beginning Nonlapsing Balances ... 375,000
Schedule of Programs:
Center for Health Data and
Informatics 121,000
Program Operations 375,000

The Legislature intends that the Inspector
General of Medicaid Services pay the
Attorney General's Office the full state cost of
the one attorney FTE that it is using at the
Department of Health.

The Legislature intends that the
Department of Health prepare proposed

performance measures for all new funding for building blocks and give this information to the Office of the Legislative Fiscal Analyst by June 1, 2016. At a minimum the proposed measures should include those presented to the Subcommittee during the requests for funding. If the same measures are not included, a detailed explanation as to why should be included. The Department of Health shall provide its first report on its performance measures to the Office of the Legislative Fiscal Analyst by October 31, 2016 with another report two months after the close of fiscal year 2017. The Office of the Legislative Fiscal Analyst shall share this information with the legislative staff of the Health and Human Services Interim Committee.

Item 56

To Department of Health - Family Health and Preparedness

From General Fund	805,000
From General Fund, One-Time	2,250,000
From Federal Funds, One-Time	3,000,000
From General Fund Rest. - Automatic Defibrillator Rest. Account, One-Time ...	5,000
From General Fund Restricted - Children's Hearing Aid Pilot Program Account	20,000
Schedule of Programs:	
Maternal and Child Health	3,000,000
Children with Special Health Care Needs	1,520,000
Emergency Medical Services and Preparedness	5,000
Primary Care	1,555,000

The Legislature intends that all new funding provided from any sources for the building block entitled "Baby Watch Early Intervention Program" shall be used to provide direct services.

Item 57

To Department of Health - Disease Control and Prevention

From General Fund	794,100
From General Fund, One-Time	150,000
From Federal Funds	215,000
From Dedicated Credits Revenue	283,500
From Beginning Nonlapsing Balances ...	201,900
Schedule of Programs:	
Epidemiology	416,900
Office of the Medical Examiner	1,077,600
Radon Awareness Campaign	150,000

Item 58

To Department of Health - Medicaid and Health Financing

From Beginning Nonlapsing Balances	1,475,000
Schedule of Programs:	
Financial Services	1,475,000

The Legislature intends that the Department of Health shall study enrollment trends for children in the CHIP and Medicaid programs. The Department of Health shall assess the estimated relative costs to the

state of the current practice month-to-month eligibility vs. continuous 12-month enrollment for children. Cost estimates should also include if possible estimates of increased costs to the state related to care needed due to adverse outcomes related to delays in diagnoses and treatments related to the current practice of month-to-month eligibility. The Department of Health will work with stakeholders and report findings to the Office of the Legislative Fiscal Analyst by August 30, 2016.

The Legislature intends that the Department of Health remove the optional 5 year waiting period for legal immigrant children who currently qualify for 100% federal funding in the Medicaid and Children's Health Insurance program.

Item 59

To Department of Health - Medicaid Mandatory Services

From General Fund	36,600,000
From Federal Funds	85,456,500
From Beginning Nonlapsing Balances	3,106,300
Schedule of Programs:	
Managed Health Care	187,208,500
Nursing Home	(930,400)
Inpatient Hospital	(16,655,600)
Physician Services	(23,582,000)
Outpatient Hospital	(17,321,800)
Medicaid Management Information System Replacement	3,106,300
Crossover Services	(3,997,300)
Medical Supplies	(666,200)
Other Mandatory Services	(1,998,700)

The Legislature intends that the \$300,000 in Beginning Nonlapsing provided to the Department of Health's Medicaid Mandatory Services line item for the redesign and replacement of the Medicaid Management Information System is dependent upon up to \$300,000 funds not otherwise designated as nonlapsing to the Department of Health's Medicaid Optional Services line item being retained as nonlapsing in Fiscal Year 2016.

The Legislature intends that the Department of Health report quarterly to the Office of the Legislative Fiscal Analyst on the status of replacing the Medicaid Management Information System replacement beginning September 30, 2016. The reports should include, where applicable, the responses to any requests for proposals. At least one report during Fiscal Year 2017 should include an updated estimate of net ongoing impacts to the State from the new system. The Department of Health should work with other agencies to identify any impacts outside its agency.

The Legislature intends that the Medicaid Accountable Care Organizations receive a scheduled two percent increase effective January 1, 2017 consistent with the intent of S.B. 180, 2011 General Session. Additionally, the Legislature intends that the Medicaid

Accountable Care Organizations receive funding to cover the cost of caseload growth, FMAP changes, and new high cost pharmaceuticals for rates set effective July 1, 2016.

Item 60

To Department of Health - Medicaid
Optional Services

From General Fund	1,100,000
From General Fund, One-Time	1,000,000
From Federal Funds	2,532,500
From Federal Funds, One-Time	2,300,000

Schedule of Programs:

Home and Community Based

Waiver Services	333,100
Pharmacy	666,200
Capitated Mental Health Services	31,312,500
Intermediate Care Facilities for Intellectually Disabled	(5,662,900)
Non-service Expenses	6,329,100
Dental Services	9,961,600
Buy-in/Buy-out	12,325,100
Disproportionate Hospital Payments	(2,998,000)
Clawback Payments	17,321,800
Hospice Care Services	2,664,900
Other Optional Services	(65,320,900)

The Legislature intends that all one-time appropriations provided in fiscal year 2017 for the building block entitled "Increase Caseload for Medically Complex Children's Waiver" be used to the maximal extent that is possible for opening new slots for children who meet criteria for this waiver.

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$1,000,000 of the appropriations provided for the Medicaid Optional Services line item not lapse at the close of Fiscal Year 2017. The use of any nonlapsing funds is limited to a pilot program for assistance for children with disabilities and complex medical conditions to be used in similar amounts over two years with the goal of serving a similar number of clients over two years.

**DEPARTMENT OF
WORKFORCE SERVICES**

Item 61

To Department of Workforce
Services - Administration

From General Fund Restricted - Special Admin. Expense Account, One-Time	275,000
From Beginning Nonlapsing Balances . . .	100,000

Schedule of Programs:

Administrative Support	375,000
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The Legislature intends that the Department of Workforce Services prepare proposed performance measures for all new funding for building blocks and give this information to the Office of the Legislative Fiscal Analyst by June 1, 2016. At a minimum the proposed measures should include those

presented to the Subcommittee during the requests for funding. If the same measures are not included, a detailed explanation as to why should be included. The Department of Workforce Services shall provide its first report on its performance measures to the Office of the Legislative Fiscal Analyst by October 31, 2016 with another report two months after the close of fiscal year 2017. The Office of the Legislative Fiscal Analyst shall share this information with the legislative staff of the Health and Human Services Interim Committee.

Item 62

To Department of Workforce Services -
Operations and Policy

From General Fund, One-Time	150,000
From Federal Funds, One-Time	6,588,000
From General Fund Restricted - Special Admin. Expense Account, One-Time	3,725,000
From Beginning Nonlapsing Balances	1,822,400

Schedule of Programs:

Workforce Development	5,547,400
Temporary Assistance for Needy Families	6,588,000
Other Assistance	150,000

The Legislature intends the Department of Workforce Services (DWS) provide to the Office of the Legislative Fiscal Analyst no later than October 31, 2016: (1) A report on the Workforce Development Division (WDD) fiscal status for the recently completed state Fiscal Year 2016, including identification of General Fund diverted from direct job search services as a result of a drop in case counts and a detail of the amounts and purposes to which those funds were diverted; (2) A historical (FY 2014 through FY 2016) of (a) TANF maintenance-of-effort (MOE) provided in association with the Workforce Development Division and within its accounting unit and an indication as to whether or not General Fund has been diverted by DWS to eliminate in any way the use of outside MOE (b) A detailed explanation of uses of all General Fund in the WDD accounting unit.

The Legislature intends the Department of Workforce Services (DWS) authorize Temporary Assistance for Needy Families (TANF) for three years for the Domestic Violence Intervention Program (LAP) (\$108,000 per year). This TANF funding is dependent upon availability of TANF funding and expenditures meeting the necessary requirements to qualify for the federal Temporary Assistance for Needy Families program. The Legislature further intends DWS report to the Office of the Legislative Fiscal Analyst no later than September 1, 2016 regarding the status of these efforts.

The Legislature intends the Department of Workforce Services (DWS) authorize Temporary Assistance for Needy Families (TANF) for one year for the following items: 1)

Homeless Children Supplemental Education Funding (\$450,000); 2) Succeed at the Club (\$430,000); 3) UPSTART (\$500,000); and 4) Sexual Violence/Assault Funding (\$600,000). This TANF funding is dependent upon availability of TANF funding and expenditures meeting the necessary requirements to qualify for the federal Temporary Assistance for Needy Families program. The Legislature further intends DWS report to the Office of the Legislative Fiscal Analyst no later than September 1, 2016 regarding the status of these efforts.

The Legislature intends that up to \$4,500,000 in Temporary Assistance for Needy Families (TANF) funds be used to assist crisis/respite nurseries currently under contract with the Division of Child and Family Services and that the Department of Workforce Services (DWS) consider awarding multi-year grants up to \$150,000 per year per contract as part of this initiative. This TANF funding is dependent upon availability of TANF funding and expenditures meeting the necessary requirements to qualify for the federal Temporary Assistance for Needy Families program. The Legislature further intends that DWS report the outcome of this TANF initiative to the Office of the Legislative Fiscal Analyst no later than September 1, 2016.

Item 63

To Department of Workforce Services - General Assistance
 From Beginning Nonlapsing Balances . 1,000,000
 Schedule of Programs:
 General Assistance 1,000,000

Item 64

To Department of Workforce Services - Unemployment Insurance
 From General Fund Restricted - Special Admin. Expense Account, One-Time 1,000,000
 From Beginning Nonlapsing Balances 60,000
 Schedule of Programs:
 Unemployment Insurance
 Administration 1,060,000

Item 65

To Department of Workforce Services - Housing and Community Development
 From General Fund Restricted - Pamela Atkinson Homeless Account, One-Time 347,600
 From General Fund Restricted - Youth Character Organization 10,000
 From General Fund Restricted - Youth Development Organization 10,000
 Schedule of Programs:
 Community Development 20,000
 Homeless Committee 347,600

DEPARTMENT OF HUMAN SERVICES

Item 66

To Department of Human Services - Executive Director Operations
 From General Fund, One-Time 550,000
 From Federal Funds, One-Time 300,000

From Beginning Nonlapsing Balances 17,800
 Schedule of Programs:
 Executive Director's Office 550,000
 Fiscal Operations 17,800
 Utah Marriage Commission 300,000

The Legislature intends that the Department of Human Services prepare proposed performance measures for all new funding for building blocks and give this information to the Office of the Legislative Fiscal Analyst by June 1, 2016. At a minimum the proposed measures should include those presented to the Subcommittee during the requests for funding. If the same measures are not included, a detailed explanation as to why should be included. The Department of Human Services shall provide its first report on its performance measures to the Office of the Legislative Fiscal Analyst by October 31, 2016 with another report two months after the close of fiscal year 2017. The Office of the Legislative Fiscal Analyst shall share this information with the legislative staff of the Health and Human Services Interim Committee.

Item 67

To Department of Human Services - Division of Substance Abuse and Mental Health
 From General Fund 1,780,500
 From General Fund, One-Time 6,776,000
 From Revenue Transfers (60,100)
 From Beginning Nonlapsing Balances 1,106,100
 Schedule of Programs:
 Community Mental Health Services 1,326,500
 Mental Health Centers 6,400,000
 State Hospital 376,000
 Local Substance Abuse Services 1,500,000

If the \$6.4 million building block request regarding Local Mental Health Medicaid Match is funded with one-time funding during the 2016 General Session, it is the intent of the Legislature that this issue be studied during the 2016 interim to determine the best solution for funding Medicaid mental health services in an effective ongoing manner and responsibilities regarding who and how that should be financially sustained.

Item 68

To Department of Human Services - Division of Services for People with Disabilities
 From General Fund 8,853,500
 From General Fund, One-Time 897,000
 From Revenue Transfers 17,813,700
 Schedule of Programs:
 Community Supports Waiver 27,564,200

The Legislature intends that if funding is appropriated for the building block titled, "DHS - DSPD Direct Care Staff Salary Increase," the Division of Services for People with Disabilities (DSPD) shall: 1) Direct funds to increase the salaries of direct care workers; 2) Increase only those rates which include a direct care service component, including respite; 3) Monitor providers to

ensure that all funds appropriated are applied to direct care worker wages and that none of the funding goes to administrative functions or provider profits; 4) In conjunction with DSPD community providers, report to the Office of the Legislative Fiscal Analyst no later than September 1, 2016 regarding the implementation and status of increasing salaries for direct care workers.

Item 69

To Department of Human Services -
Office of Recovery Services

The Legislature intends the Department of Human Services (DHS), in conjunction with its Office of Recovery Services (ORS), provide to the Office of the Legislative Fiscal Analyst no later than August 15, 2016: (1) A report including a five year history (FY 2012 through FY 2016) of medical collections by its various sub-categories/types of recoveries and data to show the changes in workload. The report should specifically address changes with Accountable Care Organizations (ACOs); (2) A detailed explanation of additional ORS medical collection duties provided for the Department of Health required by either federal law or by DOH contract and an indication of the effect, if eliminated, on additional direct or indirect collections for DOH as well as which functions are now performed by ACOs that were previously performed by DHS; and (3) An estimate of how the ORS budget might be reduced to match actual collections to date and future projections.

Item 70

To Department of Human Services -
Division of Child and Family Services

From General Fund	527,700
From Federal Funds	(70,500)
From Beginning Nonlapsing Balances ...	500,000
Schedule of Programs:	
Service Delivery	500,000
Out-of-Home Care	435,900
Adoption Assistance	21,300

The Legislature intends the Department of Human Services' Division of Child and Family Services use nonlapsing state funds originally appropriated for Adoption Assistance non-IV-E monthly subsidies for any children that were not initially Title IV-E eligible in foster care, but that now qualify for Title IV-E adoption assistance monthly subsidies under eligibility exception criteria specified in P.L. 112-34 [Social Security Act Section 473(e)]. These funds shall only be used for child welfare services allowable under Title IV-B or Title IV-E of the Social Security Act consistent with the requirements found at UCA 63J-1-603(3)(b).

The Legislature intends to reinvest non-lapsing state funds originally appropriated for Out of Home Care to enhance Service Delivery or In-Home

Services consistent with the requirements found at UCA 63J-1-603(3)(b). The purpose of this reinvestment of funds is to increase capacity to keep children safely at home and reduce the need for foster care, in accordance with Utah's Child Welfare Demonstration Project authorized under Section 1130 of the Social Security Act (Act) (42 U.S.C. 1320a-9), which grants a waiver for certain foster care funding requirements under Title IV-E of the Act. These funds shall only be used for child welfare services allowable under Title IV-B or Title IV-E of the Act.

Item 71

To Department of Human Services -
Division of Aging and Adult Services

From General Fund	15,700
From General Fund, One-Time	308,700
From Federal Funds, One-Time	391,300
From Beginning Nonlapsing Balances ...	273,500
Schedule of Programs:	
Local Government Grants -	
Formula Funds	700,000
Aging Waiver Services	289,200

The Legislature intends the Department of Human Services' Division of Aging and Adult Services use applicable federal funding reserves to provide one-time funding of \$160,000 for Senior Nutrition (Meals on Wheels).

STATE BOARD OF EDUCATION

Item 72

To State Board of Education - State
Office of Rehabilitation

From Education Fund	175,000
From Education Fund, One-Time	1,060,000
Schedule of Programs:	
Executive Director	150,000
Rehabilitation Services	1,000,000
Deaf and Hard of Hearing	85,000

The Legislature intends that the Utah State Office of Rehabilitation prepare proposed performance measures for all new funding for building blocks and give this information to the Office of the Legislative Fiscal Analyst by June 1, 2016. At a minimum the proposed measures should include those presented to the Subcommittee during the requests for funding. If the same measures are not included, a detailed explanation as to why should be included. The Utah State Office of Rehabilitation shall provide its first report on its performance measures to the Office of the Legislative Fiscal Analyst by October 31, 2016 with another report two months after the close of fiscal year 2017. The Office of the Legislative Fiscal Analyst shall share this information with the legislative staff of the Health and Human Services Interim Committee.

The Legislature intends the Utah State Office of Rehabilitation (USOR) provide to the Office of the Legislative Fiscal Analyst no later than January 1, 2017 a report regarding planned activities to explore the assessment

of royalties to other parties regarding Utah’s interpreter certification materials.

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 73

To University of Utah - Education and General
 From General Fund (64,000,000)
 From Education Fund 67,659,200
 From Education Fund, One-Time (3,121,000)
 Schedule of Programs:
 Education and General 4,152,900
 Operations and Maintenance (3,614,700)

The Legislature intends that the University of Utah be authorized to purchase 13 new vehicles for its motor pool.

The Legislature intends that the University of Utah use \$460,300 appropriated by this item and Item 1, “Higher Education Base Budget”, (Senate Bill 1, 2016 General Session) to provide demographic data and decision support to the Legislature as well as to the Governor’s Office of Management and Budget and other state and local entities as funds allow.

Item 74

To University of Utah - School of Medicine
 From Education Fund 1,500,000
 Schedule of Programs:
 School of Medicine 1,500,000

Item 75

To University of Utah - Health Sciences
 From General Fund, One-Time 1,200,000
 Schedule of Programs:
 Health Sciences 1,200,000

Item 76

To University of Utah - Public Service
 From Education Fund 493,700
 From Education Fund, One-Time 150,000
 Schedule of Programs:
 Natural History Museum of Utah 643,700

UTAH STATE UNIVERSITY

Item 77

To Utah State University - Education and General
 From Education Fund 6,072,600
 From Education Fund, One-Time (1,945,200)
 Schedule of Programs:
 Education and General 4,821,000
 USU - School of Veterinary Medicine ... 52,100
 Operations and Maintenance (745,700)

The Legislature intends that Utah State University be authorized to purchase 10 new vehicles for its motor pool.

Item 78

To Utah State University - USU - Eastern Education and General
 From Education Fund (725,800)
 Schedule of Programs:
 USU - Eastern Education and General (725,800)

Item 79

To Utah State University - Southeastern Continuing Education Center
 From Education Fund (57,600)
 Schedule of Programs:
 Southeastern Continuing Education Center (57,600)

Item 80

To Utah State University - Brigham City Regional Campus
 From Education Fund (2,757,700)
 Schedule of Programs:
 Brigham City Regional Campus (2,757,700)

Item 81

To Utah State University - Agriculture Experiment Station
 From Education Fund 105,600
 Schedule of Programs:
 Agriculture Experiment Station 105,600

Item 82

To Utah State University - Cooperative Extension
 From Education Fund 1,105,600
 Schedule of Programs:
 Cooperative Extension 1,105,600

Item 83

To Utah State University - Prehistoric Museum
 From Education Fund 167,800
 Schedule of Programs:
 Prehistoric Museum 167,800

Item 84

To Utah State University - Blanding Campus
 From Education Fund 558,000
 Schedule of Programs:
 Blanding Campus 558,000

WEBER STATE UNIVERSITY

Item 85

To Weber State University - Education and General
 From Education Fund 2,427,500
 Schedule of Programs:
 Education and General 2,427,500
 The Legislature intends that Weber State University be authorized to purchase 4 new vehicles for its motor pool.

SOUTHERN UTAH UNIVERSITY

Item 86

To Southern Utah University - Education and General
 From Education Fund 652,800
 From Education Fund, One-Time (199,000)
 Schedule of Programs:
 Education and General 453,800
 The Legislature intends that Southern Utah University be authorized to purchase 10 new vehicles for its motor pool.

UTAH VALLEY UNIVERSITY

Item 87

To Utah Valley University - Education and General
 From Education Fund 2,385,100
 From Education Fund, One-Time (1,168,000)

Schedule of Programs:
Education and General 1,217,100

SNOW COLLEGE

Item 88

To Snow College - Education and General
From Education Fund 284,400
From Education Fund, One-Time (322,000)
Schedule of Programs:
Education and General 284,400
Operations and Maintenance (322,000)

DIXIE STATE UNIVERSITY

Item 89

To Dixie State University - Education and General
From Education Fund 450,600
From Education Fund, One-Time 150,000
Schedule of Programs:
Education and General 600,600

SALT LAKE COMMUNITY COLLEGE

Item 90

To Salt Lake Community College - Education
and General
From Education Fund 1,915,200
From Education Fund, One-Time (1,080,500)
Schedule of Programs:
Education and General 834,700

The Legislature intends that Salt Lake
Community College be authorized to
purchase 3 new vehicles for its motor pool.

STATE BOARD OF REGENTS

Item 91

To State Board of Regents - Student Assistance
From Education Fund, One-Time 8,800,000
Schedule of Programs:
Regents' Scholarship 8,800,000

Item 92

To State Board of Regents - Economic Development
From Education Fund (3,500,000)
Schedule of Programs:
Engineering Initiative (3,500,000)

Item 93

To State Board of Regents - Education Excellence
From Education Fund (2,000,000)
From Education Fund, One-Time 5,000,000
Schedule of Programs:
Education Excellence 3,000,000

The Legislature intends that the State
Board of Regents, when allocating
Performance Funding, utilize awards per
FTE student as the output metric for
institutional efficiency (53B-7-101(4)(b)(iv))
rather than 150 percent graduation rate for
first-time, full-time students. This change
will be effective beginning July 1, 2016.

**UTAH COLLEGE OF
APPLIED TECHNOLOGY**

Item 94

To Utah College of Applied
Technology - Administration
From Education Fund 1,400,000
Schedule of Programs:
Equipment 600,000
Custom Fit 800,000

The Legislature intends that the Utah
College of Applied Technology determines
and adopts a clear policy to ensure that
reporting of student completions, certificates,
and upgrades are uniform across all
campuses when they are reported to the
Legislature. The Legislature further intends
that for the 2017 General Session, the Utah
College of Applied Technology reports to the
Higher Education Appropriations
Subcommittee separate and segregated data
for each of the following categories: (1)
certificate-seeking students, (2) occupational
upgrade students, (3) other postsecondary
students, and (4) secondary students.

Item 95

To Utah College of Applied Technology -
Bridgerland Applied Technology College
From Education Fund 313,900
Schedule of Programs:
Bridgerland Applied Technology
College 313,900

The Legislature intends that the Utah
College of Applied Technology determines
and adopts a clear policy to ensure that
reporting of student completions, certificates,
and upgrades are uniform across all
campuses when they are reported to the
Legislature. The Legislature further intends
that for the 2017 General Session, the Utah
College of Applied Technology reports to the
Higher Education Appropriations
Subcommittee separate and segregated data
for each of the following categories: (1)
certificate-seeking students, (2) occupational
upgrade students, (3) other postsecondary
students, and (4) secondary students.

Item 96

To Utah College of Applied Technology -
Davis Applied Technology College
From Education Fund 363,000
Schedule of Programs:
Davis Applied Technology College 363,000

The Legislature intends that the Utah
College of Applied Technology determines
and adopts a clear policy to ensure that
reporting of student completions, certificates,
and upgrades are uniform across all
campuses when they are reported to the
Legislature. The Legislature further intends
that for the 2017 General Session, the Utah
College of Applied Technology reports to the
Higher Education Appropriations
Subcommittee separate and segregated data
for each of the following categories: (1)
certificate-seeking students, (2) occupational

upgrade students, (3) other postsecondary students, and (4) secondary students.

Item 97

To Utah College of Applied Technology -
Dixie Applied Technology College

From Education Fund 780,500
From Education Fund, One-Time (1,366,400)

Schedule of Programs:

Dixie Applied Technology College ... (585,900)

The Legislature intends that the Utah College of Applied Technology determines and adopts a clear policy to ensure that reporting of student completions, certificates, and upgrades are uniform across all campuses when they are reported to the Legislature. The Legislature further intends that for the 2017 General Session, the Utah College of Applied Technology reports to the Higher Education Appropriations Subcommittee separate and segregated data for each of the following categories: (1) certificate-seeking students, (2) occupational upgrade students, (3) other postsecondary students, and (4) secondary students.

Item 98

To Utah College of Applied Technology -
Mountainland Applied Technology College

From Education Fund 396,000

Schedule of Programs:

Mountainland Applied Technology
College 396,000

The Legislature intends that the Utah College of Applied Technology determines and adopts a clear policy to ensure that reporting of student completions, certificates, and upgrades are uniform across all campuses when they are reported to the Legislature. The Legislature further intends that for the 2017 General Session, the Utah College of Applied Technology reports to the Higher Education Appropriations Subcommittee separate and segregated data for each of the following categories: (1) certificate-seeking students, (2) occupational upgrade students, (3) other postsecondary students, and (4) secondary students.

Item 99

To Utah College of Applied Technology -
Ogden/Weber Applied Technology College

From Education Fund 687,200
From Education Fund, One-Time (336,200)

Schedule of Programs:

Ogden/Weber Applied Technology
College 351,000

The Legislature intends that the Utah College of Applied Technology determines and adopts a clear policy to ensure that reporting of student completions, certificates, and upgrades are uniform across all campuses when they are reported to the Legislature. The Legislature further intends that for the 2017 General Session, the Utah College of Applied Technology reports to the Higher Education Appropriations Subcommittee separate and segregated data

for each of the following categories: (1) certificate-seeking students, (2) occupational upgrade students, (3) other postsecondary students, and (4) secondary students.

Item 100

To Utah College of Applied Technology -
Southwest Applied Technology College

From Education Fund 259,500
From Education Fund, One-Time 200,000

Schedule of Programs:

Southwest Applied Technology
College 459,500

The Legislature intends that the Utah College of Applied Technology determines and adopts a clear policy to ensure that reporting of student completions, certificates, and upgrades are uniform across all campuses when they are reported to the Legislature. The Legislature further intends that for the 2017 General Session, the Utah College of Applied Technology reports to the Higher Education Appropriations Subcommittee separate and segregated data for each of the following categories: (1) certificate-seeking students, (2) occupational upgrade students, (3) other postsecondary students, and (4) secondary students.

Item 101

To Utah College of Applied Technology -
Tooele Applied Technology College

From Education Fund 240,000

Schedule of Programs:

Tooele Applied Technology College ... 240,000

The Legislature intends that the Utah College of Applied Technology determines and adopts a clear policy to ensure that reporting of student completions, certificates, and upgrades are uniform across all campuses when they are reported to the Legislature. The Legislature further intends that for the 2017 General Session, the Utah College of Applied Technology reports to the Higher Education Appropriations Subcommittee separate and segregated data for each of the following categories: (1) certificate-seeking students, (2) occupational upgrade students, (3) other postsecondary students, and (4) secondary students.

The Legislature intends that the Tooele Applied Technology College be authorized to purchase one new vehicle for its motor pool.

Item 102

To Utah College of Applied Technology -
Uintah Basin Applied Technology College

From Education Fund 285,000

Schedule of Programs:

Uintah Basin Applied Technology
College 285,000

The Legislature intends that the Utah College of Applied Technology determines and adopts a clear policy to ensure that reporting of student completions, certificates, and upgrades are uniform across all campuses when they are reported to the Legislature. The Legislature further intends

that for the 2017 General Session, the Utah College of Applied Technology reports to the Higher Education Appropriations Subcommittee separate and segregated data for each of the following categories: (1) certificate-seeking students, (2) occupational upgrade students, (3) other postsecondary students, and (4) secondary students.

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF NATURAL RESOURCES

Item 103

To Department of Natural Resources - Administration

The Legislature intends that the Department of Natural Resources transfer \$50,000 to the Bear Lake Commission to be expended only as a one-to-one match with funds from the State of Idaho.

The Legislature intends that the Department of Natural Resources provide a progress report on the implementation of the optimization of its financial operations to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee by November 30, 2016.

Item 104

To Department of Natural Resources - Species Protection
 From General Fund Restricted - Species Protection, One-Time 450,000
 Schedule of Programs:
 Species Protection 450,000

Item 105

To Department of Natural Resources - DNR Pass Through
 From General Fund (250,000)
 From General Fund, One-Time 1,900,000
 From General Fund Restricted - Sovereign Land Management, One-Time 250,000
 Schedule of Programs:
 DNR Pass Through 1,900,000

The Legislature intends that the State Sensitive Species Botanist be funded through the Education Fund and Utah State University. The Legislature further intends that the employee be housed in the Department of Natural Resources.

Item 106

To Department of Natural Resources - Watershed
 From General Fund 250,000
 Schedule of Programs:
 Watershed 250,000

The Legislature intends that the \$250,000 appropriation to the Department of Natural Resources - Watershed line item be used by the Watershed Restoration Program to fund National Environmental Policy Act (NEPA) analysis on high-value lands that could become part of the programs restoration efforts. The Legislature further intends that

the funding only be expended if it is matched on a one-to-one basis by non-state contributions.

Item 107

To Department of Natural Resources - Forestry, Fire and State Lands
 From General Fund Restricted - Sovereign Land Management, One-Time 1,750,000
 Schedule of Programs:
 Project Management 1,750,000

The Legislature intends that the \$250,000 one-time appropriation from the Sovereign Lands Management Account for Sandy Beach Access Improvements be met with a 1:1 match from local sources.

Item 108

To Department of Natural Resources - Oil, Gas and Mining
 From General Fund 972,000
 Schedule of Programs:
 Oil and Gas Program 972,000

Item 109

To Department of Natural Resources - Wildlife Resources
 From General Fund, One-Time (980,000)
 From General Fund Restricted - Boating 700,000
 From General Fund Restricted - Species Protection, One-Time 350,000
 From General Fund Restricted - Wildlife Resources, One-Time 980,000
 From General Fund Restricted - Wildlife Resources Trust Account, One-Time 900,000
 Schedule of Programs:
 Administrative Services 900,000
 Wildlife Section 350,000
 Aquatic Section 700,000

Item 110

To Department of Natural Resources - Parks and Recreation
 From General Fund Restricted - Off-highway Vehicle 500,000
 From General Fund Restricted - Off-highway Vehicle, One-Time 138,000
 From General Fund Restricted - State Park Fees 4,000,000
 Schedule of Programs:
 Park Operation Management 4,638,000

The Legislature intends that \$50,000 appropriation for This Is the Place Heritage Park be transferred to the park only after the park has received matching funds of at least \$50,000 from Salt Lake City and at least \$50,000 from Salt Lake County.

Item 111

To Department of Natural Resources - Parks and Recreation
 From General Fund Restricted - State Park Fees, One-Time 25,000
 Schedule of Programs:
 Park Operation Management 25,000

To implement the provisions of Hole in the Rock State Park Designation (House Bill 430, 2016 General Session).

Item 112

To Department of Natural Resources -
Utah Geological Survey
From General Fund 1,000,000
Schedule of Programs:
Geologic Mapping 1,000,000

Item 113

To Department of Natural Resources -
Water Resources
From Federal Funds 200,000
From Water Resources Conservation
and Development Fund, One-Time 300,000
Schedule of Programs:
Planning 300,000
Construction 200,000

Item 114

To Department of Natural Resources -
Water Rights

The Legislature intends that the Division of
Water Rights reports on the accuracy of the
water-use data to the Natural Resources,
Agriculture, and Environmental Quality
Appropriations Subcommittee by November
30, 2016.

**DEPARTMENT OF
ENVIRONMENTAL QUALITY**

Item 115

To Department of Environmental
Quality - Executive Director's Office
From General Fund 62,700
From Federal Funds 36,900
From Dedicated Credits Revenue 1,000
From General Fund Restricted -
Environmental Quality 2,900
Schedule of Programs:
Executive Director's Office 103,500

Item 116

To Department of Environmental Quality -
Air Quality
From General Fund 205,200
From General Fund, One-Time 1,150,000
From Federal Funds (27,300)
From Dedicated Credits Revenue 3,900
Schedule of Programs:
Air Quality 1,331,800

Item 117

To Department of Environmental Quality -
Environmental Response and Remediation
From General Fund 8,300
From Federal Funds (22,800)
From Dedicated Credits Revenue 134,100
From General Fund Restricted -
Voluntary Cleanup 300
From Petroleum Storage Tank
Trust Fund 3,600
Schedule of Programs:
Environmental Response and
Remediation 123,500

Item 118

To Department of Environmental Quality -
Water Quality
From General Fund 2,100
From Federal Funds 5,200
From Dedicated Credits Revenue 1,600
From Water Dev. Security Fund -
Utah Wastewater Loan Program 1,600
Schedule of Programs:
Water Quality 10,500

Item 119

To Department of Environmental
Quality - Drinking Water
From Water Dev. Security Fund -
Drinking Water Loan Program 800,000
From Water Dev. Security Fund -
Drinking Water Loan Program,
One-Time 500,000
From Water Dev. Security Fund -
Drinking Water Origination Fee 1,400
From Drinking Water SRF Hardship
Fee Account, One-Time 1,000,000
Schedule of Programs:
Drinking Water 2,301,400

Item 120

To Department of Environmental Quality -
Facilities for Alternative Fuel Vehicles
From General Fund (2,000,000)
Schedule of Programs:
Facilities for Alternative
Fuel Vehicles (2,000,000)

Item 121

To Department of Environmental Quality - Waste
Management and Radiation Control
From General Fund (50,300)
From Federal Funds (47,300)
From Dedicated Credits Revenue 566,100
From General Fund Restricted -
Environmental Quality 8,900
From General Fund Restricted -
Used Oil Collection Administration 1,900
Schedule of Programs:
Waste Management and
Radiation Control 479,300

**PUBLIC LANDS POLICY
COORDINATING OFFICE**

Item 122

To Public Lands Policy Coordinating Office
From General Fund, One-Time 500,000
From General Fund Restricted -
Constitutional Defense (596,200)
From General Fund Restricted - Sovereign
Land Management, One-Time 206,000
Schedule of Programs:
Public Lands Office 109,800

GOVERNOR'S OFFICE

Item 123

To Governor's Office - Office
of Energy Development
From General Fund 100,000
Schedule of Programs:

Office of Energy Development 100,000

**DEPARTMENT OF
AGRICULTURE AND FOOD**

Item 124

To Department of Agriculture and
Food - Administration
From General Fund 55,000
From Federal Funds, One-Time 145,700
Schedule of Programs:
General Administration 200,700

Item 125

To Department of Agriculture and Food -
Animal Health
From General Fund 75,000
From Federal Funds, One-Time (178,300)
Schedule of Programs:
Animal Health (103,300)

The Legislature intends that the \$75,000 ongoing appropriation from the General Fund for the domesticated elk program be used for additional inspection of domesticated elk operations.

Item 126

To Department of Agriculture and Food -
Plant Industry
From Federal Funds, One-Time (373,300)
Schedule of Programs:
Environmental Quality (373,300)

Item 127

To Department of Agriculture and
Food - Regulatory Services
From Federal Funds, One-Time (71,500)
From Dedicated Credits Revenue,
One-Time 130,000
Schedule of Programs:
Regulatory Services 58,500

Item 128

To Department of Agriculture and Food -
Predatory Animal Control
From Revenue Transfers 635,300
Schedule of Programs:
Predatory Animal Control 635,300

Item 129

To Department of Agriculture and Food -
Resource Conservation
From Federal Funds 500,000
From Federal Funds, One-Time 4,625,000
From Agriculture Resource Development
Fund 300,000
From Agriculture Resource
Development Fund, One-Time 700,000
From Revenue Transfers 340,000
Schedule of Programs:
Resource Conservation 6,465,000

Item 130

To Department of Agriculture and Food -
Utah State Fair Corporation
From General Fund, One-Time 675,000
Schedule of Programs:
State Fair Corporation 675,000

**SCHOOL AND INSTITUTIONAL
TRUST LANDS ADMINISTRATION**

Item 131

To School and Institutional Trust
Lands Administration
From Land Grant Management Fund . . . (69,300)
From Land Grant Management
Fund, One-Time 346,300
Schedule of Programs:
Director 300,000
Surface 46,300
Grazing and Forestry (69,300)

Item 132

To School and Institutional Trust Lands
Administration - Land Stewardship and
Restoration
From Land Grant Management Fund 69,300
Schedule of Programs:
Land Stewardship and Restoration 69,300

Item 133

To School and Institutional Trust Lands
Administration - School and Institutional Trust
Lands Administration Capital
From Land Grant Management
Fund, One-Time 5,000,000
Schedule of Programs:
Capital 5,000,000

**RETIREMENT AND
INDEPENDENT ENTITIES**

**DEPARTMENT OF HUMAN
RESOURCE MANAGEMENT**

Item 134

To Department of Human Resource Management -
Human Resource Management

The Legislature authorizes the Department of Human resource management to transfer \$600,000 of capital assets from the Human Resource Management line item to the Human Resources Internal Service Fund.

**UTAH EDUCATION AND
TELEHEALTH NETWORK**

Item 135

To Utah Education and Telehealth Network
From Education Fund 2,850,000
From Education Fund, One-Time 4,600,000
Schedule of Programs:
Technical Services 5,450,000
Utah Futures 2,000,000

The legislature intends that state funding appropriated to the Utah Education and Telehealth Network may be used for broadband infrastructure special construction costs for qualified eligible services under the E-rate Modernization Program adopted by the Federal Communications Commission in 2014. State funding allocated to UETN for special construction may qualify for an additional 10% in E-rate discount funding for special construction charges.

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 136

To Capitol Preservation Board
 From General Fund 55,000
 Schedule of Programs:
 Capitol Preservation Board 55,000

UTAH NATIONAL GUARD

Item 137

To Utah National Guard
 From General Fund 242,500
 From General Fund, One-Time 610,000
 Schedule of Programs:
 Administration 852,500

The Legislature intends that the Utah National Guard be allowed to increase its vehicle fleet by up to three vehicles with funding from existing operations.

DEPARTMENT OF VETERANS' AND MILITARY AFFAIRS

Item 138

To Department of Veterans' and Military Affairs - Veterans' and Military Affairs
 From General Fund 1,000,000
 From General Fund, One-Time (197,000)
 Schedule of Programs:
 Administration (197,000)
 Outreach Services 1,000,000

LEGISLATURE

Item 139

To Legislature - Senate
 From General Fund 90,000
 Schedule of Programs:
 Administration 90,000

Item 140

To Legislature - House of Representatives
 From General Fund 240,000
 Schedule of Programs:
 Administration 240,000

Item 141

To Legislature - Office of Legislative Research and General Counsel
 From General Fund 240,000
 Schedule of Programs:
 Administration 240,000

Item 142

To Legislature - Legislative Services
 From General Fund 120,000
 From General Fund, One-Time (200,000)
 Schedule of Programs:
 Administration (80,000)

Item 143

To Legislature - Office of the Legislative Fiscal Analyst
 From General Fund 15,000
 Schedule of Programs:
 Administration and Research 15,000

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated. Outlays and expenditures from the recipient funds or accounts may be made without further legislative action according to a fund or account's applicable authorizing statute.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 144

To Governor's Office of Economic Development - GFR - Industrial Assistance Account

The Legislature intends that the Governor's Office of Economic Development use \$936,400 in FY 2016 and \$1,248,600 in FY 2017 from the Industrial Assistance Fund for Outdoor Retailer pavilion support.

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 145

To Department of Health - Traumatic Brain Injury Fund
 From Beginning Nonlapsing Balances ... 725,000
 Schedule of Programs:
 Traumatic Brain Injury Fund 725,000

The Legislature intends that the \$100,000 in Beginning Nonlapsing provided to the Traumatic Brain Injury Fund is dependent upon up to \$100,000 funds not otherwise designated as nonlapsing to the Department of Health - Executive Director's Operations line item being retained as nonlapsing in Fiscal Year 2016.

The Legislature intends that the \$75,000 in Beginning Nonlapsing provided to the Traumatic Brain Injury Fund is dependent upon up to \$75,000 funds not otherwise designated as nonlapsing to the Department of Health - Disease Control and Prevention line item being retained as nonlapsing in Fiscal Year 2016.

The Legislature intends that the \$550,000 in Beginning Nonlapsing provided to the Traumatic Brain Injury Fund is dependent upon up to \$550,000 funds not otherwise designated as nonlapsing to the Department of Health - Medicaid and Health Financing line item being retained as nonlapsing in Fiscal Year 2016.

DEPARTMENT OF WORKFORCE SERVICES

Item 146

To Department of Workforce Services - Permanent Community Impact Fund

From General Fund Restricted -
 Land Exchange Distribution Account ... 46,400
 Schedule of Programs:
 Permanent Community Impact Fund ... 46,400

Item 147

To Department of Workforce Services -
 Permanent Community Impact Bonus Fund
 From General Fund Restricted -
 Land Exchange Distribution Account ... 11,300
 Schedule of Programs:
 Permanent Community Impact
 Bonus Fund 11,300

STATE BOARD OF EDUCATION

Item 148

To State Board of Education - Individuals
 with Visual Impairment Fund
 From General Fund, One-Time 500,000
 From Closing Nonlapsing Balances (500,000)

**NATURAL RESOURCES, AGRICULTURE,
 AND ENVIRONMENTAL QUALITY**

**DEPARTMENT OF
 ENVIRONMENTAL QUALITY**

Item 149

To Department of Environmental Quality -
 Hazardous Substance Mitigation Fund
 From General Fund Restricted -
 Environmental Quality, One-Time 400,000
 Schedule of Programs:
 Hazardous Substance Mitigation
 Fund 400,000

EXECUTIVE APPROPRIATIONS

**DEPARTMENT OF VETERANS'
 AND MILITARY AFFAIRS**

Item 150

To Department of Veterans' and Military Affairs -
 Utah Veterans' Nursing Home Fund

The Legislature intends that the Department of Veterans' and Military Affairs be allowed to increase its vehicle fleet by two vehicles for nursing home operations if funding for the vehicles comes from federal funds.

Subsection 1(c). Business-like Activities.

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds as indicated estimated revenue from rates, fees, and other charges. Where applicable, the Legislature authorizes the State Division of

Finance to transfer amounts among funds and accounts as indicated.

**INFRASTRUCTURE AND
 GENERAL GOVERNMENT**

TRANSPORTATION

Item 151

To Transportation - Transportation
 Infrastructure Loan Fund
 From Interest Income 596,700
 From Beginning Nonlapsing
 Balances 24,439,900
 From Closing Nonlapsing
 Balances (24,405,600)
 Schedule of Programs:
 Infrastructure Loan Fund 631,000

**DEPARTMENT OF ADMINISTRATIVE
 SERVICES INTERNAL SERVICE FUNDS**

Item 152

To Department of Administrative Services Internal
 Service Funds - Division of Fleet Operations
 Authorized Capital Outlay (2,000,000)

Item 153

To Department of Administrative Services Internal
 Service Funds - Risk Management
 Budgeted FTE 2.0

Item 154

To Department of Administrative Services Internal
 Service Funds - Division of Facilities
 Construction and Management - Facilities
 Management

The Legislature intends that the DFCM Internal Service Fund may add up to three FTEs and up to two vehicles beyond the authorized level if new facilities come on line or maintenance agreements are requested. Any added FTEs or vehicles will be reviewed and may be approved by the Legislature in the next legislative session.

The Legislature intends that the DFCM Internal Service Fund may add two vehicles to their current authorized level to provide the means to service the buildings recently added to their maintenance inventory.

**Subsection 1(d). Restricted Fund and
 Account Transfers.**

The Legislature authorizes the State Division of Finance to transfer the following amounts among the following funds or accounts as indicated. Expenditures and outlays from the recipient funds must be authorized elsewhere in an appropriations act.

**EXECUTIVE OFFICES AND
 CRIMINAL JUSTICE**

Item 155

To General Fund Restricted - UHP
 Aero Bureau Restricted Account
 From Other Financing Sources (150,000)
 Schedule of Programs:
 General Fund Restricted - UHP
 Aero Bureau Restricted Account ... (150,000)

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

Item 156

To GFR - Tourism Marketing Performance Fund
From General Fund, One-Time 6,000,000
Schedule of Programs:
GFR - Tourism Marketing
Performance Fund 6,000,000

EXECUTIVE APPROPRIATIONS

Item 157

To GFR - National Guard Death Benefits Account
From General Fund, One-Time 300,000
Schedule of Programs:
National Guard Death Benefits
Account 300,000

Subsection 1(e). Transfers to Unrestricted Funds. The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General, Education, or Uniform School Fund as indicated from the restricted funds or accounts indicated. Expenditures and outlays from the General, Education, or Uniform School Fund must be authorized elsewhere in an appropriations act.

INFRASTRUCTURE AND GENERAL GOVERNMENT

Item 158

To General Fund
From Unemployment Insurance
Agency, One-Time 1,000,000
From Capital Project Fund -
Project Reserve, One-Time 1,225,000
From Capital Project Fund -
Contingency Reserve, One-Time 5,000,000
Schedule of Programs:
General Fund, One-time 7,225,000

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

Item 159

To General Fund
From General Fund Restricted -
Insurance Department Account (265,000)
Schedule of Programs:
General Fund (265,000)

SOCIAL SERVICES

Item 160

To General Fund
Schedule of Programs:
General Fund 300,000
General Fund, One-time (300,000)

The changes in this item come from the following action taken by the Social Services Appropriations Subcommittee: "Recommendations from Audit on Food Stamp/SNAP Fraud - The Utah State Auditor provided via its "A Performance Audit of Data Analytics Techniques to Detect Supplemental Nutrition Assistance Program (SNAP) Abuse" 18 recommendations to potentially improve fraud prevention and

collections. This reduction assumes that the Department of Workforce Services can double its current fraud collection efforts starting in FY 2018 with a 50% increase in collections in FY 2017. Current efforts from 2010 to 2014 have ranged from collections of a low of \$1.2 million total funds (\$0.2 million General Fund) in 2010 to a high of \$2.0 million total funds (\$0.3 million General Fund). Benefits received in 2014 were \$317 million for 90,570 households for a fraud collection rate of 0.6 (less than one) percent. Any collections higher/lower than anticipated would impact the General Fund where the collections are deposited.
See
<http://financialreports.utah.gov/saoreports/2015/PA15-04DataAnalyticsforSNAPAbuseWorkforceServices,Departmentof.pdf> for more information."

Subsection 1(f). Capital Project Funds. The Legislature has reviewed the following capital project funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated.

INFRASTRUCTURE AND GENERAL GOVERNMENT

TRANSPORTATION

Item 161

To Transportation - Transportation Investment Fund of 2005
From Revenue Transfers, One-Time . (6,000,000)
From Closing Nonlapsing Balances 6,000,000

The Legislature intends that the Department of Transportation discontinue the practice of transferring \$6,000,000 in department efficiencies from the Transportation Fund to the Transportation Investment Fund of 2005 on July 1, 2016.

CAPITAL BUDGET

Item 162

To Capital Budget - DFCM Capital Projects Fund
From Closing Nonlapsing Balances 6,225,000
Schedule of Programs:
DFCM Capital Projects Fund 6,225,000

Section 2. Effective Date.

This bill takes effect on July 1, 2016.

CHAPTER 396

H. B. 3

Passed March 10, 2016
Approved March 30, 2016
Effective March 30, 2016
(Exception clause in Section 4)
(Line Items 31, 47, 52, 125, and 149 vetoed)

APPROPRIATIONS ADJUSTMENTS

Chief Sponsor: Dean Sanpei
Senate Sponsor: Lyle W. Hillyard

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the use and support of state government for the fiscal years beginning July 1, 2015 and ending June 30, 2016 and beginning July 1, 2016 and ending June 30, 2017.

Highlighted Provisions:

This bill:

- provides budget increases and decreases for the use and support of certain state agencies;
provides budget increases and decreases for the use and support of certain public education programs;
provides budget increases and decreases for the use and support of certain institutions of higher education;
provides funds for the bills with fiscal impact passed in the 2016 General Session;
provides budget increases and decreases for other purposes as described;
provides a mathematical formula for the annual appropriations limit; and,
provides intent language.

Money Appropriated in this Bill:

This bill appropriates (\$5,417,500) in operating and capital budgets for fiscal year 2016, including:

- (\$523,800) from the General Fund;
(\$4,893,700) from various sources as detailed in this bill.

This bill appropriates \$1,222,700 in expendable funds and accounts for fiscal year 2016.

This bill appropriates \$2,030,100 in restricted fund and account transfers for fiscal year 2016, all of which is from the General Fund.

This bill appropriates \$249,572,500 in operating and capital budgets for fiscal year 2017, including:

- \$23,674,400 from the General Fund;
\$15,139,600 from the Education Fund;
\$210,758,500 from various sources as detailed in this bill.

This bill appropriates \$9,302,200 in expendable funds and accounts for fiscal year 2017, including:

- \$2,502,200 from the General Fund;
\$6,800,000 from various sources as detailed in this bill.

This bill appropriates \$21,010,300 in business-like activities for fiscal year 2017.

This bill appropriates \$6,193,200 in restricted fund and account transfers for fiscal year 2017, including:

- \$1,700 from the General Fund;

- \$1,691,500 from the Education Fund;
\$4,500,000 from various sources as detailed in this bill.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Sections 2 and 3 of this bill take effect on July 1, 2016.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2016 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2015 and ending June 30, 2016. These are additions to amounts previously appropriated for fiscal year 2016.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

GOVERNOR'S OFFICE

Item 1

To Governor's Office
From General Fund, One-Time 3,200
Schedule of Programs:
Lt. Governor's Office 3,200
To implement the provisions of Election Law Amendments (House Bill 48, 2016 General Session).

Item 2

To Governor's Office - Commission on Criminal and Juvenile Justice
From General Fund, One-Time (65,800)
Schedule of Programs:
Judicial Performance Evaluation
Commission (65,800)

ATTORNEY GENERAL

Item 3

To Attorney General
From General Fund, One-Time 50,000
Schedule of Programs:
Administration 50,000

UTAH DEPARTMENT OF CORRECTIONS

Item 4

To Utah Department of Corrections - Programs and Operations
From General Fund, One-Time (575,400)
Schedule of Programs:
Institutional Operations Draper Facility (575,400)
The Legislature grants authority to the Department of Corrections, Division of

Institutional Operations, to purchase one 30-40 or two 20-30 seat prison transportation vehicle(s) for the Utah State Prison at Draper with Department funds.

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR

Item 5

To Judicial Council/State Court A Administrator - Administration
 From General Fund, One-Time 4,100
 Schedule of Programs:
 Administrative Office 4,100

To implement the provisions of Public Notice of Court Recording (Senate Bill 42, 2016 General Session).

DEPARTMENT OF PUBLIC SAFETY

Item 6

To Department of Public Safety - Programs & Operations
 From General Fund, One-Time (30,000)
 Schedule of Programs:
 Highway Patrol - Field Operations ... (30,000)

Item 7

To Department of Public Safety - Driver License From Department of Public Safety Restricted Account, One-Time 8,000
 Schedule of Programs:
 Driver License Administration 8,000

To implement the provisions of Interlock Restricted Driver Amendments (House Bill 191, 2016 General Session).

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 8

To Governor's Office of Economic Development - Pass-Through
 From General Fund, One-Time 5,000
 Schedule of Programs:
 Pass-Through 5,000

DEPARTMENT OF COMMERCE

Item 9

To Department of Commerce - Commerce General Regulation
 From General Fund Restricted - Commerce Service Account, One-Time 95,000
 Schedule of Programs:
 Administration 95,000

To implement the provisions of Public Access of Administrative Action Amendments (House Bill 118, 2016 General Session).

INSURANCE DEPARTMENT

Item 10

To Insurance Department - Bail Bond Program From General Fund Restricted - Bail Bond Surety Administration, One-Time 1,100
 Schedule of Programs:
 Bail Bond Program 1,100

To implement the provisions of Bail Amendments (Senate Bill 105, 2016 General Session).

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 11

To Department of Health - Family Health and Preparedness
 From General Fund, One-Time 6,800
 Schedule of Programs:
 Health Facility Licensing and Certification 6,800

To implement the provisions of Birthing Center Amendments (Senate Bill 108, 2016 General Session).

Item 12

To Department of Health - Medicaid and Health Financing
 From General Fund, One-Time 2,200
 From Federal Funds, One-Time 2,200
 Schedule of Programs:
 Financial Services 4,400

To implement the provisions of Home and Community Based Services Amendments (Senate Bill 140, 2016 General Session).

DEPARTMENT OF WORKFORCE SERVICES

Item 13

To Department of Workforce Services - Operations and Policy
 From General Fund, One-Time 60,500
 Schedule of Programs:
 Information Technology 60,500

To implement the provisions of Housing and Homeless Amendments (House Bill 328, 2016 General Session).

Item 14

To Department of Workforce Services - Housing and Community Development
 From General Fund, One-Time 4,000
 Schedule of Programs:
 Community Development Administration 4,000

To implement the provisions of Housing and Homeless Amendments (House Bill 328, 2016 General Session).

STATE BOARD OF EDUCATION

Item 15

To State Board of Education - State Office of Rehabilitation
 From Closing Nonlapsing Balances ... (5,000,000)

Schedule of Programs:
 Rehabilitation Services (5,000,000)
 To implement the provisions of Office of Rehabilitation Services Amendments (House Bill 325, 2016 General Session).

EXECUTIVE APPROPRIATIONS

LEGISLATURE

Item 16

To Legislature - Senate
 From General Fund, One-Time 5,400
 Schedule of Programs:
 Administration 5,400

To implement the provisions of Joint Resolution Authorizing Pay of In-session Employees (Senate Joint Resolution 5, 2016 General Session).

Item 17

To Legislature - House of Representatives
 From General Fund, One-Time 6,200
 Schedule of Programs:
 Administration 6,200

To implement the provisions of Joint Resolution Authorizing Pay of In-session Employees (Senate Joint Resolution 5, 2016 General Session).

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated. Outlays and expenditures from the recipient funds or accounts may be made without further legislative action according to a fund or account's applicable authorizing statute.

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 18

To Department of Health - Hospital Provider Assessment Expendable Revenue Fund

The Legislature intends that \$1,222,700 in the fund created under Section 26-36a-207 from prior fiscal year hospital assessments shall be refunded to the hospitals in proportion to the amount paid by each hospital no later than April 15, 2016.

Item 19

To Department of Health - Hospital Provider Assessment Expendable Revenue Fund
 From Beginning Nonlapsing
 Balances 6,100,600
 From Closing Nonlapsing Balances . . . (4,877,900)
 Schedule of Programs:

Hospital Provider Assessment
 Expendable Revenue Fund 1,222,700
 To implement the provisions of Reauthorization of Hospital Provider

Assessment Act (Senate Bill 32, 2016 General Session).

Subsection 1(c). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts among the following funds or accounts as indicated. Expenditures and outlays from the recipient funds must be authorized elsewhere in an appropriations act.

INFRASTRUCTURE AND GENERAL GOVERNMENT

Item 20

To General Fund Restricted - Economic Incentive Restricted Account
 From General Fund, One-Time 2,030,100
 Schedule of Programs:
 GFR - Economic Incentive Restricted Account 2,030,100

Section 2. FY 2017 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2016 and ending June 30, 2017. These are additions to amounts previously appropriated for fiscal year 2017.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

GOVERNOR'S OFFICE

Item 21

To Governor's Office
 From General Fund 300,000
 From General Fund, One-Time 299,400
 Schedule of Programs:
 Lt. Governor's Office 550,000
 Literacy Projects 49,400

Item 22

To Governor's Office
 From General Fund 4,000
 Schedule of Programs:
 Lt. Governor's Office 4,000
 To implement the provisions of Election Law Amendments (House Bill 48, 2016 General Session).

Item 23

To Governor's Office
 From General Fund, One-Time 15,300
 Schedule of Programs:
 Lt. Governor's Office 15,300
 To implement the provisions of Proposal to Amend Utah Constitution- Property Tax Exemptions (Senate Joint Resolution 3, 2016 General Session).

Item 24

To Governor's Office

From General Fund, One-Time 15,300
 Schedule of Programs:
 Lt. Governor's Office 15,300
 To implement the provisions of Proposal to Amend Utah Constitution -- Changes to School Funds (Senate Joint Resolution 12, 2016 General Session).

Item 25

To Governor's Office - Commission on Criminal and Juvenile Justice
 From General Fund, One-Time (2,000,000)
 Schedule of Programs:
 Justice Data Sharing (2,000,000)

Item 26

To Governor's Office - Commission on Criminal and Juvenile Justice
 From Dedicated Credits Revenue 1,000
 Schedule of Programs:
 Utah Office for Victims of Crime 1,000
 To implement the provisions of Crime Victims Council Amendments (Senate Bill 162, 2016 General Session).

ATTORNEY GENERAL

Item 27

To Attorney General
 From General Fund, One-Time 50,000
 Schedule of Programs:
 Administration 50,000

Item 28

To Attorney General
 From General Fund 177,000
 Schedule of Programs:
 Child Protection 177,000
 To implement the provisions of Fourth District Juvenile Court Judge (House Bill 207, 2016 General Session).

Item 29

To Attorney General
 From General Fund 320,000
 Schedule of Programs:
 Criminal Prosecution 320,000
 To implement the provisions of Peace Officer Situational Training (House Bill 355, 2016 General Session).

Item 30

To Attorney General
 From General Fund 44,300
 Schedule of Programs:
 Civil 44,300
 To implement the provisions of Law Enforcement Revisions (House Bill 391, 2016 General Session).

Item 31

To Attorney General
 From Education Fund, One-Time 75,000
 Schedule of Programs:
 Administration 75,000
 To implement the provisions of Firearm Safety and Violence Prevention in Public

Schools (Senate Bill 43, 2016 General Session).

Item 32

To Attorney General
 From General Fund 88,500
 Schedule of Programs:
 Child Protection 88,500
 To implement the provisions of Child Welfare Revisions (Senate Bill 79, 2016 General Session).

Item 33

To Attorney General
 From General Fund 68,000
 Schedule of Programs:
 Child Protection 68,000
 To implement the provisions of Child Welfare Modifications (Senate Bill 82, 2016 General Session).

Item 34

To Attorney General
 From General Fund 151,000
 Schedule of Programs:
 Civil 151,000
 To implement the provisions of Alcoholic Beverage Control Act Licensing Amendments (Senate Bill 217, 2016 General Session).

Item 35

To Attorney General
 From General Fund (159,000)
 Schedule of Programs:
 Child Protection (159,000)
 To implement the provisions of Safety Net Initiative Amendments (Senate Bill 238, 2016 General Session).

Item 36

To Attorney General - Children's Justice Centers
 From General Fund 195,600
 Schedule of Programs:
 Children's Justice Centers 195,600
 To implement the provisions of Children's Justice Center Amendments (Senate Bill 71, 2016 General Session).

UTAH DEPARTMENT OF CORRECTIONS

Item 37

To Utah Department of Corrections - Programs and Operations
 From General Fund 74,200
 From General Fund, One-Time (44,500)
 Schedule of Programs:
 Institutional Operations Draper Facility 29,700
 To implement the provisions of Assault Offense Amendments (Senate Bill 106, 2016 General Session).

Item 38

To Utah Department of Corrections - Department Medical Services
 From General Fund, One-Time 575,400
 Schedule of Programs:
 Medical Services 575,400

Item 39

To Utah Department of Corrections - Department Medical Services
 From General Fund (200,000)
 From General Fund, One-Time 100,000
 Schedule of Programs:
 Medical Services (100,000)
 To implement the provisions of Health Care Revisions (House Bill 437, 2016 General Session).

Item 40

To Utah Department of Corrections - Jail Contracting
 From General Fund 250,000
 Schedule of Programs:
 Jail Contracting 250,000
 To implement the provisions of Jail Reimbursement Rate Amendments (House Bill 479, 2016 General Session).

DEPARTMENT OF HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

Item 41

To Department of Human Services - Division of Juvenile Justice Services - Programs and Operations
 From General Fund, One-Time 77,000
 Schedule of Programs:
 Early Intervention Services 57,000
 Rural Programs 20,000

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR

Item 42

To Judicial Council/State Court Administrator - Administration
 From General Fund 600,000
 Schedule of Programs:
 District Courts 600,000
 Under provisions of Section 67-8-2, Utah Code Annotated, salaries for District Court judges for the fiscal year beginning July 1, 2016 and ending June 30, 2017 shall be \$159,050. Other judicial salaries shall be calculated in accordance with the formula set forth in Section 67-8-2 and rounded to the nearest \$50.

Item 43

To Judicial Council/State Court Administrator - Administration
 From General Fund 341,400
 Schedule of Programs:
 Juvenile Courts 341,400
 To implement the provisions of Fourth District Juvenile Court Judge (House Bill 207, 2016 General Session).

Item 44

To Judicial Council/State Court Administrator - Administration
 From General Fund 15,900
 Schedule of Programs:
 District Courts 15,900

To implement the provisions of Computer Abuse and Data Recovery Act (House Bill 241, 2016 General Session).

Item 45

To Judicial Council/State Court Administrator - Administration
 From General Fund 24,000
 Schedule of Programs:
 Juvenile Courts 24,000
 To implement the provisions of Grandparent Rights Amendments (House Bill 377, 2016 General Session).

Item 46

To Judicial Council/State Court Administrator - Administration
 From General Fund 7,300
 Schedule of Programs:
 Juvenile Courts 7,300
 To implement the provisions of Child Welfare Revisions (Senate Bill 79, 2016 General Session).

Item 47

To Judicial Council/State Court Administrator - Administration
 From General Fund 150,600
 Schedule of Programs:
 Juvenile Courts 150,600
 To implement the provisions of Falsification of Information in a Protective Order Proceeding (Senate Bill 90, 2016 General Session).

Item 48

To Judicial Council/State Court Administrator - Administration
 From General Fund 5,800
 Schedule of Programs:
 Administrative Office 5,800
 To implement the provisions of Gang Enhancement Provision Amendments (Senate Bill 124, 2016 General Session).

Item 49

To Judicial Council/State Court Administrator - Guardian ad Litem
 From General Fund 5,800
 Schedule of Programs:
 Guardian ad Litem 5,800
 To implement the provisions of Grandparent Rights Amendments (House Bill 377, 2016 General Session).

Item 50

To Judicial Council/State Court Administrator - Guardian ad Litem
 From General Fund 60,000
 Schedule of Programs:
 Guardian ad Litem 60,000
 To implement the provisions of Child Welfare Revisions (Senate Bill 79, 2016 General Session).

Item 51

To Judicial Council/State Court Administrator - Guardian ad Litem
 From General Fund 45,600

Schedule of Programs:
 Guardian ad Litem 45,600
 To implement the provisions of Child Welfare Modifications (Senate Bill 82, 2016 General Session).

Item 52

To Judicial Council/State Court
 Administrator - Guardian ad Litem
 From General Fund 99,100
 Schedule of Programs:
 Guardian ad Litem 99,100
 To implement the provisions of Falsification of Information in a Protective Order Proceeding (Senate Bill 90, 2016 General Session).

DEPARTMENT OF PUBLIC SAFETY

Item 53

To Department of Public Safety - Programs & Operations
 From General Fund, One-Time 50,000
 Schedule of Programs:
 Department Commissioner's Office 50,000

Item 54

To Department of Public Safety - Programs & Operations
 From General Fund Restricted - Fire Academy Support (1,200)
 Schedule of Programs:
 Fire Marshall - Fire Operations (1,200)
 To implement the provisions of Fire Prevention Board Membership Amendments (House Bill 33, 2016 General Session).

Item 55

To Department of Public Safety - Programs & Operations
 From General Fund Restricted - Utah Law Enforcement Memorial Support Restricted Account .. 17,500
 From General Fund Restricted - Utah Law Enforcement Memorial Support Restricted Account, One-Time (4,400)
 Schedule of Programs:
 Department Commissioner's Office 13,100
 To implement the provisions of Utah Law Enforcement Memorial Special Group License Plate (House Bill 167, 2016 General Session).

Item 56

To Department of Public Safety - Programs & Operations
 From Dedicated Credits Revenue 1,000
 From Other Financing Sources 700
 Schedule of Programs:
 CITS Bureau of Criminal Identification .. 1,700
 To implement the provisions of Human Services Licensee and Contractor Screening Amendments (House Bill 371, 2016 General Session).

Item 57

To Department of Public Safety - Programs & Operations
 From Dedicated Credits Revenue 200
 From Dedicated Credits Revenue, One-Time 1,800
 Schedule of Programs:
 CITS Bureau of Criminal Identification 2,000
 To implement the provisions of JROTC Instructor Amendments (Senate Bill 62, 2016 General Session).

Item 58

To Department of Public Safety - Programs & Operations
 From Dedicated Credits Revenue 2,000
 From Pass-through 1,500
 Schedule of Programs:
 CITS Bureau of Criminal Identification .. 3,500
 To implement the provisions of Child Welfare Modifications (Senate Bill 82, 2016 General Session).

Item 59

To Department of Public Safety - Emergency Management
 From General Fund, One-Time 900
 Schedule of Programs:
 Emergency Management 900
 To implement the provisions of Public Safety Emergency Management Amendments (Senate Bill 57, 2016 General Session).

Item 60

To Department of Public Safety - Division of Homeland Security - Emergency and Disaster Management
 From General Fund Restricted - State Disaster Recov. Restr Acct, One-Time 10,491,200
 Schedule of Programs:
 Emergency and Disaster Management 10,491,200
 To implement the provisions of Emergency Services Account Loan Amendments (House Bill 14, 2016 General Session).

Item 61

To Department of Public Safety - Driver License
 From Department of Public Safety Restricted Account, One-Time 25,000
 Schedule of Programs:
 Driver License Administration 25,000
 To implement the provisions of Electronic Driver License Amendments (House Bill 227, 2016 General Session).

Item 62

To Department of Public Safety - Highway Safety
 From General Fund, One-Time 30,000
 Schedule of Programs:
 Highway Safety 30,000

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

TRANSPORTATION

Item 63

To Transportation - Transportation Investment Fund Capacity Program

The Legislature intends that the Utah Department of Transportation prepare an analysis and financial report on the possibility of advancing construction of road projects currently programmed in the Transportation Investment Fund. The analysis should include consideration of the savings or additional costs associated with advancing the projects through the use of either short term debt or long term financing. The report should be reported to the Executive Appropriations Committee on or before the July 2016 legislative interim committee meetings.

**DEPARTMENT OF
ADMINISTRATIVE SERVICES**

Item 64

To Department of Administrative Services - DFCM Administration

From General Fund (9,800)
From General Fund, One-Time (300,000)
From Capital Projects Fund 9,800

Schedule of Programs:

DFCM Administration (300,000)

Item 65

To Department of Administrative Services - State Archives

From General Fund, One-Time 8,000

Schedule of Programs:

Open Records 8,000

To implement the provisions of Financial Transparency for Political Subdivisions (Senate Bill 99, 2016 General Session).

Item 66

To Department of Administrative Services - Finance Administration

From General Fund 1,200

Schedule of Programs:

Finance Director's Office 1,200

To implement the provisions of Transparency Advisory Board Modifications (House Bill 139, 2016 General Session).

Item 67

To Department of Administrative Services - Finance Administration

From General Fund 45,100

Schedule of Programs:

Finance Director's Office 45,100

To implement the provisions of Financial Transparency for Political Subdivisions (Senate Bill 99, 2016 General Session).

Item 68

To Department of Administrative Services - Finance - Mandated - Parental Defense

From General Fund 9,800

Schedule of Programs:

Parental Defense 9,800

**DEPARTMENT OF
TECHNOLOGY SERVICES**

Item 69

To Department of Technology Services - Chief Information Officer

From General Fund, One-Time 2,000,000

Schedule of Programs:

Chief Information Officer 2,000,000

The Legislature intends that the Department of Technology Services use the \$2,000,000 appropriation provided by this item to coordinate with the Commission on Criminal and Juvenile Justice (CCJJ), the Governor's Office of Management and Budget (GOMB), and counties to provide resources for local government and the state to plan, scope, design and begin implementing an integrated data system that would coordinate services for vulnerable populations including homeless individuals and families, individuals with mental illness and substance abuse issues, and individuals undergoing rehabilitation through the criminal justice system. The Department of Technology services shall coordinate and adopt processes to collaborate with counties, CCJJ, GOMB, State Courts, Board of Pardons and Parole, and others to determine the allocation and use of funds appropriated. The Legislature further intends that data coordination standards shall be determined by the Department of Technology Services in coordination with CCJJ, GOMB, and the counties.

Item 70

To Department of Technology Services - Chief Information Officer

From General Fund, One-Time 200,000

Schedule of Programs:

Chief Information Officer 200,000

To implement the provisions of Single Sign-on Business Database (House Bill 96, 2016 General Session).

CAPITAL BUDGET

Item 71

To Capital Budget - Capital Development Fund

The Legislature intends that Weber State University use donated or institutional funds for planning and design of the proposed Social Science Building Renovation.

The Legislature intends that the University of Utah use donated or institutional funds for planning and design of the proposed Medical Education and Discovery/Rehabilitation Hospital.

Item 72

To Capital Budget - Capital Development - Other State Government

From General Fund, One-Time 8,100,000

Schedule of Programs:

DEQ Technical Support Center 6,000,000

USDC ASH Building Completion 2,100,000

The Legislature intends that the \$1,000,000 one-time appropriation for the Weber Youth Center in House Bill 2, Item 36 be used for hard construction purposes only.

Item 73

To Capital Budget - Capital Improvements

The Legislature intends that the State Building Board use \$250,000 from Capital Improvement funding in FY 2017 one-time for the Matheson Courthouse/Church Street fire lane improvements.

Item 74

To Capital Budget - Property Acquisition

From Education Fund, One-Time 925,000

Schedule of Programs:

Tooele ATC Land Bank 525,000
 Snow College/Richfield Land Bank 400,000

Item 75

To Capital Budget - Pass-Through

From General Fund, One-Time 923,000

Schedule of Programs:

Jordan River Last Bridge Project 23,000
 Tess Avenue School Sidewalk Project 200,000
 Highway 29 Rest Area 200,000
 Soldier Hollow Critical Repairs 500,000

**STATE BOARD OF BONDING
 COMMISSIONERS - DEBT SERVICE**

Item 76

To State Board of Bonding Commissioners - Debt Service - Debt Service

From General Fund, One-Time (223,000)

From Transportation Investment

Fund of 2005, One-Time (22,970,200)

From County of First Class

State Hwy Fund, One-Time 1,025,400

Schedule of Programs:

General Obligation Bonds Debt Service (22,167,800)

**BUSINESS, ECONOMIC
 DEVELOPMENT, AND LABOR**

DEPARTMENT OF HERITAGE AND ARTS

Item 77

To Department of Heritage and Arts - Administration

From General Fund, One-Time 30,000

Schedule of Programs:

Utah Multicultural Affairs Office 30,000

Item 78

To Department of Heritage and Arts - Division of Arts and Museums

From General Fund, One-Time 350,000

Schedule of Programs:

Grants to Non-profits 350,000

Item 79

To Department of Heritage and Arts - Division of Arts and Museums

From General Fund Restricted -

National Professional Men's

Soccer Team Support of Building

Communities 12,500

From General Fund Restricted -

National Professional Men's

Soccer Team Support of Building

Communities, One-Time (3,100)

Schedule of Programs:

Grants to Non-profits 9,400

To implement the provisions of Special Group License Plate Modifications (Senate Bill 64, 2016 General Session).

Item 80

To Department of Heritage and

Arts - Pass-Through

From General Fund, One-Time 1,148,000

Schedule of Programs:

Pass-Through 1,148,000

**GOVERNOR'S OFFICE OF
 ECONOMIC DEVELOPMENT**

Item 81

To Governor's Office of Economic Development - Office of Tourism

From General Fund, One-Time 2,025,000

Schedule of Programs:

Film Commission 2,025,000

Item 82

To Governor's Office of Economic Development - Business Development

From General Fund 110,000

Schedule of Programs:

Corporate Recruitment and Business

Services 110,000

To implement the provisions of Enterprise Zone Amendments (House Bill 31, 2016 General Session).

Item 83

To Governor's Office of Economic Development - Business Development

From General Fund (1,500)

Schedule of Programs:

Outreach and International Trade (1,500)

To implement the provisions of Business Resource Centers Amendments (House Bill 53, 2016 General Session).

Item 84

To Governor's Office of Economic Development - Pass-Through

From General Fund 20,000

From General Fund, One-Time 490,000

Schedule of Programs:

Pass-Through 510,000

UTAH STATE TAX COMMISSION

Item 85

To Utah State Tax Commission - Tax Administration

From Dedicated Credits Revenue,

One-Time 7,500

Schedule of Programs:

Motor Vehicles 7,500

To implement the provisions of Children with Cancer Special License Plate (House Bill 97, 2016 General Session).

Item 86

To Utah State Tax Commission - Tax Administration
 From Dedicated Credits Revenue,
 One-Time 7,500
 Schedule of Programs:
 Motor Vehicles 7,500

To implement the provisions of Utah Law Enforcement Memorial Special Group License Plate (House Bill 167, 2016 General Session).

Item 87

To Utah State Tax Commission - Tax Administration
 From Dedicated Credits Revenue,
 One-Time 7,500
 Schedule of Programs:
 Motor Vehicles 7,500

To implement the provisions of Veteran License Plates Amendments (Senate Bill 35, 2016 General Session).

Item 88

To Utah State Tax Commission - Tax Administration
 From Dedicated Credits Revenue,
 One-Time 7,500
 Schedule of Programs:
 Motor Vehicles 7,500

To implement the provisions of Special Group License Plate Modifications (Senate Bill 64, 2016 General Session).

Item 89

To Utah State Tax Commission - Tax Administration
 From Dedicated Credits Revenue,
 One-Time 7,400
 Schedule of Programs:
 Motor Vehicles 7,400

To implement the provisions of Children's Heart Disease Special Group License Plates (Senate Bill 69, 2016 General Session).

Item 90

To Utah State Tax Commission - License Plates Production
 From General Fund, One-Time 100,000
 Schedule of Programs:
 License Plates Production 100,000

To implement the provisions of License Plate Options (House Bill 127, 2016 General Session).

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Item 91

To Department of Alcoholic Beverage Control - DABC Operations
 From Liquor Control Fund 41,000
 From Liquor Control Fund,
 One-Time (41,000)

Item 92

To Department of Alcoholic Beverage Control - DABC Operations
 From Liquor Control Fund 5,000
 Schedule of Programs:
 Executive Director 5,000

To implement the provisions of Alcohol Modifications (House Bill 228, 2016 General Session).

Item 93

To Department of Alcoholic Beverage Control - DABC Operations
 From Liquor Control Fund 158,000
 Schedule of Programs:
 Executive Director 158,000

To implement the provisions of Alcoholic Beverage Control Act Licensing Amendments (Senate Bill 217, 2016 General Session).

LABOR COMMISSION

Item 94

To Labor Commission
 From General Fund 70,000
 Schedule of Programs:
 Anti-Discrimination and Labor 70,000

DEPARTMENT OF COMMERCE

Item 95

To Department of Commerce - Commerce General Regulation

The Legislature intends that \$459,000 of the ongoing funding appropriated from the Commerce Service Fund for implementation of House Bill 118, 2016 General Session - Public Access of Administrative Action Amendments be shifted to a one-time appropriation in the FY 2018 base budget.

Item 96

To Department of Commerce - Commerce General Regulation
 From General Fund Restricted - Commerce Service Account, One-Time 19,900
 Schedule of Programs:
 Occupational and Professional Licensing 19,900

To implement the provisions of Controlled Substance Reporting (House Bill 114, 2016 General Session).

Item 97

To Department of Commerce - Commerce General Regulation
 From General Fund Restricted - Commerce Service Account 612,000
 Schedule of Programs:
 Administration 612,000

To implement the provisions of Public Access of Administrative Action Amendments (House Bill 118, 2016 General Session).

Item 98

To Department of Commerce - Commerce General Regulation

From General Fund Restricted - Commerce
 Service Account, One-Time 24,900
 Schedule of Programs:
 Occupational and Professional
 Licensing 24,900
 To implement the provisions of Reporting
 Death Involving Controlled Substance
 Amendments (House Bill 149, 2016 General
 Session).

Item 99

To Department of Commerce - Commerce
 General Regulation
 From General Fund Restricted - Commerce
 Service Account, One-Time 39,000
 Schedule of Programs:
 Occupational and Professional
 Licensing 39,000
 To implement the provisions of Controlled
 Substance Prescription Notification (House
 Bill 150, 2016 General Session).

Item 100

To Department of Commerce - Commerce
 General Regulation
 From General Fund Restricted - Commerce
 Service Account 7,000
 Schedule of Programs:
 Occupational and Professional
 Licensing 7,000
 To implement the provisions of Unlicensed
 Direct-entry Midwifery (House Bill 184, 2016
 General Session).

Item 101

To Department of Commerce - Commerce
 General Regulation
 From Dedicated Credits Revenue 200
 From General Fund Restricted - Commerce
 Service Account 1,300
 Schedule of Programs:
 Occupational and Professional
 Licensing 1,500
 To implement the provisions of Deception
 Detection Examiners Licensing Amendments
 (House Bill 185, 2016 General Session).

Item 102

To Department of Commerce - Commerce
 General Regulation
 From General Fund Restricted - Commerce
 Service Account 1,200
 From General Fund Restricted - Commerce
 Service Account, One-Time 8,200
 Schedule of Programs:
 Occupational and Professional
 Licensing 9,400
 To implement the provisions of Charitable
 Prescription Drug Recycling Program (House
 Bill 236, 2016 General Session).

Item 103

To Department of Commerce - Commerce
 General Regulation
 From General Fund Restricted - Commerce
 Service Account 18,500
 From General Fund Restricted - Commerce
 Service Account, One-Time 54,700

Schedule of Programs:
 Occupational and Professional
 Licensing 73,200
 To implement the provisions of Access to
 Opioid Prescription Information via
 Practitioner Data Management Systems
 (House Bill 239, 2016 General Session).

Item 104

To Department of Commerce - Commerce
 General Regulation
 From General Fund Restricted - Commerce
 Service Account 1,500
 From General Fund Restricted - Commerce
 Service Account, One-Time 2,400
 Schedule of Programs:
 Occupational and Professional
 Licensing 3,900
 To implement the provisions of Opiate
 Overdose Response Act -- Standing Orders
 and Other Amendments (House Bill 240,
 2016 General Session).

Item 105

To Department of Commerce - Commerce
 General Regulation
 From General Fund Restricted - Commerce
 Service Account 2,100
 From General Fund Restricted - Commerce
 Service Account, One-Time (2,100)
 To implement the provisions of Mental
 Health Practitioner Amendments (House Bill
 265, 2016 General Session).

Item 106

To Department of Commerce - Commerce
 General Regulation
 From General Fund Restricted - Commerce
 Service Account 22,700
 Schedule of Programs:
 Occupational and Professional
 Licensing 22,700
 To implement the provisions of
 Cosmetology Amendments (House Bill 352,
 2016 General Session).

Item 107

To Department of Commerce - Commerce
 General Regulation
 From General Fund Restricted - Commerce
 Service Account 8,600
 Schedule of Programs:
 Occupational and Professional
 Licensing 8,600
 To implement the provisions of Prescription
 Drug Abuse Amendments (House Bill 375,
 2016 General Session).

Item 108

To Department of Commerce - Commerce
 General Regulation
 From General Fund Restricted - Commerce
 Service Account, One-Time (1,300)
 Schedule of Programs:
 Occupational and Professional
 Licensing (1,300)
 To implement the provisions of Nurse
 Practice Act Amendments (Senate Bill 56,
 2016 General Session).

Item 109

To Department of Commerce - Commerce
 General Regulation
 From General Fund Restricted - Commerce
 Service Account, One-Time 2,000
 Schedule of Programs:
 Occupational and Professional
 Licensing 2,000
 To implement the provisions of Nurse
 Practitioner Amendments (Senate Bill 58,
 2016 General Session).

Item 110

To Department of Commerce - Commerce
 General Regulation
 From General Fund Restricted - Commerce
 Service Account 6,200
 From General Fund Restricted -
 Commerce Service Account, One-Time ... 5,100
 Schedule of Programs:
 Occupational and Professional
 Licensing 11,300
 To implement the provisions of Commercial
 Interior Design Certification Modifications
 (Senate Bill 117, 2016 General Session).

Item 111

To Department of Commerce - Commerce
 General Regulation
 From General Fund Restricted - Commerce
 Service Account (400)
 Schedule of Programs:
 Occupational and Professional
 Licensing (400)
 To implement the provisions of Division of
 Occupational and Professional Licensing
 Amendments (Senate Bill 136, 2016 General
 Session).

FINANCIAL INSTITUTIONS**Item 112**

To Financial Institutions - Financial
 Institutions Administration
 From General Fund Restricted -
 Financial Institutions 114,000
 From General Fund Restricted -
 Financial Institutions, One-Time (28,500)
 Schedule of Programs:
 Administration 85,500
 To implement the provisions of Mortgage
 Lending Amendments (House Bill 177, 2016
 General Session).

INSURANCE DEPARTMENT**Item 113**

To Insurance Department - Insurance Department
 Administration
 The Legislature intends that \$128,500 of
 the ongoing funding appropriated from the
 Insurance Department Restricted Account in
 this item for implementation of House Bill
 118, 2016 General Session - Public Access of
 Administrative Action Amendments be
 shifted to a one-time appropriation in the FY
 2018 base budget.

Item 114

To Insurance Department - Insurance Department
 Administration
 From General Fund Restricted -
 Insurance Department Account 142,500
 Schedule of Programs:
 Administration 142,500
 To implement the provisions of Public
 Access of Administrative Action
 Amendments (House Bill 118, 2016 General
 Session).

Item 115

To Insurance Department - Insurance
 Department Administration
 From General Fund Restricted -
 Insurance Department Account 7,300
 Schedule of Programs:
 Administration 7,300
 To implement the provisions of Substance
 Abuse Treatment Fraud (House Bill 259,
 2016 General Session).

SOCIAL SERVICES**DEPARTMENT OF HEALTH****Item 116**

To Department of Health - Executive
 Director's Operations
 From General Fund 20,000
 Schedule of Programs:
 Executive Director 20,000
 To implement the provisions of Hemp
 Extract Amendments (House Bill 58, 2016
 General Session).

Item 117

To Department of Health - Executive
 Director's Operations
 From General Fund Restricted -
 Children with Cancer
 Support Restricted Account 2,000
 From General Fund Restricted -
 Children with Cancer Support
 Restricted Account, One-Time 2,400
 Schedule of Programs:
 Program Operations 4,400
 To implement the provisions of Children
 with Cancer Special License Plate (House Bill
 97, 2016 General Session).

Item 118

To Department of Health - Executive
 Director's Operations
 From General Fund Restricted -
 Children with Heart Disease
 Support Restr Acct 12,500
 From General Fund Restricted -
 Children with Heart Disease
 Support Restr Acct, One-Time (3,100)
 Schedule of Programs:
 Program Operations 9,400
 To implement the provisions of Children's
 Heart Disease Special Group License Plates
 (Senate Bill 69, 2016 General Session).

Item 119

To Department of Health - Family
 Health and Preparedness

From General Fund, One-Time 50,000
 Schedule of Programs:
 Primary Care 50,000

Item 120

To Department of Health - Family
 Health and Preparedness
 From General Fund 2,900
 Schedule of Programs:
 Health Facility Licensing and
 Certification 2,900
 To implement the provisions of Birthing
 Center Amendments (Senate Bill 108, 2016
 General Session).

Item 121

To Department of Health - Family
 Health and Preparedness
 From Federal Funds 1,000
 Schedule of Programs:
 Health Facility Licensing and
 Certification 1,000
 To implement the provisions of Skilled
 Nursing Facility Amendments (Senate Bill
 199, 2016 General Session).

Item 122

To Department of Health - Disease
 Control and Prevention
 From General Fund, One-Time 450,000
 Schedule of Programs:
 Health Promotion 200,000
 Epidemiology 250,000

Item 123

To Department of Health - Disease Control
 and Prevention
 From General Fund Restricted -
 Children with Cancer Support
 Restricted Account 10,500
 From General Fund Restricted -
 Children with Cancer Support
 Restricted Account, One-Time (5,500)
 Schedule of Programs:
 Health Promotion 5,000
 To implement the provisions of Children
 with Cancer Special License Plate (House Bill
 97, 2016 General Session).

Item 124

To Department of Health - Disease
 Control and Prevention
 From General Fund 1,500
 Schedule of Programs:
 Office of the Medical Examiner 1,500
 To implement the provisions of Reporting
 Death Involving Controlled Substance
 Amendments (House Bill 149, 2016 General
 Session).

Item 125

To Department of Health - Disease
 Control and Prevention
 From General Fund 41,000
 From General Fund, One-Time 25,300
 Schedule of Programs:
 Epidemiology 66,300

To implement the provisions of
 Immunization of Students Amendments
 (House Bill 221, 2016 General Session).

Item 126

To Department of Health - Disease
 Control and Prevention
 From General Fund 20,000
 Schedule of Programs:
 Health Promotion 20,000
 To implement the provisions of Rescue
 Medication in Schools (Senate Bill 232, 2016
 General Session).

Item 127

To Department of Health - Medicaid
 and Health Financing
 From General Fund, One-Time 25,000
 From Federal Funds, One-Time 25,000
 Schedule of Programs:
 Coverage and Reimbursement 50,000

Item 128

To Department of Health - Medicaid
 and Health Financing
 From Federal Funds 292,500
 From Federal Funds, One-Time (69,400)
 Schedule of Programs:
 Medicaid Operations 223,100
 To implement the provisions of Health Care
 Revisions (House Bill 437, 2016 General
 Session).

Item 129

To Department of Health -
 Medicaid Mandatory Services
 From General Fund 4,400,000
 From General Fund, One-Time (2,600,000)
 From Federal Funds 24,500,000
 From Federal Funds, One-Time ... (14,675,000)
 Schedule of Programs:
 Managed Health Care 5,300,000
 Outpatient Hospital 6,100,000
 Medicaid Management Information
 System Replacement 225,000
 To implement the provisions of Health Care
 Revisions (House Bill 437, 2016 General
 Session).

Item 130

To Department of Health - Medicaid
 Mandatory Services
 From Federal Funds 113,100,000
 From Hospital Provider Assessment
 Fund 48,500,000
 Schedule of Programs:
 Managed Health Care 161,600,000
 To implement the provisions of
 Reauthorization of Hospital Provider
 Assessment Act (Senate Bill 32, 2016 General
 Session).

Item 131

To Department of Health - Medicaid
 Optional Services
 From General Fund (4,618,000)
 From General Fund, One-Time 3,973,500
 From Federal Funds 55,379,700
 From Federal Funds, One-Time ... (32,294,900)

Schedule of Programs:

Pharmacy	(159,700)
Capitated Mental Health Services	24,000,000
Other Optional Services	(1,400,000)

To implement the provisions of Health Care Revisions (House Bill 437, 2016 General Session).

Item 132

To Department of Health - Medicaid

Optional Services	
From General Fund, One-Time	500,000
From Federal Funds, One-Time	1,200,000
Schedule of Programs:	
Dental Services	1,700,000

To implement the provisions of Medicaid Coverage for Adult Dental Services (Senate Bill 39, 2016 General Session).

DEPARTMENT OF WORKFORCE SERVICES

Item 133

To Department of Workforce Services - Operations and Policy

From General Fund, One-Time	25,000
From Federal Funds, One-Time	3,037,000
Schedule of Programs:	
Temporary Assistance for Needy Families	3,037,000
Workforce Research and Analysis	25,000

If H.B. 436 - Housing and Homeless Reform Initiative passes, the Legislature intends the Department of Workforce Services (DWS) authorize Temporary Assistance for Needy Families (TANF) for three years up to \$2,250,000 per year to implement the provisions of H.B. 436. This TANF funding is dependent upon availability of TANF funding and expenditures meeting the necessary requirements to qualify for the federal Temporary Assistance for Needy Families program. The Legislature further intends DWS report to the Office of the Legislative Fiscal Analyst no later than September 1, 2016 regarding the status of this effort.

If S.B. 101 - High Quality School Readiness Program passes, the Legislature intends the Department of Workforce Services (DWS) authorize Temporary Assistance for Needy Families (TANF) for three years up to \$11,000,000 per year to implement the provisions of S.B. 101. This TANF funding is dependent upon availability of TANF funding and expenditures meeting the necessary requirements to qualify for the federal Temporary Assistance for Needy Families program. The Legislature further intends DWS report to the Office of the Legislative Fiscal Analyst no later than September 1, 2016 regarding the status of this effort.

The Legislature intends the Department of Workforce Services (DWS) authorize \$787,000 of Temporary Assistance for Needy Families (TANF) for Domestic Violence shelters. This TANF authorization is

dependent upon availability of TANF funding and expenditures meeting the necessary requirements to qualify for the federal Temporary Assistance for Needy Families program. The Legislature further intends DWS report to the Office of the Legislative Fiscal Analyst no later than September 1, 2016 regarding the status of these efforts.

Item 134

To Department of Workforce Services - Operations and Policy

From Federal Funds	90,700
From Federal Funds, One-Time	3,400
Schedule of Programs:	
Workforce Development	94,100

To implement the provisions of Public Assistance Benefits Amendments (House Bill 172, 2016 General Session).

Item 135

To Department of Workforce Services - Operations and Policy

From General Fund, One-Time	90,800
Schedule of Programs:	
Information Technology	90,800

To implement the provisions of Housing and Homeless Amendments (House Bill 328, 2016 General Session).

Item 136

To Department of Workforce Services - Operations and Policy

From Federal Funds	1,407,600
From Federal Funds, One-Time	655,100
Schedule of Programs:	
Eligibility Services	1,036,100
Information Technology	1,026,600

To implement the provisions of Health Care Revisions (House Bill 437, 2016 General Session).

Item 137

To Department of Workforce Services - Operations and Policy

From General Fund	159,000
Schedule of Programs:	
Workforce Development	159,000

To implement the provisions of Safety Net Initiative Amendments (Senate Bill 238, 2016 General Session).

Item 138

To Department of Workforce Services - Housing and Community Development

From General Fund, One-Time	6,000
Schedule of Programs:	
Community Development Administration	6,000

To implement the provisions of Housing and Homeless Amendments (House Bill 328, 2016 General Session).

Item 139

To Department of Workforce Services - State Office of Rehabilitation

From General Fund	449,100
From General Fund, One-Time	(449,100)
From Federal Funds	757,100
From Dedicated Credits Revenue	19,300

From General Fund Restricted -
 Office of Rehabilitation Transition
 Restricted Account, One-Time 1,693,200
 Schedule of Programs:
 Executive Director 307,800
 Blind and Visually Impaired 108,600
 Rehabilitation Services 1,629,300
 Disability Determination 232,200
 Deaf and Hard of Hearing 160,700
 Aspire Grant 31,000
 To implement the provisions of Office of
 Rehabilitation Services Amendments (House
 Bill 325, 2016 General Session).

DEPARTMENT OF HUMAN SERVICES

Item 140

To Department of Human Services -
 Executive Director Operations
 From General Fund 56,400
 From General Fund, One-Time 100,000
 Schedule of Programs:
 Executive Director's Office 100,000
 Office of Licensing 56,400

Item 141

To Department of Human Services -
 Executive Director Operations
 From General Fund 313,600
 From General Fund, One-Time 581,000
 Schedule of Programs:
 Office of Licensing 894,600
 To implement the provisions of Substance
 Abuse Treatment Fraud (House Bill 259,
 2016 General Session).

Item 142

To Department of Human Services -
 Executive Director Operations
 From General Fund 41,500
 Schedule of Programs:
 Legal Affairs 41,500
 To implement the provisions of
 Guardianship - Right of Association (Senate
 Bill 111, 2016 General Session).

Item 143

To Department of Human Services - Division
 of Substance Abuse and Mental Health
 From General Fund 400,000
 Schedule of Programs:
 State Hospital 400,000

Item 144

To Department of Human Services - Division
 of Substance Abuse and Mental Health
 From General Fund (1,000,000)
 From General Fund, One-Time 500,000
 Schedule of Programs:
 Mental Health Centers (20,500)
 Local Substance Abuse Services (479,500)
 To implement the provisions of Health Care
 Revisions (House Bill 437, 2016 General
 Session).

Item 145

To Department of Human Services - Division
 of Substance Abuse and Mental Health

From General Fund, One-Time 125,000
 Schedule of Programs:
 Community Mental Health Services . . . 125,000
 To implement the provisions of Suicide
 Prevention and Gun Data Study (House Bill
 440, 2016 General Session).

Item 146

To Department of Human Services - Division
 of Services for People with Disabilities
 From General Fund (5,800)
 Schedule of Programs:
 Utah State Developmental Center (5,800)
 To implement the provisions of Health Care
 Revisions (House Bill 437, 2016 General
 Session).

Item 147

To Department of Human Services - Division
 of Services for People with Disabilities
 From General Fund 1,900
 From Revenue Transfers 4,400
 Schedule of Programs:
 Utah State Developmental Center 6,300
 To implement the provisions of Utah State
 Developmental Center Amendments (Senate
 Bill 172, 2016 General Session).

Item 148

To Department of Human Services - Division
 of Child and Family Services
 From General Fund, One-Time 25,000
 Schedule of Programs:
 Facility-based Services 25,000

Item 149

To Department of Human Services - Division
 of Child and Family Services
 From General Fund 6,400
 From Federal Funds 800
 Schedule of Programs:
 Administration - DCFS 7,200
 To implement the provisions of Child
 Placement Amendments (House Bill 441,
 2016 General Session).

Item 150

To Department of Human Services - Division
 of Child and Family Services
 From General Fund (28,500)
 From Federal Funds (95,000)
 Schedule of Programs:
 Out-of-Home Care (123,500)
 To implement the provisions of Child
 Welfare Revisions (Senate Bill 79, 2016
 General Session).

Item 151

To Department of Human Services - Division
 of Child and Family Services
 From General Fund 161,400
 From General Fund, One-Time 25,600
 From Federal Funds 161,400
 From Federal Funds, One-Time 1,800
 Schedule of Programs:
 Service Delivery 330,200
 Child Welfare Management Information
 System 20,000
 To implement the provisions of Child
 Welfare Modifications (Senate Bill 82, 2016
 General Session).

STATE BOARD OF EDUCATION

Item 152

To State Board of Education - State Office of Rehabilitation
From General Fund (1,100)
From General Fund, One-Time (600)
From Education Fund (448,000)
From Education Fund, One-Time (1,143,500)
From General Fund Restricted - Office of Rehabilitation Transition
Restricted Account, One-Time 1,693,200
From Beginning Nonlapsing Balances 5,000,000
Schedule of Programs:
Executive Director 100,000
Rehabilitation Services 5,000,000
To implement the provisions of Office of Rehabilitation Services Amendments (House Bill 325, 2016 General Session).

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 153

To University of Utah - Education and General
From General Fund (13,500,000)
From General Fund, One-Time 14,500,000
From Education Fund 13,616,000
From Education Fund, One-Time (14,446,000)
Schedule of Programs:
Education and General 170,000

Item 154

To University of Utah - Education and General
From Dedicated Credits Revenue 713,000
Schedule of Programs:
Education and General 713,000
To implement the provisions of Resident Student Tuition Amendments (House Bill 254, 2016 General Session).

Item 155

To University of Utah - Public Service
From Education Fund, One-Time 50,000
Schedule of Programs:
Natural History Museum of Utah 50,000

UTAH STATE UNIVERSITY

Item 156

To Utah State University - Education and General
From Education Fund (257,800)
From Education Fund, One-Time 257,800

WEBER STATE UNIVERSITY

Item 157

To Weber State University - Education and General
From Education Fund 50,000
Schedule of Programs:
Education and General 50,000

SOUTHERN UTAH UNIVERSITY

Item 158

To Southern Utah University - Shakespeare Festival

From Education Fund, One-Time 25,000
Schedule of Programs:
Shakespeare Festival 25,000

SALT LAKE COMMUNITY COLLEGE

Item 159

To Salt Lake Community College - Education and General
From Education Fund, One-Time 200,000
Schedule of Programs:
Education and General 200,000

STATE BOARD OF REGENTS

Item 160

To State Board of Regents - Administration
From Dedicated Credits Revenue 75,000
Schedule of Programs:
Administration 75,000
To implement the provisions of Concurrent Enrollment Education Amendments (House Bill 182, 2016 General Session).

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF NATURAL RESOURCES

Item 161

To Department of Natural Resources - DNR Pass Through
From General Fund, One-Time 1,150,000
From General Fund Restricted - Sovereign Land Management, One-Time (250,000)
From Water Resources Conservation and Development Fund, One-Time 100,000
Schedule of Programs:
DNR Pass Through 1,000,000

The Legislature intends that the \$100,000 for Navajo/Utah/USA Water Rights Settlement be used to issue a request for proposal (RFP) to select a contractor for legal work and education of the United States government and the US Congress to reach a legislative solution for the water rights settlement among the State of Utah, the Navajo Nation, and the United States government. The appropriation must be matched by at least \$200,000 from non-state sources and at least \$250,000 from the Navajo Nation in order to be disbursed. The Legislature further intends that the Department of Natural resources obtain and make available the financial records of the expenditures of the contractor, and report to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee by October 30, 2016.

Item 162

To Department of Natural Resources - Forestry, Fire and State Lands
From General Fund Restricted - Sovereign Land Management, One-Time 150,000
From General Fund Restricted - Species Protection, One-Time 150,000
Schedule of Programs:
Project Management 300,000

Item 163

To Department of Natural Resources -
 Parks and Recreation
 From General Fund Restricted -
 State Park Fees, One-Time 300,000
 Schedule of Programs:
 Park Operation Management 300,000

Item 164

To Department of Natural Resources -
 Water Rights
 From General Fund, One-Time 130,000
 Schedule of Programs:
 Canal Safety 130,000

Item 165

To Department of Natural Resources -
 Water Rights
 From General Fund 70,000
 From General Fund, One-Time 100,000
 Schedule of Programs:
 Technical Services 170,000
 To implement the provisions of Water
 Rights and Resources Amendments (House
 Bill 305, 2016 General Session).

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 166

To Department of Environmental Quality -
 Air Quality
 From General Fund, One-Time 250,000
 Schedule of Programs:
 Air Quality 250,000

Item 167

To Department of Environmental Quality -
 Water Quality
 From General Fund 24,300
 From General Fund, One-Time 12,800
 From Dedicated Credits Revenue 40,500
 Schedule of Programs:
 Water Quality 77,600
 To implement the provisions of Water
 Quality Amendments (Senate Bill 110, 2016
 General Session).

Item 168

To Department of Environmental Quality -
 Water Quality
 From General Fund, One-Time 2,500
 Schedule of Programs:
 Water Quality 2,500
 To implement the provisions of
 Improvement District Amendments (Senate
 Bill 142, 2016 General Session).

Item 169

To Department of Environmental Quality -
 Waste Management and Radiation Control
 From General Fund Restricted -
 Environmental Quality (500)
 Schedule of Programs:
 Waste Management and Radiation
 Control (500)
 To implement the provisions of Consumer
 Electronic Device Recycling Report

Amendments (House Bill 138, 2016 General
 Session).

Item 170

To Department of Environmental Quality -
 Waste Management and Radiation Control
 From General Fund Restricted -
 Environmental Quality 1,000
 From General Fund Restricted -
 Environmental Quality, One-Time 2,000
 Schedule of Programs:
 Waste Management and Radiation
 Control 3,000
 To implement the provisions of Local and
 Special Service District Amendments (House
 Bill 347, 2016 General Session).

Item 171

To Department of Environmental Quality -
 Waste Management and Radiation Control
 From Dedicated Credits Revenue,
 One-Time 26,400
 From General Fund Restricted -
 Environmental Quality 2,000
 Schedule of Programs:
 Waste Management and Radiation
 Control 28,400
 To implement the provisions of Joint
 Resolution Approving Class V Landfill
 (House Joint Resolution 20, 2016 General
 Session).

PUBLIC LANDS POLICY COORDINATING OFFICE

Item 172

To Public Lands Policy Coordinating Office -
 Public Lands Litigation
 From General Fund Restricted - Sovereign
 Land Management, One-Time 250,000
 Schedule of Programs:
 Public Lands Litigation 250,000
 The Legislature intends that the \$250,000
 appropriation for Rural Utah Alliance be used
 as seed money to defend and protect rural
 counties' interests by providing legal
 assistance for county officials when faced
 with land use and ownership legal issues.
 This appropriation may not be used for
 criminal defense, past or future.

GOVERNOR'S OFFICE

Item 173

To Governor's Office - Office of
 Energy Development
 From General Fund, One-Time 32,000
 Schedule of Programs:
 Office of Energy Development 32,000

Item 174

To Governor's Office - Office of
 Energy Development
 From General Fund 4,100
 Schedule of Programs:
 Office of Energy Development 4,100
 To implement the provisions of High Cost
 Infrastructure Tax Credit Amendments
 (Senate Bill 102, 2016 General Session).

**DEPARTMENT OF
AGRICULTURE AND FOOD**

Item 175

To Department of Agriculture and
Food - Administration
From General Fund 6,600
From General Fund Restricted -
Horse Racing 1,700
Schedule of Programs:
Utah Horse Commission 8,300
To implement the provisions of
Agricultural Modifications (House Bill 213,
2016 General Session).

Item 176

To Department of Agriculture and
Food - Marketing and Development
From General Fund, One-Time 100,000
Schedule of Programs:
Marketing and Development 100,000

PUBLIC EDUCATION

**STATE BOARD OF EDUCATION -
MINIMUM SCHOOL PROGRAM**

Item 177

To State Board of Education - Minimum
School Program - Basic School Program
From Nonlapsing Balances - MSP -
Related to Basic Program 3,720,800
From Nonlapsing Balances - MSP -
Voted and Board 710,500
Schedule of Programs:
Grades 1 - 12 4,431,300

The Legislature intends that the State Board of Education use up to \$4,431,300 in nonlapsing balances transferred from the Minimum School Program - Related to Basic School Program and Voted and Board Local Levy Program on the following: (1) maintain the WPU Value, Voted & Board State Guarantee Rate, and Charter School Local Replacement Rate if student enrollment growth is higher than projected or local revenue contributions are lower than projected, and (2) begin implementing a financial management system that includes a double-entry accounting system, budgeting tools, and integrates into and shares data with the state Division of Finance's FINET system.

Item 178

To State Board of Education - Minimum School
Program - Related to Basic School Programs
From Education Fund 2,250,000
From Education Fund, One-Time (2,000,000)
Schedule of Programs:
Critical Languages and Dual
Immersion 250,000

Item 179

To State Board of Education - Minimum School
Program - Related to Basic School Programs
From Education Fund 200,000
From Education Fund, One-Time (200,000)

To implement the provisions of
Personalized Learning and Teaching
Amendments (House Bill 277, 2016 General
Session).

Item 180

To State Board of Education - Minimum School
Program - Related to Basic School Programs
From Education Fund 246,300
Schedule of Programs:
USFR Teacher Salary Supplement
Restricted Account 246,300
To implement the provisions of Education
Provisions (House Bill 331, 2016 General
Session).

Item 181

To State Board of Education - Minimum School
Program - Related to Basic School Programs
From Education Fund 20,600,000
From Education Fund, One-Time (6,200,000)
Schedule of Programs:
Charter School Local Replacement . 14,400,000
To implement the provisions of School
Funding Amendments (Senate Bill 38, 2016
General Session).

STATE BOARD OF EDUCATION

Item 182

To State Board of Education - State
Office of Education
From Education Fund 150,000
From Education Fund, One-Time 250,000
From Nonlapsing Balances - MSP -
Basic Program 4,431,300
Schedule of Programs:
Assessment and Accountability 250,000
Board and Administration 4,431,300
Career and Technical Education 150,000

The Legislature intends that the State Board of Education use up to \$4,431,300 in nonlapsing balances transferred from the Minimum School Program - Related to Basic School Program and Voted and Board Local Levy Program on the following: (1) maintain the WPU Value, Voted & Board State Guarantee Rate, and Charter School Local Replacement Rate if student enrollment growth is higher than projected or local revenue contributions are lower than projected, and (2) begin implementing a financial management system that includes a double-entry accounting system, budgeting tools, and integrates into and shares data with the state Division of Finance's FINET system.

Item 183

To State Board of Education - State
Office of Education
From Education Fund (2,000)
Schedule of Programs:
Board and Administration (2,000)
To implement the provisions of Agency
Reporting Requirements (House Bill 40, 2016
General Session).

Item 184

To State Board of Education - State
Office of Education
From Education Fund 90,000
Schedule of Programs:
Board and Administration 90,000

To implement the provisions of State School
Board Amendments (House Bill 445, 2016
General Session).

Item 185

To State Board of Education - State
Office of Education
From Education Fund, One-Time 50,000
Schedule of Programs:
Federal Elementary and Secondary
Education Act 50,000

To implement the provisions of School
Resource Officers and School Administrators
Training and Agreement (House Bill 460,
2016 General Session).

Item 186

To State Board of Education - State
Office of Education
From Education Fund 150,000
From Education Fund, One-Time 8,000
Schedule of Programs:
Teaching and Learning 158,000

To implement the provisions of Board of
Education Approval Amendments (Senate
Bill 139, 2016 General Session).

Item 187

To State Board of Education - State
Office of Education
From Education Fund 69,000
From Education Fund, One-Time 200,000
Schedule of Programs:
Teaching and Learning 269,000

To implement the provisions of
Competency-based Learning Amendments
(Senate Bill 143, 2016 General Session).

Item 188

To State Board of Education - Utah State Office
of Education - Initiative Programs
From Education Fund, One-Time 9,800
Schedule of Programs:
Contracts and Grants 9,800

Item 189

To State Board of Education - Utah State Office
of Education - Initiative Programs
From Education Fund, One-Time 50,000
Schedule of Programs:
Intergenerational Poverty
Interventions 50,000

To implement the provisions of
After-school Programs Amendments (Senate
Bill 125, 2016 General Session).

Item 190

To State Board of Education - Utah State Office
of Education - Initiative Programs
From Education Fund 300,000

From Education Fund, One-Time (225,000)
Schedule of Programs:
Contracts and Grants 75,000

To implement the provisions of
Competency-based Learning Amendments
(Senate Bill 143, 2016 General Session).

Item 191

To State Board of Education - Educator
Licensing Professional Practices
From Professional Practices Restricted
Subfund, One-Time 34,500
Schedule of Programs:
Educator Licensing 34,500

To implement the provisions of Teacher
Leader Role (Senate Bill 51, 2016 General
Session).

Item 192

To State Board of Education - Utah Schools
for the Deaf and the Blind
From Education Fund (460,000)
From Education Fund, One-Time 700,000
Schedule of Programs:
Educational Services (460,000)
Support Services 700,000

**RETIREMENT AND
INDEPENDENT ENTITIES**

**DEPARTMENT OF HUMAN
RESOURCE MANAGEMENT**

Item 193

To Department of Human Resource Management -
Human Resource Management
From General Fund, One-Time 5,000
Schedule of Programs:
ALJ Compliance 5,000

To implement the provisions of
Administrative Law Judge Amendments
(Senate Bill 135, 2016 General Session).

EXECUTIVE APPROPRIATIONS

**DEPARTMENT OF VETERANS'
AND MILITARY AFFAIRS**

Item 194

To Department of Veterans' and Military Affairs -
Veterans' and Military Affairs
From General Fund, One-Time 15,000
Schedule of Programs:
Administration 15,000

Item 195

To Department of Veterans' and Military Affairs -
Veterans' and Military Affairs
From General Fund 3,800
From Dedicated Credits Revenue 5,000
From Dedicated Credits Revenue,
One-Time 7,500
Schedule of Programs:
Administration 16,300

To implement the provisions of Veteran
License Plates Amendments (Senate Bill 35,
2016 General Session).

LEGISLATURE

Item 196

To Legislature - Senate
 From General Fund, One-Time (13,000)
 Schedule of Programs:
 Administration (13,000)
 To implement the provisions of Insurance Revisions (House Bill 36, 2016 General Session).

Item 197

To Legislature - Senate
 From General Fund 2,400
 Schedule of Programs:
 Administration 2,400
 To implement the provisions of Legislative Organization Amendments (House Bill 220, 2016 General Session).

Item 198

To Legislature - Senate
 From General Fund 2,200
 Schedule of Programs:
 Administration 2,200
 To implement the provisions of Children's Justice Center Amendments (Senate Bill 71, 2016 General Session).

Item 199

To Legislature - Senate
 From General Fund 5,400
 Schedule of Programs:
 Administration 5,400
 To implement the provisions of Joint Resolution Authorizing Pay of In-session Employees (Senate Joint Resolution 5, 2016 General Session).

Item 200

To Legislature - House of Representatives
 From General Fund, One-Time (22,000)
 Schedule of Programs:
 Administration (22,000)
 To implement the provisions of Insurance Revisions (House Bill 36, 2016 General Session).

Item 201

To Legislature - House of Representatives
 From General Fund 2,400
 Schedule of Programs:
 Administration 2,400
 To implement the provisions of Legislative Organization Amendments (House Bill 220, 2016 General Session).

Item 202

To Legislature - House of Representatives
 From General Fund 2,200
 Schedule of Programs:
 Administration 2,200
 To implement the provisions of Children's Justice Center Amendments (Senate Bill 71, 2016 General Session).

Item 203

To Legislature - House of Representatives

From General Fund 6,200
 Schedule of Programs:
 Administration 6,200
 To implement the provisions of Joint Resolution Authorizing Pay of In-session Employees (Senate Joint Resolution 5, 2016 General Session).

Item 204

To Legislature - Legislative Services
 From General Fund, One-Time (25,000)
 Schedule of Programs:
 Administration (25,000)

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated. Outlays and expenditures from the recipient funds or accounts may be made without further legislative action according to a fund or account's applicable authorizing statute.

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 205

To Department of Health - Hospital Provider Assessment Expendable Revenue Fund
 From Beginning Nonlapsing Balances 4,877,900
 From Closing Nonlapsing Balances ... (4,877,900)
 To implement the provisions of Reauthorization of Hospital Provider Assessment Act (Senate Bill 32, 2016 General Session).

Item 206

To Department of Health - Medicaid Expansion Fund
 The Legislature intends that in order to decrease tobacco use and more effectively utilize state resources, that all Medicaid coverage will adhere to United States Preventative Services recommended evidence-based practices which are proven to reduce tobacco use, including both counseling and all FDA-approved methods of pharmacotherapy with no or minimal cost sharing as directed by the Department of Health.

The Legislature intends that the income eligibility ceiling for FY 2017 shall be the following percent of federal poverty level for UCA 26-18-411 Health Coverage Improvement Program: i. 0% for individuals who meet the additional criteria in 26-18-411 Subsection (3) ii. 55% for an individual with a dependent child.

Item 207

To Department of Health - Medicaid Expansion Fund
 From General Fund 16,403,500
 From General Fund, One-Time (13,901,300)
 From Dedicated Credits Revenue 13,600,000

From Dedicated Credits Revenue,
 One-Time (6,800,000)
 Schedule of Programs:
 Medicaid Expansion Fund 9,302,200

To implement the provisions of Health Care Revisions (House Bill 437, 2016 General Session).

Subsection 2(c). Business-like Activities.

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds as indicated estimated revenue from rates, fees, and other charges. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 208

To Attorney General - Attorney General ISF
 From Dedicated Credits Revenue 20,985,300
 Schedule of Programs:
 Attorney General ISF 20,985,300
 Budgeted FTE 160.0

The Legislature intends that the Attorney General set an Internal Service Fund rate equivalent to hourly salary plus benefits and overhead.

To implement the provisions of Attorney General Fiscal Amendments (House Bill 351, 2016 General Session).

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF TECHNOLOGY SERVICES INTERNAL SERVICE FUNDS

Item 209

To Department of Technology Services Internal Service Funds - Enterprise Technology Division
 From Dedicated Credits Revenue,
 One-Time 25,000
 Schedule of Programs:
 ISF - Enterprise Technology Division ... 25,000

To implement the provisions of Electronic Driver License Amendments (House Bill 227, 2016 General Session).

Subsection 2(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts among the following funds or accounts as indicated. Expenditures and outlays from the recipient

funds must be authorized elsewhere in an appropriations act.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

Item 210

To GFR - Tourism Marketing Performance Fund
 From General Fund 3,000,000
 From General Fund, One-Time (3,000,000)

SOCIAL SERVICES

Item 211

To Office of Rehabilitation Transition
 Restricted Account
 From General Fund, One-Time 1,700
 From Education Fund, One-Time 1,691,500
 Schedule of Programs:
 Office of Rehabilitation Transition
 Restricted Account 1,693,200
 To implement the provisions of Office of Rehabilitation Services Amendments (House Bill 325, 2016 General Session).

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

Item 212

To General Fund Restricted - Public Lands Litigation Restricted Account
 From General Fund Restricted - Mineral Bonus, One-Time 4,500,000
 Schedule of Programs:
 Public Lands Litigation Restricted
 Account 4,500,000

Section 3. FY 2017 Appropriations Limit Formula.

The state appropriations limit for a given fiscal year, FY, shall be calculated by

$$AppropLimit_{FY} = PerCapitaBase_{1985} \times Pop_{FY-2} \times Inflate_{FY-2} \times SumAdjust_{FY}$$

, where:

$$(a) \quad Inflate_{Base} = \frac{GNPIndex_{int,qtr,1983}}{GNPIndex_{int,qtr,1989}} = \frac{(100.8+101.7+102.5+103.3) / 4 - 102.075}{(121.9+123.3+124.5+125.9) / 4 - 123.900}$$

$$(b) \quad Inflate_{FY-2} = \frac{GNPIndex_{FY-2}}{GNPIndex_{1983}} \times Inflate_{Base}$$

$$(c) \quad PerCapitaBase_{1985} = \frac{Appropriations_{1985} - Debt_{1985}}{Pop_{1983} \times Inflate_{Base}} = \frac{734,333,000 - 52,273,100}{1,594,943 \times \left(\frac{102.075}{123.900} \right)}$$

$$(d) \quad SumAdjust_{FY} = \sum_{i=1985}^{FY} \left[Adjust_i \times \left(\frac{Inflate_{FY-2}}{Inflate_{i-2}} \right) \times \left(\frac{Pop_{FY-2}}{Pop_{i-2}} \right) \right]$$

; and

(e) as used in the state appropriations limit formula:

(i) *i* is a variable representing a given fiscal year;

(ii) *Adjust_i* is the net adjustments to the state appropriations limit for a given fiscal year due to program or service adjustments, as required under Section 63J-3-203;

(iii) *Appropriations₁₉₈₅* is the state capital and operations appropriations from the General Fund and non-Uniform School fund in fiscal year 1985;

(iv) *Debt₁₉₈₅* is the amount the state paid in debt payments in fiscal year 1985;

(v) $GNPIndex_{FY-2}$ is the average of the quarterly values of the Gross National Product Implicit Price Deflator for the fiscal year two fiscal years before FY, as published by the United States Federal Reserve by January 31 of each year;

(vi) $GNPIndex_{vintage,t}$ is the average of the quarterly values of the Gross National Product Implicit Price Deflator for a given fiscal year, as measured by the Gross National Product Implicit Price Deflator from the vintage series published by the United States Department of Commerce on January 26, 1990;

(vii) $Inflate_{t-2}$ is the change in the general price level of goods and services nationally from 1983 to two fiscal years before a given fiscal year, as measured by the most current Gross National Product Implicit Price Deflator series published by the United States Federal Reserve, adjusted to a 1989 basis;

(viii) $PerCapitaBase_{1985}$ is the amount of real per capita state appropriations for fiscal year 1985; and

(ix) Pop_{t-2} is:

(A) the population as of July 1 in the fiscal year two fiscal years before a given fiscal year, as estimated by the United States Census Bureau by January 31 of each year; or

(B) if the estimate described in Subsection (3)(e)(ix)(A) is not available, an amount determined by the Governor's Office of Management and Budget, estimated by adjusting an available April 1 decennial census count or by adjusting a fiscal year population estimate available from the United States Census Bureau.

Section 4. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Sections 2 and 3 of this bill take effect on July 1, 2016.

CHAPTER 397

H. B. 8

Passed March 8, 2016
 Approved March 30, 2016
 Effective July 1, 2016

STATE AGENCY FEES AND INTERNAL SERVICE FUND RATE AUTHORIZATION AND APPROPRIATIONS

Chief Sponsor: Brad L. Dee
 Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the use and operation of state government for the fiscal year beginning July 1, 2016 and ending June 30, 2017.

Highlighted Provisions:

This bill:

- ▶ provides budget increases and decreases for the use and support of certain state agencies and institutions of higher education;
- ▶ authorizes certain state agency fees;
- ▶ authorizes internal service fund rates;
- ▶ adjusts funding for the impact of Internal Service Fund rate changes; and,
- ▶ provides budget increases and decreases for other purposes as described.

Money Appropriated in this Bill:

This bill appropriates \$1,760,200 in operating and capital budgets for fiscal year 2017, including:

- ▶ \$884,300 from the General Fund;
- ▶ \$87,400 from the Education Fund;
- ▶ \$788,500 from various sources as detailed in this bill.

This bill appropriates \$5,000 in expendable funds and accounts for fiscal year 2017.

This bill appropriates \$108,100 in business-like activities for fiscal year 2017.

This bill appropriates \$2,700 in fiduciary funds for fiscal year 2017.

Other Special Clauses:

This bill takes effect on July 1, 2016.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2017 Appropriations. The following sums of money are appropriated for Internal Service Fund rate adjustments for the fiscal year beginning July 1, 2016 and ending June 30, 2017. These are additions to amounts previously appropriated for fiscal year 2017.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use

and support of the government of the State of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

GOVERNOR'S OFFICE

Item 1

To Governor's Office
 From General Fund 2,800
 From Dedicated Credits Revenue 500
 Schedule of Programs:
 Administration 2,100
 Governor's Residence 200
 Lt. Governor's Office 1,000

Item 2

To Governor's Office - Character Education
 From General Fund 100
 Schedule of Programs:
 Character Education 100

Item 3

To Governor's Office - Governor's Office of Management and Budget
 From General Fund 2,500
 Schedule of Programs:
 Administration 700
 Planning and Budget Analysis 1,100
 Operational Excellence 600
 State and Local Planning 100

Item 4

To Governor's Office - Commission on Criminal and Juvenile Justice
 From General Fund 1,400
 From Federal Funds 800
 From Crime Victim Reparations Fund 2,100
 Schedule of Programs:
 CCJJ Commission 1,200
 Utah Office for Victims of Crime 2,700
 Substance Abuse Advisory Council 100
 Sentencing Commission 100
 Judicial Performance Evaluation Commission 200

OFFICE OF THE STATE AUDITOR

Item 5

To Office of the State Auditor - State Auditor
 From General Fund (15,800)
 From Dedicated Credits Revenue (8,200)
 Schedule of Programs:
 State Auditor (24,000)

STATE TREASURER

Item 6

To State Treasurer
 From General Fund 600
 From Dedicated Credits Revenue 300
 From Unclaimed Property Trust 1,400
 Schedule of Programs:
 Treasury and Investment 800
 Unclaimed Property 1,400
 Money Management Council 100

ATTORNEY GENERAL

Item 7

To Attorney General

From General Fund	3,000
From Federal Funds	100
From Dedicated Credits Revenue	1,800
From Revenue Transfers	100
Schedule of Programs:	
Administration	400
Child Protection	800
Criminal Prosecution	1,600
Civil	2,200

Item 8

To Attorney General - Prosecution Council	
From General Fund Restricted -	
Public Safety Support	100
Schedule of Programs:	
Prosecution Council	100

UTAH DEPARTMENT OF CORRECTIONS

Item 9

To Utah Department of Corrections -	
Programs and Operations	
From General Fund	203,300
From Dedicated Credits Revenue	4,100
From Revenue Transfers	200
Schedule of Programs:	
Department Executive Director	4,400
Department Administrative Services ..	11,400
Department Training	1,600
Adult Probation and Parole	
Administration	600
Adult Probation and Parole Programs ..	60,000
Institutional Operations Administration ..	200
Institutional Operations	
Draper Facility	77,100
Institutional Operations Central	
Utah/Gunnison	34,900
Institutional Operations Inmate	
Placement	2,900
Institutional Operations Support	
Services	3,700
Programming Administration	300
Programming Treatment	5,100
Programming Skill Enhancement	5,400

Item 10

To Utah Department of Corrections -	
Department Medical Services	
From General Fund	17,100
Schedule of Programs:	
Medical Services	17,100

BOARD OF PARDONS AND PAROLE

Item 11

To Board of Pardons and Parole	
From General Fund	3,800
Schedule of Programs:	
Board of Pardons and Parole	3,800

**DEPARTMENT OF HUMAN SERVICES -
DIVISION OF JUVENILE JUSTICE
SERVICES**

Item 12

To Department of Human Services - Division of	
Juvenile Justice Services - Programs and	
Operations	
From General Fund	84,900

From Federal Funds	3,900
From Dedicated Credits Revenue	700
From Revenue Transfers	1,600
Schedule of Programs:	
Administration	3,600
Early Intervention Services	19,600
Community Programs	8,700
Correctional Facilities	29,200
Rural Programs	29,700
Youth Parole Authority	300

**JUDICIAL COUNCIL/STATE
COURT ADMINISTRATOR**

Item 13

To Judicial Council/State Court Administrator -	
Administration	
From General Fund	10,500
From Federal Funds	100
From Dedicated Credits Revenue	100
From General Fund Rest. - Justice	
Court Tech., Security & Training	100
From General Fund Restricted -	
Nonjudicial Adjustment Account	100
Schedule of Programs:	
Supreme Court	200
Law Library	100
Court of Appeals	300
District Courts	4,500
Juvenile Courts	4,600
Justice Courts	100
Administrative Office	400
Judicial Education	100
Data Processing	500
Grants Program	100

Item 14

To Judicial Council/State Court Administrator -	
Jury and Witness Fees	
From General Fund	100
Schedule of Programs:	
Jury, Witness, and Interpreter	100

Item 15

To Judicial Council/State Court Administrator -	
Guardian ad Litem	
From General Fund	900
Schedule of Programs:	
Guardian ad Litem	900

DEPARTMENT OF PUBLIC SAFETY

Item 16

To Department of Public Safety -	
Programs & Operations	
From General Fund	70,100
From Federal Funds	1,500
From Dedicated Credits Revenue	14,900
From General Fund Restricted -	
DNA Specimen Account	600
From General Fund Restricted -	
Fire Academy Support	2,500
From Department of Public Safety	
Restricted Account	2,100
From Revenue Transfers	100
Schedule of Programs:	
Department Commissioner's Office	5,600
Aero Bureau	200
Department Intelligence Center	1,000
Department Grants	1,200

Department Fleet Management	100
CITS Administration	400
CITS Bureau of Criminal Identification	10,700
CITS Communications	9,000
CITS State Crime Labs	4,100
CITS State Bureau of Investigation	2,900
Highway Patrol - Administration	800
Highway Patrol - Field Operations	36,500
Highway Patrol - Commercial Vehicle	3,800
Highway Patrol - Safety Inspections	1,100
Highway Patrol - Federal/State Projects	1,800
Highway Patrol - Protective Services	5,300
Highway Patrol - Special Services	3,500
Highway Patrol - Special Enforcement	500
Highway Patrol - Technology Services	700
Fire Marshall - Fire Operations	2,000
Fire Marshall - Fire Fighter Training	600

Item 17

To Department of Public Safety - Emergency Management	
From General Fund	1,200
From Federal Funds	3,900
Schedule of Programs: Emergency Management	5,100

Item 18

To Department of Public Safety - Peace Officers' Standards and Training	
From General Fund	200
Schedule of Programs: Basic Training	100
POST Administration	100

Item 19

To Department of Public Safety - Driver License	
From Federal Funds	200
From Public Safety Motorcycle Education Fund	100
From Department of Public Safety Restricted Account	34,200
Schedule of Programs: Driver License Administration	2,300
Driver Services	23,000
Driver Records	8,900
Motorcycle Safety	100
DL Federal Grants	200

Item 20

To Department of Public Safety - Highway Safety From Federal Funds	1,600
Schedule of Programs: Highway Safety	1,600

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

TRANSPORTATION

Item 21

To Transportation - Support Services From Transportation Fund	161,600
Schedule of Programs: Human Resources Management	161,600

**DEPARTMENT OF
ADMINISTRATIVE SERVICES**

Item 22

To Department of Administrative Services - Executive Director	
From General Fund	600
Schedule of Programs: Executive Director	600

Item 23

To Department of Administrative Services - Inspector General of Medicaid Services	
From General Fund	1,000
From Revenue Transfers	1,400
Schedule of Programs: Inspector General of Medicaid Services ..	2,400

Item 24

To Department of Administrative Services - Administrative Rules	
From General Fund	300
Schedule of Programs: DAR Administration	300

Item 25

To Department of Administrative Services - DFCM Administration	
From General Fund	1,400
From Dedicated Credits Revenue	800
From Capital Projects Fund	1,500
Schedule of Programs: DFCM Administration	3,400
Energy Program	300

Item 26

To Department of Administrative Services - Building Board Program	
From Capital Projects Fund	300
Schedule of Programs: Building Board Program	300

Item 27

To Department of Administrative Services - State Archives	
From General Fund	2,500
Schedule of Programs: Archives Administration	800
Records Analysis	300
Preservation Services	500
Patron Services	700
Records Services	200

Item 28

To Department of Administrative Services - Finance Administration	
From General Fund	4,600
From Dedicated Credits Revenue	500
Schedule of Programs: Finance Director's Office	300
Payroll	600
Payables/Disbursing	1,500
Financial Reporting	1,700
Financial Information Systems	1,000

Item 29

To Department of Administrative Services - Judicial Conduct Commission	
From General Fund	100
Schedule of Programs: Judicial Conduct Commission	100

Item 30

To Department of Administrative Services - Purchasing	
From General Fund	700
Schedule of Programs:	
Purchasing and General Services	700

**DEPARTMENT OF
TECHNOLOGY SERVICES**

Item 31

To Department of Technology Services - Chief Information Officer	
From General Fund	300
Schedule of Programs:	
Chief Information Officer	300

Item 32

To Department of Technology Services - Integrated Technology Division	
From General Fund	1,000
From Dedicated Credits Revenue	400
Schedule of Programs:	
Automated Geographic Reference Center	1,400

**BUSINESS, ECONOMIC
DEVELOPMENT, AND LABOR**

DEPARTMENT OF HERITAGE AND ARTS

Item 33

To Department of Heritage and Arts - Administration	
From General Fund	2,100
From Federal Funds	300
Schedule of Programs:	
Executive Director's Office	300
Information Technology	200
Administrative Services	1,000
Utah Multicultural Affairs Office	300
Commission on Service and Volunteerism	600

Item 34

To Department of Heritage and Arts - State History	
From General Fund	1,900
From Federal Funds	600
Schedule of Programs:	
Administration	200
Library and Collections	600
Public History, Communication and Information	500
Historic Preservation and Antiquities	1,200

Item 35

To Department of Heritage and Arts - Division of Arts and Museums	
From General Fund	1,700
Schedule of Programs:	
Administration	200
Community Arts Outreach	1,500

Item 36

To Department of Heritage and Arts - State Library	
From General Fund	3,700
From Federal Funds	100
From Dedicated Credits Revenue	1,200

Schedule of Programs:

Administration	200
Blind and Disabled	2,400
Library Development	1,700
Library Resources	700

Item 37

To Department of Heritage and Arts - Indian Affairs	
From General Fund	200
Schedule of Programs:	
Indian Affairs	200

**GOVERNOR'S OFFICE OF
ECONOMIC DEVELOPMENT**

Item 38

To Governor's Office of Economic Development - Administration	
From General Fund	2,000
Schedule of Programs:	
Administration	2,000

Item 39

To Governor's Office of Economic Development - STEM Action Center	
From General Fund	500
Schedule of Programs:	
STEM Action Center	500

Item 40

To Governor's Office of Economic Development - Office of Tourism	
From General Fund	2,400
Schedule of Programs:	
Administration	700
Operations and Fulfillment	1,200
Film Commission	500

Item 41

To Governor's Office of Economic Development - Business Development	
From General Fund	3,700
Schedule of Programs:	
Outreach and International Trade	1,900
Corporate Recruitment and Business Services	1,800

Item 42

To Governor's Office of Economic Development - Pete Suazo Utah Athletics Commission	
From General Fund	100
Schedule of Programs:	
Pete Suazo Utah Athletics Commission	100

UTAH STATE TAX COMMISSION

Item 43

To Utah State Tax Commission - Tax Administration	
From General Fund	37,400
From Education Fund	21,200
From Dedicated Credits Revenue	800
From General Fund Restricted - Motor Vehicle Enforcement Division Temporary Permit Account	3,300
From General Fund Restricted - Sales and Use Tax Admin Fees	10,200
Schedule of Programs:	
Administration Division	7,900
Auditing Division	12,400

Tax Processing Division	8,600
Seasonal Employees	500
Tax Payer Services	14,000
Property Tax Division	5,400
Motor Vehicles	20,800
Motor Vehicle Enforcement Division	3,300

UTAH SCIENCE TECHNOLOGY AND RESEARCH GOVERNING AUTHORITY

Item 44

To Utah Science Technology and Research Governing Authority - Technology Outreach and Innovation	
From General Fund	300
Schedule of Programs:	
Salt Lake SBIR-STTR Resource Center ...	200
Salt Lake BioInnovations Gateway (BiG) ..	100

Item 45

To Utah Science Technology and Research Governing Authority - USTAR Administration	
From General Fund	600
Schedule of Programs:	
Administration	600

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Item 46

To Department of Alcoholic Beverage Control - DABC Operations	
From Liquor Control Fund	40,200
Schedule of Programs:	
Executive Director	2,300
Administration	1,000
Warehouse and Distribution	3,200
Stores and Agencies	33,700

LABOR COMMISSION

Item 47

To Labor Commission	
From General Fund	8,000
From Federal Funds	1,000
From General Fund Restricted -	
Industrial Accident Rest. Account	2,900
From Employers' Reinsurance Fund	100
Schedule of Programs:	
Administration	4,700
Industrial Accidents	1,900
Adjudication	1,200
Boiler, Elevator and Coal Mine	
Safety Division	1,600
Anti-Discrimination and Labor	2,500
Utah Occupational Safety and Health	100

DEPARTMENT OF COMMERCE

Item 48

To Department of Commerce - Commerce General Regulation	
From Federal Funds	200
From General Fund Restricted -	
Commerce Service Account	21,000
From General Fund Restricted - Commerce Service Account - Public Utilities	
Regulatory Fee	3,700

Schedule of Programs:	
Administration	1,500
Occupational and Professional	
Licensing	9,700
Securities	2,100
Consumer Protection	2,100
Corporations and Commercial Code	3,300
Real Estate	2,300
Public Utilities	3,300
Office of Consumer Services	600

Item 49

To Department of Commerce - Building Inspector Training	
From Dedicated Credits Revenue	100
Schedule of Programs:	
Building Inspector Training	100

FINANCIAL INSTITUTIONS

Item 50

To Financial Institutions - Financial Institutions Administration	
From General Fund Restricted -	
Financial Institutions	5,400
Schedule of Programs:	
Administration	5,400

INSURANCE DEPARTMENT

Item 51

To Insurance Department - Insurance Department Administration	
From Federal Funds	100
From General Fund Restricted -	
Insurance Department Account	6,900
From General Fund Restricted -	
Insurance Fraud Investigation Acct	1,500
From General Fund Restricted -	
Captive Insurance	1,000
Schedule of Programs:	
Administration	7,000
Insurance Fraud Program	1,500
Captive Insurers	1,000

Item 52

To Insurance Department - Title Insurance Program	
From General Fund Restricted - Title	
Licensee Enforcement Account	100
Schedule of Programs:	
Title Insurance Program	100

PUBLIC SERVICE COMMISSION

Item 53

To Public Service Commission	
From General Fund Restricted -	
Commerce Service Account -	
Public Utilities Regulatory Fee	1,600
Schedule of Programs:	
Administration	1,600

Item 54

To Public Service Commission -	
Speech and Hearing Impaired	
From Dedicated Credits Revenue	200
Schedule of Programs:	
Speech and Hearing Impaired	200

SOCIAL SERVICES**DEPARTMENT OF HEALTH****Item 55**

To Department of Health - Executive Director's Operations	
From General Fund	48,500
From Federal Funds	47,700
From Dedicated Credits Revenue	700
From General Fund Restricted - Tobacco Settlement Account	
	100
From Revenue Transfers	500
Schedule of Programs:	
Executive Director	92,500
Center for Health Data and Informatics	300
Program Operations	4,700

**DEPARTMENT OF
WORKFORCE SERVICES****Item 56**

To Department of Workforce Services - Administration	
From General Fund	44,600
From Federal Funds	97,500
From Dedicated Credits Revenue	2,200
From General Fund Restricted - Special Admin. Expense Account	
	700
From Revenue Transfers	37,700
Schedule of Programs:	
Executive Director's Office	100
Human Resources	182,200
Administrative Support	400

DEPARTMENT OF HUMAN SERVICES**Item 57**

To Department of Human Services - Executive Director Operations	
From General Fund	6,800
From Federal Funds	2,600
From Revenue Transfers	2,300
Schedule of Programs:	
Executive Director's Office	1,500
Legal Affairs	900
Information Technology	200
Fiscal Operations	3,400
Office of Services Review	1,700
Office of Licensing	3,500
Utah Developmental Disabilities Council	400
Utah Marriage Commission	100

Item 58

To Department of Human Services - Division of Substance Abuse and Mental Health	
From General Fund	59,600
From Federal Funds	2,000
From Dedicated Credits Revenue	4,900
From Revenue Transfers	16,800
Schedule of Programs:	
Administration - DSAMH	3,100
Community Mental Health Services	300
State Hospital	79,600
State Substance Abuse Services	300

Item 59

To Department of Human Services - Division of Services for People with Disabilities	
From General Fund	22,900
From Dedicated Credits Revenue	2,900
From Revenue Transfers	43,100
Schedule of Programs:	
Administration - ORSPD	4,200
Service Delivery	7,400
Utah State Developmental Center	57,300

Item 60

To Department of Human Services - Office of Recovery Services	
From General Fund	11,700
From Federal Funds	14,100
From Dedicated Credits Revenue	10,000
From Revenue Transfers	2,300
Schedule of Programs:	
Administration - ORS	1,000
Financial Services	2,600
Electronic Technology	2,300
Child Support Services	27,800
Children in Care Collections	800
Medical Collections	3,600

Item 61

To Department of Human Services - Division of Child and Family Services	
From General Fund	73,300
From Federal Funds	34,700
From Dedicated Credits Revenue	100
From General Fund Restricted - Victims of Domestic Violence Services Account	
	400
From Revenue Transfers	100
Schedule of Programs:	
Administration - DCFS	4,100
Service Delivery	96,900
Facility-based Services	1,700
Minor Grants	1,900
Domestic Violence	2,400
Child Welfare Management Information System	
	1,600

Item 62

To Department of Human Services - Division of Aging and Adult Services	
From General Fund	4,300
From Federal Funds	800
From Revenue Transfers	100
Schedule of Programs:	
Administration - DAAS	1,300
Adult Protective Services	3,600
Aging Waiver Services	200
Aging Alternatives	100

STATE BOARD OF EDUCATION**Item 63**

To State Board of Education - State Office of Rehabilitation	
From General Fund	100
From Education Fund	14,700
From Federal Funds	30,300
From Dedicated Credits Revenue	900
Schedule of Programs:	
Executive Director	2,800
Blind and Visually Impaired	5,200
Rehabilitation Services	25,500

Disability Determination	9,000
Deaf and Hard of Hearing	3,500

**NATURAL RESOURCES, AGRICULTURE,
AND ENVIRONMENTAL QUALITY**

DEPARTMENT OF NATURAL RESOURCES

Item 64

To Department of Natural Resources - Administration	
From General Fund	1,900
Schedule of Programs:	
Executive Director	600
Administrative Services	1,000
Public Information Office	200
Law Enforcement	100

Item 65

To Department of Natural Resources - Species Protection	
From General Fund	300
Schedule of Programs:	
Species Protection	300

Item 66

To Department of Natural Resources - Watershed	
From General Fund	100
Schedule of Programs:	
Watershed	100

Item 67

To Department of Natural Resources - Forestry, Fire and State Lands	
From General Fund	10,100
From Federal Funds	100
From Dedicated Credits Revenue	9,100
Schedule of Programs:	
Division Administration	700
Fire Management	700
Fire Suppression Emergencies	1,200
Lands Management	700
Forest Management	500
Program Delivery	5,900
Lone Peak Center	8,800
Project Management	800

Item 68

To Department of Natural Resources - Oil, Gas and Mining	
From General Fund	5,200
From Federal Funds	2,300
From Dedicated Credits Revenue	200
Schedule of Programs:	
Administration	1,600
Oil and Gas Program	2,500
Minerals Reclamation	1,000
Coal Program	1,500
Abandoned Mine	1,100

Item 69

To Department of Natural Resources - Wildlife Resources	
From General Fund	37,900
From Federal Funds	16,000
Schedule of Programs:	
Director's Office	1,400
Administrative Services	4,900
Conservation Outreach	4,300

Law Enforcement	8,000
Habitat Section	8,500
Wildlife Section	8,600
Aquatic Section	18,200

Item 70

To Department of Natural Resources - Parks and Recreation	
From General Fund	30,600
From Federal Funds	1,200
Schedule of Programs:	
Executive Management	300
Park Operation Management	28,500
Planning and Design	200
Support Services	1,100
Recreation Services	1,700

Item 71

To Department of Natural Resources - Utah Geological Survey	
From General Fund	5,400
From Federal Funds	1,200
From Dedicated Credits Revenue	1,300
Schedule of Programs:	
Administration	600
Technical Services	600
Geologic Hazards	1,100
Geologic Mapping	1,000
Energy and Minerals	1,900
Ground Water and Paleontology	1,800
Information and Outreach	900

Item 72

To Department of Natural Resources - Water Resources	
From General Fund	4,300
Schedule of Programs:	
Administration	500
Interstate Streams	100
Planning	1,900
Construction	1,800

Item 73

To Department of Natural Resources - Water Rights	
From General Fund	3,500
From Dedicated Credits Revenue	1,800
Schedule of Programs:	
Administration	600
Applications and Records	1,500
Dam Safety	800
Field Services	1,600
Technical Services	800

**DEPARTMENT OF
ENVIRONMENTAL QUALITY**

Item 74

To Department of Environmental Quality - Executive Director's Office	
From General Fund	4,500
From Federal Funds	500
From General Fund Restricted - Environmental Quality	1,000
Schedule of Programs:	
Executive Director's Office	6,000

Item 75

To Department of Environmental Quality - Air Quality	
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From General Fund 3,200
 From Federal Funds 2,600
 From Dedicated Credits Revenue 3,800
 Schedule of Programs:
 Air Quality 9,600

Item 76

To Department of Environmental Quality -
 Environmental Response and Remediation
 From General Fund 500
 From Federal Funds 2,700
 From Dedicated Credits Revenue 400
 From General Fund Restricted -
 Voluntary Cleanup 400
 From Petroleum Storage Tank
 Trust Fund 1,100
 Schedule of Programs:
 Environmental Response and
 Remediation 5,100

Item 77

To Department of Environmental Quality -
 Water Quality
 From General Fund 2,200
 From Federal Funds 2,400
 From Dedicated Credits Revenue 900
 From Water Dev. Security Fund - Utah
 Wastewater Loan Program 1,000
 From Water Dev. Security Fund -
 Water Quality Origination Fee 100
 From Revenue Transfers 200
 Schedule of Programs:
 Water Quality 6,800

Item 78

To Department of Environmental Quality -
 Drinking Water
 From General Fund 700
 From Federal Funds 2,600
 From Dedicated Credits Revenue 100
 From Water Dev. Security Fund -
 Drinking Water Loan Program 100
 From Water Dev. Security Fund -
 Drinking Water Origination Fee 100
 Schedule of Programs:
 Drinking Water 3,600

Item 79

To Department of Environmental Quality -
 Waste Management and Radiation Control
 From General Fund 500
 From Federal Funds 600
 From Dedicated Credits Revenue 900
 From General Fund Restricted -
 Environmental Quality 4,500
 From General Fund Restricted -
 Used Oil Collection Administration 400
 From Waste Tire Recycling Fund 100
 Schedule of Programs:
 Waste Management and Radiation
 Control 7,000

**PUBLIC LANDS POLICY
 COORDINATING OFFICE**

Item 80

To Public Lands Policy Coordinating Office
 From General Fund 600

From General Fund Restricted -
 Constitutional Defense 600
 Schedule of Programs:
 Public Lands Office 1,200

GOVERNOR'S OFFICE**Item 81**

To Governor's Office - Office of
 Energy Development
 From General Fund 1,100
 From Federal Funds 400
 Schedule of Programs:
 Office of Energy Development 1,500

**DEPARTMENT OF
 AGRICULTURE AND FOOD**

Item 82

To Department of Agriculture and
 Food - Administration
 From General Fund 2,000
 From Federal Funds 600
 From Dedicated Credits Revenue 200
 Schedule of Programs:
 General Administration 1,900
 Chemistry Laboratory 900

Item 83

To Department of Agriculture and
 Food - Animal Health
 From General Fund 2,800
 From Federal Funds 2,200
 From Dedicated Credits Revenue 300
 From General Fund Restricted -
 Livestock Brand 800
 Schedule of Programs:
 Animal Health 1,700
 Brand Inspection 1,200
 Meat Inspection 3,200

Item 84

To Department of Agriculture and
 Food - Plant Industry
 From General Fund 1,100
 From Federal Funds 1,100
 From Dedicated Credits Revenue 2,500
 From Agriculture Resource
 Development Fund 200
 Schedule of Programs:
 Environmental Quality 100
 Grain Inspection 500
 Insect Infestation 800
 Plant Industry 2,800
 Grazing Improvement Program 700

Item 85

To Department of Agriculture and
 Food - Regulatory Services
 From General Fund 2,700
 From Federal Funds 800
 From Dedicated Credits Revenue 2,400
 Schedule of Programs:
 Regulatory Services 5,900

Item 86

To Department of Agriculture and
 Food - Marketing and Development
 From General Fund 500
 Schedule of Programs:

Marketing and Development 500

Item 87
 To Department of Agriculture and Food -
 Predatory Animal Control
 From General Fund 900
 From General Fund Rest. - Agriculture
 and Wildlife Damage Prevention 700
 From Revenue Transfers 100
 Schedule of Programs:
 Predatory Animal Control 1,700

Item 88
 To Department of Agriculture and Food -
 Resource Conservation
 From General Fund 300
 From Utah Rural Rehabilitation Loan
 State Fund 100
 Schedule of Programs:
 Resource Conservation Administration ... 300
 Resource Conservation 100

Item 89
 To Department of Agriculture and
 Food - Rangeland Improvement
 From General Fund Restricted -
 Rangeland Improvement Account 100
 Schedule of Programs:
 Rangeland Improvement 100

**SCHOOL AND INSTITUTIONAL
 TRUST LANDS ADMINISTRATION**

Item 90
 To School and Institutional Trust
 Lands Administration
 From Land Grant Management Fund 7,200
 Schedule of Programs:
 Director 200
 External Relations 100
 Administration 500
 Accounting 400
 Auditing 300
 Oil and Gas 700
 Mining 500
 Surface 1,700
 Development - Operating 1,000
 Legal/Contracts 600
 Information Technology Group 900
 Grazing and Forestry 300

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

Item 91
 To State Board of Education - State
 Office of Education
 From General Fund 100
 From Education Fund 17,500
 From Federal Funds 6,600
 From Dedicated Credits Revenue 200
 From General Fund Restricted -
 Mineral Lease 300
 From General Fund Restricted -
 Substance Abuse Prevention 100
 From Interest and Dividends Account 300

From Revenue Transfers 300
 Schedule of Programs:
 Assessment and Accountability 2,900
 Educational Equity 200
 Board and Administration 5,000
 Business Services 1,600
 Career and Technical Education 4,000
 District Computer Services 3,700
 Federal Elementary and Secondary
 Education Act 1,600
 Law and Legislation 200
 Public Relations 100
 School Trust 300
 Special Education 2,300
 Teaching and Learning 3,500

Item 92
 To State Board of Education - Utah State
 Office of Education - Initiative Programs
 From General Fund 100
 From Education Fund 100
 Schedule of Programs:
 Electronic High School 100
 Carson Smith Scholarships 100

Item 93
 To State Board of Education - State
 Charter School Board
 From Education Fund 500
 Schedule of Programs:
 State Charter School Board 500

Item 94
 To State Board of Education - Educator
 Licensing Professional Practices
 From Professional Practices Restricted
 Subfund 1,200
 Schedule of Programs:
 Educator Licensing 1,200

Item 95
 To State Board of Education - State
 Office of Education - Child Nutrition
 From Education Fund 100
 From Federal Funds 2,200
 Schedule of Programs:
 Child Nutrition 2,300

Item 96
 To State Board of Education - Utah Schools
 for the Deaf and the Blind
 From Education Fund 33,300
 From Federal Funds 100
 From Dedicated Credits Revenue 900
 Schedule of Programs:
 Educational Services 21,600
 Support Services 12,700

**RETIREMENT AND
 INDEPENDENT ENTITIES**

CAREER SERVICE REVIEW OFFICE

Item 97
 To Career Service Review Office
 From General Fund 200
 Schedule of Programs:
 Career Service Review Office 200

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 98

To Capitol Preservation Board
 From General Fund 800
 Schedule of Programs:
 Capitol Preservation Board 800

UTAH NATIONAL GUARD

Item 99

To Utah National Guard
 From General Fund 21,300
 Schedule of Programs:
 Administration 20,100
 Operations and Maintenance 1,200

DEPARTMENT OF VETERANS' AND MILITARY AFFAIRS

Item 100

To Department of Veterans' and Military Affairs - Veterans' and Military Affairs
 From General Fund 1,700
 From Federal Funds 200
 Schedule of Programs:
 Administration 500
 Cemetery 600
 State Approving Agency 100
 Outreach Services 600
 Military Affairs 100

LEGISLATURE

Item 101

To Legislature - Senate
 From General Fund 200
 Schedule of Programs:
 Administration 200

Item 102

To Legislature - House of Representatives
 From General Fund 200
 Schedule of Programs:
 Administration 200

Item 103

To Legislature - Office of Legislative Research and General Counsel
 From General Fund 700
 Schedule of Programs:
 Administration 700

Item 104

To Legislature - Office of the Legislative Fiscal Analyst
 From General Fund 200
 Schedule of Programs:
 Administration and Research 200

Item 105

To Legislature - Office of the Legislative Auditor General
 From General Fund 300
 Schedule of Programs:
 Administration 300

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated. Outlays and expenditures from the recipient funds or accounts may be made without further legislative action according to a fund or account's applicable authorizing statute.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

DEPARTMENT OF PUBLIC SAFETY

Item 106

To Department of Public Safety - Alcoholic Beverage Control Act Enforcement Fund
 From Dedicated Credits Revenue 3,300
 Schedule of Programs:
 Alcoholic Beverage Control Act Enforcement Fund 3,300

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 107

To Department of Administrative Services - State Debt Collection Fund
 From Dedicated Credits Revenue 800
 Schedule of Programs:
 State Debt Collection Fund 800

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF COMMERCE

Item 108

To Department of Commerce - Real Estate Education, Research, and Recovery Fund
 From Licenses/Fees 100
 Schedule of Programs:
 Real Estate Education, Research, and Recovery Fund 100

Item 109

To Department of Commerce - Residential Mortgage Loan Education, Research, and Recovery Fund
 From Licenses/Fees 100
 Schedule of Programs:
 RMLERR Fund 100

EXECUTIVE APPROPRIATIONS

UTAH NATIONAL GUARD

Item 110

To Utah National Guard - National Guard MWR Fund
 From Dedicated Credits Revenue 200
 Schedule of Programs:
 National Guard MWR Fund 200

DEPARTMENT OF VETERANS' AND MILITARY AFFAIRS

Item 111

To Department of Veterans' and Military Affairs - Utah Veterans' Nursing Home Fund
 From Federal Funds 500
 Schedule of Programs:
 Veterans' Nursing Home Fund 500

Subsection 1(c). Business-like Activities.

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds as indicated estimated revenue from rates, fees, and other charges. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

UTAH DEPARTMENT OF CORRECTIONS

Item 112

To Utah Department of Corrections - Utah Correctional Industries
 From Dedicated Credits Revenue 7,600
 Schedule of Programs:
 Utah Correctional Industries 7,600

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF ADMINISTRATIVE SERVICES INTERNAL SERVICE FUNDS

Item 113

To Department of Administrative Services Internal Service Funds - Division of Finance
 From Dedicated Credits Revenue 1,900
 Schedule of Programs:
 ISF - Purchasing Card 100
 ISF - Consolidated Budget and Accounting 1,800

Item 114

To Department of Administrative Services Internal Service Funds - Division of Purchasing and General Services
 From Dedicated Credits Revenue 7,800
 Schedule of Programs:
 ISF - Central Mailing 5,300
 ISF - Cooperative Contracting 2,000
 ISF - Print Services 200
 ISF - State Surplus Property 300

Item 115

To Department of Administrative Services Internal Service Funds - Division of Fleet Operations
 From Dedicated Credits Revenue 2,400
 Schedule of Programs:
 ISF - Motor Pool 1,300
 ISF - Fuel Network 900

ISF - Travel Office 200

Item 116

To Department of Administrative Services Internal Service Funds - Risk Management
 From Risk Management - Workers Compensation Fund 300
 Schedule of Programs:
 ISF - Workers' Compensation 300

Item 117

To Department of Administrative Services Internal Service Funds - Division of Facilities Construction and Management - Facilities Management
 From Dedicated Credits Revenue 13,700
 Schedule of Programs:
 ISF - Facilities Management 13,700

DEPARTMENT OF TECHNOLOGY SERVICES INTERNAL SERVICE FUNDS

Item 118

To Department of Technology Services Internal Service Funds - Enterprise Technology Division
 From Dedicated Credits Revenue 73,800
 Schedule of Programs:
 ISF - Enterprise Technology Division ... 73,800

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF NATURAL RESOURCES

Item 119

To Department of Natural Resources - Internal Service Fund
 From Dedicated Credits Revenue 200
 Schedule of Programs:
 ISF - DNR Warehouse 200

DEPARTMENT OF AGRICULTURE AND FOOD

Item 120

To Department of Agriculture and Food - Agriculture Loan Programs
 From Agriculture Resource Development Fund 300
 From Utah Rural Rehabilitation Loan State Fund 100
 Schedule of Programs:
 Agriculture Loan Program 400

Subsection 1(d). Fiduciary Funds. The Legislature has reviewed proposed revenues, expenditures, fund balances and changes in fund balances for the following fiduciary funds.

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 121

To Department of Administrative Services - Utah Navajo Royalties Holding Fund
 From Revenue Transfers 2,700
 Schedule of Programs:

Utah Navajo Royalties Holding Fund 2,700

Section 2. Fees. Under the terms and conditions of Utah Code Title 63J Chapter 1 and other fee statutes as applicable, the following fees and rates are approved for the use and support of the government of the State of Utah for the Fiscal Year beginning July 1, 2016 and ending June 30, 2017.

**EXECUTIVE OFFICES AND
CRIMINAL JUSTICE**

GOVERNOR’S OFFICE

Lt. Governor’s Office
 Lobbyist Badge Replacement 10.00
 Government Records Access and Management Act
 Copy of Lobbyist List 10.00
 Copy of Election Results 35.00
 Copy of Complete Voter Information Database 1,050.00
 Custom Voter Registration Report (per hour) 90.00
 Photocopies (per page) 0.25
 International Postage 10.00
 Certifications
 Notary
 Notary Commission Filing 45.00
 Duplicate Notary Commission 15.00
 Domestic Notary Certification 15.00
 Notary Testing 30.00
 Apostille
 Apostille 15.00
 Non Apostille 15.00
 Authentication
 Expedited Processing
 Within two hours if presented before 3:00 p.m. 50.00
 End of next business day 25.00

**GOVERNOR’S OFFICE OF
MANAGEMENT AND BUDGET**

Operational Excellence
 Conference Registration (per unit / day) 75.00

**COMMISSION ON CRIMINAL
AND JUVENILE JUSTICE**

CCJJ Commission
 Judicial Nominating Committee
 Background Check Fee 10.00
 Utah Office for Victims of Crime
 Utah Crime Victims Conference 150.00
 Sundry Collections Variable
 Utah Victim Assistance Academy 500.00
 Extraditions
 Extraditions Services–Restitution Court Ordered

OFFICE OF THE STATE AUDITOR

STATE AUDITOR

Training (per hour) 20.00
 Professional Services Actual Cost

This fee is to reimburse the State Auditor for the actual costs of audit services provided.
 Record Access Fee Actual Cost

ATTORNEY GENERAL

Administration
 Government Records Access and Management Act
 Document certification 2.00
 CD Duplication (per CD) 5.00
 Plus actual staff costs
 DVD Duplication (per DVD) 10.00
 Plus actual staff costs
 Photocopies
 Non-color (per page) 0.25
 Color (per page) 0.40
 11 x 17 (per page) 1.00
 Odd size Actual cost
 Document faxing (per page) 1.00
 Long distance faxing for over 10 pages 1.00
 Record preparation Actual cost
 Record preparation 2.00
 Plus actual postage costs
 Other media Actual cost
 Other services Actual cost

UTAH DEPARTMENT OF CORRECTIONS

PROGRAMS AND OPERATIONS

Department Executive Director
 Government Records Access and Management Act (GRAMA) Fees (GRAMA fees apply to the entire Department of Corrections)
 Odd size photocopies (per page) Actual cost
 Fee entitled “Odd size photocopies” applies to the entire Department of Corrections.
 Document Certification 2.00
 Fee entitled “Document Certification” applies to the entire Department of Corrections.
 Local document faxing (per page) 0.50
 Fee entitled “Local Document Faxing” applies to the entire Department of Corrections.
 Long distance document faxing (per page) 2.00
 Fee entitled “Long Distance Document Faxing” applies to the entire Department Of Corrections.
 Staff time to search, compile, and otherwise prepare record Actual cost
 Fee entitled “Staff time to search, compile, and otherwise prepare record” applies to the entire Department of Corrections.
 Mail and ship preparation, plus actual postage costs Actual cost
 Fee entitled “Mail and ship preparation, plus actual postage costs” applies to the entire Department of Corrections.
 CD Duplication (per CD) 5.00
 Fee entitled “CD Duplication” applies to the entire Department of Corrections.
 DVD Duplication (per DVD) 10.00
 Fee entitled “DVD Duplication” applies to the entire Department of Corrections.

Other media Actual cost
 Fee entitled "Other Media" applies to the entire Department of Corrections.

Other services Actual cost
 Fee entitled "Other Services" applies to the entire Department of Corrections.

8.5 x 11 photocopy (per page) 0.25
 Fee entitled "8.5 x 11 photocopy" applies to the entire Department of Corrections.

Parole/Probation Supervision
 OSDC Supervision Collection 30.00
 Fee entitled "OSDC Supervision Collection" applies for the entire Department of Corrections.

Resident Support 6.00
 Fee entitled "Resident Support" applies for the entire Department of Corrections.

Department Wide
 Restitution for Prisoner Damages .. Actual cost
 Fee entitled "Restitution for Prisoner Damages" applies for the entire Department of Corrections.

False Information Fines .. Range: \$1 - \$84,200
 Fee entitled "False Information Fines" applies for the entire Department of Corrections.

Sale of Services Actual cost
 Fee entitled "Sale of Services" applies for the entire Department of Corrections.

Inmate Leases & Concessions 11.00
 Fee entitled "Inmate Leases & Concessions" applies for the entire Department of Corrections.

Patient Social Security Benefits
 Collections Amount Based on Actual Collected
 Fee entitled "Patient Social Security Benefits Collections" applies for the entire Department of Corrections.

Sale of Goods and Materials Actual cost
 Fee entitled "Sale of Goods & Materials" applies for the entire Department of Corrections.

Buildings Rental Contractual
 Fee entitled "Building Rental" applies for the entire Department of Corrections.

Victim Rep Inmate Withheld Range: \$1 - \$50,000
 Fee entitled "Victim Rep Inmate Withheld" applies for the entire Department of Corrections.

Sundry Revenue Collection Miscellaneous collections
 Fee entitled "Sundry Revenue Collection" applies for the entire Department of Corrections.

Offender Tuition
 Offender Tuition Payments Actual cost
 Fee entitled "Offender Tuition Payments" applies to the entire Department of Corrections.

DEPARTMENT MEDICAL SERVICES

Medical Services

Medical
 Prisoner Various Prostheses Co-pay ... 1/2 cost
 Inmate Support Collections Actual cost

UTAH CORRECTIONAL INDUSTRIES

UCi
 Sale of Goods and Materials .. Cost plus profit
 Sale of Services Cost plus profit

BOARD OF PARDONS AND PAROLE

Records Copies (per page) 0.25
 Audiotape of Hearing 10.00
 Government Records Access and Management Act Response Actual cost
 Copies over 100 pages
 CD 10.00

DEPARTMENT OF HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

PROGRAMS AND OPERATIONS

Administration
 Government Records Access and Management Act Paper (per side of sheet) 0.25
 Audio tape (per tape) 5.00
 Video tape (per tape) 15.00
 Mailing Actual cost
 Compiling and reporting in another format (per hour) 25.00
 Programmer/analyst assistance required (per hour) 50.00

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR

ADMINISTRATION

Administrative Office
 Microfiche (per card) 1.00
 Email
 Up to 10 pages 5.00
 After 10 pages (per page) 0.50
 Audio tape 10.00
 Video tape 15.00
 CD 10.00
 Reporter Text (per half day) 25.00
 Personnel time after 15 min (per 15 minutes) Cost of Employee Time
 Electronic copy of Court Proceeding (per half day) 10.00
 Court Records Online
 Subscription
 Over 200 records (per search) 0.10
 200 records (per month) 30.00
 Online Services Setup 25.00
 Fax
 Up to 10 pages 5.00
 After 10 pages (per page) 0.50
 Mailings Actual cost
 Preprinted Forms Cost based on number and size
 State Court Administrator
 Copies (per page) 0.25

DEPARTMENT OF PUBLIC SAFETY

PROGRAMS & OPERATIONS

Department Commissioner's Office	
Courier Delivery	Actual cost
Fax (per page)	1.00
Mailing	Actual cost
Audio/Video/Photos (per CD)	25.00
Developed photo negatives (per photo)	1.00
Printed Digital Photos (per paper)	2.00
1, 2, or 4 photos per sheet (8x11) based on request	
Department Sponsored Conferences	
Registration (per registration)	275.00
Late Registration (per registration)	300.00
Vendor Fee (per Vendor)	700.00
Copies	
Color (per page)	1.00
Over 50 pages (per page)	0.50
1-10 pages	5.00
11-50 pages	25.00
Miscellaneous Computer Processing (per hour)	Cost of Employee Time
CITS Bureau of Criminal Identification	
Concealed Firearm Permit Instructor	
Registration	25.00
Board of Pardons Expungement	
Processing	50.00
TAC Conference Registration	100.00
Fingerprint Services	15.00
Print Other State Agency Cards	5.00
State Agency ID set up	50.00
Child ID Kits	1.00
Extra Copies Rap Sheet	15.00
Extra Fingerprint Cards	5.00
Automated Fingerprint Identification	
System Database Retention	5.00
Concealed weapons permit renewal	
Utah Interactive Convenience Fee	0.75
Photos	15.00
Application for Removal From White Collar Crime Registry	
Sex Offender Kidnap Registry	
Application for removal from registry	168.00
Eligibility Certificate for removal from registry	25.00
Expungements	
Special certificates of eligibility	56.00
Application	50.00
Certificate of Eligibility	56.00
CITS State Crime Labs	
Additional DNA Casework per sample - full analysis	894.00
DNA Casework per sample - Quantitation only	459.00
Drugs - controlled substances per item of evidence	355.00
Fingerprints per item of evidence	345.00
Serology/Biology per item of evidence	335.00
Training Course Materials	
Reimbursement (per 250)	250.00
Training Course Materials Reimbursement	
Highway Patrol - Administration	

Online Traffic Reports Utah	
Interactive Convenience Fee	2.50
UHP Conference Registration Fee	250.00
Photogramatry	100.00
Cessna (per hour)	155.00
Plus meals and lodging. Does not exceed fee amount.	
Helicopter (per hour)	1,350.00
Plus meals and lodging. Does not exceed fee amount.	
Court order requesting blood samples be sent to outside agency	40.00
Highway Patrol - Safety Inspections	
Safety Inspection Program	
Inspection Station	
Permit application fee	100.00
Station physical address change	100.00
Replacement of lost permit	2.25
Safety Inspection Manual	5.50
Stickers (book of 25)	4.50
Sticker reports (book of 25)	3.00
Inspection certificates for passenger/light truck (book of 50)	3.00
Inspection certificates for ATV (book of 25)	3.00
Inspector	
Certificate application fee	7.00
Valid for 5 years	
Certificate renewal fee	4.50
Replacement of lost certificate	1.00
Highway Patrol - Federal/State Projects	
Transportation and Security Details (per hour)	100.00
Plus mileage. Does not exceed fee amount.	
Fire Marshall - Fire Operations	
Inspection For Fire Clearance	
Re-Inspection Fee (per Re-Inspection)	250.00
Liquid Petroleum Gas	
License	
Class I	450.00
Class II	450.00
Class III	105.00
Class IV	150.00
Branch Office	338.00
Duplicate	30.00
Examination	30.00
Re-examination	30.00
Five Year Examination	30.00
Certificate	40.00
Dispenser Operator B	20.00
Plan Reviews	
More than 5000 gallons	150.00
5000 water gallons or less	75.00
Special inspections (per hour)	50.00
Re-inspection	250.00
3rd inspection or more	
Private Container Inspection	
More than one container	150.00
One container	75.00
Portable Fire Extinguisher and Automatic Fire Suppression Systems	
License	300.00
Combination	150.00
Branch Office License	150.00
Certificate of Registration	40.00
Duplicate Certificate of Registration	40.00

License Transfer	50.00
Application for exemption	150.00
Examination	30.00
Re-examination	30.00
Five year examination	30.00
Automatic Fire Sprinkler Inspection and Testing	
Certificate of Registration	30.00
Examination	20.00
Re-examination	20.00
Three year extension	20.00
Fire Alarm Inspection and Testing	
Certificate of Registration	40.00
Examination	30.00
Re-examination	30.00
Three year extension	30.00

EMERGENCY MANAGEMENT

PIO Conference Registration Fees	225.00
PIO Conference Late Registration Fee	250.00
PIO Half Conference Registration Fee	100.00
PIO Conference Guest Fee	200.00
Utah Expo Registration Fee	5.00

PEACE OFFICERS' STANDARDS AND TRAINING

Basic Training	
Cadet Application	
Satellite Academy Technology Fee	25.00
Online Application Processing Fee	35.00
Rental	
Pursuit Interventions Technique	
Training Vehicles	100.00
Firing Range	300.00
Shoot House	150.00
Camp William Firing Range	200.00
Dorm Room	10.00
K-9 Training (out of state agencies)	2,175.00
Duplicate POST Certification	5.00
Duplicate Certificate, Wallet Card	5.00
Duplicate Radar or Intox Card	2.00
Peace Officers' Standards and Training (POST)	
Reactivation/Waiver	75.00
Supervisor Class	50.00
West Point Class	150.00
Law Enforcement Officials and	
Judges Firearms Course	1,000.00

DRIVER LICENSE

Driver License Administration	
Commercial Driver School	
License	
Original	100.00
Annual Renewal	100.00
Duplicate	10.00
Instructor	30.00
Annual Instructor Renewal	20.00
Duplicate Instructor	6.00
Branch Office Original	30.00
Branch Office Annual Renewal	30.00
Branch Office Reinstatement	75.00
Instructor/Operation Reinstatement	75.00
School Reinstatement	75.00
Commercial Driver License Intra-state	
Medical Waiver	25.00

Certified Record	
first 15 pages	10.75
Includes Motor Vehicle Record	
16 to 30 pages	15.75
Includes Motor Vehicle Record	
31 to 45 pages	20.75
Includes Motor Vehicle Record	
46 or more pages	25.75
Includes Motor Vehicle Record	
Copy of Full Driver History	7.00
Copies of any other record	5.00
Includes tape recording, letter, medical	
copy, arrests	
Verification	
Driver Address Record Verification	3.00
Validate Service	0.75
Pedestrian Vehicle Permit	13.00
Citation Monitoring Verification	0.06
Ignition Interlock System	
License	
Provider	
Original	100.00
Annual Renewal	100.00
Duplicate	10.00
Provider Branch Office Inspection ...	30.00
Provider Branch Office Annual	
Inspection	30.00
Installer	
Original	30.00
Annual Renewal	30.00
Duplicate	6.00
Provider	
Reinstatement	75.00
Installer	75.00
Driver Services	
Commercial Driver License third party testing	
License	
Original Tester	100.00
Annual Tester Renewal	100.00
Duplicate Tester	10.00
Original Examiner	30.00
Annual Examiner Renewal	20.00
Duplicate Examiner	6.00
Examiner Reinstatement	75.00
Tester Reinstatement	75.00
Driver Records	
Online services	3.00
Utah Interactive Convenience Fee	

INFRASTRUCTURE AND GENERAL GOVERNMENT

TRANSPORTATION

SUPPORT SERVICES

Administrative Services	
Express Lane - Administrative Fee	2.85
Tow Truck Driver Certification	200.00
Access Management Application	
Type 1	75.00
Type 2	475.00
Type 3	1,000.00
Type 4	2,300.00
Access Violation Fine (per day)	100.00
Encroachment Permits	

Landscaping	30.00
Manhole Access	30.00
Inspection (per hour)	60.00
Overtime Inspection (per hour)	80.00
Utility Permits	
Low Impact	30.00
Medium Impact	135.00
High Impact	300.00
Excess Impact	500.00
Express Lanes	
Variable priced toll	Between \$0.25 - \$1.00

**OPERATIONS/MAINTENANCE
MANAGEMENT**

Region 4	
Lake Powell Ferry Rates	
Foot passengers	10.00
Motorcycles	15.00
Vehicles under 20'	25.00
Vehicles over 20' (per additional foot)	1.50
Traffic Safety/Tramway	
Tramway Registration	
Two-car or Multicar Aerial Passenger Tramway	
Aerial Tramway - 101 Horse Power	
or over	2,030.00
Aerial Tramway - 100 Horse Power	
or under	1,010.00
Tramway Surcharge for winter and	
summer use	15%
This is a surcharge to the registration fee	
for passenger ropeways that are operated	
year round. 15% will be added to the	
registration fee for those ropeways.	
Chair Lift	
Fixed Grip	
2 passenger	630.00
3 passenger	750.00
4 passenger	875.00
Conveyor, Rope Tow	260.00
Funicular - single or double	
reversible	2,030.00
Rope Tow, J-bar, T-bar, or	
platter pull	260.00
Detachable Grip Chair or Gondola	
3 passenger	1,510.00
4 passenger	1,625.00
6 passenger	1,750.00
8 passenger	1,880.00
Gondola - cabin capacity	
from 5 to 8	1,010.00
Gondola - cabin capacity	
greater than 8	2,030.00

AERONAUTICS

Administration	
Airport Licensing	10.00
Airplane Operations	
Aircraft Rental	
Cessna (per hour)	195.00
King Air C90B (per hour)	935.00
King Air B200 (per hour)	1,200.00

DOT NON-BUDGETARY

XYD DOT MISCELLANEOUS REVENUE

Event Coordination, Inspection and	
Monitoring (Regular Hours)	
(per Hour)	60.00
Event Coordination, Inspection and	
Monitoring (NonRegular Hours)	
(per Hour)	80.00
Special Event Application Review	
(Single Region) (per Event)	250.00
Special Event Application Review	
(Multi-Region) (per Event)	500.00
Expedited Review Fee (per Event)	600.00
Outdoor Advertising	
New Permit (R299 Form) (per year)	950.00
Permit Renewal & Admin Services Fee ..	90.00
Permit Renewal Late Fee (per Sign) ..	300.00
Sign Alteration Permit (R407 Form)	
(per Sign)	950.00
Transfer of Ownership Permit	250.00
Retroactive Permit Fee Penalty	
(per Sign)	250.00
Impound and Storage Fees	25.00

**DEPARTMENT OF
ADMINISTRATIVE SERVICES**

EXECUTIVE DIRECTOR

Government Records Access and Management Act	
Electronic copies, material cost	
(per DVD)	0.30
Photocopies, black & white (per Copy) ..	0.10
Photocopies, color (per Copy)	0.25
Photocopy labor cost (per	
Utah Statute 63G-2-203(2))	
(per page)	Actual Cost
Certified copy of a document	
(per certification)	4.00
Long distance fax within US (per	
fax number)	2.00
Long distance fax outside US (per	
fax number)	5.00
Electronic Documents (per USB (GB)) ..	Actual
Cost	
Mail within US (per address)	2.00
Mail outside US (per address)	5.00
Research or services	Actual cost
Extended research or service	Actual cost
Electronic Copies, Material	
cost (per CD)	0.30
Parental Defense	
Parental Defense Fund - Parental	
Defense Conference Fee (per Person) ..	100.00

DFCM ADMINISTRATION

Program Management	
Non-state Funded Project Fees	
Projects <\$100K (per Project)	3.5%
Projects >= \$100K and <\$500K	
(per Project) ..	\$3500 + 1.5% over \$100,000
Projects >= \$500K and <\$2.5M	
(per Project) ..	\$9500 + 0.75% over \$500,000
Projects >= \$2.5M and <\$10M	
(per Project) ..	\$24,500 + 0.5% over \$2,500,000
Projects >= \$10M and <\$50M (per Project)	
\$62,000 + .15% over \$10,000,000	
Projects >= \$50M (per Project)	
\$122,000 + 0.1% over \$50,000,000	

STATE ARCHIVES

Archives Administration	
Data Base Download (plus Work Setup Fee) (per Record)	0.10
Preservation Services	
Work Setup Fee (WSF)	17.00
Microfiche production fee per image plus (WSF) (per image)	0.045
Newspaper filming per page plus (WSF) (per image)	0.30
General	
16mm master film	13.00
Digital Copies of Electronic Rolls of Microfilm plus medium cost	10.00
35mm master film	35.00
16mm diazo duplicate copy	12.00
35mm diazo duplicate copy	14.00
16mm silver duplicate copy	30.00
35mm silver duplicate copy	24.00
Frames filmed (Standard)	0.05
Frames filmed (Custom)	0.08
Books filmed (per Page)	0.15
Electronic image to microfilm (per Reel)	45.00
Microfilm to CD/DVD/USB (per reel)	40.00
Microfilm Lab Processing Setup Fee	5.00
Microfilm to digital PDF conversion	5.00
Patron Services	
Copy - Paper to PDF (copier use by patron)	0.05
Digital Collection Setup Host fee	300.00
Local Commercial License	10.00
National Commercial License	50.00
Copy - Paper to PDF (copier use by staff)	0.25
General	
Certified Copy of a Document	4.00
Photo Reproductions	
Digital Imaging 300 dpi or higher	10.00
Mailing and Fax Charges	
Within USA	
Mailing in USA - 1 to 10 Pages	3.00
Mailing in USA - Microfilm 1 to 2 Reels	4.00
Mailing in USA - Each additional Microfilm Reel	1.00
Mailing in USA - CD/DVD/USB	4.00
Mailing in USA - Add Postage for each 10 pages	1.00
International	
Mailing International - 1 to 10 pages	5.00
Mailing International - Each additional 10 pages	1.00
Mailing International - Microfilm 1 to 2 Reels	6.00
Mailing International - Each additional Microfilm Reel	2.00
Mailing International - CD/DVD/USB	6.00
Fax	
International Fax Fee (plus copy charge)	5.00
Plus copy charge	
Long Distance Fax (plus copy charge)	2.00
Plus copy charge	
Local Fax (plus copy charge)	1.00

Plus copy charge	
Copy Charges	
Audio	
Copy Charges - Audio Recordings	10.00
Price excludes cost of medium	
Documents	
Copy Charges - 11 x 14 and 11 x 17 by staff, limit 50	0.50
Copy Charges - 11 x 14 and 11 x 17 by patron	0.25
8.5x11	
Copy - 8.5 x 11 by staff, limit 50	0.25
Copy - 8.5 x 11 by patron	0.10
Microfilm/Microfiche	
Digital	
Copy - Digital by staff, limit 25	1.00
Copy - Digital by patron	0.15
Paper	
Copy Microfilm - Paper by staff, limit 25	1.00
Copy Microfilm - Paper by patron	0.25
Video	
Copy Video - Video Recording (excludes cost of medium)	20.00
Price excludes cost of medium	
Other	
Archivist Handling fee (per hr.) (per hour)	At Cost
Special Request	At Cost
Supplies	
Supplies - USB Flash Drive (per gigabyte)	5.00
Supplies - CD (per disk)	0.30
Supplies - DVD (per disk)	0.40
Electronic File on-line (per File)	2.50

FINANCE ADMINISTRATION

Finance Director's Office	
Transparency	
Utah Public Finance Website	
large data download	1.00
Revenue kept by Utah Interactive up to \$10,000. \$1 per download	
Payroll	
Duplicate W-2	5.00
SAP E-learn Services	90,000.00
Payables/Disbursing	
Disbursements	
Tax Garnishment Request	10.00
Payroll Garnishment Request	25.00
Collection Service	15.00
IRS Collection Service	25.00
Financial Reporting	
Loan Servicing	125.00
ISF Accounting Services	Actual cost
Cash Mgt Improvement Act Interest	
Calculation	Actual cost
Bond Accounting Services	Actual cost
Single Audit Billing to State Auditor's Office	Actual Cost
Financial Information Systems	
Credit Card Payments	Variable
Contract rebates	
Automated Payables (per Invoice Page)	0.25
UDOT Actual cost	

STATE DEBT COLLECTION FUND

Attorney / Legal fee \$100 per hour
 Office of State Debt Collection
 Collection Penalty 6.0%
 Labor Commission Wage Claim Attorney Fees
 Labor Commission Wage Claims Variable
 10% of partial payments; 1/3 of claim or
 \$500, whichever is greater for full payments
 Collection Interest Prime + 2%
 Post Judgment Interest Variable
 Administrative Collection 18%
 18% of amount collected (21.95% effective
 rate)
 Non sufficient Check Collection 20.00
 Non sufficient Check Service Charge 20.00
 Garnishment Request Actual cost
 Legal Document Service Actual Cost
 Greater of \$20 or Actual
 Credit card processing fee charged to
 collection vendors 1.75%
 Court Filing, Deposition/Transcript /
 Skip Tracing Actual cost

DEPARTMENT OF ADMINISTRATIVE SERVICES INTERNAL SERVICE FUNDS

DIVISION OF FINANCE

ISF - Purchasing Card
 Purchasing Card Variable
 Contract rebates
 ISF - Consolidated Budget and Accounting
 Basic Accounting and Transactions
 (per hour) 36.00
 Financial Management (per hour) 65.00

DIVISION OF PURCHASING AND GENERAL SERVICES

ISF - Central Mailing
 Business Reply/Postage Due 0.09
 Special Handling/Labor (per hour) 50.00
 Auto Fold 0.01
 Label Generate 0.022
 Label Apply 0.019
 Auto Tab 0.016
 Meter/Seal 0.017
 Federal Meter/Seal 0.014
 Optical Character Reader 0.017
 Mail Distribution (per Mail Piece) 0.065
 Accountable Mail 0.18
 Task Distribution Rate 0.012
 Additional Insert 0.004
 Intelligent Inserting 0.025
 ISF - Cooperative Contracting
 Cooperative Contracts Administrative Up to 1.0%
 ISF - Print Services
 Contract Management (per impression) 0.005
 Self Service Copy Rates 0.004
 Cost computed by: (Depreciation +
 Maintenance + Supplies)/Impressions + copy
 multiplied impressions results
 ISF - State Surplus Property
 Surplus

Surcharge for use of a Financial Transaction Card
 3% of purchase amount
 Surcharge applies only to the amount
 charged to a financial transaction card
 Online Sales Non-Vehicle . 50% of net proceeds
 Miscellaneous Property Pick-up Process
 State Agencies
 Total Sales Proceeds See formula
 Less prorated rebate of retained earnings
 Handheld Devices (PDAs and wireless phones)
 Less than 1 year old 75% of actual cost
 \$30 minimum
 1 year and older . . 50% of cost - \$30 minimum
 Unique Property Processing . . Negotiated % of
 sales price
 Electronic/Hazardous Waste
 Recycling Actual cost
 Vehicles and Heavy Equipment 6.5% of Net Sale
 Price plus \$100 per Vehicle
 Default Auction Bids 10% of sales price
 Labor (per hour) 26.00
 Half hour minimum
 Copy Rates (per copy) 0.10
 Semi Truck and Trailer Service
 (per mile) 1.08
 Two-ton Flat Bed Service (per mile) 0.61
 Forklift Service (per hour) 23.00
 4-6000 lbs
 On-site sale away from Utah State Agency
 Surplus Property yard . . . 7% of net sale price
 Storage
 Building (per cubic foot per month) 0.43
 Fenced lot (per square foot per month) 0.23
 Accounts receivable late fees
 Past 30 days 5% of balance
 Past 60 days 10% of balance
 ISF - Federal Surplus Property
 Surplus
 Federal Shipping and handling
 charges See formula
 Not to exceed 20% of federal acquisition cost
 plus freight/shipping charges
 Accounts receivable late fees
 Past 30 days 5% of balance
 Past 60 days 10% of balance

DIVISION OF FLEET OPERATIONS

ISF - Motor Pool
 Telematics GPS tracking Actual cost
 Commercial Equipment Rental Cost plus \$12 Fee
 Administrative Fee for Do-Not Replace Vehicles
 (per Month) 51.29
 Service Fee (per 12) \$12 Service Fee
 General MP Info Research Fee
 (per 12) \$12 Per Hour
 Lost or damaged fuel/maint card
 replacement fee (per 2) \$2 Fee
 Vehicle Complaint Processing Fee (per 20) \$20 Fee
 Operator negligence and vehicle abuse fees (per 0)
 Varies (abuse or driver neglect cases only)
 Lease Rate
 Sedans (per month, per vehicle) . . . See formula
 Model Year 2013 contract price less 18%
 salvage value divided by current adjusted life
 cycle + admin fee + fleet MIS fee + AFV fee (if
 light duty) + mileage fee.)

Select trucks, vans, SUVs (per month, per vehicle)	See formula
Model Year 2013 contract price less 21% salvage value divided by current adjusted life cycle + admin fee + fleet MIS fee + AFV fee (if light duty) + mileage fee.	
All other vehicles (per month, per vehicle)	See formula
Model Year 2013 contract price less 17% salvage value divided by current adjusted lifecycle + admin fee + fleet MIS fee + AFV fee (if light duty) + mileage fee.	
Mileage	See formula
Maintenance and repair costs for a particular class of vehicle, divided by total miles for that class	
Fuel Pass-through	Actual cost
Equipment rate for Public Safety vehicles	Actual cost
Fees for agency owned vehicles	
Seasonal Mgt Information System and Alternative Fuel Vehicle only (per month)	10.90
Management Information System and Alternative Fuel Vehicle only (per month)	10.90
Management Information System only (per month)	2.72
Additional Management	
Daily Pool Rates - Actual Cost From Vendor Contract - Actual Cost	Actual Cost
Administrative Fee for Overhead	48.57
Alternative Fuel	3.63
Light duty only	
Management Information System (per month)	2.72
Vehicle Feature and Miscellaneous	
Equipment Upgrade	Actual cost
Vehicle Class Differential	
Upgrade	Actual cost
Bad Odometer Research	50.00
Operator fault	
Vehicle Detail Cleaning Service	40.00
Premium Fuel Use (per gallon)	0.20
Excessive Maintenance, Accessory Fee	Variable
Accounts receivable late fee	
Past 30-days	5% of balance
Past 60-days	10% of balance
Past 90-days	15% of balance
Accident deductible rate charged (per accident)	Actual cost
Operator negligence and vehicle abuse	Variable
Higher Ed Mgt. Info Sys. & Alternative Fuel Vehicle Mo. (per vehicle)	6.33
Statutory Maintenance Non-Compliance	
10 days late (per vehicle per month) . .	100.00
20 days late (per vehicle per month) . .	200.00
30+ days late (per vehicle per month)	300.00
Seasonal Use Vehicle Lease	155.02
Operator Incentives	
Operator Incentives Alternative Fuel Rebate (per gallon)	0.20
ISF - Fuel Network	
Charge (per gallon)	0.065

greater than or equal to 60,000 gal./yr	
Charge at low volume sites (per gallon)	0.065
less than 60,000 gal./yr.	
Percentage of transaction value at	
all sites	3.0%
Accounts receivable late fee	
Past 30 days	5% of balance
Past 60 days	10% of balance
Past 90 days	15% of balance
CNG Maintenance and Depreciation (per gallon)	1.15
ISF - Travel Office	
Travel	
Travel Agency Service	
Regular	25.00
Online	15.00
State Agent	20.00
Group	
16-25 people	22.50
26-45 people	20.00
46+ people	17.50
School District Agent	15.00

RISK MANAGEMENT

ISF - Risk Management Administration	
Liability Premiums	
Administrative Services	412,836.00
Agriculture	42,537.00
Alcoholic Beverage Control	89,311.00
Attorney General's Office	165,404.00
Auditor	12,572.00
Board of Pardons	12,674.00
Capitol Preservation Board	11,334.00
Career Service Review Office	623.00
Commerce	89,920.00
Commission on Criminal and Juvenile Justice	5,956.00
Heritage and Arts	36,057.00
Corrections	751,058.00
Courts	335,043.00
Utah Office for Victims of Crime	4,182.00
Education	230,470.00
Deaf and Blind School	72,779.00
Environmental Quality	118,423.00
Fair Park	17,278.00
Financial Institutions	15,147.00
Governor	29,760.00
Governor's Office of Management and Budget	26,295.00
Governor's Office of Economic Development	86,599.00
Health	377,919.00
Heber Valley Railroad	3,134.00
House of Representatives	10,601.00
Human Resource Management	36,325.00
Human Services	758,922.00
Labor Commission	30,862.00
Insurance	151,738.00
Legislative Fiscal Analyst	9,228.00
Legislative Auditor	8,417.00
Legislative Printing	1,319.00
Legislative Research & General Counsel	20,167.00
Medical Education Council	
National Guard	106,895.00
Natural Resources	347,773.00

Public Lands	14,502.00
Public Safety	480,862.00
Public Service Commission	11,077.00
School and Institutional Trust	
Lands	23,155.00
Senate	6,214.00
Tax Commission	163,680.00
Technology Services	225,603.00
Treasurer	6,765.00
Utah Communications Network	9,222.00
Utah Science and Technology	
and Research	7,840.00
Veteran's Affairs	5,012.00
Workforce Services	396,884.00
Transportation	2,471,000.00
Board of Regents	68,396.00
Dixie State University	139,526.00
Salt Lake Community College	234,328.00
Snow College	82,125.00
Southern Utah University	150,101.00
Bridgerland Applied Technology	
College	28,479.00
Davis Applied Technology College ...	31,069.00
Ogden Weber Applied Technology	
College	32,216.00
Uintah Basin Applied Technology	
College	23,268.00
Tooele Applied Technology College ...	6,819.00
Dixie Applied Technology College ...	9,846.00
Mountainland Applied Technology	
College	16,534.00
Southwest Applied Technology	
College	9,570.00
University of Utah	1,370,353.00
Utah State University	542,179.00
Utah Valley University	407,741.00
Weber State University	312,685.00
School Districts	4,685,886.00
Property Insurance Rates	
Net Estimated Premium	17,093,905.00
Gross Premium for Buildings	
Existing Insured Buildings	
Existing Insured Buildings	See formula
Building value as determined by Risk Mgt.	
& owner as of June 2015 multiplied by the	
Marshall & Swift Valuation Service rates as	
of March 2015 associated w/ Building	
Construction Class, Occupancy Type,	
Building Quality, & Fire Protection Code	
Newly Insured Buildings	
Newly Insured Buildings	See formula
Building value as determined by Risk Mgt.	
& owner as of insured date multiplied by the	
Marshall & Swift Valuation Service rates as	
of March 2015 associated w/ Building	
Construction Class, Occupancy Type,	
Building Quality, & Fire Protection Code	
Building Demographic Discounts	
Fire Suppression Sprinklers ..	15% discount
Smoke alarm/Fire detectors ...	5% discount
Flexible water/Gas connectors .	1% discount
Surcharges	
Lack of compliance with Risk Mgt.	
recommendations	10% surcharge
Building built prior to 1950	10% surcharge
Agency Discount1	63.5% discount
Agency Discount2	See formula

Agency specific discount negotiated w/ Risk	
Mgt	
Gross Premium for Contents	
Existing Insured Buildings	
Existing Insured Buildings	See formula
Content value as determined by owner as of	
June 2015 multiplied by the Marshall & Swift	
Valuation Service rates as of March 2015	
associated w/ Building Construction Class,	
Occupancy Type, Building Quality, & Fire	
Protection Code	
Newly Insured Buildings	
Newly Insured Buildings	See formula
Content value as determined by owner as of	
insured date multiplied by the Marshall &	
Swift Valuation Service rates as of March	
2015 associated w/ Building Construction	
Class, Occupancy Type, Building Quality, &	
Fire Protection Code	
Gross Premium Discounts/Penalties	
Non-Compliance Penalty - Meeting	
Minutes	5% Penalty
Up to 5% penalty for non-compliance with	
Risk loss control activities, namely	
submitting Risk Control meeting minutes on	
a quarterly basis.	
Non-Compliance Penalty - Self Inspection	
Survey	10% Penalty
Up to 10% penalty for non-compliance with	
Risk loss control activities, namely	
submitting the annual Self Inspection	
Survey.	
Specialized Lines of Coverage	See Formula
Specialized lines of insurance outside of	
typical coverage lines. Pass through costs	
direct from insurance provider.	
Automobile/Physical Damage Premiums	
Public Safety rate for value less than	
\$35,000 (per vehicle)	175.00
Higher Education rate for value less	
than \$35,000 (per vehicle)	125.00
Other state agency rate for value	
less than \$35,000 (per vehicle)	150.00
School bus rate (per vehicle)	200.00
School district rate for value less	
than \$35,000 (per vehicle)	50.00
Rate for value more than \$35,000	
(per \$100 of value)	0.80
Other vehicles or related equipment	
State and Higher Education	
(per vehicle)	75.00
School District (per vehicle)	50.00
Standard deductible (per incident)	1,500.00
Up to this amount with discounts available	
for compliance with specifically identified	
Risk Management loss control activities.	
Workers Compensation Rates	
UDOT	1.25% per \$100 wages
State Agencies	0.70% (except UDOT)
Aviation (per PILOT-YEAR)	\$2,200
Course of Construction Premiums	
Rate per \$100 of value	0.053
Charged for half of a year	
Charter Schools	
Liability (\$2 million coverage)	

Charter School Pre-opening Liability	
Coverage (per School)	1,000.00
\$1,000 minimum (per student)	8.00
Property (\$1,000 deductible per occurrence)	
Cost per \$100 in value, \$100	
minimum	0.10
Comprehensive/Collision (\$500	
deductible per occurrence)	
Cost per year per vehicle	150.00
Employee Dishonesty Bond (per year) ...	250.00

**DIVISION OF FACILITIES CONSTRUCTION
AND MANAGEMENT - FACILITIES
MANAGEMENT**

Alcoholic Beverage Control Stores ..	1,286,145.20
Price Public Safety	38,680.00
Ogden Juvenile Court - New	444,038.00
Garage-Administrative Staff	42.00
Garage - Apprentice Maintenance	39.00
Garage-Electronic Resource	42.00
Garage-Facilities Manager	52.00
Garage-Groundskeeper II	32.00
Garage - Grounds Manager	38.00
Garage-Grounds Supervisor	34.00
Garage-Journey Electrician	50.00
Garage-Journey HVAC	47.00
Garage-Journey Maintenance	44.00
Garage-Maintenance Supervisor	47.00
Garage-Mechanic	38.00
Garage-Office Technician	36.00
Garage-Temp Groundskeeper	19.00
Wasatch Courts	14,605.44
Chase Home	17,428.00
ICAP Building	26,986.00
Vernal DNR	80,394.00
Clearfield Warehouse C6 -	
Archives	167,010.00
Clearfield Warehouse C7 -	
DNR/DPS	82,160.00
Cedar City A P & P	23,404.00
N UT Fire Dispatch Center	30,438.66
UCAT Admin	32,880.00
Veteran's Memorial Cemetery	24,464.00
Alcoholic Beverage Control	
Administration	685,415.00
Juab County Court	50,826.00
Agriculture	356,706.00
Adult Probation and Parole	
Freemont Office Building	192,375.00
Archives	110,619.00
Brigham City Court	169,400.00
Brigham City Regional Center	412,059.00
Calvin Rampton Complex	1,602,863.00
Cannon Health	960,515.00
Capitol Hill Complex	3,809,700.00
Cedar City Courts	103,520.00
Cedar City Regional Center	72,008.00
Department of Administrative	
Services Surplus Property	59,747.00
Department of Public Safety	
DPS Crime Lab	42,000.00
Drivers License	154,064.00
Farmington Public Safety	68,425.00
Division of Motor Vehicles Fairpark ...	43,437.00
Dixie Drivers License	50,300.00
Driver License West Valley	98,880.00

Division of Services for the Blind	
and Visually Impaired Training	
Housing	49,736.00
Farmington 2nd District Courts	537,465.00
Glendinning Fine Arts Center	45,000.00
Governor's Residence	152,156.00
Heber M. Wells	858,321.00
Highland Regional Center	331,766.40
Human Services	
Clearfield East	127,306.00
Ogden Academy Square	299,834.00
Vernal	60,225.00
Layton Court	80,896.00
Logan 1st District Court	379,267.00
Medical Drive Complex	331,230.00
Moab Regional Center	112,533.00
Murray Highway Patrol	141,738.00
National Guard Armories	390,721.00
Natural Resources	745,072.00
Natural Resources Price	96,414.00
Natural Resources Richfield	
(Forestry)	1,000.00
Navajo Trust Fund Administration ...	132,640.00
Office of Rehabilitation Services	204,156.00
Ogden Court	467,740.00
Ogden Juvenile Court-Old	166,045.00
Ogden Regional Center	646,299.00
Orem Circuit Court	90,792.00
Orem Public Safety	105,640.00
Orem Region Three Department of	
Transportation	141,192.00
Provo Court	299,400.00
Provo Juvenile Courts	173,940.00
Provo Regional Center	664,011.00
Public Safety Depot Ogden	27,236.00
Richfield Court	82,289.00
Richfield Dept. of Technology	
Services Center	39,000.00
Richfield Regional Center	75,499.00
Rio Grande Depot	397,565.00
Salt Lake Court	1,868,160.00
Salt Lake Government Building #1 ...	972,934.00
Salt Lake Regional Center -	
1950 West	215,571.00
St. George Courts	465,353.00
St. George DPS	49,572.00
St. George Tax Commission	64,224.00
State Library	183,714.00
State Library State Mail	156,261.00
State Library visually impaired	124,027.00
Taylorsville Center for the Deaf	138,681.00
Taylorsville Office Building	185,250.00
Tooele Courts	311,351.00
Unified Lab	789,863.00
Utah Arts Collection	43,900.00
Utah State Office of Education	410,669.00
Utah State Tax Commission	928,200.00
Vernal 8th District Court	248,649.00
Vernal Division of Services for	
People with Disabilities	31,330.00
Vernal Juvenile Courts	20,256.00
Vernal Regional Center	28,820.72
West Jordan Courts	487,796.00
West Valley 3rd District Court	118,350.00
Work Force Services	
1385 South State	292,390.00
Administration	685,930.00
Brigham City	34,308.00

Call Center	200,317.00
Cedar City	78,461.00
Clearfield/Davis Co.	180,633.00
Logan	110,088.00
Metro Employment Center	252,776.00
Midvale	135,640.00
Ogden	153,748.00
Provo	127,680.00
Richfield	58,072.00
South County Employment Center	176,196.00
St. George	66,452.00
Vernal	73,702.00
Ogden Division of Motor Vehicles and Drivers License	71,964.00
Ogden Radio Shop	16,434.00

**DEPARTMENT OF
TECHNOLOGY SERVICES**

INTEGRATED TECHNOLOGY DIVISION

Automated Geographic Reference Center AGRC	
GIT Professional Labor (per hour)	Table
Moving to Application Maintenance Tiered Rate: Tier 1 61.65 Tier 2 76.66 Tier 3 87.02 Tier 4 102.06	
Utah Reference Network GPS Service Rate (per year)	600.00

**DEPARTMENT OF TECHNOLOGY
SERVICES INTERNAL SERVICE FUNDS**

AGENCY SERVICES

ISF - Agency Services Division	
Contract Labor	Actual Cost
Software and Equipment	Actual Cost

ENTERPRISE TECHNOLOGY DIVISION

ISF - Enterprise Technology Division	
Network Services	
Network Services (per device/month)	45.63
Network Services (other State agencies) (per device/month)	49.36
Miscellaneous Data	
Circuits	Direct cost + 10%
Security Services	
Security (per device/month)	17.83
Other Security Services (per unit/month)	SBA
Security Assessment/Insurance (per Tier)	Table
Server Count: 0-4 \$13,000 5-34 \$26,000 35-85 \$52,000 >85 \$104,000	
Desktop Services	
Desktop Support (per device/month)	66.36
Virtual Desktop & Applications	SBA
Hosted Email/Email Encryption (per month)	6.20
Google Vault (per Acct/month)	2.44
Communication Services	
Telephone Technician Labor (per hour)	73.49
Voice Monthly Service (URATE) (per dial tone/month)	30.81

Other Voice/Network	
Services	Direct cost + 10%
Voice Mail (per mailbox/month)	2.06
Call Management System	SBA
Long Distance Service (per minute)	0.043
International Long	
Distance	Direct cost + 10%
1-800 Usage (per minute)	0.036
Print Services	
High Speed Laser Printing (per image)	0.0288
Other Print Services	Direct cost + 10%
Hosting Services	
Processing (per CPU Core/month)	81.06
Server Administration (per OS/month)	404.06
Storage (per GB/month)	0.1829
File Share (per GB/month)	0.0949
Back-up Storage (per GB/month)	0.136
Low Cost Storage NAS (per GB/month)	0.0949
Storage Encryption (per GB/month)	0.2791
Data Center Rack Space - Full Rack (per month)	471.68
Data Center Rack Space - Partial Rack (per month)	15.73
Web Application Hosting (per instance/month)	45.14
Mainframe Services	
Mainframe Computing	SBA
Mainframe Consulting Charge (per hour)	78.43
Mainframe Disk (per MB/month)	0.0057
Mainframe Tape (per MB/month)	0.0007
Database Services	
Database Consulting (per hour)	78.43
Database Oracle Core Model (Min. 2 Cores) (per core)	1,871.24
Database Oracle Shared Model (per GB/month)	56.92
Database MS Sequel Core Model (Min. 2 Cores) (per core)	1,142.36
Database MS Sequel Shared Model (per GB/month)	33.88
Application Services	
Application Support Tier 1 (per Hour)	61.65
Application Support Tier 2 (per Hour)	76.66
Application Support Tier 3 (per Hour)	87.02
Application Support Tier 4 (per Hour)	102.06
Other Application Services	SBA
Miscellaneous	
Equipment Maintenance	
Costs (EIS)	Direct cost + 10%
Software Resale (MLA)	Direct cost + 6%
DTS Consulting Charge (per hour)	78.43

**BUSINESS, ECONOMIC
DEVELOPMENT, AND LABOR**

DEPARTMENT OF HERITAGE AND ARTS

ADMINISTRATION

Information Technology	
Preservation Pro (per unit 1-20, depending on usage)	50.00
Community Grants App on SalesForce APP Exchange (per user)	240.00

Community Grants App on Sales
 Force APPEXchange NFP (per user) 144.00
 Community Grants Installation One-Time
 Fee (per installation) 500.00
 Administrative Services
 Department Merchandise
 General Merchandise - Level 1
 (per Item) 5.00
 Fee entitled "General Merchandise" applies
 for the entire Department of Heritage and
 Arts.
 General Merchandise - Level 2
 (per Item) 10.00
 Fee entitled "General Merchandise" applies
 for the entire Department of Heritage and
 Arts.
 General Merchandise - Level 3
 (per Item) 15.00
 Fee entitled "General Merchandise" applies
 for the entire Department of Heritage and
 Arts.
 General Merchandise - Level 4
 (per Item) 20.00
 Fee entitled "General Merchandise" applies
 for the entire Department of Heritage and
 Arts.
 General Merchandise - Level 5
 (per Item) 50.00
 Fee entitled "General Merchandise" applies
 for the entire Department of Heritage and
 Arts.
 General Merchandise - Level 6
 (per Item) 100.00
 Fee entitled "General Merchandise" applies
 for the entire Department of Heritage and
 Arts.
 Department Conference
 Conference Level 1 - Early Registration
 (per Person) 20.00
 Fee entitled "Conference" applies for the
 entire Department of Heritage and Arts.
 Conference Level 1 - Regular
 Registration (per Person) 25.00
 Fee entitled "Conference" applies for the
 entire Department of Heritage and Arts.
 Conference Level 1 - Late Registration
 (per Person) 30.00
 Fee entitled "Conference" applies for the
 entire Department of Heritage and Arts.
 Conference Level 1 - Vendor/Display Table -
 registration not included (per Table) . . . 50.00
 Fee entitled "Conference" applies for the
 entire Department of Heritage and Arts.
 Conference Level 2 - Early
 Registration (per Person) 45.00
 Fee entitled "Conference" applies for the
 entire Department of Heritage and Arts.
 Conference Level 2 - Regular
 Registraion (per Person) 50.00
 Fee entitled "Conference" applies for the
 entire Department of Heritage and Arts.
 Conference Level 2 - Late
 Registration (per Person) 55.00

Fee entitled "Conference" applies for the
 entire Department of Heritage and Arts.
 Conference Level 2 - Vendor/Display Table -
 registration not included
 (per Table) 100.00
 Fee entitled "Conference" applies for the
 entire Department of Heritage and Arts.
 Conference Level 3 - Student/Group/Change
 Leader Registration (per Person) 70.00
 Fee entitled "Conference" applies for the
 entire Department of Heritage and Arts.
 Conference Level 3 - Early
 Registration (per Person) 80.00
 Fee entitled "Conference" applies for the
 entire Department of Heritage and Arts.
 Conference Level 3 - Regular
 Registration (per Person) 95.00
 Fee entitled "Conference" applies for the
 entire Department of Heritage and Arts.
 Conference Level 3 - Late
 Registration (per Person) 100.00
 Fee entitled "Conference" applies for the
 entire Department of Heritage and Arts.
 Conference Level 3 - Vendor/Display Table Fee -
 registration not included
 (per Table) 150.00
 Fee entitled "Conference" applies for the
 entire Department of Heritage and Arts.
 Conference Sponsorship
 Conference Sponsorship Level 1 350.00
 Fee entitled "Conference Sponsorship"
 applies for the entire Department of Heritage
 and Arts.
 Conference Sponsorship Level 2 500.00
 Fee entitled "Conference Sponsorship"
 applies for the entire Department of Heritage
 and Arts.
 Conference Sponsorship Level 3 650.00
 Fee entitled "Conference Sponsorship"
 applies for the entire Department of Heritage
 and Arts.
 Conference Sponsorship Level 4 1,000.00
 Fee entitled "Conference Sponsorship"
 applies for the entire Department of Heritage
 and Arts.
 Conference Sponsorship Level 5 2,500.00
 Fee entitled "Conference Sponsorship"
 applies for the entire Department of Heritage
 and Arts.
 Conference Sponsorship Level 6 5,000.00
 Fee entitled "Conference Sponsorship"
 applies for the entire Department of Heritage
 and Arts.
 Conference Sponsorship Level 7 10,000.00
 Fee entitled "Conference Sponsorship"
 applies for the entire Department of Heritage
 and Arts.
 General Training and Workshop
 General Training/Workshop Participation -
 Level 1 (per Person) 5.00
 Fee entitled "General Training/Workshop"
 applies for the entire Department of Heritage
 and Arts.
 General Training/Workshop Participation -
 Level 2 (per Person) 10.00

Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Participation - Level 3 (per Person) 15.00

Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Participation - Level 4 (per Person) 25.00

Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Participation - Level 5 (per Person) 30.00

Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Participation - Level 6 (per Person) 40.00

Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Participation - Level 7 (per Person) 50.00

Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Participation - Level 8 (per Person) 60.00

Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Participation - Level 9 (per Person) 125.00

Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Participation - Level 10 (per Person) 300.00

Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Materials
Fee (per Person) 15.00

Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

Government Records Access and Management Act Photocopies (per page) 0.25

GRAMA fees apply for the entire Department of Heritage and Arts

HISTORICAL SOCIETY

State Historical Society

Utah Historical Society Annual Membership

Student/Senior 25.00

Individual 30.00

Business/Sustaining 40.00

Patron 60.00

Sponsor 100.00

Lifetime 500.00

Utah Historical Quarterly (per issue) 7.00

Publication Royalties 1.00

STATE HISTORY

Library and Collections

B/W Historic Photo

4x5 B/W Historic Photo 7.00

5x7 B/W Historic Photo 10.00

8x10 B/W Historic Photo 15.00

11x14 B/W Historic Photo 25.00

16x20 B/W Historic Photo 35.00

20x24 B/W Historic Photo 55.00

Self Serve Photo 0.50

Digital Image 300 dpl> 10.00

Expedited Photo Processing 2.00

Historic Collection Use 10.00

Research Center

Self Copy 8.5x11 0.10

Self Copy 11x17 0.25

Staff Copy 8.5x11 0.25

Staff Copy 11x17 0.50

Digital Self Scan/Save (per Page) 0.05

Digital Staff Scan/Save (per Page) 0.25

Microfilm Self Copy (per page) 0.25

Microfilm Self Scan/Save (per Page) 0.15

Microfilm Staff Scan/Save or Copy (per page) 1.00

Audio Recording (per item) 10.00

Video Recording (per item) 20.00

Diazo print

16 mm diazo print (per roll) 10.00

35 mm diazo print (per roll) 12.00

Silver print

16 mm silver print (per roll) 18.00

35 mm silver print (per roll) 20.00

Microfilm Digitization 40.00

Digital Format Conversion 5.00

Surplus Photo 1.00

Mailing Charges 1.00

Fax Request 1.00

Historic Preservation and Antiquities

Anthropological Remains Recovery (per Recovery) 2,500.00

Fee is for recovery services. Additional work requests of analysis and reporting would be by actual cost.

Literature Search - Self Service w/ Scans (per 1/2 Hour) 25.00

Literature Search - Staff Performed w/ Scans (per 1/2 Hour) 50.00

GIS Search - Staff Performed (per 1/4 Hour) 15.00

Literature Search/GIS Search - no show fee (per incident) 60.00

GIS Data Cut and Transfer (per Section) ... 15.00

DIVISION OF ARTS AND MUSEUMS

Community Arts Outreach

Community Outreach

Traveling Exhibit Fees 125.00

Traveling Exhibit Fees Title I Schools .. 100.00

Mountain West Arts Conference Registration

MWAC Governor's Leadership in the Arts Luncheon 55.00

MWAC Governor's Leadership in the Arts Luncheon Late Registrant ... 60.00

Community/State Partnership Change
 Leader Registration
 Change Leader Registration Level 1 100.00
 Change Leader Registration Level 2 200.00
 Change Leader Registration Level 3 300.00
 Change Leader Registration Level 4 400.00

**DIVISION OF ARTS AND MUSEUMS -
 OFFICE OF MUSEUM SERVICES**

Office of Museum Services
 Museum Environmental Monitoring
 Kit Rental/Shipping (per Period) 40.00
 Museum Environmental Monitoring
 Kit Deposit 150.00

STATE LIBRARY

Blind and Disabled
 Lost Library Book Charge 1.00
 Basic Braille Services to States 80.00
 Full Library Services to States 1.00
 Braille and Audio Service to LDS Church . . . 2.25
 Library of Congress Contract
 (MSCW) (per Month) 71,600.00
 Library Development
 Bookmobile Services (per Ave
 Bookmobile) 92,000.00
 Average fee of bookmobile services over the
 nine service areas.
 Library Resources
 Cataloging Services 1.00
 Catalog Express Utilization 0.50
 Catalog Express Overage 1.00

**GOVERNOR'S OFFICE OF
 ECONOMIC DEVELOPMENT**

ADMINISTRATION

Avenue H Technology Provider Renewal . . . 14.00
 Health Exchange Call Center 2.50

OFFICE OF TOURISM

Operations and Fulfillment
 Calendars
 Calendar sales: Individual (purchases
 of less than 30) 10.00
 Calendar sales: Bulk (non state
 agencies) 8.00
 Calendar sales: Bulk (state agencies) 6.00
 Calendar sales: Office of Tourism, Film,
 and Global Branding employees 5.00
 These fees may apply to one or more
 programs within the Office of Tourism Line
 Item.
 Calendar Envelopes 0.50
 Posters
 Posters: Framed wall posters 55.00
 Posters: Non framed wall posters 2.99
 Shirts
 T-shirt sales (cost per shirt) 10.00
 Commissions
 Tourism promotional items re-seller
 commission 12%

UDOT Signage Commissions 54,000.00

BUSINESS DEVELOPMENT

Corporate Recruitment and Business Services
 Market Tax Credit Fee 100,000.00
 Annual fee to certify a proposed equity
 investment or long-term debt security as a
 qualified equity investment.
 Private Activity Bond
 Confirmation per million volume cap
 (per million of allocated volume cap) . . 300.00
 Original application: under
 \$3 million 1,500.00
 Original application: \$3-\$5 million . . . 2,000.00
 Original application: over
 \$5 million 3,000.00
 Private Activity Bond Re-application
 Re-application: under \$3 million 750.00
 Re-application: \$3-\$5 million 1,000.00
 Re-application: over \$5 million 1,500.00
 Private Activity Bond Extension
 Second 90 Day Extension 2,000.00
 Third 90 Day Extension 4,000.00
 Each Additional 90 Day Extension . . . 4,000.00

**PETE SUAZO UTAH
 ATHLETICS COMMISSION**

Boxing Events
 Boxing Event: <500 Seats 500.00
 Boxing Event: 500 - 1,000 Seats 500.00
 Boxing Event: 1,000 - 3,000 Seats 750.00
 Boxing Event: 3,000 - 5,000 seats 1,500.00
 Boxing Event: 5,000 - 10,000 Seats . . . 1,500.00
 Boxing Event: >10,000 Seats 1,500.00
 Unarmed Combat Event
 Unarmed Combat Event: <500 Seats . . . 500.00
 Unarmed Combat Event: 500 -
 1,000 Seats 500.00
 Unarmed Combat Event: 1,000 -
 3,000 Seats 750.00
 Unarmed Combat Event: 3,000 -
 5,000 seats 1,500.00
 Unarmed Combat Event: 5,000 -
 10,000 Seats 1,500.00
 Unarmed Combat Event: >10,000
 Seats 1,500.00
 Licenses and Badges
 Promoter (per License) 250.00
 Official, Manager, Matchmaker
 (per License) 50.00
 Judge, Referee, Matchmaker, Contestant
 Manager Licenses
 Contestant, Second (Corner)
 (per License) 30.00
 Amateur, Professional, Second (Corner),
 Timekeeper Licenses
 ID Badges (per Badge) 10.00
 Drug Tests, Fight Fax, Contestant ID
 Badge
 Additional Inspector 100.00
 Event Registration 100.00
 Fee to reserve a date on the Pete Suazo
 Utah Athletic Commission event calendar
 Broadcast Revenue 3,000.00

3% of the first \$500,000 and 1% of the next \$1,000,000 of the total gross receipts from the sale, lease or other exploitation of internet, broadcasting, television, and motion picture rights for any contest or exhibition thereof without any deductions for commissions, brokerage fees, distribution fees, advertising, contestants' purses or charges, except in no case shall the fee be more than \$25,000, nor less than \$100.

UTAH STATE TAX COMMISSION

TAX ADMINISTRATION

Administration Division	
Administration	
Liquor Profit Distribution	6.00
All Divisions	
Certified Document	5.00
Faxed Document Processing	
(per page)	1.00
Record Research	6.50
Photocopies, over 10 copies (per page)	0.10
Research, special requests (per hour)	20.00
Technology Management	
Administration	
All Divisions	
Custom Programming (per hour)	85.00
Tax Processing Division	
Administration	
All Divisions	
Convenience Fee	Not to exceed 3%
Convenience fee for tax payments and other authorized transactions	
Tax Payer Services	
Administration	
Lien Subordination	Not to exceed 300.00
Tax Clearance	50.00
Motor Vehicles	
Aeronautics	
Aircraft Registration	3.00
Administration	
Sample License Plates	5.00
All Divisions	
Data Processing Set-Up	55.00
Parks and Recreation	
Parks & Recreation Decal Replacement	4.00
Motor Vehicle	
Motor Vehicle Information	3.00
Motor Vehicle Information Via Internet	1.00
Motor Vehicle Transaction (per standard unit)	1.51
Motor Carrier	
Cab Card	3.00
Duplicate Registration	3.00
Temporary Permit	
Individual permit	6.00
Electronic Payment	
Authorized Motor Vehicle Registrations	Not to exceed 4.00
License Plates	
Reflectorized Plate	6.00
Special Group Plate Programs	
Inventory ordered before July 1, 2003	
Extra Plate Costs	5.50
Plus \$5 standard plate fee	

New Programs or inventory reorders after July 1, 2003	
Start-up or significant program changes (per program)	3,900.00
Extra Plate Costs (per decal set ordered)	3.50
Plus \$5 standard plate fee	
Extra Handling Cost (per decal set ordered)	2.40
Special Group Logo Decals	Variable
Special Group Slogan Decals	Variable
Motor and Special Fuel	
International Fuel Tax Administration	
Decal (per set)	4.00
Reinstatement	100.00
Motor Vehicle Enforcement Division	
Temporary Permit Restricted Fund	
Temporary Permit	Not to exceed 12.00
Sold to dealers in bulk, not to exceed approved fee amount	
Temporary Sports Event Registration	
Certificate	Not to exceed 12.00
MV Business Regulation	
Dismantler's Retitling Inspection	50.00
Salvage Vehicle Inspection	50.00
Electronic Payment	
Temporary Permit Books (per book)	Not to exceed 4.00
Dealer Permit Penalties (per penalty)	Not to exceed 1.00
Salvage Buyer's License (per license)	Not to exceed 3.00
Licenses	
Motor Vehicle Manufacturer License	102.00
Motor Vehicle Remanufacturer License	102.00
New Motor Vehicle Dealer	127.00
Transporter	51.00
Body Shop	112.00
Used Motor Vehicle Dealer	127.00
Dismantler	102.00
Salesperson	31.00
Salesperson's License Transfer Fee	31.00
Salesperson's License Reissue	5.00
Crusher	102.00
Used Motor Cycle, Off-Highway Vehicle, and Small Trailer Dealer	51.00
New Motor Cycle, Off-Highway Vehicle, and Small Trailer Dealer	51.00
Representative	26.00
Distributor or Factory Branch and Distributor Branch's	61.00
Additional place of business	
Temporary	26.00
Permanent	Variable
Variable rate - same rate as the original license fee (based on license type)	
License Plates	
Purchase	
Manufacturer	10.00
Dealer	12.00
Dismantler	10.00
Transporter	10.00
Renewal	
Manufacturer	8.50
Dealer	10.50

Dismantler	8.50
Transporter	8.50
In-transit Permit	2.50

LICENSE PLATES PRODUCTION

License Plates Production	
Decal Replacement	1.00
Reflectorized Plate	6.00
Plate Mailing Charge (per Plate Set)	4.00

UTAH SCIENCE TECHNOLOGY AND RESEARCH GOVERNING AUTHORITY

TECHNOLOGY OUTREACH AND INNOVATION

Salt Lake SBIR-STTR Resource Center	
Search	75.00
4-8 hour seminar/workshop	75.00
4-8 hour seminar/workshop: non-client	50.00
4-8 hour seminar/workshop: client	25.00
2-4 hour seminar/workshop	25.00
1-4 hour seminar/workshop	10.00
Seminar: Outside speakers - all day event	225.00
Seminar: Outside speakers - all day event (early bird)	150.00
Seminar: Outside speakers - all day event (search client)	100.00
Projects	
Pro Membership	300.00
Co-Working Membership	150.00
Walk-In Membership	45.00
TOIP Seminar: Outside speakers - all day event	225.00
TOIP Seminar: Outside speakers - all day event (early bird)	150.00
TOIP 4-8 hour seminar/workshop	75.00
TOIP 4-8 hour seminar/workshop	50.00
TOIP 4-8 hour seminar/workshop	25.00
TOIP 2-4 hour seminar/workshop	25.00
TOIP 1-4 hour seminar/workshop	10.00

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

DABC OPERATIONS

Executive Director	
Compliance Licensee Lists	10.00
Licensee Rules	20.00
Utah Code	30.00
Administration	
Customized Reports Produced by	
Request (per hour)	50.00
Stock Location Report	25.00
Photocopies	0.15
Returned Check Fee	20.00
Application to Relocate Alcoholic Beverages Due to Change or Residence ..	20.00
Research (per hour)	30.00
Video/DVD	25.00
Price Lists	
Master Category	8.00
\$96 Yearly	
Alpha by Product	8.00

\$96 Yearly	
Numeric by Code	8.00
\$96 Yearly	
Military	8.00
\$96 Yearly	

LABOR COMMISSION

Administration	
Industrial Accidents Division	
Workers Compensation	
Coverage Waiver	50.00
Seminar Fee (alternate years) (per registrant)	Not to exceed 500.00
Premium Assessment	
Workplace Safety Fund (per premium)	0.25%
Employers Reinsurance Fund (per premium)	3.00%
Uninsured Employers Fund (per premium)	0.35%
Industrial Accidents Restricted Account (per premium)	0.50%
Certificate to Self-Insured	
New Self-Insured Certificate	1,200.00
Self Insured Certificate Renewal	650.00
Boiler, Elevator and Coal Mine Safety Division	
Boiler and Pressure Vessel Inspections	
Owner	
User Inspection Agency Certification	250.00
Certificate of Competency	
Original Exam	25.00
Renewal	20.00
Jacketed Kettles and Hot Water Supply	
Consultation	
Witness special inspection (per hour)	60.00
Boilers	
Existing	
<250,000 BTU	30.00
> 250,000 BTU but <4,000,000 BTU	60.00
> 4,000,001 BTU but <20,000,000 BTU	150.00
> 20,000,000 BTU	300.00
New	
<250,000 BTU	45.00
> 250,000 BTU but <4,000,000 BTU	90.00
> 4,000,001 BTU but <20,000,000 BTU	225.00
> 20,000,000 BTU	450.00
Pressure Vessel	
Existing	30.00
New	45.00
Pressure Vessel Inspection by Owner-user	
25 or less on single statement (per vessel)	5.00
26 through 100 on single statement (per statement)	100.00
101 through 500 on single statement (per statement)	200.00
over 500 on single statement (per statement)	400.00
Elevator Inspections Existing Elevators	
Hydraulic	85.00

Electric	85.00
Handicapped	85.00
Other Elevators	85.00
Elevator Inspections New Elevators	
Hydraulic	300.00
Electric	700.00
Handicapped	200.00
Other Elevators	200.00
Consultation and Review (per hour)	60.00
Escalators/Moving Walks	700.00
Remodeled Electric	500.00
Roped Hydraulic	500.00
Coal Mine Certification	
Mine Foreman	50.00
Temporary Mine Foreman	35.00
Fire Boss	50.00
Surface Foreman	50.00
Temporary Surface Foreman	35.00
Hoistman	50.00
Electrician	
Underground	50.00
Surface	50.00
Certification Retest	
Per section	20.00
Maximum fee charge	50.00
Hydrocarbon Mine Certifications	
Hoistman	50.00
Certification Retest	
Per section	20.00
Maximum fee charge	50.00
Gilsonite	
Mine Examiner	50.00
Shot Firer	50.00
Mine Foreman	
Certificate	50.00
Temporary	35.00
Photocopies, Search, Printing	
Black and White no special handling	0.25
Research, redacting, unstapling, restapling (per hour)	15.00
More than 1 hour (per hour)	20.00
Color Printing (per page)	0.50
Certified Copies (per certification)	2.00
Plus search fees if applicable	
Electronic documents CD or DVD	2.00
Fax, plus telephone costs	0.50

DEPARTMENT OF COMMERCE

COMMERCE GENERAL REGULATION

Administration	
Commerce Department	
All Divisions	
Booklets	Variable
Priority Processing	75.00
List of Licensees/Business Entities	25.00
Photocopies (per copy)	0.30
Verification of Licensure/Custodian of Record	20.00
Returned Check Charge	20.00
FBI Fingerprint File Search	20.00
BCI Fingerprint File Search	20.00
Fingerprint Processing for n on-department	10.00
Government Records and Management Act Requested Information Booklet ..	10.00

Duplication Charge CD	12.00
Government Records and Management Act record	
Administration	
Motor Vehicle Franchise Act	
Application	83.00
Renewal	83.00
Powersport Vehicle Franchise Act	
Application	83.00
Renewal	83.00
Application in addition to MVFA	27.00
Renewal in addition to MVFA	27.00
Administration Late Renewal	20.00
Employer Legal Status Voluntary Certification (Bi-annual)	3.00
Property Rights Ombudsman	
Filing Request for Advisory Opinion	150.00
Land Use Seminar Continuing Education	25.00
Books	
Citizens Guide to Land Use	
Single copy	15.00
Six or more copies	9.00
Case of 22 books	132.00
Administration	
Home Owner Associations	
HOA Registration	37.00
Change in HOA Registration	10.00
Occupational and Professional Licensing	
Acupuncturist	
New Application Filing	110.00
Dentist Educator	
New Application	110.00
New Application Filing	
Renewal	63.00
Electrician	
Apprentice Electrician tracking per credit hour	0.24
Massage	
Apprentice Renewal	20.00
Plumber	
Plumber CE Course approval	40.00
Plumber CE Course Attendee Tracking / per hour	1.00
Apprentice Plumber CE attendance tracking/ per hour	0.24
Substance Use Disorder Counselor (Licensed)	
Licensed Advanced New Application	85.00
Licensed Advanced Renewal	78.00
Substance Use Disorder Counselor (Certified)	
Certified Advanced Counselor	70.00
Certified Advanced Counselor Intern	70.00
Pharmacy	
Dispensing Medical Practitioner	
New Application Filing	110.00
Dispensing Medical Practitioner License Renewal	63.00
Dispensing Medical Practitioner Clinic Pharmacy New Application	200.00
Dispensing Medical Practitioner Clinic Pharmacy License Renewal	103.00
Pharmacy Technician Trainee	50.00
Music Therapy	
Certified Music Therapist	
New Application	70.00
Certified Music Therapist Application Renewal	47.00

Physical Therapy	
Dry Needle Registration	50.00
Psychologist	
Behavioral Analyst New Application	
Filing	120.00
Behavioral Analyst License Renewal	93.00
Assistant Behavioral Analyst New	
Application Filing	120.00
Assistant Behavioral Analyst	
License Renewal	93.00
Behavioral Specialist License Renewal ...	78.00
Assistant Behavioral Specialist New	
Application Filing	85.00
Assistant Behavioral Specialist	
License Renewal	78.00
Physician and Surgeon	
Physician and Surgeon Compact	
Existing Licensee Fee	40.00
Interstate Compact New License	
Application Filing	200.00
Interstate Compact License Renewal ...	183.00
Acupuncturist	
License Renewal	63.00
Alarm Company	
Company Application Filing	330.00
Company License Renewal	203.00
Agent Application Filing	60.00
Agent License Renewal	42.00
Agent Temporary Permit	20.00
Architect	
New Application Filing	110.00
License Renewals	63.00
Education and Enforcement Surcharge ...	10.00
Armored Car	
Registration	330.00
Renewal	203.00
Security Officer Registration	60.00
Security Officer Renewal	42.00
Education Approval	300.00
Education Renewal	103.00
Athletic Agents	
New Application Filing	510.00
License Renewal	510.00
Athletic Trainer	
New Application Filing	70.00
License Renewal	47.00
Building Inspector	
New Application Filing	85.00
License Renewal	63.00
Certified Court Reporter	
New Application Filing	45.00
License Renewal	42.00
Certified Dietician	
New Application Filing	60.00
License Renewals	37.00
Certified Nurse Midwife	
New Application Filing	100.00
License Renewal	63.00
Intern-New Application Filing	35.00
Certified Public Accountant	
Individual CPA Application Filing	85.00
Individual License/Certificate Renewal ...	63.00
CPA Firm Application for Registration ...	90.00
CPA Firm Registration Renewal	52.00
Chiropractic Physician	
New Application Filing	200.00
License Renewal	103.00
Contractor	

New Application Filing-Primary	
Classification	210.00
License Renewals	113.00
New Application Filing-Secondary	
Classification	110.00
Change Qualifier	50.00
Corporation Conversion	35.00
Continuing Education Course	
Approval	40.00
Continuing Education (per credit h	
our tracking)	1.00
Controlled Substance	
New Application Filing	100.00
License Renewal	78.00
Controlled Substance Handler	
Facility New Application Filing	90.00
Facility License Renewal	68.00
Individual New Application Filing	90.00
Individual License Renewal	68.00
Controlled Substance Precursor	
Distributor New Application Filing	210.00
License Renewal	113.00
Cosmetologist/Barber	
New Application Filing	60.00
License Renewal	52.00
Instructor Certificate	60.00
School New Application Filing	110.00
School License Renewal	110.00
Barber New Application	60.00
School License Renewal	52.00
Barber Instructor Certificate	60.00
Deception Detection	
Examiner New Application Filing	50.00
Examiner License Renewal	32.00
Intern New Application Filing	35.00
Intern License Renewal	32.00
Dentist	
New Application Filing	110.00
License Renewals	63.00
Anesthesia Upgrade New Application ...	60.00
Dental Hygienist	
New Application Filing	60.00
License Renewal	37.00
Anesthesia Upgrade New Application ...	35.00
Direct Entry Midwife	
New Application Filing	100.00
License Renewal	63.00
Electrician	
New Application Filing	110.00
License Renewal	63.00
Continuing Education Course Approval ...	40.00
Continuing Education (per credit	
hour tracking)	1.00
Electrologist	
New Application Filing	50.00
License Renewals	32.00
Instructor Certificate	60.00
School New Application Filing	110.00
School License Renewal	110.00
Elevator Mechanic	
New Application Filing	110.00
License Renewal	63.00
Continuing Education Course	
Approval	40.00
Continuing Education (per credit	
hour tracking)	1.00
Engineer, Professional	
New Application Filing	110.00

Engineer License Renewal	63.00	Massage	
Structural Engineer New Application Filing	110.00	Therapist New Application Filing	60.00
Structural Engineer License Renewal	63.00	Therapist License Renewal	52.00
Engineer		Apprentice New Application Filing	35.00
Education and Enforcement Surcharge	10.00	Medical Language Interpreter	
Environmental Health Scientist		New Application Filing	50.00
New Application Filing	60.00	Interpreter Renewal	25.00
License Renewal	37.00	Nail Technician	
New Application Filing	60.00	New Application Filing	60.00
In training		License Renewal	52.00
Esthetician		Instructor Certificate	60.00
New Application Filing	60.00	School New Application Filing	110.00
License Renewals	52.00	School License Renewal	110.00
Instructor Certificate	60.00	Naturopathic Physician	
Master Esthetician New Application Filing	85.00	New Application Filing	200.00
Master Esthetician License Renewal	68.00	License Renewals	103.00
School New Application Filing	110.00	Nursing	
School License Renewal	110.00	Licensed Practical Nurse New Application Filing	60.00
Factory Built Housing		Licensed Practical Nurse License Renewal	58.00
Dealer New Application Filing	30.00	Registered Nurse New Application Filing	60.00
Dealer License Renewal	30.00	Registered Nurse License Renewal	58.00
On-site Plant Inspection (per hour)	\$50 per hour plus expenses	Advanced Practice RN New Application Filing	100.00
Factory Built Housing		Advanced Practice RN License Renewal	68.00
Education and Enforcement	75.00	Advanced Practice RN-Intern New Application Filing	35.00
Funeral Services		Certified Nurse Anesthetist New Application Filing	100.00
Director New Application Filing	160.00	Certified Nurse Anesthetist License Renewal	68.00
Director License Renewal	88.00	Educational Program	
Intern New Application Filing	85.00	Approval-Initial Visit	500.00
Establishment New Application Filing	250.00	Educational Program Approval-Follow-up	250.00
Establishment License Renewal	250.00	Medication Aide Certified New Application Filing	50.00
Genetic Counselor		Medication Aide Certified License Renewal	42.00
New Application Filing	150.00	Occupational Therapist	
License Renewal	138.00	Occupational Therapist New Application Filing	70.00
Geologist		Occupational Therapist License Renewal	47.00
New Application Filing	150.00	Occupational Therapist	
License Renewal	123.00	Assistant New Application Filing	70.00
Education and Enforcement Fund	15.00	Occupational Therapist Assistants License Renewal	47.00
Handyman Affirmation		Online Contract Pharmacy	
Handyman Exemption Registration/Renewal	35.00	New Application	200.00
Health Facility Administrator		Renewal	103.00
New Application Filing	120.00	Online Internet Facilitator	
License Renewals	83.00	New Application	7,000.00
Hearing Instrument Specialist		Renewal	7,000.00
New Application Filing	150.00	Optometrist	
License Renewal	103.00	New Application Filing	140.00
Intern New Application Filing	35.00	License Renewal	93.00
Hunting Guide		Osteopathic Physician Online Prescriber	
New Application Filing	75.00	New Application	200.00
License Renewal	50.00	License Renewal	183.00
Landscape Architect		Outfitter	
New Application Filing	110.00	New License Filing	150.00
License Renewal	63.00	Renewal License	50.00
Examination Record	30.00	Osteopathic Physician and Surgeon	
Education and Enforcement Fund	10.00	New Application Filing	200.00
Land Surveyor			
New Application Filing	110.00		
License Renewals	63.00		
Education and Enforcement Surcharge	10.00		
Marriage and Family Therapist			
Therapist New Application Filing	120.00		
Therapist License Renewal	93.00		
Associate New Application Filing	85.00		
Externship New Application Filing	85.00		

License Renewals	183.00
Pharmacy	
Pharmacist New Application Filing	110.00
Pharmacist License Renewal	63.00
Pharmacy Intern New Application Filing	100.00
Pharmacy Technician New Application Filing	60.00
Pharmacy Technician License Renewal	47.00
Class A New Application Filing	200.00
Class A License Renewal	103.00
Class B New Application	200.00
Class B License Renewal	103.00
Class C New Application	200.00
Class C License Renewal	103.00
Class D New Application	200.00
Class D License Renewal	103.00
Class E New Application	200.00
Class E License Renewal	103.00
Physical Therapy	
New Application Filing	70.00
License Renewal	47.00
Physical Therapy Assistant	
New Application Filing	60.00
License Renewal	47.00
Physician/Surgeon	
New Application Filing	200.00
License Renewal	183.00
Physician Assistant	
New Application Filing	180.00
License Renewals	123.00
Physician Online Prescriber	
New Application	200.00
License Renewal	183.00
Plumber	
New Application Filing	110.00
License Renewals	63.00
Podiatric Physician	
New Application Filing	200.00
License Renewal	103.00
Pre-Need Funeral Arrangement	
Sales Agent New Application Filing	85.00
Sales Agent License Renewal	73.00
Private Probation Provider	
New Application Filing	85.00
License Renewal	63.00
Clinical Mental Health Counselor	
New Application Filing	120.00
License Renewals	93.00
Professional Counselor Associate	
New Application Filing	85.00
Associate Clinical Mental Health Extern New Application	85.00
Psychologist	
New Application Filing	200.00
License Renewal	128.00
Certified Psychology Resident New App Filing	85.00
Radiology	
Radiology Technologist New Application Filing	70.00
Radiology Technologist License Renewal	47.00
Radiology Practical Technologist New Application Filing	70.00

Radiology Practical Technologist License Renewal	47.00
Recreation Therapy	
Master Therapeutic Recreational Specialist New Application Filing	70.00
Master Therapeutic Recreational Specialist License Renewal	47.00
Therapeutic Recreational Specialist New Application Filing	70.00
Therapeutic Recreational Specialist License Renewal	47.00
Therapeutic Recreational Technical New License Application	70.00
Therapeutic Recreational Technician License Renewal	47.00
Residence Lien Recovery Fund	
Initial Assessment	195.00
Registration Processing	
Fee-Voluntary Registrants	25.00
Post-claim Laborer Assessment	20.00
Beneficiary Claim	120.00
Laborer Beneficiary Claim	15.00
Reinstatement of Lapsed Registration	50.00
Late	20.00
Certificate of Compliance	30.00
Respiratory Care Practitioner	
New Application Filing	60.00
License Renewal	52.00
Security Services	
Contract Security Company	
Application Filing	330.00
Contract Security Company Renewal	203.00
Replace/Change Qualifier	50.00
Education Program Approval	300.00
Education Program Approval Renewal	103.00
Armed Security Officer New	
Application Filing	60.00
Armed Security Officer New License Renewal	42.00
Unarmed Security Officer New	
Application Filing	60.00
Unarmed Security Officer New License Renewal	42.00
Social Worker	
Clinical Social Worker New	
Application Filing	120.00
Clinical Social Worker License Renewal	93.00
Certified Social Worker New	
Application Filing	120.00
Certified Social Worker License Renewal	93.00
Certified Social Worker Intern New	85.00
Certified Social Worker Externship	85.00
Social Service Worker New	
Application Filing	85.00
Social Service Worker License Renewal	78.00
Speech Language Pathologist/Audiologist	
Speech Language Pathologist	
New Application Filing	70.00
Speech Language Pathologist License Renewal	47.00
Audiologist New Application Filing	70.00

Audiologist License Renewal	47.00	Auto bill to credit card	75.00
Speech Language Pathologist / Audiologist		Invoice	125.00
Speech Language Pathologist and		Notice of Construction Loan	15.00
Audiologist New Application Filing	70.00	Notice of Intent to Complete	16.00
Speech Language Pathologist and		Notice of Retention	8.00
Audiologist License Renewal	47.00	Notice of Remaining to Complete	6.00
Substance Use Disorder Counselor (Licensed)		Notice of Loan Default	Variable
New Application Filing	85.00	Building Permit	Variable
License Renewal	78.00	Filed by city	
Substance Use Disorder Counselor (Certified)		Withdrawal of Preliminary	
Certified Substance Counselor	70.00	Notice	Variable
Certified Counselor Intern	70.00	Construction Ownership	
Certified Substance Extern	70.00	Ownership Status Report	20.00
Veterinarian		Ownership Listing/Change	20.00
New Application Filing	150.00	Physician Educator	
License Renewal	73.00	Physician Educator I new application	200.00
Intern New Application Filing	35.00	Physician Educator I renewal	183.00
Vocational Rehab Counselor		Physician Educator II new	
New Application Filing	70.00	application	200.00
License Renewal	47.00	Physician Educator I renewal	183.00
Other		Radiologist Assistant	
Inactive/Reactivation/Emeritus		New Application Filing	70.00
License	50.00	License Renewal	47.00
Temporary License	50.00	Residence Lien Recovery Fund	
Late Renewal	20.00	Special Assessment	105.00
License/Registration Reinstatement	50.00	Securities	
Duplicate License	10.00	Securities Registration	
Disciplinary File Search (per		Qualification Registration	300.00
order document)	12.00	Covered Securities Notice Filings	
Change Qualifier	50.00	Regulation A timely Securities Filing	100.00
UBC Seminar	Variable	Late Fee Regulation A Filing	500.00
surcharge of 1% of Building Permits in		Securities Registration	
accordance w/ UCA-15a-1-209-5-a		Coordinated Registration	300.00
UBC Building Permit surcharge	Variable	Transactional Exemptions	
State Construction Registry		Transactional Exemptions	60.00
Online		No-action and Interpretative	
Notice of Commencement	7.50	Opinions	120.00
Appended Notice of Commencement		Licensing	
online	7.50	Agent	60.00
Preliminary Notice	1.00	Broker/Dealer	200.00
Notice of Completion	7.50	Investment Advisor	
Required Notifications	Variable	New and renewal	100.00
Requested Notifications	10.00	Investment Advisor Representative	
Receipt Retrieval		New and renewal	50.00
Within 2 years	1.00	Certified Dealer	
Beyond 2 years	5.00	New and Renewal	500.00
Public Search	1.00	Certified Adviser	
Annual account set up		New and Renewal	500.00
Auto bill to credit card	60.00	Covered Securities Notice Filings	
Invoice	100.00	Investment Companies	600.00
Notice of Construction Loan	8.00	All Other Covered Securities	100.00
Notice of Intent to Complete	8.00	Late Fee Rule 506 Notice Filing	500.00
Notice of Retention	1.25	Less than 15 days after sale	
Notice of Remaining to Complete	1.25	Federal Covered Adviser	
Offline		New and Renewal	100.00
Notice of Commencement	15.00	Securities Exemptions	
Appended Notice of Commencement -		Securities Exemptions	60.00
On-line	15.00	Other	
Preliminary Notice	6.00	Late Renewal	20.00
Notice of Completion	15.00	Fairness Hearing	1,500.00
Required Notifications	6.00	Statute Booklet	Variable
Requested Notifications	25.00	Small Corp. Offering Registration	
Receipt Retrieval		(SCOR)	Variable
Within 2 years	6.00	Rules and form booklet	Variable
Beyond 2 years	12.50	Excluding SCOR	
Public Search	Variable	Postage and Handling	Variable
Annual account set up		Consumer Protection	

Charitable Solicitation Act	
Charity	75.00
Transportation Network Company	
Transportation network Company	
Registration	5,000.00
Transportation Network Company	
License Renewal	5,000.00
Immigration Consultants	
Initial Registration Fee	200.00
License Renewal Fee	200.00
Pawnshop Registry	
Pawnbroker Late Fee	50.00
Charitable Solicitation Act	
Professional Fund Raiser	250.00
Telephone Solicitation	
Telemarketing Registration	500.00
Health Spa	
Health Spa	100.00
Credit Services Organization	
Credit Services Organization	250.00
Debt Management Services	
Organizations	250.00
Business Opportunity Disclosure Register	
Exempt	100.00
Approved	200.00
Child Protection Register	
Child Protection Registry (per email)	0.005
Rate up to 20,000 and 40,000 units per calendar month, discounted thereafter.	
Child Protection Registry	
Step Volume 20,000-40,000 units in a month (\$0.00485)	Variable
Previous fee is \$.005. 3% discount off previous step for each additional 20,000 units in calendar month. 3% discount for transactions 40-60K & each 20K step thereafter in a calendar month.	
3% discount off previous step for each additional 20,000 units in calendar month	Variable
Pawnshop Registry	
Out of State Pawnshop Database	
Request	750.00
Pawnshop/2nd hand store	
Registration	300.00
Law Enforcement Registration	2.00
Proprietary Schools	
Initial Application	250.00
Renewal Application	1% of gross revenue
Registration Review	1% of gross revenue
Miscellaneous Fees	
Late Renewal (per month)	25.00
Miscellaneous	
Microcassette Copying (per tape)	Variable
Proprietary Schools Registration Application 1% of gross revenue	
\$500 min; \$2,500 max	
Proprietary Schools	
Accredited Institution Certificate of Exemption	
Registration/Renewal	1% of gross revenue
Up to \$2,500 or \$1,500 min	
Non-Profit Exemption	
Certificate Registration/Renewal	1,500.00
Corporations and Commercial Code	
Articles of Incorporation	
Domestic Profit	70.00
Partnerships	

General Partnerships	22.00
5 year renewal	
Other	
Statement Authority	15.00
One time registration or as changes are needed	
Partnerships	
Limited Liability Partnership	70.00
Previously under Limited Partnership, now LLP's	
Other	
Pharmacy Benefit Manager	100.00
Articles of Incorporation	
Domestic Nonprofit	30.00
Foreign Profit	70.00
Foreign Nonprofit	30.00
Reinstatement	
Profit	70.00
Requalification/Reinstatement	
Nonprofit	30.00
Changes of Corporate Status	
Amend/Restate/Merge-Profit	37.00
Amend/Restate/Merge-Nonprofit	17.00
Amendment-Foreign	37.00
Pre-authorization of document	25.00
Statement of Correction	12.00
Conversion	37.00
Annual Report	
Profit	15.00
Nonprofit	10.00
Limited Partnership	15.00
Limited Liability Company	15.00
On-line	15.00
Change Form	15.00
Certification	
Corporate Standing	12.00
Corporate Standing-Long Form	20.00
Commercial Registered Agent	
Registration	52.00
Changes	52.00
Terminations	52.00
Corporation Search	
In House	10.00
Limited Partnership	
Certificate/Qualification	70.00
Reinstate	70.00
Amend/Restate/Merge	37.00
Statement of Correction	12.00
Conversion	37.00
DBA	
Registration	22.00
Renewals	22.00
Business/Real Estate Investment	
Trust	22.00
Trademark/Electronic Trademark	
Initial Application and 1st Class Code	50.00
Each Additional Class Code	25.00
Renewals	50.00
Assignments	25.00
Unincorporated Cooperative Association	
Articles of Incorporation/Qualification	22.00
Annual Report	7.00
Limited Liability Company	
Articles of Organization/Qualification	70.00
Reinstate	70.00
Amend/Merge	37.00
Statement of Correction	12.00

Conversion	37.00	Certifications	
Other		Real Estate Branch Schools	100.00
Late Renewal	10.00	Appraiser Prelicense Course	
Out of State Motorist Summons	12.00	Certification	70.00
Collection Agency Bond	32.00	Appraisers	
Unregistered Foreign Business	12.00	Appraiser Pre-License School	
Foreign Name Registration	22.00	Application	100.00
Statement of Certification	12.00	Appraiser Pre-License Instructor	
Name Reservation	22.00	Application	75.00
Telecopier Transmittal	5.00	Certifications	
Telecopier Transmittal (per page)	1.00	Appraiser CE Instructor Application/	
Commercial Code Lien Filing		Renewal	75.00
UCC I Filings (per page)	12.00	Appraisers	
UCC Addendum (per page)	12.00	Appraiser CE Course Application/	
UCC III Assignment/Amendment	12.00	Renewal	75.00
UCC III Continuation	12.00	Appraiser Temporary Permit	
UCC III Termination	Variable	Extension	100.00
CFS-1	12.00	One time only	
CFS Addendum	12.00	Appraisal Management Company	
CFS-3	12.00	Appraisal Management Company	350.00
CFS-2	12.00	Appraisal Management Company	
CFS Registrant	25.00	Renewal	350.00
Master List	25.00	Appraisal Management Company Late ...	50.00
Lien Search		Broker	
Search	12.00	New Application	100.00
Transactions Through Utah Interactive		2 year	
Registered Principal Search	3.00	Renewal	30.00
Business Entity Search Principals	1.00	Broker/Sales Agent	
Certificate of Good Standing	12.00	Activation	15.00
Subscription	75.00	New Company	200.00
UCC Searches	12.00	Company Broker Change	50.00
List Compilation Customized	Variable	Company Name Change	100.00
One Stop Business Registration	Variable	Verification (per copy)	20.00
Real Estate		General Division	
Appraisers		Duplicate License	10.00
Licensed and Certified		Certifications/Computer Histories	20.00
Application	350.00	Late Renewal	50.00
Mortgage Broker		Reinstatement	100.00
Mortgage Loan Originator New		Branch Office	200.00
Application	100.00	No Action Letter	120.00
Mortgage Loan Originator Renewal	30.00	Trust Account Seminar	5.00
Sales Agent		Continuing Education Instructor/	
New Application (2 year)	100.00	Course Late	25.00
Renewal	30.00	Mortgage Broker	
Education		Mortgage Lending Manager	
Real Estate Education Broker	18.00	Application	100.00
Continuing Education Registration	10.00	Renewal	30.00
Real Estate Education Agent	12.00	Mortgage Lender Entities	
Appraisers		Application	200.00
Licensed and Certified		Renewal	200.00
Renewal	350.00	Mortgage DBA	200.00
National Register	80.00	Activation	15.00
Certifications		Subdivided Land	
Real Estate Prelicense School		Exemption	
Certification	100.00	HUD	100.00
Real Estate Prelicense Instructor		Water Corporation	50.00
Certification	75.00	Temporary Permit	100.00
Appraisers		Application	500.00
Temporary Permit	100.00	Charge over 30	3.00
Appraiser Trainee Registration	100.00	Inspection Deposit	300.00
Real Estate Education		Consolidation	200.00
Real Estate Continuing Education		Charge	3.00
Course Certification	75.00	Renewal Report	203.00
Real Estate Continuing Education		Timeshare and Camp Resort	
Instructor Certification	50.00	Salesperson	
Appraisers		New and renewal	
Appraiser expert witness	200.00	Registration	500.00
Appraiser Trainee Renewal	100.00		

Per unit charge over 100	3.00
Inspection Deposit	300.00
Consolidation	200.00
Per unit charge	3.00
Temporary Permit	100.00
Renewal Reports	203.00
Supplementary Filing	
Supplementary Filing	200.00
Mortgage Education	
Individual	36.00
Entity	50.00
Mortgage Prelicense School	
Certification	100.00
Mortgage Prelicense	
Instructor Certification/Renewal	75.00
Mortgage Branch Schools	100.00
Mortgage Continuing Education	
Course Certification Application	
Renewal	75.00
Mortgage Continuing Education	
Instructor Certification	50.00
Mortgage Out of State Records	
Inspection	500.00

FINANCIAL INSTITUTIONS

**FINANCIAL INSTITUTIONS
ADMINISTRATION**

Administration	
Photocopies	0.25

INSURANCE DEPARTMENT

**INSURANCE DEPARTMENT
ADMINISTRATION**

Administration	
Global license fees for Admitted Insurers	
Certificate of Authority	
Initial License Application	1,000.00
Independent Review - Initial	
Application	250.00
Initial individual license (per 35.00)	2,800.00
Initial agency license (per 40.00)	800.00
Renewal	300.00
Late Renewal	350.00
Reinstatement	1,000.00
Amendment	250.00
Orderly Plan of Withdrawal	50,000.00
Form A Filing	2,000.00
Redomestication Filing	2,000.00
Organizational Permit for Mutual	
Insurer	1,000.00
Insurer Examinations	72.00
Agency cost	
Global Service Fees for Admitted Insurers	
Zero premium volume	Insurance Rule
R590-102-5(4)(d)(i)	
More than \$0 to less than \$1M	
premium volume	700.00
\$1M to less than \$3M premium	
volume	1,100.00
\$3M to less than \$6 M premium	
volume	1,550.00

\$6M to less than \$11M premium	
volume	2,100.00
\$11M to less than \$15M premium	
volume	2,750.00
\$15M to less than \$20M premium	
volume	3,500.00
\$20M or more in premium volume	4,350.00
Global license fees for Surplus Lines	
Insurers, Accredited/Trusted Reinsurer	
Surplus Lines Insurers, Accredited/ Trusted Reinsurers, Employee Welfare Fund	
Initial	1,000.00
Annual	500.00
Late Annual	550.00
Reinstatement	1,000.00
Global license fees for Other Organizations	
Other Organizations	
Initial License Application	250.00
Renewal	200.00
Late Renewal	250.00
Reinstatement	250.00
Annual Service	200.00
Life Settlement Provider	
Initial license application	1,000.00
Renewal	300.00
Late Renewal	350.00
Reinstatement	1,000.00
Annual service	600.00
Global Individual License	
Res/non-res full line producer license or renewal	
per two-year license period	
Initial, or renewal if renewed prior to	
renewal deadline	70.00
Reinstatement of Lapsed License	120.00
Res/non-res limited line producer license or	
renewal per two-year licensing period	
Initial or renewal if renewed prior	
to renewal deadline	45.00
Reinstatement of lapsed license	95.00
Res/non-res full line producer license or renewal	
per two-year license period	
Dual Title License Form Filing	25.00
Addition of producer classification	
or line of authority to individual	
producer license	25.00
Global Full Line and Limited Line	
Agency License	
Res/non-res initial or renewal license	
if renewed prior to renewal deadline ...	75.00
Reinstatement of lapsed license	125.00
Addition of agency class or line of	
authority to agency license	25.00
Resident Title initial or renewal	
license if renewed prior to renewal	
deadline	100.00
Resident Title Reinstatement of	
Lapsed License	150.00
Health Insurance Purchasing Alliance	
Res/non-res initial or renewal license if	
renewed prior to renewal deadline	500.00
Per annual license period	
Late Renewal	550.00
Reinstatement of lapsed license	550.00
Continuing Education	
CE provider initial or renewal license	
prior to renewal deadline	250.00

CE provider reinstatement of lapsed license	300.00
CE provider post approval or \$5 per hour, whichever is more	25.00
Other	
Photocopy (per page)	0.50
Copy Complete Annual Statement	40.00
Accepting Service of legal process	10.00
Returned check charge	20.00
Workers' Comp schedule	5.00
Address Correction	35.00
Production of Lists	
Printed (per page)	1.00
Information already in list format	
Electronic	
Base fee	50.00
1 CD and up to 30 minutes of staff time	
Additional fee billed by invoice	50.00
For each additional 30 minutes or fraction thereof	
Additional CD (per CD)	1.00
Restricted Special Revenue Fees	
Title Insurance Recovery, Education, and Research Fund	
Initial Title Agency License	1,000.00
Renewal Title Agency License	
Band A-\$0-\$1 million premium volume	125.00
Band B->\$1-\$10 million premium volume	250.00
Band C->\$10-\$20 million premium volume	375.00
Band D->\$20 million premium volume	500.00
Individual Title Licensee Initial or Renewal License	15.00
Professional Employers Organization	
Standard - Initial/Renewal	2,000.00
Standard - Late Renewal or Reinstatement	2,050.00
Certified by an Assurance Organization - Initial	2,000.00
Certified by an Assurance Organization - Renewal	1,000.00
Certified Late Renewal or Reinstatement	1,050.00
Small Operator	
Small Operator - Initial	2,000.00
Small Operator - Renewal	1,000.00
Small Operator - Late Renewal or Reinstatement	1,050.00
Relative Value Study	
Restricted Revenue	
Relative Value Study	
Relative Value Study Book	10.00
Code Books	57.00
Cost to agency	
Mailing fee for books	3.00
Insurance Fraud Program	
Restricted Revenue	
Fraud Investigation Division	
Zero to \$1M premium volume	200.00
>\$1M to less than \$2.5M premium volume	450.00

\$2.5M to less than \$5M premium volume	800.00
\$5M to less than \$10M premium volume	1,600.00
\$10M to less than \$50M premium volume	6,100.00
\$50M or more in premium volume	15,000.00
Fraud Division Investigative Recovery	Variable
Fraud division assessment late fee	50.00
Captive Insurers	
Captive Insurer	
Initial license application	200.00
Captive Cell Initial Application (per 200)	200.00
Captive Cell Initial License (per 1000)	1,000.00
Captive Cell License Renewal (per 1000)	1,000.00
Captive Cell Late Renewal (per 50)	50.00
Initial license application review	Captive - Actual cost
Initial license issuance	5,000.00
Renewal	5,000.00
Late Renewal	5,050.00
Reinstatement	5,050.00
Captive Insurer Examination Reimbursements	Variable
Electronic Commerce Fee	
Electronic Commerce Restricted	
E-commerce and internet technology services	
Insurer: admitted, surplus lines	75.00
Captive Insurer	250.00
Other organization and life settlement provider	50.00
CE Provider	20.00
Agency and Health Insurance	
Purchasing Alliance	10.00
Individual	5.00
Access to rate and form filing database	
Base	45.00
1 DVD and up to 30 minutes access and staff help	
Additional requests	45.00
Each additional 30 minutes or fraction thereof	
Additional DVD (per DVD)	2.00
Electronic Commerce Restricted	
Database access	3.00
Paper filing process	5.00
Paper Application Processing	25.00
GAP Waiver Program	
Restricted Revenue	
Guaranteed Asset Protection Waiver	
Registration/Annual	1,000.00
GAP Waiver Assessment	50.00
Criminal Background Checks	
Fingerprinting	
Bureau of Criminal Investigation	20.00
Federal Bureau of Investigation	16.50

HEALTH INSURANCE ACTUARY

Restricted Revenue	
Health Insurance Actuarial Review Assessment	

Assessment for Actuary 150,000.00

BAIL BOND PROGRAM

Restricted Revenue
 Bail Bond Agency
 Resident initial or renewal license if
 renewed prior to renewal deadline .. 250.00
 Annual license period
 Reinstatement of lapsed license 300.00
 Annual license period

**INDIVIDUAL & SMALL EMPLOYER RISK
 ADJUSTMENT ENTERPRISE FUND**

Risk Adjustment (per 0.96) 0.96

SOCIAL SERVICES

DEPARTMENT OF HEALTH

EXECUTIVE DIRECTOR'S OPERATIONS

Executive Director
 All the fees in this section apply for the entire
 Department of Health
 Clinic Fees Tied to Medicaid
 Reimbursement Levels
 The Department of Health benchmarks
 many of its charges in its medical and dental
 clinics to Medicaid reimbursement rates. If
 the Legislature authorizes reimbursement
 increases during the General Session, then
 the Legislature authorizes a proportional
 increase in effected clinic fees.
 Conference Registrations 100.00
 Non-sufficient Check Collection Fee 20.00
 Non-sufficient Check Service Charge 20.00
 Testimony
 Expert Testimony Fee for those
 without a PhD/MD (per hour) 78.75
 Includes preparation, consultation, and
 appearance on criminal and civil cases. Portal
 to portal, including travel and waiting time.
 Per hour charge, plus travel costs.
 Expert Testimony Fee for those with
 a PhD/MD (per hour) 250.00
 Includes preparation, consultation, and
 appearance on criminal and civil cases. Portal
 to portal, including travel and waiting time.
 Per hour charge, plus travel costs.
 Government Records Access and Management
 Act (GRAMA)
 Staff time for file search and/or information
 compilation
 Department of Technology Services
 (per hour) 70.00
 For Department of Technology Services or
 programmer/analyst staff time.
 Department of Health (per hour) 35.00
 For Department of Health staff time; first
 15 minutes free, additional time.
 Copy
 11 x 8.5 Black and White (per page) . . . 0.15

11x17 or color (per page) 0.40
 Information on disk (per kilobyte) 0.02
 Administrative Fee, 1-15 copies 25.00
 Administrative Fee, each
 additional copy 1.00
 Fax (per page) 0.50
 Center for Health Data and Informatics
 Multi-Year Healthcare Effectiveness Data and
 Information Set License
 Public, Educational, Non-profit Research
 Organizations
 File I for Latest Year (per
 data set) 1,050.00
 File II for Previous Year
 (per data set) 750.00
 File III for Any Earlier Years
 (per data set) 500.00
 Private Sector Agencies
 File I for Latest Year
 (per data set) 1,575.00
 File II for Previous Year
 (per data set) 1,250.00
 File III for Any Earlier Years
 (per data set) 1,000.00
 Health Maintenance Organization or Preferred
 Provider Organization Enrollee Satisfaction
 Survey Data Set License
 Public, Educational, Non-profit Research
 Organizations
 File I for Latest Year
 (per data set) 1,050.00
 File II for Previous Year
 (per data set) 750.00
 File III for Any Earlier Years
 (per data set) 500.00
 Private Sector Agencies
 File I for Latest Year
 (per data set) 1,575.00
 File II for Previous Year
 (per data set) 1,250.00
 File III for Any Earlier Years
 (per data set) 1,000.00
 Data Suppliers (Contributing Health
 Maintenance Organizations or Preferred
 Provider Organizations)
 File I for Latest Year (per data set) . . . 420.00
 File II for Previous Year
 (per data set) 300.00
 File III for Any Earlier Years
 (per data set) 200.00
 Data Suppliers (Non-contributing Health
 Maintenance Organizations or Preferred
 Provider Organizations)
 File I for Latest Year (per data set) . . . 840.00
 File II for Previous Year
 (per data set) 600.00
 File III for Any Earlier Years
 (per data set) 400.00
 Fee for Data Suppliers Purchases
 Hard Copy Reports Miscellaneous 10.00
 Standard Report 1 for Inpatient,
 Emergency 50.00
 Standard Report 1 for Ambulatory
 Surgery 50.00
 Hospital Financial Report 50.00
 Special Reports 15.00

Special Data Request (\$70 minimum)		File III - Latest Year	525.00
(per hour)	55.00	File III - Prior Year	175.00
Special Data Extraction Request		Smaller Data Suppliers	
(per hour)	77.87	(5,000-35,000 discharges)	
Other Fees		File I - Latest Year	1,575.00
Data suppliers' special data request		File I - Prior Year	525.00
(per hour)	35.00	(less than 5,000 discharges)	
Data Management Fees for		File I - Latest Year	630.00
Reprocessing	39.90	File I - Prior Year	210.00
To cover costs of processing resubmissions		Secondary Release License	
of data with system errors (may be waived as		(per year)	
incentive for timely resubmission)		File I - Per Copy Distributed to	
Birth Certificate		a Public Entity	1,100.00
Initial Copy	20.00	File I - Per Copy Distributed to	
Additional Copies	10.00	a Private Entity	2,200.00
Stillbirth	18.00	Customized Research Data Sets	
Affidavit	25.00	Secondary Release License	
Book Copy of Birth Certificate	25.00	(per year)	
Adoption	60.00	Research Data Set - Inpatient	1,100.00
Death Certificate		Research Data Set - Ambulatory/	
Initial Copy	18.00	Surgery	1,100.00
Additional Copies	10.00	Research Data Set - Emergency	
Burial Transit Permit	7.00	Department Encounters	1,100.00
Disinterment Permit	25.00	Multiple Use License	
Death Certificate Reprint Fee	3.00	(per hour)	
Specialized Services		Add-on to Limited Data	
Paternity Search (one hour minimum)		Set License	77.87
(per hour)	18.00	Federal Databases	
Delayed Registration	60.00	Secondary Release License	
Marriage and Divorce Abstracts	18.00	(per year)	
Legitimation	60.00	Research Data Set - Inpatient	4,500.00
Death Research (one hour minimum)		Research Data Set - Ambulatory/	
(per hour)	20.00	Surgery	4,500.00
Death Notification Subscription		Research Data Set - Emergency	
Fee (organization less than or		Department Encounters	4,500.00
equal to 100,000 lives)	500.00	All Payer Claims Database	
Death Notification Subscription		Multiple Use License	
Fee (organizations greater		Private Sector Agency or Institution	
than 100,000 lives)	1,000.00	Standardized Public Use	
Death Notification Fee, per		Sample File	4,000.00
matched death	1.00	Standardized Limited	
Court Order Name Changes	25.00	Data Set	12,000.00
Court Order Paternity	60.00	Standardized Research	
Online Access to Computerized		Data Set	30,000.00
Vital Records (per month)	12.00	Single Use/Single-Project License	
Utah Plant Extract Registry	200.00	Public, Educational, or Non-Profit	
Utah Plant Extract Registration		Research Entity	
Renewal	50.00	Standardized Public Use	
Ad-hoc Statistical Requests (per hour)	45.00	Sample File	2,000.00
Delay of File Fee (charged for every		Standardized Limited Data Set	6,000.00
birth/death certificate registered		Standardized Research	
30 days or more after the event)	50.00	Data Set	15,000.00
Expedite Fee	15.00	Secondary Release License	
Expedited Shipping Fee	15.00	(per release)	
Online Convenience Fee	4.00	Public Use Sample File	2,800.00
Online Identity Verification	1.39	Limited Data Set	8,400.00
Standard Limited Data Sets		Research Data Set	21,000.00
Multiple Use License		Multiple Use License	
Private Sector Agency or Institution		(per hour)	
File I - Latest Year	3,150.00	Add-on to Limited Data	
File I - Prior Year	1,050.00	Set License	77.87
File III - Latest Year	1,050.00	Institutional License	
File III - Prior Year	350.00	(All-Payer Claims Database	
Public, Educational, or Non-Profit		and Facilities Data)	150,000.00
Research Entity		Adoption Records Access	
File I - Latest Year	1,575.00	Specialized Services	
File I - Prior Year	525.00	Adoption Registry	25.00

Adoption Expedite Fee 25.00
 Birth Parent Information Registration ... 25.00
 Adoption Records Access Fee 25.00
 Adoption Records Amendment Fee 10.00

FAMILY HEALTH AND PREPAREDNESS

Child Development

Background checks 15.00
 Conditional Monitoring Inspections

Center-based providers (per visit) 253.00

Charge per extra visit begins with the second additional visit required due to non-compliance.

Home-based providers (per visit) 245.00

Charge per extra visit begins with the second additional visit required due to non-compliance.

Annual License

Annual Licensed Child Care
 Facility Base 31.00

Plus the appropriate fee as listed below to any new or renewal license

Change in license or certificate during the license period more than twice a year 31.00

Child Care Center Facilities (per child) ... 1.75

Late Fee Variable

Within 1 - 30 days after expiration of license facility will be assessed 50% of scheduled fee. For centers, \$15.50 plus \$.75 per child in the requested capacity. For homes, \$15.50.

New Provider/Change in Ownership

New Provider/Change in Ownership Applications for Child Care center facilities 200.00

A fee will be assessed for services rendered to providers seeking initial licensure or change of ownership to cover the cost of processing the application, staff consultation, review of facility policies, initial inspection. This fee will be due at the time of application.

Other

Non-compliant facilities and additional inspections for non-compliant facilities 25.00

Children with Special Health Care Needs

Evaluation of Speech

92521 Fluency 170.00

92522 Sound Production 170.00

92523 Sound Production w/ Evaluation of Language Comprehension 170.00

92524 Behavioral and Qualitative Analysis

of Voice and Resonance 170.00

97112 Neuromuscular reeducation 25.00

97116 Gait training 25.00

97542 Wheelchair Assessment

fitting/training 25.00

97755 Assistive Technology Assessment ... 25.00

Office Visit, New Patient

99201 Problem focused, straightforward 47.00

99202 Expanded problem, straightforward 81.00

99203 Detailed, low complexity 120.00

99204 Comprehensive, Moderate complexity 182.00

99205 Comprehensive, high complexity 229.00

Office Visit, Established Patient

99211 Minimal Service or non-Medical Doctor 28.00

99212 Problem focused, straightforward 47.00

99213 Expanded problem, low complexity 74.00

99214 Detailed, moderate complexity 111.00

99215 Comprehensive, high complexity 151.00

Office Consultation, New or Established Patient

99241 Problem focused, straightforward 60.00

99242 Expanded problem focused, straightforward 110.00

99243 Detailed exam, low complexity ... 151.00

99244 Comprehensive, moderate complexity 223.00

99245 Comprehensive, high complexity 275.00

95974 Cranial Neurostimulation evaluation 160.00

99354 Prolonged, face to face 114.00
 First hour

99355 Prolonged, face to face 112.00
 Additional 30 minutes

99358 Prolonged, non face to face 93.00
 First hour

99359 Prolonged, non face to face 51.00
 Additional 30 minutes

T1013 Sign Language oral interview 13.00

Nutrition

97802 Medical Assessment 22.00

97803 Reassessment 22.00

Psychology

96101 Testing 136.00

96102 Testing by technician 65.00

96103 Testing with computer 60.00

96110 Developmental Testing 136.00

96111 Extended Developmental Testing 136.00

90791 Psychiatric Diagnostic Evaluation 94.00

90792 Psychiatric Diagnostic Evaluation With Medical Services 94.00

90804 Psychotherapy, face to face, 20-30 minutes 68.00

90806 Psychotherapy, face to face, 50 minutes 130.00

90846 Family Medical Psychotherapy, 30 minutes 90.00

90847 Family Medical Psychotherapy, conjoint 30 minutes 130.00

90882 Environmental Intervention with Agencies, Employers 49.00

90882-52 Environmental Intervention Reduced Procedures 23.00

90885 Evaluation of hospital records 40.00

90889 Preparation of reports 40.00

Physical and Occupational Therapy

97001 Physical Therapy Evaluation 90.00

97002 Physical Therapy Re-evaluation 52.00

97003 Occupational Therapy Evaluation	90.00	92570 Tympanometry and Acoustic Reflex Threshold	80.00
97004 Occupational Therapy Re-evaluation	52.00	Acoustic Reflex Decay Testing	
97110 Therapeutic Physical Therapy	33.00	92579 Visual reinforcement audiometry	57.00
97530 Therapeutic Activity	40.00	92579-52 Visual reinforcement audiometry, limited	47.00
97535 Self Care Management	30.00	92582 Conditioning Play Audiometry	80.00
97760 Orthotic Management	38.00	92585 Auditory Evoked Potentials testing	125.00
97762 Orthotic/prosthetic Use Management	38.00	92587 Evoked Otoacoustic emissions testing	58.00
G9012 Wheelchair Measurement/ Fitting	312.00	92590 Hearing Aid Exam	53.00
Ophthalmology		92591 Hearing Aid Exam, Binaural	108.00
92002 Exam and evaluation, intermediate, new patient	81.00	92592-52 Hearing aid check, monaural	31.00
92012 Exam and evaluation, intermediate, established patient	85.00	92593-52 Hearing aid check, binaural	44.00
92015 Determination of refractive state	51.00	92620 Evaluation of Central Auditory Function	87.00
Audiology		92621 Evaluation of Central Auditory Function	22.00
92550 Tympanometry and Acoustic Reflex Threshold Testing	71.00	Each additional 15 minutes	
92551 Audiometry, Pure Tone Screen	33.00	V5008 Hearing Check, Patient Under 3 Years Old	38.00
92552 Audiometry, Pure Tone Threshold	36.00	V5257 Hearing Aid, Digital Monaural	2,000.00
92553 Audiometry, Air and Bone	44.00	V5261 Hearing Aid, Digital Binaural	1,100.00
92555 Speech Audiometry threshold testing	28.00	V5264 Ear Mold Insert	75.00
92556 Speech Audiometry threshold/speech recognition testing	40.00	V5266 Hearing Aid battery	1.00
92557 Basic Comprehension, Audiometry	80.00	BabyWatch / Early Intervention	
92567 Tympanometry	26.00	Monthly charges based on a sliding fee schedule	
92568 Acoustic reflex testing, threshold	45.00		

**FAMILY HEALTH AND PREPAREDNESS DIVISION
SLIDING FEE SCHEDULE and CHIP**

Patient's Financial Responsibility (PFR) % of Federal Poverty Guideline	0%	0%	20%	40%	60%	100%	CHIP
	100%	0% to 133%	133% to 150%	150% to 185%	185% to 225%	>225%	200%
		MONTHLY FAMILY INCOME					
FAMILY SIZE .							
1	\$990.00	\$0.00 - \$1,316.70	\$1,316.71- \$1,485.00	\$1,485.01- \$1,831.50	\$1,831.51- \$2,227.50	\$2,227.51 and up	\$1,980.00
2	\$1,335.00	\$0.00 - \$1,775.55	\$1,775.56- \$2,002.50	\$2,002.51- \$2,469.75	\$2,469.76- \$3,003.75	\$3,003.76 and up	\$2,670.00
3	\$1,680.00	\$0.00 - \$2,234.40	\$2,234.41- \$2,520.00	\$2,520.01- \$3,108.00	\$3,108.01- \$3,780.00	\$3,780.01 and up	\$3,360.00
4	\$2,025.00	\$0.00 - \$2,693.25	\$2,693.26- \$3,037.50	\$3,037.51- \$3,746.25	\$3,746.26- \$4,556.25	\$4,556.26 and up	\$4,050.00
5	\$2,370.00	\$0.00 - \$3,152.10	\$3,152.11- \$3,555.00	\$3,555.01- \$4,384.50	\$4,384.51- \$5,332.50	\$5,332.51 and up	\$4,740.00
6	\$2,715.00	\$0.00 - \$3,610.95	\$3,610.96- \$4,072.50	\$4,072.51- \$5,022.75	\$5,022.76- \$6,108.75	\$6,108.76 and up	\$5,430.00
7	\$3,060.83	\$0.00 - \$4,070.91	\$4,070.92- \$4,591.25	\$4,591.26- \$5,662.54	\$5,662.55- \$6,886.88	\$6,886.89 and up	\$6,121.67
8	\$3,407.50	\$0.00 - \$4,531.98	\$4,531.99- \$5,111.25	\$5,111.26- \$6,303.88	\$6,303.89- \$7,666.88	\$7,666.89 and up	\$6,815.00
Each Additional Family Member	\$346.67	\$461.07	\$520.00	\$641.33	\$780.00	\$780.00	\$693.33

NOTE: This Division of Family Health and Preparedness schedule is based on the Federal Poverty Guidelines scheduled to be published in the Federal Register January 25, 2016.

<https://www.federalregister.gov/articles/2016/01/25/2016-01450/annual-update-of-the-hhs-poverty-guidelines>.

When new poverty guidelines are published, the fee scale will be changed as required by federal law, Title V of the Social Security Act, and in accordance with guidelines published by the Department of Health and Human Services, Office of the Secretary.

**FAMILY HEALTH AND PREPAREDNESS DIVISION
Baby Watch Early Intervention Program
2016-2017 Sliding Fee Schedule
Monthly Family Fee, Effective July 1, 2016**

FAMILY SIZE	Federal Poverty	100% Exempt	186% \$10.00	200% \$20.00	250% \$30.00	300% \$40.00
2	\$16,020	\$0.00 - \$29,797.19	\$29,797.20- \$32,039.99	\$32,040.00- \$40,049.99	\$40,050.00- \$48,059.99	\$48,060.00- \$64,079.99
3	\$20,160	\$0.00 - \$37,497.59	\$37,497.60- \$40,319.99	\$40,320.00- \$50,399.99	\$50,400.00- \$60,479.99	\$60,480.00- \$80,639.99
4	\$24,300	\$0.00 - \$45,197.99	\$45,198.00- \$48,599.99	\$48,600.00- \$60,749.99	\$60,750.00- \$72,899.99	\$72,900.00- \$97,199.99
5	\$28,440	\$0.00 - \$52,898.39	\$52,898.40- \$56,879.99	\$56,880.00- \$71,099.99	\$71,100.00- \$85,319.99	\$85,320.00- \$113,759.99
6	\$32,580	\$0.00 - \$60,598.79	\$60,598.80- \$65,159.99	\$65,160.00- \$81,449.99	\$81,450.00- \$97,739.99	\$97,740.00- \$130,319.99
7	\$36,730	\$0.00 - \$68,317.79	\$68,317.80- \$73,459.99	\$73,460.00- \$91,824.99	\$91,825.00- \$110,189.99	\$110,190.00- \$146,919.99
8	\$40,890	\$0.00 - \$76,055.39	\$76,055.40- \$81,779.99	\$81,780.00- \$102,224.99	\$102,225.00- \$122,669.99	\$122,670.00- \$163,559.99
9	\$45,050	\$0.00 - \$83,792.99	\$83,793.00- \$90,099.99	\$90,100.00- \$112,624.99	\$112,625.00- \$135,149.99	\$135,150.00- \$180,199.99
10	\$49,210	\$0.00 - \$91,530.59	\$91,530.60- \$98,419.99	\$98,420.00- \$123,024.99	\$123,025.00- \$147,629.99	\$147,630.00- \$196,839.99
11	\$53,370	\$0.00 - \$99,268.19	\$99,268.20- \$106,739.99	\$106,740.00- \$133,424.99	\$133,425.00- \$160,109.99	\$160,110.00- \$213,479.99
12	\$57,530	\$0.00 - \$107,005.79	\$107,005.80- \$115,059.99	\$115,060.00- \$143,824.99	\$143,825.00- \$172,589.99	\$172,590.00- \$230,119.99
13	\$61,690	\$0.00 - \$114,743.39	\$114,743.40- \$123,379.99	\$123,380.00- \$154,224.99	\$154,225.00- \$185,069.99	\$185,070.00- \$246,759.99
14	\$65,850	\$0.00 - \$122,480.99	\$122,481.00- \$131,699.99	\$131,700.00- \$164,624.99	\$164,625.00- \$197,549.99	\$197,550.00- \$263,399.99
15	\$70,010	\$0.00 - \$130,218.59	\$130,218.60- \$140,019.99	\$140,020.00- \$175,024.99	\$175,025.00- \$210,029.99	\$210,030.00- \$280,039.99
16	\$74,170	\$0.00 - \$137,956.19	\$137,956.20- \$148,339.99	\$148,340.00- \$185,424.99	\$185,425.00- \$222,509.99	\$222,510.00- \$296,679.99
17	\$78,330	\$0.00 - \$145,693.79	\$145,693.80- \$156,659.99	\$156,660.00- \$195,824.99	\$195,825.00- \$234,989.99	\$234,990.00- \$313,319.99
18	\$82,490	\$0.00 - \$153,431.39	\$153,431.40- \$164,979.99	\$164,980.00- \$206,224.99	\$206,225.00- \$247,469.99	\$247,470.00- \$329,959.99
Increment	\$4,160	100%	186%	200%	250%	300%

**Baby Watch Early Intervention Program
2016-2017 Sliding Fee Schedule, Continued
Monthly Family Fee, Effective July 1, 2016**

FAMILY SIZE	Federal Poverty	400% \$50.00	500% \$60.00	600% \$80.00	700% \$100.00	800% \$120.00
2	\$16,020	\$64,080.00- \$80,099.99	\$80,100.00- \$96,119.99	\$96,120.00- \$112,139.99	\$112,140.00- \$128,159.99	\$128,160.00- \$144,179.99
3	\$20,160	\$80,640.00- \$100,799.99	\$100,800.00- \$120,959.99	\$120,960.00- \$141,119.99	\$141,120.00- \$161,279.99	\$161,280.00- \$181,439.99
4	\$24,300	\$97,200.00- \$121,499.99	\$121,500.00- \$145,799.99	\$145,800.00- \$170,099.99	\$170,100.00- \$194,399.99	\$194,400.00- \$218,699.99
5	\$28,440	\$113,760.00- \$142,199.99	\$142,200.00- \$170,639.99	\$170,640.00- \$199,079.99	\$199,080.00- \$227,519.99	\$227,520.00- \$255,959.99
6	\$32,580	\$130,320.00- \$162,899.99	\$162,900.00- \$195,479.99	\$195,480.00- \$228,059.99	\$228,060.00- \$260,639.99	\$260,640.00- \$293,219.99
7	\$36,730	\$146,920.00- \$183,649.99	\$183,650.00- \$220,379.99	\$220,380.00- \$257,109.99	\$257,110.00- \$293,839.99	\$293,840.00- \$330,569.99
8	\$40,890	\$163,560.00- \$204,449.99	\$204,450.00- \$245,339.99	\$245,340.00- \$286,229.99	\$286,230.00- \$327,119.99	\$327,120.00- \$368,009.99
9	\$45,050	\$180,200.00- \$225,249.99	\$225,250.00- \$270,299.99	\$270,300.00- \$315,349.99	\$315,350.00- \$360,399.99	\$360,400.00- \$405,449.99
10	\$49,210	\$196,840.00- \$246,049.99	\$246,050.00- \$295,259.99	\$295,260.00- \$344,469.99	\$344,470.00- \$393,679.99	\$393,680.00- \$442,889.99
11	\$53,370	\$213,480.00- \$266,849.99	\$266,850.00- \$320,219.99	\$320,220.00- \$373,589.99	\$373,590.00- \$426,959.99	\$426,960.00- \$480,329.99
12	\$57,530	\$230,120.00- \$287,649.99	\$287,650.00- \$345,179.99	\$345,180.00- \$402,709.99	\$402,710.00- \$460,239.99	\$460,240.00- \$517,769.99
13	\$61,690	\$246,760.00- \$308,449.99	\$308,450.00- \$370,139.99	\$370,140.00- \$431,829.99	\$431,830.00- \$493,519.99	\$493,520.00- \$555,209.99
14	\$65,850	\$263,400.00- \$329,249.99	\$329,250.00- \$395,099.99	\$395,100.00- \$460,949.99	\$460,950.00- \$526,799.99	\$526,800.00- \$592,649.99
15	\$70,010	\$280,040.00- \$350,049.99	\$350,050.00- \$420,059.99	\$420,060.00- \$490,069.99	\$490,070.00- \$560,079.99	\$560,080.00- \$630,089.99
16	\$74,170	\$296,680.00- \$370,849.99	\$370,850.00- \$445,019.99	\$445,020.00- \$519,189.99	\$519,190.00- \$593,359.99	\$593,360.00- \$667,529.99
17	\$78,330	\$313,320.00- \$391,649.99	\$391,650.00- \$469,979.99	\$469,980.00- \$548,309.99	\$548,310.00- \$626,639.99	\$626,640.00- \$704,969.99
18	\$82,490	\$329,960.00- \$412,449.99	\$412,450.00- \$449,939.99	\$449,940.00- \$577,429.99	\$577,430.00- \$659,919.99	\$659,920.00- \$742,409.99
Increment	\$4,160	400%	500%	600%	700%	800%

**Baby Watch Early Intervention Program
2016-2017 Sliding Fee Schedule, Continued
Monthly Family Fee, Effective July 1, 2016**

FAMILY SIZE	Federal Poverty	900%	1000%	1100%	1200%
2	\$16,020	\$144,180.00- \$160,199.99	\$160,200.00- \$176,219.99	\$176,220.00- \$192,239.99	\$192,240.00 and above
3	\$20,160	\$181,440.00- \$201,599.99	\$201,600.00- \$221,759.99	\$221,760.00- \$241,919.99	\$241,920.00 and above
4	\$24,300	\$218,700.00- \$242,999.99	\$243,000.00- \$267,299.99	\$267,300.00- \$291,599.99	\$291,600.00 and above
5	\$28,440	\$255,960.00- \$284,399.99	\$284,400.00- \$312,839.99	\$312,840.00- \$341,279.99	\$341,280.00 and above
6	\$32,580	\$293,220.00- \$325,799.99	\$325,800.00- \$358,379.99	\$358,380.00- \$390,959.99	\$390,960.00 and above
7	\$36,730	\$330,570.00- \$367,299.99	\$367,300.00- \$404,029.99	\$404,030.00- \$440,759.99	\$440,760.00 and above
8	\$40,890	\$368,010.00- \$408,899.99	\$408,900.00- \$449,789.99	\$449,790.00- \$490,679.99	\$490,680.00 and above
9	\$45,050	\$405,450.00- \$450,499.99	\$450,500.00- \$495,549.99	\$495,550.00- \$540,599.99	\$540,600.00 and above
10	\$49,210	\$442,890.00- \$492,099.99	\$492,100.00- \$541,309.99	\$541,310.00- \$590,519.99	\$590,520.00 and above
11	\$53,370	\$480,330.00- \$533,699.99	\$533,700.00- \$587,069.99	\$587,070.00- \$640,439.99	\$640,440.00 and above
12	\$57,530	\$517,770.00- \$575,299.99	\$575,300.00- \$632,829.99	\$632,830.00- \$690,359.99	\$690,360.00 and above
13	\$61,690	\$555,210.00- \$616,899.99	\$616,900.00- \$678,589.99	\$678,590.00- \$740,279.99	\$740,280.00 and above
14	\$65,850	\$592,650.00- \$658,499.99	\$658,500.00- \$724,349.99	\$724,350.00- \$790,199.99	\$790,200.00 and above
15	\$70,010	\$630,090.00- \$700,099.99	\$700,100.00- \$770,109.99	\$770,110.00- \$840,119.99	\$840,120.00 and above
16	\$74,170	\$667,530.00- \$741,699.99	\$741,700.00- \$815,869.99	\$815,870.00- \$890,039.99	\$890,040.00 and above
17	\$78,330	\$704,970.00- \$783,299.99	\$783,300.00- \$861,629.99	\$861,630.00- \$939,959.99	\$939,960.00 and above
18	\$82,490	\$742,410.00- \$824,899.99	\$824,900.00- \$907,389.99	\$907,390.00- \$989,879.99	\$989,880.00 and above
Increment	\$4,160	900%	1000%	1100%	1200%

NOTE: This sliding fee schedule is based on 186% of the Federal Poverty Guidelines scheduled to be published in the Federal Register January 25, 2016.

(<http://www.federalregister.gov/articles/2016/01/25/2016-01450/annual-update-of-the-hhs-poverty-guidelines>) The fee scale will be changed in July each year in accordance with these guidelines, which are published annually by the Department of Health and Human Services, Office of the Secretary.

Health Facility Licensing and Certification

Annual License

Health Facilities base 260.00

A base fee for health facilities plus the appropriate fee as indicated below applies to any new or renewal license.

Facility Initial or Change of Ownership (per 100) 100.00

Direct Access Clearance System

Initial Clearance 15.00

Facility Renewal 200.00

Contractor Access 100.00

Annual License

Abortion Clinics 1,800.00

Two Year Licensing Base

Plus the appropriate fee as listed below to any new or renewal license

Health Care Facility 520.00

Every other year

Health Care Providers Change Fee

Health Care Providers 130.00

Charged to health care providers making changes to their existing license.

Hospitals

Hospital Licensed Bed 39.00

Nursing Care Facilities, and Small Health Care Facilities Licensed Bed 31.20

Residential Treatment Facilities

Licensed Bed 26.00

End Stage Renal Disease Centers

Licensed Station 182.00

Freestanding Ambulatory Surgery Centers (per facility) 2,990.00

Birthing Centers (per licensed unit) 520.00

Hospice Agencies 1,495.00

Home Health Agencies 1,495.00

Personal Care Agencies 1,000.00

Mammography Screening Facilities 520.00

Assisted Living Facilities

Type I (per licensed bed) 26.00

Type II (per licensed bed) 26.00

The fee for each satellite and branch office of current licensed facility 260.00

Late Fee

Within 1 to 14 days after expiration of license 50% of scheduled fee

Within 15 to 30 days after expiration of license 75% of scheduled fee

New Provider/Change in Ownership

New Provider/Change in Ownership Applications for health care facilities .. 747.50

Assessed for services rendered providers seeking initial licensure to or change of ownership to cover the cost of processing the application, staff consultation, review of facility policies, initial inspection.

Assisted Living and Small Health Care Type-N (nursing focus) Limited Capacity/Change of Ownership Applications: 325.00

Assessed for services rendered to providers seeking initial licensure or change of ownership to cover the cost of processing the application, staff consultation and initial inspection.

Application Termination or Delay

If a health care facility application is terminated or delayed during the application process, a fee based on services rendered will be retained as follows:

Policy and Procedure Review . 50% of total fee

On-site inspections 90% of total fee

Plan Review and Inspection

Hospitals

Number of Beds

Up to 16 3,445.00

17 to 50 6,890.00

51 to 100 10,335.00

101 to 200 12,870.00

201 to 300 15,470.00

301 to 400 17,192.50

Over 400, base 17,192.50

Over 400, each additional bed 37.50

In the case of complex or unusual hospital plans, the Bureau will negotiate with the provider an appropriate plan review fee at the start of the review process based on the best estimate of the review time involved and the standard hourly review rate.

Nursing Care Facilities and Small Health Care Facilities

Number of Beds

Up to 5 1,118.00

6 to 16 1,716.00

17 to 50 3,900.00

51 to 100 6,890.00

101 to 200 8,580.00

Freestanding Ambulatory Surgical Facilities (per operating room) 1,722.50

Other Freestanding Ambulatory Facilities (per service unit) 442.00

Includes Birthing Centers, Abortion Clinics, and similar facilities.

End Stage Renal Disease Facilities (per service unit) 175.50

Assisted Living Type I and Type II

Number of Beds

Up to 5 598.00

6 to 16 1,196.00

17 to 50 2,762.50

51 to 100 5,167.50

101 to 200 7,247.50

Each additional inspection required (beyond the two covered by the fees listed above) or each additional inspection requested by the facility shall cost \$559.00 plus mileage reimbursement at the approved state rate, for travel to and from the site by a Department representative.

Remodels of Licensed Facilities

Hospitals, Freestanding Surgery

Facilities (per square foot) 0.29

All others excluding Home Health Agencies (per square foot) 0.25

Each additional required on-site inspection 559.00

Other Plan - Review Fee Policies

If an existing facility has obtained an exemption from the requirement to submit preliminary and working drawings, or other info regarding compliance with applicable construction rules, the Department may

conduct a detailed on-site inspection in lieu of the plan review. The fee for this will be \$559.00 per inspection, plus mileage reimbursement at the approved state rate. A facility that uses plans and specifications previously reviewed and approved by the Department will be charged 60 percent of the scheduled plan review fee. Fifty-two cents per square foot will be charged for review of facility additions or remodels that house special equipment such as CAT (Computer Assisted Tomography) scanner or linear accelerator. If a project is terminated or delayed during the plan review process, a fee based on services rendered will be retained as follows: Preliminary drawing review - 25% of the total fee. Working drawings and specifications review - 80% of the total fee. If the project is delayed beyond 12 months from the date of the State's last review the applicant must re-submit plans and pay a new plan review fee in order to renew the review action.	Late Course Request fee per Day 10.00
Health Care Facility Licensing	Course Request Fee
Rules Actual cost	Ground Ambulance - Emergency
Plus mailing	Medical Technician
Certificate of Authority	Quality Assurance Review
Health Maintenance Organization	(per vehicle) 100.00
Review of Application 650.00	Advanced (per vehicle) 130.00
Emergency Medical Services and Preparedness	Interfacility Transfer Ambulance
Registration and Certification	Emergency Medical Technician
Certification Fee	Quality Assurance Review
Blood Draw Permit 35.00	(per vehicle) 100.00
Initial and Reciprocity Certification	Advanced (per vehicle) 130.00
Quality Assurance Review Fee	Paramedic
for All Levels Late Fee 75.00	Rescue (per vehicle) 165.00
Initial and Reciprocity Certification	Tactical Response (per vehicle) 165.00
Quality Assurance Review Fee	Ambulance (per vehicle) 170.00
for All Levels Except Emergency	Interfacility Transfer Service
Medical Dispatcher 60.00	(per vehicle) 170.00
Initial and Reciprocity Certification	Fleet fee (per fleet) 3,200.00
Quality Assurance Review Fee for All Levels	Agency with 20 or more vehicles
Except Emergency Medical Dispatcher	Quick Response Unit
Certification/Recertification Fee	Emergency Medical Technician
Initial, Reciprocity, and Recertification	Quality Assurance Review
Quality Assurance Review	(per vehicle) 65.00
Fee for Emergency Medical	Advanced (per vehicle) 65.00
Dispatcher 15.00	Air Ambulance
ID Card Replacement 10.00	Advanced Air Ambulance
Certification/Recertification Fee	(per vehicle) 130.00
Decal for purchase for All Levels 2.00	Specialized (per vehicle) 165.00
Certification/Recertification Fee	Out of State (per vehicle) 200.00
Patches for purchase for All Levels 5.00	Emergency Medical Dispatch
Certification/Recertification Fee	Center (per center) 65.00
Course Audit Fee 40.00	Course Request
Certification/Recertification Fee	Course For All Levels 150.00
Instructor Certification Extension Fee . 75.00	Late Course Request Fee per Day 10.00
Certification/Recertification Fee	Course Request Fee
Recertification Fee	Quality Assurance Designation Review
Recertification Quality Assurance	Resource Hospital (per hospital) 150.00
Review Fee for All Levels Except	Trauma Center Verification/Quality
Emergency Medical Dispatcher 50.00	Assurance Review 5,000.00
Lapsed Certification 30.00	Trauma Designation Consultation
Course Request Fee	Quality Assurance Review
Course for All Levels 150.00	(per 5,000) 750.00
	Focused Quality Assurance Review . . . 3,000.00
	Emergency Patient Receiving
	Facility Re-designation 150.00
	Emergency Patient Receiving
	Facility Initial Designation 1,000.00
	Quality Assurance Application Reviews
	Newspaper Publications
	Original Air Ambulance License 650.00
	Original Ground Ambulance/Paramedic
	License Negotiated 850.00
	Original Ambulance/Paramedic
	License Contested Variable
	Original Designation 135.00
	Renewal Ambulance/Paramedic/Air
	License 135.00
	Renewal Designation 135.00
	Upgrade in Ambulance Service Level . . . 125.00
	Original Air Ambulance License
	with Commission on Accreditation
	of Medical Transport Services
	Certification 250.00
	Change in ownership/operator
	Non-contested 850.00
	Contested Up to actual cost

Change in geographic service area	
Non-contested	850.00
Contested	Up to actual cost
Quality Assurance Course Review	
Course Coordinator	
Seminar Registration	50.00
Seminar Registration Late	25.00
Emergency Medical	
Services Training and Testing	
Agency Designation	125.00
Instructor Seminar	
Registration	150.00
Registration Late	25.00
Vendor	200.00
New Course Coordinator	
Course Certification	75.00
Course Registration Late	25.00
New Instructor	
Course Certification	150.00
Course Registration Late	25.00
New Training Officer	
Course Certification	75.00
Course Registration Late	25.00
Pediatric	
Advanced Life Support Course	170.00
Education for Prehospital	
Professionals Course	170.00
Training Officer	
Seminar Registration	50.00
Seminar Registration Late	25.00
Training and Seminars	
Additional Lunch	15.00
Trainings and Seminars	
Course Quality Assurance	
Review Late	25.00
Less than 30 days	
Emergency Vehicle Operations	
Instructor Course	40.00
Medical Director's Course	50.00
Management Seminar	50.00
Prehospital Trauma Life Support	
Course	175.00
Pediatric Advanced Life Support	
Course Renewal	85.00
Equipment Delivery	
Strike Team BLU-MED Mobile	
Field Response Tent Support	6,000.00
Rental of pediatric course equipment	
to for-profit agency	150.00
Pediatric Education for Prehospital	
Professionals Course Renewal	85.00
Salt Lake County	25.00
Davis, Utah, and Weber Counties	50.00
Late (per day)	10.00
Training supplies, rental of equipment and accessories charge for course supplies and accessories to be based upon most recent acquisition cost plus 20% rounded up to the nearest \$0.10 (computed quarterly) Free On Board Salt Lake City, Utah.	
Background Checks	
Name only	30.00
Background Check Fee	30.00
Data	
Pre-hospital Data	
Non-profits Users	800.00

Academic, non-profit, and other government users	
For-profit Users	1,600.00
Trauma Registry Data	
Non-profits Users	800.00
Academic, non-profit, and other government users	
For-profit Users	1,600.00

DISEASE CONTROL AND PREVENTION

General Administration
Laboratory General

Fee Discounts for Large Volume Customers

High volume customers may receive discounts on individual testing fees. Tests available for discount are listed on the laboratory's posted Fee Schedule at www.health.utah.gov/lab.

Discounts Reflected on Invoices

The discounts will be reflected on the invoices of customers that meet established volume criteria.

Discount Levels Clarified

The discount levels are: 5% for customers spending more than \$1,000 per month, 12% for customers spending more than \$7,500 per month, and 25% for customers spending more than \$15,000 per month.

Emergency Waiver

Under certain conditions of public health import (e.g., disease outbreak, terrorist event, or environmental catastrophe) fees may be reduced or waived.

Handling

Total cost of shipping and testing of referral samples to be rebilled to customer (per Referral lab's invoice)

Repeat Testing - normal fee will be charged if repeat testing is required due to poor quality sample

per sample, per each reanalysis

These fees apply for the entire Division of Disease Control and Prevention

Administrative retrieval and copy

1-15 copies

each additional copy

Health Promotion

Baby Your Baby Program

Health Keepsake books

Non-adapted version

Based on quantity for \$4.00 to

\$5.00 (per copy)

Adapted version

Based on quantity for \$3.00 to

\$6.50 (per copy)

Epidemiology

Utah Statewide Immunization Information System

Non-Financial Contributing Partners

Match on Immunization Records in

Database (per record)

File Format Conversion (per hour)

Laboratory Operations and Testing

Infectious Disease

Immunology

Hepatitis

B (Anti-Hepatitis B Virus)		Nitrate + Nitrite 353.2	13.20
Antibody	22.00	Perchlorate 314.0	55.00
B (Anti-Hepatitis B Virus) Antigen	22.00	pH (Test of acidity or	
B (Anti-Hepatitis B Virus)		alkalinity) 150.1	11.00
Confirmation	44.00	Sulfate 375.2	16.50
C (Anti-Hepatitis C Virus)		Turbidity 180.1	11.00
Antibody	28.00	Ultraviolet Absorption Standard	
C (Anti-Hepatitis C Virus)		Method 5910B	33.00
by PCR (Polymerase Chain		Total Organic Carbon Standard	
Reaction)	300.00	Method 5910B	22.00
HIV (Human Immunodeficiency Virus)		Carboxylic Acids (Oxalate, Formate,	
1/2 and O, Antigen/Antibody		Acetate)	42.00
Combo	35.00	Dissolved Organic Carbon	22.00
Supplemental Testing		Metals	
(HIV-1/HIV-2 differentiation)	89.00	Standard Metals	
Hantavirus		EPA 3010 Digestion	27.00
Hantavirus	40.00	if required, add this fee to the metal	
Syphilis		package selected	
Immunoglobulin G (IgG) Antibody		Mercury 245.1 - may include a	
(including reflex Rapid		digestion fee	27.50
Plasma Reagin titer)	13.00	Selenium by Selenium Hydride -	
TP-PA (Treponema Pallidum -		Atomic Absorption - Standard	
Particle Agglutination)		Method 3114C - may include	
Confirmation	26.00	a digestion fee	42.00
Quantiferon		Lead and Copper (Type Metals-8)	
Tuberculosis In Tube-Gold	63.00	200.8	27.00
Virology		Aluminum 200.8	13.00
Herpesvirus (Herpes Simplex Virus-1, Herpes		Antimony 200.8	13.00
Simplex Virus-2, Varicella Zoster Virus)		Arsenic 200.8	13.00
Detection and Differentiation by Polymerase		Barium 200.8	13.00
Chain Reaction	65.00	Beryllium 200.8	13.00
Rabies - Not epidemiological indicated		Cadmium 200.8	13.00
or pre-authorized	180.00	Chromium 200.8	13.00
Influenza PCR (Polymerase Chain		Copper 200.8	13.00
Reaction)	150.00	Lead 200.8	13.00
C. trachomatis and N. gonorrhoeae		Manganese 200.8	13.00
detection by Nucleic Acid Test	25.00	Molybdenum 200.8	13.00
Bacteriology		Nickel 200.8	13.00
Mycobacteriology		Selenium 200.8	13.00
Mycobacteria Identification by		Silver 200.8	13.00
Accuprobe	100.00	Thallium 200.8	13.00
Culture for Mycobacteria	100.00	Zinc 200.8	13.00
Mycobacterium Tuberculosis		Boron 200.7	10.00
Culture Susceptibilities		Calcium 200.7	10.00
(sendout)	170.00	Iron 200.7	10.00
Mycobacterium Identification		Magnesium 200.7	10.00
and Susceptibility by		Potassium 200.7	10.00
Gene Expert	100.00	Sodium 200.7	10.00
Newborn Screening		Langelier Index	5.50
Newborn Screening, Laboratory Testing		Calculation: pH (Test acidity or alkalinity),	
and Follow-up Services	112.16	calcium, TDS (Total Dissolved Solids),	
Chemistry		alkalinity	
Drinking Water Tests		Organic Contaminants	
Inorganics		Trihalomethanes Method 524.2	82.70
Alkalinity (Total) Standard		Haloacetic Acids Method 6251B	165.00
Method 2320B	10.00	Volatile Organic Carbons 524.2	209.00
Bromide 300.1	27.50	Perchloroethylene 524.2	83.00
Bromate 300.1	27.50	Maximum Total	
Chlorate 300.1	27.50	Potential Trihalomethanes	
Chlorite 300.1	27.50	Method 524.2	88.20
Chloride 300.0	19.00	Pesticides	
Fluoride 300.0	19.00	Phase II/V Semi Volatile Organic	
Sulfate 300.0	16.50	Analytes and Pesticide	
Chromium (Hexavalent) 218.7	55.00	4 methods	919.00
Cyanide 335.4	50.00	Environmental Protection Agency	
Nitrate 353.2	22.00	525.2	367.50
Nitrite 353.2	22.00		

Herbicide 515.1	210.00
Carbamate 531.1	185.00
T-Metals Clarification	16.50
Fee for T-Metals will include the Standard Metals fee plus the Preconcentration fee of \$16.50	
Hazardous Metals Fee Clarification	
Hazardous Metals Fee includes EPA 6010/6020 plus Toxicity Characteristic Leaching Procedure (TCLP) Extraction, plus sample preparation/digestion fee	
Water Bacteriology	
Environmental Legionella	
Standard Methods 9260 J	70.00
Liter of water	
Water Microbiology (Drinking Water and Surface Water)	
Colilert E. Coli 9223B	20.00
Fecal 9222D	25.00
Heterotrophic Plate Count by 9215	
B Pour Plate	13.00
Water Radiochemistry (Drinking Water and Surface Water)	
Uranium by 200.8 - Inductive Coupling Plasma-Mass Spectrometry (ICP/MS) - a digestion fee may be added	
12.00	
Inorganic Surface Water (Lakes, Rivers, Streams) Tests	
Alkalinity for Bi-Carbonate,	
Additional Fee	1.00
Alkalinity for Carbonate,	
Additional Fee	1.00
Internal Review of Costs and Descriptions	
Alkalinity for Carbonate Solids, Additional Fee	
1.00	
Alkalinity for Carbon dioxide,	
Additional Fee	1.00
Alkalinity for Hydroxide,	
Additional Fee	1.00
Ammonia 350.3	22.00
Biochemical Oxygen Demand	
(BOD) 5 day test 405.1	33.00
Chlorophyll A Standard Method	
10200H - Chlorophyll-A	22.00
Phosphorus, Total 365.1	20.00
Silica 370.1	16.50
Total Dissolved Solids (TDS)	
Standard Method 3540C	16.50
Total Suspended Solids (TSS)	
160.2	16.50
Specific Conductance 120.1	10.00
Sulfate 300.1	16.50
Sulfide 376.2	44.00
Surface Water Metals	
High Total Dissolved Solids (TDS) Clarification	
Samples with high Total Dissolved Solids (TDS), or samples with complex matrix, will be analyzed using Environmental Protection Agency 6010/200.7	
Solid and Hazardous Waste Organics Tests	
Benzene, Toluene, Ethylbenzene,	
Xylene, Naphthalene (BTEXN)	83.00
Environmental Protection Agency	
8270 Semi Volatiles	441.00

Environmental Protection Agency	
8260 (volatile organic compounds) ..	440.00
Total Petroleum Hydrocarbons	
8015	138.00
Volatiles Purgeables	
Environmental Protection Agency	
Method 1666	400.00
Unregulated Contaminated Monitoring Regulations 3; Environmental Protection Agency	
Chlorate by 300.1	50.00
Unregulated Contaminated Monitoring Regulations 3; Environmental Protection Agency	
Hexavalent Chromium by Ion	
Chromatography 218.7	55.00
Unregulated Contaminated Monitoring Regulations 3; Environmental Protection Agency	
Metals by 200.8	90.00
Dioxane 522	190.00
Perfluorinated Compounds 537	290.00
Volatile Organic Compounds 524.3	150.00
Office of the Medical Examiner	
Autopsy	
Non-jurisdictional Case	2,500.00
Plus cost of body transportation	
External Examination, Non-jurisdictional Case	
500.00	
Plus transportation	
Use of Medical Examiner facilities and assistants for autopsies	
500.00	
Use of Medical Examiner facilities and assistants for external exams	
300.00	
Reports	
First copy	No charge
No charge to next of kin, treating physicians, and investigative or prosecutorial agencies.	
All other requestors and additional copies	
35.00	
Miscellaneous Office of Medical Examiner case file papers	
First copy	No charge
No charge to next of kin, treating physicians, and investigative or prosecutorial agencies.	
All other requestors and additional copies	
35.00	
Miscellaneous non-Office of Medical Examiner case file papers	
All requestors cost for non-Office of Medical Examiner copies (per file request)	
50.00	
Cremation Authorization	
Review and authorize cremation	100.00
\$5.00 per permit payable to Vital Records for processing.	
Court	
Preparation, consultation and appearance; Portal to portal expenses including travel costs and waiting time to improve/provide adequate compensation to State of Utah for services provided by State employees	
Medical Examiner criminal cases out of state (per hour)	
500.00	

Non-jurisdictional Medical Examiner criminal and all civil cases (per hour)	500.00
Medical Examiner Consultation on non-Medical Examiner cases (per hour)	500.00
Photographic, Slide, and Digital Services	
Glass Slides	20.00
Digital Image	
Digital X-ray Image from Digital Source - Flat fee per X-ray image . . .	10.00
Digital image copied from Digital source, flat fee for up to 30 requested images (per image)	10.00
Digital image copied from Digital source, per image cost for request over 30 images	1.00
Copied from color slide negatives	5.00
Use of Tissue Harvest Room for Acquisition	
Skin Graft	132.83
Bone	265.65
Heart Valve	69.30
Eye	34.65
Saphenous vein	69.30
Body Storage	
Daily charge for use of Medical Examiner Storage Facilities	30.00
Beginning 24 hours after notification that body is ready for release.	
Biologic samples requests	
Handling and storage of requested samples by outside sources	25.00
Clinical and Environmental	
Laboratory Certification Programs	
Parameter Category Fees charge for each testing act	
Atomic Absorption/Atomic Emission	300.00
Radiological chemistry - Alpha spectrometry	200.00
Radiological chemistry - Beta	200.00
Calculation of Analytical Results	50.00
Organic Clean Up	100.00
Toxicity/Synthetic Extractions	
Characteristics Procedure	200.00
Radiological chemistry - Gamma	200.00
Simple Gas Chromatography	300.00
Complex Gas Chromatography	600.00
Semivolatle Gas Chromatography	500.00
Volatile Gas Chromatography	500.00
Radiological chemistry - Gas	
Proportional Counter	200.00
Gravimetric	100.00
High Pressure Liquid Chromatography	300.00
Inductively Coupled Plasma Metals Analysis	400.00
Inductively Coupled Plasma Mass Spectrometry	500.00
Ion Chromatography	200.00
Ion Selective Electrode base methods . . .	100.00
Radiological chemistry - Liquid Scintillation	200.00
Metals Digestion	100.00
Simple Microbiological Testing	100.00
Complex Microbiological Testing	300.00
Organic Extraction	100.00
Physical Properties	100.00

Titrimetric	100.00
Spectrometry	200.00
While Effluent Toxicity	600.00
Environmental Laboratory Certification Certification Clarification	
Note: Laboratories applying for certification are subject to the annual certification fee, plus the fee listed, for each category in which they are to be certified.	
Annual certification fee (chemistry and/or microbiology)	
Utah laboratories	825.00
Out-of-state laboratories	5,000.00
Plus reimbursement of all travel expenses	
National Environmental Accreditation Program (NELAP) recognition	825.00
Certification change	100.00
Performance Based Method Review - per method fee	250.00
Primary Method Addition for Recognition Laboratories	1,000.00

MEDICAID AND HEALTH FINANCING

Contracts	
Provider Enrollment	
Medicaid application fee for prospective or re-enrolling providers	600.00

CHILDREN'S HEALTH INSURANCE PROGRAM

Quarterly Premium	
Plan B	30.00
138%-150% of Poverty Level	
Plan C	75.00
150%-200% of Poverty Level	
Late	15.00

MEDICAID MANDATORY SERVICES

Other Mandatory Services	
Health Clinics	
99386 New patient well exam	185.00
99387 New patient well exam	200.00
Incision and Drainage	
10060 Abscess Simple/Single	68.00
10061 Complicated or Multiple	125.00
10080 Pilonidal Cyst	73.00
Simple	
10120 Incision and Removal	
Foreign Object-Simple	73.00
10140 Incision and Drainage of Cyst, Hematoma or Seroma	130.00
10160 Puncture Aspiration of Abscess, Hematoma	52.00
Debridement	
11000 Infected Skin up to 10%	57.00
11040 Skin Partial Thickness	44.00
11041 Skin Full Thickness	52.00
11042 Skin and Subcutaneous Tissue	110.00
11044 Skin, Tissue, Muscle, Bone	218.00
11100 Biopsy for Skin Lesion	
Subcutaneous	62.00

11101 Biopsy for Skin Subcutaneous	
Each Separate/Additional Lesion	32.00
11200 Removal Skin Tags 1-15	105.00
11201 Removal Skin tag any area,	
Each Add 10 Lesion	14.00
11300 Shave Biopsy for Epidermal/	
Dermal Lesion 1 Trunk-Neck	47.00
11305 Shave Excision and	
Electrocautery	67.00
11310 Surgery by Electrocautery	42.00
Excision	
Benign	
Trunk/Arm/Leg	
11400 Lesion 0.5cm or Less	90.00
11401 Lesion 0.6-1cm	110.00
11402 Lesion 1.1-2.0 cm	122.00
11403 2.1-3.0 cm	142.00
11404 3.1-4.0 cm	160.00
11420 Scalp/Neck/Genital 0.5	
or less	90.00
11421 Lesion 0.6-1.0 cm	125.00
11422 Subcutaneous/Neck/	
Genital/Feet 1.1-2.0 cm	140.00
11423 Cyst	150.00
11440 Benign Face/Ear/Eyelid	
0.5cm/less	100.00
11441 Benign Lesion Face/Ear/	
Eye/Nose 0.6-1.0 cm	125.00
11602 Malignant Trunk/Arm/Leg	
1.1-2.0 cm	112.00
11604 3.1-4.0 cm	166.00
Malignant	
11622 Lesion Scalp/Neck/Hand/	
Feet/Genital 1.1-2.0 cm	166.00
11641 Face/Nose/Ear 0.6-1.0 cm	131.00
11642 Face/Nose Ears 1.1-2.0 cm	172.00
11720 Debridement for Nails 1-5	27.00
11721 Debridement for Nails 6	
or More	55.00
Avulsion	
11730 Nail Plate Single	68.00
11731 Nail Second	42.00
11732 Nail Each Additional Nail	30.00
11740 Toenail	26.00
11750 Excision for Nail/Matrix	
Permanent Removal	175.00
11765 Wedge Excision of Skin	
of Nail Fold Ingrown	60.00
Repair	
Simple	
12001 Superficial Wound 2.5 cm	
or Less	192.00
12002 Wound 2.6-7.5 cm	203.00
12004 Wound 7.6-12.5 cm	133.00
12005 Wound 12.6-20.0 cm	166.00
12011 Face/Ear/Nose/Lip 2.5 cm	
or Less	234.00
12032 Layer Closure Scalp/	
Extremities/Trunk 2.6-7.5 cm	151.00
12035 Layer Closure Scalp/	
Extremities/Trunk 12.6-20 cm	227.00
13120 Complex Scalp/Arms/Legs	146.00
16020 Burn Dress without	
Anesthesia Office/Hospital Small	35.00
16025 Burn Dress without Anesthesia	
Medical Face/Extremities	68.00
Destruction	
17000 Any Method Benign	
First Lesion	100.00
17003 Add-on Benign/Pre-	
malignant	47.00
17004 Benign Lesion 15 or More	182.00
17110 Flat Wart for Up to 15	125.00
17111 Flat Warts for 15 and More	150.00
Malignant	
17260 Trunk/Arm/Leg 0.5 or Less	58.00
17280 Lesion Face 0.5 cm Less	76.00
17281 Lesion Face 0.6-1	109.00
20520 Foreign Body Removal	120.00
Simple	
20550 Injection for Trigger	
Point Tendon/Ligament/Ganglion	57.00
20552 Trigger Point Injection (TPI)	47.00
Arthrocentesis	
20600 Small Joint/Ganglion	
Fingers/Toes	50.00
20610 Major Joint/Bursa	
Shoulder/Knee	104.00
20605 Intermediate Joint/Bursa	
Ankle/Elbow	52.00
211 Community Service	52.00
28190 Foreign Body Removal	
for Foot Subcutaneous	125.00
30901 Cauterize (Limited) for Control	
Nasal Hemorrhage/Anterior/Simple	60.00
36415 Venipuncture	6.00
44641 Excision for Malignant Lesion	131.00
46083 Incision for Thrombosed	
Hemorrhoid, External	104.00
46600 Anoscope	23.00
52000 Cystoscopy	125.00
53670 Catheterization, Urinary,	
Simple	30.00
Colposcopy	
57421 Biopsy of Vagina/Cervix	156.00
57455 Cervix With Biopsy	156.00
57456 Cervix With Electrocautery	
conization	146.00
57511 Cryocautery Cervix for Initial	
or Repeat	83.00
58300 Insertion of Intrauterine Device	104.00
58301 Removal of Intrauterine Device	163.00
60001 Aspiration/Injection	
Thyroid Gland	81.00
Removal Foreign Body, External	
65025 Eye, Superficial	173.00
65220 Eye, Corneal	215.00
69200 Auditory Canal without	
General Anesthesia	150.00
69210 Cerumen Removal/One or	
Both Ears	78.00
80048 Basic Metabolic Profile	6.00
80053 Metabolic Panel Labs	6.00
Comprehensive	
80061 Lipid Panel Labs	6.00
80061 Quick Lipid Panel	6.00
80076 Hepatic Function Panel	6.00
80100 Drug Screen for Multiple	
Drug Classes	26.00
80101 Drug Screen for Single	
Drug Class	26.00
80176 Xylocaine 0-55 cc	29.00
Urine Analysis	

81000 with Microscope	10.00	90636 A and B Adult	90.00
81002	10.00	90645 Haemophilus Influenza B	47.00
81003 Automated and without		90649 Gardasil Human	
Microscope	10.00	Papillomavirus Vaccine	156.00
81025 Human Chorionic Gonadotropin ..	22.00	90658 Influenza Virus Vaccine	21.00
Urine		90669 Pneumococcal > 5 years	
82043 Microalbumin	16.00	old Only	104.00
82055 Alcohol Screen	21.00	90701 Diphtheria Tetanus Pertussis ...	42.00
82270 Hemocult	7.00	90702 Diphtheria Tetanus	14.00
		90703 Tetanus	26.00
Feces Screening		90707 Measles Mumps Rubella	42.00
82570 Creatinine	12.00	90715 Adacel - Tetanus Diphtheria	
82728 Ferritin	26.00	Vaccine	73.00
82948 Glucose for Blood, Regent Strip	6.00	90716 Varicella	8.00
82962 Glucose for Monitoring Device	6.00	90732 Pneumovax Shot	36.00
83036 Hemoglobin A1C (long-term		90734 Meningitis	5.00
blood sugar test)	23.00	90744 Hepatitis B/Newborn-	
83540 Iron	31.00	18 Years	73.00
84443 Thyroid Stimulating Hormone		90746 Hepatitis B 19+ Years	88.00
Labs	10.00	Adult	
84460 Alanine Amino Test	15.00	90772 Injection	18.00
85013 Hematocrit	5.00	Therapeutic, Diagnosis	
85025 Complete Blood Count Labs	5.00	90805 Psychiatric Diagnosis	
85610 Prothrombin Time	10.00	Interview Follow-up Visit	68.00
85651 Erythrocyte Sedimentation Test ...	11.00	92552 Audiometry	19.00
85652 Sedimentation Rate	11.00	93000 Electrocardiogram	36.00
86308 Mononucleosis test	15.00	93015 Cardiovascular Stress Test	130.00
86318 Helicobacter Pylori test	23.00	Treadmill	
86318 Quick Helicobacter Pylori test	23.00	93926 Duplex Scan Limited Study	130.00
86403 Monospot	18.00	93965 Doppler of Extremity	132.00
85680 Purified Protein Derivative/ Tuberculosis Test	9.00	94010 Spirometry	52.00
Culture		94060 Spirometry with	
87060 Strep	17.00	Bronchodilators	64.00
Bacterial		94200 Peak Flow	21.00
87070 Any Other Source	16.00	94640 Intermittent Pause Pressure	
87077 Incision and Drainage	16.00	Breathing Device -	
87081 Single Organism	14.00	Nebulizer Breathing	42.00
87082 Presumptive, Pathogenic		94760 Pulse Oximetry - Oxygen	
Organism Screen	16.00	Saturation	10.00
87086 Bacterial Urine	12.00	95115 Injections for Allergy Only 1	15.00
87088 Bacterial Urine Identification		95117 Injections for Allergy 2 or More ...	16.00
and Quantification	12.00	95860 Electromyogram 1	81.00
87102 Fungal	16.00	95861 Electromyogram 2	139.00
87106 Yeast	8.00	95900 Nerve Conduction	
87110 Chlamydia	16.00	Velocity Motor	42.00
87220 Potassium Hydroxide for		95904 Nerve Conduction	
Wet Prep	10.00	Velocity Sensory	35.00
87804 Influenza A	23.00	97035 Ultrasound	16.00
Quick Test		97110 Therapy	24.00
87880 Strep	26.00	97124 Massage	13.00
Quick Test		97260 Manipulate for Spinal 1 Area	16.00
87880 Quick Strep for Test for		99050 After Hours	24.00
Medicaid/Medicare	26.00	99058 Emergency Visit	36.00
88147 Papanicolaou (PAP) Smear for		99070 Supplies for Above and	
Cervical or Vaginal	42.00	Beyond Customary	19.00
88164 Cytopathology, Slides, Cervical		99080 Form 20	88.00
or Vagina	26.00	Disability Exam	
90471 Immunization Administration		99173 Visual Acuity Screening Test	10.00
for One Vaccine	25.00	New Patient	
90472 Immunization Administration		99201 Brief	47.00
for Additional Vaccine	12.00	99201N Brief Night	47.00
90620 Supplemental Security		99202 Limited	81.00
Income Exam Initial Consult	133.00	99202N Limited Night	81.00
Immunization		99203 Intermediate	120.00
Hepatitis		99203N Intermediate Night	120.00
90632 A for 19+ Years	78.00	99204 Extended	182.00
90634 A for Pediatric-Adolescent ...	42.00	99204N Extended Night	182.00

99205 Comprehensive	229.00	G0179 Physician Re-certification for Home Health	83.00
99205N Comprehensive Night	229.00	G0180 Physician Certification for Home Health	83.00
Established Patient		J0170 Injection for Epinephrine	10.00
99211 Brief	28.00	J0290 Injection for Ampicillin Sodium 500 mg	8.00
99211N Brief Night	28.00	J0540 Bicillin 1.2 million units	38.00
99212 Limited	47.00	J0696 Rocephin 250 mg	47.00
99212N Limited Night	47.00	J0702 Injection for Celestone 3 mg	12.00
99213 Intermediate	73.00	J0704 Injection for Celestone 4 mg	12.00
99213N Intermediate Night	73.00	J0780 Compazine up to 10 mg	16.00
99214 Extended	110.00	J0810 Solu Medrol 150 mg	21.00
99214N Extended Night	110.00	J1000 Estradiol	12.00
99215 Comprehensive	151.00	J1055 Depo-Provera	88.00
99215N Comprehensive Night	151.00	J1200 Benadryl up to 50 mg	10.00
Consult With Another Physician		J1390 Estrogen	31.00
99241 History, Exam, Straightforward	36.00	J1470 Gamma Globulin 2 cc	21.00
99242 Expanded History and Exam Straightforward	57.00	J1820 Insulin up to 100 units	10.00
99243 Detailed History, Exam	79.00	J1885 Toradol 15 mg	21.00
Low Complexity		J2000 Xylocaine 0-55 cc	5.00
99244 Comprehensive History, Exam	99.00	J2550 Phenergan up to 50 mg	10.00
Moderate Complexity		J3130 Testosterone	31.00
99245 Office Consult for New or Established Patient	426.00	J3301 Kenalog-10 Per 10 mg	31.00
99354 Prolonged Services for one Hour	73.00	J3401 Vistaril 25 mg	12.00
99361 Medical Conference by Physicians	52.00	J3420 Injection B-12	10.00
Check		J7300 Intrauterine copper contraceptive	600.00
99381 New Patient Under 1	140.00	contraception	
99382 New Patient Age 1-4	145.00	J7320 Hyalgan, Synvisc	281.00
99383 New Patient Age 5-11	150.00	Knee Injection	
99384 Age 12-17	165.00	J7620 Albuterol Per ml, Inhalation Solution Durable Medical Equipment	3.00
99385 Age 18-20	160.00	J7625 Albuterol Sulfate 0.5%/ml Inhalation Solution Administration	4.00
99391 Under 1	125.00	L3908 Wrist Splint	44.00
99392 Age 1-4	130.00	Liver Function Test	6.00
99393 Age 5-11	130.00	Lipid	17.00
99394 Age 12-17	145.00	PSATE0000 Prostate Specific Antigen Test	42.00
99395 Age 18-20	150.00	Residual Functional Capacity Questionnaire	52.00
99396 Medical Evaluation for Adult 40-64	155.00	S0020 Marcaine up to 30 ml	18.00
99397 Medical Evaluation for 65 Years and Over	170.00	S9981 Medical Records Copying Fee, Administration	6.00
99402 Preventive Medicine		Supplemental Security Insurance Exam	113.00
Counseling 30-44 Minutes	468.00	Thin Prep	140.00
99432 Newborn Normal Care - In Office	42.00	Thyroid Stimulating Hormone	19.00
A4460 Ace Wrap (per roll)	7.00	Y4600 Injection for Pediatric Immunization Only	11.00
A4550 Surgical Tray	42.00	Y9051 Records Sent to Case Worker	16.00
A4565 Sling	21.00	Family Dental Plan	
A4570 Splint	23.00	Oral Evaluation	
Complete Blood Count	5.00	D0120 Periodic	31.00
Complete Metabolic Panel	6.00	D0140 Limited	50.00
Cornell Well Child Check Visits	36.00	D0150 Comprehensive	52.00
Form 21	73.00	D0210 Intraoral - complete series including Bitewings	88.00
Disability Exam		D0220 Intraoral periapical	17.00
Federal Aviation Administration Exam	52.00	First film	
G0008 Flu Shot Administration for Medicare	8.00	D0230 Intraoral periapical	13.00
G0009 Injection Administration for Pneumonia without Physician	4.00	Additional film	
for Medicare		D0270 Bitewing	17.00
G0010 Hepatitis B Vaccine Administration	5.00	Cost of single film	
G0101 Papanicolaou (PAP) with Breast Exam Cervical/Vaginal Screen	42.00	D0272 Bitewing	28.00
Medicare			
G0107 Hemocult	10.00		

Cost of two film		D5640 Replace broken teeth	
D0274 Bitewing	40.00	(per tooth)	89.00
Cost of four film		D5650 Add tooth to existing partial	144.00
D0330 Panoramic Film	77.00	D5750 Reline complete upper	270.00
D1110 Prophylaxis-adult	61.00	D5751 Reline complete lower	270.00
D1120 Prophylaxis-child	42.00	D5760 Reline upper partial	269.00
D1203 Topical application of fluoride excluding prophylaxis	20.00	D5761 Reline lower partial	269.00
D1351 Sealant (per tooth)	34.00	D7111 Coronal Remnants	74.00
Space Maintainer		D7140 Single tooth extraction	94.00
D1510 Fixed unilateral	204.00	D7210 Surgical removal	
D1515 Fixed bilateral	269.00	erupted tooth	167.00
D1520 Removable unilateral	245.00	D7270 Tooth re-implantation with stabilization	187.00
D1525 Removable bilateral	346.00	D7286 Biopsy of oral tissue	125.00
D1550 Recement	46.00	D7410 Excision of benign tumor	218.00
Amalgam		D7510 Incision and drainage of abscess	126.00
D2140 One surface	78.00	D7960 Frenulectomy	178.00
D2150 Two surface	102.00	D9248 Non-intravenous Conscious Sedation	120.00
D2160 Three surface	121.00	D2980 Crown Repair, By Report	120.00
D2161 4 or more surface	146.00	D2751 Crown, Porcelain fused to Predominantly Base Metal	650.00
Resin		D3110 Pulp Cap-Direct (Excluding Final Restoration)	48.00
D2330 One surface, anterior	97.00	D2752 Crown, Porcelain fused to Noble Metal	650.00
D2331 Two surface, anterior	121.00	D3120 Pulp Cap-Indirect (Excluding Final Restoration)	48.00
D2332 Three surface, anterior	144.00	10040 Acne Surgery	48.00
D2335 4 or more surface-can be incisal angle, anterior	172.00	D3230 Pulpal Therapy-Anterior Primary Tooth	120.00
D2391 One surface, posterior	108.00	J7302 Levonorgestrel-releasing intrauterine contraceptive	800.00
D2751 Crown-porcelain fused to majority base metal	650.00	D3240 Pulpal Therapy-Posterior Primary Tooth	150.00
D2920 Recement Crown	59.00	D0170 Re-evaluation - Limited, Problem Focused (Established Patient)	42.00
D2930 Refabricated stainless steel crown-primary	160.00	D3421 Apicoectomy/periradicular surgery - bicuspid (1st root)	502.00
D2931 Refabricated stainless steel crown-permanent	181.00	D0180 Comprehensive Periodontal Evaluation	44.00
D2950 Core build-up	152.00	D3425 Apicoectomy/periradicular surgery - molar (1st root)	600.00
D2951 Pin retention (per tooth)	35.00	D0190 Screening of Patient	13.00
D2954 Prefabricated post and core	193.00	D3426 Apicoectomy/periradicular surgery - (Each additional root)	192.00
D3220 Therapeutic pulpotomy	98.00	D0191 Assessment of Patient	13.00
D3221 Open and medicate	109.00	D4210 Gingivectomy or Gingivoplasty	360.00
Root Canal Therapy		D0273 Bitewings - Three Films	32.00
D3310 Anterior	533.00	D5620 Repair cast framework	180.00
D3320 Bicuspid	562.00	D1208 Topical Application of Fluoride	23.00
D3330 1st molar	841.00	D5850 Tissue Conditioning Maxillary	120.00
D3410 Apicoectomy/periradicular surgery - bicuspid	478.00	D2390 Resin-Based Composite Crown, Anterior	224.00
D3430 Retrograde filling	145.00	D5851 Tissue Conditioning Mandibular	120.00
D4355 Full mouth debridement	121.00	D2392 Resin-Based Composite - Two Surfaces, Posterior	144.00
Denture		D6240 Pontic, Porcelain fused to High Noble Metal	650.00
D5110 Complete upper	734.00	D2393 Resin-Based Composite - Three Surfaces, Posterior	174.00
D5120 Complete lower	734.00	D6241 Pontic, Porcelain fused to Predominantly Base Metal	650.00
D5130 Immediate upper	801.00	D2394 Resin-Based Composite - Four or More Surfaces, Posterior	210.00
D5140 Immediate lower	801.00	D6245 Pontic, Porcelain/Ceramic	650.00
D5211 Upper partial-resin base	621.00		
D5212 Lower partial-resin base	720.00		
D5213 Upper partial-cast metal frame with resin base	811.00		
D5214 Lower partial-cast metal frame with resin base	811.00		
D5410 Adjust complete upper	66.00		
D5411 Adjust complete lower	66.00		
D5421 Adjust partial upper	66.00		
D5422 Adjust partial lower	66.00		
D5510 Repair broken complete base	224.00		
D5520 Replace missing/broken teeth complete	125.00		
D5610 Repair resin base-partial	156.00		
D5630 Repair or replace broken clasp	168.00		

D5660 Add Clasp to Existing Partial Denture	140.00
D6242 Pontic, Porcelain bused to Noble Metal	650.00
D4921- Gingival Irrigation/Per Quadrant ...	5.00
D6740 Crown, Porcelain/Ceramic	650.00
D4341 Periodontal Scaling and Root Planning Four or More Contiguous Teeth or Bounded Teeth Spaces, per Quadrant	188.00
D6750 Pontic, Porcelain fused to Noble Metal	650.00
D4342 Periodontal Scaling and Root Planning 1-3 teeth, Per Quadrant	110.00
D6751 Pontic, Porcelain fused to Predominantly Base Metal	650.00
D4910 Periodontal Maintenance	115.00
D6752 Pontic, Porcelain fused to Noble Metal	650.00
D0240 Intraoral Occlusal Radiographic Image	14.00
D6930 Recement Bridge	78.00
Health Clinics	
31505 Laryngoscopy	70.00
D9110 Palliative (Emergency) Treatment for Pain - Minor Procedure	72.00
90791 Psychiatric diagnosis evaluation w/o medical service (per 15 minutes) ...	40.00
D9230 Nitrous sedation/inhalation	55.00
Viscous Lidocaine J8499	5.00
10006 Same Day Cancellation, Established Patient	35.00
Progesterone J2675	4.00
10007 No Show Fee, Established Patient ...	35.00
International Normalized Ratio home testing review G0250	8.00
10008 No Show Fee, Established Patient, Endodontist Appointment	75.00
A6402 Gauze, less than 16 square inch ...	1.00
10009 No Show Fee, Established Patient, Hospital Sedation	100.00
A6403 Gauze, 16-48 square inch	2.00
2700 Fee, Dental - Crown, Rush Procedure	60.00
Wood filler/paste A6261	40.00
58110 Endometrial sampling in conjunction with colposcopy	65.00
Malignant lesion removal 0.5 cm or less 11600	120.00
58100 Colposcopy w/ or w/o endocervical sampling	130.00
Typhoid 90691	75.00
76801 Ultrasound, pregnancy uterus, first trimester trans-abdominal approach	130.00
Artificial Insemination 58321	250.00
76805 Ultrasound, pregnancy uterus, after first trimester trans-abdominal approach	150.00
Arterial Studies	
93922	120.00
76815 Ultrasound, pregnancy uterus, with image limited	100.00
93923	182.00
96372 Injection administration	25.00
93924	221.00
99188 App Topical Fluoride Varnish	20.00
IV Monitoring 1st half hour 96360	60.00

D1206 Topical Fluoride Varnish; Therapeutic Application High Risk	23.00
IV Monitoring each additional hour 96361	20.00
D2740 Crown, Porcelain/Ceramic Substrate	650.00
1000cc normal saline J7030	10.00
D2750 Crown, Porcelain fused to High Noble Metal	650.00

DEPARTMENT OF WORKFORCE SERVICES

ADMINISTRATION

Executive Director's Office	
Government Records Access and Management Act (GRAMA) Fees - these GRAMA fees apply for the entire Department of Workforce Services	
Photocopies (for all copies after the first 10)	0.10
Fax Pages Local, All Pages	2.00
Fax Pages Long Distance, All Pages	2.00
Research (per hour)	20.00

UNEMPLOYMENT INSURANCE

Unemployment Insurance Administration	
Debt Collection Information Disclosure	
Fee (per Report)	15.00
Fee for employment information research and report for creditors providing a court order for employment information of a specific debtor.	

HOUSING AND COMMUNITY DEVELOPMENT

Weatherization Assistance	
Weatherization Laboratory (per day)	250.00
Heating Ventilation and Air Conditioning (HVAC) Laboratory	
Fee (per day)	250.00
Insulation Laboratory (per day)	250.00
Weatherization Classroom (per day)	50.00
Demonstration House (per day)	250.00
Consumer/Small Contractor (per hour) ...	10.00
Materials (per person)	300.00
Trainers Basic	50.00
Trainers Advanced	100.00
Homeless Committee	
State Community Services Office	
Homeless Summit	35.00

STATE SMALL BUSINESS CREDIT INITIATIVE PROGRAM FUND

Loan Origination Fee for Loan Participation Program (per 1.00)	0.04
This is a variable fee and the department may charge at a rate that is less than or equal to 4% of the loan amount based on participation & risk level.	
Loan Origination Fee for Loan Guarantee Program (per 1.00)	0.04
This is a variable fee and the department may charge at a rate that is less than or equal	

to 4% of the loan amount based on participation & risk level.

DEPARTMENT OF HUMAN SERVICES

EXECUTIVE DIRECTOR OPERATIONS

Executive Director's Office
 Government Records Access and Management Act (GRAMA) Fees - these GRAMA fees apply for the entire Department of Human Services
 Paper (per side of sheet) 0.25
 Audio tape (per tape) 5.00
 Video tape (per tape) 15.00
 Compiling and Reporting
 In another format (per hour) 25.00
 If programmer/analyst assistance is required (per hour) 50.00
 Mailing Actual cost
 Office of Licensing
 Licensing
 Initial license 900.00
 Any new Human Service program excluding recovery residences, outdoor youth program, and child placing.
 FBI Rapback 13.00
 Western Identification Network (WIN) States Rapback 5.00
 Recovery Residences 1,295.00
 Licensing fee for recovery residences for people coming out of rehabilitation. It was mandated that the fee be set up in 2014 HB 211. Initial license fee and renewal fee.
 Child Placing 250.00
 Initial license fee and renewal fee.
 Day Treatment 450.00
 Outpatient Treatment 300.00
 Residential Support 300.00
 Adult Day Care
 0-50 consumers per program 300.00
 More than 50 consumers per program 600.00
 Per licensed capacity 9.00
 Residential Treatment
 Basic 600.00
 Per licensed capacity 9.00
 Social Detoxification 600.00
 Life Safety Pre-inspection 600.00
 Outdoor Youth Program
 Basic 1,408.00
 Initial license fee and renewal fee.
 Federal Bureau of Investigation
 Fingerprint Check
 Fingerprinting 34.75
 Intermediate Secure Treatment
 Basic 750.00
 Per licensed capacity 9.00
 Therapeutic School Program
 Basic 600.00
 Per licensed capacity 9.00

DIVISION OF SUBSTANCE ABUSE AND MENTAL HEALTH

Administration - DSAMH
 Administration

Alcoholic Beverage Server
 On Premise Sales 3.50
 Off Premise Sales 3.50
 State Hospital
 Photo Shoots (per 2 hours) 20.00
 Use of USH Facilities
 Groups up to 50 people (per day) 75.00
 Groups over 50 people (per day) 150.00
 State Substance Abuse Services
 Alcoholic Beverage Server
 On Premise Sales 3.50
 Off Premise Sales 3.50

DIVISION OF SERVICES FOR PEOPLE WITH DISABILITIES

Utah State Developmental Center
 USDC Theater Rental
 Full Day (per square foot) 0.10
 Theater Technician (per hour) 20.00
 Hourly (per square foot) 0.0175
 Half Day (per square foot) 0.07
 Non-waiver Services
 Graduated 630.00
 Critical Support Services for People with Disabilities who are non-Medicaid matched. The fee ranges between 1% to 3% of Gross Family Income.

OFFICE OF RECOVERY SERVICES

Child Support Services
 Automated Credit Card Convenience Fee ... 2.00
 Fee for self-serve payments made online or through the automated phone system (IVR).
 Collections Processing 12.00
 6 percent of payment being disbursed up to a maximum of \$12 per month.
 Assisted Credit Card Convenience Fee 6.00
 Fee for phone payments made with the assistance of an accounting worker.
 \$25 Federal Offset 25.00
 Retained
 \$25 Annual Collection Fee 25.00

DIVISION OF CHILD AND FAMILY SERVICES

Service Delivery
 Live Scan Testing 10.00

STATE BOARD OF EDUCATION

Deaf and Hard of Hearing
 Interpreter
 Standard Late Fee (per Assessment) 80.00
 Annual Maintenance/Recognition (per Individual) 70.00
 Interpreter Certification
 Written Exam (per Exam) 60.00
 Novice Exam (per Exam) 150.00
 Professional Exam (per Exam) 150.00
 Professional Re-test, per component (per Test) 30.00
 Temporary Permit (per Permit) 150.00
 Student Permit (per Permit) 30.00

Out-of-State Interpreter Certification	
Utah Novice Level Certificate	300.00
Utah Professional Level Re-test,	
per component	60.00
Utah Professional Level Certificate	300.00
Knowledge Exam	120.00

**NATURAL RESOURCES, AGRICULTURE,
AND ENVIRONMENTAL QUALITY**

DEPARTMENT OF NATURAL RESOURCES

FORESTRY, FIRE AND STATE LANDS

Division Administration	
Administrative	
Application	
Mineral Lease	40.00
Special Lease Agreement	40.00
Mineral Unit/Communitization	
Agreement	40.00
Special Use Lease Agreement	
(SULA)	300.00
Grazing Permit	50.00
Materials Permit	200.00
Easement	150.00
Right of Entry	50.00
Sovereign Land General Permit	
Private	300.00
Public	
Exchange of Land	1,000.00
Assignment	
Mineral Lease	
Total Assignment	50.00
Interest Assignment	50.00
Operating Right Assignment	50.00
Overriding Royalty Assignment	50.00
Partial Assignment	50.00
Collateral Assignment	50.00
Special Use Lease Agreement (SULA)	50.00
Grazing Permit per AUM (Animal	
Unit Month)	2.00
Grazing Sublease per AUM (Animal	
Unit Month)	2.00
Materials Permits	50.00
Easement	50.00
Right of Entry (ROE)	50.00
Sovereign Land General Permit	50.00
Grazing Non-use (per lease)	10%
Special Use Lease Agreement (SULA)	
non-use	10%
ROE, Easement, Grazing amendment	50.00
SULA, general permit, mineral lease,	
materials permit amendment	125.00
Reinstatement	150.00
Surface leases & permits per	
reinstatement/per lease or permit	
Bioprospecting - Registration	50.00
Oral Auction Administration	Actual cost
Affidavit of Lost Document	
(per document)	25.00
Certified Document (per document)	10.00
Research on Leases or Title Records	
(per hour)	50.00
Reproduction of Records	
Self service (per copy)	0.10
By staff (per copy)	0.40

Change on Name of Division	
Records (per occurrence)	20.00
Fax copy (per page)	1.00
Send only	
Late Fee	6% or \$30
Returned check charge	30.00
Sovereign Lands	
Rights of Entry	
Mooring Bouys: 3 yr max term	50.00
Renewal - Mooring Bouys; 3 yr	
max term	50.00
Seismic Survey Fees	
Primacord (per mile)	200.00
Surface Vibrators (per mile)	200.00
Shothole >50 ft (per hole)	50.00
Shothole <50 ft (per mile)	200.00
Pattern Shotholes (per pattern)	200.00
Commercial	200.00
Commercial Recreation Event	
(per person over 150 people)	2.00
Minimum ROE of \$200 plus per person	
royalty	
Data Processing	
Production Time (per hour)	55.00
Programming Time (per hour)	75.00
Geographic Information System	
Processing Time (per hour)	55.00
Personnel Time (per hour)	50.00
Sovereign Lands	
Easements	
Minimum Easement	225.00
Floating Dock, wheeled pier, seasonal	
use	225.00
12 yr max term	
Renewal-Floating dock, wheeled	
piers; 3 yr max	150.00
Dock/pier, single upland owner use	330.00
9 yr max term	
Boat ramp, metal or portable	225.00
9 yr max term	
Canal	
Existing	
<=33' wide (per rod)	15.00
>33' but <=66' wide (per rod)	30.00
>66' but <=100' wide (per rod)	45.00
<100' wide (per rod)	60.00
New	
<=33' wide (per rod)	30.00
>33' but <=66' wide (per rod)	45.00
>66' but <=100' wide (per rod)	60.00
>100' wide (per rod)	75.00
Roads	
Existing	
<=33' wide (per rod)	5.50
>33' but <=66' wide (per rod)	11.00
>66' but <=100' wide (per rod)	16.50
>100' wide (per rod)	22.00
New	
<=33' wide (per rod)	8.50
>33' but <=66' wide (per rod)	17.00
>66' but <=100' wide (per rod)	25.50
>100' wide (per rod)	34.00
Power lines, Telephone Cables, Retaining walls	
and jetties	
<=30' wide (per rod)	14.00
>30 but <=60' wide (per rod)	20.00

>60' but <=100' wide (per rod)	26.00
>100' but <=200' wide (per rod)	32.00
>200' but <=300' wide (per rod)	42.00
>300' wide (per rod)	52.00
Pipelines	
<=2" (per rod)	7.00
>2" but <=13" (per rod)	14.00
>13" but <=25" (per rod)	20.00
>25" but <=37" (per rod)	26.00
>37" (per rod) (per rod)	52.00
Special Use Lease Agreements (SULA)	
SULA Lease Rate	450.00
Minimum \$450 or market rate per R652-30-400	
Grazing Permits	3.00
Annual rate per AUM (Animal Unit Month)	
Special Use Lease Agreements	Market rate
General Permits	
Same as SULA	450.00
Minimum \$450 or market rate per R652-30-400	
Mineral Lease	
Rental Rate 1st ten years (per acre)	1.10
Rental Rate Renewals (per acre)	2.20

OIL, GAS AND MINING

Administration	
New Coal Mine Permit Application	5.00
Copy	
Bid Specifications	20.00
Telefax of material (per page)	0.25
Staff Copy (per page)	0.25
Self Copy (per page)	0.10
Color	
Staff Copy (per page)	0.50
Self Copy (per page)	0.25
Prints from Microfilm	
Staff Copy (per paper-foot)	0.55
Self Copy (per paper-foot)	0.40
Print of Microfiche	
Staff Copy (per page)	0.25
Self Copy (per page)	0.10
CD	
Mailed	23.00
Picked up	20.00
Well Logs	
Staff Copy (per paper-foot)	0.75
Self Copy (per paper-foot)	0.50
Print of computer screen (per screen)	0.50
Compiling or Photocopying Records	
Actual time spent compiling or copying	Current personnel rate
Actual time spent on data entry or records segregation	Current personnel rate
Third Party Services	
Copying maps or charts	Actual cost
Copying odd sized documents	Actual cost
Specific Reports	
Monthly Notice of Intent to Drill/Well Completion Report	
Picked Up	0.50
Mailed	1.00
Annual Subscription	6.00
Mailed Notice of Board Hearings	
List (per year)	20.00

Current Administrative Rules - Oil and Gas, Coal, Non-Coal, Abandoned Mine Lease (first copy is free)	
Picked up	10.00
Mailed	13.00
Custom-tailored data reports	
Diskettes/Tapes	Current personnel rate
Custom Maps (per linear foot) (per variable)	Variable
Minimum Charges	
Color Plot	25.00
Laser Print	5.00
Minerals Reclamation	
Mineral Program	
Exploration Permit	150.00
Annual Permit	
Small Mining Operations	150.00
Large Mining Operations	
10 to 50 acres	500.00
over 50 acres	1,000.00

WILDLIFE RESOURCES

Director's Office	
Fishing Licenses	
Resident	
Youth Fishing (12-13)	5.00
Resident Youth Fishing Ages	
14-17 (365 Day)	16.00
Resident Fishing Ages 18-64 (365 day)	
	34.00
Resident Multi Year License (Up to 5 years) for Ages 18-64 \$33/year.	
Age 65 Or Older (365 day)	25.00
Disabled Veteran (365 day)	12.00
Resident Fishing 3 day any age	16.00
7-Day (Any Age)	20.00
Nonresident	
Youth Fishing (12-13)	5.00
Nonresident Youth Fishing Ages	
14-17 (365 day)	25.00
Nonresident Fishing age 18 Or Older (365 day)	
	75.00
Nonresident Multi Year (Up to 5 Years) for Ages 18 or Older \$74/year.	
Nonresident Fishing 3 day any age	24.00
7-Day (Any Age)	40.00
Set Line Fishing License	20.00
Season Fishing Licenses not Combinations	
	Up to 20% discount
Game Licenses	
Introductory Hunting License	4.00
Upon successful completion of Hunter Education - add to registration fee	
Resident Introductory Combination license (hunter's ed completion)	
	6.00
Nonresident Introductory Combination license (hunter's ed completion)	
	6.00
Resident	
Hunting License (up to 13)	11.00
Resident Hunting License Ages 14-17	16.00
Resident Hunting License Ages 18-64	34.00
Resident Multi Year license (Up to 5 years) for Ages 18-64 \$33/year	
Resident Hunting License	
Ages 65 Or Older	25.00

Resident Youth Combination License Ages 14-17	20.00
Resident Combination license Ages 18-64	38.00
Resident Multi Year License (Up to 5 Years) for ages 18-64 \$37/year	
Resident Combination Ages 65 or Older	29.00
Dedicated Hunter Certificate of Registration (COR)	
1 yr. (12-17)	40.00
1 Yr. (18+)	65.00
3 Yr. (12-17)	120.00
3 Yr. (18+)	195.00
Lifetime License Dedicated Hunter Certificate of Registration (COR)	
1 Yr. (12-17)	12.50
1 Yr. (18+)	25.00
3 Yr. (12-17)	37.50
3 Yr. (18+)	75.00
Nonresident	
Nonresident Youth Hunting License Ages 17 and Under	25.00
Nonresident Hunting License Age 18 or Older (365 day)	65.00
Nonresident Multi Year Hunting License (Up to 5 Years)	64.00
Nonresident Youth Combination license Ages 17 and under	29.00
Nonresident Combination license Ages 18 Or Older	85.00
Nonresident Multi Year License (Up to 5 Years) for Ages 18 or Older \$84/year.	
Small Game - 3 Day	32.00
Falconry Meet	15.00
Dedicated Hunter Certificate of Registration (COR)	
1 Yr. (14-17)	268.00
Includes season fishing license	
1 Yr. (18+)	349.00
Includes season fishing license	
3 Yr. (12-17)	814.00
Includes season fishing license	
3 Yr. (18+)	1,047.00
Includes season fishing license	
General Season Permits	
Resident	
Turkey	35.00
General Season Deer	40.00
Antlerless Deer	30.00
Two Doe Antlerless	45.00
Depredation - Antlerless	30.00
Resident Landowner Mitigation	
Deer - Antlerless	30.00
Elk - Antlerless	50.00
Pronghorn - Doe	30.00
Nonresident Landowner Mitigation	
Deer - Antlerless	93.00
Elk - Antlerless	218.00
Pronghorn - Doe	93.00
Nonresident	
Turkey	100.00
General Season Deer	268.00
Includes season fishing license	

Depredation - Antlerless	93.00
Antlerless Deer	93.00
Two Doe Antlerless	171.00
Stamps	
Wyoming Flaming Gorge	10.00
Arizona Lake Powell	8.00
Limited Entry Game Permits	
Deer	
Resident	
Limited Entry	80.00
Premium Limited Entry	168.00
Co-Operative Wildlife Management Unit (CWMU)/Landowner	
Buck	40.00
Limited Entry	80.00
Premium Limited Entry	168.00
Antlerless	30.00
Two Doe Antlerless	45.00
Nonresident	
Limited Entry	468.00
Includes season fishing license	
Premium Limited Entry	568.00
Includes season fishing license	
Co-Operative Wildlife Management Unit (CWMU)/Landowner	
Buck	268.00
Includes season fishing license	
Limited Entry	468.00
Includes season fishing license	
Premium Limited Entry	568.00
Includes season fishing license	
Antlerless	93.00
Two Doe Antlerless	171.00
Elk	
Resident	
Archery	50.00
General Bull	50.00
Limited Entry Bull	285.00
Premium Limited Entry Bull	513.00
Antlerless	50.00
Control	30.00
Resident Two Cow Elk permit	80.00
Depredation	50.00
Depredation - Bull Elk - With Current Year Unused Bull Permit	235.00
Depredation - Bull Elk - Without Current Year Unused Bull Permit	285.00
Co-Operative Wildlife Management Unit (CWMU)/Landowner	
Any Bull	285.00
Antlerless	50.00
Nonresident	
Archery	393.00
Includes season fishing license	
General Bull	393.00
Includes season fishing license	
Limited Entry Bull	800.00
Includes season fishing license	
Premium Limited Entry Bull	1,505.00
Includes fishing license	
Antlerless	218.00
Control	93.00
Nonresident Two Cow Elk permit	350.00
Depredation - Antlerless	218.00

Co-Operative Wildlife Management Unit (CWMU)/Landowner Any Bull	800.00	Nonresident Rocky Mtn/Desert Bighorn Sheep Ewe permit	1,000.00
Includes fishing license Antlerless	218.00	Goats Resident Rocky Mountain	413.00
Pronghorn Resident Limited Buck	55.00	Nonresident Rocky Mountain	1,518.00
Limited Doe	30.00	Includes season fishing license	
Limited Two Doe	45.00	Cougar/Bear Resident Cougar	58.00
Co-Operative Wildlife Management Unit (CWMU)/Landowner Buck	55.00	Bear	83.00
Doe	30.00	Premium Bear	166.00
Depredation Doe	30.00	Bear Archery	83.00
Archery Buck	55.00	Cougar Pursuit	30.00
Nonresident Limited Buck	293.00	Bear Pursuit	30.00
Includes season fishing license Limited Doe	93.00	Nonresident Cougar	258.00
Limited Two Doe	171.00	Bear	308.00
Archery Buck	293.00	Premium Bear	475.00
Includes season fishing license Depredation Doe	93.00	Cougar Pursuit	135.00
Co-Operative Wildlife Management Unit (CWMU)/Landowner Buck	293.00	Bear Pursuit	135.00
Includes season fishing license Doe	93.00	Wolf Resident	20.00
Moose Resident Bull	413.00	Nonresident	80.00
Antlerless	213.00	Cougar/Bear Cougar or Bear Damage	30.00
Co-Operative Wildlife Management Unit (CWMU)/Landowner Bull	413.00	Wild Turkey Resident Limited Entry	35.00
Antlerless	213.00	Nonresident Limited Entry	100.00
Nonresident Bull	1,518.00	Waterfowl Swan Resident	15.00
Includes season fishing license Antlerless	713.00	Nonresident	15.00
Co-Operative Wildlife Management Unit (CWMU)/Landowner Bull	1,518.00	Sandhill Crane Resident	15.00
Includes season fishing license Antlerless	713.00	Nonresident	15.00
Bison Resident	413.00	Sportsman Permits Resident Bull Moose	413.00
Resident Antelope Island	1,110.00	Hunter's Choice Bison	413.00
Nonresident	1,518.00	Desert Bighorn Ram	513.00
Includes season fishing license Nonresident Antelope Island	2,615.00	Bull Elk	513.00
Includes season fishing license		Buck Deer	168.00
Bighorn Sheep Resident Desert	513.00	Buck Pronghorn	55.00
Rocky Mountain	513.00	Bear	83.00
Resident Rocky Mtn/Desert Bighorn Sheep Ewe permit	100.00	Cougar	58.00
Nonresident Desert	1,518.00	Rocky Mountain Goat	413.00
Includes season fishing license Rocky Mountain	1,518.00	Rocky Mountain Sheep	513.00
Includes season fishing license		Turkey	35.00
		Other Falconry Permits Resident Capture Apprentice Class	30.00
		General Class	50.00
		Master Class	50.00
		Nonresident Capture Apprentice Class	115.00
		General Class	115.00
		Master Class	115.00
		Handling	10.00
		Includes licenses, Certificate of Registration, and exchanges Drawing Application	10.00
		Landowner Association Application	150.00
		Nonrefundable	

Resident/Nonresident Dedicated Hunter	Market price up to \$95.00
Hourly Labor Buyout Rate 20.00	Ten Punch Pass Shooting Ranges
Bird Bands 0.25	Adult (Rifle/Archery/ Handgun) Up to \$95
Furbearer/Trap Registration	Market price up to \$95.00
Resident Furbearer 29.00	Sportsmen Club Meetings 20.00
Any age	Reproduction of Records
Nonresident Furbearer 154.00	Self Service (per copy) 0.10
Any age	Staff Service (per copy) 0.25
Resident Bobcat Temporary	Geographic Information System
Possession 15.00	Personnel Time (per hour) 50.00
Nonresident Bobcat Temporary	Processing (per hour) 55.00
Possession 45.00	Data Processing
Resident Trap Registration 10.00	Programming Time (per hour) 75.00
Nonresident Trap Registration 10.00	Production (per hour) 55.00
Duplicate Licenses, Permits and Tags	License Agency
Hunter Education cards 10.00	Application 20.00
Furharvester Education cards 10.00	Other Services to be reimbursed at actual time and materials
Duplicate	Postage Current rate
Vouchers CWMU/Conservation/ Mitigation 25.00	Lost license paper by license agents (per page) 10.00
Refund of Hunting Draw License 25.00	Return check charge 20.00
Application Amendment 25.00	Hardware Ranch Sleigh Ride
Late Harvest Reporting 50.00	Adult 5.00
Wildlife Management Area Access	Age 4-8 3.00
(without a valid license) 10.00	Age 0-3 No charge
Exchange 10.00	Education Groups (per person) 1.00
Wood Products on Division Land	Easement and Leases Schedule
Firewood (2 Cords) 10.00	Application for Leases
Christmas Tree 5.00	Leases 250.00
Ornamentals	Nonrefundable
Conifers (per tree) 5.00	Easements
Maximum \$60.00 per permit	Rights-of-way 750.00
Deciduous (per tree) 3.00	Nonrefundable
Maximum \$60.00 per permit	Rights-of-entry 50.00
Posts 0.40	Nonrefundable
Maximum \$60.00 per permit	Easements Oil and Gas Pipelines . . . 250.00
Hunter Education	Amendment to lease, easement, right-of-way 400.00
Hunter Education Training 6.00	Nonrefundable
Hunter Education Home Study 6.00	Amendment to right of entry 50.00
Furharvester Education Training 6.00	Certified document 5.00
Bowhunter Education Class 6.00	Nonrefundable
Long Distance Verification 2.00	Research on leases or title records (per hour) 50.00
Becoming an Outdoors Woman 150.00	Rights-of-Way
Special Needs Rates Available	Leases and Easements - Resulting in Long-Term Uses of Habitat . . . Variable
Hunter Education Range	Fees shall be determined on a case-by-case basis by the division, using the estimated fair market value of the property, or other legislatively established fees, whichever is greater, plus the cost of administering the lease, right-of-way, or easement. Fair market value shall be determined by customary market valuation practices.
Adult 5.00	Special Use Permits for non-depleting land uses of < 1 year Variable
Market price up to \$10.	A nonrefundable application of \$50 shall be assessed for any commercial use. Fees for approved special uses will be based on the fair market value of the use, determined by customary practices which may include: an assessment of comparable values for similar properties, comparable fees for similar land
Youth 2.00	
Ages 15 and under. Market price up to \$5.	
Group for organized groups and not for special passes 50% discount	
Spotting Scope Rental 2.00	
Trap, Skeet or Riverside Skeet (per round) 5.00	
Market price up to \$10	
Five Stand - Multi-Station Birds 7.00	
Market price up to \$10	
Ten Punch Pass	
Ten Punch Pass Shooting Ranges Youth (Rifle/Archery/ Handgun) Up to \$45	
Market price up to \$45.00	
Ten Punch Pass Shooting Ranges (Shotgun) Up to \$95	

uses, or fee schedules. If more than one fee determination applies, the highest fee will be selected.	
Width of Easement	
0' - 30' Initial	12.00
0' - 30' Renewal	8.00
31' - 60' Initial	18.00
31' - 60' Renewal	12.00
61' - 100' Initial	24.00
61' - 100' Renewal	16.00
101' - 200' Initial	30.00
101' - 200' Renewal	20.00
201' - 300' Initial	40.00
201' - 300' Renewal	28.00
>300' Initial	50.00
>300' Renewal	34.00
Outside Diameter of Pipe	
<2.0" Initial	9.40
<2.0" Renewal	4.00
2.0" - 13" Initial	19.00
2.0" - 13" Renewal	8.00
13.1"-37" Initial	38.00
13.1" - 25" Renewal	12.00
25.1" - 37" Renewal	16.00
>37" Initial	75.00
>37" Renewal	32.00
Roads, Canals	
Permanent loss of habitat plus high maintenance disturbance	18.00
1' - 33' New Construction	
Permanent loss of habitat plus high maintenance disturbance	12.00
1' - 33' Existing	
Permanent loss of habitat plus high maintenance disturbance	24.00
33.1' - 66' New Construction	
Permanent loss of habitat plus high maintenance disturbance	18.00
33.1' - 66' Existing	
Assignments: Easements, Grazing Permits, Right-of-entry, Special Use	250.00
Certificates of Registration	
Initial - Personal Use	75.00
Initial - Commercial	150.00
TYPE I	
Certificate of Registration (COR) Fishing Contest	
Small, Under 50	20.00
Medium, 50 to 100	100.00
Large, over 200	250.00
Amendment	10.00
Certificate of Registration (COR) Handling	10.00
Renewal	30.00
Late fee for failure to renew	
Certificates of Registration when due: greater of \$10 or 20% of fee.	Variable
Required Inspections	100.00
Failure to Submit Required Annual Activity Report When Due	10.00
Request for Species Reclassification	200.00
Request for Variance	200.00
Commercial Fishing and Dealing Commercially in Aquatic Wildlife Dealer in Live/Dead Bait	75.00
Helper Cards - Live/Dead Bait	15.00
Commercial Seiner	1,000.00
Helper Cards - Commercial Seiner	100.00
Commercial Brine Shrimper	15,000.00
Helper Cards - Commercial Brine Shrimper	1,500.00
Upland Game Cooperative Wildlife Management Units	
New Application	250.00
Annual	150.00
Big Game Cooperative Wildlife Management Unit	
New Application	250.00
Annual	150.00
Falconry	
Three year	45.00
Five Year	75.00
Commercial Hunting Areas	
New Application	150.00
Renewal Application	150.00
PARKS AND RECREATION	
Park Operation Management	
All fees for the Division of Parks and Recreation may not exceed, but may be less than, the amounts stated in the division's fee schedule.	
Golf Course Fees RENTALS	
Motorized cart, per 9 holes	16.00
Driving Range	9.00
Golf Course Fees GREENS FEES	
Promotional Pass	1,100.00
9 holes	18.00
Reservation Fee	10.65
Camping Extra Vehicle Fees	15.00
Camping Fees	28.00
Group Site Day-Use Fees	250.00
Group Camping Fees	400.00
Boating Fees	
Boat Mooring	
In/Off Season with or without Utilities (per foot)	7.00
Boat storage	200.00
Dry Storage	
Boating Season, Overnight until 2:00 pm, Off-Season, Unsecured	75.00
Application Fees	250.00
Easement, Grazing permit, Construction/Maintenance, Special Use Permit, Waiting List, Events	
Assessment and Assignment Fees	
Repository Fees	
Curation (per storage unit)	700.00
Annual Repository Agreement (per storage unit)	80.00
Annual Agreement Fee	50.00
Entrance Fees	
Bicycles & Pedestrians	20.00
Bicycles & Pedestrians, Annual Pass	24.00
Motor Vehicles	
Day Use Annual Pass	75.00
Commercial Dealer Demo Pass	200.00
Commercial Groups - per person	3.00
Commuter Annual Pass	10.00
Parking Fee	5.00
Causeway	2.00

Entrance Fees	15.00
Fee collection, return checks, and duplicate document	30.00
Staff or researcher time per hour	50.00
Equipment and building rental per hour	100.00
OHV and Boating Program Fees	
OHV Program Fee	
Statewide OHV Registration Fee	22.00
State issued permit to non-resident OHVs, in which there is no reciprocity	30.00
OHV Education Fee	
Division's Off-highway Vehicle Program Safety Certificate	30.00
State Issued and Replacement OHV Safety Certificate	2.00
Boating Section Fees	
Statewide Boat Registration Fee	25.00
Carrying Passengers for Hire Fee	200.00
Boat Livery Registration Fee	100.00
Boating Education Fee	
Division's Personal Watercraft Course	12.00
State Issued and Replacement Boating Education Certificate	5.00
new rule passed by board, will take effect in July	
Lodging Fees	
Cabins and Yurts	80.00

UTAH GEOLOGICAL SURVEY

Administration	
Editorial	
Color Plots	
Set-Up	3.00
Regular Paper (per square foot)	3.00
Special Paper (per square foot)	4.50
Color Scanning (per scan)	9.00
Sample Library	
On-Site Examination	
Cutting Thin Section Blanks	10.00
Core Plugs > 1 inch diameter	25.00
Cuttings, Core, Coal, Oil/Water (per box)	5.00
Binocular/Petrographic Microscopes (per day)	25.00
Saturday/Sunday/Holiday Surcharge ..	320.00
Off-Site Examination	
Cuttings, Core, Coal, Oil/Water (per box)	6.00
Plus shipping	
Core Plug < 1 inch (per plug)	10.00
Core Slabbing	
1.8" Diameter or Smaller (per foot)	10.00
1.8"-3.5" Diameter (per foot)	14.00
Larger Diameter	Negotiated
Core Photographing	
Box/Closeup 8x10 color/Thin Section (per Photo)	5.00
Coal Petrography (per hour)	50.00
General Building and Lab Use (per day)	200.00
Geologic Hazards	
School Site Reviews	

Review Geologic Hazards Report for New School Sites	
School Site Review	500.00
Plus travel	
Preliminary Screening of a Proposed School Site	
One School	550.00
Plus travel	
Paleontology	
File Search Requests	
Minimum Charge	30.00
Up to 15 minutes	
Standard rate (per hour)	60.00
More than 15 minutes	
Miscellaneous	
Copies, Self-Serve (per copy)	0.10
Copies, Staff (per copy)	0.25
Research and Professional Services (per hour)	50.00
Media Charges	
Compact Disk (650 MB) (per CD)	3.00
Paper Printout (per page)	0.10

WATER RESOURCES

Administration	
Color Plots	
Existing (per linear foot)	2.00
Custom Orders	Current staff rate
Plans and Specifications	
Small Set	10.00
Average Size Set	25.00
Large Set	35.00
Cloud Seeding License	Variable
Copies, Staff (per hour)	Current staff rate

WATER RIGHTS

Administration	
Applications	
Appropriation	Variable see below
For any application that proposes to appropriate or recharge by both direct flow and storage, there shall be charged the fee for quantity, by cubic feet per second (cfs), or volume, by acre-feet (af), whichever is greater, but not both:	
Flow - cubic feet per second (cfs)	
More than 0, not to exceed 0.1	150.00
More than 0.1, not to exceed 0.5	200.00
More than 0.5, not to exceed 1.0	250.00
More than 1.0, not to exceed 2.0	300.00
More than 2.0, not to exceed 3.0	350.00
More than 3.0, not to exceed 4.0	400.00
More than 4.0, not to exceed 5.0	430.00
More than 5.0, not to exceed 6.0	460.00
More than 6.0, not to exceed 7.0	490.00
More than 7.0, not to exceed 8.0	520.00
More than 8.0, not to exceed 9.0	550.00
More than 9.0, not to exceed 10.0	580.00
More than 10.0, not to exceed 11.0	610.00
More than 11.0, not to exceed 12.0	640.00
More than 12.0, not to exceed 13.0	670.00
More than 13.0, not to exceed 14.0	700.00
More than 14.0, not to exceed 15.0	730.00
More than 15.0, not to exceed 16.0	760.00

More than 16.0, not to exceed 17.0	790.00
More than 17.0, not to exceed 18.0	820.00
More than 18.0, not to exceed 19.0	850.00
More than 19.0, not to exceed 20.0	880.00
More than 20.0, not to exceed 21.0	910.00
More than 21.0, not to exceed 22.0	940.00
More than 22.0, not to exceed 23.0	970.00
More than 23.0	1,000.00
Volume - acre-feet (af)	
More than 0, not to exceed 20	150.00
More than 20, not to exceed 100	200.00
More than 100, not to exceed 500	250.00
More than 500, not to exceed 1,000	300.00
More than 1,000, not to exceed 1,500	350.00
More than 1,500, not to exceed 2,000	400.00
More than 2,000, not to exceed 2,500	430.00
More than 2,500, not to exceed 3,000	460.00
More than 3,000, not to exceed 3,500	490.00
More than 3,500, not to exceed 4,000	520.00
More than 4,000, not to exceed 4,500	550.00
More than 4,500, not to exceed 5,000	580.00
More than 5,000, not to exceed 5,500	610.00
More than 5,500, not to exceed 6,000	640.00
More than 6,000, not to exceed 6,500	670.00
More than 6,500, not to exceed 7,000	700.00
More than 7,000, not to exceed 7,500	730.00
More than 7,500, not to exceed 8,000	760.00
More than 8,000, not to exceed 8,500	790.00
More than 8,500, not to exceed 9,000	820.00
More than 9,000, not to exceed 9,500	850.00
More than 9,500, not to exceed 10,000	880.00
More than 10,000, not to exceed 10,500	910.00
More than 10,500, not to exceed 11,000	940.00
More than 11,000, not to exceed 11,500	970.00
More than 11,500	1,000.00
Extension Requests for Submitting a Proof of Appropriation	
Less than 14 years after the date of approval of the application	50.00
14 years or more after the date of approval of the application	150.00
Fixed time periods	150.00
For each certification of copies	10.00
A reasonable charge for preparing copies of any and all documents	Variable
Application to segregate a water right	50.00
Groundwater Recovery Permit	2,500.00

Fee Changed from Recharge to Recovery	
Notification for the use of sewage effluent or to change the point of discharge	750.00
Diligence claim investigation	500.00
Report of Water Right Conveyance Submission	40.00
Protest Filings	15.00
Livestock Watering Certificate	150.00
Well Driller Permit	
Initial	350.00
Renewal (Annual) (per year)	100.00
Late renewal (Annual) (per year)	50.00
Drill Rig Operator Registration	
Initial	100.00
Renewal (Annual) (per year)	50.00
Late Renewal (Annual) (per year)	50.00
Pump Installer License	
Initial	200.00
Renewal (Annual) (per year)	75.00
Late renewal (Annual) (per year)	50.00
Pump Rig Operator Registration	
Initial	75.00
Renewal (Annual) (per year)	25.00
Late renewal (Annual) (per year)	25.00
Stream Alteration	
Commercial	2,000.00
Government	500.00
Non-Commercial	100.00

DEPARTMENT OF ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S OFFICE

All Divisions	
Request for copies over 10 pages (per page)	0.25
Copies made by the requestor-over 10 pages (per page)	0.05
Compiling, tailoring, searching, etc., a record in another format. Actual cost after 1st 1/4 hour Charged at rate of lowest paid staff employee who has necessary skill/training to perform the request.	
Special computer data requests (per hour)	90.00
CDs (per disk)	10.00
DVDs (per disk)	8.00
Contract Services	Actual Cost

To be charged in order to efficiently utilize department resources, protect dept permitting processes, address extraordinary or unanticipated requests on permitting processes, or make use of specialized expertise. In providing these services, department may not provide service in a manner that impairs any other person's service from the department.

AIR QUALITY

Emission Inventory Workshop	15.00
Attendance	
Air Emissions (per ton)	74.37
Major and Minor Source Compliance Inspection	Actual cost

Annual Aggregate Compliance	
20 or less (per tons per year)	180.00
21-79 (per tons per year)	360.00
80-99 (per tons per year)	900.00
100 or more (per tons per year)	1,260.00
Asbestos and Lead-Based Paint (LBP) Abatement	
Course Accreditation Fee (per hour)	90.00
Asbestos Company/LBP Firm Certification Application (per year)	250.00
LBP Renovation Firm Certification Application (per year)	100.00
Asbestos individual (employee) certification Application	125.00
Asbestos/Lead-Based Paint individual certification surcharge, non-Utah certified training provider	30.00
LBP Abatement Worker Certification Application (per year)	100.00
LBP Inspector, Dust Sampling Technician Certification Application (per year)	125.00
LBP Risk Assessor, Supervisor, Project Designer Certification Application (per year)	200.00
LBP Renovator Certification Application (per year)	100.00
Lost certification card replacement	30.00
Annual asbestos notification	500.00
Asbestos/LBP abatement project notification base fee	150.00
Asbestos/LBP abatement project notification base fee for owner-occupied residential structures	50.00
Abatement unit /100 units (square feet/linear feet/cubic feet) (times 3)(up to 10,000 units) School building Asbestos Hazard Emergency Response Act (AHERA) abatement fees will be waived	7.00
Abatement unit /100 units (square feet/linear feet/cubic feet) (times 3)(10,000 units or more) School building Asbestos Hazard Emergency Response Act (AHERA) abatement fees will be waived	3.50
Demolition Notification Base	75.00
Demolition unit per 5,000 square feet above initial 5,000 square feet	50.00
Alternative Work Practice Review Application <10daytrainingprovider/private residence	100.00
Non-National Emission Standards for Hazardous Air Pollutants (NESHAP) requests	
All other requests	250.00
Permit Category	
Filing Fees	
Name Changes	100.00
Small Sources Exemptions and Soil Remediation	250.00
New non-PSD sources, minor & major modifications to existing sources	500.00
Any unpermitted sources at an existing facility	1,500.00
New major prevention of significant deterioration (PSD) sources	5,000.00

Monitoring plan review and site visit	
Application Review Fees	
New major source or modifications to major source in nonattainment area	40,500.00
Up to 450 hours	
New major source or modifications to major source in attainment area	27,000.00
Up to 300 hours	
New minor source or modifications to minor source	1,800.00
Up to 20 hours	
Generic permit for minor source or modifications of minor sources	720.00
Up to 8 hours (sources for which engineering review/Bact standardized)	
Temporary Relocations	630.00
Minor sources (new or modified) with <3 tpy uncontrolled emissions	450.00
Up to 5 hours	
Permitting cost for additional hours (per hour)	90.00
Technical review of and assistance given (per hour)	90.00
I.e. appeals, sales/use tax exemptions, soils exemptions, soils remediations, experimental approvals, impact analyses, etc.	
Air Quality Training	Actual Cost
Clean Fuel Vehicle Fund	
Loan/Grant Application Fee	
Vehicle loans	140.00
Infrastructure loans	350.00
Grants	280.00

ENVIRONMENTAL RESPONSE AND REMEDIATION

Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS) Lists	15.00
Disk or paper, refer to internet	
Underground Storage Tank (UST) Program List	
UST Facility List	30.00
Paper only	
Leaking UST Facility List	18.00
Paper only	
Postage for one or both	3.00
Emergency Planning Community Right to Know Act Reports	15.00
Professional and Technical services or assistance (per hour)	90.00
Including but not limited to EPCRA Technical Assistance, PST Claim Preparation Assistance, Oversight for Tanks Failing to pay UST fee, UST Compliance follow-up Inspection, apportionment of Liability requested by responsible parties, prepare, administer or conduct administrative process, environmental covenants.	
Voluntary Environmental Cleanup Program Application Fee	2,500.00
Review/Oversight/Participation in Voluntary Agreements (per hour)	90.00

Annual Underground Storage Tank	
Tanks on Petroleum Storage	
Tank (PST) Fund	110.00
Tanks not on PST Fund	220.00
Tanks at Facilities significantly out of compliance with leak prevention or leak detection requirements	300.00
PST Fund Reapplication, Certification of Compliance Reapplication Fee, or both	300.00
Initial Approval of Alternate UST Financial Assurance Mechanisms	420.00
(Non-PST Participants)	
Approval of alternate UST financial assurance mechanisms after initial year	240.00
(with no Mechanism changes)	
Certification or Certification Renewal for UST Consultants	
UST installers, removers, groundwater & soil samplers, & non-government UST inspectors & testers	225.00
Consultant Recertification Class	150.00
Clandestine Drug Lab Decontamination Specialist Certification	
Certification and Recertification	225.00
Retest of Certification Exam	100.00
Enforceable Written Assurance Letters	
Written letter	500.00
Flat fee for up to 8 hours	
Additional charge if over original 8 hours (per hour)	90.00
Environmental Response and Remediation Program Training	Actual cost
UST Operators Certification	50.00
UST Red Tag Replacement	500.00
Applied only when a Red Tag is removed without authorization	
UST Installation Base Fee	500.00
UST Installation Tank Fee (Applied only when State Inspectors conduct inspections)	200.00

WATER QUALITY

305(b) Water Quality Report	20.00
Report: Utah's Lakes and Reservoirs- Inventory and Classification of Utah's Priority Lakes and Reservoirs	50.00
Operator Certification	
Certification Examination	50.00
Renewal of Certificate	25.00
Renewal of Lapsed Certificate plus renewal (per month)	25.00
\$75 maximum	
Duplicate Certificate	25.00
New Certificate change in status	25.00
Certification by reciprocity with another state	50.00
Grandfather Certificate	20.00
Underground Wastewater Disposal Systems	
New Systems	25.00
Certificate Issuance	25.00
Utah Pollutant Discharge Elimination System (UPDES) Permits, Surface Water Cement Manufacturing	

Major	871.00
Minor	218.00
Coal Mining and Preparation	
General Permit	436.00
Individual Major	1,307.00
Individual Minor	871.00
Concentrated Animal Feeding Operations (CAFO) General Permit	110.00
Construction Dewatering/Hydrostatic Testing General Permit	150.00
Dairy Products	
Major	871.00
Minor	436.00
Electric	
Major	1,089.00
Minor	436.00
Fish Hatcheries General Permit	121.00
Food and Kindred Products	
Major	1,089.00
Minor	436.00
Hazardous Waste Clean-up Sites	2,614.00
Geothermal	
Major	871.00
Minor	436.00
Inorganic Chemicals	
Major	1,307.00
Minor	653.00
Iron and Steel Manufacturing	
Major	2,614.00
Minor	653.00
Leaking Underground Storage Tank (LUST) Cleanup	
General Permit	436.00
LUST Cleanup Individual Permit	871.00
Meat Products	
Major	1,307.00
Minor	436.00
Metal Finishing and Products	
Major	1,307.00
Minor	653.00
Mineral Mining and Processing	
Sand and Gravel	242.00
Salt Extraction	242.00
Other	
Other Majors	871.00
Other Minors	436.00
Manufacturing	
Major	1,742.00
Minor	653.00
Oil and Gas Extraction	
flow rate <=0.5 million gallons per day (MGD)	436.00
flow rate > 0.5 MGD	653.00
Ore Mining	
Major	1,307.00
Minor	653.00
Major w/ concentration process	10,000.00
Organic Chemicals Manufacturing	
Major	2,178.00
Minor	653.00
Petroleum Refining	
Major	1,742.00
Minor	653.00
Pharmaceutical Preparations	
Major	1,742.00
Minor	653.00
Rubber and Plastic Products	

Major	1,089.00
Minor	653.00
Space Propulsion	
Major	2,420.00
Minor	653.00
Steam and/or Power Electric Plants	
Major	871.00
Minor	436.00
Water Treatment Plants (Except Political Subdivisions)	
General Permit	121.00
Annual UPDES Publically Owned Treatment Works (POTW)	
Large >10 million gallons per day (mgd) flow design (per year)	8,800.00
Medium >3 mgd but <10 mgd flow design (per year)	5,500.00
Small <3mgd but 1 mgd (per year)	1,100.00
Very Small <1 mgd (per year)	550.00
Annual UPDES Pesticide Applicator Fee	
Small Applicator	200.00
Medium Applicator	500.00
Large Applicator	1,650.00
Groundwater Remediation Treatment Plant	5,500.00
Biosolids Annual Fee (Domestic Sludge)	
Small Systems (per year)	385.00
1-4,000 connections	
Medium Systems (per year)	1,117.00
4,001 to 15,000 connections	
Large Systems (per year)	1,623.00
greater than 15,000 connections	
Non-contact Cooling Water	
Flow rate <= 10,000 gallons per day (gpf) (per year)	110.00
10,000 gpd < Flow rate 100,000 gpd (per year)	220.00
\$500 up to \$1000	
100,000 gpd < Flow rate <1.0 mgd (per year)	440.00
\$1000 up to \$2000	
Flow Rate > 1.0 mgd (per year)	660.00
Fee amount is prorated based on flow rate	
Stormwater Permits	
General Multi-Sector Industrial Storm Water Permit (per year)	150.00
Industrial Stormwater No Exposure Certificate (per 5 years)	100.00
General Construction Storm Water Permit > 1 Acre (per year)	150.00
Construction Stormwater Low Erosivity Waiver Fee (one time fee) (per project)	50.00
Municipal Storm Water	
0-5,000 Population (per year)	550.00
5,001 - 10,000 Population (per year)	880.00
10,001 - 50,000 Population (per year)	1,320.00
50,001 - 125,000 Population (per year)	2,200.00
> 125,000 Population (per year)	3,300.00
Annual Ground Water Permit Administration Fee	

Tailings/Evaporation/Process Ponds; Heaps (per Each)	Actual cost
0-1 Acre	385.00
1-15 Acres	770.00
15-50 Acres	1,540.00
50-300 Acres	2,310.00
300-500 Acres	6,140.00
Over 500 Acres	12,280.00
Non-discharging municipal and commercial treatment facilities	350.00
Underground Injection Control Permit Application Fee	
Class I Hazardous Waste Disposal ...	25,000.00
One time fee	
Class I Non-Hazardous Waste Disposal	9,000.00
One time fee	
Class III Solution Mining	7,200.00
One time fee	
Class V Aquifer Storage and Recovery	5,400.00
One time fee	
All Other Permits	
Base (per facility)	770.00
Each additional regulated facility (per facility)	770.00
Multi-celled pond system or grouping of facilities with common compliance point is considered one facility	
UPDES, ground water, underground injection control, & construction permits not listed above & permit modifications, except projects of political subdivisions funded by the Division of Water Quality (per hour)	90.00
Except political subdivisions	
Complex facilities where the anticipated permit issuance costs will exceed the above categorical fees by 25% (per hour)	90.00
Permittee to be notified upon receipt of application	
Water Quality Cleanup Activities	
Corrective Action, Site Investigation/Remediation Oversight, Administration of Consent Orders and Agreements, and emergency response to spills and water pollution incidents (per hour)	90.00
Actual cost for sample analytical lab work	actual cost
Technical Review of and assistance given (per hour)	90.00
401 Certification reviews and issuance and compliance: permit appeals; and sales and use tax exemptions	
Water Quality Loan	
Origination Fee	1.0% of Loan Amount

DRINKING WATER

Special Surveys	Actual cost
File Searches	Actual cost
Well Sealing Inspection (per hour)	90.00
Special Consulting/Technical Assistance (per hour)	90.00
Operator Certification Program Examination	100.00
Any level	

Renewal of certification	100.00
Every 3 years if applied for during designated period	
Reinstatement of lapsed certificate	200.00
Certificate of reciprocity with another state	100.00
Conversion	20.00
Specialist to Operator/Operator to Specialist	
Cross Connection Control Program Certification and Renewal	
Class I	175.00
Class II and III	225.00
Retest	145.00
Certificate of reciprocity with another state	225.00
Replacement Certificate	25.00
Cost Recovery - Construction Without Prior Approval (per Project)	1,000.00
Drinking Water Loan Origination	1.0% of Loan Amount

WASTE MANAGEMENT AND RADIATION CONTROL

Resource Conservation and Recovery Act (RCRA) Facility List	5.00
Solid and Hazardous Waste Program Administration (including Used Oil and Waste Tire Recycling Programs) Professional (per hour)	90.00
This fee includes but is not limited to: Review of Site Investigation and Site Remediation Plans, Review of Permit Applications, Permit Modifications and Permit Renewals; Review and Oversight of Administrative Consent Orders and Consent Agreements, Judicial Orders, and related compliance activities; Review and Oversight of Construction Activities; Review and Oversight of Corrective Action Activities; and Review and Oversight of Vehicle Manufacturer Mercury Switch Removal and Collection Plans	
Hazardous Waste Permit Filing Hazardous Waste Operation Plan Renewal	1,000.00
Solid Waste Permit Filing (does not apply to Municipalities, Counties, or Special Service Districts seeking review from the Division) New Comm. Facility	
Class V and Class VI Landfills	1,000.00
New Non-Commercial Facility	750.00
New Incinerator	
Commercial	5,000.00
Industrial or Private	1,000.00
Plan Renewals and Plan Modifications	100.00
Variance Requests	500.00
Enforceable Written Assurance Letter Flat fee for up to 8 hours to complete letter	500.00
Additional per hour charge if over the original 8 hours	90.00
Waste Tire Recycling Registration	
Recycler (per year)	100.00
Transporter (per year)	100.00

Fees for registration applications received during the year will be prorated at \$8.30/month over the # of months remaining in the year.	
Used Oil	
Do It Your Selfer and Used Oil	
Collection Center Registration	No charge
Permit filing fee for Transporter, Transfer Facility, Processor/ Re-refiner, and Off-Spec Burner	100.00
Plan Review Filing Fee	100.00
Permit Modification Filing Fee	100.00
Annual Registration for Transporter, Transfer Facility, Processor/ Re-refiner, Off-Spec Burner, & Land Application (per year)	100.00
Marketer	
Registration (per year)	50.00
Permit Filing	50.00
Vehicle Manufacturer Mercury Switch Removal and Collection Plan	
Mercury Switch Removal and Collection Plan Filing	100.00
Non-Hazardous Solid Waste	
Polychlorinated Biphenyl (PCBs) (per ton)	4.75
Or fraction of a ton	
Hazardous Waste Flat Fee (per year)	2,444,800.00
Provides for implementation of waste management programs and oversight of the Hazardous Waste Industry in accordance with UCA 19-6-118.	
Machine-Generated Radiation	
Annual Registration Fee	
Per control unit including first tube, plus annual fee for each additional tube connected to the control unit	
Hospital/Therapy, Medical, Chiropractic, Podiatry, Veterinary, Dental	35.00
Industrial Facility with	
High and/or Very High Radiation	
Areas Accessible to Individuals	35.00
Cabinet X-Ray Units or Units Designated for Other Purposes	35.00
Other	35.00
Division Conducted Inspection, Per Tube	
Hospital/Therapy, Medical, Chiropractic	105.00
Podiatry/Veterinary	75.00
Dental	
First tube on a single control unit	45.00
Additional tubes on a control unit (per Tube)	12.50
Industrial Facilities with	
High and/or Very High Radiation	
Areas Accessible to Individuals	105.00
Cabinet X-Ray Units or Units Designated for Other Purposes	75.00
Other	
Annual or Biennial Inspection (per Tube)	105.00
Five year Inspection, per tube	75.00
Independent Qualified Experts Conducted Inspections or Registrants Using Qualified Experts	
Inspection report (per Tube)	15.00

Radioactive Material

Special Nuclear Material

New License or Renewal License for:

Possession and use in sealed sources contained in devices used in industrial measuring systems, 440.00

including X-ray fluorescence analyzers and neutron generators

Possession and use of less than 15 grams in usealed form for research and development 730.00

Use as calibration and reference sources 180.00

All other licenses 1,150.00

Annual Fee

Possession and use in sealed sources contained in devices used in industrial measuring systems, 740.00

including X-ray fluorescence analyzers and neutron generators

Possession and use of less than 15 grams in usealed form for research and development 740.00

Use as calibration and reference sources 240.00

All other licenses 1,600.00

Source Material

New License or License Renewal

Licenses for concentrations of uranium from other areas for the production of uranium yellow cake 5,510.00

Regulation of source and byproduct material at uranium mills or commercial waste facilities

Uranium mills or commercial sites disposing of or reprocessing byproduct material (per month) 8,540.00

Uranium mills the Director has determined that are on standby status 8,540.00

Licenses for possession and use of source material for shielding . . . 230.00

All other source material licenses 1,000.00

Annual Fee

Licenses for concentrations of uranium from other areas for the production of uranium yellow cake 4,810.00

Licenses for possession and use of source material for shielding . . . 365.00

All other source material licenses 1,275.00

Radioactive Material other than Source Material and Special Nuclear Material

New License or License Renewal for possession and use of radioactive material for:

Broad scope for processing or manufacturing for commercial distribution 2,320.00

Others for processing or manufacturing for commercial distribution 1,670.00

Processing or manufacturing and distribution of radiopharmaceuticals, generators, reagent kits, or sources or devices containing radioactive material 2,320.00

The distribution or redistribution of radiopharmaceuticals, generators, reagent kits, or sources or devices not involving processing of radioactive material 860.00

Industrial radioagraphy operations 1,670.00

Sealed sources for irradiation of matierals in which the source is not removed for its shield (self-shielded units) 700.00

Less than 10,000 curies of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes 1,670.00

10,000 curies or more of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes 3,340.00

Broad scope for research and development that do not authorize commercial distribution 2,320.00

Research and development that do not authorize commercial distribution 700.00

All other radioactive material 440.00

New License or License Renewal for:

Licenses that authorize services for other licensees, except licenses that authorize leak testing or waste disposal services subject to the fees specified for the listed services 320.00

Licenses that authorize services for leak testing only 150.00

New License or License Renewal to distribute items containing radioactive material:

To persons exempt from licensing requirements of R313-19, except specific licenses authorizing redistribution of items authorized for distribution to persons exempt from the licensing requirements of R313-19 700.00

To persons generally licensed under R313-21, except specific licenses authorizing redistribution of items authorized for distribution to persons generally licensed under R313-21 700.00

Annual license fee for possession and use of radioactive material for:

Broad scope for processing or manufacturing for commercial distribution 2,960.00

Others for processing or manufacturing for commercial distribution 2,040.00

Processing or manufacturing and distribution of radiopharmaceuticals, generators, reagent kits, or sources or devices containing radioactive material	2,960.00
The distribution or redistribution of radiopharmaceuticals, generators, reagent kits, or sources or devices not involving processing of radioactive material	1,000.00
Industrial radioactivity operations	2,560.00
Sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units)	940.00
Less than 10,000 curies of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes	1,740.00
10,000 curies or more of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes	3,480.00
Broad scope for research and development that do not authorize commercial distribution	2,960.00
Research and development that do not authorize commercial distribution	940.00
All other radioactive material	520.00
Annual fee for	
Licenses that authorize services for other licensees, except licenses that authorize leak testing or waste disposal services subject to the fees specified for the listed services	420.00
Licenses that authorize services for leak testing only	160.00
Annual fee to distribute items containing radioactive material:	
To persons exempt from licensing requirements of R313-19, except specific licenses authorizing redistribution of items authorized for distribution to persons exempt from the licensing requirements of R313-19	580.00
To persons generally licensed under R313-21, except specific licenses authorizing redistribution of items authorized for distribution to persons generally licensed under R313-21	580.00
Radioactive Waste Disposal (licenses specifically authorizing the receipt of waste radioactive material from other persons for the purpose of commercial disposal by land by the licensee)	
Annual	2,099,200.00
New Application	

Siting application	Actual costs up to \$250,000
License application	Actual costs up to \$1,000,000
Renewal	Actual costs up to \$1,000,000
Pre-licensing, operations review, and consultation on commercial low-level radioactive waste facilities (per hour)	90.00
Review of commercial low-level radioactive waste disposal and uranium recovery special projects. Applicable when the licensee and the Division agree that a review be conducted by a contractor in support of the efforts of Division staff	Actual cost
Generator Site Access Permits	
Non-Broker Generators transferring radioactive waste (per year)	2,500.00
Brokers (waste collectors or processors) (per year)	7,500.00
Review of licensing or permit actions, amendments, environmental monitoring reports, and miscellaneous reports for uranium recovery facilities (per hour)	90.00
Licenses authorizing receipt of waste radioactive material from others for packaging/repackaging the material	
The licensee will dispose of the materials by transfer to another person authorized to receive or dispose of the material	
New License/Renewal	3,190.00
Annual	2,760.00
Licenses authorizing receipt of prepackaged waste radioactive material from others	
The licensee will dispose of the materials by transfer to another person authorized to receive or dispose of the material	
New License/Renewal	700.00
Annual	1,100.00
Licenses authorizing packing of radioactive waste for shipment to waste disposal site where licensee does not take possession of waste material	
New License/Renewal	440.00
Annual	520.00
Well Logging, Well Surveys, and Tracer Studies Licenses	
for the possession and use of radioactive material for well logging, well surveys and tracer studies other than field flooding tracer studies	
New License/Renewal	1,670.00
Annual	2,100.00
Licenses for possession and use of radioactive material for field flooding tracer studies	
New License/Renewal	Actual cost
Annual	4,000.00
Nuclear Laundries	
Licenses for commercial collection and laundry of items contaminated with radioactive material	
New License/Renewal	1,670.00
Annual	2,380.00
Human Use of Radioactive Material	
License for human use of radioactive materials in sealed sources contained in gamma stereotactic radiosurgery or teletherapy devices	
New License/Renewal	1,090.00
Annual	1,280.00

Licenses of broad scope issued to medical institutions or two or more physicians authorizing research and development including human use of radioactive material, except for licenses for radioactive material in sealed sources contained in gamma stereotactic radiosurgery or teletherapy devices
 New License/Renewal 2,320.00
 Annual 2,960.00

Other licenses issued for human use of radioactive material except for licenses for radioactive material in sealed sources contained in gamma stereotactic radiosurgery or teletherapy devices
 New License/Renewal 700.00
 Annual 1,100.00

Civil Defense
 Licenses for possession and use of radioactive material for civil defense activities
 New License/Renewal 700.00
 Annual 380.00

Power Source
 Licenses for the manufacture and distribution of encapsulated radioactive material wherein the decay energy of the material is used as a source for power
 New License/Renewal 5,510.00
 Annual 2,520.00

Plan Reviews
 Review of plans for decommissioning, decontamination, reclamation, waste disposal pursuant to R313-15-1002, or site restoration activities 400.00
 Plus added cost above 8 hours (per hour) 90.00

Investigation of a misadministration by a third party as defined in R313-30-5 or in R313-32-2, as applicable Actual cost

General License
 Initial registration/renewal for first year
 Measuring, gauging, and control devices as described in R313-21-22(4), 20.00
 other than hydrogen-3 (tritium) devices and polonium-210 devices containing no more than 10 millicuries used for producing light or an ionized atmosphere
 In Vitro testing 20.00
 Depleted Uranium 20.00
 Reciprocity - Licensees who conduct activities under the reciprocity provisions of R313-19-30 20.00

Annual fee after initial license/renewal
 Measuring, gauging, and control devices as described in R313-21-22(4) 20.00
 other than hydrogen-3 (tritium) and polonium-210 devices containing no more than other than 10 millicuries used for producing light or an ionized atmosphere
 In Vitro testing 20.00
 Depleted Uranium 20.00
 Reciprocity - Licensees who conduct activities under the reciprocity provisions of R313-19-30 (per type of license category) Full annual fee

Publication costs for making public notice of required actions Actual cost
 Expedited application review (per hour) ... 90.00

Applicable when, by mutual consent of the applicant and staff, an application request is taken out of date order and processed by staff.
 Management and oversight of impounded radioactive material Actual cost
 License amendment, for greater than three applications in a calendar year 200.00
 Analytical costs for monitoring samples from radioactive materials facilities Actual cost

DEPARTMENT OF AGRICULTURE AND FOOD

ADMINISTRATION

General Administration
 General Administration
 Produce Dealers
 Produce Dealers 25.00
 Dealer's Agent 10.00
 Broker/Agent 25.00
 Produce Broker 25.00
 Livestock Dealer (per dealer) 250.00
 Livestock Dealer/Agent (per Agent) 75.00

Livestock Auctions
 Livestock Auction Market (per Market) 100.00
 Auction Weigh Person (per Weigh Person) 25.00
 Registered Farms Recording 10.00
 Citations, Maximum per Violation 500.00

All Agriculture Divisions
 Organic Certification
 Annual registration of producers, handlers, processors or combination 300.00
 Annual registration late fee (per Registration) 100.00
 Fee for inspection (per hour) 65.00
 Inspectors' time >40 hours per week (overtime) plus regular fees (per hour) 42.00
 Major holidays and Sundays plus regular fees (per min. per hour) 42.00

Gross Sales
 \$0 to \$5,000: Exempt Variable
 \$10.00 min based on previous calendar year, applies to all Gross Sales Fees
 \$5,001 to \$10,000 100.00
 \$10,001 to \$15,000 180.00
 \$15,001 to \$20,000 240.00
 \$20,001 to \$25,000 300.00
 \$25,001 to \$30,000 360.00
 \$30,001 to \$35,000 420.00
 \$35,001 to \$50,000 600.00
 \$50,001 to \$75,000 900.00
 \$75,001 to \$100,000 1,200.00
 \$100,001 to \$150,000 1,800.00
 \$150,001 to \$280,000 2,240.00
 \$280,001 to \$375,000 3,000.00
 \$375,001 to \$500,000 4,000.00
 \$500,001 and up 5,000.00

Certified document 25.00
 Copies of files
 Per hour 10.00
 Per copy 0.25
 Duplicate 15.00

Internet Access	1.50	Number of Certified Analyst	30.00
Late	25.00	3 x \$10.00	
Returned check	15.00	Number of Approved Test	30.00
Mileage	Variable	3 x \$10.00	
State rate		Total Yearly Assessed	90.00
Chemistry Laboratory		Standard Plate Count	10.00
Chemistry Laboratory		Coliform Count	15.00
Seed, Feed, and Meat		Antibiotics Test	5.00
Moisture	20.00	Phosphatase Test	15.00
Fat	35.00	Wisconsin Mastitis Test (WMT)	
Fiber, Crude or ADF (Acid		Screening Test	5.00
Detergent Fiber)	45.00	Direct Microscopic Somatic Cell	
Proximate analysis (moisture,		Count (DMSCC): Confirmation	10.00
protein, fat, fiber, ash)	90.00	Direct Somatic Cell Count	
Proximate analysis (moisture,		(DSCC): Instrumentation	5.00
protein, fiber)	60.00	Coliform Confirmation	5.00
Protein	32.00	Container Rinse Test	10.00
NPN (Non-Protein Nitrogen)	25.00	H2O Coliform Confirmation Test	5.00
Ash	20.00	H2O Coliform Total Count	18.00
Water Activity	30.00	Butterfat %	10.00
Salt	30.00	Babcock method	
Fertilizer		Added H2O in Raw Milk	5.00
Nitrogen	32.00	Reactivated Phosphatase	
Available Phosphorous	35.00	Confirmation	15.00
Potash	30.00	Antibiotics Confirmation Test	10.00
Inorganics		Salmonella Screen	40.00
Digested		E-Coli Screen (per Test)	40.00
Testing		E. coli confirmatory testing	
Ag, Al, As, B, Ba, Ca, Cd, Cl, Co, Cr, Cu, Fe,		(per Test)	40.00
K, Mg, Mn, Mo, Na, Ni, P, Pb, S, Se, V, Zn		Salmonella confirmatory testing (per Test)	40.00
Prep and First Analyte	35.00	00	
Additional Analytes	22.00	STEC confirmatory testing	
pH	20.00	(per Test)	40.00
Water Test I	250.00	Listeria confirmatory testing	
Al, As, B, Ba, Ca, Cd, Cl, Co, Cr, Cu, Fe, K,		(per Test)	40.00
Mg, Mn, Mo, Na, Ni, P, Pb, S, Se, Zn		Listeria Screen	30.00
Water Test II	180.00	All Other Services, per hour	40.00
Br, Cl, F, NO3, PO4, CO3, HCO3, CLO4, pH		The lab performs a variety of tests for other	
Water Quality	180.00	government agencies. The charges for these	
Br, Cl, F, NO3, NO2, SO4, PO4, carbonate,		tests is determined according to the number	
bicarbonate, perchlorate		of tests, and based on cost to the Laboratory	
Herbicides - Water	185.00	and therefore may be different than the fee	
Insecticides/Fungicides - Water	205.00	schedule. Because of changing needs, the	
Herbicides - Soil/Plants	305.00	Laboratory may receive requests for test that	
Insecticides - Soil/Plants	265.00	are impossible to anticipate and list fully in a	
Pesticide		standard fee schedule. Charges for these tests	
Water		are authorized and are to be based on costs.	
Single Test	205.00	Campylobacter Screen	40.00
Multiresidue Test	275.00	Charges for other tests performed for other	
Non-water		government agencies are authorized and are	
Single Test	305.00	to be based on cost recovery.	
Multiresidue Test	400.00	Utah Horse Commission	
Formulation	305.00	Utah Horse Commission (fees are not to exceed the	
Inorganics		amounts identified)	
Undigested		Owner/Trainer	100.00
Testing		Owner	75.00
Ag, Al, As, B, Ba, Ca, Cd, Cl, Co, Cr, Cu, Fe,		Organization	75.00
K, Mg, Mn, Mo, Na, Ni, P, Pb, S, Se, V, Zn		Trainer	75.00
Prep and First Analyte	25.00	Assistant trainer	75.00
Additional Analytes	12.00	Jockey	75.00
Vitamin A	60.00	Jockey Agent	75.00
Mercury Analysis	85.00	Veterinarian	75.00
Certification		Racing Official	75.00
Milk Laboratory Evaluation Program		Racing Organization Manager or	
Basic Lab	50.00	Official	75.00
		Authorized Agent	75.00

Farrier	75.00
Assistant to the Racing Manager or Official	75.00
Video Operator	75.00
Photo Finish Operator	75.00
Valet	50.00
Jockey Room Attendant or Custodian	50.00
Colors Attendant	50.00
Paddock Attendant	50.00
Pony Rider	50.00
Groom	50.00
Security Guard	50.00
Stable Gate Man	50.00
Security Investigator	50.00
Concessionaire	50.00
Application Processing	25.00

ANIMAL HEALTH

Animal Health	
Inspection Service	39.00
Commercial Aquaculture Facility	150.00
Commercial Fishing Facility	30.00
Citation	
Per violation	200.00
Per head	2.00
If not paid within 15 days, two times the citation fee; if not paid within 30 days, four times the citation fee.	
Hatchery Operation (Poultry)	25.00
Poultry Dealer License (per dealer)	25.00
Health Certificate Book	8.00
Trichomoniasis Report Book	8.00
Auction Veterinary	
Cattle (per day)	200.00
Sheep (per day)	90.00
Service Fee for Veterinarians	
Per day	250.00
Dog food and brine shrimp, misc.	
Per mile	0.55
Dog food and brine shrimp, misc.	
Trichomoniasis Ear Tags	2.00
Brand Inspection	
Brand Inspection	
Farm Custom Slaughter	100.00
Estray Animals	Variable
Beef Promotion (per head)	1.50
Cattle only	
Citation (per violation)	200.00
Citation (per head)	2.00
If not paid within 15 days, two times citation fee. If not paid within 30 days, four times citation fee.	
Brand Inspection	
Special Sales	100.00
Cattle (per head)	0.75
Horse (per head)	1.00
Sheep (per head)	0.05
Brand Book	25.00
Show and Seasonal Permits	
Horse	15.00
Cattle	15.00
Horse Permit	
Lifetime	25.00
Duplicate Lifetime	10.00
Lifetime Transfer	10.00

Brand Recording	75.00
Certified copy of Recording (new brand card)	5.00
Minimum Charge (per certificate)	10.00
Cattle, Sheep, Hogs, and Horses	
Brand Transfer	50.00
Brand Renewal	50.00
5 year cycle	
Elk Farming	
Elk Inspection New License	300.00
Brand Inspection (per elk)	5.00
Service Charge (per stop, per owner) ...	15.00
Horn Inspection (per set)	1.00
Elk License	
Renewal	300.00
Late	50.00
Meat Inspection	
Meat Inspection	
Inspection Service	39.00
Meat Packing	
Meat Packing Plant	150.00
Custom Exempt	150.00
T/A (Talmage-Aiken) Official	150.00
Packing/Processing Official	150.00

PLANT INDUSTRY

Grain Inspection	
Grain Inspection	
Regular hourly rate (per hour)	28.00
Overtime hourly rate (per hour)	42.00
Official Inspection Services (includes sampling, except where indicated)	
Railcar (per car)	25.50
Truck or trailer (per carrier)	13.50
Container Inspection	21.00
Submitted sample (per sample)	9.50
Re-inspection	
Based on new sample (per truck)	10.50
Basis file sample	8.50
Based on new sample rail	20.50
Protein test	
Original or file sample retest	6.50
Oil and starch	6.50
Basis new sample	6.00
Plus sample hourly	
Factor only determination (per factor) ...	4.00
Plus samplers hourly rate, if applicable	
Stowage examination services (per certificate)	13.00
A fee for applicant requested certification of specific factors (per request)	3.00
Malting barley analysis of non-malting class barley, HVAC or DHV percentage determination in durum or hard spring wheats, etc.	
Extra copies of certificates (per copy) ...	1.00
Insect damaged kernel, determination (weevil, bore)	3.00
Sampling only, same as original carrier fee, except hopper cars,	
4 or more	14.00
Mailing sample handling charge	3.00
Plus actual cost	
Sealing rail cars or containers upon request over 5 seals per rail car	5.00

Request for services not covered by the above fees will be performed at the applicable hourly rate stated herein, plus mileage and travel time, if applicable. Actual travel time will be assessed outside of a 50 mile radius of Ogden.	4 hour minimum plus regular fees (Holidays include: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.)
Non-Official Services	All inspections shall include mileage which will be charged according to the current mileage rate of the State of Utah Variable
Safflower Grading 13.00	Export Compliance Agreements 50.00
Class II weighing (per carrier) 6.00	Nursery
Dark Hard Vitreous kernels (DHV) percentage in Hard Red Wheat 4.00	Gross Sales ((\$10.00 min) based on previous calendar year, applies to all Gross Sales Fees)
Determination of hard kernel percentage in soft white wheat 4.00	\$0 to \$5,000 40.00
Dry Hay Feed Analysis 14.00	\$5,001 to \$100,000 80.00
Silages (corn or hay) Analysis 20.00	\$100,001 to \$250,000 120.00
Feed grain Analysis 14.00	\$250,001 to \$500,000 160.00
Black Light (Aflatoxin) 3.00	\$500,001 and up 200.00
Aflatoxin Test 20.00	Nursery Agency 50.00
Strip quick test	Feed
Grain grading instructions (per hour, per person) 20.00	Commercial Feed 25.00
Set of check Samples 25.00	Processing 30.00
Proteins-moisture, Set of 5	Custom Formula Permit 75.00
Falling number inspection, per sample (per Sample) 15.00	Pesticide
Class X Weighing inspection (per inspection) 60.00	Commercial Applicator Certification
Other Requests (per hour) Variable	4 or less Commercial Pesticide Applicators 75.00
Agricultural Inspection	5-9 Commercial Pesticide Applicators 150.00
Shipping Point	10 or more Commercial Pesticide Applicators 300.00
Fruit	Triennial (3 year) Certification and License 45.00
Packages, 19 lb. or less (per package) 0.02	Replacement of lost or stolen certificate/license 15.00
Good Agricultural Practices (GAP) Inspection (per hour)	Failed examinations may be retaken two more times at no charge Variable
20 to 29 lb. package (per package) 0.025	Additional re-testing 15.00
Over 29 lb. package (per package) 0.03	Two more times
Bulk load (per hundredweight) 0.045	Triennial (3 year) examination and educational materials 20.00
Vegetables	Product Registration 60.00
Potatoes (per hundredweight) 0.06	Processing Service 120.00
Onions (per hundredweight) 0.065	Dealer License
Cucurbita (per hundredweight) 0.05	Triennial 100.00
Cucurbita family includes: watermelon, muskmelon, squash (summer, fall, and winter), pumpkin, gourd and others.	Fertilizer
Other Vegetables	Blenders License 75.00
Less than 60 lb. package (per package) 0.035	Assessment (per ton) 0.35
Over 60 lb. package (per package) 0.045	Minimum Semiannual Assessment (per Assessment) 20.00
Phytosanitary Inspection (per inspection) 50.00	Fertilizer Registration 25.00
Phytosanitary Inspection with grade certification (per inspection) 15.00	Processing 30.00
Federal (per inspection) 16.00	Beekeepers
One commodity (per certificate) 28.00	Insect Identification 10.00
Except regular rate at continuous grading facilities	License
Mixed loads (per commodity) 28.00	0 to 20 hives 10.00
For inspection of raw products at processing plants (per hour) 28.00	21 to 100 hives 25.00
For inspectors' time over 40 hrs per week (overtime), plus regular fees (per hour) 42.00	101 to 500 hives 50.00
For major holidays and Sundays (per hour) 42.00	Inspection (per hour) 28.00
	Salvage Wax Registration 10.00
	Control Atmosphere 10.00
	Seed Purity
	Flowers 12.00
	Grains 8.00
	Grasses 17.00
	Legumes 8.00
	Trees and Shrubs 12.00
	Vegetables 8.00
	Seed Germination

Flowers	12.00
Grains	8.00
Grasses	12.00
Legumes	8.00
Trees and Shrubs	12.00
Vegetables	8.00
Seed Tetrazolium Test	
Flowers	22.00
Grains	14.00
Grasses	22.00
Legumes	17.00
Trees and Shrubs	22.00
Vegetables	14.00
Embryo Analysis (Loose Smut Test)	11.00
Cutting Test	8.00
Mill Check (per hour)	Variable
Examination of Extra Quantity for Other	
Crop or Weed Seed (per hour)	Variable
Examination for Noxious Weeds	
Only (per hour)	Variable
Identification	No charge
Inspection (per hour)	28.00
Additional Copies of Analysis Reports	1.00
Any other inspection service performed	
(per hour)	28.00

1 hour minimum. Mixtures will be charged based on the sum for each individual kind in excess of 5 percent. Samples which require excessive time, screenings, low grade, dirty, or unusually difficult sample will be charged at the hourly rate. Hourly charges may be made on seed treated with Highly Toxic Substances if special handling is necessary for the Analysts safety. Discount germination is a non-priority service intended for carry-over seed which is ideal for checking inventories from May through August. The discount service is available during the rest of the year, but delays in testing may result due to high test volume of priority samples. Ten or more samples receive a fifty percent discount off normal germination fees.

Emergency service for single component	
only (per sample)	42.00
Hay and Straw Weed Free Certification	
Bulk loads of hay up to 10 loads	30.00
Hourly rate	28.00
If time involved is 1 hour or less	28.00
Charge for each hay tag	0.10
Citations, maximum per violation	500.00

REGULATORY SERVICES

Regulatory Services

Bedding/Upholstered Furniture	
Manufacturers of Bedding and/or	
Upholstered Furniture	65.00
Wholesale Dealer	65.00
Supply Dealer	65.00
Manufacturers of Quilted Clothing	65.00
Upholsterer with employees	50.00
Upholsterer without employees	25.00
Processing /All Bedding Upholstery	
Licenses	40.00
Dairy	
Test milk for payment	40.00

Operate milk manufacturing plant	
(per Plant)	85.00
Make butter (per Operation)	40.00
Haul farm bulk milk (per Operation) ...	40.00
Make cheese (per Operation)	40.00
Operate a pasteurizer (per Operator) ...	40.00
Operate a milk processing plant	
(per Plant)	85.00
Dairy Products Distributor (per	
Distributor)	85.00
Base Food Inspection	
Small	50.00
Less than 1,000 sq. ft. / 4 or fewer	
employees	
Medium	150.00
1,000-5,000 sq. ft., with limited food	
processing	
Large	250.00
Food processor over 1,000 sq. ft. / Grocery	
store 1,000-50,000 sq. ft. and two or fewer	
food processing areas / Warehouse	
1,000-50,000 sq. ft.	
Super	400.00
Food processor over 20,000 sq. ft. / Grocery	
store over 50,000 sq. ft. and more than two	
food processing areas / Warehouse over	
50,000 sq. ft.	
Special Inspection	
Food and Dairy Inspection	
Per hour	30.00
Overtime rate	40.00
Citations, maximum per violation	500.00
Weights and Measures	
Weighing and measuring devices/individual	
servicemen (per Serviceperson)	50.00
Metrology services (per hour)	50.00
Base Weights and Measures	
Small	50.00
1-3 scales, 1-12 fuel dispensers, 1 meter, 1	
large scale, or 1-3 scanners	
Medium	150.00
4-15 scales, 13-24 fuel dispensers, 2-3	
meters, 2-3 large scales, or 4-15 scanners	
Large	250.00
16-25 scales, 25-36 fuel dispensers, 4-6	
meters, 4-5 large scales, or 16-25 scanners	
Super	400.00
26+ scales, 37+ fuel dispensers, 7+ meters,	
6+ large scales, or 26+ scanners	
Special Scale Inspections	
Large Capacity Truck (per hour)	25.00
Large Capacity Truck (per mile)	2.00
Large Capacity Truck (per hour)	25.00
Equipment use	
Pickup Truck (per hour)	25.00
Pickup Truck (per mile)	1.00
Pickup Truck (per hour)	20.00
Equipment use	
Overnight Trip (per diem)	Variable
Plus cost of hotel	
Petroleum Refinery	
Gasoline	
Octane Rating	132.00
Benzene Level	88.00
Pensky-Martens Flash Point	22.00

Overtime charges (per hour)	33.00
Gravity	11.00
Distillation	28.00
Sulfur, X-ray	39.00
Reid Vapor Pressure (RVP)	28.00
Aromatics	55.00
Leads	22.00
Diesel	
Gravity	28.00
Distillation	28.00
Sulfur, X-ray	22.00
Cloud Point	22.00
Conductivity	28.00
Cetane	22.00
Citations, maximum per violation	500.00
Certificate of Free Sale	
Single Certificate	25.00
More than 3 pages	55.00

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Administration	
Research on leases or title by staff (per hour)	75.00
Reproduction of Records	
Copies Made By Staff (per copy)	0.40
Copies - Self-service (per copy)	0.10
Name change on Administrative Records	
Name Change on Admin. Records - Surface Document	15.00
Name Change on Admin. Records - Lease (per lease)	15.00
Late fee 6% or \$30, whichever is greater	
Fax send only including cover (per page)	1.00
Certified Copies (per document)	10.00
Affidavit of Lost Document (per document)	25.00
Surface	
Easements	
Amendment	400.00
Application	750.00
Assignment Fees	250.00
Collateral	250.00
Reinstatement	400.00
Exchange	
Application	1,000.00
Grazing Permit	
Amendment	50.00
Application	50.00
Assignment Fees	30.00
Collateral	50.00
Reinstatement	30.00
Non-Use	20.00
Modified	
Amendment	50.00
Application	250.00
Assignment Fees	250.00
Collateral	50.00
Reinstatement	30.00
Letter of Intent	
Application	100.00
Right of Entry	
Amendment	50.00
Application	50.00

Assignment	250.00
Extension of Time	100.00
Processing	50.00
Right of Entry Trailing Permit	
Application plus AUM (Animal Unit Month) fees	50.00
Sales/Certificates	
Application	250.00
Assignment	250.00
Partial Conveyance	250.00
Patent Reissue	50.00
Processing	500.00
Special Use Agreements	
Amendment	400.00
Application	250.00
Assignment Fees	250.00
Collateral	250.00
Processing	700.00
Reinstatement	400.00
Timber Agreement	
Application	100.00
6 months or less	
Assignment	250.00
6 months or less	
Application	500.00
longer than 6 months	
Assignment	250.00
longer than 6 months	
Extension of Time	250.00
longer than 6 months	
Mineral	
Application	
Materials Permit (Sand and Gravel)	250.00
Mineral Materials Permit	100.00
Mineral Lease	30.00
Rockhounding Permit	
Association	200.00
Individual/Family	10.00
Collateral	50.00
Materials Permit (Sand and Gravel)	200.00
Operating Rights	50.00
Overriding Royalty	50.00
Record Title	50.00
Segregation	100.00
Processing	
Materials Permit (Sand/Gravel)	700.00
Transfer Active Oil and Gas Lease to Current Form	50.00
Utah Interactive Transaction	2.75
Cash Equivalent	3.00
Bank Charge (per incident)	3 percent

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

STATE OFFICE OF EDUCATION

Board and Administration	
Indirect Cost Pool	
Restricted Funds	
USOE percentage of personal service costs	up to 10%
Unrestricted Funds	
USOR percentage of personal service costs	14%

USOE percentage of personal service costs	up to 22%
District Computer Services ASPIRE	4.51
Teaching and Learning Conference or Professional Development Registration	50.00

**EDUCATOR LICENSING
PROFESSIONAL PRACTICES**

Teacher Licensure Level I	40.00
Utah University Recommended (3 Yrs)	40.00
Student License	20.00
Out of State Application	75.00
District/Charter License	50.00
One Year Extension	25.00
Career and Technology Education	40.00
Level Upgrade	40.00
Renewal Active Educators	25.00
Inactive Educators	45.00
Returning Educator Application	35.00
Returning Educator Renewal Recommendation	15.00
Endorsements Institutionally or District Approved	20.00
Individual Application	25.00
Duplicates/Replacements	10.00
State Approved Endorsement Program Application/Evaluation (State Approved Endorsement Programs)	35.00
Letter of Authorization Request	20.00
Alternative Licensure Application and Evaluation	75.00
Program Development and Tracking	300.00
License Recommendation	40.00
Finger Printing FBI & BCI	25.00
Utah Professional Practices Advisory Commission	15.00

**UTAH SCHOOLS FOR THE
DEAF AND THE BLIND**

Educational Services Instruction Teachers Aide	11.58
Student Education Services Aide	26.15
Educator	58.86
After-School Program	30.00
Pre-School Monthly Tuition	75.00
Out-of-State Tuition	50,600.00
Support Services Support Services Educator	58.86
Instruction Educational Interpreter	36.31
Support Services Conference Attendance Educator - Conference Attendance Fee	100.00
Parent - Conference Attendance Fee	25.00

Adult Lunch Tickets	2.00
Copy & Fax Machine Fax Machine	1.00
Copy Machine Color	1.00
Black/White	0.10
Athletic (per sport)	100.00
Room Rental Dormitory	19.00
Conference	94.00
Multipurpose	188.00

**RETIREMENT AND
INDEPENDENT ENTITIES**

**DEPARTMENT OF HUMAN
RESOURCE MANAGEMENT**

Statewide Management Liability Training Certified Public Manager Course Fee (per student)	750.00
Other Training Fee (per contact hour)	15.00
Information Technology Core HR (per FTE)	12.00

**HUMAN RESOURCES
INTERNAL SERVICE FUND**

ISF - Field Services HR Services (per FTE)	723.00
ISF - Payroll Field Services Payroll Services (per FTE)	54.00
Per UCA 67-19-13.5, the following agencies are not required to use DHRM payroll services: State Treasurer's Office, State Auditor's Office, Dept. of Technology Services, Dept. of Public Safety, Dept. of Natural Resources, Dept. of Transportation, Utah Schools for the Deaf and the Blind.	
ISF - Legal Services Attorney General Legal Fees (per FTE)	21.13

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Capitol Hill Grounds A, B, C, D Commercial Production Grounds/per event (per day)	2,500.00
Event/Dance floor 30x30	1,000.00
Event/Dance floor 21x21	600.00
Event/Dance floor 15x15	450.00
Event/Dance floor 12x12	250.00
Event/Dance floor 6x6	125.00
A, B, C, and D/per event (per day) ..	2,500.00
A, B, C, and D/per hour	750.00
A-South Lawn A-South Lawn/per event	2,000.00
A-South Lawn/per hour	400.00
B-SE Outside of Oval B-SE Outside of Oval/per event	1,000.00
B-SE Outside of Oval/per hour	200.00
C-SW Outside of Oval C-SW Outside of Oval/per event	1,000.00
C-SW Outside of Oval/per hour	200.00
D-West Lawn	

D-West Lawn/per event	500.00
D-West Lawn/per hour	150.00
South Steps	
South Steps/per event (per event)	500.00
South Steps/per hour (per hour)	125.00
Capitol Hill - The State Capitol Preservation Board may establish the maximum amount of time a person may use a facility.	
Parking Lot	
Parking Space (per stall per day)	7.00
For events only	
Rotunda	
Commercial Production Rotunda/per event (per day)	5,000.00
Rotunda Rental Fee Monday-Thursday (per event)	2,000.00
Rotunda Rental Fee Friday-Sunday (per event)	2,300.00
Rotunda two hour block Mon-Fri during Leg Session (7 a.m.-5:30 p.m.)	No charge
Hall of Governors	
Hall of Governors	1,300.00
Hall of Governors - Two hour block Monday - Friday during Leg Session (7:00 a.m.-5:30 p.m.)	No charge
Plaza	
Plaza/per event	1,300.00
Plaza/per hour	200.00
Room 105	
General Public, Commercial, & Private Groups	
Room #105/per hour	100.00
Room #105 Mon - Fri 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
Nonprofit, Gov't Nonofficial Business, K-12, & Higher Ed	
Room #105/per hour	50.00
Room #105 Mon - Fri 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
Room 170	
General Public, Commercial, & Private Groups	
Room #170/per hour	100.00
Room #170 Mon - Fri 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
Nonprofit, Gov't Nonofficial Business, K-12, & Higher Ed	
Room #170/per hour	50.00
Room #170 Mon - Fri 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
Room 210	
General Public, Commercial, & Private Groups	
Room #210/per hour	100.00
Room #210 Mon - Fri 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
Nonprofit, Gov't Nonofficial Business, K-12, & Higher Ed	
Room #210/per hour	50.00
Room #210 Mon - Fri 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
State Room	
State Room/per event	1,000.00
State Room/per hour	125.00

Multipurpose Room	
General Public, Commercial, & Private Groups	
Centennial Room #130/per hour	100.00
Centennial Room #130 Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
Nonprofit, Gov't Nonofficial Business, K-12, & Higher Ed	
Centennial Room #130/per hour	50.00
Centennial Room #130 Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
Board Room	
General Public, Commercial, & Private Groups	
Board Room/per hour	150.00
Nonprofit, Gov't Nonofficial Business, K-12, & Higher Ed	
Board Room/per hour	75.00
Olmsted Room	
General Public, Commercial, & Private Groups	
Olmsted Room/per hour	100.00
Olmsted Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
Nonprofit, Gov't Nonofficial Business, K-12, & Higher Ed	
Olmsted Room/per hour	50.00
Olmsted Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
Kletting Room	
General Public, Commercial, & Private Groups	
Kletting Room/per hour	100.00
Kletting Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
Nonprofit, Gov't Nonofficial Business, K-12, & Higher Ed	
Kletting Room/per hour	50.00
Kletting Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
Elk Room	
General Public, Commercial, & Private Groups	
Elk Room/per hour	100.00
Elk Room Mon-Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
Nonprofit, Gov't Nonofficial Business, K-12, & Higher Ed	
Elk Room/per hour	50.00
Elk Room Mon-Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
Seagull Room	
General Public, Commercial, & Private Groups	
Seagull Room/per hour	100.00
Seagull Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
Nonprofit, Gov't Nonofficial Business, K-12, & Higher Ed	
Seagull Room/per hour	50.00

Seagull Room Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
Beehive Room	
General Public, Commercial, & Private Groups	
Beehive Room/per hour	100.00
Beehive Room Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week)	
No charge	
Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed	
Beehive Room/per hour	50.00
Beehive Room Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week)	
No charge	
Copper Room	
General Public, Commercial, & Private Groups	
Copper Room/per hour	100.00
Copper Room Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week)	
No charge	
Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed	
Copper Room/per hour	50.00
Copper Room Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week)	
No charge	
Spruce Room	
General Public, Commercial, & Private Groups	
Spruce Room/per hour	100.00
Spruce Room Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week)	
No charge	
Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed	
Aspen Room/per hour	50.00
Spruce Room Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week)	
No charge	
State Office Building - The State Capitol Preservation Board may establish the maximum amount of time a person may use a facility.	
Auditorium	
General Public, Commercial, & Private Groups	
Auditorium/per hour	125.00
Auditorium Mon - Fri, 7:00 a.m.- 11 a.m. and 1:30 p.m.-5:30 p.m. during Leg Session (per hour)	
125.00	
Auditorium Mon - Fri, 11:00 a.m.- 1:30 p.m. during Leg Session with t he use of preferred caterer	
No charge	
Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed	
Auditorium/per hour	75.00
Auditorium Mon - Fri, 7:00 a.m.- 11:00 a.m. and 1:30 p.m.-5:30 p.m. during Leg Session (per hour)	
75.00	
Auditorium Mon - Fri, 11 a.m.- 1:30 p.m. during Leg Session with the use of preferred caterer	
No charge	
Room 1112	
General Public, Commercial, & Private Groups	
Room #1112/per hour	100.00
Room #1112 Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week)	
No charge	

Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed	
Room #1112/per hour	50.00
Room #1112 Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week)	
No charge	
Room B110	
General Public, Commercial, & Private Groups	
Room #B110/per hour	100.00
Room #B110 Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week)	
No charge	
Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed	
Room #B110/per hour	50.00
Room #B110 Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week)	
No charge	
White Community Memorial Chapel	
Per day of event	500.00
Noon-midnight rehearsal	250.00
Miscellaneous Other	
Access Badges	25.00
Additional Labor (per person, per 1/2 hr)	25.00
Additional Personnel (per person, per 1/2 hr)	25.00
Adjustment (per person, per 1/2 hr)	25.00
Administrative Fee	10.00
Baby Grand Piano	200.00
Chairs (per chair)	1.50
Change in set-up fee (per person, per 1/2 hr)	25.00
Easel	10.00
Extension Cords	5.00
Flags	No charge
Free Speech Public Space Usage	No charge
Garbage Can	No charge
Gold Formal Chair (per chair)	5.00
Insurance Coverage for Capitol Hill Facilities and Grounds	Coverage of \$1,000,000.00
Locker Rentals (per year)	40.00
PA System (Podium & Microphone) with one speaker	50.00
Additional speakers available at a cost of \$15.00 each.	
Podium	
With Microphone	35.00
Without Microphone	20.00
POLYCOM Phone Rental	10.00
Risers (per section)	25.00
Security (per officer, per hour)	50.00
Stanchion	10.00
Standing Microphone	15.00
Table (per table)	7.00
Table Pedestal Round 20" (per table)	10.00
Table Pedestal Round 42" (per table)	10.00
Upright Piano	50.00

UTAH NATIONAL GUARD

Operations and Maintenance	
Armory Rental	
Armory Rental (per hour)	25.00
Armory rental fee of \$25/hour is charged to pay for the additional operations and	

maintenance costs to the National Guard when an armory is rented to a group outside of the National Guard.

Security Attendant (per hour) 15.00

Utah National Guard requires a security attendant to accompany any armory rental to ensure the security of facilities and equipment.

Refundable Cleaning Deposit 100.00

This refundable fee is required to mitigate the liability of damage or additional cleaning requirement for National Guard armories during or after rental.

DEPARTMENT OF VETERANS' AND MILITARY AFFAIRS

Cemetery

Veterans' Burial 747.00

Cement Burial Vault 700.00

Spouse/Dependent Burial 747.00

Saturday Burial Surcharge 700.00

Lawn Vase 60.00

Disinterment

Single Depth Disinterment 600.00

Double Depth Disinterment 900.00

Cremaains Disinterment 150.00

Chapel Rental 150.00

Fee for renting the on-site chapel for funerals, memorials or other events.

Section 3. Effective Date.

This bill takes effect on July 1, 2016.

CHAPTER 398**H. B. 57**

Passed February 9, 2016
 Approved March 30, 2016
 Effective May 10, 2016

**ALTERNATIVE DISPUTE RESOLUTION
 SUNSET DATE AMENDMENT**

Chief Sponsor: LaVar Christensen
 Senate Sponsor: Mark B. Madsen

LONG TITLE**General Description:**

This bill reauthorizes Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act.

Highlighted Provisions:

This bill:

- ▶ reauthorizes Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, to remain in effect until July 1, 2026.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-278, as last amended by Laws of Utah 2014, Chapters 247 and 267

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-278 is amended to read:

63I-1-278. Repeal dates, Title 78A and Title 78B.

(1) The Office of the Court Administrator, created in Section 78A-2-105, is repealed July 1, 2018.

(2) Section 78B-3-421, regarding medical malpractice arbitration agreements, is repealed July 1, 2019.

(3) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed July 1, [2016] 2026.

CHAPTER 399**H. B. 67**

Passed February 22, 2016

Approved March 30, 2016

Effective May 10, 2016

WEAPONS ON PUBLIC TRANSPORTATION

Chief Sponsor: Norman K Thurston
Senate Sponsor: Allen M. Christensen

LONG TITLE**General Description:**

This bill modifies the prohibition on carrying a firearm on a bus.

Highlighted Provisions:

This bill:

- ▶ eliminates the prohibition of carrying a firearm on a bus with no criminal intent.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-10-1504, as last amended by Laws of Utah 2007, Chapter 310

76-10-1507, as last amended by Laws of Utah 2007, Chapter 310

77-23a-8, as last amended by Laws of Utah 2013, Chapter 196

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-10-1504 is amended to read:**76-10-1504. Bus hijacking -- Assault with intent to commit hijacking -- Use of a dangerous weapon -- Penalties.**

(1) (a) A person is guilty of bus hijacking if the person seizes or exercises control, by force or violence or threat of force or violence, of a bus within the state.

(b) Bus hijacking is a first degree felony.

(2) (a) A person is guilty of assault with the intent to commit bus hijacking if the person intimidates, threatens, or commits assault or battery toward a driver, attendant, guard, or any other person in control of a bus so as to interfere with the performance of duties by the person.

(b) Assault with the intent to commit bus hijacking is a second degree felony.

(3) A person who, in the commission of assault with intent to commit bus hijacking, uses a dangerous weapon, as defined in Section 76-1-601, is guilty of a first degree felony.

~~[(4) (a) A person who boards a bus with a concealed dangerous weapon or firearm upon his person or effects is guilty of a third degree felony.]~~

~~[(b) The prohibition of Subsection (4)(a) does not apply to.]~~

~~[(i) individuals listed in Subsections 76-10-523(1)(a), (b), (c), (d), and (e);]~~

~~[(ii) a person licensed to carry a concealed weapon; or]~~

~~[(iii) persons in possession of weapons or firearms with the consent of the owner of the bus or the owner's agent, or the lessee or bailee of the bus.]~~

Section 2. Section 76-10-1507 is amended to read:**76-10-1507. Exclusion of persons without bona fide business from terminal -- Dangerous materials -- Surveillance devices and seizure of offending materials -- Detention of violators -- Private security personnel.**

(1) (a) In order to provide for the safety, welfare and comfort of passengers, a bus company may refuse admission to terminals to a person not having bona fide business within the terminal.

(b) The refusal may not be inconsistent or contrary to state or federal laws or regulations, or to an ordinance of the political subdivision in which the terminal is located.

(c) An authorized bus company representative may require a person in a terminal to identify himself and state his business.

(d) Failure to comply with a request under Subsection (1)(c) or to state an acceptable business purpose is grounds for the representative to request that the person depart the terminal.

(e) A person who refuses to comply with a request made under Subsection (1)(d) is guilty of a class C misdemeanor.

(2) (a) A person who carries ~~[a concealed dangerous weapon, firearm, or]~~ any highly ~~[inflammable]~~ flammable or hazardous ~~[materials or devices]~~ material or device into a terminal or aboard a bus is guilty of a third degree felony.

~~[(b) The prohibition of Subsection (2)(a) does not apply to individuals listed in Subsection 76-10-1504(4).]~~

~~[(e)]~~ (b) The bus company may employ reasonable means, including mechanical, electronic or x-ray devices to detect the items concealed in baggage or upon the person of a passenger.

~~[(d)]~~ (c) Upon the discovery of an item referred to in Subsection (2)(a), the company may obtain possession and retain custody of the item until it is transferred to a peace officer.

(3) (a) An authorized bus company representative may detain within a terminal or bus any person violating the provisions of this section for a reasonable time until law enforcement authorities arrive.

(b) The detention does not constitute unlawful imprisonment and neither the bus company nor the representative is civilly or criminally liable upon grounds of unlawful imprisonment or assault, provided that only reasonable and necessary force is exercised against the detained person.

(4) (a) A bus company may employ or contract for private security personnel.

(b) The personnel may:

(i) detain within a terminal or bus a person violating this section for a reasonable time until law enforcement authorities arrive; and

(ii) use reasonable and necessary force in subduing or detaining the person.

Section 3. Section 77-23a-8 is amended to read:

77-23a-8. Court order to authorize or approve interception -- Procedure.

(1) The attorney general of the state, any assistant attorney general specially designated by the attorney general, any county attorney, district attorney, deputy county attorney, or deputy district attorney specially designated by the county attorney or by the district attorney, may authorize an application to a judge of competent jurisdiction for an order for an interception of wire, electronic, or oral communications by any law enforcement agency of the state, the federal government or of any political subdivision of the state that is responsible for investigating the type of offense for which the application is made.

(2) The judge may grant the order in conformity with the required procedures when the interception sought may provide or has provided evidence of the commission of:

(a) any act:

(i) prohibited by the criminal provisions of:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(C) Title 58, Chapter 37d, Clandestine Drug Lab Act; and

(ii) punishable by a term of imprisonment of more than one year;

(b) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform Securities Act, and punishable by a term of imprisonment of more than one year;

(c) an offense:

(i) of:

(A) attempt, Section 76-4-101;

(B) conspiracy, Section 76-4-201;

(C) solicitation, Section 76-4-203; and

(ii) punishable by a term of imprisonment of more than one year;

(d) a threat of terrorism offense punishable by a maximum term of imprisonment of more than one year, Section 76-5-107.3;

(e) (i) aggravated murder, Section 76-5-202;

(ii) murder, Section 76-5-203; or

(iii) manslaughter, Section 76-5-205;

(f) (i) kidnapping, Section 76-5-301;

(ii) child kidnapping, Section 76-5-301.1;

(iii) aggravated kidnapping, Section 76-5-302;

(iv) human trafficking or human smuggling, Section 76-5-308; or

(v) aggravated human trafficking or aggravated human smuggling, Section 76-5-310;

(g) (i) arson, Section 76-6-102; or

(ii) aggravated arson, Section 76-6-103;

(h) (i) burglary, Section 76-6-202; or

(ii) aggravated burglary, Section 76-6-203;

(i) (i) robbery, Section 76-6-301; or

(ii) aggravated robbery, Section 76-6-302;

(j) an offense:

(i) of:

(A) theft, Section 76-6-404;

(B) theft by deception, Section 76-6-405; or

(C) theft by extortion, Section 76-6-406; and

(ii) punishable by a maximum term of imprisonment of more than one year;

(k) an offense of receiving stolen property that is punishable by a maximum term of imprisonment of more than one year, Section 76-6-408;

(l) a financial card transaction offense punishable by a maximum term of imprisonment of more than one year, Section 76-6-506.2, 76-6-506.3, 76-6-506.5, or 76-6-506.6;

(m) bribery of a labor official, Section 76-6-509;

(n) bribery or threat to influence a publicly exhibited contest, Section 76-6-514;

(o) a criminal simulation offense punishable by a maximum term of imprisonment of more than one year, Section 76-6-518;

(p) criminal usury, Section 76-6-520;

(q) a fraudulent insurance act offense punishable by a maximum term of imprisonment of more than one year, Section 76-6-521;

(r) a violation of Title 76, Chapter 6, Part 7, Utah Computer Crimes Act, punishable by a maximum term of imprisonment of more than one year, Section 76-6-703;

(s) bribery to influence official or political actions, Section 76-8-103;

(t) misusing public money, Section 76-8-402;

(u) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;

(v) retaliation against a witness, victim, or informant, Section 76-8-508.3;

(w) tampering with a juror, retaliation against a juror, Section 76-8-508.5;

(x) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;

(y) obstruction of justice, Section 76-8-306;

(z) destruction of property to interfere with preparation for defense or war, Section 76-8-802;

(aa) an attempt to commit crimes of sabotage, Section 76-8-804;

(bb) conspiracy to commit crimes of sabotage, Section 76-8-805;

(cc) advocating criminal syndicalism or sabotage, Section 76-8-902;

(dd) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;

(ee) riot punishable by a maximum term of imprisonment of more than one year, Section 76-9-101;

(ff) dog fighting, training dogs for fighting, or dog fighting exhibitions punishable by a maximum term of imprisonment of more than one year, Section 76-9-301.1;

(gg) possession, use, or removal of an explosive, chemical, or incendiary device and parts, Section 76-10-306;

(hh) delivery to a common carrier or mailing of an explosive, chemical, or incendiary device, Section 76-10-307;

(ii) exploiting prostitution, Section 76-10-1305;

(jj) aggravated exploitation of prostitution, Section 76-10-1306;

(kk) bus hijacking[, or assault with intent to commit hijacking, [~~dangerous weapon or firearm~~], Section 76-10-1504;

(ll) discharging firearms and hurling missiles, Section 76-10-1505;

(mm) violations of ~~the~~ Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act, and the offenses listed under the definition of unlawful activity in the act, including the offenses not punishable by a maximum term of imprisonment of more than one year when those offenses are investigated as predicates for the offenses prohibited by the act, Section 76-10-1602;

(nn) communications fraud, Section 76-10-1801;

(oo) money laundering, Sections 76-10-1903 and 76-10-1904; or

(pp) reporting by a person engaged in a trade or business when the offense is punishable by a maximum term of imprisonment of more than one year, Section 76-10-1906.

CHAPTER 400**H. B. 101**

Passed March 10, 2016
 Approved March 30, 2016
 Effective May 10, 2016

**DISABLED ADULT
 GUARDIANSHIP AMENDMENTS**

Chief Sponsor: Fred C. Cox
 Senate Sponsor: Lyle W. Hillyard
 Cosponsors: Brian M. Greene
 V. Lowry Snow

LONG TITLE**General Description:**

This bill provides that, under certain circumstances, counsel is not required for a disabled adult when the petitioner for guardianship is the disabled adult's parent.

Highlighted Provisions:

This bill:

- ▶ provides that counsel is not required for the prospective ward under certain circumstances; and
- ▶ allows the provision to sunset.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

75-5-303, as last amended by Laws of Utah 2013, Chapter 364

ENACTS:

63I-2-275, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-2-275 is enacted to read:**63I-2-275. Repeal dates -- Title 75.**

Subsection 75-5-303(5)(d) is repealed on July 1, 2018.

Section 2. Section 75-5-303 is amended to read:**75-5-303. Procedure for court appointment of a guardian of an incapacitated person.**

(1) The incapacitated person or any person interested in the incapacitated person's welfare may petition for a finding of incapacity and appointment of a guardian.

(2) Upon the filing of a petition, the court shall set a date for hearing on the issues of incapacity. Unless the allegedly incapacitated person has counsel of the person's own choice, the court shall appoint an attorney to represent the person in the proceeding the cost of which shall be paid by the person alleged to be incapacitated. If the court determines that the petition is without merit, the attorney fees and court costs shall be paid by the

person filing the petition. If the court appoints the petitioner or the petitioner's nominee as guardian of the incapacitated person, regardless of whether the nominee is specified in the moving petition or nominated during the proceedings, the petitioner shall be entitled to receive from the incapacitated person reasonable attorney fees and court costs incurred in bringing, prosecuting, or defending the petition.

(3) The legal representation of the incapacitated person by an attorney shall terminate upon the appointment of a guardian, unless:

(a) there are separate conservatorship proceedings still pending before the court subsequent to the appointment of a guardian;

(b) there is a timely filed appeal of the appointment of the guardian or the determination of incapacity; or

(c) upon an express finding of good cause, the court orders otherwise.

(4) The person alleged to be incapacitated may be examined by a physician appointed by the court who shall submit a report in writing to the court and may be interviewed by a visitor sent by the court. The visitor also may interview the person seeking appointment as guardian, visit the present place of abode of the person alleged to be incapacitated and the place it is proposed that the person will be detained or reside if the requested appointment is made, conduct other investigations or observations as directed by the court, and submit a report in writing to the court.

(5) (a) The person alleged to be incapacitated shall be present at the hearing in person and see or hear all evidence bearing upon the person's condition. If the person seeking the guardianship requests a waiver of presence of the person alleged to be incapacitated, the court shall order an investigation by a court visitor, the costs of which shall be paid by the person seeking the guardianship.

(b) The investigation by a court visitor is not required if there is clear and convincing evidence from a physician that the person alleged to be incapacitated has:

(i) fourth stage Alzheimer's Disease;

(ii) extended comatosis; or

(iii) (A) an intellectual disability; and

(B) an intelligence quotient score under ~~[20 to]~~ 25.

(c) The person alleged to be incapacitated is entitled to be represented by counsel, to present evidence, to cross-examine witnesses, including the court-appointed physician and the visitor, and to trial by jury. The issue may be determined at a closed hearing without a jury if the person alleged to be incapacitated or the person's counsel so requests.

(d) Counsel for the person alleged to be incapacitated, as defined in Subsection 75-1-201(22), is not required if:

(i) the person is the biological or adopted child of the petitioner;

(ii) the value of the person's entire estate does not exceed \$20,000 as established by an affidavit of the petitioner in accordance with Section 75-3-1201;

(iii) the person appears in court with the petitioner;

(iv) the person is given the opportunity to communicate, to the extent possible, the person's acceptance of the appointment of petitioner; and

(v) the court is satisfied that counsel is not necessary in order to protect the interests of the person.

CHAPTER 401**H. B. 106**

Passed March 4, 2016
 Approved March 30, 2016
 Effective May 10, 2016

SECURITIES AMENDMENTS

Chief Sponsor: Rich Cunningham
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies the Utah Uniform Securities Act.

Highlighted Provisions:

This bill:

- ▶ amends an exemption from licensing as an investment adviser in the state;
- ▶ expands the sanctions that may be imposed by the Securities Commission;
- ▶ clarifies that the division commences agency action;
- ▶ provides that it is an unlawful act for a person to make a false or misleading statement during an examination or investigation;
- ▶ modifies provisions applicable to registration by coordination;
- ▶ repeals the cap on fines for violations that may be imposed by a court;
- ▶ allows the aggregation of amounts of property, money, or other things unlawfully obtained through a series of acts or continuing course of business;
- ▶ imposes a 10 year statute of limitation for administrative actions;
- ▶ for a series of acts or continuing course of business, provides that the statute of limitations begins to run after the last act in the series of acts or course of business;
- ▶ codifies factors that the commission or a court may consider when determining the amount of a fine; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 61-1-3, as last amended by Laws of Utah 2011, Chapter 317
 61-1-5, as last amended by Laws of Utah 2007, Chapter 292
 61-1-6, as last amended by Laws of Utah 2009, Chapter 351
 61-1-9, as last amended by Laws of Utah 2009, Chapter 351
 61-1-16, as last amended by Laws of Utah 1983, Chapter 284
 61-1-20, as last amended by Laws of Utah 2011, Chapter 319
 61-1-21, as last amended by Laws of Utah 2011, Chapter 319
 61-1-21.1, as last amended by Laws of Utah 2008, Chapter 3

ENACTS:

61-1-31, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 61-1-3 is amended to read:**61-1-3. Licensing of broker-dealers, agents, investment advisers, and investment adviser representatives.**

(1) It is unlawful for a person to transact business in this state as a broker-dealer or agent unless the person is licensed under this chapter.

(2) (a) It is unlawful for a broker-dealer or issuer to employ or engage an agent unless the agent is licensed. The license of an agent is not effective during any period when the agent is not associated with:

(i) a particular broker-dealer licensed under this chapter; or

(ii) a particular issuer.

(b) When an agent begins or terminates an association with a broker-dealer or issuer, or begins or terminates activities as an agent, the agent and the broker-dealer or issuer shall promptly notify the division.

(c) An agent who terminates an association with a broker-dealer or issuer is considered to be unlicensed until the day on which the division:

(i) approves the agent's association with a different broker-dealer or issuer; and

(ii) notifies the agent of the division's approval of the association.

(d) (i) It is unlawful for a broker-dealer or an issuer engaged, directly or indirectly, in offering, offering to purchase, purchasing, or selling a security in this state, to employ or associate with an individual to engage in an activity related to a securities transaction in this state if:

(A) (I) the license of the individual is suspended or revoked; or

(II) the individual is barred from employment or association with a broker-dealer, an issuer, or a state or federal covered investment adviser; and

(B) the suspension, revocation, or bar described in Subsection (2)(d)(i)(A) is by an order:

(I) under this chapter;

(II) of the Securities and Exchange Commission;

(III) of a self-regulatory organization; or

(IV) of a securities administrator of a state other than Utah.

(ii) A broker-dealer or issuer does not violate this Subsection (2)(d) if the broker-dealer or issuer did not know and in the exercise of reasonable care could not have known, of the suspension, revocation, or bar.

(iii) An order under this chapter may modify or waive, in whole or in part, the application of Subsection (2)(d)(i) to a broker-dealer or issuer.

(3) It is unlawful for a person to transact business in this state as an investment adviser or as an investment adviser representative unless:

- (a) the person is licensed under this chapter;
- (b) the person's only clients in this state are:

(i) one or more of the following whether acting for itself or as a trustee with investment control:

(A) an investment company as defined in the Investment Company Act of 1940;

(B) another investment adviser;

(C) a federal covered adviser;

(D) a broker-dealer;

(E) a depository institution;

(F) a trust company;

(G) an insurance company;

(H) an employee benefit plan with assets of not less than \$1,000,000; or

(I) a governmental agency or instrumentality; or

(ii) other institutional investors as are designated by rule or order of the director; or

(c) the person:

(i) (A) is licensed in another state as an investment adviser or an investment adviser representative; or

(B) is exempt from licensing under Section 222(d) of the Investment Advisers Act of 1940;

(ii) has no place of business in this state; and

(iii) during the preceding 12-month period has had not more than five clients, other than those specified in Subsection (3)(b), who are residents of this state.

(4) (a) It is unlawful for:

(i) a person required to be licensed as an investment adviser under this chapter to employ an investment adviser representative unless the investment adviser representative is licensed under this chapter, except that the license of an investment adviser representative is not effective during any period when the person is not employed by an investment adviser licensed under this chapter;

(ii) a federal covered adviser to employ, supervise, or associate with an investment adviser representative having a place of business located in this state, unless the investment adviser representative is:

(A) licensed under this chapter; or

(B) exempt from licensing; or

(iii) an investment adviser, directly or indirectly, to employ or associate with an individual to engage in an activity related to providing investment advice in this state if:

(A) (I) the license of the individual is suspended or revoked; or

(II) the individual is barred from employment or association with a state or federal covered investment adviser, broker-dealer, or issuer; and

(B) the suspension, revocation, or bar is by an order:

(I) under this chapter;

(II) of the Securities and Exchange Commission;

(III) a self-regulatory organization; or

(IV) a securities administrator of a state other than Utah.

(b) (i) An investment adviser does not violate Subsection (4)(a)(iii) if the investment adviser did not know, and in the exercise of reasonable care could not have known, of the suspension, revocation, or bar.

(ii) An order under this chapter may waive, in whole or in part, the application of Subsection (4)(a)(iii) to an investment adviser.

(c) When an investment adviser representative required to be licensed under this chapter begins or terminates employment with an investment adviser, the investment adviser shall promptly notify the division.

(d) An investment adviser representative who terminates association with an investment adviser is considered unlicensed until the day on which the division:

(i) approves the investment adviser representative's association with a different investment adviser; and

(ii) notifies the investment adviser representative of the division's approval of the association.

(5) Except with respect to an investment adviser whose only clients are those described under Subsections (3)(b) or (3)(c)(iii), it is unlawful for a federal covered adviser to conduct advisory business in this state unless the person complies with Section 61-1-4.

Section 2. Section 61-1-5 is amended to read:

61-1-5. Postlicensing provisions.

(1) (a) [~~Every~~] A licensed broker-dealer and investment adviser shall make and keep such accounts, correspondence, memoranda, papers, books, and other records as the division by rule prescribes, except as provided in:

(i) Section 15 of the Securities Exchange Act of 1934 in the case of a broker-dealer; and

(ii) Section 222 of the Investment Advisers Act of 1940 in the case of an investment adviser.

(b) [~~All required records regarding~~] A record required to be made and kept by an investment adviser shall be preserved for the period as the division prescribes by rule or order.

(2) (a) ~~[Every]~~ A licensed broker-dealer shall, within 24 hours after demand, furnish to any customer or principal for whom the broker-dealer has executed any order for the purchase or sale of any securities, either for immediate or future delivery, a written statement showing:

(i) the time when the securities were bought and sold;

(ii) the place where the securities were bought and sold; and

(iii) the price at which the securities were bought and sold.

(b) With respect to investment advisers, the division may require that certain information be furnished or disseminated as necessary or appropriate in the public interest or for the protection of investors and advisory clients.

(c) To the extent determined by the director, information furnished to clients or prospective clients of an investment adviser who would be in compliance with the Investment Advisers Act of 1940 and the rules under the Investment Advisers Act of 1940 may be considered to satisfy this requirement.

(3) ~~[Every]~~ A licensed broker-dealer and investment adviser shall file financial reports as the division by rule prescribes, except as provided in:

(a) Section 15 of the Securities Exchange Act of 1934 in the case of a broker-dealer; and

(b) Section 222 of the Investment Advisers Act of 1940 in the case of an investment adviser.

(4) If the information contained in any document filed with the division is or becomes inaccurate or incomplete in any material respect, the licensee or federal covered adviser shall promptly file a correcting amendment if the document is filed with respect to a licensee, or when such amendment is required to be filed with the Securities and Exchange Commission if the document is filed with respect to a federal covered adviser, unless notification of the correction has been given under Section 61-1-3.

(5) (a) ~~[All the records]~~ A record referred to in Subsection (1) ~~[are]~~ is subject at any time or from time to time to reasonable periodic, special, or other examinations by representatives of the division, within or without this state, as the division considers necessary or appropriate in the public interest or for the protection of investors.

(b) For the purpose of avoiding unnecessary duplication of examination, the division may cooperate with:

(i) the securities administrators of other states;

(ii) the Securities and Exchange Commission; and

(iii) national securities exchanges or national securities associations registered under the Securities Exchange Act of 1934.

Section 3. Section 61-1-6 is amended to read:

61-1-6. Sanctions.

(1) Subject to the other provisions of this section and by means of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act:

(a) the commission may issue an order:

(i) suspending or revoking a license;

(ii) barring or censuring a licensee or an officer, director, partner, or person occupying a similar status or performing similar functions for a licensee from employment with a licensed broker-dealer or investment adviser;

(iii) restricting or limiting a licensee as to a function or activity of the business for which a license is required in this state;

(iv) imposing a fine in an amount determined after considering the factors set forth in Section 61-1-31; ~~[or]~~

(v) requiring disgorgement;

(vi) requiring restitution;

(vii) requiring rescission; or

~~[(viii)]~~ (viii) taking any combination of actions under this Subsection (1)(a); or

(b) the director may deny a license.

(2) (a) The commission may impose a sanction in accordance with Subsection (1)(a) or the director may impose a sanction in accordance with Subsection (1)(b) if the commission or director finds:

(i) that it is in the public interest; and

(ii) with respect to the applicant or licensee or, in the case of a broker-dealer or investment adviser, a partner, officer, or director, or a person occupying a similar status or performing similar functions, or a person directly or indirectly controlling the broker-dealer or investment adviser, that the person:

(A) has filed an application for a license that, as of the effective date of the application or as of any date after filing in the case of an order denying effectiveness:

(I) was incomplete in a material respect; or

(II) contained a statement that was, in light of the circumstances under which it was made, false or misleading with respect to a material fact;

(B) has willfully violated or willfully failed to comply with this chapter or a predecessor act or a rule or order under this chapter or a predecessor act;

(C) was convicted of, or entered a plea of guilty, a plea of no contest, a plea in abeyance, or a similar plea of guilty to:

(I) a misdemeanor involving:

(Aa) fraud or dishonesty; or

(Bb) a security or any aspect of the securities business; or

(II) a felony;

(D) is permanently or temporarily enjoined by a court of competent jurisdiction from engaging in or continuing a conduct or practice involving any aspect of the securities business;

(E) (I) is the subject of an order of the commission or a predecessor suspending or revoking a license as a broker-dealer, agent, investment adviser, or investment adviser representative; or

(II) is the subject of an order of the director or a predecessor denying a license as a broker-dealer, agent, investment adviser, or investment adviser representative;

(F) subject to Subsection (2)(b), is the subject of:

(I) an adjudication or determination, within the past five years by a securities or commodities agency or administrator of another state, Canadian province or territory, or a court of competent jurisdiction that the person has willfully violated:

(Aa) the Securities Act of 1933;

(Bb) the Securities Exchange Act of 1934;

(Cc) the Investment Advisers Act of 1940;

(Dd) the Investment Company Act of 1940;

(Ee) the Commodity Exchange Act; or

(Ff) the securities or commodities law of another state; or

(II) an order:

(Aa) entered within the past five years by the securities administrator of a state or Canadian province or territory or by the Securities and Exchange Commission denying or revoking a license as a broker-dealer, agent, investment adviser, or investment adviser representative, or the substantial equivalent of those terms;

(Bb) of the Securities and Exchange Commission suspending or expelling the person from a national securities exchange or national securities association registered under the Securities Exchange Act of 1934; or

(Cc) that is a United States post office fraud order;

(G) has engaged in dishonest or unethical practices in the securities business;

(H) is insolvent, either in the sense that liabilities exceed assets or in the sense that obligations cannot be met as they mature, except that the director or commission may not enter an order against a broker-dealer or investment adviser under this Subsection (2)(a)(ii)(H) without a finding of insolvency as to the broker-dealer or investment adviser;

(I) is not qualified on the basis of the lack of training, experience, and knowledge of the

securities business, except as otherwise provided in Subsection (5);

(J) has failed reasonably to supervise the person's:

(I) agents or employees, if the person is a broker-dealer; or

(II) investment adviser representatives or employees, if the person is an investment adviser;

(K) has failed to pay the proper filing fee within 30 days after being notified by the division of a deficiency;

(L) subject to Subsection (2)(c), is a licensee or applicant that is materially the same entity as an entity that is defunct, insolvent, statutorily disqualified, barred, or described in Subsection (2)(a)(ii)(D); or

(M) has had a final judgment entered against the person in a civil action on grounds of:

(I) fraud;

(II) embezzlement;

(III) misrepresentation; or

(IV) deceit.

(b) (i) The ~~commission~~ division may not commence an agency action to revoke or suspend a license under Subsection (2)(a)(ii)(F) more than one year from the day on which the order on which the division relies is entered.

(ii) The commission or director may not enter an order under Subsection (2)(a)(ii)(F) on the basis of an order under another state's law unless that order is issued on the basis of facts that would constitute a ground for an agency action under this section on the day on which the notice of agency action is filed.

(c) (i) For purposes of Subsection (2)(a)(ii)(L), the director or commission may consider one or more factors in determining whether an entity is materially the same as another entity including the following:

(A) the entity has one or more of the same executive officers as the prior entity;

(B) the entity conducts operations in the same location as the prior entity;

(C) the entity employs two or more agents from the prior entity;

(D) the entity solicits or serves two or more customers of the prior entity;

(E) the entity has a name similar to the prior entity; or

(F) another factor showing a relationship between the entity and the prior entity.

(ii) In addition to imposing a sanction in accordance with Subsection (1), for an entity that is materially the same as an entity described in Subsection (2)(a)(ii)(L), the director or the commission may:

(A) limit the license of the entity; or

(B) require additional disclosures to the customers or employees of the entity.

(3) The director may enter a denial order under Subsection (2)(a)(ii)(K), but shall vacate the order when the deficiency is corrected.

(4) The division may not institute a suspension or revocation proceeding on the basis of a fact or transaction known to the division when the license became effective unless the proceeding is instituted within the 120 days after the day on which the license takes effect.

(5) The following provisions govern the application of Subsection (2)(a)(ii)(I):

(a) The director or commission may not enter an order against a broker-dealer on the basis of the lack of qualification of a person other than:

(i) the broker-dealer if the broker-dealer is an individual; or

(ii) an agent of the broker-dealer.

(b) The director or commission may not enter an order against an investment adviser on the basis of the lack of qualification of a person other than:

(i) the investment adviser if the investment adviser is an individual; or

(ii) an investment adviser representative.

(c) The director or commission may not enter an order solely on the basis of lack of experience if the applicant or licensee is qualified by training or knowledge.

(d) The director or commission shall consider that:

(i) an agent who will work under the supervision of a licensed broker-dealer need not have the same qualifications as a broker-dealer; and

(ii) an investment adviser representative who will work under the supervision of a licensed investment adviser need not have the same qualifications as an investment adviser.

(e) (i) The director or commission shall consider that an investment adviser is not necessarily qualified solely on the basis of experience as a broker-dealer or agent.

(ii) When the director finds that an applicant for a license as a broker-dealer is not qualified as an investment adviser, the director may condition the applicant's license as a broker-dealer upon the applicant's not transacting business in this state as an investment adviser.

(f) (i) The division may by rule provide for examinations, which may be written or oral or both, to be taken by any class of or all applicants.

(ii) The division may by rule or order waive the examination requirement as to a person or class of persons if the division determines that the

examination is not necessary for the protection of investors.

(6) If the director finds that a licensee or applicant for a license is no longer in existence, has ceased to do business as a broker-dealer, agent, investment adviser, or investment adviser representative, or is subject to an adjudication of mental incompetence or to the control of a committee, conservator, or guardian, or cannot be located after reasonable search, the division may summarily cancel or deny the license or application according to the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

(7) (a) Withdrawal from license as a broker-dealer, agent, investment adviser, or investment adviser representative becomes effective 30 days after receipt of an application to withdraw or within a shorter period of time as determined by the director, unless:

(i) a revocation or suspension proceeding is pending when the application is filed;

(ii) a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within 30 days after the application is filed; or

(iii) additional information is requested by the division regarding the withdrawal application.

(b) (i) If a proceeding described in Subsection (7)(a) is pending or instituted, the director shall designate by order when and under what conditions the withdrawal becomes effective.

(ii) If additional information is requested, withdrawal is effective 30 days after the additional information is filed.

(c) (i) If no proceeding is pending or instituted, and withdrawal automatically becomes effective, the director may initiate a revocation or suspension proceeding under this section within one year after withdrawal becomes effective.

(ii) The commission shall enter an order under Subsection (2)(a)(ii)(B) as of the last date on which the license is effective.

Section 4. Section 61-1-9 is amended to read:

61-1-9. Registration by coordination.

(1) A security for which a registration statement [~~or a notification under Regulation A or a successor to Regulation A~~] is filed under the Securities Act of 1933 in connection with the same offering may be registered by coordination.

(2) A registration statement under this section shall contain the following information and be accompanied by the following documents in addition to the information specified in Subsection 61-1-11(3) and the consent to service of process required by Section 61-1-26:

(a) one copy of the disclosure statement together with all its amendments filed under the Securities Act of 1933;

(b) if the division by rule or otherwise requires^{[,];}

(i) a copy of the articles of incorporation and bylaws or their substantial equivalents currently in effect^{[,];}

(ii) a copy of any agreements with or among underwriters^{[,];}

(iii) a copy of any indenture or other instrument governing the issuance of the security to be registered; and

(iv) a specimen or copy of the security;

(c) if the division requests, any other information, or copies of any other documents, filed under the Securities Act of 1933; and

(d) an undertaking to forward all future amendments to the disclosure statement promptly and in any event not later than the first working day after the day they are forwarded to or filed with the Securities and Exchange Commission, whichever first occurs.

(3) A registration statement under this section automatically becomes effective at the moment the disclosure statement becomes effective if all the following conditions are satisfied:

(a) no stop order is in effect and no proceeding is pending under Section 61-1-12;

(b) the disclosure statement is on file with the division for at least 20 working days; and

(c) a statement of the maximum and minimum proposed offering prices and the maximum underwriting discounts and commissions is on file for two full working days or such shorter period as the division permits by rule or otherwise and the offering is made within those limitations.

(4) (a) A registrant shall promptly:

(i) notify the division in a record of the date and time when the disclosure statement became effective and the content of the price amendment, if any; and

(ii) file a posteffective amendment containing the information and documents in the price amendment.

(b) "Price amendment" means the final federal amendment that includes a statement of the:

(i) offering price;

(ii) underwriting and selling discounts or commissions;

(iii) amount of proceeds;

(iv) conversion rates;

(v) call prices; and

(vi) other matters dependent upon the offering price.

(5) (a) Upon failure to receive the required notification and posteffective amendment with respect to the price amendment, the division may

enter a stop order, without notice or hearing, retroactively denying effectiveness to the registration statement or suspending its effectiveness until compliance with Subsection (4), if the division promptly notifies the registrant in a record of the issuance of the order.

(b) If the registrant proves compliance with the requirements of Subsection (4) as to notice and posteffective amendment, the stop order is void as of the time of its entry.

(6) The division may by rule or otherwise waive either or both of the conditions specified in Subsections (3)(b) and (3)(c).

(7) If the disclosure statement becomes effective before all the conditions in Subsections (3)(b) and (3)(c) are satisfied and they are not waived, the disclosure statement automatically becomes effective as soon as all the conditions are satisfied.

(8) If the registrant advises the division of the date when the disclosure statement is expected to become effective, the division shall promptly advise the registrant in a record, at the registrant's expense, whether all the conditions are satisfied and whether it then contemplates the institution of proceedings under Section 61-1-12, but this advice by the division does not preclude the institution of such a proceeding at any time.

(9) The division may by rule or order permit registration by coordination of a security for which a notification or similar document is filed under the Securities Act of 1933 in connection with the same offering.

Section 5. Section 61-1-16 is amended to read:

61-1-16. False statements unlawful.

It is unlawful for ~~any~~ a person to make or cause to be made, in any document filed with the division or in any proceeding, examination, or investigation conducted under this chapter, any statement ~~which~~ that is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect.

Section 6. Section 61-1-20 is amended to read:

61-1-20. Enforcement.

(1) Whenever it appears to the director that a person has engaged, is engaging, or is about to engage in an act or practice constituting a violation of this chapter or a rule or order under this chapter, in addition to specific powers granted in this chapter:

(a) the director may issue an order directing the person to appear before the commission and show cause why an order should not be issued directing the person to cease and desist from engaging in the act or practice, or doing an act in furtherance of the activity;

(b) the order to show cause shall state the reasons for the order and the date of the hearing;

(c) the director shall promptly serve a copy of the order to show cause upon a person named in the order;

(d) the commission shall hold a hearing on the order to show cause no sooner than 10 business days after the order is issued;

(e) after a hearing, the commission may:

(i) issue an order to cease and desist from engaging in an act or practice constituting a violation of this chapter or a rule or order under this chapter;

~~[(f) the commission may]~~

(ii) impose a fine in an amount determined after considering the factors set forth in Section 61-1-31;

(iii) order disgorgement;

(iv) order restitution;

(v) order rescission;

~~[(g) the commission may]~~

(vi) bar or suspend that person from associating with a licensed broker-dealer or investment adviser in this state; and

~~[(h) the commission may]~~

(vii) impose a combination of sanctions in [Subsections (1)(e) through (g)] this Subsection (1)(e).

(2) (a) The director may bring an action in the appropriate district court of this state or the appropriate court of another state to enjoin an act or practice and to enforce compliance with this chapter or a rule or order under this chapter.

(b) Upon a proper showing in an action brought under this section, the court may:

(i) issue a permanent or temporary, prohibitory or mandatory injunction;

(ii) issue a restraining order or writ of mandamus;

(iii) enter a declaratory judgment;

(iv) appoint a receiver or conservator for the defendant or the defendant's assets;

(v) order disgorgement;

(vi) order rescission;

(vii) order restitution;

(viii) impose a fine [of not more than \$10,000 for each violation of the chapter] in an amount determined after considering the factors set forth in Section 61-1-31; and

(ix) enter any other relief the court considers just.

(c) The court may not require the division to post a bond in an action brought under this Subsection (2).

(3) An order issued under Subsection (1) shall be accompanied by written findings of fact and conclusions of law.

(4) When determining the severity of a sanction to be imposed under this section, the commission or court shall consider whether:

(a) the person against whom the sanction is to be imposed exercised undue influence; or

(b) the person against whom the sanction is imposed under this section knows or should know that an investor in the investment that is the grounds for the sanction is a vulnerable adult.

Section 7. Section 61-1-21 is amended to read:

61-1-21. Penalties for violations.

(1) A person is guilty of a third degree felony who willfully violates:

(a) a provision of this chapter except Sections 61-1-1 and 61-1-16;

(b) an order issued under this chapter; or

(c) Section 61-1-16 knowing the statement made is false or misleading in a material respect.

(2) Subject to the other provisions of this section, a person who willfully violates Section 61-1-1:

(a) is guilty of a third degree felony if, at the time the crime was committed, the property, money, or thing unlawfully obtained or sought to be obtained was worth less than \$10,000; or

(b) is guilty of a second degree felony if, at the time the crime was committed, the property, money, or thing unlawfully obtained or sought to be obtained was worth \$10,000 or more.

(3) A person who willfully violates Section 61-1-1 is guilty of a second degree felony if:

(a) at the time the crime was committed, the property, money, or thing unlawfully obtained or sought to be obtained was worth less than \$10,000; and

(b) in connection with that violation, the violator knowingly accepted any money representing:

(i) equity in a person's primary residence;

(ii) a withdrawal from an individual retirement account;

(iii) a withdrawal from a qualified retirement plan as defined in the Internal Revenue Code;

(iv) an investment by a person over whom the violator exercises undue influence; or

(v) an investment by a person that the violator knows is a vulnerable adult.

(4) A person who willfully violates Section 61-1-1 is guilty of a second degree felony punishable by imprisonment for an indeterminate term of not less than three years or more than 15 years if:

(a) at the time the crime was committed, the property, money, or thing unlawfully obtained or sought to be obtained was worth \$10,000 or more; and

(b) in connection with that violation, the violator knowingly accepted any money representing:

(i) equity in a person's primary residence;

(ii) a withdrawal from an individual retirement account;

(iii) a withdrawal from a qualified retirement plan as defined in the Internal Revenue Code;

(iv) an investment by a person over whom the violator exercises undue influence; or

(v) an investment by a person that the violator knows is a vulnerable adult.

(5) When amounts of property, money, or other things are unlawfully obtained or sought to be obtained under a series of acts or continuing course of business, whether from the same or several sources, the amounts may be aggregated in determining the level of offense.

[45] (6) It is an affirmative defense under this section against a claim that the person violated an order issued under this chapter for the person to prove that the person had no knowledge of the order.

[46] (7) In addition to any other penalty for a criminal violation of this chapter, the sentencing judge may impose a penalty or remedy provided for in Subsection 61-1-20(2)(b).

Section 8. Section 61-1-21.1 is amended to read:

61-1-21.1. Limitation of prosecutions.

(1) ~~[No]~~ An indictment or information may not be returned or civil complaint filed under this chapter more than five years after the alleged violation.

(2) An administrative action filed under this chapter may be commenced within 10 years after the violation occurs.

(3) When a violation is based on a series of acts or continuing course of business, the conduct may be considered as one continuing offense and the period of limitation described in Subsection (1) or (2) does not begin to run until the last act in the series of acts or course of business is completed.

[42] (4) As to causes of action arising from violations of this chapter, the limitation of prosecutions provided in this section supersedes the limitation of actions provided in Section 76-1-302 and Title 78B, Chapter 2, Statutes of Limitations.

Section 9. Section 61-1-31 is enacted to read:

61-1-31. Determining amount of fine.

For the purpose of determining the amount of a fine imposed under this chapter, the commission or court shall consider the following factors:

(1) the seriousness, nature, circumstances, extent, and persistence of the conduct constituting the violation;

(2) the harm to other persons resulting either directly or indirectly from the violation;

(3) (a) the cooperation by the person in any inquiry conducted by the division concerning the violation;

(b) efforts by the person to prevent future occurrences of the violation; and

(c) efforts by the person to mitigate the harm caused by the violation, including any disgorgement or restitution made to other persons injured by the acts of the person;

(4) the history of previous violations by the person;

(5) the need to deter the person or other persons from committing the violation in the future;

(6) whether the person exercised undue influence;

(7) whether the person knew or should have known that the investor was a vulnerable adult; and

(8) such other matters as justice may require.

CHAPTER 402**H. B. 194**

Passed February 18, 2016

Approved March 30, 2016

Effective May 10, 2016

MILK SALES AMENDMENTS

Chief Sponsor: Jacob L. Anderegg
 Senate Sponsor: Margaret Dayton

LONG TITLE**General Description:**

This bill modifies provisions governing the sale of raw milk.

Highlighted Provisions:

This bill:

- ▶ allows a producer who sells raw milk at a self-owned retail store to also offer pasteurized milk for sale at the same location; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

4-3-14, as last amended by Laws of Utah 2013, Chapters 167 and 461

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-3-14 is amended to read:**4-3-14. Sale of raw milk -- Suspension of producer's permit -- Severability not permitted.**

(1) As used in this section:

(a) "Batch" means all the milk emptied from one bulk tank and bottled in a single day.

(b) "Self-owned retail store" means a retail store:

(i) of which the producer owns at least 51% of the value of the real property and tangible personal property used in the operations of the retail store; or

(ii) for which the producer has the power to vote at least 51% of any class of voting shares or ownership interest in the business entity that operates the retail store.

(2) Raw milk may be manufactured, distributed, sold, delivered, held, stored, or offered for sale if:

(a) the producer obtains a permit from the department to produce milk under Subsection 4-3-8(5);

(b) the sale and delivery of the milk is made upon the premises where the milk is produced, except as provided by Subsection (3);

(c) the raw milk is sold to consumers for household use and not for resale;

(d) the raw milk is bottled or packaged under sanitary conditions and in sanitary containers on the premises where the raw milk is produced;

(e) the raw milk is labeled "raw milk" and meets the labeling requirements under 21 C.F.R. Parts 101 and 131 and rules established by the department;

(f) the raw milk is:

(i) cooled to 50 degrees Fahrenheit or a lower temperature within one hour after being drawn from the animal;

(ii) further cooled to 41 degrees Fahrenheit within two hours of being drawn from the animal; and

(iii) maintained at 41 degrees Fahrenheit or a lower temperature until the raw milk is delivered to the consumer;

(g) the bacterial count of the raw milk does not exceed 20,000 colony forming units per milliliter;

(h) the coliform count of the raw milk does not exceed 10 colony forming units per milliliter;

(i) the production of the raw milk conforms to departmental rules for the production of grade A milk;

(j) all dairy animals on the premises are:

(i) permanently and individually identifiable; and

(ii) free of tuberculosis, brucellosis, and other diseases carried through milk; and

(k) any person on the premises performing any work in connection with the production, bottling, handling, or sale of the raw milk is free from communicable disease.

(3) A producer may distribute, sell, deliver, hold, store, or offer for sale raw milk at a self-owned retail store, which is properly staffed, if, in addition to the requirements of Subsection (2), the producer:

(a) transports the raw milk from the premises where the raw milk is produced to the self-owned retail store in a refrigerated truck where the raw milk is maintained at 41 degrees Fahrenheit or a lower temperature;

(b) retains ownership of the raw milk until it is sold to the final consumer, including transporting the raw milk from the premises where the raw milk is produced to the self-owned retail store without any:

(i) intervening storage;

(ii) change of ownership; or

(iii) loss of physical control;

(c) stores the raw milk at 41 degrees Fahrenheit or a lower temperature in a display case equipped with a properly calibrated thermometer at the self-owned retail store;

(d) places a sign above [the] each display case that contains raw milk at the self-owned retail store that [reads, "Raw Unpasteurized Milk";];

- (i) is prominent;
- (ii) is easily readable by a consumer;
- (iii) reads in print that is no smaller than .5 inches in bold type, "This milk is raw and unpasteurized. Please keep refrigerated"; and
- (iv) meets any other requirement established by the department by rule;
- (e) labels the raw milk with:
- (i) a date, no more than nine days after the raw milk is produced, by which the raw milk should be sold;
- (ii) the statement "Raw milk, no matter how carefully produced, may be unsafe.";
- (iii) handling instructions to preserve quality and avoid contamination or spoilage; ~~and~~
- (iv) by January 1, 2017, a specific colored label as determined by the department by rule; and
- ~~(iv)~~ (v) any other information required by rule;
- (f) refrains from offering the raw milk for sale until:
- (i) the department or a third party certified by the department tests each batch of raw milk for standard plate count and coliform count; and
- (ii) the test results meet the minimum standards established for those tests;
- (g) (i) maintains a database of the raw milk sales; and
- (ii) makes the database available to the Department of Health during the self-owned retail store's business hours for purposes of epidemiological investigation;
- ~~(h) refrains from offering any pasteurized milk at the self-owned retail store;~~
- ~~(h)~~ (h) ensures that the plant and retail store complies with Title 4, Chapter 5, Utah Wholesome Food Act, and the rules governing food establishments enacted under Section 4-5-9; and
- ~~(j)~~ (i) complies with all applicable rules adopted as authorized by this chapter.
- (4) A producer may distribute, sell, deliver, hold, store, or offer for sale raw milk and pasteurized milk at the same self-owned retail store if:
- (a) the self-owned retail store is properly staffed; and
- (b) the producer:
- (i) meets the requirements of Subsections (2) and (3);
- (ii) operates the self-owned retail store on the same property where the raw milk is produced; and
- (iii) maintains separate, labeled, refrigerated display cases for raw milk and pasteurized milk.

~~(4)~~ (5) A person who conducts a test required by Subsection (3) shall send a copy of the test results to the department as soon as the test results are available.

~~(5)~~ (6) (a) The department shall adopt rules, as authorized by Section 4-3-2, governing the sale of raw milk at a self-owned retail store.

(b) The rules adopted by the department shall include rules regarding:

- (i) permits;
- (ii) building and premises requirements;
- (iii) sanitation and operating requirements, including bulk milk tanks requirements;
- (iv) additional tests;
- (v) frequency of inspections, including random cooler checks;
- (vi) recordkeeping; and
- (vii) packaging and labeling.

(c) (i) The department shall establish and collect a fee for the tests and inspections required by this section and by rule in accordance with Section 63J-1-504.

(ii) Notwithstanding Section 63J-1-504, the department shall retain the fees as dedicated credits and may only use the fees to administer and enforce this section.

~~(6)~~ (7) (a) The department shall suspend a permit issued under Section 4-3-8 if:

(i) two out of four consecutive samples or two samples in a 30-day period violate sample limits established under this section; or

(ii) a producer violates a provision of this section or a rule adopted as authorized by this section.

(b) The department may reissue a permit that has been suspended under Subsection ~~(6)~~ (7)(a) if the producer has complied with all of the requirements of this section and rules adopted as authorized by this section.

~~(7)~~ (8) For 2014 and 2015, the Department of Health and the Department of Agriculture and Food shall report on or before November 30th to the Natural Resources, Agriculture, and Environment Interim Committee on any health problems resulting from the sale of raw whole milk at self-owned retail stores.

~~(8)~~ (9) (a) If any subsection of this section or the application of any subsection to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remainder of the section may not be given effect without the invalid subsection or application.

(b) The provisions of this section may not be severed.

CHAPTER 403**H. B. 220**

Passed March 10, 2016

(Passed into law without governor's signature)

Effective May 10, 2016

**LEGISLATIVE
ORGANIZATION AMENDMENTS**Chief Sponsor: LaVar Christensen
Senate Sponsor: Margaret Dayton**LONG TITLE****General Description:**

This bill modifies provisions relating to committees of the Legislature.

Highlighted Provisions:

This bill:

- ▶ modifies membership of the Audit Subcommittee of the Legislative Management Committee; and
- ▶ provides a method for breaking a tie vote of the Legislative Management Committee.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 36-12-6, as last amended by Laws of Utah 1987, Chapter 18
- 36-12-8, as last amended by Laws of Utah 2012, Chapter 137

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 36-12-6 is amended to read:**36-12-6. Permanent committees -- House and Senate management -- Members -- Chair -- Legislative Management Committee -- Membership -- Chair and vice-chair -- Meetings -- Quorum.**

(1) There are hereby established as permanent committees of the Legislature a House Management Committee and a Senate Management Committee. The House Management Committee shall consist of eight members of the House of Representatives, four from each major political party. The membership shall include the elected leadership of the House of Representatives and additional members chosen at the beginning of each annual general session by the minority party caucus as needed to complete the full membership. The [chairman] chair of the committee shall be the speaker of the House of Representatives or [his] the speaker's designee. The Senate Management Committee shall consist of eight members of the Senate, four from each major political party. The membership shall include the elected leadership of the Senate and additional members chosen at the beginning of each annual general session by the appropriate party caucus as needed to complete the full membership. The [chairman] chair of the

committee shall be the president of the Senate or [his] the president's designee.

(2) (a) There is [hereby] established a permanent committee of the Legislature [to be] known as the Legislative Management Committee.

(b) The committee shall consist of:

(i) the [membership] members of the House Management Committee; and

(ii) the members of the Senate Management Committee [meeting jointly].

(c) (i) The president of the Senate or [his] the president's designee shall be [chairman] chair during 1987, and the speaker of the House of Representatives or [his] the speaker's designee shall be [vice-chairman] vice-chair of the committee during that year.

(ii) The positions of [chairman] chair and [vice-chairman] vice-chair of the Legislative Management Committee shall rotate annually between these two officers in succeeding years.

(d) The committee shall meet as often as is necessary to perform its duties, but not less than once each quarter.

(e) If any vote of the committee results in a tie, the president of the Senate and speaker of the House of Representatives may together cast an additional vote to break the tie.

(3) If a legislator declines membership on the committees established by this section, or if a vacancy occurs, a replacement shall be chosen by the leadership of the appropriate party of the house in which the vacancy occurs.

(4) The committees established by this section shall meet not later than 60 days after the adjournment sine die of the annual general session held in even-numbered years and not later than 30 days after the adjournment sine die of the annual general session held in odd-numbered years for the purpose of effecting their organization and prescribing rules and policies pertaining to their respective powers and duties. A majority of the members of each committee constitutes a quorum, and a majority of a quorum has authority to act in any matter falling within the jurisdiction of the committee.

Section 2. Section 36-12-8 is amended to read:**36-12-8. Legislative Management Committee -- Research and General Counsel Subcommittee -- Budget Subcommittee -- Audit Subcommittee -- Duties -- Members -- Meetings.**

(1) There [is] are created within the Legislative Management Committee [three subcommittees having equal representation from each major political party. The subcommittees, their membership, and their functions are as follows:]:

(a) the Research and General Counsel Subcommittee;

(b) the Budget Subcommittee; and

(c) the Audit Subcommittee.

(2) (a) The Research and General Counsel Subcommittee, comprising six members, shall recommend to the Legislative Management Committee a person or persons to hold the positions of director of the Office of Legislative Research and General Counsel and legislative general counsel.

(b) The Budget Subcommittee, comprising six members, shall recommend to the Legislative Management Committee a person to hold the position of legislative fiscal analyst.

(c) The Audit Subcommittee~~, comprising four members,~~ shall comprise:

(i) the president, majority leader, and minority leader of the Senate; and

(ii) the speaker, majority leader, and minority leader of the House of Representatives.

(d) The Audit Subcommittee shall:

(i) recommend to the Legislative Management Committee a person to hold the position of legislative auditor general; and

(ii) (A) review all requests for audits;

(B) prioritize those requests;

(C) hear all audit reports and refer those reports to other legislative committees for their further review and action as appropriate; and

(D) when notified by the legislative auditor general or state auditor that a subsequent audit has found that an entity has not implemented a previous audit recommendation, refer the audit report to an appropriate legislative committee and also ensure that an appropriate legislative committee conducts a review of the entity that has not implemented the previous audit recommendation.

~~[(2)]~~ (3) The members of each subcommittee of the Legislative Management Committee, other than the Audit Subcommittee, shall have equal representation from each major political party and shall be appointed from the membership of the Legislative Management Committee by an appointments committee comprised of the speaker and the minority leader of the House of Representatives and the president and the minority leader of the Senate.

~~[(3)]~~ (4) Each subcommittee of the Legislative Management Committee:

(a) shall meet as often as necessary to perform its duties~~[-They]; and~~

(b) may meet during and between legislative sessions.

CHAPTER 404**H. B. 223**

Passed March 10, 2016
 Approved March 30, 2016
 Effective May 10, 2016

LOCAL HISTORIC DISTRICT AMENDMENTS

Chief Sponsor: Brad R. Wilson
 Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill modifies the Municipal Land Use, Development, and Management Act.

Highlighted Provisions:

This bill:

- ▶ addresses the process by which a municipality may create a local historic district or area.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

10-9a-503, as last amended by Laws of Utah 2012, Chapter 195

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-9a-503 is amended to read:**10-9a-503. Land use ordinance or zoning map amendments -- Historic district or area.**

- (1) The legislative body may amend:
 - (a) the number, shape, boundaries, or area of any zoning district;
 - (b) any regulation of or within the zoning district; or
 - (c) any other provision of a land use ordinance.
- (2) The legislative body may not make any amendment authorized by this section unless the amendment was proposed by the planning commission or was first submitted to the planning commission for its recommendation.
- (3) The legislative body shall comply with the procedure specified in Section 10-9a-502 in preparing and adopting an amendment to a land use ordinance or a zoning map.

~~[(4) (a) Notwithstanding Subsection (1), on or after May 10, 2011, and before May 14, 2013, within an area designated on the National Register of Historic Places that has on or before March 1, 2011, a land use application pending to designate the area as a local historic district or area, the legislative body of a city of the first class in a county of the first class may not:]~~

~~[(i) establish the local historic district or area;]~~

~~[(ii) adopt or amend a land use ordinance affecting the area except as provided in Subsection (4)(e); and]~~

~~[(iii) authorize a demolition permit for more than 75% of the above grade area of any structure on property located within the area.]~~

~~[(b) A land use application in an area subject to Subsection (4)(a):]~~

~~[(i) shall be stayed from any further proceedings conducted by the municipality before May 15, 2013; and]~~

~~[(ii) is not subject to Section 10-9a-509 or 10-9a-509.5.]~~

~~[(c) The provisions of this Subsection (4) do not apply to an adopted or amended land use ordinance applicable generally throughout a municipality unless the ordinance is enacted to contravene the purpose of this Subsection (4)(a).]~~

(4) (a) As used in this Subsection (4):

(i) "Condominium project" means the same as that term is defined in Section 57-8-3.

(ii) "Local historic district or area" means a geographically or thematically definable area that contains any combination of buildings, structures, sites, objects, landscape features, archeological sites, or works of art that contribute to the historic preservation goals of a legislative body.

(iii) "Unit" means the same as that term is defined in Section 57-8-3.

(b) If a municipality provides a process by which one or more residents of the municipality may initiate the creation of a local historic district or area, the process shall require that:

(i) more than 33% of the property owners within the boundaries of the proposed local historic district or area agree in writing to the creation of the proposed local historic district or area;

(ii) before any property owner agrees to the creation of a proposed local historic district or area under Subsection (4)(b)(i), the municipality prepare and distribute, to each property owner within the boundaries of the proposed local historic district or area, a neutral information pamphlet that:

(A) describes the process to create a local historic district or area; and

(B) lists the pros and cons of a local historic district or area;

(iii) after the property owners satisfy the requirement described in Subsection (4)(b)(i), for each parcel or, if the parcel contains a condominium project, each unit, within the boundaries of the proposed local historic district or area, the municipality provide:

(A) a second copy of the neutral information pamphlet described in Subsection (4)(b)(ii); and

(B) one public support ballot that, subject to Subsection (4)(c), allows the owner or owners of record to vote in favor of or against the creation of the proposed local historic district or area;

(iv) in a vote described in Subsection (4)(b)(iii)(B), the returned public support ballots that reflect a vote in favor of the creation of the proposed local historic district or area:

(A) equal at least two-thirds of the returned public support ballots; and

(B) represent more than 50% of the parcels and units within the proposed local historic district or area;

(v) if a local historic district or area proposal fails in a vote described in Subsection (4)(b)(iii)(B), the legislative body may override the vote and create the proposed local historic district or area with an affirmative vote of two-thirds of the members of the legislative body; and

(vi) if a local historic district or area proposal fails in a vote described in Subsection (4)(b)(iii)(B) and the legislative body does not override the vote under Subsection (4)(b)(v), a resident may not initiate the creation of a local historic district or area that includes more than 50% of the same property as the failed local historic district or area proposal for four years after the day on which the public support ballots for the vote are due.

(c) In a vote described in Subsection (4)(b)(iii)(B):

(i) a property owner is eligible to vote regardless of whether the property owner is an individual, a private entity, or a public entity;

(ii) the municipality shall count no more than one public support ballot for:

(A) each parcel within the boundaries of the proposed local historic district or area; or

(B) if the parcel contains a condominium project, each unit within the boundaries of the proposed local historic district or area; and

(iii) if a parcel or unit has more than one owner of record, the municipality shall count a public support ballot for the parcel or unit only if the public support ballot reflects the vote of the property owners who own at least a 50% interest in the parcel or unit.

(d) The requirements described in Subsection (4)(b)(iv) apply to the creation of a local historic district or area that is:

(i) initiated in accordance with a municipal process described in Subsection (4)(b); and

(ii) not complete on or before January 1, 2016.

(e) A vote described in Subsection (4)(b)(iii)(B) is not subject to Title 20A, Election Code.

CHAPTER 405**H. B. 236**

Passed March 4, 2016

Approved March 30, 2016

Effective May 10, 2016

**CHARITABLE PRESCRIPTION
DRUG RECYCLING PROGRAM**Chief Sponsor: Gage Froerer
Senate Sponsor: Evan J. Vickers**LONG TITLE****General Description:**

This bill creates a program that allows certain pharmacies to accept and dispense donated unused prescription medications to certain individuals.

Highlighted Provisions:

This bill:

- ▶ amends the Pharmacy Practice Act;
- ▶ defines terms;
- ▶ directs the Division of Occupational and Professional Licensing (DOPL) to make rules, in consultation with the Utah State Board of Pharmacy, to create a charitable prescription drug recycling program;
- ▶ establishes criteria for prescription drugs eligible for the program;
- ▶ establishes requirements for donors and pharmacies;
- ▶ limits the liability of program participants and drug manufacturers;
- ▶ directs DOPL to make rules establishing certain requirements, standards, procedures, and processes; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-17b-502, as last amended by Laws of Utah 2015, Chapter 336

58-17b-503, as last amended by Laws of Utah 2011, Chapter 366

ENACTS:

58-17b-901, Utah Code Annotated 1953

58-17b-902, Utah Code Annotated 1953

58-17b-903, Utah Code Annotated 1953

58-17b-904, Utah Code Annotated 1953

58-17b-905, Utah Code Annotated 1953

58-17b-906, Utah Code Annotated 1953

58-17b-907, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-17b-502 is amended to read:**58-17b-502. Unprofessional conduct.**

“Unprofessional conduct” includes:

(1) willfully deceiving or attempting to deceive the division, the board, or their agents as to any

relevant matter regarding compliance under this chapter;

(2) (a) except as provided in Subsection (2)(b):

(i) paying or offering rebates to practitioners or any other health care providers, or receiving or soliciting rebates from practitioners or any other health care provider; or

(ii) paying, offering, receiving, or soliciting compensation in the form of a commission, bonus, rebate, kickback, or split fee arrangement with practitioners or any other health care provider, for the purpose of obtaining referrals.

(b) Subsection (2)(a) does not apply to:

(i) giving or receiving price discounts based on purchase volume;

(ii) passing along pharmaceutical manufacturer’s rebates; or

(iii) providing compensation for services to a veterinarian.

(3) misbranding or adulteration of any drug or device or the sale, distribution, or dispensing of any outdated, misbranded, or adulterated drug or device;

(4) engaging in the sale or purchase of drugs or devices that are samples or packages bearing the inscription “sample” or “not for resale” or similar words or phrases;

(5) except as provided in Section 58-17b-503 or Part 9, Charitable Prescription Drug Recycling Act, accepting back and redistributing [øf] any unused drug, or a part of it, after it has left the premises of any pharmacy, unless the drug is in a unit pack, as defined in Section 58-17b-503, or the manufacturer’s sealed container, as defined in rule;

(6) an act in violation of this chapter committed by a person for any form of compensation if the act is incidental to the person’s professional activities, including the activities of a pharmacist, pharmacy intern, or pharmacy technician;

(7) violating Federal Title II, P.L. 91, Controlled Substances Act, Title 58, Chapter 37, Utah Controlled Substances Act, or rules or regulations adopted under either act;

(8) requiring or permitting pharmacy interns or technicians to engage in activities outside the scope of practice for their respective license classifications, as defined in this chapter and division rules made in collaboration with the board, or beyond their scope of training and ability;

(9) administering:

(a) without appropriate training, as defined by rule;

(b) without a physician’s order, when one is required by law; and

(c) in conflict with a practitioner’s written guidelines or written protocol for administering;

(10) disclosing confidential patient information in violation of the provisions of the Health

Insurance Portability and Accountability Act of 1996 or other applicable law;

(11) engaging in the practice of pharmacy without a licensed pharmacist designated as the pharmacist-in-charge;

(12) failing to report to the division any adverse action taken by another licensing jurisdiction, government agency, law enforcement agency, or court for conduct that in substance would be considered unprofessional conduct under this section; and

(13) as a pharmacist or pharmacy intern, compounding a prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner.

Section 2. Section 58-17b-503 is amended to read:

58-17b-503. Exception to unprofessional conduct.

(1) For purposes of this section:

(a) "Licensed intermediate care facility for people with an intellectual disability" means an intermediate care facility for people with an intellectual disability that is licensed as a nursing care facility or a small health care facility under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(b) "Nursing care facility" ~~[has the same definition as]~~ means the same as that term is defined in Section 26-21-2.

(c) "Unit pack" means a tamper-resistant nonreusable single-dose single-drug package with identification that indicates the lot number and expiration date for the drug.

(2) ~~[Notwithstanding the provisions of Subsection 58-17b-502(5), a]~~ A pharmacist may:

(a) accept and redistribute an unused drug under Part 9, Charitable Prescription Drug Recycling Act; or

(b) accept back and redistribute any unused drug, or a part of it, after it has left the premises of the pharmacy if:

[(a)] (i) the drug was prescribed to a patient in a nursing care facility, [a] licensed intermediate care facility for people with an intellectual disability, or state prison facility, county jail, or state hospital;

[(b)] (ii) the drug was stored under the supervision of a licensed health care provider according to manufacturer recommendations;

[(c)] (iii) the drug is in a unit pack or in the manufacturer's sealed container;

[(d)] (iv) the drug was returned to the original dispensing pharmacy;

[(e)] (v) the drug was initially dispensed by a licensed pharmacist or licensed pharmacy intern; and

[(f)] (vi) accepting back and [redistribution] redistributing of the drug complies with federal Food and Drug Administration and Drug Enforcement Administration regulations.

Section 3. Section 58-17b-901 is enacted to read:

Part 9. Charitable Prescription Drug Recycling Act

58-17b-901. Title.

This part is known as the "Charitable Prescription Drug Recycling Act."

Section 4. Section 58-17b-902 is enacted to read:

58-17b-902. Definitions.

As used in this part:

(1) "Assisted living facility" means the same as that term is defined in Section 26-21-2.

(2) "Cancer drug" means a drug that controls or kills neoplastic cells and includes a drug used in chemotherapy to destroy cancer cells.

(3) "Charitable clinic" means a charitable nonprofit corporation that:

(a) holds a valid exemption from federal income taxation issued under Section 501(a), Internal Revenue Code;

(b) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;

(c) provides, on an outpatient basis, for a period of less than 24 consecutive hours, to an individual not residing or confined at a facility owned or operated by the charitable nonprofit corporation:

(i) advice;

(ii) counseling;

(iii) diagnosis;

(iv) treatment;

(v) surgery; or

(vi) care or services relating to the preservation or maintenance of health; and

(d) has a licensed outpatient pharmacy.

(4) "Charitable pharmacy" means an eligible pharmacy that is operated by a charitable clinic.

(5) "County health department" means the same as that term is defined in Section 26A-1-102.

(6) "Donated prescription drug" means a prescription drug that an eligible donor donates to an eligible pharmacy under the program.

(7) "Eligible donor" means a donor that donates a prescription drug from within the state and is:

(a) a nursing care facility;

(b) an assisted living facility;

(c) a licensed intermediate care facility for people with an intellectual disability;

(d) a manufacturer;

- (e) a pharmaceutical wholesale distributor;
- (f) an eligible pharmacy; or
- (g) a physician's office.
- (8) "Eligible pharmacy" means a pharmacy that:
- (a) is registered by the division as eligible to participate in the program; and
- (b) is operated by:
- (i) a county;
- (ii) a county health department;
- (iii) a pharmacy under contract with a county health department;
- (iv) the Department of Health, created in Section 26-1-4;
- (v) the Division of Substance Abuse and Mental Health, created in Section 62A-15-103; or
- (vi) a charitable clinic.
- (9) "Eligible prescription drug" means a prescription drug, described in Section 58-17b-904, that is not:
- (a) a controlled substance; or
- (b) a drug that can only be dispensed to a patient registered with the drug's manufacturer in accordance with federal Food and Drug Administration requirements.
- (10) "Licensed intermediate care facility for people with an intellectual disability" means the same as that term is defined in Section 58-17b-503.
- (11) "Medically indigent individual" means an individual who:
- (a) (i) does not have health insurance; and
- (ii) lacks reasonable means to purchase prescribed medications; or
- (b) (i) is covered under Medicaid or Medicare; and
- (ii) lacks reasonable means to pay the insured's portion of the cost of the prescribed medications.
- (12) "Nursing care facility" means the same as that term is defined in Section 26-18-501.
- (13) "Physician's office" means a fixed medical facility that:
- (a) is staffed by a physician, physician's assistant, nurse practitioner, or registered nurse, licensed under Title 58, Occupations and Professions; and
- (b) treats an individual who presents at, or is transported to, the facility.
- (14) "Program" means the Charitable Prescription Drug Recycling Program created in Section 58-17b-903.
- (15) "Unit pack" means the same as that term is defined in Section 58-17b-503.

(16) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-501.

(17) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-502.

Section 5. Section 58-17b-903 is enacted to read:

58-17b-903. Charitable Prescription Drug Recycling Program -- Creation -- Requirements.

(1) There is created the Charitable Prescription Drug Recycling Program.

(2) The division, in consultation with the board, shall:

(a) implement the program, on a statewide basis, to permit an eligible donor to transfer an eligible prescription drug to an eligible pharmacy for dispensing to a medically indigent individual;

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules necessary to implement the program; and

(c) provide technical assistance to entities that desire to participate in the program.

Section 6. Section 58-17b-904 is enacted to read:

58-17b-904. Criteria for eligible prescription drugs.

An eligible pharmacy may not accept or dispense an unused prescription drug under the program unless the unused prescription drug:

(1) (a) is in a unit pack or the manufacturer's sealed container; or

(b) is an injectable medication;

(2) (a) is unopened; or

(b) is a cancer drug packaged in an unopened single-unit dose that has been removed from a multi-dose package;

(3) is accepted and dispensed by the eligible pharmacy before:

(a) a beyond use date that appears on the label;

(b) the expiration date recommended by the manufacturer; or

(c) a date, established by division rule for a specific prescription drug, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is later than the date in Subsection (3)(a) or (3)(b);

(4) (a) is not adulterated or mislabeled; and

(b) the pharmacist or licensed pharmacist technician accepting or dispensing the prescription drug does not have reason to believe that the prescription drug is adulterated or mislabeled.

Section 7. Section 58-17b-905 is enacted to read:

58-17b-905. Participation in program -- Requirements -- Fees.

(1) An eligible donor or an eligible pharmacy may participate in the program.

(2) An eligible pharmacy:

(a) shall comply with all applicable federal and state laws related to the storage and distribution of a prescription drug;

(b) shall comply with all applicable federal and state laws related to the acceptance and transfer of a prescription drug, including 21 U.S.C. Chapter 9, Subchapter V, Part H, Pharmaceutical Distribution Supply Chain;

(c) shall, before accepting or dispensing a prescription drug under the program, inspect each prescription drug to determine whether the prescription drug is an eligible prescription drug;

(d) may dispense an eligible prescription drug to a medically indigent individual who:

(i) is a resident of the state; and

(ii) has a prescription issued by a practitioner;

(e) may charge a handling fee, adopted by the division under Section 63J-1-504; and

(f) may not accept, transfer, or dispense a prescription drug in violation of the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

Section 8. Section 58-17b-906 is enacted to read:

58-17b-906. Liability of participating organizations and manufacturers.

In the absence of bad faith or gross negligence, a person is not criminally or civilly liable for injury, death, or loss of property based solely on the fact that the person manufactured, provided, donated, accepted, or dispensed an eligible prescription drug under this part.

Section 9. Section 58-17b-907 is enacted to read:

58-17b-907. Rules made by the division.

The rules made by the division under Subsection 58-17b-903(2)(b) shall include:

(1) registration requirements to establish the eligibility of a pharmacy to participate in the program;

(2) a formulary that includes all eligible prescription drugs approved by the federal Food and Drug Administration;

(3) standards and procedures for:

(a) verifying whether a pharmacy or pharmacist participating in the program is licensed and in good standing with the board;

(b) handling of a donated eligible prescription drug, including:

(i) acceptance;

(ii) identification, including redundant criteria for verification;

(iii) documentation, under 21 U.S.C. Sec. 360eee-1, of transaction information, history, and statements;

(iv) safe storage;

(v) security;

(vi) inspection;

(vii) transfer; and

(viii) dispensing;

(c) a pharmacist or licensed pharmacy technician working in or consulting with a participating eligible donor;

(d) disposition of a donated prescription drug that is a controlled substance;

(e) record keeping regarding:

(i) the eligible donor that donated each prescription drug;

(ii) the identification and evaluation of a donated prescription drug by a pharmacist or licensed pharmacy technician; and

(iii) the dispensing or disposition of a prescription drug;

(f) determining the status of a medically indigent individual;

(g) labeling requirements to:

(i) ensure compliance with patient privacy laws relating to:

(A) an individual who receives an eligible prescription drug; and

(B) patient information that may appear on a donated prescription drug;

(ii) clearly identify an eligible prescription drug dispensed under the program; and

(iii) communicate necessary information regarding the manufacturer's recommended expiration date or the beyond use date; and

(h) ensuring compliance with the requirements of this part;

(4) a process for seeking input from:

(a) the Department of Health, created in Section 26-1-4, to establish program standards and procedures for assisted living facilities and nursing care facilities; and

(b) the Division of Substance Abuse and Mental Health, created in Section 62A-15-103, to establish program standards and procedures for mental health and substance abuse clients; and

(5) the creation of a special training program that a pharmacist and a licensed pharmacy technician at an eligible pharmacy must complete before participating in the program.

CHAPTER 406**H. B. 248**

Passed February 26, 2016

Approved March 30, 2016

Effective May 10, 2016

**MUNICIPAL DISCONNECTION
AMENDMENTS**Chief Sponsor: Melvin R. Brown
Senate Sponsor: Kevin T. Van Tassell**LONG TITLE****General Description:**

This bill modifies provisions of the Utah Municipal Code related to disconnection.

Highlighted Provisions:

This bill:

- ▶ provides that the mayor of a municipality in which an area proposed for disconnection is located may file a request for disconnection;
- ▶ modifies the name, address, and signature requirement for a request for disconnection; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 10-2-501, as last amended by Laws of Utah 2009, Chapter 388
- 10-2-502.5, as last amended by Laws of Utah 2010, Chapter 90
- 10-2-502.7, as renumbered and amended by Laws of Utah 2003, Chapter 279
- 10-2-509, as enacted by Laws of Utah 1977, Chapter 48

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-2-501 is amended to read:**10-2-501. Municipal disconnection -- Definitions -- Request for disconnection -- Requirements upon filing request.**

(1) As used in this part[~~“petitioners”~~] “petitioner” means [~~persons who~~]:

(a) one or more persons who:

(i) own title to real property within the area proposed for disconnection; and

[~~(b) have signed~~] (ii) sign a request for disconnection proposing to disconnect [that] the area proposed for disconnection from the municipality[-]; or

(b) the mayor of the municipality within which the area proposed for disconnection is located who signs a request for disconnection proposing to disconnect the area proposed for disconnection from the municipality.

(2) (a) [~~Petitioners~~] A petitioner proposing to disconnect an area within and lying on the borders of a municipality shall file with that municipality’s legislative body a request for disconnection.

(b) Each request for disconnection shall:

(i) contain the names, addresses, and signatures of the owners of more than 50% of [~~the~~] any private real property in the area proposed for disconnection;

(ii) give the reasons for the proposed disconnection;

(iii) include a map or plat of the territory proposed for disconnection; and

(iv) designate between one and five persons with authority to act on the [~~petitioners’~~] petitioner’s behalf in the proceedings.

(3) Upon filing the request for disconnection, [~~petitioners~~] the petitioner shall:

(a) cause notice of the request to be published:

(i) once a week for three consecutive weeks in a newspaper of general circulation within the municipality; and

(ii) in accordance with Section 45-1-101 for three weeks;

(b) cause notice of the request to be mailed to each owner of real property located within the area proposed to be disconnected; and

(c) deliver a copy of the request to the legislative body of the county in which the area proposed for disconnection is located.

Section 2. Section 10-2-502.5 is amended to read:**10-2-502.5. Hearing on request for disconnection -- Determination by municipal legislative body -- Petition in district court.**

(1) Within 30 calendar days after the last publication of notice required under Subsection 10-2-501(3)(a), the legislative body of the municipality in which the area proposed for disconnection is located shall hold a public hearing.

(2) At least seven calendar days before the hearing date, the municipal legislative body shall provide notice of the public hearing:

(a) in writing to the [~~petitioners~~] petitioner and to the legislative body of the county in which the area proposed for disconnection is located; and

(b) by publishing a notice:

(i) (A) in a newspaper of general circulation within the municipality; or

(B) if there is no newspaper as described in Subsection (2)(b)(i)(A), then by posting notice of the hearing in at least three public places within the municipality; and

(ii) on the Utah Public Notice Website created in Section 63F-1-701.

(3) In the public hearing, any person may speak and submit documents regarding the disconnection proposal.

(4) Within 45 calendar days of the hearing, the municipal legislative body shall:

(a) determine whether to grant the request for disconnection; and

(b) if the municipality determines to grant the request, adopt an ordinance approving disconnection of the area from the municipality.

(5) (a) A petition against the municipality challenging the municipal legislative body's determination under Subsection (4) may be filed in district court by:

(i) [~~petitioners~~] the petitioner; or

(ii) the county in which the area proposed for disconnection is located.

(b) Each petition under Subsection (5)(a) shall include a copy of the request for disconnection.

Section 3. Section 10-2-502.7 is amended to read:

10-2-502.7. Court action.

(1) After the filing of a petition under Section 10-2-502.5 and a response to the petition, the court shall, upon request of a party or upon its own motion, conduct a court hearing.

(2) At the hearing, the court shall hear evidence regarding the viability of the disconnection proposal.

(3) The burden of proof is on [~~petitioners who must~~] the petitioner to prove, by a preponderance of the evidence:

(a) the viability of the disconnection;

(b) that justice and equity require that the territory be disconnected from the municipality;

(c) that the proposed disconnection will not:

(i) leave the municipality with an area within its boundaries for which the cost, requirements, or other burdens of providing municipal services would materially increase over previous years;

(ii) make it economically or practically unfeasible for the municipality to continue to function as a municipality; or

(iii) leave or create one or more islands or peninsulas of unincorporated territory; and

(d) that the county in which the area proposed for disconnection is located is capable, in a cost-effective manner and without materially increasing the county's costs of providing municipal services, of providing to the area the services that the municipality will no longer provide to the area due to the disconnection.

(4) In determining whether [~~petitioners have~~] the petitioner has met [their] the petitioner's burden of proof with respect to Subsections (3)(c)(i) and (ii), the court shall consider all relevant factors,

including the effect of the proposed disconnection on:

(a) the municipality or community as a whole;

(b) adjoining property owners;

(c) existing or projected streets or public ways;

(d) water mains and water services;

(e) sewer mains and sewer services;

(f) law enforcement;

(g) zoning; and

(h) other municipal services.

(5) The court's order either ordering or rejecting disconnection shall be in writing with findings and reasons.

Section 4. Section 10-2-509 is amended to read:

10-2-509. Costs.

Each party to the court action for disconnection shall pay its own witnesses and [~~petitioners~~] the petitioner shall pay all other costs.

CHAPTER 407**H. B. 265**

Passed March 9, 2016

Approved March 30, 2016

Effective January 1, 2017

**MENTAL HEALTH
PRACTITIONER AMENDMENTS**Chief Sponsor: Steve Eliason
Senate Sponsor: Curtis S. Bramble**LONG TITLE****General Description:**

This bill creates state income tax credits for psychiatrists and psychiatric mental health nurse practitioners under certain circumstances.

Highlighted Provisions:

This bill:

- ▶ requires the Division of Occupational and Professional Licensing within the Department of Commerce to issue a tax credit certificate to a psychiatrist or psychiatric mental health nurse practitioner who submits an application to the division and provides certain information to the division;
- ▶ defines terms;
- ▶ creates a refundable state income tax credit for a psychiatrist or a psychiatric mental health nurse practitioner who begins a new practice in the state;
- ▶ creates a refundable state income tax credit for a psychiatrist or a psychiatric mental health nurse practitioner who provides mental health services to an underserved population in the state;
- ▶ creates a refundable state income tax credit for a volunteer retired psychiatrist who provides mental health services to an underserved population; and
- ▶ limits the number of years in which the income tax credits may be claimed.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**ENACTS:**

58-1-111, Utah Code Annotated 1953

59-10-1111, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-1-111 is enacted to read:**58-1-111. Tax credit certificate --
Psychiatrists and psychiatric mental
health nurse practitioners -- Underserved
populations.**

(1) As used in this section:

(a) "Average of 30 hours or more per week" means that the quotient calculated when dividing the claimant's total hours providing licensed services in the state during the taxable year by the number of

weeks in which the claimant is licensed in the state during the taxable year is greater than or equal to 30.

(b) "Licensed services" means the provision of behavioral health treatment in the state and within the scope of practice of a psychiatrist, a psychiatric mental health nurse practitioner, or a volunteer health practitioner.

(c) "Psychiatric mental health nurse practitioner" means an individual who:

(i) is licensed under Chapter 31b, Nurse Practice Act, for the practice of advanced practice registered nursing as that term is defined in Section 58-31b-102; and

(ii) holds a certification recognized by the American Nurses Credentialing Center of the American Association of Colleges of Nursing as a psychiatric mental health nurse practitioner.

(d) "Psychiatrist" means an individual who:

(i) is licensed as a physician under:

(A) Chapter 67, Utah Medical Practice Act;

(B) Chapter 67b, Interstate Medical Licensure Compact; or

(C) Chapter 68, Utah Osteopathic Medical Practice Act; and

(ii) is board eligible for a psychiatry specialization recognized by the American Board of Medical Specialists or the American Osteopathic Association's Bureau of Osteopathic Specialists.

(e) "Underserved population" means:

(i) an individual located in a county of the third, fourth, fifth, or sixth class, as designated in Section 17-50-501; or

(ii) a Native American Indian.

(f) "Volunteer retired psychiatrist" means an individual:

(i) described in Subsection (1)(d) who, during the calendar year, did not receive payment for providing licensed services; or

(ii) (A) licensed under Chapter 81, Retired Volunteer Health Practitioner Act; and

(B) previously or currently board certified in psychiatry.

(2) (a) An individual who seeks to obtain a state income tax credit under Subsections 59-10-1111(2) through (4) shall file an application with the division with respect to each taxable year in which the individual seeks a state income tax credit.

(b) An individual may qualify for a tax credit certificate under this section for no more than 10 taxable years for each tax credit.

(3) The application for a tax credit certificate under Subsection 59-10-1111(2) shall require the individual to provide the following to the division:

(a) the date on which the individual obtained a license and the specialization described in Subsection (1)(c)(ii) or (d)(ii);

(b) (i) an attestation that the individual was licensed on or after January 1, 2017, to provide licensed services; or

(ii) if the individual was licensed to provide licensed services prior to January 1, 2017, an attestation:

(A) that the individual did not provide licensed services for the two calendar years before the date the individual initially applied for the income tax credit under this subsection; and

(B) the date on which the individual resumed providing licensed services in the state; and

(c) other information as required by the division by administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) An application for a tax credit certificate under Subsection 59-10-1111(3) shall require the individual to attest to the division:

(a) that the individual averaged 30 or more hours per week during the taxable year providing licensed services;

(b) that the individual devoted 25% or more of the individual's total hours of licensed services in the taxable year to an underserved population;

(c) the type of underserved population for which the individual provided services during the taxable year; and

(d) other information as required by the division by administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) An application for a tax credit certificate under Subsection 59-10-1111(4) shall require the individual to attest to the division:

(a) whether the individual is licensed under Subsection (1)(f)(i) or (ii);

(b) that the individual did not receive payment during the calendar year for providing licensed services;

(c) that during the calendar year, the individual provided at least 300 hours of licensed services to an underserved population, the homeless population, or veterans without receiving payment for providing the licensed services;

(d) a description of the type of population described in Subsection (5)(c) for which the individual provided licensed services; and

(e) other information as required by the division by administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) (a) The division shall issue a tax credit certificate in accordance with this subsection.

(b) The tax credit certificate may state that an individual is entitled to:

(i) a tax credit under Subsection 59-10-1111(2) if the individual meets the requirements of Subsection (3);

(ii) a tax credit under Subsection 59-10-1111(3) if the individual meets the requirements of Subsection (4);

(iii) a tax credit under Subsection 59-10-1111(4) if the individual meets the requirements of Subsection (5); or

(iv) a tax credit under Subsections 59-10-1111(2) and (3) if the individual meets the requirements of Subsections (3) and (4).

(7) (a) The division may issue a tax credit certificate to an individual under Subsection 59-10-1111(2) for no more than 10 taxable years after the date on which the individual resumed services under Subsection (3)(b)(ii).

(b) The division may issue a tax credit certificate to an individual under Subsections 59-10-1111(3) and (4) for no more than 10 taxable years.

(8) The division shall provide a copy of a tax credit certificate issued under this section to the individual and the State Tax Commission.

Section 2. Section 59-10-1111 is enacted to read:

59-10-1111. Refundable tax credit for psychiatrists, psychiatric mental health nurse practitioners, and volunteer retired psychiatrists.

(1) As used in this section:

(a) "Psychiatric mental health nurse practitioner" means the same as that term is defined in Section 58-1-111.

(b) "Psychiatrist" means the same as that term is defined in Section 58-1-111.

(c) "Tax credit certificate" means a certificate issued by the Division of Occupational and Professional Licensing under Section 58-1-111 certifying that the claimant is entitled to a tax credit under this section.

(d) "Volunteer retired psychiatrist" means the same as that term is defined in Section 58-1-111.

(2) A claimant who is a psychiatrist or a psychiatric mental health nurse practitioner and who submits a tax credit certificate issued by the Division of Occupational and Professional Licensing under Subsection 58-1-111(3), may claim a refundable tax credit:

(a) as provided in this section; and

(b) in the amount of \$10,000.

(3) A claimant who is a psychiatrist or a psychiatric mental health nurse practitioner and who submits a tax credit certificate under Subsection 58-1-111(4) may claim a refundable tax credit:

(a) as provided in this section; and

(b) in the amount of \$10,000.

(4) A claimant who is a volunteer retired psychiatrist and who submits a tax credit certificate under Subsection 58-1-111(5) may claim a refundable tax credit:

(a) as provided in this section; and

(b) in the amount of \$10,000.

(5) A claimant may claim a tax credit under Subsections (2) through (4) for no more than 10 taxable years for each tax credit.

(6) (a) In accordance with any rules prescribed by the commission under Subsection (6)(b), the commission shall make a refund to a claimant who claims a tax credit under this section if the amount of the tax credit exceeds the claimant's tax liability for the taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a claimant as required by Subsection (6)(a).

Section 3. Effective date.

This bill takes effect for a taxable year beginning on or after January 1, 2017.

CHAPTER 408**H. B. 287**

Passed March 10, 2016
 Approved March 30, 2016
 Effective July 1, 2016

**COMMISSION FOR THE STEWARDSHIP OF
 PUBLIC LANDS AND PRIVATE DONATIONS
 FOR PUBLIC LANDS LITIGATION**

Chief Sponsor: Kay J. Christofferson

Senate Sponsor: Ralph Okerlund

Cosponsors: Melvin R. Brown

Scott H. Chew

LaVar Christensen

Kim Coleman

Brad M. Daw

Brad L. Dee

Gage Froerer

Keith Grover

Don L. Ipson

Ken Ivory

David E. Lifferth

Kay L. McIff

Michael E. Noel

Curtis Oda

Derrin Owens

Lee B. Perry

Jeremy A. Peterson

Val L. Peterson

Dixon M. Pitcher

Paul Ray

Douglas V. Sagers

Scott D. Sandall

Keven J. Stratton

Norman K. Thurston

R. Curt Webb

John R. Westwood

Brad R. Wilson

LONG TITLE**General Description:**

This bill moves the enabling language for the Commission for the Stewardship of Public Lands from the uncodified Laws of Utah to Title 63C, State Commissions and Councils Code, and establishes Public Lands Litigation Accounts.

Highlighted Provisions:

This bill:

- ▶ amends uncodified Laws of Utah to move the Commission for the Stewardship of Public Lands into the State Commissions and Councils Code;
- ▶ inserts existing law regarding the creation of, and duties for, the Commission for the Stewardship of Public Lands as new language in Title 63C, State Commissions and Councils Code;
- ▶ defines terms;
- ▶ amends the duties of the commission to include the duty to make recommendations concerning the use of funds in the Public Lands Litigation Restricted Account and the Public Lands Litigation Expendable Special Revenue Fund;
- ▶ creates the Public Lands Litigation Restricted Account;
- ▶ establishes the purpose of the account;

- ▶ requires a report to the Commission for the Stewardship of Public Lands before money appropriated from the account is spent;
- ▶ creates the Public Lands Litigation Expendable Special Revenue Fund;
- ▶ establishes the purpose of the Public Lands Litigation Expendable Special Revenue Fund, which includes accepting contributions and donations for litigation related to public lands; and
- ▶ requires the Division of Finance to report to the Commission for the Stewardship of Public Lands before disbursing money from the fund.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

63I-1-263, as last amended by Laws of Utah 2015, Chapters 182, 226, 278, 283, 409, and 424

ENACTS:

63C-4b-101, Utah Code Annotated 1953

63C-4b-102, Utah Code Annotated 1953

63C-4b-103, Utah Code Annotated 1953

63C-4b-104, Utah Code Annotated 1953

63C-4b-105, Utah Code Annotated 1953

63C-4b-106, Utah Code Annotated 1953

63C-4b-107, Utah Code Annotated 1953

Uncodified Material Affected:

AMENDS UNCODIFIED MATERIAL:

**Uncodified Section 5, Laws of Utah 2014,
 Chapter 319**

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63C-4b-101 is enacted to read:

**CHAPTER 4b. COMMISSION FOR THE
 STEWARDSHIP OF PUBLIC LANDS**

63C-4b-101. Title.

This chapter is known as "Commission for the Stewardship of Public Lands."

Section 2. Section 63C-4b-102 is enacted to read:

63C-4b-102. Definitions.

For purposes of this chapter:

(1) "Account" means the Public Lands Litigation Restricted Account created in Section 63C-4b-105.

(2) "Commission" means the Commission for the Stewardship of Public Lands.

Section 3. Section 63C-4b-103 is enacted to read:

**63C-4b-103. Commission for the
 Stewardship of Public Lands -- Creation
 -- Membership -- Interim rules followed --
 Compensation -- Staff.**

(1) There is created the Commission for the Stewardship of Public Lands consisting of the following eight members:

(a) three members of the Senate appointed by the president of the Senate, no more than two of whom may be from the same political party; and

(b) five members of the House of Representatives appointed by the speaker of the House of Representatives, no more than four of whom may be from the same political party.

(2) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (1)(a) as a cochair of the commission.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (1)(b) as a cochair of the commission.

(3) In conducting its business, the commission shall comply with the rules of legislative interim committees.

(4) Salaries and expenses of the members of the commission shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(5) The Office of Legislative Research and General Counsel shall provide staff support to the commission.

Section 4. Section 63C-4b-104 is enacted to read:

63C-4b-104. Duties -- Interim report.

(1) The commission shall:

(a) convene at least eight times each year;

(b) review and make recommendations on the transfer of federally controlled public lands to the state;

(c) review and make recommendations regarding the state's sovereign right to protect the health, safety, and welfare of its citizens as it relates to public lands, including recommendations concerning the use of funds in the account created in Section 63C-4b-105;

(d) study and evaluate the recommendations of the public lands transfer study and economic analysis conducted by the Public Lands Policy Coordinating Office in accordance with Section 63J-4-606;

(e) coordinate with and report on the efforts of the executive branch, the counties and political subdivisions of the state, the state congressional delegation, western governors, other states, and other stakeholders concerning the transfer of federally controlled public lands to the state including convening working groups, such as a working group composed of members of the Utah Association of Counties;

(f) study and make recommendations regarding the appropriate designation of public lands transferred to the state, including stewardship of the land and appropriate uses of the land;

(g) study and make recommendations regarding the use of funds received by the state from the public lands transferred to the state; and

(h) receive reports from and make recommendations to the attorney general, the Legislature, and other stakeholders involved in litigation on behalf of the state's interest in the transfer of public lands to the state, regarding:

(i) preparation for potential litigation;

(ii) selection of outside legal counsel;

(iii) ongoing legal strategy for the transfer of public lands; and

(iv) use of money:

(A) appropriated by the Legislature for the purpose of securing the transfer of public lands to the state under Section 63C-4b-105; and

(B) disbursed from the Public Lands Litigation Expendable Special Revenue Fund created in Section 63C-4b-106.

(2) The commission shall prepare an annual report, including any proposed legislation, and present the report to the Natural Resources, Agriculture, and Environment Interim Committee on or before November 30, 2016, and on or before November 30 each year thereafter.

Section 5. Section 63C-4b-105 is enacted to read:

63C-4b-105. Creation of Public Lands Litigation Restricted Account -- Sources of funds -- Uses of funds -- Reports.

(1) There is created a restricted account within the General Fund known as the Public Lands Litigation Restricted Account.

(2) The account created in Subsection (1) consists of money from the following revenue sources:

(a) money received by the commission from other state agencies; and

(b) appropriations made by the Legislature.

(3) The Legislature may annually appropriate money from the account for the purposes of asserting, defending, or litigating state and local government rights to the disposition and use of federal lands within the state as those rights are granted by the United States Constitution, the Utah Enabling Act, and other applicable law.

(4) (a) Any entity that receives money from the account shall, before disbursing the money to another person for the purposes described in Subsection (3), or before spending the money appropriated, report to the commission regarding:

(i) the amount of the disbursement;

(ii) who will receive the disbursement; and

(iii) the planned use for the disbursement.

(b) The commission may, upon receiving the report under Subsection (4)(a):

(i) advise the Legislature and the entity of the commission finding that the disbursement is consistent with the purposes in Subsection (3); or

(ii) advise the Legislature and the entity of the commission finding that the disbursement is not consistent with the purposes in Subsection (3).

Section 6. Section 63C-4b-106 is enacted to read:

63C-4b-106. Public Lands Litigation Expendable Special Revenue Fund -- Creation -- Source of funds -- Use of funds -- Reports.

(1) There is created an expendable special revenue fund known as the Public Lands Litigation Expendable Special Revenue Fund.

(2) The fund shall consist of gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources and other states.

(3) The fund shall be administered by the Division of Finance in accordance with Subsection (4).

(4) (a) The fund may be used only for the purpose of asserting, defending, or litigating state and local government rights to the disposition and use of federal lands within the state as those rights are granted by the United States Constitution, the Utah Enabling Act, and other applicable law.

(b) Before each disbursement from the fund, the Division of Finance shall report to the commission regarding:

- (i) the sources of the money in the fund;
- (ii) who will receive the disbursement;
- (iii) the planned use of the disbursement; and
- (iv) the amount of the disbursement.

(c) The commission may, upon receiving the report under Subsection (4)(b):

(i) advise the Legislature and the Division of Finance of the commission finding that the disbursement is consistent with the purposes in Subsection (4)(a); or

(ii) advise the Legislature and the Division of Finance of the commission finding that the disbursement is not consistent with the purposes in Subsection (4)(a).

Section 7. Section 63C-4b-107 is enacted to read:

63C-4b-107. Repeal of commission.

The commission is repealed in accordance with Section 63I-1-263.

Section 8. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63M.

(1) Section 63A-4-204, authorizing the Risk Management Fund to provide coverage to any public school district which chooses to participate, is repealed July 1, 2016.

(2) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.

(3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2016.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2018.

(5) Title 63C, Chapter 4b, Commission for the Stewardship of Public Lands, is repealed November 30, 2019.

~~[(5)]~~ (6) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

~~[(6)]~~ (7) Subsection 63G-6a-1402(7) authorizing certain transportation agencies to award a contract for a design-build transportation project in certain circumstances, is repealed July 1, 2015.

~~[(7)]~~ (8) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

~~[(8)]~~ (9) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2016.

~~[(9)]~~ (10) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states "the Resource Development Coordinating Committee," is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read "(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.";

(c) in Subsection 23-14-21(3), the language that states "and the Resource Development Coordinating Committee" is repealed;

(d) in Subsection 23-21-2.3(1), the language that states "the Resource Development Coordinating Committee created in Section 63J-4-501 and" is repealed;

(e) in Subsection 23-21-2.3(2), the language that states "the Resource Development Coordinating Committee and" is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word "and" is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

~~[(49)]~~ (11) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2017.

~~[(41)]~~ (12) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2017.

~~[(42)]~~ (13) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2018.

~~[(43)]~~ (14) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection ~~[(43)]~~ (14)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections ~~[(43)]~~ (14)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

~~[(44)]~~ (15) Section 63N-2-512 is repealed on July 1, 2021.

~~[(45)]~~ (16) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection ~~[(45)]~~ (16)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

~~[(46)]~~ (17) Title 63N, Chapter 12, Part 3, Utah Broadband Outreach Center, is repealed July 1, 2018.

Section 9. Uncodified Section 5, Laws of Utah 2014, Chapter 319 is amended to read:

Section 5. Repeal date.

(1) Uncodified ~~[Sections 2, 3, and]~~ Section 4, that ~~[create]~~ appropriates for the Commission for the Stewardship of Public Lands, ~~[are]~~ is repealed on November 30, 2019.

(2) Uncodified Sections 2 and 3, that create the Commission for the Stewardship of Public Lands, are repealed on July 1, 2016, which is the effective date for Title 63C, Chapter 4b, Commission for the Stewardship of Public Lands.

Section 10. Effective date.

This bill takes effect on July 1, 2016.

CHAPTER 409**H. B. 290**

Passed March 9, 2016
 Approved March 30, 2016
 Effective May 10, 2016

**CAMPAIGN FINANCE
REFORM AMENDMENTS**

Chief Sponsor: Robert M. Spendlove
 Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill removes provisions related to the aggregate reporting of campaign contributions.

Highlighted Provisions:

This bill:

- ▶ removes provisions that allow a candidate or officeholder to report the aggregate value of all individual contributions the candidate or officeholder receives that are worth \$50 or less.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 10-3-208, as last amended by Laws of Utah 2015, Chapters 21 and 247
- 17-16-6.5, as last amended by Laws of Utah 2015, Chapter 21
- 20A-11-203, as last amended by Laws of Utah 2011, Chapter 347
- 20A-11-204, as last amended by Laws of Utah 2015, Chapter 204
- 20A-11-302, as last amended by Laws of Utah 2011, Chapter 347
- 20A-11-303, as last amended by Laws of Utah 2015, Chapter 204
- 20A-11-401, as last amended by Laws of Utah 2015, Chapter 21
- 20A-11-1302, as last amended by Laws of Utah 2011, Chapter 347
- 20A-11-1303, as last amended by Laws of Utah 2015, Chapter 204

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-3-208 is amended to read:**10-3-208. Campaign finance disclosure in municipal election.**

(1) Unless a municipality adopts by ordinance more stringent definitions, the following are defined terms for purposes of this section:

- (a) "Agent of a candidate" means:
 - (i) a person acting on behalf of a candidate at the direction of the reporting entity;
 - (ii) a person employed by a candidate in the candidate's capacity as a candidate;
 - (iii) the personal campaign committee of a candidate;

(iv) a member of the personal campaign committee of a candidate in the member's capacity as a member of the personal campaign committee of the candidate; or

(v) a political consultant of a candidate.

(b) "Anonymous contribution limit" means for each calendar year:

(i) \$50; or

(ii) an amount less than \$50 that is specified in an ordinance of the municipality.

~~(b)~~ (c) (i) "Candidate" means a person who:

(A) files a declaration of candidacy for municipal office; or

(B) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a municipal office.

(ii) "Candidate" does not mean a person who files for the office of judge.

~~(c)~~ (d) (i) "Contribution" means any of the following when done for political purposes:

(A) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to a candidate;

(B) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the candidate;

(C) any transfer of funds from another reporting entity to the candidate;

(D) compensation paid by any person or reporting entity other than the candidate for personal services provided without charge to the candidate;

(E) a loan made by a candidate deposited to the candidate's own campaign; and

(F) an in-kind contribution.

(ii) "Contribution" does not include:

(A) services provided by an individual volunteering a portion or all of the individual's time on behalf of the candidate if the services are provided without compensation by the candidate or any other person;

(B) money lent to the candidate by a financial institution in the ordinary course of business; or

(C) goods or services provided for the benefit of a candidate at less than fair market value that are not authorized by or coordinated with the candidate.

~~(d)~~ (e) "Coordinated with" means that goods or services provided for the benefit of a candidate are provided:

(i) with the candidate's prior knowledge, if the candidate does not object;

(ii) by agreement with the candidate;

- (iii) in coordination with the candidate; or
- (iv) using official logos, slogans, and similar elements belonging to a candidate.

~~[(e)]~~ (f) (i) “Expenditure” means any of the following made by a candidate or an agent of the candidate on behalf of the candidate:

(A) any disbursement from contributions, receipts, or from an account described in Subsection (3)(a)(i);

(B) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;

(C) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for a political purpose;

(D) compensation paid by a candidate for personal services rendered by a person without charge to a reporting entity;

(E) a transfer of funds between the candidate and a candidate’s personal campaign committee as defined in Section 20A-11-101; or

(F) goods or services provided by a reporting entity to or for the benefit of the candidate for political purposes at less than fair market value.

(ii) “Expenditure” does not include:

(A) services provided without compensation by an individual volunteering a portion or all of the individual’s time on behalf of a candidate; or

(B) money lent to a candidate by a financial institution in the ordinary course of business.

~~[(f)]~~ (g) “In-kind contribution” means anything of value other than money, that is accepted by or coordinated with a candidate.

~~[(g)]~~ (h) (i) “Political consultant” means a person who is paid by a candidate, or paid by another person on behalf of and with the knowledge of the candidate, to provide political advice to the candidate.

(ii) “Political consultant” includes a circumstance described in Subsection (1)~~[(g)]~~(h)(i), where the person:

(A) has already been paid, with money or other consideration;

(B) expects to be paid in the future, with money or other consideration; or

(C) understands that the person may, in the discretion of the candidate or another person on behalf of and with the knowledge of the candidate, be paid in the future, with money or other consideration.

~~[(h)]~~ (i) “Political purposes” means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any

candidate or a person seeking a municipal office at any caucus, political convention, or election.

~~[(i)]~~ (j) “Reporting entity” means:

(i) a candidate;

(ii) a committee appointed by a candidate to act for the candidate;

(iii) a person who holds an elected municipal office;

(iv) a party committee as defined in Section 20A-11-101;

(v) a political action committee as defined in Section 20A-11-101;

(vi) a political issues committee as defined in Section 20A-11-101;

(vii) a corporation as defined in Section 20A-11-101; or

(viii) a labor organization as defined in Section 20A-11-1501.

~~[(j)]~~ “Reporting limit” means for each calendar year:

~~[(i)]~~ \$50; or

~~[(ii)]~~ an amount lower than \$50 that is specified in an ordinance of the municipality.]

(2) (a) A municipality may adopt an ordinance establishing campaign finance disclosure requirements for a candidate that are more stringent than the requirements provided in Subsections (3) and (4).

(b) The municipality may adopt definitions that are more stringent than those provided in Subsection (1).

(c) If a municipality fails to adopt a campaign finance disclosure ordinance described in Subsection (2)(a), a candidate shall comply with financial reporting requirements contained in Subsections (3) and (4).

(3) (a) Each candidate:

(i) shall deposit a contribution in a separate campaign account in a financial institution; and

(ii) may not deposit or mingle any campaign contributions received into a personal or business account.

(b) Each candidate who is not eliminated at a municipal primary election shall file with the municipal clerk or recorder a campaign finance statement:

(i) no later than seven days before the day on which the municipal general election is held; and

(ii) no later than 30 days after the day on which the municipal general election is held.

(c) Each candidate for municipal office who is eliminated at a municipal primary election shall file with the municipal clerk or recorder a campaign finance statement 30 days after the day on which the municipal primary election is held.

(4) Each campaign finance statement under Subsection (3)(b) or (c) shall:

(a) except as provided in Subsection (4)(b):

(i) report all of the candidate's itemized and total:

(A) contributions, including in-kind and other nonmonetary contributions, received up to and including five days before the campaign finance statement is due, excluding a contribution previously reported; and

(B) expenditures made up to and including five days before the campaign finance statement is due, excluding an expenditure previously reported; and

(ii) identify:

(A) for each contribution [~~that exceeds the reporting limit~~], the amount of the contribution and the name of the donor, if known; and

~~[(B) the aggregate total of all contributions that individually do not exceed the reporting limit; and]~~

~~[(C) (B) for each expenditure, the amount of the expenditure and the name of the recipient of the expenditure; or~~

(b) report the total amount of all contributions and expenditures if the candidate receives \$500 or less in contributions and spends \$500 or less on the candidate's campaign.

(c) Within 30 days after receiving a contribution that is cash or a negotiable instrument, exceeds the [~~reporting~~] anonymous contribution limit, and is from a donor whose name is unknown, a candidate shall disburse the amount of the contribution to:

(i) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or

(ii) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

(5) (a) A municipality may, by ordinance:

(i) provide [~~a reporting~~] an anonymous contribution limit [~~lower~~] less than \$50;

(ii) require greater disclosure of contributions or expenditures than is required in this section; and

(iii) impose additional penalties on candidates who fail to comply with the applicable requirements beyond those imposed by this section.

(b) A candidate is subject to the provisions of this section and not the provisions of an ordinance adopted by the municipality under Subsection (5)(a) if:

(i) the municipal ordinance establishes requirements or penalties that differ from those established in this section; and

(ii) the municipal clerk or recorder fails to notify the candidate of the provisions of the ordinance as required in Subsection (6).

(6) Each municipal clerk or recorder shall, at the time the candidate for municipal office files a declaration of candidacy, and again 14 days before each municipal general election, notify the candidate in writing of:

(a) the provisions of statute or municipal ordinance governing the disclosure of contributions and expenditures;

(b) the dates when the candidate's campaign finance statement is required to be filed; and

(c) the penalties that apply for failure to file a timely campaign finance statement, including the statutory provision that requires removal of the candidate's name from the ballot for failure to file the required campaign finance statement when required.

(7) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the municipal clerk or recorder shall:

(a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and

(b) make the campaign finance statement filed by a candidate available for public inspection by:

(i) (A) posting an electronic copy or the contents of the statement on the municipality's website no later than seven business days after the statement is filed; and

(B) verifying that the address of the municipality's website has been provided to the lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or

(ii) submitting a copy of the statement to the lieutenant governor for posting on the website established by the lieutenant governor under Section 20A-11-103 no later than two business days after the statement is filed.

(8) (a) If a candidate fails to file a campaign finance statement before the municipal general election by the deadline specified in Subsection (3)(b)(i), the municipal clerk or recorder shall inform the appropriate election official who:

(i) shall:

(A) if practicable, remove the candidate's name from the ballot by blacking out the candidate's name before the ballots are delivered to voters; or

(B) if removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not be counted; and

(ii) may not count any votes for that candidate.

(b) Notwithstanding Subsection (8)(a), a candidate who files a campaign finance statement seven days before a municipal general election is not disqualified if:

(i) the statement details accurately and completely the information required under

Subsection (4), except for inadvertent omissions or insignificant errors or inaccuracies; and

(ii) the omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

(9) A campaign finance statement required under this section is considered filed if it is received in the municipal clerk or recorder's office by 5 p.m. on the date that it is due.

(10) (a) A private party in interest may bring a civil action in district court to enforce the provisions of this section or an ordinance adopted under this section.

(b) In a civil action under Subsection (10)(a), the court may award costs and attorney fees to the prevailing party.

Section 2. Section 17-16-6.5 is amended to read:

17-16-6.5. Campaign financial disclosure in county elections.

(1) (a) A county shall adopt an ordinance establishing campaign finance disclosure requirements for:

(i) candidates for county office; and

(ii) candidates for local school board office who reside in that county.

(b) The ordinance required by Subsection (1)(a) shall include:

(i) a requirement that each candidate for county office or local school board office report the candidate's itemized and total campaign contributions and expenditures at least once within the two weeks before the election and at least once within two months after the election;

(ii) a definition of "contribution" and "expenditure" that requires reporting of nonmonetary contributions such as in-kind contributions and contributions of tangible things;

(iii) a requirement that the financial reports identify:

(A) for each contribution [~~of more than \$50~~], the name of the donor of the contribution, if known, and the amount of the contribution; and

(B) for each expenditure, the name of the recipient and the amount of the expenditure;

(iv) a requirement that a candidate for county office or local school board office deposit a contribution in a separate campaign account in a financial institution;

(v) a prohibition against a candidate for county office or local school board office depositing or mingling any contributions received into a personal or business account; and

(vi) a requirement that a candidate for county office who receives a contribution that is cash or a negotiable instrument, exceeds \$50, and is from a

donor whose name is unknown, shall, within 30 days after receiving the contribution, disburse the amount of the contribution to:

(A) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or

(B) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

(c) (i) As used in this Subsection (1)(c), "account" means an account in a financial institution:

(A) that is not described in Subsection (1)(b)(iv); and

(B) into which or from which a person who, as a candidate for an office, other than a county office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a county office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(ii) The ordinance required by Subsection (1)(a) shall include a requirement that a candidate for county office or local school board office include on a financial report filed in accordance with the ordinance a contribution deposited in or an expenditure made from an account:

(A) since the last financial report was filed; or

(B) that has not been reported under a statute or ordinance that governs the account.

(2) If any county fails to adopt a campaign finance disclosure ordinance described in Subsection (1), candidates for county office, other than community council office, and candidates for local school board office shall comply with the financial reporting requirements contained in Subsections (3) through (8).

(3) A candidate for elective office in a county or local school board office:

(a) shall deposit a contribution in a separate campaign account in a financial institution; and

(b) may not deposit or mingle any contributions received into a personal or business account.

(4) Each candidate for elective office in any county who is not required to submit a campaign financial statement to the lieutenant governor, and each candidate for local school board office, shall file a signed campaign financial statement with the county clerk:

(a) seven days before the date of the regular general election, reporting each contribution [~~of more than \$50~~] and each expenditure as of 10 days before the date of the regular general election; and

(b) no later than 30 days after the date of the regular general election.

(5) (a) The statement filed seven days before the regular general election shall include:

(i) a list of each contribution [~~of more than \$50~~] received by the candidate, and the name of the donor, if known; and

~~(ii) an aggregate total of all contributions of \$50 or less received by the candidate; and~~

~~(iii) (ii) a list of each expenditure for political purposes made during the campaign period, and the recipient of each expenditure.~~

(b) The statement filed 30 days after the regular general election shall include:

(i) a list of each contribution ~~[of more than \$50] received after the cutoff date for the statement filed seven days before the election, and the name of the donor; and~~

~~(ii) an aggregate total of all contributions of \$50 or less received by the candidate after the cutoff date for the statement filed seven days before the election; and~~

~~(iii) (ii) a list of all expenditures for political purposes made by the candidate after the cutoff date for the statement filed seven days before the election, and the recipient of each expenditure.~~

(6) (a) As used in this Subsection (6), "account" means an account in a financial institution:

(i) that is not described in Subsection (3)(a); and

(ii) into which or from which a person who, as a candidate for an office, other than a county office for which the person filed a declaration of candidacy or federal office, or as a holder of an office, other than a county office for which the person filed a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A county office candidate and a local school board office candidate shall include on any campaign financial statement filed in accordance with Subsection (4) or (5):

(i) a contribution deposited in an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account; or

(ii) an expenditure made from an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account.

(7) Within 30 days after receiving a contribution that is cash or a negotiable instrument, exceeds \$50, and is from a donor whose name is unknown, a county office candidate shall disburse the amount of the contribution to:

(a) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or

(b) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

(8) Candidates for elective office in any county, and candidates for local school board office, who are eliminated at a primary election shall file a signed campaign financial statement containing the information required by this section not later than 30 days after the primary election.

(9) Any person who fails to comply with this section is guilty of an infraction.

(10) (a) Counties may, by ordinance, enact requirements that:

(i) require greater disclosure of campaign contributions and expenditures; and

(ii) impose additional penalties.

(b) The requirements described in Subsection (10)(a) apply to a local school board office candidate who resides in that county.

(11) (a) If a candidate fails to file an interim report due before the election, the county clerk shall, after making a reasonable attempt to discover if the report was timely mailed, inform the appropriate election officials who:

(i) (A) shall, if practicable, remove the name of the candidate by blacking out the candidate's name before the ballots are delivered to voters; or

(B) shall, if removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not be counted; and

(ii) may not count any votes for that candidate.

(b) Notwithstanding Subsection (11)(a), a candidate is not disqualified if:

(i) the candidate files the reports required by this section;

(ii) those reports are completed, detailing accurately and completely the information required by this section except for inadvertent omissions or insignificant errors or inaccuracies; and

(iii) those omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

(c) A report is considered filed if:

(i) it is received in the county clerk's office no later than 5 p.m. on the date that it is due;

(ii) it is received in the county clerk's office with a United States Postal Service postmark three days or more before the date that the report was due; or

(iii) the candidate has proof that the report was mailed, with appropriate postage and addressing, three days before the report was due.

(12) (a) Any private party in interest may bring a civil action in district court to enforce the provisions of this section or any ordinance adopted under this section.

(b) In a civil action filed under Subsection (12)(a), the court shall award costs and attorney fees to the prevailing party.

(13) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the county clerk shall:

(a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and

(b) make the campaign finance statement filed by a candidate available for public inspection by:

(i) (A) posting an electronic copy or the contents of the statement on the county's website no later than seven business days after the statement is filed; and

(B) verifying that the address of the county's website has been provided to the lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or

(ii) submitting a copy of the statement to the lieutenant governor for posting on the website established by the lieutenant governor under Section 20A-11-103 no later than two business days after the statement is filed.

Section 3. Section 20A-11-203 is amended to read:

20A-11-203. State office candidate -- Financial reporting requirements -- Year-end summary report.

(1) (a) Each state office candidate shall file a summary report by January 10 of the year after the regular general election year.

(b) In addition to the requirements of Subsection (1)(a), a former state office candidate that has not filed the statement of dissolution and final summary report required under Section 20A-11-205 shall continue to file a summary report on January 10 of each year.

(2) (a) Each summary report shall include the following information as of December 31 of the previous year:

(i) the net balance of the last financial statement, if any;

(ii) a single figure equal to the total amount of receipts reported on all interim reports, if any;

(iii) a single figure equal to the total amount of expenditures reported on all interim reports, if any, filed during the previous year;

(iv) a detailed listing of each contribution and public service assistance received since the last summary report that has not been reported in detail on an interim report;

(v) for each nonmonetary contribution:

(A) the fair market value of the contribution with that information provided by the contributor; and

(B) a specific description of the contribution;

(vi) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on an interim report;

(vii) for each nonmonetary expenditure, the fair market value of the expenditure;

(viii) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts minus all expenditures; and

(ix) the name of a political action committee for which the state office candidate is designated as an officer who has primary decision-making authority under Section 20A-11-601.

~~[(b) (i) For all single contributions or public service assistance of \$50 or less, a single aggregate figure may be reported without separate detailed listings.]~~

~~[(ii) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.]~~

~~[(e) (b) In preparing the report, all receipts and expenditures shall be reported as of December 31 of the previous year.~~

~~[(d) (c) A check or negotiable instrument received by a state office candidate or a state office candidate's personal campaign committee on or before December 31 of the previous year shall be included in the summary report.~~

(3) An authorized member of the state office candidate's personal campaign committee or the state office candidate shall certify in the summary report that, to the best of the person's knowledge, all receipts and all expenditures have been reported as of December 31 of the previous year and that there are no bills or obligations outstanding and unpaid except as set forth in that report.

Section 4. Section 20A-11-204 is amended to read:

20A-11-204. State office candidate and state officeholder -- Financial reporting requirements -- Interim reports.

(1) (a) As used in this Subsection (1), "campaign account" means a separate campaign account required under Subsection 20A-11-201(1)(a).

(b) Except as provided in Subsection (1)(c), each state office candidate shall file an interim report at the following times in any year in which the candidate has filed a declaration of candidacy for a public office:

(i) seven days before the candidate's political convention;

(ii) seven days before the regular primary election date;

(iii) September 30; and

(iv) seven days before the regular general election date.

(c) If a state office candidate is a state office candidate seeking appointment for a midterm vacancy, the state office candidate:

(i) shall file an interim report:

(A) no later than seven days before the day on which the political party of the party for which the

state office candidate seeks nomination meets to declare a nominee for the governor to appoint in accordance with Section 20A-1-504; or

(B) if a state office candidate decides to seek the appointment with less than seven days before the party meets, or the political party schedules the meeting to declare a nominee less than seven days before the day of the meeting, no later than 5 p.m. on the last day of business before the day on which the party meets; and

(ii) is not required to file an interim report at the times described in Subsection (1)(b).

(d) Each state office holder who has a campaign account that has not been dissolved under Section 20A-11-205 shall, in an even year, file an interim report at the following times, regardless of whether an election for the state office holder's office is held that year:

(i) seven days before the political convention for the political party of the state office holder;

(ii) seven days before the regular primary election date;

(iii) September 30; and

(iv) seven days before the regular general election date.

(2) Each interim report shall include the following information:

(a) the net balance of the last summary report, if any;

(b) a single figure equal to the total amount of receipts reported on all prior interim reports, if any, during the calendar year in which the interim report is due;

(c) a single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;

(d) a detailed listing of each contribution and public service assistance received since the last summary report that has not been reported in detail on a prior interim report;

(e) for each nonmonetary contribution:

(i) the fair market value of the contribution with that information provided by the contributor; and

(ii) a specific description of the contribution;

(f) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;

(g) for each nonmonetary expenditure, the fair market value of the expenditure;

(h) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report;

(i) a summary page in the form required by the lieutenant governor that identifies:

(i) beginning balance;

(ii) total contributions during the period since the last statement;

(iii) total contributions to date;

(iv) total expenditures during the period since the last statement; and

(v) total expenditures to date; and

(j) the name of a political action committee for which the state office candidate or state office holder is designated as an officer who has primary decision-making authority under Section 20A-11-601.

~~[(3) (a) For all individual contributions or public service assistance of \$50 or less, a single aggregate figure may be reported without separate detailed listings.]~~

~~[(b) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.]~~

~~[(4) (3) (a) In preparing each interim report, all receipts and expenditures shall be reported as of five days before the required filing date of the report.~~

(b) Any negotiable instrument or check received by a state office candidate or state office holder more than five days before the required filing date of a report required by this section shall be included in the interim report.

Section 5. Section 20A-11-302 is amended to read:

20A-11-302. Legislative office candidate -- Financial reporting requirements -- Year-end summary report.

(1) (a) Each legislative office candidate shall file a summary report by January 10 of the year after the regular general election year.

(b) In addition to the requirements of Subsection (1)(a), a former legislative office candidate that has not filed the statement of dissolution and final summary report required under Section 20A-11-304 shall continue to file a summary report on January 10 of each year.

(2) (a) Each summary report shall include the following information as of December 31 of the previous year:

(i) the net balance of the last financial statement, if any;

(ii) a single figure equal to the total amount of receipts reported on all interim reports, if any, during the calendar year in which the summary report is due;

(iii) a single figure equal to the total amount of expenditures reported on all interim reports, if any, filed during the previous year;

(iv) a detailed listing of each receipt, contribution, and public service assistance since the last summary report that has not been reported in detail on an interim report;

(v) for each nonmonetary contribution:

(A) the fair market value of the contribution with that information provided by the contributor; and

(B) a specific description of the contribution;

(vi) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on an interim report;

(vii) for each nonmonetary expenditure, the fair market value of the expenditure;

(viii) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts minus all expenditures; and

(ix) the name of a political action committee for which the legislative office candidate is designated as an officer who has primary decision-making authority under Section 20A-11-601.

~~[(b) (i) For all individual contributions or public service assistance of \$50 or less, a single aggregate figure may be reported without separate detailed listings.]~~

~~[(ii) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.]~~

[(e)] (b) In preparing the report, all receipts and expenditures shall be reported as of December 31 of the previous year.

[(d)] (c) A check or negotiable instrument received by a legislative office candidate on or before December 31 of the previous year shall be included in the summary report.

(3) The legislative office candidate shall certify in the summary report that to the best of the candidate's knowledge, all receipts and all expenditures have been reported as of December 31 of the previous year and that there are no bills or obligations outstanding and unpaid except as set forth in that report.

Section 6. Section 20A-11-303 is amended to read:

20A-11-303. Legislative office candidate and legislative officeholder -- Financial reporting requirements -- Interim reports.

(1) (a) As used in this Subsection (1), "campaign account" means a separate campaign account required under Subsection 20A-11-301(1)(a)(i).

(b) Except as provided in Subsection (1)(d), each legislative office candidate shall file an interim report at the following times in any year in which the candidate has filed a declaration of candidacy for a public office:

(i) seven days before the candidate's political convention;

(ii) seven days before the regular primary election date;

(iii) September 30; and

(iv) seven days before the regular general election date.

(c) Each legislative office holder who has a campaign account that has not been dissolved under Section 20A-11-304 shall, in an even year, file an interim report at the following times, regardless of whether an election for the legislative office holder's office is held that year:

(i) seven days before the political convention for the political party of the legislative office holder;

(ii) seven days before the regular primary election date for that year;

(iii) September 30; and

(iv) seven days before the regular general election date.

(d) If a legislative office candidate is a legislative office candidate seeking appointment for a midterm vacancy, the legislative office candidate:

(i) shall file an interim report:

(A) no later than seven days before the day on which the political party of the party for which the legislative office candidate seeks nomination meets to declare a nominee for the governor to appoint in accordance with Section 20A-1-503; or

(B) if a legislative office candidate decides to seek the appointment with less than seven days before the party meets, or the political party schedules the meeting to declare a nominee less than seven days before the day of the meeting, no later than 5 p.m. on the last day of business before the day on which the party meets; and

(ii) is not required to file an interim report at the times described in Subsection (1)(b).

(2) Each interim report shall include the following information:

(a) the net balance of the last summary report, if any;

(b) a single figure equal to the total amount of receipts reported on all prior interim reports, if any, during the calendar year in which the interim report is due;

(c) a single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;

(d) a detailed listing of each contribution and public service assistance received since the last summary report that has not been reported in detail on a prior interim report;

(e) for each nonmonetary contribution:

(i) the fair market value of the contribution with that information provided by the contributor; and

(ii) a specific description of the contribution;

(f) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;

(g) for each nonmonetary expenditure, the fair market value of the expenditure;

(h) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report;

(i) a summary page in the form required by the lieutenant governor that identifies:

(i) beginning balance;

(ii) total contributions during the period since the last statement;

(iii) total contributions to date;

(iv) total expenditures during the period since the last statement; and

(v) total expenditures to date; and

(j) the name of a political action committee for which the legislative office candidate or legislative office holder is designated as an officer who has primary decision-making authority under Section 20A-11-601.

~~[(3) (a) For all individual contributions or public service assistance of \$50 or less, a single aggregate figure may be reported without separate detailed listings.]~~

~~[(b) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.]~~

[4] (3) (a) In preparing each interim report, all receipts and expenditures shall be reported as of five days before the required filing date of the report.

(b) Any negotiable instrument or check received by a legislative office candidate or legislative office holder more than five days before the required filing date of a report required by this section shall be included in the interim report.

Section 7. Section 20A-11-401 is amended to read:

20A-11-401. Officeholder financial reporting requirements -- Year-end summary report -- Officeholder as a political action committee officer -- Anonymous contribution or public service assistance.

(1) (a) Each officeholder shall file a summary report by January 10 of each year.

(b) An officeholder that is required to file a summary report both as an officeholder and as a candidate for office under the requirements of this chapter may file a single summary report as a candidate and an officeholder, provided that the combined report meets the requirements of:

(i) this section; and

(ii) the section that provides the requirements for the summary report filed by the officeholder in the officeholder's capacity of a candidate for office.

(2) (a) Each summary report shall include the following information as of December 31 of the previous year:

(i) the net balance of the last summary report, if any;

(ii) a single figure equal to the total amount of receipts received since the last summary report, if any;

(iii) a single figure equal to the total amount of expenditures made since the last summary report, if any;

(iv) a detailed listing of each contribution and public service assistance received since the last summary report;

(v) for each nonmonetary contribution:

(A) the fair market value of the contribution with that information provided by the contributor; and

(B) a specific description of the contribution;

(vi) a detailed listing of each expenditure made since the last summary report;

(vii) for each nonmonetary expenditure, the fair market value of the expenditure;

(viii) a net balance for the year consisting of the net balance from the last summary report plus all receipts minus all expenditures; and

(ix) the name of a political action committee for which the officeholder is designated as an officer who has primary decision-making authority under Section 20A-11-601.

~~[(b) (i) For all individual contributions or public service assistance of \$50 or less, a single aggregate figure may be reported without separate detailed listings.]~~

~~[(ii) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.]~~

[e] (b) In preparing the report, all receipts and expenditures shall be reported as of December 31 of the previous year.

(3) The summary report shall contain a paragraph signed by the officeholder certifying that, to the best of the officeholder's knowledge, all receipts and all expenditures have been reported as of December 31 of the last calendar year and that there are no bills or obligations outstanding and unpaid except as set forth in that report.

(4) An officeholder may:

(a) receive public service assistance from a political action committee registered under Section 20A-11-601; and

(b) be designated by a political action committee as an officer who has primary decision-making authority as described in Section 20A-11-601.

(5) Within 30 days after receiving a contribution or public service assistance that is cash or a negotiable instrument, exceeds \$50, and is from an

unknown source, an officeholder shall disburse the amount of the contribution or public service assistance to:

(a) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or

(b) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

Section 8. Section 20A-11-1302 is amended to read:

20A-11-1302. School board office candidate -- Financial reporting requirements -- Year-end summary report.

(1) (a) Each school board office candidate shall file a summary report by January 10 of the year after the regular general election year.

(b) In addition to the requirements of Subsection (1)(a), a former school board office candidate that has not filed the statement of dissolution and final summary report required under Section 20A-11-1304 shall continue to file a summary report on January 10 of each year.

(2) (a) Each summary report shall include the following information as of December 31 of the previous year:

(i) the net balance of the last financial statement, if any;

(ii) a single figure equal to the total amount of receipts reported on all interim reports, if any, during the previous year;

(iii) a single figure equal to the total amount of expenditures reported on all interim reports, if any, filed during the previous year;

(iv) a detailed listing of each receipt, contribution, and public service assistance since the last summary report that has not been reported in detail on an interim report;

(v) for each nonmonetary contribution:

(A) the fair market value of the contribution with that information provided by the contributor; and

(B) a specific description of the contribution;

(vi) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on an interim report;

(vii) for each nonmonetary expenditure, the fair market value of the expenditure;

(viii) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts minus all expenditures; and

(ix) the name of a political action committee for which the school board office candidate is designated as an officer who has primary decision-making authority under Section 20A-11-601.

~~(b) (i) For all individual contributions or public service assistance of \$50 or less, a single aggregate figure may be reported without separate detailed listings.]~~

~~(ii) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.]~~

(e) (b) In preparing the report, all receipts and expenditures shall be reported as of December 31 of the previous year.

~~(d) (c) A check or negotiable instrument received by a school board office candidate on or before December 31 of the previous year shall be included in the summary report.~~

(3) The school board office candidate shall certify in the summary report that, to the best of the school board office candidate's knowledge, all receipts and all expenditures have been reported as of December 31 of the previous year and that there are no bills or obligations outstanding and unpaid except as set forth in that report.

Section 9. Section 20A-11-1303 is amended to read:

20A-11-1303. School board office candidate and school board officeholder -- Financial reporting requirements -- Interim reports.

(1) (a) As used in this Subsection (1), "campaign account" means a separate campaign account required under Subsection 20A-11-1301(1)(a)(i).

(b) Each school board office candidate shall file an interim report at the following times in any year in which the candidate has filed a declaration of candidacy for a public office:

(i) May 15;

(ii) seven days before the regular primary election date;

(iii) September 30; and

(iv) seven days before the regular general election date.

(c) Each school board office holder who has a campaign account that has not been dissolved under Section 20A-11-1304 shall, in an even year, file an interim report at the following times, regardless of whether an election for the school board office holder's office is held that year:

(i) May 15;

(ii) seven days before the regular primary election date for that year;

(iii) September 30; and

(iv) seven days before the regular general election date.

(2) Each interim report shall include the following information:

(a) the net balance of the last summary report, if any;

(b) a single figure equal to the total amount of receipts reported on all prior interim reports, if any, during the calendar year in which the interim report is due;

(c) a single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;

(d) a detailed listing of each contribution and public service assistance received since the last summary report that has not been reported in detail on a prior interim report;

(e) for each nonmonetary contribution:

(i) the fair market value of the contribution with that information provided by the contributor; and

(ii) a specific description of the contribution;

(f) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;

(g) for each nonmonetary expenditure, the fair market value of the expenditure;

(h) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report;

(i) a summary page in the form required by the lieutenant governor that identifies:

(i) beginning balance;

(ii) total contributions during the period since the last statement;

(iii) total contributions to date;

(iv) total expenditures during the period since the last statement; and

(v) total expenditures to date; and

(j) the name of a political action committee for which the school board office candidate or school board office holder is designated as an officer who has primary decision-making authority under Section 20A-11-601.

~~[(3) (a) For all individual contributions or public service assistance of \$50 or less, a single aggregate figure may be reported without separate detailed listings.]~~

~~[(b) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.]~~

[4] (3) (a) In preparing each interim report, all receipts and expenditures shall be reported as of five days before the required filing date of the report.

(b) Any negotiable instrument or check received by a school board office candidate or school board office holder more than five days before the required filing date of a report required by this section shall be included in the interim report.

CHAPTER 410**H. B. 300**

Passed March 10, 2016
 Approved March 30, 2016
 Effective May 10, 2016

**BODY-WORN CAMERAS FOR
LAW ENFORCEMENT OFFICERS**

Chief Sponsor: Daniel McCay
 Senate Sponsor: Daniel W. Thatcher

LONG TITLE**General Description:**

This bill modifies the Utah Code of Criminal Procedure to address the use of body-worn cameras by law enforcement officers.

Highlighted Provisions:

This bill provides:

- ▶ that a law enforcement agency that uses body-worn cameras worn by law enforcement officers shall have a written policy governing the use of body-worn cameras that meets or exceeds the minimum guidelines provided;
- ▶ minimum guidelines for the activation or use of body-worn cameras; and
- ▶ the prohibited uses of body-worn cameras by law enforcement officers.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-2-201, as last amended by Laws of Utah 2013, Chapter 445

63G-2-302, as last amended by Laws of Utah 2015, Chapters 43 and 130

ENACTS:

77-7a-101, Utah Code Annotated 1953

77-7a-102, Utah Code Annotated 1953

77-7a-103, Utah Code Annotated 1953

77-7a-104, Utah Code Annotated 1953

77-7a-105, Utah Code Annotated 1953

77-7a-106, Utah Code Annotated 1953

77-7a-107, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-2-201 is amended to read:**63G-2-201. Right to inspect records and receive copies of records.**

(1) Every person has the right to inspect a public record free of charge, and the right to take a copy of a public record during normal working hours, subject to Sections 63G-2-203 and 63G-2-204.

(2) A record is public unless otherwise expressly provided by statute.

(3) The following records are not public:

(a) a record that is private, controlled, or protected under Sections 63G-2-302, 63G-2-303, 63G-2-304, and 63G-2-305; and

(b) a record to which access is restricted pursuant to court rule, another state statute, federal statute, or federal regulation, including records for which access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds.

(4) Only a record specified in Section 63G-2-302, 63G-2-303, 63G-2-304, or 63G-2-305 may be classified private, controlled, or protected.

(5) (a) A governmental entity may not disclose a record that is private, controlled, or protected to any person except as provided in Subsection (5)(b), Subsection (5)(c), Section 63G-2-202, 63G-2-206, or 63G-2-303.

(b) A governmental entity may disclose a record that is private under Subsection 63G-2-302(2) or protected under Section 63G-2-305 to persons other than those specified in Section 63G-2-202 or 63G-2-206 if the head of a governmental entity, or a designee, determines that:

(i) there is no interest in restricting access to the record; or

(ii) the interests favoring access are greater than or equal to the interest favoring restriction of access.

(c) In addition to the disclosure under Subsection (5)(b), a governmental entity may disclose a record that is protected under Subsection 63G-2-305(51) if:

(i) the head of the governmental entity, or a designee, determines that the disclosure:

(A) is mutually beneficial to:

(I) the subject of the record;

(II) the governmental entity; and

(III) the public; and

(B) serves a public purpose related to:

(I) public safety; or

(II) consumer protection; and

(ii) the person who receives the record from the governmental entity agrees not to use or allow the use of the record for advertising or solicitation purposes.

(6) (a) The disclosure of a record to which access is governed or limited pursuant to court rule, another state statute, federal statute, or federal regulation, including a record for which access is governed or limited as a condition of participation in a state or federal program or for receiving state or federal funds, is governed by the specific provisions of that statute, rule, or regulation.

(b) This chapter applies to records described in Subsection (6)(a) insofar as this chapter is not inconsistent with the statute, rule, or regulation.

(7) A governmental entity shall provide a person with a certified copy of a record if:

(a) the person requesting the record has a right to inspect it;

(b) the person identifies the record with reasonable specificity; and

(c) the person pays the lawful fees.

(8) (a) In response to a request, a governmental entity is not required to:

(i) create a record;

(ii) compile, format, manipulate, package, summarize, or tailor information;

(iii) provide a record in a particular format, medium, or program not currently maintained by the governmental entity;

(iv) fulfill a person's records request if the request unreasonably duplicates prior records requests from that person; or

(v) fill a person's records request if:

(A) the record requested is accessible in the identical physical form and content in a public publication or product produced by the governmental entity receiving the request;

(B) the governmental entity provides the person requesting the record with the public publication or product; and

(C) the governmental entity specifies where the record can be found in the public publication or product.

(b) Upon request, a governmental entity may provide a record in a particular form under Subsection (8)(a)(ii) or (iii) if:

(i) the governmental entity determines it is able to do so without unreasonably interfering with the governmental entity's duties and responsibilities; and

(ii) the requester agrees to pay the governmental entity for providing the record in the requested form in accordance with Section 63G-2-203.

(9) (a) A governmental entity may allow a person requesting more than 50 pages of records to copy the records if:

(i) the records are contained in files that do not contain records that are exempt from disclosure, or the records may be segregated to remove private, protected, or controlled information from disclosure; and

(ii) the governmental entity provides reasonable safeguards to protect the public from the potential for loss of a public record.

(b) When the requirements of Subsection (9)(a) are met, the governmental entity may:

(i) provide the requester with the facilities for copying the requested records and require that the requester make the copies; or

(ii) allow the requester to provide the requester's own copying facilities and personnel to make the copies at the governmental entity's offices and waive the fees for copying the records.

(10) (a) A governmental entity that owns an intellectual property right and that offers the intellectual property right for sale or license may control by ordinance or policy the duplication and distribution of the material based on terms the governmental entity considers to be in the public interest.

(b) Nothing in this chapter shall be construed to limit or impair the rights or protections granted to the governmental entity under federal copyright or patent law as a result of its ownership of the intellectual property right.

(11) A governmental entity may not use the physical form, electronic or otherwise, in which a record is stored to deny, or unreasonably hinder the rights of a person to inspect and receive a copy of a record under this chapter.

(12) Subject to the requirements of Subsection (8), a governmental entity shall provide access to an electronic copy of a record in lieu of providing access to its paper equivalent if:

(a) the person making the request requests or states a preference for an electronic copy;

(b) the governmental entity currently maintains the record in an electronic format that is reproducible and may be provided without reformatting or conversion; and

(c) the electronic copy of the record:

(i) does not disclose other records that are exempt from disclosure; or

(ii) may be segregated to protect private, protected, or controlled information from disclosure without the undue expenditure of public resources or funds.

(13) In determining whether a record is properly classified as private under Subsection 63G-2-302(2)(d), the governmental entity, State Records Committee, local appeals board, or court shall consider and weigh:

(a) any personal privacy interests, including those in images, that would be affected by disclosure of the records in question; and

(b) any public interests served by disclosure.

Section 2. Section 63G-2-302 is amended to read:

63G-2-302. Private records.

(1) The following records are private:

(a) records concerning an individual's eligibility for unemployment insurance benefits, social

services, welfare benefits, or the determination of benefit levels;

(b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;

(c) records of publicly funded libraries that when examined alone or with other records identify a patron;

(d) records received by or generated by or for:

(i) the Independent Legislative Ethics Commission, except for:

(A) the commission's summary data report that is required under legislative rule; and

(B) any other document that is classified as public under legislative rule; or

(ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;

(e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;

(f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:

(i) if, prior to the meeting, the chair of the committee determines release of the records:

(A) reasonably could be expected to interfere with the investigation undertaken by the committee; or

(B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and

(ii) after the meeting, if the meeting was closed to the public;

(g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;

(h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;

(i) that part of a record indicating a person's social security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

(j) that part of a voter registration record identifying a voter's:

(i) driver license or identification card number;

(ii) Social Security number, or last four digits of the Social Security number;

(iii) email address; or

(iv) date of birth;

(k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-104(4)(f) or 20A-2-101.1(5)(a);

(l) a record that:

(i) contains information about an individual;

(ii) is voluntarily provided by the individual; and

(iii) goes into an electronic database that:

(A) is designated by and administered under the authority of the Chief Information Officer; and

(B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;

(m) information provided to the Commissioner of Insurance under:

(i) Subsection 31A-23a-115(2)(a);

(ii) Subsection 31A-23a-302(3); or

(iii) Subsection 31A-26-210(3);

(n) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

(o) information provided by an offender that is:

(i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap Offender Registry; and

(ii) not required to be made available to the public under Subsection 77-41-110(4);

(p) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;

(q) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;

(r) an email address provided by a military or overseas voter under Section 20A-16-501;

(s) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;

(t) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 11-49-201, except for:

(i) the commission's summary data report that is required in Section 11-49-202; and

(ii) any other document that is classified as public in accordance with Title 11, Chapter 49, Political Subdivisions Ethics Review Commission;

(u) a record described in Subsection 53A-11a-203(3) that verifies that a parent was notified of an incident or threat; and

(v) a criminal background check or credit history report conducted in accordance with Section 63A-3-201.

(2) The following records are private if properly classified by a governmental entity:

(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

(b) records describing an individual's finances, except that the following are public:

(i) records described in Subsection 63G-2-301(2);

(ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or

(iii) records that must be disclosed in accordance with another statute;

(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;

(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it; ~~and~~

(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult[-]; and

(g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:

(i) depict the commission of an alleged crime;

(ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(iv) contain an officer involved critical incident as defined in Section 76-2-408(1)(d); or

(v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.

(3) (a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:

(i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or

(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

Section 3. Section 77-7a-101 is enacted to read:

CHAPTER 7a. LAW ENFORCEMENT USE OF BODY-WORN CAMERAS

77-7a-101. Title.

This chapter is known as "Law Enforcement Use of Body-Worn Cameras."

Section 4. Section 77-7a-102 is enacted to read:

77-7a-102. Body-worn cameras -- Written policies and procedures.

(1) Any law enforcement agency that uses body-worn cameras shall have a written policy governing the use of body-worn cameras that is consistent with the provisions of this chapter.

(2) (a) Any written policy regarding the use of body-worn cameras by a law enforcement agency shall, at a minimum:

(i) comply with and include the requirements in this chapter; and

(ii) address the security, storage, and maintenance of data collected from body-worn cameras.

(b) This chapter does not prohibit a law enforcement agency from adopting body-worn camera policies that are more expansive than the minimum guidelines provided in this chapter.

(3) This chapter does not require an officer to jeopardize the safety of the public, other law enforcement officers, or himself or herself in order to activate or deactivate a body-worn camera.

Section 5. Section 77-7a-103 is enacted to read:

77-7a-103. Definitions.

(1) (a) “Body-worn camera” means a video recording device that is carried by, or worn on the body of, a law enforcement officer and that is capable of recording the operations of the officer.

(b) “Body-worn camera” does not include a dashboard mounted camera or a camera intended to record clandestine investigation activities.

(2) “Law enforcement agency” means any public agency having general police power and charged with making arrests in connection with enforcement of the criminal statutes and ordinances of this state or any political subdivision.

(3) “Law enforcement encounter” means:

(a) an enforcement stop;

(b) a dispatched call;

(c) a field interrogation or interview;

(d) use of force;

(e) execution of a warrant;

(f) a traffic stop, including:

(i) a traffic violation;

(ii) stranded motorist assistance; and

(iii) any crime interdiction stop; or

(g) any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.

Section 6. Section 77-7a-104 is enacted to read:

77-7a-104. Activation and use of body-worn cameras.

(1) An officer using a body-worn camera shall verify that the equipment is properly functioning as is reasonably within the officer’s ability.

(2) An officer shall report any malfunctioning equipment to the officer’s supervisor if:

(a) the body-worn camera issued to the officer is not functioning properly upon initial inspection; or

(b) an officer determines that the officer’s body-worn camera is not functioning properly at any time while the officer is on duty.

(3) An officer shall wear the body-worn camera so that it is clearly visible to the person being recorded.

(4) An officer shall activate the body-worn camera prior to any law enforcement encounter, or as soon as reasonably possible.

(5) An officer shall record in an uninterrupted manner until after the conclusion of a law enforcement encounter, except as an interruption of a recording is allowed under this section.

(6) When going on duty and off duty, an officer who is issued a body-worn camera shall record the

officer’s name, identification number, and the current time and date, unless the information is already available due to the functionality of the body-worn camera.

(7) If a body-worn camera was present during a law enforcement encounter, the officer shall document the presence of the body-worn camera in any report or other official record of a contact.

(8) When a body-worn camera has been activated, the officer may not deactivate the body-worn camera until the officer’s direct participation in the law enforcement encounter is complete, except as provided in Subsection (9).

(9) An officer may deactivate a body-worn camera:

(a) to consult with a supervisor or another officer;

(b) during a significant period of inactivity; and

(c) during a conversation with a sensitive victim of crime, a witness of a crime, or an individual who wishes to report or discuss criminal activity if:

(i) the individual who is the subject of the recording requests that the officer deactivate the officer’s body-worn camera; and

(ii) the officer believes that the value of the information outweighs the value of the potential recording and records the request by the individual to deactivate the body-worn camera.

(10) If an officer deactivates a body-worn camera, the officer shall document the reason for deactivating a body-worn camera in a written report.

Section 7. Section 77-7a-105 is enacted to read:

77-7a-105. Notice and privacy.

(1) When an officer with a body-worn camera enters a private residence, the officer shall give notice, when reasonable under the circumstances, to the occupants of the residence that a body-worn camera is in use either by:

(a) wearing a body-worn camera in a clearly visible manner; or

(b) giving an audible notice that the officer is using a body-worn camera.

(2) An agency shall make the agency’s policies regarding the use of body-worn cameras available to the public, and shall place the policies on the agency’s public website when possible.

Section 8. Section 77-7a-106 is enacted to read:

77-7a-106. Prohibited Activities.

An officer is prohibited from:

(1) using a body-worn camera for personal use;

(2) making a personal copy of a recording created while on duty or acting in an official capacity as a law enforcement officer;

(3) retaining a recording of any activity or information obtained while on duty or acting in an official capacity as a law enforcement officer;

(4) duplicating or distributing a recording except as authorized by the employing law enforcement agency; and

(5) altering or deleting a recording in violation of this chapter.

Section 9. Section 77-7a-107 is enacted to read:

77-7a-107. Retention and release of recordings.

Any recording made by an officer while on duty or acting in the officer's official capacity as a law enforcement officer shall be retained in accordance with applicable federal, state, and local laws.

CHAPTER 411**H. B. 348**

Passed March 10, 2016
Approved March 30, 2016
Effective May 10, 2016

MOUNTAINOUS PLANNING DISTRICT AMENDMENTS

Chief Sponsor: Brad L. Dee
Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies provisions relating to mountainous planning districts.

Highlighted Provisions:

This bill:

- ▶ modifies the procedure for selecting certain members of a planning commission that has jurisdiction over a mountainous planning district;
- ▶ addresses the circumstances under which an area may withdraw from a mountainous planning district; and
- ▶ modifies a repeal date for provisions relating to mountainous planning districts.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17-27a-301, as last amended by Laws of Utah 2015, Chapters 352 and 465
17-27a-901, as enacted by Laws of Utah 2015, Chapter 465
63I-2-217, as enacted by Laws of Utah 2015, Chapter 465 and further amended by Revisor Instructions, Laws of Utah 2015, Chapter 465

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-27a-301 is amended to read:

17-27a-301. Ordinance establishing planning commission required -- Exception -- Ordinance requirements -- Planning advisory area planning commission -- Compensation.

(1) (a) Except as provided in Subsection (1)(b), each county shall enact an ordinance establishing a countywide planning commission for the unincorporated areas of the county not within a planning advisory area.

(b) Subsection (1)(a) does not apply if all of the county is included within any combination of:

- (i) municipalities;
- (ii) planning advisory areas with their own planning commissions; and
- (iii) mountainous planning districts.

(c) (i) Notwithstanding Subsection (1)(a), and except as provided in Subsection (1)(c)(ii), a county that designates a mountainous planning district shall enact an ordinance, subject to Subsection (1)(c)(ii), establishing a planning commission that has jurisdiction over the entire mountainous planning district, including areas of the mountainous planning district that are also located within a municipality or are unincorporated.

(ii) A planning commission described in Subsection (1)(c)(i):

(A) does not have jurisdiction over a municipality described in Subsection 10-9a-304(2)(b); and

(B) has jurisdiction subject to a local health department exercising its authority in accordance with Title 26A, Chapter 1, Local Health Departments and a municipality exercising the municipality's authority in accordance with Section 10-8-15.

(iii) The ordinance shall require that:

(A) members of the planning commission represent areas located in the unincorporated and incorporated county;

(B) members of the planning commission be registered voters who reside either in the unincorporated or incorporated county; ~~and~~

(C) at least one member of the planning commission resides within the mountainous planning district~~[-]; and~~

(D) the county designate up to four seats on the planning commission, and fill each vacancy in the designated seats in accordance with the procedure described in Subsection (7).

(2) (a) The ordinance described in Subsection (1)(a) or (c) shall define:

(i) the number and terms of the members and, if the county chooses, alternate members;

(ii) the mode of appointment;

(iii) the procedures for filling vacancies and removal from office;

(iv) the authority of the planning commission;

(v) subject to Subsection (2)(b), the rules of order and procedure for use by the planning commission in a public meeting; and

(vi) other details relating to the organization and procedures of the planning commission.

(b) Subsection (2)(a)(v) does not affect the planning commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

(3) (a) (i) If the county establishes a planning advisory area planning commission, the county legislative body shall enact an ordinance that defines:

(A) appointment procedures;

(B) procedures for filling vacancies and removing members from office;

(C) subject to Subsection (3)(a)(ii), the rules of order and procedure for use by the planning

advisory area planning commission in a public meeting; and

(D) details relating to the organization and procedures of each planning advisory area planning commission.

(ii) Subsection (3)(a)(i)(C) does not affect the planning advisory area planning commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

(b) The planning commission for each planning advisory area shall consist of seven members who shall be appointed by:

(i) in a county operating under a form of government in which the executive and legislative functions of the governing body are separated, the county executive with the advice and consent of the county legislative body; or

(ii) in a county operating under a form of government in which the executive and legislative functions of the governing body are not separated, the county legislative body.

(c) (i) Members shall serve four-year terms and until their successors are appointed and qualified.

(ii) Notwithstanding the provisions of Subsection (3)(c)(i), members of the first planning commissions shall be appointed so that, for each commission, the terms of at least one member and no more than two members expire each year.

(d) (i) Each member of a planning advisory area planning commission shall be a registered voter residing within the planning advisory area.

(ii) Subsection (3)(d)(i) does not apply to a member described in Subsection (4)(a) if that member was, prior to May 12, 2015, authorized to reside outside of the planning advisory area.

(4) (a) A member of a planning commission who was elected to and served on a planning commission on May 12, 2015, shall serve out the term to which the member was elected.

(b) Upon the expiration of an elected term described in Subsection (4)(a), the vacant seat shall be filled by appointment in accordance with this section.

(5) Upon the appointment of all members of a planning advisory area planning commission, each planning advisory area planning commission under this section shall begin to exercise the powers and perform the duties provided in Section 17-27a-302 with respect to all matters then pending that previously had been under the jurisdiction of the countywide planning commission or planning advisory area planning and zoning board.

(6) The legislative body may fix per diem compensation for the members of the planning commission, based on necessary and reasonable expenses and on meetings actually attended.

(7) (a) Subject to Subsection (7)(f), a county shall fill a vacancy in a planning commission seat

described in Subsection (1)(c)(iii)(D) in accordance with this Subsection (7).

(b) If a county designates one or more planning commission seats under Subsection (1)(c)(iii)(D), the county shall identify at least one and up to four cities that:

(i) (A) are adjacent to the mountainous planning district; and

(B) border the entrance to a canyon that is located within the boundaries of the mountainous planning district and accessed by a paved road maintained by the county or the state; or

(ii) exercise extraterritorial jurisdiction in accordance with Section 10-8-15.

(c) When there is a vacancy in a planning commission seat described in Subsection (1)(c)(iii)(D), the county shall send a written request to one of the cities described in Subsection (7)(b), on a rotating basis, if applicable, for a list of three individuals, who satisfy the requirements described in Subsection (1)(c)(iii)(B), to fill the vacancy.

(d) The city shall respond to a written request described in Subsection (7)(c) within 60 days after the day on which the city receives the written request.

(e) After the county receives the city's list of three individuals, the county shall submit one of the individuals on the list for appointment to the vacant planning commission seat in accordance with county ordinance.

(f) The county shall fill the vacancy in accordance with the county's standard procedure if the city fails to timely respond to the written request.

Section 2. Section 17-27a-901 is amended to read:

17-27a-901. Mountainous planning district.

(1) (a) The legislative body of a county of the first class may adopt an ordinance designating an area located within the county as a mountainous planning district if the legislative body determines that:

(i) the area is primarily used for recreational purposes, including canyons, foothills, ski resorts, wilderness areas, lakes and reservoirs, campgrounds, or picnic areas;

(ii) the area is used by residents of the county who live inside and outside the limits of a municipality;

(iii) the total resident population in the proposed mountainous planning district is equal to or less than 5% of the population of the county; and

(iv) the area is within the unincorporated area of the county or was within the unincorporated area of the county before May 12, 2015.

(b) (i) A mountainous planning district may include within its boundaries a municipality, whether in whole or in part.

(ii) ~~Except as provided in Subsection (1)(b)(iv), if a mountainous planning district includes within~~

its boundaries an unincorporated area, and that area subsequently incorporates as a municipality:

(A) the area of the incorporated municipality that is located in the mountainous planning district is included within the mountainous planning district boundaries; and

(B) property within the municipality that is also within the mountainous planning district is subject to the authority of the mountainous planning district.

(iii) A subdivision and zoning ordinance that governs property located within a mountainous planning district shall control over any subdivision or zoning ordinance, as applicable, that a municipality may adopt.

(iv) A county shall allow an area within the boundaries of a mountainous planning district to withdraw from the mountainous planning district if:

(A) the area contains less than 100 acres;

(B) the area is annexed to a city in accordance with Title 10, Chapter 2, Part 4, Annexation;

(C) the county determines that the area does not contain United States Forest Service land or land that is designated as watershed; and

(D) the county determines that the area is not used by individuals for recreational purposes.

(v) An area described in Subsection (1)(b)(iv) that withdraws from a mountainous planning district is not subject to the authority of the mountainous planning district.

(c) The population figure under Subsection (1)(a)(iii) shall be derived from a population estimate by the Utah Population Estimates Committee.

(d) If any portion of a proposed mountainous planning district includes a municipality with a land base of five square miles or less, the county shall ensure that all of that municipality is wholly located within the boundaries of the mountainous planning district.

(2) (a) Notwithstanding Subsection 10-9a-102(2), 17-34-1(2)(a), or 17-50-302(1)(b), or Section 17-50-314, a county may adopt a general plan and adopt a zoning or subdivision ordinance for a property that is located within:

(i) a mountainous planning district; and

(ii) a municipality.

(b) A county plan or zoning or subdivision ordinance governs a property described in Subsection (2)(a).

Section 3. Section 63I-2-217 is amended to read:

63I-2-217. Repeal dates -- Title 17.

(1) Subsection 17-8-7(2), the language that states "Sections 17-19-1 to 17-19-28 and" and "as applicable," is repealed January 1, 2015.

(2) Section 17-15-30 is repealed July 1, 2015.

(3) Title 17, Chapter 19, County Auditor, is repealed January 1, 2015.

(4) Subsection 17-24-1(4)(b), the language that states "as applicable, Sections 17-19-1, 17-19-3, and 17-19-5 or" is repealed January 1, 2015.

(5) Subsection 17-24-4(2), the language that states "as applicable, Subsection 17-19-3(3)(b) or" is repealed January 1, 2015.

(6) Subsection 17-27a-102(1)(b), the language that states "or a designated mountainous planning district" is repealed June 1, [2016] 2017.

(7) (a) Subsection 17-27a-103(15)(b) is repealed June 1, [2016] 2017.

(b) Subsection 17-27a-103(34) is repealed June 1, [2016] 2017.

(8) Subsection 17-27a-210(2)(a), the language that states "or the mountainous planning district area" is repealed June 1, [2016] 2017.

(9) (a) Subsection 17-27a-301(1)(b)(iii) is repealed June 1, [2016] 2017.

(b) Subsection 17-27a-301(1)(c) is repealed June 1, [2016] 2017.

(c) Subsection 17-27a-301(2)(a), the language that states "described in Subsection (1)(a) or (c)" is repealed June 1, [2016] 2017.

(10) Subsection 17-27a-302(1), the language that states "or mountainous planning district" and "or the mountainous planning district," is repealed June 1, [2016] 2017.

(11) Subsection 17-27a-305(1)(a), the language that states "a mountainous planning district or" and "as applicable" is repealed June 1, [2016] 2017.

(12) (a) Subsection 17-27a-401(1)(b)(ii) is repealed June 1, [2016] 2017.

(b) Subsection 17-27a-401(6) is repealed June 1, [2016] 2017.

(13) (a) Subsection 17-27a-403(1)(b)(ii) is repealed June 1, [2016] 2017.

(b) Subsection 17-27a-403(1)(c)(iii) is repealed June 1, [2016] 2017.

(c) Subsection (2)(a)(iii), the language that states "or the mountainous planning district" is repealed June 1, [2016] 2017.

(d) Subsection 17-27a-403(2)(c)(i), the language that states "or mountainous planning district" is repealed June 1, [2016] 2017.

(14) Subsection 17-27a-502(1)(d)(i)(B) is repealed June 1, [2016] 2017.

(15) Subsection 17-27a-505.5(2)(a)(iii) is repealed June 1, [2016] 2017.

(16) Subsection 17-27a-602(1)(b), the language that states "or, in the case of a mountainous

planning district, the mountainous planning district” is repealed June 1, [2016] 2017.

(17) Subsection 17-27a-604(1)(b)(i)(B) is repealed June 1, [2016] 2017.

(18) Subsection 17-27a-605(1), the language that states “or mountainous planning district land” is repealed June 1, [2016] 2017.

(19) Title 17, Chapter 27a, Part 9, Mountainous Planning District, is repealed June 1, [2016] 2017.

(20) (a) Subsection 17-36-3(5)(a), the language that states “for a county of the second, third, fourth, fifth, or sixth class, the county auditor, county clerk, or county executive as provided in Subsection 17-19-19(1); or” is repealed January 1, 2015.

(b) Subsection 17-36-3(5)(b), the language that states “for a county of the first class,” is repealed January 1, 2015.

(c) Subsection 17-36-3(7), the language that states “17-19-3,” and “, or 17-24-4, as applicable” is repealed January 1, 2015.

(21) Subsection 17-36-9(1)(a)(iii), the language that states “17-36-10.1, as applicable, or” is repealed January 1, 2015.

(22) Subsection 17-36-10(1), the language that states the following is repealed January 1, 2015:

“(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.”

(23) Section 17-36-10.1 is repealed January 1, 2015.

(24) Subsection 17-36-11(1), the language that states the following is repealed January 1, 2015:

“(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.”

(25) Section 17-36-11.1 is repealed January 1, 2015.

(26) Subsection 17-36-15(1), the language that states the following is repealed January 1, 2015:

“(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.”

(27) Section 17-36-15.1 is repealed January 1, 2015.

(28) Subsection 17-36-20(1), the language that states the following is repealed January 1, 2015:

“(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.”

(29) Section 17-36-20.1 is repealed January 1, 2015.

(30) Subsection 17-36-32(4), the language that states “or 17-36-20.1, as applicable, and” is repealed January 1, 2015.

(31) Subsection 17-36-43(1), the language that states the following is repealed January 1, 2015:

“(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.”

(32) Section 17-36-43.1 is repealed January 1, 2015.

(33) Section 17-36-44, the language that states “or 17-36-43.1, as applicable” is repealed January 1, 2015.

(34) Subsection 17-50-401(1), the language that states the following is repealed January 1, 2015:

“(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.”

(35) Section 17-50-401.1 is repealed January 1, 2015.

(36) Subsection 17-52-101(2), the language that states “or 17-52-401.1, as applicable” is repealed January 1, 2015.

(37) Subsection 17-52-401(1), the language that states the following is repealed January 1, 2015:

“(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.”

(38) Section 17-52-401.1 is repealed January 1, 2015.

(39) Subsection 17-52-403(1)(a), the language that states “or 17-52-401.1(2)(c), as applicable” is repealed January 1, 2015.

(40) On January 1, 2015, when making the changes in this section, the Office of Legislative Research and General Counsel shall:

(a) in addition to its authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this

section are complete sentences and accurately reflect the office's perception of the Legislature's intent; and

(b) identify the text of the affected sections and subsections based upon the section and subsection numbers used in Laws of Utah 2012, Chapter 17.

(41) On June 1, 2016, when making the changes in this section, the Office of Legislative Research and General Counsel shall:

(a) in addition to its authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent; and

(b) identify the text of the affected sections and subsections based upon the section and subsection numbers used in Laws of Utah 2015, Chapter 465.

CHAPTER 412**H. B. 355**

Passed March 9, 2016

Approved March 30, 2016

Effective May 10, 2016

PEACE OFFICER SITUATIONAL TRAINING

Chief Sponsor: Francis D. Gibson
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies the Utah Code regarding the functions of the state attorney general.

Highlighted Provisions:

This bill:

- ▶ authorizes the attorney general to establish a training center and provide resources regarding law enforcement use of force;
- ▶ provides that the attorney general will make available statewide training and informational materials regarding the use of force by law enforcement officers; and
- ▶ authorizes the attorney general to employ the necessary staff for the training center.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

67-5-34, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 67-5-34 is enacted to read:**67-5-34. Lawful use of force -- Training program.**

(1) (a) The attorney general is authorized to administer and coordinate the provision of legal and practical training for law enforcement officers in the state regarding the constitutional and lawful use of force, including:

(i) best practices in reducing law enforcement officer use of force; and

(ii) legal foundations and limitations on law enforcement officer authority under Section 76-2-404, the Utah Constitution or laws of the state, and the United States Constitution or laws of the United States.

(b) Under Subsection (1)(a), the attorney general may create a training center and provide:

(i) technology integrating legal training on the use of force by law enforcement officers;

(ii) best practices regarding law enforcement officer response to threatening situations; and

(iii) law enforcement officer tactical training, including:

(A) virtual reality simulator training;

(B) investigation of a use of force incident; and

(C) legal documentation of use of force.

(2) (a) The attorney general shall make available statewide legal and practical training for law enforcement officers in the state and informational materials regarding law enforcement officer use of force and related subjects.

(b) The training and informational materials shall include programs and information specifically designed to address:

(i) pre-escalation recognition of potential resistance and law enforcement officer response options that do not involve force;

(ii) decision-making skills regarding use of force;

(iii) management of law enforcement officer stress during threatening situations;

(iv) tactical disengagement;

(v) sanctity and preservation of life;

(vi) investigating and critiquing a law enforcement officer incident of use of force; and

(vii) the legal foundations and limitations on law enforcement officer authority under the Utah Constitution or laws of the state and the United States Constitution or laws of the United States.

(c) The attorney general shall work with state and local agencies to ensure the most effective use of resources in providing training for law enforcement officers throughout the state.

(3) The attorney general may employ staff necessary to implement the training center created under this section.

CHAPTER 413**H. B. 439**

Passed March 10, 2016
 Approved March 30, 2016
 Effective May 10, 2016

**RETIREMENT AMENDMENTS
FOR FELONY CONVICTION**

Chief Sponsor: Daniel McCay
 Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending provisions for receiving retirement benefits.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that a member shall forfeit certain retirement benefits under a system or plan administered by the Utah State Retirement Board if the member is convicted of certain employment related offenses;
- ▶ provides for notifications to the Utah State Retirement Office;
- ▶ provides for certain determinations by a participating employer on whether the member's conviction is for an employment related offense;
- ▶ provides an appeals process;
- ▶ provides for certain rulemaking; and
- ▶ provides a severability clause.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

49-11-1201, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 49-11-1201 is enacted to read:**49-11-1201. Forfeiture of retirement benefits for employees for employment related offense convictions -- Notifications -- Investigations -- Appeals.**

(1) As used in this section:

(a) "Convicted" means a conviction by plea or by verdict, including a plea of guilty or a plea of no contest that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, regardless of whether the charge was, or is, subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) "Employee" means a member of a system or plan administered by the board.

(c) "Employment related offense" means a felony committed during employment or the term of an

elected or appointed office with a participating employer that is:

(i) during the performance of the employee's duties;

(ii) within the scope of the employee's employment; or

(iii) under color of the employee's authority.

(2) (a) Notwithstanding any other provision of this title, an employee shall forfeit accrual of service credit, employer retirement related contributions, including employer contributions to the employer sponsored defined contribution plans, or other retirement related benefits from a system or plan under this title in accordance with this section.

(b) The forfeiture of retirement related benefits under Subsection (2)(a) does not include the employee's contribution to a defined contribution plan.

(3) An employee shall forfeit the benefits described under Subsection (2)(a):

(a) if the employee is convicted of an employment related offense;

(b) beginning on the day on which the employment related offense occurred; and

(c) until the employee is either:

(i) re-elected or reappointed to office; or

(ii) (A) terminated from the position for which the employee was found to have committed an employment related offense; and

(B) rehired or hired as an employee who is eligible to be a member of a Utah state retirement system or plan.

(4) The employee's participating employer shall:

(a) immediately notify the office:

(i) if an employee is charged with an offense that is or may be an employment related offense under this section; and

(ii) if the employee described in Subsection (4)(a)(i) is acquitted of the offense that is or may be an employment related offense under this section; and

(b) if the employee is convicted of an offense that may be an employment related offense:

(i) conduct an investigation, which may rely on the conviction, to determine:

(A) whether the conviction is for an employment related offense; and

(B) the date on which the employment related offense was initially committed; and

(ii) after the period of time for an appeal by an employee under Subsection (5), immediately notify the office of the employer's determination under this Subsection (4)(b).

(5) An employee may appeal the employee's participating employer's determination under

Subsection (4)(b) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(6) Upon receiving a notification from a participating employer that the participating employer has made a determination under Subsection (4)(b) that the conviction was for an employment related offense, the office shall immediately forfeit any service credit, employer retirement related contributions, including employer contributions to the employer sponsored contribution plans, or other retirement related benefits accrued by or made for the benefit of the employee, beginning on the date of the initial employment related offense determined under Subsection (4)(b).

(7) This section applies to an employee who is convicted on or after the effective date of this act for an employment related offense.

(8) The board may make rules to implement this section.

(9) If any provision of this section, or the application of any provision to any person or circumstance, is held invalid, the remainder of this section shall be given effect without the invalid provision or application.

CHAPTER 414**H. B. 471**

Passed March 10, 2016
Approved March 30, 2016
Effective May 10, 2016

**POWERSPORT VEHICLE
FRANCHISE AMENDMENTS**

Chief Sponsor: Mike Schultz
Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill amends provisions related to powersport vehicle franchises.

Highlighted Provisions:

This bill:

- ▶ amends definitions; and
- ▶ amends provisions related to the relocation of a powersport vehicle franchise.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

13-35-102, as last amended by Laws of Utah 2007, Chapter 86
13-35-302, as last amended by Laws of Utah 2005, Chapter 268

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-35-102 is amended to read:**13-35-102. Definitions.**

As used in this chapter:

(1) "Advisory board" or "board" means the Utah Powersport Vehicle Franchise Advisory Board created in Section 13-35-103.

(2) "Dealership" means a site or location in this state:

(a) at which a franchisee conducts the business of a new powersport vehicle dealer; and

(b) that is identified as a new powersport vehicle dealer's principal place of business for registration purposes under Section 13-35-105.

(3) "Department" means the Department of Commerce.

(4) "Executive director" means the executive director of the Department of Commerce.

(5) "Franchise" or "franchise agreement" means a written agreement, for a definite or indefinite period, in which:

(a) a person grants to another person a license to use a trade name, trademark, service mark, or related characteristic; and

(b) a community of interest exists in the marketing of new powersport vehicles, new powersport vehicle parts, and services related to the sale or lease of new powersport vehicles at wholesale or retail.

(6) "Franchisee" means a person with whom a franchisor has agreed or permitted, in writing or in practice, to purchase, sell, or offer for sale new powersport vehicles manufactured, produced, represented, or distributed by the franchisor.

(7) (a) "Franchisor" means a person who has, in writing or in practice, agreed with or permits a franchisee to purchase, sell, or offer for sale new powersport vehicles manufactured, produced, represented, or distributed by the franchisor, and includes:

(i) the manufacturer or distributor of the new powersport vehicles;

(ii) an intermediate distributor;

(iii) an agent, officer, or field or area representative of the franchisor; and

(iv) a person who is affiliated with a manufacturer or a representative or who directly or indirectly through an intermediary is controlled by, or is under common control with the manufacturer.

(b) For purposes of Subsection (7)(a)(iv), a person is controlled by a manufacturer if the manufacturer has the authority directly or indirectly by law or by an agreement of the parties, to direct or influence the management and policies of the person.

(8) "Lead" means the referral by a franchisor to a franchisee of an actual or potential customer for the purchase or lease of a new powersport vehicle, or for service work related to the franchisor's vehicles.

(9) "Line-make" means the powersport vehicles that are offered for sale, lease, or distribution under a common name, trademark, service mark, or brand name of the franchisor, or manufacturer of the powersport vehicle.

~~(41)~~ (10) "New powersport vehicle dealer" means a person who is engaged in the business of buying, selling, offering for sale, or exchanging new powersport vehicles either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise who has established a place of business for the sale, lease, trade, or display of powersport vehicles.

~~(42)~~ (11) "Notice" or "notify" includes both traditional written communications and all reliable forms of electronic communication unless expressly prohibited by statute or rule.

~~(40)~~ (12) (a) "Powersport vehicle" means:

(i) an all-terrain type I or type II vehicle "ATV" defined in Section 41-22-2;

(ii) a snowmobile as defined in Section 41-22-2;

(iii) a motorcycle as defined in Section 41-1a-102;

(iv) a personal watercraft as defined in Section 73-18-2;

(v) except as provided in Subsection (10)(b), a motor-driven cycle as defined in Section 41-6a-102; or

(vi) a moped as defined in Section 41-6a-102.

(b) "Powersport vehicle" does not include:

(i) an electric assisted bicycle defined in Section 41-6a-102;

(ii) a motor assisted scooter as defined in Section 41-6a-102; or

(iii) an electric personal assistive mobility device as defined in Section 41-6a-102.

(13) "Relevant market area" means:

(a) for a powersport dealership in a county that has a population of less than 225,000:

~~[(a)]~~ (i) the county in which [a] the powersport dealership exists or is to be established or relocated; and

~~[(b)]~~ (ii) in addition to the county described in Subsection (13)(a)(i), the area within a 15-mile radius from the site of the existing, new, or relocated dealership[-]; or

(b) for a powersport dealership in a county that has a population of 225,000 or more, the area within a 10-mile radius from the site of the existing, new, or relocated dealership.

(14) "Sale, transfer, or assignment" means any disposition of a franchise or an interest in a franchise, with or without consideration, including a bequest, inheritance, gift, exchange, lease, or license.

(15) "Serve" or "served," unless expressly indicated otherwise by statute or rule, includes any reliable form of communication.

(16) "Written," "write," "in writing," or other variations of those terms shall include all reliable forms of electronic communication.

Section 2. Section 13-35-302 is amended to read:

13-35-302. Issuance of additional franchises -- Relocation of existing franchisees.

(1) (a) Except as provided in Subsection (2), a franchisor shall comply with Subsection (1)(b) if the franchisor seeks to:

(i) enter into a franchise establishing a powersport vehicle dealership within a relevant market area where the same line-make is represented by another franchisee; or

(ii) relocate an existing powersport vehicle dealership.

(b) (i) If a franchisor seeks to take an action listed in Subsection (1)(a), prior to taking the action, the franchisor shall in writing notify the advisory board and each franchisee in that line-make in the relevant market area that the franchisor intends to take an action described in Subsection (1)(a).

(ii) The notice required by Subsection (1)(b)(i) shall:

(A) specify the good cause on which it intends to rely for the action; and

(B) be delivered by registered or certified mail or by any form of reliable delivery through which receipt is verifiable.

(c) Within 45 days of receiving notice required by Subsection (1)(b), any franchisee that is required to receive notice under Subsection (1)(b) may protest to the advisory board the establishing or relocating of the dealership. When a protest is filed, the department shall inform the franchisor that:

(i) a timely protest has been filed;

(ii) a hearing is required;

(iii) the franchisor may not establish or relocate the proposed dealership until the advisory board has held a hearing; and

(iv) the franchisor may not establish or relocate a proposed dealership if the executive director determines that there is not good cause for permitting the establishment or relocation of the dealership.

(d) If multiple protests are filed under Subsection (1)(c), hearings may be consolidated to expedite the disposition of the issue.

(2) Subsection (1) does not apply to ~~[a relocation that is: (a) less than one mile from the existing location of the franchisee's dealership; and (b) within the same county;]~~ the relocation of a franchisee's dealership:

(a) less than two miles from the existing location of the franchisee's dealership; or

(b) farther away from all powersport dealerships that are:

(i) of the same line-make as the franchisee's dealership; and

(ii) in the franchisee's existing dealership's relevant market area.

(3) For purposes of this section:

(a) relocation of an existing franchisee's dealership in excess of one mile from its existing location is considered the establishment of an additional franchise in the line-make of the relocating franchise;

(b) the reopening in a relevant market area of a dealership that has not been in operation for one year or more is considered the establishment of an additional powersport vehicle dealership; and

(c) (i) except as provided in Subsection (3)(c)(ii), the establishment of a temporary additional place of business by a powersport vehicle franchisee is considered the establishment of an additional powersport vehicle dealership; and

(ii) the establishment of a temporary additional place of business by a powersport vehicle franchisee is not considered the establishment of an additional

powersport vehicle dealership if the powersport vehicle franchisee is participating in a trade show where three or more powersport vehicle dealers are participating.

CHAPTER 415**S. B. 2**

Passed March 8, 2016
 Approved March 30, 2016
 Effective March 30, 2016
 (Exception clause in Section 4)
 (Line Item 6 vetoed)

**PUBLIC EDUCATION
 BUDGET AMENDMENTS**

Chief Sponsor: Lyle W. Hillyard
 House Sponsor: Dean Sanpei

LONG TITLE**General Description:**

This bill supplements or reduces appropriations previously provided for school districts, charter schools, and certain state education agencies for the fiscal year beginning July 1, 2015, and ending June 30, 2016, and for the fiscal year beginning July 1, 2016, and ending June 30, 2017.

Highlighted Provisions:

This bill:

- ▶ amends provisions regarding funding for the Centennial Scholarship Program;
- ▶ provides appropriations for the use and support of school districts, charter schools, and state education agencies;
- ▶ sets the value of the weighted pupil unit at \$3,184 for fiscal year 2017;
- ▶ modifies the guarantee for the voted and board leeway programs;
- ▶ provides appropriations for other purposes as described; and
- ▶ provides intent language.

Monies Appropriated in this Bill:

This bill appropriates \$3,978,400 in operating and capital budgets for fiscal year 2016, including:

- ▶ (\$5,000,000) from the Uniform School Fund;
- ▶ \$8,713,400 from the Education Fund; and
- ▶ \$265,000 from various sources as detailed in this bill.
- ▶ This bill appropriates \$273,857,100 in operating and capital budgets for fiscal year 2017, including:
 - ▶ (\$4,000,000) from the Uniform School Fund;
 - ▶ \$199,775,900 from the Education Fund; and
 - ▶ \$78,081,200 from various sources as detailed in this bill.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

53A-15-102, as last amended by Laws of Utah 1995, Chapter 96

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-15-102 is amended to read:

53A-15-102. Early graduation incentives -- Incentive to school district -- Partial

tuition scholarship for student -- Payments.

(1) Any secondary public school student who has completed all required courses or demonstrated mastery of required skills and competencies may, with the approval of the student, the student's parent or guardian, and an authorized local school official, graduate at any time.

(2) Each public high school shall receive an amount equal to 1/2 of the scholarship awarded to each student who graduates from the school at or prior to the conclusion of the eleventh grade, or a proportionately lesser amount for any student who graduates after the conclusion of the eleventh grade but prior to the conclusion of the twelfth grade.

(3) (a) A student who graduates from high school at or prior to the conclusion of the eleventh grade shall receive a centennial scholarship in the lesser amount of full tuition for one year or \$1,000 to be used for full time enrollment at a Utah public college, university, community college, applied technology center, or any other institution in the state of Utah, accredited by the Northwest Association of Schools and Colleges that offers postsecondary courses of the student's choice upon verification that the student has registered at the institution during the fiscal year following graduation from high school.

(b) In the case of a student who graduates after the conclusion of the eleventh grade but prior to the conclusion of the twelfth grade, the student shall receive a centennial scholarship of a proportionately lesser amount.

(4) (a) The payments authorized in Subsections (2) and (3)(a) shall be made during the fiscal year that follows the student's graduation.

(b) The payments authorized in Subsection (3)(b) may be made during the fiscal year in which the student graduates or the fiscal year following the student's graduation.

(5) (a) The State Board of Education shall administer the payment program authorized in Subsections (2), (3), and (4).

(b) [(i)] The Legislature shall make an annual appropriation from the [Uniform School] Education Fund to the State Board of Education for the costs associated with the Centennial Scholarship Program based on the projected number of students who will graduate before the conclusion of the twelfth grade in any given year.

[(ii) It is understood that the appropriation is offset by the state money that would otherwise be required and appropriated for these students if they were enrolled in an additional grade for a full year.]

Section 2. Operating and capital budgets -- FY 2016 appropriations for state education agencies, school districts, and charter schools.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated

from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or amounts indicated. These sums of money are in addition to amounts previously appropriated for fiscal year 2016.

State Board of Education - Minimum School Program

Item 1 To State Board of Education - Minimum School Program - Basic School Program

From Uniform School Fund, One-time (5,000,000)

From Education Fund, One-time 5,000,000

Item 2 To State Board of Education - Minimum School Program - Related to Basic School Programs

From Education Fund, One-time 3,713,400

Schedule of Programs:

Educator Salary Adjustments 3,713,400

State Board of Education

Item 3 To State Board of Education - Educator Licensing Professional Practices

From Professional Practices Restricted Subfund, One-time 265,000

Schedule of Programs:

Educator Licensing 265,000

Section 3. Operating and capital budgets -- FY 2017 appropriations for state education agencies, school districts, and charter schools -- Value of the weighted pupil unit.

(1) Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or amounts indicated. These sums of money are in addition to amounts previously appropriated for fiscal year 2017.

(2) The value of each weighted pupil unit (WPU) for fiscal year 2017 is increased from the value of the WPU for fiscal year 2017 established in H.B. 1, Public Education Base Budget Amendments, and set at \$3,184.

State Board of Education - Minimum School Program

Item 1 To State Board of Education - Minimum School Program - Basic School Program

From Uniform School Fund (4,000,000)

From Education Fund 146,569,000

From Local Revenue 12,094,500

Schedule of Programs:

Kindergarten (-790 WPUs) 90,000

Grades 1 - 12 (13,570 WPUs) 94,986,700

Foreign Exchange (328 WPUs) 1,044,400

Necessarily Existent Small Schools 860,900

Professional Staff (1,826 WPUs) 10,759,100

Administrative Costs (-15 WPUs) 90,700

Special Education - Add-on (2,380 WPUs) 33,649,400

Special Education - Preschool (360 WPUs) 2,055,000

Special Education - Self-contained (15 WPUs) 1,328,900

Special Education - Extended School Year 39,400

Special Education - State Programs (-3,258 WPUs) (10,073,700)

Special Education - Impact Aid (2,016 WPUs) 6,418,900

Special Education - Intensive Services (397 WPUs) 1,264,000

Special Education - Extended Year for Special Educators (909 WPUs) 2,894,300

Career and Technical Education - Add-on (-2,045 WPUs) 3,928,300

Class Size Reduction (533 WPUs) 5,327,200

Item 2 To State Board of Education - Minimum School Program - Related to Basic School Programs

From Education Fund9, 781,500

From Education Fund, One-time 9,825,000

From Interest and Dividends Account 5,270,000

Schedule of Programs:

To and From School - Pupil Transportation 3,435,100

Flexible Allocation - WPU Distribution (18,118,600)

Enhancement for At-Risk Students 858,500

Youth in Custody 530,500

Adult Education 260,500

Enhancement for Accelerated Students 206,500

Centennial Scholarship Program 250,000

Concurrent Enrollment 442,500

School LAND Trust Program 5,270,000

Charter School Local Replacement 14,809,800

Charter School Administration 722,700

Educator Salary Adjustments 3,713,400

Critical Languages and Dual Immersion (209,400)

Teacher Supplies and Materials 6,000,000

Beverly Taylor Sorenson Elementary Arts 5,630,000

Civics Education - State Capitol Field Trips 75,000

Special Education - Intensive Services	1,000,000
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The Legislature intends that the State Board of Education recommend in the 2017 General Session a distribution mechanism for the Teacher Supplies and Materials appropriation that considers different cost structures for individual teacher needs and experience levels.

Item 3 To State Board of Education - Minimum School Program - Voted and Board Local Levy Programs

From Education Fund	23,896,800
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From Local Revenue	23,186,600
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Schedule of Programs:

Voted Local Levy Program	35,055,100
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Board Local Levy Program	12,028,300
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State Board of Education

Item 4 To State Board of Education - State Office of Education

From Education Fund	1,682,200
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From Education Fund, One-time	560,000
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From Interest and Dividends Account, One-time	50,000
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Schedule of Programs:

Board and Administration	1,682,200
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Business Services	(750,000)
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School Trust	50,000
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Teaching and Learning	160,000
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Statewide Online Education Program	1,150,000
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The Legislature intends that the State Board of Education study the division of the board's office functions between regulatory functions to execute state or federal provisions and service functions to support local education agencies. This study shall include an evaluation of which service functions could be passed on to local education agencies, regional service centers, or provided by the state for a fee and service that should remain on a state level. The Legislature further intends that the State Board of Education take up to two years to complete this study and report to the Education Interim Committee and the Public Education Appropriations Subcommittee, making a preliminary report by November 2016 and a final report by November 2017. The final report shall include recommendations on statutory changes required to implement State Board of Education recommendations contained within the report.

The Legislature intends that the State Board of Education use any nonlapsing balances generated from the licensing to other states of Student Assessment of Growth and Excellence (SAGE) questions to develop additional assessment questions, provide professional learning for Utah educators, and for risk mitigation expenditures.

The Legislature intends that the State Board of Education use \$160,000 one-time of the funds appropriated to provide Dropout Prevention Program grants selected through a request for proposals process. The Legislature further intends that the State Board of Education select two providers to award program grants, with one program conducting a character development-based curriculum and one program conducting a campus-based program that utilizes project-based instruction.

Item 5 To State Board of Education - MSP Categorical Program Administration

From Education Fund	1,442,500
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Schedule of Programs:

CTE Comprehensive Guidance	182,700
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Enhancement for At-Risk Students	304,800
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Youth-in-Custody	419,500
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Adult Education	206,100
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Dual Immersion	209,400
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Beverly Taylor Sorenson Arts Learning Program	120,000
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Item 6 To State Board of Education - Utah State Office of Education - Initiative Programs

From Education Fund	998,900
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From Education Fund, One-time	3,775,000
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Schedule of Programs:

Electronic High School	(1,001,100)
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Upstart Early Childhood Education	1,500,000
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ProStart Culinary Arts Program	275,000
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Electronic Elementary Reading Tool	500,000
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Early Intervention	3,000,000
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IT Academy	500,000
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The Legislature intends that the Department of Workforce Services (DWS) authorize Temporary Assistance for Needy Families (TANF) funds for one year for the UPSTART program (\$500,000). This TANF funding is dependent upon availability of TANF funding and expenditures meeting the necessary requirements to qualify for the federal TANF program. The Legislature further intends that DWS report to the Office of the Legislative Fiscal Analyst no later than September 1, 2016, regarding the status of these efforts.

Item 7 To State Board of Education - Educator Licensing Professional Practices

From Professional Practices Restricted Subfund	265,000
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Schedule of Programs:

Educator Licensing	265,000
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Item 8 To State Board of Education - State Office of Education - Child Nutrition

From Federal Funds	37,215,100
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Schedule of Programs:	
Child Nutrition	37,215,100
Item 9 To State Board of Education - Fine Arts Outreach	
From Education Fund	500,000
From Education Fund, One-time	125,000
Schedule of Programs:	
Professional Outreach Programs	500,000
Provisional Program	125,000
Item 10 To State Board of Education - Utah Schools for the Deaf and the Blind	
From Education Fund	300,000
From Education Fund, One-time	320,000
Schedule of Programs:	
Educational Services	300,000
Support Services	320,000

Section 4. Effective date.

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, Uncodified Section 2, Operating and capital budgets -- FY 2016 appropriations for state education agencies, school districts, and charter schools, takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) The following sections take effect on July 1, 2016:

(a) Section 53A-15-102; and

(b) Uncodified Section 3, Operating and capital budgets -- FY 2017 appropriations for state education agencies, school districts, and charter schools -- Value of the weighted pupil unit.

CHAPTER 416
S. B. 3

Passed March 8, 2016
Approved March 30, 2016
Effective March 30, 2016

CURRENT FISCAL YEAR
SUPPLEMENTAL APPROPRIATIONS

Chief Sponsor: Lyle W. Hillyard
House Sponsor: Dean Sanpei

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the use and operation of state government for the fiscal year beginning July 1, 2015 and ending June 30, 2016.

Highlighted Provisions:

This bill:

- ▶ provides appropriations for the use and support of higher education and certain state agencies;
- ▶ provides appropriations for other purposes as described; and
- ▶ provides intent language.

Money Appropriated in this Bill:

This bill appropriates \$85,537,800 in operating and capital budgets for fiscal year 2016, including:

- ▶ (\$101,194,400) from the General Fund;
- ▶ \$124,764,900 from the Education Fund;
- ▶ \$61,967,300 from various sources as detailed in this bill.

This bill appropriates \$5,651,100 in business-like activities for fiscal year 2016, including:

- ▶ \$5,500,000 from the General Fund;
- ▶ \$151,100 from various sources as detailed in this bill.

This bill appropriates \$347,600 in restricted fund and account transfers for fiscal year 2016, all of which is from the General Fund.

This bill appropriates \$9,735,000 in transfers to unrestricted funds for fiscal year 2016.

Other Special Clauses:

This bill takes effect immediately.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2016 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2015 and ending June 30, 2016. These are additions to amounts previously appropriated for fiscal year 2016.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use

and support of the government of the State of Utah.

EXECUTIVE OFFICES AND
CRIMINAL JUSTICE
GOVERNOR'S OFFICE

Item 1

To Governor's Office
From Federal Funds, One-Time 98,100
From Dedicated Credits Revenue,
One-Time 3,000
Schedule of Programs:
Lt. Governor's Office 98,100
Literacy Projects 3,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Governor's Office in Item 2, Chapter 9, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016.

Item 2

To Governor's Office - Constitutional Defense Council

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Governor's Office - Constitutional Defense Council in Item 27, Chapter 417, Laws of Utah 2012 not lapse at the close of Fiscal Year 2016.

Item 3

To Governor's Office - Character Education

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Governor's Office - Character Education in Item 4, Chapter 9, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016.

Item 4

To Governor's Office - Emergency Fund

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Governor's Office - Emergency Fund in Item 5, Chapter 9, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016.

Item 5

To Governor's Office - School Readiness Initiative

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Governor's Office - School Readiness Initiative in Item 2, Chapter 468, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016.

Item 6

To Governor's Office - Governor's Office of Management and Budget

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Governor's Office of Management and Budget in Item 6, Chapter 9, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016.

Item 7

To Governor's Office - Quality Growth Commission - LeRay McAllister Program

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Governor's Office - LeRay McAllister Program in Item 7, Chapter 9, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016.

Item 8

To Governor's Office - Commission on Criminal and Juvenile Justice
 From Federal Funds, One-Time 2,251,700
 Schedule of Programs:
 CCJJ Commission 1,999,700
 Utah Office for Victims of Crime 252,000

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Commission on Criminal and Juvenile Justice in Item 8, Chapter 9, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016.

Item 9

To Governor's Office - CCJJ Factual Innocence Payments
 Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Commission on Criminal and Juvenile Justice - Factual Innocence Payments in Item 9, Chapter 9, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016. Factual Innocence Payments are nonlapsing under 78B-9-405(2)(b).

Item 10

To Governor's Office - CCJJ Jail Reimbursement
 Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Commission on Criminal and Juvenile Justice - Jail Reimbursement in Item 7, Chapter 468, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016.

OFFICE OF THE STATE AUDITOR

Item 11

To Office of the State Auditor - State Auditor
 Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Office of the State Auditor in Item 10, Chapter 9, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016.

STATE TREASURER

Item 12

To State Treasurer
 From Unclaimed Property Trust,
 One-Time 141,000
 Schedule of Programs:
 Unclaimed Property 141,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Office of the State Treasurer in Item 11, Chapter 9, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016.

ATTORNEY GENERAL

Item 13

To Attorney General
 From Federal Funds, One-Time 684,800
 Schedule of Programs:
 Criminal Prosecution 684,800

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Attorney General in Item 12, Chapter 9, Laws of Utah 2015 not lapse at the end of Fiscal Year 2016.

Item 14

To Attorney General - Contract Attorneys
 Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Attorney General - Contract Attorneys in Item 13, Chapter 9, Laws of Utah 2015 not lapse at the end of Fiscal Year 2016.

Item 15

To Attorney General - Children's Justice Centers
 From Federal Funds, One-Time 15,800
 Schedule of Programs:
 Children's Justice Centers 15,800

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Attorney General - Children's Justice Centers in Item 14, Chapter 9, Laws of Utah 2015 not lapse at the end of Fiscal Year 2016.

Item 16

To Attorney General - Prosecution Council
 From Federal Funds, One-Time 500
 From Dedicated Credits Revenue,
 One-Time 6,200
 Schedule of Programs:
 Prosecution Council 6,700

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Attorney General - Prosecution Council in Item 15, Chapter 9, Laws of Utah 2015 not lapse at the end of Fiscal Year 2016.

Item 17

To Attorney General - State Settlement Agreements
 From General Fund, One-Time 224,000
 Schedule of Programs:
 State Settlement Agreements 224,000

UTAH DEPARTMENT OF CORRECTIONS

Item 18

To Utah Department of Corrections - Programs and Operations
 From General Fund, One-Time 45,000
 From Capital Projects Fund, One-Time ... 34,200
 Schedule of Programs:
 Department Executive Director (155,000)
 Department Administrative Services ... 34,200
 Institutional Operations Central
 Utah/Gunnison 200,000

The Legislature intends that, if the Department of Corrections is able to

reallocate resources internally to fund additional Adult Probation and Parole agents, for every two agents hired, the Legislature grants authority to purchase one vehicle with Department funds.

The Legislature grants authority to the Department of Corrections, Division of Institutional Operations, to purchase one vehicle for the Inmate Placement Program and one vehicle for the Utah State Prison at Draper with Department funds.

The Legislature grants authority to the Department of Corrections, Law Enforcement Bureau, to purchase one vehicle with Department funds.

The Legislature grants authority to the Department of Corrections, Division of Institutional Operations, to purchase one 30-40 seat prison transportation vehicle for the Utah State Prison at Draper with Department funds.

The Legislature intends that the transfer of up to \$34,200 from the Division of Facilities and Construction Management (DFCM) Capital Projects Fund to the Department of Corrections - Programs and Operations be held by the Department of Corrections until such time as needed to help purchase a new prison site. The Legislature intends that the amount of the transfer be equal to the balance of the surplus money that was transferred from the Department of Corrections to DFCM in previous years for the retrofit of the Fortitude Parole Violator Center.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations for the Utah Department of Corrections - Programs and Operations in item 17 of chapter 9, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016.

Item 19

To Utah Department of Corrections - Department Medical Services

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations for the Utah Department of Corrections - Medical Services in item 18 of chapter 9, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016.

Item 20

To Utah Department of Corrections -

Jail Contracting
From General Fund, One-Time (1,410,000)
Schedule of Programs:
Jail Contracting (1,410,000)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations for the Utah Department of Corrections - Jail Contracting in item 19 of chapter 9, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016.

BOARD OF PARDONS AND PAROLE

Item 21

To Board of Pardons and Parole

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$400,000 provided for the Board of Pardons and Parole not lapse at the close of Fiscal Year 2016. The use of any non-lapsing funds shall be limited to capital equipment or improvements, computer equipment/software, employee/training incentives, equipment/supplies, and costs associated with changing office locations based upon a future possible move of the main Utah prison.

**DEPARTMENT OF HUMAN SERVICES -
DIVISION OF JUVENILE JUSTICE
SERVICES**

Item 22

To Department of Human Services - Division of Juvenile Justice Services - Programs and Operations

From Federal Funds, One-Time 93,800
Schedule of Programs:
Community Programs 71,300
Rural Programs 22,500

The Legislature intends that Division of Juvenile Justice Services nonlapsing funds from FY 2015 may be used toward construction costs for the Weber Valley Multi-Use Youth Center.

The Legislature intends that the Division of Juvenile Justice Services be authorized to increase their number of fleet vehicles by five for operation of the Salt Lake Valley Detention Center and the Farmington Bay Youth Center. Funding for procurement of these vehicles will be from nonlapsing funds from FY 2015. Operating costs of the vehicles will come from internal savings.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Juvenile Justice Services in Item 21, Chapter 9, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016. The use of nonlapsing funds is limited to expenditures for data processing and technology based expenditures; facility repairs, maintenance, and improvements; other charges and pass through expenditures; and, short-term projects and studies that promote efficiency and service improvement. Nonlapsing funds may also be used for the continued operation of the Weber Valley Detention facility, replacing one-time General Fund appropriated for Fiscal Year 2016.

**JUDICIAL COUNCIL/STATE
COURT ADMINISTRATOR**

Item 23

To Judicial Council/State Court Administrator - Administration

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the

appropriations provided for in the Administration line item shall not lapse at the close of FY 2016.

Item 24

To Judicial Council/State Court Administrator - Grand Jury

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations provided for in the Grand Jury line item shall not lapse at the close of FY 2016.

Item 25

To Judicial Council/State Court Administrator - Contracts and Leases

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations provided for in the Contracts and Leases line item shall not lapse at the close of FY 2016.

Item 26

To Judicial Council/State Court Administrator - Jury and Witness Fees
 From General Fund, One-Time 867,500
 Schedule of Programs:
 Jury, Witness, and Interpreter 867,500

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations provided for in the Juror, Witness, Interpreter line item shall not lapse at the close of FY 2016.

Item 27

To Judicial Council/State Court Administrator - Guardian ad Litem

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations provided for in the Guardian ad Litem line item shall not lapse at the close of FY 2016.

DEPARTMENT OF PUBLIC SAFETY

Item 28

To Department of Public Safety - Programs & Operations
 From General Fund, One-Time (624,800)
 From Federal Funds, One-Time 1,183,900
 From General Fund Restricted - Utah Highway Patrol Aero Bureau, One-Time 600,000
 Schedule of Programs:
 Department Commissioner's Office .. (624,800)
 Aero Bureau 600,000
 CITS State Crime Labs 435,600
 Highway Patrol - Special Enforcement 748,300

Appropriations provided for The Department of Public Safety - Programs and Operations line item not lapse at the close of Fiscal Year 2016. Funds shall be limited to training, equipment, computers, software purchase and/or maintenance, and other operating expenses.

Item 29

To Department of Public Safety - Emergency Management

Appropriations provided for The Department of Public Safety - Emergency Management line item not lapse at the close of Fiscal Year 2016. Funds shall be limited to equipment and computer replacement, training, etc.

Item 30

To Department of Public Safety - Emergency Management - National Guard Response

Appropriations provided for The Department of Public Safety - National Guard Response line item not lapse at the close of Fiscal Year 2016. Funds shall be limited to reimbursement for emergency costs.

Item 31

To Department of Public Safety - Peace Officers' Standards and Training
 From Uninsured Motorist Identification Restricted Account, One-Time 500,000
 Schedule of Programs:
 Basic Training 500,000

Appropriations provided for The Department of Public Safety - Peace Officers' Standards and Training line item not lapse at the close of Fiscal Year 2016. Funds shall be limited to equipment, software, and operating costs.

Item 32

To Department of Public Safety - Driver License
 Appropriations provided The Department of Public Safety - Driver License line item not lapse at the close of Fiscal Year 2016.

Item 33

To Department of Public Safety - Highway Safety
 Appropriations provided for The Department of Public Safety - Highway Safety line item not lapse at the close of Fiscal Year 2016. Funds shall be limited to programs costs that are associated with the carryover balances.

INFRASTRUCTURE AND GENERAL GOVERNMENT

TRANSPORTATION

Item 34

To Transportation - Support Services
 From Transportation Fund, One-Time .. 792,300
 Schedule of Programs:
 Administrative Services 52,000
 Human Resources Management 640,300
 Community Relations 100,000

Under the terms of Utah Annotated Code 63J-1-603(3)(a), the Legislature intends that appropriations provided for Support Services in Item 4, Chapter 5, Laws of Utah 2015, shall not lapse at the close of Fiscal Year 2016. The use of any non-lapsing funds is limited to the following: Computer Software Development

Projects, \$300,000; and Building Improvements, \$500,000.

Item 35

To Transportation - Engineering Services
From Transportation Fund, One-Time .. 155,900
Schedule of Programs:

- Program Development (52,000)
- Environmental 400,000
- Construction Management (97,000)
- Engineer Development Pool (95,100)

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for Engineering Services in Item 5 of Chapter 5 Laws of Utah 2015 not lapse at the close of Fiscal Year 2016. The use of any non-lapsing funds is limited to the following: Engineering Services Special Projects, \$300,000.

Item 36

To Transportation - Operations/Maintenance Management
From Transportation Fund,
One-Time (644,500)
Schedule of Programs:

- Region 2 (100,000)
- Region 3 (72,800)
- Field Crews (23,500)
- Maintenance Planning (448,200)

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for Operations in Item 6 of Chapter 5, Laws of Utah 2015 shall not lapse at the close of Fiscal Year 2016. The use of any non-lapsing funds is limited to the following: Highway Maintenance, \$2,000,000.

Item 37

To Transportation - Construction Management
From Transportation Fund,
One-Time 17,247,100
Schedule of Programs:
Federal Construction - New 17,247,100

Item 38

To Transportation - Region Management
From Transportation Fund, One-Time (303,700)
Schedule of Programs:
Region 1 (89,900)
Region 2 (122,300)
Region 3 1,900
Region 4 (93,400)

Under the terms of Utah Annotated Code 63J-1-603(3)(a), the Legislature intends that appropriations provided for Region Management in Item 8, Chapter 5, Laws of Utah 2015, not lapse at the close of Fiscal Year 2016. The use of any non-lapsing funds is limited to Region Management, \$200,000.

Item 39

To Transportation - Equipment Management
Under terms of Utah Annotated Code Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for Equipment Management in Item 9 of Chapter

5 Laws of Utah 2015 not lapse at the close of Fiscal Year 2016. The use of any non-lapsing funds is limited to the following: Equipment Purchases \$200,000.

Item 40

To Transportation - Aeronautics
Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that any unexpended funds from the one-time appropriation of \$5,000,000 from the Aeronautics Restricted Account to Airport Construction in Item 22, Chapter 282, Laws of Utah 2014, not lapse at the close of Fiscal Year 2016. The use of any non-lapsing funds is limited to airport construction projects.

Item 41

To Transportation - B and C Roads
From Transportation Fund,
One-Time 7,391,600
Schedule of Programs:
B and C Roads 7,391,600

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 42

To Department of Administrative Services - Executive Director
From Dedicated Credits Revenue,
One-Time 50,000
From Beginning Nonlapsing Balances 75,000
Schedule of Programs:
Executive Director 125,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Executive Director in Item 16, Chapter 5, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to customer service and Department optimization projects, shared services, IT security auditing and prevention, internal auditing, website maintenance, and marketing: \$150,000.

Item 43

To Department of Administrative Services - Inspector General of Medicaid Services
Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Inspector General of Medicaid Services in Item 17, Chapter 5, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to monitor compliance with State and Federal Regulations and implement measures to identify, prevent and reduce fraud, waste, and abuse, and monitor the quality and reliability of Utah Medicaid providers service delivery and accuracy of billing: \$750,000.

Item 44

To Department of Administrative Services - Administrative Rules
From Beginning Nonlapsing Balances ... 110,000

Schedule of Programs:
 DAR Administration 110,000

Item 45

To Department of Administrative Services - DFCM Administration

From Beginning Nonlapsing Balances .. (35,000)
 From Closing Nonlapsing Balances 235,000

Schedule of Programs:
 Energy Program 200,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for DFCM Administration in Item 19, Chapter 5, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to information technology projects, customer service, optimization efficiency projects, time limited FTEs, and Governor’s Mansion maintenance: \$1,000,000; and, Energy Program operations: \$500,000.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that any amount remaining of the appropriation of \$3,417,000 provided to the Department of Administrative Services - DFCM Administration in Chapter 211, Laws of Utah 2014, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to prison relocation purposes as stated in the intent language following the appropriation in Chapter 211, Laws of Utah 2014.

The Legislature intends that the transfer of up to \$34,200 from the Division of Facilities Construction and Management (DFCM) Capital Projects Fund to the Department of Corrections - Programs and Operations be held by the Department of Corrections until such time as needed to help purchase a new prison site. The Legislature intends that the amount of the transfer be equal to the balance of the surplus money that was transferred from the Department of Corrections to DFCM in previous years for the retrofit of the Fortitude Parole Violator Center.

The Legislature intends that any amount remaining of the appropriation of \$2,300,000 in Item 38, Chapter 282, Laws of Utah 2014, for the Weber Valley Multiuse Youth Center property purchase shall be combined with the appropriation of \$19,630,000 in Item 47, Chapter 468, Laws of Utah 2015, for the design and construction of the Weber Valley Multiuse Youth Center.

Item 46

To Department of Administrative Services - Building Board Program

From Beginning Nonlapsing Balances ... 250,000

Schedule of Programs:

Building Board Program 250,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Building Board Program in Item 20, Chapter 5, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to

facilities conditions assessments, operations and maintenance database program needs, and space utilization needs: \$200,000.

Item 47

To Department of Administrative Services - State Archives

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for State Archives in Item 21, Chapter 5, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to regional repository program support, electronic archives preservation and management, and GRAMA transparency improvements: \$200,000.

Item 48

To Department of Administrative Services - Finance Administration

From Beginning Nonlapsing Balances (400,000)
 From Closing Nonlapsing Balances 400,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Finance Administration in Item 22, Chapter 5, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to maintenance and operation of statewide systems and websites, studies, training, and information technology support and hardware: \$2,900,000.

Item 49

To Department of Administrative Services - Finance - Mandated - Parental Defense

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Parental Defense in Item 39, Chapter 468, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to child welfare parental defense expenses: \$75,000.

Item 50

To Department of Administrative Services - Finance - Mandated - Ethics Commission

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Ethics Commission in Item 45, Chapter 14, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to Ethics Commission investigations and Commission and staff expenses: \$50,000.

Item 51

To Department of Administrative Services - Post Conviction Indigent Defense

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Post Conviction Indigent Defense in Item 25, Chapter 5, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to legal costs for death row inmates: \$167,700.

Item 52

To Department of Administrative Services -
Judicial Conduct Commission

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Judicial Conduct Commission in Item 26, Chapter 5, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to professional services for investigations: \$100,000.

DEPARTMENT OF TECHNOLOGY SERVICES

Item 53

To Department of Technology Services -
Chief Information Officer

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Chief Information Officer in Item 28, Chapter 5, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to costs associated with a Department of Technology Services rate study and/or optimization initiatives: \$30,000.

Item 54

To Department of Technology Services -
Integrated Technology Division

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Integrated Technology Division in Item 29, Chapter 5, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to Geographic Reference Center projects, Global Positioning System Reference Network upgrades and maintenance, and survey monument restoration grant obligations to county government: \$600,000.

STATE BOARD OF BONDING COMMISSIONERS - DEBT SERVICE

Item 55

To State Board of Bonding Commissioners -
Debt Service - Debt Service

The Legislature intends that in the event that sequestration or other federal action reduces the anticipated Build America Bond subsidy payments that are deposited into the Debt Service line item as federal funds, the Division of Finance, acting on behalf of the State Board of Bonding Commissioners, shall reduce the appropriated transfer from Nonlapsing Balances - Debt Service to the General Fund, One-time proportionally to the reduction in subsidy payment received, thus holding the Debt Service fund harmless.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF HERITAGE AND ARTS

Item 56

To Department of Heritage and Arts - Administration
From Dedicated Credits Revenue,
One-Time 100,000
From General Fund Restricted -
Humanitarian Service Rest. Acct,
One-Time 20,400
From General Fund Restricted -
Martin Luther King Jr Civil
Rights Support Restricted Account,
One-Time 7,500
Schedule of Programs:
Executive Director's Office 20,400
Information Technology 100,000
Utah Multicultural Affairs Office 7,500

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to \$200,000 of the ongoing General Fund appropriation provided for the Department of Heritage and Arts - Administration in Item 1, Chapter 3, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016. These funds are to be used for building renovation.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to \$537,800 of the ongoing General Fund appropriation provided for the Department of Heritage and Arts - Administration in Item 1, Chapter 3, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016. These funds are to be used for digitization projects and maintenance.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to \$116,900 of the ongoing General Fund appropriation provided for the Department of Heritage and Arts - Administration in Item 1, Chapter 3, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016. These funds are to be used for application development rate payments to the Department of Technology Services.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to \$268,300 the ongoing General Fund appropriation provided for the Department of Heritage and Arts - Administration, Multicultural Affairs Program in Item 1, Chapter 3, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to \$100,000 of the ongoing General Fund appropriation provided for the Department of Heritage and Arts - Administration in item 1, chapter 3, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016. These funds are to be used for continued digitization projects.

Item 57

To Department of Heritage and Arts - Historical Society

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to \$105,500 of the Dedicated Credits appropriation provided for the Department of Heritage and Arts – Historical Society in Item 2, Chapter 3, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016.

Item 58

To Department of Heritage and Arts – State Library From Dedicated Credits Revenue,

One-Time 75,000
Schedule of Programs:

Blind and Disabled 75,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to \$230,000 of the ongoing General Fund appropriation provided for the Department of Heritage and Arts – State Library in Item 6, Chapter 3, Laws of Utah 2015 not lapse at the close of FY 2016. The State Library shall use the fund for CLEF (Community Library Enhancement Fund) grants in Fiscal Year 2017.

Item 59

To Department of Heritage and Arts – Indian Affairs

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to \$242,500 of the ongoing General Fund and \$25,000 Dedicated Credit appropriation provided for the Department of Heritage and Arts – Indian Affairs in Item 7, Chapter 3, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016.

Item 60

To Department of Heritage and Arts – Pass-Through

From General Fund, One-Time 300,000
Schedule of Programs:

Pass-Through 300,000

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 61

To Governor's Office of Economic Development – Administration

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to \$1,075,000 of the ongoing General Fund appropriation provided for CKA Governor's Office of Economic Development – Administration, Item 9, Chapter 3, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016. The use of any non-lapsing funds is limited to a transfer of \$400,000 to line CLA for the construction of the St. George welcome center, \$200,000 for system management enhancements, \$175,000 for business marketing, and \$300,000 for health system program operations and support.

Item 62

To Governor's Office of Economic Development – STEM Action Center

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to \$4,600,000 of the ongoing General Fund appropriation provided for COA Governor's Office of Economic Development – STEM Action Center, Item 10, Chapter 3, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016. The use of any non-lapsing funds is limited to contractual obligations and support.

Item 63

To Governor's Office of Economic Development – Office of Tourism

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to \$750,000 of the ongoing General Fund appropriation provided for CLA Governor's Office of Economic Development – Office of Tourism, Item 11, Chapter 3, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016. The use of any non-lapsing funds is limited to \$350,000 for contractual obligations and support and \$400,000 from line CKA for the construction of the St. George welcome center.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to \$5,500,000 of the ongoing General Fund appropriation provided for CLA Governor's Office of Economic Development – Office of Tourism – Tourism Marketing Performance program, Item 58, Chapter 468, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016. The use of any non-lapsing funds is limited to contractual obligations and support.

Under Section 63J-1-602.4 of the Utah Code, the Legislature intends that up to \$125,000 of the appropriations provided for the Motion Picture Incentive Fund shall not lapse at the close of FY 2016.

Item 64

To Governor's Office of Economic Development – Business Development

From General Fund, One-Time (100,000)
Schedule of Programs:

Outreach and International Trade ... (100,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to \$4,350,000 of the ongoing General Fund appropriation provided for CMA Governor's Office of Economic Development – Business Development, Item 12, Chapter 3, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016. The use of any non-lapsing funds is limited to business cluster support: \$75,000; business resource centers: \$300,000; Technology Commercialization and Innovation Program contracts: \$3,000,000; international development contracts and support: \$500,000; Procurement and Technical Assistance Center contracts: \$175,000; rural development contracts and support: \$200,000; and corporate recruitment contracts and support: \$100,000.

Item 65

To Governor’s Office of Economic Development -
Pete Suazo Utah Athletics Commission

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to \$150,000 of the ongoing General Fund appropriation provided for CJA Governor’s Office of Economic Development - Pete Suazo Utah Athletic Commission, Item 13, Chapter 3, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016. The use of any non-lapsing funds is limited to the Pete Suazo Utah Athletic program.

Item 66

To Governor’s Office of Economic Development -
Utah Broadband Outreach Center

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to \$35,000 of the ongoing General Fund appropriation provided for CNA Governor’s Office of Economic Development - Utah Broadband Outreach Center, Section 8, Chapter 278, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016. The use of any non-lapsing funds is limited to contractual obligations and support.

Item 67

To Governor’s Office of Economic Development -
Pass-Through

From General Fund, One-Time 21,612,500
Schedule of Programs:

Pass-Through 21,612,500

The Legislature intends that \$21,500,000 appropriated to the Military Installation Development Authority be used by the authority to provide reimbursement for a portion of the cost to construct an approximately 74,000 square foot building shell for the U.S. Government to own and occupy on Hill Air Force Base to house software employees and related personnel. The authority may retain 2.5% of the cost for its general administrative and operational expenses. The Air Force shall be responsible to pay for the costs of inspection and completion of the building according to military standards for secure software development workloads. The building shall be constructed by the Falcon Hill Enhanced Use Lease developer selected by the Air Force who shall competitively bid the project, and the authority shall reimburse the developer based on actual costs expended.

UTAH STATE TAX COMMISSION

Item 68

To Utah State Tax Commission -
Tax Administration

From General Fund Restricted -
Electronic Payment Fee Rest. Acct,
One-Time 300,000
Schedule of Programs:

Motor Vehicles 300,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Tax Commission in Item 14, Chapter 3, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016. These funds are to be used to protect and enhance the State’s tax and motor vehicle systems and processes; to continue to protect the State’s revenues from tax fraud, identity theft, and security intrusions; and for litigation and related costs.

Item 69

To Utah State Tax Commission - License Plates
Production

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Tax Commission - License Plates Production in Item 15, Chapter 3, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016. Ending balances from funds provided to the Tax Commission for the purchase and distribution of license plates and decals are nonlapsing under 63J-1-602.2.

**UTAH SCIENCE TECHNOLOGY AND
RESEARCH GOVERNING AUTHORITY**

Item 70

To Utah Science Technology and Research
Governing Authority - University Research
Teams

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to \$5,000,000 of the ongoing General Fund appropriation provided for Utah Science Technology and Research Governing Authority - University Research Teams in Item 62, Chapter 14, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016. Appropriation and nonlapsing funds may be used, if approved by the USTAR Governing Authority, to transfer the financial obligation of researcher startup funds to the Research University. The Research University shall account on the use of these funds annually and by request of the USTAR Governing Authority.

Item 71

To Utah Science Technology and Research
Governing Authority - Technology Outreach and
Innovation

From Federal Funds, One-Time 500,000
Schedule of Programs:

North 500,000

The Legislature intends that USTAR be authorized to purchase one new vehicle, using available unallocated funding from USTAR’s nonlapsing balances.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to \$300,000 of the ongoing General Fund appropriation provided for Utah Science Technology and Research Governing Authority - Technology Outreach and Innovation in Item 63, Chapter 14, Laws of

Utah 2015 not lapse at the close of Fiscal Year 2016. These funds are to be used for incubator renovations and university partnerships.

Item 72

To Utah Science Technology and Research Governing Authority - USTAR Administration

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to \$300,000 of the ongoing General Fund appropriation provided for Utah Science Technology and Research Governing Authority - USTAR Administration in Item 64, Chapter 14, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016. These funds are to be used for an audit and audit support, database needs, and implementation of the program assessment recommendations.

DEPARTMENT OF COMMERCE

Item 73

To Department of Commerce - Commerce General Regulation

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Office of Consumer Services in Item 24 of Chapter 3, Laws of Utah 2015, lapse to the Offices' Professional and Technical Services Fund at the close of Fiscal Year 2016.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Department of Commerce, Division of Public Utilities in Item 24 of Chapter 3, Laws of Utah 2015, lapse to the Divisions' Professional and Technical Services Fund at the close of Fiscal Year 2016.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$250,000 of appropriations provided for the Department of Commerce Administration Division, in Item 24 of Chapter 3, Laws of Utah 2015, if unspent may be used to offset the agency expense imposed by the Department of Technology Services on Telephony line replacement upgrades.

Item 74

To Department of Commerce - Building Inspector Training

To Department of Commerce - Building Inspector Training Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Building Codes Education Funds received by the Division of Occupational and Professional Licensing under the authority of Section 15A-1-209-5 of the Utah Code Item 25 of Chapter 3, Laws of Utah 2015, shall not lapse at the close of Fiscal Year 2016.

Item 75

To Department of Commerce - Public Utilities Professional and Technical Services

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Public Utilities Technical Services Fund in Item 26 of Chapter 3, Laws of Utah 2015, shall not lapse at the close of Fiscal Year 2016.

Item 76

To Department of Commerce - Office of Consumer Services Professional and Technical Services

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Professional and Technical Services Fund of the Office of Consumer Services in Item 27 of Chapter 3, Laws of Utah 2015, shall not lapse at the close of Fiscal Year 2016.

FINANCIAL INSTITUTIONS

Item 77

To Financial Institutions - Financial Institutions Administration
From General Fund Restricted -
Financial Institutions, One-Time 300,000
Schedule of Programs:
Administration 300,000

INSURANCE DEPARTMENT

Item 78

To Insurance Department - Insurance Department Administration
From General Fund Restricted -
Insurance Department Account,
One-Time (265,000)
Schedule of Programs:
Administration (265,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to \$150,000 of the ongoing Insurance Department Restricted Account appropriation provided for the Utah Insurance Department in Item Item 29, Chapter 3, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016. These funds are to be used for remaining HIPUtah claims and legal issues, as well as development of an automated system for forms and documents to improve administrative efficiency.

PUBLIC SERVICE COMMISSION

Item 79

To Public Service Commission

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Public Service Commission in Item 33, Chapter 3, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016. The use of nonlapsing funds is limited to maintenance, upgrades, and licensing for the Public Service Commission's document management system; computer equipment and software upgrades; employee training and incentives; and special projects/studies that might require consultants or temporary employees.

Item 80

To Public Service Commission -
Speech and Hearing Impaired

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Public Service Commission - Speech and Hearing Impaired in Item 34, Chapter 3, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016. Ending balances for the Speech and Hearing Impaired program are non-lapsing under 54-8b-10(5)(d).

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 81

To Department of Health - Executive
Director's Operations
From Closing Nonlapsing Balances (375,000)
Schedule of Programs:
Program Operations (375,000)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Department of Health's Executive Director's Office in Item 10 of Chapter 10, Laws of Utah 2015 shall not lapse at the close of Fiscal Year 2016. The use of any non lapsing funds is limited to \$400,000 for: (1) federal indirect reimbursement of \$200,000 due to an over-collection of Department of Technology Services encryption costs during Fiscal Year 2016 and changes to the Division of State Finance's Statewide Indirect Cost Allocation Plan allocation. The federal reimbursement will be reflected in lower indirect rates for Fiscal Year 2017; (2) Rewrite of the Utah Medical Examiners Database and the Electronic Death Entry Network which do not support mobile device and broad Internet interfaces; (3) Replacement of personal computers, software development, and information technology equipment in Executive Directors Office; and (4) Temporary Information Technology Manager to support server consolidation efforts and implementation of the Change Management initiative.

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$100,000 funds not otherwise designated as nonlapsing to the Department of Health - Executive Director's Operations line item shall not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is for the Traumatic Brain Injury Fund.

The Legislature intends that the Department of Health prepare proposed performance measures for all new funding for building blocks and give this information to the Office of the Legislative Fiscal Analyst by June 1, 2016. At a minimum the proposed measures should include those presented to the Subcommittee during the requests for funding. If the same measures are not

included, a detailed explanation as to why should be included. The Department of Health shall provide its first report on its performance measures to the Office of the Legislative Fiscal Analyst by October 31, 2016 with another report two months after the close of fiscal year 2017. The Office of the Legislative Fiscal Analyst shall share this information with the legislative staff of the Health and Human Services Interim Committee.

Item 82

To Department of Health - Family
Health and Preparedness
From Closing Nonlapsing Balances . . . (1,659,300)
Schedule of Programs:
Primary Care (1,659,300)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$50,000 of Item 11 of Chapter 10, Laws of Utah 2015, funds appropriated for the Department of Health's Assistance for People with Bleeding Disorders Program shall not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is limited to services to eligible clients.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$250,000 of Item 11 of Chapter 10, Laws of Utah 2015 for the Department of Health's Emergency Medical Services shall not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is limited to testing, certifications, background screenings, replacement testing equipment and testing supplies.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that civil money penalties collected for the Department of Health's Child Care Licensing and Health Care Licensing in Item 11 of Chapter 10, Laws of Utah 2015 from childcare and health care provider violations shall not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is limited to trainings for providers and staff, as well as upgrades to the Child Care Licensing database.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$245,000 of Item 11 of Chapter 10, Laws of Utah 2015 for the Department of Health's Family Health and Preparedness line item not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is limited to health facility licensure and certification activities.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$210,000 of Item 11 of Chapter 10, Laws of Utah 2015 from fees collected for the purpose of plan reviews by the Department of Health's Bureau of Health Facility Licensure, Certification and Resident Assessment shall not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is limited to plan review activities.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that criminal fines and forfeiture money collected for the

Department of Health’s Emergency Medical Services in Item 11 of Chapter 10, Laws of Utah 2015 shall not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is limited to purposes outlined in Section 26-8a-207(2).

Item 83

To Department of Health - Disease Control and Prevention

From Federal Funds, One-Time	249,000
From Dedicated Credits Revenue, One-Time	86,600
From General Fund Restricted - State Lab Drug Testing Account, One-Time	71,300
From Closing Nonlapsing Balances	(201,900)
Schedule of Programs:	
Epidemiology	47,100
Laboratory Operations and Testing	71,300
Office of the Medical Examiner	86,600

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$500,000 of Item 12 of Chapter 10, Laws of Utah 2015, for the Department of Health’s Disease Control and Prevention line item for alcohol, tobacco, and other drug prevention reduction, cessation, and control programs shall not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is limited to alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs or for emergent disease control and prevention needs.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$525,000 of Item 12 of Chapter 10, Laws of Utah 2015 for the Department of Health’s Disease Control and Prevention line item shall not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is limited to laboratory equipment, computer equipment, software, and building improvements for the Utah Public Health Laboratory and the Office of the Medical Examiner.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$175,000 of Item 12 of Chapter 10, Laws of Utah 2015 for the Department of Health’s Disease Control and Prevention line item shall not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is limited to maintenance or replacement of computer equipment, software, or other purchases or services that improve or expand the services provided by the Bureau of Epidemiology.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$25,000 of Item 12 of Chapter 10, Laws of Utah 2015 for the Utah Department of Health, Division of Disease Control and Prevention shall not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is limited to local health department expenses in responding to a local health emergency.

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$75,000

funds not otherwise designated as nonlapsing to the Department of Health - Disease Control and Prevention line item shall not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is for the Traumatic Brain Injury Fund.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$250,000 of Item 12 of Chapter 10, Laws of Utah 2015 fees collected for the Newborn Screening Program shall not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is limited to maintenance, upgrading, replacement, or purchase of laboratory or computer equipment and software.

The Legislature authorizes the Department of Health to raise the fee entitled, "Review and authorize cremation" in Chapter 280, Laws of Utah 2015 to \$100 effective April 1, 2016.

Item 84

To Department of Health - Medicaid and Health Financing

From Closing Nonlapsing Balances ...	(1,475,000)
Schedule of Programs:	
Financial Services	(1,475,000)

Under Section 63J-1-603 of the Utah Code, the Legislature intends up to \$475,000 provided for the Department of Health’s Medicaid and Health Financing line item in Item 14 of Chapter 10, Laws of Utah 2015 shall not lapse at the close of Fiscal Year 2016. The use of nonlapsing funds is limited to compliance with federally mandated projects and the purchase of computer equipment and software.

The Legislature intends that the Department of Health remove the optional 5 year waiting period for legal immigrant children who currently qualify for 100% federal funding in the Medicaid and Children’s Health Insurance program.

The Legislature intends that the Department of Health and Department of Human Services study all possible options to maximize the number of people kept out of nursing homes and in their own homes and communities and report findings and recommendations to the Office of the Legislative Fiscal Analyst by June 1, 2016. This should include the consideration of at least the following options: (1) Modifying or expanding current Home and Community Based Services (HCBS), 1915(c) waivers, (2) Creating new HCBS, 1915(c) waivers, (3) State Plan HCBS, 1915(i) options, (4) Money Follows the Person Grant, (5) Community First Choice Option, 1915(k), and (6) Balancing Incentive Program.

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$550,000 funds not otherwise designated as nonlapsing to the Department of Health - Medicaid and Health Financing line item shall not lapse at the close of Fiscal Year 2016. The use of any

nonlapsing funds is for the Traumatic Brain Injury Fund.

Item 85

To Department of Health - Medicaid Sanctions

Under Section 63J-1-603 of the Utah Code, funds collected as a result of sanctions imposed under Section 1919 of Title XIX of the Federal Social Security Act and authorized in Section 26-18-3 of the Utah Code shall not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is limited to the purposes outlined in Section 1919.

Item 86

To Department of Health - Medicaid

Mandatory Services

From General Fund, One-Time	17,200,000
From Federal Funds, One-Time	51,651,500
From General Fund Restricted - Medicaid Restricted Account, One-Time	4,600,000
From Closing Nonlapsing Balances . . .	(8,800,000)
Schedule of Programs:	
Managed Health Care	144,541,800
Nursing Home	(4,380,100)
Inpatient Hospital	(18,531,000)
Physician Services	(27,291,100)
Outpatient Hospital	(17,520,200)
Medicaid Management Information System Replacement	(8,800,000)
Crossover Services	(4,043,100)
Medical Supplies	(673,900)
Other Mandatory Services	1,349,100

Under Section 63J-1-603 of the Utah Code, the Legislature intends up to \$8,800,000 provided for the Department of Health's Medicaid Mandatory Services line item in Item 17 of Chapter 10, Laws of Utah 2015 shall not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is limited to the redesign and replacement of the Medicaid Management Information System.

The Department of Health may use up to a combined maximum of \$4,600,000 from the General Fund Restricted - Medicaid Restricted Account and associated federal matching funds provided for Medicaid Mandatory Services and Medicaid Optional Services only in the case that non-federal fund appropriations provided for FY 2016 in all other items of appropriation for Medicaid are insufficient to pay appropriate Medicaid claims for FY 2016 when combined with federal matching funds.

Item 87

To Department of Health - Medicaid

Optional Services

From General Fund, One-Time	(13,500,000)
From Federal Funds, One-Time	(21,085,200)
From General Fund Restricted - Medicaid Restricted Account, One-Time	4,600,000
From Closing Nonlapsing Balances	(300,000)
Schedule of Programs:	

Home and Community Based

Waiver Services	336,900
Pharmacy	(13,140,200)
Capitated Mental Health Services	13,477,100
Intermediate Care Facilities for Intellectually Disabled	(5,727,800)
Non-service Expenses	6,401,600
Dental Services	7,749,300
Buy-in/Buy-out	8,760,100
Disproportionate Hospital Payments	(3,032,300)
Clawback Payments	10,444,700
Hospice Care Services	2,695,400
Other Optional Services	(58,250,000)

Under Section 63J-1-603 of the Utah Code, the Legislature intends up to \$300,000 provided for the Department of Health's Medicaid Optional Services line item in Item 18 of Chapter 10, Laws of Utah 2015 shall not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is limited to the redesign and replacement of the Medicaid Management Information System.

The Department of Health may use up to a combined maximum of \$4,600,000 from the General Fund Restricted - Medicaid Restricted Account and associated federal matching funds provided for Medicaid Mandatory Services and Medicaid Optional Services only in the case that non-federal fund appropriations provided for FY 2016 in all other items of appropriation for Medicaid are insufficient to pay appropriate Medicaid claims for FY 2016 when combined with federal matching funds.

**DEPARTMENT OF
WORKFORCE SERVICES**

Item 88

To Department of Workforce Services -
Administration

From Closing Nonlapsing Balances	(100,000)
Schedule of Programs:	
Administrative Support	(100,000)

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$200,000 of the appropriations provided to the Department of Workforce Services for the Administration line item in Item 19 of Chapter 10 Laws of Utah 2015 not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is limited to equipment and software and special projects and studies.

The Legislature intends that the Department of Workforce Services prepare proposed performance measures for all new funding for building blocks and give this information to the Office of the Legislative Fiscal Analyst by June 1, 2016. At a minimum the proposed measures should include those presented to the Subcommittee during the requests for funding. If the same measures are not included, a detailed explanation as to why should be included. The Department of Workforce Services shall provide its first

report on its performance measures to the Office of the Legislative Fiscal Analyst by October 31, 2016 with another report two months after the close of fiscal year 2017. The Office of the Legislative Fiscal Analyst shall share this information with the legislative staff of the Health and Human Services Interim Committee.

Item 89

To Department of Workforce Services -
 Operations and Policy
 From Closing Nonlapsing Balances ... (1,822,400)
 Schedule of Programs:
 Workforce Development (1,822,400)

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$3,100,000 of the appropriations provided to the Department of Workforce Services for the Operation and Policy line item in Item 20 of Chapter 10 Laws of Utah 2015 not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is limited to projects associated with addressing client services due to caseload growth or refugee services and implementation of VoIP.

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$2,500,000 of the appropriations provided to the Department of Workforce Services for the Operation and Policy line item in Item 20 of Chapter 10 Laws of Utah 2015 for the Special Administrative Expense Account not lapse at the close of Fiscal Year 2016. The use of any non-lapsing funds is limited to employment development projects and activities or one-time projects associated with client services.

Item 90

To Department of Workforce Services -
 General Assistance
 From General Fund, One-Time (347,600)
 From Closing Nonlapsing Balances ... (1,000,000)
 Schedule of Programs:
 General Assistance (1,347,600)

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$1,000,000 of the appropriations provided to the Department of Workforce Services for the General Assistance line item in Item 21 of Chapter 10 Laws of Utah 2015 not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is limited to equipment and software and one-time projects.

Item 91

To Department of Workforce Services -
 Unemployment Insurance
 From Closing Nonlapsing Balances (60,000)
 Schedule of Programs:
 Unemployment Insurance
 Administration (60,000)

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$60,000 of the appropriations provided to the Department of Workforce Services for the

Unemployment Insurance line item in Item 22 of Chapter 10 Laws of Utah 2015 not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is limited to equipment and software and one-time projects associated with addressing appeals or public assistance overpayment caseload growth.

Item 92

To Department of Workforce Services -
 Housing and Community Development
 From General Fund Restricted -
 Pamela Atkinson Homeless
 Account, One-Time 347,600
 From General Fund Restricted - Youth
 Character Organization, One-Time 10,000
 From General Fund Restricted -
 Youth Development Organization,
 One-Time 10,000
 Schedule of Programs:
 Community Development 20,000
 Homeless Committee 347,600

DEPARTMENT OF HUMAN SERVICES

Item 93

To Department of Human Services -
 Executive Director Operations
 From Closing Nonlapsing Balances (17,800)
 Schedule of Programs:
 Fiscal Operations (17,800)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Department of Human Services Executive Director Operations line item not lapse at the close of Fiscal Year 2016. The use of any non-lapsing funds is limited to expenditures for data processing and technology based expenditures; facility repairs, maintenance, and improvements; and, short-term projects and studies that promote efficiency and service improvement.

The Legislature intends that the Department of Health and the Department of Human Services study all possible options to maximize the number of people kept out of nursing homes and in their own homes and communities and report findings and recommendations to the Office of the Legislative Fiscal Analyst by June 1, 2016. This should include the consideration of at least the following options: (1) Modifying or expanding current Home and Community Based Services (HCBS), 1915(c) waivers, (2) Creating new HCBS, 1915(c) waivers, (3) State Plan HCBS, 1915(i) options, (4) Money Follows the Person Grant, (5) Community First Choice Option, 1915(k), and (6) Balancing Incentive Program.

The Legislature intends that the Department of Human Services prepare proposed performance measures for all new funding for building blocks and give this information to the Office of the Legislative Fiscal Analyst by June 1, 2016. At a minimum the proposed measures should include those presented to the Subcommittee during the requests for funding. If the same measures

are not included, a detailed explanation as to why should be included. The Department of Human Services shall provide its first report on its performance measures to the Office of the Legislative Fiscal Analyst by October 31, 2016 with another report two months after the close of fiscal year 2017. The Office of the Legislative Fiscal Analyst shall share this information with the legislative staff of the Health and Human Services Interim Committee.

Item 94

To Department of Human Services - Division of Substance Abuse and Mental Health
From General Fund, One-Time 251,000
From Closing Nonlapsing Balances . . . (1,106,100)
Schedule of Programs:

Community Mental Health Services (1,106,100)
State Hospital 251,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Substance Abuse and Mental Health not lapse at the close of Fiscal Year 2016. The use of any non-lapsing funds is limited to expenditures for data processing and technology based expenditures; facility repairs, maintenance, and improvements; other charges and pass through expenditures; and, short-term projects and studies that promote efficiency and service improvement.

Item 95

To Department of Human Services - Division of Child and Family Services
From Closing Nonlapsing Balances . . . (500,000)
Schedule of Programs:

Service Delivery (500,000)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that any remaining funds provided for the Division of Child and Family Services, in Item 30, Chapter 10, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016. It is further the intent of the Legislature that these non-lapsing funds are to be used to purchase up to 17 State Fleet vehicles for Adoption Assistance, Out of Home Care, Service Delivery, In-Home Services, Special Needs, and SAFE Management Information System modernization consistent with the requirements found at UCA 63J-1-603(3)(b).

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$200,000 provided for the Division of Child and Family Services, in Item 30, Chapter 10, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016. These non-lapsing funds are to be used for the GrandFamilies program consistent with the previous year's intent language.

Item 96

To Department of Human Services - Division of Aging and Adult Services
From Closing Nonlapsing Balances . . . (273,500)
Schedule of Programs:

Aging Waiver Services (273,500)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$50,000 of appropriations provided for the Department of Human Services' Division of Aging and Adult Services - Adult Protective Services, in Item 31, Chapter 10, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016. These funds are to be used for the purchase of computer equipment and software, capital equipment or improvements, equipment, or supplies.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that any remaining funds provided by Item 31, Chapter 10, Laws of Utah 2015 for the Department of Human Services' Division of Aging and Adult Services not lapse at the close of Fiscal Year 2016. It is further the intent of the Legislature that these non-lapsing funds are to be used for client services for the Aging Waiver consistent with the requirements found at UCA 63J-1-603(3)(b).

STATE BOARD OF EDUCATION

Item 97

To State Board of Education - State Office of Rehabilitation

The Legislature intends that the Utah State Office of Rehabilitation prepare proposed performance measures for all new funding for building blocks and give this information to the Office of the Legislative Fiscal Analyst by June 1, 2016. At a minimum the proposed measures should include those presented to the Subcommittee during the requests for funding. If the same measures are not included, a detailed explanation as to why should be included. The Utah State Office of Rehabilitation shall provide its first report on its performance measures to the Office of the Legislative Fiscal Analyst by October 31, 2016 with another report two months after the close of fiscal year 2017. The Office of the Legislative Fiscal Analyst shall share this information with the legislative staff of the Health and Human Services Interim Committee.

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 98

To University of Utah - Education and General
From General Fund, One-Time . . . (45,000,000)
From Education Fund, One-Time . . . 45,049,900
Schedule of Programs:
Operations and Maintenance 49,900

UTAH STATE UNIVERSITY

Item 99

To Utah State University - Education and General
From General Fund, One-Time . . . (80,000,000)
From Education Fund, One-Time . . . 79,715,000
Schedule of Programs:

Operations and Maintenance (285,000)

\$600,000; and Great Salt Lake Marina Dredging \$1,000,000.

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

Item 105

DEPARTMENT OF NATURAL RESOURCES

To Department of Natural Resources - Oil, Gas and Mining

Item 100

To Department of Natural Resources - Administration

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Oil, Gas, and Mining in Item 6, Chapter 8, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to: Mining Special Projects/Studies \$250,000; Computer Equipment/Software \$50,000; Employee Training/Incentives \$50,000; Equipment/Supplies \$50,000.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Natural Resources - Administration in Item 1, Chapter 8, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to: Capital Projects \$25,000; Operating Budget Items \$200,000.

Item 106

Item 101

To Department of Natural Resources - Species Protection

To Department of Natural Resources - Wildlife Resources

From General Fund Restricted - Wildlife

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Species Protection program in Item 2, Chapter 8, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to projects started in 2016: \$200,000.

Habitat, One-Time 250,000
Schedule of Programs:

Aquatic Section 250,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Wildlife Resources line item in Item 7, Chapter 8, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to: projects funded from the Mule Deer Protection Restricted Account \$200,000; projects funded from the Predator Control Restricted Account \$200,000, and prevent aquatic invasive species spread into Bear Lake \$200,000, with at least \$100,000 to be spent on check stations for boats entering Bear Lake Valley, boat decontamination, public education, and related activities.

Item 102

To Department of Natural Resources - DNR Pass Through

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for DNR Pass Through in Item 147, Chapter 468, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to: Richfield Building \$1,876,300; Utah Lake and Jordan River improvements \$1,000,000; National Environmental Policy Act (NEPA) projects \$250,000, and Gordon Creek \$170,000.

The Legislature intends that up to \$180,000 be spent on livestock damage. \$90,000 will be from the General Fund and up to \$90,000 will be from the General Fund Restricted - Wildlife Resources account. The Legislature also intends that this appropriation shall not lapse at the close of FY 2016.

Item 103

To Department of Natural Resources - Watershed

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Watershed program in Item 4, Chapter 8, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to projects started in 2015: \$700,000.

The Legislature intends that up to \$700,000 of Wildlife Resources budget may be used for big game depredation expenses. The Legislature also intends that half of these funds be from the General Fund Restricted - Wildlife Resources account and half from the General Fund. The Legislature also intends that this appropriation shall not lapse at the close of FY 2016.

Item 104

To Department of Natural Resources - Forestry, Fire and State Lands

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Forestry, Fire, and State Lands in Item 5, Chapter 8, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to: Sovereign Lands Related Projects \$3,073,000; Little Willow Water Line \$32,000; Catastrophic Wildfire Projects

Item 107

To Department of Natural Resources - Wildlife Resources Capital Budget

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Wildlife Resources Capital line item in Item 11, Chapter 8, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to Operations and Maintenance of the Hatchery Systems in the state: \$649,400.

Item 108

To Department of Natural Resources -
 Parks and Recreation
 From General Fund Restricted -
 State Park Fees, One-Time 2,000,000
 Schedule of Programs:
 Park Operation Management 2,000,000

Item 109

To Department of Natural Resources -
 Parks and Recreation Capital Budget
 From General Fund Restricted -
 State Park Fees, One-Time 2,000,000
 Schedule of Programs:
 Renovation and Development 2,000,000

Item 110

To Department of Natural Resources -
 Utah Geological Survey
 From General Fund, One-Time 500,000
 Schedule of Programs:
 Geologic Mapping 500,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Utah Geological Survey in Item 14, Chapter 8, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to: Mineral Lease Projects \$830,000; Computer Equipment/Software \$60,000; Equipment/Supplies \$40,000; Employee Training/Incentives \$30,000.

Item 111

To Department of Natural Resources -
 Water Resources

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Water Resources in Item 15, Chapter 8, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to: Current Expenses \$50,000; Computer Equipment/Software \$25,000; Special Projects/Studies \$125,000.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Water Resources in Item 154, Chapter 468, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to: dam safety construction projects \$9,750,000.

Item 112

To Department of Natural Resources -
 Water Rights
 From General Fund, One-Time (438,000)
 From Federal Funds, One-Time 26,000
 Schedule of Programs:
 Field Services (438,000)
 Technical Services 26,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Water Rights in Item 16, Chapter 8, Laws of Utah 2018, shall not lapse at the close of FY 2016. Expenditures of these funds are limited

to: Computer Equipment/Software \$40,000;
 Adjudication \$50,000, Special
 Projects/Studies \$150,000; Employee
 Incentive/Training \$30,000,
 Equipment/Supplies \$50,000, Current
 Expense \$30,000.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 113

To Department of Environmental Quality -
 Executive Director's Office
 From General Fund, One-Time 62,700
 From Federal Funds, One-Time 49,700
 From Dedicated Credits Revenue,
 One-Time 1,000
 From General Fund Restricted -
 Environmental Quality, One-Time 2,900
 Schedule of Programs:
 Executive Director's Office 116,300

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Executive Directors Office in Item 17, Chapter 8, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to high level nuclear waste opposition \$127,400; capital improvements/maintenance and equipment \$350,000; administrative law judge \$150,000; enterprise-wide land information initiative \$600,000.

Item 114

To Department of Environmental Quality -
 Air Quality
 From General Fund, One-Time 5,200
 From Federal Funds, One-Time (27,300)
 From Dedicated Credits Revenue,
 One-Time 3,900
 Schedule of Programs:
 Air Quality (18,200)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Division of Air Quality in Item 18, Chapter 8, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to reducing future operating permit fees \$100,000; air monitoring equipment \$200,000; air quality research \$500,000; change out of wood stoves to natural gas \$200,000.

Item 115

To Department of Environmental Quality -
 Environmental Response and Remediation
 From General Fund, One-Time 8,300
 From Federal Funds, One-Time (22,800)
 From Dedicated Credits Revenue,
 One-Time 134,100
 From General Fund Restricted -
 Voluntary Cleanup, One-Time 300
 From Petroleum Storage Tank
 Trust Fund, One-Time 3,600
 Schedule of Programs:
 Environmental Response and
 Remediation 123,500

Item 116

To Department of Environmental Quality -
 Water Quality
 From General Fund, One-Time 2,100
 From Federal Funds, One-Time 452,600
 From Dedicated Credits Revenue,
 One-Time 1,600
 From Water Dev. Security Fund -
 Utah Wastewater Loan Program,
 One-Time 1,600
 Schedule of Programs:
 Water Quality 457,900

Item 117

To Department of Environmental Quality -
 Drinking Water
 From Federal Funds, One-Time 3,700
 From Water Dev. Security Fund - Drinking
 Water Origination Fee, One-Time 1,400
 Schedule of Programs:
 Drinking Water 5,100

Item 118

To Department of Environmental Quality - Clean
 Air Retrofit, Replacement, and Off-road
 Technology

Under the terms of 63J-1-603 of the Utah
 Code, the Legislature intends that
 appropriations provided for Clean Air
 Retrofit, Replacement, and Off-road
 Technology in Item 161, Chapter 468, Laws of
 Utah 2015 and in Item 163, Chapter 469,
 Laws of Utah 2015, shall not lapse at the close
 of FY 2016. Expenditures of these funds are
 limited to grants, rebates, exchanges, or
 low-cost purchase program awards \$700,000.

Item 119

To Department of Environmental Quality - Waste
 Management and Radiation Control
 From General Fund, One-Time (50,300)
 From Federal Funds, One-Time (47,300)
 From Dedicated Credits Revenue,
 One-Time 566,100
 From General Fund Restricted -
 Environmental Quality, One-Time 8,900
 From General Fund Restricted -
 Used Oil Collection Administration,
 One-Time 1,900
 Schedule of Programs:
 Waste Management and Radiation
 Control 479,300

Item 120

To Department of Environmental Quality -
 Facilities for Alternative Fuel Vehicles
 From General Fund, One-Time (2,000,000)
 Schedule of Programs:
 Facilities for Alternative Fuel
 Vehicles (2,000,000)

**PUBLIC LANDS POLICY
 COORDINATING OFFICE**

Item 121

To Public Lands Policy Coordinating Office
 From General Fund, One-Time 480,000
 Schedule of Programs:
 Public Lands Office 480,000

Under the terms of 63J-1-603 of the Utah
 Code, the Legislature intends that
 appropriations provided for the Public Lands
 Policy Coordinating Office in Item 24,
 Chapter 8, Laws of Utah 2015 and Item 162,
 Chapter 468, Laws of Utah 2015, shall not
 lapse at the close of FY 2016. Expenditures of
 these funds are limited to litigation and
 operation expenses: \$2,923,800.

Item 122

To Public Lands Policy Coordinating Office -
 Commission for Stewardship of Public Lands

Under the terms of 63J-1-603 of the Utah
 Code, the Legislature intends that
 appropriations provided for the Public Lands
 Policy Coordinating Office - Commission for
 the Stewardship of Public Lands in Item 117,
 Chapter 422, Laws of Utah 2014 and Item
 163, Chapter 468, Laws of Utah 2015, shall
 not lapse at the close of FY 2016.
 Expenditures of these funds are for the
 Commission to use at its discretion in
 carrying out its statutory duties: \$3,950,000

Item 123

To Public Lands Policy Coordinating Office -
 Public Lands Litigation

Under the terms of 63J-1-603 of the Utah
 Code, the Legislature intends that
 appropriations provided for the Public Lands
 Policy Coordinating Office - Public Lands
 Litigation in Item 164, Chapter 468, Laws of
 Utah 2015, shall not lapse at the close of FY
 2016. Expenditures of these funds are limited
 to litigation and operation expenses:
 \$1,293,300.

GOVERNOR'S OFFICE

Item 124

To Governor's Office - Office of
 Energy Development
 From General Fund, One-Time 32,000
 Schedule of Programs:
 Office of Energy Development 32,000

Under the terms of 63J-1-603 of the Utah
 Code, the Legislature intends that
 appropriations provided for the Office of
 Energy Development in Item 25, Chapter 8,
 Laws of Utah 2015, shall not lapse at the close
 of FY 2016. Expenditures of these funds are
 limited to commercial and industrial energy
 efficiency and renewable energy programs
 involving building improvements,
 infrastructure, transportation and
 agriculture \$381,700; and, programs aimed
 at accomplishing the Governors 10-year
 strategic energy plan \$135,000.

**DEPARTMENT OF
 AGRICULTURE AND FOOD**

Item 125

To Department of Agriculture and
 Food - Administration
 From Federal Funds, One-Time 37,700
 Schedule of Programs:
 General Administration 37,700

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the General Administration line item in Item 26, Chapter 8, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to: Computer Equipment/Software \$25,900; Employee Training/Incentives \$103,500; Equipment/Supplies \$55,400; Special Projects/Studies \$184,700.

Item 126

To Department of Agriculture and Food - Animal Health

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the General Administration line item in Item 27, Chapter 8, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to: Employee Training/Incentives \$139,100; Special Projects/Studies \$417,100.

The Legislature intends that Department of Agriculture and Food purchase three new vehicles in FY 2016 for the Animal Health line item.

Item 127

To Department of Agriculture and Food - Plant Industry

From Federal Funds, One-Time 21,700
Schedule of Programs:

Plant Industry 21,700

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the General Administration line item in Item 28, Chapter 8, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to: Capital Equipment or Improvements \$27,800; Computer Equipment/Software \$52,800; Employee Training/Incentives \$63,300; Equipment/Supplies \$105,500; Vehicles \$120,000; Special Projects/Studies \$633,300.

Item 128

To Department of Agriculture and Food - Regulatory Services

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the General Administration line item in Item 29, Chapter 8, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to: Computer Equipment/Software \$32,300; Employee Training/Incentives \$51,700; Equipment/Supplies \$64,600; Special Projects/Studies \$335,700.

The Legislature intends that Department of Agriculture and Food purchase one new vehicle in FY 2016 for the Regulatory Services line item.

Item 129

To Department of Agriculture and Food - Marketing and Development

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the General Administration line item in Item 30, Chapter 8, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to: Employee Training/Incentives \$13,500; Equipment/Supplies \$16,900; Special Projects/Studies \$37,100.

Item 130

To Department of Agriculture and Food - Predatory Animal Control

From Revenue Transfers, One-Time . . . 635,300
Schedule of Programs:

Predatory Animal Control 635,300

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Predatory Animal Control in Item 32, Chapter 8, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to: Employee Training/Incentives \$23,300; Equipment/Supplies \$29,100; Special Projects/Studies \$133,600.

Item 131

To Department of Agriculture and Food - Resource Conservation

From Federal Funds, One-Time 350,000
Schedule of Programs:

Resource Conservation 350,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Resource Conservation in Item 33, Chapter 8, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to: Capital Equipment or Improvements \$14,500; Computer Equipment/Software \$12,100; Employee Training/Incentives \$9,700; Equipment/Supplies \$9,700; Special Projects/Studies \$50,700.

The Legislature intends that Department of Agriculture and Food purchase four new vehicles in FY 2016 for the Resource Conservation line item.

Item 132

To Department of Agriculture and Food - Invasive Species Mitigation

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Rangeland Improvement in Item 35, Chapter 8, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to rangeland improvement projects \$899,900.

Item 133

To Department of Agriculture and Food - Rangeland Improvement

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Rangeland

Improvement in Item 35, Chapter 8, Laws of Utah 2015, shall not lapse at the close of FY 2016. Expenditures of these funds are limited to rangeland improvement projects \$899,900.

RETIREMENT AND INDEPENDENT ENTITIES

CAREER SERVICE REVIEW OFFICE

Item 134

To Career Service Review Office

Under the terms of Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Career Service Review Office in Laws of Utah 2015, Chapter 4, Item 1 shall not lapse at the close of fiscal year 2016. The use of any nonlapsing funds is limited to \$30,000 for grievance resolution.

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Item 135

To Department of Human Resource Management - Human Resource Management

Under the terms of Section 63J-1-603 of the Utah Code, the Legislature intends that \$50,000 of appropriations provided for the Department of Human Resource Management in Laws of Utah 2015, Chapter 4, Item 2 shall not lapse at the close of fiscal year 2016. The use of any nonlapsing funds is limited to statewide management training.

UTAH EDUCATION AND TELEHEALTH NETWORK

Item 136

To Utah Education and Telehealth Network
From General Funds, One-Time 593,100
Schedule of Programs:

Utah Telehealth Network 593,100

The legislature intends that state funding appropriated to the Utah Education and Telehealth Network may be used for broadband infrastructure special construction costs for qualified eligible services under the E-rate Modernization Program adopted by the Federal Communications Commission in 2014. State funding allocated to UETN for special construction may qualify for an additional 10% in E-rate discount funding for special construction charges.

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 137

To Capitol Preservation Board
From General Fund, One-Time 400,000
Schedule of Programs:
Capitol Preservation Board 400,000

Under terms of Section 63J-1-603(3)(a) Utah Code Annotated, the Legislature intends that appropriations provided for the Capitol Preservation Board in item 5, Chapter 6, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016.

DEPARTMENT OF VETERANS' AND MILITARY AFFAIRS

Item 138

To Department of Veterans' and Military Affairs - Veterans' and Military Affairs

From General Fund, One-Time 36,000
From Federal Funds, One-Time 93,200
Schedule of Programs:

Administration 93,200
Cemetery 36,000

Under terms of Section 63J-1-603(3)(a) Utah Code Annotated, the Legislature intends that appropriations provided for the Department of Veterans' and Military Affairs in item 4, Chapter 6, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016.

Under terms of Section 63J-1-603(3)(a) Utah Code Annotated, the Legislature intends that appropriations provided for the Department of Veterans' and Military Affairs to develop a plan to move the Utah Air National Guard to Hill Air Force Base in item 139, Chapter 282, Laws of Utah 2014 not lapse at the close of Fiscal Year 2016. The use of any nonlapsing funds is limited to the same purpose as the original appropriation.

LEGISLATURE

Item 139

To Legislature - Legislative Services
From General Fund, One-Time 250,000
Schedule of Programs:

Administration 250,000

Subsection 1(b). Expendable Funds and

Accounts. The Legislature has reviewed the following expendable funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated. Outlays and expenditures from the recipient funds or accounts may be made without further legislative action according to a fund or account's applicable authorizing statute.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 140

To Governor's Office of Economic Development - GFR - Industrial Assistance Account

The Legislature intends that the Governor's Office of Economic Development use \$936,400 in FY 2016 and \$1,248,600 in FY 2017 from the Industrial Assistance Fund for Outdoor Retailer pavilion support.

PUBLIC SERVICE COMMISSION

Item 141

To Public Service Commission -
Universal Telecommunications Support Fund

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Public Service Commission - Universal Service Fund in Item 53, Chapter 3, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016.

Subsection 1(c). Business-like Activities.

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds as indicated estimated revenue from rates, fees, and other charges. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated.

**EXECUTIVE OFFICES AND
CRIMINAL JUSTICE**

UTAH DEPARTMENT OF CORRECTIONS

Item 142

To Utah Department of Corrections -
Utah Correctional Industries

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations for the Utah Department of Corrections - Utah Correctional Industries in item 39 of chapter 9, Laws of Utah 2015 not lapse at the close of Fiscal Year 2016.

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

**DEPARTMENT OF ADMINISTRATIVE
SERVICES INTERNAL SERVICE FUNDS**

Item 143

To Department of Administrative Services Internal Service Funds - Division of Fleet Operations
Authorized Capital Outlay 2,000,000

The Legislature intends that appropriations for Fleet Operations not lapse capital outlay authority granted within FY 2016 for vehicles not delivered by the end of FY 2016 in which vehicle purchase orders were issued obligating capital outlay funds.

**DEPARTMENT OF TECHNOLOGY
SERVICES INTERNAL SERVICE FUNDS**

Item 144

To Department of Technology Services Internal Service Funds - Agency Services
From Technology Services Internal Service Fund, One-Time 151,100
Schedule of Programs:
ISF - Agency Services Division 151,100

Item 145

To Department of Technology Services Internal Service Funds - Enterprise Technology Division
From General Fund, One-Time 5,500,000
Schedule of Programs:

ISF - Enterprise Technology Division 5,500,000

Subsection 1(d). Restricted Fund and

Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts among the following funds or accounts as indicated.

Expenditures and outlays from the recipient funds must be authorized elsewhere in an appropriations act.

SOCIAL SERVICES

Item 146

To GFR - Homeless Account
From General Fund, One-Time 347,600
Schedule of Programs:

General Fund Restricted - Pamela
Atkinson Homeless Account 347,600

Subsection 1(e). Transfers to Unrestricted

Funds. The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General, Education, or Uniform School Fund as indicated from the restricted funds or accounts indicated.

Expenditures and outlays from the General, Education, or Uniform School Fund must be authorized elsewhere in an appropriations act.

**BUSINESS, ECONOMIC
DEVELOPMENT, AND LABOR**

Item 147

To General Fund
From General Fund Restricted - Commerce Service Account, One-Time 10,000,000
From General Fund Restricted -

Insurance Department Account,
One-Time (265,000)

Schedule of Programs:

General Fund, One-time 9,735,000

Section 2. Effective Date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override.

CHAPTER 417

S. B. 8

Passed March 8, 2016
 Approved March 30, 2016
 Effective July 1, 2016

**STATE AGENCY AND HIGHER EDUCATION
 COMPENSATION APPROPRIATIONS**

Chief Sponsor: Jerry W. Stevenson
 House Sponsor: Brad L. Dee

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the use and operation of state government for the fiscal year beginning July 1, 2016 and ending June 30, 2017.

Highlighted Provisions:

This bill:

- ▶ provides funding for a 2.0% general salary increase for state and higher education employees;
- ▶ provides funding equivalent to a 2.0% general salary increase for discretionary salary increases for employees of the legislative branch, judicial branch, and constitutional offices;
- ▶ provides funding for a 7.3% increase in health insurance benefits rates for state and higher education employees;
- ▶ provides funding for retirement rate changes for certain state employees;
- ▶ provides funding for an up-to \$26 per pay period match for qualifying state employees enrolled in a defined contribution plan;
- ▶ provides funding for impacts associated with compensation of internal service fund employees; and
- ▶ provides funding for other compensation adjustments as authorized.

Money Appropriated in this Bill:

Section 1 of this bill appropriates \$76,966,500 in operating and capital budgets for fiscal year 2017, including:

- ▶ \$18,927,400 from the General Fund;
- ▶ \$27,607,900 from the Education Fund;
- ▶ \$30,431,200 from various sources as detailed in this bill.

Section 1 of this bill appropriates \$138,200 in expendable funds and accounts for fiscal year 2017.

Section 1 of this bill appropriates \$3,455,000 in business-like activities for fiscal year 2017.

Section 1 of this bill appropriates \$600 in fiduciary funds for fiscal year 2017.

Section 2 of this bill appropriates \$2,414,500 in operating and capital budgets for fiscal year 2017, including:

- ▶ \$923,400 from the General Fund;
- ▶ \$77,700 from the Education Fund;
- ▶ \$1,413,400 from various sources as detailed in this bill.

Section 2 of this bill appropriates \$18,700 in expendable funds and accounts for fiscal year 2017.

Section 2 of this bill appropriates \$176,300 in business-like activities for fiscal year 2017.

Section 2 of this bill appropriates \$4,700 in fiduciary funds for fiscal year 2017.

Other Special Clauses:

This bill takes effect on July 1, 2016.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2017 Appropriations. Under provisions of Section 67-19-43, Utah Code Annotated, the employer defined contribution match for the fiscal year beginning July 1, 2016 and ending June 30, 2017 shall be \$26 per pay period. The following sums of money are appropriated for the fiscal year beginning July 1, 2016 and ending June 30, 2017. These are additions to amounts previously appropriated for fiscal year 2017.

Subsection 1(a). Operating and Capital

Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

**EXECUTIVE OFFICES AND
 CRIMINAL JUSTICE**

GOVERNOR'S OFFICE

Item 1

To Governor's Office	
From General Fund	59,000
From General Fund, One-Time	22,900
From Dedicated Credits Revenue	9,000
From Dedicated Credits Revenue, One-Time	2,200
Schedule of Programs:	
Administration	60,700
Governor's Residence	6,500
Washington Funding	2,700
Lt. Governor's Office	23,200

Item 2

To Governor's Office - Character Education	
From General Fund	400
Schedule of Programs:	
Character Education	400

Item 3

To Governor's Office - Governor's Office of Management and Budget	
From General Fund	64,300
From General Fund, One-Time	21,400
Schedule of Programs:	
Administration	24,900
Planning and Budget Analysis	35,600
Operational Excellence	25,200

Item 4

To Governor's Office - Commission on Criminal and Juvenile Justice	
From General Fund	46,800
From General Fund, One-Time	13,600
From Federal Funds	17,500
From Federal Funds, One-Time	4,900

From General Fund Restricted - Criminal Forfeiture Restricted Account . . .	900
From General Fund Restricted - Criminal Forfeiture Restricted Account, One-Time	200
From General Fund Restricted - Law Enforcement Operations	700
From General Fund Restricted - Law Enforcement Operations, One-Time . .	200
From Crime Victim Reparations Fund	38,400
From Crime Victim Reparations Fund, One-Time	10,100
Schedule of Programs:	
CCJJ Commission	47,600
Utah Office for Victims of Crime	63,900
Extraditions	1,200
Substance Abuse Advisory Council	3,100
Sentencing Commission	3,700
State Task Force Grants	900
State Asset Forfeiture Grant Program . . .	1,100
Judicial Performance Evaluation Commission	11,800

OFFICE OF THE STATE AUDITOR**Item 5**

To Office of the State Auditor - State Auditor From General Fund	57,300
From General Fund, One-Time	15,800
From Dedicated Credits Revenue	29,700
From Dedicated Credits Revenue, One-Time	8,200
Schedule of Programs:	
State Auditor	111,000

STATE TREASURER**Item 6**

To State Treasurer From General Fund	16,100
From General Fund, One-Time	3,100
From Dedicated Credits Revenue	7,200
From Dedicated Credits Revenue, One-Time	1,400
From Unclaimed Property Trust	21,200
From Unclaimed Property Trust, One-Time	5,800
Schedule of Programs:	
Treasury and Investment	25,200
Unclaimed Property	27,000
Money Management Council	2,600

ATTORNEY GENERAL**Item 7**

To Attorney General From General Fund	645,300
From General Fund, One-Time	132,700
From Federal Funds	27,400
From Federal Funds, One-Time	5,800
From Dedicated Credits Revenue	406,300
From Dedicated Credits Revenue, One-Time	82,000
From General Fund Restricted - Constitutional Defense	8,000
From General Fund Restricted - Constitutional Defense, One-Time	1,700
From Attorney General Litigation Fund . .	7,800

From Attorney General Litigation Fund, One-Time	1,700
From Revenue Transfers	15,500
From Revenue Transfers, One-Time	3,200
Schedule of Programs:	
Administration	95,600
Child Protection	207,900
Criminal Prosecution	423,300
Civil	610,600

Item 8

To Attorney General - Children's Justice Centers From Federal Funds	5,700
From Federal Funds, One-Time	700
Schedule of Programs:	
Children's Justice Centers	6,400

Item 9

To Attorney General - Prosecution Council From General Fund Restricted - Public Safety Support	7,500
From General Fund Restricted - Public Safety Support, One-Time	2,900
From Revenue Transfers	5,100
From Revenue Transfers, One-Time	1,700
Schedule of Programs:	
Prosecution Council	17,200

UTAH DEPARTMENT OF CORRECTIONS**Item 10**

To Utah Department of Corrections - Programs and Operations From General Fund	4,222,400
From General Fund, One-Time	1,259,700
Schedule of Programs:	
Department Executive Director	133,500
Department Administrative Services . .	324,200
Department Training	43,000
Adult Probation and Parole Administration	20,900
Adult Probation and Parole Programs	1,670,600
Institutional Operations Administration	16,300
Institutional Operations Draper Facility	1,740,600
Institutional Operations Central Utah/Gunnison	1,015,000
Institutional Operations Inmate Placement	69,700
Institutional Operations Support Services	20,000
Programming Administration	10,900
Programming Treatment	139,000
Programming Skill Enhancement	278,400

Item 11

To Utah Department of Corrections - Department Medical Services From General Fund	386,500
From General Fund, One-Time	166,700
Schedule of Programs:	
Medical Services	553,200

BOARD OF PARDONS AND PAROLE**Item 12**

To Board of Pardons and Parole From General Fund	81,000
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From General Fund, One-Time 24,300
 Schedule of Programs:
 Board of Pardons and Parole 105,300

**DEPARTMENT OF HUMAN SERVICES -
 DIVISION OF JUVENILE JUSTICE
 SERVICES**

Item 13

To Department of Human Services - Division of
 Juvenile Justice Services - Programs and
 Operations
 From General Fund 1,628,500
 From General Fund, One-Time 431,700
 From Federal Funds 85,600
 From Federal Funds, One-Time 23,200
 From Dedicated Credits Revenue 10,900
 From Dedicated Credits Revenue,
 One-Time 2,900
 From Revenue Transfers 33,200
 From Revenue Transfers, One-Time 8,200
 Schedule of Programs:
 Administration 97,400
 Early Intervention Services 722,000
 Community Programs 263,500
 Correctional Facilities 522,800
 Rural Programs 607,900
 Youth Parole Authority 10,600

**JUDICIAL COUNCIL/STATE
 COURT ADMINISTRATOR**

Item 14

To Judicial Council/State Court Administrator -
 Administration
 From General Fund 2,326,000
 From General Fund, One-Time 544,100
 From Federal Funds 4,900
 From Federal Funds, One-Time 1,100
 From Dedicated Credits Revenue 8,700
 From Dedicated Credits Revenue,
 One-Time 2,000
 From General Fund Restricted -
 Dispute Resolution Account 11,800
 From General Fund Restricted -
 Dispute Resolution Account,
 One-Time 2,700
 From General Fund Restricted -
 Children's Legal Defense 6,500
 From General Fund Restricted -
 Children's Legal Defense, One-Time 1,400
 From General Fund Restricted -
 Court Security Account 2,600
 From General Fund Restricted -
 Court Security Account, One-Time 700
 From General Fund Restricted -
 DNA Specimen Account 1,900
 From General Fund Restricted -
 DNA Specimen Account, One-Time 400
 From General Fund Rest. - Justice
 Court Tech., Security & Training 17,000
 From General Fund Rest. - Justice
 Court Tech., Security & Training,
 One-Time 4,400
 From General Fund Restricted -
 Nonjudicial Adjustment Account 17,800

From General Fund Restricted -
 Nonjudicial Adjustment Account,
 One-Time 4,200
 From General Fund Restricted -
 Substance Abuse Prevention 4,700
 From General Fund Restricted - Substance
 Abuse Prevention, One-Time 1,100
 From General Fund Restricted -
 Tobacco Settlement Account 3,100
 From General Fund Restricted -
 Tobacco Settlement Account, One-Time ... 600
 From Revenue Transfers 7,600
 From Revenue Transfers, One-Time 1,900
 Schedule of Programs:
 Supreme Court 83,900
 Law Library 24,600
 Court of Appeals 109,600
 District Courts 1,340,800
 Juvenile Courts 1,157,700
 Justice Courts 27,100
 Courts Security 3,300
 Administrative Office 85,500
 Judicial Education 10,400
 Data Processing 124,200
 Grants Program 10,100

Item 15

To Judicial Council/State Court Administrator -
 Contracts and Leases
 From General Fund 3,600
 From General Fund, One-Time 700
 Schedule of Programs:
 Contracts and Leases 4,300

Item 16

To Judicial Council/State Court Administrator -
 Jury and Witness Fees
 From General Fund 8,000
 From General Fund, One-Time 7,600
 Schedule of Programs:
 Jury, Witness, and Interpreter 15,600

Item 17

To Judicial Council/State Court Administrator -
 Guardian ad Litem
 From General Fund 147,300
 From General Fund, One-Time 31,100
 From General Fund Restricted -
 Children's Legal Defense 9,600
 From General Fund Restricted -
 Children's Legal Defense, One-Time 2,100
 From General Fund Restricted -
 Guardian Ad Litem Services 5,100
 From General Fund Restricted - Guardian
 Ad Litem Services, One-Time 1,000
 Schedule of Programs:
 Guardian ad Litem 196,200

DEPARTMENT OF PUBLIC SAFETY

Item 18

To Department of Public Safety -
 Programs & Operations
 From General Fund 1,175,000
 From General Fund, One-Time 658,100
 From Federal Funds 16,000
 From Federal Funds, One-Time 1,700
 From Dedicated Credits Revenue 189,600
 From Dedicated Credits Revenue,
 One-Time 85,900

From General Fund Restricted -
DNA Specimen Account 10,200

From General Fund Restricted -
DNA Specimen Account, One-Time 2,000

From General Fund Restricted - Fire
Academy Support 48,100

From General Fund Restricted - Fire
Academy Support, One-Time 14,500

From General Fund Restricted - Utah
Highway Patrol Aero Bureau 1,200

From General Fund Restricted -
Utah Highway Patrol Aero Bureau,
One-Time 100

From Department of Public Safety
Restricted Account 21,600

From Department of Public Safety
Restricted Account, One-Time 20,300

From General Fund Restricted -
Concealed Weapons Account 62,500

From General Fund Restricted -
Concealed Weapons Account,
One-Time 16,700

Schedule of Programs:
Department Commissioner's Office 70,600
Aero Bureau 6,500
Department Intelligence Center 26,000
Department Grants 17,700
Department Fleet Management 1,700
CITS Administration 14,300
CITS Bureau of Criminal
Identification 232,500
CITS Communications 213,200
CITS State Crime Labs 120,300
CITS State Bureau of Investigation 85,500
Highway Patrol - Administration 26,200
Highway Patrol - Field
Operations 1,041,200
Highway Patrol - Commercial
Vehicle 118,800
Highway Patrol - Safety Inspections 31,800
Highway Patrol - Federal/State Projects .. 200
Highway Patrol - Protective
Services 122,500
Highway Patrol - Special Services 90,500
Highway Patrol - Special
Enforcement 14,400
Highway Patrol - Technology
Services 21,200
Fire Marshall - Fire Operations 55,300
Fire Marshall - Fire Fighter Training .. 13,100

Item 19

To Department of Public Safety -
Emergency Management
From General Fund 26,700
From General Fund, One-Time 6,400
From Federal Funds 76,000
From Federal Funds, One-Time 17,900
Schedule of Programs:
Emergency Management 127,000

Item 20

To Department of Public Safety - Peace
Officers' Standards and Training
From General Fund 34,100
From General Fund, One-Time 28,400
Schedule of Programs:

Basic Training 25,200
Regional/Inservice Training 11,000
POST Administration 26,300

Item 21

To Department of Public Safety - Driver
License
From Federal Funds 1,400
From Public Safety Motorcycle
Education Fund 2,300
From Public Safety Motorcycle
Education Fund, One-Time 700
From Department of Public Safety
Restricted Account 583,600
From Department of Public Safety
Restricted Account, One-Time 146,700
Schedule of Programs:
Driver License Administration 59,800
Driver Services 475,400
Driver Records 195,100
Motorcycle Safety 3,000
DL Federal Grants 1,400

Item 22

To Department of Public Safety - Highway Safety
From General Fund 300
From General Fund, One-Time 100
From Federal Funds 33,900
From Federal Funds, One-Time 8,700
Schedule of Programs:
Highway Safety 43,000

**INFRASTRUCTURE AND
GENERAL GOVERNMENT****TRANSPORTATION****Item 23**

To Transportation - Support Services
From Transportation Fund 331,100
From Transportation Fund, One-Time .. 115,000
Schedule of Programs:
Administrative Services 37,200
Risk Management 16,300
Human Resources Management 3,500
Procurement 38,100
Comptroller 81,800
Data Processing 6,100
Internal Auditor 25,100
Community Relations 14,900
Ports of Entry 223,100

Item 24

To Transportation - Engineering Services
From Transportation Fund 631,800
From Transportation Fund, One-Time .. 193,000
Schedule of Programs:
Program Development 199,900
Preconstruction Admin 48,800
Environmental 29,000
Structures 96,200
Materials Lab 125,900
Engineering Services 80,400
Right-of-Way 74,900
Research 32,200
Construction Management 52,000
Civil Rights 14,000
Engineer Development Pool 61,300
Highway Project Management Team 10,200

Item 25

To Transportation - Operations/
Maintenance Management

From Transportation Fund	1,879,800
From Transportation Fund, One-Time ..	600,900
From Dedicated Credits Revenue	3,300
From Dedicated Credits Revenue, One-Time	800
Schedule of Programs:	
Region 1	324,400
Region 2	507,300
Region 3	308,900
Region 4	631,800
Field Crews	356,700
Traffic Safety/Tramway	100,000
Traffic Operations Center	191,700
Maintenance Planning	64,000

Item 26

To Transportation - Region Management

From Transportation Fund	710,000
From Transportation Fund, One-Time ..	181,500
Schedule of Programs:	
Region 1	197,800
Region 2	299,500
Region 3	162,200
Region 4	212,700
Richfield	1,100
Price	9,100
Cedar City	9,100

Item 27

To Transportation - Equipment Management

From Dedicated Credits Revenue	180,600
From Dedicated Credits Revenue, One-Time	56,400
Schedule of Programs:	
Shops	237,000

Item 28

To Transportation - Aeronautics

From Aeronautics Restricted Account	30,900
From Aeronautics Restricted Account, One-Time	6,500
Schedule of Programs:	
Administration	15,700
Airplane Operations	21,700

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 29

To Department of Administrative Services - Executive Director

From General Fund	15,900
From General Fund, One-Time	3,400
Schedule of Programs:	
Executive Director	19,300

Item 30

To Department of Administrative Services - Inspector General of Medicaid Services

From General Fund	29,300
From General Fund, One-Time	8,800
From Revenue Transfers	29,300
From Revenue Transfers, One-Time	8,800
Schedule of Programs:	
Inspector General of Medicaid Services	76,200

Item 31

To Department of Administrative Services - Administrative Rules

From General Fund	5,300
From General Fund, One-Time	1,900
Schedule of Programs:	
DAR Administration	7,200

Item 32

To Department of Administrative Services - DFCM Administration

From General Fund	36,300
From General Fund, One-Time	13,600
From Dedicated Credits Revenue	23,900
From Dedicated Credits Revenue, One-Time	6,700
From Capital Projects Fund	33,800
From Capital Projects Fund, One-Time ...	12,600
Schedule of Programs:	
DFCM Administration	113,300
Energy Program	13,600

Item 33

To Department of Administrative Services - Building Board Program

From Capital Projects Fund	8,100
From Capital Projects Fund, One-Time ...	2,200
Schedule of Programs:	
Building Board Program	10,300

Item 34

To Department of Administrative Services - State Archives

From General Fund	43,300
From General Fund, One-Time	15,900
Schedule of Programs:	
Archives Administration	9,800
Records Analysis	7,900
Preservation Services	8,700
Patron Services	19,800
Records Services	5,100
Open Records	7,900

Item 35

To Department of Administrative Services - Finance Administration

From General Fund	89,700
From General Fund, One-Time	53,800
From Dedicated Credits Revenue	11,100
From Dedicated Credits Revenue, One-Time	6,500
Schedule of Programs:	
Finance Director's Office	13,600
Payroll	19,100
Payables/Disbursing	39,000
Financial Reporting	54,300
Financial Information Systems	35,100

Item 36

To Department of Administrative Services - Finance - Mandated

From General Fund, One-Time	(4,500,000)
Schedule of Programs:	
State Employee Benefits	(4,500,000)

Item 37

To Department of Administrative Services - Judicial Conduct Commission

From General Fund	4,700
From General Fund, One-Time	700
Schedule of Programs:	

Judicial Conduct Commission 5,400

Item 38

To Department of Administrative Services - Purchasing
 From General Fund 14,000
 From General Fund, One-Time 4,700
 Schedule of Programs:
 Purchasing and General Services 18,700

DEPARTMENT OF TECHNOLOGY SERVICES

Item 39

To Department of Technology Services - Chief Information Officer
 From General Fund 7,200
 From General Fund, One-Time 5,000
 Schedule of Programs:
 Chief Information Officer 12,200

Item 40

To Department of Technology Services - Integrated Technology Division
 From General Fund 20,000
 From General Fund, One-Time 5,700
 From Dedicated Credits Revenue 8,600
 From Dedicated Credits Revenue, One-Time 2,400
 Schedule of Programs:
 Automated Geographic Reference Center 36,700

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF HERITAGE AND ARTS

Item 41

To Department of Heritage and Arts - Administration
 From General Fund 45,300
 From General Fund, One-Time 13,800
 From Federal Funds 4,600
 From Federal Funds, One-Time 1,300
 Schedule of Programs:
 Executive Director's Office 13,800
 Information Technology 3,300
 Administrative Services 31,700
 Utah Multicultural Affairs Office 4,400
 Commission on Service and Volunteerism 11,800

Item 42

To Department of Heritage and Arts - State History
 From General Fund 35,400
 From General Fund, One-Time 11,100
 From Federal Funds 11,000
 From Federal Funds, One-Time 5,800
 From Dedicated Credits Revenue 300
 From Dedicated Credits Revenue, One-Time 100
 Schedule of Programs:
 Administration 5,300
 Library and Collections 12,300
 Public History, Communication and Information 12,500
 Historic Preservation and Antiquities 33,600

Item 43

To Department of Heritage and Arts - Division of Arts and Museums
 From General Fund 27,400
 From General Fund, One-Time 6,100
 Schedule of Programs:
 Administration 7,300
 Community Arts Outreach 26,200

Item 44

To Department of Heritage and Arts - State Library
 From General Fund 59,600
 From General Fund, One-Time 18,200
 From Federal Funds 1,800
 From Federal Funds, One-Time 400
 From Dedicated Credits Revenue 22,400
 From Dedicated Credits Revenue, One-Time 4,900
 Schedule of Programs:
 Administration 8,100
 Blind and Disabled 44,000
 Library Development 39,600
 Library Resources 15,600

Item 45

To Department of Heritage and Arts - Indian Affairs
 From General Fund 4,400
 From General Fund, One-Time 600
 Schedule of Programs:
 Indian Affairs 5,000

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 46

To Governor's Office of Economic Development - Administration
 From General Fund 47,700
 From General Fund, One-Time 10,100
 Schedule of Programs:
 Administration 57,800

Item 47

To Governor's Office of Economic Development - STEM Action Center
 From General Fund 10,900
 From General Fund, One-Time 3,700
 Schedule of Programs:
 STEM Action Center 14,600

Item 48

To Governor's Office of Economic Development - Office of Tourism
 From General Fund 49,500
 From General Fund, One-Time 9,600
 Schedule of Programs:
 Administration 19,100
 Operations and Fulfillment 27,900
 Film Commission 12,100

Item 49

To Governor's Office of Economic Development - Business Development
 From General Fund 67,300
 From General Fund, One-Time 13,300
 Schedule of Programs:
 Outreach and International Trade 30,500
 Corporate Recruitment and Business Services 50,100

Item 50

To Governor's Office of Economic Development -
 Pete Suazo Utah Athletics Commission
 From General Fund 3,000
 From General Fund, One-Time 700
 Schedule of Programs:
 Pete Suazo Utah Athletics Commission .. 3,700

Item 51

To Governor's Office of Economic Development -
 Utah Broadband Outreach Center
 From General Fund 3,400
 From General Fund, One-Time 700
 Schedule of Programs:
 Utah Broadband Outreach Center 4,100

UTAH STATE TAX COMMISSION

Item 52

To Utah State Tax Commission -
 Tax Administration
 From General Fund 606,600
 From General Fund, One-Time 165,200
 From Education Fund 395,600
 From Education Fund, One-Time 104,900
 From Dedicated Credits Revenue 11,700
 From Dedicated Credits Revenue,
 One-Time 3,300
 From General Fund Restricted -
 Motor Vehicle Enforcement Division
 Temporary Permit Account 69,500
 From General Fund Restricted - Motor
 Vehicle Enforcement Division Temporary
 Permit Account, One-Time 20,000
 From General Fund Restricted - Sales
 and Use Tax Admin Fees 192,600
 From General Fund Restricted - Sales
 and Use Tax Admin Fees, One-Time ... 51,600
 Schedule of Programs:
 Administration Division 202,600
 Auditing Division 327,100
 Tax Processing Division 173,500
 Seasonal Employees 2,700
 Tax Payer Services 314,000
 Property Tax Division 135,300
 Motor Vehicles 376,300
 Motor Vehicle Enforcement Division ... 89,500

**UTAH SCIENCE TECHNOLOGY AND
 RESEARCH GOVERNING AUTHORITY**

Item 53

To Utah Science Technology and Research
 Governing Authority - Technology Outreach and
 Innovation
 From General Fund 36,600
 From General Fund, One-Time 2,100
 Schedule of Programs:
 South 5,200
 Central 5,900
 North 6,200
 East 6,600
 Salt Lake SBIR-STTR Resource
 Center 7,700
 Salt Lake BioInnovations
 Gateway (BiG) 3,200
 Projects 3,900

Item 54

To Utah Science Technology and Research
 Governing Authority - USTAR Administration
 From General Fund 17,800
 From General Fund, One-Time 3,400
 Schedule of Programs:
 Administration 21,200

**DEPARTMENT OF ALCOHOLIC
 BEVERAGE CONTROL**

Item 55

To Department of Alcoholic Beverage
 Control - DABC Operations
 From Liquor Control Fund 386,600
 From Liquor Control Fund, One-Time 97,500
 Schedule of Programs:
 Executive Director 53,700
 Administration 22,700
 Warehouse and Distribution 49,500
 Stores and Agencies 358,200

LABOR COMMISSION

Item 56

To Labor Commission
 From General Fund 101,000
 From General Fund, One-Time 26,200
 From Federal Funds 66,400
 From Federal Funds, One-Time 15,000
 From Dedicated Credits Revenue 1,200
 From Dedicated Credits Revenue,
 One-Time 300
 From General Fund Restricted -
 Industrial Accident Rest. Account 57,900
 From General Fund Restricted -
 Industrial Accident Rest. Account,
 One-Time 14,300
 From General Fund Restricted -
 Workplace Safety Account 10,600
 From General Fund Restricted -
 Workplace Safety Account, One-Time ... 2,400
 From Employers' Reinsurance Fund 1,200
 From Employers' Reinsurance Fund,
 One-Time 300
 Schedule of Programs:
 Administration 29,300
 Industrial Accidents 45,900
 Adjudication 31,200
 Boiler, Elevator and Coal Mine
 Safety Division 37,900
 Workplace Safety 1,100
 Anti-Discrimination and Labor 52,100
 Utah Occupational Safety and Health ... 99,300

DEPARTMENT OF COMMERCE

Item 57

To Department of Commerce - Commerce
 General Regulation
 From Federal Funds 5,200
 From Federal Funds, One-Time 1,500
 From General Fund Restricted -
 Commerce Service Account 368,300
 From General Fund Restricted - Commerce
 Service Account, One-Time 105,700
 From General Fund Restricted -
 Commerce Service Account - Public
 Utilities Regulatory Fee 83,700

From General Fund Restricted - Commerce Service Account - Public Utilities Regulatory Fee, One-Time	22,600
From General Fund Restricted - Pawnbroker Operations	900
From General Fund Restricted - Pawnbroker Operations, One-Time	300
Schedule of Programs: Administration	45,900
Occupational and Professional Licensing	202,800
Securities	62,900
Consumer Protection	52,100
Corporations and Commercial Code	64,500
Real Estate	47,000
Public Utilities	95,000
Office of Consumer Services	18,000

Item 58

To Department of Commerce - Building Inspector Training	
From Dedicated Credits Revenue	1,600
From Dedicated Credits Revenue, One-Time	700
Schedule of Programs: Building Inspector Training	2,300

FINANCIAL INSTITUTIONS

Item 59

To Financial Institutions - Financial Institutions Administration	
From General Fund Restricted - Financial Institutions	134,500
From General Fund Restricted - Financial Institutions, One-Time	35,500
Schedule of Programs: Administration	170,000

INSURANCE DEPARTMENT

Item 60

To Insurance Department - Insurance Department Administration	
From Federal Funds	1,800
From Federal Funds, One-Time	600
From General Fund Restricted - Insurance Department Account	142,500
From General Fund Restricted - Insurance Department Account, One-Time	42,900
From General Fund Restricted - Insurance Fraud Investigation Acct	27,300
From General Fund Restricted - Insurance Fraud Investigation Acct, One-Time	11,000
From General Fund Restricted - Captive Insurance	24,300
From General Fund Restricted - Captive Insurance, One-Time	6,900
Schedule of Programs: Administration	187,800
Insurance Fraud Program	38,300
Captive Insurers	31,200

Item 61

To Insurance Department - Bail Bond Program	
From General Fund Restricted - Bail Bond Surety Administration	300
Schedule of Programs:	

Bail Bond Program	300
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Item 62

To Insurance Department - Title Insurance Program	
From General Fund Restricted - Title Licensee Enforcement Account	2,000
From General Fund Restricted - Title Licensee Enforcement Account, One-Time	700
Schedule of Programs: Title Insurance Program	2,700

PUBLIC SERVICE COMMISSION

Item 63

To Public Service Commission	
From General Fund Restricted - Commerce Service Account - Public Utilities Regulatory Fee	42,700
From General Fund Restricted - Commerce Service Account - Public Utilities Regulatory Fee, One-Time	13,500
Schedule of Programs: Administration	56,200

Item 64

To Public Service Commission - Speech and Hearing Impaired	
From Dedicated Credits Revenue	3,700
Schedule of Programs: Speech and Hearing Impaired	3,700

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 65

To Department of Health - Executive Director's Operations	
From General Fund	82,800
From General Fund, One-Time	24,300
From Federal Funds	72,200
From Federal Funds, One-Time	21,600
From Dedicated Credits Revenue	41,500
From Dedicated Credits Revenue, One-Time	11,500
From Revenue Transfers	3,000
From Revenue Transfers, One-Time	600
Schedule of Programs: Executive Director	38,800
Center for Health Data and Informatics	130,300
Program Operations	70,200
Office of Internal Audit	18,200

Item 66

To Department of Health - Family Health and Preparedness	
From General Fund	127,400
From General Fund, One-Time	37,800
From Federal Funds	290,300
From Federal Funds, One-Time	89,300
From Dedicated Credits Revenue	55,000
From Dedicated Credits Revenue, One-Time	17,700
From Revenue Transfers	100,100
From Revenue Transfers, One-Time	34,000
Schedule of Programs: Director's Office	26,500

Maternal and Child Health	105,700
Child Development	134,000
Children with Special Health Care Needs	184,600
Public Health and Health Care Preparedness	69,900
Health Facility Licensing and Certification	155,700
Emergency Medical Services and Preparedness	55,400
Primary Care	19,800

Item 67

To Department of Health - Disease Control and Prevention	
From General Fund	175,300
From General Fund, One-Time	40,700
From Federal Funds	289,500
From Federal Funds, One-Time	78,000
From Dedicated Credits Revenue	74,500
From Dedicated Credits Revenue, One-Time	17,800
From General Fund Restricted - State Lab Drug Testing Account	7,800
From General Fund Restricted - State Lab Drug Testing Account, One-Time ...	1,900
From General Fund Restricted - Tobacco Settlement Account	5,600
From General Fund Restricted - Tobacco Settlement Account, One-Time	1,400
From Revenue Transfers	14,000
From Revenue Transfers, One-Time	3,800
Schedule of Programs:	
General Administration	33,300
Health Promotion	233,600
Epidemiology	219,200
Laboratory Operations and Testing	136,700
Office of the Medical Examiner	77,300
Clinical and Environmental Laboratory Certification Programs	10,200

Item 68

To Department of Health - Workforce Financial Assistance	
From General Fund	500
Schedule of Programs:	
Workforce Financial Assistance	500

Item 69

To Department of Health - Medicaid and Health Financing	
From General Fund	73,500
From General Fund, One-Time	25,900
From Federal Funds	258,800
From Federal Funds, One-Time	87,500
From Dedicated Credits Revenue	54,500
From Dedicated Credits Revenue, One-Time	19,400
From General Fund Restricted - Nursing Care Facilities Account	7,700
From General Fund Restricted - Nursing Care Facilities Account, One-Time	2,600
From Revenue Transfers	30,300
From Revenue Transfers, One-Time	10,600
Schedule of Programs:	
Director's Office	43,200
Financial Services	66,500
Managed Health Care	110,700

Medicaid Operations	119,300
Coverage and Reimbursement	59,500
Authorization and Community Based Services	95,200
Eligibility Policy	76,400

Item 70

To Department of Health - Children's Health Insurance Program	
From General Fund	700
From General Fund, One-Time	(700)
From Federal Funds	7,100
From Federal Funds, One-Time	6,300
From General Fund Restricted - Tobacco Settlement Account	1,300
From General Fund Restricted - Tobacco Settlement Account, One-Time	(1,300)
Schedule of Programs:	
Children's Health Insurance Program ...	13,400

Item 71

To Department of Health - Medicaid Mandatory Services	
From General Fund	53,300
From General Fund, One-Time	18,600
From Federal Funds	73,800
From Federal Funds, One-Time	20,100
From Dedicated Credits Revenue	36,800
From Dedicated Credits Revenue, One-Time	13,400
From Revenue Transfers	27,300
From Revenue Transfers, One-Time	9,900
Schedule of Programs:	
Physician Services	2,000
Medicaid Management Information System Replacement	90,100
Other Mandatory Services	161,100

Item 72

To Department of Health - Medicaid Optional Services	
From General Fund	3,300
From General Fund, One-Time	900
From Federal Funds	6,900
From Federal Funds, One-Time	1,600
Schedule of Programs:	
Home and Community Based Waiver Services	4,200
Pharmacy	8,500

**DEPARTMENT OF
WORKFORCE SERVICES**

Item 73

To Department of Workforce Services - Administration	
From General Fund	37,200
From General Fund, One-Time	16,900
From Federal Funds	79,000
From Federal Funds, One-Time	34,600
From Dedicated Credits Revenue	2,000
From Dedicated Credits Revenue, One-Time	600
From General Fund Restricted - Special Admin. Expense Account	400
From General Fund Restricted - Special Admin. Expense Account, One-Time	100
From Permanent Community Impact Loan Fund	800

From Permanent Community Impact	
Loan Fund, One-Time	500
From Revenue Transfers	30,400
From Revenue Transfers, One-Time	13,600
Schedule of Programs:	
Executive Director's Office	18,300
Communications	31,400
Administrative Support	151,900
Internal Audit	14,500

Item 74

To Department of Workforce Services - Operations and Policy	
From General Fund	598,000
From General Fund, One-Time	180,400
From Federal Funds	1,256,200
From Federal Funds, One-Time	390,900
From Dedicated Credits Revenue	23,700
From Dedicated Credits Revenue, One-Time	7,200
From General Fund Restricted - Special Admin. Expense Account	4,000
From General Fund Restricted - Special Admin. Expense Account, One-Time	1,400
From Revenue Transfers	579,500
From Revenue Transfers, One-Time	171,500
Schedule of Programs:	
Workforce Development	1,449,800
Workforce Research and Analysis	63,700
Eligibility Services	1,699,300

Item 75

To Department of Workforce Services - General Assistance	
From General Fund	19,400
From General Fund, One-Time	5,000
Schedule of Programs:	
General Assistance	24,400

Item 76

To Department of Workforce Services - Unemployment Insurance	
From General Fund	12,000
From General Fund, One-Time	5,100
From Federal Funds	415,200
From Federal Funds, One-Time	148,400
From Dedicated Credits Revenue	12,100
From Dedicated Credits Revenue, One-Time	4,000
From General Fund Restricted - Special Admin. Expense Account	16,800
From General Fund Restricted - Special Admin. Expense Account, One-Time	5,600
From Revenue Transfers	4,600
From Revenue Transfers, One-Time	2,400
Schedule of Programs:	
Unemployment Insurance	
Administration	537,400
Adjudication	88,800

Item 77

To Department of Workforce Services - Housing and Community Development	
From General Fund	18,900
From General Fund, One-Time	6,800
From Federal Funds	49,900
From Federal Funds, One-Time	18,200
From Dedicated Credits Revenue	9,100

From Dedicated Credits Revenue, One-Time	3,000
From Permanent Community Impact Loan Fund	14,300
From Permanent Community Impact Loan Fund, One-Time	6,300
Schedule of Programs:	
Community Development	
Administration	8,500
HEAT	12,600
Housing Development	26,100
Weatherization Assistance	13,800
Community Development	34,200
Homeless Committee	21,100
Community Services	9,200
Emergency Food Network	700
Special Housing	300

DEPARTMENT OF HUMAN SERVICES**Item 78**

To Department of Human Services - Executive Director Operations	
From General Fund	152,900
From General Fund, One-Time	43,800
From Federal Funds	60,100
From Federal Funds, One-Time	16,100
From Revenue Transfers	64,200
From Revenue Transfers, One-Time	16,700
Schedule of Programs:	
Executive Director's Office	90,600
Legal Affairs	28,300
Information Technology	8,600
Fiscal Operations	86,600
Office of Services Review	43,400
Office of Licensing	85,800
Utah Developmental Disabilities Council	9,600
Utah Marriage Commission	900

Item 79

To Department of Human Services - Division of Substance Abuse and Mental Health	
From General Fund	819,000
From General Fund, One-Time	259,500
From Federal Funds	51,500
From Federal Funds, One-Time	13,800
From Dedicated Credits Revenue	66,500
From Dedicated Credits Revenue, One-Time	21,100
From Revenue Transfers	227,400
From Revenue Transfers, One-Time	72,300
Schedule of Programs:	
Administration - DSAMH	87,700
Community Mental Health Services	11,400
State Hospital	1,418,500
State Substance Abuse Services	13,500

Item 80

To Department of Human Services - Division of Services for People with Disabilities	
From General Fund	371,500
From General Fund, One-Time	76,600
From Dedicated Credits Revenue	44,200
From Dedicated Credits Revenue, One-Time	7,600
From Revenue Transfers	683,600
From Revenue Transfers, One-Time	129,900
Schedule of Programs:	
Administration - DSPD	113,200

Service Delivery 165,500
 Utah State Developmental Center ... 1,034,700

Item 81

To Department of Human Services - Office
 of Recovery Services
 From General Fund 231,100
 From General Fund, One-Time 72,700
 From Federal Funds 274,600
 From Federal Funds, One-Time 90,000
 From Dedicated Credits Revenue 200,600
 From Dedicated Credits Revenue,
 One-Time 58,700
 From Revenue Transfers 43,600
 From Revenue Transfers, One-Time 13,000
 Schedule of Programs:
 Administration - ORS 28,200
 Financial Services 59,900
 Electronic Technology 65,900
 Child Support Services 720,700
 Children in Care Collections 18,600
 Medical Collections 91,000

Item 82

To Department of Human Services - Division of
 Child and Family Services
 From General Fund 1,254,000
 From General Fund, One-Time 330,300
 From Federal Funds 594,100
 From Federal Funds, One-Time 155,700
 From Dedicated Credits Revenue 1,100
 From Dedicated Credits Revenue,
 One-Time 300
 From General Fund Restricted -
 Victims of Domestic Violence
 Services Account 6,700
 From General Fund Restricted -
 Victims of Domestic Violence
 Services Account, One-Time 1,600
 From Revenue Transfers 1,400
 From Revenue Transfers, One-Time 300
 Schedule of Programs:
 Administration - DCFS 111,200
 Service Delivery 2,086,100
 Facility-based Services 11,000
 Minor Grants 44,400
 Domestic Violence 49,800
 Child Welfare Management
 Information System 43,000

Item 83

To Department of Human Services - Division
 of Aging and Adult Services
 From General Fund 87,300
 From General Fund, One-Time 23,300
 From Federal Funds 19,600
 From Federal Funds, One-Time 5,000
 From Revenue Transfers 3,100
 From Revenue Transfers, One-Time 1,300
 Schedule of Programs:
 Administration - DAAS 39,600
 Adult Protective Services 91,200
 Aging Waiver Services 6,700
 Aging Alternatives 2,100

STATE BOARD OF EDUCATION

Item 84

To State Board of Education - State Office
 of Rehabilitation
 From General Fund 1,000
 From General Fund, One-Time 600
 From Education Fund 255,500
 From Education Fund, One-Time 83,500
 From Federal Funds 492,100
 From Federal Funds, One-Time 229,000
 From Dedicated Credits Revenue 13,500
 From Dedicated Credits Revenue,
 One-Time 4,800
 Schedule of Programs:
 Executive Director 54,700
 Blind and Visually Impaired 102,500
 Rehabilitation Services 598,100
 Disability Determination 221,900
 Deaf and Hard of Hearing 71,800
 Aspire Grant 31,000

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 85

To University of Utah - Education and General
 From Education Fund 7,125,200
 From Dedicated Credits Revenue 2,375,100
 Schedule of Programs:
 Education and General 9,471,000
 Operations and Maintenance 29,300

Item 86

To University of Utah -
 Educationally Disadvantaged
 From Education Fund 7,800
 Schedule of Programs:
 Educationally Disadvantaged 7,800

Item 87

To University of Utah - School of Medicine
 From Education Fund 653,100
 From Dedicated Credits Revenue 217,700
 Schedule of Programs:
 School of Medicine 870,800

Item 88

To University of Utah - University Hospital
 From Education Fund 143,200
 Schedule of Programs:
 University Hospital 136,200
 Miners' Hospital 7,000

Item 89

To University of Utah - Regional Dental
 Education Program
 From Education Fund 52,200
 From Dedicated Credits Revenue 17,400
 Schedule of Programs:
 Regional Dental Education Program 69,600

Item 90

To University of Utah - Public Service
 From Education Fund 43,100
 Schedule of Programs:
 Seismograph Stations 14,700
 Natural History Museum of Utah 25,600

State Arboretum 2,800

Item 91

To University of Utah -
Statewide TV Administration
From Education Fund 55,000
Schedule of Programs:
Public Broadcasting 55,000

Item 92

To University of Utah - Poison Control Center
From General Fund 48,500
Schedule of Programs:
Poison Control Center 48,500

Item 93

To University of Utah - Center on Aging
From General Fund 1,800
Schedule of Programs:
Center on Aging 1,800

Item 94

To University of Utah - Rocky Mountain Center for
Occupational and Environmental Health
From General Fund Restricted -
Workplace Safety Account 2,700
Schedule of Programs:
Center for Occupational and
Environmental Health 2,700

UTAH STATE UNIVERSITY**Item 95**

To Utah State University - Education and General
From Education Fund 3,393,800
From Dedicated Credits Revenue 1,131,300
Schedule of Programs:
Education and General 4,444,600
USU - School of Veterinary Medicine ... 55,100
Operations and Maintenance 25,400

Item 96

To Utah State University - USU -
Eastern Education and General
From Education Fund 206,000
From Dedicated Credits Revenue 68,600
Schedule of Programs:
USU - Eastern Education and
General 274,600

Item 97

To Utah State University - USU - Eastern
Career and Technical Education
From Education Fund 23,000
From Dedicated Credits Revenue 7,700
Schedule of Programs:
USU - Eastern Career and Technical
Education 30,700

Item 98

To Utah State University - Uintah
Basin Regional Campus
From Education Fund 97,200
From Dedicated Credits Revenue 32,400
Schedule of Programs:
Uintah Basin Regional Campus 129,600

Item 99

To Utah State University -
Southeastern Continuing Education Center
From Education Fund 27,100

From Dedicated Credits Revenue 9,000
Schedule of Programs:
Southeastern Continuing Education
Center 36,100

Item 100

To Utah State University - Brigham
City Regional Campus
From Education Fund 178,800
From Dedicated Credits Revenue 59,600
Schedule of Programs:
Brigham City Regional Campus 238,400

Item 101

To Utah State University - Tooele
Regional Campus
From Education Fund 144,300
From Dedicated Credits Revenue 48,100
Schedule of Programs:
Tooele Regional Campus 192,400

Item 102

To Utah State University - Water
Research Laboratory
From Education Fund 91,200
Schedule of Programs:
Water Research Laboratory 91,200

Item 103

To Utah State University - Agriculture
Experiment Station
From Education Fund 287,800
Schedule of Programs:
Agriculture Experiment Station 287,800

Item 104

To Utah State University - Cooperative
Extension
From Education Fund 342,100
Schedule of Programs:
Cooperative Extension 342,100

Item 105

To Utah State University - Prehistoric
Museum
From Education Fund 10,700
Schedule of Programs:
Prehistoric Museum 10,700

Item 106

To Utah State University - Blanding Campus
From Education Fund 65,800
From Dedicated Credits Revenue 21,900
Schedule of Programs:
Blanding Campus 87,700

WEBER STATE UNIVERSITY**Item 107**

To Weber State University - Education
and General
From Education Fund 2,140,900
From Dedicated Credits Revenue 713,600
Schedule of Programs:
Education and General 2,843,600
Operations and Maintenance 10,900

Item 108

To Weber State University -
Educationally Disadvantaged
From Education Fund 8,900
Schedule of Programs:

Educationally Disadvantaged 8,900

SOUTHERN UTAH UNIVERSITY

Item 109

To Southern Utah University - Education and General
 From Education Fund 1,106,400
 From Dedicated Credits Revenue 368,800
 Schedule of Programs:
 Education and General 1,470,800
 Operations and Maintenance 4,400

Item 110

To Southern Utah University - Educationally Disadvantaged
 From Education Fund 1,400
 Schedule of Programs:
 Educationally Disadvantaged 1,400

Item 111

To Southern Utah University - Rural Development
 From Education Fund 2,100
 Schedule of Programs:
 Rural Development 2,100

UTAH VALLEY UNIVERSITY

Item 112

To Utah Valley University - Education and General
 From Education Fund 3,272,400
 From Dedicated Credits Revenue 1,090,800
 Schedule of Programs:
 Education and General 4,301,600
 Operations and Maintenance 61,600

Item 113

To Utah Valley University - Educationally Disadvantaged
 From Education Fund 3,900
 Schedule of Programs:
 Educationally Disadvantaged 3,900

SNOW COLLEGE

Item 114

To Snow College - Education and General
 From Education Fund 490,200
 From Dedicated Credits Revenue 163,500
 Schedule of Programs:
 Education and General 642,700
 Operations and Maintenance 11,000

Item 115

To Snow College - Career and Technical Education
 From Education Fund 32,900
 Schedule of Programs:
 Career and Technical Education 32,900

DIXIE STATE UNIVERSITY

Item 116

To Dixie State University - Education and General
 From Education Fund 886,600
 From Dedicated Credits Revenue 295,500
 Schedule of Programs:
 Education and General 1,172,500
 Operations and Maintenance 9,600

Item 117

To Dixie State University - Zion Park Amphitheater
 From Education Fund 1,200
 Schedule of Programs:
 Zion Park Amphitheater 1,200

SALT LAKE COMMUNITY COLLEGE

Item 118

To Salt Lake Community College - Education and General
 From Education Fund 2,104,400
 From Dedicated Credits Revenue 701,500
 Schedule of Programs:
 Education and General 2,799,500
 Operations and Maintenance 6,400

Item 119

To Salt Lake Community College - School of Applied Technology
 From Education Fund 163,600
 Schedule of Programs:
 School of Applied Technology 163,600

STATE BOARD OF REGENTS

Item 120

To State Board of Regents - Administration
 From General Fund 56,300
 Schedule of Programs:
 Administration 56,300

Item 121

To State Board of Regents - Student Assistance
 From Education Fund 7,300
 Schedule of Programs:
 Regents' Scholarship 7,000
 Western Interstate Commission for Higher Education 300

Item 122

To State Board of Regents - Student Support
 From Education Fund 17,500
 Schedule of Programs:
 Concurrent Enrollment 9,600
 Articulation Support 6,100
 Campus Compact 1,800

Item 123

To State Board of Regents - Economic Development
 From Education Fund 5,400
 Schedule of Programs:
 Economic Development Initiatives 5,400

Item 124

To State Board of Regents - Education Excellence
 From Education Fund 7,300
 Schedule of Programs:
 Education Excellence 7,300

Item 125

To State Board of Regents - Medical Education Council
 From General Fund 16,200
 Schedule of Programs:
 Medical Education Council 16,200

**UTAH COLLEGE OF
APPLIED TECHNOLOGY**

Item 126

To Utah College of Applied Technology -
Administration
From Education Fund 30,200
Schedule of Programs:
Administration 30,200

Item 127

To Utah College of Applied Technology -
Bridgerland Applied Technology College
From Education Fund 310,100
Schedule of Programs:
Bridgerland Applied Technology
College 310,100

Item 128

To Utah College of Applied Technology -
Davis Applied Technology College
From Education Fund 326,100
Schedule of Programs:
Davis Applied Technology College 326,100

Item 129

To Utah College of Applied Technology -
Dixie Applied Technology College
From Education Fund 100,800
Schedule of Programs:
Dixie Applied Technology College 100,800

Item 130

To Utah College of Applied Technology -
Mountainland Applied Technology College
From Education Fund 225,900
Schedule of Programs:
Mountainland Applied Technology
College 225,900

Item 131

To Utah College of Applied Technology -
Ogden/Weber Applied Technology College
From Education Fund 274,900
Schedule of Programs:
Ogden/Weber Applied Technology
College 274,900

Item 132

To Utah College of Applied Technology -
Southwest Applied Technology College
From Education Fund 71,600
Schedule of Programs:
Southwest Applied Technology
College 71,600

Item 133

To Utah College of Applied Technology -
Tooele Applied Technology College
From Education Fund 73,300
Schedule of Programs:
Tooele Applied Technology College 73,300

Item 134

To Utah College of Applied Technology -
Uintah Basin Applied Technology College
From Education Fund 148,400
Schedule of Programs:
Uintah Basin Applied Technology
College 148,400

**NATURAL RESOURCES, AGRICULTURE,
AND ENVIRONMENTAL QUALITY**

DEPARTMENT OF NATURAL RESOURCES**Item 135**

To Department of Natural Resources -
Administration
From General Fund 32,800
From General Fund, One-Time 27,200
Schedule of Programs:
Executive Director 22,700
Administrative Services 28,700
Public Information Office 5,600
Law Enforcement 3,000

Item 136

To Department of Natural Resources -
Species Protection
From General Fund Restricted - Species
Protection 6,400
From General Fund Restricted -
Species Protection, One-Time 3,200
Schedule of Programs:
Species Protection 9,600

Item 137

To Department of Natural Resources - Watershed
From General Fund 600
From General Fund, One-Time 3,700
Schedule of Programs:
Watershed 4,300

Item 138

To Department of Natural Resources -
Forestry, Fire and State Lands
From General Fund 13,800
From General Fund, One-Time 6,000
From Federal Funds 50,900
From Federal Funds, One-Time 17,400
From Dedicated Credits Revenue 71,100
From Dedicated Credits Revenue,
One-Time 24,900
From General Fund Restricted -
Sovereign Land Management 90,800
From General Fund Restricted - Sovereign
Land Management, One-Time 35,300
Schedule of Programs:
Division Administration 23,600
Fire Management 19,500
Fire Suppression Emergencies 3,400
Lands Management 25,200
Forest Management 13,600
Program Delivery 144,500
Lone Peak Center 80,400

Item 139

To Department of Natural Resources -
Oil, Gas and Mining
From General Fund 35,400
From General Fund, One-Time 10,900
From Federal Funds 69,400
From Federal Funds, One-Time 21,100
From Dedicated Credits Revenue 4,700
From Dedicated Credits Revenue,
One-Time 1,500
From General Fund Restricted -
Oil & Gas Conservation Account 76,500

From General Fund Restricted - Oil & Gas Conservation Account, One-Time	23,300
Schedule of Programs:	
Administration	56,000
Oil and Gas Program	78,900
Minerals Reclamation	30,800
Coal Program	49,300
Abandoned Mine	27,800

Item 140

To Department of Natural Resources - Wildlife Resources	
From General Fund	106,400
From General Fund, One-Time	39,700
From Federal Funds	237,000
From Federal Funds, One-Time	78,800
From General Fund Restricted - Wildlife Habitat	8,700
From General Fund Restricted - Wildlife Habitat, One-Time	3,400
From General Fund Restricted - Wildlife Resources	493,600
From General Fund Restricted - Wildlife Resources, One-Time	182,300
Schedule of Programs:	
Director's Office	47,300
Administrative Services	114,600
Conservation Outreach	102,000
Law Enforcement	229,800
Habitat Section	151,400
Wildlife Section	198,700
Aquatic Section	306,100

Item 141

To Department of Natural Resources - Contributed Research	
From Dedicated Credits Revenue	1,600
Schedule of Programs:	
Contributed Research	1,600

Item 142

To Department of Natural Resources - Cooperative Agreements	
From Federal Funds	22,400
From Federal Funds, One-Time	4,800
From Dedicated Credits Revenue	10,900
From Dedicated Credits Revenue, One-Time	2,300
From Revenue Transfers	18,700
From Revenue Transfers, One-Time	4,000
Schedule of Programs:	
Cooperative Agreements	63,100

Item 143

To Department of Natural Resources - Parks and Recreation	
From General Fund	48,900
From General Fund, One-Time	13,300
From Federal Funds	18,900
From Federal Funds, One-Time	8,600
From General Fund Restricted - Boating	72,900
From General Fund Restricted - Boating, One-Time	20,100
From General Fund Restricted - Off-highway Vehicle	79,100
From General Fund Restricted - Off-highway Vehicle, One-Time	22,000

From General Fund Restricted - State Park Fees	205,600
From General Fund Restricted - State Park Fees, One-Time	56,000
Schedule of Programs:	
Executive Management	15,100
Park Operation Management	452,000
Planning and Design	9,500
Support Services	31,900
Recreation Services	36,900

Item 144

To Department of Natural Resources - Utah Geological Survey	
From General Fund	97,700
From General Fund, One-Time	37,400
From Federal Funds	22,800
From Federal Funds, One-Time	8,100
From Dedicated Credits Revenue	20,500
From Dedicated Credits Revenue, One-Time	7,200
Schedule of Programs:	
Administration	15,700
Technical Services	16,300
Geologic Hazards	34,700
Geologic Mapping	26,100
Energy and Minerals	41,100
Ground Water and Paleontology	38,800
Information and Outreach	21,000

Item 145

To Department of Natural Resources - Water Resources	
From General Fund	48,600
From General Fund, One-Time	20,200
From Water Resources Conservation and Development Fund	56,800
From Water Resources Conservation and Development Fund, One-Time	20,300
Schedule of Programs:	
Administration	13,800
Interstate Streams	3,200
Planning	69,900
Construction	59,000

Item 146

To Department of Natural Resources - Water Rights	
From General Fund	124,400
From General Fund, One-Time	46,000
From Federal Funds	700
From Federal Funds, One-Time	200
From Dedicated Credits Revenue	56,600
From Dedicated Credits Revenue, One-Time	18,300
Schedule of Programs:	
Administration	18,400
Applications and Records	135,700
Dam Safety	27,200
Field Services	24,200
Adjudication	15,500
Technical Services	20,000
Canal Safety	5,200

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 147

To Department of Environmental Quality - Executive Director's Office	
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From General Fund	52,000
From General Fund, One-Time	13,000
From Federal Funds	6,300
From Federal Funds, One-Time	1,700
From General Fund Restricted - Environmental Quality	11,900
From General Fund Restricted - Environmental Quality, One-Time	2,900
Schedule of Programs: Executive Director's Office	87,800

Item 148

To Department of Environmental Quality - Air Quality	
From General Fund	83,900
From General Fund, One-Time	20,000
From Federal Funds	68,400
From Federal Funds, One-Time	16,300
From Dedicated Credits Revenue	101,600
From Dedicated Credits Revenue, One-Time	24,200
Schedule of Programs: Air Quality	314,400

Item 149

To Department of Environmental Quality - Environmental Response and Remediation	
From General Fund	14,700
From General Fund, One-Time	3,800
From Federal Funds	77,100
From Federal Funds, One-Time	19,600
From Dedicated Credits Revenue	11,800
From Dedicated Credits Revenue, One-Time	3,000
From General Fund Restricted - Voluntary Cleanup	11,800
From General Fund Restricted - Voluntary Cleanup, One-Time	3,000
From Petroleum Storage Tank Trust Fund	32,400
From Petroleum Storage Tank Trust Fund, One-Time	8,300
Schedule of Programs: Environmental Response and Remediation	185,500

Item 150

To Department of Environmental Quality - Water Quality	
From General Fund	58,200
From General Fund, One-Time	14,800
From Federal Funds	61,700
From Federal Funds, One-Time	15,600
From Dedicated Credits Revenue	23,000
From Dedicated Credits Revenue, One-Time	6,000
From Water Dev. Security Fund - Utah Wastewater Loan Program	26,400
From Water Dev. Security Fund - Utah Wastewater Loan Program, One-Time	6,700
From Water Dev. Security Fund - Water Quality Origination Fee	1,900
From Water Dev. Security Fund - Water Quality Origination Fee, One-Time	400
From Revenue Transfers	5,200
From Revenue Transfers, One-Time	1,300
Schedule of Programs: Water Quality	221,200

Item 151

To Department of Environmental Quality - Drinking Water	
From General Fund	16,500
From General Fund, One-Time	4,500
From Federal Funds	64,500
From Federal Funds, One-Time	17,200
From Dedicated Credits Revenue	2,700
From Dedicated Credits Revenue, One-Time	600
From Water Dev. Security Fund - Drinking Water Loan Program	2,700
From Water Dev. Security Fund - Drinking Water Loan Program, One-Time	600
From Water Dev. Security Fund - Drinking Water Origination Fee	1,800
From Water Dev. Security Fund - Drinking Water Origination Fee, One-Time	400
Schedule of Programs: Drinking Water	111,500

Item 152

To Department of Environmental Quality - Waste Management and Radiation Control	
From General Fund	11,300
From General Fund, One-Time	2,900
From Federal Funds	14,500
From Federal Funds, One-Time	3,900
From Dedicated Credits Revenue	20,900
From Dedicated Credits Revenue, One-Time	5,600
From General Fund Restricted - Environmental Quality	102,600
From General Fund Restricted - Environmental Quality, One-Time	27,400
From General Fund Restricted - Used Oil Collection Administration	9,600
From General Fund Restricted - Used Oil Collection Administration, One-Time	2,500
From Waste Tire Recycling Fund	1,700
From Waste Tire Recycling Fund, One-Time	400
Schedule of Programs: Waste Management and Radiation Control	203,300

**PUBLIC LANDS POLICY
COORDINATING OFFICE****Item 153**

To Public Lands Policy Coordinating Office	
From General Fund	27,800
From General Fund, One-Time	5,000
From General Fund Restricted - Constitutional Defense	5,900
From General Fund Restricted - Constitutional Defense, One-Time	1,100
Schedule of Programs: Public Lands Office	39,800

GOVERNOR'S OFFICE**Item 154**

To Governor's Office - Office of Energy Development	
From General Fund	22,200
From General Fund, One-Time	4,500
From Federal Funds	8,900
From Federal Funds, One-Time	1,800

From General Fund Rest. - Stripper Well-Petroleum Violation Escrow	5,300
From General Fund Rest. - Stripper Well-Petroleum Violation Escrow, One-Time	1,100
Schedule of Programs: Office of Energy Development	43,800

**DEPARTMENT OF
AGRICULTURE AND FOOD**

Item 155

To Department of Agriculture and Food - Administration	
From General Fund	27,100
From General Fund, One-Time	9,200
From Federal Funds	27,400
From Federal Funds, One-Time	12,600
From Dedicated Credits Revenue	2,000
From Dedicated Credits Revenue, One-Time	1,000
Schedule of Programs:	
General Administration	54,400
Chemistry Laboratory	24,900

Item 156

To Department of Agriculture and Food - Animal Health	
From General Fund	43,000
From General Fund, One-Time	17,700
From Federal Funds	31,000
From Federal Funds, One-Time	10,400
From Dedicated Credits Revenue	3,000
From Dedicated Credits Revenue, One-Time	2,100
From General Fund Restricted - Livestock Brand	21,500
From General Fund Restricted - Livestock Brand, One-Time	5,600
Schedule of Programs:	
Animal Health	32,500
Brand Inspection	42,600
Meat Inspection	59,200

Item 157

To Department of Agriculture and Food - Plant Industry	
From General Fund	23,400
From General Fund, One-Time	6,900
From Federal Funds	10,400
From Federal Funds, One-Time	1,500
From Dedicated Credits Revenue	43,000
From Dedicated Credits Revenue, One-Time	15,300
From Agriculture Resource Development Fund	3,300
From Agriculture Resource Development Fund, One-Time	900
From Revenue Transfers	600
From Revenue Transfers, One-Time	200
Schedule of Programs:	
Environmental Quality	3,500
Grain Inspection	8,600
Insect Infestation	6,100
Plant Industry	66,400
Grazing Improvement Program	20,900

Item 158

To Department of Agriculture and Food - Regulatory Services	
From General Fund	43,900
From General Fund, One-Time	12,000
From Federal Funds	11,800
From Federal Funds, One-Time	3,200
From Dedicated Credits Revenue	40,700
From Dedicated Credits Revenue, One-Time	11,200
From Revenue Transfers	1,300
From Revenue Transfers, One-Time	300
Schedule of Programs:	
Regulatory Services	124,400

Item 159

To Department of Agriculture and Food - Marketing and Development	
From General Fund	9,000
From General Fund, One-Time	2,700
Schedule of Programs:	
Marketing and Development	11,700

Item 160

To Department of Agriculture and Food - Predatory Animal Control	
From General Fund	15,000
From General Fund, One-Time	5,500
From General Fund Rest. - Agriculture and Wildlife Damage Prevention	11,900
From General Fund Rest. - Agriculture and Wildlife Damage Prevention, One-Time	4,500
From Revenue Transfers	1,200
From Revenue Transfers, One-Time	300
Schedule of Programs:	
Predatory Animal Control	38,400

Item 161

To Department of Agriculture and Food - Resource Conservation	
From General Fund	27,700
From General Fund, One-Time	3,700
From Federal Funds	11,500
From Federal Funds, One-Time	1,600
From Agriculture Resource Development Fund	10,700
From Agriculture Resource Development Fund, One-Time	1,400
From Utah Rural Rehabilitation Loan State Fund	2,400
From Utah Rural Rehabilitation Loan State Fund, One-Time	200
From Revenue Transfers	8,000
From Revenue Transfers, One-Time	1,100
Schedule of Programs:	
Resource Conservation Administration ..	7,800
Resource Conservation	60,500

Item 162

To Department of Agriculture and Food - Rangeland Improvement	
From General Fund Restricted - Rangeland Improvement Account	2,000
From General Fund Restricted - Rangeland Improvement Account, One-Time	700
Schedule of Programs:	
Rangeland Improvement	2,700

**SCHOOL AND INSTITUTIONAL
TRUST LANDS ADMINISTRATION**

Item 163

To School and Institutional Trust Lands Administration	
From Land Grant Management Fund	178,700
From Land Grant Management Fund, One-Time	34,500
Schedule of Programs:	
Board	1,200
Director	10,500
External Relations	5,300
Administration	10,400
Accounting	11,700
Auditing	11,400
Oil and Gas	22,500
Mining	14,100
Surface	47,200
Development - Operating	27,800
Legal/Contracts	12,700
Information Technology Group	28,600
Grazing and Forestry	9,800

Item 164

To School and Institutional Trust Lands Administration - Land Stewardship and Restoration	
From Land Grant Management Fund	2,800
From Land Grant Management Fund, One-Time	700
Schedule of Programs:	
Land Stewardship and Restoration	3,500

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

Item 165

To State Board of Education - State Office of Education	
From General Fund	3,100
From General Fund, One-Time	500
From Education Fund	314,900
From Education Fund, One-Time	66,000
From Federal Funds	157,300
From Federal Funds, One-Time	32,700
From Dedicated Credits Revenue	107,500
From Dedicated Credits Revenue, One-Time	26,400
From General Fund Restricted - Mineral Lease	25,400
From General Fund Restricted - Mineral Lease, One-Time	4,700
From General Fund Restricted - Substance Abuse Prevention	1,900
From General Fund Restricted - Substance Abuse Prevention, One-Time	300
From Interest and Dividends Account	10,000
From Interest and Dividends Account, One-Time	2,200
From Revenue Transfers	2,300
From Revenue Transfers, One-Time	400
Schedule of Programs:	
Assessment and Accountability	86,100
Educational Equity	10,300
Board and Administration	158,600
Business Services	50,900

Career and Technical Education	112,600
District Computer Services	104,000
Federal Elementary and Secondary Education Act	42,500
Law and Legislation	6,400
Public Relations	3,500
School Trust	12,200
Special Education	77,400
Teaching and Learning	91,100

Item 166

To State Board of Education - Utah State Office of Education - Initiative Programs	
From General Fund	2,400
From General Fund, One-Time	700
From Education Fund	6,800
From Education Fund, One-Time	1,600
Schedule of Programs:	
Electronic High School	3,200
General Financial Literacy	1,600
Carson Smith Scholarships	3,100
School Turnaround and Leadership Development Act	3,600

Item 167

To State Board of Education - State Charter School Board	
From Education Fund	21,000
From Education Fund, One-Time	5,400
Schedule of Programs:	
State Charter School Board	26,400

Item 168

To State Board of Education - Educator Licensing Professional Practices	
From Professional Practices Restricted Subfund	26,600
From Professional Practices Restricted Subfund, One-Time	6,900
Schedule of Programs:	
Educator Licensing	33,500

Item 169

To State Board of Education - State Office of Education - Child Nutrition	
From Education Fund	600
From Education Fund, One-Time	100
From Federal Funds	53,200
From Federal Funds, One-Time	14,100
Schedule of Programs:	
Child Nutrition	68,000

Item 170

To State Board of Education - State Office of Education - Educational Contracts	
From Education Fund	2,500
From Education Fund, One-Time	500
Schedule of Programs:	
Corrections Institutions	3,000

Item 171

To State Board of Education - Utah Schools for the Deaf and the Blind	
From Education Fund	1,264,900
From Education Fund, One-Time	95,000
From Federal Funds	1,800
From Federal Funds, One-Time	500
From Dedicated Credits Revenue	10,800
From Dedicated Credits Revenue, One-Time	2,900
Schedule of Programs:	

Educational Services 1,144,700
 Support Services 231,200

SCHOOL AND INSTITUTIONAL TRUST FUND OFFICE

Item 172

To School and Institutional Trust Fund Office
 From School and Institutional Trust
 Fund Management Account 12,800
 From School and Institutional Trust
 Fund Management Account,
 One-Time 1,400
 Schedule of Programs:
 School and Institutional Trust
 Fund Office 14,200

RETIREMENT AND INDEPENDENT ENTITIES

CAREER SERVICE REVIEW OFFICE

Item 173

To Career Service Review Office
 From General Fund 5,400
 From General Fund, One-Time 1,400
 Schedule of Programs:
 Career Service Review Office 6,800

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Item 174

To Department of Human Resource Management -
 Human Resource Management
 From General Fund 1,700
 From General Fund, One-Time 500
 Schedule of Programs:
 ALJ Compliance 2,200

UTAH EDUCATION AND TELEHEALTH NETWORK

Item 175

To Utah Education and Telehealth Network
 From General Fund 10,600
 From Education Fund 228,000
 From Federal Funds 49,000
 From Dedicated Credits Revenue 22,000
 Schedule of Programs:
 Administration 42,000
 Public Information 5,000
 KUEN Broadcast 8,200
 Technical Services 169,600
 Instructional Support 54,400
 Utah Telehealth Network 30,400

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 176

To Capitol Preservation Board
 From General Fund 17,200
 From General Fund, One-Time 4,100
 Schedule of Programs:
 Capitol Preservation Board 21,300

UTAH NATIONAL GUARD

Item 177

To Utah National Guard
 From General Fund 49,500
 From General Fund, One-Time 17,100
 From Federal Funds 274,300
 From Federal Funds, One-Time 107,500
 Schedule of Programs:
 Administration 21,900
 Operations and Maintenance 426,500

DEPARTMENT OF VETERANS' AND MILITARY AFFAIRS

Item 178

To Department of Veterans' and Military
 Affairs - Veterans' and Military Affairs
 From General Fund 28,800
 From General Fund, One-Time 7,100
 From Federal Funds 3,000
 From Federal Funds, One-Time 900
 Schedule of Programs:
 Administration 9,100
 Cemetery 10,300
 State Approving Agency 2,700
 Outreach Services 14,800
 Military Affairs 2,900

LEGISLATURE

Item 179

To Legislature - Senate
 From General Fund 33,900
 From General Fund, One-Time 8,200
 Schedule of Programs:
 Administration 42,100

Item 180

To Legislature - House of Representatives
 From General Fund 64,500
 From General Fund, One-Time 3,400
 Schedule of Programs:
 Administration 67,900

Item 181

To Legislature - Legislative Printing
 From General Fund 7,700
 From General Fund, One-Time 2,400
 From Dedicated Credits Revenue 1,000
 From Dedicated Credits Revenue,
 One-Time 300
 Schedule of Programs:
 Administration 11,400

Item 182

To Legislature - Office of Legislative
 Research and General Counsel
 From General Fund 158,900
 From General Fund, One-Time 40,300
 Schedule of Programs:
 Administration 199,200

Item 183

To Legislature - Office of the Legislative
 Fiscal Analyst
 From General Fund 53,000
 From General Fund, One-Time 11,300
 Schedule of Programs:
 Administration and Research 64,300

Item 184

To Legislature - Office of the Legislative
 Auditor General

From General Fund 72,100
 From General Fund, One-Time 19,400
 Schedule of Programs:
 Administration 91,500

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated. Outlays and expenditures from the recipient funds or accounts may be made without further legislative action according to a fund or account's applicable authorizing statute.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

DEPARTMENT OF PUBLIC SAFETY

Item 185

To Department of Public Safety - Alcoholic Beverage Control Act Enforcement Fund
 From Dedicated Credits Revenue 64,100
 From Dedicated Credits Revenue, One-Time 27,400
 Schedule of Programs:
 Alcoholic Beverage Control Act Enforcement Fund 91,500

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 186

To Department of Administrative Services - State Debt Collection Fund
 From Dedicated Credits Revenue 12,100
 From Dedicated Credits Revenue, One-Time 6,900
 Schedule of Programs:
 State Debt Collection Fund 19,000

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF COMMERCE

Item 187

To Department of Commerce - Cosmetologist/Barber, Esthetician, Electrologist Fund
 From Licenses/Fees 1,800
 From Licenses/Fees, One-Time 700
 Schedule of Programs:
 Cosmetologist/Barber, Esthetician, Electrologist Fund 2,500

Item 188

To Department of Commerce - Real Estate Education, Research, and Recovery Fund
 From Licenses/Fees 3,200
 From Licenses/Fees, One-Time 700

Schedule of Programs:
 Real Estate Education, Research, and Recovery Fund 3,900

Item 189

To Department of Commerce - Residence Lien Recovery Fund
 From Licenses/Fees 1,200
 Schedule of Programs:
 Residence Lien Recovery Fund 1,200

Item 190

To Department of Commerce - Residential Mortgage Loan Education, Research, and Recovery Fund
 From Licenses/Fees 1,100
 Schedule of Programs:
 RMLERR Fund 1,100

Item 191

To Department of Commerce - Securities Investor Education/Training/Enforcement Fund
 From Licenses/Fees 2,000
 From Licenses/Fees, One-Time 700
 Schedule of Programs:
 Securities Investor Education/ Training/ Enforcement Fund 2,700

EXECUTIVE APPROPRIATIONS

DEPARTMENT OF VETERANS' AND MILITARY AFFAIRS

Item 192

To Department of Veterans' and Military Affairs - Utah Veterans' Nursing Home Fund
 From Federal Funds 13,600
 From Federal Funds, One-Time 2,700
 Schedule of Programs:
 Veterans' Nursing Home Fund 16,300

Subsection 1(c). Business-like Activities.

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds as indicated estimated revenue from rates, fees, and other charges. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

UTAH DEPARTMENT OF CORRECTIONS

Item 193

To Utah Department of Corrections - Utah Correctional Industries
 From Dedicated Credits Revenue 172,700
 From Dedicated Credits Revenue, One-Time 39,100
 Schedule of Programs:
 Utah Correctional Industries 211,800

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

**DEPARTMENT OF ADMINISTRATIVE
SERVICES INTERNAL SERVICE FUNDS**

Item 194

To Department of Administrative Services Internal
Service Funds - Division of Finance
From Dedicated Credits Revenue 36,600
From Dedicated Credits Revenue,
One-Time 12,400
Schedule of Programs:
ISF - Purchasing Card 3,000
ISF - Consolidated Budget and
Accounting 46,000

Item 195

To Department of Administrative Services Internal
Service Funds - Division of Purchasing and
General Services
From Dedicated Credits Revenue 117,400
From Dedicated Credits Revenue,
One-Time 37,900
Schedule of Programs:
ISF - Central Mailing 77,900
ISF - Cooperative Contracting 59,700
ISF - Print Services 7,300
ISF - State Surplus Property 10,400

Item 196

To Department of Administrative Services Internal
Service Funds - Division of Fleet Operations
From Dedicated Credits Revenue 45,300
From Dedicated Credits Revenue,
One-Time 20,900
Schedule of Programs:
ISF - Fleet Administration 8,700
ISF - Motor Pool 31,200
ISF - Fuel Network 20,400
ISF - Travel Office 5,900

Item 197

To Department of Administrative Services Internal
Service Funds - Risk Management
From Dedicated Credits Revenue 46,900
From Dedicated Credits Revenue,
One-Time 48,500
Schedule of Programs:
ISF - Risk Management
Administration 86,100
ISF - Workers' Compensation 9,300

Item 198

To Department of Administrative Services Internal
Service Funds - Division of Facilities
Construction and Management - Facilities
Management
From Dedicated Credits Revenue 203,000
From Dedicated Credits Revenue,
One-Time 77,200
Schedule of Programs:
ISF - Facilities Management 280,200

**DEPARTMENT OF TECHNOLOGY
SERVICES INTERNAL SERVICE FUNDS**

Item 199

To Department of Technology Services Internal
Service Funds - Enterprise Technology Division

From Dedicated Credits Revenue 1,675,500
From Dedicated Credits Revenue,
One-Time 559,100
Schedule of Programs:
ISF - Enterprise Technology
Division 2,234,600

**NATURAL RESOURCES, AGRICULTURE,
AND ENVIRONMENTAL QUALITY**

DEPARTMENT OF NATURAL RESOURCES

Item 200

To Department of Natural Resources -
Internal Service Fund
From Dedicated Credits Revenue 2,900
From Dedicated Credits Revenue,
One-Time 1,000
Schedule of Programs:
ISF - DNR Warehouse 3,900

**DEPARTMENT OF
AGRICULTURE AND FOOD**

Item 201

To Department of Agriculture and Food -
Agriculture Loan Programs
From Agriculture Resource Development
Fund 4,500
From Agriculture Resource
Development Fund, One-Time 1,300
From Utah Rural Rehabilitation
Loan State Fund 2,400
From Utah Rural Rehabilitation Loan
State Fund, One-Time 700
Schedule of Programs:
Agriculture Loan Program 8,900

**RETIREMENT AND
INDEPENDENT ENTITIES**

**DEPARTMENT OF HUMAN
RESOURCE MANAGEMENT**

Item 202

To Department of Human Resource Management -
Human Resources Internal Service Fund
From Dedicated Credits Revenue 256,400
From Dedicated Credits Revenue,
One-Time 93,300
Schedule of Programs:
ISF - Field Services 328,000
ISF - Payroll Field Services 21,700

Subsection 1(d). Fiduciary Funds. The
Legislature has reviewed proposed revenues,
expenditures, fund balances and changes in
fund balances for the following fiduciary funds.

**BUSINESS, ECONOMIC
DEVELOPMENT, AND LABOR**

LABOR COMMISSION

Item 203

To Labor Commission - Uninsured
Employers Fund
From Dedicated Credits Revenue 600
Schedule of Programs:

Uninsured Employers Fund 600

Section 2. FY 2017 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2016 and ending June 30, 2017 for compensation increases for Internal Service Funds. These are additions to amounts previously appropriated for fiscal year 2017.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

GOVERNOR'S OFFICE

Item 204

To Governor's Office
From General Fund 14,900
From Dedicated Credits Revenue 9,300
Schedule of Programs:
Administration 4,700
Governor's Residence 100
Lt. Governor's Office 19,400

Item 205

To Governor's Office - Governor's Office
of Management and Budget
From General Fund 6,400
Schedule of Programs:
Administration 3,000
Planning and Budget Analysis 900
Operational Excellence 2,200
State and Local Planning 300

Item 206

To Governor's Office - Commission on
Criminal and Juvenile Justice
From General Fund 1,500
From Federal Funds 700
From Crime Victim Reparations Fund 1,600
Schedule of Programs:
CCJJ Commission 1,500
Utah Office for Victims of Crime 2,100
Judicial Performance Evaluation
Commission 200

OFFICE OF THE STATE AUDITOR

Item 207

To Office of the State Auditor - State Auditor
From General Fund 1,200
From General Fund, One-Time 200
From Dedicated Credits Revenue 600
From Dedicated Credits Revenue,
One-Time 100
Schedule of Programs:
State Auditor 2,100

STATE TREASURER

Item 208

To State Treasurer

From General Fund 400
From Dedicated Credits Revenue 200
From Unclaimed Property Trust 1,300
Schedule of Programs:
Treasury and Investment 600
Unclaimed Property 1,300

ATTORNEY GENERAL

Item 209

To Attorney General
From General Fund 6,100
From Federal Funds 400
From Dedicated Credits Revenue 2,600
From Attorney General Litigation Fund 100
From Revenue Transfers 200
Schedule of Programs:
Administration 1,800
Child Protection 1,500
Criminal Prosecution 4,600
Civil 1,500

Item 210

To Attorney General - Prosecution Council
From General Fund Restricted -
Public Safety Support 100
Schedule of Programs:
Prosecution Council 100

UTAH DEPARTMENT OF CORRECTIONS

Item 211

To Utah Department of Corrections -
Programs and Operations
From General Fund 136,200
From Dedicated Credits Revenue 800
Schedule of Programs:
Department Executive Director 1,000
Department Administrative Services 95,300
Department Training 600
Adult Probation and Parole
Administration 3,800
Adult Probation and Parole Programs 11,900
Institutional Operations Administration 100
Institutional Operations Draper
Facility 14,700
Institutional Operations Central
Utah/Gunnison 6,500
Institutional Operations Inmate
Placement 300
Institutional Operations Support
Services 600
Programming Treatment 1,000
Programming Skill Enhancement 1,200

Item 212

To Utah Department of Corrections -
Department Medical Services
From General Fund 11,600
Schedule of Programs:
Medical Services 11,600

BOARD OF PARDONS AND PAROLE

Item 213

To Board of Pardons and Parole
From General Fund 1,600
Schedule of Programs:
Board of Pardons and Parole 1,600

**DEPARTMENT OF HUMAN SERVICES -
DIVISION OF JUVENILE JUSTICE
SERVICES**

Item 214

To Department of Human Services - Division of
Juvenile Justice Services - Programs and
Operations
From General Fund 29,600
From Federal Funds 1,500
From Revenue Transfers 600
Schedule of Programs:
Administration 1,400
Early Intervention Services 8,500
Community Programs 4,500
Correctional Facilities 7,800
Rural Programs 9,400
Youth Parole Authority 100

DEPARTMENT OF PUBLIC SAFETY

Item 215

To Department of Public Safety -
Programs & Operations
From General Fund 54,200
From Federal Funds 1,300
From Dedicated Credits Revenue 32,600
From General Fund Restricted -
DNA Specimen Account 800
From General Fund Restricted -
Fire Academy Support 700
From Department of Public Safety
Restricted Account 700
Schedule of Programs:
Department Commissioner's Office 8,900
Aero Bureau 100
Department Intelligence Center 3,000
Department Grants 1,200
CITS Administration 400
CITS Bureau of Criminal
Identification 47,000
CITS Communications 2,900
CITS State Crime Labs 5,100
CITS State Bureau of Investigation 800
Highway Patrol - Administration 400
Highway Patrol - Field Operations 12,900
Highway Patrol - Commercial Vehicle ... 1,300
Highway Patrol - Safety Inspections 600
Highway Patrol - Federal/State Projects .. 300
Highway Patrol - Protective Services 1,200
Highway Patrol - Special Services 1,200
Highway Patrol - Technology Services ... 1,200
Information Management - Operations .. 1,100
Fire Marshall - Fire Operations 700

Item 216

To Department of Public Safety -
Emergency Management
From General Fund 1,200
From Federal Funds 4,200
Schedule of Programs:
Emergency Management 5,400

Item 217

To Department of Public Safety -
Peace Officers' Standards and Training
From General Fund 3,500
Schedule of Programs:
Regional/Inservice Training 1,000

POST Administration 2,500

Item 218

To Department of Public Safety - Driver License
From Department of Public Safety
Restricted Account 47,500
Schedule of Programs:
Driver License Administration 700
Driver Services 26,300
Driver Records 20,500

Item 219

To Department of Public Safety - Highway Safety
From Federal Funds 3,700
Schedule of Programs:
Highway Safety 3,700

**INFRASTRUCTURE AND GENERAL
GOVERNMENT**

TRANSPORTATION

Item 220

To Transportation - Support Services
From Transportation Fund 175,100
From Federal Funds 200
Schedule of Programs:
Administrative Services 100
Human Resources Management 19,000
Comptroller 100
Data Processing 155,100
Ports of Entry 1,000

Item 221

To Transportation - Engineering Services
From Transportation Fund 100
From Federal Funds 200
Schedule of Programs:
Program Development 200
Materials Lab 100

Item 222

To Transportation - Operations/
Maintenance Management
From Transportation Fund 1,600
From Federal Funds 100
Schedule of Programs:
Region 1 100
Region 2 200
Region 3 100
Region 4 300
Field Crews 300
Traffic Safety/Tramway 100
Traffic Operations Center 600

Item 223

To Transportation - Region Management
From Transportation Fund 900
Schedule of Programs:
Region 1 200
Region 2 300
Region 3 100
Region 4 300

Item 224

To Transportation - Equipment Management
From Dedicated Credits Revenue 100
Schedule of Programs:
Shops 100

Item 225

To Transportation - Aeronautics

From Aeronautics Restricted Account	100
Schedule of Programs:	
Administration	100

**DEPARTMENT OF
ADMINISTRATIVE SERVICES**

Item 226

To Department of Administrative Services - Executive Director	
From General Fund	4,500
Schedule of Programs:	
Executive Director	4,500

Item 227

To Department of Administrative Services - Inspector General of Medicaid Services	
From General Fund	1,800
From General Fund, One-Time	200
From Revenue Transfers	2,700
From Revenue Transfers, One-Time	300
Schedule of Programs:	
Inspector General of Medicaid Services . .	5,000

Item 228

To Department of Administrative Services - Administrative Rules	
From General Fund	900
Schedule of Programs:	
DAR Administration	900

Item 229

To Department of Administrative Services - DFCM Administration	
From General Fund	1,400
From Dedicated Credits Revenue	700
From Capital Projects Fund	1,500
Schedule of Programs:	
DFCM Administration	3,300
Energy Program	300

Item 230

To Department of Administrative Services - State Archives	
From General Fund	3,100
Schedule of Programs:	
Archives Administration	2,200
Records Analysis	300
Patron Services	300
Records Services	300

Item 231

To Department of Administrative Services - Finance Administration	
From General Fund	57,900
From Dedicated Credits Revenue	200
Schedule of Programs:	
Finance Director's Office	400
Payroll	17,500
Payables/Disbursing	900
Technical Services	17,500
Financial Reporting	700
Financial Information Systems	21,100

Item 232

To Department of Administrative Services - Judicial Conduct Commission	
From General Fund	100
Schedule of Programs:	

Judicial Conduct Commission	100
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Item 233

To Department of Administrative Services - Purchasing	
From General Fund	1,000
Schedule of Programs:	
Purchasing and General Services	1,000

**DEPARTMENT OF
TECHNOLOGY SERVICES**

Item 234

To Department of Technology Services - Integrated Technology Division	
From General Fund	1,300
From Dedicated Credits Revenue	500
Schedule of Programs:	
Automated Geographic Reference Center	1,800

CAPITAL BUDGET

Item 235

To Capital Budget - Capital Improvements	
From General Fund	2,900
From General Fund, One-Time	500
From Education Fund	2,900
From Education Fund, One-Time	500
Schedule of Programs:	
Capital Improvements	6,800

**BUSINESS, ECONOMIC
DEVELOPMENT, AND LABOR**

DEPARTMENT OF HERITAGE AND ARTS

Item 236

To Department of Heritage and Arts - Administration	
From General Fund	11,200
Schedule of Programs:	
Executive Director's Office	300
Information Technology	10,800
Administrative Services	100

Item 237

To Department of Heritage and Arts - State History	
From General Fund	100
Schedule of Programs:	
Administration	100

Item 238

To Department of Heritage and Arts - Division of Arts and Museums	
From General Fund	700
Schedule of Programs:	
Administration	400
Community Arts Outreach	300

Item 239

To Department of Heritage and Arts - State Library	
From General Fund	1,500
From Dedicated Credits Revenue	500
Schedule of Programs:	
Blind and Disabled	1,200
Library Development	500
Library Resources	300

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 240

To Governor's Office of Economic Development - Administration
 From General Fund 4,400
 From General Fund, One-Time 300
 Schedule of Programs:
 Administration 4,700

Item 241

To Governor's Office of Economic Development - STEM Action Center
 From General Fund 100
 Schedule of Programs:
 STEM Action Center 100

Item 242

To Governor's Office of Economic Development - Office of Tourism
 From General Fund 1,500
 Schedule of Programs:
 Administration 600
 Operations and Fulfillment 700
 Film Commission 200

Item 243

To Governor's Office of Economic Development - Business Development
 From General Fund 900
 Schedule of Programs:
 Outreach and International Trade 500
 Corporate Recruitment and Business Services 400

Item 244

To Governor's Office of Economic Development - Utah Broadband Outreach Center
 From General Fund 400
 Schedule of Programs:
 Utah Broadband Outreach Center 400

UTAH STATE TAX COMMISSION

Item 245

To Utah State Tax Commission - Tax Administration
 From General Fund 68,100
 From General Fund, One-Time 100
 From Education Fund 53,800
 From Education Fund, One-Time 100
 From Dedicated Credits Revenue 100
 From General Fund Restricted - Motor Vehicle Enforcement Division
 Temporary Permit Account 300
 From General Fund Restricted - Sales and Use Tax Admin Fees 26,500
 From General Fund Restricted - Sales and Use Tax Admin Fees, One-Time 100
 Schedule of Programs:
 Administration Division 3,500
 Auditing Division 2,500
 Technology Management 132,900
 Tax Processing Division 1,700
 Tax Payer Services 3,000
 Property Tax Division 1,000
 Motor Vehicles 4,200
 Motor Vehicle Enforcement Division 300

UTAH SCIENCE TECHNOLOGY AND RESEARCH GOVERNING AUTHORITY

Item 246

To Utah Science Technology and Research Governing Authority - USTAR Administration
 From General Fund 600
 Schedule of Programs:
 Administration 600

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Item 247

To Department of Alcoholic Beverage Control - DABC Operations
 From Liquor Control Fund 34,800
 Schedule of Programs:
 Executive Director 400
 Administration 300
 Operations 19,600
 Warehouse and Distribution 1,300
 Stores and Agencies 13,200

LABOR COMMISSION

Item 248

To Labor Commission
 From General Fund 24,100
 From General Fund, One-Time 200
 From Federal Funds 3,700
 From Federal Funds, One-Time 500
 From Dedicated Credits Revenue 100
 From General Fund Restricted - Industrial Accident Rest. Account 6,500
 From General Fund Restricted - Workplace Safety Account 700
 From General Fund Restricted - Workplace Safety Account, One-Time 100
 From Employers' Reinsurance Fund 200
 Schedule of Programs:
 Administration 20,900
 Industrial Accidents 6,400
 Adjudication 600
 Boiler, Elevator and Coal Mine Safety Division 700
 Anti-Discrimination and Labor 1,500
 Utah Occupational Safety and Health ... 6,000

DEPARTMENT OF COMMERCE

Item 249

To Department of Commerce - Commerce General Regulation
 From General Fund Restricted - Commerce Service Account 36,600
 From General Fund Restricted - Commerce Service Account, One-Time ... 1,200
 From General Fund Restricted - Commerce Service Account - Public Utilities Regulatory Fee 400
 Schedule of Programs:
 Administration 23,700
 Occupational and Professional Licensing 8,200
 Securities 700
 Consumer Protection 400
 Corporations and Commercial Code 500
 Real Estate 4,300

Public Utilities 400

Item 250

To Department of Commerce - Office of Consumer
Services Professional and Technical Services
From General Fund Restricted -
Commerce Service Account -
Public Utilities Regulatory Fee 3,000
From General Fund Restricted -
Commerce Service Account -
Public Utilities Regulatory Fee, One-Time 600
Schedule of Programs:
Professional and Technical Services 3,600

FINANCIAL INSTITUTIONS**Item 251**

To Financial Institutions - Financial
Institutions Administration
From General Fund Restricted -
Financial Institutions 4,100
Schedule of Programs:
Administration 4,100

INSURANCE DEPARTMENT**Item 252**

To Insurance Department - Insurance
Department Administration
From Federal Funds 200
From General Fund Restricted -
Insurance Department Account 16,100
From General Fund Restricted -
Insurance Department Account,
One-Time 300
From General Fund Restricted -
Insurance Fraud Investigation Acct 9,600
From General Fund Restricted - Insurance
Fraud Investigation Acct, One-Time 1,600
From General Fund Restricted -
Technology Development 800
From General Fund Restricted -
Captive Insurance 1,900
Schedule of Programs:
Administration 16,600
Insurance Fraud Program 11,200
Captive Insurers 1,900
Electronic Commerce Fee 800

Item 253

To Insurance Department - Title
Insurance Program
From General Fund Restricted - Title
Licensee Enforcement Account 200
Schedule of Programs:
Title Insurance Program 200

PUBLIC SERVICE COMMISSION**Item 254**

To Public Service Commission
From General Fund Restricted -
Commerce Service Account -
Public Utilities Regulatory Fee 1,400
Schedule of Programs:
Administration 1,400

Item 255

To Public Service Commission -
Speech and Hearing Impaired
From Dedicated Credits Revenue 400
Schedule of Programs:
Speech and Hearing Impaired 400

SOCIAL SERVICES**DEPARTMENT OF HEALTH****Item 256**

To Department of Health - Executive
Director's Operations
From General Fund 49,300
From General Fund, One-Time 1,500
From Federal Funds 45,600
From Federal Funds, One-Time 1,400
From Dedicated Credits Revenue 9,400
Schedule of Programs:
Executive Director 36,400
Center for Health Data and
Informatics 20,400
Program Operations 50,400

Item 257

To Department of Health - Family
Health and Preparedness
From General Fund 1,800
From Federal Funds 10,500
From Dedicated Credits Revenue 1,200
From Revenue Transfers 1,700
Schedule of Programs:
Director's Office 400
Maternal and Child Health 7,600
Child Development 2,000
Children with Special Health
Care Needs 2,300
Public Health and Health Care
Preparedness 1,200
Health Facility Licensing and
Certification 700
Emergency Medical Services and
Preparedness 900
Primary Care 100

Item 258

To Department of Health - Disease
Control and Prevention
From General Fund 15,200
From Federal Funds 12,900
From Dedicated Credits Revenue 1,100
From General Fund Restricted - State
Lab Drug Testing Account 100
From General Fund Restricted -
Tobacco Settlement Account 600
From Revenue Transfers 1,300
Schedule of Programs:
General Administration 8,300
Health Promotion 2,500
Epidemiology 16,300
Laboratory Operations and Testing 1,000
Office of the Medical Examiner 3,100

Item 259

To Department of Health - Medicaid and
Health Financing
From General Fund 28,900
From Federal Funds 71,200
From Dedicated Credits Revenue 26,500

From General Fund Restricted -
 Nursing Care Facilities Account 100
 From Revenue Transfers 11,300
Schedule of Programs:
 Director's Office 900
 Financial Services 134,500
 Managed Health Care 600
 Medicaid Operations 1,500
 Coverage and Reimbursement
 Authorization and Community
 Based Services 100
 Eligibility Policy 300

Item 260

To Department of Health - Children's
 Health Insurance Program
 From Federal Funds 100
Schedule of Programs:
 Children's Health Insurance Program 100

Item 261

To Department of Health - Medicaid
 Mandatory Services
 From General Fund 3,700
 From Federal Funds 10,300
 From Dedicated Credits Revenue 200
 From Revenue Transfers 300
Schedule of Programs:
 Medicaid Management Information
 System Replacement 13,600
 Other Mandatory Services 900

Item 262

To Department of Health - Medicaid
 Optional Services
 From Federal Funds 100
Schedule of Programs:
 Other Optional Services 100

**DEPARTMENT OF
 WORKFORCE SERVICES**

Item 263

To Department of Workforce
 Services - Administration
 From General Fund 8,000
 From Federal Funds 17,200
 From Dedicated Credits Revenue 400
 From General Fund Restricted -
 Special Admin. Expense Account 100
 From Revenue Transfers 6,700
Schedule of Programs:
 Human Resources 32,000
 Administrative Support 400

Item 264

To Department of Workforce Services -
 Operations and Policy
 From General Fund 73,700
 From Federal Funds 201,100
 From Dedicated Credits Revenue 8,400
 From Unemployment Compensation
 Fund 1,100
 From Revenue Transfers 89,700
Schedule of Programs:
 Workforce Development 2,700
 Workforce Research and Analysis 100
 Eligibility Services 5,100
 Information Technology 366,100

Item 265

To Department of Workforce
 Services - Unemployment Insurance
 From General Fund 300
 From Federal Funds 4,600
 From Federal Funds, One-Time 600
 From General Fund Restricted -
 Special Admin. Expense Account 100
Schedule of Programs:
 Unemployment Insurance
 Administration 3,200
 Adjudication 2,400

Item 266

To Department of Workforce Services -
 Housing and Community Development
 From General Fund 1,600
 From General Fund, One-Time 100
 From Federal Funds 3,700
 From Federal Funds, One-Time 200
 From Dedicated Credits Revenue 100
 From General Fund Restricted -
 Pamela Atkinson Homeless Account 100
 From Permanent Community Impact
 Loan Fund 600
Schedule of Programs:
 Community Development
 Administration 600
 HEAT 1,000
 Housing Development 3,400
 Weatherization Assistance 700
 Community Development 200
 Homeless Committee 400
 Community Services 100

DEPARTMENT OF HUMAN SERVICES

Item 267

To Department of Human Services -
 Executive Director Operations
 From General Fund 20,700
 From General Fund, One-Time 900
 From Federal Funds 12,500
 From Federal Funds, One-Time 200
 From Revenue Transfers 6,800
 From Revenue Transfers, One-Time 300
Schedule of Programs:
 Executive Director's Office 1,200
 Legal Affairs 9,400
 Information Technology 24,400
 Fiscal Operations 2,100
 Office of Services Review 1,200
 Office of Licensing 3,000
 Utah Developmental Disabilities
 Council 100

Item 268

To Department of Human Services - Division
 of Substance Abuse and Mental Health
 From General Fund 31,100
 From Federal Funds 5,200
 From Dedicated Credits Revenue 2,500
 From Revenue Transfers 8,600
Schedule of Programs:
 Administration - DSAMH 2,000
 Community Mental Health Services 4,100
 State Hospital 41,200
 State Substance Abuse Services 100

Item 269

To Department of Human Services - Division of Services for People with Disabilities	
From General Fund	17,200
From Dedicated Credits Revenue	1,000
From Revenue Transfers	24,500
Schedule of Programs:	
Administration - DSPD	18,800
Service Delivery	3,400
Utah State Developmental Center	20,500

Item 270

To Department of Human Services - Office of Recovery Services	
From General Fund	54,900
From General Fund, One-Time	5,700
From Federal Funds	101,500
From Federal Funds, One-Time	11,900
From Dedicated Credits Revenue	3,100
From Revenue Transfers	9,000
From Revenue Transfers, One-Time	900
Schedule of Programs:	
Administration - ORS	300
Financial Services	1,200
Electronic Technology	62,400
Child Support Services	8,600
Attorney General Contract	114,100
Medical Collections	400

Item 271

To Department of Human Services - Division of Child and Family Services	
From General Fund	43,500
From Federal Funds	63,200
From Federal Funds, One-Time	6,100
From General Fund Restricted - Victims of Domestic Violence Services Account	200
Schedule of Programs:	
Administration - DCFS	2,200
Service Delivery	19,500
Facility-based Services	300
Minor Grants	700
Selected Programs	37,800
Domestic Violence	900
Child Welfare Management Information System	51,600

Item 272

To Department of Human Services - Division of Aging and Adult Services	
From General Fund	1,700
From Federal Funds	200
From Revenue Transfers	100
Schedule of Programs:	
Administration - DAAS	400
Adult Protective Services	1,500
Aging Waiver Services	100

STATE BOARD OF EDUCATION**Item 273**

To State Board of Education - State Office of Rehabilitation	
From Education Fund	2,800
From Federal Funds	5,700
From Dedicated Credits Revenue	100
Schedule of Programs:	
Executive Director	300

Blind and Visually Impaired	900
Rehabilitation Services	5,700
Disability Determination	1,300
Deaf and Hard of Hearing	400

HIGHER EDUCATION**UNIVERSITY OF UTAH****Item 274**

To University of Utah - University Hospital	
From Education Fund	4,800
From Education Fund, One-Time	900
Schedule of Programs:	
University Hospital	5,700

**NATURAL RESOURCES, AGRICULTURE,
AND ENVIRONMENTAL QUALITY****DEPARTMENT OF NATURAL RESOURCES****Item 275**

To Department of Natural Resources - Administration	
From General Fund	3,400
From General Fund, One-Time	400
Schedule of Programs:	
Executive Director	2,500
Administrative Services	1,300

Item 276

To Department of Natural Resources - Species Protection	
From General Fund Restricted - Species Protection	100
Schedule of Programs:	
Species Protection	100

Item 277

To Department of Natural Resources - Forestry, Fire and State Lands	
From General Fund	1,100
From Federal Funds	200
From Dedicated Credits Revenue	2,100
From General Fund Restricted - Sovereign Land Management	3,700
Schedule of Programs:	
Division Administration	1,300
Fire Management	800
Fire Suppression Emergencies	400
Lands Management	600
Forest Management	100
Program Delivery	1,900
Lone Peak Center	2,000

Item 278

To Department of Natural Resources - Oil, Gas and Mining	
From General Fund	2,600
From General Fund, One-Time	100
From Federal Funds	3,600
From Federal Funds, One-Time	300
From Dedicated Credits Revenue	100
From General Fund Restricted - Oil & Gas Conservation Account	10,500
Schedule of Programs:	
Administration	5,300
Oil and Gas Program	6,300
Minerals Reclamation	700
Coal Program	4,900

Item 279

To Department of Natural Resources -
 Wildlife Resources
 From General Fund 2,100
 From Federal Funds 6,300
 From General Fund Restricted -
 Wildlife Habitat 500
 From General Fund Restricted -
 Wildlife Resources 28,700
 From General Fund Restricted -
 Wildlife Resources, One-Time 300
 Schedule of Programs:
 Director's Office 2,900
 Administrative Services 15,900
 Conservation Outreach 1,800
 Law Enforcement 2,500
 Habitat Section 6,100
 Wildlife Section 2,900
 Aquatic Section 5,800

Item 280

To Department of Natural Resources -
 Parks and Recreation
 From General Fund 1,100
 From Federal Funds 300
 From General Fund Restricted -
 Boating 1,800
 From General Fund Restricted -
 Off-highway Vehicle 1,900
 From General Fund Restricted -
 State Park Fees 5,000
 Schedule of Programs:
 Executive Management 300
 Park Operation Management 8,100
 Support Services 1,400
 Recreation Services 300

Item 281

To Department of Natural Resources -
 Utah Geological Survey
 From General Fund 6,300
 From Federal Funds 100
 From Dedicated Credits Revenue 200
 Schedule of Programs:
 Administration 300
 Technical Services 5,500
 Geologic Hazards 300
 Energy and Minerals 200
 Information and Outreach 300

Item 282

To Department of Natural Resources -
 Water Resources
 From General Fund 1,100
 From Water Resources Conservation
 and Development Fund 4,600
 From Water Resources Conservation
 and Development Fund, One-Time 600
 Schedule of Programs:
 Administration 400
 Planning 1,000
 Construction 4,900

Item 283

To Department of Natural Resources -
 Water Rights
 From General Fund 20,500
 From General Fund, One-Time 1,700

From Dedicated Credits Revenue 1,000
 Schedule of Programs:
 Administration 10,600
 Applications and Records 1,800
 Dam Safety 300
 Field Services 400
 Technical Services 10,100

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 284

To Department of Environmental
 Quality - Executive Director's Office
 From General Fund 18,100
 From General Fund, One-Time 800
 From Federal Funds 1,700
 From General Fund Restricted -
 Environmental Quality 4,200
 From General Fund Restricted -
 Environmental Quality, One-Time 200
 Schedule of Programs:
 Executive Director's Office 25,000

Item 285

To Department of Environmental
 Quality - Air Quality
 From General Fund 5,100
 From General Fund, One-Time 400
 From Federal Funds 4,000
 From Federal Funds, One-Time 300
 From Dedicated Credits Revenue 5,300
 From Dedicated Credits Revenue,
 One-Time 300
 Schedule of Programs:
 Air Quality 15,400

Item 286

To Department of Environmental Quality -
 Environmental Response and Remediation
 From General Fund 3,200
 From General Fund, One-Time 500
 From Federal Funds 3,400
 From Federal Funds, One-Time 300
 From Dedicated Credits Revenue 500
 From Dedicated Credits Revenue,
 One-Time 100
 From General Fund Restricted -
 Voluntary Cleanup 400
 From Petroleum Storage Tank
 Trust Fund 2,000
 From Petroleum Storage
 Tank Trust Fund, One-Time 200
 Schedule of Programs:
 Environmental Response and
 Remediation 10,600

Item 287

To Department of Environmental Quality -
 Water Quality
 From General Fund 2,200
 From General Fund, One-Time 100
 From Federal Funds 3,300
 From Federal Funds, One-Time 300
 From Dedicated Credits Revenue 1,100
 From Dedicated Credits Revenue,
 One-Time 100
 From Water Dev. Security Fund -
 Utah Wastewater Loan Program 1,200

From Water Dev. Security Fund - Utah Wastewater Loan Program, One-Time	100
From Revenue Transfers	100
Schedule of Programs: Water Quality	8,500

Item 288

To Department of Environmental Quality - Drinking Water	
From General Fund	1,600
From Federal Funds	6,000
From Dedicated Credits Revenue	200
From Water Dev. Security Fund - Drinking Water Loan Program	200
From Water Dev. Security Fund - Drinking Water Origination Fee	700
From Water Dev. Security Fund - Drinking Water Origination Fee, One-Time	100
Schedule of Programs: Drinking Water	8,800

Item 289

To Department of Environmental Quality - Waste Management and Radiation Control	
From General Fund	1,800
From Federal Funds	2,400
From Dedicated Credits Revenue	3,600
From General Fund Restricted - Environmental Quality	19,400
From General Fund Restricted - Environmental Quality, One-Time	600
From General Fund Restricted - Used Oil Collection Administration	2,100
From General Fund Restricted - Used Oil Collection Administration, One-Time .	100
From Waste Tire Recycling Fund	300
Schedule of Programs: Waste Management and Radiation Control	30,300

**PUBLIC LANDS POLICY
COORDINATING OFFICE**

Item 290

To Public Lands Policy Coordinating Office	
From General Fund	7,800
From General Fund, One-Time	1,300
From General Fund Restricted - Constitutional Defense	6,800
From General Fund Restricted - Constitutional Defense, One-Time	1,100
Schedule of Programs: Public Lands Office	17,000

GOVERNOR'S OFFICE

Item 291

To Governor's Office - Office of Energy Development	
From General Fund	1,200
From General Fund, One-Time	100
From Federal Funds	600
Schedule of Programs: Office of Energy Development	1,900

**DEPARTMENT OF
AGRICULTURE AND FOOD**

Item 292

To Department of Agriculture and Food - Administration	
From General Fund	6,500
From Federal Funds	3,500
From Dedicated Credits Revenue	1,500
Schedule of Programs: General Administration	11,200
Chemistry Laboratory	300

Item 293

To Department of Agriculture and Food - Animal Health	
From General Fund	700
From Federal Funds	300
From Dedicated Credits Revenue	100
From General Fund Restricted - Livestock Brand	300
Schedule of Programs: Animal Health	700
Brand Inspection	400
Meat Inspection	300

Item 294

To Department of Agriculture and Food - Plant Industry	
From General Fund	200
From Dedicated Credits Revenue	500
Schedule of Programs: Plant Industry	700

Item 295

To Department of Agriculture and Food - Regulatory Services	
From General Fund	2,000
From Federal Funds	500
From Dedicated Credits Revenue	1,800
Schedule of Programs: Regulatory Services	4,300

Item 296

To Department of Agriculture and Food - Marketing and Development	
From General Fund	200
Schedule of Programs: Marketing and Development	200

Item 297

To Department of Agriculture and Food - Predatory Animal Control	
From General Fund	300
From General Fund Rest. - Agriculture and Wildlife Damage Prevention	300
Schedule of Programs: Predatory Animal Control	600

**SCHOOL AND INSTITUTIONAL
TRUST LANDS ADMINISTRATION**

Item 298

To School and Institutional Trust Lands Administration	
From Land Grant Management Fund	3,500
From Land Grant Management Fund, One-Time	400
Schedule of Programs: Administration	100
Surface	400

Development - Operating	100
Legal/Contracts	2,700
Information Technology Group	600

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

Item 299

To State Board of Education - State Office of Education	
From Education Fund	5,300
From Education Fund, One-Time	300
From Federal Funds	1,200
From Interest and Dividends Account	300
Schedule of Programs:	
Assessment and Accountability	600
Board and Administration	3,600
Business Services	600
Career and Technical Education	500
District Computer Services	300
Federal Elementary and Secondary Education Act	300
School Trust	300
Special Education	600
Teaching and Learning	300

Item 300

To State Board of Education - State Charter School Board	
From Education Fund	2,000
From Education Fund, One-Time	300
Schedule of Programs:	
State Charter School Board	2,300

Item 301

To State Board of Education - Educator Licensing Professional Practices	
From Professional Practices Restricted Subfund	300
Schedule of Programs:	
Educator Licensing	300

Item 302

To State Board of Education - State Office of Education - Child Nutrition	
From Federal Funds	300
Schedule of Programs:	
Child Nutrition	300

Item 303

To State Board of Education - Utah Schools for the Deaf and the Blind	
From Education Fund	4,000
From Dedicated Credits Revenue	100
Schedule of Programs:	
Educational Services	2,500
Support Services	1,600

RETIREMENT AND INDEPENDENT ENTITIES

CAREER SERVICE REVIEW OFFICE

Item 304

To Career Service Review Office	
From General Fund	100
Schedule of Programs:	
Career Service Review Office	100

EXECUTIVE APPROPRIATIONS

UTAH NATIONAL GUARD

Item 305

To Utah National Guard	
From General Fund	3,800
Schedule of Programs:	
Administration	3,700
Operations and Maintenance	100

DEPARTMENT OF VETERANS' AND MILITARY AFFAIRS

Item 306

To Department of Veterans' and Military Affairs - Veterans' and Military Affairs	
From General Fund	2,200
From Federal Funds	700
Schedule of Programs:	
Administration	2,600
State Approving Agency	300

LEGISLATURE

Item 307

To Legislature - House of Representatives	
From General Fund	3,800
Schedule of Programs:	
Administration	3,800

Item 308

To Legislature - Office of Legislative Research and General Counsel	
From General Fund	100
Schedule of Programs:	
Administration	100

Item 309

To Legislature - Office of the Legislative Fiscal Analyst	
From General Fund	700
Schedule of Programs:	
Administration and Research	700

Subsection 2(b). Expendable Funds and

Accounts. The Legislature has reviewed the following expendable funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated. Outlays and expenditures from the recipient funds or accounts may be made without further legislative action according to a fund or account's applicable authorizing statute.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

DEPARTMENT OF PUBLIC SAFETY

Item 310

To Department of Public Safety - Alcoholic Beverage Control Act Enforcement Fund	
From Dedicated Credits Revenue	500
Schedule of Programs:	
Alcoholic Beverage Control Act Enforcement Fund	500

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

**DEPARTMENT OF
ADMINISTRATIVE SERVICES**

Item 311

To Department of Administrative Services -
State Debt Collection Fund
From Dedicated Credits Revenue 10,700
From Dedicated Credits Revenue,
One-Time 1,300
Schedule of Programs:
State Debt Collection Fund 12,000

**BUSINESS, ECONOMIC
DEVELOPMENT, AND LABOR**

DEPARTMENT OF COMMERCE

Item 312

To Department of Commerce - Residence
Lien Recovery Fund
From Licenses/Fees 3,000
From Licenses/Fees, One-Time 600
Schedule of Programs:
Residence Lien Recovery Fund 3,600

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 313

To Capitol Preservation Board - State
Capitol Restricted Special Revenue Fund
From Dedicated Credits Revenue 700
Schedule of Programs:
State Capitol Fund 700

UTAH NATIONAL GUARD

Item 314

To Utah National Guard - National
Guard MWR Fund
From Dedicated Credits Revenue 300
Schedule of Programs:
National Guard MWR Fund 300

**DEPARTMENT OF VETERANS'
AND MILITARY AFFAIRS**

Item 315

To Department of Veterans' and Military Affairs -
Utah Veterans' Nursing Home Fund
From Federal Funds 1,600
Schedule of Programs:
Veterans' Nursing Home Fund 1,600

Subsection 2(c). Business-like Activities.

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds as indicated estimated revenue from rates, fees, and other charges. Where applicable, the

Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated.

**EXECUTIVE OFFICES
AND CRIMINAL JUSTICE**

UTAH DEPARTMENT OF CORRECTIONS

Item 316

To Utah Department of Corrections -
Utah Correctional Industries
From Dedicated Credits Revenue 4,700
Schedule of Programs:
Utah Correctional Industries 4,700

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

**DEPARTMENT OF ADMINISTRATIVE
SERVICES INTERNAL SERVICE FUNDS**

Item 317

To Department of Administrative Services Internal
Service Funds - Division of Finance
From Dedicated Credits Revenue 1,200
Schedule of Programs:
ISF - Consolidated Budget and
Accounting 1,200

Item 318

To Department of Administrative Services Internal
Service Funds - Division of Purchasing and
General Services
From Dedicated Credits Revenue 3,500
Schedule of Programs:
ISF - Central Mailing 1,600
ISF - Cooperative Contracting 700
ISF - State Surplus Property 1,200

Item 319

To Department of Administrative Services Internal
Service Funds - Division of Fleet Operations
From Dedicated Credits Revenue 9,900
Schedule of Programs:
ISF - Fleet Administration 2,800
ISF - Motor Pool 5,100
ISF - Fuel Network 1,700
ISF - Travel Office 300

Item 320

To Department of Administrative Services Internal
Service Funds - Risk Management
From Dedicated Credits Revenue 1,600
From Premiums 93,500
From Premiums, One-Time 18,000
Schedule of Programs:
ISF - Risk Management
Administration 1,600
Risk Management - Liability 111,500

Item 321

To Department of Administrative Services Internal
Service Funds - Division of Facilities
Construction and Management -
Facilities Management
From Dedicated Credits Revenue 5,100
Schedule of Programs:
ISF - Facilities Management 5,100

**DEPARTMENT OF TECHNOLOGY
SERVICES INTERNAL SERVICE FUNDS**

Item 322

To Department of Technology Services Internal
Service Funds - Enterprise Technology Division
From Dedicated Credits Revenue 34,100
Schedule of Programs:
ISF - Enterprise Technology Division ... 34,100

**NATURAL RESOURCES, AGRICULTURE,
AND ENVIRONMENTAL QUALITY**

DEPARTMENT OF NATURAL RESOURCES

Item 323

To Department of Natural Resources -
Internal Service Fund
From Dedicated Credits Revenue 100
Schedule of Programs:
ISF - DNR Warehouse 100

**RETIREMENT AND
INDEPENDENT ENTITIES**

**DEPARTMENT OF HUMAN
RESOURCE MANAGEMENT**

Item 324

To Department of Human Resource Management -
Human Resources Internal Service Fund
From Dedicated Credits Revenue 4,600
Schedule of Programs:
ISF - Field Services 4,600

Subsection 2(d). Fiduciary Funds. The
Legislature has reviewed proposed revenues,
expenditures, fund balances and changes in
fund balances for the following fiduciary funds.

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

**DEPARTMENT OF
ADMINISTRATIVE SERVICES**

Item 325

To Department of Administrative Services -
Utah Navajo Royalties Holding Fund
From Revenue Transfers 300
Schedule of Programs:
Utah Navajo Royalties Holding Fund 300

**BUSINESS, ECONOMIC
DEVELOPMENT, AND LABOR**

LABOR COMMISSION

Item 326

To Labor Commission - Uninsured
Employers Fund
From Dedicated Credits Revenue 3,700
From Dedicated Credits Revenue,
One-Time 700
Schedule of Programs:
Uninsured Employers Fund 4,400

Section 3. Effective Date.
This bill takes effect on July 1, 2016.

CHAPTER 418**S. B. 79**

Passed March 10, 2016
 Approved March 30, 2016
 Effective May 10, 2016

CHILD WELFARE REVISIONS

Chief Sponsor: Alvin B. Jackson
 House Sponsor: LaVar Christensen

LONG TITLE**General Description:**

This bill amends a provision in the Juvenile Court Act.

Highlighted Provisions:

This bill:

- ▶ amends the Juvenile Court Act to provide that a minor who is 18 years old or older, but younger than 21 years old, may petition the court to express the minor's desire to be removed from the custody of the Division of Child and Family Services.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78A-6-117, as last amended by Laws of Utah 2015, Chapter 274

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78A-6-117 is amended to read:

78A-6-117. Adjudication of jurisdiction of juvenile court -- Disposition of cases -- Enumeration of possible court orders -- Considerations of court -- Obtaining DNA sample.

(1) (a) When a minor is found to come within the provisions of Section 78A-6-103, the court shall so adjudicate. The court shall make a finding of the facts upon which it bases its jurisdiction over the minor. However, in cases within the provisions of Subsection 78A-6-103(1), findings of fact are not necessary.

(b) If the court adjudicates a minor for a crime of violence or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, it shall order that notice of the adjudication be provided to the school superintendent of the district in which the minor resides or attends school. Notice shall be made to the district superintendent within three days of the adjudication and shall include:

- (i) the specific offenses for which the minor was adjudicated; and
- (ii) if available, if the victim:
 - (A) resides in the same school district as the minor; or
 - (B) attends the same school as the minor.

(2) Upon adjudication the court may make the following dispositions by court order:

(a) (i) The court may place the minor on probation or under protective supervision in the minor's own home and upon conditions determined by the court, including compensatory service as provided in Subsection (2)(m)(iii).

(ii) The court may place the minor in state supervision with the probation department of the court, under the legal custody of:

- (A) the minor's parent or guardian;
- (B) the Division of Juvenile Justice Services; or
- (C) the Division of Child and Family Services.

(iii) If the court orders probation or state supervision, the court shall direct that notice of its order be provided to designated persons in the local law enforcement agency and the school or transferee school, if applicable, that the minor attends. The designated persons may receive the information for purposes of the minor's supervision and student safety.

(iv) Any employee of the local law enforcement agency and the school that the minor attends who discloses the court's order of probation is not:

(A) civilly liable except when the disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and

(B) civilly or criminally liable except when the disclosure constitutes a knowing violation of Section 63G-2-801.

(b) The court may place the minor in the legal custody of a relative or other suitable person, with or without probation or protective supervision, but the juvenile court may not assume the function of developing foster home services.

(c) (i) The court may:

(A) vest legal custody of the minor in the Division of Child and Family Services, Division of Juvenile Justice Services, or the Division of Substance Abuse and Mental Health; and

(B) order the Department of Human Services to provide dispositional recommendations and services.

(ii) For minors who may qualify for services from two or more divisions within the Department of Human Services, the court may vest legal custody with the department.

(iii) (A) A minor who is committed to the custody of the Division of Child and Family Services on grounds other than abuse or neglect is subject to the provisions of Title 78A, Chapter 6, Part 4, Minors in Custody on Grounds Other than Abuse or Neglect, and Title 62A, Chapter 4a, Part 2a, Minors in Custody on Grounds other than Abuse or Neglect.

(B) Before the court entering an order to place a minor in the custody of the Division of Child and Family Services on grounds other than abuse or neglect, the court shall provide the division with notice of the hearing no later than five days before

the time specified for the hearing so the division may attend the hearing.

(C) Before committing a child to the custody of the Division of Child and Family Services, the court shall make a finding as to what reasonable efforts have been attempted to prevent the child's removal from the child's home.

(iv) (A) A minor who is 18 years old or older, but younger than 21 years old, may petition the court to express the minor's desire to be removed from the jurisdiction of the juvenile court and from the custody of the Division of Child and Family Services if the minor is in the division's custody on grounds of abuse, neglect, or dependency.

(B) If the minor's parent's rights have not been terminated in accordance with Part 5, Termination of Parental Rights Act, the minor's petition shall contain a statement from the minor's parent or guardian agreeing that the minor should be removed from the custody of the Division of Child and Family Services.

(C) The minor and the minor's parent or guardian shall sign the petition.

(D) The court shall review the petition within 14 days.

(E) The court shall remove the minor from the custody of the Division of Child and Family Services if the minor and the minor's parent or guardian have met the requirements described in Subsections (2)(c)(iv)(B) and (C) and if the court finds, based on input from the Division of Child and Family Services, the minor's guardian ad litem, and the Office of the Attorney General, that the minor does not pose an imminent threat to self or others.

(F) A minor removed from custody under Subsection (2)(c)(iv)(E) may, within 90 days of the date of removal, petition the court to re-enter custody of the Division of Child and Family Services.

(G) Upon receiving a petition under Subsection (2)(c)(iv)(F), the court shall order the Division of Child and Family Services to take custody of the minor based on the findings the court entered when the court originally vested custody in the Division of Child and Family Services.

(d) (i) The court may commit a minor to the Division of Juvenile Justice Services for secure confinement.

(ii) A minor under the jurisdiction of the court solely on the ground of abuse, neglect, or dependency under Subsection 78A-6-103(1)(c) may not be committed to the Division of Juvenile Justice Services.

(e) The court may commit a minor, subject to the court retaining continuing jurisdiction over the minor, to the temporary custody of the Division of Juvenile Justice Services for observation and evaluation for a period not to exceed 45 days, which period may be extended up to 15 days at the request of the director of the Division of Juvenile Justice Services.

(f) (i) The court may commit a minor to a place of detention or an alternative to detention for a period not to exceed 30 days subject to the court retaining continuing jurisdiction over the minor. This commitment may be stayed or suspended upon conditions ordered by the court.

(ii) This Subsection (2)(f) applies only to a minor adjudicated for:

(A) an act which if committed by an adult would be a criminal offense; or

(B) contempt of court under Section 78A-6-1101.

(g) The court may vest legal custody of an abused, neglected, or dependent minor in the Division of Child and Family Services or any other appropriate person in accordance with the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

(h) The court may place a minor on a ranch or forestry camp, or similar facility for care and also for work, if possible, if the person, agency, or association operating the facility has been approved or has otherwise complied with all applicable state and local laws. A minor placed in a forestry camp or similar facility may be required to work on fire prevention, forestation and reforestation, recreational works, forest roads, and on other works on or off the grounds of the facility and may be paid wages, subject to the approval of and under conditions set by the court.

(i) (i) The court may order a minor to repair, replace, or otherwise make restitution for damage or loss caused by the minor's wrongful act, including costs of treatment as stated in Section 78A-6-321 and impose fines in limited amounts.

(ii) The court may also require a minor to reimburse an individual, entity, or governmental agency who offered and paid a reward to a person or persons for providing information resulting in a court adjudication that the minor is within the jurisdiction of the juvenile court due to the commission of a criminal offense.

(iii) If a minor is returned to this state under the Interstate Compact on Juveniles, the court may order the minor to make restitution for costs expended by any governmental entity for the return.

(j) The court may issue orders necessary for the collection of restitution and fines ordered by the court, including garnishments, wage withholdings, and executions.

(k) (i) The court may through its probation department encourage the development of employment or work programs to enable minors to fulfill their obligations under Subsection (2)(i) and for other purposes considered desirable by the court.

(ii) Consistent with the order of the court, the probation officer may permit a minor found to be within the jurisdiction of the court to participate in a program of work restitution or compensatory service in lieu of paying part or all of the fine imposed by the court.

(l) (i) In violations of traffic laws within the court's jurisdiction, the court may, in addition to any other disposition authorized by this section:

(A) restrain the minor from driving for periods of time the court considers necessary; and

(B) take possession of the minor's driver license.

(ii) The court may enter any other disposition under Subsection (2)(1)(i). However, the suspension of driving privileges for an offense under Section 78A-6-606 is governed only by Section 78A-6-606.

(m) (i) When a minor is found within the jurisdiction of the juvenile court under Section 78A-6-103 because of violating Section 58-37-8, Title 58, Chapter 37a, Utah Drug Paraphernalia Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, the court shall, in addition to any fines or fees otherwise imposed, order that the minor perform a minimum of 20 hours, but no more than 100 hours, of compensatory service. Satisfactory completion of an approved substance abuse prevention or treatment program may be credited by the court as compensatory service hours.

(ii) When a minor is found within the jurisdiction of the juvenile court under Section 78A-6-103 because of a violation of Section 32B-4-409 or Subsection 76-9-701(1), the court may, upon the first adjudication, and shall, upon a second or subsequent adjudication, order that the minor perform a minimum of 20 hours, but no more than 100 hours of compensatory service, in addition to any fines or fees otherwise imposed. Satisfactory completion of an approved substance abuse prevention or treatment program may be credited by the court as compensatory service hours.

(iii) When a minor is found within the jurisdiction of the juvenile court under Section 78A-6-103 because of a violation of Section 76-6-106 or 76-6-206 using graffiti, the court may order the minor to clean up graffiti created by the minor or any other person at a time and place within the jurisdiction of the court. Compensatory service required under this section may be performed in the presence and under the direct supervision of the minor's parent or legal guardian. The parent or legal guardian shall report completion of the order to the court. The minor or the minor's parent or legal guardian, if applicable, shall be responsible for removal costs as determined under Section 76-6-107, unless waived by the court for good cause. The court may also require the minor to perform other alternative forms of restitution or repair to the damaged property pursuant to Subsection 77-18-1(8).

(A) For a first adjudication, the court may require the minor to clean up graffiti for not less than eight hours.

(B) For a second adjudication, the court may require the minor to clean up graffiti for not less than 16 hours.

(C) For a third adjudication, the court may require the minor to clean up graffiti for not less than 24 hours.

(n) (i) Subject to Subsection (2)(n)(iii), the court may order that a minor:

(A) be examined or treated by a physician, surgeon, psychiatrist, or psychologist; or

(B) receive other special care.

(ii) For purposes of receiving the examination, treatment, or care described in Subsection (2)(n)(i), the court may place the minor in a hospital or other suitable facility.

(iii) In determining whether to order the examination, treatment, or care described in Subsection (2)(n)(i), the court shall consider:

(A) the desires of the minor;

(B) if the minor is under the age of 18, the desires of the parents or guardian of the minor; and

(C) whether the potential benefits of the examination, treatment, or care outweigh the potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain function impairment, or emotional or physical harm resulting from the compulsory nature of the examination, treatment, or care.

(iv) The Division of Child and Family Services shall take reasonable measures to notify a parent or guardian of any non-emergency health treatment or care scheduled for a child, shall include the parent or guardian as fully as possible in making health care decisions for the child, and shall defer to the parent's or guardian's reasonable and informed decisions regarding the child's health care to the extent that the child's health and well being are not unreasonably compromised by the parent's or guardian's decision.

(v) The Division of Child and Family Services shall notify the parent or guardian of a child within five business days after a child in the custody of the Division of Child and Family Services receives emergency health care or treatment.

(vi) The Division of Child and Family Services shall use the least restrictive means to accomplish a compelling interest in the care and treatment of a child described in this Subsection (2)(n).

(o) (i) The court may appoint a guardian for the minor if it appears necessary in the interest of the minor, and may appoint as guardian a public or private institution or agency in which legal custody of the minor is vested.

(ii) In placing a minor under the guardianship or legal custody of an individual or of a private agency or institution, the court shall give primary consideration to the welfare of the minor. When practicable, the court may take into consideration the religious preferences of the minor and of a child's parents.

(p) (i) In support of a decree under Section 78A-6-103, the court may order reasonable conditions to be complied with by a minor's parents

or guardian, a minor, a minor's custodian, or any other person who has been made a party to the proceedings. Conditions may include:

- (A) parent-time by the parents or one parent;
 - (B) restrictions on the minor's associates;
 - (C) restrictions on the minor's occupation and other activities; and
 - (D) requirements to be observed by the parents or custodian.
- (ii) A minor whose parents or guardians successfully complete a family or other counseling program may be credited by the court for detention, confinement, or probation time.

(q) The court may order the child to be committed to the physical custody of a local mental health authority, in accordance with the procedures and requirements of Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(r) (i) The court may make an order committing a minor within the court's jurisdiction to the Utah State Developmental Center if the minor has an intellectual disability in accordance with the provisions of Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability.

(ii) The court shall follow the procedure applicable in the district courts with respect to judicial commitments to the Utah State Developmental Center when ordering a commitment under Subsection (2)(r)(i).

(s) The court may terminate all parental rights upon a finding of compliance with the provisions of Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act.

(t) The court may make any other reasonable orders for the best interest of the minor or as required for the protection of the public, except that a child may not be committed to jail or prison.

(u) The court may combine the dispositions listed in this section if they are compatible.

(v) Before depriving any parent of custody, the court shall give due consideration to the rights of parents concerning their child. The court may transfer custody of a minor to another person, agency, or institution in accordance with the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

(w) Except as provided in Subsection (2)(y)(i), an order under this section for probation or placement of a minor with an individual or an agency shall include a date certain for a review of the case by the court. A new date shall be set upon each review.

(x) In reviewing foster home placements, special attention shall be given to making adoptable children available for adoption without delay.

(y) (i) The juvenile court may enter an order of permanent custody and guardianship with an individual or relative of a child where the court has previously acquired jurisdiction as a result of an adjudication of abuse, neglect, or dependency. The juvenile court may enter an order for child support on behalf of the child against the natural or adoptive parents of the child.

(ii) Orders under Subsection (2)(y)(i):

(A) shall remain in effect until the child reaches majority;

(B) are not subject to review under Section 78A-6-118; and

(C) may be modified by petition or motion as provided in Section 78A-6-1103.

(iii) Orders permanently terminating the rights of a parent, guardian, or custodian and permanent orders of custody and guardianship do not expire with a termination of jurisdiction of the juvenile court.

(3) In addition to the dispositions described in Subsection (2), when a minor comes within the court's jurisdiction, the minor may be given a choice by the court to serve in the National Guard in lieu of other sanctions, provided:

(a) the minor meets the current entrance qualifications for service in the National Guard as determined by a recruiter, whose determination is final;

(b) the minor is not under the jurisdiction of the court for any act that:

(i) would be a felony if committed by an adult;

(ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

(iii) was committed with a weapon; and

(c) the court retains jurisdiction over the minor under conditions set by the court and agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

(4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction of the court as described in Subsection 53-10-403(3). The specimen shall be obtained by designated employees of the court or, if the minor is in the legal custody of the Division of Juvenile Justice Services, then by designated employees of the division under Subsection 53-10-404(5)(b).

(b) The responsible agency shall ensure that employees designated to collect the saliva DNA specimens receive appropriate training and that the specimens are obtained in accordance with accepted protocol.

(c) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA Specimen Restricted Account created in Section 53-10-407.

(d) Payment of the reimbursement is second in priority to payments the minor is ordered to make

for restitution under this section and treatment under Section 78A-6-321.

CHAPTER 419**S. B. 114**

Passed March 10, 2016
Approved March 30, 2016
Effective May 10, 2016

MUNICIPAL UTILITIES AMENDMENTS

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Brad R. Wilson

LONG TITLE**General Description:**

This bill allows a municipality to call an election on proposed public communications service facilities.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ clarifies that a municipality may create public communications service facilities; and
- ▶ allows a municipality to call an election on proposed public communications service facilities.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 10-8-14, as last amended by Laws of Utah 2014, Chapter 55
10-18-102, as enacted by Laws of Utah 2001, Chapter 83
10-18-105, as last amended by Laws of Utah 2004, Chapter 270
10-18-204, as enacted by Laws of Utah 2001, Chapter 83

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-8-14 is amended to read:**10-8-14. Utility and telecommunications services -- Service beyond municipal limits -- Retainage -- Notice of service and agreement.**

(1) As used in this section, "public telecommunications service facilities" means the same as that term is defined in Section 10-18-102.

~~(1)~~ (2) A municipality may:

(a) construct, maintain, and operate waterworks, sewer collection, sewer treatment systems, gas works, electric light works, telecommunications lines, cable television lines, ~~or~~ public transportation systems, or public telecommunications service facilities;

(b) authorize the construction, maintenance and operation of the works or systems listed in Subsection ~~(1)~~ (2)(a) by others;

(c) purchase or lease the works or systems listed in Subsection (1)(a) from any person or corporation; and

(d) sell and deliver the surplus product or service capacity of any works or system listed in Subsection ~~(1)~~ (2)(a), not required by the municipality or the municipality's inhabitants, to others beyond the limits of the municipality, except the sale and delivery of:

(i) retail electricity beyond the municipal boundary is governed by Subsections (3) through (8); and

(ii) cable television services or public telecommunications services is governed by Subsection ~~(1)~~ (12).

~~(2)~~ (3) If any payment on a contract with a private person, firm, or corporation to construct waterworks, sewer collection, sewer treatment systems, gas works, electric works, telecommunications lines, cable television lines, ~~or~~ public transportation systems, or public telecommunications service facilities is retained or withheld, it shall be retained or withheld and released as provided in Section 13-8-5.

~~(3)~~ (4) (a) Except as provided in Subsection ~~(3)~~ (4)(b), ~~(5)~~ (6), or ~~(9)~~ (10), a municipality may not sell or deliver the electricity produced or distributed by its electric works constructed, maintained, or operated in accordance with Subsection ~~(1)~~ (2) to a retail customer located beyond its municipal boundary.

(b) A municipality that provides retail electric service to a customer beyond its municipal boundary on or before June 15, 2013, may continue to serve that customer if:

(i) on or before December 15, 2013, the municipality provides the electrical corporation, as defined in Section 54-2-1, that is obligated by its certificate of public convenience and necessity to serve the customer with an accurate and complete verified written notice described in Subsection ~~(3)~~ (4)(c) that identifies each customer served by the municipality beyond its municipal boundary;

(ii) no later than June 15, 2014, the municipality enters into a written filing agreement for the provision of electric service with the electrical corporation; and

(iii) the Public Service Commission approves the written filing agreement in accordance with Section 54-4-40.

(c) The municipality shall include in the written notice required in Subsection ~~(3)~~ (4)(b)(i) for each customer:

(i) the customer's meter number;

(ii) the location of the customer's meter by street address, global positioning system coordinates, metes and bounds description, or other similar method of meter location;

(iii) the customer's class of service; and

(iv) a representation that the customer was receiving service from the municipality on or before June 15, 2013.

~~(4)~~ (5) The written filing agreement entered into in accordance with Subsection (3)(b)(ii) shall require the following:

(a) The municipality shall provide electric service to a customer identified in accordance with Subsection [(3)] (4)(b)(i) unless the municipality and the electrical corporation subsequently agree in writing that the electrical corporation will provide electric service to the customer.

(b) If a customer who is located outside the municipal boundary and who is not identified in accordance with Subsection [(3)] (4)(b)(i) requests service from the municipality after June 15, 2013, the municipality may not provide that customer electric service unless the municipality submits a request to and enters into a written agreement with the electric corporation in accordance with Subsection [(5)] (6).

[(5)] (6) (a) A municipality may submit to the electrical corporation a request to provide electric service to an electric customer described in Subsection [(4)] (5)(b).

(b) If a municipality submits a request, the electrical corporation shall respond to the request within 60 days.

(c) If the electrical corporation agrees to allow the municipality to provide electric service to the customer:

(i) the electrical corporation and the municipality shall enter into a written agreement;

(ii) the municipality shall agree in the written agreement to subsequently transfer service to the customer described in Subsection [(4)] (5)(b) if the electrical corporation notifies, in writing, the municipality that the electrical corporation has installed a facility capable of providing electric service to the customer; and

(iii) the municipality may provide the service if:

(A) except as provided in Subsection [(5)] (6)(c)(iii)(B), the Public Service Commission approves the agreement in accordance with Section 54-4-40; or

(B) for an electrical cooperative that meets the requirements of Subsection 54-7-12(7), the governing board of the electrical cooperative approves the agreement.

(d) The municipality or the electrical corporation may terminate the agreement for the provision of electric service if the Public Service Commission imposes a condition authorized in Section 54-4-40 that is a material change to the agreement.

[(6)] (7) If the municipality and electrical corporation make a transfer described in Subsection [(5)] (6)(c)(ii):

(a) (i) the municipality shall transfer the electric service customer to the electrical corporation; and

(ii) the electrical corporation shall provide electric service to the customer; and

(b) the municipality shall transfer a facility in accordance with and for the value as provided in Section 10-2-421.

[(7)] (8) (a) In accordance with Subsection [(7)] (8)(b), the municipality shall establish a reasonable mechanism for resolving potential future complaints by an electric customer located outside its municipal boundary.

(b) The mechanism shall require:

(i) that the rates and conditions of service for a customer outside the municipality's boundary are at least as favorable as the rates and conditions of service for a similarly situated customer within the municipality's boundary; and

(ii) if the municipality provides a general rebate, refund, or other payment to a customer located within the municipality's boundary, that the municipality also provide the same general rebate, refund, or other payment to a similarly situated customer located outside the municipality's boundary.

[(8)] (9) The municipality is relieved of any obligation to transfer a customer described in Subsection [(4)] (5)(b) or facility used to serve the customer in accordance with Subsection [(5)] (6)(c)(ii) if the municipality annexes the property on which the customer is being served.

[(9)] (10) (a) A municipality may provide electric service outside of its municipal boundary to a facility that is solely owned and operated by the municipality for municipal service.

(b) A municipality's provision of electric service to a facility that is solely owned and operated by the municipality does not expand the municipality's electric service area.

[(10)] (11) Nothing in this section expands or diminishes the ability of a municipality to enter into a wholesale electrical sales contract with another municipality that serves electric customers to sell and deliver wholesale electricity to the other municipality.

[(11)] (12) A municipality's actions under this section related to works or systems involving public telecommunications services or cable television services are subject to the requirements of Chapter 18, Municipal Cable Television and Public Telecommunications Services Act.

Section 2. Section 10-18-102 is amended to read:

10-18-102. Definitions.

As used in this chapter:

(1) "Cable television service" means:

(a) the one-way transmission to subscribers of:

(i) video programming; or

(ii) other programming service; and

(b) subscriber interaction, if any, that is required for the selection or use of:

(i) the video programming; or

(ii) other programming service.

(2) “Capital costs” means all costs of providing a service that are capitalized in accordance with generally accepted accounting principles.

(3) “Cross subsidize” means to pay a cost included in the direct costs or indirect costs of providing a service that is not accounted for in the full cost of accounting of providing the service.

(4) “Direct costs” means those expenses of a municipality that:

- (a) are directly attributable to providing:
 - (i) a cable television service; or
 - (ii) a public telecommunications service; and

(b) would be eliminated if the service described in Subsection (4)(a) were not provided by the municipality.

(5) “Feasibility consultant” means an individual or entity with expertise in the processes and economics of providing:

- (a) cable television service; and
- (b) public telecommunications service.

(6) (a) “Full-cost accounting” means the accounting of all costs incurred by a municipality in providing:

- (i) a cable television service; or
- (ii) a public telecommunications service.

(b) The costs included in a full-cost accounting include all:

- (i) capital costs;
- (ii) direct costs; and
- (iii) indirect costs.

(7) (a) “Indirect costs” means any costs:

(i) identified with two or more services or other functions; and

(ii) that are not directly identified with a single service or function.

(b) “Indirect costs” may include cost factors for:

- (i) administration;
- (ii) accounting;
- (iii) personnel;
- (iv) purchasing;
- (v) legal support; and
- (vi) other staff or departmental support.

(8) “Private provider” means a person that:

- (a) provides:
 - (i) cable television services; or
 - (ii) public telecommunications services; and
- (b) is a private entity.

(9) “Public telecommunications service” means the two-way transmission of signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, lightwaves, or other electromagnetic means offered to the public generally.

(10) “Public telecommunications service facilities” means a facility described in Subsection 10-18-105(2).

~~[(10)]~~ (11) “Subscribers” means a person that lawfully receives:

- (a) cable television services; or
- (b) public telecommunications services.

Section 3. Section 10-18-105 is amended to read:

10-18-105. Scope of chapter.

(1) Nothing in this chapter authorizes any county or other political subdivision of this state to:

- (a) provide:
 - (i) a cable television service; or
 - (ii) a public telecommunications service; or
- (b) purchase, lease, construct, maintain, or operate a facility for the purpose of providing:
 - (i) a cable television service; or
 - (ii) a public telecommunications service.

(2) Except as provided in ~~[Subsection]~~ Subsections (3) and (4), this chapter does not apply to a municipality purchasing, leasing, constructing, or equipping facilities:

(a) that are designed to provide services within the municipality; and

(b) that the municipality:

(i) uses for internal municipal government purposes; or

(ii) by written contract, leases, sells capacity in, or grants other similar rights to a private provider to use the facilities in connection with a private provider offering:

- (A) cable television services; or
- (B) public telecommunications services.

(3) (a) As used in this Subsection (3), “municipal entity” means:

- (i) a municipality; or
- (ii) an entity created pursuant to an agreement:

(A) under Title 11, Chapter 13, Interlocal Cooperation Act; and

(B) to which a municipality is a party.

(b) Notwithstanding Subsection (2), a municipal entity shall comply with Subsection (3)(c) if the municipal entity purchases, leases, constructs, or equips facilities that the municipal entity by written contract leases, sells capacity in, or grants other similar rights to a private provider to use the

facilities in connection with a private provider offering:

- (i) cable television services; or
- (ii) public telecommunications services.
- (c) A municipal entity described in Subsection (3)(b) shall, with respect to an action described in Subsection (3)(b), comply with the obligations imposed on a municipality pursuant to:

- (i) Section 10-18-302; and
- (ii) Subsections 10-18-303(3) and (4).

(4) A municipality described in Subsection 10-18-105(2) may call an election under Section 10-18-204 with respect to the provision of public telecommunications service facilities.

Section 4. Section 10-18-204 is amended to read:

10-18-204. Vote permissible -- Referendum.

(1) (a) (i) A legislative body of a municipality may, by a majority vote ~~may~~, call an election on whether ~~or not~~ the municipality shall provide ~~the~~ proposed:

- (i) (A) cable television services; or
- (ii) (B) public telecommunications services.

(ii) A municipal legislative body that, before July 1, 2016, approves the provision of public telecommunications service facilities may, by a majority vote, call an election on whether the municipality shall provide proposed public telecommunications service facilities.

(b) If under Subsection (1)(a) the legislative body calls an election, the election shall be held:

- (i) (A) at the next municipal general election; or

(B) as provided in Subsection 20A-1-203(1), at a local special election the purpose of which is authorized by this section; and

(ii) in accordance with Title 20A, Election Code, except as provided in this section.

(c) (i) The notice of the election called under Subsection (1)(a)(i) shall include with any other information required by law:

(i) (A) a summary of the cable television services or public telecommunications services that the legislative body of the municipality proposes to provide to subscribers residing within the boundaries of the municipality;

(ii) (B) the feasibility study summary under Section 10-18-203;

(iii) (C) a statement that a full copy of the feasibility study is available for inspection and copying; and

(iv) (D) the location in the municipality where the feasibility study may be inspected or copied.

(ii) The notice of an election called under Subsection (1)(a)(ii) shall include a summary

prepared by the municipality describing the proposed public communications service facilities.

(d) ~~The ballot at~~ (i) For an election called under Subsection (1)(a)(i), the ballot for the election shall pose the question substantially as follows:

“Shall the [name of the municipality] provide [cable television service or public telecommunications service] to the inhabitants of the [municipality][.]?”

(ii) For an election called under Subsection (1)(a)(ii), the ballot for the election shall pose the question substantially as follows:

“Shall the [name of the municipality] provide public telecommunications service facilities within [name of the municipality] by [brief description of the method or means and financing terms, including total principal and interest costs, by which the public communications service facilities will be provided]?”

(e) The ballot proposition may not take effect until submitted to the electors and approved by the majority of those voting on the ballot.

(2) In accordance with Title 20A, Chapter 7, Issues Submitted to the Voters, a [municipality] municipal legislative body’s action to have the municipality over which the legislative body presides provide cable television services or public telecommunications services is subject to local referenda.

(3) (a) The results of an election called under Subsection (1)(a)(ii) are not binding and do not:

(i) require the municipality that called the election to take, or refrain from taking, any action; or

(ii) limit the municipality that called the election from taking any action authorized under Section 10-8-14 or 10-18-105.

(b) An election called under Subsection (1)(a)(ii) does not exempt a municipality from the applicable requirements of this Title 10, Chapter 18, Municipal Cable Television and Public Telecommunications Services Act.

CHAPTER 420**S. B. 134**

Passed March 2, 2016
 Approved March 30, 2016
 Effective May 10, 2016

**OIL AND GAS CONSERVATION
 ACCOUNT AMENDMENTS**

Chief Sponsor: Ralph Okerlund
 House Sponsor: Scott H. Chew

LONG TITLE**General Description:**

This bill modifies provisions of the Oil and Gas Conservation Account.

Highlighted Provisions:

This bill:

- ▶ changes the balance limit of the Oil and Gas Conservation Account; and
- ▶ changes the amount of money in the Oil and Gas Conservation Account that is transferred to the General Fund.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

40-6-14.5, as last amended by Laws of Utah 2011, Chapters 149 and 342

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 40-6-14.5 is amended to read:

40-6-14.5. Oil and Gas Conservation Account created -- Contents -- Use of account money.

(1) There is created within the General Fund a restricted account known as the Oil and Gas Conservation Account.

(2) The contents of the account shall consist of:

(a) revenues from the fee levied under Section 40-6-14, including any penalties or interest charged for delinquent payments; and

(b) interest and earnings on account money.

(3) Account money shall be used to pay for:

(a) the administration of this chapter;

(b) the plugging and reclamation of abandoned oil or gas wells or bore, core, or exploratory holes for which:

(i) there is no reclamation surety; or

(ii) the forfeited surety is insufficient for plugging and reclamation; and

(c) public educational programs designed to increase knowledge of mineral and petroleum resources and industries.

(4) Priority in the use of the money shall be given to paying for the administration of this chapter.

(5) Appropriations made in accordance with Subsections (3)(b) and (c) are nonlapsing.

(6) (a) The balance of the Oil and Gas Conservation Account at the end of a fiscal year may not exceed [~~\$750,000~~] 100% of the fiscal year appropriation for Subsection (3)(a).

(b) Any excess money at the end of the fiscal year above [~~\$750,000~~] the balance limit established in Subsection (6)(a) shall be transferred to the General Fund.

CHAPTER 421**S. B. 157**

Passed March 10, 2016
 Approved March 30, 2016
 Effective May 10, 2016

PAWNSHOP AMENDMENTS

Chief Sponsor: Daniel W. Thatcher
 House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill modifies Title 13, Commerce and Trade, regarding pawn and secondhand businesses.

Highlighted Provisions:

This bill:

- ▶ defines a retail media item and provides that these items are not subject to secondhand business provisions;
- ▶ modifies provisions regarding the disposition of property, including:
 - notice from law enforcement to the pawn or secondhand business; and
 - the return of an item to the original victim after it has been held or seized;
- ▶ modifies the procedure for the disposition of an item no longer needed for investigation or prosecution, including the procedure for pawn or secondhand businesses to contest the disposition; and
- ▶ modifies provisions regarding the Secondhand Merchandise Advisory Board, including recommendations and appointment of members.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 13-32a-102, as last amended by Laws of Utah 2013, Chapters 124 and 187
 13-32a-109, as last amended by Laws of Utah 2013, Chapter 124
 13-32a-109.5, as last amended by Laws of Utah 2012, Chapter 284
 13-32a-112, as last amended by Laws of Utah 2012, Chapter 284
 13-32a-115, as last amended by Laws of Utah 2014, Chapters 144 and 189
 13-32a-116, as enacted by Laws of Utah 2012, Chapter 284

ENACTS:

13-32a-116.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-32a-102 is amended to read:**13-32a-102. Definitions.**

As used in this chapter:

(1) "Account" means the Pawnbroker and Secondhand Merchandise Operations Restricted Account created in Section 13-32a-113.

(2) "Antique item" means an item:

- (a) that is generally older than 25 years;
- (b) whose value is based on age, rarity, condition, craftsmanship, or collectability;
- (c) that is furniture or other decorative objects produced in a previous time period, as distinguished from new items of a similar nature; and
- (d) obtained from auctions, estate sales, other antique shops, and individuals.

(3) "Antique shop" means a business operating at an established location and that offers for sale antique items.

(4) "Board" means the ~~[Pawnshop and]~~ Secondhand Merchandise Advisory Board created by this chapter.

(5) "Central database" or "database" means the electronic database created and operated under Section 13-32a-105.

(6) "Coin" means a piece of currency, usually metallic and usually in the shape of a disc that is:

- (a) stamped metal, and issued by a government as monetary currency; or
- (b) (i) worth more than its current value as currency; and
- (ii) worth more than its metal content value.

(7) "Coin dealer" means a person or business whose sole business activity is the selling and purchasing of coins and precious metals.

(8) "Commercial grade precious metals" or "precious metals" means ingots, monetized bullion, art bars, medallions, medals, tokens, and currency that are marked by the refiner or fabricator indicating their fineness and include:

- (a) .99 fine or finer ingots of gold, silver, platinum, palladium, or other precious metals; or
- (b) .925 fine sterling silver ingots, art bars, and medallions.

(9) "Division" means the Division of Consumer Protection in Title 13, Chapter 1, Department of Commerce.

(10) "Identification" means a valid [U.S.] United States federal or state-issued photo [ID] personal identification, including a [U.S.] United States passport, a [U.S.] United States passport card, [a] U.S. military [ID] personal identification, and a driver license.

(11) "Local law enforcement agency" means the law enforcement agency that has direct responsibility for ensuring compliance with central database reporting requirements for the jurisdiction where the pawnshop or secondhand business is located.

(12) "Misappropriated" means stolen, embezzled, converted, obtained by theft, or otherwise appropriated without authority of the lawful owner.

(13) "Original victim" means a victim who is not a party to the pawn or sale transaction and includes:

(a) an authorized representative designated in writing by the original victim; and

(b) an insurer who has indemnified the original victim for the loss of the described property.

(14) "Pawnbroker" means a person whose business engages in the following activities:

(a) loans money on one or more deposits of personal property;

(b) deals in the purchase, exchange, or possession of personal property on condition of selling the same property back again to the pledgor or depositor;

(c) loans or advances money on personal property by taking chattel mortgage security on the property and takes or receives the personal property into his possession, and who sells the unredeemed pledges;

(d) deals in the purchase, exchange, or sale of used or secondhand merchandise or personal property; or

(e) engages in a licensed business enterprise as a pawnshop.

(15) "Pawn and secondhand business" means any business operated by a pawnbroker or secondhand merchandise dealer, or the owner or operator of the business.

[418] (16) "Pawnshop" means the physical location or premises where a pawnbroker conducts business.

[416] (17) "Pawn ticket" means a document upon which information regarding a pawn transaction is entered when the pawn transaction is made.

[417] (18) "Pawn transaction" means an extension of credit in which an individual delivers property to a pawnbroker for an advance of money and retains the right to redeem the property for the redemption price within a fixed period of time.

(19) "Pledgor" means a person who conducts a pawn transaction with a pawnshop.

(20) "Property" means any tangible personal property.

(21) "Register" means the record of information required under this chapter to be maintained by pawn and secondhand businesses. The register is an electronic record that is in a format that is compatible with the central database.

(22) "Retail media item" means recorded music, a movie, or a video game that is produced and distributed in hard copy format for retail sale.

[422] (23) "Scrap jewelry" means any item purchased solely:

- (a) for its gold, silver, or platinum content; and
- (b) for the purpose of reuse of the metal content.

[423] (24) (a) "Secondhand merchandise dealer" means an owner or operator of a business that:

(i) deals in the purchase, exchange, or sale of used or secondhand merchandise or personal property; and

(ii) does not function as a pawnbroker.

(b) "Secondhand merchandise dealer" does not include:

(i) the owner or operator of an antique shop;

(ii) any class of businesses exempt by administrative rule under Section 13-32a-112.5;

(iii) any person or entity who operates auction houses, flea markets, or vehicle, vessel, and outboard motor dealers as defined in Section 41-1a-102;

(iv) the sale of secondhand goods at events commonly known as "garage sales," "yard sales," or "estate sales";

(v) the sale or receipt of secondhand books, magazines, or post cards;

(vi) the sale or receipt of used merchandise donated to recognized nonprofit, religious, or charitable organizations or any school-sponsored association, and for which no compensation is paid;

(vii) the sale or receipt of secondhand clothing and shoes;

(viii) any person offering his own personal property for sale, purchase, consignment, or trade via the Internet;

(ix) any person or entity offering the personal property of others for sale, purchase, consignment, or trade via the Internet, when that person or entity does not have, and is not required to have, a local business or occupational license or other authorization for this activity;

(x) any owner or operator of a retail business that:

(A) receives used merchandise as a trade-in for similar new merchandise; or

(B) receives used retail media items as a trade-in for similar new or used retail media items;

(xi) an owner or operator of a business that contracts with other persons or entities to offer those persons' secondhand goods for sale, purchase, consignment, or trade via the Internet;

(xii) any dealer as defined in Section 76-6-1402, which concerns scrap metal and secondary metals; or

(xiii) the purchase of items in bulk that are:

(A) sold at wholesale in bulk packaging;

(B) sold by a person licensed to conduct business in Utah; and

(C) regularly sold in bulk quantities as a recognized form of sale.

Section 2. Section 13-32a-109 is amended to read:

13-32a-109. Holding period for articles -- Return of articles -- Penalty.

(1) (a) A pawnbroker may sell an article pawned to the pawnbroker if:

(i) 15 days have passed since the day on which the contract between the pawnbroker and the pledgor was executed;

(ii) the contract period between the pawnbroker and the pledgor has expired; and

(iii) the pawnbroker has complied with the requirements of Section 13-32a-106 regarding reporting to the central database and Section 13-32a-103.

(b) If an article, including scrap jewelry, is purchased by a pawn or secondhand business or a coin dealer, the pawn or secondhand business or coin dealer may sell the article after the pawn or secondhand business or coin dealer has held the article for 15 days and complied with the requirements of Section 13-32a-106 regarding reporting to the central database and Section 13-32a-103, except that pawn, secondhand, and coin dealer businesses are not required to hold precious metals or coins under this Subsection (1)(b).

(c) This Subsection (1) does not preclude a law enforcement agency from requiring a pawn or secondhand business to hold an article if necessary in the course of an investigation.

(i) If the article was pawned, the law enforcement agency may require the article be held beyond the terms of the contract between the pledgor and the pawn broker.

(ii) If the article was sold to the pawn or secondhand business, the law enforcement agency may require the article be held if the pawn or secondhand business has not sold the article.

(d) If the law enforcement agency requesting a hold on property under this Subsection (1) is not the local law enforcement agency, the requesting law enforcement agency shall notify the local law enforcement agency of the request and also the pawn or secondhand business.

(2) If a law enforcement agency requires the pawn or secondhand business to hold an article as part of an investigation, the agency shall provide to the pawn or secondhand business a hold ticket issued by the agency, which:

(a) states the active case number;

(b) confirms the date of the hold request and the article to be held; and

(c) facilitates the ability of the pawn or secondhand business to track the article when the prosecution takes over the case.

(3) If an article is not seized by a law enforcement agency that has placed a hold on the property, the property shall remain in the custody of the pawn or secondhand business until further disposition by the law enforcement agency, and as consistent with this chapter.

(4) The initial hold by a law enforcement agency is for a period of 90 days. If the article is not seized by the law enforcement agency, the article shall remain in the custody of the pawn or secondhand business and is subject to the hold unless exigent circumstances require the purchased or pawned article to be seized by the law enforcement agency.

(5) (a) A law enforcement agency may extend any hold for up to an additional 90 days when exigent circumstances require the extension.

(b) When there is an extension of a hold under Subsection (5)(a), the requesting law enforcement agency shall notify the pawn or secondhand business that is subject to the hold prior to the expiration of the initial 90 days.

(c) A law enforcement agency may not hold an item for more than the 180 days allowed under Subsections (5)(a) and (b) without obtaining a court order authorizing the hold.

(6) A hold on an article under Subsection (2) takes precedence over any request to claim or purchase the article subject to the hold.

(7) When the purpose for the hold on or seizure of an article for which an original victim who has complied with Section 13-32a-115 has not been identified is terminated, the law enforcement agency requiring the hold or seizure shall within 15 days after the termination:

(a) notify the pawn or secondhand business in writing that the hold or seizure has been terminated;

(b) return the article subject to the seizure to the pawn or secondhand business; or

(c) if the article is not returned to the pawn or secondhand business, advise the pawn or secondhand business either in writing or electronically of the specific alternative disposition of the article.

(8) (a) When the purpose for the hold on or seizure of an article, for which an original victim who has complied with Section 13-32a-115 has been identified is terminated, the law enforcement agency requiring the hold or seizure shall:

(i) document the original victim who has positively identified the item of property; and

(ii) provide the documented information concerning the original victim to the prosecuting agency to determine whether continued possession of the article is necessary for purposes of prosecution, as provided in Section 24-3-103.

(b) If the prosecuting agency determines that continued possession of the article is not necessary for purposes of prosecution, as provided in Section 24-3-103, the prosecuting agency shall provide a written or electronic notification to the law enforcement agency which authorizes the return of the article to an original victim who has complied with Section 13-32a-115.

(c) (i) A law enforcement agency shall promptly provide notice to the pawn or secondhand business

of the authorized return of the article under this Subsection (8).

(ii) The notice shall identify the original victim, advise the pawn or secondhand business that the original victim has identified the article, and direct the pawn or secondhand business to release the article to the original victim at no cost to the original victim, or if the article was seized, the notice shall advise that the article will be returned to the original victim within 15 days, except as provided under Subsection (8)(d).

(d) The pawn or secondhand business shall release an article under Subsection (8)(c) unless within 15 days of receiving the notice the pawn or secondhand business complies with Section 13-32a-116.5.

~~[(8)] (9)~~ If the law enforcement agency does not notify the pawn or secondhand business that a hold on an item has expired, the pawn or secondhand business shall send a letter by registered or certified mail to the law enforcement agency that ordered the hold and inform the agency that the holding period has expired. The law enforcement agency shall respond within 30 days by:

(a) confirming that the holding period has expired and that the pawn or secondhand business may manage the item as if acquired in the ordinary course of business; or

(b) providing written notice to the pawn or secondhand business that a court order has continued the period of time for which the item shall be held.

~~[(9)] (10)~~ The written notice under Subsection ~~[(8)] (9)(b)~~ is considered provided when:

(a) personally delivered to the pawn or secondhand business with a signed receipt of delivery;

(b) delivered to the pawn or secondhand business by registered or certified mail; or

(c) delivered by any other means with the mutual assent of the law enforcement agency and the pawn or secondhand business.

~~[(10)] (11)~~ If the law enforcement agency does not respond within 30 days under Subsection ~~[(8)] (9)~~, the pawn or secondhand business may manage the item as if acquired in the ordinary course of business.

~~[(11)] (12)~~ A violation of this section is a class B misdemeanor and is also subject to civil penalties under Section 13-32a-110.

Section 3. Section 13-32a-109.5 is amended to read:

13-32a-109.5. Seizure of property -- Notification to pawn or secondhand business.

~~[(1)]~~ If a law enforcement agency determines seizure of property pawned or sold to a pawn or secondhand business is necessary under this

chapter during the course of a criminal investigation, in addition to the holding provisions under Section 13-32a-109, the law enforcement agency shall:

~~[(a)] (1)~~ notify the pawnshop of the specific item to be seized; and

~~[(b)] (2)~~ issue to the pawnshop a seizure ticket in a form approved by the division and that:

~~[(i)] (a)~~ provides the active case number related to the item to be seized;

~~[(ii)] (b)~~ provides the date of the seizure request;

~~[(iii)] (c)~~ provides the reason for the seizure;

~~[(iv)] (d)~~ describes the article to be seized;

~~[(v)] (e)~~ states each reason the article is necessary during the course of a criminal investigation; and

~~[(vi)] (f)~~ includes any information that facilitates the pawnbroker's ability to track the article when the prosecution agency takes over the case.

~~[(2) If the purpose for the seizure of an article under this section is terminated before final disposition of the criminal case and the property is no longer needed as evidence, the law enforcement agency that required the seizure shall within 15 days after the property is no longer needed as evidence:]~~

~~[(a) notify the pawn or secondhand business in writing that the purpose for the seizure has been terminated and the property is available for return to the pawn or secondhand business; or]~~

~~[(b) return the article to the pawn or secondhand business.]~~

~~[(3) If the law enforcement agency seizing the pawned or sold property is not the local law enforcement agency, the seizing agency shall, in addition to compliance with Subsection (1):]~~

~~[(a) notify the local law enforcement agency prior to any seizure; and]~~

~~[(b) facilitate the seizure of the pawned property in cooperation with the local law enforcement agency to provide the pawnshop or secondhand business the ability to monitor the proceedings.]~~

Section 4. Section 13-32a-112 is amended to read:

13-32a-112. Secondhand Merchandise Advisory Board -- Membership -- Quorum.

(1) There is created within the division the Secondhand Merchandise Advisory Board. The board consists of 13 voting members and one nonvoting member:

(a) one representative of the Utah Chiefs of Police Association;

(b) one representative of the Utah Sheriffs Association;

(c) one representative of the Statewide Association of Prosecutors;

(d) one representative of the Utah Municipal Prosecutors' Association;

(e) three representatives from the pawnshop industry[;];

(f) three representatives from the secondhand merchandise business industry[, and];

(g) one representative from the coin dealer industry [~~who are all appointed by the director of the Utah Commission on Criminal and Juvenile Justice and who represent three separate pawnshops, three separate secondhand merchandise dealers, and one coin dealer, each of which are owned by a separate person or entity~~];

~~[(f)]~~ (h) one law enforcement officer who is appointed by the board members under Subsections (1)(a) through ~~[(e)]~~ (g);

~~[(g)]~~ (i) one law enforcement officer whose work regularly involves pawn and secondhand businesses and who is appointed by the board members under Subsections (1)(a) through ~~[(e)]~~ (g); and

~~[(h)]~~ (j) one representative from the central database, who is nonvoting.

(2) (a) The board shall prepare recommendations for the appointment of members under Subsections (1)(a) through (g), and Subsection (1)(j), and shall forward its recommendations to the Commission on Criminal and Juvenile Justice, which shall make the appointments.

(b) The members under Subsections (1)(e), (f), and (g) shall represent three separate pawnshops, three separate secondhand merchandise dealers, and one coin dealer, each of which are owned by a separate person or entity.

(c) In appointing members from the individuals recommended under Subsection (2)(a), the Commission on Criminal and Juvenile Justice shall give consideration to recommendations by members of the respective occupations and professions and by their representative organizations.

(3) (a) Each member of the board shall be appointed to a term of not more than four years, and may be reappointed upon expiration of the member's term.

(b) Notwithstanding the requirements of Subsection (3)(a), the Commission on Criminal and Juvenile Justice shall, at the time of appointments or reappointments, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

~~[(2)]~~ (4) (a) The board shall elect one voting member as the chair of the board by a majority of the members present at the board's first meeting each year.

(b) The chair shall preside over the board for a period of one year.

(c) The advisory board shall meet quarterly upon the call of the chair.

(d) A quorum of nine members is required for the board to take action.

~~[(3)]~~ (5) (a) The board shall conduct quarterly training sessions regarding compliance with this chapter and other applicable state laws for any person who owns or is employed by a pawn or secondhand business subject to this chapter.

(b) Each training session shall provide no fewer than two hours of training.

~~[(4)]~~ (6) (a) Each pawn, secondhand, and coin dealer business in operation as of January 1 shall ensure one or more persons employed by the pawn or secondhand business each participate in no fewer than two hours of compliance training within that year.

(b) This requirement does not limit the number of employees, directors, or officers of a pawn or secondhand business who attend the compliance training.

~~[(5)]~~ (7) The board shall monitor and keep a record of the hours of compliance training accrued by each pawn or secondhand business.

~~[(6)]~~ (8) The board shall provide each pawn or secondhand business with a certificate of compliance upon completion by an employee of the two hours of compliance training under Subsection ~~[(4)]~~ (6).

~~[(7)]~~ (9) (a) Each law enforcement agency [~~that has a pawn or secondhand business located within its jurisdiction~~] shall ensure that at least one of its officers completes two hours of compliance training yearly.

(b) Subsection ~~[(7)]~~ (9)(a) does not limit the number of law enforcement officers who attend the compliance training.

~~[(8)]~~ (10) The board may propose to the division administrative rules establishing:

(a) pawn and secondhand business industry standards for best practices;

(b) standardized property descriptions for the database created under this chapter; and

(c) a roster of software programs for pawn and secondhand businesses setting out minimum basic requirements for functionality.

~~[(9)]~~ (11) Pawn and secondhand businesses may file with the board complaints regarding law enforcement agency practices perceived to be inconsistent with this chapter. The board may refer the complaints to the Peace Officers Standards and Training Division.

Section 5. Section 13-32a-115 is amended to read:

13-32a-115. Criminal investigation -- Prosecution -- Property disposition.

(1) If the property pawned or sold to a pawn or secondhand business is the subject of a criminal

investigation and a hold has been placed on the property under Section 13-32a-109, the original victim shall do the following to establish a claim:

(a) positively identify to law enforcement the item stolen or lost;

(b) if a police report has not already been filed for the original theft or loss of property, file a police report, and provide for the law enforcement agency information surrounding the original theft or loss of property; and

(c) give a sworn statement under penalty of law that:

- (i) claims ownership of the property;
- (ii) references the original theft or loss; and
- (iii) identifies the perpetrator if known.

(2) The pawn or secondhand business shall retain possession of any property subject to a hold until a criminal prosecution is commenced relating to the property for which the hold was placed unless:

(a) during the course of a criminal investigation the actual physical possession by law enforcement of an article purchased or pawned is essential for the purpose of fingerprinting the property, chemical testing of the property, or if the property contains unique or sensitive personal identifying information; or

(b) an agreement between the original victim and the pawn or secondhand business to return the property is reached.

(3) (a) Upon the commencement of a criminal prosecution, any article subject to a hold for investigation under this chapter may be seized by the law enforcement agency which requested the hold.

(b) Subsequent disposition of the property shall be consistent with ~~[Section 24-3-103 regarding property not needed as evidence and]~~ this chapter.

~~[(c) If a conflict exists between the provisions of Section 24-3-103 regarding property not needed as evidence and this chapter, this chapter takes precedence regarding property held by pawn or secondhand businesses.]~~

(4) At all times during the course of a criminal investigation and subsequent prosecution, the article subject to a law enforcement hold shall be kept secure by the pawn or secondhand business subject to the hold unless a pawned or sold article has been seized by the law enforcement agency pursuant to Section 13-32a-109.5.

Section 6. Section 13-32a-116 is amended to read:

**13-32a-116. Property disposition --
Property subject to prosecution --
Property not used as evidence.**

~~[(1)]~~ When any property that is pawned or sold to a pawn or secondhand business is the subject of a criminal proceeding, and has been seized by law enforcement pursuant to Section 13-32a-115, the

prosecuting agency shall notify the seizing agency, the original victim, and the pawn or secondhand business ~~[if it]~~ in compliance with Subsection 13-32a-109(8), if the prosecuting agency determines the article is no longer needed as evidence pending resolution of the criminal case.

~~[(2) (a) If the property is no longer needed as evidence, the original victim and the] [pawn or secondhand business from which the property was seized may choose to resolve the matter pursuant to Subsection 13-32a-115(2)(b) within 10 days of notice being given that the property is no longer needed.]~~

~~[(b) The original victim shall notify the seizing law enforcement agency and the pawn or secondhand business of any agreed upon resolution and the seizing agency shall act accordingly.]~~

~~[(3) (a) If the original victim and the pawn or secondhand business from which the property was seized do not resolve the matter within the 10 days under Subsection (2), the original victim or the pawn or secondhand business shall notify the prosecuting agency or law enforcement agency in possession of the property that the disputed claim has not been resolved.]~~

~~[(b) (i) Upon receipt of written notice from the pawn or secondhand business or the original victim that the parties are unable to resolve the disposition of the property as provided, the prosecuting agency shall submit a motion to the court to schedule a property disposition hearing within 45 days after receipt of the notice.]~~

~~[(ii) The prosecuting agency shall provide notice of the hearing to the pawn or secondhand business, the original victim, and any named defendant in the pending criminal case to the last known address or to counsel of record.]~~

~~[(iii) Notice shall be by certified mail or registered mail. Another form of notice may be used if agreed upon by the parties.]~~

~~[(c) The hearing under Subsection (3)(b) may be combined with a preliminary examination or other hearing, in the court's discretion.]~~

~~[(4) At the seized property disposition hearing the court shall take into consideration:]~~

~~[(a) the evidentiary value of the property and the need for its use at trial;]~~

~~[(b) whether alternative evidence, such as photographs, records, or serial numbers, make retention of the property unnecessary;]~~

~~[(c) the proof of ownership of the property and compliance with Subsection 13-32a-115(1) by the original victim;]~~

~~[(d) whether retention of the property would create any undue hardship to the original victim; and]~~

~~[(e) compliance by the pawn or secondhand business with the requirements of this chapter, and potential financial loss to the business if the property were returned to the original victim.]~~

~~[(5) Upon conclusion of the property disposition hearing the court may: (a) order the return of the evidence to the original victim or to the pawn or secondhand business as it determines appropriate; and (b) make an initial finding of restitution for the original victim or the pawn or secondhand business pending resolution of the criminal case.]~~

~~[(6) The court's determination of possession or restitution under Subsection (5) is a continuing order subject to change or modification until the final resolution of the case.]~~

Section 7. Section 13-32a-116.5 is enacted to read:

13-32a-116.5. Contested disposition of articles - Procedure.

(1) If a pawn or secondhand business has received notice from a law enforcement agency under Section 13-32a-109 that an article which was the subject of a hold or seizure shall be returned to an identified original victim, the pawn or secondhand business may contest the determination and seek a specific alternative disposition if within 15 days:

(a) the pawn or secondhand business gives notice to the identified original victim, by certified mail, that the pawn or secondhand business contests the determination to return the article to the original victim; and

(b) files a petition to determine rightful ownership of the article as provided in Section 24-3-104.

(2) A pawn or secondhand business is guilty of a class B misdemeanor if the pawn or secondhand business:

(a) holds or sells an article in violation of a notification from a law enforcement agency that the item is to be returned to an original victim; and

(b) the pawn or secondhand business does not comply with the requirements of this section within the time periods specified.

CHAPTER 422**S. B. 206**

Passed March 9, 2016
 Approved March 30, 2016
 Effective May 10, 2016

**COHABITANT ABUSE
 PROCEDURES ACT REVISIONS**

Chief Sponsor: Lyle W. Hillyard
 House Sponsor: Jack R. Draxler

LONG TITLE**General Description:**

This bill amends the Cohabitant Abuse Procedures Act in relation to sentencing and conditional release from jail.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prevents the release of a person arrested for a domestic violence offense before appearing before a magistrate or signing a jail release agreement;
- ▶ requires the arresting officer to:
 - provide certain notices to the alleged victim and the person arrested for domestic violence; and
 - inform the magistrate if the alleged victim waives certain release conditions;
- ▶ creates certain procedures for the release of a person arrested for domestic violence between the person's appearance before a magistrate and the person's appearance before a court;
- ▶ amends a sentencing requirement regarding treatment or therapy in a domestic violence treatment program; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 77-36-1, as last amended by Laws of Utah 2015, Chapter 426
 77-36-2.5, as last amended by Laws of Utah 2013, Chapters 245 and 278
 77-36-5, as last amended by Laws of Utah 2010, Chapter 384

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 77-36-1 is amended to read:**77-36-1. Definitions.**

As used in this chapter:

(1) "Cohabitant" [~~has the same meaning as~~] means the same as that term is defined in Section 78B-7-102.

(2) "Department" means the Department of Public Safety.

(3) "Divorced" means an individual who has obtained a divorce under Title 30, Chapter 3, Divorce.

(4) "Domestic violence" or "domestic violence offense" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another. "Domestic violence" or "domestic violence offense" also means commission or attempt to commit, any of the following offenses by one cohabitant against another:

(a) aggravated assault, as described in Section 76-5-103;

(b) assault, as described in Section 76-5-102;

(c) criminal homicide, as described in Section 76-5-201;

(d) harassment, as described in Section 76-5-106;

(e) electronic communication harassment, as described in Section 76-9-201;

(f) kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections 76-5-301, 76-5-301.1, and 76-5-302;

(g) mayhem, as described in Section 76-5-105;

(h) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and Section 76-5b-201, Sexual Exploitation of a Minor;

(i) stalking, as described in Section 76-5-106.5;

(j) unlawful detention or unlawful detention of a minor, as described in Section 76-5-304;

(k) violation of a protective order or ex parte protective order, as described in Section 76-5-108;

(l) any offense against property described in Title 76, Chapter 6, Part 1, Property Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or Title 76, Chapter 6, Part 3, Robbery;

(m) possession of a deadly weapon with intent to assault, as described in Section 76-10-507;

(n) discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building, or vehicle, as described in Section 76-10-508;

(o) disorderly conduct, as defined in Section 76-9-102, if a conviction of disorderly conduct is the result of a plea agreement in which the defendant was originally charged with a domestic violence offense otherwise described in this Subsection (4). Conviction of disorderly conduct as a domestic violence offense, in the manner described in this Subsection (4)(o), does not constitute a misdemeanor crime of domestic violence under 18 U.S.C. [~~Section~~] Sec. 921, and is exempt from the provisions of the federal Firearms Act, 18 U.S.C. [~~Section~~] Sec. 921 et seq.; or

(p) child abuse as described in Section 76-5-109.1.

(5) "Jail release agreement" means a written agreement:

(a) specifying and limiting the contact a person arrested for a domestic violence offense may have with an alleged victim or other specified individuals; and

(b) specifying other conditions of release from jail as required in Subsection 77-36-2.5(2).

(6) "Jail release court order" means a written court order:

(a) specifying and limiting the contact a person arrested for a domestic violence offense may have with an alleged victim or other specified individuals; and

(b) specifying other conditions of release from jail as required in Subsection 77-36-2.5(2).

(7) "Marital status" means married and living together, divorced, separated, or not married.

(8) "Married and living together" means a man and a woman whose marriage was solemnized under Section 30-1-4 or 30-1-6 and who are living in the same residence.

(9) "Not married" means any living arrangement other than married and living together, divorced, or separated.

(10) "Pretrial protective order" means a written order:

(a) specifying and limiting the contact a person who has been charged with a domestic violence offense may have with an alleged victim or other specified individuals; and

(b) specifying other conditions of release pursuant to Subsection 77-36-2.5[(3)(e)](2), Subsection 77-36-2.6(3), or Section 77-36-2.7, pending trial in the criminal case.

(11) "Sentencing protective order" means a written order of the court as part of sentencing in a domestic violence case that limits the contact a person who has been convicted of a domestic violence offense may have with a victim or other specified individuals pursuant to Sections 77-36-5 and 77-36-5.1.

(12) "Separated" means a man and a woman who have had their marriage solemnized under Section 30-1-4 or 30-1-6 and who are not living in the same residence.

(13) "Victim" means a cohabitant who has been subjected to domestic violence.

Section 2. Section 77-36-2.5 is amended to read:

77-36-2.5. Conditions for release after arrest for domestic violence -- Jail release agreements -- Jail release court orders.

(1) (a) Upon arrest for domestic violence, and before the person is released on bail, recognizance, or otherwise, the person may not personally contact the alleged victim of domestic violence.

(b) A person who violates Subsection (1)(a) is guilty of a class B misdemeanor.

(2) (a) [Upon] After an arrest for domestic violence, [a person] the offender may not be released [on bail, recognizance, or otherwise prior to the close of the next court day following the arrest, unless as a condition of that release the person is ordered by the court or agrees in writing that until further order of the court, the person will:] before:

(i) the matter is submitted to a magistrate in accordance with Section 77-7-23; or

(ii) the offender signs a jail release agreement in accordance with Subsection (2)(d)(i).

~~[(a) have no personal contact with the alleged victim;]~~

~~[(b) not threaten or harass the alleged victim; and]~~

~~[(c) not knowingly enter onto the premises of the alleged victim's residence or any premises temporarily occupied by the alleged victim.]~~

(b) The arresting officer shall ensure that the information presented to the magistrate includes whether the victim has made a waiver described in Subsection (5)(a).

(c) If the magistrate determines there is probable cause to support the charge or charges of domestic violence, the magistrate shall determine:

(i) whether grounds exist to hold the arrested person without bail, in accordance with Section 77-20-1;

(ii) if no grounds exist to hold the arrested person without bail, whether any release conditions, including electronic monitoring, are necessary to protect the victim; or

(iii) any bail that is required to guarantee the defendant's subsequent appearance in court.

(d) (i) The magistrate may not release a person arrested for domestic violence before the initial court appearance, before the court with jurisdiction over the offense for which the person was arrested, unless the arrested person agrees in writing or the magistrate orders, as a release condition, that, until the arrested person appears at the initial court appearance, the person will not:

(A) have personal contact with the alleged victim;

(B) threaten or harass the alleged victim; or

(C) knowingly enter onto the premises of the alleged victim's residence or any premises temporarily occupied by the alleged victim.

(ii) The magistrate shall schedule the appearance described in Subsection (2)(d)(i) to take place no more than 96 hours after the time of the arrest.

(iii) The arrested person may make the appearance described in Subsection (2)(d)(i) by video if the arrested person is not released.

(3) (a) If a person charged with domestic violence fails to appear at the time scheduled by the

magistrate to appear, as described in Subsection (2)(d), the person shall comply with the release conditions described in Subsection (2)(d)(i) until the arrested person makes an initial appearance.

(b) If the prosecutor has not filed charges against a person who was arrested for a domestic violence offense and who appears in court at the time scheduled by the magistrate under Subsection (2)(d), or by the court under Subsection (3)(b)(ii), the court:

(i) may, upon the motion of the prosecutor and after allowing the arrested person an opportunity to be heard on the motion, extend the release conditions described in Subsection (2)(d)(i) by no more than three court days; and

(ii) if the court grants the motion described in Subsection (3)(b)(i), shall order the arrested person to appear at a time scheduled before the end of the granted extension.

~~[(3) (a) The] (4) Unless extended under Subsection (3), the jail release agreement or [jail release court order] the magistrate order described in Subsection (2)(d)(i) expires at midnight on the day on which the person arrested [appears in person or by video for arraignment or an initial appearance.] is scheduled to appear, as described in Subsection (2)(d).~~

~~[(b) (i) If criminal charges have not been filed against the arrested person, the court may, for good cause and in writing, extend the jail release agreement or jail release court order beyond the time period under Subsection (3)(a) as provided in Subsection (3)(b)(ii).]~~

~~[(ii) (A) The court may extend a jail release agreement or jail release court order under Subsection (3)(b)(i) to no longer than midnight of the third business day after the arrested person's first court appearance.]~~

~~[(B) If criminal charges are filed against the arrested person within the three business days under Subsection (3)(b)(ii)(A), the jail release agreement or the jail release court order continues in effect until the arrested person appears in person or by video at the arrested person's next scheduled court appearance.]~~

~~[(c) If criminal charges have been filed against the arrested person the court may, upon the request of the prosecutor or the victim or upon the court's own motion, issue a pretrial protective order.]~~

~~[(4) As a condition of release, the court may order the defendant to participate in an electronic or other monitoring program and to pay the costs associated with the program.]~~

(5) (a) Subsequent to an arrest for domestic violence, an alleged victim may waive in writing [any or all of] the release conditions described in Subsection (2)[(a) or (e)](d)(i)(A) or (C). Upon waiver, those release conditions do not apply to the alleged perpetrator.

(b) A court or magistrate may modify the release conditions described in Subsection (2)[(a) or

(e)](d)(i), in writing or on the record, and only for good cause shown.

(6) (a) When a person is released pursuant to Subsection (2), the releasing agency shall notify the arresting law enforcement agency of the release, conditions of release, and any available information concerning the location of the victim. The arresting law enforcement agency shall then make a reasonable effort to notify the victim of that release.

(b) (i) When a person is released pursuant to Subsection (2) based on a written jail release agreement, the releasing agency shall transmit that information to the statewide domestic violence network described in Section 78B-7-113.

(ii) When a person is released pursuant to ~~[Subsection (2) or (3)]~~ Subsections (2) through (4) based upon a jail release court order or if a written jail release agreement is modified pursuant to Subsection (5)(b), the court shall transmit that order to the statewide domestic violence network described in Section 78B-7-113.

(iii) A copy of the jail release court order or written jail release agreement shall be given to the person by the releasing agency before the person is released.

(c) This Subsection (6) does not create or increase liability of a law enforcement officer or agency, and the good faith immunity provided by Section 77-36-8 is applicable.

(7) (a) If a law enforcement officer has probable cause to believe that a person has violated a jail release court order or jail release agreement executed pursuant to Subsection (2) the officer shall, without a warrant, arrest the alleged violator.

(b) Any person who knowingly violates a jail release court order or jail release agreement executed pursuant to Subsection (2) is guilty as follows:

(i) if the original arrest was for a felony, an offense under this section is a third degree felony; or

(ii) if the original arrest was for a misdemeanor, an offense under this section is a class A misdemeanor.

(c) City attorneys may prosecute class A misdemeanor violations under this section.

(8) An individual who was originally arrested for a felony under this chapter and released pursuant to this section may subsequently be held without bail if there is substantial evidence to support a new felony charge against him.

(9) At the time an arrest is made for domestic violence ~~[is made]~~, the arresting officer shall provide the alleged victim with written notice containing:

(a) the release conditions described in ~~[Subsection (2)]~~ Subsections (2) through (4), and notice that ~~[these]~~ the alleged perpetrator will not be released, before appearing before the court with jurisdiction over the offense for which the alleged perpetrator was arrested, unless:

(i) ~~the alleged perpetrator enters into a written agreement to comply with the release conditions; or~~

(ii) ~~the magistrate orders the release conditions [shall be ordered by a court or must be agreed to by the alleged perpetrator prior to release];~~

(b) notification of the penalties for violation of any jail release court order or any jail release agreement executed under Subsection (2);

(c) notification that the alleged perpetrator is to personally appear in court on the next day the court is open for business after the day of the arrest;

(d) the address of the appropriate court in the district or county in which the alleged victim resides;

(e) the availability and effect of any waiver of the release conditions; and

(f) information regarding the availability of and procedures for obtaining civil and criminal protective orders with or without the assistance of an attorney.

(10) At the time an arrest is made for domestic violence ~~[is made]~~, the arresting officer shall provide the alleged perpetrator with written notice containing:

(a) notification that the alleged perpetrator may not contact the alleged victim before being released;

(b) the release conditions described in ~~[Subsection (2)]~~ Subsections (2) through (4) and notice that ~~[those]~~ the alleged perpetrator will not be released, before appearing before the court with jurisdiction over the offense for which the alleged perpetrator was arrested, unless:

(i) ~~the alleged perpetrator enters into a written agreement to comply with the release conditions; or~~

(ii) ~~the magistrate orders the release conditions [shall be ordered by a court or shall be agreed to by the alleged perpetrator prior to release];~~

(c) notification of the penalties for violation of any jail release court order or any written jail release agreement executed under Subsection (2); and

(d) notification that the alleged perpetrator is to personally appear in court on the next day the court is open for business after the day of the arrest.

~~[(11) (a) If the alleged perpetrator fails to personally appear in court as scheduled, the jail release court order or jail release agreement does not expire and continues in effect until the alleged perpetrator makes the personal appearance in court as required by Section 77-36-2.6.]~~

~~[(b) If, when the alleged perpetrator personally appears in court as required by Section 77-36-2.6, criminal charges have not been filed against the arrested person, the court may allow the jail release court order or jail release agreement to expire at midnight on the day of the court appearance or may extend it for good cause.]~~

~~[(12) (11) In addition to the provisions of Subsections (2) through (8)] (10), because of the~~

unique and highly emotional nature of domestic violence crimes, the high recidivism rate of violent offenders, and the demonstrated increased risk of continued acts of violence subsequent to the release of an offender who has been arrested for domestic violence, it is the finding of the Legislature that domestic violence crimes, as defined in Section 77-36-1, are crimes for which bail may be denied if there is substantial evidence to support the charge, and if the court finds by clear and convincing evidence that the alleged perpetrator would constitute a substantial danger to an alleged victim of domestic violence if released on bail.

Section 3. Section 77-36-5 is amended to read:

77-36-5. Sentencing -- Restricting contact with victim -- Electronic monitoring -- Counseling -- Cost assessed against defendant -- Sentencing protective order.

(1) (a) When a defendant is found guilty of a crime involving domestic violence and a condition of the sentence restricts the defendant's contact with the victim, a sentencing protective order may be issued under Subsection 77-36-5.1(2) for the length of the defendant's probation.

(b) (i) The sentencing protective order shall be in writing, and the prosecutor shall provide a certified copy of that order to the victim.

(ii) The court shall transmit the sentencing protective order to the statewide domestic violence network.

(c) Violation of a sentencing protective order issued pursuant to this Subsection (1) is a class A misdemeanor.

(2) In determining its sentence the court, in addition to penalties otherwise provided by law, may require the defendant to participate in an electronic or other type of monitoring program.

(3) The court may also require the defendant to pay all or part of the costs of counseling incurred by the victim and any children affected by or exposed to the domestic violence offense, as well as the costs for the defendant's own counseling.

(4) The court shall:

(a) assess against the defendant, as restitution, any costs for services or treatment provided to the victim and affected children of the victim or the defendant by the Division of Child and Family Services under Section 62A-4a-106; and

(b) order those costs to be paid directly to the division or its contracted provider.

(5) The court ~~[shall]~~ may order the defendant to obtain and satisfactorily complete treatment or therapy in a domestic violence treatment program, as defined in Section 62A-2-101, that is licensed by the Department of Human Services, ~~unless the court finds that there is no licensed program reasonably available or that the treatment or therapy is not necessary].~~

CHAPTER 423**S. B. 232**

Passed March 10, 2016
 Approved March 30, 2016
 Effective May 10, 2016

RESCUE MEDICATION IN SCHOOLS

Chief Sponsor: Stephen H. Urquhart
 House Sponsor: Gage Froerer

LONG TITLE**General Description:**

This bill provides for a trained public school employee volunteer to administer a seizure rescue medication under certain conditions.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Department of Health to develop a training program for the administration of seizure rescue medications by a school employee volunteer;
- ▶ requires a public school to provide training for the administration of a seizure rescue medication to a school employee who volunteers to receive training;
- ▶ provides for a trained school employee to administer a seizure rescue medication under certain conditions; and
- ▶ provides certain exemptions from liability.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53A-11-603.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-11-603.5 is enacted to read:**53A-11-603.5. Trained school employee volunteers -- Administration of seizure rescue medication -- Exemptions from liability.**

- (1) As used in this section:
- (a) "Prescribing health care professional" means:
- (i) a physician and surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act;
- (ii) an osteopathic physician and surgeon licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
- (iii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act; or
- (iv) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.
- (b) "Section 504 accommodation plan" means a plan developed pursuant to Section 504 of the

Rehabilitation Act of 1973, as amended, to provide appropriate accommodations to an individual with a disability to ensure access to major life activities.

(c) "Seizure rescue authorization" means a student's Section 504 accommodation plan that:

(i) certifies that:

(A) a prescribing health care professional has prescribed a seizure rescue medication for the student;

(B) the student's parent or legal guardian has previously administered the student's seizure rescue medication in a nonmedically-supervised setting without a complication; and

(C) the student has previously ceased having full body prolonged or convulsive seizure activity as a result of receiving the seizure rescue medication;

(ii) describes the specific seizure rescue medication authorized for the student, including the indicated dose, and instructions for administration;

(iii) requests that the student's public school identify and train school employees who are willing to volunteer to receive training to administer a seizure rescue medication in accordance with this section; and

(iv) authorizes a trained school employee volunteer to administer a seizure rescue medication in accordance with this section.

(d) (i) "Seizure rescue medication" means a medication, prescribed by a prescribing health care professional, to be administered as described in a student's seizure rescue authorization, while the student experiences seizure activity.

(ii) A seizure rescue medication does not include a medication administered intravenously or intramuscularly.

(e) "Trained school employee volunteer" means an individual who:

(i) is an employee of a public school where at least one student has a seizure rescue authorization;

(ii) is at least 18 years old; and

(iii) as described in this section:

(A) volunteers to receive training in the administration of a seizure rescue medication;

(B) completes a training program described in this section;

(C) demonstrates competency on an assessment; and

(D) completes annual refresher training each year that the individual intends to remain a trained school employee volunteer.

(2) (a) The Department of Health shall, with input from the State Board of Education and a children's hospital, develop a training program for trained school employee volunteers in the administration of seizure rescue medications that includes:

(i) techniques to recognize symptoms that warrant the administration of a seizure rescue medication;

(ii) standards and procedures for the storage of a seizure rescue medication;

(iii) procedures, in addition to administering a seizure rescue medication, in the event that a student requires administration of the seizure rescue medication, including:

(A) calling 911; and

(B) contacting the student's parent or legal guardian;

(iv) an assessment to determine if an individual is competent to administer a seizure rescue medication;

(v) an annual refresher training component; and

(vi) written materials describing the information required under this Subsection (2)(a).

(b) A public school shall retain for reference the written materials described in Subsection (2)(a)(vi).

(c) The following individuals may provide the training described in Subsection (2)(a):

(i) a school nurse; or

(ii) a licensed health care professional.

(3) (a) A public school shall, after receiving a seizure rescue authorization:

(i) inform school employees of the opportunity to be a school employee volunteer; and

(ii) subject to Subsection (3)(b)(ii), provide training, to each school employee who volunteers, using the training program described in Subsection (2)(a).

(b) A public school may not:

(i) obstruct the identification or training of a trained school employee volunteer; or

(ii) compel a school employee to become a trained school employee volunteer.

(4) A trained school employee volunteer may possess or store a prescribed rescue seizure medication, in accordance with this section.

(5) A trained school employee volunteer may administer a seizure rescue medication to a student with a seizure rescue authorization if:

(a) the student is exhibiting a symptom, described on the student's seizure rescue authorization, that warrants the administration of a seizure rescue medication; and

(b) a licensed health care professional is not immediately available to administer the seizure rescue medication.

(6) A trained school employee volunteer who administers a seizure rescue medication shall direct an individual to call 911 and take other appropriate actions in accordance with the training described in Subsection (2).

(7) A trained school employee volunteer who administers a seizure rescue medication in accordance with this section in good faith is not liable in a civil or criminal action for an act taken or not taken under this section.

(8) Section 53A-11-601 does not apply to the administration of a seizure rescue medication.

(9) Section 53A-11-904 does not apply to the possession of a seizure rescue medication in accordance with this section.

(10) (a) The unlawful or unprofessional conduct provisions of Title 58, Occupations and Professions, do not apply to a person licensed as a health care professional under Title 58, Occupations and Professions, including a nurse, physician, or pharmacist for, in good faith, training a nonlicensed school employee who volunteers to administer a seizure rescue medication in accordance with this section.

(b) Allowing a trained school employee volunteer to administer a seizure rescue medication in accordance with this section does not constitute unlawful or inappropriate delegation under Title 58, Occupations and Professions.

**LEGISLATION AND LINE ITEMS
VETOED BY THE GOVERNOR
AND
OTHER COMMUNICATIONS
FROM THE GOVERNOR**

H. B. 258

Passed February 29, 2016

Vetoed March 30, 2016

SOLID WASTE AMENDMENTS

Chief Sponsor: Curtis Oda

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill clarifies the definitions of the terms “solid waste” and “solid waste management facility.”

Highlighted Provisions:

This bill:

- ▶ clarifies the definitions of the terms “solid waste” and “solid waste management facility”; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-6-102, as last amended by Laws of Utah 2015, Chapters 42 and 451

19-6-502, as last amended by Laws of Utah 2014, Chapter 183

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 19-6-102 is amended to read:

19-6-102. Definitions.

As used in this part:

(1) “Board” means the Waste Management and Radiation Control Board created in Section 19-1-106.

(2) “Closure plan” means a plan under Section 19-6-108 to close a facility or site at which the owner or operator has disposed of nonhazardous solid waste or has treated, stored, or disposed of hazardous waste including, if applicable, a plan to provide postclosure care at the facility or site.

(3) (a) “Commercial nonhazardous solid waste treatment, storage, or disposal facility” means a facility that receives, for profit, nonhazardous solid waste for treatment, storage, or disposal.

(b) “Commercial nonhazardous solid waste treatment, storage, or disposal facility” does not include a facility that:

- (i) receives waste for recycling;
- (ii) receives waste to be used as fuel, in compliance with federal and state requirements; or
- (iii) is solely under contract with a local government within the state to dispose of nonhazardous solid waste generated within the boundaries of the local government.

(4) “Construction waste or demolition waste”:

(a) means waste from building materials, packaging, and rubble resulting from construction, demolition, remodeling, and repair of pavements, houses, commercial buildings, and other structures, and from road building and land clearing; and

(b) does not include: asbestos; contaminated soils or tanks resulting from remediation or cleanup at any release or spill; waste paints; solvents; sealers; adhesives; or similar hazardous or potentially hazardous materials.

(5) “Demolition waste” has the same meaning as the definition of construction waste in this section.

(6) “Director” means the director of the Division of Waste Management and Radiation Control.

(7) “Disposal” means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid or hazardous waste into or on any land or water so that the waste or any constituent of the waste may enter the environment, be emitted into the air, or discharged into any waters, including groundwaters.

(8) “Division” means the Division of Waste Management and Radiation Control, created in Subsection 19-1-105(1)(d).

(9) “Generation” or “generated” means the act or process of producing nonhazardous solid or hazardous waste.

(10) “Hazardous waste” means a solid waste or combination of solid wastes other than household waste which, because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

(11) “Health facility” means hospitals, psychiatric hospitals, home health agencies, hospices, skilled nursing facilities, intermediate care facilities, intermediate care facilities for people with an intellectual disability, residential health care facilities, maternity homes or birthing centers, free standing ambulatory surgical centers, facilities owned or operated by health maintenance organizations, and state renal disease treatment centers including free standing hemodialysis units, the offices of private physicians and dentists whether for individual or private practice, veterinary clinics, and mortuaries.

(12) “Household waste” means any waste material, including garbage, trash, and sanitary wastes in septic tanks, derived from households, including single-family and multiple-family residences, hotels and motels, bunk houses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas.

(13) “Infectious waste” means a solid waste that contains or may reasonably be expected to contain pathogens of sufficient virulence and quantity that

exposure to the waste by a susceptible host could result in an infectious disease.

(14) "Manifest" means the form used for identifying the quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

(15) "Mixed waste" means any material that is a hazardous waste as defined in this chapter and is also radioactive as defined in Section 19-3-102.

(16) "Modification plan" means a plan under Section 19-6-108 to modify a facility or site for the purpose of disposing of nonhazardous solid waste or treating, storing, or disposing of hazardous waste.

(17) "Operation plan" or "nonhazardous solid or hazardous waste operation plan" means a plan or approval under Section 19-6-108, including:

(a) a plan to own, construct, or operate a facility or site for the purpose of disposing of nonhazardous solid waste or treating, storing, or disposing of hazardous waste;

(b) a closure plan;

(c) a modification plan; or

(d) an approval that the director is authorized to issue.

(18) "Permittee" means a person who is obligated under an operation plan.

(19) (a) "Solid waste" means any garbage, refuse, sludge, including sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations and from community activities but does not include solid or dissolved materials in domestic sewage or in irrigation return flows or discharges for which a permit is required under Title 19, Chapter 5, Water Quality Act, or under the Water Pollution Control Act, 33 U.S.C. Sec. 1251 et seq.

(b) "Solid waste" does not include any of the following wastes unless the waste causes a public nuisance or public health hazard or is otherwise determined to be a hazardous waste:

(i) certain large volume wastes, such as inert construction debris used as fill material;

(ii) drilling muds, produced waters, and other wastes associated with the exploration, development, or production of oil, gas, or geothermal energy;

(iii) solid wastes from the extraction, beneficiation, and processing of ores and minerals; [or]

(iv) cement kiln dust[-]; or

(v) metal that is purchased as a valuable commercial commodity.

(20) "Solid waste management facility" means the same as that term is defined in Section 19-6-502.

[~~(20)~~] (21) "Storage" means the actual or intended containment of solid or hazardous waste either on a temporary basis or for a period of years in such a manner as not to constitute disposal of the waste.

[~~(21)~~] (22) "Transportation" means the off-site movement of solid or hazardous waste to any intermediate point or to any point of storage, treatment, or disposal.

[~~(22)~~] (23) "Treatment" means a method, technique, or process designed to change the physical, chemical, or biological character or composition of any solid or hazardous waste so as to neutralize the waste or render the waste nonhazardous, safer for transport, amenable for recovery, amenable to storage, or reduced in volume.

[~~(23)~~] (24) "Underground storage tank" means a tank which is regulated under Subtitle I of the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.

Section 2. Section 19-6-502 is amended to read:

19-6-502. Definitions.

As used in this part:

(1) "Governing body" means the governing board, commission, or council of a public entity.

(2) "Jurisdiction" means the area within the incorporated limits of:

(a) a municipality;

(b) a special service district;

(c) a municipal-type service district;

(d) a service area; or

(e) the territorial area of a county not lying within a municipality.

(3) "Long-term agreement" means an agreement or contract having a term of more than five years but less than 50 years.

(4) "Municipal residential waste" means solid waste that is:

(a) discarded or rejected at a residence within the public entity's jurisdiction; and

(b) collected at or near the residence by:

(i) a public entity; or

(ii) a person with whom the public entity has an agreement to provide solid waste management.

(5) "Public entity" means:

(a) a county;

(b) a municipality;

(c) a special service district under Title 17D, Chapter 1, Special Service District Act;

(d) a service area under Title 17B, Chapter 2a, Part 9, Service Area Act; or

(e) a municipal-type service district created under Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas.

(6) "Requirement" means an ordinance, policy, rule, mandate, or other directive that imposes a legal duty on a person.

(7) "Residence" means an improvement to real property used or occupied as a primary or secondary detached single-family dwelling.

(8) "Resource recovery" means the separation, extraction, recycling, or recovery of usable material, energy, fuel, or heat from solid waste and the disposition of it.

(9) "Short-term agreement" means a contract or agreement having a term of five years or less.

(10) (a) "Solid waste" means a putrescible or nonputrescible material or substance discarded or rejected as being spent, useless, worthless, or in excess of the owner's needs at the time of discard or rejection, including:

- (i) garbage;
- (ii) refuse;
- (iii) industrial and commercial waste;
- (iv) sludge from an air or water control facility;
- (v) rubbish;
- (vi) ash;
- (vii) contained gaseous material;
- (viii) incinerator residue;
- (ix) demolition and construction debris;
- (x) a discarded automobile; and
- (xi) offal.

(b) "Solid waste" does not include sewage or another highly diluted water carried material or substance and those in gaseous form.

(11) "Solid waste management" means the purposeful and systematic collection, transportation, storage, processing, recovery, or disposal of solid waste.

(12) (a) "Solid waste management facility" means a facility employed for solid waste management, including:

- ~~[(a)]~~ (i) a transfer station;
- ~~[(b)]~~ (ii) a transport system;
- ~~[(c)]~~ (iii) a baling facility;
- ~~[(d)]~~ (iv) a landfill; and
- ~~[(e)]~~ (v) a processing system, including:
- ~~[(f)]~~ (A) a resource recovery facility;
- ~~[(g)]~~ (B) a facility for reducing solid waste volume;

~~[(iii)]~~ (C) a plant or facility for compacting, composting, or pyrolyzation of solid waste;

~~[(iv)]~~ (D) an incinerator;

~~[(v)]~~ (E) a solid waste disposal, reduction, or conversion facility;

~~[(vi)]~~ (F) a facility for resource recovery of energy consisting of:

~~[(A)]~~ (I) a facility for the production, transmission, distribution, and sale of heat and steam;

~~[(B)]~~ (II) a facility for the generation and sale of electric energy to a public utility, municipality, or other public entity that owns and operates an electric power system on March 15, 1982; and

~~[(C)]~~ (III) a facility for the generation, sale, and transmission of electric energy on an emergency basis only to a military installation of the United States; and

~~[(vii)]~~ (G) an auxiliary energy facility that is connected to a facility for resource recovery of energy as described in Subsection (12)~~[(e)(vi)]~~(a)(v)(F), that:

~~[(A)]~~ (I) is fueled by natural gas, landfill gas, or both;

~~[(B)]~~ (II) consists of a facility for the production, transmission, distribution, and sale of supplemental heat and steam to meet all or a portion of the heat and steam requirements of a military installation of the United States; and

~~[(C)]~~ (III) consists of a facility for the generation, transmission, distribution, and sale of electric energy to a public utility, a municipality described in Subsection (12)~~[(e)(vi)(B)]~~(a)(v)(F)(II), or a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

(b) "Solid waste management facility" does not mean a facility that:

(i) accepts and processes used or recyclable metal, scrap iron, steel, non-ferrous metals by separating, shearing, sorting, shredding, compacting, baling, cutting, or sizing to produce a principle commodity grade product of prepared scrap metal for sale or use for remelting purposes and that has been purchased, even if the process produces byproduct that would otherwise qualify as solid waste; or

(ii) accepts and processes paper, plastic, rubber, or a textile that is reused or recycled as a valuable commercial commodity by separating, shearing, sorting, shredding, compacting, baling, cutting, or sizing to produce a principle commodity grade product, provided that the facility can show, to the satisfaction of the division, that:

(A) 90% of the total volume of material accepted is recycled through the facility's process; and

(B) at least 50% of all material is recycled within two calendar years of the day on which the material was accepted for processing.



Office of the Governor

State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

March 30, 2016

The Honorable Greg Hughes
Speaker of the House

and

The Honorable Wayne Niederhauser
President of the Senate

Dear Speaker Hughes and President Niederhauser,

As required by Article VII, Section 8 of the Utah Constitution, I am writing to provide you my objections to House Bill 258, SOLID WASTE AMENDMENTS, and to explain my decision to veto the bill.

House Bill 258 passed the legislature with a unanimous vote in both the Senate and the House. The purposes of the bill were to appropriately exempt certain recyclable products from the definition of solid waste, and to remove from the definition of "Solid waste management facility" certain facilities that engage in recycling activities. This was intended to encourage and facilitate the recycling and commercial use of these materials.

Soon after final passage of the bill, the Environmental Protection Agency (EPA) notified the State's Department of Environmental Quality in a letter dated March 2, 2016 of concerns related to the bill as follows:

the changes in HB 258 would render the state's program less stringent than the federal programs and require the EPA to carefully consider our response, which could include the EPA withdrawing its approval of the Utah Solid Waste Management Plan and the Federally authorized Hazardous Waste Management Program...

In a subsequent letter dated March 18, 2016 the EPA stated:

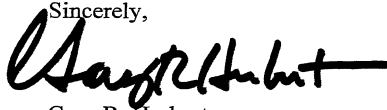
We will have to evaluate Utah's authorization should the bill become law. As you know, the Regional Administrator may withdraw a program approval when a

State no longer complies with the requirements of Subtitle C authorization, and the state fails to take corrective action... the EPA may also take other actions including a reduction in grant funding, increased oversight, increased inspection activity, and increased direct enforcement of the federally authorized state program.

While I believe the purpose behind HB 258 is good policy, in light of this newly received information from the EPA, it is necessary to veto HB 258. The only purpose of this veto is to preserve Utah's authority to administer federally delegated waste-management programs in the best interest of the state. I have committed to the sponsor that the Department of Environmental Quality will immediately begin work with representatives of the Utah recycling industry and the EPA to negotiate language that will both accomplish the intended purpose of the bill and meet the requirements necessary for Utah to maintain the EPA approval of the Utah Solid Waste Management Plan and the State Hazardous Waste Management Program. I have committed to bring this bill back at the earliest date possible in a special session to pass the bill with language that will accomplish all of these goals.

For these reasons, I disapprove of and veto Senate Bill 258, SOLID WASTE AMENDMENTS, and return it to the House.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary R. Herbert". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Gary R. Herbert

H. B. 377

Passed March 9, 2016

Vetoed March 30, 2016

GRANDPARENT RIGHTS AMENDMENTS

Chief Sponsor: LaVar Christensen

Senate Sponsor: Lyle W. Hillyard

LONG TITLE

General Description:

This bill enacts provisions concerning the visitation rights of a grandparent.

Highlighted Provisions:

This bill:

- ▶ enacts definitions; and
- ▶ provides that a grandparent may petition for visitation after a parent's rights have been terminated, unless the grandchild is adopted by a nonrelative.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

30-5-3, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 30-5-3 is enacted to read:

30-5-3. Special considerations.

(1) As used in this section:

(a) "Grandparent" means an individual:

(i) whose child, either by blood, marriage, or adoption, has had the child's parental rights terminated under Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act; and

(ii) whose grandchild is being adopted by a relative.

(b) "Nonrelative" means an individual not related to the grandchild by marriage or blood at the time of adoption.

(c) "Relative" means an individual related to the grandchild by marriage or blood as:

(i) a sibling;

(ii) an aunt;

(iii) an uncle; or

(iv) a grandparent.

(2) Unless the grandchild is adopted by a nonrelative, when a parent's rights are terminated under Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act:

(a) the rights of a grandparent of a grandchild are not extinguished; and

(b) a grandparent may file a petition for visitation rights in juvenile or district court.

(3) (a) There is a rebuttable presumption that the adoptive parent's decision with regard to grandparent visitation is in the grandchild's best interest.

(b) The court may override the adoptive parent's decision described in Subsection (3)(a) and grant the petitioner reasonable rights of visitation if the court finds that the petitioner has rebutted the presumption based upon factors that the court considers to be relevant, such as whether:

(i) the petitioner is a fit and proper individual to have visitation with the grandchild;

(ii) visitation with the grandchild has been unfairly denied or unreasonably limited, and without just or compelling cause;

(iii) the petitioner has acted as the grandchild's custodian or caregiver, or otherwise has had a substantial and positive, bonding relationship with the grandchild, and the loss or cessation of that relationship is likely to cause harm to the grandchild;

(iv) visitation will not disrupt the formation of a new family unit; or

(v) visitation is in the best interest of the grandchild.

(4) Subject to the provisions of Subsection (3), the court may inquire of the grandchild and take into account the grandchild's desires regarding grandparent visitation.

(5) On the petition of a grandparent or the adoptive parent of the grandchild, the court may, after a hearing, modify an order regarding grandparent visitation if:

(a) the circumstances of the grandchild, the grandparent, or the adoptive parent have materially and substantially changed since the entry of the order to be modified, or the order has become unworkable or inappropriate under existing circumstances; and

(b) the court determines that a modification is appropriate based upon the factors set forth in Subsection (3).

(6) A grandparent may petition the court to remedy an adoptive parent's wrongful noncompliance with a visitation order.



Office of the Governor

State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

March 30, 2016

The Honorable Greg Hughes
Speaker of the House

and

The Honorable Wayne Niederhauser
President of the Senate

Dear Speaker Hughes and President Niederhauser,

As required by Article VII, Section 8 of the Utah Constitution, I am writing to provide you my objections to House Bill 377, GRANDPARENT RIGHTS AMENDMENTS, and to explain my decision to veto the bill.

By vetoing this bill, I do not intend to detract from the importance of grandparents in the lives of their grandchildren. Grandparents should play an important role in the lives of their grandchildren, particularly when a child's home life is in turmoil and the biological parents are absent or unable to care for that child. I am very sympathetic to the plight of grandparents whose children have lost or have given up their own parental rights--I understand the loss they must feel when that legal relationship is terminated. Legal termination should not terminate the love a grandparent may have for their grandchildren.

This bill is well intended, however, I am concerned that, were I to sign this bill as written, we could be jeopardizing the rights of adoptive parents and discouraging adoption by family members.

When biological parents are unable to care for their children, we truly hope that those children are adopted into a safe and loving home. When possible, adoption by family members can help maintain consistency, support and important ties.

In order to balance these rights, I believe this piece of legislation needs to address some important issues, including the following:

- In order to bring some closure and certainty to adoptive families, the opportunity to bring successive petitions for visitation must be limited to a single petition;
- Again, to bring some closure and certainty, the petition needs to be made within a specified and reasonable time period after the adoption or the decision to prevent visitation; and
- Adoptive parents need to have notice at the time of adoption that these petitions are a possibility.

My pledge is to work with the sponsor and the legislature to improve this bill. When that is accomplished, I am happy and willing to bring this bill back in a special session.

For these reasons, I disapprove of and veto House Bill 377, GRANDPARENT RIGHTS AMENDMENTS, and return it to the House.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary R. Herbert". The signature is written in a cursive, flowing style with some loops and flourishes.

Gary R. Herbert

S. B. 87

Passed March 10, 2016

Vetoed March 30, 2016

**ADMINISTRATIVE RULEMAKING
ACT MODIFICATIONS**

Chief Sponsor: Howard A. Stephenson

House Sponsor: Curtis Oda

LONG TITLE

General Description:

This bill modifies provisions of the Utah Administrative Rulemaking Act relating to public hearings.

Highlighted Provisions:

This bill:

- ▶ provides that under certain circumstances, the State Board of Education is exempt from the public hearing requirements described in the Utah Administrative Rulemaking Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-3-302, as renumbered and amended by Laws of Utah 2008, Chapter 382

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-3-302 is amended to read:

63G-3-302. Public hearings.

(1) ~~Each~~ An agency may hold a public hearing on a proposed rule~~, amendment to a rule, or repeal of a rule~~ during the public comment period.

(2) ~~Each~~ (a) Except as provided in Subsection (3), an agency shall hold a public hearing on a proposed rule~~, amendment to a rule, or repeal of a rule~~ if:

~~(a)~~ (i) a public hearing is required by state or federal mandate; or

~~(b)-(i)~~ (ii) (A) a public hearing is requested by another state agency, 10 interested persons, or an interested association ~~having not fewer than~~ that has at least 10 members ~~request a public hearing~~; and

~~(ii)~~ (B) the agency receives the request in writing not more than 15 days after ~~the publication date of~~ the day on which the proposed rule is published in the bulletin.

~~(3)~~ The (b) An agency shall hold ~~the~~ a hearing described in Subsection (2)(a):

~~(a)~~ (i) before the day on which the proposed rule becomes effective; and

~~(b)~~ (ii) no less than seven days ~~nor~~ but no more than 30 days after ~~receipt of the request for~~ the day on which the agency receives the public hearing request.

(3) This section does not apply to the State Board of Education if, before filing a proposed rule with the division, the State Board of Education:

(a) discusses the proposed rule at a meeting that is open to the public under Title 52, Chapter 4, Open and Public Meetings Act;

(b) during the meeting described in Subsection (3)(a):

(i) accepts public comment on the proposed rule; and

(ii) allows each speaker at least:

(A) five minutes to present the speaker's comments; or

(B) 15 minutes to present the speaker's comments, if the speaker is speaking on behalf of an organization or association that represents 10 or more individuals; and

(c) makes the proposed rule available to the public on the State Board of Education's website at least 21 days before the day on which the State Board of Education holds the meeting described in Subsection (3)(a).

(4) A meeting of a portion of or a committee of the State Board of Education does not satisfy the requirement described in Subsection (3)(a).



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Office of the Governor

March 30, 2016

The Honorable Wayne Niederhauser
President of the Senate

and

The Honorable Greg Hughes
Speaker of the House

Dear President Niederhauser and Speaker Hughes,

As required by Article VII, Section 8 of the Utah Constitution, I am writing to provide you my objections to Senate Bill 87, ADMINISTRATIVE RULEMAKING ACT MODIFICATIONS, and to explain my decision to veto the bill.

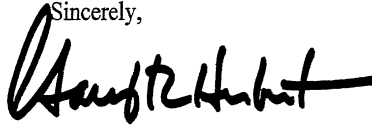
Our goal in all instances, particularly rulemaking, is to increase transparency, and facilitate and improve public input, not limit it. When developing administrative rules, an agency should ensure that there is full opportunity for public participation, even when it is inconvenient.

The work of the Utah State Board of Education is important and affects more citizens than any other state entity with rulemaking authority. The Board of Education oversees approximately one third of the entirety of the State's budget. Exempting the State Board of Education from the current public hearing requirements in existing statute, will result in decreased opportunities for parents and other stakeholders to provide input on State Board rules. It is essential that the public be given ample opportunity to comment on these rules, especially as many of these rules create entirely new education programs and policies.

The rulemaking process can be cumbersome and lengthy, if there are areas that we can streamline the process without limiting public participation, I would like to work with stakeholders to make that happen. But while streamlining the process is a good policy, I will always err on the side of public participation.

For these reasons, I disapprove of and veto Senate Bill 87, ADMINISTRATIVE
RULEMAKING ACT MODIFICATIONS, and return it to the Senate.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary R. Herbert". The signature is written in a cursive style with a long horizontal stroke at the end.

Gary R. Herbert



Office of the Governor

State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

March 30, 2016

The Honorable Greg Hughes
Speaker of the House

and

The Honorable Wayne Niederhauser
President of the Senate

Dear Speaker Hughes and President Niederhauser,

As required by Article VII, Section 8 of the Utah Constitution, I am writing to provide you my objections to item of appropriation 111 within House Bill 2, NEW FISCAL YEAR SUPPLEMENTAL APPROPRIATIONS ACT, and to explain my decision to veto this item within the bill.

I am vetoing item of appropriation 111, which is \$25,000 to Department of Natural Resources - Parks and Recreation. This appropriation was intended to fund the policy associated with House Bill 430, HOLE IN THE ROCK STATE PARK DESIGNATION, which did not pass the Legislature and will not become law.

For these reasons, I disapprove of and veto item of appropriation 111 of House Bill 2, NEW FISCAL YEAR SUPPLEMENTAL APPROPRIATIONS ACT, but otherwise sign and approve the bill.

Sincerely,

A handwritten signature in black ink that reads "Gary R. Herbert".

Gary R. Herbert



Office of the Governor

State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

March 30, 2016

The Honorable Greg Hughes
Speaker of the House

and

The Honorable Wayne Niederhauser
President of the Senate

Corrected Version

Dear Speaker Hughes and President Niederhauser,

As required by Article VII, Section 8 of the Utah Constitution, I am writing to provide you my objections to certain items of appropriation within House Bill 3, APPROPRIATIONS ADJUSTMENTS, and to explain my decision to veto these items within the bill.

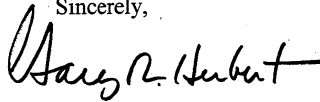
I am vetoing the following 5 items of appropriation within the 2016 APPROPRIATIONS ADJUSTMENTS:

1. Item 31, which is \$75,000 to the Attorney General's Office. This appropriation was already apportioned because Senate Bill 43, FIREARM SAFETY AND VIOLENCE PREVENTION IN PUBLIC SCHOOLS, carried its own appropriation.
2. Item 47, which is \$150,600 to Judicial Council/State Court Administrator - Administration. This appropriation was intended to fund the policy associated with Senate Bill 90, FALSIFICATION OF INFORMATION IN A PROTECTIVE ORDER PROCEEDING, which did not pass the Legislature and will not become law;
3. Item 52, which is \$99,100 to Judicial Council/State Court Administrator - Guardian *ad Litem*. This appropriation was also intended to fund the policy associated with Senate Bill 90, FALSIFICATION OF INFORMATION IN A PROTECTIVE ORDER PROCEEDING, which did not pass the Legislature and will not become law;

4. Item 125, which is \$66,300 to Department of Health - Disease Control and Prevention. This appropriation was intended to fund the policy associated with House Bill 221 IMMUNIZATION OF STUDENTS AMENDMENTS, which did not pass the Legislature and will not become law;
5. Item 149, which is \$6,400 to Department of Human Services - Division of Child and Family Services. This appropriation was intended to fund the policy associated with House Bill 441 CHILD PLACEMENT AMENDMENTS, which did not pass the Legislature and will not become law.

For these reasons, I disapprove of and veto items of appropriation 31, 47, 52, 125, and 149 of House Bill 3, APPROPRIATIONS ADJUSTMENTS, but otherwise sign and approve the bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary R. Herbert". The signature is written in a cursive style with a long horizontal stroke at the end.

Gary R. Herbert



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Office of the Governor

March 30, 2016

The Honorable Wayne Niederhauser
President of the Senate

and

The Honorable Greg Hughes
Speaker of the House

Dear President Niederhauser and Speaker Hughes,

As required by Article VII, Section 8 of the Utah Constitution, I am writing to provide you my objections to item of appropriation 6 within Senate Bill 2, PUBLIC EDUCATION BUDGET AMENDMENTS, and to explain my decision to veto this item of appropriation within the bill.

I am vetoing item of appropriation 6 within Senate Bill 2, PUBLIC EDUCATION BUDGET AMENDMENTS, which is \$998,900 from the Education fund and \$3,775,000 from the Education fund, one-time funding to the State Board of Education for a variety of specialty education programs.

My objections are specific to three programs bundled within this appropriation item: The UPSTART Early Childhood Education Program, which is an additional \$1,500,000 to an already existing program with ongoing funding; the ProStart Culinary Arts Program which is a \$275,000 block grant for a reality television show; and the Early Intervention Program, which adds \$3,000,000 one-time funds to an already existing program with ongoing funding.

The UPSTART Program is a pilot program set to expire on July 1, 2019 and currently has \$4,760,000 in ongoing funding. Additionally, the program has a Fiscal Year 2016 non-lapsing balance of \$2,400,000 that is estimated will grow to \$2,900,000 in Fiscal Year 2017. During this legislative session, an additional state-funded preschool program passed which will serve at-risk preschoolers and which allows TANF funds to be used for the UPSTART program, separate from this line item. I believe we should evaluate the intended recipients of all three current publicly-funded preschool programs

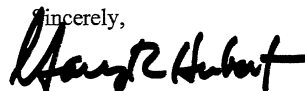
to ensure that taxpayer dollars are being spent on the intended target populations, without spending additional money and unnecessarily duplicating services.

The ProStart Culinary program provides opportunities to students interested in culinary careers and annually receives more than \$400,000 in funding. This particular item of appropriation funds the *Utah ProStart Teen Chef Masters* television program, which is a reality television cooking competition operated by the Utah Restaurant Association. This television competition is open to any qualified teen who applies, which may or may not include ProStart students. While reality television shows are fun to participate in and watch, the question is whether taxpayers should be funding the *Teen Chef Masters* television competition. I do not believe that this is an appropriate use of taxpayer dollars.

The K-3 Early Intervention Reading Program currently receives \$4,600,000 in ongoing funding; the Legislature appropriated an additional \$3,000,000 one-time last year. According to the evaluation of the 2015 program, this software is being underutilized by Local Education Agencies. Only thirteen percent of Local Education Agencies achieved the amount recommended usage rate, adherence to which is what makes this program effective. Additionally, the evaluation pointed out that, while the software programs had positive effects in Kindergarten, there were small negative impacts for First and Second Grade students, and no demonstrative positive effects for Third Grade students. If this program is not being implemented with fidelity, and is not delivering significant positive results, significantly increasing public funding is not appropriate at this time.

There are other programs included in this grouped item of appropriation. While I do not have specific objections to those programs or their funding, I believe this action will not harm those programs. The State Board of Education has already voted to discontinue the Electronic High School program, and with the return of this funding in item of appropriation 6 the Board will have the ability to fund the Electronic Elementary Reading Tool, and the IT Academy.

For these reasons, I disapprove of and veto item of appropriation 6 of Senate Bill 2, PUBLIC EDUCATION BUDGET AMENDMENTS, but otherwise sign and approve the bill.

Sincerely,


Gary R. Herbert



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Office of the Governor

March 30, 2016

The Honorable Greg Hughes
Speaker of the House

and

The Honorable Wayne Niederhauser
President of the Senate

Dear Speaker Hughes and President Niederhauser,

Consistent with Article VII, Section 8 of the Utah Constitution, I am writing to inform you that I am allowing House Bill 220, LEGISLATIVE ORGANIZATION AMENDMENTS, to go into law without my signature.

House Bill 220, LEGISLATIVE ORGANIZATION AMENDMENTS, addresses the political membership of the Legislative Management Committee and the Legislature's Budget Subcommittee. In this instance, as the Chief Executive Officer of the State, I do not believe it is my role to interfere in the management and organization of the Legislative Branch.

Accordingly, I will defer to the vote of the Legislature regarding their own management and allow House Bill 220, LEGISLATIVE ORGANIZATION AMENDMENTS, to go into law without my signature.

Sincerely,

A handwritten signature in black ink that reads "Gary R. Herbert".

Gary R. Herbert

Resolutions

passed at the
General Session
of the
Sixty-First Legislature
2016

H.C.R. 1

Passed February 18, 2016

Approved March 1, 2016

Effective March 1, 2016

**CONCURRENT RESOLUTION
ON WATERS OF THE UNITED STATES**

Chief Sponsor: Michael E. Noel
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor expresses support to Attorney General Sean Reyes in seeking to vacate a federal rule defining “waters of the United States.”

Highlighted Provisions:

This resolution:

- ▶ expresses disapproval of the expansion of the term “waters of the United States” to include ephemeral drainages, dry washes, gullies, coulees, and arroyos, which only move water after rain; and
- ▶ expresses support for Attorney General Sean Reyes in seeking to vacate this expansive rule.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the scope of federal authority to regulate “navigable waters” under the Clean Water Act is established by the regulatory definition of the term “waters of the United States”;

WHEREAS, on June 29, 2015, the Environmental Protection Agency and the United States Army Corps of Engineers (agencies) finalized a new regulation expanding the scope of this definition;

WHEREAS, the rule purports to expand federal jurisdiction over a broad range of dry land and water features found within the state of Utah, such as ephemeral drainages, dry washes, gullies, coulees, and arroyos, which only move water after rain;

WHEREAS, the definition of “tributary” is one of the most expansive and problematic terms in the proposed rule;

WHEREAS, a tributary is commonly understood as a “stream” or “river” flowing into a larger stream or river, yet the new rule would include ephemeral drainages in the definition of tributary, even though they channel water only after heavy storms and are dry most of the time;

WHEREAS, the rule violates previous United States Supreme Court decisions *Solid Waste Agency of Northern Cook County v. United States Army Corps of Engineers* (SWANCC), 531 U.S. 159 (2001) and *Rapanos v. United States* (Rapanos), 547 U.S. 715, 725 (2006), which interprets the scope of federal authority under the Clean Water Act to be more limited than the new rule;

WHEREAS, the United States Supreme Court clarified and set limitations in defining “waters of the United States” under the Clean Water Act in the Rapanos decision, stating, “waters of the United States” includes only those “relatively permanent, standing or continuously flowing bodies of water ‘forming geographic features’ that are described in ordinary parlance as ‘streams, . . . oceans, rivers, [and] lakes”;

WHEREAS, the United States Supreme Court defined the relationship between the federal regulatory agencies and the states finding, “Where an administrative interpretation of a statute invokes the outer limits of Congress’s power, we expect a clear indication that Congress intended that result. This requirement stems from our prudential desire not to needlessly reach constitutional issues and our assumption that Congress does not casually authorize administrative agencies to interpret a statute to push the limit of congressional authority. This concern is heightened where the administrative interpretation alters the federal-state framework by permitting federal encroachment upon traditional state power. Unless Congress conveys its purpose clearly, it is not deemed to have significantly changed the federal-state balance”;

WHEREAS, according to the Army Corps of Engineers in certain memoranda, the rule is “inconsistent with SWANCC and Rapanos. This assertion of Clean Water Act jurisdiction over millions of acres of isolated waters . . . undermines the legal and scientific credibility of the rule”;

WHEREAS, the Army Corps of Engineers said, “the draft final rule continues to depart significantly from the version provided for public comments, and that the Corps recommendations relation to our serious concerns have gone unaddressed. Specifically, the current draft final rule contradicts long-standing and well-established legal principles undergirding Clean Water Act 404 regulations and regulatory practices, especially the decisive Rapanos Supreme Court decision. The rule’s contradictions with legal principles generate multiple legal and technical consequences that in the view of the Corps would be fatal to the rule in this current form”;

WHEREAS, the Corps further states, “The preamble to the proposed rule and the draft preamble to the draft rule state that the rulemaking has been a joint effort of the EPA and the Corps, and that both agencies have jointly made significant findings, reached important conclusions, and stand behind the rule. These statements are not accurate”;

WHEREAS, the Corps charges that the EPA “selectively applied out of context, and mixes terminology and disparate data set. In the Corp’s judgment, these documents contain numerous inappropriate assumptions with no connection to the data provided, misapplied data, analytical deficiencies, and logical inconsistencies”;

WHEREAS, the rule exceeds the powers granted to the agencies by the United States Constitution,

Article 1, Section 8, to regulate channels of commerce within the state of Utah;

WHEREAS, the rule usurps the rights and powers reserved and granted by the Tenth Amendment to the United States Constitution to the state of Utah to regulate intrastate land use and water resources;

WHEREAS, the rule would regulate many irrigation ditches key to Utah agriculture as tributaries, imposing restrictions beyond those required by the state engineer and interfering with water rights;

WHEREAS, the rule regulates most wetlands, lakes, seasonally ponded areas, and ponds, including those constructed for stock watering and irrigation;

WHEREAS, to avoid the risk of liability from enforcement actions and citizens' suits, farmers and ranchers must ensure that farming and ranching activities do not cause a discharge of any pollutant (including pesticides and fertilizers) into any "waters of the United States" or that the activities are authorized by a federal Clean Water Act permit;

WHEREAS, the rule requires farmers and ranchers to seek new federal permits for pesticide and fertilizer applications to these newly defined "waters of the United States";

WHEREAS, the rule does not provide landowners with the tools needed to determine whether water features on their property are "waters of the United States"; and

WHEREAS, the new rule exceeds the scope of jurisdiction granted by Congress in the Clean Water Act, and thus violates the Administrative Procedure Act:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, finds the rule defining "waters of the United States" to be an unlawful exercise of federal regulatory authority.

BE IT FURTHER RESOLVED that the Legislature and the Governor support the legal challenge brought by Attorney General Sean Reyes to vacate the final rule.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to Governor Herbert, Attorney General Sean Reyes, and Utah's congressional delegation.

H.C.R. 2

Passed February 4, 2016
Approved February 8, 2016
Effective February 8, 2016

**CONCURRENT RESOLUTION
RECOGNIZING THE 40TH ANNIVERSARY
OF THE UTAH INDOOR CLEAN AIR ACT**

Chief Sponsor: Paul Ray
Senate Sponsor: Ralph Okerlund
Cosponsors: Rebecca P. Edwards
Timothy D. Hawkes
Sandra Hollins
Curtis Oda
Angela Romero
Scott D. Sandall
John R. Westwood
Mark A. Wheatley

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor recognizes the 40th anniversary of the Utah Indoor Clean Air Act.

Highlighted Provisions:

This concurrent resolution:

- ▶ recognizes the 40th anniversary of the Utah Indoor Clean Air Act;
- ▶ commends David Hughes Horne and Representative Gerald Woodmansee for their efforts to pass the Utah Indoor Clean Air Act;
- ▶ acknowledges the Utah Indoor Clean Air Act's contribution to Utah's low smoking rates and partnerships with municipalities and local health departments; and
- ▶ expresses continued support for the Utah Indoor Clean Air Act.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, in 1976, the Legislature of the state of Utah, recognizing the harms of tobacco use and secondhand smoke, passed H.B. 25, which created the Utah Indoor Clean Air Act;

WHEREAS, the efforts of David Hughes Horne, a concerned citizen who advocated for stricter indoor smoking laws, and Representative Gerald Louis Woodmansee are to be commended for spearheading H.B. 25 and rallying the support of over 40,000 Utahns;

WHEREAS, the Utah Indoor Clean Air Act has:

- sought to protect the health of all Utahns by creating smoke-free environments in public places and places of business;
- contributed to Utah having the lowest smoking rates in the nation;
- helped establish rules, laws, and guidelines by which tobacco products are bought and sold in Utah; and
- led to the Utah Department of Health creating the Tobacco Prevention and Control Program,

which has built relationships with municipalities and supported local health departments throughout the state; and

WHEREAS, despite significant declines, tobacco use remains a public health challenge:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes the 40th anniversary of the Utah Indoor Clean Air Act.

BE IT FURTHER RESOLVED that the Legislature and the Governor express continued support for the Utah Indoor Clean Air Act on behalf of the citizens of Utah.

BE IT FURTHER RESOLVED that the Legislature and the Governor support local health departments in their efforts to implement the Utah Indoor Clean Air Act.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah Department of Health.

H.C.R. 4

Passed March 9, 2016
 Approved March 18, 2016
 Effective March 18, 2016

**CONCURRENT RESOLUTION DECLARING
 DRUG OVERDOSE DEATHS TO BE A
 PUBLIC HEALTH EMERGENCY**

Chief Sponsor: Carol Spackman Moss
 Senate Sponsor: Brian E. Shiozawa
 Cosponsors: Patrice M. Arent
 Rebecca Chavez-Houck
 Mike K. McKell
 Marie H. Poulson
 Edward H. Redd

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor declares drug overdose deaths in Utah to be a public health emergency and strongly urges Utah's Department of Health, Department of Human Services, and Department of Public Safety to immediately direct resources to address this crisis.

Highlighted Provisions:

This resolution:

- ▶ emphasizes the importance of the lives of all people living in Utah;
- ▶ recognizes Utah's high rates of overdose death compared to most states in the country; and
- ▶ strongly urges Utah's Department of Health, Department of Human Services, and Department of Public Safety to recognize this public health crisis and direct resources to reduce the number of overdose deaths in Utah.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the lives of all people living in Utah are precious and deeply valued;

WHEREAS, the Utah drug overdose death rate represents a public health emergency;

WHEREAS, the Legislature of the state of Utah and the Governor establish the priorities for funding, the use of resources, and the actions of departments of Utah state government;

WHEREAS, Utah's rate of drug overdose deaths ranks fourth in the nation;

WHEREAS, Utah's rate of military veteran drug overdose deaths ranks first in the nation; and

WHEREAS, the number of drug-related deaths in Utah exceed the number of deaths from motor vehicle collisions and firearms:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, strongly urges Utah's Department of Health, Department of Human Services, and Department of Public Safety to direct appropriate resources to reducing the number of drug overdose deaths in Utah.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to Utah's Department of Health, the Department of Human Services, and the Department of Public Safety.

H.C.R. 5

Passed February 29, 2016
 Approved March 10, 2016
 Effective March 10, 2016

**CONCURRENT RESOLUTION
 RECOGNIZING THE 100-YEAR
 ANNIVERSARY OF OUR NATIONAL PARKS**

Chief Sponsor: Justin L. Fawson
 Senate Sponsor: Jim Dabakis
 Cosponsors: Jacob L. Anderegg
 Johnny Anderson
 Patrice M. Arent
 Stewart Barlow
 Joel K. Briscoe
 Melvin R. Brown
 Rebecca Chavez-Houck
 Scott H. Chew
 Kay J. Christofferson
 Kim Coleman
 Fred C. Cox
 Rich Cunningham
 Bruce R. Cutler
 Brad M. Daw
 Brad L. Dee
 Sophia M. DiCaro
 Jack R. Draxler
 Susan Duckworth
 James A. Dunnigan
 Rebecca P. Edwards
 Steve Eliason
 Gage Froerer

Francis D. Gibson
 Keith Grover
 Craig Hall
 Stephen G. Handy
 Timothy D. Hawkes
 Lynn N. Hemingway
 Sandra Hollins
 Gregory H. Hughes
 Eric K. Hutchings
 Don L. Ipson
 Michael S. Kennedy
 Brad King
 Brian S. King
 John Knotwell
 Bradley G. Last
 David E. Lifferth
 Kay L. McIff
 Mike K. McKell
 Carol Spackman Moss
 Merrill F. Nelson
 Michael E. Noel
 Curtis Oda
 Derrin Owens
 Lee B. Perry
 Jeremy A. Peterson
 Val L. Peterson
 Dixon M. Pitcher
 Marie H. Poulson
 Kraig Powell
 Paul Ray
 Edward H. Redd
 Marc K. Roberts
 Angela Romero
 Douglas V. Sagers
 Scott D. Sandall
 Dean Sanpei
 Mike Schultz
 V. Lowry Snow
 Robert M. Spendlove
 Jon E. Stanard
 Keven J. Stratton
 Earl D. Tanner
 Norman K. Thurston
 Raymond P. Ward
 R. Curt Webb
 John R. Westwood
 Mark A. Wheatley
 Brad R. Wilson

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the majestic landscapes of National Parks are touchstones of our shared history and culture;

WHEREAS, appreciation of National Parks spans geographic region, ethnic background, age, economic circumstance, and political persuasion;

WHEREAS, National Parks serve as anchors to greater urban park systems and contribute to the physical and aesthetic quality of urban neighborhoods;

WHEREAS, the National Parks in Utah are valuable contributors to job opportunities, youth development, public health, and community building;

WHEREAS, National Parks are economic engines critical to supporting residential, commercial, and community development activities in cities and towns across America;

WHEREAS, Utah's National Parks provide affordable, safe, and inspiring places for people to play, exercise, and relax;

WHEREAS, every dollar invested in National Park operations generates \$10 for local economies;

WHEREAS, every two park service jobs yield one job outside the park;

WHEREAS, National Parks in Utah draw international tourists to our cities;

WHEREAS, eight of the top 25 tourist destinations in America are National Park units;

WHEREAS, Utah's National Parks exemplify the American spirit, rugged yet naturally beautiful;

WHEREAS, National Parks inspire the future but remind us of the past and those that have sacrificed so much to share the beauty with our generation;

WHEREAS, National Parks remind us that we have a sacred trust to pass their beauty on to the generations to come;

WHEREAS, Utah is proud to host five National Parks;

WHEREAS, Utah's five National Parks provide a way to encourage families, visitors, and Utahns to explore the beautiful vistas and venues and flora and fauna that make Utah a uniquely beautiful state;

WHEREAS, Utah's five National Parks serve as backdrops for Hollywood movies, scout hikes, and family picnics;

WHEREAS, the National Park Service recently reported that the national monuments, the national historic site, and the "Mighty 5" National Parks located in Utah combine to contribute \$1 billion annually to the Utah economy;

WHEREAS, the nation is marking the 100th anniversary of the creation of the modern National Park system in 2016; and

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor recognizes the 100th anniversary of the National Park System.

Highlighted Provisions:

This resolution:

- ▶ recognizes the 100th anniversary of the creation of the modern National Park System.

Special Clauses:

None

WHEREAS, since 1916, the National Park system has grown to include not only the most splendid examples of America's unsurpassed natural and scenic heritage, but also the special places, artifacts, and stories of our nation's birth, our struggles and triumphs as a people, and the shared values that unite us:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes the 100th anniversary of the creation of the modern National Park system.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge Congress and the National Park Service to begin to make progress on the billion-dollar backlog of delayed maintenance projects for the National Parks, including a \$278 million backlog in maintenance work for Utah's National Parks.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of the United States, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, the National Park Service, the Governor's Office of Economic Development, the Utah Department of Natural Resources, and the members of Utah's congressional delegation.

H.C.R. 6

Passed February 22, 2016
 Approved March 1, 2016
 Effective March 1, 2016

**CONCURRENT RESOLUTION
 CELEBRATING THE UTAH FARM
 BUREAU CENTENNIAL**

Chief Sponsor: Scott H. Chew
 Senate Sponsor: Margaret Dayton
 Cosponsors: Patrice M. Arent
 Stewart Barlow
 Rebecca Chavez-Houck
 Rich Cunningham
 Susan Duckworth
 Stephen G. Handy
 Timothy D. Hawkes
 Bradley G. Last
 Mike K. McKell
 Curtis Oda
 Derrin Owens
 Lee B. Perry
 Scott D. Sandall
 Mike Schultz

LONG TITLE

General Description:

This resolution recognizes the contributions the Utah Farm Bureau has made to agriculture in the state over the past 100 years.

Highlighted Provisions:

This resolution:

- ▶ recognizes the Utah Farm Bureau for strengthening agriculture and rural communities and improving the lives of all Utahns; and
- ▶ congratulates the Utah Farm Bureau on its 100 years of leadership and service to its members and the state.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, 100 years ago on December 4, 1916, farmers and ranchers from across the state gathered at the Hotel Utah in downtown Salt Lake City to create the Utah Farm Bureau Federation;

WHEREAS, these agricultural leaders laid the foundation for a state organization that continues to provide a voice for all farmers and ranchers in Utah, improve farm income, and give representation to our state's food producers;

WHEREAS, the Utah Farm Bureau was established to serve and strengthen agriculture, supply valuable member services to family farms and ranches, and maximize production agriculture's ability to engage in national, state, and local policy decisions;

WHEREAS, the Utah Farm Bureau is a true grassroots organization dedicated to ensuring that agriculture remains healthy and vibrant;

WHEREAS, the Utah Farm Bureau achieves these goals through the organization's unique individual member-driven policy development process and active legislative and regulatory advocacy programs;

WHEREAS, the Utah Farm Bureau worked closely with Utah State University Extension Service to provide valuable information from the land grant system to improve production and farm income;

WHEREAS, in 1921, the Utah Farm Bureau established the Women's Program to focus on farm life, rural community life, and leadership opportunities;

WHEREAS, in 1939, the Utah Farm Bureau established the Young Farmers Program, the precursor to the Utah Young Farmer and Rancher Program, to provide leadership development, training, and opportunities for young members;

WHEREAS, Utah Farm Bureau agriculture education outreach efforts include the "Share-A-Book" campaign to place fact-based books in Utah schools, the "Agriculture in the Classroom" initiative, the "Our Food Link" program to introduce thousands of Utah school children and other Utahns to the family farms and ranches dotting the state's landscape, "Farm Field Days" hosted by county farm bureaus across the state, and "Farm Bureau Day" at the Utah State Fair;

WHEREAS, approximately 29,000 member families from all 29 counties in the state comprise

the Utah Farm Bureau, making it the largest agriculture organization in the state and the recognized “Voice of Agriculture”;

WHEREAS, the vision, commitment, and service of the Utah Farm Bureau boards of directors, volunteer members, and staff have built partnerships and industry coalitions for the past 100 years;

WHEREAS, these partnerships and coalitions have developed and implemented initiatives and projects focused on the United States Constitution and fundamental principles such as limited government, private property rights, and free enterprise;

WHEREAS, the Utah Farm Bureau has been a leader in meeting the insurance needs of farmers and ranchers, establishing Utah’s first “Farmers Market,” and advocating for policies that support farmers including the “Greenbelt Amendment” and production-based property taxes;

WHEREAS, these efforts have enabled farmers and ranchers to produce and sell their products, provide nutritious and affordable locally grown foods, serve as vital contributors to our state’s economy by providing more than 80,000 jobs, and serve as environmental stewards protecting and enhancing our state’s natural resources; and

WHEREAS, Thomas Jefferson, third President of the United States of America and principal author of the Declaration of Independence, said, “Agriculture is our wisest pursuit, because it will in the end contribute most to real wealth, good morals and happiness”;

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes the Utah Farm Bureau for strengthening agriculture and rural communities and improving the lives of all Utahns through its leadership, service to its members and the state of Utah, and efforts to champion the production of food and fiber and the noble professions of farming and ranching.

BE IT FURTHER RESOLVED that the Legislature and the Governor congratulate and salute the Utah Farm Bureau Federation as it enters into its centennial celebration in 2016.

H.C.R. 7

Passed February 25, 2016
 Approved March 14, 2016
 Effective March 14, 2016

**CONCURRENT RESOLUTION FOR A
 STATUE TO RECOGNIZE FATHER
 DOMINGUEZ AND FATHER ESCALANTE**

Chief Sponsor: Mark A. Wheatley
 Senate Sponsor: Luz Escamilla
 Cosponsors: Johnny Anderson
 Stewart Barlow
 Melvin R. Brown
 Rebecca Chavez-Houck

Scott H. Chew
 Kay J. Christofferson
 Fred C. Cox
 Rich Cunningham
 Bruce R. Cutler
 Brad M. Daw
 Sophia M. DiCaro
 Jack R. Draxler
 Gage Froerer
 Brian M. Greene
 Stephen G. Handy
 Sandra Hollins
 Gregory H. Hughes
 Eric K. Hutchings
 Don L. Ipson
 Michael S. Kennedy
 Brad King
 John Knotwell
 David E. Lifferth
 Kay L. McIff
 Carol Spackman Moss
 Merrill F. Nelson
 Michael E. Noel
 Curtis Oda
 Derrin Owens
 Lee B. Perry
 Val L. Peterson
 Dixon M. Pitcher
 Angela Romero
 V. Lowry Snow
 Robert M. Spendlove
 Keven J. Stratton
 Earl D. Tanner
 R. Curt Webb
 John R. Westwood

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor urges that a statue of Father Francisco Atanasio Dominguez and Father Silvestre Velez de Escalante be erected in the Utah State Capitol to recognize the life and accomplishments of Fathers Dominguez and Escalante and their impact on citizens of Utah and the western United States.

Highlighted Provisions:

This resolution:

- ▶ urges that a statue of Father Francisco Atanasio Dominguez and Father Silvestre Velez de Escalante be erected in the Utah State Capitol to recognize the extraordinary lives and accomplishments of Fathers Dominguez and Escalante; and
- ▶ recognizes Father Dominguez’s and Father Escalante’s accomplishments and impact for good on Utah, its citizens, and citizens of the western United States.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Father Francisco Atanasio Dominguez, a native of Mexico, and Father Silvestre Velez de Escalante, born in Spain, were

Catholic priests instructed by their Franciscan superiors and the Spanish government in 1776 to search for an overland route between Santa Fe, New Mexico, and Monterey, California;

WHEREAS, Fathers Dominguez and Escalante were tasked to evaluate the lives of frontier priests, assess the value of the Santa Fe Archives ravaged by Pueblo Indians in the 1680 revolt, and inspect the New Mexico missions;

WHEREAS, while Spaniards had only a vague idea of the lands of Utah, the Dominguez-Escalante Expedition confirmed the existence of inhabitants unconverted to Christianity in Utah and established trails that benefitted traders for years to come;

WHEREAS, Fathers Dominguez and Escalante kept excellent records about the land, plants, and animal life of Utah, and mapped many features of the Four Corners area;

WHEREAS, the Dominguez-Escalante Expedition provided useful ecclesiastical and political information on the territory they explored, including information on the Utah Valley, Spanish Fork, Cedar City, and Lake Powell areas;

WHEREAS, the town of Escalante, Utah, and the Escalante River are both named after Father Escalante;

WHEREAS, history shows that the Dominguez-Escalante Expedition contacted the Ute Indians living in Utah and preached Christianity to them;

WHEREAS, the Dominguez-Escalante Expedition paved the way for explorers and settlers, informing future generations about geological information;

WHEREAS, even though no direct link was established between Santa Fe and Monterey, the Dominguez-Escalante Expedition resulted in the establishment of the interior West, which was at last explored and chronicled;

WHEREAS, the journals and maps of the Dominguez-Escalante Expedition became invaluable tools to those who would eventually establish the Old Spanish Trail between Santa Fe and Los Angeles in the 1800s;

WHEREAS, over 200 years ago, Fathers Dominguez and Escalante proposed Utah Valley as a place where the Spanish could establish settlement;

WHEREAS, 50,000 Latinos now reside in and call Utah Valley home;

WHEREAS, Utah currently is a growing state with a changing, diverse demographic, including the youth of tomorrow;

WHEREAS, children can make the connection that Utah is for all residents of the United States and the rest of the world, not exclusively for residents of Utah, thanks to the Dominguez-Escalante Expedition; and

WHEREAS, Utah's first connection to Latinos was through Fathers Dominguez and Escalante:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, urges that a statue of Fathers Dominguez and Escalante be erected in the Utah State Capitol in recognition of their extraordinary lives and accomplishments that have bettered the lives of Utahns and many millions of other people throughout the western United States.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge that the Capitol Preservation Board continue to facilitate the process of having the statue funded from private sources and placed in the Utah State Capitol.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Catholic Diocese of Salt Lake City and the Capitol Preservation Board.

H.C.R. 8

Passed March 3, 2016
Approved March 14, 2016
Effective March 14, 2016

**CONCURRENT RESOLUTION ON
THE BONNEVILLE SALT FLATS
INTERNATIONAL SPEEDWAY**

Chief Sponsor: Stephen G. Handy
Senate Sponsor: Peter C. Knudson

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor calls attention to the deterioration of Utah's world-famous Bonneville Salt Flats International Speedway and urges the Bureau of Land Management to restore the Bonneville Salt Flats International Speedway to safe high-speed racing conditions.

Highlighted Provisions:

This concurrent resolution:

- ▶ calls attention to the deterioration of Utah's world-famous Bonneville Salt Flats International Speedway;
- ▶ strongly urges the Bureau of Land Management to formulate a plan, with the participation of the Utah Alliance, Save the Salt Coalition, and other concerned stakeholders, including Intrepid PotashWendover, LLC, to restore the Bonneville Salt Flats to safe land speed racing conditions;
- ▶ urges the Bureau of Land Management to improve monitored restoration that will maintain the internationally recognized Bonneville Salt Flats International Speedway in safe high-speed racing conditions; and
- ▶ urges the United States Congress and Utah's congressional delegation to take action to ensure that the Bonneville Salt Flats International Speedway is restored to safe racing conditions.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, in 1910, future Salt Lake City Mayor Ab Jenkins became the first person to ride a motorcycle across the Bonneville Salt Flats, a bounded watershed covering approximately 77,000 acres or 120 square miles;

WHEREAS, in 1914, Teddy Tetzlaff set the first unofficial land speed record at the Bonneville Salt Flats;

WHEREAS, top tire companies began sponsoring events at the Bonneville Salt Flats to test their tires;

WHEREAS, beginning in 1932, Ab Jenkins spent three decades setting hundreds of national speed and endurance records on the Bonneville Salt Flats, some of which remain on the record books;

WHEREAS, in 1935, the first internationally recognized world land speed record was set at the Bonneville Salt Flats by Britain's Sir Malcolm Campbell;

WHEREAS, this record prompted the international land speed racing community to relocate all future efforts from Daytona Beach, Florida, to the Bonneville Salt Flats;

WHEREAS, thousands of land speed records would follow over the next several decades;

WHEREAS, in the 1960s, racers began to notice a thinning of the salt surface and voiced concern to the United States Secretary of the Interior and federal lawmakers;

WHEREAS, in 1963, the Bureau of Land Management issued leases covering 24,700 acres on the Bonneville Salt Flats to the east of the race tracks and collection ditches were dug to allow for withdrawal of salt brine;

WHEREAS, in 1975, the "Bonneville Salt Flats Race Track" (aka Bonneville Salt Flats International Speedway) was added to the National Register of Historic Places;

WHEREAS, in 1976, the Utah Salt Flats Racing Association was founded in response to the Bureau of Land Management complaint that not enough land speed racing events occurred each year to obtain agency support;

WHEREAS, in 1985, 30,203 acres of the Bonneville Salt Flats was designated an Area of Critical Environmental Concern and Special Recreation Management Area;

WHEREAS, in 1989, the Save the Salt Coalition was founded by racers, businesses, and community members to help protect the Bonneville Salt Flats and promote its history and motorsports legacy;

WHEREAS, in 1992, the Save the Salt Foundation was formed to raise funds for Bonneville Salt Flats restoration activities;

WHEREAS, in 1997, a five-year test salt brine pumping project was implemented through the cooperation of the Bureau of Land Management, Reilly Industries, and racers;

WHEREAS, in 2012, the limited salt brine pumping project was made permanent;

WHEREAS, in 2015, the Utah Alliance was formed to provide state-based expertise on the Bonneville Salt Flats;

WHEREAS, in 2015, all major racing events were cancelled due to unsafe salt conditions and weather; and

WHEREAS, in 2015, concerned stakeholders met with legislators and congressmen and urged immediate action to restore the Bonneville Salt Flats:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, strongly urges the Bureau of Land Management to formulate a plan, with the participation of the Utah Alliance, Save the Salt Coalition, and other concerned stakeholders, including Intrepid PotashWendover, LLC, to restore the Bonneville Salt Flats to safe land speed racing conditions.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge the Bureau of Land Management to improve monitored restoration that will maintain the internationally recognized Bonneville Salt Flats International Speedway in safe high-speed racing conditions.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge the United States Congress and Utah's congressional delegation to take action to ensure that the Bonneville Salt Flats International Speedway is restored to safe racing conditions.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the United States Secretary of the Interior, the Bureau of Land Management, Intrepid Potash Wendover, LLC, the National Park Service, the Utah Salt Flats Racing Association, the Southern California Timing Association, Bonneville Nationals, Inc., Bonneville Motorcycle Speed Trials, Land Speed Events, the Save the Salt Coalition, the Utah Alliance, and the members of Utah's congressional delegation.

H.C.R. 10

Passed March 2, 2016
Approved March 10, 2016
Effective March 10, 2016

**CONCURRENT RESOLUTION
RECOGNIZING HISTORIC AND ECONOMIC
RELATIONSHIPS BETWEEN CANADA,
THE UNITED STATES, AND UTAH**

Chief Sponsor: Stephen G. Handy
Senate Sponsor: J. Stuart Adams

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor recognizes the relationship between the state of Utah and Canada and between the United States and Canada.

Highlighted Provisions:

This resolution:

- ▶ recognizes the unique and important relationship between the state of Utah and Canada and between the United States and Canada; and
- ▶ honors Canada’s contributions as our partner in environmental stewardship, energy development, economic trade, and joint military endeavors.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the United States and Canada share not only a 5,522-mile border, which is the world’s longest border, but also a vibrant history of democratic governance, military and economic partnerships, and cultural ties;

WHEREAS, relations between Canada and the United States span more than two centuries, and the two nations have developed one of the most successful international relationships in the modern world;

WHEREAS, the relationship between Canada and the United States is unique in the world, and the two nations have a shared prosperity fostered by two-way investments and jobs;

WHEREAS, Canada and the United States have the largest and most comprehensive trade relationship in the world;

WHEREAS, Canada is the largest foreign trade partner for the United States and the top export destination for 35 states;

WHEREAS, nearly nine million American jobs were dependent on trade with Canada in 2014, including nearly 78,900 jobs in Utah;

WHEREAS, the United States and Canada traded \$734 billion in goods and services in 2014, which equates to nearly \$1.4 million in goods and services crossing the border every minute of every day;

WHEREAS, Utah contributes significantly to this relationship, with bilateral trade totaling \$3.1 billion in 2014;

WHEREAS, Utah’s second largest export market in 2014 was Canada, representing exports of \$1.4 billion, or over 12% of Utah’s total exports for that year;

WHEREAS, Canada and Utah have a robust and complementary agriculture trade, with agriculture being the leading import from Canada to Utah and 6% of Utah’s agriculture exports going to Canada;

WHEREAS, another important area of trade between the United States and Canada is in the energy sector;

WHEREAS, at \$117 billion in 2013, Canada’s energy exports to the United States reinforced Canada as the United States’ largest and most secure supplier of oil, electricity, uranium, and natural gas;

WHEREAS, the United States and Canada are committed to reducing environmental impacts from energy production and cooperate extensively on improving energy efficiencies;

WHEREAS, stewardship of our shared environment is a key element of the Canada-United States relationship as our countries work together to anticipate and address environmental challenges;

WHEREAS, Canada is a friendly neighbor with whom the United States has an excellent trading and political relationship;

WHEREAS, the United States welcomes more tourists from Canada than from any other country, and 319,300 Canadian visitors in 2014 spent an estimated \$100 million in the state;

WHEREAS, the United States and Canada also share a very special and important security and defense relationship;

WHEREAS, Canada and the United States are both founding members of the North Atlantic Treaty Organization (NATO) and forces from the two nations have fought alongside each other in most major conflicts since World War I, including the Korean War, the Persian Gulf War, the Kosovo War, and, most recently, the War in Afghanistan;

WHEREAS, defense arrangements between the United States and Canada are more extensive than with any other nation, and Canada is a major ally of the United States; and

WHEREAS, Canada and the United States are unwavering in their commitment to a safe and secure Canada-United States perimeter and to countering extremism both at home and abroad;

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, expresses deep appreciation to the people and government of Canada for their long history of friendship and cooperation with the people and government of the United States.

BE IT FURTHER RESOLVED that the Legislature and the Governor recognize the important economic and trade relationship between the two nations.

BE IT FURTHER RESOLVED that the Legislature and the Governor recognize the outstanding economic relationship between Canada and the state of Utah.

BE IT FURTHER RESOLVED that the Legislature and the Governor express deep appreciation for the sacrifices that Canada’s military, diplomats, and citizenry have made in

support of the United States' conflict in Afghanistan and the many times that our soldiers have fought side-by-side in the past.

BE IT FURTHER RESOLVED that the Legislature and the Governor salute our neighbors to the north for their continued cooperation and efforts to jointly secure North America.

BE IT FURTHER RESOLVED that the Legislature and the Governor honor Utah's friend and ally, Canada, and look forward to many more years of cooperation, friendship, trade, tourism, and good will.

BE IT FURTHER RESOLVED that a copy of this resolution be presented to the official representatives of the nation of Canada in attendance this day, March 2, 2016.

H.C.R. 11

Passed March 9, 2016

Approved March 21, 2016

Effective March 21, 2016

**CONCURRENT RESOLUTION
ENCOURAGING THE REPAYMENT
OF FUNDS USED TO KEEP
NATIONAL PARKS, MONUMENTS,
AND RECREATION AREAS OPEN**

Chief Sponsor: Ken Ivory
Senate Sponsor: Scott K. Jenkins

LONG TITLE

General Description:

This concurrent resolution encourages the repayment of funds used by the state of Utah to keep national parks, national monuments, and national recreation areas within the state open.

Highlighted Provisions:

This resolution:

- ▶ urges Utah's federal delegation to introduce legislation that would reimburse the state for money spent to keep national parks, national monuments, and national recreation areas within the state open during the federal budget shutdown.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the inability of Congress to pass a budget led to a partial shutdown of the federal government from October 1-16, 2013;

WHEREAS, during the federal government shutdown, without notice or consultation with the state of Utah, the National Park Service (NPS) closed all 401 national parks, including Utah's eight national parks, seven national monuments, and other national recreation areas;

WHEREAS, as a result of the shutdown, Utah experienced one of the highest declines in NPS visitation levels resulting in an approximately \$17,000,000 decline in NPS-related visitor spending within gateway communities that depend on tourism revenue;

WHEREAS, to forestall further severe impacts to Utah's tourism industry, and the communities and citizens that depend on this important industry, the state of Utah entered into an agreement with the NPS to re-open and temporarily operate Utah's parks, monuments, and recreation areas, provided Utah contribute funds to the NPS to enable NPS employees to re-open and manage the parks;

WHEREAS, the Legislature held an emergency special session in October 2013 and passed S.B. 2001, National Park Funding, appropriating \$1,665,700 to the federal government for the purpose of re-opening and operating national parks, national monuments, and national recreation areas within the state during the federal budget shutdown;

WHEREAS, on October 24, 2013, the federal government repaid \$666,300 to the state for costs mentioned above, resulting in a net state expenditure of \$999,400;

WHEREAS, the federal government has retained all the revenue generated within Utah's national parks, national monuments, and national recreation areas during the state-funded period;

WHEREAS, S.B. 2001 directed the Governor and the Division of Parks and Recreation to urge Utah's federal delegation to introduce legislation to secure the reimbursement of funds Utah paid to re-open our national parks, national monuments, and national recreation areas; and

WHEREAS, to date, \$999,400 has still not been repaid to the state of Utah:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, strongly urges Utah's federal delegation to exert their utmost legislative efforts to secure the full repayment of the still outstanding \$999,400 that Utah paid to the federal government to keep national parks, national monuments, and national recreation areas within the state open.

BE IT FURTHER RESOLVED that the Utah Office of the Attorney General advise the Legislature regarding any rights, claims, or set-off the state may have to secure the repayment of the still outstanding \$999,400 expended by the state to keep our national parks, national monuments, and national recreation areas open.

BE IT FURTHER RESOLVED that a copy of this concurrent resolution be sent to the Utah Office of the Attorney General and members of Utah's federal delegation.

H.C.R. 12

Passed March 9, 2016
 Approved March 30, 2016
 Effective March 30, 2016

**CONCURRENT RESOLUTION HONORING
 LIN-MANUEL MIRANDA, COMPOSER OF
 THE MUSICAL HAMILTON**

Chief Sponsor: Ken Ivory
 Senate Sponsor: Jim Dabakis

LONG TITLE

General Description:

This resolution honors Lin-Manuel Miranda for his contributions to art and civics education through his composition of the musical "Hamilton."

Highlighted Provisions:

This resolution:

- ▶ recognizes the work of Lin-Manuel Miranda in composing the smash-hit musical "Hamilton," which has captivated audiences worldwide, regardless of economic circumstances or political stances;
- ▶ encourages teachers, when possible and age-appropriate, to utilize the "Hamilton" soundtrack to inspire a love of American history in today's students; and
- ▶ encourages artists and citizens to use their talents to explore American history.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Lin-Manuel Miranda, the composer and star of the Grammy Award-winning musical "Hamilton" has "revolutionized" Broadway with the story of America's unlikely founding told through the prism of America's most unlikely Founding Father, Alexander Hamilton;

WHEREAS, "Hamilton" is, in the words of Miranda, "the story of America then, told by America now," in an infectious hip-hop style, with a cast that reflects the rich diversity of modern America;

WHEREAS, Miranda graduated from Wesleyan University in 2002 where he studied performing arts and a wide variety of genres of music, including freestyle rap, bodega, and salsa;

WHEREAS, Miranda launched into national consciousness with his first musical, "In The Heights," which won Tony Awards for Best Musical and Best Original Score and the Grammy Award for Best Musical Theater Album;

WHEREAS, Miranda was also nominated for a Tony Award for Best Actor in a Musical for his starring role in "In The Heights";

WHEREAS, the story of Hamilton's life sparked Miranda's imagination after he read Pulitzer Prize winning author Ron Chernow's book "Alexander Hamilton";

WHEREAS, in the musical adaptation "Hamilton," Miranda cleverly captures the contemporary relevance of the struggles, perplexities, and triumphs of our founding history in a uniquely modern style that is mesmerizing audiences from around the world, young and old, from all walks of life, all political stripes, all ethnicities, and all backgrounds;

WHEREAS, Miranda, the son of Puerto Rican immigrants, brings to life the limitless possibilities, promise, and hope of America, even for a "young, scrappy and hungry" orphaned immigrant:

"The ten-dollar founding father without a father

Got a lot farther by working a lot harder

By being a lot smarter

By being a self-starter";

WHEREAS, America "has its eyes on [Hamilton]" and the innovative story told by an ethnically diverse cast, including an African-American Thomas Jefferson and Aaron Burr, Asian Eliza Schuyler, and Hispanic Alexander Hamilton played by Miranda himself;

WHEREAS, "Hamilton" opened in 2015 and has smashed Broadway box office records ever since, resulting in sold-out shows through 2016;

WHEREAS, the "Hamilton" soundtrack debuted at No. 12 on the Billboard album charts and eventually went to No. 1 on the Rap Albums chart, making the musical accessible to people who have not been able to see the stage performance, and resulting in one million comments on Twitter in 2015 alone;

WHEREAS, Miranda and the producers of "Hamilton," through the generosity of the Rockefeller Foundation, are providing \$10 tickets to 20,000 New York City public high school students in 2016 to "excite curiosity in [these] students," as Miranda explained, with the hope that "they will take away how much Hamilton did with his life in the time that he had.";

WHEREAS, with tickets sold out for the foreseeable future, the "Hamilton" producers want the play to be accessible to audiences of all economic backgrounds and have begun offering 21 front row tickets for \$10 each in an online lottery for each show;

WHEREAS, the American history "world [has] turned upside down" thanks to Miranda, a former high school teacher with an "unimaginable" combination of talent as a songwriter, playwright, composer, actor, and singer; and

WHEREAS, "Hamilton" places us all "in the room where it happens," portraying the human drama, intrigue, passion, perplexity, and promise of America's founding in a way that resonates with a modern and ethnically diverse America, and will continue to "stay alive" in our national consciousness for decades to come;

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor

concurring therein, are not “throwin’ away [our] shot” to express our gratitude to Lin-Manuel Miranda, sir, and recognize that Utah, America, and the world “has its eyes on you” for your exemplary contributions to the arts and education by “placing [us all] in the narrative” of our rich American history with “Hamilton,” the man and the musical.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage teachers, when possible and age-appropriate, to utilize the “Hamilton” soundtrack to “lay a strong enough foundation” in American history in today’s students and “[they’ll] blow us all away.”

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage artists and all citizens of the state and the nation to make full use of their talents and tell the stories of “America, you great unfinished symphony, you sent for me. You let me make a difference A place where even orphan immigrants can leave their fingerprints and rise up.”

BE IT FURTHER RESOLVED that a copy of this resolution be sent to Lin-Manuel Miranda, the Utah Commission on Civic and Character Education, the Utah Education Association, the Alexander Hamilton Society, the Alexander Hamilton Awareness Society, the Center for Civic Education, the American Historical Association, the Organization of American Historians, the New York Historical Society, the National Society of the Sons of the American Revolution, the Utah Society of the Sons of the American Revolution, the Daughters of the American Revolution, and the Utah State Society of the Daughters of the American Revolution.

H.J.R. 3

Passed February 25, 2016
Effective February 25, 2016

JOINT RULES RESOLUTION CHANGING AN INTERIM COMMITTEE NAME

Chief Sponsor: Stephen G. Handy
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This joint rules resolution amends provisions related to interim committees.

Highlighted Provisions:

This resolution:

- ▶ changes the name of the Public Utilities and Technology Interim Committee to be the Public Utilities, Energy, and Technology Interim Committee.

Special Clauses:

This resolution provides a contingent effective clause.

Legislative Rules Affected:

AMENDS:

IR1-1-201

Be it resolved by the Legislature of the state of Utah:

Section 1. IR1-1-201 is amended to read:

IR1-1-201. Interim committees established -- Membership -- Chairs -- Chair duties.

(1) The president of the Senate and the speaker of the House shall:

(a) appoint members from their respective chambers to serve on the following joint interim committees:

- (i) Business and Labor Interim Committee;
- (ii) Economic Development and Workforce Services Interim Committee;
- (iii) Education Interim Committee;
- (iv) Government Operations Interim Committee;
- (v) Health and Human Services Interim Committee;
- (vi) Judiciary Interim Committee;
- (vii) Law Enforcement and Criminal Justice Interim Committee;
- (viii) Natural Resources, Agriculture, and Environment Interim Committee;

(ix) Political Subdivisions Interim Committee;

(x) Public Utilities, Energy, and Technology Interim Committee;

(xi) Retirement and Independent Entities Interim Committee;

(xii) Revenue and Taxation Interim Committee; and

(xiii) Transportation Interim Committee; and

(b) appoint one member from their chamber to serve as cochair of each interim committee.

(2) The chairs of each interim committee, meeting jointly, shall:

(a) determine the agenda for committee meetings;

(b) assist and give direction to staff in the conduct of the committee’s business; and

(c) perform other duties assigned by the committee.

Section 22. Contingently effective.

This joint resolution only takes effect if H.B. 140, Public Utilities and Technology Committee Name Change, 2016 General Session, passes and becomes law.

H.J.R. 4

Passed March 4, 2016
Effective March 4, 2016

**JOINT RESOLUTION ON WATER
INFRASTRUCTURE TRANSFER**

Chief Sponsor: Mike K. McKell
Senate Sponsor: Deidre M. Henderson

LONG TITLE

General Description:

This joint resolution of the Legislature urges Utah's congressional delegation to support the efforts of Utah water users organizations to secure title transfer of project works and project water rights free from terms and conditions that were not contemplated at the time of the repayment contracts.

Highlighted Provisions:

This resolution:

- ▶ calls upon Utah's congressional delegation to support Utah water users organizations that have repaid, or wish to repay, reclamation projects to secure title transfer of project works and project water rights free from terms and conditions that were not contemplated at the time of the repayment contracts.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, Utah Code Subsection 73-1-1(1) states, "All waters in this state, whether above or under the ground, are hereby declared to be the property of the public, subject to all existing rights to the use thereof";

WHEREAS, California v. United States, 438 U.S. 645, 653 (1978), states that, "The history of the relationship between the Federal Government and the States in the reclamation of the arid lands of the Western States is both long and involved, but through it runs the consistent thread of purposeful and continued deference to state water law by Congress";

WHEREAS, pursuant to Section 8 of the Reclamation Act of 1902, state law governs the distribution of water from a reclamation project, except as expressly stated by Congress;

WHEREAS, water rights for reclamation projects were acquired pursuant to state law;

WHEREAS, Utah Code Section 73-1-3 states, "Beneficial use shall be the basis, the measure and the limit of all rights to the use of water in this state";

WHEREAS, the future of the state of Utah depends upon the proper and economical administration of water rights and the proper and economical distribution and use of water;

WHEREAS, water rights can be best and most economically administered by the local water users that are subject to state law and most accountable to the local water users;

WHEREAS, the United States Congress has always anticipated that, upon repayment, reclamation projects would be transferred to the local water users;

WHEREAS, water users organizations in Utah have sought, are seeking, and will continue to seek title transfer of water projects from Congress, including title to the Strawberry Valley Project, the Moon Lake Project, the Emery County Project, the Sanpete Project, and the Provo River Project; and

WHEREAS, transferring title to the Strawberry Valley project, Moon Lake, Emery County, Sanpete, and Provo River water projects to the appropriate local water users in Utah will facilitate the proper and economical administration of water rights and the proper and economical distribution of water as contemplated by the Legislature of the state of Utah and Congress:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah calls upon Utah's congressional delegation to support local water users' efforts to secure title transfer of project works when interests of local irrigation companies, water districts, and cities are considered.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, the United States Bureau of Reclamation, the local Utah Water Users, the Utah Department of Natural Resources, the State Engineer, and the members of Utah's congressional delegation.

H.J.R. 7

Passed March 7, 2016
Effective March 7, 2016

**JOINT RULES RESOLUTION ON
MEDICAID FUNDING REPORT**

Chief Sponsor: Dean Sanpei
Senate Sponsor: Lyle W. Hillyard

LONG TITLE

General Description:

This joint rules resolution amends joint legislative rules related to the executive appropriations hearing reports.

Highlighted Provisions:

This joint rules resolution:

- ▶ requires the Executive Appropriations Committee to hear a report related to Medicaid accountable care organizations and related issues by a certain date; and
- ▶ makes technical changes.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:
JR3-2-402

Be it resolved by the Legislature of the state of Utah:

Section 1. JR3-2-402 is amended to read:

JR3-2-402. Executive appropriations -- Duties -- Base budgets.

(1) As used in this rule:

(a) "Base budget" means amounts appropriated by the Legislature for each item of appropriation for the current fiscal year that:

(i) are not designated as one-time in an appropriation, regardless of whether the appropriation is covered by ongoing or one-time revenue sources; and

(ii) were not vetoed by the governor, unless the Legislature overrode the veto.

(b) "Base budget" includes:

(i) any changes to those amounts approved by the Executive Appropriations Committee; and

(ii) amounts appropriated for debt service.

(2) (a) The Executive Appropriations Committee shall meet no later than the third Wednesday in December to:

(i) direct staff as to what revenue estimate to use in preparing budget recommendations, to include a forecast for federal fund receipts;

(ii) consider treating above-trend revenue growth as one-time revenue for major tax types;

(iii) hear a report on the historical, current, and anticipated status of the following:

(A) debt;

(B) long term liabilities;

(C) contingent liabilities;

(D) General Fund borrowing;

(E) reserves;

(F) fund balances;

(G) nonlapsing appropriation balances;

(H) cash funded infrastructure investment; and

(I) changes in federal funds paid to the state;

(iv) hear a report on:

(A) the next fiscal year base budget appropriation for Medicaid accountable care organizations according to Section 26-18-405.5;

(B) an explanation of program funding needs;

(C) estimates of overall medical inflation in the state; and

(D) mandated program changes and their estimated cost impact on Medicaid accountable care organizations;

[~~(iv)~~] (v) decide whether to set aside special allocations for the end of the session, including allocations:

(A) to address any anticipated reduction in the amount of federal funds paid to the state; and

(B) of one-time revenue to pay down debt and other liabilities;

[~~(v)~~] (vi) approve the appropriate amount for each subcommittee to use in preparing its budget;

[~~(vi)~~] (vii) set a budget figure; and

[~~(vii)~~] (viii) adopt a base budget in accordance with Subsection (2)(b) and direct the legislative fiscal analyst to prepare one or more appropriations acts appropriating one or more base budgets for the next fiscal year.

(b) In a base budget adopted under Subsection (2)(a), appropriations from the General Fund, the Education Fund, and the Uniform School Fund shall be set as follows:

(i) if the next fiscal year ongoing revenue estimates set under Subsection (2)(a)(i) are equal to or greater than the current fiscal year ongoing appropriations, the new fiscal year base budget is not changed;

(ii) if the next fiscal year ongoing revenue estimates set under Subsection (2)(a)(i) are less than the current fiscal year ongoing appropriations, the new fiscal year base budget is reduced by the same percentage that projected next fiscal year ongoing revenue estimates are lower than the total of current fiscal year ongoing appropriations;

(iii) in making a reduction under Subsection (2)(b)(ii), appropriated debt service shall not be reduced, and other ongoing appropriations shall be reduced, in an amount sufficient to make the total ongoing appropriations, including the unadjusted debt service, equal to the percentage calculated under Subsection (2)(b)(ii); and

(iv) the new fiscal year base budget shall include an appropriation to the Department of Health for Medicaid accountable care organizations in the amount required by Section 26-18-405.5.

(c) The chairs of each appropriation subcommittee are invited to attend this meeting.

(3) Appropriations subcommittees may not meet while the Senate or House is in session without special leave from the speaker of the House and the president of the Senate.

(4) All proposed items of expenditure to be included in the appropriations bills shall be submitted to one of the subcommittees named in JR3-2-302 for consideration and recommendation.

(5) (a) After receiving and reviewing subcommittee reports, the Executive Appropriations Committee may refer the report back to an appropriations subcommittee with any guidelines the Executive Appropriations Committee considers necessary to assist the subcommittee in producing a balanced budget.

(b) The subcommittee shall meet to review the new guidelines and report the adjustments to the chairs of the Executive Appropriations Committee as soon as possible.

(6) (a) After receiving the reports, the Executive Appropriations Committee chairs will report them to the Executive Appropriations Committee.

(b) That committee shall:

(i) make any further adjustments necessary to balance the budget; and

(ii) complete all decisions necessary to draft the final appropriations bill no later than the 39th day of the annual general session.

H.J.R. 10

Passed March 3, 2016
Effective March 3, 2016

JOINT RESOLUTION AUTHORIZING THE LEASE OF A PORTION OF THE UTAH STATE DEVELOPMENTAL CENTER'S LAND

Chief Sponsor: Michael S. Kennedy
Senate Sponsor: Margaret Dayton

LONG TITLE

General Description:

This joint resolution authorizes a portion of the Utah State Developmental Center's campus to be leased for commercial purposes.

Highlighted Provisions:

This resolution:

- ▶ recognizes the important role the Utah State Developmental Center (USDC) plays in the provision of resources and support for disabled individuals with complex or acute needs in Utah;
- ▶ expresses support for the USDC master plan;
- ▶ recognizes that the master plan creates a long-term vision for undeveloped property that aligns with the Legislature's original purpose when creating the USDC; and
- ▶ authorizes approximately 7.7 acres of the northeast corner of the USDC's campus to be leased for commercial purposes in accordance with the master plan.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, Utah Code Section 63A-5-220 requires that the Division of Facilities Construction and Management (DFCM) obtain the approval of the Legislature before offering land or water rights associated with the Utah State Developmental Center (USDC) for sale, exchange, or long-term lease;

WHEREAS, in 1929, the Legislature established the Utah State Training Center to assist with the care, protection, treatment, and education of individuals with mental disabilities;

WHEREAS, the Utah State Training Center, later known as the USDC, was established during an era when relatively little was known about the causes of mental disabilities;

WHEREAS, like other states, Utah built a public institution in a remote location and within a broad perimeter of land that provided a physical barrier between the institution and the nearest rural homes and communities;

WHEREAS, since its establishment in 1929, the USDC has evolved and improved regarding what public services should be provided for individuals with mental disabilities and how to provide those services;

WHEREAS, since state governments first acknowledged a public interest in and accepted some fiscal responsibility for citizens with disabilities, states have made sweeping changes in the philosophy and practice of providing public services to those citizens;

WHEREAS, these paradigm shifts have resulted from a growing knowledge about disabilities, including their causes, prevention, interventions, and accommodations;

WHEREAS, also contributing to the paradigm shifts was an improving regard for individuals who experience disabilities, as evidenced by public laws that affirm and promote their rights, an expansion of publicly funded services, and greater inclusion by their communities;

WHEREAS, in April 1999, Utah's Lieutenant Governor, Olene Walker, issued a set of guiding principles entitled "Principles to Guide the Delivery of Publicly Funded Services for People with Disabilities in Utah";

WHEREAS, these principles were developed by a group of individuals representing the Governor's office, the Legislature, state agencies, service providers, and parent advocates;

WHEREAS, the principles were distributed in the community and public comment was received at a meeting conducted by the Lieutenant Governor on April 13, 1999;

WHEREAS, the Department of Human Services and the Department of Health subsequently adopted these principles to guide how they provide services;

WHEREAS, like providers of community-based services, the USDC is currently working to support and promote more individual-centered services, a greater choice of services and supports, and increased opportunities for inclusion of individuals with mental disabilities in the community;

WHEREAS, today, Utah's citizens are served from across the entire state under the direction of the Department of Human Services and the Division of Services for People with Disabilities;

WHEREAS, the USDC provides 24-hour residential care, is Utah's only state-operated intermediate care facility for individuals with intellectual disabilities, and takes great pride in serving these most vulnerable of Utah's citizens;

WHEREAS, as other providers in the state struggle to provide care for individuals with complex emotional, medical, and behavioral issues,

the USDC is in the unique position of providing most of the essential services needed at a single location;

WHEREAS, the USDC's development of a master plan to guide its service is central to its present and future success in providing services for individuals with mental disabilities;

WHEREAS, the master plan was developed in conjunction with an overall strategic vision for the future use of the USDC;

WHEREAS, the strategic planning group included a wide range of stakeholders and the master plan was vetted by conducting over 30 public meetings and planning sessions;

WHEREAS, input for the planning process was received from:

- individuals living at the USDC and their families;
- neighborhoods, counties, and cities surrounding the USDC;
- community advocacy groups representing individuals with disabilities; and
- community service providers that regularly work with the USDC;

WHEREAS, the USDC master plan creates a long-term vision for undeveloped property that is in accordance with the original purpose of the Legislature in creating this resource for Utahns with disabilities;

WHEREAS, the master plan provides a long-term revenue source for individuals with disabilities living in Utah, while preserving the original purpose of the land and maximizing development potential;

WHEREAS, the master plan was created with a sustainable methodology, including a balance between environmental sensitivity, community connections, artistic beauty, and economic viability;

WHEREAS, the USDC's mission is "dedication to providing an array of resources and supports for individuals with disabilities with complex or acute needs in Utah";

WHEREAS, the USDC vision is to "provide an effective, efficient array of critical services and supports that promote independence and quality of life for Utah's most vulnerable individuals with disabilities in partnership with families, guardians and the community";

WHEREAS, by following the master plan, USDC is in a position to better assist individuals with disabilities to achieve their highest potential in an atmosphere that preserves personal dignity;

WHEREAS, the USDC is ready to begin incrementally developing a portion of the USDC campus in accordance with the master plan:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah expresses support

for the incremental implementation of the USDC's master plan.

BE IT FURTHER RESOLVED that, in accordance with Utah Code Section 63A-5-220, the Legislature authorizes DFCM to enter into a long-term lease for approximately 7.7 acres of land located in the northeast corner of the USDC's campus.

H.J.R. 11

Passed March 8, 2016

Effective March 8, 2016

JOINT RESOLUTION DESIGNATING UTAH AS A PURPLE HEART STATE

Chief Sponsor: Fred C. Cox

Senate Sponsor: Margaret Dayton

LONG TITLE

General Description:

This joint resolution of the Legislature designates the state of Utah as a Purple Heart State, strongly encourages Utahns to honor Purple Heart recipients, and honors the service and sacrifice of the nation's men and women in uniform wounded or killed by the enemy while serving to protect our freedoms.

Highlighted Provisions:

This resolution:

- ▶ designates the state of Utah as a Purple Heart State and strongly encourages Utahns to honor Purple Heart recipients by showing their appreciation for the sacrifices Purple Heart recipients have made in defending our freedoms; and
- ▶ honors the service and sacrifice of the nation's men and women in uniform wounded or killed by the enemy while serving to protect the freedoms enjoyed by all Americans.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the state of Utah has always supported its military veterans;

WHEREAS, the Purple Heart is the oldest military decoration in current use;

WHEREAS, the Purple Heart was initially created as the Badge of Military Merit by General George Washington in 1782;

WHEREAS, the Purple Heart was the first American service award or decoration made available to the common soldier and is specifically awarded to members of the United States Armed Forces who have been wounded or made the ultimate sacrifice in combat with a declared enemy of the United States of America;

WHEREAS, the mission of the Military Order of the Purple Heart is to foster an environment of goodwill among the combat-wounded veteran members and their families, promote patriotism,

support legislative initiatives, and -- most importantly -- ensure that Utahns never forget the sacrifices made to preserve the freedoms we enjoy;

WHEREAS, in recognition of the sacrifices of those who have served in the military, the Legislature has designated Interstate Highway 15 from the Utah-Idaho border to the Utah-Arizona border as Veterans Memorial Highway; Route 224 from Kimball Junction southeasterly to the junction with Route 248 in Park City as Tenth Mountain Division Memorial Highway; Interstate 80 as the Dwight D. Eisenhower Highway; beginning at the Nevada-Utah border in Wendover, east to the Wyoming-Utah border west of Evanston, Wyoming, as the Purple Heart Trail; and the existing portions of Interstate 84 located within the state of Utah as the Vietnam Veterans Memorial Highway;

WHEREAS, the state of Utah has a highly decorated military veteran population, including many Purple Heart recipients;

WHEREAS, the state of Utah and its citizens recognize and deeply appreciate the sacrifices of the state's Purple Heart recipients for their courage in defending our nation and our freedoms; and

WHEREAS, the state of Utah and its citizens recognize the great need to acknowledge and honor Utah's Purple Heart recipients for their service and sacrifice:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah designates the state of Utah as a Purple Heart State and strongly encourages Utahns to honor Purple Heart recipients by showing their appreciation for the sacrifices Purple Heart recipients have made in defending our freedoms.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah honors the service and sacrifice of the nation's men and women in uniform wounded or killed by the enemy while serving to protect the freedoms enjoyed by all Americans.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Northern, Central, and Southern Utah chapters of the Military Order of the Purple Heart, the National Military Order of the Purple Heart, the Utah Department of Veterans' and Military Affairs, and the members of Utah's congressional delegation.

H.J.R. 12

Passed February 25, 2016
Effective February 25, 2016

**JOINT RESOLUTION REAPPOINTING
LEGISLATIVE AUDITOR GENERAL**

Chief Sponsor: Gregory H. Hughes
Senate Sponsor: Wayne L. Niederhauser

LONG TITLE

General Description:

This joint resolution of the Legislature approves the reappointment of John Schaff as the Legislative Auditor General.

Highlighted Provisions:

This joint resolution:

- ▶ approves the reappointment of John Schaff as Legislative Auditor General for a six-year term.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, pursuant to Utah Code Ann. Section 36-12-7, (1953), the Legislative Management Committee has recommended the reappointment of Mr. John Schaff as Legislative Auditor General for the Utah Legislature; and

WHEREAS, the reappointment of Mr. John Schaff in this position for a term of office of six years beginning November 9, 2016, is subject to further approval of a majority vote of both the House of Representatives and the Senate:

NOW, THEREFORE, BE IT RESOLVED by the Legislature of the state of Utah that the reappointment of Mr. John Schaff as Legislative Auditor General for the Utah Legislature be approved for a six-year term of office beginning November 9, 2016.

H.J.R. 20

Passed March 10, 2016
Effective March 10, 2016

**JOINT RESOLUTION
APPROVING CLASS V LANDFILL**

Chief Sponsor: Lee B. Perry
Senate Sponsor: Peter C. Knudson

LONG TITLE

General Description:

This resolution gives approval for the construction and operation of a Class V commercial nonhazardous solid waste landfill.

Highlighted Provisions:

This resolution:

- ▶ describes the proposed Promontory Point Landfill;
- ▶ enumerates the types of nonhazardous solid waste to be received by the landfill;
- ▶ states that the operation plan for the landfill will be submitted to the director of the Division of Waste Management and Radiation Control for approval; and
- ▶ grants provisional approval for the construction and operation of a Class V commercial nonhazardous solid waste landfill.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, Promontory Point Resources, LLC, has proposed a plan to construct and operate a Class V commercial landfill to receive nonhazardous solid waste for treatment, storage, or disposal as defined in Utah Code Section 19-6-102;

WHEREAS, the facility is to be located on 2,000 acres owned by Promontory Point Resources, LLC, in Box Elder County on the southern tip of Promontory Point;

WHEREAS, the Department of Environmental Quality issued Promontory Point Resources, LLC, a permit for the operation of a Class I landfill on this site that solely receives nonhazardous municipal waste under contracts with local governments;

WHEREAS, a Class V commercial landfill would have a favorable economic impact on Box Elder County in the form of new permanent jobs and host fees;

WHEREAS, Utah Code Section 19-6-108 requires that an applicant for authority to construct a commercial landfill receive approval from the local government, the Legislature, and the Governor;

WHEREAS, Utah Code Section 19-6-108 also requires that an applicant for authority to construct or operate a commercial landfill receive approval from the director of the Division of Waste Management and Radiation Control within the Department of Environmental Quality for an operation plan for that facility before receiving gubernatorial approval;

WHEREAS, Promontory Point Resources, LLC, is seeking approval from Box Elder County for the proposed landfill;

WHEREAS, Promontory Point Resources, LLC, will submit a proposed operation plan for the Promontory Point Class V commercial nonhazardous solid waste landfill to the Division of Waste Management and Radiation Control to be approved by the director;

WHEREAS, Promontory Point Resources, LLC, will request gubernatorial approval after the operation plan is approved by the director of the Division of Waste Management and Radiation Control;

WHEREAS, the proposed operation plan for the Promontory Point Landfill states that the landfill will receive nonhazardous waste, including municipal waste, industrial waste, construction and demolition waste, and special wastes as enumerated in the operation plan and as defined in Utah Administrative Code, R315-315, Special Waste Requirements:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah grants its provisional approval to Promontory Point Resources, LLC, to construct and operate a Class V commercial nonhazardous solid waste landfill as described in the proposed plan if the proposed plan

is approved by Box Elder County, the Division of Waste Management and Radiation Control, and the Governor in accordance with Utah Code Section 19-6-108.

H.J.R.22

Passed March 4, 2016
Effective March 4, 2016

**JOINT RESOLUTION HONORING
UTAH VALLEY UNIVERSITY'S
75TH ANNIVERSARY**

Chief Sponsor: Brad M. Daw
Senate Sponsor: Margaret Dayton

LONG TITLE

General Description:

This bill honors Utah Valley University's 75th anniversary.

Highlighted Provisions:

This resolution:

- ▶ recognizes Utah Valley University's evolution since its inception in 1941 to meet the demands of an evolving workforce;
- ▶ recognizes its impact on the community, state, and intermountain region; and
- ▶ recognizes the institution's consistent spirit, mission to provide access to higher education, and inclusivity.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, Central Utah Vocational School, now known as Utah Valley University, was founded in 1941 to aid the United States efforts during World War II;

WHEREAS, Utah Valley University, now 75 years strong, has since assisted and provided for many individuals' personal goals and needs;

WHEREAS, Utah Valley University was founded on a hands-on and engaged approach to learning, which remains a hallmark of the institution at all levels of instruction and in all disciplines;

WHEREAS, the institution has nimbly and ably adapted over its 75 year existence to serve the needs of the community, the state, and the intermountain west;

WHEREAS, each time the needs of the workforce have changed, a deliberate and parallel response from the institution has always followed, by evolving its educational programs to produce highly skilled graduates who are prepared to succeed;

WHEREAS, with iterations of Central Utah Vocational School, Utah Trade Technical Institute, Utah Technical College, Utah Valley Community College, Utah Valley State College, and finally Utah Valley University, change has been constant and fast-paced to meet employer and industry needs;

WHEREAS, the determination, hustle, and can-do spirit required of such an evolution are qualities that have helped define the institution and persist today;

WHEREAS, at its root, Utah Valley University retains a mission of access, inclusivity, and in many cases, second chances to Utahns;

WHEREAS, with more than 33,000 students enrolled, Utah Valley University has grown to become a national first choice institution for student success and the largest institution of higher education in the state, something few would have predicted in 1941;

WHEREAS, with a dual mission of community college access and function under the umbrella of a first-rate teaching university, Utah Valley University offers a full range of certificate to graduate programs and is a model of efficiency, creating an institutional two for the price of one return on investment for the state; and

WHEREAS, there are few higher education institutions in the nation executing such a mission on the scale as Utah Valley University is, truly making it the "lean, green, educating machine" as designated on the House floor when university status was granted in 2007:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah congratulates and joins Utah Valley University in celebrating this significant milestone in its history.

BE IT FURTHER RESOLVED that the Legislature honors and commends Utah Valley University for its 75 years of service to the state of Utah and for its positive impact on generations of Utahns past, present, and future -- go Wolverines!

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of Utah Valley University.

H.R. 1

Passed February 11, 2016
Effective February 11, 2016

**HOUSE RULES RESOLUTION CHANGING
A STANDING COMMITTEE NAME**

Chief Sponsor: Stephen G. Handy

LONG TITLE

General Description:

This House Rules resolution amends provisions related to standing committees.

Highlighted Provisions:

This resolution:

- ▶ changes the name of the Public Utilities and Technology Standing Committee to be the Public Utilities, Energy, and Technology Standing Committee.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

HR3-2-201

Be it resolved by the House of Representatives of the state of Utah:

Section 1. HR3-2-201 is amended to read:

**HR3-2-201. Standing committees --
Creation.**

(1) There are created the following standing committees:

- (a) Business and Labor;
- (b) Economic Development and Workforce Services;
- (c) Education;
- (d) Government Operations;
- (e) Health and Human Services;
- (f) House Rules;
- (g) Judiciary;
- (h) Law Enforcement and Criminal Justice;
- (i) Natural Resources, Agriculture, and Environment;
- (j) Political Subdivisions;
- (k) Public Utilities, Energy, and Technology;
- (l) Revenue and Taxation; and
- (m) Transportation.

(2) The members of the Retirement and Independent Entities Committee created in Utah Code Section 63E-1-201 comprise a House standing committee.

H.R. 2

Passed February 24, 2016
Effective February 24, 2016

**HOUSE RESOLUTION —
RULES COMMITTEE PROCESS**

Chief Sponsor: Michael E. Noel

LONG TITLE

General Description:

This rules resolution provides notice requirements for House Rules Committee meetings.

Highlighted Provisions:

This resolution:

- ▶ requires oral and electronic notice of House Rules Committee meetings.

Special Clauses:

None

Legislative Rules Affected:

ENACTS:

HR3-1-106

Be it resolved by the House of Representatives of the state of Utah:

Section 1. HR3-1-106 is enacted to read:

HR3-1-106. Notice of rules committee meetings.

When the House Rules Committee holds a meeting during a legislative session, the speaker shall ensure that:

(1) an oral, public announcement is made from the floor of the House identifying the time and place that the rules committee will meet; and

(2) an electronic notice is made that identifies the time and place of the rules committee meeting.

S.C.R. 1

Passed February 17, 2016
Approved February 24, 2016
Effective February 24, 2016

**CONCURRENT RESOLUTION
ENCOURAGING UNIVERSAL
METERING OF WATER SYSTEMS**

Chief Sponsor: Scott K. Jenkins
House Sponsor: Lee B. Perry

LONG TITLE

General Description:

This resolution encourages public water suppliers to implement universal metering.

Highlighted Provisions:

This resolution:

- ▶ notes that, as the second most arid state in the country, Utah needs to conserve water;
- ▶ states that when citizens know how much water they are using, they tend to voluntarily conserve that water; and
- ▶ encourages public water suppliers to implement metering on all retail public and private water systems.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Utah is the second most arid state in the country;

WHEREAS, the citizens of Utah must do everything they can to conserve water resources;

WHEREAS, water managers from around the state have indicated that when customers know how much water they are using and how much water they need to be using, most customers voluntarily adjust their water usage;

WHEREAS, many secondary water and some culinary systems in the state are not metered, which means residents have no idea how much water they are using;

WHEREAS, metering water systems is one tool in the conservation toolbox; and

WHEREAS, if more citizens in Utah knew how much water they were using, they would voluntarily conserve:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, encourages public water suppliers to implement metering on all retail public and private water systems.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah Association of Conservation Districts, the Utah League of Cities and Towns, the Rural Water Association of Utah, the Utah Association of Special Districts, and the Utah Water Users Association.

S.C.R. 2

Passed March 8, 2016
Approved March 17, 2016
Effective March 17, 2016

**CONCURRENT RESOLUTION IN
SUPPORT OF SALES AND USE
TAX TRANSACTIONAL EQUITY**

Chief Sponsor: Wayne A. Harper
House Sponsor: Brad L. Dee

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor urges the United States Congress to pass the Remote Transactions Parity Act of 2015, H.R. 2775, legislation for fair, uniform, simplified, and constitutional collection and remittance of state and local sales and use taxes by both in-state and remote sellers.

Highlighted Provisions:

This resolution:

- ▶ urges Congress to pass, without delay, the Remote Transactions Parity Act of 2015, H.R. 2775, for the fair, uniform, simplified, and constitutional collection of state and local sales and use taxes due; and
- ▶ affirms that, through passage of the legislation, Congress will:
 - foster consistent standards for in-state and remote sellers who are obligated to collect state and local sales and use taxes, providing equal, consistent, and fair treatment among traditional brick-and-mortar retailers, brick-and-click retailers, catalogue retailers, and Internet-only retailers; and
 - require similarly situated purchasers to pay the same sales and use tax rates, regardless of which type of retailer they make their purchases from and regardless of where that retailer is located.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, United States Supreme Court decisions in *National Bellas Hess v. Department of Revenue*, 386 U.S. 753 (1967), and *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992), require a seller to have a physical presence in a taxing state before the state may require the seller to collect and remit sales and use taxes on transactions that occur within that state;

WHEREAS, the United States Supreme Court also declared in the *Quill Corp. v. North Dakota* decision that Congress “has the ultimate power” under the commerce clause of the United States Constitution to resolve “whether, when, and to what extent” the states may require sales and use tax collection and remittance on remote sales;

WHEREAS, states and localities that use sales and use taxes as a revenue source may not collect revenue from some portion of remote sales commerce under the current Supreme Court rulings;

WHEREAS, since 1999, various state legislators, governors, local elected officials, state tax administrators, and representatives of the private sector have worked together to develop standards, protocols, and tax systems that mitigate the burdens addressed in *Quill Corp. v. North Dakota*;

WHEREAS, between 2001 and 2002, 40 states enacted legislation expressing their intent to simplify the states’ sales and use tax collection systems and to participate in discussions to allow for the collection of states’ sales and use taxes;

WHEREAS, Utah has been a leader in demonstrating the political will to make meaningful state sales and use tax reform and encouraging state membership in the Streamlined Sales and Use Tax Agreement;

WHEREAS, 24 states, including Utah, have joined the Streamlined Sales and Use Tax Agreement and have refined their state laws accordingly;

WHEREAS, the actions of these states provide justification for Congress to enact legislation to allow states to require remote sellers to collect the states’ sales and use taxes;

WHEREAS, the end consumer is responsible for paying the statutorily due sales and use tax and the retailer is the state-appointed collector of sales and use tax;

WHEREAS, the enactment of legislation by Congress that allows states to require remote sellers to collect the states’ sales and use taxes is necessary to treat all sales transactions the same regardless of whether they are done by an in-state, remote, or online retailer;

WHEREAS, Congress has had sufficient time to address the requirements of *Quill Corp. v. North Dakota* and the states have acted to minimize the additional burdens on businesses by implementing automated software to calculate tax rates imposed by each tax jurisdiction;

WHEREAS, empowering states to collect sales and use taxes on in-state and remote sales is consistent with the Tenth Amendment to the United States Constitution and is a states’ rights issue;

WHEREAS, requiring remote sellers to collect sales and use taxes may broaden Utah’s sales and use tax base and potentially enable the Utah Legislature and the Governor to lower sales and use tax rates;

WHEREAS, the Utah Legislature has repeatedly passed resolutions over the last 10 years calling upon Congress to pass legislation supporting Tenth Amendment rights and allowing states to collect the sales and use taxes due from all transactions;

WHEREAS, the United States Senate heeded that call by overwhelmingly passing the Marketplace Fairness Act of 2013, but the United States House of Representatives failed to consider or vote on the legislation;

WHEREAS, any federal legislation should be fair to both in-state and remote sellers and purchasers, whether such legislation requires sales and use taxes to be collected on a point of sale or point of delivery basis;

WHEREAS, the Remote Transactions Parity Act of 2015, H.R. 2775 (the Remote Transactions Parity Act), is currently introduced in the United States House of Representatives and satisfies Quill;

WHEREAS, passage of the Remote Transactions Parity Act is intended to foster consistent treatment of and standards for in-state and remote sellers in collecting and remitting already due sales and use taxes;

WHEREAS, the small remote seller phase-in as set forth in the Remote Transactions Parity Act needs to treat all retailers the same, including retailers using an electronic marketplace;

WHEREAS, passage of the Remote Transactions Parity Act or the Marketplace Fairness Act is the top priority of the National Governors Association and the National Conference of State Legislatures; and

WHEREAS, passage of the Remote Transactions Parity Act is a top priority of the Retail Industry Leaders Association, the International Council of Shopping Centers, the Farm Bureau, the Chamber of Commerce, the United States Conference of Mayors, and other major associations;

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, urges and calls upon the United States Congress to pass, without delay, and the President of the United States to sign, the Remote Transactions Parity Act, which provides for the fair, uniform, simplified, and constitutional administration of and collection of state and local sales and use taxes due.

BE IT FURTHER RESOLVED that Congress, in the Remote Transactions Parity Act, treat all retailers and small sellers the same in the small remote seller phase-in, including retailers using an electronic marketplace.

BE IT FURTHER RESOLVED that the Legislature and the Governor call upon each of Utah’s members

of Congress to actively support, to cosponsor, and to vote in favor of the Remote Transactions Parity Act and for Utah's members of the Senate to do the same once the legislation reaches the Senate.

BE IT FURTHER RESOLVED that the Legislature and the Governor affirm that, through passage of the Remote Transactions Parity Act, the United States Congress will foster consistent standards for in-state and remote sellers who are obligated to collect state and local sales and use taxes, providing equal, consistent, and fair treatment among traditional brick-and-mortar retailers, brick-and-click retailers, catalogue retailers, and Internet-only retailers and require similarly situated purchasers to easily pay the sales and use taxes due, regardless of which type of retailer they make their purchases from and regardless of where that retailer is located.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge all members of Utah's congressional delegation to vote in favor of the Marketplace Fairness Act of 2015, S. 698, should that legislation be presented for a vote.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, the chair and cochair of the Senate Finance Committee, the chair and cochair of the House Judiciary Committee, and the members of Utah's congressional delegation.

S.C.R. 3

Passed February 19, 2016
Approved March 1, 2016
Effective March 1, 2016

**CONCURRENT RESOLUTION
SUPPORTING AMERICAN INDIAN
AND ALASKAN NATIVE
EDUCATION STATE PLAN**

Chief Sponsor: Kevin T. Van Tassell
House Sponsor: Jack R. Draxler

LONG TITLE

General Description:

This concurrent resolution supports the creation of an American Indian and Alaskan Native Education State Plan.

Highlighted Provisions:

This resolution:

- ▶ supports eliminating the achievement gap for American Indian and Alaskan Native students;
- ▶ outlines the need for a state plan;
- ▶ provides for the state plan; and
- ▶ provides for distribution of the resolution.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, American Indian and Alaskan Native students are an important asset to the state's public school system;

WHEREAS, American Indian and Alaskan Native students can meet the high expectations of any student within the state's public school system;

WHEREAS, American Indian and Alaskan Native students as a group are consistently scoring low on measures of educational achievement;

WHEREAS, an American Indian-Alaskan Native Education Commission was formed to develop a state plan to address this educational achievement gap; and

WHEREAS, the American Indian-Alaskan Native Education Commission developed a state plan subject to review by the Native American Legislative Liaison Committee and the final approval of the State Board of Education:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, expresses support for eliminating the achievement gap for American Indian and Alaskan Native students within the state's public school system.

BE IT FURTHER RESOLVED that the state eliminate the achievement gap through a state plan that consists of a pilot program implemented through statute and implementation of the resolution statements of this concurrent resolution.

BE IT FURTHER RESOLVED that the State Board of Education and local education agencies:

- (1) build administrative support within the public school system for high expectations of American Indian and Alaskan Native students;
- (2) work to strengthen tribal support for state initiatives to reach American Indian and Alaskan Native students, including the development and enhancement of curriculum that is historically and culturally accurate and sensitive and fosters the protection of heritage languages;
- (3) work cooperatively with tribal governments to address sharing of education information regarding American Indian and Alaskan Native students, subject to the confidentiality restrictions imposed under federal law;
- (4) increase parental, school personnel, and community support and participation for programs that foster educational achievement by American Indian and Alaskan Native students; and
- (5) build statewide collaborations to address, and create statewide awareness of, the needs of American Indian and Alaskan Native children, including understanding of social, cultural, and holistic educational needs and the role of tribal sovereignty.

BE IT FURTHER RESOLVED that a copy of this concurrent resolution be sent to the State Board of

Education, the executive and legislative leaders of the eight tribes within Utah, and the American Indian-Alaskan Native Public Education Liaison.

S.C.R. 4

Passed February 24, 2016
Approved March 1, 2016
Effective March 1, 2016

**CONCURRENT RESOLUTION - OLD
SPANISH TRAIL DESIGNATION**

Chief Sponsor: Ralph Okerlund
House Sponsor: Kay L. McIff

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor urges the National Park Service to include the Fish Lake Cutoff in the official designation of the Old Spanish Trail.

Highlighted Provisions:

This resolution:

- ▶ urges the National Park Service to include the 72-mile trail known as the Fish Lake Cutoff, which joins the main branch of the Old Spanish Trail at the confluence of the East Fork of the Sevier and the Sevier River near Junction, Utah, in the official designation of the Old Spanish Trail.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the Old Spanish Trail was an early western trade route between Santa Fe, New Mexico, and Los Angeles, California;

WHEREAS, the Old Spanish Trail was used by traders, trappers, emigrants, and possibly prospectors;

WHEREAS, there are several shortcuts and detours on the Old Spanish Trail, but none are better documented than the Fish Lake Cutoff in central Utah;

WHEREAS, the 72-mile long Fish Lake Cutoff, called the "Summer Branch," was defined by Captain John W. Gunnison in 1853;

WHEREAS, the Fish Lake Cutoff split from the main branch of the Old Spanish Trail two and a half miles south from Ivie Creek in Red Creek Canyon;

WHEREAS, the Fish Lake Cutoff rejoins the main branch of the Old Spanish Trail at the confluence of the East Fork of the Sevier and the Sevier River near Junction, Utah;

WHEREAS, the Fish Lake Cutoff shaved only 21 miles from the journey of trail travelers, but it led them to the lush grasses in Johnson Valley and Fish Lake, which teemed with fish that provided much needed protein;

WHEREAS, the Fish Lake Cutoff enters the Fish Lake Basin from the banks of Lake Creek on the north end of the lake;

WHEREAS, the trail passes within a hundred feet of the Moon Ridge fishing village;

WHEREAS, this site was recorded in the early 1990s by Lincoln Land Community College of Springfield, Illinois;

WHEREAS, in 1996, the site was excavated by a BYU archaeological field school, which discovered a fishing village intermittently used from roughly 300 A.D. into the Late Prehistoric period;

WHEREAS, historic trade goods were found in the upper levels of the site, including metal arrow points, a moccasin awl, tinklers, and glass beads from approximately 1840;

WHEREAS, recent surveys by the Fishlake National Forest along the Fish Lake Cutoff found conclusive proof that the trail was heavily used during the heyday of the Old Spanish Trail;

WHEREAS, the tree ring studies document the use of both the Fish Lake Cutoff and the Old Spanish Trail before 1829, suggesting that the Old Spanish Trail and Fish Lake Cutoff travelers were following a well-established system of trails established by Spanish merchants and perhaps prospectors 34 years before the previously estimated period of use;

WHEREAS, some of the trail travelers that used the Fish Lake Cutoff, or were nearby at the junction of the main branch, include Kit Carson, Lieutenant George Brewerton, Jedediah Smith, Orville Pratt, Benjamin Chouteau, Denis Julien, Lieutenant E. K. Beale, Lieutenant E.G. Beckwith, Colonel W.W. Loring, the Elk Mountain Mission, and Wakara;

WHEREAS, beginning in 2009 the Fishlake National Forest began an intensive archaeological survey of the multiple corridors of the Old Spanish Trail and the Fish Lake Cutoff;

WHEREAS, the archaeological survey has employed a variety of methods to unlock the keys to the story of Utah's sections of the Old Spanish Trail and the Fish Lake Cutoff, including pedestrian survey, satellite imagery, computer image enhancement programs, dendrochronology, protein residue analysis, historical research, herding strategies and stock movement, communications with professional peers, and the involvement of the general public;

WHEREAS, these efforts were awarded by the concurrence of the Utah State Historic Preservation Officer that the Utah sections of the Old Spanish Trail and the Fish Lake Cutoff were eligible for inclusion on the National Register of Historic Places;

WHEREAS, in 2013, the Utah sections of the Old Spanish Trail and the Fish Lake Cutoff were listed by the Keeper of the National Register of Historic Places, or "Keeper of the Register";

WHEREAS, due to the eligibility determination of both the Old Spanish Trail and the Fish Lake

Cutoff segments in the Fishlake National Forest, Utah is required by the National Historic Preservation Act of 1966, as amended, to protect and preserve Utah's section of the trails from internal and external impacting agents;

WHEREAS, a management plan is also being prepared to guide management practices and allow the public to enjoy these historical wonders; and

WHEREAS, inclusion of the Fish Lake Cutoff in the official designation of the Old Spanish Trail would be a fitting capstone to all of the efforts over many years to recognize the complete expanse of this trail:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, urges the National Park Service to include the 72-mile trail known as the Fish Lake Cutoff, which joins the main branch of the Old Spanish Trail at the confluence of the East Fork of the Sevier and the Sevier River near Junction, Utah, in the official designation of the Old Spanish Trail.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the National Park Service, the Lincoln Land Community College, the Brigham Young University Department of Anthropology, the Fishlake National Forest Offices, the Utah State Historic Preservation Officer, and the Keeper of the National Register of Historic Places.

S.C.R. 5

Passed March 7, 2016
Approved March 17, 2016
Effective March 17, 2016

CONCURRENT RESOLUTION IN SUPPORT OF LAW ENFORCEMENT OFFICERS

Chief Sponsor: Alvin B. Jackson
House Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor expresses support for law enforcement officers in the state of Utah and nationwide.

Highlighted Provisions:

This resolution:

- ▶ asks law enforcement officers in Utah to turn on their red and blue lights for up to one minute at 11:00 a.m. on the first day of every month of 2016, or perform other appropriate recognition, to honor all law enforcement officers lost this year; and
- ▶ expresses support for Utah law enforcement officers and law enforcement officers nationwide.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Utah recognizes all law enforcement agencies and officers for their tireless work to protect us and make our communities safer;

WHEREAS, our nation's law enforcement agencies wear their uniforms with honor, dedication, and integrity as they protect and serve their communities;

WHEREAS, these uniforms have made them targets to those who seek to kill or injure law enforcement officers simply because of their profession and commitment to duty, like Deputy Sergeant Cory Wride and Deputy Greg Sherwood who were shot on January 30, 2014, and Officer Douglas Barney who was shot on January 17, 2016;

WHEREAS, the national law enforcement family mourns the continuing loss of many officers that have fallen victim to these vicious attacks; and

WHEREAS, the citizens of Utah stand with the families of the fallen, the officers currently protecting our community, and the officers throughout the United States:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, asks every law enforcement officer in Utah who stands behind the thin blue line to turn on the officer's red and blue lights for up to one minute at 11:00 a.m. on the first day of every month of 2016, or perform other appropriate recognition, to honor all of our law enforcement officers lost this year as they protected the communities they were sworn to uphold.

BE IT FURTHER RESOLVED that the Legislature and the Governor stand together with Utah law enforcement officers and officers nationwide: together we are united, "Fortes in Unitate -- Strength in Unity."

S.C.R. 6

Passed February 25, 2016
Approved March 4, 2016
Effective March 4, 2016

CONCURRENT RESOLUTION RECOGNIZING THE 20TH ANNIVERSARY OF THE UTAH EDUCATIONAL SAVINGS PLAN

Chief Sponsor: Evan J. Vickers
House Sponsor: Jon E. Stanard

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor expresses support for the Utah Educational Savings Plan, which is celebrating its 20th anniversary in 2016.

Highlighted Provisions:

This resolution:

- ▶ recognizes the importance of saving for college and the role the Utah Educational Savings Plan

has played in helping people in Utah and around the country save for their children, grandchildren, other family members, and friends to go to college; and

- ▶ urges support for college savings and the Utah Educational Savings Plan.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, a highly educated and well-trained workforce provided through post-secondary education is key to the economic vitality of the state of Utah and the success of individuals within the state;

WHEREAS, according to the Utah Economic Council, a college graduate with a bachelor's degree earns, on average, nearly \$17,000 more per year than a high school graduate without a college degree;

WHEREAS, the cost of college tuition and other post-secondary education is increasing at a higher rate than that of inflation, and students and their parents are expected to shoulder an increasing share of the cost of public higher education;

WHEREAS, the Legislature and the Governor established the Utah Educational Savings Plan in 1996 as a federally recognized "529" plan to encourage saving for college and other post-secondary education;

WHEREAS, the Utah Educational Savings Plan is a nonprofit, self-supporting agency established by the state of Utah to administer a public trust;

WHEREAS, the Utah Educational Savings Plan is the only "529" plan sponsored by the state of Utah;

WHEREAS, earnings on contributions to an account with the Utah Educational Savings Plan are exempt from Utah and federal income taxes if used for qualified higher education expenses;

WHEREAS, Utah taxpayers who own accounts may also claim Utah state income tax credits or deductions for eligible contributions made to their accounts;

WHEREAS, the Utah Educational Savings Plan now has more than 300,000 accounts, with a total balance in excess of \$8 billion;

WHEREAS, the Utah Educational Savings Plan is consistently rated as one of the top college savings plans in the nation, and has attracted investments from people throughout the nation; and

WHEREAS, regular and early savings for college by parents, grandparents, other family members, and friends will provide tomorrow's students with access to the education they will need without undue reliance on government loans or financial aid:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor

concurring therein, recognizes and congratulates the Utah Educational Savings Plan on its 20th anniversary and its role in helping families in Utah and throughout the nation save for their children, grandchildren, and other family members to attend college.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage all citizens to plan early to provide the necessary savings to ensure educational opportunities for all Utah children, including taking advantage of the benefits for college savings offered by the Utah Educational Savings Plan.

S.C.R. 7

Passed February 2, 2016

Approved February 12, 2016

Effective February 12, 2016

**CONCURRENT RESOLUTION
HONORING THOSE WHO HAVE
ASSISTED KOREAN WAR VETERANS**

Chief Sponsor: Jani Iwamoto

House Sponsor: Carol Spackman Moss

Cosponsors: J. Stuart Adams

Curtis S. Bramble

Allen M. Christensen

Jim Dabakis

Gene Davis

Margaret Dayton

Luz Escamilla

Lincoln Fillmore

Wayne A. Harper

Deidre M. Henderson

Lyle W. Hillyard

David P. Hinkins

Alvin B. Jackson

Scott K. Jenkins

Peter C. Knudson

Mark B. Madsen

Karen Mayne

Ann Millner

Wayne L. Niederhauser

Ralph Okerlund

Brian E. Shiozawa

Howard A. Stephenson

Jerry W. Stevenson

Daniel W. Thatcher

Stephen H. Urquhart

Kevin T. Van Tassell

Evan J. Vickers

Todd Weiler

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor honors efforts to help Utah Korean War veterans receive the "Ambassador for Peace Medal."

Highlighted Provisions:

This resolution:

- ▶ honors the efforts of retired Marine Corps sergeants John Cole and Jay Wells to help Utah Korean War veterans receive the "Ambassador for Peace Medal"; and

► expresses gratitude to Utah Korean War veterans for their service and sacrifice.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the Korean War is often called "The Forgotten War" or "The Unknown War";

WHEREAS, properly remembering veterans who fought in a conflict often described as "forgotten" is an essential expression of true gratitude;

WHEREAS, efforts are underway to see that all Utah combat veterans of the Korean War are located and recognized for their sacrifice;

WHEREAS, these efforts began in 2012 when John Cole, a retired sergeant in the United States Marine Corps and veteran of both World War II and the Korean War, addressed questions about his service from a young South Korean journalist while attending an event in Washington, D.C., commemorating the 60th anniversary of the end of the Korean War;

WHEREAS, other reporters and photographers, who spoke little or no English, listened carefully as Cole shared his story as the first journalist acted as interpreter;

WHEREAS, through these exchanges, Cole came to realize the South Korean people are deeply grateful for those who helped save their nation;

WHEREAS, Cole related that South Koreans do not see the Korean War as "The Forgotten War" but as the "Remembered War" because they still have a nation;

WHEREAS, when Cole returned home, he felt compelled to do more to highlight the service of Utah's Korean War veterans;

WHEREAS, Cole worked with Jay Wells, also a retired sergeant in the United States Marine Corps and veteran of the Vietnam War, to brainstorm what to do next;

WHEREAS, within a few short weeks, the two men forged connections to those in the business community that do work for the South Korean government, officials at the Consulate General of the Republic of Korea in San Francisco, and even those that talk directly to the President of the Republic of South Korea;

WHEREAS, arrangements were made for Utah combat veterans of the Korean War to receive the "Ambassador for Peace Medal" from the Republic of Korea;

WHEREAS, the costs for the medals are paid for entirely by the South Korean government;

WHEREAS, to receive the medal, a veteran must be from Utah and have served in combat during the Korean War between June 25, 1950, and July 27, 1953;

WHEREAS, the Utah Department of Veterans' and Military Affairs assisted with the first medal ceremony, held in the Utah Capitol Rotunda in September 2014, and have continued to assist with seven subsequent ceremonies;

WHEREAS, members of the Republic of Korea's government, including Han Dong-Man, consul general of the Republic of Korea, have been present at each ceremony to recognize the assembled veterans and their families;

WHEREAS, Dong-Man has stated, "Without the heroism, valor and sacrifice of these Korean War veterans, our country would not have the peace, prosperity and economic growth that we enjoy today";

WHEREAS, since 2013, Cole's and Wells's efforts have enabled about 1,000 Utahns to receive the Republic of South Korea's "Ambassador for Peace Medal";

WHEREAS, approximately 17,000 Utahns served in the Korean War;

WHEREAS, at each ceremony, Cole and Wells learn of more Utah Korean War veterans, and they know there are many more Utah combat veterans of the Korean War yet to be honored; and

WHEREAS, Cole has said, "Some people have told us it's a project we'll never finish, but what are we supposed to do? It's a lot of work, tracking all these names down, but we want to get everyone we possibly can";

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, honors the efforts of retired Marine Corps sergeants John Cole and Jay Wells who have helped Korean War veterans receive the "Ambassador for Peace Medal."

BE IT FURTHER RESOLVED that the Legislature and the Governor express gratitude to every Utah combat veteran of the Korean War for their service and sacrifice.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah Department of Veterans' and Military Affairs, the Consulate General of the Republic of Korea in San Francisco, the President of the Republic of Korea, John Cole, and Jay Wells.

S.C.R. 8

Passed February 29, 2016

Approved March 10, 2016

Effective March 10, 2016

**CONCURRENT RESOLUTION
APPROVING THE TEST AND
TRAINING RANGE LAND EXCHANGE**

Chief Sponsor: Jerry W. Stevenson

House Sponsor: Douglas V. Sagers

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor approves the land exchange proposed

by S.2383 - Utah Test and Training Range Encroachment Prevention and Temporary Closure Act.

Highlighted Provisions:

This resolution:

- ▶ approves the proposed exchange of school and institutional trust lands and mineral interests in Box Elder, Tooele, Juab, and Washington counties for United States government lands in Box Elder, Tooele, Juab, Millard, and Beaver counties; and
- ▶ recognizes that the land received by the state in the exchange would provide greater economic development potential, and be better managed and administered for the benefit of the state's trust land beneficiaries and economy.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, introduced federal legislation, S.2383 - Utah Test and Training Range Encroachment Prevention and Temporary Closure Act, proposes to withdraw certain Bureau of Land Management land in the state of Utah from public appropriation in order to facilitate enhanced weapons testing and pilot training in connection with the Utah Test and Training Range, and also provide for the exchange of certain federal lands and state school trust lands managed by the School and Institutional Trust Lands Administration (SITLA);

WHEREAS, the Legislature received the proposal for the land exchange;

WHEREAS, Subsection 63L-2-101(2) of the Utah Code requires legislative approval before a state agency may legally bind the state by executing an agreement to sell or transfer to the United States government 10,000 or more acres of any state lands or school and institutional trust lands;

WHEREAS, the proposed withdrawal area, together with the existing Dugway Proving Ground, includes approximately 68,057 acres of state school trust lands, together with 10,280 acres of state school trust severed mineral interests;

WHEREAS, the adjacent Cedar Mountains Wilderness contains an additional 2,353 acres of state school trust lands and 3,560 acres of state school trust severed mineral interests;

WHEREAS, S.2383, if enacted, will authorize SITLA to exchange the state school trust lands and severed mineral interests described above for approximately 99,000 acres of federal lands and mineral interests;

WHEREAS, S.2383 also provides for SITLA to convey to the Bureau of Land Management certain conservation lands in Washington County, if necessary, to ensure that the values of federal and state lands committed to the exchange are equal; and

WHEREAS, the land exchange authorized by S.2383 would exchange school trust lands that are currently scattered in small parcels for lands with greater economic development potential that could be more efficiently managed and administered for the benefit of the state's trust lands beneficiaries and economy as a whole:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, approves the land exchange between the state of Utah and the United States government, as proposed by S.2383.

S.C.R. 9

Passed March 10, 2016

Approved March 29, 2016

Effective March 29, 2016

**CONCURRENT RESOLUTION
ON THE PUBLIC HEALTH CRISIS**

Chief Sponsor: Todd Weiler

House Sponsor: Curtis Oda

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor recognizes that pornography is a public health hazard leading to a broad spectrum of individual and public health impacts and societal harms.

Highlighted Provisions:

This resolution:

- ▶ recognizes that pornography is a public health hazard leading to a broad spectrum of individual and public health impacts and societal harms; and
- ▶ recognizes the need for education, prevention, research, and policy change at the community and societal level in order to address the pornography epidemic that is harming the citizens of Utah and the nation.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, pornography is creating a public health crisis;

WHEREAS, pornography perpetuates a sexually toxic environment;

WHEREAS, efforts to prevent pornography exposure and addiction, to educate individuals and families concerning its harms, and to develop recovery programs must be addressed systemically in ways that hold broader influences accountable;

WHEREAS, pornography is contributing to the hypersexualization of teens, and even prepubescent children, in our society;

WHEREAS, due to advances in technology and the universal availability of the Internet, young children are exposed to what used to be referred to

as hard core, but is now considered mainstream, pornography at an alarming rate;

WHEREAS, the average age of exposure to pornography is now 11 to 12 years of age;

WHEREAS, this early exposure is leading to low self-esteem and body image disorders, an increase in problematic sexual activity at younger ages, and an increased desire among adolescents to engage in risky sexual behavior;

WHEREAS, exposure to pornography often serves as childrens' and youths' sex education and shapes their sexual templates;

WHEREAS, because pornography treats women as objects and commodities for the viewer's use, it teaches girls they are to be used and teaches boys to be users;

WHEREAS, pornography normalizes violence and abuse of women and children;

WHEREAS, pornography treats women and children as objects and often depicts rape and abuse as if they are harmless;

WHEREAS, pornography equates violence towards women and children with sex and pain with pleasure, which increases the demand for sex trafficking, prostitution, child sexual abuse images, and child pornography;

WHEREAS, potential detrimental effects on pornography's users can impact brain development and functioning, contribute to emotional and medical illnesses, shape deviant sexual arousal, and lead to difficulty in forming or maintaining intimate relationships, as well as problematic or harmful sexual behaviors and addiction;

WHEREAS, recent research indicates that pornography is potentially biologically addictive, which means the user requires more novelty, often in the form of more shocking material, in order to be satisfied;

WHEREAS, this biological addiction leads to increasing themes of risky sexual behaviors, extreme degradation, violence, and child sexual abuse images and child pornography;

WHEREAS, pornography use is linked to lessening desire in young men to marry, dissatisfaction in marriage, and infidelity;

WHEREAS, this link demonstrates that pornography has a detrimental effect on the family unit; and

WHEREAS, overcoming pornography's harms is beyond the capability of the afflicted individual to address alone:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes that pornography is a public health hazard leading to a broad spectrum of individual and public health impacts and societal harms.

BE IT FURTHER RESOLVED that the Legislature and the Governor recognize the need for education, prevention, research, and policy change at the community and societal level in order to address the pornography epidemic that is harming the people of our state and nation.

S.C.R. 10

Passed February 29, 2016

Approved March 10, 2016

Effective March 10, 2016

**COMMUNICATIONS SPECTRUM
TRANSLATOR SYSTEM
CONCURRENT RESOLUTION**

Chief Sponsor: Ralph Okerlund

House Sponsor: Kay L. McIff

Cosponsors: J. Stuart Adams

David P. Hinkins

Kevin T. Van Tassel

Evan J. Vickers

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor urges the federal government to protect the communications spectrum that allows Utah's translator system to provide free television access across the state.

Highlighted Provisions:

This resolution:

- ▶ strongly urges the President of the United States and the Federal Communications Commission (FCC) to not remove channels 32 through 51 from the current existing FCC channels 14 through 51 Television Broadcast Authorization because of the significant negative impact that action would have on off-air television reception in urban areas and to off-air viewers nationwide, including rural viewers, who would be forced to either pay for subscription television or go without television service.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the word "translator," as selected by the Federal Communications Commission (FCC) in 1955, refers to the rebroadcast of a primary television station channel to a different output channel;

WHEREAS, through the years, many people have misunderstood this broadcasting term to mean translating a language;

WHEREAS, the purpose and function of a television translator is to provide citizens of rural communities with access to television reception equivalent to what is available for urban citizens;

WHEREAS, the rebroadcast of a primary television station channel to a different output channel was designated a "secondary service" to a full power television primary station only;

WHEREAS, through many commercial lobbying efforts, this “secondary service” status has been reduced to being secondary to almost any other communications service;

WHEREAS, the President of the United States has directed the Chair of the FCC to consider removing channels 32 through 51 from the current FCC channels 14 through 51 Television Broadcast Authorization;

WHEREAS, this action would devastate off-air television reception to urban areas and also cause disruption to off-air viewers nationwide;

WHEREAS, according to FCC records dated January 8, 2016, 3,604 television translator stations, 417 Class A Low Power Television (LPTV) stations, 1,822 LPTV stations, and 4 television booster stations are now on file;

WHEREAS, according to FCC records, over 3,600 television translator stations presently provide free over-the-air television to rural communities throughout the nation;

WHEREAS, if this channel repacking were to become a reality, many of these translator stations would no longer remain in operation, requiring viewers to subscribe to either cable or satellite programming;

WHEREAS, Utah has 778 television translator stations, and the state’s rural viewers would be forced to either pay for subscription television or have no television reception;

WHEREAS, after 40 years of analog broadcasting, the United States Congress mandated the broadcasting industry to make a conversion from analog to digital operation;

WHEREAS, supplying the general public with free over-the-air digital television broadcast signals has been encouraged by elected officials and the FCC;

WHEREAS, since the mandate, all television translator and LPTV licensees in the state of Utah have engaged in planning, acquiring necessary funding, providing necessary engineering with labor, construction, and travel, constructing new buildings, upgrading existing buildings with air-conditioning, utilizing crane services to erect new towers, and completing extensive FCC licensing to help consummate the digital television (DTV) transition;

WHEREAS, through cooperation of the state’s counties, the University of Utah, the state of Utah, and the FCC the DTV transition has been made successful;

WHEREAS, the state of Utah has supported the DTV transition through four Community Impact Board grants since 2005 in the amount of nearly \$9,000,000;

WHEREAS, the University of Utah supported the DTV transition with a federal grant of approximately \$2,000,000;

WHEREAS, the National Telecommunications and Information Administration, a division of the federal government, offered all television translator and LPTV licensees a reimbursement program for the digital to analog conversion;

WHEREAS, small rural cable companies are using digital television translator signals for their systems free of charge instead of paying for satellite feeds;

WHEREAS, repacking would cause eight Salt Lake City primary television stations to find new channels, causing significant consequences to both urban and rural communities in the state of Utah;

WHEREAS, it would be impossible to continue the “Utah Daisy Chain” rural digital television translator services if the proposed block of television channels were reclaimed by the FCC, and this action would have a negative local economic impact to the affected counties;

WHEREAS, in many rural areas of Utah and all across the nation, the spectrum above channel 51 sits vacant and unused;

WHEREAS, small rural areas are not economically attractive to large Internet business enterprises seeking more spectrum;

WHEREAS, the needs of urban areas are far different from the needs of small rural communities and are a classic example of “one size does not fit all”;

WHEREAS, broadcasters are required by the FCC to participate in the national Emergency Alert System and are also required to make regular tests to assure their systems are always ready to broadcast any local warnings, including flood conditions, high wind warnings, and bad road conditions, and these warnings are automatically retransmitted through television translator stations to alert rural viewers;

WHEREAS, closed captioning for the deaf is also a mandatory requirement of primary broadcast stations and automatically passes through television translators to rural viewers;

WHEREAS, if these viewers do not have access to any local free over-the-air broadcast signals, they proceed without local warnings or closed captioning for the deaf;

WHEREAS, counties in Utah are presently licensed with the FCC for 778 digital television translators, or 30%, of the nation’s digital television translator licenses;

WHEREAS, the FCC seeks to allow anyone to operate unlicensed signals on unused channels within the present television bands, while the FCC still requires television translator stations to be licensed in these same bands;

WHEREAS, these unlicensed devices will cause interference to existing digital television services nationwide, and many television translator viewers will possibly be vulnerable to unacceptable interference because they receive their home signals far beyond the FCC protected contours; and

WHEREAS, the federal government should ensure that rural communities in Utah and throughout the nation are not forced to either pay for subscription television service or go without television:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, strongly urges the President of the United States and the FCC to not remove channels 32 through 51 from the current existing FCC channels 14 through 51 Television Broadcast Authorization because of its negative impact on off-air television reception in urban areas and off-air viewers nationwide, including rural viewers, who would be forced to either pay for subscription television or go without television service.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of the United States, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, the Chair of the FCC and each commission member, the National Telecommunications and Information Administration, and the members of Utah's congressional delegation.

S.C.R. 11

Passed March 2, 2016
Approved March 17, 2016
Effective March 17, 2016

**CONCURRENT RESOLUTION URGING
THE RESCHEDULING OF MARIJUANA**

Chief Sponsor: Brian E. Shiozawa
House Sponsor: Brad M. Daw
Cosponsors: J. Stuart Adams
Curtis S. Bramble
Allen M. Christensen
Jim Dabakis
Gene Davis
Margaret Dayton
Luz Escamilla
Lincoln Fillmore
Wayne A. Harper
Deidre M. Henderson
Lyle W. Hillyard
David P. Hinkins
Jani Iwamoto
Alvin B. Jackson
Scott K. Jenkins
Peter C. Knudson
Mark B. Madsen
Karen Mayne
Ann Millner
Wayne L. Niederhauser
Ralph Okerlund
Howard A. Stephenson
Jerry W. Stevenson
Daniel W. Thatcher
Stephen H. Urquhart
Kevin T. Van Tassell
Evan J. Vickers
Todd Weiler

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor urges Congress to reclassify marijuana as a Schedule II drug and encourages researchers to investigate the benefits of medical marijuana.

Highlighted Provisions:

This resolution:

- ▶ notes that marijuana is currently classified as a Schedule I drug under the United States Controlled Substances Act;
- ▶ notes that the current classification of marijuana has led to a lack of research on the potential medical benefits of marijuana;
- ▶ urges Congress and the federal government to reclassify marijuana as a Schedule II drug;
- ▶ encourages researchers to investigate the benefits of medical marijuana; and
- ▶ encourages researchers to report their findings to the legislative interim committees of Business and Labor, Economic Development, and Health and Human Services, or other groups as appropriate or feasible.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, marijuana is currently classified as a Schedule I drug under the United States Controlled Substances Act, which is an inappropriate classification because it impedes legal research by industries and universities;

WHEREAS, while the use of medical marijuana is allowed in at least 23 states already for numerous medical indications, marijuana use remains illegal under federal law;

WHEREAS, the federal government has indicated that it will not prosecute patients who use medical marijuana in states where state law permits the use of medical marijuana, and there is a potential change in public policy in Utah regarding this issue;

WHEREAS, there is a significant lack of research on medical marijuana by industries, universities, and research institutions in the country, likely due in part to marijuana's classification as a Schedule I drug under federal law;

WHEREAS, conducting research on a Schedule I drug requires a license issued by the Drug Enforcement Agency;

WHEREAS, Utah law also classifies marijuana as a Schedule I drug;

WHEREAS, changing the classification of marijuana from Schedule I to Schedule II under state and federal law would result in the drug being more available for research, while still keeping marijuana safely regulated; and

WHEREAS, Utah has nationally respected research and healthcare facilities including the University of Utah, USTAR, University of Utah Medical School, Huntsman Cancer Institute, Veterans Affairs Medical Center, and others:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, urges Congress and the federal government to change the classification of marijuana from Schedule I to Schedule II.

BE IT FURTHER RESOLVED that the Legislature and Governor encourage research institutions such as the University of Utah, USTAR, University of Utah Medical School, Huntsman Cancer Institute, Veterans Affairs Medical Center, and others to collaborate on determining the feasibility of a formal study of the medical benefits of marijuana.

BE IT FURTHER RESOLVED that those who determine the feasibility of a formal study of the medical benefits of marijuana report their findings to the legislative interim committees of Business and Labor, Economic Development, and Health and Human Services, or other groups as appropriate or feasible.

S.C.R. 13

Passed February 26, 2016

Approved March 28, 2016

Effective March 28, 2016

**CONCURRENT RESOLUTION
HONORING RANDY HORIUCHI**

Chief Sponsor: Jani Iwamoto
House Sponsor: Gregory H. Hughes

Cosponsors: J. Stuart Adams

Curtis S. Bramble
Allen M. Christensen

Jim Dabakis

Gene Davis

Margaret Dayton

Luz Escamilla

Lincoln Fillmore

Wayne A. Harper

Deidre M. Henderson

Lyle W. Hillyard

David P. Hinkins

Alvin B. Jackson

Scott K. Jenkins

Peter C. Knudson

Mark B. Madsen

Karen Mayne

Ann Millner

Wayne L. Niederhauser

Ralph Okerlund

Brian E. Shiozawa

Howard A. Stephenson

Jerry W. Stevenson

Daniel W. Thatcher

Stephen H. Urquhart

Kevin T. Van Tassel

Evan J. Vickers

Todd Weiler

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor recognizes the life and service of Randy Horiuchi.

Highlighted Provisions:

This resolution:

- ▶ recognizes the life and service of Randy Horiuchi to the citizens of Utah.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Randy Horiuchi served as chairman of the Utah Democratic Party and spent 22 years on the Salt Lake County Council and former Salt Lake County Commission;

WHEREAS, Randy passed away on November 19, 2015;

WHEREAS, Randy was an institution in Salt Lake County government;

WHEREAS, Randy's well-known love for sports was only exceeded by his devotion to politics and the Democratic Party;

WHEREAS, Randy's long career in public service started with his election as student body president of Cottonwood High School;

WHEREAS, Randy was a state high school debate champion;

WHEREAS, Randy's foray into politics began when he was 16 years old when he and his brother Wayne walked door-to-door assisting in Raymond Uno's successful campaign for a judgeship;

WHEREAS, Randy almost won a seat on the Granite School Board before graduating from the University of Utah and becoming a teacher at Kearns High School;

WHEREAS, Randy worked for the Salt Lake Chamber, where he began lobbying and getting to know many more people on both sides of the political aisle;

WHEREAS, when he was not holding an office, Randy ran the election campaigns of some of the state's most notable Democrats, including campaigns for Dan Berman, Kem Gardner, and Ted Wilson;

WHEREAS, in the mid-1980s Randy served as the Utah Democratic Party chairman and helped build a generation of Democratic leaders, including Blaze Wharton, Jenny Wilson, Frank Pignanelli, Jill Remington Love, Kelly Atkinson, and Sherrie Swensen;

WHEREAS, while serving as Utah Democratic Party chairman, Randy once attended a news conference wearing a hazmat suit;

WHEREAS, while this and other actions may sometimes have been gimmicks, they always had a purpose behind them and demonstrated Randy's skill in attracting attention to an important issue in a way that was dramatic and got to the heart of the issue;

WHEREAS, Randy's enthusiasm was contagious and helped him to develop an uncanny ability to gauge situations and bring people together to find solutions to problems;

WHEREAS, Randy was always willing to give a helping hand and was fiercely loyal to his friends;

WHEREAS, although an avid Democrat, Randy had as many friends who were Republican as were Democrat;

WHEREAS, Randy had a conscience about a lot of issues and was able to say things that needed to be said in a way that was not offensive to anyone because he said them with a sense of humor perfect for the occasion;

WHEREAS, Randy was recognized as a force of nature in Utah politics for decades, with unmatched instincts and savvy in political circles;

WHEREAS, Randy possessed a rare talent for taking on his opposition with force and skill, yet he rarely let political debate get personal;

WHEREAS, Randy's love and enthusiasm for politics was contagious and motivated countless young people to join and remain part of the Utah Democratic Party;

WHEREAS, Randy was known for his outgoing nature, but friends say he was successful because he could deal one-on-one with anyone and knew how to connect with people on a personal level, whether it was a homeless person on the street or a person in high political office;

WHEREAS, Randy was approachable, was famous for making the people he was talking to at the moment feel like they were "the best," and was so sincere that people really believed they were "the best";

WHEREAS, people loved Randy because when he visited with them, he made them feel as though their visit was all about them rather than about himself;

WHEREAS, although known for being happy, witty, and charming, Randy knew how to get down to business and serve as a catalyst to get important things done;

WHEREAS, Randy was quick to see a person's good qualities and always ready to make a new friend;

WHEREAS, while many people Randy mentored over the years had loftier ambitions than local government, Randy chose to serve in county government and once explained, "The privilege has been mine for working for a government that's so misunderstood. It's the Rodney Dangerfield of governments";

WHEREAS, Randy added that county government is close to people, some of whom rely on the help they receive from the county, whether through Meals on Wheels for seniors or mental health services;

WHEREAS, Randy said of county government that "It's where the action is. It's where people really care about other people";

WHEREAS, Randy was skilled in helping people forget their differences by getting them to laugh together;

WHEREAS, Randy was well known for such phrases as "nowhere in the history of the universe" and "I'm in, I'm in";

WHEREAS, in December 2014, friends, family, and politicians paid tribute to Randy at a luncheon as he prepared to leave public service;

WHEREAS, the event culminated with an announcement of the new Randy Horiuchi Political Fellowship at Westminster College, where Randy had taught as an adjunct professor;

WHEREAS, the fellowship will be awarded to two Westminster College interns, one each to assist the state Democratic and Republican parties during general election years;

WHEREAS, until shortly before his untimely death, Randy continued to introduce others to

government service and encourage countless others to run for office;

WHEREAS, Randy loved his family, the people with whom he served, his community, and the political process;

WHEREAS, Randy’s greatest legacy is his children -- Shane, Andrew, and Maddie, the most amazing, cute, and smart daughter “ever known to mankind,” and his lovable Bichon Frise, Lola;

WHEREAS, Randy championed the great state of Utah for more than 25 years, giving generously of his time, talents, and resources to enhance the lives of Utah residents, particularly in Salt Lake County; and

WHEREAS, Randy’s public service will forever be marked by his passion and unending optimism:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes the life and service of Randy Horiuchi to the citizens of the state of Utah.

BE IT FURTHER RESOLVED that a copy of this resolution be presented to Randy Horiuchi’s family.

S.C.R. 14

Passed March 10, 2016
Approved March 18, 2016
Effective March 18, 2016

**CONCURRENT RESOLUTION
DESIGNATING UTAH
BROADCASTERS AWARENESS WEEK**

Chief Sponsor: Ralph Okerlund
House Sponsor: Kay L. McIff

LONG TITLE

General Description:

This concurrent resolution designates the second week of January as “Utah Broadcasters Awareness Week.”

Highlighted Provisions:

This resolution:

- ▶ recognizes Utah broadcasters’ long history of local community involvement;
- ▶ acknowledges the significant economic benefits Utah broadcasters provide to Utah; and
- ▶ designates the second week of January as “Utah Broadcasters Awareness Week.”

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, there are more than 90 commercial radio stations and 20 television stations in Utah, plus many more educational and community stations;

WHEREAS, these stations all provide free over-the-air broadcasting at no cost to viewers and listeners;

WHEREAS, these broadcasts alert, inform, and entertain their audiences around the clock and throughout the year;

WHEREAS, the alerts include Emergency Alert System warnings of extreme weather, flooding, fires, Amber and missing persons alerts, traffic reports, natural disasters, and more;

WHEREAS, information comes through regularly scheduled news programs, ongoing discussions, and special bulletins;

WHEREAS, entertainment comes in music, sports, drama, comedy, and similar programs;

WHEREAS, Utah broadcasters throughout the state also continually promote and participate in local community events in both urban and rural areas;

WHEREAS, Utah broadcasters also participate with, support, and provide numerous charitable and non-profit organizations \$75 million a year in free air time or funds raised;

WHEREAS, Utah broadcasters provide 13,000 jobs in Utah and have a total economic impact of \$9.5 billion, including a direct impact on other industries and a stimulative effect on the economy;

WHEREAS, Utah broadcasters have a long history of local community involvement; and

WHEREAS, for 60 years the Utah Broadcasters Association has represented broadcasters throughout the state:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, in coordination with the Utah Broadcasters Association, designates the second week of January as “Utah Broadcasters Awareness Week.”

S.C.R. 15

Passed March 10, 2016
Approved March 18, 2016
Effective March 18, 2016

**CONCURRENT RESOLUTION URGING
CONGRESS TO ENACT THE DINÈ
COLLEGE ACT**

Chief Sponsor: David P. Hinkins
House Sponsor: Carol Spackman Moss

LONG TITLE

General Description:

This resolution urges Congress to enact the Dinè College Act of 2015.

Highlighted Provisions:

This resolution:

- ▶ highlights the benefits Dinè College provides to Utah citizens; and

- ▶ urges Congress to enact the Dinè College Act of 2015 introduced by Representative Ann Kirkpatrick.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, this state and the Navajo Nation maintain a government-to-government relationship, and the Navajo people residing in this state are citizens of both Utah and the Navajo Nation;

WHEREAS, in 1968, the Navajo Nation established Navajo Community College, which later became Dinè College, to provide the Navajo people access to higher education;

WHEREAS, Dinè College is the oldest and largest tribal college in the country and has six campus sites across the Navajo Nation;

WHEREAS, Dinè College has added five bachelor's degree programs and is moving toward offering graduate level courses;

WHEREAS, Dinè College helps many Navajo students transition from high school to university;

WHEREAS, Dinè College is working toward establishing dual credit agreements with Utah school districts;

WHEREAS, there are between 50 and 100 students from Utah enrolled at Dinè College;

WHEREAS, an estimated 100 to 150 Dinè College students continue their university education at one of Utah's institutions of higher education annually;

WHEREAS, the United States Congress passed the Navajo Community College Act of 2015, the Navajo Community College Assistance Act of 1978, and the Navajo Nation Higher Education Act of 2008, which collectively provide for maintenance, operation, and construction funding for Dinè College;

WHEREAS, Representative Ann Kirkpatrick introduced the Dinè College Act of 2015 "to fulfill the United States Government's trust responsibility to serve the higher education needs of the Navajo people and to clarify, unify, and modernize prior Dinè College legislation," and Dinè College has requested that Senator Jeff Flake introduce a United States Senate companion bill; and

WHEREAS, the passage of the Dinè College Act of 2015 would benefit Navajo citizens of Utah throughout the state:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, urges the Congress of the United States to enact the Dinè College Act of 2015.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of the United States, the Majority Leader of the United States

Senate, the Speaker of the United States House of Representatives, and the members of Utah's congressional delegation.

S.C.R. 16

Passed March 10, 2016

Approved March 18, 2016

Effective March 18, 2016

CONCURRENT RESOLUTION ON UTAH'S VISION FOR ENDURING CONTRIBUTION TO THE COMMON DEFENSE

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Robert M. Spendlove

LONG TITLE

General Description:

This resolution recognizes Utah's enduring contribution to the common defense.

Highlighted Provisions:

This resolution:

- ▶ recognizes Utah's legacy of an enduring contribution to the common defense;
- ▶ identifies challenges to the viability of common defense;
- ▶ identifies important foundational strengths unique to Utah; and
- ▶ commits to building innovative solutions to emerging security challenges.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Utah has a proud heritage of contribution to our state's and nation's defense -- our common defense -- which ensures citizens of Utah are free to live and excel in a safe, secure society;

WHEREAS, one of the fundamental purposes of government is to provide for the common defense;

WHEREAS, the emerging global security environment presents increasingly complex challenges to the viability of our common defense;

WHEREAS, many of these challenges stem from broader trends affecting our national security posture, including the complexity of modern warfare, waning national defense budgets, and aging defense infrastructure;

WHEREAS, these trends and their accompanying challenges present a tremendous opportunity for growth and innovation;

WHEREAS, future conflicts will be fought and won only through the full involvement of the "Total Force," which is recognized as the organizations, units, and individuals that comprise Department of Defense resources for implementing the National Security Strategy;

WHEREAS, the Total Force consists specifically of active duty, reserve, and National Guard military

personnel, Department of Defense civilian personnel, and contracted support;

WHEREAS, the foundation for the Total Force's contribution in Utah consists of other defense-related agencies; commercial, community, and academic partners; local and state government; and the civilian population;

WHEREAS, the Total Force, and notably the National Guard when under command and control of the Governor, play a prominent role in the common defense inasmuch as one of the National Guard's primary roles is to respond to state-level crises such as natural disasters and other emergencies as declared by the Governor;

WHEREAS, Utah possesses a wealth of resources that have been, and will continue to be, vital to our common defense;

WHEREAS, synergies are created when multiple components of the Total Force conduct basing and training using shared resources;

WHEREAS, the Utah Test and Training Range has been identified by Congress as a unique and irreplaceable national asset at the core of the test and training mission of the Department of Defense;

WHEREAS, the Department of Defense has long recognized both the Dugway Proving Ground and the Utah Test and Training Range as national assets required to support development and deployment of the United States warfighting capabilities;

WHEREAS, vast training areas and several major defense-related installations, such as Hill Air Force Base, Fort Douglas, the Tooele Army Depot, and Camp Williams, are positioned to stimulate economic growth while meeting current and future defense needs;

WHEREAS, bold leaders throughout Utah are committed to action and have a unique ability to muster and leverage the state's resources through strategic partnerships;

WHEREAS, Utah consistently ranks first in the nation in government operations and economic categories such as best performing state, best state for business and careers, pro-business state, technology concentration and economic dynamism, entrepreneurship and innovation, and job satisfaction;

WHEREAS, Utahns possess knowledge, skills, abilities, and work ethic that are invaluable in responding to emerging security challenges and threats;

WHEREAS, Utahns are committed to service and sacrifice for the greater good and for a better future for generations to come; and

WHEREAS, the many women and men of Utah who have served or currently serve in the military bring a wealth of experience and positive attributes that are a boon to our local economy and workforce:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor

concurring therein, commits to further advancing Utah's enduring contribution to the common defense by solving today's security challenges with innovative solutions in three broad categories:

- 1) new synergies through utilization of the Total Force;
- 2) cost savings and modernization through recapitalization of defense infrastructure; and
- 3) prosperity and strength through leveraging a world-class workforce.

BE IT FURTHER RESOLVED that the Legislature and the Governor commit to supporting worthy objectives and to boldly leading the effort to establish a new national and state standard in contributing to the common defense.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the United States Department of Defense, the United States Air Force, the National Guard Bureau, and the members of Utah's congressional delegation.

S.C.R. 17

Passed February 25, 2016
 Approved February 26, 2016
 Effective February 26, 2016

**CONCURRENT RESOLUTION
 RECOGNIZING UTAH'S TEN YEAR
 RELATIONSHIP WITH LIAONING, CHINA**

Chief Sponsor: Wayne L. Niederhauser
 House Sponsor: Gregory H. Hughes

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor recognizes the 10-year relationship between the state of Utah and Liaoning, China.

Highlighted Provisions:

This resolution:

- ▶ recognizes the 10-year relationship between the state of Utah and Liaoning, China;
- ▶ expresses the appreciation of the state of Utah to the people and leaders of Liaoning Province for their efforts to strengthen and maintain the bonds of goodwill between Liaoning Province and the state of Utah; and
- ▶ renews the relationship between the state of Utah and Liaoning, China, and expresses expectation for continued friendship and deepening partnership in tourism, trade, science, and education, as well as legislative and cultural exchange.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, in January 2006, the Liaoning Provincial Congress sent its first delegation to Utah;

WHEREAS, the delegation was jointly led by Director General Li Huizhen and Deputy Director

General Yang Shuhuai of the Foreign Affairs Committee of the Liaoning Provincial Congress;

WHEREAS, during the delegation's visit, the initial draft of an agreement on legislative exchanges and cooperation between the Legislature of the state of Utah and the Liaoning Provincial Congress was discussed and signed by the leaders of the delegation and the majority leaders of the Utah State Senate and the Utah House of Representatives;

WHEREAS, in February 2006, the official agreement was signed by Standing Vice Chairman Zhang Xilin of the Liaoning Provincial Congress, Utah State Senate President John Valentine, and Speaker of the Utah House of Representatives Greg Curtis;

WHEREAS, the signing of the official agreement opened a special channel between Utah and Liaoning, China;

WHEREAS, during the past 10 years, Utah and Liaoning, China, have jointly participated in many activities;

WHEREAS, in July 2007, a Utah legislative delegation of 25 members, led jointly by Senate Majority Leader Curtis Bramble and House Majority Leader David Clark, visited Liaoning;

WHEREAS, Liaoning also arranged a meeting with National Congress leaders in Beijing;

WHEREAS, as a result of the 2007 visit to Liaoning, Senator Howard Stephenson introduced S.B. 41, International Educational Initiative - Critical Languages Program, that established a pilot program for school districts and schools to initiate participation in the Dual Language Immersion Program, including the Chinese language;

WHEREAS, today, 20% of all United States grade schools with English-Chinese immersion programs are Utah schools;

WHEREAS, in September 2009, a legislative delegation, led by Director General Li Xiaoping of the Rules and the Laws Committee of the Liaoning Provincial Congress, followed by a large trade delegation led by Vice Chairman Wang Zhuan of the Liaoning Provincial Congress, visited Utah;

WHEREAS, in November 2009, Senator John Valentine and his wife visited Liaoning;

WHEREAS, in August 2010, a legislative delegation led by Standing Vice Chairman Yan Feng of the Liaoning Provincial Congress visited Utah;

WHEREAS, in November 2010, another business delegation, accompanied by Liaoning Provincial Congress representative Xu Wei, visited Utah;

WHEREAS, in early 2011, Utah business representatives visited Liaoning;

WHEREAS, in April 2011, Senator Curtis Bramble and his wife visited Liaoning and on a separate trip Brett Heimburger, Special

Representative of Utah Governor Gary Herbert, also visited Liaoning;

WHEREAS, in November 2011, a Liaoning government delegation led by Director General Wu Zhongqiong of the Liaoning Provincial Department of Science and Technology visited Utah;

WHEREAS, in September 2013, a Utah legislative delegation of 20 members, jointly led by Senate President Wayne Niederhauser and House Speaker Rebecca Lockhart, visited Liaoning and also met with national leaders in Beijing;

WHEREAS, in December 2013, a Liaoning legislative delegation led by Vice Chairman Liu Zhengkui of the Liaoning Provincial Congress visited Utah;

WHEREAS, with help from the state of Utah, the Liaoning legislative delegation also met with Utah Congressman Chris Stewart in Washington, D.C.;

WHEREAS, in June 2014, the Utah Legislature passed a special citation commemorating the 35th anniversary of the establishment of diplomatic relations between the United States and China and the 8th anniversary of the Utah-Liaoning legislative relationship;

WHEREAS, at the invitation of the state of Utah, the Chinese Embassy in Washington, D.C., sent officials to Utah to participate in the proceedings;

WHEREAS, in July 2015, with the help of the state of Utah, a Liaoning delegation led by Vice Chairman Li Wenke of the Liaoning Provincial Congress met with Utah Congressman Jason Chaffetz while visiting Washington, D.C.;

WHEREAS, in August 2015, a Utah legislative delegation of 11 members, jointly led by Senate President Wayne Niederhauser and House Speaker Greg Hughes, visited Liaoning and also met with national leaders in Beijing;

WHEREAS, in November 2015, President Pro Tempore of the Utah State Senate Curtis Bramble led a National Conference of State Legislatures delegation on a visit to Liaoning;

WHEREAS, in February 2016, the state of Utah and Liaoning Province will be jointly commemorating and celebrating the 10th anniversary of the establishment of the great relationship between Utah and Liaoning;

WHEREAS, a Liaoning Provincial Congress delegation, a Liaoning Provincial Government delegation, a Liaoning Provincial Economic and Trade delegation, and numerous city and county delegations throughout Liaoning Province, with Vice Chairman Tong Zhiwu of the Liaoning Provincial Congress as the head of the mission, will be visiting Utah;

WHEREAS, agreements will be signed between Utah and Liaoning in the areas of education, tourism, and economic cooperation and trade;

WHEREAS, the official legislative relationship between Utah and Liaoning is the only one of its kind between the United States and China;

WHEREAS, the establishment of the legislative relationship between Utah and Liaoning has opened a significant channel for people, businesses, and education organizations to conduct exchanges and cooperation; and

WHEREAS, the legislative relationship has benefitted businesses, schools, and the people of Utah and Liaoning:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes the 10-year relationship between the state of Utah and Liaoning, China.

BE IT FURTHER RESOLVED that the Legislature and the Governor express appreciation to the people and leaders of Liaoning, China, for their efforts to strengthen and maintain the bonds of goodwill between Liaoning and the state of Utah.

BE IT FURTHER RESOLVED that the Legislature and the Governor renew the relationship between the state of Utah and Liaoning, China, and express expectations for continued friendship and deepening partnership in tourism, trade, science, and education, as well as legislative and cultural exchange.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Liaoning Provincial Congress, John Valentine, Greg Curtis, David Clark, Brett Heimburger, Stan Lockhart, the National Conference of State Legislatures, the Utah Chamber of Commerce, World Trade Center Utah, the Governor's Office of Economic Development, the Utah State Board of Education, and the members of Utah's congressional delegation.

S.C.R. 19

Passed March 10, 2016
 Approved March 22, 2016
 Effective March 22, 2016

**CONCURRENT RESOLUTION
 ON EDUCATION**

Chief Sponsor: J. Stuart Adams
 House Sponsor: David E. Lifferth

LONG TITLE

General Description:

This resolution honors the limits of federal power related to education as set forth in the Tenth Amendment to the United States Constitution.

Highlighted Provisions:

This resolution:

- ▶ declares that parents should have decision making authority over primary and secondary education in the state;
- ▶ notes that the Tenth Amendment to the United States Constitution limits the authority of the federal government to those powers enumerated in the Constitution, which do not include education;

- ▶ urges the United States Congress to end all current and prohibit any further interference with state decisions regarding education by the United States Department of Education; and
- ▶ demands the prohibition of federal programs that incentivize states to adopt certain academic standards or that require states to pass specific education legislation in order to maintain federal funding.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the Utah Legislature finds that the first principle of education, and therefore of education policymaking, is that parents are the primary educators of their children and should have decision making authority over elementary and secondary education in the state of Utah to the greatest extent possible;

WHEREAS, the Utah Legislature trusts that educators in Utah are better equipped than politicians or bureaucrats in Washington, D.C., to determine academic content for their students and to ensure the success of each child enrolled in a Utah public school;

WHEREAS, the Tenth Amendment to the United States Constitution declares that "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people";

WHEREAS, the Tenth Amendment defines the scope of federal power as being that specifically granted by the United States Constitution and no more;

WHEREAS, the Tenth Amendment unequivocally sets forth that we, the people of the United States of America, and each state in the Union, now have, and have always had, powers that the federal government may not usurp;

WHEREAS, nowhere in the United States Constitution is the federal government delegated the power to regulate or fund elementary or secondary education;

WHEREAS, because education is not an enumerated power delegated to the federal government by the United States Constitution, it is reserved to the states or to the people;

WHEREAS, a federal role in education is a violation of the original intent of the United States Constitution and the Tenth Amendment; and

WHEREAS, the Utah Legislature, which is directly accountable to the citizens of Utah, is the appropriate body to empower parents and educators to determine academic content, free from any pressure, constraints, or directives from the United States Department of Education:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, urges the United States Congress to end all current and prohibit any further

interference by the United States Department of Education with state decisions regarding academic content, standards, or assessments and repeal and prohibit all compulsory federal legislation that interferes with the state of Utah’s constitutional authority over educational standards and materials through civil threat, sanctions, criminal penalty, or loss of federal funding distributed by allocations or grants.

BE IT FURTHER RESOLVED that the Legislature and the Governor demand the repeal and prohibition of federal programs that incentivize states to adopt certain academic standards or that require states to pass specific education legislation in order to maintain, apply for, or receive federal funding and assert that it is the duty of the Legislature to exercise its constitutional authority to resist and overturn any interference relating to Utah’s academic standards, assessments, and educational materials by the United States Department of Education or the United States Congress.

BE IT FURTHER RESOLVED that copies of this resolution be sent to the President of the United States, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, and the members of Utah’s congressional delegation.

S.J.R. 2

Passed March 2, 2016

Effective March 2, 2016

JOINT RESOLUTION CALLING FOR THE REPEAL OF THE 17TH AMENDMENT

Chief Sponsor: Alvin B. Jackson

House Sponsor: Ken Ivory

LONG TITLE

General Description:

This joint resolution of the Legislature requests that the United States Congress propose an amendment to the United States Constitution to repeal the Seventeenth Amendment to the United States Constitution.

Highlighted Provisions:

This resolution:

- ▶ urges Utah’s congressional delegation and all the members of the United States Congress to propose an amendment to the United States Constitution to repeal the Seventeenth Amendment; and
- ▶ provides language for the proposed amendment.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, before the passage of the Seventeenth Amendment to the United States Constitution, upon a vacancy in the office of a senator, the governor of a state was empowered under the United States Constitution Article I,

Section 3, Clause 2 to fill the vacancy with a temporary appointment until such time as the state legislature convened and selected a replacement;

WHEREAS, upon ratification of the Seventeenth Amendment to the United States Constitution in 1913, the power to elect senators from each state was passed to the people of each state;

WHEREAS, upon ratification of the Seventeenth Amendment to the United States Constitution in 1913, when a vacancy occurred in the office of a senator, the governor of the state was directed to issue a writ of election to fill the vacancy provided, although the state legislature could empower the governor to appoint a temporary successor until the next election;

WHEREAS, the founders of our republic and the framers of the constitution recognized that in a republican form of government, the legislative authority should necessarily be predominant;

WHEREAS, the founders intended that legislative authority be divided into two different branches composed by different modes of election, creating different principles of action, and be as little connected with each other as the nature of their common functions and their common dependencies on society would admit;

WHEREAS, James Madison explained the reason for bicameralism in Federalist Papers No. 10: “Before taking effect, legislation would have to be ratified by two independent power sources: the people’s representatives in the House and the state legislatures’ agents in the Senate”;

WHEREAS, James Madison argued in Federalist Papers No. 62 that, “The appointment of senators by state legislatures gives the state governments such an agency in the formation of the federal government as must secure the authority of the former”;

WHEREAS, Alexander Hamilton, in Federalist Papers No. 10, concluded that because the legislatures were selected bodies of men, the choice of United States senators would “generally be made with peculiar care and judgment by the legislatures”;

WHEREAS, the founders of the constitution created an ingenious template of checks and balances, with divisions and distributions of power to provide for and protect the highest sovereignty - that of each individual citizen;

WHEREAS, the Seventeenth Amendment to the United States Constitution disrupts that balance of power by providing for the selection of senators by popular vote in the same manner representatives are selected by popular vote; and

WHEREAS, popular election of senators has diluted the power of the separate states, diminished federalism, and resulted in the increased power of the federal government over the individual states:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah urges Utah’s congressional delegation and all the members of the United States Congress to propose an amendment

to the United States Constitution repealing the Seventeenth Amendment that reads as follows:

“Section 1. The seventeenth article of amendment to the Constitution of the United States is hereby repealed.

Section 2. The Senate of the United States shall be composed of two Senators from each State, selected by the legislature of each State. Each Senator shall serve a six-year term and may be reappointed. Each Senator shall have one vote in the Senate.

Section 3. Among the duties of each Senator is the primary duty to represent the government of his or her State, and in particular the State’s legislature, in the Senate. For the purpose of maintaining communications with its Senators, each State legislature shall establish a liaison committee and shall specify the duties, procedures, and method of appointment of that committee. A liaison committee shall work with its United States Senators in evaluating the impact of federal legislation on its state. All legislation proposed by Congress, and all treaties proposed, shall be submitted to each State’s liaison committee.

Section 4. The salary and benefits for a Senator shall be provided by the Senator’s State.

Section 5. Senators are subject to removal by the State legislature. Removal of a Senator requires a majority of each house of the State legislature, or in the case of a unicameral legislature, a simple majority.

Section 6. Congress is precluded from enacting any legislation affecting the senatorial selection process. Each State legislature shall enact rules and procedures, consistent with this amendment, related to the selection and removal of Senators.

Section 7. This amendment shall not be so construed as to affect the term of any Senator chosen before it becomes valid as part of the Constitution. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.”

BE IT FURTHER RESOLVED that copies of this resolution be sent to the President of the United States, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, and the members of Utah’s congressional delegation.

S.J.R. 3

Passed March 10, 2016

Effective date (if approved by voters)

January 1, 2017

**PROPOSAL TO AMEND
UTAH CONSTITUTION-
PROPERTY TAX EXEMPTIONS**

Chief Sponsor: Wayne A. Harper
House Sponsor: Ken Ivory

LONG TITLE

General Description:

This joint resolution of the Legislature proposes to amend the Utah Constitution to modify a provision relating to property tax exemptions.

Highlighted Provisions:

This resolution proposes to amend the Utah Constitution to:

- ▶ allow property leased by the state or by a political subdivision of the state to be exempt from property tax, as provided by statute.

Special Clauses:

This resolution directs the lieutenant governor to submit this proposal to voters.

This resolution provides a contingent effective date of January 1, 2017, for this proposal.

Utah Constitution Sections Affected:

AMENDS:

ARTICLE XIII, SECTION 3

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

Section 1. It is proposed to amend Utah Constitution, Article XIII, Section 3, to read:

Article XIII, Section 3. [Property tax exemptions.]

(1) The following are exempt from property tax:

- (a) property owned by the State;
- (b) property owned by a public library;
- (c) property owned by a school district;
- (d) property owned by a political subdivision of the State, other than a school district, and located within the political subdivision;
- (e) property owned by a political subdivision of the State, other than a school district, and located outside the political subdivision unless the Legislature by statute authorizes the property tax on that property;
- (f) property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes;
- (g) places of burial not held or used for private or corporate benefit;
- (h) farm equipment and farm machinery as defined by statute;
- (i) water rights, reservoirs, pumping plants, ditches, canals, pipes, flumes, power plants, and transmission lines to the extent owned and used by an individual or corporation to irrigate land that is:
 - (i) within the State; and

(ii) owned by the individual or corporation, or by an individual member of the corporation; and

(j) (i) if owned by a nonprofit entity and used within the State to irrigate land, provide domestic water, as defined by statute, or provide water to a public water supplier;

(A) water rights; and

(B) reservoirs, pumping plants, ditches, canals, pipes, flumes, and, as defined by statute, other water infrastructure;

(ii) land occupied by a reservoir, ditch, canal, or pipe that is exempt under Subsection (1)(j)(i)(B) if the land is owned by the nonprofit entity that owns the reservoir, ditch, canal, or pipe; and

(iii) land immediately adjacent to a reservoir, ditch, canal, or pipe that is exempt under Subsection (1)(j)(i)(B) if the land is:

(A) owned by the nonprofit entity that owns the adjacent reservoir, ditch, canal, or pipe; and

(B) reasonably necessary for the maintenance or for otherwise supporting the operation of the reservoir, ditch, canal, or pipe.

(2) (a) The Legislature may by statute exempt the following from property tax:

(i) tangible personal property constituting inventory present in the State on January 1 and held for sale in the ordinary course of business;

(ii) tangible personal property present in the State on January 1 and held for sale or processing and shipped to a final destination outside the State within 12 months;

(iii) subject to Subsection (2)(b), property to the extent used to generate and deliver electrical power for pumping water to irrigate lands in the State;

(iv) up to 45% of the fair market value of residential property, as defined by statute;

(v) household furnishings, furniture, and equipment used exclusively by the owner of that property in maintaining the owner's home; and

(vi) tangible personal property that, if subject to property tax, would generate an inconsequential amount of revenue.

(b) The exemption under Subsection (2)(a)(iii) shall accrue to the benefit of the users of pumped water as provided by statute.

(3) The following may be exempted from property tax as provided by statute:

(a) property owned by a disabled person who, during military training or a military conflict, was disabled in the line of duty in the military service of the United States or the State;

(b) property owned by the unmarried surviving spouse or the minor orphan of a person who:

(i) is described in Subsection (3)(a); or

(ii) during military training or a military conflict, was killed in action or died in the line of duty in the military service of the United States or the State; ~~and~~

(c) real property owned by a person in the military or the person's spouse, or both, and used as the person's primary residence, if the person serves under an order to federal active duty out of state for

at least 200 days in a calendar year or 200 consecutive days~~[-]; and~~

(d) tangible personal property leased by the State or by a political subdivision of the State.

(4) The Legislature may by statute provide for the remission or abatement of the taxes of the poor.

Section 2. Submittal to voters.

The lieutenant governor is directed to submit this proposed amendment to the voters of the state at the next regular general election in the manner provided by law.

Section 3. Effective date.

If the amendment proposed by this joint resolution is approved by a majority of those voting on it at the next regular general election, the amendment shall take effect on January 1, 2017.

S.J.R. 5

Passed February 3, 2016

Effective February 3, 2016

(Retrospective operation to January 4, 2016)

JOINT RESOLUTION AUTHORIZING PAY OF IN-SESSION EMPLOYEES

Chief Sponsor: Ralph Okerlund
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This joint resolution of the Legislature sets the compensation for legislative in-session employees for 2016.

Highlighted Provisions:

This resolution:

- ▶ sets the compensation for legislative in-session employees for the 2016 Legislative Session by providing a three percent increase from the 2015 Legislative Session, which is equivalent to the state-wide cost-of-living increase authorized for other state employees.

Special Clauses:

This resolution provides retrospective operation to January 4, 2016.

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the Legislature acting under authority of Section 36-2-2, Utah Code Annotated 1953, is required to set the compensation of its in-session employees by joint resolution:

NOW, THEREFORE, BE IT RESOLVED by the Legislature of the state of Utah that the compensation of the legislative in-session employees for actual hours worked be set as follows:

Employees shall be paid the hourly rate as specified in this resolution.

Employees who are working their first annual general session shall be paid under the "Level 1" scale.

Employees who are working their second annual general session shall be paid under the "Level 2" scale.

Employees who are working their third annual general session shall be paid under the "Level 3" scale.

Employees who are working their fourth annual general session shall be paid under the "Level 4" scale.

Employees who are working their fifth to ninth annual general session shall be paid under the "Level 5" scale.

Employees who are working their 10th to 14th annual general session shall be paid under the "Level 6" scale.

Employees who are working their 15th to 19th annual general session shall be paid under the "Level 7" scale.

Employees who are working their 20th or more annual general session shall be paid under the "Level 8" scale.

Senate employees are designated with an "S". House of Representatives employees are designated with an "H".

General Session - 2013

Employee Position	Level 1 Wage	Level 2 Wage	Level 3 Wage	Level 4 Wage	Level 5 Wage	Level 6 Wage	Level 7 Wage	Level 8 Wage
Admin. Asst. to Third House (H)	\$11.74	\$12.04	\$12.32	\$12.57	\$12.65	\$13.30	\$13.63	\$13.97
Amending Clerk/ Committee Secretary (H-S)	\$13.01	\$13.39	\$13.69	\$14.00	\$14.34	\$14.67	\$15.01	\$15.38
Assistant Page Supervisor (H-S)	\$11.46	\$11.74	\$12.04	\$12.35	\$12.65	\$12.96	\$13.30	\$13.63
Asst. Sergeant-at-Arms (H-S)	\$11.46	\$11.74	\$12.04	\$12.35	\$12.65	\$12.96	\$13.30	\$13.63
Calendar/Voting System Specialist (H)	\$11.72	\$12.04	\$12.35	\$12.65	\$12.96	\$12.98	\$13.63	\$13.97
Committee Secretary (H-S)	\$12.78	\$13.08	\$13.39	\$13.67	\$14.00	\$14.34	\$14.67	\$15.01
Docket Clerk (H)	\$12.98	\$13.63	\$13.97	\$14.34	\$14.70	\$15.07	\$15.47	\$15.85
Docket Clerk/Legislative Aide (S)	\$14.39	\$14.76	\$15.15	\$15.54	\$15.94	\$16.37	\$16.80	\$17.24
Reading Clerk (S)	\$10.64	\$10.90	\$11.19	\$11.46	\$11.74	\$12.04	\$12.35	\$12.65
Kitchen Hostess (H-S)	\$10.64	\$10.90	\$11.19	\$11.46	\$11.74	\$12.04	\$12.35	\$12.65
IT Technician (S)	\$12.98	\$13.63	\$13.97	\$14.34	\$14.70	\$15.07	\$15.47	\$15.85
Page (H-S)	\$10.64	\$10.90	\$11.19	\$11.46	\$11.74	\$12.04	\$12.35	\$12.65
Page Supervisor (H-S)	\$12.98	\$13.63	\$13.97	\$14.34	\$14.70	\$15.07	\$15.47	\$15.85
Public Information Specialist (H-S)	\$10.64	\$10.90	\$11.19	\$11.46	\$11.74	\$12.04	\$12.35	\$12.65
Receptionist (H-S)	\$10.64	\$10.90	\$11.19	\$11.46	\$11.74	\$12.04	\$12.35	\$12.65
Receptionist and Legislative Aide (S)	\$11.74	\$12.04	\$12.35	\$12.65	\$12.96	\$13.30	\$13.63	\$13.97
Audio Specialist (H-S)	\$11.16	\$11.46	\$11.74	\$12.04	\$12.35	\$12.65	\$12.96	\$13.30
Secretarial Supervisor (H-S)	\$14.34	\$14.67	\$15.01	\$15.38	\$15.74	\$16.11	\$16.51	\$16.90
Assistant Secretarial Supervisor (H-S)	\$13.34	\$13.67	\$14.01	\$14.38	\$14.74	\$15.11	\$15.51	\$15.90
Security (H-S)	\$10.64	\$10.90	\$11.19	\$11.46	\$11.74	\$12.04	\$12.35	\$12.65
Sergeant-at-Arms (H-S)	\$12.98	\$13.63	\$13.97	\$14.34	\$14.70	\$15.07	\$15.47	\$15.85
Supply/Copy Room Specialist(H)	\$10.64	\$10.90	\$11.19	\$11.46	\$11.74	\$12.04	\$12.35	\$12.65
Tour Liaison (H-S)	\$10.64	\$10.90	\$11.19	\$11.46	\$11.74	\$12.04	\$12.35	\$12.65
Video Specialist (H-S)	\$10.64	\$10.90	\$11.19	\$11.46	\$11.74	\$12.04	\$12.35	\$12.65

The compensation schedule established by this resolution has retrospective operation to January 4, 2016.

S.J.R. 6

Passed March 2, 2016
Effective March 2, 2016

**JOINT RESOLUTION RECOGNIZING
THE 100TH ANNIVERSARY OF
THE JROTC PROGRAM**

Chief Sponsor: Margaret Dayton
House Sponsor: Keith Grover

LONG TITLE

General Description:

This joint resolution recognizes the 100th anniversary of the Junior Reserve Officer Training Corps (JROTC) program.

Highlighted Provisions:

This resolution:

- ▶ recognizes the 100th anniversary of the JROTC program;
- ▶ supports the service projects that will be conducted the week of April 18, 2016, to commemorate 100 years of JROTC service; and
- ▶ recognizes the benefits the JROTC provides for its cadets, local schools, and communities.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the Junior Reserve Officer Training Corps (JROTC) was formally established by the 1916 National Defense Act;

WHEREAS, the JROTC's mission is to develop citizens of character who are dedicated to serving their nation and community;

WHEREAS, the JROTC's objectives are to:

- educate and train high school cadets in citizenship;
- promote community service; and
- instill responsibility, character, and self-discipline;

WHEREAS, benefits of the JROTC program include:

- students' increased confidence, self-discipline, sense of belonging, and leadership skills;
- the ability for a JROTC cadet to enlist at a higher rank should they pursue a military career; and
- partnerships with local schools to increase community presence and engagement; and

WHEREAS, all JROTC units in all branches of military service worldwide will select a service project to be conducted the week of April 18, 2016, to commemorate 100 years of JROTC service:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah recognizes the 100th anniversary of the JROTC program.

BE IT FURTHER RESOLVED that the Legislature supports the service projects to be

conducted the week of April 18, 2016, to commemorate 100 years of JROTC service.

S.J.R. 7

Passed February 25, 2016
Effective February 25, 2016

**JOINT RULES RESOLUTION
ON COMMITTEE BILLS**

Chief Sponsor: Gene Davis
House Sponsor: Michael E. Noel

LONG TITLE

General Description:

This joint rules resolution modifies Interim Committee Rules to address an interim committee's actions regarding bills.

Highlighted Provisions:

This resolution:

- ▶ requires that a bill be drafted before an interim committee may vote to favorably recommend the bill to the Legislature; and
- ▶ addresses amendments to drafted legislation being considered by an interim committee.

Special Clauses:

None

Legislative Rules Affected:

ENACTS:
IR2-1-102

Be it resolved by the Legislature of the state of Utah:

Section 1. IR2-1-102 is enacted to read:

IR2-1-102. Favorable recommendation of legislation to the Legislature.

(1) An interim committee may not favorably recommend legislation to the Legislature that is not drafted when presented to the interim committee for the vote of the interim committee on recommending the legislation to the Legislature.

(2) Notwithstanding Subsection (1), an interim committee may orally or in writing amend draft legislation that is presented to the interim committee with sufficient specificity that the interim committee knows how the legislation will read once the amendment is made before taking a final vote to recommend the legislation to the Legislature.

S.J.R. 8

Passed February 25, 2016
Effective February 25, 2016

**JOINT RULES RESOLUTION
ON PERFORMANCE NOTES**

Chief Sponsor: Lyle W. Hillyard
House Sponsor: Dean Sanpei

LONG TITLE

General Description:

This joint resolution amends joint legislative rules addressing performance notes.

Highlighted Provisions:

This resolution:

- ▶ provides for notice when a performance note is not needed for a piece of legislation;
- ▶ provides for notice when a performance note is required for a piece of legislation and what is to be included in the notice; and
- ▶ makes technical changes.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

JR4-2-404

Be it resolved by the Legislature of the state of Utah:

Section 1. JR4-2-404 is amended to read:

JR4-2-404. Performance review notes -- Review of performance measures.

(1) As used in this section:

(a) (i) "New agency" means:

(A) a state governmental entity that did not previously exist;

(B) a governmental entity that requires a new appropriation for new funding;

(C) a governmental entity that is modified by legislation to add significant services or benefits that were not previously offered by the governmental entity; or

(D) a governmental entity that is modified by legislation to substantially expand the scope of individuals or entities that are entitled to receive the services or benefits offered by the governmental entity.

(ii) "New agency" does not mean a governmental entity that has been renamed or moved to another organizational position within that branch of government unless the governmental entity meets the criteria in Subsection (1)(a)(i)(C) or (D).

(b) (i) "New program" means a program:

(A) created by statute that did not previously exist;

(B) that requires a new appropriation or an increased appropriation for the purpose of adding significant services or benefits that were not previously offered;

(C) that is modified by legislation to add significant services or benefits that were not previously offered by the program; or

(D) that is modified by legislation to substantially expand the scope of individuals or entities that are entitled to receive the services or benefits offered by the program.

(ii) "New program" does not mean a program that has been renamed or moved to another organizational position within that branch of

government unless the governmental entity meets the criteria in Subsection (1)(b)(i)(C) or (D).

(c) "Performance note" means the statement of performance measures and information that may be required to be printed with certain legislation according to the requirements of this rule.

(2) (a) When the legislative fiscal analyst receives the electronic copy of approved legislation from the Office of Legislative Research and General Counsel, the legislative fiscal analyst shall, within one business day, review and analyze the legislation to determine if it creates a new program or a new agency.

(b) If the legislative fiscal analyst determines that the legislation does not create a new agency or a new program, the legislative fiscal analyst shall print a performance note with the legislation that, notwithstanding Subsection (6), indicates only that the legislation does not create a new agency or a new program.

~~[(b)]~~ (c) If the legislative fiscal analyst determines that the legislation creates a new agency or a new program, the legislative fiscal analyst shall:

(i) notify the sponsor of the legislation that the legislation qualifies for a performance note;

(ii) notify the governmental entity that will supervise the new agency, or the governmental entity that will administer the new program, that the governmental entity must submit a performance note that meets the requirements of Subsection (6) to the legislative fiscal analyst within three business days; ~~and~~

(iii) prepare a notice ~~[that contains the information required by Subsection (2)(c) and print the notice with the legislation.]~~ disclosing:

~~[(c) The notice shall:]~~

~~[(i) disclose that a performance note is required, disclose the name of the governmental entity required to provide the performance note, and disclose the date on which the performance note is to be provided by the governmental entity; or]~~

~~[(ii) disclose that a performance note is not required because the legislation does not create a new program or new agency.]~~

(A) that a performance note is required;

(B) the name of the governmental entity required to provide the performance note; and

(C) the date on which the performance note is to be provided by the governmental entity; and

(iv) print the notice with the legislation.

(d) ~~[(d)]~~ The legislative fiscal analyst may extend the deadline for the governmental entity's submission of the performance note if:

~~[(A)]~~ (i) the governmental entity requests that the deadline be extended to a date certain in writing before the performance note is due; and

~~[(B)]~~ (ii) the sponsor of the legislation agrees to extend the deadline.

~~[(ii) If the deadline is extended, the legislative fiscal analyst shall indicate the extended deadline as part of the performance note that is ultimately printed with the legislation.]~~

(3) If the sponsor of the legislation disputes the legislative fiscal analyst's determination as to whether a performance note is required, the sponsor shall contact the legislative fiscal analyst to discuss that disagreement and provide evidence, data, or other information to support a different determination.

(4) (a) (i) When a governmental entity provides a performance note to the legislative fiscal analyst, the legislative fiscal analyst shall provide a copy of the performance note to the sponsor.

(ii) The sponsor of the legislation shall either approve the release of the performance note or reject the performance note.

(b) If the sponsor approves the performance note provided by the governmental entity, the legislative fiscal analyst shall print the performance note with the legislation.

(c) If the sponsor rejects the performance note provided by the governmental entity, the legislative fiscal analyst shall print the following with the legislation:

(i) the performance note provided by the governmental entity, with a notation that the sponsor rejected the submission; and

(ii) if the sponsor provides an alternative performance note to the legislative fiscal analyst within three business days of receiving the performance note, the alternative performance note, with a notation that the sponsor provided the alternative note due to the sponsor's rejection of the governmental entity's submission.

(5) If the governmental entity does not provide a performance note by the submission deadline, the legislative fiscal analyst shall print a performance note with the legislation that indicates only that the governmental entity did not submit performance measures by the submission deadline.

(6) A performance note shall contain the following information:

(a) the name of the governmental entity submitting the performance note, as applicable;

(b) the names and titles of the individuals who prepared the performance note; and

(c) a statement of performance measures that:

(i) explains the purpose and duties of the new program or agency;

(ii) lists the services that will be provided by the new program or agency;

(iii) lists the goals and proposed impacts that the new program or agency intends to achieve within one, two, and three years;

(iv) lists the resources and steps required to achieve the goals and proposed impacts;

(v) lists the benchmarks that the new program or agency will monitor to measure progress toward the goals and outcome;

(vi) lists the performance measures that will be used to evaluate progress toward the goals and proposed impacts; and

(vii) states how information on progress and performance measures will be gathered in a reliable, objective fashion.

(7) The performance note is not an official part of the legislation.

(8) After legislation that creates a new program or a new agency has gone into effect, the legislative auditor general shall, subject to the procedures and requirements of Utah Code Section 36-12-15:

(a) provide an outline of best practices to the governmental entity that administers the new program or to the new agency;

(b) include in the outline information to assist that governmental entity or new agency with the creation of:

(i) policies that promote best practices;

(ii) performance measures; and

(iii) data collection procedures; and

(c) for a new program or a new agency that was created by legislation where the governmental entity failed to provide a performance note:

(i) provide a notice to the governmental entity that administers the new program or to the new agency that the governmental entity or agency is required to submit a performance note to the legislative auditor general within 30 calendar days of the date of the notice;

(ii) retain the performance note that is received from the governmental entity or new agency and forward a copy of the note to:

(A) the primary sponsor of the legislation;

(B) the opposite house sponsor of the legislation;

(C) the president of the Senate and speaker of the House; and

(D) the Senate minority leader and House minority leader; and

(iii) if the governmental entity or new agency fails to provide a performance review note within the required deadline, provide notice to those listed in Subsection (8)(c)(ii) that a performance note was requested from, but was not received from, the governmental entity that administers the new program or the new agency.

(9) The legislative auditor general may use the performance note in its review of new programs and agencies under Utah Code Section 36-12-15.

S.J.R. 10

Passed February 18, 2016
Effective February 18, 2016

**JOINT RESOLUTION ON EDUCATION FOR
LAW ENFORCEMENT PROFESSIONALS**

Chief Sponsor: Karen Mayne
House Sponsor: Lee B. Perry

LONG TITLE

General Description:

This joint resolution of the Legislature urges Utah's law enforcement professionals to engage in continuing education and training activities to continually update their work skills and professionalism.

Highlighted Provisions:

This resolution:

- ▶ recognizes that Utah's law enforcement professionals perform a vital and important service to the citizens of the state of Utah; and
- ▶ urges Utah's law enforcement professionals to engage in continuing education and training activities to continually update their work skills and professionalism.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, Utah's law enforcement professionals perform vital service to their cities, towns, counties, and the state every day;

WHEREAS, education and training play a key role in helping Utah's law enforcement professionals to continually sharpen the skills that are so important to their work;

WHEREAS, few professions can rival the hours of education and training required of law enforcement professionals;

WHEREAS, the Legislature recognizes that the primary responsibilities of law enforcement professionals are to protect and to serve citizens, frequently in difficult circumstances;

WHEREAS, continuing education and training are essential to help law enforcement professionals grow and improve in skill areas needed to best serve and protect citizens; and

WHEREAS, continuing education and training in their chosen profession will help law enforcement professionals to act with skill and safety, which benefits law enforcement professionals and the citizens they serve:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah recognizes that Utah's law enforcement professionals perform a vital and important service to the citizens of the state of Utah.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah urges Utah's law

enforcement professionals to engage in continuing education and training activities to continually update their work skills and professionalism.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah Department of Public Safety, the Utah Highway Patrol, the Utah Chiefs of Police Association, the Utah Sheriffs' Association, the Salt Lake Valley Law Enforcement Association, the Salt Lake Police Association, the Utah Peace Officers Association, and the Fraternal Order of Police.

S.J.R. 12

Passed March 8, 2016
Effective date (if approved by voters)
July 1, 2017

**PROPOSAL TO AMEND UTAH
CONSTITUTION --CHANGES TO
SCHOOL FUNDS**

Chief Sponsor: Ann Millner
House Sponsor: Melvin R. Brown

LONG TITLE

General Description:

This joint resolution of the Legislature proposes to amend the Utah Constitution to modify provisions relating to the State School Fund and the Uniform School Fund.

Highlighted Provisions:

This resolution proposes to amend the Utah Constitution to:

- ▶ modify language relating to the investment and holding of the State School Fund;
- ▶ modify a provision relating to the expenditure of money from investment of the State School Fund;
- ▶ limit distributions from the State School Fund from exceeding a specified percentage of the State School Fund;
- ▶ modify a provision relating to sources of money for the Uniform School Fund; and
- ▶ make technical changes.

Special Clauses:

This resolution directs the lieutenant governor to submit this proposal to voters.

This resolution provides a contingent effective date of July 1, 2017, for this proposal.

Utah Constitution Sections Affected:

AMENDS:

ARTICLE X, SECTION 5

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

**Section 1. It is proposed to amend Utah
Constitution, Article X, Section 5, to read:**

**Article X, Section 5. [State School Fund
and Uniform School Fund --
Establishment and use -- Debt guaranty.]**

(1) There is established a permanent State School Fund which ~~[shall consist]~~ consists of [revenue from the following sources]:

(a) ~~proceeds from the sales of all lands granted by the United States to this state for the support of the public elementary and secondary schools;~~

(b) ~~5% of the net proceeds from the sales of United States public lands lying within this state;~~

(c) ~~all revenues derived from nonrenewable resources on state lands, other than sovereign lands and lands granted for other specific purposes;~~

(d) ~~all revenues derived from the use of school trust lands;~~

(e) ~~revenues appropriated by the Legislature; and~~

(f) ~~other revenues and assets received by the [fund]~~ permanent State School Fund under any other provision of law or by bequest or donation.

(2) (a) The permanent State School Fund [principal] shall be ~~[safely]~~ prudently invested by the state and shall be held by the state in perpetuity.

(b) Only ~~[the interest and dividends]~~ earnings received from investment of the permanent State School Fund may be [expended] distributed from the fund, and any distribution from the fund shall be for the support of the public education system as defined in Article X, Section 2 of this constitution.

(c) Annual distributions from the permanent State School Fund under Subsection (2)(b) may not exceed 4% of the fund, calculated as provided by statute.

~~[(e)]~~ (d) The Legislature may make appropriations from school trust land revenues to provide funding necessary for the proper administration and management of those lands consistent with the state's fiduciary responsibilities towards the beneficiaries of the school land trust. Unexpended balances remaining from the appropriation at the end of each fiscal year shall be deposited in the permanent State School Fund.

~~[(d)]~~ (e) The permanent State School Fund shall be guaranteed by the state against loss or diversion.

(3) There is established a Uniform School Fund which ~~[shall consist of revenue from the following sources]~~ consists of:

(a) ~~[interest and dividends]~~ money from the permanent State School Fund;

(b) ~~revenues appropriated by the Legislature; and~~

(c) ~~other revenues received by the [fund]~~ Uniform School Fund under any other provision of law or by donation.

(4) The Uniform School Fund shall be maintained and used for the support of the state's public education system as defined in Article X, Section 2 of this constitution and apportioned as the Legislature shall provide.

(5) (a) Notwithstanding Article VI, Section 29, the State may guarantee the debt of school districts created in accordance with Article XIV, Section 3, and may guarantee debt incurred to refund the school district debt. Any debt guaranty, the school district debt guaranteed thereby, or any borrowing of the state undertaken to facilitate the payment of the state's obligation under any debt guaranty shall not be included as a debt of the state for purposes of the 1.5% limitation of Article XIV, Section 1.

(b) The Legislature may provide that reimbursement to the state shall be obtained from monies which otherwise would be used for the support of the educational programs of the school district which incurred the debt with respect to which a payment under the state's guaranty was made.

Section 2. Submittal to voters.

The lieutenant governor is directed to submit this proposed amendment to the voters of the state at the next regular general election in the manner provided by law.

Section 3. Effective date.

If the amendment proposed by this joint resolution is approved by a majority of those voting on it at the next regular general election, the amendment shall take effect on July 1, 2017.

S.J.R. 15

Passed March 2, 2016

Effective March 2, 2016

**JOINT RULES RESOLUTION --
CONFERENCE COMMITTEES**

Chief Sponsor: Kevin T. Van Tassell

House Sponsor: Michael E. Noel

LONG TITLE

General Description:

This rules resolution requires public notice for conference committee meetings.

Highlighted Provisions:

This resolution:

- ▶ requires the president or speaker to ensure that oral and electronic notice are provided that identify the members of a conference committee and the time and place that the conference committee will meet.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

JR3-2-601

JR3-2-602

Be it resolved by the Legislature of the state of Utah:

Section 1. JR3-2-601 is amended to read:

**JR3-2-601. Appointment and chairs --
Notice.**

(1) (a) If the Senate refuses to concur in the House amendments to a Senate bill, the secretary of the

Senate shall notify the House of the refusal and ask the House to recede from its amendments.

(b) Either house may recede from its position on any difference existing between the two houses by a majority vote of its members.

(c) (i) If the House refuses to recede, the speaker shall appoint a conference committee of three.

(ii) After making the appointment, the speaker shall:

(A) publicly announce the House members of the conference committee and the time and place that the conference committee will meet;

(B) ensure that no more than two of the appointees are members of the majority party; and

(C) direct House staff to provide electronic notice that identifies the House members of the conference committee and the time and place of the conference committee meeting.

(d) If the speaker does not immediately appoint a conference committee, the president may appoint a conference committee as provided in Subsection (2)(c).

~~[(e) Whenever the president or speaker appoint a conference committee, the secretary of the Senate or chief clerk of the House shall:]~~

~~[(i) immediately notify the other house of the action taken; and]~~

~~[(ii) request the appointment of a like committee.]~~

~~[(f) After receiving the notice and request, the presiding officer of the other house shall appoint a conference committee of three.]~~

(2) (a) If the House refuses to concur in the Senate amendments to a House bill, the chief clerk of the House shall notify the Senate of the refusal and ask the Senate to recede from its amendments.

(b) Either house may recede from its position on any difference existing between the two houses by a majority vote of its members.

(c) (i) If the Senate refuses to recede, the president shall appoint a conference committee of three.

(ii) After making the appointment, the president shall:

(A) publicly announce the Senate members of the conference committee and the time and place that the conference committee will meet;

(B) ensure that no more than two of the appointees are members of the majority party; and

(C) direct Senate staff to provide electronic notice that identifies the Senate members of the conference committee and the time and place of the conference committee meeting.

(d) If the president does not immediately appoint a conference committee, the speaker may appoint a conference committee as provided in Subsection (1)(c).

~~[(e)] (3) (a) Whenever the president or speaker appoint a conference committee, the secretary of the Senate or chief clerk of the House shall:~~

~~(i) immediately notify the other house of the action taken; and~~

~~(ii) request the appointment of [a like] conference committee members from that other house.~~

~~[(f)] (b) After receiving the notice and request, the presiding officer of the other house shall:~~

~~(i) appoint a conference committee of three;~~

~~(ii) publicly announce the members of the conference committee from that house and the time and place that the conference committee will meet; and~~

~~(iii) direct staff to provide electronic notice that identifies the members of the conference committee and the time and place of the conference committee meeting.~~

~~[(3)] (4) (a) The first senator named on the conference committee is the Senate chair of the committee, and the first representative named on the conference committee is the House chair.~~

~~(b) [No more than two members of the conference committee may be members of the majority party. (e) The conference committee chairs shall: (i) arrange the time and place of all meetings; and (ii) direct the preparation of [reports] the conference committee report.~~

**Section 2. JR3-2-602 is amended to read:
JR3-2-602. Conference committee procedures.**

(1) The chair from the house of origin of the bill shall chair meetings of the committee.

(2) Staff from the Office of Legislative Research and General Counsel may attend the conference committee meeting to assist in the preparation of the committee report.

(3) (a) Subject to Subsection (3)(b), conference committee meetings are open to the public.

(b) Public comment may not be received or made during a conference committee meeting unless a majority of committee members from one house and at least 50% from the other house vote to receive public comment.

(4) (a) A majority of committee members from each house must approve a conference committee report in order for it to be presented to the Legislature.

(b) (i) If the conference committee cannot reach an agreement, the committee shall report the failure to agree to both houses.

(ii) Upon notice that a conference committee has failed to agree, the presiding officer of each house may either appoint a new committee by following the requirements of JR3-2-601 or reappoint the former committee and announce the time and place of the committee's meeting.

(5) Before a bill being considered by a conference committee is abandoned, not to be reviewed again

by either house during the remainder of the session, each house shall vote to refuse further conferences by the same committee or a new committee.

S. R. 1

Passed February 18, 2016
Effective February 18, 2016

**SENATE RESOLUTION CHANGING
A STANDING COMMITTEE NAME**

Chief Sponsor: David P. Hinkins

LONG TITLE

General Description:

This Senate resolution amends provisions related to standing committees.

Highlighted Provisions:

This resolution:

- ▶ changes the name of the Transportation, Public Utilities, and Technology Standing Committee to be the Transportation, Public Utilities, Energy, and Technology Standing Committee.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:
SR3-2-201

Be it resolved by the Senate of the state of Utah:

Section 1. SR3-2-201 is amended to read:

**SR3-2-201. Standing committees --
Creation.**

(1) There are created the following standing committees:

- (a) Business and Labor;
- (b) Economic Development and Workforce Services;
- (c) Education;
- (d) Government Operations and Political Subdivisions;
- (e) Health and Human Services;
- (f) Judiciary, Law Enforcement, and Criminal Justice;
- (g) Natural Resources, Agriculture, and Environment;
- (h) Revenue and Taxation;
- (i) Rules; and
- (j) Transportation, Public Utilities, Energy, and Technology.

(2) The Senate members of the Retirement and Independent Entities Committee created in Utah Code Section 63E-1-201 comprise a Senate standing committee.

S.R. 2

Passed February 25, 2016
Effective February 25, 2016

**SENATE RULES RESOLUTION —
RULES COMMITTEE NOTICE**

Chief Sponsor: Kevin T. Van Tassell

LONG TITLE

General Description:

This rules resolution provides notice requirements for Senate Rules Committee meetings.

Highlighted Provisions:

This resolution:

- ▶ requires oral and electronic notice of Senate Rules Committee meetings.

Special Clauses:

None

Legislative Rules Affected:

ENACTS:
SR3-1-105

Be it resolved by the Senate of the state of Utah:

Section 1. SR3-1-105 is enacted to read:

SR3-1-105. Notice of rules committee meetings.

When the Senate Rules Committee holds a meeting during a legislative session, the president shall ensure that:

- (1) an oral, public announcement is made from the floor of the Senate identifying the time and place that the rules committee will meet; and
- (2) an electronic notice is made that identifies the time and place of the rules committee meeting.

UTAH CODE SECTION INDEX

The following Code Section Index lists, in section order, each Utah Code section affected by bills passed during the 2016 General Session. The first column lists the section affected. The second column lists the action taken with the following abbreviations: A = Amends, E = Enacts, F = Former Section Number, N = Renumbered and Amended, R = Repeals, T = Technical Renumbers, X = Repeals and Reenacts. The third column lists the bill number. The fourth column lists either the former number or the new number, if applicable. The fifth column lists the chapter number.

See Technical Action Index (page 2675) for explanations and clarifications of sections that were technically renumbered.

Laws of Utah - 2016

Section	Bill Action Number	Former/ Renumber	Chapter Number	Section	Bill Action Number	Former/ Renumber	Chapter Number
2016 General Session							
4-2-7	A	HB 213	19	11-13-601	E	HB 341	382
4-2-402	A	HB 211	18	11-13-602	E	HB 341	382
4-3-14	A	HB 194	402	11-13-603	F	HB 341	382
4-7-3	A	HB 211	18	11-13-604	E	HB 341	382
4-10-2	A	HB 314	21	11-13-605	E	HB 341	382
4-10-5	A	HB 314	21	11-13-606	E	HB 341	382
4-10-6	A	HB 314	21	11-13-607	E	HB 341	382
4-10-7	A	HB 314	21	11-13-608	E	HB 341	382
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72-2-108	A	HB 60		01	75-9-105	E	HB 74		256
72-2-118	A	HB 392		222	75-9-106	E	HB 74		256
72-2-121	A	HB 168		12	75-9-107	E	HB 74		256
72-2-124	A	HB 29		137	75-9-108	E	HB 74		256
72-2-124	A	SB 80		291	75-9-109	E	HB 74		256
72-2-125	A	HB 392		222	75-9-110	E	HB 74		256
72-2-126	A	HB 24		38	75-9-111	E	HB 74		256
72-2-128	E	SB 246		184	75-9-112	E	HB 74		256
72-4-102	A	HB 29		137	75-9-113	E	HB 74		256
72-4-110	A	HB 55		42	75-9-114	E	HB 74		256
72-4-113	A	HB 55		42	75-9-115	E	HB 74		256
72-4-116	A	HB 55		42	75-9-116	E	HB 74		256
72-4-126	A	HB 55		42	75-9-117	E	HB 74		256
72-4-216	E	SB 195		79	75-9-118	E	HB 74		256
72-4-303	A	HB 232		152	75-9-119	E	HB 74		256
72-6-107.5	A	HB 282		20	75-9-120	E	HB 74		256
72-6-107.5	A	SB 184		355	75-9-121	E	HB 74		256
72-6-112.5	E	SB 177		178	75-9-122	E	HB 74		256
72-6-206	A	HB 392		222	75-9-123	E	HB 74		256
72-7-403	A	SB 187		303	75-9-201	E	HB 74		256
72-7-404	A	SB 187		303	75-9-202	E	HB 74		256
72-7-405	A	SB 187		303	75-9-203	E	HB 74		256
72-7-406	A	SB 187		303	75-9-204	E	HB 74		256
72-7-407	A	SB 187		303	75-9-205	E	HB 74		256
72-7-408	A	SB 187		303	75-9-206	E	HB 74		256
72-7-409	A	SB 187		303	75-9-207	E	HB 74		256
72-7-502	A	SB 161		299	75-9-208	E	HB 74		256
72-7-503	A	SB 161		299	75-9-209	E	HB 74		256
72-7-504	A	SB 161		299	75-9-210	E	HB 74		256
72-7-504.6	E	SB 161		299	75-9-211	E	HB 74		256
72-7-508	A	SB 161		299	75-9-212	E	HB 74		256
72-9-603	A	HB 189		148	75-9-213	E	HB 74		256
72-9-603	A	HB 129		103	75-9-214	E	HB 74		256
72-10-110	A	HB 448		224	75-9-215	E	HB 74		256
72-10-110	A	SB 74		333	75-9-216	E	HB 74		256
72-10-112	A	SB 74		333	75-9-217	E	HB 74		256
72-10-116	A	HB 448		224	75-9-301	E	HB 74		256

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Section	Action	Bill Number	Former/ Renumber	Chapter Number	Section	Action	Bill Number	Former/ Renumber	Chapter Number
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75-9-401	E	HB 74		256	77-41-102	A	hB 179		372
75-9-402	E	HB 74		256	77-41-105	A	HB 16		185
75-9-403	E	HB 74		256	77-41-112	A	HB 16		185
76-2-304.5	A	HB 105		194	77-42-102	A	HB 311		319
76-2-305	A	HB 252		115	77-42-103	A	HB 311		319
76-3-203.1	A	SB 124		130	77-42-104	A	HB 311		319
76-3-203.6	A	HB 405		277	77-42-105	A	HB 311		319
76-3-206	A	HB 405		277	78A-1-104	A	HB 207		17
76-3-207	A	HB 405		277	78A-2-208	A	SB 42		126
76-3-207.5	A	HB 405		277	78A-6-105	A	HB 206		109
76-3-207.7	A	HB 405		277	78A-6-105	A	SB 158		351
76-3-209	E	HB 405		277	78A-6-117	A	SB 79		418
76-5-102.7	A	SB 106		339	78A-6-209	A	HB 371		122
76-5-308	A	SB 82		231	78A-6-209	A	HB 147		144
76-5-308.5	A	SB 82		231	78A-6-302	A	SB 82		231
76-5-401	A	hB 179		372	78A-6-312	A	SB 82		231
76-5-401.1	A	HB 179		372	78A-6-314	A	SB 82		231
76-5b-201	A	HB 260		116	78A-6-1111	A	SB 155		177
76-6-501	A	HB 263		117	78A-6-1111	A	SB 181		33
76-6-1407	A	HB 269		316	78A-7-106	A	SB 181		33
76-6-1408	A	HB 269		316	78A-7-118	A	SB 181		33
76-7-305	A	SB 234		362	78A-7-201	A	HB 160		146
76-7-305.5	A	SB 234		362	78A-7-203	A	HB 160		146
76-7-308.5	A	SB 234		362	78B-1-115	A	SB 187		303
76-8-301	A	SB 221		245	78B-1-203	A	HB 325		271
76-9-102	A	SB 221		245	78B-1-206	A	HB 325		271
76-9-702.3	A	SB 187		303	78B-1-208	A	HB 325		271
76-9-706	A	SB 187		303	78B-2-213	A	SB 181		33
76-10-1204.5	E	HB 155		313	78B-2-302	A	SB 49		388
76-10-1302	A	HB 206		109	78B-2-307.5	E	SB 49		388
76-10-1504	A	HB 67		399	78B-2-308	A	HB 279		379
76-10-1507	A	HB 67		399	78B-3-418	A	HB 79		257
77-7-5	A	HB 381		162	78B-3-426	E	HB 79		257
77-7-25	A	SB 181		33	78B-5-505	A	HB 165		262
77-7a-101	E	HB 300		410	78B-6-801	A	HB 196		264
77-7a-102	E	HB 300		410	78B-6-802	A	SB 22		325
77-7a-103	E	HB 300		410	78B-6-802.7	E	SB 22		325
77-7a-104	E	HB 300		410	78B-6-807	A	SB 181		33
77-7a-105	E	HB 300		410	78B-6-809	A	HB 196		264
77-7a-106	E	HB 300		410	78B-6-901.5	A	SB 22		325
77-7a-107	E	HB 300		410	78B-6-1303	A	SB 225		306
77-15-5	A	HB 252		115	78B-6-1304	A	SB 225		306
77-15a-101	A	HB 252		115	78B-6-1304.5	E	SB 225		306
77-15a-102	A	HB 252		115	78B-6-1904	A	HB 392		222
77-15a-103	A	HB 252		115	78B-6-2001	E	HB 403		385
77-18-1.1	A	HB 342		158	78B-6-2002	E	HB 403		385
77-18a-1	A	SB 105		234	78B-6-2003	E	HB 403		385
77-20-1	A	SB 105		234	78B-6-2004	E	HB 403		385
77-20-3	A	SB 105		234	78B-6-2005	E	HB 403		385
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77-20-5	R	SB 105		234	78B-6-2007	E	HB 403		385
77-20-7	A	SB 105		234	78B-6-2008	E	HB 403		385
77-20-8.5	A	SB 105		234	78B-6-2009	E	HB 403		385
77-20-9	A	SB 105		234	78B-6-2010	E	HB 403		385
77-20-10	A	SB 105		234	78B-7-115	A	HB 148		196
77-20b-100	E	SB 105		234	78B-8-304	A	SB 187		303
77-20b-101	A	SB 105		234	78B-8-402	A	HB 68		92
77-20b-102	A	SB 105		234	78B-14-613	A	SB 147		348
77-20b-103	A	SB 105		234	78B-20-101	E	SB 96		292
77-20b-104	A	SB 105		234	78B-20-102	E	SB 96		292
77-20b-105	A	SB 105		234	78B-20-103	E	SB 96		292
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77-23c-102	A	HB 369		161	78B-20-105	E	SB 96		292
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77-32-302	A	SB 155		177	78B-20-203	E	SB 96		292
77-32-306	A	SB 155		177	78B-20-204	E	SB 96		292
77-32-801	E	SB 155		177	78B-20-205	E	SB 96		292
77-32-802	E	SB 155		177	78B-20-301	E	SB 96		292
77-32-803	E	SB 155		177	78B-20-302	E	SB 96		292
77-32-804	E	SB 155		177	78B-20-303	E	SB 96		292
77-32-805	E	SB 155		177	78B-20-304	E	SB 96		292
77-32-806	E	SB 155		177	78B-20-305	E	SB 96		292
77-32-807	E	SB 155		177	78B-20-306	E	SB 96		292
77-32-808	E	SB 155		177	78B-20-307	E	SB 96		292
77-32-809	E	SB 155		177	78B-20-308	E	SB 96		292
77-32-810	E	SB 155		177	78B-20-309	E	SB 96		292
77-36-1	A	SB 206		422	78B-20-310	E	SB 96		292
77-36-2.5	A	SB 206		422	78B-20-311	E	SB 96		292
77-36-5	A	SB 206		422	78B-20-401	E	SB 96		292
77-38-3	A	HB 404		223	78B-20-402	E	SB 96		292
77-38a-102	A	HB 404		223	78B-20-403	E	SB 96		292
77-38a-302	A	HB 404		223	78B-20-404	E	SB 96		292
77-40-105	A	HB 16		185	78B-20-501	E	SB 96		292

Section	Action	Bill Number	Former/ Renumber	Chapter Number
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78B-20-503	E	SB 96		292
79-2-201	A	HB 276		317
79-2-404	A	HB 282		20
79-2-404	A	SB 184		355
79-2-501	E	SB 200		358
79-2-502	E	SB 200		358
79-2-503	E	SB 200		358
79-2-504	E	SB 200		358
79-2-505	E	SB 200		358
79-4-304	A	HB 135		142
79-5-102	A	SB 121		173
79-6-101	E	HB 276		317
79-6-102	E	HB 276		317
79-6-103	E	HB 276		317
79-6-104	E	HB 276		317
79-6-105	E	HB 276		317
HR3-1-106	E	HR 2		
HR3-2-201	A	HR 1		
IR1-1-201	A	HJR 3		
IR2-1-102	E	SJR 7		
JR3-2-402	A	HJR 7		
JR3-2-601	A	SJR 15		
JR3-2-602	A	SJR 15		
JR4-2-404	A	SJR 8		
SR3-1-105	E	SR 2		
SR3-2-201	A	SR 1		

Section	Action	Bill Number	Former/ Renumber	Chapter Number
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2016 Second Special Session

None

2016 Third Special Session

11-36a-202	A	HB 3002		2
31A-44-102	A	SB 3004		8
31A-44-104	A	SB 3004		8
31A-44-401	A	SB 3004		8
31A-44-404	A	SB 3004		8
31A-44-502	A	SB 3004		8
31A-44-503	A	SB 3004		8
31A-44-601	A	SB 3004		8
31A-44-602	A	SB 3004		8
31A-44-605	A	SB 3004		8
58-37f-301	A	SB 3001		5
59-7-159	E	HB 3001		1
59-7-612	A	HB 3001		1
59-7-614	A	HB 3001		1
59-7-614.2	A	HB 3001		1
59-7-614.5	A	HB 3001		1
59-7-614.7	A	HB 3001		1
59-7-614.8	A	HB 3001		1
59-7-614.10	A	HB 3001		1
59-7-619	A	HB 3001		1
59-9-107	A	HB 3001		1
59-10-137	E	HB 3001		1
59-10-1012	A	HB 3001		1
59-10-1013	A	HB 3001		1
59-10-1014	A	HB 3001		1
59-10-1024	A	HB 3001		1
59-10-1025	A	HB 3001		1
59-10-1029	A	HB 3001		1
59-10-1030	A	HB 3001		1
59-10-1034	A	HB 3001		1
59-10-1037	A	HB 3001		1
59-10-1106	A	HB 3001		1
59-10-1107	A	HB 3001		1
59-10-1108	A	HB 3001		1
59-12-102	A	SB 3002		6
59-12-104	A	SB 3002		6
59-13-202	A	HB 3001		1
63A-5-227	E	HB 3002		2
63H-6-108	A	HB 3002		2
63I-2-263	A	HB 3002		2
63N-2-106	A	HB 3001		1
63N-2-213	A	HB 3001		1
63N-2-305	A	HB 3001		1
63N-2-810	A	HB 3001		1
65A-3-2.5	A	HB 3003		3
77-18-1	A	HB 3004		4
77-27-5.4	A	HB 3004		4
78A-10-103	A	SB 3003		7

TECHNICAL ACTION INDEX

Subsection 36-12-12(2)(g) of the Utah code grants the legislative general counsel the power to “correct any technical errors . . . in order to enroll the legislation and prepare the laws for publication;” The following Technical Action Index lists Utah Code sections that were modified by the Office of Legislative Research and General Counsel after the 2016 General Session to resolve technical errors identified by the office. The modified sections are listed in order by the section numbers used to identify them in the bills.

Laws of Utah - 2016

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
10-2-102.13	10-2a-106	T	H.B. 245	157	Renumbered by coordination clause in SB199, Chapter 352. Revisor instructions to modify language in HB245, Chapter 157.
10-2-128	10-2a-305	N	S.B. 199	352	Repeal and reenact in HB97, Chapter 111, takes precedence, but renumbering still needed.
10-2-128.1	10-2a-305.1	T	H.B. 97	111	Renumbered by coordination clause in SB199, Chapter 352.
10-2-128.2	10-2a-305.2	T	H.B. 97	111	Renumbered by coordination clause in SB199, Chapter 352.
10-2-131	10-2a-307	T	H.B. 245	157	Renumbered by coordination clause in SB199, Chapter 352.
10-2a-403		E	S.B. 199	352	Revisor instructions to modify language.
13-51-108		E	S.B. 294	461	The section as enacted in SB294, Chapter 461, does not take effect per coordination clause in HB24, Chapter 244.
31A-22-322	13-51-108	T	H.B. 24	244	Coordination clause direction to renumber and modify language.
34-49-101	34-50-101	T	H.B. 232	263	Technically renumbered to avoid duplication of section number used in HB0242, Chapter 156.
34-49-102	34-50-102	T	H.B. 232	263	Technically renumbered to avoid duplication of section number also used in HB242, Chapter 156.
34-49-103	34-50-103	T	H.B. 232	263	Technically renumbered for proper placement in title.
34-49-104	34-50-104	T	H.B. 232	263	Technically renumbered for proper placement in title.
34-49-105	34-50-105	T	H.B. 232	263	Technically renumbered for proper placement in title.
34A-5-102.7		E	S.B. 296	13	Revisor instructions to modify language.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
49-20-412	49-20-413	T	H.B. 148	068	Technically renumbered to avoid duplication of section number also used in SB265, Chapter 455.
53A-1-102	53a-1-102.5	T	H.B. 360	417	Technically renumbered for proper placement in Utah Code.
53A-1-710	53A-1-711	T	H.B. 68	384	Technically renumbered to avoid duplication of section number also used in SB222, Chapter 446.
53A-1-1201	53A-1-1301	T	S.B. 196	443	Technically renumbered to avoid duplication of section number also used in SB235, Chapter 449.
53A-1-1202	53A-1-1302	T	S.B. 196	443	Technically renumbered to avoid duplication of section number also used in SB235, Chapter 449.
53A-3-432		E	S.B. 240	300	Coordination clause direction to modify language.
53A-6-306		A	H.B. 124	389	Repeal and reenact in HB345, Chapter 311, takes precedence.
53A-15-1501	53A-15-1601	T	H.B. 198	149	Technically renumbered to avoid duplication of section number also used in HB124, Chapter 389.
57-8-56	57-8-57	T	H.B. 99	387	Technically renumbered to avoid duplication of section number also used in HB304, Chapter 213.
57-8a-104		A	S.B. 118	325	Composite with SB80, Chapter 34, and HB99, Chapter 387, resulted in language identical to future section. No need for future section.
57-8a-225	57-8a-226	T	H.B. 99	387	Technically renumbered to avoid duplication of section number also used in HB304, Chapter 213, and SB118, Chapter 325.
57-8a-225	57-8a-227	T	S.B. 118	325	Technically renumbered to avoid duplication of section number also used in HB304, Chapter 213, and HB99, Chapter 387.
57-21-2.7		E	S.B. 296	13	Revisor instructions to modify language.

Laws of Utah - 2016

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
59-7-616		A	S.B. 18	283	Repeal in HB402, Chapter 417, takes precedence.
59-7-618	59-7-619	T	S.B. 216	356	Technically renumbered to avoid duplication of section number also used in SB292, Chapter 460, and HB406, Chapter 467.
59-7-618	59-7-620	T	S.B. 292	460	Technically renumbered to avoid duplication of section number also used in SB216, Chapter 356, and HB406, Chapter 467.
59-10-1033	59-10-1034	T	S.B. 216	356	Technically renumbered to avoid duplication of section number also used in HB406, Chapter 467, and SB292, Chapter 460.
59-10-1033	59-10-1035	T	S.B. 292	460	Technically renumbered to avoid duplication of section number also used in SB216, Chapter 356, and HB406, Chapter 467.
59-10-1110		A	S.B. 18	283	Repeal in HB402, Chapter 417, takes precedence.
63A-3-8	63A-3-108	T	H.B. 256	3	Technically renumbered for proper placement in Utah Code.
63B-24-101	63B-25-101	T	H.B. 454	182	Technically renumbered to avoid duplication of section number also used in SB9, Chapter 281.
63G-20-303		E	S.B. 297	46	Revisor instructions to modify language.
63H-7-206	63H-7a-206	T	S.B. 237	450	Coordination clause direction to delay effective date to 7/1/2015, renumber section, and modify language.
63I-2-217		A	H.B. 351	465	Revisor instructions to modify language.
63I-2-235		E	H.B. 55	104	Merged language with language from SB292, Chapter 460.
63M-1-3403.5	63N-2-503.5	T	H.B. 402	417	Technically renumbered for proper placement in Utah Code.

Laws of Utah - 2016

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
63M-1-3406	63N-2-506	N	S.B. 18	283	Repeal in HB402, Chapter 417, takes precedence on July 1, 2015, but renumbering in SB18 was still needed.
64-13-10.5	64-13-10.6	T	H.B. 348	417	Technically renumbered for proper placement in Utah Code.
72-1-212	72-1-213	T	H.B. 362	275	Technically renumbered to avoid duplication of section number also used in HB289, Chapter 267.
73-3-8		A	H.B. 25	245	Coordination clause direction to modify language.

LAWS
of the
STATE OF UTAH, 2016

Passed at the
SECOND SPECIAL SESSION
of the
SIXTY-FIRST LEGISLATURE

Convened at the State Capitol in the City of Salt Lake
May 18, 2016
and Adjourned Sine Die on
May 18, 2016

STATE OF UTAH



OFFICE OF THE LIEUTENANT GOVERNOR

CERTIFICATE

THIS IS TO CERTIFY that the acts and resolutions published in this volume are, according to our best information and belief, full and correct copies of the originals passed at the 2016 Second Special Session of the Sixty-first Legislature of the State of Utah, as they appear of record in the Office of the Lieutenant Governor; and that the 2016 Second Special Session of the Sixty-first Legislature of the State of Utah convened and adjourned at the Capitol in Salt Lake City on the 18th of May, 2016



IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed the Great Seal of the State of Utah this 1st day of July, 2016 at Salt Lake City, Utah.

A handwritten signature in black ink, appearing to read "Spencer J. Cox".

Spencer J. Cox
Lieutenant Governor

CHAPTER 1

S. B. 2001

Passed May 18, 2016
 Approved May 19, 2016
 Effective July 1, 2016

**PUBLIC EDUCATION
 APPROPRIATION RESTORATIONS**

Sponsor: J. Stuart Adams
 House Sponsor: Francis D. Gibson

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the use and support of state government for the fiscal year beginning July 1, 2016 and ending June 30, 2017 by restoring appropriations vetoed by the Governor.

Highlighted Provisions:

This bill:

- ▶ restores budget increases and decreases originally passed in Senate Bill 2, Item 6, 2016 General Session, but vetoed by the Governor; and,
- ▶ provides intent language.

Money Appropriated in this Bill:

This bill appropriates \$4,773,900 in operating and capital budgets for fiscal year 2017, all of which is from the Education Fund.

Other Special Clauses:

This bill takes effect on July 1, 2016.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2017 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2016 and ending June 30, 2017. These are additions to amounts previously appropriated for fiscal year 2017.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

**PUBLIC EDUCATION
 STATE BOARD OF EDUCATION**

Item 1

To State Board of Education - Utah State Office of Education - Initiative Programs

From Education Fund	998,900
From Education Fund, One-Time	3,775,000
Schedule of Programs:	
Electronic High School	(1,001,100)
Upstart Early Childhood Education	1,500,000

ProStart Culinary Arts Program	275,000
Electronic Elementary Reading Tool	500,000
Early Intervention	3,000,000
IT Academy	500,000

The Legislature intends that the Department of Workforce Services (DWS) authorize Temporary Assistance for Needy Families (TANF) funds for one year for the UPSTART program (\$500,000). This TANF funding is dependent upon availability of TANF funding and expenditures meeting the necessary requirements to qualify for the federal TANF program. The Legislature further intends that DWS report to the Office of the Legislative Fiscal Analyst no later than September 1, 2016, regarding the status of these efforts.

Section 2. Effective Date.

This bill takes effect on July 1, 2016.

H. C. R. 201

Passed May 18, 2016

Approved May 19, 2016

Effective May 19, 2016

**CONCURRENT RESOLUTION
OPPOSING UNILATERAL USE
OF THE ANTIQUITIES ACT**

Chief Sponsor: Keven J. Stratton

Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This concurrent resolution of the Legislature and the Governor expresses strong opposition to the designation of a new national monument in the state without local input and state legislative approval.

Highlighted Provisions:

This resolution:

- ▶ expresses strong opposition to the use of the Antiquities Act by the President of the United States to establish a new national monument in the state without local input and state legislative approval.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the members of the Utah Legislature and the Governor are honored to have all taken an oath to uphold the divinely inspired constitution and the laws of the state and the United States;

WHEREAS, the framers of our constitution, as evidenced by their inspired and carefully crafted constitutional balance of power and responsibilities between branches of government and between the national and state governments, did not intend to grant the executive branch unilateral authority to set aside vast swaths of land within the borders of a state without input from Congress and state officials;

WHEREAS, egregious federal overreach is among the greatest threats to:

- the current strength and vitality of the state;
- the health, safety, and welfare of its citizens;
- the pursuit by its citizens of life, liberty, and happiness;
- the long-term economic prosperity of the state; and
- the equitable per pupil funding of education for Utah's children;

WHEREAS, the Utah Legislature and the Governor oppose the actions of those who would seek to resolve conflicts with the federal government by methods outside the bounds of the law;

WHEREAS, it is in this spirit of lawful resolution of conflicts that the Utah Legislature and the Governor submit the matters herein set forth;

WHEREAS, the state of Utah is a public lands state, committed to preserving certain of these lands in their natural condition, allowing continued recreational access for hunters, anglers, campers, and other recreators on other land, as well allowing some public lands to be utilized for additional benefits, including agriculture, timber production, and energy and natural resource development;

WHEREAS, a high and critical priority for the Legislature and the Governor is the health, protection, preservation, and productivity of, and access to, the public lands within the state lands that are greater in size than the total land mass within the borders of 19 of the other 49 states;

WHEREAS, roughly 66% of the land within the sovereign state of Utah is presently owned and administered by the federal government, unlike 38 states in the Union that govern almost all the land within their borders, and members of the Legislature and the Governor are concerned by federal policies and management that threaten the health, protection, and productivity of, and access to, these public lands;

WHEREAS, Utah is 50th in the nation in per pupil spending due to the large portion of the state that is held as federal land and not subject to property tax;

WHEREAS, the officials of the state have a legitimate basis to believe that President Barack Obama is considering issuing a proclamation under the Antiquities Act designating one or more national monuments within the borders of the state of Utah before the end of his term in office;

WHEREAS, one of the national monuments being considered—Bears Ears National Monument—may be nearly 1.9 million acres in size and cover roughly 40% of San Juan County;

WHEREAS, the Antiquities Act limits a presidential monument designation to the "smallest area compatible with proper care and management of the objects to be protected";

WHEREAS, the state of Utah is already home to the Grand Staircase-Escalante National Monument designated by President Bill Clinton, which placed 1,880,461 acres, or 2,938 square miles, of land within the borders of Utah under protected status, greatly restricting its use by local individuals, all without consulting the Governor, the Legislature, or the congressional delegation of the state of Utah;

WHEREAS, an additional national monument designation within the borders of the state without the consent of the Governor, Legislature, or Utah's congressional delegation will have the effect of further restricting the public's access to and enjoyment of public lands in Utah;

WHEREAS, the creation of another national monument in Utah—already home to five national parks and seven national monuments—would only add to the burden placed on the funding of Utah schools;

WHEREAS, during her confirmation hearing on March 7, 2013, Secretary of the Interior Sally

Jewell committed to Senator Mike Lee that gaining local support for a national monument should be a prerequisite for national monument designations under the Antiquities Act;

WHEREAS, over the past three years, Secretary Jewell has repeatedly made reference to the importance of local buy-in through local meetings, input, and public hearings before a national monument is designated;

WHEREAS, on Wednesday, February 24, 2016, in a House Natural Resources Committee discussion with Secretary Jewell, Chairman Rob Bishop noted that during each of President Obama's previous monument declarations, at least one member of that state's congressional delegation supported a monument declaration;

WHEREAS, Chairman Bishop went on to note that not one single member of Utah's congressional delegation supports another national monument declaration in Utah under the Antiquities Act;

WHEREAS, on February 23, 2016, in her response to Senator Lee during a hearing before the Senate Committee on Energy and Natural Resources, Secretary Jewell became noncommittal regarding working with Utah's Governor, federal delegation, and local elected officials, and stated in reference to concerns about a potential new monument designation in southeastern Utah: "Well, to be clear, I can't commit to anything with regard to the Antiquities Act because that is a tool of the President of the United States. I will commit that we will go out and spend time within the community and take input from the community. That is something that we have done every time and we will continue to do that.";

WHEREAS, as of May 2016, that process of taking input from local communities has not occurred in Utah;

WHEREAS, the Legislature of the state of Utah hereby goes on record as not only withholding its consent to the establishment of any proposed new national monuments without state legislative input and approval, but emphatically objecting to the establishment of the same;

WHEREAS, Governor Gary R. Herbert has written to the President of the United States twice—once in August 2015 and once in February 2016—urging him not to use the Antiquities Act to designate another national monument in Utah;

WHEREAS, Governor Herbert noted that another monument designation in Utah would "inflame passion, spur divisiveness, and ensure perpetual opposition";

WHEREAS, while some tribes with historic ties to Bears Ears support the proposed monument, most members of the Navajo Nation who live in San Juan County do not support the monument designation;

WHEREAS, Navajos in San Juan County experience some of the highest rates of unemployment in the state;

WHEREAS, San Juan County commissioner Rebecca Bennally, whose constituency includes members of the Navajo Nation who live in San Juan County, indicated on April 20, 2016, that Navajos in that region would prefer sacred sites be protected through application of a conservation area designation, with some areas left available for development and job creation for locals;

WHEREAS, the Legislature and the Governor believe that democratic process matters, and that consideration of whether to set aside Bears Ears for preservation should involve all interested stakeholders, in a manner that protects Bears Ears while still allowing local concerns to be heard and recognized;

WHEREAS, local Native American tribal members in San Juan County who were the first known inhabitants of the Bears Ears area are strongly opposed to the designation of a national monument and should be afforded additional time to present their concerns and interests in how the area would be managed in the future;

WHEREAS, the Legislature and the Governor invite the President and the Secretary of the Interior to join Utah's congressional delegation, the Governor, state legislative leadership from both parties, locally elected officials, and interested stakeholders to engage in such a constitutional process;

WHEREAS, the Legislature and the Governor urge federal, state, and local cooperation to ensure that multiple use and sustained yield are maintained on public lands while protecting ancient Native American artifacts under existing laws like the Archeological Resource Protection Act (ARPA) and the National Environmental Policy Act (NEPA);

WHEREAS, the Legislature and the Governor are opposed to a unilateral use of the Antiquities Act to create a Bears Ears National Monument without a more in-depth process that draws all stakeholders together;

WHEREAS, while some resident and non-resident individuals and groups support the designation of the monument, the majority of San Juan County citizens, including Navajo tribal members, are opposed to it;

WHEREAS, the Legislature and the Governor also favor protection and conservation of the Bears Ears area, but prefer a constitutionally sound, locally driven legislative approach;

WHEREAS, citizens in rural Utah already experience difficult economic prospects, and tourism alone from Utah's current seven national monuments and five national parks has not been able to provide a sufficient, year-round revenue base for these communities;

WHEREAS, citizens in rural Utah deserve the opportunity to create a diversified, ongoing economy;

WHEREAS, responsible and environmentally sound economic development can be pursued

simultaneously with wilderness preservation and conservation;

WHEREAS, a monument designation would remove forever the possibility of economic development in the Bears Ears region, hurting those who live in the area to benefit those who only wish to visit the area;

WHEREAS, many potential issues with a proposed Bears Ears monument have not been resolved and need further informed discussion;

WHEREAS, the proposed Bears Ears National Monument contains approximately 150,000 acres of School and Institutional Trust Lands Administration land;

WHEREAS, neither the federal government nor the proponents of the Bears Ears area have done any environmental or socioeconomic impact study of the proposal;

WHEREAS, the system of having federal officials over a thousand miles away govern land in Utah, particularly without sufficient local input, is contrary to the dual sovereignty design of our federal republic, which protects individual liberty by diffusing sovereign power;

WHEREAS, decisions regarding the health, safety, and welfare of Utah citizens are, under our federal system, properly placed with local governments;

WHEREAS, the use of the Antiquities Act in recent years by presidents to designate millions of acres of land as national monuments disparately impacts western states, including Utah, because only western states have large areas of federal land remaining within their borders;

WHEREAS, two western states—Wyoming and Alaska—received special exemptions from the Antiquities Act in 1950 and 1980, respectively, after the act was used extensively within the boundaries of those two states; and

WHEREAS, Utah is already the home to seven national monuments and should be considered for an exemption from the Antiquities Act, like Wyoming and Alaska:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, expresses strong opposition to the creation of any new national monuments within the state by the President of the United States without approval by the Governor and the Legislature.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage Congress to amend the Antiquities Act to prevent presidents from unilaterally designating enormous amounts of land within a sovereign state, Utah in particular, as national monuments without local input and state legislative approval.

BE IT FURTHER RESOLVED that the Legislature and the Governor request that Attorney General Sean Reyes oppose the authority

of the President of the United States to designate a proposed national monument within the borders of the state of Utah without state legislative approval.

BE IT FURTHER RESOLVED that the Legislature and the Governor request that Attorney General Sean Reyes pursue all legal options and recourse available to the state regarding improper unilateral national monument designations.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of the United States, the members of Utah's congressional delegation, and Attorney General Sean Reyes.

LAWS
of the
STATE OF UTAH, 2016

Passed at the
THIRD SPECIAL SESSION
of the
SIXTY-FIRST LEGISLATURE

Convened at the State Capitol in the City of Salt Lake
July 13, 2016
and Adjourned Sine Die on
July 13, 2016

STATE OF UTAH



OFFICE OF THE LIEUTENANT GOVERNOR

CERTIFICATE

THIS IS TO CERTIFY that the acts and resolutions published in this volume are, according to our best information and belief, full and correct copies of the originals passed at the 2016 Third Special Session of the Sixty-first Legislature of the State of Utah, as they appear of record in the Office of the Lieutenant Governor; and that the 2016 Third Special Session of the Sixty-first Legislature of the State of Utah convened and adjourned at the Capitol in Salt Lake City on the 13th of July, 2016



IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed the Great Seal of the State of Utah this 22nd day of July, 2016 at Salt Lake City, Utah.

A handwritten signature in black ink, appearing to read "Spencer J. Cox", written over a horizontal line.

Spencer J. Cox
Lieutenant Governor

CHAPTER 1**H. B. 3001**

Passed July 13, 2016
 Approved July 17, 2016
 Effective July 17, 2016

TAX CREDIT REVIEW AMENDMENTS

Chief Sponsor: Jeremy A. Peterson
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill provides for a review of certain tax credits.

Highlighted Provisions:

This bill:

- ▶ requires the Revenue and Taxation Interim Committee to review certain credits related to individual income tax, corporate income tax, motor and special fuel tax, taxation of admitted insurers, and economic development; and
- ▶ establishes requirements for the review by the Revenue and Taxation Interim Committee.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

59-7-612, as last amended by Laws of Utah 2016, Chapter 135
 59-7-614, as last amended by Laws of Utah 2015, Chapters 30, 133 and last amended by Coordination Clause, Laws of Utah 2015, Chapter 133
 59-7-614.2, as last amended by Laws of Utah 2016, Chapters 135 and 350
 59-7-614.5, as last amended by Laws of Utah 2016, Chapter 135
 59-7-614.7, as last amended by Laws of Utah 2016, Chapter 135
 59-7-614.8, as last amended by Laws of Utah 2016, Chapter 135
 59-7-614.10, as enacted by Laws of Utah 2016, Chapter 11
 59-7-619, as enacted by Laws of Utah 2015, Chapter 356
 59-9-107, as enacted by Laws of Utah 2014, Chapter 435
 59-10-1012, as last amended by Laws of Utah 2016, Chapter 135
 59-10-1013, as last amended by Laws of Utah 2016, Chapter 135
 59-10-1014, as last amended by Laws of Utah 2015, Chapter 133
 59-10-1024, as last amended by Laws of Utah 2011, Chapter 384
 59-10-1025, as last amended by Laws of Utah 2016, Chapter 354
 59-10-1029, as last amended by Laws of Utah 2016, Chapter 135
 59-10-1030, as last amended by Laws of Utah 2016, Chapter 135
 59-10-1034, as enacted by Laws of Utah 2015, Chapter 356

59-10-1037, as enacted by Laws of Utah 2016, Chapter 11
 59-10-1106, as last amended by Laws of Utah 2015, Chapter 133
 59-10-1107, as last amended by Laws of Utah 2016, Chapter 135
 59-10-1108, as last amended by Laws of Utah 2016, Chapter 135
 59-13-202, as last amended by Laws of Utah 2016, Chapter 375
 63N-2-106, as last amended by Laws of Utah 2015, Chapter 344 and renumbered and amended by Laws of Utah 2015, Chapter 283
 63N-2-213, as last amended by Laws of Utah 2016, Chapter 11
 63N-2-305, as renumbered and amended by Laws of Utah 2015, Chapter 283
 63N-2-810, as last amended by Laws of Utah 2016, Chapters 135 and 354

ENACTS:

59-7-159, Utah Code Annotated 1953
 59-10-137, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-7-159 is enacted to read:**59-7-159. Review of credits allowed under this chapter.**

(1) As used in this section, "committee" means the Revenue and Taxation Interim Committee.

(2) (a) The committee shall review the tax credits described in this chapter as provided in Subsection (3) and make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) In conducting the review required under Subsection (2)(a), the committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the tax credit under review to provide testimony;

(iii) (A) invite the Governor's Office of Economic Development to present a summary and analysis of the information for each tax credit regarding which the Governor's Office of Economic Development is required to make a report under this chapter; and

(B) invite the Office of the Legislative Fiscal Analyst to present a summary and analysis of the information for each tax credit regarding which the Office of the Legislative Fiscal Analyst is required to make a report under this chapter;

(iv) ensure that the committee's recommendations described in this section include an evaluation of:

(A) the cost of the tax credit to the state;

(B) the purpose and effectiveness of the tax credit; and

(C) the extent to which the state benefits from the tax credit; and

(v) undertake other review efforts as determined by the committee chairs or as otherwise required by law.

(3) (a) On or before November 30, 2017, and every three years after 2017, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-7-601;

(ii) Section 59-7-607;

(iii) Section 59-7-612;

(iv) Section 59-7-614.1; and

(v) Section 59-7-614.5.

(b) On or before November 30, 2018, and every three years after 2018, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-7-609;

(ii) Section 59-7-614.2;

(iii) Section 59-7-614.10;

(iv) Section 59-7-617;

(v) Section 59-7-619; and

(vi) Section 59-7-620.

(c) On or before November 30, 2019, and every three years after 2019, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-7-605;

(ii) Section 59-7-610;

(iii) Section 59-7-614;

(iv) Section 59-7-614.7;

(v) Section 59-7-614.8; and

(vi) Section 59-7-618.

(d) (i) In addition to the reviews described in this Subsection (3), the committee shall conduct a review of a tax credit described in this chapter that is enacted on or after January 1, 2017.

(ii) The committee shall complete a review described in this Subsection (3)(d) three years after the effective date of the tax credit and every three years after the initial review date.

Section 2. Section 59-7-612 is amended to read:

59-7-612. Tax credits for research activities conducted in the state -- Carry forward -- Commission to report modification or repeal of certain federal provisions -- Revenue and Taxation Interim Committee study.

(1) (a) A taxpayer meeting the requirements of this section may claim the following nonrefundable tax credits:

(i) a research tax credit of 5% of the taxpayer's qualified research expenses for the current taxable year that exceed the base amount provided for under Subsection (4);

(ii) a tax credit for a payment to a qualified organization for basic research as provided in Section 41(e), Internal Revenue Code, of 5% for the current taxable year that exceed the base amount provided for under Subsection (4); and

(iii) a tax credit equal to 7.5% of the taxpayer's qualified research expenses for the current taxable year.

(b) Subject to Subsection (5), a taxpayer may claim a tax credit under:

(i) Subsection (1)(a)(i) or (1)(a)(iii), for the taxable year for which the taxpayer incurs the qualified research expenses; or

(ii) Subsection (1)(a)(ii), for the taxable year for which the taxpayer makes the payment to the qualified organization.

(c) The tax credits provided for in this section do not include the alternative incremental credit provided for in Section 41(c)(4), Internal Revenue Code.

(2) For purposes of claiming a tax credit under this section, a unitary group as defined in Section 59-7-101 is considered to be one taxpayer.

(3) Except as specifically provided for in this section:

(a) the tax credits authorized under Subsection (1) shall be calculated as provided in Section 41, Internal Revenue Code; and

(b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating the tax credits authorized under Subsection (1).

(4) For purposes of this section:

(a) the base amount shall be calculated as provided in Sections 41(c) and 41(h), Internal Revenue Code, except that:

(i) the base amount does not include the calculation of the alternative incremental credit provided for in Section 41(c)(4), Internal Revenue Code;

(ii) a taxpayer's gross receipts include only those gross receipts attributable to sources within this state as provided in Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions; and

(iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating the base amount, a taxpayer:

(A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B) regardless of whether the taxpayer meets the requirements of Section 41(c)(3)(B)(i)(I) or (II); and

(B) may not revoke an election to be treated as a start-up company under Subsection (4)(a)(iii)(A);

(b) “basic research” is as defined in Section 41(e)(7), Internal Revenue Code, except that the term includes only basic research conducted in this state;

(c) “qualified research” is as defined in Section 41(d), Internal Revenue Code, except that the term includes only qualified research conducted in this state;

(d) “qualified research expenses” is as defined and calculated in Section 41(b), Internal Revenue Code, except that the term includes only:

(i) in-house research expenses incurred in this state; and

(ii) contract research expenses incurred in this state; and

(e) a tax credit provided for in this section is not terminated if a credit terminates under Section 41, Internal Revenue Code.

(5) (a) If the amount of a tax credit claimed by a taxpayer under Subsection (1)(a)(i) or (ii) exceeds the taxpayer’s tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability:

(i) may be carried forward for a period that does not exceed the next 14 taxable years; and

(ii) may not be carried back to a taxable year preceding the current taxable year.

(b) A taxpayer may not carry forward the tax credit allowed by Subsection (1)(a)(iii).

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for purposes of this section prescribing a certification process for qualified organizations to ensure that amounts paid to the qualified organizations are for basic research conducted in this state.

(7) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the commission shall provide an electronic report of the modification or repeal to the Revenue and Taxation Interim Committee within 60 days after the day on which the modification or repeal becomes effective.

(8) (a) The Revenue and Taxation Interim Committee shall review the tax credits provided for in this section on or before October 1 of the year after the year in which the commission reports under Subsection (7) a modification or repeal of a provision of Section 41, Internal Revenue Code.

(b) The review described in Subsection (8)(a) is in addition to the review required by Section 59-7-159.

~~(b)~~ (c) Notwithstanding Subsection (8)(a), the Revenue and Taxation Interim Committee is not required to review the tax credits provided for in this section if the only modification to a provision of Section 41, Internal Revenue Code, is the extension of the termination date provided for in Section 41(h), Internal Revenue Code.

~~(e)~~ (d) The Revenue and Taxation Interim Committee shall address in a review under this section:

(i) the cost of the tax credits provided for in this section;

(ii) the purpose and effectiveness of the tax credits provided for in this section;

(iii) whether the tax credits provided for in this section benefit the state; and

(iv) whether the tax credits provided for in this section should be:

(A) continued;

(B) modified; or

(C) repealed.

~~(d)~~ (e) If the Revenue and Taxation Interim Committee reviews the tax credits provided for in this section, the committee shall issue a report [its findings to the Legislative Management Committee on or before the November interim meeting of the year in which the Revenue and Taxation Interim Committee reviews the tax credits] of the Revenue and Taxation Interim Committee’s findings.

Section 3. Section 59-7-614 is amended to read:

59-7-614. Renewable energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.

(1) As used in this section:

(a) (i) “Active solar system” means a system of equipment that is capable of:

(A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy; and

(B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use.

(ii) “Active solar system” includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) “Biomass system” means a system of apparatus and equipment for use in:

(i) converting material into biomass energy, as defined in Section 59-12-102; and

(ii) transporting the biomass energy by separate apparatus to the point of use or storage.

(c) “Commercial energy system” means a system that is:

(i) (A) an active solar system;

(B) a biomass system;

(C) a direct use geothermal system;

(D) a geothermal electricity system;

(E) a geothermal heat pump system;

(F) a hydroenergy system;

(G) a passive solar system; or

(H) a wind system;

(ii) located in the state; and

(iii) used:

(A) to supply energy to a commercial unit; or

(B) as a commercial enterprise.

(d) “Commercial enterprise” means an entity, the purpose of which is to produce electrical, mechanical, or thermal energy for sale from a commercial energy system.

(e) (i) “Commercial unit” means a building or structure that an entity uses to transact business.

(ii) Notwithstanding Subsection (1)(e)(i):

(A) with respect to an active solar system used for agricultural water pumping or a wind system, each individual energy generating device is considered to be a commercial unit; or

(B) if an energy system is the building or structure that an entity uses to transact business, a commercial unit is the complete energy system itself.

(f) “Direct use geothermal system” means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building, an industrial process, and aquaculture.

(g) “Geothermal electricity” means energy that is:

(i) contained in heat that continuously flows outward from the earth; and

(ii) used as a sole source of energy to produce electricity.

(h) “Geothermal energy” means energy generated by heat that is contained in the earth.

(i) “Geothermal heat pump system” means a system of apparatus and equipment that:

(i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and

(ii) helps meet heating and cooling needs of a structure.

(j) “Hydroenergy system” means a system of apparatus and equipment that is capable of:

(i) intercepting and converting kinetic water energy into electrical or mechanical energy; and

(ii) transferring this form of energy by separate apparatus to the point of use or storage.

(k) “Office” means the Office of Energy Development created in Section 63M-4-401.

(l) (i) “Passive solar system” means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site.

(ii) “Passive solar system” includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(m) (i) “Principal recovery portion” means the portion of a lease payment that constitutes the cost a person incurs in acquiring a commercial energy system.

(ii) “Principal recovery portion” does not include:

(A) an interest charge; or

(B) a maintenance expense.

(n) “Residential energy system” means the following used to supply energy to or for a residential unit:

(i) an active solar system;

(ii) a biomass system;

(iii) a direct use geothermal system;

(iv) a geothermal heat pump system;

(v) a hydroenergy system;

(vi) a passive solar system; or

(vii) a wind system.

(o) (i) “Residential unit” means a house, condominium, apartment, or similar dwelling unit that:

(A) is located in the state; and

(B) serves as a dwelling for a person, group of persons, or a family.

(ii) “Residential unit” does not include property subject to a fee under:

(A) Section 59-2-404;

(B) Section 59-2-405;

(C) Section 59-2-405.1;

(D) Section 59-2-405.2; or

(E) Section 59-2-405.3.

(p) “Wind system” means a system of apparatus and equipment that is capable of:

(i) intercepting and converting wind energy into mechanical or electrical energy; and

(ii) transferring these forms of energy by a separate apparatus to the point of use, sale, or storage.

(2) A taxpayer may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) (a) Subject to the other provisions of this Subsection (3), a taxpayer may claim a nonrefundable tax credit under this Subsection (3) with respect to a residential unit the taxpayer owns or uses if:

(i) the taxpayer:

(A) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or

(B) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit;

(ii) the residential energy system is completed and placed in service on or after January 1, 2007; and

(iii) the taxpayer obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsections (3)(b)(ii) through (v), the tax credit is equal to 25% of the reasonable costs of each residential energy system installed with respect to each residential unit the taxpayer owns or uses.

(ii) A tax credit under this Subsection (3) may include installation costs.

(iii) A taxpayer may claim a tax credit under this Subsection (3) for the taxable year in which the residential energy system is completed and placed in service.

(iv) If the amount of a tax credit under this Subsection (3) exceeds a taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the liability may be carried forward for a period that does not exceed the next four taxable years.

(v) The total amount of tax credit a taxpayer may claim under this Subsection (3) may not exceed \$2,000 per residential unit.

(c) If a taxpayer sells a residential unit to another person before the taxpayer claims the tax credit under this Subsection (3):

(i) the taxpayer may assign the tax credit to the other person; and

(ii) (A) if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the other person had met the requirements of this section to claim the tax credit; or

(B) if the other person files a return under Chapter 10, Individual Income Tax Act, the other person may claim the tax credit under Section 59-10-1014 as if the other person had met the requirements of Section 59-10-1014 to claim the tax credit.

(4) (a) Subject to the other provisions of this Subsection (4), a taxpayer may claim a refundable tax credit under this Subsection (4) with respect to a commercial energy system if:

(i) the commercial energy system does not use:

(A) wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; or

(B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

(ii) the taxpayer purchases or participates in the financing of the commercial energy system;

(iii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iv) the commercial energy system is completed and placed in service on or after January 1, 2007; and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsections (4)(b)(ii) through (v), the tax credit is equal to 10% of the reasonable costs of the commercial energy system.

(ii) A tax credit under this Subsection (4) may include installation costs.

(iii) A taxpayer may claim a tax credit under this Subsection (4) for the taxable year in which the commercial energy system is completed and placed in service.

(iv) A tax credit under this Subsection (4) may not be carried forward or carried back.

(v) The total amount of tax credit a taxpayer may claim under this Subsection (4) may not exceed \$50,000 per commercial unit.

(c) (i) Subject to Subsections (4)(c)(ii) and (iii), a taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (4) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A taxpayer described in Subsection (4)(c)(i) may claim as a tax credit under this Subsection (4) only the principal recovery portion of the lease payments.

(iii) A taxpayer described in Subsection (4)(c)(i) may claim a tax credit under this Subsection (4) for a period that does not exceed seven taxable years after the date the lease begins, as stated in the lease agreement.

(5) (a) Subject to the other provisions of this Subsection (5), a taxpayer may claim a refundable tax credit under this Subsection (5) with respect to a commercial energy system if:

(i) the commercial energy system uses wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the commercial energy system is completed and placed in service on or after January 1, 2007; and

(iv) the taxpayer obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsections (5)(b)(ii) and (iii), a tax credit under this Subsection (5) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A tax credit under this Subsection (5) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(iii) A tax credit under this Subsection (5) may not be carried forward or carried back.

(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (5) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(6) (a) Subject to the other provisions of this Subsection (6), a taxpayer may claim a refundable tax credit as provided in this Subsection (6) if:

(i) the taxpayer owns a commercial energy system that uses solar equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the taxpayer does not claim a tax credit under Subsection (4);

(iv) the commercial energy system is completed and placed in service on or after January 1, 2015; and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsections (6)(b)(ii) and (iii), a tax credit under this Subsection (6) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A tax credit under this Subsection (6) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(iii) A tax credit under this Subsection (6) may not be carried forward or carried back.

(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (6) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(7) (a) Before a taxpayer may claim a tax credit under this section, the taxpayer shall obtain a written certification from the office.

(b) The office shall issue a taxpayer a written certification if the office determines that:

(i) the taxpayer meets the requirements of this section to receive a tax credit; and

(ii) the residential energy system or commercial energy system with respect to which the taxpayer seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from renewable resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system or commercial energy system uses the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a residential energy system or commercial energy system meets the requirements of Subsection (7)(b)(ii); and

(ii) for purposes of a tax credit under Subsection (3) or (4), establishing the reasonable costs of a residential energy system or a commercial energy system, as an amount per unit of energy production.

(d) A taxpayer that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

(9) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

~~[(10) (a) On or before October 1, 2017, and every five years after 2017, the Revenue and Taxation Interim Committee shall review each tax credit provided by this section and report its recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.]~~

~~[(b) The Revenue and Taxation Interim Committee's report under Subsection (10)(a) shall include information concerning the cost of the tax credit, the purpose and effectiveness of the tax credit, and the state's benefit from the tax credit.]~~

Section 4. Section 59-7-614.2 is amended to read:

59-7-614.2. Refundable economic development tax credit.

(1) As used in this section:

(a) "Business entity" means a taxpayer that meets the definition of "business entity" as defined in Section 63N-2-103.

(b) "Community reinvestment agency" means the same as that term is defined in Section 17C-1-102.

(c) "Local government entity" means the same as that term is defined in Section 63N-2-103.

(d) "New incremental jobs" means the same as that term is defined in Section 63N-2-103.

(e) "New state revenues" means the same as that term is defined in Section 63N-2-103.

(f) "Office" means the Governor's Office of Economic Development.

(2) Subject to the other provisions of this section, a business entity, local government entity, or community reinvestment agency may claim a refundable tax credit for economic development.

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity, local government entity, or community reinvestment agency for the taxable year.

(4) A community reinvestment agency may claim a tax credit under this section only if a local government entity assigns the tax credit to the community reinvestment agency in accordance with Section 63N-2-104.

(5) (a) In accordance with any rules prescribed by the commission under Subsection (5)(b), the commission shall make a refund to the following that claim a tax credit under this section:

- (i) a local government entity;
- (ii) a community reinvestment agency; or

(iii) a business entity if the amount of the tax credit exceeds the business entity's tax liability for a taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a business entity, local government entity, or community reinvestment agency as required by Subsection (5)(a).

(6) (a) ~~[On or before October 1, 2013, and every five years after October 1, 2013]~~ In accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations ~~[to the Legislative Management Committee]~~ concerning whether the tax credit should be continued, modified, or repealed.

(b) ~~[For]~~ Except as provided in Subsection (6)(c), for purposes of the study required by this Subsection (6), the office shall provide the following information, if available to the office, to the Revenue and Taxation Interim Committee by electronic means:

(i) the amount of tax credit that the office grants to each business entity, local government entity, or community reinvestment agency for each calendar year;

(ii) the criteria that the office uses in granting a tax credit;

(iii) (A) for a business entity, the new state revenues generated by the business entity for the calendar year; or

(B) for a local government entity, regardless of whether the local government entity assigns the tax credit in accordance with Section 63N-2-104, the new state revenues generated as a result of a new commercial project within the local government entity for each calendar year;

(iv) estimates for each of the next ~~[five]~~ three calendar years of the following:

(A) the amount of tax credits that the office will grant;

(B) the amount of new state revenues that will be generated; and

(C) the number of new incremental jobs within the state that will be generated;

(v) the information contained in the office's latest report ~~[to the Legislature]~~ under Section 63N-2-106; and

(vi) any other information that the Revenue and Taxation Interim Committee requests.

(c) (i) In providing the information described in Subsection (6)(b), the office shall redact information that identifies a recipient of a tax credit under this section.

(ii) If, notwithstanding the redactions made under Subsection (6)(c)(i), reporting the information described in Subsection (6)(b) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (6)(b) in the aggregate for all entities and agencies that receive the tax credit under this section.

~~[(e)]~~ (d) The Revenue and Taxation Interim Committee shall ensure that ~~[its]~~ the recommendations ~~[under]~~ described in Subsection (6)(a) include an evaluation of:

- (i) the cost of the tax credit to the state;
- (ii) the purpose and effectiveness of the tax credit; and
- (iii) the extent to which the state benefits from the tax credit.

Section 5. Section 59-7-614.5 is amended to read:

59-7-614.5. Refundable motion picture tax credit.

(1) As used in this section:

(a) "Motion picture company" means a taxpayer that meets the definition of a motion picture company under Section 63N-8-102.

(b) "Office" means the Governor's Office of Economic Development created in Section 63N-1-201.

(c) “State-approved production” ~~[has the same meaning as]~~ means the same as that term is defined in Section 63N-8-102.

(2) For a taxable ~~[years]~~ year beginning on or after January 1, 2009, a motion picture company may claim a refundable tax credit for a state-approved production.

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to a motion picture company under Section 63N-8-103 for the taxable year.

(4) (a) In accordance with any rules prescribed by the commission under Subsection (4)(b), the commission shall make a refund to a motion picture company that claims a tax credit under this section if the amount of the tax credit exceeds the motion picture company’s tax liability for a taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a motion picture company as required by Subsection (4)(a).

(5) (a) ~~[On or before October 1, 2014, and every five years after October 1, 2014]~~ In accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations ~~[to the Legislative Management Committee]~~ concerning whether the tax credit should be continued, modified, or repealed.

(b) ~~[For]~~ (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5), the office shall provide the following information ~~[to the Revenue and Taxation Interim Committee]~~, if available to the office, to the Office of the Legislative Fiscal Analyst by electronic means:

~~[(4)]~~ (A) the amount of tax credit that the office grants to each motion picture company for each calendar year; ~~[and]~~

(B) estimates of the amount of tax credit that the office will grant for each of the next ~~[five]~~ three calendar years;

~~[(4)]~~ (C) the criteria that the office uses in granting the tax credit;

~~[(4)]~~ (D) the dollars left in the state, as defined in Section 63N-8-102, by each motion picture company for each calendar year;

~~[(4)]~~ (E) the information contained in the office’s latest report ~~[to the Legislature]~~ under Section 63N-8-105; and

~~[(4)]~~ (F) any other information ~~[requested by]~~ that the ~~[Revenue and Taxation Interim Committee]~~ Office of the Legislative Fiscal Analyst requests.

(ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

(B) If, notwithstanding the redactions made under Subsection (5)(b)(i)(A), reporting the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (5)(b)(i) in the aggregate for all motion picture companies that receive the tax credit under this section.

(c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).

~~[(e)]~~ (d) The Revenue and Taxation Interim Committee shall ensure that ~~[its]~~ the recommendations ~~[under]~~ described in Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 6. Section 59-7-614.7 is amended to read:

59-7-614.7. Nonrefundable alternative energy development tax credit.

(1) As used in this section:

(a) “Alternative energy entity” ~~[is as]~~ means the same as that term is defined in Section 63M-4-502.

(b) “Alternative energy project” ~~[is as]~~ means the same as that term is defined in Section 63M-4-502.

(c) “Office” ~~[is as defined]~~ means the Office of Energy Development created in Section 63M-4-401.

(2) Subject to the other provisions of this section, an alternative energy entity may claim a nonrefundable tax credit for alternative energy development as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63M, Chapter 4, Part 5, Alternative Energy Development Tax Credit Act, to the alternative energy entity for the taxable year.

(4) An alternative energy entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the alternative energy entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the alternative energy entity’s tax liability under this chapter for that taxable year.

(5) (a) ~~[On or before October 1, 2017, and every five years after October 1, 2017]~~ In accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study the tax credit

allowed by this section and make recommendations ~~[to the Legislative Management Committee]~~ concerning whether the tax credit should be continued, modified, or repealed.

(b) ~~[For]~~ (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5), the office shall provide the following information, if available to the office, to the ~~[Revenue and Taxation Interim Committee]~~ Office of the Legislative Fiscal Analyst by electronic means:

~~[(i)]~~ (A) the amount of tax credit that the office grants to each alternative energy entity for each taxable year;

~~[(ii)]~~ (B) the new state revenues generated by each alternative energy project;

~~[(iii)]~~ (C) the information contained in the office's latest report ~~[to the Legislature]~~ under Section 63M-4-505; and

~~[(iv)]~~ (D) any other information that the ~~[Revenue and Taxation Interim Committee]~~ Office of the Legislative Fiscal Analyst requests.

(ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

(B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (5)(b)(i) in the aggregate for all alternative energy entities that receive the tax credit under this section.

(c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).

~~[(e)]~~ (d) The Revenue and Taxation Interim Committee shall ensure that ~~[its]~~ the recommendations ~~[under]~~ described in Subsection (5)(a) include an evaluation of:

- (i) the cost of the tax credit to the state;
- (ii) the purpose and effectiveness of the tax credit; and
- (iii) the extent to which the state benefits from the tax credit.

Section 7. Section 59-7-614.8 is amended to read:

59-7-614.8. Nonrefundable alternative energy manufacturing tax credit.

(1) As used in this section:

(a) "Alternative energy entity" means the same as that term is defined in Section 63N-2-702.

(b) "Alternative energy manufacturing project" means the same as that term is defined in Section 63N-2-702.

(c) "New incremental job within the state" means the same as that term is defined in Section 63N-2-702.

(d) "New state revenues" means the same as that term is defined in Section 63N-2-702.

(e) "Office" means the Governor's Office of Economic Development created in Section 63N-1-201.

(2) Subject to the other provisions of this section, an alternative energy entity may claim a nonrefundable tax credit for alternative energy manufacturing as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63N, Chapter 2, Part 7, Alternative Energy Manufacturing Tax Credit Act, to the alternative energy entity for the taxable year.

(4) An alternative energy entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the alternative energy entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the alternative energy entity's tax liability under this chapter for that taxable year.

(5) (a) ~~[On or before October 1, 2017, and every five years after October 1, 2017]~~ In accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations ~~[to the Legislative Management Committee]~~ concerning whether the tax credit should be continued, modified, or repealed.

(b) ~~[For]~~ Except as provided in Subsection (5)(c), for purposes of the study required by this Subsection (5), the office shall provide the following information, if available to the office, to the ~~[Revenue and Taxation Interim Committee]~~ Office of the Legislative Fiscal Analyst by electronic means:

(i) the amount of tax credit that the office grants to each alternative energy entity for each taxable year;

(ii) the new state revenues generated by each alternative energy manufacturing project;

(iii) estimates for each of the next ~~[five]~~ three calendar years of the following:

(A) the amount of tax credits that the office will grant;

(B) the amount of new state revenues that will be generated; and

(C) the number of new incremental jobs within the state that will be generated;

(iv) the information contained in the office's latest report ~~[to the Legislature]~~ under Section 63N-2-705; and

(v) any other information that the ~~[Revenue and Taxation Interim Committee]~~ Office of the Legislative Fiscal Analyst requests.

(c) (i) In providing the information described in Subsection (5)(b), the office shall redact information that identifies a recipient of a tax credit under this section.

(ii) If, notwithstanding the redactions made under Subsection (5)(c)(i), reporting the information described in Subsection (5)(b) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (5)(b) in the aggregate for all alternative energy entities that receive the tax credit under this section.

(d) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).

(e) (e) The Revenue and Taxation Interim Committee shall ensure that [its] the recommendations [under] described in Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 8. Section 59-7-614.10 is amended to read:

59-7-614.10. Nonrefundable enterprise zone tax credit.

(1) As used in this section:

(a) "Business entity" means a corporation that meets the definition of "business entity" as that term is defined in Section 63N-2-202.

(b) "Office" means the Governor's Office of Economic Development created in Section 63N-1-201.

(2) Subject to the provisions of this section, a business entity may claim a nonrefundable enterprise zone tax credit as described in Section 63N-2-213.

(3) The enterprise zone tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity for the taxable year.

(4) A business entity may carry forward a tax credit under this section for a period that does not exceed the next three taxable years, if the amount of the tax credit exceeds the business entity's tax liability under this chapter for that taxable year.

(5) A business entity may not claim or carry forward a tax credit available under this part for a taxable year during which the business entity has claimed the targeted business income tax credit available under Section 63N-2-305.

(6) (a) ~~[On or before October 1, 2018, and every five years after October 1, 2018]~~ In accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations [to the Legislative Management Committee] concerning whether the tax credit should be continued, modified, or repealed.

(b) ~~[For]~~ (i) Except as provided in Subsection (6)(b)(ii), for purposes of the study required by this Subsection (6), the office shall provide by electronic means the following information for each calendar year to the [Revenue and Taxation Interim Committee] Office of the Legislative Fiscal Analyst:

(i) (A) the amount of tax credits provided in each development zone;

(ii) (B) the number of new full-time employee positions reported to obtain tax credits in each development zone;

(iii) (C) the amount of tax credits awarded for rehabilitating a building in each development zone;

(iv) (D) the amount of tax credits awarded for investing in a plant, equipment, or other depreciable property in each development zone;

(v) (E) the information related to the tax credit contained in the office's latest report [to the Legislature] under Section 63N-1-301; and

(vi) (F) any other information [as requested by the Revenue and Taxation Interim Committee] that the Office of the Legislative Fiscal Analyst requests.

(ii) (A) In providing the information described in Subsection (6)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

(B) If, notwithstanding the redactions made under Subsection (6)(b)(ii)(A), reporting the information described in Subsection (6)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (6)(b)(i) in the aggregate for all development zones that receive the tax credit under this section.

(c) As part of the study required by this Subsection (6), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (6)(b).

(e) (d) The Revenue and Taxation Interim Committee shall ensure that [its] the recommendations [under] described in Subsection (6)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 9. Section 59-7-619 is amended to read:

59-7-619. Nonrefundable high cost infrastructure development tax credit.

(1) As used in this section:

(a) “High cost infrastructure project” means the same as that term is defined in Section 63M-4-602.

(b) “Infrastructure cost-burdened entity” means the same as that term is defined in Section 63M-4-602.

(c) “Infrastructure-related revenue” means the same as that term is defined in Section 63M-4-602.

(d) “Office” means the Office of Energy Development created in Section 63M-4-401.

(2) Subject to the other provisions of this section, a corporation that is an infrastructure cost-burdened entity may claim a nonrefundable tax credit for development of a high cost infrastructure project as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63M, Chapter 4, Part 6, High Cost Infrastructure Development Tax Credit Act, to the infrastructure cost-burdened entity for the taxable year.

(4) An infrastructure cost-burdened entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the infrastructure cost-burdened entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the infrastructure cost-burdened entity’s tax liability under this chapter for that taxable year.

(5) (a) ~~[On or before October 1, 2020, and every five years after October 1, 2020]~~ In accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations ~~[to the Legislative Management Committee]~~ concerning whether the tax credit should be continued, modified, or repealed.

(b) ~~[For]~~ (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5), the office shall provide the following information, if available to the office, to the ~~[Revenue and Taxation Interim Committee]~~ Office of the Legislative Fiscal Analyst:

~~[(iv)]~~ (A) the amount of tax credit that the office grants to each infrastructure cost-burdened entity for each taxable year;

~~[(iii)]~~ (B) the infrastructure-related revenue generated by each high cost infrastructure project;

~~[(iii)]~~ (C) the information contained in the office’s latest report ~~[to the Legislature]~~ under Section 63M-4-505; and

~~[(iv)]~~ (D) any other information that the ~~[Revenue and Taxation Interim Committee]~~ Office of the Legislative Fiscal Analyst requests.

(ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

(B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (5)(b)(i) in the aggregate for all infrastructure cost-burdened entities that receive the tax credit under this section.

(c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).

~~[(e)]~~ (d) The Revenue and Taxation Interim Committee shall ensure that the ~~[Revenue and Taxation Interim Committee’s]~~ recommendations ~~[under]~~ described in Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 10. Section 59-9-107 is amended to read:

59-9-107. Nonrefundable small business jobs credit.

(1) As used in this section:

(a) “Credit allowance date” ~~[is as]~~ means the same as that term is defined in Section 63N-2-602.

(b) “Office” ~~[is as defined]~~ means the Governor’s Office of Economic Development created in Section ~~[63N-1-102]~~ 63N-1-201.

(c) “Tax credit certificate” ~~[is as]~~ means the same as that term is defined in Section 63N-2-602.

(2) An entity may claim a nonrefundable tax credit against a tax liability under this chapter in accordance with this section if the entity is issued a tax credit certificate by the office under Subsection 63N-2-603(11). The office shall issue a tax credit certificate to an entity that is allocated tax credits under Subsection 63N-2-603(11)(e).

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate issued to the entity for the calendar year.

(4) An entity may carry forward a tax credit under this section for seven years if:

(a) the entity is allowed to claim a tax credit under this section for a calendar year; and

(b) the amount of the tax credit exceeds the entity's tax liability under this chapter for that calendar year.

(5) An entity required to pay a retaliatory tax levied under this chapter for a reason other than claiming the tax credit may claim the tax credit after the retaliatory tax amount is calculated, and the tax credit may be used to offset retaliatory tax liability.

(6) Notwithstanding the other provisions of this section, this section does not apply to an admitted insurer to the extent that the admitted insurer writes workers' compensation insurance in this state and has premiums taxed under Subsection 59-9-101(2).

(7) (a) On or before November 30, 2018, and every three years after 2018, the Revenue and Taxation Interim Committee shall review the tax credit provided by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) In conducting the review required by Subsection (7)(a), the Revenue and Taxation Interim Committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the tax credit under review to provide testimony;

(iii) ensure that the recommendations described in this section include an evaluation of:

(A) the cost of the tax credit to the state;

(B) the purpose and effectiveness of the tax credit; and

(C) the extent to which the state benefits from the tax credit; and

(iv) undertake other review efforts as determined by the chairs of the Revenue and Taxation Interim Committee.

Section 11. Section 59-10-137 is enacted to read:

59-10-137. Review of credits allowed under this chapter.

(1) As used in this section, "committee" means the Revenue and Taxation Interim Committee.

(2) (a) The committee shall review the tax credits described in this chapter as provided in Subsection (3) and make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) In conducting the review required under Subsection (2)(a), the committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the tax credit under review to provide testimony;

(iii) (A) invite the Governor's Office of Economic Development to present a summary and analysis of the information for each tax credit regarding which the Governor's Office of Economic Development is required to make a report under this chapter; and

(B) invite the Office of the Legislative Fiscal Analyst to present a summary and analysis of the information for each tax credit regarding which the Office of the Legislative Fiscal Analyst is required to make a report under this chapter;

(iv) ensure that the committee's recommendations described in this section include an evaluation of:

(A) the cost of the tax credit to the state;

(B) the purpose and effectiveness of the tax credit; and

(C) the extent to which the state benefits from the tax credit; and

(v) undertake other review efforts as determined by the committee chairs or as otherwise required by law.

(3) (a) On or before November 30, 2017, and every three years after 2017, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-10-1004;

(ii) Section 59-10-1010;

(iii) Section 59-10-1015;

(iv) Section 59-10-1025;

(v) Section 59-10-1027;

(vi) Section 59-10-1031;

(vii) Section 59-10-1032;

(viii) Section 59-10-1035;

(ix) Section 59-10-1104;

(x) Section 59-10-1105; and

(xi) Section 59-10-1108.

(b) On or before November 30, 2018, and every three years after 2018, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-10-1005;

(ii) Section 59-10-1006;

(iii) Section 59-10-1012;

(iv) Section 59-10-1013;

(v) Section 59-10-1022;

(vi) Section 59-10-1023;

(vii) Section 59-10-1028;

(viii) Section 59-10-1034;

(ix) Section 59-10-1037; and

(x) Section 59-10-1107.

(c) On or before November 30, 2019, and every three years after 2019, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-10-1007;

(ii) Section 59-10-1009;

(iii) Section 59-10-1014;

(iv) Section 59-10-1017;

(v) Section 59-10-1018;

(vi) Section 59-10-1019;

(vii) Section 59-10-1024;

(viii) Section 59-10-1029;

(ix) Section 59-10-1030;

(x) Section 59-10-1033;

(xi) Section 59-10-1036;

(xii) Section 59-10-1106; and

(xiii) Section 59-10-1111.

(d) (i) In addition to the reviews described in this Subsection (3), the committee shall conduct a review of a tax credit described in this chapter that is enacted on or after January 1, 2017.

(ii) The committee shall complete a review described in this Subsection (3)(d) three years after the effective date of the tax credit and every three years after the initial review date.

Section 12. Section 59-10-1012 is amended to read:

59-10-1012. Tax credits for research activities conducted in the state -- Carry forward -- Commission to report modification or repeal of certain federal provisions -- Revenue and Taxation Interim Committee study.

(1) (a) A claimant, estate, or trust meeting the requirements of this section may claim the following nonrefundable tax credits:

(i) a research tax credit of 5% of the claimant's, estate's, or trust's qualified research expenses for the current taxable year that exceed the base amount provided for under Subsection (3);

(ii) a tax credit for a payment to a qualified organization for basic research as provided in Section 41(e), Internal Revenue Code of 5% for the current taxable year that exceed the base amount provided for under Subsection (3); and

(iii) a tax credit equal to 7.5% of the claimant's, estate's, or trust's qualified research expenses for the current taxable year.

(b) Subject to Subsection (4), a claimant, estate, or trust may claim a tax credit under:

(i) Subsection (1)(a)(i) or (1)(a)(iii), for the taxable year for which the claimant, estate, or trust incurs the qualified research expenses; or

(ii) Subsection (1)(a)(ii), for the taxable year for which the claimant, estate, or trust makes the payment to the qualified organization.

(c) The tax credits provided for in this section do not include the alternative incremental credit provided for in Section 41(c)(4), Internal Revenue Code.

(2) Except as specifically provided for in this section:

(a) the tax credits authorized under Subsection (1) shall be calculated as provided in Section 41, Internal Revenue Code; and

(b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating the tax credits authorized under Subsection (1).

(3) For purposes of this section:

(a) the base amount shall be calculated as provided in Sections 41(c) and 41(h), Internal Revenue Code, except that:

(i) the base amount does not include the calculation of the alternative incremental credit provided for in Section 41(c)(4), Internal Revenue Code;

(ii) a claimant's, estate's, or trust's gross receipts include only those gross receipts attributable to sources within this state as provided in Section 59-10-118; and

(iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating the base amount, a claimant, estate, or trust:

(A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B), Internal Revenue Code, regardless of whether the claimant, estate, or trust meets the requirements of Section 41(c)(3)(B)(i)(I) or (II), Internal Revenue Code; and

(B) may not revoke an election to be treated as a start-up company under Subsection (3)(a)(iii)(A);

(b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except that the term includes only basic research conducted in this state;

(c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except that the term includes only qualified research conducted in this state;

(d) "qualified research expenses" is as defined and calculated in Section 41(b), Internal Revenue Code, except that the term includes only:

(i) in-house research expenses incurred in this state; and

(ii) contract research expenses incurred in this state; and

(e) a tax credit provided for in this section is not terminated if a credit terminates under Section 41, Internal Revenue Code.

(4) (a) If the amount of a tax credit claimed by a claimant, estate, or trust under Subsection (1)(a)(i) or (ii) exceeds the claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability:

(i) may be carried forward for a period that does not exceed the next 14 taxable years; and

(ii) may not be carried back to a taxable year preceding the current taxable year.

(b) A claimant, estate, or trust may not carry forward the tax credit allowed by Subsection (1)(a)(iii).

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for purposes of this section prescribing a certification process for qualified organizations to ensure that amounts paid to the qualified organizations are for basic research conducted in this state.

(6) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the commission shall report the modification or repeal by electronic means to the Revenue and Taxation Interim Committee within 60 days after the day on which the modification or repeal becomes effective.

(7) (a) The Revenue and Taxation Interim Committee shall review the tax credits provided for in this section on or before October 1 of the year after the year in which the commission reports under Subsection (6) a modification or repeal of a provision of Section 41, Internal Revenue Code.

(b) The review described in Subsection (7)(a) is in addition to the review required by Section 59-10-137.

~~[(b)]~~ (c) Notwithstanding Subsection (7)(a), the Revenue and Taxation Interim Committee is not required to review the tax credits provided for in this section if the only modification to a provision of Section 41, Internal Revenue Code, is the extension of the termination date provided for in Section 41(h), Internal Revenue Code.

~~[(e)]~~ (d) The Revenue and Taxation Interim Committee shall address in a review under this section:

(i) the cost of the tax credits provided for in this section;

(ii) the purpose and effectiveness of the tax credits provided for in this section;

(iii) whether the tax credits provided for in this section benefit the state; and

(iv) whether the tax credits provided for in this section should be:

(A) continued;

(B) modified; or

(C) repealed.

~~[(d)]~~ (e) If the Revenue and Taxation Interim Committee reviews the tax credits provided for in this section, the committee shall issue a report [its] of the Revenue and Taxation Interim Committee's findings ~~[to the Legislative Management Committee on or before the November interim meeting of the year in which the Revenue and Taxation Interim Committee reviews the tax credits].~~

Section 13. Section 59-10-1013 is amended to read:

59-10-1013. Tax credits for machinery, equipment, or both primarily used for conducting qualified research or basic research -- Carry forward -- Commission to report modification or repeal of certain federal provisions -- Revenue and Taxation Interim Committee study.

(1) As used in this section:

(a) "Basic research" ~~[is as]~~ means the same as that term is defined in Section 41(e)(7), Internal Revenue Code, except that the term includes only basic research conducted in this state.

(b) "Equipment" includes:

(i) a computer;

(ii) computer equipment; and

(iii) computer software.

(c) "Purchase price":

(i) includes the cost of installing an item of machinery or equipment; and

(ii) does not include a tax imposed under Chapter 12, Sales and Use Tax Act, on an item of machinery or equipment.

(d) "Qualified organization" ~~[is as]~~ means the same as that term is defined in Section 41(e)(6), Internal Revenue Code.

(e) "Qualified research" ~~[is as]~~ means the same as that term is defined in Section 41(d), Internal Revenue Code, except that the term includes only qualified research conducted in this state.

(2) (a) Except as provided in Subsection (2)(c), for a taxable ~~[years]~~ year beginning on or after January 1, 1999, but beginning before December 31, 2010, a claimant, estate, or trust meeting the requirements of this section may claim the following nonrefundable tax credits:

(i) a tax credit of 6% of the purchase price of machinery, equipment, or both:

(A) purchased by the claimant, estate, or trust during the taxable year;

(B) that is subject to a tax under Chapter 12, Sales and Use Tax Act; and

(C) that is primarily used to conduct qualified research in this state; and

(ii) a tax credit of 6% of the purchase price paid by the claimant, estate, or trust for machinery, equipment, or both:

(A) purchased by the claimant, estate, or trust during the taxable year;

(B) that is subject to a tax under Chapter 12, Sales and Use Tax Act;

(C) that is donated to a qualified organization; and

(D) that is primarily used to conduct basic research in this state.

(b) Subject to Subsection (4), a claimant, estate, or trust may claim a tax credit under this section for the taxable year for which the claimant, estate, or trust purchases the machinery, equipment, or both.

(c) If a claimant, estate, or trust qualifies for a tax credit under Subsection (2)(a) for a purchase of machinery, equipment, or both, the claimant, estate, or trust may not claim the tax credit or carry the tax credit forward if the machinery, equipment, or both, is primarily used to conduct qualified research in the state for a time period that is less than 12 consecutive months.

(3) Notwithstanding Section 41(h), Internal Revenue Code, a tax credit provided for in this section is not terminated if a credit terminates under Section 41, Internal Revenue Code.

(4) If the amount of a tax credit claimed by a claimant, estate, or trust under this section exceeds a claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability:

(a) may be carried forward for a period that does not exceed the next 14 taxable years; and

(b) may not be carried back to a taxable year preceding the current taxable year.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for purposes of this section prescribing a certification process for qualified organizations to ensure that machinery, equipment, or both provided to the qualified organization is to be primarily used to conduct basic research in this state.

(6) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the commission shall report the modification or repeal by electronic means to the Revenue and Taxation Interim Committee within 60 days after the day on which the modification or repeal becomes effective.

(7) (a) The Revenue and Taxation Interim Committee shall review the tax credits provided for in this section on or before October 1 of the year after the year in which the commission reports under Subsection (6) a modification or repeal of a provision of Section 41, Internal Revenue Code.

(b) The review described in Subsection (7)(a) is in addition to the review required by Section 59-10-137.

~~(c)~~ (c) Notwithstanding Subsection (7)(a), the Revenue and Taxation Interim Committee is not required to review the tax credits provided for in

this section if the only modification to a provision of Section 41, Internal Revenue Code, is the extension of the termination date provided for in Section 41(h), Internal Revenue Code.

~~(e)~~ (d) The Revenue and Taxation Interim Committee shall address in a review under this section the:

(i) cost of the tax credits provided for in this section;

(ii) purpose and effectiveness of the tax credits provided for in this section;

(iii) whether the tax credits provided for in this section benefit the state; and

(iv) whether the tax credits provided for in this section should be:

(A) continued;

(B) modified; or

(C) repealed.

~~(d)~~ (e) If the Revenue and Taxation Interim Committee reviews the tax credits provided for in this section, the committee shall issue a report [its] of the Revenue and Taxation Interim Committee's findings [to the Legislative Management Committee on or before the November interim meeting of the year in which the Revenue and Taxation Interim Committee reviews the tax credits].

Section 14. Section 59-10-1014 is amended to read:

59-10-1014. Nonrefundable renewable energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.

(1) As used in this section:

(a) (i) "Active solar system" means a system of equipment that is capable of:

(A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy; and

(B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use.

(ii) "Active solar system" includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means a system of apparatus and equipment for use in:

(i) converting material into biomass energy, as defined in Section 59-12-102; and

(ii) transporting the biomass energy by separate apparatus to the point of use or storage.

(c) "Direct use geothermal system" means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building, an industrial process, and aquaculture.

(d) "Geothermal electricity" means energy that is:

(i) contained in heat that continuously flows outward from the earth; and

(ii) used as a sole source of energy to produce electricity.

(e) “Geothermal energy” means energy generated by heat that is contained in the earth.

(f) “Geothermal heat pump system” means a system of apparatus and equipment that:

(i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and

(ii) helps meet heating and cooling needs of a structure.

(g) “Hydroenergy system” means a system of apparatus and equipment that is capable of:

(i) intercepting and converting kinetic water energy into electrical or mechanical energy; and

(ii) transferring this form of energy by separate apparatus to the point of use or storage.

(h) “Office” means the Office of Energy Development created in Section 63M-4-401.

(i) (i) “Passive solar system” means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site.

(ii) “Passive solar system” includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(j) (i) “Principal recovery portion” means the portion of a lease payment that constitutes the cost a person incurs in acquiring a residential energy system.

(ii) “Principal recovery portion” does not include:

(A) an interest charge; or

(B) a maintenance expense.

(k) “Residential energy system” means the following used to supply energy to or for a residential unit:

(i) an active solar system;

(ii) a biomass system;

(iii) a direct use geothermal system;

(iv) a geothermal heat pump system;

(v) a hydroenergy system;

(vi) a passive solar system; or

(vii) a wind system.

(l) (i) “Residential unit” means a house, condominium, apartment, or similar dwelling unit that:

(A) is located in the state; and

(B) serves as a dwelling for a person, group of persons, or a family.

(ii) “Residential unit” does not include property subject to a fee under:

(A) Section 59-2-404;

(B) Section 59-2-405;

(C) Section 59-2-405.1;

(D) Section 59-2-405.2; or

(E) Section 59-2-405.3.

(m) “Wind system” means a system of apparatus and equipment that is capable of:

(i) intercepting and converting wind energy into mechanical or electrical energy; and

(ii) transferring these forms of energy by a separate apparatus to the point of use or storage.

(2) A claimant, estate, or trust may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) (a) Subject to the other provisions of this Subsection (3), a claimant, estate, or trust may claim a nonrefundable tax credit under this Subsection (3) with respect to a residential unit the claimant, estate, or trust owns or uses if:

(i) the claimant, estate, or trust:

(A) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or

(B) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit;

(ii) the residential energy system is completed and placed in service on or after January 1, 2007; and

(iii) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (4).

(b) (i) Subject to Subsections (3)(b)(ii) through (vi), the tax credit is equal to 25% of the reasonable costs of each residential energy system installed with respect to each residential unit the claimant, estate, or trust owns or uses.

(ii) A tax credit under this Subsection (3) may include installation costs.

(iii) A claimant, estate, or trust may claim a tax credit under this Subsection (3) for the taxable year in which the residential energy system is completed and placed in service.

(iv) If the amount of a tax credit under this Subsection (3) exceeds a claimant’s, estate’s, or trust’s tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the liability may be carried forward for a period that does not exceed the next four taxable years.

(v) The total amount of tax credit a claimant, estate, or trust may claim under this Subsection (3) may not exceed \$2,000 per residential unit.

(vi) A claimant, estate, or trust may claim a tax credit with respect to additional residential energy systems or parts of residential energy systems for a subsequent taxable year if the total amount of tax credit the claimant, estate, or trust claims does not exceed \$2,000 per residential unit.

(c) (i) Subject to Subsections (3)(c)(ii) and (iii), a claimant, estate, or trust that leases a residential energy system installed on a residential unit may claim a tax credit under this Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A claimant, estate, or trust described in Subsection (3)(c)(i) that leases a residential energy system may claim as a tax credit under this Subsection (3) only the principal recovery portion of the lease payments.

(iii) A claimant, estate, or trust described in Subsection (3)(c)(i) that leases a residential energy system may claim a tax credit under this Subsection (3) for a period that does not exceed seven taxable years after the date the lease begins, as stated in the lease agreement.

(d) If a claimant, estate, or trust sells a residential unit to another person before the claimant, estate, or trust claims the tax credit under this Subsection (3):

(i) the claimant, estate, or trust may assign the tax credit to the other person; and

(ii) (A) if the other person files a return under Chapter 7, Corporate Franchise and Income Taxes, the other person may claim the tax credit as if the other person had met the requirements of Section 59-7-614 to claim the tax credit; or

(B) if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the other person had met the requirements of this section to claim the tax credit.

(4) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the claimant, estate, or trust shall obtain a written certification from the office.

(b) The office shall issue a claimant, estate, or trust a written certification if the office determines that:

(i) the claimant, estate, or trust meets the requirements of this section to receive a tax credit; and

(ii) the office determines that the residential energy system with respect to which the claimant, estate, or trust seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from renewable resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system uses the state's renewable and

nonrenewable energy resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a residential energy system meets the requirements of Subsection (4)(b)(ii); and

(ii) for purposes of a tax credit under Subsection (3), establishing the reasonable costs of a residential energy system, as an amount per unit of energy production.

(d) A claimant, estate, or trust that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

(6) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

(7) A purchaser of one or more solar units that claims a tax credit under Section 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.

~~[(8) (a) On or before October 1, 2017, and every five years after 2017, the Revenue and Taxation Interim Committee shall review each tax credit provided by this section and report its recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.]~~

~~[(b) The Revenue and Taxation Interim Committee's report under Subsection (8)(a) shall include information concerning the cost of the tax credit, the purpose and effectiveness of the tax credit, and the state's benefit from the tax credit.]~~

Section 15. Section 59-10-1024 is amended to read:

59-10-1024. Nonrefundable tax credit for qualifying solar projects.

(1) As used in this section:

(a) "Active solar system" ~~is as~~ means the same as that term is defined in Section 59-10-1014.

(b) "Purchaser" means a claimant, estate, or trust that purchases one or more solar units from a qualifying political subdivision.

(c) "Qualifying political subdivision" means:

(i) a city or town in this state;

(ii) an interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act; or

(iii) a special service district created under Title 17D, Chapter 1, Special Service District Act.

(d) "Qualifying solar project" means the portion of an active solar system:

(i) that a qualifying political subdivision:

(A) constructs;

(B) controls; or

(C) owns;

(ii) with respect to which the qualifying political subdivision described in Subsection (1)(c)(i) sells one or more solar units; and

(iii) that generates electrical output that is furnished:

(A) to one or more residential units; or

(B) for the benefit of one or more residential units.

(e) "Residential unit" ~~is as~~ means the same as that term is defined in Section 59-10-1014.

(f) "Solar unit" means a portion of the electrical output:

(i) of a qualifying solar project;

(ii) that a qualifying political subdivision sells to a purchaser; and

(iii) the purchase of which requires that the purchaser agree to bear a proportionate share of the expense of the qualifying solar project:

(A) in accordance with a written agreement between the purchaser and the qualifying political subdivision;

(B) in exchange for a credit on the purchaser's electrical bill; and

(C) as determined by a formula established by the qualifying political subdivision.

(2) Subject to Subsection (3), for taxable years beginning on or after January 1, 2009, a purchaser may claim a nonrefundable tax credit equal to the product of:

(a) the amount the purchaser pays to purchase one or more solar units during the taxable year; and

(b) 25%.

(3) For a taxable year, a tax credit under this section may not exceed \$2,000 on a return.

(4) A purchaser may carry forward a tax credit under this section for a period that does not exceed the next four taxable years if:

(a) the purchaser is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the purchaser's tax liability under this chapter for that taxable year.

(5) Subject to Section 59-10-1014, a tax credit under this section is in addition to any other tax credit allowed by this chapter.

~~[(6) (a) On or before October 1, 2012, and every five years after October 1, 2012, the Revenue and~~

~~Taxation Interim Committee shall review the tax credit allowed by this section and report its recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.]~~

~~[(b) The Revenue and Taxation Interim Committee's report under Subsection (6)(a) shall include information concerning the cost of the tax credit, the purpose and effectiveness of the tax credit, and the state's benefit from the tax credit.]~~

Section 16. Section 59-10-1025 is amended to read:

59-10-1025. Nonrefundable tax credit for investment in certain life science establishments.

(1) As used in this section:

(a) "Commercial domicile" means the principal place from which the trade or business of a Utah small business corporation is directed or managed.

(b) "Eligible claimant, estate, or trust" means the same as that term is defined in Section 63N-2-802.

(c) "Life science establishment" means an establishment primarily engaged in the development or manufacture of products in one or more of the following categories:

(i) biotechnologies;

(ii) medical devices;

(iii) medical diagnostics; and

(iv) pharmaceuticals.

(d) "Office" means the Governor's Office of Economic Development.

(e) "Pass-through entity" means the same as that term is defined in Section 59-10-1402.

(f) "Pass-through entity taxpayer" means the same as that term is defined in Section 59-10-1402.

(g) "Qualifying ownership interest" means an ownership interest that is:

(i) (A) common stock;

(B) preferred stock; or

(C) an ownership interest in a pass-through entity;

(ii) originally issued to:

(A) an eligible claimant, estate, or trust; or

(B) a pass-through entity if the eligible claimant, estate, or trust that claims a tax credit under this section was a pass-through entity taxpayer of the pass-through entity on the day on which the qualifying ownership interest was issued and remains a pass-through entity taxpayer of the pass-through entity until the last day of the taxable year for which the eligible claimant, estate, or trust claims a tax credit under this section; and

(iii) issued:

(A) by a Utah small business corporation;

(B) on or after January 1, 2011; and

(C) for money or other property, except for stock or securities.

(h) (i) Except as provided in Subsection (1)(h)(ii), "Utah small business corporation" means the same as that term is defined in Section 59-10-1022.

(ii) For purposes of this section, a corporation under Section 1244(c)(3)(A), Internal Revenue Code, is considered to include a pass-through entity.

(2) Subject to the other provisions of this section, for a taxable year beginning on or after January 1, 2011, an eligible claimant, estate, or trust that holds a tax credit certificate issued to the eligible claimant, estate, or trust in accordance with Section 63N-2-808 for that taxable year may claim a nonrefundable tax credit in an amount up to 35% of the purchase price of a qualifying ownership interest in a Utah small business corporation by the claimant, estate, or trust if:

(a) the qualifying ownership interest is issued by a Utah small business corporation that is a life science establishment;

(b) the qualifying ownership interest in the Utah small business corporation is purchased for at least \$25,000;

(c) the eligible claimant, estate, or trust owned less than 30% of the qualifying ownership interest of the Utah small business corporation at the time of the purchase of the qualifying ownership interest; and

(d) on each day of the taxable year in which the purchase of the qualifying ownership interest was made, the Utah small business corporation described in Subsection (2)(a) has at least 50% of its employees in the state.

(3) Subject to Subsection (4), the tax credit under Subsection (2):

(a) may only be claimed by an eligible claimant, estate, or trust:

(i) for a taxable year for which the eligible claimant, estate, or trust holds a tax credit certificate issued in accordance with Section 63N-2-808; and

(ii) subject to obtaining a tax credit certificate for each taxable year as required by Subsection (3)(a)(i), for a period of three taxable years as follows:

(A) the tax credit in the taxable year in which the purchase of the qualifying ownership interest was made may not exceed 10% of the purchase price of the qualifying ownership interest;

(B) the tax credit in the taxable year after the taxable year described in Subsection (3)(a)(ii)(A) may not exceed 10% of the purchase price of the qualifying ownership interest; and

(C) the tax credit in the taxable year two years after the taxable year described in Subsection

(3)(a)(ii)(A) may not exceed 15% of the purchase price of the qualifying ownership interest; and

(b) may not exceed the lesser of:

(i) the amount listed on the tax credit certificate issued in accordance with Section 63N-2-808; or

(ii) \$350,000 in a taxable year.

(4) An eligible claimant, estate, or trust may not claim a tax credit under this section for a taxable year if the eligible claimant, estate, or trust:

(a) has sold any of the qualifying ownership interest during the taxable year; or

(b) does not hold a tax credit certificate for that taxable year that is issued to the eligible claimant, estate, or trust by the office in accordance with Section 63N-2-808.

(5) If a Utah small business corporation in which an eligible claimant, estate, or trust purchases a qualifying ownership interest fails, dissolves, or otherwise goes out of business, the eligible claimant, estate, or trust may not claim both the tax credit provided in this section and a capital loss on the qualifying ownership interest.

(6) If an eligible claimant is a pass-through entity taxpayer that files a return under Chapter 7, Corporate Franchise and Income Taxes, the eligible claimant may claim the tax credit under this section on the return filed under Chapter 7, Corporate Franchise and Income Taxes.

(7) A claimant, estate, or trust may not carry forward or carry back a tax credit under this section.

(8) (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) Except as provided in Subsection (8)(c), for purposes of the study required by this Subsection (8), the office shall provide the following information, if available to the office, to the Office of the Legislative Fiscal Analyst by electronic means:

(i) the amount of tax credit that the office grants to each eligible business entity for each taxable year;

(ii) the amount of eligible new state tax revenues generated by each eligible product or project;

(iii) estimates for each of the next three calendar years of the following:

(A) the amount of tax credit that the office will grant;

(B) the amount of eligible new state tax revenues that will be generated; and

(C) the number of new incremental jobs within the state that will be generated;

(iv) the information contained in the office's latest report under Section 63N-2-705; and

(v) any other information that the Office of the Legislative Fiscal Analyst requests.

(c) (i) In providing the information described in Subsection (8)(b), the office shall redact information that identifies a recipient of a tax credit under this section.

(ii) If, notwithstanding the redactions made under Subsection (8)(c)(i), reporting the information described in Subsection (8)(b) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (8)(b) in the aggregate for all entities that receive the tax credit under this section.

(d) As part of the study required by this Subsection (8), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (8)(b).

(e) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (8)(a) include an evaluation of:

- (i) the cost of the tax credit under this section;
- (ii) the purpose and effectiveness of the tax credit; and
- (iii) the extent to which the state benefits from the tax credit.

Section 17. Section 59-10-1029 is amended to read:

59-10-1029. Nonrefundable alternative energy development tax credit.

(1) As used in this section:

(a) "Alternative energy entity" [is as] means the same as that term is defined in Section 63M-4-502.

(b) "Alternative energy project" [is as] means the same as that term is defined in Section 63M-4-502.

(c) "Office" [is as defined in] means the Office of Energy Development created in Section 63M-4-401.

(2) Subject to the other provisions of this section, an alternative energy entity may claim a nonrefundable tax credit for alternative energy development as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63M, Chapter 4, Part 5, Alternative Energy Development Tax Credit Act, to the alternative energy entity for the taxable year.

(4) An alternative energy entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the alternative energy entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the alternative energy entity's tax liability under this chapter for that taxable year.

(5) (a) [~~On or before October 1, 2017, and every five years after October 1, 2017~~] In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations [~~to the Legislative Management Committee~~] concerning whether the tax credit should be continued, modified, or repealed.

(b) [~~For~~] (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5), the office shall provide the following information, if available to the office, to the [~~Revenue and Taxation Interim Committee~~] Office of the Legislative Fiscal Analyst by electronic means:

(i) (A) the amount of tax credit that the office grants to each alternative energy entity for each taxable year;

(ii) (B) the new state revenues generated by each alternative energy project;

(iii) (C) the information contained in the office's latest report [~~to the Legislature~~] under Section 63M-4-505; and

(iv) (D) any other information that the [~~Revenue and Taxation Interim Committee~~] Office of the Legislative Fiscal Analyst requests.

(ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

(B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (5)(b)(i) in the aggregate for all alternative energy entities that receive the tax credit under this section.

(c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).

(e) (d) The Revenue and Taxation Interim Committee shall ensure that [its] the recommendations [~~under~~] described in Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 18. Section 59-10-1030 is amended to read:

59-10-1030. Nonrefundable alternative energy manufacturing tax credit.

(1) As used in this section:

(a) "Alternative energy entity" means the same as that term is defined in Section 63N-2-702.

(b) "Alternative energy manufacturing project" means the same as that term is defined in Section 63N-2-702.

(c) "New incremental job with the state" means the same as that term is defined in Section 63N-2-702.

(d) "New state revenues" means the same as that term is defined in Section 63N-2-702.

(e) "Office" means the Governor's Office of Economic Development created in Section 63N-1-201.

(2) Subject to the other provisions of this section, an alternative energy entity may claim a nonrefundable tax credit for alternative energy manufacturing as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63N, Chapter 2, Part 7, Alternative Energy Manufacturing Tax Credit Act, to the alternative energy entity for the taxable year.

(4) An alternative energy entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the alternative energy entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the alternative energy entity's tax liability under this chapter for that taxable year.

(5) (a) ~~[On or before October 1, 2017, and every five years after October 1, 2017]~~ In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations ~~[to the Legislative Management Committee]~~ concerning whether the tax credit should be continued, modified, or repealed.

(b) ~~[For]~~ Except as provided in Subsection (5)(c), for purposes of the study required by this Subsection (5), the office shall provide the following information, if available to the office, to the ~~[Revenue and Taxation Interim Committee]~~ Office of the Legislative Fiscal Analyst by electronic means:

(i) the amount of tax credit that the office grants to each alternative energy entity for each taxable year;

(ii) the new state revenues generated by each alternative energy manufacturing project;

(iii) estimates for each of the next ~~[five]~~ three calendar years of the following:

(A) the amount of tax credits that the office will grant;

(B) the amount of new state revenues that will be generated; and

(C) the number of new incremental jobs within the state that will be generated;

(iv) the information contained in the office's latest report ~~[to the Legislature]~~ under Section ~~[63N-2-705]~~ 63N-1-301; and

(v) any other information that the ~~[Revenue and Taxation Interim Committee]~~ Office of the Legislative Fiscal Analyst requests.

(c) (i) In providing the information described in Subsection (5)(b), the office shall redact information that identifies a recipient of a tax credit under this section.

(ii) If, notwithstanding the redactions made under Subsection (5)(c)(i), reporting the information described in Subsection (5)(b) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (5)(b) in the aggregate for all alternative energy entities that receive the tax credit under this section.

(d) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).

~~[(e)]~~ (e) The Revenue and Taxation Interim Committee shall ensure that ~~[its]~~ the recommendations ~~[under]~~ described in Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 19. Section 59-10-1034 is amended to read:

59-10-1034. Nonrefundable high cost infrastructure development tax credit.

(1) As used in this section:

(a) "High cost infrastructure project" means the same as that term is defined in Section 63M-4-602.

(b) "Infrastructure cost-burdened entity" means the same as that term is defined in Section 63M-4-602.

(c) "Infrastructure-related revenue" means the same as that term is defined in Section 63M-4-602.

(d) "Office" means the Office of Energy Development created in Section 63M-4-401.

(2) Subject to the other provisions of this section, a claimant, estate, or trust that is an infrastructure

cost-burdened entity may claim a nonrefundable tax credit for development of a high cost infrastructure project as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63M, Chapter 4, Part 6, High Cost Infrastructure Development Tax Credit Act, to the infrastructure cost-burdened entity for the taxable year.

(4) An infrastructure cost-burdened entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the infrastructure cost-burdened entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the infrastructure cost-burdened entity's tax liability under this chapter for that taxable year.

(5) (a) ~~[On or before October 1, 2020, and every five years after October 1, 2020]~~ In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations ~~[to the Legislative Management Committee]~~ concerning whether the tax credit should be continued, modified, or repealed.

(b) ~~[For]~~ (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5), the office shall provide the following information, if available to the office, to the ~~[Revenue and Taxation Interim Committee]~~ Office of the Legislative Fiscal Analyst:

~~[(i)]~~ (A) the amount of tax credit that the office grants to each infrastructure cost-burdened entity for each taxable year;

~~[(ii)]~~ (B) the infrastructure-related revenue generated by each high cost infrastructure project;

~~[(iii)]~~ (C) the information contained in the office's latest report ~~[to the Legislature]~~ under Section 63M-4-505; and

~~[(iv)]~~ (D) any other information that the ~~[Revenue and Taxation Interim Committee]~~ Office of the Legislative Fiscal Analyst requests.

(ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

(B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (5)(b)(i) in the aggregate for all infrastructure cost-burdened entities that receive the tax credit under this section.

(c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal

Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).

~~[(e)]~~ (d) The Revenue and Taxation Interim Committee shall ensure that the ~~[Revenue and Taxation Interim Committee's]~~ recommendations ~~[under]~~ described in Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 20. Section 59-10-1037 is amended to read:

59-10-1037. Nonrefundable enterprise zone tax credit.

(1) As used in this section:

(a) "Business entity" means a claimant, estate, or trust that meets the definition of "business entity" as that term is defined in Section 63N-2-202.

(b) "Office" means the Governor's Office of Economic Development created in Section 63N-1-201.

(2) Subject to the provisions of this section, a business entity may claim a nonrefundable enterprise zone tax credit as described in Section 63N-2-213.

(3) The enterprise zone tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity for the taxable year.

(4) A business entity may carry forward a tax credit under this section for a period that does not exceed the next three taxable years, if the amount of the tax credit exceeds the business entity's tax liability under this chapter for that taxable year.

(5) A business entity may not claim or carry forward a tax credit available under this part for a taxable year during which the business entity has claimed the targeted business income tax credit available under Section 63N-2-305.

(6) (a) ~~[On or before October 1, 2018, and every five years after October 1, 2018]~~ In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations ~~[to the Legislative Management Committee]~~ concerning whether the tax credit should be continued, modified, or repealed.

(b) ~~[For]~~ (i) Except as provided in Subsection (6)(b)(ii), for purposes of the study required by this Subsection (6), the office shall provide by electronic means the following information, if available to the office, for each calendar year to the ~~[Revenue and Taxation Interim Committee]~~ Office of the Legislative Fiscal Analyst:

~~[(i)]~~ (A) the amount of tax credits provided in each development zone;

~~[(iii)]~~ (B) the number of new full-time employee positions reported to obtain tax credits in each development zone;

~~[(iii)]~~ (C) the amount of tax credits awarded for rehabilitating a building in each development zone;

~~[(iv)]~~ (D) the amount of tax credits awarded for investing in a plant, equipment, or other depreciable property in each development zone;

~~[(v)]~~ (E) the information related to the tax credit contained in the office's latest report ~~[to the Legislature]~~ under Section 63N-1-301; and

~~[(vi)]~~ (F) other information ~~[as requested by the Revenue and Taxation Interim Committee]~~ that the Office of the Legislative Fiscal Analyst requests.

(ii) (A) In providing the information described in Subsection (6)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

(B) If, notwithstanding the redactions made under Subsection (6)(b)(ii)(A), reporting the information described in Subsection (6)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (6)(b)(i) in the aggregate for all development zones that receive the tax credit under this section.

(c) As part of the study required by this Subsection (6), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (6)(b).

~~[(e)]~~ (d) The Revenue and Taxation Interim Committee shall ensure that ~~[its]~~ the recommendations ~~[under]~~ described in Subsection (6)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 21. Section 59-10-1106 is amended to read:

59-10-1106. Refundable renewable energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.

(1) As used in this section:

(a) "Active solar system" ~~[has the same meaning as]~~ means the same as that term is defined in Section 59-10-1014.

(b) "Biomass system" ~~[has the same meaning as]~~ means the same as that term is defined in Section 59-10-1014.

(c) "Commercial energy system" ~~[has the same meaning as]~~ means the same as that term is defined in Section 59-7-614.

(d) "Commercial enterprise" ~~[has the same meaning as]~~ means the same as that term is defined in Section 59-7-614.

(e) (i) "Commercial unit" ~~[has the same meaning as]~~ means the same as that term is defined in Section 59-7-614.

(ii) Notwithstanding Subsection (1)(e)(i):

(A) with respect to an active solar system used for agricultural water pumping or a wind system, each individual energy generating device is considered to be a commercial unit; or

(B) if an energy system is the building or structure that a claimant, estate, or trust uses to transact business, a commercial unit is the complete energy system itself.

(f) "Direct use geothermal system" ~~[has the same meaning as]~~ means the same as that term is defined in Section 59-10-1014.

(g) "Geothermal electricity" ~~[has the same meaning as]~~ means the same as that term is defined in Section 59-10-1014.

(h) "Geothermal energy" ~~[has the same meaning as]~~ means the same as that term is defined in Section 59-10-1014.

(i) "Geothermal heat pump system" ~~[has the same meaning as]~~ means the same as that term is defined in Section 59-10-1014.

(j) "Hydroenergy system" ~~[has the same meaning as]~~ means the same as that term is defined in Section 59-10-1014.

(k) "Office" means the Office of Energy Development created in Section 63M-4-401.

(l) "Passive solar system" ~~[has the same meaning as]~~ means the same as that term is defined in Section 59-10-1014.

(m) "Principal recovery portion" ~~[has the same meaning as]~~ means the same as that term is defined in Section 59-10-1014.

(n) "Wind system" ~~[has the same meaning as]~~ means the same as that term is defined in Section 59-10-1014.

(2) A claimant, estate, or trust may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) (a) Subject to the other provisions of this Subsection (3), a claimant, estate, or trust may claim a refundable tax credit under this Subsection (3) with respect to a commercial energy system if:

(i) the commercial energy system does not use:

(A) wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; or

(B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

(ii) the claimant, estate, or trust purchases or participates in the financing of the commercial energy system;

(iii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or

(B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iv) the commercial energy system is completed and placed in service on or after January 1, 2007; and

(v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (6).

(b) (i) Subject to Subsections (3)(b)(ii) through (v), the tax credit is equal to 10% of the reasonable costs of the commercial energy system.

(ii) A tax credit under this Subsection (3) may include installation costs.

(iii) A claimant, estate, or trust may claim a tax credit under this Subsection (3) for the taxable year in which the commercial energy system is completed and placed in service.

(iv) A tax credit under this Subsection (3) may not be carried forward or carried back.

(v) The total amount of tax credit a claimant, estate, or trust may claim under this Subsection (3) may not exceed \$50,000 per commercial unit.

(c) (i) Subject to Subsections (3)(c)(ii) and (iii), a claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim as a tax credit under this Subsection (3) only the principal recovery portion of the lease payments.

(iii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim a tax credit under this Subsection (3) for a period that does not exceed seven taxable years after the date the lease begins, as stated in the lease agreement.

(4) (a) Subject to the other provisions of this Subsection (4), a claimant, estate, or trust may claim a refundable tax credit under this Subsection (4) with respect to a commercial energy system if:

(i) the commercial energy system uses wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or

(B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the commercial energy system is completed and placed in service on or after January 1, 2007; and

(iv) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (6).

(b) (i) Subject to Subsections (4)(b)(ii) and (iii), a tax credit under this Subsection (4) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A tax credit under this Subsection (4) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(iii) A tax credit under this Subsection (4) may not be carried forward or back.

(c) A claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (4) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(5) (a) Subject to the other provisions of this Subsection (5), a claimant, estate, or trust may claim a refundable tax credit as provided in this Subsection (5) if:

(i) the claimant, estate, or trust owns a commercial energy system that uses solar equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or

(B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the claimant, estate, or trust does not claim a tax credit under Subsection (3);

(iv) the commercial energy system is completed and placed in service on or after January 1, 2015; and

(v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (6).

(b) (i) Subject to Subsections (5)(b)(ii) and (iii), a tax credit under this Subsection (5) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A tax credit under this Subsection (5) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(iii) A tax credit under this Subsection (5) may not be carried forward or carried back.

(c) A claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (5) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(6) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the claimant, estate, or trust shall obtain a written certification from the office.

(b) The office shall issue a claimant, estate, or trust a written certification if the office determines that:

(i) the claimant, estate, or trust meets the requirements of this section to receive a tax credit; and

(ii) the office determines that the commercial energy system with respect to which the claimant, estate, or trust seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from renewable resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the commercial energy system uses the state's renewable and nonrenewable resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a commercial energy system meets the requirements of Subsection (6)(b)(ii); and

(ii) for purposes of a tax credit under Subsection (3), establishing the reasonable costs of a commercial energy system, as an amount per unit of energy production.

(d) A claimant, estate, or trust that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

(8) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

(9) A purchaser of one or more solar units that claims a tax credit under Section 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.

~~[(10)(a) On or before October 1, 2017, and every five years after 2017, the Revenue and Taxation~~

~~Interim Committee shall review each tax credit provided by this section and report its recommendations to the Legislative Management Committee concerning whether the credit should be continued, modified, or repealed.]~~

~~[(b) The Revenue and Taxation Interim Committee's report under Subsection (10)(a) shall include information concerning the cost of the credit, the purpose and effectiveness of the credit, and the state's benefit from the credit.]~~

Section 22. Section 59-10-1107 is amended to read:

59-10-1107. Refundable economic development tax credit.

(1) As used in this section:

(a) "Business entity" means a claimant, estate, or trust that meets the definition of "business entity" as defined in Section 63N-2-103.

(b) "New incremental jobs" means the same as that term is defined in Section 63N-2-103.

(c) "New state revenues" means the same as that term is defined in Section 63N-2-103.

(d) "Office" means the Governor's Office of Economic Development.

(2) Subject to the other provisions of this section, a business entity may claim a refundable tax credit for economic development.

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity for the taxable year.

(4) (a) In accordance with any rules prescribed by the commission under Subsection (4)(b), the commission shall make a refund to a business entity that claims a tax credit under this section if the amount of the tax credit exceeds the business entity's tax liability for a taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a business entity as required by Subsection (4)(a).

~~(5) (a) [On or before October 1, 2013, and every five years after October 1, 2013] In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations [to the Legislative Management Committee] concerning whether the tax credit should be continued, modified, or repealed.~~

~~(b) [For] Except as provided in Subsection (5)(c), for purposes of the study required by this Subsection (5), the office shall provide the following information, if available to the office, to the Revenue and Taxation Interim Committee by electronic means:~~

~~(i) the amount of tax credit the office grants to each taxpayer for each calendar year;~~

~~(ii) the criteria the office uses in granting a tax credit;~~

(iii) the new state revenues generated by each taxpayer for each calendar year;

(iv) estimates for each of the next ~~[five]~~ three calendar years of the following:

(A) the amount of tax credits that the office will grant;

(B) the amount of new state revenues that will be generated; and

(C) the number of new incremental jobs within the state that will be generated;

(v) the information contained in the office's latest report ~~[to the Legislature]~~ under Section 63N-2-106; and

(vi) any other information that the Revenue and Taxation Interim Committee requests.

(c) (i) In providing the information described in Subsection (5)(b), the office shall redact information that identifies a recipient of a tax credit under this section.

(ii) If, notwithstanding the redactions made under Subsection (5)(c)(i), reporting the information described in Subsection (5)(b) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (5)(b) in the aggregate for all taxpayers that receive the tax credit under this section.

~~[(e)]~~ (d) The Revenue and Taxation Interim Committee shall ensure that ~~[its]~~ the recommendations ~~[under]~~ described in Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 23. Section 59-10-1108 is amended to read:

59-10-1108. Refundable motion picture tax credit.

(1) As used in this section:

(a) "Motion picture company" means a claimant, estate, or trust that meets the definition of a motion picture company under Section 63N-8-102.

(b) "Office" means the Governor's Office of Economic Development created in Section 63N-1-201.

(c) "State-approved production" ~~[has the same meaning as]~~ means the same as that term is defined in Section 63N-8-102.

(2) For a taxable ~~[years]~~ year beginning on or after January 1, 2009, a motion picture company may claim a refundable tax credit for a state-approved production.

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to a motion picture company under Section 63N-8-103 for the taxable year.

(4) (a) In accordance with any rules prescribed by the commission under Subsection (4)(b), the commission shall make a refund to a motion picture company that claims a tax credit under this section if the amount of the tax credit exceeds the motion picture company's tax liability for the taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a motion picture company as required by Subsection (4)(a).

~~(5) (a) [On or before October 1, 2014, and every five years after October 1, 2014] In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations [to the Legislative Management Committee] concerning whether the tax credit should be continued, modified, or repealed.~~

~~(b) [For] (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5), the office shall provide the following information, if available to the office, to the [Revenue and Taxation Interim Committee] Office of the Legislative Fiscal Analyst by electronic means:~~

~~[(4)]~~ (A) the amount of tax credit the office grants to each taxpayer for each calendar year; ~~[and]~~

(B) estimates of the amount of tax credit that the office will grant for each of the next ~~[five]~~ three calendar years;

~~[(4)]~~ (C) the criteria the office uses in granting a tax credit;

~~[(4)]~~ (D) the dollars left in the state, as defined in Section 63N-8-102, by each motion picture company for each calendar year;

~~[(4)]~~ (E) the information contained in the office's latest report ~~[to the Legislature]~~ under Section 63N-8-105; and

~~[(4)]~~ (F) any other information ~~[requested by the Revenue and Taxation Interim Committee]~~ that the Office of the Legislative Fiscal Analyst requests.

(ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

(B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (5)(b)(i) in the aggregate for all taxpayers that receive the tax credit under this section.

(c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).

~~[(e)]~~ (d) The Revenue and Taxation Interim Committee shall ensure that ~~[its]~~ the recommendations ~~[under]~~ described in Subsection (5)(a) include an evaluation of:

- (i) the cost of the tax credit to the state;
- (ii) the effectiveness of the tax credit; and
- (iii) the extent to which the state benefits from the tax credit.

Section 24. Section 59-13-202 is amended to read:

59-13-202. Refund of tax for agricultural uses on individual income and corporate franchise and income tax returns -- Application for permit for refund -- Division of Finance to pay claims -- Rules permitted to enforce part -- Penalties -- Revenue and Taxation Interim Committee study.

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), "claimant" means a resident or nonresident person.

(ii) "Claimant" does not include an estate or trust.

(b) "Estate" means a nonresident estate or a resident estate.

(c) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or trust may claim:

(i) as provided by statute; and

(ii) regardless of whether, for the taxable year for which the claimant, estate, or trust claims the tax credit, the claimant, estate, or trust has a tax liability under:

(A) Chapter 7, Corporate Franchise and Income Taxes; or

(B) Chapter 10, Individual Income Tax Act.

(d) "Trust" means a nonresident trust or a resident trust.

(2) Any claimant, estate, or trust that purchases and uses any motor fuel within the state for the purpose of operating or propelling stationary farm engines and self-propelled farm machinery used for nonhighway agricultural uses, and that has paid the tax on the motor fuel as provided by this part, is entitled to a refund of the tax subject to the conditions and limitations provided under this part.

(3) (a) A claimant, estate, or trust desiring a nonhighway agricultural use refund under this part shall claim the refund as a refundable tax credit on the tax return the claimant, estate, or trust files under:

(i) Chapter 7, Corporate Franchise and Income Taxes; or

(ii) Chapter 10, Individual Income Tax Act.

(b) A claimant, estate, or trust not subject to filing a tax return described in Subsection (3)(a) shall obtain a permit and file claims on a calendar year basis.

(c) Any claimant, estate, or trust claiming a refundable tax credit under this section is required to furnish any or all of the information outlined in this section upon request of the commission.

(d) A refundable tax credit under this section is allowed only on purchases on which tax is paid during the taxable year covered by the tax return.

(4) In order to obtain a permit for a refund of motor fuel tax paid, an application shall be filed containing:

(a) the name of the claimant, estate, or trust;

(b) the claimant's, estate's, or trust's address;

(c) location and number of acres owned and operated, location and number of acres rented and operated, the latter of which shall be verified by a signed statement from the legal owner;

(d) number of acres planted to each crop, type of soil, and whether irrigated or dry; and

(e) make, size, and type of fuel used and power rating of each piece of equipment using fuel. If the claimant, estate, or trust is an operator of self-propelled or tractor-pulled farm machinery with which the claimant, estate, or trust works for hire doing custom jobs for other farmers, the application shall include information the commission requires and shall all be contained in, and be considered part of, the original application. The claimant, estate, or trust shall also file with the application a certificate from the county assessor showing each piece of equipment using fuel. This original application and all information contained in it constitutes a permanent file with the commission in the name of the claimant, estate, or trust.

(5) A claimant, estate, or trust claiming the right to a refund of motor fuel tax paid shall file a claim with the commission by April 15 of each year for the refund for the previous calendar year. The claim shall state the name and address of the claimant, estate, or trust, the number of gallons of motor fuel purchased for nonhighway agricultural uses, and the amount paid for the motor fuel. The claimant, estate, or trust shall retain the original invoice to support the claim. No more than one claim for a tax refund may be filed annually by each user of motor fuel purchased for nonhighway agricultural uses.

(6) Upon commission approval of the claim for a refund, the Division of Finance shall pay the amount found due to the claimant, estate, or trust. The total amount of claims for refunds shall be paid from motor fuel taxes.

(7) The commission may refuse to accept as evidence of purchase or payment any instruments

that show alteration or that fail to indicate the quantity of the purchase, the price of the motor fuel, a statement that the motor fuel is purchased for purposes other than transportation, and the date of purchase and delivery. If the commission is not satisfied with the evidence submitted in connection with the claim, the commission may reject the claim or require additional evidence.

(8) A claimant, estate, or trust aggrieved by the decision of the commission with respect to a refundable tax credit or refund may file a request for agency action, requesting a hearing before the commission.

(9) A claimant, estate, or trust that makes any false claim, report, or statement, as claimant, estate, trust, agent, or creditor, with intent to defraud or secure a refund to which the claimant, estate, or trust is not entitled, is subject to the criminal penalties provided under Section 59-1-401, and the commission shall initiate the filing of a complaint for alleged violations of this part. In addition to these penalties, the claimant, estate, or trust may not receive any refund as a claimant, estate, or trust or as a creditor of a claimant, estate, or trust for refund for a period of five years.

(10) (a) In accordance with any rules prescribed by the commission under Subsection (10)(b), the Division of Finance shall transfer at least annually from the Transportation Fund into the Education Fund an amount equal to the amount of the refund claimed under this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for:

(i) making a refund to a claimant, estate, or trust as required by Subsection (3)(a)(i);

(ii) making a transfer from the Transportation Fund into the Education Fund as required by Subsection (10)(a); or

(iii) enforcing this part.

(11) (a) On or before November 30, 2017, and every three years after 2017, the Revenue and Taxation Interim Committee shall review the tax credit provided by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) In conducting the review required by Subsection (11)(a), the Revenue and Taxation Interim Committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the credit under review to provide testimony;

(iii) ensure that the recommendations described in this section include an evaluation of:

(A) the cost of the tax credit to the state;

(B) the purpose and effectiveness of the tax credit; and

(C) the extent to which the state benefits from the tax credit; and

(iv) undertake other review efforts as determined by the chairs of the Revenue and Taxation Interim Committee.

Section 25. Section 63N-2-106 is amended to read:

63N-2-106. Reports -- Posting monthly and annual reports -- Audit and study of tax credits.

(1) The office shall include the following information in the annual written report described in Section 63N-1-301:

(a) the office's success in attracting new commercial projects to development zones under this part and the corresponding increase in new incremental jobs;

(b) how many new incremental jobs and high paying jobs are employees of a company that received tax credits under this part, including the number of employees who work for a third-party rather than directly for a company, receiving the tax credits under this part;

(c) the estimated amount of tax credit commitments made by the office and the period of time over which tax credits will be paid;

(d) the economic impact on the state from new state revenues and the provision of tax credits under this part;

(e) the estimated costs and economic benefits of the tax credit commitments made by the office;

(f) the actual costs and economic benefits of the tax credit commitments made by the office; and

(g) tax credit commitments made by the office, with the associated calculation.

(2) Each month, the office shall post on its website and on a state website:

(a) the new tax credit commitments made by the office during the previous month; and

(b) the estimated costs and economic benefits of those tax credit commitments.

(3) (a) On or before November 1, 2014, and every three years after November 1, 2014, the office shall:

(i) conduct an audit of the tax credits allowed under Section 63N-2-105;

(ii) study the tax credits allowed under Section 63N-2-105; and

(iii) make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) The audit shall include an evaluation of:

(i) the cost of the tax credits;

(ii) the purposes and effectiveness of the tax credits;

(iii) the extent to which the state benefits from the tax credits; and

(iv) the state's return on investment under this part measured by new state revenues, compared with the costs of tax credits provided and GOED's expenses in administering this part.

(c) The office shall provide the results of the audit described in this Subsection (3):

(i) in the written annual report described in Subsection (1); and

(ii) as part of the reviews described in Sections 59-7-159 and 59-10-137.

Section 26. Section 63N-2-213 is amended to read:

63N-2-213. State tax credits.

(1) The office shall certify a business entity's eligibility for a tax credit described in this section.

(2) A business entity seeking to receive a tax credit as provided in this section shall provide the office with:

(a) an application for a tax credit certificate in a form approved by the office, including a certification, by an officer of the business entity, of a signature on the application; and

(b) documentation that demonstrates the business entity has met the requirements to receive the tax credit.

(3) If, after review of an application and documentation provided by a business entity as described in Subsection (2), the office determines that the application and documentation are inadequate to provide a reasonable justification for authorizing the tax credit, the office shall:

(a) deny the tax credit; or

(b) inform the business entity that the application or documentation was inadequate and ask the business entity to submit additional documentation.

(4) If, after review of an application and documentation provided by a business entity as described in Subsection (2), the office determines that the application and documentation provide reasonable justification for authorizing a tax credit, the office shall:

(a) determine the amount of the tax credit to be granted to the business entity;

(b) issue a tax credit certificate to the business entity; and

(c) provide a duplicate copy of the tax credit certificate to the State Tax Commission.

(5) A business entity may not claim a tax credit under this section unless the business entity has a tax credit certificate issued by the office.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules describing:

(a) the form and content of an application for a tax credit under this section;

(b) the documentation requirements for a business entity to receive a tax credit certificate under this section; and

(c) administration of the program, including relevant timelines and deadlines.

(7) Subject to the limitations of Subsections (8) through (10), and if the requirements of this part are met, the following nonrefundable tax credits against a tax under Title 59, Chapter 7, Corporate Franchise and Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act, are applicable in an enterprise zone:

(a) a tax credit of \$750 may be claimed by a business entity for each new full-time employee position created within the enterprise zone;

(b) an additional \$500 tax credit may be claimed if the new full-time employee position created within the enterprise zone pays at least 125% of:

(i) the county average monthly nonagricultural payroll wage for the respective industry as determined by the Department of Workforce Services; or

(ii) if the county average monthly nonagricultural payroll wage is not available for the respective industry, the total average monthly nonagricultural payroll wage in the respective county where the enterprise zone is located;

(c) an additional tax credit of \$750 may be claimed if the new full-time employee position created within the enterprise zone is in a business entity that adds value to agricultural commodities through manufacturing or processing;

(d) an additional tax credit of \$200 may be claimed for two consecutive years for each new full-time employee position created within the enterprise zone that is filled by an employee who is insured under an employer-sponsored health insurance program if the employer pays at least 50% of the premium cost for the year for which the credit is claimed;

(e) a tax credit of 25% of the first \$200,000 spent on rehabilitating a building in the enterprise zone that has been vacant for two years or more; and

(f) an annual investment tax credit of 10% of the first \$250,000 in investment, and 5% of the next \$1,000,000 qualifying investment in plant, equipment, or other depreciable property.

(8) (a) Subject to the limitations of Subsection (8)(b), a business entity claiming a tax credit under Subsections (7)(a) through (d) may claim the tax credit for no more than 30 full-time employee positions in a taxable year.

(b) A business entity that received a tax credit for one or more new full-time employee positions

under Subsections (7)(a) through (d) in a prior taxable year may claim a tax credit for a new full-time employee position in a subsequent taxable year under Subsections (7)(a) through (d) if:

(i) the business entity has created a new full-time position within the enterprise zone; and

(ii) the total number of full-time employee positions at the business entity at any point during the tax year for which the tax credit is being claimed is greater than the highest number of full-time employee positions that existed at the business entity in the previous three taxable years.

(c) Construction jobs are not eligible for the tax credits under Subsections (7)(a) through (d).

(9) If the amount of a tax credit under this section exceeds a business entity's tax liability under this chapter for a taxable year, the business entity may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next three taxable years.

(10) Tax credits under Subsections (7)(a) through (f) may not be claimed by a business entity primarily engaged in retail trade or by a public utilities business.

(11) A business entity that has no employees:

(a) may not claim tax credits under Subsections (7)(a) through (d); and

(b) may claim tax credits under Subsections (7)(e) through (f).

(12) A business entity may not claim or carry forward a tax credit available under this part for a taxable year during which the business entity has claimed the targeted business income tax credit available under Section 63N-2-305.

(13) (a) On or before November 30, 2018, and every three years after 2018, the Revenue and Taxation Interim Committee shall review the tax credits provided by this section and make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) In conducting the review required by Subsection (13)(a), the Revenue and Taxation Interim Committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the credits under review to provide testimony;

(iii) ensure that the recommendations described in this section include an evaluation of:

(A) the cost of the tax credits to the state;

(B) the purpose and effectiveness of the tax credits; and

(C) the extent to which the state benefits from the tax credits; and

(iv) undertake other review efforts as determined by the chairs of the Revenue and Taxation Interim Committee.

Section 27. Section 63N-2-305 is amended to read:

63N-2-305. Targeted business income tax credit structure -- Duties of the local zone administrator -- Duties of the State Tax Commission -- Revenue and Taxation Interim Committee study.

(1) A business applicant that is certified under Subsection 63N-2-304(3) and issued a targeted business tax credit eligibility form by the office under Subsection (8) may claim a refundable tax credit:

(a) against the business applicant's tax liability under:

(i) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

(ii) Title 59, Chapter 10, Individual Income Tax Act; and

(b) subject to requirements and limitations provided by this part.

(2) The total amount of the targeted business income tax credits allowed under this part for all business applicants may not exceed \$300,000 in any fiscal year.

(3) (a) A targeted business income tax credit allowed under this part for each community investment project provided by a business applicant may not:

(i) be claimed by a business applicant for more than seven consecutive taxable years from the date the business applicant first qualifies for a targeted business income tax credit on the basis of a community investment project;

(ii) be carried forward or carried back;

(iii) exceed \$100,000 in total amount for the community investment project period during which the business applicant is eligible to claim a targeted business income tax credit; or

(iv) exceed in any year that the targeted business income tax credit is claimed the lesser of:

(A) 50% of the maximum amount allowed by the local zone administrator; or

(B) the allocated cap amount determined by the office under Subsection 63N-2-304(5).

(b) A business applicant may apply to the local zone administrator to claim a targeted business income tax credit allowed under this part for each community investment project provided by the business applicant as the basis for its eligibility for a targeted business income tax credit.

(4) Subject to other provisions of this section, the local zone administrator shall establish for each business applicant that qualifies for a targeted business income tax credit:

(a) criteria for maintaining eligibility for the targeted business income tax credit that are

reasonably related to the community investment project that is the basis for the business applicant's targeted business income tax credit;

(b) the maximum amount of the targeted business income tax credit the business applicant is allowed for the community investment project period;

(c) the time period over which the total amount of the targeted business income tax credit may be claimed;

(d) the maximum amount of the targeted business income tax credit that the business applicant will be allowed to claim each year; and

(e) requirements for a business applicant to report to the local zone administrator specifying:

(i) the frequency of the business applicant's reports to the local zone administrator, which shall be made at least quarterly; and

(ii) the information needed by the local zone administrator to monitor the business applicant's compliance with this Subsection (4) or Section 63N-2-304 that shall be included in the report.

(5) In accordance with Subsection (4)(e), a business applicant allowed a targeted business income tax credit under this part shall report to the local zone administrator.

(6) The amount of a targeted business income tax credit that a business applicant is allowed to claim for a taxable year shall be reduced by 25% for each quarter in which the office or the local zone administrator determines that the business applicant has failed to comply with a requirement of Subsection (3) or Section 63N-2-304.

(7) The office or local zone administrator may audit a business applicant to ensure:

(a) eligibility for a targeted business income tax credit; or

(b) compliance with Subsection (3) or Section 63N-2-304.

(8) The office shall issue a targeted business income tax credit eligibility form in a form jointly developed by the State Tax Commission and the office no later than 30 days after the last day of the business applicant's taxable year showing:

(a) the maximum amount of the targeted business income tax credit that the business applicant is eligible for that taxable year;

(b) any reductions in the maximum amount of the targeted business income tax credit because of failure to comply with a requirement of Subsection (3) or Section 63N-2-304;

(c) the allocated cap amount that the business applicant may claim for that taxable year; and

(d) the actual amount of the targeted business income tax credit that the business applicant may claim for that taxable year.

(9) (a) A business applicant shall retain the targeted business income tax credit eligibility form provided by the office under this Subsection (9).

(b) The State Tax Commission may audit a business applicant to ensure:

(i) eligibility for a targeted business income tax credit; or

(ii) compliance with Subsection (3) or Section 63N-2-304.

(10) (a) On or before November 30, 2018, and every three years after 2018, the Revenue and Taxation Interim Committee shall review the tax credit provided by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) In conducting the review required by Subsection (10)(a), the Revenue and Taxation Interim Committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the credit under review to provide testimony;

(iii) ensure that the recommendations described in this section include an evaluation of:

(A) the cost of the tax credit to the state;

(B) the purpose and effectiveness of the tax credit; and

(C) the extent to which the state benefits from the tax credit; and

(iv) undertake other review efforts as determined by the chairs of the Revenue and Taxation Interim Committee.

Section 28. Section 63N-2-810 is amended to read:

63N-2-810. Reports on tax credit certificates.

[4] The office shall include the following information in the annual written report described in Section 63N-1-301:

~~[(a)]~~ (1) the total amount listed on tax credit certificates the office issues under this part;

~~[(b)]~~ (2) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax credit applicants under this part; and

~~[(c)]~~ (3) the economic impact on the state related to providing tax credits under this part.

~~[(2) (a) On or before November 1, 2016, and every five years after November 1, 2016, the Revenue and Taxation Interim Committee shall:]~~

~~[(i) study the tax credit allowed under Section 59-10-1025; and]~~

~~[(ii) make recommendations concerning whether the tax credit should be continued, modified, or repealed.]~~

~~[(b) The study under Subsection (2)(a) shall include an evaluation of:]~~

~~[(i) the cost of the tax credit under Section 59-10-1025;]~~

~~[(ii) the purposes and effectiveness of the tax credit; and]~~

~~[(iii) the extent to which the state benefits from the tax credit.]~~

~~[(e) For purposes of the study required by this Subsection (2), the office shall provide the following information to the Revenue and Taxation Interim Committee by electronic means:]~~

~~[(i) the amount of tax credits that the office grants to each eligible business entity for each taxable year;]~~

~~[(ii) the amount of eligible new state tax revenues generated by each eligible product or project;]~~

~~[(iii) estimates for each of the next five calendar years of the following:]~~

~~[(A) the amount of tax credits that the office will grant;]~~

~~[(B) the amount of eligible new state tax revenues that will be generated; and]~~

~~[(C) the number of new incremental jobs within the state that will be generated;]~~

~~[(iv) the information contained in the office's latest report to the Legislature under Section 63N-2-705; and]~~

~~[(v) any other information that the Revenue and Taxation Interim Committee requests.]~~

Section 29. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 2**H. B. 3002**

Passed July 13, 2016

Approved July 17, 2016

Effective July 17, 2016

STATE FAIR PARK AMENDMENTS

Chief Sponsor: Sandra Hollins
Senate Sponsor: Luz Escamilla

LONG TITLE**General Description:**

This bill modifies provisions related to the state fair park.

Highlighted Provisions:

This bill:

- ▶ modifies the circumstances under which a local political subdivision or private entity may impose an impact fee;
- ▶ authorizes the Division of Facilities Construction and Management to contract for the design and construction of an arena at the state fair park;
- ▶ addresses the process by which the Division of Facilities Construction and Management shall contract for the design and construction of the arena; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2017:

- ▶ to Capital Budget - Capital Development - Other State Government - State Fair Park Arena, as a one-time appropriation:
 - from the General Fund, one-time, \$10,000,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

11-36a-202, as enacted by Laws of Utah 2011, Chapter 47

63H-6-108, as enacted by Laws of Utah 2016, Chapter 301

63I-2-263, as last amended by Laws of Utah 2016, Chapter 318

ENACTS:

63A-5-227, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-36a-202 is amended to read:**11-36a-202. Prohibitions on impact fees.**

(1) A local political subdivision or private entity may not:

- (a) impose an impact fee to:
 - (i) cure deficiencies in a public facility serving existing development;
 - (ii) raise the established level of service of a public facility serving existing development;

(iii) recoup more than the local political subdivision's or private entity's costs actually incurred for excess capacity in an existing system improvement; or

(iv) include an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with:

(A) generally accepted cost accounting practices; and

(B) the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement;

(b) delay the construction of a school or charter school because of a dispute with the school or charter school over impact fees; or

(c) impose or charge any other fees as a condition of development approval unless those fees are a reasonable charge for the service provided.

(2) (a) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee:

(i) on residential components of development to pay for a public safety facility that is a fire suppression vehicle;

(ii) on a school district or charter school for a park, recreation facility, open space, or trail;

(iii) on a school district or charter school unless:

(A) the development resulting from the school district's or charter school's development activity directly results in a need for additional system improvements for which the impact fee is imposed; and

(B) the impact fee is calculated to cover only the school district's or charter school's proportionate share of the cost of those additional system improvements; [ø]

(iv) to the extent that the impact fee includes a component for a law enforcement facility, on development activity for:

(A) the Utah National Guard;

(B) the Utah Highway Patrol; or

(C) a state institution of higher education that has its own police force[-]; or

(v) on development activity on the state fair park, as defined in Section 63H-6-102.

(b) (i) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee on development activity that consists of the construction of a school, whether by a school district or a charter school, if:

(A) the school is intended to replace another school, whether on the same or a different parcel;

(B) the new school creates no greater demand or need for public facilities than the school or school facilities, including any portable or modular classrooms that are on the site of the replaced school at the time that the new school is proposed; and

(C) the new school and the school being replaced are both within the boundary of the local political subdivision or the jurisdiction of the private entity.

(ii) If the imposition of an impact fee on a new school is not prohibited under Subsection (2)(b)(i) because the new school creates a greater demand or need for public facilities than the school being replaced, the impact fee shall be based only on the demand or need that the new school creates for public facilities that exceeds the demand or need that the school being replaced creates for those public facilities.

(c) Notwithstanding any other provision of this chapter, a political subdivision or private entity may impose an impact fee for a road facility on the state only if and to the extent that:

(i) the state's development causes an impact on the road facility; and

(ii) the portion of the road facility related to an impact fee is not funded by the state or by the federal government.

(3) Notwithstanding any other provision of this chapter, a local political subdivision may impose and collect impact fees on behalf of a school district if authorized by Section 53A-20-100.5.

Section 2. Section 63A-5-227 is enacted to read:

63A-5-227. Contract for the design and construction of a state fair park arena.

(1) The division may enter into a contract for the design and construction of an approximately 10,000 chair-seat arena at the state fair park, as defined in Section 63H-6-102, without engaging in a standard procurement process, as defined in Section 63G-6a-103, and without using a procurement process described in Title 63G, Chapter 6a, Part 8, Exceptions to Procurement Requirements, if:

(a) the state is not obligated to pay more than 65% of the cost of the arena;

(b) the contract does not provide for the payment of a developer fee; and

(c) the contract requires the construction of the arena to be completed no later than July 1, 2017.

(2) In contracting for the design and construction of an arena under Subsection (1), the division shall:

(a) ensure that the process of selecting subcontractors and vendors for the construction project includes as much competition as reasonably possible while meeting the construction completion deadline of July 1, 2017; and

(b) use the division's best efforts to ensure the best value to the state under the contract.

Section 3. Section 63H-6-108 is amended to read:

63H-6-108. Operation of the state fair park.

(1) The corporation shall:

(a) operate and maintain the state fair park in accordance with the facility maintenance standards approved by the State Building Board;

(b) pay for all costs associated with operating and maintaining the state fair park;

(c) obtain approval from the division before the corporation commences capital developments or capital improvements on the state fair park that involve:

(i) a construction project that costs more than \$250,000; or

(ii) the construction of a new building that costs more than \$1,000,000;

(d) obtain a building permit from the division before commencing an activity that requires a building permit;

(e) ensure that:

(i) any design plan related to the state fair park satisfies any applicable design standards established by the division or the State Building Board; and

(ii) construction performed on the state fair park satisfies any applicable construction standards established by the division or the State Building Board;

(f) for any new construction project on the state fair park that costs \$250,000 or more:

(i) notify the division before commencing the new construction project; and

(ii) coordinate with the division regarding review of design plans and construction management;

(g) obtain approval from the division before the corporation makes any alteration or addition to the water system, heating system, plumbing system, air conditioning system, or electrical system;

(h) obtain approval from the State Building Board before the corporation demolishes a building or facility on the state fair park;

(i) keep the state fair park fully insured to protect against loss or damage by fire, vandalism, or malicious mischief;

(j) in accordance with Subsection (3), at the corporation's expense, and for the mutual benefit of the division, maintain general public liability insurance in an amount equal to at least \$1,000,000 through one or more companies that are:

(i) licensed to do business in the state;

(ii) selected by the corporation; and

(iii) approved by the division and the Division of Risk Management;

(k) ensure that the division is an additional insured with primary coverage on each insurance policy that the corporation obtains in accordance with this section;

(l) give the division notice at least 30 days before the day on which the corporation cancels any

insurance policy that the corporation obtains in accordance with this section; and

(m) if any lien is recorded or filed against the state fair park as a result of an act or omission of the corporation, cause the lien to be satisfied or cancelled within 10 days after the day on which the corporation receives notice of the lien.

(2) The State Building Board shall notify the State Historic Preservation Office of any State Building Board meeting at which the State Building Board will consider approval to demolish a facility on the state fair park.

(3) The general public liability insurance described in Subsection (1)(j) shall:

(a) insure against any claim for personal injury, death, or property damage that occurs at the state fair park; and

(b) be a blanket policy that covers all activities of the corporation.

(4) The division shall administer any capital improvements on the state fair park that cost more than \$250,000.

(5) Upon 24 hours notice to the corporation, the division may enter the state fair park to inspect the state fair park and make any repairs that the division determines necessary.

(6) If the corporation no longer operates as an independent public nonprofit corporation as described in this chapter, the state shall assume the responsibilities of the corporation under any contract that is:

(a) in effect as of the day on which the status of the corporation changes; and

(b) for the lease, construction, or development of a building or facility on the state fair park.

(7) (a) A debt or obligation contracted by the corporation is a debt or obligation of the corporation.

(b) The state is not liable and assumes no responsibility for any debt or obligation described in Subsection (7)(a), unless the Legislature expressly:

(i) authorizes the corporation to contract for the debt or obligation; and

(ii) accepts liability or assumes responsibility for the debt or obligation.

(8) The provisions of this section apply notwithstanding any contrary provision in Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management.

Section 4. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates, Title 63A to Title 63N.

~~[(1) Section 63A-5-104.1 is repealed on January 1, 2016.]~~

~~[(2) Section 63C-9-501.1 is repealed on July 1, 2015.]~~

~~[(3) Title 63C, Chapter 15, Prison Relocation Commission, is repealed on January 1, 2016.]~~

~~[(4) Subsection 63N-3-103(1)(d) is repealed on July 1, 2015.]~~

~~(1) Section 63A-5-227 is repealed on January 1, 2018.~~

~~[(5) (2) Subsection 63N-3-109(2)(f)(i)(B) is repealed July 1, 2020.~~

~~[(6) (3) Section 63N-3-110 is repealed July 1, 2020.~~

~~[(7) Subsection 63N-12-208(3) is repealed on January 1, 2016.]~~

Section 5. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2016, and ending June 30, 2017. These are additions to amounts previously appropriated for fiscal year 2017. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the State of Utah.

Item 1 To Capital Budget - Capital Development - Other State Government - State Fair Park Arena

From General Fund, One-time	\$10,000,000
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Schedule of Programs:

State Fair Park Arena	\$10,000,000
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The Legislature intends that the Division of Facilities Construction and Management use the appropriation under this section for the design and construction of an arena in accordance with Section 63A-5-227. The Legislature intends that at least 35% of the amounts necessary to design and construct the arena come from non-state sources. The Legislature anticipates that up to 25% of the amounts from other sources will not be available until near the completion date of the arena.

Section 6. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 3
H. B. 3003

Passed July 13, 2016
Approved July 17, 2016
Effective July 17, 2016

UNMANNED AIRCRAFT AMENDMENTS

Chief Sponsor: Don L. Ipson
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill addresses the operation of an unmanned aircraft system in a manner that causes an unmanned aircraft to fly within certain wildland fire areas.

Highlighted Provisions:

This bill:

- ▶ modifies penalties relating to operating an unmanned aircraft system in a manner that causes an unmanned aircraft to fly within certain wildland fire areas;
- ▶ makes it a class A misdemeanor to operate an unmanned aircraft system in a manner that prevents an aircraft, intended for use in containing or controlling a wildland fire, from taking flight;
- ▶ authorizes a judge to order a person convicted under the provisions of this bill to pay restitution;
- ▶ authorizes neutralization of an unmanned aircraft under certain circumstances; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

65A-3-2.5, as enacted by Laws of Utah 2016, Chapter 101

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 65A-3-2.5 is amended to read:

65A-3-2.5. Wildland fire and unmanned aircraft.

(1) As used in this section:

(a) "Incident commander" means the government official or employee in command of the response to a wildland fire.

(b) "Neutralize" means to terminate the operation of an unmanned aircraft by:

- (i) disabling or damaging the unmanned aircraft;
- (ii) interfering with any portion of the unmanned aircraft system associated with the unmanned aircraft; or
- (iii) otherwise taking control of the unmanned aircraft or the unmanned aircraft system associated with the unmanned aircraft.

[~~(b)~~] (c) "Sanctioned entity" includes a person that oversees, is employed by, or is working under the direction of:

- (i) a government entity;
- (ii) a telecommunications provider;
- (iii) a utility provider;
- (iv) the owner or operator of a pipeline;
- (v) an insurance provider;
- (vi) a resource extraction entity;
- (vii) news media;
- (viii) a person that operates an unmanned aircraft system under a certificate of waiver, a certificate of authorization, or any other grant of authority obtained from the Federal Aviation Administration that expressly authorizes operation of the unmanned aircraft system; or

(ix) a person similar to a person described in Subsections (1)(c)(i) through (vii).

[~~(e)~~] (d) "Unmanned aircraft" means an aircraft that is:

- (i) capable of sustaining flight; and
- (ii) operated with no possible direct human intervention from on or within the aircraft.

[~~(d)~~] (e) "Unmanned aircraft system" means the entire system used to operate an unmanned aircraft, including:

- (i) the unmanned aircraft;
- (ii) communications equipment;
- (iii) navigation equipment;
- (iv) controllers;
- (v) support equipment; and
- (vi) autopilot functionality.

(2) A person may not operate an unmanned aircraft system in a manner that causes an unmanned aircraft to fly within an area that is under a temporary flight restriction that is issued by the Federal Aviation Administration as a result of the wildland fire, or an area designated as a wildland fire scene on a system managed by a federal, state, or local government entity that disseminates emergency information to the public, unless the person operates the unmanned aircraft system with the permission of, and in accordance with the restrictions established by, the incident commander.

(3) A person, other than a government official or a government employee acting within the person's capacity as a government official or government employee, that recklessly operates an unmanned aircraft system in a manner that causes an unmanned aircraft to fly within an area described in Subsection (2) is guilty of:

- (a) except as provided in Subsection (3)(b), (c), or (d), a class B misdemeanor, punishable by imprisonment as provided in Section 76-3-204 and a fine not to exceed \$2,500;

(b) ~~except as provided in Subsection (3)(c) or (d), a class A misdemeanor, punishable by imprisonment as provided in Section 76-3-204 and a fine not to exceed \$5,000, if the operation of the unmanned aircraft system [causes an aircraft being used to contain or control a wildland fire to]:~~

(i) causes an aircraft being used to contain or control a wildland fire to drop a payload of water or fire retardant in a location other than the location originally designated for the aircraft to drop the payload; ~~[or]~~

(ii) causes an aircraft being used to contain or control a wildland fire to land without dropping a payload of water or fire retardant in the location originally designated for the aircraft to drop the payload; or

(iii) prevents an aircraft, intended for use in containing or controlling a wildland fire, from taking flight;

(c) ~~except as provided in Subsection (3)(d), a third degree felony, punishable by imprisonment as provided in Section 76-3-203 and a fine not to exceed \$10,000, if the operation of the unmanned aircraft system causes the unmanned aircraft to come into direct physical contact with a manned aircraft; or~~

(d) ~~a second degree felony, punishable by imprisonment as provided in Section 76-3-203 and a fine not to exceed \$15,000, if the operation of the unmanned aircraft is the proximate cause of a manned aircraft colliding with the ground, a structure, or another manned aircraft.~~

(4) ~~A judge may require a person convicted of a violation under Subsection (3) to pay restitution in an amount equal to damages resulting from the violation, including damages to person or property, the costs of a flight, and any loss of fire retardant.~~

~~[(4)]~~ (5) The incident commander of a wildland fire shall grant reasonable access to the area of, and within three miles of, the wildland fire to a sanctioned entity if:

(a) the access is for a purpose related to the responsibilities or business of the sanctioned entity; and

(b) the access can be granted, with reasonable restrictions, without imposing a safety risk or impairing efforts to control the wildland fire.

(6) ~~The chief law enforcement officer for a jurisdiction located in an area described in Subsection (2) or the incident commander of a wildland fire may neutralize or authorize another to neutralize an unmanned aircraft that is flying in an area described in Subsection (2) if the chief law enforcement officer or the incident commander determines that the neutralization is reasonably necessary to terminate a violation described in Subsection (3).~~

~~[(5)]~~ (7) A political subdivision of the state, or an entity within a political subdivision of the state, may not enact a law, ordinance, or rule governing

the private use of an unmanned aircraft in relation to a wildland fire.

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 4**H. B. 3004**

Passed July 13, 2016

Approved July 17, 2016

Effective July 17, 2016

**CRIMINAL JUSTICE
REINVESTMENT AMENDMENTS**Chief Sponsor: Eric K. Hutchings
Senate Sponsor: Brian E. Shiozawa**LONG TITLE****General Description:**

This bill modifies the Utah Criminal Code and the Utah Code of Criminal Procedure regarding penalties.

Highlighted Provisions:

This bill:

- ▶ modifies provisions regarding probation, including supervision and services; and
- ▶ modifies the earned time program for incarcerated offenders.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

77-18-1, as last amended by Laws of Utah 2015, Chapters 412 and 413

77-27-5.4, as enacted by Laws of Utah 2015, Chapter 412

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 77-18-1 is amended to read:

77-18-1. Suspension of sentence -- Pleas held in abeyance -- Probation -- Supervision -- Presentence investigation -- Standards -- Confidentiality -- Terms and conditions -- Termination, revocation, modification, or extension -- Hearings -- Electronic monitoring.

(1) On a plea of guilty or no contest entered by a defendant in conjunction with a plea in abeyance agreement, the court may hold the plea in abeyance as provided in Title 77, Chapter 2a, Pleas in Abeyance, and under the terms of the plea in abeyance agreement.

(2) (a) On a plea of guilty, guilty with a mental illness, no contest, or conviction of any crime or offense, the court may, after imposing sentence, suspend the execution of the sentence and place the defendant on probation. The court may place the defendant:

(i) on probation under the supervision of the Department of Corrections except in cases of class C misdemeanors or infractions;

(ii) on probation [with] under the supervision of an agency of local government or with a private organization; or

(iii) on [bench] court probation under the jurisdiction of the sentencing court.

(b) (i) The legal custody of all probationers under the supervision of the department is with the department.

(ii) The legal custody of all probationers under the jurisdiction of the sentencing court is vested as ordered by the court.

(iii) The court has continuing jurisdiction over all probationers.

(iv) Court probation may include an administrative level of services, including notification to the court of scheduled periodic reviews of the probationer's compliance with conditions.

(c) Supervised probation services provided by the department, an agency of local government, or a private organization shall specifically address the offender's risk of reoffending as identified by a validated risk and needs screening or assessment.

(3) (a) The department shall establish supervision and presentence investigation standards for all individuals referred to the department. These standards shall be based on:

- (i) the type of offense;
- (ii) the results of a risk and needs assessment;
- (iii) the demand for services;
- (iv) the availability of agency resources;
- (v) public safety; and

(vi) other criteria established by the department to determine what level of services shall be provided.

(b) Proposed supervision and investigation standards shall be submitted to the Judicial Council and the Board of Pardons and Parole on an annual basis for review and comment prior to adoption by the department.

(c) The Judicial Council and the department shall establish procedures to implement the supervision and investigation standards.

(d) The Judicial Council and the department shall annually consider modifications to the standards based upon criteria in Subsection (3)(a) and other criteria as they consider appropriate.

(e) The Judicial Council and the department shall annually prepare an impact report and submit it to the appropriate legislative appropriations subcommittee.

(4) Notwithstanding other provisions of law, the department is not required to supervise the probation of persons convicted of class B or C misdemeanors or infractions or to conduct presentence investigation reports on class C misdemeanors or infractions. However, the department may supervise the probation of class B misdemeanants in accordance with department standards.

(5) (a) Before the imposition of any sentence, the court may, with the concurrence of the defendant,

continue the date for the imposition of sentence for a reasonable period of time for the purpose of obtaining a presentence investigation report from the department or information from other sources about the defendant.

(b) The presentence investigation report shall include:

(i) a victim impact statement according to guidelines set in Section 77-38a-203 describing the effect of the crime on the victim and the victim's family;

(ii) a specific statement of pecuniary damages, accompanied by a recommendation from the department regarding the payment of restitution with interest by the defendant in accordance with Title 77, Chapter 38a, Crime Victims Restitution Act;

(iii) findings from any screening and any assessment of the offender conducted under Section 77-18-1.1;

(iv) recommendations for treatment of the offender; and

(v) the number of days since the commission of the offense that the offender has spent in the custody of the jail and the number of days, if any, the offender was released to a supervised release or alternative incarceration program under Section 17-22-5.5.

(c) The contents of the presentence investigation report are protected and are not available except by court order for purposes of sentencing as provided by rule of the Judicial Council or for use by the department.

(6) (a) The department shall provide the presentence investigation report to the defendant's attorney, or the defendant if not represented by counsel, the prosecutor, and the court for review, three working days prior to sentencing. Any alleged inaccuracies in the presentence investigation report, which have not been resolved by the parties and the department prior to sentencing, shall be brought to the attention of the sentencing judge, and the judge may grant an additional 10 working days to resolve the alleged inaccuracies of the report with the department. If after 10 working days the inaccuracies cannot be resolved, the court shall make a determination of relevance and accuracy on the record.

(b) If a party fails to challenge the accuracy of the presentence investigation report at the time of sentencing, that matter shall be considered to be waived.

(7) At the time of sentence, the court shall receive any testimony, evidence, or information the defendant or the prosecuting attorney desires to present concerning the appropriate sentence. This testimony, evidence, or information shall be presented in open court on record and in the presence of the defendant.

(8) While on probation, and as a condition of probation, the court may require that the defendant:

(a) perform any or all of the following:

(i) pay, in one or several sums, any fine imposed at the time of being placed on probation;

(ii) pay amounts required under Title 77, Chapter 32a, Defense Costs;

(iii) provide for the support of others for whose support the defendant is legally liable;

(iv) participate in available treatment programs, including any treatment program in which the defendant is currently participating, if the program is acceptable to the court;

(v) serve a period of time, not to exceed one year, in a county jail designated by the department, after considering any recommendation by the court as to which jail the court finds most appropriate;

(vi) serve a term of home confinement, which may include the use of electronic monitoring;

(vii) participate in compensatory service restitution programs, including the compensatory service program provided in Section 76-6-107.1;

(viii) pay for the costs of investigation, probation, and treatment services;

(ix) make restitution or reparation to the victim or victims with interest in accordance with Title 77, Chapter 38a, Crime Victims Restitution Act; and

(x) comply with other terms and conditions the court considers appropriate; and

(b) if convicted on or after May 5, 1997:

(i) complete high school classwork and obtain a high school graduation diploma, a GED certificate, or a vocational certificate at the defendant's own expense if the defendant has not received the diploma, GED certificate, or vocational certificate prior to being placed on probation; or

(ii) provide documentation of the inability to obtain one of the items listed in Subsection (8)(b)(i) because of:

(A) a diagnosed learning disability; or

(B) other justified cause.

(9) The department shall collect and disburse the account receivable as defined by Section 76-3-201.1, with interest and any other costs assessed under Section 64-13-21 during:

(a) the parole period and any extension of that period in accordance with Subsection 77-27-6(4); and

(b) the probation period in cases for which the court orders supervised probation and any extension of that period by the department in accordance with Subsection (10).

(10) (a) (i) Probation may be terminated at any time at the discretion of the court or upon completion without violation of 36 months

probation in felony or class A misdemeanor cases, 12 months in cases of class B or C misdemeanors or infractions, or as allowed pursuant to Section 64-13-21 regarding earned credits.

(ii) (A) If, upon expiration or termination of the probation period under Subsection (10)(a)(i), there remains an unpaid balance upon the account receivable as defined in Section 76-3-201.1, the court may retain jurisdiction of the case and continue the defendant on bench probation for the limited purpose of enforcing the payment of the account receivable. If the court retains jurisdiction for this limited purpose, the court may order the defendant to pay to the court the costs associated with continued probation under this Subsection (10).

(B) In accordance with Section 77-18-6, the court shall record in the registry of civil judgments any unpaid balance not already recorded and immediately transfer responsibility to collect the account to the Office of State Debt Collection.

(iii) Upon motion of the Office of State Debt Collection, prosecutor, victim, or upon its own motion, the court may require the defendant to show cause why the defendant's failure to pay should not be treated as contempt of court.

(b) (i) The department shall notify the sentencing court, the Office of State Debt Collection, and the prosecuting attorney in writing in advance in all cases when termination of supervised probation is being requested by the department or will occur by law.

(ii) The notification shall include a probation progress report and complete report of details on outstanding accounts receivable.

(11) (a) (i) Any time served by a probationer outside of confinement after having been charged with a probation violation and prior to a hearing to revoke probation does not constitute service of time toward the total probation term unless the probationer is exonerated at a hearing to revoke the probation.

(ii) Any time served in confinement awaiting a hearing or decision concerning revocation of probation does not constitute service of time toward the total probation term unless the probationer is exonerated at the hearing.

(iii) Any time served in confinement awaiting a hearing or decision concerning revocation of probation constitutes service of time toward a term of incarceration imposed as a result of the revocation of probation or a graduated sanction imposed under Section 63M-7-404.

(b) The running of the probation period is tolled upon the filing of a violation report with the court alleging a violation of the terms and conditions of probation or upon the issuance of an order to show cause or warrant by the court.

(12) (a) (i) Probation may ~~not~~ be modified ~~or extended~~ as is consistent with the graduated sanctions and incentives developed by the Utah

Sentencing Commission under Section 63M-7-404, but the length of probation may not be extended, except upon waiver of a hearing by the probationer or upon a hearing and a finding in court that the probationer has violated the conditions of probation.

(ii) Probation may not be revoked except upon a hearing in court and a finding that the conditions of probation have been violated.

(b) (i) Upon the filing of an affidavit alleging with particularity facts asserted to constitute violation of the conditions of probation, the court that authorized probation shall determine if the affidavit establishes probable cause to believe that revocation, modification, or extension of probation is justified.

(ii) If the court determines there is probable cause, it shall cause to be served on the defendant a warrant for the defendant's arrest or a copy of the affidavit and an order to show cause why the defendant's probation should not be revoked, modified, or extended.

(c) (i) The order to show cause shall specify a time and place for the hearing and shall be served upon the defendant at least five days prior to the hearing.

(ii) The defendant shall show good cause for a continuance.

(iii) The order to show cause shall inform the defendant of a right to be represented by counsel at the hearing and to have counsel appointed if the defendant is indigent.

(iv) The order shall also inform the defendant of a right to present evidence.

(d) (i) At the hearing, the defendant shall admit or deny the allegations of the affidavit.

(ii) If the defendant denies the allegations of the affidavit, the prosecuting attorney shall present evidence on the allegations.

(iii) The persons who have given adverse information on which the allegations are based shall be presented as witnesses subject to questioning by the defendant unless the court for good cause otherwise orders.

(iv) The defendant may call witnesses, appear and speak in the defendant's own behalf, and present evidence.

(e) (i) After the hearing the court shall make findings of fact.

(ii) Upon a finding that the defendant violated the conditions of probation, the court may order the probation revoked, modified, continued, or ~~that the entire probation term commence anew~~ reinstated for all or a portion of the original term of probation.

(iii) If a period of incarceration is imposed for a violation, the defendant shall be sentenced within the guidelines established by the Utah Sentencing Commission pursuant to Subsection 63M-7-404(4), unless the judge determines that:

(A) the defendant needs substance abuse or mental health treatment, as determined by a

validated risk and needs screening and assessment, that warrants treatment services that are immediately available in the community; or

(B) the sentence previously imposed shall be executed.

(iv) If the defendant had, prior to the imposition of a term of incarceration or the execution of the previously imposed sentence under this Subsection (12), served time in jail as a condition of probation or due to a violation of probation under Subsection 77-18-1(12)(e)(iii), the time the probationer served in jail constitutes service of time toward the sentence previously imposed.

(13) The court may order the defendant to commit himself or herself to the custody of the Division of Substance Abuse and Mental Health for treatment at the Utah State Hospital as a condition of probation or stay of sentence, only after the superintendent of the Utah State Hospital or the superintendent's designee has certified to the court that:

(a) the defendant is appropriate for and can benefit from treatment at the state hospital;

(b) treatment space at the hospital is available for the defendant; and

(c) persons described in Subsection 62A-15-610(2)(g) are receiving priority for treatment over the defendants described in this Subsection (13).

(14) Presentence investigation reports are classified protected in accordance with Title 63G, Chapter 2, Government Records Access and Management Act. Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee may not order the disclosure of a presentence investigation report. Except for disclosure at the time of sentencing pursuant to this section, the department may disclose the presentence investigation only when:

(a) ordered by the court pursuant to Subsection 63G-2-202(7);

(b) requested by a law enforcement agency or other agency approved by the department for purposes of supervision, confinement, and treatment of the offender;

(c) requested by the Board of Pardons and Parole;

(d) requested by the subject of the presentence investigation report or the subject's authorized representative; or

(e) requested by the victim of the crime discussed in the presentence investigation report or the victim's authorized representative, provided that the disclosure to the victim shall include only information relating to statements or materials provided by the victim, to the circumstances of the crime including statements by the defendant, or to the impact of the crime on the victim or the victim's household.

(15) (a) The court shall consider home confinement as a condition of probation under the

supervision of the department, except as provided in Sections 76-3-406 and 76-5-406.5.

(b) The department shall establish procedures and standards for home confinement, including electronic monitoring, for all individuals referred to the department in accordance with Subsection (16).

(16) (a) If the court places the defendant on probation under this section, it may order the defendant to participate in home confinement through the use of electronic monitoring as described in this section until further order of the court.

(b) The electronic monitoring shall alert the department and the appropriate law enforcement unit of the defendant's whereabouts.

(c) The electronic monitoring device shall be used under conditions which require:

(i) the defendant to wear an electronic monitoring device at all times; and

(ii) that a device be placed in the home of the defendant, so that the defendant's compliance with the court's order may be monitored.

(d) If a court orders a defendant to participate in home confinement through electronic monitoring as a condition of probation under this section, it shall:

(i) place the defendant on probation under the supervision of the Department of Corrections;

(ii) order the department to place an electronic monitoring device on the defendant and install electronic monitoring equipment in the residence of the defendant; and

(iii) order the defendant to pay the costs associated with home confinement to the department or the program provider.

(e) The department shall pay the costs of home confinement through electronic monitoring only for those persons who have been determined to be indigent by the court.

(f) The department may provide the electronic monitoring described in this section either directly or by contract with a private provider.

Section 2. Section 77-27-5.4 is amended to read:

77-27-5.4. Earned time program.

(1) The board shall establish an earned time program that reduces the period of incarceration for offenders who successfully complete specified programs, the purpose of which is to reduce the risk of recidivism.

(2) The earned time program shall:

(a) provide not less than four months of earned time credit each for the completion of ~~the highest ranked priority in the offender's case action plan;~~ up to two programs that:

(i) are approved by the board in collaboration with the Department of Corrections; and

(ii) are recommended programs that are part of the offender's case action plan; and

~~[(b) provide not less than four months of earned time credit for completion of one of the recommended programs in the offender's case action plan; or]~~

~~[(e) (b) allow the board to grant in its discretion earned time credit in addition to the earned time credit provided under [Subsections] Subsection (2)(a) and (b).]~~

(3) The earned time program may not provide earned time credit for offenders:

(a) whose previously ordered release date does not provide enough time, including time for transition services, for the Board of Pardons and Parole to grant the earned time credit;

(b) who have been sentenced by the court to a term of life without the possibility of parole; ~~[or]~~

(c) who have been ordered by the Board of Pardons and Parole to serve a life sentence~~[-]~~;

(d) who do not have a current release date; or

(e) who have not met a contingency requirement for release that has been ordered by the board.

(4) The board may order the forfeiture of earned time credits under this section if ~~[the offender commits a major disciplinary infraction]~~ it determines a rescission hearing is necessary.

(5) The department shall notify the board not more than 30 days after an offender completes ~~[a priority in the case action plan]~~ a program as defined in Subsection 77-27-5.4(2)(a).

(6) The board shall collect data for the fiscal year regarding the operation of the earned time credit program, including:

(a) the number of offenders who have earned time credit under this section in the prior year;

(b) the amount of time credit earned in the prior year;

(c) the number of offenders who forfeited earned time credit; and

(d) additional related information as requested by the Commission on Criminal and Juvenile Justice.

(7) The board shall collaborate with the Department of Corrections in the establishment of the earned time credit program.

(8) To the extent possible, programming and hearings shall be provided early enough in an offender's incarceration to allow the offender to earn time credit.

Section 3. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's

signature, or in the case of a veto, the date of veto override.

CHAPTER 5
S. B. 3001

Passed July 13, 2016
Approved July 17, 2016
Effective October 31, 2016

**CONTROLLED SUBSTANCE
DATABASE MODIFICATIONS**

Chief Sponsor: Todd Weiler
House Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill addresses access provisions of the Controlled Substance Database Act.

Highlighted Provisions:

This bill:

- ▶ describes the circumstances under which probation and parole officers may access information from the controlled substance database without a warrant.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

58-37f-301 (Effective 10/31/16), as last amended by Laws of Utah 2016, Chapters 104, 197, and 238

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-37f-301 (Effective 10/31/16) is amended to read:

58-37f-301 (Effective 10/31/16). Access to database.

(1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) effectively enforce the limitations on access to the database as described in this part; and

(b) establish standards and procedures to ensure accurate identification of individuals requesting information or receiving information without request from the database.

(2) The division shall make information in the database and information obtained from other state or federal prescription monitoring programs by means of the database available only to the following individuals, in accordance with the requirements of this chapter and division rules:

(a) (i) personnel of the division specifically assigned to conduct investigations related to controlled substance laws under the jurisdiction of the division; and

(ii) the following law enforcement officers, but the division may only provide nonidentifying information, limited to gender, year of birth, and postal ZIP code, regarding individuals for whom a

controlled substance has been prescribed or to whom a controlled substance has been dispensed:

(A) a law enforcement agency officer who is engaged in a joint investigation with the division; and

(B) a law enforcement agency officer to whom the division has referred a suspected criminal violation of controlled substance laws;

(b) authorized division personnel engaged in analysis of controlled substance prescription information as a part of the assigned duties and responsibilities of their employment;

(c) a board member if:

(i) the board member is assigned to monitor a licensee on probation; and

(ii) the board member is limited to obtaining information from the database regarding the specific licensee on probation;

(d) a member of a diversion committee established in accordance with Subsection 58-1-404(2) if:

(i) the diversion committee member is limited to obtaining information from the database regarding the person whose conduct is the subject of the committee's consideration; and

(ii) the conduct that is the subject of the committee's consideration includes a violation or a potential violation of Chapter 37, Utah Controlled Substances Act, or another relevant violation or potential violation under this title;

(e) in accordance with a written agreement entered into with the department, employees of the Department of Health:

(i) whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances, if the identity of the individuals and pharmacies in the database are confidential and are not disclosed in any manner to any individual who is not directly involved in the scientific studies;

(ii) when the information is requested by the Department of Health in relation to a person or provider whom the Department of Health suspects may be improperly obtaining or providing a controlled substance; or

(iii) in the medical examiner's office;

(f) in accordance with a written agreement entered into with the department, a designee of the director of the Department of Health, who is not an employee of the Department of Health, whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances pursuant to an application process established in rule by the Department of Health, if:

(i) the designee provides explicit information to the Department of Health regarding the purpose of the scientific studies;

(ii) the scientific studies to be conducted by the designee:

(A) fit within the responsibilities of the Department of Health for health and welfare;

(B) are reviewed and approved by an Institutional Review Board that is approved for human subject research by the United States Department of Health and Human Services; and

(C) are not conducted for profit or commercial gain; and

(D) are conducted in a research facility, as defined by division rule, that is associated with a university or college accredited by one or more regional or national accrediting agencies recognized by the United States Department of Education;

(iii) the designee protects the information as a business associate of the Department of Health; and

(iv) the identity of the prescribers, patients, and pharmacies in the database are de-identified, confidential, not disclosed in any manner to the designee or to any individual who is not directly involved in the scientific studies;

(g) in accordance with the written agreement entered into with the department and the Department of Health, authorized employees of a managed care organization, as defined in 42 C.F.R. Sec. 438, if:

(i) the managed care organization contracts with the Department of Health under the provisions of Section 26-18-405 and the contract includes provisions that:

(A) require a managed care organization employee who will have access to information from the database to submit to a criminal background check; and

(B) limit the authorized employee of the managed care organization to requesting either the division or the Department of Health to conduct a search of the database regarding a specific Medicaid enrollee and to report the results of the search to the authorized employee; and

(ii) the information is requested by an authorized employee of the managed care organization in relation to a person who is enrolled in the Medicaid program with the managed care organization, and the managed care organization suspects the person may be improperly obtaining or providing a controlled substance;

(h) a licensed practitioner having authority to prescribe controlled substances, to the extent the information:

(i) (A) relates specifically to a current or prospective patient of the practitioner; and

(B) is provided to or sought by the practitioner for the purpose of:

(I) prescribing or considering prescribing any controlled substance to the current or prospective patient;

(II) diagnosing the current or prospective patient;

(III) providing medical treatment or medical advice to the current or prospective patient; or

(IV) determining whether the current or prospective patient:

(Aa) is attempting to fraudulently obtain a controlled substance from the practitioner; or

(Bb) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the practitioner;

(ii) (A) relates specifically to a former patient of the practitioner; and

(B) is provided to or sought by the practitioner for the purpose of determining whether the former patient has fraudulently obtained, or has attempted to fraudulently obtain, a controlled substance from the practitioner;

(iii) relates specifically to an individual who has access to the practitioner's Drug Enforcement Administration identification number, and the practitioner suspects that the individual may have used the practitioner's Drug Enforcement Administration identification number to fraudulently acquire or prescribe a controlled substance;

(iv) relates to the practitioner's own prescribing practices, except when specifically prohibited by the division by administrative rule;

(v) relates to the use of the controlled substance database by an employee of the practitioner, described in Subsection (2)(i); or

(vi) relates to any use of the practitioner's Drug Enforcement Administration identification number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a controlled substance;

(i) in accordance with Subsection (3)(a), an employee of a practitioner described in Subsection (2)(h), for a purpose described in Subsection (2)(h)(i) or (ii), if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner provides written notice to the division of the identity of the employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee;

(j) an employee of the same business that employs a licensed practitioner under Subsection (2)(h) if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner and the employing business provide written notice to the division of the identity of the designated employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee;

(k) a licensed pharmacist having authority to dispense a controlled substance to the extent the information is provided or sought for the purpose of:

(i) dispensing or considering dispensing any controlled substance; or

(ii) determining whether a person:

(A) is attempting to fraudulently obtain a controlled substance from the pharmacist; or

(B) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the pharmacist;

(l) in accordance with Subsection (3)(a), a licensed pharmacy technician and pharmacy intern who is an employee of a pharmacy as defined in Section 58-17b-102, for the purposes described in Subsection (2)(j)(i) or (ii), if:

(i) the employee is designated by the pharmacist-in-charge as an individual authorized to access the information on behalf of a licensed pharmacist employed by the pharmacy;

(ii) the pharmacist-in-charge provides written notice to the division of the identity of the employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee;

(m) pursuant to a valid search warrant, federal, state, and local law enforcement officers and state and local prosecutors who are engaged in an investigation related to:

(i) one or more controlled substances; and

(ii) a specific person who is a subject of the investigation;

(n) subject to Subsection (7), a probation or parole officer, employed by the Department of Corrections or by a political subdivision ~~who is not required to~~

~~obtain a search warrant~~, to gain access to database information necessary for the officer's supervision of a specific probationer or parolee who is under the officer's direct supervision;

(o) employees of the Office of Internal Audit and Program Integrity within the Department of Health who are engaged in their specified duty of ensuring Medicaid program integrity under Section 26-18-2.3;

(p) a mental health therapist, if:

(i) the information relates to a patient who is:

(A) enrolled in a licensed substance abuse treatment program; and

(B) receiving treatment from, or under the direction of, the mental health therapist as part of the patient's participation in the licensed substance abuse treatment program described in Subsection (2)(p)(i)(A);

(ii) the information is sought for the purpose of determining whether the patient is using a controlled substance while the patient is enrolled in the licensed substance abuse treatment program described in Subsection (2)(p)(i)(A); and

(iii) the licensed substance abuse treatment program described in Subsection (2)(p)(i)(A) is associated with a practitioner who:

(A) is a physician, a physician assistant, an advance practice registered nurse, or a pharmacist; and

(B) is available to consult with the mental health therapist regarding the information obtained by the mental health therapist, under this Subsection (2)(p), from the database;

(q) an individual who is the recipient of a controlled substance prescription entered into the database, upon providing evidence satisfactory to the division that the individual requesting the information is in fact the individual about whom the data entry was made;

(r) an individual under Subsection (2)(q) for the purpose of obtaining a list of the persons and entities that have requested or received any information from the database regarding the individual, except if the individual's record is subject to a pending or current investigation as authorized under this Subsection (2);

(s) the inspector general, or a designee of the inspector general, of the Office of Inspector General of Medicaid Services, for the purpose of fulfilling the duties described in Title 63A, Chapter 13, Part 2, Office and Powers; and

(t) the following licensed physicians for the purpose of reviewing and offering an opinion on an individual's request for workers' compensation benefits under Title 34A, Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:

(i) a member of the medical panel described in Section 34A-2-601;

(ii) a physician employed as medical director for a licensed workers' compensation insurer or an approved self-insured employer; or

(iii) a physician offering a second opinion regarding treatment.

(3) (a) (i) A practitioner described in Subsection (2)(h) may designate up to three employees to access information from the database under Subsection (2)(i), (2)(j), or (4)(c).

(ii) A pharmacist described in Subsection (2)(k) who is a pharmacist-in-charge may designate up to five employees to access information from the database under Subsection (2)(l).

(b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) establish background check procedures to determine whether an employee designated under Subsection (2)(i), (2)(j), or (4)(c) should be granted access to the database; and

(ii) establish the information to be provided by an emergency room employee under Subsection (4); and

(iii) facilitate providing controlled substance prescription information to a third party under Subsection (5).

(c) The division shall grant an employee designated under Subsection (2)(i), (2)(j), or (4)(c) access to the database, unless the division determines, based on a background check, that the employee poses a security risk to the information contained in the database.

(4) (a) An individual who is employed in the emergency room of a hospital may exercise access to the database under this Subsection (4) on behalf of a licensed practitioner if the individual is designated under Subsection (4)(c) and the licensed practitioner:

(i) is employed in the emergency room;

(ii) is treating an emergency room patient for an emergency medical condition; and

(iii) requests that an individual employed in the emergency room and designated under Subsection (4)(c) obtain information regarding the patient from the database as needed in the course of treatment.

(b) The emergency room employee obtaining information from the database shall, when gaining access to the database, provide to the database the name and any additional identifiers regarding the requesting practitioner as required by division administrative rule established under Subsection (3)(b).

(c) An individual employed in the emergency room under this Subsection (4) may obtain information from the database as provided in Subsection (4)(a) if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner and the hospital operating the emergency room provide written notice to the division of the identity of the designated employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee.

(d) The division may impose a fee, in accordance with Section 63J-1-504, on a practitioner who designates an employee under Subsection (2)(i), (2)(j), or (4)(c) to pay for the costs incurred by the division to conduct the background check and make the determination described in Subsection (3)(b).

(5) (a) (i) An individual may request that the division provide the information under Subsection (5)(b) to a third party who is designated by the individual each time a controlled substance prescription for the individual is dispensed.

(ii) The division shall upon receipt of the request under this Subsection (5)(a) advise the individual in writing that the individual may direct the division to discontinue providing the information to a third party and that notice of the individual's direction to discontinue will be provided to the third party.

(b) The information the division shall provide under Subsection (5)(a) is:

(i) the fact a controlled substance has been dispensed to the individual, but without identifying the controlled substance; and

(ii) the date the controlled substance was dispensed.

(c) (i) An individual who has made a request under Subsection (5)(a) may direct that the division discontinue providing information to the third party.

(ii) The division shall:

(A) notify the third party that the individual has directed the division to no longer provide information to the third party; and

(B) discontinue providing information to the third party.

(6) (a) An individual who is granted access to the database based on the fact that the individual is a licensed practitioner or a mental health therapist shall be denied access to the database when the individual is no longer licensed.

(b) An individual who is granted access to the database based on the fact that the individual is a designated employee of a licensed practitioner shall be denied access to the database when the practitioner is no longer licensed.

(7) A probation or parole officer is not required to obtain a search warrant to access the database in accordance with Subsection (2)(n).

Section 2. Effective date.

This bill takes effect on October 31, 2016.

CHAPTER 6**S. B. 3002**

Passed July 13, 2016

Approved July 17, 2016

Effective October 1, 2016

ECONOMIC DEVELOPMENT REVISIONS

Chief Sponsor: Curtis S. Bramble

House Sponsor: Val L. Peterson

LONG TITLE**General Description:**

This bill modifies the Sales and Use Tax Act.

Highlighted Provisions:

This bill:

- ▶ defines “qualifying enterprise data center”;
- ▶ provides certain sales and use tax exemptions for a qualifying enterprise data center; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

59-12-102, as last amended by Laws of Utah 2016, Chapter 236

59-12-104, as last amended by Laws of Utah 2016, Chapters 135 and 376

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 59-12-102 is amended to read:****59-12-102. Definitions.**

As used in this chapter:

(1) “800 service” means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

- (i) under the name 800 toll-free calling;
- (ii) under the name 855 toll-free calling;
- (iii) under the name 866 toll-free calling;
- (iv) under the name 877 toll-free calling;
- (v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) “900 service” means an inbound toll telecommunications service that:

- (i) a subscriber purchases;
- (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber’s:
 - (A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) “900 service” does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber’s customer:

(A) a product; or

(B) a service.

(3) (a) “Admission or user fees” includes season passes.

(b) “Admission or user fees” does not include annual membership dues to private organizations.

(4) “Agreement” means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(5) “Agreement combined tax rate” means the sum of the tax rates:

(a) listed under Subsection (6); and

(b) that are imposed within a local taxing jurisdiction.

(6) “Agreement sales and use tax” means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(b)(i);

(c) Subsection 59-12-103(2)(c)(i);

(d) Subsection 59-12-103(2)(d)(i)(A)(I);

(e) Section 59-12-204;

(f) Section 59-12-401;

(g) Section 59-12-402;

(h) Section 59-12-402.1;

(i) Section 59-12-703;

(j) Section 59-12-802;

(k) Section 59-12-804;

(l) Section 59-12-1102;

(m) Section 59-12-1302;

(n) Section 59-12-1402;

(o) Section 59-12-1802;

(p) Section 59-12-2003;

(q) Section 59-12-2103;

(r) Section 59-12-2213;

- (s) Section 59-12-2214;
 - (t) Section 59-12-2215;
 - (u) Section 59-12-2216;
 - (v) Section 59-12-2217; or
 - (w) Section 59-12-2218.
- (7) "Aircraft" is as defined in Section 72-10-102.
- (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- (a) except for:
 - (i) an airline as defined in Section 59-2-102; or
 - (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and
 - (b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:
 - (i) check, diagnose, overhaul, and repair:
 - (A) an onboard system of a fixed wing turbine powered aircraft; and
 - (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
 - (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;
 - (iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:
 - (A) an inspection;
 - (B) a repair, including a structural repair or modification;
 - (C) changing landing gear; and
 - (D) addressing issues related to an aging fixed wing turbine powered aircraft;
 - (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and
 - (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.
- (9) "Alcoholic beverage" means a beverage that:
- (a) is suitable for human consumption; and
 - (b) contains .5% or more alcohol by volume.
- (10) "Alternative energy" means:
- (a) biomass energy;
 - (b) geothermal energy;
 - (c) hydroelectric energy;
 - (d) solar energy;

- (e) wind energy; or
 - (f) energy that is derived from:
 - (i) coal-to-liquids;
 - (ii) nuclear fuel;
 - (iii) oil-impregnated diatomaceous earth;
 - (iv) oil sands;
 - (v) oil shale;
 - (vi) petroleum coke; or
 - (vii) waste heat from:
 - (A) an industrial facility; or
 - (B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.
- (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production facility" means a facility that:
- (i) uses alternative energy to produce electricity; and
 - (ii) has a production capacity of two megawatts or greater.
- (b) A facility is an alternative energy electricity production facility regardless of whether the facility is:
- (i) connected to an electric grid; or
 - (ii) located on the premises of an electricity consumer.
- (12) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.
- (b) "Ancillary service" includes:
- (i) a conference bridging service;
 - (ii) a detailed communications billing service;
 - (iii) directory assistance;
 - (iv) a vertical service; or
 - (v) a voice mail service.
- (13) "Area agency on aging" is as defined in Section 62A-3-101.
- (14) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:
- (a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and
 - (b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.
- (15) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:
- (a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(16) “Authorized carrier” means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier’s operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(17) (a) Except as provided in Subsection (17)(b), “biomass energy” means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;

(E) aquatic plants; and

(F) agricultural products.

(b) “Biomass energy” does not include:

(i) black liquor; or

(ii) treated woods.

(18) (a) “Bundled transaction” means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) “Bundled transaction” does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller’s purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller’s sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

(B) subject to Subsection (18)(f):

(I) the seller’s purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller’s total purchase price of that retail sale; or

(II) the seller’s sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller’s total sales price of that retail sale.

(c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

(ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (18)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (18)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(19) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (19)(a)(i).

(20) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform all of a seller's sales and use tax functions for an agreement sales and use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

(22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (56) or residential use under Subsection (106).

(24) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) "Common carrier" does not include a person who, at the time the person is traveling to or from

that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.

(25) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(26) "Computer" means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(27) "Computer software" means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(28) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections (28)(a) and (b).

(29) (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (29)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (29)(a).

(30) "Construction materials" means any tangible personal property that will be converted into real property.

(31) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

(32) (a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) services; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (32)(a)(i) to a location designated by the purchaser.

(b) "Delivery charge" includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(33) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(34) "Dietary supplement" means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (34)(b)(i) through (v);

(c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:

(A) tablet form;

(B) capsule form;

(C) powder form;

(D) softgel form;

(E) gelcap form; or

(F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections (34)(c)(i)(A) through (F), is not represented:

- (A) as conventional food; and
- (B) for use as a sole item of:
- (I) a meal; or
- (II) the diet; and
- (d) is required to be labeled as a dietary supplement:
- (i) identifiable by the “Supplemental Facts” box found on the label; and
- (ii) as required by 21 C.F.R. Sec. 101.36.
- (35) “Digital audio-visual work” means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.
- (36) (a) “Digital audio work” means a work that results from the fixation of a series of musical, spoken, or other sounds.
- (b) “Digital audio work” includes a ringtone.
- (37) “Digital book” means a work that is generally recognized in the ordinary and usual sense as a book.
- (38) (a) “Direct mail” means printed material delivered or distributed by United States mail or other delivery service:
- (i) to:
- (A) a mass audience; or
- (B) addressees on a mailing list provided:
- (I) by a purchaser of the mailing list; or
- (II) at the discretion of the purchaser of the mailing list; and
- (ii) if the cost of the printed material is not billed directly to the recipients.
- (b) “Direct mail” includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- (c) “Direct mail” does not include multiple items of printed material delivered to a single address.
- (39) “Directory assistance” means an ancillary service of providing:
- (a) address information; or
- (b) telephone number information.
- (40) (a) “Disposable home medical equipment or supplies” means medical equipment or supplies that:
- (i) cannot withstand repeated use; and
- (ii) are purchased by, for, or on behalf of a person other than:
- (A) a health care facility as defined in Section 26-21-2;
- (B) a health care provider as defined in Section 78B-3-403;
- (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or
- (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).
- (b) “Disposable home medical equipment or supplies” does not include:
- (i) a drug;
- (ii) durable medical equipment;
- (iii) a hearing aid;
- (iv) a hearing aid accessory;
- (v) mobility enhancing equipment; or
- (vi) tangible personal property used to correct impaired vision, including:
- (A) eyeglasses; or
- (B) contact lenses.
- (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.
- (41) “Drilling equipment manufacturer” means a facility:
- (a) located in the state;
- (b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;
- (c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and
- (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.
- (42) (a) “Drug” means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:
- (i) recognized in:
- (A) the official United States Pharmacopoeia;
- (B) the official Homeopathic Pharmacopoeia of the United States;
- (C) the official National Formulary; or
- (D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);
- (ii) intended for use in the:
- (A) diagnosis of disease;
- (B) cure of disease;
- (C) mitigation of disease;
- (D) treatment of disease; or
- (E) prevention of disease; or
- (iii) intended to affect:
- (A) the structure of the body; or

<p>(B) any function of the body.</p> <p>(b) “Drug” does not include:</p> <p>(i) food and food ingredients;</p> <p>(ii) a dietary supplement;</p> <p>(iii) an alcoholic beverage; or</p> <p>(iv) a prosthetic device.</p> <p>(43) (a) Except as provided in Subsection (43)(c), “durable medical equipment” means equipment that:</p> <p>(i) can withstand repeated use;</p> <p>(ii) is primarily and customarily used to serve a medical purpose;</p> <p>(iii) generally is not useful to a person in the absence of illness or injury; and</p> <p>(iv) is not worn in or on the body.</p> <p>(b) “Durable medical equipment” includes parts used in the repair or replacement of the equipment described in Subsection (43)(a).</p> <p>(c) “Durable medical equipment” does not include mobility enhancing equipment.</p> <p>(44) “Electronic” means:</p> <p>(a) relating to technology; and</p> <p>(b) having:</p> <p>(i) electrical capabilities;</p> <p>(ii) digital capabilities;</p> <p>(iii) magnetic capabilities;</p> <p>(iv) wireless capabilities;</p> <p>(v) optical capabilities;</p> <p>(vi) electromagnetic capabilities; or</p> <p>(vii) capabilities similar to Subsections (44)(b)(i) through (vi).</p> <p>(45) “Electronic financial payment service” means an establishment:</p> <p>(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and</p> <p>(b) that performs electronic financial payment services.</p> <p>(46) “Employee” is as defined in Section 59-10-401.</p> <p>(47) “Fixed guideway” means a public transit facility that uses and occupies:</p> <p>(a) rail for the use of public transit; or</p> <p>(b) a separate right-of-way for the use of public transit.</p>	<p>(48) “Fixed wing turbine powered aircraft” means an aircraft that:</p> <p>(a) is powered by turbine engines;</p> <p>(b) operates on jet fuel; and</p> <p>(c) has wings that are permanently attached to the fuselage of the aircraft.</p> <p>(49) “Fixed wireless service” means a telecommunications service that provides radio communication between fixed points.</p> <p>(50) (a) “Food and food ingredients” means substances:</p> <p>(i) regardless of whether the substances are in:</p> <p>(A) liquid form;</p> <p>(B) concentrated form;</p> <p>(C) solid form;</p> <p>(D) frozen form;</p> <p>(E) dried form; or</p> <p>(F) dehydrated form; and</p> <p>(ii) that are:</p> <p>(A) sold for:</p> <p>(I) ingestion by humans; or</p> <p>(II) chewing by humans; and</p> <p>(B) consumed for the substance’s:</p> <p>(I) taste; or</p> <p>(II) nutritional value.</p> <p>(b) “Food and food ingredients” includes an item described in Subsection (91)(b)(iii).</p> <p>(c) “Food and food ingredients” does not include:</p> <p>(i) an alcoholic beverage;</p> <p>(ii) tobacco; or</p> <p>(iii) prepared food.</p> <p>(51) (a) “Fundraising sales” means sales:</p> <p>(i) (A) made by a school; or</p> <p>(B) made by a school student;</p> <p>(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and</p> <p>(iii) that are part of an officially sanctioned school activity.</p> <p>(b) For purposes of Subsection (51)(a)(iii), “officially sanctioned school activity” means a school activity:</p> <p>(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;</p> <p>(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and</p>
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(iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.

(52) “Geothermal energy” means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(53) “Governing board of the agreement” means the governing board of the agreement that is:

- (a) authorized to administer the agreement; and
- (b) established in accordance with the agreement.

(54) (a) For purposes of Subsection 59-12-104(41), “governmental entity” means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Office of the Court Administrator, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) “Governmental entity” does not include the state systems of public and higher education, including:

(i) an applied technology college within the Utah College of Applied Technology;

(ii) a school;

(iii) the State Board of Education;

(iv) the State Board of Regents; or

(v) an institution of higher education.

(55) “Hydroelectric energy” means water used as the sole source of energy to produce electricity.

(56) “Industrial use” means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (56)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a cogeneration facility as defined in Section 54-2-1.

(57) (a) Except as provided in Subsection (57)(b), “installation charge” means a charge for installing:

(i) tangible personal property; or

(ii) a product transferred electronically.

(b) “Installation charge” does not include a charge for:

(i) repairs or renovations of:

(A) tangible personal property; or

(B) a product transferred electronically; or

(ii) attaching tangible personal property or a product transferred electronically:

(A) to other tangible personal property; and

(B) as part of a manufacturing or fabrication process.

(58) “Institution of higher education” means an institution of higher education listed in Section 53B-2-101.

(59) (a) “Lease” or “rental” means a transfer of possession or control of tangible personal property or a product transferred electronically for:

(i) (A) a fixed term; or

(B) an indeterminate term; and

(ii) consideration.

(b) “Lease” or “rental” includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.

(c) “Lease” or “rental” does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

(A) upon completion of required payments; and

(B) if the payment of an option price does not exceed the greater of:

(I) \$100; or

(II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to perform as designed if the operator’s duties exceed the:

(i) set-up of tangible personal property;

(ii) maintenance of tangible personal property; or

(iii) inspection of tangible personal property.

(60) “Life science establishment” means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(61) “Life science research and development facility” means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

(62) “Load and leave” means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(63) “Local taxing jurisdiction” means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

(64) “Manufactured home” is as defined in Section 15A-1-302.

(65) “Manufacturing facility” means:

(a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (65)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(66) “Member of the immediate family of the producer” means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;

(h) spouse;

(i) person who is the spouse of a person described in Subsections (66)(a) through (g); or

(j) person similar to a person described in Subsections (66)(a) through (i) as determined by the

commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(67) "Mobile home" is as defined in Section 15A-1-302.

(68) "Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(69) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection (69)(a)(i) and the termination point described in Subsection (69)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

(70) (a) Except as provided in Subsection (70)(c), "mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (70)(a).

(c) "Mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

(71) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform all of the seller's sales and use tax functions for agreement sales and use taxes other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(72) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection (72)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(73) (a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenues of at least \$500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (73)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

(74) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(75) "Modular home" means a modular unit as defined in Section 15A-1-302.

(76) "Motor vehicle" is as defined in Section 41-1a-102.

(77) "Oil sands" means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

(78) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

(79) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(80) (a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

(81) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection (81)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(82) "Pawnbroker" is as defined in Section 13-32a-102.

(83) "Pawn transaction" is as defined in Section 13-32a-102.

(84) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (84)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (84)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection [(124)] (125)(c).

(85) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

(86) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(87) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(88) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(89) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(90) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(91) (a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes; or

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (91)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

- (VII) a cookie;
- (VIII) a croissant;
- (IX) a danish;
- (X) a donut;
- (XI) a muffin;
- (XII) a pastry;
- (XIII) a pie;
- (XIV) a roll;
- (XV) a tart;
- (XVI) a torte; or
- (XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

- (i) a container; or
- (ii) packaging.

(92) “Prescription” means an order, formula, or recipe that is issued:

- (a) (i) orally;
- (ii) in writing;
- (iii) electronically; or
- (iv) by any other manner of transmission; and
- (b) by a licensed practitioner authorized by the laws of a state.

(93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), “prewritten computer software” means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

- (ii) to the specifications of a specific purchaser.

(b) “Prewritten computer software” includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

- (B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (93)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is designed and

developed to the specifications of a specific purchaser.

(c) “Prewritten computer software” does not include a modification or enhancement described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:

- (i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

(94) (a) “Private communications service” means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) “Private communications service” includes the following provided in connection with the use of one or more communications channels:

- (i) an extension line;
- (ii) a station;
- (iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(95) (a) Except as provided in Subsection (95)(b), “product transferred electronically” means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) “Product transferred electronically” does not include:

- (i) an ancillary service;
- (ii) computer software; or
- (iii) a telecommunications service.

(96) (a) “Prosthetic device” means a device that is worn on or in the body to:

(i) artificially replace a missing portion of the body;

(ii) prevent or correct a physical deformity or physical malfunction; or

(iii) support a weak or deformed portion of the body.

- (b) "Prosthetic device" includes:
- (i) parts used in the repairs or renovation of a prosthetic device;
 - (ii) replacement parts for a prosthetic device;
 - (iii) a dental prosthesis; or
 - (iv) a hearing aid.
- (c) "Prosthetic device" does not include:
- (i) corrective eyeglasses; or
 - (ii) contact lenses.
- (97) (a) "Protective equipment" means an item:
- (i) for human wear; and
 - (ii) that is:
 - (A) designed as protection:
 - (I) to the wearer against injury or disease; or
 - (II) against damage or injury of other persons or property; and
 - (B) not suitable for general use.
- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:
- (i) listing the items that constitute "protective equipment"; and
 - (ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.
- (98) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:
- (i) regardless of:
 - (A) characteristics;
 - (B) copyright;
 - (C) form;
 - (D) format;
 - (E) method of reproduction; or
 - (F) source; and
 - (ii) made available in printed or electronic format.
- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."
- (99) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- (i) valued in money; and
 - (ii) for which tangible personal property, a product transferred electronically, or services are:
 - (A) sold;
 - (B) leased; or
 - (C) rented.

- (b) "Purchase price" and "sales price" include:
- (i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;
 - (ii) expenses of the seller, including:
 - (A) the cost of materials used;
 - (B) a labor cost;
 - (C) a service cost;
 - (D) interest;
 - (E) a loss;
 - (F) the cost of transportation to the seller; or
 - (G) a tax imposed on the seller;
 - (iii) a charge by the seller for any service necessary to complete the sale; or
 - (iv) consideration a seller receives from a person other than the purchaser if:
 - (A) (I) the seller actually receives consideration from a person other than the purchaser; and
 - (II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;
 - (B) the seller has an obligation to pass the price reduction or discount through to the purchaser;
 - (C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and
 - (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and
 - (Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
 - (II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or
 - (III) the price reduction or discount is identified as a third party price reduction or discount on the:
 - (Aa) invoice the purchaser receives; or
 - (Bb) certificate, coupon, or other documentation the purchaser presents.
- (c) "Purchase price" and "sales price" do not include:
- (i) a discount:
 - (A) in a form including:
 - (I) cash;
 - (II) term; or

- (III) coupon;
- (B) that is allowed by a seller;
- (C) taken by a purchaser on a sale; and
- (D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

- (I) a carrying charge;
- (II) a financing charge; or
- (III) an interest charge;
- (B) a delivery charge;
- (C) an installation charge;
- (D) a manufacturer rebate on a motor vehicle; or
- (E) a tax or fee legally imposed directly on the consumer.

(100) "Purchaser" means a person to whom:

- (a) a sale of tangible personal property is made;
- (b) a product is transferred electronically; or
- (c) a service is furnished.

(101) "Qualifying enterprise data center" means an establishment that will:

(a) own and operate a data center facility that will house a group of networked server computers in one physical location in order to centralize the dissemination, management, and storage of data and information;

(b) be located in the state;

(c) be a new operation constructed on or after July 1, 2016;

(d) consist of one or more buildings that total 150,000 or more square feet;

(e) be owned or leased by:

(i) the establishment; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the establishment; and

(f) be located on one or more parcels of land that are owned or leased by:

(i) the establishment; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the establishment.

~~[(401)]~~ (102) "Regularly rented" means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

~~[(402)]~~ (103) "Rental" is as defined in Subsection (59).

~~[(403)]~~ (104) (a) Except as provided in Subsection ~~[(403)]~~ (104)(b), "repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

~~[(404)]~~ (105) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

~~[(405)]~~ (106) (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection ~~[(105)]~~ (106)(a)(i), a residential address includes an:

- (i) apartment; or
- (ii) other individual dwelling unit.

~~[(106)]~~ (107) “Residential use” means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

~~[(107)]~~ (108) “Retail sale” or “sale at retail” means a sale, lease, or rental for a purpose other than:

- (a) resale;
- (b) sublease; or
- (c) subrent.

~~[(108)]~~ (109) (a) “Retailer” means any person engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) “Retailer” includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

~~[(109)]~~ (110) (a) “Sale” means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

- (b) “Sale” includes:
- (i) installment and credit sales;
 - (ii) any closed transaction constituting a sale;
 - (iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;
 - (iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and
 - (v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

~~[(110)]~~ (111) “Sale at retail” is as defined in Subsection ~~[(107)]~~ (108).

~~[(111)]~~ (112) “Sale-leaseback transaction” means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

- (a) by a purchaser-lessee;
- (b) to a lessor;
- (c) for consideration; and
- (d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee’s initial purchase of the

tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

~~[(112)]~~ (113) “Sales price” is as defined in Subsection (99).

~~[(113)]~~ (114) (a) “Sales relating to schools” means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school’s educational functions or activities including:

- (A) the sale of:
 - (I) textbooks;
 - (II) textbook fees;
 - (III) laboratory fees;
 - (IV) laboratory supplies; or
 - (V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:

- (I) food and food ingredients; or
- (II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) “Sales relating to schools” does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection ~~[(113)]~~ (114)(a)(i)(B):

<p>(A) clothing;</p> <p>(B) clothing accessories or equipment;</p> <p>(C) protective equipment; or</p> <p>(D) sports or recreational equipment; or</p> <p>(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:</p> <p>(A) other than a:</p> <p>(I) school;</p> <p>(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or</p> <p>(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and</p> <p>(B) that is required to collect sales and use taxes under this chapter.</p> <p>(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term “passed through.”</p> <p>[(114)] (115) For purposes of this section and Section 59-12-104, “school”:</p> <p>(a) means:</p> <p>(i) an elementary school or a secondary school that:</p> <p>(A) is a:</p> <p>(I) public school; or</p> <p>(II) private school; and</p> <p>(B) provides instruction for one or more grades kindergarten through 12; or</p> <p>(ii) a public school district; and</p> <p>(b) includes the Electronic High School as defined in Section 53A-15-1002.</p> <p>[(115)] (116) “Seller” means a person that makes a sale, lease, or rental of:</p> <p>(a) tangible personal property;</p> <p>(b) a product transferred electronically; or</p> <p>(c) a service.</p> <p>[(116)] (117) (a) “Semiconductor fabricating, processing, research, or development materials” means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:</p> <p>(i) used primarily in the process of:</p> <p>(A) (I) manufacturing a semiconductor;</p> <p>(II) fabricating a semiconductor; or</p> <p>(III) research or development of a:</p>	<p>(Aa) semiconductor; or</p> <p>(Bb) semiconductor manufacturing process; or</p> <p>(B) maintaining an environment suitable for a semiconductor; or</p> <p>(ii) consumed primarily in the process of:</p> <p>(A) (I) manufacturing a semiconductor;</p> <p>(II) fabricating a semiconductor; or</p> <p>(III) research or development of a:</p> <p>(Aa) semiconductor; or</p> <p>(Bb) semiconductor manufacturing process; or</p> <p>(B) maintaining an environment suitable for a semiconductor.</p> <p>(b) “Semiconductor fabricating, processing, research, or development materials” includes:</p> <p>(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection [(116)] (117)(a); or</p> <p>(ii) a chemical, catalyst, or other material used to:</p> <p>(A) produce or induce in a semiconductor a:</p> <p>(I) chemical change; or</p> <p>(II) physical change;</p> <p>(B) remove impurities from a semiconductor; or</p> <p>(C) improve the marketable condition of a semiconductor.</p> <p>[(117)] (118) “Senior citizen center” means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.</p> <p>[(118)] (119) (a) Subject to Subsections [(118)] (119)(b) and (c), “short-term lodging consumable” means tangible personal property that:</p> <p>(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;</p> <p>(ii) is intended to be consumed by the purchaser; and</p> <p>(iii) is:</p> <p>(A) included in the purchase price of the accommodations and services; and</p> <p>(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.</p> <p>(b) “Short-term lodging consumable” includes:</p> <p>(i) a beverage;</p> <p>(ii) a brush or comb;</p> <p>(iii) a cosmetic;</p> <p>(iv) a hair care product;</p> <p>(v) lotion;</p>
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(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

(xx) a shower cap;

(xxi) a snack item;

(xxii) soap;

(xxiii) toilet paper;

(xxiv) a toothbrush;

(xxv) toothpaste; or

(xxvi) an item similar to Subsections [(418)] (119)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

[(419)] (120) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

[(420)] (121) "Solar energy" means the sun used as the sole source of energy for producing electricity.

[(421)] (122) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

[(422)] (123) "State" means the state of Utah, its departments, and agencies.

[(423)] (124) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

[(424)] (125) (a) Except as provided in Subsection [(424)] (125)(d) or (e), "tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections [(424)] (125)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) “Tangible personal property” does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

- (i) a hot water heater;
- (ii) a water filtration system; or
- (iii) a water softener system.

[(425)] (126) (a) “Telecommunications enabling or facilitating equipment, machinery, or software” means an item listed in Subsection [(425)] (126)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection [(425)] (126)(a):

(i) a pole;

(ii) software;

(iii) a supplementary power supply;

(iv) temperature or environmental equipment or machinery;

(v) test equipment;

(vi) a tower; or

(vii) equipment, machinery, or software that functions similarly to an item listed in Subsections [(425)] (126)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection [(425)] (126)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections [(425)] (126)(b)(i) through (vi).

[(426)] (127) “Telecommunications equipment, machinery, or software required for 911 service” means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

[(427)] (128) “Telecommunications maintenance or repair equipment, machinery, or software” means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

(a) telecommunications enabling or facilitating equipment, machinery, or software;

(b) telecommunications switching or routing equipment, machinery, or software; or

(c) telecommunications transmission equipment, machinery, or software.

[(428)] (129) (a) “Telecommunications service” means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) “Telecommunications service” includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

(iv) a fixed wireless service;

(v) a mobile wireless service;

(vi) a postpaid calling service;

(vii) a prepaid calling service;

(viii) a prepaid wireless calling service; or

(ix) a private communications service.

(c) “Telecommunications service” does not include:

(i) advertising, including directory advertising;

(ii) an ancillary service;

(iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

(I) (Aa) acquired;

(Bb) generated;

(Cc) processed;

(Dd) retrieved; or

(Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser’s primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer’s premises:

(A) equipment; or

(B) wiring;

(vi) Internet access service;

(vii) a paging service;

(viii) a product transferred electronically, including:

(A) music;

(B) reading material;

(C) a ring tone;

(D) software; or

(E) video;

(ix) a radio and television audio and video programming service:

(A) regardless of the medium; and

(B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

~~[(429)]~~ (130) (a) “Telecommunications service provider” means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection ~~[(429)]~~ (130)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection ~~[(429)]~~ (130)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

~~[(430)]~~ (131) (a) “Telecommunications switching or routing equipment, machinery, or software” means an item listed in Subsection ~~[(430)]~~ (131)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection ~~[(430)]~~ (131)(a):

- (i) a bridge;
- (ii) a computer;
- (iii) a cross connect;
- (iv) a modem;
- (v) a multiplexer;
- (vi) plug in circuitry;
- (vii) a router;
- (viii) software;
- (ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections ~~[(430)]~~ (131)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection ~~[(430)]~~ (131)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections ~~[(430)]~~ (131)(b)(i) through (ix).

~~[(431)]~~ (132) (a) “Telecommunications transmission equipment, machinery, or software” means an item listed in Subsection ~~[(431)]~~ (132)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

- (i) an ancillary service;
- (ii) data communications;
- (iii) voice communications; or
- (iv) telecommunications service.

(b) The following apply to Subsection ~~[(431)]~~ (132)(a):

- (i) an amplifier;
- (ii) a cable;
- (iii) a closure;
- (iv) a conduit;
- (v) a controller;
- (vi) a duplexer;
- (vii) a filter;
- (viii) an input device;
- (ix) an input/output device;
- (x) an insulator;
- (xi) microwave machinery or equipment;
- (xii) an oscillator;
- (xiii) an output device;
- (xiv) a pedestal;
- (xv) a power converter;
- (xvi) a power supply;

- (xvii) a radio channel;
- (xviii) a radio receiver;
- (xix) a radio transmitter;
- (xx) a repeater;
- (xxi) software;
- (xxii) a terminal;
- (xxiii) a timing unit;
- (xxiv) a transformer;
- (xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections [(431)] (132)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection [(431)] (132)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections [(431)] (132)(b)(i) through (xxv).

[(432)] (133) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

- (i) offered by an institution of higher education; and
- (ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) "Textbook for a higher education course" includes a textbook in electronic format.

[(433)] (134) "Tobacco" means:

- (a) a cigarette;
- (b) a cigar;
- (c) chewing tobacco;
- (d) pipe tobacco; or
- (e) any other item that contains tobacco.

[(434)] (135) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

[(435)] (136) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

[(436)] (137) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

- (i) code;
- (ii) content;
- (iii) form; or
- (iv) protocol.

[(437)] (138) (a) Subject to Subsection [(437)] (138)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

- (i) an aircraft as defined in Section 72-10-102;
- (ii) a vehicle as defined in Section 41-1a-102;
- (iii) an off-highway vehicle as defined in Section 41-22-2; or
- (iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- (i) a vehicle described in Subsection [(437)] (138)(a); or
- (ii) (A) a locomotive;
- (B) a freight car;
- (C) railroad work equipment; or
- (D) other railroad rolling stock.

[(438)] (139) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection [(437)] (138).

[(439)] (140) (a) "Vertical service" means an ancillary service that:

- (i) is offered in connection with one or more telecommunications services; and
- (ii) offers an advanced calling feature that allows a customer to:
 - (A) identify a caller; and
 - (B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

[(140)] (141) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

[(441)] (142) (a) Except as provided in Subsection [(441)] (142)(b), "waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

- (A) tires;
- (B) waste coal;
- (C) oil shale; or
- (D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

- (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

~~[(142)]~~ (143) "Watercraft" means a vessel as defined in Section 73-18-2.

~~[(143)]~~ (144) "Wind energy" means wind used as the sole source of energy to produce electricity.

~~[(144)]~~ (145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 2. Section 59-12-104 is amended to read:

59-12-104. Exemptions.

Exemptions from the taxes imposed by this chapter are as follows:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

- (a) construction materials except:
 - (i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution, Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed \$1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

- (i) food and food ingredients; or
- (ii) prepared food;

(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

- (i) alcoholic beverages;
- (ii) food and food ingredients; or
- (iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

- (i) to a passenger;
- (ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts and equipment:

(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(II) for:

(Aa) installation in an aircraft, including services relating to the installation of parts or equipment in the aircraft;

(Bb) renovation of an aircraft; or

(Cc) repair of an aircraft; or

(B) for installation in an aircraft operated by a common carrier in interstate or foreign commerce; or

(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce; and

(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

- (v) in accordance with Section 59-1-1410; and
- (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before September 30, 2011;
- (6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;
- (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;
- (b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and
- (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:
- (i) governing the circumstances under which sales are at the same business location; and
- (ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;
- (8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;
- (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if the vehicle is:
- (a) not registered in this state; and
- (b) (i) not used in this state; or
- (ii) used in this state:
- (A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:
- (I) 30 days in any calendar year; or
- (II) the time period necessary to transport the vehicle to the borders of this state; or
- (B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;
- (10) (a) amounts paid for an item described in Subsection (10)(b) if:
- (i) the item is intended for human use; and
- (ii) (A) a prescription was issued for the item; or
- (B) the item was purchased by a hospital or other medical facility; and
- (b) (i) Subsection (10)(a) applies to:
- (A) a drug;
- (B) a syringe; or
- (C) a stoma supply; and
- (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:
- (A) "syringe"; or
- (B) "stoma supply";
- (11) purchases or leases exempt under Section 19-12-201;
- (12) (a) sales of an item described in Subsection (12)(c) served by:
- (i) the following if the item described in Subsection (12)(c) is not available to the general public:
- (A) a church; or
- (B) a charitable institution;
- (ii) an institution of higher education if:
- (A) the item described in Subsection (12)(c) is not available to the general public; or
- (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or
- (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- (i) a medical facility; or
- (ii) a nursing facility; and
- (c) Subsections (12)(a) and (b) apply to:
- (i) food and food ingredients;
- (ii) prepared food; or
- (iii) alcoholic beverages;
- (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:
- (i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and
- (ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;
- (b) this Subsection (13) does not apply if:
- (i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;
- (ii) the person holds that person out as regularly engaged in the business of selling that type of

tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) (a) amounts paid or charged for a purchase or lease:

(i) by a manufacturing facility located in the state; and

(ii) of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts have an economic life of three or more years and are used:

(A) in the manufacturing process to manufacture an item sold as tangible personal property; or

(B) for a scrap recycler, to process an item sold as tangible personal property;

(b) amounts paid or charged for a purchase or lease:

(i) by an establishment:

(A) described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(B) located in the state; and

(ii) of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts have an economic life of three or more years and are used in:

(A) the production process to produce an item sold as tangible personal property;

(B) research and development;

(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;

(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or

(E) preventing, controlling, or reducing dust or other pollutants from mining;

(c) amounts paid or charged for a purchase or lease:

(i) by an establishment:

(A) described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(B) located in the state; and

(ii) of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts:

(A) are used in the operation of the web search portal; and

(B) have an economic life of three or more years; and

(d) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission:

(i) shall by rule define the term "establishment"; and

(ii) may by rule define what constitutes:

(A) processing an item sold as tangible personal property;

(B) the production process, to produce an item sold as tangible personal property; or

(C) research and development;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a:

(I) farmer;

(II) contractor; or

(III) subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a

product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is incidental to farming:

(I) machinery;

(II) equipment;

(III) materials; or

(IV) supplies; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

(19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable

casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(23) a product stored in the state for resale;

(24) (a) purchases of a product if:

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state:

(I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

(II) by a nonresident person who is not living or working in this state at the time of the purchase;

(C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

(D) not used in conducting business in this state; and

(ii) for:

(A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;

(B) a boat, the boat is registered outside of this state; or

(C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (24)(a) does not apply to:

(i) a lease or rental of a product; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(25) a product purchased for resale in this state, in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

(26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions,

except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

(31) sales of aircraft manufactured in Utah;

(32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

(33) sales, leases, or uses of the following:

(a) a vehicle by an authorized carrier; or

(b) tangible personal property that is installed on a vehicle:

(i) sold or leased to or used by an authorized carrier; and

(ii) before the vehicle is placed in service for the first time;

(34) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

(a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission;

(b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

(i) a motion picture;

(ii) a television program;

(iii) a movie made for television;

(iv) a music video;

(v) a commercial;

(vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

(i) NAICS Code 512110; or

(ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

(A) “commercial distribution”;

(B) “live musical performance”;

(C) “live news program”; or

(D) “live sporting event”;

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) a wind turbine;

(B) generating equipment;

(C) a control and monitoring system;

(D) a power line;

(E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state;

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter; and

(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by this Subsection (58) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before June 30, 2011;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible

personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair,

overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

(a) clearly identified;

(b) segregated; and

(c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

(A) as defined in Section 41(d), Internal Revenue Code; and

(B) in the state; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

(ii) that have an economic life of three or more years;

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

(b) for a lease:

(i) the ownership of the lessor and the ownership of the lessee are identical; and

(ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;

(76) (a) purchases of machinery or equipment if:

(i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) the machinery or equipment:

(A) has an economic life of three or more years; and

(B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

(iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

(A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(B) subject to taxation under this chapter; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:

(i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(ii) subject to taxation under this chapter;

(77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);

(78) amounts paid or charged to access a database:

(a) if the primary purpose for accessing the database is to view or retrieve information from the database; and

(b) not including amounts paid or charged for a:

(i) digital audiowork;

(ii) digital audio-visual work; or

(iii) digital book;

(79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

(a) machinery and equipment that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years;

(80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;

(81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:

(a) is stored, used, or consumed in the state; and

(b) is temporarily brought into the state from another state:

(i) during a disaster period as defined in Section 53-2a-1202;

(ii) by an out-of-state business as defined in Section 53-2a-1202;

(iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

(iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

(82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and Recreation Program;

(83) amounts paid or charged for a purchase or lease of molten magnesium; ~~and~~

(84) (a) except as provided in Subsection (84)(b), amounts paid or charged for a purchase or lease made by a drilling equipment manufacturer of machinery, equipment, materials, or normal operating repair or replacement parts:

(i) that are used or consumed exclusively in the drilling equipment manufacturer's manufacturing process; and

(ii) except for office:

(A) equipment; or

(B) supplies; and

(b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an exemption described in Subsection (84)(a) only by filing for a refund:

(i) of 50% of the tax paid on the amounts paid or charged; and

(ii) in accordance with Section 59-1-1410[-]; and

(85) amounts paid or charged for a purchase or lease made by a qualifying enterprise data center of machinery, equipment, or normal operating repair

or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:

(a) are used in the operation of the establishment; and

(b) have an economic life of one or more years.

Section 3. Effective date.

This bill takes effect on October 1, 2016.

CHAPTER 7**S. B. 3003**

Passed July 13, 2016

Approved July 17, 2016

Effective July 17, 2016

**JUDICIAL NOMINATING
COMMISSIONS - AMENDMENTS**

Chief Sponsor: Peter C. Knudson

House Sponsor: Mike K. McKell

LONG TITLE**General Description:**

This bill modifies the Judicial Selection Act regarding judicial nominating commissions.

Highlighted Provisions:

This bill:

- ▶ provides that if a judicial nominating commission is considering applicants for more than one vacancy existing in a court at the same time, the judicial nominating commission shall include in the list it sends to the governor one additional applicant for each additional vacancy.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

78A-10-103, as last amended by Laws of Utah 2010, Chapter 134

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78A-10-103 is amended to read:**78A-10-103. Procedures governing meetings of judicial nominating commissions.**

(1) The Commission on Criminal and Juvenile Justice shall:

(a) in consultation with the Judicial Council, enact rules establishing procedures governing the meetings of the judicial nominating commissions in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) ensure that those procedures include:

(i) a minimum recruitment period of at least 30 days but not more than 90 days, unless fewer than nine applications are received for a judicial vacancy, in which case the recruitment period may be extended up to 30 days;

(ii) standards for maintaining the confidentiality of the applications and related documents;

(iii) standards governing the release of applicant names before nomination;

(iv) standards for destroying the records of the names of applicants, applications, and related documents upon completion of the nominating process;

(v) an opportunity for public comment concerning the nominating process, qualifications for judicial office, and individual applicants;

(vi) evaluation criteria for the selection of judicial nominees;

(vii) procedures for taking summary minutes at nominating commission meetings;

(viii) procedures for simultaneously forwarding the names of nominees to the governor, the president of the Senate, and the Office of Legislative Research and General Counsel;

(ix) standards governing a nominating commissioner's disqualification and inability to serve; and

(x) procedures that require the Administrative Office of the Courts to immediately inform the governor when a judge is removed, resigns, or retires.

(2) In determining which of the applicants are the most qualified, the nominating commissions shall determine by a majority vote of the commissioners present which of the applicants best possess the ability, temperament, training, and experience that qualifies them for the office.

(3) (a) ~~[The]~~ Except as provided under Subsection (3)(b):

(i) the appellate court nominating commission shall certify to the governor a list of the seven most qualified applicants per vacancy; and

~~(b)~~ (ii) trial court nominating commissions shall certify to the governor a list of the five most qualified applicants per vacancy.

(b) If a nominating commission is considering applicants for more than one judicial vacancy existing at the same time and for the same court, the nominating commission shall include one additional applicant for each additional vacancy in the court in the list of applicants the commission certifies to the governor.

(4) Nominating commissions shall ensure that the list of applicants submitted to the governor:

(a) meet the qualifications required by law to fill the office; and

(b) are willing to serve.

(5) In determining which of the applicants are the most qualified, nominating commissions may not decline to submit a candidate's name to the governor merely because:

(a) the nominating commission had declined to submit that candidate's name to the governor to fill a previous vacancy;

(b) a previous nominating commission had declined to submit that candidate's name to the governor; or

(c) that nominating commission or a previous nominating commission had submitted the applicant's name to the governor and the governor selected someone else to fill the vacancy.

(6) A judicial nominating commission may not nominate a justice or judge who was not retained by the voters for the office for which the justice or judge was defeated until after the expiration of that term of office.

(7) Judicial nominating commissions are exempt from the requirements of Title 52, Chapter 4, Open and Public Meetings Act.

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 8
S. B. 3004

Passed July 13, 2016
Approved July 17, 2016
Effective July 17, 2016

**CONTINUING CARE RETIREMENT
COMMUNITY AMENDMENTS**

Chief Sponsor: Deidre M. Henderson
House Sponsor: Earl D. Tanner

LONG TITLE

General Description:

This bill modifies provisions related to continuing care retirement communities.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that a court may direct a trustee to purchase land on which a continuing care facility is located from a ground lessor under certain circumstances;
- ▶ provides that the Department of Insurance may require a provider to pay rent under a ground lease;
- ▶ provides that the Department of Insurance may subordinate a lien on a provider's assets under certain circumstances;
- ▶ modifies a provision regarding when a provider is required to return a continuing care entrance fee;
- ▶ modifies a provision related to the liability of a provider for a misstatement or omission of a material fact;
- ▶ requires a person that holds a possessory interest in a facility to be bound by the continuing care contracts related to the facility under certain circumstances; and
- ▶ provides that a person may not sell land on which a facility subject to a ground lease is located free and clear of the provider's interest in the lease.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

- 31A-44-102, as enacted by Laws of Utah 2016, Chapter 270
31A-44-104, as enacted by Laws of Utah 2016, Chapter 270
31A-44-401, as enacted by Laws of Utah 2016, Chapter 270
31A-44-404, as enacted by Laws of Utah 2016, Chapter 270
31A-44-502, as enacted by Laws of Utah 2016, Chapter 270
31A-44-503, as enacted by Laws of Utah 2016, Chapter 270
31A-44-601, as enacted by Laws of Utah 2016, Chapter 270
31A-44-602, as enacted by Laws of Utah 2016, Chapter 270

31A-44-605, as enacted by Laws of Utah 2016, Chapter 270

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-44-102 is amended to read:

31A-44-102. Definitions.

As used in this chapter:

(1) "Continuing care" means [t]he furnishing or providing access to an individual, other than by an individual related to the individual by blood, marriage, or adoption, of lodging together with nursing services, medical services, or other related services pursuant to a contract requiring an entrance fee.

(2) "Continuing care contract" means a contract under which a provider provides continuing care to a resident.

(3) (a) "Entrance fee" means an initial or deferred transfer to a provider of a sum of money or property made or promised to be made as full or partial consideration for acceptance of a specified individual as a resident in a facility.

(b) "Entrance fee" includes a monthly fee, assessed at a rate that is greater than the value of the provider's monthly services, that a resident agrees to pay in exchange for acceptance into a facility or a promise of future monthly fees assessed at a rate that is less than the value of the services rendered.

(c) "Entrance fee" does not include an amount less than the sum of the regular period charges for three months of residency in a facility.

(d) "Entrance fee" does not include a deposit of less than \$1,000 made under a reservation agreement.

(4) "Facility" means a place in which a person provides continuing care~~[.]~~ pursuant to a continuing care contract.

(5) "Ground lease" means a lease to a provider of the land and infrastructure improvements to the land on which a facility is located.

(6) "Ground lessor" means, for a facility subject to a ground lease, the owner and lessor of the land and infrastructure improvements to the land on which the facility is located.

~~[(5)]~~ (7) "Living unit" means a room, apartment, cottage, or other area within a facility set aside for the exclusive use or control of one or more identified individuals.

~~[(6)]~~ (8) (a) "Provider" means:

~~[(a)]~~ (i) the owner of a facility;

~~[(b)]~~ (ii) a person, other than a resident, that claims a possessory interest in a facility; or

~~[(c)]~~ (iii) a person who enters into a continuing care contract with a resident or potential resident.

(b) "Provider" does not include a person who is solely a ground lessor.

[7] (9) "Provider disclosure statement" means, for a given provider, the disclosure statement described in Section 31A-44-301.

[8] (10) "Reservation agreement" means an agreement that requires the payment of a deposit to reserve a living unit for a prospective resident.

[9] (11) "Resident" means an individual entitled to receive continuing care in a facility pursuant to a continuing care contract.

Section 2. Section 31A-44-104 is amended to read:

31A-44-104. Scope of regulation -- When compliance is required.

(1) The regulation of providers under this chapter does not limit or replace regulation by any other governmental entity of continuing care facilities or providers.

(2) The department may not regulate, or in any manner inquire into, the quality of care provided in a facility.

(3) A record that the department receives from a provider that is not required to be part of a disclosure statement under this chapter is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(4) The department shall determine the amount of any fee required under this chapter, in accordance with Section 63J-1-504, and in an amount that covers the department's cost to administer this chapter.

(5) A provider that begins marketing a continuing care facility project on or before May 10, 2016, is not required to comply with this chapter until May 10, 2017.

Section 3. Section 31A-44-401 is amended to read:

31A-44-401. Continuing care contract requirements -- No waiver.

(1) A continuing care contract shall:

(a) provide that the provider shall refund the portion of a departing resident's entrance fee that the provider has agreed to refund, if any, no later than the earlier of:

(i) if the departing resident ceased occupancy of the departing resident's unit before any other departing resident who has not received an entrance fee refund, 30 days after the day on which the [resident's living unit is occupied by a new resident] provider accumulates an amount of money, from sales of living units previously occupied by departing residents, that is equal to the departing resident's entrance fee refund; or

(ii) one year after the day on which the departing resident ceases to occupy the departing resident's living unit, unless the provider proves that the provider has made and is making a good faith effort to find [another resident for the living unit at the lowest entrance fee that is acceptable to the resident ceasing to occupy the living unit;] an

occupant for a living unit that was previously occupied by a departing resident;

(b) provide that the resident may terminate the continuing care contract upon giving notice of termination:

(i) with or without cause; and

(ii) clearly stating what portion of the entrance fee the provider will refund and the date by which the provider will make the refund; and

(c) provide that a continuing care contract is terminated by the resident's death and clearly state:

(i) what portion of the entrance fee the provider will refund in the event of the resident's death;

(ii) the date before which the provider will make the refund; and

(iii) to whom the provider will make the refund.

(2) A continuing care contract may permit involuntary dismissal of a resident from a continuing care facility upon a reasonable determination by the provider that the resident's health and well-being require termination of the continuing care contract.

(3) If a resident is dismissed under Subsection (2) and is in a condition of financial hardship, as defined by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the provider shall refund the resident's entrance fee:

(a) in an amount provided in the continuing care contract; and

(b) before the earlier of:

(i) a time provided in the continuing care contract; and

(ii) 60 days after the day on which the provider dismisses the resident from the facility.

(4) A resident may not waive a provision of this chapter by agreement.

Section 4. Section 31A-44-404 is amended to read:

31A-44-404. Nondisturbance of residents.

(1) A person may not directly or indirectly disturb the rights of a resident or third party beneficiary under a continuing care contract and this chapter if the resident has substantially performed the resident's obligations under the continuing care contract.

(2) If the person to whom a resident owes performance under the continuing care contract is contested, and a court has not issued a temporary or permanent order resolving the contest:

(a) the department may appoint a temporary receiver to receive the performance of the resident; and

(b) a court may appoint a receiver upon petition by the department.

~~[(3) A person that succeeds a provider in the provider's interest in a facility is bound by every continuing care contract concerning the facility, including a continuing care contract that provides for the return of entrance fees.]~~

~~(3) (a) Except as provided in Subsection (3)(b), a person other than a resident that holds a present right to possess a facility, including a ground lessor but only after the ground lessor acquires a provider's possessory interest by termination of a ground lease or otherwise, is bound by every continuing care contract related to the facility, including a continuing care contract that provides for the return of part or all of a resident's entrance fee.~~

~~(b) If a ground lessor acquires a provider's possessory interest by termination of a ground lease or otherwise, the ground lessor's obligation under the continuing care contracts is limited to the monetary obligations of the provider to which the ground lessor succeeds.~~

~~(4) (a) The commissioner holds a covenant that:~~

~~(i) runs with the land on which a facility is located; and~~

~~(ii) except as provided in Subsection (4)(b), binds a person with a present right to possess the land on which the facility is located, including a ground lessor but only after the ground lessor acquires a provider's possessory interest by termination of a ground lease or otherwise, to every continuing care contract related to the facility, including a continuing care contract that provides for the return of all or part of a resident's entrance fee.~~

~~(b) If a ground lessor acquires a provider's possessory interest by termination of a ground lease or otherwise, the ground lessor's obligation under the continuing care contracts under the covenant described in Subsection (4)(a) is limited to the monetary obligations of the provider to which the ground lessor succeeds.~~

~~(c) A person may not sell the land on which the facility is located free and clear of the interest described in Subsection (4)(a).~~

~~(5) A person may not sell or transfer the land on which a facility subject to a ground lease is located free and clear of the provider's possessory interest in the ground lease.~~

Section 5. Section 31A-44-502 is amended to read:

31A-44-502. Order to rehabilitate.

(1) A court order to rehabilitate a facility under Section 31A-44-501 may direct a trustee to:

~~[(1)] (a) take possession of the provider's property in order to conduct the provider's business, including employing any manager or agent that the trustee considers necessary; and~~

~~[(2)] (b) take action as directed by the court to eliminate the causes and conditions that made rehabilitation necessary, which action may include:~~

~~[(a)] (i) selling the facility through bankruptcy or receivership proceedings; and~~

~~[(b)] (ii) requiring a purchaser of the facility to honor any continuing care contract for the facility.~~

~~(2) (a) For a facility subject to a ground lease, a court may, in addition to the actions described in Subsection (1), direct a trustee to purchase from the ground lessor, or assign to another person that agrees to operate the facility, for market value, the ground lessor's interest in the land and the infrastructure improvements to the land on which the facility is located.~~

~~(b) A court may direct a trustee under Subsection (2)(a) to purchase from a ground lessor the land and infrastructure improvements to the land on which a facility is located, regardless of the terms of the ground lease agreement.~~

~~(c) If a court directs a trustee to purchase or assign the land and infrastructure improvements to the land under Subsection (2)(a), the ground lessor shall sell or assign the land and infrastructure improvements to the land in compliance with the court order.~~

~~(d) The commissioner shall determine market value in accordance with rules made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~

~~(e) In determining market value under Subsection (2)(d), the commissioner shall:~~

~~(i) value the land and infrastructure improvements to the land on which the facility is located as though the land and infrastructure improvements to the land were not subject to the ground lease; and~~

~~(ii) disregard the monetized value of an existing ground lease.~~

~~(3) Solely for the purpose of enforcing this section, a court has personal jurisdiction in a proceeding under this section over:~~

~~(a) the owner of a facility; and~~

~~(b) the owner of the land and infrastructure improvements to the land on which a facility is located.~~

Section 6. Section 31A-44-503 is amended to read:

31A-44-503. Order to liquidate.

(1) If the trustee determines that further efforts to rehabilitate a provider's facility are impractical or useless, the trustee may petition a court for liquidation of the facility.

(2) A court that issues an order to liquidate a facility under Subsection (1) shall appoint a trustee to collect and liquidate all of the provider's assets located in this state.

(3) An individual may not enter into a continuing care contract at a facility after a court enters an order to liquidate the facility.

(4) (a) For a facility subject to a ground lease, a court may, in an order to liquidate under this

section, direct a trustee to purchase from the ground lessor, or assign to another person that agrees to operate the facility, for market value, the ground lessor's interest in the land and the infrastructure improvements to the land on which the facility is located.

(b) A court may direct a trustee under Subsection (4)(a) to purchase from a ground lessor the land and infrastructure improvements to the land on which a facility is located, regardless of the terms of the ground lease agreement.

(c) If a court directs a trustee to purchase or assign land and infrastructure improvements to the land under Subsection (4)(a), the ground lessor shall sell or assign the land and infrastructure improvements to the land in compliance with the court order.

(d) The commissioner shall determine market value in accordance with rules made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(e) In determining market value under Subsection (4)(d), the commissioner shall:

(i) value the land and infrastructure improvements to the land on which the facility is located as though the land and infrastructure improvements to the land were not subject to the ground lease; and

(ii) disregard the monetized value of an existing ground lease.

(5) Solely for the purpose of enforcing this section, a court has personal jurisdiction in a proceeding under this section over:

(a) the owner of a facility; and

(b) the owner of the land and infrastructure improvements to the land on which a facility is located.

Section 7. Section 31A-44-601 is amended to read:

31A-44-601. Lien held by the commissioner in favor of a resident or a group of residents.

(1) To secure the obligations of the provider to a resident or a group of residents under a continuing care contract, the commissioner holds a lien in favor of the resident or group of residents that attaches on the day the notice described in Subsection (3) is recorded as provided in Subsection (4).

(2) A lien described in Subsection (1) covers the real and personal property of the provider that is used in connection with the facility.

(3) The provider shall prepare, for ~~each~~ the county where the ~~provider has an interest in real or personal property~~ facility is located, a written notice, sworn to by ~~an officer of the provider~~ each person with an interest in the facility, that contains:

(a) the name of ~~the~~ any provider and ground lessor;

(b) a legal description of the provider's real or personal property that is used in connection with the facility; and

(c) a statement that the real or personal property used in connection with the facility is subject to this chapter and to the lien imposed by this section~~[-]~~, except that the interest of a ground lessor in the land and infrastructure improvements to the land on which the facility is located is not subject to the lien imposed by this section.

(4) The provider shall record the notice described in Subsection (3) in the real property records of each county where the provider has real property on or before the date the provider first executes a continuing care contract for the facility.

(5) Except as provided in Subsection (6), the lien described in Subsection (1) is subordinate to ~~a~~ any lien on the property of the provider.

(6) The amount of ~~a~~ any lien on the provider's property that is superior to a lien described in Subsection (1) is limited to the portion of the funds secured by the lien that the provider uses to:

(a) construct, acquire, replace, or improve a facility;

(b) refinance the portion of a loan used to construct, acquire, replace, or improve a facility;

(c) pay, for a loan related to the facility, a reasonable loan fee, a loan expense, or loan interest; ~~or~~

(d) refund an entrance fee to a facility resident;

~~[(d)]~~ (e) pay reasonable operating costs of the facility~~[-]~~; or

(f) pay an amount for a purpose determined by the commissioner by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(7) If a lien on the property of the provider is superior to a lien described in Subsection (1), a provider may only use an entrance fee to:

(a) reduce a debt secured by a superior lien;

(b) construct, acquire, replace, or improve a facility;

(c) fund reserves for the provider's actuarial debt under continuing care contracts for a facility;

(d) refund an entrance fee of a resident of a facility;

(e) pay a facility resident's debt to the provider for a recurring fee due under the resident's continuing care contract; or

(f) pay an amount for a purpose approved by the commissioner.

(8) The commissioner may judicially foreclose a lien described in Subsection (1) if property subject to the lien is liquidated or the provider is insolvent or bankrupt.

(9) The commissioner shall use the proceeds from a lien foreclosed under Subsection (8) to satisfy the

provider's obligations under any continuing care contract in effect on the day the commissioner forecloses the lien.

Section 8. Section 31A-44-602 is amended to read:

31A-44-602. Enforcement by department -- Rulemaking.

(1) Subject to the requirements of Title 63G, Chapter 4, Administrative Procedures Act, the department may:

(a) receive and act on a complaint from a resident about a provider or a facility;

(b) take action designed to obtain voluntary compliance by the provider with this chapter for the benefit of a resident;

(c) commence administrative or judicial proceedings on the commission's own in order to enforce compliance by a provider with this chapter for the benefit of a resident; [or]

(d) after a complaint by a resident about a provider for a facility subject to a ground lease, require the provider to pay rent in accordance with the ground lease; or

~~[(d)]~~ (e) take action against a provider who fails to:

(i) respond to the department, in writing, before 30 business days after the day on which the provider receives notice from the department of a complaint filed with the department; or

(ii) submit information requested by the department.

(2) The department may:

(a) counsel an individual on the individual's rights or duties under this chapter;

(b) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) restrict or prohibit practices by the provider that are misleading, unfair, or abusive;

(ii) promote or assure fair and full disclosure of the terms and conditions of continuing care contracts, agreements, and communications between a resident and a provider;

(iii) promote or assure the ability of the public to compare continuing care contracts, providers, and facilities; and

(iv) clearly disclose any financial risks related to a provider's facility to the facility's residents;

(c) employ hearing examiners, clerks, and other employees and agents as necessary to perform the department's duties under this chapter; ~~and]~~

(d) appoint a receiver for a provider~~;~~ and

(e) upon request by a provider, subordinate a lien imposed under Section 31A-44-601 for the purpose of the provider obtaining secondary financing or refinancing of a facility if:

(i) the facility is financially sound; and

(ii) subordinating the lien does not adversely affect the residents of the facility.

Section 9. Section 31A-44-605 is amended to read:

31A-44-605. Civil liability.

(1) A provider who enters into a continuing care contract with an individual without complying with the disclosure statement requirement described in this chapter, or who makes a continuing care contract with an individual who relies on a disclosure statement that misstates or omits a material fact, is liable to the individual for:

(a) actual damages;

(b) repayment of all fees the individual paid to the provider, minus the reasonable value of care and lodging provided to the individual before the violation, misstatement, or omission was discovered or reasonably should have been discovered;

(c) interest at the legal rate for judgments;

(d) court costs; and

(e) reasonable attorney fees.

(2) A provider is liable under this section ~~[regardless of whether the provider had actual knowledge of the]~~ unless the provider proves by a preponderance of evidence that the provider and the provider's agents and employees did not know and should not have known of the misstatement or omission.

(3) An individual may not ~~file or~~ maintain an action under this section if:

(a) ~~the individual[, before filing the action,]~~ receives a written offer from the provider for refund of all amounts paid to the provider or the provider's facility plus reasonable interest from the date of payment, minus the reasonable value of care and lodging provided before the receipt of the offer;

(b) the individual receives the offer described in Subsection (3)(a) before a day that is 30 days after the earlier of:

(i) the day on which the individual submits a written request to the provider for repayment under this section; or

(ii) the day on which the individual files an action under this section;

~~[(b)]~~ (c) the offer includes a description of the provisions of this section; and

~~[(e)]~~ (d) the recipient of the offer fails to accept the offer within 30 days after the date the offer is received.

(4) An individual shall bring an action under this section before the day three years after:

(a) the day on which the individual enters into the continuing care contract; or

(b) the individual discovers, or reasonably should have discovered, the provider's violation, misstatement, or omission.

(5) A person does not have a cause of action under this chapter except as expressly provided by this chapter.

(6) This chapter does not limit the liability that exists under any other statute or common law.

(7) The provisions of this chapter are not exclusive and the remedies provided by this chapter are in addition to any other remedies provided by any other law.

Section 10. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

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